Effectiveness of Criminal Trial in Pakistan

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Abstract  
A fair criminal trial plays a vital role in the upholding and disposal of justice in a country. In Pakistan, effective and fair criminal trials could not be ensured due to multi-dimensional reasons in the country. The main two institutions that can mitigate the suffering of the people by effective criminal investigation and provision of a fair trial to the masses of the country are the Judicial and Police department. The Govt. can manage the proper environment for it. Until all the stakeholders of the criminal justice system of the country did not work coherently the dream of an effective and fair trial in the country can't be ensured. The research article has been selected as the standard of justice in Pakistan is decreasing day by day. This article is an effort to recommend and suggest some remedial measures based on literature and multiple modern-day approaches of the developed nations.

Keywords: Effective criminal investigation, criminal behavior, cooperation of law enforcement agencies, criminal trial and its complexities

Introduction  
A country's criminal justice system consists of the legislature of the country, the courts which hear the case and conduct the trial, and the correctional services which include parole and probation agencies, and the enforcement agencies. Its purpose is to protect the life and property of every citizen and to ensure peace and peaceful existence in society which can only be achieved through dispensing justice to the populace in the country. The role of the trial judge in conducting a fair trial is an important judicial process that begins from the first information report registered at the police station. The judge should follow all aspects of the procedural requirement of the case to ensure a fair trial. The main purpose of the system is to ensure that the innocent are acquitted from the false
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charges which are leveled against them after the false registration of the first information report at the police stations. The purpose of fair criminal trial dispensing is that the perpetrators of crimes should be surely punished. According to the aim of a fair trial is that we should hate crimes but not the individual that's why on the charges of crime no one should be considered guilty until the crimes are proved against him.

Recent developments in case law and steps taken by the government have made the trial of the accused in criminal cases more secure. Constitutional safeguards, such as due process of law and fair trial has made the justice dispensing from dream to reality and being eventually ensured. The fears of the accused vanished. The lame excuses are gone and the internationally recognized principle that a speedy trial in a criminal case is the right of the accused to be resurrected.

Main Objectives of the Study
The main objectives of the study areas are as under,
❖ To study the impact of existing criminal trials on society and their utility for mitigation of crimes rate.
❖ To study whether the criminal trials are serving the purpose or they need any sort of improvement.
❖ To know about the shortcomings which are happening during the criminal trials?
❖ Whether the criminal trials conducted in the Pakistani judicial departments of Pakistan meet international standards.

Multiple approaches for the fair trial in Pakistan
Following are the multiple approaches for the up-holding of fair trial in Pakistan:

Police reforms
The complexity of the role of the police in law enforcement should not be underestimated. The police have been assigned various tasks to maintain law and order and rule of law.

“"The reports provided by the police to the prosecutor in our two samples of robbery cases imply, as anticipated, that the thoroughness of police investigation in Jurisdiction A was perceptibly better that in Jurisdiction B. In A, the reports to the prosecutor were typewritten, painstaking in detail, and documented each investigative activity in chronological order. The police reports provided to the B prosecutor were generally handwritten, were difficult to read and understand, and generally contained only the major facts of the case, so that a reader could not readily determine whether or not any follow-up investigation had been conducted and, if one had, what information was obtained.”\(^1\)

In most countries, the police are given broad law enforcement powers and they play an important role in the criminal justice system, although the nature, quality, and basic principles of law vary from country to country.

""First information report sets law in motion. It follows investigation. A report upon completion upon investigation is submitted before the court. The court conducts inquiry and decides for the disposal of report if the same is fit for trial or for disposal in some other manner. If the Court deems it fit for trial, it takes cognizance of the offence. Then the trial commences with the framing of charge (reflecting statement of accusation) against the accused and is followed by evidence as per law of land.”\(^2\)
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In some countries, the police are a direct tool for expanding government policy and ministerial authority. In others, they have a more independent character. In both cases, the police should be held accountable for the exercise of their powers. In principle, the powers of the police are designed to protect the basic freedoms and rights of the people.

“وَاللّٰهُ يَقۡضِى بِىلۡحَقٰى”

“And God judges by the truth.”

Restorative justice

Restorative justice is a form of criminal treatment involving victims, offenders, their social networks, justice agencies, and the community.

“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”

Rehabilitation justice programs are based on the basic principle that criminal behavior not only violates the law but also injures victims and the community.

“قُلۡ اَمَرَ رَبّٰى بِىلۡقىسۡطى”

“Say the command of my Lord with justice.”

Any attempt to deal with the consequences of criminal behavior, where possible, should involve the offender as well as the injured parties, while also providing the assistance and support that the victim and the offender need.

“Any person may set law into motion by making a report with police under section 154, Cr.P.C. if from the facts given by the complainant or the informant, there is prima facie commission of a cognizable offence, police are duty bound to record the lodge FIR (Ref. Sec. 154 Cr.P.C) and there is no requirement to hear the accused named in the complaint at time of registration of FIR.”

Restoration of justice refers to the process of resolving crimes that focus on compensating victims, holding perpetrators accountable for their actions, and often involving the community in conflict resolution.

“وَجَادىلۡهُمۡ بِىلَّتِىۡ هِىَ اَحۡسَنُ”

“And he argued with them about which one is better.”

Police Encounters and denial of fair trials

The stigma of encounters in police custody is giving a bad name to the criminal justice system of Pakistan which means the system is not able to provide a fair trial to the populace.

“وَكَنَّ اللّٰهَ يَأۡمُرُ بِىلَّتِىۡ عَلَى وَالۡۡىحۡسَانى”

“Verily, Allah enjoins justice and kindness.”

The culprit of the heinous crimes is acquitted by hook or crook due to the availability of competent lawyers in the private sector. But the Govt. Prosecutors and advocates General did not succeed to prepare their cases efficiently in comparison to the private lawyers. After the acquittal of the accused persons they blame the investigation officer and tools used for the investigation purpose but they did not even focus upon the point that the challan was sent to the court after due scrutiny of the prosecution department. Each one is saving his skin in the criminal justice system institution of Pakistan by blaming the criminal investigation unit. The system is reluctant to fight against the criminals but intends to draw salaries of their
employees uninterrupted due to which the system is not achieving respect.

“Criminal investigation is the name of collection of evidence in respect of the crime in question. Its main purpose is to ensure that no one is put on trial unless there is a good case against him.”

On the other hand, the judicial officers instead of focusing on the innocence or guilt of the accused they are disposing of their cases based on technicalities which the prosecution department and law enforcement agencies left undecided due to which the criminals are being acquitted. In most cases, laws are present for minor offenses but the judicial officers do not even consider them as offenses and the judges are acquitting the culprits.

“Who believed in being guaranteed in the installment of God, even if yourselves or parents and strikers should not be rich or poor, God will not follow the fancy to be moderated and if they do, God was what you are experiencing an expert.”

The desired results of the criminal justice system in the country and especially in the province of Punjab cannot be acquired until all the pillars of the criminal justice system consider each other parts of the same body i.e. the Criminal Justice System of Pakistan.

**Politicized law enforcement agencies**

Political involvement in the police department has further deteriorated the already decayed fabric of the police department.

“And the feud of a people does not make you a crime against you, but do not treat you justly.”

The officers of the police department are succeeding to get their desired posting due to their political relations. But after gaining desired posts they have to please their political bosses by giving them illegal favors due to which meritocracy in the department dies with the abovesaid practice. The masses of the country have to visit the political person deras resultantly people have to sacrifice their electoral votes due to police work dependency upon the politician. When the officers are dependent upon the politicians then what is the concept of impartial criminal investigation in the department. The lower ranks detectives are not able to conduct a fair criminal investigation at the cost of their livelihood.

The importance of criminologists to study the root cause of crimes must be judged to eradicate the crimes or mitigate their rate.

“Oh people who believed that you are a punishment of a punk, and they will ask for people with ignorance, they will be on what you did.”

The government should establish a research wing in every District to study the reasons for crimes in the particular area, the research wing after its study and analysis should demonstrate its practical remedial measures to pinpoint the causes of the crimes based on conventions and customs of the area which is under study. For example on a particular point of the road if, road accident occurs in more quantum and numbers as compared to the other part of the same road. Then there is something bad in that area or point which must be addressed to root out the road accidents to protect or save the lives of the people.
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Current scenario of law and order situation in country and role of criminal investigation and trial

If the criminal investigation fails to gather evidence of the required standards, the courts acquit the accused based on their work, which harms society in the future. "Every person has a right to a fair trial by a competent court for the sake of their life and personal liberty. The objective of providing competent legal aid to an underfunded and unrepresented accused person is to see that the accused is afforded a free, fair, just and reasonable trial. A fundamental principle of criminal justice is that an accused person is always presumed to be innocent unless the prosecution can establish his guilt beyond the shadow of a reasonable doubt. A fair and expeditious trial is a fundamental human right which cannot be denied to anyone." 13

This will encourage criminals to do the same in the future and will lead to more law and order incidents. The current state of law and order in the country is a clear example of the above reasons. Therefore, there is an urgent need for law enforcement agencies to operate efficiently and promptly without wasting time, and for law enforcement agencies to meet the standards of a criminal investigation.

"Police is under statutory duty under section 154 Cr.P.C. and have statutory right conferred under section 156(1), Cr.P.C. to investigate into cognizable offences." 14

It is a sad fact that our courts are operating in an outdated manner and below the strength which is sanctioned to run the affair of the state and for timely disposal of cases pending before the leaned and Hon'ble courts.

"Criminal case can be transferred when it appears that a fair and impartial inquiry or trial cannot be held in any subordinate criminal court." 15

Excessive and unnecessary litigation is a symptom of various diseases in society. Instead of eliminating the causes of litigation, only the symptoms are being treated by increasing the number of judges, chambers and giving lawyers more space to help helpless citizens flee.

"Reputation, status or profession of a person should be protected against unjustified insults. Due to this philosophy, it has been decided that and action should be brought up for shouting at someone contrary to good." 16

Even if the number of judges and courts is increased a hundred times, the real disease will not end - the lack of social and economic justice and good governance in society. This alone can stem the tide of litigation.

For reformation in the civil and criminal administration of justice in the past, many committees have been constituted to address the issue which the parties have to face during the trial. Due to the adversaries, the people's trust in the department is being lessened to find out the reason and further to suggest the recommendation to address the issues in future for the comprehensive reformation of the judicial system of the country.

وَإِذۡ حَكََۡتَ فَاحۡكُُۡ بَيۡنََُمۡ بِىلۡقىسۡطى 17

"And if you judge, then judge between them on equal terms."

The government should not raise a parallel judicial system instead the government should enhance the capabilities of the existing judicial system to mitigate the suffering of the underdog of the country. As it is a time-tested system whose pitfalls are known to everyone and easy to remove the issue as compared to launching parallel criminal administration of justice system.

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Suggestions and recommendations to remove Complexities in the criminal trial

Judges are sometimes sentenced for violating the constitution, laws, and rules, and for putting pressure on the department at their discretion, and their fellow lawyers are respected during the trial.

"The Prophet (peace and blessings of Allaah be upon him) sent Khalid ibn Waleed to Bani Jazimah. Then they started killing and imprisoning him and gave each of us a prisoner of his share and ordered us to kill each of our captives. I said: By Allah, I am my prisoner I will not kill him nor will any of my companions kill his prisoner. "Then we mentioned him to the Holy Prophet (saw) and he said:" O Allah! . Two times"

This practice must end forever, as a result of which people are losing faith in the judiciary and are beginning to believe in self-justice to punish the guilty.

"So, judge between them by what God has revealed, and do not follow their whims and desires from the truth that has come to you."

The judicial department is a very important pillar of the criminal justice system, so efforts should be made to elevate it by removing the complications that confront the parties during the trial. As the saying goes, delay in justice is a denial of justice. Therefore, justice is delivered to the people of the country as soon as possible.

First of all the corrupt practice should be rooted out from the criminal administration at the grass-root level. After the registration of an FIR the investigation officer should make smart work and should complete the investigation at the earliest and within the stipulated period and during the investigation should recover the property and should also collect all the humanly possible for the corroboration of his investigation within the stipulated period.

"On use of physical evidence: Latent fingerprints rarely provide the only basis for identifying a suspect."

The government and department should provide all the needed logistics and fiscal needs of the detective for the fulfillment of an efficient investigation.

"A person having criminal charges against him, has the rights to consult or be defended by a lawyer of his choice."

The police report should also be submitted before the learned court through scrutiny through the prosecution department. The prosecution department should update its services and should not act as a rubber stamp in the criminal justice system of Pakistan. The prosecution department should be considered equally responsible if, the accused person is scot-free during the criminal trial. The dating culture in the judicial department should end. The judges say no to pressure from the lawyer community. The trial should of the case be completed at the earliest in the interest of justice. The judgment of the department should be impartial and unbiased. The training of the judges must be ensured once a year to impart them the latest techniques and tools in the decision-making and completion of the trial at the earliest in the interest of justice in the Pakistani courts.

An effective criminal justice system can only be established if, efforts are made to produce highly competent judges at the grassroots level, who are transparently recruited through a board of professionals and do not serve judges. They should be imparted extensive training.
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at a Center of excellence or reputable university. This will help create competent judges for the high court’s in the future. All appointments to members of all special tribunals must be made in the same manner.

In a criminal case, if there is a shortcoming in the investigation phase, it will not be rectified in the subsequent trial phase. Therefore, investigating officers must be very careful when gathering criminal evidence. The whole matter depends on the criminal investigation in the criminal cases. Therefore, investigating officers must be effective during criminal investigations and must avoid any negligence in criminal investigations.

“God loves a penetrating sight when doubts arise, and He loves a perfect mind when desires arise.”

Investigating officers should listen patiently to all stakeholders and gather evidence of criminal cases effectively so that people can get a fair trial. The investigating officer should not act with the accused’s guilt and innocence in mind, but it is the evidence and facts that will decide the criminal case during the trial.

In Pakistan, frustration with long delays in criminal cases is justified, but there is no overnight solution to the crisis caused by decades of neglect. Ensuring real ‘immediate’ justice will require a major overhaul and reform of the criminal justice system. It will need to learn from the successes and failures of other jurisdictions with a similar legal system. Ensure that the minimum guarantees of the right to a fair trial are preserved at all times and drawings from the original.

Over the past several decades, no significant work has been done by the legislature to bring about fundamental changes in the existing exploitative, anti-people, elite structure. The reform agenda for the judiciary, the executive, or the legislature can never succeed here and there. There is a need to replace the prevailing declining and collapsing systems with modern and efficient models that work successfully in other countries. Since independence, we have failed to restructure/modernize/democratize our outdated state institutions.

“We all are familiar with the fundamental problems of our judicial department which are; the outdated methods of judicial proceedings, the lengthy procedure of court hearings and date culture due to the absence of either party or lawyer or judge, the high and low level of public officials are indulging in the extorting of properties from the compelled by situation underdogs, the complexity of procedures results into corrupt practices within the department, the low quality of judgments speaks about the inefficiency of the judges.”

“The relatives of serving judges impact the judges; the affluent parties’ laws benefit benefits from the loopholes existing in the department.

“On relations between victims and police: Crime victims in general strongly desire to be

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notified officially as to whether or not the police have "solved" their case, and what progress has been made toward convicting the suspect after his arrest."25

According to the provision of the advocate act, a judge and his relative advocate cannot perform their function and services in the same bar. Unfortunately, there is no political will in Pakistan to address these shortcomings wholeheartedly which are eating the very vital of our judicial system and the judicial department is losing the trust of the people of the country. These are difficult challenges that need to cope by the Pakistani government in letter and spirit otherwise the system of justice will further run towards collapse sooner or later.

Conclusion:
If the criminal case was not investigated effectively and there was a lack of evidence gathering, then the investigation proved to be flawed during the trial, then the whole process proved futile and the culprit was acquitted, which means public. Loss of wallet and accused a person is free to commit further violations of land laws and he likes to create a law and order situation in the country. Therefore, an effective criminal investigation is needed to ensure peace and tranquility in the society through fair trial otherwise the results are not good for society.

The basic aim of the judiciary should be to end the unnecessary delay among the parties and affairs between state and citizen should be straight. When the conduct of the human being is improved then there will be less litigation among the parties will take place and the burden upon the courts will also end. Resultantly quality standard of judgment is also improved. False litigation among the parties wastes the natural resources of the country that should be punished.

They are encouraged to observe and internalize these laws when the punishment for trespassing is fast and certain. When this reassurance is over when punishments are uncertain and long-delayed, or when innocents are punished as frequently as criminals, the whole fabric of civilization and the rule of law is unraveled. The failure to provide such assurances explains the unrest and anarchy in every section of society that needs intention to overhaul the justice system of Pakistan. A fair trial in the criminal administration of Pakistan is possible when the three main pillars of the criminal justice system work in streamline to accomplish their work whole heartily and with integrity.

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