



The Role and Practices of the Criminal Investigation in the Context of the Criminal Justice System of Pakistan

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Abstract

The objective of this research is to investigate the intricate aspects of Pakistan's criminal justice system. The investigation will primarily concentrate on the specific techniques and methodologies used throughout the inquiry. This study examined some deficiencies in the current investigative approach. The researchers conduct an examination of academic literature, case studies and legal frameworks to accomplish this objective. To address the identified issues, it conducts an analysis of the strengths and the researchers' accesses and then proposes modifications. This study explored the significance of comprehensive investigations in order to guarantee justice, fairness and responsibility which are crucial subject. In parallel to our examination of the impact of significant issues on the effectiveness of procedures such as inadequate training, corruption, procedural errors and insufficient resources, the researchers also analyze the consequences of these challenges on the outcomes of investigations and legal proceedings. More precisely, the researchers examine how these attributes impact the efficiency of the procedures. The research emphasizes the need for rigorous training programs, modernizing obsolete legislation, and strengthening collaboration between prosecutors and law enforcement in order to address these difficulties. Ultimately, it demonstrates the essentiality of comprehensive inquiries in maintaining the supremacy of legal principles and restoring public confidence in the criminal justice system.

Keywords: Criminal Justice System, Investigation Procedures, Police, Prosecution, Criminal Trial

1. Introduction

The word "investigation" refers to the comprehensive range of techniques used by law enforcement or other authorities to investigate another individual who has received authorization from a judicial officer. People often define an investigation as a systematic process of searching for and gathering evidence to determine the presence or absence of a crime (Sharma & Nigam, 2021). The first stage in a criminal case involves conducting an investigation. The main goal of the investigation is to gather information and find evidence of a crime. As a result, it concludes by determining whether there is sufficient evidence to bring charges against the accused (Stepanyan, 2022).

The English term "investigation" stems from the Latin root "investigare." As a nominalization of the verb "to investigate," it denotes the act of actively seeking and scrutinizing all pertinent data on an occurrence (such as a criminal act or a mishap) in order to ascertain the events that transpired. The researchers conduct an investigation to determine the cause, pinpoint the responsible party, and guarantee the enforcement of legal consequences. The researchers achieve this by meticulously examining and assessing all pertinent information relevant to the incident or offense. An official investigation or the presentation of a suspect for a criminal investigation both require meticulous examination of the subject matter, often referred to as an investigation (Khosro, 2023).

Conducting investigations and collecting evidence to determine culpability is a crucial aspect of the criminal justice system. The Criminal Procedure Code (CrPC) specifies all processes related to evidence collection under the term "investigations". These actions are overseen by a law enforcement officer or a judicially appointed authority. To effectively combat illicit behavior, it is crucial to carry out thorough investigations that lead to successful prosecutions in a court of law. To deter illegal activity and promote accountability, these investigations should adhere to the values of justice, equity, and parity (Waqar, 2022).

In Pakistan, the police have exclusive responsibility for conducting criminal investigations. Legislation governs the Pakistani police force, except for the CrPC which specifically addresses the handling of criminal investigations. A province's districts, further divided into smaller groups known as police stations, serve as its main governing divisions. Inspectors or sub-inspectors oversee police stations and report to the superintendent who is responsible for managing each district (Hussain et al., 2020).

The Penal Code and other legal statutes categorize criminal offenses as either cognizable or non-cognizable. This categorization significantly influences the following actions undertaken in criminal investigations: Arrests for admitted offenses do not need a warrant, whereas those for non-cognizable charges must have one and an investigation typically commences upon the establishment of a cognizable offense.

The commanding officer of the relevant police station not only collects evidence to substantiate the allegations but also promptly takes action to capture and incarcerate the person believed to be accountable.

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The essential techniques used in this procedure are comprehensive investigations, forensic examinations, and intensive questioning. The CrPC offers comprehensive instructions and legal permission for the execution of searches and arrests. If there is a justifiable suspicion of a punishable offense, one may initiate an inquiry. A fast and effective investigation is necessary. Once the investigation is complete, the investigating officer presents a conclusive report to the presiding magistrate for the case's administration (Jibrán Jamshed et al., 2020)

1.1. The Objectives of this Study

The study specifically explores the typical techniques used by law enforcement to find and analyze the deficiencies and limitations of the investigative process. Its goal is to improve the public's understanding of correct investigative protocols by presenting individual police investigations. The ultimate goal is to identify solutions to these problems and improve the research's efficiency and objectivity.

2. Research Methodology

This study employed the doctrinal legal research method which is based on the analysis of research papers, case studies, and the documentary examination of legislation. This comprehensive strategy seeks to evaluate and improve the investigation procedures of Pakistan's criminal justice system. This study analyzes applicable legal frameworks, practical case studies, and scholarly literature to identify areas for enhancement and provide solutions to strengthen the function of inquiry in Pakistan. The ultimate goal is to ensure justice and uphold the rule of law.

2.1. The Criminal Justice System of Pakistan consists of Fundamental Stages

In Pakistan's criminal justice system, the first fundamental step is the filing of a First Information Report (FIR), as mandated by Section 154 of the CrPC 1898. The FIR first reports any indication of illicit activity, regardless of its nature, to the appropriate authorities (Ghani et al., 2022)

Secondly, the police must initiate the process by filing a FIR and thereafter commence an investigation. Section 156 of the CrPC empowered the officer in charge of a police station to initiate any cognizable problem. During this phase, the Investigation Officer (IO) gathers evidence, documents witness accounts, and interrogates individuals to get more information about the alleged crime. The fundamental aim of the inquiry is to gather substantial evidence to establish the guilt of the accused (Munir, 2021)

Thirdly, after the investigation concludes, the prosecutor must obtain a comprehensive report from the investigation officer in accordance with Section 173 of the CrPC. This document, sometimes referred to as a "challan," provides a concise overview of the investigation's conclusions and incorporates all pertinent information gathered. The case transitions from the investigative phase to the prosecution phase upon submission of the investigation report. Upon receipt of the investigation report, the fourth fundamental stage entails the prosecutor engaging in a comprehensive examination of its contents (Dr. Dastagir Ghulam, 2023) After conducting a thorough examination of the report for any inaccuracies and evaluating the robustness of the evidence, the prosecutor determines if the case is ready to go to trial. Should the prosecutor deem the matter suitable for legal action, they would provide a comprehensive report to the relevant court detailing their proposed approach to initiating the trial procedure. The quality of the evidence in the investigation report at this crucial point will determine whether to proceed with the trial. Ultimately, the prosecutor submits a report in court, signifying the conclusion of the four-step procedure that starts with the submission of a FIR and progresses through Pakistan's Criminal Justice System. The equitable and efficient dispensation of justice relies on the completion of each and every one of these stages (Khoso, 2024)

2.2. The Investigator Plays a Crucial Role in Police Investigations

When a subordinate police officer, such as an Assistant Sub-Inspector (ASI) or Sub-Inspector (SI), files a FIR they assume a pivotal role in police investigations. In response to complaints, the investigating officer conducts thorough investigations in accordance with the Police Rules, the CrPC and the instructions of the High Court. To determine whether to bring the accused to trial before a magistrate, the investigating officer must analyze the crime scene, collect pertinent evidence, interrogate witnesses and suspects, and evaluate the findings. Sections 156 and 157 of the CrPC legally empowered the investigation officer to investigate serious offenses. If there is a need for more police officers, they may also assign jobs to other individuals. A broad and fair investigation that adheres to set rules is the fundamental basis for ensuring successful prosecution and maintaining the integrity of the criminal justice system (Jamshed, 2018).

2.3. The Prosecutor Plays a Crucial Role in Criminal Investigations

The prosecutor plays a crucial role in police investigations by assessing the available evidence and deciding whether the accused has committed any crimes (Lascu, 2013). When determining whether or not to continue with a trial, the prosecutor evaluates the case based on the facts and provides a recommendation to the court in accordance with the Punjab Criminal Prosecution Service Act of 2006. This case review follows the same procedures as comparable processes in advanced nations like Germany and the United Kingdom. It entails scrutinizing the facts and circumstances of the case. The Act permits the District Prosecutor to examine the evidence and decide on the appropriate charges to bring against the defendant. The district prosecutor has exclusive authority to modify or drop charges. However this decision is not subject to appeal, either due to

specific legislative requirements or the High Court's constitutional authority. Standard Operating Procedures (SOPs) require investigation officers and prosecutors to maintain ongoing coordination with each other during the inquiry. The prosecutor's office actively participates after filing the First Information Report (FIR), and the Station House Officer (SHO) promptly forwards a duplicate of the FIR to their office. The investigating officer is required to keep constant contact with the prosecutor in order to obtain legal advice about issues related to the gathering of evidence and procedural procedures. This seamless coordination helps the prosecution in constructing its case and guarantees that investigations comply with legal prerequisites (Khan, M. P. 2020).

2.4. Procedure of Investigation

Under Section 154 of the CrPC, the police are required by law to file a formal report (FIR) with the aim of receiving a complaint if they determine that a cognizable offense has taken place. They are prohibited from refusing. However if the police ascertain that no criminal activity has occurred, there is no need to submit a First Information Report. According to Section 157 of the CrPC, the IO must tell the magistrate the reasons for not proceeding with the inquiry. Additionally, Section 157 of the CrPC instructs the IO to refrain from initiating inquiries for cases that are not sufficiently serious or do not require substantial inquiry. When authorities file a FIR in accordance with Section 156 of the CrPC they initiate investigations into crimes based on reasonable grounds. The investigating officer documents all relevant events in a case for less serious crimes referred to as "non-cognizable offenses," the police must maintain a station log as mandated by Section 155 of the CrPC. If a magistrate receives a complaint under Section 155, they have the authority to provide the police with the same powers as in cognizable cases, if they determine that further investigation is required (Jatoi et al., 2023).

2.5. Criminal Investigation System In Pakistan

The British colonial police model serves as the basis for the criminal investigation system in the Indo-Pakistan subcontinent. The Police Commission's suggestion in 1902–1903 led Sir Edward Lee French to create the Criminal Investigation Department (CID) in Punjab in 1905. When Sindh established its own CID unit in 1911, it subsequently followed suit. The CID first prioritized high-profile cases, such as the murder of a European kid, and used a variety of investigation techniques, such as forensic labs, fingerprints, and canine teams, to expediently resolve criminal incidents (Jamshed et al., 2020)

There are a lot of major problems with Pakistan's investigations, which makes the criminal justice system unreliable. To begin, when dealing with cases that involve multiple jurisdictions or specific statutes like the Anti-Terrorism or Prevention of Corruption Acts, many police officers make mistakes due to a lack of training and knowledge of appropriate investigative techniques and legal subtleties. The fact that investigators often cave to corruption, negligence, or external pressure rather than following procedures and standards demonstrates a lack of professionalism. Lack of impartiality and prejudice in investigations further taints the findings, making them less objective and unfair. Integrity issues such as evidence tampering and improper documentation further undermine the prosecution's case, and investigators can only rely on witness testimony without doing thorough verification or collecting proof. Mistakes in maintaining the evidence chain of custody and unnecessary delays in critical investigative processes exacerbate these inadequacies, casting doubt on the validity and effectiveness of the entire inquiry (Khosro, 2024).

2.6. Impact of Defective Investigation and Prosecution on Trial in Pakistan

Pakistan's legal system operates on an adversarial basis. Although our country is an Islamic republic, the researchers have a significant issue with low rates of conviction, mostly stemming from poor investigation and prosecution processes. Local law enforcement authorities and specialist organizations like the Federal Investigation Agency, the Anti-Narcotics Force, and the Anti-Corruption Establishment often supervise investigations. However local law enforcement authorities mostly conduct the investigations in accordance with the Code of Criminal Procedure, 1898, the Criminal Procedure Code of 198 and other police rules particularly Chapter 25 (Khosro, 2024)

The police's failure to comply with mandated regulations and protocols for preserving crime scenes frequently leads to complications during the early phases of criminal cases in Pakistan, such as the submission of FIRs complaints, or cases initiated by orders from Justices of the Peace or Judicial Magistrates. This failure is responsible for both the courts' excessive workload and the widespread increase in legal disputes. Insufficient funds, outdated technology, and inadequate training exacerbate the current issues of accountability and collaboration during investigations and prosecutions. Political intervention exacerbates the judicial process's obstruction. In order to address these problems, it is necessary to implement new rules and procedures that facilitate efficient communication between the investigation and prosecution departments. Furthermore, new training programs and the presence of exemplary figures in the academy are required. It is essential to develop efficient systems to preserve the public's rights and interests, ensure the equitable administration of justice, and hold corrupt officials responsible (Jatoi et al., 2023).

2.7. Flaws and Lacunae During Conducting Investigation

Deficiencies and lacunae in criminal investigation and prosecution significantly impede the functioning of the judicial system and trial processes, affecting both victims and society as a whole. Due to their insufficient legal expertise in collecting admissible evidence and excluding inadmissible material, investigation officers often provide inaccurate results. The continued deceleration of progress is another impediment stemming from the public's limited engagement in investigations. In addition, investigative police often face several distractions that divert their focus from their current work. Pakistan's conviction rate, which stands at about 10%, is very low when compared to nations such as Japan and the United States. Nevertheless, the combination of professional training for investigators and prosecutors, as well as effective collaboration between the investigation and prosecution departments, enables certain specialized agencies to attain superior conviction rates. To guarantee equitable and subject-to-legal review convictions, governments had to adopt standardized protocols and regulations to expedite the investigation and prosecution processes. Economic, political, and societal limitations often lead to inadequate investigations, as financial pressures may force investigators to show bias towards certain political parties or engage in corrupt practices due to insufficient funding (Iqbal et al., 2023)

2.8. Overhauling the Investigation System

Pakistan's investigative machinery primarily relies on outdated legislation such as the CrPC and the Police Rules of 1934. Despite sporadic improvements, the technology is severely outdated and incapable of meeting the requirements of contemporary investigations. Merely establishing a separate department inside police stations may not be enough without providing specialized training to the workers, despite efforts to segregate the investigative branch. There is a pressing need for current investigation methodologies and focused educational campaigns. Consequently, international training courses or partnerships have yielded encouraging outcomes.

The Supreme Court, in several rulings, has established criteria that identify deficiencies in the prosecution and investigation methods. The decisions in cases like *Muhammad Bashir v. Station House Officer Okara Cantt* PLD 2007 SC 539 and *Haider Ali v. DPO Chakwal* 2015 SCMR 1724 have shown that these areas need strict rules to deal with problems, make sure trials are fair, and stop dishonest lawsuits. The criminal justice system's insufficient execution of these requirements has resulted in failures and a low percentage of successful convictions. According to Section 173 Cr.P.C., prosecutors play a crucial role in scrutinizing inquiry results to ensure the prosecution of appropriate charges. Under the Criminal Prosecution Act of 2005 in KPK and other recent legislation, prosecutors are now able to provide guidance to investigating professionals. This emphasizes their important role in addressing any errors or weaknesses in the investigative process. Furthermore, the *Zahid Sarfaraz Gill* case highlights the new instructions from the Supreme Court emphasizing the need to record evidence, such as images and videos, during the confiscation and apprehension of drugs (PLD 2007, SCMR 2015).

3. Case Study Analysis

In the case 2021 PCrLJ 915, the High Court brought attention to the deficiencies in the investigation system, subtly questioning the function of the IO. The court determined that the complainant's effort to bring JIT witnesses toward the end of the trial created the perception that the IO had not adequately presented and pursued the case from the beginning. Section 161 of the CrPC prohibits the JIT members from making any statements during cross-examination that could potentially harm the accused. The court determined that none of the members of the JIT had made any such assertions. The IO's investigation may have lacked thoroughness or effectiveness, as shown by this critique. Errors may have occurred throughout the process of obtaining statements, collecting evidence, or coordinating with others.

The High Court implicitly scrutinized the role of the IO in the case 2020 PLD 556 by emphasizing the restrictions placed on the ex-officio Justice of Peace's. The petitioner, a Mukhtiarkar, received instructions from a former official judge of the peace to adjudicate the respondent's case only after verifying certain papers. The petitioner disputed this directive. Although the Ex-Officio Justice of Peace's jurisdiction was limited, the court acknowledged that they still had the power to instruct police authorities to refrain from filing criminal charges or performing their duties. Section 22-A(6) of the Criminal Procedure Code explicitly prohibits the ex-officio Justice of Peace from resolving conflicts related to real estate. By reversing the order of the ex-officio Justice of Peace, the Court implicitly raised questions about the credibility of the investigating officer's work. The premise of this critique is that the investigating officer's conduct or lack thereof, necessitated the ex-officio Justice of Peace's intervention, thereby intensifying the conflict or complaint. Nevertheless, this part does not include a detailed account of the investigating officer's precise actions or errors. According to the Court's ruling, the ex-officio Justice of Peace's participation was superfluous, indicating potential issues with the handling of the case by the investigating officer and other authorities.

In the case 2019 PLD 255, the Karachi High Court, Sindh, strongly criticized the inefficiency and lack of accountability in the investigation of the events surrounding the Chief Justice's visit to Karachi on May 12,

2007. Little progress in over 11 years, despite serious incidents of violence, blockades, and denial of access to justice, prompted the court to order the establishment of a new Joint Investigation Team (JIT) and appoint a monitor judge to oversee the cases. The court questioned the role of authorities in ensuring the Chief Justice's safety and demanded accountability for the breakdown of law and order, emphasizing the importance of thorough investigations in upholding the rule of law and justice.

The 2017 PCrLJ 151 in the Peshawar High Court involves allegations of deliberately causing injury to another person by providing false information to a public official. This document provides comprehensive information on a shop's closure and outlines the next steps. The court determined that the charges were of sufficient gravity to warrant the involvement of law enforcement. The incident emphasized that if the police fail to register a complaint, a justice of the peace may compel them to do so in their official capacity. The court held that police reports or counter-allegations alone could not overturn the justice of the peace's decision. Furthermore, the court determined that a writ petition was not an appropriate means to resolve factual disputes. As per the court's ruling, there are legislative safeguards in place to prevent false insinuations during criminal procedures. The police have the authority to penalize the complainant if they lodge a false report. The court ruled against apprehending the petitioners to ensure a fair investigation. This ruling upholds the authority of court personnel to enforce the law and emphasizes the need for proper investigation methods and legal defenses against unfounded accusations.

A Deputy Superintendent of Police (DSP) conducted an inadequate and flawed investigation into a criminal matter in the 2016 PLD 21 case. Although the claimed kidnapper cleared the accused of any wrongdoing and the evidence presented by the prosecution was coherent, the court maintained its ruling to impose a low penalty of Rs. 4,000 on the Deputy Superintendent of Police (DSP) for his failure to carry out a truthful and comprehensive inquiry. The court emphasized that no other circumstance should lessen the paramount significance of an investigating officer's duties. The violation of this obligation undermines the public's confidence in law enforcement institutions. The court emphasized the need to maintain public confidence in law enforcement and the legal system. Additionally, it stressed the necessity of holding investigative officials accountable in line with the law. In summary, this case highlights the need for thorough investigations to maintain justice and the legal system. It underscores the necessity for law enforcement to demonstrate honesty and responsibility.

In the case 2015 PLD 218, centers on the duties of the Deputy Superintendent of Police (DSP) during an investigation and the possible symbolic penalties imposed when an inquiry in a criminal case is flawed or inappropriate. Citing the complainant's alleged exoneration of the accused and the absence of any inconsistencies in the prosecution's evidence, the court dismissed the appellant's argument that he should be exempt from responsibility for an incomplete investigation. Irrespective of irrelevant variables, the court stressed that the main responsibility of an investigating officer is to carry out a comprehensive and honest inquiry with the aim of uncovering the truth. Despite the appellant's inadequate response to the charges against him, the court determined that the inquiry was flawed. The court emphasized the need to maintain public trust in law enforcement by highlighting the crucial role of honesty and responsibility shown by investigating officers. These qualities contribute to the credibility of the criminal justice system and the police. Given these factors, the case emphasizes the importance of investigations in maintaining justice, as well as the gravity and integrity with which investigating officers must fulfill their responsibilities.

4. Conclusion

In conclusion, the framework of Pakistan's criminal justice system fundamentally requires adjustments, particularly in the area of conducting investigations. This applies particularly to the investigative process. In order for Pakistan to improve its capacity to achieve justice, equality, and accountability, it should work toward improving its capacity by identifying and resolving fundamental deficiencies such as a lack of training, corruption, procedural blunders, and limited resources. This would allow Pakistan to expand its capacity to accomplish these goals. It is only through this method that Pakistan will be able to create the ability to accomplish these objectives. To achieve these goals, Pakistan would need to enhance its capabilities. Pakistan would, at long last, be in a position to improve its capability to accomplish these objectives as a direct result of this agreement. The researchers need to take a number of significant steps to achieve this objective. This list of steps includes actions like enhancing coordination between law enforcement agencies and prosecutors, updating outdated legislation, and implementing rigorous training programs. If Pakistan The researchers re to place a significant emphasis on the honesty and efficiency of the investigation procedures, it would not only have the capacity to boost public confidence in the criminal justice system, but it would also have the ability to safeguard the rule of law across the entire nation

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