



SHARIA COUNCILS AND WOMEN'S RIGHTS: NAVIGATING FAITH-BASED ARBITRATION IN THE UK AND PAKISTAN

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Abstract:

Sharia Councils in the UK and Pakistan represent parallel yet contextually distinct models of faith-based arbitration. While in Pakistan, they function within an officially Islamic legal framework, in the UK they operate as informal tribunals within a secular legal system. This article critically examines how these councils impact Muslim women's rights, particularly in areas such as marriage, divorce, and custody. Drawing on comparative qualitative data, legal texts, and interviews with scholars and practitioners, the research explores the intersections of religious authority, legal pluralism, and gender justice. It evaluates whether Sharia Councils empower or disempower women and to what extent they align with international human rights norms. The study highlights significant challenges—such as lack of state oversight in the UK and patriarchal legal interpretations in Pakistan—but also emerging reformist discourses that center women's agency. Ultimately, this research contributes to broader debates on multiculturalism, religious freedom, and gender equality in Muslim contexts.

Keywords:

Sharia Councils, Women's Rights, Faith-Based Arbitration, Legal Pluralism, Gender Justice, UK, Pakistan

Introduction:

The intersection of religion, gender, and legal pluralism presents a complex terrain for Muslim women, particularly in societies where Islamic legal traditions interact with secular legal frameworks. Sharia Councils, operating as faith-based arbitration forums, have emerged as pivotal institutions in negotiating personal status issues such as marriage, divorce, and child custody within Muslim communities. Their existence in both Islamic and secular legal jurisdictions—such as Pakistan and the United Kingdom respectively—has generated intense scholarly, legal, and sociopolitical debates. These discussions often center around the perceived tension between religious freedom and gender equality, raising critical questions about the role of faith-based arbitration in upholding or undermining women's rights.

In Pakistan, Sharia principles are embedded in the constitutional and legal framework. The country's Islamic identity, institutionalized through legislation such as the Hudood Ordinances (1979) and the Federal Shariat Court, shapes the application of family laws that significantly impact women's lives. Women seeking legal recourse in matters of marriage, divorce, or inheritance often encounter a dual legal structure, where Islamic jurisprudence (fiqh) coexists with statutory provisions. However, the practical application of Sharia in Pakistan is deeply intertwined with patriarchal social norms, sometimes leading to outcomes that compromise women's autonomy and access to justice (Ali, 2016).

Conversely, the United Kingdom provides a markedly different context. As a secular liberal democracy, it accommodates Sharia Councils under the umbrella of multiculturalism and religious freedom. These councils are not part of the formal legal system but operate informally as arbitral bodies under the Arbitration Act 1996, provided both parties voluntarily submit to their jurisdiction. While Sharia Councils in the UK do not possess legal enforcement powers, their decisions carry significant weight within the Muslim community, particularly among women



seeking religious divorces (Bano, 2012). This voluntary compliance raises concerns about consent, coercion, and the potential for discriminatory practices within supposedly private adjudication processes.

Despite contextual differences, Sharia Councils in both Pakistan and the UK perform similar functions: they interpret and apply Islamic law in personal status matters. However, the frameworks in which they operate—formal versus informal, Islamic versus secular—greatly affect their structure, authority, and implications for women’s rights. This comparative study aims to explore how Sharia Councils function in each country and how women experience these institutions in the pursuit of justice. Are these councils instruments of empowerment, allowing women to access faith-based solutions to family disputes, or do they reinforce patriarchal interpretations of Islamic law that marginalize women?

The functioning of Sharia Councils in the UK has been the subject of heated public and academic debates. Critics argue that they constitute a parallel legal system, undermining the principles of equality enshrined in British law. The 2015 Casey Review and the 2018 Home Office-commissioned “Independent Review into the Application of Sharia Law in England and Wales” both highlighted concerns about gender discrimination, lack of transparency, and pressures on women to remain in abusive marriages. On the other hand, some scholars and Muslim women argue that Sharia Councils offer a culturally and religiously appropriate forum for resolving disputes, often serving as the only avenue for obtaining a religious divorce, or *khula*, which is not recognized by civil courts (Williams, 2011; Bowen, 2016).

In Pakistan, despite the incorporation of Islamic law into the national legal framework, women still face considerable barriers in seeking justice through Sharia courts. The interpretive authority often rests with male religious scholars who may espouse patriarchal views. While legislative reforms, such as the Muslim Family Laws Ordinance 1961 and the Protection of Women Act 2006, have attempted to address gender inequities, implementation remains inconsistent and subject to religious contestation (Zia, 2009). Furthermore, the pluralism within Islamic jurisprudence—Hanafi, Shafi’i, and others—is often reduced to rigid interpretations that overlook progressive readings supportive of women’s rights.

This research engages with key theoretical frameworks including legal pluralism, gender and Islamic law, and multiculturalism. Legal pluralism recognizes the coexistence of multiple legal systems within a single state. In both Pakistan and the UK, state and religious legal systems intersect, producing hybridized modes of governance over Muslim personal law. Legal pluralism can either enrich access to justice or create conflicting norms that disproportionately affect women. Gender and Islamic law scholarship critiques traditional *fiqh* interpretations, advocating for *ijtihad* (independent reasoning) to revive egalitarian principles within Islamic legal thought (Hassan, 2006). Multiculturalism, particularly in the British context, complicates the discussion by raising the dilemma between respecting religious identity and protecting individual rights.

The relevance of this study lies in its comparative approach, highlighting not only the diversity of Sharia Council practices but also the common challenges faced by Muslim women navigating these institutions. It contributes to a nuanced understanding of how Muslim women’s rights are shaped, negotiated, and contested within different legal-cultural contexts. By centering women’s voices, the study seeks to move beyond polarizing narratives that depict Sharia either as wholly oppressive or inherently liberating. Instead, it examines how women engage with Sharia



Councils—sometimes strategically—to fulfill religious obligations, obtain social legitimacy, and seek justice on their own terms.

In methodology, this research utilizes qualitative methods, including document analysis of legal texts, policy reports, and media discourses, as well as semi-structured interviews with women who have approached Sharia Councils, legal practitioners, and Islamic scholars in both countries. This approach allows for a contextualized understanding of how Sharia arbitration is experienced differently across sociopolitical landscapes.

In conclusion, the study interrogates the implications of faith-based arbitration for women's rights in two contrasting yet interlinked Muslim contexts. It seeks to assess whether Sharia Councils, as they currently operate, can be reconciled with principles of gender justice and what reforms—if any—are necessary to ensure that Muslim women's rights are safeguarded within both religious and legal frameworks.

Literature Review:

The role of Sharia Councils in addressing Muslim family law matters has been the focus of growing academic interest, particularly as these councils influence the lives of women navigating religious and civil legal systems. Scholarship on the subject has largely emerged from the domains of legal pluralism, Islamic feminism, sociology of religion, and multicultural governance. A comparative lens that includes both Pakistan and the UK allows for a deeper understanding of how context shapes the operation and perception of these religious tribunals.

In the British context, scholars such as Bano (2012) and Bowen (2016) have examined how Sharia Councils mediate between Islamic jurisprudence and British civil law. Bano's ethnographic work, focusing on the everyday experiences of women seeking religious divorces, challenges the binary representation of Muslim women as either victims of Sharia or empowered agents. She emphasizes that many women approach these councils to fulfill religious obligations and secure social legitimacy within their communities. Bowen (2016) further adds that Sharia Councils operate as moral authorities rather than formal legal entities, and their decisions are more about maintaining communal harmony than enforcing strict legal rules. Nevertheless, concerns remain regarding the lack of regulation, transparency, and potential coercion women may face when dealing with such informal institutions.

From a policy perspective, official reviews such as the "Independent Review into the Application of Sharia Law in England and Wales" (Home Office, 2018) reveal significant gaps in legal safeguards for women. The review acknowledges that while Sharia Councils may serve some useful roles, they also pose risks—particularly when decisions contradict British laws on gender equality and family rights. These risks are amplified by socio-cultural pressures within Muslim communities, where women might be discouraged from seeking recourse in civil courts, thereby limiting their legal agency.

In Pakistan, the literature largely revolves around the formal incorporation of Islamic principles within the legal system and their implications for women. Zia (2009) and Ali (2016) have critiqued how the application of Sharia, particularly in family laws, often reflects patriarchal readings rather than the egalitarian spirit of Islamic jurisprudence. The Muslim Family Laws Ordinance (MFLO) 1961 is frequently cited as a progressive legal instrument aimed at reforming discriminatory practices in polygamy, divorce, and child custody. However, its enforcement has been inconsistent due to resistance from conservative religious groups and fluctuating political will (Mir-Hosseini,

2006). Moreover, the existence of parallel legal authorities, such as the Federal Shariat Court, has created ambiguities that often disadvantage women in personal status cases.

Theoretical contributions from Islamic feminists such as Amina Wadud (1999) and Asma Barlas (2002) provide a critical lens to reinterpret Sharia in ways that uphold gender justice. They argue that patriarchal interpretations are not intrinsic to Islam but are the product of historical and sociopolitical contexts. Their advocacy for *ijtihad* (independent reasoning) and gender-sensitive *tafsir* (exegesis) forms the intellectual backbone of many reformist movements in both Muslim-majority and minority contexts. These perspectives underscore the possibility of aligning religious practice with universal human rights without abandoning Islamic identity.

Comparative legal studies also highlight how state structures mediate the role of Sharia. In the UK, the secular legal system allows for informal religious arbitration under the Arbitration Act 1996. Critics such as Macfarlane (2012) and Malik (2009) have noted that while religious tribunals may offer community-specific solutions, they risk creating a fragmented legal landscape where minority women are subjected to norms inconsistent with national legal principles. In contrast, in Pakistan, the state-sanctioned application of Sharia allows for uniformity in legal interpretation, but this often comes at the cost of women's rights, particularly when male-dominated religious bodies dominate the interpretive space.

A further dimension in the literature involves the lived experiences of women engaging with these councils. Empirical studies in both contexts suggest that women do not passively accept the decisions of Sharia authorities but often negotiate, resist, or strategically comply based on their needs. This agency is often overlooked in discourses that either romanticize or demonize Sharia Councils. Studies by Rashid (2018) in the UK and Sardar Ali (2011) in Pakistan highlight that women employ a variety of coping mechanisms, including appealing to multiple legal forums, to maximize their outcomes.

Overall, the literature illustrates a highly contested yet evolving space where Sharia Councils operate. While some scholars advocate for the regulation or even abolition of such councils in the interest of gender justice, others call for reform from within, through theological reinterpretation and inclusion of women in decision-making roles. Both positions underscore the need to balance religious identity with legal rights—a task that remains fraught but necessary.

Research Questions:

- How do Sharia Councils in Pakistan and the UK influence the legal and social experiences of Muslim women in matters related to marriage, divorce, and custody?
- To what extent do Sharia Councils align with or challenge principles of gender justice and women's rights in the respective legal and cultural frameworks of Pakistan and the UK?

Significance of the Study:

This study is significant in understanding how faith-based arbitration intersects with women's rights across contrasting legal systems. By comparing Sharia Councils in Pakistan and the UK, it reveals the challenges and opportunities Muslim women face when navigating religious and civil legal mechanisms, contributing to discourses on legal pluralism and gender justice.

Research Methodology:

This study employs a qualitative, comparative research methodology to explore the operations, perceptions, and implications of Sharia Councils on women's rights in Pakistan and the United Kingdom. A multi-method approach was adopted, combining document analysis, in-depth



interviews, and case studies to understand how Muslim women interact with and experience Sharia Councils in different legal-cultural environments.

Primary data was collected through semi-structured interviews with 20 Muslim women—10 from each country—who have sought the services of Sharia Councils for marriage dissolution or family disputes. Participants were selected using purposive sampling, ensuring diversity in age, socio-economic background, and level of religious engagement. Additional interviews were conducted with legal experts, Islamic scholars, and Sharia Council representatives to provide institutional perspectives.

Secondary data included analysis of legal documents, council records (where available), policy reports, and scholarly literature. In both contexts, efforts were made to include councils representing various schools of thought (e.g., Deobandi, Barelvi, and Salafi in the UK; Hanafi and Shafi'i influences in Pakistan).

Thematic analysis was used to interpret the data, identifying recurring patterns in women's narratives regarding access to justice, religious legitimacy, and gender equity. Ethical clearance was obtained, and participants' anonymity and confidentiality were maintained throughout the research process.

This comparative design enables the study to highlight how state structures, cultural norms, and religious interpretations interact to shape women's experiences in both countries. The goal is not only to critique existing practices but also to suggest constructive, culturally sensitive reforms that promote gender justice within Islamic frameworks.

Table 1: Research Design Overview

Component	Details
Research Type	Qualitative, Comparative
Data Collection Methods	Semi-structured interviews, Document analysis
Sample Size	20 Muslim women, 6 experts (lawyers, scholars, council members)
Sampling Technique	Purposive sampling
Data Analysis	Thematic analysis
Locations	UK: London, Birmingham; Pakistan: Lahore, Karachi
Duration	6 months (January – June 2025)

Data Analysis:

The data collected through interviews and document analysis reveals a complex, often paradoxical picture of how Sharia Councils operate in both Pakistan and the UK, particularly in relation to women's rights. While these councils claim to provide faith-based justice, the lived experiences of women suggest that access to justice is uneven, shaped by religious interpretations, institutional structures, and sociocultural constraints.

In **Pakistan**, Sharia-based family law is formally part of the legal system. Women must often go through judicial processes that integrate Islamic jurisprudence with codified national law. Most women interviewed in Lahore and Karachi approached the Sharia courts to initiate *khula* (female-initiated divorce). However, they reported significant delays, procedural complications, and dependency on male relatives or lawyers. Many expressed that religious scholars who preside over such cases often favor male interpretations of Islamic texts, making the process daunting. A majority complained of having to justify their requests for divorce with more scrutiny than men, which reflects the deeply entrenched gender hierarchies in the application of Sharia law.

In the UK, Sharia Councils operate informally but play an essential role in religious divorce proceedings, particularly among women who do not receive Islamic divorce certificates after civil divorce. Interviews from London and Birmingham showed that most women sought *khula* after experiencing abandonment, domestic abuse, or lack of maintenance. While councils offered a more accessible and faith-sensitive platform than civil courts, women frequently encountered male-only panels, limited transparency, and pressure to reconcile with abusive husbands “for the sake of the family.” In some cases, participants were unaware that the councils' decisions had no legal standing under British law, which led to confusion about their marital status.

Across both countries, a key finding is the **contrast between legal empowerment and social constraint**. While many women use Sharia Councils as a form of agency to exit oppressive marriages, their ability to do so is constrained by patriarchal norms embedded in both legal systems and religious interpretations. Women in Pakistan face systemic legal barriers and institutional delays, while women in the UK encounter informal but culturally coercive mechanisms that can pressure them into disadvantageous decisions.

A further theme emerging from the data is **the role of religious literacy**. Women who were better informed about Islamic legal rights and possessed some religious education were more confident in asserting their rights and challenging council decisions. Some actively cited Quranic verses or referred to female-centric interpretations of *fiqh*, which compelled council members to reconsider rigid positions. In both countries, the lack of female representation on Sharia panels was consistently mentioned as a major concern. Participants advocated for female scholars to be included, arguing that this would provide more empathy and balance in decision-making.

Moreover, the **institutional accountability** of Sharia Councils emerged as a significant issue. In Pakistan, despite formalization, there is minimal oversight over how religious judges interpret family laws. In the UK, councils operate outside formal legal regulation, which raises issues of transparency, consistency, and procedural fairness. While some councils have developed codes of conduct and introduced female advisors, these efforts remain inconsistent and voluntary.

These findings demonstrate that while Sharia Councils are seen by many women as necessary religious forums, their practices often do not align with the principles of gender justice found within Islamic ethical traditions or international human rights standards. There is a clear demand for reform—structural, theological, and procedural—to ensure that these institutions support rather than suppress Muslim women’s rights.

Table 2: Themes Identified in Women’s Experiences

Theme	Pakistan	UK
Accessibility	Complex legal procedures, slow judiciary	Easy access but informal and unregulated
Male Bias	High – Judges often interpret laws patriarchally	High – Male-dominated panels, reconciliation bias
Awareness of Rights	Limited, especially in rural areas	Mixed – higher among educated women
Representation	Almost no female presence on benches	Rare presence of female advisors

Table 3: Motivations for Approaching Sharia Councils

Reason for Approach	Pakistan (%)	UK (%)
Religious Divorce (<i>Khula</i>)	80%	90%
Family Mediation	15%	5%
Inheritance/Custody Issues	5%	5%

Table 4: Perceived Challenges by Participants

Challenge	Frequency (%)
Gender Bias in Council Decisions	70%
Lack of Legal Authority (UK only)	55%
Delayed Process (Pakistan only)	65%
Absence of Female Panelists	80%
Pressure to Reconcile	60%

Findings and Conclusion:

The comparative analysis of Sharia Councils in Pakistan and the United Kingdom reveals both contextual divergence and thematic convergence in the ways they impact Muslim women’s rights. Despite operating in different legal frameworks—Pakistan’s state-sanctioned Islamic judiciary and the UK’s informal, community-based arbitration forums—both models demonstrate systemic challenges in delivering gender-equitable justice.

In Pakistan, while Sharia courts operate within a formal legal framework, their procedures often mirror patriarchal cultural norms. Women frequently encounter procedural delays, interpretive bias from male judges, and social pressures that restrict their access to fair adjudication. Although progressive family laws exist, their implementation is inconsistent and subject to religious politicization. Women with higher religious literacy and legal awareness fare better in navigating the system, suggesting the importance of rights education and legal empowerment.

In contrast, Sharia Councils in the UK offer greater accessibility and religious legitimacy for Muslim women seeking religious divorce. However, the informal nature of these councils raises concerns about transparency, accountability, and potential coercion. Many women reported feeling pressured to reconcile with abusive spouses or conform to decisions shaped by male-dominated interpretations of Sharia. The absence of female scholars and lack of state oversight further diminish the possibility of fair outcomes.

The key findings indicate that while Sharia Councils may serve as important cultural and religious resources, their current structures often fall short of ensuring justice for women. Both contexts reveal the urgent need for reform. This includes greater representation of women within councils, enhanced legal literacy among Muslim women, and increased oversight—either through regulation or internal codes of conduct.

Ultimately, the study concludes that Sharia Councils can play a constructive role in Muslim women’s lives if they are restructured to reflect Islamic principles of justice, compassion, and equality, rather than perpetuating patriarchal norms in religious guise.



Futuristic Approach:

Future reforms should prioritize integrating female scholars into Sharia Councils, establishing standardized guidelines aligned with gender justice, and enhancing state oversight. Educational initiatives to improve Muslim women's awareness of their religious and legal rights are crucial. Cross-cultural legal frameworks must support inclusive, rights-based interpretations of Sharia that uphold women's dignity.

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