

Arbitration: An Effective Way to Reduce the Burden On Civil Courts of Pakistan

Gull Ghutai Panezai¹ Shah Muhammad Zarkoon² Nizam Ud Din Bareech³

¹ Assistant District Public Prosecutor

² Lecturer University Law College, Quetta

³ Assistant Professor University Law College Quetta

DOI: <https://doi.org/10.70670/sra.v3i2.750>

Abstract:

In this research, arbitration has been explored as a viable remedy to lighten the burden of Pakistan's civil courts, which are already overburdened with an arrears list of over 2.22 million cases as of June 2024 according to the law and justice commission of Pakistan (Bi-Annual Report of Judicial Statistics, 2024). Backlog has delayed justice and has undermined the public confidence in the justice system, particularly in the case of vulnerable groups like women and poor persons. This study takes a look at the historical growth of Arbitration, by critically analysing the Arbitration Act of 1940 and its flaws (Arbitration Act, 1940). Despite the glaring benefits of Arbitration, low expenses, faster resolution of disputes, and confidentiality, the application of Arbitration in Pakistan continues to be hampered by aged legal instructions, deficiency in enforcement, and low sensitivity. Through comparative analysis of global models, i.e., the UK Arbitration Act 1996 (Arbitration Act 1996), the study develops areas to be reformed. It highlights how the new Arbitration system would not only reduce court loads but also make justice accessible, especially to marginalized communities. The study makes conclusions with actionable recommendations to redesign Pakistan's ADR system to the point where it can provide services to the masses and restore citizens' trust in the judiciary.

1. Introduction:

Justice delayed is justice denied." (Agarwal, 2021) This adage expresses the situation of Pakistan's justice system, hampered by a crushing backlog of over from 1.9 million (Hayder, 2019) cases to 2.22 million (Bi-Annual Report of Judicial Statistics, 2024) cases since 2019 to 2024. The toll of delay goes beyond mere inconvenience, it undermines confidence in the judicial process and enables social injustices to continue, especially for those who are already disadvantaged by poverty, gender, and location Ahmad & Gul, 2023a; Gul & Ahmad, 2023; Gul, Kanwal, & Khan, 2020). The current judiciary is usually regarded as slow, costly, and inaccessible, discouraging many, especially women, from seeking legal redress. Pakistan, itself a victim as much as it is of poverty, unemployment, illiteracy, and corruption, clings to the inefficiency of the judiciary as being amongst its most immediate. Pileup courts introduce yet another exclusion of poor women and men already stigmatized by society and economically marginalized (Kangas, 2015). Slow, indeed cumbersome, traditional court procedures deter many from seeking their rights (Ahmad & Gul, 2023b; Gul & Ahmad, 2022a). Arbitration, as one of the Alternative Dispute Resolution (ADR) mechanisms, is one such remedy to these ills. Arbitration enables parties to settle their dispute out of court with the assistance of a third-party neutral termed as arbitrator. It is an adjudicative process which is free from a hectic procedure compared to the formal court system and could also be termed as private dispute resolution (Gul & Khan, 2020; Gul & Ahmad, 2022b). The person who is giving a final verdict in arbitration is termed as an arbitrator and the final decision in arbitration is known as an award

(Arbitration Act,1940). This is faster, less expensive, and less formal than conventional litigation and thus an attractive option. The UK and the USA have been using Arbitration successfully to resolve similar issues of court jams and slow justice.

For, Arbitration has its roots in the century's old civilisations, in-fact it is as old as the life of man on earth (Schmitthoff,1986). With the rise of conflicts among humans the forms of conflict management have also been through a series of test and trials and since the very beginning of the conflict management there has been a 3rd party involvement in the conflict solving mechanism (Ali, Gul, & Gul, 2025; Bareach & Gul, 2025; Gul & Ali, 2021b; Gul & Khan, 2021). The presence of 3rd party even then is a sign that arbitration has its roots in the early forms of conflict management in the old civilisations. Additionally, conflict management has remained a topic of concern for the early men and civilisations as well as it has remained a bone of contention since forever to look upon to by making it free from interference of the powerful, and justify it as per the common men's requirement (Gul & Tahir, 2023a; Mehmood, Rao, & Gul, 2024; Gul, Rabbi, Batool, Tahir, & Asif, 2024b; Zakir et al., 2022a).

According to G.Pfeiffer, the dispute resolution process date back to the third millennium BC that is the old Babylonian period. Dispute resolution has remained a topic of interest throughout the legal history no matter in form of extrajudicial or judicial proceedings (Gul & Reba, 2022; Khan, Gul, Riaz, Bibi, & Ahmad, 2025; Tufail, Gul, & Ali, 2024b). Whereas in the western history it was the Romans who dealt with the dispute resolution systematically for the first time, therefore playing an important role for the legal heritage in terms of dispute resolution (Milotić,2013)

Although arbitration has been practiced in the western world for centuries, with historical evidence dating back to ancient times. However, the formalisation and regulation of arbitration as a legal process began to take shape in western countries at various points in history, most probably the modern arbitration laws began to take shape in the 19 century (Wolaver,1934). For example the Uk Arbitration Act of 1697 was one of the earliest legislative acts related to arbitration which lay the groundwork for arbitration(Arbitration Act,1697). But, the modern framework of arbitration in the UK is primarily based on the Arbitration Act of 1996, which brought significant reforms to the arbitration process by further solidifying the legal framework for arbitration. Similarly, other western countries have their own histories of arbitration, with laws and practices evolving over time to establish arbitration as a recognised method for resolving dispute outside of traditional court systems (Zakir & Nizam-u-din Bareach, n.d.). Additionally, Arbitration in Pakistan has a significant history but is hardly seen in common practice. The legal framework of arbitration in Pakistan is primarily governed by the Arbitration Act of 1940, which was based on the Indian Arbitration Act of 1899. This act provides the procedural rules for conducting arbitration proceedings in Pakistan (The Indian Arbitration Act, 1899). In the recent years, Pakistan has taken steps to modernise its arbitration laws to align with the international standards and to promote arbitration as a preferred method for dispute resolution. The country has also rectified the United Nations Commission on International Trade law (UNICTRAL) Model law to enhance the credibility and efficiency of arbitration proceedings in Pakistan (UNCITRAL Model Law on International Commercial Arbitration,1985). Although, the recent reforms in arbitration related to trade and commerce is commendable, but in the districts and trial courts arbitration is barely seen in practice, which makes it a matter of concern for the state legislation in terms of promoting and practising arbitration (Gul & Khilji, 2021; Sohail, Gul, & Mushtaq, 2018; Tufail, Gul, & Ali, 2024a; Gul, Ilyas, Gul, Riaz, & Khan, 2025).

The concept of arbitration is also covered by the Islamic teachings know as Tahkeem. Tahkeem in Islam refers to the process of arbitration, in which two disputing parties agree to appoint a neutral third party for the resolution of their conflict(Zahraa,2006). This method of dispute

resolution is rooted deeply in Islamic tradition, which is reflecting the importance of peaceful and just resolution of disputes. Moreover, the concept of Tahkeem is closely related to modern arbitration, where parties voluntarily choose an impartial arbitrator for making decisions that are binding in nature. In Islamic jurisprudence, arbitration is encouraged, especially in family and community disputes, so as a way to avoid prolonged conflict and in order to promote reconciliation. The Quran has highlighted the significance of arbitration in Surah An-Nisa (4:35), which says: “If you fear a breach between them (husband and wife), appoint an arbiter from his family and an arbiter from her family. If they both desire reconciliation, Allah will make peace between them.” (Quran 4:35) This verse has undoubtedly underscored the role of arbitration in resolving conflicts with fairness and sincerity, aiming to restore peace and harmony among partners. Thus, Tahkeem embodies the principles of justice and compassion, which are central to Islamic law and contemporary dispute resolution.

In Pakistan, the burden on judiciary has been a long standing issue due to the backlog of cases and delays in the legal process. The burden often leads to inefficiencies, prolonged litigation, and increased costs for all parties involved. To address this challenge, arbitration plays a crucial role in providing an ADR mechanism that can help alleviate the burden on the judiciary system in Pakistan by providing a faster, cost effective and an efficient way to resolve disputes (Gul, Ayub, Mazhar, Uddin, & Khanum, 2021; Gul & Ali, 2021a; Gul & Dogar, 2021). Parties get to choose their arbitrators, agree on procedural rules, and have more control over the process compared to traditional court litigation.

This research will identify that arbitration serves as a alternative to the traditional litigation system of court and can help in alleviating the backlog of cases on the judicial set up. Moreover, Arbitration has been helpful in countries like UK and USA especially in California the caseload in civil cases has been tackled with the help of arbitration (Court Statistics Report: Statewide Caseload Trends, 2025), proving arbitration to be a modern and cost-effective way of resolving the cases/disputes outside the court. In addition, the parties have a control over the process of arbitration and thereby, resolving the dispute more efficiently, faster and and can also bypass the lengthy court procedure, thus helping to reduce the overall caseload that the judiciary faces (Ayub, Gul, Ali, & Rauf, 2021; Bukhari, Gul, Bashir, Zakir, & Javed, 2021; Gul & Tahir, 2023b; Gul, Talat, Mumtaz, & Shaheen, 2021). This can lead to a more efficient legal system, benefiting both the courts and the individuals seeking justice.

Further it is important to highlight that whether arbitration is in practice in Pakistani courts? If yes then to what extent, and if no then what are the causes for its dormancy? To answer this it is important to highlight that although the prevailing law related to arbitration in Pakistan is “The Arbitration Act of 1940”, this act provides for the ways of dispute resolution via arbitration, but other than few of the commercial matters the arbitration is not much in practice for civil in Pakistani courts (Bhandari, 2021). Other than Arbitration Act of 1940, ADR has been encouraged to be considered in civil matters as is mentioned in the section 89-A of The Civil Procedure Code, 1908. And Section 89 was regarding the applicability of Arbitration which has been omitted by the Arbitration act and section 49 of the CPC that disputes are to be resolved outside the courts via arbitration. Therefore, in Pakistan. The Arbitration Act of 1940 and section 89-A of the CPC 1908 are there relevant laws (The Code of Civil Procedure, 1908 (Act V of 1908)). Alas it is observed in the trial courts especially the civil courts of Pakistan that majority of the cases are referred to the courts rather than opting for arbitration, which makes it a state of concern for the Pakistan judicial system to streamline arbitration in civil and family matters.

Since, Arbitration is one of the most efficient and cost-effective judicial processes in which cases are resolved by a neutral third party outside of the court system. Additionally, arbitration is the only alternative dispute resolution (ADR) method that is judicial in nature. It is time-saving because it has fewer legal requirements, allowing parties to avoid the need to appear in

court on days when they are unavailable or unprepared. Since arbitration gives parties the flexibility to choose the date for the arbitral award, it is an ideal option for those involved (Gul, Rabbi, Batool, Tahir, & Asif, 2024a; Rabbi & Gul, 2023; Gul, et.al., 2024). This flexibility also contributes to the speed of the process, as there are fewer technicalities and legal complexities involved. Furthermore, arbitration is a cost-effective process since parties do not have to pay substantial fees to lawyers, making it an efficient ADR remedy to pursue (Arbitration: Pros and cons, 2020). Therefore, keeping in view the advantages of arbitration it is an ideal solution to outdone the backlog of cases in Pakistan.

Subsequently, there are many ways of dispute resolution in Pakistan which are culturally embedded in the society used for the dispute resolution from the past many decades and centuries. These way of dispute resolution involves the presence of a 3rd party who plays the role of a mediator to resolve the disputes between the parties. This include Jirga, panchayat, and maraka in the different regions of Pakistan such as Punjab, Sindh, KPK and Baluchistan (Ashraf, 2023). Most probably the role of a mediator is played by the head of the town or village who is most commonly known as Chaudharys, Nawabs, khans, of the tribes. Although, the traditional ways of dispute resolution has also been beneficial for the parties in dispute resolution, but these cultural ways of dispute resolution does not have a legal backing which makes it controversial and many a times questionable due to the unlawful decisions (Zakir et al., 2025) taken by them. Nevertheless, these cultural ways of dispute resolution has resemblance with arbitration which makes it important for the states' agency to streamline and recognise the cultural forms of dispute resolution and mention it in the states legislation in order to legalise them and also to give it a legal backing.

To compare the arbitration in Pakistan with the UK, in primer, the arbitration is mainly governed by the Arbitration Act 1940, which is an older legislation that has been criticized for being outdated and lacking modern provisions. The arbitration process in Pakistan can sometimes face challenges due to delays in the legal system and enforcement of arbitral awards (The Arbitration Act, 1940 (Act No. X of 1940)). On the other hand, in later, arbitration is regulated by the Arbitration Act 1996, which is a more modern and comprehensive legislation. For the UK has a well-established legal framework for arbitration, which is known for being arbitration-friendly and supportive of alternative dispute resolution methods. The UK courts generally uphold arbitral awards and have a pro-arbitration stance (Arbitration Act, 1996). Overall, while both Pakistan and the UK have arbitration laws in place, but the UK's legal system is often perceived as more arbitration-friendly and supportive of resolving disputes through arbitration compared to Pakistan's legal system.

Keeping in view the pros of arbitration, the researches has come to the conclusion that arbitration is a valuable tool for resolving disputes outside of the traditional court system. It offers a more flexible, confidential, and often quicker way to resolve conflicts. Whether arbitration is a need depends on the specific circumstances of the dispute. In many cases, arbitration can be a beneficial and efficient way to address conflicts, especially in commercial or international disputes where parties prefer a more private and specialized resolution process. It's essential to consider the nature of the dispute, the parties involved, and the desired outcomes when determining if arbitration is the right choice for Pakistan to consider a a long term procedure for dispute resolution especially those civil in nature.

Nonetheless, for all its potential, Arbitration has little application in Pakistan. Although there is a legal provision for its application with the 1940 Act of Arbitration, the latter remains insufficient and lacking in standards for our times. In the view of the author, Pakistan's Arbitration system can be made a much more vibrant part of the legal process if made contemporary which could ease Pakistan's courts some load, quicken legal processes, and dispense justice.

1.2 Background of the Study:

Conflict resolution has formed a part of human history for more than thousands of years, and ancient societies realized the necessity for formal mechanisms of conflict resolution. Arbitration has been the oldest conflict resolution mechanism, tracing its roots to the ancient Greek and Roman societies, when it would settle disputes without pursuing official legal proceedings. Similarly, in Islamic jurisprudence, the institution of Tahkim (arbitration) has been an old source conflict resolution mechanism.

In Pakistan, informal means of settling disputes such as Jirgas and Panchayats which have been around for centuries also exist. These local customs, while at times do dispense, are not established through law and thus tend to produce biased or unjust judgments. Unlike Arbitration which functions within the framework of law and yields binding orders, these local customs are at times random and personal.

The British colonial government passed the Arbitration Act of 1940, which was duplicated in size from the Indian Arbitration Act of 1899. The Act has introduced some modifications but, otherwise, has not moved in the direction of fulfilling the needs of the modern system of arbitration. Due to this reason, Arbitration in Pakistan is still neglected, even in civil cases, where a provision has been made by law to utilize its application in them.

To extend on how Arbitration would benefit the Pakistani judiciary, this study compares Pakistan's system to the UK system, the UK Arbitration Act of 1996. The UK system is a more contemporary and efficient system to be used as a model for Pakistan's reform.

2. Key Research Questions and Objectives:

The following are the key questions and objectives for this study:

2.1 Objectives of the study.

- i. To study the forms of Alternate Dispute Resolution, especially Arbitration.
- ii. To discuss the background of Arbitration.
- iii. To find out the developments in Arbitration Act of Pakistan.
- iv. To point out the Lacunas in the Arbitration Act of 1940.
- v. To discuss strategies to mainstream the Arbitration within Pakistan's judicial system effectively.
- vi. To compare the Arbitration Act of Pakistan (1940) with the Arbitration Act of the UK (1996).
- vii. To discuss the Advantages and Disadvantages of Arbitration.
- viii. To determine how to unburden the backlog of cases on Judiciary and ensure speedy disposal of cases.

2.2 Research Questions.

- i. Whether the number of cases in Pakistan is a matter of concern for the Judiciary?
- ii. Whether Arbitration is a viable alternate or suitable supplement to traditional judicial proceedings?
- iii. Whether the Alternate Dispute Resolution Especially Arbitration in Pakistan carries efficacy in supplementing judiciary in reducing the pendency in civil courts in Pakistan, or an amendment is required?
- iv. Whether the legal framework regulating arbitration in Pakistan is in line with the global practices and cultural norms?
- v. Whether there exist any cultural, professional, ethical, procedural or legal impediment in developing the art of arbitration in Pakistan?

3. Literature Review:

Pakistan is a country with a population of 241.49 million (Pakistani Census Results, 2023). With the increase in population the crime rate too has increased immensely, and conflict management becomes one of the underlying issues within the state. There is a state of turmoil inside Pakistan due to lack of resources. The old school justice system is not capable to serve justice in its true sense and every man in power e.g, the Chaudharies, Malikis, Sardars,

Waderas etc has become a judge of their own by ruling the poor class of their society with whatever penalty they think fit, which is often times unethical and inhuman. This system is often termed as jirga and panchayat system which can be said to be the informal way of dispute resolution and is synonymous to ADR and arbitration within the State, commonly observed in rural areas of all the four Provinces of Pakistan. The decisions of Jirgas and Panchayats etc are sometimes just as well and other times so unjust and no proper justification could be given for the decisions taken by them. These cultural ways of conflict management are observed since the very independence of Pakistan but so far no prompt steps are taken by the State legislation for its improvement. So to keep a watch on these cultural ways of dispute resolution it is necessary to give it a proper recognition by making it the part and parcel of legal setup. Therefore, an up-gradation in the state legislation is needed to amplify the Judiciary of Pakistan by amendment in laws and a special attention has to be paid to the forms of ADR especially Arbitration by making it a mandatory provision of Civil Procedure Code and Family laws.

The 1940 Arbitration Act has its roots in the colonial principles of the Indian Arbitration Act of 1899. The Act, despite attempts at reform, is still largely unchanged and has failed to keep pace with the demands of contemporary dispute resolution. The Recognition and Enforcement Act 2011 has improved enforcement of foreign awards but is still hindered by poor enforcement and low public awareness.

On the contrary, the UK Arbitration Act of 1996 has guaranteed a more advanced and effective mechanism of Arbitration, providing enhanced rules for the enforcement of arbitral awards and ensuring tribunals of arbitration are a viable alternative as opposed to traditional litigation. The UK system provides an example of how an innovative system of arbitration can be used to reduce congestion in courts, speed up the determination of disputes, and provide an equitable process to parties.

A columnist namely Zafar Kalanauri writes in his column published by 'Courting the law' that the laws dealing with arbitration are two fold, the first one The Arbitration act of 1940 which is a pre-independence act basically a very old act and requires change in order to align it to the modern and international jurisdiction and the second one is Recognition and Enforcement(Arbitration Agreements and Foreign Arbitral Awards) Act 2011. The later Act is taken from the New York convention 1958 the purpose of which is to give validity to the foreign judgements and awards. Further in this analysis portal the writer has explained the above given acts in detail.(Kalanauri,2017)

In addition, Ahmed Ali Ghouri in his book "Law and Practice of Foreign Arbitration and Enforcement and Foreign Arbitral Awards in Pakistan" has discussed about the enhancement made in the arbitration proceedings in Pakistan by the Introduction of the Recognition and Enforcement Act of 2011. He has further pinpointed the reforms which are been made by the this new act Of 2011 in the Investment and International Commercial Arbitration.(Ghouri,2012)

Further, the writer Victor Ferreres Comella in his book " The Constitution of Arbitration" published by the Cambridge University press has for the first time discussed Systematically about the arbitration from the constitutional point of view. He has argued that a constitutional right in private capacity to Arbitration should be recognised and should also place reservations on those breaching this right. He has thoroughly talked about the different forms of arbitration that should be given the status of a right in Constitution.(Comella,2021)

In the Book International and Domestic Arbitration by Atty. Custodio O. Parlade the editor Atty. Christina A. Montes writes about the history of arbitration by mentioning that the ancient city states of Greeks has albeit occasionally practiced Arbitration to resolve the disputes, but it was the Romans who for the first time who practiced arbitration as a means of private dispute resolution.(Parlade,2022)

International Commercial Arbitration: An Asia Pacific Perspective by Simon Greenberg, Christopher and J. Romesh Weeramantry is the first ever book which has discussed ICA

from Asia-Pacific point of view. In this book the different provisions of arbitration proceedings are discussed topic vice in detail. Further, the details about the Signatories of International Treaties in this region such as 'The list of UNICTRAL Model Law Countries' have been highlighted, and has also discussed the Asia Pacific countries that are parties to the New York Convention 1958. Further, the lists of arbitration legislation and instruments in such countries is discussed in the last chapter of his write up thoroughly. (Greenberg; Christopher; Weeamantry, 2010)

International and Domestic Arbitration in Pakistan: Law and Practice by Rana Rizwan Hussain has offered a detailed and timely examination of arbitration law in Pakistan, by addressing both the doctrinal foundations and the practical aspects of Arbitration inside the state. This book has comprehensively thrown light on the pre-arbitral, arbitral, and post-arbitral stages, the write up has provided a distinct procedural framework in which the pre-arbitral stage is focused on the drafting, interpretation of arbitration agreements, and the appointment of arbitrators whereas, the arbitral stage has covered the conduct of proceedings, the submission of evidence, and application of relevant laws, and that of the post-arbitral stage has highlighted the dealing with the issuance and enforcement of arbitral awards respectively. Hussain has also provided the detailed analysis of main statutes like the Arbitration Act, 1940, and the 2011 Act on foreign awards. Meanwhile, he has also covered exploring judicial interpretations and case law that have shaped the arbitration landscape. He has further highlighted several persistent challenges, which include the outdated legal framework, judicial interference, procedural delays in the enforcement of arbitral awards, and a general lack of arbitration specific training among practitioners and judges. He has mentioned that a central difficulty lies in harmonizing Pakistan's domestic arbitration regime with international standards, such as the UNCITRAL Model Law and the New York Convention. This is compounded by the fragmented legal approach to domestic and international arbitration, judicial conservatism, underdeveloped institutional infrastructure, and limited policy reform. (Hussain, 2023)

The current Arbitration Act of 1940 is outdated, and the amendments should be introduced in a manner so that the system can be revamped and made efficient and accessible and also based on international best practices. Preceding the way of the UK Arbitration Act of 1996, Pakistan can create a better Arbitration system that is efficient, accessible, and in line with international best practices. For this, Pakistan must seek improved public perception of Arbitration, legal reform, and conquering cultural as well as procedural barriers. Institutionalization of Arbitration would allow Pakistan to reduce pendency cases, speed up the hearing of cases, and recover people's faith in the judiciary.

This study makes it a reality that Arbitration can be utilized such that it de-populates the judiciary of Pakistan. Lastly, Arbitration is a simpler, quicker, and cheaper alternative to the clogged court system, and its increased application can go a long way in improving Pakistan's judiciary through accessible justice.

4. Theoretical / Conceptual Framework

Pakistan being one of the under-developing countries is facing a backlog of suits of both Civil and Criminal nature. This is not only hindrance for the judiciary itself but for the entire Justice System of Pakistan. The current burden on the judiciary is a matter of concern, and therefore prompt steps are required to not only reduce the existing burden, but also provide ways for future cases to be dealt with. As a matter of fact, there is a dire need for amending and reassessment of the entire Judicial System of Pakistan. As the world has shifted towards other ways of resolving the disputes such as ADR which commonly includes, Arbitration, Mediation and Negotiation. These alternatives to litigation have been very helpful in weighing down the number of cases in the developed countries like UK. Hence, it is the need of time that Pakistan should also divert to ADR most importantly to Arbitration, to legislate upon it, and to make it a part of its civil and criminal justice system. This Research aims to highlight these issues and guide policy making.

5. Hypothesis:

- I. Improving the pendency of cases in Pakistan is likely to restore the lost faith of citizens in the justice system.
- II. Amending outdated laws and introducing arbitration in its true spirit may significantly reduce the burden on the judiciary of Pakistan.
- III. The effective implementation of arbitration may elevate the efficiency of the legal system and may improve access to justice in Pakistan.
- IV. Aligning Pakistan's Arbitration practices with international arbitration standards may enhance foreign investors' confidence and promote economic growth.

6. RESEARCH METHODOLOGY.

In this research the methodology is exploratory in nature (Zakir et al., 2022b) and it was suggest finding those social economic political factors and other root causes that can lead to over burdening of the case in the judiciary of Pakistan which in return is contributing Two words towards injustice inequity, delayed Justice, and the disbelief of public in judiciary and justice system. This research will be doctrinal in nature. However, doctrinal methodology is a library based methodology that includes extensive study of relevant laws, searches, documents, books, articles, journals and newspapers. Further, the research would also be based on surveys and interviews from the relevant figures such as lawyers, judges, prosecutors and lecturers.

6.1 Research Design:

To determine the underlying causes of the ever-increasing numbers of cases typically civil cases inside the state of Pakistan and to promote the alternatives to litigation such as Arbitration in true letter and spirit in order to decrease the burden on courts in Pakistan. This research would be based on data analysis which would be descriptive in nature. Additionally, it would be a sum of qualitative and quantitative research or mixed method approach (Zakir & Nizam-u-din Bareach, n.d.) along with some ideas taken from conceptual research in order to reach to the desired results. The research will take a sample for the study design from the Judiciary of the province of Baluchistan and also Pakistan if necessary.

6.2. Data Collection and Variables of The Study:

Data Collection is an important factor in conducting the research which is important for this research as well. The researcher will take help from both the primary and secondary sources of the data collection the details of which are as follows.

6.3 Primary Data.

Following are the primary sources:

(a) Interviews: The researcher will take interviews from the important figures of the Judiciary i.e, the Judges, Advocates, Public Prosecutors, Professors and Lecturers of Law, the students enrolled in law and all other relevant figures including general public.

(b) Surveys: To some extent surveys will be conducted for better understanding of the researcher. The researcher would survey the civil courts in Quetta such as the courts of Civil Judges, District courts and high courts, and would collect the data regarding pendency of cases in such courts.

6.4. Secondary Data.

Following are the secondary sources that the researcher will take help from in order to have a thorough understanding of the Arbitration.

- (a) Books
- (b) Newspapers
- (c) Research Articles

- (d) Magazines
- (e) Case Laws: Both National and International.
- (f) Social media

6.5. Conceptual Data Analysis and Results.

Justice must not be done but must be seem to be done(Kiereini).There are many factors that contribute to the rise in cases and caseloads inside the state of Pakistan. Among many causes one of the main reasons for the backlog of cases inside the state is outdated laws and policies and lack of their implementation in its true sense. The pillars on which a state stands are justice, equality, fair-play, and the true implementation of law and order inside the state. With the fall off justice the state fails to deliver with its full potential.According to the Human Right Watch Pakistan is facing violation of women's and girls rights, children's rights, disability rights, terrorism, religious persecution and blasphemy related violence and so on(Pakistan (New York: Human Rights Watch, 2025)). For, the current legal framework is utterly insufficient to deal with the backlog of cases pending adjudication. The lack of check balance corruption and inadequate resources has further hampered the justice system within the state.

No state has ever progressed without justice and equality for all its citizens. Law must always be the same to both the rich and the poor. No one shall be given a special treatment above the law. When the law is applied equally for all, no one dares to undermine its spirit and find ways to evade loop of the law. No one is beyond the law, law is and should stand above all. Islam has given a profound emphasis on justice also known as *adl* to be the foundational principle in all walks of life including social, legal, spiritual, and personal life. As the Quran says “Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice...”(Quran 4:58).Hence in islam justice is a divine command which is binding upon all humans as justice is beyond and above all relations, and no privilege shall be given to anyone based on their status. It is justice that lead towards piety and peace.

The literature review reveals that arbitration in Pakistan is not utilised properly as the arbitration act of 1940 lacks detail guidelines which is leading towards inconsistencies and unwanted delays in the arbitration proceedings inside the state. Besides, there are many other factors which are also responsible for the dormancy of arbitration inside the state which include outdated laws, frequent interference from the courts, and lack of awareness among the masses as many parties to disputes are unaware of arbitration as an alternative to adjudication proceedings.These factors lead towards the reassessment of the arbitration act in Pakistan so as to counter the pendency of cases and to bring it forth to the current need of the state.

The role of arbitration cannot be ignored as it has been proven to be a majestic alternate to court proceedings in western countries mainly in the UK. The London has become a leading international hub for the arbitration proceedings around the world. UK today is globally recognised as a centre for international arbitration proceedings. The arbitration act of 1996 is recognised to be a modern and a flexible act of legislation around the world. The courts in the United Kingdom are supportive of arbitration proceedings and thereby generally uphold the arbitration agreements and awards. To the judicial support the enforcement of arbitral awards has become smooth by limiting unwanted interference from the judiciary. Efficiency and confidentiality is one of the basic principles of arbitral awards in the United Kingdom which is not only beneficial for the commercial law development, but also for the international dispute resolution.

Therefore, their arbitration has become one of the leading Dispute resolution Techniques around the world such as United Kingdom, France, Hong Kong, and Singapore among many others. Indeed, Pakistan is having the act for the arbitration proceedings but it's true implementation and enforcement and it's revival according to the present need is truly required to be considered. All though, a bill for the arbitration was introduced in the assembly

in June 2024 to revive the old arbitration act of 1940, but without amending the states criminal and civil Procedural acts and without limiting the scope of judiciary to interfere in the arbitration proceedings would not lead towards positive results for the arbitral awards.

7. Results and Discussion

This research article has been focused on highlighting the importance of addressing the backlog of cases in Pakistan. It also addresses the importance of alternative dispute resolution such as arbitration to be made accessible to the general public facing trials especially cases civil in nature , and also to pinpoint the lacunas in The Arbitration Act of 1940. It suggests that the judiciary has responsibility to provide timely redressal to the parties whose right has been infringed. Further, it should be the responsibility of the legislature to bring forth amendments in the centuries old acts and procedures in order to align it in according with the current requirement of time. Besides, the arbitration act of 1940 is a pre-independence act which is incapable of resolving the disputes according to the current need. Therefore an amendment in the arbitration act 1940 is to be addressed by the legislature on priority basis so as to coincide it with the international standard which would help not only in addressing the pendency of cases on national level but also the international disputes. For, adopting the international good practices for arbitration from around the world especially the western countries would aid in enhancing the judicial efficacy in Pakistan.

This research article has also focused on the factors that would mainstream arbitration in Pakistan by suggesting coordinated legal, institutional and cultural reforms in order to meet the gap in the service and delivery of justice in Pakistan. These reforms include modernisation of arbitration laws via updating the existing arbitration statutes such as Arbitration Act 1940, and by the enforcement of arbitral awards effectively and efficiently under the laws like the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act 2011. For, educating the judges to support arbitration and limiting their intervention in the arbitral awards would help in the enforcement of the awards by the arbitrators. Besides institutional development is also suggested to strengthen the existing bodies such as Center for international investment and commercial arbitration – CIICA, and by establishing credible arbitration centers around the state to encourage arbitration across the region. Additionally, offering training for lawyers, judges, attorneys, prosecutors, and law students in arbitration techniques would enhance the capacity building of arbitrators. It is also suggested to include arbitration and ADR procedures in the curriculum of the university students to enhance the legal education and to facilitate arbitration proceedings. It is highly recommended to include the arbitration clauses in contracts both in the government ministries and public bodies along with private sectors such as business advocacy to work with the business chambers for example FPCCI to promote arbitration as a cost-effective alternative to litigation(Promotion of arbitration for commercial dispute resolution. FPCCI). Alongside, the awareness of public is equally important in order to promote Arbitration via using traditional and digital media campaigns. Organising public events such as workshops and conferences by highlighting the success stories of arbitration would aid in endorsing arbitration. Lastly, developing online arbitration platforms and using case management systems would supplement arbitration by securing the privacy, and speeding up the procedures to ensure transparency.

References:

- Ahmad, I., & Gul, R. (2023). *Service-Learning Models. Service-Learning: Theory and Practice.* Taylor & Francis.
- Ahmad, I., & Gul, R. (2023). *Service-Learning and Vocational Education. Service-Learning: Theory and Practice.* Taylor & Francis.
- Ashraf, Z., Hussain, M. A., & Arshad, A. H. (2023). Jirga and Panchayat for the Resolution of Family Disputes in Pakistan: An Analytical Prospects. *Pakistan Journal of Criminology*, 15(3), 77–91.

- Gul, R., & Ahmad, I. (2023). Understanding the Pedagogical Role of Service-Learning for Preparing Citizen Leaders in Higher Education. *Journal of Education and Educational Development*, 10(2), 45–60.
- Gul, R. (2023). Relationship Between Self-Concept and Academic Achievement: An Evidence of Female Students. *Journal of Research in Social Sciences*, 11(1), 100–115.
- Gul, R., & Ahmad, I. (2022). A Qualitative Inquiry of University Students' Experiences of Exam Stress and Its Effect on Their Academic Performance. *Human Arenas*, 5(3), 250–265.
- Gul, R., & Ahmad, I. (2022). A Qualitative Study of Workplace Factors Causing Stress Among University Teachers and Coping Strategies. *Human Arenas*, 5(2), 200–215.
- Gul, R., & Khan, S. S. (2020). Organizational Politics as Antecedent of Stress in Public Sector Universities of Khyber Pakhtunkhwa. *International Review of Management and Business Research*, 9(2), 150–165.
- Gul, R., & Dogar, A. A. (2021). Effectiveness of Continuous Professional Development Program as Perceived by Primary Level Teachers. *Journal of Educational Research*, 24(1), 80–95.
- Gul, R., & Ali, I. (2021). The Impact of Education on Business Opportunities for Women Entrepreneurs in Public & Private Television Advertisements in Pakistan. *Industrial Engineering & Management Systems*, 20(2), 140–147.
- Gul, R., & Khan, S. S. (2021). Influence of Logical and Spatial Intelligence on Teaching Pedagogies of Secondary School Teachers. *Humanities and Social Sciences Reviews*, 8(6), 1–9.
- Government of India. (1899). The Indian Arbitration Act, 1899 (Act No. 9 of 1899). Retrieved from <https://indiankanoon.org/doc/1020297/>
- Gul, R., & Ali, I. (2021). An Evaluative Study of English Contrastive Rhetoric in Pashtu Speaking Areas of Pakistan: A Case Study of District Swat. *Linguistica Antverpiensia*, 2021(2), 2184–2199.
- Gul, R., & Reba, A. (2022). An Investigation into the Teachers' Intelligences on Their Teaching Strategies at Secondary Level in Khyber Pakhtunkhwa Province of Pakistan. *Journal of Educational Research*, 25(1), 50–65.
- Gul, R., & Tahir, T. (2023). Impact of Teachers' Workload on Their Time Management Skills at University Level. *Journal of Social Sciences Review*, 3(1), 322–334.
- Gul, R., & Tahir, T. (2023). Perspectives of the Teachers on Challenges and Possibilities to Online System of Education Amid COVID-19 Outbreak in Balochistan, Pakistan. *SAGE Open*, 13(1), 21582440231155063.
- Gul, R., & Khilji, G. (2021). Exploring the need for a responsive school curriculum to cope with the Covid-19 pandemic in Pakistan. *Prospects*, 51(1), 1–14. [SpringerLink](#)
- Gul, R., Ayub, A., Mazhar, S., Uddin, S. S., & Khanum, M. (2021). Teachers' perceptions on students' cultural and linguistic diversity and its impact on their approaches towards culturally teaching practices. *TESOL International Journal*, 16(3.2), 95–110. [Academia](#)
- Ayub, A., Gul, R., Ali, A., & Rauf, B. M. (2021). Cultural and educational stress: A case study of Brahui speaking ESL and EMI periphery students. *Asian EFL Journal*, 28(2.3), 123–145.
- Bukhari, S. K. U. S., Gul, R., Bashir, T., Zakir, S., & Javed, T. (2021). Exploring managerial skills of Pakistan public universities' middle managers for campus sustainability. *Journal of Sustainable Finance & Investment*, 11(3), 1–19.
- Gul, R., Talat, M., Mumtaz, M., & Shaheen, L. (2021). Does intelligence matter in teaching? Exploring the impact of teachers' intelligence on teaching pedagogies of secondary school science teachers. *Multicultural Education*, 7(3), 45–58.

- Gul, R., Kanwal, S., & Khan, S. S. (2020). Preferences of the teachers in employing revised Bloom's taxonomy in their instructions. *Sir Syed Journal of Education & Social Research*, 3(2), 258–266.
- Gul, R., Rabbi, F., Batool, S., Tahir, T., & Asif, M. (2024). Exploring gender disparities related challenges in competencies for sustainable development at higher educational institutions in Pakistan. *Evolutionary Studies in Imaginative Culture*, 8(2), 1585–1591.
- Gul, R., Alm, A., Ayub, A., Saleem, T., & Mahmood, N. (2024). The role of institutional support in sustainable development competencies among academic faculty at higher educational institutions. *Kurdish Studies*, 12(5), 1692–1896.
- Rabbi, F., & Gul, R. (2023). Students' knowledge of metacognitive strategies and use of technology in their writing skills. *International Journal of Social Science Archives*, 19(2), 25–39.
- Gul, K., Ilyas, M., Gul, R., Riaz, T., & Khan, A. M. (2025). Investigating the prevalence of depression and anxiety in burnt patients: A cross-sectional study in Khyber Pakhtunkhwa, Pakistan. *Physical Education Health and Social Sciences*, 3(1), 208–217.
- Gul, R., Rabbi, F., Batool, S., Tahir, T., & Asif, M. (2024). Exploring gender disparities related challenges in competencies for sustainable development at higher education institutions in Pakistan. *Evolutionary Studies in Imaginative Culture*, 8(2 Suppl.), 1585–1591.
- Mehmood, S., Rao, S. N., & Gul, R. (2024). Impact of psychological contract violation on turnover intentions among project employees: Mediating role of burnout and moderating role of self-efficacy. *Journal of Business and Tourism*, 10(1), 62–78.
- Tufail, M., Gul, R., & Ali, H. (2024). Humble leadership and knowledge hiding: Mediating role of psychological empowerment. *Journal of Business & Economics*, 16(1), 102–115.
- Bareach, N.-u.-D., & Gul, R. (2025). Legal framework regulating the old age homes: An analysis of challenges faced by elderly for legislative reforms in Pakistan. *Social Science Review Archives*, 3(1), 2470–2475.
- Ali, S., Gul, R., & Gul, U. (2025). Perceptions of teachers on practicing personal values in their teaching at secondary school level. *Review Journal of Social Psychology & Social Works*, 2(2), 324–330.
- Khan, J. A., Gul, R., Riaz, T., Bibi, S., & Ahmad, S. (2025). Pre-service teachers' perceptions of supervisor feedback: Evaluating the effectiveness of teaching practicum support in Pakistan. *Review Journal of Social Psychology and Social Work*, 3(1).
- Law and Justice Commission of Pakistan. (2024). Bi-Annual Report of Judicial Statistics: July–December 2023. Islamabad: Law and Justice Commission of Pakistan.
- "Arbitration Act, 1940", ma-law.org.pk
- Arbitration Act 1996, c. 23, <https://www.legislation.gov.uk/ukpga/1996/23/contents/enacted>.
- Agarwal, Shreemh, "justice delayed is justice denied", (India: 2021), the law gurukul.
- see Hyder, kamal, "waiting for justice: 1.9 million Pakistan cases pending", (Islamabad: 2019), Aljazeera.
- Ibid, 1
- see Kangas, Ann; Haider, huma; Fraser, Erika; Browne, Evie, "legal framework and access to justice", (GSDRC: 2015).
- "Arbitration Act, 1940", ma-law.org.pk
- Schmitthoff, C. M. (1986). The history of commercial arbitration. In C. M. Schmitthoff (Ed.), *Selected essays on international trade law* (pp. 3–25). Martinus Nijhoff Publishers.
- Milotić, I. (2013, January 31). An outline of the arbitral procedure in Roman law. *Forum Historiae Iuris*. <https://forhistiur.de/2013-01-milotic/>
- see Wolaver, Earl S, "the historical background of commercial arbitration", (Pennsylvania: 1934), University of Pennsylvania law review and American Law Register

- UK Parliament. (1697). Arbitration Act 1697. Retrieved from <https://www.british-history.ac.uk/statutes-realm/vol7/pp369-370>
- UNCITRAL. (1985). UNCITRAL Model Law on International Commercial Arbitration. United Nations. Retrieved from <https://uncitral.un.org/en/model-laws>
- Zahraa, M., & Hak, N. A. (2006). Tahkim (arbitration) in Islamic law within the context of family disputes. *Arab Law Quarterly*, 20(1), 2–42.
- Quran 4:35, The Holy Quran. (Trans. Sahih International). Retrieved from <https://quran.com/4/35>
- Judicial Council of California. (2025). 2025 Court Statistics Report: Statewide Caseload Trends. Retrieved from <https://courts.ca.gov/system/files/file/2025-court-statistics-report.pdf>
- Bhandari Naqvi Riaz. (2021, February 26). In brief: Arbitration agreements in Pakistan. Lexology. Retrieved from <https://www.lexology.com/library/detail.aspx?g=f76fd1db-307f-4afa-abd2-b0f38d32992b>
- Government of Pakistan. (1908). The Code of Civil Procedure, 1908 (Act V of 1908). Retrieved from <https://pakistancode.gov.pk>
- FindLaw. (2020). Arbitration: Pros and cons. Retrieved from <https://www.findlaw.com/adr/arbitration/arbitration-pros-and-cons.html>
- Government of Pakistan. (1940). The Arbitration Act, 1940 (Act No. X of 1940). Retrieved from <https://pakistancode.gov.pk>
- Comella, Victor Ferreres, “The Constitution of Arbitration “, (United Kingdom:2021), Cambridge University Press.
- Federation of Pakistan Chambers of Commerce and Industry. (n.d.). Promotion of arbitration for commercial dispute resolution. FPCCI. <https://fpcci.org.pk>
- Greenberg, Simon; Christopher; Weeamantry, J. Ramesh, “International Commercial Arbitration: An Asia Pacific Perspective”, (New York:2010), Cambridge University Press.
- Ghouri, Ahmed Ali, “law and practice of foreign arbitration and enforcement and foreign arbitral awards in Pakistan”, (Berlin:2012), Springer Berlin Heidelberg, pp.1-52.
- Hussain, Rana Rizwan. *International and Domestic Arbitration in Pakistan: Law and Practice*. Pakistan Law House, 2023.
- Human Rights Watch, *World Report 2025: Pakistan* (New York: Human Rights Watch, 2025), <https://www.hrw.org/world-report/2025/country-chapters/pakistan>.
- Kiereini, Douglas, “Justice must not be done but must be seen to be done“, (Business Daily), p.1
- Kalanauri, Zafar, “law of arbitration in Pakistan”, (Courting the law:2017).
- Parlade, Atty. Custodio O., “International and domestic Arbitration”, (2022), Central Book supply, Inc.
- Pakistan Bureau of Statistics. (2023). 2023 Pakistani Census Results. Retrieved from https://en.wikipedia.org/wiki/2023_Pakistani_census
- Sohail, M., Gul, R., & Mushtaq, R.** (2018). The establishment of Azad School Utmanzai and Anjuman-i-Islahul Afaghina: A successful methodology of organizational excellence (1921–1946). *Global Social Sciences Review*, 3(3), 193–206.
- The Quran. (n.d.). Surah An-Nisa [4:58]. In M. A. S. Abdel Haleem (Trans.), *The Qur'an* (Oxford World's Classics). Oxford University Press.
- Tufail, **G. M., Gul, R., & Ali, H.** (2024). Humble leadership and knowledge hiding: Mediating role of psychological empowerment. *Journal of Business & Economics*, 15(1), 50–65.
- UK Parliament. (1996). Arbitration Act 1996 (c. 23). Retrieved from <https://www.legislation.gov.uk/ukpga/1996/23>
- Zakir, S., Bareach, N.-D., Alam, R., & Farman, S. (2022a). “Ethical Values & Reasonable Restriction In Freedom Of Speech And Expression” “A Study Of Examining Ethical And Legal Journalism Practices In Balochistan”. *Webology*, 19(2).

- Zakir, S., Bibi, S., Butt, D., Gul, R., & Khan, N. (2025). GAI Creative Content in Media and Education: Is Human-AI Co-Creativity Worthy of Copyright Protection? *Review Journal of Social Psychology & Social Works*, 3(2), 606–619.
- Zakir, S., & Nizam-u-din Bareach, S. K. (n.d.). Freedom Of Expression: Social Responsibility & Morality Decline In Legal And Ethical Journalistic Values A Study Of Article-19 In Context Of Journalism Practices In Balochistan. Retrieved 7 January 2025, from <https://www.researchgate.net/profile/Sumaira->