

# ANALYSIS OF PROFILING DATA: FEMALE UNDER TRIAL PRISONERS IN SINDH

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MAY 2016

A decorative graphic consisting of several overlapping, semi-transparent blue shapes in various shades of blue, ranging from light sky blue to deep navy blue. The shapes are layered and curved, creating a dynamic, abstract composition that occupies the right and bottom portions of the page.

## ACKNOWLEDGEMENTS

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## RESEARCH FRAMEWORK

From 8<sup>th</sup> May 2013 to 14<sup>th</sup> November 2015, advocates of the Legal Aid Office (LAO) collectively interviewed 335 female Under Trial Prisoners (UTPs) during 389 legal aid clinics<sup>1</sup> conducted in 4 Women Prisons in Sindh.<sup>2</sup> The primary data compiled in this report was obtained during the aforementioned legal aid clinics that were conducted by LAO advocates inside the prison facilities on a weekly basis. It must be pointed out that the pool of prisoners interviewed and profiled is not limited to those that engaged LAO lawyers as defense counsel, as the majority of the female inmates interviewed had already engaged a private counsel. The UTPs interviewed were asked about their respective socioeconomic backgrounds, their past, and how and why they reached prison. The data has been analyzed to provide socio-demographic variables and trends generated by the interviews with the female UTPs.

| NAME OF JAIL            | CONSTRUCTED | AUTHORIZED CAPACITY | ACTUAL OCCUPANCY |
|-------------------------|-------------|---------------------|------------------|
| Women Prison, Karachi   | 1998        | 250                 | 147              |
| Women Prison, Hyderabad | 2003        | 150                 | 45               |
| Women Prison, Sukkur    | 1987        | 20                  | 20               |
| Women Prison, Larkana   | 1987        | 110                 | 26               |

*Table 1.1: Population Statement<sup>3</sup> of Women's Prison across Sindh.*

<sup>1</sup> Legal aid clinics refer to those visits conducted by LAO advocates where prison facilities are visited and UTPs are interviewed and provided with legal advice on an individualized basis.

<sup>2</sup> Women Prisons in Karachi, Hyderabad, Sukkur and Larkana.

<sup>3</sup> Population Statement of Sindh Jails as it stood on 29<sup>th</sup> April, 2016 according to the records received from the Office of the Inspector General of Sindh.

Keeping in mind the irregular inflow and outflow of the UTPs, each prison facility was visited at least once a week. The advocates interviewing the aforementioned female UTPs remained sensitive to the diverse backgrounds which the inmates belonged to and probed into their outlook, as well as the overall environment the UTPs had been exposed to, before and after incarceration.

Some of the most essential questions asked were, the name and age of the UTP, the area of residence and/or the origin, the category of the alleged offence concerning the UTP, the profession, monthly income in Pakistani Rupees, number of dependents the accused had to support, whether the UTP had been arrested previously and whether or not the UTP is a habitual drug user. Keeping in mind the impact of affiliations in a person's life, political and religious affiliations were also enquired about from the UTP in the interview form. In order to gauge treatment of inmates, the prisoners were also asked whether they were in any way mistreated by prison officials.

There were certain limitations which may have impacted the authenticity of the answers by the UTPs. As the questions were asked, a prison official was present and the concerned interviewee may have been psychologically influenced by such presence. It is also possible that some of the UTPs may have given socially desirable responses. Thus, answers given to questions pertaining to affiliations with religious or political groups may not be accurate due to threats from, or loyalty, to those groups, which also affect the validity of the research.

Measurement errors also need to be accounted for, such as, the reluctance of the UTPs in answering certain personal questions, differences in the interpretation of questions among the interviewers and the UTPs, and possibly data processing errors.

## INTRODUCTION

This report analyzes data collected from 335 female UTPs across the four women’s prison facilities located in the southern province of Sindh. As of yet, no such report on the status of female UTPs from Sindh exists in public literature; therefore, this report is critical in increasing awareness about the present day status and conditions of accused female inmates. Further to this, the Mandela Rules<sup>4</sup> require a gendered perspective be adopted in corrections policy so that the specific needs of female prisoners are recognized within penal philosophy which was primarily developed keeping male prisoners in mind. A report which is contextualized in the local narrative is particularly imperative at this point in time due to the recent legislative changes in the law with regard to women’s rights. More specifically, the introduction of the Protection of Women (Criminal Laws Amendment) Act, 2006; and most recently The Domestic Violence (Prevention and Protection) Act, 2013 are hopeful attempts at reducing the number of false accusations and convictions against women.

The Protection of Women (Criminal Laws Amendment) Act, 2006 notably repealed the Zina Ordinance, 1979 on the recommendation of the National Commission on the Status of Women. Removal of this Ordinance has dramatically decreased the number of women charged with the crime of *zina* as a result of heightened evidentiary requirements.<sup>5</sup> In this study, none of the female UTPs interviewed had been charged with the offence of adultery. In a similar vein, The Domestic Violence (Prevention and Protection) Act, 2013 seeks to provide women a cause of action against abusive family members.<sup>6</sup> Although the Act has yet to be implemented

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<sup>4</sup> The Mandela Rules, formerly the UN Standard Minimum Rules for the Treatment of Prisoners, sets out a number of specific rules dealing with the selection or prison officers and their training requirements.

<sup>5</sup> National Commission on the Status of Women Islamabad, *Study to Assess Implementation Status of Women Protection Act 2006*, Available at <http://www.ncsw.gov.pk/previewpublication/4>, Accessed on 14<sup>th</sup> March, 2016.

<sup>6</sup> Naveeda Noreen and Dr. Razia Musarrat, *Protection of women rights through legal reforms in Pakistan*, ISSN 2161-7104 2013, Vol. 3, No. 4 Available at [http://www.macrothink.org/journal/index.php/jpag/article/viewFile/5059/\\_8](http://www.macrothink.org/journal/index.php/jpag/article/viewFile/5059/_8), Accessed on 14<sup>th</sup> March, 2016.

in courts, it has created potential for greater change for the status of women's empowerment in Pakistan. This report will now analyze the status of female UTPs in Sindh and the connections between gender, marital status, occupation, and other demographic factors that make certain criminal charges unique to women.

## BACKGROUND

Women interviewed were all above the age of 15, with approximately half between the ages of 19 and 30. There were very few women below the age of 18, or above the age of 41. Most of the UTPs, about 81.8%, were married. Most of them were from a low income bracket and were housewives or maids. Only about a quarter had non-domestic work experience or were students. More specifically, more than one third earned less than PKR 5,000 a month.

This data, taken comprehensively, highlights a distinct pattern in the average UTP demographic. There appears to be a link between crime and lack of financial resources and/or unemployment in the data.<sup>7</sup> This relates to strain theory which explains the relationship between certain stresses or strains in life as reasons for negative attitudes leading towards delinquency or crime.<sup>8</sup> Strain theory acknowledges that the strains that are experienced are individual, hence, they are not limited to race, ethnicity, or class. The theory provides a possible explanation for why financial pressures lead to women UTPs committing crimes. Data patterns also suggest that younger women are committing higher levels of crime than older women. Research suggests a few reasons for younger people, men and women, committing crimes at a higher rate than older people. Younger people are more likely to be influenced by their peers and to lack full-time jobs, thus increasing the likelihood of them committing crime for money.<sup>9</sup> Also, as individuals grow older, they are more likely to engage in conventional societal

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<sup>7</sup> Shawn Bushway and Peter Reuter, *Labor Markets and Crime Risk Factors*, Available at <https://www.ncjrs.gov/works/chapter6.htm>, Accessed on 14<sup>th</sup> March, 2016.

<sup>8</sup> Ronald L. Akers, (2012), *Criminological Theories. Introduction and Evaluation*, 2<sup>nd</sup> edition, NY: Routledge.

<sup>9</sup> Steven E. Barkan, (2012), *Social Problems: Continuity and Change*, Chapter 8.

norms such as, getting married, having children, and gaining financial stability, thus increasing conformity and decreasing likelihood of committing crimes.<sup>10</sup> It is a possibility that older women with children and/or other responsibilities are engaging less in crime than the younger UTPs. Although the reasons for this may be many, research suggests that those who commit crimes tend to be unemployed possible explanations include the fact that older women may have relatively stable income support and family structures, which would in return contribute to a lower crime rate.

During LAO's interviews, the women were asked to share their personal experiences and in particular, LAO asked the inmates about their backgrounds and their respective stories. The responses revealed a distinct pattern of desolation, poverty, and aggregated frustration which appeared to motivate their actions. Their stories suggested patterns of repeat abuse, psychological trauma, and an acute lack of self-esteem. These factors lead them towards a desire for wanting to escape their impoverished and reportedly unhappy lifestyles. The stories of abuse and trauma can be a possible explanation for why married young women are committing crimes.<sup>11</sup> Correlations in our data set suggest the same, alongside deep poverty, financial stress, and age as factors relating to crime.

## PATTERNS IN DATA

The majority of the analysis pertained to examining demographics against the offences the UTPs were charged with to determine whether there were any striking patterns. The analysis revealed that poverty, marital status, and occupation may be some of the biggest contributors to the amount and type of crime committed. It must be noted that the focus of this analysis was violent crimes; therefore, where women were charged with a non-heinous offence, this

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<sup>10</sup> Steven E. Barkan, (2012), *Social Problems: Continuity and Change*, Chapter 8.

<sup>11</sup> National Institute of Justice, *Research on Women and Girls in the Criminal Justice System*, Available at <https://www.ncjrs.gov/pdffiles1/nij/180973.pdf>, Accessed on 3<sup>rd</sup> May, 2016.

was recorded as a crime in the “other” category. Of course, this limits our data analysis and it would be worthwhile to study in further detail the demographics of women charged with non-heinous offences, as they made up 16.4% of the total sample interviewed.

## PATTERNS IN OFFENCES

Across the board, the highest conviction rate was for murder, under section 302 of the Pakistan Penal Code (PPC). This is not surprising and is, in fact, historically consistent. Research indicates that women are most often charged under Section 302.<sup>12</sup> The research findings reveal that the inmates charged with Section 302 were mostly housewives and maids, living on an income of less than PKR 5,000 a month. Furthermore, most of the UTPs in this category were above 31 years and originated from Interior Sindh or Rural Punjab, suggesting they were of poor educational backgrounds and were largely illiterate.<sup>13</sup> Our data on socio-economic status suggests that they were more likely to have also been abused by their husbands both physically and mentally.<sup>14</sup> Therefore, there is great impetus to suggest that continued national poverty, illiteracy, and abuse may be contributing to the high rates of Section 302 charges amongst female prisoners.

Another possibility is that which has been repeatedly evidenced by researchers and Pakistani NGOs: that the victims of such murders are not strangers, but are rather close to home. Previous studies have evidenced that the majority of women charged with Section 302

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<sup>12</sup> Dr. Sangh Mitra & Dr. Bachchan Kumar, *Encyclopedia on Women in South Asia: Pakistan*, Mehra Offset Press, Delhi, 2 (2004) pp. 135.

<sup>13</sup> ArchivistOnline, *Literacy Rate of Education in Pakistan*, (2016), Available at <http://www.archivistonline.pk/literacy-rate-in-pakistan/>, Accessed on 22<sup>nd</sup> January, 2016, (2016 report demonstrating that Punjab and Sindh are states with extremely low literacy rates, on average having literacy rates of 30-40%).

<sup>14</sup> Sana Ashraf Chatha, Ahmad Khalil & Karim Sajjad Sheikh, *Socio-economic Status and Domestic Violence: A Study on Married Women in Urban Lahore*, Pakistan South Asian Studies, 29(1) (2014).



offences are charged for murdering their husbands or close male relatives.<sup>15</sup> The vast majority of psychological research indicates that women are more likely to commit such heinous offences when being physically or psychologically abused.<sup>16</sup> All but five of those in this category who are charged with 302 in this case were married, and very few had dependents. In this scenario, it is possible that a female, frustrated by the conditions of poverty and an abusive household, may indeed commit a heinous offence against her husband or the abusive man.

Therefore, the findings of our research provide further support for abuse theories and strongly suggest that education and empowerment services should be provided to females in addition to the recent legislative changes. While legislative change is useful, it can only go so far. Changes to the social and domestic context are what will help to eventually prevent crime. Our data suggests that empowerment education and awareness education on rights under new legislation is necessary if crime itself is to be prevented.

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<sup>15</sup> Dr. Sangh Mitra & Dr. Bachchan Kumar, *Encyclopedia on Women in South Asia: Pakistan*, Mehra Offset Press, Delhi, 2 (2004); Zahid Gishkori, *Walking the tightrope*, The Express Tribune (Nov 15 2015), Available at <http://tribune.com.pk/story/989444/walking-the-tightrope-kaniza-bibi-among-47-women-on-death-row-in-pakistan/>

<sup>16</sup> See e.g. Elicka S. L. Peterson, *Murder as Self-Help: Women and Intimate Partner Homicide*, *Homicide Studies*, 3(1) 30-46, 1999.

### NUMBER OF CRIMES

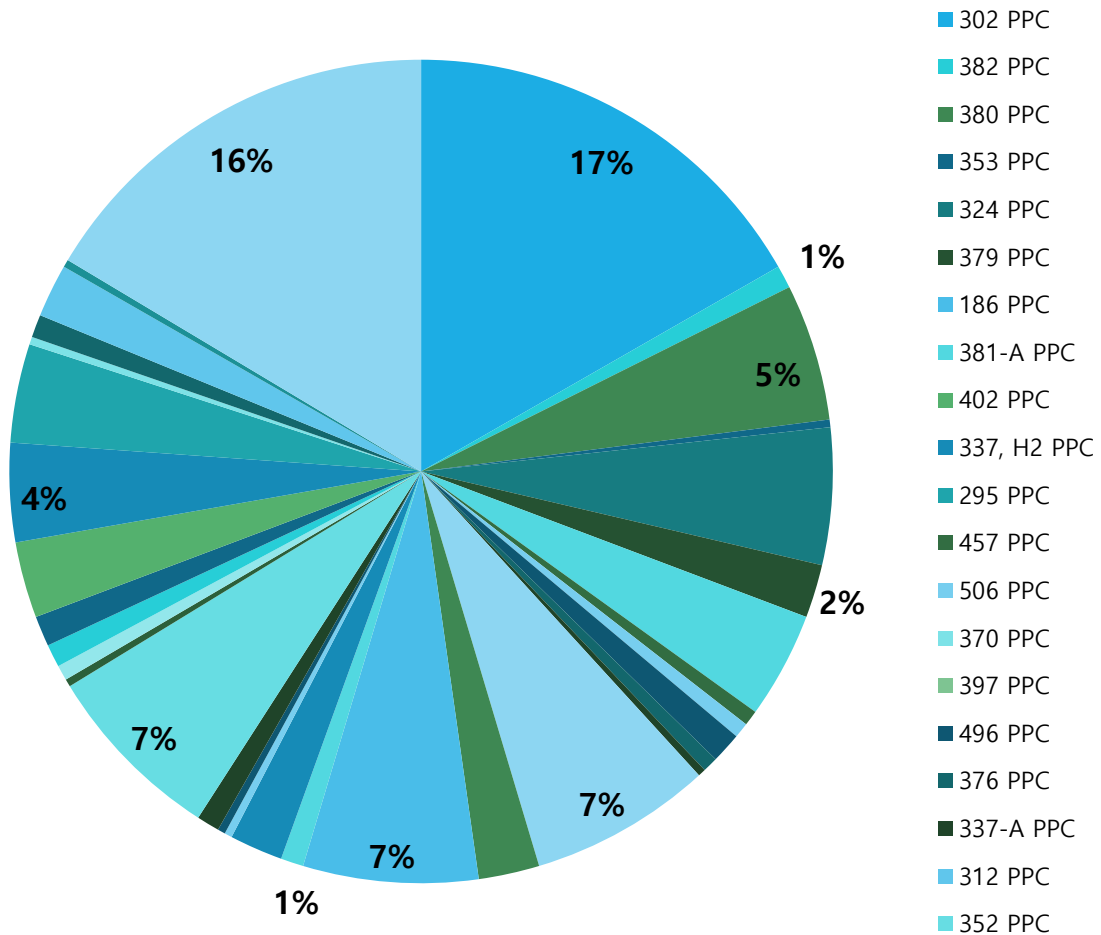


Figure 1.1: Implication of offences against female prisoners profiled by the Legal Aid Office.

### NARCOTICS CRIMES

Narcotics related crimes made up for only 8% of females interviewed who were charged with crimes committed under The Control of Narcotic Substances Act, 1997. The charges were concentrated amongst Section 9 (A), (B), and (C) of the Act. These sections concern the possession of narcotics, yet, only two UTPs charged with this crime admitted to being under the influence of narcotics. If true, this data would strongly suggest that female UTPs charged

with narcotics crimes may not be consuming, let alone be dependent, on the narcotics themselves. However, this seems unlikely considering that drug addiction rates in Pakistan have soared, and women and youth have been a significant population affected by this pandemic.<sup>17</sup>

A possibility may be that more women in this study have concealed drug addictions which they are ashamed of or afraid to admit due to the risk posed on social reputation or honor of their families and husbands.<sup>18</sup> Tasneem Nazir, a clinical psychologist in Lahore reported that for a woman in Pakistan, reporting drug addiction openly is “social death”.<sup>19</sup> Demographically, women facing drug addiction also report financial stress, poverty, illiteracy, and domestic abuse.<sup>20</sup> Therefore, it is not unlikely that the women interviewed were concealing their drug abuse, considering that they too come from low income families<sup>21</sup> and originate from fairly illiterate environments.<sup>22</sup>

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<sup>17</sup> Amna Nasir Jamal, *Pakistan Fights Drug Addiction*, CentralAsiaOnline (2010), Available at [http://centralasiaonline.com/cocoon/caii/xhtml/en\\_GB/caii/features/pakistan/main/2011/03/22/feature-01](http://centralasiaonline.com/cocoon/caii/xhtml/en_GB/caii/features/pakistan/main/2011/03/22/feature-01); Kiran Tahir, *Drug Addiction*, (2011) Available at <http://www.pakistantoday.com.pk/2011/01/drugs-addiction/>

<sup>18</sup> Dr. Asghar Ali Shah and Muhammad Bilal Bhatti, *Analysis of Social Taboos in Electronic Media Prime Time Dramas: Hum Television*, Available at [http://webcache.googleusercontent.com/search?q=cache:CiOGkWdabawJ:www.aiou.edu.pk/gmj/GMJ%2520Fall%25202013\\_vol2/ANALYSIS%2520OF%2520SOCIAL%2520TABOOS%2520IN%2520ELECTRONIC%2520MEDIA%2520PRIME%2520TIME%2520DRAMAS%2520HUM%2520TELEVISION.docx+&cd=6&hl=en&ct=clnk&gl=pk](http://webcache.googleusercontent.com/search?q=cache:CiOGkWdabawJ:www.aiou.edu.pk/gmj/GMJ%2520Fall%25202013_vol2/ANALYSIS%2520OF%2520SOCIAL%2520TABOOS%2520IN%2520ELECTRONIC%2520MEDIA%2520PRIME%2520TIME%2520DRAMAS%2520HUM%2520TELEVISION.docx+&cd=6&hl=en&ct=clnk&gl=pk), Accessed on 14<sup>th</sup> March, 2016.

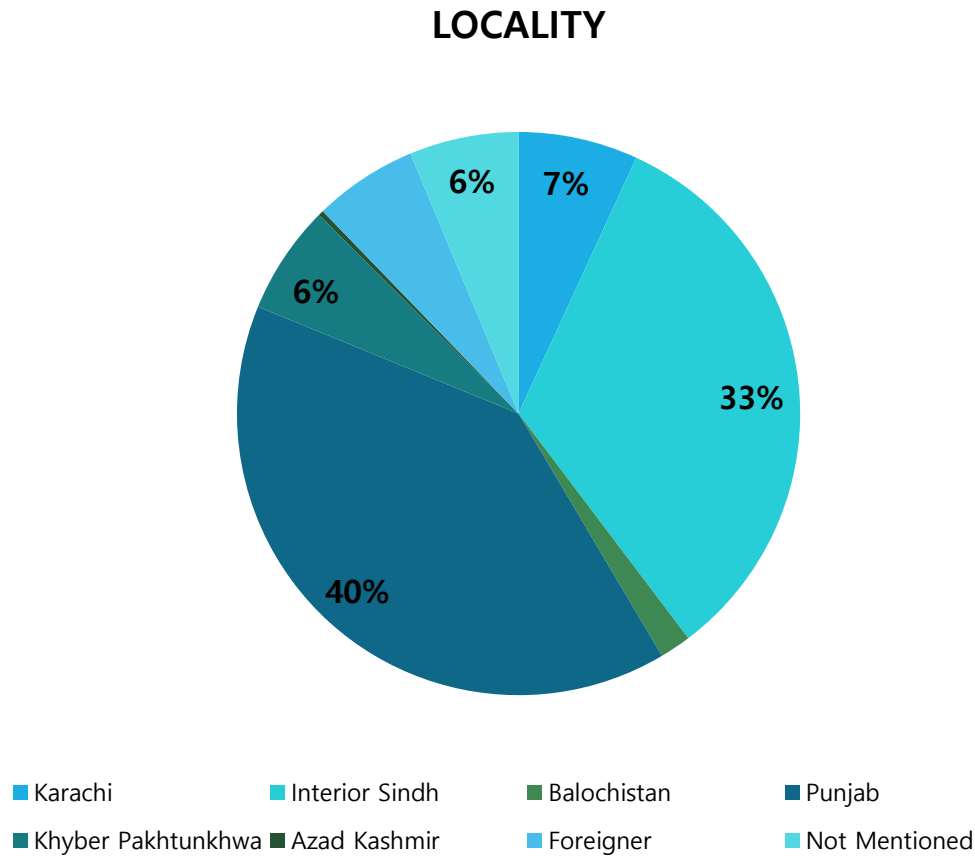
<sup>19</sup> Amna Nasir Jamal, *Drug Addiction Grows Among Women in Pakistan*, CentralAsiaOnline (2010), Available at <http://www.scribd.com/doc/53718012/Drug-Addiction-in-Pakistan#scribd>, Accessed on 14<sup>th</sup> March, 2016.

<sup>20</sup> Id.

<sup>21</sup> The majority of females charged with CNS offences in our study earn less than 10,000 PKR per month.

<sup>22</sup> During LAO visits it was observed that majority of the female prisoners were unable to sign their names or even read or write in their native language.

## DEMOGRAPHIC PATTERNS



*Figure 1.2: Classification of localities the female prisoners originated from as profiled by the Legal Aid Office.*

The data indicates that where an individual is originally from is strongly correlated with the type of crime they are likely to commit. Interestingly, the homicide charge under Section 302 was evenly spread across all locations and was the highest crime charged against females from any location. This was true for all areas except Punjab, where the highest crime charge was for dacoity<sup>23</sup> crimes under Section 381 of the PPC 1860. The population of prisoners from Punjab charged with dacoity was 31%, whereas only 16% were charged with homicide.<sup>24</sup>

<sup>23</sup> Dictionary.com, Available at <http://www.dictionary.com/browse/dacoity>, Accessed on 25<sup>th</sup> April, 2016.

<sup>24</sup> This does not include data for prisoners who were charged with "non-heinous" crimes, or the category of "other".

Furthermore, the charge of dacoity was almost exclusively concentrated to women from Punjab while the other regions had few who committed the crime.

This peculiarity in the data may be explained by economic factors. First, our data shows that almost all the interviewees originally from Punjab have relocated to Karachi. Of those who committed dacoity, all of them have relocated to Karachi. Furthermore, all the interviewees from Punjab charged with dacoity, save for three, earned under PKR 10,000 a month. This suggests that these individuals may be suffering from added relocation and financial stress than those individuals originally from Sindh. According to strain theory, as explained above, in this demographic, the issue of financial distress and earning enough to survive may be what increases the crime rate of dacoity. Dacoity was also the highest charged crime in the foreigner population, suggesting that perhaps they too are experiencing similar hurdles as those from Punjab.

Conversely, women originally from Karachi were mostly charged with Section 302, second most with the crime of arms possession under section Section 23-A of the Sindh Arms Act, 2013. Of the UTPs originally from Karachi charged with a heinous crime, 21% were charged with dacoity. Women from Karachi who were charged with gun crime were between the ages of 19-30. Furthermore, all the UTPs charged with this offence reside in Karachi. The concentrated nature of this crime charge is not surprising if one takes Karachi's current situation with gun crime into account. A 2002 study revealed that the majority of injuries caused to victims taken to Karachi emergency rooms were injuries by armed weapons.<sup>25</sup>

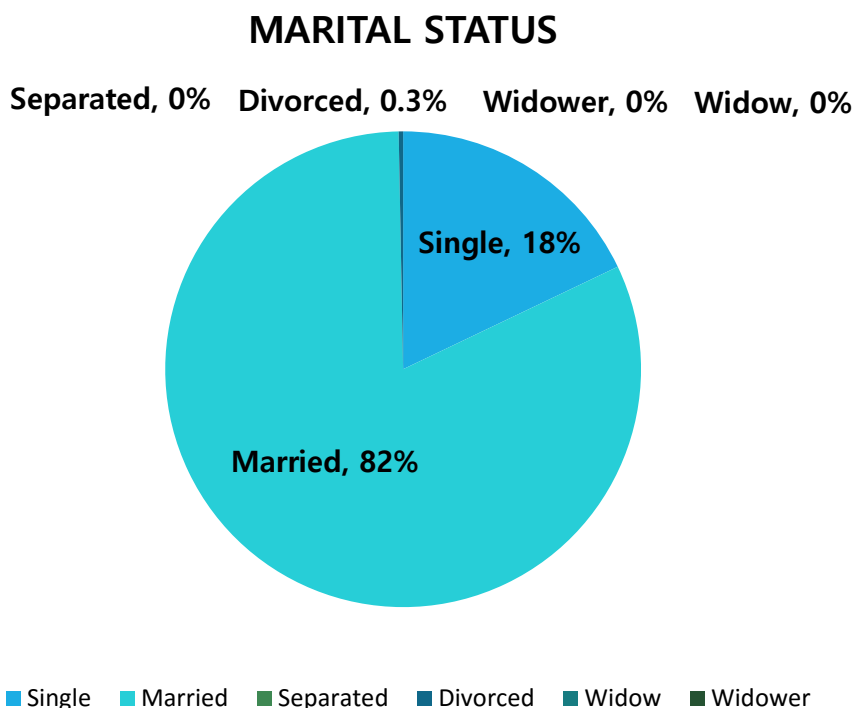
Although it may seem self-explanatory that arms possession charges are high in an area known for armed conflict, one element of this statistic is particularly distressing: whether the women in possession of these arms are actually the ones using them. The majority, if not all, of news reports on gun violence in Karachi name men as the main perpetrators, and all of the

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<sup>25</sup> H.A. Chotani, J.A. Razzak & S.P. Luby, *Patterns of Violence in Karachi, Pakistan*, *Inj. Prev.*, 8(1) 57-59 (2002).

subjects charged with possession of arms were married. Therefore, it may be that these women are merely in possession of arms which are in actuality owned by their husbands. Legal Aid Office has come across cases where women were falsely implicated by their husbands for ownership of a firearm that did not belong to the women. Therefore, incarcerating women will not reduce gun violence in the city, and might only help to enable perpetrators get away with their heinous offences. More research needs to be conducted on the amount of women charged with actual gun violence; and perhaps refocus the enforcement goal on punishing those who commit gun violence as opposed to those who merely possess a gun.

## MARITAL STATUS AND OCCUPATION



*Figure 1.3: Marital Status of the female prisoners profiled by the Legal Aid Office.*

This was one of the most interesting categories as it revealed that charges against married females were concentrated on Section 302 of the PPC, whereas single females were charged

far more for dacoity and robbery. This pattern highlights the different stresses and potential challenges faced by married versus single women in Sindh. It would appear that single women committed crimes which were aimed at enhancing their financial status in society. Since married women likely reside with their husband and in-laws, they may have better financial circumstances than single women. For example, where both a married and a single woman are earning less than PKR 5000 a month, it may still be the case that the married woman is financially more secure because she has others in her household earning, whereas the single woman may be providing for herself. Perhaps the single inmates of our data set have been abandoned by their husbands, or live alone, creating financial stress which they seek to alleviate through theft. This is further evidenced by the fact that the crimes committed by single inmates were concentrated to those under Section 381<sup>26</sup>, 302<sup>27</sup>, and 324<sup>28</sup>, whereas the crimes committed by married women were far more scattered and across the board, suggesting they do not have the same motivation for financial gain.

Similarly, and consistent with the information on marital status, housewives committed murder crimes at much higher rates than maids, while maids had the highest concentration of charges for dacoity. Interestingly, there was no particular pattern of criminal activity in individuals employed in the non-domestic sectors, such as drivers, laborers, and private workers. Importantly, non-domestic workers had strikingly low rates of dacoity and homicide. This could be because they have less opportunity to rob a household, whereas a domestic worker is always in someone's home. Furthermore, this statistic evidences the aforementioned theory that murders committed by women are more likely to be against close male relatives.

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<sup>26</sup> Dacoity

<sup>27</sup> Murder

<sup>28</sup> Attempt to murder

## POLITICAL PARTY AND RELIGIOUS AFFILIATION

No single female reported political affiliation, and only 2 of the over 300 females interviewed reported their religion. Both of these are reportedly Sunni Muslim. The fact that there was such hesitancy in providing information about religious and political affiliation indicates perhaps the strongly oppressive socio-cultural context in which the inmates are acting. Already having been charged with a crime, these prisoners are likely to be hesitant to reveal any information which they believe might promote their conviction, or another charge, or make them susceptible to future attacks or arrests. It is disheartening and disturbing that the UTPs did not feel safe in identifying religion and political affiliations; two elements which often contribute to a person's identity. This "non-statistic" is therefore perhaps telling of the real state of affairs in Pakistan.

## CONCLUSION

The trends generated from the profiling exercise showcase that correlation of income and familial dependency ultimately point the accused to a particular offence wherein, maids and domestic workers would be more likely to commit crimes relating to robbery and dacoity. Other trends reveal that women who suffer from domestic abuse and stress may be more likely to commit heinous offences such as murder. Although there is some progress in that women inmates are no longer charged with the crime of adultery, and they have more opportunities to be freed from false charges, there is still a long journey ahead to improve the criminal justice system. The country's officials, lawyers, and social workers need to work on making the socio-cultural environment one in which a woman feels free and safe to speak about her identity to others. Protection of Women (Criminal Laws Amendment) Act, 2006; and The Domestic Violence (Prevention and Protection) Act, 2013 are a step in the right direction, but they must be implemented by the police and must be adjudicated in the courts. Women



must be empowered at a grass roots level and should be made aware of their legal rights in order for such implementation to be successful. This is not an easy task, but one that is certainly worth working towards.



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