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Beyond Formal Institutions: Justice Mobilisation, Access to Justice and the Rule of Law in Urban Pakistan

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ABSTRACT

Rights to access justice can't only be seen in terms of courts, constitutional rights and formal legal remedies. The enabling effect of legal protection for marginalised communities is dependent on the capacity of people to identify their grievances, to gain access to information, to access institutions and to access meaningful remedies. The article explores the role that community-based mechanisms of justice mobilisation play in access to justice and experiences of the rule of law in urban Pakistan. It employs a doctrinal and socio-legal methodology, and relies on the constitutional provisions, laws, judicial decisions, scholarship on access to justice and institutional evidence in Pakistan. The essay proposes a double role for community organisations, civil-society actors, legal-aid providers, paralegals and collective networks. They could increase direct access to justice in a number of ways, including the alleviation of informational, economic and procedural barriers, but their need can also reveal the weaknesses in the direct access to formal institutions. The analysis also categorises rights-enabling community mobilisation from parallel, unaccountable and coercive adjudication. It is based on the assumption that justice mobilisation is a form of legal empowerment as well as a tool of diagnosis to evaluate the realisation of the rule of law. Access to justice, therefore, cannot be strengthened by replacing formal institutions, it can only be strengthened by the strengthening of the connection between the communities and the state, while considering the rights aspect.



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Introduction

Legal rights recognition does not imply that they are enjoyed in reality. A legal system can be very useful, including in providing constitutional protection, the existence of laws offering remedies, courts, and procedures, but be very difficult to use for those without money, legal knowledge, institutional familiarity, or social influence. Access to justice is therefore not just about the institutional formality of justice. It relates to whether or not a person can identify a grievance, and also comprehend the remedies available, state a claim, get to the institution and get a beneficial result.

It has been a fundamental part of the modern scholarship on access to justice. The importance of legal rights, however, is significantly undermined if there are no institutions or procedures to make the rights effective, as Cappelletti and Garth (1978) argued. They turned a focus on the existence of law, to the conditions of making law effective. Galanter (1974) was also able to show that parties do not come to legal institutions on equal footing. Some actors might have systematic advantages over some others who interact with the legal system only occasionally because of their resources, experience and organisational capacity. Thus, three kinds of inequality can exist at the same time, formal, substantial, and legal.

There's a further dimension to be added: the legal mobilisation scholarship. There is another aspect: the legal mobilisation scholarship. Being treated unfairly doesn't mean that you have a legal case. To process a grievance, the individual has to first perceive a wrong, find a potential solution, and determine if an action that would lead to a resolution is worth the financial, social and procedural expenses (Zemans, 1982). This process can be challenging for marginalised communities whose members may not have access to legal knowledge and/or access to professional lawyers.

Some of these problems provide an opportunity for other modes of justice mobilisation in the community. People can seek remedies through collective action, through neighbourhood groups, advocacy networks, collective mediation, legal aid, through civil society organisations, or through individual mediation. These mechanisms do not

have to be in conflict with the courts. In many instances, they are able to help people gain access to formal change, to understand formal processes, to have someone represent them, or to get the authorities to respond to claims that otherwise may go unnoticed.

This relationship has a lot to be discussed in the context of Pakistan. There are many formal guarantees available in the Constitution of Islamic Republic of Pakistan. The rights protected by Article 4 are: to be dealt with according to law, Article 9 is related to life and liberty, Article 10A is related to fair trial and due process and Article 25 guarantees equality before law and equal protection of law (Constitution of the Islamic Republic of Pakistan, 1973). The courts in Pakistan have also interpreted the fundamental rights in such a manner that they have their practical applicability extended. For instance, in the case of *Shehla Zia v. WAPDA* (1994), the Supreme Court had entertained a community challenge with regard to environmental hazards and had construed the constitutional protection of life to be quite extensive.

However, even though there are constitutional rights, there are practical barriers. There can be a geographic proximity between courts, police stations and administrative offices and a social and/or economic distance from them for urban residents. Formal law may be poorly leveraged due to poverty, inadequate legal knowledge and awareness, weak documentation, gender disparity, time lag in the processes or mistrust of institutions. A study conducted by the World Justice Project (WJP) in Pakistan also revealed that there is a significant need for legal support, but not much is being done by the authorities or other third parties to meet that need in the cities of Faisalabad, Karachi, Lahore, Peshawar and Quetta (World Justice Project, 2018; Pakistan).

In this context, this paper questions: **How do community-based forms of justice mobilisation shape access to justice and experiences of the rule of law among marginalised communities in urban Pakistan?**

It believes that law and legal institutions in urban Pakistan are not sufficient to explain the rule of law. Community-based actors can improve the

practical access to justice for marginalised people by raising awareness, guiding through processes, providing access to support and involving public actors. Meanwhile, reliance on these types of intermediaries points to unequal capacity to the law, questions of institutional equality and access, and questions of accountability. Justice mobilisation thus serves both as a tool of legal empowerment and as a tool of identifying the needs and the "gap" of the rule of law in its implementation.

Conceptual and Methodological Framework

The methodology of this article, is doctrinal and socio-legal. It explores the Pakistani constitutional provisions, legislation and judicial decisions in a way that is interwoven with an analysis of scholarship on access to justice, legal mobilisation, legal pluralism, and procedural justice. It also relies on the institutions' evidence, including that of the United Nations Development Programme (UNDP) and the World Justice Project. The article is not original empirical fieldwork, but rather has taken the existing legal and empirical resource to consider the experiences of marginalised communities with the intersection of the formal and practical availability of remedies.

The first in the core concepts is **access to justice**. Cappelletti and Garth (1978) recognised access as something more than access to courts – it was about making rights real, effective and available. Their way of doing things is still relevant since it recognises the distinction between legal rights and legal means. This remedy might be available in law but not available due to cost, delay, complexity and/or lack of information.

Secondly there is a concept of **legal mobilisation**. Legal mobilisation is the process of converting interests and grievances into demands using legal institutions that has been conceptualised by Zemans (1982). This is a different point of view from institutions themselves to the choices, capabilities and connections that influence the call to action of people. Community organisations, legal professionals (lawyers and paralegals) and civil-society groups can be significant as they may supply the information or organisation needed to make a grievance into a claim for action.

The third one is **legal pluralism**. Merry (1988)

showed that it is possible to have several normative orders co-existing in the same social environment. State law can coexist with practices, norms and arrangements customary by the community, practices, norms and rules of organisations, and locally recognised methods for settling disputes. Not everything outside of the state system is in any way legitimate. Instead, it emphasises how individuals can come into contact with and engage with different sources of normativity when responding to conflicts.

Finally, the article discusses the **rule of law** as an institutional principle as well as an inter-personal relationship between people and the law. Formal legality and judicial independence, rules that are predictable and constraints on the arbitrary exercise of power continue to be vital. But they are only of any use if they are accessible. There could be a constitutional right which is unchallengeable, but in the world of practice it might be very weak.

These ideas can be integrated to look at the process of community mobilisation not in an idealised way. Community based support can enhance legality, when it means that people can access legal processes. Can erode principles of rule of law, in which the extent of justice achieved is shaped by force, unchecked power or imbalance of influence. But it is neither a matter of whether justice is "formal" or "informal," but whether specific mechanisms increase the power of those to receive justice through legal means without infringing on the rights of equality, due process, and accountability.

Pakistan's Legal and Institutional Framework

There is a strong basis for access to justice in the formal legal system in Pakistan. The Constitution of the Islamic Republic of Pakistan 1973, guarantees the legality, life and liberty, fair trial, due process and equality before law (Constitution articles 4, 9, 10A and 25). These provisions provide a set of rules to which the country's real capacities for accessing justice can be measured.

A number of judicial decisions have helped to develop these guarantees in practice. The landmark case of *Benazir Bhutto v. Federation of Pakistan* (1988) is important due to the wide interpretation of the scope of fundamental rights and public-interest constitutional jurisdiction of

the Supreme Court. The decision helped to foster a more liberal view of "standing" in public issues and issues of fundamental rights. Recent Supreme Court rulings have continued to take *Benazir Bhutto* as the example of a progressive attitude towards constitutional freedoms.

Shehla Zia v. WAPDA (1994) is another example of constitutional litigation which can be employed to address the harms inflicted collectively. But the Supreme Court gave a broad interpretation to Article 9 and residents raised objections against the setting up of a electricity grid station on the grounds of potential hazards. The case is significant for the present analysis as it shows that a grievance that impacts a community can be expressed in constitutional terms, instead of purely as an individual grievance.

The Eighteenth Amendment, which added articles 10A, much enhanced the constitutional protections for "fair trial" and "due process." The question of "procedure" fairness has subsequently been considered a cardinal principle of the rule of law in Pakistan. The vital importance of Article 10A is not just in court proceedings, but also in determining whether justice procedures give people a fair chance to take part, challenge accusations and get a fair trial.

The legal system also acknowledges that there may be a need for institutional support to enable formal judicial access. The Legal Aid and Justice Authority Act 2020 introduced a federal legal-aid system, to help individuals who are unable to afford sound legal advice. Pakistan Code has captured the legislation as Act XVI of 2020 enacted on March 19th, 2020 (Legal Aid and Justice Authority Act, 2020). It is important to note the following principle in the Act: Equality before the law is not enough if individuals don't have the means to enjoy their rights.

Meanwhile, if a non-state adjudicator is allowed, the Pakistani constitution lays a restriction on their powers. The Supreme Court considered jirgas and panchayats which are a parallel system of adjudication in *National Commission on the Status of Women v. Government of Pakistan (2019)*. The Court decided that such agencies would not have any constitutional or statutory authority to hold coercive judicial powers in civil or criminal proceedings outside of the constitutional and statutory process. It set aside

the idea of an illegitimate parallel adjudication and the consensual arbitration, mediation, negotiation and reconciliation that occurred within the bounds of law.

This is a key to the argument presented here. Community-based justice mobilisation may complement the rule of law by helping to engage people in access to justice through the law and law-based institutions. In the so-called "informal system," where less powerful groups can suffer coercion or discrimination, it poses a constitutional problem when it substitutes for the lawful adjudication. Thus, Pakistan's formal legal structure offers opportunities to communities to gain access, and limits the extent to which community mobilisation can take place.

Barriers and Community-Based Justice Mobilisation in Urban Pakistan

Not only are there no formal institutions but the central access to justice issue in urban Pakistan is not necessarily a lack of formal institutions. Breathing of the major cities includes courts, police stations, administrative offices, lawyers and government offices. There's a bigger issue than that, though, as institutional presence doesn't necessarily mean usability. A legal battle can never reach the courts if there are multiple and compounded barriers for the poor.

There are various barriers such as **legal awareness**. Hence, people who don't know of their rights, of the respective institution or what procedure they should follow in order to make a complaint might be unable to mobilise law effectively. However, limited legal awareness and limited access to legal aid are often identified as issues in the justice sector, including for women and marginalised groups, by UNDP (United Nations Development Programme, 2026a). Awareness of the law is not just a matter of knowing the rights contained in the constitution. Contains useful information on jurisdiction, documentation, complaint procedures, deadlines, representation and assistance.

The second barrier is the **economic capacity**. Attorney's costs, transportation costs, document costs, multiple court appearances, and loss of income are some of the costs of litigation. The indirect costs, which may be just as significant as court costs, may be of major concern to those who

work in informal or daily wage jobs. It's useless to have a remedy if it will jeopardize an individual's livelihood.

The combination of these challenges and the delay make the situation even more challenging. However, the remedy that may be awarded following a lengthy trial can be less meaningful in some cases, such as employment, family maintenance, violence, housing or access to public services. Delay also has variable distributive impacts as wealthier litigants tend to be better able to afford to keep litigations alive.

Other factors, such as gender and social position, also can influence access. Women may be limited in their mobility, in access to financial resources, subjected to family pressure, be fearful of retaliation and lack access to documentation or independent legal support. Women and other vulnerable groups therefore have been given top priority in legal-awareness and legal-aids programmes under Pakistan's UNDP programmes (United Nations Development Programme, 2024, 2026a).

Community intermediaries are important because they are a critical part of these barriers. **Justice mobilisation** takes place when organisations and/or networks assist people to overcome barriers to direct access to justice. Community based legal workers can provide information on rights, help with documentation, or refer people to lawyers, can facilitate communication between people and public bodies, or can help organise collective complaints.

Earlier the rule-of-law programming in Pakistan had been more of this kind but is gradually changing. According to the Rule of Law Project Brief from UNDP, partnerships between civil society actors, community based legal-aid desks, mobile clinics, legal-awareness programmes and digital solutions are aimed at mitigating procedural and geographical constraints, to the 2026b). In terms of legal-awareness activities, the programme reached over 35,000 people, while providing legal assistance for over 700 people, mostly women. It was also noted that there is a growing infrastructure for virtual courts and services to the community.

The interventions are a prime example of how the process of accessing justice can be improved

without having to establish a parallel justice sector. Community organizations can act as a **bridge** between people and the State institutions. If someone doesn't know how to start a legal action, they can get some guidance from a community worker, and then file a complaint in court or with some other administrative agency. Legal mobilisation thus takes place before, during and, sometimes, after legal proceedings.

This can also be accomplished by civil-society organisations. They may offer legal counsel, representation, legal rights education, mediation, legal research or legal advocacy. They may also have the organizational knowledge and expertise to uncover any patterns that the individual claimants might not be able to. If there are several complaints from multiple residents by all about the same issue – administrative or environmental, then collective organisation can turn it into a public problem.

This is a collective dimension that links mobilisation in the community with PIL. *Benazir Bhutto and Shehla Zia* provide a glimpse into the possibilities of a constitutional adjudication in Pakistan to deal with claims of a wider audience than of the typical bilateral nature. Collective mobilisation is thus one tool to helping to shift socially experienced harms to legally recognisable issues.

It also reveals the reasons why this support is important, according to the World Justice Project's evidence. Data were gathered from over 4,000 respondents from five urban centres in Pakistan for its Pakistan surveys. Both the access to justice results and the lack of trust in authorities and third parties for access to justice revealed a high level of legal issues but limited use of authorities and third parties to help solve legal issues (World Justice Project, 2018). The absence of the relationship between problem experience and institutional engagement implies that having a problem does not inevitably trigger institutional engagement. Claims can be abandoned, settled privately, accepted as going through without redress or for non-state assistance.

That can be done by mobilizing the community, but it distinguishes between **privileged intermediation** and community mobilisation. Support provided by a community legal worker to an individual to understand a complaint process

enhances legal access. If the political intermediary who is influential is the one who's getting special treatment because he's connected, then he's doing something different. Both can give rise to an institutional response but only the latter is easily assimilable into equality before the law. In cases where access is dependent on personal influence, the looks of success in mobilisation can be a sign of underlying inequality.

An interesting conflict comes in the form of alternative dispute resolution. Mediation can cut down on extent of the legal process and on the amount of money that is spent if it is truly voluntary and legal rights are not violated. It can be especially helpful for cases in which an agreement is better than the time-consuming litigation. But, consent, equality and accountability are the key determinants of the legality of such mechanisms.

The Supreme Court in the case of "*National Commission on the Status of Women v. Government of Pakistan*" (2019) believes in the constitutional limits. The Court has acknowledged that jirgas or panchayats can act as mediation, negotiation, reconciliation or arbitration bodies in accordance with the law on the condition that parties have by their own consent agreed to this role of jirga or panchayat, but not as parallel bodies of criminal or civil judges. This ruling is particularly significant for marginalized people as informal processes can re-create the existing hierarchy. Equity does not necessarily follow social familiarity, especially if there are gender, wealth, kinship and/or local status differences that will influence the bargaining position.

Relational thinking is thus most helpful in understanding community justice mobilisation, rather than binary. Formal and informal justice can well be intermingling worlds. A grievance can happen within the community, be supported by a civil society organisation, be taken through mediation and ultimately be taken to court. The key question is whether this chain of access to the law is an expansion of permissible access, or a replacement for legal protection by an unaccountable force.

Justice Mobilisation and the Lived Rule of Law

Community mobilisation is important as it can help to generate remedies, but also because it is an

indicator of the experience of the rule of law. The dimension that is relevant to the lived rule of law is the actual interaction between the people and legal authority – understandability, accessibility, fairness, predictability and responsiveness of institutions.

The first is **access** – how accessible is it? Without the use of ordinary legal procedures, ordinary legal assistance (or something else is required to use these procedures), it is difficult to see how a constitutional system is accessible. When creating community legal-aid programmes, there is a need to make the information and procedures more accessible, as this will enhance accessibility. However, their need can serve as a measure of the lack of direct access to institutions.

Second dimension is **equality**. Article 25 guarantees everyone equality before the law but the equality of the legal rules does not necessarily result in equality of legal capacity. It applies to the distinction which Galanter (1974) made between repeat players and one-shotters. Institutions are more easily maneuvered by some than by others; those who have money and experience of the system, and have a network. Community organisations can help to partially correct this imbalance, by gathering information and expertise, and representing others.

The third dimension is the **procedural fairness**. According to Tyler (2003) legitimacy is largely dependent on how people feel about the processes used by the law. Tyler (2003) states that the processes used by the law are important to legitimacy because people feel if they are fair, neutral and respectful they will have legitimacy. The fact that he speaks about institutional legitimacy in terms of a win or lose outcome, suggests that legitimacy cannot be simplified to a simple yes or no. They assess their hearability, fairness of decision makers and understandability of procedures. The treatment that a claimant gets in Pakistan when he or she ultimately gets a remedy after a number of rejections, delays or disrespect might be different from the treatment he or she would get if he or she got a timely and transparent treatment.

The fourth dimension of **accountability** is the area where accountability is being discussed. Community mobilisation can help to hold institutions to account, when they consistently

report weaknesses and failings within these institutions, when they help claimants, and when they pressure institutions to provide lawful responses. The EU-funded Deliver Justice Project (2026c) clearly engaged with justice institutions, civil society, and local communities to support and enhance people-centred justice services in Pakistan, which is set to finish by 2026. This is indicative of a more general recognition of the importance of the relationship between the State and communities to enable sustainable access.

But there is also a risk of revealing poor accountability in mobilisation. If the public authorities only intervene when they are the object of the media's attention, political pressure and/or exceptional social pressure, it is possible that the remedy adopted will not prove effective as a rule of law. It could alternatively mean that normal course of events doesn't apply to people who are less influential.

This results in the following paradox: Community mobilisation can reinforce the rule of law, and be a source of challenge to it. It enhances the rule of law by making people aware of their rights, how they can access institutions and what remedies are available in general law. It reveals the extent to which people are lacking in today's society when they have to seek help from others to get treatment that the institutions are supposed to give to everybody routinely.

That is why the process of engaging people in the justice movement needs to be viewed through the lens of justice mobilisation. It is not a question of the use of formal or informal institutions per se, but what we can learn about the distribution of legal capability from the paths people follow. Community mobilisation can help alleviate the inequality if the members of the marginalised groups are able to access support to enable linkage with a prominent and open systematic mechanism (process) that guarantees their rights. Access that is dependent upon the local authority and/or personal influence can exacerbate inequalities that the rule of law should limit.

Discussion and Policy Implications

The analysis indicates that simultaneous judicial reform, at the institutional and legal capacity levels is needed in Pakistan. Access to justice needs to start before someone arrives at a court,

but enhancing courts is a critical need.

One of the primary concerns must be to impart a **practical legal literacy**. Rights should be explained in awareness programmes, as well as procedures that allow rights to be fulfilled. People should be given clear information regarding where complaints should be submitted, the paperwork to be submitted, the services available for legal aid and how decisions could be taken to appeal.

Secondly, **legal aids** need to be strengthened in the community to connect with formal legal services. The legal assistance and support are provided by the Legal Aid and Justice Authority Act 2020, and modern UNDP initiatives show that mobile clinics, legal-aid desks are available in the community and that collaboration with civil society is a valuable instrument of legal assistance (Legal Aid and Justice Authority Act, 2020; United Nations Development Programme, 2026b). These services should be available in addition to the existing public services.

Thirdly, the referral network between the community organisations, the legal system, the police, the administration and courts should be more transparent. The institutional boundaries should not be complex and claimants should not have to know and understand these before they can be helped.

Fourth, it is important that alternative dispute resolution be **rights compatible**. There are informal ways to settle, which could be less expensive and less time-consuming, but cannot be used for coercive adjudicatory powers. A handy constitutional limit is the one provided by the principle that has been set out in the *National Commission on the Status of Women*.

Lastly, there needs to be an assessment of the performance of the justice sector, both for those who use it and also for institutions. While case disposal figures and infrastructure are important, it doesn't necessarily reflect access to justice. The process of evaluating should also include aspects of the claimant understanding the procedure, their ability to afford participation, being treated with dignity, getting a timely response and enforcing outcomes.

The aim of the policy should thus not be to decide on the formal institutions or on community justice. It should be about developing responsible

relationships between them which ensure that community mobilisation improves access without the development of another tier of authority, with unbalanced or unchecked power.

Conclusion

Having courts, constitutionally guaranteed access to justice, or formal remedies are not enough to guarantee access to justice in urban Pakistan. The mechanisms for recognising, mobilising and transforming legal rights into effective institutional actions are what make the difference in the empowering effect for marginalised communities.

Community organisations, legal-aids, paralegals, civil-society actors and collective networks can be of great help in this process. They can eliminate information and procedural obstacles, enhance representation, and provide access to institutions which, without them, would be hard to access. Community based justice mobilisation can

contribute to the implementation of the rule of law in this way.

But mobilisation itself does not necessarily promote human rights. Failing to hold people accountable to a system that is formal and legitimate can entrench inequality and undermine due process. Pakistan's constitutional jurisprudence sensibly separates between the voluntary and lawful mediation and assistance and parallel adjudicative judicial systems, which undermine constitutional protection.

Mobilising justice is thus not only an enabling process, but also a diagnostic tool. It helps marginalized groups to access formal rights in a way that makes them usable, and at the same time identifies gaps in the accessibility of institutions. Improving the rule of law ultimately needs to be accomplished through strengthening institutions and strengthening legal capacity among those who depend on the rule of law.

Conflict of Interest

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