

**RESEARCH PAPER****A Critical Appraisal of the Criminal Justice System's Framework in Pakistan:  
Options for Reducing Abuse of Process**Faisal Awais<sup>1\*</sup> Noman Ali Shah<sup>2</sup><sup>1-2</sup> Lecturer, Faculty of Law, Superior University, Punjab, Lahore, Pakistan\*Corresponding Author [faisal.awais@superior.edu.pk](mailto:faisal.awais@superior.edu.pk)

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**ABSTRACT**

In the context of administering criminal justice, the prevention of abuse of process of law or system within legal processes stands as a paramount concern, particularly in the Islamic Republic of Pakistan. However, this research paper undertakes a thorough examination of the mechanism formulated to ameliorate the abuse of legal procedures within Pakistani criminal justice system. Using a holistic approach that incorporates philosophy of law, case laws evaluation, and institutional surveillance, this research paper intends to explain the root causes and evidence of procedural abuse. Through comparative analysis of the international framework, this research article aims to identify the best practices and culture that could be adopted in Pakistan. This research article provides a comprehensive analysis of case laws and policy assessments to examine the effectiveness and limitations of current preventive approaches. As a result, the findings of the research reveal structural problems and clear tendencies in the procedural abuse, which means that there is a need for radical changes in legislation and the functioning of the institutions. Some of the recommended strategic directions are the increase in judicial supervision, strict compliance with the procedure, and the improvement of the transparency and accountability of the legal system. Thus, by providing a contribution to the existing body of knowledge and policy debate, this study calls for long-lasting changes that would enhance procedural openness and restore the confidence of the people of Pakistan in the criminal justice system.

**Keywords:** Criminal Justice System, Pakistan, Abuse of Process, Legal Procedures, Case Laws, Institutional Surveillance, Comparative Analysis, International, Framework, Judicial Supervision, Transparency.

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**INTRODUCTION**

The adjustment of rights and wrong in the society is anchored on the criminal justice system which forms the basis of justice. Assuming the role of the advisor at law, this paper bolsters its arguments on a legal framework whose foundational principle is the doctrine of due process that protects equity and neutrality in legal processes. However, in the Islamic Republic of Pakistan certain persisting problems related to a notorious style of using legal procedures has caused loses of

people's faith in justice. Procedural unfairness, psychological manipulation and procedural misconduct have become major impediments to the administration of justice (United Nations Development Programme, 2023).

The provided range of this study pertains to the analysis of the measures that should help to minimize procedural violations in the legal system of Pakistan. These are placed within the context of Pakistani socio-legal realities that include a diffusion of institutional responsibility, absence of judicial check and balances, and otherwise Societal norms which leads to the abuse.

**Research Objectives and Hypothesis:** The purpose of this research article is, therefore, to evaluate the existing measures that facilitate the prevention of an abuse of legal processes in the Pakistan's criminal justice system. To achieve this, the research will address the following key questions:

I. What does the term "abuse of process" entails in the context of Pakistani laws and which forms does it take in the context of criminal justice system of the country?

II. What are the causes and conditions that motivate perpetrators of abuses of process in Pakistan and which legal or sociocultural structures sustain them?

III. What benchmarking concepts can be of essence and recourse for Pakistan in dealing with this challenge effectively?

To answer these questions, this study adopts a holistic and multi-faceted methodological approach, based upon philosophical analysis, case laws evaluation, institutional surveillance and comparative analysis.

**Significance of Study:** This research evidence is useful in focusing on the revolving criminal justice reforms in Pakistan. Thus, it to participates in the discussion and outlines the directions and character of the issue of procedural abuse, potential reasons for such actions, and possible changes in its structural requirements of registration. The goals of the research are to identify the set of legislative, institutional and cultural recommendations derived from the evidence-based analysis and to apply the latter to the advocacy of policy-making changes. Furthermore, it aims at strengthen the operational capacity of legal professionals, policymaker's civil society organizations, and citizens in the identification as well as controlling of procedural abuses.

Finally, it aims at bringing back public faith in the style and form of Pakistan's criminal justice system by celebrating accountability, transparency, as well acknowledging and embracing the principles of justice.

The organisation of this research article is systematic to help the readers follow a logical flow when going through the different types of procedural abuses in the criminal justice system of Pakistan. First, it sets forth an exposition of the theoretical framework of procedural justice, including the legal concept of abuse of process as a starting premise to comprehend the problem. It then focuses on the role and structure of the criminal justice system in Pakistan; methodical lacunas and sociocultural practices that nourish and encourage procedural violations, with case law and evidential support. The information collected is then discussed with a comparative assessment of international practices and effective mechanisms with a view to determine their

relevance to Pakistan. For the purpose, the article provides practical suggestions pertaining to the legal changes, the institutional development of the legal profession, the legal magnification of the judiciary, and the promotion of responsibilities towards accountability and transparency. Last, the article provides an analysis of findings and recommendations for the future, which aims to indicate the directions of further research to enhance the capability of procedural abuse's counteraction in response to new and developing issues. This coherent structure makes sure that the study does not devolve into a polemic that is too prescriptive or complex to be easily understandable by scholars, practitioners, or policymakers.

## **LITERATURE REVIEW**

In general, the term abuse of process refers to the circumstances whereby a person proceeds to conduct a legal process for a purpose that is not well allowed in the course of the legal process while violating ethics of equity and fairness in the process. Abuse of process was described by Fletcher (2000) and Duff (2011) as the act of intentional delay and misuse of legitimate law processes, and procedural unfairness legal formalities hence producing unjust consequences such as wrongful convictions or wrong acquittals. Legal documents such as the International Civil and political rights (ICCPR) and the European convention on human rights (ECHR) which contain principles of due process show that there are principles globally that seeks to address misdeeds that compromise judicial fairness. Hence, there are numerous decisions of the European Court of Human Rights and other international jurisdictions on the circumstances in which procedural unfairness has been established and defined, together with the sanctions thereby attached.

In the realm of Pakistan, the literature concerning procedural abuse in the criminal justice system is slowly blossoming. According to Zia (2014), the PCJ system in Pakistan is Russians by institutional problems, corruption and the influence from the political system, leading to numerous procedural abuses. Shah (2019) notes that Pakistani courts still suffer from trial manipulation and political interferences, lack of accountability leading to mass dismissal of trials, and general low public and legal confidence in the trial court system. Similarly, Jamil and Khan (2017) also explained the continued engagement of law enforcement in procedural abuse highlighted the use of investigators theft, bending powers and ignoring the law by providing authority to infringe on the rights of people in the country. Furthermore, Hassan (2021) argues that there are sociocultural factors which are lack of legal awareness and mistrust in the formal legal system, to be secondary factors that keep citizens locked-in to procedural abuse to seek remedy.

Many studies have found that institutional weakness is the root cause of procedural abuse in Pakistan. Ali (2020) says that the judiciary in Pakistan is inefficient, resource limited and does not enjoy a high level of independence, thus, the proceedings can be very delayed or likely maligned. The United Nations Development Programme (2023) mentions also poor enforcement of legal rules as well as systemic impunity as key factors to the abuse of process. Another thing that nightmarish is judicial corruption and political interference in judicial appointments and decisions which make up the criminal justice system unfair, details according to Zaidi (2018). Furthermore, Mehmood and Saeed (2019) point out that insufficient training of legal professionals leads to miscarrying of legal standards resulting in escalation of procedural abuse which is injurious to the fairness.

There is plenty of literature globally on what practices to follow in order to eradicate procedural abuse. Maguire and Finkel (2015) consider the forms of administrative oversight, such as in countries with independent commissions and public visibility of judicial conduct, in efforts to minimize procedural abuse. As Kaufmann (2014) notes, procedural reforms in Germany and Canada provide checks and balances robust enough in the legal system to encourage independent doorsteps to judicial processes. International best practices provide possible models of criminal justice system reforms in Pakistan, and similar reforms may be taken to redress procedural abuse in the country.

Global research brings valuable insights but there is limited literature and low empirical depth on procedural abuse in Pakistan. What most studies do primarily ignore the systemic issues entirely, and instead focus individually on particular cases of abuse. Additionally, there is little talk in the literature about how socio-cultural factors influence procedural abuse, and it still remains an important gap in what we know about the breadth and depth of what is occurring in Pakistan. Other elements include a lack of research on the role of technology in procedural abuse generally speaking, and specifically regarding the increasing use of technology as a surveillance tool and as a means of collecting evidence. This area has not been explored by Farooq (2022), instead, Farooq (2022) begin to address this by considering how technology is able both to exacerbate and ameliorate procedural abuse in sport.

Finally, the literature provides a basis for understanding the concept of abuse of process, both in a general sense globally and specifically in Pakistan's criminal justice system. Yet despite this, research gaps remain substantial, especially the sociocultural and political processes leading to procedural abuse in Pakistan. This review provides context for the current study, which attempts to provide both theoretical and practical ends in closing these gaps and to offer actionable reforms of improving procedural justice in Pakistan.

## **CONCEPTUAL AND THEORETICAL FRAMEWORK**

This research relies on the principles of procedural justice, abuse of a process, and legal accountability to anchor the conceptual and theoretical framework. Thematically, these are the building blocks for learning about the issues regarding procedural abuse in Pakistan's criminal justice system. This section begins with an exploration of the theoretical basis upon which the research is conducted, including key concepts used by the research and theories that provide an understanding of abuse of legal processes in Pakistan.

This research draws on Procedural Justice, as a key concept referring to the fairness and integrity of legal procedures. Justice isn't just about fair outcomes, it's also about fair processes; that's its grounding. Tyler (2006) conceives procedural justice as the fairness of the processes used to make decisions to which the public attributes the highest legitimacy of legal systems. The concept seeks to prevent abuse of process by emphasizing transparency, consistency and neutrality in decision making. Public trust in the criminal justice system hinges on the fairness of legal proceedings: the treatment of any individual, by judges, law enforcement officers or legal representatives. In light of this, this concept is particularly applicable to the present study since majority of abuse of process

in Pakistan tends to be the result of procedural injustices, namely ‘delays’, ‘biases’ and ‘corruption’ within the legal system.

As the core focus of this study is Abuse of Process, this latter is when legal procedures are abused in order to do something which is not proper, and which becomes unjust. This covers a broad range of activities (which may include intentional delays, frivolous litigation, misuse of legal technicalities and even political meddling that undermines legal processes) anywhere from manipulating rules or procedures within written laws to amendments being tampered with after voting, all the way to keeping those who firmly oppose politicians out or 'inciting riots'. Fletcher (2000) defines the abuse of process as the improper use of legal proceedings for the purpose of causing the harassment, delay or provoking an unjust outcome. Brown sword (2013) introduces that abuse of process is an improper use of legal devices to the detriment against the inviolable rights of individuals as well as to the ethical norms in the legal arena. Abuse of process appears in many forms in the Pakistan context including the political manipulation of the judiciary, inefficiency of law enforcement and delays in legal proceedings. It seeks to understand why abuse of process is rife in Pakistan’s criminal justice system and makes recommendations for curtailing the abuse.

Hart (1961) say that the legal positivism is certain that legal rules are essential in the making of order and solving disputes. On this basis, the theory helps account for procedural abuse in terms of Pakistan’s formal legal system characterized by lack of effective enforcement or institutional accountability. The study of how laws are enforced in practice, and where that practice departs from legal norms, in Pakistan’s criminal justice system is, therefore, framed by legal positivism.

By contrast, abuse of process is understood from a Critical Legal Theory (CLT) lens, which exposes them as ongoing social and political processes. In contrast to Cohen (1984), CLT points to power dynamics that shape legal structures and practices, social inequality and political forces that make them what they are. This is especially relevant at a time when it helps us understand how political interference, corruption and institutional weaknesses are able to exploit the use of abuse of process in Pakistan. It adopts a critical view of how these factors contribute to procedural abuse and prevent just delivery in justice system.

The Theory of Judicial Independence is another important framework with which to think about abuse of process in the criminal justice system. The theory is employed in the study to examine under what conditions the absence of judiciary independence contributes to abuse of process and to undermine the credibility of the justice system. The study examines the relationship between judicial independence and procedural fairness, and attempts to determine ways to increase the independence of the judiciary and increase accountability in the legal system.

Moreover, institutional theory offers a perspective on institutional influences on dynamics of procedural abuse. Institutions are both formal and informal and are part of the reason why behavior and outcomes are influenced as much as they are, North argues (1990). In the case of Pakistan’s criminal justice system this means that institutions like police, courts and the legal profession are key in preventing or promoting victims’ procedural abuse. By drawing upon institutional theory, this paper investigates how the structure, norms, and practices of these institutions mitigate or

contribute toward risk of procedural misconduct. The study also contributes to how the systemic problems that enable abuse of process are addressed by institutional reforms.

The last is to adopt the Social Control Theory of Hirschi (1969) to explain what socialization and the enforcement of social norms may be responsible for the legal behavior and enforcement of legal norms. This theory consists of the view of abuse of process, as the theory further suggests that the absence of the effective social control mechanisms, which includes the accountability and public scrutiny, causes procedural abuse. First, it studies how social control can be strengthened in Pakistan's criminal justice system by better transparency, generating public participation, and institutional reform.

The final conceptual and theoretical structure of this study draws together elements of procedural justice, abuse of process, legal positivism, critical legal theory, judicial independence, institutional theory as well as social control theory. They substantiate these theories and support a full understanding of the procedural abuse dynamics in Pakistan's criminal justice system. Using these frameworks, the study tries to identify what are the reasons abuse of process is taking place and how such abuses could be addressed through practical solutions and contribution in the continuous debate of legal reform in Pakistan.

## **RESEARCH METHODOLOGY**

This study uses a quantitative research methodology in order to comprehensively explore the abuse of process in the Pakistan's criminal justice system. It is based on philosophical analysis to critically evaluate the theoretical concepts of procedural justice and fairness in Pakistani legal context to substantiate the theory of abuse of legal processes. An important technique of case law evaluation is to evaluate landmark judicial decisions and precedents in order to derive patterns of procedural abuse, political influence and deviations in the application of justice. The approach can be used to identify systemic flaws and the effect of judicial decision on procedural fairness. Institutional surveillance is also employed to keep watch and assess how legal institutions function, particularly as courts and law enforcement and legal practitioners, both prevent and sustain abuse. Finally, international best practices and legal frameworks are compared for the purpose of assessing what reforms should be adopted for the resolution of procedural abuse problem in Pakistan. By this multi-pronged methodology, a complete investigation of the research problem comes into being, through the use of particular techniques that collect, process, and analyze the information that is necessary for knowing the nature and extent of procedural abuse of the criminal justice system in Pakistan.

## **UNDERSTANDING ABUSE OF PROCESS IN PAKISTAN'S CRIMINAL JUSTICE SYSTEM**

### ***Defining Abuse of Process***

There is no agreed definition of 'abuse of process' and the phrase is commonly used to describe the improper use of legal process, or legal powers for a purpose other than that which the process or the power was intended to be used for. In the Pakistani context, this is manifested in the

form of conducts or omissions by the state actors in the criminal justice system that negatively prejudice the fairness, infringe rights, or hinder justice. (Amir, Muhammad, & Jan 2022)

Justice (R) Nasim Sikandar in one of the most celebrated cases *Arshad Mehmood vs. The State* (PLD 2010 SC 249) mentioned that “abuse of process vitiates the very soul of the justice delivery system and spreads a dark veil on the legal process”. This ambiguity brings confusion and, potentially worse, may in some way hamper attempts at preventing such practices in the first place. (Saqib, 2021)

### ***Philosophical Underpinnings***

- a) **Presumption of Innocence:** It is a fundamental principle of criminal law that holds that a person is presumed to be innocent until such time as he or she is proved guilty beyond any reasonable doubt. (Rafal, 2021)
- b) **Right to Fair Trial:** It is under the Article 10-A of the Constitution of Pakistan which provides the right of fair trial, public trial and trial by an independent and impartial tribunal. (Lodhi, 2021)
- c) **Due Process of Law:** It is a concept referring to various legal entitlements that regulate how some processes should be performed to prevent individuals from negative or unfair actions of the state. (Saeed, 2020)

But this is far from idealistic in the context of ‘abuse of process’ in the criminal justice system of Pakistan. This is because justice is lost where procedures are being twisted, proofs are being concocted or people’s liberties are being violated. (Lodhi, 2021)

### ***Manifestations of Abuse***

#### ***Police Conduct and Investigative Practices***

- a) **Fabricated Evidence:** This has especially been evident in relation to the planting or manipulation of evidence by the law enforcement officials to fix the convictions. The police were found to have framed an accused in the case of *Sughran Bibi vs The State* (PLD 1992 SC 132) to which the accused was discharged. (Morgan, 2023)
- b) **Covered Confessions:** The act of twisting the suspect’s arm or any other form of pressure with the aim of extracting a ‘confession’ is an infringement of human rights and the rule of law. Pakistan being a signatory of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment also prohibits such activities. (Jankov, 2020)
- c) **Undue Delays in Investigations:** Measures such as pretrial detentions without charges, which sometimes take more than the legally permitted time, are the norm. This is a clear violation of right to liberty and creates a realm for force and exploitation. (Majcher, 2022)

#### ***Prosecutorial Discretion and Misconduct***

- a) **Selective Prosecution:** The discretionary use of powers by the prosecutors whereby they will only prosecute the individuals or groups in particular cases for particular political reasons, personal gains or nondiscriminatory reasons is wrong. (U.S. Department of State, 2023)

- b) Withholding of Evidence: Any reasons which may be in the favor of the accused are excluded and this is considered as highly unethical and unacceptable on the part of the prosecutor, and might lead to false convictions. (Saqib, 2021)
- c) Plea Bargaining Pressures: While plea bargaining may not be wrong in certain circumstances, pressure or forceful offers to compel a defendant to plead especially where the defendant is vulnerable has some questions as to its voluntary nature. (Rehman, 2022)

#### *Judicial Bias and Lack of Independence*

- a) Judicial Corruption: Corrupt practices in the judiciary, for instance offering or receiving a bribe, or advocating for a particular case in exchange for a consideration affects the public's confidence in the legal system and distorts the impartiality of the legal procedures. (Brooks, 2019)
- b) External Influences on Judges: It is comprisable from force, coercion, or pressure from politicians, influential people, or radical organizations. (Rehman, 2022).

### **ROOT CAUSES OF PROCEDURAL ABUSE IN PAKISTAN'S CRIMINAL JUSTICE SYSTEM**

#### *Legal Framework and Loopholes*

- a) Vaguely Defined Laws: In fact, it becomes almost impossible to define the concept of 'abuse of process' let alone such sophisticated torturous interpretations of fundamental notions as 'torture', 'coercion', and 'undue influence' without referring to the Civil Procedure Rules. This is an area which those in the wrong or those seeking a way out of the law or around the law to back their case can manipulate. (Rehman, 2022)
- b) Inadequate Procedural Safeguards: Pakistan has the Code of Criminal Procedure, 1898 to address the criminal cases, but there are few satisfactory preventive measures in as far as the types of abuse in question is concerned. For example, rules on the admissibility of involuntary statements or the requirement of the provision of favorable evidence remain ineffective and may still be manipulated. (International Crisis Group, 2024)
- c) Lack of Effective Oversight Mechanisms: This is because there are no independent and strong Supervisory bodies to check on the police, Prosecutors and even the Judiciary hence leading to incidences of Impunity. As it is evident, many organizations do not have check and balances in leadership structures thus exploitation. (United Nations Development Programme, 2023)

Some changes were brought by Police Order, 2002; but as for the police complaints authority, which was created, it is not independent and will not be effective. (Saqib, 2021)

#### *Institutional Weaknesses*

- a) Police Brutality and Corruption: For a long time, there were complaints and problems with the police force in Pakistan in terms of corruption and torture, non-professionalism. A report was released in 2019 by the Human Rights Commission of Pakistan in which cases of torturing, extra-judicial murders and fabrication of proofs by the Law Enforcement Departments can be identified. (U.S. Department of State, 2023)



- b) **Prosecutorial Misconduct and Lack of Independence:** As far as the relations between the parties is concerned, the researchers detected that the prosecution service might prosecute selectively and suppress the exculpatory evidence and or press defendants into guilty pleas. This lack of independence and integrity leads to real prejudice and impairs significantly the fairness of trials. (Mushtaq & Mirza, 2021)
- c) **Judicial Inefficiency and Lack of Transparency:** Pakistan's judiciary which constitutionally is an independent judiciary has certain problems in efficiency, transparency and the availability of its services. Large number of cases, narrow referral for trial extension and ambiguous ways of choosing judges together with their decisions might cause exploitation and compromise the confidence of the public. (Saeed, 2020)

### ***Socio-Cultural Factors***

- a) **Culture of Impunity and Lack of Accountability:** The culture of covering for corrupt leaders or authority figures who are assumed to have had the best intentions also crosses over from multiple domains of Pakistani society into the wicked legal territory. Such a lack of accountability makes the people that take advantage of their authority become more abusive and it also deters the victims from pursuing their justice. (Lakho, 2022)
- b) **Power Imbalances and Influence Peddling:** Power relation in Pakistan society is quite a dichotomous one wherein the power holder can intervene in the process of justice quite easily. The 'government influences' sweep away the equity and hands over the tools of distortion of the law into the hands of the lawyers. (International Commission of Jurists, 2024)
- c) **Social Stigma and Lack of Awareness:** When it comes to culture perception of affairs of crime make many women and other vulnerable persons in the society to have a lot of shame hence denying them the right to report on their abuse. However, awareness on legal safeguards and procedures is still a major flaw among the people, therefore, they are easily exploited. (Sarfraz, Sarfraz, Sarfraz, & Qarnain, 2022).

## **INTERNATIONAL BEST PRACTICES**

### ***Identifying International Model Frameworks***

- a) **United Kingdom:** The framework which is used in the UK pays extra attention to legal safeguards against police misconduct especially in laws such as the Police and Criminal Evidence Act 1984. Worthy of note is the Independent Office for Police Conduct that deals with cases of complaints against the police to check the excesses of the force and uphold the rights of the citizens of the United Kingdom.
- b) **Canada:** It is worthy to note that at all the stages of the Criminal justice process in Canada, individual rights are respected. Section 10 of the Charter of Rights and Freedoms part of the Canadian Constitution 1867 enshrine some basic rights that include the right to retain and instruct counsel and the right against searches and seizures as may be considered unreasonable. The Criminal Code 1892 defines the specific steps of criminal trials to exclude confusion and

manipulation. It is the duty of an independent judiciary to protect these rights together with upholding the principles of natural justice.

- c) United States: The US Constitution specifically the Fourth, Fifth and Sixth Amendments gives a clear protection against search and seizure of individual's property and person without a warrant, protection against being compelled to testify against oneself and provision of a right to be indicted for any offence that carries a penalty of more than five years imprisonment. These constitutional assurances are some of the basic structures of the US legal system meant to act as barriers against too much power being vested in the government while at the same time protecting citizens' rights. However, the US system does not have any problems related to the said factors and their efficiency, still there exists racial bias and prosecutorial misconduct showing that even the most developed system demands constant work and improvements.

***Comparative Analysis: Bridging the Gap Between Ideals and Reality***

- a) Legal Framework: In contrast and paradoxically, model frameworks provide clear legal notions, broad procedural protections, and updated legislation, Pakistan's system remains want of well-defined laws, limited protections and has old laws full of loopholes.
- b) Police Accountability: Model frameworks stress the presence of separate-guardian bodies with investigative/ disciplinary measures, precise codes of behavior, and effective educational courses focusing on peaceful conflict-solving techniques and human rights' respect. On the other hand, in Pakistan cases of truly independent oversight are scarce, protocols are insufficient, the training is not standardized, and within law enforcement organization's impunity is rife.
- c) Prosecutorial Independence: Administrative structures in model systems demand measures to prevent interference with, bias in, or abuses of the prosecution bureaucracy and to provide clear ethical standards when abuse is detected. On the other hand, the Pakistan system seems to bow down to political pressure and undue influence of influential people, there is no clear and accountable procedure of decision making and there is no accountability of prosecutorial misconduct.
- d) Judicial Independence: Protections of judicial autonomy enshrined in the constitution, proper selection procedure that is clear and based on merit, as well as proper provisions of material resources and capacity development for judges define the model frameworks. Pakistan though ill has facing issues related to the independence of the judiciary, opacity of judicial selection, and congested court system which has long trial duration that hampers the justice delivery system.
- e) Public Awareness: To the model frameworks, communication and outreach initiatives are devoted to sensitizing citizens on their rights and the laws as well as the legal procedures, legal assistance, and reporting and remedy procedures in cases of abuse. In Pakistan unfortunately, there is lack of public awareness of legal rights and remedies, legal assistance polarization, social pressure and intimidation restraining the victims of human rights abuses from seeking justice.

## RECOMMENDATIONS FOR REFORM

### *Addressing Legal Loopholes and Procedural Irregularities*

- a) **Ensure Mandatory Registration of FIRs:** The law making it mandatory to register FIRs within cognizable offenses should not be violated at all. Even recently, police stations have not registered FIRs as mentioned in *Haider Ali vs DPO Chakwal* (2014 SCMR 1724 SUPREME COURT) citizens remain out of reach of justice for many years. There should be sui generis precautions that should be taken against the defaulting officials where FIR registration failures are noted and should be effectively implemented. (*Haider Ali v. DPO Chakwal*, 2015)
- b) **Address Police Refusal to Record FIRs:**
  - a. **Clear Legal Mandate:** Emphasize on legal requirements of police officers to register FIRs regarding any cognizable offence without any prejudice and in the least possible time in any police station within the jurisdiction of the officer without any rationalization.
  - b. **Disciplinary Action:** Maintain a serious mode of punitive action against police officers who have the tendency of not registering the FIRs as was required by the law.
  - c. **Public Awareness:** Create public awareness programmes to inform the public about their right to get FIRs registered and how to lay complaints against officers who decline to register their FIRs.
  - d. **Technological Solutions:** Organize and increase public access to technological platforms that diminish the chances of police influence and promote higher levels of FIR transparency and honesty.

### *Legislative Reforms*

- a) **Clearly Define Key Concepts:** Strengthen the legislation by bringing changes to the provisions of the law which do not have clear terms to define the primary legal concepts about abuse of process like ‘due process’, unlawful detention’ and forced ‘interrogation’. (*Naveed Ahmed v. State*, 2023) The greater clarity of statutory provisions is needed to avoid the abuses of legal instruments such as pre-arrest bails as well as to have them as protective shields against frame-up. (*Yasir Khan v. State*, 2022)
- b) **Strengthen Procedural Safeguards:** Pakistan should adopt new legislation or modify their current laws to incorporate elaborate procedure protection mechanism at each stage of the criminal justice system, from apprehension and incarceration to prosecution and convicting. This should include:
  - a. Tightening the laws governing the application of force by the police.
  - b. A clear policy on conduct of searches and seizures.
  - c. Interrogation should be videotaped and the sound recorded and made compulsory.

- d. Supplementary measures to safeguard children and any other dependents like the disabled persons.

### ***Institutional Strengthening***

- a. Establish Truly Independent Oversight Bodies: Create human rights commissions with functions, power and capacity to handle complaints of abuse of process by the police and the judicial organ. These bodies should be accorded with the following authorities:
  - a. Conduct independent investigations.
  - b. Call particular people to testify since they may have ‘seen or heard something relevant to the trial’.
  - c. Co-ordinate for penalties, sanctions, and legal repercussion.
- b. Enhance Capacity and Training: Provide law enforcement agencies, prosecutors, and judges for their proper working as per their professional standards, adequate resources, and proper training. This should include:
  - a. Training on aspects of human rights, the constitution, and conflict sensitivity for the police force.
  - b. Enhancing awareness among and updating of knowledge of both prosecutors and judges through conducting of professional development and refreshers courses such as ethics, evidence law, international best practices etc.
- c. Promote Transparency and Accountability: Propose measures which will be useful in improving the probability of the criminal justice system and are as follows:
  - a. Publicity of information relating to criminal cases and proceedings.
  - b. Development of meaningful conceptions of reference for the law enforcement agencies and the judiciary.
  - c. Frequent assessments of reactions on the part of the populace from time to time.
- d. Ensure Accountability of Investigating Officers: According to Criminal Case Noor Hassan alias Noora, v. State (2019 MLD 1671 ISLAMABAD) the investigating officers are least answerable to anyone hence exposing the criminal justice system to much risk. It should not be business as usual hence there are ways of seeing that the investigating officers are brought to book concerning their behavior in investigations. (Noor Hassan alias Noora v. State, 2019) This includes:
  - a. The emergence of methodologies that may be followed in conducting the investigations.
  - b. Offering a structure within which one or more individuals can present a complaint against an investigating officer to the commission and such a complaint addressed.

### ***Promoting a Culture of Procedural Fairness***

- a) Legal Education and Professional Ethics: Increase the ethical studies and the legal actions within the curricula of the legal education and for active legal employees and governmental officers such as judges and police officers.
- b) Public Awareness and Engagement: Avail of information to the people on their legal and political rights, the importance of procedural governance in investigative detention and desire for justice in the event of abuse. This should include:
  - a. Securing information from media houses.
  - b. Charitable organization activities.
  - c. Particularization of Legal aid clinics.
- c) Special Considerations for Vulnerable Victims: Furthermore, due procedures and sensitization measures must be put in place when dealing with special vulnerable clients as the children and the sexual assault victims. In *Naseeb Ullah vs. State* (2014 PLD 69 PESHAWAR-HIGH-COURT) (*Naseeb Ullah v. State*, 2014) and *Meem Bahadur vs. State* (2013 PCrLJ 1490 PESHAWAR-HIGH-COURT) (*Meem Bahadur v. State*, 2013), the concepts aroused that though the objective of the treatment of juvenile is rehabilitation, the severity of the offense cannot be fully dismissed. Particular focus should be placed on the notion that, on the one hand, the system protects young offenders from prejudice while, on the other hand, the youths cannot be allowed to find a weakness they can exploit in order not to be punished if they have committed infamous offenses.

## CONCLUSION

This research article aimed at highlighting the types, prevalence and impact of the abuse of process in Pakistan's criminal justice system. The study also shows professional misconduct, legal complexities and structural vices that have made it possible for human rights to be abused. Thus, cultural and legal factors, absence of clear legal definitions of violence, inadequate legal protection, and laws and policies that are outdated, combined with a culture of impunity amongst law enforcement agencies have undermined the public's confidence in the criminal justice system.

Moreover, the problem of excessive scope of the abuse of the process has the significance beyond mere need for reform of the procedural law, it pertains to the core values of the rule of law, human rights and justice in Pakistan. The absence of such reforms will maintain the present unconstructive deterioration of the public confidence, a cycle of injustice, and the check on Pakistan's journey towards becoming a strong democratic state.

In a nutshell, the findings of this research article provide a challenge to policymakers, civil society organizations, and citizens of the need to undertake broad reforms within the criminal justice institution. This means implementing new legislation, improving the functionality of the authorities, enhancing the transparency and accountability of the government, and encouraging the respect of procedural laws in Pakistan, Pakistan should attempt to create a justice system that will at least approximate justice that is envisioned in the Constitution and the laws that regulate the country.

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