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**The Decline of Pakistan's Criminal Justice System: State Responsibility or Institutional Failure?**

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**Abstract**

The systemic failure of Pakistan's criminal justice system is the biggest threat to democratic governance and the rule of law in Pakistan. This article examines whether the breakdown of the criminal justice system is due to institutional incompetence, policy inconsistency, or state negligence. It outlines the development of Pakistan's criminal justice system, identifies its enduring shortcomings, and reveals the wide ranging effects of political interference and obstacles to the legal system. The study investigates the fact that our criminal justice system is very old and does not meet the needs of our time. The second problem is weak prosecution and the lack of balance and that is the reason of public mistrust in this system has increased considerably and the trust in the institution has become very low. It identifies various areas for improvement of Pakistan's criminal justice system by analyzing the changes and improvements that have been made in the other common law jurisdiction. The decline of systemic justice includes both the incompetence of institutions and the lack of accountability of the state. To restore confidence in the Pakistan's criminal justice system, there is a great need for change and efforts should be made in this regard and in this way the state should be made accountable. In this, such policies should be made in which our criminal justice system moves towards improvement and professional expertise and competent judges should be recruited in the institution of justice and a system of accountability should be created in it and checks and balances are necessary on it.

**Keywords:** Pakistan, Criminal Justice System, Judicial Reform, Institutional Failure, State Responsibility, Law Enforcement, Prosecution, Comparative Analysis, Access to Justice, Rule of Law, Human Rights.

**Introduction**

It is a crystal clear that no society can function without justice. A responsible state upholds the rights of its people and is responsible for systemic social order and upholds the rule of law, with its criminal system linked to it. Pakistan's justice system is run by three systems: the judiciary, prosecution, and police but unfortunately, due to the shortcomings and excesses in it, there are major flaws in all three. The first role in the justice system is a police but unfortunately it is influenced by political interference and politics and bows down to those who are powerful. However, if we keep the inquiry and political involvement away from it, there may be some improvement in it. There is a dire need for change in the police system and the lack of accountability needs to be addressed. It is important to examine the corruption and disobedience of those who do not perform their duties. The legal system damages the public's trust by delaying the trials, the inquiry is not properly conducted, and the institution of the judiciary does not perform its duties properly, low conviction rates and similarly, political

interference is also influential.<sup>1</sup> The main sources of Pakistan's criminal justice system include the Pakistan Penal code, 1860 Criminal Procedure Code, 1898 and the Evidence Act 1872, which has now become the Qanun-e-Shahadah Ordinance, which has been in force since the British colonial legal system. Constitution of Pakistan guarantees equality before the law and due process but the British colonial era laws are still unchanged and no significant changes have been made in them, due to which modern problems like crime, terrorism and the corruption are difficult to handle as it is a modern era, and the modern changes in our laws have not been made.<sup>2</sup> There are aspects of the crisis of justice and fairness in which law enforcement agencies, have become under resourced, politically motivated and biased, and lack of training which creates obstacles. Weak prosecution at the institution and the complex procedures of the criminal justice system and the technicalities that are maintained by law, which result in the acquittal of most of the accused, and the lack of evidence plays a major role in this.<sup>3</sup> Failure to adopt new modern methods and over reliance on old methods, technical mismanagement and incompetence of the court have exacerbated the problems. Consequently, the equal protection of the law under the Constitution is violated and justice is delayed and often denied.<sup>4</sup> The purpose of this article is to examine the decline of the criminal justice system in Pakistan. Whether the ongoing failure in Pakistan is the reason for the decline of the criminal justice system or the rigidity in the procedure or it is a manifestation of the state's failure to shoulder its responsibilities, which reflects failures in policy governance and political institutions. This article attempts to examine how governance and institutional dynamics can be viewed in a critical and constructive manner by shaping Pakistan's justice system. The article also suggests that effective reforms require a thorough approach that includes public accountability mechanisms, judicial education and development, prosecutorial independence, and legislative reforms. The state's capacity to maintain institutional integrity and policy coherence is essential to re establishing public confidence and institutional credibility. Pakistan's criminal justice system can only carry out its constitutional mandate and support the rule of law and justice by undergoing such extensive reform.<sup>5</sup>

### **Research Objectives**

In order to determine whether state responsibility (policy failure, political interference, and governance gaps) or institutional failure (structural weaknesses, procedural inefficiencies, and lack of accountability) is primarily to blame for the decline in Pakistan's criminal justice system, the main goal of this study is to critically examine the causes and dimensions of this deterioration. The study specifically aims to:

1. Examine the development of Pakistan's criminal justice system over time and pinpoint significant phases of institutional and legal change.
2. Explore how state institutions such as the law maker, executive branch, and judiciary influence justice policy and governance outcomes.
3. Identify the underlying practical and structural deficiency that lead to inefficiency and public distrust in the legal, prosecution and law enforcement procedures.
3. Compare the legal system of Pakistan with some important legal jurisdictions and identify terminology and areas of modernization.
4. Create policy recommendations to ensure fair access to justice, judicial effectiveness and transparency.

This study attempts to provide a critical account of the relationship between state accountability and institutional failures in order to contribute to academic and policy debates on terminology in the areas of governor accountability and justice in Pakistan.

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<sup>1</sup> Human Rights Commission of Pakistan (HRCP), State of Human Rights in Pakistan 2022 (Lahore: HRCP, 2023), 45–52.

<sup>2</sup> Osama Siddique, Pakistan's Experience with Formal Law: An Alien Justice (Cambridge University Press, 2013), 76–80.

<sup>3</sup> Moeen Cheema & Ijaz Shafi Gilani, "Criminal Justice and Governance in Pakistan," Pakistan Journal of Criminology 4, no. 1 (2012): 23–40.

<sup>4</sup> Supreme Court of Pakistan, Suo Motu Case on Delay in Criminal Trials, PLD 2017 SC 121.

<sup>5</sup> United Nations Office on Drugs and Crime (UNODC), Criminal Justice Reform in Pakistan: Progress and Challenges (Islamabad: UNODC, 2020).

## Research Methodology

This article analyzes legal statutes, court decisions, and constitutional precedents to critically assess Pakistan's criminal justice system and mainly on theoretical legal research and the qualitative in nature. The Constitution of Pakistan 1973, the Criminal Procedure Code 1898, the Pakistan Penal Code 1860, and relevant case law are examples of key sources. The study was supported by auxiliary sources including academic books, journal articles, reports of Law Commissions and statements and articles issued by agencies such as International Commission of Jurists ICJ, United Nations Office on Drugs and Crime UNODC and Human Rights Commission of Pakistan HRCP. A comparative approach has been used to learn from other legal countries like India and Britain. It traces the development of post-independence developments from the colonial legacy using a descriptive historical methodology. The study adheres to the standards of academic integrity, guaranteeing impartiality, accuracy and relevance in all interpretations and conclusions.

## Historical Evolution of the Criminal Justice System in Pakistan

Pakistan's criminal justice system has been shaped by colonial legacies, constitutional developments, and complex socio-political changes and to observe its historical roots and the trajectory from colonial times to the modern state and understand its current decline.

**A. Colonial Origins:** Pakistan's criminal justice system began when British rule was established on the Indian subcontinent. To get control over the sub-colony of the subcontinent, the British introduced the Law of Indian Evidence Act 1872, the Indian Penal Code 1860 and the Criminal Procedure Code 1898.<sup>6</sup> These laws emphasized bureaucratic control and procedural rigor, ignoring indigenous ideas of equality or restorative justice which reflects the opposition of the British government. While this colonial framework standardized legal procedures and also strengthened its central policy and hierarchical management<sup>7</sup>. Although these laws gave the police greater state control, the police were to become an instrument of the government rather than a service to the people. Rather than upholding the rights of the native population or guaranteeing justice, the early criminal justice system served colonial interests by maintaining order and crushing dissent.<sup>8</sup>

**B. Post Independence Continuity (1947–1977):** This colonial law has been in effect since Pakistan gained independence in 1947 and has not undergone any significant changes<sup>9</sup>. Despite several experiments in the 1956, 1962, and 1973 constitutions, criminal laws were not significantly changed. For example, for many years after independence, the Police Act of 1861 remained the law governing police.<sup>10</sup> Political unrest and military intervention dominated Pakistan's early decades, deflecting focus away from methodical legal reforms.<sup>11</sup> The fundamental rights enshrined in the 1973 Constitution, such as equality before the law and fair trial, were not fully implemented due to political interference and lack of institutional capacity.<sup>12</sup> The martial law era of General Ayub Khan and Zia ul Haq endangered judicial independence and further damaged the integrity of the legal system.<sup>13</sup>

**C. Islamization and Legal Transformation (1977–1988):** During the reign of General Zia ul Haq (1977-1988), important legal changes were brought in keeping with Islamization.<sup>14</sup> The shift from colonial jurisprudence to Islamization occurred through the Qisas 1979 and Diyat laws 1990 and the establishment of the Federal Sharia Court 1980. However, rather than

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<sup>6</sup> Michael R. Anderson, *India's Colonial Laws and the Birth of the Criminal Code* (Oxford University Press, 1998), 57–60.

<sup>7</sup> Farooq Ahmad, *Police and Rule of Law in Pakistan* (Lahore: Vanguard, 2015), 12–14.

<sup>8</sup> Martin Lau, *The Role of Islam in the Legal System of Pakistan* (Brill, 2006), 18–20.

<sup>9</sup> International Crisis Group, *Reforming Pakistan's Criminal Justice System*, Asia Report No. 196 (2010), 4.

<sup>10</sup> Police Act 1861 (Act No. V of 1861).

<sup>11</sup> Hamid Khan, *Constitutional and Political History of Pakistan* (Oxford University Press, 2020), 115–132.

<sup>12</sup> Constitution of the Islamic Republic of Pakistan, 1973, Articles 4, 9, 10-A, and 25.

<sup>13</sup> Supreme Court of Pakistan, *Begum Nusrat Bhutto v. Chief of the Army Staff*, PLD 1977 SC 657.

<sup>14</sup> Charles H. Kennedy, *Islamization of Laws and Economy: Case Study of Pakistan* (Islamabad: IPRI Press, 1996), 45–48.

addressing the systemic failures of the criminal justice system, these actions created two legal frameworks, one based on colonial laws and the other on Islamic injunctions<sup>15</sup> This dual system led to ambiguities and conflicting jurisdictions in the law. The process of Islamization was primarily politically motivated and was originally intended to legitimize military rule rather than improve the administration of justice.<sup>16</sup> Critics contend that it made religion more politicized and made the administration of justice even more difficult, especially when it came to minorities and women.<sup>17</sup>

**D. Democratic Periods and Stalled Reforms (1988–1999):** After the end of martial law in 1988, hopes arose for a return to civilian rule. A number of commissions were established by succeeding governments to update the legal system, such as the Police Reforms Committee (1998) and the Law Reform Commission (1993).<sup>18</sup> However, significant implementation was thwarted by political unpredictability, corruption, and a lack of agreement. During this time, the judiciary progressively started using judicial activism to assert its independence, especially in cases involving executive accountability and human rights.<sup>19</sup> Systemic problems like the backlog of cases, inadequate investigation, and ineffective procedures, however, were not resolved.<sup>20</sup>

**E. Reform and Modernization Efforts (2000–Present):** Several initiatives funded by donors made an effort to improve Pakistan's justice system in the early 2000s. The Asian Development Bank funded Access to Justice Programme (AJP) (2002–2009) sought to improve police accountability, judicial effectiveness, and legal knowledge.<sup>21</sup> Even though it made only modest headway, its long term effects were weakened by the lack of consistent political commitment. Another significant reform intended to professionalize the police and lessen political meddling was the Police Order of 2002, which was implemented under General Pervez Musharraf.<sup>22</sup> Subsequent administrations, however, softened its provisions and gave many powers back to the provinces. In recent years, efforts have been made to improve investigation procedures and decrease case delays through the National Judicial Policy (2009) and criminal law amendments (2016–2021).<sup>23</sup> The ineffectiveness, lack of coordination, and inadequate resource allocation of Pakistan's justice system persist despite these reforms.<sup>24</sup>

**F. Analysis of historical Evolution of the Criminal Justice System in Pakistan:** A consistent pattern of continuity without reform can be seen in the historical development of Pakistan's criminal justice system. Systemic inefficiency has been sustained by colonial legal systems, political unpredictability, and inadequate governance. A justice system that is still reactive rather than responsive has been produced by the coexistence of antiquated legislation, politicized institutions, and two distinct legal traditions. Pakistan must address the ingrained institutional and political dynamics that have impeded justice for decades in addition to updating its legal system if it hopes to achieve significant reform.

### **Current State of the Criminal Justice System in Pakistan**

Pakistan's current criminal justice system is a complicated combination of institutional inefficiency, poor governance, and colonial legacy. Despite due process and equality before

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<sup>15</sup> Tahir Wasti, *The Application of Islamic Criminal Law in Pakistan: Sharia in Practice* (Leiden: Brill, 2009), 89–92.

<sup>16</sup> Charles H. Kennedy, *Politics of Islamization in Pakistan* (Asian Survey 24, no. 5, 1984): 529–550.

<sup>17</sup> Human Rights Watch, *Double Jeopardy: Police Abuse of Women in Pakistan* (1992).

<sup>18</sup> Law Reform Commission Report, Government of Pakistan (1993).

<sup>19</sup> Supreme Court of Pakistan, *Benazir Bhutto v. Federation of Pakistan*, PLD 1988 SC 416.

<sup>20</sup> Rehan Abeyratne, "Judicial Reform and the Rule of Law in South Asia," *Asian Journal of Comparative Law* 12, no. 2 (2017): 245–267.

<sup>21</sup> Asian Development Bank, *Access to Justice Programme (Pakistan): Completion Report* (2009).

<sup>22</sup> Police Order 2002 (Chief Executive's Order No. 22 of 2002).

<sup>23</sup> National Judicial (Policy Making) Committee, *National Judicial Policy 2009* (Islamabad: NJPMC Secretariat, 2009).

<sup>24</sup> UNODC, *Criminal Justice Reform in Pakistan: Progress and Challenges* (Islamabad: UNODC, 2020), 6–8.

the law being guaranteed by the constitution,<sup>25</sup> the processes used to deliver justice are still cumbersome, underfunded, and frequently inaccessible to regular people. The three interconnected institutions that make up the majority of the system the judiciary, prosecution, and law enforcement each face formidable operational and structural obstacles.

In Pakistan's criminal justice system, police investigations are frequently the weakest link. Confessions, not scientific data, are the foundation of the majority of police investigations.<sup>26</sup> They are frequently criticized and mistrusted for being the initial point of contact in the criminal process. Accountability, professional autonomy, and community involvement were the goals of the Police Order of 2002, but political meddling and uneven application have made it less effective. Its provisions were frequently softened by provincial governments, who then took back bureaucratic control of law enforcement.<sup>27</sup> The Human Rights Commission of Pakistan (HRCP) and the International Crisis Group have released reports that draw attention to enduring problems such as arbitrary arrests, corruption, and torture in detention.<sup>28</sup> Due to a lack of funding, forensic facilities, and training, police investigations are often unprofessional. Low conviction rates and a culture of impunity are caused in part by poor evidence gathering and subpar investigative techniques.<sup>29</sup>

There is no institutional independence in the prosecution service's operations. Executive influence frequently affects prosecutors, which restricts their ability to manage cases impartially.<sup>30</sup> Coordination between the police and prosecution is still lacking, despite provincial Prosecution Services Acts' attempts to keep them apart.<sup>31</sup> Causes of obstruction of justice include procedural errors, external influences, and investigative obstacles. And similarly, the reasons for underutilization of forensic labs are lack of experience and insufficient inter-agency coordination.<sup>32</sup> Due to these shortcomings, criminals are not brought to justice and are easily acquitted, which erodes public confidence in the judiciary and the courts.<sup>33</sup>

The pendency of cases in the courts and the lengthy processing, which is a disruption to the rule of law, often puts the judiciary under severe pressure due to a lack of administrative resources. According to Pakistani statistics in 2023, 2.2 million cases are still pending in Pakistani courts.<sup>34</sup> According to the National Judicial Policy 2009, despite measures taken, timely and effective justice delivery is still hampered by systemic issues such as a shortage of judges, a culture of adjournment, and outdated practices.<sup>35</sup> While the Judicial Commission of Pakistan oversees appointments and promotions and discusses merit and transparency, judicial accountability remains patchy.<sup>36</sup> Keeping manual records and not digitizing them leads to reduced efficiency.

The average person's access to justice is still quite limited.<sup>37</sup> Most people cannot afford the costs of litigation, which prevents the poor from obtaining justice, and because few legal aid programs are available, the criminal justice system is routinely ranked among the least corrupt of state institutions by public opinion polls.<sup>38</sup> And similarly, women, minorities, and especially the poor face severe barriers to accessing justice.<sup>39</sup> This system has often failed to provide prompt, fair and reliable justice, despite the existence of formal institutions. For this reason, the urgent need for reforms in institutional and state strengthening is emphasized.

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<sup>25</sup> Constitution of the Islamic Republic of Pakistan, 1973, Articles 4, 10-A, and 25.

<sup>26</sup> Rehman, J., *The Weakness of Police Investigations in Pakistan*, *Pakistan Law Review* 12, no. 2 (2021), p. 145.

<sup>27</sup> International Crisis Group, *Reforming Pakistan's Criminal Justice System*, *Asia Report No. 196* (2010), 12–14.

<sup>28</sup> HRCP, *State of Human Rights in Pakistan 2022*, 48–50.

<sup>29</sup> ICJ, *Authority without Accountability: The Search for Justice in Pakistan* (2013), 34–36.

<sup>30</sup> *Ibid.*, 10–12.

<sup>31</sup> *Provincial Prosecution Services Acts (Punjab, Sindh, Khyber Pakhtunkhwa, Balochistan)*, 2011–2013.

<sup>32</sup> Punjab Forensic Science Agency, *Annual Report 2021*, 8–12.

<sup>33</sup> *Ibid.*, 15–18.

<sup>34</sup> Supreme Court of Pakistan, *Annual Judicial Statistics Report 2023*, 4.

<sup>35</sup> National Judicial (Policy Making) Committee, *National Judicial Policy 2009* (Islamabad: NJPMC Secretariat, 2009).

<sup>36</sup> Supreme Court of Pakistan, *Judicial Commission Reports 2020–2022*.

<sup>37</sup> *Ibid.*

<sup>38</sup> Transparency International Pakistan, *Public Perception Survey on Justice Institutions*, 2022.

<sup>39</sup> HRCP, *Minority Rights and Access to Justice in Pakistan* (2019), 24–28.

## **State Responsibility vs. Institutional Failure**

There is no single reason for the decline of Pakistan's criminal justice system, but rather a combination of state accountability and institutional failure. It is the fundamental duty of the state to implement sound policies, guarantee adequate funding, and make the legal system effective. But past and present experience shows that the state's neglect of these responsibilities leads to shortcomings in the administrative system.<sup>40</sup> The state's greatest responsibility is to provide prompt and fair justice but all this has been affected by archaic criminal laws and fragmented governance structures. Witnesses in criminal cases remain at serious risk, especially in cases of political violence or terrorism. There is still no law or program in Pakistan to protect witnesses, which is why witnesses either recant their statements or refuse to appear in court.<sup>41</sup> Political interference undermines public trust in the judiciary and law enforcement agencies, further reducing institutional autonomy.

Similarly, from the other side, institutional failure includes shortcomings and inefficiencies in the criminal justice system itself. Police departments generally demonstrate weak investigative skills, lack of forensic knowledge, corruption and a risk of bias.<sup>42</sup> The prosecution system in Pakistan is failing to achieve its goals and is less successful in securing convictions due to a lack of professionalism and independence. Justice is frequently postponed or denied as a result of these difficulties, which are made worse by judicial delays, case backlogs, and procedural rigidity. Inadequate administrative coordination between the judiciary, prosecution, and law enforcement also leaves gaps that let criminals avoid punishment.<sup>43</sup>

A vicious cycle results from the combination of institutional inefficiencies and policy failures at the state level. Institutional capacity is decreased by weak governance, and political legitimacy and state credibility are compromised by dysfunctional institutions.<sup>44</sup> According to international research, states with well defined policy frameworks and independent, well resourced justice institutions are much more successful at enforcing the law and reducing crime. The results of ignoring either dimension are illustrated by Pakistan's lack of comprehensive reforms as well as its patchy and irregular interventions.<sup>45</sup>

A multifaceted reform approach is necessary to address these two issues. At the state level, resources must be allotted to support institutional capacity building, governance structures must be reinforced, and legislation must be updated.<sup>46</sup> Political will is essential to limit administrative interference, protect judicial independence, and guarantee accountability among law enforcement agencies. Institutions should adopt the best technology and professional standards for case management and investigation and maintain accountability and transparency in their operations. To provide impartial, speedy, and credible justice to all citizens, Pakistan can establish a criminal justice system that addresses both institutional failures and state liabilities.<sup>47</sup>

## **Comparative Analysis of Pakistan's Criminal Justice System with Selected Common Law Jurisdictions**

An overview of Pakistan's criminal justice system provides important insights into potential avenues for reform and modernization compared to common law jurisdictions such as India, Malaysia, and the United Kingdom. These nations' approaches to judicial efficiency, police professionalism, prosecution independence, and access to justice differ greatly, despite the fact that they have colonial legacies that have given them historical and procedural similarities to

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<sup>40</sup> International Crisis Group, *Reforming Pakistan's Criminal Justice System*, Asia Report No. 196 (2010), 4–6.

<sup>41</sup> UNODC Pakistan, *Criminal Justice and Witness Protection in Pakistan* (Islamabad: UNODC, 2020), p. 8.

<sup>42</sup> Moeen Cheema & Ijaz Shafi Gilani, "Criminal Justice and Governance in Pakistan," *Pakistan Journal of Criminology* 4, no. 1 (2012): 25–30.

<sup>43</sup> International Commission of Jurists (ICJ), *Authority without Accountability: The Search for Justice in Pakistan* (2013), 30–33.

<sup>44</sup> Osama Siddique, *Pakistan's Experience with Formal Law*, 115–120.

<sup>45</sup> HRCP, *State of Human Rights in Pakistan 2022*, 52–55.

<sup>46</sup> International Crisis Group, *Reforming Pakistan's Criminal Justice System*, 12–16.

<sup>47</sup> Moeen Cheema & Ijaz Shafi Gilani, "Criminal Justice and Governance in Pakistan," 38–40.

Pakistan. Finding best practices that can be modified for Pakistan's situation can be aided by being aware of these variations.

Similar to Pakistan, India's criminal justice system struggles with backlogs of cases and postponed trials.<sup>48</sup> But thanks to the advent of e courts, the digitization of records, and the National Judicial Data Grid (NJDG), which offers real time tracking of case disposition and pending cases, India has made significant strides in judicial case management.<sup>49</sup> India has also improved the independence and accountability of its prosecution services by implementing reforms at the state level that divide the roles of the police and the prosecution.<sup>50</sup> In several states, community policing programs also help to improve citizen engagement and crime reporting, which in turn supports public trust.

Another illustration of institutional effectiveness is Malaysia. With a focus on ethics, training, and specialized investigation units, the Malaysian police have undergone extensive professionalization programs.<sup>51</sup> Supported by internal monitoring and structured performance evaluations, Malaysia's prosecution system functions with a noticeable degree of autonomy from the executive.<sup>52</sup> In order to ease court overcrowding and guarantee speedier criminal case resolution, Malaysia has also adopted contemporary case management technologies and alternative dispute resolution procedures.<sup>53</sup> Malaysia has higher conviction rates than Pakistan because forensic science is more successfully incorporated into regular investigations there.<sup>54</sup> The common law system in the United Kingdom is well established and has many procedures for efficiency, accountability, and openness. Through the Crown Prosecution Service (CPS), which functions independently of the government and police, the UK has long maintained independent prosecution services.<sup>55</sup> The Constitutional Convention and its monitoring, such as inspections and judicial review, have been implemented to protect and strengthen judicial independence.<sup>56</sup> Court systems, modern infrastructure and pre trial procedures can be very effective in drastically reducing trial delays.<sup>57</sup> The British government focused justice by offering legal education and legal aid to gain system trust.<sup>58</sup>

Some important reasons can be derived from Pakistan. The first is to reduce bias and improve accountability by separating prosecution and police operations, because justice cannot be delivered. The second is to significantly increase public trust in by professionalism and the best performance of law enforcement agencies, in which significant improvements in training, ethical oversight, and investigative procedures are made. The third important point is that judicial efficiency can be made possible through digital case management and e court systems, the biggest benefit of which is that it will promote efficiency and significantly reduce delays. The fourth point is that for the provision of justice, there is a dire need to provide public awareness and alternative dispute resolution, as well as legal aid. Because the poor often cannot afford the litigation fees, which make it impossible for them to access justice, these are essential for access to justice. At the very least, independence of the institution increases the legality and integrity of the criminal justice system specially for the judiciary and prosecutorial services. Pakistan can improve its legal system by adopting these strategies and modernizing the criminal justice system by increasing judicial autonomy and incorporating technology, and restoring public confidence, all depend on its criminal justice system. Moreover, a criminal justice

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<sup>48</sup> Osama Siddique, *Pakistan's Experience with Formal Law: An Alien Justice* (Cambridge University Press, 2013), 110–115.

<sup>49</sup> Supreme Court of India, *National Judicial Data Grid Report 2022*, <https://njdg.ecourts.gov.in> (accessed October 2025).

<sup>50</sup> P.S. Jaising, "Prosecutorial Reforms in India: Independence and Accountability," *Indian Journal of Law and Justice* 8, no. 2 (2017): 112–128.

<sup>51</sup> *Malaysian Police Force, Professionalization and Training Programs 2021*, Kuala Lumpur: PDRM Publications, 2021, 5–12.

<sup>52</sup> Rosli Ahmad, *Prosecution Services in Malaysia: Structure and Independence* (Kuala Lumpur: LexisNexis, 2018), 45–50.

<sup>53</sup> Shahrul Nizam, "Case Management and ADR in Malaysia," *Malaysian Law Review* 12, no. 1 (2019): 65–78.

<sup>54</sup> *Malaysian Forensic Science Department, Annual Report 2020*, 22–28.

<sup>55</sup> *Crown Prosecution Service (CPS), Annual Report 2021–22*, <https://www.cps.gov.uk>.

<sup>56</sup> A. Tomkins, *Public Law* (Oxford: Oxford University Press, 2018), 312–318.

<sup>57</sup> *HM Courts & Tribunals Service, Digital Court Transformation Strategy*, UK Government, 2020, 5–10.

<sup>58</sup> *Legal Aid Agency, Annual Review 2021–22*, UK Ministry of Justice, 12–15.

system that is legitimate for the public and relies on increasing access to justice and encouraging ethical policing.

### **Challenges and Limitations**

Restructuring Pakistan's criminal justice system faces global obstacles. Policies that have been in place for a long time often suffer from political interference in their planning, which makes the implementation of reforms uneven. Political interference in the government by frequent changes, and appointments to the judiciary affected by political views and changes in law enforcement agencies, undermines institutional autonomy and accountability.<sup>59</sup> Reasons for not providing speedy justice include the lack of modern judicial infrastructure, inadequate funding and police prosecution, and the lack of further resources further limits the effectiveness of reform measures. Furthermore, social and cultural resistance presents difficulties since ingrained customs, public suspicion, and cultural prejudices can make it difficult for new laws or institutional reforms to be accepted. Public cooperation and awareness are frequently needed for legal reforms, but these can be sluggish because of low literacy, ignorance of the law, or mistrust of government agencies.<sup>60</sup> In Pakistan, the powerful frequently enjoy the privilege of justice. The impoverished cannot afford long litigation costs or skilled attorneys. These limitations suggest that reform must be gradual, carefully thought out, and context-sensitive, addressing both institutional flaws and socio political realities, even though structural and procedural changes are required.<sup>61</sup>

### **Illustrative Case Studies Highlighting Systemic Challenges**

Judges acting too quickly, faulty investigations that result in acquittals, delayed trials and excessive detention, and improper application of the law where criminal law is used coercively in civil or matrimonial disputes are a few instances of Pakistan's criminal justice system failing. The prosecution must prove guilt beyond a reasonable doubt, a fair trial is a fundamental right, and investigator accountability is necessary to keep the system from collapsing, according to important case law.

**Judicial and procedural failures, Hasty procedures:** In *Saifullah v. Bilawar Khan*, the Peshawar High Court found a trial court guilty of unnecessary haste by charge sheeting the accused without allowing the mandatory seven day period for the accused to study the evidence against them as mandated by Section 265-C of the Cr.P.C.<sup>62</sup>

**Violation of court orders:** Case law addresses instances where police officials have been held accountable for violating court orders. A Peshawar High Court judgment from February 2025 ordered a criminal case to be registered against police officers who failed to comply with an order from a Justice of the Peace.<sup>63</sup>

**Police investigation failures and Lack of Training of Prosecutors:** The High Court of Sindh case title *Naveed ul Rehman and another vs The State* highlighted that flaws in the investigation process, such as a broken chain of custody, often result in the acquittal of the guilty and stress the need for accountability among investigating officers.<sup>64</sup> Acquittals resulting from a failure to prove the case, such as not identifying or exhibiting crucial evidence like Lathi or hatchet or case property, also demonstrate a systemic failure.<sup>65</sup>

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<sup>59</sup> National Forensic Science Agency (Pakistan), Annual Report 2021, Islamabad.

<sup>60</sup> UNDP Pakistan, Access to Justice and Legal Aid Report (2015), 9–12.

<sup>61</sup> International Commission of Jurists (ICJ), Authority without Accountability: The Search for Justice in Pakistan (2013), 30–33.

<sup>62</sup> *Saif ullah vs Bilawar Khan*, Cr.A. No. 865-P/2014 Dated 20-11-2014, Peshawar High Cort, Peshawar .

<sup>63</sup> *Illaudin vs The State and others*, W.P.No.580-D/2024, Dated 06-02-2025, Peshawar High Court, D.I.Khan Bench.

<sup>64</sup> *Naveed-ul-Rehman and another vs The State*, Criminal Appal No. D-32 of 2020, date of Judgment 22-05-2025, High Court of Sindh, Circuit Court, Larkana.

<sup>65</sup> *Muhammad Sharif vs The State etc*, criminal Misc. Application No. S-562 of 2024 dated 06-02-2025, High Court Of Sindh, Circuit Court, Mirpurkhas.

**Lack of accountability and training:** Courts have noted that police inefficiency is often due to a lack of accountability. This has led to calls for better police training, the development of specialized investigators, and improved forensic facilities. In Haider Ali's supra the Supreme Court observed that the prosecutors are not provided proper training and facilities. In addition, competent prosecutors because of lack of incentives resign from their service for better opportunities. There also appears to be no effective quality review system in place to check underperforming prosecutors. As a result, the best prosecutors are not being retained in service.<sup>66</sup>

**Misuse of the system:** Courts have warned against the misuse of the criminal justice system, especially for matters that are essentially civil or matrimonial in nature, referencing numerous Supreme Court precedents. In PLD 2020 SC 321 and 2022 SCMR 654, these cases, the Supreme Court emphasized the need to prevent the misuse of criminal law as a coercive tool, particularly in matrimonial or civil matters. Courts are obligated to scrutinize criminal allegations strictly and dismiss cases where the motive is to exert pressure on an opposing party rather than seek justice.<sup>67</sup>

**Delay in trials and illegal detention:** The Mir Hakim Khan case demonstrates how a denial of a fair and expeditious trial is a fundamental right violation. The court granted bail to the accused who had spent over three years in jail due to a protracted trial, stating the time spent in jail should be counted for the purpose of bail and that prolonged detention can be grounds for release even if the case is still pending.<sup>68</sup>

**Conviction and proof failures:** Courts have acquitted defendants when the prosecution has failed to prove guilt beyond a reasonable doubt, often due to a failure to present evidence properly or establish a case against the accused, as seen in cases like Muhammad Luqman v. The State PLD 1970 SC 10.<sup>69</sup>

**Lack of Protection of Witnesses:** In the case of Watan Party v. Federation, it was observed that it is for the Government to ensure that cogent evidence to support prosecution is collected and presented in the Court. It is for the legislature to provide processes for the protection of witnesses, policemen and judges.<sup>70</sup>

**Failure to produce evidence:** Cases exist where convictions were overturned because the prosecution failed to produce and exhibit crucial evidence, even after being given multiple opportunities.<sup>71</sup> A notable example is the Baldia Factory Fire case (2012), where over 250 workers died in a factory blaze in Karachi. The case lingered for years due to political pressure, lack of evidence preservation, and witness intimidation.<sup>72</sup>

### **Recommendations / Policy Implications**

- **Legal Modernization:** To reform the criminal justice system in a modern way by reviewing the archaic Pakistani criminal justice system, by considering crimes such as terrorism, and modern cybercrime.
- **Judicial Independence:** It should be ensured that the judiciary is not affected by political influence and that the judiciary has administrative and financial independence to make impartial decisions.

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<sup>66</sup> Haider Ali v. DPO Chakwal, 2015 SCMR 1524.

<sup>67</sup> PLD 2020 SC 321 and 2022 SCMR 654

<sup>68</sup> Mir Hakeem Khan and another vs Gulap Khan and others, Cr.MBA.No.475-B/2017 Dated 15-02-2018, Peshawar High Court, Bannu Bench.

<sup>69</sup> Muhammad Luqman v. The State (PLD 1970 SC 10)

<sup>70</sup> Watan Party v. Federation, 2011 PLD SC 997.

<sup>71</sup> Arbab Ali vs Amanat Ali, Cr. Acq. Appeal No. D-31 of 2017, High Court of Sindh, Bench at Sukkur.

<sup>72</sup> Dawn News, "Baldia Factory Fire Case: Two MQM Men Sentenced to Death," September 22, 2020.

- **Police Reforms:** To lessen corruption and power abuse, strengthen law enforcement organizations through internal accountability systems, professional training, and merit-based hiring.
- **Strengthening the Prosecution Service:** Create a professional independent prosecution system with appropriate training, advancement opportunities and less executive meddling.
- **Integrated Case Management:** To guarantee efficient investigation and prompt trial procedures, create a coordinated system involving the police, prosecution, and judiciary.
- **Technology Integration:** To increase productivity and cut down on delays, implement digital record-keeping, case management software, and forensic technologies.
- **Judicial Capacity Expansion:** To manage case backlogs and shorten criminal trial delays, more judges and courts should be appointed.
- **Alternative Dispute Resolution:** To lessen the load on courts, promote mediation and reconciliation procedures in minor civil and criminal cases.
- **Legal Aid Services:** To guarantee equitable access to justice, increase the availability of legal aid for women, minorities, the impoverished and marginalized groups.
- **Training and Ongoing Education:** Arrange training sessions to improve the working practices of human rights judges, legal updates, prosecutors, and police officers.
- **Public Awareness Campaigns:** To promote public confidence in the law by informing the public about their legal rights and the procedures of the criminal justice system.
- **Mechanisms for Accountability:** Neutral oversight organizations should be established to monitor police procedures and behavior, court proceedings, and prosecutions.
- **Performance Audits:** Weaknesses and shortcomings in the criminal justice system should be observed and improvements should be made.
- **Enhancing Forensic Infrastructure:** Forensic labs in provinces should be modernized and expanded to facilitate evidence based investigations.
- **Victim Support Programs:** Public confidence in the legal system should be increased by providing legal, financial and psychological support to people affected by crime.
- **Anti Corruption Measures:** Criminal institutions should implement strict policies to prevent evils like corruption and to guarantee ethical behaviour.
- **Coordination with International Agencies:** Work with the International Court of Justice (ICJ), United Nations office on drugs and crime (UNODC), and other international institutions to implement best practices and render technical assistance related to reforms.
- **Commissions for Policy Research and Reform:** Establish a long term research organization to analyse criminal justice trends and recommend evidence based changes.
- **Initiatives for Community Policing:** Police and community should work together to establish justice in society and with the cooperation of both, local security should be enhanced, crime reporting should be improved, and trust should be fostered.
- **Political Will and Governance:** To ensure that laws are made and applied equally to all human beings by all administrations and to consistently demonstrate such dedication to criminal justice reform.

## **Conclusion**

The shortcomings and corruption in Pakistan's criminal justice system are a very significant problem, rooted in both institutional incompetence and political accountability. The reasons for the slow, ineffective, and inaccessibility of Pakistan's criminal justice system include political interference, outdated legislation, historical legacies, and poor governance, as well as structural deficiencies in judicial administration, policy and prosecution. This study shows that a dual strategy is necessary to achieve significant changes, and improvements. This shows that unless transparency and accountability in institutions are emphasized by the state, a clear policy direction, adequate funding, and judicial independence cannot be achieved. Institutions should improve the delivery of important and simultaneous public services, adopt modern technologies, enhance professional skills, and strengthen coordination. Pakistan can address

the systemic and serious shortcomings in its lawmaking and administrative operations by developing a system that provides equitable, prompt and reliable justice. Strengthening access to such justice is essential to promoting institutional fairness and enhancing public trust. And finally, in Pakistan, it is necessary to implement democracy, good governance and human rights that the Constitution of Pakistan has given to every citizen and to rebuild Pakistan's criminal system for social stability. This is not just a matter of law but a matter of Justice. Pakistan can study the experiences of countries like India, Malaysia and the UK to implement the best practices of case management, digitization, accountability and institutional autonomy and improve its criminal system.

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