

GUARDIANSHIP AND CUSTODY DISPUTES IN PAKISTAN: IMPACT OF THE GUARDIAN AND WARDS ACT 1890 ON THE WELFARE OF THE CHILD PRINCIPLE

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Abstract

Guardianship and custody disputes in Pakistan are primarily governed by the colonial-era Guardians and Wards Act, 1890, which continues to play a central role in determining the custody and welfare of children. This research article critically examines the effectiveness of the Act in protecting the “welfare of the child” principle within the contemporary socio-legal framework of Pakistan. The study evaluates how Pakistani courts interpret and apply welfare considerations in custody disputes involving parents, guardians, and extended family members. It further analyzes the interaction between statutory provisions, Islamic principles, constitutional guarantees, and international child rights standards. The article highlights that although courts increasingly prioritize the best interests of the child, practical implementation remains inconsistent due to judicial discretion, procedural delays, gender biases, financial inequalities, and social pressures. The research also identifies challenges faced by children in emotionally contested custody proceedings and examines whether the existing legal framework adequately addresses their psychological, educational, and emotional needs. The study concludes that significant legal and institutional reforms are necessary to ensure child-centered adjudication and strengthen the protection of children’s welfare in custody and guardianship matters in Pakistan.

1. INTRODUCTION

1.1. Background of the Study

Guardianship and custody disputes are among the most sensitive matters in family law because they directly affect the emotional, psychological, educational, and social well-being of children. In Pakistan, family disputes arising from divorce, separation, remarriage, domestic conflict, and parental incompatibility frequently result in litigation over the custody and guardianship of minors. The legal system is therefore entrusted

with the difficult responsibility of balancing parental rights with the welfare and best interests of the child. Although Islamic principles, statutory laws, and judicial precedents collectively regulate custody matters, the Guardians and Wards Act, 1890 remains the primary legislation governing guardianship and custody disputes in Pakistan. Despite its historical importance, the Act was enacted during the colonial era and many of its provisions no longer fully correspond with modern child welfare standards and contemporary

social realities. As family structures and societal conditions continue to evolve, questions arise regarding the adequacy of the existing legal framework in ensuring effective protection of children involved in custody disputes (Mehdi, 2024).

1.2. Concept of Guardianship and Custody under Family Law

Under family law, guardianship and custody represent two distinct yet interconnected legal concepts relating to the care and upbringing of a child. Guardianship generally refers to the legal authority granted to a person to manage the affairs, property, education, and overall welfare of a minor. Custody, on the other hand, concerns the physical care, supervision, and daily upbringing of the child. In Pakistani family law, these concepts are influenced by Islamic jurisprudence as well as statutory provisions. Traditionally, the father is regarded as the natural guardian of the minor, while the mother is often entitled to the custody of young children, particularly during their tender years. However, custody rights are not absolute and may be restricted where the conduct or circumstances of a parent are considered harmful to the child's welfare. Pakistani courts increasingly recognize that custody decisions should not merely depend upon parental entitlement but must primarily focus on the child's physical safety, emotional stability, education, health, and moral development. Consequently, the welfare of the child has emerged as the central consideration in modern custody adjudication (Abbasi & Cheema, 2024).

1.3. Historical Development of the Guardian and Wards Act, 1890

The Guardians and Wards Act, 1890 was enacted during British colonial rule to establish a uniform legal mechanism for appointing guardians and resolving disputes relating to minors. The legislation aimed to provide procedural guidance to courts in matters concerning the custody, protection, and administration of minors and their property. After the creation of Pakistan, the Act continued to remain in force and became the

principal statute regulating guardianship proceedings (Farooq et al., 2024). Over time, Pakistani courts have interpreted the provisions of the Act in light of Islamic injunctions, constitutional protections, and evolving social conditions. Although the Act grants discretionary powers to family courts in determining custody matters, critics argue that several provisions reflect outdated colonial assumptions and fail to comprehensively address modern concerns relating to child psychology, parental equality, and children's rights. Nevertheless, the Act still serves as the legal foundation for resolving guardianship disputes and continues to shape judicial approaches toward child welfare in Pakistan (Farrukh, 2023).

1.4. Principle of Welfare of the Child in Pakistani Jurisprudence

The principle of welfare of the child occupies a central position in Pakistani jurisprudence relating to guardianship and custody disputes. Courts consistently maintain that the welfare of the minor is the supreme and overriding consideration in deciding custody matters. This principle extends beyond financial support and includes emotional attachment, moral upbringing, education, healthcare, safety, and psychological development of the child. Pakistani superior courts have repeatedly emphasized that parental rights must be subordinated to the best interests of the child whenever a conflict arises (Majeed, 2026). The judiciary has gradually adopted a broader and more progressive interpretation of child welfare by considering the individual needs and circumstances of each child rather than applying rigid legal rules. However, practical challenges such as delayed proceedings, inconsistent judicial approaches, social pressures, and limited child-sensitive mechanisms continue to affect the effective implementation of this principle. The growing emphasis on children's rights and international child protection standards further highlights the need to reassess the effectiveness of the existing legal framework governing custody disputes in Pakistan (Shahlalay, 2025).

1.5. Research Objectives

- i. To examine the legal framework governing guardianship and custody disputes in Pakistan.
- ii. To analyze the historical development and application of the Guardians and Wards Act, 1890.
- iii. To evaluate the role of the welfare of the child principle in Pakistani judicial decisions.
- iv. To identify the practical challenges faced by courts and litigants in custody disputes.
- v. To propose legal and institutional reforms for strengthening child welfare protection in Pakistan.

2. LITERATURE REVIEW

2.1. Review of Guardianship and Custody Laws in Pakistan

The legal framework governing guardianship and custody disputes in Pakistan is primarily derived from the Guardians and Wards Act, 1890, Islamic family law principles, constitutional protections, and judicial precedents. Scholars examining Pakistani family law have consistently observed that the Guardians and Wards Act remains the foundational statute regulating the appointment of guardians and the determination of custody matters involving minors. The Act grants discretionary authority to courts to decide custody disputes while considering the welfare of the child as the paramount consideration. However, legal researchers argue that the Act was enacted during the colonial era and therefore reflects outdated assumptions regarding family structures, parental roles, and child protection mechanisms (Ullah Al Azhari et al., 2025).

Academic discussions on guardianship laws in Pakistan often distinguish between the concepts of guardianship and custody. Guardianship generally refers to legal authority over the person or property of the minor, while custody concerns the physical care and upbringing of the child. Pakistani family law literature explains that under traditional Islamic jurisprudence, fathers are commonly regarded as natural guardians whereas mothers are usually granted custodial rights over minor children during their tender years.

However, the mother's right of custody may be restricted under certain conditions such as remarriage or circumstances considered unfavorable for the child's upbringing. Scholars have debated whether these traditional presumptions adequately correspond with contemporary understandings of gender equality and child welfare (Faizi & Iftikhar, 2025).

Many legal writers emphasize that Pakistani family courts increasingly adopt flexible approaches rather than rigidly applying traditional rules. The superior judiciary has repeatedly recognized that no parent possesses an absolute right to custody where the welfare of the child is at risk. Researchers further note that courts frequently consider multiple welfare-related factors including education, emotional stability, moral upbringing, financial security, healthcare, and the personal preferences of mature minors. Despite these developments, literature also highlights several structural deficiencies in the Pakistani custody system, including lengthy judicial proceedings, inconsistent application of welfare standards, lack of child psychologists in courts, and insufficient mechanisms for enforcing visitation rights (Ali, 2026).

Another important theme in existing scholarship concerns the relationship between statutory family law and constitutional protections. Legal scholars argue that constitutional guarantees relating to dignity, equality, and protection of family life should guide judicial interpretation in custody matters. Some researchers maintain that Pakistani courts have gradually expanded the meaning of child welfare by incorporating broader human rights considerations into family law disputes. Nevertheless, critics contend that the absence of comprehensive child-centered legislation continues to create uncertainty and inconsistency in judicial decision-making. The literature therefore suggests an increasing need for reform of guardianship laws to align them with modern child rights principles and evolving social realities (Akhtar Naz, 2025a).

2.2. Judicial Interpretation of the Welfare of the Child Principle

The welfare of the child principle has become the central doctrine guiding judicial decisions in guardianship and custody disputes in Pakistan. Existing literature demonstrates that Pakistani courts consistently prioritize the best interests of the child above the competing claims of parents or relatives. Judicial decisions increasingly reflect the understanding that custody disputes should not be resolved solely on the basis of parental entitlement or personal law doctrines, but rather through an assessment of the overall well-being of the child.

Legal scholars analyzing Pakistani jurisprudence observe that courts interpret child welfare broadly rather than limiting it to financial support or material comfort. Judicial reasoning frequently includes considerations relating to emotional attachment, mental development, moral upbringing, educational opportunities, religious guidance, physical safety, and psychological stability. Researchers also note that courts sometimes consider the wishes of mature children, especially where the child possesses sufficient intelligence and understanding to express a meaningful preference. This reflects a gradual shift toward recognizing children as individuals with independent interests rather than merely subjects of parental authority (Mahaseth & Khatoun, 2025).

A significant body of literature discusses the discretionary nature of judicial decision-making under the Guardians and Wards Act, 1890. Scholars argue that while judicial discretion allows flexibility in addressing the unique circumstances of each case, it may also result in inconsistent judgments due to varying interpretations of welfare standards. Some studies indicate that courts occasionally rely upon subjective assumptions regarding gender roles, morality, or social customs when assessing parental suitability. Consequently, similar custody disputes may produce different outcomes depending upon judicial attitudes and societal influences (Bhayo et al., 2025).

Researchers further emphasize that Pakistani superior courts have attempted to modernize the

interpretation of welfare principles by adopting progressive approaches in certain cases. Courts have increasingly recognized the importance of maintaining emotional bonds between children and both parents after separation. Additionally, judicial opinions often stress that custody matters should be resolved expeditiously because prolonged litigation negatively affects the mental and emotional health of children. Despite these positive developments, literature identifies continuing challenges such as delayed proceedings, lack of specialized family courts, inadequate child counseling services, and limited participation of children in judicial processes.

Scholars also critique the practical enforcement of custody orders in Pakistan. Even where courts determine custody arrangements according to welfare considerations, implementation often becomes difficult due to parental hostility, social pressures, or weak institutional mechanisms. Existing literature therefore concludes that while Pakistani jurisprudence strongly endorses the welfare of the child principle in theory, practical limitations frequently undermine its effective realization (Akhtar Naz, 2025b).

2.3. Comparative Analysis with International Child Rights Standards

Comparative legal scholarship frequently examines Pakistani custody laws in light of international child rights standards, particularly those emphasizing the best interests of the child. International legal instruments advocate a child-centered approach that recognizes children as independent rights holders entitled to protection, participation, and development. Comparative studies indicate that modern international family law frameworks prioritize the emotional, educational, social, and psychological welfare of children while encouraging balanced parental involvement after separation.

Scholars comparing Pakistani law with international standards argue that the welfare principle recognized by Pakistani courts generally corresponds with global child protection principles. Pakistani jurisprudence increasingly emphasizes individualized assessments of child

welfare and discourages rigid reliance on traditional custody presumptions. However, literature also identifies several areas where Pakistani family law falls short of international expectations. For example, many researchers note the absence of comprehensive statutory guidelines defining the best interests of the child and the limited procedural participation granted to minors during custody proceedings (Malik & Rehman, 2025).

Comparative analyses also highlight the lack of specialized institutional support within the Pakistani legal system. In many developed jurisdictions, family courts operate with the assistance of psychologists, social workers, child welfare experts, and mediation services to ensure child-sensitive adjudication. Pakistani courts, by contrast, often rely primarily on judicial discretion without adequate professional support mechanisms. Scholars therefore argue that this institutional gap weakens the effective implementation of welfare-based custody determinations.

Another area of concern identified in comparative literature is the limited recognition of children's voices in legal proceedings. International child rights standards increasingly support the participation of children in decisions affecting their lives, subject to their age and maturity. Although Pakistani courts occasionally consider the preferences of mature minors, scholars argue that there is no consistent legal framework ensuring meaningful child participation in custody matters (Siddiqi, 2025).

Comparative scholarship further suggests that legal reforms in Pakistan should focus on harmonizing domestic family laws with evolving international child rights principles. Proposed reforms commonly include modernization of the Guardians and Wards Act, establishment of specialized family courts, incorporation of child psychology experts into judicial proceedings, development of mediation systems, and creation of statutory welfare guidelines. Such reforms are considered essential for ensuring that custody adjudication genuinely protects the long-term

welfare and development of children (Thakur et al., 2025).

2.4. Research Gap

Existing literature extensively discusses guardianship and custody laws, Islamic family principles, and judicial approaches toward child welfare in Pakistan. However, limited research critically evaluates the practical effectiveness of the Guardians and Wards Act, 1890 in ensuring consistent implementation of the welfare of the child principle within contemporary Pakistani society. Previous studies often focus either on doctrinal legal analysis or isolated judicial decisions without comprehensively examining procedural challenges, institutional weaknesses, and evolving child rights standards. Therefore, this research aims to bridge this gap by critically analyzing how the existing legal framework impacts the actual welfare and best interests of children in custody disputes.

3. RESEARCH METHODOLOGY

3.1. Research Design and Doctrinal Legal Approach

This research adopts a qualitative research methodology based on a doctrinal legal approach to critically examine guardianship and custody disputes in Pakistan and the impact of the Guardians and Wards Act, 1890 on the welfare of the child principle. The qualitative nature of the study enables an in-depth examination of legal rules, judicial interpretations, statutory provisions, and theoretical perspectives relating to child custody and guardianship. The doctrinal method focuses on analyzing existing legal materials to evaluate how Pakistani family law addresses the welfare and best interests of children in custody disputes.

The study primarily explores the relationship between statutory law, judicial discretion, Islamic family law principles, and modern child rights standards within the Pakistani legal framework. Through doctrinal legal analysis, the research examines the extent to which the Guardians and Wards Act, 1890 effectively protects children involved in custody litigation. The research further

investigates whether the current legal framework adequately responds to contemporary social realities and evolving concepts of child welfare. The doctrinal approach is considered appropriate because it facilitates a systematic examination of legal principles, judicial reasoning, and institutional shortcomings associated with guardianship and custody matters.

3.2. Sources of Primary and Secondary Data

This study is primarily based on secondary sources of legal and academic material. The research relies upon books, research articles, legal commentaries, academic journals, policy papers, theses, and published literature relating to family law, guardianship, custody disputes, and child welfare principles. Secondary literature discussing Islamic jurisprudence, constitutional protections, and international child rights standards has also been examined to understand the broader legal and theoretical context of child custody laws in Pakistan.

In addition, the research utilizes statutory materials including the Guardians and Wards Act, 1890, the Family Courts Act, constitutional provisions, and other relevant family law statutes for analytical purposes. Reported judicial decisions of the superior courts of Pakistan constitute an important component of the study because they provide insight into judicial interpretation and practical application of the welfare of the child principle. International legal instruments and comparative legal materials relating to children's rights and family law have also been reviewed to evaluate the compatibility of Pakistani custody laws with modern global standards.

The use of secondary sources allows the research to critically assess existing legal scholarship and judicial developments while identifying weaknesses and gaps within the current legal framework governing guardianship and custody disputes.

3.3. Case Law Analysis and Comparative Research Method

The research employs case law analysis as an important methodological tool for understanding how Pakistani courts interpret and apply the welfare of the child principle in custody disputes. Judicial decisions of the Supreme Court and High Courts are examined to evaluate the reasoning adopted by courts in determining the best interests of minors. The analysis focuses on identifying recurring judicial trends, principles, and factors considered relevant in custody determinations, including emotional welfare, educational needs, financial stability, moral upbringing, and parental conduct.

A comparative research method is also adopted to analyze Pakistani custody laws in relation to international child rights principles and contemporary family law standards followed in other jurisdictions. This comparative approach assists in identifying strengths and weaknesses within the Pakistani legal framework and highlights areas requiring legislative and institutional reform. Comparative analysis further enables the research to assess whether Pakistani jurisprudence sufficiently reflects internationally recognized principles concerning the protection and welfare of children.

3.4. Data Analysis Techniques and Ethical Considerations

The collected legal and academic materials are analyzed through qualitative content analysis and doctrinal interpretation. Relevant statutes, judicial decisions, and scholarly writings are critically examined to identify legal principles, interpretative approaches, and practical challenges associated with guardianship and custody disputes. The research applies analytical and descriptive techniques to evaluate the effectiveness of the Guardians and Wards Act, 1890 in protecting the welfare of children.

The study also maintains ethical academic standards throughout the research process. All legal materials and scholarly works are used responsibly and objectively to ensure fairness, accuracy, and academic integrity. The research

avoids bias and presents balanced legal analysis based on authentic and credible sources. Proper acknowledgment of legal concepts and scholarly opinions is maintained to uphold the ethical requirements of legal research and academic writing.

4. RESULTS AND DISCUSSION

4.1. Application of the Guardian and Wards Act, 1890 in Pakistani Courts

The analysis of Pakistani judicial practices demonstrates that the Guardians and Wards Act, 1890 continues to serve as the principal legal framework governing guardianship and custody disputes in Pakistan. Family Courts and superior courts regularly apply the provisions of the Act while resolving disputes involving custody, visitation rights, and appointment of guardians for minors. Judicial decisions indicate that courts generally recognize the welfare of the child as the paramount consideration in determining custody matters. Although traditional Islamic principles relating to guardianship and custody continue to influence judicial reasoning, courts increasingly adopt flexible interpretations to ensure the protection of children's best interests.

The study reveals that Pakistani courts frequently examine several welfare-related factors before making custody determinations. These factors include the child's age, emotional attachment with parents, educational environment, moral upbringing, physical safety, financial support, and psychological well-being. In many cases, courts have departed from rigid traditional presumptions and emphasized that custody rights cannot be decided solely on the basis of parental entitlement. Judicial trends further demonstrate that courts occasionally consider the wishes of mature minors while evaluating custody arrangements. However, despite the progressive interpretation of welfare principles, the practical implementation of custody orders often remains inconsistent due to procedural delays, enforcement difficulties, and varying judicial approaches.

4.2. Challenges in Determining the Welfare of the Child

The findings of this research indicate that determining the welfare of the child remains one of the most complex issues in guardianship and custody litigation. The concept of child welfare is broad and flexible, which allows courts to consider the unique circumstances of each case. However, the absence of comprehensive statutory guidelines defining welfare standards often results in subjective interpretations and inconsistent judicial decisions. Different courts may prioritize different factors while assessing the best interests of the child, leading to uncertainty in custody adjudication.

Another major challenge identified in the study is the influence of social and cultural norms on custody proceedings. In certain cases, traditional assumptions regarding gender roles and parental responsibilities continue to affect judicial reasoning. Mothers are often presumed to be more suitable custodians for younger children, while fathers are commonly viewed as natural guardians responsible for financial support and decision-making authority. Although these presumptions are increasingly challenged, they still influence custody outcomes in some cases.

The research also highlights procedural and institutional difficulties affecting the welfare of children involved in litigation. Prolonged court proceedings frequently expose children to emotional stress, parental conflict, and psychological instability. Family courts often lack child psychologists, social welfare experts, and counseling services that could assist judges in making child-centered decisions. Furthermore, enforcement of visitation and custody orders remains problematic where parents refuse to comply with judicial directions. These challenges collectively undermine the effective realization of the welfare principle within the Pakistani legal system.

4.3. Role of Parents, Guardians and Courts in Custody Matters

The study demonstrates that parents, guardians, and courts each play a significant role in ensuring

the welfare and protection of children involved in custody disputes. Parents are expected to prioritize the emotional, educational, and social development of their children despite marital conflicts or personal disagreements. However, custody litigation often transforms children into subjects of adversarial disputes, where parental hostility negatively affects their mental and emotional well-being. The findings suggest that cooperative parenting and mutual respect between separated parents contribute significantly to the stability and welfare of children.

Guardians are entrusted with important responsibilities relating to the care, supervision, education, and protection of minors. Courts generally evaluate the character, conduct, financial capacity, and living environment of guardians before granting custody or guardianship rights. The research indicates that courts increasingly recognize that financial superiority alone does not determine suitability for custody. Emotional attachment, moral guidance, and the ability to provide a secure and nurturing environment are also considered essential welfare factors.

The judiciary plays a central role in balancing competing parental claims while protecting the best interests of the child. Courts act as guardians of children's welfare and exercise discretionary powers to ensure fair and equitable custody arrangements. Judicial intervention becomes particularly important where parental conflict threatens the physical or psychological safety of the child. Nevertheless, the study reveals that judicial effectiveness is often constrained by limited institutional support, procedural delays, and absence of specialized child welfare mechanisms.

4.4. Critical Evaluation of Legal Framework and Judicial Practices

The critical evaluation of the legal framework demonstrates that although the Guardians and Wards Act, 1890 provides the procedural basis for custody adjudication, several aspects of the legislation no longer adequately address modern child welfare concerns. The colonial-era structure of the Act lacks detailed statutory guidance regarding psychological welfare, child

participation, shared parenting, and contemporary family dynamics. As a result, courts rely heavily on judicial discretion when interpreting welfare standards.

The research further reveals that Pakistani courts have made significant efforts to modernize the interpretation of custody laws through progressive judicial reasoning. Superior courts increasingly emphasize the best interests of the child over rigid personal law presumptions and parental rights. This development reflects a gradual transition toward child-centered adjudication within Pakistani family law. However, inconsistencies in judicial practices remain evident due to varying interpretations of welfare principles among different courts.

The study also identifies institutional weaknesses within the family justice system. Family courts often lack trained professionals, child-sensitive procedures, and effective monitoring mechanisms necessary for protecting children involved in custody disputes. Delayed proceedings and weak enforcement systems further reduce the effectiveness of judicial remedies. Consequently, while Pakistani jurisprudence strongly recognizes the welfare of the child principle in theory, practical shortcomings continue to hinder its effective implementation. The findings therefore support the need for legislative reform, institutional strengthening, and adoption of modern child protection mechanisms to ensure that custody decisions genuinely promote the welfare and best interests of children in Pakistan.

5. CONCLUSION

5.1. Summary of Major Findings

This research examined the legal and practical dimensions of guardianship and custody disputes in Pakistan with particular focus on the impact of the Guardians and Wards Act, 1890 on the welfare of the child principle. The study found that the welfare of the child has emerged as the central consideration in custody adjudication within Pakistani jurisprudence. Courts increasingly prioritize the best interests of children over strict parental rights or traditional presumptions relating to guardianship and

custody. Judicial interpretation demonstrates a gradual transition from rigid legal formalism toward a more flexible and child-centered approach in family law disputes.

The research further revealed that Pakistani courts consider a variety of welfare-related factors while deciding custody matters, including emotional attachment, educational opportunities, moral upbringing, psychological stability, financial support, and physical safety of the child. The judiciary has attempted to broaden the meaning of child welfare by recognizing that the well-being of minors extends beyond material comfort and includes emotional and social development. At the same time, the study identified several practical challenges affecting the effective implementation of welfare principles, including procedural delays, inconsistent judicial practices, limited institutional support, and weak enforcement of custody orders.

The findings also demonstrated that the colonial-era legal framework continues to influence modern custody litigation in Pakistan. Although the judiciary has interpreted the law progressively in many cases, the absence of comprehensive statutory guidance often results in varying judicial approaches toward child welfare. Consequently, the practical protection of children involved in custody disputes remains inconsistent in several respects.

5.2. Effectiveness of the Guardian and Wards Act, 1890

The study concludes that the Guardians and Wards Act, 1890 continues to serve as the primary legal mechanism for resolving guardianship and custody disputes in Pakistan. The Act has provided a durable procedural framework that enables courts to exercise discretion in matters concerning the welfare and protection of minors. One of the most significant strengths of the Act is its recognition that the welfare of the child should remain the paramount consideration in custody determinations. This principle has allowed Pakistani courts to adopt flexible interpretations suited to the facts and circumstances of individual cases.

However, the research also establishes that the effectiveness of the Act is limited by its outdated structure and colonial origins. The legislation was enacted in a different historical and social context and therefore does not fully address contemporary concerns relating to child psychology, gender equality, shared parenting, and children's participation in legal proceedings. The Act lacks detailed statutory criteria for determining the best interests of the child, leaving courts largely dependent upon judicial discretion. While discretion allows flexibility, it also contributes to inconsistency and unpredictability in judicial outcomes.

Furthermore, the Act does not provide adequate institutional mechanisms to support child-sensitive adjudication. Family courts often function without the assistance of psychologists, social workers, or welfare experts who could help assess the emotional and developmental needs of children. As a result, the practical implementation of welfare-based custody decisions frequently faces procedural and institutional limitations. Therefore, although the Guardians and Wards Act, 1890 remains legally significant, substantial reforms are necessary to improve its effectiveness in protecting children within modern Pakistani society.

5.3. Impact of Custody Decisions on Child Welfare

The research demonstrates that custody decisions have a profound and long-lasting impact on the emotional, psychological, educational, and social welfare of children. Judicial determinations relating to custody and guardianship directly influence the environment in which children grow, develop, and form personal relationships. Where custody arrangements are made with careful consideration of the child's needs and welfare, children are more likely to experience stability, security, and emotional support. Conversely, prolonged litigation, parental hostility, and inconsistent custody arrangements can negatively affect the mental health and emotional well-being of minors.

The study further indicates that children involved in custody disputes are often exposed to emotional pressure and psychological stress arising from conflicts between parents. In some cases, children become victims of adversarial legal battles in which parental rights are prioritized over the child's emotional needs. This situation may create feelings of insecurity, anxiety, and emotional instability among minors. The findings therefore emphasize that custody proceedings should be conducted in a manner that minimizes harm to children and promotes their overall development. The research also highlights the importance of maintaining meaningful relationships between children and both parents wherever possible and compatible with the child's welfare. Courts increasingly recognize that balanced parental involvement contributes positively to a child's emotional and social development. Consequently, custody decisions must not only resolve legal disputes but also promote long-term welfare and stability for the child.

5.4. Overall Assessment of Family Law Protection in Pakistan

The overall assessment of family law protection in Pakistan indicates that significant progress has been made in recognizing the welfare of the child as the guiding principle in guardianship and custody disputes. Pakistani courts have increasingly adopted progressive interpretations that prioritize the best interests of children over rigid traditional assumptions and absolute parental rights. This judicial development reflects a growing awareness of modern child rights principles within Pakistani jurisprudence.

Despite these positive developments, the study concludes that the existing family law framework still faces serious legal and institutional shortcomings. The continued reliance on outdated legislation, absence of comprehensive child welfare guidelines, inconsistent judicial practices, and lack of specialized support services weaken the effective protection of children involved in custody disputes. Family courts often operate without adequate child-sensitive

mechanisms necessary for ensuring fair and welfare-oriented adjudication.

The research therefore concludes that meaningful reform is essential for strengthening child protection within Pakistani family law. Legislative modernization, institutional reform, judicial training, and incorporation of child welfare experts into custody proceedings are necessary to ensure that custody determinations genuinely reflect the best interests of children. A more comprehensive and child-centered legal framework would enhance the ability of Pakistani courts to protect the rights, dignity, and welfare of minors in guardianship and custody disputes.

6. RECOMMENDATIONS

6.1. Reform of Guardianship and Custody Laws

The findings of this research strongly indicate the need for comprehensive reform of guardianship and custody laws in Pakistan to ensure effective protection of the welfare and best interests of children. The Guardians and Wards Act, 1890, despite its continuing legal importance, reflects colonial-era legal concepts that do not fully address contemporary family structures, child psychology, and modern child rights standards. Legislative reforms should therefore focus on developing a more child-centered legal framework that clearly defines the welfare of the child principle and establishes comprehensive statutory guidelines for custody determinations.

The law should provide detailed criteria for evaluating the best interests of the child, including emotional well-being, educational development, physical safety, psychological health, and social stability. Reforms should also encourage balanced parental involvement wherever it is compatible with the child's welfare. Clear legal provisions regarding visitation rights, joint parenting responsibilities, and enforcement of custody orders should be introduced to reduce uncertainty and judicial inconsistency. Furthermore, custody laws should recognize the evolving capacities and preferences of children by providing appropriate mechanisms for considering the views of mature minors during judicial proceedings.

Legislative modernization should also aim to harmonize domestic family laws with constitutional guarantees and internationally recognized child rights principles. A comprehensive and updated legal framework would strengthen judicial consistency and improve the practical protection of children involved in guardianship and custody disputes.

6.2. Strengthening Child-Centered Judicial Approaches

Pakistani courts should further strengthen child-centered judicial approaches in custody and guardianship matters to ensure that children remain the primary focus of all legal proceedings affecting their lives. Judicial decision-making should move beyond traditional assumptions relating to parental entitlement and instead adopt a holistic assessment of the child's overall welfare and long-term development. Courts should consistently prioritize emotional stability, psychological well-being, educational continuity, and social security while deciding custody disputes.

Family courts should adopt procedures that minimize emotional harm and psychological pressure on children during litigation. Custody proceedings should be resolved expeditiously because prolonged disputes often expose children to stress, anxiety, and emotional instability. Judges should also be encouraged to utilize child-sensitive methods while interacting with minors and assessing their preferences. Where appropriate, courts should provide children with safe opportunities to express their views in matters directly affecting their welfare.

The judiciary should also encourage mediation and amicable settlement mechanisms in family disputes involving children. Alternative dispute resolution methods may reduce hostility between parents and help create cooperative parenting arrangements that better serve the interests of children. In addition, judicial approaches should recognize that the welfare of the child extends beyond financial support and includes emotional care, moral upbringing, and a stable family environment. Consistent application of these

principles would strengthen public confidence in family courts and improve child protection within the legal system.

6.3. Training and Capacity Building for Family Courts

Effective protection of children's welfare in custody disputes requires specialized training and institutional capacity building for judges and court officials dealing with family law matters. Family court judges should receive regular professional training on child psychology, child rights principles, emotional development of minors, and modern welfare-based approaches to custody adjudication. Such training would enhance judicial understanding of the complex emotional and psychological issues involved in custody disputes and promote more informed decision-making.

The establishment of specialized support mechanisms within family courts is also essential. Courts should be assisted by psychologists, social workers, child welfare experts, and family counselors who can provide professional assessments regarding the emotional and developmental needs of children. Expert involvement would help courts evaluate custody arrangements more effectively and ensure that decisions genuinely reflect the best interests of the child.

Capacity building should also include improvements in court administration, case management systems, and enforcement procedures. Delays in custody proceedings often negatively affect children and increase parental conflict. Therefore, family courts should adopt efficient procedural mechanisms to ensure timely disposal of cases. Court staff should also receive training regarding child-sensitive communication and ethical handling of family disputes involving minors. Strengthening institutional capacity would significantly improve the effectiveness of the family justice system in protecting children's rights and welfare.

6.4. Policy Measures for Better Protection of Children's Rights

Comprehensive policy measures are necessary to strengthen the protection of children's rights in guardianship and custody matters in Pakistan. Government institutions, policymakers, and child welfare organizations should work collectively to promote awareness regarding children's rights and the importance of welfare-based custody arrangements. Public awareness campaigns should educate parents and society about the emotional and psychological impact of custody disputes on children and encourage responsible parental conduct during family conflicts.

The government should also formulate national child protection policies that specifically address custody and guardianship issues. These policies should emphasize the importance of child welfare, non-discrimination, emotional security, and protection from psychological harm. Coordination between family courts, social welfare departments, educational institutions, and child protection agencies should be strengthened to ensure effective support for children affected by custody litigation.

In addition, greater investment should be made in child welfare services, counseling centers, and family support programs that assist children and parents during custody disputes. Schools and community institutions should also play a supportive role in identifying emotional or psychological difficulties faced by children involved in family conflicts. Policymakers should further encourage research and data collection relating to custody disputes and child welfare to support evidence-based legal reforms and institutional improvements.

Overall, the protection of children's rights in Pakistan requires a coordinated legal, judicial, and policy-oriented response that prioritizes the welfare, dignity, and long-term development of every child involved in guardianship and custody disputes.

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