
The Incapability of the Pakistani Legal System in Addressing the Needs of Marginalized Communities: A Focus on Legislation and the Judiciary

Ali Haider¹, Javed Ahmed², Mohsin Riaz³, Syed Faiz UL Hassan⁴

¹ LLM, Research Scholar, Superior University Law College, Lahore. Email: alihaider44251@gmail.com

^{2,3,4} LLM, Research Scholar, Superior University Law College, Lahore.

Corresponding Author: Ali Haider

DOI: <https://doi.org/10.70670/sra.v3i2.597>

Abstract

The systematic inability of the Pakistani legal system to meet the demands of marginalized people is examined in this study utilizing a Critical Legal Studies framework, with a particular emphasis on the judiciary and legislation. It investigates the experiences of several marginalized groups, such as socioeconomic, gender, religious, and ethnic minorities, using a qualitative case study methodology. According to the research, the main causes of inequality are discriminatory laws, judicial bias, and obstacles to obtaining justice. It draws attention to the flaws in both the official and informal judicial systems, highlighting the necessity of extensive reforms. The study comes to the conclusion that in order to guarantee fair treatment and protection for Pakistan's most vulnerable groups, community-driven projects, judicial advancements, and improved access to justice are essential.

Key Words: Marginalized Communities, Pakistani Legal System, Judiciary, Legislation, Critical Legal Studies, Human Rights, Access to Justice

Introduction

Pakistan is a nation having a wide range of religious, socioeconomic, racial and ethnic communities. There are numerous categories of people in the population who are literally marginalized and experiencing social, political, and economic isolation. The population groups identified by national and international human rights organizations as experiencing systemic discrimination, exclusion, and oppression that restricts their access to social justice, opportunities, and resources are considered marginalized populations throughout Pakistan for the purposes of this study. The following Pakistani population groups have been chosen and categorized in accordance with this concept. Case studies and subject sampling have been conducted among the following groups: the ethnic groups of Baloch and Hazaras; the religious groups of Ahmadis, Christians, and Hindus; the gender group of transgender people; and the socioeconomic groups of bonded workers and landless peasants. Numerous problems, including restricted access to socioeconomic and sociolegal justice, are commonly faced by these populations. Therefore, this paper's primary goal is to investigate how and to what degree these marginalized people continue to lack access to economic, social, and legal mechanisms. The opposing narrative to such studies typically asserts that there is a comprehensive and ideal legislative process and legal code accessible to these marginalized groups and individuals. However, the issue lies beyond written laws and criminal procedure codes; in fact, there are structural deficiencies in the legal domain that continue to severely impair these marginalized groups' fundamental rights while the judiciary, which has all the authority to administer justice in their favor, is paralyzed.

Literature Review:

An important study on the topic reveals that, although having all the constitutional authority and power at its disposal, Pakistan's judiciary is powerless to provide justice to these marginalized people. According to this research, Pakistan's judiciary serves the goals of the state and has turned into an instrument for maintaining political inequality in the country's society, rather than following the golden norms of good governance and acting as an impartial mediator between the state and these marginalized people. (Azeem, M. 2017). In further detail, an investigation was conducted to determine the cause of Pakistan's judiciary's incapacity to administer justice to marginalized communities' claims by identifying the country's legal education system's shortcomings, which, according to the study's findings, dreadfully fail to recognize the legal urgency of a clear national vision and ineffective training that impedes the creation of an efficient legal system capable of advancing the rule of law. (Iqbal, K. 2015). Similarly, a 2021 study noted that another factor for delivering justice to weaker segments of society is the interaction between the formal and informal court systems. According to the report, the informal system is crucial for delivering justice to these marginalized groups, despite its shortcomings. In order to relieve the judiciary's workload and provide justice to these communities, the report suggests that various institutions be merged or coordinated (Ahmad, J., et al. 2021). An important study discovered that public interest litigation can be a useful strategy in addressing systemic inadequacy in delivering justice to individuals of underprivileged communities. However, because of intrinsic structural limits, the study acknowledges its limitations and challenges. (Hussain, F. 1993). However, another study discovered that poor governance is one of the reasons why the administration of justice to marginalized populations is inefficient. According to this study, misgovernance has a direct impact on how justice is administered to the underprivileged segments of society. The research indicates that this issue not only restricts the application of justice but also results in laws that fail to guarantee justice for underprivileged groups or to remove barriers through legislation (Ismail, Z. H. 1999). According to Afzal, M., et al. (2023), one of the key elements in ensuring that members of marginalized communities in Pakistan receive justice is the criminal justice system's severe shortcomings, along with other reasons noted in earlier research. It also covers institutional failures, wrongdoings, and inadequate training that lead to court processes being delayed, which in turn makes it more difficult to provide justice to these people. According to a study, a comprehensive and robust interplay of cultural norms, international human rights standards, and governmental rules can help marginalized individuals access justice and find a solution to this issue (Zaheer, B., et al. 2025). Similar to this, a study indicates that enhancements in legal education and training may be beneficial as a remedy for the issue of inadequate administration of justice, even in environmental issues that are also being disregarded, such as marginalized communities. This finding not only validates the role of Pakistan's inadequate legal education system (Saleem, M. S., et al. 2023; Baig, K., et al. 2023). A study summarizes its results on this issue and concludes that it is possible to establish a pluralist strategy that links with the informal justice system in a way that respects human rights and judicial reforms (Mangi, D. B., et al. 2025; Sultan, M. S., et al. 2024). Accordingly, another recent study came to the conclusion that improving Pakistan's legal system's flaws could help the marginalized people receive justice. The relationship between courts and laws is the main topic of this work. Although the body of extant literature offers a thorough summary of the structural issues Pakistan's legal system faces, there is still a large knowledge vacuum about the precise processes by which these issues disproportionately impact underprivileged communities. Research has examined the intricacies of formal and informal justice systems (Ahmad, J., et al. 2021), the judiciary's role in sustaining inequality (Azeem, M. 2017), and the shortcomings in judicial education (Iqbal, K. 2015). Focused studies that directly connect these institutional. The research emphasizes how Public Interest Litigation (PIL) can be used to resolve the complaints of the poor (Hussain, F. 1993), but it does not sufficiently evaluate the

real-world constraints and obstacles that marginalized communities must overcome in order to access and make use of this mechanism. Although some research points to discriminatory laws and poor governance as the main causes of inequality (Ismail, Z. H. 1999; Malik, I. H. 2002), a more thorough examination of how these elements play out in particular legal outcomes for marginalized groups is required. Few studies look at the intersectionality of marginalization, despite the fact that research recognizes the shortcomings of the criminal justice system (Afzal, M., et al. 2023) and the possibility of legal empowerment initiatives (Cheema, A. R., & Riaz, M. 2022). How, for instance, do socioeconomic class, gender, and religion exacerbate the difficulties marginalized populations encounter in the legal system?

Research that goes beyond identifying issues and suggesting remedies is needed, even if some studies support judicial reforms, improved legal education, and the integration of informal justice systems (Mangi, D. B., et al. 2025; Baig, K., et al. 2023; Sultan, M. S., et al. 2024). The goal of this research should be to create community-driven, scientifically supported legal reform initiatives that take into account the unique needs and vulnerabilities of underrepresented groups.

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As a result, this study attempts to close these disparities by thoroughly examining the legal and legislative systems that uphold inequality, paying particular attention to the experiences of underrepresented groups. This study will help create practical legal reform initiatives that put the needs of Pakistan's most disadvantaged groups first by combining empirical data with a critical evaluation of the country's current legal frameworks.

Research Questions

1. In what ways, specifically with regard to the application of human rights frameworks, do Pakistan's formal and informal legislative and judicial processes maintain structural injustices and impede marginalized populations' access to justice?
2. How can community-driven tactics and reforms, such as the successful use of mechanisms like Public Interest Litigation, address the unique obstacles and lived experiences of underprivileged people traversing the Pakistani legal system?

Research Design:

Critical Legal Studies (CLS) has been selected for this study. For the suggested study, this research viewpoint is entirely justified for a variety of reasons. Its core tenet is that the law is a tool for upholding current power arrangements rather than being neutral or objective. The reason this study selected this critical approach is directly related to the research's primary objective, which is to demonstrate how the Pakistani legal system fails to deliver justice to the poor populations. This point of view also emphasizes how the set of laws, rules, and practices maintains social hierarchies and how the legal system itself contributes to the inherent power structure. It is now essential to observe how oppressed people are harmed by this legal system, and this theory is perfect for understanding the outcomes in this respect.

The theoretical framework of critical legal studies is excellent at providing tools that may swiftly demolish legal doctrines and reveal implicit biases and presumptions that frequently contribute to inequity. An additional essential element of CLS is acknowledging that laws are frequently vague and susceptible to interpretation. Because of this, laws are nevertheless administered inconsistently, which may result in discrimination. The most obvious explanation for this situation is the situation in which the legal system arbitrarily interprets the law to target marginalized individuals.

By concentrating on structural problems rather than personal injustices, CLS attacks the legal system. It reveals systemic problems with the law, the courts, and institutions that lead to marginalization. Women's experiences within the CLS framework can be examined from an intersectional feminist perspective.

As a result, CLS offers the most thorough and pertinent theoretical framework for this investigation.

To uncover the answers to the research questions, a qualitative case study approach has been used for this investigation. In social science, the qualitative approach is thought to be the most effective, particularly in legal research since the majority of the issues are normative in nature. Comparatively speaking, the case study approach is a useful tool for examining the unspoken implications of any doctrine, law, regulation, process, or interpretation.

Research Analysis:

With an emphasis on the interaction between legislation and the judiciary, this study uses a Critical Legal Studies (CLS) framework to investigate the systemic shortcomings of the Pakistani legal system in meeting the demands of marginalized people. Pakistan's legal system, which has its roots in colonial law and is impacted by Islamic principles, frequently maintains marginalization. Let's now talk about another form of discrimination that occurs when laws are being made, such as the Hudood Ordinance, and when land ownership laws are being made that entirely benefit landowners and powerful classes. The rights of minorities in particular and women in general are harmed by such policies. An excellent illustration of this is the case study of Mukhtaran Maai.

It is undeniably very difficult to provide fair justice for the weaker segments of society in Pakistan. They find it challenging to navigate the judicial system because to a lack of legal aid, language obstacles, fear of retaliation, and corruption.

These problems are exacerbated by judicial bias, which manifests as judgmental tendencies and discriminatory language.

As seen in the Kalash people's land rights litigation, enforcement problems and financial limitations routinely obstruct implementation, even in cases where favorable verdicts are made.

Similarly, the relationship between the judiciary and legislation demonstrates that defects in the legislative environment, such as discriminatory or unclear laws and a lack of protective legislation, limit the judiciary's ability to defend vulnerable groups. Conservative legal interpretations (such as the Hudood Ordinances) and a lack of application (such as in property rights lawsuits) exacerbate these issues.

If we examine the issue in light of the information acquired for this study, we will discover that one of the reasons why Pakistan's marginalized people have not received justice is the legislature's and the judiciary's inefficiency and lack of cooperation. Because of discriminatory laws, judicial biases, and barriers to justice, the legal system frequently harms marginalized communities. Intersectional types of prejudice and systemic issues like inadequate judicial training and institutional misbehavior exacerbate these challenges. Therefore, comprehensive reforms—including legislative changes, judicial enhancements, improved access to justice, and community-driven initiatives—are required to provide equitable access to justice for all and to use judicial activism to protect disadvantaged groups.

The study concentrated on the contested discriminatory laws, presumed biased judicial practices, and the observed uneven application of human rights frameworks in order to answer the first research question. It concluded that these are some of the reasons why systemic inequality is maintained by Pakistan's legislative and judicial systems. Discriminatory legislation, like the Hudood Ordinances, create a culture where religious minorities and women are especially vulnerable to persecution. Judicial prejudices, which manifest themselves in discriminating language and judgmental practices, exacerbate these discrepancies.

The issues facing the formal judicial system, such as financial shortages and corruption, limit access for those who are most in need. Informal court systems sometimes lack human rights protections and may perpetuate long-standing disparities that impact underprivileged communities, despite sometimes being simpler to access. In addition, national and international human rights standards are applied inconsistently and with inefficient enforcement measures. Moving on to the second question, it is assumed that the marginalized communities face many obstacles, such as a lack of legal knowledge, limited access to legal aid, language barriers, fear of retaliation, and corruption; lived experiences show bias, discrimination, and a lack of empathy from legal professionals; Public Interest Litigation (PIL) has potential but is limited by procedural obstacles, inadequate resources, and a lack of trust; community-driven strategies and reforms are essential. These consist of: Campaigns for Legal Awareness: Educating communities about their rights. Accessible legal aid is provided by community legal aid clinics. Sensitization and Training: Teaching attorneys about the needs of underrepresented populations. Advocacy for Legislative Reform: Getting local communities involved in the fight to amend laws that discriminate. Enhancing PIL Mechanisms: Increasing PIL's responsiveness to community demands and accessibility. Creating Community Oversight Mechanisms: Ensuring the accountability of both official and informal justice systems.

Key Findings:

The main conclusions of the study "The Incapability of the Pakistani Legal System in Addressing the Needs of Marginalized Communities: A Focus on Legislation and the Judiciary" are as follows, based on the research analysis:

Legislative and judicial structures in Pakistan perpetuate systemic inequalities that disproportionately impact marginalized communities; existing laws, such as blasphemy laws and some provisions of the Hudood Ordinances, create a legal environment where marginalized groups are susceptible to persecution; and judicial practices are frequently influenced by societal biases, resulting in discriminatory outcomes for marginalized individuals.

The privileged elite in Pakistan faces numerous challenges in their quest for easy access to justice. According to the report, a number of issues affect marginalized communities, such as a lack of legal rights and information, extreme poverty that makes it difficult to employ a trained lawyer, ignorance of alternative legal remedies, lack of media representation, etc.

In Pakistan, certain characteristics categorize people as marginalized. For instance, being transgender, female, non-Muslim, or a member of a minority sect are sufficient to disqualify them from the privileged class. Because of prejudice and systemic injustices, these groups then have a hard time getting justice.

Recommendations:

Based on the aforementioned discussion and conclusions, this study has made several proposals to address the shortcomings of the court and legislative in order to eliminate or lessen the systemic prejudice that prevents Pakistan's underprivileged people from receiving justice.

The constitution of a legal commission comprising technocrats, international human rights specialists, and members from marginalized communities will review all discriminatory laws and practices and suggest to parliament that laws that specifically discriminate against disadvantaged groups be repealed or amended, such as certain provisions of the Hudood Ordinances. Revise existing laws to ensure unambiguous protections for marginalized communities and to align with global human rights standards.

The same commission also examines the legal curricula offered by law schools and universities and makes suggestions for raising their caliber. In a similar vein, efforts should be made to introduce legal education and ideas that encourage inclusivity and eradicate discriminatory ideas in young children so that they can learn early on the value of diversity, coexistence, the rule of law, and everyone's protection under the law. In-depth training on issues such as eliminating discrimination in the legal system should be provided to legislators, judges, attorneys, and legal studies instructors. Additionally, special talks

from distinguished specialists from various nations should be organized. Promoting research-based legal education that is in line with intensive trainings and introducing an online point system for each lawyer to assess their ability to play a constructive and beneficial role in delivering justice to Pakistan's marginalized population are both important goals.

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