PAKISTAN JOURNAL OF LAW & POLICY
LAW • POLICY • CONSTITUTIONALISM • JUSTICE
ISSN (PRINT) 3137-185X
ISSN (ONLINE) 3137-1868
Volume 1, Number 1

Delay in Criminal Trials and the Right to a Fair Trial in Pakistan

Junaid Jan

LLM Scholar, Postgraduate School of Legal Studies, University of Punjab, Pakistan. E-Mail: junaid.jan@iub.edu.pk
Corresponding author: Junaid.jan@iub.edu.pk

RECEIVED	ACCEPTED	PUBLISHED
12-06-2025	11-08-2025	30-12-2025

ABSTRACT

One of the most persistent problems in the administration of justice in Pakistan is the delay in criminal proceedings. At the end of 2024 some 2.36 million cases were said to be pending before the country's courts, over four-fifths of them in the district judiciary. In the same year nearly three-quarters of the people held in Pakistan's prisons were unconvicted. The present article analyses the legal and institutional factors that contribute to the delay of criminal trials and their implications for the right to a fair trial guaranteed by Article 10A of the Constitution. It uses doctrinal analysis of the Code of Criminal Procedure, 1898, special statutes and leading judgements of the Supreme Court and High Courts, and published pendency, disposal and prison data, to look at weaknesses in investigation and prosecution, adjournments and non-attendance of witnesses, forensic capacity, judicial vacancies and case management. Its central argument is that most delay is avoidable and serves no fair trial purpose, and that only part of the time criminal cases take is the necessary price of safeguards such as disclosure, cross-examination and proper testing of evidence. The article finds that Pakistani law addresses delay through bail but not through enforceable timeliness duties, that statutory deadlines without capacity have failed, and that lack of published data on trial length and adjournments is itself a serious barrier to reform. It proposes priority reforms in early case assessment, scheduling, digital case tracking, witness protection, forensic capacity and judicial performance monitoring.

KEYWORDS

criminal trial delay • fair trial • Article 10A • pre-trial detention • bail • case management •

https://doi.org/10.62585/pjlp2

Licence: © [2025] The Author(s). Published under a Creative Commons Attribution 4.0 International Licence (CC BY 4.0).

01 GENERAL INTRODUCTION

1.1 The Problem of Delay in the Criminal Process

The scene would be a familiar one to anyone who has ever spent a morning in the corridor of a sessions court in Pakistan. Under-trial prisoners are brought in a police van, kept in a lock-up for hours and then taken back to jail after their case is called and adjourned, as a witness has not turned up, the prosecutor has to be in another court, the forensic report is awaited or the presiding judge is on leave. Complaining workers who have taken a day off from work go home without saying a word. The next date is written on the file, sometimes weeks away, and it may happen again. In Pakistan, lawyers sometimes joke that a criminal case is "decided by calendar". The joke is not funny for the people involved.

The magnitude of the problem is reflected in the figures published by the Law and Justice Commission of Pakistan (LJCP) on court pendency. By the end of 2023, there were around 2.26 million cases pending before all courts in the country, of which around 1.86 million, or 82 per cent, were in the district judiciary, and roughly 36 per cent of district-level pendency consisted of criminal cases (ARY News, 2024; Associated Press of Pakistan [APP], 2024). The total pendency was around 2.36 million, according to reports in the end-2024 figures of the LJCP (Minute Mirror, 2025). What these numbers don't show is the time taken for any particular trial, a point to which I return below, but they do show that the system is not coping with the work coming into it.. In the prisons the picture is worse. In 2024, about 73 percent of the people in Pakistan's prisons were unconvicted and the prisons were holding about one and a half times their official capacity (Justice Project Pakistan [JPP], 2025).

The delay in criminal trials is not merely an administrative inconvenience. Every adjournment for an accused person in custody means another few weeks in detention before guilt has been proven. The delay adds to the uncertainty for the victim and the victim's family, and exposes them to pressure to compromise or withdraw. Delay weakens evidence and wastes public money for the state. And a criminal process that takes years to reach a verdict that is often an acquittal does little for the public's confidence in the law.

1.2 Timely Justice and Guarantees of a Fair Trial

The common phrase "justice delayed is justice denied" oversimplifies the complex relationship between speed and fairness. Article 10A of the Constitution of the Islamic Republic of Pakistan, since the Eighteenth Amendment in 2010, guarantees that "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". text does not mention velocity. There is however a consensus both inside and outside Pakistan that a trial that requires an unreasonable length of time cannot be a complete fair trial. The International Covenant on Civil and Political Rights (ICCPR), ratified by Pakistan in 2010, states that anyone charged with a criminal offence shall be "tried without undue delay" (Article 14(3)(c)), and that a person detained on a criminal charge shall be tried "within a reasonable time or to release" (Article 9(3)). Article 37(d) of the Constitution, among the Principles of Policy, requires the State to "ensure inexpensive and expeditious justice".

At the same time, a lot of what takes time in a criminal trial is there to protect fairness. The accused must receive advance copies of the prosecution case, must have the right to cross-examine witnesses, must have time to prepare a defence and to engage counsel, and may require adjournments if fresh evidence is discovered. Pakistani courts have repeatedly warned that "speedy" trials that skip these corners are not acceptable. 5. In Sh. v. The Supreme Court. Liaquat Hussain v. Federation of Pakistan (PLD 1999 SC 504), which did away with military courts for civilians in the guise of speedy justice, is a reminder that speed can be used to justify procedures that are intrinsically unfair. Any serious discussion of delay must therefore differentiate between time required for fairness and time wasted.

1.3 Research Questions, Scope and Structure

This article asks one major question: what are the legal and institutional factors that produce long criminal trials in Pakistan? How can the system be made faster without compromising the fair-trial rights of accused persons and the interests of victims?

It divides the main question into four sub-questions:

1. Criminal trials must be held expeditiously, as required by Article 10A of the Constitution, the Code of Criminal Procedure, 1898 (CrPC), special statutes and the case law of the superior courts.
2. What are the main causes of delay and which ones are legally required safeguards and which ones are avoidable sources of delay?
3. What is the impact of delay on the accused, victims, witnesses, the quality of evidence and public confidence?
4. What do the available data on pendency and disposal show, what can be learnt from some foreign models of case-management and what reforms follow?

The scope is confined to criminal trials before the ordinary criminal courts, that is, magistrates and courts of session, with some reference to anti-terrorism and special courts where their statutory time limits are instructive. I do not deal with accountability (NAB) cases in detail, though some bail case law from that context is relevant, nor do I deal with military courts. The study extends through the end of 2025.

After a review of the literature and a description of the methodology, the article presents the legal framework and then analyses the causes of delay and its consequences. It then discusses the available empirical evidence, a brief comparative assessment, the proposed reforms, the main findings, a conclusion and a set of prioritised recommendations.

02 REVIEW OF THE LITERATURE

2.1 Delay as a Problem for Courts and Systems

There is a long history of writing on court delay in common-law jurisdictions. Research in the United States in the 1970s and 1980s has highlighted the significance of ‘local legal culture’ in explaining delay, i.e. the shared expectations of judges, prosecutors and defence lawyers as to how quickly cases should move, rather than caseload or resources (Church et al., 1978). Courts with similar caseloads and resources moved at very different speeds because their practitioners had come to accept different norms about adjournments and readiness for trial. Later work by the National Center for State Courts built upon this to argue that timeliness, efficiency and quality need not pull against each other. In a study of nine state criminal trial courts, Ostrom and Hanson found that courts that disposed of cases more quickly generally did not do so at the expense of the quality of justice and that active judicial management of the calendar was a common feature in the faster courts.

Feeley (1979), in a study of a lower criminal court in New Haven, introduced a different and important notion, that for many defendants "the process is the punishment." The costs of repeated court appearances, lost wages and pre-trial detention were often greater than the eventual sentence. Feeley’s point is pertinent to Pakistan, where many people spend more time in custody waiting for trial than they would be jailed for if convicted.

In Europe, the Council of Europe’s European Commission for the Efficiency of Justice (CEPEJ) has developed a set of tools to measure and manage judicial time, including clearance rates, disposition time and the age of

pending cases, and the "SATURN" guidelines on judicial time management (European Commission for the Efficiency of Justice [CEPEJ], 2021). The CEPEJ approach is useful in the sense that it treats delay as something that can be measured and managed at the level of each court, rather than as an abstract failure of "the system".

2.2 Pakistani Scholarship and Policy Reports

Although almost every account of the justice sector alludes to the problem, there is a surprising dearth of academic writing on criminal trial delay in Pakistan. The deepest historical explanation is given by Siddique (2013). He maintains that the formal criminal justice system, inherited from the colonial era, is still "alien" to many of those it serves and that its procedures are slow, expensive and easily manipulated by the moneyed or influential, pushing many disputes into informal forums like jirgas and panchayats. In this account, delay is not a technical malfunction but a feature of a system that lacks social legitimacy.

Policy organisations have been more focused. International Crisis Group's report on reforming Pakistan's criminal justice system identified poor investigation, weak prosecution, lack of coordination between police and prosecutors and misuse of adjournments as the central causes of delay and low conviction rates (International Crisis Group [ICG], 2010). Police are poorly resourced, politicised and poorly trained in investigation (Abbas 2011), and police reform is a prerequisite for any improvement in trial outcomes. In a survey of the judicial system commissioned by the Supreme Court, Hussain (2015) identified persistent issues of vacancies, poor infrastructure and absence of case-management tools in the district judiciary. More recently Ali and Hassan (2022) used LJCP reports of 2014 to 2020 to show that total Pendency rose to about two million cases and argued for more judges, alternative dispute resolution and technology.

Since 2020, the work on prisons and pre-trial detention has increased. In partnership with the National Commission for Human Rights, Justice Project Pakistan has released its annual prison data reports. The 2024 report, published in January 2025, recorded approximately 102,000 prisoners in 128 facilities, found that about three-quarters of them were under trial and associated overcrowding to slow trials, weak bail practice and overuse of pre-trial detention (JPP, 2025).

2.3 Article 10A Doctrinal Writing

Since 2010 there has been a body of judicial and academic commentary on the content of Article 10A. The Supreme Court's discussion of the article in Suo Motu Case No. 4 of 2010 (PLD 2012 SC 553) drew on international instruments and comparative law to identify its elements, including notice of the charge, an adequate opportunity to defend, an independent and impartial forum and a decision within a reasonable time. Commentators have welcomed Article 10A as a constitutional anchor for procedural rights, but my own reading of the case law is that courts have used it mostly to correct specific procedural defects in individual cases, such as a refusal to allow cross-examination, rather than to address systemic delay.

2.4 Literature Gap

I see two gaps in the existing literature. First, it has a way of listing reasons for delay without asking which of them are justified by fairness and which are not. Cause lists are common in newspaper columns and reports, but they rarely distinguish an adjournment granted because the defence needs time to examine a late forensic report from an adjournment granted because the investigating officer has not bothered to turn up. Secondly, the debate in Pakistan often jumps straight from the problem to suggestions for fixed time limits, without considering why previous time limits, such as the seven-day rule in anti-terrorism cases, have not worked. The article seeks to fill both gaps by organising its analysis around a distinction between necessary and avoidable delay, and by testing proposed reforms against the experience of existing statutory deadlines.

03 METHODOLOGY

This is a mixed doctrinal and empirical study, although the empirical part is modest and is reliant on published secondary data. The doctrinal part consists of a close reading of the Constitution (especially Articles 4, 9, 10, 10A and 37(d)), the CrPC, the Qanun-e-Shahadat Order, 1984, the Anti-Terrorism Act, 1997, the Anti-Rape (Investigation and Trial) Act, 2021, provincial prosecution and witness-protection statutes, and the leading judgements of the Supreme Court and High Courts on bail for delay, fair trial and investigation. Cases were chosen because they are often cited in later judgements on these questions.

The empirical part is based on published data on pendency, institution and disposal of cases mainly from the annual and bi-annual judicial statistics reports of the LJCP, and on prison data published by Justice Project Pakistan with the National Commission for Human Rights. I also use data on judicial vacancies and conviction rates where published. The analysis is descriptive: I compare numbers over years and between levels of the judiciary, and I compute simple ratios such as clearance rates where both institution and disposal numbers exist.

I must be upfront about the limitations of this data. Since I could not access the LJCP website directly while writing this article, the figures of the LJCP for 2023 and 2024 are taken from press reports of the Commission's reports (ARY News, 2024; APP, 2024; Minute Mirror, 2025) and from the Commission's own summary statements as mentioned in those reports. Some reports give slightly different figures for the same date, and I note these discrepancies where they are significant. More fundamentally, I could find no published national data on several key issues: the average or median length of a criminal trial from charge to judgement; the number of adjournments per case and the reasons for them; the rate of witness non-attendance; the turnaround time for forensic reports in the trial context; or the age profile of pending criminal cases. The LJCP data also do not consistently distinguish criminal and civil cases at the district level across years. These gaps constrain the empirical analysis, and they constitute a finding in their own right, discussed in Section 5.

The comparative part is operational, not representative. England and Wales, the United States, and India were selected because they share a common law adversarial tradition, because much of the history of the CrPC is rooted in India, and because each has developed a distinct approach to managing criminal trial time. The case law of the European Court of Human Rights on "reasonable time" and the CEPEJ tools are incorporated as they provide well-developed criteria to evaluate whether delay is justified.

04 THE LEGAL FRAMEWORK

4.1 Article 10A and Related Constitutional Safeguards

The Constitution (Eighteenth Amendment) Act, 2010 has inserted Article 10A in the Constitution. Prior to that, the superior courts had already dealt with fair trial as part of "due process" and of the right to be dealt with in accordance with law under Article 4, and of the right of access to justice, which the Supreme Court in Mehram Ali v. Federation of Pakistan (PLD 1998 SC 1445) described as including the right to an independent and impartial tribunal. Article 10A provided a separate textual basis for this and made it a fundamental right enforceable under Articles 184(3) and 199.

The Supreme Court's most extensive early discussion of Article 10A was, oddly enough, in a contempt case against a sitting Prime Minister, Suo Motu Case No. 4 of 2010 (PLD 2012 SC 553). The Court identified several elements of a fair trial on the basis of article 14 of the ICCPR and of comparative case law, such as public hearing before an independent and impartial court, adequate notice of the charge, adequate opportunity to prepare and present a defence, and decision within a reasonable time. Later rulings have interpreted Article

10A as including rights such as the right to cross-examination, the right to a reasoned decision, and the right to be provided with copies of material relied upon by the prosecution. What the courts have not done is to develop a separate test for when delay itself constitutes a breach of Article 10A, as the European Court of Human Rights has done under Article 6(1) of the European Convention. As I explain below, Pakistani law deals with delay primarily through bail rather than through a free-standing remedy.

Three other constitutional provisions are pertinent. Life and liberty are protected by Article 9, and the courts have long read this as a right to a dignified existence and freedom from arbitrary detention. Article 10(2) provides that an arrested person shall be produced before a magistrate within 24 hours. And Article 37(d) is a Principle of Policy which is not directly enforceable but guides the State to provide "inexpensive and expeditious justice". Courts frequently turn to Article 37(d) for interpretive guidance in determining how to apply rules of procedure.

4.2 Code of Criminal Procedure, 1898

The CrPC was enacted during the colonial period and despite several amendments, still provides the basic framework of the criminal process in Pakistan. It contains some provisions about timing, but very few of them have any real consequences if ignored. The most relevant are summarised in Table 1.

In the investigation phase, section 167 limits police custody (physical remand) to a maximum of 15 days, after which the accused has to be sent to judicial custody. Section 173 provides that every investigation shall be completed 'as soon as possible' and where the same is not completed within fourteen days of the registration of the First Information Report, the officer in charge of the police station shall forward an interim report to the Magistrate. In practice, as case law demonstrates, challans (police reports) are frequently filed months or even years after the FIR, sometimes as 'incomplete' challans that leave essential evidence, such as forensic reports, to be added later.

An important guarantee of fair trial is provided in Section 265-C which provides that the prosecution should supply the accused with copies of the FIR, statements of the witnesses and other documents at least seven days before the commencement of the trial at the trial stage. General rule regarding adjournments is in subsection 344. It allows a court to adjourn or defer trial "if, on account of the absence of a witness, or for any other reasonable cause, it becomes necessary or desirable" and limits each remand of a person in custody under the section to 15 days at a time. The explanation to the section clarifies that reasonable cause can be the need to obtain further evidence. The section does not limit the number of adjournments of a case or require the court to record detailed reasons other than what is "reasonable".

Sections 249-A and 265-K give magistrates and sessions courts the power to acquit an accused "at any stage" if the charge is groundless or there is no chance of conviction. These provisions, if used properly, allow a court to terminate hopeless prosecutions at an early stage. In practice courts are cautious in the use of these provisions before evidence has been recorded. Section 540 of the Code provides for the power of the court to summon any person as a witness at any stage and section 512 provides for recording of evidence in the absence of an absconding accused. Section 510 provides that the reports of certain government scientific experts, for example the chemical examiner and the serologist, may be put in evidence without calling the expert, which is designed to save time.

4.3 Statutory Bail for Delay: The Third Proviso to Section 497

The most important legal remedy for delay in Pakistani law is the right to bail on the ground of delay under the third proviso to section 497(1) CrPC. The proviso, as it stands, states that a court shall release an accused on bail if he is in custody for a continuous period exceeding one year (in an offence not punishable with death) or two years (in an offence punishable with death) and his trial has not concluded unless the delay was

"occasioned by an act or omission of the accused or any other person acting on his behalf". The fourth proviso excludes persons charged with an offence who have previously been convicted of serious offences, or who are, in the opinion of the court, "hardened, desperate or dangerous" criminals or persons charged with terrorism. The provisos have a complicated history. They have been omitted, reintroduced and omitted again since their introduction in 1979. This is part of the reason the case law is not entirely consistent.

In Zahid Hussain Shah v. The State (PLD 1995 SC 49), the Supreme Court held that bail under the third proviso is a statutory right and not a matter of general discretion of the Court and cannot be refused if the conditions are satisfied and none of the exceptions is applicable. Subsequent decisions have dealt with delay 'occasioned by' the accused. The Court in Abdul Rashid v. The State (1998 SCMR 897) held that an omission as well as an act of the accused or his counsel can disentitle him. In more recent decisions the Court has insisted that the prosecution must show a deliberate attempt to delay and that the mere fact that the defence sought some adjournments does not defeat the right. In the bail order in Nadeem Samson v. The State (Supreme Court of Pakistan, decided 6 January 2022), Justice Syed Mansoor Ali Shah explained that the purpose of the proviso is to secure expeditious trials and to cap pre-conviction detention, and released the accused, who had been held for about four years on a blasphemy charge.

In addition to statutory scheme, the courts have also recognised "hardship" bail on the ground of inordinate delay, a principle which goes back to Riasat Ali v. Ghulam Muhammad (PLD 1968 SC 353). In accountability cases where CrPC bail provisions do not apply in the same manner, the Supreme Court in Talat Ishaq v. National Accountability Bureau (PLD 2019 SC 112) held that bail on the ground of delay is ordinarily allowed only where the delay or period of custody is "shocking, unconscionable or inordinate", and that a direction by a superior court to a trial court to conclude a trial within a fixed time is an administrative direction whose breach does not by itself entitle the accused to bail. That last point is key. That means the time limits laid down by the superior courts which are very common in Pakistan do not confer enforceable rights on the accused persons.

The general bail principles are also important. In Tariq Bashir v. The State (PLD 1995 SC 34), the Supreme Court held that bail is the rule and refusal is the exception in offences not falling under the prohibitory clause of section 497 (generally, offences punishable with less than ten years imprisonment). If magistrates and sessions courts followed this principle consistently, there would be fewer people in custody for long trials. implying that it does not, given the persistently high proportion of under-trial prisoners.

4.4 Special Statutes and Their Periods of Limitation

There are a number of special statutes which prescribe more stringent time limits than the CrPC. Under Section 19(7) of the Anti Terrorism Act, 1997 (ATA), an anti-terrorism court, on taking cognisance, shall proceed with the trial from day to day and decide the case within seven days, failing which the matter shall be reported to the Chief Justice of the High Court. Section 19(8) restricts the court to two adjournments during the trial, with exemplary costs. The Anti-Rape (Investigation and Trial) Act, 2021 provides for special investigation units and special courts for sexual offences and provides for trials for scheduled offences to be held in camera and to be concluded, in the first instance, within a period of four months and restricts adjournments. Special courts are also provided for under the Control of Narcotic Substances Act, 1997.

These provisions are instructive precisely because they have, for the most part, not succeeded in their aims. Terrorism trials often take months or years and in practice a breach of the seven day limit has not been seen to invalidate a trial; the High Courts own seven day limit for deciding appeals in relation to terrorism under section 25 is also widely missed I couldn't find any published data on what the average length of anti-terrorism trials actually is. The lesson I draw is not that time limits are a bad idea but that a deadline written

into a statute with no investigative, prosecutorial and forensic capacity to meet it will simply be ignored, and may even encourage rushed and unfair trials in the few cases where a judge feels pressure to comply.

4.5 Recent Reform Proposals

The federal cabinet approved a Code of Criminal Procedure (Amendment) Bill moved by the Minister for Law and Justice in its meeting in December 2024, proposing, inter alia, that trial courts should decide criminal cases within one year and explain delays to the relevant High Court and that appeals be decided within fixed periods (Daily Pakistan, 2024). To the best of my knowledge, the bill did not pass by the end of 2025, and an updated version was still in a National Assembly committee in September 2025. I see it as a proposal but not the law. But it is important in the sense that it shows that the government views fixed timelines as the main solution to delay. I return to this assumption in §§5 and 6.

Table 1 // *Statutory Time Limits and Delay-Based Safeguards in Criminal Procedure of Pakistan*

Provision	Rule in practice	Effects of breach
Constitution, Art. 10(2)	Arrested person to be produced before magistrate within 24 hours	Detention unlawful; habeas corpus under Art. 199
CrPC s. 167	Police (physical) remand limited to total of 15 days	Any further remand must be judicial
CrPC s. 173	Investigation without undue delay; interim report if not completed in 14 days	No penalty; late & incomplete challans frequent
CrPC s. 265-C	Copies of prosecution material to accused not less than 7 days before trial	Adjournment; fairness objection on appeal
CrPC s. 344	Adjournment for absence of witness or other "reasonable cause"; custody remand up to 15 days at a time	No limit on adjournments
CrPC s. 497(1), 3rd proviso	Grant of bail where custody exceeds 1 year (non-capital) or 2 years (capital) and trial not concluded, unless delay caused by accused	Statutory right to bail (Zahid Hussain Shah, PLD 1995 SC 49) but only on application.
ATA 1997, s. 19(7)–(8)	Day to day trial; Decision within 7 days of cognisance; Maximum two adjournments	Report to High Court; Trial not vitiated
Anti-Rape (Investigation and Trial) Act 2021	"Trial in camera, preferably within 4 months; adjournments restricted"	Target only; no stated consequence
Directions of superior court	Direction to trial court to dispose of case within specified period	Administrative direction; no right to bail (Talat Ishaq, PLD 2019 SC 112)
CrPC (Amendment) Bill 2024 (proposed)	Trial within one year; delay to be explained to High Court	Approved by cabinet December 2024; not enacted by end of 2025, as far as could be established

Note. *ATA = The Anti-Terrorism Act, 1997; CrPC = The Code of Criminal Procedure, 1898. Compiled by the author from the statutes and cases cited; the wording of the Anti-Rape Act and ATA provisions is summarised from secondary sources and should be checked against the official text.*

4.6 International Norms

Article 14(3)(c) of ICCPR guarantees the right 'to be tried without undue delay'. Article 9(3) gives that anyone arrested on a criminal charge 'shall be brought promptly before a judge' and 'shall be entitled either to trial within a reasonable time or to release'. The UN Human Rights Committee has explained that the right to be

tried without undue delay is intended to avoid keeping individuals in a state of uncertainty about their fate for too long and, if held in detention, to ensure that such deprivation of liberty does not continue for longer than necessary; what is reasonable will depend on the complexity of the case, the conduct of the accused and the manner in which the authorities have handled the matter (UN Human Rights Committee, 2007, para. 35). The Committee has also observed that pre-trial detention should be an exception and as short as possible (UN Human Rights Committee, 2014, para. 38). These standards are binding on Pakistan as a party to the ICCPR and have been invoked by the Supreme Court in interpreting Article 10A.

05 REASONS FOR DELAY

The reasons for delay in Pakistani criminal trials are well known in generic terms. Less often done, however, is to distinguish them by whether they serve fairness. I divide the causes into four groups according to the outline of this study. For each I enquire whether the delay is legally necessary, partly necessary, or avoidable. Later in the article, Figure 2 shows how these causes relate to the stages of a criminal case.

5.1 Weaknesses in Investigation and Prosecution

The delay is caused, most observers agree, by the quality of the investigation, before the trial even begins. For a long time, the police investigation in Pakistan has been criticised for relying on confessions and eyewitnesses and for being weak in scientific evidence and open to influence by complainants, accused persons and politicians (Abbas, 2011; ICG, 2010). Even in ordinary police stations investigation officers often have to deal with dozens of cases at a time, apart from law-and-order duties, although the Police Order, 2002, had envisaged separation of investigation from 'watch and ward'.

Delay is caused by poor investigation in at least three ways. For example, first, challans are filed late or incomplete so that the trial cannot start or has to wait for supplementary reports. Secondly, the challan usually has a long list of witnesses, many of whom have no role to play because the investigating officer has not filtered the evidence. All these witnesses have to be summoned. Thirdly, a bad investigation leads to a bad case, which the defence can attack at length, often leading to acquittal after years of proceedings. The Supreme Court has taken notice of the problem of false or exaggerated FIRs in a number of cases. For instance, in Sughran Bibi v. The State (PLD 2018 SC 595) it was noted that ordinarily one FIR should be registered for one occurrence and that the investigating officer is bound to investigate all the versions, in part to avoid multiplication of proceedings. The Lahore High Court in Khizar Hayat v. Inspector-General of Police (PLD 2005 Lahore 470) had provided a detailed guidance on the role of the ex-officio justice of the peace vis-à-vis FIRs to ease the burden on the courts of petitions about registration.

The prosecution service was supposed to be a filter. Other laws such as the Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2006 and Sindh Criminal Prosecution Service Act, 2009 empower prosecutors to scrutinise police reports and return them if defective. In practice, however, prosecutors are often too few, too junior and overloaded to perform this role and the relationship between police and prosecution remains uncomfortable (ICG, 2010). A challan that is well-scrutinised and has a realistic list of witnesses will shorten many trials by a good margin. This kind of delay is, in my opinion, largely preventable. Fairness does not require poor investigation, and is in fact threatened by poor investigation, because it increases the risk of convicting the wrong person.

5.2 Multiple Adjournments & Witnesses not Attending

The most visible reason for delay, and the one most often blamed on lawyers and judges, is adjournments. A normal criminal trial in a sessions court is not heard in one continuous sitting, but in brief sittings spread over many months and evidence is recorded in bits and pieces. According to practitioners and court

observers, the most common reasons for adjournments are: non-appearance of prosecution witnesses; non-appearance of defence counsel (often due to engagements in other courts or strikes called by bar associations); non-production of the accused from jail; and transfer or leave of the presiding officer. Some adjournments are legitimate, such as to allow the defence to study late served material or to allow new counsel to prepare. Many aren't.

Witnesses' non-attendance is to be singled out. Police officers, doctors and forensic experts are often unavailable as official witnesses because they are posted away or otherwise engaged, and there are few consequences for their absence. Private witnesses may not come because they are afraid, because they have been threatened or bribed, because they cannot afford to lose a day's wages, or because the case has been informally compromised. The coercive processes of the CrPC like bailable and non-bailable warrants are slow and are executed by the same police whose investigation is being tested. This is aggravated by the absence of effective witness protection, discussed below.

A related question is the attitude of the courts to witnesses giving false evidence. In Notice to Police Constable Khizar Hayat (PLD 2019 SC 527), a bench headed by Chief Justice Asif Saeed Khan Khosa had held that principle falsus in uno, falsus in omnibus would be applied and witnesses who lie should be prosecuted. The ruling was meant to tackle the long-standing tolerance for partly false evidence in Pakistani criminal cases, which prolongs trials as every witness has to be cross-examined in detail. Has it changed practice? Difficult to say without data.

They are partly unavoidable and partly necessary security measures. The right to prepare a defence and the right to counsel of one's choice under Article 10A will in some cases justify an adjournment. But the current system, which regularly provides for adjournments without costs and without any definite timetable for the trial as a whole, is well beyond what fairness requires.

5.3 Challenges of Evidence and Delays in Forensics

Pakistan has come a long way in forensic science over the last fifteen years. The Punjab Forensic Science Agency (PFSA) was constituted by an Act in 2007 and started functioning from around 2012. It is considered to be one of the best equipped laboratories in South Asia and has handled several hundred thousand cases since it began work. In 2019, a letter published in the Egyptian Journal of Forensic Sciences reported that the DNA department of the PFSA had received around 44,000 cases and approximately 7,500 cases were pending at the time of writing (Mateen & Tariq, 2019). Other provinces have less capacity and many districts continue to depend on slow and poorly resourced chemical examiners and laboratories. The criminal caseload includes a lot of narcotics cases that are dependent on chemical reports, and cases involving firearms, DNA or digital evidence require specialised examinations that can take months.

Forensic delays impact trials in two ways. Where the forensic report is an integral part of the case for the prosecution, the trial cannot sensibly proceed without it and the court has to wait. Where the report is late, the defence is entitled to time to examine it and, if need be, to challenge it, which is a legitimate cause of delay under Article 10A. The ruling of the Supreme Court in Ishtiaq Ahmed Mirza v. Federation of Pakistan (PLD 2019 SC 675) that laid out the conditions for proving audio and video recordings, including forensic examination and chain of custody, shows that modern evidence often needs careful expert handling. Delay is an inevitable safeguard in my opinion due to the necessity of properly testing evidence. But a delay because of a backlog in a laboratory, or an investigating officer forgetting to send the sample, is not.

5.4 Judicial Vacancies, Caseloads and Administrative Constraints

The final category concerns the courts themselves. Pakistan has one of the worst judge-to-population ratios in the region. In 2021, the press reported that the number of judges in the High Courts and district courts

was around 3,067 with 1,048 posts vacant, while the Punjab district judiciary had around 1,616 judges in post against a sanctioned strength of 2,364 (Geo News, 2021). I could not find a more recent national figure published in or before 2025 and these figures should be taken as indicative. Each sessions judge and magistrate has a large docket of civil and criminal cases, and criminal work is competing with civil work for the same judicial time.

Administrative matters are also important. Frequent transfers of judges mean that a trial may be heard by several presiding officers who each have to familiarise themselves with the file. Courts and support staff are insufficient in many districts. Police escorts which may not be available are vital for the production of under-trial prisoners from jail. In some districts, the courts are closed for days at a time because of frequent bar strikes. Modern case management, with a schedule for each case set in the beginning, remains the exception and not the rule. There is nothing in equity that makes these delays necessary. In the parlance of this article, they are preventable.

06 CONSEQUENCES OF DEFERRED TRIALS

6.1 Pre-trial Detention and the Rights of the Accused

The most serious effect of delay is on accused persons held in custody. According to the prison data report of Justice Project Pakistan published in January 2025, approximately 102,000 people were in prisons in Pakistan in 2024 while the capacity of the facilities was for about 66,000 and roughly 73 per cent of them were under trial (JPP, 2025). A lot of these will finally be acquitted. For them, pre-trial detention is punishment without conviction and, in Feeley's (1979) words, the process has become the punishment. Even those who are convicted may have spent longer in custody than their final sentence.

Prolonged detention has implications for the fairness of trial itself. The accused in detention has more difficulty in contacting counsel, in collecting defence evidence and in assisting a family who may be paying for the defence. In compoundable offences, there is more pressure to plead guilty or settle with the complainant. Overcrowded prisons also force prisoners on trial, presumed innocent under Article 10A and international law, to live in conditions incompatible with the dignity guaranteed by Article 14. The statutory bail provisions outlined above are designed to avoid this, but rely on the accused having a lawyer to make the application, and courts applying the law as the Supreme Court has interpreted it.

6.2 Victim and Witness Harm

While talk of delay often focuses on the accused, it takes a heavy toll on victims too. People reporting murder or sex crimes may appear in court dozens of times, over many years. This involves travel each time, loss of income and in many cases contact with the accused or his family at the court house. Delay increases the risk of intimidation and leaves more time for pressure to resolve the matter informally. In sexual offence cases, the stress of repeated adjournments and cross-examination long delayed can be re-traumatising. The low conviction rate for rape in Punjab, reported to be around five percent in 2022 and 2023 according to police data cited in the press (Dunya News, 2024), cannot be attributed to delay alone, but delay is plainly one of the reasons why victims and witnesses withdraw; 17.

6.3 Evidence loss and public confidence

Evidence disappears over time. Memories fade, witnesses move or die, and the reliability of identification evidence deteriorates. In a system where oral testimony is so important, a trial which is held three or four years after the event is seriously disadvantaged. This is bad for both sides. The prosecution might lose a strong case, and the defence might not be able to find witnesses who could corroborate an alibi. Delay is

related to the common Pakistani experience of witnesses "backing away" from their earlier testimony in court; the longer the interval, the greater the chance of compromise or intimidation.

Public confidence is also damaged by delay. The World Justice Project's (2024) Rule of Law Index ranked Pakistan 98th out of 142 countries in the criminal justice factor and 129th overall. When criminal cases take years, and often result in acquittal, people may feel the formal system does not work, and turn to informal forums or self-help, including vigilante violence. Siddique (2013) makes a relevant point about the 'alien' character of formal justice. One of the principal ways in which the formal system loses legitimacy is through delay.

6.4 Financial & Administrative Costs

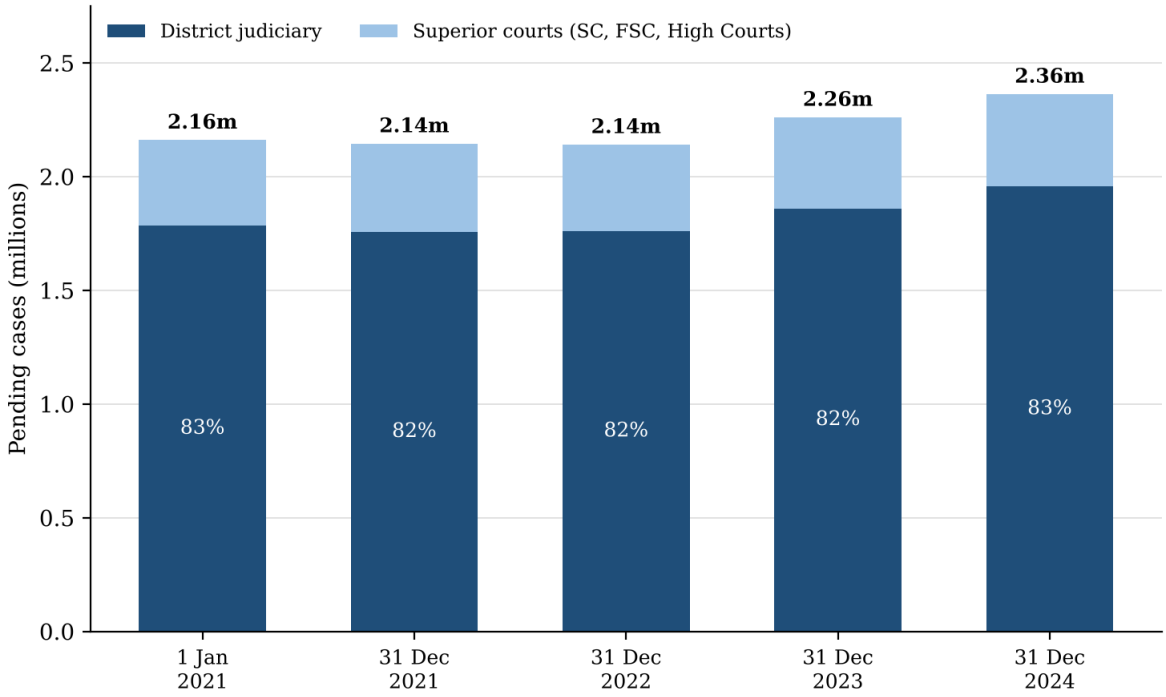
Delay is costly. Each adjournment costs money for the transport of prisoners and the time of police, prosecutors, court staff and judges, and the expense to witnesses to attend. Provincial governments also spend a lot on prison budgets to keep tens of thousands of under-trial prisoners behind bars. I could not find any published estimates of these costs in Pakistan. This, in itself, is a gap that restricts informed policy-making. But delay also exacts hidden costs from private parties: legal fees that mount with each hearing, and the economic loss to families whose earners are in custody.

07 EMPIRICAL AND COMPARATIVE EVALUATION

7.1 Pendency & Disposal Data Available

The best national source of information on court workload in Pakistan is the series of judicial statistics published by the LJCP. Figure 1 shows the total number of cases pending before all courts at five points between January 2021 and December 2024, between the superior courts (the Supreme Court, Federal Shariat Court and High Courts) and the district judiciary. The figures are extracted from press reports of the LJCP's annual and bi-annual reports, as I was unable to access the reports directly, and a parliamentary reply on superior court pendency.

Figure 1 // *Cases Pending in All Courts (Millions) Tiers of Courts in Pakistan (2021–2024)*



Note. *Compiled by the author from press reports of LJCP judicial statistics (ARY News, 2024; APP, 2024; Minute Mirror, 2025), Geo News (2021) and a parliamentary reply on superior court pendency reported by Daily Times (2023). The district figure for December 2022 is the reported national total minus reported superior court pendency. The numbers reported in different reports for the same date are slightly different. Please consider the chart as a trend and not exact numbers.*

Three points are noteworthy. First, the total pendency has grown from about 2.16 million at the beginning of 2021 to about 2.36 million at the end of 2024, an increase of about nine per cent in four years. Secondly, more than four fifths of the pending cases are in the district judiciary, where criminal trials are held. Third, the courts are deciding a very large number of cases, but not quite as large a number as are filed. For instance, in the second half of 2023, around 2.38 million cases were instituted and about 2.30 million disposed of (ARY News, 2024; APP, 2024), a clearance rate of around 97 per cent. The backlog grows if the clearance rate is less than 100 per cent, despite the hard work of the courts.

The data on criminal cases, in particular, are more limited. According to the LJCP's bi-annual report for July to December 2023, 36 percent of the cases pending in the district judiciary were criminal (ARY News, 2024). This means that by the end of 2023, around 670,000 criminal cases were pending in the district courts. I was not able to find any consistent series of district level criminal pendency for other years. Table 2 summarises the main indicators available and not available.

Table 2 // *Criminal Case Delay in Pakistan, 2021-2025 Published Data Availability*

Indicator	Latest figure found	Source	Status
Total pendency, all courts	Approx. 2.36 million (31 Dec 2024)	LJCP, as reported in Minute Mirror (2025)	**Available**
District judiciary pendency	~1.96 mn, 83% of total (31 Dec 2024)	LJCP, reported in Minute Mirror (2025)	**Available**
Share of district pendency that is criminal	36% (Dec 2023), around 0.67 million cases	LJCP, reported in ARY News (2024)	**Partial: one date**

Indicator	Latest figure found	Source	Status
Clearance rate	Approximately 97% (Jul–Dec 2023: 2.38m instituted, 2.30m decided)	APP (2024)	**Partial: all case types**
Share of prisoners awaiting trial	~73% of ~102,000 prisoners (2024)	JPP (2025)	**Available**
Prison occupancy	approx. 152% of official capacity (2024)	JPP (2025)	**Available**
Vacant judicial posts	1,048 vacant posts in High Courts and district courts (2021)	Geo News (2021)	**Partial: Dated**
Forensic turnaround	PFSA DNA backlog of approximately 7,500 cases	Mateen and Tariq (2019)	**Partial: outdated**
Median time from charge to judgement	No published figure	None	**Not available**
Adjournments per case and reasons for adjournments	No published figure	None	**Not found**
Witness non-attendance	No published figure	None	**Not found**
Age profile of pending criminal cases	No national figure published	None	**Not found**

Note. *Green = available, amber = partial, red = not found in any source published in or before 2025. LJCP=Law and Justice Commission of Pakistan; JPP=Justice Project Pakistan; PFSA=Punjab Forensic Science Agency. LJCP figures are based on press reports as the Commission's website was not accessible.*

The most critical gap is the lack of any national data on the duration of criminal cases in Pakistan. Pendency statistics tell us how many cases are in the system, but not whether a typical murder trial takes eighteen months or six years. Nor is there any published data on the number of adjournments per case, reasons for adjournments, attendance of witnesses or the time taken to receive forensic reports. Without this information it is not possible to identify with confidence the most important cause of delay, and assertions in policy debates, including my own analysis in Section 3, are based largely on practitioner experience and case law rather than systematic evidence. Some of this data is likely to be in the case management systems of High Courts but it is not made public.

Prison data are an indirect measure. With some three-quarters of prisoners in 2024 not convicted (JPP, 2025) it is reasonable to infer that the trial courts are not fast in deciding custody cases and that the bail provisions are not releasing those whose trials have overrun. This measure is affected, however, by the drug laws, and by arrest and bail practices, so it should be interpreted carefully.

7.2 Selected International Models of Case-Management

Different common-law systems have reacted differently to the problem of delay in criminal trials. Four of them are compared in Table 3.

In England and Wales, the Criminal Procedure Rules set out a "overriding objective" to deal with cases justly, which expressly includes dealing with them "efficiently and expeditiously", and impose a duty on the court to actively manage cases, including by setting a timetable early in the case. The Prosecution of Offences (Custody Time Limits) Regulations 1987 limit the time an accused may be held before trial in the Crown Court (usually 182 days) unless the prosecution can satisfy the court to extend the limit by showing good and sufficient cause and that the prosecution has acted with all due diligence and expedition. What is interesting for Pakistan is that the consequence of breach is release on bail and not the end of the prosecution and that

extension requires the prosecution to show its own diligence. But the English system has also suffered its own huge backlog in the Crown Court since the pandemic, showing that rules alone cannot compensate for a lack of judges and courtrooms.

In federal cases, the United States Speedy Trial Act of 1974 imposes strict time limits: an indictment must be filed within 30 days of arrest and trial must generally begin within 70 days of the indictment, with a list of "excludable" periods. Charges may be dismissed for breach. In Barker v. Wingo (1972), the Supreme Court also created a four-factor constitutional test for the Sixth Amendment right to a speedy trial: the length of delay, the reason for the delay, the assertion of the right by the defendant, and the prejudice to the defendant.

The most relevant comparison is India, because the origin of the criminal procedure in India and Pakistan is the same. In Hussainara Khatoon v. Home Secretary, State of Bihar (1980), the Supreme Court of India held that a speedy trial is part of the right to life and liberty under Article 21 of the Indian Constitution. It was discovered in this case that thousands of under-trial prisoners in Bihar had been in jail for a longer time than the maximum sentence for the offences they were accused of. But in P. In Ramachandra Rao v. State of Karnataka (2002) a seven-judge bench held that courts cannot fix any outer time limit for the completion of trials, as each case depends upon its own facts. Replacing India's Code of Criminal Procedure of 1973, the Bharatiya Nagarik Suraksha Sanhita, 2023, implemented in 2024, sets time limits for each phase, encourages electronic summons and video-conferencing and provides for release on bond of a first-time under-trial prisoner who has undergone one-third of the maximum sentence for the offence.

Finally, under Article 6(1) of the European Convention the European Court of Human Rights determines whether criminal proceedings have lasted for a "reasonable time" by looking at the complexity of the case, the conduct of the applicant, the conduct of the authorities and what is at stake for the applicant. This is complemented by the CEPEJ of the Council of Europe, which provides practical tools for courts, such as the setting of time frames for categories of cases and the monitoring of the age of pending cases (CEPEJ, 2021).

Table 3 // *Selected Models of Criminal Case-Management and their Applicability to Pakistan*

Jurisdiction	Main instrument	Effect of delay	Transferability to Pakistan
England and Wales	Criminal Procedure Rules: overriding objective and duty of active case management; early trial timetable	Custody time limit (usually 182 days in the Crown Court); bail unless prosecution shows due diligence	High: fits CrPC structure but relies on court capacity
United States (federal)	Speedy Trial Act: 30 days to indictment, 70 days to trial, with excludable periods; Barker v. Wingo test	Dismissal of charges	Low: dismissal would penalise victims for state delay
India	Expeditious trial under Art. 21 (Hussainara Khatoon); BNSS 2023 stage timelines, e-summons, video link	Release of first-time under-trials after one-third of maximum sentence (BNSS s. 479)	Medium to high: common CrPC origin; illustrates rights alone do not prevent delay
Council of Europe (ECtHR, CEPEJ)	"Reasonable time" test: complexity, conduct of accused, conduct of authorities; CEPEJ time frames and monitoring	Violation finding; compensation	Medium: useful test for Art. 10A and for court-level monitoring

Note. *BNSS = Bharatiya Nagarik Suraksha Sanhita; CEPEJ = European Commission for the Efficiency of Justice; ECtHR = European Court of Human Rights. Author's assessment of transferability.*

7.3 Limitations of Implementing Foreign Procedures in Pakistan

Comparisons should be made carefully. The American Speedy Trial Act is designed for a system where federal prosecutors have plenty of resources and the guilty-plea rate is high so relatively few cases go to full trial. Pakistan's criminal courts operate under a far greater caseload with far fewer resources and plea bargaining is only allowed under narrow circumstances, and is not officially sanctioned. A remedy of dismissal of charges for delay would be highly controversial in Pakistan where the families of victims in murder cases have a strong stake in the outcome and where the delay is usually attributable to the state and not the victim.

The Indian experience is closer and it is instructive in two ways. First, it shows that a constitutional right to a speedy trial, even when strongly articulated by the courts, does not in itself reduce delay: India still has a very high proportion of under-trial prisoners. Second, the Indian Supreme Court's reluctance in Ramachandra Rao to impose rigid time limits reveals the same concern I voiced about the ATA: uniform time limits ignore the diversity of cases and risk being disregarded or producing rushed trials. I think the English model of active case management, with the consequence of breach falling on custody rather than the prosecution itself, is the most transferable, but only if the underlying capacity problems are also addressed.

08 SUGGESTED REFORMS

The analysis so far indicates that the principal causes of avoidable delay are as much outside the courtroom as within it. Hence, reforms should be directed to the whole chain of the criminal process. Here I propose four types of reforms, following the structure of the study. Figure 2 shows where each cause of delay occurs and where the reforms would be applied.

Figure 2 // *Stages of a Criminal Case: Legal Rules, Sources of Delay, Safeguards and Proposed Reforms*

	FIR and arrest	Investigation and remand	Challan and scrutiny	Charge and copies	Prosecution evidence	Defence, argument and judgment
Legal rule	Art. 10(2): 24 hrs to magistrate s. 154 CrPC	s. 167: 15 days remand max s. 173: 14-day interim report	Prosecution Service Acts: return defective challan	s. 265-C: copies 7 days before trial s. 265-D: charge	s. 344: adjournment for 'reasonable cause'; s. 510 expert reports	s. 497 3rd proviso: bail after 1 yr / 2 yrs in custody
Avoidable delay	False or inflated FIRs; multiple FIRs	Weak investigation; late forensic samples	Incomplete challans; long witness lists	Accused not produced from jail; judge transfers	Absent official and private witnesses; counsel absent; strikes	Bail not sought or refused despite statutory right
Safeguard	Verification of complaint	Proper forensic testing	Disclosure of prosecution case	Time to prepare defence; counsel of choice	Cross-examination; time for late evidence	Reasoned judgment
Reform	Prosecutor-led FIR guidance	Sample tracking; lab turnaround standards	Mandatory scrutiny; leave for incomplete challan	Case-management hearing and trial timetable	Continuous hearing; video link; witness protection; costs	Jail reports of overdue custody; published data

Note. *Prepared by author from analysis of Sections 2, 3 and 6. Red cells indicate delay not for a fair-trial purpose. Green cells indicate delay for a fair-trial purpose.*

8.1 Early Case Assessment & Realistic Scheduling

The first reform is to strengthen the filter at the front end of the case. Prosecutors should be required and resourced to scrutinise every challan before it is presented in court, and return those that are incomplete and reduce the list of witnesses to those whose evidence is actually required. "Challans incomplete in nature should not be submitted without the permission of the court and that too with fixed date of supplementary report. At the first hearing after the charge is framed, the court should hold a short case-management hearing to identify the issues in dispute, the witnesses required, the forensic evidence awaited and to set a realistic timetable for the whole trial. Then evidence not liable to be disputed such as formal proof of documents or reports under section 510 CrPC could be admitted without calling witnesses. More confidence should be shown in using Sections 249-A and 265-K to end cases that have no prospect of success.

Scheduling should be designed to have ongoing or near ongoing hearing of evidence once the trial is under way, as opposed to the current practice of recording one witness every few weeks'. This may force courts to split their dockets, with some days for trials and other days for routine matters.

8.2 Electronic Evidence Management, Digital Case Tracking

The second reform is to use technology to make delay visible, and to remove some of its practical causes. Several High Courts have adopted case management systems and the Supreme Court and some High Courts extensively used video links during and after the COVID-19 pandemic. These systems should be rolled out to all district courts, with a unique identifier for each criminal case that links the FIR, the challan, forensic requests and court hearings. Two of the most frequent reasons for adjournment would be eliminated by electronic notification of official witnesses and electronic tracking of forensic samples. If the defence's right to effective cross-examination is preserved, then allowing official witnesses such as doctors and forensic experts to give evidence by video link, as well as vulnerable witnesses, would reduce the number of adjournments caused by their non-appearance.

8.3 Witness Protection and Forensic Capacity

The third reform concerns witnesses and forensic science. Pakistan has passed several witness-protection laws, including the Sindh Witness Protection Act, 2013, the federal Witness Protection, Security and Benefit Act, 2017 for the Islamabad Capital Territory, and the Khyber Pakhtunkhwa Witness Protection Act, 2021. Reports indicate that implementation has been very weak; in Sindh, for example, funds for the witness protection unit were not released for years after the Act was passed (Pakistan Institute of Legislative Development and Transparency [PILDAT], 2013; Dawn, 2021). These laws should be funded and implemented, with priority for witnesses in terrorism, murder and sexual offence cases. At a more ordinary level, witnesses should be paid their travel costs promptly and given proper waiting facilities, and hearings should be scheduled so that they are not repeatedly sent home.

On forensics, the provinces other than Punjab should develop forensic laboratories with sufficient capacity, and existing laboratories should be required to report their turnaround times. Investigating officers should be trained, and required by rules, to send samples promptly, and delay in sending samples should be recorded and explained.

8.4 Monitoring Performance without Compromising Judicial Independence

The fourth reform is to measure performance properly. The LJCP and the High Courts should publish, for each district, data on the age of pending criminal cases, the median time from charge to judgment, the number of adjournments and their causes, and witness attendance. This information is necessary for good policy, and its absence is, as I have argued, one of the main findings of this study.

There is, however, a risk. Performance targets for individual judges, such as monthly disposal quotas, can encourage hasty decisions and put pressure on judges to dispose of cases rather than to decide them carefully. The experience of the "model criminal trial courts" established in 2019, which were praised for disposing of large numbers of old murder and narcotics cases quickly, attracted concern from some members of the bar about the quality and fairness of the trials. Any monitoring system should therefore focus on systemic indicators and on the conduct of the police and prosecution, not on individual judges' disposal numbers, and should be controlled by the judiciary itself, through the High Courts and the National Judicial (Policy Making) Committee, rather than by the executive. This is consistent with the separation of the judiciary from the executive required by Article 175(3) of the Constitution.

09 FINDINGS

The analysis supports five main findings.

First, Pakistani law recognises timeliness as part of fair trial, but enforces it mainly through bail. Article 10A, read with Article 9 and the ICCPR, includes the right to be tried within a reasonable time, and the Supreme Court has said so. But there is no free-standing remedy for unreasonable delay, and time limits set by superior courts are administrative directions that do not create rights for the accused (Talat Ishaq, PLD 2019 SC 112). The third proviso to section 497 CrPC, as interpreted in Zahid Hussain Shah (PLD 1995 SC 49) and later cases, is the main protection, and it protects only accused persons in custody, only after one or two years, and only when they or their lawyers apply for it.

Second, most of the delay in criminal trials is avoidable rather than required by fairness. Of the four categories examined, poor investigation and weak prosecutorial scrutiny, administrative constraints in the courts, and most adjournments caused by absent official witnesses or counsel serve no fairness purpose. Delay that genuinely protects fairness, such as time to examine late evidence, to test forensic material properly, or to engage counsel, accounts for only part of the time cases take. This distinction matters because it shows that faster trials need not mean less fair trials, provided reform targets the avoidable causes.

Third, statutory deadlines without capacity have not worked. The seven-day rule in the ATA and the four-month target in the Anti-Rape Act have not produced trials of that length, and the courts have not treated breach as invalidating proceedings. The proposed one-year limit in the 2024 CrPC amendment bill risks the same fate unless it is accompanied by changes in investigation, prosecution and forensic capacity, and by a clear and proportionate consequence for breach.

Fourth, the empirical picture shows a system that is working at high volume but losing ground. Total pendency rose from about 2.16 million at the start of 2021 to about 2.36 million at the end of 2024, more than four-fifths of it in the district courts, and clearance rates have been slightly below 100 per cent. About three-quarters of prisoners in 2024 were under trial.

Fifth, the most important empirical finding is negative: Pakistan does not publish data on the duration of criminal trials, the number and causes of adjournments, witness attendance, or forensic turnaround times. Without this information, reform is guided by anecdote, and progress cannot be measured.

10 CONCLUSION

10.1 Principal Findings in Relation to the Research Questions

This article set out to examine the legal and institutional causes of delay in Pakistani criminal trials and their implications for the right to a fair trial. In answer to the first research question, Article 10A and the ICCPR

require trial within a reasonable time, and the CrPC and special statutes contain several time limits, but these are weakly enforced and the main legal remedy for delay is bail. In answer to the second, the causes of delay lie in investigation and prosecution, adjournments and witness absence, forensic capacity, and judicial vacancies and administration; most of these are avoidable, and only some delay is a necessary price of fairness. In answer to the third, delay leads to long pre-trial detention, harm to victims and witnesses, deterioration of evidence, loss of public confidence and wasted public money. In answer to the fourth, the available data show a growing backlog and a very high proportion of under-trial prisoners, but leave out the measures that would allow the causes of delay to be properly diagnosed; foreign models suggest that active case management, with custody consequences for state delay, is more promising than fixed deadlines alone.

The broader point is that speed and fairness are not, for the most part, in conflict in Pakistan's criminal courts. The delays that cause the most harm do not protect anyone's rights. A trial that starts with a properly investigated and scrutinised case, proceeds on a realistic timetable with witnesses who attend, and is decided by a judge who is not overwhelmed, is both faster and fairer than what most accused persons and victims experience today. Getting there is less a matter of new legal rules than of investment, coordination and measurement, combined with the political will to treat delay as a rights issue rather than as a fact of life.

I am conscious of the limits of this study. Its empirical part relies on published aggregate figures, some of them taken from press reports, and it could not test the relative weight of different causes of delay. Future research could use court records from a sample of districts to measure the duration of trials and the reasons for adjournments, and could interview judges, prosecutors, police officers, lawyers and victims about their experience. That kind of work would greatly strengthen the case for any particular reform.

11 RECOMMENDATIONS

The following recommendations are listed in order of priority, based on their likely impact on avoidable delay and the ease of implementing them without compromising due process.

1. **Publish criminal case data.** The LJCP and the High Courts should publish annual data, by district, on the age of pending criminal cases, median time from charge to judgment, adjournments and their causes, witness attendance and forensic turnaround times. This is low in cost and is the foundation for every other reform.

2. **Strengthen pre-trial scrutiny.** Provincial governments should increase the number and seniority of prosecutors and enforce their statutory power to return defective challans; incomplete challans should be allowed only with the court's leave and a fixed date for completion.

3. **Introduce case-management hearings.** The High Courts should issue rules or practice directions requiring a case-management hearing soon after the charge is framed, a trial timetable for each case, and continuous hearing of evidence once the trial begins, with reasons recorded for every adjournment and costs for unjustified requests.

4. **Make statutory bail for delay effective.** Jail superintendents should be required to report to the trial court every prisoner who has reached the one-year or two-year threshold under the third proviso to section 497 CrPC, and courts should consider bail without waiting for an application, following the Supreme Court's interpretation of the proviso as a statutory right.

5. **Hold official witnesses accountable.** Absence of police officers, doctors and experts without good reason should be reported to their departments and treated as misconduct, and video-link evidence should be used for official witnesses wherever possible.

6. **Fund forensic capacity and witness protection.** All provinces should have accredited forensic laboratories with published turnaround standards, and existing witness-protection laws should be funded and implemented, starting with terrorism, murder and sexual offence cases.

7. **Fill judicial vacancies and protect trial time.** Vacant posts in the district judiciary should be filled promptly, transfers of judges in the middle of trials should be minimised, and bar associations and the courts should agree limits on strike days.

8. **Legislate time limits with care.** If Parliament adopts a general time limit for criminal trials, it should be linked to case-management rules, should make release on bail rather than discharge the consequence of state delay, and should exclude periods of delay caused by the accused, in the way the English custody time limits do.

9. **Keep monitoring within the judiciary.** Performance monitoring should focus on systemic indicators and on police and prosecution conduct, be controlled by the High Courts and the National Judicial (Policy Making) Committee, and avoid disposal quotas for individual judges that would encourage hasty trials.

REFERENCES

Abbas, H. (2011). *Reforming Pakistan's police and law enforcement infrastructure: Is it too flawed to fix?* (Special Report No. 266). United States Institute of Peace.

Abdul Rashid v. The State, 1998 SCMR 897 (Supreme Court of Pakistan).

Ali, S., & Hassan, M. (2022). An evaluation of pending cases in the judiciary of Pakistan: Figures and statistics. *Pakistan Social Sciences Review, 6*(2), 592–602. https://doi.org/10.35484/pssr.2022(6-II)50

Anti-Rape (Investigation and Trial) Act, 2021 (Pakistan).

Anti-Terrorism Act, 1997 (Act No. XXVII of 1997) (Pakistan).

ARY News. (2024, February). 2.26 million cases pending across Pakistan, reveals LJCP report. *ARY News*. https://arynews.tv/2-26-million-cases-pending-across-pakistan-reveals-ljcp-report/

Associated Press of Pakistan. (2024, February). Number of pending cases in courts increased by 3.9 %: Report. *APP*. https://www.app.com.pk/?p=753436

Barker v. Wingo, 407 U.S. 514 (1972).

Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023) (India).

Church, T., Jr., Carlson, A., Lee, J.-L., & Tan, T. (1978). *Justice delayed: The pace of litigation in urban trial courts*. National Center for State Courts.

Code of Criminal Procedure, 1898 (Act No. V of 1898) (Pakistan).

Constitution of the Islamic Republic of Pakistan, 1973 (as amended).

Criminal Procedure Rules 2020, SI 2020/759 (England and Wales).

Daily Pakistan. (2024, December 17). Cabinet approves amendments to Criminal Procedure Code. *Daily Pakistan*. https://en.dailypakistan.com.pk/17-Dec-2024/cabinet-approves-amendments-to-criminal-procedure-code

Daily Times. (2023). 1.86 million cases pending in courts, NA told. *Daily Times*. https://dailytimes.com.pk/1078876/1-86-million-cases-pending-in-courts-na-told/

Dawn. (2021). Witness protection [Editorial]. *Dawn*. https://www.dawn.com/news/1644579

Dunya News. (2024). Only 5.33pc of sexual assault suspects in Punjab convicted over three years: Report. *Dunya News*. https://dunyanews.tv/en/Pakistan/862859-only-533pc-of-sexual-assault-suspects-in-punjab-convicted-over-three-

European Commission for the Efficiency of Justice. (2021). *Revised SATURN guidelines for judicial time management*. Council of Europe.

Feeley, M. M. (1979). *The process is the punishment: Handling cases in a lower criminal court*. Russell Sage Foundation.

Geo News. (2021). How many cases are pending in Pakistan's courts and why? *Geo News*. https://www.geo.tv/latest/355753-how-many-cases-are-pending-in-pakistans-courts-and-why

Hussain, F. (2015). *The judicial system of Pakistan*. Supreme Court of Pakistan.

Hussainara Khatoon v. Home Secretary, State of Bihar, (1980) 1 SCC 81 (Supreme Court of India).

International Covenant on Civil and Political Rights, December 16, 1966, 999 U.N.T.S. 171.

International Crisis Group. (2010). *Reforming Pakistan's criminal justice system* (Asia Report No. 196).

Ishtiaq Ahmed Mirza v. Federation of Pakistan, PLD 2019 SC 675 (Supreme Court of Pakistan).

Justice Project Pakistan. (2025). *Prison data report 2024*. https://jpp.org.pk/wp-content/uploads/2025/01/JPP_Prison_Data_Report_2024.pdf

Khizar Hayat v. Inspector-General of Police (Punjab), PLD 2005 Lahore 470 (Lahore High Court).

Khyber Pakhtunkhwa Witness Protection Act, 2021 (Pakistan).

Mateen, R. M., & Tariq, A. (2019). Increasing acceptability of forensic DNA analysis in Pakistan. *Egyptian Journal of Forensic Sciences, 9*. https://doi.org/10.1186/s41935-019-0162-2

Mehram Ali v. Federation of Pakistan, PLD 1998 SC 1445 (Supreme Court of Pakistan).

Minute Mirror. (2025). Pakistan's judicial system buried under 2.36 million pending cases. *Minute Mirror*. https://minutemirror.com.pk/pakistans-judicial-system-buried-under-2-36-million-pending-cases-413316/

Nadeem Samson v. The State, Supreme Court of Pakistan, bail order of January 6, 2022.

Notice to Police Constable Khizar Hayat son of Hadait Ullah on account of his false statement, PLD 2019 SC 527 (Supreme Court of Pakistan).

Ostrom, B. J., & Hanson, R. A. (1999). *Efficiency, timeliness, and quality: A new perspective from nine state criminal trial courts*. National Center for State Courts.

P. Ramachandra Rao v. State of Karnataka, (2002) 4 SCC 578 (Supreme Court of India).

Pakistan Institute of Legislative Development and Transparency. (2013). *Legislative brief on Sindh Witness Protection Act 2013*. PILDAT.

Prosecution of Offences (Custody Time Limits) Regulations 1987, SI 1987/299 (England and Wales).

Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2006 (Pakistan).

Riasat Ali v. Ghulam Muhammad, PLD 1968 SC 353 (Supreme Court of Pakistan).

Sh. Liaquat Hussain v. Federation of Pakistan, PLD 1999 SC 504 (Supreme Court of Pakistan).

Siddique, O. (2013). *Pakistan's experience with formal law: An alien justice*. Cambridge University Press.

Sindh Witness Protection Act, 2013 (Pakistan).

Speedy Trial Act of 1974, 18 U.S.C. §§ 3161–3174 (United States).

Sughran Bibi v. The State, PLD 2018 SC 595 (Supreme Court of Pakistan).

Suo Motu Case No. 4 of 2010 (Contempt proceedings against Syed Yousaf Raza Gillani, Prime Minister of Pakistan), PLD 2012 SC 553 (Supreme Court of Pakistan).

Talat Ishaq v. National Accountability Bureau, PLD 2019 SC 112 (Supreme Court of Pakistan).

Tariq Bashir v. The State, PLD 1995 SC 34 (Supreme Court of Pakistan).

UN Human Rights Committee. (2007). *General Comment No. 32: Article 14: Right to equality before courts and tribunals and to a fair trial* (CCPR/C/GC/32).

UN Human Rights Committee. (2014). *General Comment No. 35: Article 9 (Liberty and security of person)* (CCPR/C/GC/35).

Witness Protection, Security and Benefit Act, 2017 (Pakistan).

World Justice Project. (2024). *WJP Rule of Law Index 2024*. World Justice Project.

Zahid Hussain Shah v. The State, PLD 1995 SC 49 (Supreme Court of Pakistan).

// DECLARATIONS

Funding	This research received no specific grant from any funding agency in the public, commercial or not-for-profit sectors.
Conflict of Interest	The author(s) declare that they have no known financial or personal conflicts of interest that could have influenced the work reported in this paper.
Data Availability Statement	No new data were created or analysed in this study. The article is based on published legislation, case law, policy instruments and secondary literature cited in the references.
Ethical Statement	Ethical approval was not required because the study is based exclusively on publicly available legislation, case law and published literature and did not involve human participants.
AI Use Disclosure	Generative artificial intelligence tools were used in a limited and assistive capacity during the preparation of this manuscript, primarily for idea development, language refinement, and grammatical correction. The author(s) retain full responsibility for the originality, accuracy, analysis, interpretation, and final content of the manuscript. [If no AI tools were used, state: No generative AI tools were used in preparing this manuscript.]

// JOURNAL POLICIES *Pakistan Journal of Law and Policy • Published annually*

01 OPEN ACCESS & LICENCE

All articles are freely available on publication under CC BY 4.0. Readers may share and adapt the work for any purpose with proper attribution.

02 COPYRIGHT

Authors retain copyright and grant PJLP the right of first publication.

03 PEER REVIEW

Every research article undergoes double-blind peer review by at least two independent reviewers.

04 PUBLICATION ETHICS

PJLP follows the Committee on Publication Ethics (COPE) Core Practices and guidelines.

05 PLAGIARISM POLICY

All submissions are screened with similarity-detection software; plagiarism in any form leads to rejection.

06 GENERATIVE AI POLICY

AI tools cannot be listed as authors. Any substantive use must be disclosed; authors remain fully responsible for the content.

07 CORRECTIONS & RETRACTIONS

Errors are corrected through published corrigenda; retractions follow COPE guidelines.

08 ARCHIVING & INDEXING

Content is preserved through [PKP Preservation Network / LOCKSS]. DOIs are registered with [Crossref].

09 PUBLICATION CHARGES

[No article publishing fee charged.]

10 DISCLAIMER

The views expressed are those of the authors and do not necessarily reflect the views of the editors or the publisher.

SUBMISSIONS & ENQUIRIES ◆ https://journal.centeriir.org/index.php/pjlp/index