

A Comparative Analysis of the Right to a Fair Trial in Pakistan in Context with ICCPR's Set out Standards

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How to cite this paper: Jamali, N. H., Yi, Y. Y., Wu, H. Y., 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, 231-248. <https://doi.org/10.4236/blr.2024.151015>

Received: December 21, 2023

Accepted: March 9, 2024

Published: March 12, 2024

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Abstract

A fair trial is a cornerstone of justice in any liberal democracy and it guarantees fundamental safeguards in the court system, including due process of law and equality before the law. This research article explains two questions in principle whether Pakistan's criminal justice system ensures the due process of law so far as trial to a fair trial is concerned, the second question is related to whether Pakistan complies with ICCPR's principles of being signatory to the covenant. Looking for areas of agreement and contrast as well as considering the implications these findings have the search for justice and the defense of human rights. By comparing and contrasting Article 14 of the International Covenant on Civil and Political Rights (ICCPR) with Article 10-A of the Constitution of Pakistan, and considering how these two clauses affect Pakistan's justice system and international law. Pakistan has pledged to protect right to a fair trial by ratifying the International Covenant on Civil and Political Rights (ICCPR). Nonetheless, substantial obstacles remain in the actual application of this right within the country's criminal justice system, despite the country's commitment to ensuring that everyone has access to justice. This research article discusses the causes behind Pakistan's violations of the right to a fair trial, exploring important variables contributing to these issues and discussing the ramifications for human rights and justice in the nation.

Keywords

Pakistan, ICCPR, Fair Trial, Criminal Law and Magna Carta

1. Introduction

The notion of a fair trial is a basic and universally recognized right that forms the core of contemporary legal systems worldwide. This right is firmly established in several international human rights treaties and domestic constitutions, serving as a fundamental principle on which the entire system of justice is constructed. The right to a fair trial has an illustrious history, and it is intriguing to consider that the 13th-century Magna Carta, which stated that no man would be sold into servitude nor would justice be withheld which laid the foundation for the supremacy of the rule of law and ensured equality before the law (Robinson, 2009). The transparent and efficient judicial process is the only mechanism through which right to a fair trial can be ensured in order to determine the guilt or innocence of a suspect who is charged with a criminal offence. Right to have the counsel of his own choice and presumption of innocence, and the right to a public hearing, all are included in the idea of right to a fair trial through a transparent judicial process acceptable to everyone. The right to a fair trial serves to make societies safer and more resilient, so therefore due process of law and fair trial, would strengthen confidence in the governments and so also in legal system that may be (Brennan, 2016). A suspect in a criminal offence should have the legal right to defend himself/herself through a counsel of own choice and notification charges with which he or she stands charged be communicated before the commencement of the trial. The following are the fundamental tenets of right to a fair trial such as equality between the parties during the court or legal proceedings, whether administration, civil, criminal, or military court and before any judicial forum without any distinction on the basis of race, color or ethnic origin (Cogan, 2002). However, real issue arises when due process of law is not being followed in practice during the proceedings of a case in the light of cherished principles and norms explained in the criminal administration of justice system. The right to have a trial before a “competent, independent, and impartial tribunal established by law” is guaranteed under Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which Pakistan has ratified (Polymenopoulou & Rehman, 2013). The principle of right to a fair trial has been recognized by the courts of Pakistan since long but particularly after incorporation of Article 10-A in the Constitution of Pakistan 1973, which ensures right to a fair trial to the defendant without any shadow of doubt, which also includes fair and transparent investigation of the case and right to proper hearing by an unbiased competent forum (Hafeezullah Ishaq, 2014).

2. Definition of Right to a Fair Trial

The right to a fair trial is a principle of international human rights and this principle is intended to shield people from arbitrary and unlawful arrests as well as the denial of other fundamental human rights. Everyone has the right to a fair trial in a public setting by an independent and competent court of law, which is the most prominent aspect of the criminal justice system that safeguards an in-

dividual's right to life and liberty. Since the beginning of time, great efforts have been made to safeguard human rights on this planet, it is rightly said that the human race is a pinnacle of creation because human beings believe in equity and equal protection of law without any prejudice to any party. So therefore, the administration of criminal justice and protection of human rights have always been an object of ancient codes, whether it was the Code of Hammurabi or any other (*Law Enforcement and Justice|Office of Justice Programs, n.d.*).

The only way the colors of the universe's landscape may continue to be preserved, if people's rights are upheld and justice is administered impartially without any discrimination on basis of color, gender, ethnicity, religion and nationality among the citizens. Various regional and international accords relating to human rights have been promulgated to advocate right of peoples on this planet. Everyone is entitled of equality in the eye of law and fair public hearing by an independent and impartial court and tribunal to determine the guilt and innocence of a person who is charged with a criminal offence (*Bansal & Kushwah, 2022*). The right to a fair trial, is emphasized by the global legal system, particularly by The International Covenant on Civil and Political Rights (ICCPR) to which Pakistan is a signatory member itself Several significant rights of an accused are protected under Article 14 of the ICCPR, including right to a fair trial and presumption of innocence, the right to quick and thorough notification of allegations (*Law Enforcement and Justice|Office of Justice Programs, n.d.*).

The European Convention on Human Rights also protects the right of a fair trial and its Article 6 also safeguards the right of prompt public hearing before an unbiased, independent court and tribunal, presumption of innocence and other fundamental rights are protected of those who are accused in a criminal offence. The European Convention on Human Rights also ensures the right to a fair trial, access to the counsel, and the right to free interpretation services to the accused which is particularly important (*Vitkauskas & Dikov, 2017*). The criminal trial's proceedings ought to be open to the press and the general public at large. However, in a democratic society, the issue of national security, the interest of the parties' private lives, or to some extent strictly necessary in the court's opinion in unique circumstances where publicity may prejudice the interests of either parties, so therefore such proceedings may be kept secret from the public domain otherwise not (*Hebert, 2004*).

A person has the right to a fair trial in accordance with the law whether it comes to the assessment of his civil rights and obligations or in a case of criminal charges brought against him. If court assigns a counsel for the defendant at State's expenses to represent his case and it is an essential to be noted that a lawyer should have required necessary skills and expertise in dealing with criminal matters so that counsel may be able to represent the case of the accused in efficient manner in the court of law to secure his interest. Defendant's counsel has a right to question to the prosecution witnesses on defendant's behalf, it has also been specifically interpreted that the prosecution must notify to the defense

counsel if the prosecution intends to call witnesses at trial within a reasonable amount of time before beginning of the trial (Bennett & Feldman, 2014). It is also a cornerstone of the criminal justice system that defense attorney has a right to cross-examine prosecution witnesses in the absence of other co-witnesses and the suspect has the right to an interpreter during the adjudication of any criminal case brought against him (Thompson & Schumann, 1987). The view has generally been held that the right to an interpretation includes the translation of all pertinent documents, to have the free help of an interpreter if he cannot understand or speak the language spoken in the court (Wood, 1984).

The defendant may request for the services of an interpreter during preliminary hearing, defendant should not to be forced to testify against himself or admit guilt on pressure from the police, the suspect should have the assurance that just and fair procedure will be adopted during the process of trial in order to ensure the due process of law and right to a fair trial (Haviland, 2003). The main object of the right to a fair trial is to distinguish guilt from innocence, hence the right to a fair trial is the soul of criminal justice system. Without rule of law public would lose confidence in the judicial system and it would ultimately lead to the crumble. The Universal Declaration of Human Rights in reaction to the atrocities of World War II, outlines the fundamental rights of all people, internationally, the right to a fair trial was acknowledged as a fundamental human right that all nations are obligated to uphold that principle in their respective jurisdictions to ensure right to a fair trial to a defendant in the criminal administration of justice system (Olivier, 2004).

3. The Right to a Fair under the International Covenant on Civil Political Rights

3.1. Brief Introduction of the Background and History of the ICCPR

On December 19, 1966, the General Assembly of the United Nations adopted the International Covenant on Civil and Political Rights (ICCPR) to guarantee the preservation of civil and political rights among member States. The International Covenant on Civil and Political Rights (ICCPR) of the United Nations aims to ensure that civil and political rights are protected (Thompson, 2008). On December 19, 1966, the General Assembly of the United Nations approved it, and on March 23, 1976, it went into effect. The ICCPR is a significant international human rights treaty that offers a variety of protection for civil and political rights, as stated in its Preamble, it affirms the principle that all people should be able to enjoy civil and political freedom (Detrick, 1999).

Governments are required by the ICCPR to enact administrative, judicial, and legislative actions to safeguard the rights outlined in the treaty and offer an appropriate remedy. The ICCPR acknowledges the concept of human kind, civil and political freedom, as explained in its preamble. Such as right to a fair trial, freedom of expression, freedom of religion, the right to life, and freedom from torture are only a few of the guarantees which found in the ICCPR's 53 Articles.

(Shope, 2012) (The Article 6 defines the right to life) (Article 7 protects from torture and cruel human treatment) (Article 8 protects the right to liberty) (Article 10 explains about right to respect, privacy of the family) and (Article 16 protects right to a fair trial) are just a few examples of fundamental human rights that must be upheld by nations that have ratified the treaty. Governments are required by the Covenant to enact administrative, judicial, and legislative procedures that will safeguard the rights guaranteed by the treaty and offer an adequate remedy. The ICCPR currently has 173 state parties, 74 signatories, and 18 non-action states (Bassiouni, 1992). Pakistan officially signed the ICCPR treaty in 2008 and same was ratified in year 2010 (Hayee, 2012).

The ICCPR has had the biggest influence at the international level. The ICCPR serves as the obvious benchmark when developing a section on basic rights in every national constitution today, anywhere in the globe. Despite the fact that there is no universal rule of international law requiring States to choose a particular manner of implementation, the ICCPR has become an integral part of the national legal system in the majority of countries. When interpreting the national constitution, some countries specifically require administrative agencies and courts to adhere to the relevant international guarantees, in order to comply with the ICCPR covenant (Parker, 2006). Thus, Pakistan's Legislative Assembly incorporated Article 10-A into the constitution through 18th amendment in the constitutional to protect right to a fair trial in the criminal administration of justice system in the country (Hassan & Sabaruddin, 2019).

The ICCPR's main object was to address human rights issues and ensure fundamental and human rights in view of its article 14 which defines that right to fair trial before the judicial or quasi-judicial forum may be established by signatory States to the ICCPR. The right to a fair trial underwent a significant advance when this document was approved by the United Nations General Assembly. It was a historic victory for human rights loving people across the world, right to fair trial had finally been acknowledged by the United Nations General Assembly by then. The International Covenant on Civil and Political Rights treaty makes recommendations to its signatories States on how to preserve human rights in a decent manner as to ensure that everyone is treated justly and fairly in accordance with the law. As a result, after ratifying the Convention, Pakistan must guarantee that its domestic law that complies with the obligations of the international law (Fazi, 2020).

3.2. Why We Should Define the Right to a Fair Trial According to the ICCPR

For a number of reasons, it is crucial to define the right to a fair trial in accordance with the International Covenant on Civil and Political Rights (ICCPR). For instance. 1) Global Recognition, the ICCPR is a well-known international human rights treaty. A uniform norm that nations are obliged to respect it because it has been established by defining the right to a fair trial in accordance with the noble principles and ensuring consistency and fairness in judicial pro-

cedures around the world. 2) Protection of Individual Rights, the ICCPR's fair trial clauses uphold people's rights to a fair trial, a defense, and a public hearing. This includes the right to legal representation and the presumption of innocence until proven guilty.

The ICCPR's definition of these rights protects people from unfair or arbitrary treatment by judicial systems. 3) Responsibility and Oversight, the ICCPR lays forth a framework for responsibility and oversight, enabling international organizations like the Human Rights Committee to oversee and guarantee the treaty's compliance. This makes government respect for the right to a fair trial more accountable. 4) Democracy and the Rule of Law, the essential tenants of democracy and the rule of law include the right to a fair trial. A just and democratic society is strengthened because it ensures that the justice is applied fairly and without bias. In conclusion, it is essential to define the right to a fair trial in accordance with the ICCPR in order to defend human rights, advance legal equity, and preserve global norms for justice and accountability across the world. It is fitly said that covenant is not legally binding upon signatory countries (Maisley, 2017).

4. The Comparison between Pakistan's Right to a Fair Trial and ICCPR

According to Article 10-A of Pakistan's Constitution 1973 that everyone has the right to a fair trial and due process of law, courts, state authorities, judicial or quasi-judicial forums, and executives are required to provide each party with a fair opportunity to defend themselves. Judicial or quasi-judicial institutions must provide a fair opportunity to a suspect who is charged with a crime of to submit the case through the pleadings and give suspects the opportunity to appear in person, record his statement, and cross-examine the witnesses against the defendant and produce the record in accordance with the law (C.p._1809_2020.Pdf, n.d.). The following is a reproduction of Article 10-A of the Islamic Republic of Pakistan's 1973 Constitution: "A person shall have the right to a fair trial and due process for the determination of his civil rights and obligations or in any criminal charge against him." However, the definition of "due process of law" as it appears in Article 10-A of the 1973 Constitution of the Islamic Republic of Pakistan can be summed up as follows: 1) A person must be informed of procedures that could impact his rights. He must be given a fair chance to defend himself. 2) The Tribunal or Court that hears the case must provide a reasonable guarantee of objectivity and honesty. In comparison with ICCPR's Article 16 which also protects the right to a fair and public hearing by an unbiased forum acceptable to all parties involved (Thompson, 2008).

The International Covenant on Civil and Political Rights (ICCPR) also declares the same fundamental rights including freedom of expression, freedom of liberty and peaceful politics without any interference and restriction from the government, these are fundamental human rights that must be upheld while maintaining the highest standards of decency by the member States. Everyone

has the right to liberty and personal security in the light of the Article 9 of the ICCPR, no person shall be arbitrarily detained or arrested without judicial order or arrest warrant, the article 9 of the ICCPR protects the liberty of a person, while a suspect is being detained by the police secretly from his family (Joseph, 2002). Every individual should be entitled to freedom and security in the event that any criminal activity has been acted by a suspect, he or she should be made aware of it and ought to be produced in the court of law so that the suspect may properly be able to defend himself in the light of charges brought against him or her in the court of law. The right to a fair trial has been protected by the International Covenant on Civil and Political Rights which safeguards due process of law in criminal proceedings. The signatory nations have an obligation to uphold the fundamental provisions of the International Covenant on Civil and Political Rights in their respective jurisdictions (Schmidt, 2009). The International Covenant on Civil and Political Rights (ICCPR) plays a vital role in promoting human rights issues across the world and the ICCPR publishes its annual report on its member countries each year in which it makes recommendations to other member States to take necessary steps to preserve human rights by following the principles of the Covenant (Landman, 2005).

4.1. The Contents of Right to a Fair Trial in Pakistan

The principle of right to a fair trial has been acknowledged by the courts of Pakistan since long but particularly after incorporation of Article 10-A in the Constitution of Pakistan 1973, which ensures right to a fair trial to the defendant without any shadow of doubt which also include fair and transparent investigation of the case and proper hearing by an unbiased competent forum (Hameed, 2017). The principle of rule of law and due process are closely linked with human rights protection and it has to be unmistakably understood that a trial which is primarily aimed at ascertaining truth has to be fair to all concerned (Simonis, 2019).

The denial of right to a fair trial is as much injustice to the accused as is to the victim and the society at large. The Fair trial obviously would mean a trial before an impartial judge, or fair prosecutor and atmosphere of judicial calm. Fair trial means a trial in which bias or prejudice for or against the accused, the witnesses, or the cause which is being tried is eliminated. If the witnesses, get threatened or are forced to give false evidence that also would not result in a fair trial. The failure to hear material witnesses is certainly denial of fair trial (Robinson, 2009).

Pakistan adheres to the common law tradition, which is based on the idea that everyone should have a chance to be heard and is equal before the law. These are the guiding principles that must be adhered to. Pakistan's judicial system upholds all of the accused's fundamental rights, which are guaranteed by Pakistan's constitution. All these rights have been repeatedly recognized by Pakistan's Supreme Court in its a number of important rulings published in Pakistan's Law Journals famously known as Pakistan Legal Decision (13140-Sof2009.Pdf, n.d.). Pakistan's criminal legal system recognizes the right of fair hearing and due

process of law. Nevertheless, Pakistan's legal system is extremely outdated and colonial era's codes of the British ruled in sub-continent India. Since Pakistan's independence in 1947 same common legal system is operative till to date with small cosmetic changes into the legal codes (Lau, 2007).

Pakistan's Criminal Procedure Law Code dates back in year 1898, it testifies to the fact that the criminal justice system of Pakistan lacks fundamental reform and does not meet prevailing requirement of the conditions and the international standard set out by the ICCPR (Ali, 2007). Hence, the criminal justice system has to be reformed at the par with international standards. The incorporation of the Article 10-A into the constitution was a welcome addition which expressly protects and ensures the right to a fair trial to the defendant. However, in reality the right to fair trial is routinely being violated by State institutions one way or other. Pakistan's Constitution further states that no one should be held in police custody without the court order and defendant has the right to have an attorney of his or her choice while being in police custody.

The basic concept of presumption of innocence provided in the criminal justice system which guides that the judge should not start with the preconceived idea that the defendant has committed a crime, and judges should avoid forming any kind of opinion against the suspect before the commencement of the trial (C.p._3532_2023_additional_note.Pdf, n.d.). The fundamental tenant of Pakistan's criminal justice system states that the accused is innocent unless proven guilty and accused is innocent child in the eye of the court and has the right to claim presumption of innocence and due process of law as Supreme Court of Islamic Republic of Pakistan explained in its one of the judgements that "it is better that ten guilty persons escape than that one innocent suffer." However, sometimes judicial officers violate basic rights of suspects while deciding criminal cases and ignoring fundamental principles and norms of the Criminal Justice System due to lack of legal knowledge and experience. It is relevant to mention here that forced confession in police custody has no evidentiary value in Pakistan's judicial system, therefore torture is an offence which has been discouraged by the Supreme Court of Pakistan through its various judgments that suspect be dealt in accordance with the law (Nadeem et al., 2023).

Institution of the Military Courts in Pakistan was disliked by the legal fraternity across the country and so also by the academic scholars. Initially Military courts were set up to prosecute hard core terrorists who carried out attacked against military personnel and civilian but most vicious attacked carried out by terrorists, was against army public school students at Peshawar in KPK one of the provinces of Pakistan, in the light of that attack, there was a huge pressure from the families of victims and civil society on government of the day to seek solution out of the box to prosecute those hard core criminals who kill civilians with impunity (Wahla, 2019). Hence, the idea of Military Courts came up to deal with hard core extremists and terrorists in the country. However, in military courts only army trained legal officer would have the right to prosecute a suspect in military courts, and the defendant has no right to retain a civilian attorney to

represent him or her in those proceedings. Former Chief Justice of Pakistan Mr. Iftikhar Mohammad Chaudhry disliked the institution of Military courts in Pakistan and according to his wisdom it is “unconstitutional” to prosecute a civilian in the Military court while civil courts are functioning as normal in the country (Dawn.com, 2014).

When the Military Courts were established, it was not welcomed by the civil society of Pakistan and human rights watchdogs in the country. A senior lawyer and legal expert and former legal adviser to the Ministry of Foreign Affairs of Pakistan, said that when a state plans to try its own citizens for crimes on its own territory under Military Courts, serious concerns are raised (Legal Experts, Rights Groups Advise Pakistan against Trying Civilians in Military Courts, 2023). Military Courts intrinsically pose a challenge to the right to a fair trial (Pakistan, 2023). Legal scholars are of their view that right to a fair trial could not be possible in Pakistan unless certain changes are made to the Criminal Procedure Law 1898 of Pakistan (Tanguay-Renaud, 2002).

4.2. What Contents Are Missing Compared with the ICCPR

The chief objective of the International Covenant on Civil and Political Rights is to recognize the freedom of speech, freedom of association, freedom of expression, freedom of religion, and right to a fair trial and due process of law, all these rights were guaranteed under the International Covenant on Civil and Political Rights, which Pakistan signed in 2008 and ratified in 2010 (Clooney & Webb, 2021). The United Nations Human Rights Committee has stressed that in cases where the death penalty is imposed and right to a fair trial is particularly important (Rieter, 2002). It would be fair to mention here that the military courts are functioning in Pakistan simultaneously which were specially constituted through a constitutional amendment passed by Pakistan’s parliament which is called 21st amendment to the constitution of 1973 to prosecute those terrorist elements who are creating terrorisms in Pakistan. The military courts clearly violate the right to a fair trial to a suspect because army officers do not possess the adequate legal knowledge and experience of law and having lack of legal training to prosecute suspects in the military courts in a lawful fashion, so therefore it would be fair to say here that there is a very slim possibility of a right to a fair trial to accused in the Military Courts settings (Haroon et al., 2020). Nevertheless, the Supreme Court of Pakistan keeps the right of review over the decision made by the military courts, and if any illegality or procedural violation is seen in the judgment of military courts, the Supreme Court of Pakistan have a right of review to undo it. The Supreme Court of Pakistan stayed executions of two convicts who were earlier awarded death sentences by a military court in cases related to terrorism. A two-judge bench of the apex court, consisting of late Justice Waqar Ahmad Seth and Justice Irshad Qaiser, summoned the record of the trial of accused Haider Ali and Zahid Gul from the military court (Sirajuddin, 2018).

Military courts in Pakistan are not independent, and proceedings before them

are not consistent with the minimum requirements of fairness set out in Article 14 of the ICCPR (*Abusive Constitutionalism and Military Courts in Pakistan—ProQuest, n.d.*). It is very relevant to write here that until very recently the Supreme Court of Pakistan in a landmark ruling has declared that civilians cannot be tried in military courts, effectively nullifying Section 2 of the Pakistan Army Act of 1952. A landmark decision, supporting the provisions of Article 10-A of the Constitution, which guarantees the right to a fair trial, the result represents a sea change in Pakistan's legal system. However, the same Supreme court of Pakistan undo its previous decision in the appeal filed by the caretaker government against the previous judgement of the same court (*Shut-Down of Military Courts in Pakistan Hailed|Human Rights Watch, 1999*).

Pakistan has its own problems, Pakistan still struggles to comply with all articles of the ICCPR, which deals with human rights issues, despite Pakistan being a signatory to ICCPR. Pakistan still lacks capability to protect minority rights such as Shia community, Christian community and Hindu, these minority groups time and again face challenges at the hands of majority Suni Islamic groups (*Malik, 2003*). The Constitution of Pakistan provides all rights of minority groups for example right to assembly and right to religion practice, right to vote, right to speech, etcetera (*Myerson, 2014*).

It would be pertinent to mention here that Pakistan does not give the right to a fair trial in prevailing situation of the State, as minimum standards set out in the ICCPR protocol due to many reasons, but the most important factor is that the judicial system of Pakistan does not have the capacity to cope up with crisis which needs restructuring and reform. Pakistan has to reform its legal system and to get rid of the old colonel legal regime which is still alive and being practice in the country. Pakistan has to bring reform and improvement in the economy because without a sound economy, it would be a difficult task to fix all problems. Nevertheless, people in Pakistan are determined to overcome these challenges. Pakistan has to change from the security State to become a welfare State in vision and inspirations of its founding Father Muhmmad Ali Jinnah, after creation of Pakistan, he said that you are free to go to temples, mosques and churches to practice their religion beliefs according to your faith, and nobody will be compelled to change your religion. Last but not least that Religion has nothing to do with the business of the State.

There are some loopholes in Pakistan's legal system which do not meet with criteria explained by ICCPR in regard to the right to a fair trial any other above mentioned rights. The Former Chief Justice of Pakistan Mr. Justice Jamali has pointed out and said that legal structure of State is not up-to-date, which need to be reformed, otherwise people will lose their faith in judicial system. So far as right to a fair trial is concerned in Pakistan, the legal structure of Pakistan does not follow the standard set out by International Covenant on Civil and Political Rights, because the current circumstances of Pakistan hardly allow implementation of or compliance with Article 14(2) due to terrorism in Pakistan, but civilian courts are determined to take up the basic rights of citizens of Pakistan in

the light of the Constitution of Islamic Republic of Pakistan, as well as the International Covenant on Civil and Political Rights, and also other international norms with regards to right to fair trial in Criminal justice system (Aslam & Sabir, 2022).

The policy of Mobile Courts was introduced by the Peshawar high court to bring justice to rural population of the PKP province in a remote village where poor people don't have enough resources to come to major cities like Peshawar to approach courts for the justice. In those Mobile courts there is facility of the ordinary courtrooms and trial takes place in a big green bus (Details, n.d.). UNPD-supported mobile courtrooms like this one have dramatically cut the length of trials, resolve legal dispute, and bring justice of poor downtrodden People of Peshawar who are poor and cannot afford the legal fee of lawyers. Dost Muhammad Khan, The Former Chief Justice of the KP province of Pakistan, said that more than half of the population of the Peshawar city live in rural areas who are poor and travel to the cities seeking for justice (Pakistan: Province of Khyber Pakhtunkhwa Establishes Mobile Courts|Library of Congress, n.d.). However, through mobile courts, thousands of people will now have access to justice at their doorstep. He adds that it is hope that this kind of initiative will "help accelerate the administration of justice and deter the crime" so far it is mission of justice to all fair and impartial without fear and favor (Justice on Wheels, 2013).

It is a moral obligation of Pakistan to respect the ICCPR document even though it is not a binding upon Pakistan as to compliance with it, but as far as human rights are concerned, the dignity of each individual may be protected in accordance with Pakistan's own legal and judicial system (Jalali, n.d.). Nevertheless, it is the moral duty of Pakistan being a signatory member of the ICCPR to protect the basic human rights in its jurisdiction and bring legal system of the country at the par with principles set out by the ICCP to ensure right to a fair trial within its criminal justice system. And to make sure that all possible measures are taken to ensure the basic rights of the individual through judicial, legislative ways to safeguard the rights of people enshrined in the ICCPR document.

5. Proposals to Strengthen the Right to a Fair Trial in Pakistan

The criminal justice system of Pakistan is outdated and has many loopholes which need to be reformed. Keeping in view of the danger of regional and international security, the terrorism should be eradicated, but it can only be done through the necessary and drastic reforms in the police department, and also in the prosecution department so that both organs of the State work in coordination so that offenders be brought to justice in according to law through fair and transparent investigation (Kattan, 2020).

Police and prosecution departments lack basic skills due to political appointments in the police department which is main caused for infective investigation and poor prosecution and resulted into acquittal of the offenders in the court.

The police officials, particularly the investigators, who do not have the knowledge of modern scientific investigation techniques, and are ill-trained officers, who lack access to modern technology investigation tools (Afridi, 2021). There is also a need for the prosecution department to be cleaned from corruption, otherwise the object of right to a fair trial will remain a big dream in Pakistan years to come, and the role of prosecution is an inevitable in criminal justice system.

Lawyers should be trained the standard of legal education be reformed in Pakistan, legal research institutions be established across the country. Law officers who represent the prosecution side in courts having no enough legal knowledge hence most criminals secured their acquittal orders from courts (Sager et al., 2022). The element of corruption in prosecution department should be eradicated as corruption has brought a bad name to the department. Corruption is the main cause of crime especially some organizations doing business. The infrastructure of subordinate courts is fairly old and dilapidated condition (Jamshed et al., 2020). The access to justice program requires from the federal government allocate resources for the construction of courtrooms, waiting rooms for litigant parties and witnesses, and residential accommodation for judicial officers and court staff. Funds should also be made available for law books and an integrating computer network to improve access to information and material.

The reform in legal system of Pakistan is need of hour and necessary without fundamental changes into legal system the object of right to a fair trial in the scope of ICCPR would remain a big dream in Pakistan. Restructuring of outdated laws is inevitable (Kolsky, 2010). It also shows some lack of will from the legislative branch of the government who are supposed to be vigilant in making effective legislation by keeping in view the prevailing conditions of global legal systems across the world and old laws should be repealed sooner the better.

Some laws creating discrimination among the citizen for suppose the law of blasphemy which is miserably misused in Pakistan against minority groups of people. The former governor of Punjab was killed by his own security guard on grounds that he wanted to change the blasphemy law. The governor just said that this law needs to be reviewed and after his comments, the governor was murdered by his own official security guard and that security guard had been sentenced to death by Supreme Court of Pakistan and he was hanged (Rumi, 2021). In fact, the Human Rights Commission of Pakistan reports that 34 people were charged with blasphemy in 2013, while 27 were charged in 2012. Moreover, dozens have died as a result of riots, extra-judicial killings and mob justice. Pakistan should repeal all laws that discriminate on the basis of religion, sect or gender, including the blasphemy laws, anti-Ahmadi laws (Julius, 2017). It can thus be imagined just how complex situation is in Pakistan, The security of Judges Investigators, prosecutors and be ensured so that they may function without any fear.

Pakistan's late former chief of army staff tyrant Muhammad Zia-ul-Haq signed the Hudood Ordinances into law in 1979 as part of efforts to make the country more Islamic. The goal of law was to make Pakistan's legal system more in line

with Islamic principles, especially those that deal with “hadd offenses,” which are crimes that have set sentences in the Quran, the Holy Book of Muslims (*Pakistan’s Hudood Ordinances, n.d.*). It is also need of hour to reform this law in order to make it in line with modern scientific evidence based legal code.

The 1997 Anti-Terrorism Act should also be amended to refine its definition of terrorism to include only those acts that are large in scale and intend to create a sense of fear and insecurity among segments of the public; and disband anti-terrorism courts and try terrorism cases in the regular courts (*Iqbal & Shah, 2018*).

Police Reforms: Pakistan’s police force has been criticized for being crooked, out of date, and not getting enough training. There needs to be a better way to hold police accountable when police abuse their power or violate people’s rights (*Maheshwari, 1974*). When the police department is restructured and reformed, the police should focus on making more in fight against the crime culture in Pakistan and using more modern new tools in a better way to do their jobs. **Neighborhood policing:** Using neighborhood policing methods to get people to trust and work with the police.

Pakistan’s prosecution services have generally had a narrowly defined role, which makes them less effective. For a more effective legal system, it’s important for prosecutors and police investigators to work together. Legal reforms include updating legal processes and procedures to make sure that cases are handled quickly and fairly. Some studies have looked at examples from other countries, like the Casey Review of the Met Police in the UK, to find ways to improve the policing in Pakistan (*Abbas, 2012*). Without political will and state policy these changes cannot be materialized into practice in order to ensure right to a fair trial in Pakistan.

6. Conclusion

Since ratification of the ICCPR, it shows Pakistan’s dedication to protecting the right to a fair trial and ensuring public hearing to the defendant in its judicial system. However, inherent difficulties and flaws in the judicial system have led to ongoing abuses of this basic protection of right to a fair trial Legal. Pakistan can meet its international obligations to ensure right to a fair trial for all parties concerned, and solidify its commitment to human rights and justice if it takes decisive action to solve these issues.

The right to a fair trial is a priority for both international and domestic legal systems, as seen by the similarities between Article 14 of the ICCPR and Article 10-A of Pakistan’s Constitution 1973 which states that Justice, respect for human rights, and development of the rule of law is the cornerstone of the constitution of the country. There may be obstacles to enforcing the right to a fair trial, but doing so is crucial to building a more just and equitable society in Pakistan and beyond.

Legal reforms, capacity building, and societal shifts are all needed to guarantee

a fair trial in Pakistan. The justice system in Pakistan can be made more fair, open, and accountable if the country's laws and practices are brought in line with the ICCPR's criteria. These coordinated efforts are necessary for Pakistan to meet its international commitments, ensure the safety of its inhabitants, and create a legal system that upholds fundamental values like fairness, equality and swift justice to all concerned.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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