▪ Global Social Sciences Review (GSSR) ▪ Vol. VII, No. I (Winter 2022) ▪ Pages: 463-472
▪ DOI: 10.31703/gssr.2022(VII-I).43 ▪ URL: http://dx.doi.org/10.31703/gssr.2022(VII-I).43
▪ L- ISSN: 2520-0348 ▪ p- ISSN: 2520-0348 ▪ e-ISSN: 2616-793X
▪ Citation: Kasuri, M. R., Abbas, S., & Ahmed, G. (2022). Imbalance Criminal Justice System of Pakistan: Joined Up Working is the Way Forward. *Global Social Sciences Review*, *VII*(I), 463-472. https://doi.org/10.31703/gssr.2022(VII-I).43

Cite Us

Imbalance Criminal Justice System of Pakistan: Joined Up Working is the Way Forward

Muhammad Ramzan Kasuri * Sheer Abbas † Ghufran Ahmed ‡

Contents:

Abstract: *The Criminal Justice System (CJS) is an inter-dependent multi-organizational justice sector comprising police, prosecution, courts, corrections and many other government agencies. These governmental institutions along with one private force in the shape of the defence lawyers; are primarily responsible for the administration of CJS. The imbalance among these institutions and separate working without meaningful coordination and cooperation to uphold justice are key elements for making CJS ineffective, inefficient, and expensive and even paralyzing it. An Appropriate balance among these institutions and joined up working to uphold justice are the key elements to make the CJS effective, efficient even inexpensive. No single organization can make the CJS effective and efficient. Synergy among the judiciary, prosecution, police and other inter-dependent agencies and authorities is necessary for making the CJS simpler, faster, cheaper and people-friendly. With the help of qualitative and analytical research methodology, this article explores the imbalances in the working of CJS and explains the need for joined working and alignment of the CJS as a way forward and practical solution for making CJS efficient, effective, simpler, faster, cheaper and people friendly.*

Key Words: Alignment, Criminal Justice System, Executive Magistrates; Investigation; Joined-Up Working, Prosecution,Trial

Introduction

Criminal law is a social and public policy issue which requires a balance between the rights of the accused on one hand and the rights of the victim and society on other hand. The state enacts various laws and establishes a series of governmental institutions and agencies whose goals are; to prevent the commission of offences, to identify and catch the unlawful individual who violated the laws, to inflict punishment on them and to rehabilitate the offenders etc (Karim, 2019). The state is under

* Assistant District Public Prosecutor, Anti-Terrorism Court, Rawalpindi, Punjab, Pakistan.
† Assistant Professor, International Space Law, College of Law, University of Sharjah, UAE.
‡ Assistant Professor, Faculty of Law, University of Sialkot, Punjab, Pakistan.
Email: ghufran.ahmed@uskt.edu.com *(Corresponding Author)*

obligation to apprehend those who invade their rights and punish them if they are found guilty after conducting a fair trial. Proper enforcement of criminal law provides a sense of security and protection of life, liberty and property which are the fundamental rights of every citizen. Lord Hobhouse said that the formation of criminal law and its enforcement by the state is an essential component of the civilized system established under social contract and rule of law (Karim, 2020). The nature of criminal law is awful therefore could not be entrusted to any single functionary. Due to such complicated nature of criminal law, its process is divided separately among different functionaries in case of violation of criminal law for bringing culprits to justice (Frankfurter, 1943). Mainly three governmental institutions; the police and justices of the peace; the prosecutors, the judges and the magistrate and one private force in the shape of the defence lawyers; are primarily responsible for the administration of CJS.

The CJS of Pakistan has become paralyzed due to imbalance and one-sidedness from all aspects. CJS is an inter-dependent multi-organizational justice sector comprising police, prosecution, courts, corrections and many other government agencies. No single organization can make the CJS effective and efficient. Synergy among the judiciary, prosecution, police and other inter-dependent agencies and authorities is necessary for making the CJS simpler, faster, cheaper, and people-friendly (Siddique, 2011).

Pillars of the Criminal Justice System

CJS includes a series of Government institutions and agencies whose goals are to prevent the commission of offences, identify and catch the unlawful individual who violated the laws, inflict punishment on them and rehabilitate the offenders etc. There are four groups of people; the police and justices of the peace; the prosecutors, the defence lawyers; the judges and the magistrate primarily responsible for the administration of the criminal justice (Karim, 2020). The lawyers who are the officers of the court are also an integral part of the CJS, who are playing the role of either defence or prosecution but they are poorly regulated. The public who are beneficiaries of the CJS has more concern in any discussion on criminal law.

The administration of CJS in Pakistan is governed by a series of interlinked laws; criminal law, criminal procedure, the law of evidence, prosecution laws, police laws and laws of prison and multi-inter-dependent organizations (L&JCP, 2019, Report on Police Reforms). Close linkages exist between these laws therefore, a change in one of these criminal laws affects all these laws contingently and together. Three governmental institutions; the police and justices of the peace; the prosecutors, the judges and the magistrate and one private force in the shape of the defence lawyers; are primarily responsible for the administration of the criminal justice system (CJS) (Karim, 2020).

The change in one affects all others but neither the legislatures nor the judiciary takes into view all inter-linked laws and organizations while making any amendment or new laws or rules even in the same area of law i.e. police laws, the Police Order (2002), was enacted by the legislatures in 2002 but till today the police is working under the Police Rules 1934 –made under the Police Act, 1861. All the interlinked laws and organizations should be reviewed together while making necessary changes everywhere after any change in any law or organ of CJS but still today now any effort is made. Therefore, the reader finds so many contradictions in the existing laws even in the same laws (Javaid & Ramzan, 2013). The lawyers who are the officers of the court are also an integral part of the CJS, who are playing the role of either defence or prosecution but they are poorly regulated. The public who are beneficiaries of the CJS has more concern in any discussion on criminal law.

Imbalance Paralyzing the CJS

Unfortunately, the CJS of Pakistan has become one-sided from all angles. The CJS has become paralyzed due to an imbalance between accused and victim, between executive and judiciary, between defence and prosecution and due to certain omissions on the parts of stakeholders of CJS. The judges have more privileges than the investigator and prosecutor, more supervisory rule in the investigation than the prosecutor and only case-ending authority. The judiciary also has a monopoly in the reforms of CJS

from strategic committees (District Criminal Coordination Committee & Provincial Coordination Committees) to the Law and Justice Commission of Pakistan (L&JCP). Whereas in most of the advanced countries; police, prosecutors and judges are equal in authority, all have case-ending discretion and are independent even the prosecutor plays a more active role as an intermediary between police and judiciary and has the best place under check and balance. The other fact of imbalance is that the investigation and prosecution try to get a conviction in every case and the judiciary searches doubt only and tries to give benefits of doubts as possible and acquit the accused persons in most of the cases without looking at the aggrieved party. In short, police and prosecution book the person in criminal cases and the judiciary is acquitting if not at the trial stage but ultimately on the appellate stage without looking to the grievances of the victim and the society mostly due to faults of investigation and prosecution (Kasuri, Mahmood and Ahmed, 2021).

During the last few years, voices for reforms in criminal procedure including investigation, prosecution, and adjudication increased. A dire need for such reforms has also become very evident due to expensive and prolonged trials much beyond a reasonable time which are inconvenient not only to contending parties and state but even to the witnesses and due to the escape of guilty persons from legal punishment as a result of procedural technicalities. The complexity of the procedure has become a shield and cloak for the guilty. The present complexity is justifiable up to the extent to protect innocent persons and is not acceptable as a shield and cloak for escaping the guilty persons from legal punishments. The complexity causes a miscarriage of justice which cause frustration among the masses. To avoid such miscarriage and frustration, the procedure should be simple as possible.

Imbalance among the Rights of Accused and Victims

As concerned to the accused; the system is heavily loaded in his favour. The accused is the favourite child of the law, fully protected by the law even by the constitution, having more privileges throughout the criminal case than the victims and complainant. He is the favourite child of law, the benefit of any single doubt in a prosecution case always goes to him (Abdul Hameed case, 2016) and any reasonable doubt prinking the judicial mind would be sufficient for his acquittal (Muhammad Yousaf Case, 2016). The criminal justice system considered the accused as blue eye child of law, a favourite child of law, presumed innocent until the conclusion of the trial and he can take any plea during the trial (Muhammad Bakhsh, 2012). Statements u/s 161 Cr. P.C is also recorded to enable the accused to prepare his defence on receiving statements of witnesses (Sajjad Hussain case, 1996).

As a matter of public policy, the balance should not tip in favour of the accused but the fairness should be for the accused, society and victims alike. But unfortunately, balances always tip in the favour of the accused as his rights are not only protected by ordinary law but also by the supreme law of the land known as the constitution (Karim, 2019). By the virtue of public policy, the CJS should be fair to the accused but in the process, it should not forget to be fair to the victim and of course to society, therefore, it should maintain balance and should not be one-sided.

As Concerned to the Victim

These inequitable situations were realized by Common Law World in the last quarter of the twentieth century and they started to legislate on the rights of victims. Many countries incorporated the rights of victims in their constitutions or ordinary laws (Criminal Injuries Compensation Act, (1995) of United Kingdom, the Victims of Crime Assistance Act, (1996) of Victoria, The Victims Rights and Restitution Act, (1999) of U.S.A, The Victims and Witnesses Protection Act, (1982) of U.S.A, The Convention on the Compensation of Victims of Violent Crimes, (1983) of Europe and Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Powers of U.N.O) which led to change criminal justice goals and procedure. The U.S. Supreme court (SC) ruled that a 'victim impact statement' is constitutionally permissible during a sentencing hearing (Payne case, 1991). The 'victim impact

statement' also became part of 'plea bargaining' in the U.S.A. A Declaration on victims' rights is also adopted by UNO through its General Assembly in 1985 (//www.ohchr.org/). In 2001, an informative report on "Criminal Justice (2001) The Way Ahead" was presented to the British Parliament which pointed out that in the U.K, the satisfaction of victims with the police has gone down and many victims felt that "the rights of the accused of a crime take precedents over theirs" and that report recommended one of the foundations for criminal reform to bring needs of victims and witnesses at the heart of the CJS. As per that report, the satisfaction of the victims regarding receiving justice more often and more quickly should be placed on top of the priorities of the CJS. The victims and witnesses must be updated about the progress in their cases and they must be provided with a supportive environment for deposing the best evidence (The Report of British Parliament, 2001).

That Report also recommended that the CJS must be responsive at every stage to the needs of the victims and the law-abiding community. It was recommended to place the needs of victims at the centre of the criminal justice reforms to ensure that they get the service as deserve for raising public confidence in the system. It will be a new deal for a new Charter of rights setting out clear standards of service for the victim. The ultimate aim of CJS is the protection of the weak against the strong, peaceful against the violent, law-abiding against the lawless and protection of citizens' rights; life, liberty, honour and property from utter selfishness, greed, intolerance and invasion by others.

Imbalance Among the Stakeholders of Criminal Justice in Pakistan

CJS is an inter-dependent multi-organizational justice sector comprising police, prosecution, courts, corrections and many other government agencies. No single organization can make the CJS effective and efficient. Synergy among the judiciary, prosecution, police and other inter-dependent agencies and authorities is necessary for making the CJS simpler, faster, cheaper, and people-friendly. The conviction rate in Japan is nearly 100 per cent which is the world's highest and the same is achieved due to the joint working of police, prosecutor and courts in the delivery of criminal justice (Fukurai, 2013).

Imbalance among Executive and Judiciary in Administration of CJS of Pakistan

The original Scheme of the Cr. P.C was having judicial and executive offices equally for dispensation of CJS. The offices of the district Magistrates - having judicial functions, revenue collections and executive oversight of the district police and executive magistrates were an integral part of CJS but abolished due to the principle of the "separation of the judiciary from the executive", without providing viable, effective and efficient alternative mechanism caused many problems in the administration of CJS and left a vacuum in the system (Constitution, 1973, Art. 175). No doubt, the bad colonial laws must be done away with due consultation and broad debate among the stakeholders while keeping in view the social, cultural, political and institutional environment.

The police were under the control of the executive which was exercised through the office of the District Magistrate (DM) but after the devolution plan, the DM's office was abolished. The Police Order removed the general control of DM over the police. Although one of the criticisms of the Police Act 1961 was that it vested the superintendence of police in the provincial government and on the district level, it was under the command of the District Superintendence of Police subject to the general control and directions of the DM. Two important purposes; one to provide an inexpensive and local police accountability mechanism and the other to ensure the availability of police for effective delivery of regulatory services by various government functionaries, were served which provided a kind of barrier to police excesses (Chaudhary, 2009). Public oversight of police was introduced through Police Order 2002, through Public Safety Commissions but unfortunately, the public safety commissions remained un-existed most of the time. The local government was essential to the devolution plan which after 2010

remained mostly un-functional. The powers of the provincial government regarding oversight of police were confirmed to *Zila Nazim* through District Public Safety Commissions, therefore the political governments remained reluctant to enforce Police Order 2002 in letter and spirit. Two mechanisms for police oversight and accountability were provided by the Police Order 2002. First, at the institutional level, superintendence of police was given to the provincial government and the second, public oversight of police through the *Zila Nazim*, District Public Safety Commissions and Complaints Authorities (Police Order, 2002, Arts. 37, 73, 85). The concept of public oversight of police was mainly borrowed from the Japanese and the U.K police models but unfortunately not got exercised for fruitful results due to a lack of political will; as civil society is weaker and the state much more authoritarian (Dogar, 2008).

The military general introduced this system without the broad participation of political and civil bureaucracy. In 2001, General Pervaiz Musharraf - the then chief executive – changed the system of District administration by introducing the system of local government in which *Zila Nazim* was made district head and the previous district administration known as magistracy was abolished. The magistracy system was considered a key feature of district administration and the administration of criminal justice at the district level. Although the magistracy system is attributed to a feature of the English system same was also available in the era of Muslim rulers with different nomenclatures. Even India retained it while enacting a new Code of Criminal Procedure in (1973) and created three types of magisterial court; judicial, metropolitan and executive. The former two types of Magistrate are appointed by high courts whereas the latter is appointed by the government (Indian Cr. P.C, 1973). Executive magistrates were exercising judicial and administrative powers including; supervising police investigations, issuing search warrants, preventing the commission of the offence, getting the public property vacated, trying offences and sentencing the accused persons. Here the question is not whether the system of executive magistracy was good or bad. Whether the same should be revived? But the question is whether, after the abolishment of District Magistrates and executive Magistrates, the administrative phase of the criminal case is properly handled and assigned to the proper person or institution. Whether the administrative phase of a criminal case is working properly in the proper hands? Whether internal accountability mechanism is sufficient to discipline the errant officers? What is the police-executive relationship for ensuring accountability of wrongdoing officers?

Although every institution among the judiciary, police, prosecution, corrections and other agencies work separately and independently yet they are interconnected. Change in any one of the organizations of the criminal justice system affects the others, therefore, coordination and cooperation among them from grass root level to the organizational leadership is essentially required (Johson, 2002). No doubt, the decision-making power regarding guilt and innocent rest with the judiciary which has a leading role in the administration of criminal justice in Pakistan the prosecution and police are also given discretionary power but they are reluctant to exercise such discretionary powers due to the attitude of the judiciary.

The Code of Criminal Procedure (Code) of Pakistan is the principal instrument of procedure governing the criminal justice system. The Code was tailor-made by Colonial masters for meeting their needs and colonial designs. The Code is one of the classical examples of the British legacy. In the Code, the Area Magistrate (Executive) had a central role in the shape of supervisory of Investigation and initiator (cognizance) of the criminal case. (Code, 1898, S.190) The criminal procedural system of Pakistan is not strictly adversarial. Rather it has elements of accusatorial and inquisitorial as well but the court's practice made it purely adversarial. However different jurisdictions from adversarial as well as inquisitorial impart good features from each other for the efficiency of the system but unfortunately, the practice in Pakistan going towards the worst of adversarial instead of having elements of inquisitorial and Islamic in the

procedural law which are facing 'theory of reading down' in practice.

An Imbalance between Fir Case and Private Complaint Case

The provisions of Section 190 of Cr. P.C envision three methods; private Complaint, police reports and personal information (*suo moto*), upon which the magistrate can take cognizance of the criminal case. The criminal law can be set into motion either by logging FIR u/s 154 of Cr. P.C in a police station or on the order of a justice of the peace, resulting in a police report u/s 173 Cr. P.C or by filing Complaint u/s 200 of Cr. P.C before the Magistrate or *suo moto* by the Magistrate but the court remained failed to develop private complaints and *suo moto* methods of the criminal process in Pakistan. In Private complaints the judges have many powers and alternatives to discover the truth either inquiring about the matter themselves or directing any other; justices of the peace, magistrates, police or any other private person to enquire about the matter or investigate it with the purpose to ascertain the falsehood or truth of the matter (Code, 1898, S. 200) but unfortunately, the judiciary has not developed this mechanism for speedy justice. Under the private complaint mechanism, the criminal courts can get inquired about or investigate the matter while applying either of the procedure; inquisitorial or adversarial because inquisitorial is an inquiry-based system in which the judge has a more active role and adversarial is an investigation-based system in which judge has a passive role. The court has also the authority to dismiss a private complaint where no sufficient grounds for proceedings have existed (Code, 1898, S. 203).

The private complaint and private prosecution is old method for getting criminal justice "Inability to provide justice to the aggrieved, adversely affects public confidence in the formal justice system, encouraging citizens to seek justice by whatever means possible, thereby undermining the formal rule of law." (L&JCP's Report, 2016) The scheme of Cr. P.C is very balanced regarding private and public prosecution but unfortunately, the practice of courts did not develop a private complaint/private prosecution mechanism as it developed a police case/public prosecution mechanism. The judiciary by its conduct caused police monopoly in the investigation despite the fact, most of the police investigation is defective and faulty and many of the cases resulted in acquittal due to faulty and defective investigation. The right to bring a private prosecution through private complaint is a valuable constitutional right,

Recently, Sections 203A, 203B and 203C are added in Cr. P.C and according to their provisions, no court shall take cognizance of an offence u/s 5 of the Offence of *Zina* (Enforcement of *Hadood*) Ordinance, 1979, or an offence u/s 6 of the Offence of *Qazf* (Enforcement of *Hadood*) Ordinance, 1979 or an offence u/s 496B of PPC except on private complaint. "The combined effect of the provisions of Sections 203A, 203B and 203C particularly the words 'no court shall take cognizance' of these offences, 'except on a complaint', occurring in these sections, seems to altogether exclude the police and police investigation in these case." (Karim, 2020). The researcher is of opinion that two out of three methods of taking cognizance u/s 190 Cr. P.C, provide an active role of criminal courts in the delivery of criminal justice to the victim but unfortunately, the court in Pakistan do not want to exercise an active role and do not want to exclude the monopoly of police in the investigation of offences despite the facts, most of the real culprits acquitted due to defective and faulty investigation. Many other provisions of Cr. P.C and QSO also provide the active role of the judge during the trial but courts are very reluctant to exercise their active role in the delivery of justice and remained passive through the trial. The passive role of the judge during the administrative and judicial phases of the criminal case seriously damaged the CJS in Pakistan. In many judgments, the Higher Courts observed that the trial judge should play an active role in reaching a just decision in criminal cases but unfortunately the magistrates and criminal trial courts do not play their active roles.

Joined Up Working

All the stakeholders of CJS should work jointly and have to consult on the challenges confronting the system. Joined up working can help in learning from each other while sharing new concepts, understandings, methodologies, experiences, challenges, and solutions. In the present era of technologies, challenges are becoming much more complicated therefore, it's the need of the hour to be much more rigorous in thinking and planning. Lord MacDonald of Glaven highlighted the 'joined up working' as he said "in each corner of the system leadership had to be shown so that joined up working could begin and without the leadership of judges, people would stay in their silos, complacency and mediocrity will win" (L&JCP's Report, 2016) it required leadership from each institution involved in the administration of criminal justice who can competently assess the problems and formulate solutions.

In Pakistan, unfortunately, heads of organizations focus to strengthen their own organization and getting more privileges without looking to supra-organizational problems for quality justice service delivery. For instance, heads of the judiciary are focusing only on the judiciary and judges, their training and capacity building, and their privileges and comfortability without looking at the state of problems of prosecutors, lawyers, police, and prison. Heads of the prosecution are focusing on the prosecution and prosecutors without looking at to bridge between the judiciary and police and without looking state of problems of other stakeholders of the sector. Same, heads of the police are focusing only on the police. The heads of lawyers/bar are focusing on lawyers without looking at the state of the problem of the public, judiciary, prosecution and police. In the scenario, the department that has more privileges and resources is better than the others. It's all at the cost of justice. For instance, every stakeholder of the criminal justice sector; judiciary, prosecution, police, and prison, invested in Information Technology (IT) and developed IT-based solutions and software for its own department without considering the common goal of the sector which is quality justice service delivery to the masses. At the present day, there is no software connecting the activities of all the stakeholders for better oversight, monitoring, coordination, cooperation and evaluation though every member of the stakeholders has its own mechanism.

Chief Justice ® *Anwar Zaheer Jamali* pointed out; that IT can play a very important role in the establishment of joined-up working of all stakeholders of CJS. Undoubtedly, IT can play a significant role in bridging the gap between the stakeholders and can build a supra-organizational structure for better inter-organizational's oversight, monitoring, coordination and cooperation from the investigation level to a decision by the judiciary for providing expeditious and inexpensive justice to the people. For higher objectives of the justice sector and for a smart justice system based on technology, there is a dire need to shift our thinking from individual organizations and functions to collective and holistic thinking which connects horizontally and vertically all organizations of the justice sector (L&JCP's Report, 2016).

Alignment of the Criminal Justice System

For alignment of the whole criminal justice sector, the key stakeholders should typically form an inter-organizational group for higher levels of goals and results (national goal, sector goals and outcomes) and ensure synergy, monitoring, evaluation and strategy for achievement of common results and goals in accordance the expectation of public. For monitoring sustainable capacities and addressing needs of the all the inter-independent organizations of the CJS, a holistic view is necessary (UNDP, 2009).

Lack of political will is the main reason for the inability of legal and judicial reforms in the country even in the implementation of successful judicial reforms brought by the L&JCP but most of the government took initiatives of reforms solely for protecting their self-interest (*Ansari*, *Jabeen* & *Sara*, 2009). Even if any reform is approved by the government, the requisite funds are not provided for its implementation. The main reason for the lack of political will is the vested interests of the politicians as they mostly use law and order enforcing institutions for facilitating and obliging

their people and for increasing their personal powers (*Ansari, Jabeen & Sara*, 2009). The society and public – who is the user of the criminal justice – should be given key consideration in determining the point at issue in the criminal justice reforms as the Justice System Reform Council did in Japan from 1999 to 2001 when they assigned the duty to shape justice system through reforms for the expectation in 21st century (https://japan.kantei.go.jp). The main reasons for the failure to produce comprehensive reforms and their implementation are unregulated, untrained and incompetent lawyers who mostly resist the reforms, and their implementation and get desired results. Lawyers should be strictly regulated from induction in the bar, their performance in the court, their response to the clients, their fee schedule of cases and especially their training. Lawyers and prosecutors must be trained in the same academy as judges trained in practice in Japan where the legal profession of Japan consists of judges, public procurators and attorneys (lawyers). All three group members of the legal profession must complete 18 months of legal training from the Legal Training and Research Institute in addition to passing the Bar exam (merit is 98% due to that fail ratio is high) and a law degree from the university.

All three groups of legal professionals get training from the same training institution with a single policy of justice (Terrill, 2009). The main goal and aim of all three departments – judiciary, prosecution and Bar (lawyers) - should be a dispensation of justice and not give undue favour based on the quantum of the fee paid by the client as in practice in China where The lawyers are legal workers of the state having the main function to "ensure the correct implementation of law and protect the interests of the state and the collectives as well as the legitimate rights and interests of the citizens (Leng, 1982). In Pakistan, there is no justice sector leadership who connects all the stakeholders on a single platform and takes responsibility for the correction of faults of the criminal justice and reform of the whole sector while taking a holistic approach to the effective delivery of criminal justice services.

Criminal Court Community

Some researchers used the term criminal court community. The Common workplace and interdependence are the core and crucial elements of this community. The criminal court community consists of judges, prosecutors, defence attorneys and police. Due to overlapping work environments, the members of the community depend on and influence each other. In the adversarial justice system, all the organs and actors of CJS work independently however for better results, inter-organizational relations are necessary and need of the day. The best example of the criminal court community can be seen in Japan (Johson, 2002). Theoretically, Japan has an adversarial system of procedure in which the role of the judge is passive and umpires the clash between prosecution and defence who are opposing and equal parties in the case but practically prosecutors dominate the defence party even govern the criminal court community in ways which are impossible in other countries. Only the judges restrain the powers of the prosecutors in any significant way but they do not interfere in the prerogatives of the prosecutors, especially in the exercise of their discretionary power of charging or not charging (Johson, 2002).

Conclusion

Justice should be balanced for the redressal of grievances of victims and society and fairness to the accused. 'Defense Statement' should be as necessary as 'Prosecution Statement' for framing the point for determination and to avoid any surprise from any of the parties. The right to a fair trial is multi-dimensional and not a single-dimensional right therefore, its full realization for the interest of the victim, accused and society at large needs to be balanced without prejudice to one another. An effective CJS is one where cases are decided swiftly by protecting innocent and punishing real criminals. The right to speedy and inexpensive justice is also acknowledged by the Constitution of Pakistan (1973) through the principles of policy but in reality, the justice system of Pakistan became so

expensive, time-consuming and ineffective resulting in the frustration of people from the system.

The administrative phase is the main domain of the executive so investigation and prosecution are the responsibility of the executive but after 2001, the executive seems to be out of CJS as the police and prosecution are given independence. After the abolishment of the offices of executive and DG, no proper allocation of the administrative phase is made to the proper authorities therefore, the executive loses control of the CJS resulting lack of will and interest to make efforts to make the system efficient and expeditious. Although, the police is the principal agency of investigation under Cr. P.C, the investigation does not mean investigation by police only yet there can be an investigation by justices of the peace, Magistrates (executive or judicial) and even by the private person but the judiciary created the monopoly of police in an investigation by refereeing every criminal case to the police.

An alignment of criminal laws and forces of CJS is the need of the hour for making the system efficient and result-oriented. A balanced justice for the victims as well as fairness to the accused is the need of the hour. Unless the idea of justice for the victims of crime is put as one of the central and focal points for a scheme of reform, the system is unlikely to restore the balance as a fair procedure in the pursuit of truth and to restore the confidence of people in CJS. The ultimate aim of CJS is the protection of the weak against the strong, peaceful against the violent, law-abiding against the lawless and protection of citizens' rights; life, liberty, honour and property from utter selfishness, greed, intolerance and invasion by others.

References

Abdul Hameed v. State, (2016) PCr. L. J, 240,

Ansari, N., Jabeen, N., & Sara, S. (2018). "A Critical Analysis of Judicial Reforms: Through the Prism of National Judicial Policy, 2009", *Journal of Political Studies, 25*(2), 121-135.

Constitution of Pakistan, 1973, Article 175 (3).

Chaudhry, M. A. K. (1997), *Policing in Pakistan*, Lahore: Vanguard Books (Pvt) Ltd. 1997

Criminal Injuries Compensation Act, 1995 of United Kingdom,

Code of Criminal Procedure of India, 1973.

Code of Criminal Procedure of Pakistan, 1898.

Dogar, J. (2008). *"Police Reform in Pakistan*: Beyond Analysis., a Joint CHRI-HRCP Consultation", Lahore.

Frankfurter Justice. (1943). in McNabb v. US- (1943) 318 US 332.

Fukurai, H. (2013). "A step in the Right Direction for Japan's Judicial Reform: Impact of the Justice System Reform Council (JSRC) Recommendations on Criminal Justice and Citizen Participation in Criminal, Civil and Administrative Litigation", *Hastings International and Comparative Law Review. 36*(2), 502-518.

Iqbal, J. (2015). *"The Role of the Judiciary as a Catalyst of Change*: Challenge of Delayed Justice". http://supremecourt.gov.pk/ijc/Articles/9/1.pdf

Johnson, D. T. (2002). *The Japanese Way of Justice: Prosecuting Crime in Japan*, New York: Oxford University Press.

Javaid, U., & Ramzan, M. (2013). "Police Order 2002: A critique" *Journal of Political Studies, 20*(2), 141-160.

Karim, F. (2020) *Access to Justice in Pakistan*, Karachi: Pakistan Law House, 2nd Edition.

Karim, F. (2019), *Change is the Only Constant*, Karachi, Pakistan Law house.

Kasuri, M. R., Mahmood, A. U. K., & Ahmed, G. (2021). Proactive Role of Public Prosecutors in the Administration of Criminal Justice: A Way Forward for Pakistan. *Global Legal Studies Review, VI*(II), 27-36. https://doi.org/10.31703/glsr.2021(VI-II).05

Law & Justice Commission of Pakistan. (2019). Report on Police Reforms: way forwards.

Law & Justice Commission of Pakistan. (2016). *Report "Transforming the Criminal Justice System", First National Conference of the Provincial Justice Committees.*

Leng, S-C. (1982). "*Criminal Justice in Post-Mao China: Some Preliminary Observations*".

Muhammad Yousaf and another v. State, (2016) PCr. L. J., 373.

Muhammad Bakhsh v. State, (2012) YLR 112

Payne Vs. Tennesse, III S. Ct. 2597 (1991).

Sajjad Hussain v. The State, (1996) PLD Lahore 286

Siddique, O. (2011) *Approaches to the legal and judicial reform in Pakistan: Post Colonial Inertia and the Paucity of Imagination in Time of Turmoil and Change*", DPRC Working Paper-4, LUMS (2011), 3-63.

The Victims of Crime Assistance Act, 1996 of Victoria,

The Victims Rights and Restitution Act, 1999 of U.S.A,

The Victims and Witnesses Protection Act, 1982 of the U.S.A,

The Convention on the Compensation of Victims of Violent Crimes, 1983 of Europe

The Police Order, 2002, Articles 37, 73 and 85.

The Report on "Criminal Justice. (2001). The Way Ahead," presented to the British Parliament (2001), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/250876/5074.pdf

The Justice System Reform Council. https://japan.kantei.go.jp/policy/sihou/singikai/991221_e.html

Terrill, R. J. (2009). *World Criminal Justice Systems: A Survey* .New York, Anderson, 7th Ed.

Provisional Regulations on Lawyers of the People's Republic of China. https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1777&context=mjil

United Nations Development Programme.(2009). *Handbook on Planning, Monitoring, and Evaluating for Development Results*, New York: UNDP. http://www.orange.ngo/wp-content/uploads/2016/10/meHandbook-On-Planning-Monitoring-and-Evaluating-for-Development-Results.pdf.