

CHALLENGES IN THE UNIFORMITY OF SENTENCING POLICY WITH SPECIFIC EMPHASIS ON FAIR TRIAL RIGHTS, PROBATION AND PAROLE

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Abstract

Conformity in sentencing is a key element to respect equality before the law, proportionality, accountability of the judiciary, and the effective protection of fair trial rights. This study looks at the problems of inconsistency in sentencing practices, focusing on the interrelatedness of sentencing, probation and parole systems in Pakistan's criminal justice system. It looks at the legal and conceptual bases of consistency in sentencing and investigates the potential for over- or under-informed judicial discretion to generate unnecessary disparities between the sentences of similarly situated offenders. The uniform treatment of sentences and the constitutional guarantees of fair trial and due process provided in Article 10-A and in the equality principle contained in Article 25 are emphasized. Probation and parole (supervised post-convict release) are additional community-based approaches to sentencing that are examined as well. Official statistics from the Punjab shows the real-life numbers of probationers, indicating that, in January 2025, 44,363 probationers were recorded, and in June 2025, 45,381 probationers were recorded, and significant variations between districts highlight the need for consistency in assessment and supervision procedures. The study cautions that disparities in eligibility, discretion, capacity and administrative considerations and lack of systems to gather and report data can worsen inequities following conviction. It suggests a reform model of structured sentencing guidelines, reasoned judicial decisions, uniform probation evaluations, clear parole criteria, case-management systems that incorporate digital technology, judicial training and independent review mechanisms. The study ends by saying that sentencing uniformity doesn't have to take the place of individualized justice, but rather should make sure that similar cases get similar sentences and that any differences are explained by legally relevant differences. It can help build up the protection of fair trial, proportionality, rehabilitation, equality and public trust in the criminal justice system of Pakistan.

INTRODUCTION

Sentencing is one of the most significant stages of the criminal justice process since it determines the kind, the length, and the conditions of punishment imposed on the person after he or she has been convicted. The evidentiary requirements

and procedural protections for determining guilt are different from the requirements and protections for sentencing because sentencing directly impacts an individual's liberty, dignity, rehabilitation, family and social/economic opportunities ("Good Conduct Prisoners'

Probational Release Act, 1926," 1926). Sentences, therefore, must be lawful, fair, proportionate, transparent and reasonably consistent. Uniformity in sentence does not always mean the same sentence for all the criminals who are sentenced for the same crime. Instead, it must ensure that similarly situated offenders are treated in a similar manner in accord with similar legal principles, and that there is a recognition of differences in circumstances where they exist. The difficulty is that, when judges make too many decisions, sentences vary widely across courts and judges, there are too few guidelines, too much inconsistency, or a lack of access to the law for all individuals, the results of similar cases may be vastly different("Probation of Offenders Ordinance, 1960," 1960).

Sentencing disparity is thus a key issue to the legitimacy of criminal justice institutions. Public confidence in the fairness and impartiality of the justice system might be undermined if people convicted of similar offences are given widely varying sentences for the same offences, without good reason. The unequal differences may also be grounds for concern about equality before the law and equal protection of legal rights. Sentencing, on the other hand, cannot simply be based on a formula since criminal cases vary in their seriousness, offender factors, the degree of harm done to the victim, the offender's prior criminal history, the likelihood of rehabilitation, and other factors. A both consistent and individualized policy of sentencing must therefore be struck. Too much uniformity could be considered a failure to take into account the particularities of specific instances, while too much discretion could create uneven, arbitrary results("The Constitution of the Islamic Republic of Pakistan, 1973," 1973).

Sentencing uniformity is related to the right to a fair trial. The right to a fair trial extends beyond whether or not someone is guilty or not guilty, but also covers the duty to ensure that the whole criminal process, from sentencing through to criminal proceedings is conducted in accordance with legality, impartiality, equality, transparency and due process (Munir, 2020). If someone has been convicted by an honest and legitimate process, he or she can still have an unfair criminal

justice experience if the punishment is arbitrary, disproportion, and if there is no substantial legal explanation for the difference in sentence length compared to similarly situated criminals who were not convicted(Blasko et al., 2022). Therefore it is necessary for the sentencing court to apply its powers within limits of law and to give adequate reasons for sentences that impinge on the freedoms and rights of those convicted of the crimes. One of the reasons for considering reasoned sentences is that they allow for review by an appeals court, hold judges accountable for their decisions, and allow those who are affected or the general public to see how sentence is applied(Breno et al., 2023).

The link between sentencing uniformity and fair trial rights is even more important if social, economic, geographical or institutional considerations affect access to justice. More financially well-resourced persons might be represented by more experienced lawyers, be able to obtain better appellate support or be more able to argue their mitigation. In contrast, poor defendants will be less likely to have opportunities to contest sentencing or provide newly discovered facts to support punishment. These variations can have a secondary effect on sentencing disparities, and can challenge the principle of equal justice for all. Any sentencing system, therefore, must provide for the exercise of discretion on the basis of objective and transparent criteria – and not on the basis of considerations that are not related to the legitimate purposes of punishment(Crow & Goulette, 2022). Another key aspect of sentences is probation and this has its own issues of consistency and fairness. In suitable cases, probation permits courts to either avoid or minimize incarceration through supervision and conditions to help offenders behave lawfully and improve themselves. It acknowledges that not all criminal activity merit imprisonment, especially if the crime is less serious, the offender is less of a threat to society and rehabilitation is possible in the community. But the effectiveness and equitability of probation largely hinge on uniformity in eligibility criteria, the ability to conduct consistent and reliable evaluations, on-

going supervision, and clear judicial decision-making(Fox et al., 2022).

Inconsistencies in granting probation and/or conditions imposed during probation to similarly situated offenders, or significant differences in conditions that are not adequately justified, can introduce inequities into the system. A uniform sentencing policy that is backed by sound legal principles and is subject to clear and transparent decision making structures can enhance the legitimacy and effectiveness of criminal justice systems while retaining the individualized assessment that is needed for justice(Freiberg & Roberts, 2023). In the same vein, probation and parole systems, if applied fairly and consistently, can help to minimize the incarceration of people who are not truly convicted of a crime, can help to foster rehabilitation, and can help to promote social reintegration. Equality, dignity of convicted persons and the compatibility of the administration of criminal justice with the principles of a fair trial are important elements in ensuring the proportionality of punishment, and addressing disparities at all the interconnected stages is therefore essential to this end. Sentencing uniformity should be viewed not as uniformity of sentences, but as principled uniformity, which is uniformity in the sense that similar sentences are issued to similar offenses, distinctions are given due weight, and all sentences are subject to law, reason and fairness(Jacobs & Gottlieb, 2020).

Legal and Conceptual Foundations of Uniform Sentencing Policy

Constitutional, Legal and Normative Foundations of Sentencing Uniformity

The basis of the uniform sentencing policy is to ensure that the imposition of punishment is in accordance with the law, equality, proportionality and reasoned judicial discretion, and not on a whim and fancy of the individual. This foundation is well linked with the constitutional rights of Pakistan for fair trial, due process and equality. The United States Constitution clearly states that all are entitled to a fair trial and due process in determining civil rights and obligations or any criminal charge in Article 10-A. This constitutional safeguard becomes crucially important during sentencing phase as it has a

bearing on the actual impact of the criminal conviction. Article 25 also creates equality of citizens before the law, and equal protection of law, which is an important constitutional principle against unwarranted disparities between equally placed offenders. The 'principle of legality' also imposes a basic limitation on sentencing power. Article 12 of the Constitution guarantees individual immunity from retrospective punishment and also the punishment cannot exceed or be of different kind from that provided for the offence in the law. This requirement ensures the idea that sentencing may not be based on an unfettered judicial choice, independent of the statute. It is thus three principles are created in the constitution: punishment must be predetermined by law, the process into punishment must fulfil the conditions of a fair trial and equal protection of the law for similar citizens(Johnson, 2021).

The statutory framework of Pakistan has a number of provisions that relate to sentencing and non-custodial sanctions. The legal regime of Pakistan prisons and correctional administration consists of: Pakistan Prisons Rules 1978, Probation of Offenders Ordinance 1960, Prisoners Act 1894 and Prisoners Act 1900. A key section of the Probation of Offenders Ordinance 1960 is the fact that it offers a lawful route for a court to utilize probation as an alternative to incarceration. Sentencing uniformity should therefore not be limited to the duration of incarceration, but also should be applied to consistent implementation of alternatives, like probation and conditional release. These are further endorsed by international standards. The United Nations approach considers the gravity and context of the offence, background and personality of the offender, rehabilitation, public safety and victim interests when sentencing. Sentencing policies should promote proportionality and alternative sentences, meanwhile(Johnson & Larroulet, 2019).

Judicial Discretion, Proportionality and the Tension Between Consistency and Individualization

This judicious exercise of discretion is a fundamental part of sentencing as it is impossible to truly judge criminal conduct by a mechanical formula. Two defendants can be convicted for the same offence, but with vastly varying sentences due to varying circumstances of the offence, prior criminal record, age, prior circumstances, involvement, harm done, and rehabilitation prospects. A sentencing system, which fails to recognize these differences, may lead to formal equality but substantive injustice. In keeping with this, international sentencing guidelines encourage individualized sentences, and also call for consistency and proportionality. The following are specific recommendations made by the United Nations with regards to sentencing: "The gravity, nature and circumstances of the offence, and the personality and background of the offender, should all be taken into account (Kasuri, Abbas, et al., 2024). The challenge of the concept at the heart of the issue is then the distinction between proper discretion and improper difference. A legitimate difference is a difference between cases (or cases and the relevant law) which results from a legally relevant distinction in fact; an unjustified difference is a difference between materially similar cases which is materially dissimilar and is not adequately explained. This is important, especially when statutory sets of sentences cover a wide range of sentences. Broad ranges could leave room for individual differences and variability, but can also lead to significant variations in sentence length if judges interpret aggravating and mitigating factors in differing ways.

The main doctrinal device for managing this issue is proportionality. The punishment must be proportionate to the nature of the offence and responsibility of the offender. UNODC reminds that proportionality should apply at all stages of the Criminal Justice chain, when considering eligibility for alternatives, the length and level of supervision, and how to react to conditions being breached. The idea thus integrates the concepts of imprisonment, probation and post-conviction supervision in a single, cohesive structure (Kasuri,

Mahmood, et al., 2024). Just as consistency shouldn't be synonymous with punishment, though, consistency should not be synonymous with identical punishment. The UN standards make clear that there is a wide range of non-custodial options and that there is a need for consistency in sentencing. That means courts must have alternative sanctions, but use them in a manner that has predictable criteria. A person who has been found guilty of a relatively trivial offence may be given probation as punishment for first time offence whereas a person who has been previously convicted of the same statutory offence may be sent to prison as a punishment for repeat offence (Kokkalera & Marques, 2022).

Sentencing Guidelines, Non-Custodial Measures and Institutional Uniformity

Modern uniform sentencing policies need to go beyond the statutory sentencing ranges. It needs practical devices that would direct the judicial, probation, correctional and parole officials to consistently apply principles of law in their decisions. Sentencing guidelines can do this by highlighting appropriate aggravating and mitigating factors, by providing ranges for sentences and by providing guidance for making reasoned decisions and limiting unexplained changes in sentences. They also can ensure that judicial independence is maintained – they do not totally remove the need for judicial judgment. Within this context, non-custodial measures are of special importance. UNODC encourages criminal justice to offer a variety of options including judicial supervision, probation, conditional and suspended sentence, community service, treatment programs, restitution and compensation for the victim. It also highlights the need for pre-sentence or social inquiry reports in order to have objective information for the courts when considering punishment (Kowshikaa, 2024). The mechanisms can help to increase the uniformity of sentencing because the information is collected in a systematic manner and is not solely based on a person's oral submissions or impressions. The institutional capacity is also crucial. The absence of adequate staffing, training, assessment and monitoring in probation and

correctional institutions, as well as the lack of uniformity in the rules of law, will lead to diverse results. The use of the Probation of Offenders Ordinance 1960, Good Conduct Prisoners Probation Release Act 1926, Pakistan Prisons Rules 1978 and provincial prison and parole regimes in Pakistan indicate that there are several legal and institutional provisions in place for sentencing and post-sentencing management. Coordinating and standardizing is particularly important (Law & Justice Commission of, 2025).

Sentencing Uniformity and the Protection of Fair Trial Rights

Fair Trial, Equality Before Law and Consistency in Sentencing

The importance of "sentencing uniformity" to ensure a fair criminal justice system is not limited to the right to a "fairly conducted trial" followed by a judgment of guilt or innocence. In modern constitutional law, fairness also is a question of how the State applies its punitive power when it is convicted. Under the Constitution of Pakistan, the right of "fair trial and due process" has been explicitly entrenched as a fundamental right for every individual in the context of determining a criminal charge under Article 10-A of the Constitution. The provision was added as part of the Eighteenth Amendment in 2010, and was elevated to the status of a fundamental right with regard to fair trial and due process. The Supreme Court has since insisted that Article 10-A is applicable to criminal trials and that the principles of fair trial should be considered as integral to legislation regarding criminal charges. Article 25 of the constitution, which provides for equality of citizens before the law and equal protection of law, strengthens the constitutional protection (Law & Justice Commission of, 2026). These provisions make an important link between sentencing consistency and fair trial: Two people who are similarly situated under the criminal law should ordinarily receive materially similar sentences if their cases are heard in different courts, or even if different factors or circumstances affect their sentences. Equality is thus expressed in practice as uniformity. It does not demand a uniform punishment for all offenders, but it does demand

that courts explain why punishment must be different by explaining in the case of an offender why punishment is justified in relation to the circumstances that are relevant to the law (Lerman et al., 2024).

Scale of judges' workload in Pakistan shows the need for consistency especially. The total number of pending cases in the district judiciary were 2,679,773, of which 864,034 were criminal cases, as per Judicial Statistics of Law and Justice Commission Pakistan for January-June 2025. In the relevant period 798,706 criminal cases were pending in the reported district level figures as the remaining 1,836,660 criminal cases were instituted and 1,896,027 criminal cases were reported in the relevant institution/disposal statistics. 2,213,746 cases were pending at the end of the reporting period at the aggregate district level. The number of criminal cases coming before the courts of Pakistan is staggering, and highlights the need to have settled rules for sentencing, which are predictable and can be applied to a huge volume of cases. International standards also make a link between consistency and fair and lawful sentencing. The United Nations standards require that there is sufficient variety in non-custodial types of measures to allow flexibility based on the nature and gravity of the offence, personality and background of the offender, the protection of society and other relevant factors, but at the same time that consistent sentencing is maintained. They also need accountability and discretion in the exercise of judicial or other competent authorities based on the rule of law. So there is no opposition between consistency and individualized justice: consistency is a framework in which individualized justice is exercised fairly (Lin et al., 2022).

Sentencing Disparities, Access to Justice and Procedural Equality

A crucial threat to the right to a fair trial is where there is a disparity in legal representation, access to funding, or location, and judicial practices or access to appellate remedies. A legally equal rule can result in a substantively unequal rule, as defendants might not have similar access to mitigation, evidence, competent counsel, or an

excessive sentence. Thus, the issue of uniformity of sentencing should be viewed in light of the larger notion of equality of procedures. The issue becomes particularly important when there are high numbers of cases and institutional pressure. According to Judicial Statistics of Pakistan, a total of 1,896,027 criminal cases were lodged in the institution/disposal statistics of district judiciary for the first half of 2025 and 798,706 criminal cases were pending in the same category for the first half of 2025. This heavy workload puts strain on judicial institutions, and also provides a compelling case for a clear rule of reason and sentencing which is less ambiguous and provides greater clarity. Judges in jurisdictions in which a multitude of criminal matters must be dealt with, and sentencing arrangements are not well standardized, might find varying approaches to sentencing due to their differing philosophies (Liu, 2021).

Horizontal and vertical sentencing disparity can be found. Horizontal disparity occurs when two similarly situated offenders are given different sentences by two courts at the same level. Vertical disparity can arise where there are inconsistencies between the different levels of the judiciary in how the same offenses are dealt with. Both kinds of difference have consequences for the right to a fair trial in that the person accused should be able to reasonably believe that punishment will be based on “well-known laws”. This is a significant problem for the defendant of a less affluent background. A good representation can have a bearing on the way in which mitigating evidence can be presented, on applications for probation, on requests for a suspended sentence as well as on arguments of proportionality and appeals against an excessive sentence. The absence of equality before law may occur when an individual is unable to avail these procedural opportunities to improve their substantive equality. That is why fair-trial guarantees should not just be about the court, but also require meaningful access to a court or legal remedy (Lofstrom et al., 2020).

Probation and Sentencing Consistency: Challenges and Legal Implications

Probation as a Legal Alternative to Imprisonment and Its Role in Sentencing Consistency

Probation is an integral part of a fair and proportional sentencing system, and plays an important role in addressing criminal behavior without necessarily resorting to a prison sentence. The main statute in Pakistan is the Probation of Offenders Ordinance, 1960 (Ordinance XLV of 1960) which was enacted on 1 November 1960. The law is still a part of Pakistan's criminal-law structure and it is mentioned by the Pakistan Code under “criminal laws.” It is clear from the ongoing use of legislation that dates back over 60 years that probation has a rich history and that there is a question as to whether it is sufficiently standardized to meet the needs of modern-day criminal justice. The fundamental rationale for probation is that there is no absolute need to lock someone up when there is a reasonable chance of rehabilitation and protection of the public by community supervision. The purpose of probation is not only to keep the offender out of unnecessary prison time, but also to ensure that he or she adheres to conditions set forth by the court to protect the public (Lynch, 2019). Probation is designed to keep the offender out of prison, but to ensure him or her enters into conditions that will help to protect the public, as prescribed by the law. But from a uniformity of sentence point of view, the availability of probation makes little sense unless courts use broadly comparable criteria in determining a sentence of probation. Two offenders charged with and convicted of similar offences, who have similar criminal records and who have similar prospects of rehabilitation, should not be treated very differently because their cases are heard by different districts and in different ways by different judges.

Official administrative statistics have the potential to illustrate the importance and usefulness of probation in Punjab. In February 2025, Punjab Probation & Parole Service had 45,577 probationers, which included 45,179 males and 253 females, while there were no females on Juvenile probation. Punjab Probation & Parole

Service had 45,577 probationers, of which 45,179 were adult male, 253 were adult female, and 145 were juvenile probationers in February 2025. The total by June 2025 fell slightly to 45,381, with 44,945 adult males, 273 adult females and 163 juveniles (males)(Mahmood et al., 2025). These show that probation is far from being a fringe sentencing option, as over 10,000 people were under probation supervision at any given time in Punjab alone. The difference across the various geographies of Punjab is striking. Bahawalpur had 5,818 probationers (5,726 adult males, 50 adult females and 42 juvenile males) whereas Lahore had 3,898 probationers. The other districts such as Dera Ghazi Khan with 376, Layyah 248 and Attock 266, however, saw only a small number of cases. Such disparities are insufficient to create disparity in sentencing, as population, crime trends, and conviction rates vary among districts and case composition also varies among districts. However, they illustrate the very different probation settings in which probation is being used. The provincial figure of probationers jumped to 46,258 in April 2025 at which the figure of Bahawalpur stood at 5,968 while Lahore's figure was 4,570(Mahmood et al., 2024).

Institutional and Legal Challenges Affecting Consistent Probation Decisions

Even though probation has significant benefits, it has a number of institutional and legal hurdles that may create sentencing inconsistencies. The first is the old and disarrayed legal system. The Probation of Offenders Ordinance was promulgated in 1960 and the general system of correction in Pakistan also includes the Pakistan Prisons Rules 1978, the Good Conduct Prisoners Probation Release Act 1926 and the Prisoners Act 1900. These are instruments which the government of the Province of Punjab recognizes as being part of the Province's legal regime concerning prisons, probation and related corrections(Zapryanova, 2020). With laws enacted in 1894, 1900, 1926, 1960 and 1978, the current rules and regulations are challenging to navigate and fit into the framework of historical laws. A second challenge is that of variations in district probation use. Official Punjab statistics reveal

significant differences in terms of the distribution of probationers among adults and juveniles, as well as in absolute figures. In June 2025, Lahore had 4,848 probationers, Bahawalpur 5,352, Jhang 1,818, Sahiwal 1,844, Okara 3,369, whereas Dera Ghazi Khan had 353. Again, these should not be regarded as automatically indicative of one district's granting probation compared to the other, in that the populations and criminal charges from which the probationers are drawn differ between districts(Majeed et al., 2022).

They do show, however, why it is important to have similar administrative information on applications, grants, refusals, offences, and the number of sentences and number of breaches so as to establish if there are any real differences in sentencing. A third challenge is the ability of probationers to effectively supervise large caseloads. The monthly figures for Punjab show that the numbers of probationers are fairly large and fluctuating, with monthly figures ranging between 44,363 in January 2025, 45,577 in February, 45,463 in March, 46,258 in April, 45,983 in May and 45,381 for June. The April total was thus about 1,895 probationers more than in January, an increase of about 4.3%. These demands include probation officers, reports, risk assessments, counselling and home visits and compliance monitoring for such a large supervised population(Manwaring, 2021).

The legal consequences are great. It might be a question of proportionality and equality if one offender is sentenced to probation under strict conditions and another offender with similar circumstances is sentenced to prison without any readily apparent distinction. On the other hand, over- or under-supervised probation can present public-safety issues, and diminish trust in non-custodial sentences. What's not the solution is to maximize or minimize probation mechanically; it's to have the same criteria for making probation decisions and the same procedures and systems to monitor probationers(Viglione et al., 2020). It is also important to have reasons written. The courts should point out the reasons for granting or denying probation to the particular case, and, where applicable, appellate courts should review the evidence to ensure that the factors have been

considered. Standardized pre-sentence assessments, which provide information regarding the offender's background, family situation, work history, criminal history, rehabilitation potential and risk level, can also help to minimize the subjectivity in decision-making that often plays a role in sentencing. The extensive number of provincial probationers shows that such institutional protections must be more than theoretical demands but are essential needs(Mehmood et al., 2024).

Parole, Release Policies and the Problem of Unequal Post-Conviction Treatment

Parole and other types of conditional or premature release are an important phase of the criminal justice system because the release of a prisoner does not end the State's obligation to reintegrate, rehabilitate and protect the legal rights of the prisoner. The law of parole in Pakistan has a historical origin in the Good Conduct Prisoners' Probation Release Act, 1926 and the Good Conduct Prisoners' Probation Release Rules, 1927 are the administrative procedures for the supervision of prisoners on parole. Punjab's prison system still specifies the following laws and regulations as governing the prisoners, probation, and parole, namely: The 1926 law allows the provincial government to release someone on licence if there is good reason, based on the "antecedents or conduct in prison," to believe the person will not commit any further crimes and will live a useful and industrious life. The release is subject to supervision or authority of an appropriate government officer or institution. This legal framework demonstrates that parole is not about automatic downward sentencing, but a set of principles that are defined by good behavior, rehabilitation and supervised reintegration(Monaghan & Konefal, 2023).

However, the key issue is that a rights-based approach or eligibility-based approach to release does not automatically mean equal access to release. The unequal treatment of prisoners may occur where those who have received similar sentences, records of criminal behavior, and rehabilitation potential, are treated differently as a result of differences in administration of the

sentence, infrastructure, geography, processing time or the interpretation of the release conditions. This is very important in Pakistan as parole is not being used to its optimum in conjunction with probation. According to court reports, in 2024, there were around 36,015 probationers in Punjab while the state had 53 probation officers including 13 women and 17 parole officers, of which only one was a woman(Van Deinse et al., 2023). In the same year, 1,605 prisoners were released on parole in Khyber Pakhtunkhwa and there were no parole releases in Sindh, despite the presence of 19 probation officers in the province of which 14 were women. The stark difference is between 1,605 parole releases in KP and 7 in Punjab which equates to 1,598 prisoners that were recorded as being released in KP, compared to 7 released in Punjab, which is over 229 times more. While it is important to keep in mind that variations in population size, national eligibility requirements and administrative structures across the provinces must be taken into account when interpreting these figures as indicators of discrimination, the extent of the variation is highly indicative of the issue of unequal access to post-conviction release(Munir et al., 2024).

An explanation for such disparities is institutional capacity. Punjab's parole system is part of a larger system of correction that includes high probation caseloads and a lack of specialists. There are only 17 parole officers for a population of thousands of inmates obviously presents challenges of capacity in the areas of assessment, documentation, home verification, supervision, and follow-up. In contrast, KP's much larger number of parole releases suggests that the administrative organization and institutional practice has a significant impact on the availability of parole. The outcome is a potential inequity that can arise with a prisoner's chance of release based both on their individual conduct and legal eligibility, plus the province or institution handling the case. This variation can cause problems with uniform sentencing policy as the sentence awarded by a court may be the same, but the time a prisoner serves in prison could be quite different due to the

variation in parole practices(Painter-Davis & Ulmer, 2020).

The implications of the inconsistent release policies are most stark when conflict occurs in how parole and sentence requirements are calculated. The Punjab and Haryana High Court in a recent case regarding Punjab has rejected the government's formula of 2020 which did not count the time spent in parole while calculating the sentence in the aforesaid context. The court ruled that parole is to be subtracted from the entire sentence (including remission) and not just based on the time spent in prison. The case was a life sentence for a murder in Hoshiarpur in 2013 whose premature release claim was impacted by the disputed calculation. Within 4 weeks, the court ordered the case be reconsidered. This provides an example of the impact of administrative interpretation of the length of time spent in prison, and shows the importance of having consistent, legal rules and not changing formulas or having informal practices for release policies(Pederson et al., 2022).

Another significant worry is that of delayed applications for premature release. The Punjab and Haryana High Court directed the release of 412 prisoners in the state within two weeks in 2025 and voiced its concern over handling of pending cases for premature release. The court pointed out that some applications had not been resolved since December 2024, and stated that the prisoners who are eligible should not be kept in jail with any lawful cause. This is a development that goes beyond the person or persons involved in the actual case of the prisoners(Penal Reform & Dost, 2018). The difference in the time periods is not considered an actual extension of a sentence if the period is due to an administrative delay in considering the eligibility of an actual prisoner, when the period is considered for another similarly situated prisoner without any actual delay. When administrative delay of this sort becomes a substantive liberty issue, rather than a mere bureaucratic trickle, it is an issue of life or death for the lives of those delayed. When administrative delay in this manner becomes a substantive liberty issue, instead of a mere

administrative trickle, it is a life-or-death matter for those delayed(Plesničar, 2024).

A uniform parole system should, therefore, have clear eligibility requirements, uniform evaluation processes, set processing times, explicit written grounds for parole and a transparent appeals process. The Rules of 1927 already provide for an institutional framework in which the Director of Reclamation and Probation and parole officers are a part of the supervisory process for released prisoners. They also have to be satisfied that the conditions of a release license be explained personally to the prisoner and accepted by the prisoner before they're released. The difficulty is to modernize them and make them standard so that similar prisoners are treated similarly. Parole should not be an exceptional administrative favor, nor be too much reliant on geographical or institutional conditions(Punjab & Parole, 2025).

Policy Challenges and Reform Framework

Developing Nationally Consistent Sentencing Standards

The first big hurdle to achieving uniform sentencing is a lack of sufficiently uniform criteria that could be used to guide judges in giving sentences without compromising judicial independence. The concept of uniformity cannot be interpreted as punishment for an offender being the same for all such crimes, but rather as a requirement that similar crimes and similar offenders be met with similar penalties. The system of criminal justice in Pakistan is highly challenged by institutional pressures. According to the Law and Justice Commission of Pakistan, pending cases in the district judiciary at the beginning of the period (January-June 2025) were 2,679,773 of which 864,034 were criminal cases and at the end of the period, there were 798,706 criminal cases pending. The amount of litigation makes individualized, unstructured sentencing even more challenging, and provides further justification for sentencing guidelines and reasoned, similar sentencing standards(Punjab Prisons, 2026).

An extensive reform package should therefore establish a framework for sentencing of offences that sets out aggravating and mitigating

circumstances, ranges of sentence and scope of departure, and conditions that must be met in cases of departure, with a requirement for written reasons. Judges should have the discretion to "leave the box" if the facts of a case so warrant, but the reasons for the departure should be recorded in the judgment. This would leave the judiciary independent and have provided a clear record which may be reviewed by appeal. A national sentencing database should also be established to capture the type of offence, provision made for the offence, sentence, aggravating/mitigating factors, any prior convictions, decisions made for probation and other factors. This type of database would allow the identification of unexplained differences between courts and regions, and, of course, not through anecdotal observation(Ridgeway et al., 2020).

Standardizing Probation Through Data-Based Assessment and Supervision

The second problem is with the use of probation in practice. The official data of Punjab shows the magnitude at which the system works. The province recorded 44,363 probationers in January 2025, rising to 45,577 in February, 45,463 in March, 46,258 in April, 45,983 in May, and 45,381 in June. The supervised population rose by 1,895 persons, or ~4.27%, between January and April alone. To highlight that probation is not an adjunctive sentencing option but a significant aspect of community corrections. Similar differences in the district-level data are also found. In June 2025, Lahore had 4,848 probationers, Bahawalpur 5,352, Okara 3,369, Jhang 1,818, Mianwali 1,845, whereas Layyah had only 225 and Dera Ghazi Khan 353. They do not provide any evidence of unequal sentencing on their own as they are based on differing populations of the districts and criminal caseloads, but show the need for systematic comparative data(Saleem, 2025).

Reform should thus be based on a pre-sentence assessment report, which is standardized and includes the age of the offender, offence circumstances, employment, family environment, rehabilitation prospects as well as assessed risk. A common set of eligibility requirements by the courts and a uniform reporting format and

supervision plan by probation officers. There should also be a system of digital probation and management combined as a further step in reform. Each probation order should have an individual case number which can be used to track conditions, compliance, violation, completion and termination of probation. Statistics for each month should be broken down into: new probation orders, active cases, completed cases, breached conditions, and terminated cases(Strange et al., 2022).

Creating Transparent and Uniform Parole and Conditional-Release Mechanisms

Third, to make sure parole is not tied to where people live, circumstance or institutions. Any rule of law that creates a parole system is not enough – if similarly situated prisoners have vastly different chances of getting a conditional release. There needs to be an uniform set of criteria for eligibility that is based on the following factors: sentence served, prison conduct, progress towards rehabilitation, risk assessment, and prior criminal record and prospects for lawful reintegration. All applications should be considered in a clearly defined timeframe and decisions on refusal should be accompanied by written reasons that can be individually considered(United Nations Office on & Crime, 2026). This reform is of particular importance as Pakistan's post-conviction system also has several post-conviction legislations and rules on release of prisoners, such as the Good Conduct Prisoners' Probationary Release Act 1926 and the Rules for the release of prisoners. These laws are historical, so the current laws strongly support the need for a modernized release process addressing current rehabilitation and risk-assessment principles. The system should be based on a uniform parole assessment form to be used province-wide, and an independent parole review procedure in case of parole disputes(Topaz et al., 2023).

Administrative statistics should be used to accurately guide parole reform. Authorities should release at least the number of prisoners qualified for, who applied for, who were approved, who were rejected, the average processing time, parolee violation of conditions, and reason for parolee

violation. This information would reveal discrepancies among provinces and would allow for evidence-based reform. It would also help to eliminate the possibility of a "hiding time" that may be used to extend a prisoner's incarceration beyond what is legally allowed under the applicable law. The reform should be further linked to parole and rehabilitation programs. Education, vocational training, psychological counselling, substance-use interventions (where applicable) and employment preparation/family reintegration programs should be available to prisoners. This should be considered as part of a formal evaluation and not an informal evaluation upon program completion(Uhl & Mamak, 2026).

Strengthening Accountability, Review and Integrated Criminal Justice Governance

The last problem is institutional disintegration. Judicial authority is involved primarily in sentencing decisions, and correctional and administrative authorities in probation and parole. If it is not coordinated effectively, the same sentence may result in different levels of practical effect on supervision or release. Reform should, therefore, ensure that there is a seamless information sharing model that can be developed between courts, probation, prisons, parole authorities and appellate institutions to ensure that there is an appropriate level of confidentiality and data protection. The accountability should be carried out via regular audits on sentencing and release. Periodically, the judiciary could review, in a statistically comparable fashion, some of the different cases that have been sentenced to determine whether a strong or weak sentence occurs and, if so, provide an explanation for the difference(United Nations Office on & Crime, 2015).

Likewise, probation and parole departments should review district and institution approval and rejection rates, as well as probation and parole outcomes and processing time on an annual basis. The goal is not to punish differences of opinion, but to look out for unexplainable patterns. National institutional recognition has already been achieved for the need for coordinated reform. The National Judicial (Policy Making)

Committee in July 2026 adopted a comprehensive judicial reform package to ensure that Pakistan's judiciary becomes more in line with the international standards of rule of law. In July 2026, the NJPMC also held a national conference on prison reform, illustrating a gradual shift in thinking towards correctional and judicial reform in a comprehensive national policy framework(United Nations Office on & Crime, 2021).

Conclusion

The analysis highlights the importance of uniformity in sentencing as a key element of a credible, fair and rights-based criminal justice system. Sentencing consistency does not mean that all crimes are to receive the same punishment, but rather that an equally situated offender would receive a punishment based on equally consistent legal principles, with some differences in guilt, circumstances, criminal history, and rehabilitation potential being permissible. This principle is strongly related to the guarantees of constitutionally in Pakistan for the fair trial, due process, equality before law and protection from the unreasonable exercise of State authority. Creating clear and consistent sentencing standards is especially critical in the face of the vast amount of criminal litigation. The district judiciary's heavy workload in criminal cases shows that lack of uniformity in sentencing can have serious consequences. The study also clarifies that probation and parole should not be considered secondary administrative issues, as they both have a direct effect on the implementation and effectiveness of punishment, as well as its length. The official statistics showed that while there were 44,363 probationers in January 2025, there were 45,381 probationers in June 2025, reflecting the large number of probationers under community supervision. During that period, there was significant variation in district eligibility for and procedures for assessment, supervision, and reporting. One of the other key challenges that parole must meet is that of inconsistency: prisoners in similar situations may find themselves incarcerated for various durations. In general, there is a need for a central policy to be both consistent and flexible (not rigid) and not arbitrary

(discretionary). Well-defined sentencing principles, principled sentences, uniform probation evaluations, clear parole conditions, consistent electronic records, institutional communication, judicial education and appeal or administrative review processes can significantly reduce the number of unnecessary inequities. These reforms would bolster the fair-trial rights, equality before law, proportionality, rehabilitation and public confidence. Consequently, uniform sentences should be considered not only as a technical goal of sentencing but also as a key tool to guarantee the lawfulness, predictability, proportionality and basic fairness of the criminal justice system.

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