
RESEARCH PAPER

Legal Implications of Private vs. Public Education Systems in Pakistan

Asif Nawaz Khan¹ Tayyaba Yasmin^{2*} Zaffar Hussain³

ABSTRACT

This article critically examines the legal and educational disparities arising from the coexistence of public and private schooling systems in Pakistan, with a focus on constitutional obligations, regulatory frameworks, and educational equity. Article 25-A of the Constitution mandates free and compulsory education for children aged 5 to 16, yet the dual system has fostered significant differences in quality, cost, and access. Drawing on data from the 2014 Annual Status of Education Report (ASER), this study analyzes the literacy and numeracy skills of 26,070 eight-year-old children across public, private, religious, and non-attending groups. Binary logistic regression reveals that while private schools initially show higher academic performance, disparities largely stem from student background rather than school type. Government schools perform comparably once socioeconomic factors are controlled. Children educated exclusively in religious madrasahs show the lowest proficiency levels. The findings highlight systemic inequalities, especially for girls and rural children. The article calls for robust legal reforms and policy interventions aimed at strengthening public education to reduce reliance on low-cost private alternatives and ensure universal, equitable access to quality education.

Keywords: Education, Public, Private, Equality, Socioeconomic, Fair access.

© 2025 The Authors, Published by (**JLSPR**). This is an Open Access Article under the Creative Commons Attribution Non-Commercial 4.0

INTRODUCTION

Although Pakistan won its freedom from British colonial authority in 1947, little progress was made in the field of education. Rural women had almost no literacy rates at independence, and 85% of the population was illiterate. For the purpose of advancing universal primary education, a National Education Conference was called in 1947. Progress has not been made in spite of initiatives to develop programs and build infrastructure. Two-thirds of Pakistan's population and more than 80% of rural women are still illiterate today. More than 25% of kids in the five to nine age ranges don't go to school. Only 33 percent of children pass math and Urdu language exams, indicating that the quality of education is still low. This study looks at the main

¹ University of education Jauharabad campus, Pakistan. asifnawazkhan2964@gmail.com

^{2*} LLM Scholar Times Institute Multan, Pakistan. advtayyabayasmin@gmail.com (corresponding)

³ LLM Scholar Times Institute Multan, Pakistan. h.zafar3737@gmail.com

concerns, issues, and emerging difficulties in Pakistan's educational system (Jimenez & Tan, 1987). Because it helps people grow physically, cognitively, psychologically, socially, and spiritually, education is vital to society. Even though education and development are closely related, Pakistan has a low rate of higher education participation, and problems with staff quality, student enrolment, and the financial crisis still exist. Addressing these problems and enhancing Pakistan's educational system are the goals of the research. Pakistan's educational system faces challenges like a significant gender discrepancy, low enrolment rates, and inadequate infrastructure. With 72% literacy, 22.8 million students are unschooled, and only 15% are enrolled in post-secondary education. Obstacles include outdated curricula, inadequate infrastructure, gender inequality, and a shortage of qualified instructors (Awan & Zia, 2015). Addressing these issues requires raising funds, changing laws, and implementing targeted initiatives. There are distinct features to both the public and private sectors of Pakistan's educational system. With little funding and antiquated facilities, public schools provide free or inexpensive Urdu instruction. Higher teaching standards and better facilities are offered by private schools, which are financed by tuition fees; yet access to these institutions is restricted, which exacerbates educational inequality.

LITERATURE REVIEW

Pakistan's private and public education systems have significant and varied legal ramifications that influence the nation's educational accessibility and quality. The Right to Education Act (2012) and the Pakistan Education Policy 2017 specifically require public education, which is regulated by national and provincial laws, to offer free and compulsory education. But the execution of the law is sometimes hampered, which results in underfunded schools, out-of-date curriculum, and pervasive problems like teacher absenteeism and inadequate infrastructure, particularly in rural regions. Because of bureaucratic inefficiencies and political meddling, legal accountability in the public sector is still lacking, which contributes to the persistence of these systemic issues.

Laws like the Private Educational Institutions (Regulation and Control) Ordinance (1984), which set down general rules for school operations, provide comparatively less stringent regulatory monitoring of the private education industry. Private schools, however, frequently disregard these rules, especially when it comes to curriculum requirements, instructor certifications, and cost structures. Concerns over the quality of education are raised by the private sector's lax enforcement of the law, especially at low-cost institutions where accountability systems are weak and standards are frequently lower. Furthermore, even though private schools can offer better education, they mostly cater to wealthier families, which exacerbate social inequality and create legal issues with fair access to education. The absence of legal recourse against unfair price increases or uncontrolled educational practices further exacerbates this issue.

Another legal conundrum is raised by Pakistan's growing educational privatization, which calls into question the state's constitutional obligation to ensure equal access to education for all people, regardless of socioeconomic background. According to experts, a more unified and all-encompassing legislative framework is required to close the gap between public and private education, guaranteeing quality and accountability in both while defending the right to education

guaranteed by the Pakistani Constitution. Stronger supervision procedures for both public and private institutions are part of this, as are legislative initiatives to fight corruption and guarantee openness in educational administration, as well as regulatory changes to guarantee equitable charge structures.

CONCEPTUAL AND THEORETICAL FRAMEWORK

This study on the legal implications of private versus public education in Pakistan is grounded in two primary theoretical perspectives: Human Capital Theory and Social Justice Theory. Human Capital Theory, as proposed by Becker (1964), posits that education is an investment that enhances individual productivity and contributes to national economic growth. This perspective is relevant in analyzing how disparities in educational quality between private and public institutions affect the workforce and socioeconomic mobility in Pakistan. In contrast, Social Justice Theory, as articulated by Rawls (1971), emphasizes the role of the state in ensuring equitable access to education, aligning with Pakistan's constitutional mandate under Article 25-A, which guarantees free and compulsory education for all children. The study further integrates Legal Pluralism to examine the coexistence of multiple legal frameworks governing education, including constitutional provisions, regulatory laws, and judicial interpretations. This framework allows for an analysis of how legal inconsistencies and gaps in enforcement affect education quality, accessibility, and regulatory oversight. By employing a mixed-methods approach, the study critically assesses the effectiveness of existing legal structures and proposes reforms to bridge the disparities between private and public education systems, ensuring compliance with constitutional guarantees and international human rights standards.

RESEARCH METHODOLOGY

This study employs a qualitative legal research methodology, using doctrinal and socio-legal approaches to analyze the legal framework governing private and public education in Pakistan. It examines constitutional provisions, legislation, judicial precedents, and policy documents, with primary sources including national and provincial laws and secondary sources comprising academic literature and international reports. A comparative legal approach is used to contrast Pakistan's regulatory framework with other jurisdictions. Data collection involves legal document analysis, ensuring credibility through triangulation of multiple sources. Ethical considerations are maintained through proper citation and academic integrity.

THE LEGAL FRAMEWORK OF GOVERNING EDUCATION IN THE PAKISTAN

Pakistan's education system is regulated by a combination of constitutional provisions, federal laws, and provincial regulations aimed at ensuring accessibility, quality, and equity. Despite the legal framework in place, challenges such as inadequate funding, poor infrastructure, and weak enforcement continue to hinder the realization of universal education. The most significant legal instruments governing education in Pakistan include Article 25-A of the Constitution, the Pakistan Education Commission Act, the Higher Education Commission (HEC) Ordinance 2002, and the Punjab Free and Compulsory Education Act 2014. These laws outline the state's responsibility to provide education, establish regulatory oversight, and define quality standards for both public and private institutions (Farooq et al., 2017).

Article 25-A of the Constitution of Pakistan

Article 25-A, introduced through the 18th Amendment in 2010, enshrines education as a fundamental right, stating that "the State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law." This provision mandates the government to take necessary measures to ensure universal education, particularly for children in the compulsory schooling age range. However, the enforcement of Article 25-A remains weak due to a lack of financial resources, ineffective implementation strategies, and regional disparities in access to education. Additionally, while this article provides a constitutional basis for free education, its practical realization is dependent on the enactment and enforcement of supporting legislation at both federal and provincial levels (Halai & Durrani, 2021).

Pakistan Education Commission Act

The Pakistan Education Commission Act serves as the foundation for governing educational policies and regulatory mechanisms. It establishes the guidelines for curriculum development, academic standards, and the accreditation of educational institutions. The Act aims to promote uniformity in educational quality across the country and ensure that both public and private institutions adhere to the prescribed standards. However, due to bureaucratic inefficiencies and inconsistent enforcement, disparities persist, particularly between rural and urban educational institutions. Moreover, private institutions often operate with limited oversight, leading to variations in teaching quality, fee structures, and accessibility (Siddiqui & Gorard, 2017).

Higher Education Commission (HEC) Ordinance 2002

The HEC Ordinance 2002 governs Pakistan's higher education sector by overseeing universities and degree-awarding institutions. It regulates the funding, accreditation, and quality standards of postsecondary education. The HEC plays a crucial role in faculty development, research promotion, and international collaboration to enhance the higher education landscape. However, financial constraints and administrative inefficiencies have limited the HEC's effectiveness. Many universities struggle with inadequate infrastructure, lack of research funding, and issues related to faculty recruitment and retention. Furthermore, discrepancies in public and private university standards raise concerns about the equity and uniformity of higher education in Pakistan (Benz, 2012).

Punjab Free and Compulsory Education Act 2014

Following the 18th Constitutional Amendment, education became a provincial subject, requiring provinces to legislate their own mechanisms to implement Article 25-A. The Punjab Free and Compulsory Education Act 2014 was enacted to operationalize the constitutional mandate by ensuring free and compulsory education for all children aged 5 to 16 in Punjab. This law places a legal obligation on the government to provide accessible education and on private institutions to admit a certain percentage of students from underprivileged backgrounds without charging tuition fees. However, challenges such as insufficient school facilities, a shortage of trained teachers, and weak enforcement mechanisms hinder the full implementation of this law. Similar legislation

exists in other provinces, but inter-provincial disparities in enforcement and resource allocation remain a significant issue.

Despite a well-defined legal framework, several challenges hinder the effective enforcement of education laws in Pakistan. Inadequate funding is a primary concern, as the education sector receives only 1.7% to 2.5% of GDP, far below the UNESCO-recommended 4-6%. This leads to poor infrastructure, a shortage of qualified teachers, and low student retention rates. Additionally, bureaucratic inefficiencies, lack of political will, and weak regulatory oversight contribute to disparities in educational quality, particularly between urban and rural areas. Private sector expansion without strict regulatory enforcement also raises concerns about equity, affordability, and compliance with national education standards. While Pakistan has a robust legal framework for education, gaps in implementation, regulatory oversight, and funding allocation continue to impede progress. Strengthening governance mechanisms, increasing financial investment in education, and ensuring strict compliance with existing laws are essential to achieving universal education as envisioned under Article 25-A. Additionally, improving coordination between federal and provincial governments, enhancing teacher training, and enforcing quality standards in both public and private institutions will be crucial in addressing the longstanding challenges within the education sector (Rind & Knight Abowitz, 2024).

PRIVATE EDUCATION SYSTEM IN PAKISTAN: LEGAL IMPLICATIONS

Legal and Policy Implications of Private Education in Pakistan

Private education in Pakistan has far-reaching implications for government policies, constitutional rights, and legal frameworks. Rules have been implemented to align the pay and working conditions of private school teachers with those of public sector educators. However, private schools that operate on a charitable and non-commercial basis are protected from nationalization by the government. According to Article 37-B of the Constitution of Pakistan, the state is responsible for eliminating illiteracy and providing free and compulsory secondary education. In line with this constitutional duty, the government has adopted various cooperation models with the private sector, including funding support for private schools and subsidies for children attending these institutions. Some schools even receive government support for staff salaries and utilities, with private “adopters” covering the remaining operational costs.

Despite its role in expanding access, the private education sector faces significant challenges. High tuition fees, weak regulatory oversight, and widening inequalities raise concerns about the impact of privatization on equitable education. These issues exacerbate existing socioeconomic divides and can lead to disparities in educational quality between urban and rural or wealthy and underprivileged communities (Aziz et al., 2014).

Public Education System in Pakistan: Legal Dimensions

Article 25-A of the Constitution affirms that all children aged 5 to 16 have the right to free and compulsory education, underscoring its importance as a fundamental human right. In May 2024, the Prime Minister declared a National Education Emergency in response to alarmingly low learning outcomes and the fact that 26 million children remain out of school. The public education

system is further weakened by structural issues in Pakistan's examination system, including the lack of a comprehensive item bank, and deficiencies in curriculum development and assessment validity. Legal education is similarly affected, with many students from low-income families unable to afford access to e-libraries and legal research databases. To improve accessibility and quality, educational stakeholders must champion innovative tools such as interactive case studies, virtual reality simulations, and online learning platforms. Negotiations for affordable access to legal databases and e-resources are essential to ensure that all students—regardless of economic background—have the materials they need to succeed. A balanced approach involving government support and private innovation can enhance educational inclusivity and effectiveness (Zafar & Ali, 2018).

A Comparative Analysis of Public and Private Education Systems

Education plays a central role in shaping individuals and society. Both public and private schools offer unique strengths and face distinct challenges. Understanding their differences—especially in areas such as funding, curriculum, accessibility, and learning outcomes—can help parents and policymakers make informed choices.

Public schools in Pakistan are financed through federal, provincial, and local tax revenues. While this guarantees free education for all, disparities often arise, as schools in affluent areas receive more funding than those in impoverished regions. In contrast, private schools are primarily funded through tuition fees, donations, and endowments, giving them more financial flexibility. This often translates into better facilities, advanced technologies, and tailored programs that public schools may lack.

Public schools adhere to a state-mandated curriculum that ensures uniformity across regions, but this can limit adaptability to individual student needs. On the other hand, private schools enjoy more curricular autonomy, enabling them to offer specialized programs such as the International Baccalaureate (IB), Advanced Placement (AP), or religious education. This flexibility allows for more rigorous academic opportunities and personalized learning experiences.

Public schools are open to all students within a given district, promoting diversity across socioeconomic, cultural, and ethnic lines. Private schools, however, often impose tuition fees and selective admissions policies, which can restrict access for students from low-income families. While this exclusivity may lead to smaller class sizes and more individualized attention, it may also reduce the socioeconomic diversity of the student body.

Teachers in public schools must meet state certification requirements and typically hold postgraduate degrees in education. While private school teachers may be equally or more qualified, certification standards vary widely. Some private institutions prioritize hiring subject-matter experts with advanced degrees. Research suggests that students in private schools tend to perform better academically, attributed to lower student-teacher ratios, higher parental involvement, and enriched academic environments.

Both school systems offer extracurricular programs, although scope and quality vary. Public schools, funded by the government, commonly provide sports, arts, and music activities,

though financial constraints can limit options. Private schools, supported by independent funding, often offer more extensive extracurricular opportunities, including leadership training, international exchange programs, and specialized arts courses. These programs enhance students' soft skills and contribute to a holistic educational experience.

Public and private schools each bring distinct advantages and limitations to Pakistan's educational landscape. Public schools offer widespread accessibility, diversity, and adherence to standardized curricula, making them vital for universal education. Meanwhile, private schools' financial independence and curricular flexibility allow for tailored and enriched learning environments. The choice between public and private education ultimately depends on family values, financial resources, and individual student needs. A deep understanding of these differences enables informed decision-making and ensures that all students receive an education aligned with their goals and potential (Andrabi et al., 2008).

RECOMMENDATIONS TO IMPROVE THE PRIVATE VS. PUBLIC EDUCATION SYSTEMS IN PAKISTAN

Suggestions Regarding Public Schooling

To address the systemic challenges facing public education in Pakistan, it is imperative to enhance the implementation of Article 25-A of the Constitution, which guarantees free and compulsory education for all children aged five to sixteen. Despite this constitutional provision, millions of children remain out of school due to inadequate funding, weak enforcement mechanisms, and infrastructural deficits. A holistic reform agenda must prioritize legal enforcement, administrative efficiency, and fiscal allocation to ensure that this right is fully realized.

Another key recommendation is to significantly increase the national education budget. Pakistan currently allocates between 1.7% and 2.5% of its GDP to education—far below international standards. Raising this allocation to at least 4–6% of GDP would facilitate the expansion of schools, enhancement of digital infrastructure, and improvement in teacher salaries and training programs. A higher investment would also help reduce dropout rates and ensure the effective utilization of educational resources across urban and rural areas.

Improving teacher training and accountability is equally essential. Performance-based incentives, regular evaluations, and mandatory professional development programs can significantly raise the quality of instruction and learning outcomes. Technology-enabled assessment tools and collaboration with international education agencies and private sector initiatives can help introduce global best practices. At the same time, maintaining teachers' rights through fair employment practices is vital for building trust and professionalism in the public sector (Ziring, 1978).

Suggestions Regarding Private Schooling

To improve the private education sector, stricter regulatory oversight and transparency in fee structures are urgently required. Arbitrary fee hikes and hidden charges have created barriers to access for lower- and middle-income families. The government must establish and enforce

uniform fee policies, require comprehensive financial disclosures from schools, and implement penalties for violations. These measures will help make private education more accessible, accountable, and equitable in accordance with the constitutional right to education.

Legal protections for private school teachers also need to be reinforced. Many private educators face low wages, insecure employment, and substandard working conditions. Establishing minimum wage laws, standardizing employment contracts, and strengthening the role of Labour Courts can improve job security and ensure fair treatment. Encouraging unionization and carrying out regular audits by regulatory bodies can further safeguard teachers' rights and contribute to better educational outcomes.

Finally, while private schools should be allowed a degree of curricular flexibility to foster innovation and cater to diverse needs, they must still adhere to core national academic standards. A balanced approach that respects institutional autonomy but ensures consistent educational quality across the country is essential. This would create a more integrated, equitable, and effective education system that benefits all segments of society (Bizenjo, 2020).

SUGGESTIONS REGARDING GENERAL LEGAL REFORMS

Comprehensive legal reforms are essential to improving Pakistan's education system. One of the most pressing needs is the establishment of an independent Education Regulatory Authority (IERA) tasked with overseeing both public and private educational institutions. This autonomous body would ensure uniform standards, monitor teacher qualifications, enforce compliance with educational laws, and supervise curriculum development across sectors. It would also operate independently from political influence, fostering inter-ministerial collaboration and conducting regular audits to identify gaps, recommend policy adjustments, and resolve disputes efficiently. Such an institution would serve as the backbone of a consistent and accountable education system in Pakistan (Moumné & Saudemont, 2015).

In addition, fostering Public-Private Partnerships (PPPs) can play a critical role in expanding access to education, especially in underserved rural areas. These partnerships have already shown promise in sectors such as energy, health care, and transport by improving service delivery and optimizing resources. In education, PPPs can provide infrastructure, teacher training, and curriculum support, thereby enhancing outreach and quality. However, to ensure their success, Pakistan requires a well-defined regulatory framework that clearly delineates responsibilities, standards, and oversight mechanisms. This will help maximize the social and economic benefits of such collaborations while ensuring accountability (Richter, 2019).

Stronger legal enforcement is also necessary to safeguard the rights of students, teachers, and parents. Judicial oversight and efficient grievance redressal mechanisms must be enhanced to address issues such as corruption, unrecognized degrees, and substandard educational practices. Enforcing stringent regulations on teacher qualifications, institutional accreditation, and compulsory education laws will improve the integrity of the system. Moreover, by reinforcing legal commitments to educational access and quality, the state can restore public trust and fulfill its constitutional responsibility to provide inclusive and equitable education for all (Asadullah, 2009).

CONCLUSION

The legal and structural disparities between Pakistan's public and private education systems continue to contribute to systemic inequities, inconsistent quality, and regulatory challenges. Despite constitutional commitments such as Article 25-A, the reality on the ground reflects significant gaps in implementation, oversight, and access—particularly for marginalized populations. Private schools often operate under variable regulatory frameworks, resulting in disparities in cost, accountability, and educational outcomes, while public schools struggle with underfunding, poor infrastructure, and insufficient teacher training.

To ensure that education remains a guaranteed right rather than a socioeconomic privilege, a cohesive legal and policy framework is urgently required. This includes enforcing constitutional mandates, increasing budgetary allocations, improving regulatory oversight through independent bodies, and ensuring transparency and equity in both public and private education sectors.

Furthermore, future research should explore the long-term impact of hybrid models such as public-private partnerships on educational equity, investigate regional disparities in educational outcomes, and assess how digital technologies can be integrated equitably across all types of schools. A multidimensional, legally grounded, and inclusive approach is essential for reshaping Pakistan's educational landscape in a way that upholds justice, equality, and sustainable development.

REFERENCES

- Andrabi, T., Das, J., & Khwaja, A. I. (2008). A dime a day: The possibilities and limits of private schooling in Pakistan. *Comparative Education Review*, 52(3), 329-355.
- Asadullah, M. N. (2009). Returns to private and public education in Bangladesh and Pakistan: A comparative analysis. *Journal of Asian economics*, 20(1), 77-86.
- Awan, A. G., & Zia, A. (2015). Comparative Analysis of Public and Private Educational Institutions: A case study of District Vehari-Pakistan. *Journal of Education and Practice*, 6(16), 122-130.
- Aziz, M., Bloom, D. E., Humair, S., Jimenez, E., Rosenberg, L., & Sathar, Z. (2014). *Education system reform in Pakistan: why, when, and how?* (No. 76). IZA policy paper.
- Benz, A. (2012). The Crisis of School Education in Pakistan. Of Government's Failure and New Hopes in the Growing Private Education Sector. *Internationales Asienforum*, 43(3-4), 223-244.
- Bizenjo, S. (2020). Education in Pakistan: Are low-cost private schools closing the gender gap?. *International Journal of Educational Development*, 77, 102209.
- Farooq, M. S., Feroze, N., & Kai, Y. T. (2017). Public vs Private quality education at primary level in Pakistan. *International Online Journal of Primary Education*, 6(2), 1-23.
- Halai, A., & Durrani, N. (2021). School education system in Pakistan: Expansion, access, and equity. In *Handbook of education systems in South Asia* (pp. 665-693). Singapore: Springer Singapore.
- Jimenez, E., & Tan, J. P. (1987). Decentralised and private education: The case of Pakistan. *Comparative Education*, 23(2), 173-190.

- Moumné, R., & Saudemont, C. (2015). Overview of the role of private providers in education in light of the existing international legal framework: investments in private education: undermining or contributing to the full development of the human right to education?.
- Richter, S. (2019). A system dynamics study of Pakistan's education system: Consequences for governance. *The Electronic Journal of Information Systems in Developing Countries*, 85(1), e12065.
- Rind, G. M., & Knight Abowitz, K. (2024). Education reforms and democracy in Pakistan: the problem of privatisation. *Globalisation, Societies and Education*, 22(5), 875-889.
- Siddiqui, N., & Gorard, S. (2017). Comparing government and private schools in Pakistan: The way forward for universal education. *International Journal of Educational Research*, 82, 159-169.
- Zafar, Z., & Ali, S. (2018). Education system of Pakistan: social functions and challenges. *Journal of Indian Studies*, 4(01), 31-51.
- Ziring, L. (1978). Dilemmas of higher education in Pakistan: A political perspective. *Asian Affairs: An American Review*, 5(5), 307-324.