

Measures for Improving the Criminal Justice System in Prosecution of Terrorism in Pakistan

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ABSTRACT

Terrorism prosecution has become a significant challenge for the criminal justice system (CJS) in Pakistan as the acquittal rate is very high while the conviction rate is extremely low. During the past few decades, increasing terrorist attacks in Pakistan and the failure of law enforcement to prosecute the accused has contributed to this issue. Due to the delay and flawed process of producing and constructing evidence, the dismissal rate is high when these cases are finally brought to the court. As a result, most "hard-core terrorist" cases are acquitted and seldom go to the higher courts to face trial. Police officers have been considered as the main contributor for the failure of Pakistan's CJS due to their weak investigation and procedural mistake during registration of the first information report, but in fact, two other actors are also responsible; prosecutors and judiciary of Pakistan. This article finds that the three basic pillars of CJS, the police, prosecution and judiciary play a blame game considering each other responsible for these flaws instead of being supportive and to complement each other through institutional coordination. The situation is also worsened by all three pillars operating in isolation despite having the same goals. This article concludes with suggestions for overcoming the weaknesses in the CJS of Pakistan particularly the police force, prosecutor and judiciary and thus ensuring successful prosecution of terrorists in Pakistan.

Keywords: Criminal justice system; judiciary; police; prosecution; terrorism

INTRODUCTION

Terrorism has become an international issue, and its destructive nature has compelled governments to combat this menace. Accordingly, effective counter terrorism measures inside the borders of the State to combat domestic terrorism is necessary as the State must safeguard its citizens against all forms of terrorism by using effective counter terrorism strategies and by establishing a legal framework for counter terrorism measures. Pakistan is one of the many countries badly affected by terrorism as more than 80,000 people have been killed due to terrorist attacks¹ and has consequently made several laws to combat this menace. However, all relevant laws have become less effective and unproductive to repress the rise in terrorist activities in the country. One of the basic reasons behind this failure is Pakistan's outdated Criminal Justice System ('CJS') which was derived from common law because the subcontinent was under British rule, and the same was enforced in Pakistan after the partition in 1947.

Consequently, no considerable improvement has been made at this stage by Pakistan's government to remove the existing deficiencies or flaws in Pakistan's CJS which is shown by 17,000 pending

cases in Anti Terrorism Courts of Pakistan ('ATCs').² As a result, terrorist activities are not being reduced nor being restricted given the weak judicial system as demonstrated by 87 terrorist attacks that occurred across Pakistan in 2021.³ Article 10(A)⁴ of the Constitution of the Islamic Republic of Pakistan warrants fair trial and due process while Article 37⁵ provides for inexpensive and expeditious justice. However, the CJS of Pakistan is suffering from the chronic maladies of exorbitant delays and extremely low conviction rates.⁶ Therefore, the current CJS of Pakistan is in urgent need of reform. Even though some efforts have been made to redesign the legal framework⁷ of the existing CJS and to make it more efficient and effective, more legal efforts are needed as no useful purpose has been achieved thus far.

Following the 9/11 attacks in the US, major damage has been caused to Pakistan as more than 80,000 people killed in the war on terror and damaged Pakistan's economy with direct and indirect losses of around \$118.3bn between 2002 and 2016.⁸ Although Pakistan is an ally to combat against terrorism at the international level, domestically it is facing many guerrilla wars and terrorist attacks. As far as the performance of existing Pakistan's Criminal Courts goes regarding terrorism cases, no fruitful

or considerable progress has been made to convict terrorists as 4,000 terrorists cases are pending in the Anti-Terrorist Courts (ATCs) of Pakistan.⁹ The acquittal rate of terrorists is extremely high while the conviction rate is very low as from 559 cases in 2012, 414 accused were acquitted.¹⁰ Due to the failure of the existing CJS in Pakistan to combat terrorism, Military Courts have been established in 2015 to decide terrorism related cases.

Sardar Hamza examines several reasons why Pakistan's CJS is ineffective such as inadequate procedures of the police and judiciary, overloading of the courts leading to a large number of pending cases, lack of a case management system, insufficient physical and human resources, overloaded prisons, and non-existent use of contemporary forensic investigation means for the procurement of evidence and witness protection particularly in terrorism-related cases. Moreover, delay in the preparation of reports by the investigation officials (IOs) under Section 173¹¹ of the Criminal Procedure Code 1898 ('Cr. P.C') and submission of the police report to the court are rampant. Every step has inherent flaws at the implementation, judicial course and correction levels. The inherent inadequacies are making the system unproductive, increasing acquisitions of the complainants and aggrieved individuals are putting a huge question mark as to its working.¹² The patchwork for its up-gradation and effectiveness was not carried out wholeheartedly, and therefore, remained unproductive.

According to researcher, the weak police system of Pakistan is also one of the fundamental reasons for the inefficacy of the CJS to take legal action against terrorists. As legally, a trial in the court could only be started after the preparation of the police report which is the sole obligation of the police, but due to corruption, bribery or the lack of skills of the police, the preparation of case briefs is often delayed resulting in a backlog of pending cases.¹³ Review of the anti-terrorism legislation demonstrated that the major institutional weakness in the anti-terrorism legislation of Pakistan is also contributed by the lack of an efficient mechanism to enforce the ban on illegal militants and extremist groups which have appeared under new names. The lack of coordination on the sharing of information among the prominent intelligence agencies of the country is also one of the major institutional weakness.

Accordingly, meticulous effort with practical coordination is warranted given the current circumstances. The latitude of enhancement

should consider all weaknesses both substantive and procedural in nature as per current needs. The level of antagonism and aggravation that has been accumulating against the system over the years has caused political turmoil and extremism in society. The massive killings and rocketing terrorist activities are less to do with social multiplication and are more due to Pakistan's judicial failures. Therefore, meaningful efforts are warranted in this context.

This article discusses how these flaws can be removed from the CJS of Pakistan to make it increasingly effective and productive to prosecute terrorists successfully. This article suggests measures to improve the work of police, prosecution and judiciary, and incentives which can be employed as motivation to enhance the performance of ATCs judges and officers of the police and prosecution department. Specifically, this article offers suggestions to eliminate unrelated litigation from ATCs, capability building in the investigation, use of forensic evidence, the safety of eyewitnesses, judges and prosecutors, and improvements of substantive and procedural laws. Moreover, suggestions regarding strict check and control on the extended authorities of police, mounting the responsibilities of public prosecutors, judicial autonomy, neutrality and accountability, adequate infrastructural support and enticements are also explained in the following paragraphs.

MEASURES TO IMPROVE THE POLICE FORCE

By reviewing the legal and judicial system of Pakistan, this article considers that reforms of Pakistan's police are need of the time. This need was strongly felt following the terrorist attack on the Army Public School (APS) in Peshawar in December 2014. This incident revamped national tenacity to combat terrorism and disruptive groups. Only through the combined hard work of policymakers of the country can eventually defeat the unrulier facets within the system. The existing problems in Pakistan's Police Force can be eliminated through a number of solutions to enhance their effectiveness which are discussed in the following paragraphs.

STRICT CHECK AND CONTROL ON EXTENDED AUTHORITIES OF POLICE

The Pakistan Police force under Sections 54 and 169 of the Cr. P.C, 1898 have a wide range of authority. Section 54 of Cr. P.C permits police officials "to

arrest any person without a warrant under the circumstances specified in the various clauses of the Cr. P.C such as when a person has been concerned in any cognisable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists of his having been so concerned.”¹⁴

The Police’s widespread powers are used as preventive approaches against offenders. However, by taking advantage of Section 54 of the Cr. P.C police officials torture suspects to extort money and create fictional stories.¹⁵ Police contain them under incessant pressure and warn them that they would be connected to fake cases and police encounter if they did not fulfil their illegal demands. Corruption and greediness of police officials are also a significant reason behind the deteriorating law and order situation in the State due to the misuse of broad powers given to Police.¹⁶ Articles 73 and 74 of Police Order 2002 called for the establishment of provincial public safety and the police complaint Commission in the Province. The Provincial Public Safety and Police Complaint Commission were established on 26 August 2003. However, the commission remains inactive, non-functional and unable to deliver as envisaged in Police Order, 2002 due to unknown reasons. Hence, there is no appropriate accountability channel for the accountability of police for exploiting the powers authorised to them under Section 54 of the Cr. P.C.

Notwithstanding, the station house officers (SHOs) and IOs are authorised under Section 169 of the Cr. P.C “to release an accused (if he is in custody) upon executing a bond with or without surety is when they find that there is no sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to the magistrate.”¹⁷ This alleviation is authorised under the law to a non-guilty individual, but it should be under strict check and control from the senior police officials and judiciary. Therefore, the law should be modified for evading the misuse of powers by the IOs or SHOs.¹⁸ Further, it must be obligatory to report to the related Deputy Inspector General (DIG) and SP investigation and obtain their authorisation before releasing the accused as the IO must not have the authority of releasing the accused under Section 169 of the Cr. P.C. The IO should not use this authority illicitly to obtain money from the accused.¹⁹ Police can use this authority during the progression of the investigation but after submission of the final report to the court under Section 173 of Cr. P.C, and not the provisions of Section 169 of the Cr. P.C.

Senior police officials including the DIG and SP must have a strict observation on the investigation to avoid exploitation and the blind use of extended power authorised under Section 169 of the Cr. P.C without a legitimate basis. It is also observed that police officials should use powers authorised under Section 169 of the Cr. P.C with caution and attentiveness to ensure that one who is guilty cannot be freed without facing a trial.²⁰ Moreover, it is found from the analysis that IOs are not investigating the cases effectively because of various ailments such as poor standard of education and skills, overburdening with miscellaneous kinds of responsibilities and political intervention.²¹ So, it is necessary to improve skills of IOs by making it compulsory for them to study the advanced “state of the art” courses in criminology just like in the US, UK and other developed countries. Furthermore, a strict check and control system is required to develop and sustain neutrality and translucency during the progression of the investigation process.

CAPABILITY BUILDING AND COORDINATION BETWEEN THE INVESTIGATION AND PROSECUTION

In Pakistan’s CJS, stakeholders sometimes hold each other responsible for these weaknesses. Especially, the police who always try to justify themselves about these weaknesses by saying that prosecutors are inept, and the judiciary is not concerned towards the problems facing the police. However, this article finds that the police do not have investigative capabilities which are the primary reason behind the failure of the system, as flawed cases are a result of imperfect investigations.²² Therefore, the formation of a committee is needed to examine the common weaknesses in the CJS of Pakistan in detail and suggest fundamental operational methods for finding a solution to make an effective CJS for prosecuting terrorism related cases. Likewise, discussion with prosecutors should be conducted as the police alone would not be able to comprehend all the issues of the courts. As soon as the suggestions of committees are made, the amendments must be then introduced in police training institutes and academies, via manuals in the local, national language and from the orders of Inspector General (IG) of provincial police.

Province Punjab is rated top, in needing the enhancement of capabilities, where 1,182 skilled young persons have been appointed into the Punjab Counter Terrorism Department (CTD) as analysts,

tactical first responders and investigators.²³ This procedure must be followed throughout Pakistan. These newly appointed persons need to be nurtured in an environment where they can strengthen their investigative skills and benefiting from the experience of expert terrorism investigators. Also to be supported by an organised training system that exposes them to the most recent improvements in investigative techniques, forensics, rules and regulations. Regular, out-dated training given by training schools to police is inappropriate given the country's needs. Consequently, international help is required to assist the training institutes.

Furthermore, the police and prosecution are required to make their coordination better through establishing a central advisory committee which would be answerable to government, comprising of the heads of the prosecution department or empowered representatives and their correspondents from the police. This committee must adopt steps to promote the unified coordination between prosecutors and the police, from

sharing the FIR to a system for investigators to confer with prosecutors. Next, at each ATC level, a sub-committee can be established comprising of

ATC's prosecutors and police officials. These sub-committees should conduct bi-weekly meetings, report to the central committee and case files that have undergone investigations should be examined to assist in correcting or inhibiting procedural flaws as required. The committee should follow a stringent punitive system, so the IOs take collaboration and authorised processes seriously.

MEASURES TO ENHANCE THE PROSECUTION

MOUNTING THE RESPONSIBILITIES OF PUBLIC PROSECUTORS

At this juncture, it is appropriate to mention that before the endorsement of the Punjab Criminal Prosecution Service Act, 2006, Public Prosecutors needed to work under the executive control of the police. The public prosecutor could not work independently, but instead, they were dependent and answerable to superior police officials. Administrative set up of criminal prosecutions is described in Table 1.

TABLE 1. Prior to 2006, the administrative set up of criminal prosecution in Pakistan

Court	Prosecuting officer	Department
Magisterial Courts	Police Prosecutors / Inspector Legal	Police Service
Session Courts	District Attorney/ Deputy District Attorney	Law & Parliamentary Affairs Department Government of the Punjab
Special Courts (Anti-Terrorism, Anti-Corruption, Drug Courts, Environmental Tribunal, Special Judicial Magistrate, Consumer Courts)	Special Prosecutors	Law & Parliamentary Affairs Department Government of the Punjab / Home Department
Lahore High Court	Advocate General / Additional Advocate General / Assistant Advocate General / State Counsel	Office of Advocate General Punjab
Federal Shariat Court of Pakistan	Advocate General/ Additional Advocate General Assistant Advocate General	Office of Advocate General Punjab
Supreme Court of Pakistan	Advocate General / Additional Advocate General	Office of Advocate General Punjab

Source: Punjab Criminal Prosecution Service, Annual Report 2012²⁴

Prior to 2006, the prosecution service was scattered into different segments and authorities without uniformity which destructed the effective role of prosecution in CJS of Pakistan. However, an autonomous and effective service is required nowadays for the prosecution of criminal or terrorist cases.

The Public Prosecution Department was created in all provinces in 2005 and administrative control of the workings of the public prosecutors

became the responsibility of the Public Prosecution Department. Authorities have been provided to the public prosecutors under Section 173 of Cr. P. C²⁵ to examine the investigation report and discharge report but the public prosecutors in Pakistan still do not have the authorities like public prosecutors in the US where final reports are made and presented by them in the court. The Anti-Terrorism Act, 1997 was the result of continuous efforts to improve counter terrorism laws by repealing older laws of 1974 to

1992. The major task of this Act was to define the acts of terrorism, and the scope of offences was further extended to include different new shapes of terrorists' related activities. The effort was made to include all the terrorist acts in the definition of an offence under this legislation. The word terrorism is defined broadly to include murder, malicious insult of religious belief, the use of derogatory remarks concerning Holy personages, kidnapping and various statutes relating to "robbery and dacoity". According to Anti-Terrorism Act of 1997, final reports are to be submitted to the courts directly by IOs, however, the public prosecutor submits only the interim reports.²⁶ Therefore, Public Prosecutors in Pakistan should be authorised to prepare, and present reports to the courts currently they are authorised to examine the investigation report and discharge report instead. Their powers should also be extended during scrutinising the investigation reports to ensure the accused does not go unpunished without facing a trial due to investigative errors of IOs.

Public prosecutors can be authorised to highlight weaknesses and to offer suggestions in the trials of criminal cases to the judiciary and also to the IOs if the accused cannot be convicted due to poor evidence. Independence and empowerment of public prosecutors at all stages should be ensured to improve the administration of the CJS of Pakistan.

Regardless of the corroborated pre-eminent practices and inscribed agreements, prosecution departments are not receiving or given the power they require to make the prosecution process efficient. The government needs to provide the departments with sufficient authority and resources, by employing a sufficient number of highly qualified and well-trained persons. Presently, only one or two prosecutors are acquired for each ATC, with proficient "paralegal" assistance to help.

USING FORENSIC EVIDENCE

According to Section 27(B) of the Anti-Terrorism Act 1997 ('ATA'), any offender of this Act "may be convicted on the basis of electronic or forensic evidence or such other evidence that may have become available because of modern devices or techniques, provided that the Court is fully satisfied as to the genuineness of such evidence." Under this section, offenders can be convicted mainly or exclusively on forensic evidence referred in Article 164 of the Qanun-e-Shahaadat Order, (P.O. No. 10 of 1984).²⁷ The ATC's judge has already made this clause functional, and there is also precedence.²⁸

Moreover, it is a fact that the Punjab forensic facility is a "state of the art" facility; however, it requires bigger funding to support the functions and maintenance of the facility to effectively fulfil the State's needs.²⁹

In underlining the significance of using these existing resources, the judiciary should be at the forefront. All four Provincial High Courts and one Islamabad High Court should establish rules, regulations and procedures for subordinate courts about using forensic evidence and Section 27(B), which they are authorised to accomplish under Article 202 of the Constitution of the Islamic Republic of Pakistan, 1973.³⁰

As soon as the ATCs make it compulsory to implement these rules in court, the police and prosecution will automatically follow this legal action. These Provincial High Court rules should be clear concerning the authorities of the crime scene, the integrity of the chain of forensic evidence and reporting processes. This practice can be launched in the Punjab province on a trial basis. For this process, the Lahore High Court should also include the point of view of the Punjab police and prosecution. An advisory body could be established, but it must constitute of chosen practitioners who have excellent operational track records and experiences in their relevant domains to provide guidance regarding the implementation of High Court rules and regulations. Through existing federal and provincial judicial training institution, judicial training should include disseminating High Court rules and regulations concerning Section 27(B) of the ATA, probably by initiating with province of the Punjab.

Ex-CM Punjab, Shahbaz Sharif had directed to institute satellite forensic evidence collection centres within the Punjab province, and these centres would send data to the main laboratory for further processing. However, unfortunately, these centres have not been established.³¹ Satellite navigation systems are used in the US and UK which provide historical location data to investigators. The procedures that are used could also be replicated, with possibly one or two large central forensic services in each province to begin. Moreover, these services could be connected to various evidence collection centres dispersed all over the province. Through close co-operation with the police, these services could include mobile evidence collection vehicles to work as first responders at terrorism crime scenes.

SAFETY OF EYEWITNESSES, JUDGES AND PROSECUTORS

In Pakistan, Section 21 of the ATA provides for the safety of judiciary, prosecutors and eyewitnesses.³² Additionally, the ATA also provides for the secrecy of witnesses for safety, use of screens for shielding, in-camera hearings and video links. In the Sindh province, a “stand-alone law” called the Witness Protection Act, 2013 was passed which is associated solely to witness safety.³³ However, the act has been poorly implemented as no reported case has reflected the use of this legislation for witness protection. It is also argued that enacting new laws but never implementing them is useless and portrayed as a lack of government political will, incompetency of law enforcement agencies and resource constraints are reasons behind the improper implantation of the laws.³⁴ Hence, it is obvious that just creating new legislation offers no solution to the problem if not efficiently implemented. Further, new laws that do not consider the realities on the ground will become useless.

In some high profile terrorism cases, installing video links in courts have been tried, although intermittently. Skype can also be utilised to acquire the evidence of eyewitnesses, and on some occasions, screenshots of emails have been provided as evidence in the courts.³⁵ The Supreme Court of Pakistan should establish a committee to review all actions that have already taken and to investigate reasons for poor or improper implementation of all existing safety measures. The Supreme Court of Pakistan may then take responsibility to direct the High Courts in setting its regulations, explaining explicitly what should be undertaken to provide safety measures to eyewitnesses, judges, prosecutors and police officials who investigate terrorists.

Nevertheless, imperative action needs to be taken regarding the secrecy of eyewitnesses. No legal bar is present for the prosecutor to apply for witness secrecy and special safety orders regarding the protection of eye witnesses, judges and prosecutors in Section 21 of the ATA of 1997.³⁶ Such processes could be initiated via administrative orders, such as through High Court regulations. Cr. P.C could also be amended to follow the one in the province of Punjab which is more advanced compared to the other provinces of Pakistan. Some eyewitnesses from the State require broadened physical security. If unrelated litigation can be eliminated from the courts, it can help to facilitate the State to recognise

the need for providing physical safety resources for eyewitnesses in some restricted cases.

Notwithstanding, some important steps should also be deliberated on to permit the discrete entry and exit for eyewitnesses and susceptible individuals in ATCs. In Pakistan, separate expensive setups for detaining dangerous and high profile prisoners relating to terrorism are being constructed, and refurbishments in courts are also under deliberation.³⁷ At the federal government level, an advisory committee should be established to deliberate and incorporate the review and action of such problems of the structural layouts for ATCs.

Although prosecutors and judges normally have physical safety to some extent in the form of security shooters, customary operating methods should be established to provide constant protection for judges and prosecutors working in ATCs during and even after the completion of their service. Giving enhanced security to the judges and prosecutors of 54 ATCs is feasible given armed guards are also provided to hundreds of imperative Pakistani officers by the State. Therefore, it should be a prime concern in terms of the safety of prosecutors and judges in the CJS.

MODIFICATIONS OF SUBSTANTIVE AND PROCEDURAL LAWS

The Pakistan Penal Code (‘PPC’) 1860, the Cr. P.C, 1898 and the Qanun-e-Shahaadat Order, 1984 constitute the primary framework of the Pakistan criminal legislation which is almost the same as it was when initially inherited from the British. Therefore, Pakistan’s penal laws should be modified with the current requirements of the country, especially the PPC, 1860 and the Cr. P.C, 1898.³⁸ There are cases where sometimes judges of ATCs acquit the accused engaged in terrorist activities due to the weakness of the prosecution to provide evidence due to financial and infrastructure constraints.³⁹ Therefore, Pakistan’s law of evidence should also be modified according to the needs of the times. Art.164 of Qanun-e-Shahaadat that allows for “the production of evidence that has become available because of modern devices” must be repealed to eradicate harassment of civil litigants as misuse of modern devices and techniques for ulterior motives, illegal & wrongful gains is not avoidable. Therefore, more laws are needed to extend the provisions of the Qanun-e-Shahaadat Order, 1984.

Moreover, the duration of punishment for providing the wrong or incorrect evidence before a public official under Section 182 of PPC⁴⁰ can be extended to obstruct the tendency of mendacity in the community which is currently six months' imprisonment or a fine or both⁴¹. Furthermore, the punishment for the crimes which imitate the public health security, expediency, civility and ethics which falls under Sections 269 (negligent act likely to spread infection of disease dangerous to life), 270 (malignant act likely to spread infection of disease dangerous to life), 271 (disobedience to quarantine rule), 272 (adulteration of food or drink intended for sale), 273 (sale of noxious food or drink), 277 (fouling water of public spring or reservoir) and 279 (rash driving or riding on a public way) of PPC can be expanded in reckoning with the changing environment of the country⁴².

Accordingly, there is an urgent need to review the penalties of crimes committed by police officials under Sections 155, 156 and 157 of the Police Order 2002⁴³ as police officials must be more accountable if they wilfully breach laws. If they are also guilty, then they should be dismissed from their service along with their conviction.

Moreover, it is imperative to indicate that the new provisions in Sections 22a⁴⁴ and 22b⁴⁵ of the Cr. P.C have been included in the statutory law which permits session judges and additional session judges acting as justices of the peace, can use all the authorities of the police officer under Section 154 of the Cr. P.C.⁴⁶

The insertion of the new provisions in Sections 22a and 22b of the Cr. P.C has however incited wrong, frolicsome and infuriating prosecution. Furthermore, additional session judges can pass orders under the provisions as justices of the peace. Although, many of the SHOs hesitate to register the cases as the orders are not judicial orders but instead they are administrative or managerial type orders, thereby wasting the court's valuable time. Besides, a new drift has evolved among civil litigants who attempt to transform civil litigation into criminal cases by taking the benefit of Cr. P.C Sections 22a and 22b. Accordingly, it is suggested that strict penalties and hefty fines be imposed upon wrong, frolicsome and infuriating plaintiffs which is currently six months' imprisonment or a fine or both. In the UK's Criminal Law Act, 1967 Section 5(2), it is also six months' imprisonment while according to the New York penal laws it is up to 12 months imprisonment and a fine between 5,000 and 10,000 US dollars. It is also important to discuss that the statutory period

for the submission of the report which is between 14 and 17 days under Section 173 of the Cr. P.C.⁴⁷ This short period becomes challenging for the IOs to submit the report in time. Therefore, the time of 17 days should be extended as per the nature of the cases, and it could be achieved by amending Section 173 of the Cr. P.C, 1898.

MEASURES TO IMPROVE THE JUDICIARY

Following measures are suggested to improve the judiciary in terrorism cases.

JUDICIAL AUTONOMY AND NEUTRALITY

The Department of Judiciary should not accept unnecessary pressure or influence from other government departments and the community which can affect the decision of cases. The safety of the judicial duration, the assurance of appropriate financial resources and capabilities for substantial autonomy are the elements that can affect the decision. Moreover, individual judges within the Pakistan judiciary should not accept unnecessary pressure on the judicial hierarchy. Instead, the judges should be free to decide the cases upon their understanding of the laws contingent on the appellate appraisal.

JUDICIAL ACCOUNTABILITY

The obligation concerning accountability or answerability should assuage the autonomy of the Judiciary and individual judges. Unpopular judicial judgments have led to bringing changes in the laws upon which those judgments are made, and a judge whose judgments are disparaged by civil society monitoring or which are often ended on appeal may result in bad repute and lost prestige.

Judiciary's in-house administration and management of financial resources must be susceptible to review and regular audit. Disciplinary action should be taken under the set rules of conduct against judges, court officials and advocates for intentional delinquency and subject to prosecution and accountable for damages under the same laws as anyone else in society. However, extensive immunity for an official is also essential to protect against foul lawsuits in reaction to honest efforts to implement the law. For instance, they need to be of a very high standard of clear obstinacy for permitting a suit against a judge who finds a suspect innocent or guilty.

1. Means for accountability

Accountability⁴⁸ is one of the basic elements of public action. It is frequently mentioned that there are two kinds of accountability: internal accountability and external accountability. Internal accountability (as usual practice) is ensuring accountability in the everyday working, and it functions within a system by monitoring thoroughly, annual confidential report (ACR) time limits and through the pressure of their counterparts. Whereas, external accountability is employed in rare cases that may be in the form of media, civic opinion and political intrusion.⁴⁹ Therefore, it is necessary to enhance and channelize both modes to ensure accountability. Indeed, regular monitoring channels have weakened over time, and therefore it is necessary to improve and strengthen them which can be achieved by establishing comprehensive and pellucid processes for supervision.

Likewise, it should be mandatory for judges to send written reports and details of all cases impending for more than 30 days as under Section 25 of ATA gives a right to file an appeal within 30 days. If the number of pending cases exceeds the target level, a commission of enquiry must be established by the higher court to verify whether the cause was due to increased workload or carelessness of concerned officials. Similarly, statistical records of ATC judges must be prepared by the higher court consistently. For example, comprising of a number of judgments made by each judge, terrorism-related cases dismissed in the plea, number of remands and total delays in the completion of cases commenced before a specified judge who does not exist in at present in Pakistan. These records can be prepared with the help of mentors, law students and interns.

Moreover, the purpose would be to observe the performance of judges who require closer scrutiny. This record should be made part of the personal record of judges. However, for the success of this process, two requirements are needed. First, significant effort must be afforded to ensure that the courts are not overloaded with cases. If there is evidence of a heavy workload, then more judges must be hired to accommodate. Secondly, a promotion and incentive program for judges must be integrated with the statistical review of performance. It would also have relevance to the course of external accountability.

An independent judicial appointment commission could be established to the selection, promotion and reward programs to ensure greater

transparency than previously.⁵⁰ The promotion of higher courts can be led by open evaluation practices in which complete statistical records of the official are reviewed and provided to his or her colleagues and also share with the public as Article 19(A) of the Constitution of Pakistan offers “the right to information” to its citizens in “all matters public importance subject to regulation.”⁵¹

Another method for achieving this purpose is with the assistance of law conferences and law journals in which the development of laws through the decisions in particular cases would come under debate. The discussion on external accountability would be incomplete without referring to the judicial procedure. Currently, the possibility of failure of justice exists not in the evaluation of questions of law but those of questions of fact. The observation by the higher scale of monitoring on issues of fact can be accomplished through public participation in the judicial procedure in the form of the jury (Public Committee) system, and it should be obligatory for everyone in the Public Committee with at least graduation level education. It is also imperative to mention that new procedures regarding misuse of electronic evidences are required to cope with the falsification of evidence before it is presented to the court either due to corruption or ineptitude of the police officials. For this intent, it can be made obligatory for a judicial official to remark on the nature of the evidence and the investigation and if he or she finds the evidence is falsified due to corruption or ineptitude of the police officials upon which they should immediately be removed and dismissed from their posts. It is high time to eradicate corruption from the judiciary, prosecution and police. Strict actions need to be adopted as undertaken in China where any officials found to be involved in corruption of an amount equal to 15,000 US dollars will face life imprisonment or the death sentence.⁵² Such kind of stringent punishments⁵³ can be helpful to keep officials on the right track to perform their duties honestly and can avoid corruption.

ELIMINATING UNRELATED LITIGATION FROM ANTI-TERRORIST COURTS

To overcome the increasing backlog of cases, an amendment to the ATA of 1997 is needed to provide a more precise and a narrower definition of terrorism and limits to non-correlated cases to regular criminal courts. Within the Third Schedule of the ATA of 1997, the addition of crimes that are not related to terrorism such as such as atrocious killings, aerial

firing to create fear in people, sexual intercourse with a minor forcibly, harming an electrical transformer, window breaking of vehicles during political rallies and cases of anthropophagy and over broadening of the definition of terrorism in Section 6 has confirmed that the ATCs are intertwined in trying cases that are unrelated to terrorism and terrorists' activities in Pakistan.

The first step would be to measure how much litigation there is, in fact, tangential to the ATA, which were not listed precisely and statistically. Careful scrutinising of cases is also needed to determine how many kidnappings for extortions, acid attacks, abductions, ransom, assaults on police personnel, aerial firing is linked to terrorism and not to other criminal acts. According to some available research studies, the authors found that approximately eighty-three percent of cases in ATCs were not related to terrorism which is significantly high.⁵⁴

After demarcating the tangential cases, the next step would be to examine what could be done to these tangential cases. An easy way that does not require any legislative amendments is that prosecution departments may write to the courts, recommending that these cases should be sent to the Session Courts as they are of ordinary jurisdiction. While Session Courts are overburdened, there is speculation as to the employment of hundreds of new session judges, and therefore, these cases could be tried in these courts or could be assigned as the judiciary envisages it appropriately.⁵⁵ The other approach is to amend the ATA of 1997 to define terrorism more meticulously as offences perpetrated by terrorists to attain political or religious conceptual aims. This definition may be further extended upon, but any feasible definition needs to emphasise the political and organisational essence of terrorism as being different from regular crimes. Also, in initial hearings to determine whether the case under trial is a terrorist case or not, a jurisdictional clause should be inserted. However, the perception maybe difficult to overcome in this case, as over the years so many elements have been incorporated in the ATA for which various stakeholders in the legislature, police, prosecution and judiciary, as a result, may be reluctant in encouraging this type of drastic change in the law.

Also, as a result of perpetual training programs, petitioning struggles, and advisory seminars, governmental officials and policymakers would realise that there would be no hope of success in

terrorist prosecution without separating these cases from the terrorist tarn. The evaluation will be crucial to demarcate the tangential cases as documented evidence that non-terrorism cases have clogged the efficiency of the CJS of Pakistan.

Moreover, an integrated archive of ATCs decisions is required by the prosecution, in which these decisions are currently not documented, recorded and reported in the same manner which is undertaken in case of higher court judgments. In Pakistan, ATCs do not have any database retrieval system. Here, judges read out the judgments to stenographers and these judgments are not held on record in any archival or formal database. Sometimes they are kept in heaps (of paperwork documents) in poorly managed record rooms having lots of dust.⁵⁶ There is no inclusive case management system in the ATCs of Pakistan, and it is unable to seek for precedents which can be helpful in future decisions for judges.

Therefore, a database should be created and maintained of ATCs' rulings which will help in making decisions, training and research for both police and prosecutors. As soon as the set precedents in ATCs start becoming articulate, it will become easier to separate or sort out the unrelated litigation cases in ATCs. It will considerably make prosecutorial decision-making procedures more efficient.

ADEQUATE INFRASTRUCTURAL SUPPORT

As there are 17000 pending cases in different ATCs in Pakistan, inadequate infrastructural assistance is also one of the basic reason behind this backlog. Therefore, it is found that adequate infrastructural assistance is an important element for improving the CJS of Pakistan. Here, the judges of ATCs required assistance to facilitate better organisation of their time which included employing and utilising professional secretaries, law clerks, advanced record management system, libraries and law journals. A basic hurdle to appropriate decision making in Pakistan is the shortage of well-trained junior and lower staff; they also are not being treated with respect.⁵⁷ Additionally, proper training of these staff would help to enhance efficiency. Therefore, it is proposed to establish appropriate training institutions for such individuals as there is no training school for clerks or secretaries currently and they gain skills only through experience. However, this practice should be changed if a special group of judicial officers are appointed as they would require

appropriate and efficient lower staff to assist although the staff must be computer literate and proficient. Likewise, for the training of secretaries, appropriate training institutions should be established to develop an efficient and responsive workforce. Additionally, the use of computers for observation and record keeping must be introduced which could begin as a pilot program in selected districts and extended in future throughout Pakistan if found successful. Besides this, it should be made obligatory for law graduates to go through training for at least one year with judges before their registration to the bar (i.e. internship). It can help law graduates in enhancing their abilities and skills when they join the practice.

During the internship, they can assist in the usual functioning of the courts for instance in the preparation of statistical records and reports. Additionally, the financial allocation must be made for establishing to create and maintain adequate libraries having trained staff, consisting of law books, case materials, analyses and law journals for the assistance of judges at every level. Their use must also be supervised using statistical and qualitative measures. However, the success of the plans as mentioned can only be achieved with a proper governmental assistance at the federal level.

ADEQUATE INFORMATION AND KNOWLEDGE

It was also found that one of the most important factors for improving the CJS of Pakistan is through ensuring adequate information, awareness, knowledge and training for judicial officials. Therefore, the authors propose that pre-service training must be improved which could be achieved by reviewing the curriculum of law colleges and judicial training institutes which should be improved according to the current need to enhance the performance of CJS. At the federal level the Federal Judicial Academy is a primary judicial training institute for providing continuing legal education to judges, law officials, court personnel and other related professionals in the justice sector.⁵⁸ While at the provincial level, the Punjab province Punjab Judicial Academy,⁵⁹ Sindh Judicial Academy,⁶⁰ KPK Judicial Academy⁶¹ and Balochistan Judicial Academy⁶² are effectively working, their work could be enhanced through conducting training courses for judges and other related staff according to the current needs. As judges and other related officials work under immense pressure given the backlog of cases, therefore, such courses should be included

in their training which affords them the insight to manage their workload more efficiently.

Moreover, the curriculum of law schools must include case-flow management, time management, judgement writing, use of information technology, effective advocacy for speedy disposal of cases, forensic techniques for investigation and study gaps in present practice and standard practice for effectively presenting cases. It will help to increase the efficiency of related departments as this measure will provide competent officials to perform their duties efficiently. The suggestion concerning law interns could also be applied as a way of improving their training and providing assistance to acting judges. Likewise, computer use, administration and sectarian issues, human rights and terrorism-related issues must be included in the curriculum of law colleges. These issues must also be included in the in-service training of the judicial officials.

Accordingly, this can be achieved through the National Institute of Public Administration (NIPA) and the Pakistan Administrative Staff College and by advocate training courses in designated areas inside Pakistan and abroad. Moreover, conferences, seminars, law journals and law reviews could be used as sources for providing information. For this purpose, funding must be allocated by the government and included in the general budget of local courts.

ENTICEMENT PROGRAMS

By reviewing the legal and judicial system of Pakistan, enticements can be used as a motivational factor to enhance the performance of judicial officials and staff. This statement contradicts the vision that perceives coercion as a basic source of motivation although coercion alone is not the long term solution to the problem at hand, as it inevitably weakens the system. Therefore, the authors proposes that incentives may consist of salaries, self-respect, conditions of working, armouring from influencers, sense of society and access to fundamental needs for living. Income is the most obvious enticement and motivator, and also the most controversial one. It is also an area often neglected, but it cannot be neglected any more. In fact, currently, the salaries are of such level that Pakistan's government like all other progressing States finds it difficult to make sure that its public officials (Judges, police officials and prosecutors etc.) work in the civic interest. Only a small number of officials are working fairly while most of the public officials including judges⁶³ police officials are surviving through the misuse of powers.⁶⁴

However, for making the judiciary corruption free, there is an urgent need to consider the subject of salary cautiously. Salaries must be of such levels to maintain a decent lifestyle, and this discussion raises a question whether it is possible for an honest public official in Pakistan to maintain a decent standard of living at existing salaries. The answer would more likely be in the negative.

In the US, starting judges receive 3,000 US dollars per month while the starting salary in Pakistan for starting judges is between 1,050 to 1,120 US dollars per month which is comparatively very low. In the US, judges earn more than 96% of similar careers. Therefore, Pakistan's government should also make a significant increase in the salaries of public officials especially the salaries of judges need to be positioned higher compared to other professions.⁶⁵

Even though it may be considered to be a simplistic suggestion, Pakistan's government cannot increase salaries instantly given it will result in inflation and the target to discard corruption or ineptitude not being achieved. Therefore, a phased program can be initiated with judicial officials and extending over 10 years for the remainder of the public officials. However, just increasing salaries is not sufficient enough to change the mind-set of officials immediately. Therefore, a special group can be established for serving in designated districts through specific terms and conditions for working.

The Public Service Commission (PCS) can select the members of this group by conducting a competition with the contribution of superior judicial officials, and it should be open to judicial officials and also to the general public. Proper training should be given to the selected persons before joining to respective their posts. The only condition must be that their promotions will not be made immediately to higher courts. This suggestion to create a special group can ensure the disposal of justice at the local levels, and it is also another method of improving the efficiency of the higher courts at the cost of lower courts. It could also be helpful on the subject of separation of the powers between the administration and judicial officers. The judges of the special group should be given jurisdiction overall serious criminals and their jurisdictional authority could be expanded to terrorist cases when this structure establishes itself.

Furthermore, it will also be beneficial for drawing honest officials from the administration to choose a special group with the highest salaries and aids to

recompense the privileges of the administration. As mentioned earlier, salary can be an imperative element of motivation, although, it is not sufficient alone. Also, some other elements for instance self-respect, the terms and conditions of working, sense of society, shield from indiscriminate behaviour and the right to basic facilities⁶⁶ can also be helpful in this regard. The presence of an official from the administration will also help to attract young persons to the profession being an honourable way of life. Technically, judges from lower courts or magistrates should be given dignity and respect equally as judges of the High Courts and Supreme Courts.

The method as mentioned above of the selection and increase in income will provide an atmosphere of dignity and self-respect, although, two other elements are also essential. Firstly, allowances for improving the working environment for instance cleanliness, organisation and distance as dirtiness and mismanagement of the premises will lead to the lowering of seam for their profession which can be improved at a very low budget. Secondly, the access should be ensured to those public facilities which are implicated in the misuse of resources of the department such as schooling, health facilities and utilities. The increase in salaries will be sufficient in some cases, but for the necessities which are not accessible, the government needs to provide it, as some basic institutions such as schools and medical facilities are far away from the residential area.

CONCLUSION

This article examined several weaknesses in Pakistan's CJS and their possible solutions for making it productive in prosecuting terrorists and securing convictions. It also examined that the scope of improvements should begin from procedural procedures to the modification of broad powers given to police which are breeding corruption and nepotism. Therefore, those extended powers should be kept under a strong check. It is also observed that there should be strict check and control on the extended authorities of police. For this purpose, it is required to establish an independent police complaints commission in which the public can lodge complaints concerning police misconduct as is being done in the UK where the independent office for police misconduct is working to increase public trust in the police complaint system and also to investigate serious allegations of misconduct against police officials and handling appeals.

Moreover, it is also examined that amendments in the old laws can be made as per current requirements. Although, time is needed in consideration of the essential amendments realistically in order to make a productive and successful system where each offender cannot go unpunished. It is also examined that there is need to mount, thereby increasing the responsibilities of Public Prosecutors in Pakistan and they must have authorities similar to Public Prosecutors in the US to prepare final reports and present them in courts which are currently undertaken by police. Moreover, it is found from the analysis that IOs are not investigating the cases adequately because of multiple ailments such as poor standard of education and skills, overburdening with miscellaneous kinds of responsibilities and political intervention. Therefore, it is essential to improve their skills by making it compulsory for them to study the advanced “state of the art” courses in criminology just like in the US, UK and other developed countries.

This article also focuses on using modern methods in the investigation process. For instance, the use of forensic sciences and modern equipment which is used in the US and UK as it can be very useful in improving Pakistan’s CJS. It is also a fact that a refinement of procedural and substantive law sensibilities of crime and facts of legal insight becomes unproductive if not congregated with honest officials. Therefore, it is highlighted that the accountability of all judicial officers is necessary who exploit their powers. As corruption is one of the major reasons behind Pakistan’s weak CJS which is widespread in its three important pillars i.e. judiciary, prosecution and police, therefore, to eradicate corruption from the judiciary, prosecution and police, strict actions needs to be adopted as is undertaken in China where any official found to be involved in corruption of an amount equal to 15,000 US dollars will face life imprisonment or the death sentence.⁶⁷ Such kind of stringent punishments can be helpful to keep officials on the right track to perform their duties honestly. As coercion alone is not the solution to the problem, therefore, enticements are suggested that can be used as motivational factors to enhance the performance of judicial officers. It was also examined that having adequate infrastructure, helps to support information and knowledge sharing for decision making which can also help to improve the performance of judicial officers and ultimately the entire system. Indeed, it is the need of the time to make a productive and effective CJS to prosecute criminals justly.

NOTES

- ¹ Muhammad Imran, *Counter terrorism measures and challenges facing the criminal justice system in Pakistan*, PhD Thesis, Universiti Kebangsaan Malaysia, 2019, p 222-224.
- ² Y. Rizvi, ‘The terror of the Anti-Terrorism Act’, *The Nation*, 12 April 2019.
- ³ Hajira Maryam, ‘Deadly border attacks test Pakistani govt’ relations with Taliban’, *Aljazeera*, 27 April 2022.
- ⁴ The Constitution of Islamic Republic of Pakistan, Article 10-A, right to fair trial for the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.
- ⁵ The Constitution of Islamic Republic of Pakistan, Article 37, Promotion of social justice and eradication of social evils: The State shall-
 - (a) promote, with special care, the educational and economic interests of backward classes or areas.
 - (b) remove illiteracy and provide free and compulsory secondary education within minimum possible period.
 - (c) make technical and professional education generally available and higher education equally accessible to all on the basis of merit.
 - (d) ensure inexpensive and expeditious justice.
 - (e) make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment.
 - (f) enable the people of different areas, through education, training, agricultural and industrial development and other methods, to participate fully in all forms of national activities, including employment in the service of Pakistan.
 - (g) prevent prostitution, gambling and taking of injurious drugs, printing, publication, circulation and display of obscene literature and advertisements;
 - (h) prevent the consumption of alcoholic liquor otherwise than for medicinal and, in the case of non-Muslims, religious purposes; and
 - (i) decentralise the Government administration so as to facilitate expeditious disposal of its business to meet the convenience and requirements of the public.
- ⁶ Aroosa Shaukat, ‘Low conviction rate: Report seeks reforms in criminal justice system’, *The Express Tribune*, 29 May 2014.
- ⁷ Muhammad Imran, *Counter terrorism measures and challenges facing the criminal justice system in Pakistan*, p 124-128.
- ⁸ Farid Sabri, ‘67,399 People killed in terror attacks during past 15 Years’, *Pakistan Today*, 20 May 2017, p 4.
- ⁹ Hasnaat Malik, ‘4,000 terrorism cases pending in ATCs’, *The Express Tribune*, 9 May 2019.
- ¹⁰ Asad Kharal & Aatekah Mir-Khan, ‘Prosecuting terrorists: Out of 559 cases in 2012, suspects acquitted in 414’, *The Express Tribune*, 31 March 2013.
- ¹¹ The Criminal Procedure Code 1898. Section 173, Report of police officer on completion of investigation. (1) Every investigation under this Chapter shall be completed without unnecessary delay.
- ¹² Sardar Hamza Ali, ‘An analytical study of criminal justice system of Pakistan’, (2015) 22(1) *Journal of Political Studies*, p 1-26.
- ¹³ Sardar Hamza Ali, ‘An analytical study of criminal justice system of Pakistan’, p 1-26.

- ¹⁴ The Criminal Procedure Code 1898, Section 54.
- ¹⁵ ‘Police Abuse and Reform in Pakistan, 2016’, Human Rights Watch, <https://www.hrw.org/report/2016/09/26/crooked-system/police-abuse-and-reform-pakistan> [28 May 2022].
- ¹⁶ Muhammad Imran, *Counter terrorism measures and challenges facing the criminal justice system in Pakistan*, p 314-315.
- ¹⁷ The Criminal Procedure Code 1898, Section 169.
- ¹⁸ PLD [2013] Peshawar 46.
- ¹⁹ Muhammad Imran, *Counter terrorism measures and challenges facing the criminal justice system in Pakistan*’, p 315.
- ²⁰ PLD [2013] Peshawar 46.
- ²¹ Hassan Abbas (ed), *Stabilizing Pakistan through Police Reform: Asia Society Report by the Independent Commission on Pakistan Police Reform*, Asia Society, New York, 2012) https://asiasociety.org/files/pdf/as_pakistan_police_reform.pdf.
- ²² Muhammad Imran, *Counter terrorism measures and challenges facing the criminal justice system in Pakistan*’, p 315.
- ²³ Ashraf Javed, ‘Punjab takes lead in raising counter-terror corporals’, *The Nation*, February 2, 2015, 1.
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- ²⁵ The Criminal Procedure Code 1898, Section 173, (1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer incharge of the police-station shall [through the Public Prosecutor].
- ²⁶ Muhammad Imran, *Counter terrorism measures and challenges facing the criminal justice system in Pakistan*’, p 317.
- ²⁷ The Anti-Terrorism Act 1997, Section 27(B).
- ²⁸ [2014] ATC4 62 (Karachi).
- ²⁹ ‘Punjab Forensic Science Agency’, Government of the Punjab, <http://pfsa.gop.pk> [29 October 2021].
- ³⁰ The Constitution of the Islamic Republic of Pakistan, 1973, Article 202, Rules of Procedure: Subject to the Constitution and law, a High Court may make rules regulating the practice and procedure of the Court or of any court subordinate to it.
- ³¹ Anon, ‘Shahbaz visits Punjab Forensic Science Agency’, *SAMAA*, 10 January 2016.
- ³² The Anti-Terrorism Act 1997, Section 21.
- ³³ The Sindh Witness Protection Act, 2013.
- ³⁴ Syed Manzar Abbas Zaidi, *Terrorism Prosecution in Pakistan*, United States Institute of Peace, Washington, DC, 2016, p 18.
- ³⁵ Syed Manzar Abbas Zaidi, *Terrorism Prosecution in Pakistan*, p 19.
- ³⁶ The Anti-Terrorism Act of 1997, Section 21, Protection to Judges, 3* Counsel, Public Prosecutor, witnesses and persons concerned with court proceedings. - (1) The Court may, subject to the availability or resources, make such necessary orders or take such measures, as it deems fit, within available resources, for the protection of a witness, judge 2* public prosecutor, counsel and other persons concerned in court proceedings for an offence under this Act, which may also include the following measures — (a) proceedings may be held in camera, or under restricted entry of members of the public, where necessary for the protection of the judge 2* witnesses or a victim’s family members or to prevent persons from crowding or storming the court to intimidate the judge 3* or to create a threatening atmosphere; (b) The names of judges 3* counsel, public prosecutor, witnesses and persons concerned with court proceedings shall not be published; and (c) During any inquiry, investigation or court proceedings, wherever the matter of the identification of the accused arises, adequate protection shall be provided to a witness identifying any accused, in order to protect the identity of the witness from the accuse.
- (2) For purposes of protection of the judges 3* accused, witnesses, prosecutors and defense counsel and anyone concerned with the court proceedings, the Government may adopt such other measures as may be appropriate or may be prescribed 2[and the Armed Forces shall also provide comprehensive protection and security to the judges, 3* accused, witnesses, prosecutors, investigators, defence counsel and all those concerned in the court proceedings]. [These measures may include the following, namely: (a) screens may be used during trial to shield witnesses, Judges and Prosecutors from public view; (b) trial may be held in jail premises or through video link; (c) witness protection programmes may be established by the Government through law or rules. The Provincial Government shall take necessary steps to ensure that prisoners in Jails do not have access to mobile phones].
- ³⁷ Faisal Ali Ghumman, ‘Country’s first high security prison ‘ready for opening’’, *Dawn*, 14 January 2015.
- ³⁸ Research Society of International Law (RSIL), *Criminal Justice Reform-Revamping Pakistan’s Colonial Structures*, <https://rsilpak.org/2022/criminal-justice-reform-revamping-pakistans-colonial-structures/#>. [30 May 2022].
- ³⁹ Muhammad Imran, *Counter terrorism measures and challenges facing the criminal justice system in Pakistan*, p 321-323.
- ⁴⁰ The Pakistan Penal Code, 1860, Section 182. False information with intent to cause public servant to use his lawful power to the injury of another person: Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant:- (a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or (b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend [three thousand rupees], or with both.

- ⁴¹ The Pakistan Penal Code, 1860, Section 182.
- ⁴² The Pakistan Penal Code, 1860.
- ⁴³ The Police Order, 2002, Sections 155, 156 and 157.
- ⁴⁴ The Code of Criminal Procedure, 1898, Section 22-A. Powers of Justices of the Peace: A Justice on the Peace for any local area shall, for the purpose of making an arrest have within such area all the powers of a police officer referred to in section 54 and an officer-in-charge of a police station referred to in section 55.
(2) A Justice of the Peace making an arrest in exercise of any powers under subsection (1) shall, forthwith, take or cause to be taken the person arrested before the officer incharge of the nearest police station and furnish such officer with a report as to the circumstances of the arrest and such officer shall thereupon re-arrest the person.
(3) A Justice of the Peace for any local area shall have powers, within such area, to call upon any member of the police force on duty to aid him. a) in taking or preventing the escape of any person who has participated in the commission of any cognizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having so participated; and b) in the prevention of crime in general and, in particular, in the prevention of a breach of the peace or a disturbance of the public tranquility.
(4) Where a member of the police force on duty has been called upon to render aid under sub-section (3), such call shall be deemed to have been made by a competent authority.
(5) A Justice of the Peace for any local area may, in accordance with such rules as may be made by the Provincial Government, -- a) issue a certificate as to the identity of any person residing within such area, or b) verify any document brought before him by any such person, or c) attest any such document required by or under any law for the time being in force to be attested by a Magistrate, and until the contrary is proved, any certificate so issued shall be presumed to be correct and any document so verified shall be deemed to be duly verified, and any document so attested shall be deemed to have been as fully attested as if he had been a Magistrate.
- ⁴⁵ 22-B. Duties of Justices of the Peace: - Subject to such rules as may be made by the Provincial Government, every Justice of the Peace for any local area shall: -- a) on receipt of information of the occurrence of any incident involving a breach of the peace, or of the commission of any offence within such local area, forthwith make inquiries into the matter and report in writing the result of his inquiries to the nearest Magistrate and to officer incharge of the nearest Police Station; b) if the offence referred to in clause (a) is a cognizable offence, also prevent the removal of anything from, or the interference in any way with, the place of occurrence of the offence; c) when so required in writing by a police officer making an investigation under Chapter XIV in respect of any offence committed within such local area, i) render all assistance to the police officer in making such an investigation; ii) record any statement made under expectation of death by a person in respect of whom a crime is believed to have been committed.
- ⁴⁶ The Criminal Procedure Code, 1898, Section 154.
- ⁴⁷ The Criminal Procedure Code, 1898, Section 173.
- ⁴⁸ Saroja Dhanapal & Johan Shamsuddin Sabaruddin, 'Rule of Law: An initial analysis of Security Offences (Special Measures) Act (SOSMA) 2012', (2015) 23(1) *IJUM Law Journal*, p 8-9, <https://doi.org/10.31436/iiumlj.v23i1.143>.
- ⁴⁹ 'Introduction to Public Administration', Administrative Control: Types of Accountability, Internal Control, External Control, http://www.zeepedia.com/read.php?administrative_control_types_of_accountability_internal_control_external_control_introduction_to_public_administration&b=47&c=30 [30 October 2022].
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- ⁵¹ The Constitution of the Islamic Republic of Pakistan, 1973, Article 10(A).
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- ⁵⁷ Muhammad Imran, *Counter terrorism measures and challenges facing the criminal justice system in Pakistan*, p 328-329.
- ⁵⁸ Federal Judicial Academy Islamabad, Pakistan', Government of Pakistan, a <http://www.fja.gov.pk/> [2 November 2021].
- ⁵⁹ 'Punjab Judicial Academy, Lahore, Pakistan', Government of the Punjab, <http://www.pja.gov.pk/> [2 November 2021].
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- ⁶¹ 'Khyber Pakhtoon Khawa Judicial Academy, Province KPK, Peshawar, Pakistan', Government of the KPK, <https://www.kpja.edu.pk/>. [2 November 2021].
- ⁶² "Baluchistan Judicial Academy, Province Baluchistan, Quetta, Pakistan", Government of the Baluchistan, <https://www.bja.edu.pk/> [2 November 2021].
- ⁶³ Muhammad Imran & Rohaida Nordin, 'Good governance in Pakistan: Challenges and recommendations', (2018) 3(10) *International Journal of Law, Government and Communication*, p 7, <http://www.ijlgc.com/PDF/IJLGC-2018-10-09-01.pdf>.
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