**Gender based violence courts in Pakistan**

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A 3 percent conviction rate in crimes related to Sexual and Gender-Based Violence (SGBV) is evidence that violence against women and girls continues to run rampant in Pakistan despite consistent and extensive law reform on various types of crimes against women, children and other vulnerable groups. Among the many issues that plague the country, gender disparity in all sections of society (as evidenced by World Economic Forum’s Global Gender Parity Index where Pakistan ranks 151 out of 153 country) is a result of the violence, discrimination and injustice to which women and girls are subjected daily.

Progressive legislation and the commitment to establish better mechanisms has improved the criminal justice system’s response to Gender-Based Violence (GBV) to an extent. A reformist spirit espoused by the judiciary, parliament and civil society organisations resulted in laws such as the Criminal Law (Amendment) (Offences Relating to Rape) Act, 2016 and the Sindh Domestic Violence (Prevention and Protection Act), 2013 which have paved the way for a stronger commitment to fight GBV and enhance legal protections afforded to victims of such crimes. However, the challenge still lies in implementation of these laws due to lack of effective mechanisms, infrastructure and institutional non-commitment to implement the letter and spirit of such legislation. Thus, the conviction rates especially in cases of rape (including male rape), child abuse and domestic violence have not increased, rather attrition levels have augmented.

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A Sindh-focused study conducted by the Legal Aid Society on Gaps in Investigation and Prosecution of Rape and Sodomy cases provides a snapshot of the timelines involved in such cases in Sindh after a 3-month time limit for rape trials was prescribed by the Criminal Law (Amendment) (Offences Relating to Rape) Act 2016. It is important to note that the Code of Criminal Procedure 1898 also provides 14 days for investigation, with special permission to be granted for investigation taking longer. The Gap Analysis shows that on average, it takes about 14 months for rape and sodomy cases to be decided, calculated from the date of FIR to date of final order. Though the investigation phase takes up 1.5 months of total time, the report observes that the trial phase takes up more than 9 months which is three times the stipulated duration as per the 2016 law. A qualitative assessment of the cases also revealed how gender bias and societal norms influence the decisions taken by the criminal justice system which further add to the problems faced by litigants. Lack of gender-neutral language in judgment writing, lack of understanding of medical evidence and great reliance on rape myths creates an environment which is opposed to a victim-centric approach to prosecuting GBV. The report further states that attrition levels remain high due to victims and witnesses resiling and entering into out-of-court compromises. In about 52 percent cases studied, victims and prosecution witnesses resiled which led to acquittals.

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It is also observed that victim/witness resiling is also a consequence of the traumatising experiences they go through while struggling to obtain justice. Another study conducted by the Legal Aid Society studies Court User Satisfaction to gauge the experience of victims of GBV and to gain an understanding of the factors that contribute to low confidence in the criminal justice system’s ability to deliver expeditious justice. Evidence from the survey conducted in Karachi and Hyderabad GBV Courts shows that absence of special protection measures contribute to low perceptions of safety by women as compared to men. Victims of GBV also reflected that long drawn legal battles negatively impacted their experience with the court and in many situations coerce them to enter into compromises with the accused.

Evidencing the data from research conducted on GBV cases and courts shows how litigants suffer in their struggle to obtain justice. Victims of rape and sodomy particularly go through re-traumatisation due to delays in justice, lack of protection measures and insensitive questioning and treatment during trial. In such a hostile environment, owing to long case proceedings and due to external pressures and intimidation victims/complainants of GBV are forced to compromise. This significantly hampers any successes gained at the legislative front.

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Recognising the current gaps in the judicial system, in November 2019 the National Judicial Policy Making Committee (NJPMC) directed all provincial High Courts to establish special Gender Based Violence Courts in an effort to provide speedy justice to victims of SGBV on a priority basis and in a gender-sensitive manner. Section 3 of the Anti-Rape (Investigation and Trial) Ordinance, 2020 has also promulgated the establishment of Special Courts for GBV, signalling towards the prioritisation SGBV crimes require and has provided a legal cover to these existing courts.

The operationalisation of special procedures such as GBV courts are aimed at alleviating the challenges and problems victims face in an effort to obtain justice. These challenges represent not only legal problems, but also the social, structural and systemic issues that women and girls confront daily. A victim of rape or child abuse while facing societal pressures to compromise also has to go through severe episodes of re-traumatisation and victimisation during trial. Constant intimidation by the accused, in addition to inappropriate questioning by defence counsel at trial and the social stigma and shame attached to such a horrific crime coerces victims/survivors into compromising or resiling.

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GBV courts essentially work towards eliminating the challenges faced by such victims and survivors. These courts operate with the objective to reduce trial time; to create a safe space and environment for victims and survivors through implementation of special protection measures; improving the experience of victims/survivors with the CJS through adoption of victim-centric approach and elimination of insensitive treatment and adoption of a coordinated and integrated approach among various CJS actors to work towards increasing conviction rates to deter GBV crimes. The promulgation of establishing GBV courts is inspired by their success in other jurisdictions and reinforced by the success of the GBV court established in Lahore. In many countries such as South Africa, UK, New Zealand and India, the success of special courts for GBV has been manifold. In addition to easing access to justice for victims and survivors, these courts have also enhanced deterrence to the incidence of such crimes by increasing conviction rates (65 percent of all tried cases in South Africa and 78 percent in Spain). Furthermore, these courts have also considerably built public confidence in state institutions’ ability to deliver justice through strict enforcement of special protection measures.

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The GBV Courts are now operational across Pakistan. Lahore and Islamabad High Courts have created guidelines for the operation of these courts and for how judges should proceed in such cases. However, these have not yet been notified in Sindh, leaving a gap in the effective functioning of these courts, resulting in the absence of an operational framework under which they can operate. The User Satisfaction Survey and Assessment of GBV Courts conducted by LAS provide ample evidence that currently the 27 GBV Courts in Sindh have not implemented special protection measures and special procedures which reflect these courts’ special GBV charge. For the GBV Courts to have the kind of success seen in international jurisdictions, the State, the Supreme Court and High Courts must provide adequate technical and human resources to ensure their full operationalisation; this needs to be done by implementing special protection measures such as victim waiting rooms and video-link testimony facilities to name a few. All GBV Courts must be equipped with these facilities, as opposed to the ad hoc allocation to only a few courtrooms instead of all.

With SGBV related crimes rising exponentially across the country, it has become all the more imperative to fully operationalise special protection mechanisms and infrastructure provided by the Gender Based Violence Courts. Integrated approaches are also required to reduce trial times as laid down in the 2016 Rape Act. Ensuring that GBV courts function under a strong legal and operational framework will serve this purpose. Indeed, the full operationalisation of all GBV courts across the country can usher in a new era of addressing gender-based violence with greater rigor and strict enforcement of the law to secure greater conviction rates and increase deterrence towards sexual and gender-based violence crimes.

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