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## PARTICIPANTS' PAPERS

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### VICTIMS OF CRIME IN PAKISTAN

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#### I. INTRODUCTION

Pakistan is a heterogeneous developing society undergoing a metamorphosis, where the state has still a weak writ of the governance required to ensure rule of law and democratic values. The criminal justice system is contaminated by corruption, political intervention, maladministration and a low level of capacity building. The legal framework available for the rights of victims is deficient and defective. The policies of the justice system are based on a product of a whimsical approach to leadership rather than research.

Victimology is <sup>1</sup>always a neglected field of study in both governmental and scholarly pursuits in the field of criminology. Victims are still forgotten entities throughout the entire criminal justice system. The needs of the victims of crime have not been identified and no forward-looking policy is available to deal with the current issues involved in victimization.

The level of victimization has increased because of a startling rise in heinous crime and terrorism but the countermeasures taken by the state are insufficient and unsatisfactory. In this paper, victim treatment at all stages of the criminal justice system in Pakistan has been assessed in view of available primary and secondary sources of data and in the light of United Nations Declaration on the Basic Principles on Justice for Victims of Crime and Abuse of Power, the UN Handbook on Justice for Victims and the Guide for Policy Makers on the implementation of UN Declaration. The Criminal Justice Assessment Toolkit has been taken as a yardstick for analysis of cross-cutting issues confronted by the victims of crime in the criminal justice system. Although it is difficult to make an accurate assessment because of non-availability of complete data, participant observation has been utilized to draw some conclusions. The data of government institutions is not truly reliable as focus is only on the quantitative aspect of crime. The past and present policies of government to enhance appropriate measures have also been analysed. More focus in this paper is given to the identification of main issues affecting fair treatment for the victims of crime and its possible solutions.

#### II. APPRAISAL OF THE CRIMINAL JUSTICE SYSTEM

The criminal justice system in Pakistan is inherited from colonial masters and there remain many inherent contradictions between the colonial enactments and the indigenous culture of the society. The legal system of any society is always an extension of its traditional social control mechanism but importation of foreign laws in any society creates a legal cultural lag which inhibits the creation of a favourable ambience for victim treatment. The interaction of cultural values imported with the legal system has led to many complexities in the multilayered criminal justice process. The traditional justice system, in the form of local arbitration councils called *panchiat* or *jirga*, has been eroded. The parallel application of Islamic laws and English laws created a messy situation where there are many hurdles in providing appropriate measures for victim treatment.

The arrangements of the criminal justice system are deficient but the application of laws, the culture of institutions and the style of management has miserably affected the cause of victims. Moreover, the social fabric is vivisected into different castes, clans, religious sects and social groups where there is more focus on vengeance for the victim and less hope for justice from the state.

Police, prosecution, courts and prison are traditionally the four components of a criminal justice system. The police are subservient to the provincial government and are highly politicized in both policies and administration. It is still a force rather than a service. Prosecution was a part of the police system

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but has now been made independent by the new Prosecution Service. The courts are over-burdened but now, after the revival of the defunct judiciary with the restoration of the Chief Justice of Pakistan and the announcement of a new judicial policy, there is a hope for better victim treatment. However, a systemic approach at national level is still lacking.

### III. PATTERNS OF VICTIMIZATION

The crime statistics in Pakistan present a horrible picture of victimization. There are many issues involved in the process of data collection. This data is based on First Information Reports registered at local police stations. There are no independent sources to assess the real depiction of victimization in Pakistan. The annual crime survey is not published in the country. Moreover, there is an element of confidentiality involved in the process of access to data. The National Police Bureau at national level collects the relevant data from the four provinces and the capital territory of Islamabad but it is not more than a single statement about the comparative figures of crime. A glaring flaw in the process of data collection is noticeable as qualitative aspects of data analysis are terribly omitted, which does not allow for a holistic approach towards crime and victimization.

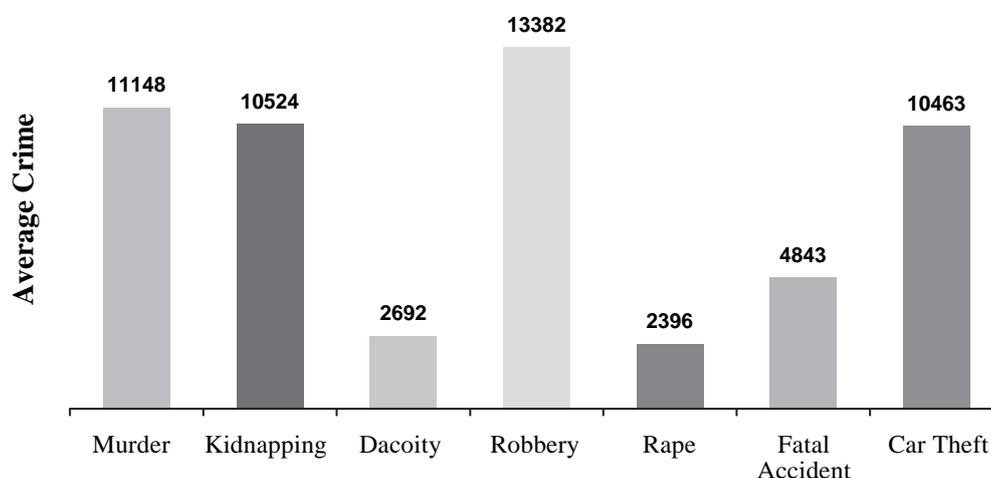
The following table shows crime statistics from 2000 to 2008, with an increased percentage of crime in this time period.

**Table 1: Crime Reported (Yearly) (2000 to 2008)**

Year	All crimes	Murder	Kidnapping	Dacoity	Robbery	Others
2000	<b>388,909</b>	8906	7126	1297	7513	304081
2001	378301	9528	6546	1372	7612	304605
2002	399558	9396	6938	1631	8235	325322
2003	400680	9346	8450	1821	8434	321087
2004	440578	9719	9537	2338	11851	350760
2005	453264	9631	9209	2395	12199	358223
2006	537855	10048	10431	2895	14630	428768
2007	538048	10556	10725	3260	16639	432100
2008	592,503	12059	15135	4529	19943	465908
<b>Increased % (2000 to 2008)</b>	<b>52%</b>	<b>35%</b>	<b>112%</b>	<b>249%</b>	<b>165%</b>	<b>53%</b>

The above data, collected from National Police Bureau of Pakistan, reflects that there is a constant increase in overall victimization. Some categories of crime are missing in this table. The category of 'Others' is used for miscellaneous crime. The average rate of victimization in different categories from 2000 to 2008 is given as in the following table.

**Table 2: Average Rate of Victimization per Year (Per Head)**



The average annual crime per year in Pakistan is 516,212 and the total population of the country is about 180 million which means that one out of 348 citizens in the country is related to one type of crime in one year. This is not an exact victim ratio because crime data also includes cases involving arms and narcotics. But it must be noted that more than one person can be victimized in a single case; for example, one suicide bomb attack in Peshawar city in December 2009 killed more than one hundred people. The alarming increase in homicide is a crucial challenge for law enforcers. The right to life is the first fundamental human right. Land, honour and money disputes are three major factors in murder cases. Moreover, murder is also a compoundable offence and in many cases victims compromise because of social pressures and even out of greed for money.

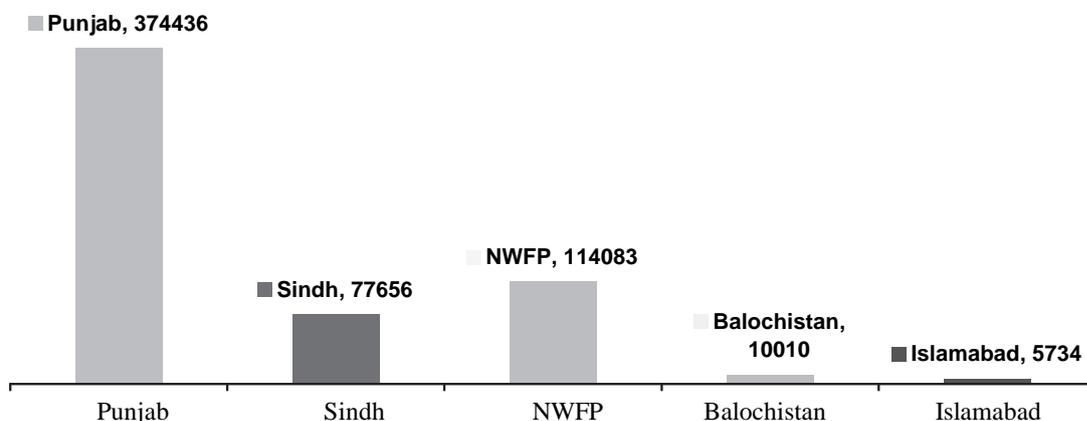
In the above table the average rate of victimization in rape, fatal accidents and car theft is calculated from the available data from 2006 to 2008. The statistics regarding kidnapping/abduction are also distressing. But more disquieting are the increased cases of kidnapping for ransom, up from 285 in 2006, to 420 in 2007, to 619 in 2008. This unprecedented increase in kidnapping for ransom is due to modernized transportation networks (motorways) and cellular technology. The police lack modern equipment like GPS interception systems which are only available with Inter-Services Intelligence, an Army-based agency.

Victimization in fatal road accidents is also startling. The total number of people who died in road accidents in 2008 is 4,494, which is almost 40% of the total average rate of homicide in Pakistan. About 2,750 people, mostly women, were victimized by rape in 2008, which is again an increase from 2,240 and 2,200 in 2006 and 2007 respectively.

The specific data about the victimization of special groups is not available at national level. These vulnerable groups are victimized in different ways. The sex ratio in Pakistan, 105.7 men to every 100 women, differs from most countries. Women constitute almost 49% of the total population and they are subjected to family violence, abduction, rape and female child labour. There are also some cases of acid throwing by family members. Customs like *wani* and *karokari* present the horrible state of female victimization. In *wani*, a woman of one tribe is given in forced marriage to the other party as a matter of compensation for a crime or wrongdoing committed by a member of her tribe or clan. In *karokari*, a woman is sentenced to death if found in a compromising situation with a man or is suspected of involvement with a man. Such customary practices are still prevalent in the far away rural areas of Sindh and Punjab. In some areas of the North West Frontier Province, women are sold in marriage by their relatives. Bounded labour in the feudal system still poses a serious challenge to the state as a guardian of human rights. Children are subjected to kidnapping for ransom and sexual assaults. In most kidnapping cases, a child is killed after taking the ransom amount. Moreover, there are cases of child abuse in religious schools. The rate of crime reporting to police by women and children is much lower than that of male adults. Minorities, who are often financially downtrodden, always face discrimination in the criminal justice process.

Punjab, being most populous province, has the highest number of crimes. The province-wise distribution of crime in 2008 is given below.

**Table 3: Crime per Province**



The victimization of innocent citizens by terrorists in North West Frontier Province, Punjab and Balochistan is again shocking. There were about 115 suicide terrorist attacks in Pakistan in 2009 with 800 fatalities and more than 5,000 injured. The writ of government in the tribal areas is becoming weak. Moreover, the increased number of IDPs (Internally Displaced Persons) presents another bleak picture of victimization in Pakistan. The fight between state and non-state elements has rendered thousands of innocents homeless and penniless. The insufficient arrangement by the state institutions worsened the situation for those persons, most of whom are from Swat Valley and Waziristan.

There is not a single scientific crime victim survey conducted by any institution in the country. As per the results of an unscientific crime victim survey conducted by the Human Development Foundation, about 33.65% of citizens stated that they personally had been victims of crime at some point in their life and 67.31% stated that a relative had been a victim of crime. About 46.15% declared corruption in the justice system as the most important internal reason for lack of security in Pakistan. Only 0.96% of the people had full confidence in the court system.<sup>1</sup>

In summary, patterns of victimization in Pakistan are horrific and require very sincere efforts on the part of the state to initiate a systemic change in the criminal justice system to improve the conditions for better victim treatment.

#### IV. LEGAL AND REGULATORY FRAMEWORK

The legal system in Pakistan is a combination of different elements which are insufficient to meet the current challenges to improve the measures for victim treatment. The supreme law of the land is the Constitution of Pakistan, 1973. It passed through different phases but the fundamental rights specified are to some extent based on the United Nations Universal Declaration of Human Rights, 1948. Fundamental rights are enumerated from Article 8 to Article 28; Article 8 specifically stipulates that any other enactment clashing with fundamental human rights shall be null and void. Moreover, principles of policy are contained in Articles 29 to 40 but these are general guiding principles and lack mandatory implementation.

The Pakistan Penal Code, 1860; the Criminal Procedure Code, 1898 and the Police Rules 1934 are old British Empire enactments which provide the legal framework for the rights of victims. This time lag is not bridged in view of socio-cultural changes, modified patterns of victimization and emerging needs of the victims of crime. Some amendments regarding offences against women have been made and some special laws for the protection of children have been introduced but their effective utilization is still under question.

With regard to religious minorities and women, some provisions of law are discriminatory. Section 295-c of the Penal Code, relating to blasphemy, has been misused by some religious groups and the punishment for the offence is the death penalty. Moreover, Article 17 of The Evidence Act, 1984 treats the evidence of female witnesses as worth half that of male witness in financial matters and in other matters it is at the discretion of the court to take female witnesses as full or half witnesses. These two issues have been highlighted by the human rights commission but there is strong reluctance on the part of government to amend this law in view of expected reaction from extremist religious groups.

It is also noteworthy that laws related to offences against the state and religion are stronger than the laws for the protection of victims, especially special groups like minorities, women and children. The legal framework related to state and religion is misused. There is a long list of missing persons, especially those who disappeared during the regime of President Musharraf. It is very difficult to ensure justice for the victim when the state itself is an offender. The application of laws and societal values affect the role of victim in the criminal justice process.

There is also a tendency of false accusation, which is indirectly a form of victimization through abuse of power. False allegations are reported to the police and it takes a long time for the falsely accused person to establish his or her innocence. Section 182 of Pakistan Penal Code deals with false information given to the police, and does not empower police to take direct action without the approval of the court.

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<sup>1</sup> Yespakistan.com- [http://www.yespakistan.com/security/survey\\_result.asp](http://www.yespakistan.com/security/survey_result.asp)

The bifurcation of offences into cognizable and non-cognizable offence also affects the rights of victim. In cognizable offences, the police take direct action whereas in non-cognizable offences, the permission of the court is necessary. This distinction does not exist in other countries as it causes unnecessary delays in justice process. As per data from the Gujranwala police district, about 44% of the complaints received in the complaint cell of the police chief were related to family and land disputes which are non-cognizable for police and are related to civil litigation. There is a tendency by complainants to convert their civil matters into fictitious criminal matters to ensure an early response.

The issue of abuse of power is primarily addressed by administrative laws like the Efficiency and Discipline Rules. There are excessive complaints of abuse of power by police. The Police Order 2002 introduced Penal Sections (155, 156) which authorized the high-ranking police and the courts to register a criminal case against the police officers who were involved in abuse of power.

The major substantive and procedural laws are deficient in many ways, because of which there is a long list of supplementary special laws, including the Prevention of Corruption Act, 1947, the Anti-Narcotics Act, 1997 and the Pakistan Arms Ordinance, 1965 and others. Family and labour laws, with their special separate courts, are available. In the presence of overlapping legal enactments, it is very difficult for the victim to know exactly their legal rights and the set procedures are very lengthy and cumbersome.

## V. ACCESS TO JUSTICE

The issue of accessibility remained a key concern for researchers in victim studies. The victims of crime in Pakistan suffer secondary victimization at the hands of state institutions. The following aspects of accessibility, where victims of crime face irresponsiveness and discrimination in treatment, require analysis.

### A. Bureaucratic Model

Almost all components of the criminal justice system practice a bureaucratic model of dealing with victims of crime. The office doors are guarded and style of governance is more authoritative than managerial. Victims of crime have to deal with red tape to seek appointments with relevant officials. This can be described as power distance or *bureaupathology*.

### B. Social Compartmentalization

The level of accessibility depends on the social status of the victim. Poorer people have to wait for a long time to see criminal justice practitioners. Feudalism and selective industrialization has added to the class differences and bifurcation of the social fabric.

### C. Culture of Nepotism and Corruption

Like other governmental organizations, components of the criminal justice system are also plagued with a culture of nepotism and corruption. The discrimination of the victims of crime is a glaring violation of the United Nations Declaration. The accused party has more accessibility to legal resources because of nepotism and corruption. The basic reason for nepotism and corruption is lack of good governance and political interference in the justice system.

### D. Irresponsiveness and Unaccountability

The responsiveness of the criminal justice system is not properly gauged at any stage. There is an internal administrative mechanism which takes care of irresponsible behaviour of practitioners but its effectiveness is yet questionable. Now, it is important to analyse the level of accessibility and fair treatment for victims at each stage of the criminal justice system.

## VI. VICTIM AND POLICE

The police are the first component of the criminal justice process which victims encounter. The police in Pakistan are still non-professional and unskilled in many ways. Knowledge, skills and attitude are three ingredients of professionalism in any police service. The cadre compartmentalization within the police system has also affected the relationship between victim and police. This relationship is based on distrust and fear rather than trust and confidence. The trust deficit is the first important issue in bridging this gap

between police and the victims of crime. The other aspects of police treatment of the victims of crime can be discussed under the following headings.

#### **A. Non-Registration of Cases**

There are persistent complaints against the local police of non-registration of cases and doubting the victim's version of the crime. Under Section 54 of Criminal Procedure Code, a police officer is bound to register a case if a cognizable offence is made out. Despite clear directions to the lower ranks, the complaints still occur. Now, the local courts are empowered to order the registration of cases under section 22-A of the Criminal Procedure Code. Police try to present a dark figure of crime because their performance is gauged in quantitative terms, which is always misleading.

#### **B. Delayed Response of Emergency Services**

There are presently two emergency services for victim treatment in Pakistan. The police emergency service is called Rescue-15 where the police has its own Quick Response Teams to reach the place of occurrence. The average time to respond to a call should not be more than five minutes but it is delayed in many cases because of shortage of resources. The other newly established Rescue-1122 service is functional only in the one out of the four provinces which is properly supplied with modern equipment. But it is a medical and rescue service. The delayed response of the police emergency service always helps criminals not victims.

#### **C. Lack of Training and Resources**

The first responders and investigators are not properly trained to deal with the victims of crime. They must be trained to give psychological treatment to the victims as they suffer trauma and mental anguish at the time of occurrence and afterwards. Moreover, victim treatment is not considered a specialized entity because of lack of direction and resources. The etiology of police apathy is deep-rooted in the working environment of the police system. The continuous exposure of police officers to violence, the lack of a shift system and unhealthy living standards make them insensitive and apathetic to the cause of victims. This phenomenon may be called "compassion fatigue". Victim treatment and the needs and concerns of the victims of crime are not included as a specialized field of training.

#### **D. Lack of Research on Victims**

Crime analysis in Pakistan is more accused focused rather than victim oriented. In fact, there is no crime survey at the national level with available information on victims' perception of police. Moreover, no study has been undertaken to assess police interaction with the victim. The research and development wings at the provincial level do not conduct holistic research studies employing qualitative methods of Victim Contact Programmes, interviews, surveys or ethnography.

#### **E. Protection and Assistance**

The victims of crime are given physical protection by the police as per the demand of the victim but for a short time. In some police districts, Help Centers for legal guidance and counselling have been established. But again the quality of guidance and counselling has not been assessed by different surveys. Police officials in most cases accompany the victim for medical treatment because of a legal requirement that a doctor will not treat a victim of crime without a police report. Police posts in main hospitals have been established to assist and help the victims of crime.

#### **F. No Special Arrangements for Victims of Special Groups**

There is lack of specialization in almost all fields of policing in Pakistan. Special squads for victims of special groups, like women and children, are non-existent. Some NGOs are working for these special group victims but their contribution is more theoretical rather than a real practical help. The number of women police officers is very low compared to their proportion of the population. Separate sitting arrangements in police stations and special victim support officers are not provided in the policing system in Pakistan. There is utmost need for establishing victim assistance services for these special groups. There is an increase in cases of kidnapping, rape and acid throwing against women. Being the deprived section of the society, the decision to call the police for help and to pursue their criminal cases depends upon the decision of their kith and kin. In the same manner, children are victimized in kidnapping for ransom, homicide, family violence and even mosque and school torture which creates a long-term post incident trauma but no special squads are available for child victim treatment.

In a nutshell, it is always the quality of policing which can establish a relationship of trust and confidence between police and the victims of crime. The indigenous police culture and maladministration should be addressed to create a victim-friendly police service in Pakistan.

**VII. VICTIM AND PROSECUTION**

The prosecution service in Pakistan has not played any significant role in victim treatment. Previously, it remained a part of police department under the direct control of police high officials but later the Prosecution Services Act, 2005 was promulgated by which a separate independent set-up of the prosecution service was established at provincial and district level. There are divergent views about this shift: one school of thought holds the opinion that the level of accountability has decreased with the separation of prosecution services; while the other is in favour and propounds the concept of professionalism in prosecution services.

The relationship between prosecutor and the victim of crime can be analysed under the following headings.

**A. Restricted Contact with Victims**

Prosecutors are in fact overburdened with cases and they are not in a position to give sufficient time for preparation of each case. Moreover, there is a myth that only the police and judiciary have defining roles in decisions of cases, owing to which the role of prosecution services has not been refined to address the grievances of victims of crime. The prosecutors remain busy in court and have less time for the guidance and counselling of the victim.

**B. Commercial Interest of Attorneys**

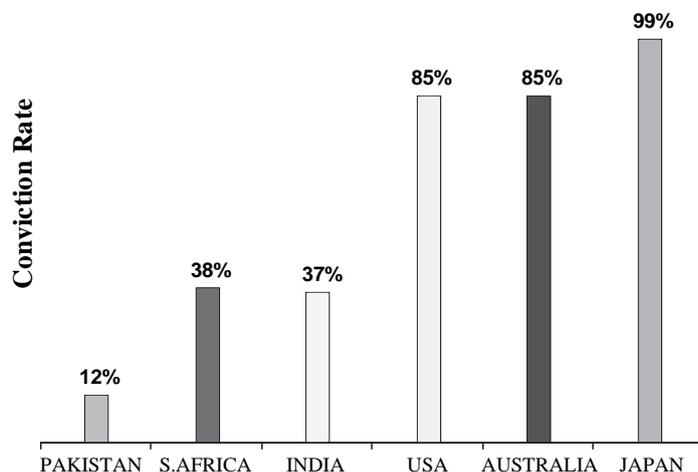
The prosecutors are paid less, being government servants, whereas private attorneys of an accused party get huge fees as a defence counsel. The defence lawyers get access to all secret investigations from the lower-ranking staff of the prosecution service or even from investigators. The performance of public prosecutors is not competitive, which is however the case for private counsel.

**C. Administration and Legal Issues**

The public prosecution service is not independent as their services are controlled and regulated by the law departments of the provincial governments. Moreover, the appointment of the Attorney General is made by the political head of the province. The prosecutors do not have the discretion to decide whether special cases of victims should be prosecuted or not. All cases of different nature are sent to public prosecutors irrespective of area of specialization. It is important to note that in cases against the state, private attorneys are hired for prosecution whereas, in heinous cases where victims face agony and less hope for justice, matters are referred to the public prosecutors who are less motivated and less professional.

**D. Performance of Public Prosecutors**

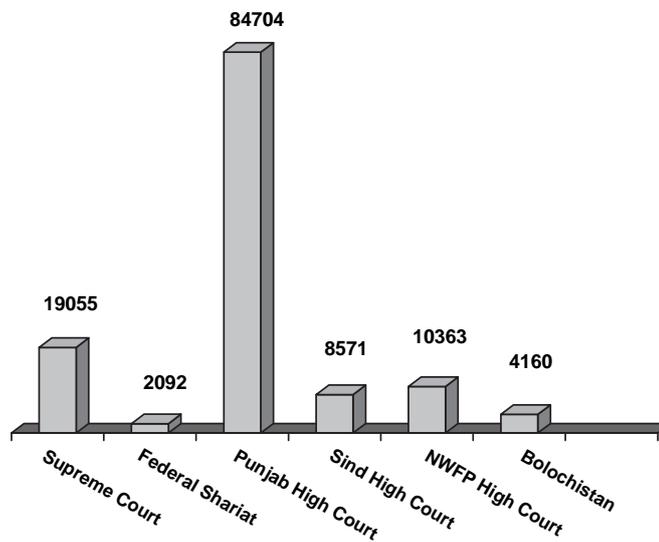
The performance of prosecutors in relation to victim satisfaction can be gauged by analysing the conviction rate. The comparative conviction rate of different countries is given as below.



There are many reasons for bad prosecution performance which primarily include lack of professionalism, training and resources. The training of public prosecutors is primarily related to legal issues whereas it should also be more focused on needs, concerns and rights of victims and there is no prosecutors-based victims/witness assistance programme. However the conviction rate in other provinces is low. The average conviction rate in Pakistan is just 11.66%, which is very low compared to other countries. In India it is 37%, South Africa 38%, Australia 85%, USA 85% and in Japan it is 99%, which is highest in the world. A low conviction rate is one of the indicators of poor performance of any criminal justice system.

### VIII. VICTIM AS WITNESS AND THE JUDICIARY

The judicial system in Pakistan is a multi-faceted system which passed through several eras: the Hindu period, Muslim period, British Colonial period and post-independent period. The judicial system consists of the Supreme Court, High Courts, Federal Shariat Court, Sessions Court and Lower Judiciary of Civil Magistrates. These courts are overburdened. The overall distribution of pending cases in the judicial system as per the annual report of the Law and Justice Commission, 2006 is given as below.



The total number of cases in the upper judiciary is 138,945 whereas, the total number of cases in the lower judiciary is 1,565,926. The total number of judges in Pakistan from the Supreme Court to the lower judiciary is 1,925. In this way the average number of cases per judge is 885 which is an alarming figure for researchers and policy-makers. Despite this situation, the judiciary is playing its role in providing justice after the restoration of the defunct judiciary and the announcement of new judicial policy.

Currently, Pakistan is going through a phase of judicial activism. A new Human Rights Cell has been established in the Supreme Court of Pakistan and other subordinate courts. The courts take *suo-motto* notice of any glaring violation of fundamental rights. The following issues are to be addressed for establishing a conducive environment for better victim treatment in the judicial system.

#### A. Delayed Justice

The number of hearings of criminal cases by a judge is to be reduced. The victim has to suffer financially and mentally to attend the repeated hearings of the court. The judicial officers accuse the police officers of not presenting the witnesses in time which causes delays.

#### B. Protection of the Victim

In very rare cases, courts issue orders providing for police security of the victims of crime. The accused are guarded in police custody with a threat of escape but victims, especially in cases of kidnapping for ransom and extortion, face physical threats. Mostly, victims make arrangements for their own protection when their lives are at stake.

### **C. Mechanical Approach towards Law**

The judicial procedures in criminal trials are more based on oral evidence, not material evidence. Again, the police investigation is blamed for not collecting and presenting the material evidence. In most cases, victims suffer as their accused is acquitted on the pretext of doubt. Accused persons are still the favourite children of the law but there is also need to take cognizance of circumstantial evidence.

### **D. Lack of Facilities**

In the lower subordinate judiciary, working conditions are very poor. There are no separate sitting rooms for victims, especially women and children. They have to wait their turn without basic facilities. Moreover, the communication system is very traditional in the judicial system, and is based on outdated laws, as the police are considered the major agency responsible for communication of any information and for presenting the witnesses in court.

## **IX. ROLE OF VICTIMS IN THE JUSTICE SYSTEM**

It goes without saying that a victim of crime plays a central role in all proceedings of the criminal justice process. Victims of crime are permitted under the national law to participate in almost all proceedings against the accused. In the entire process of investigation, the victim defines the course of investigation, which is sometimes misleading. More than 70% of the offences in the Pakistan Penal Code are compoundable. The victim is allowed to express his or her views at each stage of the criminal justice process. In the trial stage, the victim faces some problems, especially in the identification parade of criminals.

## **X. ALTERNATIVES TO FORMAL PROCEEDINGS**

The traditional dispute resolution mechanism, in the form of local arbitration councils, had been very successful in ensuring justice. In North West Frontier Province, the local council, called *Jirga*, always played a more effective role than the state institutions. There are many advantages in these traditional mechanisms, which provide justice at a low cost. The honour of the victim is not compromised and moreover, it becomes the responsibility of the community to take care of the victim's safety in future. Unfortunately, with the increase in individualization, Pakistan society is losing such mechanisms. Now, the burden is being shifted to the state institutions. But, it is also important to mention that the quality of justice rendered to the victim is sometimes compromised in the traditional informal mechanism.

Currently, police in Punjab and North West Frontier Province have initiated Arbitration Councils to decide petty issues between the parties as a matter of government policy to increase community involvement in day-to-day policing affairs.

## **XI. PRISON AND VICTIMS**

The prison system in Pakistan is also plagued with maladministration and corruption. There are constant complaints of drugs, prostitution and availability of cell phones within prisons, though these elements vary from prison to prison. In some cases, it has been observed that the victims of crime get threatening messages from accused persons held in jail, threatening consequences if they pursue the cases.

Moreover, there is no system of monitoring after releasing an accused on bail. Though offenders of cases against property are tracked by the Criminal Investigation Agency (CIA) dealing with organized crime, offenders of family violence, child molestation, murder and injury are not properly tracked, which is a source of continuous threat for the victims.

In Pakistan, victims have very little contact with the prison authorities. In some heinous cases, judges hold their courts within the premises of prison where the accused is cross-examined and sometimes placed in an identification parade before the victim.

The laws regulating the rules of business are out-dated as they do not focus on the emerging challenges confronted by the jail administration. The Prisons Act 1900 is a century old legal enactment. The prison culture simply transforms a simple offender into a hardened criminal. In this way, vengeance against the

victim is multiplied. A room designed for ten prisoners is being used by about forty prisoners.

The conditions regarding contact with the victims and payment of monetary obligations to the victim are ordered specifically by the court and the local police ensure compliance with such orders. In case of any unwarranted contact of the accused with the victim, the police take action against the accused in view of the nature of the offence or threat. It is again a lacuna in the criminal justice process practiced in the country.

## **XII. PROTECTION OF THE VICTIM**

To ensure the protection of the victim of crime is the primary duty of police, as stated in the Police Order 2002, but there are many issues involved in the protection of victim/witnesses. There are many cases where the victim or witness retracts their statement before the court given Under Section 164 of Criminal Procedure Code which has much evidentiary value. In cases like kidnapping for ransom, extortion, murder and rape victims are sometimes blackmailed, threatened and even murdered.

The courts and police have powers under the law to order appropriate measures for the protection of victims. In cases of family violence and sectarian cases of terrorism, its compliance is always questionable. In some cases, victims were murdered even in the court premises in the presence of the police. Hired assassins are used to kill victims. The increased number of proclaimed offenders reflects the poor performance of police. More than a thousand hardened criminals who have head money are included in the Black Book of Proclaimed Offenders in four provinces of Pakistan.

The physical protection of victims in terrorism cases is highly questionable. Organized gangs are involved where the state has less power to enhance the level of victimization. In some cases, criminals are associated with local politicians who again put pressure on authorities to remove the security measures taken for the protection of victims. Such tactics are employed by land grabbing mafia.

The Pakistan Human Rights Commission has pointed out all these shortcomings in its different annual reports but no tangible efforts are being made out to enhance the measures for protection of victims of crime.

## **XIII. RESTITUTION, COMPENSATION AND ASSISTANCE**

The system of restitution to the victims of crime also needs overhauling and reform. In Islamic law, the level of restitution and compensation to the victim is higher compared to English common law. The Islamic jurisprudence is based on the concept of retribution, with provision of blood money. Though this amount is not fixed and depends upon the satisfaction of victim, it is sometimes misused as bargaining occurs between the victim and accused party. In the Pakistan Penal Code, the provision of fine to the accused is given in almost all sections, along with imprisonment, but the amount of fine was fixed in 1860 and has not been revised since. At that time the Penal Code was framed by the English rulers. The court imposes restitution under the Penal Code in view of the nature of the case but it is not a mandatory provision to be abided by the court.

In case of disaster victimization and victims of terrorism, special compensation is announced by the Provincial and Federal Governments. An amount from Rs.300, 000 to Rs. 500,000 is given to the victims of suicide terrorism but there are no set criteria. The compensation for the injured person is very meagre. Compensation for victims of terrorism has been announced to satisfy the general public with regard to the government's counter-terrorism strategies. Moreover, it is given in most of the cases where media representation is glamorized with a picture of gross violation of human rights. This restitution or compensation is not a substitute for the socio-psychological agony suffered by the victim. There is no standardized mechanism to calculate the amount incurred by the victim of crime in the entire criminal justice process. A general assessment and then provision in the law should be available, specially directing all practitioners of the justice system to ensure recovery and receipt of restitution and compensation.

Currently there is no victim compensation scheme; rather than a systemic policy for the welfare of the victim, compensation varies from situation to situation. Regarding assistance to the victim, the situation is

also not satisfactory. No victim satisfaction surveys are conducted periodically to assess the real picture but it is alarming to observe that it is always the victim of crime who suffers at the police station, prosecution office and then the court to pursue his or her case.

Legal guidance for the victim is not at his or her doorstep. Access to information about the proceedings is again restricted. There is no system of post-victimization counselling. There are no victim support officers in the local police station. The police must observe a victim day on a weekly basis which should be focused on re-contacting victims of major cases so that a relationship of trust can be cultivated between victims and law enforcers.

#### **XIV. RECOMMENDATIONS**

It is important for the government of Pakistan to establish its National Institution for Victim Support. The institution should be an autonomous body under the supervision of the Ministry of Interior or the Ministry of Law and Justice and will be responsible for devising a victim support policy and other initiatives at the national level.

The provincial governments have more scope for creating a better environment for victims of crime. Each provincial government is encouraged to establish its regional victim support centre which must have a close liaison with all relevant agencies and work under the policy guidelines of the National Victim Support Centre.

The federal and provincial governments of Pakistan must have central and regional victim support funds. These funds should be spent to create better facilities for the victims of crime.

Each component of the criminal justice system in the country should try to create separate infrastructure for facilitating victims' access to their rights regarding counselling, access to information and to know about the procedures for state compensation and restitution.

There is utmost need for modification in the available legal framework for victim treatment. Separate victims' laws are required, stating the rights of the victims of crime, especially of disadvantaged groups like women and children. Moreover, new procedures like a notification scheme for dissemination of relevant information to victims should be introduced in the new law.

A state compensation scheme must be introduced for the victims of violent crime, which may include free medical facilities and other disbursements.

The higher judiciary in Pakistan should encourage the judges to implement the legal provisions regarding restitution. In case the offender is unable to pay, then state compensation should be given out of the victim support fund.

#### **XV. CONCLUSION**

In view of all above stated facts and observations, it is concluded that Pakistan is one of the developing countries where the level of implementation of UN Declaration on the Principles on Justice for the Victims of Crime is deficient and far from being satisfied. The institutional and legal apparatus of the justice system is unable to enhance the appropriate measures for better victim treatment. It is subject to the capacity building of practitioners of the justice system and institutional building at state level. The role of non-governmental organizations is also to be redefined and a comprehensive national policy should be framed after systematic research and analysis in the field of victimology.