Assessment Of Medico-Legal Systems Responsiveness To Gender Based Violence In Pakistan

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2 AUTHORS:

Adnan Khan

Research and Development Solutions

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Ayesha Khan

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ASSESSMENT OF MEDICO-LEGAL SYSTEMS RESPONSIVENESS TO GENDER BASED VIOLENCE IN PAKISTAN

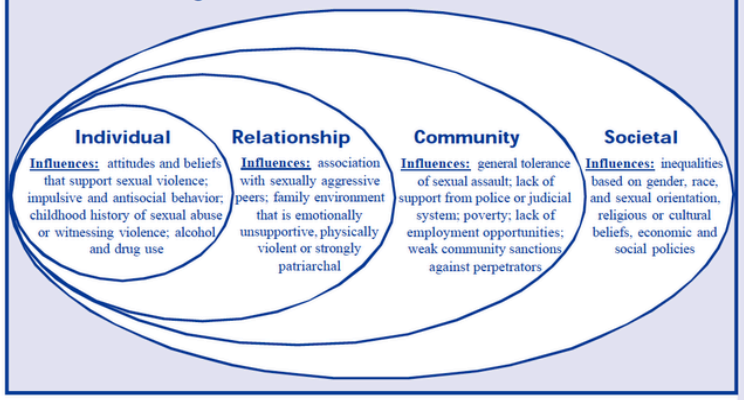
BACKGROUND

Gender-based violence (GBV) is the general term used to capture violence that occurs as a result of normative expectations associated with each gender, along with the unequal power relationships between the two genders within the context of a specific society[1]. While GBV can affect men the primary targets in majority of cases worldwide are women and girls. The term violence against women means (VAW)"any gender-based violence that results in physical, psychological and sexual assault causing suffering to women/girls including pressures and threats of such acts, coercion or subjective deprivation of independence, whether occurring in public or private life"[2]. It is a widespread violation of fundamental human rights and can affect women of any class, age, religion or sexuality. GBV is a global problem and its prevalence varies across countries. According to a WHO Report on GBV (2010 WHO) nearly 35%of women worldwide have experienced domestic, economic or sexual violence in their lifetime. In 48 population based studies from different parts of the world, 10%-69% women reported having been physically assaulted by an intimate partner/spouse during their lifetime.

According to the Gender Gap Index 2014[3] Pakistan ranked 2nd last (i.e. 141 out of 142 countries) on gender equality that compares access to economic and political participation, educational attainment, health and survival, and political empowerment across countries. GBV is deeply rooted in Pakistan's patriarchal society with abundance of anecdotal evidence, research and reported stories of acts of violence against women across all 4 provinces. Many of these customary or traditional practices of honor killings, domestic violence, acid burning, rape/marital rape, forced or child marriages, and dowry deaths center on the notion of "honor" (i.e. Izzat) and girls/women are held responsible for dishonoring the family honor by exerting their basic human rights to education, sexual-reproductive health, economic opportunities, mobility outside of the home or marrying of their own free will. The Pakistan Demographic Health survey 2012 reports that 39% of ever-married women have experienced violence from their husbands, 33% reported physical injuries and 52% never sought help or told anyone regarding the violence.

Preventing GBV requires a combined approach of prevention i.e. by changing the patriarchal systems and mindsets along with strengthening the responsiveness of the medico-legal system (medical, police, justice systems) to hold accountable the perpetrators and provide services to the survivors. Within the spectrum of responsive medico-legal service delivery according to international standards the key requisites are having efficient medical and police investigation processes, fair access to justice and case outcomes, to have in place effective laws and policies, and be able to provide survivor-centered services. Previous studies from Pakistan show that despite contextual differences across provinces and even with the post-18th Amendment devolution of decision making, the Federal and provincial medico-legal systems are plagued with similar issues and challenges of inefficiencies, provider biases, low responsiveness to GBV cases, and dearth of services for survivors.

Table 1. The Ecological Model



Adapted from: Krug EG, Dahlberg, Mercy JA, Zwi and Lazano R (editors).The

The current research aims to explore more holistically the responsiveness and gaps within the medico-legal system particularly to rape cases by focusing on attitudinal biases, practices and policies that undermine an effective medico-legal system. Through qualitative interviews with nearly 100 stakeholders in the Federal and 4 provinces in government agencies/departments of health, police, public prosecution along with ground level service providers, NCSW/PCSW, Ministry of Human Rights, Ministry of Women Development, NGOs working with GBV and survivors – the research

aims to draw an overall picture of the practices and functioning, along with gaps of the medico-legal system. The findings given below will assist government institutions and civil society partners to improve the effectiveness and gender responsiveness of medico-legal systems.

SALIENT FINDINGS

1. Survivors Perspectives

- **Physical abuse and violence are a part of life –** with a widespread pattern of domestic abuse and violence. The research highlighted that particularly in KP and Sindh, the extended joint family structure with male hierarchy and with greater asymmetry of power particularly for the newly married woman/young girl places them at a higher risk of GBV. Honor is strongly associated with women's sexuality and hence tightly controlled by restrictions on her mobility, interactions outside the home, and with non-immediate family male members. We found some conflicting narratives from the survivors regarding the detrimental role played by the joint family systems as a driver of violence amongst survivors in Punjab as well.
- **Unequal Power Dynamics in Child or Exchange Marriages-** violence (verbal and physical abuse) is reported more by survivors of forced marriages or in marriages with unequal power dynamics (compensation marriages), marginalized and impoverished social circumstances or absent support structures particularly in Sindh and Balochistan.
- **Lack of Options and Coping Strategies before Seeking External Help -** reflect a challenging picture of many years of helplessness and resentment combined with instances where "informal networks" of neighbors, natal family and the broader community intervened to safeguard the woman from additional violence. Options for and access to GBV services are not known or available to women in poor and remote rural communities and surprisingly this was similar across all four provinces. Victims generally internalize societal biases and hold themselves partially responsible for violence – frequently victims "subconsciously" described that they must have prompted the "outbursts" for triggering the violence. *The rare decision to seek help is heavily contingent on the availability of options and the life-threatening severity of violence.*
- **Female Respondents Have Been Conditioned To Avoid Violence Instead Of Stopping It –** early on through household level role models and societal expectations girls and women in Sindh, Punjab, KP and Balochistan are conditioned to accept levels of violence. Women accept verbal insults, slaps, throwing of food and things by male partners/husbands as normal male behaviors and ways of venting stress.
- **Absence of Formal Networks or Information to Seek Help -** there are no formal mechanisms by the public sector officials in relevant government departments at the districts and provincial level or by NGOs to widespread disseminate information. Recently information campaigns are in the planning stage in Punjab, Federal and in Sindh.
- **Inhibition and Delays in Seeking Medical or Police Help –**on average survivors took from 1 day to 2 weeks before seeking external assistance (outside of the family). Common reasons for delays are late discovery or sharing of the incident, family discussions, and fears of communal or societal prohibitions and lack of clear knowledge on what to do. This was similar in all provinces.
- **The Complexity Of Public Prosecution** while available free of cost, access to legal aid, public prosecutors and being able to successfully navigate the medico-legal system and trusting their safety (i.e. many of the survivors report fear of being killed even by their own families) are key barriers to accessing the system.
- **Shelters and Safe Spaces are Limited** –while government and NGO run shelters are available in larger urban centers, their space availability, coverage and scope of services are far less than identified needs. By our estimations there is 1 center for 10,000 women or more (assuming that only 15% or less of the GBV victims will seek external recourse or help), and information or resources of these centers are limited.

2. Medico-Legal Health System

- **No Curriculum Development and Medico-Legal Officer Training –**after 3rd year medical school there is no further training or skill development for medico-legal doctors in all four provinces and the Federal. Furthermore there is an absence of interest in joining, learning or considering the importance of the medico-legal aspect by medical graduates, hospital administration and health decision makers which in turn influences the numerous deficiencies and lack of standard practices while conducting the medico-legal examination and certification. There is an urgent need for advocacy to Provincial Health Departments for a diploma course on ML certification and practice in line with WHO standards.
- **Functioning of ML Facilities within the Province areVariable –** there is significant variability and limited functioning of ML facilities below the DHQ (district). While on paper ML facilities are present at the THQ and RHC level our research highlighted otherwise. This limits the access of majority of GBV and rape cases that

happen in rural areas and require rapid evidence gathering and linkages to police and public prosecution.

- **The Process and Limitations –**both in terms of social taboo and low numbers of reported cases, rape and sexual assault associated ML cases very low on the priority list and recognition of medico-legal officers. In addition, they are frequently contentious (unlike simple medical care cases and injuries), and ML officers were nervous, cautious, and reluctant to get involved. Women ML officers are rarely assigned as formal ML officers in hospitals (only Gynecology department WMOs function as examination doctors) and are often exempt from going to court and presenting their findings.
- **No Recognition of Psychological Trauma or Empathy** - Having received no trainings for conducting ML examination of sexual assault victims, ML officers are unable to counsel or empathize for the psychological state of the victim, and counseling services are absent even in large hospitals. Privacy and linkages with local NGOs are sporadic and contingent on the knowledge and interest of officer on call – not an institutional mechanism. There are no services directories of legal or counseling services present in ML facilities.
- **Standards Are Poorly Followed Without Monitoring –**There are no set SOPs for Medico-Legal Examinations except in Punjab. Even in Punjab beyond a few centers in Lahore the recognition of these SOPs is missing. For other provinces hospitals and medico-legal officers are not aware of the Memorandum Order 2005 that exists detailing the need for rapid transportation of samples and testing – this is rarely followed and there are no monitoring mechanisms to demand accountability for the reasons of delay by ML officers or the police.
- **Missing Standard Equipment and Supplies** – In all four provinces there is no defined list of necessary or adequate ML examination supplies. Basic essentials are often missing at ML facilities and there is no inventory system for tracking replenishment needs in a systematic manner. An urgent list and mapping of what supplies including rape examination kits, testing and emergency contraception must be defined.
- **Few Forensic Support Facilities and Lack of Coordination** - There are few DNA and forensic analysis facilities in the country (mainly limited to Islamabad or Lahore, Karachi) and hospitals do not allocate budgets for sample transport costs or report retrievals. Medico-legal officers often hand the samples to police and there are no follow up mechanisms for putting the final reports or findings on the ML certificate.
- **ML Certification Process Plagued by Inconsistencies and Lack of Transparency –** certification process is paper based and open to challenges of later stage editing, corruption and internal inconsistencies that weaken the case.
- **Inherent Gendered Biases -** Aside from the institutional factors hampering the medical system, we found embedded even within the medical profession (including women ML officers) societal norm that assumes the guilt and role of the GBV or rape victim at the onset.

3. Police and Law Enforcement System

- **Pervasive Lack of Trust –**across all socio-economic and ethnic spectrum and stakeholder categories (including government stakeholders excluding the police officials) in all four provinces is an immense distrust of the police – in terms of their competence, integrity, gender harassment, corruption and instrument of violence against citizens rather than perpetrators.
- **Resource Challenges in Police Recruitment and Training –** our narratives depict stories of how initial poor selection "non-merit" based selection leads to rampant issues of nepotism, political or bureaucratic interference in the junior cadre recruitment system, and in turn affect how the police functions in conducting their assigned medico-legal duties. Current training facilities are using outdated modalities of teaching investigative and forensic methods, and are constrained by critical resources and expertise which are now being addressed in various soft police reforms in KP, Sindh, Punjab and Federal.
- **Discriminatory Distribution of Resources and Risks** – junior officers perceive that they are not owned by the police departments and are reluctant to take duty-related risks for fear of job security, transfers or death. There are no criteria for safeguarding external interferences and accountability of performance at any level.
- **Uniform Budget Allocations of Police Stations –** police stations reported lack of crime responsive or demand-specific budgets and resources. For example stations are short staffed, lack POL or vehicles for patrolling, or are assigned VIP duties without criteria or monitoring of what their specific tasks are. This ad hoc functioning undermines the "system" and the morale of police rank file and creates a sense of confusion on what actual priorities are. We found this situation similar across all provinces.
- **The FIR Process and Limitations –** the FIR filing process remains tedious despite several new reforms and facilitations at the Federal and KP police initiative. Generally police officers were disinterested in the issue of gender and medico-legal research and cases, and consider rape cases

"nuisance" and extra work to be quickly done. Rape cases or women related violence represent less than 1% of the overall case load and are not a priority unless supported by senior phone calls or NGO or media presence. Police officers within police stations (visited) were not aware of pro-women laws or their implications and could not report any such training in the recent past. Women police officers are rarely present at police stations and restricted to women police stations without being active in registering GBV cases.

- **Accountability and Recourse–**are undermined by lack of information for the average citizens particularly low literacy women/GBV victims and ***actual implementation*** of the accountability mechanisms at the district, provincial and national levels is hard to decipher on the ground. No such information on accountability mechanisms are readily available at local police stations.
- **Missing Resources, Equipment and Supplies** –police stations often lack areas for privacy, toilet facilities for women, storage of evidence materials, funds for testing of samples, plastic bags, gloves, etc. Budgets are not allocated for sample testing costs and transport.There have been no request (from the provincial or district level police stations or decision makers) to add in medico-legal forensic testing and transport costs in future budgets.
- **Few Forensic Support Facilities and Coordination** – as previously described there are few DNA and forensic analysis facilities in the country (mainly limited to Federal and Provincial capitals) and are undermined by technical expertise and human resource availability. Reports when sent take months and there is no follow up by the police or medico-legal officer (this responsibility is not clearly assigned). Costs for testing are expected to be covered by police ASI/IO and this often leaving the samples and the testing in a limbo or further promotes corruption.
- **Discrimination and Gendered Biases -** is a deep seated sentiment of disbelief and cynicism regarding women and the nature of their intentions. Whether this is reflective of a male dominated, conservative and patriarchal system which has de-sensitized them to sufferings of girls and women on day to day basis remains unclear.

4. Public Prosecution and Judicial System

- **Parallel and Complex Judicial Systems** - Criminal law in Pakistan and the procedural codes that are followed along with various interpretations of Shariah, parallel justice systems of Jirga, Panchayat, and extra-judicial systems many of which are contradictory legal setups, have added to the complexity that is beyond the understanding of the average citizen particularly low literacy women. These systems are part of cultural acceptance including justified and accommodated in the medico-legal system. These create delays, confusion and further promote violence even.
- **The Public Prosecution and Court Process Limitations**- in the vast majority of serious murder and property dispute plus terrorism cases the interest of public prosecution for GBV is very low, if not completely absent. With the result that public prosecutors along with the police encourage survivors/their families to reconcile with their perpetrators. There are no monitoring mechanisms to see the performance of public prosecutors, the case outcomes, out of court settlements, and conviction rates.
- **Good Policies Little Outcomes -** In May 2009, the National Judicial (Policy Making) Committee (NJPC), headed by the Supreme Court chief justice, produced the National Judicial Policy (NJP) 2009 to make the judicial system "responsive to the present-day requirements of society". Paper policies do not frequently translate into any change in practice or actions.
- **Security and Witness Protection –** there are no security measures to safeguard any of the providers in medico-legal system - prosecution, medical or police. This stops the duty bearers in the system from functioning effectively in their respective roles.
- **Abdication of Responsibility Gender and Rape Cases are being Termed as NGO Cases**– public prosecutors are delegating the rare few rape cases to NGOs. This has serious implications in terms of professional obligations and the sustainability and scope of services that NGOs can provide.
- **Trainings in Isolation -** Prosecutors have received numerous trainings. However, these trainings had little impact on practice and were very "superficially" internalized by the respondents of this study.

5. Parliamentarians and Policies

- **High Level Commitment is still Missing**– while much progress has been made commitment at the highest level and within party executive committee's is still absent.
- **Good Laws are in Place** – the challenges are foremost effective implementation of the existing laws and removal of anti-women practices and loopholes in the interpretation of the laws at the grass-roots by service providers.
- **Civil Society Partnerships –**policy makers are keen to partner with civil society organizations to highlight women issues and push for effective legislation.

6. Improve Coordination and Linkages

- There are many players – government and NGOs working in GBV across the provinces. Foremost are the NCSW and the Punjab and KP PCSWs, along with a host of civil society organizations and activists. However, despite the good work being undertaken there is a lack of basic coordination among the various entities tasked to and/or working in GBV. There are no province specific Gender Based Violence prevention plans or strategies that coordinate the efforts of the medico-legal system with prevention programming yet, and nor is there a neutral umbrella organization present with the capacity to show case the work or progress being made. This is a significant gap at the Federal and provincial levels that should be closely looked at and addressed to streamline prevention and response actions of all stakeholders to control GBV.

7. Evidence Use and Tracking of Progress

- There is very limited publically available data on GBV statistics. For example various police websites have individual province related crime figures however GBV categories are missing. Public prosecution numbers are not available publically. There are some key NGOs with excellent area specific information on GBV categories but they are limited to certain years and areas and there is no central repository where this information can be taken from. The Gender Crime Cell is compiling this information in their records but this information is not public record at the time of the research.
- There is a dearth of behavioral and attitudinal research on types of GBV, survivor interventions, provincial interventions and outcomes (operational research), and cross-province or regional comparisons research that is published or readily available.
- There is no research on the economic and health implications of GBV on society and policy implications on restricting mobility and oppression of women, including learnings from other developing countries that have or are successful in reducing GBV. This is a significant limitation when it comes to making evidence informed policies or programs.

RECOMMENDATIONS

Influencing the Gender Narrative is Extremely Critical- The research noted that the primary drivers of a low responsive medico-legal systems continue to be the widespread societal tolerance and acceptance of physical and sexual (including other categories) of violence against women/girls. Customary practices are found and accepted in all provinces of Pakistan such asforced or child marriages, rape/gang rape, honor killings, Swara (child marriage as a compensation), Vani (compensation marriage), acid attacks, and stove burning deaths etc. are part of the societal narrative and reflective of the "feudal or honor" culture of which women are either repositories or property of the male family members. Our research, consistent with other studies, shows that community, institutional and societal disapproval and safeguards against violence are either absent or very weak and are contrary to the premise that girls and women are valued in Pakistan.

Specific interventions through media require direct and embedded awareness raising, using techniques of 1) social marketing norms of positive models that challenge the gender stereotypes, question biases against women, make girls/women safe in public spaces, open up mobility for women and 2) edutainment drama's and street theater that reach across to rural and urban households and communities particularly in the poorest districts.

Political Commitment to Demand Accountability on Gender Violence and Medico-Legal Systems- In Pakistan, despite the progress and regardless of what type of leadership was in power women's issues have not been seriously addressed at the top leadership and through institutional changes.

In specific changes and/or strengthening in the existing laws are required

- The Anti-Rape Laws Act 2013 (Criminal Amendment) – pending.
- Domestic Violence Act 2012 (prevention and protection) – pending
- Prevention of Anti-Women Practices (Criminal Amendment 2008) – strengthen implementation
- Child Marriages Restraint Act (Sindh and Punjab passed) – pending in KP and Balochistan and implementation strengthening
- Qisas Diyat Amendments – pending
- Protection Against Sexual Harassment of Women at the Workplace Act 2010 – strengthen in the provinces
- Acid Control and Prevention Law 2013 – strengthen and provincial implementation
- Jirga and Panchayat ruling by Sindh High Court

The existing pro-women laws while commendable achievements, now need to be matched with service delivery level monitoring for implementation in order to improve the medico-legal responsiveness.

Standardize Medical Health Examination and Counseling Processes - Across provinces (including Punjab) and at the Federal level, our findings reveal that gender related ML examinations are reluctantly conducted ad hoc procedures without respect for

individual privacy and ethics. There is an urgent need for:

- Standardized SOPs on ML Examination – KP, Balochistan and Sindh. Can learn from Punjab SOPs.
- ML checklists at all health facilities that provide ML services – teaching and DHQ hospitals
- Linkages of THQ and RHCs with DHQs that have ML facilities
- Mandatory documentation of the ML examination and findings in a standardized format.
- Updated methods of examination and testing techniques as per WHO standards.

Wide Dissemination of ML Health and Help Facilities and Information - We found that across all provinces more so in Balochistan and Sindh, NGOs and even within inter-department and key government stakeholders (in the same city) there is a lack of awareness of GBV services, GBV help lines, and access to medico-legal systems. For low literacy women survivors (in shelters and at the community level) – there is no clarity on how to readily avail services or what type and kind of services are available in provinces/districts/sub-districts etc.

- Widely disseminate information at all common public access outlets, district level – health, police, masjids and court facilities, in local newspapers (a small corner box of key access service numbers), and for posters in local language to be put up.
- Helpline numbers must be functional and staffed with qualified and connected services of police back up or legal aid etc.
- For NGOs there is an imperative need to be aware of complimentary programs by other NGOs or organizations, and to refer survivors and collaborate (horizontal information sharing) with each other without risks of losing their business advantage.

Capacity Building Across the Medico-Legal System of Doctors, Police and Public Prosecutors - There is an urgent need for coordinated government owned medico-legal and gender specific skill development and capacity building of service providers in medical, police and public prosecution to do their job properly (according to defined standards).

In specific

- Establish trained Cadre of ML officers (health) – with a 3-4 month training diploma as per WHO standards.
- Routine in-service refreshers and testing for updated knowledge on ML processes for doctors and police
- Police training – revisit the curriculums across provinces there are many variations and lack of emphasis on gender-related medico-legal examination and investigative process.
- Gender sensitivity should be a major part of the police training for junior officers to change the existing attitudes and biases against women.
- Public Prosecution – strengthen capacity for investigative work and improve the system accountability and monitoring of performance outcomes in terms of case durations, cases/public prosecutors, gender-categories of case and conviction rates.

Currently isolated "project based" trainings by numerous government institutions and NGOs have been implemented with little tangible impact on the medico-legal system outcomes.

Demand Responsive Planning and Resource Support for Police Stations- Numerous ongoing or soon to start police reforms are being planned in the Federal and 4 provinces. However, there is an urgent need to conduct a ground up "demand responsive" assessment of the needs and budget requirements of individual police stations in association with District leaderships and as per the crime statistics/data to see what would be most relevant to them instead of a "uniform" project design across the province. Other specific recommendations are:

- Define gender categories of crime in the FIRs that are consistent with provincial and national gender indicators
- Track FIRs through linked case numbering to court cases – for assessing FIR drop outs, reasons and outcomes (acquittals and conviction rates) to monitor police quality of investigation.
- Improve coordination with public prosecution
- FIR process – remove delays, FIRs should be recorded and registered within 24 hours and review of cases that are delayed should be part of the quality improvement process of upcoming police reforms in all provinces
- Mainstream women police officers and women desks in police stations across Pakistan particularly in remote rural areas.
- Budget allocations for medico-legal investigations particularly gender cases
- Public-police liaison committee's to be active at the district/sub-district/UC levels

Judicial Reforms to Increase Performance and Reduce System Inefficiencies- Long delays in processing cases are common in the Pakistan's criminal judicial system for all cases, and in this GBV cases are very low priority. Immediate and urgent recommendations are:

- Mandatory decisions for all cases within 1 year. Review of cases that go beyond the defined period and identify system level issues and delays

- Electronic scheduling, streamline and tracking of cases per court. Distribution according to case load, judges available, magistrates and public prosecutors performance.
- Protection of survivor identity and character in the court proceedings.
- Increasing women magistrates, public prosecutors and judges in higher and lower judiciary to at least 10% across all provinces and particularly in smaller cities.
- Gender sensitivity regarding societal biases that affect decision making

Good Governance and Enforcement of Law is Critical for Providers to Trust the ML System Service delivery level providers across all ethnic divisions and provinces within government institutions and the public alike do not trust Pakistan's criminal justice system and law enforcement agencies to protect them and their lives. With the result that providers pragmatically choose to take safer (i.e. non-threatening to their lives and career options) and avoid risk in controversial situations at the cost of compromising survivors and undermining the medico-legal system.

- Ensure internal accountability through system and institutional mandates that prevent external influences to disrupt the process of medico-legal investigation and delivery of justice.

Witness Protection Programs and Options for Safety of Survivors and Witnesses - Survivors, their families, witnesses, and NGOs working with GBV some have been killed and others repeatedly reported threats and fears for their lives as the biggest challenge in low FIRs and court cases. Like regional countries and other police initiatives Pakistan must test out options for how to implement low cost effective witness protection and safety interventions whether as part of anti-terrorism initiatives or GBV specific interventions.

Clarity and Coordination of Roles between Government Institutions and Civil Society Stakeholders Within government departments in the ML system there is absent (or dearth) of communication and coordination.

- Coordination between police and public prosecution at the provincial and district/sub-district levels. These should be documented department policies and quarterly meetings.
- Coordination between provincial PCSWs and organizations working in GBV with information sharing and progress updates
- Communication between government-civil society organizations/NGOs are also sporadic (except for a few examples), and generally driven by a project based requirements – which are not sustained post project completion.

Research, Tracking and Performance Monitoring –Data availability – its accuracy and availability are neglected areas and is marginalized due to lack of use by government, NGOs and donor responses in designing programs or interventions. There is a need to define standardized indicators of GBV that capture district statistics and are comparable across provinces and at the national level. Consensus should be reached on where the data and central repository can be hosted whether at NCSW/PCSWs (Punjab and KPK) and what alternatives would be feasible for provinces that are in the process of establishing their PCSWs.

Between the key components of medico-legal system (particularly police and public prosecution) there should be clear mechanisms for capturing data on FIRs by GBV categories, the number of cases that go to court and eventual outcomes (conviction or acquittals). This requires developing a systematic MIS system with regular analysis and monitoring/tracking of the outcomes by the respective departments and sharing of this information with civil society/citizens.

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For Comments and Information please contact:

Research And Development Solutions

Research and Development Solutions
www.resdev.org/policy_briefs
Phone: +92 51 8436 877

Dr. Ayesha Khan ayesha@resdev.org
Dr. Adnan Khan adnan@resdev.org

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