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Criminal Justice Reforms and Human Rights in Pakistan: A Comparative Analysis with Australia, the UK, and Canada

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ARTICLE INFO			ABSTRACT
Article History Received: Revised: Accepted: Available Online	December February February	11, 2023 08, 2024 10, 2024 11, 2024	This study compares criminal justice reforms and human rights in Pakistan juxtaposed with Australia, the UK, and Canada, signifying the reforms' role in guarding human rights. It weighs up ways how these reforms contribute to fair trials and humane treatment in the justice system, examining Australia's indigenous rights focus, the UK's digital
Keywords: Criminal Justice Reforms Human Rights Comparative Analysis Legal Representation Fair Trial Rights Commonwealth Countries Restorative Justice			 advancements, and Canada's reviving justice. The aim is to feature effective practices and challenges to improve global justice systems and highlight the collective endeavors required to promote human rights in criminal justice.

Indigenous Rights

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Corresponding Author's Email: <u>syedirshadciviljudge@gmail.com</u> **Citation:** Islam, M., Watto, O. M., Hussain, S. A., & Sarfraz, M. (2024). Criminal Justice Reforms and Human Rights in Pakistan: A Comparative Analysis with Australia, the UK, and Canada. *Current Trends in Law and Society*, 4(1), 19–26. <u>https://doi.org/10.52131/ctls.2024.0401.0029</u>

1. Introduction

The analysis of criminal justice reforms and human rights is a vital area of study within the sphere of international law. The effectiveness and fairness of a country's criminal justice system are fundamental gages of its commitment to maintain human rights (Quintavalla & Heine, 2019). Reason is that the principles of justice, equality, and dignity are enshrined in the fabric of human rights conventions, declarations and treaties globally. The importance of criminal justice reforms cannot be overelaborate, as these reforms are essential in ensuring that the right to a fair trial, and legal representation, are not just ideals but realities for all individuals within a legal system (Findlay, 2002).

In the well weaved and so connected world, the comparison of criminal justice systems across different countries provides credible intuitions into diverse approaches to similar challenges. Each country's unique historical, cultural, and socio-political backgrounds silhouette its criminal justice system, making comparative analysis a rich field for uncovering effective strategies and practices that can inspire reforms elsewhere. This article aims to dig into this comparative landscape, focusing on Pakistan and juxtaposing its criminal justice reforms and human rights issues against those of three other Commonwealth countries: Australia, the United Kingdom, and Canada (Azoulay, 2015).

The objective of this comparative analysis is manifold; Principally, it tries to discover and understand the current state of criminal justice reforms in Pakistan and appraise how these reforms impact the protection of human rights within the country. By weighing up the pros and cons of Australia, the UK, and Canada, this article aims to identify best practices, common challenges, and innovative solutions that could inform and inspire further reforms in Pakistan (Denisov, 2023). The choice of these countries for comparison is premeditated; as members of the Commonwealth, they share certain legal traditions and vows to human rights, yet their diverse approaches to criminal justice reforms provide a rich comparative backdrop.

The scope of this analysis is carefully defined to focus on main aspects of criminal justice reforms that have direct impact for human rights. These aspects include legal representation, the right to a fair trial and equality before the law, essential to ensure the implementation of fundamental rights. The quality, approachability, and fairness of legal representation can extensively impact the results of justice processes and the protection of individuals' rights within the criminal justice system (Ashworth & Player, 2005). Fair trial rights are another vital area, circumscribe a range of procedural undertakings that ensure trials are conducted impartially, competently, and with respect for the rights of both the accused and the victims. The conditions within prisons and the treatment of detainees and under trial prisoners are indicative of a country's observance of human rights standards. Humanized treatment in detention is not only a right but also a necessity for the rehabilitation of individuals into society and the prevention of reoffending.

This comparative analysis will steer through these thematic areas, depicting from a variety of sources including legal statutes, academic research, and reports from international human rights organizations. The aim is to construct a meticulous picture of how criminal justice reforms in Pakistan compare with those in Australia, the UK, and Canada, with a specific focus on the impact of these reforms on human rights (Drakulich, 2022). In Australia, recent reforms have focused on Indigenous rights and the lopsided representation of Aboriginal and Torres Strait Islander populaces in the criminal justice system. The UK's approach has been marked by attempts to modernize the justice system through digitalization and to tackle issues related to pretrial incarceration. Canada's experience with revitalizing justice and the accentuation on rehabilitation over punitive measures offers another dimension to this comparative analysis.

By examining these diverse perspectives, the article will shed light on the complex relationship between criminal justice reforms and human rights, providing a complete overview of the challenges and achievements in Pakistan and beyond (Lattimore, 2022). The ultimate goal is to contribute to the ongoing dialogue on how to create more just equitable, humanitarian criminal justice systems that uphold the dignity and rights of all individuals. Through this comparative analysis, we can gain a deeper grasp of the pathways for reform and the shared commitment required to advance human rights within the structure of criminal justice globally.

2. Rationale Behind Country Selection

The selection of Australia, the UK, and Canada for comparison with Pakistan in the study of criminal justice reforms and human rights is strategic, playing on the shared Commonwealth heritage that comprises a foundational legal framework and a commitment to human rights principles. In spite of this solidity, each country exhibits distinctive approaches to criminal justice reform shaped by separate and independent historical, cultural contexts. Australia's focus on the indigenous rights, the UK's digital transformation of its justice system, and Canada's recuperative justice practices offer varied perspectives and solutions to common challenges faced by Pakistan. This comparative analysis seeks to identify the best practices and innovative solutions from these countries that could inform and inspire profound reforms in Pakistan, contributing to the global discussion on creating more equitable and humane justice systems.

3. Criminal Justice Reforms and Human Rights

The exploration of the realm of criminal justice reforms across different nations, and the interaction between legal frameworks, societal values, of different countries make the human rights more evident.

Pakistan is upgrading its laws up to international standards such as the UDHR, ICCPR, and ICESCR, by enthusiastically introducing new reforms in its criminal justice system and increasing human rights protections. Specifically, legislative changes including the Criminal Law Amendment Act 2022, which provide parameters to appreciate electronic evidence. Pakistan has introduced coercive measures against absconders, and improvised witness protection. These reforms have expanded is canvas and taken vow to make bigger efforts, by introducing the National Action Plan and taking steps for digitalization initiatives, and have aimed at uplifting the justice system. Special attention is given to protecting vulnerable groups, with new laws and policies strengthening protections for women and children against abuse and harassment. Now the government proposed nearly 690 amendments to the criminal justice system. Amendments target the Code of Criminal Procedure, the Qanoon-i-Shahadat, 1984, and the Pakistan Penal Code. Goals include improving efficiency, delivery of justice, and accessibility for vulnerable sections of society, including women, and those with mental syndromes. Nine-month deadline for completing criminal trials introduced to get rid of judicial backlog, Efforts to control police abuse and violations of suspects' rights (Zandy, 2019).

The higher courts also pronounced judgments to shape the criminal justice system i.e. (Suo Moto Case No. 03 of 2018 Torture and Custodial Death), This landmark judgment by the Supreme Court outlined guidelines to prevent torture and custodial deaths, (Syed Muhammad Raza vs. The State) This judgment acknowledged the right to counsel during police interrogation. (Safina Bibi vs. The State) This judgment determined the principle of mandatory judicial inquiry into the matter of under custody death (Langer & Lillo, 2014).

Besides doing aforesaid Efforts to reform the criminal justice system, Pakistan also incorporated counter-terrorism measures, as seen in the Anti-Terrorism Act (Amendment) Ordinance 2023 and stressed on the enactment of the National Judicial Policy 2020, which seeks to streamline judicial processes. The introduction of Standard Operating Procedures for investigating cybercrimes and the establishment of witness protection regulations highlight a commitment to enhancing the legal framework and ensuring the rights of individuals are respected. Regardless of these advances, challenges persist, necessitating in progress vigilance and reform to ensure the effectiveness of these measures in practice and to uphold the principles of justice and human rights.

The overview of criminal justice reforms and the enhancement of human rights in Pakistan is confronted by a range of hurdles that span systemic, cultural, and resource-related dimensions. Systemically, the judicial process is surrounded by backlog of cases, that causes delay and weakens the efficacy of reforms and diminish public confidence in legal institutions. moreover, a significant gap exists between the enactment of laws and their actual implementation, attributed to a lack of awareness, insufficient training for law implementation and judicial personnel, and inadequate infrastructure. Corruption further intensifies these issues, compromising the integrity of efforts to enforce reforms and protect human rights. Culturally, there's a resistance to change, particularly against reforms that challenge embedded societal norms and practices, such as those regarding gender equality and the rights of sidelined groups. This resistance is compounded by a prevalent lack of awareness as to new laws and reforms, even among those tasked with enforcing them. On the resource front, the implementation of reforms is often hampered by limited financial, human, and technological resources, capacity building, and the modernization of the criminal justice system (Loeffler & Bovaird, 2020).

Political and security disputes also play a role, where inconsistent political will and priorities can stall reform momentum, and security issues, especially in terrorism-affected areas, can overshadow broader justice reforms. Effective reform is further complicated by the need for coordinated efforts across various government sectors, which most of the time struggle with collaboration and communication, and the challenge of aligning national laws

with international human rights standards, necessitating a careful balance between local legal traditions and global obligations. Speaking these challenges requires a comprehensive approach that involves strengthening institutional capacities, raising public awareness, boosting resource allocation, and nurturing a culture of accountability and transparency, alongside continuous collaboration with civil society, international bodies, and other stakeholders to maintain progress toward impactful reforms and human rights improvements (Lattimore, 2022).

Enthralling these challenges require a multilayered approach that includes strengthening institutions, fostering public awareness, improving resource allocation, and nurturing a culture of accountability and transparency. For sustaining momentum towards more effective reforms and human rights enhancements, constant engagement with civil society, international organizations, and other stakeholders is very crucial. the cultural and societal dynamics unique to Pakistan, often face resistance because of societal attitudes towards justice and enforcement of reforms focused at ensuring fair trials and compassionate treatment of detainees. For example, the concept of the rehabilitation of offenders through compromise with victims and the community at large, and the theory of restorative justice faces significant cultural and institutional barriers (Quintavalla & Heine, 2019).

To achieve this goal, Pakistan can learn lessons from international best practices in criminal justice reform. As instance, the adoption of technology in legal proceedings, as seen in the UK's digital court system, could improve the effectiveness and accessibility of Pakistan's justice system. In the way, community-based approaches to justice, such as those employed in Australia to address Indigenous issues, could share blue prints for involving local communities in the justice process, particularly in rural and tribal areas of Pakistan.

Pakistan has made remarkable strides in reforming its criminal justice system; the path ahead is full of hurdles. To overcome these obstacles Pakistan requires a steadfast commitment to protect human rights. Only through such nonstop efforts can have vision of a reformed, just, and humane criminal justice system in Pakistan be fully realized (McCorquodale & Nolan, 2021).

4. Comparative Analysis

For comparative analysis of criminal justice reforms and human rights in Pakistan with Australia, the UK, and Canada, it is pertinent to chew over the latest legislation, judicial decisions, and international treaties or conventions that each country has engaged with. Recently which In Pakistan introduced new laws include the Criminal Law " (Amendment) Act 2022," focusing on admissibility Of electronic evidence, and "the Anti-Terrorism Act (Amendment) Ordinance 2023" for counter-terrorism measures. The Supreme Court often addressed human rights issues through decisions in many a cases, "such as the protection of minority rights and the abolition of the death penalty for certain crimes". Pakistan has endorsed several UN conventions, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention about Torture (CAT). The Australian Human Rights Commission Act 1986 establishes the Australian Human Rights Commission, focusing on human rights protections (Zandy, 2019). High Court rulings, such as the 1992 Mabo case, have significant implications for Indigenous rights. Australia sticks to international conventions like the ICCPR, integrating them into local law through legislation like the Human Rights (Parliamentary Scrutiny) Act 2011.

The Human Rights Act 1998 incorporates the European Convention on Human Rights (ECHR) into UK law, allowing citizens to challenge breaches of their ECHR rights in domestic courts. UK Supreme Court decisions often interpret the Human Rights Act and the application of ECHR rights within the UK, such as the privacy and free speech balance. The UK is bound by the ECHR and has ratified the ICCPR, influencing its legal system and human rights protections. The Canadian Charter of Rights and Freedoms, part of the Constitution Act, 1982, provides broad constitutional rights, including legal rights in the context of the criminal justice system. The Supreme Court of Canada has issued landmark rulings on issues ranging from Ethnic rights to the rights of accused persons, interpreting the Charter's provisions (McLeod, 2018).

The deep analysis of the legal frameworks, judicial processes, and prison conditions, protection of vulnerable groups, and community and curative justice initiatives across Pakistan, the UK, and Canada transpire both convergences and divergences shaped by each country's commitment to international human rights standards and legal traditions (Findlay, 2002). Pakistan's legal framework is deeply impacted by its colonial past and Islamic law, leading to a compound interaction between secular and religious legal principles. Recently introduced reforms, such as the "Juvenile Justice System Act 2018," reveal a growing configuration with international human rights standards, yet implementation remains inconsistent. Australia, the UK, and Canada, with their common law heritage, share a commitment to the rule of law and human rights, as evidenced by their obedience to international conventions like the International Covenant on Civil and Political Rights. However, the extent and focus of their legal reforms irradiate distinct national priorities, such as indigenous rights in Australia and Canada and digitalization of the court system in the UK (Denisov, 2023).

in the name of judicial processes, all four countries acknowledge the right to a fair trial and legal representation as fundamental right. However, the ratification of these rights varies significantly. In Pakistan, access to legal representation and fair trial standards are often neglected by systemic issues such as corruption and scarcity of funds. On the other hand Australia, the UK, and Canada have more powerful mechanisms to ensure these rights, including legal aid services and procedural safeguards. The UK's introduction of online legal services is a step forward to its innovative approach to enhance access to justice, a move mirrored to a lesser extent in Australia and Canada.

Physical conditions of jails and the treatment of detainees signify differences among the countries. Although there are ongoing efforts to improve this through legal reforms yet Pakistan's prisons are congested and prisoners are in harsh conditions, Australia, the UK, and Canada have relatively better circumstances, with a strong stress on the rights of detainees and doing efforts to line up with international standards like the Mandela Rules. Canada's focus on rehabilitation is obvious in its approach to highlight the mental health of prisoners. Likewise, the UK and Australia have implemented reforms designed to improve the treatment of prisoners, though challenges such as overcrowding, and resource constraints persist.

Community and invigorating justice initiatives are increasingly acknowledged as vital components of a humane and effective criminal justice system. Pakistan has shown interest in restorative justice concepts, but traditional community mechanisms often overshadow formal initiatives. Australia and Canada are leaders in this area, with both countries incorporating Aboriginal practices and restorative justice principles into their criminal justice systems to address the overrepresentation of Indigenous peoples. The UK's community justice initiatives, particularly in Scotland, emphasize rehabilitation and community involvement, showcasing a shift towards a more soothing approach (Zandy, 2019).

While all four countries are bound by a common commitment to upholding human rights within their criminal justice systems, the way they pursue these goals is shaped by their unique legal traditions, societal values, cultural values and historical contexts. This comparative scrutiny points out the importance of a deep understanding of each country's approach to criminal justice reforms, highlighting both achievements and areas for ongoing improvement (Lattimore, 2022).

5. Recommendations (Suggestions):

Tailoring justice processes to respect cultural differences and ensure equitable treatment is essential for a just system. Australia and Canada's youth justice reforms, which focus on rehabilitation and community-based interventions rather than punitive measures, can offer a blueprint for Pakistan. Implementing diversion programs and alternative sentencing for young offenders can help integrate them back into society and reduce repetition. Following the UK's lead in digitalizing its justice processes, Pakistan could further embrace technology to rationalize case management, improve recordkeeping, and make the justice system more accessible and efficient. This includes online dispute resolution mechanisms and electronic filing systems. Inspired by the systems in place in

Canada and Australia, Pakistan should expand its legal aid services to ensure that all citizens, regardless of their economic status, have access to legal representation. This is fundamental to a fair and equitable justice system(Findlay, 2002).

Portrayal from the comprehensive training programs for law enforcement and judiciary in Australia, the UK, and Canada, Pakistan could invest in regular and advanced training programs focusing on human rights, cultural competencies, and ethical policing. This would help in improvising the criminal justice system's stakeholders to the nuances of human rights within the legal framework. Learning from the accountability frameworks in these countries, Pakistan could establish independent oversight bodies to monitor police conduct, investigate complaints against law enforcement agencies, and ensure transparency and accountability within the criminal justice system. Like the UK's Human Rights Act which incorporates the European Convention on Human Rights into domestic law, Pakistan could consider similar legislative reforms to embed international human rights standards directly into its national legal system, ensuring these principles are consistently applied across all levels of the justice process (Bielefeldt, 2022).

Digitalization of the court system in UK represents a major novelty in the realm of criminal justice. The introduction of virtual hearings is very productive step to make the justice system more accessible and efficient. It is helpful in reducing the need for physical court appearances and streamlining case management. the COVID19 pandemic was conducive for This digital transformation, that has shown potential to enhance access to justice, particularly for minor cases and pre-trial proceedings. The UK's experience with electronic-courts could serve as a valuable replica for other countries looking to modernize their justice systems and improve access to legal services through modern technology.

The Gladue principles, established by a landmark Supreme Court ruling, are mile stones; those require courts to consider the unique circumstances of local offenders, along with the impact of colonialism and residential schools, when determining sentences. these principles aim to sort out the root causes of offending and promote alternative sentences that are more culturally suitable and focused on rehabilitation. Canada's restorative justice programs, which involve offenders, victims, and community members in resolving conflicts and repairing harm, typify a shift towards a more effective and community-oriented approach to justice. These initiatives offer model for countries looking to incorporate invigorating justice principles and address the needs of Indigenous and helpless populations within their criminal justice systems (Loeffler, 2023).

The novel ideology will be very productive and helpful for Pakistan. Pakistan, Australia, the UK, and Canada reveal the diverse ways in which criminal justice systems can evolve to better cater the needs of their populations and uphold human rights standards. It is not out of discussions that through these integrated legal reforms to protect vulnerable groups, the adoption of technology to improve access to justice, or the implementation of restorative justice practices, these countries offer valuable lessons and legal structures for effective criminal justice reform. By learning from these innovations, besides Pakistan, other countries can also explore new avenues for enhancing the fairness, efficiency, and humanity of their own criminal justice systems (Sen, 2005).

The betterment of the criminal justice system involves a complete approach that spans legislative changes, and shifts in cultural attitudes to ensure justice is delivered fairly. successful reform strategies include revising sentencing guidelines to offer substitutes to incarceration, such as community service or probation, particularly for non-violent offenses, and decriminalizing minor offenses that do not pose safety threats. Increasing access to justice is crucial, necessitating the growth of legal aid to the disadvantaged and improving the quality of legal education for professionals within the system. Judicial and law enforcement reforms are also essential, focusing on the training and independence of judges, adopting community policing strategies, and establishing healthy oversight mechanisms for accountability and in vigilance (Azoulay, 2015).

Upgrading prison conditions in order to meet international human rights standards and developing comprehensive rehabilitation programs are vital to preparing inmates for societal reintegration. Implementing curative justice practices encourages settlement and healing, while support for ex-offenders' reintegration is important for reducing recidivism. Resolving systemic biases through variety of trainings and reforming policing practices to eliminate favoritism are necessary steps towards equitable treatment within the justice system. Leveraging technology can improve the efficiency and transparency of judicial processes, and establishing community executive body that can increase public trust in the justice system. These reforms demand a intensive effort from various stakeholders, including government, judiciary, law enforcement, and civil society. Continuous evaluation and adjustment of these reforms are pivotal to address emerging challenges and to line up the criminal justice system more closely with human rights principles, ensuring its effectiveness and fairness (Quintavalla & Heine, 2019)

6. Conclusion

The apropos, the analytical study of criminal justice reforms and human rights in Pakistan, vis-à-vis Australia, the UK, and Canada, signifies both unique challenges and commonalities in the pursuit of justice and the protection of human rights. While Pakistan faces momentous hindrances due to its socio-political perplexities and varying legal outlines, it also manifests a commitment to reform and alignment with international human rights standards. Australia, the UK, and Canada, with their more renowned legal systems, offer valuable lessons in the amalgamation of human rights within the criminal justice system, specifically in the areas of rights of locals, rehabilitation, and the use of technology in ensuring transparency and accountability.

However, the effectiveness of reforms in all these countries is conditional upon the enforcement of laws and the sustained commitment, legal communities, and governmental bodies. It is vital for Pakistan to not only draw inspiration from the successes of these countries but also to learn these lessons to its unique context, ensuring that reforms are complete and ethnically sensitive. The role of international collaboration and dialogue cannot be underestimated, as sharing best practices and challenges nurture a collective approach to enhancing human rights protections globally.

The expedition towards a more just criminal justice system is continuing and requires constant watchfulness, advocacy, and reform. By identifying the successes and learning from the challenges faced by countries like Australia, the UK, and Pakistan can steer its own path towards substantial and sustainable criminal justice reforms. The attempt to merge the pursuit of justice with the protection of human rights is not only a legal responsibility but a moral imperative that transcends borders, pressing the universal pursuit for dignity and fairness in the administration of justice.

Authors Contribution:

Muhammad Islam: Study, analysis and prepared article. Omer Mahmood Watto: Conduct the study and proofreading. Syed Arshad Hussain: Supervise the study. Muhammad Sarfraz: Formulation, proofreading, and editing of the article.

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