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Challenges And Reform In Pakistan's Insurance Law: Toward A Fair And Transparent Claims System Through Comparative Insights From The U.S. Model

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Abstract: *This paper aerially reviews the Pakistan insurance settlement system in regard to legislative instruments judicial trends and the institutional apparatus. Under the Insurance Ordinance 2000 and especially in Section 118, settlement is compulsory within a period of 90 days though interpretative judicial exceptions for bona fides disputes undermine its disincentive effect. Judges have furthered the interests of the consumer through principles such as contra proferentem and equitable estoppel, but litigations is slow and costs too much when it is 5–7 years for a trial and when it is to provide dollar restitution to the injured party. Regulatory standards are implemented by the SECP through the requirements of disclosure and the operation of guidelines, but its directives had already met judicial reversals after which its procedural frailties were laid bare. The Office of the Insurance Ombudsman also acts as a parallel forum and disposes of thousands of complaints every year, yet its judgments and decisions are not binding, and the Insurance Ombudsman has no enforcement powers resulting in a lack of faith in non-judicial redress. In conjunction with low insurance penetration (<1% GDP), and low levels of financial literacy, systemic weaknesses are thus created in the market that ensure conditions are principally favorable for insurer opportunism.*

Keywords: insurance law, claims settlement, consumer protection, bad faith, Pakistan, SECP, Ombudsman, comparative law, regulatory reform

I. INTRODUCTION

Insurance is an essential tool for stabilizing financial systems and stimulating economic development, reducing risk and creating a climate of trust for long-term planning. Merton and Bodie (1995) argue that "the financial system is the real engine that fosters the allocation and deployment of economic resources both in space and time in an uncertain world" (p. 3). Insurance turns uncertain risks into manageable obligations so that individuals and businesses can invest and innovate without fear of financial ruin. This would secure families as well as bolstering macroeconomic resilience by damping systemic shocks. Apart from the transfer of risk, insurance services also help to create capital. Insurers, as institutional investors, are able to mobilize premiums for productive investment for improving liquidity and economic growth. On this dual role, the World Bank and UNDP (2020) emphasize that "inclusive insurance markets contribute to poverty reduction by offering a mechanism to manage risks that would otherwise impact adversely on household welfare" (p. 15). Hence, a sound insurance system is also not a luxury but necessity for sustainable economic development.

The insurance sector in Pakistan that has its relevance is indeed under-developed where at present, the insurance penetration is less than 1% of the GDP which lapis much behind the international standard like India (4.2%) and Malaysia (4.8%) (SECP, 2024). This gap is not due only to income inequalities. Studies also found that consumers regard a lack of confidence or trust between insurers and policyholders as the main barrier, from the empirical study (Khan, 2019). According to Josh & Mak International (2023) working note, 68% of the policyholders who made the claim, were dissatisfied with

the time taken by the company to settle the claim; 42% had doubts with the settlement decision. This skepticism helps to create a self-fulfilling prophecy: with little trust comes low demand and little risk pooling and hence high costs.

The Insurance Ordinance 2000 was designed to modernize the industry and to place it on a sound footing by restructuring and to govern the market-based competition under a regulator, the Securities and Exchange Commission of Pakistan (SECP) The structure of the insurance industry was deregulated and de-monopolized. The Insurance Ordinance 2000 included health insurance, micro-insurance, Takaful, facultative reinsurance and co-operative insurance. But unlike in the United States where courts have developed a tort law doctrine of bad faith (Gruenberg v. Aetna, 1973), Pakistan's law offers purely contract remedies and rather limited statutory fines. It should not be forgotten, warns Raz (1979), that "law must provide reasonable remedies that are determinate and predictable if it is to serve as a device of the rule of law" (p. 214). SECTION 118, Pakistani Law There are ambiguities in Section 118, prolonged litigation, and non-adjudication by specialized courts that clash with these principles in Pakistan. This article seeks to fill these gaps through the doctrinal-cum-comparative analysis and provides a model of reform that is best suited to Pakistan's socio-legal and religious setting.

2. LAW AND ECONOMICS PERSPECTIVE

The law and economics approach to law and legal analysis, in contrast, judges the economic efficiency of legal rules by the extent to which they reduce such social costs as transaction costs, enforcement costs, and the costs resulting from opportunistic behavior. "The economic function of law is to facilitate and promote voluntary transactions by reducing the cost of these transactions" (Posner, 1973, p. 17). In Pakistan, backlogged claims and low enforcement increase the trans-action costs faced by consumers and lower take up of insurance, which in turn reduces the societal welfare gained from risk pooling. Shavell (2004) shows that deterrence can be achieved if the expected cost of committing a wrong is equal to the harm inflicted (multiplied by the probability that the violator is punished). With the existing system that has low penalties for delays and high expense of litigation, there is little deterrent for insurance companies. The introduction of statutory duties, administrative sanctions and bad-faith liability would increase the cost of conducting to the expected and would more closely align insurer incentives with social welfare.

The rule of law requires that legal norms be clear, predictable and enforceable. Raz (1979) develops the claim that uncertainty of the law is problematic because it interferes with its potential as a device for steering conduct. Pakistan' insurance law, which is both vague in its language and subject to long drawn litigation, does not meet this standard. And procedural fairness is important for legitimacy. Tyler (1990) shows that fair process remained more strongly associated with compliance than the substance of outcomes, implying that transparent and accessible claims processes are likely to provide consumers with confidence.

Another reason why reform is justified can also be found in social contract theory. Insurance is a social contract based on what the military refers to as the reciprocity of advantage: if policyholders pay into the system, the system will provide for them when they are made destitute by the vagaries of fortune. Rousseau (1762/1968) depicted the social contract as a mutually binding pledge toward the common good, and Rawls (1971) emphasized fairness as a norm of institutional arrangement. If insurers take advantage of information asymmetry or unequal bargaining power to unreasonably delay, deny or distort valid claims, then they break this unwritten contract. 44 These reforms would thereby also be normatively desirable in order to redress the imbalance in the insurer–insured relationship.

3. COLONIAL UNDERPINNINGS AND THE INSURANCE ACT 1938

Pakistani insurance law has its origins in the Insurance Act 1938, introduced under the British Raj. This legislation included key concepts like uberrimae fidei (utmost good faith) and disclosure requirements without having real teeth to ensure these were met. As Hussain (2004) has noted, the Act was

fundamentally prudential in its orientation, solvency rather than consumers rights based. Disputes were the province of the civil courts whose application of general contract law creaked slowly and expensively along and was not, in any case, well-calibrated to the specifics of insurance claims.

The Insurance Ordinance in 2000 was a major course correction in the regulation of the insurance sector. The Ordinance converted the regulation under the SECP, provided licensing requirements and standards of capital adequacy, and established the Office of an Insurance Ombudsman as an alternate system of dispute resolution. Section 118, mandating claims payment within ninety days after proof of loss, was evidence of an effort to do something about delays. Yet, as Abid and Mak (2023) emphasize, the Ordinance "modernized structural regulation without incorporating substantive consumer protections akin to global best practices" (p. 47). It did not define a standard for bad faith in the statute and did not give regulators robust authority to enforce it.

The early 2000s saw the advent of takaful, a form of Islamic insurance that was designed to overcome the religious objections of some Muslims to conventional insurance as it relates to gharar (excessive uncertainty) and Riba (interest). Takaful increased access to the Shariah-sensitive but also brought about regulatory disintermediation. The operators also operate under SECP scrutiny and a Shariah board supervision, leading to parallel compliance track lines. According to Khan and Ahmad (2017) the 'cohabitation of conventional and Islamic insurance under the coexistence of parallel norms has been a barrier to the evolution of uniform norms in the domain of protection of consumers' (p. 29). The two-tier system has remained an obstacle to uniformity and openness in claims processing.

4. LEGISLATIVE FRAMEWORK AND ROLE OF SECP

The Insurance Ordinance 2000 is the main law governing Pakistan's insurance sector. It harmonized a legal framework that was previously disbursed, it brought Pakistan's insurance regulation into conformity with international best practices regarding solvency; governance and market behavior. (SECP, 2000). One of its statutory provisions is Section 118, which imposes a ninety-day time limit on insurers to pay claims for loss upon the filing of proof of loss. This requirement is designed to expedite claims payment, reduce consumer susceptibility, and enhance public trust in the insurance mechanism.

The Section 118 "bright line" rule should, in principle, discourage this opportunistic insurer delay. But its implement ability has been diluted through interpretation of the judiciary. An exception for good-faith disputes has been recognized by courts, where delays are based on real investigative demands or coverage disputes and not the insurer's bad faith (Askari General Insurance v. Islam Lubricants; 2022). This exception -ostensibly based on the grounds that the dispute is bona fide, and hence doctrinally justifiable- is also conceptually unclear, since neither the statute nor the case-law clearly specify what is meant by bona fide dispute. Thus, the predictability of enforcement is flawed and many times, insurers take advantage of this uncertainty by purporting investigation requirement as a ruse to delay (Josh & Mak International, 2023).

Over and above legal requirements, Securities and Exchange Commission of Pakistan (SECP) has regulatory control over the insurance sector covering licensing, solvency requirements, market conduct oversight, and corporate governance. While in claims settlement SECP plays an indirect but most crucial role. Using its statutory, rule-making power in the form of SROs & SL, the regulator mandates insurers to disclose policies, document claims and maintain communication protocol with the consumer. Recent efforts of the SECP, such as the standardizing request by means of the Black and Scholes model) and digital tracking of claims processes and the disclosure of CSR (claim settlement ratio) as a measure of service levels to policyholders are indicative of the trend towards transparency and customer empowerment (SECP, 2023).

But still there are procedural vulnerabilities and judicial oversight that keep SECP's enforcement capability constrained." A leading illustration of this is the Crescent Star Insurance case, in which the Islamabad High Court invalidated SECP orders on procedural grounds, thus raising concerns that due

process protections are not adequate in administrative enforcement (Daily Spokesman, 2025). These about-turns also lay bare systemic deficiencies in the legislative architecture of SECP's enforcement mechanism that does not afford statutory clarity on special investigatory powers, evidentiary scales and conciliatory settlement, if any, process. Without strong enabling provisions even interventions rendered by regulation are open to being struck down, which attenuates the deterrence effect and raises uncertainty for the market players.

In contrast, in India and Malaysia, the regulatory powers are strengthened by legislating the consumer protection responsibilities, allowing regulations to enforce binding penalties on the time line not followed on claims (IRDAI, 2019; Bank Negara Malaysia, 2018). However, the absence of these robust enforcement mechanisms in Pakistan results in a compliance lag and allows for the insurers to take their time to attempt to wash their hands of timely consumer grievances in favor of their bottom line.

5. OTHER DISPUTE RESOLUTION MECHANISMS: THE INSURANCE OMBUDSMAN

Insurance Ombudsman's institutionalization with effect from Section 130 of the Insurance Ordinance represented a conceptual shift towards consumer-oriented dispute resolution in Pakistan's insurance law. Established as an inexpensive, fast, and accessible alternative to litigation, the Ombudsman has the power to investigate complaints, conduct mediations, and make recommendations or awards. This arrangement has been motivated by the risk of structural inefficiencies that characterize Pakistan's formal judicial system, where insurance litigations tend to be protracted—usually, 5 to 7 years—and non-affordable to a single policyholder (Law & Justice Commission of Pakistan, 2023).

In practice, the Office of the Ombudsman has shown some success in quantitative terms, stating that it resolves thousands of claims each year, many of them resulting in policyholder relief (Ombudsman Annual Report, 2024). For example, in the years from 2022 through 2024, more than 20000 complains were filed with an average disposal rate of about 80% disposed within six months, which reflects the efficient performance relative to the judiciary system (Ombudsman Annual Report, 2024).

Despite its accomplishments, the Ombudsman's transformative potential has been fundamentally constrained by structural and procedural shortcomings. First, its orders are not finally binding since they can be appealed against to the President of Pakistan, introducing multi-level review and postponing of the execution of the RPO (Dunya News, 2025). The Ombudsman's power to enforce accountability is also limited to moral persuasion and reputational pressure. This is in stark contrast to international models; for example, India's Insurance Ombudsmen Scheme under the IRDAI, where binding awards for up to Rs30 lakh (approx. PKR 10 million) have helped to alleviate the judicial burden (IRDAI, 2019). Likewise, the independent adjudicatory body that is the Financial Mediation Bureau in Malaysia possesses statutory powers to make binding orders, thus boosting consumer trust in non-judicial solutions (Bank Negara Malaysia, 2018).

Moreover, the Pakistani Ombudsman's institutional ability is not in the current at that level. It is hampered by staffing shortfalls, no actuarial capability, a lack of systems integration and capability to manage complex commercial claims and systemic inquiries into insurer poor practices. Ombudsman reports indicate ongoing resource deficiencies, such as limited funding for some regional offices which results in regional disparities in access (Ombudsman Annual Report, 2024). These are structural flaws that make the Ombudsman incapable of serving as a credible substitute to take a suit, especially in a reality where insurance penetration is at less than 1% of the GDP, and where consumer confidence is so fragile (World Bank & UNDP, 2020). In order for it to fulfill its mandate, the Ombudsman needs to be given the legal status of a quasi-judicial tribunal, with final and coercive enforcement powers, as well as supported by institutional changes such as special training for staff, digitization of case management and linkages with SECP's regulatory environment. Without them, the Ombudsman will only be a short-term fix and not a long-term solution, whereby protracted and costly court legal proceedings for insurance disputes are the norm.

6. JUDICIAL EXPANSION OF CONSUMER PROTECTIONS

Judicial construction is now one of the bulwarks of insurance jurisprudence in Pakistan where statutory and administrative measures are not too clear or helpful. Equitable doctrines, statutory construction, and consumer protection principles have been invoked by courts consistently to minimal fairness in the dispute between insurer and insured. This follows the general jurisprudence across the globe, which regard insurance contracts as "contracts of adhesion" which would require a higher duty of care towards insurers (Baker, 1996; Cummins & Venard, 2008).

Universal Insurance Co. v. Karim Gul (2021) is a recent case that illustrates this approach. The Court resorted to the interpretive canon of contra proferentem, which would use an ambiguity in insurance policy terms ambiguitas contra stipulatorem - against the draftsman, here the insurer. Court held that: "If an ambiguity did exist, that ambiguity needs to be resolved against the party in whose favor clear wording was inserted, especially in agreements between parties of unequal bargaining power" (Business Recorder, 2021). This ruling brought Pakistani law into step with other jurisdictions where the like doctrines have for many years been apply in disputes in respect of insurance (see Houghton v. Trafalgar Insurance Co., [1954] 1 QB 247 in the UK; Prudential Ins. Co. v. Lamme, 83 Nev. 146 (1967) in the United States).

Also in Jubilee General Insurance v. Ravi Steel (2020), the court applied its principle of equitable estoppel to preclude an insurer from relying on a limitation defense where the insurer's actions caused a conclusion of a claim settlement expectation. The insurer's purposeful delay and confusing communications were disclosed as bad faith with the judge's refusal to accept her opportunistic behavior (Lexology, 2020). Similar doctrines have been found in U.S. case law, including Aetna Life Ins. Co. v. Mr. Biggs, 569 S.W.2d 35 (Tex. 1978) (insurers estopped from raising policy defenses when they misled insured into believing that claims would be paid).

REPORT OF CASES 63 The historic decision of State Life Insurance Corporation v. Mst. Ameer (2023) offered a sound operationalization to Section 118 of The Insurance Ordinance 2000, subsuming a settlement period of ninety days. The Supreme Court not only upheld this statutory prescription, but it also incorporated the concept of liquidated damages and charged interest for the failure of timely payment vide Josh & Mak International, 2023 (timely settlement is not a discretionary matter but a statutory obligation, whose breach must hold compensatory consequences). This finding is supported by comparative law - under India's IRDAI (Protection of Policyholders' Interests) Regulations 2017, interest is compulsory for delays in claims payment after 30 days, for instance, 2% over the bank rate (IRDAI, 2019).

On the other hands, Askari General Insurance vs. Islam Lubricants (2022) is a case of judicial circumspection on the issue of striking balance between consumer right vis-a-vis insurer's right. The Lahore High Court has held that penalties cannot be imposed under Section 118 in case the delay was consequent to an articulated dispute that is bona fide and necessitating verification, say, suspicion of fraud, or incomplete documentation. This exception is theoretically clear, but it is not defined in the statute or under judicial precedent, causing uncertainty and high litigation costs. Equivalent tensions occur in the law of the United States, pursuant to the "genuine dispute doctrine," which protects insurers from bad-faith liability where the denial of a claim is objectively reasonable (see Wilson v. 21st Century Ins. Co., 42 Cal. 4th 713 (2007)).

Comparative Observations and Broader Implications

The Case Law of Pakistan exhibits a convergence with the world trends in insurance law: the greater scrutiny by the courts of the conduct of the insurers, the reception of fair interpretation rules, and the willingness to enforce statutory time bars. Yet the systemic dependence on litigation as the sole remedial

channel creates inefficiencies. Studies of the Pakistan civil courts suggest that the average duration of a civil case is between five and seven years, though insurance cases often take longer in view of the technical nature of the evidence required (Law and Justice Commission of Pakistan, 2023). This delay deprives insurance of an economic justification of being a risk-transfer mechanism—namely, readied liquidity in times of adversity (Merton and Bodie, 1995).

Moreover, it is the consumer that bears the brunt of litigation costs. Court costs, legal fees and the time value of money undermine the compensatory nature of damages, even in claims where the policyholder prevails. This results in an access-to-justice access that only allows large corporate insureds to bring claims. Other jurisdictions like the UK and India have adopted alternative systems – the Financial Ombudsman Service in the UK and the IRDAI-supported Insurance Ombudsman in India - to address claims within months instead of years (IRDAI, 2019; Financial Ombudsman Service, 2023).

So, though Pakistani courts have shown an admirable dedication to substantive justice, that isn\'t the same thing as systemic change. Rule of law mandates that norms be “conducive to controlling” behavior through clarity and a degree of predictability (Raz 1979). So to say that ad hoc doctrinal service should be normatively rejected is really a way of saying that, on the theory, it cannot be judged a success when it leads to such fragmentary and inconsistent learnings.

7. LEGAL DESIGN LIMITATIONS

Insurance Ordinance 2000 -- modernization or Manipulation Despite being a landmark in the source of modernization, the Insurance Ordinance 2000 is body without wheel--incomplete, and even also misuse the body covers the specifying weaknesses and the intact oversights that deprive the consumer protection. Its most obvious deficiency has always been the lack of a clear statutory cause of action in respect of bad faith by insurers such as that found in the more progressive systems of the U.S. (in tort), and in hybrid forms in Australia and South Africa (Merkin & Lowry, 2022). Given the fact that Pakistani law is limited in such a way to confine remedies largely to contractual damages, which are not punitive and are never going to force a defendant to be more responsible when they can avoid any liabilities just by paying the damages, they are no deterrent to intentional bad behavior.

There are no objective standards for enforcement in Section 118, but it sets a sensible period of ninety days in which to settle. The willingness of the courts to shield insurers where there is a “genuine issue” or “bona fide dispute” (in an as-yet undetermined sense) is the source of great uncertainty, actual and potential litigation. In contrast, India’s regulatory environment lays down documentary check lists and time lines for investigation as a method to separate real disputes from those of pretension (IRDAI, 2019). The lack of replication of such clarity in Pakistan affords insurers to take advantage of procedural ambiguity, and protects their position in strategic stalling, thereby serving as a cost minimizing policies, a form of moral hazard as identified in economic literature (Shavell, 2004).

Institutional weaknesses compound statutory gaps. The Securities and Exchange Commission of Pakistan (SECP), which is legally endowed as regulator of insurers and to ensure compliance, has recently suffered judicial setbacks with its enforcement actions undermined by the judiciary in the Crescent Star case (Islamabad High Court, 2025). These overturning frequently note procedural violations and absence of fair hearing, with the importance of regulatory and institutional capacity building and legal reform in strengthening the hand of enforcement.

The Insurance Ombudsman, constituted as a low-cost, informal dispensation mechanism, has restricted jurisdiction and issues non-binding order which detracts from its utility. According to the Ombudsman’s Annual Report (2024), more than 60% of complaints need to be referred beyond the Ombudsman as insurers simply do not adhere to its rulings, which defeats the whole logic of a speedy remedy. These change opportunities will be enhanced by the existing comparative models of the Indian Ombudsman mechanism (with binding power extended for claims that are below ₹30 lakh (approximately PKR 10m) and the Malaysian Financial Mediation Bureau) that provide useful yardsticks for institution redesign

(Bank Negara Malaysia, 2018; IRDAI, 2019).

Market structure aggravates these issues. Pakistan's insurance penetration is still less than 1% of the GDP, significantly lower than the South Asian average level (World Bank & UNDP, 2020). This low churn does not exert competitive pressure on insurers to retain service quality, and public sector institutions such as NICL control most of the reinsurance and public sector business, and further induces a culture of lethargy rather than consumer sensitivity (Competition Commission of Pakistan, 2023). And despite the proliferation of new products, financial literacy is still abysmally low: more than 70% of consumers are not able to understand basic policy terms, making them susceptible to mis-selling and process exploitation (SECP, 2024).

These legal, institutional, and structural shortfalls create a set of built-in balances in the system that tilt towards insurer stasis and away from consumer remedy, signaling the need for a more coherent strategy for reform than uncoordinated radical surgery on disparate elements.

8. JUDICIAL RECOGNITION AND STATUTORY FRAMEWORK

The American experience is the richest in terms of the protection of insurance consumers against insurer misbehavior, based on the bad faith construction of the claim in both jurisprudence and statute. This doctrine evolved because of the recognition of the inherent inequality between insurance companies and the insureds in contracts. Courts have repeatedly recognized that standard insurance policies are not ordinary commercial contracts, but contracts of adhesion offered by insurance companies to consumers on a take-it-or-leave-it basis. When added to the fact that policyholders are entirely dependent on the mere promise of insurers to offer security in the event of loss, the asymmetry of power creates a specific duty of good faith and fair dealing that is owed to policyholders by insurers.

The doctrine came to the fore as a legal principle in the mid-20th century. In Comunale v. Traders & General Insurance Co. (1958), a California appeals court held that if an insurance company refused to settle a claim against the policyholder and the case then resulted in a judgment in excess of the policy's limits, the insurer was liable for the excess judgment. The court held that the "decisions made by the insurer with regard to the settlement of claims carry the same implication of good-faith performance as those regarding the payment of claims" (Comunale, 1958) and that, "the insured has entrusted the entire handling of the claim including settlement to the insurer, which thus places that reliance on the insurer's conduct" (Comunale, 1958). The rule was expanded in Gruenberg v. Aetna Insurance Co., supra 7 Cal. 3d 669, where our Supreme Court announced that the refusal of the insurer to pay a valid claim, if a genuine dispute did not exist, was actionable bad faith. The Court stressed "the special responsibility of insurers to their insureds, pressure with dominating proclivity the duty insurer owe to its insured because of the unequal bargaining position of insurer and insured and the unique dependence of the insured upon his insurer, and that an insurer must give at least as much consideration to the welfare of its insured as it gives to its own interests" (Gruenberg, 1973).

In view of judicial recognition, a few U.S. states have legislative enactments to control insurer conduct. The majority of state legislatures have enacted Unfair Claims Settlement Practices Acts (UCSPA), based on the National Association of Insurance Commissioners (NAIC) model act, in some form. Such laws list prohibited acts, including not acting in good faith, misrepresenting facts or policy provisions, failing to promptly acknowledge claims, failing to promptly investigate claims, and unreasonably delaying a settlement, among other requirements (NAIC, n.d.). They give state insurance commissioners the authority to administer civil fines, order corrective actions, conduct market conduct exams. Crucially, the statutory scheme does not supplant the judicial cause of action, there by establishing a dual enforcement scheme that joins public and private approaches to enforcing the obligations.

UCSPA's allowance of both tort liability for bad faith and legal penalties provides multiple levels of deterrence. Courts are an engine of individualized justice, where they award personal remedies such as

compensatory and punitive damages, regulators are a systemic enforcer that target patterns of 'misbehavior. This is a (tepidly)good thing because this cocktail helps prevent opportunism without making meticulous insurer investigations of suspect claims almost entirely obsolete -- a balance that is necessary to maintain the health of the insurance market.

The multi-factored remedial regime for bad faith in the U.S. is effective because it is both compensatory and punitive. Courts consistently award compensatory damage for insurance benefits refused, and compensatory damages for the consequences flowing from the rejection of such claims. In matters of extreme or egregious behavior, courts award punitive damages, I.e., retribution-based damages, which were recently upheld as constitutional in State Farm v. Campbell (2003), when the U.S. Supreme Court ruled those punitive damages--while limited by the Constitution--fit a necessary role when punishing such egregious conduct and to also curb potential future violations.

Punitive damages, according to critics, would result in over-deterrence, and premium costs would be driven up and frivolous lawsuits would be encouraged (cf. Actual evidence, however, shows that punitive damage awards are in fact infrequent and usually reserved for cases of outrageous insurer actions (Baker, 1996). In addition, courts have invoked constitutional due process constraints, stressing that the punitive to compensatory ratio should be proportional (State Farm, 2003). These safeguards reduce the risk of surprise and escalation while maintaining deterrence.

In addition to litigation, the U.S. system promotes alternative dispute resolution (ADR) solutions such as mediation and arbitration, which provide a faster and less adversarial resolution to claims disputes. ADR lowers the cost of enforcement and eases the courts of the high volume cases so those whose legal rights have been infringed will have the opportunity for a court hearing. In a number of states, there are insurance-only arbitration panels or small-claims insurance courts, which add to the specialization of decisional experience.

Rapid implementation of the U.S. model is infeasible in Pakistan where there is a lack of the judicial infrastructure, no recognised procedural system and a different social and economic environment. There is no extensive contingency-fee legal system in Pakistan nor class-action devices, which help private enforcement in the US. Additionally, punitive damages can be at odds with the local legal tradition and the ability to pay. But there are very flexible functional principles from this system in the U.S. These include:

Recognition by statute of bad-faith liability, containing graduated remedies with emphasis on compensatory and consequential damages and provision for capped punitive awards in cases of willful misconduct. Reinforcement of the regulators' ability to apply market conduct rules with administrative sanctions and corrective orders. Establishment of specialized bodies – insurance tribunals or a strengthened Ombudsman - empowered to make binding rulings. Because of the requirement of efficiency, he contends that legal rules aim to reduce social costs to a minimum and to harmonize personal incentives with communal desires (Posner, 1973). For Pakistan, contractual freedom interspersed with statutorily imposed duties and effective administrative supervision is the most realistic way for it to secure it's goals.

9. UK: THE INSURANCE ACT 2015 AND THE RULE OF PROPORTIONATE REMEDIES

The contrasting UK stance reflects an emphasis on contractual clarity and proportionality rather than punitive enforcement. In English law the pre-contractual duty of disclosure was extensively reformed by the Insurance Act 2015 and replaced the historic fragile Doctrine of uberrimae fidei. In the new regime, policyholders need to communicate their material circumstances in a way which is transparent and plain, while insurers need to ask questions if there is any doubt (UK Parliament, 2015). This interdigitation diminishes the possibility of disputes on the ground of technical non-disclosure.

One of the innovations of the Act is the system of proportionate remedies. Rather than giving insurers the Draconian right to deny a policy entirely for any misrepresentation, the Act tailors the remedy to the nature of the breach. Avoidance is available for fraudulent or reckless misrepresentation, while innocent or negligent breaches only give rise to remedies in the form of adjustments in claims (UK Parliament, 2015). Underlying this is a principle of remedial proportionality, seeking to strike the right balance between the protection of the consumer and the maintenance of contractual stability.

While the UK approach does not embody a statutory duty of good faith coupled with possible damages, it does support fair dealing through interpretive principles and disclosure culture. By imposing rules on plain-language drafting, increasing transparency regarding coverage terms, and demanding participation from insurers in underwriting', structural fault-lines of trust are hardened without leading to an explosion of litigation. For Pakistan, where policy is perceived as needlessly complex and consumers are deemed to be unsophisticated, these steps provide a real-world example for how clarity and fairness can be fostered without assuming adversarial liabilities that accompany tort-driven lawsuits.

10. INDIA AND MALAYSIA: ADMINISTRATIVE CONTROL AND COORDINANCE

India's case under the Insurance Regulatory and Development Authority of India (IRDAI) is indicative of administrative governance in practices of claims management. IRDAI regulations mandate a time limit for the time taken to settle claims (usually 30 days for normal claims) and also specify that interest has to be paid for delays beyond stipulated periods (IRDAI, 2019). In addition, the decentralized Ombudsman have legal binding powers up to a monetary limit instead of the courts and guarantee faster consumer redress in India. Such mechanisms, underpinned by the supervisory authority of IRDAI, provide for a two-tier enforcement architecture inspired by and reflective of the U.S. model but anchored to Indian institutional conditions. In Pakistan, suffering from endemic judicial delay, a strong administrative system based on regulatory oversight and enforceable Ombudsman orders would go a long way in improving the effectiveness of enforcement.

Malaysia provides an alternative and no less valuable model, especially in the context of the concentration of the regulation of takaful within a comprehensive consumer protection framework. Due to religious sensitivities associated with traditional insurance, Malaysia has implemented a regulatory framework by the Bank Negara Malaysia that incorporates both Shariah principles and conventional prudential requirements (Bank Negara Malaysia, 2018). Under the framework, the authors elaborate the common disclosure and redress requirements as well as supervisory cooperation between Shariah boards and the regulator. This uniform system creates order and reduces public skepticism toward Islamic insurers. for Pakistan where takaful is practised under parallel regulations the Malaysian model provides a useful approach in developing common consumer protection standards which is in tandem with religious considerations – an imperative factor for market acceptance and credibility.

11. LEGISLATIVE INNOVATIONS

The reform should be dual-pronged — the first integrally related to legislation. Pakistan should develop a tort system cause of action for bad faith similar to that in the U.S. but tailored for the country based on "functional" principles. This claim type should define "unreasonable denial or delay" through objective criteria, such as the failure to promptly investigate or the refusal of the claim without any reasonable basis once the proof of loss is established. (c) Remedies should incorporate recovery of compensatory damages, interest for delay, and (in cases of willful misconduct) limited punitive damages to deter very bad behavior, while avoiding potential systemic risk (Shavell, 2004).

Section 118 of the Insurance Ordinance should also be modified so as to make more stringent the compensation timetable and provide for mandatory penalties. Out-of-time disposition must trigger automatic interest linked to the policy rate of the State Bank and administrative penalties for each case of defaulters. Insurers must also be mandated to provide summary policy documents in Urdu and

English in easy-to-understand language which sets out prominent exclusions, claims process and details of the Ombudsman. Failure to do so would give rise to a rebuttable presumption against the insurer in the interpretation of the policy.

Nothing is realised simply by the passage of laws, moreover law change needs to be paired with institution building. The Insurance Ombudsman's office should be structured as an quasi-judicial tribunal with binding powers in cases up to a certain monetary limit, with right of limited appeal, and power would to impose administrative penalties. Such reform would give costumers a inexpensive time-defined resolution and would lose the burden on civil courts. There should be specialised insurance benches either within High Courts or an exclusive national Insurance Tribunal to deal with high value or complex cases with the aid of mandated judicial training in insurance law and actuarial based concepts.

Elsewhere, the SECP should create a Market Conduct Division with oversight of claims practices, doing reviews of thematic nature, and releasing details of enforcement actions for more transparency. This division ought to be involved in implementing digital claims-tracking systems so policyholders can see in real time where their claims stand. SECP needs to invest in actuarial skills and legal skills, and to apply risk-based supervision methods to cope with the capacity shortfalls. These new institutional arrangements, along with strengthened regulatory capacities, would form an adequate deterrent towards misconduct while maintaining the procedural fairness of behalf of notice and appeal rights.

Whether reform is actually feasible in Pakistan depends on not just the substance (the content) of reform but also on the sequencing and the political economy of reform. A phased strategy reduces the burden on institutions and contributes positively to stakeholder acceptance. Over the short term (months 0-12), the SECP can undertake measures not requiring significant legislative intervention including promulgating a Market Conduct Code through SROs to specify unfair claims practices and promoting a digital claim tracking system. In parallel, the Office of the Insurance Ombudsman should increase its know-how through technical experts, the reorganization of the initial handling of cases and the publication of performance data.

The medium term (12-36 months) should focus on the restoration of the legislative. The Legco should amend the Insurance Ordinance to strengthen Section 118 by incorporating automatic interest for delays and adding a statutory cause of action for the bad-faith denial or delay of enforcement. This phase needs to also raise the Ombudsman to a binding quasi-judicial tribunal; establish the SECP’s Market Conduct Division as a punitive office, with both the power to investigate as well as enforcement capabilities. At the same time, the government should introduce an Insurance Consumer Protection Fund, funded by industry levies, that can provide assistance when an insurer becomes insolvent.

In the distant phase (36–60 months) this combination phase continues, and the patient is then re-evaluated. Special insurance benches or a national tribunal should be established to hear contentious issues. Institutionalize insurance and actuarial law training in the judiciary. Lastly, the effects of reform should be measured through independent evaluations based on penetration, level of complaints, and timeframes for claims settlement with the aims of efficiency, fairness, and financial inclusion.

Enforcement needs the support of a number of actors such as insurance providers, regulators, consumer associations and Shariah advisory boards. Legislative changes should follow a consultative process that allows stakeholders to weigh in on design elements and compliance timeframes. Capacity-building initiatives are equally crucial. SECP to invest in Actuary skills and Supervisory technology, and Ombudsman to hire trained professionals in Insurance Law and Mediation. Industry players need to embrace new compliance programs corresponding with the new Market Conduct Code, along with training modules for claims officers. For takaful companies, the collaboration with Shariah boards is important to ensure the compatibility of customer protection measures with Shariah principles. Such a multi-stakeholder, capacity-building approach will help to ensure that the reforms are sustainable and

entitled to legitimacy.

12. TRUST MARKET AND EXPANSION OF INSURANCE COVERAGE

There are real policy gains from these reforms. By increasing the ability to enforce contract and add deterrents in bad faith, they make the bargain of insurance more credible to the parties and hence reduce expected costs of insurance transactions to the consumers, he writes. As Rawls (1971) argues, fairness in institutions promotes stability of social cooperation and, therefore, predictable claims processes should induce greater participation in insurance markets. Higher penetration widens the pool of risks to be covered which would reduce bottleneck loadings and bring down per-policy loadings, making such policies more affordable and contributing to financial inclusion (World Bank & UNDP, 2020). And, the development of expert dispute resolution forums can decrease court congestion and enhance the overall efficiency of the judiciary, unburdening the courts to address other issues.

Reforms come with long term benefits, but also transitional risks. The introduction of principles-based liability for bad faith, and penalties for delays, could add to compliance costs for insurers, possibly resulting in modest premium changes. Moreover, misuse of the provision could lead to over-deterrence where punishment is imposed on the insurance sector without a well-established threshold and hence the reluctance of insurers to challenge questionable claims. In order to minimize the risk of spurious suits, good faith statutory guidelines should include notions of proportionality like limiting punitive damages and involving a genuine dispute defenses. Regulators also need to have a reversal of decisions to ensure that they do not deviate from a path that could put them at the risk of capacity of capacity of the regulatory decisions and credibility. (Islamabad High Court, 2025). Used properly, these reforms will create a competitive, transparent market for insurance companies, one that is aligned for the private sector's incentives to be in line with the public interest.

13. CONCLUSION

The insurance industry in Pakistan is at a watershed. EVEN though the Insurance Ordinance 2000 brought structural reforms and with-it regulatory steps by later regulators, systemic challenges persist which restrict consumers' confidence and overall insurance penetration. The lack of a bad-faith statutory framework, Section 118 enforcement provisions, and administrative infrastructure to quickly resolve disputes has exposed policyholders to stalemate and to postion-taking. The judicial system has sought to address these gaps by adopting pro-consumer rules of interpretation that include contras proferentem and strict enforcement of the statutory deadlines, but litigation as the dominant mode of redress is not optimal or sustainable.

This paper has furthered the argument for a hybrid reform model that combines contract principles with statutory duties, strong regulatory enforcement, and harmonization of consumer protection standards in respect of both takaful and conventional insurance. Based on comparative analysis across the United States, the United Kingdom, India, and Malaysia, the proposed agenda calls for legislative reforms that include statutory bad-faith liability, enhanced Section 118 requirements, and mandatory plain-language disclosure. It also emphasises on institutional reforms such as converting the Insurance Ombudsman into a quasi-judicial tribunal, setting up specialised insurance benches, and creating a Market Conduct Division in SECP to ensure compliance and impose fines.

These reforms need to be implemented in a phased and consultative manner that strikes the right balance between deterrence and proportionality, reduces the burden of compliance and enhances institutional capacity. By integrating fairness, transparency, and efficiency into the regulatory regime for insurance, Pakistan can inspire greater confidence in the market, drive levels of insurance penetration and foster financial inclusion and economic security. In sum, a good insurance system is more than a legal or economic necessity; it is a fundamental, social compact upon which we all rely that we will be kept safe and secure.

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