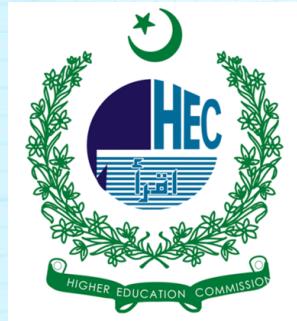


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**CRIMINALIZING CIVIL DISPUTES: MISUSE OF SECTIONS 406
AND 420 PPC, EROSION OF DUE PROCESS, AND THE QUEST
FOR PROCEDURAL REFORM IN CRIMINAL JUSTICE SYSTEM**



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Abstract

There is the rising trend of transforming civil cases into criminal cases which is a grave alteration of Pakistani criminal justice system. The criminal breach of trust and cheating of Section 406 and 420 of the Pakistan penal code which was initially designed to handle deliberate wrongdoing and fraud have increasingly been used to enforce a dispute settlement in those matters which are actually civil in nature. Deals involving property homes, business contracts, partnership or loan deals are often renegotiated as criminal activities, even though the party did not require to defraud the other at the time at which the deal was made. This has led to over criminalization, procedural misuse and undermining due processes. This paper applies a criminological perspective by placing the abuse of Sections 406 and 420 PPC in context within the dynamics of power, coercion and institutional behavior. By relying on conflict and critical criminology theories, it looks at how the availability of police power and selective application can see those in dominant positions use criminal law to their own benefit. The labeling theory is used to examine social, professional, and psychological impact of criminal stigma applied on people involved in non-criminal activity. It also points to institutional motivations in the policing and judicial system of Pakistan that desired arrest, remand, and jailing as the means of pressure and not inquiry. The article, methodologically, uses doctrinal analysis of the statutory provisions, analysis of Supreme Court and High Court jurisprudence and is involved in the established criminology theory. It culminates with a policy agenda reform-oriented featuring procedural protection, responsibility and intent-driven legal thresholds. These reforms are meant to salvage the normative limits of the criminal law and enhance procedural justice of the Pakistani criminal justice system.

Keywords: *Criminalization of Civil Disputes, Sections 406 and 420 PPC, Abuse of Criminal Process, Critical Criminology, Malicious Prosecution, Pakistan Criminal Justice System*

Introduction

Criminal justice system is designed to tackle the behaviors which amount to authentic danger to the social order, trustworthiness and ethical responsibility.(Akhter, 2022) The core differentiation between criminal performance and civil liability has however been becoming less outstanding in Pakistan. The criminal breach of trust (406) and cheating (420) sections of the Pakistan Penal Code have been turned into common tools of converting typical civil litigation (especially, contract, partnership, property transactions and commercial litigation) into criminal litigation. What at one time was intended to be a device of penalizing corrupt and fraudulent behavior has now been used extensively to exert pressure, recoveries or coerce settlements in agreements that in fact are more of a civil character.(CUSTODES & CASES, 2023) This tendency is the indication of the underlying structural issue of the criminal justice system of Pakistan whereby criminal law is not necessarily implemented as a mechanism of justice but as the mechanism of personal vengeance.(Siddique & Hayat, 2008) This phenomenon in criminological terms is an over-criminalization and it compromises normative limits of crime itself. The common admission of first information reports under Sections 406 and 420 without a close examination and supported by the routine use of arrest at the preliminary phase has undermined the basic due-process rights. Those who are charged with commercial or contractual litigation are stains of being criminals, being held in custody until trial, and undergoing weeks of investigations, which in essence amount to punishment even before the conduct of guilt. These practices undermine the postulation of innocence and pervert the aim of criminal procedure shifting the interest in investigation to coercion.(Murray, 2021) These provisions are associated with systemic weaknesses in the civil justice system that are closely related to the abuse of such solutions such as procedural dragging, the high cost of litigation, and the low application of civil decrees. That is why,

nowadays more and more aggrieved parties address the criminal complaints as an option which is more violent and quicker. Such turn to criminal law as a basis to settle personal disputes becomes an overusing burden on law-enforcement agencies and courts and also undermines the belief that the courts are fair.(Faizai et al., 2015)

This article places the problem in a broader context of criminological and procedural studies on Pakistan, sheds light on the effects of criminalization of civil disputes on due process, and proposes the solution in the form of procedural changes specific to the proper operation of the criminal law in the justice system.

Conceptual and Criminological Framework

Over-Criminalization and Penal Expansion

Over-criminalization in terms of the criminological literature can be discussed as the disproportional application of the criminal law to control the behavior that does not present a serious threat to society and would rather be managed within the civil or administrative institutions. It involves the expansion of penal authority in areas that have always been under the jurisdiction of the common law and it thus pollutes the morality and social meaning of crime. Researchers argue that excessive criminalization undermines the credibility of the criminal justice system as regulatory failures as well as breach of contracts and economic conflicts are now the subjects of when a crime has been committed, not when there has been negligent conduct. This growth denotes the transformation of criminal law as the last resort to criminal law as an enforcement tool.(Mahmood, 2021) The over-criminalization is clearly developed in Pakistan, in which civil disputes are transformed into criminal cases under Section 406 and 420 of the Pakistan Penal Code. Failure to establish a contract, failure to pay on time or default of a business is habitually redefined as a criminal violation of trust or cheating even when no intent of perpetrating a fraud when the contract was initially entered into. The fact that first information reports are habitually registered in such cases is spreading the penal net to include people whose actions are not the key forms of criminality. There is not only the perversion of the substantive definition of crime but also the loading of the criminal judicial system with the cases which are better to be discussed in civil courts and leading thus to the systemic ineffectiveness and injustice of the procedures.(Hunter, 2024)

Conflict and Critical Criminology

Conflict and critical criminology does not view law as a neutral force but rather it is viewed as a mechanism which is influenced by power relations in a given society. In that sense, criminal law can be a perceived possibility to serve the interests of hegemonic social and economical groups bolstering existing hierarchies and making selective enforcement possible. There is unequal distribution in access to legal institutions especially the police, such that the influential actors can mobilize criminal law against weaker actors. The exploitation of the law as a power of control and not a power of justice is one of the main issues of the critical criminological theory. This dynamic in the legal arena in Pakistan is demonstrated through the abuse of Pakistani law in Sections 406 and 420 of the Pakistan Penal Code. Parties with more funds or social connections have an advantage to influence criminal cases, be arrested and provide pressure by means of imprisonment. The ability of police to choose registration of first information reports and arrests further increases this imbalance, which often favors complainants who have some political or economic influence. The criminal law therefore turns into a tool of settling of personal conflicts by use of force, which strengthens structural inequity and also weakens the principle of accessing to equal justice.(Wong)

Labeling Theory and Legal Stigma

The importance of labeling theory is that it relies on the social impacts of defining and responding to behavior as criminal. It postulates that an accusation of offender can be worse than the offense itself especially when used in describing the kinds of behavior which do not necessarily need criminal investigation. Once a person is assigned as an accused in a criminal matter, the connotation of that label creates a social identity, social perception and on future dealings with legal bodies. When the civil dispute is penalized in a criminal way, the criminal label has drastic social, professional, and psychological consequences. When accused individuals are suffered reputational damages, discontinuity of business

operation, and being excluded of professional and social networking, despite proceedings that eventually lead to acquittal or compromise. The psychological impact that arrest, detention and lengthy litigation inflict on the suspect is often long-lasting and may generate anxiety as well as anti-social tendencies. Criminologically, labeling of criminals, which is applied unfairly even under civil circumstances, only increases the levels of social sufferings and undermines trust in the impartiality and uprightness of the criminal justice system.(Pikramenou, 2019)

Legal Architecture of Sections 406 and 420 PPC

Statutory Elements and Men Rea Requirements

The clause 406 and 420 of the Pakistan penalties code are designed in such a way that, they criminalize acts and behaviors that reflect intentional violations of either the truth or fraudulent behavior, and not ignorance of civil duty. Section 406, criminal breach of trust, requires the evidence of entrustment and following misappropriation / conversion of the entrusted property or dishonesty. This is the basic component, which is men rea and it appears in the deliberate misuse of trust to unjustified advantage. Likewise, the cheating and dishonest inducement of delivery of property are covered in Section 420 and the accused should have been of a fraudulent or dishonest purpose initially when performing the transaction. Such absence of intention relegates criminal responsibility even in cases where the transaction lacks success or performance later. It is the focus on intention during inducement that keeps being one of the major features of the statutory scheme. Indeed, criminal law only comes in with deception before consent, hence, the difference between criminal or contract fraud and commercial risk or contract failure. The judiciary of Pakistan has been always emphatic that later actions, failures to act cannot in any way conclude a criminal intent. In spite of this doctrine clarity, the statutory protective measures that are incorporated in these provisions are often disregarded during the initial steps of the criminal procedure.(Altaf et al., 2018)

Doctrinal Link Between Section 405 and Section 406 PPC

Section 406 does not introduce a new act, it just provides penalties to the act which is already outlined in the Section 405 of the Penal code. It follows that any prosecution relying on Section 406 must satisfy all the in-separable elements of criminal breach of trust as defined in Section 405 such as the presence of a valid entrustment of property, and demonstration of a dishonest misappropriation of property or conversion. Practically, though, this dogmatic qualification is often overlooked; and it is alleged under Section 406, without any prior examination as to the existence of a trust relationship. This kind of procedural detachment undermines the legal basis of criminal prosecutions and allows contractual conflict to be restructured as law-breaking. The first threshold of the very criminal negligence of trust is entrustment. Under Section 405, the facts of fiduciary or trust relationship require that the defendant have a fiduciary or trust-based relationship with the entrustor, whereby he or she is under statutory duty to use or repair the property entrusted to him or her in a particular way. Many commercial activities are not naturally fraught with such entrustment, and these include: advance money, partnership capital, etc. By making law-enforcement institutions equate all financial transfers with entrustments, the law-enforcement thus extend criminal responsibility to the statutory limit. This false interpretation converts the common commercial risk into the alleged criminal activity and in the process confines the civil-criminal line that the Penal Code intends to enforce. The section 405 requires that there be the evidence of dishonest misappropriation or conversion as opposed to not honoring an obligation. The failure to repay money or contract consummate on its own would not inherently amount to criminal breach of trust. However, in most investigative procedures, non-performance is often considered as an indication of the defaulter lying down the line of dishonesty, without examining the defaulter in the actual conversion of the property to personal benefit. This retrograde inferential strategy reduces the intent requirement and transforms economic loss into a criminal charge and, thus, violates the intent-based criminal liability structure.(Kirkpatrick et al., 2025)

Civil Breach versus Criminal Offense

The differences in doctrines between civil breach of contract and criminal liability lie in the existence of dishonest intention or none. A civil breach occurs when one of the parties to the contract does not fulfill his

contractual duties due to negligence or financial hardship or alteration of circumstances. Those failures attract the civil remedies of damages or specific performance, but not criminal penalties. Criminal liability, conversely, needs to establish intentional misrepresentation or embezzlement of assets leading to or in connection with the transfer. Practically, this line has been definably grey in the enforcement situation of Pakistan. Police officials tend to consider commercial conflicts, dissolution of partnerships, contractual issues as criminal ones basing on the charges brought to them by the person who complains instead of considering legal objective criteria. Color of commercial transactions and the need to provide complainants with immediate relief only adds to this ambiguity. The criminal law has therefore been applied in context where the conflict by itself is basically civil in nature, thus compromising on the clear doctrines as well as the fairness of the procedures.(Bedi, 2011)

Doctrinal Relationship Between Section 415 and Section 420 PPC

Section 420 in the form of Aggravated Cheating

Section 420 of the Penal Code only comes into effect when the offense of cheating in terms of the Section 415 has been determined beyond reasonable doubt and is compounded by passing off property. Without evidence of cheating determined under the meaning of the term in Section 415, the legal statute of Section 420 is inapplicable. However, claims regularly utilize Section 420 based on mere fact that money or property had been transacted without providing the fact that there was deception when the inducement was made. Such a practice helps remove the penalty off its statutory basis and allows criminal prosecution to take place in matters that are essentially contracts in nature.

Original Deception is the First-degree necessity of Cheating

Under Section 415, all cases of cheating require that there exist a dishonest or fraudulent intention that exists when consent is secured. In the event that the intent to deceive emerges later, the act can attract civil liability and not meet the criminal element of cheating. Most of the crashed business deals are typified by the true intention at the onset and loss of money or business failure. By trying to put on trivial tracings of original fraud through consequential default, an investigator obscures the boundary of the law in guaranteeing deceit and disappointment, and ultimately, dilutes the accuracy of the dogma between breach of contract and criminal acts.

Property Delivery and the Danger of Over-Criminalization

Though the delivery of property is also a condition, which is required in Section 420, it cannot be viewed as an independent evidence of criminal intent. Delivery in commercial dealings is often performed under the mutual performance but not following deception. The definition of delivery as the key element allows framing just about any unfortunate transaction as a case of cheating. This kind of a strategy magnifies criminal responsibility and puts the prosecutor at cross roads where the focus is not on fraudulent behavior but financial loss, which should in a more appropriate kind of a prosecution should be resolved by civil action.(Oldfield, 2024)

Judicial Standards and Their Inconsistent Application

The high courts of Pakistan have been steadfast to outline protection against the accused misinterpretation of the Section 406 and 420 of the PPC. Jurisprudence throughout Supreme Court and High Court Rulings states that criminal actions should never be used to adjudicate civil cases and that claims on men rea must be researched with a keen eye by the court. The judicial precedents highlight that in a case when a conflict is mostly based on contractual relations and has no indications of a primary fraud intentions, the criminal prosecution is an abuse of the process. Even in the light of these obvious judiciary standards, its application in the police and magistrate level is not uniform. FIRs are often registered without proper investigation into the nature of the dispute and the arrests are approved without a review of the needed components of the offence. Magistrates have the duty of ensuring liberty and they end up not using effective supervision on remand. This detachment of appellate jurisprudence and the application of ground level enforcement facilitates the further criminalization of civil dispute undermining due process and undermining the

corrective function of judicial interpretation in the criminal justice system.(Duck-Mayr, 2022; Olson & Fusco, 2012)

Empirical Patterns of Misuse in Pakistan

Criminal litigation empirical evidence in Pakistan has shown that a consistent trend has been that certain types of civil litigations are habitually reclassified as criminal cases according to the provisions of Section 406 and 420 of the Penal Code. Cases related to property make up a considerable percentage of such cases especially in situations that concern sale agreements, advance deposit and ownership lateness. Disagreements in the business and partnership are also criminalized especially where the ventures go bad or where the projected profits are not realized. Lending and borrowing of loans are often perceived as cheating or lack of trust when a borrower defaults or even becomes slow in repaying. In both types of cases the root cause of the wrongdoing is usually a performance failure, as opposed to the existence of a fraudulent motive during the initiation of the deal. The aspect of police discretion has a conclusive role in transformation of civil disputes into criminal charges. The documentation of the First Information Report (FIR) is commonly done as ritualistic exercise based on the narrative given by the complainant and not a legal consideration of the applicable statutory aspects. This is particularly susceptible to economic offences, where documents, money, and transactions are involved and initially leave one to believe that they are indicative of dishonesty. Practically, the police officers do not perform a *prima facie* investigation of men rea, even though they are supposed to comply with judicial instructions, according to which they are supposed to scrutinize the men rea. This flexibility gives criminal law a chance to be adopted in circumstances when civil remedies are unmistakably available and more adequate.(Khan, 2010; Nazir et al., 2024)

The informal recovery measures, which are commonly used instead of the investigative instrument feature arrest and personal remand. The suspects in financial cases are usually jailed immediately following registration of FIR and this poses an immediate burden of clearing disputable amounts or a compromise. Dangers of extended custody term are combined with stigma of criminal charges; thus, the possibility of negotiating a settlement without a formal hearing. This coercive relationship is conditioned by remand proceedings, which instead of protecting liberty frequently endorses it, on the one hand, by authorizing the custody without investigating the civil character of the case and the need to arrest. Such practice is an excellent way of turning criminal procedure into a debt-enforcement effort. There are additional structural incentives in the justice system of Pakistan, which promote criminalization of civil conflicts. The common perception about civil litigation is that it is slow, very expensive, and inherently uncertain, but criminal proceedings are perceived as being fast, having leverage and coercion with the state. In the case of police officials, it is easier to put down FIRs than to have sophisticated investigations on serious crime cases. These cases can also create rent-seeking opportunities and negotiated resolutions in non-formal ways, and in this way, institutionalize misuse. Criminal remedies are said to be a tactic by lawyers and intermediaries to complainants, and not a legal requirement. Alongside the official actions, extra-legal and informal pressure is also essential in still maintaining this trend. Political relations, social influence and mediation of communities are often mobilized to influence the action of the police and the discretion of the judiciary. Accused persons would need to possibly withstand community humiliation and threats or coercion by immediate rulers to prevent the issue to prolong. These rituals are applied in addition to official legal procedures making the effects of criminalization even more coercive. All these empirical trends reveal that the abuse of Sections 406 and 420 of the Penal Code is not an accident rather it is incorporated in the larger institutional and social processes of the criminal justice system in Pakistan.(Ali et al., 2025; Munir, 2021; Zaheer et al., 2024)

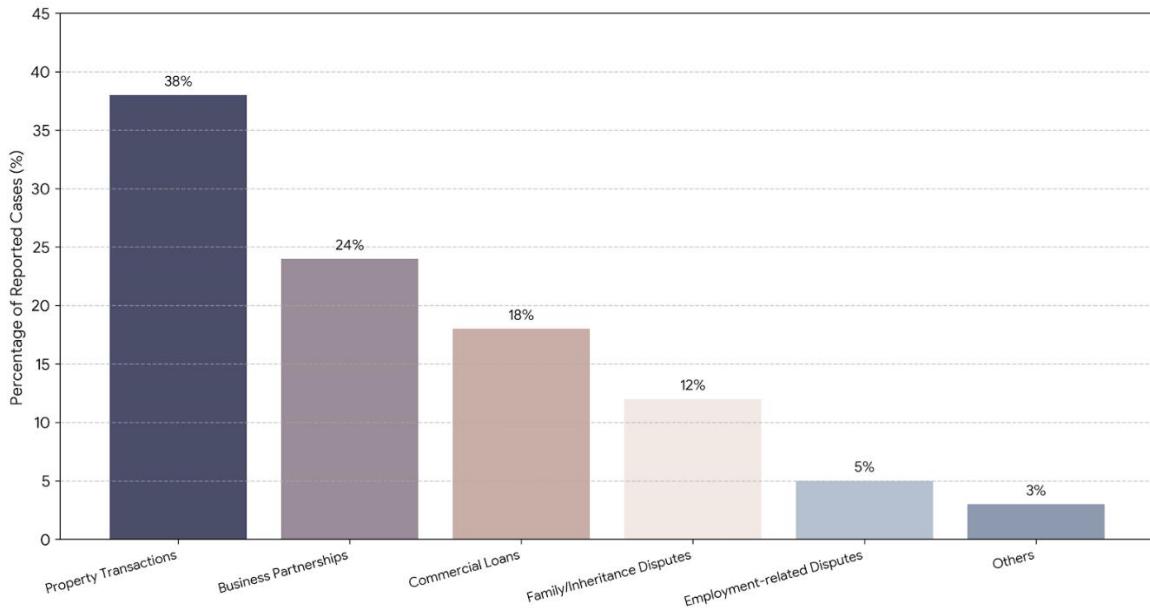


Figure 4. 1 Bar chart illustrates the frequency with which various civil matters in Pakistan are litigated as criminal offenses under Sections 406 and 420 PPC

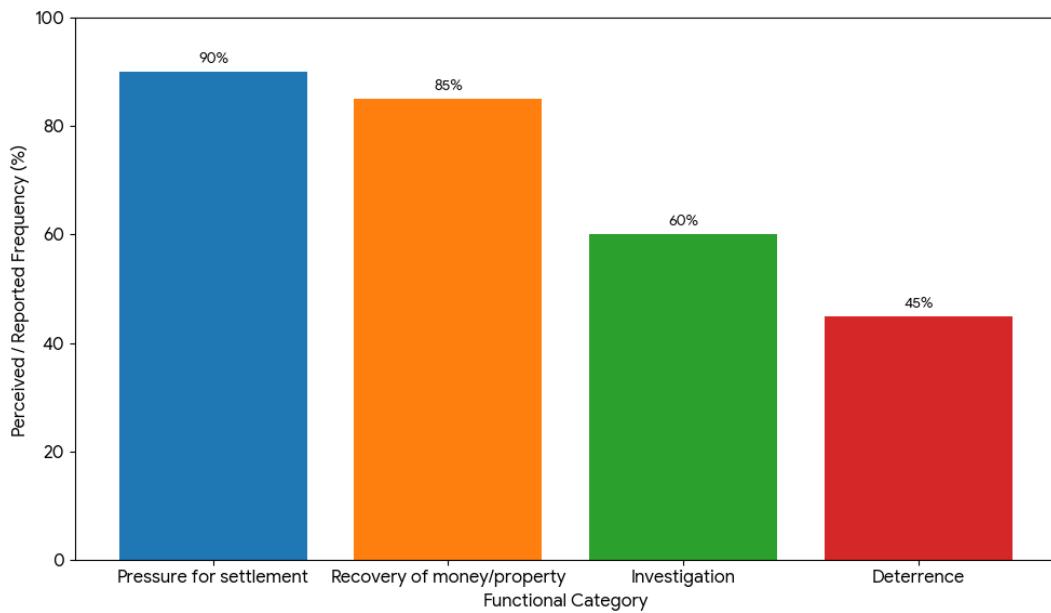


Figure 4. 2 Conceptual representation of arrest as a tool for recovery and settlement pressure in financial disputes under Sections 406 and 420 PPC

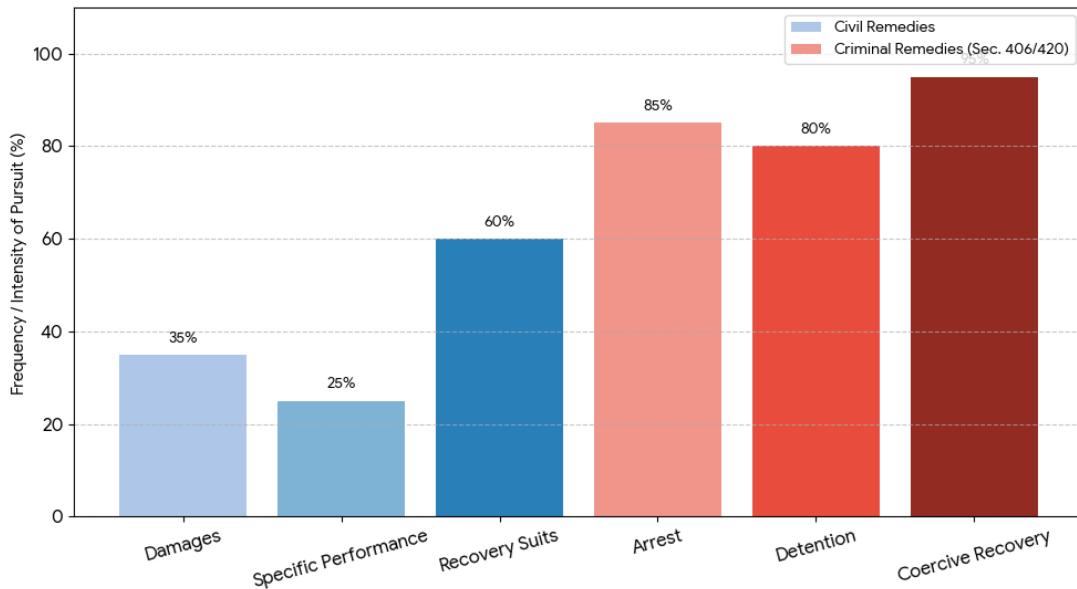


Figure 4. 3 Shift from Civil Remedies to Criminal Coercion in Economic Disputes

Procedural Consequences of Ignoring Foundational Statutory Tests

Financial Collapse of Civil-Criminal Difference during the Enforcement Phase

The distinction between civil and criminal jurisprudence can be blurred in the situation when the law enforcement agents are unable to meet the primary requirements of entrustment (Section 405) and inducement (Section 415). As a result, criminal process mechanisms have become replacements of civil enforcement as opposed to a response to substantive moral violation. Such reduction in the structural realms of the criminal courts increases the caseload of the criminal courts and undermines it in its civil adjudication, thus creating a vicious circle whereby the criminal law is now used to straightforwardly settle personal conflicts.

Complaints of Strategic Criminal Complaints are incentivized

The lax personal implementation of the statutory thresholds encourages plaintiffs to reframe civil disputes as a criminal conduct, which refers to the instantaneous nature of arrest and custody as the forms of the pressure effect. Lawyers and third-party intermediaries also promote criminal avenues as a referral to recovery with full understanding of limited precaution at the preliminary stage. Through such behavior, this develops into a habit and culture thus re-defining the exploitation of the Sections 406 and 420 as a calculated litigation practice as opposed to a procedural aberration.

Coercive Settlement Coercive Settlement should be institutionalized

Arrest as the instrument of bargaining is cultivated by the customary acceptance of marginally substantial First Information Report and the continuance of automatic remand order. Facing possible delays of up to several months in custody, a detainee will often make unfavored settlements to avoid being detained or to minimize the loss of reputation. With time, this praxis is institutionalized and takes the place of the investigative rigor with negotiated restitution. This effect contravenes the purpose of the criminal procedure and turns the state power into adjudicative adjudication in the manner of coercive enforcement.(Grant & Pryce, 2020)

Erosion of Due Process and Procedural Justice

FIR Registration Without Preliminary Inquiry

A common point of erosion of due process in cases under the invocation of Sections 406 and 420 of the Penal Code is there when the case is being registered under the First Information Report (FIR). Instead of

operating as a substantive judicial filter, FIR registration has instead been made, practically, a mechanical administrative measure, motivated majorly by the allegations of the complainant. Police officers will hardly investigate the issue of whether the necessary conditions of criminal breach of trust or breach of cheating are met *prima facie*. Lack of serious legal examination especially on the issue of men rea allows the seemingly civil litigations to be internalized in the criminal justice framework. This defies the principle of procedural justice in that there is bypass on the principle that criminal law ought to be applied in situations where conduct has shown actual criminality.

Arrest as Punishment

Arrest, to allow investigation or absconding to be prevented, has become more and more of a punitive nature in financial and commercial disputes. Arrested persons are often detained directly after the registration of FIR regardless of the documentation evidence, or even the predominantly civil character of the dispute. The pre-trial detention is then a type of coercive tool and this places pressure on the suspect to pay disputable amounts or accept unfavorable settlements. In other cases, the fear of long term imprisonment causes forced confessions or negotiated confessions without the supervision of the court. The procedure of arrest as punishment is defiant to the presumption of innocence and turns criminal procedure into a tool of economic and psychological coercion.

Bail, Remand, and Magistracy

The magistracy is institutionally placed as the main protector of personal freedom; however, its position as a gate-keeper is very low in situations related to Sections 406 and 420. Remands orders are commonly granted without a strict evaluation as to whether custody is needed on investigation purposes or even as to whether or not the conflict is mainly civil. Bail, in which case is relevant to document-based, non-violent crimes, is delayed or denied, which only enhances the punitive impact of the arrest. This over time becomes a normal practice of going without freedom of doing what does not deserve criminal attention. Such cases are regularly accepted of custody and this is an indication of procedural culture that favors administrative convenience above constitutional rights.

Victimhood Reversal and Secondary Victimization

One of the important outcomes of procedural abuse is the victimization in the criminal process. Those individuals who are accused in civil cases are re-situated as criminals, whereas the real damage they have to endure under unlawful arrest, imprisonment, lost reputation, etc. is disregarded. This turn about creates second victimization, which is a situation of the accused being victimized by the justice system itself. The emotional pressure, norm breach, and financial inconvenience that such people undergo is frequently greater than the damage of a pre-existing conflict. In the context of criminology, this reversal of victimhood reveals the ineffectiveness of a system that causes harm during the process, instead of prophylaxis and thus further contributes to the diminution of trust in the legitimacy of criminal justice in Pakistan.

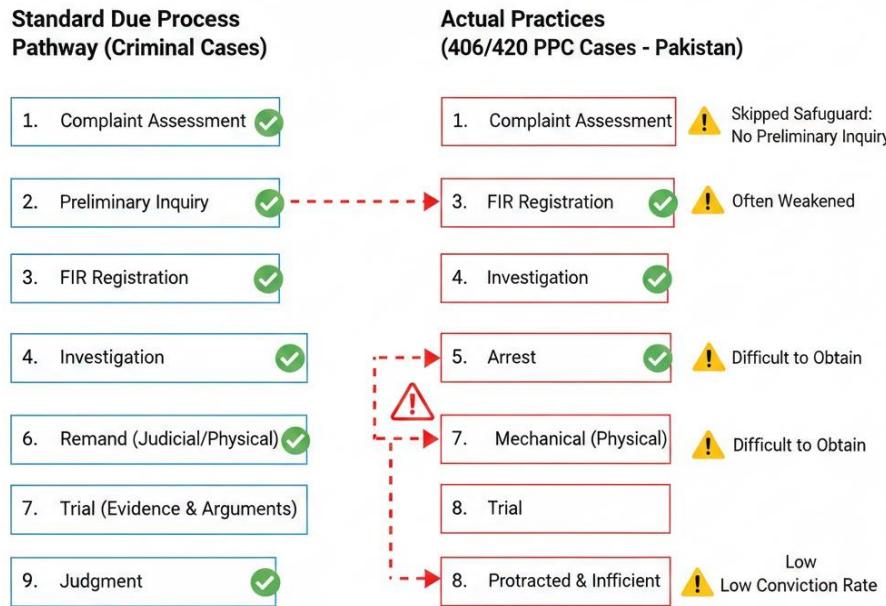


Figure 5.1 A comparative analysis of the statutory due process pathway versus the practical shortcuts and weakened safeguards often observed in Pakistani white-collar criminal proceedings

Toward Procedural Reform: A Criminological Policy Agenda

Mandatory Pre-FIR Legal Scrutiny

An effective reaction against improper use of Section 406 and 420 of the Penal Code (PPC) would require an initial examination on the entrance into the criminal justice system. Such a filter against criminalization of civil disputes can be an effective filter provided by mandatory pre-FIR examination by trained legal officers or public prosecutors. This should be studied on whether the key statutory constituents especially dishonest intention when the transaction was initiated, are *prima facie* proved. The discretionary space that facilitates abuse can be significantly minimized by bringing about a legal evaluation before the police action. Criminologically speaking, such a reformation helps curb the development of the penal and uphold the tenet that criminal law must act as a final option and not as a first response to personal conflict.

Clear Judicial Tests for Civil–Criminal Distinction

There has been no clear operational definition on where the line is drawn between civil breach and criminal offence which has made enforcement inconsistent. Although guiding principles have been presented by superior courts, they have remained rather abstract and not much used at the trial level. Having explicit, willful judicial criteria regarding which types of conflict are considered as civil or criminal would increase procedural certainty. Courts and investigators should be under such requirements in such tests to ascertain certain red flags of a fraudulent intent during the time of inducement and not on the non-performance afterwards. Making these thresholds part of procedural law would make the judicial practice reflective of criminological issues of over-criminalization as well as to maintain criminal liability being exclusive to conduct of real moral blameworthiness.

Police Training and Accountability Mechanisms

Police practices are at the center of averting or preventing criminal legal abuse. When criminology-based training is introduced into the police training process, this will help change the attitudes of the institutions in relation to economic and business disputes. The focus of training should be on the social implications of the wrongful criminalization, the value of procedural justice and the difference between investigation and coercion. Strong accountability mechanisms must be in place together with training. Unbiased use of police power can be discouraged by internal control, a reasoned argumentation behind registration of FIR and arrest,

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and also questioning by independent agencies. These measures advance an idea of policing, which places emphasis on the legality, proportionality, and public trust in preference to expediency.

Sanctions for Malicious Prosecution

The demand-side incentives which promote weaponization of criminal law should also be dealt with effectively through reform. The lack of substantial penalties on malaise prosecution encourages invalid complainants to abuse the provisions of the PPC that is, Section 406 and 420. As a deterrent to abuse, addicting and implementing penalties against false or vexatious criminal complaints can also be used. These sanctions need not be mere symbolic expenses; there must be compensatory and procedural penalties as well as penalties on those who bring criminal actions in bad faith. Criminologically, these measures re-tune the economic value system of legal mobilization strategic abuse and re-enforcing the normative framework between civil remedies and criminal punishment on the justice system in Pakistan.

Conclusion

The inherent problem in terms of the criminalization of civil conflict under the Sections 406 and 420 of the Pakistani Penal Code reflects a more systematic lack of technocratic ability in the Pakistani criminal justice system wherein criminal law is being used as an enforcement tool within the family instead of a means of social responsibility. Where they essentially involve contractual failures, commercial disputes or property disputes, such conflicts are habitually re-cast as crimes, and thus avoid the remedial process of the civil processes and erode the basic criterion of criminal intent. This is a practice that interferes with the structural integrity of the Penal Code and the ability of the procedure to find due process by subjecting individuals to arrest, detention, and social stigma without any form of actual criminality. According to criminology, systemic effects of routine extension of criminal law into civil spaces are over-criminalization, degraded procedural justice and undermined institutional legitimacy. Criminal labelling is accompanied by long-term social and psychological damage, whereas the use of force to carry out arrest and detention is normalized and used instead of adjudication. These customary practices strengthen power imbalances, enable discrimination in enforcement and criminal procedure also becomes a source of coercion instead of an agency of inquiry. In the long run, these perversions begin to undermine the reputation of the justice system among the population and weaken the very foundations of criminal law. To solve this issue, it is critical to re-conceptualize criminal law as a social good that should prevent the severe injuries to the society rather than a tool that aids in the disputes resolution. Reform of any substance needs to go beyond borderline judicial statements and focus on structural, procedural, and cultural reform. This reform also includes the increased legal examination of the First Information Report phase, intent-based judicial tests, and should establish checks and balances on abuse of police authority, and disincentives against malicious prosecution. It is also urgent that there should be a shift of culture towards institutions based on the tenets of liberty, proportionality, and procedural fairness. It is only with this overhaul of the criminal justice system in Pakistan that the criminal justice system of the country will be able to reassert its credibility, as well as signify the establishment of the right limits between civil liability and criminal punishment.

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