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Print ISSN: [3006-2497](#) Online ISSN: [3006-2500](#)Platform & Workflow by: [Open Journal Systems](#)<https://doi.org/10.5281/zenodo.17576852>**The role of family mediation and its importance in resolving family disputes in Pakistan****Ibrahim Hanif**

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aaliasaeed@yahoo.com**Abstract**

The family mediation is an important option that Pakistan can adopt instead of the strained legal system to address the problems of divorce, child custody and inheritance. Although there are clauses of this nature with the Muslim family laws ordinance of 1961 and the family court Act of 1964, the systemic shortcomings such as slowness of the process, costly judicial procedures, and use of informal systems such as Jirgas and Panchayat continue to harm the administration of justice. The activities in these traditional ways have a tendency of operating beyond legal constraints thus causing the violation of rights and family disintegration. The significance of family mediation is that it may offer timely solutions in a cost-effective and culturally appropriate way which targets reconciliation and relieves the court pressure. The paper claims that presently, Pakistan lacks proper mechanisms to resolve family conflicts. It suggests that Family Dispute Resolution (FDR) centers that are controlled by the state should be utilized to guarantee justice, efficiency, and the rule of law, thus building a human and a convenient system of family justice in Pakistan.

Keywords: challenges, historical context, laws, opportunities, theoretical context

Introduction

The family conflict in Pakistan arises from complex socio-cultural situations, economic pressures, inheritance issues, and marital relationship problems, all exacerbated by the rigid hierarchy and honor of the family (Soomro et al., 2024). Although the rules and regulations, including Muslim Family Laws Ordinance (1961) and Family Courts Act (1964), mandate the presence of arbitration councils, the system has operative flaws: delays in the process, appointment of arbitrators who are also political figures and the application of the informal system *Jirgas/Panchayat* that abuse human rights and in particular, women (Ghouri et al., 2024).

Cases are piled up in the judiciary in Pakistan, and in most instances, civil proceedings can take decades (Bilal et al., 2023). The resulting stagnation adds emotional/financial strain, further splitting the family, as acknowledged by the Supreme Court, which notes that litigation is known to cause discord. It emphasizes the need for practical, supportive solutions.

Family mediation can fill this gap by offering a culturally sensitive, timely, and confidential avenue for resolution. It is grounded in the Islamic values (Quran 4:35 urges a mediator within any family) and it is aimed at reconciliation and dignity (Ashraf, 2024). Notably, mediation preserves relationships, protects children from trauma, and reduces the workload of the courts (Nouman et al., 2024). It exposes the vulnerable groups, especially women who are marginalized in the traditional forums to agency (Ashraf et al., 2024).

However, the mediation is also not utilized to full capacity due to inconsistent standards, a lack of trained mediators, and a lack of trust in the population. This paper will contend that to ensure the Pakistani family justice system turns into a human, efficient, and rights-centred process, it is essential to ensure it is handled by the centers of Family Dispute Resolution (FDR) and Online Dispute Resolution (a system which guarantees the control of the legal process, the commonness of training, and cultural sensitivity) (Chaudhary et al., 2024).

Research Justification

The family justice system of Pakistan is at both a crisis of the overburdened judiciary and the unmanageable backlog of cases, and the fact that, despite the existence of the law courts, other platforms such as *Jirga*, in the form of *Jirga* and *Panchayat* are still in existence. The law does not govern these platforms, and they are also violators of fundamental rights, particularly of women and children. Although the measures of reconciliation are necessary by the Muslim Family Law Ordinance (1961) and the Family Courts Act (1964), the systemic structural defects, such as the high cost of litigation and poor qualifications of arbitrators, remain an issue. Family mediation, which relies on Islamic values and global best practices, provides a timely and culturally acceptable solution. Mediation is, however, not fully employed because it is not standardized, mediators are not qualified, and there is no confidence in the people.

This study is needed in the context of increased pressure to institutionalize mediation through state-approved Family Dispute Resolution (FDR) centers. To attain this, the Justice centers would assist in upholding a legal culture of accountability and gender sensibilities, and offer practical and low-cost mechanisms of resolution. The study aims to offer an effective model of how family disputes can be solved with dignity, fairness, and integrity as required by the law by decreasing the gap between formal and cultural aspects in law-making. Finally, the suggested model will reduce burdens in courts, benefit vulnerable members, and improve access to and humanize the Pakistani family justice system.

Research Objectives

1. To discuss the historical context of family mediation and its importance in resolving disputes in Pakistan.
2. To highlight the theoretical context of family mediation and its importance in resolving disputes in Pakistan.
3. To analyze the laws regarding family mediation and its importance in resolving disputes in Pakistan.

4. To identify the key challenges regarding family mediation and its importance in resolving disputes in Pakistan.
5. To explore the opportunities for family mediation and its importance in resolving disputes 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:** Researches that directly addressed the questions posed by this study are included.
2. **Quality:** Studies that meet a certain quality threshold (e.g., methodological rigor, bias risk) are included. Most of the research is 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

1. Formal and Informal Systems Failure

The problem of the Family justice system of Pakistan, according to the Family Courts Act (1964), and the Muslim Family Laws Ordinance (1961), is a massive challenge. The family distress is increasing as a result of ultra delays in the process of resolving disputes due to chronic backlogs in courts (Bilal et al., 2023). The Union Council has the role of mediation and reconciliation in family matters, where arbitration takes place (Ghouri et al., 2023). At the same time, transmarginal informal forums, including the Jirga, still replace their operations in the rural context, where they frequently make a ruling against the rights of women, including domestic violence against women (Ahmed et al., 2024), without legal oversight.

2. Cultural Theft vs. the Mediation Effectiveness

The Quran 4:35 has Islamic origins of mediation, which forms a strong cultural linkage to Pakistan. In the Quran, the idea of using mediators (*sulh*) to resolve conflicts is directly encouraged, and this idea is upheld by the principles of the society, such as dignity and the welfare of the community (Chaudhary et al., 2024). Mediation is empirically very advantageous: it is possible to resolve conflicts significantly quicker than in litigation issues and save a significant sum of money and preserve relations with the use of free voluntary dialogue (Ahmad et al.,

2022). The mediation agreement in marital disputes (khula) shows a much greater compliance rate than court decisions, highlighting the practical success of such a resolution (Ashraf et al., 2024).

3. Mediation Opportunities Institutionalized

Researchers are continuously working to make mediation routine by intervening with the Family Dispute Resolution (FDR) at the state level with the aid of Online Dispute Resolution (ODR) centers. These centers would benefit from quality control measures such as certified mediators, legal oversight, and gender-specific procedures (Bilal et al., 2023). It is proven by cross-national examples (e.g., Sulh courts in Egypt) that the burden on the courts is significantly decreased through the addition of mediation to the judicial system, and the result of this move is high trust rates among the population (Ahmad et al., 2022). The key is, however, in dealing with barriers that are unique to Pakistan, like a lack of funding, rural access deficit, and cultural opposition to state-sponsored programs (Soomro et al., 2024).

Historical Context of Family Mediation in Pakistan

1. The Precolonial and Islamic foundations

In Pakistan, the roots of family mediation lie in the precolonial community-based institutions of *Panchayat* (village councils) and Jirgas (tribal assemblies), which are consensus-based and customary law (*rijaz*)-based systems of dispute resolution with a heavy emphasis on collective harmony and less on antagonistic outcomes (Nouman et al., 2022). These practices were also closely linked with religious attitudes and the Islamic concept of *Sulh* (reconciliation), based on the Quranic provision that any family relationship must be maintained through mediation (Quran 4:35) as a religious duty (Ahmad et al., 2022). However, these systems tended to give preference to masculinist opportunities that were patriarchal and exercised a repropagative permission of the role of women in decision-making.

2. Colonial Legacies and Post-Independence Legalization

The toppling of indigenous practices was brought about by the introduction of adversarial courts that were brought about by the British colonial rule (1849-1947), which diminished the importance of mediation in the informal regions (Ghouri et al., 2024). In Pakistan, after 1947, the legal system of the country had embraced Islamic and customary traditions in the statutory provisions. The institutionalization of mediation was introduced by the Muslim Family Laws Ordinance (1961), which required the establishment of Arbitration Councils to conduct the family reconciliation procedure. However, the very process of implementation was subjected to political appointments and legal loopholes (Khan & Iqbal, 2024).

The mediation was also established in the Family Courts Act (1964). In the majority of cases, the mediation became the obligation of the judicial process, which is to prove that the attempt to settle will be made prior to the trial that will be initiated. Nevertheless, the mediation remained poorly used due to the absence of funds provided by the states, insufficient use of formal Jirgas, and a lack of confidence of the population in the formal procedures (Soomro et al., 2024). The latest trends include the pilot mediation program that was introduced in the 2023 Lahore High Court as an attempt to create a facelift of the past.

Theoretical Context of Family Mediation

In Pakistan, family mediation is based on a mashup between the concepts of relational theory, legal pluralism, and restorative justice. Relational theory would understand family conflicts not as mathematically simple conflicts but as the breakdown of emotional and social attachment. The process of mediation is compatible with this view because it implies the emphasis on dialogue, empathy, and mutual respect, and the secondary role of the healing process and winning. The mediation form of problem resolution is conducive to long-term reconciliation and understanding, unlike adversarial litigation, which polarizes the situation.

In the strange legal system of Pakistan, legal pluralism has been put at the center stage. Islamic values and customary laws have co-existed with formal law; this has led to the development of a multi-layered culture of justice. The mediation is a compromise between these systems based on the Islamic notion of Sulh (amicable settlement) and the communal values of izzat (honor) and family cohesion. Such cultural and religious conformity gives credence and availability to mediation.

Simultaneously, the feminist thought on law helps us to remember that mediation must be constructed in a manner that provides the critical structure required to protect the vulnerable parties, especially women in patriarchal settings. What should be done to ensure fairness is neutrality, a sense of rights, and trained mediators? Finally, the theoretical effectiveness of family mediation lies in its flexible hybridity of global mediation ethics and Pakistani culture. It is a method of resolving our family conflict outside the inflexibility of the courtroom, using a courageous and accommodating strategy, but also with an understanding touch.

Laws Regarding Family Mediation in Pakistan

The legislation of Pakistan includes support for family mediation through various legislation and recent institutional reforms. The Muslim Family Laws Ordinance (1961) provides for the establishment of Arbitration Councils, headed by officials of the Union Councils, to facilitate reconciliation in cases of divorce and polygamy. It implements a waiting period of 90 days before a divorce is executed, allowing for unsuccessful settlement efforts. The Family Courts Act (1964) strengthens this even further, as it gives family courts exclusive jurisdiction over personal disputes and judges (under Sections 10-12) must attempt reconciliation before trial.

Additionally, provincial ADR laws, including the Punjab ADR Act (2019) and Islamabad ADR Act (2017), institutionalize mediation processes, with prescribed timelines, confidentiality, and standards for mediators. Section 89-A of the Code of Civil Procedure (1908) also allows courts, with the consent of the parties in a dispute, to refer it for mediation. For all these laws, the processes face implementation problems: arbitrary boards are problematic due to the weaknesses of many arbitrators, informal governing jirgas exist in rural areas, and there is minimal institutional support. To rectify these problems, the ADR Task Force of the Supreme Court and pilot programs such as the one of the Legal Aid Society are attempting to standardize such practices and make access universal. These developments represent the heightened stress by Pakistan to incorporate structured mediation within the provision of the family justice system.

Challenges for Family Mediation in Pakistan

Family mediation faces profound institutional and cultural barriers to its effectiveness in Pakistan. The lack of competent mediator training and accreditation is a key chronic issue.

Arbitrators and judges appointed under court supervision are often not formally qualified conflict resolution experts, and many are appointed under political patronage rather than merit. It leads to uneven, non-cultural, or biased results, which erodes trust in them. Additionally, deficient and interstate governmental frameworks, coupled with fragmented ADR acts —such as the 2019 ADR Act from Punjab against comparably meager ADR provisions for Sindh —result in jurisdictional ambiguities, disparities in procedural criteria, and a lack of enforcement mechanisms across states.

Also hindering adoption is entrenched mistrust and low understanding, mainly from rural to peri-urban communities. Sometimes state-sponsored mediation is seen as strange or alien to familiar patterns of dispute resolution, while formal litigation is seen as an expensive and lengthy recourse for very complex family grievances; therefore, families often resort to informal jirgas. These private spaces that are not properly moderated or supervised tend to be used for the frequent reaffirmation of harmful patriarchal norms that deny women inheritance rights, forceful relations, marathon marriages, or end up silencing victims of domestic violence with no conscious state or human rights offered.

Long-term underfunding of judiciary projects, lack of physical infrastructure (e.g., special mediation rooms), and crowded courts, where mediation appears to be seen as a procedural tickbox, are significant issues. The family's participation is notably lacking due to its cultural resistance to any "external" interference in the case of familial *izzat* (honor). Most importantly, unenforceable agreements undermine the legitimacy of mediation: agreements become unenforceable and lack legal force, placing parties strung out in expensive, retraumatizing litigation to get them enforced.

Opportunities for Family Mediation in Pakistan

Despite the current difficulties, there are considerable opportunities in Pakistan for institutionalizing culturally grounded family mediation. Its compatibility with the Islamic principles of *sulh* (reconciliation) provides inherent religious and social legitimacy for it. This connection provides an opportunity for a faith-based outreach through religious leaders and community networks, which can help build public trust again, as well as restate mediation as a dignified, values-based way of resolving conflict. At the judicial level, the setting up of court-annexed mediation centers in some of the larger cities, such as Lahore and Islamabad, reflects the increasing institutional willingness to bring mediation into the formal justice system. This momentum brings about a vital policy opportunity to set up state-controlled Family Dispute Resolution (FDR) centers, where trained mediators work according to standardized norms so that the process is both fair in procedure and outcome (enforceable). Civil society organizations have already piloted scalable community mediation models, and the models have been demonstrated to be viable on a national level.

Moreover, digital technologies like online mediation services can make these opportunities available to rural populations, women, and marginalized communities in an unprecedented way. To maximize these opportunities, Pakistan needs to enact legislation to make mediated agreements enforceable, invest in specialized training of mediators with gender-sensitive sanctions, and launch sustained public awareness campaigns. If properly used, these

measures make mediation an effective, trustworthy, and culturally appropriate instrument of family justice in the region of Pakistan.

Discussion

This research reveals family mediation as an alternative to the overburdened public Pakistani legal system and frequently destructive informal forums—one that is culturally relevant and effective. Despite support from the statute by the Muslim Family Laws Ordinance (1961) and the Family Courts Act (1964), implementation has been inconsistent due to untrained mediators, the fragmented provincial laws, and ineffective enforcement of the law. Informal systems such as jirgas may reinforce the outcomes of the patriarchal system, further undermining confidence in mediation as a public process. However, the development of court-annexed mediation centers and judicial reform initiatives creates a critical opportunity.

The results of the research validate the concept of setting up state-regulated Family Dispute Resolution (FDR) centers with certified mediators, legal supervision, and gender-sensitive safeguards to transform mediation from a symbolic to a functional, rights-based alternative. By so doing, Pakistan can alleviate court delays and ensure family ties and access to justice, especially for women and marginalized categories. Mediation, if institutionally well organized, can become a dignified and sustainable solution to family disputes.

Conclusion

One of the avenues to reforming the family justice system in Pakistan is family mediation, as an important but untapped one. Even though it is founded on Islamic standards and supported by legal provisions, its effectiveness is lower due to loopholes in the procedures, unqualified arbitrators, and the persistence of non-formal forums. The current paper asserts that there should be the introduction of state-regulated Family Dispute Resolution (FDR) centers. Such centers would offer enforceable agreements, trained personnel, and gender sensitive procedures. The mediation can evolve into a viable and trusted system for resolving conflicts with dignity, fairness, and cultural decency through organization, community outreach, and legal clarity; a system that will serve as a bridge between the past and the future.

Recommendations

- 1. Better Legal Accessibility and Gender Protection:** Free legal counsel to women/vulnerable individuals during mediation- Ensure at least 40% of mediators in FDR centers are women. [Counters patriarchal bias]
- 2. Court-ADR Integration:** Recommend mediation (before litigation) in all District Courts where family disputes are involved; penalize frivolous litigation. [Reduces backlog]
- 3. Cross-Sector Funding Model:** Federal/provincial funding (with or without international funding) combined with international funding to sustain FDR centers (e.g., UNDP). Focus on high-conflict zones. [Resolves underfunding]
- 4. Infrastructure: ODR Growth:** Expansion of virtual mediation infrastructure (Urdu/Pashto interfaces); mobile teams in rural Sindh/KPK. [Boosts accessibility]
- 5. Institute State-regulated FDR Centers:** Establish nationally accredited mediation-negotiated centers in each of the provinces where trained negotiators will work and obey the legislative protocol regarding mediation, as well as engagement in monitoring procedures. [Addresses fragmentation]

6. Legislative Reform: Enforceable Agreements. It permits an amendment to the Family Courts Act (1964) such that any settlement based on mediation is automatically enforceable. [Solves compliance gaps]

7. Professional Development Framework: Initiate a National Mediator Certification Program within the following modules: Islamic Sulh, trauma-informed practice, and gender sensitivity. [Fixes training deficits]

8. Public Education and Awareness: Collaborate with mosques, schools, and TV/radio to carry out campaigns to rebrand mediation as Islamic, dignified, and efficient. [Counters distrust]

9. Re-invention of Traditional Mechanisms: Involve old age pedestrians of the community to act as advisory figures (not arbitrators) in FDR centers, to ensure the element of trust is deployed, but a judicial element is retained. [Balances culture & rights]

10. Research & Data Infrastructure: There is a need to investigate a national mediation database of the success rates, compliance level, and user satisfaction.

Research Limitations

This study acknowledges critical constraints. First, data availability was limited, hindering the use of rigorous quantitative analysis. Pakistan does not have data on central mediation, and one has to rely on fragmented court data and small-scale case studies, which may not reflect national trends. Second, regional disparities affected the generalization of results. Whereas the developed ADR infrastructure in Punjab permitted in-depth analysis, security risks, and lack of access precluded conducting comprehensive fieldwork in Balochistan and Khyber Pakhtunkhwa tribal districts, where traditional jirgas play an important role in the resolution of disputes.

Third, the legal-institutional focus erased the ground realities; for instance, survivor accounts (women's experience in dealing with coercive jirga decisions) and that of mediators were underrepresented due to ethical access issues. Since the study considered mediation reforms evolving rapidly (e.g., the Punjab Rules 2023), its findings might lag. These limitations require careful interpretation of recommendations for state-regulated FDR centers.

Research Implications

This research has significant implications for the justice reform in Pakistan:

1. Policy Change: Affirming the institutional remedy of state-controlled FDR centers as the remedy against fragmentation and establishing a roadmap to be followed by legislators in changing ADR laws (e.g., enforceable agreements under the Family Courts Act).

2. Gender Justice Development: Exposing the gender injustices in the unregulated jirgas, this creates a need for gender-sensitive processes in the mediation to turn the tables in favor of patriarchal values.

3. Judicial Efficiency: The Process of mediation has the potential to reduce the 2-million-case backlog in Pakistan that requires scaling of court-annexed mediation.

4. Cultural legitimacy: To formulate models in line with Islamic Sulh, which will restore people's faith in formal mechanisms.

5. Resource Optimization: focuses on the cost-access of ODR and streams infrastructural investments to include the rural areas.

Future Research Directions

To develop the environment of family mediation in Pakistan, future studies should focus on:

- 1. Efficacy Benchmarking:** A mixed-methods longitudinal study of mediated and litigated disputes in family court in Pakistan, comparing duration, rate of compliance, psychological outcomes (e.g., PTSD reduction), and cost efficacy. It entails building a national mediation database.
- 2. Gender-Agency in Conservative Contexts:** Ethnographic research in women's field research (FRDR) centers across KP/Balochistan on women's negotiations of power in the context of purdah norms, economic dependency, and gender dynamics of mediators through participatory workshops.
- 3. ODR for Rural Inclusion:** Randomized control trials of hybrid (online + community hub) mediation models in the villages of the Sindh/Punjab region; evaluation of barriers to accessibility (tech literacy, gender-digital divides), data privacy
- 4. Subnational Policy Implementation:** Comparative Institutional Inputs: Sindh Urban-Centric ADR Frameworks vs. Punjab Dar-ul-Qaza-inspired models to Determine Scalable Governance Strategies: Tribal-rural interface.
- 5. Islamic ADR Hybridization:** Using the Sulh courts of Malaysia and the family reconciliation boards of Egypt, a systematic review of the Sharia-compliant best practices (e.g., female qadis) can be implemented under the constitutional system of Pakistan.
- 6. Impact of Security Dynamics:** Field research on mediating family disputes in conflict areas (e.g., merged districts) assesses the choice of dispute resolution, the effect of militarization, etc.

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