



RESEARCH PAPER

Analysis of Criminal Justice System of Pakistan and Presumption of Innocence

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ABSTRACT

This study examines the whole criminal justice system of Pakistan with more focus to determine the implementation of the principle of innocence. This research article is an attempt to provide comprehensive understanding of the fair trial standards, presumption of innocence in the criminal justice system of Pakistan. National and international laws declare that those who face criminal charges should be presumed as innocent until proven guilty, and the importance and central role of this presumption has been recognized in the legal system of Pakistan and other countries of the world. There is no other opinion that prosecution is required to prove its case beyond reasonable doubt. This relationship reflects the relationship which must exist between citizen and the State in the situation when a citizen is suspected of breaching the criminal law. There is need to promote this principle with practical attitude in the criminal justice system of Pakistan. Research methodology applied for this research paper was qualitative. Through applying this research methodology it has been explored that how this principle is understood and implemented. Result covers strengths and limitations in safeguarding rights of the accused. Weakness and discrepancies in the criminal justice system has also been made part of this paper. Theoretical and practical application of this principle in all the pillars of the criminal justice system has also been discussed. Recommendations include overhauling of the criminal justice system of Pakistan and take measure to effectively uphold the presumption of innocence.

KEYWORDS Criminal Justice System of Pakistan, Presumption of Innocence

Introduction

A system to control crime and impose penalties on the violators of law set by the Government consisting of a set of agencies and processes is called the criminal justice system (Imran et al., 2024). In any country good and reliable criminal justice system is that which provides the speedy remedy for the victims of offence. In such a system though the prosecution aims to get convicted offender, his legitimate rights are protected. Fairness, equality, justice and fair play for all are the basics of the system which is aimed to maintain peace and order in the society by dealing with crime and criminals.

To be presumed innocent before proven guilty is a right of every person guaranteed in various human rights documents and well recognized by the countries of the world in their national laws. Protection of human dignity and equality before law is supreme fundamental right of an individual, the presumption of innocence principle is a basic element of the right to a fair trial. It expresses to consider a person suspected of committing offence as innocent until proven guilty by the court under prescribed law. Under this

principle every society thus demonstrates that rights of a charged person are protected (Mulák, 2018).

In application of presumption of innocence Keane and McKeown single out four types of presumptions for the purpose of the assistance of the court.

1. rebuttable presumptions,
2. irrebuttable presumptions, and
3. presumptions of fact
4. *presumptions without basic facts*

The last category includes, among other things, the presumption of innocence, and is especially significant in criminal proceedings (Sayapin, 2022).

There are two interrelated dimensions, under human rights dimension innocence is protected and rule of law is promoted whereas the other dimension requires to establish guilt without doubt. In Pakistan it is a settled principle prescribed in the laws of country and also declared by the superior courts that an accused person is presumed innocent until proven guilty. Fairness is a fundamental guaranteed under article 10-A of the Constitution of Pakistan. In elaboration of this article fair trial rights have been explained in the various judgments of the superior courts providing guideline to Police, Prosecution and Judiciary which are main pillars of the criminal justice system. In view of these judgments rights of accused include pre trial rights, during trial rights and post trial rights (Mairaj et al., 2024). It has generally been overlooked is that “innocence is different”. By this it is meant that the protection of the actually innocent from conviction should be a paramount goal of the criminal justice system (Risinger et al., 2012).

Object of the criminal justice system is to make the society safe. Increase in acquittal rates negatively influences the safety, security, and general quality of government and people (Hassan & Bhatti, 2024). However it is also a fact that due to various reasons existing in the criminal justice system of Pakistan practically accused is presumed as guilty until proven innocent. Negligent or malicious actions or misconduct of police, prosecution, defense lawyers, the court and non-state actors such as media, witnesses, petitioners etc are factors causing miscarriage of justice. When police or prosecutorial misconduct is proven, or when prosecution is carried out maliciously or wrongfully, it constitutes a prima facie miscarriage of justice, even if it does not lead to the accused person's conviction or imprisonment (Hussain & Makhdoom, 2025). Most untrustworthy pillar of the Criminal Justice System of the country is Police and second number is prosecution (Laghari et al., 2023). Rights are guaranteed in the laws of the country and interpreted by the Supreme Court through its landmark judgments which cannot be ignored, rejected or underestimated by any pillar of the State (Abbas et al., 2022). Research scholar Mahmood (2021) is of the view that criminal justice system of Pakistan is in critical condition and requires overall rectification.

Literature Review

National and international written material contributed by researchers associated with different institutions was reviewed, wherein they have discussed different aspects of criminal justice system also touching the points relevant with the topic of this article. Scholar Nadeem (2024) declares doctrine of Innocence as a double edged sword and it has certain demerits. For its balanced outcome it is necessary to apply this doctrine with true spirit and for play an equal field be provided to both defence and prosecution. Otherwise a flawed application of the doctrine can lead to grave miscarriages of justice. Touching this

other aspect researcher Hassan, (2024) has explored that poor investigation, manipulated witnesses, procedural delays, and court corruption entirely hampered the legal system, which increased the rates of acquittal fading the trust and confidence of people in the judicial system. In this regard Pakistan's acquittal statistics is evidence. Discussing fair trial rights of the accused researcher Mairaj (2024) suggest that it is globally admitted principle that until guilt is proved through legal proceedings by affording fair trial accused should not be subjected to punishment. In this regard suggestion of scholar Gul (2018) is very important. In her research work it has been advised that law should be amended and after registration of FIR further action including arrest should be subject to availability of implicating material. However according to Risinger, (2012) current system despite protection of innocent provides protection of guilty. Analyzing the pillars of the criminal justice system researcher Shahzad, (2022) explored that when innocents are punished as frequently as criminals, the whole fabric of the rule of law is unraveled. He suggests overhaul the justice system of the country. Trial of murder case and other heinous offences can be conducted at a centralized court/jail with time frame for the disposal of the case (Laghari et al., 2023).

Though there is an extensive judicial and research analyzing on the subject topic however keeping in mind the existing challenges in implementation of the principle in the three pillars of the criminal justice system there is still a gap to understand the practical application across the world and specifically in Pakistan. From the review of published national and international literature it appeared that some of the aspects relating to the topic and obstacles in the enforcement of this principle need to be discussed in detail. It has been observed that in the published research material this topic has been touched by generally discussing criminal justice system.

Material and Methods

To explore the concept of the presumption of innocence in the criminal justice system of Pakistan qualitative research methodology has been applied which this researcher consider as appropriate for the topic. In this regard relevant material case laws, research articles, codes and other documents pertaining to the criminal justice system have been reviewed. Interviews were also conducted with key stake holders which enabled detailed narratives and insights regarding understanding and application of the principle of the presumption of innocence.

Registration of crime, investigation and arrest

In Pakistan Criminal Law comes in motion after registration of the offence at the Police station having jurisdiction irrespective of the fact that information received is correct or false (Yousuf Khan versus The State, P.Cr.L.J 2012). In the registration of the offence failure of the concerned Police Officer amounts to failure in discharge of his duty (Mst Khan Bibi versus Abdul Malik, P.Cr.L.J 2012). Purpose of this registration is to conduct investigation in proper direction (Nazeer Ahmed versus The State, MLD 2011) and to bring in action the machinery of law (The State versus Noor Ahmad, P.Cr.L.J 1991). In Pakistan there are two modes of crime reporting one is manual and second is online. In Sindh and Balouchistan Provinces informant is required to visit Police Station for registration of crime, however in Punjab and Khyber Pakhtunkhwa Provinces there is also an option of registering crime online (Raza & Khan 2023). On the basis of material collected during course of Investigation police forms opinion about the implication of the accused in the offence (Abdul Latif versus I.G Police Punjab, P.Cr.L.J 1999).

The defects in the investigation process of Police have a significant impact on the rate of conviction (Jatoi, et al., 2023). Police has authority to reinvestigate the case and can withdraw challan and submit fresh challan (Waris Khan versus Deputy Superintendent Custom P.Cr.L.J 2001). In cognizable offences section 54 of Cr.P.C empower Police Officer to arrest the offender. However it cannot be left to caprice, arrest and detention of persons without warrant (Allah Rakhi versus The SHO, MLD 2010). On the basis of material collected by the police accused person will has to face trial (Naseer versus Khuda Bakhsh, SCMR 2011). Cases of insufficient evidence can be disposed of under clause "C" (Muhammad Abid versus The State, YLR 2013). Police may discharge an accused person if found him innocent (WaqarulHaq versus The State, SCMR 1988). The police services and forensic department in Pakistan don't have latest scientific technology consequently affecting the process of expeditious and accurate identity, apprehend and arrest of criminal offenders and increasing suffering of persons wrongly suspected and accused of crimes (Afridi, 2021). Forensic labs in Sindh province lack equipment and funds to sufficiently analyze medico-legal autopsies (Kausar&Leghari, 2022). There is severe need to adopt modern scientific techniques to cope with modern challenges (Saleem, 2023). Criminal adopt modern technologies specifically digital technology in the commission of crime however during course of investigation, due to lack of required facilities and resources precious evidence material at the crime scene can not be preserved (Kausar et al., 2023).

Cancellation, Quashment and release of accused

There is no provision for the cancellation of a case in the Code of Criminal Procedure. However it is sought on the ground that the information prescribed in the statement recorded under section 154 of Cr.P.C has been found false. High Court by exercising inherent powers may pass such order as could be necessary. Arrested accused person can be released on the bail by the Court and also by Police officer on certain conditions.

Role of Prosecution and trial

First stage of trial against accused is framing of charge however this charge can be altered if Court is satisfied (Saeed Qureshi versus The State, YLR 2007). The Court may convict accused if he admits the guilt at the time of framing charge. A plea of guilt refers to commission of acts alleged against the accused (Mumtaz Ali Bhutto versus Deputy Martial Law Administrator, PLD 1979). By following adversarial system courts adjudicate criminal matters in accordance with law. It is required that a criminal case should be proved beyond reasonable doubt and until proven guilty accused is treated as innocent. Case prepared by Police is sent to court for trial by the Prosecution. Prosecutor has to aid the Court in discovery of the truth; his conduct should not be to aggravate the case against the accused (Rustom Khan versus The State, P.Cr.L.J 1986). Court after recording evidence pronounces judgment either of acquittal or conviction. Though in the prevailing criminal justice system of the country conviction rate is considered as good indicator of efficacy; however we should not forget that primary object of the court is dispensation of justice and are not meant for recording convictions only.

Result and Discussion

Principle of Innocence and its implementation

Legal justice requires that an accused has right not to be judged guilty and should be presumed innocent. However during course of the investigation, arrest and trial an accused person is being treated as guilty until proven as innocent and he faces legal, moral

and social sufferings including infringement of his rights guaranteed by Islam and also in the laws of the land, and there is no compensation for such infringements. Innocent persons who are wrongfully accused, arrested prosecuted, or convicted becomes victims of miscarriage of justice which typically results from systemic flaws, procedural errors and malpractices within the criminal justice system. Various factors including delays in trials, inadequate investigations, misconduct by prosecutors, unreliable evidence, and procedural errors, contribute to the miscarriage of justice. Victims of miscarriage of justice face severe personal, social, and economic consequences, and mostly do not receive any compensation or support after their release. Criminal justice system of the country lacks comprehensive legal mechanism to compensate such victims of miscarriage of justice (Hussain & Makhdoom 2025). Due to various flaws in the criminal justice system of Pakistan founding principles are undermined and principle of innocence is not implemented in its spirit. Globally, criminal justice systems are anchored by the foundational maxim of Presumption of Innocence, which dictates that an accused individual remains innocent until a competent court establishes guilt. However, the pervasive use of pre-trial detention fundamentally challenges this doctrine, as it empowers the State to curtail personal freedom before any legal determination of culpability. In the contemporary legal landscape of Pakistan, pre-trial detention has emerged as a critical human rights crisis. When incarceration is used as a surrogate for investigation, it effectively transforms the criminal process into "punishment before conviction," a practice that is fundamentally destructive to the rule of law (Almani & Bux 2024). Pre trial detention amounts to conviction and some cases is violation of the right guaranteed in the constitution of Pakistan providing protection from double jeopardy (Laghari & Khan 2023). Study of the four years criminal appeals and petitions reported in the SCMR 2019-2022 reveals that many of the convicted persons were acquitted, however they were treated guilty until proven innocent, their detention amounts to injustice with them and there is no compensation for their suffering during period they spent in the jails (Laghari et al., 2023).

Conclusion

Justice, equity and morality are founding principles of the basic concepts of criminal providing guidance for the development of coherent penal policy (Sifarish & Liaqat, 2023). An accused has right to get familiar with the grounds of his arrest and to be treated as innocent with dignity, recognized in Pakistani and international legal frame work. However, this right differ in terms of time and language; the Pakistani legal framework does not provide the time and the language in which accused is to be communicated the reasons of arrest as opposed to ICCPR and ECHR which require to promptly communicate the reasons of arrest in the language which accused understands (MAJEED et al., 2024). Except in the case of sentence awarded by court no man can be deprived of his liberty is a general principle and that should be ensured. Despite guarantee in the Constitution of Pakistan 1973 and in legal system and procedure, rights of the accused are infringed. Rights of the accused exist superfluously and not on ground level (Saleem, 2023). Once an accused person is exonerated after undergoing criminal justice process, he suffers unimaginable trauma, financial losses, humiliation, health issues, and stigmatization, regardless of whatever caused their unlawful arrest and detention, wrongful prosecution and conviction. Undoubtedly, such victim of miscarriage of justice suffers a lot and sometimes he is deprived from any moral and social support of his family and friends and his reputation deteriorates after any accusation and criminal prosecution (Hussain & Makhdoom 2025).

Recommendations

In view of the above discussions following recommendations are suggested.

Criminal Justice System of the country should be reviewed.

Presumption of innocence should be encouraged and applied

Pre conviction detention should be discouraged.

There should be a centralized mechanism for conducting and supervising investigation; in this regard a liaison between the prosecution and police.

There should be a classification of the nature of offences (Gul & Ali., 2018).

Investigation process should be improved and updated with modern scientific technologies. Forensic labs should be increased in the country with up gradation.

A supervising mechanism should be established to monitor the progress in the cases and fix the liability for failure or negligence causing acquittal of real culprit or illegal detention of innocent persons. This wing should ensure the treatment of an accused person as innocent with dignity until proven guilty. Technology can be very helpful in the case management and monitoring of progress (Kassar et al., 2024).

There should be a coordination office comprising the representatives from all the pillars of the criminal justice system to address the issues and complaints.

Government should set a clear and standardized bail system or release on personal security bond, active legal aid service with emphasize on presumption of innocence (Naseer, 2025).

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