



Manzil Pakistan is a Karachi based non-profit think-tank dedicated to developing and advocating public policy that contributes to the growth and development of Pakistan. The Law and Justice project at Manzil researches all issues with regards to the dispensation of justice and access to justice in Pakistan. We have a special focus on reform of the justice system in order to make it accessible and fair for the common man.



“Law and order exist for the purpose of establishing justice and when they fail in this purpose they become the dangerously structured dams that block the flow of social progress”.

Martin Luther King, Jr.

LAW AND JUSTICE

There are several flaws in Pakistan’s justice system and a multitude of reasons behind these flaws. A large part of the criminal justice system is the investigative system, and that too is riddled with issues. Some of the major issues in the investigative process and the system of policing can be traced back to reforms made under General Zia ul Haq, and then the continued systematic neglect of the police and the institutions facilitating them. Manzil Pakistan’s current focus is to examine and identify the flaws in the investigative process and then provide recommendations which can be implemented.

Furthermore it can be argued that the recently promulgated Pakistan Protection Ordinance 2013 is arguably going to create further issues by allowing the police and the other investigating agencies to act arbitrarily in certain scenarios. The ordinance as it stands intends to address and curb terrorism in the country but certain sections allow the agencies to take steps during investigations that can potentially lead to a curtailing of fundamental rights. These steps may include detaining a person on the basis of mere suspicion for 90 days, convening special courts of prosecution, allowing session court level magistrates to judge the matter among many others. The intentions in the ordinance may be noble but the ordinance in its implementation leaves a lot of room for exploitation.

The media too has had an alarming influence on the dispensation of justice in Pakistan recently. The spate of suo motu cases undertaken by the Chief Justice usually upon issues were those highlighted by the media, e.g. The Shahzeb Khan case. The media is proving to be an important forum for public awareness however media trials often influence the carriage of justice adversely rather than making the process efficient.

A preliminary overview of the investigation system was conducted by the Manzil Law and Justice Team to identify factors causing problems to both investigators and the process that is to be followed. Our study identified several factors that hinder the police’s ability to investigate crimes and the document serves as an ideal platform to conduct further in-depth studies.

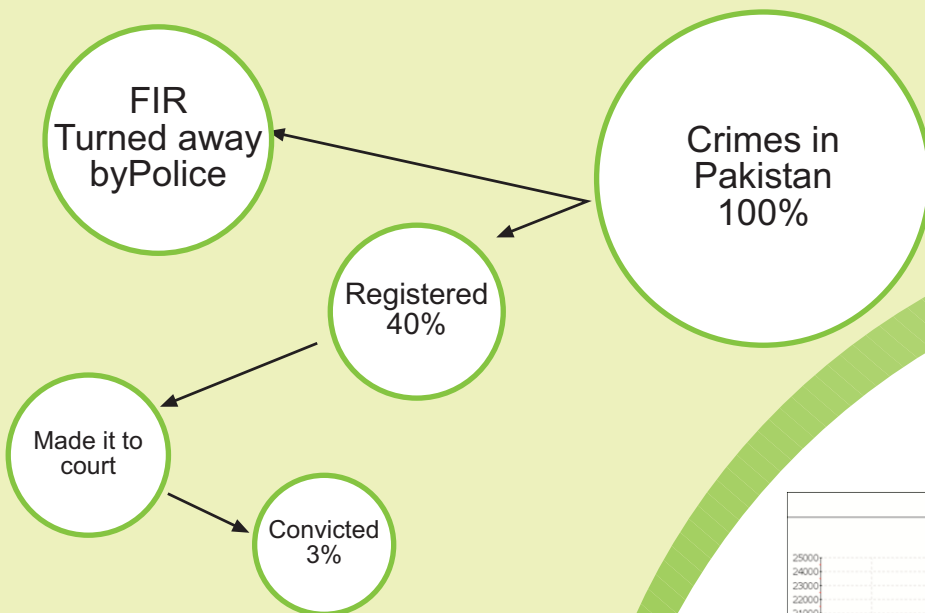
LAW & JUSTICE CURRENT FOCUS

The system of investigation that takes place after the issuing of a First Information Report (FIR) until the filing of a Challan needs critical examination. The investigative procedure is crucial to the dispensation of justice and it is this process that determines the conviction or the acquittal of those accused for crimes within Pakistan.

In Pakistan many criminals are acquitted because courts cannot find enough evidence to procure a conviction. This flaw stems not purely from ineptitude within the agencies involved but also from a mismanagement of resources and understaffing. Investigations of alleged crimes are marred with accusations of political interference, bribery, inefficiency and mal-administration leading to delayed trials, faulty evidence collection and an obstruction of justice.

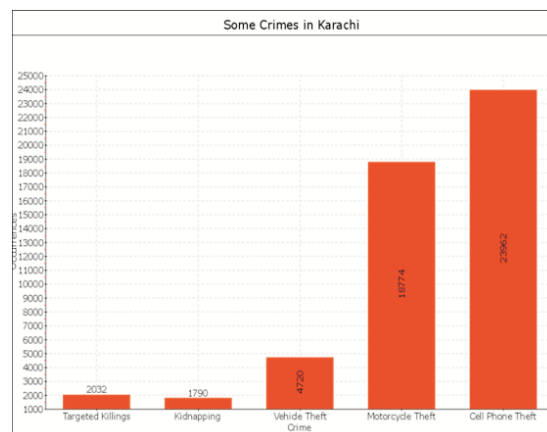
The purpose of the investigation system is not so much about speculation as it is about reconstruction through a process of deduction. The investigation needs to determine exactly how an event occurs and which parties did what. In Pakistan the Criminal Procedure Code (Cr.P.C) provides an outline for due process that guides an investigation and how the police must conduct said processes. It then becomes essential to know the role the police must play in carrying out this process. The powers the police employ come from the Police Orders of 2002, which is a set of regulations and guidelines providing the mandate for the operation of the police forces in Pakistan.

In Pakistan, faults in the system of investigation have partially contributed to the conviction rate reducing to less than 4%. The problems within this system stem from all branches and agencies such as the Police, FIA, CID etc., and hence research and reform on these branches of law enforcement agencies are the key to bringing a positive change in the system.



Source: M.A.K. Chaudhry: Policing in Pakistan (Lahore: Vanguard Books (Pvt) Ltd. 1997) P. 146

As crimes in Pakistan increase and conviction rates fall, it is the investigative system that needs reform in order to create a more efficient criminal justice system.



Source: CPLC

The number of cases pending within courts increases every year and a majority of these cases stay stuck in court for decades, partially due to a failure of investigation:

Superior Courts	No. of Cases Pending	Lower/ Subordinate Courts	No. of Cases Pending
i. Supreme Court of Pakistan	19,055	-----	-----
ii. Federal Shariat Court	2,092	-----	-----
iii. Lahore High Court	84,704	Punjab	1,225,879
iv. High Court of Sindh	18,571	Sindh	144,942
v. Peshawar High Court	10,363	Khyber Pakhtunkhwa	187,441
vi. High Court of Balochistan	4,160	Balochistan	7,664
Total	138,945 (A)	-----	1,565,926 (B)
Grand Total	(A + B)	1,704,871	-----

Source: Police Organizations in Pakistan – HRC. Page 17

“Manzil’s research project on the criminal justice system could prove to be integral in fundamental reform of the criminal justice system making it accessible, equitable, and responsive to the needs of crime victims, and those who may be unfairly charged.”

Abira Ashfaq – Lawyer and Activist

Corruption in the administration of justice is rampant. Transparency International’s National Corruption Perception Survey shows that the police are consistently perceived as the most corrupt institution in Pakistan with the judiciary never far behind.³⁴ In the opinion of 5,200 respondents for the 2009 survey, the ranking of ten government departments are:

2009 Ranking	2006 Ranking	2002 Ranking
1. POLICE	1. POLICE	1. POLICE
2. POWER	2. POWER	2. POWER
3. HEALTH	3. JUDICIARY	3. TAXATION
4. LAND	4. LAND	4. JUDICIARY
5. EDUCATION	5. TAXATION	5. CUSTOM
6. TAXATION	6. CUSTOM	6. HEALTH
7. JUDICIARY	7. HEALTH	7. LAND
8. LOCAL GOVT	8. EDUCATION	8. EDUCATION
9. CUSTOM	9. RAILWAY	9. RAILWAY
10. TENDERING	10. BANK	10. BANK

(Rank 1 being the most corrupt and 10 being the least corrupt)

Source: Police Organizations in Pakistan – HRC. Page 23

THE EXTENT OF THE PROBLEM

‘I was once at the top of my field, getting promotion after promotion and eventually becoming the head of my branch at Bank ****, but then someone put my name on an FIR for a case that I had nothing to do with, but thanks to the system present within Pakistan, my career was over there and then. Before I knew it, the police were looking for me, my friends were getting picked up and authorities were demanding money from my family. My only option was to go into hiding. I lost my job, my car and everything I had. Three

years since that FIR was cut, I am still unemployed, my name is still on that FIR and my family still gets calls from the authorities asking for money every now and then.’

-The story of an anonymous victim of the faulty investigation system prevalent in Pakistan

As crime rates within Pakistan keep rising and given the dilapidated state of the justice system, the system is no longer a safety net for the average citizen of Pakistan. It has now become more of an obstacle rather than an avenue for recourse. It is the responsibility of the government and its institutions to ensure that the common man feels protected by the law, not threatened by it.

BREAKDOWN OF POLICE PERSONNEL & BUDGET

Province (2009-10)	Sanctioned Strength	Budget (in Rs.Million)
Punjab	170,031	43,000.00
Sindh	70,133	24,900.00
Khyber Pakhtunkhwa	52,650	9,677.15
Balochistan	32,119	3,500.00
Total	324,933	81,077.15

Source: Police Organizations in Pakistan – HRC. Page 16

“It took the gang rape survivor less than 24 hours to realise that she was better off withdrawing her statement, so badly did the government and police manage the case...”

Saba Imtiaz in ‘Media circus: Rape victim frightened into withdrawing FIR’

“I just think people didn’t take us that seriously. They thought, ‘Sure, I’ll talk to you. You’re just some girl.’”

Kainat Soomro – Gang Rape victim

As a former attorney general. I have the greatest respect for the criminal justice system. But it is not good at intelligence gathering.

Kelly Ayotte- US senator

The lack of a proper investigative system within Pakistan leads to the non-existence of a deterrence mechanism for crime. Even though Pakistan does possess the capacity and the resources to deter crime, it is often the use of these resources and the operations in place which cause the problem.

Some of the reasons why the investigative system in Pakistan does not achieve its objectives are:

- Lack of training of police officers
- Politicization of the Police Force
- Outdated investigative methods
- Lack of resources i.e forensic labs, academies etc
- Flawed recruitment and promotion processes for officers
- Lack of accountability of senior officers

Police Stations by Province

Punjab	637
Sindh	440
Khyber Pakhtunkhwa	218
Balochistan	84
Islamabad	13
Total	1392

Source: Police Organizations in Pakistan – HRCF. Page33

In order to improve this system and correct its flaws it is important to gather knowledge and information from various sources focused on work in this field. All relevant NGO's and stakeholders must come together and collaborate in order to recover the system for everyone.

The problem at hand affects the lowest and highest rungs of authority and is of utmost importance to every individual in Pakistan.

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