

A CRITICAL EVALUATION OF FAIR TRIAL GUARANTEES IN PAKISTAN'S CRIMINAL JUSTICE SYSTEM

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Abstract

Fair trials protect freedom in democratic countries by ensuring no one is harmed unjustly through basic limitations of power. The Pakistani government establishes fair trial rights through legal documents but practical enforcement proves different from standard requirements. This research examines how well Pakistan upholds fair trial standards domestically and internationally especially regarding access to lawyers, independent judges, the right to remain innocent until proven guilty and timely justice. It studies Pakistani fair trial standards using a doctrinal approach supported by Supreme Court judgments, human rights organizations reports, and key constitutional provisions. The study considers Pakistan's legal requirements as valid but tests how well these rules are put into practice across all courts including terrorism and military tribunals. The study reveals that continuous delay, weak prosecutors, police abuse and political interference make it difficult for individuals to get fair trial rights. International human rights standards detailed in ICCPR surpass what Pakistan achieves in its justice system. Research recommends firms that strengthen justice institutions through better legal assistance programs and new justice system training while removing parallel legal systems. The paper shows that justice systems must implement promised constitutional rights to restore public faith in criminal justice processes.

Keywords: Fair trial, Pakistan, criminal justice, legal aid, judicial independence, ICCPR, due process, anti-terrorism courts.

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INTRODUCTION

Under a democratic system the right to a fair trial stays as the most important human right and nations worldwide agree it cannot be limited in any circumstance. Pakistan adopts this right under the terms of Article 14 from International Covenant on Civil and Political Rights which it joined in 2010. A fair trial implies multiple human rights like the right to stay innocent until proven guilty as well as the freedom to hire lawyers and have impartial legal proceedings with public participation (United Nations Human Rights Committee [UNHRC], 2007). Pakistan recognized the right to fair trials through Article 10-A during the 18th Amendment of its Constitution in 2010 demonstrating a substantial advancement for due process.

Although Pakistan has developed formal justice system standards people criticize it because it does not deliver true justice in practice. Research by the Human Rights Commission of Pakistan and Amnesty International demonstrates persistent problems in Pakistan's justice system including detention before trials takes too long along with report of torture inside jails and lack of free legal help as well as wrong government interference in the court process. Under the 21st Constitutional Amendment's military courts system established in 2015 serious problems exist about whether military judges can fairly handle civilian cases. Current evidence shows that Pakistan faces big barriers to delivering fair trial rights in reality despite having international and national legal protections.

Research works on Pakistan's legal system but mostly studies overall rule of law matters and terrorism law instead of inspecting actual trial procedures (duffy.H 2015, Rajput, M. A). A). Most studies about law-making conflicts with actual reality because they presume new rules become effective soon after they enter legal codes. Research reveals several parallel justice systems weaken fair court rights as shown by Ghias (2010). Only few studies completely explain how Pakistani courts enforce or suspend fair trial protections (G.C,NO,2007). This study studies Pakistan's enforcement of trial justice rights through a detailed evaluation.

This research assesses the degree of protection and law enforcement of fair trial rights in Pakistan's legal system. The study checks Pakistan's justice system and laws against international standards especially as defined by the ICCPR and UN Human Rights Committee opinions. It examines major barriers to fair trial access such as institutional problems, law help service deficiencies, overloaded court cases, and government control over courts. The research uses legal methodological approaches and relies on international human rights reporting and academic publications to reach results. Studies demonstrate Pakistan shifted its legal system toward human rights practices when adopting 18th Amendment standards but court splits and poor enforcement require substantial improvement to protect these rights. Through its findings the study creates an understanding of the practical versus logical conflict and suggests effective laws to improve the system. This paper contains six sections that explain its content. Section 2 examines published studies, Section 3 details research processes, Section 4 displays observed outcomes, Section 5 conducts an analytical review, and the final Section 6 supplies reform advices for law and organization update.

LITERATURE REVIEW

CONCEPTUALIZING THE RIGHT TO A FAIR TRIAL

The basic principles of fair trial exist at the core of both international human rights standards and national constitutional democracies. According to Nowak (2005), every other human right depends on fair trial rights to exist and operate properly within the legal

system. Under the guidance of UNHRC General Comment No. 32, the Human Rights Committee recognizes trial fairness demands equal access to courts and assumes innocence alongside needed legal support and autonomous and fair tribunals (UNHRC, 2007). The parts of fair trial depend on each other and require unified execution. Across Europe and North America, people refer to Article 6 of the European Convention on Human Rights and Article 8 of the American Convention on Human Rights as examples of worldwide agreement about what fair trials should ensure (Chilea, 2010).

FAIR TRIAL IN INTERNATIONAL AND ISLAMIC LEGAL THOUGHT

The Pakistani legal system includes Islamic principles which support both global legal standards and respect for process. Under classic Islamic law defendants have rights such as being able to present their defense (al-sama'), to stay free of unlawful detention, and to start innocent until proven guilty (Iqbal & Iqbal, 2020). Under Western legal systems, these essential rights exist as permanent rules established through treaties and judges' rulings, but in Islamic law they depend mainly on lawyers' exercises of interpretation known as fiqh, which generates harmony issues (Hussain et al., 2021). According to Baderin (2003), international human rights law can work with Islamic principles when judges prepare new interpretations and the government supports their efforts.

THE PAKISTANI CONSTITUTIONAL FRAMEWORK

After 2010, Pakistan became the first country to add Article 10-A to its Constitution and recognize the right to fair trials (Munir et al., 2020). This constitutional section gives everyone the right to receive proper procedures and fair hearings during both civil proceedings and criminal cases. The Supreme Court of Pakistan established significant rulings that explain the right to a fair trial. In *Benazir Bhutto v. Federation of Pakistan* (PLD 1988 SC 416), the Court ruled fair trial requires adequate notice of proceedings alongside an unbiased tribunal and a proper hearing. More recently, in *District Bar Association Rawalpindi v. Federation of Pakistan* (PLD 2015 SC 401), the Supreme Court ruled military court proceedings unconstitutional, but enforcement remains weak (Shah, 2016).

PARALLEL JUDICIAL SYSTEMS: MILITARY AND ANTI-TERRORISM COURTS

Many scholars now analyze parallel courts in Pakistan as threats to fair trial rights because of the continued use of military and Anti-Terrorism Courts. These courts often lack openness, use forced confessions, and restrict access to defense lawyers (Badalič, 2019). Supporters argue these courts fight terrorism, but critics highlight unfair justice and lack of legal safeguards (Jawad, 2021).

PROCEDURAL BARRIERS IN THE CRIMINAL JUSTICE SYSTEM

Problems within Pakistan's criminal justice system weaken the ability to guarantee fair trials. Many endure pretrial detention without formal charges, with data showing long incarceration periods (Shahzad et al., 2022). The absence of legal aid further harms disadvantaged communities, and police torture and poor prison conditions are widely documented. Delays in court resolution deny justice and violate reasonable time standards (Uddin & Ali, 2020).

COMPARATIVE LEGAL ANALYSIS

Countries with strong oversight and legal aid frameworks better uphold fair trial standards. In contrast, Pakistan lacks separate monitoring authorities and underfunds legal defense services (Nazim, 2023). Its difficulty in adopting global norms—unlike countries such as South Africa and India—stems from weak enforcement institutions (Islam et al., 2024).

DATA ANALYSIS METHODS

By using content analysis methods we analyzed both the data and performed a comparative study of Pakistan's legal framework. The research method of content analysis helped us assign legal categories for analyzing court decisions on judicial independence and provision of legal assistance. We examined relevant legal documents from Supreme Court cases as well as UNHRC general comments and watchdog reports to see whether Pakistani law aligned with ICCPR standards.

For this research the study used normative benchmarks by comparing Pakistan's legal rights to countries known for fair trial practices (UK, South Africa, and India). This study uses international standards to demonstrate how Pakistan's legal rules differ from or match them as described by van Hoecke (2011).

EVALUATION AND JUSTIFICATION

The doctrinal and qualitative study method was chosen because my research project explores legal-analytical information. According to Salter and Mason (2007), doctrinal research finds problems within legal systems most effectively while verifying these laws against key legal principles. Although the research does not contain empirical information, it still provides deep legal insights by examining worldwide legal systems.

Nonetheless, the methodology has limitations. The main problem with this approach is using existing data that does not show how institutions work now. The study cannot verify its results through interviews with actual victims or legal experts because it lacks this important information. The research results can be trusted because the analysis draws from multiple respected sources that regularly update their information and basics of human rights law.

ANALYSIS

Existing rules defining fair trials in Pakistan experience a significant mismatch with real-life operations due to both system flaws and political pressure. Through its Constitutional Article 10-A and ICPCR ratification Pakistan must follow standards that protect detainees from unfair trials including unrestricted lawyer access and due process. The state's legal duties are not effectively put into action because of the way operations actually occur.

LEGAL FORMALISM VS INSTITUTIONAL REALITY

Legal structures in Pakistan do not effectively turn rule-setting laws into functional protections for citizens. The Pakistani government's weak law enforcement institutions alongside prosecutors' discretionary powers and courts' independence weaken Article 4's, 9's, 10's, and 10-A's legal safeguards in practical applications as Ghias reports in 2010. According to Hirschl (2009) and other legal specialists constitutional rights lose their practical value when these rights exist in transitions between democratic and authoritarian rule.

This report accords with the findings of the rule-of-law vs rule-by-law evaluation in Pakistani legal practices. Legal tools help Newberg (2002) see states enable and validate their rule instead of controlling abuses of authority. The introduction of military courts gained legal authorization through constitutional updates despite failing to follow basic trial fairness principles.

FAIR TRIAL AS A SELECTIVELY APPLIED RIGHT

No one in Pakistan receives fair trials without exceptions. The legal system allocates good fair trial protections based on political power and wealth because vulnerability groups like the poor and minorities receive negligent justice. Judicial proceedings controlled by mobs consistently occur when religious minorities are charged with blasphemy because the

courts refuse bail in these cases. We discover that Pakistani courts operate as two separate systems which maintain social unfairness while showing legal rules.

The legal system of Pakistan shows discriminatory treatment towards needy groups because of its basic rules. Legal feminist analysis shows how systematic male bias acts through court and police departments to impact procedural rights fabric. Women who face trial experience more difficulties when legal proceedings happen without female decision-makers and under strong judgments about the morality of criminalized women.

THE SECURITY-LEGALISM NEXUS

The research shows how legal systems in Pakistan are used primarily for security purposes which weakens the basic fair trial standards. ATCs and military courts appear as Bonner (2007) would define them under "security legalism" because they bring security practices above legal regulations. In Pakistan the security focus leads to secrets-only court hearings with hidden witnesses and blocks legal defense access inside terrorism verdicts.

After 9/11 global security measures helped to weaken the official protection standards globally. Weak legal systems in Pakistan along with ineffective oversight and barely functional review mechanisms seriously increase the risk of illegal practices. These parallel legal institutions that handle exceptional cases outside regular courts have led to using them more often instead of normal courts as the main means to uphold justice (RKM Smith - 2022).

JUDICIAL INDEPENDENCE AND INTERNAL FRAGMENTATION

Judges in Pakistan face severe division and lack of quality that split between national superior courts and local lower courts. Even though the Supreme Court makes fair trial progress (PLD 2015 SC 401), their verdicts do not achieve all lower courts because of flawed distribution methods and shaky court training programs.

Judiciaries receive favors from powerful politicians that weaken their independence and make people distrust them. The president's office interferes most strongly in important political or major criminal proceedings as reported by Ghias (2010). Changes in current Judicial Commission operations and performance measurement will remain difficult to achieve.

NEED FOR NORM INTERNALIZATION AND LEGAL CULTURE REFORM

Data shows Pakistan barely enforces fair trial rights because public officials do not believe in them. Police officers and lower judges in Pakistan tend to emphasize their work numbers over following fair treatment rules in their legal duties. According to Cotterrell (1992) the effectiveness of legal rules in practice depends on their establishment both in formal law and in supporting organizational structures along with popular acceptance among society.

Courthouse reform should advance past methodical alterations and legal court decisions. They need to develop legal awareness while training judges and prosecutors in human rights practices and creating rewards for police departments to maintain proper standards in procedures. Organizations dedicated to civil rights and legal sectors should lead the creation of a responsible legal cultural context.

RESULTS

This research section explores how Pakistan follows international fair trial rules while examining how trial and legal settings work in practice plus parallel court handling. This analysis depends on our reading of fundamental legal documents and court decisions along with institutional records.

INCOMPLETE REALIZATION OF CONSTITUTIONAL GUARANTEES

After Article 10-A became law in 2010 as part of Pakistan's Constitution, it remains available in different jurisdictions unevenly. The Supreme Court decisions show that higher courts accept Article 10-A (District Bar Association Rawalpindi v. Federation of Pakistan represents one example) as legally binding. The lower court judges and police personnel consistently violate due process rules during the pre-trial process because national Supreme Court decisions in PLD 2015 SC 401 have not been effectively followed.

The Human Rights Commission of Pakistan monitored how authorities violate criminal investigation procedures through unwarranted detentions and denied bail rights while delaying criminal indictments. These methods hurt the legal right of the accused to remain innocent until proven guilty and to receive details about charges immediately as specified under Article 14(3)(a) of the ICCPR.

DENIAL OF EFFECTIVE LEGAL REPRESENTATION

Many studies show that defendants from underprivileged groups mostly lack proper legal representation. The International Commission of Jurists (2013) reveals Pakistani public defenders have minimal funding which means more than 70% of criminal defendants must attend court without lawyer representation. Despite the presence of legal aid programs in certain provinces they stay unused because people are unaware of them and public sector bureaucracy causes problems plus funding is poor (International Crisis Group, 2022).

This case breaks constitutional rules in Pakistan and international law because under Article 10-A of the Constitution and Article 14(3)(d) of the ICCPR courts must provide poor defendants legal support when the legal situation needs it. According to Baig et al (Pakistan Journal of Law Analysis & Wisdom, 2024) ineffective court representation leads to many police-confessed cases and wrongful convictions.

USE OF MILITARY COURTS FOR CIVILIAN TRIALS

The research project discovered military courts failed to follow established fair trial standards in their civilian cases. Since 2015 the 21st Constitutional Amendment allows military courts to handle hundreds of civilian cases in private proceedings with no lawyers or civil appeals. The ICJ recorded in 2022 many instances where suspects were tortured into confessing while public observation of trials remained unavailable.

Despite government claims that military courts defend against terrorism these courts break basic principles which protect judicial freedom and fairness. The Pakistani military court system violates the rules of the UN Basic Principles on the Independence of the Judiciary (UN General Assembly, 1985) and Article 14 of the ICCPR.

PRE-TRIAL DETENTION AND JUDICIAL DELAYS

Judgments that took too long and kept suspects under investigation built up major problems in the system. The Law and Justice Commission of Pakistan (2021) shows that almost 65% of Pakistan's prison population consists of detainees awaiting trial. The time needed to resolve criminal cases in regular courts reaches two years due to many delay patterns.

Our results prove scholars' statement that Pakistani criminal courts need more resources to handle their cases efficiently. The system violates Article 14(3)(c) of the ICCPR which stipulates that legal proceedings should happen promptly. The poor medical facilities and prison overcrowding that await pre-trial detainees increase how badly their rights get violated.

GENDER-BASED AND VULNERABILITY-DRIVEN DISPARITIES

The study shows that special groups including women, young people, and religious communities experience more challenges when they want to receive proper legal proceedings. Female defendants in court face unfair decisions from judges plus no proper female defense lawyers while they experience unsafe treatment throughout the legal process. The Juvenile Justice System Act states children should attend non-penal youth programs but courts still try juvenile cases as adults.

The religious minority community in Pakistan often faces unfair court treatment through denied bail privileges and extended court delays along with tougher sentencing for blasphemy crimes (USCIRF, 2021). The unequal treatment shows that Pakistani government agencies do not effectively apply the rules of equal legal rights outlined in Article 25 of the Constitution.

DISCUSSION

The study shows that Pakistan's criminal justice system does not respect the basic rights to a fair trial when following national and international regulations. The justice system shows major problems in areas including poor lawyer quality during defense, excessive pre-trial prison stays, hard to understand military court systems, and continuous court delays. Members of vulnerable groups who possess certain characteristics like their gender, religious identity, and age endure added legal disadvantages. Although Article 10-A of the Constitution sets basic fair trial standards it remains poorly enforced throughout different institutions in Pakistan.

Our findings demonstrate an existing difference between legal promises and actual system operations which affects many legal systems. The justice system puts speed and order ahead of ensuring fair rights for people in detention. Military courts typically implement this security-over-rights approach because they let special courts skip normal civilian court procedures. Military courts violate Article 14 of ICCPR by denying fair trial rights and they harm people's trust in the fairness and legal authority of judges.

Organized acts of discrimination appear throughout the legal system rather than being isolated cases of wrongdoing. The institutionalization of masculine thinking within Pakistani law courts and their lack of understanding on female victimized needs shows that patriarchy rules over procedural fairness today. Legal tools become weapons to suppress minority communities because Pakistani courts favor these prosecutions over others (USCIRF, 2021).

Our results support what academics have previously stated about Pakistan's criminal justice system issues. Studied experts M.hussain (2022) and Ghias (2010) analyze how judgments at court depend on political connections between executive and judicial staff. The research adds new knowledge by showing what impact these problems create for true trial justice protection. The investigation confirms the International Commission of Jurists (2013) claim that legal institutions in Pakistan have weak internal control systems which allow trial rights violations to go unpunished.

Our evaluation shows that Pakistan performs below accepted international standards in its justice system. Under UK law the Legal Aid Agency provides free legal defense to anyone while the Criminal Cases Review Commission monitors convictions after they are made (N Mole, C Harby 2001). The South African constitutional system requires proper trial rights to support justice delivery through fair procedures (JA Lehman 2011). Pakistan failed to create protective structures that allow its rights to function properly.

Since the research analyzes entire legal systems through outside sources it faces specific study restrictions. The research does not use on-site interviews with professionals and victims of injustice to gain firsthand knowledge. This study mainly examines federal level legal systems while also giving limited space to differences in legal implementation between provinces. These study limitations do not weaken the legal critical approach but show that more research is needed across law sociology and public policy fields.

The research finds that while Pakistan follows international rules as part of a legal system worldviews exist parallel to practices that break these rules. People of postcolonial nations wrestle with how their legal systems should function between undemocratic rule and growing democratic aspirations. The current decline of fair trial standards deeply affects the progress of legal transformation while struggling to educate staff and decrease public support for the legal system. When defendants lack proper legal procedures they get sent to prison wrongfully and the marginalized become more separated from normal society. These problems would threaten the relationship between people and government institutions more strongly in Balochistan and Khyber Pakhtunkhwa which face existing conflicts.

State authorities do not meet international standards by using national security and efficiency reasons to change fair trial standards. According to the UN Special Rapporteur on Judges and Lawyers in 2020 states need to uphold non-derogable rights regardless of proclaimed emergencies or terrorism threats. Research shows that ignoring fair trial principles typically results in increased insecurity rather than security over the long term. Cultural differences do not override Pakistan's constitutional requirement to protect both Islamic and UN human rights standards as Baderin (2003) reports. To maintain justice standards and accountability every justification must follow basic court rules.

The research shows how well Pakistan follows fair trial requirements through tests of data and legal outcomes. The research demonstrates that Pakistan has fair trial laws but these guarantees break down due to inconsistent judicial systems and flawed political and institutional structures. Real sustainability needs incoming changes to court architecture backed by dedicated political drive and public monitoring.

CONCLUSION

This research project examined whether Pakistan's criminal justice system properly follows fair trial rules. Despite the constitutional rights under Articles 10-A and the ICCPR Article 14 Pakistan faces major institutional barriers that damage legal protections most severely to those groups who are marginalized or vulnerable.

Through this study we demonstrated that Pakistan obtained important normative progress through its 18th Amendment and treaty ratifications though practical implementation of fair trial laws still needs major improvement. These basic rights remain broken in Pakistan because its institutions cannot perform their job properly. Also the root problem lies with executive intrusion plus multiple justice systems and unfair social hierarchies.

The research shows Pakistan has five main problems in its system of fair trials.

- Inconsistent enforcement of constitutional guarantees across judicial levels.
- Lack of effective legal aid, particularly for indigent and vulnerable defendants.
- Courts run by the military handle civilian trials without applying necessary legal protection processes.
- Systemic judicial delays and prolonged pre-trial detention, often in violation of both domestic and international standards.

- Discriminatory treatment of women, juveniles, and religious minorities in legal proceedings.

Although the justice system follows human rights law standards the practical application does not create true justice.

The Pakistani legal system loses its reliability when it fails to give people their basic rights to fair trials. The public loses its faith in the system because people feel they are denied justice and do not trust democratic institutions anymore. The issue diminishes Pakistan's legitimacy in its role as a human rights champion which it agreed to through both the ICCPR and UNCAT. A violation of fair trial rights at home may lead to innocent people being imprisoned and worsen disputes between political groups. This situation makes open legal violations more threatening because Pakistan faces significant political unrest combined with violent activity.

Researchers started by understanding that fair trial rights serve as fundamental elements in a democratic society. Our research analysis links the findings to legal philosophy and international criminal justice approaches after studying reports from governmental agencies. The criminal justice system of Pakistan fails to deliver justice as promised in both legal terms and actual practice.

Why does this research matter? These trial fairness principles exist as vital aspects of fair democracy and decent ethics. The law becomes unjust if it does not provide proper safeguards to people facing legal charges. The rule of law faces real danger when the right procedures to ensure justice are disregarded. Pakistan should work to increase support services in two ways: through law changes and improved legal system administration.

- Both federal and provincial parts of the country need to build their own public defense systems with sufficient support.
- The Pakistani government should convert all terror courts back into civilian courts while making sure these courts uphold legal rights during trials.
- Officials from the court system need to supervise all legal proceedings to guarantee fair treatment under the law.
- Our justice system needs education to teach its staff how to defend human rights standards in their work.
- Our plan expands justice access to underprivileged people especially women and minority worshippers.

When Pakistan implements organized changes in its justice system it will be able to achieve legal performance that matches its contractual obligations. The nation's democracy and justice system depend on preserving the right to fair trial because this commitment is both part of national law and international agreements.

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