

Critical Analysis of Sentences in the Criminal Justice System of Pakistan

Sidra Kanwel

Lecturer at Department of Law University of Sialkot, Pakistan
sidra.kanwel@uskt.edu.pk

Syed Saqlain Ul Hassan

Faculty of Law, University of Sialkot, Punjab, Pakistan.
syedsaqlain.hassan@uskt.edu.pk

Nazia Ayub

LLM. Scholar Punjab University Lahore, Punjab, Pakistan.
ayubnazia975@gmail.com

Abstract

The criminal justice system is an integral part of any society, aimed at maintaining law and order, and providing justice to victims and offenders. In Pakistan, like many other countries, the criminal justice system plays a crucial role in regulating and controlling criminal behavior. This research article presents a critical analysis of the sentencing practices within the criminal justice system of Pakistan, examining various aspects including legal provisions, judicial discretion, sentencing disparities, and their implications for the broader criminal justice landscape. By addressing the strengths and weaknesses of the system, this article aims to contribute to the ongoing discourse on criminal justice reform in Pakistan.

Keywords: Criminal justice system in Pakistan, Judicial discretion, Sentencing disparities, Sentencing practices in Pakistan.

1. Introduction

Any society must have a criminal justice system in place to preserve law and order, defend human rights, and provide both offenders and victims with justice. The system of criminal justice is vital to the dynamics of social organization and cohesiveness in Pakistan, a nation renowned for its rich historical, cultural, and legal diversity. This system essentially depends heavily on the effective and equitable use of punishment, which necessitates the careful management of retaliation, discouragement, recovery, and justice. This research paper conducts a comprehensive analysis and critical assessment of Pakistan's criminal justice system's sentencing procedures. The objective is to shed light on the many and varied facets of sentencing, highlighting both its benefits and drawbacks, and examining its complex interactions with laws, the discretion of judges, variances in sentencing decisions, and the collective effects of these factors on the structure of the justice system for crime as a whole. Our goal is to significantly add to the current conversation about Pakistan's criminal justice system reform by carrying out an exhaustive analysis. We will concentrate on the need to create a

system that is transparent, just, and fair in addition to being efficient (Khan, A., Iqbal, & Ahmad, 2022).

Based on a complex web of statutes that combine more modern regulations with those carried over from the colonial era, Pakistan's sentencing system is applied. These laws are based on the Pakistan Penal Code (PPC) 1860 and the Criminal Procedure Code (CrPC) 1898. They specify the punishments for various offenses and establish the procedural guidelines for determining sentences. Furthermore, the Qisas as well as Diyat laws expressly regulate crimes committed against individuals, such as murder and physical injury. Given their longstanding influence on the sentencing process, it is unquestionably necessary to conduct a thorough evaluation of these laws to guarantee their alignment with current principles of justice.

Pakistan's sentencing mechanism is characterized by the significant autonomy granted to the judiciary. Although judicial discretion permits the examination of the distinct circumstances of every case, it also introduces the possibility of significant variations in punishment. The use of discretion, intended to promote adaptability, might unintentionally result in a lack of consistency in sentences, wherein the identical offense may incur significantly disparate punishments depending on the personal preferences of the presiding judges. The implications of such discretion are substantial, as they give rise to problems regarding the impartiality and uniformity of treatment under the legal system (Hussain., Khan, A., & Chandio, 2023).

Sentencing disparities within Pakistan are not merely theoretical; they manifest in reality and affect the existence of innumerable persons. The existence of such discrepancies can be attributed to various reasons, including as the socio-economic standing of the accused, political impact, and the availability of sufficient legal representation. In this paper, we will examine case studies and practical instances that demonstrate the extent of disparities in sentencing. These examples will highlight how privilege and adversity can have a substantial impact on the results of criminal trials.

The ramifications of these discrepancies in sentence have a profound impact on every aspect of Pakistan's criminal justice structure. The absence of consistency and clarity in the process of determining punishments undermines the confidence of the public in the legal system, resulting in a deep feeling of unfairness among individuals. Consequently, this has the capacity to promote societal discontent and erode the confidence of the court system. Furthermore, the excessive number of inmates in correctional facilities as a result of extended terms for relatively small crimes imposes considerable pressure on the criminal system and presents substantial obstacles to the process of rehabilitating and reintegrating convicts back into society.

This research study aims to provide proposals for reform that specifically target the deficiencies in Pakistan's sentencing systems, taking into account the aforementioned problems. These proposals encompass the establishment of uniform sentencing guidelines to minimize discrepancies, enhanced availability of legal counsel, particularly for marginalized individuals, heightened accountability in the sentencing procedure by publishing sentencing data, and a comprehensive assessment of the Qisas and Diyat laws to guarantee their compliance with international human rights norms (ur Rehman, Usmani, & Parveen, 2021).

Put simply, a fair and efficient criminal justice mechanism is a crucial element of any equitable society. Pakistan, a country with a varied and active legal system, needs to address the important matters related to sentencing practices. This is necessary to guarantee that its criminal justice the system not only

punishes offenders but also functions as a means of adhering to the rule of law and safeguarding the rights as well as dignity of all its citizens. Pakistan may progress towards achieving a fair and impartial system that prioritizes the well-being of its citizens and promotes social order as well as harmony by tackling these problems and implementing the suggested reforms (Javed, Jianxin, & Khan, 2021).

2. Legal Framework for Sentencing in the Pakistani Context

The legal structure for sentencing in Pakistan is complicated and carefully constructed, incorporating many legislative instruments to establish framework and direction in the practice of sentencing. The fundamental components of this framework consist of the PPC, the CrPC, and the Qisas as well as Diyat legislation, which combined establish the foundation for the sentencing procedure (Waqar, & Iqbal, 2022).

The PPC is the foundation of this structure, precisely outlining the consequences and punitive actions for a wide range of acts, including theft and more severe crimes like murder and assault. These rules delineate both the characteristics and magnitude of penalties, as well as provide the essential principles that govern the process of determining sentences in Pakistan. The PPC takes into account the needs of retaliation, discouragement, and rehabilitation in addition to incorporating the body of information regarding the legal system and embodying the values and goals of society. In addition to the PPC, the CrPC offers a procedural framework that controls the sentencing procedure. This code of procedure outlines the exact process via which punishments are decided, covering all stages from trial to conviction. It outlines the responsibilities and rights of each party involved, including the court, the prosecution, and the defendant. In line with the broader principles of justice and equality, the Criminal Procedure Code (CrPC) seeks to provide fairness in the procedure, transparency, and impartiality in the process of sentencing (Khan, A., Javed, K., Khan, & Rizwi, 2022).

A special section of the legal system known as the Qisas and Diyat laws addresses offenses against people, including violent crimes like murder and physical abuse. By granting victims or their heirs the option to pardon the perpetrator, these laws bring a unique perspective to the process of deciding on a punishment and may influence the ultimate decision on the sentence. Based from Islamic jurisprudence, the Qisas and Diyat norms provide a complex framework that attempts to balance the concepts of justice and mercy. While these regulations have been crucial in shaping Pakistan's sentencing framework, there is an increasing acknowledgement of the need for a comprehensive overhaul. The dynamic character of contemporary society and the ever-expanding body of international human rights rules require a careful examination of these legislative measures in order to ensure their continued conformity with notions of justice and equity. The PPC, the CrPC, and the Qisas as well as Diyat laws set the legal framework for punishment in Pakistan. These laws serve as the fundamental basis for the functioning of the criminal justice system. It not only imposes punishments but also outlines the methods, rights, and obligations that support the process of determining a sentence. This essay aims to analyze and assess the practical efficiency of these legal components, considering the necessity for reforms to meet the changing demands of justice in a dynamic and diverse society in Pakistan (Khan, A., Bhatti, & Jillani, 2021).

3. Judicial Discretion in the Pakistani Criminal Justice System

One of the key and controversial concerns in the Pakistani criminal justice procedure is the significant discretion given to judges in calculating sentencing. Judicial discretion, an inherent component of this

system, provides a degree of flexibility and adaptation in sentencing techniques. Nevertheless, the unrestricted application of this practice frequently leads to unforeseen outcomes, particularly in the form of sentencing disparities, where the identical violation can result in significantly varied punishments based on the judge overseeing the case. The disparity in sentence results raises valid apprehensions regarding the concepts of impartiality and parity in the enforcement of the legal system (Khan, Bibi., Khan, & Ahmad, 2023). legal discretion, an essential element of the legal process, empowers judges to take into account numerous facts and situations when determining the suitable penalty for a guilty defendant. The purpose of this flexibility is to enable the administration of justice that is attuned to the distinct intricacies of each individual case. Although this approach has the capacity to acknowledge the distinctiveness of offenders and their crimes, it also poses a dual challenge. When a great deal of judicial discretion is used, sentencing choices can range significantly, making it challenging to predict or create consistent punishments for similar crimes.

The disparities in punishment that result from unbridled judicial discretion become strikingly obvious. There is a chance of notable differences in sentencing when the same offenses are tried by several judges, each with their own viewpoints and experiences. Other factors that may impact these discrepancies include the specific predispositions and prejudices of magistrates in addition to the particulars of each case. The end result is a system in which individuals found guilty of the same crime may receive sentences that differ significantly in severity, creating a profound sense of unfairness and inequity. The consequences of sentencing inequalities go beyond the immediate effects on individual defendants. These concerns pertain to wider socioeconomic and institutional issues, which gradually undermine the confidence that citizens have in the legal structure. The notion of legal equality, which is a key aspect of justice, is undermined when persons believe that their outcomes are dependent on the arbitrary assignment of judges. These circumstances might lead to emotions of disappointment, skepticism, and annoyance among the general population, thereby weakening the fundamental basis on which the legal structure is established (Shah, Balasingam, Salman, Dhanapal, & Ansari, 2020, Rana, 2022a & Rana, 2022c).

Essentially, judicial judgment in the Pakistani criminal justice framework plays a crucial role that has both advantages and disadvantages. It offers flexibility but also carries the risk of unfairness. Although discretion permits the evaluation of individual circumstances, its uncontrolled application can result in discrepancies in sentencing, undermining the fundamental principles of impartiality and equal treatment under the law. In this essay, we will examine the practical consequences of these differences and examine possible actions and changes to tackle the difficulties caused by the exercise of judicial authority in Pakistan's criminal justice systems.

4. Sentencing Disparities in the Pakistani Criminal Justice System

One major problem that is deeply embedded in the complex structure of Pakistan's legal system is the occurrence of uneven penalties within the criminal justice system. The presence of these differences, which are defined by differences in the penalties meted out for similar offenses, has drawn more attention and concern. These traits are often attributed to a variety of factors that go well beyond the purview of criminal activity and the decisions made by judges. This essay provides a comprehensive review of the various factors that influence sentencing disparities in Pakistan. It highlights the important ramifications of these disparities as well as how they appear in the actual world. The root cause of sentence disparities in Pakistan is the accused's socioeconomic status. The social as well as economic status of persons can have a substantial impact on the results of their judicial actions.

Individuals that possess privileges, such as access to finances, legal representation, and social networks, frequently experience a more favorable position throughout their judicial proceedings. Conversely, individuals from underprivileged backgrounds, who do not have access to high-quality criminal representation and other necessary resources, often encounter significant challenges inside the legal system. The underlying disparity in treatment exacerbates the discrepancies in sentencing, resulting in the less fortunate being more prone to receiving more severe punishments, hence intensifying social and economic inequities (Haq, & Zafar, 2019).

Furthermore, the sentencing procedure in Pakistan is significantly affected by political influence. Individuals who possess political connections especially affiliations may be granted protection from the complete consequences of the legal system, frequently resulting in favorable treatment and lenient punishment. This systemic bias not only undermines the premise of equal treatment under the law but also creates a culture of exemption, where specific persons or groups are shielded from the repercussions of their acts, regardless of their guilt.

Insufficient legal representation is an additional substantial factor that contributes to discrepancies in sentence. Many individuals, especially those who come from marginalized and financially poor families, frequently do not have access to skilled legal representation. The disparity in legal representation can lead to plea bargains and lower favorable court outcomes, so increasing sentencing discrepancies. The caliber and accessibility of legal counsel significantly influence the outcome of the defendant's case and the impartiality of the sentencing procedure. This article will examine case studies to demonstrate the concrete consequences of sentencing disparities. It will highlight situations when affluent individuals have gotten far more lenient penalties in comparison to less fortunate individuals who committed comparable offenses. These case studies provide powerful examples of the systematic discrepancies that continue to exist within the Pakistani criminal justice framework, highlighting the tangible effects of sentencing disparities.

Furthermore, the existence of unequal punishments in the Pakistani criminal justice structure is a complex issue that is closely connected to socio-economic issues, political influence, and the presence of skilled legal representation. These inequalities have tangible consequences, as persons with privilege often receive less severe sentences, while marginalized individuals experience the full force of harsher sanctions. To tackle these inequalities, it is necessary to thoroughly analyze the underlying systemic problems within the legal structure and make a dedicated effort to implement reforms that guarantee fair and unbiased dispensation of justice, regardless of a person's social or economic status (Strasser, 2014).

5. Implications of Sentencing Practices on the Pakistani Criminal Justice System

Sentence procedures in Pakistan are beset with serious problems and inadequacies that affect the criminal justice system as a whole, not only criminal laws and courts. These effects are extensive, impacting social cohesion, public confidence, and the efficient running of the criminal justice system. This article examines the intricate consequences of sentencing policies, highlighting the wide-ranging effects that have an impact on the criminal justice system as a whole. The fundamental effect of Pakistan's sentencing system shortcomings is a decline in public trust in the criminal justice systems. People lose faith in the fairness and impartiality of the legal system when they think that sentences are decided at random or influenced by elements such as socioeconomic status or political influence. The legitimacy of the judicial system is undermined by the public's declining trust in it, which may cause

unfairness and disillusionment. As confidence declines, the inclination of individuals to collaborate with law enforcement, act as witnesses, or disclose crimes decreases, ultimately undermining the system's capacity to uphold law and order (Ali, 2015).

The consequences of the shortcomings in sentencing are not limited to the domain of legal procedures; they can also have significant societal ramifications. The discrepancies in sentence results frequently elicit feelings of inequity and dissatisfaction, which may potentially result in social turmoil. When individuals in a society believe that justice is difficult to achieve or that specific groups of people are unfairly privileged, there is an increased likelihood of civic dissatisfaction and turmoil. To ensure social cohesion and prevent the exacerbation of social conflicts, it is crucial to address these inequalities. Moreover, the excessive number of inmates in correctional facilities due to extended periods of incarceration for relatively small crimes has severe repercussions for the penal system. Overpopulated correctional facilities place excessive demands on resources, leading to problems such as subpar living conditions, insufficient rehabilitation prospects, and heightened recidivism rates. The correctional system, initially conceived to promote the rehabilitation and readmission of offenders, gets overwhelmed by a population that is frequently non-violent and offers a minimal threat to society. This condition not only undermines the objectives of justice but also redirects resources away from addressing more urgent matters, such as violent crime.

Moreover, the consequences of Pakistan's sentencing methods have a wide-reaching impact beyond the confines of the courtroom. The deterioration of public trust, possibility for social upheaval, and burden on the prison system all emphasize the urgent requirement for reforms that guarantee fairness, openness, and fairness in sentencing. To tackle these consequences, it is imperative to undertake a thorough restructuring of the sentencing mechanism in Pakistan. This should be motivated by the goal of achieving fairness and maintaining social cohesion within the country's criminal justice framework (Ahmed, N., Kamran, R., & Anwar, 2020).

6. Recommendations for Reforming Sentencing Practices in Pakistan

The urgency to improve Pakistan's sentencing procedures is of utmost importance. In order to tackle the prominent challenges that have been emphasized, a comprehensive and diverse strategy is necessary. The subsequent suggestions embody an all-encompassing approach to revamp the sentencing system, promoting equity, clarity, and righteousness within the Pakistani criminal justice framework:

6.1. Standardization of Sentencing Guidelines

To address the problems of unequal sentencing, the initial and essential measure is the implementation of uniform sentencing guidelines. The guidelines should establish unambiguous, easily understood, and uniform criteria for judges to use in sentencing decisions. These rules can mitigate the impact of judicial discretion and guarantee uniform punishment for similar actions. Standardization is crucial in advancing impartiality and egalitarianism in the legal system (Munir, R., Abbas, & Arshed, 2021).

6.2. Improved Access to Legal Representation

Having access to skilled legal counsel is a fundamental pillar of a fair and equitable legal system. In order to address the discrepancies in sentencing that arise from insufficient legal representation, it is crucial to enhance the accessibility of high-quality legal counsel, especially for marginalized and

underprivileged individuals. This may entail establishing systems for offering legal assistance to impoverished defendants, guaranteeing that all charged individuals have access to expert legal counsel and representation.

6.3.Increased Transparency in Sentencing

Transparency plays a crucial role in establishing public confidence in the criminal justice systems. In order to promote greater openness in the judicial process, courts should contemplate the dissemination of de-identified sentence information. This data can offer valuable perspectives on patterns in sentencing, guaranteeing that the public is well-informed about the principles and elements that influence sentence determinations. Transparency not only ensures the system's responsibility but also strengthens the perception of justice being upheld.

6.4.Comprehensive Review of Qisas and Diyat Laws

A meticulous and all-encompassing examination is necessary for the Qisas as well as Diyat legislation, specifically in relation to crimes committed against individuals. The objective of this evaluation should be to ensure that these laws are in accordance with international human rights norms. The document should explicitly tackle any uncertainties, possibilities of abuse, and any inconsistencies with the ideals of justice as well as fairness. The aim is to guarantee that these laws preserve the fundamental rights of individuals and align with the changing principles of Pakistani society.

6.5.Continuing Legal Education

An established program of ongoing legal training should be implemented to ensure judges make consistent and well-informed decisions. This program offers continuous training to judges on developing legal rules, sentencing instructions, and current best practices. Improving the expertise and skills of judges can significantly promote the impartial and just dispensation of justice.

6.6.Data-Driven Sentencing Analysis

Utilizing data-driven sentencing research can offer a method of decision-making that is grounded in empirical facts. Through analyzing the consequences of various sentencing methods, the legal system can modify and refine its tactics to better conform to societal expectations and changing standards of justice (Gul, P., & Ali, 2020).

7. Conclusion

A just as well as orderly society relies on a fair and efficient criminal justice system as its crucial foundation. The urgency to tackle the crucial matters pertaining to sentencing practices in Pakistan is of utmost importance in order to achieve broader objectives of reform and strive for a fair and equitable legal framework. The measures outlined in this essay signify a substantial advancement towards this admirable goal. The execution of the proposed reforms is essential for Pakistan's progress towards a fair and impartial criminal justice systems. Implementing uniform sentencing guidelines, enhancing availability to legal counsel, enhancing transparency, and evaluating relevant legislation all contribute to establishing a judicial system that promotes equity, uniformity, and impartiality for all its constituents. The purpose of these reforms is to restore public confidence, reduce discrepancies in sentencing, and guarantee that the law serves as a defender of rights, regardless of an individual's

socioeconomic or financial status. This research work aims to make a valuable addition to the ongoing discussion on the need for reform in the criminal justice system in Pakistan. By illuminating the difficulties and presenting practical remedies, it aims to serve as a catalyst for beneficial transformation. The ultimate objective is to cultivate a society in which the supremacy of legal principles is kept, where justice is impartial and unaffected by privilege or bias, and where the rights and honor of all individuals are maintained. Pakistan is moving closer to its goal of being a more equitable and impartial society, where the criminal justice mechanism is guided by the ideals of equality, accountability, and justice.

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