

Legal Pluralism in Pakistan: Navigating the Interplay of State Law, Sharia, and Customary Justice Systems

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Abstract

There is an intricate foreplay of formal state legislation, Islamic jurisprudence (Sharia), and customary practices (e.g., Jirga and Panchayat) that influence legal pluralism in Pakistan. This duality gives some opportunities and challenges in the delivery of justice, especially in the rural and tribal regions where much of the informal systems dominate the formal legal systems. Such problems as clashes between constitutional freedoms and traditional values, gender differences in the results of justice, and discrimination against vulnerable groups through parallel structures can be identified. Although the laws have a moral basis in terms of Islamic principles, the interpretation of these principles is diverse, and this makes them have inconsistencies in their application. The reasoned judiciary is backlogged and inefficient to an extent that it supports the use of informal mechanisms. Nonetheless, legal pluralism also provides opportunities to resolve disputes in a culturally sensitive way. This paper will look at the historical background, theoretical models, and the current expressions of legal pluralism in Pakistan, the systemic loopholes, and how the systems can be harmonized without conflicting with the rights of men and constitutional provisions.

Keywords: Challenges, Historical Context, Laws, Opportunities, Theoretical Context

Introduction

Legal pluralism is a mandatory part of any heterogeneous legal system since it governs the co-existence, interaction, and validity of various legal orders that co-exist within the identical jurisdiction (Mac Amhlaigh, 2022). A good case study of a multiplexed multi-faceted legal system is the Pakistani legal system that assumes the involvement of Islamic law, customary practices, and secular legal principles running parallel and offering a particular environment to solve a dispute and enforce people to the law (Gul et al., 2025). The relationships are founded on socio-political, cultural, religious, and institutional aspects that define the interactions and struggle for legitimacy of various legal systems (Ishfaq et al., 2024).

Legal pluralism in Pakistan is a wide network of systems comprising formal state courts or informal dispute resolution systems, like the *Jirga* system, religious family laws, and customary systems of arbitration of different ethnic groups (Ahmed et al., 2024). All of these laws provide both points of openings and challenges simultaneously, as both give culturally appropriate ways of adjudicating disputes and place the question of legal coherence and uniformity in the implementation of justice in question (Hassan & Malik, 2024). It is also complicated by the fact that they have to find the balance between the normativity of the Islamic and the principles of the common law, which they were leaving behind after colonization (Haque et al., 2023).

One of the remarkable aspects of legal pluralism in Pakistan is the legal recognition of different legal systems and, in particular, the family law, customary standards, and the tribal government (Shaikh & Benedetti, 2024). Co-

existence of formal courts with the Pashtuns, in addition to traditional institutions like the Dareemat system, can be regarded as an example of legal pluralism in addressing different needs of a community (Khalid, 2025). This pluralism takes into consideration how Pakistan tries to reconcile its various cultures and religious backgrounds and, at the same time, share a common legal system of the nation (Khan, 2024).

Research Justification

The study of legal pluralism in Pakistan is important because it has a compound interaction of official state legislation, Islamic law, and traditions. Such pluralism usually results in contradictions, inconsistencies, and unfair justice provisions, especially to the marginalized groups such as women and religious minorities. Such dynamics need to be understood to rectify any systemic inefficiencies and human rights abuses caused by conflicting legal systems. Legal pluralism in Pakistan is based on the strong historical background of the country, Islamic identity, and tribal culture, which introduces loopholes between the statutory law and local custom. As an example, *Jirga* systems used informally often circumvent the official courts, continuity of discrimination practices. This kind of fragmentation subverts the rule of law and worsens access inequality in the areas of justice.

The study is topical, as there are still controversies on legal reforms and harmonization. It seeks to examine the impacts of pluralism on the outcomes of justice, establish any contradictions between systems, and suggest integrative solutions that would be sensitive to the issue of cultural diversity and preserve the constitutional and international human rights principles. The research will also play a role in the policy discourse of harmonizing the legal systems without undermining local legitimacy by linking theoretical understanding with the actual world. Finally, the study aims to make the legal system more just and consistent, serving the interests of every citizen without misconceptions in the specific socio-legal environment of Pakistan.

Research Objectives

1. To discuss the historical context of legal pluralism in Pakistan.
2. To highlight the theoretical context of legal pluralism in Pakistan.
3. To analyze the laws regarding legal pluralism in Pakistan.
4. To identify the key challenges regarding legal pluralism in Pakistan.
5. To explore the opportunities for legal pluralism in Pakistan.
6. To propose effective prevention and intervention strategies.

Research Methodology

This study employed a systematic review methodology, with research objectives established accordingly. A comprehensive literature review was conducted (Komba & Lwoga, 2020). Research findings were categorized based on their content (Hiver et al., 2021; Petticrew & Roberts, 2006), and classified information was incorporated into the study by organizing it into headings (Gan et al., 2021; Pawson et al., 2005). The evaluation of classified information and titles formed the basis of the study (Page, 2021; Rahi, 2017), ensuring the integrity of the research subject and its contents (Egger et al., 2022; Victor, 2008). The criteria for selection are listed.

1. Relevance: Research that directly addressed the questions posed by this study is included.

2. Quality: Studies that meet a certain quality threshold (e.g., methodological rigor, bias risk) are included. Most of the researches are from Scopus indexed and Clarivate Analytics journals and reputed publishers.

3. Recency: Consideration of the publication date to ensure that the review reflects the most current evidence. Most of the studies are from the last three years.

4. Language: Only studies published in English are included.

5. Data Completeness: Previous studies must provide sufficient data on outcomes of interest for practical synthesis; this is also ensured in this research.

This study did not use primary data from human participants; therefore, no ethics clearance letter from the ethics committee was required.

Literature Review

One of the significant processes of contemporary law is legal pluralism that may be used to define co-existence of the numerous normative orders within the jurisdiction area and reliance (Mac Amhlaigh, 2022). The other sensitive area of study that should be doubted in a site with plural cultural behaviors is legal pluralism, which can be compared with mottled systems when it comes to the religious sphere, and rather aligned constructions of the constitution that the Pakistani has been identified with (Gul et al., 2025). The written literature review is also going to be an amalgamation

of the available sources of information and processing concerning the topic of legal pluralism established in the Pakistani legal system in relation to the traditional dispute resolution procedure, the dualities involved in the constitution, and the confounding of the family law establishment and the propensity of inclusiveness towards a customary law tradition against the formal legal the arrangements (Ishfaq et al., 2024).

The available literature has revealed the fact that the old dispute resolution systems should be the main arenas of the legal pluralism of Pakistan. The informal systems have been identified to be located beneath the complement of the official courts with the *Jirga* system in the tribal societies or with the *Dareemat* system in the Pashtun societies (Ahmed et al., 2024). Research has discovered that these informal networks are becoming gigantic case-loads, particularly in rural areas where there exists deficient access to the formal courts (Hassan & Malik, 2024). Second, Haq et al. (2023) remark that less formal systems of arbitration are quicker and better versed in culture than their formal counterparts, and provide alternative venues of litigation with which to appeal to the courts.

The second academic problem that is quite astonishing is the pluralism of both constitutional and family law in Pakistan. As the literature indicates, although the legal system has been accommodated in Pakistan, the trials tend to bring more legal traditions into practice, but the confrontation between the Islamic laws and traditions and the customary practice remains peripheral (Khalid, 2025). Khan (2024) proceeds to affirm that there is intercourse between the religious normativity and the secular model of law, resulting in the hybrid legal systems that are reminiscent of the duality of being a common law system and an Islamic republic, as is the case with Pakistan. It has come up with disturbing concerns of judicial integrity and the problem of pluralistic behavior and the Act of equity in the service of justice (Yilmaz, 2022).

Historical Context of Legal Pluralism in Pakistan

The Pakistani legal pluralism has its origins in the colonial history of British India, which developed the template based on which various legal institutions were allowed to co-exist at the same time in the subcontinent (Mac Amhlaigh, 2022). An institutional background inherited in the wake of the partition of India in 1947, comprising the British common law, the Islamic personal law, and the tribal rules and regulations, is the foundation of the modern legal pluralism of Pakistan (Gul et al., 2025). Such a colonial system was even tailored to maintain the local legal traditions and to implant general imperial legal systems in order to form the basis of the modern pluralistic legal system in Pakistan (Ishfaq et al., 2024).

To begin with, legal pluralism was implemented by the colonial government more in an administrative rather than a principled manner to enable it to maintain its grip over its subjects, and local resistance to British rule was downplayed (Ahmed et al., 2024). The traditional methods of arbitration, like *Jirga* of the Pashtun people and other forms of customary arbitration systems, were allowed to run freely in addition to the colonial courts (Hassan & Malik, 2024). Other native legal traditions and the *Dareemat* system became explicitly legalized in some regions, particularly those practices that were mostly practiced in tribal territories and where the colonial power lacked such direct control (Haq et al., 2023).

In Pakistan, and particularly in the post-independence period, the 1973 Constitution formalized the legal pluralism in the country by directly recognizing the Islamic law and the principles of common law without limiting the space of customary practices within the family and tribal matters (Khalid, 2025). It was this constitutional design that formed the basis of the current discussion of the necessity to balance religious identity and legal plurality through the current debate of educational and legal uniformity and pluralistic designs to the present day (Khan, 2024; Shaikh & Benedetti, 2024).

Theoretical Context of Legal Pluralism in Pakistan

Legal pluralism, as it is theorized in Pakistan, is based on three major insights that describe the existence of multiple legal systems. The first approach is based on the centralism vs. pluralism dilemma, by which the issue of state-based legal systems and the acknowledgment of non-state normative orders is position. The example of this conflict is the situation in Pakistan, where the constitutional laws clash with Islamic Sharia and traditional *Jirga* systems.

The second school is the post-colonial hybridity theory that holds that the Pakistani legal system is a hybrid framework incorporating the British colonialism (e.g., the Penal Code of 1860), Islamic jurisprudence (e.g., the Hudood Ordinances), and native dispute resolution systems. This hybridization brings the issues of normative conflicts and adaptive synergies in terms of which citizens can move between a formal court and informal *Jirga*, depending on the availability. They tend to think that the Islamic laws are morally correct but inconsistent in their procedures, whereas the traditional systems are culturally appealing but offend the rights of people.

These theoretical perspectives help to explain the complicated legal environment of Pakistan, where pluralism allows local justice and weakens constitutional rights. The major conflicting areas are state sovereignty and community autonomy, universal human rights and cultural relativism, and legal modernization and path dependence. The interaction between the two structures can lead us to understand why any attempt to establish legal homogeneity is not always welcome, and informal structures still exist.

Laws Regarding Legal Pluralism in Pakistan

The key laws and structures that exemplify this pluralistic nature in Pakistan are legal pluralism, which includes the following:

1. **Customary Laws:** *Pashtunwali*, *Jirga* systems, and other novelty laws (e.g., the Smiling of the closest relative or one scattering a bunch of dead flowers over a funeral) are known as Customary Laws. Informal forms of justice systems, such as *Jirga* and *Panchayat*, co-exist with formal courts, especially in the rural setting.
2. **Federal Shariat Court (FSC):** To establish dual judicial review through review of laws to ensure they accord with Islamic principles, was instituted under Article 203D.
3. **Hindu Marriage Act, 2017:** It offers a legal framework to the statutory Hindu marriages, which satisfy the legal requirements of the minor communication groups.
4. **Ordinance of Muslim Family Laws, 1961:** Regulates marriage, divorce, and inheritance of Muslims and incorporates Islamic laws with legal ones. It also honors the jurisdiction of the local traditions in some issues of the family.
5. **The Pakistani constitution, 1973:** Articles 2A, 227-231 include Islamic postulations in the legal framework whereby all the laws should be in line with the injunctions of Islam. **Article 25 ensures quality under the law, to balance the statutory and religious laws.**
6. **The Sindh Hindu Marriage Act, 2016:** An autonomy of legislation law in the region serving Hindu communities in Sindh, a case of provincial legal pluralism.

These legislations show legal pluralism in Pakistan, which is the situation where the state law, religious law, and customary practices overlap and, in most cases, conflict, but also gives a wide range of options in terms of seeking justice.

Challenges for Legal Pluralism in Pakistan

The legal system in Pakistan is very challenging, based on its pluralism with the statutory laws, and Islamic and customary laws in a standoff position. The primarily acute problems are:

1. **Human Rights Concerns:** The conventional methods of dispute resolution often infringe the fundamental rights, and women and religious minorities are disproportionately exposed. Honor killings, forced marriages, and *swara* are also some of these practices, which remain legal even though national laws address this as illegal.
2. **Jurisdictional Overlaps:** The court of Shariat co-exists with the secular court in a way that creates confusion, thus causing delayed justice and parties making opposing rulings that undermine confidence in the judicial system among the news audience.
3. **Marginalization of the Minority:** Non-Muslim populations face the systematic disadvantages related to the poor adoption of personal laws and non-existent legal frameworks, especially when it comes to dealing with marriage, inheritance, and religious freedom.
4. **Political Instrumentalization:** The laws of religion and custom become the object of manipulation by various political actors whose actions lead to the aggravation of the situation of the political institutions and the system of equal justice.
5. **Regional Inequality:** Due to the non-existence of unified customary legislation between provinces (such as *Pashtunwali* in KP and Sindh) in the country, there is a divided legal space that makes national integrity contested.
6. **Systemic Encounters:** Deep tensions phenomena occur when the statutory law punches holes in the Islamic tenets (especially in the blasphemy cases) or traditionally accepted ways of doing things, such as the *Jirga*. The resulting inconsistent judicial rulings that result from these conflicts undermine the predictability of the law.

Opportunities for Legal Pluralism in Pakistan

1. **Ethical Capacity Building:** Legal pluralism allows full training of judges, lawyers, and law enforcement. There are specialized programs that bring into light the ethical similarities between various legal traditions that will foster more cohesive and rights-oriented decision-making in all justice systems.
2. **New Models of Justice:** The pluralistic setting enables the implementation of creatively innovative approaches to justice, such as special hybrid courts that integrate formal processes with the involvement of the community. These may go a long way in enhancing access to justice in rural regions whilst ensuring ethical practice.

3. Public Legal Empowerment: Awareness campaigns on plural systems could educate citizens on the rights they have under plural systems. These would have a positive impact on marginalized groups because they will be able to combat malpractices without losing faith in hybrid justice systems.

4. Reformed Dispute Resolution: Traditional methods like *Jirga* would be changed to an efficient system of community justice. These traditional forums would be able to remain efficient by developing human rights, gender equality, and due process training programs for elders to eradicate these detrimental practices, such as honor-based violence.

5. System Harmonization: Co-existence of the state laws, Sharia, and customary traditions will provide a special opportunity to work out the integrated legal system. With the integration of Islamic values such as *Adl*(justice) and *Maslaha* (public welfare) and adherence to constitutional rights, Pakistan would be able to develop a more culturally-related and ethically consistent system of justice that would bridge formal and informal institutions.

Discussion

The Pakistani legal pluralism is full of a complicated encounter among the laws of the state, the Islamic science (Sharia), and the customary laws (*Jirga* and *Panchayat*). Although such pluralism is a manifestation of the multicultural socio-cultural texture of the country, it creates serious ethical and practical issues. The laws of the state tend to conflict with customary laws especially in the countryside where other systems of resolving disputes might be traditional and thus reinforce gender inequality, violence, which is honor-based or extrajudicial.

Co-existence of the formal and informal systems brings irregularities in the delivery of justice, which compromises the rule of law and human rights. An example of this is the fact that *Jirga* rulings often circumvent constitutional protection of due process, often at a disproportionate rate for women and minorities. Nevertheless, legal pluralism provides the chance to reform justice based on cultures as well. The incorporation of Islamic concepts such as *Adl* (justice) and *Maslaha* (public good) in the formal systems would be capable of filling these gaps and, at the same time, meet local values. Pluralistic systems within the constitutional frameworks should be harmonized to maintain accountability and the protection of basic rights would address these issues. Reforms that will be introduced in the future should strike a balance between cultural legitimacy and a universal level of ethics in empowering the justice system in Pakistan.

Conclusion

The laws in Pakistan are characterized by legal pluralism, which consists of state legislation, Islamic jurisprudence, and the customary system; the cultural diversity leads to fragmentation. Such issues include a lack of consistent justice, violation of rights (especially of women and minorities), conflicts in jurisdiction, and politics that play with religious laws. Such problems destroy the rule of law and sideline vulnerable groups. Nevertheless, pluralism provides culturally aware dispute resolution and community-based justice as well. These systems could be harmonized with strategic changes in order to enhance oversight, reconcile the customs with the constitutional rights, and enhance the level of legal awareness. In the process of creating a balance between tradition and the protection of uniform rights, Pakistan can turn legal pluralism into a resource that will achieve just justice and still allow consideration of its heterogeneous socio-cultural canvas.

Recommendations

1. Balance Formal and Informal Legal Systems: Provide a framework of harmonizing customary law and religious law with formal law in Pakistan and ensure that it is aligned with the constitutional rights and also in line with the international human rights treaties.

2. Encourage Gender-Sensitive Approaches: Informal justice systems should ensure women are also responded to and gender equity is ensured in the application of the law, both in the Islamic and customary systems.

3. Enhance Legal Consciousness and Justice Access: Implement citizen education courses to ensure that the people are aware of their rights and legal needs under the state and custom laws so that the population, underprivileged, can be able to cut through the plural legal systems.

4. Favor Alternative Dispute Resolution (ADR): The mediation and arbitration processes should be made quicker and smoother, involving both old and new law, and should reduce the case backlogs within the courts without compromising the institutions of justice.

5. Increase the Managing of the Informal Justice System: Human rights, particularly the female gender and the minority, may be defused by establishing regulatory bodies that would regulate *Jirga*, *Panchayat*, and other informal forms of dispute resolution.

6. Reform Discriminatory Traditional Practices: Amend or repeal customary laws that violate human rights, such as customary laws that condone honor crimes, unequal rights of inheritance, etc., through legislative and community action.

7. Promote Empirical Study of Legal Pluralism: Fund subsidizes interdisciplinary research in order to capture the

impacts of plural legal systems on the provision of justice that can be used to support evidence-based policy reforms.

8. Strengthen Collaboration among the Stakeholders: The consultations among the policymakers, religious thinkers, tribal elites, and civil societies to develop a point of agreement in terms of resolving the plural legal norms against the constitutional principles.

9. Training the judges/lawyers on Legal Pluralism: Train the Judges and lawyers on the complexities of plural law systems that will enable them to adjudicate cases in case of conflict between the customary law and the state law, and at the same time observe the basic rights.

10. Use Technology to Empower the Law Practice: To empower the remote communities, use digital platforms by providing them with information on the state laws, rights, and redress of grievances under the plural systems.

Research Limitations

The research on the subject of legal pluralism in Pakistan has some obstacles. Information about informal systems of justice, such as *Jirga* and *Panchayat*, is not reliable or complete, which restricts in-depth analysis. Differences in regions and culture also make research more challenging because the interaction between the laws of the state, the Islamic principles, and customs is vastly different and diminishes the generalizability. One challenge that may compromise the objective collection of data is the political and social sensitivities on issues of human rights and gender in customary systems.

In methodology, qualitative study is often used to have no statistical rig or to implement policy, and quantitative data from multiple systems are few and far between. The changing legal environment in Pakistan is also likely to render the research outdated within a short period of time. Also, the Islamic and customary norms are subjective and may influence analyses. Lastly, there is the lack of cross-disciplinary cooperation (e.g., between law, anthropology, and political science), which limits holistic knowledge. These constraints demand a careful interpretation of results and new methodologies, interdisciplinary studies, and wider consultation with stakeholders in general to gain a better understanding of the plural legal system of Pakistan.

Research Implications

The legal pluralism research in Pakistan has far-reaching implications for legal reform and the delivery of justice:

1. Access to Justice: The results can be used to underpin efforts, such as legal aid programs, mobile courts, and community education, to eliminate endemic discrimination, especially of women and minorities, in informal justice systems.

2. Conflict Resolution & Reform Design: Comparative studies will be able to find hybrid models of justice that would be able to solve the problems of jurisdiction, and still honor the cultural norms of a society, to enable reforms to be more widely accepted.

3. Human Rights Advocacy: Human rights can also be recorded through research, and the activists can use this evidence to seek reforms to the discriminatory laws against human rights, like honor killings and forced marriages.

4. Judicial Training: Specialization Special training of the judges and lawyers may be informed by insights into navigating plural law that enhance consistency in the application of both national and international law.

5. Policy Harmonization: Having studies can help policymakers reconcile state law with Islamic jurisprudence and customary systems without infringing constitutional rights and international human rights commitments to ensure a more integrated legal system.

Future Research Directions

The future studies must focus on:

1. Comparisons between regions: Examine the differences in the law systems across the regions to come up with harmonization mechanisms.

2. Gender Justice: Study the lives of women in the family, inheritance, and criminal law.

3. Historical Analysis: Track colonial, Islamic, and post-independence impacts on the current systems and solutions.

4. Human Rights Alignment: Build structures that reconcile the norms of the pluralities with the international standards.

5. Justice System Evaluation: Compare informal (*Jirga*) with formal courts, and offer integration models.

6. Legal Tech Solutions: Discover the digital solutions to improve access to justice in remote regions.

- 7. Marginalized Groups:** Examine the effects of the study on women, minorities, and rural settings in matters of the protection of rights.
- 8. Policy Models:** Explore more reform options between pluralism and cultural identity.
- 9. Public Trust:** Determine what the community views of various justice systems.
- 10. Resolution of Conflicts:** Development of models of jurisdictional disputes between legal systems.

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