

Analyzing the Procedural Disparities Within Criminal Justice of Pakistan

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ABSTRACT

The Criminal justice system of Pakistan is marred by systemic procedural disparities that enforced the right to a fair trial, guaranteed by Article 10-A of the Constitution of Pakistan 1973. It draws attention to the core barriers which stand in the way of equal opportunity for give justice, such as biasness (institutional, organizational), corruption, prolong delays of litigations and also the unfair outcomes which disturb the whole system of justice. This has the direct effect on public and justice system. This study shows how legal counsel demonstrates in the quality of Services and also how this directly affects the court outcomes or sentencing disparities. This includes the practical reforms that support improved legal aid programs, legislation aid, and proper mechanism to control the unjust delays and biasness and provide the fair justice within criminal justice system of Pakistan.

Keywords: Biasness, Corruption, Procedural flaws, Judicial delays

INTRODUCTION

The ability of a criminal justice system is measured by its maintaining law and order to ensure justice and equal access to every state person. The discretion of judiciary is a key feature which allows the judges of the court to adopt a sentencing for individual's circumstances, by which it can be fair trial but often results are inconsistencies (Kanwel et al., 2023). People face many barriers in the justice system by which they face hurdles to get justice from the system.

The structure of judicial is more difficult and not easy to understand. This systemic failure is also mostly encapsulated by notion that "Justice delayed is justice denied", resulting erode of trust of peoples from this system. Biasness in police investigation is common which affects the whole procedure and its outcomes (Ghani et al., 2023). The constitution guarantees to give the fair trial according to Article 10-A, which is the fundamental right of the state person and this responsibility of the state to protect it (Aslam et al., 2025).

In Summary, this Study demonstrates the disparities within Pakistan Criminal Justice System and proves possible recommendations to promote equality in justice system that benefits everyone. This study aims that how this system in which Biasness, corruption or unnecessary delays, affects the justice system and their outcomes. Also how individual can be affected by this system and erode trust on this system.

Objectives

The main objective of this research is to critically analyze the biasness in investigation, prosecution and adjudication stages of Pakistan criminal justice system process and try to find out the main issue which undermine the fundamental right of a fair trial and also infringe speedy trial.

Research Questions

1. Which legislative and institutional barriers effects the procedure and resource deficits, primary contribute to the immense backlog and irregular procedural delays in criminal adjudication?
2. Which inefficiencies in police investigation, misuse of powers and jeopardize the collection of evidence and compromise fair trial standards?
3. Which reforms are required across the justice system to ensure effective, transparent and equitable administration of justice system, aligning with the system of its constitutional and international mandates?

LITERATURE REVIEW

Analyzing Procedural Disparities

1. Procedural Complexities and Judicial Disparities

The disparities in the justice system are to complex and outdated procedural laws that promotes delays in the litigation (Khan, 2022; Hussain et al., 2021). In courts approximately 1.9 million cases are pending across the Pakistan (Ghani et al., 2023;).

There are some procedural flaws in the judiciary:

➤ Shortage of Judges

The main reason of backlog of cases is the shortage of judges in the courts. One judge deputed against 62000 people, significantly the ideal ratio 1000 to 4000 (Ghani et al., 2023; Ali, 2015). As per report, 2020 1006 judicial positions were vacant at the district level (Waqar et al., 2022).

➤ Delaying Tactics

Litigants and lawyers often engage in delaying tactics, erode Procedural laws through countless filing miscellaneous applications and seeking adjournments unnecessary, which drag the contested litigation 4 to 5 years (Malik & Qureshi, 2021; Shafiq et al., 2022).

➤ Ambiguous Evidences

Article 10-A (right to fair trial) also jeopardized by issues of ambiguous medical certificates. Approximately 90% medical experts are reportedly untrained, hindering the integrity of medico legal reports (Ghani et al., 2023).

2. Disparities in Enforcement of Law and Investigation

Police, is the primary agency of investigation, who introduces most significant lapse that serves to higher equitable rates.

➤ **Quality of Investigation**

The investigations of police are often defective and poor, in which the results are filed to conclusive and just outcomes (Ghani et al., 2023). Investigations are done by lack of knowledge of law, which adequate technical training and the modern instruments (Waqar et al., 2022; Khan & Bilal, 2025). The time period challan (investigating report) is about to 7 to 14 days which is often inefficient for complex cases, making effective investigation difficult (Ali, 2015).

➤ **Misuse of Power and Corruption**

Police misuse their powers widely, section 54 Crpc violation (arrest without warrant) and section 169 Crpc (releasing the accused during investigation), leads to illegal detention, extortion and torture against the public (Ali, 2015). Police are widely perceived corrupt and also the absence of proper check and balance allows these abuses promote undermining the fundamental rights of people.

➤ **Lodging of FIR and Follow-up**

Mostly seems that police misconduct resisting in lodging of FIR in cognizable offences, procedural law violation to keeps official crime rates low (Ali, 2015; Malik & Qureshi, 2021). The misuse of power to registration of false FIRs to harass the innocent people, by against false complaints (PPC sections 182 and 211) are enforced. Elsewhere the difficult process permits for multiple, subsequent investigations in the same case, which not strictly forbidden by the CrPC (Shah & Mahmood, 2023).

3. Weak Prosecution and Institutional Coordination

The justice system undermined by lack of cooperation between prosecution and law enforcement which results work in isolation (Waqar et al., 2022; Lal et al., 2023).

➤ **Prosecution Exclude from Investigation**

Pakistan, the officer (prosecution) often exclude from insisting and interfering to investigating agencies to collect evidence and prepared a legal charge sheet. This is differing from other common jurisdiction of law where prosecutors exercise significant Pre-trial discretion (Lal et al., 2023; Abbas, 2024). By this procedural inefficiencies or gaps, it is cleared that prosecution receives incomplete evidence, compelling then to pursue cases, judicial time wasting and failure to secure conviction (Khan & Bilal, 2025).

➤ **Political Influence and Accountability**

Political influence plays vital roles in justice system and affects it. Prosecution faces political and financial pressure which causes influence of speedy trial and directions (Khan & Bilal, 2025). And when police after submitting a challan and declares the culprit innocent (under section 169) the person forced to file a private complaint, which results further delays (Hussain et al., 2021).

4. Inequality in Socio-Legal

The conclusive result of all the systemic flaws is social-legal imbalance. The person who has no capability to fight the case due to expensive and complex procedure receives “neglect justice” (Abbas, 2024; Khan, 2022; Aslam et al., 2025).

5. Disadvantages of Procedural Barriers

Due to the complex procedure and costly, the poor individuals not receive the equal justice and fair outcomes. The procedures are disproportionate cause’s delays often influencing the fairness of trial (Khan, 2022; Abbas, 2024).

6. Challenges to Specific Procedural Mechanism

The right to fair trial faces challenges by specific procedural mechanism targeting vulnerable groups

➤ Special Courts

The use of power illegal or exceed from the discretionary powers, such as Anti-terrorism court (ATCs), they mostly misused their powers. Sometimes these courts expedite cases that fall outside the scope of terrorism (Aslam et al., 2025).

➤ Protection of Witness

The formal witness protection system is a main procedural obstacle that discourages witnesses due to fear, harassment and expenses (Abbas, 2024; Imran et al., 2024; Aslam et al., 2025).

CONCLUSION

The analysis confirms that in system there are procedural disparities which are originated from its colonial legacy, manifested through antiquated legislation. In these institutional biases, resources shortage and irregular prolong delays in litigation effect on justice system. These factors ensure that the justice system is slow, expensive and also resulting socio-legal imbalance that affects the constitutional right (right to fair trial).

RECOMMENDATION

After the all above discussed issues, we recommend some processes by which this issues, barriers and judicial process can be resolved.

1. Enhanced Legislative and Procedural Modernization

➤ Amend Laws

A proper amendment is requiring removing outdated provisions within CrPC and PPC to make necessary amendment in litigation procedure and reduce the complexities to prove fair justice.

➤ Liability of Cost

Introduce a statute by which cost liability impose on the party initiating false, malicious litigation.

2. Judicial Case Management

➤ Judicial Capacity Increase

Increase the benches of judges and fill the vacant seats to reduce the burden of the cases and backlog cases.

➤ Case Flow Management (CFM)

Apply the mechanism of Case flow mechanism and fix a proper time period to resolve the matter fairly and imposed penalty on unnecessary adjournments.

➤ Alternate Dispute Resolution (ADR)

Expand the ADR centers in provinces to resolve minor issue and disputes to reduce the burden of judicial and promotes settlements.

3. Investigations Prosecution Integration

➤ Investigation Quality Improves

Enhance the quality of technical and legal investigation through trainings on advance technology or learning modern scientific tools to collect evidence.

➤ Establishment of Coordination of Prosecution

Empower the prosecution to pre-trial scrutiny of challan to rectify investigation defects and improve evidence efficiency.

➤ Witness Protection

Introduce the effective witness programs, independence of the prosecution and the police to ensure witness to provide undeterred testimony.

4. Accountability of Institutions

➤ Accountability of Police

Check and balance on the abuse of discretionary powers (CrPC section 54 and 169) etc. through strong senior police vigilance and legal action committee to restrain the illegal detention or corruption.

➤ Law and Justice Commission

In Pakistan the Law and Justice Commission made to lead institutional coordination for procedural reforms, ensuring Article 10-A and all the fundamental rights.

REFERENCES

- Abbas, M. M. S. (2024). PROCEDURAL JUSTICE AND THE RIGHT TO A FAIR TRIAL IN PAKISTAN.
- Ali, S. H. (2015). An analytical study of Criminal Justice System of Pakistan (with special reference to the Province of Punjab). *J. Pol. Stud.*, 22, 17.
- Aslam, S., Ashraf, M. A., Mukhtar, M. A., & Ashraf, M. R. (2025). A CRITICAL EVALUATION OF FAIR TRIAL GUARANTEES IN PAKISTAN'S CRIMINAL JUSTICE SYSTEM. *Policy Journal of Social Science Review*, 3(5), 441-451.
- Ghani, A., Ayub, Z. A., & Rus, M. M. (2023). Justice Delayed is Justice Denied: An Investigation of Factors Causing Backlog of Criminal Cases in Punjab, Pakistan. *Pakistan Journal of Criminology*, 15(3).
- Hussain, A., Akhtar, S., & Hassan, M. (2021). *Studying the Causes of Delay in Criminal Trials under the Criminal Justice System of Pakistan. Global Sociological Review*, VI (II), 52-58.
- Imran, M., Murtiza, M., & Akbar, M. S. (2024). A critical Analysis of the Criminal Justice system in Pakistan. *Journal of Politics and International Studies*, 10(1), 1-16.
- Kanwel, S., Hassan, S. S. U., & Ayub, N. (2023). Critical Analysis of Sentences in the Criminal Justice System of Pakistan. *Pakistan JL Analysis & Wisdom*, 2, 547.
- Khan, E. K. E. (2022). Discrepancies in the Legal System of Pakistan. *Indus Journal of Law and Social Sciences*, 1(1), 27-36.
- Khan, M. J., & Bilal, M. (2025). Justice Delayed, Justice Denied: Examining the Causes of Delays in Pakistan's Criminal Justice System. *Journal of Law & Social Studies (JLSS)*, 7(1), 43-52.
- Lal, S., Rasheed, K., & Ghulam, D. (2023). The role of prosecution in improving justice delivery: A case study of Pakistan's criminal justice system. *Pakistan Journal of International Affairs*, 6(2), 566-577.
- Malik, N., & Qureshi, T. A. (2021). A study of economic, cultural, and political causes of police corruption in Pakistan. *Policing: A journal of policy and practice*, 15(2), 1446-1462.
- Shafiq, H. M. S., Sarwar, M. S., & Shafiq, J. (2022). Justice Delayed is Justice Denied: Reflections of Lawyers and Media Persons to Improve the Legal System. *Pakistan Languages and Humanities Review*, 6(2), 1103-1114.
- Shah, Z., & Mahmood, A. K. (2023). Critical Analysis of Laws-Regulating Criminal Investigation in Pakistan. *Journal of Quranic and Social Studies*, 3(2), 184-212.
- Waqar, M., & Iqbal, A. (2022). Criminal Justice System and its Impacts on Criminal Trial Law, Practice and Procedure in Pakistan: An Analytical Study. *Pakistan Languages and Humanities Review*, 6(3), 289-297.