

Illegal Detention by Police and Violations of Section 167 Cr.P.C. in Pakistan

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ABSTRACT

Illegal detention by police remains one of the most persistent human-rights and rule-of-law problems in Pakistan. The issue is not simply that unlawful custody occurs in isolated cases; it is that the formal safeguards built into the Constitution and the Code of Criminal Procedure are often neutralized in practice by delayed production before a magistrate, off-the-record custody, falsified arrest timings, mechanical remand orders, weak judicial scrutiny, and the use of custodial pressure to extract statements, recoveries, or confessions. Section 167 Cr.P.C. was designed to operate as a constitutional checkpoint between police investigation and judicial control. It works together with Section 61 Cr.P.C. and Articles 9, 10, 10A, and 14 of the Constitution to ensure that liberty is not surrendered to investigative convenience. Yet available legal materials, human-rights reporting, and institutional commentary show that the promise of Section 167 is frequently undermined by poor implementation. This article examines the legal framework governing arrest, custody, remand, and habeas corpus in Pakistan, and argues that the most serious problem is not the absence of law but the routine dilution of law through habit, delay, and institutional tolerance. The article highlights how magistrates sometimes fail to act as real guardians of liberty, how police officers continue to treat remand as an investigative shortcut, how vulnerable groups such as juveniles and women face heightened risks, and how the 2022 Torture and Custodial Death Act, while historic, still suffers from enforcement gaps. The article also places Pakistan's framework in conversation with international human-rights norms, especially the prohibition of arbitrary detention and torture. It concludes that meaningful reform requires structured remand hearings, reasons-based judicial orders, accountability for illegal custody, prompt use of Section 491 Cr.P.C., better forensic investigation, and a cultural shift away from confession-driven policing. Illegal detention is not merely a procedural defect; it is an assault on dignity, due process, and the legitimacy of criminal justice itself.

Keywords: *illegal detention, Section 167 Cr.P.C., police remand, Pakistan, custodial torture, judicial custody, habeas corpus, magistracy, due process*

INTRODUCTION

In Pakistan, the story of illegal detention is often told in whispers long before it appears in a judicial file. A family member disappears into a police station. The arrest time on the memo does not match the time of actual pickup. The accused is not produced before a magistrate within twenty-four hours. A remand order, when it finally comes, reads like a formality rather than a serious judicial inquiry. Between arrest and record, law and lived experience begin to separate. That gap is where Section 167 of the Code of Criminal Procedure, 1898 is supposed to intervene. It is not a minor procedural clause. It is one of the main legal devices through which the criminal process attempts to reconcile the needs of investigation with the constitutional command that liberty may be restricted only in accordance with law (Constitution of Pakistan, 2025; Code of Criminal Procedure [Cr.P.C.], 1898).

The importance of Section 167 cannot be understood in isolation. It works with Section 61 Cr.P.C., which bars police from detaining a person arrested without warrant for more than twenty-four hours, exclusive of travel time, unless a magistrate authorizes further detention (Cr.P.C., 1898). It also operates within a constitutional architecture. Article 9 protects liberty; Article 10 safeguards arrest and detention; Article 10A guarantees fair trial and due process; and Article 14 declares dignity inviolable and prohibits torture for the purpose of extracting evidence (Constitution of Pakistan, 2025). Together, these provisions create a simple but powerful idea: the police may investigate crime, but they cannot privately own a person's liberty.

Yet the persistence of custodial abuse shows that the legal architecture has not translated into a stable culture of restraint. Human-rights reporting continues to document torture, custodial violence, and unlawful detention in police custody, while academic and institutional literature points to structural problems in remand practice, weak magistracy, and underdeveloped compensation mechanisms (Human Rights Commission of Pakistan [HRC], 2025; Hussain, 2018; Justice Project Pakistan [JPP], 2021). The problem is therefore not merely doctrinal. It is institutional, procedural, and human. This article argues that violations of Section 167 Cr.P.C. are best understood as a broader failure of criminal justice governance: police overreach survives because judicial control is often formal rather than substantive, and because accountability for illegal custody remains uncertain, delayed, or practically absent.

The article proceeds by first setting out the legal framework of arrest, remand, and unlawful detention in Pakistan. It then explains the design and purpose of Section 167 Cr.P.C.; identifies the most common ways in which police and courts contribute to its violation; examines the interaction between illegal detention and custodial torture; discusses vulnerable groups, especially juveniles and women; evaluates available remedies; and proposes reforms. Throughout, the paper uses official legal texts, judicially oriented manuals, and documented human-rights sources to keep the analysis anchored in verifiable material rather than rhetoric.

LEGAL FRAMEWORK GOVERNING ARREST, DETENTION, AND REMAND IN PAKISTAN

Any serious analysis of illegal detention in Pakistan must begin with the constitutional text. Article 9 of the Constitution states that no person shall be deprived of life or liberty save in accordance with law. Article 10 adds procedural safeguards by requiring that an arrested person be informed of the grounds of arrest, be allowed to consult and be defended by a legal practitioner of choice, and be produced before a magistrate within twenty-four hours, excluding travel time; beyond that period, detention requires magistrate authorization. Article 10A, inserted later, constitutionalizes fair trial and due process. Article 14 deepens the picture by protecting dignity and expressly prohibiting torture for the purpose of extracting evidence (Constitution of Pakistan, 2025). These are not symbolic clauses. They are the constitutional grammar of lawful custody.

The Cr.P.C. gives concrete procedural content to these guarantees. Section 61 repeats the twenty-four-hour rule and ties any extension to a special order under Section 167. Section 167 itself regulates the situation in which investigation cannot be completed within that period and the accusation appears, at least at a preliminary level, to be well-founded. In such a case, the police must transmit the case diary entries and produce the accused before the nearest magistrate, who may authorize detention in custody as he or she thinks fit, but subject to strict limits. The traditional understanding in Pakistan is that police custody is not the norm; it is the exception, available only on strong and exceptional grounds and for the shortest possible period, while judicial custody is comparatively easier to justify, particularly within the first fifteen days (Cr.P.C., 1898; Prosecutor General Punjab, n.d.; JPP, 2021).

The law also contains emergency and corrective mechanisms. Section 491 Cr.P.C. empowers High Courts to issue directions of the nature of habeas corpus where a person is illegally or improperly detained in public or private custody. The same provision is critical because it reminds the state that unlawful detention does not become lawful merely because an FIR exists somewhere in the background. Similarly, the duties and powers of Justices of the Peace under Sections 22-A and 22-B Cr.P.C. create additional pathways for intervention in criminal-process failures, although they do not substitute for direct judicial control over remand (Cr.P.C., 1898).

Substantive criminal law is also relevant. Although Pakistan long lacked a dedicated anti-torture statute, the Torture and Custodial Death (Prevention and Punishment) Act, 2022 now provides a formal framework for addressing torture, custodial rape, and custodial death by public officials. The Act is historically significant, but as the joint JPP–National Commission for Human Rights gap analysis explains, it still faces serious implementation deficiencies, including unclear complaint mechanisms, incomplete compliance with international standards, and uncertainty in operationalizing oversight and investigation structures (National Commission for Human Rights [NCHR] & JPP, 2024).

What follows from this framework is simple in theory: police can arrest where law permits, but they must either complete the essentials of investigation quickly or justify further detention before a magistrate; magistrates must act as constitutional sentinels; and any detention outside the law’s limits is challengeable. The tragedy of practice is that these rules are often treated as boxes to be checked rather than rights to be protected.

SECTION 167 CR.P.C.: PURPOSE, DESIGN, AND CONSTITUTIONAL FUNCTION

Section 167 Cr.P.C. is often described as a remand provision, but that description is too thin. Its deeper function is to interrupt the natural drift of police custody. Without Section 167, an arrested person would remain vulnerable to indefinite investigative detention controlled solely by the police. The section therefore transfers the question of continued custody from the executive sphere to the judicial sphere. In principle, it tells the police: if you need more time, you must account for that need before a magistrate. In constitutional terms, Section 167 is the statutory bridge between police necessity and judicial supervision.

The structure of the section reflects this design. Once the twenty-four-hour period fixed by Section 61 is about to expire, the investigating officer must do more than say the investigation is unfinished. The officer must produce the accused, supply relevant diary material, and show that the accusation is sufficiently founded to justify continued detention. The magistrate must then make a judicial choice. Under the approach reflected in prosecution and bench-book materials in Pakistan, the magistrate may discharge the accused if no cause for further detention is shown, remand the accused to police custody for a limited period on strong grounds, or authorize judicial custody where legally justified. Reasons must be recorded, and a copy of the remand order is to be forwarded to the Sessions Judge. After the first fifteen days, judicial remand and procedural adjournment under Section 344 become relevant, and the prosecution is expected to proceed through submission of challan, including incomplete challan where necessary, rather than keeping the accused in a legal vacuum (Prosecutor General Punjab, n.d.; JPP, 2021).

This design reveals two constitutional values built into Section 167. First, the section affirms that liberty cannot be surrendered to investigative convenience. Police inconvenience is not itself a legal reason for custody. Second, the section assumes that magistrates will behave as independent evaluators rather than passive endorsers of police requests. That assumption is vital. If magistrates merely sign remand papers without rigorous questioning, the judicial checkpoint becomes decorative. The law still appears to be followed, but liberty is no longer meaningfully protected.

The provision also carries a moral logic. Remand is not a reward for poor investigation; it is a narrowly controlled exception justified only when essential investigative steps cannot otherwise be taken. In a lawful system, police should seek custody because it is necessary to recover material evidence, verify leads, confront the accused with specific facts, or complete steps that genuinely require access to the person. They should not seek custody because they have not yet decided what the case is, because they want time to build a story retrospectively, or because they hope custodial pressure will produce a confession. Once remand is used for these latter purposes, Section 167 ceases to be a safeguard and becomes a legal veneer over coercion.

HOW ILLEGAL DETENTION HAPPENS IN PRACTICE

Illegal detention in Pakistan does not occur in only one form. The first and most obvious pattern is detention beyond twenty-four hours without production before a magistrate. This is the clearest violation of both Article 10 and Section 61 Cr.P.C. Yet in practice it is often concealed by false or manipulated arrest timings. Human Rights Watch documented this problem decades ago in its study of juvenile justice, noting that police commonly masked prolonged unlawful detention by falsifying arrest dates; the concern remains relevant because off-the-record pickups and delayed formal arrest continue to be alleged in Pakistan's custody landscape (Human Rights Watch, 1999).

A second common pattern is the use of informal or unrecorded custody before formal remand is sought. A suspect may be picked up, interrogated, moved between police locations, and only later shown as formally arrested. Legally, such detention does not become acceptable merely because paperwork is eventually produced. The whole point of the twenty-four-hour rule is that custody begins when the person is deprived of liberty, not when the state chooses to admit it. Any system that allows police to decide when custody 'officially' starts has already weakened the constitutional guarantee.

Third, even where the accused is produced before a magistrate, detention can remain illegal in substance if the remand hearing is mechanical. Judicial endorsement is not a magic cure. If the magistrate does not ask why custody is required, what investigative step is pending, why the step could not be completed earlier, whether less restrictive alternatives exist, whether the accused bears signs of coercion, and whether the case diary supports the request, then the order may have formal legality but little constitutional integrity. This is why the literature on remand in Pakistan repeatedly emphasizes that reasons must be recorded and that physical remand should be granted only on strong and exceptional grounds (Prosecutor General Punjab, n.d.; JPP, 2021).

Fourth, illegal detention often continues after the first fifteen days because courts and police fail to insist on challan, incomplete challan, or lawful transition to judicial custody under proper procedural terms. The Sindh High Court's 2025 judgment concerning a juvenile detainee is instructive because it stressed that an accused should not be kept in custody for an indefinite period without legal justification and highlighted the duty of magistrates to insist on compliance with Section 173(1) Cr.P.C. and not simply continue remands by inertia. The judgment treated prolonged custody without proper remand as unconstitutional and as a direct affront to Articles 9, 10, and 10A (Sindh High Court, 2025).

Finally, detention becomes illegal when people are held in places or conditions not authorized by law. The Punjab prosecution guidance makes the basic point clearly: a person on police remand may be kept only in a police station, not in an unauthorized 'safe house' or private location, and the law places additional restrictions on female detainees (Prosecutor General Punjab, n.d.). Once custody moves outside recognized legal spaces, the risk of torture and disappearance rises sharply.

MAGISTRATES, JUDICIAL RESPONSIBILITY, AND THE PROBLEM OF RUBBER-STAMP REMAND

The legal system often speaks of police abuse as though it were independent of judicial conduct, but unlawful custody frequently survives because magistrates fail to exercise their own powers rigorously. Section 167 assumes an active magistracy. The magistrate is meant to be the first external decision-maker to test the police claim that continued detention is necessary. This is not a clerical role. It is a constitutional role.

The problem, however, is that remand can become routinized. In busy courts with heavy dockets, magistrates may receive a stream of accused persons and police requests, each framed in generic language: recovery is to be effected, investigation is incomplete, confrontation is required. If the hearing lasts two minutes and the order merely recites the police request, judicial control becomes nominal. The Bench Book prepared by Justice Project Pakistan states that during the first fifteen days, police custody should be given only on strong and exceptional grounds and for the shortest possible period, that reasons must be recorded, and that remand should not be granted in the absence of the accused (JPP, 2021). These principles are not ornamental. They are the minimum signs that a judicial mind has actually engaged with liberty.

Weak remand scrutiny creates at least three harms. First, it encourages investigative laziness. Police learn that they can seek custody with generic language rather than case-specific necessity. Second, it normalizes the idea that detention is the natural setting of investigation rather than an exception. Third, it shifts the burden of proof in practice. Instead of the state proving why custody is needed, the accused must somehow prove why it is not. That inversion is incompatible with the constitutional logic of liberty.

The 2025 Sindh High Court judgment is valuable not only because it condemned police custody without lawful order, but because it criticized judicial hesitation and reminded subordinate judicial officers that they cannot abdicate responsibility merely because of procedural confusion or legislative gaps. Where liberty is at stake, judicial passivity itself becomes part of the problem (Sindh High Court, 2025). In a similar spirit, prosecution training materials in Punjab underscore that granting remand is a judicial function and that the report submitted under Section 167 is not binding on the court (Prosecutor General Punjab, n.d.). In other words, magistrates are not expected to trust the police; they are expected to test the police.

A humane criminal process depends heavily on this point. Many detainees meet a magistrate long before they ever see a trial judge willing to examine the broader fairness of the case. If the magistrate fails to notice injury, fatigue, coercion, or a false arrest timeline, the chance to interrupt illegal detention narrows dramatically. The remand hearing is therefore one of the most important human-rights moments in the entire criminal process.

ILLEGAL DETENTION, TORTURE, AND THE CONFESSION-ORIENTED POLICING MODEL

Illegal detention in Pakistan cannot be analyzed apart from custodial torture. The two are often intertwined. A person held outside lawful time limits or in off-the-record custody is especially vulnerable to coercive interrogation because legal visibility has already been weakened. Article 14(2) of the Constitution directly prohibits torture for the purpose of extracting evidence, and the Torture and Custodial Death (Prevention and Punishment) Act, 2022 criminalizes torture and related abuse by public officials (Constitution of Pakistan, 2025; Torture and Custodial Death (Prevention and Punishment) Act, 2022). But legal prohibition has not eliminated the problem.

HRCP's State of Human Rights in 2024 reported that custodial torture and deaths in police custody remained frequent, and noted that the Lahore High Court criticized weak enforcement of the 2022 Act and directed transfer of such cases to the Federal Investigation Agency (HRCP, 2025). The JPP–NCHR gap analysis similarly found that while the 2022 Act is a historic milestone, implementation remains partial. It highlighted institutional uncertainty about the FIA's exclusive investigative jurisdiction, the absence of a functioning dedicated mechanism, and the risk that even strong statutory language may not change outcomes without operational systems (NCHR & JPP, 2024).

The deeper difficulty is cultural. Much policing in South Asia historically developed around the extraction of statements, confessions, and recoveries through custodial pressure rather than evidence-led investigation. Where forensic capacity is weak, witness protection is poor, and supervision is thin, unlawful detention can become a substitute for professional investigation. The suspect is kept, pressed, and displayed to the case rather than the case being built independently of custodial vulnerability. RSIL's criminal-investigation handbook and bench-book materials both imply the same reformist lesson: remand must be linked to concrete investigative necessity, not to generic hope that custody will produce a result (RSIL, 2021; JPP, 2021).

This is why Section 167 matters beyond procedure. It is one of the few moments where the law can force the state to choose between lawful investigation and coercive convenience. If police know that the magistrate will demand specific reasons, limit police custody severely, record visible injuries, ask the accused directly about treatment, and refuse remand where the request is vague, the incentives for torture begin to weaken. If police know the court will routinely extend custody on formulaic language, the opposite happens.

WOMEN, JUVENILES, AND OTHER VULNERABLE DETAINEES

The harms of illegal detention are not distributed evenly. Juveniles, women, poor defendants, and socially marginalized persons face special risks because they often lack immediate access to counsel, family visibility, media attention, or institutional influence. Pakistan's own rights literature makes clear that children have historically been detained in violation of basic safeguards. Human Rights Watch documented juvenile detention practices in Pakistan that involved extended police custody, falsified arrest dates, and exposure to adult detainees, describing unlawful detention as part of a wider denial of juvenile justice (Human Rights Watch, 1999). Justice Project Pakistan continues to warn that children are often held unlawfully after arrest and beyond the twenty-four-hour limit (JPP, 2021).

The recent Sindh High Court judgment about unlawful custody of a juvenile is therefore especially important. The Court treated continued detention without lawful remand as a constitutional breach and underscored the judicial duty to intervene quickly where liberty and minority status intersect (Sindh High Court, 2025). The lesson is broader than the individual case: if the law fails adults, it fails children more harshly.

Women also require special procedural care. Guidance cited in Pakistani detention materials emphasizes that magistrates may not authorize police custody of a female in the same way, and that women remanded to judicial custody must be handled with specific protective arrangements (RSIL, n.d.; Prosecutor General Punjab, n.d.). In practice, however, safeguards written for protection can become hollow where infrastructure is poor and male-dominated policing cultures remain insensitive to the distinctive vulnerabilities of women in custody.

The same logic extends to the poor and socially invisible. A person with no lawyer, no political voice, and no family able to move the High Court is more likely to experience illegal detention as a closed room

rather than a justifiable wrong. That is why a humanized analysis matters. The legal system often assumes that habeas corpus, remand objections, or complaints under the anti-torture framework are available remedies. In reality, those remedies require access, awareness, and institutional responsiveness. The existence of a legal door does not mean everyone can open it.

SECTION 491 CR.P.C., HABEAS CORPUS, AND THE LIMITS OF POST-FACTO RELIEF

Where illegal detention has already occurred, Section 491 Cr.P.C. remains one of the most important remedies in Pakistan. It gives the High Court power to issue directions of the nature of habeas corpus whenever a person is illegally or improperly detained. The significance of this remedy lies not merely in release, but in judicial acknowledgment that police custody must always justify itself before law, not the other way around (Cr.P.C., 1898).

The 2025 Sindh High Court judgment strongly reaffirmed the preventive and corrective role of Section 491. The Court treated it as a crucial safeguard against executive excess and emphasized that holding an accused without remand or bail is illegal. Its reasoning illustrates an important point: habeas corpus in Pakistan is not just for spectacular disappearances. It is equally relevant where the state claims that a person is in ordinary criminal custody but cannot show lawful authority for continued detention (Sindh High Court, 2025).

Still, post-facto relief has limits. A person released after days or weeks of illegal custody has not truly been made whole. Liberty lost is not easily restored. Hussain's work on pre-trial detention and compensation argues that Pakistani law recognizes some precautions against detention but remains underdeveloped in compensating those who were wrongly or unnecessarily held before conviction. He therefore calls attention to an area of criminal justice often ignored in practice: the state may not only need to release; it may need to repair (Hussain, 2018).

This compensation question matters because the absence of meaningful consequence for unlawful custody encourages repetition. If police officers face little more than judicial criticism, and if detainees rarely receive compensation or effective prosecution of custodial abuse, then illegal detention remains a low-cost institutional habit. Pakistan's legal order needs stronger recognition that unlawful detention is not a technical mishap. It is a constitutional injury. Remedies should therefore include release, inquiry, departmental action, criminal prosecution where warranted, and compensation in serious cases.

WHY VIOLATIONS OF SECTION 167 PERSIST

If the law is clear, why does illegal detention persist? The first answer is investigative weakness. Police frequently seek more time because cases are not investigated efficiently within the first twenty-four hours. Evidence collection is often slow, forensic capacity uneven, and coordination weak. In such a setting, physical remand becomes attractive not because it is legally justified, but because it compensates for institutional deficiency.

The second answer is judicial culture. A magistracy that treats remand as routine rather than exceptional effectively shifts Pakistan from a rule-of-law model to an administrative convenience model. The safeguards remain on paper, but the spirit of the law is hollowed out. Bench-book and prosecution materials exist precisely because this culture must be corrected through training, supervision, and consistent appellate messaging (JPP, 2021; Prosecutor General Punjab, n.d.).

Third, there is weak accountability. HRCP reporting and the JPP–NCHR gap analysis both point to the gap between formal prohibition and enforcement. The 2022 anti-torture statute may criminalize abuse, but

its implementation depends on functioning complaint systems, credible investigators, and institutional will (HRCP, 2025; NCHR & JPP, 2024). Without enforcement, police officers internalize the lesson that unlawful detention is risky only in rare, high-profile cases.

Fourth, there is a historical policing mindset. Colonial-era criminal procedure in the subcontinent was designed around state control, order maintenance, and custodial interrogation rather than rights-centered liberty protection. Section 167 itself can be read in two ways: as a safeguard, or as a managerial device for continuing detention. Reform depends on making the first reading dominant.

Finally, there is social inequality. Illegal detention thrives where detainees are not believed, families are intimidated, and legal aid is weak. A wealthy or politically connected person is more likely to secure immediate intervention; a poor laborer or minor from a rural area may spend unlawful days in custody before anyone even knows where he is. This inequality is one of the most painful features of detention law in practice.

INTERNATIONAL HUMAN RIGHTS STANDARDS AND PAKISTAN'S OBLIGATIONS

Pakistan's domestic framework should also be judged against international human-rights standards. The prohibition of arbitrary detention is central to international law, particularly under Article 9 of the International Covenant on Civil and Political Rights, while the prohibition of torture and cruel, inhuman or degrading treatment is reinforced by the Convention against Torture. Pakistan ratified the Convention against Torture in 2010, and the 2022 Torture and Custodial Death Act was enacted partly to respond to that obligation (NCHR & JPP, 2024).

International standards do not reject detention altogether. They accept that states may arrest, investigate, and hold people temporarily where law genuinely requires it. But they insist on legality, prompt judicial control, humane treatment, access to counsel, and challenge before an independent authority. Illegal detention by police, especially when linked to torture or undisclosed custody, violates all of these conditions. The state's responsibility is therefore not exhausted by having a criminal procedure code. It must actually make that code work.

The JPP–NCHR gap analysis is particularly helpful here because it does not merely praise the 2022 Act. It measures the Act against international standards and identifies areas of partial compliance, including definitional gaps, uncertainty in complaint protection, lack of operational clarity, and the risk that weak implementation will blunt the law's impact (NCHR & JPP, 2024). This is precisely the lens Pakistan needs for Section 167 as well. The question is not whether a safeguard exists in formal law; it is whether the safeguard functions effectively enough to prevent arbitrary deprivation of liberty.

REFORM AGENDA: MAKING SECTION 167 WORK IN REAL LIFE

Reform should begin at the remand hearing itself. Every application for police remand should be accompanied by a concise written statement identifying the precise investigative step for which custody is sought, why that step cannot be completed in judicial custody, what efforts have already been made, and what specific period is truly necessary. Magistrates should refuse vague applications and record detailed reasons where they authorize even short police custody. This would align day-to-day practice with the guidance already articulated in bench-book and prosecution materials (JPP, 2021; Prosecutor General Punjab, n.d.).

Second, all remand hearings should involve direct judicial interaction with the accused. The magistrate should ask, in plain language and outside the hearing of police if needed, when the accused was actually

taken into custody, whether any violence or threats were used, whether family and counsel were informed, and whether the accused has visible or complained-of injuries. Where torture is alleged or suspected, medical examination should be ordered immediately and the anti-torture framework triggered. If these questions are omitted, the hearing is reduced to paperwork.

Third, after the first fifteen days, courts should insist on challan or incomplete challan and should not allow indefinite custody by rolling forward investigation weakness. The 2025 Sindh High Court judgment powerfully supports this approach by emphasizing judicial responsibility to insist upon compliance with the law and not tolerate continued custody without legal basis (Sindh High Court, 2025).

Fourth, police institutions need an evidence-led model of investigation. As long as cases rely excessively on confession-oriented practices, requests for physical remand will continue to be overused. Better forensic collection, digital evidence capacity, and supervision of investigations would reduce the perceived need for custodial pressure.

Fifth, Pakistan should develop a practical compensation and accountability model for illegal detention. Hussain's work suggests that pretrial detention law remains incomplete where it does not meaningfully address wrongful custody after the fact (Hussain, 2018). Compensation cannot replace liberty, but it can affirm that the wrong was public, real, and reparable. Alongside compensation, departmental proceedings and criminal accountability for severe cases of unlawful detention and torture must become routine rather than exceptional.

Sixth, special attention must be given to children and women. Juvenile detainees should never disappear into ordinary remand culture. The law should require immediate age verification where minority is asserted, mandatory counsel or probation input where available, and heightened judicial scrutiny for any request of police custody. Female detainees should benefit from strict compliance with protective custody rules and infrastructure standards.

Finally, data should be collected and published. Without statistics on police remand requests, duration, refusals, torture complaints, and Section 491 outcomes, reform remains impressionistic. Pakistan needs to know not only how the law is written, but how frequently it is bent.

CONCLUSION

Illegal detention by police in Pakistan is not a marginal defect in criminal procedure. It is a structural wound in the relationship between citizen and state. Section 167 Cr.P.C. was meant to protect against exactly this kind of abuse by placing continued detention under judicial control. But a safeguard is only as strong as the institutions that enforce it. Where police conceal the real time of arrest, where remand requests are vague, where magistrates sign without scrutiny, where challans are delayed, where habeas corpus is invoked only after serious damage is done, and where anti-torture legislation remains under-implemented, Section 167 loses much of its protective force.

The way forward is not abolition of remand, because some investigations genuinely require limited and lawful custody. The way forward is disciplined legality: shorter and better-justified police custody, stronger judicial reasoning, immediate scrutiny of coercion, insistence on challan after the statutory period, real use of Section 491, compensation for unlawful detention, and evidence-led investigation that reduces dependence on custodial pressure. Pakistan already has many of the legal texts it needs. What it lacks is consistent institutional fidelity to those texts.

At its moral core, the problem of illegal detention is about dignity. A person held unlawfully is not merely delayed in process; he or she is converted, temporarily, into an object of administrative convenience. The Constitution rejects that logic. Section 167, properly understood, rejects it too. The challenge for Pakistan is to ensure that courts and police reject it in practice as firmly as the law rejects it in principle.

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