

Section One

Violence Against Women
and
Impediments in Access to Justice

By

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A. Background

i- A Historical View of Violence Against Women

In ancient times, women were considered to be subservient to men. According to Encyclopaedia Britannica (1984), the place of a woman was degraded to such an extent in ancient Greece that she was generally regarded nothing more than a child bearing maid. Women were not treated like human beings, rather they were considered a commodity that did not have any emotions or feelings and could be sold or purchased at any time and by any one.

During the Nineteenth century, domestic principles were based on a patriarchal system. The husband was seen as the superior member of the household (Glenn 66). The wife was viewed as being the property of her husband, just like his slaves or his children (Glenn 71). As the "owner" of his wife, the husband could do as he pleased with his spouse because she was denied the power to have control of her own actions. It was considered a husband's duty to protect his wife, therefore, he was given the right to control and limit her behavior (Glenn 67).

This authority also allowed him to use violence, if necessary, to keep her "in line" (Glenn 71). Such standards of a man's domination over his wife's affairs created social acceptance of this marital cruelty (Hammerton 43).

Nineteenth century laws also led to a woman's oppression by her husband. Most states enforced a common law which stated a husband had the legal right to control his wife and all her possessions. This meant that after marriage, a woman lost control over her children, her inheritance, her wages, all her belongings and in effect, her self (Glenn 66-67). In addition, it was widely accepted around the world that "wife-beating" was a man's legal right.

ii- The Issue of Violence in the Subcontinent

One view that is held is that the beginning of prejudices against women in recent times could be traced to the time when the British replaced the Mughals as rulers to the Indian sub-continent. The British initially left the customary laws that related to women untouched on the grounds of political expediency.

In the earlier period of their rule, the British tried to apply the personal laws of Muslims and Hindus through courts but soon problems surfaced as most of the laws were written in the Arabic and Sanskrit languages. The local clerics were not well versed in the judicial laws which only added to the confusion. As a result, the courts arrived at different conclusions and this led to conflict and uncertainty among both the communities.

In later years, the British gave preference to customs and traditions over religious laws. Such customs gave a few rights to women. In the subcontinent, Islam as a religion remained dominant but Hindu cultural and traditional norms and values of the subcontinent gradually became an integral part of the Muslim way of life.

The dowry system, treating widows with contempt and shame, females being considered as liabilities by their fathers, brothers and husbands are examples of what crept into the Indian Muslim culture as well. The basic rights of women granted by Islam were twisted or ignored by the male dominant Indo-Pak culture.

Gradually, the notion of women being subordinate became so deeply entrenched in the social psyche that even where religion and formal laws gave certain rights to women, the sheer force of

customs and traditions has denied them the same. These attitudes not only affected women participation in various fields, but also undermined their potential power to contribute to society.

iii- A Global Issue

Discrimination against women is a global issue that is not confined to the limits or boundaries of a particular country. Discrimination against women prevails even in western culture, which is considered to be the standard bearer for women's rights, or so it is believed.

Women constitute half of the global population but they perform more than three quarters of the work, in addition to their household work. Numerically, women contribute significantly to the world's workforce, yet most of them are very poorly paid. In fact, according to some statistics, women receive only one-tenth of the world's income and one-hundredth of its property. This situation has led to an ominous global trend called "Feminization of Poverty".

The torture of women is rooted in a global culture which denies women their rights and which legitimizes the violent appropriation of women's bodies for gratification. Much of the violence that women face everyday is at the hands of people with whom they share their lives. Violence against women has risen to appalling levels in Pakistan. The degraded social status of women and a continuous suppression of their rights have contributed to the increase in cases of violence against women.

B. Present Situation

If we focus our attention on Pakistan, we find that it is a country where conservative, feudal and tribal structures co-exist. Women are considered central to this religious, social and cultural bias and are often victims of patriarchal norms and structures.

Discrimination against females begins right from the time of their birth, as this occasion is greeted with sorrow and despair in some backward households. The girl child is considered a social liability and marriage is believed to be her only goal in life. So strongly are these concepts entrenched in her that she cannot even imagine that these could be erroneous or unjust norms of behaviour.

i- Poverty and Violence Against Women

There is growing evidence that living in impoverished conditions increases a woman's risk to all types of violence. For example, murder rates worldwide are found to be highest in areas where poverty is most prevalent. This is not to say that there is always a direct relationship between poverty and violence - but poverty is an important factor that needs to be considered to understand the rates and prevalence of violence against women.

In the absence of gender-disaggregated poverty-related data, a systematic gender analysis of poverty processes remains elusive in Pakistan. However, it is increasingly evident from the studies on feminization of poverty that women bear a disproportionately high share of the burden of poverty within the family and society.

Female labor force participation rates in Pakistan are exceptionally low at just 13.7 percent, compared to 70.4 percent for men. In addition, the majority of women in the formal sector of the economy are concentrated in the secondary sector of the segmented labor market.

This economic vulnerability limits their chances to change their situation when confronted with violence. Poverty-stricken women, and particularly those in rural areas, are often financially dependent, have limited access to employment and are unsupported mothers who must fulfill the role of a care giver. As a result, they have very few alternatives and options if they wish to leave a violent situation or community.

ii- Cases of Violence Against Women in Pakistan

Facts on cases of violence against women in Pakistan are collected by the Research & Documentation Center of Madadgaar/LHRLA. The Center documents all cases either published in newspapers or otherwise acknowledged, to collect information regarding human rights violations in the country, especially against children and women. In order to maintain an updated database, the staff of Madadgaar daily monitors twenty-six newspapers from the Urdu, English and Sindhi languages.

Table 1: Cases of Violence Against Women in Pakistan

Nature of Violence/Abuse	2000 (Jan-Dec)	2001 (Jan-Dec)	2002 (Jan-Dec)	2003 (Jan-Dec)	2004 (Jan-Dec)	Grand Total
Murder	386	1422	1583	1636	1468	6495
Rape	404	576	984	1030	1047	4041
Torture/Injury	317	1195	1570	1920	1600	6602
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Nature of Violence/Abuse	2000 (Jan-Dec)	2001 (Jan-Dec)	2002 (Jan-Dec)	2003 (Jan-Dec)	2004 (Jan-Dec)	Grand Total
Honor Killing	Not collected	736	803	930	870	3339
Burn cases	Not collected	311	240	380	310	1241
Corpses found	Not collected	Not collected	120	129	44	293
Abduction	690	1255	1404	1759	1397	6505
Police torture	Not collected	64	97	140	180	481
Suicide	638	1053	1112	1412	1327	5542
Trafficking	Not collected	36	28	84	62	210
Grand Total	2435	6648	7941	9751	8305	35080

Source: Madadgaar database

All the cases mentioned in Table 1 have been reported in various national and vernacular newspapers of the country. Madadgaar believes that this is just the tip of the iceberg as the real magnitude of abuse against women is never fully reported or exposed. The quantum of actual cases of violence against women and children is, according to even conservative estimates, ten times higher than reported. Most of the cases have been reported from Sindh and Punjab while very few cases come to light from NWFP and Balochistan.

iii- Cases of Violence Against Men in Pakistan

The Madadgaar database has also collected the following statistics regarding the reported cases of violence against men in all four provinces of the country.

Table 2: Cases of Violence Against Men in Pakistan

Nature of Violence / Abuse	2000 (Jan-Dec)	2001 (Jan-Dec)	2002 (Jan-Dec)	2003 (Jan-Dec)	2004 (Jan-Dec)	Grand Total
Murder	Not collected	56	98	69	132	355
Police Torture/Injury	Not collected	125	270	382	166	943
Honor Killing Torture/Injury	Not collected	Not collected	22	26	19	67
Honor Killing Murdered	Not collected	Not collected	167	279	369	815
Suicide Committed	271 (Start at Oct)	1455	1557	1828	1361	6472
Suicide Attempted	75 (Start at Oct)	468	478	655	822	2498
Target Killing Murdered	Not collected	Not collected	308	210	98	616
Target Killing Torture/Injury	Not collected	Not collected	225	Not collected	Not collected	225
Trafficking	Not collected	Not collected	Not collected	Not collected	17	17
Executed	Not collected	Not collected	Not collected	104	510	614
Grand Total	346	2140	3125	3553	3494	12622

Source: Madadgaar database

iv- Abuse of Women

The abuse of women is defined as any form of behavior that controls a woman, causes her physical harm or fear, makes her do things that she does not want to do, or prevents her from doing things she wants to do.

Abuse can be verbal, emotional, physical, sexual, material or financial. Abused women usually experience multiple forms of abuse. Woman-abuse occurs in all countries and cultures, as well as among people from all levels of education, socio-economic status and religion. It is a behavior linked to male power, privilege and dominance in the family and society.

Media and culture contribute to perpetuating this way of thinking and acting. It is an important equality issue with serious economic, health and social consequences for individuals, families and society.

In Pakistan, discrimination against women and their neglect is reflected in all spheres of life. It is evident in females' health and nutritional status, in their education and employment opportunities, their lack of participation in decisions that affect their lives and in social norms. They are handicapped by the limited opportunities, which may have an array of consequences that result in higher rate of psychological problems. On the top of the list of such problems is depression.

Although gender biases exist in all societies, the situation is particularly disturbing in Pakistan where poverty, ignorance and some traditions have combined to give women a position of subordination to men. While women remain a neglected segment of our society, it is ironic that the rights granted to them under the Shariah and laws of the land are also denied to them in order to appease the egocentric attitude of our male-dominated society.

Many women in the Pakistani society are deprived of their basic rights. At the same time, despite increasing public, professional and scientific interest in the problem of women abuse, little has been done about protection and promotion of the women's rights. Even after delineating and defining what the actual role of women in the society is, the position of women remains ambiguous and uncertain.

The chapter of the United Nations Endorsement of the Equal Rights of Men and Women and the subsequent international treaties and declarations, the most recent being the Declaration of Beijing in 1995, stand in sharp contrast to the reality of life for millions of women in the country. The economic, social and cultural rights of women continue to be neglected in Pakistan.

v- Prevalence of Domestic Violence

Domestic violence is prevalent in our society but despite this, in many instances women still do not want to divorce their abusive husbands. The question arises why a woman tolerates such abusive behaviour from her husband. A closer study reveals a few major reasons which force women to stay in the relationship, namely the lack of professional skills and the social stigma attached to divorced women.

Marriage at an early age prevents women from acquiring professional skills or from getting higher education. As a result they cannot earn a living on their own and are completely dependent on their husbands for survival. If they divorce their husbands, they have nowhere to go and even if the woman is economically stable in her position and can survive independently, in Pakistani society divorced women are looked down upon.

If the woman has children, then the family pressure is immense and it is she who is told "to suffer a little to prevent family break-up" or "wait till your children grow up."

Other factors, which impact a victim's decision to remain in or return to the marital relationship, include:

- Threats to her self and to her children by the offender
- Threat of offender to kidnap the children
- Victim loves the offender and believes in the offender's promise that the violence will end, may be due to self delusion or to avoid social disgrace
- Victim believes in traditional values of keeping families together and remaining married
- Victim has low self-esteem resulting from repeated abuse which leaves her believing she has no alternative to the abusive relationship

The most obvious manifestation of domestic violence is burning to death. Each year, hundreds of innocent girls die due to stove-burning incidents in Pakistan. The majority of the victims are newly-wed women belonging to the lower middle socio-economic level. Burning cases are repeatedly found when in-laws or husbands want to get rid of the girl to marry another woman for more dowry or to have a "male heir" for the family.

Case Study 1: Woman Burnt Alive

LHRLA pursued the case of Ms. Aisha who died in Karachi on 5th December, 2000 due to burn injuries. She was admitted to PNS Shifa, a Karachi hospital, in a critical condition on October 3, 2000, with 70 percent burns, inflicted by her husband. The news of her burning was published in most newspapers and LHRLA team members immediately contacted the victim's family at PNS Shifa Hospital and offered all possible help and legal aid.

The family was very terrified due to the threats of the perpetrator, Aisha's husband, and refused to take any help from the LHRLA team. Later on, the victim's mother, Ms. Shaheena Khatoon, approached LHRLA on 11th November 2000 and narrated her daughter's sad story.

Ms. Khatoon informed that after her matriculation at the age of 16, Aisha got married to her maternal cousin, Ataullah. After a year of marriage she became mother of a baby girl but her in-laws threw her out of the house and demanded dowry. Before the marriage they had insisted that they did not want any dowry at all.

Ms. Khatoon added that with great difficulty she had arranged some dowry and got a document signed by Ataullah that he would not torture Aisha again. But the cruel husband repeatedly tortured her. He forcibly confined Aisha and starved her of any food for three days and finally on 3rd October burnt her so severely that she succumbed to her injuries.

Ms. Khatoon asked the organization to help her in getting the custody of her granddaughter, Hifza, who, she feared, was exposed to cruel violence and was in the custody of Ataullah. LHRLA deputed a lawyer and filed a suit for custody of the minor in the High Court.

LHRLA's advocate presented the case in court and got the custody of Hifza on the date of the first trial. Meanwhile, Ataullah and his family tried to force Ms. Khatoon and her family to compromise and threatened them also but LHRLA team provided full support at that critical time.

vi- Socio-Customary Practice of Karo Kari/Honor Killing

Honor killings are another recurring form of violence against women in Pakistan. In this, on suspicion of infidelity or having a pre-marital affair, women are declared Kari and are killed. However, the barbarism does not end there. A suspect man is also declared Karo and killed, usually with the blessings of the Jirga – an informal justice system that comprises village elders.

Owing to the tribal nature of society in some parts of Pakistan, the perpetrators are seen as having vindicated their honor in the eyes of both the local law enforcer and society. As a result, the practice of summary killing of a woman suspected of an illicit liaison, known as 'Karo Kari' in Sindh and 'Siyahkari' in Balochistan, is known to occur in all parts of the country.

During 2001, 736 (Table 1) women and 22 minor girls, became the victims of Karo Kari in the country. All these cases were displayed in the prominent national and provincial newspapers. An analysis of data in newspapers on Karo Kari killings collected by the Madadgaar revealed that during the year a total of 758 cases including women and minor girls were reported from all over the country. Out of which, 453 cases of Karo Kari were reported in Sindh, 204 in Punjab, 69 in Balochistan and 32 in NWFP. The research also noted that 511 cases of Karo Kari were reported against married women, 51 against unmarried girls, 7 against divorced women and 7 against widows.

During 2002, 803 women (Table 1) and 20 minor girls became the victims of Karo Kari in the country. An analysis of data on Karo Kari killings collected by the Madadgar revealed that a total of 823 women and minor girls were reported victims of Karo Kari. Out of which 423 cases of Karo Kari were reported in Sindh, 319 in Punjab, 36 in Balochistan while in NWFP 45 such cases were reported by the print media.

The trend continued during 2003, as national and regional newspapers reported 1,261 cases of honor killings. Out of this, 930 were committed against women, 316 against men, 8 against female children and 7 against male children.

During 2004, a total of 870 cases (Table 1) of honor killings were reported in the country, with 499 in Punjab, 87 in NWFP and the rest in Balochistan and Sindh.

However, the real number of such killings is still vastly greater than the number reported in the national print media. Honor killings are no longer reported only from remote rural areas but also - though less frequently - from towns and cities.

vii- Apprehensions on Honor Killing Bill

On 26th October 2004, the National Assembly adopted the Criminal Law (Amendment) Bill, 2004, against honor killings. Various human rights organizations and groups criticized the bill due to certain loopholes and lacunas present in the bill.

Following are some of the comments that appeared in the national and vernacular press during that time on the issue:

- “We strongly oppose and reject this bill. The provisions in the law about compoundability, mandatory minimum punishments and its failure to make the state a ‘Wali’ who could grant pardon for a killing.”
- “If the absurdities of the bill are not removed, it could meet the fate of the Juvenile Justice System Ordinance that was struck down by the Lahore High Court.”
- “The bill touched upon three most important laws – dealing with the honor killing, the Hudood Ordinance relating to the offence of Zina and to blasphemy – but the government proceeded in a hurry without giving any thought to the views of opposition parties, NGOs,

women organizations, member of the civil society and recommendations of two women's commission against the Hudood Ordinance.”

- “The bill did not address two serious shortcomings in the existing laws on murder due to which offenders in Karo – Kari cases could walk away without facing punishments. First was the right of relatives to waive the “Qisas” as contained in Section 309 of the PPC. The second was the provision of “Sullah Badal” in Section 310 of the PPC under which the right to “Qisas” is made compoundable. Section 306 of the PPC is another big loophole in the law due to which certain categories of offenders could get away without any punishment.”

Source: Madadgaar Research

C. Violence Against Women and Media

The media has done a commendable job in educating the masses on human rights issues and have frequently disseminated information on human rights violations. However, a lot still needs to be done in this regard. Additionally, some of the pressing concerns in the country include harassment and intimidation of the media and legal discrimination against and mistreatment of women.

A predominantly patriarchal set-up, male-centric media policies and a corporate sector which has minimal ethical considerations are together responsible for the manner in which women in Pakistan are portrayed through various channels of mass communication. The role of women in determining the way in which they are projected is also often contended. A lot of women, who are themselves fulfilling various roles within and outside the media, as well as some think tanks, believe in giving more weight to a women's physical appearance than to any other of her attributes. It is also these women who want to make themselves objects of beauty. The most unfortunate part of this whole situation, however, is the grim reality that even a higher number of women in media, which has been the case in the more recent past, have not really helped in fostering a healthy relationship between women and the media.

Most often the reason for this state of affairs is the fact that women do not usually occupy senior positions in the media even in the developed countries, and therefore, are not usually in decision-making positions that would enable them to influence the content. Policy makers create unnecessary hurdles with their censorship policies, restricting women from discussing pertinent issues such as rape, sexual exploitation, family planning, impotence, STDs and other health related topics. The advertisers also dictate terms to the channel operators in order to alter policies.

Inadequate coverage of women's perspectives seems to be a worldwide phenomenon. In 2000, the Association of Women Journalist studied news coverage of women and women issues in 70 countries, including Pakistan. It reported that only 18 percent of stories quote women and that the number of women-related stories came to barely 10 percent of the total news coverage.

Although there has been a steady increase in the number of women professionals over the past 20 years in different areas, most mainstream press coverage continues to rely on men as experts in fields such as business, politics, crime and economics.

On the local front, crime related stories that involve women are covered in a way that becomes a crime in its own right, especially in the vernacular press. Eye-catching headlines, accompanied by dramatic descriptions of the crime and equally appalling pictures fail to fulfill the purpose that lies behind the media's role. In Pakistan, as it is mostly male reporters who cover crime, their training in gender sensitization and gender reporting is imperative in order to ensure that crime against women is covered in a way that does not demean the dignity of a woman.

Case Study 2: Effects of News Reporting on a Survivor of Domestic Violence

The ordeal of Ms. Naeema Begum's sufferings is two fold. Ms. Naeema is a survivor of domestic violence. She had to undergo physical and mental torture every day, as reported by journalist and women right's activist, Ms. Narjis Zaidi, in a local English daily. According to the news report Ms. Naeema's husband threw acid on her, leaving her with a disfigured face and blinded eyes and then abandoned her.

But Ms. Naeema's ordeal was not over. She later suffered at the hands of an NGO that made a video of her burnt face without taking her consent, thus violating her privacy and demeaning her dignity, which are fundamental human rights of an individual. Reportedly, media exposure was one of the reasons why Ms. Naeema left the Holy Family Hospital in Karachi despite the fact that her treatment was incomplete.

Ms. Naeema's case draws our attention to the ethical issues regarding the treatment of domestic violence victims, especially the survivors. There are chances that despite the best intentions, the media and NGOs dealing with the survivors of violence may end up doing more harm than good. Therefore, it is important that there must be some ethical guidelines to protect the dignity and honor of the survivors. It is also crucial that these guidelines must be implemented.

Source: The News Daily, December 7, 2004. Karachi Edition

D. Phenomenon and Issues of Violence Against Women

i- Legal System

- Pakistan is a country where parallel judicial systems operate.
- Litigation is a lengthy and expensive process and beyond the means of the sufferers of the worst human rights violations: marginalized and ignorant women, children, illiterate and other poor people.
- The 1973 Constitution of Pakistan is a contradictory document. On the one hand, Article 25 of the Constitution guarantees equality of rights to all citizens irrespective of sex, race, and class and empowers the government to take affirmative action to protect and promote human rights. On the other hand, there are several discriminatory laws that have a negative impact, especially on women and minorities.
- Lack of access to justice for all.
- Role of Judiciary - often the law is not applied equally and verdicts often reflect gender bias.

ii- Jails of Pakistan

Massive overcrowding in Pakistan's prisons and the predominance of under-trial inmates stems from a number of fundamental flaws in the criminal justice system. These include the failure of the police to complete investigations within the time period prescribed by law, the restrictive application of bail laws, frequent adjournment of hearings, understaffed and under utilized parole and probation departments and a dearth of free legal representation.

Table 3: Total Prison Population in Pakistan

Total Number of Prisons in Pakistan	89
Prison Population	80,365
Prison Capacity	35,500
Over Crowding	45,153
No. of Convicted Prisoners	17,073
Under Trial Prisoners	53,891

Source: Prison Department – Office of the IG Prison office, Sindh.

Provincial Prison Population Statistics: According to the data received from the Prison Department, IG Prison office, Sindh:

- In Punjab, about 50,213 prisoners are languishing in 30 jails against the official capacity of 17,637 prisoners.
- 11 jails across Sindh are housing 18,397 prisoners against the capacity of 8,026 prisoners.
- In NWFP, 9,992 prisoners are languishing in 22 jails against the capacity of 7,857 prisoners.
- In Balochistan, 10 jails are housing 2,848 prisoners against the official capacity of 1,845 prisoners.

Rate of Conviction among Female Inmates: According to the data available with the IG Prison Office, Sindh, there are 7,000 women inmates in 75 jails throughout the country who are undergoing sentences for various crimes or are awaiting trial. Out of this total, 88 percent of the female inmates are involved in cases related to the Hudood Ordinance and remaining 12 percent are charged with theft, dacoity, kidnapping, murder, drug smuggling and other crimes. Only 421 female inmates out of a total of 700 have been convicted. Among the convicted, 269 are in Punjab jails, 31 in Sindh, 98 in NWFP, 22 in Balochistan and 1 in Kashmir. Out of the total 7,000 female inmates, 40 percent of female inmates are accompanied by minors in jail.

Table 4: Under Trial Female Prisoners

Type of Offence	Under Trial Female inmates
Hudood Ordinance	87
Murder	24
Kidnapping	9
Dacoity	12
Narcotics	48
Foreigner's Act	02
Others	38
Total	220

Source: Karachi Women Prison

Table 5: Convicted Female Inmates

Type of Offence	Convicted Female Inmates
Murder	13
Hudood Ordinance	02
Kidnapping	08
Narcotics	17
Foreigner's Act	02
Total	42

Source: Karachi Women Prison

Karachi Women Prison: Statistical Overview of Women Involved in Different Crimes (October 2004):

The state does not offer free legal services, and a survey conducted by the LHRLA team in the Karachi Women Prison (see Tables 4 & 5) showed 90 percent of them needed a lawyer. More than 50 percent did not know they were entitled to contact one. The women actually sentenced constituted 5 percent of the total prisoners whereas the remaining 95 percent were awaiting trial, unable to obtain bail or were ignorant of the fact that they could avail it. Some knew what the general case against them was but were largely unsure of the exact charges. Some were totally unaware of the laws under which they had been arrested and were undergoing imprisonment.

Following is the extract from a letter written by a literate, vocal female inmate. In this letter to the President of Pakistan, General Pervez Musharraf, she evocatively described the plight of female prisoners and the derogatory and discriminatory attitude faced by arrested women in police stations during interrogation at the hands of Investigating Officers (IOs).

Case Study 3: A Letter to the President of Pakistan

Dear Mr. President,

I would like to thank you for the protection that this government had provided women. Women were never given any importance before. It is only now that people are raising their voices against the injustices and oppressions suffered by women with responsibility and sensitivity. Women are beginning to realize that they too deserve respect and have rights.

Mr. President, I'd like you to pause for a second and consider the plight of women serving time for kidnapping and terrorism offences--- they weren't considered worthy of a pardon. Yet they are victimized the same way as other prisoners are. They are targeted by corrupt, brutal and greedy police officers and implicated wrongfully and coerced into confession through mental and physical torture including a practice as inhuman as placing rats in their 'Shalwars' (trousers).

Such treatment would turn a victim into a criminal. Even the hardest of men crumble under the brutality of these police officers and confess to crimes they have not committed. Women are so much more fragile --- threatened with rape, taunted with continual verbal abuse of the lowest kind, it doesn't take much before they are forced into illegal confessions.

These same police officers appear in court and lie. Based on their testimonials alone, women are convicted and imprisoned. Why is it that women are convicted and sentenced to death based on such testimonials alone? Police officers and magistrates are not witness to crimes.

And because of such testimonies, women like me, someone who could probably not even be able to slaughter a chicken, is serving 25 years for terrorism just because I wasn't able to pay my way out of a corrupt police system. There are many others like me – usually poor and disempowered.

I have been incarcerated for two years but there are some who have been here for up to eight years. Such women do not have resources to hire competent lawyers to appeal their convictions – and if an appellant is not represented, a high court usually dismisses her appeal. Such women aren't eligible for release under presidential and other pardons as they cannot meet the conditions and their victimization continues.

Dear President, as someone who is genuinely a protector and guarantor of people rights and women's rights, I beg you to do something for women in prison as we are worried about the welfare of our children, and like my fellow inmates, I feel thoroughly disillusioned.

Women here are not terrorists and murderers; they themselves are victims of poverty, lack of education, and all forms of societal violence. It isn't the rich who are in prison.

Note: The views expressed in the letter are solely of a female inmate undergoing a 25-year imprisonment in a kidnapping offence at Karachi Women Prison.

iii- Discriminatory Laws

Issues relating to violence against women in Pakistan are intimately bound up with the legal system, and more specifically with the 'Hudood Ordinance,' which sets out differences in the legal status of women and men.

The Islamic Penal Law, the Hudood Ordinance repealed the provisions of the Pakistan Penal Code which related to rape cases in 1979. The Law of Evidence applicable to cases of rape requires the

evidence of four adult male Muslims for the penalty to be imposed upon the accused. Being a half witness by law, the raped woman can't even testify in the crime committed against her. According to these laws, testimony of the victim requires strong corroboration for conviction by the court.

On the other hand, where sexual intercourse is established but the absence of consent cannot be proved, the presumption that such intercourse occurred with the woman's consent can place her at the risk of prosecution. In these cases, whether adultery or rape, a woman is kept in jail pending the ruling of the court. As a result 52 percent of women languishing in the jails of Pakistan are waiting for their fate under such cases. In the event of a woman marrying without the consent of her family, the marriage can be declared invalid and the couple would then be accused of Zina.

Discrimination propelled by cultural insensitivity of the Hudood Ordinance with a lack of empowerment of women: Apart from the discriminatory effect of the Hudood Ordinance, it may also be pointed out how the legal provisions are not sensitive to local culture. Women are to a large extent dependent on and under control of their male guardians. Often cases come to light where women change hands from one male guardian to another by marriage or even without marriage.

This state is not induced by their independent and individual desires, they are merely victims of the prevailing socio-economic circumstances. Keeping this in mind, it is discriminatory to introduce severe criminal sanctions against women for their involvement in such situations and relationships.

Adverse effects on women charged and imprisoned under the Hudood Ordinance: It is roughly estimated that out of every hundred cases filed under the Zina Ordinance, less than 10 cases result in convictions. All the women charged and detained in prison under the Hudood Ordinance suffer arbitrarily at the hands of prison officials. There is a lack of provisions to deal with compensating those who suffer as under-trial prisoners, often acquitted by the courts but having been subjected to gross violations during custody.

The incidence of such a large number of women in prison as under-trial prisoners bears testament to the discriminatory stance resulted by the application of the Hudood Ordinance. It legally increases the opportunity and scope of abuse at the hands of the police, like custodial rape and sexual harassment.

The ordinance, whether by introduction or application, has not diminished Zina, prostitution, rape, kidnapping, abduction, enticing away women or any other related crimes against women. On the contrary, crimes such as rape have increased due to the application of this law and it provides opportunities for law enforcement personnels to further abuse the victims.

The operation and consequences of the Zina Ordinance have acquired it a dubious reputation, so much so that it seems that this statute hangs above all women like a potent sword. Often, it is employed where professional women are blackmailed to hand over their children and assets to their husbands, under the threat of false complaint of committing Zina.

E. Criminal Justice System & Victimization of Women

The criminal justice system in Pakistan is plagued by a serious crisis of abnormal and prolonged delays. Delays in litigation of criminal cases have become chronic. Though Pakistan has a constitution which guarantees equality, there is a significant disparity between statements of principle and day-to-day reality.

In several of its Articles, the Constitution of Pakistan guarantees gender equality. For instance, Article 25 says: "All citizens are equal before law and are entitled to equal protection of law" and Article 27 states: "There shall be no discrimination on the basis of sex alone".

Of the International Human Rights Treaties relevant to the issue of honor killings, Pakistan has ratified the UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). According to Article 5 of CEDAW: "(Private) State Parties shall take all appropriate measures: (a) To modify the social and cultural patterns and conduct of men and women, with a view to achieving the elimination of prejudices and customs and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

It is a poor country with great extremes in the distribution of wealth between social classes. The rate of illiteracy is high especially among women. Many problems faced by women in the present criminal justice system are based on social factors such as illiteracy and economic dependence on male members of the family.

The reality for women in Pakistan is however far different as even the laws in place to protect them are no longer effective. In March 1996, Pakistan ratified the UN Convention on CEDAW by committing itself to amend or repeal laws inconsistent with the convention and to ensure that discriminatory practices against women are brought to an end. Though Pakistan is a self professed Muslim state with a democratic political system, the legislative authorities have failed to attain desired goals and outcomes as most of the time the political system of Pakistan tends to be in a state of turmoil.

i- Role of Police and Prison Officials

The law enforcement agencies in Pakistan are singled out in many international human rights reports. There is a climate of impunity associated with all forms of police abuse. The police are accused of bribery, corruption, liaising with the criminal underground and of ill treatment of defendants in custody.

Although expressly forbidden by the Constitution and Penal Code, torture and other degrading treatments by the police remain common practice. Police and prison officials frequently use the threat of abuse to extort money from prisoners and their families. They accept money for the registration of false charges and are known to torture innocent citizens.

Human Rights activists in Pakistan state that "cases of assault in custody, almost never get reported but the assumption is that rarely a woman or a girl who fell in to police hands goes unmolested."

In a study conducted by the “Jail Project of LHRLA on Victims and Criminals: How the Hudood Ordinance Criminalizes the Most Marginalized Segment of Society,” a sample of 56 inmates in the Karachi Women Jail were interviewed.

Some, but not all women, complained of mistreatment at police stations. At least 6 women said their family members dragged them to the police stations and threatened and beat them before police officers who stood by and watched. At least 11 women complained of verbal abuse by the police officers saying that the policemen used extremely vulgar language, cursing them and threatening them with sexual assaults and with setting rats loose in their Shalwars if they didn't confess or comply with their demands. 12 women complained of physical assaults, most common among these being slaps across the face. One woman said she was hung upside down and beaten; whereas 2 stated they were beaten with batons.

ii- Torture under Detention

Pakistan's legal system forbids torture under detention. According to Criminal Procedure Code (Cr.PC) Section 16:

(1) No police or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Evidence Act, 1872, Section 24. In the Evidence Act of 1872, which was amended in 1984, Section 24 is now Article 37 and reads:

“A confession made by an accused person is irrelevant in a criminal proceeding, if making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain advantage or avoid any evil of a temporal nature in reference to the proceedings against him”.

The UN defines **Torture** as the severe infliction of physical pain or mental suffering. Although torture is directed against the body, its target is to break the human will, ultimately to destroy a person's dignity and free will.

In police stations across Pakistan, as in other countries in South Asia, torture is a routine procedure to extract confessions. Although prisoners have been known to be maimed or killed in custody, not one police official has yet been convicted for this crime. "For lack of evidence, not even once has a police official accused of torture been punished by a court of law. Since it was inside the police station, victims could not furnish witnesses," says criminal lawyer Mr. Hashmat Ali Habib, a former secretary general of Amnesty International (AI), Pakistan chapter.

These charges were also echoed by other human rights groups commenting on the human rights situation in Pakistan. The reports, reflecting the law and order breakdown in Sindh and the government's reaction to it, stated that government opponents are often harassed, placed under arrest and detained for unspecified periods of time. Scores of prisoners of conscience have been held for their political activities or religious beliefs. The practice of repeatedly bringing false charges against members of the political opposition is a widely used tactic in Pakistani politics and has also been used to arrest activists of other opposition parties.

Case Study 4: Condemnation on Police Brutality at Gizri Police Station, Karachi.

LHRLA has vehemently condemned the reports of severe torture on two male detainees at Gizri Police Station, Karachi. According to details, two accused persons identified as Saleem, 41, and Ameerzada, 30, received serious burn injuries in a police lock-up within the limits of Gizri Police Station.

The injured victims were rushed to the Civil Hospital where their condition was stated to be critical. The duty doctors said that the victims informed them that they suffered severe torture since their arrest on 9th August 2004. The injured persons said that police officials poured petrol on them and set them on fire, the Medico Legal Officer (MLO) added.

LHRLA President strongly condemned the incident and appealed to the government and civil society institutions to take immediate actions to eliminate this abuse. He added that prisoners are vulnerable to exploitation and international norms dictate that arrest and detention must at all times adhere to international conventions.

Similarly, in 2004, 504 cases of police torture were reported in the national press. Of these cases, the majority were reported in Punjab and Sindh, with 295 and 186 cases, respectively. These include 103 cases of illegal detention and 95 cases of murder.

Madadgaar data revealed that even women and children face extreme risk of being raped or sodomized in police custody. The analysis of data showed that during the current year, police officials have raped 15 women while they were in custody. The media has also reported 37 cases of minor boys who were sodomized while in custody.

Under Pakistani law, the police must produce detained suspects before a Judicial Magistrate within 24 hours of arrest. However such procedures are routinely violated. Article 9 of the Constitution guarantees that no person shall be deprived of life or liberty in accordance with the law, Article 10 protects against illegal detention and Article 14 protects against the use of torture for extracting evidence.

The government should make efforts to stop torture under detention and immediately ratify the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment.

Source: Madadgaar database

iii- Excerpts of Some Newspaper Reports on Police Torture

- **Case filed against 5 policemen:** The court issued an order on a petition to file a case against 5 policemen. The petitioner stated that the police had burst into his house, beat up the women when they resisted and took away valuables. The policemen took him to police station where they tortured him. (Published in Frontier Post on 24-6-04)
- **Residents protest police attitude:** Residents of Dalazak Road in NWFP and nearby localities staged a protest rally and pelted stones on the police post besides blocking the road for all kinds of traffic. (Published in The Statesman on 23-6-2004)
- **Demo against police:** Some 300 citizens took out a protest rally against the attitude of the police in Sinjhor, Sindh. The protesters were chanting slogans against police. (Reported in The News on 28-6-2004)

iv- Poor State of Women Police Stations and Jails

Former Prime Minister Ms. Benazir Bhutto inaugurated the first Women Police Station (WPS) in Karachi on June 2, 1994. The general public received it very well, particularly the women in Karachi. However, the female staff recruited for the station had not received proper training and were usually expected to perform protocol duties. The standard of training given to the staff of the WPS could be gauged from the fact that many did not know how to write an FIR (First Investigation Report), which is the basic function of a police station.

The idea behind establishing WPSs meant dealing exclusively with women in need. However, this has not happened. The harsh attitude and use of abusive language by policewomen towards victims brought to the station made it no less problematic a place than an ordinary police station. Due to the deteriorating image of the WPS, aggrieved women avoid registering their cases there.

Case Study 5: A Woman's Ordeal at the WPS

Ms. Mehtab, a victim of domestic violence, narrated her ordeal at the WPS. She said, "I went to the station at 6.00 pm, then I came to know that the SHO left the office at 5.00 pm and there was no concerned woman official to register my complaint. The next day I met with two women officials who used very filthy language in their conversations with me. I told them about my case. Both of them showed no sympathy and said that it was a matter between me and my husband and that they could not do any thing."

Source: Madadgaar Database

The problem is the same with the registration of cases related with women in ordinary police stations which causes numerous problems for aggrieved women. The case of Ms. Hajran is an example. Due to the poor functioning of the WPS in Karachi, she was forced to register her case in another police station. "It was an awful experience to narrate my sufferings in front of male staff," Hajran recalled. "It was the male staff who I dealt with in such a sensitive case where women police are essentially required," she said.

Four WPSs were established initially in all the four districts of Karachi. However, now there is only one left in District West. Now cases related to women are registered in regular police stations, which cause numerous problems for aggrieved women as male staff also deal with some of these sensitive cases.

Ms. Sheeba Shah, Superintendent at the Karachi Women Prison is of the view that women in jails are only a third of the Zina related FIRs lodged at police stations. Through inappropriate arbitration, the police at the station level dispose off most cases before filing official FIRs or in some cases before submitting Chalan to courts and magistrates. The women are sent home from the police stations and the police settle the dispute after receiving bribes and coercing women with threats into compromises.

In another incident, a female inmate, Ms. Zahida, recalls that upon reaching Taimuria Police Station, Karachi she was presented before an IO and was told that two days earlier her husband had lodged an FIR against her on Zina charges. The IO interrogating her, twice slapped her across the face. Then another officer who spoke to her gently advised her to admit to the charge and tell her examining doctor and the judge the same story. "Otherwise," he said, "you have no idea how brutally they will treat you." She said that "her husband and the police were involved in trapping her

and had told her to officially state that another person had kidnapped her and then forcefully committed adultery with her.”

v- Police Complaints Authority

According to Police Order 2002, the Government will establish a Federal Police Complaints Authority (FPCA) for inquiring into serious complaints against the members of federal law enforcement agencies.

Under Police Order 2002, the Government will also establish a Provincial Police Complaints Authority (PPCA). The functions of the Federal and Provincial Complaints Authorities are very similar. Such as:

- a. Receive from District Public Safety Commission or an aggrieved person in writing on an affidavit, a complaint of neglect, excess or misconduct against a police officer.
- b. Process the complaint and refer ordinary cases to an appropriate authority for action and report. In serious cases, the Authority would initiate action on its own.
- c. Receive from the District Public Safety Commission or Head or District Police any report of death, rape or serious injury to any person in police custody and take steps to preserve the evidence relating to such an incident and request the Chief Justice (CJ) of the High Court (HC) under intimation to the government to appoint a judge not below the rank of a District and Sessions Judge for a judicial enquiry.
- d. Appoint in appropriate cases a police officer of the same district or of a different district who is senior in rank to the officer against whom a complaint is filed as an inquiry officer and supervise the inquiry proceedings.
- e. Send a copy of the report to the competent authority and issue directions for departmental action based on the findings of the enquiry or registration of a criminal case as appropriate and to direct the competent authority to submit a report about the action taken on the findings of the report.
- f. Inform the complainant of the enquiry outcome in writing as soon as possible.
- g. Where the PPCA is not satisfied with progress in cases referred under clause (e), it may send a report to the next higher authority for revision of the order by the awarding officer and the process be repeated till it is considered satisfactory by the Authority.
- h. In case of any frivolous, or vexatious complaint, initiate legal action against the complainant;
- i. May recommend disciplinary action against an enquiry officer for willful neglect or mishandling of an enquiry;
- j. Prepare and send to the government an annual report on matters relating generally to its functions, including any matter to which it considers attention of the government may be drawn by reason of gravity or other exceptional circumstances, for laying the report before the PA.
- k. May, in consultation with the provincial government, establish regional offices anywhere in that province.

F. Gaps and Loopholes in the System

i- Delays

A report on the Criminal Justice System by the Pakistan Law Commission in 1997 referred to “serious abnormal delays” in both civil and criminal cases. A common complaint by Pakistani lawyers is the inadequate supply of information by the prosecution.

In the interests of justice, a defendant is entitled to know the strength of the evidence against him as well as the offence with which he/she is charged. Such exchange of vital information may reduce the number of adjournments, but criminal cases should not be adjourned unless it is necessary in the interests of justice to do so.

Case Study 6: Victim Denied Bail due to Bureaucratic Delays

Ms. Sumera’s case has been pending since February 2000. It is a perfect example of a court system where justice may not be guaranteed, but bureaucratic delays are. It took five months for the police to file the Chalan with the court, then her judge disappeared for three months and her case stayed put. Finally it was transferred to a new judge and nine months after her arrest, the prosecution finally framed charges against her. She said witnesses were called and their statements were recorded before the new judge. Then for reasons unknown to her, her case was transferred to the judicial complex at the jail.

She waited two months for her first hearing at the complex. Later her husband (and co-accused) was arrested and about six to eight months later, new charges were framed against the couple. She says that since that time, the judge has recorded the testimonies of several witnesses except the doctor’s. As the offense involves rape, the doctor’s testimony and results of her report are important to the case. The doctor had examined the victim. She appeared in court for the first time in October 2003 but neglected to bring with her the chemical/ medical report. The doctor was then ordered by the judge to return on December 1 with the reports. When she did not show up on that date, the judge was about to close submission of evidence, but at the request of the State allowed another continuance for the doctor’s testimony. She is scheduled for a hearing in a few weeks time.

Source: LHRLA Research

ii- Release of an Accused Female on Bail

A woman involved in a non-bailable offence, when arrested by the police and sent to prison pending trial in cases, may easily fall prey to unscrupulous elements in the jail who misuse their position either to make money from her relatives or abuse her physically and sexually.

She may have no relatives to pursue her case or be unable to meet the unlawful demands of jail staff. Various complaints have been made and articles published in newspapers highlighting this problem and stressing the need to find ways and means of resolving it. This problem is very acute especially for women who are kept in jail for long periods, pending trials. Afterwards, even if they are proven innocent and acquitted, they carry the stigma of having been in jail.

Section 496 of the Code of Criminal Procedure, 1898, provides for bail in bailable offences and Section 497(1) under its provision gives a special concession of bail for women in non-bailable offence. The relevant sections read:

“When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life or imprisonment for ten years”.

But except for a pre-arrest bail, a woman has to first undergo the process of judicial custody by detention in lock-up before seeking such concession of bail from the court after her arrest. There are also instances where a family abandons the woman and does not come forward to furnish the surety bond required for her release on bail.

In some cases, no relatives turn up to conduct bail proceedings or defend the accused. Therefore, she remains in detention even in minor offences for longer periods, at times more than the period of punishment prescribed for the offence or actually awarded by the court.

This fact is also endorsed by a study of the Foundation for Research and Development working in Pakistan which shows that in the case of most under trial women involved either in Hudood cases or narcotics, no relative comes forward to furnish bail. This can also be the position in case of offences providing punishment of less than ten years.

An inmate, Ms. Tehmina, interviewed for LHRLA Research on ‘Victims and Criminals’ complained that she had been in jail for almost two years yet no bail application had been filed on her behalf. When asked, her attorney said the judge had denied her bail application because of the substantial evidence against her.

Ms. Sumera, another inmate interviewed for LHRLA research purposes, complained that her judge neither rejected nor granted her bail application. About a year ago when she had renewed her bail application before the judge, he responded jovially: “Why ask me for bail when I am about to decide your case?” It’s been a year since that day and there is still no decision in her bail application. “If he would only say yes or no, I could at least take it to the next stage, but he just hasn’t gotten around to doing that,” she said.

iii- Absence of Witnesses

Delay in the effective disposal of criminal cases is frequently caused by the non-attendance of witnesses who are sometimes intimidated outside court and inside if no arrangements are in place to ensure that they sit away from defendants.

It is not surprising that witnesses are often reluctant to attend courts. Effective government protection should be provided for them to ensure their safety, to eliminate intimidation and if resources permit, an officer of the court should be authorized to pay traveling or other appropriate expenses to witnesses for attendance at the court. This system is already operational in many criminal justice systems to encourage witnesses to attend court and give evidence.

iv- System’s Negative Impact

Due to the negative impact of the prevailing system, lawyers often hold profoundly negative gender and class stereotyped ideas about women’s ability (especially inmates) to understand their own cases.

They neglect to discuss matters pertinent to their cases with them. This practice is not just demeaning to women, it instills confusion and mistrust in the detained client. Clamoring to hire new attorneys they can trust, women end up signing multiple 'Vakalatnamas' (authorization to appear on behalf of the client).

A court will allow multiple Vakalatnamas for a woman as long as a new lawyer does not attempt to supersede the representation of another lawyer, i.e. become the woman's sole representative.

Often this power of attorney is used by the lawyers to obtain an adjournment in the case, particularly when the witnesses of the opposite party are present in the court. They do so to file a fresh power of attorney and request the court for an adjournment so that they could prepare the brief.

According to an Assistant Superintendent at the Karachi Women's Prison "the signing of multiple Vakalatnamas is a very common practice. Lawyers with many different groups (as well as private lawyers) visit jails, make promises, obtain signatures or thumbprints on Vakalatnamas, and then never show up in court."

When asked what they could possibly attain by signed Vakalatnamas as those documents are not guarantees of payments, the police official said that it was not about money but to show their offices that they are actively taking on new cases.

Source: LHRLA Research

v- Non-Availability of Documents

Many women do not have their own 'Nikahnamas' (marriage certificates) and divorce decrees in their possession. Often such decrees are essential to defend themselves against Zina charges.

Ms. Razia, a 35 year old woman, and mother of grown-up children, bemoans that her daughter's mother-in-law helped her obtain a divorce certificate for her first marriage and is now demanding Rs30,000 for it. This decree would help her in her defense, yet something as simple as a civil document has now become an impediment between liberty and continued incarceration.

Shahnaz Khan¹ writes "if a divorce document is attested to by a magistrate and if the husband fails to register it with the chairman of the local council as legally required, the divorce is invalid. Although the woman might be unaware of this and subsequently remarries, she can be prosecuted later for Zina."

¹ Khan, Shahnaz, (December 1999) Mediating the Hudood Ordinance in Pakistan: A Canadian Re-Telling. Page 13

G. Pakistan's Law and Justice Sector Reform Experience

Over the past thirty years, it is generally acknowledged that the law and judicial sector has been chronically under-funded. The institutions of justice have been degraded and this has impaired the quality of judicial services.

Moreover the stature, independence and integrity of the courts has on occasion been seriously compromised which has, in turn, led to a loss of public confidence in the institutions of justice despite the best efforts of many dedicated judges.

This malaise is manifest in a complex web of related problems. Most notably, this includes a monstrous backlog that exists throughout the courts with chronic delays in disposal of cases of five, ten, even twenty-plus years. In one court, the grand-children of the original litigants were continuing to dispute an interest in land, sixty years after the initiation of proceedings. Other problems include major shortages of judges and courthouses, grossly inadequate facilities and a dismal system of compensation, giving rise to complaints of endemic corruption. These problems, which are now deeply entrenched, will require substantial long-term interventions to resolve.

i- Access to Justice Program

The Access to Justice Program (AJP) has been designed to address these problems and to improve the quality of justice in the long term. The AJP program loan, valued at US\$350 million is being provided by the Asian Development Bank (ADB) to the Government of Pakistan (GoP). It is the largest-ever reform program in any law and justice sector. Structured in three phases, it commenced almost five years ago and will continue for the next five years or more:

Phase One (1998/99) – The program commenced with an extensive “research diagnostic” exercise which identified and assessed the needs for reform in the judicial and legal sector.

Phase Two (2001/2) – The GoP defined an agenda of priority reforms based on this research which was piloted with a technical assistance grant from the ADB of US\$3 million for the courts.

Phase Three (2002 to date) - The GoP then started to implement the substantive reform program which has been designed in the light of experience gained from the pilot projects.

The objectives of the AJP are broadly to improve the administration of justice as a means of strengthening the rule of law and thereby the system of governance for the people of Pakistan. In the short term, it intends to offer a range of specific benefits:

- i. **Community** – Principally, the public will benefit from better judicial services being provided by improved efficiency in the administration of justice and the speedy disposal of cases. Through this means, it is intended that those who have opted out from the formal justice system, notably the commercial community, will regain enough confidence to return their disputes for resolution. Additionally, the provision of expanded legal aid and community legal literacy, supported by the Access to Justice Development Fund (AJDF), will contribute to helping the poor become aware of their rights and providing a means to exercise them in courts of law.
- ii. **Courts** – The program will provide unprecedented resources to support the courts to administer justice in a fair, timely and cost-effective manner. By supporting the Law Commission in an expanded policy-making role, it is intended that the administration of justice will be coordinated at a systemic level. It will fund the building of literally hundreds of court complexes and the renovation of existing

court houses. It will also improve court infrastructure and facilities, for example, through computerization of the court documents and records. It will further provide funding for the recruitment and training of new and existing judges. Additional needs will be specially funded through the AJDF.

- iii. **Police and Prosecutors** - Related benefits will extend on a sector-wide basis to integrate reforms affecting the establishment of an independent prosecution service, and the management, administration and training of police.
- iv. **Bar** – The Bar will receive a range of benefits involving improvements in legal education and training and the distribution of books collections for the Bar libraries. As the result of reduction in court delays, the Bar will be able to complete its work more quickly, thereby increasing its income. This will become instrumental in providing legal aid to the poor, in delivering legal education to the community and in being eligible for additional funding from the AJDF.

H. LHRLA's Initiatives for the Protection of Women

i- Madadgaar

Madadgaar is Pakistan's first Child Help Line as well as a protection and referral service for children and women. Madadgaar is a joint venture of LHRLA & the UNICEF.

Madadgaar focuses on:

- Providing emergency services through Madadgaar UAN # Help line, 111-911-922
- Provisioning of free legal services
- Maintaining a Special Desk for Missing Children
- Providing referral services to other agencies/organizations through 205 referral partners
- Advocacy and awareness raising programs/campaigns for children, women and Civil Society Organizations (CSOs) and community visits
- Maintaining a Documentation and Research Center to collect data on human rights violations and disseminate the findings through the print and electronic media for awareness purposes
- Setting up Madadgaar Child Rights Clubs (MCRCs), currently operating in 26 schools in Karachi.

For a detailed statistical review of the Madadgaar Help Line service, please see Annex 2.

Case Study 7: A Gang Rape Case

Profile of victims

Name: Ms. S & Sh (Ramswami Case)

Age: 21 years & 18 years

Gender: Females

Socio-economic Status: Low-income group

Type of Case: Gang Rape

Madadgaar Issue: Women Sexual Abuse

Background: A group of people identified as Mr. Malik Safeer, former police constable, Mr. Azmatullah, Mr. Malik Qamar Iqbal, police constable of investigation department, Mr. Malik Hasnat, son of a police inspector and Mr. Kashif came to the house of Mr. A. Sattar on the night of 1st April at around 2:30am.

They knocked at the door and said a complaint had been lodged against one of the occupants of the house. When Mr. A. Sattar opened door, the group held the inmates hostage at gunpoint, tied up and tortured the house owner and his son, Mr. Jabbar and gang raped his two daughters in front of them. The accused left the place at about 3:30 a.m and threatened to kill them if the family tried to inform anybody about the incident. After the incident Mr. Sattar contacted his neighbor Mr. Waheed, a hotel owner, and asked him to call the area councilor.

They went to the police station in a police-mobile at 4 a.m. The duty officer refused to lodge an FIR and advised them to come again at 10 a.m. The aggrieved family again went at the said time to the police station, where the Station House Officer (SHO) took the victim's clothes for chemical examination without preparing the required document, called the 'Mushirnama.'

The aggrieved family again visited the police station at 6 in the evening, but the SHO showed no interest in lodging an FIR. SSP Tariq Nawaz Khokher personally visited the Nabi Bukhsh police station and intervened in the matter. He took serious notice of the case and suspended the SHO and appointed another SHO. The new SHO lodged an FIR and arrested three of the four rapists, namely Mr. Malik Safeer, Mr. Kashif and Mr. Azmatullah. One of the accused was still at large while the case was in the court.

Madadgaar's Intervention: Mr. A. Sattar, father of the aggrieved girls, approached Madadgaar for help. Madadgaar provided them every possible support and assured them free and fair justice. Sindh Minister for Law and Human Rights, Justice Retired Abdul Qadir Halipoto, was requested by Madadgaar to solve the matter. A meeting was held between the law minister, LHRLA President and father of the aggrieved girls.

Mr. Syed Ghulam Nabi Shah, Law Secretary Sindh, was also present on the occasion. The Law Minister assured the aggrieved family of his full support in hiring a special prosecutor for the case and relocation of the family, which was requested by LHRLA. The Sindh Law Minister had taken serious notice about the relocation and security problems of the victims after reading the news of the press conference held by LHRLA to raise awareness about the victim's plight.

The LHRLA's lawyer appeared before the court on behalf of the girls and on 14th May 2002, the District & Sessions Judge South issued the order of the confiscation of the immovable property of Mr. Malik Hasnat.

Results: With the help of government and civil society organizations, Madadgaar successfully arranged a reasonable compensation for the relocation and rehabilitation of the victims. Besides Madadgaar/LHRLA, Association of Pakistani Physicians of North America (APPNA), Law Department and Office of the Sindh Governor were also involved in the process.

Source: LHRLA Research

ii- Legal Empowerment of the Populace Project

LHRLA is also running the "Legal Empowerment of the Populace" project in the Karachi Women Prison.

Project Strategies

- Make legal aid available for needy women prisoners
- Increasing legal awareness of women prisoners through posters and brochures
- Psychological/ social awareness of women prisoners
- Contacting local philanthropists to arrange surety amount for needy women and children
- Literacy classes for women prisoners
- Organizing sensitization & para-legal trainings/workshops
- Campaigning against discriminatory laws against women

Project Achievements

- Thousands of women and children have been released from different prisons of the country
- Availability of legal services for marginalized women
- Development of a strong support system for women
- Arranged surety amount for a number of women and children
- Enhanced knowledge of women prisoners about their legal rights

- Increased level of education among women prisoners
- Involvement of various lawyers, NGOs and government officials in the process
- Increased knowledge of government officials on legal and human rights issues

Campaign to Arrange Surety Amount for Needy and Destitute Prisoners

During its work, the organization realized that a number of men, women and children are languishing in prison due to the non-payment of fine and surety amount. A team of LHRLA with the help of a local philanthropist conducted a campaign in the Holy month of Ramadan to release those needy and destitute prisoners who are in jail due to the non-availability of fine and surety amount.

During the campaign the organization successfully released eighteen prisoners including twelve women, five children and one man from the different prisons of Sindh.

Source: LHRLA

iii- Biggest Network of Service Delivery Organization

While realizing the need of strong networking, since its inception LHRLA has been working to develop and strengthen its networking. Presently, the LHRLA has more than 200 partner organizations all over the country.

Table 6: Some Prominent Government and Non-Governmental Partners

Male Organizations	Female Organizations	Mixed Organizations	Children Organizations
Edhi Foundation	PANAH Shelter	Edhi Foundation	SOS Village
Directorate of Human Rights Sindh	Darul Aman Government of Sindh (Social Welfare Department)	Citizen Police Liaison Committee (CPLC)	Council for Child Welfare
FIA Passport Cell	All Pakistan Women Association (APWA)	Karwan-e-Hyat Center for Mental Health	Ansar Burney Welfare Trust
Home Department	Pakistan Women Lawyers Association (PWLA)	Police Department	Society for Children in Need of Special Attention (SCINOSA)
Overseas Pakistanis Foundation (OPF)	Women Police Station	Police Help line 15	National Commission for Child Welfare and Development (NCCWD)
	Darul Atfal (Shelter)	AAHUNG	Provincial Commission for Child Welfare and Development (PCCWD)
	Pakistan Federation of Business and Professional Women (PFBPW)	HANDS	Edhi Child Welfare Home
	Al-Qanoon	Police Surgeon Office	Jamia Islamia Orphanage for Children
	Institute of Behavioral Science (IBS)	Pakistan Voluntary Health and Nutrition Association (PVHNA)	
	Youth Help line		Cont/ Page 36.

Male Organizations	Female Organizations	Mixed Organizations	Children Organizations
	Gosha-e-Afiat Shelter		
	Young Women Christian Association (YWCA)		

Source: LHRLA Research

iv- Positive Steps Taken by the Government

The present government is taking steps for the promotion and protection of women's rights and development in the country. These steps include:

- The setting up of a permanent commission for the uplift of the status of women in the country
- Introduction of 33% reserved seats for women in the Parliament
- Involvement of women in local/city governments
- Initiation of discussions in the Parliament on negative socio-customary practices like Karo-Kari
- Coordination and cooperation with CSOs
- Introduction of the Prevention of Human Trafficking Ordinance
- Ratification of SAARC Convention on Trafficking
- Signing of the SAARC Social Charter in January 2004, by the government that aimed at promoting welfare of the people of South Asia and accelerating economic growth followed by social progress
- Made amendment in the West Pakistan Family Ordinance 1964 through Amendment Ordinance No. 55, 2002

The government is also working towards providing women access to micro-credit especially through:

- Pakistan Poverty Alleviation Fund (PPAF)
- Rural Support Programs (RSPs)
- First Women Bank (FWB)
- Agricultural Development Bank (ADB)
- Khushali Bank (KB)

In order to advance paid work for women as well as equal pay for work of equal value, the Ministry of Women Development is taking the following steps:

- a. Increasing women's capacity to earn by increasing their access to sources of livelihood. In particular, agriculture and livestock production and promoting equal employment opportunities that accommodate women-oriented work policies for paid work.
- b. Improving facilities for the education, training and skill development of women, to enter the labour force, including special arrangements, as specified in the draft Labour Policy, for female relatives of workers.

Ensuring appropriate legislation, including the following measures:

- Giving effect to the International Labor Organization (ILO) Convention 100, ratified by Pakistan in 2001 by enacting a law to ensure equal remuneration for men and women for work of equal value.
- Undertaking measures to make work places conducive for women workers so that they can work without fear of discrimination and harassment.

- Enacting a law and guidelines to provide protection against sexual harassment at the workplace and relief/remedy in cases where it occurs.

I. Recommendations

i- Laws

- The law ministry should review pending assignments of the Law Commission and take immediate action on those that are linked with the protection and promotion of human rights in the country.
- The government should immediately repeal the Hudood Ordinance.
- The government should amend the Anti Terrorism Court (ATC) Act 1997 and transfer child molestation and women rape and gang rape cases under the jurisdiction of the ATC.

ii- International Protocols & Conventions

- The Government should develop a mechanism for strict implementation of UN/International/Regional Protocols & Conventions being ratified by the country.

iii- Judiciary

- Upper and lower judiciary should make efforts for early disposal of cases.
- The Supreme Court of Pakistan under Article 184(3) of the Constitution of Pakistan should take up the issue of women protection and monitor the government's actions in this regard.
- Higher judiciary should encourage Public Interest Litigations (PILs).
- All provincial High Courts should establish a monitoring cell to check cases of violence against women.
- Training of judges, other court officials, law enforcement personnel and shelter or care homes dealing with women must be declared mandatory.
- Inadequate witness protection continues to hamper the successful prosecution of exploiters and, in some places, the unacceptable length of time it takes for cases to come to court is further believed to discourage reporting and impede successful prosecution of exploiters.
- A Lady Ombudsman should be appointed to check violence against women and redress their problems with independent judicial powers.

iv- Police

- A police Ombudsman should be appointed to redress the problems of people wronged by police officials.
- The police department should establish monitoring cells at city and provincial levels to check reported cases of violence against women.
- Police should collect national statistics to create a database of the women victims of violence and also their perpetrators.
- Government should constitute an independent commission to investigate the cases of those police officials who have criminal records.
- Those police officials having criminal records should be sacked immediately.

- The process of investigation of cases has become outdated and the police department should take measures to adopt latest trends of investigation and develop a separate team to investigate matters that relate to crimes against women and children.
- The government must ratify the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It should also assume its obligations, especially with regard to the establishment of adequate redress mechanisms in cases of torture.

v- Women Police

- Proper and trained women staff should be appointed at all WPSs to provide community friendly services.
- WPS staff should undergo regular sensitization training to deal with the victims as well as the general public.
- The number of female police staff should be increased.

vi- Legal Aid

- The government should recognize the proper implementation of Article 9 of the Constitution of Pakistan, "No person shall be deprived of life or liberty save in accordance with law", and take the provision of legal aid as Right to Life.
- The government should make arrangements to provide free legal aid at the district level.
- In cases of capital punishment, the relevant courts should ensure the provision of free legal aid.

vii- Jail & Remand Home

- Trained and sensitized staff for women prison are needed.
- Frame a code of conduct for jail and remand home officials.
- Government should ensure the proper implementation of the Jail Manual.
- Regular transport facilities for women prisoners.
- The Juvenile Justice System Ordinance 2000 should recognize the rights of girls as well.

viii- Allocation of Resources

- A substantial amount in the budget should be allocated for women related issues.
- The Bait-ul-Mal should allocate a substantive amount for the emancipation of needy women.
- Until real alternatives are available in terms of universally accessible basic human needs, education and work opportunities, there can be no real solution to this problem.

ix- Women Commission on the Status of Women

- The government should give judicial powers to the Commission on the Status of Women and allocate proper resources.

x- Crises Centers

- There is a dire need for a support system for women victims of violence and the government should immediately establish crisis centers/shelters for them.

xi- Civil Society Organizations

- CSOs should launch awareness campaigns on laws for the protection of women, especially in rural areas of the country.
- CSOs should form watch groups to monitor the role of police and judiciary, especially cases pertaining to violence against women.
- CSOs should move from a paradigm of reintegration and rehabilitation to an approach that protects and promotes the human rights of women in the country.
- Discrimination on the basis of gender needs to be addressed at the grass roots level.
- CSO should ensure strong networking with all service-providing GOs and NGOs to help the victims/survivors of violence
- CSOs should develop unconventional shelters with the help of the government.

xii- Donor Agencies

- Donor agencies should allocate funds for those organizations that provide services to women victims of violence.
- Research on various dimensions of violence against women should be encouraged.
- Allocation of funds for crisis centers, shelters, provision of free legal aid, police/judiciary training should be prioritized.

Annex-1: Sources of Human Rights

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- International Convention on the Elimination of all Forms of Racial Discrimination
- International Covenant on Economic, Social and Cultural Rights
- The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- International Convention on the Rights of the Child (CRC)

Pakistan has signed and ratified a number of International Human Rights declarations such as:

- Universal Declaration of Human Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- International Convention on the Suppression and Punishment of the Crime of Apartheid
- Convention on the Prevention and Punishment of the Crime of Genocide
- Slavery Convention of 1926 as amended
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
- Convention for the Suppression of the Traffic of Persons and of the Exploitation of the Prostitution of Others
- Convention on the Elimination of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Signatory to the Stockholm Declaration and Agenda for Action against Commercial Sexual Exploitation of Children.
- Optional Protocol to CRC
- ILO Convention 182
- SAARC Convention on Trafficking

Annex-2: Statistical Review of the Madadgaar Help Line Services

Madadgaar Help Line Services

Madadgaar Services	27 May 2001 to 31 December 2004
Received Calls	20,497
Received Cases	8,801
Resolved Cases	2,632
Referrals Made	4,148
Referral Partners	220
Follow-up Meetings with the Clients	5,954
Follow-up Field Visits	2,108
Community Visits	89
Number of Children, Women and Men addressed in Community Visits	23,510

Breakdown of Received Calls

Madadgaar Calls	Children Calls	Women Calls	Calls for Children
20,497	1025	14,348	5,124

Breakdown of Received Cases

Status	No. of Cases
On-going Cases	3,624
Resolved Cases	2,632
Pending Cases	1,455
Reopened Cases	819
Other Cases	271
Total Cases	8,801

Breakdown of the cases according to nature of dispute/issue

S#	Case Issues	Number of cases
1	Domestic Violence	1,140
2	Maintenance	682
3	Maintenance for children	797
4	Custody	578
5	Physical Abuse	1,090
6	Property	300
7	Health	340
8	Financial	274
9	Special Education	217
10	Murder	30
11	Burn attack	11
12	Karo-Kari	36
13	Kidnapping	46
14	Adoption	11
15	Employment	85
16	Harassment	90
17	Sexual Abuse	66
18	Child Sexual Abuse	105
19	Physical Abuse (out side of the family)	111
20	Missing	1,375
21	Abduction	66
22	Divorce	652
23	Court Marriage	04
24	Forced Marriage	08
25	Mental Health	168
26	Work place harassment	18
27	Other cases	501
Total Cases		8,801

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Breakdown of Cases Resolved

Nature of Case	Number of Cases
Domestic Violence	507
Maintenance	212
Missing Children	235
Metal Health	168
Health	240
Others	279
Custody of Minors	333
Kidnapping	19
Burnt Cases	04
Maintenance for Children	305
Financial Help	196
Divorce	100
Illegal Confinement	03
Karo-Kari	28
Free-will	03
Total number of cases resolved	2,632

Source for the above data: Madadgaar database

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