



Sociology & Cultural Research Review (SCRR)
 Available Online: <https://sccrjournal.com>
 Print ISSN: 3007-3103 Online ISSN: 3007-3111
 Platform & Workflow by: [Open Journal Systems](https://doi.org/10.5281/zenodo.17656990)
<https://doi.org/10.5281/zenodo.17656990>



Drawbacks and Reformatory Study of Criminal Justice System in Pakistan

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ABSTRACT

Wrongful acquittals in heinous crime cases have become a significant issue in Pakistan's criminal justice system, raising serious concerns about legal procedures, investigative shortcomings and their wider impact on society. When High Courts overturns convictions in such cases, it not only affects the victims and their families but also shakes public confidence in the judiciary and law enforcement. This research explores the key procedural and investigative flaws under the Code of Criminal Procedure that often leads to these acquittals. It also examines the reasoning behind judicial decisions that reverse convictions and assess their consequences on crime deterrence and the credibility of justice system. By analyzing real case studies and legal principles, this study aims to propose legal reforms that can enhance the fairness, efficiency and accountability of the legal process in handling serious offences. Ultimately, this research seeks to contribute a more reliable and just legal system that upholds both rights of the accused and the pursuit of the justice for the victims.

Keywords: Drawbacks, Reformatory Study, Criminal Justice System, Pakistan.

1.1 INTRODUCTION

The title "Conversion of Conviction in Acquittal in Heinous Offenses by High Courts and Its Effects in Criminal Justice System" highlights a critical issue within a legal process. When a person initially found a guilty of a serious crime such as murder, rape or terrorism is later declared innocent by a high court. This shift from conviction to acquittal raises serious questions about investigation reliability trial proceedings and legal safeguards. The conversion of conviction into acquittals by high courts in such type of cases involving grave offences has emerged as a profound concern within the criminal justice system of Pakistan. This phenomenon not merely signifies a correction of judicial error but also reveals systematic weaknesses that compromise the administration of justice. Heinous crimes demand the highest standards of legal scrutiny and procedural compliance due to their serious implications for public safety and individual rights. However, when a person initially convicted by a trial court is subsequently acquitted by an appellate forum raises critical questions regarding the accuracy of fact finding, the integrity of evidence, adherence to due process and procedural compliances.¹

The chapter provides legal basis of such reversals and also explores an overview of the issues surrounding the conversion of convictions into heinous offenses. Particularly emphasizing legal and social factors in the criminal justice system. It begins by defining heinous offenses under Pakistani law, addressing their unique characteristics stringent legal standards required

¹ Overview of Criminal Justice System (CJS) in Pakistan (Resource Bank: Pakistan's Criminal-justice System, RSILPAK) <https://rsilpak.org/resource-bank-pakistans-criminal-justice-system/overview-of-criminal-justice-system-cjs-in-pakistan/>.

for conviction. The chapter then explores the rising trend of acquittals in serious crimes analyzing how judicial decisions at appellate level often reflect deeper systematic flaws.

The importance of this issue in the context of criminal justice is highlighted, considering the far-reaching consequences for victims, the public's perception of justice and the credibility of the legal system. Additionally, this chapter will provide an overview of the criminal justice process in heinous offences, setting the stage for the detailed examination of police procedures, prosecutorial practices and legal safeguards in subsequent chapters.

1.2 DEFINITION AND NATURE OF HEINOUS OFFENSES UNDER PAKISTANI LAW

Heinous offenses in Pakistan are defined as serious criminal acts that inflicts significant harm on victims and pose a great threat to public order and safety. These crimes are distinguished from less severe offenses due to their extreme nature, the intensity of violence involved and the lasting impact on victims and society.² The legal framework of Pakistan provides strict penalties for these crimes, reflecting their severity, ensuring that the legal system responds to such crimes with appropriate measures, aiming to deter the commission of heinous acts and ensure justice for the victims and society.

To fully comprehend the scope and classification of heinous offenses within the Pakistani legal system, it is essential to examine the statutory provisions and legislative instruments that define or categorize such offences based on the nature and severity of punishment. The following legal frameworks provide foundational guidance in this regard.

1. Section 2 (G) Of the Juvenile Justice System Act 2018,³ provides a specific legal definition of heinous offence. It defines a heinous offence as:

A **heinous offence** generally refers to a crime that is exceptionally serious or outrageous in nature, often involving brutality and severity that offends public conscience. Under Pakistani law, such offences are punishable with death, life imprisonment or imprisonment extending beyond seven years, with or without the imposition of a fine, under Pakistan penal code 1860 or any other applicable law or statute.

➤ Other Relevant Laws Where Heinous Offenses Are Defined or Categorized:

While **Juvenile Justice System Act, 2018** is the only statute that explicitly uses or defines the term "**heinous offence**" other laws categorize or imply heinousness through the punishments prescribed or the nature of offence even if they do not clearly mention the exact term heinous offence. Here are few examples:

Pakistan Penal Code 1860

While Pakistan penal code does not define the term "**heinous offence**", it implicitly classifies offences as heinous through the severity of punishment.

- **Section 302 (murder)** prescribes the death penalty or life imprisonment for murder, depending on the circumstances.⁴
- Similarly,⁵ **Section 375 and 376 (rape)** outline the legal definitions and punishments of rape, which can range from rigorous imprisonment to death, depending on the nature of the offence.

² *Juvenile Justice System Act 2018* (Pakistan

Lawyer) <https://pakistanlawyer.com/support/knowledgebase.php?article=641> accessed [insert access date].

³ *Juvenile Justice System Act 2018* (Act No [insert number if available]), ss 1–13

(Pakistan) https://www.senate.gov.pk/uploads/documents/1526293126_852.pdf.

⁴ Pakistan penal code

⁵ *ibid*

- **Section 364-A (kidnapping for murder or grievous harm)** ⁶this offence involves abducting a minor under the age of 14 with the intent to murder or severely harm, making it a heinous crime punishable by death or life imprisonment.
 - **Section 377 (Unnatural offences)** ⁷when the act is committed through force against minors or involving exploitation, this act is treated as a heinous offence due to its brutality and punishable with life imprisonment or up to **10 years**. Its not only heinous but often tried under strict sections like **376, 376-A or terror laws**.
 - **Section 365-A (Kidnapping for ransom)** deals with kidnapping to extort ransom which is considered a heinous and terrorizing offence punishable by death or life imprisonment. ⁸
- All of these sections involve moral outrage, violence or public terror. These sections are considered heinous due to serious punishments attached either death or imprisonment exceeding 7 years.

1. Anti-Terrorism Act 1997

Although Anti-Terrorism Act 1997 does not explicitly define the term “heinous offence”, its provisions particularly Section 2 (j) and Section 6 reflect the characteristics commonly associated with such crimes.

- **Section 2 (j)** ⁹of the act defines “grievous” as an offence involving sever bodily harm, death or permanent damage or injuries that cause deep harm to an individual or society. This aligns conceptuality with the gravity and brutal nature often found in heinous offences.
- **Section 6** of the ATA¹⁰ further expands on this by classifying any act as “terrorism” if it is intended to cause terror, insecurity or panic among the public or harms property or life through violence. Many offences that fall under this section are punishable by death, life imprisonment or imprisonment for more than seven years.

The very threshold used to define heinous offences under Section 2(h) of the Juvenile Justice System Act 2018. These sections help contextualize the term “heinous offence” in relation to terrorism related crime thus supporting the broader legal understanding of serious, morally shocking offences under Pakistani law.

Heinous Offenses with Cognizable Offences Under the Criminal Procedure Code 1898:

In my opinion heinous offenses represents the most serious form of cognizable offenses classified under the (Schedule II) of Criminal Procedure Code (CrPC) not merely because they exceed threshold of three years punishment but due to their severe social consequences, moral gravity, impact on society and threat to public order. However, heinous offenses go further, they are extreme forms of cognizable offenses usually punishable with 7 years to life imprisonment or death such as rape, murder, kidnapping etc. Therefore, while all heinous offenses are cognizable, not all cognizable offenses are heinous. From this perspective heinous crimes can be identified within CrPC’s framework as the most serious cognizable offenses that justify immediate police action and heightened judicial scrutiny. ¹¹

⁶ ibid

⁷ Ibid

⁸ Ibid

⁹Anti-Terrorism Act 1997 (Act No XXVII of 1997) (Pakistan) <https://nacta.gov.pk/wp-content/uploads/2017/08/Anti-Terrorism-Act-1997.pdf>

¹⁰Ibid

¹¹ Code of Criminal Procedure 1898 (Act V of 1898) (Pakistan).

A strong example is ¹²**Zainab Ansari Rape and Murder Case (2018)**. The offense falling under **Section 302, 376 PPC** was heinous due to its brutality and public reaction. The FIR was registered immediately under **Section 154 CrPC** and police took swift cognizance reflecting how heinous crimes activate urgent procedural mechanisms. This shows that under CrPC heinousness implies not only a longer sentence but also a trigger for immediate legal intervention due to threat such crimes pose to social justice and peace.

1.3 RISING TREND OF ACQUITTALS IN SERIOUS CRIMES =

Pakistan's criminal justice system has witnessed a consistently high rate of acquittals in serious crimes, raising critical concerns about its functionality.¹³ One contributing factor to this trend is the operational disconnect between the various pillars of the system such as police, prosecutors and the judiciary. Empirical insights from structured interviews with these such stakeholders e.g. lawyers, judges, law enforcement authorities reveal systematic delays, lack of co-ordination and persistent inefficiencies, often compounded by corruption and resource constraints. Many trials fail due to weak investigation, poor adherence to mandatory procedures and unreliable witness statements often rooted in non-compliance with provisions like Section 103 and 154 of Cr.PC.

Furthermore, doctrinal legal analysis highlight inconsistencies in judicial interpretations of evidentiary standards and procedural safeguards. These ambiguities allow defense council to exploit technical loopholes, especially in cases involving grave offenses like abduction, terrorism, sexual violence. For instance, courts frequently acquit based on insufficient evidence or procedural lapses, even when the severity of the crime warrants otherwise. This not only delays justice for victims but also erodes public confidence in legal institutions. The issue underscores the need for cohesive reforms both institutional and legislative to strengthen prosecutorial strategies, ensure accountability and minimize discretionary discrepancies that enable wrongful acquittals in cases involving heinous offences.¹⁴

1.4. IMPORTANCE OF THE ISSUE IN CRIMINAL JUSTICE SYSTEM

The persistent trend of acquittals in heinous offenses raises fundamental concerns about the structural soundness of Pakistan's criminal justice system. It goes beyond individual verdict, reflecting systematic weaknesses that hinder accountability. Such reversals particularly in cases involving severe offenses like homicide, rape or acts of terror escape punishments. These deficiencies highlight systematic gaps in investigation protocols, prosecutorial effectiveness and evidentiary integrity. It not only denies justice to victims but also signals a failure to maintain public safety. These lapses often result in the failure to meet the legal burden of proof, allowing potentially guilty individuals to escape punishment. This undermines the core objective of the criminal law, deterrence, retribution and societal reassurance. Moreover, it disrupts public confidence in legal institutions leaving citizens disillusioned and victims without a sense of closure. The significance of the issue extends beyond individual cases, it reflects on the ability of the system to uphold justice in its truest form. When high-stakes cases fall apart due to procedural inefficiencies or mismanagement,

¹²Muhammad Azeem, 'View of Zainab's Murder: Heinous Crimes, Speedy Trial and the Challenge of Procedural Rights' (2018) 4(1) *Review of Human Rights* <https://reviewhumanrights.com/index.php/RHR/article/view/85/26>

¹³ *Contemporary Journal of Law* <https://contemporaryjournal.com/index.php/14/article/view/429/365>

¹⁴ *ibid*

it becomes imperative to re-evaluate existing legal frameworks and institutional capacities to ensure that justice is not only done but seen to be done to develop a democratic society.¹⁵

1.5. OVERVIEW OF THE CRIMINAL JUSTICE PROCESS IN HEINOUS OFFENCES

The criminal justice process in heinous offenses in Pakistan follows a complex and often rigid framework that involves series of multiple independent stages,¹⁶ beginning from the registration of FIR (First Information Report) under **Section 154 of Cr.PC**,¹⁷ to investigation, prosecution, trial and adjudication. These stages are designed to uphold procedural fairness and legal integrity. This process typically commences with the formal lodging of FIR, which activates the investigative machinery. Law enforcement agencies then tasked with collecting credible evidence both physical and testimonial required to substantiate allegations, under time-sensitive and often challenging circumstances.¹⁸ This phase is crucial especially in serious offenses, where any procedural irregularity may jeopardize the credibility of the entire case. Ultimately following investigation, the case is forwarded to prosecution, which must assess the sufficiency of evidence to establish guilt beyond reasonable doubt before framing charges, often hindered by weak case preparation and procedural lapses. Subsequently, trials are conducted in higher courts e.g. Session courts or Anti-Terrorism Courts (ATC) with jurisdiction over such grave matters ensuring that all constitutional safeguards, including the right to legal counsel and presumption of innocence are preserved. Such trial proceedings held are supposed to be swift and decisive but are frequently delayed due to systematic inefficiencies. Appeals to High Courts under **Article 185 of the Constitution** and **Section 410-423 of CrPC**²⁰ allows further examination particularly in cases where wrongful acquittal or conviction is suspected. Thus, each stage of this justice process from trial court proceedings to appellate review in High Courts aims to strike a balance between state authority and individual rights. Though systematic overload, frequent delays and procedural defects, especially in heinous offenses often hinder judicial outcome, consequently impacting social confidence in law and justice.

1.5.1. Structure of the Criminal Justice System in Pakistan

The criminal justice system in Pakistan operates through a structured framework of institutions each playing a distinct role in ensuring law enforcement, accountability and justice. It begins with **Police** empowered under **Section 154-156 CrPC** to register FIR and initiate investigation of criminal acts. Then comes **Prosecution** guided by **CrPC** and relevant provincial laws like **Punjab Criminal Prosecution Services Act 2006** evaluate the admissibility of evidence and framing of charges before courts. Pakistan has a hierarchical Court system, magisterial courts take cognizance of minor offenses and initial proceedings under **Section 190 CrPC**, while Session courts handle more serious offenses such as gang rape, robbery, murder etc., under **Section 265-A TO 265-N CrPC**. High Courts and Supreme Court provide appellate and revisional oversight under **Section 410-439 CrPC** and **Articles 185-212 of Constitution** which ensures that legal standards are maintained and justice is neither denied nor delayed. Each tier of this structure is constitutionally designed to function independently

¹⁵ *Criminal Justice System in Pakistan: Challenges and Remedies* (The Spine Times, 2025) https://spinetimes.pk/criminal-justice-system-in-pakistan-challenges-and-remedies/?utm_source=chatgpt.com#google_vignette

¹⁶ *Review on the Criminal Justice System: Understanding its Structural Components and Process in Pakistan*

¹⁷ *Code of Criminal Procedure 1898* (Act V of 1898) (Pakistan) s 154.

Overview of Criminal Justice System (CJS) in Pakistan (Resource Bank: Pakistan's Criminal-justice System, RSILPAK) <https://rsilpak.org/resource-bank-pakistans-criminal-justice-system/overview-of-criminal-justice-system-cjs-in-pakistan/>

¹⁹ *Constitution of the Islamic Republic of Pakistan 1973* (Pakistan)

²⁰ *ibid*

but in practice overlapping jurisdictions, institutional inefficiencies and inadequate resource allocation often impede its effective operation.²¹

Additionally, the conviction rate is the best indicator to check the efficiency and fairness of the criminal justice system. In Pakistan the overall conviction rate is about 50%. China has 99% conviction rate; the UK has an 82% conviction rate and India has a 57% conviction rate. Pakistan's conviction rate shows²² that the national average conviction rate for heinous offenses is 15%, while the ATA cases have a 19% conviction rate which further drops following appeals. This demonstrates that minor cases take a lot of time which affects the caliber of prosecution of serious crimes. Because of the way the system functions no institution can bear the entire burden. The procedure has both individual flaws and collective shortcomings.

Conviction Rate in Pakistan

Province	Overall Conviction Rate	Conviction Rate of Heinous Cases	Conviction Rate of ATA Cases
Punjab	65%	20%	43%
Sindh	22%	10%	16%
KP	80%	12%	14%
Baluchistan	46%	24%	30%
Total	50%	15%	19%

1.5.2. Role and Jurisdiction of High Courts

The Pakistani constitution has comprehensive provisions that regulate the court's composition, jurisdiction, powers and duties. Both the Supreme Court and High courts in Pakistan occupy a central position in the country's judicial hierarchy, exercising both original as well appellate jurisdiction under **Article 184 and Article 199 Of the Constitution of Pakistan 1973**. In cases involving heinous crimes high courts serve as the ultimate authority for reviewing decisions made by sub ordinate courts. Their appellate roles allow them to examine the legality, proportionality and fairness of conviction and acquittals particularly when miscarriages of justice are alleged. They also entertain writ petitions against violations of fundamental rights, making them a key forum for scrutinizing law enforcement misconduct, prosecutorial error or judicial error.²³ Furthermore, high courts are empowered to take Suo moto notice in matters involving public interest or gross injustice, adding a vital layer of oversight. In cases of acquittals from heinous offenses these courts must strike a delicate balance between protecting civil liberties and ensuring that serious offenders do not escape punishment due to technicalities or weak prosecution. Moreover, they also provide advisory jurisdiction to government when an opinion is sought on any question of law. These courts exercise original jurisdiction for the enforcement of fundamental rights, particularly in matters of public importance arising in criminal cases.²⁴

HISTORICAL BACKGROUND

1.6 HISTORY OF CRPC (CODE OF CRIMINAL PROCEDURE)

The code of criminal procedure (CrPC) is a foundational legal framework that governs the criminal justice process in Pakistan, particularly in prosecution and trial of both ordinary and heinous offenses. In medieval India, the Mohammedan criminal law emerged after the

²¹Criminal Justice System of Pakistan

²² Ibid

²³ Ibid

²⁴ Chaudhry Hasan Nawaz, *The Criminal Justice System in Pakistan: Contemporary Problems in Securing Efficient Administration of Criminal Justice* (Federal Judicial Academy) <https://www.fja.gov.pk/files/articles/TheCriminalJusticeSysteminPakistan.pdf>

Muslim established laws which became the dominant legislation. Subsequently, **Regulating Act 1773** passed by British authorities led to the establishment of a Supreme Court in Calcutta later on in Madras and Bombay. The Supreme Court was tasked with deciding cases involving subjects of the Crown by applying British procedural law. Afterwards, the Indian government was taken over by the crown following the rebellion of 1857. In 1861 British parliament passed the Indian Penal Code. The CrPC was initially drafted or introduced by the British colonial government in **1882** and revised in **1898**, it was designed to establish a uniform system for criminal trials and standardize criminal procedures across the Indian sub-continent. The law was formulated to regulate the procedures for investigation, prosecution and adjudication of criminal offenses.²⁵

After Pakistan's independence in 1947,²⁶ the CrPC was adopted as a governing procedural law for criminal cases with only minor amendments to suit local needs. Over the years, despite being over a century old, it remains a primary procedural law in Pakistan making it one of the most historically enduring statutes in the country's legal system. Despite several modifications over the decades, the law still reflects many colonial characteristics that are often incompatible with modern day challenges. The law lays down a structured framework for the functioning of criminal courts, the role of police officers, public prosecutors and magistrates and prescribes the manners in which criminal cases are to be conducted. However, the colonial nature of the law has led to systematic challenges in the modern era particularly in cases involving heinous offenses. The rigid and outdated procedural mechanisms often result in delays, procedural loopholes and higher rates of acquittals due to technicalities. Understanding the historical foundation of CrPC is vital examining why, in many instances convictions in serious offenses are overturned undermining the effectiveness of Pakistan's criminal justice system.

A supporting example where a notable early case²⁷ that highlights the practical implementation and challenges of the inherited CrPC in Pakistan is **"The State Vs. Dosso" (PLD 1958 SC 533)**. Though primarily a constitutional law case, it indirectly reflects the broader legal environment inherited from British colonial rule in Pakistan's post-independence judicial landscape. In this case the Supreme Court of Pakistan operated under procedural norms and interpretive methods deeply rooted in colonial legal traditions including CrPC. The judiciary's approach to procedural justice such as the admissibility of evidence and rules of fair trial was heavily influenced by British precedents. The case demonstrated how Pakistan's legal system in its formative years relied on colonial statutes like CrPC for judicial reasoning and procedural legitimacy. While the State Vs. Dosso case primarily deals with the **Frontier Crimes Regulation (FCR)**²⁸ and constitutional legitimacy, particularly concerning the application of **Hans Kelsen's Theory of Legal Revolution** based on²⁹ what the law is not what it should be. The pure theory

²⁵ Wikipedia, 'Code of Criminal Procedure (India)' (Wikipedia, 30 April 2025) [https://en.wikipedia.org/wiki/Code_of_Criminal_Procedure_\(India\)](https://en.wikipedia.org/wiki/Code_of_Criminal_Procedure_(India))

²⁶ Muhammad Hamza Zakir, Mehnaz Begum and Rizwana Gul, 'The Impact of Colonial-Era Laws on Pakistan's Legal System: A Historical Analysis of the British Colonial Influence on Pakistan's Legal System and Its Ongoing Effects' (2021) 9(6) *International Review of Social Sciences* <https://irss.academyirmbr.com/papers/1695987513.pdf>

²⁷ <https://thelex.live/archives/8266?v=27889b81b317>

²⁸ *Balochistan Frontier Murderous Outrages Regulation 1901* (Regulation No [insert number if available]) (Pakistan) <https://portal.mohr.gov.pk/wp-content/uploads/2021/03/Civil-Political-And-Economic-Rights-Balochistan-Frontier-Murderous-Outrages-Regulation-1901.pdf>

²⁹ **Andrei Marmor**, 'The Pure Theory of Law' in *Stanford Encyclopedia of Philosophy* (2021) <https://plato.stanford.edu/entries/lawphil-theory/>

of law explains the law as a pure, logical structure based only on legal rules not influenced by outside values. However, considering my opinion a clear and meaningful linkage can still be drawn between this case and the historical background of Code of Criminal Procedure (CrPC) in Pakistan. The very fact that the Frontier Crimes Regulation (FCR) a colonial era law was being adjudicated under constitutional scrutiny by the newly formed Supreme Court of Pakistan, shows how the legal and judicial system continued to operate using inherited procedural tools. At that time CrPC served as the procedural backbone for almost all criminal trials and legal challenges. The court's reasoning and procedural structure and interpretation reflected a judiciary still functioning within the boundaries set by colonial legal doctrines such as those embedded in CrPC. Thus, the case exemplifies how British colonial laws such as CrPC not only retained but also were instrumental in structuring early judicial responses to legal conflicts in Pakistan including those involving special laws like the FRC.

1.7 HISTORY OF INVESTIGATION

In the context of law enforcement and court processes the historical definition of “investigation” originates from early methods of tracking down or looking for something, which later developed into official criminal investigations. The Latin “investigare” which means “to trace out or search into”³⁰ is where the word “investigation” itself comes from. **Hans Gross** is widely regarded as a pivotal figure in the evolution of criminal investigation, making a substantial contribution to the discipline of criminology. The **Oxford English Dictionary**³¹ defines “investigation” as the systematic process of identifying and pursuing information to uncover violations of law and policy. This can lead to exoneration, successful administrative action or criminal prosecution. The ultimate goal of an investigation is to provide a detailed account of the incident including who was involved, what happened and how it was occurred.

The evolution of criminal investigation in Pakistan is deeply rooted in the legacy of British colonial administration. Initially governed by **Police Act 1861**³², introduced after **1857 revolt**, the police force was primarily designed for maintaining colonial control rather than conducting impartial investigations. With the enactment of **Code of Criminal Procedure 1898, (CrPC)**, a procedural shift occurred. The CrPC particularly **Section 154-173** laid the legal foundation for modern investigation outlining procedures such as the registration of first information report (FIR), collection of evidence, recording of witness's statements under **Section 161** and submission of final reports under **Section 173**. Despite having this procedural framework, the investigation process in Pakistan has historically lacked innovation and reliability it has long been marred by coercive interrogation methods, poor documentation, tempering of evidence and an overdependence on eyewitness rather than forensic support. A notable example of a landmark case³³ of **Muhammad Bashir Vs. Station House Officer**³⁴ (**PLD 2007 SC 539**) in which the Supreme Court emphasized the significance of fair and lawful investigation, recognizing it as the backbone of the process of justice. Yet, the failure to modernize investigative tools and train police officers has led to poor-quality investigations, ultimately resulting in wrongful acquittals particularly in heinous crime cases. These historical and institutional deficiencies continue to shape Pakistan's criminal outcome to this day.

³⁰ Investigation' (Etymonline) <https://www.etymonline.com/word/investigation>

³¹ 'Origin of Investigate' (Stevenson University Online, [Year]) <https://www.stevenson.edu/online/about-us/news/origin-of-investigate/>

³² *Police Act 1861* (Act V of 1861) (Pakistan) <https://sja.gos.pk/assets/BareActs/POLICE%20ACT%201861.pdf>

³³ *Muhammad Bashir v. Station House Officer, Okara Cantt.* PLD 2007 Supreme Court 539 (Pakistan).

³⁴ *Muhammad Imran v. The State* 2024 SCP 226 (Pakistan) (Justice Ayesha A. Malik dissenting).

1.8 HISTORY OF TRIAL

The term “trial” has evolved significantly in meaning over time. Originally derived from the Anglo-French trial, which stemmed from the old French verb “trier” meaning “to try, pick out or cull” its roots can be traced to the Gallo Roman triare, though the precise origin remains uncertain. In the mid-15th-century, the word was first used in the context of legal proceedings referring to the formal or legal examination of a case before the court of law. By the late 15th century, its use broadened to include any person of testing or examination and by the 1540s it came to signify enduring hardship or difficulty over the time the term has also been incorporated into phrases such as “trial and error” (first recorded in 1806) and “trial balloon” (1826) each reflecting metaphorical extensions of the original concept of testing and evaluation.³⁵

The concept of a formal trial in the Indian sub-continent was institutionalized during the British colonial through the **Code of Criminal Procedure, 1898 (CrPC)**. Prior to British intervention criminal disputes were largely handled through customary practices, religious courts and tribal jirgas where trials were informal, lacked written records and were often biased by social hierarchies. The colonial administration sought to standardized legal proceedings by introducing structured trials, emphasizing investigation, charge framing, evidence recording and sentencing through an impartial judiciary.³⁶ After gaining independence in 1947, Pakistan adopted CrPC with minor amendments making it the backbone of its criminal adjudication system.³⁷ However, over time the spirit of swift and fair trials envisioned under colonial law deteriorated due to systematic delays procedural lapses and insufficient modernization of judicial processes. Today while the structure remains similar session courts conducting trials of heinous offenses under **Chapter XXII of the CrPC**.³⁸ The ground reality differs with frequent adjournments, lack of forensic integration and overburdened courts compromising the efficiency of trials. The shift from colonial discipline to contemporary challenges highlights how historical frameworks retained, require substantial reform to meet the demands of justice in modern Pakistan, especially in the context of serious and heinous crimes

³⁹Despite being one of the two states established in the name of religion and conceived as a place where Islam and other religions can be practiced without fear or condemnation, Pakistan is still far from implementing Shariah Principles in the nation’s legal system and in society at large. Since they are mostly seen as a “luxury” of industrialized nations, fair trial rights have continued to be at the back of nation’s legal agenda. However, the implementation of **Article 10-A of Constitution of Pakistan 1973**⁴⁰ has initiated the process of establishing fundamental rights in Pakistan. Even if the foundation of Shariah-developed

³⁵ ‘Trial’ (Etymonline) <https://www.etymonline.com/word/trial>

³⁶ *Code of Criminal Procedure 1898*, India

³⁷ *Government of Pakistan (Adaptation of Existing Laws) Order 1947*, art 3

³⁸ *Supra note 18*

³⁹ Rahat-UI-Quloob, ‘Shariah and Evolution of Fair Trial Rights in Pakistan’ (2020) 4(2) *Rahat-UI-Quloob* 130 <http://www.rahatulquloob.com/index.php/rahat/article/view/139>

⁴⁰ *Supra note 20*

rights is human value and integrity, Pakistan still needs to make significant improvements and adaptations in order to include and provide the right of a fair trial.

1.9 HISTORICAL CASE LAWS ON INVESTIGATION AND TRIAL

The historical development of criminal investigation and trial procedures in the sub-continent is deeply rooted in landmark cases that shaped modern legal standards. In ⁴¹**Emperor v. Khawaja Nazir Ahmed (1945 PC 18)**, the privy council emphasized the independence of police investigation from judicial interferences, laying a strong foundation of separating executive action from judicial proceedings. The court made it clear that judges should not intervene during investigation unless absolutely necessary preserving the neutrality and autonomy of the process. Earlier, in **Queen Empress v. Jogendra Chunder Bose (1892 ILR 19 Cal 35)**, ⁴²the Calcutta High Court deal with a sedition charge, highlighting the need for clear intent and reliable evidence before reaching criminal convictions, especially in political sensitive matters. This case stressed that without solid proof, trials could easily become tools of oppression. Additionally, **Queen-Empress v. Abbas Ali (1898 ILR 25 Cal 512)** ⁴³reinforced the principle that evidence must be scrutinized carefully particularly in forgery cases where false documentation could lead to grave injustice. Together these cases developed crucial safeguards in the colonial criminal justice system, emphasizing the importance of impartial investigations, evidence-based trials and protection against misuse of power, principles that later heavily influenced Pakistan's post-independence criminal procedure system.

PROCEDURAL AND INVESTIGATIVE FLAWS LEADING TO WRONGFUL ACQUITTALS

1.10 INTRODUCTION

The criminal justice system of Pakistan is established to uphold rule of law, ensure speedy justice and maintain social order to protect the rights of citizens. In spite of that when this system fails, specifically offences dealing with heinous crime cases such as murder, rape and terrorism, the consequences are repercussions. ⁴⁴One of the most frightening consequences of such failure is the wrongful acquittal of an accused person not due to innocence though procedural and investigative flaws. These errors/ flaws weaken the prosecution's case and often compel the court to acquit the accused due to lack of evidence and procedural lapses of a weak legal system, leading individuals or victims coping with the harsh truths of society. In Pakistan wrongful acquittals of accused have become a very significant issue particularly in serious criminal matters. This major problem rises at the very earliest stage of the criminal process during investigation and case preparation. ⁴⁵There may be some delays or flaws in writing or registering first information report (FIR) due to irresponsible behavior or misconduct of police officers. Apart from that evidence may not be collected or gathered properly by disobeying the laws of country and witnesses may face a use of force to make any kind of confessions under coercion, threatened or improperly examined. Investigating officers often lack a proper training to deal with serious and complex cases, significantly those involving multiple culprits, forensic evidence or contradictory/inconsistent witnesses' statements. These drawbacks create loopholes in the prosecution's case, ultimately resulting in acquittals.

⁴¹ *Emperor v Khwaja Nazir Ahmad* (Preservation of police investigative powers) <https://www.casemine.com/commentary/in/preservation-of-police-investigative-powers:-emperor-v.-khwaja-nazir-ahmad/view>

⁴² *Queen-Empress v Jogendra Chunder Bose and Others* (1891) ILR 19 Cal 35 <https://indiankanoon.org/doc/334102/>

⁴³ *Emperor v Khwaja Nazir Ahmad* AIR 1945 PC 18 <https://indiankanoon.org/doc/1918887/>

⁴⁴ *ibid*

⁴⁵ *ibid*

In addition, High courts⁴⁶ in Pakistan frequently report these issues while deciding appeals as judges often lack to handle these cases due to neglect of duty or professional misconduct.

For Example, while overturning convictions judges usually mishandle investigation, conflicting evidences or the failure to follow the procedural requirements under the Code of Criminal Procedure. Under these circumstances the appellate courts have no option to proceed further rather than acquit the accused. Although these decisions are legally justified, create a perception of injustice. This development contributes to heighten public dissatisfaction with the judiciary or legal framework.

This chapter explores the significant key reasons behind Pakistan's high acquittal rate in criminal cases, focusing on weak law enforcement, flawed judicial procedures, poor investigation and socio-political pressures⁴⁷. The effectiveness of the criminal justice system is questioned as acquittals remains disproportionality high. In 2021, Pakistan's crime rate rose to 3.98 per 100 people, reflecting a consistent increase and exposing systematic challenges. The issue is especially severe in violent crimes such as murder, rape etc. where acquittals often exceed 50%. Common causes include poor evidence collection, procedural errors and external influence on court decisions. Additionally, corruption and witness intimidation weaken the process, while the lack of forensic tools and trained staff leads to weak prosecutions and frequent acquittals.⁴⁸

1.11 INVESTIGATIVE FAILURES BY POLICE AND AGENCIES

Investigation is the backbone of any criminal case, particularly in heinous criminal cases where the burden of proof is beyond a reasonable doubt and the consequences of failure are devastating or damaging. In Pakistan ⁴⁹police are solely responsible for criminal investigations. Aside from the Code of Criminal Procedure which only addresses the execution of criminal investigation, additional laws govern how the police are organized. Under **Section 2 (g)** of the **Punjab Criminal Prosecution Service Act 2006** an "investigation Officer" is defined as:

*"An officer of a law enforcement agency competent under any law, for the time being in force, to investigate an offence."*⁵⁰

Unfortunately, in Pakistan, technical errors during procedural and investigative stage often result in weak prosecution, giving the accused an unintended benefit of doubt. These investigative loopholes not only impact individual's rights of protection in criminal cases to ensure speedy remedy but also affect the systematic issues e.g., legal training, policy making, gross professional misconduct, accountability. This section will examine three major areas where investigative failures occur.

Deficiencies in Evidence Collection and Forensic Analysis

One of the most crucial irregularities in the investigative process lies in the subpar investigation or insufficient evidence collection. In serious crimes like rape or murder forensic

⁴⁶ Ibid

⁴⁷ 'Police probe faulted for low conviction rate' (The Express Tribune, 2024) <https://tribune.com.pk/story/2508984/police-probe-faulted-for-low-conviction-rate>

⁴⁸ *PJ Law Journal* 203 <https://pjlw.com.pk/index.php/Journal/article/view/v3i11-203-218/v3i11-203-218>

⁴⁹ Chaudhry Hasan Nawaz, 'The Criminal Justice System in Pakistan: Contemporary Problems in Securing Efficient Administration of Criminal Justice' (Federal Judicial Academy) <https://www.fja.gov.pk/files/articles/TheCriminalJusticeSysteminPakistan.pdf>

⁵⁰ *The Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act 2006* (III of 2006) (Punjab, Pakistan) [https://pg.punjab.gov.pk/system/files/THE%20PUNJAB%20CRIMINAL%20PROSECUTION%20SERVICE%20\(CONSTITUTION,%20FUNCTIONS%20AND%20POWERS\)%20ACT%202006.doc_.pdf](https://pg.punjab.gov.pk/system/files/THE%20PUNJAB%20CRIMINAL%20PROSECUTION%20SERVICE%20(CONSTITUTION,%20FUNCTIONS%20AND%20POWERS)%20ACT%202006.doc_.pdf)

evidence can be the key to establishing guilt⁵¹. Nonetheless in many cases, either such evidence is not collected at all or is mishandled to make it inadmissible. **For example**, first responders (police officers or emergency personal) limited training and awareness often lead to compromised crime scenes. Police officials instead of preserving the crime scene, may walk through it, mishandled objects or failed to protect evidence. This professional gross misconduct by police officers while on the duty leads to the loss of important physical evidence e.g. fingerprints, blood samples etc.

Despite proper evidence gathering there are so many instances where lapsing deficiencies, such as forensic reports are delayed or manipulated due to outdated or underfunded laboratory facilities. In many regions there is a complete lack of modern forensic labs making it impossible to rely on scientific methods of investigation.⁵² The outcome is that the prosecution often goes to trial without solid evidence depending entirely on the eye-witness testimonies that may not stand up to cross examination. This creates a doubt for courts to grant an acquittal not because accused is innocent, but because the investigative process failed to establish guilt beyond a reasonable doubt.

Witness Intimidation, Coercion and Recantation

Witness testimony plays a very significant role in determining the conviction of an accused person, especially in cases where physical evidence is insufficient to prove innocence of a culprit⁵³. In Pakistan, **The Punjab Witness Protection Act 2018**⁵⁴ provides a legal framework to ensure the safety, anonymity, and security of witnesses involved in criminal proceedings aiming to protect them from threats, intimidation or harm and thereby support fair trial outcomes. However, in Pakistan there are so many cases where witnesses are forced under any threats, intimidation or coercion to act into any agreement. Witnesses are pressurized to make false statements or withdraw their statements during trial in heinous kinds of offences. A notable precedent on making false confessions, **PLD 1969 SC 127** based on the principle that a prosecution witness who makes false confessions in favor of accused damages the veracity of his statement.⁵⁵

In Pakistan, this major concern has become a very common issue among powerful individuals having a very strong political or financial background, e.g. ⁵⁶pressure from mighty landlords or capitalist crime groups. Due to an absence of legal framework regarding witness's protection programs the citizens cannot defend their rights to protect themselves against unwilling statements or actions they do not want to comply with or respond to. In remote areas and even urban centers witnesses are often pressurized or coerced by some official authorities e.g. police or any other person to deny their statements, make any false confessions/statements or disappear before the trial. These significant disparities rise during cross-examination or appeal stages when defense lawyers on the other hand highlight these crucial contradictions or inconsistencies. A famous case named as **Wali Khan Babar Target**

⁵¹ Ibid

⁵² Korey Wise Innocence Project, 'Why Do Wrongful Convictions Happen?' (University of Colorado) <https://www.colorado.edu/outreach/korey-wise-innocence-project/our-work/why-do-wrongful-convictions-happen>

⁵³ *Journal of Applied Sciences* <https://pmdjas.com/index.php/pmdjas/article/view/107/93>

⁵⁴ *The Punjab Laws Act* (Punjab, Pakistan) <http://punjablaws.gov.pk/laws/2713.html>

⁵⁵ *PLD 1969 SC 127*

⁵⁶ Punjab Criminal Prosecution Service, 'Hostile and Won Over Witnesses' https://pcps.punjab.gov.pk/hostile_and_won_over_witnesses

Killing Case, ⁵⁷on January 13, 2011 Wali Khan Babar a young news reporter for the private news channel Geo News from Baluchistan, was murdered in Karachi by unidentified assailants. Some of the suspects in the murder have since been taken into custody by the police. During the investigation and prosecution, key witnesses were intimidated and coerced into not participating in the case. Six witnesses including police officers, informants and members of the investigation team involved in the case, were killed in the course of two years. Under strange circumstances the lawyer in his case fled Pakistan and sought asylum in the United States. When a journalist is assassinated, it becomes simple to prevent justice by removing a witness.

Although such cases do not only result in wrongful acquittals, they also create a sense of fear among other citizens to come forward to claim justice. Courts established on the principle of fair trial to ensure justice and speedy remedies to public, though left with no option than shifting benefit of doubt to the accused person. These systematic flaws or failures of Pakistani legal system to protect or fair treatment of witnesses further damages the system's ability in justice process.⁵⁸

Police Inefficiency and Procedural Non-Compliance

In criminal cases, ⁵⁹the role of police officers plays a vital role during investigations by ensuring that every legal step is properly followed in the process of inquiries or inspection. They are tasked with maintaining public order and enforcing the law while staying within constitutional limits their actions directly impact the citizens life, liberty and property protected under **Article 9 and 24** of the Constitution, which prohibit deprivation without due process. The colonial-era police act 1861 was repealed by **Police Order 2002** which redefined policing standards. This order currently applies only to Punjab and Islamabad Capital Territory. Notably **Section 4** of the order outlines ⁶⁰the core responsibilities of police officials within this modern framework. However, inefficiencies, lack of resources, proper training programs, ineffective legal framework and procedural defects often lead to serious loopholes that weaken the entire case⁶¹. For example, **Section 103 of Code of Criminal procedure** requires absence of independent witnesses when search is to be made of a place or locality inhabited by the people during the process of investigation⁶². Although in many cases, due to poor crime scene management the procedure given in this relevant provision is not being adhered to (non-adherence by police officials) due to lack of enforcement.

On the other hand, mandatory provisions in cases of arrest, remand and recording of statements typically found violated. Such as, confessions recorded by police officers instead of magistrates or those obtained under threats or coercion are considered inadmissible by courts of law. **Section 164** of the said code clearly states ⁶³that any statements of confessions

⁵⁷ *Korey Wise Innocence Project*, 'Why Do Wrongful Convictions Happen?' <https://www.colorado.edu/outreach/korey-wise-innocence-project/our-work/why-do-wrongful-convictions-happen>

⁵⁸ Ibid

⁵⁹ *Overview of Criminal Justice System (CJS) in Pakistan* (Resource Bank: Pakistan's Criminal-justice System, RSILPAK) <https://rsilpak.org/resource-bank-pakistans-criminal-justice-system/overview-of-criminal-justice-system-cjs-in-pakistan/>

⁶⁰ *The Police Order 2002* (as amended by the Police Order (Amendment) Ordinance 2006) (Punjab, Pakistan) <https://punjabpolice.gov.pk/system/files/police-order-2002-updated-version.pdf>

⁶¹ 'Criminal Justice System and Reforms in Pakistan' (2023) https://www.researchgate.net/publication/375074742_Criminal_Justice_System_and_Reforms_in_Pakistan

⁶² Supra note 18

⁶³ Ibid

must be made to a magistrate of the first class or magistrate of the second class rather than a police officer, in course of an investigation at any time before the commencement of inquiry or trial.

Furthermore, police officers do not comply with the requirement of **Section 154 of Code of Criminal Procedure** by creating delays in registration of **FIR** (first information report)⁶⁴. The provision is adhered to obtain early information of alleged criminal activity to record the circumstances before the time, in order to put the report before magistrate when the informant is examined. The court often consider these delays as a sign of fabrication which benefits the defense, due to police inefficiencies and flawed investigation and weak prosecution.⁶⁵

1.12 ROLE OF PROSECUTORIAL INEFFICIENCY AND SYSTEMATIC DELAYS

In a criminal justice system, even a strong investigation can fail to lead a conviction due to prosecutorial misconduct. The prosecution is supposed to carry the case through trial, ensuring that the court sees all the aspects of the case such as evidence, witness testimonies, legal arguments all prepared in an organized and well lawful mannered. However, in Pakistan ineffective prosecution have become a significant reason for the collapse of cases, particularly in serious crime cases e.g. murder, rape, terrorism etc. These deficiencies often result in acquittals of offenders in severity of crimes, leading public distrust in legal system. This part explores some of the most crucial prosecution's weaknesses in regard to wrongful acquittals.⁶⁶

Lack of Case Preparation and Prosecutorial Negligence

Prosecution has the responsibility to make some good preparations for a case before proceeding in court of law, because a well-prepared prosecution increases the chances of positive outcomes. Such as a prosecutor must have know-how of a case file, evidence requirements, presentation of witnesses in court, strong preparation of arguments to counter defense against the other party, knowledge of relevant laws or legal provisions that are applicable in the present Circumstances of the case. Notwithstanding, it rarely happens in Pakistani legal system as prosecutors do not comply with all these certain requirements. Sometimes prosecutors appear in court of law with a very basic understanding or know-how of the case. In certain cases, prosecutors do not know even about witnesses which may lead to poor responses by prosecutors during trial. Ultimately, all these lacks of preparation affect the prosecutor's ability to respond effectively in court of law which weaken the entire proceedings of a case in favor of claimant⁶⁷.

There are so many concerns on the part of a prosecutorial negligence is that prosecutors are often overwhelmed and exhausted with over-workload and shortage of resources ⁶⁸in developing countries like Pakistan. In so many districts, one prosecutor may be handling so many cases at the same time e.g. 20-30 cases. Due to overburdened a prosecutor's

⁶⁴ Ibid

⁶⁵ Supra note50

⁶⁶ **Muhammad Javed Khan and Muhammad Bilal**, 'Justice Delayed, Justice Denied: Examining the Causes of Delays in Pakistan's Criminal Justice System' (2025) 7(1) *Journal of Law & Social Studies* 43 <https://www.advancelrf.org/wp-content/uploads/2025/04/Vol-7-No.-1-4.pdf>

⁶⁷ **Samina Bibi, Ajmal Khan, Liangliang Cheng** and others, 'Public and Professionals' Perceptions of Wrongful Convictions in Pakistan: Scale Development and Validation' (2022) 17(Suppl 1) *Asian Journal of Criminology* 95 <https://doi.org/10.1007/s11417-022-09386-3>

⁶⁸ Ibid 67

preparations may go wrong as lacking so many factors⁶⁹. For example, in such circumstances, crucial evidence may be overlooked or not be submitted on time when required by court, contradictory statements of witnesses may not be properly examined, witnesses may not be produced timely in court, some relevant legal provisions may be uncontested or unquestionable, misrepresentation or misleading arguments by prosecutors in response to defense. Consequently, courts observing irresponsible or unprofessional attitude of prosecutors while handling such cases with weak preparations may lead to acquittals. The decision is not announced by the court on the basis of culprit's innocence but because the prosecution's careless handling and dealing his job improperly.

Role of Police in Weak Investigation and Faulty Evidence Collection

The police and prosecution's co-ordination⁷⁰ plays a very significant role in the criminal justice system. Preferably, the police officials (investigation team) and the prosecutor should work in collaboration with each other from the very beginning of any case. Such as evidence collection by police and shaping the case to make it ready for a trial in court by a prosecutor. The police play a very crucial role, particularly in the process of investigation stage. However, in many cases including heinous type of offenses, weak investigation is a main leading cause of an acquittal of accused person.⁷¹ This major concern give rise to so many reasons, such as improper trained officers often mishandled crime scenes at the place of occurrence e.g. sealing recovered item or ignoring them, delays in forensic tests, recording statements of witnesses in a legally inadmissible manner making it unreliable in court, outdated methods to record oral confessions instead of forensic proof, lack of accountability and supervision often worsen the situation giving the defense an easy way to challenge the case leading to acquittal. In Pakistan a substandard or flawed investigation and insufficient evidence collection may damage the chances of conviction which potentially harm rights of the citizens of Pakistan. Incomplete investigations are also a result of police officers inadequate training and lack of legal knowledge.⁷² These technical errors cause even solid claims to collapse, courts regularly point out these flaws in daily basis rulings or judgments. Due to violation of a due process justice is denied not because the accused not found guilty but because the investigation process does not adhere to law violating legal standards of inquiry.⁷³ As a result, fairness is undermined the burden of proof shifts on prosecution. When a case fails at trial due to these flaws, the courts have no option but to acquit the accused.

For example, In Muhammad Imran vs the state and another (2024 SCP 226),⁷⁴ the Supreme Court (**Justice Ayesha Malik**) in her dissenting note highlighted this negligence of poor investigation and criticized the police for failing to collect and preserve key forensic evidence, delays in investigation, failures to preserve DNA evidence correctly, stating that this

⁶⁹ *Impact of Defective Investigation and Prosecution on Trial in Pakistan* (SSRN Scholarly Paper No 4685159, 30 January 2024, revised 22 May 2024) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4685159

⁷⁰ *Contemporary Journal of Social*

Sciences 365 <https://contemporaryjournal.com/index.php/14/article/view/429/365>

⁷¹ Ibid

⁷² Ibid

⁷³ Syed Imran Haider, Muhammad Kamran Naqi Khan, Sabahat Haqqani, Arfan ul Haq and Ehsan Sadiq, 'Low Crime Conviction and Capacity Challenges of Police in Punjab: A Mixed Method Study' (5th RASTA Conference, Pakistan Institute of Development Economics, 26–27 January 2025) <https://rasta.pide.org.pk/wp-content/uploads/5th-rasta-conf-low-crime-conviction-and-capacity-challenges-of-police-in-punjab-syed-imran-haider-conference-paper.pdf>

⁷⁴ *Muhammad Imran v The State through Prosecutor General Punjab, Lahore and another* 2024 SCP 226 (Supreme Court of Pakistan).

incomplete or flawed investigation created doubts in the case and such negligence directly contributed to the benefit of doubt, weakened the entire case ultimately resulting in accused's acquittal.

1.13 MISUSE OF LEGAL TECHNICALITIES IN FAVOR OF THE ACCUSED

Procedural rules exist in the justice system to ensure fair trials and protect the rights of all parties. They guide how evidence should be handled, how statements are recorded and how cases are proceeded. However, in many criminal cases specially in heinous offenses these rules are often misused in a way that benefits the accused rather than serving justice⁷⁵. Defense lawyers often highlight procedural mistakes such as delays in filing the FIR, confessions not recorded before a magistrate, or late submissions of forensic reports. While these flaws can be considered significant as they are sometimes used to cast doubt on the entire case. The real concern is that prosecutors often fail to respond effectively. Without a solid counter or legal explanations, the court is left with no choice but to extend the benefit of doubt.

As a result, strong cases can collapse not because the accused is proven innocent but because technical errors were not addressed properly. This turns fair legal protections into loopholes that can be exploited, particularly when the prosecution does not meet its responsibility to defend the case with clarity and confidence.⁷⁶

To address this loophole, prosecutors need proper training to anticipate such challenges, prepare legal justifications in advance and respond confidently during trial. Early collaboration with investigators and stronger courtroom advocacy can help ensure that small technical errors do not defeat the substance of the case. Therefore, It is crucial to implement the laws to that ensures proper checks and balances of the functioning of all institutions.⁷⁷

LEGAL REFORMS TO PREVENT WRONGFUL ACQUITTALS

Wrongful acquittals in heinous offenses reflect deeper structural weaknesses in the criminal justice system of Pakistan. When serious crimes go unpunished, it not only erodes public trust but also exposes victims for further injustice. Rather than viewing these acquittal as isolated failures, its crucial to recognize them as signs of procedural flaws, weak investigation and gaps in judicial oversight. Legal changes in Pakistan should prioritize bolstering the criminal justice system enhancing investigations and ensuring fair trial procedures in order to prevent wrongful acquittals. This entails improving the procedure for gathering evidence, offering sufficient legal counsel and setting up procedures for review and appeals. It's also crucial to address fundamental problems in legal system such as corruption, postpone trials and a lack of funding. Therefore, it becomes essential to introduce meaningful legal reforms that strengthen each stage of the criminal process from investigation to appellate review.⁷⁸ This chapter identifies key areas where reform is urgently needed and suggest practical steps to make the system more reliable, fair and transparent ensuring that justice is neither delayed nor denied in heinous offenses.

⁷⁵ Ibid

⁷⁶ Ibid

⁷⁷ 'Criminal Justice System in Pakistan: Challenges and Remedies' (The Spine Times, 2024) <https://spinetimes.pk/criminal-justice-system-in-pakistan-challenges-and-remedies/>

⁷⁸ Sufi Imdad Ali Soomro and Mansoor Mumtaz Soomro, 'Criminal Justice System and Reforms in Pakistan' (2023) 12(3) Journal of Asian Development Studies

480 https://www.researchgate.net/publication/375074742_Criminal_Justice_System_and_Reforms_in_Pakistan

Article 10-A ⁷⁹Of the Islamic Republic of Pakistan Constitution guarantees “fair trial and due process” because *justice hurried is justice buried* which Article 37 ⁸⁰of the Constitution promises “inexpensive and expeditious justice” because “justice delayed is justice denied”, both of which adhere to well-known legal maxim. According to reports the nation’s criminal justice system has been impaired by excessive delays and low conviction rates for a long time. Although the causes are numerous, they are always linked to systematic problems such as outdated police and judicial procedures, overloaded courts (with 2 million pending cases and no case management system), overcrowded prisons, a lack of use of contemporary forensic investigation tools for evidence collection and witness protection programs (particularly in cases involving heinous offenses e.g. terrorism).

⁸¹Hence, the current criminal justice system needed reforms felt by practitioners and intellectuals that the existing system needed to be updated in order to bring it up to date. Several commissions have already modified it such as **The Commission on Reform of Law In 1993** or **The Justice S.A Rehman Law Reform Commission In 1958**. These commissions noted among other things that the low conviction rate was mostly caused by poor investigation and weak prosecution. Therefore, as **Agenda Item No 20. ⁸² Of The National Action Plan (NAP 2014)**, to combat terrorism, the criminal justice system overhaul was included. NACTA’s inherent mandate as stated in **Section 4 (c) of the NACTA Act 2013**, ⁸³is to create action plans to combat terrorism and extremism and to report to the federal government on their implementation on a regular basis. As a result, NACTA was given the responsibility of ‘Revamping criminal justice system’

1.14 REVIEW OF HIGH COURTS REASONING IN OVERTURNING CONVICTIONS

The reasoning adopted by high courts when overturning convictions often highlight critical deficiencies in the investigation, evidence collection and trial procedures. Courts while bound to ensure justice, sometimes find that the evidence presented at trial is insufficient, unreliable or obtained through flawed processes leading to the acquittal of accused persons often in heinous crimes. A close review of such judgments reveals a repeated pattern: contradiction in witness testimonies, procedural violations by investigating officers, lack of forensic support and misapplication of legal standards by trial courts. For example, in ⁸⁴**Shahzeb khan murder case (2017)**, despite public outrage and initial convictions the High Court Acquitted the accused due to weak prosecution and compromised evidence reflecting how procedural gaps influenced the outcome. These reversals show that without strengthening the foundation of the trial, particularly the evidence presented, convictions can not stand scrutiny at the appellate stage. Therefore, a systematic review of High Court’s judgments is essential not just to understand their reasoning but also to identify recurring flaws and suggest reforms that can lead to more reliable convictions in future heinous offenses cases.

In Shahzeb khan case, the accused were first convicted for murder, but later High Court acquitted them because the prosecution’s evidence was weak and unreliable. This example

⁷⁹ Supra note20

⁸⁰ Ibid

⁸¹ National Counter Terrorism Authority, ‘Criminal Justice Reforms’

(NACTA) <https://nacta.gov.pk/functions/counter-terrorism-wing/counter-terrorism/criminal-justice-reforms/>

⁸² National Counter Terrorism Authority, ‘National Action Plan, 2014’ (NACTA) <https://nacta.gov.pk/laws-policies/nap-2014/>

⁸³ National Counter Terrorism Authority Act 2013 (Act XIX of 2013) <https://nacta.gov.pk/wp-content/uploads/2017/09/NACTA-Act.pdf>

⁸⁴ Supreme Court of Pakistan, Criminal Appeal No 400 of 2019

(2024) https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 400 2019.pdf

shows that how poor investigations and weak trial evidence can cause High Courts to overturn even serious convictions. It shows that if trials are not properly conducted even serious criminals can be acquitted at the appellate stage.

1.15 REFORMING CRIMINAL INVESTIGATION PROCEDURES TO UPHOLD EVIDENTIARY INTEGRITY

Strengthening criminal investigation procedure is fundamental to preserving the integrity of evidence and ensuring justice is rightly served. This calls for specialized training of investigators to handle diverse types of crimes,⁸⁵ especially in the light of growing digital evidence and advancements in forensic sciences. Ethical professionalism must be fostered promoting unbiased, fact-driven investigation. Standardized protocols for crime scene management, proper evidence collection, and an unbroken chain of custody are essential to safeguard evidence from tampering. Additionally, integrating forensic expertise and digital analysis into investigations strengthening the evidentiary foundation of trials. Addressing broader structural issues such as establishing independent and well-resourced police forces can significantly enhance impartiality and accountability. Transparent procedures and strict adherence to scientific methods are key to maintaining credibility.⁸⁶ Recognizing these gaps, the **National Action Plan 2014** rightly emphasized the urgent need to overhaul Pakistan's criminal justice system, particularly to rectify the persistent flaws in investigative processes as highlighted by **NACTA**. True reform must be a holistic effort, combining legal modernization with institutional integrity to restore public trust and ensure that justice is not compromised at any stage.

1.16 STRENGTHENING PROSECUTORIAL AND JUDICIAL CAPACITY TO MINIMIZE WRONGFUL ACQUITTALS

In the evolving landscape of criminal justice, the role of prosecutors holds paramount significance particularly in safeguarding due process and ensuring the fair administration of justice. To reduce unjust acquittals,⁸⁷ it is essential to improve judicial and prosecution capacity. Improved case management systems, more funding for forensic research and better training for judges and prosecutors are some ways to do this. Establishing judicial impartiality and prosecutorial independence is also essential for maintaining the rule of law and voiding biased rulings. Prosecutors must be trained not only in legal procedures but also in ethical advocacy, evidence assessment and case management. International best practices especially from the systems like United States and United Kingdom emphasize the role of prosecutors as “**ministers of justice**” meaning they are duty bound to seek truth rather than mere convictions. Applying this principle in Pakistan, there is a strong need to shift the focus of prosecution from conviction-driven approaches to fairness and integrity. In Pakistan while the legal framework governing prosecution is primarily rooted in the code of criminal procedure, 1898, it is also beneficial to recognize international standards that set

⁸⁵Punjab Forensic Science Agency, ‘Crime & Death Scene Investigation’ (PFSA) https://pfsa.punjab.gov.pk/crime_death_scene_department

⁸⁶ Ibid

⁸⁷Yvon Dandurand, *The Role of Prosecutors in Promoting and Strengthening the Rule of Law* (International Centre for Criminal Law Reform and Criminal Justice Policy, November 2005) https://www.researchgate.net/publication/225239037_The_role_of_prosecutors_in_promoting_and_strengthening_the_rule_of_law

expectations for prosecutorial conduct. The **United Nations Guidelines on The Role of Prosecutors 1990**,⁸⁸ particularly highlighted in **paragraph 11 and 12** are following:

Paragraph 11 describes the active role of prosecutors about institution of prosecutions, participation in investigation (where authorized), supervising legality, execution of court decisions and acting in public trust.

Paragraph 12 states about prosecutor's duties they must act fairly, expeditiously, consistently and must protect human dignity and human rights.

These guidelines especially highlighted in these two paragraphs reaffirm the principle that prosecutors should not only institute prosecution and supervise investigations but also serve the broader interest of justice. However, by reflecting these international standards Pakistan's criminal justice system can better align its prosecutorial practices with globally recognized norms thereby strengthening public interest and credibility of the judicial process. In addition, specialized training programs, strict performance evaluations and ethical guidelines must be introduced for both prosecutors and judges. Judicial officers must also be empowered through continuous legal education, focusing on evidence law, procedural safeguards, judicial accountability and impartial adjudication. Moreover, in Pakistan efforts such as creation of prosecution departments under provisional authorities marks a positive move, yet they demand further enhancement through better resources greater autonomy and strong professional independence. Strengthening the prosecutorial and judicial system with proper tools and ethical foundations is essential for tackling the root cause of wrongful acquittals and restoring public confidence in the criminal justice system.⁸⁹

1.17 INCORPORATING INTERNATIONAL LEGAL STANDARDS TO ENHANCE THE FAIRNESS OF CRIMINAL TRIAL

The right to fair trial stands as a fundamental pillar of any democratic society, ensuring the protection and dignity of individuals before the law.⁹⁰ To truly uphold this right, the interests of the accused, the victim and the public must be carefully balanced without favoring one over the others. Several essential rights together shape the broader concept of a fair trial. These include the presumption that an accused is innocent until proven guilty beyond a reasonable doubt, the right to be clearly informed of the charges faced and the right to sufficient time and resources to prepare a defense. Access to legal advice and representation is crucial as the entitlement to a fair, open hearing before an independent and impartial tribunal. Trials must proceed without unnecessary delays and the accused must have the opportunity to cross examine prosecution witness. Additionally, individuals must be given a free interpreter if they do not understand the court's language, protected against self-incrimination and double jeopardy and granted the right to appeal their conviction or sentence. These essential rights have been internationally recognized and safeguards through

⁸⁸ United Nations, *Guidelines on the Role of Prosecutors* (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990) <https://www.ohchr.org/en/instruments-mechanisms/instruments/guidelines-role-prosecutors>

⁸⁹ Muhammad Imran and Rohaida Nordin, *Measures for Improving the Criminal Justice System in Prosecution of Terrorism in Pakistan* (2023) *Isu Khas/Special Issue JUUM* 3–18 https://www.researchgate.net/publication/376505316_Measures_for_Improving_the_Criminal_Justice_System_in_Prosecution_of_Terrorism_in_Pakistan

⁹⁰ Research Society of International Law Pakistan, *Right to Fair Trial* (RSIL Resource Bank) <https://rsilpak.org/resource-bank-pakistans-criminal-justice-system/right-to-fair-trial/>

various human rights conventions, treaties and declarations emphasizing their universal importance.

Incorporating⁹¹ international legal principles is essential to improving the fairness of criminal proceedings in Pakistan. Pakistan is required to protect the right of a fair trial as a signatory to several international human records. As stated in the **Universal Declaration of Human Rights (UDHR) 1948** and **The International Covenant on Civil and Political Rights (ICCPR)**. This entails upholding fundamental rights such as the presumption of innocence, the right to a public hearing and the right to legal representation. Based on the idea of natural justice, the principle of fair trial encourages equality, justice, rationality and fairness. Both parties are treated as having equal standing and are given an equal opportunity to present their arguments during court proceedings. Both international customary law and a number of state human rights statutes guarantee the right of fair trial. **Article 14 of The International Covenant on Civil and Political Rights (ICCPR)**⁹² guarantee the right to a fair and public hearing by a competent, independent and impartial tribunal. The **UDHR** accepted as customary international law, outlines the right to fair trial in **Article 10** by stating that:

“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.”⁹³

The UDHR also recognizes this principle and contains all of the several components of the right to fair trial as defined by the **ICCPR**. Pakistan being a signatory to the ICCPR, under the obligation to uphold these principles. Duly right to fair trial is protected by various national human rights laws and international customary law. Specifically, ⁹⁴**Article 6 Of the European Convention on Human Rights (ECHR)** ensures the right to an impartial and fair legal process within a reasonable time by an independent tribunal. Similarly, **Article 8⁹⁵ of The American Convention on Human Rights (ACHR)** provides a comparable guarantee.

In the light of these international standards Pakistan can enhance its criminal justice framework by adopting key provisions from these global practices, ensuring that trials are more transparent, fair and just, thereby reducing the likelihood of wrongful acquittals.

- **Brady Rules (United States):** Under the US Supreme Court decision in ⁹⁶**Brady v. Maryland 1963** the brady rule requires prosecutors to provide exculpatory evidence (evidence favorable to the accused) to ensure a fair trial. This evidence sometimes referred as **“Brady Material”** comprises any information that can exculpate the prisoners or lessen their punishment. Because the rule prohibits the prosecution from suppressing the evidence that could help the defendant, it guarantees or ensures a fair trial.

⁹¹ Ibid

⁹² International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

⁹³ Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

⁹⁴ Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) art 6 <https://fra.europa.eu/en/law-reference/european-convention-human-rights-article-6>

⁹⁵ American Convention on Human Rights (adopted 22 November 1969, entered into force 18 July 1978) OAS Treaty Series No 36 https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights.pdf

⁹⁶ *Brady v Maryland* 373 US 83 (1963) <https://supreme.justia.com/cases/federal/us/373/83/>

- **Criminal Procedure and Investigation Act 1996 (United Kingdom):** ⁹⁷This act emphasizes proper investigation practices, disclosure of unused material to the defense and continuous review of evidence. CIPA mainly governs how criminal investigations and prosecution are conducted in England and Wales. It sets out the duties of police and prosecutors especially concerning the disclosure of evidence to the defense. It ensures that both parties have access to relevant material, promoting fairness in the trial process. Adopting similar standards in Pakistan can ensure that the prosecution remains impartial throughout the trial.
- **Police And Criminal Evidence Act (PACE) 1984 (United Kingdom):** This act introduced detailed rules for police powers during investigation, including arrest, detention, interrogation and search procedures. PACE emphasizes protecting suspects rights and maintaining proper evidence collection standards, significantly reducing chances of unlawful investigation practices. ⁹⁸

Furthermore, domestic laws must align with international standards to ensure consistency and effectiveness. For instance, Pakistan penal code and code of criminal procedure in particular need to be brought into compliance with international standards. Such as both given laws could be in compliance with the **United Nation's Guidelines on The Role of Prosecutors 1990** ensuring a fair prosecution and due process. One step towards modernizing the legal system is the Criminal Law Amendment Act 2022, which establishes guidelines for valuing electronic device.⁹⁹

Pakistan can align its trial timelines and judicial behavior with such standards to prevent undue delay that often led to injustice or acquittals. Strengthening procedural safeguards, ensuring timely case disposal and upholding the rights of all parties can enhance the credibility of criminal justice system. Such reforms will also help Pakistan to meet its international human rights obligations and restore public confidence in the judiciary.

CONCLUSION AND RECOMMENDATIONS

CONCLUSION

The phenomenon of conversion of convictions into acquittals in heinous offenses within Pakistan's criminal justice system exposes deep rooted structural flaws that continue to undermine the rule of law. Throughout this thesis research it has been demonstrated that historical legacies, outdated investigative procedures, weak prosecutorial performance and judicial inefficiencies have collectively contributed to recurring injustices. An analysis of cases like Shahzaib khan murder case further highlights how wealth, influence and procedural lapses often lead to wrongful acquittals shaking public trust in the judiciary. Despite the adoption of Code of Criminal Procedure and other reforms, systematic issues persist largely due to poor implementation and lack of accountability. By studying international best practices regarding fair trial standards, it becomes evident that Pakistan must align its domestic practices to ensure expeditious, impartial and speedy justice. Enhancing investigative frameworks, ensuring prosecutorial independence, reforming judicial practices and insulating trials from external pressures are essential steps forward. Without these measures the cycle of wrongful acquittals will continue to erode public confidence and threaten the foundation of justice. Therefore, meaningful reform is not just necessary, it is crucial for the survival of a fair and credible criminal justice system in Pakistan.

⁹⁷ Criminal Procedure and Investigations Act 1996 <https://www.legislation.gov.uk/ukpga/1996/25/contents>

⁹⁸ Home Office, *Police and Criminal Evidence Act 1984 (PACE) Codes of Practice* (GOV.UK, last updated 2023) <https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice>

⁹⁹ *An Analysis of Pre-Trial Fair Trial Rights and International Standards*

RECOMMENDATIONS

In the light of findings and analysis presented throughout this research, it is evident that Pakistan's criminal justice system requires comprehensive reforms to address the increasing rate of wrongful acquittals in heinous offenses. To fortify the administration of justice and rebuild public confidence the following recommendations are proposed:

1. Reform of Investigation Mechanism:

Pakistan must modernize and reform its investigation process. Police officials should be trained in scientific methods of evidence collection, forensic techniques and unbiased inquiry. Political interference in investigation must be eliminated to ensure that cases are based purely on reliable and verifiable evidence rather than on weak or manipulated testimonies.

2. Strengthening the Role of Prosecutors:

A strong and independent prosecution service is crucial. Prosecutors should be selected through merit-based processes and should undergo regular specialized training. Their independence from political and external pressures must be guaranteed to ensure that they can advocate effectively for the state and pursue justice without fear or favor.

3. Judicial Accountability and Specialization:

Specialized courts or designated judges for heinous offences should be introduced to handle complex criminal cases more competently. Furthermore, a strict and unbiased system of judicial accountability should be established to address delays, negligence and misconduct that contribute to wrongful acquittals.

4. Ensuring Witness Protection:

Witness intimidation is a major hurdle in achieving convictions in heinous crimes. Pakistan must establish a formal witness protection program that offers security, confidentiality, and support to witnesses to ensure they can testify freely without fear of their lives or the safety of their families.

5. Forensic and Technological Advancements:

Investment in forensic science infrastructure is essential. Courts and investigators must increasingly rely on scientific evidence such as DNA profiling, fingerprint analysis and electronic data. Enhancing forensic systems will lead to more accurate investigations and fairer outcomes in criminal trials.

6. Independent Oversight Bodies:

Establishment of independent oversight commissions to monitor police conduct, prosecutorial performance and judicial behavior will ensure accountability and early identification of irregularities. These bodies must be equipped with the authority to investigate complaints and recommend disciplinary actions.

7. Compliance with International Standards:

Pakistan must strive to bring its criminal justice system in line with international fair trial standards, such as outlined by the United Nations and other international human rights treaties. Adopting global best practices would not only improve the quality of domestic justice but also enhance the public trust and uplift Pakistan's international human rights standing.