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Advancing Pakistan's Criminal Investigation System: Embracing Modern Practices

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Abstract

This research paper is an attempt to understand and review the prevailing criminal investigation system and the criminal investigation procedures in the context of Pakistan.It also aims to analyze the modern techniques of criminal investigation being used around the globe and focus on remodeling the investigation system of Pakistan based on modern-day techniques and scientific instruments. The study employed qualitative methodology. Field research, surveys, different principles, approaches, and backgrounds used in the research were derived from assessments of law books, reports, newspapers, journals, and articles. A comparative analysis between one of the modern-day investigation systems, i.e., the United States, is drawn so that a better idea could be obtained of how the investigation system can remodel, based on modern trends and what loopholes need to be addressed. The findings provide insights that can be constructive for reforms and the growth of criminal investigation in Pakistan using modern and scientific techniques.

Keywords: Criminal Practices, Crimes, Investigation System, Modern Day Techniques in Investigation, Pakistan

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Title

Advancing Pakistan's Criminal Investigation System: Embracing Modern Practices

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Abstract

This research paper is an attempt to understand and review the prevailing criminal investigation system and the criminal investigation procedures in the context of Pakistan.It also aims to analyze the modern techniques of criminal investigation being used around the globe and focus on remodeling the investigation system of Pakistan based on modern-day techniques and scientific instruments. The study employed qualitative methodology. Field research, surveys, different principles, approaches, and backgrounds used in the research were derived from assessments of law books, reports, newspapers, journals, and articles. A comparative analysis between one of the modern-day investigation systems, i.e., the United States, is drawn so that a better idea could be obtained of how the investigation system can remodel, based on modern trends and what loopholes need to be addressed. The findings provide insights that can be constructive for reforms and the growth of criminal investigation in Pakistan using modern and scientific techniques.

Keywords: Criminal Practices, Crimes, Investigation System, Modern Day Techniques in Investigation, Pakistan

Introduction

Investigation means the process of gathering information to achieve a goal, such as gathering information about a vehicle before purchasing it to ensure a good purchase. In the criminal domain, a criminal investigation involves collecting information or evidence related to a crime to determine if a crime has been committed, identify the offender, apprehend the offender, and provide relevant evidence to the court for convicting the offender (McRory, 2014).

Chapter 25 of the Police Rules (1934) states that criminal investigations are generally of two types: reactive, where the crime has already occurred and the police respond to it, or proactive, where the investigation may begin before the commission of an offense and continue during the offense.

Before initiating the criminal investigation process, the police must be informed that a crime has occurred, either by discovering it themselves or by being notified by the victim or a witness. In most cases, the victim is the first to realize that a crime

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has occurred and notifies the police. An Investigation Officer (IO) is then dispatched to the crime scene or the victim's location. The initial investigation involves post-crime activities, such as preserving the crime scene, arresting the offender if present, and securing evidence. If the offender is not arrested during the initial investigation, the case moves to the follow-up investigation stage, which involves a more systematic investigation typically conducted by investigation officers. The level of importance and effort given to a case is determined by the investigation branch in Pakistan and by sergeants or detective supervisors in foreign countries based on the severity of the crime and the likelihood of solving the case with additional efforts (Frank, 1996).

Various rules and laws, such as Rule 24.7 of the Police Rules (1934), section 4(1)(C)(ii) of the KPK Prosecution Service Act (2005), The Punjab Criminal Prosecution Service (Constitutional Functions and Powers) Act (2006), section 9(3) of the Sindh Criminal Prosecution Service (Constitutional Functions and Powers) Act (2009), and section 7(d) of the Baluchistan Criminal Prosecution Service (Constitutional Functions and Powers) Act (2003), clearly state that a case may be closed and the investigation stopped if the victim does not follow up, the offense is compounded, or the police fail to arrest the offender. If the offender is arrested, the responsibility for the case shifts to the prosecutors in the relevant jurisdiction, and a collaborative effort between the investigation officer and prosecutor is established to proceed with the case. The prosecutor can request the court to dismiss the case if it is deemed unfit for prosecution or if the police request dismissal.

Importance of Criminal Investigation

The most important step in the criminal justice system is criminal investigation, where the commission of crimes is determined and the guilt of the offender is prosecuted within the court of law, supported by the discovery and collection of evidence. It is a crucial step in the prosecution of offenders and the administration of criminal justice in society. The criminal investigation system is the backbone of the administration of criminal justice (Mateen& Tariq, 2019) The responsibility of the prosecution is to prove the guilt of the offender or accused beyond a reasonable doubt. It is a well-known principle that the accused is considered innocent unless proven guilty through sufficient evidence. Therefore, there exists a very high standard of proof in criminal cases, which can only be achieved with proper, careful, and systematic investigation, collection, and securing of evidence. These pieces of evidence must be carefully documented during the investigation so that they can be presented in court to prosecute the offender (UDHR, 1948).

The importance of fair criminal investigation can be determined by the fact that evidence collected improperly, statements obtained through torture or physical violence, compulsion for self-incrimination, or biased investigations can completely destroy a case. Courts are not involved in criminal investigations; it is the duty of investigating officers. The duty of the courts is to corroborate such evidence and determine the guilt of the accused or offender, acquitting or punishing them based on such inferences in their judgment.

As it is the duty of the police to enforce law and order, it is necessary for them to bring offenders to court for the administration of justice by investigating the facts. It is impossible to prove the commission of a crime within a court of law without a proper investigation. Therefore, criminal investigation is crucial for the administration of criminal justice in society (Jamshed, 2018). The responsibility of the prosecution is to prove the guilt of the offender or accused beyond a reasonable doubt. It is a well-known principle that the accused is considered innocent unless proven guilty through sufficient evidence. Therefore, there exists a very high standard of proof in criminal cases, which can only be achieved with proper, careful, and systematic investigation, collection of evidence, securing these pieces of evidence, and carefully documenting them during the investigation so that they can be presented in court to prosecute the offender (UDHR, 1948).

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Fundamental Concepts in Criminal Investigation

The purpose of the Criminal Justice System is to safeguard society by enforcing the rule of law, which is designed to prevent criminal behaviors within the community. Prevention is the fundamental principle of criminal justice, followed by a retributive nature where offenders are punished to set an example for society. Criminal behaviors can range from serious crimes like terrorism or murder to minor offenses such as trespassing. The administration of justice also varies, from capital punishments to minor sentences, penalties, and restrictions on liberty. The primary goal of these laws is to uphold social values within society, ensuring the protection of lives, property, and freedom for the citizens through law enforcement. The same applies to individuals charged with offenses (Gehl&Plecas, 2017).To guide the outcomes of the judicial system and to assure justice for the accused, several basic operational requirements have been created at the heart of the concepts of "natural justice" and "fair justice."

For example, the person alleging the crime to be committed must have to prove it, the accused is charged with the offense has a right to see the evidence, the accused has the right to defend himself, and the judge or jury is bound to decide the case upon its merits and must give fair judgment fulfilling all the requirements of law. They must not perform any act which would result in prejudice (Dostal, 2012). The standard of proof that the criminal courts apply while determining whether the evidence submitted by the prosecution is enough to convict the accused is “proof beyond a reasonable doubt(Woolmington v DPP, 1935). The law does not require the accused to prove that he or she is innocent. The investigators while considering the value of the evidence during an investigation must know that “proof beyond a reasonable doubt” is an essential standard that they are required to meet. the presumption of innocence reflects the standard of proof beyond reasonable doubt (R v Lifchus, 1997). Supreme Court of Pakistan states that "high probabilities cannot be used as a basis for finding the guilt against an accused. The determination of guilt against an accused cannot be based solely on the high probability that may be drawn from the evidence in each case. It must be based on the evidence being produced in the court. Mere possibilities cannot take the place of proof; otherwise, the accused is granted the benefit of the doubt (PLD 1970 SC 10).

These reasonable grounds must be established by the investigators upon the assessment of the information and the evidence that are present at the investigators at the time of making decisions regarding the exercise of power. The evidence against the accused discovered after the arrest has been made cannot justify the arrest without probable cause or reasonable doubt. It allows the court to consider and think about the nature of evidence described by the investigators in the court if the court finds that the investigators have rightfully justified their reasonable grounds to believe the guilt or the innocence of the accused. It is quite helpful for the police investigators that the level of belief, reasonable is this much lesser because only a subjective belief in the evidence and information collected can allow the police to form a reasonable doubt. So, the reasonable grounds are formed by the police investigators upon the physical evidence available, records collected, and information gathered from the witnesses which may be either direct or hearsay (Arcaro, 2009).

The establishment of reasonable grounds to believe and arrest the person or perform does not necessarily result in collecting the evidence to charge the person(s). it happens sometimes that a person is arrested on reasonable grounds and after the collection of evidence, it is known that the person being arrested is not guilty and is released. So, the determination of innocence is purely a test of objectivity which is sometimes quite difficult to achieve when there exists a lot of pressure to arrest a dangerous or most-wanted criminal. So, it is a

heavy mistake if the investigators become quick in laying charges or neglecting the evidence that proves the innocence. The concept behind arresting a person by police investigators is to take such a person into the custody upon establishment of reasonable grounds to believe that such a person has committed the crime (Poyser & Milne, 2011).

Criminal Investigation Procedures and Practices in Pakistan

Investigation in Pakistan starts when the FIR is registered at the police station. The police are legally bound to register the FIR without unnecessary delay, but lodging an FIR in reality is a very difficult task in the countryside where the majority of the population is financially and socially weak. It is very common for the police to either avoid registering an FIR or to lodge it under the influence of power, either by some political figures or by the order of the court. The police also demand heavy bribes to lodge an FIR. It is also a reality that the police, in various cases, try to minimize the nature of the offense, for example, turning dacoity into robbery or theft, etc. In some cases, the police exaggerate the nature and turn a minor offense into a serious one. It is also a common trend for the complainant or the victim to exaggerate the FIR by fabricating stories to implicate more and more people in the case, maliciously prosecuting the innocent, making it difficult to prove in court, causing unnecessary litigation. All this happens because of faulty investigation by the police (Chadhar, 2007).

According to the Report of the Federal Ombudsman of Pakistan (2016), a survey in one of the major cities of Pakistan showed that only 40% of the complaints were actually registered by the police, and the remaining 60% were disposed of by the police fabricating several excuses. Out of these 40% registered crimes, only half of the cases were actually worked upon and presented in court for trial. The reason for this was a faulty investigation resulting in the acquittal of half of the accused. So eventually, out of every 100 crimes reported and worked out, only 10 were actually prosecuted. However, the survey only reflects the record of a city where the people are more educated compared to other small cities where most of the population is uneducated and unaware of the law. When they approach the police station or police officer to register their FIR, their FIR is usually not registered, or they are dismissed by the police officials because the people in small cities do not know their legal rights or the tactics of the police. Importantly, the checks and balances over the police in small cities are minimal, and the voice of the people rarely reaches higher authorities.

Once an FIR is registered under Section 154 of the Cr. PC, the police are empowered to arrest the person accused in the FIR. The police can arrest the person directly nominated in the FIR or the person against whom they have reasonable suspicion of being involved in a cognizable offense. The reality is that due to these vast powers, the police arrest anyone they want to arrest. It is a common trend that whether the crime is cognizable or minor, the police arrest anybody based on a simple complaint or just by considering that person a criminal based on physical looks. This usually happens in the countryside (Ababas, 2019).

When a significant crime is committed, such as murder, abduction, dacoit, or robbery, large numbers of arrests are made. When the offenders are unknown, the police typically arrest a large number of individuals as suspects without any evidence or a warrant in order to extort money to release them. Houses are raided in the guise of arrest, and if the sought individual is not located, family members such as parents, wives, brothers, sisters, and so on are detained on their behalf. Historically, 90% of arrested women have been sexually raped while in custody. When an arrested individual, guilty or not, arrives at the police station, he is met with assault and torture. However, if he is capable of paying a bribe, no damage is done, and such a person is revered even if they are a criminal. If a person is detained on an accusation and then freed due to their innocence, they are recorded in the police station's records, and if a crime happens in that region again, they are arrested. Again, they are tortured or forced to pay a fee to be released (Ullah&Ijaz, 2016).

This whole cycle continues until some influential persons intervene. There are many examples in our society of people who absconded due to this brutality and became dangerous and habitual criminals (Waseem, 2021).

Comparative Study of Criminal Investigation Systems: Pakistan and the US

With all the loopholes and flaws in the investigation system of Pakistan, it is the need of the time to analyze it by comparing this system to some of the best and most advanced criminal investigation systems in the world. For this purpose, a comparative analysis is the best way to scrutinize a system in order to upgrade it on modern lines.

In criminal investigation system of the USA and Pakistan, it can be seen that much importance is given to the criminal investigation system in the USA as compared to Pakistan.

A huge sum of funds is provided to the police departments, and the number of patrolling officers increases rapidly because they are the first to respond to the crime scene, so the USA ensures that the crime is responded to as soon as possible. Meanwhile, in Pakistan, the situation is totally opposite. According to the officials of Islamabad police, only Rs 400 are available for the investigation of each case. Out of the 3.5 million budget for investigation in 2020-2021, the police investigated 8746 cases, and more than 3.5 million rupees were paid on the examination of the cases, with the excess amount being either paid by the complainants or by the police. According to the standard operating procedure, the investigation cost for a murder case is Rs 19,800, Rs 12,400 for an attempted murder case, Rs 2,600 for kidnapping and rape cases, Rs 700 for fatal and non-fatal accidents, Rs 9,700 for robbery, Rs 4,000 for burglary, Rs 4,700 for theft, Rs 16,500 for vehicle theft, Rs 700 for narcotics and liquor, weapons recovery and other cases. An amount of Rs 300,000 each was spent only to trace and arrest culprits in two murder cases - one a triple murder case in July 2020 and another the murder case of a bank manager in September 2020. The investigation cost varies according to the case, the officer said, adding that these days the minimum cost to investigate a murder case is Rs 100,000, and it increases if the investigators must go outside the city for raids and arrest a suspect. This lack of resources is the basic issue resulting in faulty investigations and corruption (Azeem, 2021).

Secondly, in the USA, detectives are appointed for criminal investigations who are skilled and trained professionals with prior education and experience in their field, as discussed earlier. In Pakistan, the investigation is assigned to ASIs or SIs who are hardly intermediate or F.A/F.Sc passed, having no professional skills or training, which affects the criminal investigation as they have no knowledge about the technicalities of the investigation and they only work based on their intuitions or the experience they have gained in the field (Amir, 2013).

Thirdly, in the USA, there are specialized Crime Scene Investigation units consisting of evidence technicians, forensic experts, psychologists, sketching artists, computer experts, etc., who visit the crime scene and collect evidence through modern devices and techniques without destroying any clues or evidence and provide results promptly. But in Pakistan, we lack such a system, and only the investigating officer performs such tasks to the extent of his knowledge and ability. Even our laws are outdated, and the instruments described in the Police Rules (1934) are so outdated that they cannot cope with modern times as they were described for the time when this law was made, which was somehow enough for that time but in modern times, these instruments cannot fulfill the real job of investigation where technology is so advanced, and crimes are becoming innovative. Due to a lack of resources, the IO arriving at the crime scene does not even have the instruments and gadgets mentioned in the Police Rules (1934), and the investigation process then totally relies on intuitions.

The forensics of the US are also efficient because the CSI units have their own labs, so the forensic results are generated promptly. Meanwhile, in Pakistan, the samples collected by the IO without any caution of contamination are sent to the forensic labs of major cities due to a lack of forensic labs, which reach there in a day or two, increasing the risk of perishing. The forensic results also take a lot of time as they are overburdened. So, the whole investigation system of Pakistan collapsed because of non-seriousness on the part of the government, legislature, and judiciary. Outdated laws and procedures contribute to the deficiency of the criminal investigation system of Pakistan (Babakhel, 2016).

Contemporary Investigative Techniques: Dire Need of the Time

As the world becomes more advanced with the passage of time, crimes are also becoming more innovative and cannot be stopped with conventional and old principles and methods. This is the reason crime rates increase more in underdeveloped countries like Pakistan instead of decreasing because the basic thing we lack is retribution and punishments for crime. This is because our administration of justice is weak due to old and outdated laws where criminals always succeed in escaping from the shackles of law, and justice fails absolutely. The prominent thing aiding such a worse situation in the criminal justice system is police investigation. The police investigation, as discussed earlier, is the backbone of a criminal case upon which lies the fate of the criminal, i.e., whether he is acquitted or punished based on what the police have investigated because the law works on evidence, and failure to produce sufficient evidence results in the loss of the prosecution's case and, consequently, the trust of people in the institution and justice ends (Anjum, 2020).

Modern scientific techniques are developed to cope with the weaknesses of the traditional investigation system where the crime is unfolded, and the perpetrator is caught with more precision, no matter how hard the criminal tries to conceal the crime or run away from the system. All this happens because modern and scientific principles and techniques allow the investigator to get more precise and accurate information regarding the crime, and all the evidence required to bring the perpetrator to retribution is found with minimum error. So, the ends of justice are met, and the basic principles of criminal law are never compromised. For example, more precise and accurate information and trustworthy evidence can effectively result in the inference of "proof beyond a reasonable doubt," a milestone to achieve in the administration of criminal justice (Mateen& Tariq, 2019).

Conclusion

The old, outdated, and unempirical investigation system in Pakistan has resulted in weak prosecution and the failure of the administration of criminal justice, benefiting criminals and punishing the innocent. Investigating officers, particularly police, still use old colonial techniques based on torture to extract confessions, leading to a high rate of cases being negated in court and the failure of prosecution. A senior police officer, speaking anonymously, admitted to the use of torture in police stations, causing embarrassment in court. Despite clear directives against torture, it remains a common practice, along with detaining family members to compel surrender. Investigating officers lack proper training and skills in criminal investigations, with no specialized units for crime scene management or evidence collection. Limited resources, corruption, and delays in forensic results further hinder investigations. The legislature also fails to empower the investigating system with modern techniques, hindering its evolution. Former IGP Zulfiqar Cheema acknowledged the ignorance of investigating officers in scientific investigation, reliance on intuition and torture, and lack of proper crime scene management and evidence collection. Procedural mistakes, such as missing signatures on recovery memos, benefit the accused, highlighting the faulty investigation process from FIR registration to the submission of challan in court. To ensure the true administration of criminal justice, bring culprits to prosecution, and create a fair society, Pakistan's investigation system must be remodeled with modern techniques and scientific approaches to achieve success and prosperity.

Recommendations

The study concludes that the criminal investigation system of Pakistan is faulty due to the outdated investigation techniques, unskillfulness of the investigating officers, corruption, bribery, limited resources, dis-interest of government and legislative authorities, and most importantly non-availability of modern techniques and instruments to conduct the criminal investigation. As a result of it, the administration of criminal justice totally fails and the offenders are more likely to escape from the laws, and victims are deprived of justice. Recommendations by the researcher based on content analysis as to what modern techniques would help in the improvement of the criminal investigation system in Pakistan. Those recommendations are as follows;

1. Most of the accused are acquitted due to the shortcomings of the evidence provided by prosecutions and investigating officers which reflect that our evidence law i.e., the Qanoon e Shahadat Order should be amended according to the current needs of modern time. In this context, article 164 of Qanoon-e-Shahadat permits the evidence to be available by modern scientific and forensic devices or techniques but still, there is a strong need to extend the scope of these provisions.
2. Punishment clauses for giving false information, evidence, or statements before the investigating department may be altered so that the wrongful infliction of persons and perjury may be discouraged. Several provisions need to be revised regarding the extent of punishments such as offenses falling under sections 184,186,187 and 188 of Pakistan Pakistan Penal Code. Similarly, there is also a need for time to increase the punishments of offenses committed by Police officials under section 155-157 of Police Order, 2002 because there should be more accountability of police officials and if the offense is proven, then such police officials should be dismissed along with the conviction.
3. Poverty, outdated administration of criminal justice, unemployment and inequality, etc are a few key factors to increase the crime rate. Investigating officers (IO) under Sec 173 of Criminal Procedural Code (Cr. P. C)(1898), are strictly bound to submit a final report within a maximum of 17 days a short period that adds up harder rather than assures quality investigation on the part of an IO. The Stipulated time period under section 173 of Cr. P. C.(1898) may be modified according to the nature of each case.
4. The misuse of power by the investigating officer is no doubt, a constant threat to people and the administration of justice. There is no accountability for the misuse of power given to the police investigating officers under section 54 of Cr. PC. Although the illegal detention by the police can be challenged by the writ of habeas corpus under section 491 of Cr.PC but there exists no mechanism for automatic action against the investigating officer or police official. Before the proclamation of Police Order 2002, a private complaint could have been launched by the detenus under section 200 of Cr. PC but now under section 155(2) of the Police Order, there is a bar against filing a private complaint. In Haji Muhammad Qasim's case in 2008, it was held that a private complaint against the police is not maintainable in the presence of bar imposed by Police Order 2002 under section 155(2) of the same order. It is therefore recommended that the right of private complaints should be reverted to Police Order 2002 to meet the ends of justice and to achieve quality investigation. Section 169 of the Cr. PC empowers the investigating officers and officers in charge of the police station to release an accused from custody if no proper evidence is found against him on the execution of bond by him with or without surety. It is no doubt a relief provided by the law to innocent people but there is no proper check and balance from the superior authorities over such powers. It is therefore recommended that this section be amended and prior permission from the concerned DIG or SP (investigation) must be taken before exercising such power to avoid the misuse of such power
5. Further, specialized Crime Scene Investigation Units in the investigation branch of Police may be established and the Police Rules 1934 may also be amended in the context of the qualification of the investigating officers so that skilled and trained personnel from the field of criminal investigation could be hired for investigation and the evidence from the crime scene would be collected by trained evidence technicians rather than untrained IOs. Additionally.
6. Amendments may also be made in chapter XXV of the Police Rules 1934 regarding the initial responding officers to the crime scene and limiting them to crime scene protection rather than looking for the evidence. Proper provisions may be inserted stating the proper mechanism of protecting the crime scene by the initial responding officers.
7. The investigating officers in Pakistan are not qualified and properly skilled to conduct an efficient criminal investigation. Lack of knowledge and skills results in faulty investigations and the destruction of useful

evidence, so IOs must be taught proper education and skills in their respective fields. In this context, special training programs and workshops may be arranged to enhance the competency of IOs.

8. The emphasis must be shifted from the FIR and eye-witness testimony towards the circumstantial evidence (including Forensics) keeping in view their unreliability to provide the court with the best evidence and meet the ends of justice.
9. The Handbook of Criminal Investigation 2021 prepared with the help of the Research Society of International Law upon instruction of the Supreme Court of Pakistan is still not meeting the needs of modern criminal investigation and consists of traditional techniques. So, a proper well-designed course is required which shall contain the knowledge and techniques of modern investigation and updated investigative principles.
10. The Universities must be encouraged to start the degrees in the criminal justice system and administration of criminal justice for students and appointments of these students should be made in the investigation branch of police as Investigators after going through strict selection procedures. This would not only create job opportunities for the people but will also help to appoint suitable people for the criminal investigation.
11. The police investigation department must be equipped with modern crime investigation units including crime mobile CSI vehicles so that the evidence could be collected without any contamination and with due care.
12. There should be proper surveillance through CCTV cameras and audio recorders during interrogations in the police station and cameras with the police investigators during crime scene management and witness interviews so that the torture in the police station could be minimized and the evidence beyond reasonable doubt could be presented in the court.
13. Modern investigation devices and techniques like DNA Phenotyping, link analysis systems and software, 3D Scanners, Geo-Location, etc. shall be provided to the crime investigating departments for proper examination of evidence.
14. The police investigators must be taught various approaches to interrogations like the Information Gathering Approach etc. so that they can reach the expected results rather than just relying on their intuition.

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