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Debtors' Protection in Personal Insolvency Law in Pakistan: A Comparative Perspective

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ABSTRACT

The personal insolvency law of Pakistan is governed by the Provincial Insolvency Act, 1920 and the Insolvency (Karachi Division) Act, 1909. These colonial-era statutes are over a century old. They do not reflect modern principles of debtor rehabilitation. This study examines the legal protections available to insolvent debtors under Pakistani law. It also undertakes a comparative analysis with the United Kingdom, the United States, Germany, Australia and New Zealand. The research uses a doctrinal legal methodology. Primary sources include legislation, case law and statutory rules. Secondary sources include scholarly articles, books and official reports. The study finds that Pakistani law provides basic protections such as protection from arrest, stay of proceedings, exempt property, composition and discharge. However, these protections are narrow and uncertain. The discharge period is not fixed. Exempt property is limited. No alternative procedures to full bankruptcy exist. Monetary thresholds are obsolete. There is no debt counseling requirement. There is no modern cross-border insolvency framework. The comparative analysis reveals that developed jurisdictions have adopted fixed discharge periods, comprehensive exemptions, alternative procedures, debt counseling and specialized administrative institutions. The study recommends enactment of a modern personal insolvency statute. The new law should include a fixed discharge period of three years. It should introduce Debt Relief Orders for low-income debtors and Individual Voluntary Arrangements for debtors with repayment capacity. Exemptions should be expanded to protect homesteads, vehicles, tools of trade and household goods. Pre-filing credit counseling should be mandatory. The UNCITRAL Model Law on Cross-Border Insolvency should be adopted. These reforms are consistent with Islamic legal principles of respite, justice and fairness. A modern personal insolvency framework will protect honest debtors, maintain creditor confidence and promote economic participation in Pakistan.

1. Introduction

The The legal framework for personal insolvency in Pakistan is rooted in colonial history (Provincial Insolvency Act, 1920). The Provincial Insolvency Act, 1920 and the Insolvency (Karachi Division) Act, 1909 remain the primary statutes governing insolvency of natural persons (Insolvency (Karachi Division) Act, 1909). These laws were enacted during British rule in India (Mulla, 1930). They were designed for a simple commercial economy (Ramsay, 2017). Consumer credit was not widespread at that time (Tolmie, 2003). Digital lending did not exist (SECP, 2025a). The statutes reflect an older debt-collection model (Jackson, 1986). They do not incorporate modern rehabilitation principles (World Bank, 2021). The Provincial Insolvency Act, 1920 applies to all of Pakistan except the Karachi Division (Provincial Insolvency Act, 1920, s. 1(2)). The 1909 Act applies specifically to Karachi (Insolvency (Karachi Division) Act, 1909, s. 1(2)). No comprehensive revision has occurred since independence (SECP Chairman Akif Saeed, 2025). The monetary threshold for a creditor's petition remains Rs 500 (Provincial Insolvency Act, 1920, s. 9). That amount has not been updated in over a century (IMF, 2023).

Pakistan's credit market has transformed rapidly (SECP, 2025b). The Securities and Exchange Commission of Pakistan (SECP) published a refreshed whitelist of 25 approved digital loan apps in December 2025 (SECP, 2025c). Under this list, 14 platforms are authorized to offer nano

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loans through licensed non-banking finance companies (PhoneWorld, 2025). Illegal lending apps remain a serious problem (Daily Times, 2025). SECP has shut down 141 unauthorized digital lending apps (SECP Newsletter, 2025). Fraudulent operators have moved to social media channels (SECP, 2025d). In 2025, some loan apps charged interest rates as high as 1,800 percent (PhoneWorld, 2025). A Senate committee was told that borrowers were forced into a never-ending debt cycle (Gulf News, 2025). The government announced plans to overhaul Pakistan's bankruptcy framework in August 2025 (PTV News, 2025).

The personal insolvency law of Pakistan fails to provide adequate legal protection to insolvent debtors (Habib, 2010). Several specific problems exist. First, the law does not offer a timely and predictable discharge (Provincial Insolvency Act, 1920, s. 41). Discharge is not automatic. No fixed statutory period exists (Ayaz, 2010). This uncertainty prevents genuine rehabilitation (Gross, 1997). Second, exemptions for essential assets are too narrow (Provincial Insolvency Act, 1920, s. 28(5); Code of Civil Procedure, 1908, s. 60).

Third, the law has no alternative procedures to full bankruptcy. Sections 38 to 40 allow composition, but there is no Individual Voluntary Arrangement (IVA) equivalent (Provincial Insolvency Act, 1920, ss. 38–40). In the United Kingdom, 71,855 IVAs were registered in 2025 (Insolvency Service, 2026a). There is no Debt Relief Order (DRO) for low-income debtors. In January 2026 alone, 3,847 DROs were registered in England and Wales (Insolvency Service, 2026b). Pakistan has no Chapter 13-style repayment plan (US Bankruptcy Code, 11 USC §§ 1301–1330).

Fourth, the monetary thresholds are obsolete. The Rs 500 figure in sections 9 and 10 no longer serves any gatekeeping function (SECP Chairman Akif Saeed, 2025). Fifth, the law does not address digital lending and app-based debt (SECP, 2025e). The 1920 Act was written long before the internet. It contains no stay mechanism against aggressive digital collection (Lazarov, 2017). SECP has taken regulatory action, but insolvency law remains silent (State Bank of Pakistan, 2023). Sixth, there is no cross-border insolvency framework (UNCITRAL, 2025). Seventh, the law does not provide debt counseling (US Bankruptcy Code, 11 USC § 109(h)).

This study has academic and practical significance (Khan & Niazi, 2021). Academically, it provides a comprehensive analysis of personal insolvency law in Pakistan. Existing scholarship focuses mainly on corporate insolvency (Companies Act, 2017). Personal insolvency has received limited attention (Habib, 2010). This study fills that gap. Practically, the study offers a reform agenda for policymakers (World Bank, 2021). It draws on best practices from the United Kingdom, United States, Germany, Australia and New Zealand (Ramsay, 2017). The scope is limited to personal insolvency of natural persons (Provincial Insolvency Act, 1920, s. 8). Corporate insolvency is excluded except for comparative context.

2. Conceptual and Theoretical Foundations

The term insolvency describes a financial condition. Black’s Law Dictionary defines insolvency as the condition of a person who cannot pay his debts as they fall due in the ordinary course of business. This definition focuses on practical inability to pay. The condition exists when a person has no means sufficient to discharge his liabilities. Insolvency is different from bankruptcy. Insolvency is a factual financial situation. Bankruptcy is a formal legal status declared by a court. The Sale of Goods Act, 1930 provides the statutory definition of an insolvent person in Pakistan.

Insolvency and bankruptcy are often confused in ordinary language. In strict legal terms, they are different concepts (Azmi, Abd Razak & Ahmad, 2018, p. 502). Insolvency is a financial condition. A person may be insolvent without any court order. Bankruptcy is a legal status that results from a court order. The order of adjudication under section 27 of the Provincial Insolvency Act, 1920 creates the legal status of an insolvent person (Provincial Insolvency Act, 1920, s. 27). The distinction has practical consequences.

Personal insolvency law serves multiple objectives. One objective is the protection of creditors through collective proceedings. Without insolvency law, creditors would race to enforce their claims individually. The strongest or fastest creditor would take everything. Section 29 of the Provincial Insolvency Act stays pending proceedings after adjudication, allowing orderly administration (Provincial Insolvency Act, 1920, s. 29). Another objective is the relief of honest debtors. A debtor who is insolvent through misfortune should not remain under perpetual liability. Discharge under section 41 provides a statutory path to release from provable debts.

Legal protection for insolvent debtors refers to the rights and safeguards provided by statute during insolvency proceedings. These protections apply at different stages. Procedural protections ensure fair treatment before, during, and after adjudication. Substantive protections preserve certain assets from vesting in the insolvency estate. Post-discharge protections secure the legal effect of discharge. Several rationales justify legal protections for insolvent debtors (Tolmie, 2003, p. 188). The humanitarian rationale protects human dignity. An insolvent person should not be reduced to destitution. The economic rationale preserves human capital and future productivity (Jackson, 1986, p. 45).

Personal insolvency law must balance competing interests. Creditors have legitimate claims for repayment. They seek equitable distribution of the debtor's available assets. Debtors seek relief from oppressive debt and the opportunity for rehabilitation. Society has an interest in commercial morality, credit system stability, and reduced social harm from over-indebtedness (Spooner, 2015, p. 540). The Creditors' Bargain Theory offers one framework for understanding this balance (Jackson, 1986, p. 45). The theory posits that creditors would prefer collective proceedings over individual races for assets. Collective administration preserves value, avoids waste, and ensures equality of treatment.

The foregoing analysis demonstrates that no single theory of insolvency law can explain the entire field (Azmi, Abd Razak & Ahmad, 2018, p. 505). Each theory accounts for important aspects of the field, but none is complete on its own (Ramsay, 2017, p. 98). Creditor-focused theories explain collective administration, orderly distribution, and protection of legitimate entitlements (Jackson, 1986, p. 45). However, they often pay inadequate attention to rehabilitation and human dignity (Gross, 1997, p. 67).

Any insolvency system must balance competing theoretical perspectives (Chen, 2025, p. 35). Balance does not mean giving equal weight to all values in every case (Ferguson, 2025, p. 12). It means the legal framework must openly acknowledge the competing interests at stake and reconcile them through coherent, lawful and defensible principles (Spooner, 2015, p. 540). This study approaches this task through several guiding principles (Azmi, Abd Razak & Ahmad, 2018, p. 505). The first is the distinction between honest and dishonest debtors (Provincial Insolvency Act, 1920, s. 42). This is a deep-rooted distinction (Gross, 1997, p. 67).

Based on this synthesis, the research adopts a multi-dimensional framework for evaluating the legal protections available to insolvent debtors under Pakistani law (Azmi, Abd Razak & Ahmad, 2018, p. 505). From creditor-focused theory, the framework asks whether the protection supports collective administration, preserves estate value, encourages disclosure, and respects legitimate creditor entitlements (Jackson, 1986, p. 45). From debtor-focused theory, the framework asks whether the protection aids dignity, prevents destitution, distinguishes the honest debtor from the dishonest debtor, and creates a genuine pathway to rehabilitation and fresh start (Gross, 1997, p. 67).

3. Personal Insolvency Law in Pakistan

The Provincial Insolvency Act, 1920 (Act V of 1920) is the principal statute governing personal insolvency in Pakistan outside the Karachi Division. Section 1(2) of the Act provides that it extends to the whole of the Punjab. The Act was enacted on 25 February 1920 with the object of consolidating and amending the law relating to insolvency as administered by courts having

jurisdiction outside the presidency-towns. Section 2 contains definitions of key terms including "creditor", "debt", "debtor", "District Court", "secured creditor" and "transfer of property". Section 3 vests insolvency jurisdiction in the District Courts, with power of the Government to invest subordinate courts with concurrent jurisdiction. Section 8 exempts corporations and registered associations from insolvency proceedings under the Act.

The Insolvency (Karachi Division) Act 1909 applies specifically to the Karachi Division. It operates as a parallel regime to the Provincial Insolvency Act, 1920. The official text of the 1909 Act is available through the Pakistan Code. The 1909 Act is conceptually similar to the 1920 Act but is administered under the supervision of the Official Assignee rather than the ordinary receiver mechanism.

The Code of Civil Procedure 1908 interacts with the insolvency framework in several respects. Section 28(5) of the Provincial Insolvency Act, 1920 exempts from the insolvent's estate any property which is exempt from attachment under the Code of Civil Procedure 1908 or any other law for the time being in force. This linkage means that the scope of exempt property in insolvency is determined by the execution provisions of the Code of Civil Procedure. The Sale of Goods Act, 1930 defines "insolvent" in section 2(8) as a person who has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due, whether he has committed an act of insolvency or not.

The Provincial Insolvency Act, 1920 does not contain a definition of "insolvency" or "insolvent". The term "insolvent" in the Act refers to a person against whom an order of adjudication has been made under section 27. The absence of a statutory definition means that the factual concept of insolvency is supplied by other sources. The Sale of Goods Act, 1930 in section 2(8) provides the most authoritative statutory definition. It defines an insolvent as a person who has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.

Section 6 of the Provincial Insolvency Act, 1920 lists eight acts of insolvency. The list is exhaustive. An act cannot be considered an act of insolvency unless it falls within one of the enumerated clauses. The acts of insolvency serve as the statutory basis for creditor petitions under section 9. Clause (a) of section 6 covers a transfer of all or substantially all of the debtor's property to a third person for the benefit of creditors generally. Clause (b) covers a transfer of property or any part thereof with intent to defeat or delay creditors.

Section 9 of the Provincial Insolvency Act, 1920, governs creditor petitions. The petitioning creditor must satisfy three cumulative conditions. First, the debt due to the petitioning creditor, or the aggregate amount of the debts if more than one creditor joins, must be five hundred rupees or more. Second, the debt must be a liquidated sum payable either immediately or at some certain future time. Third, the act of insolvency on which the petition is founded must have occurred within three months before the presentation of the petition.

Section 10 of the Provincial Insolvency Act, 1920 grants the debtor the right to present an insolvency petition. The section has two requirements which must be satisfied conjunctively. The debtor must be unable to pay his debts. In addition, one of three statutory grounds must exist: the debtor's debts amount to five hundred rupees or more; the debtor is under arrest or imprisonment in execution of a decree for payment of money; or an order of attachment of the debtor's property in execution of a decree for payment of money has been made.

Section 27 of the Provincial Insolvency Act, 1920 empowers the court to make an order of adjudication. The order declares the debtor to be an insolvent and brings the debtor under the statutory insolvency regime. Upon adjudication, the legal status of the debtor changes from that of a person who is factually insolvent to that of a person who is legally an insolvent subject to the provisions of the Act.

Section 28(2) provides that on the making of an order of adjudication, the whole of the property

of the insolvent shall vest in the court or in a receiver as provided by the Act and shall become divisible among the creditors. Section 28(4) extends this vesting to property acquired by or devolving on the insolvent after the date of adjudication and before discharge. Section 28(5) excludes from the insolvent's property any property which is exempt from attachment and sale in execution of a decree under the Code of Civil Procedure, 1908 or any other law for the time being in force.

Section 29 provides that on an order of adjudication being made, no creditor to whom the insolvent is indebted in respect of any debt provable under the Act shall have any remedy against the property of the insolvent in respect of such debt, or shall commence any suit or other legal proceeding, except with the leave of the court and on such terms as the court may impose. This stay of proceedings is a fundamental feature of collective insolvency administration.

Section 31 provides that an insolvent may apply to the court for protection and the court may make an order of protection. Sub-section (3) states that an order of protection shall protect the insolvent from being arrested or detained in prison for any debt to which the order applies. The protection order is judicial in nature. It is not automatic upon adjudication. The insolvent must apply for the protection, and the court must grant it.

Sections 56 to 59 govern the appointment and powers of the receiver. Section 56 provides that the court may appoint a receiver of the property of the insolvent. Section 57 empowers the Government to appoint Official Receivers. Where an Official Receiver has been appointed for the local limits of the court, that Official Receiver ordinarily becomes the receiver for the purpose of every order appointing a receiver. Section 59 imposes a duty on the receiver to realize the property of the debtor with all convenient speed and to distribute dividends among the creditors who are entitled thereto.

Section 28(4) provides that all property which is acquired by or devolves on the insolvent after the date of an order of adjudication and before his discharge shall forthwith vest in the court or receiver. The property divisible among creditors includes all property belonging to or vested in the insolvent at the date of the commencement of the insolvency, with the exception of exempt property under section 28(5). Section 45 deals with debts payable at a future time. Section 46 provides for mutual dealings and set-off.

Section 47 provides a secured creditor with two options. The secured creditor may realize the security and prove for any balance due after deducting the value of the security. Alternatively, the secured creditor may relinquish the security for the benefit of the creditors generally and prove for the whole debt. The section also provides that if a secured creditor does not realize or relinquish his security, he shall be deemed to have valued the security at the amount at which he has estimated it in the schedule of creditors.

3.1 Statutory Protections, Composition and Discharge

Section 31 provides the primary protection from arrest after adjudication. An insolvent may apply to the court for a protection order. Section 31(3) provides that an order of protection shall protect the insolvent from being arrested or detained in prison for any debt to which the order applies. Section 32 is a distinct provision. It empowers the court to order the arrest of an insolvent after adjudication where there are reasonable grounds for believing that he has absconded or is about to abscond to avoid obligations under the Act. Section 32 is therefore a control provision, not a protection provision.

Section 28(5) provides that the property of the insolvent shall not include any property which is exempted by the Code of Civil Procedure, 1908 or by any other law for the time being in force from attachment and sale in execution of a decree. The protection of exempt property is therefore not independent. It is parasitic upon the execution exemption regime. The Code of Civil Procedure 1908 exempts necessary wearing apparel, bedding, tools of artisans and, where applicable, certain other property.

Sections 38 to 40 allow an insolvent to propose a composition of his debts or a scheme of arrangement of his affairs. Upon proposal, the

court fixes a date for consideration and directs that notice be given to creditors. The proposal is accepted if a majority in number and three-fourths in value of the creditors who have proved their debts agree to it. The court must refuse approval if the terms are not reasonable or are not calculated to benefit the general body of creditors.

Section 41 provides that an insolvent may apply to the court for an order of discharge at any time after the order of adjudication and within the period fixed by the court. The court fixes a day for hearing the application and gives notice in the prescribed manner. At the hearing, the court considers the case of the insolvent, any report of the receiver, and any objections by creditors.

Section 42 lists the circumstances in which the court must refuse an absolute discharge. The court must refuse absolute discharge, or suspend discharge for a specified period, or grant a conditional discharge, where the insolvent's assets are not of a value equal to fifty paisa in the rupee on the amount of his unsecured liabilities, unless he satisfies the court that the deficiency arose from circumstances for which he cannot justly be held responsible.

Section 44 sets out the effect of an order of discharge. Sub-section (1) lists the debts which are not released by discharge. These include debts due to the Government, debts or liabilities incurred by means of fraud or fraudulent breach of trust to which the insolvent was a party, debts for which the insolvent obtained forbearance by fraud, and maintenance obligations. Sub-section (2) provides that, save as otherwise provided, an order of discharge releases the insolvent from all debts provable under the Act.

The Provincial Insolvency Act, 1920, contains the basic elements of a fresh start mechanism. These elements include adjudication leading to collective administration, the possibility of a protection order under section 31, the exemption of certain property from vesting, the right to propose a composition or scheme, and the right to seek discharge. The fresh start under the Act is, however, limited in scope. It is not based on automatic or time-certain rehabilitation. It depends on judicial discretion at multiple stages. The lack of a fixed statutory discharge period is the most serious defect in the fresh start mechanism from a comparative perspective.

The fresh start under Pakistani law is limited in several respects. Protection from arrest is not automatic; it requires a court application. Exempt property is limited to the execution-based exemption regime of the Code of Civil Procedure. There is no modern fixed discharge period. Discharge remains dependent on court application and judicial discretion. There are no alternative procedures to full bankruptcy such as Individual Voluntary Arrangements or Debt Relief Orders. There is no statutory provision for debt counseling or financial education. There is no modern cross-border insolvency framework.

Section 44(2) provides that an order of discharge releases the insolvent from all debts provable under the Act, subject to the exceptions in section 44(1). This is the core post-discharge protection. However, property acquired after adjudication and before discharge vests in the receiver under section 28(4). Full protection for after-acquired property only takes effect after discharge.

3.2 Judicial Interpretation and Contemporary Gaps

The Supreme Court of Pakistan has clarified the scope of the Provincial Insolvency Act, 1920 in several important decisions. In 2021 PLD 913 (Supreme Court), the Supreme Court held that the Provincial Insolvency Act, 1920 deals with the insolvency of an individual, while corporate insolvency is dealt with separately under company law. The Court confirmed that insolvent companies are not amenable to the law of insolvency but undergo a separate process known as liquidation or winding up.

In 2021 CLD 1217 (Supreme Court), the Court reiterated that the 1920 Act is limited to natural persons and does not encompass corporate entities. The 2020 CLD 766 (Lahore High Court) decision references Pakistan's improved rankings in the World Bank's Doing Business indicators regarding enforcement of contracts and resolving insolvency. The Lahore High Court has also clarified the law on protection orders.

The Provincial Insolvency Act, 1920 has a coherent legal core. It provides a court-supervised collective process. It establishes a clear path from petition to adjudication, from adjudication to administration, and from administration to composition or discharge. It distinguishes between secured and unsecured creditors. It maintains a framework of statutory priorities. The Act also recognizes the distinction between the honest debtor and the dishonest debtor in sections 41 to 44.

The Act is a colonial-era statute that has not been meaningfully updated. The monetary thresholds in sections 9 and 10 are economically obsolete. The exemption structure is narrow. The path to discharge lacks modern certainty. There is no fixed discharge period. The Act makes no provision for alternative procedures such as Individual Voluntary Arrangements or Debt Relief Orders. There is no statutory mechanism for debt counseling or financial education. There is no modern cross-border insolvency framework. The Act also contains no insolvency-specific response to digital lending and app-based debt.

The continued reliance on court-based administration contributes to delay, cost and procedural congestion. The system lacks a specialized insolvency institution or service. Official Receivers operate with limited resources. Creditor participation is often low. Many debtors are unable to access the system due to lack of awareness or inability to afford legal costs.

The SECP has taken significant regulatory action in the digital lending space. The SECP maintains a whitelist of approved digital lending apps. As of December 2025, the whitelist includes 14 nano and BNPL lending apps operated by licensed NBFCs, including Paisayaar, Aitemaad, Hakeem, Fauri Cash, SmartQarza, JazzCash Digital Lending Tool, Money Tap, PakCredit, Daira, Loan Lado, CashBazar, Sahara, PaisaGhar and QarzMitra. A separate whitelist of 11 other digital lending apps offering earned wage access, B2B financing and education finance has also been issued. However, the Provincial Insolvency Act contains no provisions addressing digital lending. The SECP issued a public notice in May 2026 establishing a court-supervised repayment mechanism for borrowers of the Barwaqt and UdharPaisa digital lending apps. Both companies are under liquidation proceedings overseen by the Islamabad High Court.

Several significant lacunae exist in the Pakistani legal framework. There is no fixed statutory discharge period. There is no modern alternative procedure to full bankruptcy such as Individual Voluntary Arrangements or Debt Relief Orders. The exemption structure is narrow. The monetary thresholds in sections 9 and 10 are obsolete. There is no statutory provision for debt counseling or financial education. There is no modern cross-border insolvency framework. There is no insolvency-specific response to digital lending. There is no statutory mechanism for coordinating personal insolvency with corporate insolvency where personal guarantees are involved.



Figure 1. ***Conceptual Framework for Debtor Protection and Fresh Start in Personal Insolvency Law***

4. Comparative Perspectives

The United Kingdom was selected because of its historical connection to Pakistani insolvency law. English law formed the basis of the Provincial Insolvency Act, 1920. The UK has since modernized its framework significantly. The United States was selected because of its strong fresh start philosophy and differentiated procedures. Germany was selected because of its structured civil law approach and three-year discharge period. Australia and New Zealand were selected because they offer modern Commonwealth models with specialized administrative institutions.

4.1 United Kingdom

The Insolvency Act 1986 is the primary legislation governing personal insolvency in England and Wales. The Enterprise Act 2002 introduced major reforms, reducing the ordinary bankruptcy discharge period to twelve months. The Tribunals, Courts and Enforcement Act 2007 introduced Debt Relief Orders (DROs). More recently, the Debt Respite Scheme (Breathing Space Moratorium) Regulations 2020 established a statutory breathing space scheme, which came into force in May 2021.

The UK system offers multiple procedures tailored to different debtor circumstances. Bankruptcy is the formal collective procedure. Individual Voluntary Arrangements (IVAs) are statutory compromises between debtors and creditors, supervised by licensed insolvency practitioners. Debt Relief Orders (DROs) are simplified procedures for low-income, low-asset debtors. In January 2026, 10,843 individuals entered insolvency in England and Wales, comprising 780 bankruptcies, 3,847 DROs and 6,216 IVAs (Insolvency Service, 2026). In April 2026, 10,920 people entered insolvency: 701 bankruptcies, 4,033 DROs and 6,186 IVAs (Insolvency Service, 2026). DRO numbers reached a record high in March 2026, with 4,523 registrations (Insolvency Service, 2026).

The UK framework provides several strong protections. Bankruptcy imposes a statutory moratorium on creditor enforcement. DROs provide a 12-month moratorium, after which qualifying debts are discharged (Insolvency Service, 2026). The eligibility criteria for DROs are: total liabilities not exceeding £50,000; total gross property not exceeding £2,000; a motor vehicle worth not more than £4,000; disposable income not exceeding £75 per month; and the debtor must not have been subject to a DRO within the previous six years (Insolvency Service, 2026). The DRO application fee was removed in April 2024.

The UK framework demonstrates several strengths. It offers differentiated procedures for different debtor profiles. The discharge period is fixed and short. DROs provide a low-cost, accessible route for low-income debtors. The breathing space scheme provides pre-insolvency protection. The involvement of approved intermediaries ensures that debtors receive advice before entering formal procedures. These features provide clear lessons for Pakistan.

4.2 United States

The United States Bankruptcy Code (Title 11 USC) is the federal law governing personal bankruptcy. The Bankruptcy Abuse Prevention and Consumer Protection Act 2005 (BAPCPA) introduced means test requirements and mandatory credit counseling. The Small Business Reorganization Act 2019 added Subchapter V to Chapter 11, improving access for small business debtors.

Chapter 7 is liquidation. The debtor surrenders non-exempt assets to a trustee, who liquidates them for distribution to creditors. Most unsecured debts are discharged within a few months. Chapter 13 is a wage earner's repayment plan. Debtors with regular income propose a 3 to 5 year plan to repay creditors from future income while retaining assets. Chapter 11 is available for individuals with debts exceeding Chapter 13 limits. Chapter 12 is a specialized procedure for family farmers and fishermen. In calendar year 2025, consumer Chapter 7 filings increased 15 percent to 332,706 from 288,908 in 2024 (American Bankruptcy Institute, 2025).

The automatic stay under section 362 of the Bankruptcy Code is one of the strongest debtor protections in any legal system. It takes effect

immediately upon filing and prevents most collection actions. Section 522 allows debtors to exempt specified property from the bankruptcy estate. Federal exemptions are adjusted every three years; as of April 2025, the homestead exemption is USD 31,575, the motor vehicle exemption is USD 5,025, and the tools of trade exemption is USD 3,175 (Judicial Conference of the United States, 2025). States may opt out of the federal scheme and apply their own exemptions. Section 727 provides for discharge in Chapter 7, subject to statutory bars for misconduct.

The US framework offers the most debtor-protective model among comparator jurisdictions. Its strengths include the automatic stay, broad exemptions, prompt discharge, anti-discrimination protection, and differentiated procedures. Its weaknesses include complexity, cost, and geographical inconsistency due to state exemption variations. Nevertheless, the US model demonstrates that strong debtor protection and well-functioning credit markets can coexist.

4.3 Germany

Germany regulates personal insolvency through the Insolvenzordnung (InsO). The modern consumer insolvency framework was introduced in 1999 and significantly amended in 2014 to reduce the discharge period. For applications filed since 1 October 2020, the good conduct period is three years, followed by discharge of residual debts (Restschuldbefreiung).

Consumer insolvency proceedings (Verbraucherinsolvenzverfahren) are divided into several stages. First, the debtor must attempt out-of-court debt settlement with creditors. If unsuccessful, a court-supervised debt settlement plan is considered. If no settlement is reached, the formal consumer insolvency proceedings commence, followed by the good conduct period. After three years of good behaviour, the court grants discharge of residual debts.

German law provides a stay of individual enforcement once proceedings are opened. Exempt income and exempt property are protected under the Insolvency Code and the Code of Civil Procedure (ZPO), with attachment-free amounts that account for dependents. The three-year discharge period is shorter than many other European systems. The out-of-court settlement stage promotes negotiated resolutions before formal proceedings.

The German framework offers a structured, conditional model. It combines debtor cooperation requirements with a defined path to discharge. Its strength is the three-year discharge period, which provides certainty while maintaining creditor participation. The out-of-court settlement stage reduces court caseloads and encourages consensual resolutions. The main limitation is the requirement for full cooperation, which may prolong proceedings for some debtors.

4.4 Australia

The Bankruptcy Act 1966 (Cth) governs personal insolvency in Australia. The Australian Financial Security Authority (AFSA) is the dedicated government agency responsible for administering personal insolvency and regulating insolvency practitioners. The Personal Property Securities Act 2009 coordinates security interests.

Bankruptcy is the formal procedure, with automatic discharge after three years and one day from filing the statement of affairs. Debt agreements (Part IX) are statutory arrangements for debtors within indexed debt, income and asset limits. As of October 2025, the eligibility thresholds for a debt agreement are: unsecured debts less than AUD 148,129.80 and income less than AUD 111,097.35. Personal Insolvency Agreements (Part X) are more flexible arrangements negotiated between the debtor and creditors, supervised by a registered trustee. In December 2025, 1,063 new personal insolvencies were recorded in Australia, up from 992 in November 2025 and 828 in December 2024.

Australian law provides a moratorium on creditor enforcement upon bankruptcy. Exempt property includes household goods, tools of trade, and a vehicle up to indexed statutory amounts. AFSA maintains an online case management system and provides public guidance on insolvency options. The regulatory framework includes oversight of trustees and debt agreement administrators.

Australia offers a well-administered, multi-track system. Its strengths include the specialized administrative agency (AFSA), indexed eligibility thresholds, differentiated procedures, and fixed discharge period. The business-related personal insolvency data provides valuable insights for Pakistan, where many sole proprietors and partners face similar risks.

4.5 New Zealand

The Insolvency Act 2006 governs personal insolvency in New Zealand. The Official Assignee administers the system. The Act provides a range of procedures tailored to different debtor circumstances.

Bankruptcy typically lasts three years, with discharge available upon filing the required statement of affairs. The No Asset Procedure (NAP) is a simplified process for low-income, low-asset debtors with debts within the statutory ceiling. It lasts one year, after which qualifying debts are discharged. The Debt Repayment Order (DRO) replaces the former summary instalment order and establishes a court-supervised repayment plan. For the year ended 30 June 2025, New Zealand recorded 698 bankruptcies, 405 NAP applications and 120 DRO applications, totaling 1,223 personal insolvencies. In March 2026, monthly figures showed 44 bankruptcies, 33 NAP applications and 10 DRO applications.

New Zealand law provides protection from creditor enforcement upon bankruptcy. Exempt property provisions protect basic household goods and tools of trade. The NAP offers a low-cost, simplified discharge route for debtors with minimal assets. The Official Assignee provides public guidance and maintains an online statistics portal.

New Zealand offers a pragmatic, proportionate system. Its strengths include the NAP for low-income debtors, the DRO for debtors with repayment capacity, and the fixed discharge period. The relatively low personal insolvency volumes compared to Australia suggest that the system is functioning effectively.

4.6 Comparative Assessment

Pakistan provides a stay under section 29 of the Provincial Insolvency Act, 1920, but only after adjudication. The stay is not automatic upon filing. In the UK, bankruptcy imposes an automatic moratorium, and the Breathing Space scheme provides pre-insolvency protection. The US automatic stay under section 362 is immediate upon filing. Germany provides a stay after proceedings are opened. Australia and New Zealand similarly provide moratoriums upon bankruptcy.

Pakistan's exemption structure under section 28(5) is narrow, limited to property exempt from attachment under the Code of Civil Procedure, 1908. The US offers broad exemptions, with federal homestead protection of USD 31,575, motor vehicle of USD 5,025, and tools of trade of USD 3,175. The UK protects household items and tools necessary for work, with a vehicle exemption where needed. Germany protects attachment-free income amounts. Australia and New Zealand protect basic household goods and tools of trade.

Pakistan has no fixed discharge period. Discharge is discretionary under section 41. The UK provides automatic discharge after 12 months. The US provides Chapter 7 discharge within months, and Chapter 13 discharge upon plan completion (3-5 years). Germany provides discharge after three years of good conduct. Australia provides discharge after three years and one day. New Zealand provides bankruptcy discharge after three years and NAP discharge after one year.

Pakistan has composition provisions under sections 38-40, but no modern alternatives. The UK offers IVAs and DROs. The US offers Chapter 13 and Chapter 11. Germany offers the debt settlement plan and consumer insolvency proceedings. Australia offers debt agreements and personal insolvency agreements. New Zealand offers NAP and DRO.

Pakistan has no statutory debt counseling requirement. The US requires pre-filing credit counseling and pre-discharge debtor education. Germany requires an out-of-court settlement

attempt before formal proceedings, which is typically supported by debt advice. The UK's DRO process involves approved intermediaries who provide advice. Australia and New Zealand provide public guidance through AFSA and the Official Assignee.

5. Findings and Implications for Pakistan

The Provincial Insolvency Act, 1920 remains the primary statute governing personal insolvency in Pakistan outside the Karachi Division (Provincial Insolvency Act, 1920, s. 1(2)). The Act provides several debtor protections. Section 31 allows an insolvent to apply for a protection order against arrest (Provincial Insolvency Act, 1920, s. 31). Section 29 stays pending proceedings after adjudication (Provincial Insolvency Act, 1920, s. 29). Section 28(5) exempts property that is exempt from attachment under the Code of Civil Procedure, 1908 (Provincial Insolvency Act, 1920, s. 28(5)). Sections 38 to 40 allow composition or scheme of arrangement. Section 41 gives the right to apply for discharge. Section 44 releases the insolvent from provable debts subject to exceptions. However, the framework is outdated in several critical respects (Habib, 2010, p. 67). The monetary threshold in sections 9 and 10 remains Rs 500, which has lost any real economic significance (State Bank of Pakistan, 2023).

The comparative analysis revealed that developed jurisdictions have moved toward fixed discharge periods, comprehensive exemptions, alternative procedures, debt counseling, and specialized institutional frameworks (Jackson, 1986, p. 45; Tolmie, 2003, p. 188). The United Kingdom provides automatic discharge after 12 months, Individual Voluntary Arrangements (IVAs) and Debt Relief Orders (DROs) (Insolvency Service, 2026). In January 2026, 3,847 DROs were registered in England and Wales (Insolvency Service, 2026). The United States provides Chapter 7 discharge within months, Chapter 13 repayment plans, broad exemptions (homestead USD 31,575, vehicle USD 5,025 as of April 2025), and mandatory credit counseling (Judicial Conference of the United States, 2025; US Bankruptcy Code, 11 USC §§ 109(h), 522, 727). Germany provides a structured consumer insolvency process with a three-year good conduct period leading to discharge of residual debts (German Insolvency Code, § 300).

Islamic law recognizes the concept of insolvency through the doctrines of al-taflis (judicial declaration of insolvency) and al-hajr (interdiction of the debtor) (Ayaz, 2010, p. 45). The Qur'anic injunction in Surah Al-Baqarah (2:280) mandates respite for the debtor in hardship (Qur'an 2:280). This principle is consistent with the rehabilitative objectives of modern personal insolvency law (Lazarov, 2017, p. 230). A reformed Pakistani insolvency framework that provides structured discharge, exemptions, and respite for honest debtors would be broadly compatible with Islamic legal values (Azmi, Abd Razak & Ahmad, 2018, p. 505).

The first research question asked what legal protections are available for discharge, restructuring and fresh start under personal insolvency laws. Under Pakistani law, the protections include protection from arrest (section 31), stay of proceedings (section 29), exempt property (section 28(5)), composition (sections 38-40), and discharge (sections 41-44). However, these protections are narrow and uncertain compared to comparator jurisdictions (Ramsay, 2017, p. 112). The second research question asked about the principal challenges and limitations of the Pakistani framework. The key challenges are the absence of a fixed discharge period, the narrow exemption structure, the lack of alternative procedures, the obsolete monetary thresholds, the absence of debt counseling, and the lack of a modern cross-border framework (Habib, 2010, p. 67; SECP, 2025). The third research question asked whether legal protection is available against a money decree. Section 31 provides protection from arrest in execution of a decree after adjudication, but only upon application to the court (Provincial Insolvency Act, 1920, s. 31). Section 29 stays proceedings against the property of the insolvent after adjudication (Provincial Insolvency Act, 1920, s. 29).

The fourth research question asked whether Pakistani law distinguishes between bona fide

and reckless insolvents. Section 42 provides grounds for refusing, suspending or conditioning discharge where the insolvent has engaged in misconduct (Provincial Insolvency Act, 1920, s. 42). However, the distinction lacks the structured operational framework found in the UK's Bankruptcy Restrictions Orders or the US's denial of discharge provisions (Gross, 1997, p. 67). The fifth research question asked about best practices from other jurisdictions. The best practices identified include fixed discharge periods (12 months in UK, 3 years in Germany, 3 years in Australia), comprehensive exemptions (US federal exemptions), alternative procedures (IVAs, DROs, Chapter 13, debt agreements), debt counseling requirements, and specialized administrative agencies (Insolvency Service, AFSA, Official Assignee) (World Bank, 2021, p. 15). The sixth research question asked whether the legal protections are in harmony with Islamic law. The principles of respite, fairness and protection from oppression in Islamic law are consistent with the rehabilitative objectives of modern insolvency law (Qur'an 2:280; Ayaz, 2010, p. 45).

6. Recommendations for Reform

The first and most important recommendation is the enactment of a modern personal insolvency statute to replace the Provincial Insolvency Act, 1920 and the Insolvency (Karachi Division) Act, 1909 (World Bank, 2021, p. 20). The new law should apply uniformly across Pakistan. It should provide for a fixed discharge period, preferably three years, as in Germany and Australia (German Insolvency Code, § 300; Bankruptcy Act 1966). The discharge period should be subject to extension or denial only in cases of proven misconduct (Gross, 1997, p. 67). The new law should introduce alternative procedures to full bankruptcy. A Debt Relief Order (DRO) equivalent for low-income, low-asset debtors should be established, modelled on the UK DRO or the New Zealand No Asset Procedure (Insolvency Service, 2026; Insolvency Act 2006). An Individual Voluntary Arrangement (IVA) equivalent for debtors with repayment capacity should be introduced, allowing supervised repayment plans (Insolvency Act 1986, ss. 252-263).

The exemption provisions should be comprehensively reformed. Section 28(5) should be replaced with a modern, insolvency-specific exemption scheme. The new scheme should protect a homestead up to a reasonable value, a motor vehicle, tools of trade, household goods, and retirement accounts (US Bankruptcy Code, 11 USC § 522; Judicial Conference, 2025). The exemption amounts should be periodically adjusted for inflation. The monetary thresholds in sections 9 and 10 should be updated to realistic figures. The new threshold for a creditor's petition should be set at a level that serves a genuine gatekeeping function, such as Rs 500,000 or an indexed equivalent (State Bank of Pakistan, 2023). An indexation mechanism should be included in the statute to ensure thresholds do not become obsolete again (World Bank, 2021, p. 18). The new law should address digital lending. A specific provision should allow the court to scrutinize debts arising from unauthorized digital lending apps and to stay enforcement pending adjudication (SECP, 2025). The law should coordinate with the existing SECP whitelist and enforcement actions (SECP, 2025). The new law should adopt the UNCITRAL Model Law on Cross-Border Insolvency (UNCITRAL, 2025).

A dedicated national personal insolvency service should be established. The service could be modelled on the UK Insolvency Service, the Australian Financial Security Authority (AFSA), or the New Zealand Official Assignee (Insolvency Service, 2026; AFSA, 2025; Insolvency Service of New Zealand, 2026). The service should administer personal insolvency cases, maintain a public register, provide guidance to debtors and creditors, and regulate insolvency practitioners. Official Receivers should receive specialized training in personal insolvency law and practice (Tolmie, 2003, p. 188). A licensing and regulatory framework for insolvency practitioners should be established. Debt counseling centres should be established or accredited to provide pre-filing advice to debtors (US Bankruptcy Code, 11 USC § 109(h); World

Bank, 2021, p. 22). An online case management system should be implemented to reduce delays and improve transparency.

The new law should provide for an automatic stay of proceedings upon the filing of an insolvency petition, rather than only after adjudication (US Bankruptcy Code, 11 USC § 362). This would protect the debtor from creditor enforcement during the critical period between filing and adjudication. Time limits should be prescribed for each stage of insolvency proceedings. The court should be required to adjudicate a petition within a specified period, such as 60 days. The discharge application should be heard and determined within a specified period after the expiry of the discharge period. A simplified procedure for low-asset cases should be established. Debtors with assets below a specified threshold and debts within a specified ceiling should be eligible for a streamlined process similar to the UK DRO or New Zealand NAP (Insolvency Service, 2026; Insolvency Act 2006).

The new law should explicitly incorporate the Islamic principles of respite, fairness and good faith (Qur'an 2:280). A provision requiring the court to grant reasonable respite to a debtor in hardship should be included. The distinction between honest and dishonest debtors should be maintained, with full relief available only to those who have not engaged in fraud or misconduct (Provincial Insolvency Act, 1920, s. 42). The Council of Islamic Ideology should be consulted during the drafting process to ensure compatibility with Shariah principles (Ayaz, 2010, p. 45).

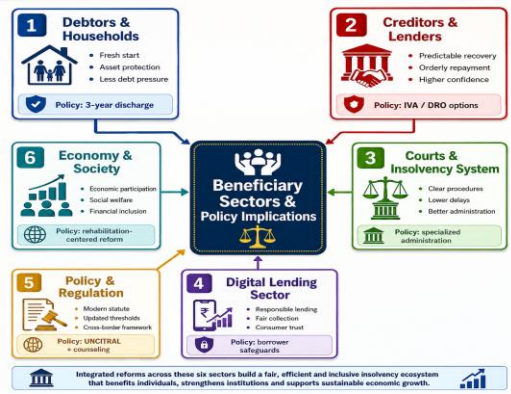


Figure 2. ***Beneficiary Sectors and Policy Implications of Personal Insolvency Law Reform***

7. Conclusion

This study establishes that the principal weakness of Pakistan's personal insolvency framework lies not in the complete absence of statutory debtor protections but in their limited capacity to facilitate timely and effective financial rehabilitation. The Provincial Insolvency Act, 1920 and the Insolvency (Karachi Division) Act, 1909 recognize protective orders, the stay of proceedings, exemptions, composition, and discharge. Nevertheless, the discretionary and court-centred character of these measures, together with outdated thresholds and limited procedural alternatives, constrains the practical availability of a fresh start.

The comparison with the United Kingdom, United States, Germany, Australia, and New Zealand indicates the importance of predictable discharge, proportionate exemptions, differentiated debt-resolution procedures, and accessible institutional support. These practices should not be transplanted without regard to Pakistan's economic circumstances and administrative capacity. The study's synthesis of creditor-focused, debtor-focused, and society-focused theories further demonstrates that rehabilitation and legitimate creditor recovery are complementary concerns. Islamic principles concerning al-taflis, al-hajr, and respite for debtors in genuine hardship reinforce justice, good faith, and a distinction between bona fide financial failure and misconduct.

Meaningful reform therefore calls for a coherent personal insolvency statute supported by simpler procedures, appropriate administrative arrangements, stronger safeguards in digital lending, and principled mechanisms for resolving competing claims. A framework that enables honest debtors to return to productive economic life while preserving legitimate creditor rights would advance legal fairness, economic participation, and confidence in Pakistan's insolvency system.

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