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Criminology Notes *for CSS & PCS 2020 Candidates!*

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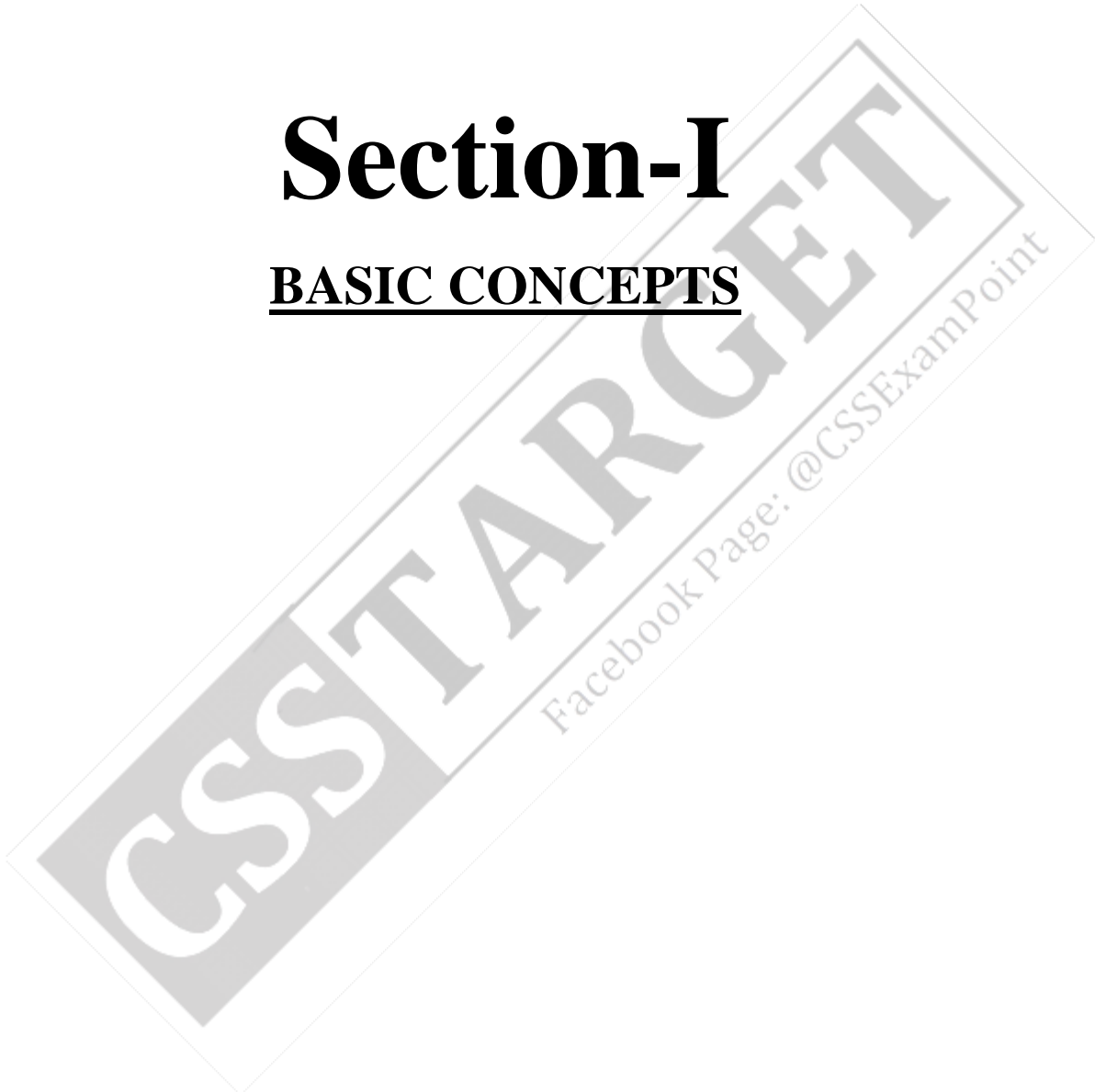


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Section-I

BASIC CONCEPTS



TOPIC I. INTRODUCTION

CRIME, CRIMINALITY AND CRIMINAL BEHAVIOR

What is Crime:

An act or omission declared (codified) as “Crime” under the Law.

Or

A human conduct which violates the Criminal Law of the state.

“An action or omission which constitutes an offence and is punishable by law”.
(*Oxford Dictionary*)

The Oxford Dictionary of Sociology defines the Crime in following manner:

“Crime is an offence which goes beyond the personal and into the public sphere, breaking prohibitory rules or laws, to which legitimate punishments or sanctions are attached, and which requires the intervention of a public authority.”

According to Sir William Blackstone¹:

“A crime is violation of the public ‘rights and duties’ due to the whole community, considered as a community”

The definition by Sir William Blackstone emphasises upon the same point as given in the preceding definitions i.e violation of Law. The Term public rights and duties are the ones as codified in the Law and violation whereof constitutes an Offence. For Instance Kite Flying is an offence for the same has been declared so in “*Prohibition of Kite Flying Ordinance 2001*”. However according to William Blackstone, one who flies kites actually violates the public rights and duty enshrined in this Law. This makes us to conclude that the definition given by Sir William has the same meanings as given in other definitions.

Elements of “Crime”

- I. Action (*Actus Reus*)
- II. Criminal Intent (*Mens Rea*)
- III. Causation
- IV. Concurrence

Action (*Actus Reus*)

¹ Sir William Blackstone, Commentaries on The Laws of England

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Actus Reus means Criminal Action. The concept of Crime has evolved over the time. In Ancient and Medieval ages, normally this was the sole criterion to establish Criminal Liability with little regard to the facts and circumstances leading to such cases.

Criminal Intent (*Mens Rea*)(R Vs Faulkner 1877).

In modern Criminal Jurisprudence, The first case where concept of *Mens Rea* was applied in the case reported as R Vs Faulkner 1877. Faulkner was a sailor who one day entered in to ship to steal the “Rum” during which he lit the match which caught fire subsequently burnt the complete ship. He was charged for Arson in addition to theft. However the court of Appeal quashed the charge of Arson for the accused had never intended at burning the ship.

Causation (R Vs White 1910)

The outcome should be result of the criminal act in order to fix the criminal Liability. The principle emerged in the Case reported as R Vs White(1910). White hatched a plan to kill his mother by poisoning her milk which she used to take ahead of sleeping. However that day the mother took only a few sips of milk which were insufficient to cause death. However her mother died of heart attack. White was charged for attempt to murder instead of Murder because the death was not caused by his act, although both *actus reus* and *mens rea* were present in the case.

Concurrence (R VS SHERREE)

Sherree decided to kill her husband through a handgun and discussed the plan with her friends. Few days latter , she was driving her car when her husband suddenly stepped before and died at the spot. In this case , both *actus reus* and *mens rea* present. The causation was also present because the death was caused by her act. But , it was held, that she not intended to murder her husband that way at that time meaning thereby the *actus reus* and *mens rea* should happen at the same time, a principle called Concurrence.

Types:

- a. *Mala In se i.e* Wrong in itself e.g example Murder
- b. *Mala Prohibita* i.e prohibited by statute. E.g kite flying

TOPIC II

UNDERSTANDING CRIMINOLOGY

CRIMINOLOGY

Literal Meaning: Study of Crime and Criminals

Definition of Criminology in the views of Different Scholars:

Edwin Sutherland

Criminology is the body of knowledge regarding crime as a social phenomenon. It includes within its scope the processes of making laws, breaking laws and reacting towards the breaking of law. (From the above definition it is apparent that criminology is a combination of how the society defines and deals with crime within a social and legal context).

Donald Taft

Criminology may be divided into two branches:

general

specific

Criminology in a general sense is the study of crime and criminals. In a specific sense it seeks to study criminal behavior its goal being to reform

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the criminal behavior or conduct of the individual which society condemns.

Professor Dejorde²

Criminology is an independent science which by making use of the knowledge and research procedures of other sciences (sociology, psychology and alike sciences dealing with human behavior and community) empirically studies the criminal phenomenon, i.e., the crime, the perpetrator and the victim of the crime, criminality, as well as the way in which a society reacts to criminal behavior.

Donald Cressey

“The scientific approach to studying criminal behavior.”

Webster

Criminology is the scientific study of crime as a social phenomenon or of criminals and their behaviors and family conditions.

From the above definitions, it can be concluded that Criminology is a discipline which intends at looking in to the factors and reasons behind the crimes in society from multiple perspectives, the impact of the crime on the society and ways and measures to address the underlying reasons behind the crimes.

Origin:

The term “Criminology” was coined by an Italian jurist and criminologist, Raffaele Garofalo, in 1885 (“*criminologia*” in Italian Language). Raffaelae was student of Cesare Lombroso, who is considered to be “Founder of Modern Criminology”³. A French physician Paul Topinard used similar French term “*criminologie*”.

However Criminology as a distinct field of study owes its origin to scholars of different disciplines who studied various aspects of Crimes. Todd Clear and Natasha Frost have thrown light on evolution of criminology in following words⁴:

Criminology began as a theoretically oriented field of study. Notably, the early criminologists were drawn from various disciplines (sociology, psychology, medicine) and would likely not have self-identified as “criminologists.” Nonetheless, early writers about the social science of crime, such as

² Textbook of Criminology, 12th Edition

³ CRIMINOLOGY AND PUBLIC POLICY TODD R. CLEAR John Jay College of Criminal Justice
NATASHA A. FROST Northeastern University

⁴ Ibid

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Émile Durkheim (in the field of sociology), sought to explain the existence of crime in society. Durkheim and others also set out to explain patterns of crime through the examination of crime across time and place. Shortly afterward, writers sought to explain why some people engaged in crime when others did not. In the late 1800s, Cesare Lombroso, who is often referred to as the “founder of modern criminology,” launched the science of criminology through his explorations into differences between criminal and noncriminal populations

Scope of Criminology

- i. Crime, Response, Causes and Prevention
- ii. Scientific Study of Criminal Behaviors
- iii. Deviance and Socially disapproved behaviour
- iv. Child Delinquency
- v. Criminal Justice
- vi. Bio Criminology
- vii. Criminalistics
- viii. Penology
- ix. Sociology of Law

Importance of Criminology

- i. Aids in understanding causes of Crimes
- ii. Policy formulation vis control of Crime
- iii. Provide theoretical base for enactment of Criminal Law
- iv. Rehabilitation and Treatment of Offenders
- v. Planning, Operation, Evaluation and Revamping of Criminal Justice System
- vi. Reformation of offenders
- vii. Study of Social factors instilling criminal behavior
- viii. Aids in study of juvenile delinquency and measures to address the same.

Criminology in Pakistan: As Academic Discipline

Following facts signify the state of Criminology as an academic discipline in Pakistan

- No university is currently offering Criminology at Doctoral Level
- Not more than 10 universities are offering Criminology Programs at masters level.
- There is only one HEC Recognized Research Journal in Pakistan⁵

Practical Application of Criminology in Pakistan

Criminologists are rarely hired in the organizations working in connection with Criminal Justice System in Pakistan.

Shanila Ayaz Mazhar(2012), in this connection observed that⁶:

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<http://hec.gov.pk/english/services/faculty/Documents/Thematic%20Research/Social%20Sciences%20J.pdf>

⁶ <https://www.dawn.com/news/687213>

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“It was assumed that a degree in criminology has some charm and adventure having links with a prestigious organization and forces of the state. But, unfortunately, the government has no role in it despite its importance round the globe.

The University of Sindh produced a number of criminologists, but they are still jobless. It is very surprising that no vacancy is announced by organizations such as the army, the police and the Anti-Narcotics Force.”

DR NABI BAKHSH NAERJO Chairman, Dept of Criminology, SU Jamshoro, in has tendered following recommendations to promote discipline of criminology in Pakistan⁷.

The federal and provincial governments, their respective interior/home departments, their subordinate organisations /departments, and other public and private sector organisations are requested to create and advertise jobs in BPS-17 for criminologists in the following titles/positions relevant to their individual needs, description and requirements.

The criminal justice (police, court, and corrections) must appoint/induct criminologists into areas like criminal justice coordinator, police psychologist, police trainer, police reformist, private detective and community police officer.

The prison systems and institutions need services of criminologists in positions like prison governor, correctional officer, prison reform officer, prison security manager, legal aid officer and probation/parole officer.

The criminal investigation wing in public and private organisations can engage postgraduates in criminology as crime scene investigator, chief interrogator, crime pattern analyst, character verification officer, forensic expert., etc. The policing, investigation and countering of organised crime, violence and terrorism could be the other relevant fields where criminal intelligence officer, counter-terrorist personnel, anti-human trafficking officer, human rights expert, cyber crime specialist, anti-corruption officer and security consultant could be recruited.

University campuses could be secured through the expertise of qualified campus security officers. The university, prison institution and human development department require criminologists as teachers, trainers and counselors. The incidents/events of hostage situations compel us to apply professional skills of the criminologist as hostage negotiator.

The home department should create the post of child protection officer to safeguard vulnerable children in our society. Community and institutional setups should professionally launch offender-victim mediation programmes. Crime reporting is the other vital domain where knowledge and skills of criminologists could be best capitalised.

Criminal Law and Criminology

Criminology lays down the theoretical framework for framing and operation of criminal law. Criminal Law is meant to regulate the conduct of society by punishing undesirable behavior. Criminology helps identify such behaviors in order to ensure the effectiveness of the Law.

⁷ <https://www.dawn.com/news/693541>

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e.g Recently Pakistan has decriminalized attempt to suicide . Likewise numbers of acts have been criminalized such as *benami* Transactions and Harassment of women.

Deviance:

Socially disapproved behavior i.e violation of social norms. Deviance can be criminal when the conduct is violative of criminal law such as murder, robbery or theft. It is non-criminal when it doesn't violate the criminal law such as "telling lies" or being extravagant.

Sin

Violation of divine law or religious injunctions. A sin may or may not attract criminal liability. For instance, disrespecting elders may be a sin under religious code but not a crime. On the other hand murder is a sin as well as a crime.

Evil

Anything that is considered harmful to the society and social order. An evil may or may not symbolize a crime. For instance, extravagance is an evil but not a crime. Contrarily, corruption is an evil as well as a crime.

Vice

Practices which manifest evil or immorality such as drinking and smoking. The former may attract criminal liability in Pakistan while the latter is not designated as a crime.

TOPIC III-CRIME AMND CRIMINALS

CRIME AND CRIMINALS

Occasional Criminal

One who commit crime in response to some external stimulus or in order to avail an opportunity. Such Criminals are more respective to rehabilitative treatment.

Habitual Criminal

One who has committed numerous crimes and is deemed to has become a hard core criminal. Such a criminal pose threat to society at large and required to be incapacitated.

Professional Criminal

One who earns bread and butter through criminal means. When a habitual criminal acquires skills and expertise in specific field, he becomes a professional criminal.

Traits: (Consistency , Expertise, Status, Organization, Association)

White Collar Crime (WCC)

WCC are Nonviolent crimes for financial gains normally committed by people who enjoy high status in the society. The term was coined by Edwin Sutherland. Example. Copy Rights infringements, Money Laundering, Insider Trading, Bribery and Kickbacks. A detail of Different types of White Collar Crimes is illustrated in the below given figure.

*Categories of white-collar crimes
(Excluding organized crime)*

A. Crimes by persons operating on an individual, ad hoc basis

1. Purchases on credit with no intention to pay, or purchases by mail in the name of another.
2. Individual income tax violations.
3. Credit card frauds.
4. Bankruptcy frauds.
5. Title II home improvement loan frauds.
6. Frauds with respect to social security, unemployment insurance, or welfare.
7. Unorganized or occasional frauds on insurance companies (theft, casualty, health, etc.).
8. Violations of Federal Reserve regulations by pledging stock for further purchases, flouting margin requirements.
9. Unorganized "lonely hearts" appeal by mail.

B. Crimes in the course of their occupations by those operating inside business, Government, or other establishments, in violation of their duty of loyalty and fidelity to employer or client

1. Commercial bribery and kickbacks, i.e., by and to buyers, insurance adjusters, contracting officers, quality inspectors, government inspectors and auditors, etc.
2. Bank violations by bank officers, employees, and directors.
3. Embezzlement or self-dealing by business or union officers and employees.
4. Securities fraud by insiders trading to their advantage by the use of special knowledge, or causing their firms to take positions in the market to benefit themselves.
5. Employee petty larceny and expense account frauds.
6. Frauds by computer, causing unauthorized payouts.
7. "Sweetheart contracts" entered into by union officers.
8. Embezzlement or self-dealing by attorneys, trustees, and fiduciaries.
9. Fraud against the Government.
 - (a) Padding of payrolls.
 - (b) Conflicts of interest.
 - (c) False travel, expense, or per diem claims.

C. Crimes incidental to and in furtherance of business operations, but not the central purpose of the business

1. Tax violations.
2. Antitrust violations.
3. Commercial bribery of another's employee, officer or fiduciary (including union officers).
4. Food and drug violations.
5. False weights and measures by retailers.
6. Violations of Truth-in-Lending Act by misrepresentation of credit terms and prices.
7. Submission or publication of false financial statements to obtain credit.
8. Use of fictitious or over-valued collateral.
9. Check-kiting to obtain operating capital on short term financing.
10. Securities Act violations, i.e. sale of non-registered securities, to obtain operating capital, false proxy statements, manipulation of market to support corporate credit or access to capital markets, etc.

Source: Edelhertz (1970, pp. 73-75)⁸.

ORGANIZED CRIMES

When criminals join hand to form a group in order to commit a crime are series of criminal transactions generally through fraudulent means.

UNODC defines the organized crimes as follows⁹:

Under the Convention (article 2a), an "organized criminal group" is defined using four criteria:

1. A structured group of three or more persons;
2. The group exists for a period of time;
3. It acts in concert with the aim of committing at least one serious crime;
4. To obtain, directly or indirectly, a financial or other material benefit.

⁸ The Nature, Impact and Prosecution of White Collar Crime. Washington: U.S. Govenunent Prlfitinecj Office.

⁹ <https://www.unodc.org/e4j/en/organized-crime/module-1/key-issues/definition-in-convention.html>

Corporate Crimes:

The Australian criminologist John Braithwaite defined corporate crime as¹⁰:

"The conduct of a corporation or employees acting on behalf of a corporation, which is proscribed and punishable by law.

Crimes by the corporate entities. Such as Money Laundering, Tax Evasion , Violation of Consumer Regulations, insider trading , related party transactions etc.

¹⁰ John Braithwaite, Regulatory Capitalism: How it Works, Idea For Making It Work Better, Edward Elgar Publishing (2008).

Crime and Criminality: Theoretical Perspective

Classical School of Thought

The criminology in its current shape has emerged from the scholarly debates on Criminal Law and Reform. The early theorists who contributed to what is known today as a Classical Theory included Cesare Beccaria, Jeremy Bentham, and John Howard. According to this school of thought, human being commit crime for material pursuits and desires. Accordingly, such individuals who commit crimes should be punished so as to create deterrence. Classical School of thought bears affinity to “retributive justice”.

Positivist School of Thought

This school of thought believes that it's not solely internal desires that drive the human being to commit crimes rather there are certain factors-internal and external – that defines the criminal behavior amongst human beings. This School of thought is classified into three Major categories

- Biological
- Psychological
- Social

BIOLOGICAL THEORY:

Biological make defines ones, deviant and criminal behavior. There major theories on biological explanation are given hereunder.

Cesare Lombroso :

Criminals have a peculiar bodily construction. After having studies the physical features of Prisoners in Italy, he found following traits.

- Facial asymmetry
- Monkey Like ears
- Large Lips
- Twisted Nose
- Excessive Cheek Bones
- Wrinkles on the Skin
- Large Jaw
- Large Chin

Males with five while female with three of the above characteristics can be held as borne criminals.

William Sheldon

According to William Sheldon, there are three body shapes corresponding to the personality type.

Endomorphic: Fat and Soft

Ectomorph: Thin and Fragile

Mesomorphic: Muscular and Hard

Rose J has described the William Sheldon view on the personality traits of these body types in following manner¹¹.

Sheldon took his underlying ideas and terminology of types from the fact that a human begins life as an embryo that is essentially a tube made up of three different tissue layers, namely, an inner layer (or endoderm), a middle layer (or mesoderm), and an outer layer (or ectoderm). Sheldon then constructed a corresponding physical and mental typology consistent with the known facts from embryology and the physiology of development. The endoderm gives rise to the digestive viscera; the mesoderm, to bone, muscle, and tendons of the motor – organ; the ectoderm to connecting tissue of the nervous system, skin, and related appendages. Sheldon's basic type characteristics of physique and temperament are briefly summarized in the following scheme.

Physique

1. *Endomorphic*: relatively great Development of digestive viscera; tendency to put on fat; soft roundness Through various regions of the body Short tapering limbs small bones; soft Smooth, velvety skin.

2. *Mesomorphic*: relative predominance Of muscles, bone and the motor organs of The body; large trunk; heavy chest; large Wrists and hands; if "lean," a hard rectangularity of outline; if "not lean" they fill

Temperament.

1. *Viscerotonic*: general relaxation of body; a comfortable person; loves soft luxury; a "softie" but still essentially an extrovert.

2. *Somatonic*: active, dynamic, person; walks, gestures assertively; behaves aggressively

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Out heavily.

3. *Ectomorphic*: relative predominance of Skin and its appendages, which includes the

Nervous system; lean, fragile, delicate body;

Small, delicate bones; droopy shoulders; small

Face, sharp nose, fine hair; relatively little body

Mass and relatively great surface area.

3. *Cerebrotonic*: an introvert; full of functional complaints, allergies, skin troubles chronic fatigue, insomnia;

sensitive to noise and distractions; shrinks from

crowds.

PSYCHOLOGICAL THEORIES

Criminal Behaviors is outcome of individual factors such as inadequate socialization and negative early childhood experiences.

- i. Psychological Development Failure
- ii. Violence and Aggression learnt through direct experience
- iii. Personality Traits such as over impulsive, unscrupulous etc.
- iv. Mental Disorders

SOCIOLOGICAL THEORY

Social construction or societal factors have a bearing upon criminal behavior of individuals.

Social Disorganization theory

Structure of Neighborhood and culture has a role in criminal behavior (Clifford Shaw and Henry McKay). Community disorganization and deprivations lead to criminal and deviant conduct.

Strain Theory:

When individuals are subjected to pressure to attain socioeconomic goals, it may result in deviant behavior. Strain may be individual or structural.

Social Control Theory

Social bonding such as relationships and affiliations serve as deterrent for individual to commit crime. Therefore socially isolated individuals are more prone to crimes.

Learning Theory

Criminal behavior is learnt through individual associations, interactions, observations and affiliations.

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ISLAMIC PERSPECTIVE ON CRIME

Arabic Meaning: “Maasiat”

Types of Crimes in Islam:

I--Hudud: Violation of the injunctions of Allah Almighty where punishment has been prescribed by the Shariah. Following Crimes fall under the purview of Hadud.

- i. Zinah(Punishment: Stoning to Death in case of “Muhsan” or married and 100 stripes in case of Non-Married.
- ii. Qadhaf (False Allegation of Zinah). (Punishment: 80 Stripes for free person and 40 for slave)

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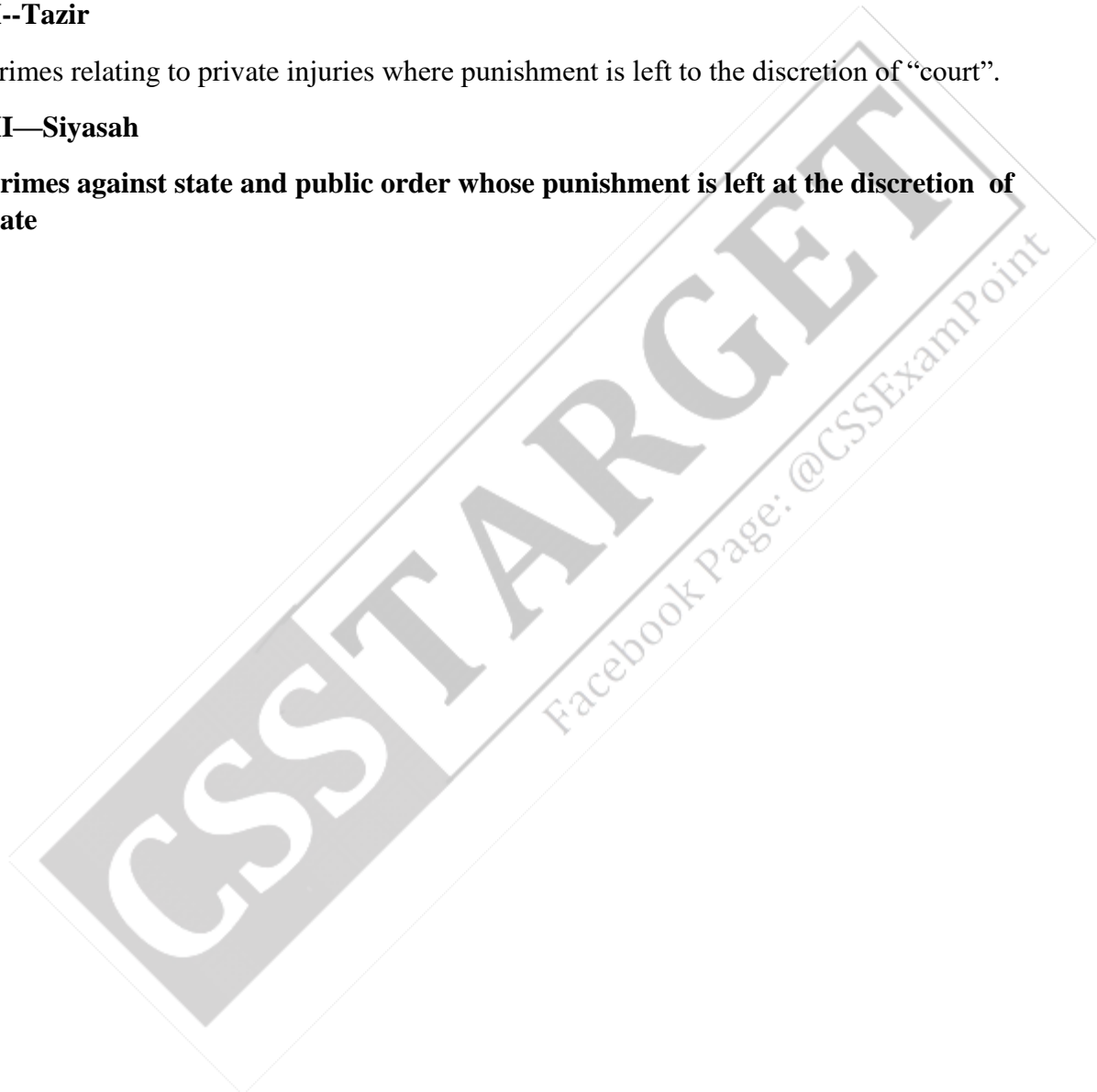
- iii. Shurb(Drinking):(. Punishment: 80 Stripes)
- iv. Shiraqah(Theft): (First Time Amputation of Hand , Second Time, Amputation of Left Foot till Ankle, Thirld Time Imprisonment for Life).
- v. Hirabah (Dacoity): In case of Hirabah
- vi. Apostacy(Riddah).
- vii. Rebellion.

II--Tazir

Crimes relating to private injuries where punishment is left to the discretion of “court”.

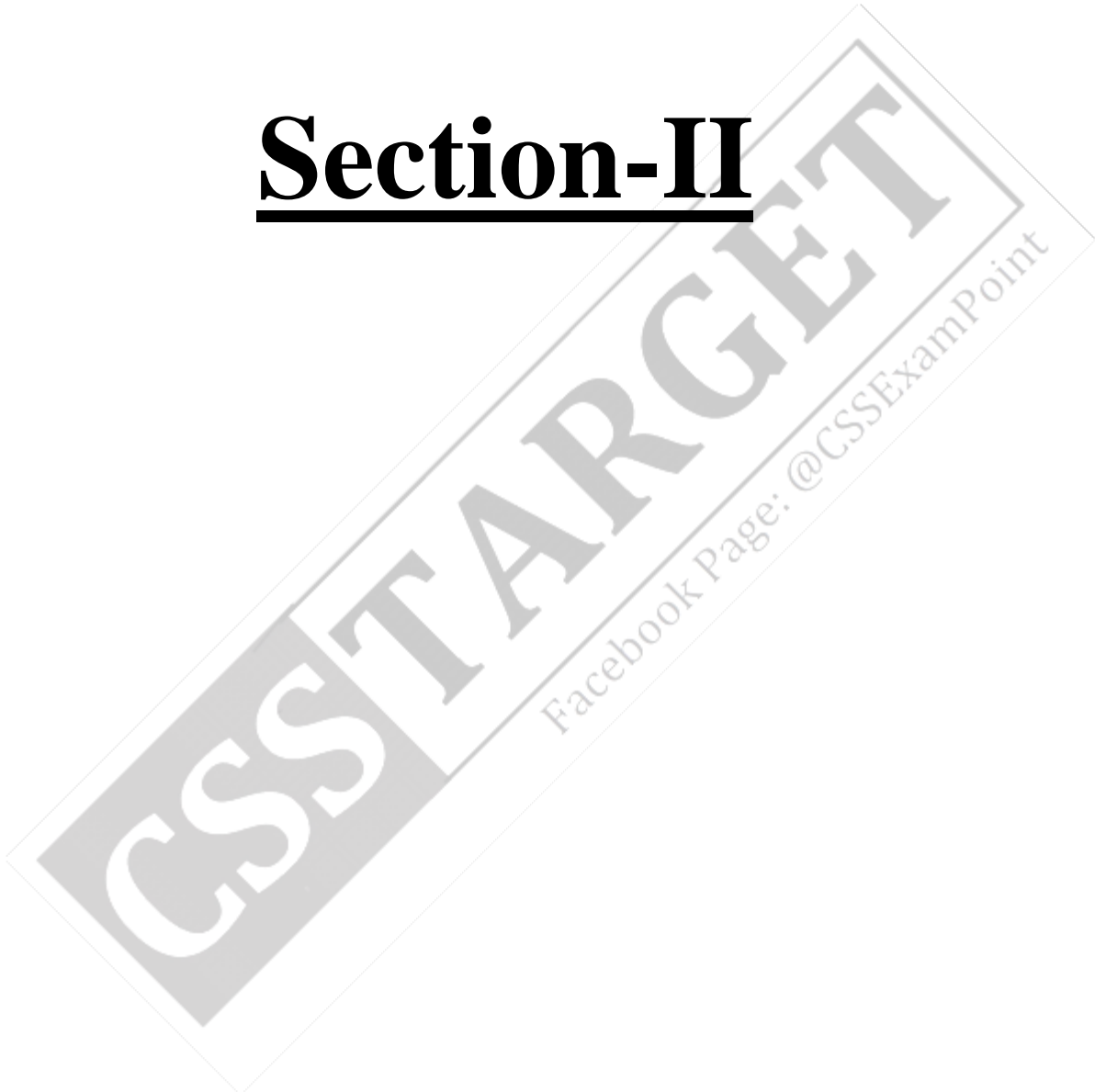
III—Siyasah

Crimes against state and public order whose punishment is left at the discretion of state



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Section-II



JUVENILE DELINQUENCY

Behavioral Definition

- Frequent disapproved behavior of children and youth
- Conduct by a juvenile characterized by antisocial behavior that is beyond parental control

Examples

- Elopement
- absenteeism
- Lethargy
- ill-mannered
- Sexual Activities
- Theft and Stealing

Legal Definition

- Behavior that violates the criminal code and is committed by a youth who has not reached the specified adult age.
- A violation of the law committed by a juvenile that would have been a crime if committed by an adult

Examples

Sexual Activities

Theft and Stealing

CAUSES OF CHILD DELIQUENCY:

Individualistic Reasons

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- i. Physical Defects or Disorder(Child often confronts embarrassment and then reacts)
- ii. Low Intelligence (Encourage anti social Behaviors)
- iii. Malnutrition
- iv. Abnormal physical and motor development:(Adjustment problem)

FAMILY REASONS

- (i) Presence of step-father or mother
- (ii) Lack of parental love and affection
- (iii) Quarrels among parents
- (iv) Use of alcohol and other drugs by the parents
- (v) High ambitions of parents which they want to realize through the achievements of their children.
- (vi) Loose or very strict discipline at home
- (vii) Broken home- -divorce, separation or death of any one of the parents
- (viii) Mother being in service, no control over the children
- (ix) mental abnormality in the mother or father etc.

SOCIAL REASONS

- i. Peer Groups
- ii. Schooling, Community and Social Institutions
- iii. Affiliation with other delinquents

OTHER GENERAL REASONS

- i. Poverty
- ii. Illiteracy
- iii. Out of School Children
- iv. Child Labor
- v. Child abuse
- vi. Family Institution
- vii. Parenting
- viii. Moral Depravity in the Society
- ix. Schooling
- x. Absence of effective child policy
- xi. Role of State Institutions

STATUS OFFENDER

One who has done some thing which is ordinarily not considered a crime - except when done by a minor.

Age of Criminal Liability in Pakistan

Section 82 PPC: Nothing is an offence, which is done by a child under seven years of age.

Section 83 : nothing is an offence done by a child between seven and twelve years old“ who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.”

Juvenile Justice System in Pakistan

Why a Separate Justice System?

- Concept of restoration/rehabilitation
- More amenable to rehabilitative treatment
- Inadequate behavioral and emotional development
- Non development of maturity, decision-making abilities, and behavioral control
- Lack of maturity to fully comprehend the consequences of their actions,
- Impulsivity and recklessness
- Adverse consequences of housing juveniles with adults

Current Law

Juvenile Justice System Act 2018 (Previous Juvenile Justice System Ordinance 2002)

Major Components of the JJS

- Police
- Prosecutor
- Juvenile Court
- Probation Officer(Enhanced Role)
- Borstal Institution

Feature of the System:

- i. Juvenile defined as one who is below 18 years of age
- ii. Separate Courts called juvenile Court
- iii. Juvenile Offenders to be kept in observation homes and Rehabilitation Centers instead of Police Station and Prison.
- iv. Juvenile Justice Committee at every Subdivision under a serving Judicial Magistrate
- v. Diversion (An informal mechanism of Dispute Resolution)
- vi. Observation homes and Rehabilitation Centers may be established by NGOs
- vii. Separate trial /No Joint Trial of Juvenile with Adult Offender
- viii. Right of Legal Assistance for the Child/Juvenile Offender
- ix. Completion of trial in six months
- x. No death penalty for juvenile
- xi. No publication of proceedings of the court
- xii. In case of Publication of Proceedings of Juvenile Court and disclosing the identity of juvenile, the individual responsible may be liable to sentence up to three years.

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- xiii. Female juvenile to be investigated only by a female police officer
- xiv. A Female Probation Officer for female juveniles.
- xv. Separate Observation homes for females.
- xvi. Assistance to the court by probation officer
- xvii. No irrelevant person in the court during proceedings
- xviii. Handcuff prohibited unless there is risk of escape.
- xix. Law encourages probation instead of imprisonment

Role of Police:

- i. To treat the child offender not as an ordinary criminal
- ii. To inform the guardian in case of arrest
- iii. To bring the arrest in the notice of Probation Officers
- iv. To not handcuff
- v. To keep JO in Observation home instead of Jail

Role of Probation Officer

- Welfare of the child
- Counseling and mentoring
- Coordination with police
- Coordination with the guardian
- Assist the court
- Provide a report to the court on educational , social and moral aspects of the child.

CRIMINAL JUSTICE SYSTEM

Criminal Justice System is a framework comprising of individuals, institutions , rules and procedures combined together in order to prevent and control crimes in the society.

Components of CJS

- Police
- Judiciary
- Prosecution
- Probation
- Parole

Objectives of CJS

- Retribution: To make criminal suffer in the same way
- Deterrence: Prevention
- Incapacitation: to keep criminals away from society
- Rehabilitation: Transformation of an offender into a healthy individual
- Restitution: Compensation to the victims (Diyat)

Procedure and Problems of each component of CJS

Police:

Functions of Police

- Law Enforcement

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- Protection of Life and Property
- Detection and prevention of crimes
- Civil Order

* Further reading on duties of Police(Section 4 of Police Order 2002)

Problems of Policing

- Acute Paucity of Financial Resources (Budgets for Investigation RS 295: Lahore, 328:Isb 166: Sialkot¹²)
- Acute Shortage of Manpower: (World Standard 1:222, Pakistan 1:500, excluding Protocol 1:720¹³)
- Massive Corruption: (One of departments where corruption widely prevails¹⁴)
- Bureaucratic Structure
- No effective accountability
- Outdated Legal Framework
- Colonial Legacy
- Outdated Legal Framework
- Absence of Effective Accountability
- Political Interference
- Absence of effective HR Management
- Overall governance Deficit inflicting the state's apparatus

¹² PILDAT Police Budget in Punjab 2016

¹³ Ibid

¹⁴ Transparency Int http://www.transparency.org.pk/pdf/TI-P_Strategy_2017-2020.pdf p.9

Judiciary :

Procedure of Trial

- i. Submission of Police Report
- ii. Commencement of Proceedings
- iii. Framing of Charge
- iv. Examination of Witnesses
- v. An opportunity to accused to tender statement
- vi. Argument
- vii. Order/Judgement/Verdict

Problems

- Huge Back log of Cases (3 Million Cases Pending¹⁵)
- Acute Shortage of Judges
- Corruption mostly in lower ranks(6th most corrupt department¹⁶)
- Adjournments
- Non Professional Conduct of Bar
- Lack of effective Accountability
- Outdated Legal Framework

PROBATION

Literal Meaning:

The Act of testing

Definition

Release of an offender by the judge instead of sending him to the jail in anticipation that the offender will mend his way and become healthy individual of the society.

Origin and History:

Started in England in middle ages when offenders were conditionally set free in anticipation of good behavior.

John Augustus is said to be the father of Probation. He offered voluntary probation service to rehabilitate and reform the offenders. In 1841 he rescued an offender who was convicted on the charge of drinking. The offender was given three weeks to mend his ways. When he appeared in the court after three weeks, his look was completely changed.

¹⁵ Law and Justice Commission Report 2016

¹⁶ <http://www.transparency.org.pk/ncps2011/ncps2011.pdf>

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Law

Probation of Offenders Ordinance 1960

Who can Award Probation?

- i. A High Court
- ii. A Court of Sessions
- iii. A Magistrate of Ist Class

Conditions

- i. First time offender(Not given in the law but evolved traditionally)
- ii. Not applicable for the offences punishable with death and life imprisonment for male offenders.
- iii. Not applicable for the offences punishable with death for female offenders
- iv. Submission of Bond to the effect of not repeating the offence
- v. Fixed Place of residence or occupation in local jurisdiction
- vi. Placement under the supervision of a probation officer
- vii. Revocation of the Order on repetition of offence
- viii. The Court can alter terms and conditions of Bond
- ix. The offender is not discharged from conviction
- x.

Objectives and Utility

- Reformation and rehabilitation
- Beneficial instead of being burden to the society
- Ultimate Good
- Provide a chance to mend ways
- Morally obliged
-

Duties of Probation Officer

- i. Periodic visit of the offender
- ii. To ascertain conformance to the condition of bond by the offender
- iii. Counseling the offender
- iv. Reporting the conduct of offender to head of his department(Officer in charge)

PAROLE

Release of a prisoners before completion of sentence in order to place him under an employer.

Law:

Good Conduct Prisoners Probational Release Act 1926

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Eligibility for Parole License

- i. First Time Offender awarded up to two years of Punishment(after 1.5 years) or
- ii. Of less than 21 years of age /imprisonment up to 14 years(1/3rd of Imprisonment)
- iii. Life Imprisonment more than 14 years (10 years)

Conditions

- i. Good Conduct
- ii. The offender is not discharged from conviction
- iii. The period of parole should be equal to the remaining part of sentence
- iv. Awarded by the Government
- v. Consultation with Jail Superintendent
- vi. Placed under an employer and the supervised by a “Parole Officer”
- vii. Undertaking to meet condition of license

Duties of Parole Officer

- i. To work under the control of Assistant Director Parole
- ii. Supervision of licensee/prisoners
- iii. Agreement with the employer
- iv. Ensuring reasonable lodging/sanitary conditions for licensee/prisoners
- v. Ensuring payment of wages to licensee/prisoner
- vi. Report breach of conditions by the prisoners

Objectives and Utility

- Reformation and rehabilitation
- Beneficial instead of being burden to the society
- Ultimate Good
- Provide a chance to mend ways
- Morally obliged

Difference Between Probation and Parole

Probation	Parole
Governed under “Probation of Offenders Ordinance 1960”	Governed under “Good Conduct Prisoners Probational Release Act 1926”
Not applicable for male offender sentenced to life imprisonment	Applicable in all case except death penalty
Awarded by a Judge	Awarded by the Government
Awarded through a “Probation Order”	Awarded through a” License “
The Offender is not sent to jail.	A specific portion of sentence must be undergone
No employment is involved	The offender is placed under employment
No restriction on free movement	The offender cannot move freely

Charge is quashed as if the accused was never sentenced	Charge is not quashed, and the offender remains guilty
The probation can run for any period of time at sole discretion of Judge irrespective of the quantum of punishment	The period of sentence has to be completed

PROSECUTION

A lawyer who conducts criminal proceedings on behalf of the state.(Oxford)

Or

A lawyer who acts for the government against someone accused of a crime in court.(Cambridge)

Duties of Prosecutor

- i. Institution of Criminal Proceedings on behalf of the state in the court(Police Report/Challan is submitted through prosecutor)
- ii. Represent the state in criminal appeals at higher courts
- iii. Scrutiny of Police Report
- iv. May call a report in connection with investigation
- v. To receive copy of every FIR
- vi. Assist the court
- vii. Guide the police in completing legal formalities

Problems of Prosecution

- i. Lowest Conviction rate in the World(8.6%, India 37, US:85%)¹⁷
- ii. Shortage of Manpower
- iii. Low Budget
- iv. Lack of Training

¹⁷ PILDAT

http://www.pildat.org/Publications/publication/ROLR/ProsecutionServicesandMediainPakistan_MediaBrief.pdf

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- v. Lack of effective accountability
- vi. Lack of Coordination among police and prosecution
- vii. Lack of Autonomy
- viii. Lack of incentives

PRISON

A place in which people are legally held as a punishment for a crime they have committed or while awaiting trial.

Functions of Jails

- i. Execution of Sentence
- ii. Maintenance and Care
- iii. Discipline
- iv. Rehabilitation
- v. Reformation of prisoners
- vi. Welfare of prisoners
- vii. Enforcement of Jail Laws

6 C Model of Prison Management¹⁸

- Custody: Safe placement
- Care: Proper lodging and sanitary
- Control: Discipline
- Correction: Rehabilitation
- Cure: Medical and psychological Treatment
- Community : Socialization

Problems of Jails

- i. Overcrowding (102114 against capacity of 50709 across the Pakistan¹⁹)
- ii. Corruption
- iii. Shortage of Jail Staff²⁰
- iv. Lack of sanitation and health facilities,
- v. Violence against prisoners particularly women and children,
- vi. Lack of proper food, external oversight mechanism,
- vii. lack of educational and skill training facilities etc.

Punitive and Reformatory Treatment of Criminal

Corporal Punishment

It is inflicting physical pain on a person. Or Punishment that involves hitting someone.

Punishments Prescribed by Islam

- i. Amputation of Hands
- ii. Whipping
- iii. Stoning to Death
- iv. Beheading

¹⁸ South Asian Studies

¹⁹ Human Rights Commission of Pakistan

²⁰ ibid

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- Whipping was added as a mode of mode punishment in subcontinent in year 1909.
- General Zia promulgated **The Execution of the Punishment of Whipping Ordinance** of 1979.
- Abolished in Pakistan 1996 via Abolition of Punishment of Whipping Act 1996

Arguments Against Corporal Punishment

- i. Against Human Dignity
- ii. Flouts the principle of Reformation
- iii. Indicate barbarous face of the state
- iv. Not approved by modern standards of civilization
- v. Open to abuse
- vi. Against UN Convention (The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1985)

Informal Agencies for Disposal of Criminal Complaints

There are two types of Offences: Compoundable and Non Compoundable

Informal disposal of complains involving compoundable offences: Mediation, arbitration, negotiation, etc

Legal Provisions in Pakistan

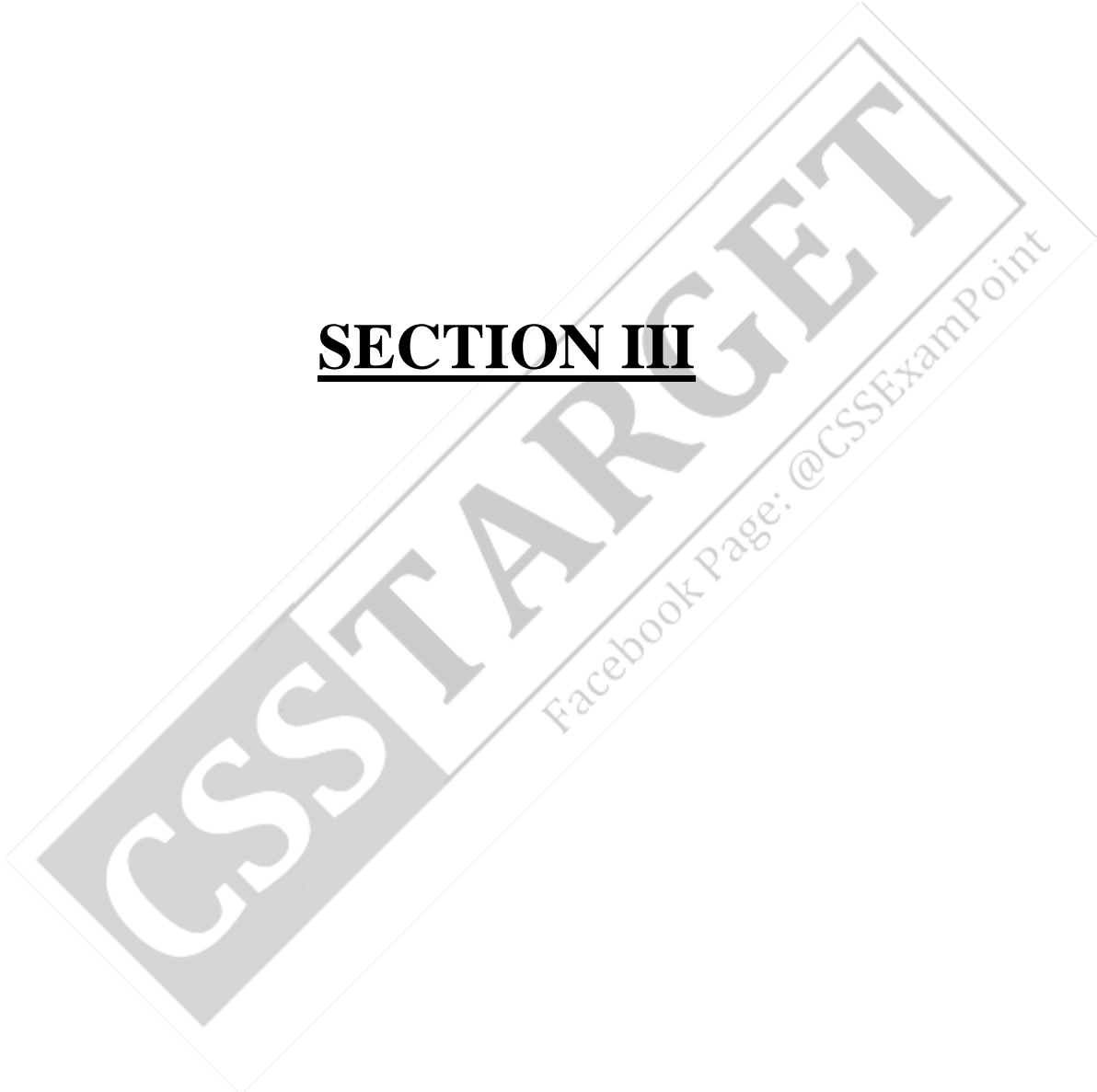
- i. First nation wide law passed in Pakistan in year 2017 for informal resolution of criminal cases (Alternate dispute resolution Act 2017).
- ii. KPK Police Act also introduced this mechanism(Section 73 of the Act which provides dispute resolution councils)
- iii. Diversion in Juvenile Justice System Act 2018

Benefits

- i. Lessen Burden upon the CJS ii. Prevent further enmities iii. Peace in the locality

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SECTION III



CRIMINAL INVESTIGATION

GENERAL DEFINITION

It is process of collection and analysis of information and evidence to identify and prove the guilt of an offender.

DEFINITION BY SCHOLARS

- I. "A lawful search for people and things to reconstruct the circumstances of an illegal act, apprehend or determine the guilty party, and aid in the states prosecution of the offender"²¹
- II. "The collection of information and evidence for identifying, apprehending, and convicting suspected offenders"²².

Objectives of Criminal Investigation

The criminal investigation is aimed at achieving the following purposes.

- **To identify the offender:** The principle purpose of the investigator is to identify the person who committed the crime.
- **Collection of Facts incidental to the Case:** The investigation is required to collect all relevant facts incidental to the case.
- **To sift the wheat from the chaff:** This is sort the valuable things and discard the irrelevant ones.
- **To Preserve the Evidence:** Evidence is preserved in order to prove the case
- **To Draw Conclusions:** Investigators draw conclusions from available facts.
- **To establish the Guilt in Court of Law:** The entire exercise is rendered useless if the offender's guilt is not proved before the court of LAW.

Principles of Criminal Investigation:

- **Objectivity:** A condition of being free from bias which implies that the investigation process should not be influences by personal interests or inclinations of the investigator.
- **Independence:** The investigator should be officially independent in conducting investigation.

²¹ Bruce L. Berg and John J. Horgan: Criminal Investigation, 3rd ed.(Westerville: Glencoe/Mc GrawHill) 1998.

²² Elinor Ostrum, Roger B. Park and Gordon P.WhitaKer: Patterns of Metropolitan Policing (Cambridge: MA: Ballinger, 1978) p.131.12

- **Neutrality:** The investigator should be neutral by avoiding leanings towards any of the parties to the case.
- **Relevance:** Remain focused on the relevant facts only.
- **Professionalism:** Reasonable degree of professionalism should be observed by the investigating officers.
- **Competence:** The investigating Officer should be well equipped the requisite skills and techniques of investigation.
- **Compliance with Law and Procedures:** Non Compliance with Law and set Procedures may cost the Investigation/Prosecution losing its case in the Court of Law.
- **Timeliness:** Non following of timeliness may render the case entirely irrelevant.
- **Record and Preservation of Evidence:** Evidence should be properly preserved to establish the case in the court.
- **Investigation Report:** The investigation report should be under stable, clear, concise and relevant.

HISTORY OF CRIMINAL INVESTIGATION IN PAKISTAN

Pakistan inherited its criminal justice system from its former colonial master, the United Kingdoms, where, initially Detective Department was established in 1842 in Metropolitan Police of London which was renamed as Criminal Investigation branch 1878²³. In subcontinent, the investigation department was established in Punjab in 1905 under Sir Edward Lee as its first DIG²⁴ which was followed by other provinces. The techniques used at that time included the following:

- Finger Prints:** Evidentiary value of finger prints was established in China in relation to ancient pottery. In sub continent finger prints were used back in 1858 in Bengal for authentication of contractual deeds²⁵. Finger prints are now considered as an important (almost conclusive until rebutted) evidence of an individual's identity.
- Dog Branch.** Dog branch was established in subcontinent in the province of NWFP (now KPK). Two officials were sent to south Africa for training. However for religious regions, both Hindus and Muslim were averse to this idea²⁶.
- Forensic Science Laboratories:** The first ever forensic laboratory was founded in Lahore in a photographic section of the criminal investigation branch during 1930. In 1947 the lab was serving as a training center in addition to the examination of fire arms, cloth,

²³ <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=4896&context=etd>

²⁴ Nazir Ahmed Razvi: Our Police Heritage, (Lahore: WAPDA, Printing Press 1961) p.113.

²⁵ Ibid, p114

²⁶ Ibid, p115

fibers, dust, counterfeit, coins, forged currency, secret inks, hand written and typed material²⁷.

- iv. **Foot Tracking:** People of sub-continent are deemed as being experts in foot tracking (*Khoji*). However no substantial support was extended to utilize the expertise. However Foot trackers were hired to trace the criminal especially in rural areas and in certain cases were promoted to the rank of DSP

Facilities of Investigation in Pakistan

- I. Punjab Forensic Science Laboratory (October 30, 2009)
- II. National Forensic Science Agency, Islamabad
- III. (DNA)
- IV. Kadir Khan Research Laboratory, Islamabad
- V. (DNA)
- VI. Forensic Science Laboratory, Islamabad
- VII. Center for Applied Molecular Biology (CAMB),
- VIII. Lahore (DNA)
- IX. Chief Chemical Examiner, (Punjab), Lahore
- X. Chemical Examiner, Multan
- XI. Chemical Examiner, Rawalpindi
- XII. Forensic Science Laboratory, Karachi
- XIII. Chief Chemical Examiner, (Sindh), Karachi
- XIV. Chief Chemical Examiner, (Sindh), Rohri
- XV. Forensic Science Laboratory, Quetta
- XVI. Forensic Science Laboratory, Peshawar

(SOURCE: National Police Bureau)

Statutory Framework Dealing Criminal Investigation in Pakistan

- i. Criminal Procedures Code (CRPC) 1898
- ii. Police Order 2002
- iii. Police Rules 1934
- iv. Special Laws

Problems of Criminal Investigation in Pakistan:

- Overall Problems of Police Organization
- Disappointingly Low Budget
- Non separation of watch and ward from investigation
- Non availability of specialists
- Shortage of Staff
- Lack of Independence
- Corruption
- Lack of Competence
- Reliance on old methods of Investigation
- Lack of Infrastructure

²⁷ ibid

- Non-Optimal use of technology
- Lack of equipment
- Shortage of Laboratories
- Delayed adjudication of Cases
- Use of Torture

USE OF TORTURE TO EXTRACT EVIDENCE DURING THE COURSE OF INVESTIGATION

Employing torture is prohibited by the Constitution and Law. The Article 14(2) of the Constitution provides that:

Article 14(2):

“No person shall be subjected to torture for the purpose of extracting evidence”.

Likewise section 156 of Police Order 2002 makes the torture an offence punishable with 5 years rigorous imprisonment.

“PENALTY FOR VEXATIOUS ENTRY, SEARCH, ARREST, SEIZURE OF PROPERTY, TORTURE, ETC.– WHOEVER, BEING A POLICE OFFICER–

1. Without lawful authority, or reasonable cause, enters or searches or causes to be entered or searched any building, vessel, tent or place;
 2. Vexatiously and unnecessarily seizes the property of any person;
 3. Vexatiously and unnecessarily detains, searches or arrests any person; or
 4. **Inflicts torture** or violence to any person in his custody;
- shall, for every such offence, on conviction, be punished with imprisonment for a term, which may **extend to five years** and with fine.”

However the fact remains that the legal provisions to the contrary notwithstanding, the police excessively employs torture in certain cases in very inhumane and disgracing manner.

According to an Article titled “*The Investigation in Pakistan: Reality and Trends*”, *Pakistan Vision* , Volume 10 No 2 p. 175-179²⁸, the author observed that:

“There are various physical tortures used by police during criminal investigation including slapping on the face, beating by stick on any place of body, torture by fan belt on the ground by laying upside down or hanged by ropes in the tree or roof of the building,

²⁸ *The Investigation in Pakistan: Reality and Trends*”, *Pakistan Vision* , Volume 10 No 2 p. 175-179²⁸

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keeping person long time to wake up by using various tactics, pulling out the nails or crossing/pricking of needle below nails, apply of electric current on the genitals, pushing of the legs in opposite directions by force that joint between two legs is cracked, passing the iron ring through the nose to rope with roof or tree for long time, use of chilly and petrol in anus, pour of lime stone and tobacco water mixed in the nose, compel to take human urine and stool by mouth etc”.

PRELIMINARY INVESTIGATION

Preliminary investigation implies initial scrutiny of the allegation ahead of registration of case. In order to ascertain availability of sufficient grounds indicating commission of an offence.

Legal Position as to Preliminary Investigation in Pakistan

Our Laws doesn't provide for conducting preliminary investigation and the process of investigation starts after Registration of Cases

EXCEPTION TO THE GENERAL RULE:

However there are certain exceptions to the general rules

- Rulings of Courts 2006 P Cr. L J 1191, 1991 P Cr. L J 2167, 1977 P Cr. L J 2)
- Non- Cognizable Offence
- Special Laws(Anti-Corruption, FIA, NAB)

OBJECTIVES:

- To prevent false and fallacious complaints
- To prevent the accused from agony
- To substantiate the allegation
- To confirm occurrence of an offence
- To avoid unnecessary litigation

INTELLIGENCE OPERATIONS :

Definition

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Covert operations followed by compilation and analysis of information to predict , monitor or prevent a crime

Levels:

Tactical Levels/Micro Level(Special Branch, IBetc)

Strategic Level /National Security(JID)

Nature

- Organized Crimes
- High Risk Offences
- Specialized Functions
- Use of scientific techniques and equipment
- Coordination

ELECTRONIC INVESTIGATION/DIGITAL FORENSIC/ DIGITAL EVIDENCE

Electronic investigation is associated with the following(*Collecting Digital Evidence of Cyber Crime, by Misbah Sabhoi*)

- Crimes where a computer is the target, e.g. hacking.
- Crimes where computers are the medium by which criminal enterprises are executed e. g. software piracy, internet frauds.
- Crimes where the use of a computer is incidental to criminal acts e.g. storing information on a computer about drug trafficking, white collar crimes etc.”

PROBLEMS:

- i. Trail
- ii. Preservation
- iii. Technical
- iv. Evidentiary Value

Evidentiary Value of Digital Evidence

Article 164 Qanoon e Shahdat Order(QSO) 1984 extend legal cover to Evidence collected through Modern Devices. Electronic Transactions Ordinance(ETO) 2002 further

strengthened the digital evidence. Certain amendments were introduced in QSO 1984 through ETO(2002).

Prevention of Electronic Crimes Act, 2016 has further provided methods and technics of forensic investigation.

Forensic Investigation Techniques

1. Audio Visual Analysis
2. Digital Forensic
3. Crime Scene & Death Scene Investigation
4. DNA Testing
5. Forensic Photography
6. Toxicology
7. Trace Chemistry/Evidence
8. Polygraph/Narco Test
9. Fire Arms & Tool Marks
10. Latent Fingerprints
11. Questioned Documents

GATHERING INFORMATION FROM PERSONS

Interview:

Interview is method of collects of facts which is non-accusatory and directed to any person who possess information related to a case. Any person who possess knowledge about particular offence in any manner can be interviewed.

Interrogation: Interrogation on the other hand is directed at the Suspect with the objective of establishing his guilt.

Interview	Interrogation
Non Accusatory: The person being interview need not be accused.	Accusatory: The person being interviewed is subject to accusation..
Generally Less Formal	Generally Formal
Generally interviewee has no incentive to withhold the information	Requisite information has to be gleaned tactfully.
Subject: Any related possessing information which may be relevant to the case	Only suspect is interrogated

Purpose: To collect information related to case.	To establish Guilt
---	--------------------

TECHNIQUES OF INTERROGATION

GOOD COP BAD COP:

Good Cop Bad Cop: This is a psychologically manipulative technique wherein one official /cop earn antipathy of the suspect through hostile behavior while the other one extend sympathy through friendly conduct. The suspect is made to divulge information through this tactic.

Pros	Cons
Widely used	Not Morally Sanctioned
Often proves effective	Emotionally Manipulative
Simple	Suspect may be aware of such tools.

REID TECHNIQUE

RIED technique is named after its author, John E REID, who has got it registered as a trademark “REID Technique of Interviewing and Interrogation”²⁹. Kozinski, W. (2017). has observed that³⁰

“The Reid Interrogation technique has been the dominant method used by police in the United States and Canada to interview suspects of crime. This method is commercially marketed to police departments and other law enforcement agencies with the promise that 80 percent of those interrogated will confess. However, there is growing evidence that the Reid technique results in a significant number of false confessions, especially among the young, the mentally impaired and those of low intelligence. Other countries, especially England have rejected the Reid technique in favor of other methods that work equally well in obtaining confessions but without the risk of false confessions. In the United States, too, there is growing suspicion of the Reid technique and other hard interrogation tactics such as those employed in interrogating suspected terrorists at Guantanamo and Abu Ghraib”

COMPONENTS OF REID:

1. **Factual Analysis:** A provisional profile of the offender is drawn from the facts of the case. It is intended to shortlist According to **Joseph P. Buckley**³¹

“This represents the collection and analysis of information relative to a crime scene, the victim and possible subjects. Factual analysis helps determine the direction an investigation should take and offers insight to the possible offender.”

According to James Orlando³²

²⁹ <https://www.reid.com/>

³⁰ Kozinski, W. (2017). The Reid interrogation technique and false confessions: a time for change.

³¹ https://www.reid.com/educational_info/canada.html

³² <https://www.cga.ct.gov/2014/rpt/pdf/2014-R-0071.pdf>

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This factual analysis is also intended to “identify characteristics about the suspect and the crime which will be helpful during an interrogation of the suspect believed to be guilty[,]” such as motive or the suspect’s personality type.

2. BEHAVIORAL INTERVIEW:

Following factual analysis , the suspects are shortlisted on the basis of characteristics identified during the process. According to **Joseph P. Buckley**³³

The second stage of the process is the interview of possible subjects. This highly structured interview, referred to as a Behavior Analysis Interview, is a non-accusatory question and answer session intended to elicit information from the subject in a controlled environment. The clinical nature of the interview, including the asking of specific behavior provoking questions, is designed to provide the investigator with verbal, paralinguistic and nonverbal behavior symptoms which either support probable truthfulness or deception. A significant portion of training in The Reid Technique is devoted to the interpretation of a subject's behavioral responses during the structured interview.

3. INTEROGATION

The accused persons who are shortlisted from the second stage , are subjected to Interrogation which is accusatory in nature and intended at procuring confession. According to James Orlando³⁴, there are nine steps of interrogation.

1. **The positive confrontation.** The investigator tells the suspect that the evidence demonstrates the person's guilt. If the person's guilt seems clear to the investigator, the statement should be unequivocal.

2. **Theme development.** The investigator then presents a moral justification (theme) for the offense, such as placing the moral blame on someone else or outside circumstances. The investigator presents the theme in a monologue and in sympathetic manner.

3. **Handling denials.** When the suspect asks for permission to speak at this stage (likely to deny the accusations), the investigator should discourage allowing the suspect to do so. The Reid website asserts that innocent suspects are less likely to ask for permission and more likely to “promptly and unequivocally” deny the accusation. The website states that “[i]t is very rare for an innocent suspect to move past this denial state.”

4. **Overcoming objections.** When attempts at denial do not succeed, a guilty suspect often makes objections to support a claim of innocence (e.g., I would never do that because I love my job.) The investigator should generally accept these objections as if they were truthful, rather than arguing with the suspect, and use the objections to further develop the theme.

5. **Procurement and retention of suspect's attention.** The investigator must procure the suspect's attention so that the suspect focuses on the investigator's theme rather than on punishment. One way the investigator can do this is to close the physical distance between himself or herself and the suspect. The investigator should also “channel the theme down to the probable alternative components.”

6. **Handling the suspect's passive mood.** The investigator “should intensify the theme presentation and concentrate on the central reasons he [or she] is offering as psychological justification . . . [and] continue to display an understanding and sympathetic demeanor in urging the suspect to tell the truth.”

³³ https://www.reid.com/educational_info/canada.html

³⁴ ³⁴ <https://www.cga.ct.gov/2014/rpt/pdf/2014-R-0071.pdf>

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7. Presenting an alternative question. The investigator should present two choices, assuming the suspect's guilt and developed as a “logical extension from the theme,” with one alternative offering a better justification for the crime (e.g., “Did you plan this thing out or did it just happen on the spur of the moment?”). The investigator may follow the question with a supporting statement “which encourages the suspect to choose the more understandable side of the alternative.”

8. Having the suspect orally relate various details of the offense. After the suspect accepts one side of the alternative (thus admitting guilt), the investigator should immediately respond with a statement of reinforcement acknowledging that admission. The investigator then seeks to obtain a brief oral review of the basic events, before asking more detailed questions.

9. Converting an oral confession to a written confession. The investigator must convert the oral confession into a written or recorded confession. The website provides some guidelines, such as repeating Miranda warnings, avoiding leading questions, and using the suspect's own language.

Merits and Demerits of REID TECHNIQUE

Pros	Cons
Widely used	Not Morally Sanctioned
Often proves effective	Emotionally Manipulative
Methodical	Suspect may be aware of such tools.
REID Corporation claims its success rate to be hovering around 80% ³⁵	False Confessions have been procured by using this method

PEACE TECHNIQUE:

Peace technique has been developed by in England and Wales during 1990s. This technique is said to have been developed in response to allegation of false confessions through Reid Technique. This technique is meant to conduct interrogation in transparent and ethical manner. According to Durham College³⁶, it is:

³⁵ <https://www.reid.com/>

³⁶ <https://durhamcollege.ca/academic-schools/school-of-justice-emergency-services/centre-for-integrated-justice-studies/courses/peace-model-interviewinginterrogating>

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A non-accusatory, information-gathering approach to investigative interviewing, the PEACE model is considered to be best practice and is suitable for any type of interviewee, victim, witness or suspect.

PEACE is Acronym of the following terms.

- P: Preparation and Planning
- E: Engage and Explain
- A: Account, Clarify and Challenge
- C: Closure
- E: Evaluation

Step I -P: Preparation and Planning

The interrogator at the first step should be well cognizant of the facts pertaining to the case and the role of the person being interrogated upon. The questions to be asked during the course of interrogation should be well planned ahead of the interrogation.

Step-II:E: Engage And Explain

The suspect should be called upon and explained the purpose and methodology of the interrogation process.

Step-III A: Account, Clarify and Challenge

The response so solicited should be properly accounted for . Any ambiguity should be clarified and any clarification should be sought promptly.

Step-IV: C: Closure

The process should be properly closed which implies that any missing link should be reconstructed, and ambiguities left should be clarified.

Step-V: Evaluate

The entire process should be reviewed , analyzed in order to draw conclusions.

Merits and Demerits of PEACE Model

Pros	Cons
Morally Sanctioned	Not useful in case of shrewd offenders
Let the suspect explain his view	Presumes that the person being interrogated will not hide anything.
Methodical	Suspect may be aware of the model and manipulate it.
Useful in conjunction with other techniques	Not proved very effective when applied in isolation.

STOP AND FRISK OPERATION(TERRY STOP)/SNAP CHECKING

A situation where a police official being suspicious of an individual detains the person and runs

his hands lightly over the suspect's outer garments to determine if the person is carrying a concealed weapon. It is also called Terry Operations because the term evolved after the an American named Terry was stopped and then booked on account of possessing illegal weapon. The act of police was challenged for flouting the guarantees as to personal liberties and protection against undue search as enshrined in US Constitution vide Fourth Amendment to US' Constitution. However the US Supreme Court found it Lawful on the part of Police to stop and check someone randomly towards discharge of the duties entrusted upon the Police. The case was reported as Terry Vs Ohio State(1968)

Snap Checking in Pakistan:

It is permissible in Pakistan under section 125 of Police order 2002 in following manner.

Section 125 of Police Order 2002

Power to search suspected persons or vehicles in street, etc.— When in a street or a place of public resort a police officer on reasonable grounds suspects a person or a vehicle to be carrying any article unlawfully obtained or possessed or likely to be used in the commission of an offence, he may search such person or vehicle; and if the account given by such person or possessor of the vehicle appears to be false or suspicious, he may detain such article after recording in writing the grounds of such action and issue a receipt in the

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prescribed form and report the facts to the officer in-charge of the police station for informing the court for proceeding according to law against the person.

However these powers are not meant to be used recklessly rather section 156 of the same Act duly protects against unreasonable search in following manner.

“Protection against Unnecessary Search

156. Penalty for vexatious entry, search, arrest, seizure of property, torture, etc.— Whoever, being a police officer—

- (a) without lawful authority, or reasonable cause, enters or searches or causes to be entered or searched any building, vessel, tent or place;
 - (b) vexatiously and unnecessarily seizes the property of any person;
 - (c) vexatiously and unnecessarily detains, searches or arrests any person; or
 - (d) inflicts torture or violence to any person in his custody;
- shall, for every such offence, on conviction, be punished with imprisonment for a term, which may extend to five years and with fine.”

Features of Stop and Frisk Operations

- A necessity for Law and Order
- Lawful procedure as sanctioned under Police Order 2002
- Open to Abuse
- Arbitrary
- Often evokes resentment amongst the people
- A cause of Public Grievances against Police.
- Not regulated by specific SOPs
- No practical remedy against misuse

How to Reform the Process

The procedure can be made public friendly and useful through following measures.

- Framing of SOPs
- Ensuring self-respect of the citizens stopped for checking
- Installation of Online Cameras
- Toll Free complaint Number at Police pickets
- Periodic visits of the Higher Officials
- Behavioral Training of the Staff
- Educating the Public at Large
- Applying innovative techniques such as Mystery Shopping

ARREST

Definition: To take or keep in custody by authority of law.

Who Can Arrest:

Official authority as to arrest and detention rests with following three officials

- Magistrate
- Police
- Justice of Peace

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However, under section 59 CPC, arrest can be made by a private person in following manner:

59. Arrest by private persons and procedure on such arrest.

(1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and without unnecessary delay, shall make over any person so arrested to a police-officer or, in the absence of a police-officer, take such person or causes him to be taken in custody to the nearest police-station.

(2) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released

Manner and Condition of Arrest:

The manner of arrest is provided under section 46 CRPC

“Arrest How to be Made(46 CRPC)

In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

(2) Resisting endeavor to arrest. If such person forcibly resists the endeavor to arrest him or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with [imprisonment for life.]”

Search and Seizure

“A hunt by law enforcement officials for property or communications believed to be evidence of crime, and the act of taking possession of this property.”(Black Law Dictionary)

What Can be Seized by Police

- Suspected and Stolen Property (S 550 CRPC)
- Arms and Ammunition for unlawful purpose

Disposal of Seized Property

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- Interim Disposal(Superdari)
- Final Disposal

UNAFEI, INTERPOL, EUROPOL, UNODC, UNICEF, IPA, etc.

UNAFEI

The United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) is a United Nations regional institute, established in 1962 by agreement between the United Nations and the Government of Japan, with the aim of promoting the sound development of criminal justice systems and mutual cooperation in Asia and the Pacific Region.

Major Role

Research and Advisory Body

Operational Mechanism

Training Courses

Seminars

Research Studies

Two Annual International Training courses

Areas

Criminal Justice

Crime Prevention

Treatment of Offenders

INTERPOL

Introduction:

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International Criminal Police Organization, commonly known by its telegraphic address, Interpol, is an international organization established to promote Cooperation vis a vis matters pertaining to policing amongst its member. Currently it has 194 Member. Interpol mere facilitate exchange of information and coordination with no power to make arrest or detain on its own, a role which is often misunderstood, as observed by a scholar.³⁷

“Interpol is mostly misunderstood because of Hollywood, which spreads the incorrect belief that Interpol is an international police force,” said Theodore Bromund, a senior research fellow at the Heritage Foundation, a U.S.-based think tank. “Most international organizations are not well understood, and Interpol is no different.”

Essentially, Interpol acts as a police message board for its member countries. One member country can request that some or all other member countries detain, arrest, and/or extradite wanted persons through a variety of notice types. The agency doesn't issue warrants or detain individuals:

Headquarter:

Lyon, France

Official Languages.

English, Arabic, French and Spanish

History

1914- International Criminal Police Congress: First International Police Congress was held in Monaco in 1914 in a bid to establish an organization for cross border police cooperation but the attempt could not elicit wider response.

1923-Creation of the International Criminal Police Commission (ICPC): With headquarters in Vienna, Austria, this was precursor of the current Interpol. However the ICPC went in to control of Nazi Germany when

1956- Reframing of Constitution of ICPC and Establishment of International Criminal Police Organization. Following the adoption of a modernized constitution, the ICPC becomes the International Criminal Police Organization-INTERPOL, abbreviated to ICPO-INTERPOL or just INTERPOL. The Organization becomes autonomous by collecting dues from member countries and relying on investments as the main means of support.

Major Functions

- Secure Global Police Communications Services
- Operational Data Services and Databases for Police
- Operational Police Support Services

³⁷ <https://www.thedailybeast.com/interpol-helps-dictators-hunt-down-dissidentsand-me>

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➤ Training and Development

Structure

General Assembly – INTERPOL's supreme governing body, the General Assembly is composed of delegates appointed by each member country. It meets annually to take all important decisions related to policy, resources, working methods, finances, activities and programs.

Executive Committee – Elected by the General Assembly, the Executive Committee is headed by the President of the Organization. It provides guidance and direction to the Organization and oversees the implementation of decisions made at the annual General Assembly. It has 13 Members, including One President and 3 Vice Presidents.

Commission for Control of Interpol Files: (CCF). A nine members independent commission appointed by the General Assembly is entrusted to ensure integrity of the Data in accordance with the Constitution of Interpol.

National Central Bureaus (NCBs) – Each INTERPOL member country maintains a National Central Bureau linking national police with its global network. Staffed by highly trained national law enforcement officers, NCBs are the lifeblood of INTERPOL, contributing to its criminal databases and cooperating together on cross-border investigations, operations and arrests.

General Secretariat: Headed by the Secretary General, the General Secretariat is entrusted day to day functions of the Organization as envisaged by the General assembly. Its stationed in Lyon, France with following seven Regional Offices.

- Argentina (Buenos Aires)
- Cameroon (Yaoundé)
- Côte d'Ivoire (Abidjan)
- El Salvador (San Salvador)
- Kenya (Nairobi)
- Thailand (Bangkok)
- Zimbabwe (Harare)

In addition to regional offices, the Organization has established liaison offices at the United Nations(UNO) in New York, at the European Union in Brussels and at the African Union (Addis Ababa). Moreover The INTERPOL Global Complex for Innovation (IGCI) is established in Singapore

Illustration Chart of Organizational Structure

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Source: Interpol.int, August 21 2017

All INTERPOL member countries(NCBs) are connected through a secure communications system known as I-24/7.

Notices Issued by Interpol

Type of Notice	Purpose
Red Notice	To seek the location and arrest of wanted persons with a view to extradition or similar lawful action.
Yellow Notice	To help locate missing persons, often minors, or to help identify persons who are unable to identify themselves.
Blue Notice	To collect additional information about a person's identity, location or activities in relation to a crime.
Blue Notice	To seek information on unidentified bodies.
Green Notice	To provide warnings and intelligence about persons who have committed criminal offences and are likely to repeat these crimes in other countries.
Orange Notice	To warn of an event, a person, an object or a process representing a serious and imminent threat to public safety.
UNSC Special Notice	Issued for groups and individuals who are the targets of UN Security Council Sanctions Committees.
Orange Notice	To seek or provide information on modus operandi, objects, devices and concealment methods used by criminals.

Rules Relating to Red Notice(Mistakenly called “Red Warrant”)

Article 82 and 83 of INTERPOL’S RULES ON THE PROCESSING OF DATA contains provisions on red notice

“Article 82: Purpose of red notices

Red notices are published at the request of a National Central Bureau or an international entity with powers of investigation and prosecution in criminal matters in order to seek the location of a wanted person and his/her detention, arrest or restriction of movement for the purpose of extradition, surrender, or similar lawful action.”

Article 83: Specific conditions for publication of red notices:

(1) Minimum criteria

(a) Red notices may be published only if the following cumulative criteria are met:

(i) The offence concerned is a serious ordinary-law crime.

Red notices may not be published for the following categories of offences:

- offences that in various countries raise controversial issues relating to behavioural or cultural norms;
- offences relating to family/private matters;
- offences originating from a violation of laws or regulations of an administrative nature or deriving from private disputes, unless the criminal activity is aimed at facilitating a serious

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crime or is suspected of being
connected to organized crime

DIFFUSION

In addition to the notices mentioned hereinbefore, the Interpol circulate certain requests internally without making them public. The corresponding NCBs extend cooperation but the request is not made public.

The Diffusion has been defined under Article 1 of the INTERPOL'S RULES ON THE PROCESSING OF DATA, in following manner.

“Diffusion” means any request for international cooperation or any international alert from a National Central Bureau or an international entity, sent directly to one or several National Central Bureaus or to one or several international entities, and simultaneously recorded in a police database of the Organization.

The purpose of Diffusion is given in Article 97 in following manner:

The diffusions system consists of standardized requests for cooperation and alerts each corresponding to a specific purpose:

- (a) to arrest, detain or restrict the movements of a convicted or accused person;
- (b) to locate and trace;
- (c) to obtain additional information;
- (d) for identification purposes;
- (e) to warn about a person's criminal activities;
- (f) for information purposes.

The diffusion system has been criticized from various quarters for having been used by dictatorial regimes against the dissidents residing abroad.

Details of Notices issued during the last year

The details of notices issued during last year is given below:



Source: Interpol

CRITICISM

1- Targeting Political Opponents and Dissidents by Dictatorial Regimes

There are number of instances where Interpol issued Red Notices on the request of countries with checkered record of human rights. For instance, Shahram hamyoon, a critic of Iranian Govt who left his home country to settle in USA where he is running a Satellite TV, remains on red notice on the request of Iranian Government. A recently published article in Financial Times observes tha³⁸t:

Fair Trials, a UK-based rights campaign group, says it has seen troubling cases from all over the world, ranging from Turkey and central Asia to Djibouti and Venezuela. One person it previously worked with was an airline cabin crew member whose US visa was revoked because of an Interpol red notice issued after a cheque she had written as security for a loan for a car in the United Arab Emirates bounced — a criminal offence under the national law. Other cases highlighted by Fair Trials and others include Dogan Akhanli, a dissident Turkish-born German writer and critic of President Recep Tayyip Erdoğan, who was temporarily arrested in Spain last year after Ankara issued an Interpol request. Another is Nikita Kulachenkov, an aide to Alexei Navalny, the Russian opposition leader. Mr Kulachenkov was detained for almost three weeks in Cyprus in 2016, because of a Russian Interpol diffusion.

2- Questions on Financial Propriety vis a vis Private Partnerships :

Interpol entered in multi million deals with international organizations and multi national companies which have been criticized from certain quarters. Interpol had to cancel its deal with FIFA on account of such concerns. According to politico³⁹

“Interpol’s deal with FIFA is just the tip of a fiscal iceberg. Since 2011, Interpol has signed deals with a large number of private “partners,” including tobacco giants, pharmaceutical firms and tech companies — such as Philip Morris International, Sanofi, and Kaspersky Lab — the proceeds of which have swollen its operational budget by almost a third.

This pecuniary relationship between international policing and big business has passed largely below the radar in recent years. Interpol enjoys an unparalleled global reputation, and as a truly international organization has largely escaped sustained journalistic scrutiny, which tends to put stories of national interest first.

In October 2013, its relationship with tobacco firms was criticized by Mediapart, a French investigative and opinion publication, and its links with the pharmaceutical industry were blasted by Die Zeit, the German weekly. But its deal with FIFA has gone mostly unexamined, particularly in the English-language media, and the issue as a whole has failed to command widespread public attention.

Now, however, given that FIFA’s dark corners are being opened to daylight by the US Department of Justice and the Swiss attorney general’s office, serious doubts are arising about Interpol’s private sector strategy, which has made the organization financially dependent upon corporate interests”.

³⁸ <https://www.ft.com/content/6f6f7074-e8e1-11e8-a34c-663b3f553b35>

³⁹ <https://www.politico.eu/article/fifa-funded-interpol-policing/>

3- Political Cases

The Article 3 of the Constitution of the Interpol prohibit from taking up political cases, but the organization has on many times issued red notices in such cases.

4- No defined process of Appeal

The appeal against issuance of Red Notice , though can be filed to Commission for Control of Files yet there are no clear cut principles and procedures spelled out on this count.

5- Abuse of Diffusion System

The Diffusion system has been subjected to wide criticism for being non-transparent. The person whom the Diffusion has been initiated against is caught unaware and has no remedy to challenge the same..

Pakistan and Interpol

Pakistan became member of ICPC (International Criminal Police Commission) in 1952. National Central Bureau (NCB) of Pakistan was created under the new constitution of ICPO in 1957. It is attached with Federal Investigation Agency since its inception. The Director General FIA is an ex- officio, the Head of NCB-Pakistan.

Europol

Headquartered in The Hague, the Netherlands, we assist the 28 EU Member States in their fight against serious international crime and terrorism. it also work many non-EU partner states and international organisations.

- Terrorism;
- International drug trafficking and money laundering;
- organised fraud;
- The counterfeiting of euros;
- people smuggling.

UNODC

UNODC is a global leader in the fight against illicit drugs and international crime. Established in 1997 through a merger between the United Nations Drug Control Programme and the Centre for International Crime Prevention, UNODC operates in all regions of the world through an extensive network of field offices. UNODC relies on voluntary contributions, mainly from Governments, for 90 per cent of its budget.

- Field-based technical cooperation projects to enhance the capacity of Member States to counteract illicit drugs, crime and terrorism

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- Research and analytical work to increase knowledge and understanding of drugs and crime issues and expand the evidence base for policy and operational decisions
- Normative work to assist States in the ratification and implementation of the relevant international treaties, the development of domestic legislation on drugs, crime and terrorism, and the provision of secretariat and substantive services to the treaty-based and governing bodies.



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Section IV

Terrorism

Use of violent means against civilians, state institutions and non-combatants for achieving religio- political objectives.

OR

Terrorism is the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives. (FBI)

Radicalism

A view which advocates extremist measures to achieve socio-political and religious goals.

‘The phenomenon of people embracing opinions, views and ideas which could lead to acts of terrorism’. (European Union)

Causes of Terrorism and Radicalism in Pakistan: Internal Causes:

A- **Socio Economic**(Social Injustice, Under development, Poverty , illiteracy, unemployment, Governance Deficit etc) Political (Instability, religion based politics , Law enforcement) Religious(Intolerance, Distortion of Islamic injunctions etc)

External causes (GWOT, Soviet War, Iranian Revolution, Rise of Alqaida , Daesh etc)

War on Terror

The GWOT is the name ascribed to the US - led military operations to eradicate international terrorism, which means “terrorism entailing citizens or the region involving more than one country.

Media Representation of Crime and Criminals:

Negative Role: Negative attitude on behaviors and attitudes thereby prompting criminal tendencies(Imitation, Desensitization, Transmission of knowledge on Criminal tools and techniques, Temptations for undesirables, Portraying incompetence of police)

Positive Role: (Awareness, Counseling, Promotion of compliant behaviors, Negative Portrayal of Criminals)

Intelligence Led Policing:

“Intelligence-led policing emphasizes analysis and intelligence as pivotal to an objective, decision-making framework that prioritizes crime hotspots, repeat victims, prolific offenders and criminal groups. It facilitates crime and harm reduction, disruption and prevention through strategic and tactical management, deployment and enforcement. (OECD)

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Four I's that Constitute the Framework of Intelligence-led policing(Intent, Interprets, Influence and Impact)

Steps:(Tasking and Planning 2- Collection and Evaluation 3- Collation and Processing 4 Analysis 5- Reporting and Dissemination of the Information, Coordination, Feedback)

Benefits(Proactive and Forward looking Approach viz Policing, Prevention of Crime, effective against organized and heinous Crimes)

COMMUNITY POLICING

Definition:

Community policing is a philosophy of policing which requires to involve the local community in planning and management of Police function.

Two Models of Community Policing.

There are two models of Community Policing.

Collaborative Model

Collaborative partnership between police and community on issues of policing

Command Model

Administration of Police rests with the Community through representatives Policing

Sir Robert Peel's Principles of Policing:

Sir Robert Peel , a British Statesman known as Father of Modern Policing in UK put forth 9 principles of Policing of which Rule 7 provided that:

PRINCIPLE 7 "Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence."

Legal Framework in Pakistan:

Police Order 2002 provides two institutions with regard to Community Policing in Pakistan.

- I. Citizen Police Liaison Committee:
- II. Public Safety and Police Complaints Commission
- III. Dispute Resolution Councils in KPK

Citizen Police Liaison Committee

Section 168 of Police Order 2002 provides for establishment of Citizen Police Liaison Committees in following manner.

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168. Citizen Police Liaison Committees.— The Government may establish Citizen Police Liaison Committees as voluntary, self financing and autonomous bodies, in consultation with National Public Safety Commission or Provincial Public Safety Commission, as the case may be, for—

- (a) training and capacity building of Public Safety Commission;
- (b) developing mechanism for liaison between aggrieved citizens and police for providing relief; and
- (c) assistance to Public Safety Commissions, Police Complaints Authority and the police for the expeditious and judicious discharge of their duties.

Details of CPLCs functioning in Pakistan:

The detail of CPLCs is given hereunder.

CPLC	Details
Karachi	CPLC was initially established at four Police Stations vide the Commissioner's Administrative order No. HMS/JUB-1/10(982)89 dated 31.08.89. Sindh Government amended the Police Rules vide notification # VIII (3)/SOJ/90 dated 15/04/90, to institutionalize the CPLC concept In 1996 CPLC was given a charter by Governor Kamal Azfar that provided a stronger legal status and a permanent board of governors to oversee its affairs. The charter was approved on 24th October 2003.
Faisalabad	CPLC Faisalabad was established on 16 December 2001 and gained legal ground via Section 168 of Police Order 2002 promulgated on August 2002. Official notifications

	by the Punjab government in 2006 and 2007, i.e. HP.111.3-8/2006 and HP.III.3-6/2007 respectively further strengthened its legal basis.
Lahore	The Citizen Police Liaison Committee of Lahore was established by the Government of the Punjab under section 168 of the Police Order of 2002 (XXII of 2002) on 28th of August 2004.
Peshawar	Established on February 12, 2004 through Home and Tribal Affairs Department, NFWP vide notification SO (P) HD/7-17/03, under section 168 of Police Order 2002
Sargodha	Established on 15th November, 2012 under Section 168, Police Order 2002 and Inspector General of Police, Punjab's Memo No. 1905/PSO, dated 29th March, 2012.
Sahiwal	Established on 1st October, 2004 under Section 168, police order 2002 and registered as an NGO.
Islamabad	CPCCs were formed at all police stations of Islamabad under the directive No.7-25/9190/IGP/C of IGP Islamabad, Sikandar Hayat, dated 31/10/2013.

SOURCE CPDI⁴⁰

Public Safety and Police Complaints Commission:

Police Order 2002 introduced Public Safety and Complaint Commission at District, Provincial and National Level with wide ranging powers to redress public grievances against the Police. However, in spite of being the legally incumbent upon the Government, the Commissions were established only once during Mushrafas Government and now they only exist on book of statute with no practical existence.

Benefits of Community Policing

According to CPDI⁴¹, following are the benefits of Community Policing

- Enhanced public confidence in police department;
- Reduction in societal violence
- Police-public partnership;
- Peaceful co-existence in neighborhoods
- Savings in police time from unnecessary arrests and trials
- Speedy dispute resolution
- Diminishing the need for use of physical force by the police

In addition to the above, Community Policing also contains following benefits

- Less Burden upon Criminal Justice System

⁴⁰ <http://www.cpd-pakistan.org/wp-content/uploads/2014/12/Community-Policing-in-Pakistan-An-Assessment.pdf>

⁴¹ Ibid

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- Cost Reduction
- Sense of Empowerment amongst masses
- Social Cohesion
- Informal Resolution of Disputes
- Less focus on petty issues

Measures Recommended for Effective Community Policing in Pakistan

CPDI has recommended following measures on making community policing an effective tool in Pakistan.

Government of Pakistan

- Make community policing a statutory obligation;
- Budgetary provisions must be made and staff for community policing must be specified.
- Develop guidelines and rules to govern functioning of structures such as CPLCs or Community Policing Centers;
- Security of tenures of police officers to be ensured so that community policing efforts initiated by police leadership do not go in vain due to untimely and abrupt transfers.
- As per the spirit of devolution, police powers must be delegated so that local units have the freedom to act, with the provincial police playing a supervisory role. Asghar Mehmood, Former AIG police expressed the importance of locally maintained police service, saying that: “In Pakistan we have political policing system. It is controlled by politicians, managed by bureaucrats and manned by confused professionals. Community policing has become a buzz word in Pakistan. Community policing can be expected from a locally maintained police service as in Britain and USA. But the bait is that in these societies local government system is very strong. In Pakistan, Chief Ministers would not allow local governments to develop, which is sine qua non for success of community policing.”
- Recruitment of better educated and people-friendly police officers must be made an essential part of the police department’s selection criterion. If police

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department aims to inculcate community policing philosophy in the long run then it becomes necessary to select people who are more likely to adopt the approach;

- External oversight and accountability mechanisms over police must be strengthened to build public confidence on the department;
- Politics to be kept out of community policing initiatives, such as during selection of initiative members or program execution;
- Support by Federal, Provincial, District Governments and NGOs (CSOs) should be provided to supplement the community policing efforts.

Recommendations for NGO/Civil Society

- Training programs for police on theory and practice of community policing should be organized while keeping the local culture and context into perspective.
- Importance of community policing must be raised in print and electronic media as a focal area of Reform.
- Focused lobbying with parliamentarians and senior police leadership to incorporate community policing and make it a statutory requirement.
- Research in different components and aspects of community policing such as public trust in police, citizen-police cooperation, effectiveness of police accountability and police perception etc must be undertaken;
- Responsibility for sensitization of public and civil society on community policing practices must be undertaken.
- Civil society can play a strong role in bridging contacts between citizens and the police.

PUBLIC PRIVATE PARTNERSHIP :

Public Private Partnership signifies collaboration between Public and Private Institution for financing, building or operating public projects: According to IPDF, PPP is defined as under⁴²:

Public Private Partnerships (PPP) involve the financing, development, operation and maintenance of infrastructure by the private-sector which would otherwise have been provided by the public sector. Instead of the public sector procuring a capital asset and providing a public service, the private sector creates the asset through a dedicated standalone business (usually designed, financed,

⁴² http://www.ipdf.gov.pk/prod_img/PPP%20Policy%20FINAL%2014-May-2010.pdf

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built, maintained and operated by the private sector) and then delivers a service to the public sector entity/consumer in return for payment that is linked to performance. Therefore the public sector is able to redirect its efforts to serving other urgent social and economic needs. A PPP may include an equity joint venture between GOP and the private sector.

Benefits of Public Private Partnership

Following are the benefits of Public Private Partnership in Pakistan, as per IPFD⁴³.

- Development of more infrastructure on time and within budget
- Encouraging the private sector in innovative design, technology and financing structures and including increased international and domestic investment
- Risk sharing by GOP with private sector partners
- Ensuring good quality public services and their wider availability
- Real financial benefits, and a better utilisation and allocation of public funds
- Economic growth and increased and wider employment opportunities

In addition to above, following benefits also accrue from Public Private Partnership

- Synergies are created by combination of Public and Private Sector
- Meets the paucity of resources by the Government
- Enhances confidence of the Private Sector
- Brings more transparency

Different Ventures of PPP in connection with Criminal Justice System:

- Observation Homes and Rehabilitation Centers under JJSA 2018
- Juvenile Justice Committees
- Dispute Resolution Councils in KPK
- Community Policing
- CPLCS
- Parole Licensing

Legal Framework for Public Private Partnership in Pakistan

Public Partnership Authority established vide Public Private Partnership Act 2017 is the key agency of the Government mandated by the statute to explore avenues of cooperation with Private Sector in Public Projects.

⁴³ ibid

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Challenges in connection with Public Private Partnership in Pakistan:

- Governance Deficit
- Corruption
- Bureaucratic Hurdles
- Trust Deficit
- Legal and Judicial System
- Political Uncertainty



Crimes and Urbanization

Pakistan has the highest rates of urbanization in South Asia, with a projected population of 335 million by 2050, and an annual urbanization rate of 3.06%⁴⁴. (IBA Karachi)

Causes of Positive Correlation amongst Urbanization and Crime Rate:

Overpopulation, unemployment, family system, social services under strain, working mothers, access to technology etc)

Organized Crime:

The unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.

Characteristics (i) Organized crime is a conspiratorial crime. (ii) Organized crime has profit as its primary goal. (iii) Organized crime is not limited to illegal enterprises or unlawful services but includes sophisticated activities as well. (iv) Organized crime is predatory, using intimidation, violence corruption and appeals to greed. (v) Organized crime's conspiratorial groups are well disciplined and incorrigible. (vi) Organized crime is not synonymous with the Mafia but knows no ethnic bounds. (vii) Organized crime excludes political terrorists, being politically conservative, not radical.

Money Laundering

Definition

The Process of concealing origin of illegally earned money by integrating it in the legitimate financial System. According to Crimes and Conduct Commission, Australia , the Money Laundering is defined as under

The term 'money laundering' refers to the activities and financial transactions that are undertaken with the specific aim of hiding the true source of income. Usually the money involved has been derived from an illegal enterprise and the goal is to give that money the appearance of coming from a legitimate source. Sometimes, however, money legitimately obtained can also become the subject of money laundering; it may, for example, be disposed of in such a way that it evades lawful taxation.

Stages of Money Laundering:

- i. Placement
- ii. Layering
- iii. Integration

Placement:

In this stage the money earned through illegal means is entered in to the Banking System through various tools and tactics. It may include making small deposits in to the banking system.

Layering

The money entered in to the Banking System is subjected to multiple transactions to hide its origin. These transactions are made to appear as legitimate Commercial Transaction.

Integration

It is the last stage wherein the layered money goes back to the money launderer who now declares it as a legally money.

Law relating to Money Laundering in Pakistan:

Anti-Money Laundering Act 2010

Definition of Money laundering under Section 3 of the Act

Offence of money laundering.—A person shall be guilty of offence of money laundering, if the person:—

- (a) acquires, converts, possesses, uses or transfers property, knowing or having reason to believe that such property is proceeds of crime;

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- (b) conceals or disguises the true nature, origin, location, disposition, movement or ownership of property, knowing or having reason to believe that such property is proceeds of crime;
- (c) holds or possesses on behalf of any other person any property knowing or having reason to believe that such property is proceeds of crime; or
- (d) participates in, associates, conspires to commit, attempts to commit, aids, abets, facilitates, or counsels the commission of the acts specified in clauses (a), (b) and (c).

Punishment for money laundering U/S 4 of Money Laundering Act.—

Whoever commits the offence of money laundering shall be punishable with rigorous imprisonment for a term which shall **not be less than one year but may extend to ten years** and shall also be liable to fine which may extend to one million rupees and shall also be liable to forfeiture of property involved in money laundering or property of corresponding value.

Institutional Framework for Money Laundering in Pakistan:

The Institutional Framework of money laundering in Pakistan is regulated by Anti Money Laundering Act 2010. Given below is the Detail of the Institutions.

I. National Executive Committee (NEC)

NEC is the top most body entrusted to implement the Money laundering Framework in Pakistan.

Its Composition is given hereunder.

- (a) Minister for Finance or Advisor to the Prime Minister on Finance(Chairperson)
- (b) Minister on Foreign Affairs
- (c) Minister for Law and Justice
- (d) Minister for Interior
- (e) Governor SBP
- (f) Chairman SECP
- (g) Director General FMU(Secretary)

Roles and Functions of NEC are given under Section 5 of the Act.

- Develop, review and oversee the implementation of national strategy to fight money laundering and financing of terrorism.
- Determine offences existing in Pakistan that may be considered to be predicate offences for the purposes of this Act.
- Provide guidance and sanction in framing of rules and regulations under this Act.
- Make recommendations to the Federal Government for effective implementation of this Act and framing of national policy to combat money laundering and financing of terrorism.
- Issue necessary directions to the agencies involved in the implementation and administration of this Act;

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- Discuss any other issue of national importance relating to money laundering and financing of terrorism
- Undertake and perform such other functions as assigned to it by the Federal Government, relating to money laundering and financing of terrorism.

2. General Committee

Headed by the Secretary Finance, the General Committee is required to assist the NEC in discharge of the statutory functions. The Composition of General Committee is given hereunder.

- (a) **Secretary Finance: Chairman**
- (b) Secretary Interior: Member
- (c) Secretary Foreign Affairs :Member
- (d) Secretary Law :Member
- (da) Chairman National Accountability Bureau :Member
- (db) Chairman Federal Board of Revenue: Member
- (dc) Director General, Federal Investigation Agency :Member
- (dd) Director General, Anti Narcotics Force: Member
- (e) Deputy Governor SBP :Member
- (f) Commissioner SECP : Member
- (g) Director General: Member(Secretary)

3. Financial Monitoring Unit

The FMU is the functional arm of Santi Money Laundering Frame work in Pakistan. Its designated as Financial Intelligence Unit as required under FATF Regulations. FMU receives Suspicious Transactions Reports(STR) and Currency Transaction Reports(CTR) from Financial Institutions and Non-Financial Business Professions.

Section 6(2) provides great deal of autonomy to the Financial Monitoring Unit in following manner.

The FMU shall have independent decision-making authority on day-to-day matters coming within its areas of responsibility.

Other functions and powers of Financial Monitoring Unit are given in the Act in following manner.

- a. To receive Suspicious Transaction Reports and CTRs from financial institutions and such non financial businesses and professions as may be necessary to accomplish the objects of this Act;
- b. To analyse the Suspicious Transaction Reports and CTRs and in that respect the FMU may call for record and information from any agency or person in Pakistan related to the transaction in question. All such agencies or persons shall be required to promptly provide the requested information;

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- c. To disseminate on a confidential basis, after analyzing the Suspicious Transaction Reports, and CTRs and other record, necessary information or materials to the concerned investigating or prosecuting agencies for enquiry or other action under this Act or any other applicable law;
- d. To create and maintain a data base of all Suspicious Transaction Reports and CTRs, related information and such other materials as the Director General determines are relevant to the work of the FMU and in that respect, the FMU is authorised to establish necessary analytic software and computer equipment to effectively search the database, sort and retrieve information and perform real time linkages with databases of other agencies both in and outside Pakistan as may be required from time to time;
- e. To co-operate with financial intelligence units in other countries and to make reciprocal arrangements after due administrative process to share, request and receive information relating to money laundering and financing of terrorism;
- f. To represent Pakistan at all international and regional organisations and groupings of financial intelligence units and other international groups and forums which address the offence of money laundering and other related matters;
- g. to submit to the General Committee and the National Executive Committee the reports including an annual report containing overall analysis of the Suspicious Transaction Reports and CTRs, statistics concerning the investigations and prosecutions conducted in relation to the offences of money laundering and financing of terrorism in Pakistan and recommendations on countermeasures to combat money laundering and financing of terrorism. In this behalf, FMU may call periodic reports from the investigating and prosecuting agencies in such manner as may be specified by FMU;
- h. to frame regulations in consultation with SBP and SECP for ensuring receipt of Suspicious Transaction Reports and CTRs from the financial institutions and non-financial businesses and professions with the approval of the National Executive Committee;
- i. To recommend to the regulatory authorities of reporting entities to issue regulations as considered necessary in the context of combating money laundering and financing of terrorism, including customer due diligence and ancillary record-keeping.
- j. To enter into arrangements with domestic agencies and authorities or engage a financial institution or an intermediary or such other non-financial businesses and professions or any of its officers as may be necessary for facilitating implementation of the provisions of this Act, the rules or regulations made hereunder; and

Financial Action Task Force

By Zaffar Naqvi, National Officers Academy

FATF is an intergovernmental body established originally by G-7 Countries in 1989 initially to prevent the financial system from abuse by money laundered that at the time of establishment mainly included drug cartels and Illegal Arms Dealers. FATF issued 40 recommendations in 1990 for combating Money Laundering . Eight special recommendations were issued for Terrorist Financing which were increased to 9 in 2004.

Members of FATF

Currently there are 35 countries and two Regional Organizations(GCC&EU) who are full members of the FATF. Saudi Arabia , Israel and Indonesia are observers of FATF.

FATF Review of the Countries

FATF conducts a review to identify the countries with weak intuitional Framework. Such countries are placed in to two categories

High Risk Countries/ Countries subject to Call for Action

Such jurisdiction are exposed to misuse of their financial system and FATF calls upon its members to apply counter measures to deal with such countries. Currently DPRK and Iran or categorized under this list.

Other Monitored Jurisdictions /Countries with strategic Deficiencies

The financial system of these countries contains multiple weaknesses and FATF urges upon such jurisdictions to improve their systems failing which such countries are liable to be moved to the First Category.

Currently following countries are placed in this category.

- Ethiopia
- Pakistan
- Serbia
- Sri Lanka
- Syria
- Trinidad and Tobago
- Tunisia
- Yemen

FATF's Statement about Pakistan

FATF has highlighted following decencies vis a vis Institutional Framework in Pakistan.

In June 2018, Pakistan made a high-level political commitment to work with the FATF and APG to strengthen its AML/CFT regime and to address its strategic counter-terrorist financing-related deficiencies. Pakistan will work to implement its action plan to accomplish these objectives, including by: (1) demonstrating that TF risks are properly identified, assessed, and that supervision is applied on a risk-sensitive basis; (2) demonstrating that remedial actions and sanctions are applied in cases of AML/CFT violations, and that these actions have an effect on AML/CFT compliance by financial institutions; (3) demonstrating that competent authorities are cooperating and taking action to identify and take enforcement action against illegal money or value transfer services

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(MVTS); (4) demonstrating that authorities are identifying cash couriers and enforcing controls on illicit movement of currency and understanding the risk of cash couriers being used for TF; (5) improving inter-agency coordination including between provincial and federal authorities on combating TF risks; (6) demonstrating that law enforcement agencies (LEAs) are identifying and investigating the widest range of TF activity and that TF investigations and prosecutions target designated persons and entities, and persons and entities acting on behalf or at the direction of the designated persons or entities; (7) demonstrating that TF prosecutions result in effective, proportionate and dissuasive sanctions and enhancing the capacity and support for prosecutors and the judiciary; and (8) demonstrating effective implementation of targeted financial sanctions (supported by a comprehensive legal obligation) against all 1267 and 1373 designated terrorists and those acting for or on their behalf, including preventing the raising and moving of funds, identifying and freezing assets (movable and immovable), and prohibiting access to funds and financial services; (9) demonstrating enforcement against TFS violations including administrative and criminal penalties and provincial and federal authorities cooperating on enforcement cases; (10) demonstrating that facilities and services owned or controlled by designated persons are deprived of their resources and the usage of the resources.

Flaws in Institutional Framework concerning Money Laundering in Pakistan

- Shortage of resources provided to FMU
- FMU's office restricted to Karachi
- Lack of Oversight upon NFBPs
- NEC not exercising its role
- Lack of Institutional Coordination
- Non-Submission of Annual Reports
- Undocumented Economy
- Lack of expertise in Investigating Agency

ANTI- MONEY LAUNDERING FRAMEWORK IN PAKISTAN

National Executive Committee

(Headed by Minister Finance)

(The Top Body entrusted to oversee the Policy Framework
and Institutional Arrangement vis a vis Money Laundering in Pakistan)



General Committee

(Headed by Secretary Finance)

Meant to Assist the NEC



FIA

Financial Monitoring Unit(FMU)

www.CSSExamPoint.com
The Functional Arm of the Anti
Money Laundering Framework in

ANF



NATIONAL ACCOUNTABILITY BUREAU (NAB)

National Accountability Bureau is the Prime Agency entrusted to curb corruption in Pakistan. It was Established under National Accountability Ordinance 1999.

OBJECTIVES

Following objectives have been mentioned for the NAB in the Law.

- Detection, investigation, prosecution and speedy disposal of cases involving corruption, corrupt practices, misuse/abuse of power, misappropriation of property, kickbacks, commissions and for matters of similar nature
- Recovery of outstanding amounts from those persons who have committed default in the repayment of amounts to Banks, Financial Institutions, government and other agencies
- Recovery of state money and other assets from those persons who have misappropriated or removed such assets through corruption, corrupt practices and misuse of power and/or authority

Head of Bureau:

NAB is headed by a Chairman appointed by President in consultation with PM and Opposition leader for a term of 4 years which is not extendable.

ELIGIBILITY FOR APPOINTMENT AS CHAIRMAN NAB

- Retired judge of supreme court or retired Chief Justice of High Court
- Retired Armed Forces Officer to the Rank of Lieutenant General
- Retired Civil Servant BS-22

Removal of Chairman:

Can be removed only by Supreme Judicial Council.

Criticism:

- Politicization

- Witch Hunting
- Selective Accountability
- Scope
- Lack of internal Accountability
- Plea Bargain and Voluntary Return
- Remand Period
- Appointment of Chairman
- Centralized Power
- Lack of requisite Capacity to deal with technical cases

Recommendations of Transparency International for improvement of NAB's Performance

Transparency International has made following Recommendations for improvement of NAB's performance.⁴⁵

- Eligibility criteria for Appointment of Chairman NAB be Broad Based (Not restricted to Judges, General and Bureaucrats)
- The provision of Voluntary Return should be eliminated.
- The option of Plea Bargain should only be exercised for approver/s in a transparent manner, only when the main accused in a corruption case can be prosecuted on the approver's confession
- 1% of Gross Domestic Product (GDP) should be allocated to NAB
- An Oversight Committee should be formulated for NAB's Accountability.
- Anti-Corruption should be included in the curriculum of the elementary, secondary and degree programs of educational institutions.
- NAB should increase collaboration with the media.
- NAB should make a thorough analysis of the entire chain of system to improve its conviction rate.
- Prosecutors and investigating officers of NAB should receive training in specialized fields.
- NAB should make full use of social media as a catalyst for public engagement.
- NAB should ensure that its investigation procedures should be completely compliant with the basic rights of the citizens enshrined in Qanoon-e-Shahdat and the country's constitution.
- The timeline for inquiries should be in accordance with the provision in Ehtesab Act 1996.
- NAB should deal with the accused and the witnesses in a dignified and respectful manner.
- Precautionary measures need to ensure the agency does not itself become a source for extortion and corruption.

⁴⁵ http://www.transparency.org.pk/documents/aca_nab16.pdf

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- NAB should ensure that the reference prepared and successfully tried in the Accountability Courts should be upheld in all subsequent review petitions in High Courts and Supreme Court.

FEDERAL INVESTIGATION AGENCY (FIA)

FIA stands for Federal Investigation Agency. It was established under FIA Act, 1974 (Act-VIII of 1975) promulgated on 13-01-1975. FIA was established with objective to deal with following cases:

- Smuggling,
- Narcotics,
- Currency offences,
- Enforcement of Laws relating to Foreigners,
- Immigration & Passports and
- offences having inter-provincial ramifications.

ANTI-NARCOTICS FORCE

Governing Law: The Anti-Narcotics Force Act 1997

Objective:

Enquiry and investigation of offences relating to narcotics and Narcotics Trafficking

Mandate

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- To inquire, investigate and prosecute all offences related or connected with intoxicants, narcotics and precursors.
- Trace and freeze the assets.
- Coordinate elimination and destruction of Poppy cultivation.
- Provide assistance to other law enforcement agencies and share information with all national and International agencies on drug related matters.
- Arrange and coordinate training of own staff and members of other law enforcement agencies related to narcotics.
- Maintain liaison with all international narcotics control authorities and represent Pakistan in conferences and seminars.
- Perform any other related functions that may be assigned by the Federal Government.

Head of The Force:

Force is headed by a Director General. The post has been manned by a serving Major General since creation of the force on 26th August 1993.

Criminal Investigation Analysis: Offender Profiling