

## MEDIA BRIEF

# PROSECUTION SERVICES AND MEDIA IN PAKISTAN

FEBRUARY 2016



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**PIL AT**

Pakistan Institute of  
Legislative Development  
And Transparency

PILDAT is an independent, non-partisan and not-for-profit indigenous research and training institution with the mission to strengthen democracy and democratic institutions in Pakistan.

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**Islamabad Office:** P. O. Box 278, F-8, Postal Code: 44220, Islamabad, Pakistan  
**Lahore Office:** P. O. Box 11098, L.C.C.H.S, Postal Code: 54792, Lahore, Pakistan  
E-mail: [info@pildat.org](mailto:info@pildat.org) | Website: [www.pildat.org](http://www.pildat.org)

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## **Abbreviations and Acronyms**

Cr. P. C.	Code of Criminal Procedures
PFSA	Punjab Forensic Science Agency
FIR	First Information Report
RPO	Resident Police Officer
IO	Investigation Officer
APP	Assistant Public Prosecutor

## Foreword

PILDAT has initiated a national and provincial level legislative and policy advocacy effort to bring reforms in the area of Police, Prosecution and Free Legal Aid in Pakistan.

This media brief is a compilation of proposed reforms originating from PILDAT's Consultative Sessions held at the Federal and Provincial level on strengths and weaknesses in the prosecution system of Pakistan. These sessions were held with key stakeholders including Prosecution departments, heads of relevant Bar Councils, prominent lawyers and legal experts in Islamabad, Punjab and Sindh, who proposed policy alternatives for the consideration of the relevant legislatures.

The Media Brief has been published by PILDAT under the “Reforms in Police, Prosecution and Legal Aid Service” project for which it has received support from the Development Alternates Inc. (DAI) under the Enhanced Democratic Accountability and Civic Engagement (EDACE) project.

### Disclaimer

The reform proposals contained in this brief do not necessarily represent the views of the Development Alternates Inc. (DAI).

Islamabad  
February 2016

## Current State of Prosecution Services in Pakistan

Prosecution service is an essential component of Rule of Law. Weak prosecution lets crime off the hook. Fair and effective prosecution is essential to maintenance of law and order. It leads to public confidence in the criminal justice system and develops respect for Rule of Law. Justice must 'not only be done, but seen to be done' and therefore delivered in terms of successful convictions of perpetrators of crime. Readily accessible law helps in identifying the crucial gaps prevailing in a system. The ease of access to justice for a common man is the ultimate measure of identifying prevalent crucial gaps in prosecution.

Justice must also be delivered in terms of successful convictions to perpetrators of crime. But this is glaringly absent in Pakistan where accused persons are often acquitted due to weak investigation and lack of evidence. If we compare the conviction rates around the world, Pakistan is among the lowest. In 2010, the conviction rate in Pakistan was mere 8.66% while in India it was 37.4 and in South Africa 39%. If we look into conviction rates of developed countries, as given in the table, these are very high i.e. in Australia conviction rate is 85%, in US (Federal) 85%, in US(States) 87%, in England (Lower Court) 98%, in England (Crown Court) 90% while in Japan the conviction rate as high as 99.9%. These figures portray a highly unsatisfactory state of affairs in terms of criminal convictions in Pakistan which illustrate not only ineffective prosecution but inherent weaknesses in the systemic aspects justice institutions – these include lack of capacity and training of prosecutors; friction and lack of cooperation between police and prosecution departments; late provision of FIR and ineffective investigation of crimes carried out by police officials.

One way to reduce the excessive burden of litigation on Pakistan's Criminal Justice System is to encourage mechanisms of Alternate Dispute Resolution (ADR).

Countries	Conviction Average Rates (%)
Pakistan 2010	8.66
India	37.4
South Africa	39
England (Lower Courts)	98
England (Crown Courts)	90
Australia	85
US (Federal)	85
US (States)	87
Japan	99.9

Proposed reforms not only focus on the Prosecution Service(s) but all those aspects of police work and investigations, which directly affect the performance of prosecutors due to weak Police-Prosecution liaison.

There is a need to have an informed debate and productive discourse on required amendments and improvements in existing legislation, prevailing system and contemporary infrastructure of Prosecution Services in the country.

## Policy Recommendations and Way Forward

The following proposed policy and institutional reforms cover not only the Prosecution Services but also those aspects of police work and investigations that have a direct impact on the performance of prosecutors:

- i. **Legislative Amendments** in Section 154 Cr. P. C; Prosecution Service Acts of Punjab and Sindh; Police Rules, 1934 to account for modern standards of presenting evidence; Section 174 and Rule 25.36 of Police Rules, 1934 to authorize PFSA to carry out post mortems;
- ii. **Punjab Forensic Science Agency Act 2007** must be given access to NADRA database;
- iii. Improve **Code of Conduct for Prosecutors**;
- iv. Introduce **computerised FIRs**;
- v. **Report poor investigation** by District Public Prosecutors to Regional Police Officer;
- vi. **Recruit Prosecutors** through Public Service Commission with a one-year probationary period;
- vii. **Increase the budget** for more recruitment;
- viii. Binding guidelines must be developed by Prosecutor Generals for prosecutors;
- ix. **De-politicise** the Prosecution Service;
- x. **Train police investigators and prosecutors** and allocate separate training budgets;
- xi. Introduce mandatory training courses for Public Prosecutors at PFSA;
- xii. Ensure **availability of forensic equipment** in hospitals;
- xiii. All **FIRs should be made available online** in order that the same can be forwarded simultaneously to the prosecution service so as to involve the latter in the case from its very inception;
- xiv. The PFSA should be given **access to the NADRA's and FIA's databases of fingerprints and records** in order to immediately identify suspects, through suitable amendments in Punjab Forensic Science Agency Act 2007;

- xv. FIRs should be recorded in very simple language and must be factual;
- xvi. FIRs should not form the basis for immediate arrest of those persons named in the FIR without proper evidence;
- xvii. Adequate funding should be allocated for the specific purpose of establishing the **Witness Protection Programme** in an effective manner.

### **What Can the Media Do?**

- i. **Create general public awareness** about prosecution processes and legal rights;
- ii. Regularly **monitor, investigate, report and analyse prosecution cases** for identifying problems, creating accountability/transparency, mobilising public opinion and stakeholder responses/actions;
- iii. **Mobilise pressure** on Parliament, Provincial Assemblies, and the respective Federal and Provincial Governments, **to provide adequate funding, support and oversight;**
- iv. **Call upon** Parliament and Provincial Assemblies **to undertake necessary legislative reforms;**
  - As an agenda-setter, **raise awareness to increase demand for reforms** and to make the political executive, police, prosecution and other relevant authorities responsive to their roles;
  - **Build capacity of journalists covering criminal justice issues** so that they can perform their watchdog, agenda setter and gatekeeper roles vis-a-vis prosecution more effectively;
  - CSOs can facilitate the media in building capacity of journalists on criminal justice issues and providing support in research, raising awareness and campaigning for specific cases and interventions;
  - Media must **train and encourage journalists to use the Right to Information law** frequently and persistently and play the watchdog role effectively;
  - In areas of low literacy, television and radio are more effective means to educate people about issues of criminal justice system and to increase public demand for reforms.



## Recommended Reading

1. Position Paper on Prosecution Services in Punjab and Sindh  
Online in English at:  
[http://www.pildat.org/Publications/publication/ROLR/ProsecutionServicesinPunjabandSindh\\_PositionPaper.pdf](http://www.pildat.org/Publications/publication/ROLR/ProsecutionServicesinPunjabandSindh_PositionPaper.pdf)  
In Urdu at:  
[http://www.pildat.org/Publications/publication/ROLR/ProsecutionServicesinPunjabandSindh\\_PositionPaper\\_Urdu.pdf](http://www.pildat.org/Publications/publication/ROLR/ProsecutionServicesinPunjabandSindh_PositionPaper_Urdu.pdf)  
In Sindhi at:  
[http://www.pildat.org/Publications/publication/ROLR/ProsecutionServicesinPunjabandSindh\\_PositionPaper\\_Sindh.pdf](http://www.pildat.org/Publications/publication/ROLR/ProsecutionServicesinPunjabandSindh_PositionPaper_Sindh.pdf)
2. Legislative Brief on Sindh Witness Protection Act 2013  
Online in English at:  
[http://www.pildat.org/Publications/publication/ROLR/LB25\\_SindhWitnessProtectionAct2013.pdf](http://www.pildat.org/Publications/publication/ROLR/LB25_SindhWitnessProtectionAct2013.pdf)  
In Urdu at:  
[http://www.pildat.org/Publications/publication/ROLR/LB25\\_SindhWitnessProtectionAct2013\\_Urdu.pdf](http://www.pildat.org/Publications/publication/ROLR/LB25_SindhWitnessProtectionAct2013_Urdu.pdf)  
In Sindhi at:  
[http://www.pildat.org/Publications/publication/ROLR/LB25\\_SindhWitnessProtectionAct2013\\_Sindh.pdf](http://www.pildat.org/Publications/publication/ROLR/LB25_SindhWitnessProtectionAct2013_Sindh.pdf)
3. Policy Brief: Policy Recommendations for Reforms in Prosecution Services of Pakistan  
Online in English at:  
<http://www.pildat.org/Publications/publication/ROLR/PolicyRecommendationsforReformsInProsecutionServiceofPakistan.pdf>  
In Urdu at:  
[http://www.pildat.org/Publications/publication/ROLR/PolicyRecommendationsforReformsInProsecutionServiceofPakistan\\_Urdu.pdf](http://www.pildat.org/Publications/publication/ROLR/PolicyRecommendationsforReformsInProsecutionServiceofPakistan_Urdu.pdf)

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ISLAMABAD OFFICE: P.O.BOX 278, F-8, POSTAL CODE: 44220. ISLAMABAD, PAKISTAN  
LAHORE OFFICE: P.O.BOX 11098, L.C.C.H.S, POSTAL CODE: 54792, LAHORE, PAKISTAN  
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