

Miscarriage Of Justice And Backlog Of Criminal Cases: A Case Study Of Punjab Pakistan's Courts From (January 01, 2022 To December 31, 2022

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Abatract

Miscarriage of Justice means returning an unfair verdict based on the evidence presented as a legal justice failure. This process includes investigation, prosecution and trial. The data for the present study has been collected from the office of Punjab Prosecution Lahore. The time span for data collections ranges from January 01, 2022 to December 31, 2022. The categories of the cases which have been dealt in the present study about miscarriage of justice include, kidnapping, abduction to murder, to confine a person, dacoity, Robbery, theft, Murder cases (u/s 322), fear of injury in order to commit extortion and putting a person in fear of death to commit extortion. The present research employs the theoretical frame work which states that "A grossly unfair outcome in a judicial proceeding, as when a defendant is convicted despite a lack of evidence on essential element of the crime" (Garner, 2000. P-118) and "an error made in a court of law that results in an innocent person being punished or a guilty person being free". The analysis of the data reveals that the percentage of miscarriages of justice from the courts related to kidnapping is 0.43%, abduction to murder is 0.00%, to confine person is 0.11%, dacoity 1.08%, robbery 2.99%, theft related cases is 0.29%, criminal breach of trust is 0.48%, murder cases (u/s 322) is 1.82%, extortion is 0.00 % and putting person in fear of death of grievous hurry in order to commit extortion is 0.00%. The study recommends that until the hurdles involved in the process of investigation, prosecution and trial are removed and this complete process is made effective and up dated, the percentage of miscarriage of cases cannot be improved. In this regard, police, prosecution and courts must introduce reforms in their respective domains.

Keywords: Miscarriage of Justice, backlog, criminal cases, courts, Punjab

BACKGROUND

The criminal justice system maintains the law and order in a country. This system protects the lives and properties of the natives. There are five justice systems working in the world i.e. Religious Laws, Adversarial Systems, Customary Laws, Inquisitorial System and Mixed Legal System. In Pakistan British Law is promulgated which was gained as inheritance at the time of independence and this system follows Adversarial System of Law. The British System is very old. Its Criminal Procedural Code belongs to 1898 whereas its Penal Code belongs to 1860.

The Criminal Justice System is not working properly in Pakistan. Innocent people are convicted by the courts of Punjab, Pakistan. They are spending their precious lives in the jails. These jails are overcrowded and detainees are deprived of the fundamental rights. Therefore, the detainees are dying in the jails whereas their appeals are pending in the criminal courts of Punjab, Pakistan due to high backlog of criminal cases. Sometimes detainees, are executed in the jails due to miscarriage of justice.

On the other hands, preparators can get clean chits from the courts and they continue their criminal activities in the society. Therefore, the crime rate is increasing rapidly and the cases are being registered in the police stations on daily basis. (Correspondent, Shortages of judges Increasing Burden on Judiciary, 2022) People are losing their confidence on the functioning of criminal justice system of Pakistan. They try to avoid to proceed their cases in the courts. Mostly, victim party opens the fires on the accused, when accused is brought to appear before the courts for hearing. In this way, the cases are not being decided in the court-rooms. Instead, people prefer deciding their cases at their own. In this situation, law and order became out of order due to miscarriage of justice in Punjab, Pakistan. The Attorney General of Pakistan, remarked about the criminal justice system of Pakistan which is as under:

“Our criminal justice system favours the perpetrators of the crime rather than the victim.”

Mr. Ather Minallah, Chief Justice of High Court, Islamabad, Pakistan, said about the miscarriage of justice, which is as under:

“The Constitution gives high priority to speedy administration of justice and right to free and fair trial but unfortunately the state has failed to provide timely and affordable justice to the people of Pakistan.”

Literature review

Quirk (2007), conducted research about bring reforms in the process of criminal appeals. The data for the study was collected from different courts of UK. It was found that too many technicalities involve at different offices should be avoided and at the same time legal system for having the criminal appeals registered should be reformed. The study recommends that innocent should be provided with speedy justice and legal process must be applicable to all. The is how, miscarriage of justice can be avoided in the courts (Quirk, 2007).

Knoopus et.al (2013) conducted research which dealt with deficiencies present in criminal cases. The research highlighted that these deficiencies are a cause of miscarriage of justice in the court. The data for the study was collected from diffident courts of UK. The total number of cases included in the study were 1100 in number most of these cases were related to drugs and gun crimes. It highlights that police and prosecutorial misconduct are cause of delay and miscarriage of justice. In certain cases, absent of fair trial and concealment of evidence also contribute in the process of miscarriage of justice. Similarly, Gould et.al (2012) highlighted through research that delay in getting forensic reports, error in forensic reports, prosecutorial misconduct, false confessions and eye witnesses mis identification are among the important causes of miscarriage of justice. The study employed mix method research approach. The results of the study highlight that the cause of miscarriage of justice includes the criminal history of the defendant, forensic error, a weak defence, an inadvertent misidentification, and lying by non-eye witnesses. The study also highlights those false confessions often result in a miscarriage of justice. It recommends that attention should be paid to the failing dynamic of the criminal justice system. The results suggest there should be greater emphasis at all levels to improve the criminal justice system including police, prosecutors and judges (Knoops, 2013).

Problem Statement

Miscarriage of Justice means returning an unfair verdict based on the evidence presented as a legal justice failure. It is believed that no society can make progress until the process of punishment and award is the same for all citizens. Miscarriage of justice of criminal cases on the one hand results in a backlog of criminal cases in the courts and on the other lasts negative psychological and social impacts on the general masses. In this way, people start losing their trust in the courts of their country. The present research addresses this crucial problem of miscarriage of justice in criminal cases. The present study's data has been collected from Punjab Prosecution Office in Lahore. The time span for data collection ranges from

January 01, 2022, to December 31, 2022. The percentage of the conviction rate of the mentioned cases has been found out.

Research Question

The present study attempts to answer the research question:

What are the reasons of miscarriage of justice in criminal cases in the District Courts of Punjab?

Research Objective

The present research aims to achieve the following objective:

To find out the causes of miscarriage of justice in criminal cases in the District Court of Punjab

Theoretical framework

"A grossly unfair outcome in a judicial proceeding, as when a defendant is convicted despite a lack of evidence on essential element of the crime" (Garner, 2000. P-118). According to the Constitution of Pakistan 1973, Article 10-A, "The fair trial and due process" every Pakistani has a right to enjoy the privilege of "fair trial and due process without any fear and discrimination. However, this process of fair trial of criminal cases and their investigation has not been working up to the mark in various courts of Punjab, Pakistan. In this regard, an example can be quoted here from the remarks of Chief Justice Mr. Ather Minallah. His remarks as under:

"The constitution gives high priority to speedy administration of justice and right to free and fair trial but unfortunately the state has failed to provide timely and adorable justice to the people of Pakistan".

"An error made in a court of law that results in an innocent person being punished or a guilty person being free" (Marriam-Webster, 2023). Similarly, constitution of Pakistan article 37 ("The inexpensive and expeditious justice") stresses that justice on merit and well in time is the right of every citizen of Pakistan. This should be done without making discrimination of caste creed and religion. This very idea has been operationalized in the present research. This constitution of 1973 stresses upon the need that fair and speedy justice to the people is a key to peace and prosperity in every society. According to it no betterment is possible unless every individual is assured that he/she is equal before law. The present research assumes that most of cases of lawlessness and unrest in Pakistani society are due to faulty justice system in the courts. Most often, people are exploited by the lawyers and the judges. Moreover, the process of getting justice has become so complicated and lethargic that it seems out of the reach of

ordinary human being in Pakistan. This can be supported with the remarks of chief Justice High Court which are as under:

“The criminal justice of country does not provide inexpensive and expeditious justice to the citizens of Pakistan guaranteed by the constitution of Pakistan”

It is evident from the above discussion made in this section (theoretical framework) that expensive, lethargic and faulty criminal justice process mostly results in miscarriage of justice and victims are getting frustrated and hapless from the system of courts to impart fair and speedy justice to them.

The following procedural law has been adopted by the courts which is mentioned below precisely:

a- Registration of FIR & Police Investigation

After receiving the report of cognizable offence "cognizable offence means a case in which, a police officer may, arrest without warrant", an FIR (First information Report) is registered under section 154, Cr.P.C. 1898. An investigation is conducted by an Investigating Officer. After preparing the investigation report, he submits it to the SHO. The SHO signs the report and forwards it to the office of the prosecution under section 173 Cr.P.C.

b- Inquiry conducted by the Magistrate

Mostly investigation is not prepared within specific time 14 days. Therefore, an interim challan is submitted before the Magistrate. The Magistrate waits till the completion of comprehensive report under section 173 Cr.P.C. On this, the Magistrate taking the cognizance, if case is triable by the Magistrate then initiates it. But if case is one which is exclusively triable by the court of session or any special court then the Magistrate would immediately refer the case to the concerned court having jurisdiction of the matter without recording any evidence.

c- Trial Conducted by Magistrate

The following section discusses the process of trial of criminal cases either related to murder only. The following order is followed during the investigation of murder cases. Almost this process is being followed throughout Punjab (a province of Pakistan) for the trial of mentioned cases. First of all, the Magistrate after going through the cases categories then are referred to different courts for further trials.

During trial before the Magistrate, he summons the accused under section 204 Cr.P.C. and there after usually the procedure from section 241 to 250 Cr.P.C. is adopted for a regular trial which includes the delivery of copies,

framing of charge, recording of evidence of both parties and thereafter the verdict i.e. judgment. Besides, regular trial there are petty offences which can be tried by the Magistrate Summarily under section 260 to 265 Cr.P.C. During trial or otherwise the court may release the offender on bail under section 496 & 497 Cr.P.C. During trial the opportunities to the both parties are granted to hire the experts i.e. lawyers in their defence whereas a representative of state i.e. The Public Prosecutor (ADPP) appointed under section 492 Cr.P.C. also supervises the case.

d- Trial conducted by the Session Court

Usually, the trial of heinous offences i.e. murder cases, rape cases and Narcotics cases, entailing capital punishments or imprisonment more than 7 years are conducted by the session courts prescribed in schedule-II of Cr.P.C. On receiving the case, from the Magistrate under section 190 (2) of Cr.P.C. the session judge has the power to refer /mark the case to the Additional Session Judge for trial or he can initiate trial himself.

e- Decision of Session Court

At the conclusion of the trial, the session court reaches pronounce judgments under section 265-H Cr.P.C. The court acquits the offender if he is not found guilty and if the charge against him is approved the court passes a sentence upon him in accordance with law. In case of capital punishment i.e. death sentence a reference is submitted to the high court for the confirmation of sentence under section 374 Cr.P.C. The person aggrieved of the judgement has also right to prefer an appeal under section 410 and 417 Cr.P.C. before the High court.

f- Procedure of appeal in the High Court

When the reference of the appeal or revision from the judgment passed by session court is heard by High Court, both the parties are heard at length and every pros and cons and material aspect of the case is adjudged from all the corners. The High Court may remand the case for decision afresh or for additional evidence, it may also convert or alter the sentence, enhance the sentence or may acquit the accused finding the charge has been not proved (375 & 376 Cr.P.C.). The reference is required to be heard by a division bench i.e. bench of judges of the high court under section 377 Cr.P.C.

g- Appeal before the Supreme Court against the judgement passed by the High Court

Any person who is aggrieved by the sentence passed or otherwise by the High Court may prefer an appeal to the Supreme Court under section 411-A Cr.P.C. Read with Article 185, Constitution of Islamic Republic of Pakistan 1973, where it involves a matter of law or where the leave has been granted

by the appellate court. It is pertinent to mention here that it the highest judicial form of appeal in Pakistan. On receiving the appeal, the Supreme Court can stop the execution of order passed the High Court or upheld the sentence or acquits the accused.

h- Appeal before the President of Pakistan against the death sentence on merciful ground

If the death sentence is maintained by the Supreme Court. The aggrieved person(s) can file a Mercy Petition before the president of Pakistan. The President of Pakistan may commute sentence for any other punishment provided by the law under section 54 of Pakistan Penal Code (P.P.C. 1860). The president may also commute the sentence of imprisonment of life with the punishment of imprisonment of either description for a term not exceeding 14 years under section 55 P.P.C. Besides the above-mentioned communication, the President has also the prerogative to grant pardon under article 46, Constitution of Islamic Republic of Pakistan 1973.

GROUND OF MISCARRIAGE OF JUSTICE

Delay in the Registration of FIRs

After the commission of the cognizable offence, under section 154 Cr.P.C. 1998, an FIR is registered in the nearest police station. Most often, police do not register the FIR with immediate effect (Ghulam Musa Vs Ijaz Ahmad & others, NLR-2010). Delay in lodging the FIR creates doubt (Noor Muhammad Vs The State, 2011). Whereas benefit of doubt is given to the accused (Muhammad Arif Vs The State, 2011). Late registration of the FIRs is a common practice of the Punjab, police. An occurrence took place on 31-08-2016. Whereas FIR was registered on 15-09-2016. This FIR was lodged after 15 days. There was no explanation given in the FIR, for its late registration. In this case the accused was acquitted by the court due to late registration of the FIR. Because delay in registration of the FIR creates doubt. Hence, the benefit of the doubt is given to the accused (Abbas Vs. The state, 2019). This example reveals that the basic step of the criminal procedure leads to miscarriage of justice. In this regard, number of cases have been mentioned which highlight that delay in getting FIRs registered resulted in miscarriage of justice. The example of the data taken from Session's court; District Multan has been discussed here as a proof to support the stance related to miscarriage of justice. 01 July 2022 to 31 December 2022 (6 months) 582 criminal cases were decided by the courts. In this regard, 121 cases were decided in the favour of the accused due to late registration of FIRs in the police stations. This proves that delay in the process of getting FIRs registered is one of the causes of miscarriage of justice in the courts of Punjab.

Defective Police Investigation

In Punjab, Pakistan, the criminal investigation begins when the police report is filed at the police station. The police serve (after receiving a complaint or report) as the entry point into the criminal justice system and as a gateway to the criminal justice system. Generally, it was discovered that police investigations are complicated tasks. In the absence of a competent and professional investigating officer, the majority of complex cases are lost due to the officers' unprofessional conduct. It was found that the majority of criminal cases fail or are delayed in obtaining justice from the court owing to inadequate police investigation, which has been repeatedly identified as the primary cause of failure in the Criminal Justice System in Punjab, Pakistan (Ghani, 2022).

In various cases, the Supreme Court observed that the police investigations were found defective. Resultantly, people are dying in the jails (Correspondent, Man accused of Murder acquitted 3 years after death, 2017), executing in the jails and spending time of their precious lives in the jails (Ahmad, 2016).

Therefore, the Supreme Court of Pakistan has issued an order to all Inspector Generals of Police in Pakistan to immediately prepare a "Crime investigation handbook" based on prior experiences and case laws decided by higher courts, and this book will be used to investigate the criminal cases in the police stations of the Pakistan as a guideline. The order of the Supreme Court is as under (Saddam Hussain Vs The State, 2020):

"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."

The example of the data taken from Session's court; Multan, has been discussed here as a proof to support the stance related to miscarriage of justice. 01 July 2022 to 31 December 2022 (6 months) 582 criminal cases were decided by the courts. In this regard, 343 were decided in favour of the accused due to defective/poor investigation. The example quoted here illustrates that poor/defective investigation results in miscarriage of justice of various cases in different courts of Punjab, Pakistan.

Tampering with Record

Tampering with record is also one of the causes of miscarriage of justice. It has been observed that mostly police investigating officer do not provide the factual record before the courts and investigating reports that are put forward are most often fake. Some of the examples regarding tampering with record by the investigating police officer have been mentioned as under:

A report published in Dawn (Pakistani daily on June 28, 2022). This report is against Sub Inspector (S.I.) Khalid Shahzad for tampering with record of investigation files and committing fraud in the investigation of different cases. The mentioned Sub Inspector was accused of tampering (Saddam Hussain Vs The State, 2020) with record in murder case investigation. He was handed over, blood-stained cloth of the injured complainant but he pasted a fake parcel receipt in the file during the inquiry, it was proved that he with the connivance of the suspect did not send the parcel to the Punjab Forensic Science Agency and he declared the suspected innocent (Correspondent, Case against policeman for tampering with record, 2022).

Similarly, an official working in Punjab Forensic Science Agency, Lahore, was found involved in tampering with data. According to the details this official tampered the murder case report and proved the accused innocent. Later on, as a result of reinvestigation of case the mentioned official was suspended from the job (Sumra, 2012).

Late submission of Challans (Report u/s 173 Cr.P.C.)

The primary components of the Criminal Justice system are the Police, the Prosecution, and the Judiciary. Its sole objective is to give victims justice in accordance with the law. Therefore, the police play a crucial role in apprehending criminals and bringing them before the court. The mission of the criminal justice system is to severely manage offenders so that a civilized society can be built on a level playing field (Muhammad Waqar, Ahsan Iqbal, , 2022). As soon as police receive a report of a cognizable offence, the Criminal Justice System begins functioning. Upon receiving the report, the entire police apparatus is activated. In this manner, the police initiate an investigation to determine the actual motive behind the commission of a crime (Shah, 2019). The record of the Punjab Police reveals that 12,000 cases were pending in the various police stations of District Faisalabad from 2015 to 2018. The delay in submission of challans in the courts is a major cause of miscarriage of justice (Saleem, 2019). Mr. Ali Bajwa, Justice, Lahore High Court, Lahore, expressed his views about the late submission of challan (report u/s 173 Cr.P.C.) before the courts (Reporter, 2022).

“It is a classic textbook case of failure of our criminal justice system and flagrant violations of the law by its main stakeholders resulting in a complete miscarriage of justice and violation of the right to be dealt with in accordance with law”.

Poor prosecution

The term poor investigation in criminal justice system is taken as an umbrella term and it includes each and every thing involved in the criminal justice system. Weak & ineffective prosecution services provided also add fire to fury. It is observed that fault lies from top to bottom. Some of the major causes of poor prosecution include unavailability of relevant material by the police and poor preparation by the appointed prosecutors. At the neck of time police is unable to provide the most relevant material before the court and hence prosecution process is postponed. It is also observed that right persons are not placed at right places and they are found unable to perform their duties comprehensively. Latest means of prosecution should be adopted. Besides, the persons found guilty must be punished severely. At the same time reward should be given to those who perform their duties honestly. Incentives should be given to the prosecutors with better results and a high conviction rate in their respective domains. (Hassan, 2021).

It is duty of the prosecutor to convince the court to convict the accused, according to the nature of his/her crime(s) so that confidence of the people on criminal justice system can be maintained. In this way, the prosecutor(s) has/have to struggle hard to convict the accused accordingly so that the conviction rate may be increased and crime rate may be reduced. But very unfortunately, most cases are dropped during trial due to poor prosecution. approximately in every second or third criminal case in which the accused person is acquitted, the judges seem to be agreed on this point which given below (Dandurand, 2014):

“Prosecution has failed to prove the case beyond any reasonable doubt”.

In this way, the criminals are getting clean chits from the courts. Hence, preparators are causing to increase the crime rate in the society and this increased crime rate is causing of backlog of criminal cases in the courts.

Shortage and transfer of the judges

Tabassum, Saima et.al (2021) argue that one of the main causes of miscarriage of justice in different courts of Punjab Pakistan is shortages of judges. It pointed out that most of judicial officers are replaced without any substitute. This results in delay and miscarriage of justice. The study

recommends that policy should be revised and judges should not be transferred from station unless their substitutes are posted. It has been observed that this hindrance of shortages of judges is one the main causes of miscarriage of justice. (Tabassum, 2021).

In this regard, an example of faulty criminal trial is worth mentioning which has been stated by Mr. Justice Asif Saeed Khan Khosa, on 17th January 2019: (Haq, 2022)

“There are about 1.9 million cases pending in the country before all the courts put together and to handle such a huge number of cases there are only about 3,000 judges and magistrates available from top to bottom. Successive governments have failed to suitably increase the number of judges and magistrates on account of financial constraints. **3,000 judges and magistrates cannot handle 1.9 million cases even if they work for 36 hours a day**”.

Another suggestion has also been given by the Ex. Chief justice of Lahore High Court, Lahore, in this regard which is as under: (Correspondent, Shortages of judges Increasing Burden on Judiciary, 2022)

“To enhance the retirement age of the members of the district judiciary from 60 years to 63 years to meet the ‘acute shortage’ of judicial officers in the province. This office is facing acute shortage of judicial officers due to their less induction in the service”.

Non-professional attitude of the lawyers

There are many examples of the non-professional attitude of the lawyers but some of them are illustrated respectively:

Lawyers killed a Sub-Inspector of Police, outside Lahore High Court

Muhammad Salman, Sub-Inspector was residing in Zafar Wal, and serving as a Police Investigating Officer, in Police Station Badomalhi. A cognizable offence was registered in this police station and he was appointed as an Investigating Officer of this case. He was summoned by the court to appear on April 18, 2022, with the comprehensive record, relating to the accused because his case was fixed for pre-arrest bail. When he was on his way towards the court with the record. The lawyer of the accused warned him not to appear before the court with the record. But he did not listen to him.

He appeared before the court being a dutiful officer and presented the relevant record of the accused before the High Court with the help of state

lawyer. After hearing the case, High Court, rejected the pre-arrest bail of the accused. Later on, the proceeding of court was completed in respect of this case, the said Investigating Officer was his way back towards his job station. Unfortunately, he was captured by lawyers outside the High Court and they tortured and injured him very badly. The local people of this area interrupted and rescued him from the cruelty of lawyers but he was so much injured and died in ambulance when it was on its way to Hospital. The example cited above illustrates the non- professional rather cruel attitude of the lawyers (Correspondent, SI killed 'by lawyers' outside LHC laid to rest, 2022).

Misbehaviour of the Bar councils with the judges

This section deals with misbehaviour of the bar counsel with the Honourable judges severing at various station in Punjab, Pakistan, such as Pattoki, Dejkot, Fateh Jang and High Court bench at Multan. An example of judge Mahjabeen has been quoted to prove the stance. She was working in her court room on the December 2, 2020, at this time the judicial process was going on. In the meanwhile, a court was invaded by Mudassar Munir Bhatti, President Tehsil Bar Association Pattoki. The president started assaulting and threatening here. He purposefully, disgraced her. As a result of this insult, she and her fellow civil judges in Pattoki initiated a protect against them (Seikh, 2020). This example illustrates the moral bankruptcy of our society. It is evident that until or unless judges are given due respect, protocol and protection. They cannot perform their duties properly. The sooner such practices are curbed, the better it is.

Preparing of Fake FIRs for the protection of accused

In this regard it is also observed that lawyers are involved in getting fake FIR prepared against the complainant to protect the accused (drug dealer). A report related to such incidents was published in down daily on June 30th 2015. According to the details of the report the Tehsil Bar Association went on a strike against the arrest of the advocate. Three months ago, Mumtaz Bibi alias Taji, was arrested by Hawali Lakhan Police, and 2.75 Kgs. Of hashish was seized from her possession and her bail application was rejected from Lahore High Court. But after some days, she was granted bail by the court of Additional and Session's Judge and it was found out that she had managed to get bail through a fake FIR allegedly prepared by Advocate Rana Qasim. However, the judge sent a letter to the DPO about the fake FIR and the subsequent bail (Correspondent, Lawyer, three others held for preparing fake FIR, 2015).

Fake Lawyers

It has been observed with great concern that there are number of fake lawyers practicing in the different courts of Punjab, Pakistan under the fake identity of lawyer. Actually, these fake lawyers are not qualified (having LLB) but they are practicing as lawyers in different courts of Punjab, Pakistan. One of such examples has been mentioned as under:

Mr. Shah Nawaz, Vice Chairman of Punjab Bar Council was arrested when his LLB degree was got verified from the university concerned. At that critical juncture his formal education was found only middle (Rathor, Punjab Bar Council Top Official Has a Fake Law Degree, 2021).

Another example is of Jameel Asghar Bhatti, at that time Punjab Bar Council decided to hold its election. It was made compulsory for the candidates that their degrees would be verified from the concerned universities. In this regard, 230 degrees were sent to Punjab University Lahore, degree verification department, after careful examination it was found that 09 degrees were bogus or fake. Although Jameel Asghar Bhatti won the election yet his degree also found to be bogus (Rathor, Punjab Bar Council Top Official Has a Fake Law Degree, 2021). Similarly, another example to support this stance has been provided as under:

Mr. Muhammad Ashraf Rahi, General Secretary of Punjab Bar Council was murdered. After investigation it was found that he had a list of 100 fake lawyers practicing at different courts of Punjab, Pakistan and Mr. Ashraf wanted to expose the identity of those fake lawyers (Chaudhry, 2022).

Political Pressure

Besides other issues political pressure is among significant factors that is influencing the performance of police department. It is, commonly observed both police and politicians seek advantages from each other. Politician usually exercised, political influence to get the police officials transferred and vice versa. Because of such practices the performance of police department is decreasing day by day. It has been observed that police, being a tool of operation is mostly at the disposal of influential politicizing. Most often an FIR is not registered in the police stations without the influence some politicizing. In this way, things are getting harder for ordinary human being to have FIR registered to proceed towards the process of getting justice (Anjum, 2019).

Mr. Abbas Nasir, a writer and “former editor of Dawn” expressed his views about the political pressure and its involvement. He has vast experience in writing of columns about the problems of the police and its rectifications. He said (Nasir, 2022):

“Courts have repeatedly ordered Police and other concerned departments to handle the corrupt and criminal people with iron hands, but it seems that these departments are under the influence of powerful politicians. Hence, the worst situation has prevailed every where.”

IMPACTS OF MISCARRIAGE OF JUSTICE ON HUMAN LIVES

1- One murderer got clean chits from court in different murder cases seven times.

A case was heard by Justice Ather Minallah, Chief Justice of Islamabad High Court. An accused was brought before the court in a murder case. The justice acquitted him in this case. But record reveals that the said accused already got clean chit from the courts in other different six murder cases. Now, he succeeded in getting clean chit from 7th murder case from the high court of Islamabad. In the light of remarks made by the mentioned justice, it clearly obvious that such examples carry bad impacts on general mass because on one hand a person who committed 7 murders are given clear chit from the court and on the others some innocents are present without any rhyme or reasons. If such situation continues people will not have trust on the judicial system of their country (Editorial, 2020) .

2- Criminals are getting bail from court due to miscarriage of justice

Shahansha, was caught by Lahore police in a theft case, when he was 18 years old. He was succeeded in getting bail from the court. He was again apprehended by the police on keeping illegal weapon. But he was again succeeded in getting bail from the court. It is pertinent to mention here that in the same year, 16 more cases were registered against him in the different police stations of Lahore.

Police record reveals that in the year 2017, he was 31 years old and the number of criminal cases against him were 92 till 2016. Neither he was convicted by any court due to miscarriage of justice nor he stopped his criminal activities (Chaudhry, 2022). From this example a powerless and innocent people can deduce that laws are only meant for poor and innocent people. The powerful and the criminal people like Shahansha, can make and break law according to their own will. It is concluded from the above-mentioned examples such type of glaring situation will ultimately result in miscarriage of justice and backlog of criminal cases in the court of Punjab, Pakistan.

Discussion and data analysis

The section that follows provides the data and its statistical representation related to various cases such as kidnapping, kidnapping or abduction in order to murder, Kidnapping or abduction with intent secretly and wrongfully to confine person, dacoity, Robbery, Punishment for belonging

to gang of thieves, Criminal Breach of Trust, Murder cases (u/s 322), Putting person in fear of injury in order to commit extortion and putting person in fear of death of grievous hurt in order to commit extortion. This section reproduces the data comprising the total number of cases which have been used in the present study. Moreover, the categorization of different cases with their exact number has also been done to support the concept of miscarriage of justice from the data collected for the present research during the time period 01-01-2022 to 31-12-2022(one year). The number of criminal cases which were trialled in the various lower courts of Punjab, Pakistan have been dealt with in the study. The researcher has also mentioned the number of cases and their present status in the respective courts of Punjab Pakistan which are in the process of trial. The following table has reproduced the data in numerical form with its present status regarding court trial and the names of different offences have also been mentioned in this regard. The following table illustrates conviction ratio of different criminal cases which has been mentioned against each offence.

Sr. No.	Description of case	Total fixed for Hearing	Total Disposal			percentage of conviction
			Total cases decided		Total Disposal	
			Total cases resulted	Total cases resulted		
1	Kidnapping 363 PPC	1664	3	70	696	0.43%
2	Kidnapping or abduction in order to murder 364 PPC	89	0	3	16	0.00%
3	Kidnapping or abduction with intent secretly and wrongfully to confine person 365-B PPC	8254	4	593	3748	0.11%
4	Dacoity 392 PPC	36285	191	6535	17630	1.08%
5	Robbery 395 PPC	3608	26	254	869	2.99%
6	Punishment for belonging to gang of thieves 401 PPC	2438	3	763	1034	0.29%

7	Criminal Breach of Trust 406 PPC	8368	15	734	3121	0.48%
8	Murder cases 322 PPC	2261	13	286	715	1.82%
9	Putting person in fear of injury in order to commit extortion 386 PPC	131	0	7	38	0.00%
10	Putting person in fear of death or of grievous hurt, in order to commit extortion 387 PPC	26	0	1	1	0.00%
Total		63124	225	9246	27686	7.20%
Average						0.72%

The table illustrates that the average conviction rate of the mentioned cases is 0.72%. The highest conviction rate has been found in robbery (395 PPC) cases (2.99%), whereas, the lowest conviction rate has been found in kidnapping or abduction in fear of death or of grievous hurt (364 PPC), putting a person in fear of injury in order to commit extortion (386 PPC), putting a person in fear of death or of grievous hurt, in order to commit extortion (387 PPC) which are 0.00%. This numerical representation related to the miscarriage of justice about the mentioned cases illustrates that number of internal and external factors are involved in the process of persecution therein different courts of Punjab. These factors up to great extent are responsible of pendency/miscarriage of justice about the cases mentioned in the table. Until these hindrances are removed in true letter and spirit, no reformation can be expected.

Recommendations:

After analysing the data used in the present research regarding various causes of miscarriage of justice about criminal cases in various courts of Punjab, Pakistan. It is recommended that the parliament should perform its duties in true letter and spirit and should try to amend the criminal justice system of Pakistan which is out dated and most often benefits the accused. Moreover, it is also recommended that perpetrators must be awarded exemplary punishment to set examples from such conviction. In this way, the confidence of the people can be restored on the criminal justice system of Pakistan and the crime rate can be reduced. It is done, it

will result in reducing backlog of criminal cases and miscarriage of justice will be avoided automatically.

Conclusion

The present study was under taken in order to find out the causes of miscarriage of justice related to the criminal cases such as kidnapping, kidnapping or abduction in order to murder, Kidnapping or abduction with intent secretly and wrongfully to confine person, dacoity, Robbery, Punishment for belonging to gang of thieves, Criminal Breach of Trust, Murder cases (u/s 322), Putting person in fear of injury in order to commit extortion and putting person in fear of death of grievous hurt in order to commit extortion. The analysis of the data reveals that percentage of conviction of kidnapping is 0.43%, percentage of kidnapping or abduction in order to murder is 0.00%, kidnapping or abduction with intent secretly and wrongful to confine a person carries the percentage of conviction 0.11%, the conviction rate of dacoity is 1.08%, conviction rate of robbery in this regard is 2.99%, punishment belonging to gang of thieves carries the conviction rate which is 0.29%, criminal breach of trust carries conviction rate which is 0.48%, murder cases carry conviction rate which is 1.82%, the conviction rate of putting a person in fear of injury in order to commit extortion is 0.00% and conviction rate of putting a person in fear of death or grievous hurt in order to commit extortion is 0.00%. The average conviction rate related to the mentioned 10 categories of crimes is 0.72%. The glaring picture illustrated by data analysis highlights that main causes of miscarriage of justice of criminal cases in the courts of Punjab include delay in the registration of FIRs, defective police investigation, tempering with record, late submission of challans (Report u/s 173 Cr.P.C.), poor prosecution, shortage and transfer of the judges, non-professional attitude of the lawyers, preparing of fake FIRs for the protection of accused, fake lawyers and political pressure. The study suggests that in order to improve existing dismal situation. The above-mentioned factors must be considered seriously. Steps must be taken to eradicate these hurdles. This is how miscarriage of justice in the mentioned cases and many others can be avoided and trust of general masses on the courts of Punjab Pakistan can be restored.

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