

The Role of Police in the Criminal Justice System of Pakistan a Historical Perspective and Contemporary Analysis

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Abstract

The police play a crucial role in maintaining law and order, enforcing laws, and investigating offences, essential for protecting human rights. Fair and accountable policing is vital for effective rule of law. Inefficiencies and misuse of discretionary powers by police mostly harm individual's freedoms. The discretionary power of police u/s 54 and 55 of Cr.P.C is for quick responses but often misused. This unchecked authority mostly leads to rights violations, raising critical questions about constitutionality and citizens' liberties in a free society. Arrest through Handcuff is humiliation to some degree. Humiliation of person is contrary and inconsistent with the fundamental right of dignity guaranteed by Article 14 (1) of the Constitution of Pakistan. The foremost key directive from Pakistan's founding father, Muhammad Ali Jinnah, called for immediate reforms, aiming to depoliticize and professionalize the police force. Despite various reform efforts, political interference, corruption and inadequate training have hindered the police from fulfilling their mandate, especially in investigation. The Supreme Court of Pakistan has reaffirmed the necessity of fair and accountable policing as essential for upholding fundamental rights emphasizing that an independent, politically neutral and competent police force is crucial for the rule of law. Separating investigation from other police functions was a great initiative and a milestone for making police professional, yet not fully utilized. This Article explores historical prospects of police organization and analyzes the various factors leading to defective investigations which ultimately lead to high acquittal rates. It also analyzes various reform attempts, including the Police Order 2002, which sought to separate investigation from other police

functions. This study argues that meaningful reforms require structural changes and strong political will.

Keywords: Historical prospect; Police Reform; operationally independent; politically neutral; Police Order 2002

1. Introduction

Police perform various duties and the most important among them are maintenance of law and order, implementation of law in the society and investigation of offences. The police is charged with the responsibility to protect life, liberty, property and precious human rights of the citizens; therefore they play a very important and difficult role. The Superior Judiciary of Pakistan has affirmed in its landmark judgment that fair and accountable policing is essential for the effective enforcement of fundamental rights and laid down various golden rules such as the police force, as the primary law enforcement agency, must be depoliticized and strengthened. This will enable it to perform its mandated duties with full commitment, dedication, zeal, and zest, as required by law (SCP, Suo Motu Notice No. 16/2011). In another case, it was also highlight that a significant number of cases coming before the apex court involved issues related to police abuse of power and inefficiency (SCP C.P. No. 1228/2014). The police are considered responsible for the steady erosion of the criminal justice system (CJS) and for the breakdown of law and order in Pakistan and police is perceived to be corrupt as a matter of course (Shigri, 2012). According to Black's Law Dictionary, the term "police" refers to an agency responsible for preventing, detecting, and punishing crimes (Black's Law Dictionary). In the discussion of CJS, police and police laws are discussed beside the crime, criminal law, criminal procedural law, law of evidence as they are interwoven in nature

Over the years, issues such as political interference, misuse of arrest powers, corruption and inefficiency in investigations have compromised the effectiveness and credibility of law enforcement. These challenges not only erode public trust but also contribute to high acquittal rates, weakening the Criminal justice system. Addressing these fundamental issues through comprehensive reforms is imperative to restore public confidence, improve accountability, and ensure the fair and efficient delivery of justice. The aberration, abuse of power and inefficiency of police must be corrected as police rush to help whenever any invasion or threat to invasion to human rights is made and they play their difficult role even at the cost of their lives for the protection of human rights. The apex judiciary has often noted the urgent need for police reforms to ensure that law and order are effectively maintained. Such reforms are essential for upholding the rule of law, which, in turn, is crucial for the full and proper enjoyment of fundamental rights (SCP, CP No. D-7097/2016 and CP No. D-131/2017).

Dr. M. Shoaib Suddle, former Inspector General of Police, has frequently emphasized that only an operationally independent, politically neutral, highly accountable, and professionally competent police force can ensure the equal application of the law (Suddle, 2019). He also highlighted the necessity of political will for meaningful police reforms, pointing out that the primary obstacle in Pakistan is the government's lack of commitment to reforming the police force.

1.1. Historical Context of Police System

In the Indian subcontinent, the office of Kotwal, established by Mughal rulers in the Seventeenth century, stands as the earliest recognized police institution (Abbas, 2012). Kotwal, subordinate to the District Qazi (Munir, 2012), in each Sarkar, held multiple responsibilities. He served as both the prefect of police and a municipal officer. Additionally, he had the jurisdiction to try minor offences and handle secular criminal cases (Munir, 2012). The Kotwal personally had to investigate the person who was brought to his chabothra by the police, or revenue collectors or private complaint and he had to resort to court if criminal case made out against him and if revenue case then to the Governor (Subahdar) (Munir, 2012). The Kotwal was required to obtain a written order (now a days Remand) from the Qazi to keep a person under custody for the purpose of investigation and he was also required to send the prisoners daily to the court - if case not decided or taken up on the first day of hearing - till the case decided. He was also directed not to arrest any person without prima facie legal evidence against him and not to keep any person in jail without lawful charge (Munir, 2012).

The East India Company (Munir, 2005) replaced the Mughal Rule in India gradually. It established police system on the model of Irish Constabulary for keeping the natives on a tight leash, for collection of land revenue and for maintenance of law and order due to that it was designed as to be a public frightening organization and not public friendly agency. The control of police was in the hand of European Officers called collector, District Officer, Deputy Commissioner or District Magistrate having responsibility of collection of land revenue and maintenance of order. The District Officer was also head of the Magistracy having judicial powers and mostly act as judge in criminal cases Irish Constabulary Model was highly centralized and considered as the ideal mechanism to protect colonial economic interest while defending colonial authority and territory at a minimal expense being alternative to an army of occupation (Suddle, 2015).

it is clear enough that from the point of view of the colonies there was much attraction in an arrangement which provided what we should now call 'paramilitary' organization orgendarmerie, armed, trained to operate as an agent of the central government in a country where the population was pre-dominantly rural, communications were poor, social

conditions were largely primitive, and the recourse to violence by members of the public who were 'agin the government' was not infrequent. It was natural that such a force, rather than one organised on the lines of the purely civilian and localised forces of Great Britain should have been taken as suitable model for adaptation to colonial conditions (Suddle, 2015).

After war of independence, 1857, the uniform police laws and rules were made and police department was established in the Indo-Pak by the British. The overriding objectives of police laws, rules and models was to keep the natives on a tight leash and not to establish rule of law (police Reforms, 2018).

The colonial police model was quite different from Police system in Britain (Mawby, 2003). The colonial police system featured a semi-military structured, alien, armed, living in separate quarters, underpaid, bodies of men for maintaining order by overawing an often turbulent and hostile by native population and mostly having personnel drawn from the armed forces especially in case of senior officers while police forces of England were decentralized, responsible for non-crime task, not organized in a military fashion though senior officers tended to be recruited from the military. Colonial police were especially trained to protect the state from political protests, prevent rebellion, disobedience of state and political resistance as in colonial regime crime and politics were almost inseparable. By applying Irish pattern of police, small force-imposed alien rule in sub-continent including judicial, administrative and police however, Indian cities like Calcutta, Madras, and Bombay where English population was in majority and indigenous population was in a minority, there police system was like the English police system (Suddle, 2015).

In 1840, Sir Charles Napier organized police force in the province of Sindh on para-military Irish Constabulary model and place it under the command of Captain of police. Accommodation of police force in barracks illustrated its source of legitimacy. "it was not only the single man who lived in barracks; married constables and sub-constable were usually accommodated in the barracks with their wives and children; partly for their protection, partly toto make it more difficult for them to form the 'local connection' which their senior officers greatly feared" (Suddle, 2015).

Although some attempts were made by East India Company to reform the Indian colonial police force as indicated by Bird Committee's Report of 1838 - where it was recommended to entrust control of police to any officer other than the collector - and Torture Commission of 1855 - Where it was concluded that revenue authorities in Madras were grossly misusing their police powers to extort revenue from the poor peasant and police was very oppressive -resulting in issuance of directions from the directors of the Company on 24 September 1856 that "the management

of the police of each district be taken out of the hands of the magistrate and be committed to an European officer with no other duties and responsible to a General Superintendent of Police for the whole presidency” but due to Jang-e-Azadi, of 1857, concept of tightening of control over police was felt a more compelling necessity to keep the native on leash and the concept of district officer having judicial and police powers - who would be more effective in keeping the junior police ranks loyal to the rulers- was strongly advocated (Suddle, 2015).

The war of independence 1857, changed the fate and destiny of India and all the territories under the control and possession of East India Company vested in the Crown through Act of 1858 passed by British Parliament. The first uniform law of policing was introduced in 1861 through Police Act, 1861 for whole sub-continent - based on Royal Irish Constabulary created under the Constabulary Acts of 1822 and 1836 – whose overriding objective was to keep the native on a tight leash and not to establish rule of law (police Reforms, 2018). From the day first, it came under intense criticism and described as ‘old wine in new bottle’ and ‘a new friend with old face’ because of its failure to rectify the long-discovered defects of the Irish Model (police Reforms, 2018). Collection of revenue, control of police and judicial functions were given in one hand of agent of Crown known as district officer, deputy commissioner or district magistrate - English officers - at various stages of colonial rule for protection of British Raj in India (Abbas, 2012).

The Police Act 1861 was central, and provinces were given freedom to adopt it, but they were not competent to amend it. The police department was established in Punjab and Sindh in 1905 and 1911 respectively. Pakistan adopted the same Police Act 1861 at the time of independence (Sahito 2009).

1.2. Evolution of Police Laws in Pakistan

Pakistan inherited and adopted the said Police Act, 1861 for the police system which was basically framed for policing of a colony to keep the native on leash. It's very important to point out that one of the first directives issued by the Muhammad Ali Jinnah the then Governor General of Pakistan in August 1947 was to reform the inherited colonial police framed on Irish constabulary model. In pursuance of the directives, the Sind Assembly passed a Bill (XXV of 1948) in February 1948, duly forwarded by Governor Sindh to Governor General Pakistan but due to involvement of politics of police reform, the legal advisor made some minor correction and same was not returned meanwhile Muhammad Ali Jinnah passed away. Time and again, different Committees and Commissions were constituted since the inception of Pakistan on police reforms.

UN mission which visited Pakistan from 26 March to 10th April 1995, it observed that the present crisis comes as no surprise. Since 1960, there have been 11 separate committees

or commissions established by governments in Pakistan and four international Commission requested by the government of Pakistan which have recommended major reforms of policing in Pakistan. These have for the most part been ignored and the remedies suggested have been unimplemented. Had the proposed reforms been undertaken, much of the present crisis could have been avoided... The present pulley system, which has been allowed to deteriorate so badly by successive government and been so abused for political patronage, has not yet completely broken down due to the dedication, integrity, initiative and professionalism of many individual officers and constables. Despite their best efforts, policing will collapse not only in Karachi but also in other parts of the country unless law enforcement institution is strengthened immediately (Suddle, 2015).

In 2000, the National Reconstruction Bureau (NRB) after exhaustive discussion with stakeholders formulated recommendation upon various aspects of the blueprint of police reforms for professional, competent, operationally neutral, organizationally responsible and functionally cohesive police (Suddle, 2015). Resultantly, Police Order, 2002 was promulgated with the object to establish politically neutral, professionally competent, operationally autonomous, and meaningfully accountable policing system in the country (Pervez, 2015). The Police Order, 2002 promulgated on 14 August 2002 which replaced the more than 141 years old colonial police Act, 1861. It was “to transform the police from a purely coercive arm of the state into a people-friendly instrument controlled by the people, for providing policing service to the citizens as well as the state, to protect both against unlawful conduct.” (Naqvi, 2003). Some salient features of Police Order 2002 were; separation of police from Magistracy, public accountability of police through public oversight through District, Provincial and National public safety commissions, reduction of political influence, separate police establishment, organization of police on functional basis, superintendence and administration of police, functional autonomy to provincial police officer, distinction between ranks and posting positions, separation of investigation and watch and ward, internal accountability, offences and punishment to police officers. The introduction of Police Order 2002 was very good initiative and drastic step in reforming the police and investigation system but till day the said Order is not enforced in its real spirit especially separation of investigation wing, establishment of District Investigation Branch, public oversight system – latter politicized by placing MPAs and MNAs in its constitution – but due to lack of political will this Order did not enforce in its letter and spirit and after subsequent amendment in 2004 it became quite ineffective. In 2004, under the pressure of Punjab Government, the Federal Government introduced several amendments to enhance the role

of Government in appointment of key police officers and composition of public oversight bodies which weakened the Police Order 2002. Subsequent amendments changed the original structure which affected autonomy of police operations and diluted the powers of police officers and give a way to political interference. Later in 2008, to regain political control over police, two provinces; Sind and Baluchistan reverted to Police Act, 1861 while Punjab and KPK decided to opt the Police Order 2002 with some amendments (Suddle, 2015). In 2019, the cabinet of Sindh approved revival of Police Order 2002.

1.3. Police Rules 1934

Police rules of 1934 was the product of British Colonial Rule in India and its whole object was a complete hold on the lives and liberties of Indian subjects. Its key function was to maintain law and order in society of India which was subject to the British kingdom and not its citizens. Although Police Order 2002 replaced the colonial Police Act 1861 - a relic of the colonial period tailored to their needs - it allowed Police Rules of 1934 to continue. The new Police Order 2002 “was indeed a big leap from colonial police culture to the application of highly developed police cultures from developed countries to a developing country with an ideology of its own” (Karim, 2019) but continuation of Police Rules 1934 makes it fruitless. Now Pakistan is independent country being governed by written constitution which give significant importance to the fundamental rights which was not part of the colonial police culture and legislation. The rules have much importance in the regulations of the functions of the policing and source of guidance to the working of police.

2. Role of Police in Administration of Criminal Justice System

The role of the police in the administration of the CJS is foundational. As the primary law enforcement agency, the police are responsible for maintaining public order, enforcing laws, and investigating criminal offences. They play a critical role in gathering evidence, preparing cases for prosecution, and ensuring the accused and witnesses are present in court in compliance with judicial orders during criminal trials. The police hold a central responsibility in conducting investigations, which serves as the basis for subsequent prosecutorial and judicial proceedings within the CJS.

The SCP has emphasized that criminal investigation is fundamental to policing and pivotal to the CJS’s functioning. The investigation process, which commences after FIR, largely influences the case’s trajectory and outcome in court, impacting the delivery of justice to victims, their families and offenders alike. Poor quality of investigation has been consistently highlighted by the courts as a primary reason for case failures, underscoring the need for thorough and effective police investigations (Saddam Hussain case, C.P. No. 419 of 2020).

In 2019, the SCP ruled that within Pakistan's CJS, uncovering the truth is primarily the responsibility of the investigating agency, while the judge's role is to determine whether the prosecution has successfully proven its case against the accused in accordance with the law (Ali Guhar case, C.M.A No. 200/2019). Practically, an aggrieved person could not find justice without police cooperation. Due to investigative flaws and procedural shortcomings, most of the criminals are acquitted, which undermines public confidence in the pursuit of justice.

2.1. Registration of FIR

The registration of a First Information Report (FIR) is indeed a primary mechanism to initiate criminal proceedings. Under Section 154 of Cr.P.C, it is mandatory for the police to register an FIR upon receiving information regarding commission of a cognizable offense. The police have no discretion to refuse registration of an FIR if the information provided prima facie discloses a cognizable offense. It was held by SCP that the mandatory nature of Section 154 Cr.P.C obligates the police to register an FIR without subjective assessment of the complaint's merits. This ensures the timely initiation of criminal investigation and protects the complainant's right to have the offense properly investigated (Haider Ali case, 2015). The SCP ruled that an arrest should not be made as a matter of course simply because someone is named in an FIR, emphasizing the need for preliminary verification and evaluation of evidence. Despite this essential guideline, the police directly arrest the nominated person without evaluating and verifying evidence and information provided (Muhammad Bashir case, 2007).

Registration of an FIR is legally mandatory when information is received about a cognizable offense, but the decision to arrest remains at the discretion of the police. A major misuse of police authority is the failure to register FIRs even when a cognizable offense has occurred. Equally concerning is the misuse of discretionary powers, such as making arrests immediately after FIR registration without properly verifying the information or evaluating evidence. Another serious misuse is the registration of false FIRs, leading to wrongful arrests, while seldom holding the complainants accountable. Although the PPC includes provisions to deter and penalize false complaints u/s 182 and 211, these provisions are rarely enforced, resulting in limited prosecution of those who exploit the police to pursue malicious agendas (Kasuri, Mahmood & Rasool, 2024).

2.2. Investigation

The criminal investigation process is an ever-evolving endeavor and requires consistent improvement in technique, know-how, and capacities. After the registration of First Information Report (FIR) by the police, the Criminal Justice System (CJS) comes into play. Most important part of the system is the process of police investigation, which mostly determines the outcome of the case in the courts in providing justice to the victims of crime,

their families and the offenders too (Handbook, 2021). Police reports u/s 173 of Cr.P.C is the result of a investigation. In particular, police reports is always based upon the evidence which one is gathered or collected by the police, and request of police whether to charge a particular person on the basis of evidence. Police reports are forwarded to the prosecutor for formulation of his opinion whether to prosecute or not. Investigation is an objective process aimed at identifying the actual offender. The police have right to confirms the involvement of a particular accused, The investigation process entails the collection, recording and retention of all relevant evidence such as statement of witnesses, results of forensic and other evidence (Kasuri, Mahmood & Rasool, 2024).

2.3. Arrest

The discretionary police power to arrest is one of the most awful, the most humiliating and the most divesting powers which is mostly subject to exploitation. Vast power of arrest is given to police u/s 54 of Cr.P.C under which police can arrest - without court order - any person “who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of having been so concerned”, having any implement of housebreaking, any proclaimed offender, reasonable suspicion of possession of stolen property etc. very wide power is given to police by this Section which can easy abused (Karim, 2020). Sec. 55 also provide very vast power of arrest i.e. arrest of any person who found taking precautions to conceal his presence, who cannot give satisfactory account of himself or has no ostensible means of subsistence, who is by repute an habitual; thief, robber, house breaker, receiver of stolen property, commits extortion etc. even police has vast power to use all means necessary to effect the arrest even to cause the death of a person who attempts to evade arrest u/s 42 Cr.P.C. These unfettered and absolute discretionary powers are amounted to deprive of liberty which is serious matter in a free country. Even section 55(1)(c) of Cr.P.C tends to punish status. One might ask: why should a citizen of a free country be subject to such vast constraints? Why should a citizen to satisfy with his ostensible means of subsistence or even to the still greater restraint of giving a satisfactory account of himself? (Karim, 2019) Does the constitution permit the imprisonment of a person for mere reputation or for what is a man’s condition or status?

2.4. Grounds for Arrest

The existence of probable cause or grounds is a condition necessary for lawful arrest. Article 10 of the Constitution and Article 4 (j) of the Police Order, 2002 make the existence of grounds or probable cause necessary for arrest. The supreme court of Pakistan considered the question of requisite material or of probable cause in the light to justify the arrest and held that there can be no arrest without probable cause (Muhammad Mushtaq case,

2007). Although, safeguards against arbitrary arrest are provided in Article 10 of the Constitution and Article 4 (j) of the Police Order 2002, in which probable cause and sufficient grounds are made necessary condition for arrest but police after registration of case promptly and directly goes to the arrest of nominated persons. The 7-member bench of the Supreme Court also held in reference to S. 54 and 55 of the Cr.P.C that “ordinary no person is to be arrested straightaway only because he has been nominated as an accused person in FIR or in any other version of incident until the investigation officer feels satisfied that sufficient justification exists for arrest and for such justification, he is to be guided by the relevant provisions of Code and the police Rules 1934.” (Mst. Sughran Bibi case, 2018) The meaning of probable cause or justifiable ground of arrest is that “facts and circumstances sufficient to warrant a prudent man in believing that the suspect had committed an offence.” (Karim, 2nd Edi. 2020) It is a practical, non-technical standard and not finely tuned standard as proof beyond reasonable doubt as applied at trial stage. Arrest without probable cause or on justifiable grounds is abuse of power. It was held by the Supreme Court that “If a police officer arrested a person in the absence of the requisite material justifying the same and only on the pretext of such a person being mentioned in the FIR then such would be an abuse of power by him” (Muhammad Bashir case, 2007).

2.5. Handcuff

Arrest through Handcuff is humiliation to some degree. Humiliation of person is contrary and inconsistent with the fundamental right of dignity guaranteed by Article 14 (1) of the Constitution of Pakistan. Non-humiliation and self-respect are necessary conditions of a life worthy of human dignity (Karim, 2020). Arrest not necessarily entails handcuffing but it can be done by physically touching the body of the person arrested or confining him even it can be done by speaking word (Section 46 Cr.P.C). A person can be arrested when he would have believed that he is not free to leave. Neither the Constitution of Pakistan nor the ordinary legislation provides handcuff condition for arrest. Only Rule 26.21A of the Police Rules, 1934, empowers the police to handcuff the accused. Under Rule 26.22(2), the police office must give reason to handcuff the “better class” prisoners only for safe custody. Under trial prisons were divided into two classes: better class and ordinary class. The former class was accustomed to a superior mode of living by their social status, habit of life or education. Under Rule 26.23, prisoners were not to be handcuffed except in exceptional circumstances. The English Colonial rulers made such fine things as human dignity which should be appreciated. Presently, Pakistan is independent, Islamic democratic country having constitutional system dominated by fundamental rights where Article 10A guarantees fair and due process and Article 14(1) provides an absolute right of dignity of man and woman but discretionary power of police to handcuff - which indeed is integral part of the criminal justice

- is totally un-guided which results hasty and ill-advised police action. Therefore, there is dire need to provide comprehensive mechanism and structure through primary legislation for exercising discretionary power of handcuffing which must confirm the safeguards provided in constitution through Articles; 10, 10-A and 14(1). "There should be no arrest and indeed no handcuffing unless it is necessary to deter, maintain rule of law or protect the community." (Karim, 2020) Hence guiding principles should be provided to the police for exercising discretionary power of hand cuffing with sensitivity as well as firmly and fairly.

2.6. Inconsistency with the Constitution

Safeguards against the unlawful arrest and detention was provided in Cr.P.C even prior the Constitution and police take it as guidance but there is inconsistency between some provisions of the Cr.P.C and the Constitution dealing with arrest in some important aspects. Sections 60, 61 and 81 of Cr.P.C, are inconsistent with the Article 10 of the Constitution in some important respects which is serious omission and can lead to serious consequences to the life and liberty of the citizens (Karim, 2nd Edi. 2020). Inconsistency of Section 60 with Article 10 of the Constitution in the following aspects; i) the former applies only to the arrest without warrant whereas the latter applies both arrests with and without warrant, ii) the former permits to produce the arrestee before officer-incharge of police station whereas the latter requires to produce him only before magistrate who being neutral and impartial judicial officer will determine the probable cause or requisite material necessary for arrest so production before officer-incharge police station plainly does not serve the purpose which is intended to be served by his production before impartial judicial officer and iii) the former applies only to arrests made by police whereas the latter applies to all arrests made by whatsoever (Karim, 2020). Inconsistency of Section 61 with Article 10 is that the former applies to the arrests without and arrests by the police whereas the latter applies all arrests with or without warrant and made by whatsoever. Section 81 inconsistent as it permits to produce the arrestee "without unnecessary delay" and not within 24 hours. Section 85 is inconsistent with respect to the fact that it permits to produce the arrestee before District Superintendent. Bringing the inconsistency of arbitrary powers of the police to the inconformity with the Constitution can prevent misuse of process by the police.

3. Reasons for Inefficiency of Police

Inefficiency of police is the main cause of defective investigation which is the major reason for the high rate of acquittal. There are many reasons for the inefficiency of the Police, especially in investigation, but the major ones are as follow.

3.1. Political Interference

The main stumbling block in the honest, transparent and effective working of police is political interference in the administration of police

(Shigri, 2012). It has been observed that ““officials who try to follow rules often face resistance and humiliation by being immediately transferred, disallowed from completing their tenures, made officers on special duty or subjected to baseless proceedings of a disciplinary nature” (Shigri, 2012). The politicians who mostly maintain a feudal mentality are consistently having control over the power structure in the country and the police force since its inception till day remained the political strong arm for status quo due to that public frustrated from the police forces. “In the name of political expediency, successive Pakistani governments have used the police as a tool to suppress political opposition, while military rulers have used the police to stifle dissent” (Shigri, 2012) Presently political consideration is main base for the appointment to key command posts. “Command-level officers are often chosen on the basis of their willingness to comply with illegal orders, flout the law, or harass political opponents”. In recent decades, many senior police officers became politicized to become in the good book of one party or the other. The politicians used police forces as tools in rural areas of the country for allowing or curbing rigging or for torturing or teaching lessons to their opponents (Abbas, 2012).

3.2. Corruption

The corruption is common phenomenon in the institutions of Pakistan and its very perceivable in the police department. According to the Corruption survey of 2013 of the International Transparency “the police and the Land Revenue departments were perceived as the most corrupt departments in the country” (Transparency, 2013). The police are perceived to be corrupt as a matter of course. Police corruption is the root cause for weak prosecution of criminals and alarmingly high rate of acquittal. “The government not only tolerates corruption but actually encourages it, with an eye on short-term gains” (Shigri, 2012) political interference in the administration of police through posting and transfer has become an important source of corruption. The political leaders who accept bribes, have police officers of their choice and money-making machines hence if we say that the only political leaders are corrupt would be partially true (Pervez, 2015). It’s a general perception that police is corrupt, un-trusted, non-credible, incompetent and brutal due to that ordinary people avoid approaching to police.

3.3. Lack of police capacity or inadequate Training

Crime investigation is technical and specialized work but unfortunately Investigating officers are not adequately trained. In many judgements of the superior Judiciary, it was observed that

“It is indeed a fact that even today an officer investigating a case of murder has no concept of (1) securing the scene of the crime so that the place where the occurrence has taken place as well as the surrounding area is not trampled

or invaded by the general public before the investigation officer has had an opportunity to collect evidence from the place of occurrence, (2) how to secure incriminating articles, like pieces of cloth, blood, fiber or hair etc from the place of occurrence and its surrounding area, (3) how to lift and secure fingerprints from various articles found inter alia at the scene of the crime and to get them examined and matched for purposes of investigation, (4) how to ensure that all incriminating articles are properly secured from the spot and delivered promptly and intact to a forensic laboratory and/or fingerprints expert in safe custody and without being tampered with, and to expeditiously obtain the results from the forensic laboratory so as to be credibly admitted in evidence during the trial.” (Haider Ali case, 2015).

In case ‘Haider Ali and Other Vs DPO Chakwal and others’ the Supreme Court of Pakistan directed all the provinces and Federal that “Adequate provision should be made for the training of police officers and the development of specialized investigation officers and facilities” (Haider Ali case, 2015) Asif Saeed Khosha the then Chief justice, while heading meeting of Police Reforms at L&JCP emphasized on the training of investigating officers and prosecutors from the judicial academies across the country to improve their professional standards (Hasnain, 2019).

There are so many other reasons such as lack of modernization, Lack of Credible Accountability Mechanism, (Haider Ali case, 2015). Unconnected institution or non-coordination, dysfunctional Relationship between Police and Intelligence Organizations, Lack of Transparency Lack of implementation, colonial mind set of police, dishonesty, ease lower, Maladministration of police as Not to register FIR upon information about commission of cognizable offence instead of settled principle by the superior judiciary that police has not discretion whether to register FIR or not upon receiving information about commission of cognizable offence but pushed the parties into various rounds of litigation on the simple issue whether the FIR should be registered (Haider Ali case, 2015). Non submission of Challan within stipulated period, no effective safeguards with the police to guard against maladministration and No action against false and vexatious complaint Police can file criminal case against the complainant if the content of his complaint found false and vexatious under relevant provisions of PPC. Previously the punishment of giving false information was 6 months but same was enhanced in the year of 2017, up to seven years, five years and one-fourth of longest term of imprisonment, in case offence is punishable with death, life imprisonment or other respectively (Section 182, PPC).

4. Separation of Investigation Functions and Introduction of District Investigation Branch Under Police Order 2002

Investigation of crime is the core function of police, and its importance is recognized by separating investigation from other police functions. It was a great initiative and a milestone for making police professional, taken by the Police Order 2002. The Punjab introduced an amendment in 2013 where Article 18 was amended for streamlining much debated concept of establishment of District Investigation Branch (DIB) and raising the supervision level of investigation and added Art. 18-A for streamlining change of investigation within district along-with timeframe for decision on change of investigation.

Art. 18 of the police Order 2002, envisioned separation of investigation function from other functions of the police. It requires separate investigation staff at every police station, they will not be engaged for maintenance of law and order and SHO will provide them administrative support for conduction of investigation. The separation aims to develop requisite expertise, achieve continuity of investigation and promote greater efficiency leading to better results (Javaid & Ramzan, 2013). The sense of said Article is reproduced here for better understanding.

Article 18: Separation of Investigation Function

1. There shall be a separation of investigation function from the other police duties.
2. Subject to clause (3), the DIB, under the supervision of the Head of the DIB, shall investigate all cases registered within the district.
3. The Provincial Police Officer (PPO) may specify which offences will be investigated by the police station's investigation officer under the supervision of the officer-in-charge. If a case requires investigation by the DIB, the entire case shall be handled by the Branch.
4. The DIB, excluding the Capital City District or a City District, shall be headed by a police officer of at least the rank of Superintendent of Police (SP) and shall include other officers as determined by the PPO.
5. In the Capital City District and a City District, the DIB shall be headed by a police officer of at least the rank of Deputy Inspector General (DIG) of Police and Senior Superintendent of Police, respectively, and shall include other officers as determined by the Provincial Police Officer.
6. To establish functional specialization within each District, the PPO shall determine the investigation organization and jurisdiction at the District, City District, Capital City District, or divisional levels as required.

7. members of the DIB shall not be part of any police station and, as much as possible, the Branch shall consist of several specialized wings, each responsible for investigation specific types of cases.
8. The head of DIB shall report directly to the Head of the District Police.
9. Supervisory officers shall (a) ensure timely completion and verification of investigations and (b) Summon the I.O or team, review the case file, evaluate the evidence, and issue instructions regarding the investigation and case diary.
10. A supervisory officer of at least the rank of DSP may verify the accuracy of the investigation and conclusions by writing a case diary before submitting the report to the court.
11. The officer-in-charge of the police station shall immediately inform the DIB upon receiving information about an offence that requires their investigation.
12. If the Head of the DIB believes a case under their jurisdiction does not fall within their remit, they shall, with notification to the head of the District Police, transfer the case to the officer-in-charge of the police station for further investigation.
13. if the officer-in-charge of the police station believes a case being investigated by station staff requires the DIB's attention, they shall, with notification to the head of the District Police, transfer the case to the DIB for further investigation.
14. Except in emergencies as notified by the PPO for a specific period, members of the DIB should not be assigned duties other than investigation.

In 2010, the Hon'ble Chief Justice of Pakistan initiated police reforms in response to various issues plaguing the police force, such as ineffective accountability and significant flaws in investigations, which were major factors contributing to high acquittal rates and widespread criticism of the CS. He convened a meeting with serving IGPs from the four provinces, including ICT, and a selected group of retired IGPs. Together, they formed the Police Reforms Committee (PRC) under the aegis of the Law and Justice Commission of Pakistan (LJCP), focusing on seven key topics. The PRC submitted its report in 2018, which is available on the LJCP's official website. The report provides suggestions and recommendations for police reforms, including the Model Police Law of 2018. Notably, it advocates for a complete separation of public order duties from investigative functions across all levels of the of the police hierarchy, with adequate separate budgetary provisions. The PRC by the LJCP noted that Punjab has addressed some flaws in the original Police Order, Investigation design by amending Article 18. However, further refinement and streamlining of the design are still necessary (Police Reforms, 2018). The report also outlined steps to enhance the technical and legal quality of investigations. These include establishing specializing investigation units for heinous crimes with

geographical squads, creating a centralized databank of crimes and criminals, disseminating criminal intelligence and analysis, and providing technical and forensic services. Additionally, it suggested that the investigation Wing staff should act as second responders to crime scenes, registering cases based on complaints or istaghasa dispatched from the scene by these second responders within their respective police divisions (Police Reforms, 2018). The Report proposed several organizational changes aimed at significantly enhancing the quality of investigations. It recommended establishing a separate investigation hierarchy in the province, headed by an AIG of police, assisted by a Deputy IG (Investigation), and four Assistant IG of police overseeing administration, crime, legal matters, and forensics. Additionally, Addl. IGP (Investigation) would be supported by a Director of Statistics and other essential staff (Police Reforms, 2018). The report also recommended the establishment of special investigation units dedicated to organization and heinous crimes such as homicide, kidnapping for ransom, terrorism, dacoity, robbery, and human smuggling.

5. Conclusion

The role of the police is indispensable in effective administration of CJS for upholding the rule of law, protecting citizens' rights and ensuring justice to the victim and offender alike. In the apparatus of criminal justice, the police are a core & key player who solely investigates the criminal case – despite the other mechanism provided in procedure – but by the passage of time its credibility, honesty and impartiality came under question. Lodging FIR is very difficult job for innocent and gentle man however, somehow easy for influential people. FIR became a tool for getting revenge and illegal settlement with weaker; therefore, present mechanism of FIR should be abolished for avoiding its excessive misuse.

There are number of fundamental and key issues of police and investigation which are seriously undermining the state of CJS of the country. The discretionary police power to arrest is one of the most awful, the most humiliating and the most divesting powers which is mostly subject to exploitation. Direct arrest after registration of FIR without cogent evidence is one of the reasons of frustration of people from the police. Inefficiency of police is the main cause of defective investigation which is the major reason for the high rate of acquittal. There are many reasons for inefficiency of Police especially in investigation but the major ones are; political interference; corruption, Lack of Transparency, Lack of police capacity or inadequate Training, lack of modernization, Lack of Credible accountability mechanism, unconnected institution or non-coordination, dysfunctional relationship between Police, Commissioner and Intelligence Organizations, Lack of implementation, colonial mind set of police, dishonesty, ease lower, Maladministration of police. In Pakistan, there is consensus that revamping the criminal justice system is need of the hour for

fighting against terrorism, extremism, serious crimes. The superior judiciary of Pakistan mostly pointed out that more deserving area for revamping is investigation and prosecution. No doubt that most deserving area for reforms is investigation and prosecution but according to the research no desired result can be obtained without taking all interlinked laws and organization together for reforms unfortunately this strategy is not under consideration of reforming community of Pakistan. So, the way forward lies in depoliticizing, modernizing and enhancing the capacity and integrity of the police force to perform its duties with impartiality and dedication.

Recommendations

1. Effective policies should be made and implemented to eliminate political interference in police operations, ensuring that officers perform their duties based solely on legal guidelines.
 2. An independent oversight body should be established to strengthen and ensure transparency and accountability mechanism.
 3. A separate Investigation Branch must be established and fully activated with specialized teams dedicated to thorough and impartial investigation at District, Divisional and Provincial level.
 4. Modern training programs must be introduced for police officers with special focus on evidence-based training. The investigation officers and staff must also be educated on human rights, ethical practices and advanced investigative techniques particularly forensic and digital investigation.
 5. Reforms must be introduced for arrest. Police's power must be restricted. The police should not arrest any individual without cogent evidence. Strong judicial oversight on arrest must be established to prevent arbitrary detentions.
 6. Investigating police must be equipped with advanced technology and forensic tools to improve the accuracy and reliability of evidence collection.
 7. The process of registration of FIR must be streamlined. Simplifying and digitalizing the process of registration of FIR will reduce misuse and will be accessible to everyone. It will also reduce the risk of biased.
 8. Strong coordination between police, prosecution, executive and intelligence agencies must be established to create a cohesive approach to criminal investigation.
 9. The handcuffs must be restricted to the desperate and hardened criminals as handcuffs and detention conditions must be aligned with constitutional rights. It will also reduce instances of humiliation.
 10. Public awareness campaigns must be conducted with the aim to build trust in law enforcement and encourage community cooperation, fostering a more transparent and supportive policing environment.
- Implementing these recommendations can pave the way for a fair, accountable, and efficient CJS in Pakistan, better serving both the public and the state.

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