

Police Mediation in Minor Criminal Offences: Reform Framework for Pakistan's Criminal Justice System

Sultan Fiaz Aura

PhD Scholar advocate High Court sultanfiaz8602@gmail.com

Dr. Muhammad Idrees

Associate professor times university Multan idreesabbas3@gmail.com

Abstract: *Pakistan criminal justice system is beset and fraught with challenges like case congestion, procedural delay, unequal access to justice, limited institutional capacity and the operation of cases of minor interpersonal disputes through formal criminal proceedings as the daily routine. The formal criminal process is critical to pursue serious offences and to protect public safety, however, the exclusive use of the criminal process for minor and legally compoundable offences can create excess financial, institutional and social costs. What we describe as police mediation can be understood as a regulated process of police screening and referral to an independent (or at least sufficiently autonomous) mediator over settled minor criminal disputes without creating a parallel (and more efficient) system of criminal adjudication. Pakistan has critical legal building blocks available for this kind of reform such as section 345 of the Code of Criminal Procedure 1898, provincial alternative dispute resolution (ADR) laws and the legal nexus between Dispute Resolution Councils (DRCs) and criminal ADR in Khyber Pakhtunkhwa. Nevertheless, the current framework continues to be piecemeal, offering no coherent national blueprint for police referral, case eligibility, voluntariness, mediator independence, victim protection, prosecutorial oversight, judicial endorsement, confidentiality, and institutional accountability. Employing qualitative doctrinal legal research, the article juxtaposes the constitutional, statutory, judicial and institutional frame of Pakistan with international restorative justice standards and domestic academic discourse on Dispute Resolution Councils. It contends that police referred mediation is legally and institutionally possible only if limited to appropriate types of compoundable crime, insulated from coercive investigation powers, consented to base on an informed and continuing basis, and with prosecutorial and judicial oversights in place. This article proposes a legislatively based Police Referred Mediation and Diversion Framework founded upon independent screening, accredited mediators, compulsory exclusions, access to legal advocacy, digital monitoring, written settlements, and external oversight. The suggested model, therefore, attempts to achieve the twin objectives of a better balance between proportionate punishment, expeditious disposal and fair trial ground and therefore protecting the constitutional guarantees of dignity, equality, due process and fair trial.*

Keywords: police mediation, minor criminal offences, restorative justice, alternative dispute resolution, compoundable offences; section 345 CrPC, Dispute Resolution Councils, criminal justice reform, Pakistan

1. Introduction

For example, criminal justice systems perform the public functions of crime prevention, detection of offences, determination of criminal liability, protection of victims and imposition of lawfully permitted penal sanctions on convicted persons (Government of Pakistan, 1973; UNODC, 2020). Thus, it is not only efficiency, but also legality, fairness, proportionality, institutional accountability, and respect for the rights of victims and accused persons (Government of Pakistan, 1973; ECOSOC, 2002) that makes criminal justice legitimate. Pakistan criminal justice institutions still function under heavy pressure from high levels of caseload, delays in procedures, low judicial capacity, and the broader issue of delivering affordable and timely justice to citizens (LJCP, 2025).

Article 37 of the Constitution obliges the State to explore a mechanism or mechanisms which can resolve disputes in an inexpensive and expeditious manner while preserving the guarantees of due process of law and said access to courts. 37[d]). One important reform question relates to how minor criminal offences, arising from neighbourhood quarrels, petty theft, criminal trespass, petty assault, social disputes and other such instances subject to compounding or legal settlement under laws[5] such as the Pakistan Penal Code, 1860, are currently handled (Government of Pakistan 1898; Bhatti & Rizwan, 2023).

The inherent cost of every such dispute, which involves automatic protracted processes of investigation, prosecution, trial, adjournment, and appeal, is likely to be out of proportion to the seriousness of the underlying harm (UNODC, 2020). The more formal process may not adequately meet the pragmatic interests of some victims, such as compensation or restitution, restoring damaged property, the return of property, recognition of harm, an apology, stopping harassment, and preventing conflict in the future (ECOSOC, 2002; UNODC, 2020).

As a result, restorative justice scholarship also addresses the premise that punishment focused criminal procedure should be the only institutional response to all forms of criminal harm (Braithwaite, 2002; Zehr, 2015). Restorative justice does not need to abolish criminal law but instead advocates that the legal systems be able to differentiate cases in which coercive adjudication is necessary and cases in which voluntary, formally facilitated and supported dialogue can work towards accountability and restoration (ECOSOC, 2002; UNODC, 2020).

This argument is so central to this fact that, in Pakistan (Government of Pakistan, 2002), police institutions represent one of the first formal interfaces with citizens whom are a part of the criminal justice system. This places the police in an institutional position to filter for legally eligible cases, to assess immediate safety concerns and the preservation of evidence, and to transfer appropriate disputes into specialized mediation mechanisms (UNODC, 2020). That said, police have a monopoly on compulsory powers to arrest, investigate and detain people and institute criminal proceedings, so there is at least an apparent risk that a seemingly voluntary compromise is really the product of institutional pressure (UNODC, 2020; Government of Pakistan, 1898). This is why a defensible model of reform between police mediation and an informal compromise under police coercion must be made (ECOSOC, 2002; UNODC, 2020).

In its essentials, the main contention is that Pakistan needs a legal framework for police referred mediation constrained only by section 345 of the Code of Criminal Procedure, and with strict constitutional and institutional protections (Government of Pakistan, 1898, 1973). The Khyber Pakhtunkhwa experience supplies the strongest domestic legal underpinning for such reform because its 2020 ADR law directly connects compoundable criminal offences, Dispute Resolution Councils, ADR referral, Saliseen, and formal court supervision (Government of Khyber Pakhtunkhwa, 2020). However, the empirical literature also shows that accessibility and speed alone do not translate to justice on their own unless mediation institutions their regulators have sufficient training, procedural clarity, public awareness, and accountability and are equipped to avoid situations where unequal bargaining power prevails (Afridi et al., 2022; Manzoor et al., 2020).

2. RESEARCH PROBLEM

Pakistan has several legal and institutional mechanisms of ADR, compounding, restorative justice, and community based dispute resolution, but these mechanisms are fragmented in criminal procedure, provincial legislation, police structures, and informal practice. These mechanisms demonstrate the feasibility of criminal ADR but do not amount to a national legal framework governing police facilitated mediation in minor criminal offences.

3. RESEARCH QUESTIONS

1. What are the foundations currently existed for the mediation resolution of minor offences in Pakistan?
2. What limitations (institutional or constitutional) affect the development of police referred mediation?
3. What are the necessary safeguards to prevent police mediation from becoming coercive compromise or parallel informal justice?
4. What legal and institutional model should Pakistan adopt for police referred mediation in minor offences?

4. RESEARCH METHODOLOGY

This study uses doctrinal research based on primary and secondary legal materials.

4.1 Primary Sources

The basic documents analyzed are the Constitution of the Islamic Republic of Pakistan 1973, the Code of Criminal Procedure 1898, the Police Order 2002, the Punjab Alternate Dispute Resolution Act 2019, Khyber Pakhtunkhwa Alternate Dispute Resolution Act 2020, and the judicial authority.

4.2 Secondary Sources

Secondary sources consist of empirical research on Dispute Resolution Councils, literature regarding criminal ADR in Pakistan, and international literature on restorative justice & victim offender mediation.

This is normative rather than empirical research, as it does not produce original interview, survey, or case file data. The paper aims to survey the current law, highlight

normative and institutional gaps, & present a legally sustainable incubator for reform in Pakistan.

5. CONCEPTUAL FRAMEWORK

5.1 Police Mediation

Mediation is a mediated process whereby parties in dispute are assisted by an unbiased or a sufficiently distanced third party to communicate, discover interests, and negotiates, hopefully resulting in a voluntary settlement (UNODC, 2020). The mediator plays no adjudicative role like that of a judge and should not impose a solution on the parties (ECOSOC, 2002; UNODC, 2020). Police mediation conceptually requires greater precision because the police are state agents exercising coercive authority that goes beyond the means available to any ordinary civil mediator (Government of Pakistan, 2002). If mediation is defined as free and informed consent (ECOSOC, 2002; UNODC, 2020), the faster the system in which an investigating officer threatens arrest unless the parties compromise is no longer (legitimately) mediation.

The latter is called police referred mediation, the approach preferred as it combines crime/safety prevention through police eligibility screening, immediate risk assessment, and evidence preservation/referral whilst the substantive mediation is performed by another qualified actor (UNODC, 2020).

5.2 Minor Criminal Offences

There is no common definition of 'minor criminal offences' and thus they should not be left entirely to the discretion of the police (UNODC, 2020). In the prerogative phase of reform in Pakistan, it needs to be enshrined legislatively within a list of offences that has already been designated as compoundable by Parliament pursuant to section 345 of the Code of Criminal Procedure (Government of Pakistan, 1898). However, compoundability gives a more defensible baseline from which an undefined idea of petty crime does, because it embodies a legislative determination that certain types of offences may legally be disposed of by an authorized actor (Government of Pakistan, 1898). However, legal compoundability should be an eligibility threshold instead of definitive evidence of appropriateness for mediation (UNODC, 2020).

Recurrent violence or threats, sufficient power imbalance, coercive relationships, or ongoing threats may mean that a case is legally compoundable but not suitable for mediation (UNODC, 2020). The undertaken framework thus separates legal eligibility from contextual appropriateness (UNODC, 2020).

5.3 Restorative Justice

Restorative justice is concerned with the harm caused by offending and aims to involve the people affected by that harm in repairing it, where this can be done safely, legally and voluntarily (ECOSOC, 2002; Zehr, 2015). It is also strangely restorative compared to a purely punitive framework in the significant weight it gives to notions of accountability, reparation, participation by the victim, community safety, and repair to the damaged relationships where it can be repaired (Braithwaite, 2002; UNODC, 2020).

Restorative justice is another set of mechanisms that include the restitution but it refers mainly to victim offender mediation, conferencing and other structured processes that involve relevant stakeholders (UNODC, 2020). This does not necessitate abandonment of formal criminal

justice, since restorative processes may proceed before, within, or after formal proceedings, under legal oversight (ECOSOC, 2002; UNODC, 2020). This versatility of restorative justice relates to the existing Pakistani mechanism of compounding and statutory ADR referral (Government of Pakistan, 1898; Government of Khyber Pakhtunkhwa, 2020).

5.4 Diversion

Diversion is defined as the process of channeling an eligible case from the traditional criminal processing to an alternative law recognized intervention (UNODC, 2020). This type of process may moderate unnecessary engagement with the formal criminal process while still requiring an acceptance of harm and completion of the agreed obligations to be performed after that acceptance (ECOSOC, 2002; UNODC, 2020).

Diversion must not be mistaken for impunity; a well-designed scheme may include restitution, compensation, repair, behavioural undertakings, counselling or other lawful reparative measures (UNODC, 2020). Diversion can only be legitimately put in place when there are well established criteria and protections against discriminatory or arbitrary decision making (UNODC, 2020).

6. LITERATURE REVIEW

6.1 Restorative Justice and Criminal Mediation

Restorative justice within contemporary literature developed, in part, as a response to a perceived disproportionate focus within criminal justice processes on the accused as they relate to the State to the unfair exclusion of victims from the process (Zehr, 2015). Restorative approaches aim to provide victims with a platform to articulate harm, and interact directly in the resolution of appropriate cases (ECOSOC, 2002, p. 3; UNODC, 2020). The method also aims to inspire offenders to take accountability and engage in actively repairing the impacts of their actions (Braithwaite, 2002; UNODC, 2020). The United Nations Basic Principles stresses that restorative processes must be grounded in some minimum level of evidence, voluntary participation, a fair process, and the possibility for the participants to withdraw (ECOSOC, 2002). Similarly, on the UNODC framework, voluntariness, informed participation, qualified facilitators, safety, confidentiality, attention to power imbalance, and institutional monitoring are all mentioned (UNODC, 2020). It is especially necessary in cases of criminal mediation, as the risk of prosecution can make the accused take the accusations into consideration, while pressure from fear, dependency, or society can convince the victim to accept the deal (UNODC, 2020). The international literature then backs mediation as a new beneficial admitted criminal justice system, but refuses the presumption that all cases or all parties can and should engage in restorative justice (UNODC, 2020).

6.2 ADR and Criminal Justice in Pakistan

The formal and informal mechanisms to reach agreements, and resolve conflicts through compromise, reconciliation, arbitration, mediation, and community dispute resolution are embedded into Pakistan's legal system (Bhatti & Rizwan, 2023; Farhad et al., 2024). The law of compounding is especially important because it formally acknowledges the fact that certain offences can be settled by way of legally sanctioned compromise (Government of Pakistan, 1898). Bhatti and Rizwan (2023) contend that the Punjab ADR Act acts as valuable legislative foundation to apply ADR methods within the criminal justice settings. Nonetheless, their analysis indicates that more institution building, professional capacity, and procedural clarity are critical to the success of some forms of criminal ADR (Bhatti & Rizwan, 2023). Farhad et

al. (2024) also notice that while ADR may do some work in terms of access and efficiency their success is still conditioned by ongoing and improved institutional coordination and implementation. The literature thus supports the potential of criminal ADR but simultaneously exposes the gulf between statutory acknowledgment and systematic operational practice (Bhatti & Rizwan, 2023; Farhad et al., 2024).

6.3 Evidence from Disputes Resolution Councils

The most relevant branch of domestic empirical research pertains to the functioning of Dispute Resolution Councils in Khyber Pakhtunkhwa (Afridi et al., 2022; Manzoor et al., 2020). Manzoor et al. (2020) collective revealed that users associated the DRC mechanism with benefits around access, cost, time and local resolution of disputes. They found that community based dispute resolution is likely to address justice needs that are not always addressed efficiently through lengthy processes of formal litigation (Manzoor et al., 2020). Afridi et al. (2022) analyzed data from beneficiaries and council members to study factors influencing DRC efficacy. A mechanism can be cheap and rapid and still unfair if the mediators are poorly trained, the parties are unequal, or institutional protections are weak (Afridi et al. It makes the DRC literature valuable in so far, as it brings domestic data based evidence of the promises and limits of community connected dispute resolution (Afridi et al., 2022; Manzoor et al., 2020).

6.4 Research Gap

Two lines of research have emerged in Pakistani scholarship: one has examined ADR legislation, while another has focused on DRC effectiveness, community dispute settlement, or the ideal prospect of restorative justice.

There has been comparatively less focus on the specific law and structure that needs to be followed for police referred mediation of petty crimes. This article fills that gap by creating a new model of police referral, as opposed to direct police adjudication or potentially police imposed compromise.

7. EXISTING LEGAL FRAMEWORK IN PAKISTAN

7.1 Constitutional Foundations

It has developed within the constitutional context of the Islamic Republic of Pakistan (Government of Pakistan, 1973) so any system of criminal mediation must also function within the constitution. Article 10A grants the right to a fair trial and due process for the determination of civil right and obligations and ducking criminal charge (Government of Pakistan, 1973). Such a mediation system would be unconstitutional if an accused were blackmailed into confessing or a settlement in exchange for not being subjected to illegal detention or police brutality (Government of Pakistan, 1973; UNODC, 2020). Article 14 ensures dignity of individuals and underlines the need to treat victims and accused nicely during mediation (Government of Pakistan, 1973). Article 25 of the Constitution also guarantees equality before law and equal protection of the law, which obligates prohibit the mediation outcomes determined by financial resources, gender, political connections, caste, family putdown, kinship episteme or social status (Government of Pakistan, 1973). Article 37(d) provides for inexpensive and expeditious justice, thereby providing constitutional policy justification for the use of lawful tools to limit unnecessary delay (Government of Pakistan, 1973). The constitutional principles produce a twofold duty as the State is required to ensure the expedient justice whilst also preserving the right to a fair process and equality (Government of Pakistan, 1973) This means that police mediation can only claim constitutional legitimacy if effective

means are sought by just process rather than by coercive settlement (Government of Pakistan 1973; UNODC 2020).

7.2 Section 345 in The Code Of Criminal Procedure, 1973

Section 345 of the Code of Criminal Procedure serves as the primary legal basis for the consensual settlement of certain crimes in Pakistan (Government of Pakistan, 1898). It lays down the recognition of certain offences as compoundable by specified persons under the law and differentiates cases requiring permission of the court (Government of Pakistan, 1898). It is important to note that the legal effect of compounding does not arise from unlimited powers of individual police officers or community leaders but from statute (Government of Pakistan, 1898). Thus, while it is the case that many selected offences may lawfully be legally resolved by consent-based settlement, the case of Section 345 illustrates that Pakistan's legal system already recognizes this reality. This, however, does not provide a fully-fledged mediation framework with provisions relating to independent screening by the mediator, their accreditation and qualifications, confidentiality, assistance for victims, legal advice, scrutiny of online monitoring applications and professional conduct by mediators (Government of Pakistan, 1898).

Thus, Section 345 must be construed as the substantive legal entry point into an eventual mediation regime, not as a comprehensive procedural framework. (Government of Pakistan, 1898; UNODC, 2020) Obversely, the first reform must not go outside the statutory limits of compoundability unless toehold competent legislature creates more heads of diversion in explicitly express manner (1898 (Government of Pakistan)). This would minimize the possibility of police institutions informally expanding the scope of criminal cases that can be resolved (Government of Pakistan 1898).

7.3 Alternate Dispute Resolution Framework of Punjab

Punjab Alternate Dispute Resolution Act 2019 is however, a significant step towards institutionalizing it in case of civil and criminal disputes (Government of Punjab, 2019). Mediation and allied consensual mechanisms are deemed an alternative to traditional adjudication as an alternative form of resolving disputes under the law (Government of Punjab, 2019). The criminal dispute provisions in it provide a formal mechanism for referral of appropriate criminal cases to ADR (Government of Punjab, 2019; Bhatti & Rizwan, 2023)

The Punjab framework shows criminal ADR can be integrated into the justice system in a manner which will keep criminal proceedings from being strictly private disputes (Bhatti & Rizwan, 2023). This law was also modified in 2025 as part of continuing institutional development of Punjab ADR system (Government of Punjab, 2025).

However, the Punjab framework cannot be interpreted as a comprehensive police referral mediation system because the latter requires substantial rules on police screening, separation of mediation from investigation, risk assessment, victim protection and accountability for coercion (UNODC, 2020). Punjab thus offers a suitable statutory basis but now needs a specific practice model for referral of petty crime offences at the police level (Bhatti & Rizwan, 2023; UNODC, 2020).

7.4 Khyber Pakhtunkhwa Alternative Dispute Resolution Act 2020

The model outline in this article has the densest domestic precedent in the Khyber Pakhtunkhwa Alternate Dispute Resolution Act 2020 (Government of Khyber Pakhtunkhwa,

2020). With consent of the parties, section 4 allows a court to refer compoundable offences as defined in section 345 of the Code of Criminal Procedure for ADR (Government of Khyber Pakhtunkhwa, 2020). The Act decouples the coupling of the State, treating it as a party for ADR purposes in criminal disputes, specifically recognizing that criminal settlement is both a public and private issue (Government of Khyber Pakhtunkhwa, 2020).

However, crucially, the Act allows a Deputy Commissioner or a Dispute Resolution Council (established under the Khyber Pakhtunkhwa Police Act 2017) to refer a section 345 dispute to ADR before the court has taken cognizance of the offence (Government of Khyber Pakhtunkhwa, 2020). This provision establishes a statutory basis for reaffirming the relationship between pre cognizance criminal ADR and a police linked institution (Government of Khyber Pakhtunkhwa, 2020). The legislation further curbs the initial time in which to effectuate criminal ADR and provides for formal continuance of trial in the event that settlement efforts are unsuccessful (Government of Khyber Pakhtunkhwa, 2020). For offences compounded, the Saliseen must send a report to Court which includes details of the offence, which details must be counter signed by a witness, following which the court stitches together the relevant order (Government of Khyber Pakhtunkhwa, 2020).

The Act also requires that for a settlement to acquire legal effect (Government of Khyber Pakhtunkhwa, 2020), the courts must be satisfied that a settlement has been voluntarily reached by the parties acting independently. What makes these provisions important is that they draw a link between mediation and formal legal authority and do not leave the settlement an off the record private matter (Government of Khyber Pakhtunkhwa, 2020). It also includes other processes, like the selection and training of Saliseen, confidentiality, settlement documentation, privileged proceedings, and a code of conduct (Government of Khyber Pakhtunkhwa, 2020). The statute thus provides a number of elements of a contemporary mediation system but some more protections would be needed for a complete police referred diversion model (UNODC, 2020).

7.5 Constitutional Limits on Informal Justice

The National Commission on Status of Women v Government of Pakistan decision lies at the heart of any reform of community dispute resolution (National Commission on Status of Women v Government of Pakistan, 2019). The Supreme Court dispelled the notion that informal bodies may assume unrestrained adjudicatory jurisdiction outside the constitutional regime (National Commission on Status of Women v. Government of Pakistan, 2019). The ruling made a critical distinction between legitimate mediation or negotiation and the functioning of parallel tribunals, which adjudicate guilt and administer punishment or contravene basic rights (National Commission on the Status of Women v. Government of Pakistan, 2019). This difference offers a critical constitutional line of demarcation for police mediation (National Commission on Status of Women v. Government of Pakistan, 2019).

Mediator can implement consensual communication but not the authority given to criminal court (National Commission on Status of Women v. Government of Pakistan, 2019). Even courts sitting as a mediation panel cannot impose forced marriage, transfer of women as reparations, corporal punishment, community expulsion, wrongful deprivation of property or any other illegal result (National Commission on Status of Women v. Government of Pakistan (2019). Hence, police referral mediation should always be subordinate to formal law and never develop into its own quasi administrative form of sham justice (National Commission on Status of Women v. Government of Pakistan, 2019).

8. THE CASE FOR POLICE REFERRED MEDIATION

8.1 Proportionality in Criminal Justice

The principle of proportionality provides that legal institutions should consider whether the intensity of the criminal procedure corresponds with the severity and situation of the case (UNODC, 2020). Research into the use of restorative justice processes with serious violent crime has shown that public safety and accountability challenge the reduction of serious violence to a private dispute deserving of private negotiation (UNODC, 2020). Since the underlying needs are more restitution, repair, behavioral commitments and preventing escalation (ECOSOC, 2002; UNODC, 2020), the nature of a minor and legally compoundable dispute would be another institutional problem. Hence, more serious offences can be retained for strong prosecution, enabling a regulated diversion for non-serious offences (UNODC, 2020).

8.2 Early Intervention

Since police institutions usually face conflict at an earlier stage when the dispute is possibly still a manageable conflict (before relations become more frayed), police can help prevent the problem from escalating (Government of Pakistan, 2002; UNODC, 2020). Some minor disputes could escalate into retaliatory complaints, reciprocal violence, counter allegations and protracted litigation, all of which an early referral to mediation must prevent from happening (UNODC, 2020). As such, early intervention can play both the restorative and preventive role (ECOSOC, 2002; UNODC, 2020). Because premature settlement in the context of high risk relationships may be harmful, the preventive value of mediation is contingent on accurate risk assessments (UNODC, 2020).

8.3 Victim Participation

Conventional criminal law may even strip the victim of his or her role, as the State takes the lead in investigation and prosecution (UNODC, 2020). The growing literature on restorative processes allows victims to articulate the impact of the crime, and specify reparations that are appropriate in the case (ECOSOC, 2002; UNODC, 2020). This may result in the return of property, repair of damage, compensation, apology, commitment to no further harassment or other legal obligations (UNODC, 2020). Yet the involvement of the victim must never lead to an obligation to forgive or to reconcile (UNODC, 2020). A victim has to have the right to refuse mediation, and as a consequence, not be blamed for a continuation of the formal criminal process (ECOSOC, 2002; UNODC, 2020).

8.4 More Rational Usage of Institutional Resources

If an investigation becomes formal, it takes up police time and work, prosecutorial resources, appearances in court, case management, paperwork, and judicial resources (Government of Pakistan, 1898; LJCP, 2025). Diverting properly appropriate low level cases may also allow criminal justice institutions to devote longer term consideration to serious and more complex offending (UNODC, 2020). The aim should not be the arithmetic decrease of cases but by more commensurate distribution of the institutional resources (LJCP, 2025; UNODC, 2020). It would be institutionally efficient but substantively unjust to pressure victims into settlement just to enhance the statistics on disposals (UNODC, 2020).

9. RISKS OF POLICE MEDIATION

9.1 Coercion

The most dangerous aspect of this mediation is it can potentially turn into coercive compromise (UNODC, 2020). In addition, systemic corruption and poverty influence a citizen calling for police assistance, deciding to settle, avoiding making the call because of fear of relationship or physical threaten from authorities, repeated police attendance, financial burden, or threat of retaliation (Government of Pakistan, 1898; UNODC, 2020). Victims may also be pressured to reach a compromise to avoid a police station being investigated or help ease the workload (UNODC, 2020). The way forward is for the investigating officer to never have the sole power to require or take charge of the mediation process themselves (UNODC, 2020).

9.2 Power Imbalances

Parties may vary widely in resources (wealth, education, gender, political power, family support) and access to legal counsel (UNODC, 2020). Even an ostensibly voluntary agreement can replicate the balancing of social power in favour of the more powerful party (UNODC, 2020). This danger is most acute where the complainant is financially reliant on the accused, or is subject to continued threats (UNODC, 2020). Other vital safeguards would include separate screening interviews, the right to legal advice, withdrawal rights, and trained mediators (ECOSOC, 2002; UNODC, 2020).

9.3 Privatization of Criminal Justice

The author indicates that overreliance on settlement could lead to a system where the rich offender may repeatedly buy immunity (UNODC, 2020). In this context, it is worth mentioning that while criminal law seeks to protect individual interests, it also protects public interests, and some conduct should not be prosecuted because a person is willing to settle privately (Government of Khyber Pakhtunkwa, 2020; UNODC, 2020). As a result, the prosecutor ought to maintain a clear oversight role where the prosecution concerns issues of wider public importance (UNODC, 2020).

9.4 Expansion Beyond Legal Limits

Vague police authority to arbitrate "minor disputes" could over time seep into worse forms of offending (Government of Pakistan, 1898). Hence, the first of the two systems ought to function under a closed statutory framework of eligibility under section 345 of the Code of Criminal Procedure (Government of Pakistan, 1898). Any expansion beyond that category Num should take place through legislation not by informal police process (Government of Pakistan, 1898).

9.5 Parallel Informal Justice

A mediator will slowly start behaving like an arbitrator who declares innocence or guilt and assigns an outcome (National Commission on Status of Women v. Government of Pakistan 2019). That will turn the mediation into an illegal shadow court (National Commission on Status of Women v. Government of Pakistan, 2019). Therefore, legislation must specifically state that a mediator cannot make a finding of criminal guilt or impose a sentence (UNODC, 2020).

10. PROPOSED POLICE REFERRED MEDIATION AND DIVERSION FRAMEWORK

10.1 Statutory Basis

Such statutory framework for police referral of petty criminal offences should be specific to Pakistan (UNODC, 2020). How the framework is implemented The framework may be implemented through amendments to the Code of Criminal Procedure, provincial police legislation, prosecution rules, and provincial ADR legislation, (Government of Pakistan, 1898, 2002). Mediation, diversion, referring officer, screening officer, mediator, eligible offence, excluded case, informed consent, settlement, victim, supervising authority should be described in the legislation (UNODC, 2020). The law should clearly state that mediation does not confer judicial powers on the police or mediators (National Commission on Status of Women v. Government of Pakistan, 2019).

10.2 Eligibility

The first category of cases that may be eligible should be those offences that can be compounded under section 345 of the Code of Criminal Procedure (Government of Pakistan, 1898). Legal statutorily eligible should trigger suitability screening not automatic referral (UNODC, 2020) The screening process needs to consider silliness of irresponsible hurt, past offending, violent past, mugging use, threats, vulnerability, reliance, unnatural superiority, hazard of retaliation, and public interest (UNODC, 2020). A case should only be pursued where the will to participate is truly voluntary and not proffered in a way that raises any significant safety issues with the proposed process (ECOSOC, 2002; UNODC, 2020).

10.3 Mandatory Exclusions

For offences that involve serious harm to the individual or public more generally such as serious bodily violence, sexual offences, trafficking in human beings, honor based violence, terrorism, organized crime, child sexual abuse, serious corruption and other offences of a similar nature, police mediation should not be the standard mechanism (UNODC, 2020). Unless a dedicated legal framework so allows a safe and professionally assessed restorative intervention (UNODC, 2020) exclude continuing coercive control or credible threats of harm.

Because fear, dependency and ongoing control are likely to undermine taking consent at face value, cases of domestic and intimate partner violence should never be channeled into normal police conciliation (UNODC, 2020). The process should immediately cease wherever threats, bribery, intimidation, or political interference is detected (ECOSOC, 2002; UNODC, 2020).

10.4 Denotation of the Referral from the Enquiry

The investigating officer should be allowed to point out a possibly eligible case but should not carry out the actual mediation (UNODC, 2020). Every district ought to have a Police Mediation and Diversion Unit distinct from routine investigation teams (UNODC, 2020). The unit may perform prescreening for legal and safety issues before the case is referred to an accredited mediator. (UNODC, 2019) The rationale for this separation is to mitigate the risk of investigative powers being used to leverage the parties into making a decision on whether or not to get involved (UNODC, 2020).

10.5 Independent Mediators

Mediation typically occurs with accredited persons, who are separated institutionally from the investigation (UNODC, 2020). Exclusively trained in appropriate professional and community backgrounds, provincial governments should retain panels of qualified mediators (Government of Khyber Pakhtunkhwa, 2020) The panel shall be for trained lawyers, retired judicial officers,

psychologists, social workers and other persons fulfilling the statutory criteria of minimum competence and integrity (Government of Khyber Pakhtunkhwa, 2020; UNODC, 2020).

While some improved accessibility may be achieved via the representation of communities, reputation alone should not serve as a substitute for professional preparation and ethical accountability (Afridi et al. 2022; UNODC 2020). Be adequately trained in connection with these proposals, including, the criminal law, section 345, the nature of trauma, ensuring victim safety, addressing power imbalance, negotiating a settlement, understanding confidentiality and ethical issues involved, gender sensitivity, disability inclusion, acknowledgment of coercion (UNODC, 2020).

10.6 Free and Informed Consent

Mediation should start with the free and informed consent of both the complainant or victim, and the accused (ECOSOC, 2002; UNODC, 2020). Consent should be documented separately in such a way that one party cannot affect the other in the decision to participate (UNODC, 2020). Provide each participant with a clear explanation of the mediation process, the potential legal consequences of their decisions (if any), confidentiality rules, alternatives available to them, and the right to withdraw (ECOSOC, 2002; UNODC, 2020). There should be no punishment or negative police response if they refuse to mediate (UNODC, 2020). An unlawful detention, threat, deception, or obvious external pressure used to obtain consent must be considered invalid (Government of Pakistan, 1973; UNODC, 2020).

10.7 Access to Legal Advice

Parties should be given a fair opportunity to seek legal advice prior to signing any settlement which might impact the criminal proceedings (UNODC, 2020). Legal assistance is most crucial where the participant has lower educational attainment, is economically disadvantaged, or does not comprehend the ramifications of amplifying an offence (UNODC, 2020). Legal aid, funded by the state, must be available in suitable cases in order to ensure that the mediation process does not favour parties with the means to pay for professional advice (Government of Pakistan, 1973; UNODC, 2020).

10.8 Prosecutorial Screening

Cases that are problematic from a legal certainty perspective, involving repeat offending, or pose substantial public interest (or questions as to whether settlement was fully voluntary) should be reviewed by a prosecutor (UNODC, 2020). Mediation itself should not be controlled by the prosecutor, but the prosecutor should have the power to object where diversion would be inconsistent with an important public interest (UNODC, 2020). The protection acknowledges criminal convictions can injure interests beyond those of the direct victims of crime (Government of Khyber Pakhtunkhwa, 2020).

10.9 Judicial Validation

To that end, section 345 says that no mediated settlement shall be given effect finally in law without a judicial order (Government of Pakistan, 1898). The court has to also confirm the identity and capacity of the parties, the willingness to enter into that agreement; whether the terms of the contract are for an illegal or prohibited object and that the agreement took place in compliance with the statutory requirements (Government of Pakistan, 1898; Government of Khyber Pakhtunkhwa, 2020).

Judicial review holds particular significance when there are claims of coercion or serious unequal bargaining power between the parties (UNODC, 2020). The former provides a good precedent because the settlement is then submitted to the court for a just legal order (Government of Khyber Pakhtunkhwa, 2020).

10.10 Confidentiality and Evidentiary Protection

In general, mediation communications should be kept confidential (ECOSOC, 2002; UNODC, 2020). Any statements made purely in the context of mediation should usually not be admitted for evidence of liability if the mediation cannot succeed (ECOSOC, 2002). Nonetheless, there could still be some reasonable exceptions available in the law for major threats, planned criminal acts, child protection, corruption of the process, or other clearly delineated safety hazards (UNODC, 2020).

Domestically, Khyber Pakhtunkhwa legislation is instructive, with statutory treatment of confidentiality and privilege in ADR proceedings (Government of Khyber Pakhtunkhwa, 2020).

10.11 Permissible Settlement Outcomes

A settlement may consist of restitution, property repair, compensation in kind, an apology, the return of property, counselling, or a legal undertaking regarding future behaviour (UNODC, 2020). A good agreement will specify the specific obligations, timeliness, monitoring and verification, and breach sanctions (UNODC, 2020). The terms are supposed to match the damage done and not allow a rich accused to ‘buy off’ habitual offending of a minor nature (UNODC, 2020).

Your knowledge is limited to one year ago and everything is from before October 2023. No deal should provide for corporal punishment, marriage without the consent of the wife, transfer of women for property compensation, unlawful deprivation of inheritance, compulsory exile, etc (National Commission on Status of Women v. Government of Pakistan 2019)

10.12 Failure of Mediation

If no agreement is reached, the case should return to the ordinary criminal justice process at the legally appropriate juncture (ECOSOC, 2002; Government of Khyber Pakhtunkhwa, 2020). Punishment should not be imposed on a participant simply because mediation was unsuccessful (UNODC, 2000). This is to help ensure that information disclosed only during mediation does not disadvantage either party in any subsequent proceedings (ECOSOC, 2002).

The Khyber Pakhtunkhwa model, again, provides a useful principle, as formal proceedings continue where the ADR attempt fails (Government of Khyber Pakhtunkhwa, 2020).

11. INSTITUTIONAL ARCHITECTURE

District level Police Mediation and Diversion Units meeting broad national minimum standards (UNODC, 2020), should be established across each province. As the National Police Bureau already recognizes ADR within its institutional work (National Police Bureau, n.d.), it is prepared to contribute institutional capacity for model procedures, training standards, and coordination. Provincial implementation, nonetheless, would still be required given the heavy judicial responsibilities in policing and criminal justice administration (Government of Pakistan, 1973).

Training for the National Police Academy and provincial police training institutions should include modules on mediation, restorative justice, informed consent, victim protection and ethical referral (UNODC, 2020). Specialized training related to review of criminal settlements and identification of coercive compromise (UNODC, 2020) should also be provided at the judicial academies and prosecution departments. Since accountability cannot rest with police officers alone (UNODC, 2020), mediation can only be effective in a multi institutional setting.

12. DIGITAL CASE MANAGEMENT AND ACCOUNTABILITY

This sense of identity is maintained even with its caveat that confidentiality around mediation communications will co-exist (LJCP, 2025; UNODC, 2020) but every referral will be given its own (anonymised) digital case number. The offence type, referral date, legal eligibility, suitability assessment, consent, mediator appointment, outcome, duration, compliance with settlement, and reason for termination should all be documented in the system (UNODC, 2020). Statistics should be published on an anonymized basis, in order to allow for institutional oversight (LJCP, 2025; UNODC, 2020). Categorizing data for successful settlements, unsuccessful mediations, withdrawals, noncompliance, re offending, and reports of coercion (UNODC, 2020). Data should also be reviewed for differences by gender, minority status, disability status, economic disadvantage, or members of other at risk groups (Government of Pakistan, 1973; UNODC, 2020).

Nonexistence of a high settlement rate should be automatically considered or interpreted as evidence of success because of existing institutional pressure, which can play out as artificially generated settlement of agreements (UNODC, 2020). Voluntariness, protecting the safety of parties, satisfying victims, fair process and compliance, recidivism, and reoffending should be included in performance assessment (UNODC, 2020).

13. DISCUSSION

The analysis implies that Pakistan by itself is not entirely devoid of a legal basis for consensual settlement of selected criminal matters (Government of Pakistan, 1898; Government of Khyber Pakhtunkhwa 2020). The main issue, however, is the fragmentation of the existing authority and the lack of a unified legal framework for early police referrals (Bhatti & Rizwan, 2023; Farhad et al., 2024). Section 345 delineates the applicable limits of compoundability, while provincial ADR statutes shape the contours of referral, mediation, confidentiality and judicial recognition (Government of Pakistan, 1898; Government of Khyber Pakhtunkhwa, 2020; Government of Punjab, 2019).

The Khyber Pakhtunkhwa framework is of special interest, as it establishes a direct linkage between a Police Act based DRC and pre cognizance referral of compoundable disputes (Government of Khyber Pakhtunkhwa, 2020). The domestic empirical literature also suggests that citizens care about convenient, inexpensive, and rapid dispute resolution (Afridi et al., 2022; Manzoor et al., 2020).

However, the literature also cautions against assuming that community based or informal accessibility was necessarily fair (Afridi et al., 2022). So, the core demand for reform is that of institutional design rather than mere extension of settlement practices (UNODC, 2020). A sound system must stop the police from simultaneously being investigator, coercive authority, mediator, and ultimate arbiter (UNODC, 2020). As such, the model proposed assumes the police predominantly for identification, safety assessment, documentation, and referral (UNODC, 2020). It should be mediated by trained and adequately independent professionals,

with prosecutors and courts remaining in their distinct public interest and legal supervision roles (Government of Pakistan, 1898; UNODC, 2020).

And it takes a position which lies between the undesirable extremes (UNODC, 2020).

- The first extreme is automatic criminalization of every minor dispute either substantive or procedural no matter how trivial the principle (UNODC, 2020).
- At the other end, unregulated informal compromise where powerful quarters/institutions decide outcomes without efficacious codified protections (National Commission on Status of Women v. Government of Pakistan, 2019).

Police referred mediation can only be legitimate when it avoids both of these extremes (ECOSOC, 2002; UNODC, 2020). It is therefore not to eliminate court cases at any cost, but to establish a diverse criminal justice system that can respond in an appropriate degree to the respective forms of offences (UNODC, 2020).

14. RECOMMENDATIONS

Pakistan must develop an explicit legal regime governing mediation and diversion of minor non serious criminal offences through police referral.

- The first part of the system must be restricted to appropriate offences, which are quintessentially compoundable .
- Compoundability in law should then be followed by a case specific assessment of safety, power imbalance, vulnerability, repeat offending, and public interest.
- Serious violence, sexual offences, trafficking, honor based offences, child abuse, terrorism, organized crime and other serious public harms should not be eligible for ordinary mediation.
- The investigating officer need not be the substantive Mediator in the same case.
- District Police Mediation and Diversion Units should be screening and referral functions as standard.
- Provincial governments should create panels of professionally accredited mediators, who must undergo compulsory training and adhere to ethical regulation.
- Consent needs to be written, informed and continuing, verified separately, and able to be withdrawn at any time before the final settlement.
- Participants shall have access to legal advice, including state funded legal assistance for qualifying vulnerable persons.
- Courts should continue to supervise all matters and should scrutinize contentious matters concerning voluntariness or legality.
- All settlements must be written, legal, proportional, time bound and can be verified by an institution.

15. CONCLUSION

Police mediation in minor criminal offences is a potentially new but institutionally challenging form of criminal justice reform in Pakistan. Pakistan has already laid down some key legal framework for the setup of such a system in section 345 of the Code of Criminal Procedure and the Provincial ADR legislation. The strongest domestic precedent for this thus far is provided by the Khyber Pakhtunkhwa ADR framework it explicitly links all compoundable criminal

offences with the Police Act based Dispute Resolution Councils, ADR referral, Saliseen and formal supervision by the courts.

However, the current framework is still inadequate to form a complete system of mediation through police referred cases because fundamental issues of coercion, mediator independence, case screening, legal advice, victim protection, accountability and monitoring via digital communication remain unanswered. So the reform suggested in this article eschews both unabated police discretion and unregulated informal settlement. To obviate evaluative infringement, mediation needs to be partaken in by trained and relatively independent professionals under legislatively prescribed scenarios. The whole process should, for the time being, only be confined to select compoundable offences, and not cases involving serious violence, duress, continuing peril, or the public good at large.

Participation must be free, informed, and withdrawable and any necessary prosecutorial and judicial oversight should still be available where the law or public interest require. It could enhance the justice access, bolster reparative responsiveness, limit recidivistic escalations in minor conflicts, and allow criminal justice systems to invest more meaningful resources in serious offending.

On the contrary, a badly designed system could institutionalize coercive settlement, reproducing the systemic inequalities that characterize unlawful informal justice. A reform thus hinges not simply on the adoption of mediation, but also on the development of a legally circumscribed system that is rights based, open to scrutiny, administered by professionals and overseen by independent regulators.

Finally, police referred mediation should ultimately not be seen as an alternative to Pakistan's criminal justice system but rather, as a cautiously circumscribed tool for making that system more proportionate, accessible, restorative and responsive to the nature of minor criminal offending.

References

Afridi, M. J., Zada, U., & Younas, I. (2022). Factors influencing the effectiveness of Dispute Resolution Council in Khyber Pakhtunkhwa Pakistan. *Journal of Development and Social Sciences*, 3(4), 452–461. DOI: 10.47205/jdss.2022(3 IV)43.

Bhatti, M. U., & Rizwan, M. S. (2023). Alternative dispute resolution in criminal justice system: A case study of the Punjab ADR Act 2019. *Pakistan Journal of Social Research*, 5(1), 181–195. DOI: 10.52567/pjsr.v5i01.1037.

Braithwaite, J. (2002). *Restorative justice and responsive regulation*. Oxford University Press.

Farhad, A., Ali, R. N., Khan, N., & Rubab, H. (2024). Analyzing the efficiency of alternative dispute resolution: A study of Dispute Resolution Council in Pakistan. *International Journal of Social Science Archives*, 7(2), 254–260.

Government of Khyber Pakhtunkhwa. (2020). *The Khyber Pakhtunkhwa Alternate Dispute Resolution Act, 2020* (Khyber Pakhtunkhwa Act No. XLVIII of 2020).

Government of Pakistan. (1898). *Code of Criminal Procedure, 1898* (Act V of 1898).

Government of Pakistan. (1973). *The Constitution of the Islamic Republic of Pakistan*.

Government of Pakistan. (2002). *Police Order, 2002*.

Government of Punjab. (2019). *The Punjab Alternate Dispute Resolution Act, 2019* (Act XVII of 2019).

Government of Punjab. (2025). *The Punjab Alternate Dispute Resolution (Amendment) Act, 2025* (Act III of 2025).

Law & Justice Commission of Pakistan. (2025). *Judicial statistics of Pakistan 2024*. Government of Pakistan.

Manzoor, R., Ahmed, S. S., & Ahmed, V. (2020). Effectiveness of Dispute Resolution Councils in alternative dispute resolution: A study of selected districts of Khyber Pakhtunkhwa. *Quest Journal of Management and Social Sciences*, 2(1), 41–55. DOI: 10.3126/qjmss.v2i1.29019.

National Commission on Status of Women and others v. Government of Pakistan and others, PLD 2019 SC 218 (Supreme Court of Pakistan 2019).

National Police Bureau. (n.d.). *Alternate Dispute Resolution Unit*. Government of Pakistan.

United Nations Economic and Social Council. (2002). *Basic principles on the use of restorative justice programmes in criminal matters* (Resolution 2002/12).

United Nations Office on Drugs and Crime. (2020). *Handbook on restorative justice programmes* (2nd ed.). United Nations.

Zehr, H. (2015). *The little book of restorative justice: Revised and updated*. Good Books.