



Innocent Until Proven Guilty: Addressing Problem of Criminal Investigation in Pakistan

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Abstract

Criminal investigation of murder cases in Punjab, Pakistan is not up to mark, and this results in pendency of such cases for years. The time span for data collection for the present study ranges from January 01 to 31st of December 2020. The data is delimited to the murder cases filed in district Multan, Punjab (Pakistan) during the mentioned span of time. The data has been analyzed by using analytical research methodology techniques. Some of the filed cases out of ninety-five (95) have been analyzed in detail, while rest of the murder cases filed in district Multan, have been generalized to support qualitative findings quantitatively. These cases were submitted in district courts of Multan for justice. The analysis of the collected data so far reveals that none of the filed cases (95) has been decided. Rather, five cases out total have yet not been submitted to the courts after investigation by the police concerned. Rest of cases are being trailed in the session courts at initial stages. It contends that the rate of dispensation of criminal cases is alarmingly low in the mentioned law courts of Multan, Punjab (Pakistan). The studies recommend that an advanced system police investigation must be introduced, investigation officer should be scientifically trained, and the sense of professional and moral honesty should be imparted among them. In this way the police investigation system in Punjab, Pakistan can be improved according to the demands of modern time.

Keywords

Criminal justice, Criminal investigation, pendency, criminal cases, Punjab,

Pakistan Police, investigation process.

A- Introduction

The criminal investigation in Punjab, Pakistan effectively begins when the police report lodged in other words, The police function (after receiving) complaint/report) as the point of entrance into the criminal justice system, as well as a doorway to access the justice but in the function of police to investigate the case is tough task. When it comes to ensuring justice for victims, their loved ones, and those responsible for their crimes, police investigations are by far the most crucial aspect of the system. Mostly, criminal cases are failed/delayed in getting justice from the court due to a poor police investigation, which has been frequently cited as the main reason of failure in the Criminal Justice System in Punjab, Pakistan¹.

All Inspector Generals of police in Pakistan have been ordered by the Supreme Court of Pakistan to immediately prepare a handbook of "crime investigation" based on previous experiences, illustrations, practical applications, and case-laws developed by superior courts, which will be used for using knowledge of investigation kits and preparing computerized data for the crime. It was ordered by Chief Justice of Pakistan, in a pre-arrest bail case in which the Inspector General of Islamabad was also summoned as under².

"Such handbook of investigation should be immediately prepared but not later than six months from today [Wednesday], and it should be made available to each of the investigation officers, who are involved in the investigation of the crime. The handbook on investigation shall be updated every year and new experiences shall be added along with the latest case-law given by the superior courts. New investigation tools shall be added to every new edition, to be issued every year on 1st of July,"

B- Literature Review

In this section the researchers have provided examples of previous research conducted in the relevant area. This has been done to create gap for the present research.

I- Rajput 2020, conducted research on the impact of defective investigation and prosecution process on the trial of cases. They collected data from different courts Karachi, Pakistan during 2019 about the conviction rate in Pakistan for this purpose the researchers have also cited conviction rate in India (which is 37.4%, in England it is 90% and in Japan it is 99.9% whereas when compared with these countries this rate is 8.66%). The research highlights that there are multiple factors behind this such a low rate of conviction in Pakistan. It is directly proportional to the wrong committed during investigation process and it also highlights defective

¹National Police Bureau, Ministry of Interior, (2021) "Handbook Criminal Investigation in Pakistan", available at: <https://rsilpak.org/project/handbook-on-criminal-investigation-in-pakistan-2021/> (accessed 06 March 2022)

² Order dated 12.05.2020 (Supreme Court of Pakistan) in Criminal Petition No. 419 of 2020 (Saddam Hussain vs The State)

prosecutions in Pakistan. It contends that courts are not the only responsible side rather the way cases are investigated and data that is provided before the courts all this becomes the cause of lethargy. Moreover, the research highlights that the evidence process is scanty. The law requires proof to decide any case when witness and proofs are distorted before the courts ultimately, the courts would not be in a position to decide cases based on justice. The research some recommendations to improve the current situation. It also suggests that police, prosecutors and executive authorities fail to do their duties³.

II- Saeed and Hussain 2020, conducted their research on investigation under criminal justice system in Pakistan. The data for the study was collected from the courts of Bahawal Pur, Punjab, Pakistan during 2020. The study highlights that investigation process is of vital significant in criminal justice system. It is taken as main pillar of criminal justice system. If investigation is not carried out properly, one cannot expect that prosecution process and conviction rate would improve. According to the researcher's police investigation is meant to collect facts and figures about the cases under investigation. Our investigation system according to the researchers is not up dated. If investigation is not carried out according to modern trends nothing can improve regarding criminal justice system. The research has analyzed the existing system of investigation and its compatibility in the present era. The research concludes that most of the criminal cases do not result in a conviction due to faulty investigation. This research also recommends that investigation process should be made in accordance with the new trends and it must be implemented honestly⁴.

C- Statement of the problem

The pendency of murder cases in Pakistan has been alarmingly high during different years. One of such examples is the ratio of murder cases reached in the office of Inspector General of Punjab Police, which is 1,771 during the year 2016⁵. These are the complaints against defective investigation received during 2016 in the I.G. office. This has served as main cause (statement of the problem for the present research to be carried out.)

D- Theoretical and methodological aspects of the study

It is necessary to elaborate the police investigation in Pakistan before comprehending it. There are numerous police investigation definitions, such as: "An investigation conducted by police officers with a view to it being ascertained

³ Rajput, M. Arif & Rajput, M. Riaz (2020), Impact of Defective Investigation and Prosecution on trial" Available at, <https://www.sciencepublishinggroup.com/journal/paperinfo?journalid=202&doi=10.11648/j.ss.20200906.17> (accessed 07-02-2022)

⁴ Amjad Hussain and Khalid Asghar, (2020), "The Study of Procedure of Investigation under the Criminal Justice System: A Case Study of Pakistan", Available at: <https://www.glsrjournal.com/papers/82Yc7xRvFL.pdf> (accessed 07 March 2022)

⁵ Tariq Khosa, (2016), "Destroyed and incompetent: the broken police force", Available at: <https://www.dawn.com/news/1303234>, (Accessed 07 March 2022)

whether a person should be charged with an offence, or whether a person charged with an offence is guilty of it"⁶.

"Investigation" is a word confined to proceedings of Magistrate, and that "Inquiry" is the word appropriate to the proceedings of Magistrate prior"⁷.

"The collection of information and evidence for identifying apprehending and convicting suspected offenders"⁸

"investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf"⁹.

E- Data Analysis

This section deals with the analysis of the collected data and the steps involved in this process. The process of police Investigation in District Multan, Punjab Pakistan has also been discussed in the section that follows. The researchers have also mentioned the questions which are usually asked during the investigation of murder cases by the investigating officer. These steps have been discussed below on one hand to analyze the data and on other to show what could be the possible reasons behind the pendency of cases: Three examples in this regard have provided here in the following section which highlight that investigation process of murder cases is faulty and hence results in pendency of such cases. Three (03) examples have discussed chronology in the section that follows.

I- Nonprofessional behavior of Investigating Officer

Nonprofessional behavior of the Investigating Officer makes victimized party despaired. The Investigating Officer uses different ways to extort money from both parties. He exploits the victimized party through various ways. On 14-08-2015, Muhammad Younas was murdered in a dacoity. He was well known businessman of Hussain Aghahi Market, Multan, Punjab. After, receiving the Medical Report from the Medical Officer, Department of Forensic, Nishtar Medical College, Multan filed an FIR No.154 dated 14-08-2020 against the unknown persons in the Dehli Gate, Police Station, Multan, Punjab.

The investigation of this case was marked by the concerned SHO to a Sub Inspector, being an Investigating Officer. In the beginning of the investigation, he intimated the victimized party that he needed money to investigate the matter because he has to raid at different places to arrest the accused. It is an expensive task. A handsome amount was given to him to initiate the investigation. After passing one week, he demanded more amount without showing any efficiency. When amount was not given to him, he started to disturb the legal heirs of the deceased

⁶ London: Legislation.gov.uk *Criminal Procedure and Investigations Act (1996)* [online]. available from <https://www.legislation.gov.uk/ukpga/1996/25/part/II> [11 July 2019]

⁷ K.Krishmurti's: *Police Diaries, Statements, Investigations, Prosecutions, Arrests*, The Book Company, Allah Abad, India, P.159

⁸ Elinor Ostrum, (1978), "Patterns of Metropolitan Policing, Cambridge: MA: Billinger", P-131

⁹ Cr.P.C. (Pakistan) Under Section 4-L

by using different tactics. He knocked door of them, after passing half or more night when they were sleeping at their homes after coming from their business. He informed them to come to the police station with the witnesses now and identified the accused persons who were arrested by him. On reaching the police station, they knew that these persons/accused were not relevant to their case but they were arrested in any other cases. This practice continued for weeks. The deceased was having business of motorcycles and its spare parts. Mostly, Investigating Officer, reached with other constables at his shop and asked them for lunch, dinner and other costly refreshment. Usually, he and his team members took costly spare parts of motorcycle without pay paying any penny and without permission. This practice also continued for months. In short, the victimized party decided to withdraw the case due to illegitimate attitude of the Investigating Officer. At last, they submitted an application before the SHO of the concerned Police Station that they intended to withdraw the case, wanted to have stopped the further proceedings. They also assured the SHO that they are doing so with their own free will and consent. The victimized party has also recorded the same statement before the concerned Magistrate to withdraw the case. In this way, a noble family saved its time to maintain the business and money from extortion after deciding to leave the murder case of their beloved relative. Such practice of the investigating officers not only lingers on the cases, but they create the hindrances in the smooth proceeding of the cases. In this way, they also compelled the victimized parties to deprive them of the justice by using their nonprofessional behavior and attitude.

II- A case about the murder of Mst. Shahnaz Bibi was registered in the police station, Muzaffarabad, Multan, Punjab, vide FIR No.258 dated 09-03-2020. An application was submitted before the Judicial Magistrate (Section 30) to call the record from the police of concerned police station so that the trial of this case may be started. On 08-03-2020 two years have been completed but the police record and challan (Charge sheet) u/s 173 Cr.P.C. has not been submitted in the court for initial inquiry which will be conducted by the Judicial Magistrate (Section 30). This appeal was accepted vide No.17791520 by the Judicial Magistrate (Section 30) because police is bound to submit the challan of the case within 14 days after arresting the accused according to criminal law.

The Judicial Magistrate (Section 30) conducted 26 hearings of this appeal and issued the directions to the police to produce the police record but concerned police failed to do it up till now. It is pertinent to mention here that after receiving the police record, the concerned Magistrate would start initial inquiry and after completion it he will forward the case before Session Judge, Multan, for its trial. The Session Judge will observe the case, if this case is suitable for trial then he will mark it to the Additional Session Judge for its trial otherwise return it to the Magistrate to redress the observations imposed by the Session Judge. In short, this case is pending at the end of police record till now and no progress has been shown in getting justice from the court due to negligence of police Investigating Officer. This proves that even after passing the span of two years the police is still unable to submit challan before

Magistrate. Hence, it is resulting in pendency of this particular case.

III- A murder case FIR vide No.520 was registered in the Sadar Police Station, Multan, on 23-10-2020. Accused was arrested on 27-10-2020 and physical remand was taken from the Judicial Magistrate (Section 30) on 28-10-2020 for four days. In this period investigation was not completed by the police Investigating Officer. He took more physical remand on 6-11-2020 for three days but he could not complete his investigation. Then, he applied for more physical remand on 09-11-2020 but his requested was rejected by the Judicial Magistrate with the direction to submit the challan and accused be sent for judicial lock up.

After receiving the Chalan, an initial inquiry was conducted by the Judicial Magistrate. A charge was framed against the accused on 16-02-22 and case was prepared for trial. This case was sent before the Session Judge, Multan, for the selection of court trial on 27-10-2022. The Session Judge marked this case to the Additional Session Judge, Multan on 10-02-2022. After receiving the case from the Session Judge, the trial of the case was initiated on 16-02-2022. On 01-03-2020 police witnesses were called for case evidence, but they did not appear. Next date of hearing was fixed on 14-03-2022 for police evidence. Now the case is pending in the court at the end of police by not appearing before the court for evidence. This particular example illustrates that how cases are kept pending for years because of inappropriate system police investigation in Multan, Punjab, Pakistan.

E- The questions to be asked in the investigation

The process of police investigation usually involves the following the questions starting with the interrogative expressions¹⁰:

“What, How, Who, When why and where”

F- Law relating to Police Investigation in Pakistan

A police investigation is conducted according to the procedures outlined in the Criminal Procedure Code (CrPC) (year?) and the criteria outlined in Chapter 25 of the Police Rules 1934 (PR34). The investigating officer (IO) prepares a challan under section 173 Cr.P.C. for submission to the court. Once the evidence has been collected and the grounds of involvement or being innocent of the accused have been provided, it becomes easier for the court to decide the case.

G- Who can conduct police investigation?

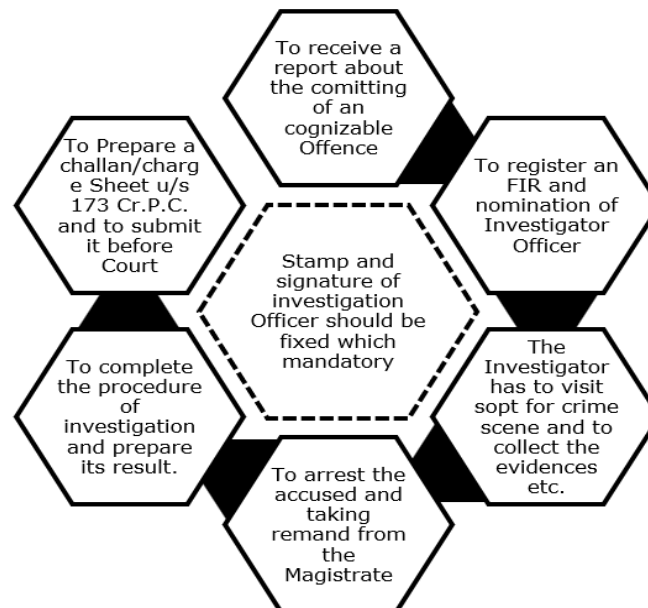
In Pakistan, after lodging the First Information Report (FIR) of a cognizable offence “Means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant” at any police station under

¹⁰ Imdad Hussain Sathito, “The Criminal Investigation in Pakistan: Trends and Reality,” available at: http://pu.edu.pk/images/journal/studies/PDF-FILES/Artical%20No-9-V10.%20No.2%20Dec_09.pdf (accessed 07 March 2022)

section 154 Cr.P.C. The Station House Officer (SHO), who is in charge of the police station, is authorized to assign to his/her subordinate having the rank of Sub Inspector or Assistant Sub Inspector (ASI) to investigate the case¹¹.

H- Function of Investigating Officer during the course of Police Investigation

Investigation Officer is performing his/her duty during the course of police investigation just like a driver. This process depends upon the professional competency, honesty and sincerity of the investigation officer. In this regard the case under process can be made more complex or resolved depending on the means of investigation and competence of the office involved in the process¹². The malfunctioning of the investigator can deprive the victim from the justice or can result in delaying the case in any court of law at any stage.



I- FUNCTIONAL AND ADMINISTRATIVE GROUNDS OF POOR/DEFECTIVE POLICE INVESTIGATION

There are many functional grounds which make the police investigation poor and defective in Pakistan. They include unskilled, unqualified and non-experienced staff, no use of modern techniques (Forensic Science, Fingerprints and Digital Evidence) always using old and traditional methods during interrogation: slapping, beating and torturing etc. not visiting the place of occurrence for crime scene, mentioning/recording incomplete evidence, negligence of duties, malpractice,

¹¹ Imdad Hussain Sahito, "The Criminal Investigation in Pakistan: Trends and reality", available at: http://pu.edu.pk/images/journal/studies/PDF-FILES/Artical%20No-9-V10,%20No.2%20Dec_09.pdf (accessed 07 March 2020)

¹² Mohi Udin, (2017), "Role of Investigating Officer (IO) in Criminal Proceeding: Bangladesh Perspective" available at https://www.researchgate.net/publication/335790057_Role_of_Investigating_Officer_IO_in_Criminal_Proceeding_Bangladesh_Perspective (accessed 07 March 2022)

nepotism and dishonesty.¹³ However, some of them are elaborated as under:

I- Persistent dearth of Forensic Lab in Punjab

According to Dr. Muhammadd Ashrat Tahir, Director General of Punjab Forensic Science Agency that Punjab Forensic Science Agency is working in Lahore, Punjab and this is the second largest laboratory in the world. Latest technology is also introduced in it. The Director declared that 14 departments are functioning in this Lab which are mentioned below:

"Mock Crime Scene Training facility. Fourteen disciplines of Forensic Science in the Punjab Forensic Science Agency, including Crime Scene Investigation, Death Scene Investigation, Firearms & Tool marks, Latent Fingerprints, Polygraph, DNA & Serology, Trace Chemistry, Narcotics, Toxicology, Pathology, Computer Forensics, Audio Visual Analysis, Questioned Documents and Forensic Photography could be seen under one roof".

The Director further stated that the results of this laboratory are reliable. This lab saves the specimen of original evidence for 25 years. If someone has some observations on the result of this laboratory then s/ he has right to check the authenticity of the results issued by this lab from any advanced countries of the world i.e., USA, UK. S/he will find the same result¹⁴.

In-spite of this, this only Lab is insufficient in Punjab because 728 police stations are working in this province¹⁵. 4,05,895 criminal cases were reported in the different police stations of Punjab during the year 2017¹⁶. Approximately 4,08,064 cases were reported in the different police stations of Punjab during in the first 10 months of 2019¹⁷. Over burden of tests makes its performance slow. The requirement of heinous nature cases demand to quick response from the lab but in such type of cases the results of this lab come late for months. Resultantly, all concerned institutions of criminal justice system are affected very badly. A young man named Bisharat Ali, was murdered after giving poison in District Nankana Sahib, Punjab on October 2007. His postmortem was conducted, and some parts of his body were taken (which were necessary for chemical examination and others) and sent it in this lab for chemical examination, but his report was issued by this laboratory on May 2008 after passing six or seven months¹⁸.

¹³ Sy. Akhter Ali Shah, (2021), "Investigation: A weak area of Policing", available at: <https://tribune.com.pk/story/2280589/investigation-a-weak-area-of-policing>, (accessed 07 March 2022)

¹⁴ Sher Ali Khalti (2020), "PFSA 2nd largest, reliable forensic lab in world" available at: <https://www.thenews.com.pk/print/671342-pfsa-2nd-largest-reliable-forensic-lab-in-world> (accessed 07 March 2022)

¹⁵ Statics data of Police Stations, is received from the office of the Deputy Inspector General (Central) Southern Punjab

¹⁶ Ashraf Javaid, (2018), "Punjab Saw 405,895 Crimes in 2017", "The Nation" January 22, 2018. P-7

¹⁷ Ashraf Javaid, Punjab Saw 405,895 Crimes in 2017, "The Nation" December 16, 2019. P-5

¹⁸ Anwer Sumra (2012), "Evidence Tempering: Forensic Officials accused of faking reports", available at: <https://tribune.com.pk/story/378827/evidence-tampering-forensics-officials-accused-of-faking-reports> (accessed 01 March 2022)

II- Getting Medico Legal Certificate is a tough task:

Mostly, in cognizable offences, where Medico Legal Certificate is so much necessary for registration of an FIR in any police station of Punjab, Pakistan. First of all, the procedure of getting Medico Legal Certificate is complicated but the corruption makes it more problematic. One has to pay reasonable amount to all concerned for getting original and accurate Medico Legal Certificate.

In the first instance, one has to call on "15" on police helpline to report the occurrence. On arrival of police, one is called to police station to prepare a map of injuries. If amount is not paid to the police, the process of preparing the map of injuries is delayed accordingly. After preparing the map of injury concerned police station bound a constable with victimized party. This constable produces the map of injury and victimized person/s before the Medical Officer because he is duty bound for doing so.

If any person wants some changes in it then s/ he has to pay desirous amount to the Medical officer. Mostly, Medical Officers, openly or through their touts tell both the rates of his original and bogus Medico Legal Certificate. If victimized fulfills the demand, of the Medical Officer, then he will be able to get Medico Legal Certificate in time and goes to the police station for the registration of the FIR timely. Otherwise, Medical Officer has a lot of pretexts to delay Medical Certificate for many days or months. For example, He puts the case "Keep Under Observation" (KUO terminology is used) because he has to wait the results of the x-rays, ultrasound and opinion of the concerned other doctor of the ward etc. In injury cases, s/he can also use delaying tactics "Depth Not Proved" (DNP, terminology is used). On this, the victimized referred to the concerned Surgeon (Doctor) of the ward and tries to seek his opinion about wound so that the Medical Officer may be able to mention actual size of the wound in the Medical Certificate. In other words, we can easily say that DNP means "Dues Not Paid" hence, the process of issuing certificate is delayed¹⁹.

Mostly, Medical Officers are selling bogus Medical Certificates in Punjab. On 2009, The District and Session judge, Multan, prepared a comprehensive report that 66 bogus Medical Certificate were issued during the months of January to March 2009, by the Medical Officers of Khanewal. This report was communicated to the office of the Regional Police Officer, Multan. The report is mentioned below: "People get registered criminal cases against their opponents on the basis of these fake medico-legal certificates and resultantly innocent people have to face cases and trials."

The following Medical Officers of Khanewal area were involved in the issuance of bogus Medico Legal Certificate are as under:

"The report holds responsible for issuance of fake medical certificates seven medical officers from Kabirwala Tehsil Headquarters Hospital, two from Saraisadhu

¹⁹ Abdul Ghani, (2012), "The Discrepancies in Police Investigation Procedure and Possible Reforms in Pakistan", University of Karachi, Pakistan.

Rural Health Centre, five from Khanewal District Headquarters Hospital, two from Jahanian Tehsil Headquarters Hospital, three from Abdul Hakim Rural Health Centre, two from Tulamba Rural Health Centre, one each from Mianchannu and Katchakhu rural health centers”.

On this, The Regional Police Officer, Multan, constituted a Medical Board for the verification bogus Medico Legal Certificate. The report is compiled by Muhammad Kamaran Khan, District Police Officer, Multan. He stated as under:

“All these certificates were challenged in the medical board, which only approved 11 of these. The board disagreed with 21 certificates, declared 26 malicious and eight cases remained pending because of non-appearance of the injured people involved”²⁰

III- Torture:

Torturing is considered a basic tool during the course of police investigation (interrogation) of Punjab police. The police can raid at any home at any time and can also drag the women, children and men without telling them anything. After this, they can send them in their private torture cells which run by the concerned SHO and his/her other police officials. They torture them severely according to their desires with the pretext that they are interrogating from suspects²¹. They tortured to the suspects with numerous methods. They are stretching their legs excessively but very unfortunately nobody can hear the voices of victimizes of police. When a torture cell was pointed out in Lahore (Punjab), at that time six citizens were found illegally detained in it and they were tortured by the constables brutally for months²².

Sometimes, some suspects are died during the inhumanely torture of Punjab Police. On Friday, November 13, 2020, during the police interrogation a citizen of Pakistan was died due to cruelly torture of police, under the custody of police station Chowki Wahga, Lahore. His name was identified as Rizwan²³. After using the third-degree method “Police Torture Culture” another person namely salahuddin ayubi was expired in 2019 due to heartless torture during investigation²⁴.

IV- Corruption/Bribery

Corruption has destroyed the system of police on national and international levels. According to the Transparency International Pakistan, the police and judiciary are most corrupt departments in Pakistan. This report is issued by the

²⁰ Without name ,(2009), “ Doctors ‘Selling’ Medico-legal certificates”, available at: <https://www.dawn.com/news/948799/doctors-selling-medico-legal-certificates> (accessed 01 March 2022)

²¹ Newspaper’s staff reporter, (2019) “Torture Cell” run by SHO, constables unearth in Lahore”, available at: <https://www.dawn.com/news/1501884> (accessed 03 March 2022)

²² Muhammad Shahzad, *Police torture cases continue*, The Express Tribune, August 27, 2019, P-13

²³ Correspondent (2020), “Man dies of alleged Police Torture”, available at: <https://tribune.com.pk/story/2272180/man-dies-of-alleged-police-torture> (accessed 28 February, 2022)

²⁴ <https://www.dw.com/en/deaths-in-custody-the-culture-of-police-torture-in-pakistan/a-50474723>

National Corruption Perception Survey after conducting his survey for the year 2021²⁵. According to the International Survey Report, the police of the Pakistan are very infamous to take bribe from the people during the dealing (when people ask to police, for legal proceedings). 75% people are believing that the police of the Pakistan is almost corrupt²⁶. When the investigation is initiated by the Police Investigator Officer then both parties i.e., complainant and accused party are in trying to give bribe to the investigator so that the investigation report will be written in their own favour. In such circumstances, the complainant party has to bear all kinds of expenses i.e. petrol for vehicles, food and bribe as demanded by the police²⁷. Khalil was a complainant of a murder case because his son was murdered. Amir Cheema, SHO Investigation, Police Station Shahadra, Lahore, received bribe amounting to Rs.55,000/- only to arrest the accused. He demanded more amounting to Rs.50,000/- for further proceedings²⁸. On December 2020, The Chief Police Officer, Lahore, intimated to the high ups of police (Punjab) that two Superintendents of police are involved in corruption. One Superintendent of Police demanded 30 million and a new car for the settlement of valuable property and second Superintendent Police received two cubs of precious tigers from a well-known businessman of Lahore and kept the cubs in the form house of his friend²⁹. The corruption index on international level is given below for the last three years which shows about its rising position. These reports are issued by the Transparency International, The Global Collection against Corruption:

PAKISTAN'S RISING RATE OF CORRUPTION	
Years	Position
2021	140 ³⁰
2020	124 ³¹
2019	120 ³²

V- Political pressure

Politicians take pride in interfering and exerting influence in the business of police and consider it a sign of their success because they have good ties with police officials at the highest levels. By the simple fact that only those politicians are considered worthy and resourceful who can bring the police under their control and pressurize them easily, one may estimate the current moral standards and mental

²⁵ Ansar Abbasi, (2021), "Police and judiciary most corrupt institutions, says TI Pakistan", available at: <https://www.thenews.com.pk/print/915055-police-and-judiciary-most-corrupt-institutions-says-ti-pakistan> (accessed 01 March 2022)

²⁶ <https://www.ganintegrity.com/portal/country-profiles/pakistan>, (accessed 01 March 2022)

²⁷ Jibran Jamshed, (2018), "Corruption in Pakistan Police, An over view", available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3152736 (accessed 2 March 2022)

²⁸ Correspondent (2020), "SHO arrested red handed while taking bribe", available at: <https://www.thenews.com.pk/print/730102-ace-catches-sho-red-handed>, (accessed 01 March 2022)

²⁹ Asif Chaudhary, (2020), "Bribe complaints against two SPs Lahore", available at: <https://www.dawn.com/news/1597274> (accessed 01 March 2022)

³⁰ <https://www.transparency.org/en/cpi/2021> (accessed 01 March 2022)

³¹ <https://www.transparency.org/en/cpi/2020> (accessed 01 March 2022)

³² <https://www.transparency.org/en/cpi/2019> (accessed 01 March 2022)

degeneration of the society. This is a terrible truth, even under the current regime, in which the police apparatus is completely controlled by political forces. Transfers and posting orders of police officers were made on the basis of favoritism by both the provincial and federal administrations, with the merit and service record of police officers being sacrificed³³.

VI- Non-implementation of police order 2002

Pakistan adopted the 1861 Police Act following its 1947 independence. So, despite gaining independence after a long political and legal struggle, the brutal Colonial Police Act 1861 still implemented in Pakistan. The government tried to execute the 'Police Order 2002', however it was never fully implemented. How long did it take to implement Police Order 2002, even throughout the military administration and civil democracy because this police order clearly defined the method of police investigation procedure separately and many other beneficial changes were made in it. Afzal Ali Shigri, the writer of Police Order 2002 expressed his views about the hampering of Police Order 2002³⁴:

"Not only politicians and Pakistan Administration Service (PAS) group showed resentment against the Police Order 2002, but some top police officers were also against the police reforms."

J- HOW POOR POLICE INVESTIGATION IS CAUSING OF JUSTICE DELAY IN CRIMINAL JUSTICE SYSTEM AND INFLUENCING THE HUMAN'S LIVES?

I- People are executing in the jails due to poor investigation:

Poor police investigation is a major cause of delay in criminal justice. In October 2015, two brothers namely Ghulam Sarwar and Ghulam Qadir were executed in the central jail of Bahawalpur by the jail authorities. In October 2016, after passing one year of their execution the Apex Supreme Court of Pakistan, finally, announced them innocent due to "poor investigation" and acquitted them with the remarks to release them if they are not required in any other case ³⁵.

II- People are dying in the jails due to poor/incomplete investigation

Sy. Rasool was an accused of a murder case. This case occurred in Kasur in 2009. He was awarded death penalty by the Session Court. On 2017, his case was

³³ Shakeel Anjum, (2019), " Police under sheer grip of political influence", available at: <https://www.thenews.com.pk/print/422791-police-under-sheer-grip-of-political-influence>, (accessed 25 February 2022)

³⁴ Shakeel Anjum, (2020), "What hampered implementation of Police Order 2002", available at: <https://www.thenews.com.pk/print/674504-what-hampered-implementation-of-police-order-2002#:~:text=It%20was%20believed%20that%20the,up%20to%20govern%20the%20system>. (accessed 03 March 2022)

³⁵ Salauddin Ahmed, "Reforming Pakistan Criminal Justice System," Dawn, December 19, 2016. P-10

fixed in the Hon'able Lahore high Court, Lahore (Punjab) for hearing. The Hon'able High Court acquittal accused Sy. Rasool, due to poor investigation and incomplete evidence. An acquittal letter was issued to his home address. When this letter was received by his relatives. On receiving this letter, very next day, a close relative of the deceased informed the Hon'able High Court that Sy. Rasool died in the jail in 2014 owing to heart attack during confinement being a death row prisoner³⁶.

III- People are spending their precious lives in the jails due to poor police Investigation

In another case, Mazhar Farooq was confined in the jail 24 years and other Anar was jailed for 11 years. When their cases were heard by the Apex Supreme Court of Pakistan. They were acquitted after having endured 24 and 11 years individually due to poor investigation³⁷.

IV- A defective and poor police investigation sent a "wrong" person behind the bars

On January 2020, Model Court of Rawalpindi convicted a person Muhammad Adnan under section 9-B "Control of Narcotics Substances (CNS) Act" on carrying hashish weighting 550 grams. The court sentenced him for imprisonment of three months.

Mr. Muhammad Ishaq Malik learned counsel appeared before the court in a same another case. The FIR of this case (pleaded by M.Ishaq Malik advocate) was also registered in the same police station. The learned counsel informed the court that the person sent behind the bars is not Muhammad Adnan, but he is Kashif Alishaw because on November 29, 2019, FIRs were registered against Kashif and Azhar Saddiq separately but both were arrested by the police on the same day. According to their offences Azhar Saddiq was accused of 9-C, "Control of Narcotics Substances (CNS) Act" whereas Kashif Alishaw was accused 9-B, "Control of Narcotics Substances (CNS) Act". The learned counsel Malik was pleading the case of Azhar Saddiq during the hearing of case, he informed the court that a man was sent behind the jail is Kashif Alishaw not Muhammad Adnan. This was a shocking disclosure for all person who were presented in the court. The learned judge issued the direction for the appearance of Muhammad Adnan in court. On his appearance, the learned judge asked his name, he told that he is Kashif Alishaw. On this, all the person became astonished to hear it. The learned judge issued the directions to the Police Investigator to re-investigate the matter and submit its challan/charge sheet accurately³⁸.

Muhammad Ayub was arrested by the police of Civil Lines, Police Station,

³⁶ Correspondent (2017), Man accused of Murder acquitted 3 years after death", available at: <https://www.geo.tv/latest/129726-Man-accused-of-murder-acquitted-3-years-after-death> (01 March 2022)

³⁷ Salauddin Ahmed, "Reforming Pakistan Criminal Justice System," Dawn, December 19, 2016. P-10

³⁸ Malik Asad,(2020),"Judge orders investigation after "wrong" man sent to jail", available at: <https://www.dawn.com/news/1526308>, (accessed 01 March 2022)

Muzaffar Ghar, Punjab on having hashish weighting 1400 grams, after receiving a spy information through a reasonable person. A computerized FIR was registered against him u/s 9-C of "The Control of Narcotic Substances Act, 1997 by Umer Hayat, ASI (Duty Officer) vide No.451 on 09-12-2020. This case was investigated by Haq Nawaz (having official No.1287). The proceedings of the investigation were completed i.e statement of the accused was recorded; occurrence spot was visited and site plan was prepared. Finally, challan u/s 173 Cr.P.C. was prepared and submitted in the prosecution office for further proceedings in the court and accused was sent for judicial lock up.

The proceedings of the court started but suddenly, it was disclosed that accused name is Muhammad Yaqoob instead of Muhammad Ayub. On this, the prosecution office of the District Muzaffar Ghar, Punjab, took the thumb impressions of the accused and sent to it, in the main office, National Database and Registration Authority, Islamabad, Pakistan, for verification. The report of the National Database and Registration Authority, Islamabad, Pakistan (NADRA), showed his name is Muhammad Yaqoob alias Ayub. It proves a gross negligence of the Investigating Officer. This type of investigation makes the case complicated/problematic and wastes the precious time of the court and also causes delay in criminal justice cases³⁹.

V- Impact of delayed police investigation on detainees of the jails

Thousands of innocent people are in jails and undergoing, death and life imprisonment, without committing any cognizable offence due to defective criminal justice system and poor circuit of the investigation because the structure of investigation is built on the foundation of monitory magnetism, not on the truth and reality⁴⁰. A limitless majority of the detainees are living in the different jails of Punjab whereas they are not convicted by any court even their process of trial is not started due to non-availability of police record⁴¹. It is pertinent to mention here that approximately 80,000 detainees are languishing in 98 jails all over the country. These 98 jails are having the capacity of accommodation only 56,353. According to report, the jails of Pakistan are overcrowded, and detainees are deprived of basic necessities⁴².

K- Conclusion and Recommendations

All of the research about the poor police investigation has demonstrated that defective and poor police investigation can spoil the criminal case at any stage in any court of law. In the criminal justice system police investigation has a value

³⁹ FIR No.451 dated 09-12-2020, Civil Lines, Police Station, Muzaffargarh, Punjab, Pakistan.

⁴⁰ Shakeel Anjum,(2021), "Poor investigation leads to injustice", available at: <https://www.thenews.com.pk/print/782380-poor-investigation-leads-to-injustice>, (accessed 01 March 2022)

⁴¹ Editorial (2019), Punjab's Prisons, available at: <https://www.dawn.com/news/1469559> (accessed 01 March 2022)

⁴² Hasnaat Malik, "Jail's position", Dawn News, May 30, 2018, P-07

just like a cornerstone because all the cases have to circulate around it. Poor investigations are playing with the lives of the innocent people. Some are executed by the jail authority in the jails or some are dying in the jails being a death row accused. On the other hand, some people are spending/wasting their precious lives behind the bars due to non-conduction of appropriate police investigation by the police investigation officer by any means.

Provisions of best training and necessary decisions are required to eradicate the deficiencies of police investigation so that a strong and transparent system of police investigation can be introduced for the provision of criminal justice to the common people quickly, easily, friendly and freely without any kind of discrimination and reluctance. The following some recommendations are suggested to improve the police investigation procedure and for its betterment.

- I. The investigator has to show his loyalty and assured to both parties that he will perform his duty diligently and he has to remove the gap between the police and public so that both parties can express their views openly and friendly.
- II. The Investigating Officer must check the Computer National Identity Card (CNIC) before starting the investigation so that he may be able to mention the basic information correctly i.e., Name, father's name, age and addresses etc.
- III. This investigating Officer should write the diaries during the course of investigation on daily basis, with full concentration, accurately, transparently, readable, neat and clean in accordance with law.
- IV. Well qualified, trained and expert Investigators should be appointed to investigate the criminal cases.
- V. Investigation Centers should be established separately according to the Police Order 2002 so that the investigation can be conducted accordingly. It is pertinent to mention here that the duty time should be fixed for the Investigation Officers for the better results. A month wise progress report (pending cases, new cases and investigated cases) should be maintained of every investigation officer.
- VI. The Investigation Centers should be well equipped and latest scientific tools should be used in investigation procedure i.e. finger print checker, crime scene toll kits and to observe the digital evidence etc.
- VII. Latest gadgets, cameras, and computers etc., should be provided to the crime scene team so that the investigation team should perform its duty more scientifically and efficiently. After using the tool kit the team may be able to collect the accurate evidence along with circumstantial evidence.
- VIII. The trainers of the Investigation Officers should be highly trained and well qualified. Chances should be given to the trainers to get training from the other developed countries so that they may be able to train the Investigation Officer with the firsthand knowledge.
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- X. Forensic Labs should be established on district level and their transparent report should be given in printed form which will be duly signed by the authorized officer accordingly.
- XI. In detecting the crime DNA reports have played vital role in advanced countries but in Pakistan cases are not handed still likewise. Therefore, it is suggested that DNA reports system should be introduced to investigate the crime where necessary.