Exploring Factors Contributing to the Low Conviction Ratio of Rape Cases in Punjab, Pakistan

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This research paper explores the various factors contributing to the low conviction ratio in sexual offences cases registered in the province of Punjab, Pakistan. The practical challenges identified include the registration of cases based on false allegations, defective investigations, false witnesses and fabrication of evidence, reliance on hearsay evidence, presence of hostile witnesses, inconsistencies and shortcomings in the presentation of evidence, imperfect collection and reporting of forensic evidence, contradictions and improvements in witness depositions, delays in reporting crimes and recording statements, as well as the high standard of proving a case beyond a reasonable doubt, which may not be compatible with the societal context. To analyze these practical factors, a research questionnaire was distributed to fifteen prosecutors and fifteen lawyers. Additionally, secondary sources such as law books, articles, case laws, law reports, journals, and publications from non-governmental organizations were considered. The paper highlights that addressing these practical issues on a high priority basis, as recommended within the study, could lead to a decrease in the low conviction ratio. This research underscores the significance of implementing the provided recommendations to improve the overall conviction rate in sexual offences cases in Punjab, Pakistan.

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1. Introduction

The conviction ratio, a measure indicating the likelihood of success in a criminal case, initiated by the prosecution, serves as an important indicator of various legal aspects within a criminal justice system. Comparative research reveals that Japan maintains a remarkably high conviction ratio of approximately 99% (Carlos Ghosn). Conversely, in England and Wales, the conviction ratio stands at approximately 82.3% in Magisterial Courts and 79.1% in Crown Courts. Despite the relatively high crime rate in Russia, statistical data from 2021 indicates a commendable conviction ratio, with over 227 thousand individuals convicted in economic and financial cases, approximately 160 thousand...
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individuals convicted in public safety and order offenses, and a total of over 565 thousand convictions. However, in Pakistan, the conviction ratio paints a different picture. Specifically, within the jurisdiction of Punjab, the reported crimes from January 1, 2022, to July 31, 2022, amounted to 432,821. Of these cases, 227,961 were sent for trial, resulting in 53,791 convictions and 50,469 acquittals. Consequently, the current conviction ratio in Punjab stands at a meager 12.4%. Of particular concern are cases involving sexual offenses, falling under sections 354, 354-A, 365-B, 371-A, 371-B, 375-A, 376, 377, 493, 493-A, 494, 495, 496, 496-A, 496-B, 497, 498, 498-A, 498-B, and 498-C of the Pakistan Penal Code, 1860. Disturbingly, the available data collected from the Nankana Sahib district in Punjab reveals a disheartening trend of acquittals. In the year 2021, out of 166 sexual offense cases under trial, only one case concluded with the probation of the accused, while the remaining cases resulted in acquittal. Eleven cases were acquitted on merits following trial, while the rest of the accused individuals were acquitted under sections 265-K or 249-A of the Code of Criminal Procedure, 1898 (CrPC) based on the grounds of no probability of conviction. This near-total acquittal rate, nearing 100%, raises significant concerns and warrants immediate attention.

Furthermore, the data gathered from the Public Prosecution Department of Punjab presents a disheartening picture. For instance, between January 1, 2022, and August 31, 2022, the total number of cases registered under section 365-B of the Pakistan Penal Code (PPC) pending for adjudication amounted to 5,977. Out of these cases, a mere 303 have been decided, resulting in only one conviction and 302 acquittals. Additionally, 1,173 cases were cancelled, 250 cases were consigned to record, with a total disposal of 1,425 cases, while a staggering 4,552 cases remain pending. This alarming statistic indicates a 100% acquittal rate.

Another crucial sexual offence requiring scrutiny is rape under section 376 of the PPC. The data compiled from January 1, 2022, to August 31, 2022, reveals that a total of 4,522 cases are pending adjudication. Out of these cases, 1,774 have been decided, resulting in 89 convictions and 1,685 acquittals. Furthermore, 258 cases were cancelled, 499 cases were consigned to record, leading to a total disposal of 760 cases, while 3,762 cases remain pending. The conviction ratio for district courts stands at a mere 5.28%, without accounting for compromise cases. When considering the conviction ratio from 89 cases out of the total of 1,774 + 760 cases (2,534), the ratio dwindles to 3.5%. It is worth noting that the conviction ratio from the High Court and Supreme Court is even lower than this. Moreover, data obtained from the online site of the Punjab Police, covering the period from January 1, 2022, to July 31, 2022, reveals that 2,302 rape cases were registered. Among these, 1,214 cases were sent for trial by the police, while 450 cases were cancelled by the investigating agency. Additionally, 159 gang rape cases were registered, with 85 cases sent for trial and 29 cases cancelled.

Lastly, data available from the Public Prosecution Department of Punjab for the year 2021 highlights the conviction ratio of cases registered in the province of Punjab under various sections of the Pakistan Penal Code, 1860, such as sections 336-B, 354-A, 364, 364-A, 365-B, 366-B, 367-A, 371-A, 371-B, 376 (i), (ii), (iii), and 377. The conviction ratio, excluding cancelled cases and cases consigned to record, stood at a mere 4.51%. These figures underscore the urgent need to address the low conviction ratio in sexual offenses cases within Punjab, Pakistan. Hence, the low conviction ratio serves as a contributing factor to Pakistan's abysmal ranking of 130th out of 139 countries in implementing the rule of law, as indicated by the World Justice Project's Rule of Law Index. This pressing concern demands immediate attention, particularly in cases where women are the victims, necessitating a prioritized approach towards addressing the issue within the criminal administration of justice in the province of Punjab, Pakistan.

2. Research Question

1. What are the key factors contributing to the low conviction ratio in sexual offences cases in Punjab, Pakistan, and how do they impact the overall effectiveness of the criminal justice system?
2. To what extent do false allegations, defective investigations, and fabrication of evidence contribute to the high rate of acquittals in sexual offences cases in Punjab, Pakistan?

3. How does the collection and presentation of forensic evidence, including issues such as imperfect collection methods and the reporting system, affect the conviction ratio in sexual offences cases in Punjab, Pakistan?

4. What role does the delay in reporting crimes, recording statements of witnesses, and concluding trials play in the low conviction ratio of sexual offences cases in Punjab, Pakistan?

5. How does the standard of proving a case beyond a reasonable doubt, which may not align with societal norms, impact the conviction ratio in sexual offences cases in Punjab, Pakistan, and what potential alternatives or adaptations could be considered to address this issue?

3. Objectives of the Research

The objective of the above research is to thoroughly investigate and analyze the factors contributing to the low conviction ratio in sexual offences cases in Punjab, Pakistan. The study aims to identify and understand the practical challenges within the criminal justice system that lead to high rates of acquittals. By examining issues such as false allegations, defective investigations, fabrication of evidence, forensic evidence collection, delays in reporting crimes and recording statements, and the high standard of proof, the research seeks to provide a comprehensive understanding of the root causes behind the low conviction ratio. Furthermore, the study aims to propose recommendations and practical solutions that can be implemented to improve the conviction rate in sexual offences cases and ensure effective delivery of justice in the province of Punjab, Pakistan.

4. Research Methodology

For the research methodology, a mixed-method approach will be employed to gather comprehensive data and insights regarding the low conviction ratio in sexual offences cases in Punjab, Pakistan. Firstly, a research questionnaire will be distributed to a selected sample of fifteen prosecutors from various ranks within the Public Prosecution Department. These prosecutors will be assigned to different districts in Punjab, holding positions such as Assistant District Public Prosecutors, Deputy District Public Prosecutors, Deputy Prosecutor General, and Additional Prosecutor General. These individuals are directly involved in reviewing investigation reports, conducting trials in various courts, and handling cases registered under sexual offences. Additionally, they possess experience in appellate courts, which will provide valuable perspectives on the challenges faced throughout the judicial process.

Furthermore, the research questionnaire will also be distributed to fifteen lawyers, including Advocates, Advocates High Court, and Advocate Supreme Court of Pakistan. This will ensure a diverse range of legal professionals’ insights, offering different perspectives on the factors influencing the low conviction ratio in sexual offences cases.

In addition to the primary research through the questionnaires, secondary sources of law will be extensively utilized. These sources include relevant books, articles, case laws, law reports, journals, and publications from non-governmental organizations. By examining existing literature and legal resources, a comprehensive understanding of the issues at hand and potential solutions can be obtained. By employing both primary and secondary research methods, this study aims to gather a broad range of perspectives and information, enabling a thorough analysis of the practical factors contributing to the low conviction ratio in sexual offences cases in Punjab, Pakistan.

5. Data collection

Code, 1860, in Pakistan, a research questionnaire has been developed to gather insights from legal professionals. The questionnaire consists of ten common reasons for the low conviction ratio, which have been derived from relevant case laws. Fifteen advocates and fifteen prosecutors have been invited to participate in the survey.

The participants are presented with the following reasons for the low conviction ratio and are asked to provide their input on each:

1. Registration of cases on false allegations.
2. Defective investigations.
3. False witnesses and fabrication of evidence.
5. Hostile witnesses and inconsistencies during evidence.
6. Imperfect collection of forensic evidence, including delays in sampling and reporting.
7. Contradictions and improvements in the deposition of witnesses.
8. Delay in reporting crimes and recording statements of witnesses.
9. Delay in concluding the trial.
10. High standard of proving a case beyond a reasonable doubt, which may not align with societal norms.

Each participant is provided with five options to choose from in response to each reason, enabling them to indicate the extent to which they believe each factor contributes to the low conviction ratio.

For answers, five options are:

- Agree
- Strongly Agree
- Neither Agree Nor Disagree
- Disagree
- Strongly Disagree

The data collected through this research questionnaire provides available insights into the perceived reasons for the low conviction rate in sexual offences cases, contributing to a comprehensive understanding of the challenges faced within the criminal justice system.

### 5.1 Analysis of response and reasons for acquittal

#### 5.1.1 Registration of cases on false allegations

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<th>Graphic response of Prosecutors</th>
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<td>Registration of cases on false allegations&lt;br&gt;15 responses</td>
<td>Registration of cases on false allegations&lt;br&gt;15 responses</td>
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<tr>
<td>73.3%</td>
<td>53.3%</td>
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After data collection, the responses obtained indicate that 13% of advocates strongly agreed with the assertion that the low conviction ratio is attributable to false allegations. However, more than 20% of
prosecutors strongly agreed that the registration of false cases is indeed prevalent. This divergence in opinions can be attributed to the fact that prosecutors closely examine investigation reports, thereby being more familiar with such circumstances. The registration of cases based on false allegations is not an uncommon occurrence; rather, it is an unfortunate reality. This situation persists due to the allowance of such practices within our courts.

It is pertinent to mention a case titled *Mst. Karim Khatoon’s case* to shed light on the gravity of the issue. In this case, Mst. Karim Khatoon acted as both the complainant and a witness. During her deposition before the Court, she initially claimed to have been forcibly abducted and raped. However, later on, she recanted her previous statement and asserted that no rape had occurred. Consequently, she was convicted by the learned trial court for committing perjury. Subsequently, the matter was elevated to the honorable Supreme Court of Pakistan, which made a significant observation. The Court emphasized that perjury is an egregious social and moral offense, stating that any individual who intentionally tells a lie during the solemn proceedings of a court, fully aware of the potential consequences of ruining the life or reputation of an innocent person, jeopardizing their liberty by falsely implicating them in a criminal case, or causing damage to their property, should not receive any leniency and must not be treated lightly. This case highlights the gravity of perjury within the judicial system and emphasizes the importance of maintaining truthfulness and integrity during court proceedings.

**5.1.2 Defective investigation.**

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<th>Graphic response of Advocates</th>
<th>Graphic response of Prosecutors</th>
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<tr>
<td>Defective investigations</td>
<td>Defective investigations</td>
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<td>15 responses</td>
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![Circle diagram]

It is unsurprising that in response, 46% of advocates and prosecutors strongly agreed that defective investigations contribute to the low conviction rates, even in cases of such heinous nature. Despite the fact that complainants or victims have no control over the investigative process, it is unfortunate that in our judicial system, the victim often bears the brunt of the consequences due to the shortcomings of the investigation agency. It is a situation where one suffers while another escapes accountability. However, the underlying reasons behind this phenomenon remain unclear. Nevertheless, in another article, the author cited observations made by the Indian Supreme Court in the case of *C. Muniappan and Others vs. State of Tamil Nadu* (2010).

The Court stated that while there may be instances of highly defective investigations in certain cases, it is essential to examine whether any lapses by the Investigating Officer occurred and whether these lapses should grant any benefit to the accused. The law on this matter is well settled, emphasizing
that a defect in the investigation alone cannot serve as a ground for acquittal. Giving primacy to intentionally or negligently flawed investigations or to the omissions and lapses resulting from lackluster investigation would erode the faith and confidence of the people in the criminal justice system.

When there is negligence or omissions on the part of the investigating agency, leading to a defective investigation, it becomes a legal obligation for the court to carefully evaluate the prosecution's evidence independent of such lapses. The court must determine the reliability of the evidence and to what extent it can be deemed reliable, while considering whether such lapses affected the objective of seeking the truth. Consequently, the scope of judicial scrutiny in a criminal trial extends beyond the investigation itself. The conclusion of a trial cannot solely rely on the integrity of the investigation.

5.1.3 False witnesses and fabrication of evidence.

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<td>False witnesses and fabrication of evidence</td>
<td>False witnesses and fabrication of evidence</td>
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<td>15 responses</td>
<td>15 responses</td>
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<tr>
<td>40%</td>
<td>73.3%</td>
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If one is actively engaged in our judicial system, it is not uncommon to hold the belief that false witnesses are indeed a reality. As a result, 40% of defense lawyers who participated in the survey strongly agreed with this notion, while 73% of prosecutors also acknowledged the presence of false witnesses. However, it is essential to adhere to the clear rule of the court, which stipulates that “witnesses found to be false in some material aspect were not to be relied upon to the extent of other aspects deposed about by them”. Consequently, due to the reliance on such witnesses, the conviction ratio continues to remain low.

The gravity of the situation is underscored by the observations of the esteemed Supreme Court of Pakistan in a different case. The court expressed deep concern over the frequent occurrence of witnesses making blatantly false statements in court, even in cases involving the death penalty. This phenomenon can be attributed to the prevailing belief among the public that one can perjure oneself in court without facing consequences. This belief is further reinforced by the minimal prosecution of individuals identified as false witnesses by the court. Consequently, this pervasive culture of false testimony erodes public trust in the judicial system. In light of these alarming trends, the court emphasized the need for vigilant scrutiny and appropriate action whenever it becomes evident that a witness has deliberately committed perjury.
5.1.4 Hearsay evidence.

Hearsay evidence, as defined by Halsbury's Laws of England (Fourth Edition) Volume 17, refers to the testimony given by a witness regarding a statement made by another person, when such evidence is presented to prove the truth of the statement. The hearsay rule is supported by several justifications, with the primary rationale being that hearsay statements originate from individuals who are not under oath or subject to cross-examination – a fundamental legal mechanism for uncovering the truth. Consequently, the objection to hearsay evidence is based on the inability of the opposing party to confront and cross-examine the actual witness in a court of law. Given that hearsay evidence is deemed inadmissible, higher courts have mandated the exclusion of such evidence from the record. In cases where hearsay evidence forms the basis of the prosecution, particularly in the context of rape cases, the accused is afforded the benefit of doubt. This issue is significant as a considerable portion (33%) of advocates strongly agree that the reliance on hearsay evidence contributes to the low conviction ratio.

5.1.5 Hostile witnesses and summersaults during evidence.

Sexual offences, known for their gruesome and heinous nature, have been classified as ‘Not Compoundable’ in Schedule-II of the Code of Criminal Procedure, 1898. This classification prohibits compromise in such cases, emphasizing the seriousness of these offences. Consequently, witnesses, in order to secure acquittal during the trial, retract their previous statements, leaving the court unable
to convict the accused individuals. In this regard, the courts have expressed the view that while one can guide a witness, compelling them to testify against their will is beyond their power. The questionnaire responses reveal that 40% of advocates and 53% of prosecutors strongly agree that witness hostility is a fundamental reason for the acquittal of the accused. This pattern has become commonplace, resulting in a conviction ratio of less than 5% in rape cases. When witnesses retract their statements, prosecutors and even courts face significant challenges in securing convictions, despite other corroborating evidence such as DNA reports.

5.1.6. **Imperfect collection of forensic evidence, i.e. delay in sampling, and its reporting system.**

**Graphic response of Advocates**

![Graphic response of Advocates](image)

**Graphic response of Prosecutors**

![Graphic response of Prosecutors](image)

Regarding the dereliction of duty by the investigating agency, it is noteworthy that 66% of advocates and 26% of prosecutors strongly perceive it as a significant factor contributing to the low conviction ratio. Advocates, in particular, place greater emphasis on this viewpoint as they often secure relief for their clients based solely on this ground in courts of law. A relevant perspective can be gleaned from a high court decision wherein the court deliberated on a case involving a six-day delay in sending vaginal swabs to the Forensic Laboratory, coupled with the failure to examine the official responsible for transporting the samples. The court concluded that the "credibility of the report had been compromised" and proceeded to acquit the accused. Furthermore, the court emphasized that the "credibility of DNA test hinges, among other factors, on the adherence to standards in the collection and transmission of samples to the Forensic Laboratory," asserting that the prosecution must establish an unbroken, untainted, and reliable chain of custody. Any breach in this chain would render the DNA test report unreliable.
5.1.7 Contradictions and improvements by witnesses in deposition.

Graphic response of Advocates

Contradictions and dishonest improvements in witness testimonies have consistently proven detrimental to the prosecution's case. As stated by legal precedent, “when a witness alters his testimony or dishonestly enhances his statement, he forfeits his credibility, rendering his evidence unreliable”. It is noteworthy that the significance lies not in minor contradictions but rather in major contradictions that can puncture the prosecution's case. Minor contradictions that do not have a material impact do not significantly affect the conviction ratio. Therefore, it is understandable that a lower percentage of advocates and prosecutors strongly agree with this viewpoint in their responses.

5.1.8 Delay in reporting crime, and recording statements of witnesses, etc.

Graphic response of Advocates
Response of Prosecutors

The disparity in responses between advocates and prosecutors can be attributed to the relief obtained through court decisions. It is observed that an unexplained delay in registering a complaint often works in favor of the accused. The courts have historically regarded such delays as a result of necessary deliberations and consultations before filing FIRs. However, in rape cases, the courts have acknowledged the immateriality of delay due to the understandable apprehension, trauma, and perceived shame or dishonor experienced by the victim and their family, which may deter immediate reporting to the police (Zahid’s case). In these cases, the delay is not considered significant (Irfan Ali Case), particularly considering the invasive medical examination victims undergo. Nevertheless, the situation is different when it comes to an "inordinate and unexplained delay," as such delays can result in acquittal (Rais Khan Case). The courts recognize the distinction and the potential impact on the outcome of the case.

5.1.9 Delay in conclusion of trial.

At this stage, the divergence in responses from advocates and prosecutors can be attributed to their differing perspectives based on their success rates. In our legal system, the delay in trials has often allowed accused individuals to successfully turn eyewitnesses into hostile witnesses, leading to their acquittal. The prolonged duration of investigations and trials has resulted in a loss of confidence for the victim-party, who, in order to avoid further distress, may opt for compromise and recantation. However, if investigations are promptly completed, trials are conducted efficiently, and appeals are decided expeditiously, the conviction ratio would significantly differ.
5.1.10 High standard of rule of proving a case beyond a reasonable shadow of a doubt, non-compatible with our society.

**Graphic response of Advocates**

High standard of rule of proving a case beyond a reasonable shadow of a doubt, non-compatible with our society

15 responses

- **Agree**: 53.3%
- **Strongly Agree**: 33.3%
- **Neither Agree Nor Disagree**: 0%
- **Disagree**: 0%
- **Strongly Disagree**: 0%

**Graphic response of Prosecutors**

High standard of rule of proving a case beyond a reasonable shadow of a doubt, non-compatible with our society

15 responses

- **Agree**: 53.3%
- **Strongly Agree**: 33.3%
- **Neither Agree Nor Disagree**: 0%
- **Disagree**: 0%
- **Strongly Disagree**: 0%

The response from both advocates and prosecutors aligns on the need for standards of proving a case that are compatible with the available evidence and the society in which they are applied. Article 2(4) of the Qanoon-e-Shahadat Order, 1984 establishes different standards of proof for civil, criminal, and quasi-criminal cases. It recognizes that achieving absolute certainty in proving facts is rare and instead sets the standard of a prudent person considering the circumstances of the case (Salamat Ali Case). Therefore, the courts are urged to adopt a dynamic and pragmatic approach when determining the true facts of a case and drawing rational inferences and conclusions (Azmat Khan Case). The law is a living entity, and it is the court's duty to apply it realistically and pragmatically, taking into account the unique facts and circumstances of each case (Arbab Tasleem Case). While the standards for proving a case beyond a reasonable shadow of doubt remain high, it is imperative for courts to consider the entire body of evidence as a whole. If satisfied with the proof of the case, convictions should be recorded, even in the presence of procedural defects (Ibrar Hussain Case).

6. **Recommendations**

Based on the aforementioned responses and the views expressed by higher courts, the following recommendations are proposed to address the issue of low conviction rates in sexual offenses cases, primarily falling under sections 336-B, 354-A, 364, 364-A, 365-B, 366-B, 367-A, 371-A, 371-B,

1. Strict implementation of the provisions outlined in Chapter X, "Of Contempts Of The Lawful Authority Of Public Servants" and Chapter XI, "Of False Evidence And Offenses Against Public Justice" of the Pakistan Penal Code, 1860, to curtail the registration of cases based on false allegations (Mst. Karim Khatoon case).

2. Investigation lapses and defective investigations should be critically examined to determine whether the accused should benefit from such lapses. It is imperative to question why defective investigations consistently result in prejudice against the complainant's case (Hafiz Muhammad Case).

3. False witnesses and the fabrication of evidence should be addressed by courts taking serious notice of deliberate perjury committed by witnesses (Muhammad Aslam Case).

4. Legislative amendments are necessary to update the Hearsay Evidence provision in accordance with modern standards of proof.

5. Hostile witnesses and changes in their testimonies have become increasingly common and require collective action from the judiciary, legislature, and executive bodies to be dealt with firmly.

6. Forensic evidence should be accorded the status of substantive evidence rather than merely being considered corroborative, and its admissibility should be established (Ali Haidar Case).

7. Minor contradictions and honest improvements in witness testimonies should be disregarded and distinguished from major contradictions and dishonest improvements (Iftikhar Ahmed case).

8. The "inordinate and unexplained delay" in reporting crimes and recording witness statements must be taken into consideration when evaluating evidence, particularly in rape cases (Zahid Case).

9. Cases involving sexual offenses must undergo prompt investigation, trial, and disposition in courts of law.

10. The high standard of proving a case beyond a reasonable shadow of a doubt should be aligned with societal norms by adopting a dynamic and pragmatic approach to the appreciation of evidence. Substantive evidence and the pursuit of justice should not be overshadowed by technicalities.

7. Conclusion

The low conviction ratio in Pakistan, particularly in cases involving women as victims under the Pakistan Penal Code, 1860, is a significant concern for effective criminal justice administration. Data obtained from the Public Prosecution Department, Punjab, reveals an acquittal ratio of 5.28% in cases registered under section 376 PPC (Rape) from January 1, 2022, to August 31, 2022, excluding compromise cases. It is important to note that the ratio of cases in which the sentence is upheld in the High Court and then in the Supreme Court is even lower. This low conviction ratio has contributed to Pakistan ranking 130th out of 139 countries in the World Justice Project's Rule of Law Index reflecting the country's poor implementation of the rule of law. One of the reasons for this situation is the failure of our judicial system to effectively apply laws against perjury. The prevalence of perjury in cases dependent on oral evidence is a grave concern that demands a more robust and frequent utilization of existing provisions (Mahila Vinod Kumari case). It is crucial to prevent individuals from engaging in immoral acts such as perjury, prevarication, and motivated falsehoods during judicial proceedings, and appropriate measures must be taken to address such misconduct (Chandra Shashi case). In conclusion, urgent measures are required to address the issue of the low conviction ratio, particularly in cases involving women as victims. The researched recommendations discussed above should be implemented in the criminal justice administration of Punjab, Pakistan, to ensure effective resolution of this pressing issue.
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