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| Society for Human Empowerment & Rural Development - SHER |
| Comparative Trend Analysis |
| A Research Study of District Courts Sargodha |

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| Shahid A. Bukhari  05-Apr-17 |

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# Acronyms

GoP Government of Pakistan

FJA Federal Judicial Academy

SHER Society for Human Empowerment & Rural Development

USAID United States Agency for International Development

AF Aurat Foundation

GEP Gender Equity Program

PBC Pakistan Bar Council

PBC Punjab Bar Council

FDGs Focus Group Discussions

DBA District Bar Association

GBV Gender Based Violence

FIR First Investigation Report

VAW Violence against Women

PW Petitioner witness

HC High Court

SC Supreme Court

# Acknowledgement

I offer special thanks to the Society for Human Empowerment and Rural Development (SHER) for giving this opportunity to undertake the second and final phase of an important assignment. My most genuine gratitude is reserved for USAID for funding and addressing a very important issue.

Much assistance was given to the study by a range of individuals and SHER staff. I would like to thank in particular the Project Manager, Ms. Rukhsana Sadiq for giving me a chance to contribute to this study. Without their sustained and constant help, guidance and encouragement, it would not have been possible to accomplish this task within the stipulated period of time.

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Last, but not the least, I am highly indebted to the kind care and support of my well-wisher, Mr. Kashif Qadeer (Program Manager - SHER), who helped me with numerous suggestions.

Shahid A. Bukhari

Research Consultant

# Foreword

This report of Comparative Trend Analysis has been developed based on the findings of pro women laws promulgated during last nine years from the year 2008 to 2016 with an aim to analyze progressive and regressive judicial precedents cases of women litigants commenced at District Bar Association Sargodha. It is anticipated that this research report will identify key issues prevailing in the areas of judicial precedents and case laws. This research study is based on reliable and authentic data collected through conducting FGDs, interviews and desk review of cases to identify key gaps and challenges. This report will provide a platform not only to strengthen the role of DBA about pro women laws but will provide opportunity for women’s to improve their lives’ with equitable access to justice in District Sargodha. Moreover, these findings will provide information about judicial precedents and case laws which focused on both civil and criminal cases from District, High Court and Supreme Court. Although, the Constitution of Pakistan guarantees equality, however, there is a lot of disparity and gender discrimination observed at all levels. Pakistani legal system is complex and litigants often face procedural difficulties to get the justice. Based on the analysis of the findings this report will not only identify the trends of cases before and after the implementation of Pro women laws but further will provide an opportunity to understand the root causes of Gender Based Violence against women being faced by female litigants in courts.

Finally, the results presented in this report were only made possible by the participation of all DBA members in the comparative trend analysis who gave their time to talk about their professional experiences about GBV cases. It was the first time many of them had provided detailed information about the cases practiced in criminal and civil courts. For this, the management of SHER would like to thank them.

In addition we would like to extend our gratitude to SHER team members which comprised of Mr Muhammad Rashid Minhas, Ms Zaheen Riaz, Mr Ahmad Nawaz, Mr Iftikhar Hussain, Mr Adnan Siddique and Ms Nida Irshad for their hard work, dedication and commitment.

In addition special thanks are due to Mr Shahid Abbas Bukhari, Research Consultant, for his deliberate efforts in the preparation of this report.

Moreover, we are also grateful to Aurat Foundation, particularly Ms Sumera Saleem for her guidance and support. All these joint efforts will enable us to achieve our common endeavors’ to improve women lives through strengthening the role of DBA Sargodha by gender sensitizing and access to justice opportunities provided through their platform.

Rukhsana Sadiq

Director Programs SHER

# Executive Summary

USAID has started a comprehensive program to support and strengthen the District Bar Associations of Pakistan for facilitating women lawyers and litigants under the Gender Equity Program (GEP) of Aurat Foundation (AF) by the support of the American People through the United States Agency of International Development (USAID). In district Sargodha, Society for Human Empowerment and Rural Development (SHER) initiated first project in accordance to Cycle 11 of GEP. The name of this project is “Strengthening District Bar Associations Sargodha & Setting up Facilitation Kiosks.”

This project has conducted a Comparative Trend Analysis for identifying the reasons of ineffective delivery of justice to female litigants. This research study has been conducted through qualitative and quantitative methods. The primary data has been collected through interviews and Focus Group Discussion of male and female lawyers of District Bar Association (DBA) Sargodha and the collected data has been analyzed through content and frequency analysis. The primary data is also collected from Government Record of Police and District Court Sargodha regarding the filing of cases and copy of case laws in the mentioned district. The secondary data is also consulted in this research study. The findings of this research study suggests that there are numerous legal frameworks exist in the legal system of Pakistan for the protection of women rights but there is lack of implementation which hinders speedy delivery of justice to female litigants in the country especially in District Sargodha. 79.17 % of the participants affirm that key issues exist in the judicial system while 82.29 % endorsed that women protection laws are not implemented in true letter and spirit which is regressive. The facts show that filing of cases by female litigants is increasing with the passage of time which shows that females are reporting the violation of their rights. 87.50 % of the discussant claimed that women are comfortable to file their cases but they are failing in getting justice in this regard. The study devised that failure of implementation is due to the gaps at the end of legal service providers (Police, Lawyers and Courts) due to which females litigants are suffering instead of presence of numerous Acts in Pakistan for the protection of women rights. Comparatively, progressive trend is observed in some civil cases but conventional and obsolete precedent is experiencing in criminal cases which is regressive. The recommendations are also given in this research study on the basis of data analysis findings for strengthening the legal system of the country for the protection of women rights against their violation and for speedy delivery of justice to female litigants.

# Chapter 1

# Summary of Chapter 1

This chapter primarily deals with the meticulous information about the project – Gender Equity Program of USAID. The role and responsibilities of the IP (Implementing Partner) is described. Thorough objectives and purpose of the current study is also part of this chapter.

# 1.1 About the Project

In 2010, USAID initiated an inclusive program to support and strengthen the District Bar Associations of Pakistan for facilitating women lawyers and litigants under the Gender Equity Program (GEP) of Aurat Foundation (AF) by the support of the American People through the United States Agency of International Development (USAID). Currently, Cycle 11 of this program is in progress. Under this Cycle 11, the DBAs will be strengthened who will be responsible to ensure swift regulation of the legal profession in their jurisdiction and with facilitation kiosks established. Women litigants as well as women lawyers will be able to feel more secure under this women friendly initiative.

9 district sub grants have been issued by a 'National sub grant'; the purpose of the National Coordinator is to coordinate the district level engagements for strengthening and gender sensitizing District Bar Councils/Associations in an improved manner. The role of the National Coordinator is also to arrange a grants opening, coordination and closing meetings for the regional partners, conduct Training of Trainers, arrange regional seminars on the identified themes, develop and maintain an extensive database at the district-level. The data being consolidated is for legal expert listing, pro-women legislation information, trainees and consolidate program documentation (MoUs etc.) It is envisaged to equip the DBAs with the knowledge on; gender concepts, sensitivity, legal approaches to equality, pro women family and minority laws including Qisas & Diyat, International legal instruments and obligations related to women’s rights.

For the remedies of such actions in District Bar Sargodha, Society for Human Empowerment and Rural Development (SHER) initiated a project titled, “Strengthening District Bar Associations Sargodha & Setting Up Facilitation Kiosks.” This project is an essential part of 9 districts sub grants, provided by the USAID and Aurat Foundation. SHER is the pioneer organization serving community of District Sargodha and its nearby districts of Punjab Province since 1991.

The project “Strengthening District Bar Associations Sargodha & Setting Up Facilitation Kiosks” will result in encouraging women lawyers to not only practice their profession but also provide free of cost services to women litigants. The sub grants will provide a platform to the lawyers to share and disseminate information with not only litigants but also with others seeking assistance. The facilitation kiosks, established in courts will positively contribute in changing the mind sets of the people and will encourage women in seeking justice. It will also open an opportunity for women to manage information desks and in linking women litigants with women lawyers.

Following key activities would be organized through these sub grants in District Sargodha:

* Grant Opening Meeting: SHER will attend a grant opening meeting with AF team to create an understanding on the project.
* Project Staff Orientation
* Participation in “National Grant Opening Meeting" organized by Legal Rights Forum - National Coordinator.
* Project Launching Ceremony
* Need assessment and up gradation of District Bar Association (DBA)
* Comparative Trend Analysis: comparative trend analysis to assess trends of judicial precedents on pro women laws including both positive and regressive.
* Quarterly Meetings with District Bar Associations
* Formation of DWSG
* Case Management:
* Establishment of Resource Center:
* District-Level Seminar
* Participation in Training of Trainers (TOTs):
* One Day Replication Training of District Bar Association: It is envisioned that the Bar Associations in respective districts will be strengthened and sensitized through a series of 16 trainings.
* Participation in Quarterly Coordination Meetings
* Preparation of Case Laws
* Awareness raising through IEC material
* Regional Level Dialogues
* Setting up of Facilitation Kiosks
* Recruitment and training of Facilitation Kiosks Staff
* Database Management
* Participation in National Grants Closing Meeting
* Project Closing Ceremony

# 1.2 Purpose of the Study

The primary objective of this research project is to identify the pro-women laws and track selected case laws that have promoted or impeded women’s legal rights. Effectiveness of the response of the state and the judiciary in the past eight years (2008 to 2016) to the increasing crime rate against women is also the part of this study. This research study aims to gather qualitative and quantitative data through conducting 12 FGDs and 10 interviews and comparative trend analysis from existing case laws to identify key gaps and challenges in terms of following areas:

1. Key issues prevailing in the areas judicial precedents and case laws
2. Available legal service providers with regards to women’s protection/rights.
3. Comparative analysis to take into account pro-women laws enacted during this period

# Chapter 2

# Summary of Chapter 2

Generally, this chapter provides the introduction about the legal framework of Pakistan. Design and functional areas of this framework is demonstrated. Basic information about the study area, DBA Sargodha, emphasizing on female judges, lawyers and litigants is also discussed. Similarly, women protection laws and some of the pre identified gaps regarding gender equity in the judicial system are correspondingly included in this chapter.

# Introduction

Pakistan Bar Council is an apex body of lawyers in Pakistan which was established under an Act of the Parliament namely "THE LEGAL PRACTITIONERS & BAR COUNCILS ACT, 1973. The Attorney-General of Pakistan is its ex-officio Chairman. It has twenty two elected Members throughout the country in lieu of each province (PBC, 2017). Correspondingly, Supreme Court Bar Association, Islamabad Bar Association, Karachi Bar Association, Lahore High Court Bar Association and Punjab Bar Council are the associated bodies of Pakistan Bar Council. Punjab Bar Council entails Advocate-General of the Province, as Ex-officio Chairman and the Members elected by the Advocates across the Province. Like other District Bar Associations of the Punjab Province, District Bar Association Sargodha also performs the docile role for the Punjab Bar Council (HG, 2017).

District Bar Sargodha was established since 1947. Countless outstanding lawyers are the part of DBA Sargodha. DBA Sargodha has five sub bars including Bhalwal Bar, Silanwali Bar, Kot Momin Bar, Shahpur Bar and Sahiwal Bar. District Bar Letter no. 46, dated March 02, 2017 (Annexure IV) indicates that there are 2034 total registered lawyers in DBA Sargodha. Unfortunately, amongst 2034, female lawyers are only 205. Due to the series of issues like no appropriate space for sitting, male dominancy, security, parking, washrooms and many others, only 40-50 female lawyers are the regular practitioner and they are struggling for their survival. In the same way, there are 32 Judges in District Courts of Sargodha, out of which only 05 are the females. In this scenario, how can female litigants feel free to come and fight for their problems? Huge gender gap exists here at District Bar/Courts Sargodha.

This is not merely in Sargodha District. According to World Economic Forum’s (WEF) Global Gender Gap Report 2016, Pakistan ranks 143 out of 144 countries in the gender inequality index, way behind Bangladesh and India which rank 72nd and 87th respectively (Khan M. Z., 2016). WHO (2016) published a report which indicates the official figures released by the Ministry of Human Rights that 8,648 incidents of human rights violations were reported in the country between January 2012 and September 15, 2015. These included 90 incidents of acid burning, 481 of domestic violence, 860 honor killing, 344 rapes, 268 sexual harassment and 535 cases of violence against women (Rafique, 2016).

Besides all these evidences regarding women rights violations, the laws of Pakistan appear to be more progressive than the image portrayed by the statistics. All of the violent acts have been criminalized. The Pakistan Penal Code 1860 addresses a number of forms of violence against women including assault (section 354 and 354A), rape (section 375), criminally detaining or intimidating women (section 496A and 506), and insulting a women’s modesty (section 509). The Acid Control and Acid Crime Prevention Act 2011 criminalize the use of acid to deface or hurt women. The Protection of Women (Criminal Laws Amendment) Act 2006 reversed many of the harsh punishments introduced by the brutal *hudood* ordinances relating to adultery. The Child Marriage Restraint Act 1929 criminalized child marriages. The Prevention of Anti-Women Practices (Criminal Law Amendment) Act 2011 criminalizes forced marriages. In addition, forcing a woman to marry in order to settle a dispute and forcing a woman to “marry” the Holy Quran, a practice which occurs frequently in rural areas in order to safeguard family property, has been criminalized (Munshey, 2015).

Contrary to this, Justice (R) Nasira Javed Iqbal (2016), former Justice (Lahore High Court), declared that The Constitution of Pakistan provides a framework for legislation to empower women. Article 25 guarantees gender equality and affirmative action for women’s empowerment. But it is worth mentioning that Judges are part of the society in which they live, reflecting cultural values and norms but also many of its biases. When it comes to gender equality guaranteed by the Constitution of Pakistan, judges should think beyond prejudice but in reality, this does not always take place. Factually, Pakistan’s judges at the lower levels of the judiciary and even sometimes at the higher level tend to reinforce discriminatory customary norms, rather than securing constitutionally guaranteed gender equality (Iqbal, 2016).

Iqbal (2016) displayed the information that male Judges of the subsidiary courts are biased against female litigants. They are reluctant to grant them divorce. They disregard “Honor Killings” and death penalty has not been executed against any rapist up till now. Female Judges are few since they are not given proper court rooms.

The report from Iqbal (2016) also reveals the fact that formal legal system of Pakistan is not applied in all over the country. Overall, 65% of the total population lives in the rural areas where residents are bound to obey the decisions made by the Jirga’s or Panchayts. Their judgments are based on customary practices and are often illegal especially with regard to the women. They use women as commodities to be exchanged or murdered to settle disputes. Feudal lords, politicians, police officers, the bureaucracy and parliamentarians are equally responsible to keep the tribal and customary justice system alive because all collectively and individually benefit from such a system. The victims are the women, who are only called for the declaration of judgment by the Jirga or Panchayt.

# Chapter 3

# Research Design & Methodology

# Summary of Chapter 3

This chapter deals with the planning and procedure adopted to conduct this study. It describes

procedures for the analysis of past and present situation, methods to probe the role and

deficiencies in the systems of government, non-governmental organizations and political elite.

Proportion of age group and gender selected to conduct this study is also part of this chapter.

This research study is quantitative as it has quantified the responses of the respondents collected

through questionnaire. This is a descriptive study as it has described the actual situation of flood

affected areas, inefficiencies of NGOs and government organizations that dealt with disaster

management. It has also explained the capabilities of NGOs and government departments to deal

with the disaster situation. It is a cross-sectional study in terms of time because data is collected

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management. It has also explained the capabilities of NGOs and government departments to deal

with the disaster situation. It is a cross-sectional study in terms of time because data is collected

This chapter deals with the planning and procedure adopted to conduct this study. It describes the study area, population and procedures to analyze the present situation. Methods to probe the deficiencies in the judicial precedents and case laws of District Sargodha are displayed in this chapter. This chapter also contains the procedures to conduct the comparative trend analysis to take into account pro-women laws enacted during 2008 to 2016.

# Methodology

## 3.1 Study Area

This study was conducted in Sargodha District. District Bar of Tehsil Sargodha is the study area which is located at the center of the city as shown in Figure 1.

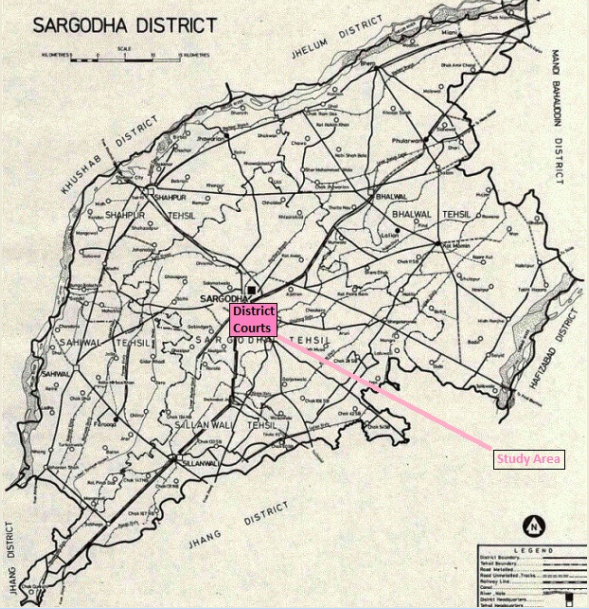


Figure 1

(Pink color in the Fig. 1 shows the study area)

Administratively, District Sargodha is divided into six Tehsils. The name of Tehsils are Bhalwal, Kot Momin, Sahiwal, Sargodha, Shahpur, and Sillanwali. Sargodha City is placed in longitude 72o – 38‟ to 72o - 43‟ and latitude of 32o - 3‟ to 32o - 7‟ and is situated at a distance of about 180 km towards north-west of Lahore (Capital of Punjab Province). The city is well connected to the other major cities like Faisalabad, Jhang, Sheikhupura, Khushab, Gujrat and Sialkot by metal roads. The city is also linked with Lahore, Faisalabad, Jhang and Rawalpindi by rail. Sargodha has cantonment board and Pakistan's largest airbase. There are 22 UCs, and total area of the City is 30 Sq Km. Total population of the City was 531,896 in 1998 (GoP, 2016).

## 3.2 Population of the Study Area

Total registered members of the District Bar Association Sargodha were the population of the study. The information provided by the DBA Sargodha, indicates that District Bar Association Sargodha contains 2034 lawyers, out of which 1829 are the male and 205 are the female lawyers. Both male and female lawyers were the population of the study. Likewise, female litigants and officials of Judiciary and Police department were also included in the study population.

## 3.3 Research Tool

Two instruments were used in this research study. The interviews and Focus Group Discussions (FGDs) were conducted separately for collecting two different types of data. The interview guide was specifically designed to gather the information from both male and female lawyers, female litigants and from the office of Superintendent of Police and District and Session Judge Sargodha. Likewise, FGD guide was developed to collect the information from both male and female lawyers of the District Bar Association Sargodha.

## 3.4 Sample Size

Sample size was 10 for interviews and 12 FGDs were conducted to gather the data. Two interviews were conducted from male lawyers, four from female lawyers, two from female litigants, one from superintendent of district and session judge Sargodha and finally one interview was conducted from Deputy Superintendent of Police (DSP) Sargodha.

Twelve FGDs were conducted and strength of each FGD was eight numbers of both male and female lawyers.

Total 21 numbers of Case Laws were selected from SC, HC and District Courts. 13 numbers of Case Laws from Criminal and 08 numbers of Case Laws from Civil side were nominated as sample of the study.

## 3.5 Sample Technique

Broadly, random sampling technique was used to gather the information from both male and female members of the District Bar Association Sargodha and likewise, in the case of Case Laws.

## 3.6 Data Analysis

The data collected through Case Laws, Interviews and FGDs was analyzed through content analysis whereas Quantitative research method technique i.e. frequency and percentage analysis was used to analyze the quantitative data.

## 3.7 Data Collection

Primary data is the first source of information collected directly from the respondents in the field supervised by the investigator. On the other hand, secondary data is the second source of information collected from books, internet, journals and reports. Both these sources were used to collect the data.

### 3.7.1 Primary Source of Data Collection

The primary data was collected in three phases. In the first phase, the researcher visited the District Bar Sargodha, office of district and session judge Sargodha and office of Deputy Superintendent of Police (DSP) Sargodha for collection of data.

In the second phase, Focus Group Discussions were organized in the different chambers of several lawyers of District Bar Sargodha. Consent Forms for Focus Group Discussion were also endorsed with signatures of the participants before discussion.

In the third phase, data was collected in terms of Case Laws from the offices of District Courts Sargodha, High Court Lahore and Supreme Court Islamabad.

The data of the women criminal cases (2008-2016) was collected from the office of District Police Officer, Sargodha. Similarly, the record of women, family and civil cases (2008-2016), was gathered from the office of Senior Civil Judge’s Record Room.

### 3.7.2 Secondary Source of Data Collection

Secondary source of data collection includes internal and external sources. External sources include books, journal articles, internet, magazines, newspapers and libraries, while internal sources contain reports, records, activities and information. Both sources were used in this research to understand the background of the objectives.

# Chapter 4

# Analysis and Findings

# Summary of Chapter 4

As part of the project’s main intervention, this chapter contains the in depth information about all the three objectives of this research study.

**Section I**; elaborates the brief of key issues prevailing in the judicial precedent and case laws of District Sargodha as first objective of the study. Similarly, available legal service providers to the female litigants have also been discussed as second objective of the study subsequently.

**Section II**; refers to pro-women law enacted over past one decade. It identifies few pro-women laws and track selected case laws that have promoted or impeded women’s legal rights.

Finally, analysis of both Sections and findings of the study has also been the part of this chapter.

# Section – I

## 4.1 Judicial System of District Sargodha

District Bar Sargodha is comprised of 2034 lawyers, out of which 205 are female lawyers. Currently, there are 32 courts are working in District Sargodha including 01 court of Session Judge, 11 of Additional Session Judges, 01 of Senior Civil Judge, 02 Family Courts, 08 Civil Courts and finally 07 Criminal Courts (Magisterial Courts). Like other district headquarters of Punjab Province, Police department is also operational under the supervision of District Police Officer (DPO).

To record the information about the key issues in the judicial precedents and case laws of women rights of District Sargodha, interviews and Focus Group Discussions were carried out. Table 1 displays the recorded information from the respondents. Table 1 is divided into two sections. Section 1 elaborates the summary of responses gathered through FGDs while Section 2 describes the responses of the interviewees.

Section 1 clearly shows that about 79.17 % of the respondents reported that key issues exist in the judicial precedent and case laws of District Sargodha and Pakistan. On the other hand, only 20.80 % of the respondents could not agree with the statement. Similarly, in section 2, maximum respondents (70 %) also provided the same information like respondents from section 1. Only 30 % of the respondents disagree with the statement.

|  |  |  |
| --- | --- | --- |
| **Table: 1 Key issues exit in judicial precedents and case laws** | | |
| **Section 1** |  |  |
| **Description** | **No. of Participants** | **% age** |
| Yes | 76 | 79.17% |
| No | 20 | 20.80% |
| Total | 96 | 100.00% |
| **Section 2** |  |  |
| **Description** | **No. of Participants** | **% age** |
| Yes | 7 | 70% |
| No | 3 | 30% |
| Total | 10 | 100% |

During discussion following key issues were identified by the respondents of this research study with reference to the service providers of the legal system.

## 4.1.1 Police

Majority of the respondents were of the opinion that our Police are corrupt especially the junior staff. Generally, Police department is the first source of remedy for any victim but unfortunately facts are opposite. First of all, they avoid launching the FIR because they become answerable to the authorities on that FIR. Secondly, they always try to obey the politicians because with their support, they get postings of their own choice. Apart from that if you pay them a reasonable amount of money, they will provide you the services of your choice. This is because our legal system has some gaps. Judges have no choice other than the Police and Police works according to their own standards. The respondents described that accused have only two choices, first one is the political support and second is money trail and after committing a crime, he/she tries to use both of these.

Likewise, one of the respondents (female litigant), resident of Mujahid Colony Sargodha reported that she worked as a maid with one of the richest family. One of those family members raped her. Her parents have already died. She went to the police station. Inspite of giving her legal support, Police took her thumb impression on a blank paper and let her out of the Police station. She was also blamed for theft from the junior Police officials. She came to the DBA Sargodha, an NGO volunteered her female lawyer. After the efforts of more than 20 days, Police launcher FIR on the orders of duty Judge. She elaborated the misery that she has no choice other than Police as they are the legal service providers and I am bound to go to them whether they are right or wrong. Her lawyer also endorsed her story.

Contrary to this, respondent from Police department reported that there is a lack of awareness about the law especially amongst the female. Police department is providing best possible services especially to the female litigants like separate information desks have been established in the Police Stations, mobile service is in progress to update the concerns, complaint centers and lady staff is available to attend the female litigants. The respondent revealed the fact that role of middle man is quite suspicious in the cases of females. Normally, there are opportunists, who use to get benefits on behalf of the female litigants and Police have to inquire each and every aspect of the case.

On the other hand, majority of the respondents agreed that Police is one of the major legal service provider. Without Police, legal service is incomplete rather cannot be initiated because they register the First Information Report by law. Judges are bound to make decisions on the basis of their inquiry reports but this service provider is ineffective in terms of providing services to female litigants.

## 4.1.2 Lawyers

Majority of the respondents confirm that lawyers are one of the main entities in the legal system of Pakistan. Prosecution cannot be completed without a lawyer that is why their role in the judicial precedent and case laws is vital. Normally, they interpret the law and provide a route to the judicial system. Maximum respondents reported that majority of lawyers do not compromise on their case charges even not on the humanitarian grounds. Most of the female litigants are poor and cannot afford such a huge amount of money as a fee of case.

On the other hand, lawyers are under the influence of the politicians and their friends, that is why favoritism is involved in the profession and they forget the ethics of their noble profession. Some of the respondents reported that some non-professional lawyers like retired army officers, bankers and many from other departments have also created some issues in the judicial precedents and case laws. They are not well aware of the legal system and moralities of this profession. They are not well conversant with the legal framework and try to use the delaying tactics.

Majority of the respondents were of the view that bench of High Court is obligatory for DBA Sargodha. This is because, Sargodha Division came into being in 1960 comprising Sargodha, Mianwali, Jhang and Faisalabad Districts. Since its very creation, dire need for setting up High Court Bench at Sargodha was felt and the proposal is still on anvils. In 1985, Faisalabad and Jhang District were disintegrated as Faisalabad was declared as a separate Division. Thereafter, Sargodha Division comprised of Sargodha, Khushab, Mianwali and Bhakkar districts. The demand for the bench remained on the ground. The population of the Division increased manifold increasing problems proportionality. One of the major problems is that the people of remote areas are under acute difficulties and problems both in terms of the financial difficulties as well as long distance between their abode and Lahore to pursue their cases in the High Court at Lahore.

Most of the respondents reported that only 205 female lawyers are the registered member of DBA Sargodha, out of which merely 40-50 female lawyers are the regular practitioner. That is why female litigants have to look for the male lawyers for which they hesitate. The respondents were of the view that District Sargodha is having a traditional culture like all other rural areas of our country where still women are discouraged to come out for their progression. That is why, most of the female lawyers leave profession after getting married. A very few are struggling for their rights. Another important point of discussion is the issue of female lawyers within the District Bar Sargodha. The major issue of female lawyers is that they cannot get their sitting place (chambers) without having money of around three lacs. Without their own sitting place, their survival in the bar is quite impossible for a long period of time.

Maximum respondents affirm that lawyers are one of the best legal service providers, so there is a dire need to establish a Free Legal Aid Center for the female litigants within the District Bar Sargodha. Female lawyers should also join hands to accomplish this task. Moreover, majority of the respondents were of the view that majority of the female cases are in terms of rape, abduction for marriage and rape, murder, khula, Tanseekh-e-Nikah and property rights. That’s why; female litigants are comfortable to share their case with the female lawyers as compared to the male lawyers.

## 4.1.3 Courts

Most of the respondents were of the opinion that courts are the actual place to setting up the judicial precedents and case laws. But unfortunately, there is quantity of gaps in their proceedings. One of the major issue is the implementation of decisions in which courts have completely failed. The respondents blamed the courts by saying that Police works under the supervision of courts and it is the prime responsibility of the courts to make sure the implementation of decisions. But they normally announce the decision and take their execution for granted. In some cases when courts take strict actions, there is no choice for the Police but to do the same.

Some of the respondents declared that many of the judges are incapable to make the decisions on time. Although there is rush of work but they can easily manage. Due to the lack of knowledge and confidence, they use to delay the cases by giving unnecessary dates. Apart from that, most of the judges belong to the rural backgrounds and they work under the influence of our obsolete customs.

Opposing to this, some of the respondents demonstrated that lawyers are equally responsible for the problems in judicial precedents as most of the cases are delayed due to their absence. Lawyers have to attend other courts like High Court and Supreme Court and they try to take dates of their own choice. Here conflicts arise and lawyers misbehave with the judges. Number of cases are large in number and Judges/Courts are limited, that is why it is quite difficult for a Judge to hear the case first, make a decision on time and make sure its execution. There are multiple stakeholders in the legal system and everyone needs to feel his/her responsibility. Solely, Judges are not responsible.

In the same way, Judges are bound to make decisions according to the law and law demands evidences. Due to the lack of evidences, most of the culprits get release from trial. This is one of the major weaknesses of our laws and for this, Judges are not responsible. Similarly, in the absence of High Court bench in District Sargodha, only 32 Judges are performing their duties, while strength of female Judges is only 05. This gender gap exists on the part of the system. Government is required to address such issues. Pakistan is having a traditional male dominant society and male Judges are also part of this society. Without addressing this gender gap, it will become quite difficult for the Government to provide justice especially to the female litigants in their personal issues.



One of the respondents endorsed that courts provide free legal aid to the female litigants through District Legal Empowerment Committee. Similarly, Information Center for the female litigants is also established in the premises of district courts. But majority of the respondents disagree and reported that both of these are non-functional. Factually, there is no provision of free legal aid for the female litigants. However, female litigants are free and comfortable to file their cases as shown in Table 2. Table 2 is comprised of two sections. Section 1 expands the summary of responses gathered through FGDs while Section 2 labels the responses of the interviewees.

87.50 % of the respondents from section 1 and 80 % from section 2 believe that women are comfortable to file their cases in District Courts of Sargodha. While a few number of respondents from both sections could not agree with the object. They were of the view that female are comfortable to file the cases in courts but before coming to the courts, they have to face their entire family regarding their so called “Honor”. They expressed that we here at Sargodha, are living in a traditional society where women are still deprived. Women cannot file their cases without the consent of their male family members. It is very rare that merely a female comes out of her house and file the case. Mostly, in our society, such women are either murdered or live the rest of her life alone. In such cases, one can imagine their mental and physical health.

|  |  |  |
| --- | --- | --- |
| **Table: 2 Women are comfortable to file cases** | | |
| **Section 1** |  |  |
| **Description** | **No. of Participants** | **% age** |
| Yes | 84 | 87.50% |
| No | 12 | 12.50% |
| Total | 96 | 100.00% |
| **Section 2** |  |  |
| **Description** | **No. of Participants** | **% age** |
| Yes | 8 | 80% |
| No | 2 | 20% |
| Total | 10 | 100% |

Besides all the issues exist in the legal precedents and case laws, people still believe on courts because they are having no other choice. Courts are the major legal service providers to the litigants and its effectiveness and efficiency are pertinent for the effective and speedy provision of justice to victim.

A female litigant, resident of Tehsil Kot Momin, District Sargodha provided the evidence in this context. Four years back, she got a conventional marriage in exchange of her brother’s wife (watta satta). Her husband is a drug addict and use to shatter her from the day of her marriage because he remains out of senses most of the time. Currently, he has let her out of his house with her son of three year age but reluctant to divorce her. She is living in her father’s house from last year. Finally, with the support of her father, Inspite of going to Police, she has directly come to the courts because she believes that Police would help her only after the orders of the Judge. She expressed her view that neither she has money nor political support to get justice from the Police department.

# Section – II

## 4.2 Comparative Trend Analysis

World Bank (2015) has reported that 48.63 % of the total population is females in Pakistan. The legal status of women in Pakistan has been in transition since the early part of the twentieth century. Customary laws, Islamic laws, imported European laws, and reformed versions of Islamic laws affect women in various spheres and the status of women does not seem to be settled in any of them up till now. Let us have a brief look at the women protection laws in the history of Pakistan.

## 4.2.1 Women Protection laws in Pakistan

### 4.2.1.1 Criminal Laws

* **Criminal Law (Amendment) Act 2004**

This law deals with honour killing, defining, what constitutes honour crimes and other related offences committed on the pretext of customary practices. This act introduces amendments in following sections of Pakistan Penal Code 1860 including, Section 299, Section 302, Section 305, Section 308, Section 310A, Section 311, Section 316, Section 324, Section 337N, Section 338E, Section 345. The punishment under this act is life imprisonment or death sentence.

* **Protection of Women (Criminal Laws Amendment) Act 2006**

This law has restored all the provisions of Zina Ordinance from Section 11 to Section 16 back to the PPC. These provisions have earlier been a part of the PPC prior to the promulgation of Hudood Ordinances in 1979. This is likely to cause dramatic reduction in the cases of false accusations of adultery against women.

Under Section 203 (a) (b) and (c) the jurisdiction of the police has been taken away and any complaint regarding adultery or *qazf* (imputation of adultery) has to go to the District and Session judge along with the statement of the four witnesses. The definition of rape is replaced with a gender sensitive definition, which explicitly provides that rape is an offence committed by a man against a woman. Consent to the offence of adultery by a woman of less than 16 years has been disregarded as defense to a charge of rape. The punishment for gang rape is death while life imprisonment has been added as an alternative to the death penalty.

The law provides following punishments: Kidnapping, abducting or inducing woman to compel for marriage, etc. – imprisonment for life and fine (Section 365B); kidnapping or abducting in order to subject person to unnatural lust- imprisonment to the extent of twenty five-years and fine (Section 367A); selling and buying of persons for purposes of prostitution, etc. – imprisonment to the extent of twenty five-years and fine (371A); the offence of rape- the punishment with death or imprisonment to the extent of twenty-five years, but not less than ten years (Section 376); the offence of cohabitation caused by a man deceitfully inducing a belief of lawful marriage - rigorous imprisonment, which may extent to twenty-five years and fine (Section 493A); the offence of enticing or taking away or detaining with criminal intent a woman - imprisonment of seven year, which may be either simple or rigorous and fine (Section 496A); the offence of fornication -imprisonment to the extent of five years and fine up to ten thousand rupees (Rs.10,000/-)(Section 495B); the offence of *Zina* - stoning to death in case the accused are ‘*Muhsan*’and whipping not exceeding one hundred stripes in the case the accused in not *Mushan*(Section 5 ZO); and for the offence of *qazaf* - whipping eighty stripes (Section 7 OQO).

Unfortunately, this law does not provide any relief to the victim of these crimes. The term “adult”, “*hadd*” and “*zina*” under the law of OQO have been assigned the same meaning as provided under ZO.

* **The Acid Control and Acid Crime Prevention Act 2011**

This law protects women from crimes committed by means of chemicals and materials that disfigure and or deface them and provides for compensation to the victims. It also restricts the possession, use and businesses of poisons through amendments in *Pakistan Penal Code, 1886* (PPC), *the Criminal Procedure Code, 1898* and *the Poison Act, 1919*(Act XII of 1919).Although, the provisions of this law reflect gender neutrality, but in essence it explicitly aims at creating *‘a safe living environment for women, which is free of harassment, abuse and intimidation with a view to live with dignity*’. This is particular to mention her that the law also protects the other genders. This law is effective across Pakistan.

The law also covers gender based violence caused by stove-bursting, causing of gas leakage, throwing acid, giving electric shocks and purposely making a person drink poisonous, chemical are crimes under Section 336A, PPC. The law also checks violations of poisons, sale and imports under the Poisons Act 1919, particularly Section 2A. Such cases can be trialed in the Court of Sessions. The crimes committed under this law are cognizable, non-bail able and non-compoundable.

Punishment of offenders under this Act can extend up to life imprisonment. Furthermore, the Act makes it mandatory for the offender to pay a fine which may not be less than five hundred thousand rupees. There is also a punishment for unauthorized sellers. On first conviction, an imprisonment of one year or a fine of a hundred thousand rupees or both, and on second and subsequent conviction, an imprisonment of two years or a fine of two hundred thousand or both.

* **Criminal Law (Third Amendment) Act 2011/Prevention of Anti-Women Practices Act, 2011**

This law ensures protection of women’s right to inheritance and women’s enter into marriage with their free will, as against badal-i-sulh, wanni, swara, Qur’anic marriages or haq bakhshwana and other such discriminatory practices and , prevented by insertion of Section 498A,498B and 498C in PPC.

It provides punishments on the violation of the women’s rights and guarantees punishment to the convicts of rape without political interference. These crimes are cognizable, non-bail able and non-compoundable.

Some of its main provisions include:-

1. **BadlaSulha (Criminal Offence) 310-A PPC**

Punishment for giving a female in marriage or otherwise in Badla-e-Sulh, Wanni or Sawara, shall be punished with imprisonment of description for a term which may be not less than three years and shall also be liable to fine of 500,000 Rupees.”

1. **Prohibition of depriving woman from inheriting property – Section 498 A**

Whoever by illegal means deprives any woman from inheriting any movable or immovable property at the time of opening of succession, the law imposes imprisonment for a term which may not be less than seven years and a fine in amount of 1,000,000 Rupees.

1. **Forced Marriage - 489 B**

Forced Marriage is also criminal offence & it is punishable under section 498 B of PPC. The punishment of this offense is up to 7 years not less than 3 years with fine of Rs. Five hundred thousand rupees.

1. **Marriage with Holy Quran 498 C**

Marriage with Holy Quran is a criminal offence. It is punishable offence under section 498-C of Pakistan Penal Code.

The punishment for this offence is up to 7 years not less than 3 years in addition to five hundred thousand rupees fines.

* **Anti-Rape Laws (Criminal Laws Amendment) Bill 2014**

This Act is meant to amend sections of the Pakistan Penal Code, 1860, the Code of Criminal Procedures, 1898, and the Qanoon-i-Shahadat Order, 1984 in order to improve the chances of rape victims getting justice.

A clause is inserted, for example, in Section 218 of the PPC making defective investigations worthy of punishment, and in Section 344 of the CrPC requiring that once a rape case has been taken cognizance of by a court, it shall be decided upon within six months.

The new bill has provided protection to victims. For instance, disclosing through the media or via some other route the identity of a victim without the latter’s consent would be deemed an offence. It also provides for in-camera trials. Furthermore, an insertion in the Qanoon-i-Shahadat law says that if the question of consent comes up and the victim claims that she did not, “the court shall presume that she did not consent”.

* **Anti-Honour Killings Act 2016**

Under the existing law, a murderer can be released after the legal heirs pardon him. But the proposed law on honour killings recommends 25 years’ imprisonment even if the heirs of the victim pardon the convict.

Under Section 302 of the Pakistan Penal Code (PPC), the convict in a simple murder case may get the life imprisonment of 14 years or a maximum of the death penalty. It is hoped that the Bill, once passed, will help curb honour related crimes.

* **Criminal Law Act (on sexual harassment) 2009**

All acts of sexual harassment are punishable under this law including commit or threat, attempt or demand for sexual favor, verbal or physical expression of sexual nature to the annoyance of another person, force a person to commit a sexual act, or refuse employment on non-compliance of such demand, interfere in work or create an awkward environment for another person. This law also encompasses acts such as staring at person, cracking jokes of sexual nature, displaying obscene pictures or objects and making the person to discuss them, and whistling.

The punishment for offence of sexual harassment, committed verbally or by way of gesture, under Section 509 of PPC, is 3 years or fine or both while for the offence of sexual harassment under Section 509A, the punishment is three years or fine up to half million rupees or even both.

* **The Protection against Harassment of Women at the Workplace Act 2010**

It includes any sexual advancement, request for sexual favor to the dislike of the aggrieved, verbal, written or physical expression of sexual nature or humiliating attitude towards the victim, and also an attempt to punish the aggrieved for non-compliance toward such undesirable attitude or attempt.

The complaint may be lodged in an informal or formal manner with the Inquiry Committee of the concerned organization. Every organization is under an obligation to constitute an enquiry committee under this law. Within three days of the filing of the complaint, the Committee would ask the accused to respond in writing within seven days.

In case of non-compliance, the Committee would proceed with the inquiry without involving the accused. The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of the inquiry. It may also recommend penalties to be imposed on the accused, if find the accused guilty. The competent authority may impose the penalties within a week of the receipt of the recommendations. The law provides for psycho-social counseling and medical treatment, additional medical leave and compensation to the aggrieved. In case of false accusation, the Committee may refer the case against the complainant to the Ombudsman.

The minor penalties include censure i.e., official disapproval and condemnation of the act of the accused, withholding of the promotion or increment of the accused for a specific period, stopping the performance progress of the accused at an efficiency bar in the time-scale for a specific period and compensation to the victim either out of salary or other source of the accused. While the major penalties include demotion or downgrading the accused on time-scale, or compulsory retirement, removal from service, dismissal from service and fine. A portion of the fine can be used as compensation for the complainant. In case of the owner, the fine shall be payable to the complainant.

The appeal against the order of the Inquiry Committee may be preferred to the Ombudsman. The decision thereof can be challenged by way of representation submitted to the President of Pakistan or the Governor, depending on territorial jurisdiction of the case.

* **Punjab Protection of Violence against Women Act of 2016**

Under the law, Universal toll free helpline, Protection Centers & Shelter Homes have been established. In addition to that District Women Protection Committee is one of core component which will be headed by District Coordinator Officer.

Introduction of GPS tracked electronic bracelets-anklets to enforce protection orders and power to enter any place to rescue the women victims. It also encompasses cybercrime, domestic violence, emotional, economic and psychological abuse within the ambit of ‘violence against women’ crimes. Furthermore, the stated aim is to ensure justice to women victims and to empower them, placing them on an equal footing with the male population.

### 4.2.1.2 Civil laws

* **Family Courts (Amendment) Act 2015**

The Family Courts (Amendment) Act 2015 (AA of 2015) amends the Family Courts Act 1964, Act XXXV.

These changes speed up the litigation, reducing the time period in which a defendant may file his reply. Failure to file reply during this time will result in the closing of the defendant’s right of defense, and the family court will decide the case in favor of the woman according to law.

A crucial change allows women to keep up to 50% of the dower in the case of Khula, whereas before she was bound to return/leave the dower. Among the most important changes falls the replacement of Section 17 A interim order for maintenance, with 17A. Suit for maintenance”, in which the word “may” has been replaced with “shall”, and specifies that the interim maintenance will be fixed on the date of the first appearance of the defendant.

It further states that the Court “may summon the relevant documentary evidence from any organization, body or authority to determine the estate and resources of the defendant”. In case of failure to pay the maintenance by the fourteen of each month, “the defense of the defendant shall stand struck off and the Family Court shall decree the suit for maintenance based on averments in the plaint and other supporting documents on record of the case.”

Furthermore, the Family Court may “fix an amount of maintenance higher than the amount prayed for in the plaint” and “prescribe the annual increase in the maintenance”. If the Court does not specify such an annual increase, the maintenance “shall automatically stand increased at the rate of ten percent each year.

* **Muslim Family Laws Ordinance, 1961, Ordinance VIII:**

The “Muslim Family Laws Ordinance, 1961, Ordinance VIII” has been amended by “Punjab Muslim Family Laws (Amendment) Act 2015”.

**Main provisions include**

* The changes make it mandatory that all the entries of the Nikahnama be properly filled (or there will be a fine of 25,000 rupees and one month imprisonment).
* For the person who solemnizes a marriage in place of the Nikah Registrar and fails to report to the Nikah Registrar, there is now a fine of one Lac rupees and three months imprisonment. The fine on a man contracting a second marriage without following due procedure is now 5 Lac rupees.
* The amendment also ensures the grant of appropriate maintenance to children by fathers, by allowing the mother or the grandmother of the child to approach the Union Council of her area directly, without having to acquire the services of a lawyer (Mirza, 2011).

Besides all these laws/acts, women are still deprived especially in District Sargodha.

## 4.2.2 Trend of Female Cases in District Sargodha

Table 3 contains the summary of total female cases which were registered during the years 2008 to 2016. Overall, 6892 females registered their criminal cases in District Sargodha. The Table 3 demonstrates that from 2008 to 2016, crime rate is gradually increasing. Table clearly shows that during these eight years, crimes have reached almost at the double figure as compared to the year 2008.



Table 4 illustrates the information about the total number of female registered case of Civil Matters in District Sargodha. The Table 4 clearly shows that crime rate regarding civil matters of females is also progressively growing in District Sargodha.



Table 5 displays the summary of total female cases in respect of family matters of District Sargodha. The Table is showing very alarming figures especially during 2016, crime rate has extended to 3942 cases. Cases during the month of August are very rare because during this month courts are normally closed due to annual vacations.



Table 6 describes the summary of all female cases including family, criminal and civil of District Sargodha. The trend clearly shows that crime is increasing in all types of cases with the passage of time especially during 2016 in which maximum cases were registered, while numbers of family cases is huge as compared to the civil and criminal. This trend illustrates the fact that females are comfortable to file their cases in District Sargodha which is progressive.



Figure 2

Figure 2 highlights the clear picture of female cases registered during 2008 to 2016. Ratio of family cases is quite high as compared to civil and criminal cases, while 2016 is leading the rest of the years regarding reported crime rates.

## Case Laws

It is worth mentioning that only sited cases may not reflect the trend of judiciary because each case does not rise as citation but casual, inspired or narrow mindset of judicial officers at trial courts can irritate sore to justice. On the other hand, majority of victims have no resources to go for appeals in apex courts.

### Criminal Case Laws

**Case – 1**

Supreme Court of Pakistan

Criminal Petition no 536 L of 2010

Jail Petition no 251,254,547 of 2010

Section 302,452,148,149 PPC

Section 10 of antiterrorist Act 7 A

Date of decision 21-08-15

Saira Yasmeen Vs Zahoor Ahmad etc The state etc

This petition was presented before the honorable Supreme Court against order of 17-05-2010 passed by LHC. The petitioner in this petition seeks enhancement of sentence awarded to respondent no. 2 to 4 from life imprisonment to death.

In this petition, there was a brutal attempt to murder of three innocent persons out of which two were females, just on the basis of so called “honor”. The main accused was maternal uncle of two deceased murderers and brother of one of his sister. His sister engaged her daughter to a family whom the accused didn’t like. Further, this was done without the consent of accused and the only this grudge accused murder his sister along with two niece. The honorable High Court convicts them all and gives all the accused punishment according to their role attributed in that FIR. But unfortunately respondent no 2-4 those were clearly involved in that murder and they are liable to be sentenced of death but High court could not award sentence of death rather converted into life imprisonment otherwise they were equally involved in same offence and the punishment should be the same. In the same case, an appeal was filed by one of the accused Munir Ahmad for acquittal before HC, while passing order on 18-3-15 acquitted him and discharged him.

Criminal law amendment 2004 was not applied in this case. When one can release from the courts then it will become quite difficult to control the crime rates. Courts always blame police and similarly police to the courts. Point is this, accused is released.

**Case – 2**

Lahore High Court

Sayed Manazir Ali Akber Naqvi

Criminal appeal no 1754/2010,

Date of decision 09-06-15

M. Akram Vs the state

The appellant M. Akram filed an appeal before HC for acquittal, charge under section 302, murder to his mother on the head of Ghairat (honor killing). In this case the prosecution whom filed this FIR was police department who was the duty officers with in the premises of district court Sargodha. They saw the entire occurrence took place before them. The accused appellant murders his mother, armed with toka and repeatedly blows of toka at different parts of her body. Now seeking slackening from HC by saying that he did the same for the sake of ghairat but HC maintains conviction of appellant passed by the learned trial court on 05-06-10. The HC discussing the fact of the case that this case was different in nature and all the evidence clearly shows that accused son of deceased murderer is involved in his mother’s death. So the court convicted him accordingly and his appeal was diffused by the HC.

Factually, the accused was minor and his father used his minor[[1]](#footnote-1) to kill his mother. It was all pre planed. As our legal system requires evidence and evidence shows that the accused is minor. So he is under the trial. As he was minor, sooner or later, he would be out of the bars. Section of Criminal law amendment 2004 was not appropriately followed in the FIR.

**Case - 3**

Session Case No. 04/2013, Trial Session No. 06/13

Title: The State Vs Shoaib Ali etc

Case/FIR No. 197, dated 07-07-11, offence under section 176/114 Pakistan Penal Code

This case was decided by the session court on January11, 2013. An application under section 265 K CRPC was submitted by accused persons for their acquittal. The said court decided this matter while discussing the witnesses PW 5 Zulfiqar (complainant) and Mst. Saima Rani (victim) as PW 6 herself. They both withdrawn all the charge against the accused persons. On the basis of that withdrawal, the court accepted the application for acquittal of accused in said judgment. But the court could not confer the other witnesses on the record. Factually, both the witnesses PW 5 and PW 6 were hostiled by the accused party.

**Case - 4**

Session Case No. 27/2013, Trial Session No. 72/13

Title: The State through Ashraf Masih Vs Zaffar Ali etc

Case/FIR No. 220, dated 14-09-13, offence under section 376 Pakistan Penal Code

This case was decided by the session court on January 20, 2014. Disposal of application under section 265k CRPC filed by the accused Zafar Ali. No prosecution witness supported the contention of the petitioner victim Mst. Ferwa Bibi. It was unusual that no witness opposed correct evidence in favor of victim because they were hostiled by the other party. Resultantly, application of accused was accepted by the court.

**Case - 5**

Session Case No. 32/2013, Trial Session No. 04/14

Title: The State through Ghulam Gillani Vs Rabnawaz etc

Case/FIR No. 423, dated 13-06-12, offence under section 324/376/511 Pakistan Penal Code

Ghulam Gillani, aged 45 years, resident of Chak no. 28 NB, District Sargodha, complainant, he submitted that at night of 12/13/2014, he was sleeping along with his family, accused Rabnawaz came over the wall of haveli, entered into the house and after awaking the wife of the complainant, took her inside the room forcefully on gun point and attempted to commit rape with her. Complainant along with Nasir hayat and M. Mushtaq were seeing the offence occurred by the accused. After committing the offence, the accused made two fires and luckily complainant remained safe. But during the trial of this case the witness while appearing before the court, they deposed different evidence than their prosecutions story. PW1complainant said that he misidentify of accused and registered the case against him. So right from the beginning the whole story of the prosecution fell down in the effect of false implication. Similarly, the other witnesses PW 2 and PW 3 completely smashed and destroyed the prosecution case. Resultantly, the accused was acquitted by the court.

This was the case of malicious prosecution. In the rural areas, it is a common practice that people with the help of police do malicious prosecution to undermine their opponents. Unfortunately, there is no action on malicious prosecution in Pakistan.

**Case - 6**

Session Case No. 15/2014, Trial Session No. 50/14

Title: The State Vs Hannan Alias

Case/FIR No. 153, dated 04-06-14, offence under section 365B/376 Pakistan Penal Code

In this case, accused was charged for kidnapping, abducting or inducing victim to compel for marriage and also charge for rape during abduction. The victim name is Sana, age 15 years D/o complainant, Josuph Masih. She was abducted by accused no 1, Hunny who was armed with pistol. During abduction, Shehbaz and Kamran (PWs) were passing through that way. They both were the eye witnesses. The victim was recovered from the house of Haroon Masih, accused no 4. While examining the witnesses, Mst Sana Bibi PW 1 stated that she had been abducted by three unknown persons. Similarly, the eye witnesses, PW 2 and PW 3 slightly said that they do not know about the happenings.

In this case, prosecution evidence was weak due to certain reasons but the court did not bother. It is the prime duty of the court that they protect the weaker segment of the society but unfortunately this case has the same fate and the application accused for acquittal was decided in favor of accused.

**Case - 7**

Session Case No. 27/2014, Trial Session No. 27/14

Case/FIR No. 99, dated 08-07-14, offence under section 302/376/334 Pakistan Penal Code

Title: The State Vs Ghulam Abbas

In this case, Saima Bibi (victim) was died after being raped and intoxicated by the accused. The complainant was the father in law of Saima Bibi. According to the FIR, Saima Bibi went to her parents where accused Ghulam Abbas S/o Gull Shair administrated intoxicated pills to the whole family and raped Saima Bibi. The witnesses of the FIR were namely, M. Ismail PW1 complainant, PW 2 M. Nawaz, PW 3 Rabnawaz and PW 4 Amanullah, and PW 5 M. Arif. During prosecution, PW 2 to PW 5 stated that they are unknown about the occurrence. The complainant stated that Saima Bibi took Pakora and died with natural death.

So this is the worst example of our society that female killing does not matter. To save our Pagri’s, we declared that she was died through natural death. Court also did not probe the matter appropriately. Medical Examiner Report is important but unfortunately didn’t discuss by the court. Court did not bother the other record in the file. Court just discussed PWs which seems to be collision with each other. Even though, the complainant also withdrew his allegation while appearing before the court.

**Case - 8**

Session Case No. 25/2012, Trial Session No. 08/12

Case/FIR No. 488/2011, dated 08-07-11, offence under section 365 B/376 Pakistan Penal Code

Title: The State through Mushtaq Ahmad Vs Irfan Masih etc

In this case the complainant reported that his daughter Mst Sobia Bibi, aged about 18 years was abducted from his house on 08-08-2011. While searching her, PW M. Sarfraz and Faqeer Muhammad disclosed that Mst. Sobia bibi was abducted by two unknown persons. If they appeared before them, they can identify them. On the basis of supplementary statements by the PWs, accused names were inserted in FIR. One of the accused Mr. Feyyaz Ilyas Mochi stated that sister of Irfan Masih, one of the accused, was abducted by the complainant party. So they did the same with them. He also stated that his sister is still unrecovered and in the custody of complainant party.

In this case, if we juxtapose, we can reach the conclusion that in our society a criminal set of mind is evolving but unfortunately in this criminal set of mind, the female are used to gain their own self-satisfaction and advantages and disadvantages. Both parties launched FIRs against each other’s on the basis of same stories and the both stories are common but the female characters are changed. Both are throwing stone on each other and female gender is tool for revenge.

**Case - 9**

Session Case No. 20/2015, Trial Session No. 10/15

Case/FIR No. 141, dated 03-04-15, offence under section 376 Pakistan Penal Code, Date of decision 05-01-16

Title: The State Vs Shamim Akber

Mst. Sumera D/o M. Yousaf was present in the house of accused as she was serving there as maid. Accused, shamim akbar confined her in a room forcefully and committed rape. On the hue and cry of the complainant, inhabitants of the locality Mulazim hussian, M. Aslam, Sardar Khan came over there and witnessed the whole occurrence. On their interference, accused left the area. During trial, an affidavit was submitted in the court in which Mst. Sumera stated that due to suspicion, she got register FIR. She do not want to pursue this case. On the basis of that statement, FIR was quashed.

Victim is a household maid and Shamim Akbar (accused) a dominating figure over victim. He suppresses the victim and forcefully submitted the affidavit on behalf of victim. But the court has failed to consider the other story behind this affidavit.

**Case - 10**

Session Case.

Case/FIR No. 99, dated 12-02-2009, offence under section 376/511 Pakistan Penal Code, Date of decision 14-12-2009

Title: The State Vs Abou Bakar

An application was moved by the accused under section 265K for acquittal. PW 2 Mst. Riffat complainants appears before the court and recorded her statement that accused has no connection with the commission of offence. The court as per prosecution version acquits the accused. Here is also shown that a compromise has been affected between the parties to withdraw the case.

**Case - 11**

Session Case No. 85/2008, Trial Session No. 43/2008

Case/FIR No. 81, dated 22-02-08, offence under section 302 Pakistan Penal Code

Title: The State Vs Allah Dittah

Mst. Saima was murdered on February 22, 2008 by her husband Allah Dittah. Allah Dittah had doubt about the character of deceased that’s why he killed his wife. But he was acquittal giving benefit of doubt. The prosecution case was badly presented and deceased was defeated because victim was his wife and no reasonable evidence could come out.

So this is ill minded occurrence, domination of the man over their wives and implication of false charge of illicit / characterless of their wives. The main purpose of accused was that he wanted to get rid of her wife and succeeded. Unfortunately our courts require reasonable evidences only, for which they don’t’ want to probe.

**Case - 12**

Session Case

Case/FIR No. 99, dated 27-03-09, offence under section 365 B Pakistan Penal Code, Date of decision 08-01-10

Title: The State through Manzoor Ahamd Vs Adnan etc

In this case, Mst Saima Bibi was abducted and FIR was launched. But this judgment was finished on the basis of the statement recorded by the Fatima Bibi in which she stated that she do not want to pursue the case. The court accepted the application and acquitted the accused. Here is an influential scheme of mind to withdraw all this case.

**Case - 13**

Session Case No. 01/2011, Trial Session No. 01/11

Case/FIR No. 269, dated 07-09-2009, offence under section 365/511 Pakistan Penal Code

Title: The State Vs M. Usman

This case was decided on the basis of statement recorded by PW 1 M. Farooq. He said that there were some misconceptions and he could not identify the accused. On this single score, the accused were acquitted by the court.

### 4.2.3.2 Civil Case Laws

**Case – 1**

Title: Mst. Waqar-un-Nisa Vs Ch. M. Anwar

Suit for dissolution of marriage

Case/FIR No. 166, Dated:19-07-2012

Date of decision: 07-11-2012

Passed by Family Judge Sargodha

This suit was decided on pretrial reconciliation proceedings between the parties. Plaintiff on oath stated that she is not willing to “Abaad” with defendant, husband. Reason is that she hated him so suit for dissolution was decreed. On the other hand, defendant stated that he wants to Abaad the plaintiff and would fulfill all the conditions which are obligatory. But in spite of defendant’s statement, suit of plaintiff was decreed by the family court on the same date.

We can clearly say that if the plaintiff female comes to the court with her clean hands, court may decree the contention of the female plaintiff. So this case was decided in pretrial proceedings and the much time was saved to dispensation of justice. This seems to be the progressive side of our legal system.

**Case – 2**

Title: Mst. Razia Bibi Vs M.Yaqoob

Case/FIR No. 5786 Dated:02-02-15

Suit for dissolution of marriage

Date of decision: 29-07-15

Passed by Family Judge Sargodha

Family court decided this suit Ex Parte while passing the judgment on 29-07-15. In family court ex parte evidence plaintiff appeared as PW 1 and submitted her affidavit ex P 1 in which she stated that she has developed a version against defendant husband and she cannot want to live in a hateful union as a purpose of marriage between spouses. The suit of plaintiff was decreed by the family court on the basis of Khula.

**Case – 3**

Title: Nasreen bibi Vs. Allah Dittah

Suit for dissolution of marriage on the basis of Khula

Dated: 11-04-2012 FIR No:53

Date of decision: 22-11-2012

Passed by Senior Civil Judge Sargodha

This said suit was decreed by the senior civil judge on the basis of Khula in view of fellow of reconciliation proceedings on dated 22-11-2012. So this suit was also decided on time.

**Case – 4**

Title: Mst. Iqra Anwar Vs SHO Thana Jhal Chakian

Application under section 22AB CrPC for the implementation of order dated 12-15-2017 passed by Rana Zahid Iqbal-ASJ Sargodha

Dated:01-03-2017 FIR No: 94

Date of decision: 08-3-17

The additional session judge Sargodha while exercising the power of justice of piece, directed the SHO concern to implement the order passed by this court and should submit the compliance report to this court. So the matter was resolved accordingly.

This case seems progressive as Police refused to launch FIR but by the orders of the court, they launched and reported to the court.

**Case – 5**

Ttile: Abida Khanum Vs. M. Arif

Suit for possession trade by the plaintiff as part 1 and paid for compensation as part 2, regarding the property measuring Six Marla’s and 46 sqft, constructed double story situated in block 10 Sargodha.

Date of decision: 13-10-15

Court of Civil Judge 1st Class Sargodha

In this suit, civil judge first class passed an order dated 13-10-15, in which the parties were arrived at a compromise. In the light of the party’s view, suit was decreed in the same date.

**Case – 6**

Title: Naheed Pervaiz etc Vs. M. Aslam etc

Suit for possession through partition property bearing Khavet no 5060, khatooni no 5060, measuring 6 canals, 8 Marla and 270 sqft in which plaintiffs entitled two canals and four Marla’s situated in Chak no. 44 NB.

Date of decision: 08-09-16

Court of Civil Judge 1st Class Sargodha

This title suit was decided by the civil judge first class on 08-09-16 and decreed the plaintiff’s suit in the light of evidence on issue no 1 and the plaintiffs are manageably proved issue no 1. So this dispute regarding the property was resolved after the giving evidence on merit accordingly.

**Case – 7**

Title: Khadija tul kubra Vs. Nazir Ahmad along with TMA Sargodha

Suit for permanent injunction regarding a house situated in street no. 5 Jinnah Abadi opposite bus stop Sargodha.

Date of decision: 20-11-12

Court of Civil Judge 1st Class Sargodha

The civil judge first class Sargodha passed this judgment and refused to grant injunction in favor of plaintiff because she has no entitlement of suit property being owned by her husband. So in this single reason the suit of plaintiff was rejected by the court.

Factually, this case shows the lack of awareness and misguide from the legal service providers. This suit was dissolved because said property was owned by plaintiff’s husband and she has legally no privilege to suit file. Only her husband can do the same. Unfortunately, neither she nor her lawyer was aware of the law.

**Case – 8**

Mst. Razia Begum Vs. Provincial Govt. etc

Suit for declaration with consequential relief of permanent injunction and mandatory injunction regarding urban property khavat no. 3481, khatooni no. 3576, khasra no. 59/2/1, measuring 6 Marla and 110 sqft constructed with proper direction situated in Makam-e-Hayat Sargodha.

Date of decision: 19-12-12

Court of Civil Judge 1st Class Sargodha

This said case was decided by the civil judge first class on 19-12-12 in slip shute manner just because deficiency of the court fee and the plaint was rejected under order 7 rule 11 CPC being barred by law. The suit was declaratory in nature and no amount was mentioned in the plaint but the court arbitrarily fixed court fees and decided the suit on this single score without touching the merits of the case.

This case was decided in haste. If someone is having no money, he/she cannot get justice.

Table 7 elaborates the summary of Case Laws. This Table 7 is divided into two sections. Section illustrates the information about the Case Laws of Criminal Cases while Section 2 displays the facts of Case Laws of Civil Cases registered in District Sargodha.

Table 7 clearly reveals the fact of gender discrimination regarding the legal service providers for the female litigants. All the complainants in the Table 7 are females while only one female judge is involved in the legal process. Rest of all the actors is male. On the other hand, majority of the reported cases are rape, abduction, honor killing, khula, tanseekh-e-nikah and property rights.

Apart from that Table 7 depicts that in most of the cases, accused were acquitted by the courts. There are a series of reasons behind these acquittals by law which judges were bound to follow. But at the same, there are several areas which are desired to address before making the decisions. For instance, in the abduction and rape cases, PWs changed their statements because they were hostiled. As per the new laws, Judge is legally bound to probe such reasons but these are not experiencing in District Sargodha. Similarly, report of the medical examiner is not being considered.

In the cases of murder/honor killing, all the amended Sections are not applied. Simply, Section 302 is functional. Sometimes, people here at District Sargodha commit pre planned crime. For instance, in a case mentioned at serial no. 6 in Table 7, father made the mind of his son that his mother is characterless. His son killed her mother at public place. As he is minor, so by law, death penalty cannot be announced for him. Resultantly, he would be out of the bars after a short period of time and the actual culprit, his father is already living a happy life. When the crime was committed, his father was accompanied with him. As he ran away from that place, so he is innocent. Judges are completely ignoring the pre context and intention of the crime. Punishment is made only on the basis of the witnesses.

Trend of malicious prosecution is also observed in District Sargodha. Unfortunately, females and minors are used to get revenge from their opponents through malicious prosecution. Surprisingly, judges avoid punishing the people involved in malicious prosecutions. Both parties are called by the judge, do compromise and case is aborted.

Generally, in District Sargodha, recent situation of crimes against women and only a few examples of punishment by courts displays the trend of judiciary at trial level. Veracity of male dominated environs, procedural exploitation and regressive practices against women are experiencing in the courts of District Sargodha.

Contrary to this, certain changes have been observed in family courts of District Sargodha, where family courts seem to be more effective and gender sensitive. Nevertheless Judges supported women’s legal rights in terms of delivery of speedy trial in family and civil matters by making progressive decisions like Tanseekh-e-Nikah, Khula and in some cases granted property rights. But unfortunately, focus on gender and gender discrimination is totally missing in their legal decisions. 

Likewise, amendments in law made during the recent years are not appropriately followed by the legal service providers including police, lawyers and judges as well. For instance, change allows women to keep up to 50% of the dower in the case of Khula, where before she was bound to return/leave the dower. But this is not applying in District Sargodha up till now. Same is happening in the cases of honor killing and rape.

Table 8 exhibits the recorded information from the respondents about the implementation of women protection laws in District Sargodha. Table 8 is divided into two sections. Section 1 elaborates the summary of response gathered through FGDs while Section 2 describes the response of the interviewees.

Section I of Table 8 shows that 82.29 % of the total respondents endorsed those pro women laws are not implemented in true letter and spirit in District Sargodha. While a few no of the respondents could not agree with the majority. Similarly, Section 2 also demonstrates that 70 % of the respondents were of the opinion that women protection laws are not implemented in true letter and spirits in District Sargodha.

|  |  |  |
| --- | --- | --- |
| **Table: 8 Women laws are implemented in true letter and spirit** | | |
| **Section 1** |  |  |
| **Description** | **No of Participants** | **% age** |
| Yes | 17 | 17.71% |
| No | 79 | 82.29% |
| Total | 96 | 100.00% |
| **Section 2** |  |  |
| **Description** | **No of Participants** | **% age** |
| Yes | 3 | 30% |
| No | 7 | 70% |
| Total | 10 | 100% |

The dilemma of our legal system is that the culprits commit a crime and after having minor punishment, they release from the courts. This is because, the courts require evidence which is not provided by the responsive agencies. As mentioned above, in most of the cases, accused were released on the basis of wrong statement passed by the witnesses. There is no designed mechanism for the protection of witnesses. That’s why they are influenced by different group of criminals.

Burgeoning rate of crimes against women indicates that women protection laws are not implemented in District Sargodha. There is a dire need to chase the root causes of crimes to get rid of crimes.

# Why laws are failed

There are a lot of reasons behind the failure of laws in Pakistan. However, this study explores key of those, including,

* Culture of nepotism and corruption is prevailing in the legal system of Pakistan.
* Most of the laws are designed to give benefit to only a person or a group of persons.
* In the legal system of Pakistan, there is no mechanism of evaluation or feedback. Once the law is enacted, there is no authority to monitor the effects of that particular law in the society.
* Our laws do not match with the social and cultural norms of the society.
* Generally, govt. pass resolutions to make the laws, in the absence of the opposition, that’s why due to the less participation of the stake holders, laws are ineffective.
* Performance of the implementing agencies is so poor.
* Normally, wording used in the draft is ambiguous. If a lay man wants to get information about the law, it’s impossible to understand. It should also be available in Urdu (National Language).
* There is lack of awareness among the public. People are not aware of the laws and there is no designed mechanism from the government to keep them familiar with the laws.

# Chapter 5

# Conclusion and Recommendations

# Summary of Chapter 5

On the basis of the data collected throughout the study, this chapter contains the decisions of the study. This chapter also involves the proposed recommendations for the policy makers and responsive agencies.

# 5.1 Conclusion

USAID has started a comprehensive program to support and strengthen the District Bar Associations of Pakistan for facilitating women lawyers and litigants under the Gender Equity Program (GEP) of Aurat Foundation (AF) by the support of the American People through the United States Agency of International Development (USAID). In District Sargodha, Society for Human Empowerment and Rural Development (SHER) initiated first project in accordance to Cycle 11 of GEP. The name of this project is “Strengthening District Bar Associations Sargodha & Setting up Facilitation Kiosks.”

One of the vital components of this project is to conduct a Comparative Trend Analysis Study with the aim of exploring key issues in the judicial precedent and about the legal service providers to the female litigants. Trend analysis of judicial precedent through case laws from year 2008 to 2016 is also part of this study. Qualitative and quantitative research methods were used to gather the information. Interview and Focus Group Discussion (FGD) Guide were designed to collect the data. 21 case laws of both civil and criminal cases were reviewed. The data was analyzed through frequency and content analysis.

The study proves that quantity of issues exists in the judicial precedent and case laws of District Sargodha. About 79.17 % of the respondents endorsed that major issues are on the part of legal service providers. There are three major legal service providers including Police, Lawyers and Courts in District Sargodha. Implementation of laws is the prime responsibility of the Police department but criticized by majority of the respondents due to its corruption.

There are 2034 registered lawyers in DBA Sargodha, out of which only 205 are female lawyers. Amongst these 205 registered female lawyers, merely 40-50 are the regular practitioner. This is because most of the respondents reported that female lawyers are facing a lot of problems regarding their sitting places, wash rooms, resource center, security and so on. As female lawyers are the basic service providers for the female litigants and they are very small in numbers that is why female litigants have to face the problems. On the other hand, female lawyers demand nominal amount of fee as compared to the male lawyers and most of the female litigants are poor and could not afford to pay huge amount of money to the male lawyers.

There are 32 Judges in District Courts Sargodha, out of which only 05 are the female Judges. Majority of the respondents were of the view that this gender gap creates hardships for the female litigants. Family cases should be trialed in the courts of female Judges. 87.50 % of the respondents confirm that women are comfortable to file the cases but they are not satisfied with the implementation of decision. According to their opinion, Judges are responsible to implement the laws.

The study provide the evidence that there is a series of women protection laws which provide shelter and support to the female litigants but implementation is the major issue prevailing in our judicial precedent. Amendments made in the women protection laws during the recent years, are not being exercised in District Sargodha. However, in some family cases, relief is progressive for the female litigants. 82.29 % of the respondents confirm that women protection laws are not implemented in letter and spirit in District Sargodha.

To sum up, laws exist, legal service providers exist but implementation is missing. Each stakeholder like Police, lawyers and Courts need to feel the responsibility sincerely, the judicial system of Pakistan will be up to the blot.

# 5.2 Recommendations

This study proposes some recommendations for the policy makers and responsive authorities.

1. Police department needs to organize a separate Monitoring and Evaluation Unit. This Unit would be responsible to record the performance of the employees through surprise visits of the Police Stations and may inquire about the required facilitation from the litigants. Female staff should also offer the equal participation to monitor the complaint cells and information desks which have been especially designed for the female litigants. This unit would not be reported to the district authorities.
2. Authorities are desired to facilitate the female lawyers of DBA Sargodha by providing them sitting place (chambers) so that they may comfortable to continue their work. In the same way, both male and female lawyers should organize a committee of both male and female lawyers. This committee would establish a Resource Center, comprising of 05-10 female lawyers who volunteer their services for the female litigants by getting nominal charges. These charges should be paid from the funds of District Bar Sargodha. The committee would guide and monitor the staff of the Resource Center accordingly.
3. Number of Judges should be enhanced in District Courts Sargodha. Female Judges should be appointed equally, especially for the family courts. District Session Judge Sargodha need to check the performance of the Information Center and Free Legal Aid Center, either these are functional or not. If not, then should redesign and monitor these centers regularly.
4. Trial courts judges should be accountable for any erroneous decision or procedural exploitation.
5. Training sessions should be organized for all the legal service providers including the judges, lawyers and police, on gender equity/sensitization.
6. Cases of violence should be straggled within a stipulated time frame.
7. Female staff should be appointed in a reasonable numbers to create women friendly environment.
8. During trial, unsolicited remarks by lawyer or judicial officers about female litigant should be considered as contempt of court.
9. Proper sitting arrangements and washrooms for female litigants are vital in courts building of District Sargodha.
10. No trial should be stopped or decree against the litigant just on account of non-submission of court fees.
11. The legal system should make sure the secrecy and safety measure for eye witnesses. So they may record their evidence without any fear.

# Bibliography

Adeline Delavande, B. Z. (2013). *Gender Discrimination and Social Identity: Experimental Evidence from Urban Pakistan.* New York: Federal Reserve Bank of New York.

GoP. (2016). *Punjab Citites Improvement Investment Program.* Lahore, Pakistan: Punjab Urban Unit.

GoP-PCST. (2017). *Pakistan Council for Science and Technology-PCST*. Retrieved March 2017, from History of Women Empowerment in Pakistan: http://www.pcst.org.pk/wst/wst\_hwep.php

Haider, S. Z. (2017, February 16). *The myth of women’s empowerment in Pakistan.* Retrieved March 2017, from Pakistan Times: http://www.pakistantoday.com.pk/2017/02/16/the-myth-of-womens-empowerment-in-pakistan/

HG. (2017). Retrieved March 25, 2017, from HG.org Legal Resources: https://www.hg.org/bar-associations-pakistan.asp

Iqbal, M. J. (2016). *Judiciary and Gender Bias .* Retrieved March 2017, from http://www.supremecourt.gov.pk/ijc/articles/11/1.pdf

Jasmine Schulkind, M. M. (2016). The social context of gender-based violence, alcohol use and HIV risk among women involved in high-risk sexual behaviour and their intimate partners in Kampala, Uganda. *Culture, Health and Sexuality*, 770-784.

JICA. (2008). *Pakistan: Country Gender Profile .* Islamabad: Sustainable Development Policy Institute.

Khan, M. Z. (2016, October 26). Retrieved March 2017, from DAWN: https://www.dawn.com/news/1292347

Khan, S. I. (2011, November 16). Retrieved March 2017, from Pakistantoday: http://www.pakistantoday.com.pk/2011/11/16/gender-discrimination-in-pakistan/

Lindsay, L. L. (2016). *Gender Roles-A Sociological Perspective.* NewYork: Routledge.

Maria De Paola, V. S. (2015). Gender Discrimination and Evaluators’ Gender: Evidence from Italian Academia. *Economica*, 162-188.

Mirza, N. (2011). *Seven pro-women laws in seven years.* Aurat Publication and Information Service Foundation.

Munshey, M. S. (2015, April 24). *Violence against Women in Pakistan – Between Law and Reality.* Retrieved March 2017, from Oxford Human Rights Hub: http://ohrh.law.ox.ac.uk/violence-against-women-in-pakistan-between-law-and-reality/

PBC. (2017). Retrieved February 2017, from Pakistan Bar Council: http://pakistanbarcouncil.org/

Rafique, M. S. (2016, August 16). Retrieved March 2017, from Daily Times: http://dailytimes.com.pk/opinion/17-Aug-16/gender-based--violence

Tia Palermo, J. B. (2014). Tip of the Iceberg: Reporting and Gender-Based Violence in Developing Countries. *American Journal of Epidemiology*, 602-612.

# Annexure I

**Interview Tool Form for Comparative Trend Analysis Study of DBA Sargodha**

|  |  |
| --- | --- |
| Name of Organization: SHER | Project Title: “Strengthening District Bar Association & Setting up of Facilitation Kiosks In district Courts” |
| Locaiton: DBA Sargodha | Name of Facilitator: Shahid A. Bukahri |
| Tehsil/District: Sargodha | Province: Punjab |

Name of Interviewee:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Father/Husband Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Profession:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Experience:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Years)

CNIC: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Gender: Male / Female

1. Do you think that key issues exist in the judicial procedure and case laws of women rights in Pakistan?
2. Yes b. No
3. How many Acts and Bills passed in Pakistan for protecting Women Rights during the period of 2008-2015?
4. How many cases of women are registered per month as per the record of Sargodha Bar?
5. What are different legal service providers to women in Sargodha District for protecting their rights against violence?
6. Do you think that women are comfortable to file cases for accessing justice against violence of their rights?
7. Yes b. No
8. Which body is responsible for implementing the Women Protection Laws in Sargodha District?
9. Are Women Laws implemented in true letter and spirit?
10. Yes b. No
11. What are different anomalies in the implementation of Women Protection Laws in true letter and spirit in Sargodha District?
12. What are different challenges of District Bar of Sargodha in dealing with Women Cases of violence of their rights?
13. How can Women Protection Laws implement effectively and effectually in Sargodha District?
14. How can the role of District Bar be improved for effective implementation of Women Protection Laws?

# Annexure II

**FGD Tool Form for Comparative Trend Analysis Study of DBA Sargodha**

|  |  |
| --- | --- |
| Name of Organization: SHER | Project Title: “Strengthening District Bar Association & Setting up of Facilitation Kiosks In district Courts” |
| Locaiton: DBA Sargodha | Name of Facilitator: Shahid A. Bukahri |
| Tehsil/District: Sargodha | Province: Punjab |

1. Do you think that key issues exist in the judicial procedure and case laws of women rights in Pakistan?

a. Yes b. No

1. How many Acts and Bills passed in Pakistan for protecting Women Rights during the period of 2008-2015?
2. How many cases of women are registered per month as per the record of Sargodha Bar?
3. What are different legal service providers to women in Sargodha District for protecting their rights against violence?
4. Do you think that women are comfortable to file cases for accessing justice against violence of their rights?

a. Yes b. No

1. Which body is responsible for implementing the Women Protection Laws in Sargodha District?
2. Are Women Laws implemented in true letter and spirit?

a. Yes b. No

1. What are different anomalies in the implementation of Women Protection Laws in true letter and spirit in Sargodha District?
2. What are different challenges of District Bar of Sargodha in dealing with Women Cases of violence of their rights?
3. How can Women Protection Laws implement effectively and effectually in Sargodha District?
4. How can the role of District Bar be improved for effective implementation of Women Protection Laws?

# Annexure III

**Focus Group Consent Form**

**Research project title:** Strengthening District Bar Associations Sargodha &Setting Up Facilitation Kiosks

**Research investigator:** Mr. Shahid A. Bukahri

**Location:** District Bar Sargodha

* I agree to participate in the focus group carried by Mr. Shahid A. Bukhari for compilation of Comparative Trend Analysis Report, organized by SHER.
* I have read the information sheet related to the aims of the project.
* I am aware of the topics to be discussed in the focus group.
* I am fully aware that I will remain anonymous throughout data reported and that I have the right to leave the focus group at any point.
* I am fully aware that data collected will be stored securely and safely.
* I am fully aware that I am not obliged to answer any question, but that I do so at my own free will.
* I agree to have the focus group recorded in audio form/printed, so it can be transcribed after the focus group is held.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Name of the participant**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Participant’s Signature & Date**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Researchers’ Signature & Date**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Project Coordinator’s Signature & Date**

# Annexure IV



1. In law, a **minor** is a person under a certain age, usually the age of majority, which legally demarcates childhood from adulthood. The age of majority depends upon jurisdiction and application, but is generally 18. Minor may also be used in contexts unconnected to the overall age of majority. [↑](#footnote-ref-1)