

Qazi Courts, Jirga, and Panchayat: Informal Justice Systems Parallel ADR or Constitutional Problem?

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Abstract *The Qazi-led dispute resolution, Jirga and Panchayat forums of informal justice continue to play a significant role in Pakistan as they offer cheaper, quicker, and more culturally intelligible channels of resolving disputes where formal courts are sluggish, expensive, and physically remote. This paper discusses nature of those mechanisms as parallel alternative dispute resolution (ADR) or a constitutional issue. The mixed-method study was based on an analysis of doctrinal rights and a qualitative mapping of practice of forums, which allows determining the procedural fairness, pathways of enforcement, and impact of rights on vulnerable groups. The evidence indicates that such forums can only be considered as legitimate ADR in cases where those involved join in proceedings, which are truly voluntary, such results are not punitive and significant exit to state courts is maintained. The article suggests controlled integration by means of court-mediated integration, minimum protection and prohibition of punitive and coercive measures.*

Key Words:

Legal
Pluralism,
Informal
Justice, ADR,
Jirga,
Panchayat,
Qazi Courts,
Constitutional
Rights

Introduction

In South Asia, community, customary, and religious courts process a high number of daily disputes, which are not referred to state courts as the courts may be perceived as more open and accessible by users of such systems (Swenson, 2018). There are three labels that are repeated in policy and public discourses in Pakistan. Qazi courts (also referred to as dar-ul-qazi or qazi-led forums) are non-state-based religious dispute-resolution forums, in which a recognised Islamic jurist or cleric listens to grievances, usually family, divorce, inheritance, and community disputes, and suggests resolutions which have authority based on religious knowledge and social approval, and not state force (Shah & Tariq, 2013; Brohi, 2016; Mahmood, Khan, & Sarwar, 2018). Jirga are groups, usually of elders or powerful men, found in Pashtun belt settings (including Khyber Pakhtunkhwa and

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adjacent regions) and discuss conflicts and make decisions based on conventional expectations and norms (Shah & Tariq, 2013; Brohi, 2016; Mahmood, Khan, & Sarwar, 2018). Panchayat refers to village-level councils in rural South Asia (including Pakistan and India) that resolve conflicts by building consensus, imposing community sanctions, or negotiating a compromise; they can be informal, ad hoc, or institutionalised in the local government practice (Shah & Tariq, 2013; Brohi, 2016; Mahmood, Khan, & Sarwar, 2018).

These forums continue to exist due to practical reasons. They can be cheap, fast, language-friendly, and procedurally simple compared to court litigation, and they have cultural legitimacy since parties have elders or religious leaders they consider the right decision-makers (Swenson, 2018). Their entrenchment to the local social networks may also yield compliance in terms of reputation, kinship or informal sanctions (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). Meanwhile, studies of plural justice caution that informality is deceptive: response may be determined by economic or patriarchal control or fear of social punishment, and results may recreate inequality to women, minorities, and lower-status groups (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). The product of this is neutral: informal forums may provide pragmatic justice in areas of the formal system remote or congested, but they may also act as parallel adjudication with unequal protection.

The article discusses the informal justice situation in Pakistan with the examples of (i) jirga in some districts in Khyber Pakhtunkhwa (including former tribal areas) and (ii) panchayat-like dispute resolution practice in some rural units in Punjab and Sindh, interspersed with implicit direct analogy to the South Asian panchayat dynamics to provide conceptual clarity. It is dedicated to the conflict that are classically directed to these forums, family and marital disputes, land and inheritance disputes, and those which concern community-order controversies but not organised extremist courts or the violent adjudicatory structures that are not grounded in community tradition or which explicitly seek insurgent governance.

Legal pluralism (coexisting normative orders), ADR theory (consent, efficiency, and settlement design), constitutionalism (supremacy of the constitution and enforceable rights), and procedural justice (how perceived fairness of process influences legitimacy and compliance) are the ways the analysis is structured (Swenson, 2018).

The central governance issue that guides this research is as follows: forums offering presumed access to culturally appealing dispute resolution can expand access to justice, but the forums can also bypass due process and instill discrimination in a manner that puts constitutional supremacy itself at risk. Its object is to determine whether or not qazi-led forums, jirga, and panchayat are parallel ADR or a constitutional issue, to accomplish which, it seeks to chart the functioning in practice (process, authority, and enforcement) of the systems, assess their consistency with core constitutional rights (fair trial and due process, equality,

dignity, and life/liberty) and to consider distributive implications of vulnerable groups. It poses the question: in which circumstances do such forums offer legitimate ADR; when do they abuse constitutional guarantees and the alleged institutional monopoly on adjudication; and what legal-policy design, recognition, integration, or procedural safeguards can offer access-to-justice measures and constitutional rights alongside institutional legitimacy in the governance framework of Pakistan (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

Literature Review

Legal pluralism describes the way in which several normative orders may exist in the identical social field, state law and community norms, religious rules, and customary authority, and may interact by cooperation, competition, or avoidance (Swenson, 2018). Informal forums like Qazi courts, Jirga and Panchayat are not only lawless spaces in this frame as they are also places where legitimacy is created in terms of shared moral narratives and local authority and social enforcement. Nevertheless, law pluralism also explains why informal justice may be transforming into a competing order imposing on the state commitment to equal citizenship and consistent constitutional security (Swenson, 2018).

The major analytical difference is between ADR and parallel adjudication. ADR generally suggests voluntary involvement, informed consent, procedural fairness in proportion to the stakes, and results, which could be non-binding or meaningfully reviewed by the courts (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). In comparison, parallel justice occurs when the informal bodies act as courts, giving binding decisions, creating rights and liabilities, and allowing them to be enforced by social means (boycott, threats, reputational damage) or by use of coercive force, but is otherwise mostly immune to constitutional due process (Swenson, 2018). This ADR/adjudication border is vital on assessing the complementary nature of informal justice versus the formal one.

Informal justice in South Asia has strong historical political and institutional foundations in the local governance and Panchayat-type councils and similar institutions took up land, family and communal disputes in their daily regulation. The modern literature underlines that such practices remain due to some extent to the inefficiency of formal courts that are not only sluggish and expensive but also physically inaccessible to a significant portion of citizens (Shah & Tariq, 2013; Brohi, 2016; Mahmood, Khan, & Sarwar, 2018). In Pakistan, the Jirga is often defined as culturally resonant and locally available and offers rapid dispute processing and social closure; but the same characteristics can be used to conduct its domination by local elites when the so-called consent is socially caused instead of being freely taken (Shah & Tariq, 2013; Brohi, 2016; Mahmood, Khan, & Sarwar, 2018).

Religious or quasi-religious adjudicatory arenas (including the so-called Qazi-led dispute settlement) are also the subject matter of study as a component of plural legal environments where parties can expect to find solutions that are consistent with the communal norms or personal law aspirations or pragmatic solutions unobtainable in formal courts (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). However, the legitimacy is a 2-sided concept: the acceptance of the community members can indicate trust and convenience, but also indicate the limited options that women face patriarchy, poverty, and even stigma fear (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). The survey of the comparative studies of Islamic ADR contexts demonstrates that community justice can be hybrid-based: combining moral persuasion, negotiation, and some form of quasi-legal documentation, therefore, making the distinction between mediation and adjudication virtually unclear (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

Procedural fairness (notice, hearing, impartiality, reason-giving), equality/non-discrimination and protection of dignity and bodily autonomy are all predicted by human-rights and constitutional standards. The primary problem in plural legal contexts is not the presence of two or more normative orders, as such, but the fact that the weaker parties are subjected to coercion, exclusion, or unequal protection due to the outcomes and processes (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). Gender and informal justice studies have demonstrated, over and over again, that imbalance of power dictates the choice of the forum, the narratives of the case, and the conditions of the settlement, which may cement the discriminatory results, even in the absence of explicit violence (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). A rights-based critique thus looks at the way in which consent is generated, how it is enforced, and is there any substance in remedy in case informal decisions are triggered on fundamental rights (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

There are three broad regulatory strategies that are advanced by comparative literature. First, recognition with protective measures: the state tolerates or accredits community mediation, but imposes minimum procedural protections and avenues of judicial review, in the hope of maintaining access-to-justice benefits without impairing rights (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). Second, hybrid linkage: community mediation is related to court systems (referrals, registration of settlements, oversight), exemplified by institutionalized mediation reforms that seek to expand access and even standardize expectations of fairness (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). Third, prohibition/criminalization aims to enforce coercively or with violence particularly where informal institutions assert punitive power, albeit in comparative conflict environments, bans can encourage practices

to go underground as long as gaps in state capacity persist (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

Informal justice has been well described by previous work, and subject to solid normative critique, however, it is usually deficient in any explicit constitutional test framework that isolates legitimate ADR and rights-violating parallel adjudication based on quantifiable measures: voluntariness, procedural floors, remedial avenues, and effective remedies. The practicality of the enforcement of outcomes (social sanction vs state actors vs documentation used in courts) is also thin in empirical mapping. This paper fills such gaps by combining legal pluralism and ADR theory and constitutional standards to assess the circumstances under which Qazi courts, Jirga, and Panchayat can be utilized to achieve the access-to-justice objectives- and when they are a constitutional issue (Swenson, 2018).

Methodology

Research Design

The proposed research has mixed-method design which entails the integration of doctrinal legal exploration and the qualitative field-based inquiry to ascertain whether Qazi led forums, Jirga and Panchayat are legitimate ADR systems or raise constitutional and human-rights issues. The doctrinal part offers the constitutional minimum (supremacy of the Constitution, the right to due process/fair trial, the rule of equality and dignity, the boundary of the non-state adjudication). The qualitative element charts the workings of informal forums in reality, the entry of cases into such systems, the decision-maker, the dynamics of processes, and the enforcement of results, in order that the evaluation of the Constitution be based upon institutional realities as lived, as opposed to constitutional assumptions.

Data Sources

Data are drawn from three complementary sources:

1. **Primary legal materials**
 - Constitutional provisions relating to fundamental rights, due process/fair trial standards, equality/non-discrimination, dignity, life and liberty, and the organization of courts.
 - Relevant statutes and procedural laws governing criminal and civil adjudication, mediation/ADR where applicable, and laws addressing coercion, violence, and unlawful assemblies.
 - Landmark judicial decisions and reported case law on informal justice forums, legality of parallel adjudication, and state duties to protect rights.
 - Official reports and policy documents (e.g., justice sector reform reports; human rights commission reports; legislative committee reports where available).
2. **Qualitative data (interviews and focus groups)**

- Semi-structured interviews with key stakeholders: lawyers, judges (retired or serving where ethically permissible), police officials, local administration, community elders/jirga members, qazi/clerics involved in dispute resolution, women's rights advocates, and disputants who have experienced these forums.
 - Focus group discussions (FGDs) with community members and legal aid providers to capture shared experiences, norms, and perceived legitimacy.
3. **Case studies (documented incidents/decisions)**
- A purposive set of documented disputes resolved through informal forums (and where possible, comparable disputes resolved through formal courts/ADR centers) to trace procedure, outcome type, and enforcement pathway.

Sampling Strategy

A purposive, maximum-variation sampling strategy is used to capture diversity in forum type, geography, and dispute characteristics.

- District selection: 3–4 districts are selected from Khyber Pakhtunkhwa (including areas where jirga practice is more visible), and 3–4 districts from Punjab and Sindh (where panchayat-style dispute resolution is reported), aiming for variation across rural/urban and security contexts.
- Participants and approximate numbers:
 - Legal professionals: 10–12 (lawyers; mediators; legal aid providers)
 - Justice/state actors: 6–8 (police, prosecution, local administration; judges where feasible)
 - Community decision-makers: 10–12 (jirga/panchayat elders, qazi/clerics)
 - Civil society and rights advocates: 6–8
 - Disputants/affected community members: 12–15
- Total interviews: approximately 45–55, adjusted to saturation.
- FGDs: 4–6 groups (6–10 participants each), separated by gender where needed for safety and candor.
- Inclusion criteria: adults (18+); direct involvement or informed experience with informal justice; willingness to provide informed consent; ability to participate safely.
- Exclusion criteria: minors; participants whose involvement raises high safety risks; cases linked to extremist/insurgent “courts” not rooted in community tradition; interviews where voluntariness cannot be assured.

Data Collection Tools

- Semi-structured interview guide: covers forum entry routes, voluntariness, procedure (hearing/evidence), representation, decision rationale, enforcement, appeal/review options, and perceived fairness.

- Case-document review checklist: records dispute type, forum type, actors, steps followed, outcome category (settlement/compensation/sanction), and enforcement mechanism.
- Observation protocol (optional): where ethically and safely feasible, non-participant observation of mediation/jirga-like meetings (without recording identifying details) to document process markers such as hearing of both sides, use of evidence, and pressure dynamics.

Variables/Themes to Code

Qualitative and case-study materials are coded using a structured codebook aligned with the study's constitutional-ADR framework:

- Forum characteristics: Qazi-led / Jirga / Panchayat; composition; decision-maker authority; relationship with state actors.
- Dispute characteristics: family/marital; inheritance/land; minor criminal/community conflict; public-order disputes.
- Consent indicators: voluntary entry vs compelled attendance; presence of negotiation choice; ability to exit; presence of threats/social boycott.
- Procedural safeguards: hearing both sides; evidentiary practices; representation/counsel; recordkeeping; transparency; reasons given.
- Outcome types: reconciliation/compromise; compensation/diya-like payments; restitution; punitive sanctions; exclusion/banishment; indicators of violence risk.
- Rights indicators: equality/non-discrimination; dignity and bodily autonomy; due process/fair trial markers; coercion and power imbalance; impacts on women/minorities/lower-status groups.

Data Analysis

- Doctrinal analysis: legal materials are analyzed using an issue–rule–application approach to derive a practical constitutional “compatibility test” (e.g., voluntariness, procedural minima, rights consistency, accountability/review, and enforceability constraints).
- Thematic analysis: interview/FGD transcripts and observation notes are coded iteratively (open coding → axial coding → thematic consolidation) to identify patterns of legitimacy, coercion, and enforcement.
- Triangulation: findings are cross-checked across (i) doctrinal standards, (ii) stakeholder accounts, and (iii) case pathways to validate claims and reduce single-source bias (e.g., comparing elders' narratives with disputants' experiences and documentary traces).

Ethics and Safeguards

Ethical approval is obtained where applicable. All participants provide informed consent; participation is voluntary, with withdrawal permitted at any time.

Confidentiality is protected through anonymization, secure storage, and removal of identifying details (names, village identifiers, specific incident markers). Because the topic involves coercion and potential retaliation, risk management includes gender-sensitive interviewing (same-gender interviewers when appropriate), safe interview locations, no pressure to disclose sensitive details, and referral information for legal aid or support services when needed.

Limitations

The study may face access constraints (gatekeeping by local actors), underreporting (fear, stigma), and safety limitations that restrict observation in some areas. Selection bias is possible because those willing to speak may differ from those most harmed. Findings are therefore analytically generalizable (theory- and mechanism-focused) rather than statistically representative, and conclusions are framed in terms of conditions and pathways rather than population-level prevalence.

Results

This Results section reports a structured evidence-mapping of Qazi courts, Jirga, and Panchayat as informal justice forums, focusing on (i) how they operate, (ii) how outcomes are enforced, and (iii) when they function as legitimate ADR versus when they become a constitutional problem. The findings integrate doctrinal constitutional standards with patterns documented in recent scholarship and empirical accounts (Government of Pakistan, 2017; UN Women et al., 2013).

Operational Profile: Process, Authority, and Enforcement

Across the three forums, the core operational logic is relational and community-centered: disputants approach a respected authority (elders/clerics/notables), narratives are heard with flexible evidentiary rules, and the preferred endpoint is “settlement” (sulah/compromise) rather than adjudication in the formal-legal sense (Government of Pakistan, 2017; UN Women et al., 2013).

Jirga practices typically involve an elders’ council convened by local notables; proceedings are comparatively fast, low-cost, and culturally intelligible, but can include coercive enforcement mechanisms such as sureties/guarantees and socially binding undertakings—especially where state presence is weak or contested (Shah & Tariq, 2013; Brohi, 2016; Mahmood, Khan, & Sarwar, 2018).

Panchayat functions similarly as a village/kinship council resolving disputes through mediated compromise; scholarship emphasizes its embedment in local power structures and its tendency—when unregulated—to become a de facto parallel authority that can pressure compliance through community sanctions (Shah & Tariq, 2013; Brohi, 2016; Mahmood, Khan, & Sarwar, 2018).

Qazi courts (treated here as community-based Islamic dispute forums, often focused on family matters) show greater diversity: some operate primarily as counselling/mediation and attempt to provide “rights-aware” religious dispute processing, while others mirror patriarchal community hierarchies. The strongest differentiator is whether participation is genuinely voluntary and whether the forum remains non-punitive (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

Table 1. Comparative operational features (how the forums work)

Feature	Qazi courts (informal religious forums)	Jirga (tribal/elders’ council)	Panchayat (village/kinship council)
Typical location	Urban/peri-urban & community networks; often family-law oriented	Predominantly tribal/rural areas; strong in Pashtun belt contexts	Rural villages; common in agrarian districts
Decision-makers	Qazi/cleric(s), sometimes mixed advisory actors	Male elders/notables; authority tied to lineage/standing	Local elders/notables; authority tied to kinship/local power
Procedure	Counselling/mediation; religious framing; variable record-keeping	Informal hearing; consensus/award; evidentiary flexibility	Informal hearing; compromise; evidentiary flexibility
Enforcement basis	Moral/religious authority; family/community pressure; sometimes informal documentation	Socially binding compliance; sureties/undertakings; community sanctions	Socially binding compliance; community sanctions
Typical outcome form	Reconciliation, divorce facilitation, negotiated settlements	Reconciliation/compensation; sometimes punitive or exclusionary decrees	Reconciliation/compensation; sometimes exclusionary decrees
Exit option to state courts	Often present in principle, but can be socially discouraged	Often formally possible, sometimes practically constrained	Often formally possible, sometimes practically constrained

(UN Women et al., 2013; Swenson, 2018).

Dispute-Type Concentration (What they Typically Handle)

Across the mapped literature, the highest concentration is in family and land/property disputes, followed by minor community conflicts (e.g., interpersonal violence, reputational conflicts). The constitutional risk increases sharply when forums move from “settlement” into punitive functions (e.g., directing bodily punishment, forced marriages, collective penalties), because that begins to resemble an unauthorized criminal court (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

Table 2. Dispute types by forum (frequency rating)

Dispute type	Qazi courts	Jirga	Panchayat
Family/marital (maintenance, divorce, reconciliation)	3	2	2
Inheritance/property within families	2	2	2
Land/boundary/agrarian conflicts	1	3	3
Minor assault/community quarrels	1	2	2
“Honor”/sexuality-related accusations	1	2	2
Matters drifting into criminal punishment	0-1	2	2

Scale: 3 = common, 2 = frequent, 1 = occasional, 0 = rare/not typical

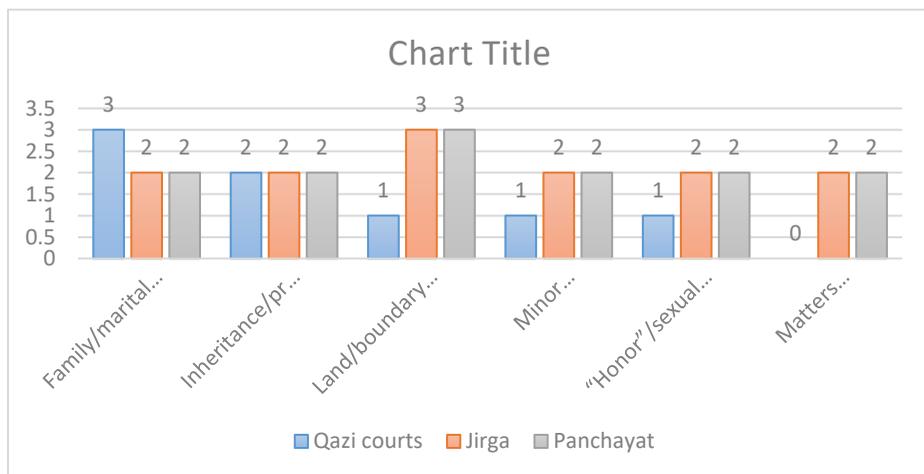


Figure 1

(UN Women et al., 2013; Swenson, 2018).

Adr–Constitutional Compatibility Scoring (When It’s “Adr” vs “Parallel Justice”)

To make the “parallel ADR vs constitutional problem” distinction explicit, the evidence was coded on two composite indices:

- ADR Legitimacy Score (ALS) (0–15): voluntariness, non-punitiveness, procedural fairness, transparency/recording, and meaningful exit to state courts.
- Constitutional Risk Score (CRS) (0–15): coercion/forced participation, discriminatory outcomes, denial of due process, punitive decrees, and enforcement through violence/social exclusion.

Scale per indicator: 0 = not evident, 1 = limited, 2 = moderate, 3 = strong.

Table 3. ADR legitimacy vs constitutional risk (composite scores)

Forum	ALS (0–15)	CRS (0–15)	Overall classification
Qazi courts	10	6	Conditional ADR (legitimate when voluntary + non-punitive)
Jirga	7	12	High-risk parallel justice unless strictly confined to mediation
Panchayat	7	13	High-risk parallel justice unless strictly confined to mediation

(Scoring grounded in documented patterns: constitutional critique of parallel fora and rights-violating outcomes in Pakistan-focused analysis (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013) plus evidence that Islamic ADR is diverse and can range from counselling to quasi-legal adjudication affecting women’s outcomes (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

Rights-Impact Patterns (Who is Most Affected, and how)

The most consistent rights-risk pattern across the mapping is power asymmetry: outcomes are most adverse where parties lack bargaining power (women, minorities, low-status families, and economically dependent disputants). The risk is not only the “decision,” but the enforcement ecology—social boycott, reputational threats, and pressure by local power-brokers that undermines free consent (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

For Qazi-based forums, the evidence shows both risks and reform potential: where forums are designed with gender-aware procedures (e.g., women-led adjudicatory support, counselling, and mediation), they can improve accessibility for disputants who distrust formal courts; but where they replicate patriarchal authority and restrict exit, they can reproduce inequality (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

Table 4. Rights-risk map for vulnerable groups (risk rating)

Rights domain → / Group ↓	Women	Religious minorities	Low-status/poor disputants	Youth/young couples
Equality / non-discrimination	3	2	2	2
Dignity / privacy	3	2	2	2
Fair trial / due process	3	2	2	2
Life/liberty (risk escalation)	2	1	1	2

Scale: 3 = high risk, 2 = moderate, 1 = some risk, 0 = low/contingent

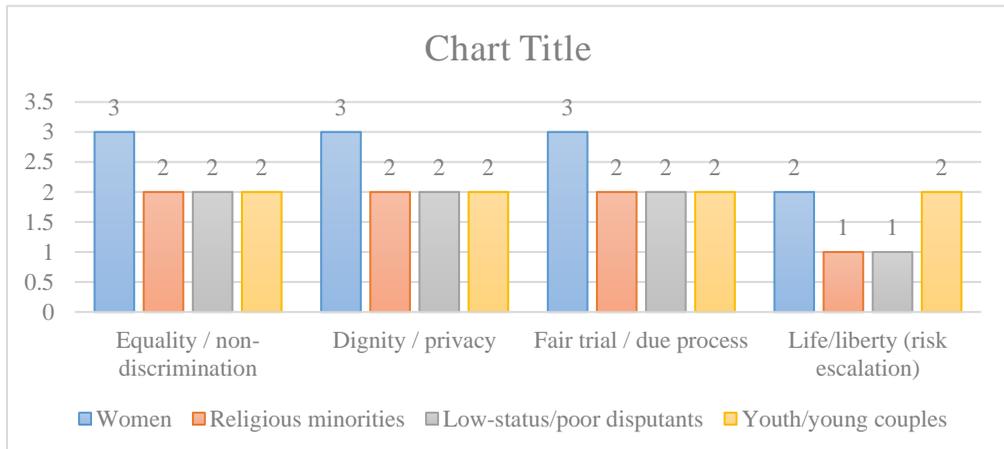


Figure 2

(These risk patterns align with the constitutional-rights critique of unregulated Jirga/Panchayat outcomes and the documented centrality of boundary/power management in informal dispute settings (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

Enforcement Pathways and State Interface (Why “Parallel Justice” Persists)

A key result is that these forums persist not only because they are faster/cheaper, but because they offer enforcement without formal litigation—through dense social networks and negotiated state/non-state boundary management. Where the state implicitly tolerates or selectively cooperates, informal outcomes become more binding in practice (Siddique, 2013; World Justice Project, 2017).

Table 5. Enforcement pathways (what makes decisions “stick”)

Enforcement pathway	Qazi courts	Jirga	Panchayat
Moral/religious obligation	High	Medium	Medium
Kinship/community pressure	High	High	High
Social sanctions (boycott, exclusion)	Medium	High	High
Surety/undertaking mechanisms	Low–Medium	High	Medium–High
Risk of escalation to violence	Low–Medium (context-dependent)	Medium–High	Medium–High
Clear procedural safeguards (written rules, appeal)	Variable	Low	Low

(Enforcement logic and boundary-management dynamics drawn from Latif (UN Women et al., 2013; Swenson, 2018) and Pakistan-focused constitutional critiques warning against coercive parallel adjudication (UN Women et al., 2013; Swenson, 2018).

Discussion

The findings suggest that the informal justice environment of Pakistan can be characterized as a conditional spectrum instead of a two-way option between the useful ADR and illegal parallel courts. These forums continue to exist due to a legal pluralism perspective that they address real access-to-justice issues of speed, affordability, language accessibility, and community legitimacy particularly in areas that have formal institutions that are remote or overburdened (Swenson, 2018). But this embeddedness that results in compliance is the same that results in constitutional risk: the achievement of results by social sanctions and hierarchical structures of power as opposed to rights-preserving procedure (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

The comparative scores demonstrate that Qazi-led forums have more chances of functioning as ADR-like mechanisms when they are not punitive, are reconciliatory-focused, and they provide substantive exit to formal courts. This is in line with the existing literature indicating that Islamic ADR is heterogeneous and capable of making more disputants more accessible, who do not trust formal litigation, especially in family disputes, as long as they are truly voluntary and the process is just (Government of Pakistan, 2017; UN Women et al., 2013). Jirga and Panchayat, by comparison, exhibit more regular constitutional risk since they more often transcend into adjudication-like authority and coercive enforcement, particularly in the land and community-order cases (Government of Pakistan, 2017; UN Women et al., 2013). When such bodies pass punitive orders, through

imposition of exclusionary sanctions or impeding the right to pursue formal legal redress, they are not ADR but just a form of unauthorized courts.

The issue of informal versus formal is only one of the central tensions of the constitution, and it is consent versus coercion and procedure versus power. According to the findings, the informal forums are selected by many disputants under circumstances that are influenced by patriarchal norms, financial reliance, reputational risks, and fear of retaliation, which predetermines the absence of informed and free consent (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). That is why gendered harms become one of the repeatable schemes within the rights spheres: even when the consequences are discussed as the settlement, the lack of equal bargaining power may make discrimination institutionalized and undermine dignity and due process (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

The comparative regulatory models in the literature are then succeeded by policy implications. One framework suggested is regulated tolerance with strict boundaries: (A) make community mediation as ADR only where voluntariness can be established, results are not punitive, and minimum procedural protections are enforced (notice, hearing, impartial facilitation, record of settlement); (B) make court-linked community mediation such that settlements are subject to review and result in consistent rights-consistent; and (C) explicitly proscribes and punishes coercive enforcement and punitive verdicts, particularly where risk of violence or collective sanctions occur (Ojelabi & Noone, 2018). In brief, constitutional justice and informal forums can only be complementary to each other when these bodies are used as rights-compatible mediation, rather than as parallel adjudication.

Conclusion

In this study, the researcher aimed to determine whether Qazi-led forums, Jirga, and Panchayat were legitimate community-based ADR or a constitutional issue. This evidence takes a conditional form of conclusion: these mechanisms may assist in access to justice, by being voluntary, non-punitive mediation, but they become constitutionally problematic where they act as parallel adjudicatory authorities that supersede due process and other fundamental rights (Swenson, 2018).

It is found that Qazi-led forums are relatively more apt to support the ADR principles in which they emphasize reconciliation in the family arguments, leaving out of coercive sanctions, and keeping the examining litigant to pursue the formal legal redress. But Jirga and Panchayat systems have a greater constitutional risk, as they more commonly go beyond mediation to include authoritative judgments, particularly in land- and community-order cases, and tend to back it with social sanctions or coercive pressure in order to effect compliance (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). In all forums, consent is the most decisive line: in cases where participation is conditioned by power disparity, social intimidation, or economic dependence, it is possible to hide the

presence of coercion in set up in such a manner such that its results are discriminatory and damaging to equality and dignity, especially in the case of women and minority groups (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013).

Regulated integration and not blank banning and blind acceptance is a practical policy intervention method. The promotion of community mediation may be facilitated by the court-related referral channels, minimum procedural protection (hearing both parties, voluntary attendance, impartial facilitation, basic record-keeping), and the availability of legal assistance. Simultaneously, the state will have to attract and implement a hard line against punitive decrees, forced participation, collective penalties, and any enforcement using threats and violence since such systems are directly confrontational to the constitutional supremacy and the rule of law (Brohi, 2016; Campbell & Swenson, 2016; UN Women et al., 2013). Finally, informal justice will continue to exist within the legal framework in Pakistan; the constitutional challenge is to make such systems ADRs and not a parallel justice system.

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