



Family Rights in Pakistan: Intersecting International Obligations and Plural National Legal Frameworks

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ABSTRACT

This study analyzes the evolution and challenges to family rights in Pakistan through a historical lens, focusing on the plural legal system and the influence of international human rights commitments. It critiques how family law in Pakistan, originating from the Constitution, Islamic jurisprudence, statutes, and customary practices, interacts with the requirements of global treaties such as Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the International Covenant on Civil and Political Rights (ICCPR). Drawing on legal pluralism, feminist legal theory, and transnational legal-process theory, the study evaluates the domestic legal norms and international standards with a focus on gender equity and child protection, highlighting inconsistencies and areas of normative overlap. It works through doctrinal legal analysis, interpretation of case law, and treaty body reporting to scrutinize how Pakistan's legal and policy structure responds to international scrutiny. It also examines accountability mechanisms, such as the Universal Periodic Review (UPR) and the European Union (EU) GSP+ regime's impact on promoting legal reforms. Political resistance, cultural stigma, and disjointed implementation across the provinces are found to impede reform efforts despite some observable successes. Sustainable processes of legal reform must engage institutional capacity-building, civil-societal input, and culturally sensitive legal reforms in order to connect international obligations to national contexts meaningfully. The findings provide a framework for synchronizing family law reforms within a plural legal context while fostering compliance with global human rights norms.

Introduction

Context and Importance

Family is a primary institution/unit of society that provides emotional support, social stability, and a foundation of moral and cultural values. So, family rights lie at the heart of both national legal systems and international human rights regimes. Pakistan's legal framework operates in the interstices of the Constitution, Islamic jurisprudence, statutory law, and customary norms. Family matters in Pakistan, such as marriage, divorce, custody, guardianship, and inheritance, are governed by a plural legal framework constituted of the Constitution, federal and provincial legislation, Islamic law, and local customary norms (Lau, 2005; Abbasi & Cheema, 2024). Many scholars suggest that such legal pluralism commonly exists in various Muslim family law jurisdictions (Lhost, 2025; Al-Sharmani, 2010). Such pluralism creates stresses and fragmentation, often resulting in a shallow realization of family rights across the country (Merry, 1988; Klasen & Wink, 2003).

The magnitude of family rights in Pakistan is further expanded due to legal and social hurdles emanating from inter-regional differences, distinctive normative frameworks, and the changing role of the state in meeting its human rights obligations. Even though Articles 25 and 35 of the Constitution of Pakistan assure equality and family protection, the practical hurdles prevent the enjoyment of these family rights by women and children in Pakistan (Critelli, 2010; HRCP, 2022). The situation is further complicated because of multiple socio-political dynamics, varieties of interpretations in Islamic jurisprudence, and different levels of legal literacy and institutional access (Bano, 2017; Ssenyonjo, 2010).

Simultaneously, the reforms are also increasingly becoming evident due to Pakistan's engagement with international human rights mechanisms—such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and Convention Against Torture (CAT). Each treaty creates its specific treaty body that monitors the compliance of the state by periodic reporting and constructive dialogue (OHCHR, n.d.), and the UPR—as well as the placement of Pakistan in the EU's GSP+. Such mechanisms put pressure on the state to make domestic law conform to international standards, particularly to gender equality, child protection, and access to justice (UN Human Rights Council, 2022; European Commission, 2023a). Recognizing the interplay between these international legal standards and domestic legal pluralism in Pakistan is essential to evaluate the trends concerning family rights.

Objective of the Study and Central Questions

This study is an inquiry into the evolution of family rights in Pakistan at the crossroads of domestic legal pluralism and international norms. In plural legal systems¹, conflict often erupts among constitutional principles, statutory laws, religious doctrines, and customary practices, especially in case of normative provisions of gender equality and child welfare. These tensions, in turn, open up opportunities for reform, especially in interaction with international human rights mechanisms. This research aims to study how family rights in Pakistan have been shaped by internal legal norms and external human rights obligations. Objectives include:

¹. In a plural legal system, different types of law are used simultaneously. These types of law include statute law, constitutional law, Islamic law (Sharia), and customary customs. In Pakistan, this coexistence affects family rights, which often leads to complicated law interpretations and applications.

- (a) To identify the major domestic and international legal sources impacting family rights in Pakistan;
- (b) To explore the ways in which these norms coexist, diverge, or converge within Pakistan's legal landscape; and
- (c) To evaluate the role of international mechanisms such as UN treaty bodies, the UPR, and GSP+ in driving legal and social reform.

The above objectives are guided by the following research questions:

1. What are the major local and international norms concerning family rights in Pakistan?

This question examines how Pakistan's Constitution, legislative enactments, religious jurisprudence, and customary practices interact to define family rights and how international human rights treaties shape these rights, particularly with regard to gender and child protection.

2. How effective are international mechanisms ((e.g.), treaty bodies, UPR, and GSP+) in driving legal and social reform?

This question seeks to establish whether such mechanisms have instigated any changes to national laws, judicial interpretations, or family law policies, and how such recommendations have been welcomed, opposed, or adapted by institutions of states, civil societies, or international actors.

The two major theories directing this research are legal pluralism and the transnational legal process. These theories explain how global legal norms are internalized, contested, or transformed within Pakistan's national legal system. This study provides insights into the challenges and opportunities generated in Pakistan's legal pluralism vis-a-vis its global engagement.

Methodology

This research has predominantly used doctrinal legal analysis, emphasizing legal texts such as constitutional provisions, statutory laws, judicial decisions, and international human rights treaties. Doctrinal analysis allows for a careful examination of how these legal norms interact and overlap, and their applicability toward family law in Pakistan. Furthermore, tensions and coherence have also been drawn for the different sources of law.

Case studies illustrate how these legal principles apply, and this study interprets them in different contexts of family law. The Supreme Court, Federal Shariat Court, and High Courts' rulings, particularly on gender justice, child protection, and custodial rights, have been examined to understand how family-law-related litigations have been treated. The study is central to how informal justice systems, such as the jirgas and panchayats, operate in resistance to or in adaptation of formal family rights reforms.

Policy document analysis is also an important aspect of this research. The study analyzed the state and NGOs in civil society policy documents, including reports presented to international treaty bodies and NGO shadow reports. These documents prove how national laws and policies correspond to international treaty obligations under ICCPR, ICESCR, CEDAW, and CRC. The GSP+ scheme and its significance in promoting legal reforms via trade incentives are also analyzed.

Finally, analyzing judicial pronouncements in family law cases is essential to understanding how courts interpret and apply domestic and international legal norms; this becomes the basis for

assessing the flexibility the Pakistani legal system provides to reconcile plural legal sources with obligations flowing from international human rights jurisprudence.

Structure of the Study

The research is organized into six sections, each focusing on different aspects of family rights in Pakistan and their relation to international human rights standards.

Section 1 (Introduction) sets the context of the study, exposing research objectives, questions, and methodology, while placing family rights in the context of Pakistan's plural legal system.

Section 2 (Literature Review and Theoretical Framework) examines the central academic debates surrounding family rights, legal pluralism, and gender justice in South Asia while identifying gaps concerning enforcement mechanisms and the role of international legal processes. The section considers pluralist, feminist legal, and transnational legal process approaches as theoretical frameworks. Furthermore, it gives a comparative perspective with a brief discussion of the techniques applied by other plural legal systems, such as Malaysia and Nigeria, which have handled the interaction between family law, religion, and international human rights obligations.

Section 3 (Domestic Legal Framework: Constitution, Laws, and Practice) examines family rights under national legal codes, from constitutional safeguards to statutory laws to religious and customary norms and the interpretative practices of the superior courts. It deals with the problem of internal fragmentation and tensions within Pakistan's legal system regarding family rights.

Section 4 (International Human Rights Commitments and Accountability Mechanisms) examines Pakistan's international legal commitments regarding human rights, such as the ICCPR, ICESCR, CEDAW, CAT, and CRC, and the mechanisms to ensure accountability regarding these commitments, such as the UN treaty bodies, the UPR, and the EU's GSP+.

Section 5 (The Role of International Mechanisms in Domestic Reform) examines how international human rights dialogue has spurred domestic legal reforms, including major legislative changes, case studies, and the enabling and constraining frameworks that impact the realization of international standards in Pakistan.

Section 6 (Conclusion and Strategic Recommendations) summarizes findings and recommends legal, institutional, and policy mechanisms for improving family rights in Pakistan. It also suggests future research possibilities (I.E., by empirical studies on integrating international norms into domestic judicial thinking).

Theories and Debates on Family Rights

Literature Review: Family Rights in a Plural Legal Context

Family rights have emerged as an area of much academic interest in Pakistan, especially as they are framed within discussions of legal pluralism, gender justice, and international human rights obligations. This literature review highlights the coexistence, with some conflict, of statutory, religious, and customary legal regimes over key areas of family law concerning marriage, divorce, custody, guardianship, and inheritance. Complications arise as these multiple legal regimes often lead to tensions in their interpretation and conflict in their normative outcomes, particularly regarding rights and claims asserted by women and children (Menski, 2006, p. 335; Bano, 2012).

In-depth studies have analyzed the interplay of Islamic family laws codified in ordinances such as the Muslim Family Laws Ordinance of 1961 with customary practices and statutory reforms (Lau, 2005; Quraishi & Kamali, 2000). While the MFLO represented major reforms such as mandatory

registration of marriages and restrictions upon polygamy, it has faced inconsistent application, especially in rural and conservative areas. Furthermore, research is drawn upon that examines the gendered impact of family law, whereby women are frequently caught up in procedural and substantive hindrances to accessing justice. These impediments are aggravated by norms rooted in patriarchal culture in both formal and informal legal systems (Critelli, 2010; Shaheed, 2010).

A legal pluralism model has formed the crux of the analysis of this complex situation. Merry (1988) argued that plural legal systems mediate social power; they reflect competing sources of authority with varying access to justice. Though statutory laws exist in Pakistan, many communities do not resort to those laws to resolve disputes but instead fall back upon informal mechanisms such as jirgas or panchayats. These often help to circumvent constitutional guarantees of equality in the enforcement of customary norms at women's expense regarding child marriages, unilateral divorce by men, and the denial of maternal custody (Zia, 2017; Bano, 2017).

The role of the judiciary in interpreting family rights in this plural legal framework has also attracted significant scholarly attention. Pakistani superior courts have alternated between progressive judgments consonant with international human rights standards and conservative rulings reinforcing patriarchal interpretations of Islamic law (Mullally, 2006; Shah, 2006).

The introduction of international human rights law has layered the discourse of checks and balances. With treaties such as CEDAW, CRC, and the ICCPR ratified by Pakistan, external accusatory pressures and normative influences have surfaced. Scholars such as Yefet (2009) and An-Na'im (1996) argue that Islamic states, including Pakistan, balance traditional religious law and international human rights obligations. State reservations, lack of institutional coherence, and limited enforcement mechanisms have all rendered treaties ineffective (Khan, 2024).

Simmons (2009) argues that the significance of international human rights treaties is reduced due to reservations made by the states. She emphasizes that the practical application of treaties is directly linked to the enforcement structure, local politics, and institutional efficiency.

Nevertheless, significant gaps hinder our complete understanding. Much of the literature tends to either focus on doctrinal development in family law or on the socio-cultural dynamics of legal practice, with little interfacing between them. Moreover, no empirical research has been conducted on how recommendations made by international human rights mechanisms, through treaty bodies or the Universal Periodic Review, could prompt reforms on the national legal or policy landscape of Pakistan. The role of supranational mechanisms in compelling human rights compliance, such as the GSP+, has also remained under-researched, despite taking on increasing salience of linking trade incentives to legal reform (European Commission, 2023b).

This literature review emphasizes the urgent need for a more integrated, interdisciplinary analysis linking the doctrinal content of family laws and their implementation on the ground with transnational influences. Examining Pakistan's family rights discourse through domestic and international legal frameworks would aspire to fill these gaps and provide a richer account of the forces behind legal reforms and resistance.

Theoretical Framework

This section is mainly concerned with analyzing family rights in plural legal systems in light of the theoretical frameworks in this regard. The four primary theories interwoven into this discussion include Legal Pluralism, Feminist Legal Theory, Transnational Legal Process Theory, and Postcolonial critique of human rights norms. These are beneficial frameworks in understanding the

muddled realities of interaction amid Islamic, statutory, and customary law in Pakistan, which have implications for family rights.

Legal Pluralism

Legal pluralism is said to be the existence of multiple legal systems within a single jurisdiction, being applied simultaneously to definable individuals under different legal authorities according to religion, culture, or institutional affiliation. This assumption gives an image of legal systems existing in non-monolithic patterns, while engaged with each other, against a dynamic legal landscape (Griffiths, 1986). The evidence of legal pluralism can be seen in Pakistan through the framework through which state law interacts with Islamic law and local customary laws. Statutory laws² apply to all citizens, Islamic law governs Muslim citizens, and their respective personal laws govern non-Muslims (Bowen, 2016).

The plural legal system presents opportunities and peculiar challenges to family rights. However, it accommodates the diverse religious and cultural practices of Pakistan's populace. On the other hand, it results in inconsistencies and inequalities, more so where religious or customary laws stand contrary to statutory prescriptions (Tamanaha, 2007). For instance, the law may prohibit child marriage, yet that may not reflect practice or understanding under an interpretation of religious law, which could complicate equal family law measures nationwide.

Feminist Legal Theory

Critiquing family laws, feminist legal theory interrogates how laws carry violence about gender power dynamics. It highlights how necessary it is to counterbalance legal systems that expand the subjugation of women, specifically in areas like marriage, divorce, and inheritance (Mackinnon, 1989). On that note, Islamic family law in Pakistan provides some rights to women like divorce (*khula*), maintenance, and inheritance. However, socio-cultural norms and patriarchal interpretation usually restrict these rights (Tucker, 2008). Following polygamy, the unequal division of inheritance, and the expectation of women to give priority to home over personhood, such restrictions reduce women's capabilities. They are commonly visible in society (Ahmed & Bhatti, 2023). The enforcement of women's legal rights concerning the family is thus determined by more than the official legal condition, but also the surrounding social and cultural context.

Muslim feminist scholars have worked intensively with the Islamic legal tradition and critiqued its misogynistic interpretations as obstructive to women's rights. For instance, Fatima Mernissi says that reading Islam in a gendered way is that patriarchal readings of the Quran and Hadith have limited women's social and legal rights (Mernissi, 1991). In her groundbreaking work, *Qur'an and Woman*, Amina Wadud argues that a feminist reading of the Quran shows the endorsement of gender equality as enlightened by tradition. It is in direct contradiction to the conventional readings that mainly subjugate women (Webb & Wadud, 2000). Similarly, Riffat Hassan and many more scholars advocate the need to reevaluate Islamic sources to portray gender justice and equity and state that such oppressive interpretations are not inherent within Islam but attached to patriarchal cultural practices (Hassan, 1996).

Though these feminist interventions do not appear to reform the legal system, they still highlight the deep-rooted and stagnant patriarchal norms that create serious distortions in the perception and application of legal protections, causing discrepancies between legal provisions and practice.

² The laws are formally written and enacted by the parliament. In Pakistan, these laws relate to family rights, such as the Muslim Family Laws Ordinance 1961, which regulates marriage, divorce, inheritance, etc.

Such feminist legal theory must break barriers that take reforms beyond the formal legal framework of Pakistan to include the cultural and even societal dimensions of gender inequality. Others like Ziba Mir-Hosseini (1999) have asserted that for real progress, challenging the laws is not enough; all the social practices that hinder the realization of rights for women must also be challenged (Hosseini, 2000). The essence of feminist legal theory is, therefore, the complete family law reform encompassing legal, social, and even cultural transformations as prerequisites for genuine gender equality within family structure.

Transnational Legal Process Theory (Harold Koh)

Harold Koh's transnational legal process theory emphasizes that international legal norms are internalized through dialogues, adaptations, and state practice instead of being a coercive imposition. Koh elucidates that states begin incorporating international norms into their domestic legal systems, most often through negotiation and engagement with international actors (Koh, 1996).

International human rights treaties, such as CEDAW and CRC, have undoubtedly made strides toward development in family laws concerning child protection and gender-based violence within the Pakistani context. However, successful internalization of international norms should be accompanied by continuous involvement of domestic actors with international bodies, leading to different success sources from evolution in legal reform processes (Simmons, 2009). For example, the full realization of the treaty's provisions is extremely slow and complex in Pakistan, despite ratification of international treaties, because of political and cultural constraints.

Universalism of Human Rights Norms in Postcolonial Perspective

The postcolonial prospect addresses whether human rights norms composed in the West might validly claim universality. The critique questions the extent to which such norms are ever set in store by local cultural and legal traditions. Human rights should be interpreted according to local conditions and should not be applied from abroad (An-Na'im, 1995). This theory has significant implications for Pakistan, where family matters are dictated by Islamic law and local customs.

Postcolonial theorists hold that human rights should respect local conditions yet maintain a certain universal tenor. Pakistan encourages the view that international standards for human rights may be suitably adapted to accommodate local legal traditions, making family rights protection culturally sensitive yet compliant with international law (Merry, 2006). This is especially salient when core family law issues pit international human rights law norms against local legal traditions and interpretive methodologies.

Comparative insight from other plural legal systems

Family law reform in plural legal systems extends beyond the national borders of a particular state. Such evils plague harmonizing statutory, religious, and customary legal regimes in Pakistan, as they exist in other jurisdictions, though with varying levels of efficiency. Malaysia and Nigeria are two other plural legal states that provide examples of lessons from which Pakistan can draw to contextualize its moves towards reforming family rights.

In Malaysia, a dual legal system operates whereby Islamic family law is administered to Muslims through state Shari'ah courts, and civil laws apply to non-Muslims. Yet, this bifurcation has not been completely hollowed by the federal government in that it has instituted mechanisms for regulatory coordination, such as the Department of Islamic Development Malaysia (JAKIM), which provides policy guidance to attempt to harmonize Shari'ah law across state jurisdictions

(Harding, 2012). For instance, procedural safeguard reforms for custody of children and domestic violence in Malaysia reveal a careful but slow attunement of Islamic family laws to international norms for human rights without explicitly contesting religious authority (Ahmed et al., 2021; Mansor, 2025).

On the other hand, Nigeria reflects a tripartite legal system comprising statutory, customary, and Islamic law. The applicable legal system is determined by each state, often on demographic lines. As with Pakistan, statutory laws like the Child Rights Act (2003) are very poorly implemented. Thus, as of 2020, only 28 states could adopt the law out of 36 states (UNICEF Nigeria, 2020). Yet, some Nigerian states took a more belligerent stance on codifying child protection laws based on CRC modes and inhibiting discriminatory customary practices using legal interventions (Braima, 2014). The efforts, although not equally made, indicate that federal coordination of action and concerted provincial legislating can bring about convergence in local traditions with international human rights norms.

These are comparative experiences that could be very relevant to Pakistan. They suggest that legal pluralism is not an intrinsic impediment to family rights reform but rather an institutionalizing coordinating framework, political will and contextually effective jurisprudence on whether plural legal systems developed will further or undermine gender and child protection norms.

Domestic Legal Framework: Constitution, Laws, and Practice

Family law in Pakistan is embedded in a pluralistic legal system consisting of constitutional provisions, statutory enactments, and a mixture of religious principles and customary norms. The plurality of this legal framework, which brings diversity to the country, is a source of confusion when it comes to the realization of family rights by women, children, and religious minorities. Understanding the working of these frameworks is crucial for assessing the ability of the state of Pakistan to conform its domestic practice to international human rights standards.

Constitutional Commitments

The provisions of the Constitution of the Islamic Republic of Pakistan (1973) serve as a cornerstone for family rights. Article 35 protects marriage, the family, the mother, and the child, and so considers the family unit fundamental to the very fabric of society. Indeed, such specific protections are underscored further by general grand rights Article 9 (right to life), Article 14 (dignity of man), and Article 25 (equality before the law), which in turn provide access to justice in the family law context.

The constitutional design of Pakistan also included Article 227, which makes all laws existing at present conform to the injunctions of Islam. This coexists with Article 8, which makes any law that is inconsistent with fundamental rights as void and of no legal effect. While some observers evoke these as creating an in-built contradiction between the two provisions, judicial interpretation usually sees them as complementary rather than contradictory in nature (Newberg, 2002; Quraishi-Landes, 2015). Pakistan's Islamic law, depending on the different jurisprudential traditions, can successfully mediate between gender-sensitive and rights-compliant outcomes when approached through modernist or Maqasid-al-Shari'ah (higher purposes of Shari'ah) frameworks (Barlas, 2002).

The Council of Islamic Ideology (CII), created as an advisory constitutional body under Articles 228–230, offers recommendations on the Islamic validity of laws. The CII pursues opinions such as those opposing the penalization of child marriage or objecting to the legislation on domestic violence, which have political impacts but are not legally binding. Even though the CII has been

criticized for advancing conservative views, alternative Islamic readings by progressive scholars carry on over the spectrum advocating for a rights-consistent understanding of Shari'ah (Ahmad, 2019). Therefore, the tension in family law is not founded on the very principles of Islam but on the institutional and interpretive preferences exhibited by legislative players and judiciary actors.

The Statutory Law Related to Family Matters

The Muslim Family Laws Ordinance (MFLO), enacted in 1961, has remained the most critical statute on family matters in Pakistan. Such a development was initiated in the Muslim world as early as this legislation concerning procedural safeguards to marriage, divorce, maintenance, and polygamy. Some of the significant reforms included: compulsory registration of marriages (Section 5); notice of divorce with a 90-day reconciliation period (Section 7); and conditional permission for polygamy contingent upon consent from existing wives as well as the approval from an arbitration council (Section 6) (MFLO, 1961). These provisions are instrumental in reducing arbitrary male privilege and initiating procedural equity (Lau, 2005).

Custody and guardianship depend on Islamic principles and statutory interpretation. Mothers keep custody (*hizanat*) of young children, in particular during the early years, while legal guardianship (*wilayah*) around most decisions regarding their upbringing, property, and travel is assigned by law to their fathers. The courts, using the entire welfare of the child principle, have moved to many varied decisions in the area of custody but mostly contend with gendered assumptions in the guardianship area (Zia, 2017).

Recent provincial reforms were directed toward strengthening protection against child marriage. Under the Sindh Child Marriage Restraint Act, 2013, the minimum legal age of marriage was raised to 18 for boys and girls, while Punjab's 2015 amendment enhanced the punishment for underage marriage while keeping the minimum age for girls at 16. All these serve to show the rivalry between provinces, pointing to the case of devolved governance under the 18th Constitutional Amendment (Siddique, 2013).

Separate statutory regimes apply to non-Muslim communities, which are generally promulgated in accordance with their personal law and customs. The Hindu Marriage Act, 2017, passed by both the federal and Sindh governments, provides a legal regime for marriage registration and divorce to Hindus, Sikhs, and Zoroastrians. However, for the most part, Christian family law remains under colonial-era laws, such as the Christian Marriage Act, 1872, and the Divorce Act, 1869. Recently, courts have called for reform, particularly in the abolition of legal provisions that discriminate against Christian women seeking divorce (Koepping, 2010). There are still gaps, even after all these legal reforms, in implementation or awareness of the law in minority communities.

Judicial Application and Interpretation

The superior judiciary of Pakistan is the constitutional authority to interpret legal provisions including the family law. This defines the delicate balance between constitutional mandates, Islamic jurisprudence, and international human rights obligations. The courts operate not only as arbitrators of legal disputes but also as sites where gender norms, religious authority, and transnational standards interact and evolve (Lau, 2005; Shah, 2016).

The recent developments in family law jurisprudence present an intriguing picture, oscillating between progressive constitutionalism and difference to traditionalism. In *Sughra Bibi v. The State* (PLD 2018 SC 595), the Supreme Court substantiated the need for impartial and thorough investigations, emphasizing that it was the duty of the state to protect individuals' rights and deliver justice. The Court pointed out how investigating officers should look into all possible

versions of an incident to arrive at the incident's prima facie truth, thereby reinforcing procedural fairness and due process.

In *Khadija Siddiqi v. Shah Hussain* (2019), the Supreme Court effectively reversed the Lahore High Court decision that acquitted the accused, reiterating the state's duty to protect women from gender-based violence. In its ruling, the Court emphasized the importance of victim testimony while also ensuring the judiciary's role in delivering justice in cases against women, in line with Pakistan's obligations under the Convention on the CEDAW, 1979 (Bhatti, 2019).

In *Mumtaz Bibi v. Qasim* (2022), the Islamabad High Court declared that any marriage involving a person under the age of 18 is unlawful and void ab initio. Justice Baber Sattar while pronouncing the judgement emphasized that such child marriage is not only against the law of the land rather this is in violation of Pakistan's international obligations under UN Convention on the Rights of the Child (CRC).

In *Abdul Waheed v. Mrs. Asma Jehangir* (2004), the Supreme Court affirmed that a woman's free and informed consent is an indispensable condition for the validity of a marriage contract. The Court's reasoning melded Islamic law with constitutional guarantees of personal autonomy, illustrating a harmonious coalescence of religious and rights-based paradigms.

Similarly, the Lahore High Court while passing judgement in *Irfan Arshad v. Mst. Zainab Noor* (2024) upheld paternal guardianship rights giving preference to child's welfare over any other personal law. There exist series of judgments not disqualifying women from guardianship only on the basis of being a working woman or even in case of second marriage (Sheikh, 2024; Tahir, 2022).

There are also efforts to further sensitize the judiciary with the decisions concerning women and children rights. The Federal Judicial Academy, in partnership with civil society organizations, has started the training program on gender justice and international law (Federal Judicial Academy, 2022). However, these efforts remain sporadic and hardly institutionalized. As observed by Shirkat Gah (2017), inconsistent applications of gender-sensitive jurisprudence and the absence of treaty-based reasoning among the lower courts points to gaps in judicial capacity, especially in relation to Pakistan's reporting obligations under instruments like CEDAW, the CRC, and the ICCPR.

Thus, the judiciary appears to be both as a potential transformative legal reformer and a site of resistance and opposition actuated by cultural conservatism, interpretative discretion, and institutional inertia. Minding this gap would demand not only continuing education for judges but also some structural reform through which all levels of judiciary would consistently be bonded with constitutional and international human rights frameworks.

Customary and Religious Norms

Customs and informal means of dispute resolution are still determinants in the family outcomes, especially in rural and tribal contexts. Often jirgas or panchayats resolve the cases connected with marriage, divorce, inheritance, and domestic violence; these informal councils have been typically dominated by male elders. Such councils adjudicate cases outside the formal legal system and also decide and enforce harmful practices such as vani, swara, or forced marriages as settlements for disputes, thus making criminalized provisions under the Penal Code (Ali, 2000).

The Supreme Court ruled in *National Commission on the Status of Women (NCSW) v. Government of Pakistan* (2019) that parallel judicial systems are unconstitutional, and that legal adjudication must all be pursued through due process. These forums, however, are still accorded de

facto legitimacy in many areas because of lack of access to formal courts, delays in legal proceedings, and societal pressures.

To complement all these, religious diversity adds yet another layer of fragmentation to the laws. For instance, while the Hanafi School considers temporary marriage (mut'ah) prohibited, the Shia Jurisprudence views it permissible under some special circumstances (Ali, 2000). Meanwhile, the personal laws for non-Muslims are being hardly backed by any institutional support or codified guidelines, most often leading into a situation of reliance on religious clergy and customary practices in lieu of formal judicial resolution (HRC, 2022).

International Human Rights Commitments and Accountability Mechanisms

Given Pakistan's obligations under various international human rights treaties, its domestic legal and policy frameworks have become subject to scrutiny by various international monitoring mechanisms. The section evaluates the conduct of the State before UN treaty bodies, the Universal Periodic Review (UPR), and related compliance under trade conditionality's such as the Generalized Scheme of Preferences Plus (GSP+), with a specific focus on family rights.

Pakistan's Ratified Human Rights Treaties

As of April 2025, Pakistan has ratified all nine major human rights UN treaties that reflects its commitment to the international human rights framework. Among these, five do pertain specially to family rights: CEDAW, CRC, ICCPR, ICESCR and CAT. Each treaty creates its specific treaty body that monitors the compliance of the state by periodic reporting and constructive dialogue (OHCHR, n.d.).

The main focus of such treaty bodies is to assist states in fulfilling their human rights obligations including family life, such as CEDAW promoting family gender equality and elimination of discriminatory customs and practices (CEDAW Committee, 2020). The CRC works to safeguard the best interests of children and to promote the family as primary unit for child's development (CRC Committee, 2016). The ICCPR and ICESCR aim at enhancing the rights regarding the family in a broader sense as the right to family life, to education, health care and social welfare (HRC 2017; CESCR, 2017). CAT, which is concerned with the prevention of torture, also indirectly safeguards family members against abuses, for example, in custodial or domestic settings (CAT Committee, 2017).

Through treaty bodies, Pakistan receives specific recommendations on legal and policy improvements regarding women and children's rights, family protection, and social justice. This constitutes a significant accountability mechanism for progressive reforms concerning international standards.

UN Treaty Bodies

As a state party to the important treaties in question, Pakistan must submit periodic reports and be under constructive dialogues with the treaty bodies concerned. UN treaty bodies have often raised concerns about family rights in Pakistan regarding gender equality, child protection, domestic violence, and cultural or religious norms. Such observations, however, do get formal responses from Pakistan stressing constitutional protections, ongoing legal reforms, and respect for religious and cultural contexts.

CEDAW reports that legal and social discrimination against women continues to operate in family law, about marriage, divorce, custody of children, inheritance, and domestic violence (CEDAW Committee, 2013, 2020). Hence, Pakistan has invoked constitutional guarantees of equality under

Article 25, establishment of women's commissions in Pakistan to promote women rights, and acts that advocate women's rights, like Protection against Harassment of Women at the Workplace Act, 2010, and the Domestic Violence (Prevention and Protection) Acts at the provincial level. However, on many occasions, Pakistan has tried to rationalize its pace and scope of reform by invoking the need to interpret international obligations in terms of Islamic values and cultural norms.

The CRC expressed concerns regarding issues such as child marriage, corporal punishment, poor birth registration, and lack of an independent office of the Commissioner for Children's Rights (CRC Committee, 2009, 2016). Pakistan has responded in terms of legislative measures, like the Sindh Child Marriage Restraint Act (2013), the Juvenile Justice System Act (2018), and other improvements to the National Commission on the Rights of the Child. Yet, the committee has called for measures to harmonize the laws across the provinces and better enforcement mechanisms.

Under the ICCPR, the Human Rights Committee has focused on gender-biased restrictions on freedom of movement, discrimination in Family law, and criminalization of adultery and consensual relationships outside marriage (Human Rights Committee, 2017). Pakistan has defended these laws as being consistent with Pakistan's Constitution and Islamic injunctions. The state has further asserted that although it honors international obligations, it cannot endorse provisions contrary to the moral values of the society concerned.

The Committee on Economic, Social and Cultural Rights has related family rights to basic socio-economic factors such as health and housing, education, and income support (CESCR, 2017). The body pointed out the suffering of poor families associated with disparities between the poor and gender inequalities. Some initiatives, such as the Benazir Income Support Program, are among those programs to which Pakistan has resorted to counter the CESCR view, along with health initiatives on improved maternal and childhood health services. Yet, resource constraints severely hamper their implementation.

The CAT has not underscored anything directly involving family law. Still, it has talked about cases of domestic violence, honor killings, and the absence of proper protective mechanisms for the victim (CAT Committee, 2017). About such a move, Pakistan has brought up the anti-honor killing law and protection centers for women, but needs a better investigation and prosecution of the offenders.

The implementation of legal reforms was a recurring issue through all bodies in the fragmentation produced by the plural legal system of Pakistan, where the religious, customary, and statutory laws intersect. While treaty bodies hold that this is a barrier against uniform human rights protections, it is how Pakistan has often justified the system as a manifestation of constitutional identity and religious heritage. This prolongs the unresolved issue of international obligations against the local legal and cultural frameworks.

Universal Periodic Review (UPR)

The UPR is a mechanism established by the United Nations Human Rights Council (UNHRC) to ensure the evaluation of human rights performance for all UN Member States carried out via a peer review. Each cycle is based on three main documents: the national report that is submitted by the state for UPR, the compilation of UN information from the Office of the United Nations High Commissioner for Human Rights (OHCHR), and a summary of stakeholders' submissions, consisting of civil society and national institutions (OHCHR, n.d.-a). On this basis,

recommendations made by Member States are either accepted, noted, or rejected by the State under review.

Pakistan has had four UPR cycles, IE in 2008, 2012, 2017, and 2022, with special emphasis on family laws. 289 recommendations were issued in the third cycle, and the figure went up to 340 recommendations in 2022, indicating that the international community has been growing interested in pressing Pakistan regarding its obligations on human rights (UNHRC, 2018; UNHRC, 2022).

In the third cycle, states including Sweden, Canada, and the Netherlands called for harmonizing the minimum legal age for marriage to 18 years for both sexes. Germany and Switzerland addressed gender-equal reforms in divorce, marriage, and custody (UNHCR, 2018a). In this cycle, Pakistan received 289 recommendations, out of which the country accepted 168, noted 117, and rejected 4 recommendations (UNHRC, 2018b).

The UN Compilation Report (2017) reflected concern from treaty-monitoring bodies. Thus, CEDAW noted the entrenched features of legal inequities in inheritance, guardianship, and marital dissolution following Muslim personal law (United Nations Human Rights Council, 2017a, para. 70). Just as the Committee on the Rights of the Child (CRC) did, these same experts voiced their concerns regarding the persistence of child marriages, and harmful practices like exchanging girls to settle debts (UNHRC, 2017a, para. 72). Further, CEDAW and the UN country team pointed to the high maternal mortality, lack of access to contraception, and absence of post-abortion care in the context of these violations of rights (UNHRC, 2017a, para. 64).

In response, Pakistan cited the Sindh Child Marriage Restraint Act (2013) and various awareness campaigns. Still, it cited constitutional impediments focusing on the devolution of personal law to the provinces and the religious sensitivity of family matters (UNHRC, 2017b).

The fourth cycle (2022) witnessed increased scrutiny. Countries like Portugal, Norway, Uruguay, and the United Kingdom urged Pakistan to change personal status laws to comply with international human rights standards, criminalize forced marriages, and strengthen protections against domestic violence (UNHRC, 2023a). The United States, Belgium, Germany, and Costa Rica again formulated demands for the marriage age to be eighteen at the same time, while Poland, Liechtenstein, and Italy called for better legislation on forced conversion, trafficking, and violence based on gender (UNHRC, 2023a, paras. 46.50-46.315). Out of 340 recommendations, Pakistan supported/accepted 253 recommendations, noted 84, and rejected 3 recommendations. Pakistan noted and deferred those that conflicted with religious norms or constitutional structures, and rejected recommendations were described as being politically motivated assertions (UNHRC, 2023b).

Civil society and human rights activists raised concerns regarding sustained discrimination against some religious minorities, especially in provinces where such laws were never enacted (UNHRC, 2022a). The laws related to minorities' family rights have also not been uniformly implemented, and so the minority rights advocates asserted that the law is applied unevenly and leads to continued discrimination (UNHRC, 2022a).

In response, Pakistan's reports stressed domestic initiatives such as the Hindu Marriage Act (2017), which recognizes Hindu marriages and provides limited grounds for divorce, but it was passed only for Islamabad and a few provinces. The Christian Divorce Act (1869), was amended in 2021 to modernize archaic language and delete adultery as a mandatory ground for divorce. The ruling of the Islamabad High Court in *Mumtaz Bibi v. Qasim* (2022), which held marriages under the age of 18 to be void ab initio, has been hailed as a landmark ruling in terms of bringing the domestic jurisprudence in line with the Convention on the Rights of the Child (UNHRC, 2022b).

Acknowledgements came from China, Turkey, and Saudi Arabia, which applauded Pakistan for strengthening its institutions, including the National Commission on the Status of Women (NCSW) and implementing the Punjab Protection of Women Against Violence Act (2016). Indonesia and the United Arab Emirates welcomed the initiatives for women's political participation and legal aid (UNHRC, 2023a).

As national institutions, the Ministry of Human Rights (MoHR), National Commission on the Status of Women (NCSW), National Commission for Human Rights (NCHR), and National Commission on the Rights of Child (NCRC) have all worked together to initiate programs for raising public awareness of inheritance rights, gender-based violence, and early marriages (UNHRC, 2022b). However, there remains a wide gap in actual implementation. Although Pakistan remains engaged with the UPR and has established a set of reporting protocols, no independent mechanism exists to monitor compliance with the UPR across the provinces. This has weakened interprovincial coordination (National Commission for Human Rights, 2023).

The GSP+ Regime

The European Union granted Pakistan GSP+ status in 2014, providing duty-free market access in exchange for ratifying and effective implementation of 27 international conventions, many of which directly or indirectly concern family rights. These include core instruments, ICCPR, CEDAW, CRC, CESC, and CAT (European Commission, n.d.). GSP+ is primarily a trade benefit but is linked to human rights considerations related to marriage rights, protection from domestic violence, and children's rights in the family (European Commission, n.d.).

The Commission assesses Pakistan's compliance with GSP+ once every two years, focusing on legislative reform and enforcement of laws. As a result, Pakistan passed the Sindh Child Marriage Restraint Act (2013), Balochistan Domestic Violence Act (2014), and the Islamabad Capital Territory Domestic Violence Act (2020). These measures indicate an attempt to take steps towards compliance with the treaty obligations, predominantly CEDAW and CRC. Nevertheless, enforcement capacity constitutes a serious challenge with customary justice mechanisms like jirgas and panchayats diluting formal legal protection with particular detrimental impacts on women and children (International Crisis Group, 2015).

Civil society organizations, including Aurat Foundation, Sahil, and Human Rights Commission of Pakistan (HRCP), were prominent in submitting shadow reports to the EU. These reports point out the inconsistencies between statutory provisions and their implementation, especially about child marriage, gender-based discrimination, and family violence (Aurat Foundation & Legal Aid Society, 2020; Human Rights Commission of Pakistan, 2023; Sahil, 2023). These various reports also reiterate the persistent trend of informal dispute resolution bodies issuing decisions contrary to the provisions of domestic law and international obligations.

The GSP+ framework, despite the observations made, does not possess any coercive enforcement mechanism. Pakistan enjoys preferential market access but lacks direct sanctions for failing to comply, thus making reforms largely dependent on diplomatic pressure and voluntary commitment. That is why it has been argued that Pakistan's interaction is mostly symbolic in nature, with legal changes not being supported by institutional intervention consistently (U.S. Department of State, 2024).

In the 2022-2023 assessment, the EU repeated its concern about the weak implementation of family rights protections, with an emphasis on practical improvements, especially in their intergovernmental coordination and oversight. Since Pakistan's GSP+ status is being renewed for evaluation, beyond 2024 the continued enforcement of family-related rights and visible

commitment on the part of institutions would likely remain decisive for its eligibility (European Commission, 2023a).

The Role of International Mechanisms in Domestic Reforms

International mechanisms exert influence through a complex interplay of legal, political, and cultural avenues. This section places them in the context of their impact on restructuring family law in Pakistan.

Reforms Induced by International Engagements on Legal and Policy Fronts

The engagement of international human rights mechanisms in Pakistan has played a pivotal role in the advancement of domestic reform in family law. Mostly uneven and contested, these demonstrate how international instruments can compel legal and institutional changes. The most famous example of such enactments is the Sindh Child Marriage Restraint Act, 2013, which legally raised the marriage age for girls to 18 years. Resisting such measures in other provinces has made advancement difficult, but marked an incremental step towards grooming the state practices with international commitments. This emerges primarily by developing pressure from the UPR and the CRC Committee, which have constantly highlighted Pakistan's inabilities regarding ending child marriage (CRC, 2009; UNHRC, 2013).

Another area that has changed in response to international engagements and other sectors, like domestic violence legislation. The Domestic Violence (Prevention and Protection) Act was passed first in Sindh (2013) and then in Punjab (2016). The Committee took up this case on the Elimination of Discrimination against Women (CEDAW), which, in 2013, noted that there is no legal protection available to the victims in Pakistan (CEDAW, 2013). These developments also reflect the role of civil society advocacy, which is aggrandized by treaty-based arguments while building legitimacy and pressuring legislators. Important intermediary institutions, such as the National Commission on the Status of Women in this case, translate international norms into policy proposals and parliamentary briefs (NCSW, 2021).

Implementation and Resistance

The implementation of the progressive laws cannot be called as uniform across provinces, with a huge gap between formal compliance and substantive reform. The advanced legal measures such as the Sindh Child Marriage Restraint Act, does have an effective symbolism but lack strong enforcement. Its enforcement, unfortunately, gets diluted through weak administrative machinery and continued social approval of early marriages. Even so, the domestic violence legislation faces similar roadblocks in Khyber Pakhtunkhwa and Balochistan, where several law bills stand repeatedly obstructed by religious and political alliances (HRCP, 2022).

Case studies reveal that international mechanisms empower and lend legitimacy to reformist actors, who must then navigate deeply entrenched patriarchal and religious norms. For example, despite the persistent underfunding of Punjab's domestic violence law's protective orders and shelters and the lack of training for police and the judiciary (UNFPA, 2024), the implementation has nearly come to almost a standstill. This highlights a far larger set of challenges faced in putting legal reform into practice, especially when international norms are felt to be externally imposed and culturally incongruent.

Structural Barriers to Reform

A constellation of structural barriers hinders the domestic efficacy of international norms. First, the devolution of legislative powers consequent to the 18th Constitutional Amendment, 2010, has

resulted in jurisdictional fragmentation, with provinces extending different interpretations to and adopting family-related laws differently. Secondly, the presence or absence of institutional coordination between federal treaty-monitoring bodies and provincial departments is detrimental in formulating coherent implementation strategies. Thirdly, there is no denying that compliance is at best superficial, whether to preserve trade benefits or merely to maintain the GSP+ status for favor. Not unexpectedly, improvement here does not address the root causes of gender inequality.

Such dynamics suggest that even as international human rights mechanisms may spur some legal and policy changes, the actual key to success is a sustained, domestic process situated in cultural legitimacy and institutional capacity.

Conclusion and Strategic Recommendations

Findings

The interaction between Pakistan's family law and international human rights frameworks has been examined by the research. The UPR and treaty bodies like the CEDAW and CRC have also so far become instrumental for legal reforms in this country, but the effects have been inconsistent due to limitations politically, resistance culturally as well as coordination institutionally.

The findings illustrate complexity of the interaction between legal reforms and local realities. Progressive laws are promulgated but implementation remains uneven, especially across conservative regions. The disconnect at federal and provincial levels, the weak enforcement mechanisms, and the opposition driven by religious and political groups to legal and social reforms that are based on international norms continue to inhibit the very full realization of the legal protection to women and children. The domestic legal system remains a patchwork, with varying degrees of compliance and enforcement across provinces.

It can be seen that barriers which have been identified in earlier sections would not allow the international human rights mechanisms alone to achieve the high level of reform. A more holistic approach, which combines international legal obligations with local cultural and political contexts, is what is needed for sustainable change. Key players like civil society organizations and the National Commission on the Status of Women (NCSW) are bound to continue playing an integral role in pushing for meaningful reforms; however, their success will rely on translating the gains into heightened political will at all levels of the government as well as institutional capacity.

Strategic Recommendations

The following recommendations are made to further advance family law reform in Pakistan:

- **Legal Reforms and Codification:** Family law should be codified in clear terms and that gender-sensitive provisions are uniformly applied in all regions. These reforms would explicitly integrate international human rights standards without infringing upon the local norms.
- **Institutional Strengthening:** Strengthen the capacity of institutions such as the NCSW, the National Commission the Rights of Child (NCRC), MoHR, Provincial Women Departments, and Child Protection Bureaus to reduce the gap between international obligation and domestic implementation of family rights. Moreover, provide training to enforcement agencies and judiciary for improving enforcement of the existing laws.
- **Participation of Civil Society:** Strengthen the civil society's role in monitoring compliance with treaties and raising awareness of the issues at stake via avenues of advocacy, treaty reporting, and follow-up processes.

Future Research Directions

Future studies may focus on the empirical impact of treaty body recommendations on judicial decisions, particularly in family law. Research could also explore how informal justice systems influence or resist the integration of international norms into Pakistan's plural legal system.

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