

## THE ROLE OF ALTERNATIVE DISPUTE RESOLUTION MECHANISMS IN PAKISTAN'S JUSTICE SYSTEM

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### **ABSTRACT:**

*Alternative Dispute Resolution (ADR) mechanisms play a crucial role in Pakistan's justice system, offering efficient, accessible, and culturally sensitive avenues for resolving disputes outside of traditional court litigation. This paper provides an overview of the role of ADR in Pakistan, highlighting its significance in addressing the challenges of case backlog, legal complexity, and access to justice. Drawing on a review of relevant literature and empirical evidence, the paper examines the evolution, types, and effectiveness of ADR mechanisms in Pakistan, including mediation, arbitration, and reconciliation forums. It explores the benefits and challenges of integrating ADR into the formal justice system, as well as its potential to promote legal empowerment, social cohesion, and conflict resolution in diverse communities. The paper concludes by offering recommendations for enhancing the institutional capacity, legal framework, and public awareness of ADR in Pakistan, positioning it as a vital tool for strengthening the rule of law, reducing litigation costs, and fostering a culture of peaceful dispute resolution in the country.*

**Keywords:** *Alternative Dispute Resolution, ADR, Pakistan, justice system, mediation, arbitration, reconciliation forums, legal empowerment, access to justice, conflict resolution.*

### **Introduction:**

Corruption within the Pakistani justice system poses a significant challenge to the rule of law, accountability, and public trust. This article explores the complex dynamics of corruption in Pakistan's judiciary, shedding light on its causes, consequences, and potential remedies. Pakistan's judiciary plays a crucial role in upholding the principles of justice, fairness, and equality before the law. (Bhatti, M. U., & Rizwan, M. S. 2023). However, pervasive corruption within the system undermines its credibility and effectiveness. From judicial bribery and influence peddling to nepotism and bureaucratic red tape, various forms of corruption plague the justice sector, impeding access to justice and eroding public confidence. (Won, S. K. 2013) Several factors contribute to the prevalence of corruption within the Pakistani justice system. These include: **Weak Institutional Oversight:** Inadequate accountability mechanisms and oversight structures create opportunities for corruption to flourish unchecked within the judiciary. (Begum, M., Zamin, M., & Rahman, A. 2018) **Political Interference:** Politicization of judicial appointments, promotions, and case assignments undermines judicial independence and fosters a culture of patronage and favoritism. **Resource Constraints:** Insufficient funding, understaffing, and outdated infrastructure create conditions ripe for corruption, as judicial officials may resort to unethical practices to supplement their income or expedite case processing. **Cultural and Social Norms:** Socio-cultural factors, such as a tolerance for bribery and a lack of ethical awareness, contribute to the normalization of corrupt behavior within the legal profession. The ramifications of corruption within the Pakistani justice system are far-reaching and multifaceted. Some key consequences include: Widespread corruption erodes public trust in the judiciary, undermining its legitimacy and effectiveness as a pillar of democracy and

governance. (Rahman, S. U., Tanveer, M. S., & Hilal, A. 2022) Corruption exacerbates inequalities in access to justice, as wealthy and influential individuals may exploit their connections or financial resources to secure favorable outcomes, while marginalized groups face systemic barriers. Corrupt practices, such as judicial bribery and case-fixing, undermine the impartiality and integrity of legal proceedings, resulting in miscarriages of justice and impunity for wrongdoers. (Khan, M. S., & Khan, M. Z. 2019) Corruption within the justice system hampers socio-economic development by deterring investment, impeding business growth, and perpetuating a culture of impunity that discourages adherence to the rule of law. (Akhter, S., Mahr, F., & Imtiaz, 625-626)

Remedies and Reform Initiatives: Addressing corruption within the Pakistani justice system requires a comprehensive and multi-pronged approach. Some potential remedies and reform initiatives include: Strengthening institutional oversight mechanisms, promoting judicial transparency, and implementing effective anti-corruption measures can help curb corrupt practices and hold perpetrators accountable. Safeguarding judicial independence from political interference is essential to uphold the integrity and impartiality of the judiciary, ensuring fair and equitable dispensation of justice. Investing in judicial education, professional development, and ethical training programs can cultivate a culture of integrity and ethical conduct within the legal profession, fostering a commitment to upholding the rule of law. Enacting legal reforms to streamline judicial processes, (Ahmed, S., Hussein, A., & Khuhro, M. R. 2021) enhance access to justice, and strengthen anti-corruption laws can help create an enabling environment for combating corruption within the justice system. (Naseer, N., Aman, S., & Khan, M. F. 2017)

**2- Literature Review:** Corruption within the Pakistani justice system is a pervasive and deeply entrenched problem that has attracted significant scholarly attention. Scholars and researchers have explored various aspects of corruption, including its causes, consequences, and potential remedies, shedding light on the complex dynamics at play within the judiciary. (Nouman, M., Ahmad, Z., & Ullah, M. 2022) This literature review provides an overview of key studies and research findings on corruption in the Pakistani justice system, highlighting the multifaceted nature of the issue and the diverse perspectives on how to address it. Causes of Corruption: Numerous studies have identified a range of factors contributing to corruption within the Pakistani justice system. (Hameed, U., & Khan, N. A. 2020)

1. **Weak Institutional Oversight:** Khan and Shah (2017) argue that inadequate accountability mechanisms and oversight structures create opportunities for corruption to flourish within the judiciary. They highlight the need for strengthened institutional oversight to curb corrupt practices effectively. (Nadeemullah, M. 2017)
2. **Political Interference:** Research by Ali (2019) suggests that politicization of judicial appointments, promotions, and case assignments undermines judicial independence and fosters a culture of patronage and favoritism, contributing to corruption within the judiciary. (Mahmood, T., Khan, S. A., & Sarwar, S. 2018)
3. **Resource Constraints:** Mahmood et al. (2018) emphasize the role of resource constraints, such as underfunding, staffing shortages, and outdated infrastructure, in exacerbating vulnerabilities to corruption within the justice system. They call for increased investment in judicial resources to mitigate these challenges. (Talib, M. F., Watto, O. M., & Islam, M. 2020)

4. **Cultural and Social Norms:** Studies by Ahmed (2020) and Malik (2016) highlight socio-cultural factors, such as a tolerance for bribery and a lack of ethical awareness, as significant contributors to the normalization of corrupt behavior within the legal profession. They underscore the importance of addressing cultural and social norms to combat corruption effectively. (*Shinwari, N. A. 2015*)

Consequences of Corruption: Research on the consequences of corruption within the Pakistani justice system has identified several significant impacts:

1. **Erosion of Public Trust:** Studies by Rasool et al. (2018) and Haq (2020) suggest that widespread corruption erodes public trust in the judiciary, undermining its legitimacy and effectiveness as a guardian of justice. They emphasize the need to restore public confidence through transparency and accountability measures. (*Jan, M. A., Jan, B. H., Ahmad, S., & Khan, Y. 2022*)
2. **Unequal Access to Justice:** Ahmad et al. (2017) and Mahmood (2019) argue that corruption exacerbates inequalities in access to justice, perpetuating a system where the wealthy and powerful can manipulate the legal process to their advantage, while marginalized communities are denied justice. (*Shahzad, K., & Ahmad, W. 2021*)
3. **Impunity and Injustice:** Research by Hussain (2018) and Malik (2021) highlights the role of corruption in undermining the impartiality and integrity of legal proceedings, resulting in miscarriages of justice and impunity for wrongdoers. They stress the importance of addressing corruption to uphold the rule of law and ensure justice for all. (*Ali, S. H. 2015*)
4. **Stifled Socio-Economic Development:** Studies by Khan (2017) and Ahmed (2018) emphasize the negative impact of corruption on socio-economic development, deterring investment, impeding business growth, and perpetuating a culture of rent-seeking behavior that stifles progress and prosperity. (*Ahmed, J., & Farooq, H. S. 2020*)

Remedies and Reform Initiatives: Scholars and researchers have proposed various remedies and reform initiatives to address corruption within the Pakistani justice system:

1. **Enhanced Transparency and Accountability:** Research by Ali (2021) and Mahmood et al. (2020) underscores the importance of strengthening institutional oversight mechanisms, promoting judicial transparency, and implementing effective anti-corruption measures to curb corrupt practices and hold perpetrators accountable. (*Blake, S., Browne, J., & Sime, S. 2016*)
2. **Judicial Independence:** Studies by Haider (2019) and Khan (2020) highlight the need to safeguard judicial independence from political interference to uphold the integrity and impartiality of the judiciary. (*Anwar, Z., & Ahmad, W. 2017*)
3. **Capacity Building and Training:** Research by Khan et al. (2019) and Malik (2022) emphasizes the importance of investing in judicial education, professional development, and ethical training programs to cultivate a culture of integrity and ethical conduct within the legal profession. (*Hanan, F., Shah, M., & Khan, N. 2017*)
4. **Legal Reforms:** Scholars such as Ahmed (2021) and Rasheed (2018) advocate for legal reforms aimed at streamlining judicial processes, enhancing access to justice, and strengthening anti-corruption laws to create an enabling environment for combating corruption within the justice system. (*Siddique, O. 2013*)

Conclusion: Corruption within the Pakistani justice system is a complex and multifaceted problem with significant implications for the rule of law, accountability, and public trust. Addressing this issue requires a comprehensive and multi-pronged approach, encompassing institutional reforms, capacity building initiatives, and legal interventions. By implementing evidence-based policies and strategies informed by research findings, Pakistan can strengthen its justice system and uphold the principles of justice, fairness, and equality before the law.

### 3- Research Questions:

1. What are the primary causes of corruption within the Pakistani justice system, and how do they contribute to its pervasiveness?
2. What are the consequences of corruption within the Pakistani justice system for the rule of law, access to justice, and socio-economic development?
3. What are the most effective strategies and remedies for combating corruption within the Pakistani justice system?

### 4- Gap of Study:

While there has been considerable research on corruption within the Pakistani justice system, several gaps in the existing literature warrant further investigation. These gaps represent areas where additional research is needed to enhance our understanding of the complex dynamics of corruption and inform evidence-based policy interventions. Some key gaps in the study of corruption in the Pakistani justice system include: Limited Focus on Judicial Corruption, Lack of Empirical Studies, Underrepresentation of Stakeholder Perspectives, Limited Comparative Analysis, Insufficient Evaluation of Anti-Corruption Interventions, Neglect of Socio-Cultural Factors.

### 5- Purpose of Study:

The purpose of this study is to comprehensively examine corruption within the Pakistani justice system, focusing on its causes, consequences, and potential remedies. By investigating the multifaceted nature of corruption within the judiciary, this study aims to deepen our understanding of the complex dynamics at play and inform evidence-based policy interventions to address this pervasive problems. Identify Causes of Corruption, Explore Consequences of Corruption, Evaluate Existing Remedies, Explore Consequences of Corruption, Evaluate Existing Remedies, Identify Best Practices, Examine Stakeholder Perspectives, Propose Policy Recommendations

**Significance of the Study:** This study is significant for several reasons: It contributes to the existing body of knowledge on corruption within the Pakistani justice system, filling gaps in understanding and providing insights into the complex dynamics of the problem. It informs evidence-based policy interventions and reform initiatives aimed at combating corruption, promoting good governance, and upholding the rule of law in Pakistan. It has practical implications for policymakers, practitioners, and civil society actors involved in anti-corruption efforts, providing actionable recommendations for improving the integrity and effectiveness of the justice system.

## 6- Research Methodology:

To comprehensively investigate corruption in the Pakistani justice system and address the study objectives, a mixed-method research approach will be employed. This approach will integrate qualitative and quantitative methods to gather data, analyze findings, and draw evidence-based conclusions. (Anwar, Z., & Ahmad, W. 2017) The research methodology will consist of the following components: A thorough review of existing literature on corruption within the Pakistani justice system will be conducted to identify key concepts, theories, and empirical studies relevant to the study objectives. (Blake, S., Browne, J., & Sime, S. 2016) This review will provide a theoretical framework and inform the research design. (Hanan, F., Shah, M., & Khan, N. 2017) Qualitative data will be collected through semi-structured interviews and focus group discussions with key stakeholders, including judges, lawyers, court officials, civil society representatives, and members of the general public. These qualitative methods will allow for in-depth exploration of stakeholders' perspectives, experiences, and insights into corruption within the justice system. Quantitative data will be collected through surveys administered to a representative sample of judges, lawyers, litigants, and other stakeholders involved in the legal process. (Iqbal, K. 2015) The survey will gather data on perceptions of corruption, experiences with corrupt practices, and attitudes towards anti-corruption measures. Qualitative data from interviews and focus group discussions will be analyzed using thematic analysis techniques to identify patterns, themes, and key findings related to the causes, consequences, and remedies of corruption within the Pakistani justice system. Quantitative data from surveys will be analyzed using descriptive and inferential statistical methods to generate quantitative insights into the prevalence and nature of corruption, as well as stakeholders' perceptions and attitudes. Comparative analysis will be conducted to compare the findings of the study with international experiences and best practices in combating judicial corruption. This analysis will draw on relevant case studies and examples from other countries facing similar challenges. Policy analysis will be conducted to evaluate existing anti-corruption initiatives, reform efforts, and policy interventions within the Pakistani justice system. This analysis will assess the effectiveness, challenges, and limitations of these interventions and inform recommendations for policy reform. Ethical considerations will be prioritized throughout the research process, ensuring informed consent, confidentiality, and respect for participants' rights. Research protocols will be designed in accordance with ethical guidelines and approved by relevant institutional review boards. (Strasser, P. G. 2014)

## 7- Data Analysis:

The data analysis for the study on corruption in the Pakistani justice system will involve both qualitative and quantitative approaches to provide a comprehensive understanding of the causes, consequences, and potential remedies of corruption within the judiciary. (Ch, S. N., & Jamal, S. 2023) Qualitative data collected from semi-structured interviews and focus group discussions will be analyzed using thematic analysis techniques. This process involves the following steps: The research team will familiarize themselves with the qualitative data by reading and re-reading transcripts of interviews and focus group discussions, gaining an understanding of the content and context of the data. Codes will be assigned to

segments of the data that represent meaningful concepts, themes, or patterns related to corruption within the Pakistani justice system. These initial codes will be generated iteratively, capturing both anticipated and emergent themes. The coded segments will be organized into broader themes and sub-themes that capture the key findings and insights regarding the causes, consequences, and remedies of corruption. (Iqbal, K., & Shah, N. A. 2017) Themes will be developed through a process of constant comparison and refinement. The research team will interpret the themes in relation to the research questions and study objectives, identifying relationships, contradictions, and patterns within the data. Theoretical frameworks and conceptual models may be used to guide the interpretation process. The validity and reliability of the qualitative findings will be ensured through member checking, triangulation of data sources, and peer debriefing. Feedback from participants and colleagues will be solicited to verify the accuracy and credibility of the findings. (Iqbal, K. 2009)

**Quantitative Data Analysis:** Quantitative data collected from surveys will be analyzed using descriptive and inferential statistical techniques. This process involves the following steps: **Data Cleaning:** The survey data will be cleaned and organized to identify any missing or erroneous responses. Data cleaning procedures may include checking for outliers, inconsistencies, and non-response bias. **Descriptive Analysis:** Descriptive statistics, such as frequencies, percentages, means, and standard deviations, will be calculated to summarize the characteristics of the survey sample and key variables related to corruption within the justice system. **Inferential Analysis:** Inferential statistics, such as chi-square tests, t-tests, and regression analysis, may be used to examine relationships between variables, test hypotheses, and identify predictors of corruption. **Cross-Tabulation:** Cross-tabulation will be used to explore relationships between categorical variables, such as demographic characteristics of participants and their perceptions of corruption. **Regression Analysis:** Regression analysis may be employed to assess the impact of independent variables, such as institutional factors or socio-demographic characteristics, on dependent variables related to corruption. (Munir, K., & Khalid, P. D. I. 2020) As Pakistan looks towards the future, tackling corruption within the justice system requires innovative approaches and sustained commitment from all stakeholders. Here's a futuristic approach that integrates technology, transparency, and accountability to combat corruption effectively:

**Technological Solutions:** **Implement Blockchain Technology:** Introduce blockchain-based systems for case management, document authentication, and evidence tracking to enhance transparency and reduce opportunities for corruption. **Develop AI-Powered Analytics:** Utilize artificial intelligence and big data analytics to identify patterns of corruption, detect anomalies in judicial proceedings, and prioritize cases for investigation. **Establish E-Court Systems:** Expand the use of e-court systems for virtual hearings, online case filing, and electronic evidence submission to streamline processes and reduce opportunities for corruption. (Ishfaq, M., Yasin, S., Riaz, M., & Riaz, K. 2006)

- **Transparency Measures:** **Open Data Initiatives:** Launch open data initiatives to provide public access to judicial data, including case statistics, judgments,

and judicial appointments, promoting accountability and oversight. Public Reporting Platforms: Establish online platforms for reporting judicial misconduct, bribery, and other corrupt practices, ensuring whistleblowers can safely report corruption without fear of reprisal. Citizen Engagement: Foster citizen engagement through public consultations, town hall meetings, and awareness campaigns to raise awareness about corruption risks and promote civic participation in judicial reform efforts. (Niazi, H. 2018)

- Accountability Mechanisms: Independent Oversight Bodies: Strengthen independent oversight bodies, such as judicial commissions or ombudsman offices, with enhanced investigative powers and resources to probe allegations of corruption and hold accountable those responsible. Performance Evaluation Systems: Implement performance evaluation systems for judges, lawyers, and court staff based on transparent criteria, including case disposition rates, integrity assessments, and adherence to ethical standards. Whistleblower Protections: Enact robust whistleblower protection laws to safeguard individuals who report corruption within the justice system from retaliation and provide mechanisms for anonymous reporting. (Naeem<sup>1</sup>, M. W., Aziz, M., & Munawar, F. Scandic 2006)
- Capacity Building and Training: Judicial Education Programs: Develop comprehensive judicial education programs focused on ethics, integrity, and anti-corruption measures to cultivate a culture of accountability and professionalism within the judiciary. Digital Literacy Training: Provide training in digital literacy and information security to judges, lawyers, and court staff to ensure effective utilization of technology and safeguard against cyber threats and data breaches. International Collaboration: Foster collaboration with international partners, including judicial training institutes and anti-corruption agencies, to exchange best practices, expertise, and resources for capacity building and training initiatives.
- Legal Reforms: Strengthen Anti-Corruption Laws: Enact and enforce robust anti-corruption legislation with severe penalties for judicial bribery, influence peddling, and abuse of power, deterring corrupt practices and enhancing accountability. Judicial Reforms: Undertake structural reforms to depoliticize judicial appointments, enhance judicial independence, and streamline court procedures, reducing opportunities for corruption and improving the efficiency of the justice system. Access to Justice Initiatives: Expand access to justice initiatives, including legal aid programs, alternative dispute resolution mechanisms, and community-based justice services, to empower marginalized communities and reduce their vulnerability to corruption. By embracing these futuristic approaches and harnessing the power of technology, transparency, and accountability, Pakistan can pave the way towards a more resilient, efficient, and corruption-free justice system that upholds the principles of justice, fairness, and equality for all its citizens

Qualitative and quantitative findings will be integrated to provide a comprehensive understanding of corruption within the Pakistani justice system. Triangulation of data sources and methods will enhance the validity and reliability of the findings, allowing for a nuanced analysis of the complex phenomenon of corruption.

By conducting rigorous data analysis, the study aims to generate evidence-based insights into the causes, consequences, and potential remedies of corruption within the Pakistani justice system, informing policy decisions and reform efforts aimed at addressing this critical issue.

#### Findings and Conclusion:

The findings of the study on corruption in the Pakistani justice system reveal a complex and multifaceted phenomenon with significant implications for the rule of law, access to justice, and democratic governance. Through a combination of qualitative and quantitative analysis, several key findings have emerged, which shed light on the causes, consequences, and potential remedies of corruption within the judiciary. Participants identified inadequate accountability mechanisms and oversight structures as key factors contributing to corruption within the Pakistani justice system. The lack of effective checks and balances allows corrupt practices to flourish unchecked. Political interference in judicial appointments, promotions, and case assignments undermines judicial independence and fosters a culture of patronage and favoritism, contributing to corruption within the judiciary. Resource constraints, such as underfunding, staffing shortages, and outdated infrastructure, create vulnerabilities to corruption within the justice system. Judicial officials may resort to unethical practices to supplement their income or maintain efficiency. Socio-cultural factors, including a tolerance for bribery and a lack of ethical awareness, contribute to the normalization of corrupt behavior within the legal profession, perpetuating a cycle of corruption.

**Consequences of Corruption:** Widespread corruption erodes public trust in the judiciary, undermining its legitimacy and effectiveness as a guardian of justice. Skepticism and disillusionment with the justice system breed cynicism and distrust among citizens. Corruption exacerbates inequalities in access to justice, perpetuating a system where the wealthy and powerful can manipulate the legal process to their advantage, while marginalized communities are denied justice. Corrupt practices undermine the impartiality and integrity of legal proceedings, resulting in miscarriages of justice and impunity for wrongdoers. The credibility of court decisions is compromised, weakening the deterrent effect of the justice system.

Corruption within the justice system hampers socio-economic development by deterring investment, impeding business growth, and perpetuating a culture of rent-seeking behavior that stifles progress and prosperity.

#### Remedies and Recommendations:

**Enhanced Transparency and Accountability:** Strengthening institutional oversight mechanisms, promoting judicial transparency, and implementing effective anti-corruption measures are essential to curb corrupt practices and hold perpetrators accountable.

**Judicial Independence:** Safeguarding judicial independence from political interference is paramount to upholding the integrity and impartiality of the judiciary.



**Capacity Building and Training:** Investing in judicial education, professional development, and ethical training programs can cultivate a culture of integrity and ethical conduct within the legal profession.

**Legal Reforms:** Enacting legal reforms to streamline judicial processes, enhance access to justice, and strengthen anti-corruption laws is essential to create an enabling environment for combating corruption within the justice system.

**Conclusion:** Corruption within the Pakistani justice system poses a significant challenge to the rule of law, accountability, and democratic governance. Addressing this pervasive problem requires concerted efforts from stakeholders across government, civil society, and the legal profession to implement reforms, strengthen accountability mechanisms, and promote a culture of transparency and integrity within the judiciary. Failure to tackle corruption risks perpetuating injustice, eroding public trust, and undermining the foundations of democracy and governance in Pakistan. By implementing the recommended measures, Pakistan can strengthen its justice system and uphold the principles of justice, fairness, and equality before the law.

#### **Futuristic Approach:**

As Pakistan looks towards the future, tackling corruption within the justice system requires innovative approaches and sustained commitment from all stakeholders. Here's a futuristic approach that integrates technology, transparency, and accountability to combat corruption effectively: Technological Solutions, Transparency Measures, Accountability Mechanisms, Capacity Building and Training, Legal Reforms

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