

Learning from Excellence: How South Korea's Criminal Justice System Can Inform Pakistan's Reforms

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Abstract

This study examines South Korea's criminal justice system (CJS) as a potential model for Pakistan's ongoing reforms. The aim is to identify areas where South Korea's CJS excels and analyze their applicability to address shortcomings in Pakistan's system. Through a comprehensive literature review, the research explores theoretical frameworks and existing studies on both nations' CJS. Additionally, a comparative analysis may be conducted using data on crime rates, conviction rates, and recidivism in both countries. Results and discussion will focus on key strengths of South Korea's CJS, such as technology integration, rehabilitation programs, or focus on restorative justice. The analysis will then explore how these elements could be adapted to the Pakistani context, considering cultural and legal differences. The research uses a qualitative approach to examine South Korea's criminal justice system as a model for reforms in Pakistan, focusing on its effectiveness and adaptability to the Pakistani context through a comparative case study approach. Finally, the study will propose concrete solutions and recommendations for incorporating successful practices from South Korea into Pakistan's CJS reforms. This may include policy changes, implementation strategies, and considerations for overcoming potential challenges. By learning from a demonstrably effective system, Pakistan can enhance its CJS to deliver swifter justice, improve rehabilitation rates, and ultimately promote public safety.

Keywords:

Criminal Justice System (CJS), Best Practices, Comparative Analysis, Rehabilitation, Restorative Justice, Policy Recommendations, Public Safety

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Introduction:

South Korea's criminal justice system is a beacon of success, offering valuable lessons for Pakistan's ongoing reforms. This study delves into South Korea's best practices, examining areas where their system excels. By adapting these insights to Pakistan's context, we aim to enhance justice delivery, improve rehabilitation rates, and promote public safety. Pakistan and South Korea are collaborating to enhance their criminal justice systems to reduce recidivism and ensure public safety. Pakistan's CJS faces challenges like overcrowded prisons, poor conviction rates, slow trials, and high recidivism. South Korea has a more efficient and rehabilitative CJS, focusing on restorative justice programs. This study analyzes the philosophical underpinnings and practical applications of each nation's CJS to identify best practices for Pakistan's reforms. Pakistan's CJS is influenced by British colonial rule and military dictatorships, emphasizing punishment over rehabilitation. Pakistan ranks 130th out of 139 countries in the World Justice Project's Rule of Law Index 2021, with a focus on criminal justice and incarceration. South Korea, on the other hand, ranks 19th out of 139, indicating a more efficient and fair system. The index measures rule of law based on factors such as government power constraints, corruption absence, open government, fundamental rights, order and security, regulatory enforcement, civil justice, and criminal justice. (Chisholm, 2023; Lal et al., 2023)

Pakistan's conviction rate is low, with district courts having a 7.73% conviction rate in the first seven months of 2024. South Korea's high conviction rate is attributed to its thorough investigative process and high-quality evidence, with most cases reaching 98% in recent years. This high conviction rate is rooted in public dissatisfaction with a weak and corrupt system, unlike Pakistan's lack of sustained political will and public pressure. Pakistan's Criminal Justice System (CJS) has a hierarchical structure with limited judicial independence, with police dominating investigations. This often leads to abuse accusations and arbitrary arrests. South Korea, on the other hand, has implemented reforms to strengthen judicial independence and promote a more adversarial system. Despite facing challenges like overcrowded prisons and high recidivism rates, South Korea has shown success in rehabilitation initiatives. Public trust in both Pakistan and South Korea is crucial for their effectiveness. Pakistan's CJS is often perceived negatively due to corruption and inefficiency, while South Korea has made progress by incorporating citizen feedback and increasing transparency. Pakistan's low conviction rate is attributed to factors like witness intimidation and weak evidence. Pakistan can improve its criminal justice system by learning from South Korea's system, which has a high conviction rate of 90% and a remarkable judge-jury agreement rate in jury trials. This can lead to swifter justice, improved rehabilitation rates, and safer communities. Comparing South Korea's conviction rates to other countries is crucial, considering cultural, legal, and procedural differences. Pakistan can learn from South Korea's successful practices to improve its own conviction rates and ensure fair justice delivery. Further research is needed to understand the underlying factors contributing to South Korea's impressive conviction rates. (Lal et al., 2023)

This study examines the success of South Korea's criminal justice system and its potential application to Pakistan's ongoing reforms. South Korea's system is successful in integrating

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technology, emphasizing rehabilitation programs, and restorative justice practices. It uses digital platforms for case management, evidence collection, and communication among stakeholders, while reducing delays and enhancing transparency. However, Pakistan lags behind, largely due to political interference and hindering judicial independence and progressive policy implementation. South Korea's consistently low crime rates reflect effective preventive measures, which can be learned from Pakistan's strategies to address specific crime categories. High conviction rates result from efficient investigations, strong evidence presentation, and skilled legal professionals. Pakistan can explore similar approaches to improve its conviction rates and adapt evidence-based rehabilitation programs to reduce recidivism. However, challenges and adaptations include cultural differences between the two nations, which must be considered. Customizing successful practices to align with Pakistan's cultural norms is essential. Legal reforms may be necessary to accommodate new approaches, and legislative changes can facilitate the adoption of South Korea's best practices. (Chisholm, 2023)

South Korea's high conviction rates are attributed to effective strategies in its criminal justice system, including efficient investigation, evidence presentation, technology integration, restorative justice, and high agreement rates between judges and juries. Special enforcement units investigate offenders promptly, providing intensive probation supervision, psychotherapy, and vocational support. Victim protection and public safety are prioritized, with intensive probation for crimes like child abuse, domestic violence, and stalking. These strategies contribute to a more efficient and effective criminal justice system. Pakistan can enhance its criminal justice system by implementing South Korea's successful strategies, such as investing in technology, implementing digital case management, e-court systems, community-based rehabilitation, vocational training, restorative justice, judge-jury collaboration, electronic monitoring for high-risk offenders, and strengthening victim protection. These strategies should be tailored to Pakistan's unique cultural context, legal framework, and resources. By understanding the strengths and weaknesses of both Pakistan and South Korea's Criminal Justice System (CJS), Pakistan can identify key areas for improvement. This journey towards a more efficient and equitable CJS will ensure public safety, strengthen public trust, and ensure a fairer system for all. (Lee & Park, 2022)

Research Methodology:

This study uses qualitative research to analyze how South Korea's criminal justice system can influence Pakistan's reforms. It involves a literature review, interviews with key stakeholders, and comparative analysis to identify similarities and differences. Thematic analysis is used to identify recurring themes, and member checking and triangulation ensures accuracy. However, limitations like subjective nature and researcher bias are acknowledged. The findings can help develop effective reform strategies in Pakistan. (Rauf et al., 2022)

Literature Review:

The South Korean legal system is a blend of European civil law, Anglo-American law, and Chinese classical thought. Traditionally, disputes were resolved through informal mediation. However, formal control mechanisms have replaced these customs. The jury system was

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introduced in 2008, but judges are not bound by verdicts. Wiretapping is allowed, but sting operations and plea bargaining are not. Trials are short, and harsh interrogation methods are used. South Korean police solve over 82% of crimes in the 2000s. South Korea has a history of assimilation of foreign laws, with the Choson Dynasty introducing codes from various dynasties and Confucian values. The Kabo Reforms introduced Western institutions and translated Japanese codes, leading to a Westernized legal system with European civil law tradition and prominent legal scholars. The Code of Criminal Procedure (1954) governs criminal justice enforcement while retaining Anglo-American features. The Supreme Court and the Constitutional Court are the two highest branches of the three branches that make up the government: the judicial, executive, and legislative. Habeas corpus was reinforced in the 2007 revision of the Korean Criminal Procedure Code. In late 1989, a South Korean court rendered the first exclusionary decision on a confession, citing constitutional provisions of the right to legal representation. On the other hand, when looking into other instances, law enforcement and security agency officers disregarded court decisions and legal precedents. For the South Korean system to develop general rules beyond the judicial correction of particular infractions in particular situations, legislative action was required. (Khokhar et al., 2023)

South Korea's criminal justice system has been a success story, offering valuable lessons for Pakistan's ongoing reforms. Key strengths include high conviction rates, technology integration, and a focus on rehabilitation over punishment. However, adjusting South Korea's practices to Pakistan requires considering cultural norms and legal differences. Customization and legislative changes may be necessary to accommodate new approaches. Pakistan can transform its criminal justice landscape by implementing technology, emphasizing rehabilitation, and promoting restorative justice. This can lead to swifter justice, improved rehabilitation rates, and safer communities. South Korea, a rapidly growing nation with a rich cultural and technological heritage, faces challenges related to crime. Despite modernization, violent crimes have decreased, while theft and property crimes have declined. However, high internet penetration has led to a surge in online scams, data breaches, and cyberbullying incidents. Sexual offenses have also increased, and drug-related offenses remain relatively low compared to global averages. Public trust in South Korean law enforcement is generally positive, but unique socio-cultural and economic factors need continuous monitoring and adaptive strategies. (Naseem et al.)

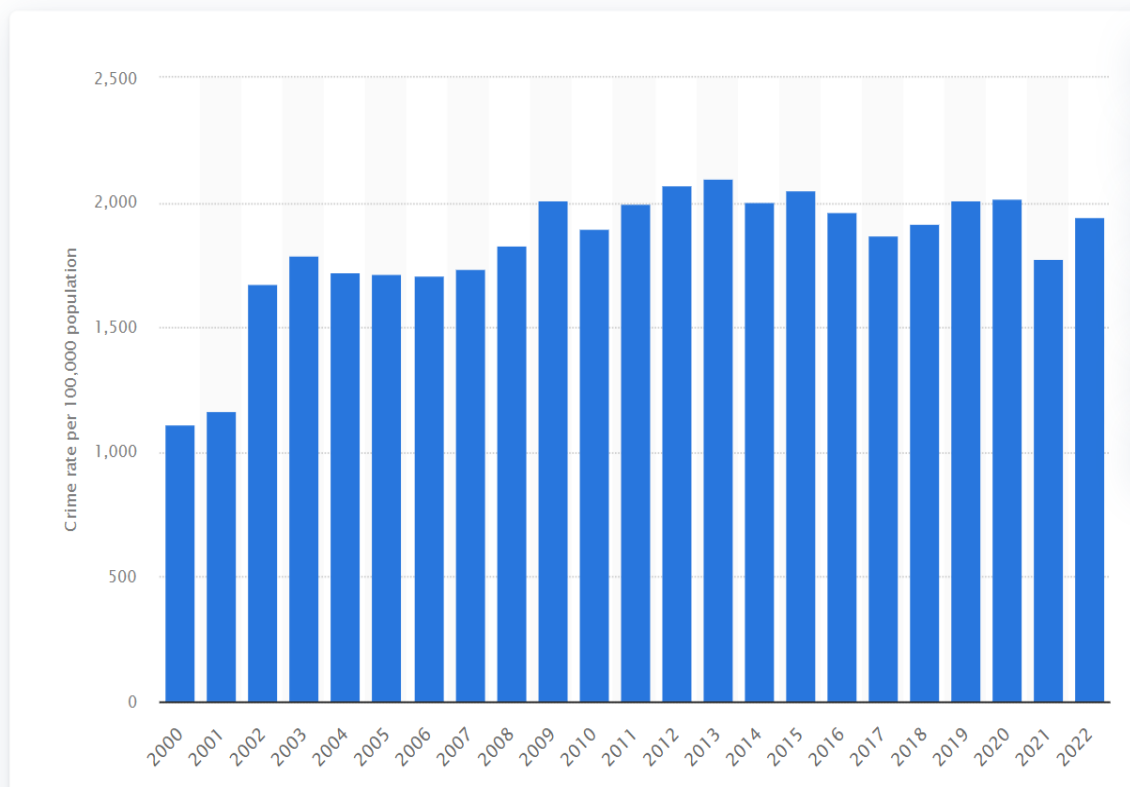
Pakistan can improve its criminal justice system by learning from South Korea's system, which has a high conviction rate of 90% and a remarkable judge-jury agreement rate in jury trials. This can lead to swifter justice, improved rehabilitation rates, and safer communities. Comparing South Korea's conviction rates to other countries is crucial, considering cultural, legal, and procedural differences. Pakistan can learn from South Korea's successful practices to improve its own conviction rates and ensure fair justice delivery. Further research is needed to understand the underlying factors contributing to South Korea's impressive conviction rates. By implementing South Korea's best practices, Pakistan can enhance its criminal justice system. Advanced technology can be used to enhance case management, forensic analysis, and surveillance, reducing case backlogs. Rehabilitation programs in South

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Korea can be adapted by partnering with non-governmental organizations and international bodies to develop comprehensive centers. Restorative justice can be adapted by initiating pilot projects focusing on community-based conflict resolution and victim-offender mediation. Building public trust and enhancing transparency through independent oversight bodies and public awareness campaigns can also be achieved. Despite economic constraints, targeted international aid and strategic partnerships can fund these initiatives. (Ahmed et al., 2022)

South Korea's crime rate for 2022 was 1,943 offences per 100,000 inhabitants, indicating a marginal rise from the year before. The source claims that after 2000, there was a sharp rise in crime in South Korea, in part because several offences under the special legislation were now classified as crimes under the penal code. The statistics have not changed much in the last few years.

Crime rate in South Korea from 2000 to 2022 *(per 100,000 population)*

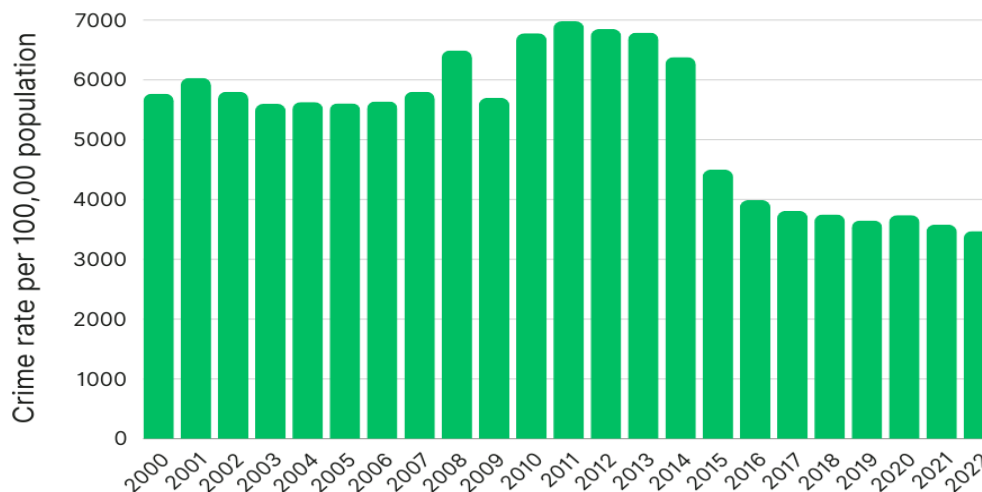


South Korea's crime rate slightly increased in 2022 due to the inclusion of special law crimes in the criminal code. Pakistan's criminal justice system, based on the 1860 and 1898 Penal

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Codes, emphasizes retribution and deterrence, leading to high recidivism rates. South Korea's system, on the other hand, prioritizes human rights, restorative justice, and victim protection. Pakistan's hierarchical model raises concerns about abuse and arbitrary arrests. By learning from South Korea's strategies, Pakistan can enhance due process, improve evidence collection, and ensure fair trials, ultimately reducing its crime rate. (Mahoney & Chowdhury, 2021)

CRIME RATE IN PAKISTAN FROM 2000 TO 2022



Pakistan's high crime rate is attributed to weak law enforcement, judicial delays, socioeconomic factors, corruption, and political instability. High poverty and unemployment, coupled with frequent terrorist attacks, undermine justice. South Korea's low crime rate is attributed to effective law enforcement, judicial efficiency, socioeconomic stability, strong societal norms, and community policing, resulting in a more efficient law enforcement system.

Result And Discussions:

South Korea's high conviction rate is attributed to its emphasis on confessions, efficient investigative processes, and strong forensic capabilities. This approach streamlines the judicial process and ensures swift case movement. Pakistan can learn from South Korea's commitment to due process, evidence collection, and public trust by adopting similar practices. Pakistan should invest in training law enforcement officers and forensic experts, implement standardized protocols for evidence handling and preservation, strengthen forensic capabilities, and work towards greater transparency. However, Pakistan faces

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unique challenges, such as resource constraints, cultural context, and legislative changes. To address these, Pakistan should prioritize critical areas like training and technology adoption, adapt strategies to align with its cultural context and engage legal experts, policymakers, and civil society to draft effective reforms. By focusing on due process, evidence collection, and transparency, Pakistan can enhance its judicial system and ensure justice for all. (Sakib, 2022)

South Korea has made significant strides in forensic capabilities, with firms like FRA Korea and the National Forensic Service (NFS) playing crucial roles in the Asia Pacific region. FRA Korea focuses on forensic services in areas like sanctions, bribery, corruption, and compliance. The NFS provides DNA profiling services since 1992. Pakistan faces challenges in implementing advanced forensic technologies, including limited funding, outdated infrastructure, and a growing backlog of cases. Strategic investments, modernization, and collaboration are needed to address these issues. Pakistan can improve its forensic capabilities by implementing successful strategies such as public-private collaboration, regional networks, investment in research and development, quality assurance and standardization, technology adoption, and public awareness and education. These strategies can lead to technology transfer, training, and innovation, as well as the development of specialized curricula in forensic science. Additionally, Pakistan can seek international grants and partnerships to support capacity-building initiatives. By implementing these strategies, Pakistan can enhance its forensic capabilities, strengthen investigations, and contribute to a more effective criminal justice system. (Quddous et al., 2023)

The World Bank research focuses on enhancing forensic capabilities in developing countries through collaboration, investment, and capacity building. Despite African countries having advanced facilities, there is still a shortage of trained professionals. The study examines the historical and practical realities of Pakistan and South Korea's Criminal Justice Systems (CJSs) to offer a roadmap for reform. Pakistan can learn from South Korea's commitment to judicial independence, restorative justice programs, and technology adoption. Addressing Pakistan's historical framework, characterized by colonial-era legislation and a lack of separation between investigative and prosecutorial functions, can lead to a more balanced and humane system. By adopting best practices from South Korea and adapting them to Pakistan's unique cultural context, the CJS can be transformed into a more effective and equitable instrument for justice delivery. (Malik, 2022)

South Korea's CJS stands as a testament to the transformative power of reform. By embracing judicial independence, prioritizing rehabilitation, and leveraging technology, South Korea has demonstrably improved the efficiency and effectiveness of its justice system. Pakistan, at a crucial juncture in its own reform journey, can glean invaluable lessons from this success story. By incorporating these best practices and adapting them to its specific context, Pakistan can create a CJS that fosters public trust, delivers swifter justice, and ultimately promotes a safer and more just society for all its citizens. (Rehman, 2020)

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Conclusion:

South Korea's legal history has been shaped by Confucianism, Japanese influence, and postliberation reforms. The Chosŏn Period saw less systematic codes, while the Japanese Occupation Period introduced modern laws. The post-liberation period saw South Korea gain independence, establish a new constitution, and continue legal reforms. The 1987 constitutional reforms significantly influenced the legal system, promoting democratization, transparency, accountability, and normalizing presidential-legislative relations. The revised constitution emphasized fundamental rights and the Constitutional Court of Korea ensured legislative statutes conformed to constitutional norms.

South Korea's legal history has been shaped by Confucianism, Japanese influence, and postliberation reforms. The Chosŏn Period saw less systematic codes, while the Japanese Occupation Period introduced modern laws. The post-liberation period saw South Korea gain independence, establish a new constitution, and continue legal reforms. The 1987 constitutional reforms promoted democratization by clarifying government branches, enhancing transparency and accountability, and normalizing presidential-legislative relations. The revised constitution emphasized fundamental rights, including due process and equality before the law.

South Korea's post-authoritarian civil society has significantly transformed the criminal justice system since the 1980s, aiming to improve transparency, accountability, and fairness. Despite challenges like constitutional changes, civil society mobilization, gender equality, family law, and the Cold War context, the system is known for high conviction rates, public trust, and low corruption. Solutions include investing in forensics, enhancing judicial independence, public education, and stringent accountability procedures. The Criminal Justice System (CJS) is a robust institution with modern technology, transparency, and a corruption-free environment, emphasizing collective wisdom, rehabilitation programs, restorative justice, and no trial delays. South Korea consistently ranks 29th in the overall productivity index since 2011.

Pakistan's criminal justice system, established during the British colonial era, is governed by three main legislations: the Evidence Act of 1872, the Code of Criminal Procedure of 1898, and the Indian Penal Code of 1860. The system is hierarchical, with Supreme judicial, High Courts, subordinate courts, and specialized courts. Despite attempts to improve, issues like corruption, weak law enforcement, and ineffective courts persist, leading to low conviction rates and unfairness. Pakistan can improve its criminal justice system by adopting key practices from South Korea's, such as investing in advanced technology, focusing on rehabilitation and restorative justice, streamlining judicial processes, improving police force and judiciary training, stringent recruitment criteria, and strict laws.

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