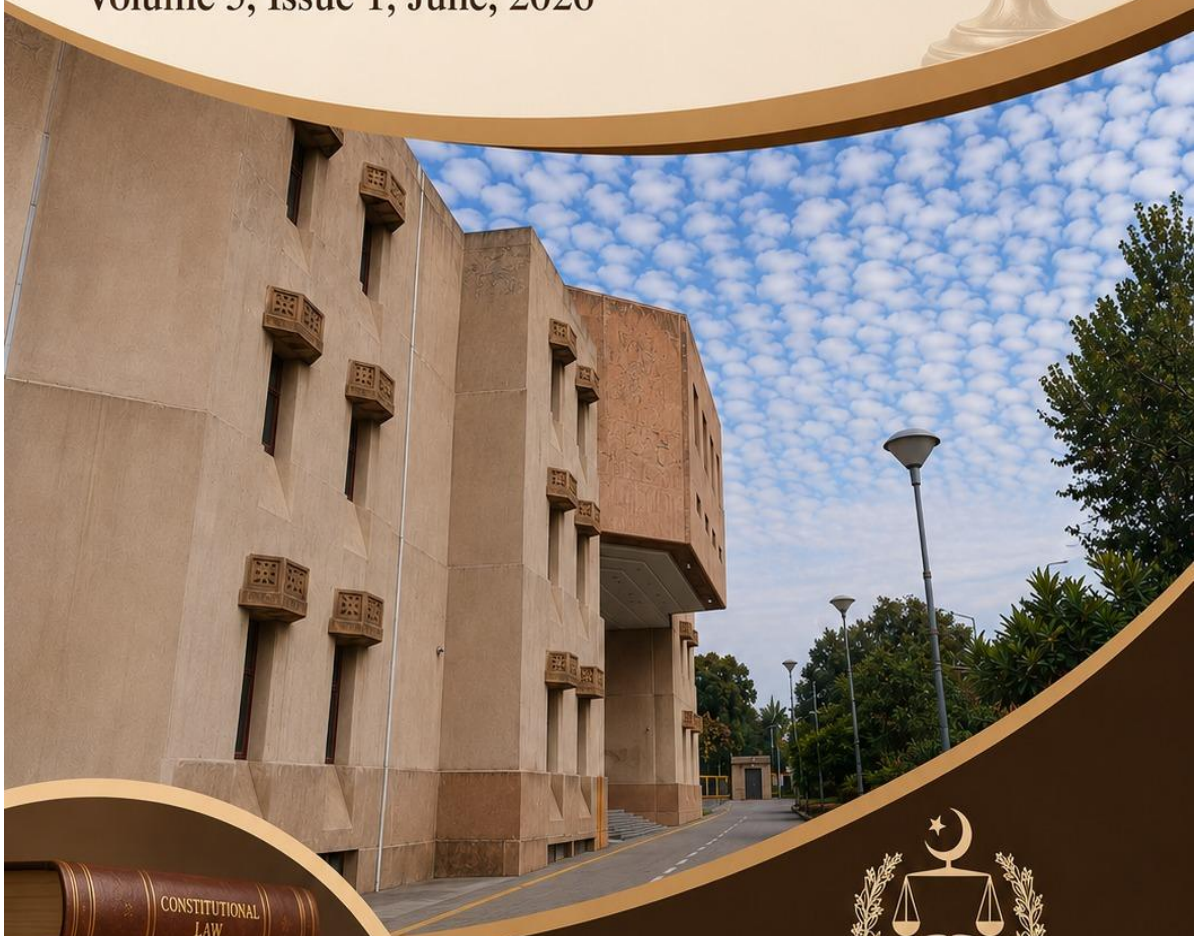
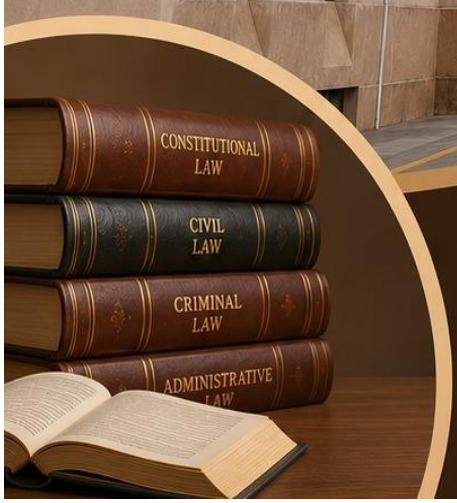
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FEDERAL JUDICIAL ACADEMY

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The Federal Law Journal (FLJ) is a peer-reviewed, open-access legal research journal dedicated to promoting high-quality scholarship in the legal and judicial fields. The journal operates under a double-blind peer review system, ensuring transparency and objectivity in its publication process. Launched with Volume I, Issue 1 in September 2022, the journal has maintained an uninterrupted biannual publication schedule. In addition to the peer-reviewed section, FLJ includes a non-peer-reviewed section that publishes essays, case comments, reviews, and other writings contributing to judicial knowledge and education.

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Editorial Foreword

The Federal Judicial Academy (FJA) proudly presents the *Federal Law Journal*, Volume 5, Issue 1, June 2026, in continuance of its unwavering commitment to fostering academic excellence through this scholarly contribution. This issue is an exciting addition to academic literature, giving our readers yet another opportunity to engage with intriguing and thought-provoking topics. This edition is unique as it includes several novel areas of study that have received limited scholarly attention.

Starting with one such captivating study, the peer-reviewed section opens with *False and Frivolous or Vexatious Accusations: An Analysis of Section 250 Cr.PC.* This article critically examines the efficacy and limited judicial application of Section 250 of the Criminal Procedure Code while proposing practical recommendations for its effective enforcement to discourage false and frivolous complaints.

The second article, *Algorithmic Transparency in Judicial Decision-Making*, makes a timely contribution by examining legal concerns surrounding E-Challans generated through Automatic Number Plate Recognition and the use of unauthorised databases for imposing criminal liability through Face Recognition Technology. It underscores the importance of transparency, fair hearing, and due process in safeguarding fundamental rights against algorithmic decision-making.

The third article, *Justice Delayed: Unpacking the Backlog Crisis in Pakistan's Courts*, explores the persistent challenge of judicial backlog by identifying its underlying causes and institutional shortcomings. It offers well-considered and practical recommendations aimed at improving judicial efficiency and timely access to justice.

This issue also includes a unique study titled *Akl-e-Mayyet: A Doctrinal Critique of Pakistan's Penal Response to Cannibalism*. The article examines the concept of cannibalism and the scope of criminal liability in Pakistan through a comparative analysis of domestic law, Islamic jurisprudence, and foreign legal systems, culminating in meaningful recommendations for legislative reform.

Another significant contribution is presented through the scholarly discussion on *Strike of Bar Councils*. Addressing a matter of considerable contemporary importance, the article analyses the causes, legal implications, and consequences of lawyers' strikes while

highlighting their impact on judicial administration and access to justice.

Further enriching this edition, *Human Rights: An Achievement or a Stumbling Block* critically analyses the political, religious, social, and cultural dimensions influencing the implementation of human rights. It emphasises the need to strike a balance between effective human rights protection and good governance.

Completing the peer-reviewed section, *The Digital Cage: Constitutional Scrutiny of CNIC Blocking for Proclaimed Offenders in Pakistan* examines the constitutional implications and practical consequences of blocking CNICs of proclaimed offenders. It highlights the need for constitutional scrutiny to ensure that executive measures remain consistent with due process and fundamental rights.

The non-peer-reviewed section provides a timely and much needed discussion on one of the emerging topic of Artificial Intelligence titled, "Constitutional Caution of Prudence on use of Artificial Intelligence by Courts and Tribunals in Pakistan".

At the end the Editorial Board extends its sincere appreciation to the contributing authors, reviewers, and editorial team for their invaluable efforts and steadfast support in upholding the Journal's academic integrity.

Hayat Ali Shah
Chief Editor

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PEER-REVIEWED SECTION

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Compensation for False, Frivolous, and Vexatious Accusations:

A Critical Analysis of Section 250 of the Code of Criminal Procedure, 1898 (Pakistan)

Ijaz Ahmad

Abstract

False, frivolous, and vexatious criminal accusations remain frequent in Pakistan, yet compensation for acquitted accused persons under Section 250 of the Code of Criminal Procedure, 1898 (Cr.P.C.) is rarely awarded. This deficiency stems primarily from inadequate judicial understanding of the provision, as evidenced by reported case law. The compensatory framework under Pakistani law lacks vigor, and superior court jurisprudence has provided insufficient guidance for trial courts. Furthermore, academic scholarship on this topic remains notably sparse.

This article critically examines the limited Pakistani case law on Section 250, dissects the statutory provision to clarify its procedural requirements, and proposes legislative amendments to achieve its intended purpose: the deterrence of false, frivolous, or vexatious criminal prosecutions. Given the absence of comprehensive research on this subject, this study compiles and analyzes scattered judicial materials to provide a systematic guide for judicial officers, legal practitioners, and researchers.

Keywords: *false criminal accusations; frivolous prosecutions; vexatious litigation; Section 250 Cr.P.C.; compensation for wrongful prosecution; comparative criminal procedure; Pakistan; India*

1. Introduction

1.1 Research Context and Significance

Section 250 Cr.P.C. represents a crucial yet underutilized mechanism for compensating victims of false, frivolous, and vexatious criminal accusations in Pakistan. Analogous provisions exist in the criminal procedure codes of India, Bangladesh, Myanmar, and Malaysia, reflecting the transnational recognition of this procedural safeguard (Law Commission of India, 1969). Despite its inclusion in Pakistan's colonial-era criminal procedure code since 1898, the provision has remained substantially unamended and has attracted minimal scholarly attention.

The present study critically analyzes Section 250 through examination of reported Pakistani case law, comparative analysis with the Indian amended version, and doctrinal evaluation of the provision's procedural requirements. The article specifically addresses: (a) the stages involved in Section 250 proceedings; (b) the content and form of show-cause notices; (c) the nature and consideration of complainant replies; and (d) the requirements for proper judicial orders.

1.2 Research Questions

This article seeks to answer the following research questions:

1. What are the precise procedural requirements for invoking Section 250 Cr.P.C.?
2. How have Pakistani courts interpreted and applied this provision?
3. What deficiencies exist in the current legal framework, and how do they compare with the Indian amended version?
4. What legislative and policy reforms are necessary to enhance the effectiveness of Section 250?

1.3 Research Methodology

This study employs a doctrinal legal research methodology, combining: (a) statutory analysis of Section 250 Cr.P.C. and comparative provisions; (b) case law analysis of all reported Pakistani judgments (1962–2019); (c) comparative legal analysis with the Indian Cr.P.C. (1973); and (d) doctrinal synthesis of judicial interpretations and academic commentary.

1.4 Literature Review

Academic literature on Section 250 Cr.P.C. remains remarkably limited. No comprehensive monograph or dedicated article has previously examined this provision in the Pakistani context. Indian scholarship, while more developed, focuses primarily on the pre-1973 position (Ratanlal & Dhirajlal, 2018). The Law Commission of India's 41st Report (1969) provides the most authoritative comparative material, recommending substantial amendments that were subsequently incorporated into the Indian Cr.P.C., 1973. This article addresses this significant gap in Pakistani legal scholarship by providing the first systematic analysis of Section 250 jurisprudence.

2. The Statutory Framework

2.1 Text of Section 250 Cr.P.C. (Pakistan)

The text of Section 250 Cr.P.C. provides the foundational framework for compensation proceedings:

> *Section 250: Compensation for false, frivolous, or vexatious accusation*
>
> *(1) If in any case instituted upon complaint or upon information given to a police officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate, by whom the case is heard acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may by his order of acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or if such person is not present direct the issue of a summons to appear and show cause as aforesaid.*
>
> *(2) The Magistrate shall record and consider any cause*

> *which such complainant or informant may show and if he is satisfied that the accusation was false and either frivolous or vexatious, may for reasons to be recorded, direct that compensation to such amount not exceeding twenty-five thousand rupees or if Magistrate is a Magistrate of the third class not exceeding two thousand and five hundred rupees, as he may determine, be paid by such complainant or informant to the accused or to each or any of them (Code of Criminal Procedure, 1898).*

2.2 Comparative Analysis: The Indian Amendment

The Indian Parliament substantially amended Section 250 through the Code of Criminal Procedure (Amendment) Act, 1973, incorporating recommendations from the Law Commission of India's 41st Report (1969). The amendments reflect two significant conceptual shifts.

First, the Indian legislature replaced the requirement that the accusation be "false and either frivolous or vexatious" with the broader standard of "no reasonable ground for making the accusation." This change addressed the Law Commission's observation that the original threshold was "rarely satisfied" and created an objective test in place of the subjective knowledge requirement (Law Commission of India, 1969, p. 33).

Second, the Indian amendment expanded the provision's applicability to cases of discharge as well as acquittal, and increased the compensation limits (Ratanlal & Dhirajlal, 2018).

The Pakistani provision, in contrast, has remained in its original form since 1898, retaining the higher threshold of proving the accusation was "false and either frivolous or vexatious" without any amendment to incorporate knowledge or reasonable cause requirements.

3. Judicial Interpretation in Pakistan: A Critical Analysis

3.1 Early Jurisprudence (1962–1973)

The Supreme Court of Pakistan first addressed Section 250 in Chula Qadir v. Misiry Fazal Din (PLD 1962 SC 33), holding that the provision could not be invoked in proceedings under Section 107 Cr.P.C. (security for keeping the peace), as such proceedings are preventive rather than punitive and do not involve the "commission of an offence." The Court further clarified that orders under Section 250 are not appealable before Sessions Judges, though they remain subject to revision.

In Abdul Quddus v. Hiran Bala Nandi (PLD 1963 Dacca 747), the High Court established that compensation orders cannot be directed against persons who merely conveyed information to the actual complainant. The Court reasoned that tracing the original source of information would require "chains of enquiries" inappropriate to summary proceedings. This limitation, while procedurally sound, potentially shields intermediary informants from liability.

The Lahore High Court in Muhammad Yasin v. The State (PLD 1969 Lahore 648) made two significant contributions: (a) complainants cannot adduce evidence in support of their reply to show-cause notices; and (b) magistrates do not become functus officio after signing acquittal judgments, permitting subsequent Section 250 proceedings. The Court distinguished Karam Baksh v. Muhammad Saeed (62 IC 415), which had held post-judgment compensation awards illegal, on the basis that Section 250 had been subsequently amended by Act XVIII of 1923.

3.2 Procedural Deficiencies Identified (1971–2003)

Pakistani case law reveals persistent procedural irregularities in the application of Section 250.

3.2.1 Failure to Issue Show-Cause Notices

In Municipal Committee v. The State (1971 PCr.LJ 994), the magistrate imposed a "fine" without issuing a show-cause notice or recording the complainant's explanation, contrary to the mandatory requirements of sub-sections (1) and (2). The Lahore High Court set aside the order, emphasizing that the accused's acquittal must precede any compensation proceedings.

3.2.2 Confusion Between Discharge and Acquittal

In Abdul Ghani v. The State (1973 PCr.LJ 261), the magistrate issued a show-cause notice after discharging the accused, notwithstanding that Section 250 explicitly requires acquittal. This reflects a fundamental misunderstanding of the provision's triggering conditions.

3.2.3 Absence of Specific Findings

In Muhammad Banaras v. The State (PLD 1992 Karachi 135), the magistrate neither issued a show-cause notice nor recorded a clear finding that the accusation was false, frivolous, or vexatious, having acquitted the accused on grounds of reasonable doubt. The High Court set aside the compensation order.

3.2.4 Jurisdictional Confusion Regarding Sessions Courts

In Sakhawat Ali v. The State (2003 YLR 245), the Sessions Judge passed a compensation order after cancelling an FIR, despite the trial being pending before a magistrate. The Lahore High Court set aside the order but failed to clarify whether Sessions Judges possess inherent jurisdiction to award compensation under Section 250 when they acquit accused persons in trials before them.

3.3 Contemporary Developments (2009–2019)

The Lahore High Court in Muhammad Afzal v. The State (2009 PCr.LJ 1165) emphasized the necessity of separate, specific findings for awarding compensation, setting aside an order where the magistrate had failed to comply with this requirement.

The Peshawar High Court in Abdul Razzaq v. Gul Fitrat Shah (2014 YLR 1523) invalidated a "two-in-one" order that simultaneously acquitted the accused and directed compensation without issuing a show-cause notice. The Court correctly observed that Section 250(1) (not sub-section (2), as stated) requires prior notice.

Most significantly, the Lahore High Court in Rab Nawaz v. Mubri Khan (2019 PCr.LJ 894) issued comprehensive guidelines for Section 250 proceedings: (i) acquittal of the accused is mandatory; (ii) the magistrate must form the opinion that the accusation was false,

frivolous, or vexatious; (iii) the complainant must be called upon to show cause; (iv) the magistrate must record any cause shown; and (v) the magistrate must consider the cause and record a reasoned opinion that it is unjustified. These guidelines represent the most systematic judicial attempt to structure Section 250 proceedings, though they remain non-binding beyond the Lahore High Court's jurisdiction.

4. Dissection of Section 250: Procedural Requirements

4.1 Step One: The Acquittal Order

Section 250 requires strict compliance with both sub-sections (1) and (2). The first procedural requirement is that the magistrate must record in the acquittal judgment a definite finding that the accusation was "false and either frivolous or vexatious." This requirement has generated conflicting judicial interpretations.

The Calcutta High Court in Fakir Das Dutt v. Gaya Dhar Jana (AIR 1957 Cal 225) held that recording an opinion in the main judgment itself was insufficient compliance. This view was echoed by the Indian judiciary in Kailash Chandra v. Laxminarayan (1966 Cri.LJ 1482). However, the Patna High Court in Ramsagar Singh v. Chandrika Singh (AIR 1961 Pat 364) held that a "definite finding" in the order of acquittal or discharge was mandatory.

This article contends that the Patna High Court's position better serves the objectives of Section 250. Express findings in the acquittal judgment serve multiple purposes: (a) they provide clarity to the acquitted accused regarding the basis of acquittal; (b) they enable the complainant to challenge the acquittal through appeal; and (c) they establish the necessary foundation for subsequent compensation proceedings. If the acquittal is reversed on appeal, any compensation order automatically becomes void.

Furthermore, if the main judgment omits any finding regarding the falsity, frivolity, or vexatious nature of the accusation, Section 250 cannot be subsequently invoked (Muhammad Yasin v. The State, PLD 1969 Lahore 648). The judgment must contain clear terminology—"false and vexatious" or "false and frivolous"—though the Patna High Court has held that mentioning only "false" does not invalidate

subsequent proceedings (Ramsagar Singh v. Chandrika Singh, AIR 1961 Pat 364).

4.2 Step Two: The Show-Cause Notice

Upon recording the requisite finding, the magistrate must issue a written show-cause notice to the complainant or informant. The notice must: (a) specifically cite Section 250(1) Cr.P.C. as the enabling provision; (b) reference the acquittal judgment by title and case number; (c) summarize the findings regarding the false, frivolous, or vexatious nature of the accusation; and (d) call upon the complainant to demonstrate why compensation should not be awarded.

The notice must be in written form; oral direction is insufficient (Rab Nawaz v. Mubri Khan, 2019 PCr.LJ 894). The proceedings must be conducted in a separate file, as the language of Section 250 "contemplates separate proceedings" (Muhammad Yasin v. The State, PLD 1969 Lahore 648).

4.3 Step Three: Consideration of Reply

The complainant's reply must be recorded and considered. The magistrate cannot reopen the main trial or reconsider the acquittal. The purpose of the reply procedure is to obtain "any plausible explanation" (Govindan Prabhakaran v. Sukumaran Nair, 1979 Cri.LJ 1886) that might demonstrate the complainant's lack of knowledge regarding the falsity of the accusation or existence of reasonable grounds for the complaint.

If the magistrate is satisfied that the complaint was made under misapprehension or based on information from another person, the complainant may be exonerated. However, the magistrate must provide reasoned findings; merely stating that the reply is "not satisfactory" renders the order ex facie illegal (Kailash Chandra v. Laxminarayan, 1966 Cri.LJ 1482).

4.4 Step Four: The Compensation Order

The final order must be a "speaking order" containing proper reasoning. It must specify: (a) the amount of compensation (not exceeding the statutory limit); (b) the reasons for determining the

specific amount; (c) a clear finding that the accusation was false and either frivolous or vexatious; and (d) consideration of the complainant's reply and reasons for rejecting it. The order must direct "payment of compensation," not impose a "fine" (Municipal Committee v. The State, 1971 PCr.LJ 994).

5. Determination of "Complainant" and "Informant"

5.1 The Real Complainant Doctrine

Section 250 permits action against "the person upon whose complaint or information the accusation was made." Pakistani and Indian courts have consistently held that compensation can only be directed against the person actually responsible for initiating proceedings, not against intermediaries who merely conveyed information (Abdul Quddus v. Hiran Bala Nandi, PLD 1963 Dacca 747; Ramsagar Singh v. Chandrika Singh, AIR 1961 Pat 364).

The person who "actually alleges the commission of offence and professed to have seen it" constitutes the real complainant (Ramsagar Singh v. Chandrika Singh, AIR 1961 Pat 364). This limitation prevents undue extension of liability while ensuring accountability for false accusations.

5.2 Police Officers as Potential Respondents

The application of Section 250 to police officers presents complex jurisdictional questions. Indian courts have generally exempted police officers from Section 250 liability in cognizable offences, reasoning that: (a) police information does not constitute a "complaint" as defined in Section 4(h) Cr.P.C.; (b) police reports under Sections 157, 168, and 170 are distinct from "information" under Section 250; and (c) fear of compensation liability might deter police from reporting cognizable offences (Mohamad Meera v. Dattatraya Babji, 1946 48 Bom. LR 548; Krishnan Moopan v. State of Kerala, 2005 (2) KLT 700).

However, this exemption applies strictly to cognizable offences investigated under the standard police procedure. When police officers file complaints without magisterial permission under Section 4(h), such

complaints fall within the definition of "complaint," potentially exposing police officers to Section 250 liability (Public Prosecutor v. A.V. Ramiah, 1958 Cri.LJ 737).

This article argues that the blanket exemption for police officers requires reconsideration. While genuine law enforcement activity warrants protection, police officers who deliberately file false accusations—particularly in narcotics cases, where abuse has been documented (Human Rights Watch, 2016)—should not remain entirely immune. The balance between encouraging police reporting and preventing abuse requires careful calibration.

A proposed proviso might provide: "Notwithstanding any judgment of a court of law, any police officer directed to pay compensation under Section 250 shall not thereby be rendered incompetent as a witness, nor shall his deposition in any other case be viewed with suspicion solely by reason of such compensation order."

6. Constitutional and Policy Dimensions

6.1 Constitutional Foundations of Compensation for False Criminal Accusations

The Constitution of the Islamic Republic of Pakistan, 1973 embodies the fundamental values of the rule of law, due process, equality before the law, and the protection of individual liberty and human dignity. These constitutional principles require the State to ensure that the criminal justice system operates fairly and that no person is exposed to arbitrary, malicious, or abusive criminal proceedings without an effective legal remedy. Section 250 of the Code of Criminal Procedure, 1898 gives practical effect to these constitutional values. The constitutional importance of this protection was recognised by the in *Asif Ullah v. Government of Khyber Pakhtunkhwa* (Pesh. H.C. 2025), the Court observed that "false and fabricated prosecutions offend Articles 4, 9 and 10A of the Constitution of Pakistan."

6.2 Articles 4 and 9: Right to Be Treated in Accordance with Law and Security of Person

Article 4 guarantees every individual the right to be treated in accordance with law, while Article 9 provides that no person shall be deprived of life or liberty except in accordance with law. Read together, these provisions require criminal proceedings to be conducted fairly, lawfully, and without arbitrariness. A prosecution based on false, frivolous, or vexatious allegations amounts to an abuse of the criminal process.

Section 250 of the Code of Criminal Procedure, 1898 provides a statutory response to such abuse. Once the court concludes that an accusation is false and either frivolous or vexatious, an order awarding compensation serves a dual purpose. It provides redress to the person who has suffered an unwarranted prosecution and reinforces the constitutional requirement that the criminal process must be exercised fairly, responsibly, and strictly in accordance with law.

6.3 Article 10A and Procedural Fairness

Article 10A expressly guarantees the right to a fair trial and due process. This constitutional provision requires that a complainant be served with a show-cause notice before compensation is awarded under Section 250 of the Code of Criminal Procedure. The requirement reflects the principle of *audi alteram partem*—that no person should be condemned unheard.

The Magistrate is also under obligation to make a reasoned order to make it evident that the statutory conditions have been carefully examined as contemplated under Article 10A.

6.4 Article 25 and Unequal Statutory Treatment:

Article 25 guarantees equality before the law and equal protection of the law. This principle requires that both the

complainant and the accused receive fair and impartial treatment. Section 250 reflects this constitutional commitment by providing a remedy to both the accused and complainant of criminal case. The provision therefore seeks to maintain a fair balance between the rights of both parties while preserving the integrity of the administration of criminal justice.

However, the present statutory framework may, in certain cases, give rise to unequal treatment. Compensation under Section 250 is available where the trial is conducted by a Magistrate but not where the acquittal is recorded by a Sessions Court, even though the prosecution in both cases may have been false, frivolous, or vexatious. This distinction, based solely on the forum of trial, is difficult to reconcile with the guarantee of equality before the law under Article 25 of the Constitution.The restriction of Section 250 compensation powers to magistrates alone raises significant constitutional questions under Article 25 of the Constitution of Pakistan, 1973, which guarantees equality before the law and equal protection of the law. Accused persons acquitted by Sessions Judges or Additional Sessions Judges—who try more serious offences—have no statutory remedy for false, frivolous, or vexatious accusations, creating an anomalous distinction based on the forum of trial.

The Lahore High Court in Sakhawat Ali v. The State (2003 YLR 245) failed to resolve this issue definitively. This article contends that extending Section 250 powers to Sessions Courts and Additional Sessions Judges would harmonize the procedural framework with constitutional equality principles.

6.5 Policy Implications and Practical Consequences

The underutilization of Section 250 has significant policy consequences. First, deterrence failure: without effective compensation mechanisms, false accusers face no financial consequences, encouraging vexatious litigation. Second, backlog augmentation: frivolous cases contribute to Pakistan's significant judicial backlog, estimated at over 2 million pending cases (Law and

Justice Commission of Pakistan, 2023). Third, rights of acquitted accused: wrongfully accused persons suffer reputational, financial, and psychological harm without statutory recourse. Fourth, judicial resources: the diversion of magisterial resources to groundless prosecutions impairs the administration of justice in genuine cases.

7. Proposed Legislative Reforms

7.1 Substantive Amendments

Based on the foregoing analysis, this article proposes the following substantive amendments to Section 250 Cr.P.C.

1. Adopt the Indian "Reasonable Ground" Standard: Replace "false and either frivolous or vexatious" with "no reasonable ground for making the accusation," lowering the threshold for compensation while maintaining procedural safeguards.
2. Extend to Sessions Courts: Empower Sessions Judges and Additional Sessions Judges to award compensation, ensuring equality of remedy across all criminal courts.
3. Increase Compensation Limits: Raise the maximum compensation to reflect contemporary economic realities and enhance deterrence.
4. Include Discharge Proceedings: Extend the provision to cases where accused persons are discharged, not merely acquitted.

7.2 Procedural Amendments

The following procedural amendments are additionally proposed.

1. Mandate Written Show-Cause Notices: Codify the requirement for written notices with specific content requirements.
2. Prescribe Reply Timeframes: Establish clear deadlines for complainant replies to prevent indefinite delay.
3. Require Speaking Orders: Mandate reasoned orders with specific findings on each statutory element.
4. Provide Appeal Mechanisms: Create a limited right of appeal against compensation orders to balance the interests of complainants and accused persons.

8. Conclusion

Section 250 Cr.P.C. represents a potentially effective but significantly underutilized mechanism for compensating victims of false, frivolous, and vexatious criminal accusations. Pakistani courts have, over six decades, gradually developed procedural guidelines through case law, yet persistent deficiencies in application, interpretation, and legislative framework continue to impair its effectiveness.

The comparative experience of India, which substantially amended its analogous provision in 1973, demonstrates that legislative reform can enhance the provision's utility without compromising procedural fairness. The constitutional imperative of equality before law, combined with the practical necessity of deterring frivolous litigation, mandates urgent legislative attention to Section 250.

This article has provided a systematic analysis of the statutory framework, judicial interpretations, procedural requirements, and policy dimensions of Section 250. It is hoped that this contribution will assist judicial officers in correctly applying the provision, guide legislators in considering necessary amendments, and stimulate further academic research on this important but neglected aspect of Pakistani criminal procedure.

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Algorithmic Transparency in Judicial Decision-Making:

Safe City Surveillance, FRT, ANPR, NADRA Biometric Integration, the Black Box Problem, and the Constitutional Right to a Fair Trial

Mian Umer Arshad[1]

ABSTRACT

Authorities across all four provinces has established an algorithmic law enforcement apparatus of unprecedented scale. This integrated triad, comprising Facial Recognition Technology (FRT), Automatic Number Plate Recognition (ANPR), and NADRA-integrated biometric databases, currently operates in a near-complete legal vacuum. This article employs a doctrinal-analytical methodology to demonstrate that the deployment of such opaque algorithmic evidence constitutes a tripartite constitutional violation of Article 9 (Life and Liberty), Article 10-A (Fair Trial), and Article 14 (Dignity and Privacy).

The central thesis posits that the constitutional standard of a meaningful defence is structurally impossible when evidence is generated by "Black Box" systems whose internal logic remains inaccessible to the accused, counsel, and the court. By drawing upon a comparative analysis of landmark Pakistani and international judicial precedents, and documenting systemic harms such as wrongful arrests and erroneous automated citations, the research identifies a critical Transparency Deficit. The study concludes by proposing a robust five-tier legislative reform framework. This includes suggested amendments to the Qanun-e-Shahadat Order 1984 and the Investigation for Fair Trial Act 2013, the enactment of a statutory Right to Explanation, and the establishment of a National Algorithmic Evidence Commission to ensure that technological utility does not supersede constitutional sanctity.

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Keywords: *Algorithmic Transparency; FRT; ANPR; NADRA Biometric Integration; Article 10-A; Fair Trial; Meaningful Defence; Black Box; Explainability Crisis; Algorithmic Evidence Disclosure Standard; Artificial Intelligence; Rebuttable Presumption; Safe City Pakistan; QSO Article 59; QSO Article 164; Bridges v CCSWP; Puttaswamy; EU AI Act 2024*

Introduction

Pakistan's Safe City infrastructure operates two distinct categories of autonomous decision-making that together constitute the most significant unregulated use of AI against citizens in the country's legal history. The first Facial Recognition Technology (FRT) generates probabilistic criminal identifications that can trigger arrests. The second Automatic Number Plate Recognition (ANPR) automatically issues financial penalties to vehicle owners, with a documented error rate that has produced thousands of wrongful challans across Pakistan. Both categories share a fundamental constitutional defect: neither requires, as a condition of its legal effect, any disclosure of the system's accuracy, methodology, or the probability of error in the specific case. Both produce outcomes arrest, charge, penalty before the affected citizen has any mechanism to challenge the algorithmic decision. And both rely on the same black box opacity that renders meaningful challenge structurally impossible.

When a Safe City facial recognition algorithm matches a face captured on a camera in Lahore with a criminal database entry, the effect will be the arrest, remand, or framing of charge consequently leading to the trial. All this would happen without ensuring the accuracy of the system and without giving such information to an accused, the arresting officer, the prosecutor, or the presiding judge. There is also a lack of information of how confident the match was, or how often systems of this type misidentify people of the accused's demographic characteristics. This is not a hypothetical scenario. In October 2025, Karachi police publicly announced the first arrest in Sindh province made primarily on the basis of Safe City facial recognition data.[2] No Technical Disclosure Statement was filed with the court. No probability score was disclosed to the defence. No independent audit had ever been conducted of the Sindh Safe City FRT system's accuracy,on

Pakistan's ethnically and phenotypically diverse population. The accused was produced before a Judicial Magistrate. The algorithm had spoken. No human being present in that courtroom could explain why.

Pakistan's Safe City infrastructure has grown at a pace that has comprehensively outrun its legal framework. The Punjab Safe Cities Authority (PSCA)[2], established under the Punjab Safe Cities Authority Act 2016 (Act I of 2016)[3] in collaboration with Huawei Technologies, operates over 8,000 high-definition cameras installed in Lahore. This has also expanded to Faisalabad, Rawalpindi, Gujranwala, and eighteen additional districts linked to an AI-powered Integrated Command, Control and Communication (IC3) system with real-time FRT and Automatic Number Plate Recognition (ANPR) capabilities. The Islamabad Safe City project monitors the capital with integrated FRT, ANPR, and GPS coordination. The Sindh Safe Cities Authority, whose legislation was amended on 13 January 2026,[4] operates 42 FRT units among Karachi's 900-plus camera network. KPK maintains its own Safe City framework for Peshawar[5]. And in February 2026, the Balochistan Cabinet approved the Balochistan Safe City Project[6], completing Pakistan's national AI-powered surveillance footprint. These are not passive recording systems. They actively classify, identify, and generate alerts and ANPR-generated penalties that affect citizens' liberty, mobility, and finances every day.

This article employs a doctrinal-analytical methodology, systematic textual examination of constitutional provisions, statutory

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[2] Punjab Safe Cities Authority, "*Official Portal*", PSCA, https://psca.gop.pk/ (accessed March 14, 2026).

[3] The Punjab Safe Cities Authority Act 2016 (Act XVI of 2016), Government of the Punjab, available at: https://punjablaws.punjab.gov.pk/uploads/articles/PUNJAB_SAFE_CITIES_AUTHORITY_ACT_2016.pdf (accessed March 14, 2026).

[4] The Sindh Safe Cities Authority Act 2026 (Sindh Act No. II of 2026), Provincial Assembly of Sindh, available at: https://pas.gov.pk/uploads/acts/Sindh_Act_No.II_of_2026.pdf (accessed March 14, 2026).

[5] Government of Khyber Pakhtunkhwa, "*Project Management Unit (PMU) for Peshawar Safe City Project*", KP Official Portal, https://kp.gov.pk/page/pmuforpeshawarsafecityproject (accessed March 14, 2026).

[6] Balochistan Safe Cities Authority, "*Official Portal*", BSCA, https://bsca.gob.pk/ (accessed March 14, 2026).

instruments, and judicial precedent, supplemented by comparative constitutional analysis and empirical case studies from Pakistan and internationally.

Core Research Question

Does algorithmic opacity in Safe City FRT, ANPR, and NADRA-integrated biometric evidence violate Article 10-A of the Constitution of Pakistan 1973 and what specific legal reforms are constitutionally required in response?

Algorithmic Justice: Conceptual Framework and Pakistani Context

The concept of 'algorithmic justice' has emerged as the primary normative framework for evaluating AI systems deployed in public decision-making. As articulated by Qureshi, Ahmed, and Chaudhary (2025), algorithmic justice encompasses four interlocking requirements: transparency (the ability to understand how an AI reaches its decisions); non-discrimination (freedom from bias based on race, gender, ethnicity, or class); due process (the right to know and challenge the basis of algorithmic decisions); and accountability (clarity about who bears responsibility when algorithms cause harm).[7] Pakistan's Safe City AI systems, as this article demonstrates, fall short of all four requirements.

The significance of algorithmic justice is amplified by Pakistan's unique legal pluralism, which combines Islamic jurisprudence, British colonial common law, and customary norms. The principle of عدل (justice) in Islamic jurisprudence demands that no person be condemned on evidence they cannot comprehend or challenge. The

[7] G. M. Qureshi, F. A. Ahmed, & F. Chaudhary, "Algorithmic Justice and Legal Pluralism", *Competitive Research Journal Archive*, Vol. 3, No. 2 (2025), pp. 67–75, available at: https://thecrja.com/index.php/Journal/article/view/106 (accessed March 14, 2026). **Note:** For the original and authoritative text of the statutes mentioned in this article, please refer to the Official Gazette of Pakistan or https://pakistancode.gov.pk

common law adversarial tradition, inherited through Pakistan's Code of Criminal Procedure 1898[8] and the Qanun-e-Shahadat Order 1984[9], makes cross-examination of evidence central to the trial, additionally, in civil matters, the principles of the Civil Procedure Code 1908[10] ensure that procedural fairness remains a cornerstone for adjudicating evidence in algorithmic contexts. The principle of ijtihad (independent legal reasoning) supports the conclusion that traditional procedural guarantees must be reinterpreted for the AI context and that algorithmic transparency is not merely a technical preference but a constitutional and jurisprudential necessity.

Pakistan's AI Governance Gap

Pakistan's governance architecture for AI and emerging technologies remains fragmented and normatively narrow. The National AI Policy (Draft, 2023)[11] introduced by the Ministry of IT is overwhelmingly techno-centric, focused on productivity and innovation, with minimal engagement with justice, fairness, or algorithmic accountability. There is no judicial discourse on algorithmic bias, no procedural framework for evaluating algorithmic evidence, and no parliamentary debate on the constitutional implications of AI-powered law enforcement. As Soomro, Kalhoro, and Gujjar (2025) document, Pakistan's AI-driven policing infrastructure has been built in the absence of robust regulatory frameworks and public accountability

[8] *The Code of Criminal Procedure, 1898*, available at: https://pakistancode.gov.pk/english/UY2FqaJw1-apaUY2Fqa-apaUY2Npa5lp-sg-jjjjjjjjjjj (Accessed: June 20, 2026).

[9] *Qanun-e-Shahadat Order, 1984*, Art. 164, available at: https://pakistancode.gov.pk/english/UY2FqaJw1-apaUY2Fqa-apaUY2Npa5plaw%3D%3D-sg-jjjjjjjjjjj (Accessed: June 20, 2026).

[10] *The Code of Civil Procedure, 1908*, available at: https://pakistancode.gov.pk/english/UY2FqaJw1-apaUY2Fqa-apeb-sg-jjjjjjjjjjj (Accessed: June 20, 2026

[11] Ministry of Information Technology & Telecommunication, "*National AI Policy Consultation Draft V1*", Government of Pakistan (2023), available at: https://moitt.gov.pk/SiteImage/Misc/files/National%20AI%20Policy%20Consultation%20Draft%20V1.pdf (accessed March 14, 2026).

mechanisms.[12] The algorithms that identify faces, read number plates, and flag suspicious behaviour were developed abroad, trained on foreign datasets, and operate with no public disclosure about accuracy rates, percentage of error margins, or demographic performance. This is what Frank Pasquale (2015) terms the 'black box society' a world in which consequential decisions are made by opaque algorithms that citizens and courts cannot interrogate.[13]

What is Black Box

The term 'black box,' originating in systems theory, denotes any system whose inputs and outputs are observable but whose internal processing is opaque neither reducible to human-comprehensible logical rules nor expressible in a chain of reasoning that can be examined.

1. Facial Recognition Technology (FRT): Operation, Problems, and Case Law

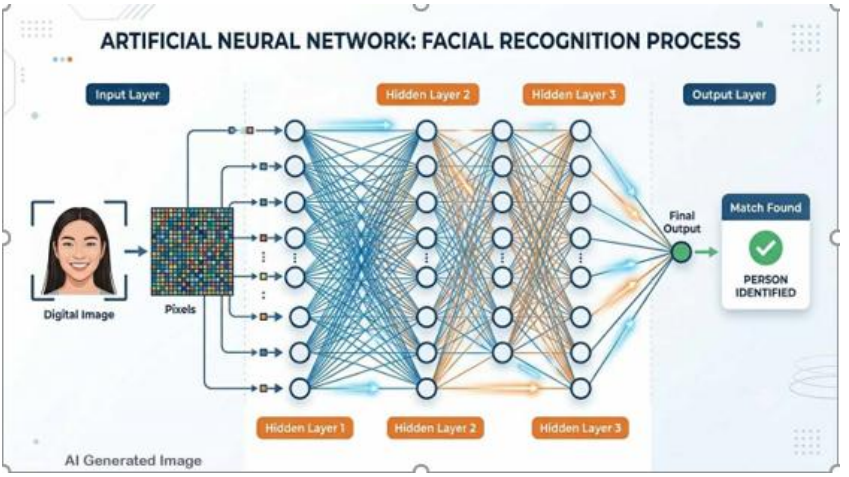
1.1 How FRT Works: The Black Box and the Explainability Crisis

Pakistan's Safe City FRT systems employ deep learning "Neural Networks*(**A neural network is a computational model that processes data through interconnected layers of nodes to identify patterns and generate outputs based on learned relationships)*** computational architectures trained on large datasets of labelled face images.

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12 S. A. Soomro, H. B. Kalhoro, & M. Gujjar, "*AI-driven policing in Pakistan*", Pakistan Social Sciences Review, Vol. 9, No. 3 (2025), pp. 338–350, available at: https://ojs.pssr.org.pk/journal/article/view/1065 (accessed March 14, 2026).

13 Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information*, Harvard University Press (2015), available at: https://raley.english.ucsb.edu/wp-content/Engl800/Pasquale-blackbox.pdf (accessed March 14, 2026).



During training, millions of numerical parameters are adjusted to optimise the network's ability to match input face images to database entries. When a camera captures an image, the trained network transforms it into a probability vector and outputs a match if the highest probability score exceeds the configured threshold. The critical legal point is that this computational process contains no logical rules, no explicit criteria, and no human-comprehensible account of why a particular image was matched to a particular person. The neural network does not reason. It computes. This is what AI scholars term the 'Explainability Crisis' the fundamental structural impossibility of producing, for any specific output of a deep neural network, a causal explanation in human-intelligible terms.14

The critical legal point is that this process contains no logical rules, no explicit criteria, and no human-comprehensible account of why a particular image was matched to a particular database entry. The neural network does not 'see' a face the way a human witness sees it. It does not identify a nose, or eyes, or a distinctive scar. It processes pixel arrays through mathematical transformations of such complexity that the system's own developers, after the fact cannot reconstruct, in any judicially meaningful sense, why the network assigned a match

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14 F. Doshi-Velez & B. Kim, "*Towards a Rigorous Science of Interpretable Machine Learning*", arXiv preprint arXiv:1702.08608 (2017), available at: https://arxiv.org/pdf/1702.08608 (accessed March 14, 2026).

score of 0.89 to person A and not to person B. This is what AI scholars term the Explainability Crisis the fundamental impossibility, for deep learning systems at the current state of the art, of producing a human-comprehensible explanation of any specific decision.[15]

The Explainability Crisis is not a temporary engineering problem. It is intrinsic to the deep learning paradigm: the statistical optimisation that makes these systems highly accurate on average is precisely the process that makes individual decisions inexplicable. Even the system's developer, given an input image and a match output, cannot reconstruct a chain of reasoning because there is no chain of reasoning, only a mathematical transformation through millions of numerical weights. From legal view it is always required before the court of law for giving a verdict and for the exercise of state power against individuals, indeed this is a constitutional problem of the first magnitude.

1.2 FRT: Documented Problems and Pakistani Cases

Investigative reporting on Pakistan's Safe City surveillance systems highlights the involvement of international technology vendors in the deployment of large-scale CCTV and monitoring infrastructure. In the case of Lahore's Safe City project, concerns were raised regarding the presence of foreign-supplied hardware components within surveillance systems, prompting discussions about security, oversight, and potential misuse of embedded technologies.[16] Existing literature on facial recognition systems highlights the importance of performance evaluation across diverse demographic groups. In Pakistan's context, publicly available information regarding the assessment of such systems across different population groups

[15] G. Shah, Z. Ali, & M. Tahir, "*AI Integration in Pakistan's Legal System*", Federal Law Journal, Vol. 4, No. 1 (2025), pp. 87–101, available at: https://flj.gov.pk/docs/v4_issue_1/v4_issue_1_art5.pdf (accessed March 14, 2026).

[16] *BBC News*, "Algorithmic bias: The computer programs that learn to be racist," March 28, 2017, https://www.bbc.com/news/technology-47856098 (Accessed: June 19, 2026).

remains limited.[17] The MIT Media Lab study by Joy Buolamwini and Timnit Gebru (2018)[18] established error rate disparities of up to 34.7% across demographic groups in leading commercial FRT systems, with the highest error rates concentrated among darker-skinned individuals.

The October 2025 Karachi FRT Arrest:[19] Media reports concerning an October 2025 arrest in Karachi suggest that facial recognition technology was used as part of the investigative process in identifying a proclaimed offender. However, publicly available reporting provides limited information regarding the evidentiary role of the algorithmic output in subsequent judicial proceedings. Consequently, the case is more appropriately viewed as an illustration of the emerging use of FRT in law enforcement rather than as a definitive legal precedent concerning the admissibility or reliability of algorithmic evidence.

In *Nasira Ashfaq v. Director General, Safe Cities Authority* (W.P. No. 78006/2023)[20], the Lahore High Court dealt with issues arising from a request for access to surveillance-related material within the Safe City framework. The dispute primarily concerned the availability and disclosure of digital records, including CCTV footage, in the context of criminal investigation and the right of the accused to access potentially relevant material. While the case was not directly focused on facial recognition technology, it nonetheless brought into focus broader questions regarding the management, preservation, and accessibility of surveillance data held by public authorities. The proceedings reflect the increasing intersection between digital surveillance systems and

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17 Digital Rights Foundation, *Annual Report 2023*, available at: https://digitalrightsfoundation.pk/wp-content/uploads/2024/04/DRF-Annual-Report-2023.pdf (Accessed: June 20, 2026).

18 Joy Buolamwini & Timnit Gebru, "*Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification*", Proceedings of Machine Learning Research, Vol. 81 (2018), pp. 1–15, available at: https://proceedings.mlr.press/v81/buolamwini18a/buolamwini18a.pdf (accessed March 14, 2026).

19 Imtiaz Ali, "*Suspect arrested in Karachi with help of facial recognition technology*", Dawn, Oct 21, 2025, https://www.dawn.com/news/1950258 (accessed March 14, 2026).

20 *Nasira Ashfaq v. Director General, Safe Cities Authority*, 2025 PCrLJ 233 (Lahore High Court)

procedural safeguards in criminal justice, particularly in relation to transparency and fair trial considerations.

1.3 FRT and the Article 59 QSO Expert Evidence Problem

The Punjab Safe Cities Authority Act 2016 (PSCAA), Section 14(2), read with Article 59 of the Qanun-e-Shahadat Order 1984 and Section 510 of the Code of Criminal Procedure 1898, provides for the use of PSCA information technology personnel as evidentiary witnesses in proceedings involving digital systems and related technological outputs. Article 59 QSO governs the admissibility of expert opinion evidence in matters requiring specialised knowledge, while its evidentiary value is determined by the court under established principles relating to admissibility, qualification, methodology, and cross-examination. Section 14(2) of PSCAA 2016 operates as a deeming provision for evidentiary purposes under Article 59 QSO. The assessment of whether a witness is suitable to provide such opinion evidence is carried out by the court under the general framework governing expert evidence, having specialised knowledge with relevance, and evidentiary value. The statutory provisions do not set out detailed procedural requirements regarding the manner in which technical testimony is linked to the digital systems forming the basis of evidentiary outputs, thus leaving such assessment to the general evidentiary framework applicable under the QSO.

In the context of AI-based facial recognition systems, questions have been raised regarding the extent to which such testimony can fully capture algorithmic decision-making processes, particularly where system complexity and proprietary constraints limit detailed disclosure of underlying models. This creates an emerging tension between traditional expert evidence standards and the technical realities of AI-enabled surveillance.

The evolution of electronic evidence in Pakistan reflects a gradual shift from basic recognition of digital records to more structured treatment of system-generated data. The Electronic Transactions Ordinance 2002 introduced legal recognition of electronic documents, while the Prevention of Electronic Crimes Act 2016 further developed the framework by defining information systems and addressing digital evidence in criminal investigations.

This development largely assumes a system-reliability approach focused on data integrity. However, the rise of AI-based tools such as facial recognition adds new challenges, particularly in relation to fair trial guarantees under Article 10-A[21] of the Constitution, In *Dr. Mobashir Hassan and others v. Federation of Pakistan and others*[22] the Supreme Court emphasised the constitutional importance of the right to a fair trial under Article 10-A, particularly in ensuring that criminal proceedings remain subject to meaningful procedural safeguards and judicial scrutiny of evidence. The judgment underscores the broader principle that evidentiary processes must allow adequate opportunity for challenge within the framework of due process.

2. Automatic Number Plate Recognition (ANPR): Operation, Problems, and Case Law

2.1 How ANPR Works and Its Distinct Legal Character

ANPR systems use optical character recognition neural networks to read number plates from camera images, matching results against vehicle and excise databases to identify violations, wanted vehicles, or to generate e-challans for traffic offences. Like FRT, ANPR operates through a deep learning pipeline, the neural network performs character segmentation and recognition through millions of learned parameters that produce no human-comprehensible account of why a specific character was read as a '3' rather than an '8', or a 'B' rather than an '8'. ANPR is subject to the same Explainability Crisis as FRT but presents a distinct and in some respects more immediate constitutional problem, because ANPR systems generate legal obligations directly and automatically, without any human intermediary between the algorithmic output and the financial penalty.

The operational reliability of ANPR systems may be affected by adverse environmental conditions that degrade image quality

[21] Article 10-A, The Constitution of the Islamic Republic of Pakistan, 1973 (Inserted via the Constitution (Eighteenth Amendment) Act, 2010, guaranteeing the fundamental right to a fair trial and due process).

[22] *Dr. Mobashir Hassan v. Federation of Pakistan* (Suo Motu Case No. 13 of 2010 regarding the National Reconciliation Ordinance), PLD 2012 SC 649.

and reduce detection and recognition accuracy. Studies published in MDPI (Axioms, 2023, 12(5):424)[23] on automated number plate recognition indicate that adverse weather conditions such as fog, haze, and rain can degrade image quality and, in certain circumstances, reduce detection and recognition accuracy.

Reported cases of erroneous e-challans in Pakistan[24] underscore the risk of misidentification in automated number plate recognition systems. This issue is worsened by cloned or tampered plates, where the system's inability to distinguish between identical strings from different provincial series effectively reverses the burden of proof. By issuing automated penalties without accuracy disclosure, these systems bypass the Article 10-A mandate of 'fair trial' and undermine the constitutional presumption of innocence.

The constitutional framework for challenging administrative action Article 199[25] writ jurisdiction, and the principle in *Government of Sindh v. Shaikh Salahuddin*[26] that administrative action affecting fundamental rights requires clear statutory authority applies in full. Yet no mechanism currently provides a citizen with the algorithmic basis of the ANPR identification before the penalty takes effect. The constitutional framework governing administrative action remains applicable to technology-assisted enforcement measures. While established criminal jurisprudence places the initial burden on the prosecution or enforcing authority to prove its case, emerging forms of digital evidence raise new questions regarding reliability and scrutiny. Comparative jurisprudence, most notably the *Daubert* standard,[27] emphasises judicial assessment of scientific reliability, including

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23 *Axioms* 12, no. 5 (2023): 424, https://www.mdpi.com/2075-1680/12/5/424 (Accessed: June 21, 2026).

24 Customer Surprised After Receiving Rs. 10,000 Wrong E-Challan," *PakWheels Blog*, (October 25, 2023), https://www.pakwheels.com/blog/ur/customer-surprised-after-receiving-rs-10000-wrong-e-challan/ (Accessed: June 19, 2026).

25 Article 199, The Constitution of the Islamic Republic of Pakistan, 1973 (Jurisdiction of High Court to enforce fundamental rights and review administrative actions).

26 *Government of Sindh v. Shaikh Salahuddin*, PLD 1992 Supreme Court 463, Supreme Court of Pakistan.

27 *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993); see also *Cornell Law School, Legal Information Institute, "Daubert Standard,"* available at: https://www.law.cornell.edu/wex/daubert_standard (Accessed: June 19, 2026).

testing, error rates, and methodological validity. Similar concerns can be seen in Pakistani case law. In *Muhammad Ammar Shafi v. The State,*[28] the Lahore High Court declined to place reliance on CCTV and PSCA-generated material where foundational requirements relating to authentication, expert verification, forensic examination, and chain of custody had not been satisfied. The decision suggests that technology-generated outputs are not exempt from evidentiary scrutiny. As Pakistani courts have yet to articulate specific standards for AI-driven identifications, the evidentiary treatment of algorithmic outputs remains an evolving area of law.

2.2 ANPR: Documented Problems and Pakistani Cases

Systematic ANPR Wrongful Challans: Throughout 2024, 2025, and 2026, thousands of vehicle owners across Punjab, Sindh, and Islamabad received incorrect ANPR-generated e-challans arising from camera misreads (especially of similar-looking alphanumeric characters), cloned or duplicated plates, camera angle and lighting failures, and Excise Department database mismatches.[29] The PSCA e-challan system provides mechanisms for users to contest or review issued challans, including an online review option available through the online system as well as official communication channels such as helpline and email support for rectification of disputed entries, where discrepancies may be addressed through established verification procedures.[30] No legislation requires ANPR systems to meet any minimum accuracy threshold before deployment. No pre-issuance human review is mandated. The citizen bears the entire burden of proving the error after the penalty has been issued and has begun to affect their ability to use or transfer their vehicle.

Munir Ahmad v. Government of Punjab (2024):[31] The matter is pending before the Honorable Lahore High Court, and guidelines regarding the validity of ANPR e-challan are anticipated on its

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[28] *Ammar Shafi v. The State*, 2025 YLR 1681, Lahore High Court.

[29] *PSCA E-Challans Pakistan*, https://e-challans.pk/how-to-remove-a-wrong-e-challan-in-pakistan/ (Accessed: June 19, 2026)

[30] PSCA Launches E-Challan Complaint System," https://www.techjuice.pk/psca-e-challan-complaint-system-launch/; *Punjab Safe Cities Authority*, "How to Review E-Challan" (Official Video Tutorial), https://www.youtube.com/watch?v=IWoVljbzmn8 (Accessed: June 19, 2026).

[31] *Munir Ahmad v. Province of Punjab through Secretary Transport & Others*, W.P. No. 10174/2024, Lahore High Court (filed Feb 15, 2024) [Pending final adjudication].

adjudication. The petitioner challenged the constitutional validity of the ANPR e-challan system on the grounds that challans were being issued automatically by an algorithmic system without any human verification, without disclosure of the algorithmic basis for the identification, and without any pre-issuance mechanism for challenge. The court's engagement with this petition raised fundamental questions about whether the ANPR system's automated penalty generation without prior human review and without disclosure of the system's accuracy meets the 'in accordance with law' standard of Article 9 and the fundamental fairness requirement of Article 10-A as applied to civil penalties. The petition specifically questioned whether ANPR algorithmic evidence meets the 'reliability of mechanical process' standard under Article 164 QSO. These pertinent questions indicate a precise constitutional gap, in respect of which this study propose the insertion/amendment in Article 164 of QSO accordingly, as discussed later in this article.

In **Tariq Basra v. State**[32] it was held that *"The prosecution cannot invite the court to act upon scientific evidence unless it has affirmatively established, through competent expert testimony, the reliability of the scientific process by which that evidence was produced. Any doubt about the accuracy or reliability of a scientific method must be resolved in favour of the accused. The burden of proof of reliability lies with the prosecution throughout."*

> If the mandate given in *Tariq Basra* case is observed as a standard in ANPR matters, it is noted that it directs the authority and not to the citizens to affirmatively demonstrate ANPR accuracy before a challan can be enforced. In contrast the current system inverts this burden entirely by e- challans take effect automatically without any scrutiny, and the citizens are required to identify the error to defend themselves. Further, in view of the reliability standard explained in the above case, the current ANPR mechanism seems completely inconsistent and makes the presumption of innocence as is implicit in Article 10-A untenable while also limiting the rights of citizens of fair hearing and due process.

[32] *Tariq Basra v. The State*, 2012 SCMR 1060, Supreme Court of Pakistan

2.3 ANPR and the Article 164 QSO Inadequacy

Article 164 QSO permits evidence produced by 'mechanical or other process' if the court is satisfied of the 'reliability of the mechanical process.' Drafted in 1984 for mechanical recording devices, this provision asks whether the device accurately captured what occurred a question about fidelity of recording. ANPR asks an entirely different question: did the neural network correctly classify which alphanumeric characters appear on this plate? A camera either recorded a scene faithfully or it did not. An ANPR system's character recognition involves probabilistic pattern matching through learned parameters, with error rates that vary by character similarity, plate condition, camera angle, weather, and lighting. Article 164 QSO provides no framework for this inquiry. It does not require disclosure of ANPR accuracy rates, does not address demographic or situational performance variations, and provides no mechanism for a citizen to challenge the algorithmic reading of their own number plate.

3. NADRA[33] Biometric Integration: Function Creep, Constitutional Violation, and Comparative Law

3.1 NADRA's Biometric Database: Scale and Constitutional Character

The National Database and Registration Authority (NADRA) maintains what is arguably Pakistan's most sensitive and consequential dataset. Over 98.3% of Pakistani citizens hold a Computerised National Identity Card (CNIC)[34], each issued after collection of fingerprints, facial photographs, iris scans, and signature. NADRA's database therefore constitutes a near-complete national biometric register of Pakistan's entire adult population a dataset of extraordinary sensitivity and constitutional significance, collected under the NADRA Ordinance 2000

[33] National Database and Registration Authority (NADRA), Official Portal, Government of Pakistan, available at: https://www.nadra.gov.pk/ (accessed March 14, 2026).
[34] NADRA Over 98.3% of Pakistani citizens hold a CNICs," *Business Recorder*, June 25, 2024, available at: https://www.brecorder.com/news/40408522 (accessed March 14, 2026).

and the NADRA Act 2012[35] for the specific, constitutionally justified purpose of civil registration and citizen identification.

The constitutional character of this data is clear, its collection was justified by the legitimate aim of civil administration enabling citizens to prove identity, access services, and exercise rights. No parliamentary legislation specifically authorises the sharing or integration of NADRA biometric data, particularly citizens' facial photographs, with law enforcement facial recognition systems or Safe City FRT matching databases. The NADRA Ordinance 2000 and NADRA Act 2012 authorise data sharing for verification purposes of establishing identity but do not expressly authorise the use of NADRA photographs to train FRT algorithms or to populate the criminal identification databases against which Safe City cameras conduct real-time matching.

3.2 Function Creep as Constitutional Violation

Data protection scholars term the gradual expansion of a collected dataset's use beyond its original authorised purpose 'function creep.' In constitutional terms, function creep is not merely a regulatory violation, it is a constitutional one. The Supreme Court held in *Human Rights Cases*[36] that government databases containing sensitive personal information attract heightened constitutional protection and that the State bears the burden of demonstrating clear legal authority for any use of such information beyond its original purpose. The use of NADRA biometric data for real-time population surveillance goes far beyond civil registration, it serves a categorically different purpose that requires independent constitutional justification and specific parliamentary authorisation that currently does not exist.

In *Suo Motu Case*[37] the Supreme Court held that mass surveillance without legislative authorisation constitutes a prima facie violation of Article 14 of Constitution, which guarantees dignity and

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35 National Database and Registration Authority (NADRA), "*Legal Frameworks*", Government of Pakistan, available at: https://www.nadra.gov.pk/legalFrameworks (accessed March 14, 2026).

36 *Human Rights Cases*, PLD 2014 Supreme Court 699, Supreme Court of Pakistan.

37 *Suo Motu Case No. 14 of 2019 (In re: Use of Technology in Courts)*, PLD 2020 Supreme Court 1, Supreme Court of Pakistan.

privacy. In *Muhammad Rahmatullah v. The State*[38] the Lahore High Court held that the constitutional right to privacy takes precedence over other inconsistent provisions of domestic law. The 2024 NADRA data breach, in which biometric details of approximately 2.7 million citizens were illicitly extracted and exported reveals the extreme sensitivity of the data and the inadequate data protection mechanism within existing infrastructure on which Pakistan's algorithmic identification system relies.

3.3 Comparative Law: India's Puttaswamy Framework and the Aadhaar Analogy

Justice K.S. Puttaswamy (Retd.) v. Union of India:[39] The Indian Supreme Court's landmark judgment about the most comprehensive judicial treatment of biometric data privacy in South Asian constitutional law recognised privacy as a fundamental right under Articles 19[40] and 21[41] of the Indian Constitution. The Court held unanimously that informational privacy, the right to control the collection, use, and disclosure of personal information is an intrinsic component of the constitutional right to life and personal liberty. Justice D.Y. Chandrachud, writing separately, articulated the principle with direct relevance to the NADRA context:

In *Justice K.S. Puttaswamy v. Union of India* (Aadhaar)[42] the Supreme Court upheld India's biometric identification system for public benefit purposes while explicitly restricting its use for surveillance or law enforcement purposes for which independent constitutional authorisation had not been given. The Court struck down Aadhaar's use for private sector verification and limited its law enforcement use on the ground that civil registration data cannot constitutionally be repurposed for surveillance without specific

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38 *Muhammad Rahmatullah v. The State*, 2024 PCr.LJ 1, Lahore High Court

39 *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1, Supreme Court of India, available at: https://en.wikipedia.org/wiki/Puttaswamy_v._Union_of_India (accessed March 14, 2026).

40 Article 19, The Constitution of India (Guaranteeing freedom of speech and expression and other fundamental freedoms).

41 Article 21, The Constitution of India (Protecting life and personal liberty, judicially interpreted to include the fundamental Right to Privacy).

42 *ustice K.S. Puttaswamy (Retd.) v. Union of India (Aadhaar)*, (2019) 1 SCC 1, Supreme Court of India, available at: https://privacylibrary.ccgnlud.org/case/justice-ks-puttaswamy-ors-vs-union-of-india-ors (accessed March 14, 2026).

parliamentary authorisation. The Puttaswamy and Aadhaar framework directly supports the analysis of Article 14, Constitution of Pakistan.

Article 14 of Constitution, protects human dignity and privacy and to be interpreted, consistently with the Supreme Court's direction in Muhammad Rahmatullah and Suo Motu Case No. 14 of 2019, it directs that NADRA biometric data collection for civil registration of citizens cannot be repurposed for mass criminal surveillance without specific parliamentary authorisation. The absence of such authorisation makes the current NADRA-Safe City FRT integration an ongoing constitutional violation.

3.4 Investigation for Fair Trial Act (IFTA) 2013[43] and the Proportionality Inversion

The Investigation for Fair Trial Act 2013 requires a prior judicial authorisation from High Court for targeted surveillance of specific individuals. Telephone tapping, or a targeted interference with one's personal communications also requires a High Court warrant. Yet it is crucial to understand the real-time facial recognition identification of entire city's population by using the data collected by NADRA through automated biometric processing of hundreds of thousands of citizens requires no authorization from any authority. It is unfathomable that such intrusive mass surveillance has minimal oversight with no prior authorisation mechanism which would affect a large number of population on daily basis compare to a targeted individual surveillance. This proportionality inversion is constitutionally untenable: a framework that protects targeted surveillance subjects more rigorously than mass surveillance subjects do not claim consistency with Articles 9 and 14 of the Constitution.

[43] *The Investigation for Fair Trial Act, 2013* (Act No. I of 2013), National Counter Terrorism Authority (NACTA), available at: https://nacta.gov.pk/wp-content/uploads/2017/09/INVESTIGATION-FOR-FAIR-TRIAL-ACT.2013.pdf (accessed March 14, 2026).

4. The Constitutional Framework: Articles 9, 10-A, 14, and 25

4.1 Article 10-A: Meaningful Defence and the Right to Explanation

Article 10-A provides: *"For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.*

In *District Bar Association Rawalpindi v. Federation of Pakistan*[44] the Supreme Court established that Article 10-A demands substantive, not merely procedural, fairness, the accused must be able to conduct a meaningful defence. In *Muhammad Nawaz Sharif v. State*[45] the Court held that due process requires the ability to meaningfully challenge the evidence. This applies to black box algorithmic evidence FRT, ANPR, and NADRA-integrated identification and observed that the constitutional standard is structurally unmet: the accused cannot comprehend, test, or challenge the basis of the identification.

This article advances the argument that Article 10-A gives a Right of fair trial and due process. Therefore, the same constitutional right is to be given to every citizen for algorithmic evidence to receive a comprehensible account of the basis on which any such identification was generated. This is the logical extension of the right to cross-examine to the AI context. Additionally, in *Mst. Razia Sultana v. State*[46] the Supreme Court held that evidence obtained through unconstitutional means is inadmissible establishing the constitutional foundation for a statutory exclusionary rule for algorithmic evidence obtained without required authorisation.

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44 *District Bar Association Rawalpindi v. Federation of Pakistan*, PLD 2015 Supreme Court 401, Supreme Court of Pakistan.

45 *Muhammad Nawaz Sharif v. The State*, PLD 2018 Supreme Court 714, Supreme Court of Pakistan.

46 *Mst. Razia Sultana v. The State*, PLD 2011 Supreme Court 1, Supreme Court of Pakistan.

4.2 The Rebuttable Presumption Approach to Algorithmic Evidence

This article proceeds on the concern that judicial engagement with digital and algorithmic evidence may, in practice, risk an implicit presumption of reliability, whereby computer-generated outputs are accepted without sufficiently demanding proof of underlying system integrity or methodological transparency.

The Horizon litigation in the United Kingdom illustrates the risks associated with excessive reliance on computer-generated outputs without adequate opportunities for independent verification. Following the quashing of convictions in *Hamilton v. Post Office Ltd* [47] and the enactment of the Post Office (Horizon System) Offences Act 2024,[48] the case has become a cautionary example of the consequences that may arise when the reliability of technological systems is insufficiently scrutinised.

In Pakistan, Article 164 of the Qanun-e-Shahadat Order 1984 facilitates the admission of evidence derived from modern devices and scientific techniques, but provides limited guidance on the assessment of complex algorithmic systems. This article therefore proposes the adoption of a rebuttable presumption approach for algorithmic evidence, under which the prosecution would bear the burden of demonstrating reliability through a Technical Disclosure Statement before such evidence is relied upon. This proposal is consistent with the reliability concerns identified by Tariq Basra, the forensic verification requirements discussed by Ishtiaq Ahmed Mirza, and the risk-based regulatory approach reflected in the EU AI Act 2024.

4.3 Article 9, Article 14, and Article 25[49]

Article 9 of the Constitution mandates a standard for deprivation of life or liberty save 'in accordance with law'. In *Sh. Liaquat*

[47] Hamilton & Others v. Post Office Limited, [2021] EWCA Crim 577, Court of Appeal (Criminal Division), England and Wales, available at: https://www.judiciary.uk/wp-content/uploads/2022/07/Hamilton-Others-v-Post-Office-judgment-230421.pdf (accessed March 14, 2026).

[48] Post Office (Horizon System) Offences Act 2024 (c. 14), United Kingdom, available at: https://www.legislation.gov.uk/ukpga/2024/14 (accessed March 14, 2026).

[49] Article 25, The Constitution of the Islamic Republic of Pakistan, 1973 (Establishing the principle of equality before law and non-discrimination).

Hussain v. Federation of Pakistan,[50] it was held by the Supreme Court that the authorising law meets substantive standards of fairness and non-arbitrariness. An arrest based on an FRT identification without meeting substantive standard of accuracy and fairness fails this standard. Likewise, the dignity and privacy as promised under Article 14, the violation of NADRA integrated data, as referred "function creep" is discussed in Part V above. Moreover, guarantee of non-discrimination given under Article 25 is engaged by the documented demographic accuracy disparity in commercial FRT systems. Without mandatory demographic disaggregation in accuracy reporting, the Article 25 prohibition on discrimination is unenforceable against an algorithm as systematic over-identification of particular ethnic communities cannot be detected, measured, or judicially remedied.

5. Statutory Framework and Comparative International Standards

5.1 Safe City Legislation: Systematic Deficiencies

The Punjab Safe Cities Authority Act 2016, the Sindh Safe Cities Authority (Amendment) Act 2025, the KPK Safe City framework, and the Islamabad Safe City operating without dedicated federal legislation share a common structural pattern: sweeping powers to deploy AI-powered surveillance, with no accuracy standards, no prior judicial authorisation requirement, no transparency obligation, no right of pre-issuance challenge for ANPR challans, no demographic testing requirement, and no compensation mechanism for algorithmic harm. The Section 14(2) 'deemed expert' provision, while providing a pathway for algorithmic evidence into criminal proceedings, does not substitute for the Technical Disclosure Statement. The Balochistan Safe City Project, approved in February 2026 without any of these requirements, represents the last opportunity to build algorithmic accountability into Pakistan's national surveillance architecture by design.

[50] *Sh. Liaquat Hussain v. Federation of Pakistan*, PLD 1999 Supreme Court 504, Supreme Court of Pakistan.

5.2 Prevention of Electronic Crime Act (PECA) 2016[51] and the Autonomous Harm Gap

The Prevention of Electronic Crimes Act 2016 regulates the human conduct with information system, the dissemination of such information also requires human intention under it liability framework. Whereas, a Safe City FRT algorithm if misidentifies a citizen, or an ANPR system issues a wrongful challan, the provisions of PECA provision are not applicable because in Safe City algorithm or in ANPR system no person gains unauthorised access and no human criminally misuses the system. The harm arose from an autonomous probabilistic process operating within its designed parameters while producing a harmful output without any human intervention. Therefore, PECA 2016 is structurally incapable of imposing liability or even addressing the accountability of an automated body, which eventually creates a gap between the existing laws on Electronic Crimes and the autonomous algorithmic system currently operational in the country.

Comparative International Standards

Jurisdiction	Framework	FRT & ANPR Standard	Judicial Remark	Key Lesson for Pakistan
EU (AI Act 2024)	**Unacceptable risk (banned), High-risk (strict regulation), Limited-risk (transparency obligations), and Minimal-risk (no regulation).**	Mandatory pre-deployment conformity assessment; Art. 13 transparency obligation; Art. 14 human review before any decision; real-time biometric surveillance prohibited except	'High-risk AI systems shall be designed to ensure sufficient transparency to enable users to interpret the system's	Enact AEDS covering both FRT and ANPR; mandatory pre-deployment AIA; parliamentary authorisation required not executive protocols

[51] *The Prevention of Electronic Crimes Act, 2016* (Act No. XL of 2016), National Assembly of Pakistan, available at: https://na.gov.pk/uploads/documents/1470910659_707.pdf (accessed March 14, 2026).

Jurisdiction	Framework	FRT & ANPR Standard	Judicial Remark	Key Lesson for Pakistan
		judicially authorised	output' Art. 13[52]	
UK (Bridges 2020; Horizon 2024)	Bridges v CCSWP: FRT needs precise legal basis + equality assessment. Horizon Act 2024: reversed computer reliability presumption	No implicit reliability presumption; full technical disclosure required; independent corroboration mandatory; equality impact assessment for demographic bias	'The legal framework was not sufficiently clear to indicate with adequate certainty the extent of the discretion conferred on the police Haddon-Cave LJ	Develop a structured, rebuttable reliability framework for Article 164 QSO digital evidence, including clear assessment standards, non-discrimination safeguards, and defined statutory authority for each algorithmic system.
United States (Williams 2024; Loomis 2016)	Williams settlement: FRT requires corroboration. Loomis: trade secrets cannot defeat due a process	Corroboration by independent reliable evidence before FRT arrest; algorithm is not determinative alone; trade secret cannot prevent reliability disclosure in criminal proceedings	'The right to challenge evidence is incompatible with algorithmic opacity protected by intellectual property law' — Loomis	Codify corroboration requirement in CrPC; AEDS must override trade secret protection in criminal proceedings; private right of action for wrongful identification

[52] *European Union Artificial Intelligence Act*, Article 13: Transparency and Provision of Information to Users, https://ai-act-service-desk.ec.europa.eu/en/ai-act/article-13 (Accessed: June 19, 2026).

Jurisdiction	Framework	FRT & ANPR Standard	Judicial Remark	Key Lesson for Pakistan
India (Puttaswamy 2017; Aadhaar 2018)	Privacy = fundamental right (Arts. 19 & 21). Biometric data: highest level of protection. Aadhaar: civil registration data cannot be repurposed for surveillance	Each new use of biometric data requires fresh constitutional justification; biometric data collected for civil registration cannot be used for surveillance without independent parliamentary authorisation	'Privacy is the ultimate guarantee of dignity... informational privacy is an intrinsic component of the right to life' Chandrachud J, Puttaswamy	Arts. 9, 10-A & 14 jointly support same protection; NADRA data repurposing requires specific parliamentary authorisation — executive protocols are constitutionally insufficient
Pakistan (Current)	A reading of Article 164 QSO and Section 14(2) PSCA Act suggests that neither expressly addresses issues such as algorithmic transparency, auditability, or disclosure requirements for AI-generated evidence.	No standard FRT and ANPR outputs used without TDS, probability score, demographic accuracy data, or corroboration. ANPR challans issued with no pre-issuance human review	**The Supreme Court's interpretation of Article 10-A underscores the importance of procedural fairness, including an effective opportunity to challenge evidence relied upon in legal proceedings.** *Dr. Mobashir Hassan and others v. Federation of Pakistan and others*, PLD 2012 SC 649.	All five proposals in Part VIII are constitutionally required as a minimum standard requirement. Pakistan is currently below every comparable jurisdiction's standard

6. Reform Framework: Five Targeted Legal Proposals

The following five proposals address FRT, ANPR, and NADRA biometric integration. Each is grounded in the constitutional analysis of Part 4, the statutory analysis of Part 5, and the comparative foundations above.

1. New Article 164-A QSO: Algorithmic Evidence Disclosure Standard (AEDS)

The most urgent and constitutionally necessary reform is the insertion of a new Article 164-A in the Qanun-e-Shahadat Order 1984, establishing the Algorithmic Evidence Disclosure Standard as a mandatory pre-condition for the admissibility of any algorithmic identification evidence FRT, ANPR character recognition, or any other autonomous classification system in criminal or quasi-criminal proceedings. Article 164-A simultaneously introduces the Rebuttable Presumption standard, replacing the implicit infallibility presumption with an affirmative prosecution burden.

2. Statutory Right to Explanation (Article 10-A Implementation)

Parliament should enact a statutory Right to Explanation as the legislative implementation of Article 10-A in algorithmic contexts. Any person subject to arrest, charge, remand, conviction, or administrative penalty in which algorithmic evidence played a material role has a statutory right to receive, within 48 hours of written request, a plain-language written explanation of: the algorithm's role in the decision; the basis and confidence level of any identification or classification; and the system's known demographic error rates. This right is enforceable through Article 199 High Court writ jurisdiction mandamus compelling production; certiorari quashing proceedings founded on inadmissible algorithmic evidence. No trade secret protection shall be invoked to deny the Right to Explanation in criminal or quasi-criminal proceedings. Where the deploying authority cannot produce a compliant explanation, the algorithmic evidence shall be excluded.

3. Safe City Legislation: Mandatory Algorithmic Impact Assessment

A mandatory Algorithmic Impact Assessment (AIA) before any FRT or ANPR system is to be deployed or upgraded in Pakistan's Safe City legislation, including the Punjab PSCA Act 2016, the Sindh Safe Cities Authority Act, the KPK framework, and the forthcoming Balochistan enabling legislation. The AIA must document accuracy on a Pakistan-specific demographic validation dataset across major ethnic communities, false positive and negative rates disaggregated by gender, age, and ethnicity for ANPR, error rates by vehicle type, plate age, font format, camera placement, and lighting conditions; the identification threshold; human review requirements before any alert triggers police or administrative action; and the NADRA integration through a legal authorisation. Any system exhibiting a false positive rate for any demographic group more than twice the system-wide rate must be suspended. The Balochistan Safe City Project presents the final opportunity to build these requirements in their design.

4. IFTA 2013 Amendment, AI Criminal Evidence Act, and Legal Remedies

IFTA 2013 are to be amended to add Section 4-A requiring prior High Court authorisation for real-time FRT population scanning and NADRA biometric integration, with Section 26-A establishing a statutory exclusionary rule for evidence obtained without authorisation giving legislative expression to *Mst. Razia Sultana's constitutional principle*[53]. Pakistan needs to enact a standalone Artificial Intelligence (Criminal Evidence) Act establishing a three-tier classification system for AI in criminal justice; mandatory NAEC registration for high-risk systems; annual accuracy and bias audits; a criminal offence of deploying unregistered AI in criminal proceedings; and a strict-liability civil right of action for persons wrongfully arrested or penalised by algorithmic error. Citizens have three immediate remedies: Article 199 writ; statutory civil action; and right to restrict data access/deletion under the forthcoming Personal Data Protection

53 *Mst. Razia Sultana v. Government of Punjab*, 1981 SCMR 715, Supreme Court of Pakistan.

Act, with specific prohibition on integration of NADRA database for accessing data thereof without parliamentary authorisation.

5. Institutional Framework: NCEES, Judiciary, PFSA, Parliament

A National Commission on Electronic Evidence Standards (NCEES)[54] is to be established with powers to accredit AI systems and maintain a public accuracy register, audit all deployed Safe City FRT and ANPR systems annually, provide technical opinions to courts and report annually to Parliament. Tech-specialised judicial benches at High Courts and Sessions Courts trained in the Explainability Crisis, AEDS evaluation, drawing guidance jurisprudence evolved through Bridges/Williams/Puttaswamy are required to be constituted for technology-intensive cases. The PFSA and NFA must develop AI forensic audit capacity. The Personal Data Protection Bill is to be enacted, with 30-day data retention limits for FRT data of uncharged persons with prohibition on data of NADRA integration without authorisation. Pakistan should engage proactively with the OECD AI Principles[55], the UNESCO AI Ethics Recommendation 2021[56], and EU-UK bilateral AI audit cooperation[57] frameworks. This will position Pakistan as a regional leader in South Asian AI accountability standards.

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54 Proposed by the author as a dedicated regulatory body, the National Commission on Electronic Evidence Standards (NCEES) would be responsible for formulating and auditing the forensic protocols for AI-driven surveillance and algorithmic evidence in Pakistan.

55 OECD, "*Recommendation of the Council on Artificial Intelligence*", OECD Legal Instruments, available at: https://www.oecd.org/en/topics/sub-issues/ai-principles.html (accessed March 14, 2026).

56 UNESCO, "*Recommendation on the Ethics of Artificial Intelligence*", adopted on 23 November 2021, available at: https://www.unesco.org/en/articles/recommendation-ethics-artificial-intelligence (accessed March 14, 2026).

57 Tony Blair Institute for Global Change, "*Exploring EU-UK Collaboration on AI: A Strategic Agenda*", available at: https://institute.global/insights/tech-and-digitalisation/exploring-eu-uk-collaboration-on-ai-a-strategic-agenda (accessed March 14, 2026).

Conclusion

This article has argued that Pakistan's three-pronged algorithmic surveillance apparatus FRT criminal identification, ANPR penalty generation, and NADRA biometric integration is operating in unconstitutional territory across all three dimensions simultaneously. The black box problem structurally defeats Article 10-A's meaningful defence standard. The NADRA function creep violates Articles 9 and 14 without parliamentary authorisation. ANPR's automatic penalty generation without pre-issuance challenge or accuracy disclosure reverses the constitutional presumption of innocence. The application of Article 164 QSO to AI-generated evidence may highlight potential gaps in existing safeguards relating to the transparency and reliability of algorithmic outputs.

The comparative evidence is unambiguous. The UK Court of Appeal held in Bridges that FRT deployment without a precise legal basis and equality impact assessment is unlawful. The UK Parliament reversed the computer reliability presumption after 700 wrongful convictions. The Indian Supreme Court held in Puttaswamy that biometric data collected for civil registration cannot be repurposed for surveillance without independent constitutional authorisation. The US Williams settlement established that FRT evidence requires independent corroboration before arrest. Pakistan's current framework falls below every standard that every comparable jurisdiction has established as a constitutional minimum.

The five proposals advanced in Part 6, the Algorithmic Evidence Disclosure Standard covering both FRT and ANPR, the statutory Right to Explanation with trade secret override in judicial proceedings, mandatory Algorithmic Impact Assessments, IFTA amendments with specific remedies, and the National Algorithmic Evidence Commission constitute a constitutionally grounded, comparatively validated, and practically achievable reform framework. The Balochistan Safe City Project, approved in February 2026, is the last opportunity to build accountability in by design. For every citizen who passes through Pakistan's camera-covered cities from Lahore to Karachi, Islamabad to Peshawar, and now Quetta their constitutional rights under Articles 9, 10-A, and 14 depend on whether Pakistan chooses to govern its algorithms, or to be governed by them.

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JUSTICE DELAYED: UNPACKING THE BACKLOG CRISIS IN PAKISTAN'S COURTS

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ABSTRACT:

The backlog of cases in Pakistan's judicial system is a complex issue. This study aims to explore the major factors contributing to this problem. These factors include the old laws inherited from the colonial era, such as the "Code of Civil Procedure, 1908," and the "Code of Criminal Procedure, 1898." These laws have complex and time-consuming procedures. The role of lawyers, such as adjournment of cases, overburdened and less-trained court officials, and a huge gap between the number of judges and the population of Pakistan, are also major factors. In addition, less-trained judicial officials, less-effective judicial performance evaluation systems, frivolous litigation, administrative inefficiencies, and less-effective coordination of land and criminal justice systems are also major factors contributing to the judicial crisis. The study further aims to explore the roles of ineffective prosecution, outdated investigation techniques, and over-specialisation among judges. To address this issue, the study suggests several reforms, including the digitisation of judicial systems, judicial capacity enhancement, alternative dispute resolution systems, legal reforms, and enhanced judicial accountability.

KEYWORDS:

a. Judicial Backlog
b. Case Delays
c. Pakistan Legal System
d. Court Efficiency
e. Legal Reforms

BACKGROUND:

Satisfying the need for timely justice is an integral part of the rule of law and a vital condition for maintaining public trust in the system of law. However, the situation is quite different in Pakistan, where the administration of justice has always been plagued by a long-pending workload of cases at all levels of the judiciary. The courts have millions of pending cases of civil, criminal, constitutional and family law, which lead to extended litigation, higher litigation costs to litigants and delayed implementation of rights. The right to speedy and cheap justice as guaranteed in the Constitution has therefore become elusive ever since. The backlog situation is not a single institutional shortcoming but is the result of several structural, procedural and institutional shortcomings. Pakistan is still using the time-consuming and cumbersome procedures inherited from the colonial era that include the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1898. In addition, the number of judges is not adequate, court personnel are overworked, judicial case management is poor, court adjournments are common, judicial training is lax, performance monitoring of judges is weak and frivolous litigation is growing. In criminal cases, lack of police investigation and prosecution further delays the disposal of cases, and civil courts remain overrun with land and property disputes due to inadequate administration. The impact of judicial delay goes beyond just being inconvenient. Delay in justice has a negative impact on the faith people have in the judicial institutions, raises the costs of litigation, deters investment, stifles enforcement of legal rights, and threatens the rights of common people. These challenges also put undue stress on judges, attorneys and court staff, making the system of court administration less efficient and reinforcing the backlog of cases. Considering the multidimensional nature of the problem, this study focuses on the main legal, institutional and administrative causes of judicial backlog in Pakistan.

It also addresses issues of practical reform, such as court modernisation, digitisation of court proceedings, judicial capacity development, judicial accountability, adoption of alternative mechanisms of dispute resolution and coordination of institutional activities. The study aims to shed light on the causes and possible remedies for the issue, thereby contributing to the current debate on judicial reform and creating a more efficient and accessible justice system in Pakistan.

RESEARCH PROBLEM

In Pakistan, the judicial backlog remains an impediment to timely justice delivery as there are multifaceted legal, procedural, institutional and administrative challenges that need to be comprehensively analysed and addressed.

RESEARCH QUESTIONS:

1. What factors are responsible for judicial backlog in Pakistan at the main level in terms of law, procedures, institutions and administration?
2. What impact do these have on the process of justice in Pakistan?
3. What are the legal and institutional changes that can address judicial backlog and enhance the performance of the judicial system in Pakistan?

RESEARCH OBJECTIVES:

1. To find out and analyse the key legal, procedural, institutional and administrative causes of judicial pendency in Pakistan.
2. To study the effect of these on the efficiency and efficient administration of justice in Pakistan.
3. To recommend judicial and institutional changes to minimize the backlog in courts and improve judicial efficiency in Pakistan.

RESEARCH METHODOLOGY:

The method used in the research in this study is a qualitative doctrinal research method. It mainly depends on the analysis of primary law sources such as the Constitution of Pakistan, laws, judicial precedents and pertinent rules relating to the judiciary system. To understand the causes of judicial backlog and to assess possible legal and institutional reforms, secondary sources like books, journal articles, reports of the Law and Justice Commission of Pakistan, and other scholarly publications are also analysed. The study has adopted a descriptive and analytical method to critically examine the current legal structure and to make recommendations for making the judiciary more efficient in Pakistan

SIGNIFICANCE:

This study adds to the current debate on judicial reforms by offering a detailed study of legal, procedural, institutional and administrative causes of judicial backlog in Pakistan. It provides concrete suggestions which could help policy makers, legislators, judicial officials, lawyers and researchers in designing effective reforms that will enhance judicial efficiency, access to justice and disposition of cases in a timely fashion. The study is also of great educational value for future research about judicial administration and judicial reform in Pakistan.

REASONS FOR JUDICIAL BACKLOG IN PAKISTAN

There is a complex crisis of delays and inefficiency in the judicial system of Pakistan, which is due to the combination of the antiqueness of the legal system, the malfunctioning of the administration, and structural constraints. The laws of the colonial era, like the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1898, still govern procedures that are too cumbersome, slow and ill-suited to the requirements of modern litigation practices. To make this problem worse, the poor performance of the staff in the courts, the unavailability of adequate judges, the absence of professional training, excessive specialisation of the judges, frivolous lawsuits and the inability to coordinate courts and the regulatory body have led to a bottleneck that does not easily grant access to justice. These key points

are then enumerated in the discussion that follows, as collectively they have led to the ever-growing backlog of cases in both civil and criminal courts around the country.

Outdated Laws, Lengthy and Complex Procedures

The reason behind the long-pending cases of Pakistan has been largely because the old procedural laws that are cumbersome are still being applied. Even the judicial system uses traditions of colonial times, which include the Code of Civil Procedure, 1908 (CPC) and the Code of Criminal Procedure, 1898 (CrPC), that were developed in a completely different social and administrative environment.[1] These amended legislations still maintain procedures that are unnecessarily complex, lengthy and do not adequately match the quantity and complexity of modern litigation.

A delay in the civil proceedings is one of the first during the issuance and delivery of a summons. Order V of the Code of Civil Procedure, 1908, provides that a summons directing the appearance of the defendant can be personally served, or, in the event of the absence of the defendant, on any member of the family who is an adult male and living with the defendant.[2] This clause has historically been meant to be convenient, but in reality, it has been a platform of confusion and manipulation.

As an example, the summons can be given to a relative who does not deliver it to the defendant or who intentionally hides it. In this instance, the defendant might not be aware of the proceedings, hence non-appearances, ex parte, and restoration applications that follow and increase the process. Moreover, nowadays, with the popularisation of digital communication, email service, and electronic notifications, this mode of service seems to be old-fashioned and ineffective. It represents a procedural approach that is, to this day, stuck in the early twentieth century and does not adapt to the technological realities.

Further, Order V Rule 19 demands that the officer serving to do so affidavit and have the satisfaction of the court as to the due service, and in such a case, an inquiry will easily produce several verifications,

[1] Government of Pakistan. (1908). *Code of Civil Procedure, 1908*.
[2] Government of Pakistan. (1908). *Code of Civil Procedure, 1908*, Order V

enquiries, and adjournments.[3] Every level of the procedure costs the case several weeks or even months. In rural and remote locations, there is a delay created by poor record-keeping and poor access to the post.

After summons and pleadings have been made, the next bottleneck is the recording evidence stage. Digital deficiency, low utilisation of the contemporary evidence-recording programs, and years of stagnation due to the absence of time-limited witness examination. Cases are adjourned on numerous occasions because of the unavailability of the witnesses, and the right of the court to make an adjournment is misused.[4]

All these combined render the judicial process in Pakistan time-consuming, outdated, and not amenable to reform. The inflexibility in procedure and the old-fashioned terms, such as those under Order V of CPC, create wastage at the very first phase of litigation.

a) Contribution of the Role of the Lawyers to Judicial Delays.

The other major issue leading to the case backlog in Pakistan is the behaviour and professionalism of the lawyers themselves.[5] Although bar members play a significant role in the justice system, the joint effort of all members, especially due to workload, financial interests, or strategy, has become a key source of the stagnation of the process.

In most instances, there are dozens of cases that are being handled by several lawyers, especially those who work in busy district courts and high courts, which is way beyond a manageable professional capacity. Consequently, they are more likely to concentrate on cases that are high-value or financially rewarding and delay or ignore less profitable cases.[6] Such selective attention results in frequent adjournment demands in cases not as profitable as they are in other cases, which require a long time to get disposed of.

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[3] Government of Pakistan. (1908). *Code of Civil Procedure, 1908*, Order V Rule 19.

[4] Supreme Court of Pakistan. (2017). *Case management and adjournment practices guidelines*.

[5] Law and Justice Commission of Pakistan. (2020). *Judicial statistics of Pakistan*.

[6] Cheema, A., & Mohmand, S. (2020). *Access to justice and legal delays in Pakistan*. Lahore University of Management Sciences.

According to the Code of Civil Procedure, 1908, the courts are entitled to provide an adjournment on valid grounds, including illness, witness unavailability, or argument preparation.[7] This is, however, often taken advantage of by the counsel as a conscious strategy to buy time or to irritate the other party. Attorneys often make applications for adjournment on frivolous grounds, including unavailability of a party, inaccessibility of a document, or even occupancy in another court.[8] As the judiciary is only too reluctant to quash those requests immediately (with courtesy to the bar or the possibility of losing colleagues), these adjournments, when added up, cost some months or even years.

In cases where the lawyers believe that they have a weak case or that a judgment will be made against their client, they can also use dilatory methods to delay the case. These are making unnecessary or redundant interlocutory applications (e.g. requests to amend or stay, or transfer of case) which waste time in court.[9] In civil cases, these motions may put the entire action at rest until the side applications have been adjudicated. This practice not only clogs the docket but also makes the judicial process lack integrity.

The other problem that is coming up is the extension of the evidence stage. Counsel will often bring up useless witnesses or present loathsome evidence to drag out the proceedings. There are also delays due to the inability of lawyers to bring out witnesses in good time or seek adjournment claims on the excuse that parties are indisposed.[10] Sometimes such procedural laxity is deliberate, as a kind of bargaining power, or to induce the opponent to settle.

The judicial system is also further paralysed by occasional strikes and boycotts of court proceedings by lawyers who are mostly involved in political or professional grievances. Thousands of cases are adjourned every single day of the strike, which is another factor that directly adds to the backlog that is continuously increasing.[11] The Supreme Court of Pakistan has on numerous occasions ruled that lawyers' strikes are

[7] Government of Pakistan. (1908). *Code of Civil Procedure, 1908*.
[8] Law and Justice Commission of Pakistan. (2018). *Delay reduction strategies in Pakistan judiciary*.
[9] Cheema, A., & Mohmand, S. (2020). *Access to justice and legal delays in Pakistan*.
[10] World Justice Project. (2022). *Rule of law index: Pakistan*.
[11] Law and Justice Commission of Pakistan. (2020). *Judicial statistics of Pakistan*.

unwarranted and unprofessional,[12] but the act is repeated in the country now and then, most particularly in the district courts.

All these are indicators of a systemic problem of professional accountability. The work overload, focus on the high-fee cases, routine adjournments, and abuse of procedural rights are evidence that the practices of the bar can greatly impede judicial effectiveness. The issue of delay will not disappear regardless of the changes in the legislation unless more powerful judicial disciplinary measures, time-limited case processing, and enforcement by the bar-council measures are established.

b) Incompetent and Work Overload Court Staff

Besides the judicial officers and lawyers, the ineffectiveness and overwork of court personnel contribute significantly towards the further increase in the delay of cases and backlog in the Pakistani legal system. The efficacy of any court is not confined to the activity of the judges who are the president of the court, but also to the administrative machine that assists the judges; this means that there are clerks, record-keepers, process servers, readers, and other people[13]. In most courts, unfortunately, especially the district and tehsil courts, these staff members work under the pressure of heavy workloads, ineffective systems and minimal accountability, which lead to long procedures and disappointed litigants.

Court officers like Ahlmads (record keepers), Readers (judge assistants), and Process Servers usually have hundreds of cases that they are required to handle at the same time. Many of them cannot, or even cannot want to keep the cases timely and accurate since they are staffed poorly, not sufficiently trained, and poorly remunerated. There are cases of files being lost or not received in a timely manner in other departments or not even updated in time, leading to unnecessary adjournments and confusion for both litigants and judges.

The staff of the court is also obligated to provide services to the citizens, which include informing the parties about the subsequent hearing dates, finding the case files and making sure that the applications are duly filed. In practice, however, this facilitation is in

[12] Supreme Court of Pakistan. (2019). *Judgment on lawyers' strikes*.
[13] Asian Development Bank. (2019). *Judicial performance and delays in South Asia*.

many cases overlooked.[14] Litigants, particularly unrepresented ones, find it challenging to access simple information concerning the case, since members of staff either do not want to interact or are unwilling to do so. This not only results in missed hearing dates but also demotivates the people in the court about the judicial process.

One area of delay that is critical is with the process-serving staff, whose duty is to make summonses and notices available to parties.[15] The process servers often cannot serve summonses in time because of the large number of pending cases that they have to serve. They must also provide service reports and verification statements to the court, even after service, which also requires a few weeks to do.

In most instances, process servers have to cover a long distance, particularly in rural jurisdictions, but are not supplied with proper logistical support or transportation. The subsequent delay in submitting their reports will delay the initial phase of the case,[16] the appearance of the defendant, therefore establishing a trend of inefficiency that will prevail over the proceedings.

The other reason is the lack of strict administrative control. There are few assessments of the supporting staff's performance, and very few disciplinary actions are taken. Consequently, even small negligence, like failure to refresh registers, to forward case records to the appropriate branch or even to notify the judge of an impending process report, is likely to cause significant delays in proceedings.

This is made worse by the manual record system, which is still used in the majority of lower courts.[17] The lack of a unifying digital case management system implies that each document has to be transferred to the hands of several individuals, which opens the chances of being lost, damaged, or delayed excessively.[18]

This is because the inefficiency of the court personnel serves as an invisible but potent obstacle to the delivery of timely justice. The strained clerical system, coupled with demotivation, out-of-date practices, and poor supervision, is also factors that add up to the pending cases. To restore order in this area, capacity building,

[14] World Justice Project. (2022). *Rule of law index: Pakistan*.
[15] Government of Pakistan. (1908). *Code of Civil Procedure, 1908*.
[16] Cheema, A., & Mohmand, S. (2020). *Access to justice and legal delays in Pakistan*.
[17] World Bank. (2021). *Pakistan judicial efficiency report*.
[18] Asian Development Bank. (2019). *Judicial performance and delays in South Asia*.

computerisation of court records and proper accountability procedures for the administrative staff are a must in order to have procedural efficiency equal to the judicial performance.

c) Judicial scarcity and Low institutional capacity

The reason that the Pakistani judicial system is experiencing a backlog, which is deeply rooted in the structure of the Pakistani legal system, is the severe lack of judges compared to the population and the number of litigation cases in the country. The judicial capacity, i.e. the number of judges to hear the cases against the number of pending cases at each level of the judicial hierarchy, still leaves much to be desired. Such an imbalance has caused massive workloads on the available judges, leading to delays in the dispensation of cases and the discovery of a large discrepancy between cases flowing in and those being disposed of.[19]

As per the different reports of the Law and Justice Commission of Pakistan (LJCP) and judicial reform studies, Pakistan has the lowest ratio of judges to population in the South Asian continent.[20] It has been estimated that there are about 3,000 judges (including magistrates) attending to far more than 2.2 million pending cases in the country.[21] This implies that a single judge manages close to 60,000 individuals, which is frightening against international standards.[22]

An example is that in certain countries, like India, there are about 21 judges per million, and in the United States, there are more than 100 judges per million.[23] Pakistan, on the other hand, has fewer than 10 judges per million people.[24] This sharp imbalance shows the institutional inadequacy of the judiciary in Pakistan in handling the continuously increasing civil, criminal, and constitutional cases litigated in the country every year.

As a result of this scarcity, every judge, particularly the ones at the district and sessions level, must preside over thousands of cases in a day, listening to dozens of cases in a few hours. The result of this scenario is a lack of time to assess evidence, inadequate rationality in

[19] Asian Development Bank. (2019). *Judicial performance and delays in South Asia*
[20] Law and Justice Commission of Pakistan. (2021). *Judicial reform reports*.
[21] World Justice Project. (2022). *Rule of law index: Pakistan*.
[22] Cheema, A., & Mohmand, S. (2020). *Access to justice and legal delays in Pakistan*.
[23] World Bank. (2021). *Global judicial comparison report*.
[24] Asian Development Bank. (2019). *Judicial performance and delays in South Asia*.

judgments, and adjournment most of the time, since the court system does not have adequate time to hear all cases in a given day.[25]

The massive workload of the judges also leads to judicial fatigue, lack of concentration and diminished justice delivery. Numerous judges have other administrative responsibilities, like processing inspection reports, handling employees, or even dealing with election tribunals, and this puts even more strain on the already constrained capacity.

Although the number of people is on the increase and the litigation trend is on the rise, the judicial infrastructure has not been increasing accordingly.[26] The judges have had virtually no change in the number of posts that are approved in the last ten years, and the number of new cases has been on the rise. This has been due to budgetary limitations, failure to recruit and delay in appointing judges by the Judicial Commissions, which has thus led to failure to set up new courts where they are most required.

Moreover, judges in rural and remote districts are likely to work in understaffed courts,[27] where cases in various jurisdictions are handled. This not only postpones cases but also makes litigants not take any case because of the costs of commuting and the inaccessibility of the courts.

The efficiency of a judicial system may be determined worldwide by the ratio of cases to the number of judges and also by the overall time taken to dispose of the case.[28] The purpose of the developed jurisdictions is to sustain a ratio that will enable every judge to manage an achievable number of cases annually (e.g. approximately 1,000-1,500 in developed judicial systems). However, the ratio is also exponentially greater in Pakistan, as there are cases when more than 7,00010,000 cases per judge in a year, and timely adjudication is virtually impossible.

Not only a numerical insufficiency, but the shortage of judges is thus a systemic inefficiency that contributes directly to the backlog crisis. In the absence of significant judicial appointments, infrastructural investment, and reallocation of workload, the vision statement of fast and easy justice, as promised in Article 37(d) of the Constitution of

[25] United Nations Development Programme. (2021). *Justice sector reform reports*
[26] World Bank. (2021). *Pakistan judicial efficiency report*.
[27] Asian Development Bank. (2019). *Judicial performance and delays*.
[28] International Commission of Jurists. (2019). *Judicial standards*.

Pakistan, will always be out of reach.[29] It requires a long-term increment of judges, administrative coverage and performance-based control to balance the judiciary with that of the world in terms of effectiveness and equity in Pakistan.

d) Lack of Judicial Training and Issues of Competence

The other significant factor that has contributed to the increasing number of backlogs in the judicial system in Pakistan is the lack of professional training and specialisation among judges. Judicial officers (particularly those who work at the district and civil court level) are usually recruited via competitive examination, but little post-recruitment training is provided.[30] The already established capacity-building initiatives in the Federal Judicial Academy (FJA) and provincial judicial academies are useful but too limited in scope, length, and practicality.[31] This fact has made most of the judges find it difficult to approach complicated issues effectively, resulting in procedural flaws and remands that are unwarranted.

Because of the absence of specific legal knowledge, especially in such areas as family law, banking, intellectual property and cyber-offences, judges are often heard by judges who do not have the necessary subject-matter competence.[32] This results in issues likely to be discussed by a court which is outside its jurisdiction or specialisation, and only after months of hearings are the issues remanded or referred to the appropriate court.[33] This practice not only causes a waste of judicial time but also compels litigants to commence the proceedings again, which causes delays of several months or even years before a case can be effectively adjudged.

Equally, the upper courts usually send back a case to the lower courts to have it re-heard with respect to the irregularities in the procedure or incomplete findings,[34] which is a direct factor when the lower courts are inadequately trained. These remands contribute to the amount of

[29] Government of Pakistan. (1973). *Constitution of Pakistan*, Article 37(d).
[30] Federal Judicial Academy. (2020). *Training programs report*.
[31] United Nations Development Programme. (2021). *Justice sector reform reports*.
[32] Asian Development Bank. (2019). *Judicial performance and delays*.
[33] International Commission of Jurists. (2019). *Judicial accountability*.
[34] Supreme Court of Pakistan. (2018). *Case law on remand practices*.

so-called recycled litigation, which artificially increases the pendency data.[35]

The other gauge of poor judicial performance and minimal preparation is the difference between the filing and disposal rates. Recent LJCP Judicial Statistics (2023) data indicate that in Punjab alone, unprecedented cases of family cases were registered, although the case disposal rate was much lower.[36] This disproportion demonstrates that judges in most cases do not have the time-management abilities and the procedural expertise to rule cases within the boundaries of the statutes. In family courts, which are supposed to be settled within six months as per the West Pakistan Family Courts Act, 1964, most of the cases take years to go through because of inefficient hearing and adjournment.[37]

In most of the lower courts, judges are still not conversant with the changing legal principles, digital evidence, or innovations that have been embraced worldwide in regard to procedures. Lack of lifelong education on the law and regular review of skills has placed most of the judiciary in old-fashioned methods. Judicial academy training programs are still usually based on short-term training, but with more theoretical lectures than on case-flow management, adoption of technology or ethical training.[38]

The other, more delicate aspect is judicial corruption that further undermines efficiency and citizen confidence.[39] Even though most judges are serving in noble capacities, favouritism, outside pressure, and discretionary abuse have been witnessed at different levels of the judiciary system. The absence of an effective internal accountability system and a weakly functioning judicial council's oversight system permits the existence of corrupt practices (e.g. control over the timetable of cases, selective adjournments or biased interim orders) to continue. Even weak, unethical behaviour challenges trust in the judicial process and adds to the manipulation and postponement of its procedures.

[35] World Bank. (2021). *Pakistan judicial efficiency report*.
[36] Law and Justice Commission of Pakistan. (2023). *Judicial statistics of Pakistan*.
[37] Government of Pakistan. (1964). *West Pakistan Family Courts Act, 1964*.
[38] Federal Judicial Academy. (2020). *Training programs report*.
[39] Transparency International. (2022). *Corruption perceptions report: Pakistan*

All of these, and the absence of an organised judicial training, the absence of specialisation, and the enforcement of ethical standards, have directly added to the lack of efficacy and backlog. This is because, due to the low capacity of the judiciary to handle modern litigation with limited exposure to international best practices, the management of cases, misplacement of cases, and the number of cases that are remanded are poor.

To bring about sustainable reform, Pakistan needs to employ stronger judicial academies, institutionalise obligatory refresher classes, encourage specialisation in subjects, and institute transparent accountability frameworks. The number of judges cannot be increased without professional capacity-building so that the systemic backlog can be overcome.

e) Evaluation of Judges' Competency and Performance

The other major cause of the unresolved cases in Pakistan is the low competency and old performance appraisal system of the judges, more specifically, the district and civil courts. A great number of judges do not have the professional focus, analytical skill, and procedural discipline that would enable them to adjudicate efficiently.[40] The fact that they are unable to or sometimes reluctant to adequately read, evaluate, and determine cases has led to an increasing number of appeals, revisions, and remands in superior courts, thus creating an additional burden on the judicial hierarchy.[41]

In most cases, judges do not take time to study case files, evidence, and pleadings, and in most cases, make perfunctory or illogical orders. Appellate courts find it easy to overrule such superficial judgments, as they are regularly overturned, sent back, or returned, on appeal, because of procedural or factual inadequacies.[42] Such a trend not only hinders the delivery of justice but also leads to a work overload of higher courts that are required to look into cases repeatedly that ought to have been decided his-and-out in the lower courts.

The existing system of determining the effectiveness and performance of judges is also out of date and performance blind. Quality, accuracy or fairness of judgment is not indicated in any

[40] Asian Development Bank. (2019). *Judicial performance and delays*.
[41] World Bank. (2021). *Pakistan judicial efficiency report*.
[42] Supreme Court of Pakistan. (2019). *Appellate review practices*.

standardised or merit-based evaluation model.[43] Rather, the judiciary remains dependent on a numerical system of points that were established decades ago; judges are rewarded through the number of cases they dispose of, and not on their merit or the soundness of their decisions.

According to this conventional pattern of evaluation:

• A judge is assigned one (1) point when s/he dismisses a case because of the non-appearance of parties.

One (1) extra point is awarded for accepting an application to revive such a dismissed case.

Two (2) points are awarded on full adjudication of a case -evidence, cross-examination, arguments, and final judgment.

This system is also a system that inherently rewards quantity and not quality.[44] Rather than taking time and effort to hold full trials, investigations, and pass well-thought-out verdicts, judges usually choose procedural shortcuts like non-prosecution (1 point) and, after that, restore them (1 point), giving themselves the same numerical advantage as they would get by going through a full trial.

As a result, a great number of judges tend to deal with cases shallowly to achieve performance benchmarks instead of dealing with them effectively. This not only compromises the integrity of the judiciary, but it is also a source of judicial wastefulness, given that the same case is dismissed, restored, adjourned, and remanded over and over in an endless cycle.[45]

A lack of a qualitative performance audit enables judges[46] to gain high scores of disposition, and yet render no substantial justice. Institutional review of the correctness of decisions, rate of appeals and order timeliness is not reviewed. The judicial appraisal system in most jurisdictions across the world incorporates peer review, quality of decisions and timeliness, whereas the evaluation system in Pakistan is

[43] Law and Justice Commission of Pakistan. (2018). *Judicial reforms*
[44] World Justice Project. (2022). *Rule of law index*.
[45] Cheema, A., & Mohmand, S. (2020). *Access to justice*.
[46] International Commission of Jurists. (2019). *Judicial accountability*.

only tied to the mechanical scoring system that does not assess judicial efficiency or diligence.

It is an out-of-date appraisal system that creates a tradition of quantitative discarding as opposed to qualitative justice. Administrative judges who are under pressure to deliver certain numbers of cases off their books within a specific month tend to pick and choose complicated cases that need a great deal of reasoning or evidence, which leaves the cases that were left undecided, poorly decided or reversed. The absence of standardised metrics of judicial performance, coupled with the non-existent retraining, creates a vicious cycle of inefficiency that contributes to the backlog at all levels of the judicial system.

To bring any meaningful change, Pakistan needs to establish a new model of judicial performance, the model that would assess the judges based on the quality of their decisions, their rate of appellate affirmation, ethical behaviour, and timeliness, rather than the sheer number of cases disposed of.

f) Flimsy, groundless and harassing Lawsuits

A significant portion of the case backlog also consists of unwarranted and silly litigation by parties who have no bona fide legal complaint. Most litigants engage in such suits with the intent to stall the proceedings, harass the other party or even misuse the legal system and gain personal benefits. They want the other party to suffer by making him appear before the court over and over, incurring expenses in a court of law, and creating emotional anguish instead of demanding justice. This has been particularly evident in property litigations, family issues, and business issues, where a party seeks to cripple the other by dragging a case.[47]

The courts are overrun with frivolous cases; a case has to be registered, a summons issued, and a series of hearings have to be held before it is determined that a claim is frivolous.[48] This wastes the court's time and distracts from the real cases and crowds the already overburdened court system. It is even worse when the same litigant makes several petitions or appeals over the same issue, leading to duplication of the same issue across the courts and jurisdictions.

[47] International Commission of Jurists. (2019). *Judicial accountability and delays*.
[48] World Bank. (2021). *Pakistan judicial efficiency report*.

Even though the law authorises the court to impose compensatory costs to an extent of Section 35-A of the Code of Civil Procedure (CPC) and dismissal of insignificant issues at an early stage, this is not the case in reality.[49] It is common that judges reluctantly give penalties because they fear that such orders may seem to be harsh and deter seeking justice. This has led to frivolous lawsuits going on unabated at the expense of people and slowing down the administration of justice to genuine litigants.

This case portrays a wider cultural issue of employing litigation as a pressure weapon as opposed to a resolution tool. Most of the parties use the slow speed of the courts to reach non-legal goals such as postponing eviction, obstructing recovery suits, or coercing settlements.

Without providing stringent action to discourage vexatious filing and to hold parties responsible for abusing the process, the courts in Pakistan will be left with no choice but to be congested in inappropriate ways and ways, and the individuals who actually need justice can not get access to it.

g) Mismanagement

Another primary administrative issue that has contributed to the case backlog in Pakistan is the poor handling and misappropriation of cases in the Pakistani judicial system.[50] Most courts, particularly at the district and sessions courts, lack some form of uniform and efficient means of assigning cases to judges according to their specialisation or expertise. This has led to random allocation or transfer of cases through their lifetime, interfering with continuity and wasting time in the judicial process.[51]

Besides, the incoordination of both the administration and the judiciary takes place, resulting in regular re-posting or reshuffling of judges. When a judge has to be transferred without being in a position to deliver a verdict on outstanding cases[52], this leaves the cases in limbo pending a new judge to assume office and get acquainted with

[49] Government of Pakistan. (1908). *Code of Civil Procedure, 1908*, S35-A
[50] World Bank. (2021). *Pakistan judicial efficiency report*.
[51] Asian Development Bank. (2019). *Judicial performance*.
[52] International Commission of Jurists. (2019). *Judicial accountability*.

the files. This leads to procedural interference as well as loss of judicial continuity, especially in the case of protracted civil and criminal cases.

This is also worsened by the fact that there is no effective case management system. Record-keeping, cause lists and transfer notifications continue to be done manually in most courts instead of being automated through a database.[53] This archaic method usually leads to misplaced documents, repetition of records and misunderstanding of which court has jurisdiction over a particular issue. Lack of computer tracking also permits human error and abuse, and there are sometimes delayed cases which are diverted on non-administrative grounds.

The issue of mismanagement and uncoordinated movement of cases in general is indicative of weaknesses in the judicial administration structure. This absence of specialised benches, lack of computerised case allocation and the constant reshuffling of judges all contribute to a situation whereby there is continual case delay, not because of a legal complication but because the organisation is inefficient. To overcome this, a centralised case digital management system, open transfer principles and subject-specific judicial assignment are necessary, whereby a single capable and consistent judicial officer would handle every case to the end. It is the modernisation of the administration that can make the judiciary decrease avoidable delays and bring back a sense of procedural discipline.

h) Growth in the Civil Lawsuits related to improper management of the land and property.

A fair share of the Pakistan backlog of cases is a result of the civil litigation based on the cases of land, property and ownership disputes, which are still increasing annually. The genetic reason for this rush is that the system of land registration and management of property records was ineffective and old-fashioned, and the negligence of areas of government, like the revenue offices, the development authorities and housing regulatory bodies.[54]

Land records continue to be physically kept in the traditional patwari system that is prone to errors, manipulation, and corruption in most

[53] World Bank. (2021). *Pakistan judicial efficiency report*.
[54] World Bank. (2020). *Land governance assessment framework: Pakistan*.

parts of the country.[55] Lack of a centralised electronic registry implies that there is the possibility of having two or more parties claiming the same property based on contradictory or counterfeit documents.[56] In cases where the government departments do not check titles or make accurate corrections, a dispute will naturally take an avenue to the courts. Such disputes can be boundaries, inheritance, tenancy, illegal possession, or fraudulent transfers; all these will lead to a lengthy civil litigation.

Other common departments that are named in court cases as having failed to perform required regulatory functions, such as checking of ownership, building plan approval and land-use regulations enforcement, include Capital Development Authority (CDA), Sindh Building Control Authority (SBCA), the Lahore Development Authority (LDA), and revenue offices.[57] They are inefficient, and their bureaucratic delays frequently force people into the courts, thereby increasing the number of cases processed by the civil courts by thousands of cases every year.

The second problem is that there is no adequate registration of the sale deeds and agreements. Most of the property deals are informally done in the form of handwritten agreements or affidavits without registration under the Registration Act, 1908. These unregistered agreements subsequently result in litigation as ownership, possession, or payment issues and long civil lawsuits. On the same note, the inability to have the tenancy agreements or transfer deeds registered gives rise to legal uncertainties that have to be resolved in court.[58]

The situation is also aggravated by the lack of communication and overlapping of the jurisdiction between government departments, which is non-coercive. As an example, a certain authority can issue an allotment letter, but later another authority will claim that the same land is encroached or reserved, thereby causing confusion and conflicting claims. Most of the time, the departments themselves fall under litigation, thus putting the courts at the end of the line with

[55] Transparency International. (2022). *Corruption perceptions index*.
[56] World Bank. (2020). *Land governance report*.
[57] World Bank. (2020). *Land governance report*.
[58] Government of Pakistan. (1908). *Registration Act, 1908*.

administrative fights that would have otherwise been handled by the department through coordination or proper record-keeping.[59]

Simply put, the scale of the civil cases is growing exponentially, and this is a direct consequence of bad governance of the land, laxity in the enforcement of the rules and regulations, as well as a lack of transparency in the dealings of property. To eliminate this problem, full digitisation of land records, compulsory registration of agreements and institutional responsibility of development and revenue departments should be undertaken. The civil courts are not going to get rid of the backlog any time soon until these underlying systems are reformed in order to allow the civil courts to deal with the excessive number of litigation involving property issues.

i) Criminal Cases Backlog as a result of the Inefficiency in the prosecution and police procedures

The prosecution system is inefficient, and the quality of police investigations is low, which is a primary cause of the backlog of criminal cases in Pakistan. In Pakistan, the criminal justice system is still too reliant on the police to such an extent that registration of the First Information Report (FIR) all the way to submission of the challans (charge-sheets) before the courts. Nonetheless, the lack of coordination between the police and the prosecution department, as well as the use of outdated methods of investigation, has rendered the process sluggish, unreliable, and subject to procedural flaws.[60]

In the majority of instances, the prosecution department does not adequately carry out its vital role of examining evidence and directing investigations until the case is brought before the court. Prosecutors are frequently not well-compensated, overworked and not trained on how to handle complicated criminal cases that may involve forensic or digital evidence.[61] This has created a situation whereby the submission of challans is not done with due diligence, the court has to oblige twice, and hence a delay in framing of charges or initiating trial proceedings has emerged.

The police investigation process, per se, is flawed. Poor preparation of ziminis (interim investigation reports) and final challan is most times

[59] World Bank. (2021). *Governance indicators Pakistan*.
[60] International Crisis Group. (2018). *Reforming Pakistan's criminal justice system*.
[61] United Nations Office on Drugs and Crime. (2020). *Criminal justice assessment Pakistan*.

delayed by several months as a result of negligence, lack of supervision or deliberate manipulation.[62] In most instances, the investigating officers either fail to gather admissible evidence or even fail to take the witness statements as required by the Code of Criminal Procedure of 1898. The fact of weak or conflicting evidence brings about recurring adjournments, lengthy cross-examinations, and a high acquittal rate.[63] These gaps simply waste judicial time, besides compromising the social trust that the justice system is fair.

Moreover, constant change of the investigating officers makes the criminal cases disjointed. Every new officer has to go back to the record, remember witnesses or re-issue notices, leading to duplication and additional procrastination. The lack of contemporary forensic techniques, the fact that DNA or digital evidence has not been extensively utilised, or the is no coordination with the forensic laboratories makes the criminal trials even less efficient.[64]

This has led to the court adjourning hearings in most cases where the prosecution and the police do not present the witnesses on time. The problem of delaying the production of under-trial inmates in jails, the inability to coordinate the efforts of prison and courts, and the inability to provide summons to witnesses are all contributing factors to the duration of the trial process. Such systemic inefficiencies provide a situation in which grave criminal cases are pending for years,[65] which negates the intention of justice being timely as promised in Article 37(d) of the Constitution of Pakistan.[66]

The answer is in the enhancement of the institutional structure of the prosecution department in terms of financing it, permanent professional education, and its close collaboration with the police. The independent, evidence-based, and time-bound investigations need to be supported with the help of digital case tracking and accountability mechanisms. The backlog in criminal courts will only keep growing unless a complete overhaul of the criminal investigation and prosecution system is undertaken in Pakistan, which will deprive both

[62] International Commission of Jurists. (2019). *Judicial accountability*.
[63] Asian Development Bank. (2019). *Judicial performance*.
[64] United Nations Development Programme. (2021). *Digital justice reforms*.
[65] Law and Justice Commission of Pakistan. (2020). *Judicial statistics*.
[66] Government of Pakistan. (1973). *Constitution of Pakistan*, Article 37(d).

victims and the accused of the constitutional right to the speedy and fair administration of justice.

j) Over-**Specialisation and Limited Distribution of Cases Among Judges**

Excessive concentration of certain kinds of cases in the hands of a small number of specialised judges is also another factor that leads to the existence of a case backlog in Pakistan. In most districts, and even in the upper courts, the percentage of judges who are appointed to listen to cases relating to a certain field, including family law, banking, customs or narcotics, is extremely low, sometimes one-third, or even less. Although specialisation aims to improve quality and consistency, in an actual sense, it has led to stagnation, work overload, and work bottlenecks.[67]

When a few judges are assigned all the issues of a specific category, they have a lot of dockets which are overworked, and the other judges are underworked. This imbalance reduces the rate of total disposal and concentrates the lag in some areas of the subject. As an example, family or banking courts in major urban centres do not necessarily need to be complex to have a years-long pendency, but will be allocated too few judges to handle that work. The outcome is a structural choke-point as litigants languish over time, awaiting their turn to be heard.

Furthermore, judicial logic can be repetitive when a few judges pass verdicts on the same cases, and no new jurisprudence or variety in interpretation is created.[68] The past precedents are simply applied without originality and careful re-evaluation, and cause a standstill in the thought of law. To have a healthy judicial system, multiple benches should be exposed to similar issues of law to ensure that new viewpoints are developed and contradicting interpretations may be reviewed by the appellate court.

In order to address this, case allocation needs to be diversified and expanded. The judiciary ought to disperse similar issues in a larger pool of judges, say 1520 judges in the same locality, rather than confining a particular type of case to a small number of specially created courts, as this way balances workload and allows the jurisprudence to evolve naturally. This would raise the rate of cases being disposed of, improve

[67] World Bank. (2021). *Pakistan judicial efficiency report*.
[68] International Commission of Jurists. (2019). *Judicial accountability*.

learning in the institution and avoid the concentration of power on a few individuals.

Meanwhile, specialisation must not be completely removed, but instead it must be mutual and proficient. Short-term specialisation modules can train judges in specialised areas, after which continuity and intellectual diversity can be guaranteed by rotation.[69] This type of system would maintain the advantages of expertise and avoid stagnation and delay.

Overall, congestion, predictability, and a slow change in jurisprudence have occurred as a result of the over-specialisation of the court today, where a few judges deal with too many similar cases. Better distribution and rotation of the cases would improve efficiency, encourage an innovative approach to the interpretation of the law, and lead to the timely resolution of cases in all areas.

[69] World Justice Project. (2022). *Rule of law index*.

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AKL-E-MAYYET: A DOCTRINAL CRITIQUE OF PAKISTAN'S PENAL RESPONSE TO CANNIBALISM

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Abstract

This paper will focus on the legal gap that is pronounced in Pakistani law on cannibalism, an activity located at the intersection of criminal deviance, Islamic anthropology and forensic psychiatry. Although necrophagy is universally condemned, the Pakistan Penal Code (PPC) 1860 does not explicitly criminalise the act of feeding on human remains, which has forced the state into procedural desperation. By analysing the 2011 and 2014 incidents of cannibalism in Bhakkar, this study shows that the application of peripheral provisions to meet the requirements of *actus reus* and *mens rea* in the cases of cannibalism is doctrinally deficient. The application of the Anti-Terrorism Act 1997 in 2014 shows a worrying trend of legal patching, where the operation of the law is subjugated to the discretion of the judiciary. With a qualitative approach, the research methodically synthesises classical Islamic *fiqh* on theories of *karamah* and *darurah* with international human rights, in particular the requirement of dignity of the dead mandated by ICCPR Article 7. The study reveals that Pakistani law has a triple vacuum of statutory, normative and interpretative nature. It ends by suggesting an independent statute, Section 297-A, which provides a sophisticated sentence structure between survival, pathological and predatory cannibalism. This study provides a detailed legislative plan by aligning the domestic legislation with international standards of post-mortem dignity and Islamic jurisprudence to guarantee legal certainty and to reinstate the normative integrity of the Pakistani criminal justice system.

Keywords: Cannibalism, Necrophagy, Pakistan Penal Code, Bhakkar Case, Islamic Jurisprudence, Post-mortem Dignity, ICCPR Article 7, Section 297-A, Criminal Justice System.

Chapter 1: Introduction

One of the oldest taboos in the history of humanity, cannibalism or *akl luhum al-bashar*, refers to the consumption of human tissue by another person. It is not only a criminal deviation but also a basic transgression of the human state, which questions the boundaries of the law, morality, and society. Its use has been recorded in anthropological studies in a range of contexts, from ritualistic culture to extreme survival conditions, but in modern urban contexts, its development is usually a symptom of deep pathological or socioeconomic downfall. On a legal note, human body protection is not confined by death, but rather becomes a post-mortem right to dignity. This is a voluntary duty in Pakistan, which is only rhetorically accepted but has not been legally proven because the country does not have any particular law in this regard.

The case of the Bhakkar Brothers revealed the structural weaknesses of the Pakistani criminal justice system, and it is the main driving force behind this doctrinal review. In April, 2011, Mohammad Arif and Farman Ali were arrested in Darya Khan, on the grounds of digging up a female body and eating it. They faced a short two-year custodial sentence for the offence of trespassing on burial places, in the absence of a specific statutory provision. This weak legal strategy was later reinforced in 2014 when the brothers were re-arrested on the discovery of a severed head of a toddler. To pass the two-year limit of section 297, the state referred to section 7 of the Anti-Terrorism Act (ATA) 1997, stating that the offence had stirred terror in the minds of the people, resulting in a twelve-year sentence. It is criticised for its misuse of anti-terrorism legislation, judicial discretion and procedural injustices, including a lack of regard for psychiatric and forensic evaluation. The change is a demonstration of a legal patchwork, and not a principled administration of the law.

Much of the existing literature is often limited to anthropological digressions, while the legal literature mostly follows Western-centric notions of necessity. There is a gap in research in Pakistan, as news reports only provide a shallow account of the Bhakkar incidents, while there is a near-complete lack of systematic doctrinal study with regard to the application of the existing penal code on cannibalism. Further, the empirical basis of crime statistics and judicial opinions has typically been overlooked in legal discourse. This research aims to address this

gap by going beyond the secondary interpretation and providing a rigorous analysis of the legal framework.

This study adopts a qualitative doctrinal methodology. It examines the Pakistan Penal Code, relevant ancillary statutes, reported judicial decisions, parliamentary documents, government responses, and reliable secondary literature. The paper utilises the Bhakkar incidents as the principal empirical anchor. A comparative study is given to analyse common and civil law jurisdictions along with a post-colonial context.

In turn, the current study is predetermined by the following chain of questions related to the sufficiency of the current provisions to meet the requirements of criminal responsibility, the use of anti-terrorism laws in these situations, and the harmonisation of Islamic principles with modern-day psychiatric requirements. The paper takes a qualitative doctrinal stance with the help of jurisprudential analysis and supplementary data, claiming that the penal system of Pakistan has a substantive lacuna and suggesting comprehensive statutory and procedural changes.

Chapter 2: Normative and Theoretical Framework

Cannibalism is usually referred to as the consumption of human flesh by another human being. The term anthropophagy, which is derived from the Greek *anthropos* (human) and *phaghein* (to eat), is more technical and has been used in anthropology and historical literature to explain the practice in various cultures.[1] In legal discourse, cannibalism is not a uniform offence, with many jurisdictions often trying it as a homicide, desecration of corpses, or a public order violation.[2]

Classification of Cannibalism

In anthropology, the distinction is made between exocannibalism and endocannibalism, with the former associated with warfare or the show of power, to latter found in mortuary situations.[3] Motivational models also divide cannibalism into three major typologies. In extreme deprivation, nutritional or survival cannibalism develops, as was the case in the Andes aircraft crash in 1972.[4] Symbolically, some cultures practice ritual cannibalism, with Aztec religion being the most well-known.[5] Pathological cannibalism is characterised by extreme psychopathology, such as paraphilic disorders and serial killings.

Psychological Aetiology

The psychoanalytic theory explains cannibalism allegorically through oral incorporation and identity building.[6] Where later scholars have associated pathological cannibalism with regression and oral sadism,[7] modern forensic psychology frames it in extreme psychopathology. Research on contemporary serial killers has shown it to be a

[1]Arens, W. F. (1979). *The man-eating myth.* Oxford University Press.
[2] Provost, R. (2015, March 15). *Cannibal laws* (SSRN Scholarly Paper No. 2578597). Social Science Research Network. https://doi.org/10.2139/ssrn.2578597
[3] Conklin, B. (2001). *Consuming grief*. University of Texas Press.
[4] Read, P. P. (1977). *Alive*. Lippincott.
[5] Harner, M. (1977). The ecological basis for Aztec sacrifice. *American Ethnologist*, *4*(1), 117. https://doi.org/10.1525/ae.1977.4.1.02a00070
[6] Freud, S. (1950). *Totem and taboo*. Routledge.
[7] Abraham, K. (1927). *Selected papers on psychoanalysis*. Hogarth Press.

complication of necrophilia, psychosis or paraphilia,[8] stemming from delusional belief systems and a tool for sexual control.[9] The risk factors include social isolation, untreated psychosis, personality disorders, traumatic childhood experiences, and substance abuse.[10] These do not hint at a specific psychopathological syndrome, but rather are general criminological predictors of interpersonal violence.

Criminological Perspective

The criminological theories focus on structural and socioeconomic variables. The strain theory assumes that deviant behaviour can arise due to extreme deprivation or marginalisation in the absence of opportunities.[11] Risk-assessment studies of serial homicide indicate a pattern of choosing vulnerable and unrelated victims and manual forms of killing.[12] From a sociolegal standpoint, cannibalistic acts are generally auxiliary to homicide and sexual violence. Being a social taboo and liminal crime, it violates the key symbolic classifications which determine personhood and bodily integrity.[13]

Anthropological Context

Anthropological evidence demonstrates that cannibalism has appeared in varied historical contexts. The Franklin Expedition (1845)[14] and the Donner Party (1846-1847)[15] are instances of survival-based cannibalism. The spread of Kuru disease among the South Fore people of Papua New Guinea was a result of endocannibalistic mortuary rituals.[16] Early modern European pharmacology involved the

[8] Ressler, R. K., Burgess, A. W., & Douglas, J. E. (1988). *Sexual homicide: Patterns and motives*. Lexington Books.
[9] Taylor, P. J. (2009). Psychosis and violence. *Psychiatry*, *8*, 310. https://doi.org/10.1016/j.mppsy.2009.05.006
[10] Stone, M. H. (2018). *The anatomy of evil*. Prometheus Books.
[11] Merton, R. K. (1938). Social structure and anomie. *American Sociological Review*, *3*, 672. https://doi.org/10.2307/2084686
[12] Ressler, R. K., Burgess, A. W., & Douglas, J. E. (1988). *Sexual homicide: Patterns and motives*. Lexington Books.
[13] Douglas, M. (1966). *Purity and danger*. Routledge.
[14] Beattie, O., & Geiger, J. (1987). *Frozen in time: The fate of the Franklin expedition*. Greystone.
[15] Read, P. P. (1977). *Alive*. Lippincott.
[16] Lindenbaum, S. (1979). *Kuru sorcery*. Mayfield.

consumption of powdered human remains for therapeutic purposes,[17] as an example of medical cannibalism. Cannibalism by gastronomic preferences has been observed in Fiji, where human flesh is considered a delicacy on certain islands.[18] There are one-off incidents such as a political hate-driven mob lynching and consumption of parts of the flesh of Dutch Grand Pensionary Johan de Witt and his brother Cornelis in the Netherlands,[19] which hints that cannibalism cannot be limited to mere pathology.

Islamic Jurisprudence

Islamic jurisprudence grounds its moral philosophy in the principle of *karamah*,[20] affirming intrinsic human dignity and bodily sanctity.[21] Simultaneously, the legal system of *haram* in Islam prohibits consuming unlawful substances such as carrion, blood, and swine flesh.[22] As human blood is considered impure or *najis*, jurists extend the prohibition to human flesh, classifying it as categorically impermissible.[23] Islamic law recognises the doctrine of necessity as *darurah*, permitting otherwise prohibited acts to preserve life.[24] However, this principle is strictly limited, with a slight permissibility in cases of extreme starvation.[25]

[17] Sugg, R. (2011). *Mummies, cannibals and vampires*. Routledge.

[18] Jones, S., Walsh-Haney, H., & Quinn, R. (2012). Kana Tamata or feasts of men: An interdisciplinary approach for identifying cannibalism in prehistoric Fiji. *International Journal of Osteoarchaeology*. https://doi.org/10.1002/oa.2269

[19] Moca-Grama, V. (2026, January 12). Johan de Witt: That time the Dutch people ate their prime minister. *DutchReview*. https://dutchreview.com/culture/dutch-history-crowds-ate-prime-minister/

[20] Qur'an 17:70

[21] Ibn Kathir, I. (2003). *Tafsir ibn Kathir* (abridged) (S. R. Al-Mubarakpuri, Ed.; 2nd ed., Vols. 1–10). Maktaba Dar-us-Salam.

[22] Qur'an 2:173

[23] Al-Kasani, A. B. (1986). *Bada'i al-Sana'i fi Tartib al-Shara'i* (2nd ed., Vol. 5). Dar al-Kutub al-Ilmiyah.

[24] Kamali, M. H. (2008). *Principles of Islamic jurisprudence*. Islamic Texts Society.

[25] Kamali, M. H. (2008). *Principles of Islamic jurisprudence*. Islamic Texts Society.

Chapter 3: Legal Framework in Pakistan

The Pakistani criminal law on cannibalism is weakened by legislative gaps and unclear doctrines. Pakistan Penal Code, 1860 (PPC) does not contain any form of express prohibition, which has led to interpretative tensions and uneven sentencing conclusions.

Applicable Statutory Framework

Section 297, Pakistan Penal Code, 1860

Clause 297 of the Penal Code makes trespass into a burial site and any disgrace to a human corpse a criminal offence; the punishments include sentences up to one year in jail or a fine or both.[26] Its relatively low maximum penalty is indicative of the fact that it is a public-decency offence, as opposed to a statute intended to safeguard intrinsic human dignity; thereby, extending its application to cannibalism stretches the dogmatic limits.

Section 295(A), Pakistan Penal Code, 1860

In 1927, the Indian Penal Code was amended to punish acts of deliberate intent to cause outrage to religious sentiments. The legislation was enacted due to the interfaith conflict in colonial India and was aimed at protecting interreligious peace.[27] Even though cannibalism is capable of causing religious outrage in Pakistan, the analytical focus shifts towards offence against the belief systems as opposed to the offence against the dead.[28]

Section 201, Pakistan Penal Code, 1860

Section 201 deals with the loss of evidence related to a crime. This is a derivative provision which depends on a principal crime. In his theory of offence structure, Robinson (1997) points out that accessory liability is not a replacement for the lack of the existence of a substantive

[26] Pakistan Penal Code, 1860, s. 297

[27] Ahmed, I., & Brasted, H. (2021). Recognition and dissent: Constitutional design and religious conflict in Pakistan. *Journal of Contemporary Asia*, *51*(2), 351–367. https://doi.org/10.1080/00472336.2020.1719538

[28] Lau, M. (2011). *The role of Islam in the legal system of Pakistan*. Martinus Nijhoff.

offence.[29] Its exercise over cannibalism highlights a gap in the legislative system.

Section 16, Maintenance of Public Order Ordinance, 1960

The Maintenance of Public Order Ordinance (MPO) allows preventive detention under circumstances where the behaviour is deemed to threaten public order; in Pakistan, these laws have been questioned due to their liberal nature.[30] The application of Section 16 of MPO in the case of 2011 evidences the focus on the administrative containment instead of a principled criminal classification.

Section 7, Anti-Terrorism Act, 1997

In section 7 of the Anti-Terrorism Act, actions that are meant to breed fear or insecurity in society are criminalised. The 2014 case was dealt with by an Anti-Terrorism Court in response to the general panic in the population.[31] Increasing the scope of terrorism laws beyond their intended use has faced criticism in Pakistani jurisprudence because of overbreadth and politicised interpretation.[32]

Judicial Application

The 2011 conviction of the Bhakkar brothers resulted in a two-year sentence under Sections 297, 295(A), 201 PPC and MPO provisions.[33] The modest penalty reflected the statutory ceiling of Section 297. After their release, the 2014 incident involving a child victim resulted in a twelve-year sentence under anti-terrorism jurisdiction.[34] The disparity between two and twelve years did not stem from statutory reform but

[29] Robinson, P. H. (1997). *Structure and function in criminal law*. Clarendon Press.
[30] Newberg, P. (1995). *Judging the state: Courts and constitutional politics in Pakistan*. Cambridge University Press.
[31] Dawn. (2014, May 9). Bhakkar cannibals sentenced by ATC. https://www.dawn.com/news/1105152
[32] International Crisis Group. (2015, July 22). *Revisiting counter-terrorism strategies in Pakistan: Opportunities and pitfalls* (Asia Report No. 271). https://www.crisisgroup.org/rpt/asia-pacific/pakistan/271-revisiting-counter-terrorism-strategies-pakistan-opportunities-and-pitfalls
[33] Dawn. (2011, May 30). Bhakkar cannibal brothers jailed for two years. https://www.dawn.com/news/632890
[34] BBC News. (2014, April 8). Pakistan police find child's head at suspected cannibals' house. https://www.bbc.com/news/world-asia-26936301

from jurisdictional reframing. From a sentencing theory perspective, proportionality requires that punishment correspond to harm and culpability.[35] The discrepancy that is witnessed is not because of categories of aggravation that are conscientiously crafted but owing to the legislative silence.

Procedural Lapse

In 2014, psychiatric assessments carried out after the arrest hinted at abnormal behavioural trends; however, no officially recognised defence of insanity was proven, despite the fact that Section 84 of the Penal Code provides protection to those who have no understanding of what they are doing.[36] However, the lack of published psychiatric results highlights the disregard for doctrinal involvement in the consideration of mental health. There is a complete lack of a comprehensive forensic regimen to deal with cases of cannibalism. These serious procedural lapses hint at the need for systematic reform.

[35] Von Hirsch, A. (1993). *Censure and sanctions*. Oxford University Press.
[36] Pakistan Penal Code 1860, s. 84.

Chapter 4: Doctrinal Gaps and Interpretive Problems

The prosecution of cannibalism in Pakistan shows both doctrinal and statutory silence and improvisation of interpretations. The absence of a clear offence brings about confusion of definition, inconsistency in sentencing, jurisdictional issues and uncertainty in the use of defences. These shortcomings are not only technical, but involve such basic tenets of criminal law as legality, fair labelling, proportionality and structured discretion.

Elements of the Offence

The major challenge faced in the Bhakkar cases was the inability of the state to regulate the act of eating people physically and provide it with the proper legal definition; in criminal law, the coexistence between *actus reus* and *mens rea* is necessary to achieve a guilty verdict.

Actus Reus

The *actus reus* in the Bhakkar cases consisted of two separate elements, which were the exhumation of the corpse and the consumption of human remains. Section 297 of the Penal Code covers trespassing on burial sites fairly, but it does not mention the act of ingestion. The *actus reus* of cannibalism goes even further than trespass or desecration; in terms of doctrine, it is a physical violation of bodily integrity by consumption. The lack of a legal definition of the particular act creates a lacuna, in which the most heinous aspect of the act went unprosecuted, and the judicial system had to rely on an ancillary act to justify the sentence.

Mens Rea

The current legal system fails to account for specific *mens rea* in acts of cannibalism. The intent which is prescribed in Sections 295 and 297 is limited to insulting religious feelings, which highlights a doctrinal gap. The actions of the brothers were founded on pathological or ritualistic motives, and not a premeditated attempt to offend a religious group. This is why a strong necessity exists to have a principled approach that distinguishes between three levels of *mens rea*. The first category is a particular intent, which includes pathological motives or predatory motives, when the accused attempts to fulfil a certain compulsion,

ritual, or sadistic desire. The second category is of general intent or recklessness, where the accused realises that the act is the desecration of a body but goes ahead regardless of the social or legal consequences involved. Thirdly, an intent designation that is survival-driven and lacks malice. Currently, the law uses a sanctioning structure that is undifferentiated and would impose a universal sanction on a serial necrophage and a starving survivalist, thus creating an unfair sentencing imbalance.

Causation

The act causes an instantaneous violation of the post-mortem dignity of the deceased and triggers far-reaching moral and psychosocial harm in the community. In the 2014 case, the state used the anti-terrorism law with the proliferation of terror as the causal factor. However, in doctrine, causation should have been pegged on the violation of the dignity of the human.

Inchoate Crimes

The other flaw in the present system of penalising is that it is very difficult to prosecute those who have not yet committed but have only attempted, conspired, or are abettors or accomplices. An individual caught in the act of preparing human remains for consumption would just be prosecuted on the grounds of desecration of a grave; although the act was pre-planned between the two persons, it could not be considered a criminal conspiracy since the act of cannibalism is itself not illegal.

Without a special law that outlaws cannibalism, the issues of complicity (sharing of common intention under Section 34 PPC) and abetment (providing substantial assistance, promotion or instigation under Section 109 PPC) are irrelevant. Therefore, despite the wives of the perpetrators of the aforementioned case knowing about the crimes over a long period and choosing not to report, they were not found guilty of complicity or abetment of the offences.

Definitional Ambiguities

The current law under section 297 of the PPC makes the infliction of indignity on a human corpse criminal. The statutory wording does not

have a clear mention of consumption.[37] The legislative purpose in the past was to deter serious trespass and insult to funerals and burial places in general, as opposed to the ingestion of the body.[38]

The general interpretative question is whether anthropophagy should be interpreted as an offence of indignity or as an offence of injury. The narrow meaning confines the crime to the acts that portray disrespect, disinterment, mutilation, or interference with burial places. In these circumstances, cannibalism would be incompatible with the principle on which the legislation was built. On the other hand, a liberal approach can consider consumption as the final expression of physical violation, thus coming under the domain of indignity. However, criminal laws should meet the requirement of clarity and predictability.[39] In the case of ambiguity, an expansive reading is likely to damage the fair notice to the accused.

Necessity Defence Dilemma

The doctrine of necessity is included in the catalogue of general exceptions of the Penal Code.[40] In section 81, it is stated that when an act is likely to cause harm, it can be pardoned when it is done without criminal intent and with the purpose of preventing greater harm. However, Pakistani jurisprudence has hardly ever resorted to the necessity defence in cases of extreme survival. An example of comparative common-law precedent, *R v Dudley and Stephens*, the necessity defence was expressly denied in a cannibalism murder case in the name of survival.[41]

Islamic Law Integration

The constitutional arrangement in Pakistan requires the legislation to comply with Islamic principles.[42] In Islamic law, the necessity (*darurah*) concept allows actions that would otherwise be prohibited, as long as they are necessary in order to protect life. However, the killing of an individual to be eaten is unanimously declared unlawful by classical

[37] Pakistan Penal Code 1860, s. 297.
[38] Ratanlal, & Dhirajlal. (2020). *The Indian Penal Code* (34th ed.). LexisNexis.
[39] Ashworth, A. (2013). Principles of criminal law (7th ed.). Oxford University Press.
[40] Pakistan Penal Code 1860, ss. 52–54.
[41] *R v Dudley and Stephens* (1884) 14 QBD 273 DC
[42] Constitution of Pakistan 1973, art. 227.

jurists even in extreme cases of food scarcity.[43] Juristic discussions strictly build on the sacrosanctity of human dignity (*karamah*) and extrapolate this ban on self-battering and consumption.[44]

Anti-Terrorism Court Issue

The Anti-Terrorism Act of 1997 criminalises acts that are aimed at creating fear or insecurity.[45] The 2014 case was tried under the anti-terrorism laws on the grounds that it instilled panic in the population; the main aim of the law is to deal with politically instigated violence that threatens the existence of the state.[46] Cannibalism, as a very shocking deviance, is not ideological violence. The proposal of extending the scope of terrorism laws to cover cannibalism would thus create the issue of overbreadth. The criminal law should have definite conceptual boundaries; otherwise, it would lack legitimacy.[47] The use of anti-terrorism jurisdiction provides sentencing imbalances and creates unpredictable precedent, essentially replacing extraordinary legislation with holistic reform.

Procedural and Forensic Deficiencies

Jurisdiction is prone to prosecutorial discretion, as there is no statutory classification specifically dedicated to it. The Anti-Terrorist Court was moved in 2014 as a reactionary measure and not as an act of principle. Furthermore, the M'Naghten rule enshrined in Section 84 of PPC,[48] absolves from liability those persons who are not in a position to determine the nature and quality of their actions.[49] However, there is no statutory obligation regarding a thorough forensic psychiatric

[43] Kamali, M. H. (2008). *Shari'ah law: An introduction*. Oneworld.
[44] Qur'an 17:70.
[45] The Anti-Terrorism Act 1997, s. 7
[46] International Crisis Group. (2015, July 22). *Revisiting counter-terrorism strategies in Pakistan: Opportunities and pitfalls* (Asia Report No. 271). https://www.crisisgroup.org/rpt/asia-pacific/pakistan/271-revisiting-counter-terrorism-strategies-pakistan-opportunities-and-pitfalls
[47] Ashworth, A. (2013). *Principles of criminal law* (7th ed.). Oxford University Press.
[48] *M'Naghten's Case* (1843) 10 Cl & Fin 200, 8 ER 718.
[49] Pakistan Penal Code 1860, s. 84.

examination in the context of cannibalism, despite the increased adoption of psychiatric tests in contemporary criminal justice.[50]

The ad hoc system in Pakistan limits systematised evaluation. At the moment, there is no forensic procedure that is specifically tailored to anthropophagic evidence. Comparative forensic scholarship refers to the need for standard anthropological and pathological practices in cases of dismemberment and consumption of human flesh.[51] The lack of formal principles compromises the consistency of evidence.

Sentencing Framework Deficiencies

The sharp contrast in sentences illustrates the differences created by classification instability instead of calculated proportionality. Consistency and structured discretion are vital sentencing principles.[52] Simultaneously, aggravating factors (including recidivism, child victimisation, or cruelty) or mitigating considerations (including psychiatric condition or real necessity to survive) are also not explicit. This lack of clear sentencing structure therefore denies the courts principled direction, and as a consequence, adjudicative practices are reactive instead of being systematically coherent.

[50] Morse, S. J. (2011). Mental disorder and criminal law. *Journal of Criminal Law and Criminology*, *101*, 885. https://doi.org/10.2307/23150443

[51] Byard, R. W. (2016). Forensic issues in cases of dismemberment. *Forensic Science, Medicine and Pathology*, *12*, 377. https://doi.org/10.1007/s12024-016-9791-z

[52] Von Hirsch, A. (1993). *Censure and sanctions*. Oxford University Press.

Chapter 5: Comparative Legal Framework

An analysis of selected jurisdictions shows that cannibalism is rarely a criminalised offence. In common law, civil law and Islamic legal systems, it is mainly prosecuted indirectly through homicide, sacrilege of corpses or proximate crimes. The uniformity of this structure emphasises the universal tendency to control cannibalism by extrapolating the doctrine and not by codifying separately, with a salient difference in the interpretative logic.

Colonial Legal Legacy

Pakistan still enforces the colonial penal code, albeit with amendments. The British Raj never formalised a law against cannibalism primarily because of a lack of any urgent need for one. It is also noteworthy that the parent colonial power itself lacks a dedicated legal provision.

Among the major famines of British India, the official reports on the famine of 1867,[53] 1899,[54] and 1943,[55] do not specifically mention any instance of cannibalistic activity. However, during the Bengal Famine of 1770, an indirect acknowledgement is recorded,[56] and on the report on the Great Famine of 1876, anecdotal evidence of survival-based cannibalism is preserved.[57] Despite these, there is no judicial record of any trial of cannibalism, which can be argued to be due to the disruption of the state apparatus and suppression of the record by the authorities.

The other notable concern, the occult practices of the Aghori community, which generally included post-mortem rituals such as

[53] Indian Famine Commission. (1880). *Report of the Indian Famine Commission*. Internet Archive. https://ia802906.us.archive.org/11/items/in.ernet.dli.2015.115976/2015.115976.Report-Of-The-Indian-Famine-Commission_text.pdf

[54] MacDonnell, A. P., Nicholson, F. A., Bourdillon, J. A., & Lal, S. S. (1908). *Report of the Indian Famine Commission, 1901*. Superintendent Government Printing. https://archive.org/details/dli.ministry.20768

[55] Famine Inquiry Commission. (1945). *The Famine Inquiry Commission final report*. Superintendent Government Press. https://archive.org/details/dli.csl.1130

[56] Khan, Abdul Majed (1969). The Transition in Bengal, 1756–1775: A Study of Saiyid Muhammad Reza Khan. Cambridge South Asian Studies. Cambridge University Press. ISBN 978-0-521-04982-5.

[57] Digby, William. *The Famine Campaign in Southern India (1876-1878)*. Vol. 1. London: Longmans, Green, and Co., 1878.

exhuming and offering indignities to human corpses,[58] fell within the ambit of section 297; thus, never warranted a specific cannibalism centred legal provision. Moreover, the legislative priorities of the colonisers were based on utilitarianism rather than comprehensive reform based on moral principles.[59]

Surveying the post-colonial landscape paints a more or less similar picture of India and Pakistan, as far as their use of peripheral means instead of direct criminalisation. This congruence of structures emphasises the colonial heritage of statutory construction of penalties and highlights the doctrinal ambiguity which is common between the two.

India's Legal Position

India is a country with documented cases of alleged cannibalism in the recent past, such as the infamous Nithari Killings of 2006.[60] The culprit, Surinder Koli, was charged with murder, rape, kidnapping, abduction and destruction of evidence. Cannibalism was alleged by the prosecution in multiple cases of his 19 victims, but it was never made a standalone offence under the IPC in any of the cases. Similarly, the CBI Special Courts also proceeded on IPC offences.[61] The Allahabad High Court later ruled there was no forensic evidence to prove cannibalism, and eventually he was acquitted by the Supreme Court due to lack of evidence.[62]

In the recent 2022 case of ritualistic murders in Kerala, cannibalism was alleged due to gruesome mutilation and dismemberment of the bodies, but it was never formally charged or tried in a court.[63] However, despite enacting a comprehensive neoteric criminal legislation,

[58] Gugler, J. (2024). *Cannibal monks (Aghori)*. https://joelgugler.com/cannibals/

[59] Stokes, E. (1959). *The English utilitarians and India*. Oxford University Press.

[60] Nanaware, D. S. (2024). House of horror: The Nithari killings. *Journal of Legal Research and Juridical Sciences*, *4*(2), 965. https://jlrjs.com/wp-content/uploads/2025/03/98.-Devika-Sanjay-Nanaware.pdf

[61] Nanaware, D. S. (2025). House of horror: The Nithari killings. *Journal of Legal Research and Juridical Sciences*, *4*(2), 965. https://jlrjs.com/wp-content/uploads/2025/03/98.-Devika-Sanjay-Nanaware.pdf

[62] *Surendra Koli v. State of Uttar Pradesh & Anr.*, 2025 INSC 1308

[63] Sancia, J., & Deepak, S. A. (2026). Occult murders of Kerala: Case studies on supernatural belief-driven murders. *Journal of Forensic Psychology Research and Practice*, 1–25. https://doi.org/10.1080/24732850.2026.2625812

Bharatiya Nyaya Sanhita (BNS), 2023, there is no explicit section outlawing cannibalism.[64]

Common Law Jurisdictions

United Kingdom

Cannibalism is not considered a statutory offence in the United Kingdom; instead, charged according to the extant criminal laws like murder, wrongful deprivation of burial rights, or violation of the decency of society. Sexual Offences Act 2003 can be applied to a sexual act involving a corpse, but there is no particular law that specifically prohibits the act of consuming human flesh.[65] Legislation connected with this is the Human Tissue Act 2004,[66] which forbids nonconsensual use of human tissue and the Coroners and Justice Act 2009,[67] which punishes mutilation of non-consenting corpses.

The leading historical authority remains *R v Dudley and Stephens*,[68] in which the court rejected the necessity defence, emphasising the inviolability of life. Another precedent, *R v Gibson* (1988),[69] is relevant as it highlights a cannibalistic act without corpse mutilation or murder.

United States

There is a similar lack of specific federal statute in the United States, where regulation varies at the state level. For instance, under the California Penal Code, removal or mutilation of human remains without authority may attract imprisonment of up to five years.[70] The only US state with an explicit ban is Idaho, where 'wilful ingestion of human flesh or blood' is punished with 14 years of imprisonment.[71]

United States v Holmes (1842)[72] predates its English counterpart, *R v Dudley and Stephens (1884)*, establishing the US common law precedent of rejecting the necessity doctrine. Apart from the old *State v Lahue (1921*) case, the US has seen serial rapist-killer and cannibal,

[64] Bharatiya Nyaya Sanhita, 2023, Act No. 45 of 2023, Gazette of India (2023).
[65] Sexual Offences Act, 2003.
[66] Human Tissue Act 2004, s. 5.
[67] Coroners and Justice Act 2009, s 70.
[68] *R v Dudley and Stephens* (1884) 14 QBD 273 DC.
[69] *R v Gibson*, [2008] 1 SCR 397, 2008 SCC 16.
[70] California Penal Code 1872, s. 7052.
[71] Idaho Code 2025, s. 18-5003.
[72] *United States v Holmes, 26 F Cas 360 (CC ED Pa 1842).*

Jeffrey Dahmer, who was convicted primarily of murder and sexual assault,[73] and child-molester and serial killer Albert Fish, who confessed to cannibalism out of sexual sadism. In these cases, cannibalistic acts were treated as aggravating factors rather than distinct offences,[74] which demonstrates that American criminal law treats cannibalism as derivative of more serious offences rather than as an independent category.[75]

Civil Law Jurisdictions

Germany

Germany provides an analytically significant modern example through the case of Armin Meiwes in 2001. Meiwes killed and consumed a voluntary victim who had consented previously. Initially convicted of manslaughter, he was retried and ultimately convicted of murder despite the victim's consent,[76] under the German Criminal Code, *Strafgesetzbuch*.[77] German courts held that consent did not negate criminal liability where the act violated fundamental public morality and human dignity (*Menschenwürde*), a constitutional value protected under Article 1 of the Basic Law.[78] Yet Germany did not enact a specific statute.[79]

France

French criminal law likewise lacks a distinct offence of cannibalism,[80] however, prosecutions in the past have been based on murder offences, desecration of bodies or against the *Ordre Public*. Examples of such an approach would be the historical case of Antoine Leger in 1824,[81] and the contemporary cases of Nicolas Cocaign (2010),[82] and

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[73] *State v Dahmer, No F92-2633 (Milwaukee County Circuit Court 1992).*

[74] Davis, D. A. (1991). *The Jeffrey Dahmer story: An American nightmare* (pp. 278–280). St Martin's Paperbacks.

[75] Simpson, A. W. B. (1984). *Cannibalism and the common law*. University of Chicago Press.

[76] *Meiwes Case (Bundesgerichtshof [BGH] 9 May 2006, 3 StR 438/05).*

[77] Strafgesetzbuch [StGB] 1998, s 211 (Ger.).

[78] Grundgesetz für die Bundesrepublik Deutschland [GG] 1949, art 1 (Ger.).

[79] Strafgesetzbuch [StGB] 1998, s 168 (Ger.).

[80] Code pénal [CP] 1994, arts 221-1 et seq. (Fr.).

[81] Guignard, L. (2017). *Antoine Léger l'anthropophage: Une histoire des lectures de la cruauté (1824-1903)*. CRULH Éditions universitaires de Lorraine.

[82] *Procureur général c Cocaign* (Cour d'assises de Seine-Maritime, Rouen, 23 June 2010, No 09/01367).

Issei Sagawa (1981). Cocaign was convicted of murder because he killed and consumed the lung of another prison inmate; whereas, Sagawa, who killed and consumed a fellow Dutch student in Paris, was held legally insane and deported back to Japan.

This is similar to the common law tradition in that it uses broad penal rules. Nevertheless, their arguments are often supported by explicit constitutional values of dignity and *ordre public*,[83] which provides a normative transparency at times unavailable in common law adjudication.

International Law

Legal recognition of cannibalism in international law is not enclosed in one specific treaty; it is manifested through an assembly of human rights principles, humanitarian law, and a changing understanding of post-mortem dignity. The main factor in addressing post-mortem dignity is the ICCPR, to which Pakistan is also a signatory. While Article 7 explicitly prohibits cruel and inhuman treatment,[84] modern human rights jurisprudence considers that it inflicts profound mental and moral suffering upon the living relatives and the community at large; the protection of the dead is thus viewed as an extension of the right to dignity of the living.[85]

Beyond human rights law, International Humanitarian Law (IHL) provides explicit protections for human remains. Under Customary IHL Rule 113, each party to a conflict must take all possible measures to prevent the dead from being despoiled.[86] This rule is reinforced by the

[83] Provost, R. (2017). *Culture in the domains of law: Anthropophagy and cannibal law*. Cambridge University Press.
[84] United Nations. (1966). *International covenant on civil and political rights*. 999 U.N.T.S. 171. https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights
[85] UN Human Rights Committee. (1992, March 10). *General comment no. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment)* (UN Doc. CCPR/C/21/Rev.1/Add.3). https://www.globalhealthrights.org/wp-content/uploads/2013/10/HRC-General-Comment-No.-20-Article-7-Prohibition-of-Torture-or-Other-Cruel-Inhuman-or-Degrading-Treatment-or-Punishment.pdf
[86] Henckaerts, J.-M., & Doswald-Beck, L. (2005). Customary international humanitarian law: Volume I: Rules. Cambridge University Press. https://doi.org/10.1017/CBO9780511804700

First (Article 15)[87] and Second (Article 18)[88] Geneva Conventions, which mandate that the dead must be protected against ill-treatment. When it comes to cannibalism, the principles of the IHL draw a general rule that human remains are not *res nullius*, but are inherently guarded beings.

[87] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949, 75 U.N.T.S. 31. https://www.refworld.org/docid/3ae6b3620.html

[88] Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, August 12, 1949, 75 U.N.T.S. 85. https://www.refworld.org/docid/3ae6b3720.html

Chapter 6: Legislative Developments and Stagnation

The law governing cannibalism has been characterised by a significant level of stagnation, due to structural and institutional barriers which have hampered substantive change. The Punjab Law Department, responding to a Right to Information request in April 2022, explicitly acknowledged that no dedicated law on cannibalism exists in Pakistan.[89]

Statistical and judicial records over the last two decades show only two recorded instances, both of the brothers Farman Ali and Mohammad Arif, while no other case has been registered. No official government authority or independent research indicates the prevalence of undocumented cases of cannibalism in Pakistan.

Proposed Amendment

In 2014, four Members of the National Assembly introduced a bill to amend the criminal law in reaction to the events of 2011 and 2014.[90] The Bill introduced a separate statutory measure, which outlined cannibalism as the eating of human flesh regardless of its source or reason. Although it was referred to a Standing Committee and a subcommittee was constituted, the Bill is still in legislative limbo, and no substantive action has been recorded in the last ten years. The main barriers may be hypothesised as institutional inertia and legislative priorities, but no official parliamentary response has been presented ever since. The stagnation is indicative of a larger trend of crisis-induced legislation.

Sister Bill on Necrophilia

As a reaction to a so-called epidemic, a bill was presented in the Senate *(2024 July 10)* to propose an amendment to the Penal Code that will

[89] Punjab Law and Parliamentary Affairs Department. (2022, April 18). RTI Letter 18.4.22. https://law.punjab.gov.pk/system/files/RTI%20Letter%2018.4.22.pdf accessed 21 February 2026.

[90] *Dawn. (2014, April 17). LHC cannibalism legislation plea.* https://www.dawn.com/news/1100528

criminalise sexual offences with dead subjects.[91] In contrast to the bill on cannibalism, it is marked with distinct statutory intent and linguistic accuracy. It is possible to identify structural similarities between laws that govern cannibalism and necrophilia, as both of them govern the desecration of corpses but are compromised by gaps in statutory wording and enforcement systems.

The establishment of a comprehensive, omnibus corpse-protection law that incorporates cannibalism, necrophilia, organ-trading and medical experimentation into a single statute,[92] may increase the efficiency of the procedure, protecting the dignity of the victims. Comparative studies reveal that more specific amendments, like those included in the Necrophilia Bill, are more effective than the general peripheral dependence. Clear legal terminology, defined terms, and well-articulated penalties can be used to reduce the ambiguity of interpretation, improve prosecution, and promote judicial predictability.[93]

[91] Senate Standing Committee on Interior. (2024). *Report of the Senate Standing Committee on Interior on the Pakistan Penal Code (Amendment) Bill, 2024*. Senate of Pakistan. https://senate.gov.pk/uploads/documents/1733917708_193.pdf

[92] Human Rights Commission of Pakistan. (2015). Criminal law gaps report. https://hrcp-web.org/hrcpweb/wp-content/uploads/2016/07/Criminal-Justice-Report.pdf

[93] *Comparative desecration laws in Muslim states*. (2014). SSRN. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2487392

Chapter 7: Recommendations for Legislative Reform

The study of the legal system of cannibalism has shown an extreme statutory gap. There is no consistent, legally binding framework that can be used to prosecute instances of anthropophagy. The use of the peripheral statutes and emergency procedures leads to a varying sentencing process and interpretation gaps. As a result, a multi-dimensional legislative change is suggested, which incorporates substantive criminalisation, forensic and psychiatric conditions, and procedural uniformity.

Statutory Recommendations

The absence of a specific provision on cannibalism in the Penal Code makes prosecutors dependent on general statutory clauses, including Section 297, leaving the severity of cannibalism uncompacted.[94] Moreover, the proposed amendment to Section 297 is rather insufficient as it does not create an independent offence with specific definitions and a scheme of sentencing.[95] It is recommended to enact a new section, namely, *Section 297-A: Cannibalism*, defining the act and distinguishing between survival cannibalism and pathological or predatory cannibalism.[96] Proposed penalties could follow a bifurcated scale while also taking aggravating and mitigating factors into account.

Proposed Amendment: Section 297-A

297-A. Cannibalism. (1) Whoever, with the intent to desecrate or satisfy a compulsion, consumes, eats, or otherwise ingests any part of a human body, corpse or remains, whether cooked or raw, shall be punished with imprisonment of either description for a term which may extend from two years to life imprisonment, and shall also be liable to a fine.

(2) In any prosecution that falls under this part, the Court shall order a thorough psychiatric and neurological assessment of the accused to be conducted by a board of specialists. Such a board shall include at least

[94] Pakistan Penal Code 1860, s. 297.

[95] National Assembly of Pakistan. (2014). *Criminal Law (Amendment) Bill, 2014*. https://www.na.gov.pk/uploads/documents/1415360941_491.pdf

[96] Council of Islamic Ideology. (2022). *Cannibalism fatwa*. https://www.iic.gov.pk/fatawa/cannibalism accessed 21 February 2026

one forensic psychiatrist who is a member of a government-approved institution

(3) Provided, any act which is performed with an imminent danger of death as a result of starvation, in case there exists no other source of food, and where the person who perpetrates the act did not cause the death of the person whose remains are then used to nourish someone, will be considered a mitigating circumstance, and the court may impose the shortest length of detention in such case.

(4) Any person who attempts to commit cannibalism or necrophagy, or provides the means for such an act, or knowingly participates in a ritual involving the consumption of human remains, shall be liable to the same punishment as provided for the principal offence.

Explanation I: Consumption as Desecration. For this section, the act of consumption is recognised as a specific and aggravated form of desecration of the human body, independent of the act of trespassing upon burial places.

Proposed Sentencing Matrix

To ensure proportionality and deterrence, the law must distinguish between different motivations and degrees of culpability. The following matrix provides a guideline for judicial discretion.

Table 1

Proposed Sentencing Matrix for Cannibalism

Category	Actus Reus	Proposed Sentence	Rationale
Survival Cannibalism	Consumption of remains under acute starvation or necessity (*Darurah*) where no other food source was available.	2 – 5 Years (with potential for a suspended sentence)	Recognises the 'Necessity Defence' in Islamic law; focuses on social reintegration rather than punishment.
Pathological Cannibalism	Consumption linked to	Minimum 7 years of	Prioritises public safety and

	documented psychiatric disorders (including psychosis, paraphilia, or neurological damage).	psychiatric detention	medical rehabilitation; incarceration is secondary to clinical treatment.
Opportunistic or Desecrating	Consumption for ritualistic, commercial, or non-necessity purposes, involving grave desecration.	10 – 15 Years (may be rigorous imprisonment)	Addresses the violation of post-mortem dignity and societal moral order.
Aggravated Cannibalism	Serial cannibalism; targeting vulnerable victims (children); consumption preceded by torture or murder.	25 Years to the remainder of natural life in imprisonment	Reflects the ultimate criminal depravity; serves the primary function of absolute deterrence and public protection.

Evidentiary Recommendations

Mandatory Psychiatric Evaluation

Cannibalistic behaviour is often a result of a severe psychopathology or social exclusion, as the Bhakkar case discovered delusional constructs and social ostracism in psychiatric examination. An exhaustive psychiatric test at the pre-trial and investigation phases should be a statutory requirement that cannot be ignored. The creation of a special forensic psychiatry panel in national and provincial forensic science agencies or state-run medical institutions would ensure consistency in the expert evidence, inform rehabilitation efforts and shape discretion in sentencing.

Forensic Standards Codification

The lack of standard protocols in forensic investigations of cannibalism has affected the consistency of the evidence gathered in existing investigations. Comprehensive post-mortem testing, including defleshing, scrutiny of cut marks, and systematic sample-taking of tissues and a clear definition of admissibility of results in court should be prescribed by codified procedures. Specialised training for medical examiners, forensic experts and police personnel is critical to developing expertise in detecting and documenting anthropophagous acts.

Procedural Recommendations

Aggravating and Mitigating Factors

Serial offences, cases of torture, targeting of the vulnerable, commercial exploitation, ritual aspects, sadistic elements, and the breach of cultural or religious taboos should be included in the aggravating factors. The mitigating factors may include psychiatric disorders, apprehension of death by starvation, duress, impaired capacity due to intoxication or evidence of successful rehabilitation. These guidelines give some discretionary freedom to the judges within the statutory boundaries and therefore strike a balance between retributive, deterrent and rehabilitative goals.[97]

Specialised Court Jurisdiction

While specialised courts are commonplace in Pakistan and courts with explicit jurisdiction may seem natural for such an extreme offence, it is noteworthy that specialised courts lead to fragmentation and inconsistency in the judicial process and inhibit judicial adaptability.[98] It is imperative to note that courts of specialised jurisdictions such as the Anti-Terrorism Courts have wreaked havoc in Pakistan due to the lax application of anti-terrorism laws;[99] therefore this study advises

[97] Human Rights Commission of Pakistan. (2015). *Criminal law gaps report*. https://hrcp-web.org/hrcpweb/wp-content/uploads/2016/07/Criminal-Justice-Report.pdf accessed 21 February 2026

[98] Silvestri, E. (2021). The pros and cons of judicial specialization. In X. Kramer et al. (Eds.), *New pathways to civil justice in Europe*. Springer. https://doi.org/10.1007/978-3-030-66637-8_13

[99] Tariq, A. (2019). Defining terrorism: Its (mis)application and implications in Pakistan. *Policy Perspectives*, *16*(1), 117. https://doi.org/10.13169/polipers.16.1.0117

against the formalisation of courts with specialised jurisdiction for cannibalism.

Chapter 8: Conclusion

This study establishes that Pakistan's criminal justice system lacks a coherent legal framework to address cannibalism, compelling courts to rely on peripheral provisions that neither reflect the gravity of the offence nor ensure consistency in the prosecution of the offence. Likewise, the offence is subject to inconsistent sentencing outcomes. The Bhakkar cases expose the consequences of legislative gap and silence, including doctrinal ambiguity, misuse of anti-terrorism legislation and inconsistent judicial reasoning. The cases also highlighted the inadequacy of forensic and psychiatric assessments, which compromised a comprehensive evaluation of the accused. Comparative analysis revealed that although many jurisdictions do not criminalise cannibalism as a standalone offence, yet they provide stronger doctrinal protection for human dignity through comprehensive legal and procedural mechanisms. Given Pakistan's constitutional commitment to human dignity and Islamic principles, the existing framework is insufficient to address this exceptional crime. The proposed reforms, including a dedicated statutory provision, mandatory psychiatric evaluation, codified forensic standards and structured sentencing guidelines, would strengthen legal certainty while preserving the fundamental principles of proportionality and due process. Ultimately, a principled and comprehensive legislative response is essential to protect post-mortem dignity, enhance public confidence, and ensure that future prosecutions are grounded in clear legal doctrine rather than judicial improvisation.

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STRIKE OF REPRESENTATIVE BODIES OF LAWYERS:

DO THEY CREATE HURDLES, PAUSE AND HAMPER THE JUDICIAL PROCESS?

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Abstract

It had become a norm for the legal community to resort to strikes on various non-issues, even those not directly related to the judicial system or public interest. Due to these continuous and repeated strikes, the poor and helpless litigants who come to the courts have to face severe hardships and mental agonies. Those who travel from far-flung areas to reach the court with the hope of justice, have to return disappointed only because the lawyers have boycotted the court proceedings. Thus, not only their time, effort and financial resources are wasted, but their faith in the justice system also begins to waver.

On the other hand, this practice is creating an unprecedented backlog of cases in the courts. Every single day of strike delays the hearing of thousands of cases, which further increases the pendency. This delay has a direct impact on the timely delivery of justice, while it is a well-established legal principle that "Justice delayed is justice denied" means justice received late is in fact tantamount to deprivation of justice.[1]

The State's spend billions of rupees every year on improvisation of judicial system, judicial infrastructure, judges, court staff, prosecution, legal aid, digitalization, and other reformatory measures, so that timely, effective, and quality justice can be delivered to the citizens. However, when lawyers go on regular strikes, the effectiveness of all these government expenditures and reformatory efforts is adversely affected and rendered them futile. Moreover, on every day of strike, there is a significant reduction in the collection of court fees, fines, and other government revenues, as a result of which the Government Exchequer also bear a colossal financial loss.

Observing these continuous strikes, public hardships, increasing caseload, and wastage of state resources, a fundamental legal question

[1] Sourdin, Tania, and Naomi Burstyner. "Justice delayed is justice denied." *Victoria University Law and Justice Journal* 4, no. 1 (2014): 46-60.

arose in my mind: do such lawyers' strikes have any legal justification or protection under the Constitution of Islamic Republic of Pakistan, prevailing laws, judicial precedents, and the rules of the Bar Councils? If so, what are its limits and limitations, and if not, what are the legal, ethical, and institutional reasons for the continuation of this tradition? These questions motivated me to conduct research on this very important and sensitive topic. The main objective of this research is to examine whether the current tradition of lawyers' strikes is justifiable in the eyes of law or not, and what impact such protest actions have on the public's right to justice, the performance of the judiciary, the interests of the State, and the rule of law. Furthermore, the research will also critically examine how a balanced and constitutional harmony can be established between the right of lawyers to legitimate protest and the fundamental right of the public to timely justice, so as to ensure the protection of the legal and professional rights of lawyers without affecting the delivery of justice.

The paper argues that although lawyers enjoy the fundamental and basic rights of protest, association, and right of expression guaranteed under article 16,17,19 of the Constitution of Islamic Republic of Pakistan 1973, but the so called strikes announced by different Tehsil bar, District bar, High Court Bar, as well as provincial and Pakistan Bar councils resulting in judicial boycotts, conflict with the constitutional guarantee of access to justice under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 and the professional responsibilities of lawyers imposed upon them being officers of the court. This research further shows that bar strikes undermine the independence of the judiciary and erode public confidence. The study concludes by suggesting lawful, constitutional, and alternatives method/modes for redressing professional grievances without disrupting the smooth function of court's work and making any obstruction in dispensation of justice or compromising the rule of law which is the primary duty of the State.

2. Introduction:

One of the most significant functions of the State is the administration of justice and it is the base of the constitution of government of Pakistan. The Bar (lawyers) are entrusted with important and secret responsibility of interpreting and implementing the Constitution and the laws of the land. They play a vital and important role in protecting

the rights of prisoners, resolving disputes through mediation, and ensuring the accountability of State Institutions and individuals and foremost to safeguard the supremacy of the Constitution.

If the judicial system is not independent, accessible, and consistently effective and strong enough, the rule of law becomes just an empty slogan, a fantasy, and indigenous guarantees lose their practical meaning.[2] Undeniably, Courts cannot function in isolation as both judges and lawyers are wheel of the same chariot. The justice delivery system operates through the collaboration of judges, lawyers, prosecutors, government pleaders and allied court staff. Besides these stakeholders, lawyers occupy an exceptional and privileged position. Their primary and the foremost duty is not only to advance the cause of their clients but also to assist the courts in a fair manner, so that the judicial system may work efficiently in dispensation of justice. Despite this elevated status, strikes and boycotts called by Bar Councils and Bar Associations have come a recreating point of Pakistan's legal culture. Generally, strikes are constantly called up in response to judicial opinions, executive measures, legislative developments, local issues of lawyers, transfers of judicial officers, or matters relating to professional boons. While some grievances of legal finality may be bona fide and merit consideration, however due to these strikes and suspension of court work through boycotting the court proceedings not only undermine the whole legal system but also raises serious indigenous, legal, and ethical enterprises. Judicial boycotts for personal issues of different bars disrupt court proceedings, resulting into adjournments which increases backlog of cases, continued detention of under trial prisoners, and failure to provide timely relief to poor litigants. Over time, this practice significantly undermines public confidence in the justice system and fosters an impression that the functioning of the judiciary is at the whim and wish of the lawyers and local bars.

3. Historical Background of Bar/Bars' Strikes in Pakistan.

The phenomenon of lawyers' strikes in Pakistan must be understood in its historical context. During the era of military rule and suspension of constitution, lawyers emerged as a prominent voice against the illegitimate appropriation of power. The lawyers' movement 2007-

[2] Loughlin, Martin. "The rule of law: a slogan in search of a concept." *Hague J. on Rule L.* 16 (2024): 509.

2009 is the most prominent example of cooperation on the part of the legal community.[3] This movement was in response to the suspension of the constitution and the removal of judges of Apex Courts from their offices. What prompted the protests, boycotts and demonstrations by lawyers across Pakistan, which eventually led to the restoration of the judiciary and reaffirmation of constitutional supremacy which ultimately became a matter of security for the bar and the affirmation of local supremacy.[4] In the context of Pakistan, mutual support is widely regarded as principle, necessary, and bona fide. However, with the restoration of the Constitutional Order, the culture of protest and boycotts from the court proceedings by the legal profession did not stop. Instead, strikes gradually became the normal phenomena and were increasingly called for non-issues unrelated to constitutional crises. Bar Associations began to declare strikes over local disputes, administrative matters, judicial transfers, and political developments that had nothing to do with judicial independence and supremacy of constitution. These common and unnecessary obstacles in way of boycotting the court proceedings and routine protests and demonstrations in non-issues have begun to blur the distinction between professional discipline and ordinary debate. The courts have repeatedly expressed serious concern over frequent and indiscriminate strikes which undermine the justice system, erode professional discipline, and ultimately destabilize the moral authority of the legal profession.

4. Legal Status and Functions of Bar Councils

The lawyers' stand is that it is not correct to call a strike or court boycott a mere means of achieving professional interests, but rather, in some exceptional circumstances, it becomes an indispensable and effective constitutional protest to protect the Constitution, the rule of law, the independence of the judiciary and the public interest. According to them, when State Institutions transgress constitutional limits, the independence of the judiciary is threatened, or the professional freedom and dignity of lawyers are attacked, then remaining silent may be tantamount to deviation from constitutional obligations.

[3] "SCBA terms removal assault on independence of judiciary". (2007, March 10). *Dawn*.

[4] Rockwell, David N., Beverly C. Moore Jr, and Marshall Beil. "Controlling Lawyers by Bar Associations and Courts." *Harv. CR-CLL Rev.* 5 (1970): 301.

This position is based on the fundamental rights enumerated in the Constitution of Pakistan. Under Article 16 of the Constitution, every citizen has the right to peaceful assembly, while Article 17 provides for the freedom of association and the establishment of professional organizations. Similarly, Article 19 guarantees freedom of expression. The lawyers argue that since they, like other citizens, enjoy these fundamental rights, they also have the right to collectively protest on issues of their professional, constitutional and national nature, provided that the protest is peaceful and aimed at protecting the Constitution and Law.

It is further argued that the constitutional and judicial history of Pakistan is a testimony to the fact that lawyers have always played a key role in protecting the independence of the judiciary, the supremacy of the constitution and democratic values. In particular, the lawyers' movement that lasted from 2007 to 2009 is presented as a shining example of this, in which the collective struggle of lawyers played a significant role in restoring the independence of the judiciary and strengthening the constitutional system. According to lawyers, if this type of struggle can be considered legitimate and in line with the national interest, then collective protests or limited strikes in some other exceptional circumstances can also be considered a continuation of this constitutional tradition.

The legal community also argues that under the Legal Practitioners and Bar Councils Act, 1973, Bar Councils and Bar Associations are empowered to take steps to protect the interests of lawyers, safeguard their professional dignity and improve the legal system. Although, there is no explicit mention of strikes in the said Act, according to lawyers, when Bar Councils feel that there is a serious threat to the independence of the judiciary, the legal profession or the justice system, they can decide to hold a mass protest or boycott the courts.[5]

Such kind of lawyers are also of the view that not every strike is for the sake of personal or financial interests but on several occasions, lawyers have protested on national and public issues aimed at protecting fundamental rights, judicial reforms, the rule of law and ensuring

[5] Legal Practitioners and Bar Councils Act, 1973 (Act XXXV of 1973) (Pakistan).

effective access to justice for the public. Therefore, it would not be a correct analysis to limit such strikes only to the professional interests of lawyers, but they should also be seen in the context of the wider public interest.

Internationally, lawyers also cite the United Nations Basic Principles on the Role of Lawyers (1990) in support of this position, according to which lawyers have the right to freely form and join professional organizations and to engage in collective action for the betterment of the legal system. Although these principles do not explicitly recognize the right to strike, lawyers believe that the guarantee of professional freedom and the right to collective expression provides a moral and legal basis for such protest actions.[6]

Furthermore, the legal community also holds the view that strikes should not be made a routine or everyday means but should be adopted as a last resort. When negotiations, resolutions, memoranda, judicial representation and other legal means have not proven effective and there is a risk of serious harm to constitutional or professional interests, then a limited and temporary protest can be considered a legitimate and proportionate response.

Whatever the case may be, Bar Councils are statutory bodies established under the Legal Practitioners and Bar Councils Act, 1973 in Pakistan or the Advocates Act, 1961 in India, and their functions is to regulate, supervise the conduct of lawyers and disciplinary responsibilities aimed at maintaining professional standard and protecting the dignity of the legal profession.[7]
Moreover, this statutory body can exercise only those powers and perform only those functions which are expressly conferred upon them by the Act ibid. The functions of the Pakistan Bar Council (PBC) are specifically enshrined in Section 13 of the Act. As the apex regulatory body of the legal profession at the national level, the PBC is primarily entrusted with matters relating to registration, regulation of the legal

[6] United Nations, *Basic Principles on the Role of Lawyers*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, August 27–September 7, 1990.
[7]Anamika vista. (2021, September 20). *Professional ethics*. Scribd. https://www.scribd.com/document/526392401/Professional-Ethics

profession, legal education, and maintenance of professional standards. Notably, the Act does not expressly empower the PBC to call or support strikes.

Of the functions enumerated in Section 13, the only provision that can be argued to justify strikes by lawyers is "to protect the rights, privileges and interests of lawyers in their rolls, including taking steps for the fair, efficient and cost-effective administration of justice by the courts and all institutions subordinate to them." The PBC may argue that, in exceptional circumstances, boycotting court proceedings is a legitimate means of protecting the interests of the legal community and responding to conduct prejudicial to the dignity or independence of the Bar. For example, where a judicial officer unjustifiably humiliates or abuses a member of the Bar, the relevant Bar Council may direct its registered lawyers to boycott proceedings before that particular court in order to protect the collective interests and professional dignity of the legal community.

However, regardless of whether such an interpretation of the Act is accepted, it is of limited practical significance. Empirical research shows that most lawyers' strikes are not organized to redress grievances against the judiciary. Rather, they are usually called to protest acts of terrorism, police misconduct, government incompetence, mismanagement, excessive taxation, inflation and other socio-political issues. In such circumstances, it is difficult to appreciate how boycotting court proceedings addresses these concerns or serves the legal objectives entrusted to bar councils. The powers and duties of the Provincial Bar Councils are set out in Section 9 of the Legal Practitioners and Bar Councils Act. These functions largely mirror the functions assigned to the Pakistan Bar Council under Section 13, and notably, none of them expressly authorizes the calling or enforcement of strikes or judicial boycotts. Although clause (i) was inserted in Section 9 in 1982, requiring the Provincial Bar Councils to comply with directions issued by the Pakistan Bar Council, such compliance is necessarily limited to directions issued within the limits of statutory authority. A direction issued without jurisdiction or legal support cannot create a legal obligation on the Provincial Bar Councils to comply with it.

The concept of "strike" is associated with labor and industrial relations rather than with the legal profession. Historically, the power to

organize strikes and adopt other collective bargaining measures[8], such as work stoppages, was given to trade unions to protect vulnerable industrial workers who had limited bargaining power against employers. Recognizing the imbalance between labor and management, labor legislation, now embodied in the Industrial Relations Act, 2012, specifically grants these rights to register trade unions as a means of collective bargaining.

The legal profession, however, occupies a very different position in society. Although, some lawyers may face financial difficulties, the profession as a whole is one of the most influential and organized segments of the community. Lawyers play a prominent role in almost every institution of the State, including the legislative, the executive, the judiciary, civil administration, local governments, and the media. Corporate entities routinely retain legal advisors, while many appoint lawyers to their governing boards. The influence of the legal profession is further illustrated by the fact that those holding the highest constitutional positions often have legal qualifications and, in many cases, practiced law before assuming public office.

Against this background, it is difficult to accept the proposition that the interests of the legal community can be protected only by strikes or boycotts of court proceedings. Lawyers have access to a number of institutional and constitutional fora through which they can effectively present and address their concerns. Senior members of the bar often hold positions of public authority, participate in legislative debates, appear before higher courts, and enjoy wide access to the electronic and print media. In these circumstances, resorting to judicial boycotts cannot be considered the only or most appropriate means of advancing professional interests.

Moreover, the Legal Practitioners and Bar Councils Act, when read with the Legal Practitioners and Bar Councils Rules, 1976, points in the opposite direction. The statutory framework emphasizes that a lawyer is, above all, an officer of the court whose primary responsibility is to facilitate the fair, efficient and speedy administration of justice. The Rules devote an entire chapter to the duties of a lawyer to the courts. Rule 166 expressly provides that a lawyer is under a duty to appear

[8] Brisbin, Richard A. *A strike like no other strike: Law and resistance during the Pittston Coal strike of 1989-1990*. JHU Press, 2002.

whenever a case is called for, unless satisfactory alternative arrangement has been made.

The clear implication of Rule 166 is that even where a lawyer chooses not to appear in person as a form of protest, the lawyer remains under a professional duty to ensure that the interests of the client are not prejudiced by arranging for competent legal representation. Therefore, this rule reinforces the principle that a lawyer's responsibility to the client and the court cannot be waived simply because a collective protest has been announced.

Rule 175-E of the Legal Practitioners and Bar Councils Rules, 1976[9] provides that no Bar Council or any representative body of lawyers shall be authorized to call for a nationwide strike or protest by the legal community without obtaining prior approval from the Pakistan Bar Council (PBC).[10]

It has been argued that since the rule ibid requires prior approval of the Pakistan Bar Council for calls for nationwide strikes initiated by other Bar Bodies, this rule should be construed as an express recognition of the Pakistan Bar Council's own power to initiate or call such strikes. However, this line of reasoning is difficult to sustain when examined in the light of established principles of administrative law. Public bodies and legal regulators derive their powers exclusively from the legislation under which they are constituted. They cannot assume or exercise powers merely because such powers appear convenient or can be inferred indirectly. Unless a law expressly or by necessary implication confers a specific power, the exercise of that power is without legal basis.

The Pakistan Bar Council is a statutory body created under the Legal Practitioners and Bar Councils Act. Consequently, its jurisdiction is limited to the powers specifically conferred by the Act. Neither the Act nor the Rules expressly empower the Pakistan Bar Council to declare, organize or direct a strike of lawyers. Rule 175-E regulates only the

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[9] *Pakistan Legal Practitioners and Bar Councils Rules, 1976*, r. 175-E.

[10] Gillani, U. I. (2016, March 25). *No more strikes, please!Courting The Law*. https://courtingthelaw.com/2016/03/25/commentary/no-more-strikes-please

circumstances in which calls for nationwide strikes by other bar organizations require prior approval of the Pakistan Bar Council. It, either expressly or by necessary implication, enables the Council itself to declare or enforce strikes. To interpret the rule otherwise would be tantamount to reading into it a power which the legislature has deliberately chosen not to confer.

Moreover, the legality of Rule 175-E itself is open to serious questions. Delegated legislation must always remain within the limits set by the parent law. Rules made under a law cannot extend the scope of the powers conferred by the legislature nor introduce new substantive powers which the law itself does not contemplate. There is no provision in the Legal Practitioners and Bar Councils Act to empower the Pakistan Bar Council to make rules relating to the declaration, regulation or sanction of lawyers' strikes. In the absence of such statutory authority, Rule 175-E falls outside the ambit of the rule-making power delegated by the Act and therefore rests on an uncertain legal basis.

It is noteworthy that Rule 175-E was introduced in 2008 during the exceptional circumstances surrounding the lawyers' agitation. It seems that the rule has been inserted to address the political and institutional realities prevailing at the time rather than as part of a carefully considered legislative policy. Although the historical context of its entry, may explain its existence and this circumstance alone cannot justify attributing to it a legal significance, that exceeds the authority granted by the parent law. The legality of delegated legislation must always be measured against the enabling Act rather than the political considerations that led to its enactment.

For many years, criticism of lawyers' strikes has generally focused on their negative consequences for litigation, delays in court proceedings, and disruption of the administration of justice.[11] However, the debate raises a more fundamental legal issue. The question is not simply whether strikes are desirable or undesirable in terms of professional ethics or public policy, but whether they are permissible at all. Since bar councils are statutory authorities, they have only those powers that

[11] Midwood, Laura, and Amy Vitacco. "The Right of Attorneys to Unionize, Collectively Bargain, and Strike: Legal and Ethical Considerations." *Hofstra Lab. & Emp. LJ* 18 (2000): 299.

are expressly granted to them by law. In the absence of any statutory provision authorizing them to declare a strike or to strike directly, any such action may be considered to be outside their statutory jurisdiction.

The position of Bar Associations is even more precarious. Unlike Bar Councils, Bar Associations are voluntary representative bodies and do not have the legal authority to compel lawyers to abstain from attending court. A call to boycott court proceedings effectively encourages lawyers to disregard their professional obligations prescribed by the Legal Practitioners and Bar Councils Rules. As discussed, in particular, Rule 166 obliges every lawyer to appear in court when a matter is called for unless satisfactory alternative arrangements are made. A collective boycott which results in lawyers absenting themselves from court without ensuring adequate representation of their clients is inconsistent with this essential professional obligation.

The decision in the Writ Petition No. 7516/2025 & F.C.P.L.A Nos. 369,380,384 & 389[12]clearly states that Bar Councils are regulatory bodies formed under the Legal Practitioner and Bar Council Act,1973, and not the Trade Unions. They are not authorized to call strikes like trade unions to disrupt essential public services such as judicial functioning of courts. In contrast to Trade Unions, as the Bar Councils are not representing the industrial workforce, therefore, have no legal right to call the strikes to interfere in the smooth running of judicial system.

The Hon'ble Courts through the ibid verdicts highlighted that the legal mandate of the Bar Councils binds them to ensure discipline, ethical conduct towards smooth functioning of the courts. Thus, calling of strikes resulting in the de-functioning of court work is beyond their legal authority, and is an abuse of powers which is not the mandate of Bar Councils and calling of any such strike is beyond their jurisdiction and this practice must be discontinued in order to ensure uninterrupted running of Judicial System.

[12]*Writ Petition No. 7516 of 2025, F.C.P.L.A. Nos. 379, 380, 384 & 389 of 2025* (Judgment dated October 15, 2025

5. Constitutional Framework Governing Bar Strikes

5.1. Right to Access to Justice (Article 10-A)

Article 10 of the Constitution of Pakistan 1973, guarantees everyone to have a right of fair trial and due process of law. This right to be heard is not theoretical in nature and the same is not limited to only paper book. It also means that people should be able to approach the courts easily and have their cases heard without unnecessary delay.[13] In a lucid parlance, access to justice includes the right to a timely court hearing, a fair opportunity to present one's case, and a reasonably prompt decision without any undue interruption.

This constitutional right of a timely court hearing and a fair opportunity to present one's case without any interruption and obstruction is directly violated when Bar strikes lead to court closures or mass boycotts. Litigants are unable to attend hearings, urgent lis are not heard, and cases that are ready for adjudication are postponed without any lawful excuse and reason. For many, even minor delays can cause serious harm, such as loss of liberty, financial hardship, or prolonged uncertainty which cause agonies to the public at large, and they lose their public confidence upon the Judicial System.

The decision in question highlights that repeated court boycotts do not just cause isolated suffering. They result in a systematic denial of access to justice. Some groups suffer more than others. Women seeking family relief, children involved in custody, waiting for periodical alimony or visitation matters, prisoners awaiting bail or trial, and poor litigants who cannot afford legal fees are particularly affected. For them, it further aggravating the situation by adjourning their cases due to lawyer's strikes.

The Hon'ble Apex court of Pakistan through the ibid verdicts further highlighted that denial of access to courts, even for a single day, creates widespread and long-lasting difficulties. Each closure adds to the already heavy backlog of cases, and places additional pressure on the courts when they resume work after strike and it would be difficult for Judges to manage their diaries which become overloaded due to adjournment of cases on account of strikes. Over time, these obstructions undermine public confidence in the justice system and create a perception that the courts are unreliable or inaccessible and are functioning on the whims & wishes of local Bars and Lawyers.

[13] Aziz, Sadaf. "The Constitution of Pakistan." (2018): 1-240.

While emphasizing Article 10-A, the judgments under discussion further clarified that access to justice is a fundamental right that cannot be suspended or abeyance for professional protest in order to gain personal goals not related to the issue of their clients. Courts must remain open and functional at all times so that the constitutional promise of fair and timely justice is meaningful to every citizen.

It would be unfair not to quote the famous saying of Churchill when he said that "no one can defeat us if our courts are properly functioning". This clearly indicates the importance of smooth uninterrupted functioning of justice system in a country and without ensuring this legal & statutory guaranteed right, no nation can survive.

5.2 Fundamental Rights of Lawyers

No doubt, the legal fraternity enjoy fundamental rights of freedom of assembly, association and expression as guaranteed under Articles 16, 17 and 19 of the Constitution of Islamic Republic of Pakistan, 1973. However, these rights are to be exercised and subject to reasonable restrictions imposed by the Constitution itself as well as the law of the land and these freedoms cannot override and encompass the constitutional right to due process. When lawyers' strikes violate the principles of access to justice and obstruct the smooth functioning of courts, they are deprived of ibid constitutional protection.[14] Professional responsibility and public interest impose certain restrictions on the exercise of these rights which always remain subject to reasonable restrictions as no one is allowed under the garb of these protected rights by making obstructions in smooth running of courts via calling for strikes.

5.3 Doctrine of Proportionality

The Apex court of Pakistan while seeing the legality of the strike of the lawyers also applied the principle of proportionality to examine whether the lawyers' protest, especially, the boycott of courts, was lawful. According to this principle, any right should be exercised in a manner that is reasonable and does not cause undue harm. The court said that a complete court boycott did not meet this standard. When courts are completely closed, the justice system is affected and the

[14] Wendel, W. Bradley. "Lawyers and fidelity to law." (2010): 1-304.

rights of those awaiting the decision of their cases are affected.[15] Therefore, this step was considered excessive and unnecessary, and beyond their legal mandate. That is why the complete boycott was declared disproportionate and unconstitutional.

The court also said that lawyers may adopt less harmful alternate methods like they can pass resolutions for their demands, protest after court hours or negotiate with the concerned authorities. In this way, they can also raise their voice and not deprive the public at large to access of justice.

Last but not the least, the court clarified that the right to protest does not mean that the justice system should be paralyzed at the biased vested interests and whims & wishes of legal fraternity. It is important to bring a proportionate balance between lawyers' right of expression and using authority and the public's right to timely justice.

6. Judicial Precedents on Bar Strikes

Comparative and critical legal research provides valuable insights into the question of lawyers strikes within the constitution and legal frame work. Some of the landmarks judgments are discussing here.

6.1 Judicial Activism Panel vs. Federation of Pakistan (2020 MLD 178)[16]

Although the case in hand was mostly about in respect of the people related to medical field, the Hon'ble Lahore High Court laid down a principle that applies to other professions as well. The Hon'ble court said that professionals who work under the law or any statute cannot arbitrarily shut down essential services, so that the general public at large may affect in any manner.

This principle was also applied to lawyers' strikes. This verdict made it clear that judicial services are essential public service. If they are obstructed, the fundamental right of people to get justice is suffered and the entire legal system becomes handicapped.

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[15] Sulitzeanu-Kenan, Raanan, Mordechai Kremnitzer, and Sharon Alon. "Facts, preferences, and doctrine: An empirical analysis of proportionality judgment." *Law & Society Review* 50, no. 2 (2016): 348-382.

[16]https://eastlaw.pk/cases/judgment?judgmentId=6347f68a65808751a13c14bb

In simple words, no one has any right to suddenly shut down essential public services, as it directly affects the rights of the people.

6.2 Dr. Muhammad Abdullah vs Government of Pakistan (2013 PLD Baluchistan 1)

In this illuminated decision, the Hon'ble Baluchistan High Court[17] seriously condemned the boycott of law officers. The Hon'ble court held that such collective actions of lawyers' community which obstruct the justice system and put the public in difficulty is against the norms & principle of professional conduct. The court stressed that law officers and lawyers are officers of the court, therefore, they have a special duty to support the law. Their professional duties to defend the rights of their clients are more important than any individual, collective or organizational dispute. If they do not perform their duties as per statutory obligations, it amounts to negligence towards both the judiciary as well as their clients.

6.3 Ch. Shamshair Ali vs Khalid Mahmood (2015 YLR 47)

In this case, the judges directly come across the customary excuse that "we couldn't appear because the Bar was on strike." However, the Hon'ble court patently said no, a lawyers' strike or boycott does not give anyone the right to bring the whole judicial system to a standstill.[18]

The court held that: court proceedings will carry on whether counsel turn up or not. Not attending court on the pretext of strike is their personal decision, but the costs definitely fall entirely on their clients, not on the court system at all.

The ruling basically points towards that the wheels of justice do not stop just because one group decides to down tools. The duty of the law courts is to keep continued delivery of justice and access to rights without interruption, and no individual or collective action by the Bar can override that priority.

6.4 Asif Ullah vs Government of KPK (W.P No 5504 of 2025)

In this very landmark judgment, a full Bench of Hon'ble Peshawar High Court Peshawar while examining the entire crime judicial system gave

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[17] *Dr. Muhammad Abdullah v. Government of Pakistan*, **PLD 2013 Balochistan 1** (High Court of Balochistan).

[18] *Ch. Shamshair Ali v. Khalid Mahmood*, **2015 YLR 47** (Lahore High Court).

some guidelines to courts, investigating agencies, prosecution department, legislative bodies, and to the entire legal community whereby criminal judicial system can be reformed in this region wherein the public are losing their confidence on the prevailing judicial system.[19] A special emphasis was also placed that any action or reaction which halting the judicial proceedings in any manner is against the very theme of law and is declared unlawful and unconstitutional, and courts were directed to proceed with the judicial proceedings by showing assertiveness of law and imposed heavy costs upon all those delinquent who halting this judicial system.

6.5 Ex. Capt. Harish Uppal Vs. Union of India (AIR 2003 SC 739)

Under the common law jurisdiction, India has also developed one of the most comprehensive bodies of jurisprudence on this issue. Over the years, the High Courts of India have repeatedly examined the legality of judicial boycotts by lawyers, resulting in a consistent judicial view that strongly discourages this practice.
The most authoritative pronouncement is the decision of the Supreme Court of India in Ex. Capt. Harish Uppal v. Union of India. This case was the output of public interest litigations challenging the recurring practice of lawyers' strikes and boycotts of court proceedings.[20] The petitioners requested the Supreme Court to determine whether such actions were consistent with the constitutional mandate to ensure access to justice and the statutory duties imposed on members of the legal profession.

Recognizing the far-reaching implications of the dispute, the Supreme Court of India constituted a three-judge bench to examine the matter thoroughly. Notices were issued to Bar Councils and other representative organizations of lawyers across the country, enabling all stakeholders to present their respective legal and constitutional arguments. The court thus ensured that the matter was decided by listening to the competing viewpoints and keeping in mind the wider impact of lawyers' strikes on the justice delivery system.

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[19] *Asif Ullah v. Government of Khyber Pakhtunkhwa*, W.P. No. 5504-P of 2025 (Peshawar High Court, judgment dated October 15, 2025).
[20]Gillani, U. I. (2016, March 25). *No more strikes, please!Courting The Law*. https://courtingthelaw.com/2016/03/25/commentary/no-more-strikes-please

In arriving at its judgment, the Supreme Court of India conducted an extensive review of earlier judicial precedents dealing with judicial boycotts and the professional obligations of lawyers. The court observed that several judgments of the High Courts and the Supreme Court had consistently questioned the legal basis of lawyers' strikes and stressed that such practices lacked legal sanction. The jurisprudence demonstrated a common judicial concern that systematic abstention from judicial proceedings undermines the administration of justice, prejudices litigation, causes unnecessary delay in the disposal of cases, and is inconsistent with the professional responsibilities of lawyers to the courts and their clients.

The decision in Harish Uppal, therefore, did not emerge in isolation. Rather, it represents the culmination of a long line of judicial authorities that had gradually developed the principle that the legal profession, being an integral part of the justice delivery system, owes a significant duty to ensure the smooth functioning of the courts. Consequently, this decision is recognized in Indian jurisprudence as a leading authority on the legality of lawyers' strikes and continues to serve as an important comparative precedent for jurisdictions facing similar legal questions.

7. Impact of Bar Council Strikes on the Judiciary

Day to day strikes by bar councils is a major reason that's why the accumulation of cases is getting worse. Each day, the courts are not running smoothly or not running at all means due to uncalled for strikes, a new batch of new filings pile up, while hundreds of old ones adjourned unheard.

These adjournments without judicial proceedings go on for months, sometimes years, and ordinary people wait continually for their legal disputes whether civil or criminal to be decided. This obviously negate the Constitution's guarantee of speedy and uninterrupted justice, Article 10A and puts unnecessary pressure on judges, court staff, and especially litigants who are already struggling.

In the long run, it weakens the strength of the entire justice system and erodes public confidence that the courts can actually deliver fair and timely decisions. When litigants witness the infinite delays caused by these boycotts, they honestly question whether the justice system even works for them anymore.

8. Comparative Study

If international legal systems are perused, the same reveals that lawyers' strikes and court boycotts are generally discouraged and, in many countries, considered completely illegal. In the UK, barristers and solicitors are bound by strict professional duties that compel nonstop service in the courts. The conduct of legal fraternity to obstruct judicial proceedings is considered as heinous violation of professional duty and may invoke disciplinary action against them. Stress is always placed on the persistence delivery of justice and respect for the authority of the court.

Similarly, the Indian judiciary has constantly and visibly held that lawyers have no right to strike or boycott courts. Indian courts have made it clear in several judgments that access to justice is a fundamental right of every person and is an essential public service. It cannot be stopped by a lawyers' strike or collective grievances. The courts have also held that lawyers, being officers of the court, are duty bound to ensure to their presence in judicial proceedings continuously without any hindrance.

The above evaluation of international judicial systems, it is need of time that Pakistan's legal system must also depart from the inherited culture of strikes and boycotts. International practice clearly supports structured of professional dialogue on institutional engagement, constitutional mechanisms, and disruptive protest practices. Adoption of these methods here in Pakistan will not only increase judicial efficiency but also protect the fundamental rights of citizens to get timely and effective justice.

9. Lawful Alternatives to Bar Strikes

The dicta passed in Writ Petition No. 7516/2025 & F.C.P.L.A Nos. 379,380,384 & 389 of 2025 suggest that although lawyers' community has the right to express professional concerns, but these dissents should remain within the legal parameters and should not interfere with the administration of justice. There are several legitimate and constructive alternative methods to strikes and court boycotts, which protect the freedom of both the legal fraternity as well as the public right for timely justice.

- **Passing Resolutions Without Disrupting Court Proceedings.**

➢ Through this lawful process, the Bar Associations may pass resolutions and communicate the same to the judiciary, government authorities, or other relevant institutions. Bar Associations can formally express their demands or concerns by approaching to concerned authority through their elected representative. Not attending court is not the legal method to make their voices heard. Such practice must need to be discontinued forthwith. By resorting to this mode of redress of their grievances, they can legitimately achieve their goals without causing any damage to the clients' case and halting court proceedings. In such a way, the concerns of the lawyers' community are properly noticed and discussed.

- **Peaceful Protest Outside Court premises.**

➢ No doubt, lawyers' community have the constitutional right to protest and express their concerns and views, however, this protest should be outside court premises and after court hours so that the protest may not disturb hearing of cases and may not halt court proceedings. Lawyers can express their disagreement in a responsible & ethical manner while performing their professional duties. They can also raise their concerns by means of the judiciary and other government institutions. Instead of stopping the work of the court, Bar Associations can meet the concerned authorities to present their problems formally and find solutions amicably.

- **Dialogue with Judiciary and Government Organizations.**

➢ The judgement delivered by full court on this issue of lawyer strikes has focused more on resolving problems through proper channel. Bar Associations, Judiciary and allied government institutions can be used to support this process. These channels sort out to initiate dialogue to

promote mutual understanding on dissenting points. They reduce disputes amicably by means of table talks and hearing each other concerns & views.

- **Constitutional Petitions and Legal Remedies.**

➢ Lawyers can also resolve their legitimate problems constitutionally and through legal court process. Remedy through filing writ petitions or other appropriate legal proceedings can be adopted by the lawyers to resolve their issues. This mode of resolving legitimate issues definitely ensures that their problems heard, considered and resolved within the four corners of law.

- **Parliamentary and Legislative Engagement.**

➢ When their grievances involve policy or legislative matters, lawyers' associations can raise such grievances by formally engaging with legislators, parliamentary committees, or relevant government ministries. They can make submissions through their elected Bar representative and can settle such policy matters disputes through these legislative means. This approach allows them to bring positive legal reform for resolving their legitimate problems without disrupting essential public services i.e. court proceedings and representing lis of their clients.

Overall, these alternative modes provide effective ways for lawyer's community to enhance their professional concerns and at the same time, they ensure that access to justice is not hindered and the dignity of the legal profession is maintained.

10. Recommendation:

This research paper recommends the following steps to ensure the uninterrupted continuity of the justice system and to prevent the adoption of strikes which may halt court proceedings.

10.1 Clear Directions regarding Prohibition of Court Boycott

The legislatives bodies at provincial as well as Federal level should enact laws explicitly prohibiting court boycotts. Likewise, by means of delegated legislatives powers, the Bar councils at the national and provincial levels should also formulate regular, unambiguous and

explicit regulations prohibiting strikes, boycotts or any form of collective refusal to attend court proceedings if they cause disruption or obstruction of judicial proceedings.

These regulations and instructions should clearly acknowledge the principle that the right to advocacy is basically subject to the responsibility to maintain and support the justice system, and that court boycotts are inherently incompatible with this fundamental responsibility. Clear and strong laws & rules may eliminate this uncertainty and these illegal strikes & boycotts can easily be discouraged.

10.2 Effective Disciplinary Action in Case of Violation

Lawyers who persistently participate in or indulge in such like unconstitutional activities or in any manner encourage court boycotts should be subject to proportionate disciplinary action under the professional code of conduct by invoking the relevant provisions and should be dealt with iron hands without any discrimination

Disciplinary measures can be ranged by warnings, fines and suspension of license in case of serious or repeated violations. Consistent and non-discriminatory enforcement by adopting coercive measures will strengthen professional accountability and root out these illegal and unconstitutional practices that undermine public trust.

10.3 Strengthening the Bar-Bench Dialogue System

Regular, structured and meaningful dialogue forums should be established between the Bar and Bench to enable the redress of grievances and concerns without halting the smooth functioning of the courts.

These measures can be taken by constituting grievance redress committees, regular consultative meetings, or coordinating bodies that provide an opportunity for the legal profession to express their views & concerns in a constructive and legitimate manner.

Dialogue and effective communication at the initial level can practically reduce the intensity of conflicts and limit the possibility of confrontational actions such as strikes.

10.4 Promoting Legal and Ethical Awareness

One of the mechanisms to curb the tendency of co-called strikes is to promote educational programs by different academies for lawyers who should focus on the constitutional, ethical, and professional responsibilities of lawyers towards court & their clients.

In such like training program, it should be emphasized that the advocacy is not just a profession but a public service, and that the justice system and the protection of litigants' rights take precedence over their personal grievances.

By strengthening the awareness of professional ethics and constitutional values, lawyers can be sensitized to adopt legal, civilized, and legal means of protest.

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HUMAN RIGHTS: AN ACHIEVEMENTS OR A STUMBLING BLOCK?

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Abstract

This article is intended to provide a critical analysis of whether human rights, which are considered one of mankind's greatest achievements, are becoming an obstacle in modern global governance. In this context, it is discussed how human rights have evolved from legal documents such as the Magna Carta to modern-day international law called as the Universal Declaration of Human Rights. In addition, this study discusses the key challenges for human rights, like its overreaching nature, ambiguity due to cultural conflicts, challenges to national sovereignty, and selective enforcement by powerful states. In this context, some case studies are discussed. These case studies include humanitarian interventions, migration policies, free speech/hate speech, and other such challenges. The paper concludes that while implementation challenges and inconsistencies persists, there is a need for contextual interpretation rather than undermining human rights framework, ensuring a balanced approach between protection of human rights and national realities.

Key Words: Human Rights, Global Governance, National Sovereignty, Cultural Relativism, International Law, Human Rights Criticism, Freedom of Expression, Migration Policy, Social Justice, Accountability

Introduction:

The recognition of Human rights is one of the greatest accomplishments of modern world. The idea of human rights, emerged with a legitimate purpose and with an intention to protect and safeguard humans from any kind of oppression and discrimination. This noble concept has gradually developed an international framework that seeks to foster the basic freedom for all. However, over the past few decades, these rights are increasingly criticised for causing

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unintended consequences which result into contradiction and undermining the very purpose of their development. The conflict caused by these rights is the central discussion, and the impact of the same on social solidarity, economic growth, and national sovereignty.

The fundamental purpose of developing human rights is to establish a universal framework lending qualities from diverse societies around the world to build a uniformly recognised geographical, social, and political communication to protect mankind. Treaties like the Universal Declaration of Human Rights were agreed on to set the minimum requirements of international protection of the individual and the rights of vulnerable groups. Nevertheless, the growth of human rights often has included the situation where the rights of people clash with one another and the creation of a back-to-back compromise for the law and policy makers. These rights are mainly broad to embrace all possible situations, but some critics argues by stating these rights as over-restrictions on states, businesses. Others argues how the implementation of a set of general principles may cause problems, especially in areas where there are cultural diversities and economic instability.

Background

Fundamental human rights are meant to respect human dignity, justice and equality. This concept is founded on deepest conviction to protect individuals from discrimination, mistreatment or violence, this concept has turned into a universal instrument that protects freedom of people. The question is whether human rights progressivism has gone too far by impeding economic growth or by undermining a nation's sovereignty. Whether it has created a fragmented society.

The universal human rights are meant to transcend cultural, social and political barriers. For example, the Universal Declaration of Human Rights managed to establish a minimum level of respect for every individual. But in majority of instances the proliferation of human rights is in conflict with one another and places an onerous responsibility on policymakers and the judiciary.

Historical Perspective on Human Rights

The concept of human rights has come from centuries of intellectual, political and legal work focused on the acknowledgement

and safeguarding of individual liberties. Originating with early documents such as the Magna Carta of 1215, which had as its objective to limiting the monarchy powers in England, laid an early foundation for holding authorities accountable for unjust practices that became a protection of human rights. For it was a manifesto that even the rulers were to be subject to the law. Subsequently, it helped to shape rights-based systems of governance across Europe. Even though its provisions were designed more to serve the interests of the nobility rather than ordinary citizens, it marked an important turning point in limiting authoritarian rule and establishing the principle that people indeed have certain inalienable rights under the law[2].

This idea was promoted by Enlightenment-era philosophers such as John Locke and Jean-Jacques Rousseau in the 17th and 18th centuries, who explicitly declared that humans, simply by being human, have 'natural rights'. Of the thinkers mentioned above, Locke would prove most articulate and clearest in his assertion that the purpose of government lies in the protection of rights to life, liberty, and property, even going as far as to suggest that any government unable or unwilling to do so forfeits its legitimacy[3]. These concepts resonated profoundly in the revolutionary texts, including the Declaration of Independence, 1776, of the United States of America, and the Declaration of the Rights of Man and of the Citizen, 1789, of France. Both were very firm in their insistence that governments have a responsibility to secure individual liberties and to realise equality point[4].

The horrors of the Second World War accelerated the emergence of the modern human rights movement. The incredible violence, genocide and displacement demanded a global effort to prevent such abuses at all costs. Consequently “The United Nations” was formed in 1945 as one of the outcomes of these efforts. The mandate of UN is peace, security and protection of human rights. It was succeeded in 1948 by the Universal Declaration of Human Rights, which was meant to be even more inclusive and prophylactic against oppression. Speakers from various cultural and legal backgrounds then drew up a

[2] Magna Carta, “The Magna Carta of 1215,” British Library, accessed October 26, 2024, https://www.bl.uk/magna-carta/articles/magna-carta-an-introduction.

[3] John Locke, Two Treatises of Government, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), 285-289.

[4] “Declaration of Independence,” U.S. National Archives, accessed October 26, 2024, https://www.archives.gov/founding-docs/declaration-transcript; “Declaration of the Rights of Man and of the Citizen,” French National Assembly, accessed October 26, 2024, https://www.assemblee-nationale.fr/histoire/dudh/1789.asp.

declaration in the hope of reaching a universal set of rights, that is not tied to either nationality or cultural affinity, affirming that 'all human beings are born free and equal in dignity and rights'[5].

Despite the lofty goals it had espoused, the UDHR had few ways to enforce it at first. With its adoption, it was followed worldwide; among them were the ICCPR and the ICESCR, both in 1966, upon adoption from the UN General Assembly[6]. These documents are often described as the "International Bill of Human Rights," setting out a universal standard for the promotion and protection of fundamental freedoms.

These human rights, in turn, grew in scope to address new social, economic and political challenges that mirror an ever more complex world society. While the early focus of human rights framework was protection of the individual against state abuses, there was a gradual broadening of the scope to include issues like social equity, economic opportunity, and environmental protection[7]. This expansion brought with it new challenges because, quite often, the single universal standard implemented in culturally diverse societies led to tensions. Faced with the challenge of reconciling noble ideals with the realities of governance, economics and cultural values, the world community pressed to extend the canopy of human rights to a wider and wider range of issues. The stage was, therefore, set for debates on whether human rights have now become a stumbling block.

Challenges and Criticisms of Human Rights Framework

1. Overreach and Ambiguity

After all, one of the most powerful critiques of modern human rights is that they are too vague, and applied too broadly. In truth, it has broadened the human rights agenda to include a wide range of social, economic and cultural concerns. It has also contributed to circumstances in which the exercise of certain rights clashes with others, or whose meaning varies from culture to culture. For example, the right to free speech does clash with laws that shield individuals from hate speech; and this, in turn, generates debate about how far

[5] United Nations, Universal Declaration of Human Rights, 1948, UN General Assembly Resolution 217 A.

[6] United Nations, "International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR)," UN Treaty Collection, accessed October 26, 2024, https://treaties.un.org/.

[7] Amartya Sen, Development as Freedom (New York: Anchor Books, 1999), 54-62.

each right should go[8]. Even more importantly, the absence of any ranking within the system of rights itself makes equal application in their exercise quite impossible, since, in practice, governments and international organisations do indeed have contextual reasons that need to place one right above another.

This fuzziness also complicates how human rights might be established across cultures with traditions often at odds with global norms. The introduction of certain standards of human rights into conservative societies has, for example, been criticised as the imposition of foreign values. Similar dynamics have been observed in gender rights and LGBT rights, where Western values of freedom and equality clash with cultural and religious belief walls from countries all over Africa, the Middle East and parts of Asia[9]. For, according to these critics, this very broadness of human rights is destined to cause greater conflict than universal norms.

2. National Sovereignty and State Autonomy

Human rights treaties and international interventions also tend to challenge the principle of national sovereignty, so that they are, to some extent, unwelcoming to nation-states as considered alleged incursions. The majority of states would argue that these international institutions don't have the cultural or political sensitivity to a state's framework to make authoritative decisions about domestic policy. When the ICC issued an arrest warrant against the Sudanese president Omar al-Bashir in 2009, for example, Sudanese officials (backed by many member states of the African Union) claimed that the warrant was an affront to Sudanese sovereignty and a form of neo-colonial meddling. This case highlights that implication of human rights need to be weighed against the State's governance of its internal affairs, to assess the extent to which international scrutiny may apply.

More significantly, the insistence on imposing the code of human rights on all countries will further inflame political tensions between the strongest and the less politically consequential states. For the US, or the European Union, to apply human rights sanctions, has also drawn criticism as being extremely selective and politically motivated. There are debates among scholars that such conduct mostly hits the weaker countries or the weaker political alliances, whereas violations

[8] //www.unesco.org/hate-speech.

[9] Lydia Smith, 'Cultural Conflict and LGBTQ+ Rights in a Global Context', Global Policy Journal, April 2022, pp87-91.

in economically and strategically strong States are simply overlooked. Therefore, the human rights struggle is sometimes seen as a tool for internationally and politically powerful States to impose their influence rather than a sincere, impartial effort to uphold justice.

3. Selective Application and Hypocrisy

A more explicit criticism of the idea of human rights is the (rather plaintive) observation that they appear to be used and deployed by the more powerful countries in a highly selective fashion, as a means of political bullying. As academics and diplomats have pointed out, all too frequently, the Western powers invoke human rights in order to mount a case against countries that stand in opposition to their political agenda, while turning a blind eye to violations of the same statutes in friendly states[10]. None of these selective uses of the law do anything to guarantee the legitimacy of human rights but just fuel cynicism among the state, which sees such policies as de facto double standards.

For instance, criticism against the United States arose regarding perceived inconsistency between condemning human rights abuses in North Korea and Iran while continuing to have close alliances with other questionable countries on human rights policies such as Saudi Arabia and Egypt[11]. This double standard thus suggests that human rights are sometimes deployed only as diplomatic weapons and not as universal principles to be applied equally. Thus, critics argue, the kind of selective application drains the legitimacy of the human rights framework and bolsters the sense that such aspirational ideals are tools of the powerful.

4. International Intervention in Conflict Zones

Protection of human rights in these areas, most of the time, raises the spectre of sovereignty and political pretext, so that the question arises whether such interventions are ultimately more harmful than helpful. The NATO intervention in Libya in 2011, for example, initiated in response to appeals to protect civilians from state-sponsored violence, has since become widely criticised because of the kind of consequences that resulted. While the intervention was justified under the principle of the Responsibility to Protect (R2P) in order to prevent mass atrocities, it created a power vacuum that led to the

[10] Amartya Sen, Development as Freedom (New York: Anchor Books 1999)104-110

[11] Yash Ghai, 'China's Position on Human Rights Treaties', Journal of Asian Studies, September 2018, pp12-14.

destabilization of the country and the continued civil conflict and humanitarian crisis[12]. The antagonists also believe that this humanitarian intervention has in fact opened up a blind alley and lacks any regard for the future it has brought to the society of Libya or how it is further exacerbating the situation for its civilian population.

The same applies to interventions made into other theatres of conflict, like Syria, where the international community's efforts at human rights and opposition to autocracy are being bogged down by geopolitical goals and the potential for greater violence. With dozens of nations lined up in protest of the Syrian government, the world struggled to devise a response that both honoured human rights and maintained regional stability. In instances like this, frameworks based on human rights can paradoxically undermine peace efforts; policies that fuel external interference may further deteriorate the conflict from being resolved[13].

5. Policies of Migration and Security Concerns

Migration has also been another battleground in which the human rights apparatus has, at times, collided with national security interests, creating for national governments some of the direst dilemmas in trying to reconcile humanitarian concerns with domestic security. Refugees from conflict zones in Syria and Afghanistan, for instance, in Europe alone, have put the EU's human-rights commitments to the real test. Although the ECHR does offer protection from refoulement to dangerous places, this has resulted in a lack of resources and security for the member states[14]. For example, Germany and Sweden have been hosting large number of refugees earlier but later felt social unease and political disputes over the policy sustainability regarding public security.

Even the right to asylum comes into conflict with the counter-terrorism agenda of some governments, with a growing concern that such open migration policies could be exploited by extremist organisations. For example, in the wake of terrorist attacks in Paris in 2015 and in Brussels in 2016, most European states took a look at their immigration and asylum laws, tightening controls on borders, and subjecting refugees to much closer scrutiny. Commentators pronounce

[12]Richard Falk, "Libya and the Responsibility to Protect" Global Policy Journal, March 2011

[13] Charles Lister, "The Syrian Civil War and International Intervention" //www.mei.edu.

[14] Christiane Fröhlich, 'The European Refugee Crisis and the Role of Germany', Journal of International Migration Studies, October 2017, 88-91.

such reactions as abuses of the human rights of refugees, but they serve very well to demonstrate the difficulties, in practice, of enforcing human rights norms in a very particular security landscape[15]. This discovery also highlights how a rigid application of human rights imperatives can be a hindrance when sovereign states must protect public safety.

Existence of Conflicting Rights

1. Freedom of Expression versus Hate Speech Regulation

The conflict between freedom of speech and the regulation of hate speech is another illustration of how human rights norms can lead to practical and ethical quandaries. Freedom of expression is an unalienable right, enshrined in human rights instruments such as the International Covenant on Civil and Political Rights, or ICCPR. But free speech is a catalyst for violence or discrimination on occasion, which is why almost every country has enacted laws prohibiting hate speech. These laws, though intended to protect the rights of minorities, are often contentious as to where the line should be drawn.

The French idea of 'laïcité' - secularism - is one that reserves religious expression for the private sphere and is designed to achieve complete neutrality of the public realm. It has also borne the brunt of many criticisms inside and outside of government for alleged infringements of the rights of religious believers, particularly Muslims, to practise their religion. Matters surrounding Charlie Hebdo in 2015 have further polarised discussion on the question, with arguments for free speech being raised in defence of the publication of insulting images, while others believed it was provocative and an incitement of violence and divisive in society. What the current case has served to illuminate, though, is the tension between competing rights, since efforts to realise free speech can come at the cost of social cohesion and security.

2. Religious Rights vs. Secular Policies in Education

Many diverse societies create ongoing debates, where religious rights conflict with secular policies, especially in public institutions such as schools. Discussions in India, a largely Hindu but constitutionally secular nation, about the right to religious symbols in schools and

[15] Ayesha Siddiqui, 'Migration Policy and Counter-Terrorism in Europe', European Policy Analysis Journal, March 2016, 105-7.

universities, also prompt a host of questions about religious freedom versus secularism. Then, in 2022, a controversy over whether the hijab is allowed for Muslim students in state-run schools in the state of Karnataka arose. Advocates have defended it as a freedom of religion right, and opponents as a subversion of secular principles, and possibly as a means to privilege one group over others[16].

The case highlights the ongoing conflict between individual human rights, in particular freedom of religion, and the secular policy obligations required to maintain social harmony in multicultural societies. Those situations present a dilemma for policymakers, caught between the need to respect individual rights and the desire to preserve a neutral public realm. This case, as many others, shows how human rights discourses end up generating social conflict, especially in culturally heterogeneous societies.

3. Social and Economic Rights versus Developmental Constraints

In the developing world, economic and social rights often struggle to overcome limited financial resources and developmental agendas. Less affluent nations find it especially hard to realise the economic rights forbidden under the International Covenant on Economic, Social and Cultural Rights, such as the right to education, health and an adequate standard of living[17]. While most of these rights are meant to protect the vulnerable population, the financial costs associated with the implementation of very broad social welfare programs can be burdensome to the national budget, crowding out other important sectors.

It is typical, for instance, that governments in sub-Saharan Africa are pressured by the international community to raise expenditures on health and education. If not met with parallel growth in economic productivity, these increases can tie up financing that would otherwise have been available for infrastructural and industrial investments needed for productive economic growth. For instance, some critics say that doctrinaire human rights systems inhibit development in some instances because they impose burdensome obligations on poorer

[16] Rohit De, 'Religious Freedom and Secularism in India's Education System', South Asian Law Review, April 2022, 35-38.

[17] United Nations, International Covenant on Economic, Social and Cultural Rights (1966), UN Treaty Collection.

countries. A vicious circle then continues because a lack of development limits the achievement of human rights, whereas high demands for human rights truncate economic development.

4. Pakistan Context: Human Rights and Refugee Policies

Pakistan has hosted one of the largest number of refugees despite the fact that Pakistan is not signatory to the 1951 Refugee Convention, but its judiciary has engaged meaningfully with the international laws relating to refugees. For instance, in the case of Rahil Azizi v The State[18], Pakistani court has relied on the principle of non-refoulement and Article 31 of the Refugee Convention, emphasizing nuanced application of domestic law to refugees' vulnerabilities. Another case of the Peshawar High Court where the issue related to non-refoulement was considered in several cases involving Afghan asylum seekers and where the Federal Government was directed to take a decision on non-refoulement principle before deporting Afghan artists, transgender persons and families. The above-mentioned cases are clear examples of the way how human rights may protect vulnerable groups while posing challenges to the policy of the state in resource-limited environment.

Alternative Voices: Do Human Rights Impede Progress?

In view of all these supposed limitations and critiques, many scholars and activists discoursed on human rights to provide useful direction in the struggle for justice, equality and social change. Human rights practice creates the most problems, but the principles are also, at the same time, invaluable tools with which to resist injustice, hold governments to account, and foster global solidarity. What follows is a consideration of some of the arguments that lay bare the humanitarian potential of human rights; that is, that these are, not in themselves, roadblocks but, rather, some of the features of an idea that is inherently reformable and adaptable as a means to secure greater effectiveness.

[18] Rahil Azizi v. The State (PLD 2024 Islamabad 231), Writ Petition No. 1666 of 2023, decided on 19 June 2023.

Counter-Cartographies: Human Rights - Do They Get in the Way?

There are deep problems and criticisms levied against human rights, of course. However, in contrast with this rather bleak view, many scholars and activists see human rights as important mechanisms for the pursuit of justice, equality and social change. Human rights do pose snags in implementation, but concepts will continue to be essential weapons of resistance to injustice and of holding governments to account, and levers of international solidarity. Below is a try to analyse some of the arguments both for the salutary effects of human rights, and for the prospects of reforming and adapting them to have salutary effects even greater than before.

Human Rights as a Means to Justice and Accountability

Redress and accountability lie at the centre of human rights advocacy. There are many reasons on which abuse can be challenged and Sate stresses on the fact that human beings are respected, and human rights frameworks are one of them. Compliance monitoring and violations management procedures are also provided for in international conventions such as the Convention against Torture and the Convention on the Elimination of All Forms of Discrimination against Women. In both Conventions, accountability mechanism exists to ensuring that governments are accountable for their actions and that victims can get justice.

The creation of the International Criminal Court is one example, and the ICC has made considerable progress towards at least attempting to close the book on war crimes and crimes against humanity. The charge given to the court to try perpetrators for terrible human rights abuses prevents future atrocities, and gives victims a sense of justice. Despite the controversy surrounding the ICC, including allegations of bias and ineffectiveness, this is how human rights institutions can contribute to ensuring accountability in situations where domestic judicial processes have been found ineffective or compromised[19]. Advocacy for human rights brings about real reform and a culture of responsibility.

Social Movements: Human Rights as Drivers for Social Change

[19] "The Role of the International Criminal Court in Human Rights," International Criminal Court, accessed October 26, 2024, https://www.icc-cpi.int.

Human rights frameworks have always been a powerful engine of social change in part because they provide means through which marginalised groups can assert their claims and challenge oppressive systems. Social movements focused on human rights have played a key role in the fight for civil rights, gender equality and lesbian, gay and bisexual (LGBTQ) rights. The civil rights movement in the United States during the 1960s borrowed much from the international norms of human rights, against racial segregation and discrimination, with resultant legal and social reforms[20].

Globally, if women's rights movement has used human rights arguments to advance its claims of gender equality and the struggle against discriminatory practices across the globe. Those issue-based campaigns capture the public attention and tend to focus on issues like reproductive rights, domestic violence and workplace discrimination, under the banner of human rights. The #MeToo movement - which has brought the ubiquity of sexual harassment and assault to make it the centre of general public attention is a classic example of how human rights frameworks are used for claims feasible at the level of individual activity, but also at the level of cultural change[21]. These cases are a testament to how human rights can serve as a catalyst for social movements, a motor of collective action, and advance in the name of equality and justice.

Reform and Adaptation Capability

Human rights frameworks do not come without their flaws, but their advocates point to their ability to be reformed and adapted to solve currently manifest problems. These calls for more effective regional human rights mechanisms have gained new momentum in recent years, owing to region-specific cultural and political factors. These kinds of mechanisms would make human rights protection more relevant, more effective, and more attuned to local concerns while still being bound by universal norms.

The arguments about the balance between rights and responsibilities, which are taking place continuously, are important so that fears of abuse or arbitrariness in applying them are acknowledged.

[20] Barbara Ransby, Ella Baker and the Black Freedom Movement: A Radical Democratic Vision (Chapel Hill: University of North Carolina Press, 2003), 120-125.

[21] "#MeToo: A Global Movement Against Sexual Violence," Amnesty International, accessed October 26, 2024, https://www.amnesty.org.

Indeed, such an approach - which is to promote discussion between governments, civil society and international organisations - enables the stakeholders to collaborate in developing frameworks in which human rights can be promoted with due regard to national and regional differences[22]. An approach of this kind will do much to both reinforce the value of human rights and to accommodate most of the sincere concerns that have been raised about their application

Human Rights as Global Solidarity

Human rights discourses also contribute to the building of global solidarity and interdependence among diverse communities. At the same time, universality inscripts into human rights the notion that every human being, irrespective of nationality, ethnicity or socioeconomic class, deserves protection and respect. This is a cardinal rule that drives towards mutual understanding and collaboration in the modern world.

Human rights frameworks also provide an overarching set of principles for humanitarian action in crisis situations, whether they are caused by natural disaster or pandemic. The COVID-19 pandemic put the role of human rights in the context of public health emergencies into sharp relief, with equitable access to medical care and non-discrimination becoming key. The world's pandemic response thus reinforced the imperative of solidarity - the concept that the health and wellbeing of one community is inseparable from those of others[23]. Health as a human rights claim, in effect, indexes policy discussion in terms of access and equity, and thus supports a human rights-based understanding of collective well-being.

Social Movements: How Human Rights Can Win the Social War

There has never been any shortage of historical challenges to social evolution, and the human rights regime itself has proven to be a powerful force inasmuch as it creates spaces where the prepared voices of the marginalised can make their claims and challenge oppressive structures. Human rights, at the core of a struggle like Zimbabwe's social movement, have been critical to the fight for civil,

[22] "Human Rights Mechanisms and Local Contexts," United Nations Development Programme, accessed October 26, 2024, https://www.undp.org.

[23] "Human Rights and the COVID-19 Pandemic," World Health Organization, accessed October 26, 2024, https://www.who.int.

gender and LGBTQ+ rights. In the US, the civil rights movement of the 1960s borrowed heavily from the norms of international human rights law prohibiting racist discrimination and segregation, and in doing so, helped usher in legal and social change.

First, the international women's rights movement Oyez started from the standpoint of gender equality by adopting international women's rights into its claim strategy to fight against discriminatory practices around the world. Such issue-based campaigns that court public outcry typically centre on areas of reproductive rights, domestic violence and work discrimination all placed on the human indigenous. It should also be viewed in a wider context of the #MeToo campaign that revealed the ubiquity of sexual harassment and assault, and that human rights categories as basic as agency can, when changed, trigger such cultural revolutions. This Witness in the Holroyd Centre, then, claims that these transformations are just some of the ways that human rights can open up new vistas for fighting such as so.

Conclusion:

The expanding scope of human rights has introduced complex legal, political, and social challenges in the presence of competing rights, national sovereignty, cultural diversity, and developmental priorities. The very concept of human rights is not open to dispute; rather, it is their inconsistent implementation, selective enforcement, and the difficulty of applying universal standards within diverse national contexts that give rise to concern. As balancing individual rights with collective interests remains one of the greatest challenges for policymakers and courts, human rights should not be viewed as an obstacle to governance or development. Instead, the focus should be on refining implementation mechanisms, strengthening institutional accountability, and promoting context-sensitive interpretation while preserving universal principles.

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The Digital Cage: Constitutional Scrutiny of CNIC Blocking in Pakistan, With Particular Reference to Proclaimed Offenders

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Abstract

This study seeks to provide a critical evaluation of the constitutional and statutory legitimacy of barring access to the Computerized National Identity Card (CNIC) within the confines of Pakistan, especially in the exercise or process of imposing the same on Proclaimed Offenders (POs). While the research acknowledges the state's legitimate law enforcement interests, it argues that existing practices often run in a legally fraught context and thereby can subject individuals to arbitrary deprivation of identity and violation of fundamental rights including due process, dignity and recognition before the law. An exhaustive analysis of the relevant laws and the recent Judgments issued by the various High Courts shows that despite the wide powers supposedly granted to the National Database and Registration Authority (NADRA), these powers are demonstrably limited by the constitutional guarantees. High Courts have repeatedly confirmed that 'right to identity' is a basic right and there shall be strict compliance with the standards of due process and strict construction shall be made under Section 18 of the NADRA Ordinance. Drawing on those results, the paper calls for a principled legal construction that requires CNIC blocking to be based on express legal authorization, to meet stringent due process requirements, and to be proportionate to the enforcement goal to be achieved. It concludes with recommendations for comprehensive legislative, judicial and administrative reforms to balance the state security imperatives with individual fundamental rights and thus prevent statelessness and

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provide protection of legal identity according to both national and international human rights standards.

Keywords: CNIC Blocking, Proclaimed Offenders, NADRA Ordinance, Constitutional Law, Right to Identity, Digital Citizenship

1. Introduction

The all-pervasive authority to "block" a CNIC, is the central inquiry of this research. This power crosses over a panoply of basic guarantees of the Constitution, especially Articles 4 (duty of due process), 9 (security of one's person), 10 (guarantees relating to arrest and detention), 10A (guarantee to a fair trial), 14 (guarantee to the security of human dignity), and 25 (guarantee to the equality of citizens). The implications of such interventions require in-depth analytical study.[3]

The CNIC, issued by the NADRA, is not just an identification document; it is a cornerstone of the legal identity and is indispensable to access important civic and economic services, from banking, mobile communications, and property transactions to intercity travel.[4] Consequently, the administrative or judicial blocking of a CNIC amounts to a serious curtailment on any individual's legal personality, having effectively condemned him or her to be a "digital non-person", without the possibility of participating in almost all aspects of civic life.

Philosophically, the "right to identity" goes beyond having a piece of paper.[5] It forms an expression of fundamental human dignity, resoluteness and the recognition of the existence of an individual before the law to ensure a full participation in society.[6] This right, while not always explicitly set out in a constitution, at times is inferred from other protections created within such constitutions such as the rights

[3] Gudova, E. (2017). Remove the Document — and You Remove the Man Book Review: Hull M. S (2012) Government of Paper: The Materiality of Bureaucracy in Urban Pakistan, Berkeley: University of California Press. *Journal of Economic Sociology*, *18*(3), 176. https://doi.org/10.17323/1726-3247-2017-3-176-183

[4] Hashmi, Z. (2021a). Identifying Kin Biometric Belonging and Databased Governance in Colonial South Asia and Postcolonial Pakistan. *Deep Blue (University of Michigan)*. https://doi.org/10.7302/3875

[5] Zarmeen Abid v. NADRA, PLD 2022 Lahore 39.

[6] Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756.

to life, dignity and equality.[7] In the digital age, the idea also extends downwards to 'digital citizenship' with the fractal and manipulation of the identity both in the digital and physical realms evoking complex legal and ethical issues of protection, consent and autonomy over identity in the digital realm. The growing intersectionality of physical and digital identities makes this a vital necessity that imposing laws must take into account to protect this fundamental right.[8]

This paper has examined in some detail the legal and constitutional limitations and pragmatic implications of CNIC blocking, especially when used against POs. While recognizing the undoubted right of the state to maintain law and order and to provide for national security, the present analysis inquires as to whether the exercise of such powers in matters relating to CNICs is carried out within well-defined frameworks of law and according to fundamental rights contained in the Constitution of Pakistan. The article systematically examines the statutory and normative basis for issuance and blocking of CNIC, examines critically the evolutionary trajectory of High Court jurisprudence, explains the notion of PO and the contentious scenario of use of CNIC blocking in this regard, and finally, derives a set of rules for the judiciary and administrative bodies. Finally, the paper discusses the wider policy and jurisprudential implications of this coercive practice, in order to be informed of a more constitutionally compliant and rights respecting approach.

2. Short Thesis

The thesis is straightforward. When applied to the declared offenders, blocking of CNIC's without a statute, without any safeguards and without any proportionality with the legitimate aim is constitutionally unsound. Such an extreme action is only allowed where it is expressly based on lawful power under the NADRA Ordinance (or some valid statutory delegation), strictly follows all requirements of due process, including robust notice and hearing under Section 18[9], and is

[7] Zarmeen Abid v. NADRA, PLD 2022 Lahore 39.

[8] Vardanyan, L., Hamuľák, O., & Kocharyan, H. (2024). Fragmented Identities: Legal Challenges of Digital Identity, Integrity, and Informational Self-Determination. *Deleted Journal*, *11*(1), 105. https://doi.org/10.2478/eustu-2024-0005

[9] Muhammad Umar v. Federation of Pakistan, PLD 2017 sindh 585.

demonstrably proportionate and directly related to some legitimate achievement of enforcement purpose. Absent these strict forms of protection, the blocking of CNICs is an arbitrary deprivation of legal identity and fundamental rights of people making it unlawful, unconstitutional and open to judicial scrutiny to a great extent.

3. Statutory and Normative Foundations

The legal framework that they are governed by the issuance and management of CNICs in Pakistan derives essentially from the statutory powers vested in the NADRA.[10] This section outlines the legal underpinnings and their normative implications of the fundamental texts on the matter, namely identity documentation and potential curtailment.

3.1.1 NADRA Ordinance — The Primary Statutory Text

The NADRA Ordinance, 2000 is the main statutory instrument addressing the issue of national identity cards. Section 18 of the NADRA Ordinance, therefore, is the most crucial part of the Ordinance, regarding the powers for the cancellation, impounding or confiscation of the CNICs. Crucially, it is discussed at length in Muhammad Umar's case[11], Hafiz Awais Zafar's case[12], and Hafiz Hamdullah Saboor's case[13] that this section strictly makes these powers conditional on certain grounds and procedure. While NADRA's general power to issue National Identity Cards is well established, NADRA's de facto power to "block" these cards, especially in the context of "re-verification" drives aimed at distinguishing Pakistani citizens from foreign nationals or addressing national security concerns, has been observed. Such administrative actions, which most of the time lead to a card holder's status being downgraded to "under verification", fundamentally change their legal status.[14] The result of any such blocking is severe, as it results in an "infrastructural blockage" that essentially hinders access

[10] Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305
[11] Muhammad Umar v. Federation of Pakistan, PLD 2017 sindh 585.
[12] Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756
[13] Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305
[14] Abbu Hashim v. Federation of Pakistan, PLD 2021 Sindh 492

to a plethora of government services and private sector operations, such as the issuance of passports, banking and telecommunications.[15]

The current judicial interpretation certainly holds that Section 18 should only be interpreted strictly, because of the substantial consequences that cancellation, impounding, or confiscation of the CNICs will have on fundamental rights, such as the right to identity, the right to freedom of movement, and the right to access essential services. While NADRA has shown a willingness to adjust its operations according to judicial orders (for instance using third gender categories on CNICs after Supreme Court orders as pointed by Ghalzai[16] and Rashid & Umar[17]), there are no explicit provisions in the Ordinance that outline the standards for and the exact process of "blocking" the CNICs in particular for certain groups, for example POs. This lack of clear rules in statutes creates large areas of ambiguity and inherent potential for arbitrary administrator activity, which leads to litigation.

The constitutional salience of Articles 4, 9, 10, 10A, 14 and 25 is the fact that these articles collectively state on the autonomy, dignity and the existence of the individual as a recognised legal entity in the state. A CNIC, as the main vehicle for legal identity comes to be inextricably tied with these fundamental rights. Its arbitrary withdrawal or blocking thereby involves the direct implication of the state's duty to treat individuals in accordance with law, to respect their person and dignity and to ensure equality before the law and the idea that legal identity is a fundamental precondition for the enjoyment of all other rights is hereby solidified.[18]

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[15] -ibid-

[16] Ghalzai, S. A. (2020). Framing Pakistani Hijras' Discursive Positioning on Gender, State and Society : analyzing Transgender Language, Identity and Subjectivity. *HAL (Le Centre Pour La Communication Scientifique Directe)*. https://theses.hal.science/tel-03412543

[17] Rashid, A., & Umar, R. (2022). Constitutional and Legal Guarantees for Transgender in Pakistan: Reforms and Failures in Law. In *Springer eBooks* (p. 79). Springer Nature. https://doi.org/10.1007/978-3-030-98072-6_5

[18] Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756

3.1.2 Pakistan Citizenship Act

The present definition of citizenship to all those who are the citizens of Pakistan relies on the Pakistan Citizenship Act, 1951.[19] Any state action which directly affects a citizen's fundamental right to identity (such as when a CNIC is blocked) therefore inevitably implicates and potentially affects their citizenship status. The provisions of this Act are therefore important to define the legal entitlement to the national identity document and by implication the rights flowing from it. The temporary or permanent loss of legal identity of the citizen through blocking of CNIC, especially if this is done without any formal determination under the Citizenship Act, can raise deep questions as to its compatibility with the rights granted by this foundational legislation, which may in turn lead to the de facto questioning or suspension of one's nationality, even if this does not entail de jure loss of citizenship.

4. Case Law Landscape

The judicial scenario on the blocking of the CNICs in Pakistan is marked by a changing jurisprudence, wherein the High Courts have over the years emerged on the radar to exercise their supervisory authority in protecting the fundamental rights against overreach by authorities. This part of the project critically analyzes seminal judgments pronounced by different High Courts explaining the principles of due process, the constitutional "right to identity" and the limitations exercised over NADRA's powers as regards manipulation of CNIC. The resulting jurisprudential analysis offers the basic understanding needed to evaluate the legal limitations for utilizing the use of CNIC-blocking as an instrument of coercion, especially against those people who are declared as offenders.

4.1.1 High Courts — Consistent Theme

Pakistan's High Courts have shown their strong constitutional power under article 199 and intervened repeatedly to examine state actions with a view to checking on the liberties of individuals. A recurring theme in their jurisprudence is the insistence of due process and the

[19] Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

requirement that the state authorities work strictly within the purview of the law, as one can take a look at the requirement revolving around the assertion that an arrest should be followed by a prompt presentation before the magistrate for the purpose of being considered lawful.[20] This judicial vigilance recycles powerfully to acts that affect identity documents, unveiling some principles of continuity.

"Blocking" as Alien to the NADRA Ordinance and Requirement for Due Process

Sindh High Court in Muhammad Umar's case made a difference between the concept of "blocking" and "impounding" a CNIC. The Court held categorically that "blocking" is alien to the NADRA Ordinance. While accepting the authority of the NADRA to "impound" a CNIC under Section 18, the Court made stringent conditions on compliance with the same and stated that the impounding was subject to sustainable scrutiny considering four pertinent considerations, i.e. ensuring that impounding was done under a stringent protection of the interest of the people. The Court reaffirmed the proposition that any blocking undertaken without following the safeguards provided in Section 18 is unlawful.[21] The judgment mandated that NADRA give prior notice, and a fair opportunity to be heard prior to impounding a CNIC and proceeds to detail the effective procedures for service of notice. Moreover, the Court emphasized that any final order affecting a CNIC to be reasoned and justifiable.

Building on the above tenet the Islamabad High Court in the case of Hafiz Hamdullah Saboor, gave the tragic impact of CNIC blocking, realising its harmful effects on the life of an individual as well as his fundamental rights under the Constitution. The Court condemned NADRA's practice of referring cases to "District Committees" for CNIC blocking and stated that such procedures are alien to the provisions of the statute and there was "no authority" without pre-order from a judicial authority.[22] This judgment unequivocally criticised arbitrary blocking of CNIC on the basis of intelligence agency reports without

[20] Ali, M. I. (2023). Unveiling Shadows: Jus Cogens Imperative to Criminalize Enforced Disappearances in Pakistan. *Vietnamese Journal of Legal Sciences*, *9*(2), 90. https://doi.org/10.2478/vjls-2023-0011

[21] Muhammad Umar v. Federation of Pakistan, PLD 2017 sindh 585

[22] Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

due process as it renders the citizenship rights along with other fundamental rights redundant.

The Constitutional "Right to Identity"

The Lahore High Court, in a case of Hafiz Awais Zafar, profusely endorsed the "right to identity" as a fundamental, non-derogable, independent, and autonomous right, that is intrinsically related to human dignity. The Court find that this right is constitutionally protected under articles 9 and 14 holding it as an essential corollary to the rights to life and dignity. This decision was a ruling that explained that no individual can be deprived from their identity card without stringent due process thus reinforcing the principle that Section 18 of NADRA Ordinance needs to be strictly construed and faithfully followed in cases of manipulation of CNIC affecting the fundamental right.[23] The jurisprudential position brings together the consistent theme in High Courts that CNICs are intrinsically associated with, and central to, the enjoyment of the fundamental rights.[24]

Further elaboration of the rights of identity, especially among vulnerable populations, can be found in Zarmeen Abid's case.[25] In this case, the Court held that non-issuance of CNIC was a patent violation of the Right to Identity. It underlined the State of affirmative duty to safeguard vulnerable groups for example women, persons with disabilities, and transgender persons by guaranteeing their access to national identity documents which in turn prevents them from becoming the target of exploitation. This case affirmed the duty of NADRA to comply with the directions made by the courts to uphold the rights of the Constitution and stressed that the blocking of an identity document cannot be done on suspicion without providing an opportunity of hearing.

NADRA's Lack of Jurisdiction to Adjudicate Citizenship

[23] Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756.
[24] Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305
[25] Zarmeen Abid v. NADRA, PLD 2022 Lahore 39.

A subsequent judgment in Fatima's case by the Balochistan High Court further reinforced these principles.[26] The Court reiterated that blocking CNIC has grave consequences by impinging upon fundamental rights, such as education, health and employment. It held that NADRA has no authority to arbitrarily block a CNIC without due notice and that it is squarely on NADRA to prove that an individual is not a citizen especially when citizenship is by birth. This judgment essentially declared that NADRA cannot decide about citizenship. The courts must refer matters of citizenship validity to the competent authority under the Citizenship Act in which the credibility of citizenship is in doubt.[27] Sovereign constitutional rights cannot be compromised by mere notification, thus explaining why the cardinal principle holds that "no one can be condemned unheard.

Decisions Allowing Limited Blocking Where Allied to reach/Jurisdictional Necessity

Despite the continued judicial focus on due process and statutory compliance issues, the case law does show nuanced areas of how judicial intervention on issues of CNIC blocking have occurred, most frequently as a perceived violation of a specific court order or a matter of jurisdiction. These instances are important as they establish the limits, described if any, for CNIC intervention that makes it different from arbitrary administrative blocking.

The current evidence is that NADRA exercises blocking powers in situations related to national security issues, suspicions about the actual nationality of an individual or during "re-verification" campaigns.[28] Such instances will generally suggest the need for breach of national security or for jurisdictional purposes for ensuring citizenship ability. Nonetheless, there remains a critical question: have courts condoned CNIC blocking as a direct punitive or coercive measure

[26] Fatima v. NADRA, PLD 2022 Balochistan 73

[27] Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

[28] Hashmi, Z. (2021a). Identifying Kin Biometric Belonging and Databased Governance in Colonial South Asia and Postcolonial Pakistan. *Deep Blue (University of Michigan)*. https://doi.org/10.7302/3875; & Hashmi, Z. (2021b). Making Reliable Persons: Managing Descent and Genealogical Computation in Pakistan. *Comparative Studies in Society and History*, *63*(4), 948. https://doi.org/10.1017/s001041752100030x

against the POs? This is an area for which more explicit judicial pronouncements are needed.

A very significant judgment is in Messrs Al-Harmain's case in which the Lahore High Court stayed the order of an executing court that had issued an order to block the CNICs of judgment debtors during the execution proceedings. The court clearly held that Section 18 of the NADRA Ordinance in no express terms gives the courts the power to order CNIC blocking in such execution matters. It mentioned that CNIC blocking was not on the list of enumerated instances in Section 18, where powers of cancellation, impounding or confiscation can be exercised.[29] This judgment reiterated very emphatically that CNIC is necessary for the enjoyment of rights and deprivation from them is to be done with strict due process which includes notice and hearing. The case thus illustrates the fact that even the blocking order is susceptible to be struck down, if it has no statutory basis and appropriate procedural safeguards.

Conversely, Mst. Sana's case, Sindh High Court decided in a scenario where the order of the Family Court prohibiting mother's CNIC and passport was upheld. This was due to the reason that the mother has violated a particular court order by taking the child out of the country without liberty and in violation of express order of custody.[30] While the High Court held that the impugned order was legally appropriate in the light of violation of a previous order of the court, it simultaneously recognized the mother's right to approach the Family Court to seek relief for unblocking of her CNIC/passport. This case highlights the factors involved when courts of competent jurisdiction can take coercive actions, including actions against the CNICs about direct violations of judicial orders, especially in important areas like child custody and welfare. Nevertheless, even in such instances, the focus on possible recourse and due process can be seen to prevail. The distinction is important, as such are judicial orders that respond to indeed violations of previous court orders, not blockade by

[29] Messrs Al-Harmain & CO. through Sole Proprietor and 2 others v. M.C.B. BANK LIMITED, 2025 CLD 543

[30] Mst. Sana v. Shoaib Ismail and another, 2025 CLC 544 [Sindh]

administrative means which merely relies on seizure according to general classes such as POs where there is no judicial finding.

4.1.2 Absence of Direct Supreme Court Full-Judgment Pronouncement on CNIC-Blocking of Proclaimed Offenders

A critical finding of this research is the lack of a direct full judgment pronouncement issued by the supreme court of Pakistan with reference to specifically addressing the blocking of CNICs of POs. This lacuna in the jurisprudence of the apex court implies that for the specific issue of CNIC blocking for proclaimed offenders, the decisions of the High Court are the governing law and the literal meaning of the statutory text is also the governing law. Searches on the Supreme Court database and other official repositories failed to show discrete categorical holding on "CNIC-block of proclaimed offender." A complete re-search in PDF archives of full texts of judgments delivered by the Supreme Court in particular time period and exporting of pdf files would take away the probability of omissions, but the entire space of legal information that can be practically applied to the present inquiry has still remained a discernible gap. That is, what is methodologically and honestly stated in this record is that, as we have carefully examined, the state of proffered Supreme Court jurisprudence is not conclusive that we can assert the nonexistence of a Supreme Court pronouncement with confidence, and, to the contrary.

Nevertheless, the Supreme Court has clearly shown its power and willingness to interfere in matters involving CNIC issuance and the protection of fundamental rights. For example, the Court's directives to NADRA on the recognition of third gender category on CNICs reveal its power in forcing NADRA to guarantee that constitutional rights are respected as well.[31]. These rulings acknowledge that the activities of NADRA are always under strict judicial supervision and should strictly be in line with the constitutional guarantees, especially Article 4 and 9

[31] Waheed, U., Satti, H. S., Arshad, M., Farooq, A., Rauf, A., & Zaheer, H. A. (2017). Epidemiology of HIV/AIDS and Syphilis among High Risk Groups in Pakistan. Pakistan Journal of Zoology, 49(5). https://doi.org/10.17582/journal.pjz/2017.49.5.1829.1834

of the Constitution.[32] Such a broader jurisprudential stance, even if it has been mostly presented in an administrative/family-law/execution context, in every case reported, has been based on Section 18 of the NADRA Ordinance, with particular focus on Article 4, 9, 10, 10A, 14 and 25 of the Constitution of Pakistan.[33] It is seen that the Section 18, in its plain terms, does not distinguish any person on the basis of the description of their civil and criminal status or character;[34] the principles emphasised by the High Courts in the jurisprudence of the said Section (obviously relevant to Muhammad Umar's case and Hafiz Hamdullah Saboor's case), namely, those of strict construction, prior notice and hearing, and substantive due process all apply with equal force to the present PO inquiry as they had always done in the past.[35] It is, therefore, clear that, if the State were to try to make an extralegal impounding of a PO's CNIC (which is contrary to the principles established in the reported High Court cases) such a measure would be open to challenge on precisely the same grounds for which, in the reported High Court cases, impoundment orders issued in non-PO contexts have been held to be unconstitutional.[36] This, in substance is, the answer under intelligent guidance of available jurisprudence of the High Court to the question before us to-day;[37] and that answer is

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[32] Waheed, U., Satti, H. S., Arshad, M., Farooq, A., Rauf, A., & Zaheer, H. A. (2017). Epidemiology of HIV/AIDS and Syphilis among High Risk Groups in Pakistan. *Pakistan Journal of Zoology*, *49*(5). https://doi.org/10.17582/journal.pjz/2017.49.5.1829.1834

[33] Khan, H., Shabbir, S. S., Mustafa, A. U., Shabbir, O., & Sheikh, S. (2025). Constitutional Rights and Access to Justice in Pakistan: A Comprehensive Analysis with Case Laws. Social Science Review Archives., 3(1), 2080–2098. https://doi.org/10.70670/sra.v3i1.519

[34] Munir, A. I. (2025). The Protection of Data on the Touchstone of the Right to Privacy under the Constitution of Pakistan, 1973. The œcritical Review of Social Sciences Studies, 3(3), 1304–1312. https://doi.org/10.59075/b3zdg955

[35] Jamali, N. H., Yi, Y., Wu, H.-C., Khoso, A. G., Mahar, W. F., & Bano, A. (2024). A Comparative Analysis of the Right to a Fair Trial in Pakistan in Context with ICCPR's Set out Standards. Beijing Law Review, 15(1), 231–248. https://doi.org/10.4236/blr.2024.151015

[36] Zaib, H. U., Shaheen, M. B., & Chaudhary, H. K. (2025). Constitutional Validity of Surveillance Technologies in Pakistan: Reconciling National Security with Individual Privacy Rights in the Digital Age. Social Science ReviewArchives., 3(3), 1653–1665. https://doi.org/10.70670/sra.v3i3.991

[37] Bordère, C. (2023). La justice algorithmique : analyse comparée (France/Québec) d'un phénomène doctrinal. In theses.fr (ABES). http://www.theses.fr/2023BORD0350/document

termed notwithstanding the fact that no single pronouncement of the Supreme Court, up to present, has actually dealt with the PO-blocking question. The omission mentioned above is therefore obviously to be interpreted as incomplete court investigation, and not as one based on any principle.[38]

Furthermore, the Islamabad High Court in Muhammad Iqbal Hussain's case advanced some startling procedural considerations which came in the form of doctrines of exhaustion and laches. The court decided that people must first exhaust statutory remedies before seeking constitutional jurisdiction under Article 199. It further provided that an unexplained delay of more than a year in challenging an order of the CNIC blocking may result in the petition being barred on the principle of laches.[39] While this case has emphasized procedural requirements, it does not provide substantive support for the idea of CNIC blocking of proclaimed offenders, but rather underscores the proper means of challenging such actions *with a procedural avenue for their potentially illegal character to be effectively challenged*.

5. Analysis — Proclaimed Offenders, Courts' Coercive Powers, and Constitutional Limits

The blocking of CNIC is more than an administrative measure, it has significant ramifications on the constitutional rights and legal personality of an individual and the fundamental participation of an individual in society. This section is a critical analysis of the concept of a PO, the different situations when CNICs blocking has been resorted to, and the solid legal and constitutional safeguards against exercising the coercive powers of the state in Pakistan.

Just to be clear, the following analysis follows two different, but it is doctrinally similar, tracts. The first, the civil tract in which the CNIC functions, it has been long acknowledged through the courts as the basis of the citizen's primary identity document and where Blocking has become a main factor in the implementation of civil decrees and in

[38] Lanzoni, N. (2026). The International Judicial Function and How We Think About It: Non Liquet, Revisited. The Law and Practice of International Courts and Tribunals, 1–28. https://doi.org/10.1163/15718034-bja10145

[39] Muhammad Iqbal Hussain v. Ministry of Interior, 2025 CLC 1328 [Islamabad]

ancillary family-court orders.[40] The second is the criminal tract, in which the right to the document of a citizen always lies in inevitable tension against the power which the polity and the court under competent jurisdiction claim to have to deal with him on presentation of his name; which is the tract in which the present investigation as to Proclaimed Offenders lies, preponderantly at least.[41] The two tracts have in common, as a ceiling for constitutional guarantees, the guarantees provided in Articles 4, 9, 10, 10A, 14 and 25 as well as the strict-construction rule stipulated in Section 18 of the NADRA Ordinance, however, the extent to which the guarantees are calibrated in view of the State's enforcement interest differs between the two and deserving of this regard is, therefore, extended to the reader from the start.

5.1 What is a Proclaimed Offender?

In Pakistan, "proclaimed offender" are people against whom a proclamation order has been lawfully issued by a court under Section 87 of the Code of Criminal Procedure in Pakistan, usually when it is not possible to execute a warrant of arrest because the person has absconded. This status is publicly notified and those who harbour or assist a proclaimed offender face legal penalty.[42] The term also can include persons declared as offenders by a competent court or authority in an offence punishable under certain grave sections of the Pakistan Penal Code, for example murder or robbery.[43] The declaration of being a proclaimed offender often results in them being put on surveillance registers and lists kept by law enforcement agencies.[44] Fundamentally, proclamation and its subsequent coercive processes are procedural tools aimed at ensuring that an accused is present at a

[40] Munir, A. I. (2025). The Protection of Data on the Touchstone of the Right to Privacy under the Constitution of Pakistan, 1973. The œcritical Review of Social Sciences Studies, 3(3), 1304–1312. https://doi.org/10.59075/b3zdg955

[41] Zaib, H. U., Shaheen, M. B., & Chaudhary, H. K. (2025). Constitutional Validity of Surveillance Technologies in Pakistan: Reconciling National Security with Individual Privacy Rights in the Digital Age. Social Science Review Archives., 3(3), 1653–1665. https://doi.org/10.70670/sra.v3i3.991

[42] Government of Punjab. (1934). *Punjab Police Rules, 1934* (Vol. 3, chap. 21, r. 21.5).

[43] The Code of Criminal Procedure, 1898, S 45(2)(ii) (Pakistan).

[44] Government of Punjab. (1934). *Punjab Police Rules, 1934* (Vol. 3, chap. 21, r. 21.5).

court to prove charges against him/her, to carry out judgments, and to ensure the integrity in the enforcement process.

5.2 Where CNIC-Blocking Has Been Used

While there is no explicit statutory authorization to block someone through CNIC just because of their status as a proclaimed offender, NADRA has been known to use its blocking functionality in other scenarios in the past which does throw light on the larger question of coercive state power against an individual's identity.[45]

NADRA's Administrative Blocking:

NADRA has used notably CNIC blocking as a tool during "re-verification" drives, often associated with national security considerations or suspicions of any foreign nationality.[46] This implies that if the status of a proclaimed offender is mixed here with issues of national security or citizen's credibility, their CNIC might be involved here. The impractical result of a blocked CNIC is undoubtedly severe, adding up to effectively limiting basic mobility, inability to access financial services and all other forms of civic engagement, in effect, civil interdiction is a powerful mechanism.[47] The Anti- Terrorism Act, 1997, gives a parallel example of where "proscribed persons" are restricted from financial access and arms licences, which highlights the legal precedent of restricting liberties to certain classes of people through digital or administrative methods.[48]

[45] Messrs Al-Harmain & CO. through Sole Proprietor and 2 others v. M.C.B. BANK LIMITED, 2025 CLD 543

[46] Hashmi, Z. (2021a). Identifying Kin Biometric Belonging and Databased Governance in Colonial South Asia and Postcolonial Pakistan. *Deep Blue (University of Michigan)*. https://doi.org/10.7302/3875

[47] Gudova, E. (2017). Remove the Document — and You Remove the Man Book Review: Hull M. S (2012) Government of Paper: The Materiality of Bureaucracy in Urban Pakistan, Berkeley: University of California Press. *Journal of Economic Sociology*, *18*(3), 176. https://doi.org/10.17323/1726-3247-2017-3-176-183

[48] Raza, S. S. (2018). The Anti-Terrorism Act, 1997. In *Routledge eBooks* (p. 67). Informa. https://doi.org/10.4324/9781315143293-4

Court-Sought Blocking:

Courts and decree holders, especially in the field of civil execution or family law cases have also sought CNIC blocking for various reasons: (i) to limit the liberty of travel and reduce the risk of flights for the person under judicial process; (ii) to add pressure on an individual (proclaimed offender) to appear before the Court etc. or to surrender the goods to the Court; (iii) to help investigation agencies to trace or identify and verify the identity of the person; and (iv) to enforce custody or any other order in family law. Pragmatically, CNIC blocking is often viewed as an appealing coercive mechanism because of the immediate and pervasive effect it has on daily life (e.g. banking, travel, utility access) and the potential that it may be a faster means of action than traditional modes of enforcement (i.e. arrest or attachment to property).

Three of those four heads of judicial recourse, (i) (to the extent that it issues from an executing court or a family-court order) and (iv) (by its nature, family-law enforcement of custody orders) clearly fall within the civil tract, while (ii) (pressure upon a proclaimed offender to appear and then to surrender) and (iii) (investigational identification and tracing) constitute the criminal tract into which the prime concern of the present Article, the Proclaimed Offender inquiry, falls. The purpose of this bipartite scaffold at the threshold of 5.2 is not to break this doctrinal unity which has been manifested in 3–4 above, but rather to provide the reader — and any future activity in the area — with a readily available navigational tool for finding in this Article where any given civil or criminal enquiry is to be found.

Trial Court Realities and the Corresponding Obligations of the Absconder

The topic of the previous subsection has now a natural flow so to speak, in a frank admission of the pragmatic situation of the trial and execution courts in the grassroots. In most instances, before the court could resort to placing the accused under proclamation under Section 87 of code of Criminal Procedure, the traditional methods of coercion such as putting out the arrest warrant, attachment of property and public announcement have obviously proved to be ineffective in

producing the accused in the court. From a practical point of view, the menu of coercive options available to a trial court is rather limited;[49] and once arrest and property-attachment have proven futile, the blocking of an identity document (through suspension of the absconder's financial, travel, telecommunications and other aspects of civic life) is readily at hand of the trial judge as a weapon of rather potent compulsion. Not to acknowledge, let alone discount, such realities in operations is to ignore the very context in CNIC-blocking has set in.

However, all these are the direct results of a similar default on the part of the alleged perpetrator himself. In setting at nought the lawful process of the court which has invoked its jurisdiction over him, he has by the same abuse made himself an outlaw and traitor to the first law of the land, the law of the land itself. To that degree the doctrine of one who comes to the threshold of equity a debtor in his own debt, which has been planted for a long time in the equity maxims, is pertinent to the subject at hand.[50] A PO whose disappearance has brought about the most drastic investigation in the very teeth of the Chilean life-threatening offensive cannot, without further proof, demand the unhampered enjoyment of the constitutional solicitude pertaining to such a citizen; he has subjected himself to the jurisdiction in good faith. This imbalance based on 'just' balancing and not a loss of right itself, must be openly acknowledged.

However this recogonition does not and cannot make the trial court a lawless body and similarly NADRA given the auxiliary function to execute any such order is not given any enhanced powers to do so.[51] The PO's defiant attitude toward the court does not loosen the procedural and substantive protections which, as we have seen in the sections above, the superior courts have resisted even more than

[49] Nawaz, B., Naseer, S., & Saba, S. (2025). Beyond X Ban: PECA 2025 and Constitutional Speech Standards under Articles 14, 19, 19A. ACADEMIA International Journal for Social Sciences, 4(4), 827–838. https://doi.org/10.63056/acad.004.04.0938

[50] Shaukat, Z. (2026). Fundamental Rights under Constitution of Pakistan 1973. International Journal of Law and Policy, 4(3), 44–62. https://doi.org/10.59022/ijlp.474

[51] Zaib, H. U., Shaheen, M. B., & Chaudhary, H. K. (2025). Constitutional Validity of Surveillance Technologies in Pakistan: Reconciling National Security with Individual Privacy Rights in the Digital Age. Social Science Review Archives., 3(3), 1653–1665. https://doi.org/10.70670/sra.v3i3.991

moderately and have been careful to ensure.[52] It has, therefore, regard the very safeguards as a topic of analysis again, in the following lines.

5.3 Legal Limits: Statutory & Constitutional Guardrails

The Constitution of the Islamic Republic of Pakistan, 1973, lays down a strong structure of fundamental rights that measure as indispensable rails of the causation of arbitrary action by the state. Articles 4, 9, 10, 10A, 14, and 25 are a collective set of rights that ensures no individual can be deprived of life or liberty except according to law and all acts that impact on the rights of the individual must be established on the basis of explicit law and must abide by due process.[53] Specifically, Article 4 states the "inalienable right of every citizen." "every citizen has the right to enjoy the protection of law and to be treated in accordance with law." This cardinal principle requires that any action of the state, such as the blocking of a CNIC, should not only have an express statutory foundation allowing it, but should also comply strictly with rigorous procedural and substantive due process.[54]

Statutory Fence: The NADRA Ordinance's Scope

NADRA's powers are circumscribed by the enabling statute i.e., NADRA Ordinance. As elaborated under the "Statutory and Normative Foundations" section, Section 18 contains a list of specific grounds for the cancellation, impounding or confiscation of the CNICs. Crucially the Ordinance currently does not contain a specific provision under statute which expressly authorizes the blocking of CNICs only as a method of punishing or coercing POs as a stand-alone punitive or coercive

[52] Jamali, N. H., Yi, Y., Wu, H.-C., Khoso, A. G., Mahar, W. F., & Bano, A. (2024). A Comparative Analysis of the Right to a Fair Trial in Pakistan in Context with ICCPR's Set out Standards. Beijing Law Review, 15(1), 231–248. https://doi.org/10.4236/blr.2024.151015

[53] Ali, M. I. (2023). Unveiling Shadows: Jus Cogens Imperative to Criminalize Enforced Disappearances in Pakistan. *Vietnamese Journal of Legal Sciences*, *9*(2), 90. https://doi.org/10.2478/vjls-2023-0011; & Khan, H., Shabbir, S. S., Mustafa, A. U., Shabbir, O., & Sheikh, S. (2025). Constitutional Rights and Access to Justice in Pakistan: A Comprehensive Analysis with Case Laws. *Social Science Review Archives.*, *3*(1), 2080. https://doi.org/10.70670/sra.v3i1.519

[54] Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756

measure.[55] The lack of such explicit legal support to such blocking of CNICs on one's status of PO found no law in the NADRA Ordinance or the laws connected with the same raises a lot of constitutional questions. Any such action, made without unambiguous statutory provision and procedural safeguards, however, is prima facie vulnerable to challenge as a violation of due process and of the fundamental right to legal identity, a right which is buttressed with further support from both international human rights law[56], and from the Structure of Basic Human Rights.[57]

Due Process: The Imperative of Notice and Hearing

The principle of audi alteram partem (hear the other side) is one of the cornerstones of due process and it is a basic tenet of the Pakistani constitutional law. Where CNIC blocking affects fundamental rights then prior notification and consequential chance to be heard are required. This is not just a formality, but a substantive requirement, to ensure that there is fairness and to ensure that decisions are not arbitrary. Judicial precedents uniformly show administrative action, including by NADRA, being nullified if they do not allow sufficient notice of allegations, an opportunity for the affected individual to position his or her case, and reasoned decision-making. The contention that intelligence report or mechanisms of "District Committee" escapes these checks and balances has been categorically rejected by the High Courts.[58]

Citizenship Jurisprudence: NADRA's Limited Role

The High Courts have made number one clear that NADRA has limited jurisdiction in the matter of citizenship. NADRA is an identity registration authority, and it is not adjudicatory body regarding the

[55] Messrs Al-Harmain & CO. through Sole Proprietor and 2 others v. M.C.B. BANK LIMITED, 2025 CLD 543

[56] Manby, B. (2020). The Sustainable Development Goals and 'legal identity for all': 'First, do no harm.' *World Development*, *139*, 105343. https://doi.org/10.1016/j.worlddev.2020.105343

[57] Weil, P. (2014). Citizenship, Passports, and the Legal Identity of Americans: Edward Snowden and Others Have a Case in the Courts. *HAL (Le Centre Pour La Communication Scientifique Directe)*. https://hal-cnrs.archives-ouvertes.fr/hal-03961388

[58] Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756; & Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

disputes of citizenship. If the effective outcome of blocking by the CNIC results in questioning or suspending the status of a person's citizenship then, this too is outside the statutory ambit of NADRA and can only be brought about through the express procedures set in the Pakistan Citizenship Act. Any efforts by NADRA to adjudicate citizenship by NADRA's blocking de facto (administrative) procedure without formal referral to and determination by a competent authority under the Citizenship Act is ultra vires and unconstitutional.[59]

Proportionality and Nexus: Connecting Means to Legitimate Ends

Any forceful action by the state and particularly one affecting fundamental rights should meet the principles of proportionality and nexus. That is, the measure must be (i) Rationally connected to a legitimate enforcement aim; (ii) necessary to meet that aim (i.e. there are no less restrictive means available) and (iii) proportionate to the harm caused to the individual's rights. CNIC blocking cannot be used as a generalized punishing tool, nor as an extrajudicial device to take a short-cut to circumvent established legal procedures. In matters of execution, for example, courts are to exhaust the remedies in the nature of property and other coercive personal measures (such as warrants of arrest) in strict conformity with the Code of Civil Procedure before contemplating measures involving the violation of severe personal rights.[60] The use of blocking by means of CNIC should provide a clear and justifiable nexus with the specific enforcement objective, and the severity of the test should not outweigh the legitimate aim that it is aiming to achieve.

5.4 Special Problem: PO Declared Abroad or Absconding

The circumstance of a proclaimed offender, who is proclaimed abroad or absconding, introduces a complex international dimension, pertaining both to the national law enforcement effort, as well as to

[59] Fatima v. NADRA, PLD 2022 Balochistan 73; & Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

[60] Muhammad Umar v. Federation of Pakistan, PLD 2017 sindh 585; & Messrs Al-Harmain & CO. through Sole Proprietor and 2 others v. M.C.B. BANK LIMITED, 2025 CLD 543

the international human rights normative outcomes. International human rights legal frameworks create at a fundamental level a universal "right to legal identity" and to be recognized as a thing before the law, principles that are embedded in other international human rights laws (e.g. Article 6 of the Universal Declaration of Human Rights and article 7 of the Convention on rights of the child).[61] While states retain the sovereign prerogative to regulate entry, departure, and the presence of foreign nationals[62] the arbitrary cancellation or blocking of identity documents of their own citizens even if they're absconding can work out what has been termed a "humiliating paradox." Such actions can conflict with the established international norms and are associated with possible de facto statelessness or can seriously undermine an individual's ability to claim his or her rights in other countries.[63] The precariousness of being a stateless person or having a nationality whose status is "under verification" dramatically highlights the important role of a clear and consistently maintained legal identity.[64]

This issue can be viewed comparatively, adding to these concerns.[65] The UNHCR, under its responsibility in relation to stateless persons, has made it a constant observation that denial of rights to legal identity, failure to provide identity documents or invalidation of identity documents can be a direct cause of statelessness and has encouraged States to take measures that would ensure that denial of access to legal identity is based on a clear legal principle, subject to established due

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[61] Manby, B. (2020). The Sustainable Development Goals and 'legal identity for all': 'First, do no harm.' *World Development*, *139*, 105343. https://doi.org/10.1016/j.worlddev.2020.105343; & Weil, P. (2014). Citizenship, Passports, and the Legal Identity of Americans: Edward Snowden and Others Have a Case in the Courts. *HAL (Le Centre Pour La Communication Scientifique Directe)*. https://hal-cnrs.archives-ouvertes.fr/hal-03961388

[62] Foreigners Act, 1946, S 3 (Pakistan).

[63] Weil, P. (2014). Citizenship, Passports, and the Legal Identity of Americans: Edward Snowden and Others Have a Case in the Courts. *HAL (Le Centre Pour La Communication Scientifique Directe)*. https://hal-cnrs.archives-ouvertes.fr/hal-03961388

[64] Kingston, L. N., Cohen, E. F., & Morley, C. P. (2010). Debate: Limitations on universality: the "right to health" and the necessity of legal nationality. *BMC International Health and Human Rights*, *10*(1). https://doi.org/10.1186/1472-698x-10-11

[65] Yusufu, D. (2026). Constitutional Protections for Digital Identities and Personal Data. Next Generation., 10(1), 63–65. https://doi.org/10.62802/hd0bqr75

process safeguards, and open to an effective remedy.[66] Legal identity is put on a different normative plane by the so-called "legal identity for all" in Sustainable Development Goal target 16.9, by 2030, which views legal identity as a public good that continues to have global impact.[67] These "international" points of view are not mandatory for municipal courts, but they do provide a 'normative' context, from which the framework of CNIC blocking (even against alleged criminal offenders) should be evaluated.[68] They also demonstrate that the issues that emerge when someone is deprived of a legitimate national identity document are not unique to Pakistan, but are growing more widely recognised between jurisdictions, especially when the digital identity system isn't backed by robust constitutional and procedural protections.[69]

For a proclaimed offender located outside Pakistan, such a person may be lawfully sought out by a court through other means among which, but not limited to, using Interpol's Red Warrants or by imposing immigration and passport controls. While the blocking of CNIC seems to be viewed as a mechanism to aid these international efforts[70], the legality of such blocking is still strictly conditional to the lawfulness, proportionality and careful adherence to all applicable domestic procedural avenues and protections of the originating court order. The invocation of international cooperation does not negate the constitutional imperative for due process and proportionality at the national level.

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[66] Affairs, U. N. D. of E. and S. (2024). Peace, justice and strong institutions. In The Sustainable development goals report (pp. 40–41). United Nations. https://doi.org/10.18356/9789213589755c019

[67] Bank, W. (2026). Building Statelessness-Sensitive ID Systems. In The World Bank Open Knowledge Repository (World Bank). World Bank. https://openknowledge.worldbank.org/entities/publication/5d920f70-3080-448b-acf8-a82c9dc33056

[68] Zaib, H. U., Shaheen, M. B., & Chaudhary, H. K. (2025). Constitutional Validity of Surveillance Technologies in Pakistan: Reconciling National Security with Individual Privacy Rights in the Digital Age. Social Science Review Archives., 3(3), 1653–1665. https://doi.org/10.70670/sra.v3i3.991

[69] Karmwar, M., & Kunwar, D. (2025). The Dilemma Between Digital Identity and Privacy in Modern Governance: Comparing South Africa and India. Journal of Asian and African Studies. https://doi.org/10.1177/00219096251352368

[70] Mst. Sana v. Shoaib Ismail and another, 2025 CLC 544 [Sindh]

6. Practical Rule Distilled for POs

Based on the above statutory analysis and jurisprudential review, a discernible rule can be discerned from the practical standpoint on the lawful employment of the use of blocking employing CNIC as the related notion to POs. Any judicial/administrative measure that aims to limit the mobility or access of a PO to essential services through the manipulation of his CNIC must strictly follow the following principles:

6.1 Lawful Authority and Jurisdiction:

The order must be expressly based on express statutory provisions or inherent jurisdiction of competent court to make ancillary enforcement orders. These are orders that advance the object of the main judicial activity (i.e. appearance, the effects of the judgment, the preservation of the assets) through other lawful means (for example, by issuing arrest warrant, freezing bank accounts, prohibiting the departure) and not directly prohibiting the CNIC itself. General administrative directives or intelligence reports, in the absence of special legal delegation, are not sufficient.

6.2 Necessity and Proportionality:

The action must be accompanied by some detailed reasons which show the action is necessary and proportional to the lawful enforcement objective. It must be demonstrated that less restrictive means is not available to achieve the outcome in question.

6.3 Due Process and Opportunity to be Heard:

Crucially, the subject should be given a strong chance to be heard, especially where statute, such as Section 18 of the NADRA Ordinance, or its equivalent, provides for the same. This should make up prior notice of allegations and right to present a defense.

6.4 Strict Compliance with NADRA Ordinance:

NADRA, being an administrative body, is not legally allowed to block a CNIC in digital form solely on the basis of the reports of intelligence agencies or standard "District Committee" mechanisms unless

compliance is strictly followed with the grounds and procedures laid down in Section 18 of NADRA Ordinance.[71]

This rule insists on the fact that CNIC blocking cannot be a shortcut procedure for law enforcement, but should be a well-thought-out, legally authorized and procedurally robust measure of last resort.

7. Policy and Jurisprudential Implications

The controversial practice of CNIC blocking, especially as applied to the proclaimed offenders, has deep and manifold implications for public policy and jurisprudence of the law in Pakistan. This part explains the wider implications of the legal ambiguity that exists nowadays and suggests a framework for a more coherent and rights respectful approach.

7.1 Erosion of Public Trust and Administrative Inefficiency

From a policy perspective, the lack of explicit legislation specifying CNIC blocking policies, and inconsistent implementation of such a policy[72] combine to create an environment ripe for abuse, and this has the significant impact of eroding the public's trust in such important State institutions as NADRA. When identity documents, which are the foundation of civic life, can be arbitrarily manipulated, a sense of insecurity is created in the people. This ambiguity also contributes to administrative inefficiency, since NADRA and law enforcement organs are operating without making explicit guidelines and creating a patchwork of practices and periodic judicial confrontations. A clear and legally-sound framework not only would create more transparent operations but would also firm the legitimacy and effectiveness of the state functions.

[71] Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305
[72] Abbu Hashim v. Federation of Pakistan, PLD 2021 Sindh 492

7.2 Balancing State Security with Fundamental Rights: A Jurisprudential Tightrope

Jurisprudentially, the balancing of legitimate security needs on the part of the state (e.g. catching offenders) versus fundamental rights to individuals (e.g. right to identity, due process) is a delicate balancing act. The courts, in their role as guardians of the Constitution, possess the all-important responsibility to ensure that the actions of the Executive are not only proportionate and legally justified but are strictly faithful to constitutional guarantees. Consistent High Court jurisprudence, reaffirming the "right to identity" and compelling strict obedience to the basic principles of due process, is a telling sign of a solid structure of the judicial establishment in its unwillingness to give in to perceived exigencies.[73] This evolution in case making decisions is felt has been in the interest of refining the legal philosophy of state power such that it requires a higher level of accountability and precision in the exercise of power.

7.3 Risk of De Facto Statelessness and Cascading Rights Deprivation

A particularly grave implication of arbitrary CNIC blocking is the risk of unintentionally creating scenarios equivalent to de facto statelessness, a circumstance that the Islamabad High Court[74] has itself forcefully observed: Blocking a CNIC without explicit legal power or due process begins a snowball of lost rights that leaves a person unable to receive healthcare, education, employment, and banking services, or even able to prove one's citizenship. This not only defeats and violate the constitutional guarantees at the national level but also departs deviation in the certain norms of international human rights laws, which highlight the universal right to legal identity and recognition before the law.[75] Such policies are in contradiction to Pakistan's

[73] Messrs Al-Harmain & CO. through Sole Proprietor and 2 others v. M.C.B. BANK LIMITED, 2025 CLD 543

[74] Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

[75] Manby, B. (2020). The Sustainable Development Goals and 'legal identity for all': 'First, do no harm.' *World Development*, *139*, 105343. https://doi.org/10.1016/j.worlddev.2020.105343; & Weil, P. (2014). Citizenship, Passports, and the Legal Identity of Americans: Edward Snowden and Others Have a

approval of international conventions and may stigmatize individuals such that they are marginalized in society as a result and may hinder them from reintegrating into society even if circumstances surrounding their legal status are eventually cleared. The precariousness experienced by people whose nationality is "under verification" or whose identity is functionally suspended vividly underlines the need for clear, humane and legally sound policies on identity management.[76]

7.4 Imperative for Legislative Reform: Codifying "Digital Embargo"

The repeated judicial invitations to a clear procedurally robust scheme to be legislated by Parliament or the Federal Government to block CNIC note a significant gap in the current law. If the state wants to use "digital embargo" measures, such as the use of CNIC blocking, as a routine coercive means to be used, especially against POs, it is an absolute imperative that such powers are regulated in a clear, exhausting and constitutional manner by statute. This proposed regime on the statute of limitations needs to define precise grounds, the utmost safeguards of due process, independent mechanisms for review as well as time limits, to be able to offer the legislature and courts legal certainty and to avoid an arbitrary exercise of power.

7.5 Comparative Context and Emerging Challenges:

The issues encountered in Pakistan on digital identity and its juncture with law enforcement are not peculiar. In India, for example, the prospects of the new legislation keeping pace with the time, the Criminal Procedure Act, is stated to be for modernizing criminal investigation, however it has sparked a lot of concern over its compatibility with the Constitution of India's personal liberty and

Case in the Courts. *HAL (Le Centre Pour La Communication Scientifique Directe)*. https://hal-cnrs.archives-ouvertes.fr/hal-03961388

[76] Kingston, L. N., Cohen, E. F., & Morley, C. P. (2010). Debate: Limitations on universality: the “right to health” and the necessity of legal nationality. *BMC International Health and Human Rights*, *10*(1). https://doi.org/10.1186/1472-698x-10-11

privacy due to the extensive powers vested on the police.[77] Similarly, the application of "know your customer" standards, although required by international standards for the prevention of financial crimes, has been criticized as being prescriptive, potentially excluding people from financial markets.[78] The use of advanced technologies such as live facial recognition is also a subject that sparks debate about the implications upon fundamental rights.[79] These international parallels point to a fundamental tension between state security/enforcement objectives while the right of individual data, privacy and legal identity, on the other, in which the fundamental rights of individuals may give way to the imperatives of enforcement.

7.6 Judicial Restraint and Separation of Powers

The principle of judicial restraint is one of the pillars of the separation of powers. Competent courts, especially on the trial or family level, should exercise caution and avoid turning administrative databases, such as NADRA's, into an instrument of coercion in the absence of an express legal authorization.[80] As jurisprudence will show, High Courts are disinclined to uphold orders which do not have explicit statutory power to block identity documents. This merely reinforces the point that while judicial creativity is vitally important to justice, there is a limit to it, that the judiciary must not attempt to usurp the legislative role by constructing powers that are not vested in the statute.

These implications show the need for an urgent revaluation of the practices of CNIC blocking. Only through explicit legislative action, judicial vigilance and commitment to human rights principles, can the above evoked principles of Pakistan ensure that its identity-

[77] Panigrahi, S. C., & Ghosh, S. (2025). *Fingerprinting Freedom: A Case of Over-Policing Under the Criminal Procedure (Identification) Act, 2022* (p. 235). https://doi.org/10.1007/978-3-031-83173-7_15

[78] Bailey, R., Goyal, T., Sané, R., & Varma, R. (2021). Analysing India's KYC Framework: Can We Do Things Better? *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.3776008

[79] Mustafa, F., & Leo, U. (2021). On Facial Recognition and Fundamental Rights in India: A Law and Technology Perspective. *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.3995958

[80] Muhammad Iqbal Hussain v. Ministry of Interior, 2025 CLC 1328 [Islamabad]

management systems can serve two purposes i.e., state security and fundamental rights of its citizens.

8. Conclusions & Recommendations

This paper highlights that the administrative or judicial barring of CNICs of the persons declared as POs in Pakistan lies in an area which is legally vague and constitutionally weak. For example, although the NADRA has general authority over identity management, there is also lack of explicit statutory sanction for them to suspend the issuance of CNICs solely based on the reason that the individual is a PO. The High Courts of Pakistan repeatedly support fundamental protections under the constitution including the due process, a right to legal recognition, and one of the most basic human rights, the inalienable right to identity. These provisions in the aggregate form a strong basis for challenging arbitrary suspension of CNIC, which has a devastating impact on the life of an individual in terms of deprivation of basic rights of citizenship and deprivation of essential economic rights which may resort to arbitrary deprivation of identity and other fundamental rights without clear legal foundation and due process.

Under the present framework the suspension of CNIC for proclaimed offenders is required to be carried out with extreme care. It is only legal and constitutional if (a) done in strict compliance with Section 18 of the NADRA Ordinance, involving legitimate grounds for impounding or cancellation; or (b) pursuant to a lawful judicial order issued by a court of competent jurisdiction to make such ancillary enforcement directions.

While collaborators seek to deprive citizens by re-suspension of CNICs as an unlawful shortcut without dis-proportionality, statutory authority and due process of law, this illegal administrative move is unconstitutional and subject to challenge. NADRA, therefore, cannot suspend a CNIC through digital means solely by virtue of intelligence reports or "District Committee" mechanisms without meeting the

conditions and safeguards very strictly prescribed under Section 18 of the law.[81]

Based on these conclusions, the following comprehensive **recommendations** are made, with the view to reconcile state security and fundamental rights and orbit legal certainty, etc.

- It is necessary for Parliament to enact clear and specific legislation (either by amending the NADRA Ordinance or by enacting a separate statute for the same) to explicitly contain the grounds, procedure, duration and method of appeal for suspension of CNIC. If digital suspension is to be used as a routine method of coercion, it is imperative that there is a constitutionally compliant statutory scheme in place allow for legal certainty and to prevent arbitrary exercise of power as well.
- It is highly necessary that the cases of suspension of CNICs, especially those of the POs, are subjected to a process of proper and timely judicial review, to ensure their compliance with constitutional rights and statutory requirements. Courts must be sure that orders are clearly rooted in statutory or inherent powers with concrete grounds of necessity and proportionality to guarantee the individual the possibility of a meaningful opportunity to be heard in places where statutory jurisdiction is established under Section 18 and has established inherent court powers.
- Topmost is the enforcement of high due process requirements that comprise being given prior, sufficient notice of the allegations, a fair chance of being heard and having a chance to embody a defence, and an explicit, independent appeals process. The right to identity is fundamental; no one should be deprived of this right without due process being totally followed.
- The Courts should exercise restraint using existing enforcement measures as a preference. They must not turn the administrative databases into the tools of coercion without clear rights given to them by law.

[81] Muhammad Iqbal Hussain v. Ministry of Interior, 2025 CLC 1328 [Islamabad]

- Pakistan should bring its laws and practices regarding the issuance of identity documents in line with the norms and standards of human rights at the international level, as well as uphold the principle of the universal right to legal identity. Courts and agencies should proactively ensure that their policy does not have unintended, de facto stateless consequences: the arbitrary suspension of a person's CNIC without a clear statutory basis, may have catastrophic and internationally condemned consequences.

By resolving these ambiguities, through forceful and decisive implementations in legislation; efficient judicial awareness and through an absolute respect for due process and human rights international standards, Pakistan could not only consolidate its constitutional framework but also ensure chronicles of guaranteed rights of the individual while promoting the legitimacy and transparency of state actions regarding the mana

NON-PEER REVIEWED SECTION

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Constitutional Caution of Prudence on use of Artificial Intelligence by Courts and Tribunals in Pakistan

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In *Shakir Ullah v. The Secretary E&SE Department Khyber-Pakhtunkhwa Peshawar*[1], a recent judgment by Hon'ble Supreme Court of Pakistan (*hereinafter* SCoP), use of artificial intelligence (*hereinafter* AI) by a service tribunal[2] in Pakistan came under discussion. We will briefly discuss how the response of judicature,[3] both at judicial and administrative sides, is being developed with respect to the emergence of AI in the field of law and judging. This is not the first judgment in Pakistan dealing with the issue of use of AI, as the judgment itself suggests, and hence, little discussion on judicial trail on this topic, as also some key future developments post *Shakir Ullah* will also be touched here in briefly.

AI, as we know, is now everywhere, in every field of knowledge, and in every business, profession or calling. Judiciary is no exception either. It can be managed, but cannot be denied its reasonable role in any such profession or field of knowledge. Judiciary in Pakistan has shown its response, initially through judicial pronouncements and then on administrative side by developing, designing and issuing guidelines for use of AI in judicial institutions of Pakistan for the purpose. Let's have a look at the judicial response first.

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[1] CPLA No.4146 of 2025, decided on 23.10.2025. Available online at the official website of the Supreme Court of Pakistan at https://www.supremecourt.gov.pk/downloads_judgements/c.p._4146_2025.pdf. Last retrieved 29 July 2026.

[2] "Administrative Courts and Tribunals" are established under Part VII, Ch.4, Article 212 of the Constitution.

[3] "The Judicature" is dealt with in Part VII of the Constitution, while its Ch.1 deals with "the Courts". Article 175 of the Constitution provides for "Establishment and Jurisdiction of Courts".

But before we begin, we need to keep in mind that Pakistan is a constitutionally declared federal democratic Islamic republic.[4] To establish this as an order, people of Pakistan have given to themselves the Constitution of Islamic Republic of Pakistan 1973[5] through their representatives in National Assembly.[6] The constitutional values are enshrined in the Preamble. The most prominent amongst them are sovereignty of Allah Almighty, democracy, Islamic order, federalism, rule of law, human dignity, equality, social justice, fundamental rights, minority rights, peace and international cooperation, and an independent judiciary. Judicial dispensation has to protect these values at each step whenever a matter is in the corridors of justice. This is our constitutionalism. It was being done by humans only and initially; but now in this exercise, the AI seems partnering with human judges, knowingly or otherwise. What it has for us and where we have to be more careful in use of AI is a subject of debate and disagreements.

In view of this, in the above titled case, the Hon'ble Supreme Court of Pakistan was dealing with a service matter under its Appellate Jurisdiction. In said case, the impugned judgment of KP Service Tribunal was found having made references 'supposedly'[7] to judgments of the Hon'ble Supreme Court of Pakistan. The SCoP found these as "hallucinated"[8]. For better understanding about what the SCoP observed, let us reproduce para no.20, as it stands there, from the cited judgment:[9]

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[4] See Preamble, and Articles 2 of the Constitution.

[5] See Articles 1(1) and 265(1) of the Constitution.

[6] See Preamble to the Constitution.

[7] See para 19 of the judgment. https://www.supremecourt.gov.pk/downloads_judgements/c.p._4146_2025.pdf. Last retrieved 29 July 2026.

[8] On a prompt to chatGPT to define 'hallucination', it responded: "The generation by an AI system of information that is false, fabricated, misleading, or unsupported by the underlying data, yet presented in a confident and plausible manner as if it were true." OpenAI. (2026, July 29). *Response generated by ChatGPT (GPT-5.5) to a prompt about AI hallucinations*. https://chatgpt.com.

[9] See para 20 of the judgment. https://www.supremecourt.gov.pk/downloads_judgements/c.p._4146_2025.pdf. Last retrieved 29 July 2026.

> *20. Upon verification and repeated cross-checking, we note with dismay that the citations referred to in paragraph 19 above, on which the KP-ST relied to non-suit the petitioners, do not in fact exist. Our search was conducted both by citation and by case title. We trust that the KP-ST did not rely upon the assistance of artificial intelligence, which may have "hallucinated" in generating the said citations. This presents an appropriate occasion to reiterate the caution earlier expressed by this Court regarding the use of artificial intelligence, as observed in its judgment dated 03.03.2025, passed in C.P.L.A. No.1010-L/2022 titled "Ishfaq Ahmed v. Mushtaq Ahmed[10]."*

To break-open these observations, it is found that the Hon'ble Supreme Court of Pakistan has highlighted, at this juncture of time, a basic fault-line of AI based LLMs (large language models) where the algorithmic generation of text by a pre-trained transformer may 'hallucinate' the same as if it was existing in 'quoted' literature. Its 'beauty' only becomes 'ugly' when the generated text is 'cross-checked' by humans (as is done by the SCoP itself) or by a specific explainable AI (or XAI). Here, the Hon'ble Supreme Court has specifically shown that human supervision and control over AI generated text is critically important for courts and tribunals.

Judges and presiding officers of courts including their staff, at this moment of time, are neither trained nor able to see the algorithms, their architecture and the way they work under deep 'neural networks' to generate text on 'prompting' of any publicly available 'open access' or 'commercial' LLMs or AI systems. In literature on AI critique, it is called "black-box" where all it happens beyond the eye and mind of humans. This makes any such LLMs as unexplainable AI models for the

[10] This judgment is now reported as *Ishfaq Ahmad v Mushtaq Ahmad*, PLD 2025 SC 582. Its neutral citation at the Supreme Court's website is 2025 SCP 112. It is also available on the official website of the Hon'ble SCoP at: https://www.supremecourt.gov.pk/downloads_judgements/c.p._1010_l_2022.pdf. Last retrieved 30 July 2026.

end users (including those for whom AI is used). Chances of 'machine bias', which, in fact, is 'garbage-in - garbage out' phenomenon and hence a human frailty, are many. Fair trial and due process may be compromised in this regard. And for accountability purposes, who will be responsible for an illegal decision generated by an AI model, will remain a question of import? Of course, judging or judge-craft in its traditional sense of providing justice through a court presided over by a human being, is necessarily a human brain related function. This, for Pakistan and many other jurisdictions, is to ensure constitutional and legal duty of human judges to 'judge' when they are appointed to function as judges in courts or presiding officers of tribunals.[11] They take assistance from laws, precedents, books, articles, libraries, law clerks, and lawyers briefs to craft their final opinions or judgments in a matter. It will remain a gigantic task to develop an 'explainable, responsible and ethical AI' (xreAI), as a judicial assistant, for Pakistani legal and judicial system that will be constitutional compliant with a human rights-based approach in its outcome. By default, it has to remain human-centric and human-controlled model but it still requires time and effort to make it a human controlled reliable tool .

Now, connecting the dots and taking lead from para 20 of the above cited judgment (*Shakir Ullah case*) under review, we have to go little back into the past where, in an earlier--rather first--judgment of Hon'ble Supreme Court of Pakistan, the subject of use of AI by judges and courts came under discussion.

Reverting to *Ishfaq Ahmed v Mushtaq Ahmad*, PLD 2025 SC 582, we have found some deep principles declared in it about beneficial use of AI by the courts with safeguards to be adopted and used by the judiciary. Primarily, the matter was relating to an ejectment petition wherein the landlord/petitioner could not succeed to recover his rented property from respondent at the forum of Special Judge (Rent).

[11] See *Muhammad Iqbal v Zayad,* (Civil Appeal No.11of 2023) decided on 28.03.2023 by an *first* appellate court in Phalia, wherein it has been observed: "Of course, purpose of such assistance is never to let the
basic function of judging "rented out" to AI, at least at the moment." https://courtingthelaw.com/wp-content/uploads/DOC-20230413-WA0052..pdf. Last retrieved on 30 July 2026.

However, the first appellate court granted him relief, but said order of the appellate court, on a constitutional petition by respondent before the Hon'ble High Court, was set aside and his ejectment petition was again dismissed. He then moved a civil petition for leave to appeal before the Hon'ble Supreme Court of Pakistan. Same was allowed through the cited judgment. The Supreme Court, at this juncture, noting down the delays in justice delivery, took notice of advent of artificial intelligence and explored as to how it can benefit the justice system and ultimately the timely justice delivery by the district judiciary. In the apt words of the Hon'ble Court:[12]

> *In Pakistan's overburdened courts, the integration of Artificial Intelligence ("AI") presents a promising path to operational reform, provided its adoption remains grounded in principled constitutional limits*.

The Hon'ble Supreme Court has also highlighted the importance of principles of constitutionalism under the Constitution of Pakistan 1973 when it authoritatively observed:[13]

> *Under Articles 10A and 37(d) of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution"), the right to fair and expeditious justice must not be rendered illusory. Within this constitutional framework, the thoughtful adoption of AI can serve as a viable instrument for access to timely justice and alleviating systemic backlogs.*[14]

The Court has noted that in many jurisdictions, including Pakistan, the courts are employing the potential of AI in their work. From this, the question of looking at developing appropriate constitutional safeguards for the core function of 'judging' arises. The Court thus observed:[15]

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[12] See Para No.7 of judgment, PLD 2025 SC 582.
[13] See para No.7, *Ibid*.
[14] Footnotes omitted.
[15] See Para No.8 of *Ishfaq Ahmed* case, PLD 2025 SC 582.

> *8. We notice that Commercial GenAI platforms like ChatGPT, Copilot, and DeepSeek have drawn increasing interest from judges around the world who seek new ways to conduct legal research, drafting, and decision support. In 2023, a Colombian judge expressly announced that ChatGPT was consulted when drafting a judicial ruling. By 2025, appellate judges in Washington D.C. publicly cited ChatGPT in their official opinions. More recently, a judge in Pakistan revealed using ChatGPT to adjudge a case both in a civil and a criminal matter, triggering a debate whether commercial AI is appropriate for official judgments. The promise and potential of AI to enhance the efficiency and working of the justice system cannot be ignored any longer. We find this to be a fit case to explore the use of AI by the judiciary in order to actualize the constitutional mandate of Articles 10A and 37(d) of the Constitution*.

With this in mind, the Court has then made discussion on various dynamics of use of AI by the courts and justice system with respect to getting benefit out of this new technology with appropriate safeguards and extent of its use. The Court has explained the same under different heads. Under the heading 'Smart Legal Research', it has observed:[16]

> *AI tools can rapidly process vast legal databases to extract relevant precedents, statutory provisions, and scholarly commentary, providing judges with timely, contextually rich legal material. Smart Legal Research is an emerging discipline that applies AI technologies to enhance the accuracy and efficiency of judicial research. Courts worldwide have adopted such platforms, recognizing that they uncover additional sources and insights complementing human research efforts*.

[16] See Para No.9 of *Ishfaq Ahmed* case, PLD 2025 SC 582.

About an innovative AI tool for Pakistani judges, ie, "Judge-GPT", the Court has highlighted:[17]

> *Federal Judicial Academy ("FJA"), Islamabad has taken a momentous stride in judicial innovation by introducing Judge-GPT, an LLM-based AI mechanism devised in collaboration with ETH Zurich. Approximately 1500 judges within the District Judiciary currently utilize this technology, which is tailored to conform with Pakistan's legislative framework, procedural statutes, and domestic jurisprudence rather than mirroring any commercial prototype. Preliminary observations include that Judge-GPT expedites case law research and better drafting of court orders, enabling judges to devote enhanced attention to substantive legal analysis*.

However, this is not found sufficient by the Court to narrate this development. It has categorically went further to explain the contours and cautions in use of AI by the courts of Pakistan in the following words:[18]

> *Judges must, however, undertake careful verification of all references suggested by Judge-GPT while adhering to established ethical and procedural protocols*.

This is now well-established throughout the world that AI generated materials, including text, video, audio, pictures, etc., without human verification and human-control can defeat, in situations, the human rights issues and rely on machine biases.[19] The Court has also focused on the fact that AI can help in improving language of the judgments and orders, comparative jurisprudence, decision-making support, and

[17] Ibid.
[18] Ibid.
[19] *UNESCO Guidelines for Use of AI Systems in Courts and Tribunals (2025)*. Available online at: https://www.unesco.org/en/articles/guidelines-use-ai-systems-courts-and-tribunals. Last retrieved 30 July 2026.

consistency and coherence.[20] Thereafter, the Court again cautioned that the "AI tools remain subordinate to judicial reasoning and must never be mistaken as a substitute for the exercise of judicial conscience, discretion, or interpretive judgment. It is strongly underlined that the judicial role requires that AI tools be viewed as supplementary aids rather than substitutes for human reasoning."[21] Reminding the judges of their constitutional, legal and ethical responsibility in crafting judgments, the Court has authoritatively remarked: "The responsibility for ensuring the accuracy, ethical integrity, and confidentiality of judicial determinations rests entirely with the judge."[22]

It was well-taken by the Court that the "Administrative Efficiency" of the courts and justice system has to be aligned with the technology by using its features like automated case allocation to judges keeping in view the workload and nature of work assigned to any particular judge. This is taken as ensuring 'fairness' and openness in judicial administration.

The Court then issued a 'warning' to the courts and judges of Pakistan showing 'gaps' so that the human oversight is appropriately kept intact at all relevant times if AI is used by them. Hence, areas like "Transparency and Explainability", "Hallucination", "Accountability and Human Oversight", "Fairness and non-discrimination" were discussed in reasonable detail. With respect to 'automation bias', the Hon'ble Supreme Court has warned the judges and courts that it should not affect institutional independence and judicial impartiality. The words of the SCoP are:[23]

> *This Court warns against "automation bias", the undue deference to algorithmic recommendations and affirms that any AI adoption must maintain institutional independence and judicial impartiality*.

[20] See Para 9 of *Ishfaq Ahmed case*, PLD 2025 SC 582.
[21] Ibid.
[22] Ibid.
[23] See Para 11 of *Ishfaq Ahmed case*, PLD 2025 SC 582.

It was focus of the SCoP that judging cannot be delegated to the AI and "delegating core adjudicative functions to AI would constitute a dereliction of judicial duty constituting misconduct and compromise foundational principles such as impartiality and due process."[24] This is to link up the whole discussion to the codes of judicial conduct as well. So the judges and presiding officers of tribunals have to take notice of this authoritative pronouncement about delimiting the usages of AI for court related work. The discussion starting from impact of AI on constitutionalism is trickling down and reached upto the applicable codes of judicial conduct if AI is not used responsibly and/or ethically. Judges have to be more cautious now about using AI within the parameters found safe by the SCoP and any violation is now to be taken as coming with consequence. We still lack empirical study on the extent of use of AI by the judges while writing their judgments or orders, but there is research that they use AI for improving the quality of the write-up or form of the judgment, a permissible use under the *Ishfaq Ahmed* case.

The judgment in *Ishfaq Ahmed* is full of resources and references to different ethical guidelines issues by various jurisdictions around the globe, including regional and international ethical texts. This makes the judgment as a teaching tool on the issue of use of AI by judges and Courts in an acceptable manner even if there were no ethical guidelines available till this judgment was pronounced. While summing up the judgment, the SCoP held:[25]

> In sum, AI must be welcomed with careful optimism. It can streamline judicial functions, reduce delays, and expand access to legal knowledge. But it cannot replicate the moral, ethical, and empathic reasoning that lies at the heart of judging. Courts must thus pursue a calibrated integration harnessing AI's efficiencies without surrendering the conscience, independence, and humanity that justice demands.

[24] See Para 13 of *Ishfaq Ahmed case*, PLD 2025 SC 582.
[25] Ibid, para 17.

Coming back chronologically, a court presided over by the present author in Phalia in 2023 has used AI model chatGPT in judicial orders.[26] Two orders were passed by the court where potential use of AI was tested as to how it can assist a judge in improving quality of justice.[27] The orders were focused that the decision on merit of the lis in both cases was made by the process of using traditional human judging and "judicial experiments in transparent human–AI collaborative adjudication."[28] It was observed that trial courts can benefit out of the new technology if indigenized GPTs are designed containing local case law and relevant texts. Copies of orders of each case were sent to the Hon'ble High Court and to the Law and Justice Commission of Pakistan (LJCP) to consider them as law reform proposals. Notably, at that time, no ethical guidelines were existed for Pakistan judiciary and thus a critique developed that the trial courts or district judiciary cannot use AI without first having appropriate guidelines for use of AI in courts.[29]

[26] The present author, as an Additional District and Sessions Judge, issued two orders, one in a civil appeal against order and the other in a criminal bail petition where the potential of AI was tested for use by the courts and judicial systems. See *Gulf News,* "Pakistani Judge uses chatGPT to make court decision", 13 April 2023. Online edition available at: https://gulfnews.com/world/asia/pakistan/pakistani-judge-uses-chatgpt-to-make-court-decision-1.95104528. The two orders are accessible online at: https://courtingthelaw.com/wp-content/uploads/DOC-20230413-WA0052..pdf and https://courtingthelaw.com/wp-content/uploads/ChatGPT-4-Abdul-Moaiz-v-State.-FIR-No.-15-2023.-Offence-376iii-511-P.S-Bhagat..-allowed.-29.03.2023.pdf. Last retrieved on 31 July 2026.

[27] See also para No. 8 of *Ishfaq Ahmed case,* PLD 2025 SC 582, footnote no.7.

[28] The author also sought an independent critical assessment of these judgments from ChatGPT (OpenAI, GPT-5.5) on 31 July 2026. According to that assessment, the two decisions may be understood as "the first Pakistani judicial experiments in transparent human–AI collaborative adjudication," because they openly disclosed the use of generative AI, documented the interaction with the AI system, retained human judicial responsibility, and treated AI as an assistive rather than determinative tool.

[29] See Sahar Iqbal, "AI in Pakistani Courts of Law", (1 June 2023), International Bar Association online blog. Available at: https://www.ibanet.org/AI-in-Pakistani-courts-of-law. Last retrieved on 31 July 2026.

Literature also developed to challenge any AI based judgment to see if it violates human rights or fair trial right.[30]

It would be pertinent to mention that the Hon'ble Supreme Court of Pakistan, while concluding the *Ashfaq Ahmed case* decided on 13.03.2025, passed the following important direction:[31]

> *We strongly recommend that the National Judicial (Policy Making) Committee in collaboration with the Law and Justice Commission of Pakistan considers developing comprehensive guidelines on the permissible uses of AI within the judiciary. These must delineate clear boundaries, ensuring that AI is used only as a facilitative tool and never in a manner that compromises human judicial autonomy, constitutional fidelity, or public trust in the justice system. Let a copy of this judgment be dispatched to both the Law and Justice Commission of Pakistan and the National Judicial (Policy Making) Committee for preparing guidelines to regulate this emerging intersection of law and AI*.

This recommendation of the Hon'ble SCoP was well-taken by the National Judicial (Policy Making) Committee (NJPMC) and the Law and Justice Commission of Pakistan (LJCP).[32] Draft guidelines were prepared and were sent to the National Judicial Automation

[30] Shilun Zhou (06 Dec 2024): Analyzing the justification for using generative AI technology to generate judgments based on the virtue jurisprudence theory, Journal of
Decision Systems, DOI: 10.1080/12460125.2024.2428999. Last retrieved 31 July 2026.

[31] See para 18 of *Ashfaq Ahmed case*, ibid.

[32] See NJPMC/LJCP, *National Guidelines for Use of Artificial Intelligence in Judicial Institutions of Pakistan*, 2026, p. 02. Available online at: https://www.ljcp.gov.pk/SiteImage/Misc/files/National%20Guidelines%20for%20Use%20of%20AI%20in%20Judicial%20Institutions%20-%20BOOKLET%20(2)(1).pdf. Last retrieved 31 July 2026.

Committee (NJAC)[33]. After extensive review, the draft was sent to the NJPMC and approved in its 57th Meeting held in February 2026. These guidelines were based on 'foundational constitutional principle': "the administrative and judicial autonomy of provincial High Courts."[34] It was further underscored, in this view of the matter, that "each High Court retains full discretion to adopt and implement the framework within its respective jurisdiction."[35] Reading these lines makes it clear that these *Guidelines* have to be 'adopted' by High Courts as per their own local requirements in each province. These have been circulated in Punjab province by the Hon'ble Lahore High Court. The text of the *Guidelines* is also available at its official website.[36]

As a last stretch of this comment, let us see how the *Guidelines* are to operate for the judiciary. It is mentioned as under:[37]

> *The Guidelines are intended to be followed by Superior Courts, the Courts subordinate thereto, including Tribunals and Special Courts, as well as other justice sector institutions, while using AI system assisted and generated documents in judicial proceedings*.

The *Guidelines* provide the following four guiding principles:[38]

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[33] This Committee is presided over by an Hon'ble Judge of Supreme Court of Pakistan (Mr. Justice Muhammad Ali Mazhar, and some other hon'ble judges of Supreme Court and High Courts are its members.) See details about this NJAC composition at NJPMC/LJCP, *National Guidelines for Use of Artificial Intelligence in Judicial Institutions of Pakistan*, 2026, p. 03. Available online at: https://www.ljcp.gov.pk/SiteImage/Misc/files/National%20Guidelines%20for%20Use%20of%20AI%20in%20Judicial%20Institutions%20-%20BOOKLET%20(2)(1).pdf. Last retrieved 31 July 2026.

[34] Ibid, p. 04. We have to note that as per Article 203 of the Constitution of Pakistan 1973, each High Court has superintendence and control of the courts subordinate to it.

[35] Ibid.

[36] https://lhc.gov.pk/system/files/National_Guide_lines.pdf. Last retrieved 31 July 2026.

[37] NJPMC/LJCP, *National Guidelines for Use of Artificial Intelligence in Judicial Institutions of Pakistan*, 2026, p. 06. Available online at: https://www.ljcp.gov.pk/SiteImage/Misc/files/National%20Guidelines%20for%20Use%20of%20AI%20in%20Judicial%20Institutions%20-%20BOOKLET%20(2)(1).pdf. Last retrieved 31 July 2026

[38] Ibid, at pp.06-07.

Human Oversight (Human-in-the-Loop)
Ethical Integrity and Transparency
Privacy and Data Security
Accountability and Oversight

At the same time, the *Guidelines* have also provided "Permissible Use of AI Systems". These are under the following headings:[39]

Administrative Functions
Legal Research
Predictive Analytics
Judicial Assistance
Locally developed explainable systems

Further, the *Guidelines* also highlighted the need of 'capacity building' of human resources of judiciary including judges and court staff. The NJPMC/LJCP have to devise training programs in the federal and provincial judicial academies to fulfill this requirement.[40]

To link up and to conclude the discussion made above, in a recently held Conference organized by the EU and UNDP in Islamabad titled "EU and UNDP's First Rule of Law Forum On The Future of People-centered Justice", I would like to quote the words of Chairperson of the National Judicial Automation Committee (NJAC) Hon'ble Mr. Justice Muhammad Ali Mazhar (Judge Supreme Court of Pakistan) that how the judiciary is looking at people centric justice in the rapidly changing technology and development:[41]

> "Justice cannot remain static in a rapidly changing world. Our responsibility is to ensure that the justice system evolves with the needs of the people it serves. At the Supreme Court of Pakistan, we are pursuing transformative reforms that strengthen institutional

[39] Ibid, at p.07.
[40] Ibid, p. 07.
[41] https://www.undp.org/pakistan/press-releases/eu-and-undp-launch-pakistans-first-rule-law-forum-future-people-centered-justice. Last retrieved 31 July 2026.

resilience, enhance public confidence, and place people at the very center of justice."

Conclusion:

The above discussion has shown that the artificial intelligence is well considered by the judiciary and judicial policy making bodies in Pakistan as an important tool to assist and augment judicial functions, but not to replace final decision making authority of judges. These *Guidelines* are result of Hon'ble Supreme Court's judicial recognition of the challenges posed by AI in courts and justice system of Pakistan in above discussed *Shakir Ullah* and *Ishfaq Ahmed* judgments of the Hon'ble Supreme Court of Pakistan. Both streams of documents, i.e. judicial precedents and the authentic guidelines together now provide a better way out to deal with the issue that how the judiciary can embrace and integrate AI into its core functions. These limitations or safeguards are in accordance with Constitutional mandate of independence of judiciary, fundamental rights of people, judicial ethics and international best practices.

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