



Locating Socio-Legal Research in Pakistan: A Reflexive Approach

Maryam S Khan

Institute of Development & Economic Alternatives (IDEAS), Lahore, maryam.khan@ideaspak.org

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LOCATING SOCIO-LEGAL RESEARCH IN PAKISTAN: A REFLEXIVE APPROACH

*Maryam S Khan**

Abstract: This article presents a detailed survey of the sites of emergence and development of socio-legal research in Pakistan, locating it on a historical arc extending from the decolonisation era to contemporary times, and organically tracing its trajectory through contextual shifts in knowledge production more broadly. As such, the article takes a *reflexive* approach to identifying and classifying the socio-legal that eschews pre-existing benchmarks of what constitutes the field globally. In so doing, it makes the central argument that the meaning and evolution of “socio” in socio-legal is contingent on social and historical context. The article begins with a broad Pakistan-India comparison that foregrounds the salience of context in the production of socio-legal knowledge in Pakistan, exploring in particular the extent to which the norms and constraints around history-writing have impacted the integration and potentialities of humanistic methods in socio-legal work. It then traverses the early landscape of political science research on public law in Pakistan, connecting these “antecedents” to the subsequent rise and growth of the socio-legal in the legal academy. Finally, drawing on a thick analysis of the emerging trends in the understanding of the “socio” in contemporary scholarship, the article proposes a four-way conceptualisation of “interdisciplinarity” as an aid to understanding the state of the field today and the scope for future research. The core challenge for socio-legal scholars in Pakistan and the broader South Asian region, the article concludes, is to intentionally develop the field beyond elite and state-centred themes.

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I. INTRODUCTION

Socio-legal research as an explicitly recognised field of research emanating from academic institutions is a relatively recent phenomenon in Pakistan. Because of the lack of a defined intellectual discourse, what might be classified as socio-legal is also not readily apparent, needless to say far from settled, which is perhaps not so peculiar given the constantly shifting and elusive frontiers of the field globally. In this article, I try to make sense of what we might mean by "socio-legal" in Pakistan's context, identify the historical antecedents and the prominent sites of knowledge production in the field, and reflect on emerging trends. This necessitates a broad-brush, exploratory lens to the subject that both avoids imposing coherence on what appears to be a sporadic process of meaning-making, and also takes seriously socio-legal thought that may not fit the academic or public policy archetype. This, in turn, requires suspending *a priori* understandings of what constitutes socio-legal research, and the gatekeeping around this question, in the Global North and elsewhere. Accordingly, I adopt what I refer to as a "big-tent" approach: spreading the net wide in order to trace the organic development of the field over time without presuming a predetermined intellectual agenda or benchmark. In so doing, I engage reflexively with open-ended questions about socio-legal research in Pakistan: how does context (local and global) shape the nature and evolution of the socio-legal; how and what have disciplinary cross-currents contributed to socio-legal knowledge production; what has the socio-legal captured and what has it missed, especially given the historical dearth of humanistic study within the law; what are the promising areas of research for the present and future; and how might we approach interdisciplinarity in socio-legal research in view of this reflexive stocktaking of the field.

Foregrounding Pakistan as a generative case study on the historical and social determinants of socio-legal work inevitably invites a parallel gaze on the trajectory of socio-legal scholarship in India. Thus, responding to the welcome solicitation by the Socio-Legal Review to expand our understanding of what constitutes "socio-legal" research across South Asia, I also use Pakistan's example in a relational sense: to situate the contemporary moment of the socio-legal in a wider regional frame. I remain guilty of focusing on

Pakistan, with a heuristic lens on India, fully aware that neither of them can speak on behalf of the entire region. I resist the temptation to think in terms of a distinctive “South Asian” approach or outlook to the socio-legal. Instead, I organise my analysis on Pakistan to contemplate, in broad comparison with India, the convergences and variations in historical, temporal, institutional, and discursive intersections between local particularisms and globalising currents in the production of socio-legal scholarship. This allows me to draw a picture of how context might shape the nature and meaning of “socio-legal” in the region, given its shared geographical, colonial, and epistemic influences, without resorting to spokespersonship for South Asia as a whole.

The discussion in this article is structured as follows. Section II lays out the historical context of legal research in Pakistan against the larger backdrop of decolonisation and the early decades of post-independence politics. The common referents of post-colonial state-making and nation-building during this formative period naturally bring Pakistan and India into a direct conversation on the subject, uncovering complexities, patterns, and variations in the pathways of research that a nationally bounded investigation is likely to gloss over. Section III investigates the antecedents to socio-legal research in Pakistan, highlighting the significance of early political science research and its preoccupation with, among other things, public law in the post-colony to contemporary socio-legal thinking. Section IV explores the evolution of socio-legal research in the academic domain, both situating it within, and distinguishing it from, the conventional framework of legal research, while also drawing out the connections and continuities with earlier scholarship from disciplinary lenses external to law. In particular, it traces shifts in the “socio” over the past two decades, along with a stocktaking of themes, disciplinary concerns, and research methods. Section V situates the contemporary state of socio-legal scholarship in Pakistan within a discussion on the meaning and forms of interdisciplinarity, and how this framework can be useful in elucidating the future directions and possibilities for socio-legal work. Section VI concludes with a reflection on how Pakistan’s case study might be relevant to approaching the subject of socio-legal research in South Asia in view of the key themes and observations in this article.

II. HOW CONTEXT SHAPES THE SOCIO-LEGAL: A BIRD’S-EYE VIEW

I begin with the broad premise that socio-legal research in Pakistan can only be understood in terms of the conditions and constraints under which it is produced. A bird’s-eye comparison with India illustrates this well. Two crucial observations are in order here. To begin with, the historiography of socio-legal scholarship in India is significantly more developed vis-à-vis not only Pakistan, but South Asia more broadly. India’s historical advantage has also carried over to the present, as India continues to be privileged in the

field.¹ Putting aside historical debates on disparate colonial inheritances, a major reason for the early grounding of socio-legal research in India was its exposure and access to specific intellectual networks. India became a fertile ground for pioneering “Law & Society” research by American Law & Society scholars as early as the 1960s through programmes like Fulbright, Public Law-480, and Ford Foundation.² Even as legal education remained systemically dissociated from the empirical reality of the law, this external intervention precipitated a two-way conversation between Indian and American legal academics on “Law & Society” themes of courts and litigation patterns, legal professions, caste and legal systems, and local and indigenous forms of dispute resolution, that later grew into the sub-fields of legal pluralism and informality.³ While critical scholars observe that this early body of work in India was dominated by American scholars⁴ and, by extension, reflected “liberal-pluralist” frameworks largely divorced from local concerns,⁵ it nonetheless laid the foundation for a more ground-up expansion of the field in subsequent years.

Much as the “outsider” gaze was not less intense on Pakistan, there was a fundamental distinction: with few exceptions, the outsiders were mostly jurists and political scientists personally involved in and/or intrigued by the constitutional experiments unfolding in the new post-colonial state, including complex questions of federal state-making, Islamic constitutionalism, the political role of civil administration, and subsequently, military authoritarianism. There was thus a singular obsession with the crisis of constitution-making in Pakistan and the rise of the military-bureaucratic state, a theme I highlight in more detail in the following Section III. Moreover, till quite recently, scholarship on the state and constitutional politics—what critical scholars typically refer to as state or elite-centric discourses—was dominated by political scientists, even if incorporating the *longue durée*.

The other big observation, common to both India and Pakistan to varying degrees, is that the study of law is marked by a general lack of humanistic approaches and methods. In the case of Pakistan, it may be tempting to put this down primarily to the tenuous relationship between history-writing and nation-building. Unlike India, Pakistan was preoccupied with an ideological agenda of reifying a particular imagining of the new state as based on a distinct Muslim identity. This statist project of constructing a “master narrative” of history not only overshadowed history-writing but also came to be replicated

¹ See Sourav Mandal and Aishwarya Pagedar, ‘A brief sketch and some open questions: Legal scholarly publishing on South Asia’ (2024) 15(1) *Jindal Global Law Review* 1.

² See Rajeev Dhavan, ‘Means, Motives and Opportunities: Reflecting on Legal Research in India’ (1987) 50(6) *Modern Law Review* 725; Mitra Sharafi, ‘South Asian Legal History’ (2015) 11 *Annual Review of Law & Social Science* 309.

³ Sharafi (n 2). See also Marc Galanter, *Law and Society in Modern India* (Oxford University Press 1989).

⁴ Sharafi (n 2).

⁵ Dhavan (n 2).

in other intellectual domains.⁶ Despite the emergence of critical discourses on nationalist history over time,⁷ the scholarly debate has remained largely elite and state-centred.⁸ The apathy surrounding official archives, combined with numerous obstacles in accessing them, is a continuing factor in compounding the deficit and selectivity in history-writing.⁹ It is only in the past two decades that one can discern a turn in the literature toward exploring alternative and dissenting visions of the state,¹⁰ and the participation and experiences of ordinary people in state-making and other historical and political processes.¹¹ More recently, oral history has gained traction, both as a source of historical knowledge and as a method, on themes as diverse as Partition,¹² the violence of the 1971 secession of East Pakistan,¹³ and women in the state bureaucracy.¹⁴

To what extent has this difficult and truncated terrain of history-writing conditioned the direction of legal and socio-legal research in Pakistan? It is true that for a considerable period, the influence of history on the study of law was virtually non-existent, with an almost exclusive focus on unfolding legal and constitutional developments. Indeed, Pakistan's extended and tortuous

⁶ Ali Usman Qasmi, 'A Master Narrative for the History of Pakistan: Tracing the Origins of an Ideological Agenda' (2019) 53(4) *Modern Asian Studies* 1066.

⁷ See, e.g., KK Aziz, *The Making of Pakistan: A Study in Nationalism* (Chatto & Windus 1967); Hamza Alavi, 'The State in Post-Colonial Societies: Pakistan and Bangladesh' (1972) 74 *New Left Review* 59; KK Aziz, *The Murder of History: A Critique of History Textbooks Used in Pakistan* (Vanguard 1993); Ayesha Jalal, *The State of Martial Rule: The Origins of Pakistan's Political Economy of Defence* (Cambridge University Press 1990); Ayesha Jalal, 'Conjuring Pakistan: History as Official Imagining' (1995) 27(1) *International Journal of Middle East Studies* 73.

⁸ Ian Talbot, 'Pakistan's Emergence' in Robin Winks, Roger Louis, and Elaine Low (eds), *The Oxford History of the British Empire: Volume V: Historiography* (Oxford University Press 1999).

⁹ On the state of the archives, see Ali Usman Qasmi, 'A Review of Three Archives in Pakistan' (*Dissertation Reviews*, 5 October 2015) <dissertationreviews.org/three-archives-in-pakistan> accessed 10 March 2025.

¹⁰ See, e.g., Ali Usman Qasmi, *Qaum, Mulk, Sultanat: Citizenship and National Belonging in Pakistan* (Stanford University Press 2023).

¹¹ See, e.g., Vazira Fazila-Yacoobali Zamindar, *The Long Partition and the Making of Modern South Asia: Refugees, Boundaries, Histories* (Columbia University Press 2007); Anam Zakaria, *The Footprints of Partition: Narratives of Four Generations of Pakistanis and Indians* (HarperCollins 2015); Pippa Virdee, *From the Ashes of 1947: Reimagining Punjab* (Columbia University Press 2018).

¹² The Citizens Archive of Pakistan (CAP); The 1947 Partition Archive, Stanford University. The study of Partition is witnessing a revival, this time from a more critical and inclusive lens of "histories-from-below." For a good example, see Pippa Virdee, 'Negotiating the Past: Journey Through Muslim Women's Experience of Partition and Resettlement in Pakistan' (2009) 6(4) *Cultural & Social History* 467.

¹³ Yasmin Saikia, 'War as History, Humanity in Violence: Women, Men, and Memories of Violence of 1971, East Pakistan/Bangladesh' in ED Heineman (ed), *Sexual Violence in Conflict Zones: From the Ancient World to the Era of Human Rights* (University of Pennsylvania Press 2011); Anam Zakaria, *1971: A People's History from Bangladesh, Pakistan and India* (Penguin Random House 2019).

¹⁴ Sana Haroon, 'Women's Participation in the Central Superior Services of Pakistan 1973–2020' (2023) 31(4) *Contemporary South Asia* 1.

experience with constitution-making during the first quarter of a century after independence attracted a good amount of contemporaneous analysis on the subject, so that historicization was not a notable element in this body of work.

One may argue that, in contrast to the long period of mostly state-sponsored historical distortion and erasure in Pakistan, Indian nationalist leaders and intellectuals kept up the institutional tradition of history-writing—albeit initially also allied with the nationalist project¹⁵—so that independent India had both a critical mass of celebrated indigenous historians of varying orientations and a growing historiography on the colonial era relatively early on. Despite the more conducive intellectual environment for history-writing in India, however, the cross-fertilisation between law on the one hand and history and other humanistic social sciences like anthropology on the other did not happen in earnest till the 1990s.¹⁶ Sharafi argues that this “newer legal history” had its origins in two developments: the women’s movement of the 1970s and 1980s, the intellectual side of which was cultivated by feminist historians; and the contemporaneous growth of elite law schools in India.¹⁷

In Pakistan, on the other hand, this interdisciplinary exchange between legal scholars and historians is not yet palpable as a trend, although a small number of individual works point to this possibility in the future.¹⁸ While the predominantly black-letter and vocational nature of legal education has been a constant on both sides of the border,¹⁹ suffice it to say that in India “elite public law schools” unaffiliated with larger universities—the National Law Schools—began to appear on the scene back in the 1990s, and within a decade produced “an unpredicted stream of graduates” who not only pursued graduate education in law primarily from American law schools but also academic paths with interdisciplinary training.²⁰ In Pakistan, a similar institutional effect can be seen roughly a decade later, albeit with the rise of elite *private* law schools and with a more subdued and uneven impact on

¹⁵ For a critical subaltern view of this historiographical project, see Ranajit Guha, ‘On Some Aspects of the Historiography of Colonial India’ in Ranajit Guha and Gayatri C Spivak (eds), *Selected Subaltern Studies* (Oxford University Press 1981).

¹⁶ On the evolution of legal history, see Sharafi (n 2). On the growth of ethnographic methods in law, see Pratiksha Baxi, ‘The Ethnographic Gaze on State Law in India’ in Marie-Claire Foblets, Mark Goodale, Maria Sapiñoli, and Olaf Zenker (eds), *The Oxford Handbook of Law and Anthropology* (Oxford University Press 2020).

¹⁷ Sharafi (n 2).

¹⁸ See, e.g., Osama Siddique, *Pakistan’s Experience with Formal Law: An Alien Justice* (Cambridge University Press 2013); Maryam S Khan, ‘Patterns of Power in Constitutional Design: East-West Symbiosis in United Pakistan’ (2024) 47(6) *South Asia: Journal of South Asian Studies* 1296.

¹⁹ See Upendra Baxi, ‘Socio-Legal Research in India: A Programschrift’ (1982) 24(2/3) *Journal of the Indian Law Institute* 416; and Dhavan (n 2), on India; and Osama Siddique, ‘Legal Education in Pakistan: The Domination of Practitioners and the “Critically Endangered” Academic’ (2014) 63(3) *Journal of Legal Education* 499, on Pakistan.

²⁰ Sharafi (n 2).

legal scholarship.²¹ But, unlike the law-history dialogue that emerged in India simultaneously with the reform of legal education, the two disciplines have seldom shown any cross-overs in Pakistan.

Instead, two trends have developed in parallel since the early 2000s in Pakistan. One is a distinct historicization of the law by *legal scholars* within an emergent body of socio-legal scholarship. The other is an incipient growth of critical and alternative histories. While some prominent contemporary historians have distinguished themselves for taking law seriously, or at the very least giving it more than ancillary importance in their research, it would be premature to speak of an *interdisciplinary* advancement of the socio-legal field over and above the conscription of historical contextualisation, and to a limited extent humanistic methods, by a still-nascent cohort of legal scholars. Put differently, for contemporary socio-legal scholars in Pakistan to combine educational training in different disciplines or to collaborate across and ask questions that straddle disciplinary boundaries is still uncommon. That said, the past two decades mark an important inflection point in the rise of a social-scientific understanding of the law, a trajectory that I chart in detail in Section IV.

The India-Pakistan comparison suggests that the broader environment of history-writing, while undoubtedly important, offers a partial explanation for the differentiated trajectories of socio-legal research in the subcontinent. External influences like opportunities of engagement with transnational or global intellectual networks are a significant part of the story, as is their timing. Equally important are the pace and nature of reform in legal education and the internal conditions for interdisciplinary encounters and osmosis. Thus, the impetus for interdisciplinarity and the incorporation of humanistic approaches in socio-legal research are conditioned by temporal, social, and institutional changes that precipitate a close dialogue between law and other disciplines. Pakistan's case study further clarifies that humanistic approaches, while potentially broadening the scope of social-scientific inquiry of the law and contextualising and enriching the interpretation of empirical observations, do not on their own expand the meaning of "socio" to arenas outside of elite politics, institutions, and actors. This would necessitate self-reflection on the state of the field and an intentional shift towards engagement with critical ground-up frameworks. For Pakistan, one can surmise, again, that a potential pathway to this shift is a cross-disciplinary collaboration between history and socio-legal studies, given that a ground-up lens is becoming increasingly apparent in history-writing. It remains to be seen whether a critical mass of socio-legal scholars will be motivated to form this intellectual bridge under the present institutional conditions of shrinking space for the humanities.

²¹ Siddique (n 19).

III. ANTECEDENTS AND EARLY PRECEDENTS OF SOCIO-LEGAL RESEARCH: THE DOMINANCE OF PUBLIC LAW & POLITICAL SCIENCE

My point of departure for understanding the “socio” in socio-legal research in Pakistan is the corpus of work that is often described as doctrinal analysis of the law. In the world of law teaching, both India and Pakistan continue to rely primarily on statutes, commentaries and textbooks, and case law analysis. Local law publishing also reflects the prevalence of this classic black-letter approach in law schools. However, insofar as *public law* is concerned, the tradition of legal research in Pakistan is historically not so narrow as to be confined to an analysis of legal provisions or their internal jurisprudential logic or judicial interpretation. Because of the conditions of the creation of the British post-colony, there was from the very outset a curiosity among legal jurists about the historical and political trajectory that accompanied lawmaking and constitutional change. Legal analysis was thus organised along a historical timeline that mapped constitutional change onto a broader narrative of political events, a genre that was perhaps not uncommon for its time across the British Commonwealth. But Pakistan was an especially fertile field for this kind of politico-legal analysis in the domain of public law. In just the first 15 years after its independence, the new state had three different constitutions: the Government of India Act, 1935 as adapted by the Indian Independence Act, 1947; the Constitution of 1956; and the Constitution of 1973.

Hence, specifically in relation to Pakistan’s experience with public law, legal research was more in the vein of a situated, and at times granular, analysis of the core features of new constitutions and laws along a political continuum of legal-constitutional milestones. One can describe this as a quasi-doctrinal method. Two of the major early works in this category, authored by Sir Ivor Jennings²² and Alan Gledhill²³ in the first decade of independence, are archetypes of this conventional way of doing public law research: chronological accounts of constitutional development against the backdrop of fast-changing political events and machinations. What makes them distinguishable from doctrinal research is the larger historical context they set out for making sense of the interconnections between the last colonial constitutional framework—the Government of India Act 1935—and constitution-making in the decolonisation era. At the same time, their focus on in-depth textual and jurisprudential analysis makes them heavily descriptive.²⁴ Another prominent resource with a similar quasi-doctrinal

²² Ivor Jennings, *Constitutional Problems in Pakistan* (Cambridge University Press 1957).

²³ Alan Gledhill, *Pakistan: The Development of Its Laws and Constitution* (Stevens & Sons 1957). This was a volume of a series on the laws and constitutions of the British Commonwealth, edited by George W Keeton.

²⁴ The voluminous constitutional jurisprudence on Pakistan in the decades post-decolonisation

method is the treatise on the first indigenous Constitution of 1956, the *Fundamental Law of Pakistan*, by the celebrated local Sindhi jurist, AK Brohi.²⁵ This treatise has retained a position of eminence within the legal profession despite the subject being mostly of historical interest. Its endurance lies in its comparative approach to constitutional interpretation: it sought to provide an authoritative “critical review” of the new Constitution by deriving a generalisable set of “basic principles” of constitutional jurisprudence from across Commonwealth jurisdictions.

With the proclamation of martial law and abrogation of the Constitution of 1956 in 1958, there was a long hiatus in legal research, in that there was no publication of note by legal scholars and jurists. It was not until 2001 that a new work in the same genre of public law arrived on the scene. Titled *Constitutional and Political History of Pakistan*, this canonical text by Hamid Khan, a well-known senior advocate of the Pakistan Supreme Court, continues to be an influential work in the world of law teaching and research, and is used by a wide legal audience including law students, lawyers, and judges.²⁶ Coming more than four decades after Brohi’s *magnum opus* and almost three decades after the introduction of Pakistan’s current Constitution of 1973 (‘1973 Constitution’), this text practically superseded all older texts on legal analysis. It updated the chronology of constitutional developments up to contemporary times, while also extending the historical depth of legal research to the start of the British Raj in post-1857 colonial India.²⁷

Arguably, however, this long gap in scholarship on the law, specifically public law, is deceptive inasmuch as research abounded on themes related to post-colonial state-making and constitutional politics in Pakistan by *foreign political scientists* in the first two decades prior to the secession of East Bengal in 1971. The contributions of this political science-focused literature to the development of socio-legal research on constitutional law and politics are seldom acknowledged: it is indispensable to understanding the historical antecedents of the current constitutional framework, especially against the backdrop of state-making and nation-building during the period of decolonisation. Prominent works in this category were authored by both Commonwealth and American scholars and intellectuals. These

mirrors this quasi-doctrinal analysis within a framework of high politics and political crises. See, e.g., *State v Dosso* PLD [1958] SC 533; *Asma Jilani v Government of Punjab* PLD [1972] SC 139.

²⁵ AK Brohi, *Fundamental Law of Pakistan: Being an Exposition and a Critical Review of the Juridical, Political, and Ideological Implications of the Constitution of the Islamic Republic of Pakistan in the Light of the Basic Principles of Comparative Constitutional Jurisprudence* (Din Muhammadi Press 1958).

²⁶ Hamid Khan, *Constitutional and Political History of Pakistan* (Oxford University Press 2001).

²⁷ Khan has recently published another volume on judicial history that traces the development of Pakistan’s judiciary through the lives and judgements of renowned judges. Hamid Khan, *A History of the Judiciary in Pakistan* (Oxford University Press 2016).

include Richard Symonds (historian at the Oxford University Institute of Commonwealth Studies),²⁸ Herbert Feldman (professional journalist resident in Karachi),²⁹ Keith Callard (area studies professor at McGill University),³⁰ Richard Wheeler (political scientist at University of Michigan),³¹ Ralph Braibanti (political scientist at Duke University who founded the American Institute of Pakistan Studies ('AIPS')),³² Wayne Wilcox (political scientist at Columbia University),³³ Ian Stephens (historian at Cambridge who was also recruited as an official historian of the Pakistan government in the 1960s),³⁴ Leonard Binder (political scientist at University of California Los Angeles),³⁵ Karl Von Vorys (political scientist at the University of Pennsylvania),³⁶ and Lawrence Ziring (political scientist at Western Michigan University).³⁷ Special mention also goes to Karl Newman, a German political scientist based for many years at the University of Dhaka, who wrote fascinating monographs on constitutional design in Pakistan—inspired by the German Basic Law—as part of his advisory role on constitution-making in the 1950s.³⁸ A small number of local academics, from both wings of united Pakistan, also made important contributions to this early scholarship on post-colonial politics and constitutional development. Two names that stand out are Khalid B Sayeed³⁹ and GW Choudhury.⁴⁰

Various other local and international political science scholars were to add their voices to this foundational chorus in subsequent decades. But, starting between the 1970s and 1980s, there was a decided shift in this body of work, from a defining focus on constitutional development to themes encompassing

²⁸ Richard Symonds, *The Making of Pakistan* (Faber and Faber 1950).

²⁹ Feldman was a prolific writer. Some of his well-known works include: Herbert Feldman, *A Constitution for Pakistan* (Oxford University Press 1955); Herbert Feldman, *Revolution in Pakistan: A Study of the Martial Law Administration* (Oxford University Press 1967); and Herbert Feldman, *From Crisis to Crisis: Pakistan 1962-1969* (Oxford University Press 1972).

³⁰ Keith B Callard, *Pakistan – A Political Study* (Macmillan 1957); Keith B Callard, *Political Forces in Pakistan, 1947-1959* (Institute of Pacific Relations 1959).

³¹ Richard Wheeler, *The Politics of Pakistan: A Constitutional Quest* (Cornell University Press 1970).

³² Ralph JD Braibanti, *Research on the Bureaucracy of Pakistan: A Critique of Sources, Conditions, and Issues, with Appended Documents* (Duke University Press 1966).

³³ Wayne A Wilcox, *Pakistan: The Consolidation of a Nation* (Columbia University Press 1963).

³⁴ Ian Melville Stephens, *Pakistan: Old Country, New Nation* (Penguin Books 1964); Ian Melville Stephens, *The Pakistanis* (Oxford University Press 1968).

³⁵ Leonard Binder, *Religion and Politics in Pakistan* (University of California Press 1961).

³⁶ Karl Von Vorys, *Political Development in Pakistan* (Princeton University Press 1965).

³⁷ Lawrence Ziring, *The Ayub Khan Era: Politics in Pakistan, 1958-1969* (Syracuse University Press 1971).

³⁸ His representative work is Karl J Newman, *Essays on the Constitution of Pakistan: Including the Draft and Final Constitution of Pakistan with Comments* (Pakistan Co-operative Book Society 1956).

³⁹ See, e.g., Khalid B Sayeed, *The Political System of Pakistan* (Houghton Mifflin 1967).

⁴⁰ See, e.g., GW Choudhury, *Democracy in Pakistan* (Green Book House 1963); GW Choudhury, *Constitutional Development in Pakistan* (Longmans, Green and Co. 1969).

the breakup of Pakistan in 1971, social and economic policy and ethnic conflict in the 1970s, military dictatorship and the Afghan *jihad* in the 1980s, and subsequently, civil-military relations, terrorism, and Talibanization. Conspicuously missing from this picture are pivotal questions of a socio-historical and constitutional nature that foreground the project of nationalist reconstruction in the 1970s—a significant omission, given that this transition was underwritten by the new 1973 Constitution made by Pakistan's first popularly elected assembly.⁴¹ As a result, although there is a fair amount of political science scholarship on Pakistan through and on the 1970s and 1980s, it does not advance the field of public law in any meaningful way, so much so that one is hard-pressed to find any secondary literature on the 1973 Constitution itself.

In the 1990s, one can begin to identify a small cluster of disparate, but highly impactful, works on or relating to law and legal institutions. This heterogeneous body of work has had an enduring impact on subsequent research on law, and can be categorised as the earliest socio-legal works on Pakistan because of their noteworthy attempts at articulating social effects, patterns, and theories of the law. Coming on the heels of the brutal military dictatorship and the US-sponsored Afghan *jihad* of the 1980s that led to an uncertain democratic phase in the 1990s, these works grapple with different aspects of law and the state amidst a major, at times violent, social and political transition. Two prominent authors who contributed to this literature were American political scientists with specialisations in areas studies (Charles Kennedy) and comparative constitutional law (Paula Newberg).

Charles Kennedy's research makes a singular contribution to chronicling the implementation and impact of the process of Islamisation of laws in the 1980s under the military regime of General Zia-ul-Haq.⁴² As a professor of political science at Wake Forest University with a long and distinguished affiliation with AIPS—first as its Secretary from 1982 to 1988, and then its Director from 1988 to 2001—Kennedy conducted extensive field research in Pakistan, India, and Bangladesh in the 1980s and 1990s through the Fulbright programme. Using official court data, case files, and litigation trends, Kennedy argued, controversially, that the political rhetoric of Islamisation was disproportionate to its actual, marginal impact on the ground in terms

⁴¹ See Maryam S Khan, 'What's in a Founding? Founding Moments and Pakistan's 'Permanent' Constitution of 1973' in Richard Albert, Menaka Guruswamy, and Nishchal Basnyat (eds), *Founding Moments in Constitutionalism* (Hart 2019).

⁴² Charles H Kennedy, 'Islamization in Pakistan: Implementation of the Hudood Ordinances' (1988) 28(3) *Asian Survey* 307; Charles H Kennedy, 'Islamization and Legal Reform in Pakistan, 1979-1989' (1990) 63(1) *Pacific Affairs* 62; Charles H Kennedy, 'Islamic Legal Reform and the Status of Women in Pakistan' (1991) 2(1) *Journal of Islamic Studies* 45; Charles H Kennedy, 'Judicial Activism and Islamization After Zia: Toward the Prohibition of Riba' in Charles H Kennedy (ed), *Pakistan 1992* (Routledge 1993); Charles H Kennedy, 'Islamization of Real Estate: Preemption and Land Reforms in Pakistan, 1978-1992' (1993) 4(1) *Journal of Islamic Studies* 71.

of the enforcement of the new laws by the state. This was an instantiation of the “gap problem,” common in American socio-legal studies in the 1960s and 1970s, that sought to critically identify the inconsistencies between formal law and its implementation, and to explain the pathways that determined law’s effectiveness and outcomes.⁴³ As the 1990s rolled in, Kennedy showed, in addition, that the parallel Federal Shariat Court established by Zia, far from being a centralised force, was able to function with relative autonomy because of a lack of consensus on what constituted Islamic laws. Paula Newberg’s book on the judicial role in Pakistan’s constitutional evolution (up to 1993) is also a well-acclaimed and widely-cited work within and without the legal sphere.⁴⁴ Through a detailed and historically grounded account of how courts and judges navigate constitutional politics in a context of military power, Newberg masterfully demonstrated the concept of judicial agency, thus displacing the fixation with executive power on the one hand, and jurisprudence on the other. This was the first empirical study of its kind on judicial politics in Pakistan, based on a combination of a small sample of interviews, and court judgments and documentary archives, including official reports, judicial memoirs, and newspapers. Together, Kennedy and Newberg laid the groundwork for appreciating judicial behaviour within its embedded social and political reality, asserting counter-intuitively in the process that judge-led activism was not mutually exclusive with authoritarian regimes.

Legal scholars writing during this period also shed light on judicial practices, although by focusing on specific bodies of constitutional jurisprudence. Tayyab Mahmud, a Pakistani-American scholar, published a series of law journal articles on themes such as judicial responses to constitutional crises, judicial legitimacy of coups, and judicial interpretation of freedom of religion.⁴⁵ These studies were based entirely on case law analysis and secondary literature. Yet, far from being descriptive, they critically engaged with historical and evolutionary trends in constitutional adjudication that would otherwise not be evident on a purely legal review of court judgments. Among other things, Mahmud underlined the stark dissonance between constitutional guarantees and constitutional governance, attributing the judiciary’s doctrinal inconsistency to a mixture of poor judicial choices and political instability. In this sense, Mahmud’s work significantly enhances our empirical knowledge of judicial practices in Pakistan, especially in light of a long history of episodic constitutional breakdown and change. Shaheen Sardar Ali, a Pakistani-British

⁴³ See Jon B Gould and Scott W Barclay, ‘Mind the Gap: The Place of Gap Studies in Sociolegal Scholarship’ (2012) 8(1) *Annual Review of Law and Social Science* 323.

⁴⁴ Paula R Newberg, *Judging the State: Courts and Constitutional Politics in Pakistan* (Cambridge University Press 1995).

⁴⁵ Tayyab Mahmud, ‘Praetorianism and Common Law in Post-Colonial Settings: Judicial Responses to Constitutional Breakdowns in Pakistan’ (1993) *Utah Law Review* 1225; Tayyab Mahmud, ‘Jurisprudence of Successful Treason: Coup d’Etat and Common Law’ (1994) 27(1) *Cornell International Law Journal* 49; Tayyab Mahmud, ‘Freedom of Religion and Religious Minorities in Pakistan: A Study of Judicial Practice’ (1995) 19(1) *Fordham International Law Journal* 40.

scholar, used a similar legal-historical framework to understand the rights of religious and ethnic minorities, but from the angle of parallel legal systems and their interaction with formal constitutional provisions.⁴⁶ This was, arguably, the beginnings of the application of the idea of legal pluralism in Pakistan.

None of these works would make it through peer review today in certain Global North socio-legal publications like the *Law & Society Review* (LSR) for lack of *empirical methods* beyond contextual case analysis. For Pakistan, however, these are foundational socio-legal texts, purposefully foregrounding the influence of social and political factors on the law, and conversely the social and disparate effects of the law, in ways that have not been attempted before. In this sense, they hark back to early *Law & Society* scholarship that sought to decentre law's autonomy by distinguishing the "law in books" from "law in action."⁴⁷ This raises a related question about the link between the contextual meaning of socio-legal on the one hand, and the paramount importance given to what counts as an empirical method in delineating the frontiers of the socio-legal on the other. Qualitative data-driven studies of the law that may not be based on "empirical," i.e., field methods, but go well beyond doctrinal or descriptive analysis to chart and explain temporal or institutional trends in adjudication through case law and other archival material, form a compelling category of research that stretches these frontiers. While this may provoke disagreement in some quarters, this body of work serves the much-needed objective of displacing the widespread anachronistic belief systems, within and without the legal professions, about the autonomy of the law. I explore this idea further in the following sections.

IV. THE "SOCIO" IN SOCIO-LEGAL: AN IMPERFECT ATTEMPT AT CLASSIFICATION

All the early precedents from the 1990s on socio-legal scholarship on Pakistan were set by political scientists and legal scholars who were either from and/or based in Global North academic institutions. This was a time when the local landscape of legal education in Pakistan was still largely unreformed. Local law-related research noticeably increased in the early 2000s onwards. The classic text on constitutional history by Hamid Khan and the first study on the judicial innovation of "public interest litigation" by Werner Menski (a scholar of South Asian Legal Studies at the School of Oriental and Asian Studies (SOAS)) in collaboration with two young Pakistani

⁴⁶ Shaheen Sardar Ali, 'The Rights of Ethnic Minorities in Pakistan: A Legal Analysis (with particular reference to the Federally Administered Tribal Areas)' (1999) 6(1) *International Journal on Minority and Group Rights* 169. See also François Tanguay-Renaud, 'Post-Colonial Pluralism, Human Rights and the Administration of Criminal Justice in the Federally Administered Tribal Areas of Pakistan' (2002) 6 *Singapore Journal of International and Comparative Law* 541.

⁴⁷ See Roscoe Pound, 'Law in Books and Law in Action' (1910) 44 *American Law Review* 12.

lawyers-academics⁴⁸ signalled the start of this trend. Primarily, however, the transformation in legal research can be attributed to the appearance of the full-time legal academic in law programmes and universities in Pakistan, and the institutional incentives around this change for advanced education in law and research publications. Spearheading these legal education reforms was the new Law & Policy Program ('Law Program') at the Lahore University of Management Sciences ('LUMS') that proposed a 5-year interdisciplinary BA/LLB structure across local law colleges—both public and private and regardless of affiliation with larger universities—and mandated a minimum ratio of full-time permanent to part-time adjunct faculty.⁴⁹ Drawing from India's reform experience, these two major prescriptions of reconceptualising law as a social science and generating space for legal academics were aimed at broadening the scope of law study to policymaking and interdisciplinary legal research. LUMS also became a hospitable academic home for foreign law faculty and scholars just as the Law Program was being established, spurring the interest of other international scholars whose work entered into a dialogue with this new wave of locally-generated scholarship.

Here I attempt a review of representative research on Pakistan that has emerged from the (local and international) *legal academy* in the past quarter of a century. I take a reflexive approach that honours the incremental and tentative development of legal scholarship and suggest ways in which this contemporary scholarship comprises and enables socio-legal thinking. I identify three distinctive moments in this evolutionary mapping of socio-legal work: a renewed focus on Islamic law and Islam-related themes, the Lawyers' Movement and the judicialisation of politics, and the emergence of empirical methods and legal history. Along this arc, the "socio" has moved, in substantive terms, from a singular investigation of judicial behaviour and judge-driven legal regimes, to examining the impact (intended and unintended) of the law and the consequences of judicial activism, to explaining legal mobilisation in context, to studying the institutional structures of legal institutions and professions, and finally to engaging with legal and constitutional history through archival sources. This is not a strictly chronological timeline, nor does it suggest that ideas of the "socio" that were prevalent in the past do not have currency now. Rather, it highlights the appearance of new ways of thinking about the "socio" broadly over time. Inextricably linked to this substantive progression of the field is the growing trend towards the adoption of empirical methods beyond case law and jurisprudence—such as interviews, small-sized surveys, participatory observation and ethnographies, and oral histories. At the same time, barring few exceptions, socio-legal discourse continues to be dominated by questions of elite and state-centred politics. The following

⁴⁸ Werner Menski, Ahmad Rafay Alam, and Mehreen Kasuri Raza, *Public Interest Litigation in Pakistan* (Platinum Law House 2000).

⁴⁹ See Osama Siddique, 'Martial Law and Lawyers: The Crisis of Legal Education in Pakistan and Key Areas of Reform' (2007) 5 *Regent Journal of International Law* 95; Siddique (n 19).

discussion takes a close look at the three moments of the development of socio-legal research by legal academics.

A. Renewed Focus on Islamic Law

The theme of Islamic law dominated the new wave of socio-legal scholarship by scholars based at or associated with the Law Program. In 2004, Jeff Redding (then a visiting faculty member at LUMS teaching law and politics, who later served as the Dean for LUMS Law for a short stint in 2020-2021) published an extensive study on the parallel Shariat Court.⁵⁰ In many ways, this built on Kennedy's research on the Islamisation process in the 1980s, but went much further in articulating a theory of Islamic constitutionalism. Relying on an examination of evolving judicial reasoning over a period of a decade and a half and using a comparative lens on India, Redding argued that Pakistan's Shariat Court crafted a community-led approach to define Islamic law in a way that was compatible with the Muslim sectarian divide in Pakistan. A couple of years later, Martin Lau (then a South Asian legal studies scholar at SOAS, who also served as Dean of LUMS Law in 2016-2018) similarly analysed the Islamic legal system, but across both time and space so that his work was not exclusively focused on the jurisprudence of the Shariat Court.⁵¹ Lau's objective was more to emphasise the decentralised and plural judge-led nature of the interpretation of Islamic laws in Pakistan. Like the earlier studies on themes highlighting the judicial role in shaping constitutional politics, this new wave of research sought, through contextual readings of case law over time, to understand the mutually constitutive relationship between law and society: how social facts conditioned judicial responses and how judicial practices in turn shaped social and political outcomes.

The renewed focus on Islamic law emerged against the backdrop of expanding space for critical public opinion on the reform of the Islamic legal system under the military regime of General Pervez Musharraf in the early 2000s.⁵² Coming after two decades of Islamisation, this body of research complicated Kennedy's original proposition that the impact and enforcement of the Islamisation project was relatively restrained. Here, we see a conceptual movement from judicial practice and behaviour to the impact of law. Well-known works in this category included Osama Siddique and Zahra Hayat's detailed study on blasphemy laws and their frequent abuse,⁵³ and Tahir Wasti's

⁵⁰ Jeffrey A Redding, 'Constitutionalizing Islam: Theory and Pakistan' (2004) 44 *Virginia Journal of International Law* 759.

⁵¹ Martin Lau, *The Role of Islam in the Legal System of Pakistan* (Martinus Nijhoff 2006). See also Martin Lau, 'Islam and the Constitutional Foundations of Pakistan' in Rainer Grote and Tilmann Röder (eds), *Constitutionalism in Islamic Countries: Between Upheaval and Continuity* (Oxford University Press 2012).

⁵² See, e.g., Martin Lau, 'Twenty-five years of Hudood Ordinances – A Review' (2007) 64(4) *Washington & Lee Law Review* 1291.

⁵³ Osama Siddique and Zahra Hayat, 'Unholy Speech and Holy Laws: Blasphemy Laws in Pakistan – Controversial Origins, Design Defects, and Free Speech Implications' (2008) 17(2)

research on the practice and consequences of the Islamic criminal laws known as *qisas and diyat* (retaliation and blood money) in cases of homicide.⁵⁴ These works had two things in common: they provided a rich historical context to the laws under scrutiny and marshalled a diverse set of sources and archival data in addition to case law to build an empirical picture of law in action, including legislative debates, police records, and case files. Also interesting is the fact that unlike some of the earlier research that emphasised the gap between the intended purpose and the actual implementation of the law, these works asserted, to varying degrees, that the laws in question were instruments of political expedience and their design itself invited abuse quite apart from the larger context of religious intolerance.⁵⁵

The question of women's rights under Islamic law in Pakistan also came centre-stage during this time because of the ongoing debate on the Hudood Ordinances and the legislative reforms that followed. The Hudood Ordinances were a set of draconian laws put in place by the Zia regime in the 1980s that, among other things, targeted women as a means for enforcing Islamic piety. On the one hand, the Ordinances criminalised sexual relations like fornication and adultery, maliciously conflating them with rape; on the other, they decriminalised "honour killings" in cases of homicide.⁵⁶ While some scholars argued that loopholes in the new laws introduced by the Musharraf regime reproduced the old *status quo* against women,⁵⁷ others adopted an ambivalent stance. Moeen Cheema (then faculty at the Law Program) asserted, for instance, that "judicial patronage" of certain schools of Islamic interpretation, and not Islamisation *per se*, constituted the real source of unjust legal outcomes,⁵⁸ while contending at the same time that there was insufficient recognition of Shariat Court judges for their restraint in the application of Hudood laws.⁵⁹

Minnesota Journal of International Law 303.

⁵⁴ Tahir Wasti, *The Application of Islamic Criminal Law in Pakistan: Sharia in Practice* (Brill 2009).

⁵⁵ Siddique and Hayat (n 53) 305; Wasti (n 54) 18.

⁵⁶ See, e.g., Lau (n 52).

⁵⁷ See, e.g., Mazna Hussain, "'Take My Riches, Give Me Justice': A Contextual Analysis of Pakistan's Honor Crimes Legislation" (2006) 29(1) Harvard Journal of Law & Gender 223. For an example of continuing scholarly interest in the subject, see Muhammad Zubair Abbasi, 'Sexualization of Shari'a: Application of Islamic Criminal (Hudud) Laws in Pakistan' (2021) 29(3) Islamic Law & Society 319.

⁵⁸ Moeen Cheema, 'Judicial Patronage of "Honor Killings" in Pakistan: The Supreme Court's Persistent Adherence to the Doctrine of Grave and Sudden Provocation' (2008) 14 Buffalo Human Rights Law Review 51; Moeen Cheema and Abdul-Rahman Mustafa, 'From the Hudood Ordinances to the Protection of Women Act: Islamic Critiques of the Hudood Laws of Pakistan' (2008) 8(1) UCLA Journal of Islamic and Near Eastern Law 1.

⁵⁹ Moeen Cheema, 'Cases and Controversies: Pregnancy as Proof of Guilt Under Pakistan's Hudood Laws' (2006) 32(1) Brooklyn Journal of International Law 121. See also Moeen Cheema, 'Beyond Beliefs: Deconstructing the Dominant Narratives of the Islamization of Pakistan's Law' (2012) 60(4) American Journal of Comparative Law 875.

These differing viewpoints aside, the internal debate among legal scholars on the subject of the Hudood did not yield substantially new conceptual categories of the “socio” in socio-legal research. Undoubtedly, the scholarship reopened, and in many ways deepened, the existing conversation on the themes of judicial practice and the actual impact of the law. Some works also attempted to pluralise the archival sources with the aim of highlighting the social consequences of the law. Even so, this body of literature remained anchored in court-centred politics and Islamic jurisprudence. For the most part, the reliance on courts and judgements as the central lens or method in the empirical study of Islam-related themes has not abated. Examples from contemporary literature include works on Muslim personal and family laws⁶⁰ and Islamic constitutionalism.⁶¹

B. The Lawyers’ Movement and Judicialisation of Politics

As research on Islamic law gained ground in the early 2000s, the other prominent theme of constitutional politics seemed not to generate as much scholarly interest despite the *coup* of 1999 that led to a decade-long military government under General Pervez Musharraf. One major exception was a critical study published in 2006 by Osama Siddique (the first Head of the Law Program from 2005 to 2008) on the legislative origins and impact of the exercise of presidential power on judicial decision-making in the 1990s.⁶² The study was based on legislative debates in addition to case law analysis and sought to interrogate jurisprudential contradictions through the lens of the military’s instrumentalisation of the Constitution. This was the first socio-legal work after Newberg that sought to explain the complexities of judicial activism within historical debates about authoritarian rule. Overlapping with Newberg’s focus on the 1980s but extending it in many ways through the democratic interlude of the 1990s, Siddique’s research also made a larger

⁶⁰ See, e.g., Ihsan Yilmaz, ‘Pakistan Federal Shariat Court’s Collective *Ijtihad* on Gender Equality, Women’s Rights, and the Right to Family Life’ (2014) 25(2) *Islam & Christian-Muslim Relations* 181; Shaheen Sardar Ali, *Modern Challenges to Islamic Law* (Cambridge University Press 2016); Muhammad Zubair Abbasi, ‘Judicial *Ijtihad* as a Tool for Legal Reform: Extending Women’s Right to Divorce under Islamic Law in Pakistan’ (2017) 24(4) *Islamic Law & Society* 384; Mudasra Sabreen, ‘The Judiciary-led Islamization of Family Law in Pakistan: An Analysis’ (2020) 59(2) *Islamic Studies* 203.

⁶¹ See, e.g., Matthew J Nelson, ‘Indian Basic Structure Jurisprudence in the Islamic Republic of Pakistan: Reconfiguring the Constitutional Politics of Religion’ (2018) 13(2) *Asian Journal of Comparative Law* 333; Maryam S Khan, ‘Islamic Review in Pakistan: Problematising the Divide between the Shari’a Courts and their Secular Counterparts’ in Swethaa Ballakrishnen & Sara Dezalay (eds), *Invisible Institutionalisms: Collective Reflections on the Shadows of Legal Globalisation* (Hart 2021); Muhammad Zubair Abbasi, ‘Islamic Constitutionalism in Pakistan: Nature, Impact, and Compatibility with International Human Rights Law’ (2022) 18(2) *Manchester Journal of Transnational Islamic Law & Practice* 3.

⁶² Osama Siddique, ‘The Jurisprudence of Dissolutions: Presidential Power to Dissolve Assemblies Under the Pakistani Constitution and Its Discontents’ (2006) 23(3) *Arizona Journal of International and Comparative Law* 615.

comment about the military's nexus with the judiciary, and the judicial sleight of hand, in engineering the course of civilian politics.

The Lawyers' Movement ('Movement') precipitated a revival of interest in constitutional politics. The Movement was a lawyer-led mobilisation against the arbitrary dismissal of then Chief Justice of Pakistan, Iftikhar Chaudhry, by General Musharraf for his judicial activism in the Supreme Court. Sustained over the course of two years (2007 to 2009) through rapidly shifting political conditions, the Movement became the immediate cause for a transition to electoral democracy, the downfall of the Musharraf regime, and the restoration of illegally removed judges to the courts. The international media's coverage of the Movement inspired cause lawyers around the world. The American legal academy was also enamoured by the singular courage of a chief justice in a face-off with a military dictator—who was then ironically at the forefront of the US "War on Terror"—as well as the spectacle of street-based politics of lawyers in propping up the judge. Just as Harvard Law School bestowed the Medal of Freedom, its highest honour, on Chief Justice Iftikhar Chaudhry,⁶³ some global law scholars saw in Pakistan's example fertile ground for theory-making on lawyers and judges.

The scholarship on the Movement made for a distinctive class of socio-legal research because of its inscription into political projects on judicial independence and political liberalism. The first composite treatment of the subject appeared in a 2012 edited volume by an interdisciplinary team of American and European scholars working on the politics of lawyers and judges. The Movement became a major hypothesis-generating case study for their influential theory of the "legal complex" that sought to explain the ebbs and flows in "political liberalism" through the mobilisation of legal actors across very different contexts.⁶⁴ The three original works by Pakistani scholars in this edited volume commented on different aspects of the Movement. The first tended to disagree with the nexus between the politics of lawyers and goals of political liberalism, charting out the long history of illiberalism in bar politics.⁶⁵ The second and third were in close agreement with the legal complex framework, the former reconstructing the Movement across different phases⁶⁶ and the latter looking more closely at the role of the legal community in the mobilisation.⁶⁷ On the basis of a combination of

⁶³ Matt Hutchins, 'Pakistan's Chief Justice Receives Medal of Freedom' (*The Harvard Law Record*, 20 November 2008) <hlrecord.org/pakistans-chief-justice-receives-medal-of-freedom/> accessed 24 April 2025.

⁶⁴ Terence C Halliday, Lucien Karpik, and Malcolm M Feeley (eds), *Fates of Political Liberalism in the British Post-Colony: The Politics of the Legal Complex* (Cambridge University Press 2012).

⁶⁵ Sadaf Aziz, 'Liberal Protagonists? The Lawyers' Movement' in Halliday and others (n 64).

⁶⁶ Shoaib A Ghias, 'Miscarriage of Chief Justice: Judicial Power and the Legal Complex in Pakistan under Musharraf' in Halliday and others (n 64).

⁶⁷ Daud Munir, 'From Judicial Autonomy to Regime Transformation: The Role of the Lawyers' Movement in Pakistan' in Halliday and others (n 64).

news archives and case judgments, both the second and third works argued that the Movement represented the goal of judicial autonomy and that it was instrumental in bringing about a democratic transition. This theory of the legal complex became the immediate Global North gaze for analysing the Movement. However, in hindsight, it had few takers; the complexities of judicial power in the post-colonial authoritarian context of Pakistan became visible with the passage of time.

As the fallout of the Movement became clearer, a broader critical literature emerged around the Movement through the alternative lens of the judicialisation of politics. This literature ranged from sceptical to highly critical perspectives of the Movement and its aftermath. Collectively, it marshalled the empirical bases for arguing that just as the Movement strengthened judicial autonomy, it limited the benefits of that autonomy to an elite and unaccountable group of judges and lawyers and created political opportunities for the judiciary to, at once, enlarge its political power and insulate itself from external checks.⁶⁸ Added to this were larger critiques about the judiciary's active role in the erosion of democratic institutions and processes.⁶⁹

Both the literatures on the legal complex and the judicialisation of politics are susceptible to the criticism that they privilege an elite-centred view of constitutional change. At the same time, it would be amiss to ignore the shift that has come about in the understanding of the “socio” with the Lawyers’ Movement, even if at the level of elite politics. Because the crux of the Movement was a street-based mobilisation, conducted for the most part *de hors* the courts, it was impossible to write about it wholly through the familiar frames of jurisprudential evolution and judicial practice. Legal scholars were instead compelled to think about the social context as well as the structures of institutional mobilisation. The legal complex was an expedient conceptual tool in this political moment for making sense of collective action within and between legal institutions and actors. On the other hand, the framework of judicialisation of politics—in explaining and theorising judicial power in

⁶⁸ Anil Kalhan, “‘Gray-Zone’ Constitutionalism and the Dilemma of Judicial Independence in Pakistan” (2013) 46(1) *Vanderbilt Journal of Transnational Law* 1; Maryam S Khan, ‘Genesis and Evolution of Public Interest Litigation in the Supreme Court of Pakistan: Toward a Dynamic Theory of Judicialization’ (2014) 28(2) *Temple International & Comparative Law Journal* 284; Osama Siddique, ‘Judicialization of Politics: The Supreme Court after the Lawyers’ Movement’ in Mark Tushnet and Madhav Khosla (eds), *Unstable Constitutionalism: Law and Politics in South Asia* 159 (Cambridge University Press 2015); Mohammad Waseem, ‘Constitutionalism and Extra-Constitutionalism in Pakistan’ in Mark Tushnet and Madhav Khosla (eds), *Unstable Constitutionalism: Law and Politics in South Asia* 124 (Cambridge University Press 2015); Maryam S Khan, ‘Empowerment Without Accountability? The Lawyers’ Movement in Pakistan and Its Aftershocks’ (2019) 50(3) *IDS Bulletin* 53.

⁶⁹ See, e.g., Muhammad Azeem, *The Law, State, and Inequality in Pakistan: Explaining the Rise of the Judiciary* (Springer 2017); Muhammad Azeem, ‘A Strong Judiciary as a Crisis for Democracy: A Law and Development Study from Pakistan’ (2020) 14(1) *Law & Development Review* 105.

the Movement and its aftermath, with a critical emphasis on lack of judicial accountability—relied on the familiar method of clarifying judicial behaviour and court politics through case law analysis over time.⁷⁰

Meanwhile, as Chief Justice Iftikhar Chaudhry—the protagonist of the Lawyers’ Movement—vacated his seat on the Supreme Court upon his retirement at the end of 2013, another group of Pakistani scholars seized the moment to collaborate on a project in defence of the judicial activism of the “Chaudhry Court” on the ground, among others, that the Court’s actions represented “judicial proactivism” against executive failures.⁷¹ This was an intellectual project set up explicitly in opposition to critical voices against the judicialisation of politics, manifesting in its most excessive form in the Court’s disqualification of an elected Prime Minister in 2012. Moeen Cheema was the most vocal proponent of the defence of the “Chaudhry Court” on this basis, authoring multiple works on this theme in the past decade to rationalise the politics of the Supreme Court in terms of the Court’s writ jurisdiction.⁷² The crux of his argument was that the judiciary had a long jurisprudential history of holding executive action to account through administrative law—what he referred to as an ideological framework of post-colonial legality. Like much of Cheema’s previous research on the Hudood Ordinances, the core methodological feature of this literature was a heavy reliance on case law and jurisprudence. While the subject-matter lent itself to an examination of case law, and while the scholarship on judicialisation of politics also necessarily invited attention to the evolution of judicial review, Cheema missed an important opportunity for a normative engagement with critiques of the judicialisation of politics. In adopting a narrow lens on jurisprudence, he circumvented concerns and insights about judicial overreach and lack of judicial accountability in the judicialisation literature that spoke to a larger context of political development.

⁷⁰ The only exception is a study that additionally incorporates data from a post-Movement lawyers’ perception survey of judges. Maryam S Khan, ‘Empowerment Without Accountability? The Lawyers’ Movement in Pakistan and Its Aftershocks’ (2019) 50(3) IDS Bulletin 53.

⁷¹ Moeen Cheema and Ijaz Gilani, *The Politics and Jurisprudence of the Chaudhry Court 2005-2013* (Oxford University Press 2015).

⁷² Moeen Cheema, ‘The Politics of the Rule of Law’ (2015) 24(2) Michigan State International Law Review 449; Moeen Cheema, ‘The “Chaudhry Court”: Deconstructing the “Judicialization of Politics” in Pakistan’ (2016) 25(3) Washington International Law Journal 447; Moeen Cheema, ‘Two Steps Forward One Step Back: The Non-Linear Expansion of Judicial Power in Pakistan’ (2018) 16(2) International Journal of Constitutional Law 503; Moeen Cheema, ‘Pakistan: The State of Liberal Democracy’ (2018) 16(2) International Journal of Constitutional Law 635; Moeen Cheema, *Courting Constitutionalism: The Politics of Public Law and Judicial Review in Pakistan* (Cambridge University Press 2021).

C. Recent Trends of Qualitative Empirical Methods and Legal History

In contrast to case analysis as the core method in much of socio-legal research in Pakistan, there is an incipient trend in the past decade toward incorporating a range of qualitative empirical methods. Osama Siddique's book on the linkages between narratives of colonial displacement and post-colonial law reform discourses is one such outstanding example that combines historical archives with litigant interviews and court-based ethnographies.⁷³ More recently, my own study of the organisational role of lawyers in spearheading the Lawyers' Movement is the first comprehensive interview-based empirical account of the Movement from the perspective of lawyer-mobilisers, advancing a more context-sensitive framework of legal mobilisation as an alternative to the legal complex.⁷⁴ Sahar Shafqat's work, based on a small sample of interviews with lawyers and prominent civil society members, emphasises the participation of civil society actors in the Movement for the restoration of the arbitrarily removed judges.⁷⁵ Emergent research on other sub-themes of judicial politics also appears to be moving in the direction of empirical work. For instance, studies of women judges in Pakistan by scholars like Rubya Mehdi and Livia Holden⁷⁶ are based on interviews, ethnographies, and other observational methods, as are some new works on the legal profession, ranging from gender discrimination in the legal bar⁷⁷ to lawyer-client relations.⁷⁸ A shift away from judicial politics can be seen in works like Livia Holden's ethnographic study on law and culture,⁷⁹ and my co-authored interview-based research with Fariha Aziz on the impact of defamation laws on survivors of sexual violence.⁸⁰ There is much scope

⁷³ Siddique (n 18).

⁷⁴ Maryam S Khan, 'Lawyers' Movement in Pakistan: How Legal Actors Mobilise in a Hybrid Regime' (2021) 16(2) *International Journal of Law in Context* 315.

⁷⁵ Sahar Shafqat, 'Civil Society and the Lawyers' Movement of Pakistan' (2018) 43(3) *Law and Social Inquiry* 889.

⁷⁶ Rubya Mehdi, 'Lady Judges of Pakistan: Embodying the Changing Living Tradition of Islam' in Nadia Sonneveld and Monika Lindbekk (eds), *Women Judges in the Muslim World: A Comparative Study of Discourse and Practice* (Brill 2017); Livia Holden, 'Women Judges in Pakistan' (2019) 26(1) *International Journal of the Legal Profession* 89.

⁷⁷ See, e.g., Jibran Jamshed, 'Gender Discrimination and Sexual Harassment in the Legal Profession: A Perspective from Patriarchal Society' (2021) 34(3) *Women & Criminal Justice* 244.

⁷⁸ See, e.g., Jibran Jamshed, Naila Kareem, Waheed Rafique, and Muhammad Waqas Javed, 'An Empirical Study of Lawyer-Client Relationships in Punjab, Pakistan' (2022) 29(3) *International Journal of the Legal Profession* 335.

⁷⁹ Livia Holden, 'Law, Culture, and Governance in Hunza' (2018) 8 *Nordic Journal of Law and Social Research* 1; Livia Holden, 'Law, Culture, and Governance in Gilgit-Baltistan' (2019) 10(1) *South Asian History & Culture* 1.

⁸⁰ Maryam S Khan and Fariha Aziz, 'The Defamation Backlash: Law and the Feminist Movement in Pakistan' in Steve Boutcher, Corey S Shdaimah, and Michael W Yarbrough (eds), *Research Handbook on Law, Movements and Social Change* (Edward Elgar Press 2023).

here for the expansion of socio-legal inquiry in varied directions, although questions of judicial politics and power continue to gain traction, especially in the contemporary context of re-militarisation of politics. Yasser Kureshi's book, examining judicial-military relations through a rigorous combination of archival research, interviews, and several months of fieldwork, offers a fresh framing of the debate in this area.⁸¹ Yet, this empirical turn has not necessarily brought along with it a new or different understanding of the "socio" as the approach still remains largely one of elite politics and state actors. Significant exceptions to this include Siddique's focus on the experience of common litigants with formal law in the district courts of Lahore, and my co-authored study with Aziz of survivors of sexual violence in the context of defamation laws.

The growth of a new literature on *constitution-making* in Pakistan (distinguishable from constitutional law and judicial politics) merits a separate analysis. Because this is a historical subject traversing the first quarter century after decolonisation, the distinctive feature of this literature is reliance on historical archives, including constitutional debates, although the latter are only beginning to attract scholarly investigation. Major sub-themes relate to concepts such as "Eastminster" and "Dominion Constitutionalism" (that explore the role, respectively, of the inherited Westminster model and the legal framework of decolonisation more broadly in entrenching military-bureaucratic authoritarianism in the first decade)⁸²; the question of design in constitution-making⁸³; the impact of Muslim nationalism on constitution-making⁸⁴; the historical marginalisation and constitutional status of tribal

⁸¹ Yasser Kureshi, *Seeking Supremacy: The Pursuit of Judicial Power in Pakistan* (Cambridge University Press 2022).

⁸² Harshan Kumarasingham, 'A Transnational Actor on a Dramatic Stage – Sir Ivor Jennings and the Manipulation of Westminster Style Democracy in Pakistan' in by Gregory Shaffer, Tom Ginsburg, and Terence C Halliday (eds), *Constitution-Making and Transnational Legal Order* (Cambridge University Press 2019); Mara Malagodi, 'Dominion Status and the Origins of Authoritarian Constitutionalism in Pakistan' (2019) 17(4) *International Journal of Constitutional Law* 1235.

⁸³ Clark B Lombardi, 'Designing Islamic constitutions: past trends and options for a democratic future' (2013) 11(3) *International Journal of Constitutional Law* 615; Maryam S Khan, 'Ethnic Federalism in Pakistan: Federal Design, Construction of Ethno-Linguistic Identity and Group Conflict' (2014) 30 *Harvard Journal on Racial and Ethnic Justice* 77; Khan (n 18); Maryam S Khan, "'Dividing the Nation into Patricians and Plebeians": Pakistan National Congress and the Decolonizing Politics of Constitution-Making' in Elisabeth Leake and Erez Manela (eds), *Decolonisation's Discontents—Dissent and Opposition in the Aftermath of Independence, Comparative Studies of South Asia, Africa and the Middle East* (forthcoming 2025).

⁸⁴ Sadaf Aziz and Moeen Cheema, 'From Nation to State: Constitutional Founding in Pakistan' in Kevin YL Tan and Ridwanul Hoque (eds), *Constitutional Foundings in South Asia* (Hart 2021).

areas⁸⁵; constitutional migration⁸⁶; and women in constitution-making.⁸⁷ These works are both analytically rich and historically informed. One can see here the beginnings of a discrete sub-field of *legal history*, even though the lens remains largely top-down and limited primarily to post-colonial history.⁸⁸

These recent developments provoke questions about how to think about and do socio-legal work. My attempt at creating a classification of what constitutes “socio” in socio-legal research in Pakistan is necessarily imperfect. As a context-sensitive framework, it does not fit into any pre-existing definitions of the field; much less does it aim to articulate a South Asian approach to it. It assumes as its point of departure the basic understanding of “socio” as problematising and dismantling the traditional, presumptive view of the law that stands autonomous of social context and complexity. That said, one could argue, in a broad sense, that contemporary scholarship in Pakistan stands at the threshold of the move from the earlier framework that investigated the gap between the “law in books” and the “law in action” to an interdisciplinary examination of the law that expands and pluralises the questions and methods animating our curiosity about the law. To borrow from the Socio-Legal Review’s insightful observations about the turn in socio-legal research in India toward interdisciplinarity,⁸⁹ this emergent trend in Pakistan in many ways mirrors the general direction of the field in India, albeit with important differences. Section V further reflects on this interdisciplinary trend and suggests four mutually reinforcing forms of “interdisciplinarity” through which one can discern future pathways for and possibilities offered by socio-legal research.

V. CONTEMPORARY STATE OF SOCIO-LEGAL SCHOLARSHIP: REFLECTIONS ON INTERDISCIPLINARITY

The field of socio-legal work in Pakistan has lately experienced a proliferation of themes as well as diversification of methods beyond case law analysis and historical contextualisation. In the process, it has also shifted over time from the earlier “gap problem” and works demonstrating law’s

⁸⁵ Moeen Cheema and Farooq Yousaf, ‘Constitutionalizing a Perpetual Transition: The Integration of the Pashtun “Tribal Areas” in Pakistan’ (2020) 18(4) *International Journal of Constitutional Law* 1405.

⁸⁶ Matthew J Nelson, ‘Constitutional Migration and the Meaning of Religious Freedom: From Ireland and India to the Islamic Republic of Pakistan’ (2020) 79(1) *The Journal of Asian Studies* 129.

⁸⁷ Maryam S Khan, ‘Written Out of History: Collective Reflection with Oral History Narrators on Pakistan’s Women Constitution-Makers’ (2025) *Transactions of the Royal Historical Society* 1.

⁸⁸ Notable exceptions to this include Matthew J Nelson, *In the Shadow of Shari ‘ah: Islam, Islamic Law, and Democracy in Pakistan* (Hurst & Co 2011); Siddique (n 18); Muhammad Zubair Abbasi, ‘Islamic Law and Social Change: An Insight into the Making of Anglo-Muhammadan Law’ (2014) 25(3) *Journal of Islamic Studies* 325.

⁸⁹ See Manhar Bansal, ‘Editorial’ (2024) 20(2) *Socio-Legal Review* vi.

impact and judicial behaviour to explaining legal institutions, processes, mobilisation, and other legal phenomena through empirical methods more generally. This is not to take away from the fact that some of the foundational political science-driven socio-legal studies were based on empirical methods, but to emphasise the point that *legal scholars* have only recently adopted methods from the social sciences, whether by stepping out of their disciplinary comfort zone or because of their dual training. At the same time, the familiar themes of public law, judicial politics, Islamic constitutionalism, and legal mobilisation continue to dominate scholarly discourse. Again, this is not to minimise the importance of new scholarship that seeks to expand the existing frontiers of socio-legal work in the direction, for instance, of the sociological study of legal institutions, law and social movements, and law and history. Rather, it is to clarify, especially in comparison to India, that to seriously develop these “law and” frameworks would require a critical mass of socio-legal scholars actively engaging the current expansion of the field—something that remains to be seen. Thus, to the extent that the integration of empirical social science methods in the study of law is what is commonly understood to be the evolution towards an interdisciplinary lens in socio-legal research, there are promising signs that Pakistan will see more such interdisciplinary work in the future.⁹⁰ But the assortment of the study of law into more specific sub-fields of “law and” that go beyond broadly-defined and loosely-connected themes in order to build cohesive debates on more discrete areas and issues has not yet crystallised.

A second understanding of interdisciplinarity is based on the *critical* content of socio-legal work. Barring few exceptions, the elite and state-centred paradigm of the socio-legal conversation in Pakistan has not yet been transcended, or even matched, by more diverse and marginalised voices. This shows that the incorporation of humanistic methods is a necessary but not a sufficient condition for making the study of law inclusive or for widening the meaning of “socio” to encompass questions of subalternity, social exclusion, and power. Thus, “law and gender” seldom makes an appearance other than in discussions of Islamisation and family laws, and “law and caste” and “law and minorities” are areas that are virtually non-existent. For a meaningful interdisciplinary socio-legal discourse of this nature to take hold would require not only a more sustained debate on specific issues or questions, but also a bottom-up approach in which the perspective shifts from law as the centre-piece to those encountering the law from the other side. It bears mentioning here that some of the most nuanced works on law from this bottom-up lens come from sites and sources outside the law. For instance, there is no comparable account of a religious minority’s encounter with the law in Pakistan to the study on the persecuted Ahmadiyya community by the historian Ali Usman Qasmi.⁹¹ Similarly, the sub-field of law and gender has

⁹⁰ See, e.g., Siddique (n 18); Khan (n 74); Kureshi (n 81).

⁹¹ Ali Usman Qasmi, *The Ahmadiis and the Politics of Religious Exclusion in Pakistan* (Anthem Press 2014).

found its most coherent and sustained expression from the women's movement that emerged on the heels of the powerful wave of women's activism in India in the 1970s and 1980s. Originating in opposition to Zia's Islamisation project in the 1980s, this movement has produced a rich literature since the 1990s on the relationship between women, law and the state, and religion.⁹² Many of the pioneering activists embedded in this movement are feminist intellectuals and scholars from a range of disciplines: law, sociology, political science, development psychology, education, etc.⁹³ Yet, unlike in India where "pioneering feminist histories" of the 1990s in many ways redefined the field of Indian legal history,⁹⁴ the literature on gender and feminist theory and politics in Pakistan remains isolated from socio-legal studies. For socio-legal scholars looking to engage with law and gender, this social movement literature would be an essential point of departure.⁹⁵ There is also scope here for a deeper intersectional foray into law, gender, and social movements.⁹⁶

Yet another kind of interdisciplinarity in socio-legal work would entail reformulating conceptual categories of the law and de-centring the idea of law as recognisable only in its formal garb. In other words, expanding the meaning of law beyond the most visible constructs of formal law to include social acts, institutions, and practices that constitute the law in many ways but are not necessarily recognised as such. This is not so much about deploying the old Law & Society lenses of "legal pluralism" and "legal informalism,"

⁹² For a representative sample, see Asma Jahangir and Hina Jilani, *The Hudood Ordinances: A Divine Sanction?* (Khotas Books 1990); Mumtaz Khawar & Farida Shaheed, *Women of Pakistan: Two Steps Forward, One Step Back?* (Zed Books 1997); Hina Jilani, 'Human Rights and Democratic Development in Pakistan' (International Centre for Human Rights and Democratic Development 1998); Farida Shaheed, Sohail Akbar Warraich, Cassandra Balchin, and Aisha Gazdar (eds), *Shaping Women's Lives: Laws, Practices and Strategies in Pakistan* (Shirkat Gah 1998); Asma Jahangir, 'Human Rights in Pakistan: A System in the Making' in Samantha Power and Graham Allison (eds), *Realizing Human Rights: Moving from Inspiration to Impact* (Palgrave Macmillan 2000).

⁹³ See, e.g., Rubina Saigol, 'Feminism and the Women's Movement in Pakistan: Actors, Debates and Strategies' (Friedrich-Ebert-Stiftung 2016); Ayesha Khan, *The Women's Movement in Pakistan: Activism, Islam and Democracy* (IB Tauris & Co. 2019); Afia S Zia, 'Political-Social Movements: Feminist: Pakistan' in Suad Joseph, *Encyclopedia of Women and Islamic Cultures* (Brill 2019).

⁹⁴ Sharafi (n 2).

⁹⁵ Rare examples include Ayesha Khan, Sara Malkani, and Zonia Yousuf, 'Women Activists' Strategic Use of the Courts in Pakistan' (2019) 27(4) *Contemporary South Asia* 549; Rubina Saigol, 'The Women's Action Forum, Pakistan' in Peter B Andersen, Rubya Mehdi, and Amit Prakash (eds), *Reinterrogating Civil Society in South Asia: Critical Perspectives from India, Pakistan and Bangladesh* (Routledge 2021).

⁹⁶ Prominent women-led social movements in Pakistan include Mahrang Baloch's 'Baloch Yakjehti' movement for an end to enforced disappearances in and military occupation of Balochistan; 'Hazara Women' movement for the rights of women within the persecuted Hazara community in Balochistan; and 'Aurat March' for womxn's rights to bodily and sexual autonomy. For recent examples of studies that explore these intersections in the Aurat March, see Rubina Saigol and Nida Usman Chaudhary, 'Contradictions and Ambiguities of Feminism in Pakistan: Exploring the Fourth Wave' (Friedrich-Ebert-Stiftung 2021); Khan and Aziz (n 80).

where formal law remains the benchmark of legality, as much as it is about broadening out this notion of legality and viewing law itself as a social institution.⁹⁷ I have in mind here *law in society* work exemplified by Ewick and Silbey that adopts a distinctively social conception of law in studying how people invoke the idea of law in their everyday lives.⁹⁸ Another recent referent is Layard's work that looks at the social relations that constitute property rights and belonging.⁹⁹ Such disciplinary co-ventures between law and history, law and sociology, and law and anthropology, for instance, that can potentially invert the lens between law and society, are not yet visible in Pakistan's socio-legal discourse.

I add to this a fourth form of interdisciplinarity that comes from a deep exchange of historiographical debates and the adoption of critical approaches and frameworks across disciplines. I draw this idea from some of the latest socio-legal research on constitution-making in Pakistan that explicitly engages with the contemporary humanistic endeavour of reviving alternative histories of state-making that have been overshadowed or erased by homogenising nationalist narratives. I am referring here to the burgeoning global scholarship in history-writing on the decolonisation era that contests the teleological foundations of nationalist narratives by underscoring the many contingencies involved in post-colonial state-making. In so doing, it seeks to uncover the alternative, competing, or marginalised visions of the "nation" and the co-constitutive role of the people in the making of sovereign or national identity.¹⁰⁰ The works of Pakistani historians Ilyas Chattha on the making of the Punjab borderland¹⁰¹ and Ali Usman Qasmi on citizenship and national belonging¹⁰² are fine examples of this global scholarly trend in relation to Pakistan. An interdisciplinary osmosis is beginning to be visible between history and socio-legal research on constitution-making within this

⁹⁷ See, e.g., Patricia Ewick, Robert Kagan, and Austin Sarat, 'Legacies of Legal Realism: Social Science, Social Policy, and the Law' in Patricia Ewick, Robert A Kagan, and Austin Sarat (eds), *Social Science, Social Policy, and the Law* (Russell Sage Foundation 1999).

⁹⁸ Patricia Ewick and Susann S Silbey, *The Common Place of Law: Stories from Everyday Life* (University of Chicago Press 1998).

⁹⁹ Antonia Layard, 'Property as socio-legal institution, practice, object, idea' in Jiri Priban (ed), *Research Handbook on the Sociology of Law* (Elgar 2020).

¹⁰⁰ For scholarship centring the Indian subcontinent see, e.g., Elisabeth Leake, *The Defiant Border: The Afghan-Pakistan Borderlands in the Era of Decolonization, 1936–1965* (Cambridge University Press 2016); Rohit De, *A People's Constitution: The Everyday Life of Law in the Indian Republic* (Princeton University Press 2018); Priyasha Saksena, 'Building the Nation: Sovereignty and International Law in the Decolonisation of South Asia' (2021) 23 *Journal of the History of International Law* 52; Pallavi Raghavan, Martin J Bayly, Elisabeth Leake, and Avinash Paliwal, 'The Limits of Decolonisation in India's International Thought and Practice: An Introduction' (2022) 44(4) *The International History Review* 812; Sandipto Dasgupta, *Legalizing the Revolution: India and the Constitution of the Postcolony* (Cambridge University Press 2024).

¹⁰¹ Ilyas Chattha, *The Punjab Borderland: Mobility, Materiality and Militancy, 1947–1987* (Cambridge University Press 2022).

¹⁰² Qasmi (n 10).

critical framework on decolonisation. My recent studies on the contestation around federal design in state-building¹⁰³ and the decolonising vision of the Pakistan National Congress¹⁰⁴ in the first decade of independence, attempt to bring out these very synergies on the socio-legal side. The caveat that this is still an early and evolving terrain of “law and history” applies here too.

These four mutually reinforcing forms of interdisciplinarity provide a useful scheme for understanding the nature and limitations of knowledge production through socio-legal research in Pakistan. While a general diversification of the field, both in terms of the content under scrutiny and the methods employed for inquiry, is readily apparent, it is yet too early to observe well-defined “law and” scholarship. This could potentially deepen the meaning of “socio,” as in India, by focusing on particular themes and categories of social relevance, such as gender, caste, and criminal justice. Similarly, there is little by way of engaging the conventional Law & Society categories of “legal pluralism” and “legal informality,” let alone explicitly de-centring the dominant formal understanding of law and recasting it as a social institution. These kinds of intellectual forays can enable a more holistic and complex analysis of normative orders and their interrelationships. On the other hand, there are exciting possibilities emerging with the cross-fertilisation of historiographical debates and frameworks between law and history, potentially creating a pathway to the future development of the field of legal history. However, it is interesting to note that the growth of humanistic methods within the socio-legal has not by itself generated a focus on minority, marginalised, and subaltern voices. This loops back into the earlier observation about the dearth of “law and” discourses that could open up socio-legal knowledge production to interrogations of social exclusion and power.

VI. CONCLUSION

This reflexive survey of socio-legal research in Pakistan, with a comparative lens on India, demonstrates that multiple contextual factors have shaped, and carved different trajectories of, the “socio-legal” despite a shared colonial history and various other commonalities in terms of social structures and social issues. Given India’s dominant representation in the field, any attempt to speak of a “South Asian” approach to the socio-legal runs the risk of generalising the ostensibly varied experiences in the region and reproducing that dominance. At best, the present case study offers a window into the kinds of influences and confluences on which the socio-legal is contingent. Existing trends in legal research, the state of legal education, the broader ambient conditions, the gaze and positionality of the early interlocutors on the post-colony, and the resources to mobilise intellectual networks and collaborations, all have a role to play in conditioning the pathways to and the content and rigour of

¹⁰³ Khan (n 18).

¹⁰⁴ Khan (n 83).

socio-legal research. Likewise, the growth and globalisation of legal education and the impetus for its interface, dialogue, and cross-learning with other disciplines further motivate shifts in the meaning of the “socio,” the methods used, and the evolutionary move from “law in action” to interdisciplinarity in socio-legal work.

In conclusion, two contingencies are worth recapitulating in thinking about the field across a regional South Asian frame. One is the question of empirical methods. Socio-legal studies in the Global North today straddles multiple disciplines and approaches while also eliding easy classification in terms of central concerns and questions.¹⁰⁵ This is true despite the exacting gatekeeping that several socio-legal journals adhere to for maintaining disciplinary distinction. Much of this gatekeeping is methodologically driven and based on contending definitions of what constitutes the empirical.¹⁰⁶ However, circumscribing the boundaries of the socio-legal in South Asia seems like an unnecessary limitation, especially given that the growth of the field depends on an academic environment that is still relatively nascent. What constitutes socio-legal is fundamentally context-driven. The second point concerns the integration of humanistic methods and knowledge in socio-legal research. This has generally been a slow, uncertain, and uneven process in South Asia. Suffice it to say that humanistic methods themselves do not necessarily make the study of law more inclusive or meaningfully develop the field beyond elite and state-centred themes. Such an expansion of the socio-legal demands a more intentional agenda-setting and a collaborative, if not cross-disciplinary, endeavour. In thinking about the future directions of the field, this appears as the core challenge for socio-legal scholars of South Asia.

¹⁰⁵ See, e.g., Malcolm M Feeley, ‘Three Voices of Socio-Legal Studies’ (2001) 35(2-3) *Israel Law Review* 175; Dermot Feenan, *Exploring the ‘Socio’ of Socio-Legal Studies* (Palgrave 2013); Naomi Creutzfeldt, Marc Mason, and Kirsten McConnachie (eds), *Routledge Handbook of Socio-Legal Theory and Methods* (Routledge 2019); Patrick Schmidt, ‘What is Socio-Legal Studies Now’ (*Frontiers of Socio-Legal Studies*, 23 August 2023) < <https://frontiers.csls.ox.ac.uk/what-is-socio-legal-studies-now/> > accessed 24 April 2025.

¹⁰⁶ Examples include *Law & Society Review* (LSR), *Law & Social Inquiry* (LSI), and *Empirical Legal Studies* (ELS).