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www.advancelrf.org**Critical Analysis of Criminal Investigation System in Pakistan****Rabia Rana**

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Email: adv.drmmimran@gcuf.edu.pk**Abstract**

The rule of law and access to justice are two of the most significant social indicators for measuring the health and progress of a society. It is crucial to pinpoint systemic issues (whether they be judicial, legislative, or enforcement-related) that could render the system inefficient since everyone should have easy access to the right to a hearing and a fair trial. Target killings, terrorist attacks, and street violence are all on the rise, and the backlog of cases in the courts is insurmountable due to the lack of quick justice. Reviewing criminal justice system flaws, criminal investigation system problems, and problems that come up at different phases of criminal investigations and prosecutions is vital given the situation of the justice system today. This article focuses on the poor management of criminal cases at police stations and subordinate courts and discusses the main issues that arise throughout the investigation and prosecution phases of criminal cases. It also covers how these issues affect the effectiveness, accessibility, and sufficiency of our justice system. My goal is to examine the causes and come up with improvements to the system that will make justice more accessible, economical, and fair for everybody.

Introduction

Investigation is an element crucial to every system of criminal justice. The prosecution is responsible for providing evidence of the accused's guilt. and until that proof or in absence of inspiring evidence, accused is deemed to be an innocent person. This kind of highly standardized proof can merely be attained if for this purpose evidence is being properly secured carefully collected and is reduced into writing at the stage of investigation carried out by the police who can later be used as a tool in proving the guilt of the accused. Its importance may be understood beginning with the fact that any evidence that is not gathered by the investigating officer in accordance with the established laws and regulations can immediately affect the result of a legal proceeding. Investigation, in criminal justice system is never done by the courts; it's the exclusive duty of investigating officers.

Criminal investigation refers to the inquiry or collection of information regarding a incident involving or constituting a criminal act. An effort is being made to recognize historical background and its perspective along with the factors leading to the advancement and innovations in criminal investigation system. While going through the entire research I will consider and try to find out the

questions pertaining to the investigation of crimes and their importance in criminal investigation system:

- 1) What are the advanced techniques used/employed to carry out the investigation?
- 2) What is the method of conducting criminal investigation and what pattern, what practice is widespread at the police stations in carrying out the investigation process?

Investigation is always done in criminal cases, i.e. it is always referred to as criminal investigation. Criminal investigation is a form of an applied science that comprises of facts which are being used to recognize, prove and locate the guilt of an accused person. A thorough criminal investigation involves searches, interrogations, interviews and the collection of information and evidence from the places of occurrence along with various methods of investigation.

So, if criminal investigation is to be clinched the outcome will tend to interrogate as:

Who, What, Where, When, Why and How

The aim & objective of every definition of criminal investigation is to sort out the matter in the true spirit by searching out the truth behind a criminal act by the police or law enforcement agencies by adopting certain methods and finally proving it in the court of law.

As it is the foremost obligation of the police or the law enforcement agencies to bring criminals or law breakers in court for justice in order to ensure law and order and in order to ensure the proper enforcement of law in a society. It is pertinent to mention that it is difficult or practically terrible to prove a wrongdoing in court without a thorough criminal enquiry. As a result, it is very important in Pakistan as well as every other society in the world.

System of Criminal Investigation in Pakistan

The criminal justice system includes criminal investigations as an integral component. It is a process involving the examination of facts, identification of the evidences collected from the place of occurrence in order to prove the guilt of an accused person. The process of criminal investigation has become an intense and a sensitive issue these days with the increase of modern crimes. So, innovations in investigation system is badly needed, such as the use of forensic science. Not only forensic science with the same old techniques are helpful, but advanced and modern methods of applying forensic science and employing specialized and skilled officers in this regard is the need of hour. Unfortunately, Pakistan is lacking both i.e. advanced methods of conducting investigation and the well qualified, skilled and trained police officials.

From another perspective, if we go through a detailed and critical analysis; one might perceive that we ourselves are responsible for deteriorating the investigation system, we have demolished the system. Our self-esteem, misuse of power shows off, boaster, majboori (might be termed as need), and moreover the caste (baradari) system have created havoc in the whole system of investigation. Starting from the topmost to the bottommost none of us is ready to admit his mistake and try to mend himself and his ways. An individual being admitted/appointed in the service only to safe, earn his own livelihood and remains quiet at the time of performing of his obligations to secure his service. Iron hands are used to those of those who dare to fulfil their commitments.

The low conviction rate, somewhere around 5 and 10 for every penny, best case scenario, is obvious in a system where investigators are inadequately prepared and need access to fundamental information and current tools of investigation. Prosecutors likewise are ineffectively prepared and are not firmly included in inquiries. Before cases even reach court, there is violation, intimidation, and

outside interference in proceedings, particularly by the military's insight offices. Due to the absence of reliable witness insurance initiatives and experimental evidence collection tactics, police and prosecutors primarily rely on the accused's admissions, which are not allowed in court. Activists and other significant lawbreakers are frequently discharged on bail, or their trials continue for a considerable length of time even as they plan operations from jail. Terrorism cases, as well, create lesser convictions.

The state to a great extent gets its power from general society's trust in police to look after security, and the courts to convey equity. Confronting extreme difficulties to interior dependability and to the fair move, the elected and common governments can't stand to concede comprehensive legal changes. The eighteenth amendment has shown parliament's capacity and will to pass extensive majority rule changes.

If judges, prosecutors, and police are aggressive in preserving the word and spirit of the law, the criminal justice system will be more compelling. A robust criminal justice system and reducing official stress are both necessary for maintaining the legitimacy of the courts. The National Judicial Policy-Making Committee and the current legal system should reevaluate the NJP and give strengthening trial forms the same emphasis as eliminating excesses. Judges and policymakers should refrain from making any recommendations that would merely limit the judicial system's ability to carry out the law. Pre-trial proceedings need to be given far more thought for strong cases to be presented in court. People with knowledge of criminal law and the standards of confirmation who led investigations in the past were successful in getting convictions. This ought to become the norm.

Flaws in Investigation Conducted in Pakistan

Criminal cases are referred to courts for trial but lacking appropriate investigation. Because of this it has become difficult to ascertain/prove those cases in the criminal courts. That's why these cases prolong over years and the justice gets delayed. Number of prisoners in the jails bear difficulty and must wait even for years to get their cases decided. Just because of these situations people are of the view to decide their cases on their own and agreed to accept the same irrational cradles to get their cases decided. For example, in many areas of the country, the suspect is being asked to prove the innocence/not guilty of his own by doing something like, walking bare feet or fire. Then it is deduced that if has burnt then he was a committer and if not then he was not the wrong doer.

In an incidence of February 2007, In some countries, the accused is required to walk neck-first across flaming ashes to demonstrate his innocence; if he is burned, he is guilty; if not, he is innocent, for example. February of 2007, To prove that his son is innocent and did not steal anything, an ethnic committee in a remote part of Punjab ordered a man to walk and swim inside the freezing water for exactly ten minutes. However, the man, Khuda Baksh, was only able to complete the task for two minutes, and as a result, he was fined Rs. 50,000-/. Several people were present when the man was asked to descend deep below the icy water for up to 80 feet while his feet and hands were all bound and only his head was visible above the surface. It is occurring in The 21st century is very comparable to earlier eras when Romans had a basis for determining whether an accused person was guilty of any crime or not by having them stand trial while holding a hot iron rod in their hands. While in a society like Pakistan, all of this happens as a result of the public's lack of trust in police investigations. People often perceive police officers as a menace, a symbol of rigging and corruption, unfair, and dishonest when they are observed by the public. It is a truth that after the assassination of the previous prime minister, Mrs. Benazir Bhutto, in Rawalpindi, the public regularly urged that the investigation be finished by foreign investigators rather than Pakistani police. In addition to the technical grounds, it is frequently claimed that the country police will not be impartial in investigations because the Pakistani police are consistently politically influenced and lack competency. (Suddle, 2002)

Causes of Failure of Investigation System

From the time of existence of Pakistan in 1947, usually the government has not paid that much attention on the prosperity of system of criminal investigation of the country, police department, its functioning consisting of police investigation that could have ensured free, easy and speed access to justice. That is the chief reason that why police investigation still depends on same old traditions. And the carrying out of investigation by un-experienced and unskilful officers of police without having any sort of advanced techniques/methodologies is one of the main causes of failure of criminal investigation system. In police department, there is always an interference and influence of political leaders/personalities. The officer who refuses to admit the directions of any dominant political influence will be the bearer. Everything from the posting/transfer of a police officer till their termination/suspension are all concerned with the willingness of a political influence/personality. In Pakistan, the police are heavily influenced by and active in politics, and it is well known that they have the power to influence elections. However, politicians abuse this power by distorting the police's role in each election.

It is believed that governments have used police to annoy and intimidate their political rivals on a regular basis. The police will naturally modify their perspective, behavior, approach, and way of working when you put them on the agenda or utilize them politically as the main intimidation tool, which will essentially lead to a flaw in the actual inquiry. Political involvement not only interferes with how the police department function, but the lack of training and capacity issue is at its peak, which makes police more feeble, dishonest, and incompetent in the end, which results in the failure of an effective criminal investigation. (Stone, 1998)

Unluckily inquiry in Pakistan has not been carried out appropriately and meticulously and is therefore accountable for downfall of the system of Criminal Justice. Veracity of enquiry is acute for acceptability of evidence in the courts of law.

The following are the major issues with Pakistan's criminal justice system:

- Deficiency of apt awareness of approved procedures to carry out investigation which is a catastrophe in this country because of shortage of apt knowledge, appropriate training/preparation and improvement of expertise. Some instances of deficiency of knowledge and expertise which outcomes in miscarriage of enquiry is;
- Deficiency of legal understanding, particularly when a crime falls under multiple statutes, such as those listed in section 5(2) of the 1947 Prevention of Corruption Act or in the Anti-terrorism Act.
- Deficiency of information regarding a crime comes under which jurisdiction and what agency should conduct investigation.
- Deficiency of understanding of appropriate procedures, such as those for declaring the suspect and seizing property.
- Deficiency in training to gather living and further evidence at the place of incidence and because of the inadequate assortment of imperative evidence at place of occurrence is tainted before the time it reaches laboratory for the purpose of examination and subsequently imperative evidence is mislaid or is either bargained at the place of occurrence.

Scarcity of Professionalism and Competence

A key motive for miscarriage of our system of justice is the scarcity of competence and professionalism and the careless defiance to Criminal investigation. Processes are not obeyed properly and observance to values is non-existent. The process of Investigation is prejudiced by the

corrupt customs, the pressure by political parties and the media. Investigators usually conduct Panchayats in place of gathering evidence to upkeep the charge/allegation or institute guilt. Likewise, views regarding innocence of a suspect are being given by the police instead of any proper reason and is lacking in evidence. Police usually do not take the liability of proving/verifying the plea of alibi of the suspect if it is being so claimed while generally give an opinion on the basis of a doubt without even comprehending that to find out the truth or guilt of an accused an to carry out investigation in this regard is the foremost duty/obligation of themselves. (Majeed, 2005)

Predisposed Investigation, Absence of Neutrality

Neutrality means conclusions should be founded on comprehensive intellect and devoid of any unwarranted influence or errand to anyone. It is an aptitude of a person to verbalize his choice on root of truths and without getting biased. Predetermined ideas, estimations, beliefs, assumptions and doubt are dissimilar forms of partiality. There must be no private credence or instinct or a ruling not established on evidence or inevitability.

Partiality or unfairness can extremely be the results of investigation. Numerous rudiments can touch neutrality of an investigator. Bias can manifest itself in many ways, including spiritual or religious prejudice, tribalism, masculinity, civilization, cliques, class, or status. All of these can have an impact on an investigation. Although there is a difference between having a prejudice and acting biased.

Good Judgment, Good Observation and the Part played by Logic

Each offense is distinctive. There is no worldwide formulation to examine a case. An upright enquiry needs appropriate planning. This is collectively a teamwork which would not be completed in isolation. Arrangement of team will be contingent on the nature of offense.

Crime scene may be defined as a scene of incident/place of incidence although whether in it, an unlawful or criminal action has established or not.

While reaching at the scene/place of occurrence the police officer should decide that which of the crimes have been committed and which sort and what level of investigation would be carried out in order to find out a truth. It is necessary for the officers not to apply their own reasoning r explanations but would only be restricted to the story or whatever being told by the witnesses present at the crime scene. In this case the police officers even do not care to corroborate with the evidence so collected by them. Or, even verifying/inquiring the witnesses present on the spot/scene and don't even gather the other pieces of circumstantial evidences. Generally, the police acts in motorized method of recording and then pursuing the FIR, recording the statements of witnesses, making the rough sketches of the suspected persons for the identification, carrying out recoveries and the last but not the least submission of the challan in court. If they have assembled the evidence from the scene appropriately, it may aid the prosecution in supporting their own case. It should be kept in mind that our nation tends to falsely attach all suspects' family members. (Chauhdry, 2002)

Veracity

Snaking the facts of a case is not actually so unusual. It ensues in nearly in every case. These are perverted by the parties to either prove them to be innocent or to abolish the evidence present against. In a hidden murder case generally witness is fixed, in the cases of dacoity commonly identification parade is not conducted, in its place some supplementary statements are being inserted which do not ever disclose or dispose of the origin of the information.

Typically, comments made are not recorded. Most confessions made to a magistrate are not recorded, and those made to the police are recorded in the police log but do not result in a conviction or are accepted as evidence.

Incapacitated victim/sufferer's dying declaration is usually not brought into record, or if sometimes it is recorded then, no liberated individual is named in whose existence such dying declaration was being filed. Correspondingly declaration of hurt eyewitness is reduced to writing without conducting any enquiry by the doctor about whether that injured person was in a state of making any statement or not. (Jamshaid, 2002)

All of these are the problems which have an impression on the veracity of the evidence gathered or being produced at the time of trial.

Inappropriate Certification

The critical flaw in the investigation is inappropriate and insufficient documentation/certification. Courts can articulate view only on the base of those proofs which are pertinent, and which are being brought to record. If the report of an imperative witness is not written by the police department how could the court rule on facts that were observed by a witness but were not included in the police's calendar of eyewitnesses at the time the challan is submitted.

In the same way inadvertence on the part of police to remark the explanation of the place of occurrence, the body position, and the rest of the items that were found in at the place of incidence, can severely deteriorate the prosecution case.

Generally, police do not gather crime evacuates and therefore prosecution is destitute of chance to prove significant evidence which could create linkage between the suspect, the sufferer and the offence.

Series of Keeping

Series of keeping means the custody chain, i.e. certification of evidence from the time it was collected or taken into possession explaining the place, day, time, situation of short depiction of all elements and the names of persons/individuals in the attendance of whom all the things stated above were so gathered. It also lays emphasis that there must not be any unauthorized management of the evidence.

It is in practice that suitable chain of custody is not sustained and the report of professional be it the expert of ballistic, the expert in chemical examination or the serologist turns out to be frivolous that concludes into damage to the case of prosecution case along with the waste of money and time utilised in attaining an opinion of the expert. (Khan, 2001)

Postponement

Unnecessary delay/postponement/adjournment in cases results into lethal impression on the providence of Criminal case. The deferral on police's part in the matters of directing dead body to the doctor for conducting post-mortem inspection, postponement in writing statements of witness, stay in carrying out identification parade, deferral in directing parcels to the forensic laboratories for having expert opinion. All of these are believed lethal to the case of prosecution and that this stay is merely on the part of police.

Improvements Needed

The provision of the following upkeep and amenities is required and a prerequisite for proper criminal investigation:

- The public co-operation is a must in conducting investigation in a criminal case. Unless the persons who have seen/witnessed an offence or a crime must be able to co-operate with the officials investigating a criminal case, because it will obviously be difficult or sometimes impossible for him to reach early and speedily to the culprit without anyone's co-operation.
- Employing competent police, detectives, and other staffs involved in investigations Officers in modern, advanced police institutions are required to train and educate new recruits in a variety of investigative sectors.
- Provision of the facilities/conveniences of transport must be guaranteed to the police so that it may reach the crime scene on time without any sort of lame excuse/delay and that it might proceed on with the investigation of the case without delay.
- Police must be provided with the investigation tool kit so that it may save and preserve the pieces of evidence immediately, collected from the place of occurrence.
- Modern devices like Computer, audio, video recorders must be available to police for the quick preservation of evidence during investigation.
- Accessibility of forensic science laboratory.
- The finger printing facility.
- Harmonization among the agencies of investigation and the information sharer.
- To capture the accused's exact words, the investigating system must deploy a tapping device.
- Another important tool that must be accessible to crime scene detectives is the use of cameras in criminal investigations and photographs of the crime scene, etc.
- DNA may be used at a lower level of a criminal investigation because of its established significance in tracing the crime.

Measures for Rectifying the Defects

The following actions can be made to fix the flaws:

Restructuring of Enquiry Section

The investigating officer must be accredited to investigate/inspect the said case depending upon his education, familiarity and working out. Four chief crimes like slaying, rape, counterfeiting/fraud/deception, electrical felonies, abduction investigator must have appropriate proficiency to investigate that delinquency.

The investigating officer who has not ever carried out investigation in a case of forgery/counterfeiting must not be permitted to investigate that crime while in place of this the officer must be allotted the job in accordance with his skill and prudence and experience.

Growth of Investigation Procedures

It is vital to advance several protocols / procedures in the form of strategies and directives or customary procedures that should be trailed in investigation of diverse crimes. E.g. an investigation in an assassination case must comprise more than only reserve of grievance statement and inquiry report and directing post-mortem. Several phases of investigation should be defined and there must be a flawless strategy statement about process and the method of investigation.

Police drills should be conducted truly and carefully instead of doing it just for the sake of formality.

Expansion of Proficient Approach

The Police must improve its professional/proficient approach/attitude. The Government of Pakistan and its media performs a crucial role. Both must deter mistreatment and must not in any way impede in the procedure of investigation. The government must control the internet media, and they must halt exploitation and refrain from interfering with investigative processes. Only after the inquiry into a case is complete should the media be briefed. Political parties must not be biased and directing police to do whatever they want them to do, instead, the police should be permitted to go ahead with the investigation devoid of getting approached.

Illogical trends of conducting panchayts, forming opinions/decisions of investigation after taking oaths and promises and hence concluding the cases inside the premises of police stations should be deterred. It is an obligation of police to gather evidence without conceding its veracity/truthfulness; moreover, it's the duty of every court to conclude/decide about the guilt underlying the evidence being collected. The investigating officer should not be partial / biased in any criminal case.

One cannot modify the police department until it is being given candid police officers free of "sifarish and baradari system". We are abutting two chief issues, the first is that we encourage baradari system by providing unwarranted nepotisms and secondly, the authentic persons are being endangered of being discharged from the service.

Freedom of Enquiry Section

Enquiry section of police department should be independent, liberal, impartial and unbiased. There shouldn't be any intrusion at any stage of investigation. Its time and again occurs that media exploits the cases and because of this unjustified aggravation and prejudice, unfair investigation occurs.

Penalizing of Investigator for Crooked Practices

The Investigation officers who are suitably skilled and practiced in investigation if extinguishes the evidence or alters it, they should be chastised for setting an example for others having some deterrent impacts. Though it should be kept in mind before penalizing the investigation officer that whether any misconduct, corruption, destruction on his part has been committed by him or not or whether he has done all this including deteriorating the evidence, by his own choice or not. As there are persons/parties who often files cases against police just to pressurize police officials. There should be strong and rational criteria for penalty.

Apt Training and Incessant Professional Enlargement

Because of the quick increase/advancement in technology, investigators should be trained, skilled and be updated with the advanced techniques. Incentives must be given following the merits otherwise it would further depreciate the existing system.

The excellence of investigation be it conducted in person or via telephone, is an important aspect in collecting material which clues to finding of a wrongdoing. There may be few opportunities to locate and gather information, so it is vital that those responsible for the initial inquiry make sure that no evidence is lost. When an investigator is tasked with investigating a crime, it is crucial that they obtain information from the person who took the first report. Investigations should be performed methodically, and the investigating officers must not presume that a crime could not be resolved or that any other person shall conduct the investigation at a future stage.

Conclusion

This body of research on criminal investigations has shown that, in general, police criminal investigations are not sufficiently sophisticated or reliable to produce novel social effects. There is an excessive need to enhance it by systematic reinforcement of the entire police force in accordance with societal needs, with a focus solely on its enquiry system under the guise of a research-based arrangement and its enactment. Services must be offered considering local conditions. It is necessary to plan for proper training programmes. Furthermore, eliminating corruption and governmental/political involvement in the police force requires bold actions. Making it firm and making sure that the rule of law is implemented, as well as instilling a sense of responsibility and security among the populace, are all important goals that must be achieved.

To conclude, police investigation is not carried out/performed properly in Pakistan as a result of which the criminal justice system of the country seems to be collapsed. The investigating officers must be give/provided with the best training by the experts and skilful persons/trainers for investigating in distinguished crimes/offences. Investigation system in Pakistan would never achieve its goals until and unless the investigating officers develop in themselves the urge to prove the truth, becomes impartial, unbiased avoids nepotism and nay sort of political influences. And they must develop a professional aptitude in the field of investigation. They must carry out investigation of the basis of true facts and figures instead of manipulating the entire case.

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