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www.advancelrf.org**Human Rights in Pakistan and the Reasons for Prosecution Failure****Abdul Ghaffar Korai**

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Email: sayhurra@gmail.com**Abstract**

Human civilization has devised systems essential for survival, including a framework for regulating individual conduct, typically attributed to the state (Dubner & Fredrickson, 2012). Laws and regulations aim to protect the rights of the state and citizens. Human rights, universal and inherent, apply to all individuals regardless of factors like race, gender, or social status (Adeney, 2015). They serve the primary purpose of safeguarding human life. Pakistan faces challenges in upholding these rights, affecting its citizens negatively. To ensure societal harmony, a comprehensive framework enabling individuals to enforce regulations is crucial. Laws exist for various aspects of life, designed to protect the populace's welfare and ethical standards. Native-born citizens have the right to inquire about their rights, with prosecution institutions ensuring these rights are upheld. Human rights hold particular significance in Pakistan, given its status as an Islamic state. Issues related to blasphemy, religious discord, minority, women's, and children's rights have arisen. Pakistan has numerous laws, but their effective implementation is vital. This paper explores failed prosecution aspects linked to human rights violations in Pakistan, aiming to provide an in-depth analysis of the benefits of balanced prosecution and how various factors harm human rights (Mirza, 2010).

Keywords: Human Rights, Prosecution, Law, Torture, Killing**Introduction**

The constitutional has the platforms developed for the government of Pakistan to endorse the universally accepted human right conventions and to promote human rights in Pakistan (Khan and Khan, 2019). This enables the government of Pakistan to implement international treaties into domestic law. Further, this makes it necessary at all law enforcement levels such as executive, legislative and judiciary to respect and ensure it is well practiced (Rashid and Watoo, 2015).

The human rights practices are articulated in Pakistan by the name of 'RULE OF LAW' which is the most significant element for the human rights protection. Law is first and foremost considered and no one can skip from complying with it. Article nine of chapter one of the constitution of Pakistan guarantees equal rights to all citizens. In reality, the law in Pakistan is not very efficient and proper functioning as should be. This is often the reason of failure for the rights not equally being exercised (Mukhtar, 2017).

The constitution of Pakistan is the mixture of secular and Islamic laws. As a religion, Islam protects the rights of all human and encourages others to do the same. The teachings of Islam are based on the economic, social, religious and political rights to people (Yilmaz and Ahmed, 2018). Similarly, Islam is a religion of peace and prosperity. It focuses on forgiving and avoiding disputes.

The international pressures have the influence on assuring the human rights but it is not simple in the context of Pakistan. The 1973 constitution of Pakistan comprises of the human rights measures and protects the rights of common citizen (Ali, Bano and Ehsan, 2019). The article 8 defines the laws for human rights. Under article 9 it is stated that liberty, security and life of individual is to be ensured. Article 10 to 28 of the constitution defines the rights of common people for equality, fair trial, freedom of speech, freedom of movement, association, business, religion, acquisition of property, preservation of culture, language, property, beliefs, norms and information. The whole model is so complex that understanding the system is not easy. Similarly, apart from few laws, not every law is updated with time. This creates a gap in between implementation and prosecution. Prosecution cannot implement a law properly when there are loopholes in exercising law. Without proper check and balance on the outcomes of a specific law, prosecution can never implement it since people will violate laws when they will find an easy escape after violation (Azeem, 2017).

Research Problem

The researcher aims to address the gap by conducting this research. Previous studies have been conducted by many other scholars, researchers and practitioners in different countries. However, very little work has been done in the context of Pakistan with regard to the challenges and failures encountered while practicing human rights. Most of the previous research conducted in past focused on the number of failing cases which means the cases that did not have a proper outcome against the crime performed. Such a kind of research highlighted failures in the system of Pakistan prosecution but did not identify the reasons of failure and neither its impact.

Hence, the research gap is identified as this research will address the reason of failure of human rights and its impact (Ali, 2018). The true implementation of UN human rights is still missing since there are bottle necks and ensuring fundamental liberties, improving law and order, eliminating extremism from society, improving the training and education of law enforcement agencies, speeding justice, promoting equalities, discouraging bribery, eradicating corruption from institutions from governance have imposed a big challenge.

The system of regulations is weak as the regulations are poorly defined with inconsistent policies and lack of transparency. Since the introduction of 18th Amendment of Pakistan constitution law and order is judged on provincial basis (Jawad, 2020). Any new law or policy seeks to address the gap to the legal system of Pakistan by prosecuting terrorism and ensuring the human rights to the people.

Prosecution system of Pakistan – A critical analysis

Pakistan, formerly being under the significant influence of colonialism by the British empire, has prominent indications in the legal system that currently governs the society through the mark of the British, such that the common law system is implemented in the country. However, with the formation of the sovereign state, Pakistan also included Shariah laws in the main written bodies of

the law to incorporate Islam, as it was the very basis for the fundamental principle of the nation's independence (Hameed & Jamshed, 2013). Pakistan has a wide array of sources that govern the judiciary system of Pakistan and provides that the system has undergone significant changes over the years. These changes have been made with passing years keeping in view different modern aspects. World is changing constantly and various international regulatory bodies monitor the working of country and its system. Problem is that in some aspects, laws are regulated and implemented timely. But in some cases, laws are not made or improvised over time. The international standards are different while national or domestic standards are entirely different. Such problems do count in keeping a country away from the economic progress track and pushes it back to the basics. It is also one of the most crucial reasons that due to inadequate prosecution and law making, literacy rate is not increasing and country is still in the developing phases (Sial et al., 2018). Arshad (2017) conveys that the prosecution system in Pakistan is not performing at the optimal level, however, to analyses the reasons for such, it is important to note the way the justice system works.

Pakistan operates on a three-pillar system where the branches are the legislature, executive, and the judiciary (Adil, 2019). The legislative branch is responsible for the making of the laws and relates primarily to the parliament, whereas the executive branch is responsible for the execution of the law, and the judiciary to control and monitor the execution and includes the courts in Pakistan. It is important to note that only law can be made by the legislative bodies. Implementation of the law is controlled by the executionary bodies which are responsible for structuring different frameworks and models to ensure the implementation of the rules and regulations. Judiciary is to control the implementation process. It is not included in the duties and responsibilities of the judiciary to implement or make a law. A law can be made by judiciary in only situation. This situation arises when a specific case is being investigated and prosecuted, a loophole is observed which have been neglected by the legislative while formulating the law. In such circumstances, judiciary can make laws which are relatable to the topic and are taken from the books, previous researches and in consulting various experts. This law is accepted for the next cases which will be on the same pattern on the existing one. Otherwise, judiciary have no power over legislative through which they can form any law (Siraj & Hussain, 2017).

The constitution of Pakistan is the main source through which prosecution, or the administration of justice takes place such that it has laws relating to most criminal and unjust instances, where the Pakistan Penal Code 1860 also plays a significant role in determining the effective execution of justice (Adil, 2019). The Pakistan Penal Code (1860) refers to the principles, procedures and the role of major players in the prosecution system and reports all details of reporting a case, initiating a trial by courts, and a system for appeals (Arshad, 2017).

Fundamental and constitutional rights also play an important role relating to the Supreme, Federal Shariat, and High courts in the legal system prevalent in the country where their jurisdictions differ according to constitutional, criminal and civil proceedings relating to economic, ethical, political and other matters (Adil, 2019).

In Pakistan, the court of the highest importance is the Supreme Court which settles all legal disputes in final terms and has exclusive power; the Supreme Court consists of a Chief Justice and 16 other judges (Prosecutors's Handbook, 2015). The Federal Shariah court has jurisdiction and appellate jurisdiction over Islamic laws, however, the Shariah appellate bench on the supreme court as the highest appellate power (Prosecutors's Handbook, 2015). Subordinate to these are the five High courts which are the principal for their own province, with a fifth court being the one for the federal capital; under these, are the subordinate judiciary such as the district and session courts which have civil and criminal law jurisdiction and have appellate power for the cases of lesser criminal value (Prosecutors's Handbook, 2015).

Furthermore, there exist special tribunal courts which settle issue that relate primarily to the cause of the court. Their functions and jurisdictions have been provided by the law, but they often have jurisdiction over only issues that pertain to their purpose; examples of such include, Anti-corruption courts, Anti-terrorism courts, labour courts, custom courts, consumer courts, board of revenue etc. (Prosecutors's Handbook, 2015). Additionally, because of personal disputes arising in families, there exist family courts, where highest appellate power rests with the high court. The rules might differ for such personal disputes as the provisions of the Civil Procedure Code and the Evidence Law are not applicable (Prosecutors's Handbook, 2015).

According to Adil (2019), following the common law system led by the British, the prosecution system in Pakistan is in play after the police departments fulfill their role where the prosecutor's assesses the evidence gathered by the police and select cases to initiate litigation on, file them to be assessed by the relevant courts, and instigate a trial to punish the perpetrator. The prosecution system is differentiated according to the different provinces, namely Sindh, Punjab, Balochistan, and Khyber Pakhtunkhwa, where each province has a separate legal department (Adil, 2019). Arshad (2017) points out that in 2002, the separation between the prosecution and the police was done where each province had to mandate their own prosecution services which consisted of inspector, sub-inspector, and deputy superintendent ranked officials. This was done through the Police Order 2002, and the Criminal Prosecution Service Act passed by each province in Pakistan (Arshad, 2017).

The separation and distinction of the two law departments led to new challenges, where the main problem was that of recruitment and the funding for such recruitment (Arshad, 2017)

Hameed & Jamshed (2013) identify criminal offences and state a statement by a Supreme Court lawyer, Hina Jilani that the judiciary is incorporated with Islam, the example of such being the Hudood Ordinance, where theft, extra-marital sexual intercourse, and alcohol consumption are banned.

In Pakistan, the main responsibility to administer justice effectively and initiate prosecution is with the police department as they are the ones that lodge the complaints and FIRs in the beginning of the process, and are further the ones that hold the investigative responsibilities that are required to gather evidence for the prosecution to move forward with their conviction (Hameed & Jamshed, 2013). However, the system for the police is known to be corrupt in the country as was also noted by the Transparency International Report (Hameed & Jamshed, 2013). There are different reasons that why this institution is not effective and is not working efficiently. There are different reasons that why the police are not a corruption free institution. There are various factors which do contribute in unethical working methods of the police. One of the most common methods are pay scale, promotions and inadequate working conditions. Due to complex duty structures and less bonuses, different staff members try to cross the ethical limitations. One of the most important factors in this regard is the accountability system. In Pakistan, unethical practices are common due to inefficient accountability methods. The judiciary and prosecution are not as powerful as they appear to be. Various departments, courts which starts from bottom to the very top and law enforcing authorities are stuck in different complexities and overburdened by the excessive workload. There are no frameworks and models justified to settle different issues. Secondly, the accountability methods which are used are not up to the mark in decision making. Out dated models are still implemented in the system which is the biggest hurdle in the case resolving. There is a dire need of modification in the system. Technological aspects should be carefully implemented to monitor the progress and to analyze various situations which will help in settlement of such issues (Williams, 2002).

The main procedure for the prosecution system is listed where a complaint and an FIR is lodged in case an investigation of the instance is required, and the accused perpetrator is presented before the court for the bail to be set while the investigation is being done (Hameed & Jamshed, 2013). The case is then taken to court for the prosecution to present the evidence, statements, and testimonies it has obtained against the alleged person, and it is examined, and the witnesses are cross-questioned (Hameed & Jamshed, 2013). Concluding a trial, the prosecutor as well as the defendant has the right to appeal the decision by the court (Hameed & Jamshed, 2013).

Furthermore, while the victim or the aggrieved is appointed a prosecutor by the state, such that the prosecution is representative of the state's interests, the aggrieved person does have the choice to bring in their own prosecutor to try the case (Hameed & Jamshed, 2013).

Hameed & Jamshed (2013) identify that the prosecution in Pakistan can convict the accused of two types of punishments that are admissible to be tried for in court, such being the Hadd punishments which are mentioned in the Quran which include, capital punishment, stoning to death, and amputation of limbs etc., and Taazir punishments which are not specifically mentioned in the Quran, such as imprisonment etc.

The prosecution system in Pakistan also convicts people that violate the infamous blasphemy law where Muslims and non-Muslims alike are prohibited to offend the name of Prophet Muhammad (PBUH) (Hameed & Jamshed, 2013). One of the most controversial issues arise from the blasphemy. In Pakistan, laws are also included in the constitution which are relatable to the teachings of Islam or are directly driven from the Islamic teaching. The matter of religious integrity is a sensitive issue in any state. Governments try to resolve such issues at the priority and different departments also ensure that people should avoid discussing other religions or comparing them since it is obvious that no one wants to hear anything against their beliefs and if one do so, a great fight can be started which might end up in violation of laws. Therefore, a message of love and peace is always spread among the citizens to avoid any sort of discrimination (Siddique & Hayat, 2008).

Further is the case that malicious prosecution and bogus cases are tried in court to a great extent in the country, where an innocent has to suffer; this goes against the fundamental concept of prosecution which is determined as, to seek justice by numerous sources (Hameed & Jamshed, 2013).

Poor Prosecution and Role of Judiciary

The fundamental problem that exists in the Pakistani society that leads to poor prosecution is the lack of awareness of the general population relating their fundamental human rights and other rights that grant them access to resources such as education etc. (Hameed & Jamshed, 2013). This lack of awareness causes the exploitation of the numerous populations in Pakistan and is not able to stand up against it. Hameed & Jamshed (2013) highlights that this is because most procedures, laws and regulations are written in English, whereas Urdu is the national language while also being the language that more than half of the Pakistani population speak. While translations are available, they are often misinterpreted and do not mean the exact same thing. Secondly, literacy rate is not as much as per developed nations do have. Apart from human rights, there are still people whom have never attended even a single class in their lives. Their only aim is to work and take care of their family. Whenever violation is committed, it is never against a powerful man or any officer, businessmen and people of the relative fields. Violation of human rights law or exploitation of such laws always do involve poor and uneducated individuals whom have no idea that there are authorities for settlement of different issues. All these people do know is to call police and discuss their matters or go to court directly. Due to unfair prosecution, people get stuck in court proceedings. Such proceedings are slow and take a lot of time. Secondly, one has to pay handsome

amount to lawyers in order to win a case. There is a need to know that people should have enough awareness that they do know that if someone is depriving them of their rights. Retaliation is important since it provides an edge to an intelligent individual to overcome the difficulties and get to know what rights do a common citizen possesses (Pakeeza, 2015).

Through a study of past literature, Arshad (2017) examined the weaknesses of the prosecution system of Pakistan came to the conclusion that there was often a significant delay of criminal and civil proceedings in court due to which circumstances changed for the prosecution system. Furthermore, investigative practices needed to be improved and there was a need for coordination and cooperation among the legislative, prosecution, and the courts (Arshad, 2017). Another difficulty which is faced by the prosecution is inadequate communication in between different government institutions. Lack of communication always delays projects and proceedings as both the department and parties do not even know that what is going on. This factor is worth noticing since such factors do create a lot of hurdles in the prosecution and often delays are so long that years pass on in resolving a simple dispute case among locals. This not only burdens the prosecution but also the judiciary, whom is piled up with new cases with every passing day. This not only increase the burden but also facilitate the culprits since more cases are piled up which will result in further delay in both, hearings and decision making (Choper, 2013). According to Hameed & Jamshed (2013) the continual delays lead to a simple trial going on for years because of a lengthy and complex process, as well as delays relating to casual complexities.

There is a main concern for the rising crime rate in Pakistan. To support the claim of delays in judiciary matters, it was noted that the courts and the prosecution were overburdened such that in the year 2014, there were almost half a hundred thousand cases pending in higher courts, with more than 2.5 million cases pending in the subordinate courts, and this number has only increased with the passage of time (Arshad, 2017). The number of judiciary staff is not enough to handle the amount of crime that is instigated and reported against in the country. The number of investigators is not sufficient. Number of operators are also lesser than the required numbers. Shortage of quality officers also lack which creates a great gap in the working on such cases. Another thing to be noticed here is the use of old methods. Around the world, developed countries have made such an efficient systems and data bases which helps them understanding the type of crime, analysis of past records and solutions for the committed crimes. Time is saved and no delays are observed in such countries. That is why the accountability systems are so accurate and lethal in those countries as the culprits knows that once he or she is caught, there is no going back. Crime rates also decrease in those areas which are fully covered by the law and law enforcement departments. Upgradation of methods is important along with the use of technology to monitor the progress, assessment of the applications, providing proper hearing systems and completion of cases which will not be easily opened. Technological advancements will do require intelligent and skillful employees but they will also provide an edge to eliminate the risk factor since they will also help in the atomization of such procedures (CNBC, 2020).

Furthermore, Arshad (2017) observed that since, there is no fixed time for a trial to take place, the selection for cases is delayed and many advocates use this to their advantage by examining evidence, preparing witnesses etc. which causes a delay in the overall process. This causes a loss of diminishable evidence and other monetary and time loss. This tactic is used by such lawyers whom do know that they have been into the wrong thing and their client is the one whom will have to face the music of his or her own deeds. Such techniques and delaying procedures are used by those lawyers that they will ask for leave, next hearing dates and providing irrelevant evidences to extend the time limit. By increasing the time, they do different sort of things such as forging different documents, preparing key witnesses which will agree to whatever they have been told. The overall case status is pending because of unethical working of lawyers and the way they portray themselves is out of the world. Investigating different documents and getting them approved from all the

government departments related to that case is not easy at all to cater down. This creates disturbance in the cycle which makes it even more difficult for the judiciary to even implement new laws or to solve the existing ones (Ferejohn, 2002).

Pertaining to the corrupt prosecution and judiciary system, the blasphemy law is often exploited to take advantage of religious minorities for ulterior motives relating to businesses or land, where the punishment is often capital (Hameed & Jamshed, 2013). Other cases relating to corrupt prosecution include the discrimination against minority groups which are often neglected, and the accused are exploited by the police, especially women. Often in different interviews and private shows, minorities have shown their concern over issues which are directly related to their rights. The major problem of the minorities is that both their interests and their rights are not properly secured by the law enforcement authorities. They have often forwarded questions and queries to different media houses and newspaper to create awareness among people that they too belong to the same country and are born here. It is their fundamental right to live a life they want to live. However, there are different forces and organizations whom job is to create chaos on the religious issues since these issues are taken seriously and a great fight can be ignited by creating different differences among the majorities and minorities (Hameed & Jamshed, 2013).

Furthermore, malicious prosecution is also prevalent in Pakistan where tort claims are brought up, or bogus ones where people lodge untrue complaints with the true purpose being political agendas, enmity, or other business agendas (Hameed & Jamshed, 2013). In other scenarios, evidence is buried, manipulated, altered, and destroyed through bribery and other corrupt practices (Hameed & Jamshed, 2013).

Other issues highlighted by Hameed & Jamshed, (2013) include the inefficient and unprofessional training of the police forces that most times, have uncertainty about the procedures. There are always different approaches and ways of conducting different operations. From simplest to complex work in field, there are always protocol. There is no doubt that police training is not hard or they are not trained enough but the most important thing is that whether or not they are getting adequate training sessions which will keep them updated with the modern world? If world is progressing so fast and developing countries do have efficient police operating systems, there are certain reasons behind that. One of the most important reasons is timely educational trainings which keeps them updated regarding various issues. Similarly, there are different investigation trainings. Up to date technology is provided which further stimulate their working capacity and help them resolve cases at earliest. Pakistan's police are still working on the old methodologies with less staff and more investigation cases. Proper modification of the system is required to make this department compatible with the prosecution, judiciary, executives and legislative (Isaieva, 2018).

Additionally, the prosecution is more than often, consistently at risk, such that their will to initiate litigations angers the perpetrators and threaten the prosecutors and the judiciary. Advocates have been tortured, murdered, and kidnapped that were representing plaintiffs in criminal cases and the state does not provide effective and enough security for the prosecution (Hameed & Jamshed, 2013). The lack of security restricts access to the profession as well, where the will to 'seek justice' is then hindered by concern for safety. This contributes to the lack of adequate staff in the prosecution and the ultimate delays in case proceedings at court. Most of the security is only provided to the judges whom are essential part of the case proceedings since the case is always dependent on the judges. But there are further issues which are directly related to the families and friends of the judges. Another sad thing is the abuse of power whom is observed in various parts of the world that the powerful one does have complete authority over that individual which is less powerful and can be easily bribed or threatened.

The crimes are often inflicted upon the less privileged class of the country, but for them to seek justice carries a high cost as the complainant has to pay a fee for the prosecution against the alleged criminal, where there are additional court fees and fines attached to the process, hence making the entire system too expensive to be sustained (Hameed & Jamshed, 2013). This is worsened by lack of funding for lower courts.

The poor class of society seeks justice for themselves through lower courts but the lack of funding for them provides inefficiency, a lack of infrastructure, and staff to ensure the effective execution of true justice (Hameed & Jamshed, 2013). Most funds go towards the higher courts or are embezzled by the bureaucratic officials at the top of the hierarchy.

In 2017, Supreme Court of Pakistan reported on their forum that how the progress of different cases is going on. The facts and figures were alarming since each passing year, the number of pending cases were increased as compared to the cases which have been reported. The main problem lies in the system whom have also displayed that the cases which are disposed are approximately the same. It means that the speed of the work is not increased or improvised and courts are still working on the same old methods due to which they speed of disposing cases were not increased. In the above discussion, a table is provided to portray the exact number of cases by the supreme court. This is an authentic information and also an alarming one that what will happen to the people if things and procedures continued on the same pattern. There is a great deal of improvement required to solve cases and make a peaceful society with less legalities and more peace (SCP, 2021).

YEARS	INSTITUTIONS	DISPOSAL	PENDECNY
2012	15939	15853	20314
2013	18154	17988	20480
2014	18520	16021	22979
2015	19302	14914	27639
2016	21619	16514	32744
2017	21743	15587	38900

The presence of informal judiciary systems such as jirgas further lower the confidence of the less privileged society in the prosecution as they have no other option left (Hameed & Jamshed, 2013). Here too, the jirgas are gender biased, where women rights are compromised. Women rights issue is one of the most crucial and appealing issue of the world. In the whole world, gender discrimination is taken seriously and measures are taken to overcome this issue. Women are the essential part of any society and as long as women stand with the men and contribute up to their mark, a country's economy always stays ahead of its competitors. In past, people have often tried to demoralize women and women did have issues. However, in this modern world, everyone likes to enjoy

freedom. Security from various offensive and abusive acts must be provided to the women and that is what they do ask for. Women rights is a whole topic on which different researches are conducted and remedies are also provided to keep with up the issues of the women and how their rights can be safeguarded (Weiss, 2012).

The court also takes notice of certain high-profiled cases and takes independent action against some cases such that the role of prosecution is then undermined (Hameed & Jamshed, 2013). Therefore, it can be reasonably said that the Judiciary system in Pakistan is classist which favors the rich. Apart from favoring the rich, this system does have flaws which do involve women right deprivation, long delays, difficult laws and lack of qualified staff. Replacements are not made since there are different references which are affiliated to those people. Similarly, different religious sects have been divided into various groups and are constantly trying to dominate others which is also creating a situation which do have negative impact on the prosecution of various cases.

Provincial Prosecution Service & Management

In Pakistan, the criminal justice system is based on prisons, judiciary, police, parole, prosecution and probation. Under this system all provinces of Pakistan are covered. The Penal Code of Pakistan states the offences and punishments. This was first established in 1848 and later in 1979 the Islamic laws were introduced to be practiced parallel with the official law system. As per the study conducted by Arshad (2017), the efficiency of prosecution system in Pakistan was evaluated. Some good statistics were collected and presented such as in 2014 total number of cases in Pakistan that were registered by police were 612,835 and the cases accounted by district courts totaled to 2.1 million. The disposal rate by Supreme Court was less than 50 percent and for High Courts almost 54 percent.

Sindh

At provisional level, the prosecutorial services and management are administered under the sections 495 and 492 of CRPC (Code of Criminal Procedure). The prosecution services and criminal jurisdiction is governed by Rules for the Conduct of the Legal Affairs and Sindh Law Officers Rules (Mirza, 2010). The provincial government in 2006 instructed all law officers and district attorneys to work in accordance with the Sindh Criminal Prosecution Service Ordinance 2006. This was the very first political development in Pakistan for prosecution services (SCPS, 2016). Prosecutors are professional and they honor their profession. Their behavior and attitudes are consistent with the laws and work ethics. They are well informed about legal development and protect the rights of accused person on fair trial basis. The most recent measures were highlighted in the Sindh Prisons and Corrections Services Bill, 2019 which was passed by Provincial Assembly of Sindh on 17th May, 2019. The aim of this Bill was to improve laws related to prisons and rehabilitation of prisoners (SPCS, 2019). In Sindh province for implementing better management practices, the prisoners contributed to reformation process and implementation of correctional measure was observed under the Sindh law officers. Most important was the development of an environment that enabled prisoners to be socially responsible, deviate themselves from crime and live with dignity with any discrimination. In September 2019, the criminal justice system took solid measures in Sindh and with Rule of Law Roadmap Steering Committee which comprised of the government, police and judiciary; introduced reforms to reduce overcrowding of jails (UNODC, 2020). The judiciary and government in Sindh are making genuine efforts to develop criminal justice system fair and equal for all.

The measures on provincial level for Sindh were considered and presented in the Prisons and Corrections Services Bill of 2019. The important elements are highlighted as:

- Regular reviews and recommendation by Prison Board for improving prison infrastructures. Innovations and use of information technology to manage the prison system was encouraged. Rehabilitation areas with definite policies were discussed which speed up the release plans of prisoners and allows them to deviate from criminal activities. The government mechanisms are present for assisting the families of prisoner who was the only bread earner.
- The government appoints the Inspector General who has the authority to carry out necessary actions and with the approval of admin department will take measures for protection and discipline among the prisoners. This Inspector General has the right to determine staff for prisoners and prison security.
- Some authority is well practices by medical staff as well and time to time the prisoners will be examined for health checkups. Record of each prisoner is maintained and course of treatment is provided. In case of severe condition, the prisoner will be admitted to hospital outside the premises and if death takes place, the cause of death will be identified and last medical checkup reports will be referred.

Punjab

On April 2006, the Punjab Criminal Prosecution Service was developed under the PCPS Act 2006. The purpose was to render efficient services for criminal cases prosecution and provide people of Punjab with independent effective service. An integrated body is formed with prosecution, police, judiciary and prisons which are integrated via computerized system. Such kind of system reduced paper work and promotes accuracy (Sultan, 2016). In real time all sort of criminal data such as photo, biometric, crime history etc. will be available in Criminal Record Management System of Police. The criminal cases are prosecuted by prosecutors by appearing before the judiciary and file appeals. As per the Department of Punjab Prosecution, the date they possess shows large number of acquittals are associated with witnesses withdrawing their given statements. This is why criminals are not taken to the actual outcome they deserve, the main reason identified by Supreme Court is the poor prosecution and the solution is the protection program law for witness (Ahmed, 2018). According to the advocate Sarmad Ali, the roles and rightful duties of the prosecutors was to develop such mechanism that creates no doubts on criminals they are tried for but the matter is to rely on investigation conducted which might be biased. There are claims from different provisional government that there is steady improvement in dealing with cases that appear on daily basis. Among the crucial roles the prosecutors practice is the discretion such as if it is public interest to prosecute an individual and develop a criminal charge and send for trial. The prosecutor is impartial from any external or political influence and demonstrates transparency as per the law (Sultan, 2016). In terms of performance of the Service it is not very impressive as the conviction percent is 25 and other indicators such as efficiency and fairness the performance is poor. The prosecutor does not have enough autonomy to practice discretion for dropping a weak case from prosecution and neither are enough in strength or number to keep pending cases to acceptable level.

For promoting additional effectiveness of Punjab Criminal Prosecution Service an ACT was introduced in 2018. As per the elements of this ACT:

- The government via notification can restore the Directorate on the position of Punjab Criminal Prosecution Service Inspectorate. The Inspectorate is responsible for monitoring performance and conducts of the Service, carry regular inspections, advise improvement and improve efficiency of the Service. The Inspectorate can ask for the information from any investigation agency, Punjab Forensic Science Agency and provisional prisons.
- The government assigns the Director General who also serves as the CEO of the Inspectorate and perform duties as per directed by government. Any rules and regulations can be implemented by government to bring betterment in management and services.

Baluchistan

In the province of Baluchistan, the Act of 2003 is known as Baluchistan Prosecution Service and implies on the province. The members are appointed as per the conditions prescribed and the Government appoints the Prosecutor General who functions as head of service (Zaidi, 2016). In each district there is Public Prosecutor and assisted by public prosecutors from time to time. Secondly, the Police Force of Baluchistan works under the ACT of 2011 and their empowerment is based on the Code of Criminal Procedure 1898. The government of this province developed the independent Prosecution service to serve justice system. Under this, investigation, adjudication and prosecution are emphasized and to speed up the justice process.

The public prosecutor performs all his duty functions under the law and safeguards the interest of state while presenting the cases before the courts (Malik, 2018). The accused shall get the legal punishments and the case can only be withheld on reasonable grounds. The guidelines are well mentioned for the conduct of prosecution. The investigation officer sends the case with evidence to the public prosecutor; the prosecution cannot take effect apart from those designated. The prosecutor under the guidelines of the jurisdiction instructs the police department to carry out investigation in an effective way. The prosecutor has the right to take any action against the investigation officer there is lack of information, misrepresented facts, poor investigation etc. The provincial government and Prosecutor General keeps liaison with Advocate General to determine the progress of legal proceedings, criminal appeals, pending trials before the Courts established by law (UNODC, 2015). The powers of public prosecutor are exercised according to law and carry the duties to handle the cases assigned to them. If necessary before the submission of final report, according to the regulations of CRPC, the public prosecutor can further request the court for issuing the search warrants and inspection of evidence. For the criminal cases and offences that has seven years imprisonment or less, the prosecutor general may withdraw from prosecution as per the approval of government.

The prosecution is best explained in the way:

- Any person that is charged with committing a crime, the investigation is completed with 14 days as per section 173 of CRPC. The accused is subject to trial as per criminal court. As per the Article 10 constitution of Pakistan, the offender is permitted to appoint defense counsel as per his or her choice.
- The court announces the type of offence being committed and prosecutors are to present the evidence that it has against the offender. The defense counsel of offender is given chance to view evidence and object it as per law.
- On concluding the evidence, the prosecutor places some question as per the section 342 of CRPS to the offender. At this point offender has opportunity to present evidence of not being guilty and witnesses can be presented to make his/her evidence stronger.
- Once the evidence trial is finished, the judge declares the judgment which can be punishment or acquittal. The prosecutor and offender have the right to appeal against the declared judgment.

Factors leading to Failure of Prosecution in Pakistan

In Pakistan, the conditions of prisons are far below average and were found to be over crowded by 156%. Majority of the prisoners were under trial and the system of criminal justice wasn't at optimum level. An immediate reform structure should be presented to overcome the challenges and improve prison infrastructure, investigation process, prosecutor empowerment, etc. to bring effectiveness in criminal justice system (Sultan, 2015). The prevailing system is defined to be exploitive, faulty and inequitable. The criminal and civil justice management in Pakistan

experienced severe crisis due to delays in the prisoner trials and case proceedings. Excessive delays in civil and criminal cases make the performance of prosecution weak. It was noted that officer who are in-charge of certain police station often refuse to write FIR, certain senior police members demonstrate that crime case falls under their command and skip FIRS. The lack of reporting and lodging of FIR creates hindrance for providing justice along with failure of police department brings witness or faulty investigation of the crime (PILDAT, 2015).

All judicial systems provide protection against the injustice to an individual in criminal prosecution. One of the most supreme elements of the justice system is the punishment given to the accused only if he or she is proved to be guilty beyond the circle of doubt. In order to provide justice to all, the trial of a civil case or any dispute should be according to the principle of equality, fair play and transparency (Hameed and Jamshed, 2013). This is what the religion Islam articulates that justice shall be served according to the prescribed principles of Holy Quran. The most important weaknesses identified in the criminal justice system are the inaccurate way of reporting crime to police, several mal-practices are there, delay in submitting challans, excessive delays in trials, corruption and political influence on the courts. In the area of Forensic, medical officers not have enough expertise to conduct post mortems and the required equipment are not available or are inadequate at district hospitals (PILDAT, 2015). These deficiencies are associated in not only one segment of the system but in all the sectors such as judiciary, law enforcement and prisons.

In most cases handled at provisional level the witness withdraws, as during the investigation of crime police has the lawful right to record statement of the witness. Unfortunately, under the principle of Section 161 of CRPC (Criminal Procedure Act of 1898) the witness is not required to sign due to which resile from making statements once the trial starts (PJA, 2020). Often if the witness is told to attend the hearing, the accused may threaten them due to which they skip court hearings as no protection is provided to witness. The improvements are made from time to time in laws to provide equality and justice to all. Islamic laws are up to date and aligned to be in consistent with the judicial terms and condition. But the system has failed to deliver the objectives. Often this is the reason people have lost trust in courts and term the criminal justice system as biased because either the accused person is not found to be guilty or lenient action is adopted in rewarding punishments.

There are number of other reasons due to which prosecution cannot work properly. Lack of technological factors is one of the greatest reasons. Proper technological instruments are not present. Proper collection of evidence is still one of the biggest problems since there are not enough instruments nor proper trained staff. In metropolitans, there are availability of such teams but apart from such cities, there are limited officers and limited instruments. By the time all the approvals are signed, the evidence is faded away or removed by some people. Another issue is the threats which are being given to victims. Few of them are given money to stay quiet while others are threatened. Few times, those whom want to go to court and provide evidence against accused are murdered. There are a large number of cases where people were murdered while they were under investigation and court proceedings were on going. Due to such issues, a number of cases still remain unsolved. In case of unavailability of evidence, courts have to give a decision which is against the accusers. Victims do not further trust the prosecution and their methods while those whom have committed crimes, walk freely on the roads. This creates a gap among powerful and simple civilians. This gap often leads towards bigger problems such as different fights among two groups in search of justice. Chaos is created and such fights are carried on to generations. The root cause of such problems lies in poor handling of cases and improper law implementation (Madni et al., 2019).

Wrong prosecution is another cause of injustice in Pakistan. In Pakistan, wrongful prosecution is common. The reason that why it is expanding is because of punishment laws which are not sufficient for such types of injustices. Existing criminal laws are not enough and reliable that these

can stop these unethical and criminal activities. Role of police also matters in such cases but the response from police over these issues is unacceptable. Victims have to spend half of their lives, in some cases, the victims have died in jails but the cases were never decided nor were proper evidences collected. Excuses are provided by upper courts that whether police investigation was not up to the mark or lower courts failed to handle such cases with care. Furthermore, they do not even offer any compensation to the victims whom have suffered both, mentally and physically during the proceedings of court (Foundation for Fundamental Rights, 2019).

Human Rights in Pakistan

With time the philosophies and ideas have contributed to the rights of human. In the present era, the concept of human rights has been well developed since the Universal Declaration of Human Rights was adopted in 1948 by UN General Assembly (Afzal and Yousuf, 2013). The ultimate aim of it was that all countries and people must try to achieve specific goals. With the passage of time, the importance of human rights has been well considered. The success of nations are now associated with protection of human rights and their measure is based on the degree of rights people can practice and laws have implemented to protect people. In other words, the democracy has succeeded than the dictatorship and economies have prospered. The concept of human rights evolves with time and brings more betterment in the lives of human.

Human rights play a key role in the development of a society. There are different categories in which human rights are divided. United Nations main emphasis is on the discrimination, women and children rights. Along with that, different categories such as employment laws, labor laws and other types of laws are also counted in with human rights (Fredman et al., 2012). Poverty and deprivation of human rights is a major issue in the whole world. In developed countries, the ratio of crime is less as there are strict protocols for violations of human laws. In developing and under-developing countries, different laws are neglected which cause chaos in the system. The prosecution system is weak due to various reasons which directly have an impact on the human rights violation. Biased decisions unbalance the justice system. People with more influence and power often take advantage of judiciary and prosecution. Due to political influence, prosecution cannot work with the full potential and unleash their true power over laws. Human rights activists, NGOs and international monitoring bodies do keep an eye on the human rights protection in countries but it is almost impossible to deal with every system immediately. It is in the hands of jury to deal with the violators of laws and punish them so that no one dares to violate the law. Women rights is one of the hottest topics of modern-day issues. There are yet to be made new laws by legislature to overcome the hurdles in implementing these laws and carrying them with time (Fredman et al., 2015).

Pakistan's Law on Human Rights

Islamic Republic of Pakistan comprises of four provinces: Punjab, Sindh, KPK and Baluchistan. Islamabad is the capital territory of the nation. In order to improve the standards of living, the laws need to be enforced to bring security and peace within the land and ensure respect for everyone (YTHRE, 2016). Pakistan is a Muslim country, hence the constitution is based on the belief that the universe belongs to Almighty ALLAH alone and based on HIS commandments the state tries to maintain laws and peace. The state can exercise autonomy on people and the provisions of equality, justice, tolerance and freedom is enunciated by religion Islam. Being Muslims all should spend their lives as per the teachings of QURAN and SUNNAH. Islam and state provides adequate provision to minorities as well to practice their culture and religion (Masroor, 2019).

Under the comprehensive constitution of Pakistan, the laws have been mentioned under each article (Article 1 to 28). Any form of exploitation is not tolerated as the state ensures that any exploitation

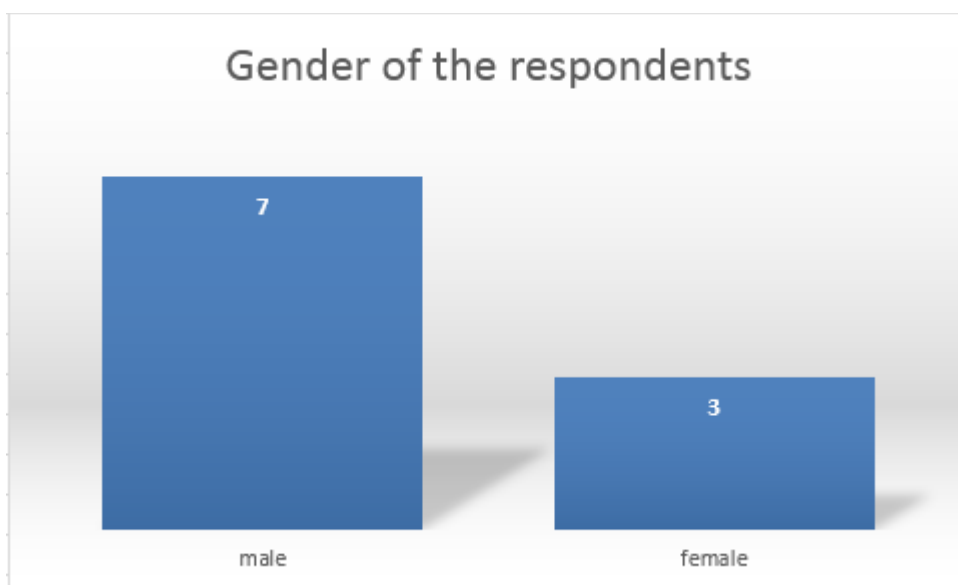
found should be eliminated. In order to get benefits from the laws and to be treated within the spheres of law every individual has equal right. All actions of the state shall be in accordance with the law and no harm shall be done to any person or his property by any unlawful means (Shah, 2017). Every individual should be loyal to Pakistan and comply with the laws that have been established. Any individual that deviates and involves in any offence shall be declared guilty and Majlis-e-Shoora by law has the right to punish the offender.

The fundamental rights are further explained; under the Article 9 of the constitution which clearly mentions that all individual aren't deprived of life. The life and property of people will be protected as there are laws which states that prior any detention a person will be informed and the basis of which arrest takes place shall be first proved. The arrested person has legal right to hire and consult a legal practitioner (YTHRE, 2016). Any person detained in custody shall be presented before the magistrate with twenty four hours and should not be kept in custody beyond said duration. In order to determine the civil obligations and rights, if any valid criminal case or charge is there against a person, the trial must be processed on fair trial basis.

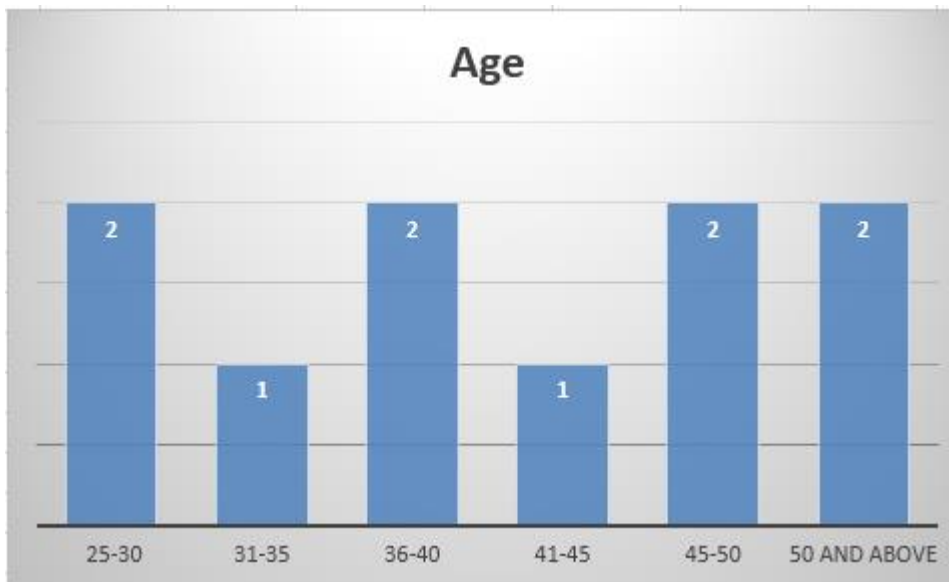
Data Analysis and Discussion

The data has been gathered by using survey interview. Therefore, the chosen method of analysis has been thematic analysis. Within this chapter, the researcher has generated themes by using the interview questions. In these themes, appropriate responses have been included and further analysed by the researcher. The key themes drawn from the interview questions are the importance of prosecution and human rights in Pakistan, the current prosecution system of Pakistan, and role of judiciary in ensuring effective implementation of prosecution system in Pakistan, the current status of legal public awareness in Pakistan and the role state in securing legal rights of the citizens, key reasons behind the failure of prosecution system and human rights in Pakistan, solutions regarding litigants grievances in criminal justice system of Pakistan and the impact of failures and how justice can be provided to people in Pakistan. The chapter has also included the discussion of the key findings where the primary findings have been compared and contrasted by the researcher.

Demographic Analysis



The bar chart above shows the gender of the respondents. It can be seen that 7 of the total participants who took part in interview were male whereas 3 of them have been female



The bar chart above shows the age of the respondents. It can be seen that 2 of the respondents were between age 25 and 30 whereas 1 of them has been between age 31 and 35. 2 of the respondents were between age 36 and 40 whereas 1 of them has been between age 41 and 45. Lastly, 2 of the respondents were 50 and above years old.



The graph above shows the profession of the respondents. It can be seen that 1 respondent was lawyer whereas 2 of the respondents were legal analyst. It has been found that 2 of the respondents were counsels whereas 3 of them have been human rights specialist. 1 of the respondents was a policy maker.

Conclusion and Recommendations

The chapter is intended to highlight the conclusion of the study as well as recommendations for practice and for future research. Therefore, the chapter is divided into a number of sections. The first section shows the summary of findings whereas the second section has provided recommendations for practice. The third section has offered the recommendations for future research whereas the fourth section has provided conclusion of the study.

Summary of Findings

The summarized findings of the study have shown that Pakistan has an extensive selection of bases that administer the magistrate's system of Pakistan and offers that the structure has endured noteworthy variations over the years. Nevertheless, the prosecution system in Pakistan is not carrying out at the prime level, nevertheless, to analyse the reasons for such, it is significant to note the way the justice system works. The findings have also shown that important and legitimate rights also show a significant part linking to the Supreme, Federal Shariat, and High courts in the legal system predominant in the country where their dominions vary rendering to constitutional, illegal and public chronicles linking to financial, moral, political and other matters. Following the common law system led by the British, the prosecution system in Pakistan is in play after the police departments fulfill their role where the prosecutor's assesses the evidence gathered by the police and select cases to initiate litigation on, file them to be assessed by the relevant courts, and instigate a trial to punish the perpetrator.

Recommendations

With regard to the findings of the study, it has been recommended that The Criminal Justice System of Pakistan can further be amended by carrying some modifications. The part of Prosecution Department is significant for reinforcement of the strategy objective and cures to public. Major developments at all conditional level could be employed whereas hard working officers should be invited in the prosecution department to make it more sound and functional within shortest time. A wide-ranging valuation needs to be experienced in order to report the gaps in trial and examination. The purpose should be to examine crime forms and encouraging the exercise, reserve needs at regional and domestic level. The developments should not be partial to police or prosecution level, but via wider discourse with NGOs, jurists and civil society the assessment of the justice system of Pakistan should be evaluated. The enforcement of law should be well framed within the individual mind which discourages the criminal activities in society and fear of punishments leads to avoidance of any offence. On national level, the police investigation capacities can be enhanced via implementation of new laws and making the investigation institutions stronger. This is much possible via technology advancement and maintaining centralization.

There are different issues which can be dealt with the new laws. The old reforms were for the past. In those times, crimes were conducted differently. Now, in modern times, one of the most important issue which different countries are facing is of cybercrime laws. Different activities are yet to identify that whether they do come in cyber laws or there is a need to make a new category of laws for that. There is a dire need of realizing that countries should get ahead with the new technologies. All the three main branches of government in Pakistan should work together and also consult different researchers of specific fields. This will allow all three branches known as Legislatives, Executives and Judiciary, to comprehend the modern issues. After understanding such issues, making of different laws, carrying such laws to different departments and implementation of such laws will be much easier. Prosecution cannot properly work under such laws which are not updated with time. Apart from law making, the current prosecution system is not yet revolutionized. Proper technological advancements are not observed in the system. Since, no technological advancements are observed, all the work is done on the papers and it takes a lot of time to settle down cases and keeping up with such a large number of documents. Governments must work on the policies and system to make it more advance. All the record should be kept online on various servers. All the cases should be monitored through proper systematic advancements from where the monitoring bodies can look at any case, anytime. This will speed up all the processes and corruption among such departments will be minimized to a great extent since all the record will be online and any monitoring body can check the record whenever they want to. Punishments should also be added in law body for those whom are not faithful with the department and are trying to earn more by doing

unethical deeds. Once punishments will be given to corrupt and lazy officers, the system will automatically grow as old ones will be replaced with the efficient officers. These will then ethically perform their duties which will be in the favor of all departments and public (Antonov et al., 2019).

The problem lies in the country which is heavily plagued with the political interference in police systems, courts and prosecution systems. It further sheds light on the need for assistance from the International Community for reforming the system via western set of idealism and values. But this is quiet implausible or impractical since the ground realities are very different considering the religiosity contiguous. Under the Telegraph Act, the amendment should be introduced to access the phone data for crime investigation purpose and evidence building. Few amendments can be introduced in the Evidence Act such as incorporating the scientific methods and data investigations with further improvements in scientific collection of evidence including the DNA analysis, finger print interpretation and forensics. On national level, the forensic science lab should be operationalized under the Federal Investigation Agency and the local provincial labs should be managed by criminal investigation departments. The forensic science labs should equipped with the qualified scientists with competitive training programs and proper compensation structure. Such practices bring fairness in the justice system with more accountability within the society. The Prosecution Services should develop the binding guidelines for prosecutors as the Punjab Prosecutor General initiated a comprehensive checklist for prosecutors in this regard and such practices should be extended to all other three provinces for more hiring of prosecutors to overcome the problem of pending cases and trials. The prosecution department can make use of the official websites to display the district wise report in each quarter showing the number of cases in process, withdrawn, acquittals, pending and disposed-off. This allows the effectiveness and success to be determined independently.

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