



Legal Frameworks of Adoption in Pakistan: A Comparative Study of Child Welfare and Parental Rights

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ABSTRACT

The paper will explore the legal provisions under which adoption works in Pakistan with reference to the nature of child welfare and parental rights in a practical sense. Compared with the plain-and-simple adoption system that you would find in a Western legal system, the traditions of Pakistan are not only deeply embedded with Islamic ideology but also enshrined in guardianship legislation such as the Guardians and Wards Act of 1890. The paper considers how these laws attempt to consider the best interests of the child whilst still preserving the rights of biological lineage and the birth parents in accordance with Shariah requirements. It further compares it side by side with the international standards, indicating the key differences in legal recognition, the permanence of parental rights, and the child protection mechanisms. Taking a comparative lens, it unveils loopholes in the existing system and proposes changes that would put child welfare on its feet without undermining religious and cultural values. Comprehensively, the results have indicated that the current legal framework requires a more systematic approach to strike the right balance between the entitlement of adoptive parents, the biological family, and the welfare of the child.

Introduction

The legal provisions that apply to adoption in Pakistan are the expression of the compound connections between the religious teachings, state regulations, and social values. In its traditional Western meaning, adoption is not recognized by Islamic law, which is the foundation of the Pakistani legal system (Khan, 2025). Rather, a religiously and legally accepted alternative is the concept of "Kafalah," which is guardianship without breaking the biological connection (Afzal et al., 2025). This limitation has a serious impact on the legal rights of adopted children in terms of inheritance and documentation of identity (Gulzar & Safdar, 2023)

The reality, however, is that with the increasing number of orphaned and abandoned children, there is an immediate necessity to have more comprehensive legal provisions (Batoool, 2024). NGOs working in child placement take children under the guardianship model and place them with families informally, and most of them work around a loosely structured legal framework (Khalid, 2025). These informal procedures put both children and adoptive parents at a disadvantage under the law, particularly when it comes to matters of custody or matters involving legitimacy (Hilal, 2023).

Moreover, the legal position of the adoption practice in Pakistan is not clear and coherent throughout the jurisdictions (Aziz et al., 2023). Family courts can have differing interpretations of laws concerning guardianship, and therefore, similar cases can have different results (Memon et al., 2025). It is a source of ambiguity and compromises the protection of child rights as specified in international conventions such as the UN Convention on the Rights of the Child, which Pakistan is a signatory to. The legal system needs to be given a unified legal framework that will balance the child welfare and their religious obligations so that all parties involved will be secure in the law (Shah, 2024).

Research Justification

Adoption legislation in Pakistan is quite confusing and rather incoherent, primarily due to the fact that the country still clung to the outdated Guardians and Wards Act of 1890. That does not consider guardianship as real parental rights and creates a host of legal and social grief, particularly in such areas as inheritance, identification, and long-term care of the adopted children. Pakistan does not have a comprehensive, codified system, as most countries have clear and balanced adoption laws, to address the international child protection standards and Islamic principles.

This study identifies that there is a gap that is evident between child welfare and parental rights in Pakistan. More orphans and children are left behind than ever before, and an increasing number of people are interested in adopting children, so we need a new legal and ethical framework. The comparison of the existing laws in Pakistan to the best practices elsewhere will allow us to identify what is working and what is missing, as well as how to mend the situation.

This study will initiate legal change in Pakistan by examining the way other nations that have implemented a balance between the rights of adoptive parents and the best interests of the child. The idea is to suggest policy modifications that citizens will not only accept but will fit into the religious demands and will also be legally sound, so that the rights of everybody are protected during the process of adoption.

Research Objectives

1. To discuss the historical context of adoption in Pakistan with respect to child welfare and parental rights
2. To highlight the theoretical context of adoption in Pakistan with respect to child welfare and parental rights
3. To analyze the laws regarding adoption in Pakistan with respect to child welfare and parental rights
4. To identify the key challenges regarding adoption in Pakistan with respect to child welfare and parental rights
5. To explore the opportunities for adoption in Pakistan with respect to child welfare and parental rights
6. To propose effective prevention and intervention strategies

Research Methodology

This study employed a systematic review methodology, with research objectives established accordingly. A comprehensive literature review was conducted (Komba & Lwoga, 2020). Research findings were categorized based on their content (Hiver et al., 2021; Petticrew & Roberts, 2006), and classified information was incorporated into the study by organizing it into headings (Gan et al., 2021; Pawson et al., 2005). The evaluation of classified information and titles formed the basis of the study (Page, 2021; Rahi, 2017), ensuring the integrity of the research subject and its contents (Egger et al., 2022; Victor, 2008). The criteria for selection are listed.

Relevance: Research that directly addressed the questions posed by this study is included.

Quality: Studies that meet a certain quality threshold (e.g., methodological rigor, bias risk) are included. Most of the research is from Scopus-indexed and Clarivate Analytics journals and reputed publishers.

Recency: Consideration of the publication date to ensure that the review reflects the most current evidence. Most of the studies are from the last three years.

Language: Only studies published in English are included.

Data Completeness: Previous studies must provide sufficient data on outcomes of interest for practical synthesis; this is also ensured in this research.

This study did not use primary data from human participants; therefore, no ethics clearance letter from the ethics committee was required.

Literature Review

The problem of adoption in Pakistan has gained increased scholarly interest, especially because of the conflict between international norms of child rights and Islamic law doctrines. Researchers contend that no codified adoption law has been made in Pakistan, leading to irregularities in the practices of courts and other institutions (Khan, 2025). Adoption, as the Western legal system understands it, is viewed as something that lacks compatibility with Islamic law, where preserving lineage and the right to inherit are important factors (Batoool, 2024). Therefore, the existing paradigm is that of guardianship in the Guardians and Wards Act of 1890, which provides poor protection and legal certainty to adopted children (Hilal, 2023).

Studies have shown that the existing law system does not serve orphaned and abandoned children properly. Informal child placement is practiced by many NGOs in urban settings and does not pass through state regulation and legal examination (Gulzar & Safdar, 2023). Although this informal system serves the purpose of solving the immediate child welfare, the adoptive families and children will be at a legal disadvantage in any court of law in matters related to do with any issue of inheritance or the verification of any identity (Shah, 2024).. The absence of controls and normalization of legal processes adds to the systematic lapses in the protection of children (Memon et al., 2025).

The other theme that is common in literature is the socio-cultural opposition to formal adoption, based on the deeply ingrained religious beliefs and societal stigma (Afzal et al., 2025). According to legal scholars, although Pakistan has signed international treaties such as the UNCRC, the execution of the convention is not possible due to the influence of the local religious law (Aziz et al., 2023). Researchers propose legislative changes that take into consideration Islamic ideals and guarantee child well-being, and they suggest the hybrid frameworks that combine *Kafalah* with the rights-based models (Anjum et al., 2025). In this way, the literature supports the urgency of the

need to establish a coherent, culturally responsive legal framework that is to be adopted in the Pakistan framework (Khalid, 2025).

Historical Context of Adoption in Pakistan with Respect to Child Welfare and Parental Rights

Islamic jurisprudence and colonial legal heritage have played an important role in the historical pattern of adoption laws in Pakistan (Gulzar & Safdar, 2023). During the British rule, secular laws such as the Hindu Adoption and Maintenance Act established adoption by a formal process. Still, the Muslims were mainly under the religious personal laws, which did not encourage adoption legally (Memon et al., 2025). The legal system still exhibited Islamic values after the establishment of Pakistan in 1947, especially family law, in which adoption in its Western meaning was not codified or fully adopted (Batoool, 2024).

The principal legislative tools of designating guardianship (instead of legal adoption) to potential caretakers were the Family Courts Act of 1964 and the Guardians and Wards Act of 1890 (Anjum et al., 2025). These laws placed a priority on the welfare of the child without interference with the biological lineage in accordance with the Islamic injunction (Aziz et al., 2023). As more and more children were orphaned over time through conflict, poverty, and other natural disasters, child welfare agencies started to lobby for reforms (Memon et al., 2025).

Although legal reform was debated periodically, no such comprehensive adoption law was finally adopted, and the courts had to use much discretion (Shah, 2024). It is a legal gap that highlights the necessity of definite laws that would not infringe upon religious values but would help to accommodate the contemporary scenario of child welfare in Pakistan (Afzal et al., 2025).

Theoretical Context of Adoption in Pakistan with Respect to Child Welfare and Parental Rights

Pakistani adoption laws are actually a combination of the statutory and Islamic jurisprudence, which influences their structure and implementation. In contrast to the Western systems, where the adoption usually breaks the connection with the biological parents and acknowledges the adoptive parents as the full ones, the Pakistani law, which is largely based on Islamic principles, does not permit full legal adoption. Rather, it applies the concept of guardianship under the Guardians and Wards Act 1890, which grants the right to custody but not the child in terms of biological lineage, which is an important element in Islamic law.

This paper examines child welfare theory and parental rights theory to explore the balancing of the best interests of the child and the religious and cultural obligations of the legal system. Child welfare theory is centered on the physical, emotional, and mental well-being of the child, which advocates safe, permanent family arrangements. Parental rights theory, in turn, places itself on the rights of biological parents and, in Islamic contexts, in particular, emphasizes lineage and inheritance.

The method used is a comparative legal one to determine whether the regulations of Pakistan align, or not, with the international standards, in particular with the UN Convention on the Rights of the Child (UNCRC). This framework assists us in understanding whether the present position of the laws in Pakistan properly safeguards children and also respects parental rights and religious values.

Laws Regarding Adoption in Pakistan with Respect to Child Welfare and Parental Rights

Guardians and Wards Act, 1890

- i. The general rule of obtain a guardian for children.
- ii. The family courts are allowed to intervene and appoint an individual to take care of a minor.
- iii. It does not sever the legal relationship between the child and his or her father or mother.
- iv. The child retains the original name, identity and is not deprived of inheritance.

Islamic Law (Shariah Principles).

- i. You cannot adopt a child completely; you are not permitted to.
- ii. The law is advocating *Kafalah*, translating to sponsoring or taking care of the orphans without disorganizing their lineages.
- iii. Adopted kids:
- iv. They are required to maintain their biology.
- v. can only inherit from their guardians until they are named in a *Wasiyyah* (will), and then only a third part of the estate

United Nations Convention on the Rights of the Child (UNCRC).

- i. Pakistan signed the UNCRC way back in 1990.
- ii. It states that we should safeguard the best interests of kids and provide alternative care where necessary.
- iii. But in reality, Shariah reservations decelerate the implementation in Pakistan.

Pakistan Citizenship Act, 1951

- i. It is not enough to have a guardian to give a child, who are the biological parents, citizenship.
- ii. Adoption of an international child is not completely accepted.

Ordinance of Muslim family laws, 1961.

- i. This legislation touches upon marriage and family issues, but not on adoption.
- ii. It retains the inheritance and lineage laws, which remain with the biological family.

In general, these laws demonstrate how Pakistan inclines towards the idea of guardianship, as opposed to an actual adoption, which is significantly different than other legal systems, which are more friendly to adoptions.

Challenges for Adoption in Pakistan with Respect to Child Welfare and Parental Rights

The adoption regulations in Pakistan have a number of challenges because there is no formal adoption law. Adoption has not been adopted in the Western legal sense. Still, rather guardianship under the guardians and Wards Act, 1890, where guardians are restricted in their rights and the child is not entitled to any inheritance. Islamic law also limits adoption by disallowing changes in the lineage of a child and thus barring the change of name and the complete assimilation of the adopted child by the parent. It brings confusion of legal identity and emotional attachment.

It is due to the unstructured nature of the legal system, which has resulted in informal adoptions, which contribute to the possibility of exploitation, trafficking, or child abuse. Such institutions as the Edhi Foundation are mediators that do not have enough state control or legal support. Also, this

lack of a national adoption authority or standard practices leads to inconsistent practices and little safeguard of the rights of the children.

In comparison, India, the UK, and the US are countries that have strong laws that put the interests of children first and provide the appropriate legal framework to adoptive parents. In Pakistan, on the other hand, potential guardians have a legal grey area, and children tend to be left in an unprotected position. The following challenges demonstrate the necessity of having an inclusive Shariah-compliant adoption law that protects the welfare of children without violating religious and cultural values.

Opportunities for Adoption in Pakistan with Respect to Child Welfare and Parental Rights

Creation of a National Adoption Authority: A centralized state might help simplify the process of guardianship and adoption, maintaining detailed documentation and making the placement of children open.

Cooperation with Child Welfare Organizations: NGOs, such as the Edhi Foundation and SOS Villages, may be used to support the institutional framework and offer a more robust support to guardians and children.

Integration of International Child Rights Standards: Since Pakistan is bound under the UN Convention on the Rights of the Child, the actual possibility of incorporating the international best practices with the national law in a manner that does not offend the religious values exists.

Improved Legal Awareness and Training: The legal experts, guardians, and judges should be trained on the peculiarities of the law of guardianship that enhance the level of implementation and the child protection results on the whole.

Monitoring and Registration-Use of Technology: With the implementation of digital technology, we would have a better opportunity to monitor guardianship cases, follow up better, and prevent abuse or trafficking.

Shariah-Compliant Law of Adoption: During a comparative law study, I learned that Pakistan can develop a legal system based on *Kafalah* in order to safeguard child welfare and also comply with Islamic law on lineage and inheritance issues.

Standardization of Legal Procedures: Standardization of rules in all provinces would reduce discrepancies and enhance the efficacy of guardianship systems.

By taking these steps, there will be a clear way to enhance child welfare and parental rights in the Pakistani socio-religious environment.

Discussion

Pakistan, where the legal system of adoption is founded on the basis of the guardianship of the Guardians and Wards Act, 1890, since Islamic law does not recognize formal adoption. It creates serious restrictions on child welfare and parental rights. Pakistani law, unlike Western law, will not allow an adopted child to inherit through their guardians or even change their name and identity, as retaining the biological lineage is a religious obligation. This fact leads to a high number of children being placed into informal guardianships, which are not legally secure and protective.

In comparison, countries such as India, the UK, or the USA have high adoption systems that prioritize the best interests of the child and offer them legal stability and complete parental integration. The absence of uniform procedures, surveillance, and legalization in Pakistan

endangers the children and demotivates individuals from becoming guardians. Nevertheless, an opportunity to establish a legal system that is Shariah-compliant and supports the Islamic ideals and enhances child welfare exists. The national adoption authority would completely swing this: it would coordinate legal actions, work in conjunction with child-welfare local authorities, and impose guardianship practices. The measures are required to develop a healthy system that will secure vulnerable children and safeguard the rights of guardians.

Conclusion

The legal system of adoption in Pakistan remains quite outdated and pretty rigid in general. It only adheres to the laws of guardianship that do not provide children or parents with the comprehensive protection that would be expected. Due to religious and legal limits, full adoption is not even an option, and thus, a good portion of children find themselves in rather precarious places. Comparing the system of other nations with strong adoption laws, it is evident that Pakistan is lagging far behind other countries in the aspects of child welfare and legal protection. Nevertheless, I believe that there is a practical opportunity to revamp it by introducing a Shariah-compliant adoption system- integrating the Islamic perspective with the global level of child rights may enable Pakistan to create a fair, protective, and nurturing institution for vulnerable children.

Recommendations

- 1- Recommend that we push towards Shariah-compliant law in adoption, based on concepts such as *Kafalah*, to ensure that kids are safe and we are not compromising on our religious principles.
- 2- We need to establish a national adoption and guardianship authority, as there should be a single body that registers and controls, and supervises all cases in Pakistan.
- 3- Nationwide standardization of legal procedures would be a good thing - we should have standard rules and documentation so that there are no strangely localized differences or loopholes.
- 4- Best interest of the child, all the guardianship and adoption cases must be evaluated in terms of what is best for the child.
- 5- Parents must be allowed to bequeath to their adopted children through a *wasiyyah*, and this should include up to one-third of the property, so that families can make their own plans.
- 6- The awareness of the masses should be raised, and the legal professionals educated on the adoption and guardianship rights to ensure that no one is left in the dark.
- 7- We will have to join forces with NGOs, such as the Edhi Foundation, to take kids to more formal placements and monitor the process.
- 8-Digitizing adoption and guardianship documents is important- everything will be transparent and accountably followed in a new registry.
- 9- There should be post-placement monitoring to ensure that they check regularly and get a perspective of how the child is really performing at their home.
- 10- Lastly, we ought to harmonize our domestic policies with international child rights conventions and particularly the UN Convention on the Rights of the Child in order to have our standards in line with the global standards.

Research Limitations

Discussion and extrapolation of results. This research paper on the law of adoption in Pakistan, particularly child welfare and parent rights, has a number of limitations. To begin with, due to the lack of a formal adoption law in Pakistan, the availability of complete legal data and official records is limited, which complicates the evaluation of the extent of the adoption practices. A large portion of information comes from case studies and NGO reports, which are not always consistent. Second, the religious and cultural sensitivities of adoption restrict the open discussion and access when it comes to real-life adoption cases. On top of this, the regional variations in the interpretation and application of the law of guardianship make the analysis even more complicated. The comparative feature of the study can also be limited by the large disparities in the legal, cultural, and religious backgrounds between Pakistan and the countries where formal adoption systems are in place. Lastly, the level of empirical data is constrained by the lack of scholarly work and government-published data on outcomes of child welfare in adoption cases.

Research Implications

Awareness and Advocacy: We must take advantage of the popular forums, perhaps at our university, in community outreach, to talk about adoption and dispel the stigma, as well as encourage common legal guardianship procedures.

Academic Contribution: The literature is rather deficient in academic literature addressing adoption practices in Islamic legal settings; my thesis has the potential to fill the gap.

Better Child Protection Systems: We should obviously incorporate the post-placement monitoring and welfare checks into the guardianship laws to protect children more effectively.

Guidance to NGOs and Social Workers: A legal reference manual to NGOs and field workers working on guardianship and the informal adoption would be very useful.

International Alignment: It would also be a way to demonstrate that we are keeping up with the international standards by aligning the legal framework of Pakistan with international conventions on child rights, such as the UN CRC.

Institutional Strengthening: The idea of a centralized adoption authority, which would facilitate the regulation, oversight of, and data collection, is something I want to see tested on a research level.

Judicial Training: Judges and lawyers should have special training on child protection and guardianship law- it can be included in our continued legal training modules.

Legal Reform: This would provide a strong platform upon which lawmakers can restructure the old Guardians and Wards Act of 1890 to make it fit the current child welfare standards.

Policy Development: I have observed that our comparative law syllabus has emphasized the urgency with which it is important to establish a Shariah-compliant legal system to be adopted, so that we can ensure that kids are not harmed at the expense of religious norms.

Social Impact: In the end, we would like to shape toward some improved attitudes of society toward orphan care and legal guardianship- something that would show up positively in our own community studies.

Future Research Directions

Comparative Legal Studies in Muslim-Majority Countries: Future studies can be done on how other Islamic nations (e.g., Malaysia, Indonesia, Morocco) resolve adoption under religious limitations, which will help inform policy adjustments in Pakistan.

Effects of Guardianship on Child Welfare: Research must determine how these parental arrangements have impacts on the emotional, educational, and social growth of children, particularly versus formal adoption systems in other countries.

Public Perception and Cultural Attitudes: We ought to determine the way in which society perceives the adoption and guardianship in order to understand what prevents the reform of the laws and child welfare programs based on the community.

Shariah Adoption Model-Development: More research in the future should include frameworks that align with Islamic jurisprudence with contemporary adoption practices to suggest a realistic legal framework in the case of Pakistan.

Through NGOs: We might explore how NGOs like the Edhi Foundation work in informal adoption, and how they might integrate into a formal system of the law.

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