

## **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).

The problem of delaying in justice is persuasive and also continuing in Pakistan, resulting in the denial of justice. Mostly people from lower background suffer the disproportionate amount of burden of irregular delays and by unjust outcomes (Ch et al., 2024). According to the 2019 report of world just, Pakistan has been ranking 130<sup>th</sup> out of 140 countries for the implementation of rule of law within the state (World just report, 2019).

For the enforcement of laws (Police), Adjudication (courts), and correctional institutes (Prison, Probation and Parole) are contributes to Pakistan Criminal Justice System structurally (Adil, 2019; Imran et al., 2024; Rajput & Rajput, 2020). The absence of cooperation among different entities is a significant barriers. Also prosecution department exists since 2007, they are not still independently completely or functional due to inexperience and challenges. The primary law enforcement body (police) has responsibility for maintaining public order, property protection and prevention of crimes (Adil, 2019; Imran et al., 2024; Rajput & Rajput, 2020; Masudi & Mustafa, 2023; kanwel et al., 2023). For case registration and investigation, criminal court's ultimate decision and the prosecution role is comprehensive. Administrating justice, interpretation of laws and the protection of fundamental rights which is given by constitution of Pakistan are the responsibility of the judiciary, which is made up of the supreme judiciary, High courts and the

subordinate courts (district courts). District courts play a vital role in the judiciary because they handle over 90% of cases (Adil, 2019; Ch et al., 2024; Saeed, 2020).

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 undermines 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**

According to the paper Pakistan's current procedural justice and international fair trial standards established under ICCPR, this research shows that international human rights bodies reject judicial backlogs for procedural delays as a valid excuse. In this, the analyze shows that how absence of a mechanized case-flow management system and it's effective cost significantly hinders access to justice for the oppressed. In this, study undermines colonial era legal codes remains unchanged which despite drastic social and economic shifts. Due to this, socio-legal voids that disproportionality impacts vulnerable on society. This study was undertaken to examine that how systemic delays and outdated case management contribute to procedural inequality and unjust outcomes within the modern legal frame work (Abbas, 2024).

This article critically analyzes the regularization of laws in criminal investigation in Pakistan, mainly focus on the Criminal Procedure Code 1898 and police rules 1934. Highlights the controversial procedure like (Cross-FIR and necessity of proper investigation to prove criminal guilty guilt in courts of law. The control of crimes is only possible when the proper investigation held and brought to justice (Shah & Mahmood, 2023). This research identifies the systemic investigation flaws and delays stemming from the misuse of powers during arrest and stages of remands. It highlights the jurisdictional stations conflict and the controversy of reporting offences which is cognizable (FIRs as primary procedural hurdles). The author argues that following ordained procedures is critical to increase conviction rates and control crimes. The topic was selected because disparities in investigations and discretion of police are the primary failure in the Pakistan justice system.

In this article, the backlogs of criminal cases in Pakistan investigated in Punjab, where appeals took 5 years to fix. This research demonstrate that justice delayed is also justice denied for citizens, overcrowded jails in which many accused waiting for fair trial. This study clearly shows that the shortage of judges and poor investigation are root causes of judicial delays (Ghani et al., 2023). This study identifies the root causes of judicial backlogs via corruption, shortage of judges, poor investigation and unjustified adjournments. Shortcoming of institutions and outdated system exacerbate the pendency of cases, sometimes it takes 25 years to reach the Supreme Court. It shows that systemic inequality, current condition in District courts that creates a massive miscarriage of justice. I work on this research to analyze that how inefficiency of administrative and institutional shortage creates a backlogs that denies justice in Pakistan.

This paper critically evaluates fair trial, noting that the enforcement agencies in Pakistan often falls short of international requirements set by ICCPR. It examines the barriers such as police who abuses and governmental control over courts that erode individual right to fair trials. In this continuous delays and weak prosecution services makes difficult for individuals to obtain fair trial (Aslam et al., 2025). The major gaps identifies in this study like existence of parallel justice system. It finds defendants attend the court more than 70 % without effective legal representation due to underfunded legal aid issues. Frequently delays and weak prosecution services prevent individuals to get justice. This topic was chosen because judicial system structure and lack of legal aid created significant procedural gaps that prevent individuals to get justice.

This paper examines legal framework of Pakistan criminal justice system (investigations, identifying significant challenges in law enforcement). It proposes reform framework focused to make system modernization procedures and enhancing law enforcement training to handle crimes effectively. This study highlights the impact of these gaps which effects the investigations and erodes trust of public in the system (khan et. al., 2018). This research clearly tells that inefficiencies in law enforcement and limited accountability undermine the integrity of investigations. The major hurdles are outdated investigated methods and not proper forensic integrations (DNA analysis). After this study, observes that political interference often result in compromised investigation. This article explores how lack of forensic technology and witness protection laws contributes to procedural failure and low conviction rates.

According to this paper, a strong judiciary is the main part of national progress and equality provides insight in the legal reigning in Pakistan. This analyzes fundamental elements of judicial incomprehension and discrepancies in the legal system of Pakistan that cause suffering for lower class (Khan, 2022). This research highlights issues such as prolonged delays in procedure and massive backlogs of pending suits. Primary element to contributing systemic failure and judicial incomprehension is misinterpretation of laws. This study characterizes the current governing structure as exploitation, benefits to wealthy and undermines the poor. I choose this to highlight how institutional biasness and structural discrepancies prevent the equitable application of procedural law for the public.

#### **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 & Iqbal, 2022).

###### **➤ Delaying tactics**

Litigants and lawyers often engage in delaying tactics, erode Procedural laws through countless filing mischallaneous 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 & Iqbal, 2022; Khan et al., 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. Inadequate wages, lack of accountability and also political influence are the most frequent causes of the systemic corruption among officers, which includes corruption, fraud and excessive force (Malik & Qureshi, 2021).

###### **➤ 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 & Iqbal, 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 et al., 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 et al., 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).

**7. Analyzing disparities through Case studies**

To analyzing the disparities in procedure of justice system of Pakistan we read cases:

➤ **Kainat Soomro Case**

This case took 14 years for completion. Incident occurs in 2007 and the final decree passed on 2021, hearing reveals extreme procedural delays. In this case main issue occurs that there’s no proper management of savior of medical samples by which the medical sample is destroy. This case shows clearly disparities in the Criminal justice system, where systemic failures in implementing victim centric reforms, such as resource allocation for DNA facilities, prolong suffering for survivors (PLD 2020 sindh 611 (Sindh High Court)).

➤ **Mukhtaran mai case**

A gang rape case in Meerwala, Punjab, on June 22, 2002 and the FIR lodged on June 30, 2002. The case was prolonged due to the complex jurisdictional conflict in which involves Anti-Terrorism Court. And also appeals across judicial forums, including Supreme Court suo moto action. The issues centered in this case were delay of lodging of FIR which is probably eight days. The conviction only Abdul Khaliq was upheld for single rape, relying on the implied admission of sexual intercourse found due failure to defense his plead of Nikkah (S.M. case no 5/2005 (Supreme Court of Pakistan 2011)).

➤ **Raymond Davis Case**

This case highlights procedural disparity as the US pressed for released the CIA contractor who killed two men in Lahore, reportedly threatening to cut off aid. The court initially maintained the case as per law of Pakistan; the question of diplomatic immunity was not decided by the court. Davis was acquitted by the court and allowed him to leave immediately after the families accepted diya. The procedural shortcut there’s no finding as to why the killing occurred; clearly shows that high stakes realpolitik superseded standard justice (ISAS Brief No. 191).

**8. Impacts of delaying justice and also unjust outcomes**

➤ **Erosion of Trust**

Excessive delays and low conviction rates undermine public trust because treatment to any litigator is not equal. When the courts took long to deliver justice, the public becomes irritate, which leads to tensions and violence (Ch et al.,

2024; Ali, 2015). The justice system's inefficiencies to give equitable justice caused by continuous increasing backlog of cases, which slow the resolution (; Imran et al., 2024).

➤ **Psychological and Social Stress**

Due to this inequalities and procedural effects not even only justice system affected, also the people who trust on justice system that it will give fair justice be effected. This can cause mental stress to individual by this unfair trial and unjust outcomes (Ch et al., 2024).

➤ **Financial burden**

The expenses including tribunal fees, travel expenses, attorney fees, stamp paper and the main thing bribery caused financially disturb the individual's. Person who has not enough money to bear these expenses, he can faces hurdles in the process of justice system to achieve justice from the system (Aslam et al., 2022; Lakho et al., 2024).

### **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 trail).

### **RECOMMENDATION**

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

**i. 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 statue by which cost liability impose on the party initiating false, malicious litigation.

**ii. 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.

**iii. 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.

**iv. 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.

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