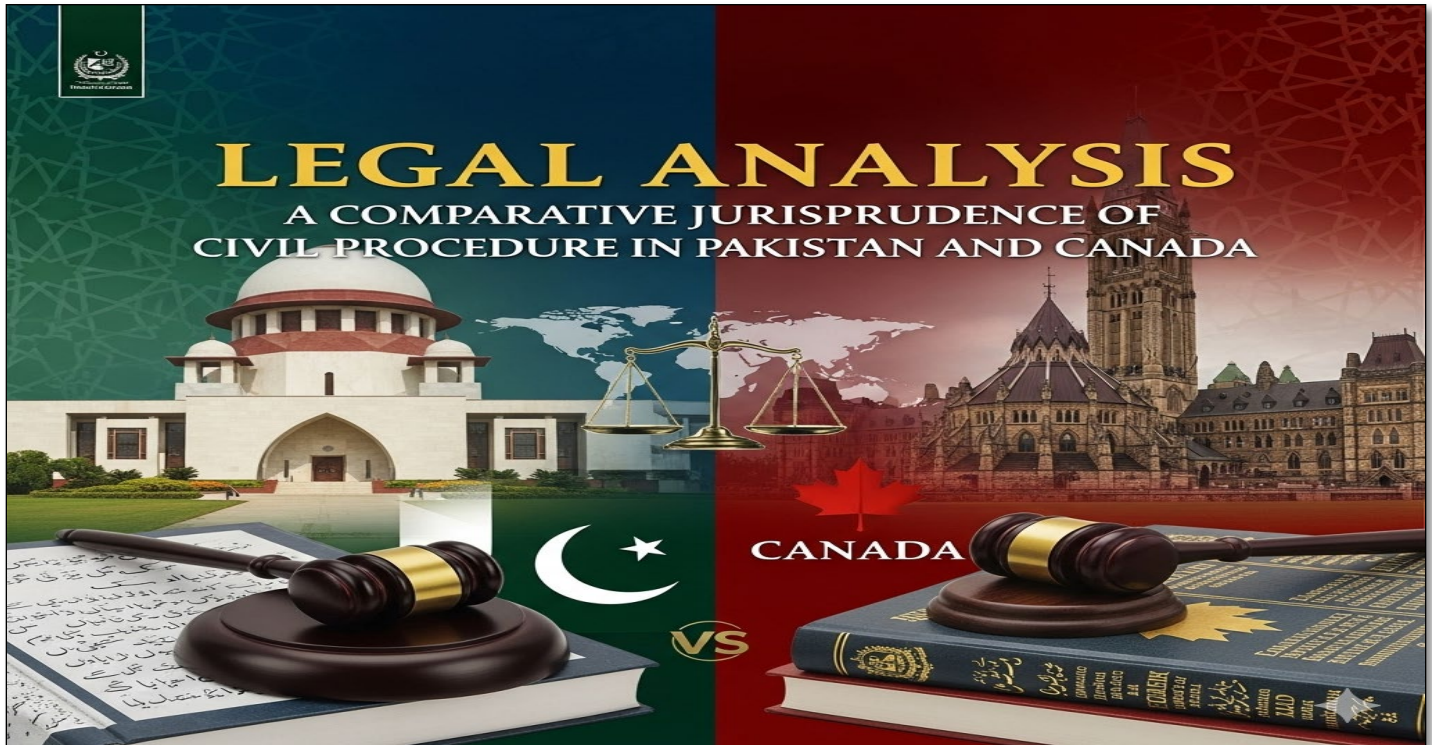


# LEGAL ANALYSIS: A COMPARATIVE JURISPRUDENCE OF CIVIL PROCEDURE IN PAKISTAN AND CANADA

## A Legal Research Paper

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## Abstract

This legal analysis meticulously compares the civil procedural frameworks and institutional efficacy of the court systems in the Islamic Republic of Pakistan and Canada. It scrutinizes the **Code of Civil Procedure, 1908**, as the primary legal instrument in Pakistan, against the provincial civil procedure rules of Canada, with a particular emphasis on the **Rules of Civil Procedure** of Ontario. The study leverages authoritative international metrics, including the **World Justice Project's Rule of Law Index**, to conduct a quantitative and qualitative assessment of judicial accessibility and efficiency. The paper's conclusion provides an evaluation of which jurisdiction presents a more robust and accessible civil justice system, while also identifying key areas for substantive legal and institutional reform.

## I. Introduction

Civil procedure serves as the foundational architecture for the administration of justice, dictating the mechanisms through which legal disputes are adjudicated. While Pakistan and Canada share a common law heritage, the evolution and practical application of their respective procedural laws have diverged significantly. This paper

undertakes a detailed comparative analysis to illuminate these differences and to assess which system is better aligned with the principles of efficient and equitable justice.

## II. Legal Frameworks

### A. Pakistan

Civil litigation in Pakistan is governed by the **Code of Civil Procedure, 1908**, a legislative remnant from the British colonial era. The Code's provisions are applied uniformly across the nation's provinces, with only minor procedural modifications. Despite its enduring legacy, the Code has faced sustained criticism for its procedural rigidity, outdated language, and contribution to systemic inefficiencies within the judiciary. The application of this century-old statute often leads to protracted litigation and significant delays in the dispensation of justice.

### B. Canada

In contrast, Canada's civil procedure is a decentralized legal domain, with each province and territory possessing its own distinct rules of court. The **Rules of Civil Procedure** of Ontario, enacted under the **Courts of Justice Act**, serve as a representative model for modern Canadian civil procedure. These rules are subject to regular revision and amendment to incorporate technological advancements and to align with contemporary legal principles and societal expectations. This adaptable framework allows for continuous improvement and a more responsive legal system.

## III. Procedural Comparison

Feature	Pakistan	Canada (Ontario)
<b>Initiation of Suit</b>	A suit is commenced by the filing of a <b>plaint</b> under the Code of Civil Procedure.	Proceedings are initiated by filing a <b>Statement of Claim</b> with the court, which is then served on the defendant.
<b>Jurisdiction</b>	The jurisdiction of courts is determined by both <b>pecuniary limits</b> (monetary value) and <b>territorial limits</b> (geographical location of the dispute or parties).	Jurisdiction is primarily based on the <b>subject matter</b> and <b>monetary thresholds</b> of the dispute, as well as the defendant's connection to the jurisdiction.
<b>Discovery</b>	Discovery is generally a limited and often informal process, lacking a comprehensive and mandatory framework.	The litigation process includes a mandatory and structured <b>discovery</b> phase, requiring the parties to disclose all relevant documents and information.
<b>Adjournments</b>	Frequent and often indefinite adjournments are a common feature, leading to significant case backlogs and delays.	Adjournments are granted at the <b>judicial discretion</b> of the presiding judge and are subject to strict timelines and limited justification.
<b>Technology Integration</b>	The court system has minimal integration of modern technology, with processes remaining largely paper-based.	Extensive use of technology, including <b>e-filing</b> , <b>virtual hearings</b> , and online <b>case tracking</b> systems, enhances efficiency.

Feature	Pakistan	Canada (Ontario)
Appeals	The appellate process is multi-tiered and can be subject to significant delays due to procedural complexities and case backlog.	The appellate system is streamlined, with clear deadlines and structured procedures designed to facilitate timely resolution.

## IV. Institutional Performance

### A. Canada

Canada holds a high global standing in the **World Justice Project's Rule of Law Index**, consistently ranking among the top countries for its rule of law. Its civil justice system is widely commended for its judicial independence, institutional transparency, and high degree of technological integration. While these strengths are significant, the system does face challenges, notably the high cost of legal services and the potential for delays in complex, high-stakes litigation.

### B. Pakistan

In stark contrast, Pakistan's civil justice system ranks significantly lower in the **Rule of Law Index**, reflecting substantial systemic challenges. The judiciary grapples with an immense backlog of cases, allegations of corruption, and a severe lack of adequate legal aid, particularly for marginalized populations. Despite commendable efforts by the Supreme Court of Pakistan and support from international donors, the pace of fundamental judicial and procedural reform has been notably slow.

## V. Proposed Reforms and Recommendations

### A. Pakistan

To address the deep-seated issues within its civil justice system, Pakistan must consider the following reforms:

- **Digitization:** Implement a comprehensive strategy for the **digitization of court records**, introducing e-filing systems and normalizing virtual court hearings to increase efficiency.
- **Judicial Training:** Expand mandatory and ongoing education programs for judges and court staff to improve case management skills and legal knowledge.
- **Anti-Corruption Measures:** Establish and enforce robust oversight mechanisms to mitigate corruption and enhance public trust in the judiciary.
- **Legal Aid Reform:** Substantially improve access to legal aid services to ensure that indigent and vulnerable populations can effectively exercise their rights.
- **Time Management:** Enforce strict hearing schedules and mandatory judgment timelines to reduce procedural delays and expedite case resolution.

### B. Canada

While highly effective, Canada's civil justice system can be further optimized by addressing existing challenges:

- **Cost Control:** Expand existing legal aid programs and promote greater use of alternative dispute resolution (ADR) mechanisms to make the legal system more accessible and affordable.
- **Judicial Diversity:** Continue initiatives to enhance the diversity of the judiciary to better reflect the nation's multicultural population and improve cultural competence.

## VI. Conclusion

The comparative analysis demonstrates that Canada's civil justice system is fundamentally more effective, accessible, and transparent than that of Pakistan. While Canada faces legitimate concerns regarding the affordability of litigation, Pakistan's system is in urgent need of comprehensive and structural reform to address its chronic inefficiencies and the erosion of public trust. Both the international rankings and the detailed procedural comparison suggest that Pakistan must prioritize the modernization of its procedural framework and make significant institutional investments to elevate the performance of its judiciary and improve its global standing.

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