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LAW & JUDICIARY

Edited by Nadeem Ul Haque & Faheem Jehangir Khan

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Tel. +92 (51) 9248144, 9248026

Email: rasta@pide.org.pk

URL: rasta.pide.org.pk

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PART I

LAW & JUDICIARY

Research Papers

BOTTLENECKS OR INEFFICIENCIES? A CRITICAL ANALYSIS OF JUDICIAL EFFICIENCY AND COURT PRODUCTIVITY IN THE LOWER JUDICIARY SYSTEM OF PUNJAB

Saima Sarwar and Alvina Sabah Idrees

ABSTRACT

The dispensation of justice should be the central objective of a nation-state as justice and the rule of law are the backbone of a well-developed society. The present study focused on two major issues, i.e., it measured the efficiency of the lower/district courts of Punjab and it critically highlighted the bottlenecks specifically faced by these courts facing high rates of pendency and backlogs. The analysis is based on both the secondary and primary datasets. Three cities, namely, Lahore, Multan, and Rawalpindi – the most inefficient districts in the disposition of cases with huge caseloads and rates of institutions and pendency – were used as a sample of the study. The survey covered all court users, i.e., judges, lawyers, and litigants. Almost 8,300 respondents participated in the survey and the findings are presented both graphically and in the form of SERVQUAL analysis to measure the service quality of these courts from users' perspective and highlight the areas of priority for correcting the system. Adjournments and cost of proceedings turned out to be the major reasons for the delay in the disposition of cases and training of judicial professionals and court automation was regarded as the big 'leveller' for improving the governance of the judicial system. SERVQUAL analysis showed that the judicial system was less empathetic towards the poor and less effective and responsive in terms of coordination between law enforcement agencies. Judges and lawyers both supported the Alternative Dispute Resolution (ADR) settlement mechanism to reduce the burden of courts and to avoid the heavy cost of proceeding both in terms of monetary and time cost and also showed satisfaction with the use of the law of arbitration.

1. INTRODUCTION

Background and Introduction

The importance of a sound judicial system as one of the important pillars of economic development cannot be denied. A transparent judiciary builds the confidence and trust of investors and promotes the efficiency of social, economic, and political systems. However, in the case of developing economies, the judicial system faces major constraints, such as poor infrastructure, poor incentive systems, malpractices, lack of accountability, delays and backlogs, high costs of litigation, complex procedures, lack of judges and supporting staff, and the lack of transparency in appointments. These challenges ultimately cause socioeconomic and political unrest. Without a well-functioning judicial system, it is difficult to create public harmony and conflict resolution to create an enabling environment for sustained peace and security, enforcement of human rights, good governance, and economic development. Therefore, the dispensation of justice must be the central objective of a nation-state because justice and the rule of law form the backbone of a well-developed society.

This study focuses on two major issues. Firstly, it undertakes an efficiency analysis of the lower courts of Pakistan. Secondly, it aims to critically examine the bottlenecks faced specifically by the district courts of Pakistan. The lower courts are taken as the unit of analysis because these courts are facing the highest backlog and large caseloads (LJCP, 2020). Due to long procedural delays, the pendency rate is mounting every year along with the high rate of case institution resulting from the absence of the rule of law. Such delays also increase the cost of civil litigation making justice beyond the reach of the common man, which has severe social implications. Court congestion also affects the quality of justice.

According to the recent World Justice Project survey, Pakistan's rank on the Rule of Law Index 2021 is disappointing at 130th out of 139 countries (WJP, 2021). This index is composed of eight dimensions including criminal and civil justice. Pakistan is ranked the lowest on justice, freedom, accountability, and gender disparities, which reflects the failure of our political, social, and economic systems.

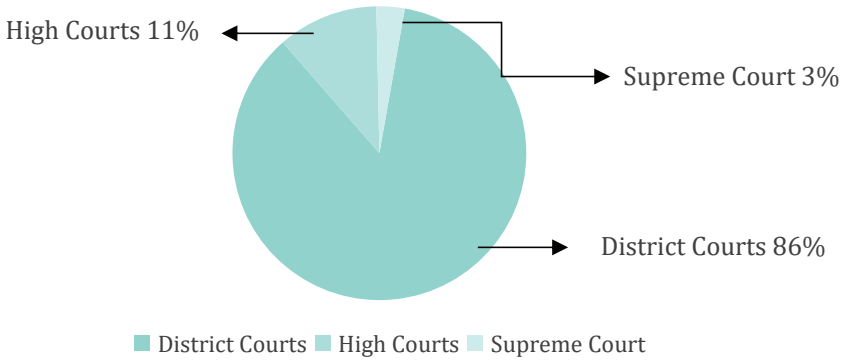
The role of the judiciary is central to not only upholding social values but judiciary also plays an important role in economic development through enforcing contracts and property rights, stopping government officials from abusing power, and correcting market irregularities (Sherwood, 1995; Falavigna et al., 2019). New Institutionalists assert that only those economies are considered 'high-performance economies' that enforce long-term contracts with the lowest cost of enforcing contracts within their economic systems (North, 1990; Williamson, 1991). Therefore, a well-functioning judiciary system is an utmost need of both developed and developing economies for running their social, political, and economic systems by reducing transaction costs. The rule of law is an important ingredient to ensure trust and confidence in a reasonable business and investment environment. Smith (1795), Max Weber (19th century), and Hayek (1960) were the pioneers who recognised the importance of the judiciary for the enforcement of the rule of law, which leads to economic prosperity (Bendix 1960). Therefore, there is a need to improve the effectiveness of the court system to promote sustainable economic development. Similarly, World Bank (2004) also provides strategic measures and agenda for enhancing the 'independence' of the judiciary systems globally. Judicial corruption in the appointment of judges is detrimental to the quality of the justice system. The legal sector creates a supporting environment for investment, businesses, and strong financial markets. Hence, judicial reforms help to control corruption activities through accountability tools (Chong & Cozzubo, 2019).

One of the main objectives of legal reforms is to make access to judicial procedures, such as the initiation, preparation, enactment of law and regulation and publicising, easy for the common man. In addition, it also emphasises a proper training system for the judicial staff and case management system to avoid case backlogs by incorporating the role of technology as it may speed up the process of trial. According to World Bank (2004), developing countries must introduce training programmes for judicial staff, resolve matters related to

appointments and promotions of judicial staff and law officers, bring transparency and discipline in decision-making procedures in addition to focus on the participatory role of civil society in bringing justice.

At present, courts in Pakistan are facing congestion of cases resulting from high pendency rates, and such delays have become an alarming feature of our judiciary system. In the figure below, an overview of the judicial system of Pakistan is provided for 2022. After the implementation of the National Judicial Policy 2009, as the figure shows, the number of disposed cases increased in 2022 in comparison to previous years. However, the situation has worsened for district courts in terms of caseloads, pendency rates and delays as can be observed in the figure below, i.e., the largest number of delays and non-disposal of cases fall under those district courts.

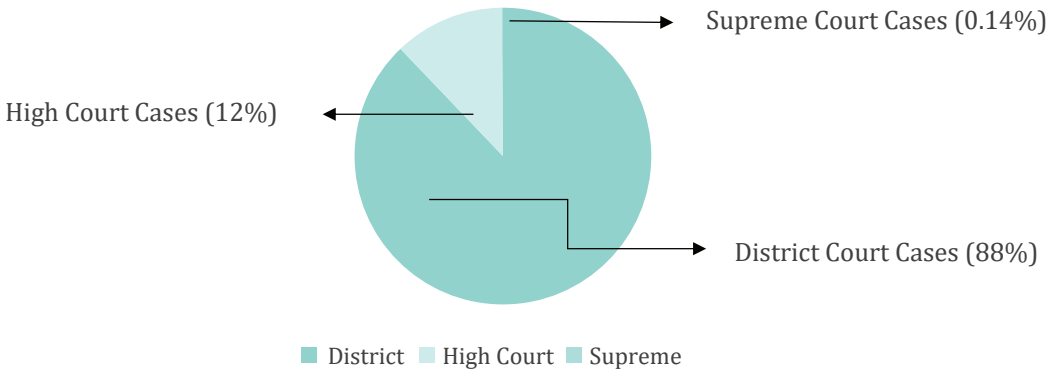
Figure 1 (a): Case Pending Adjudication in Judiciary for the Year 2022



Source: Authors' calculations based on Lahore High Court (various issues).

To understand the issue of this huge case pendency in Pakistan, a similar graphical representation is given below for another developing country, India, which has almost the same socio-cultural setup as Pakistan. Figure 1 (b) portrays the scenario till December 2022 for the Indian economy. It can be observed from Figure 1 (b) that district courts are hugely overburdened compared to the rest of the courts. However, the backlog is negligible in India's Supreme Court. This comparison helps in understanding that developing countries are facing this issue of case pendency due to their socio-demographic structure where, on the one hand, they have rapid population growth population leading to increased poverty levels, which ultimately triggers the crime and corruption rates. On the other hand, there is also the issue of capacity in these societies making the system inefficient and ineffective for the masses.

Figure 1(b): Case Pending Adjudication in Indian Judiciary for the Year 2022



Source: Authors' calculations based on Lahore High Court (various issues).

Hence, to improve the efficiency of the judicial system, two important factors need to be focused on per the existing literature. These are:

1) "Caseload" per judge

2) "Time" in the disposition of a case.

Among many other factors, the most important reason for the huge pendency in district courts is the scarcity of judges and the lack of facilities provided to both lawyers and judges such as the infrastructure. Usually, it is observed that judicial staff work in a poor environment, such as small and compact rooms, electricity outages, fewer privileges, and low salaries. Above all, the scarcity of judges has become a major hindrance in providing speedy and efficient delivery of justice in the case of district courts. Some important facts are provided in the table below that shows that courts are highly congested and judges are overburdened causing an overall delay in the justice system.

Table 1: Factual Position of District Courts

Judges' Strength	1 judge per 300,000 people in Pakistan	1 judge per 10,000 in developed countries
	1 judge per 62000 people in Punjab	
Clearance Rate	1.9 million pending cases against 4,000 judges	Low clearance rate
Case Burden Per Judge	20,000 registered cases per judge	9-10 cases worked upon per day

Source: Authors' compilation based on LJCP (2020).

Nevertheless, there are many other factors which cause delays in justice other than judicial officers. These factors include the police department, lawyers, and medical practitioners, among others, who are directly or indirectly involved in case preparation and the provision of supporting documents. Such elements are also negatively affecting the efficiency of the judicial system in lower courts. There are many reasons for the observed high rate of delays but, apparently, the lack of judges' appointments and supporting staff are the key factors. Table 2, given below, provides statistics on differences between the number of sanctioned judges and working judges in various levels and categories of courts.

Table: 2: Comparative Statistics about the Strength of Judges

Type of Court	Sanctioned Judges	Working Judges	Difference
Supreme Court	17	16	1
High Courts	60	47	13
District Courts			
Additional District & Session Judges	606	492	114
Senior Civil Judges	109	103	6
Senior Civil Judge /Judicial Magistrate /Family Judges	1613	963	650
Total Difference (District Courts)	2,364	1,594	770

Source: LJCP (2020).

The table given above shows that the district courts are facing more serious issues in this regard. Among the different categories, it can be seen that the lack of appointed judges is the most important cause of delays and court congestion. The rule of law cannot be maintained without efficient court systems along with the relevant supporting departments. The access to civil justice is disappointing within Pakistan. Due to this reason, Pakistan's performance has been poor on the world ranking, both regionally and in the lower-middle income group category.

Table: 3: Global Position of Pakistan in the Judicial System and Rule of Law

WJP Index Ranking	World ranking	Regional ranking	Lower-middle income group ranking
Civil Justice	124/139	4/6	26/35
Criminal Justice	108/139	4/6	23/35
RoL Index	130/139	5/6	30/35

Source: Extracted from the WJP (2021).

The overall Rule of Law (RoL) index for Pakistan also shows a very disappointing picture as no reasonable change in the rank and the Rule of Law index has been observed since 2017. There are a total of eight (8) factors that measure this score ranging between 0 and 1. Pakistan's score has been 0.39 for the last 5 years, which is very alarming since it reflects the absence of law and bad governance in the country. The table below gives detailed factor-wise scores and ranking of Pakistan.

Table: 4: Ranking of Pakistan using Worldwide accepted parameters for the Justice System

Factors	Parameters for the Evaluation of the Overall Justice System	World ranking	Regional ranking	Lower-middle income group ranking
Factors 1	Constraints on Government Powers	89/139	4/6	15/35
Factors 2	Absence of Corruption	123/139	5/6	28/35
Factors 3	Open Government	101/139	4/6	18/35
Factors 4	Fundamental Rights	126/139	5/6	28/35
Factors 5	Order and Security	137/139	5/6	34/35
Factors 6	Regulatory Enforcement	123/139	5/6	29/35
Factors 7	Civil Justice	124/139	4/6	26/35
Factors 8	Criminal Justice	108/139	4/6	23/35

Source: Extracted from WJP (2021)

Pakistan is facing severe issues in the law and order situation, security, and the provision of fundamental rights. These issues call for a reform of the judiciary for the improvement in efficiency. The tables below illustrate the factors responsible for the deterioration of the civil and criminal justice system in Pakistan. In the case of civil justice, Pakistan is facing issues in the enforcement and impartiality of enforcement agencies. These include the police department, medical officers, and investigation cells. These institutions are required to be reformed for accountability and transparency for easy access to justice.

Table: 5: Evaluation of Pakistan's Civil Justice System using the WJP Rule of Law Index

Factors	Parameters for the Evaluation of the Civil Justice System	World ranking	Regional ranking	Lower-middle income group ranking
Factors 1	People can access and afford civil justice	131/139	5/6	32/35
Factors 2	Civil justice is free of discrimination	114/139	3/6	25/35
Factors 3	Civil justice is free of corruption	111/139	4/6	23/35
Factors 4	Civil justice is free of improper government influence	75/139	4/6	8/35
Factors 5	Civil justice is not subject to unreasonable delay	98/139	3/6	25/35
Factors 6	Civil justice is effectively enforced	125/139	6/6	30/35
Factors 7	Alternative dispute resolution mechanisms are accessible, impartial, and effective	127/139	5/6	31/35

Source: WJP (2021).

However, the same kind of analysis is also available for criminal justice in Pakistan based on seven pillars. Factor-wise ranking of Pakistan is given below at the world, regional, and low-middle-income group levels.

Table: 6: Evaluation of Pakistan's Criminal Justice System using the WJP Rule of Law Index

Factors	Parameters for the Evaluation of the Criminal Justice System	World ranking	Regional ranking	Lower-middle income group ranking
Factors 1	The criminal investigation system is effective	114/139	5/6	26/35
Factors 2	The criminal adjudication system is timely and effective	102/139	4/6	26/35
Factors 3	The correctional system is effective in reducing criminal behaviour	84/139	4/6	15/35
Factors 4	The criminal system is impartial	128/139	4/6	31/35
Factors 5	The criminal system is free of corruption	110/139	4/6	21/35
Factors 6	The criminal system is free of improper government influence	59/139	2/6	3/35
Factors 7	Due process of the law and rights of the accused	130/139	5/6	29/35

Source: Extracted from the WJP (2021).

The figures show that the most important impediments to justice are partiality in the decision-making process and complex procedures in the implementation of the law. All these points highlight the need for sound judicial reforms to tackle the issues of easy access to justice and its efficient delivery. The next section provides the scope of the study based on the above discussion.

Rationale of the study

At present, in the case of developing economies, both the provision of justice and the quality of justice have become a main point of interest for policymakers. The major reason behind this is that due to the inefficiency and ineffectiveness of the court systems, there is a lack of trust and confidence of people in the policies of the government. Pakistan is also facing the same issue and its impact is visible both in domestic and international statistics. It shows that due to the fear of insecurities and delays in justice, citizens are losing faith in the integrity of policies. Congestion in courts, cost of litigation, and delay in the disposition of cases are the major characteristics of our judiciary system. It is believed that delayed justice is denied justice, and this seems quite applicable in the case of developing economies. An inefficient justice system provokes rent-seeking activities, social and political unrest, and lawlessness among certain segments of society due to which sometimes violent acts, challenging the writ of the state, become a normal routine in lower-income countries for pressing.

This study aims to highlight these kinds of anomalies in our Justice system using objective data from published reports and to explore whether the system is facing bottlenecks or it is a governance issue in the inefficient use of the law. For this purpose, the analysis is based on a survey to find the answer to this question. To our knowledge, quantitative analysis of these issues has not been done so far both at higher and lower levels of the judiciary in Pakistan. Moreover, the available literature is qualitative, which does not cover specifically the district courts of Punjab both in the domain of criminal and civil cases. Therefore, the main focus area of the current study is to relate the number of instituted cases, resolved cases, the pendency of cases per judge, the clearance and congestion rates, time in resolving a case, the number of judges, and the cost of a case with the productivity of courts. This study aims to measure the efficiency of lower courts in Punjab's judiciary system considering the judges' caseloads, administrative staff, and court expenses. Following this objective, the study targets further to explore the various dimensions/parameters that are acting as bottlenecks in the district judiciary causing delays in justice and a high rate of pendency of cases.

Objectives of the Study

There are three main objectives of the study. The first one is general and at a broader level, while the others are specific.

1) To evaluate the efficiency of lower courts (district courts) by examining their performance taking into consideration various measures of productivity.

2) To explore the bottlenecks faced by the district courts of Punjab, which might be causing inefficiencies in its judicial functioning.

3) To investigate the quality of judicial services by focusing on the differences between perceptions of court users on perceived outcomes and actual service delivery by the judicial operators through a field survey of litigants (customers) and lawyers (managers) of the district courts. (This objective specifically focuses on the evaluation of costs associated with the users of the courts both in terms of monetary and time costs during the court procedures highlighting the aspect of quality of judicial services in Lower courts).

Hypotheses

- **H1:** Exogenous factors, i.e. caseloads, the institution of cases, and pendency affect the court efficiency/productivity in lower courts.

- **H2:** Inefficiencies in district courts are linked with the internal and external constituents of the court system (e.g., case flows, clearance rate, case turnover ratios, time of disposition, costs of litigation per

procedure, appeal rate, number of adjournment proceedings, strikes by lawyers, stay orders, shortage of judges, and the absence of a well-coordinated system between courts and law enforcement agencies.

- **H3:** Court users, internal (lawyers) and external (litigants), are not satisfied with the services provided by the district courts.

2. LITERATURE REVIEW

The table given below shows various studies that have measured the efficiency of the justice system in different regions of the world. The relevant literature exists for developed countries but for developing countries, empirical evidence is very thin and the available literature is mostly theoretical and analytical. Therefore, this research aims to fill this gap by measuring the efficiency of the court system. The efficiency is measured, first, using a secondary available dataset, and, second, by carrying out an in-depth analysis based on a survey for measuring the bottlenecks in the lower judiciary of Punjab. In the end, the study examines the quality of services provided by the system using an innovative econometric approach, which is not widely used so far. A few studies, both on developed and developing countries, are reviewed in this section. Hence, this research aims to measure the extent to which the litigants are satisfied with the court delivery system.

Table 7: Literature Review

Study	Analysed Judicial System	Output	Input	Econometric technique
Kumar & Singh (2022)	Indian Courts	Court Performance	Judges, Lawyers and Litigants	Efficiency factor analysis (EFA)
Achenchabe & Akaaboune (2021)	Moroccan Courts	Cases resolved	judges; clerks; court operating expenses	Data envelopment analysis (DEA)
Tabassum et al. (2021)	Pakistan (relationship between the number of judges at the level of district judiciary)	Resolved cases	Number of judges	Survey-based
Bełdowski et al. (2020)	Poland (measuring court efficiency of district commercial courts)	Resolved cases	Judges, caseloads	Stochastic frontier analysis (SFA)
Ferro et al. (2020)	Argentine Labor Courts		Caseload and backlog	Data envelopment analysis efficiency frontier
Zafeer et al. (2020)	Pakistan (delay in civil justice)	Delay in justice	Corruption; frequent transfer of judges; insufficient of judges; heavy backlog of cases; non-punctuality of plaintiff and defendant; lengthy and complicated procedure	Survey-based
Moura e Sá et al. (2021)	Portugal (assessment of the quality of services in courts)	Litigants (users)	Lawyers; magistrates; court officials (service providers)	SERQUAL model

Falavigna et al. (2019)	Italian Courts (civil and criminal justice)	Resolved cases	Judges; staff; pending cases; incoming cases	Data envelopment analysis (DEA model)
Agrell et al. (2020)	Sweden (first instance courts) settled criminal cases; settled civil cases	Resolved cases	Judges; law clerks; other personnel; area of the court (square metres)	Data envelopment analysis (DEA model)
Mattsson & Tidanå (2019)	Swedish Courts (criminal cases; settled civil cases)	Resolved cases	Judges; law clerks; other personnel; area of the court (square metres)	Data envelopment analysis (DEA model and Malmquist Index)
Ippoliti, et al. (2016)	European courts (civil justice matter)	Resolved cases	Judges; staff; pending cases; incoming cases	Data envelopment analysis (DEA model)
Espasa & Esteller-Moré (2015)	Catalonia (civil courts of first instance and family law cases)	Resolved cases	Congestion; temporary judges and working staff	Fixed-effect panel stochastic frontier model
Castro & Guccio (2015)	Italian Courts (efficiency and effectiveness of judicial systems)	Resolved Cases	Judges; administrative staff	Data envelopment analysis (DEA model)
Ippoliti (2014)	Italian First Instance Courts (civil justice)	Resolved cases	judges; pending cases; institution of cases	Data envelopment analysis (DEA model)
Ferrandino (2012)	Florida, U.S.A. (criminal, civil, and family courts)	Resolved cases	Judges	Data envelopment analysis (DEA)

These are the studies which are relevant to our research questions and have used non-parametric techniques of data analysis. Yeung & Azevedo (2011) used the DEA to measure the efficiency of Brazilian courts for 2006–2008 and concluded that lack of resources could not be regarded as the major reason for the inefficiency of court systems. Rather, they highlighted that 'skilful managerial leaders' can improve the efficiency of poor performers. Guzowska & Strąk (2013) conducted a similar study for Polish civil courts and used microeconomic analysis techniques to evaluate the performance of courts. The authors specifically emphasised the use of 'technical efficiency' and finding the instruments for measuring operational quality to improve the administration of courts keeping constant the same level of inputs. Achenchabe & Akaaboune (2021) also measured the efficiency of Morrocon courts using the DEA technique, but in their study, the authors went beyond measuring the efficiency. They also tried to explore the determinants affecting these efficiency estimates in both small and large courts using the OLS regression analysis. The study concluded that those courts were more efficient were more populated and had a high number of cases in process. Furthermore, the efficiency estimates showed an increasing trend where senior judges were available in courts. The paper focused on highlighting the managerial implications of court managers in enhancing court productivity.

Nissi et al. (2019) explored the Italian court performance for the year 2008 using the DEA analysis. The study employed an input-oriented model and calculated CRS and VRS production frontiers. The results showed that all the courts were technically highly efficient and suggested that the inefficient courts should follow the 'peers' as a symbol of 'best practices' to increase the court productivity. However, the authors also shed light on the operation dimension of the model's definition as well when calculating the efficiency estimates.

Other than estimating the efficiency scores for each court considering the internal inputs for the desired output, many exogenous factors have also been discussed in the literature that directly act as impediments to enhancing the efficiency of court systems. Many times, caseloads, backlogs, institutions of cases, and overall pendency of cases in each court are taken as external shocks affecting the performance of courts. Castro & Guccio (2015) highlighted that caseloads acted as a major obstacle to Italian courts' productivity. Ippoliti & Tria (2020) found that other than caseloads when case matters were included in the model, efficiency scores drastically changed for Italian courts. Thus, it shows that the way the model is defined is important for the calculation of efficiency estimates. However, the study suggested that technological adoption reform in the 'civil procedures' technologically is required for better performance of the courts.

Besides using the DEA technique, a few studies have explored court performance by conducting surveys. Zafeer et al. (2020) researched the factors causing delays in civil courts with 60 respondents and found that it was the huge case backlogs and negligence of judicial staff that caused low productivity in district courts. Similarly, many authors have attempted to develop a scale for measuring efficiency using various parameters (Kumar & Singh, 2022).

However, somehow all the existing research studies have tried to examine the factors that lower the productivity of lower courts by using a general cohort of respondents without specifying the impact of such obstructions separately on various court users, such as litigants, lawyers, and judges. As mentioned earlier, most research is done in developed countries and hardly any empirical study is available for developing countries. Most studies available for developing countries are based on available secondary data. Hence, the current research aims to fill this gap by analysing the district courts of Punjab. The study also provides targeted policy recommendations that are evidence-based.

3. METHODOLOGY

The analysis is both quantitative and qualitative. Below is the detailed methodology used to test the three hypotheses of the study. However, a brief snapshot of the complete methodology is given in a tabulated format in Appendix A.

Situational Analysis

Situational analysis is conducted using the secondary dataset from the published reports and websites for various case types and 36 districts of Punjab initially for the year 2021. In this section, two approaches are used, namely, graphical analysis and efficiency analysis using data envelopment analysis (DEA), which is a non-parametric technique. The analysis is carried out to show the extent to which the existing inputs are conducive to providing justice efficiently in Punjab. Data on two inputs, i.e., judges and administrative staff, and two output variables are used to measure the efficiency. A detailed structure of the proposed technique and the estimated figures are given below.

Data Envelopment Analysis (DAE)

For testing the first hypothesis, which is relating judicial efficiency with court productivity, the DEA is used. DEA has been applied to evaluate the performance of various public-sector institutions, like the health and education sector (Mitropoulos et al., 2015; Pulina et al., 2010), police departments (Drake & Simper, 2004), and educational institutions and judiciary (Peyrache and Zago, 2016; Santos & Amado, 2014). Using this approach, we assign a particular score to efficiency performance by setting a benchmark. This approach helps in building a deterministic and non-parametric production function comparing the performance of different decision-making

units, which are courts in our analysis. The study adopts an output-oriented model introduced by Farrell (1957), which assumes variable returns to scale (VRS) (Banker et al., 1984).

Following the approach given by Ippoliti & Falavigna (2012), the scores of technical efficiencies are calculated for each court within the sample using the following formula:

(Technical Efficiency) $_I$ = zi, i= 1,2,….n

n represents the number of courts used in the analysis and TE has the range between $1 \leq TE_i \leq +\infty$.

Technically, these TEi scores are calculated using the linear programming duality problem (Farrell, 1957) given as follows:

$$\textbf{Max } z\mu\ Z_i$$

Subject to

$Y_i > Y\mu$

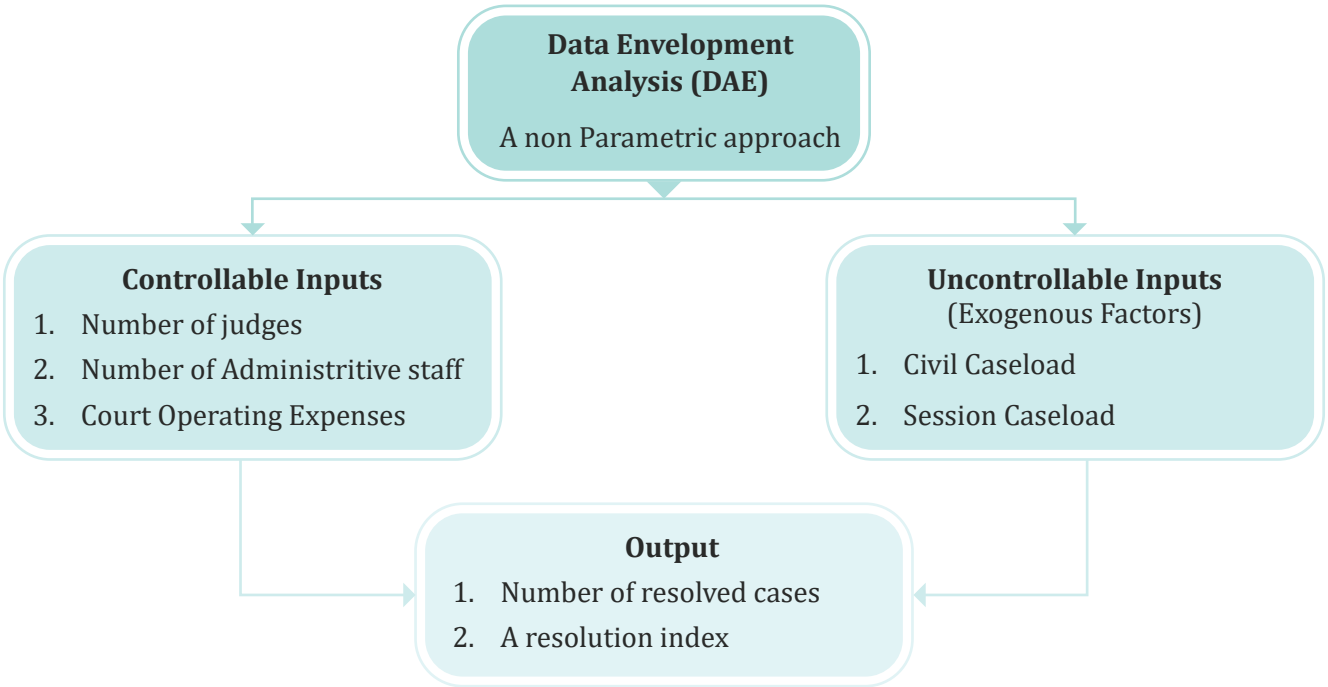
$Z_i\ X_i < X\mu$

$\mu \geq 0$

Here, Y_i and X_i are the input and output of each decision-making unit, respectively, Y is the matrix of inputs, X is the matrix of outputs of the sample and μ is an n ×1 vector of weights. The same model has been updated by Banker et al. (1984) who added the VRS with a little modification, i.e., eμ=1, which is called the convexity constraint. e is the row vector, which differentiates between technical efficiency and scale efficiency with all elements equal to one in that row.

The description of variables used in the analysis is given in Figure 2.

Figure 2: Description of variables in the DAE Model



Source: Authors' illustration.

This is the most used method in the literature for measuring the technical/managerial efficiency of the judiciary system proposed by Castro & Guccio (2015) and Peyrache & Zago (2016) in their analyses. Yeung & Azevedo (2011) introduced an index for the measurement of efficiency, both at aggregated and disaggregated levels, of all case matters, which are dealt with in different court systems. This index helped us to measure productivity not only by taking into account the incoming cases but also the workload to measure the total burden by adding the backlog of cases to the current year's cases.

The index is defined as:

Resolution Index= (**settled cases** $^{t}_{i}$)/ (**Workload**$^{t}_{i}$)

Here, i represents the ith judicial district considered at year(s) t. In the index, the workload is measured by using the formula: pending cases at the beginning of the year and institution of cases during the year normalised by 100 (Yeung & Azevedo, 2011). This index is innovative in its approach in a way that it does not take into account in the denominator the 'incoming/newly instituted cases', which highlights only the flow of justice (demand for justice) and ignores the backlog. The backlog of cases affects the supply of justice and determines the efficiency of the judges in the dispensation of justice. A detailed structure of models that are used in the study for testing hypothesis 1 is given below.

Table: 8: Classification of Models

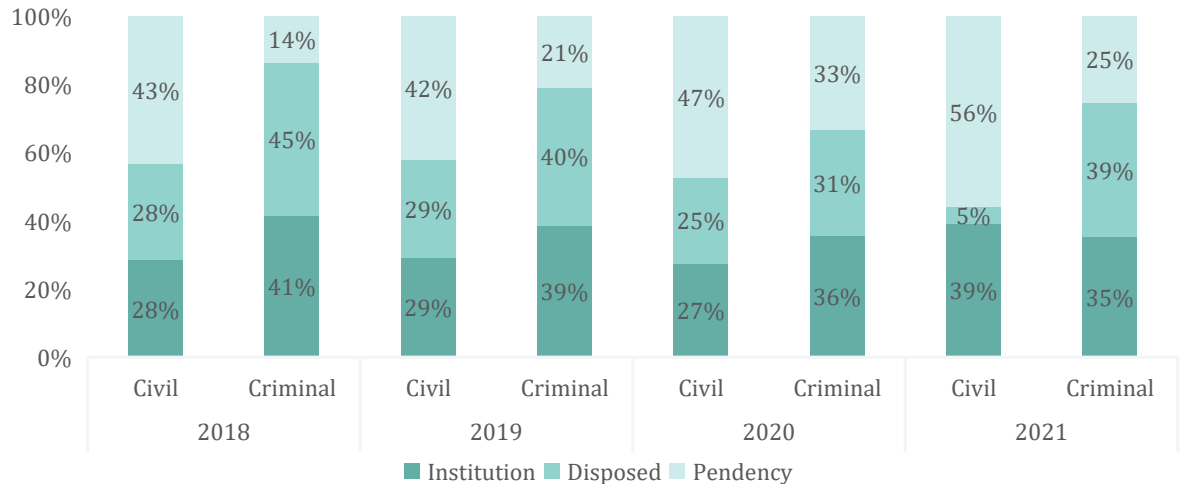
Variables	Model A	Model B	Model C	Model D
Inputs				
Judges	♦	♦	♦	♦
Admin Staff	♦	♦	♦	♦
Uncontrollable inputs				
Caseload Civil		♦		♦
Caseload Session			♦	♦
Outputs				
1. Settled Cases & Resolution index	♦	♦	♦	♦

Model A is the baseline model of the study where the court's efficiency is measured on a pooled dataset using the DEA technique. However, in the next models (B, C, D), an addition of non-discretionary input is made following the one-stage model given by Banker and Morey (1986). This modification of the model is made to differentiate between managerial efficiency/inefficiency due to non-discretionary caseload in various district courts.

4. THE STRUCTURE OF THE DISTRICT COURT SYSTEM OF PAKISTAN

This section analyses the judicial performance of the district court system of Punjab taking into account various aspects. The purpose is to dig out the areas where the issues lie and the responsible internal and external factors that have caused these problems in the system. The figure given below is self-explanatory as to how the courts at the district level in Punjab are congested in terms of civil cases compared to criminal ones. The intensity of this imbalance can be observed from their percentage share in the overall pendency. Moreover, a drastic difference between civil and criminal cases can also be visualised from this figure for each in terms of case disposal and pendency. The rate of case disposal is quite low compared to criminal cases and this is the reason the pendency of civil cases is accumulating each year.

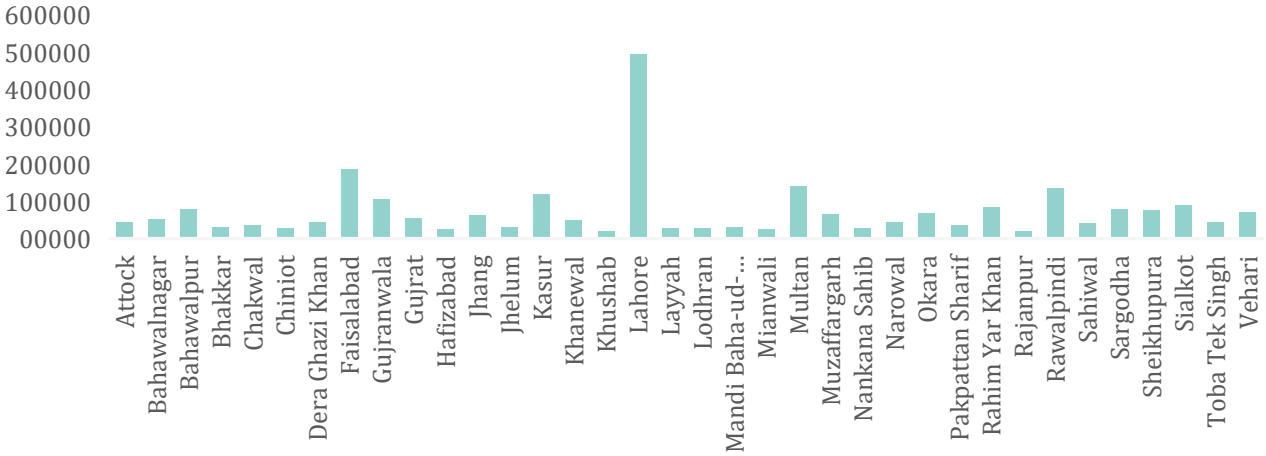
Figure 3: Yearly Comparison between Civil and Criminal Cases



Source: Authors' calculations based on Lahore High Court (various issues).

Figure 4 shows the pendency problem at the district level in Punjab. The figure shows that the most affected districts are Lahore, Faisalabad, Multan, and Rawalpindi. Keeping in view this scenario, the current study selected these over-burdened cities for the survey to find out the reasons for poor court performance in these areas.

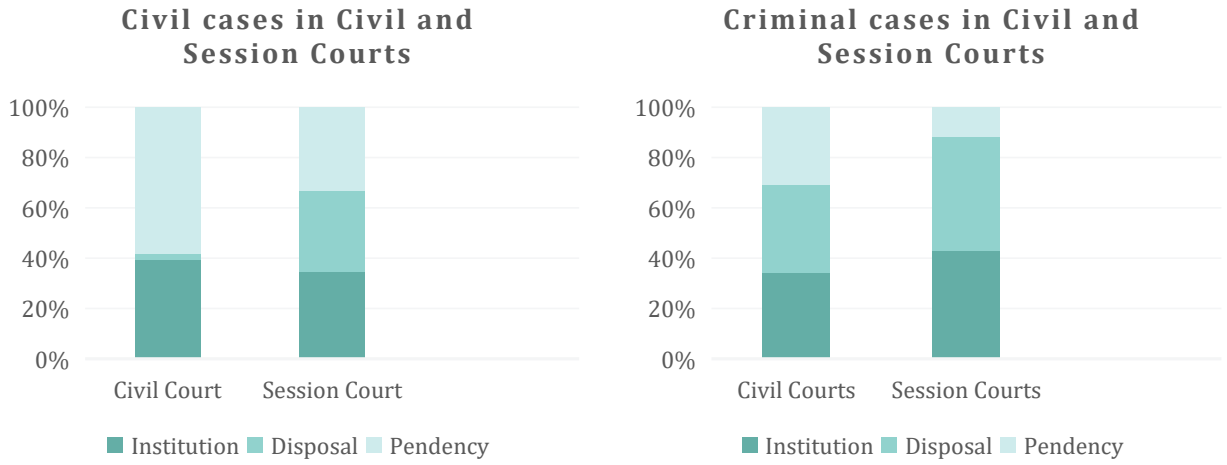
Figure 4: District-wise Pendency of Cases in Punjab 2021



Source: Authors' calculations based on Lahore High Court (various issues).

Figure 5 gives a visualisation of the comparison between civil and session courts for both case matters, i.e. civil and criminal. It is quite clear from the figure that session courts are performing better in terms of productivity as compared to civil courts for both civil and criminal cases.

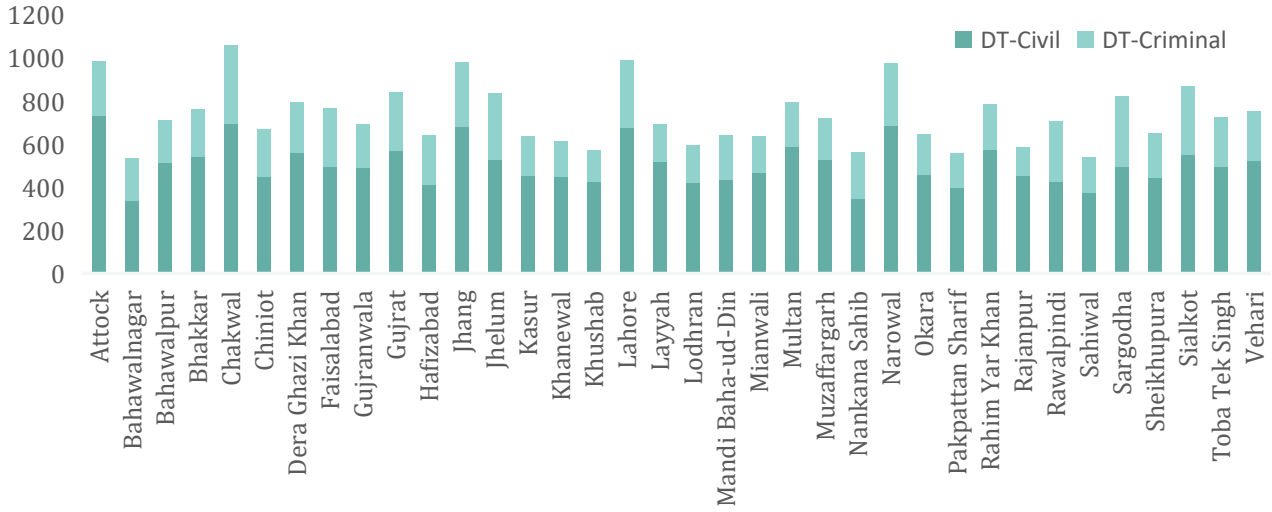
Figure 5: Comparison between Civil and Session Courts considering Pendency, Disposal, and Institution



Source: Authors' calculations based on Lahore High Court (various issues).

Figure 6 highlights a very important phenomenon, i.e., the disposition time[1] for the different case matters in the most congested districts of Punjab. From this representation, it can be observed that for civil matters, the disposition time is very high as compared to criminal cases.

Figure 6: District-wise Disposition Time of Civil and Criminal Cases

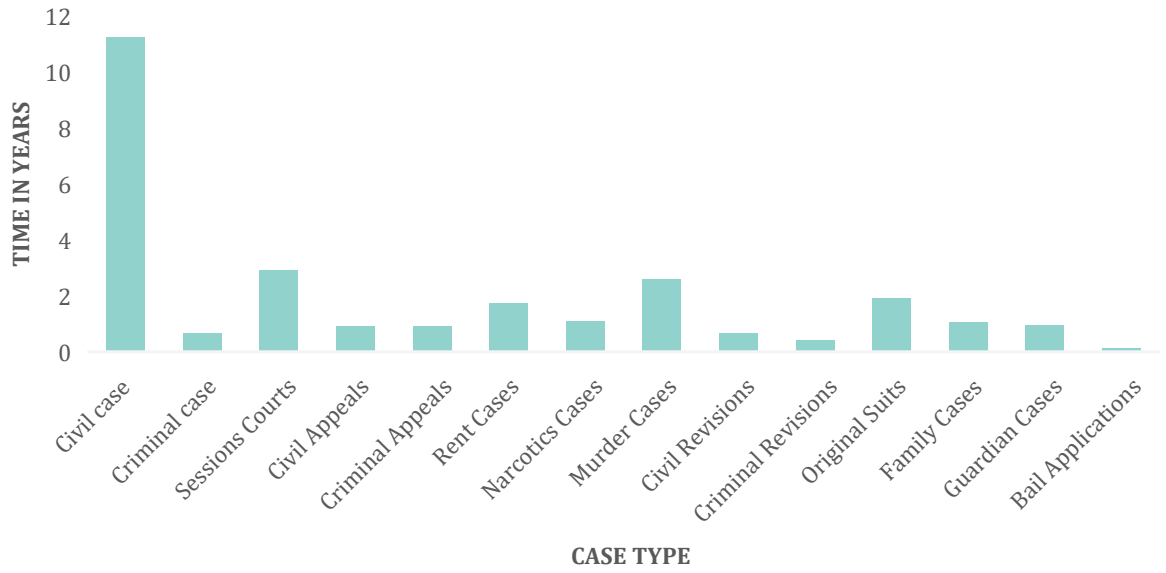


Source: Authors' calculations based on Lahore High Court (various issues)

Figure 7 shows the same issue of disposition/clearance time in various case types. We can see from the figure that civil cases consume disproportionately more time compared to other case matters. Bail applications are the most efficient case type consuming less time in days.

[1] This is calculated following the formula: Disposition Time= (Total Pendency/Disposal) * 365.

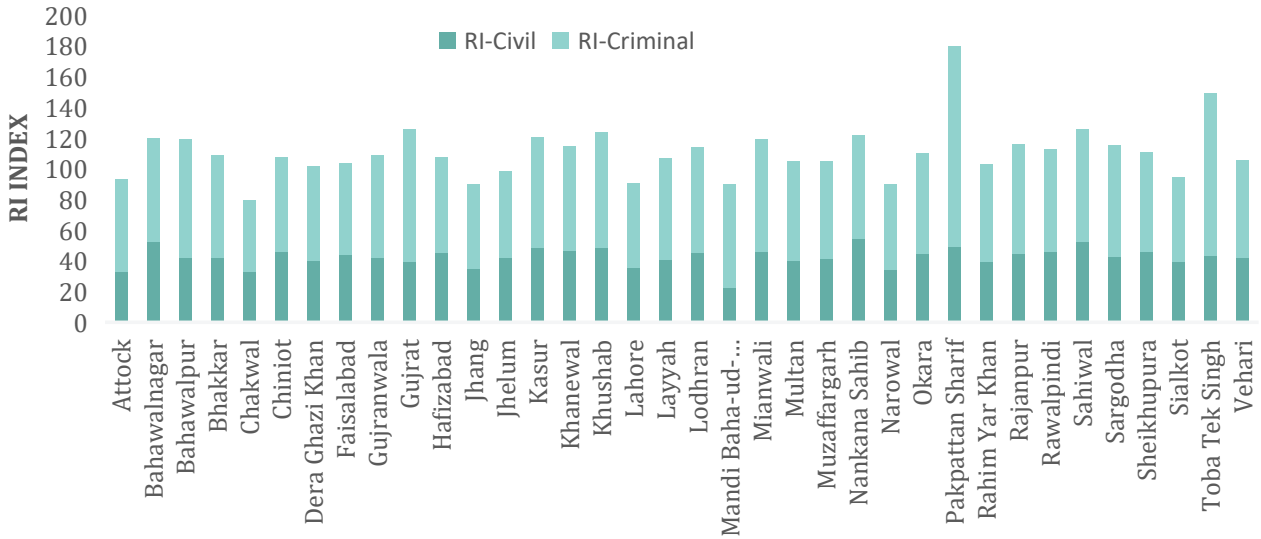
Figure 7: Case-wise Disposition Time of cases in Punjab Districts



Source: Authors' calculations based on Lahore High Court (various issues).

Figure 8 is the outcome of the calculation of the resolution index.[2] It can be seen from the figure that the problem of low judicial productivity is very acute in Lahore. For Lahore, the lowest resolution index was found for civil cases, i.e., the blue part of the bars. The orange part of the bars is greater in size than the blue one showing that the inefficiency of civil courts is increasing their turnover.

Figure 8: Resolution Index for Civil and Criminal Cases

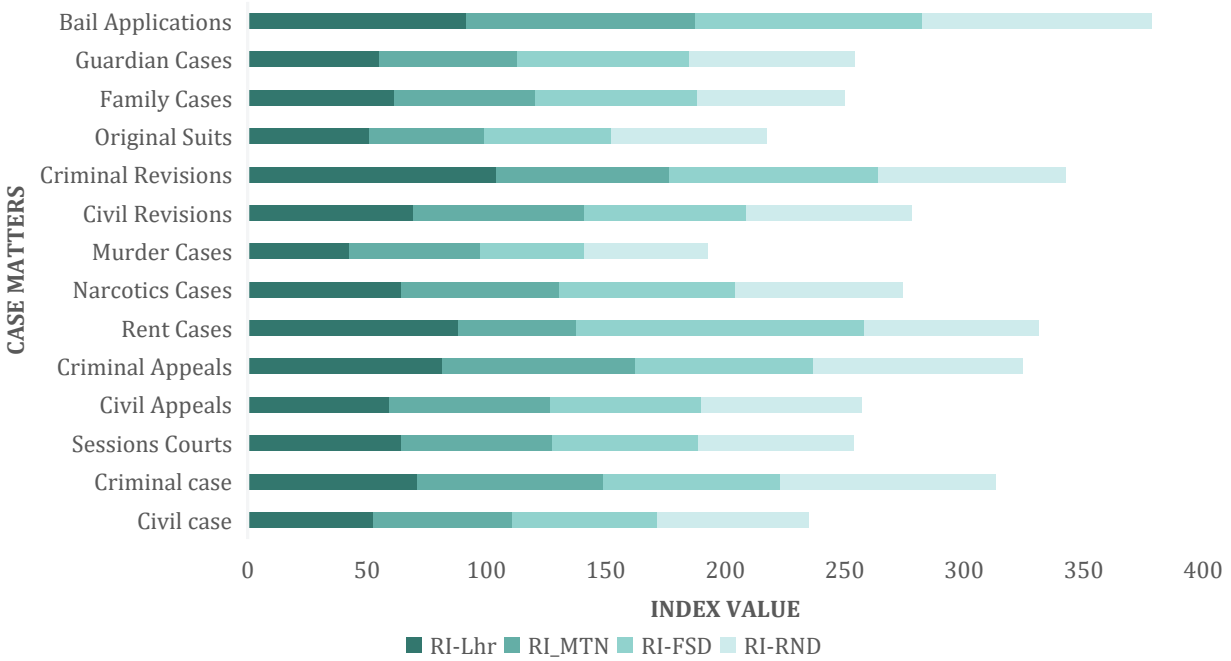


Source: Authors' calculations based on Lahore High Court (various issues).

The same analysis is attempted for four cities that are the most congested in terms of court cases of various types. It is quite clear that civil cases have a lower resolution rate in all these four cities compared to other types of cases being instituted in the district courts. Courts are highly efficient in cases of bail applications, criminal revisions, rent cases, and criminal cases.

[2] Resolution Index: Total settled cases/Workload.

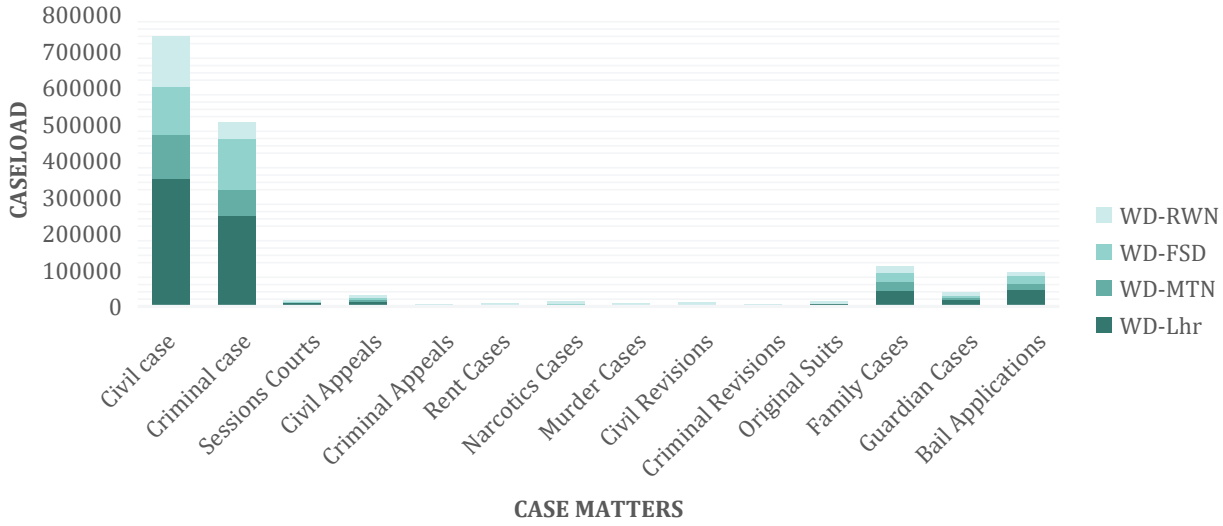
Figure 9: Resolution Index Mostly Congested Cities



Source: Authors' calculations based on Lahore High Court (various issues).

Figure 10 (a) shows the caseload situation for every case type in the highly congested four districts in terms of caseload mentioned above. It can be observed from the figure that the civil case caseload is the highest followed by the criminal cases. In both types of cases, the district courts of Lahore seem to have a more troubling and alarming situation.[3]

Figure 10 (a): Case Matters Caselaods in Most Congested Districts



Source: Authors' calculations based on Lahore High Court (various issues).

[3] A separate graphical analysis for districts Lahore, Multan, Faisalabad, and Rawalpindi is given in the appendix.

We also compared case resolution, both district-wise and case-wise, with the judge-to-population (per million) in each district, which helped bring out the intensity of the issue. This ratio shows the case burden per judge in each district and also highlights the shortage of judges. Figure 10(b) gives a graphical presentation of this ratio using the latest 2023 census of Punjab.

Figure 10(b): J/P per Million in Punjab Using Population Census 2023

Source: Authors' calculations based on Lahore High Court (various issues) and Punjab Welfare Department (PWD) data.

It can be observed from this figure that in almost all districts the ratio is quite low. The ratio is the highest for Lahore but even there the ratio is very disappointing, i.e., 19 judges per million people. Furthermore, the estimation of the total number of required judges to clear the backlog in each district was also attempted using the formula[4] given below.

- Number of judges required = Time required to clear the backlog/Time required per judge per year(s)
- Number of judges required = Time required to clear the backlog/252 days*6 hours*60 minutes[5]
- Time required to clear the backlog = Total number of backlogged cases*Average time per case

Following this formula, we estimated the required number of judges to clear the backlog in a year. Interestingly, the number rose to 611 against 258 currently appointed in Lahore with an improved J/P ratio per million of 47. Similarly, while calculating for Multan, where the existing number of judges was 66 with a J/P ratio of 12, the required number of judges to clear the backlog in this district came to 120 with an improved J/P ratio of 31. Likewise, for Rawalpindi, where the actual number of judges was 81 with a J/P ratio of 13, the required number of judges to clear the backlog turned out to be 201, which improved the J/P ratio to 40.5[6].

[4] The ratio is estimated using DAKSH (2020).

[5] This is calculated using the calendar and average time per hearing. The number of hours a judge spends in court per week is 32.5, which is estimated by using the same court timings from Monday to Thursday and different timings for Friday.

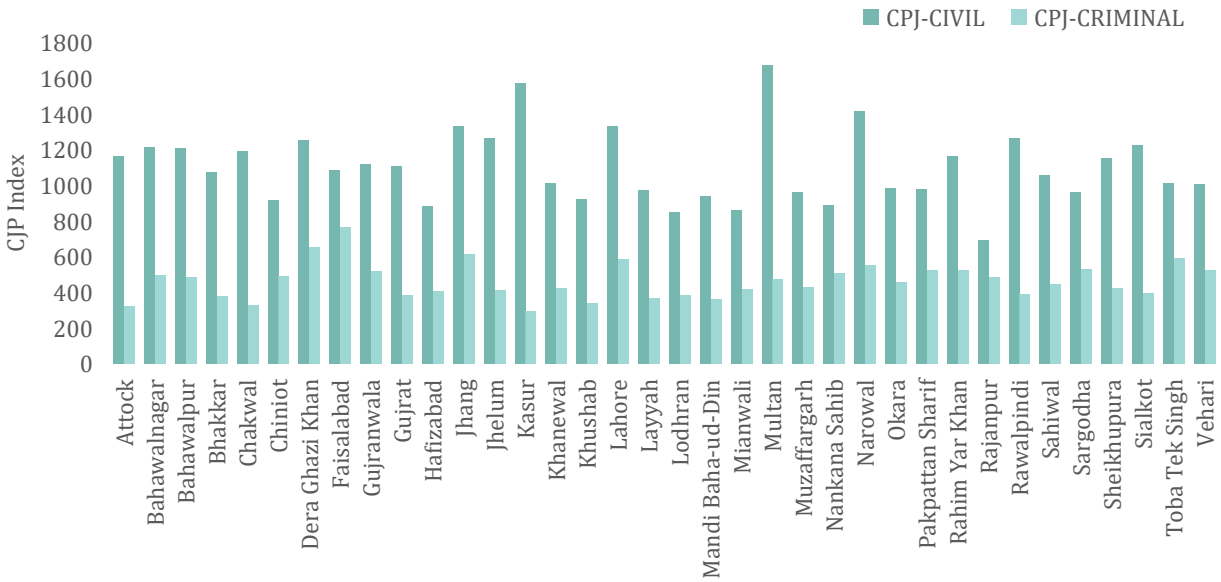
[6] The complete calculation is available upon request.

5. CALCULATION OF INDICES MEASURING THE EFFICIENCY OF DISTRICT COURTS

In this section, various indices for measuring the efficiency of the court system are presented. Such indices are routinely calculated in Western economies.[7] The most important index is the cases per judge (CPJ), which shows the allocation of cases per judge in each district to gauge judges' productivity.

Case per judge (CPJ indicator): Number of cases of a particular type per judge in the given period.

Figure 11: District Wise Civil and Criminal Cases Per Judge



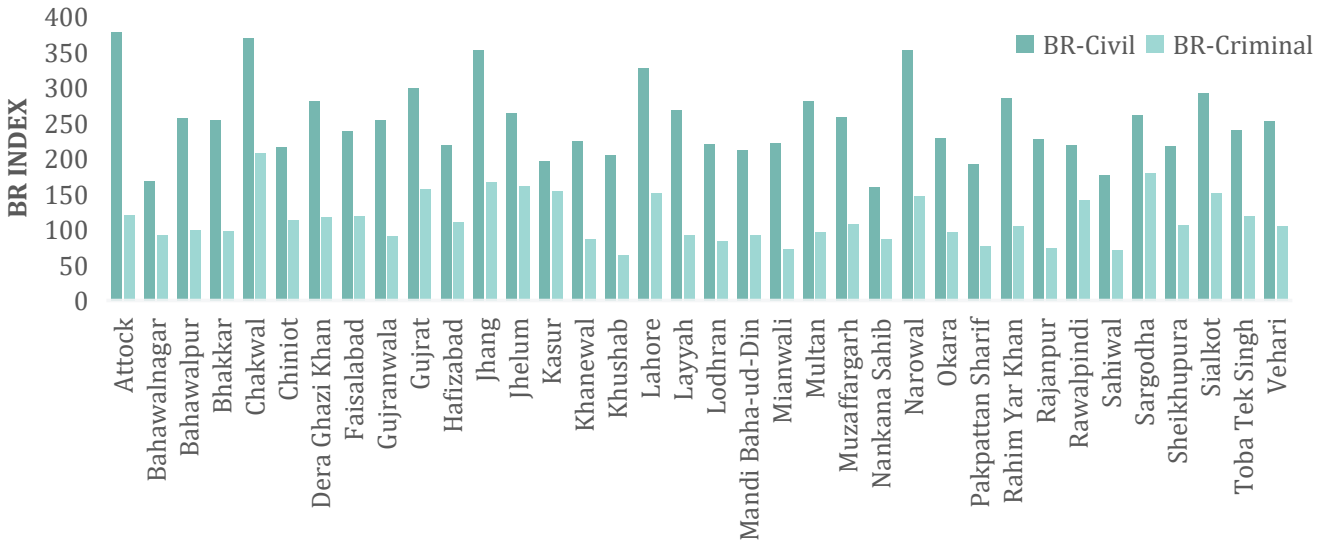
Source: Authors' calculations based on Lahore High Court (various issues).

Figure 11 shows that judges in each district were assigned more civil cases as compared to criminal cases. This burden was highly uneven in the case of Multan, which shows the shortage of judges in Multan. Due to the shortage of judges, more burden is transferred to the existing judges which results in lower productivity. The other indicator is the backlog resolution index.

Backlog resolution (BR indicator): This indicator is used to measure the time needed to clear the backlog in months or days, calculated as the relationship between the number of cases and the clearance time. Figure 12 highlights that the time it took to clear the backlog of civil cases was high compared to criminal cases in all districts, which again shows the intensity of the civil case pendency at the district courts.

[7] For further information on the European Commission for the Efficiency of Justice (CEPEJ) see COE (n.d.).

Figure 12: District-wise Backlog Resolution for Civil and Criminal Cases



Source: Authors' calculations based on Lahore High Court (various issues).

6. NON-PARAMETRIC ESTIMATION USING DATA ENVELOPMENT ANALYSIS (DEA)

This section presents the results of the DEA used for the measurement of efficiency estimates for 2020-21 for all districts of Punjab. The detailed estimates of three types of efficiency estimates, i.e., pure efficiency,[8] technical efficiency,[9] and scale efficiency[10] for all 36 districts are presented below. The estimates of different types of efficiency help to understand whether it is the size of existing courts that is causing low productivity or it is the inefficiency of the existing resources that is not letting the demand and supply of justice equal in the province. Ranks of each district have also been calculated. DEA provides efficiency scores under different orientations and assumptions of returns-to-scale (RTS). Thus, scale efficiency is measured under the assumptions of increasing returns to scale (IRS) and decreasing returns to scale (DRS). Two proxies of the judicial output are used as discussed in the methodology section.

Table 9 uses 'Disposal Rate' as the output for this estimation. The dashed boxes show that these districts were fully efficient. In the table, OTE stands for overall technical efficiency, PTE stands for Pure technical efficiency, and SIE shows the scale efficiency of each district.

[8] The OTE measure helps to determine inefficiency due to the input/output configuration as well as the size of operations. In the DEA, the OTE measure has been decomposed into two mutually exclusive and non-additive components, i.e., pure technical efficiency (PTE) and scale efficiency (SE).

[9] The PTE measure is obtained by estimating the efficient frontier under the assumption of variable returns-to-scale. Thus, the PTE measure has been used as an index to capture managerial performance.

[10] The measure of SE provides the ability of the management to choose the optimum size of resources.

Table: 9: Overall Technical Efficiency, Pure Efficiency, Technical Efficiency, and Scale Efficiency Scores of the Punjab District Courts using Disposal Rate as Output

	OTE	OTIE (%)	PTE	PTIE (%)	SE	SIE (%)	RTS	Rank
Attock	0.562	43.8	0.700	30	0.803	19.7	IRS	35
Bahawalnagar	1.000	0	1.000	0	1.000	0	-	1
Bahawalpur	0.857	14.3	0.876	12.4	0.979	2.1	DRS	11
Bhakkar	0.666	33.4	0.694	30.6	0.960	4	IRS	32
Chakwal	0.492	50.8	0.560	44	0.879	12.1	IRS	36
Chiniot	0.757	24.3	0.793	20.7	0.954	4.6	IRS	21
Dera Ghazi Khan	0.830	17	0.881	11.9	0.942	5.8	IRS	15
Faisalabad	0.915	8.5	1.000	0	0.915	8.5	DRS	5
Gujranwala	0.882	11.8	0.930	7	0.948	5.2	DRS	7
Gujrat	0.604	39.6	0.606	39.4	0.998	0.2	DRS	34
Hafizabad	0.711	28.9	0.750	25	0.948	5.2	IRS	26
Jhang	0.678	32.2	0.680	32	0.997	0.3	DRS	30
Jhelum	0.694	30.6	0.834	16.6	0.833	16.7	IRS	28
Kasur	1.000	0	1.000	0	1.000	0		1
Khanewal	0.845	15.5	0.849	15.1	0.996	0.4	DRS	13
Khushab	0.822	17.8	1.000	0	0.822	17.8	IRS	16
Lahore	0.721	27.9	1.000	0	0.721	27.9	DRS	24
Layyah	0.732	26.8	0.772	22.8	0.949	5.1	IRS	23
Lodhran	0.757	24.3	0.777	22.3	0.975	2.5	IRS	21
Mandi Baha-ud-Din	0.707	29.3	0.726	27.4	0.974	2.6	IRS	27
Mianwali	0.767	23.3	0.820	18	0.935	6.5	IRS	20
Multan	0.878	12.2	0.981	1.9	0.895	10.5	DRS	8
Muzaffargarh	0.718	28.2	0.740	26	0.970	3	DRS	25
Nankana Sahib	0.813	18.7	0.893	10.7	0.910	9	IRS	17
Narowal	0.689	31.1	0.712	28.8	0.968	3.2	IRS	29
Okara	0.847	15.3	0.850	15	0.996	0.4	DRS	12
Pakpattan Sharif	1.000	0	1.000	0	1.000	0	-	1
Rahim Yar Khan	0.812	18.8	0.836	16.4	0.972	2.8	DRS	18
Rajanpur	0.933	6.7	1.000	0	0.933	6.7	IRS	4
Rawalpindi	0.839	16.1	0.900	10	0.932	6.8	DRS	14
Sahiwal	0.895	10.5	0.911	8.9	0.983	1.7	IRS	6
Sargodha	0.667	33.3	0.673	32.7	0.992	0.8	DRS	31
Sheikhupura	0.860	14	0.863	13.7	0.997	0.3	DRS	10
Sialkot	0.653	34.7	0.660	34	0.989	1.1	DRS	33
Toba Tek Singh	0.864	13.6	0.890	11	0.971	2.9	IRS	9
Vehari	0.768		0.773		0.994		DRS	19
Average	0.784		0.831		0.945			

Source: Authors' calculations.

The results show that the district courts of Kasur, Pakpattan, and Bahawalnagar were efficient. However, as mentioned above, using this approach based on output, the supply side of justice, which takes into consideration the backlog of the judges, is ignored. Keeping in view this concern, the same model was estimated with another output variable, i.e., the resolution index. Recently, authors have shown their concern for the first output variable, i.e., disposal rate because it only contains the demand side of justice. However, if the resolution index is used as an output variable, it also takes care of the supply side. The justification for using this proxy is that for the market to be in equilibrium, both demand and supply forces must play freely in the system.

In table 10, the estimates, therefore, show that when the supply side of justice is added, the estimates change and none of the district courts of Punjab exhibit the increasing returns to scale. The estimates for the targeted four districts are the lowest among the 36 districts. Moreover, a visible change in ranks is also observed.

Table 10: Overall Technical Efficiency, Pure Efficiency, Technical Efficiency and Scale Efficiency Scores of District Courts Punjab using Resolution Index as Output

	OTE	OTIE (%)	PTE	PTIE (%)	SE	SIE (%)	RTS	Rank
Attock	0.515	48.5	0.617	38.3	0.834	16.6	DRS	16
Bahawalnagar	0.520	48	0.759	24.1	0.685	31.5	DRS	15
Bahawalpur	0.312	68.8	0.714	28.6	0.437	56.3	DRS	26
Bhakkar	0.651	34.9	0.756	24.4	0.861	13.9	DRS	11
Chakwal	0.492	50.8	0.567	43.3	0.867	13.3	DRS	18
Chiniot	0.712	28.8	0.790	21	0.901	9.9	DRS	6
Dera Ghazi Khan	0.580	42	0.683	31.7	0.850	15	DRS	14
Faisalabad	0.140	86	0.673	32.7	0.209	79.1	DRS	35
Gujranwala	0.216	78.4	0.683	31.7	0.316	68.4	DRS	32
Gujrat	0.381	61.9	0.668	33.2	0.571	42.9	DRS	20
Hafizabad	0.697	30.3	0.795	20.5	0.877	12.3	DRS	8
Jhang	0.348	65.2	0.559	44.1	0.623	37.7	DRS	22
Jhelum	0.709	29.1	0.750	25	0.945	5.5	DRS	7
Kasur	0.314	68.6	0.708	29.2	0.443	55.7	DRS	25
Khanewal	0.430	57	0.733	26.7	0.587	41.3	DRS	19
Khushab	1.000	0	1.000	0	1.000	0	----	1
Lahore	0.051	94.9	0.565	43.5	0.090	91	DRS	36
Layyah	0.666	33.4	0.779	22.1	0.855	14.5	DRS	10
Lodhran	0.648	35.2	0.787	21.3	0.824	17.6	DRS	12
Mandi Baha-ud-Din	0.356	64.4	0.449	55.1	0.793	20.7	DRS	21
Mianwali	0.826	17.4	0.896	10.4	0.922	7.8	DRS	3
Multan	0.197	80.3	0.632	36.8	0.311	68.9	DRS	34
Muzaffargarh	0.292	70.8	0.668	33.2	0.437	56.3	DRS	29
Nankana Sahib	0.769	23.1	0.871	12.9	0.882	11.8	DRS	5
Narowal	0.512	48.8	0.592	40.8	0.865	13.5	DRS	17
Okara	0.320	68	0.702	29.8	0.456	54.4	DRS	23
Pakpattan Sharif	0.822	17.8	1.000	0	0.822	17.8	DRS	4
Rahim Yar Khan	0.267	73.3	0.651	34.9	0.411	58.9	DRS	30
Rajanpur	0.908	9.2	0.970	3	0.936	6.4	DRS	2
Rawalpindi	0.210	79	0.670	33	0.314	68.6	DRS	33
Sahiwal	0.587	41.3	0.799	20.1	0.734	26.6	DRS	13
Sargodha	0.298	70.2	0.685	31.5	0.435	56.5	DRS	28
Sheikhupura	0.320	68	0.689	31.1	0.465	53.5	DRS	23
Sialkot	0.244	75.6	0.575	42.5	0.424	57.6	DRS	31
Toba Tek Singh	0.684	31.6	0.899	10.1	0.760	24	DRS	9
Vehari	0.303	69.7	0.673	32.7	0.451	54.9	DRS	27
Average	0.480		0.722		0.644			

Source: Authors' calculations.

As can be seen from the table above, using the resolution index as output, the status of each district changed. The coloured bar shows the intensity of the problem; the red colour shows inefficient districts, while the green colour shows better performers.

Table 11 reports the descriptive statistics of these estimates using both output measures. The table shows the extent to which the efficiency scores were overestimated when the disposal rate was used as the output variable. Average efficiencies also differ significantly, which authenticates the reliability of efficiency estimates using the resolution index.

Table 11: Summary Statistics for DEA Efficiency Scores (Disposal Rate)

Statistics	CCR efficiency	BCC efficiency	Scale efficiency
Average Efficiency (Mean)	0.784	0.83	0.94
Maximum	1	1	1
Minimum	0.492	0.56	0.72
Standard Deviation	0.12	0.124	0.06
Average Inefficiency (%)	21.6	17	6
Interval	(0.664, 0.904)	(0.71, 0.95)	(0.88, 1)
Summary Statistics for DEA Efficiency Scores (Resolution Index)			
Average Efficiency (Mean)	0.51	0.65	0.74
Maximum	1	1	1
Minimum	0.057	0.334	0.11
Standard Deviation	0.26	0.15	0.25
Average Inefficiency (%)	49%	35%	26%
interval	(0.25, 0.76)	(0.5, 0.8)	(0.49, 0.99)

Note: AOTE: Average overall technical efficiency, interval: AOTE-SD, AOTE+SD)
Source: Authors calculations.

Table 12 reports summary statistics based on efficient or inefficient districts using the two measures of output. In the case of the disposal rate as the output measure, the number of efficient districts is 3, while the number of efficient districts using the resolution index is 1. The average inefficiency of districts increased in the latter case from 22 per cent to 49 per cent after deflating the former estimates using the supply-side measure of output.

Table 12: Descriptive Statistics of Efficiency Estimates using Disposal as Output

Statistics	All districts	Efficient Districts	Inefficient Districts
N	36	3	33
Average Efficiency	0.784	1.000	0.76
SD	1	1.000	0.11
Minimum	0.492	1.000	0.492
Maximum	0.12	1.000	0.933
Average Inefficiency (%)	21.6%	0%	24%
Interval	(0.664, 0.904)	(1.000,1000)	(0.65, 0.87)
Descriptive Statistics of Efficiency Estimates Using Resolution Index as Output			
N	36	1	35
Average efficiency	0.51	1.000	0.47
SD	1	1.000	0.22
Minimum	0.057	1.000	0.051
Maximum	0.26	1.000	0.908
Average Inefficiency (%)	49%	0%	53%
Interval	(0.25, 0.76)	(1.000,1000)	(0.25, 0.69)
Note: AOTE: Average overall technical efficiency, interval: AOTE-SD, AOTE+SD)			

Note: AOTE: Average overall technical efficiency, interval: AOTE-SD, AOTE+SD).
Source: Authors calculations.

In Table 13, the classification of districts is presented based on the inefficiency of districts. For this purpose, quartile measures were used. Below is given details about these measures and the ranking of the districts following those thresholds.

Table 13: Classification of Inefficient Districts

Most inefficient Districts	Below Average Districts	Above Average Districts	Marginally Inefficient Districts
Lahore (35)	Bahawalpur (25)	Attock (15)	Chiniot (5)
Faisalabad (34)	Gujrat (19)	Bahawalnagar (14)	Hafizabad (7)
Multan (33)	Jhang (21)	Bhakkar (10)	Jhelum (6)
Rawalpindi (32)	Kasur (24)	Chakwal (17)	Layyah (9)
Gujranwala (31)	Khanewal (18)	Dera Ghazi Khan (13)	Mianwali (2)
Sialkot (30)	Mandi Baha-ud-Din (20)	Lodhran (11)	Nankana Sahib (4)
Muzaffargarh (28)	Okara (22)	Narowal (16)	Pakpattan Sharif (3)
Rahim Yar Khan (29)	Sheikhupura (22)	Sahiwal (12)	Rajanpur (1)
Sargodha (27)	Vehari (26)		Toba Tek Singh (8)

Notes: Below Q1= 'Most Inefficient' category districts. Between Q1- Q2= 'Below Average' category districts. Between Median – Q3= 'Above Average' category districts. Above the Q3= 'Marginally Inefficient' category districts. Q1= 0.30, Q2 (Median)= 0.43, Q3= 0.687. Ranks in parentheses. In terms of inefficiency, districts having 1 value (Khushab) are excluded). Source: Author's calculations.

This table gives us a clear picture of efficient and inefficient districts. Khushab was the most efficient DMU in the whole sample, which is why it was not included. On the other hand, Rajanpur was the most marginally inefficient district. While finding the reasons for the efficiency of the district courts of Punjab, it was observed that the 'case institution' was very low in these districts compared to the most inefficient districts. One of the main reasons for such a low rate of case registration could be that the socio-cultural setup in these districts is rural or semi-urban. On the other hand, we observed that Lahore, Faisalabad, and Multan were the most inefficient districts based on the available existing resources and human capital. If we look at the data, it can be observed that these districts are highly populated which contributes to very high case institution in these districts. Even though population growth rate, crime rates, and corruption are on the rise, the size of courts or the court infrastructure is the same, which is why these courts exhibit decreasing returns to scale. Therefore, there is a need for the government to focus on improving the existing capacities of district courts so that the clearance rate can be increased, especially in megacities where district courts are overburdened.

Extended Estimation of the Baseline Model

In this section, the results of the rest of the three models are presented and discussed. In these models, exogenous (external) factors are considered for estimating their impact on judicial productivity other than internal inputs. Three exogenous factors are caseloads, pendency, and case institution. Table 14 gives the summary statistics with caseload as the exogenous factor. Comparing the results of Models 2, 3, and 4 with Model 1, we can see that efficiency scores declined drastically. This shows that other than internal factors, external indicators also influence the district court's efficiency.

Table 14: Summary Statistics for DEA Efficiency Scores Taking Caseloads as an Exogenous Factor (Four Models)

Models	Statistics	CCR Efficiency	BCC Efficiency	Scale Efficiency
Model 1	Average Efficiency (Mean)	0.51	0.65	0.74
Model 2 Criminal Caseload as the Exogenous Factor	Average Efficiency (Mean)	0.316	0.503	0.530
Model 3 Civil Caseload as the Exogenous Factor	Average Efficiency (Mean)	0.272	0.483	0.448
Model 4 Criminal & Civil Caseloads as Exogenous Factors	Average Efficiency (Mean)	0.339	0.505	0.557

Source: Author's calculations.

Table 15 shows the correlation between various models using different proxies of the output variable. In both cases, a higher correlation is observed, but in the case of the model, the correlation is deflated because it controls for the supply side factor as well and this eliminated the overestimated figures from the model. Hence, it can be concluded that there is a higher degree of correlation between the two measures of efficiency. The residual correlation estimates and graphs of four models for two measures of efficiencies, i.e., technical efficiency and scale efficiency are given in Appendix E.

Table 15: Spearman Rank Correlation Test

Model Type with Disposal as output		
	CRS	VRS
CRS	1.000	0.8878*
VRS	0.8878*	1.00
Model Type with RI as output		
	CRS	VRS
CRS	1.000	0.7538*
VRS	0.7538*	1.000

Source: Author's calculations.

Table 16 below gives the results of the analysis using pendency as the exogenous factor affecting the court's performance. These results show that efficiency estimates in Models 2,3, and 4 are lower compared to Model 1. It implies that pendency caused inefficiencies in the district courts as well.

Table 16: Summary Statistics for DEA Efficiency Scores Taking Overall Pendency as the Exogenous Factor (Four Models)

Models	Statistics	CCR efficiency	BCC efficiency	Scale efficiency
Model 1	Average Efficiency (Mean)	0.51	0.65	0.74
Model 2 Criminal pendency as the exogenous factor	Average Efficiency (Mean)	0.242	0.480	0.414
Model 3 Civil pendency as the exogenous factor	Average Efficiency (Mean)	0.266	0.483	0.438
Model 4 Criminal & Civil pendency as exogenous factors	Average Efficiency (Mean)	0.229	0.480	0.421

Source: Author's calculations.

The residual correlation estimates and graphs of four models for two measures of efficiencies, i.e., technical efficiency and scale efficiency, are given in Appendix F.

Table 17 gives the results of the analysis carried out using case institution as the exogenous factor. Similar to the results reported in Tables 14 and 15, we can see that efficiency estimates have reduced drastically compared to the original Model 1. Interestingly, however, using case institution as the external factor, the efficiency estimates have reduced more as compared to previous exogenous factors, i.e., case pendency and caseload.

Table 17: Summary statistics for DEA Efficiency Scores Taking Institution as the Exogenous Factor (Four Models)

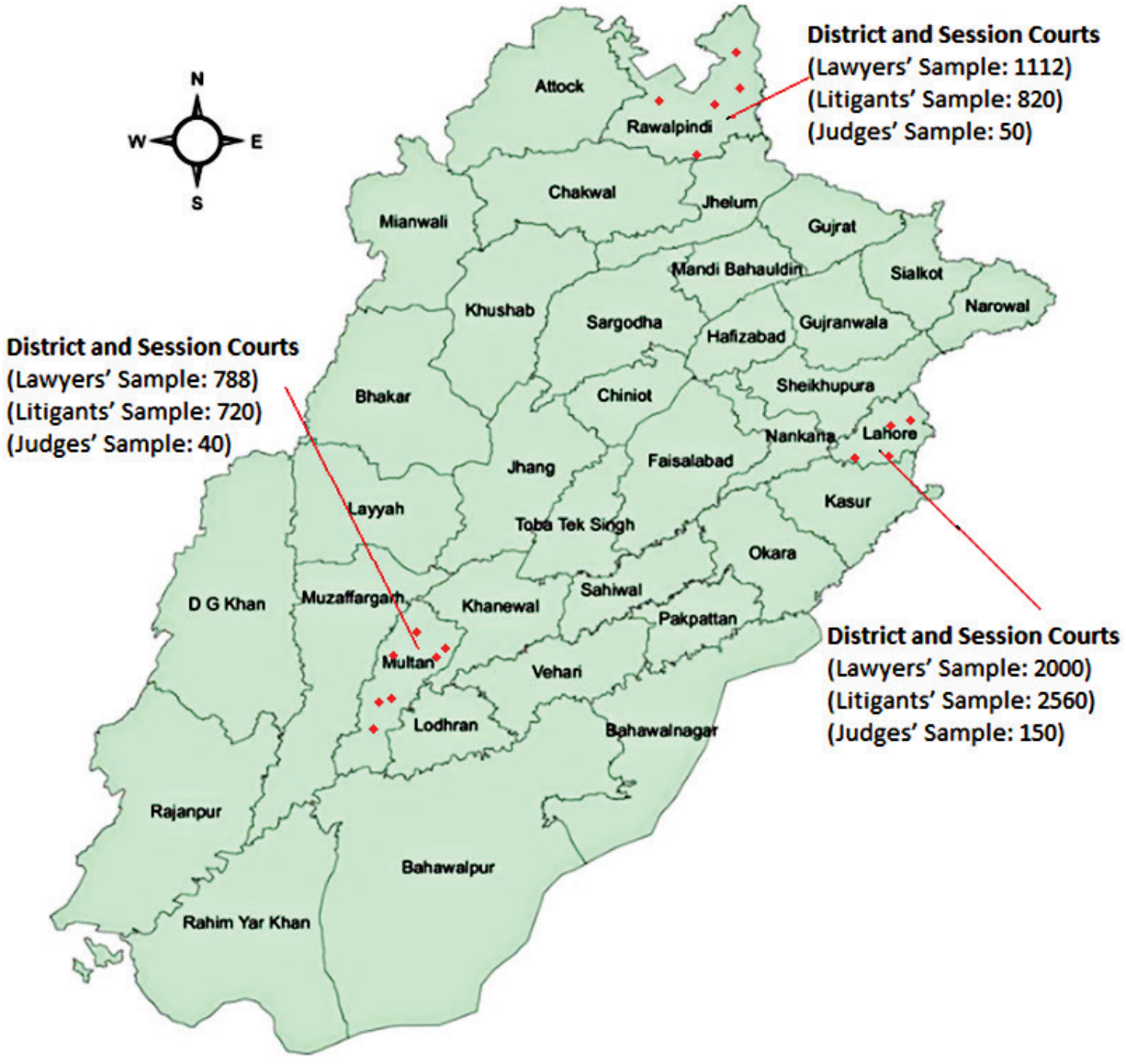
Models	Statistics	CCR efficiency	BCC efficiency	Scale efficiency
Model 1	Average Efficiency (Mean)	0.51	0.65	0.74
Model 2 Criminal case institution as the exogenous factor	Average Efficiency (Mean)	0.287	0.483	0.478
Model 3 Civil case institution as the exogenous factor	Average Efficiency (Mean)	0.028	0.525	0.028
Model 4 Criminal & Civil case institution as the exogenous factor	Average Efficiency (Mean)	0.319	0.480	0.554

Source: Author's calculations.

The residual correlation estimates and graphs of four models for two measures of efficiencies, i.e., technical efficiency and scale efficiency, are given in Appendix G.

7. SURVEY-BASED ANALYSIS

This section reports the results of the survey of lawyers and litigants. The survey covers the second objective of finding the bottlenecks, both internal and external, in the judicial system at the district level. For this purpose, we surveyed lawyers and litigants in three highly congested districts of Punjab based on the efficiency estimates of the resolution index. These districts are Lahore, Multan, and Rawalpindi. The proportional sampling technique was used to draw the samples of litigants, lawyers, and judges.[11] The sampling information is presented using a map of Punjab highlighting the districts which were surveyed. The descriptive statistics showing the demographic details of the sample are given in Appendix H.



Source: Author's own

[11] Detailed information about the drawing of the sample is given in Appendix I.

Parameters for the Evaluation of Court Performance

Below is a list of parameters designed by judicial bodies and used as a benchmark for the evaluation of the system.[12] Each of them covers various dimensions to observe where the actual issue lies.

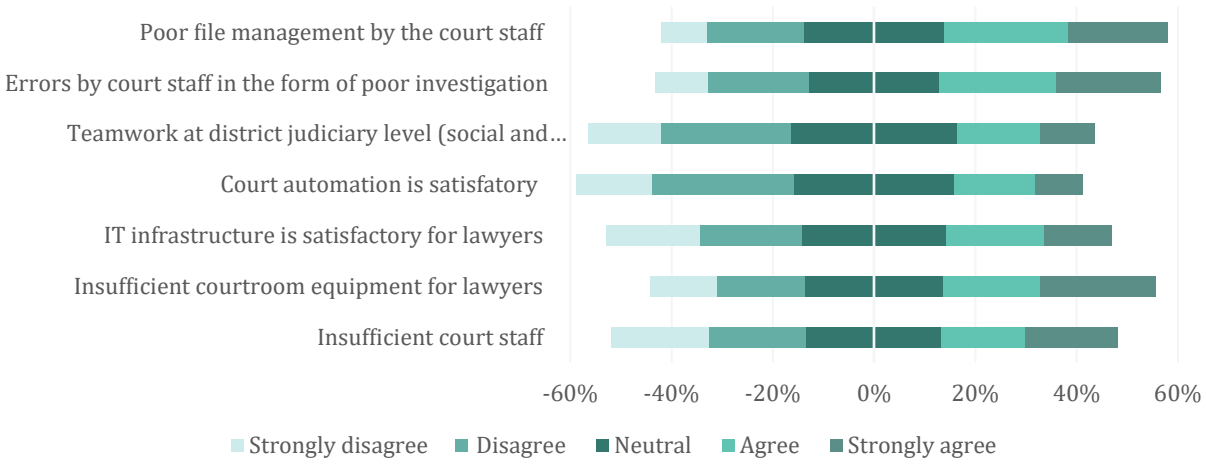
- Availability of infrastructure
- Adjournments and delayed hearings
- Fairness of the system
- Quality of the services
- Integrity of the system
- Litigation process
- Complicated procedural delays in the judiciary
- Corruption in judiciary
- Ways to reduce the backlog

Graphical Representation of Survey of Lawyers

The survey was conducted using several efficiency indicators that are included in most of the European research on the improvement of judicial performance. Detailed questionnaires and summary statistics of each survey are provided in the appendix. Below is the visualisation of Likert scale-based questions in each survey.

Availability of Infrastructure

Figure:13: Inefficiency in Case Disposition Due to Infrastructure for Lawyers



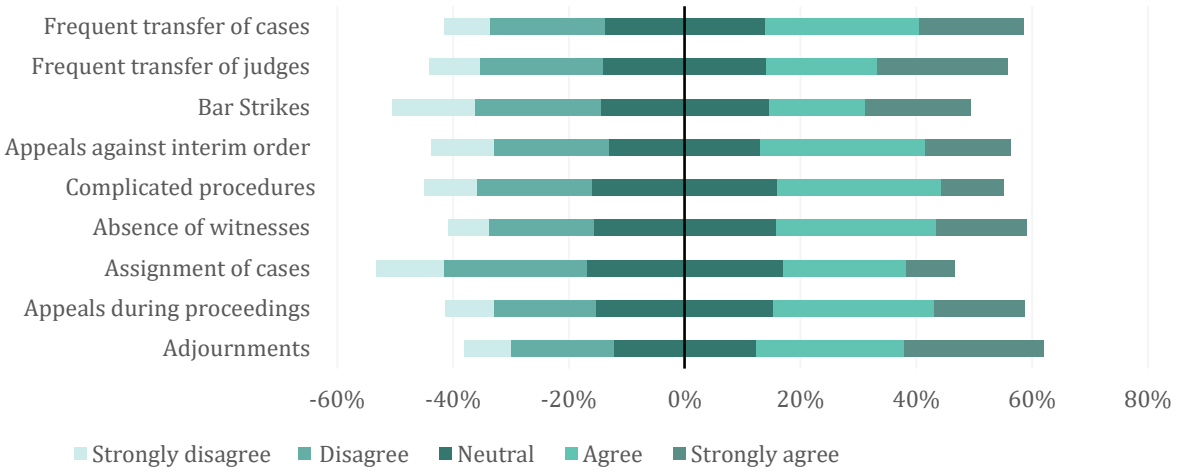
Source: Author's calculations.

[12] For further information on the European Commission for the Efficiency of Justice (CEPEJ) see COE (n.d.).

According to Figure 13, while highlighting the availability of infrastructure, the majority of lawyers agreed that courtrooms were not sufficient for lawyers to perform their duties. According to the survey, files were not properly managed by the court staff.

Adjournments and Delayed Hearings

Figure 14: Factors Causing Delay in Hearing at District Courts

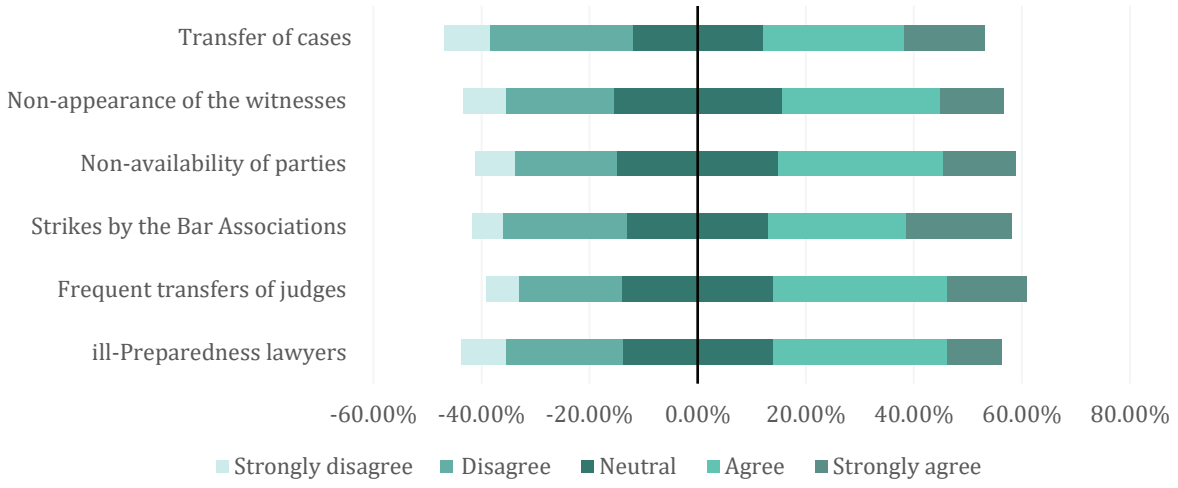


Source: Author's calculations.

From Figure 14, the role of the factors directly causing delays in concluding a case can be observed. Stacked bars on the right-hand side show agreement towards a specific reason in this category. Here, the role of adjournments, the absence of witnesses, and the frequent transfer of cases were cited as the most important impediments towards the lower efficiency of courts.

Causes of Adjournments

Figure 15: Causes of Adjournments

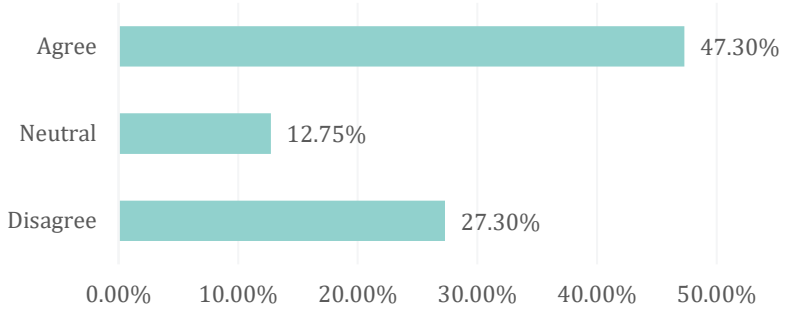


Source: Author's calculations.

Digging into deeper details about the causes of adjournments, it can be observed that almost all the factors included in this section showed a high percentage of positive responses shown by the longer part of the bars on the right-hand side of the figure. However, out of these, frequent transfers of judges were cited as the most critical reason for these adjournments.

Penalty on Adjournments

Figure 16: Judges Should Restrict Adjournments by Imposing Heavy Monetary Penalties

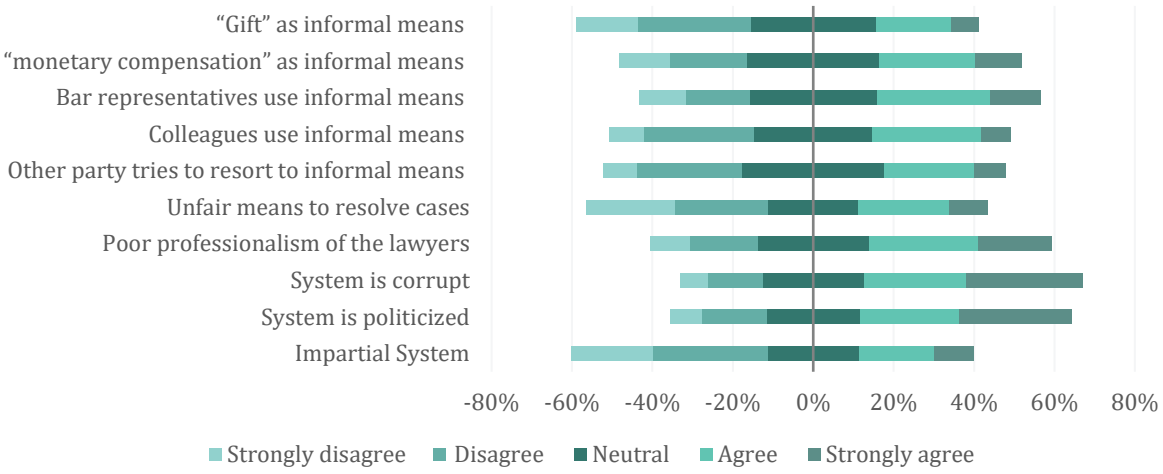


Source: Author's calculations.

The majority of the respondents supported the imposition of a monetary penalty on lawyers if they ask for multiple adjournments to control the delays. The figure shows that almost 48 per cent supported such a solution.

Fairness of the System

Figure 17: Fairness of the Judiciary System



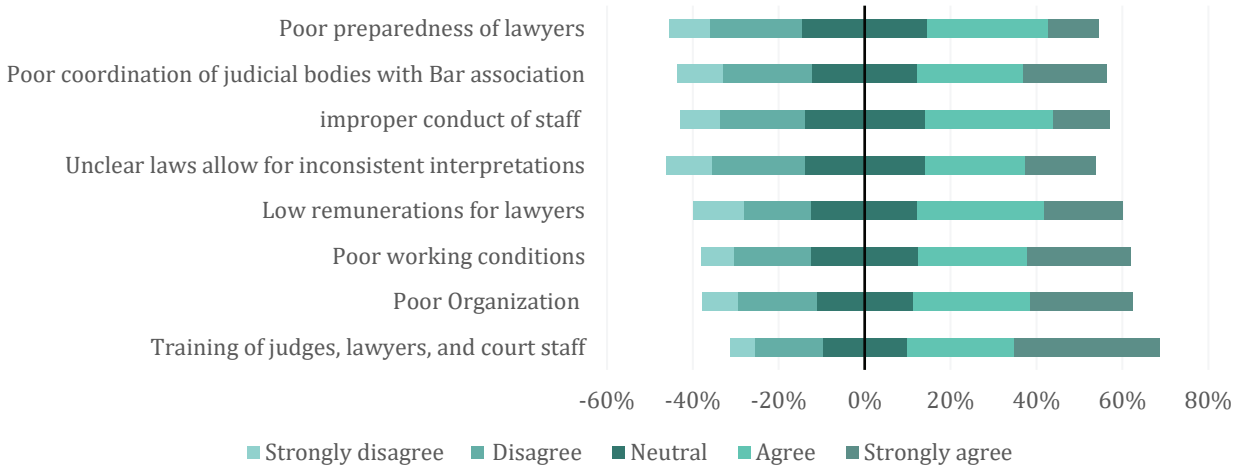
Source: Author's calculations.

Figure 17 depicts those factors that affect the fairness of the court system at the district level. The majority of the respondents agreed that courts were corrupt and politicised and that the system was not impartial. Poor professionalism of lawyers was regarded as a major obstruction and most of the time, informal means were also used to commit such kinds of crimes. Bar representatives were more likely to use such tactics for their self-satisfaction.

Factors Affecting the Quality of Judicial Services

Figure 18 describes the factors that are directly causing low-quality judicial services at the district level. Amongst the factors, the training of judges, lawyers, and court staff was cited as the most crucial ingredient to improve the service quality of the system.

Figure 18: Factors Affecting Quality of Judicial Services

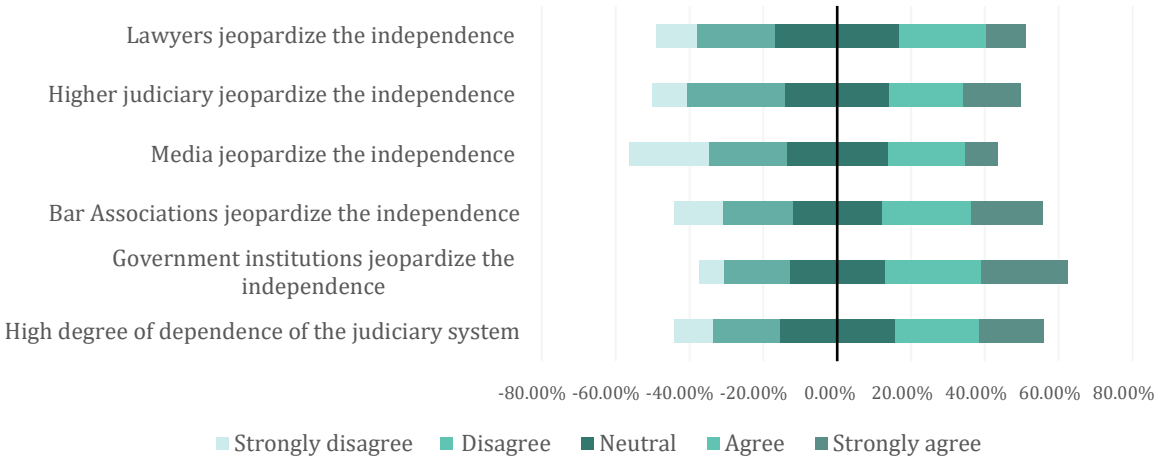


Source: Author's calculations.

Integrity/Independence of the Judiciary System

Figure 19 captures the factors that have jeopardised the independence of the judicial system at the district court level. The role of the government institutions came out on top in this regard. The respondents highlighted that most of the time such kind of role by the government negatively affects the quality of service delivery in these courts.

Figure 19: Integrity of the Judiciary System

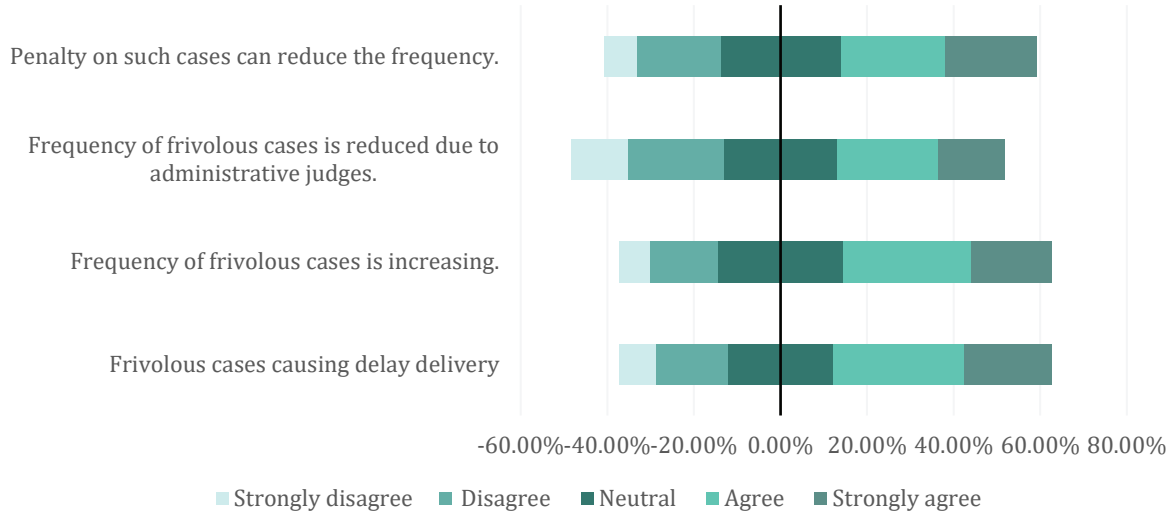


Source: Author's calculations.

Frivolous Cases

Frivolous cases are considered the main burden on courts that delay the hearings of long pending cases. The government has taken few supportive steps in this context, however, this problem still exists in the system. Figure 20 reports the respondents' views on how to tackle this problem. In this case as well, penalty was given as the possible solution to reduce these types of case institutions.

Figure 20: Frivolous Cases Causing Backlog in District Courts

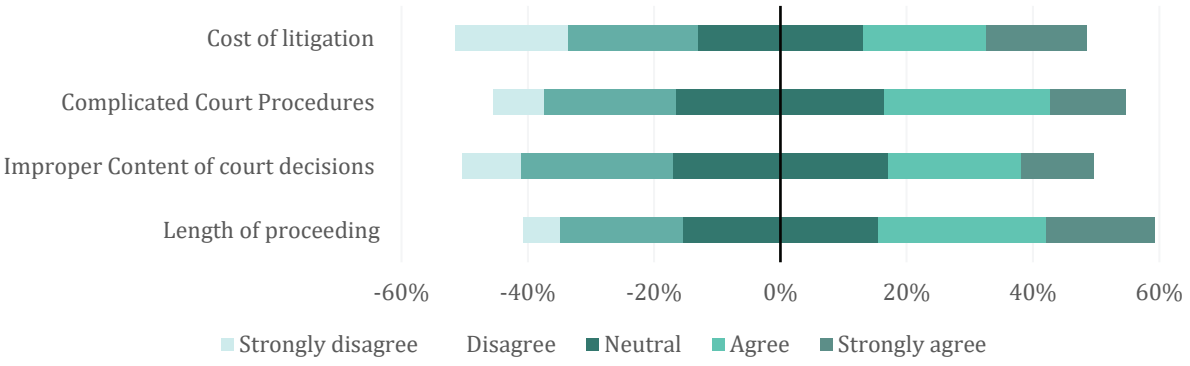


Source: Author's calculations.

Complicated Procedural Delays in Judicial Process

Figure 21 highlights the role of complicated procedures in delayed justice at the district level. We can observe that the length of a proceeding was declared by the majority as the most important inhibiting factor in the speedy clearance of the backlog.

Fig 21: Court Procedural Causing Backlog

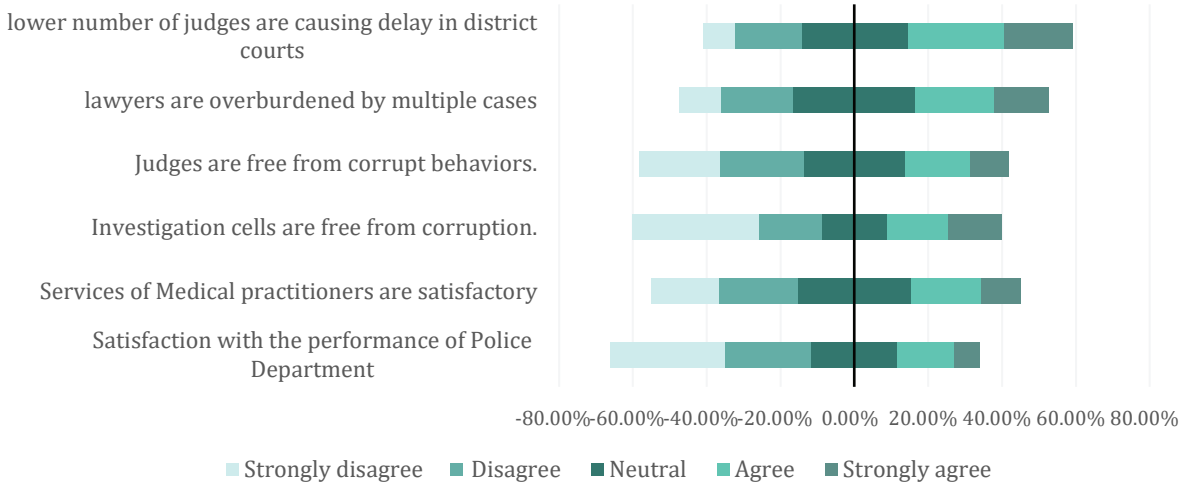


Source: Author's calculations.

Lack of Coordination between Law Enforcement

Figure 22 shows the factors causing the low coordination level of law enforcement agencies. The figure shows that the performance of medical practitioners and the police department was not deemed satisfactory. Moreover, the number of judges was deemed to be quite low which obstructs the process of service delivery to the litigants at a better pace.

Figure 22: Coordination of Law Enforcement Agencies

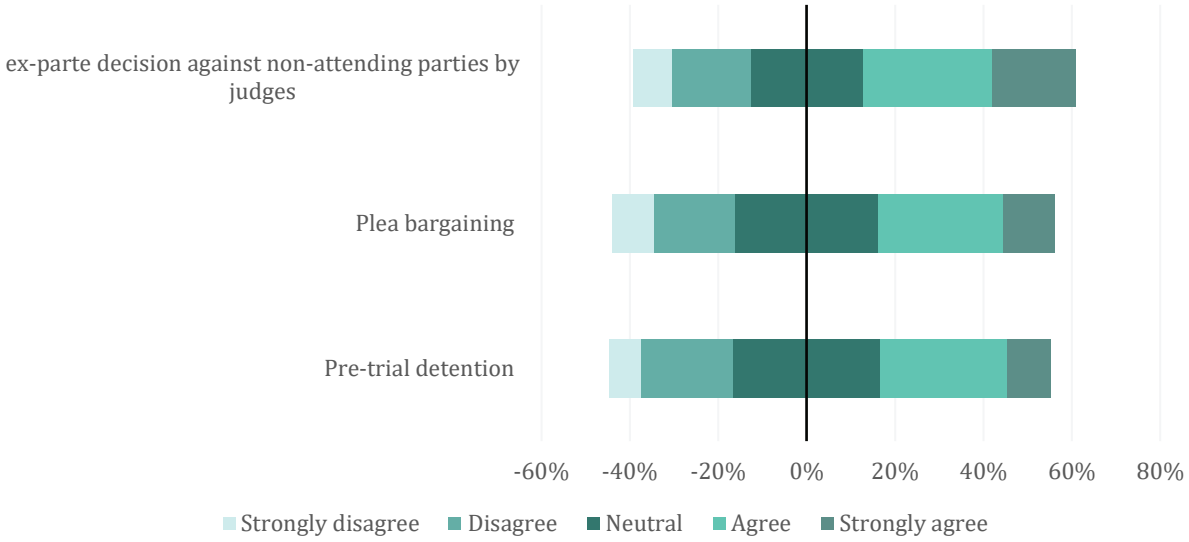


Source: Author's calculations.

Ways to Reduce Backlog

While discussing the ways to clear the backlog keeping in view various inhibiting factors in the system, the majority supported the ex-parte decision against non-attending parties by the judges. While analysing stage-wise delays in a final judgement, we found that the courts faced the issue of the 'absence of witness' during proceedings. Hence, this is the reason that we observed the support for ex-parte decisions by the judges to complete the process timely.

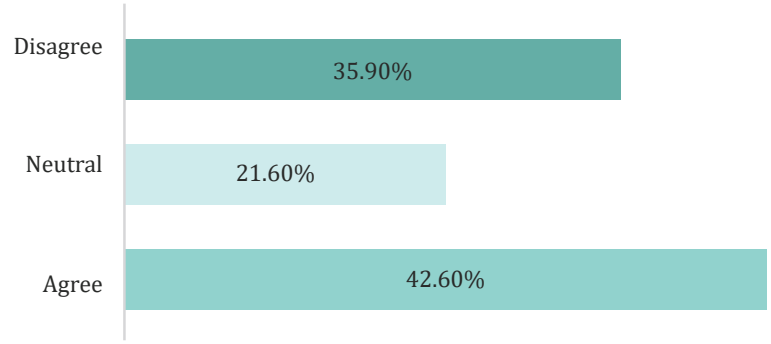
Figure 23: Ways to Clear Backlog in District Courts



Source: Author's calculations.

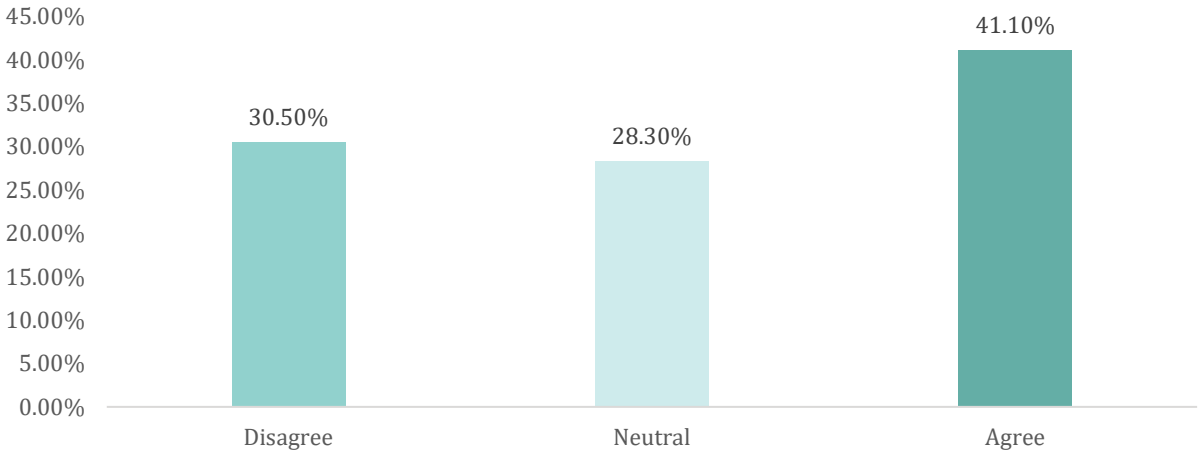
Figures 24 and 25 show the opinions of lawyers regarding finding better ways to reduce the backlog of cases in the lower courts. Both the figures show that the majority of lawyers supported solutions such as Alternative Dispute Resolution (ADR) and the law of arbitration to improve the quality of judicial service and the efficiency of the system.

Figure 24: ADR alongwith with CMS Can Minimize Delay in Justice



Source: Author's calculations.

Figure 25: Law of Arbitration in the District Judicial System for Reducing Case Backlogs



Source: Author's calculations.

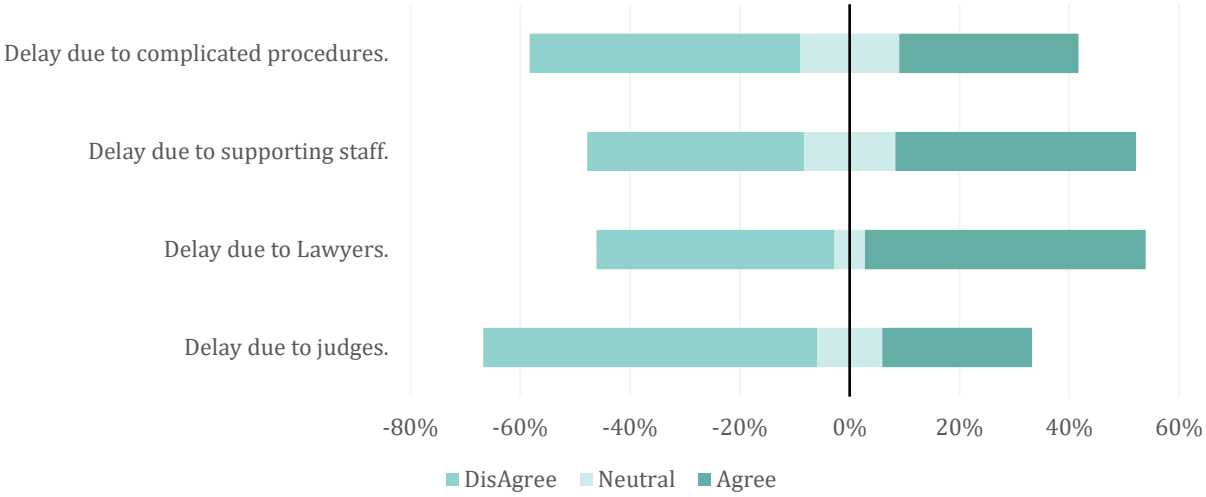
Graphical Representation of Survey from Litigants

This section gives the results of the survey of the litigants from Lahore. Below is the visual representation of the responses collected using the Likert scale-based questionnaire.

Reason of Delay

The majority of the litigants surveyed said that there existed a lack of judges which was creating hurdles in the system for speeding up court proceedings. Recalling the viewpoint of lawyers on this, we can find the similarity in this regard. Hence, the government needs to focus on such hurdles in the district-level courts.

Figure 26: Reasons of the Case Delay

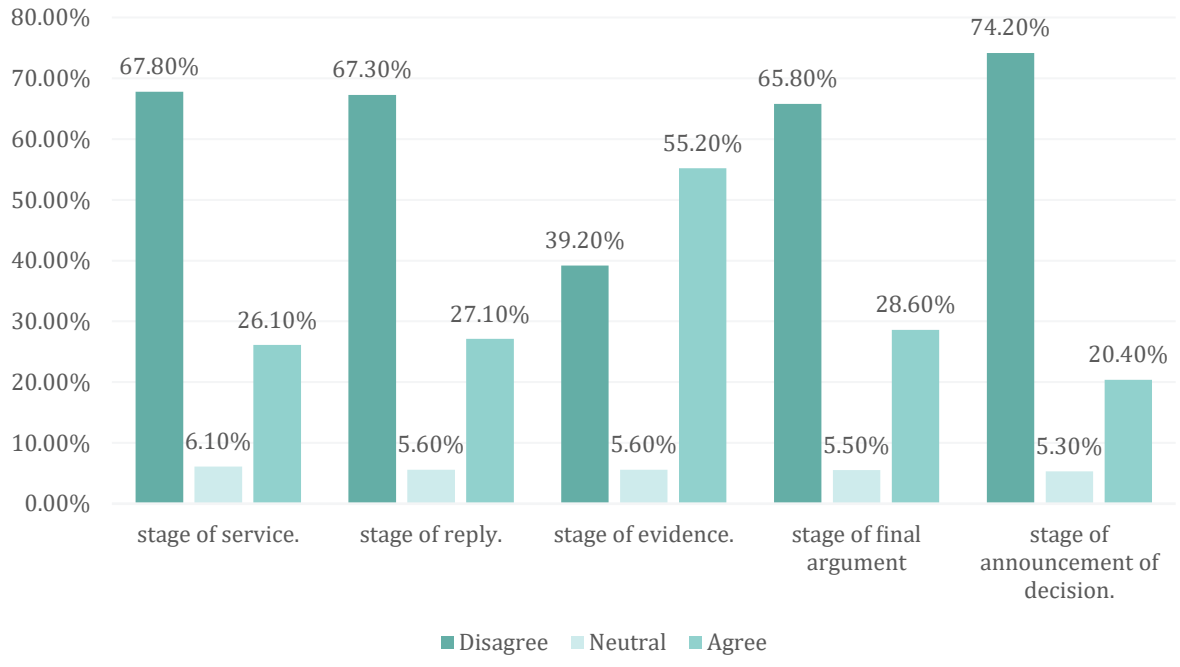


Source: Author's calculations.

Various Stages of Case Delay

When asked about the various stages at which they found the maximum delay, the litigants also emphasised the stage of evidence that consumed most of the time in case proceedings. Lawyers also highlighted that the stage of witness examination and cross-examination was the stage that took most of the time during court proceedings due to the absenteeism of witnesses.

Figure 27: Stages of the Cases Delay

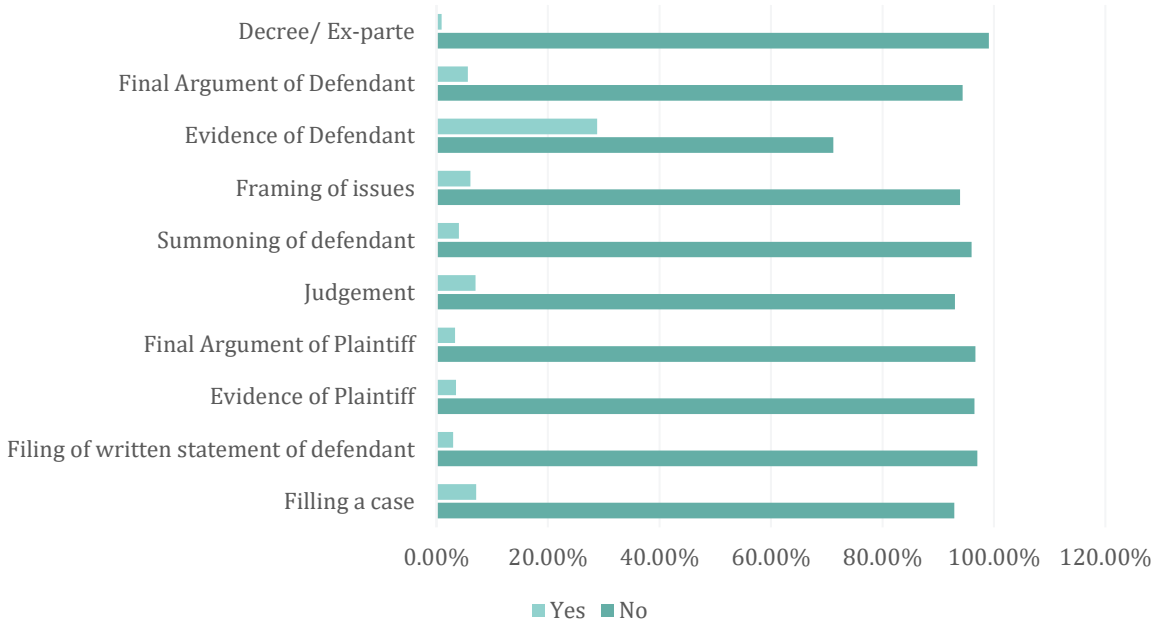


Source: Author's calculations.

Bottlenecks for Civil Suit as Plaintiff

The following figure shows further stages at which delays occur in case proceedings in civil suits when the litigant is a plaintiff. Interestingly, the stage of the 'evidence of defendant' took the most time and acted as one of the bottlenecks in the system. In Figure 28, the orange bars show the satisfaction level of the litigants.

Figure 28: Bottlenecks for Civil Suit as Plaintiff



Source: Author's calculations.

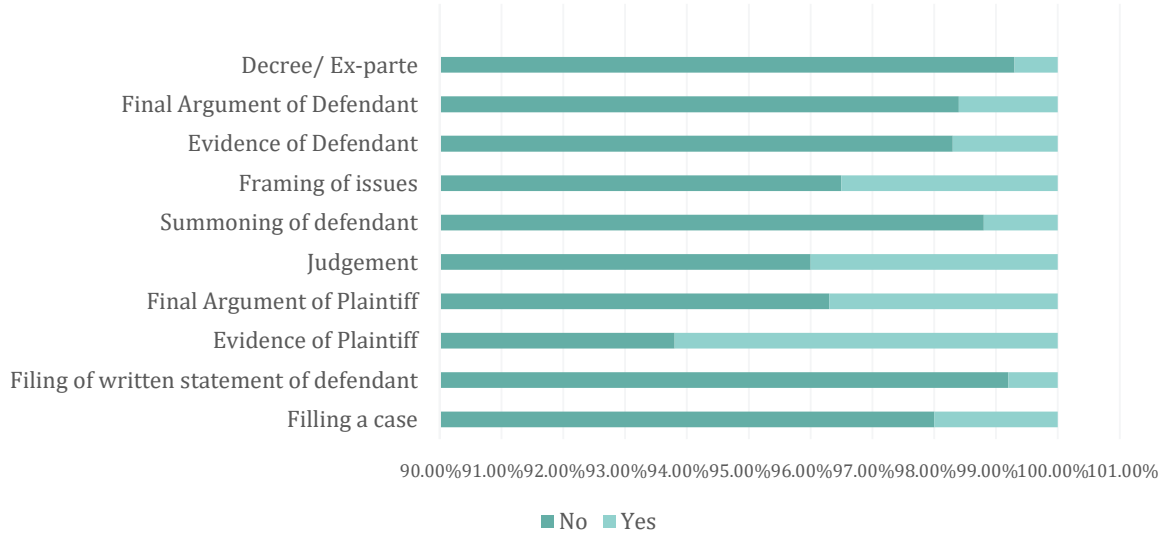
Bottlenecks for Civil Suit as Defendant

Likewise, Figure 29 depicts the major issues in filing a civil suit for a litigant as a defendant. The blue bars show the agreement and the orange disagreement. Here again, the respondents showed their reservations about the time it took at the stage where the plaintiff presented evidence.

A similar exploration for criminal lawsuits was carried out, which is presented below.

For criminal cases, we followed the set mechanism of case stages as observed in courts, and we can observe a drastic difference of opinion. The criminal trial process was considered the most troubling stage in criminal cases followed by the police investigation cells. These results portray a true picture from the field where the litigants were observed facing these issues directly. These can stimulate the authorities to work on removing these stumbling blocks to enhance the efficiency of the judicial system.

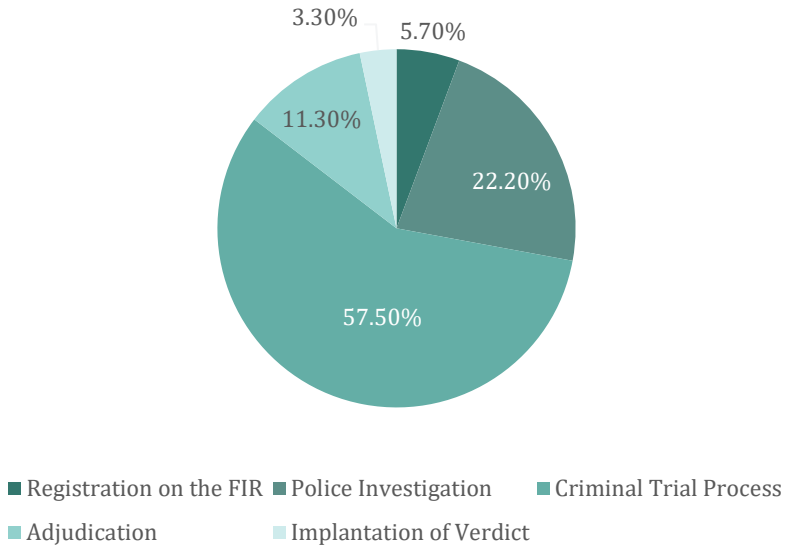
Figure 29: Bottlenecks for Civil Suit as Defendant



Source: Author's calculations.

In Criminal Cases If the Respondent Is the Complainant and Found Guilty

Figure 30: In Criminal Cases If Respondent Is Complainant and Found Guilty

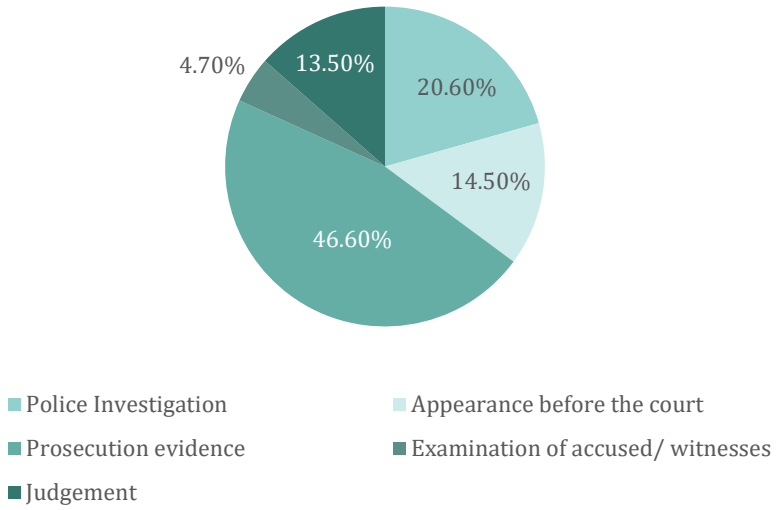


Source: Author's calculations.

In Criminal Cases If the Respondent Is Accused and Not Found Guilty

In case a respondent is accused and not guilty, the stage of 'prosecution evidence' caused long delays in the final clearance of the cases. This is also alarming for judicial authorities as to why these processes are not smooth going and cause a huge pile-up of cases at the district level courts level.

Figure 31: In Criminal Cases If Respondent Is Accused and Not Found Guilty

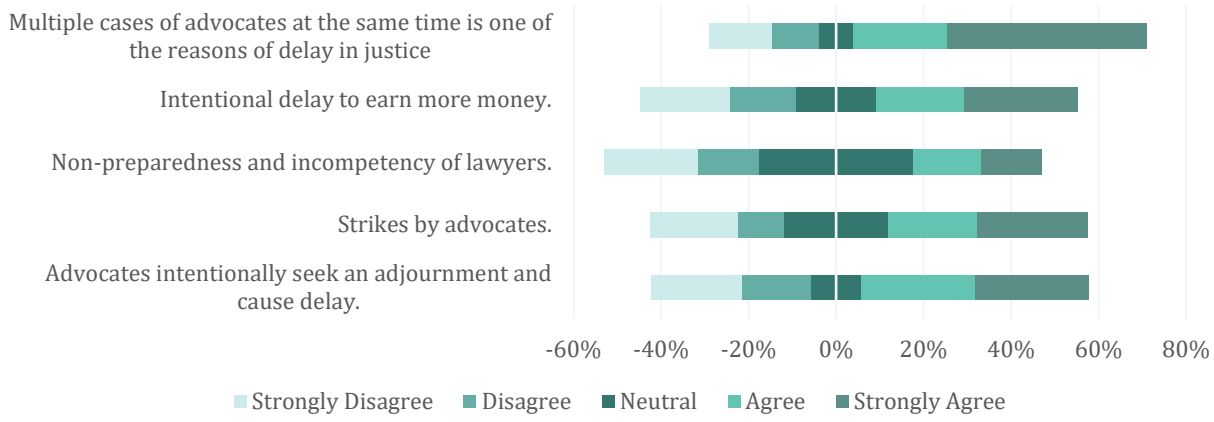


Source: Author's calculations.

Delay due to Lawyers

The litigants were also asked about the extent to which lawyers were the reason for delays in court proceedings and the major reasons for such delays by the lawyers. The litigants emphasised the ill-preparedness of the lawyers as one of the most important reasons for lengthy proceedings and, overall, the litigants expressed the highest level of dissatisfaction with the services of lawyers.

Figure 32: Delay due to Lawyers

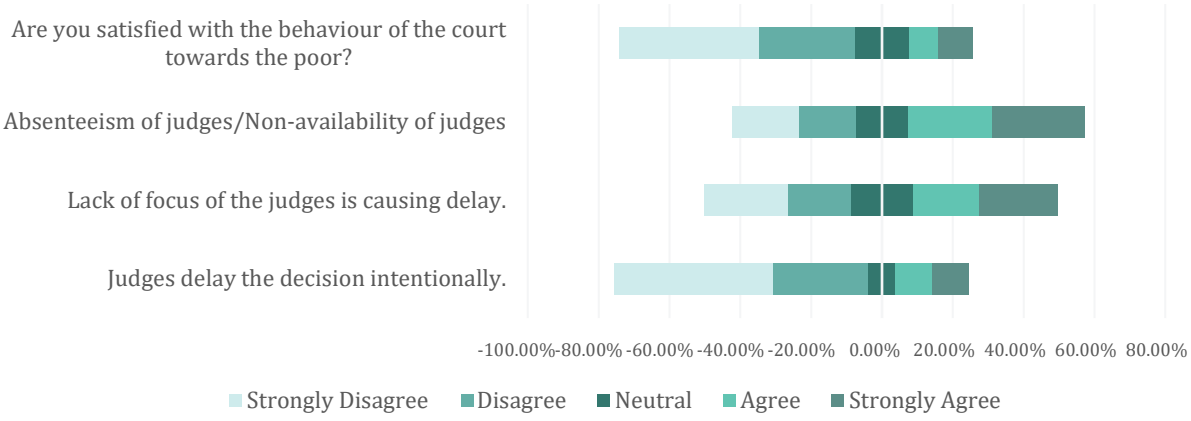


Source: Author's calculations.

Delay due to Judges

Likewise, the litigant's responses were collected about the role of judges in the problems they encountered. The litigants reported that courts did not facilitate poor people properly and most of the time judges were observed to delay the case decisions intentionally just to support the most influential party. Moreover, the non-availability of judges was also regarded as one of the critical reasons for lengthy proceedings.

Figure 33: Delay due to Judges

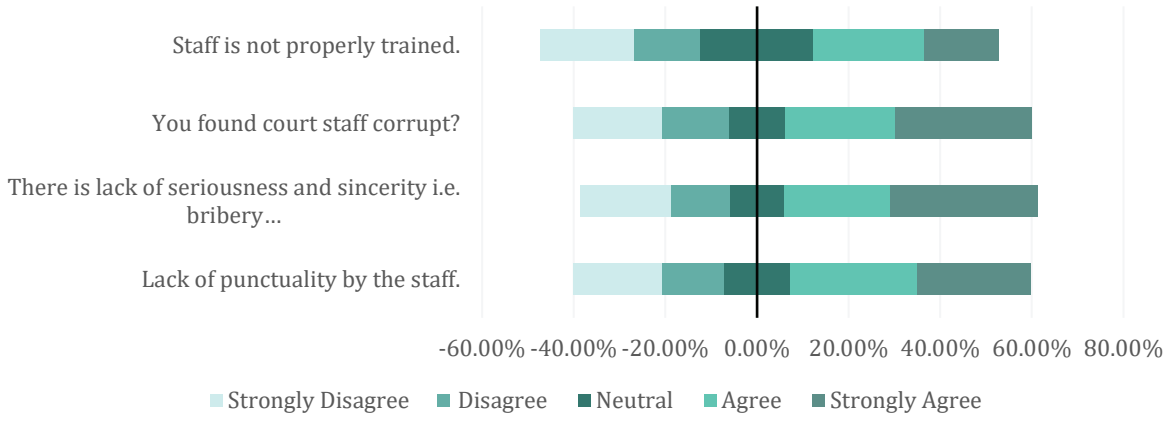


Source: Author's calculations.

Delay due to Supporting Staff

Figure 34 reports the responses to the question about the supporting staff helping out the litigants. The majority showed dissatisfaction with the court staff and noted their lack of seriousness, punctuality, and poor training. All these factors were also regarded as important impediments to case pendency since this staff manages many of the responsibilities behind the scenes, such as file management, keeping the records of hearings, and directing the litigants to the next stage of the proceeding after the previous is concluded. Therefore, there is a need to focus on this very important player in the court system which facilitates the speeding up of the service delivery.

Figure 34: Delay due to Supporting Staff

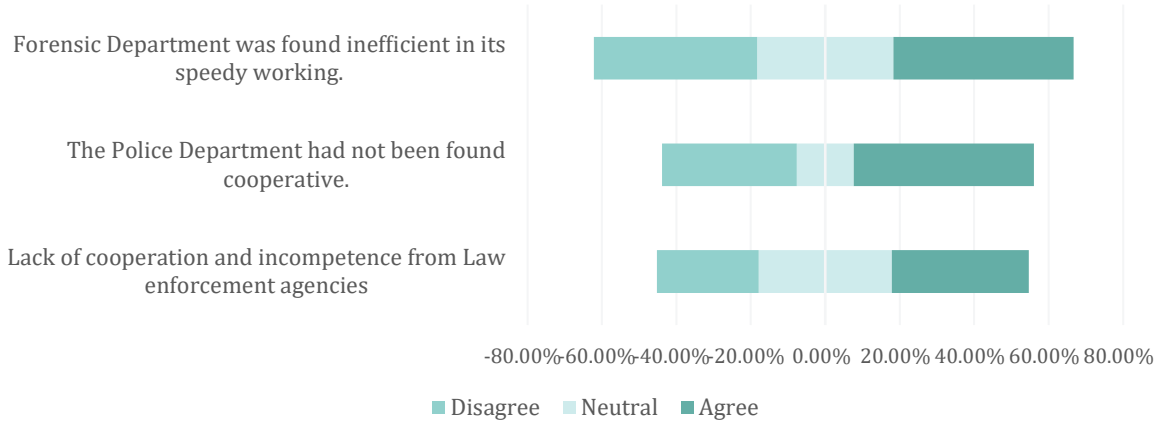


Source: Author's calculations.

Court Procedures

Figure 35 shows the delay in court procedures due to law enforcement agencies. It can be observed from the figure that the litigants showed their dissatisfaction with the police department during the trial process. Thus, this also requires reforms since it is generally believed that police personnel favour influential people over the masses.

Figure 35: Court Procedures

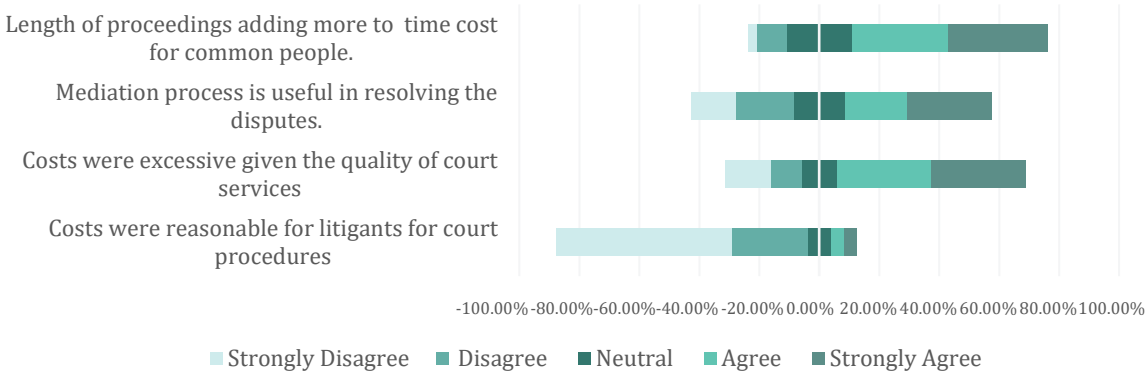


Source: Author's calculations.

Cost of Litigation

Figure 36 describes the most crucial issue in the judicial process in Pakistan, i.e., the cost of litigation. The litigants were asked first about the suitability of the cost of litigation and the majority said the cost was too high. They also asserted that costs were excessive given the quality of services. The litigants were asked about possible ways to reduce the cost of litigation. The majority highlighted 'mediation' as one of the possible solutions, which could reduce the length of the proceedings since lengthy court proceedings add more to their time cost compared to monetary costs.

Figure 36: Opinion about Cost of Litigation

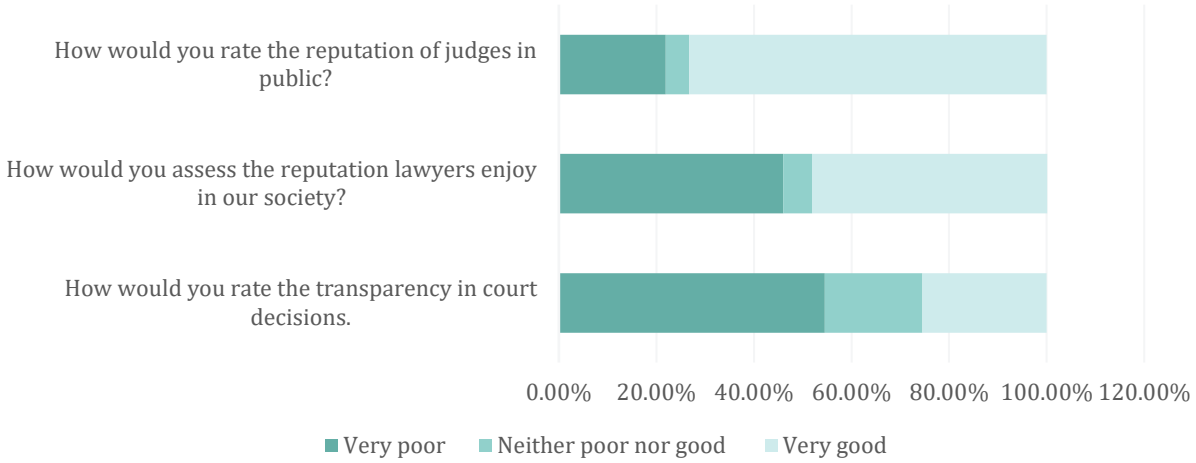


Source: Author's calculations.

Transparency

To observe whether the system was transparent at the lower judiciary level, the majority rated judicial decisions as having low transparency. However, the respondents further added that compared to lawyers, judges were more transparent in performing their duties.

Figure 37: Transparency at District Court System

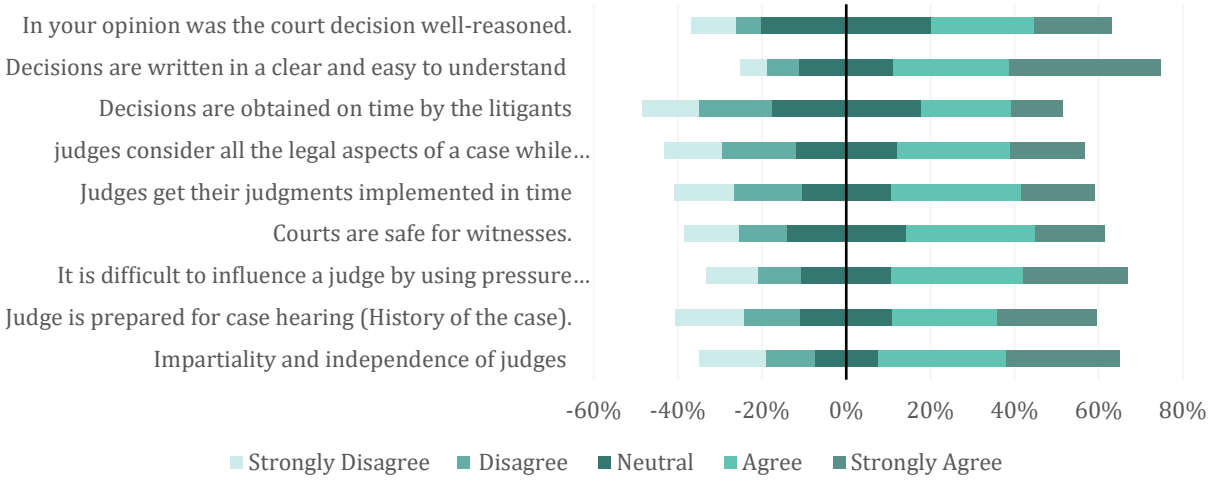


Source: Author's calculations.

Impartiality

Figure 38 represents the opinion of litigants about the impartiality of the courts. The majority showed their satisfaction with the role of judges and the quality of decisions.

Figure 38: Impartiality of Court System

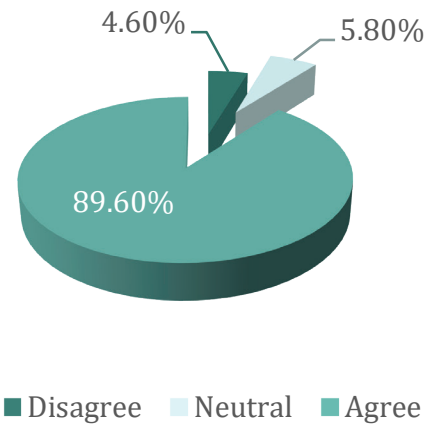


Source: Author's calculations.

Transfer of the Cases to Specialised Judges

One of the most important reasons for case delay is the assignment of cases to irrelevant judges who are not experts in the cases assigned to them. When litigants were asked about this issue, almost 90 per cent of them agreed that cases must be transferred to those judges who have expertise in that specific case matter.

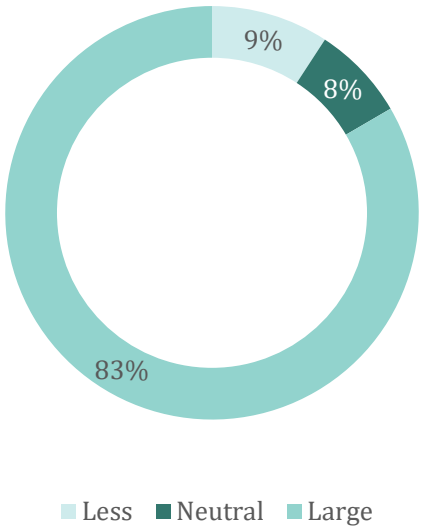
Figure 39: Cases Should Be Transferred to Judges according to Their Experience or Specialization for Early Disposition



Source: Author's calculations.

Regarding the impact of adjournment, 83 per cent of the litigants showed agreement towards the restrictions on adjournments for increasing the turnover rate.

Figure 40: To What Extent You Think Court Should Restrict the Adjournments?

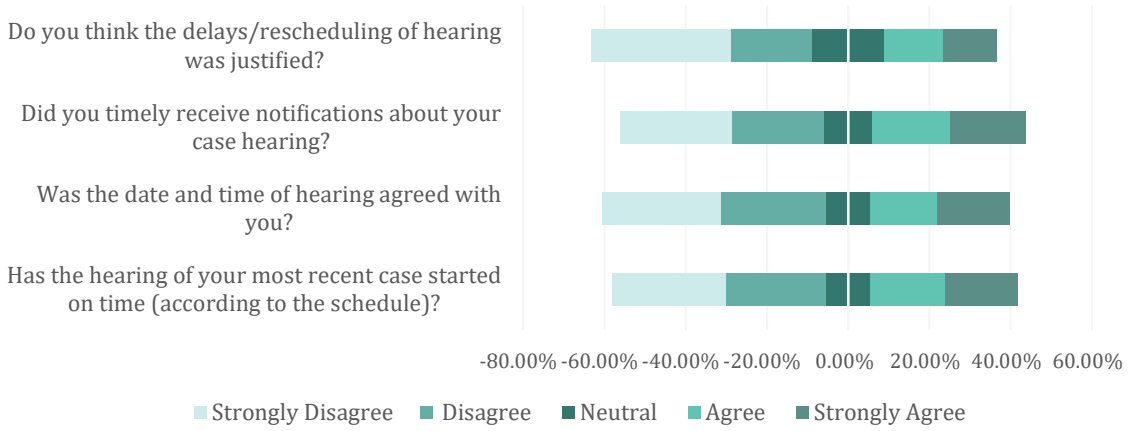


Source: Author's calculations.

Delayed Hearings

Figure 41 represents responses to delays due to multiple hearings. Four questions were asked in this regard. The responses to all the questions showed that the litigants were dissatisfied with the justifications offered for the rescheduling of hearings, the timeliness of notifications, and the setting of date/time without their consent. Hence, it is important to focus on all these aspects carefully to ensure the timely arrangements of hearings.

Figure 41: Factors affecting delayed Hearings

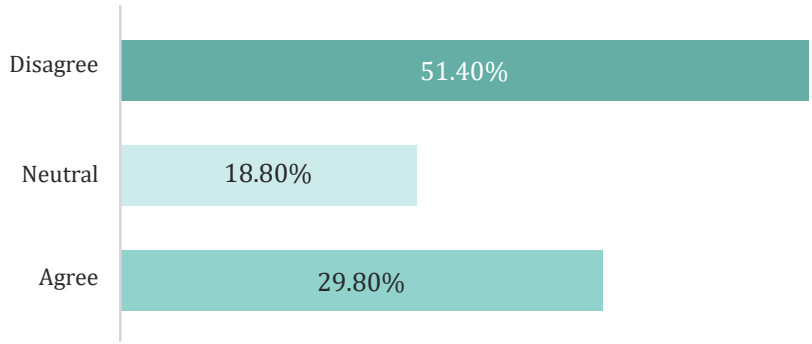


Source: Author's calculations.

Timeliness

As Figure 42 shows, 50 per cent of the litigants were dissatisfied with the timely disposition of cases, which is either due to adjournments or multiple hearings.

Figure 42: Satisfaction about the Timeliness of Proceedings

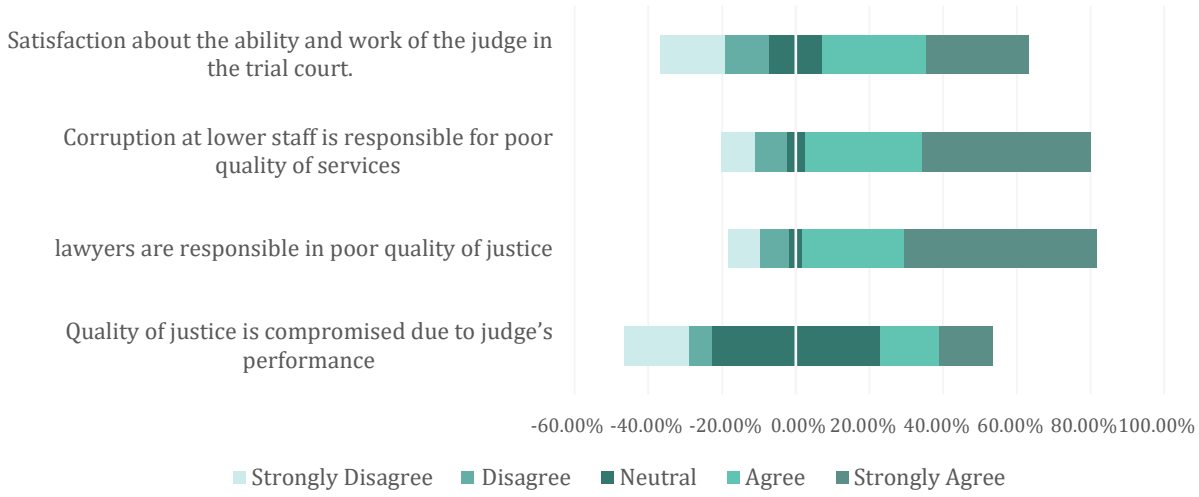


Source: Author's calculations.

Indicators Responsible for Poor Quality of Work

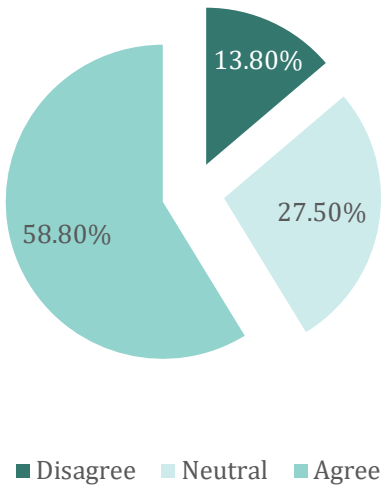
Figures 43 and 44, respectively, show the responses regarding the factors responsible for poor performance during court procedures and corruption. More than 80 per cent of the respondents considered lawyers and court staff as the major obstacles in the efficient performance of courts, which requires the immediate attention of the authorities. Similarly, 60 per cent of the respondents were of the view that the judicial processes lacked fairness due to corruption at the staff level.

Figure 43: Poor Performance Indicators during Court Procedures



Source: Author's calculations.

Figure 44: Lack of Fairness is Causing Delay in Justice

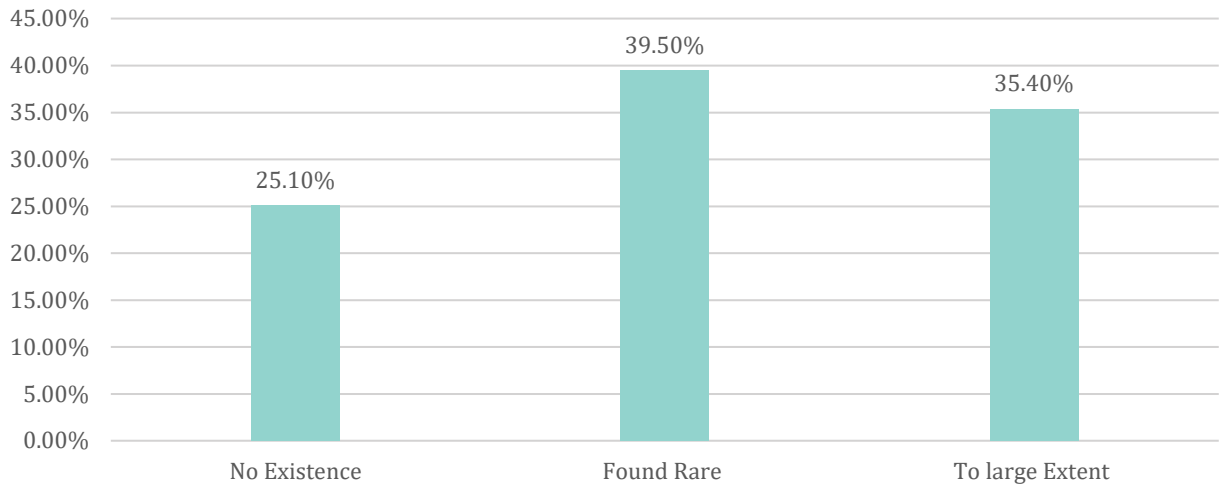


Source: Author's calculations.

Use of Informal Means

Figure 45 reports the means of engaging in corrupt practices. Forty per cent reported that the use of informal means, such as gifts and bribes, while the intervention by the bar representatives was found to be rare. Thirty-five per cent of the respondents asserted the existence of such practices in court systems and required quick reform.

Figure 45: To What Extent You Found the Circumstances in Which Using Informal Means, Case Are Adjudicated More Efficiently?

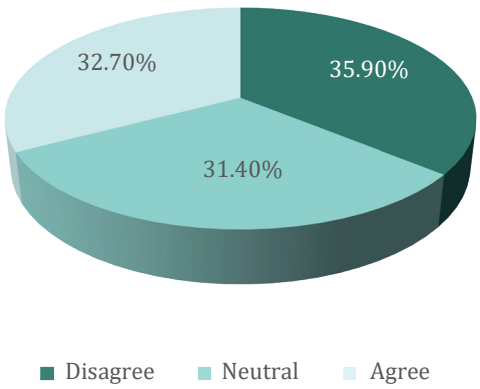


Source: Author's calculations.

File Management

Lastly, the litigants were inquired about the management of files in courts and the majority said that the files were not properly maintained by the supporting staff and this also caused delay.

Figure 46: Satisfaction about File Management in District Courts



Source: Author's calculations.

All these graphic expressions are self-explanatory showing the areas where the performance indicators are working poorly. Now the next section will cover the survey of judges from three cities.

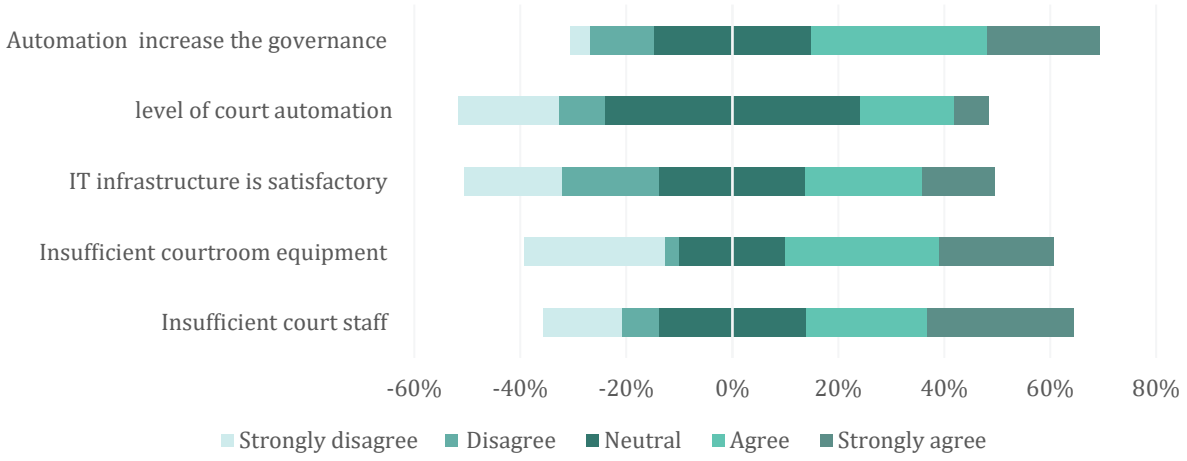
Graphical Representation of Survey from Judges

This section graphically presents the perceptions of judges to analyse bottlenecks in the court system. Following the same parameters used above, below is the detailed analysis. Policy recommendations that emerge from the analysis are given at the end.

Support of Infrastructure in Service Delivery

Figure 47 shows the responses regarding the satisfaction of the judges with the availability of infrastructure. The results show that, according to the judges surveyed, there existed insufficient court staff and courtroom equipment, which had a strangling effect on the system. Furthermore, judges emphasised the automation of the courts to improve the governance of the structure and almost 75 per cent supported this viewpoint.

Figure 47: Support of Infrastructure in Service Delivery

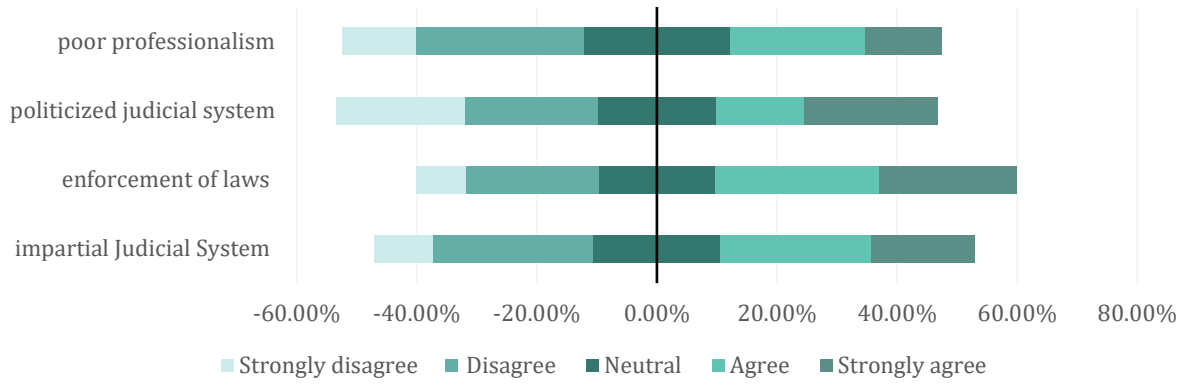


Source: Author's calculations.

Integrity of System

While describing the integrity of the system, judges showed agreement with the statement that the judicial system was not effective in society because there was no 'enforcement of laws', which is why the system lacks integrity and is becoming more fragile with each passing day.

Figure 48: Integrity of System

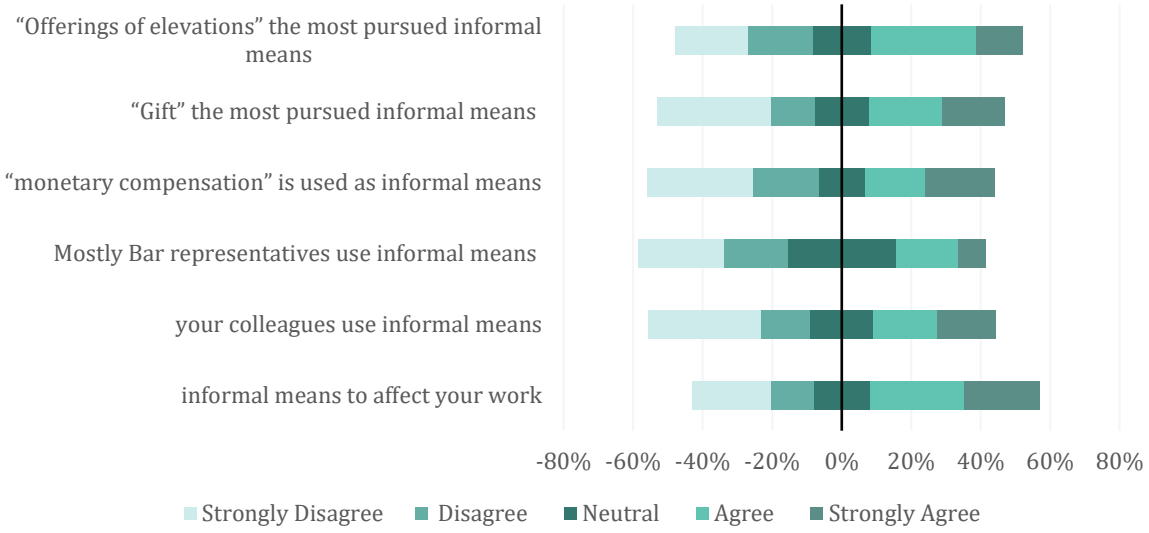


Source: Author's calculations.

Corruption in Judicial System

Figure 49 shows the responses of the judges regarding the fairness of the judicial system. Judges agreed that informal means were used in the judicial system to influence the decision process. Among various informal means, 'offering of elevations' to the judges was the most acceptable one and ultimately affected the dispensation of justice.

Figure 49: Corruption in Judicial System

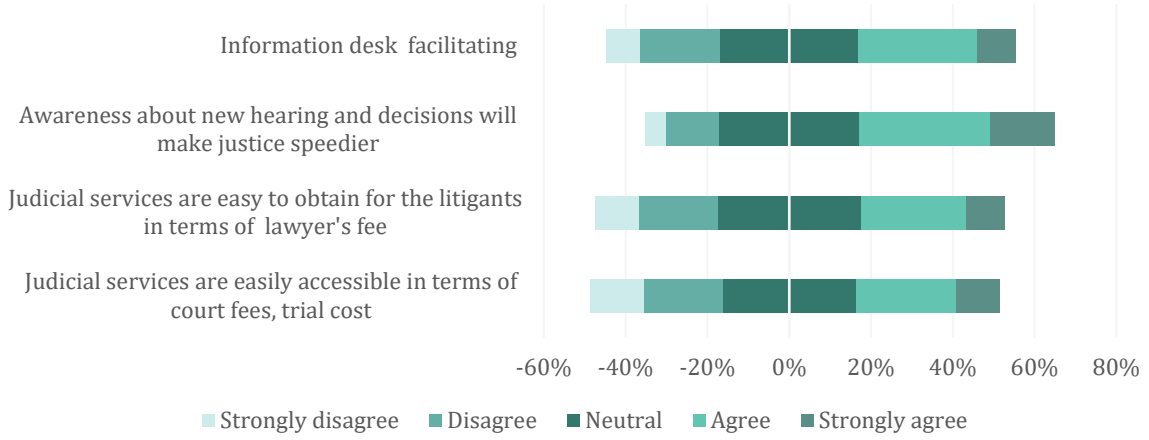


Source: Author's calculations.

Accessibility of Services

Regarding the accessibility of court services to litigants, the judges highlighted that creating more awareness about new hearing schedules for the litigants that exist can speed up the justice process.

Fig 50: Accessibility of Services



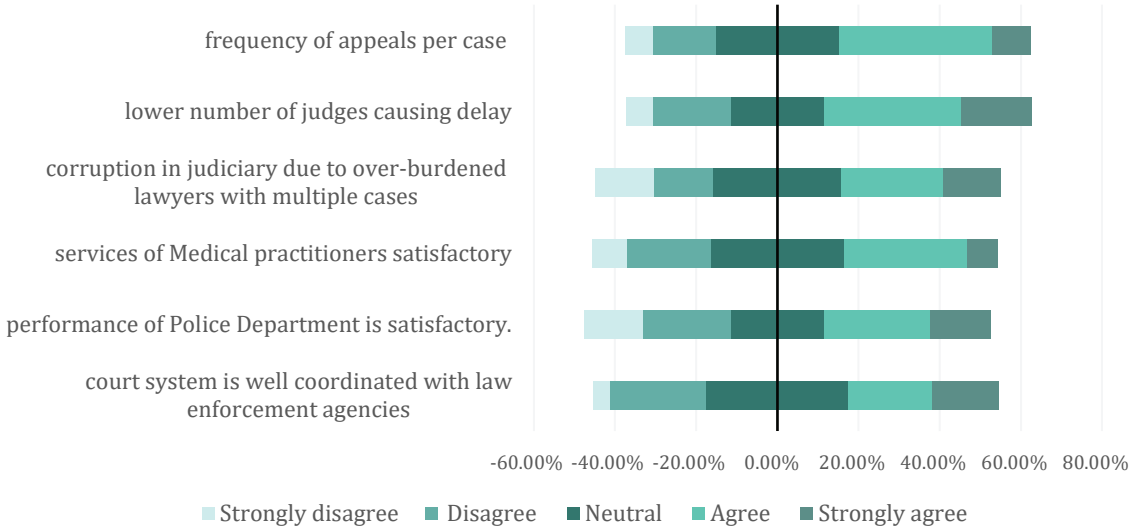
Source: Author's calculations.

Coordination between Law Enforcement Agencies

The judges also recorded their perception of the coordination between the law enforcement agencies. Firstly, the judges opined that the frequency of appeals and lower number of judges were causing severe damage to court

productivity. Secondly, according to the judges, the services of medical practitioners and the police department were below par and the overall system was not well-coordinated.

Figure 51: Coordination of the Law Enforcement Agencies

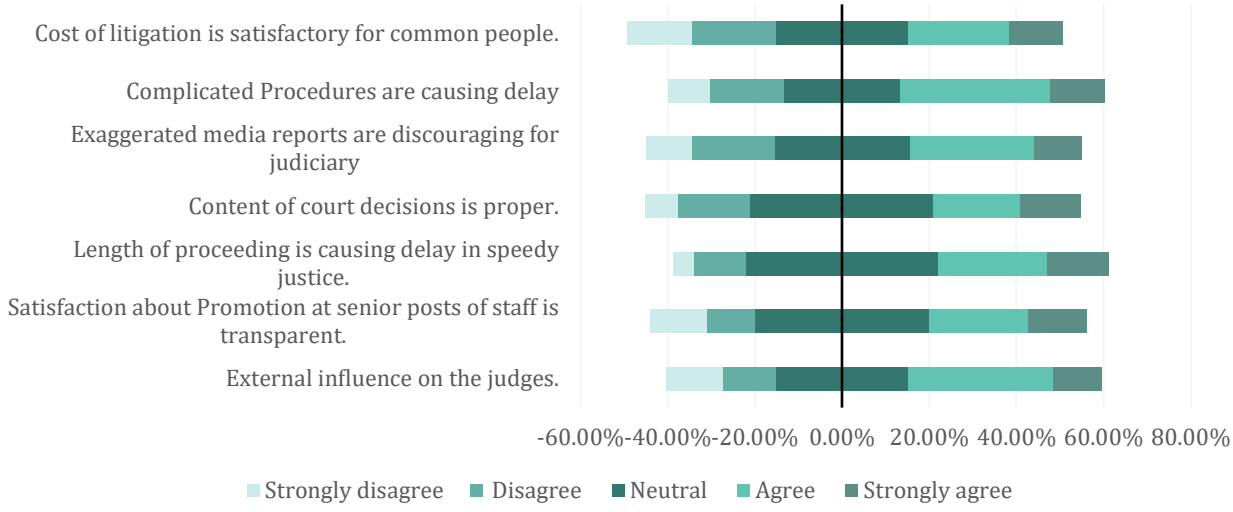


Source: Author's calculations.

Efficiency of Court Procedures

Figure 52 reports the factors causing inefficiencies in the court systems from the perspective of judges. They identified the 'length of the proceedings' and 'complicated procedures' as the most critical barriers to enhancing the efficiency of the system.

Figure 52: Efficiency of Court Procedures

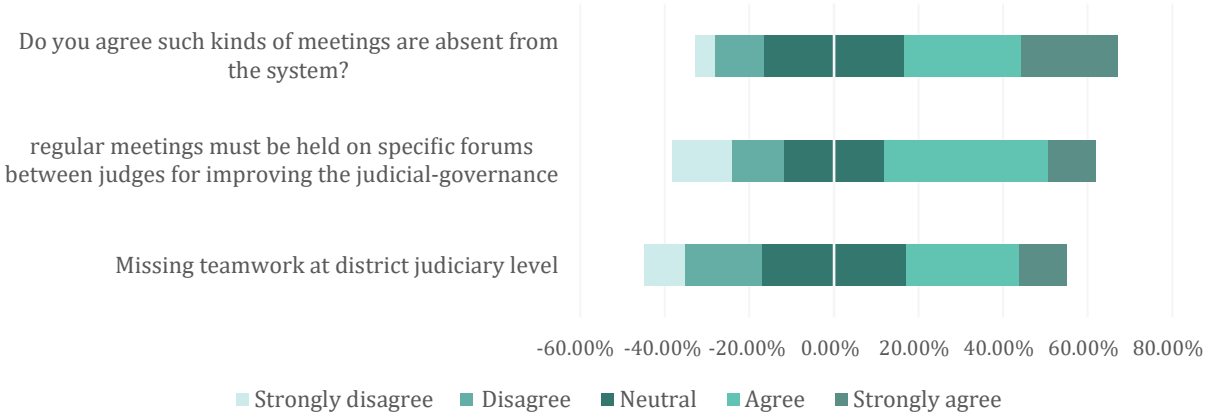


Source: Author's calculations.

Teamwork at the Judicial Level

Figure 53 represents the viewpoint of the judges about the satisfaction of teamwork at the district court level. As the figure shows, the judges denied the presence of any interaction and proclaimed the absence of meetings from the system, which are important for a better understanding of the case matters.

Figure 53: Teamwork at the Judicial Level

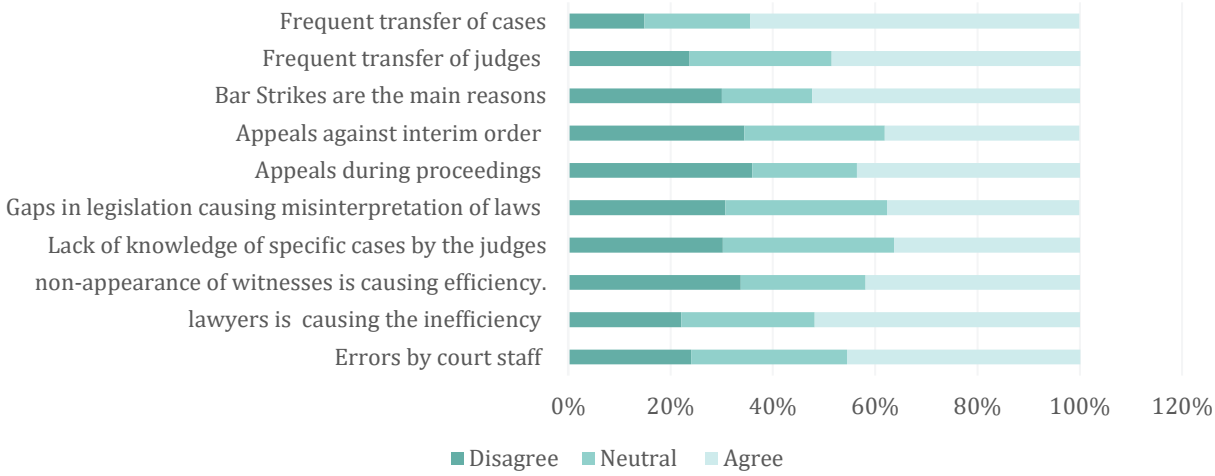


Source: Author's calculations.

Delay in Proceedings

Figure 54 highlights the factors causing delays in proceedings. The judges regarded the 'frequent transfer of cases' as one of the severe issues in case backlogs and lower clearance rates.

Figure 54: Delay in proceedings

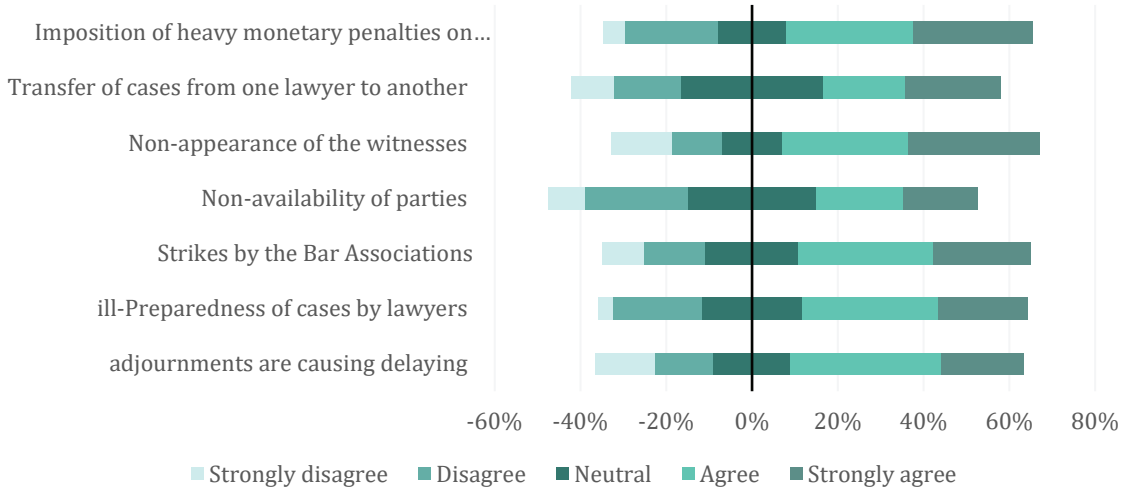


Source: Author's calculations.

Adjournments

When judges were asked about the impact of adjournments on judicial services, the judges strongly agreed that adjournments caused late case dispositions and the non-appearance of witnesses was weighted more as the main reason for these adjournments.

Figure 55: Adjournments

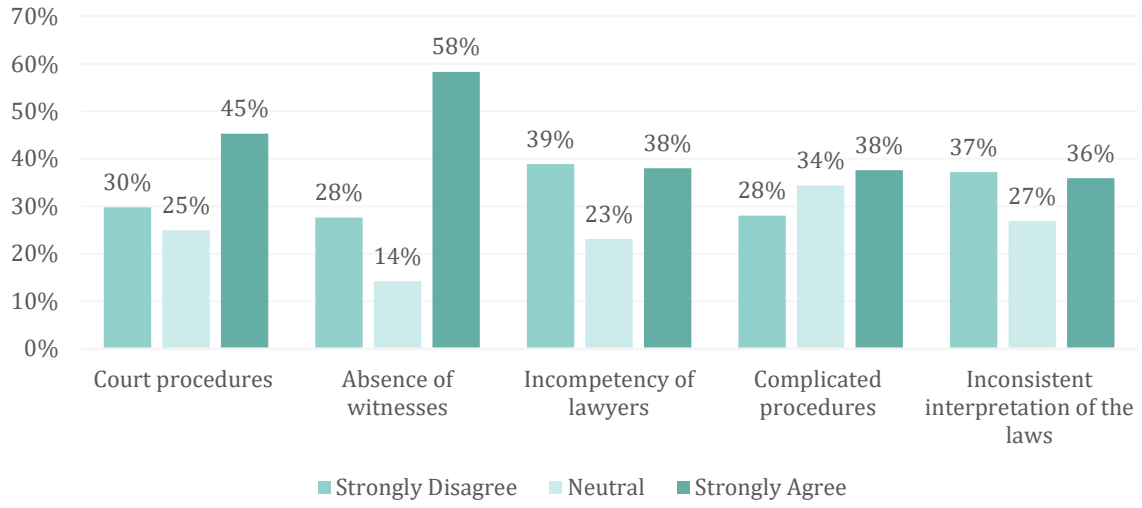


Source: Author's calculations.

Delay in Hearings

In response to the question of what caused multiple hearings, the judges highlighted the 'absence of the witness' as the major bottleneck in delayed hearings or multiple hearings.

Figure 56: Delay in Hearings

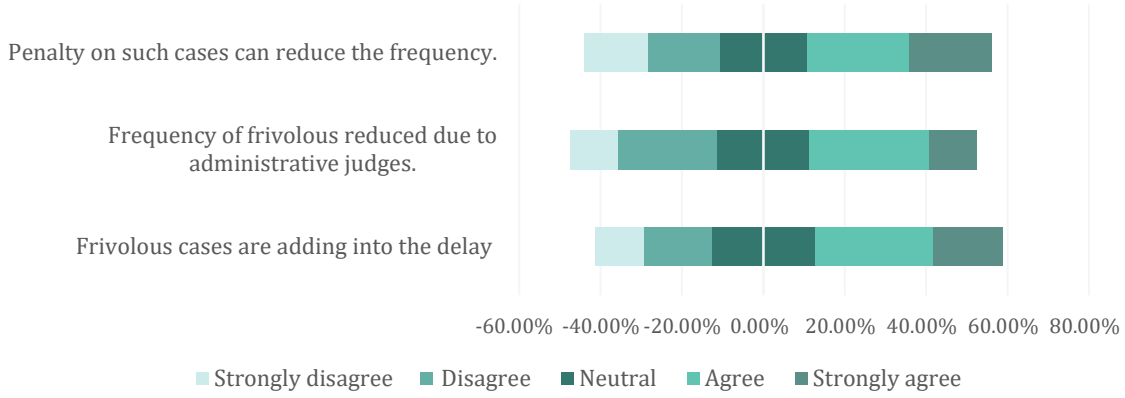


Source: Author's calculations.

Frivolous Cases

About frivolous cases, the judges added that such cases caused a burden on the existing capacities of courts and penalties were supposed to be imposed to discourage the burden of frivolous cases.

Figure 57: Frivolous Cases

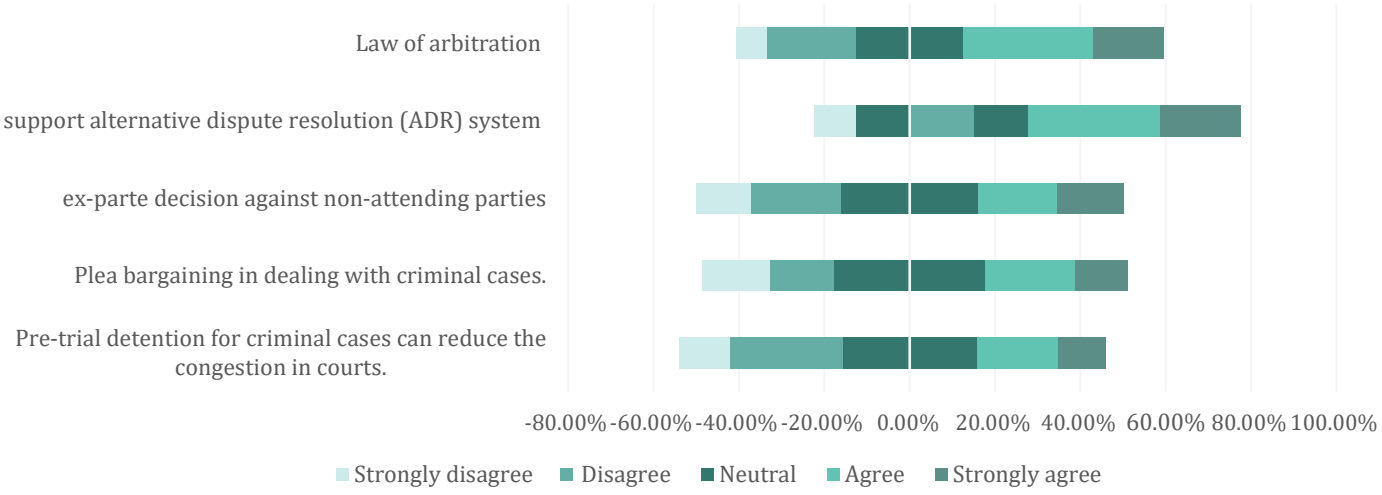


Source: Author's calculations.

Possible Solutions to Reduce the Backlog

Figures 58 and 59 represent the possible solutions for reducing the backlog and improving the quality of judicial services. The majority of the judges also supported the ADR and the law of arbitration as the fastest remedy for reducing caseloads at the district court level. Moreover, the judges blamed the poor working conditions and lack of training of judicial staff for lower quality of justice.

Figure 58: Possible Solutions to Reduce the Backlog

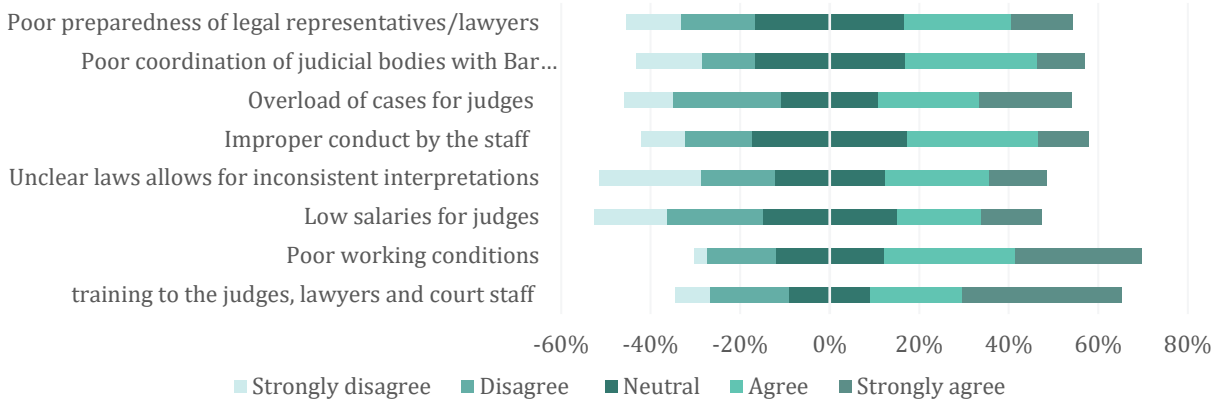


Source: Author's calculations.

Factors That Can Improve the Quality of Justice

Figure 59 shows the opinion of the judges on the factors that can improve the quality of justice at the district court level.

Figure 59: Factors That Can Improve Quality of Justice



Source: Author's calculations.

8. SERVQUAL ANALYSIS FOR THE COURT USERS

This analysis is used for measuring the user's satisfaction with a specific service they were using. This aims to find the gap between the perceptions of the customer of the services and their actual satisfaction after consuming a particular service. There are usually five dimensions that are extensively used in the literature, namely, tangibles, reliability, responsiveness, assurance, and empathy (Abili et al., 2011; El-Bassiouni et al., 2012). However, in a few studies, further three dimensions have been added for this kind of analysis, which are effectiveness, scope, and access to services (Ibrahim et al., 2006; Tsoukatos & Rand, 2006). For the present study, a questionnaire was designed for this purpose to be filled out by the litigants comprising 40 questions (20 for measuring the perceptions about the specific quality and 20 for measuring the actual level of service quality). The sampling frame was Lahore district courts specifically.

Details of the distribution of set parameters under five dimensions of SERVQUAL analysis for the present study are given below.

Table 18: Details of the Distribution of Set Parameters under Five Dimensions of SERVQUAL Analysis

Dimension	Parameters
Empathy	Behaviour towards poor
	Supporting staff
	Judges' performance
	Satisfaction with lawyers
	Satisfaction with the cost of proceedings
Assurance	Safety in courts
	Enforcement of judgements
	Impartiality of court decisions
	Integrity of court decisions
Reliability	Satisfaction with timeliness
	Police department
	Forensic department
	Law enforcement agencies
Effectiveness	Satisfaction with timely hearings
	Appeal system
Tangibles	Satisfaction with infrastructure
	Content of judgement
	File management
	Awareness of procedures
	Clarity of court procedures

The analysis was performed using the distribution given above. The questionnaires were based on a 5-point Likert Scale. One questionnaire was used to collect the perceptions against the proposed set of parameters, while the other was used to gather information about the satisfaction level for those instruments. On the 5-point Likert Scale, '1' measured 'less important' and 'dissatisfaction' about a service, while '5' showed the 'most important' and the 'highest satisfaction' level with a service.

SERVQUAL Analysis of Litigants' Expectations and Perceptions

In this section, the analysis of the court performance from the perspective of the court users, specifically the litigants, is presented. The purpose of the analysis is to examine user satisfaction with court services. A gap analysis was also done to highlight the top- and low-priority areas of the court services being used by the litigants. The gap was calculated by subtracting expectations about a service from the satisfaction level after having used it. A positive value shows that the user was satisfied with the delivery of the services. A negative value, on the other hand, shows that the service delivery was below the expectations of leaving the litigant dissatisfied.

Table 19 below presents mean scores of both the perceptions/expectations and satisfaction of the litigants with the court services. Ranks have been assigned in descending order, i.e., '1' shows the highest satisfaction and expectation and '20' shows the dimension with the least satisfaction and expectation. It is visible from the table given below that the litigants were highly dissatisfied with the services of lawyers, while the contents of judgements were quite clear for them to understand. The table shows that the court users had the highest expectation from the services of lawyers and timely enforcement of judgements, while they were least concerned with the integrity of court decisions.

Table 19: SERVQUAL Analysis from the Survey of Litigants

	Satisfaction	Mean Score	Rank	Expectations	Mean Score	Rank	Gap	Priority
1	Awareness of procedures	3.6	2	Awareness of procedures	4.3	13	-0.7	17
2	Appeal system	2.7	16	Appeal System	4.5	9	-1.8	5
3	Behaviour towards poor	2.4	18	Behaviour towards poor	4.7	3	-2.3	2
4	Supporting staff	3.1	10	Supporting staff	4.6	6	-1.5	9
5	Law enforcement agencies	3.1	12	Law enforcement agencies	4.4	11	-1.3	11
6	Police Department	3.1	11	Police Department	4.7	3	-1.6	6
7	Forensic Department	2.7	17	Forensic Department	4.3	13	-1.6	7
8	Judges' performance	3.1	9	Judges' performance	4.6	6	-1.5	10
9	Satisfaction with lawyers	2.0	20	Expectations from lawyers	4.8	1	-2.8	1
10	Clarity of court procedures	3.5	4	Clarity of Court procedures	4.5	9	-1.0	15
11	Safety in courts	3.2	6	Safety in courts	4.2	16	-1.0	16
12	Enforcement of judgements	3.2	7	Enforcement of judgement	4.8	1	-1.6	8
13	Content of judgement	3.8	1	Content of judgement	4.4	11	-0.6	18
14	File management	3.2	8	File management	3.7	19	-0.5	19
15	Integrity of court decisions	3.0	13	Integrity of court decisions	3.2	20	-0.2	20
16	Satisfaction with timeliness	2.8	14	Expectations about timeliness	3.9	18	-1.1	12

17	Impartiality of court decisions	3.3	5	Expectations about impartiality	4.3	13	-1.0	13
18	Satisfaction with timely hearings	2.7	15	Expectations about hearing fixation	4.7	3	-2.0	4
19	Satisfaction with the costs of proceedings	2.1	19	Expectations about the costs of proceedings	4.2	16	-2.1	3
20	Satisfaction with infrastructure	3.6	3	Expectations about information	4.6	6	-1.0	14
	Overall Satisfaction	3.0		Overall Expectations	4.37		-1.37	

*Notes: *'Ranks' are given in descending order. Average mean values are ranked to show the delivery of court services, i.e., the highest value of rank shows the highest satisfaction and the lowest rank value shows the lowest satisfaction area.*
*** Priority is in ascending order, i.e., '1' shows top priority (sub-par delivery of services) and '20' shows the least priority (satisfied with the delivery of a service).*

**** Top Priority*  *Low Priority*

Source: Author's calculations.

The overall satisfaction score is 3.0, while the expected score is 4.37 showing a negative gap of -1.4, which is quite high in magnitude. Similarly, this gap was measured for each parameter and priority areas are highlighted where the policymakers and concerned authorities must put their efforts to reduce the inefficiencies in the judicial system.

In table 20, all the parameters are divided into five dimensions used for measuring the service quality. According to litigants, judicial services were required to be empathetic towards the poor. They highlighted the priorities, such as the conduct of lawyers and the behaviour of courts towards the poor. The respondents advocated exempting court fees or providing financial help by the government for filing cases, such as the pro bono practice in Western countries. The respondents also highlighted the cost of court proceedings. The litigants also stressed the importance of timely enforcement of judgements to enhance the confidence of the masses in the system. Furthermore, they held the police department responsible for the lower reliability of the judicial services. However, the litigants regarded the system as most ineffective due to uncertainty in the hearing fixation and appeal system. However, the litigants showed satisfaction with the services such as the clarity of court procedures, infrastructure, cleanliness, file management, and the content of judgments.

Table 20: Priority setting from the survey of Litigants

Dimension	Parameters	Mean Score	Priority
Empathy	Behaviour towards poor	-2.3	2
	Supporting staff	-1.5	9
	Judges' Performance	-1.5	10
	Satisfaction with lawyers	-2.8	1
	Satisfaction with the costs of proceedings	-2.1	3
Assurance	Safety in courts	-1.0	16
	Enforcement of judgements	-1.6	8
	Impartiality of court decisions	-1.0	13
	Integrity of court decision	-0.2	20

Reliability	Satisfaction with timeliness	-1.1	12
	Police Department	-1.6	7
	Forensic Department	-1.5	10
	Law enforcement agencies	-1.3	11
Effectiveness	Satisfaction with timely hearings	-2.0	4
	Appeal system	-1.8	5
Tangibles	Satisfaction with infrastructure	-1.0	14
	Content of judgements	-0.6	18
	File management	-0.5	19
	Awareness of procedures	-0.7	17
	Clarity about court procedures	-1.0	15

Source: Author's calculations.

SERVQUAL Analysis from Lawyers' Expectations and Perceptions

In this section, the same analysis is repeated to examine the supply side of the services, i.e., the areas highlighted by the lawyers showing the level of importance and satisfaction with each dimension as discussed in the previous section. The SERVQUAL gap analysis is presented in Table 21 below and priority areas are given against each item. The overall analysis from the lawyers' perspective shows that the highest service gap causing dissatisfaction for early disposition of cases existed with case adjournments followed by the length of proceedings, judges/prosecutors' competency, and coordination with law enforcement agencies.

Table 21: SERVQUAL Analysis from the Survey of Lawyers

Satisfaction	Mean Score	Rank	Expectations	Mean Score	Rank	Gap	Priority
Court automation	2.8	12	Court automation	3.9	3	-1.1	5
Coordination of court staff with lawyers	2.7	15	Coordination of court staff with lawyers	3.16	15	-0.46	9
Judges'/prosecutors' professional competence	3.2	3	Judges'/prosecutors' professional competence	4.7	1	-1.5	3
Punctuality of hearings	2.93	8	Punctuality of hearings	3.31	9	-0.38	11
Clear and comprehensible judgements	3.05	7	Clear and comprehensible	3.11	17	-0.06	17
Decisions easy to enforce	3.27	2	Decisions easy to enforce	3.49	6	-0.22	14
Training of judges, lawyers, and court staff	3.4	1	Training of judges, lawyers, and court staff	3.67	4	-0.27	12
Satisfaction with Adjournments	1.67	18	Adjournments are required for proper decision	3.52	5	-1.85	1
ADR for speedy justice	3.19	4	ADR for speedy justice	3.37	8	-0.18	15

Coordination with law enforcement agencies	3.16	5	Coordination with law enforcement agencies	4.31	2	-1.15	4
Police Department working	2.75	14	Police Department working	3.19	14	-0.44	10
Forensic Department working	2.35	16	Forensic Department working	3.28	10	-0.93	6
Use of informal means by judges	2.91	9	Use of informal means by judges	2.76	18	0.15	18
Length of proceedings	1.72	17	Length of proceedings	3.28	10	-1.56	2
Complicated court procedures	3.11	6	Complicated court procedures	3.24	13	-0.13	16
Cost of court procedures	2.91	9	Cost of cost procedures	3.45	7	-0.54	7
Role of media	2.89	11	Role of media	3.13	16	-0.24	13
Impartiality of judges	2.76	13	Impartiality of judges	3.27	12	-0.51	8
Overall Satisfaction	2.82		Overall Expectations	3.45		-0.63	

*Notes: *'Ranks' are given in descending order. Average mean values are ranked to show the delivery of court services, i.e., the highest value of rank shows the highest satisfaction and the lowest rank value shows the lowest satisfaction area.*
*** Priority is in ascending order, i.e., '1' shows top priority (sub-par delivery of a service) and '20' shows the least priority (satisfied with the delivery of a service).*

**** Top Priority*  *Low Priority*

Source: Author's calculations.

Moreover, the mean (2.82) of overall satisfaction is less than the mean of expectations (3.45). The overall gap is -0.63 showing that the situation did not meet the expectations of the lawyers. However, this gap is less than the litigants' evaluation of service quality. The analysis shows that litigants were more dissatisfied with judicial services. Thus, there is a dire need to focus on corrective actions for the removal of this service gap as it can lead to quicker disposition of cases and tackling the backlogs.

Table 22 shows that to make the judicial process more empathetic, the system has to emphasise reducing the cost of court procedures. On the other hand, to enhance assurance and confidence in the judicial system, the length of proceedings must also be a priority area. The working of forensic departments and the impartiality of judges are important to increase the reliability of the judicial process. The effectiveness of the system badly suffers from multiple adjournments, lack of judicial and prosecutor professionalism, and law enforcement agencies. In the case of available tangibles and physical infrastructure, there is a need to increase the automation of courts for speedier delivery of judicial services.

Table 22: Priority Areas from the Survey of Lawyers

Dimension	Parameter	Mean Score	Priority
Empathy	Cost of court procedures	-0.54	7
	Coordination of court staff with lawyers	-0.46	9
	Complicated court procedures	-0.13	16
Assurance	Decisions easy to enforce	-0.22	14
	Clear and comprehensible judgements	-0.06	17
	Length of proceedings	-1.56	2

Reliability	Impartiality of judges	-0.51	8
	Police Department	-0.44	10
	Forensic Department	-0.93	6
	Use of informal means by judges	0.15	18
Effectiveness	Satisfaction with adjournments	-1.85	1
	Punctuality of hearings	-0.38	11
	Judges'/prosecutors' professional competence	-1.5	3
	Role of media	-0.24	13
	Law enforcement agencies	-1.15	4
	ADR for speedy justice	-0.18	15
Tangibles	Court automation	-1.1	5
	Training of judges, lawyers, and court staff	-0.27	12

Source: Author's calculations.

The comparison between the lawyers' and litigants' analyses shows that litigants believed that the judicial system is less compassionate towards the poor and less effective in early case disposition due to delayed hearings and appeal system. On the other hand, the lawyers also complained about the sub-par delivery of services due to case adjournments, competency of judicial professionals, and coordination between courts and law enforcement agencies. Hence, the SERVQUAL gap analysis shows the existing bottlenecks in the judicial system at the district level and identifies priority areas to redress the problems faced by both court users, i.e., the litigants and the lawyers.

9. CONCLUSION AND POLICY RECOMMENDATIONS

Conclusion

The efficiency and effectiveness of judicial systems are one of the main points of interest in public sector administration because of the system's beneficial effects on the economic system. This study covered the Punjab province for the efficiency analysis of the courts. Punjab was chosen for the study because it has the highest number of districts and a huge case pendency of civil cases as per the recorded official figures. The linear optimisation method, commonly known as data envelopment analysis (DEA), and a non-parametric frontier were s used to measure the efficiency of 36 district courts of Punjab for 2020-21. The two methods were used to distinguish between pure, technical, and scale (in)efficiencies due to the non-discretionary caseloads both in civil and criminal matters. By employing two output measures, i.e., the disposal rate and the resolution index, the efficiency estimates were calculated. However, the results with the resolution index were closer to the real situation in the district judicial system as this incorporated both the demand- and supply-side aspects of the settlement of cases.

According to the results using the resolution index, the most inefficient district was Lahore and the most efficient was Khushab. However, this is due to the reason that the institutional arrangements were better and, therefore, the clearance rate was high. The (in)efficiency depends on the socio-economic and demographic situation as well,

which is difficult to quantify. For example, in Khushab and Rajanpur districts, approaching courts is not a usual practice to seek justice; rather they have their own 'jirga system' where they prefer to resolve their matters through arbitration. Hence, if the case institution is lower, the backlog log will also be lower ultimately leading to a decline in pendency. For this reason, when the DEA model was reestimated after adding 'institution' as the exogenous factor, the average efficiency declined from 0.51 to 0.028 (Table 17). Therefore, the reasons for Lahore being the most inefficient district productivity-wise could be its size, population dynamics, and income disparities which cause higher crime rate corruption leading to more cases filed and adding to the backlog. Hence this calls for increasing the capacities of existing courts in megacities to cater to the demand for justice in the best possible way. Moreover, the situation also demands a better role of law enforcement agencies to control the malpractices in society.

For measuring the capacity of courts, scale efficiency was calculated. It showed that all the district courts were operating at decreasing returns to scale, which means that the court size is too large to take full advantage of economies of scale and operate at supra-optimum scale size. All this demonstrates that courts are overly congested and, therefore, the dispensation of justice is slow. The findings of the study show that both the 'institution of cases' and 'pendency' in civil matters play a regressive role as external factors in triggering the inefficiency of courts at the district level compared to overall caseloads. In each case, the overall scale efficiency in both civil and criminal matters was reduced showing the overutilisation of resources without an increase in court output. In other words, this exhibits the inability of existing resources, i.e., judges and administrative staff to clear the backlog.

According to common wisdom, courts deal with both the services provided to litigants and the resources used for that purpose. However, many uncontrollable factors act as bottlenecks in the system, both internally and externally, which cannot easily be changed. Therefore, the efficiency analysis is incomplete unless the effect of these factors is captured because they affect the courts' performance externally, paralysing the whole working mechanism of the system.

From the efficiency analysis conducted above, three extremely inefficient districts were selected to survey lawyers, litigants, and judges. Court performance indicators were designed to find out the factors affecting efficiency, quality of services, fairness, and integrity of the system. According to the findings of the survey, adjournments, the conduct of lawyers, and behaviour towards poor people were the main reasons for the poor performance of the court.

Finally, a SERVQUAL analysis was done to highlight the priority areas for improvement in the judicial process. According to this gap analysis, the findings showed that courts were less empathetic towards the poor, both in terms of court fees and lawyers' fees, which is why they are unable to resolve their cases timely because of their inability to make payments. The behaviour of lawyers was given the top priority by the litigants to make the system efficient and user-friendly. Moreover, the litigants highlighted lawyers' fees constituted almost 55 per cent[13] of their total expenses to complete the judicial process in case of criminal cases and 43 per cent for civil cases. The most troubling stage cited by the litigants during the trial was the stage of evidence in both types of cases due to which the number of hearings increased. The survey showed that the maximum age of pendency for civil cases was 37 years and for criminal matters, it was 9 to 10 years. The litigants also showed their concern for the less cooperation of the police department during the investigation process, which also caused delays factor in the early disposal of cases. The lawyers, on the other hand, blamed the forensic department for the lack of coordination with courts for the delivery of speedier services. The SERVQUAL analysis was based on five pillars and in the case of each pillar, the gap between the expectations and satisfaction level of the court users was negative, which shows that the specific pillar's service delivery was sub-par and the service consumer was not satisfied.

[13] The graphical representation of the cost estimates for both types of cases are given in Appendix J.

The same analysis was performed for the lawyers to know about their satisfaction level with the services provided to them by the court administration. According to the lawyer's perspective, adjournments were the major cause of delays in clearing the backlog making the system less effective. They also highlighted that court automation did not perform as per their expectations. Moreover, the findings of the survey showed that the role of media was somehow damaging the sanctity of many court decisions due to exaggeration. As for the Alternative Dispute Settlement (ADR), the litigants, lawyers and judges showed a strong positive response for avoiding delays in settlements. Judges showed disagreement with the pretrial detention of the cases and also regarded adjournments as one of the major causes of the delay and blamed the ill-preparedness of lawyers, absence of witnesses, and bar strikes responsible for this.

Recommendations

Based on the findings, the following are policy recommendations that can help improve the judicial process in lower district courts.

- According to the judges' perspective, the disposal of cases is delayed due to an excessive number of adjournments and hearings, and a major reason for this is the non-appearance of the witnesses. Moreover, fewer judges, ill-prepared lawyers, and bar strikes are also responsible for multiple hearings. There is a need to increase the capacity of existing courts by improving both the infrastructure availability and the number of serving judges so that, on average, the clearance rate can be improved. Judges advocated court automation for information on hearings to the litigants and lawyers and asserted that court automation can improve judicial governance.

- As per the lawyers, again the main reason for the delayed settlement of cases is the adjournments, political influence from external sources, and lack of training of lawyers and judicial professionals, addressing which can enhance the efficiency of the court systems at the district level. Lawyers also suggested assigning a penalty to multiple adjournments to avoid such delays and increase the turnover of the judges.

- Lastly, the opinion of the litigants on the judges' performance is satisfactory. However, they highlighted the inefficiency and lack of transparency in the behaviour of the supporting staff and lawyers which needs to be addressed.

- Moreover, as per their experience, the coordination between courts and law enforcement agencies should be made strong as the police and forensic departments are uncooperative and less responsive during the case proceedings.

- Above all, the cost of proceedings is beyond the capacity of a common man, therefore, they suggested that the government should try to make such policies that facilitate the poor people in bearing these expenses. This can only be possible if the government gives some sort of financial/medical security to the lawyers doing private practice as it will boost their trust and confidence in the system, and they will become more compassionate towards such clients who are unable to pay heavy fees. In many Western countries, there is a practice of pro bono cases.[14]

[14] In the legal profession, free legal services provided by a lawyer to an individual who cannot afford the cost of litigation is termed as a pro bono service. However, the state can waive the court fees for such lawyers to avoid any kind of personal monetary loss. Pro bono cases can also be used as a marketing strategy by lawyers, which can earn them recognition, increase their clientele, and help them earn a reputation. Even though pro bono cases do not allow lawyers to earn enough money, it certainly offers several benefits and opens numerous doors of opportunities for them. If a lawyer represents a pro bono case that is highly publicised, the lawyer can earn a good reputation and fame, thus increasing the possibility of future cases. If the lawyer wins the pro bono case, they receive recognition making more people hire him.

- Our judicial bodies should also forward such kind of policy solutions to give protection to both the lawyers and litigants. Students in this profession at the early stage of their career can also be given such exposure, which will also provide them with learning opportunities in the field. The government should also design such a policy that minimum pro bono cases are given weight for the elevation of judicial professionals in their careers.

- To reduce the multiple hearings and adjournments, a maximum limit should be fixed by the government in consultation with judicial authorities so that resolution time can be minimised.

- There must also be a set mechanism for lawyers' fees at different stages of proceedings in both civil and criminal cases. There should be a check as well by the authorities in the form of a penalty for exceeding the prescribed fees.

- Above all major amendments are required to be made in the CPC and CRPRC rules for the early disposal and to restrict the interim appeals. The ideal example of such modification of laws can be observed in the case of The Punjab Rented Premises Act 2009 which stipulates that after the judgment by the district court, no further appeal can be filed in the high court and The Supreme Court.

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APPENDICES

Appendix A

Research Objectives	Research Questions	Data Sources	Data Analysis
To evaluate the judicial efficiency of lower courts (district courts) by examining their performance and calculating a resolution index.	Does a huge caseload affect the court efficiency/productivity in lower courts?	Secondary data analysis: This will be extracted from the Judicial Statistics of Pakistan and the website of the High Courts	Situational Analysis through synthesizing the information. Quantitative using Data Envelopment Analysis (DAE)
To explore the bottlenecks faced by the District Courts of Punjab which might be causing inefficiencies in its judicial functioning.	What are the internal and external factors causing inefficiencies in the district court proceedings?	Primary data analysis: In the first stage, interviews were conducted to extract the themes of the questionnaire. In the second stage, items of the questionnaire will be generated from these and sub-themes.	A graphical analysis of the survey.
To investigate the differences between perceptions of court users on perceived outcomes and actual service delivery by the judicial operators.	Are court users satisfied by the delivery of justice?	Primary data analysis: A "Customer satisfaction survey of judicial services" from litigants/clients, lawyers, magistrates, and officials of the district courts will be conducted to compare the difference between the perceptions of expected services (i.e., easy and speedy justice in the form of low costs incurred by the litigants) and the actual service delivery.	Quantitative Analysis based on a survey using SERVQUAL gap methodology.

Appendix B: First Stage of Analysis for Conducting Survey: Themes for Interviews

*Name (Optional)……

* Phone No. (Optional)……

* E-mail ID (Optional)……

* Your profession/category

(a) Advocate…… (Designation)

(b) Court Staff…… (Designation)

(c) Judge……(Designation)

(d) Police…….. (Designation)

(e) Court case client…….. (Profession)

* Work experience……

1. What aspects of work culture in courts can be improved?

2. Tell the instances of work that disturb you the most.

3. What is a good court, in your opinion?

4. How are courts different from each other?

5. How do you distinguish a good lawyer from a bad lawyer?

6. What are the reasons for the adjournments?

7. How can the adjournment problem be solved?

8. What is your opinion about the state of accountability of judges?

9. What is your opinion about transparency in procedures and decision-making?

10. Do people easily get justice from this court?

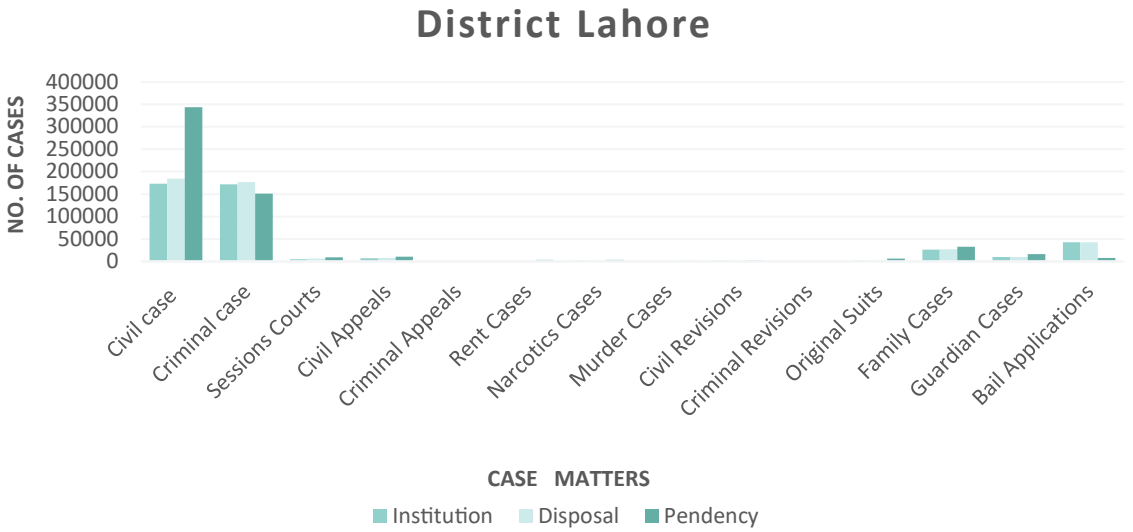
11. Why do people want to run away from the courts?

12. Any other points which you want to mention?

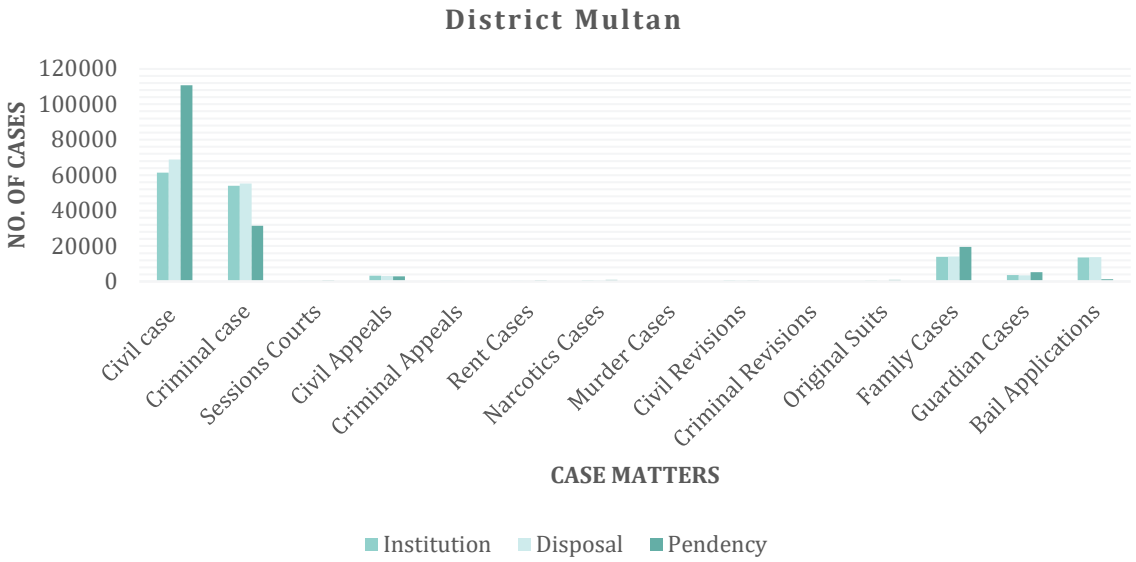
13. What points can be taken as indicators of legal performance and productivity?

14. What points can be taken as indicators of legal culture?

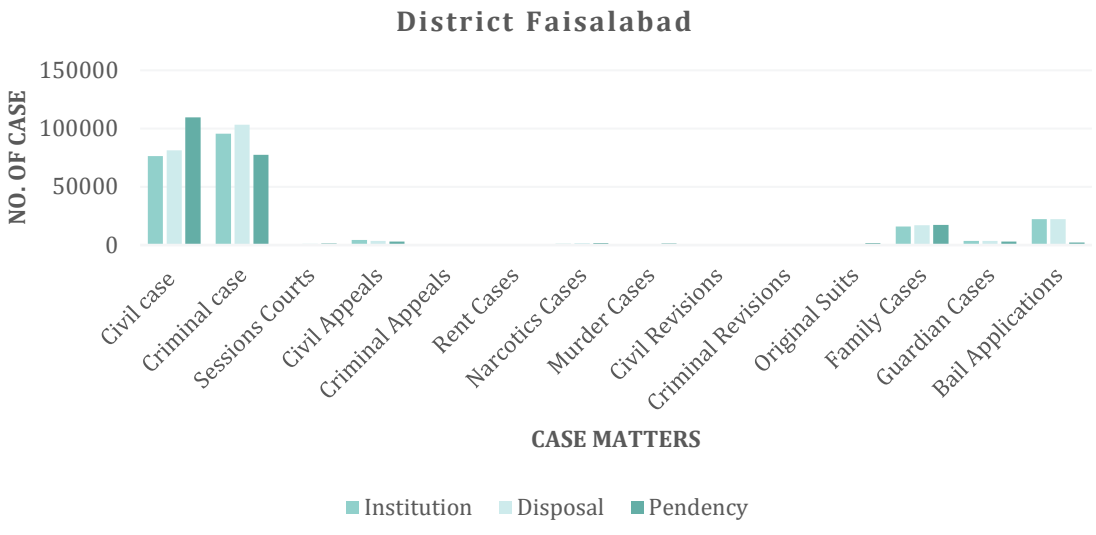
Appendix C: Case-Wise Situational Analysis of Lahore District



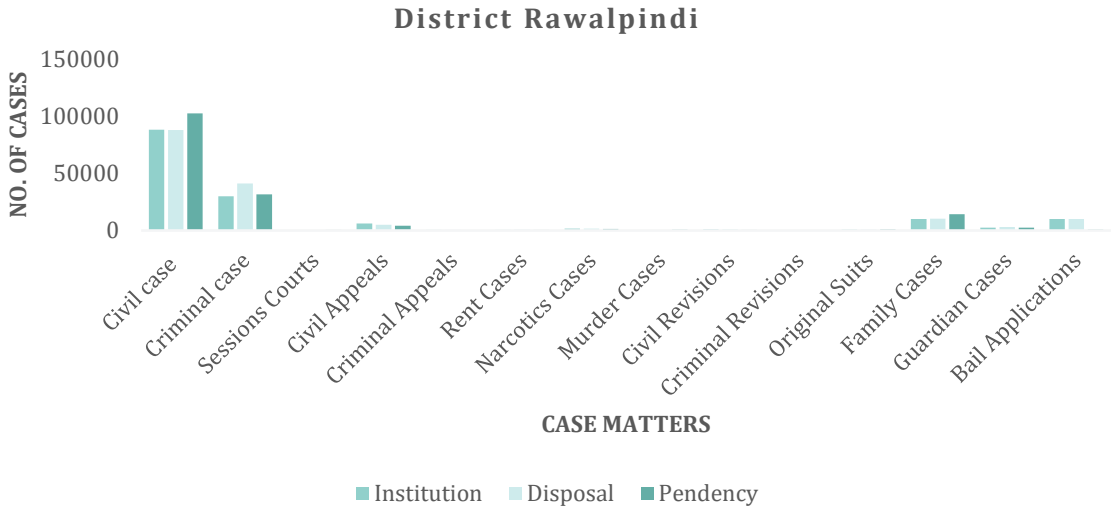
Source: Authors' calculations based on Lahore High Court (various issues).



Source: Authors' calculations based on Lahore High Court (various issues).

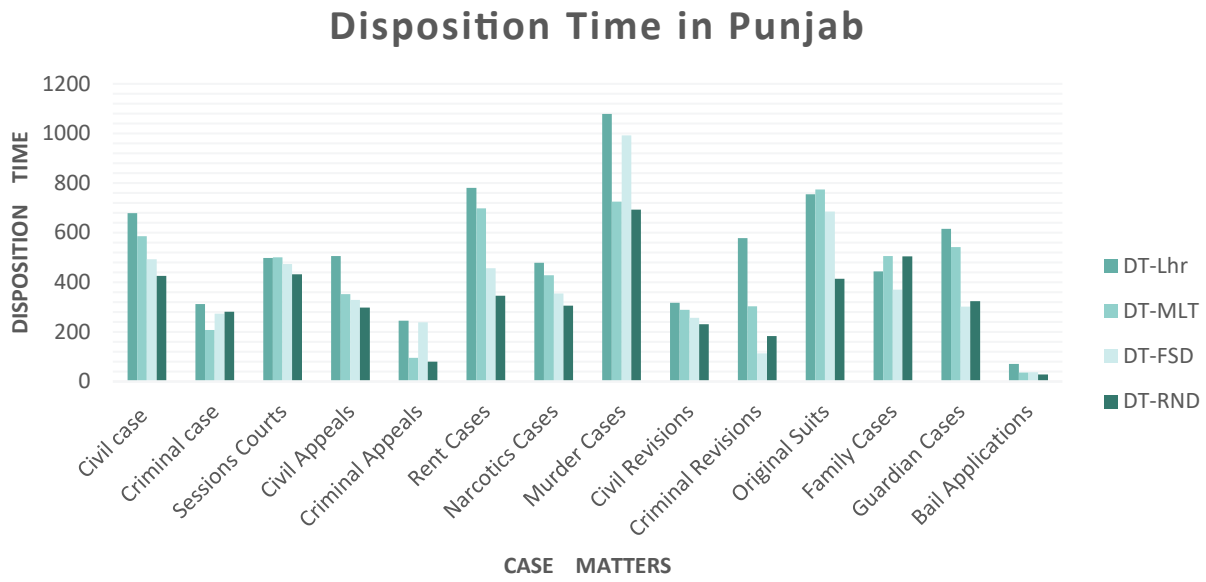


Source: Authors' calculations based on Lahore High Court (various issues).



Source: Authors' calculations based on Lahore High Court (various issues).

Appendix D: Disposition Time of Cases in Punjab's Most Congested Districts



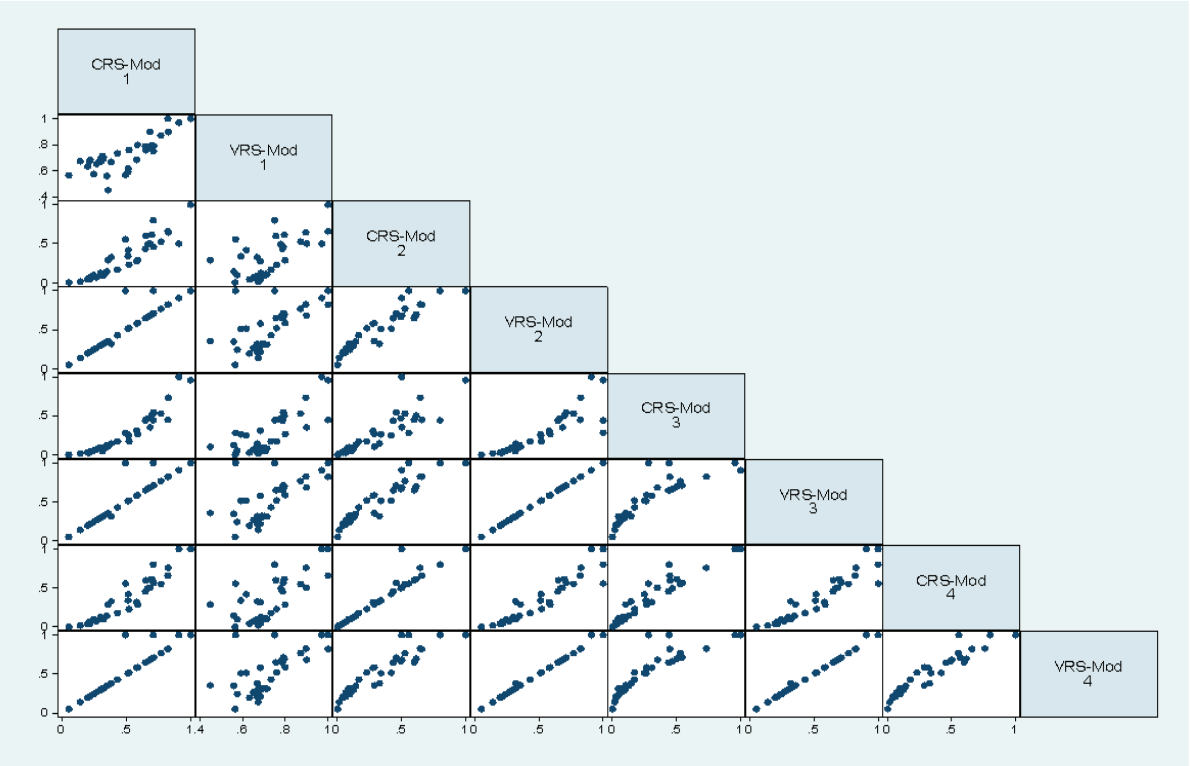
Source: Authors' calculations based on Lahore High Court (various issues).

Appendix E

Models	CRS_1	VRS_1	CRS_2	VRS_2	CRS_3	VRS_3	CRS_4	VRS_4
CRS_1	1.0000							
VRS_1	0.7538*	1.0000						
CRS_2	0.9365*	0.6038*	1.0000					
VRS_2	0.9573*	0.6504*	0.9505*	1.0000				
CRS_3	0.9723*	0.6862*	0.9219*	0.9417*	1.0000			
VRS_3	0.9573*	0.6504*	0.9505*	1.000*	0.9417*	1.0000		
CRS_4	0.9566*	0.6262*	0.9838*	0.9575*	0.9517*	0.9575*	1.0000	
VRS_4	0.9628*	0.6563*	0.9559*	0.9970*	0.9490*	0.9970*	0.9670*	1.0000

"" Shows significance at a 5% level.*

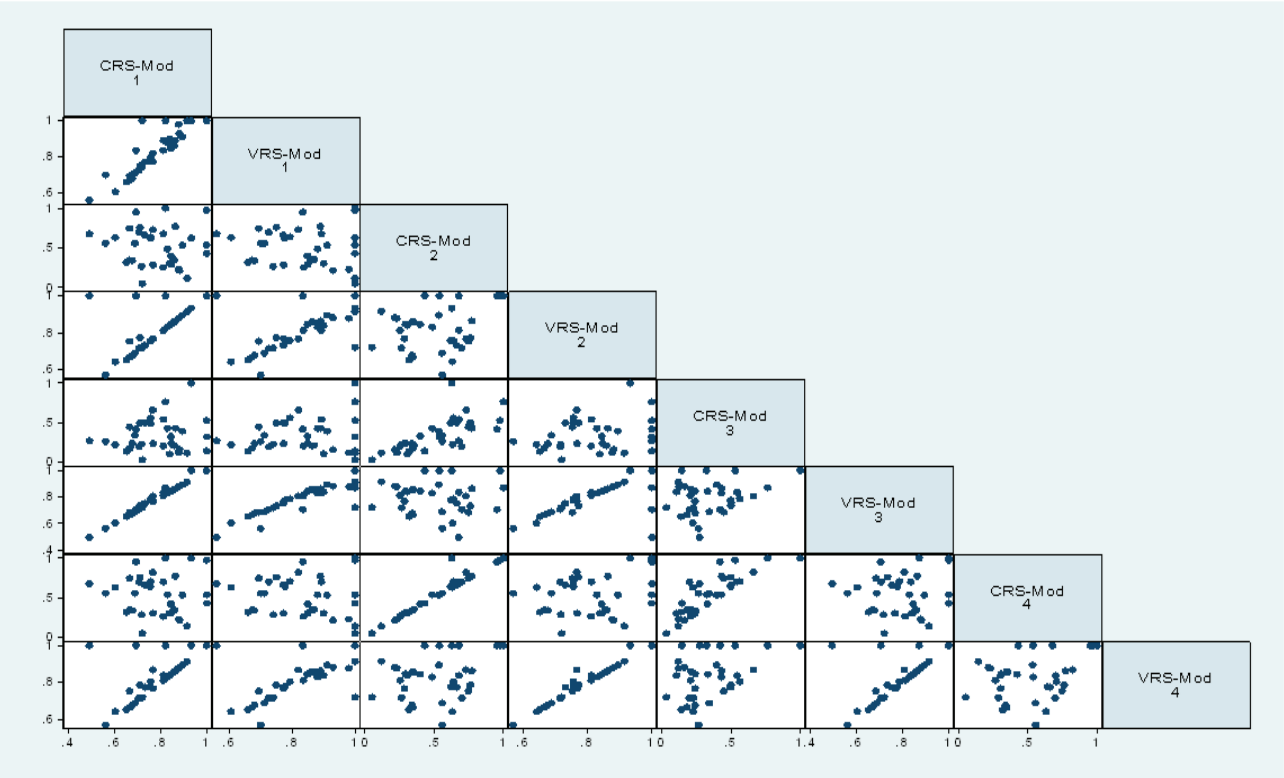
Figure 60: Scatter Plot of the Estimated Models with RI as Output w.r.t Caseloads in Civil and Criminal Cases



Source: Model estimations

Models	CRS_1	VRS_1	CRS_2	VRS_2	CRS_3	VRS_3	CRS_4	VRS_4
CRS_1	1.0000							
VRS_1	0.8878*	1.0000						
CRS_2	---------	--------	1.0000					
VRS_2	0.7284*	0.7176*	---------	1.0000				
CRS_3	---------	---------	0.7785*	---------	1.0000			
VRS_3	0.9887*	0.9053*	---------	0.7535*	---------	1.0000		
CRS_4	---------	---------	0.9723*	---------	0.8449*	--------	1.0000	
VRS_4	0.7232*	0.7165*	----------	0.9773*	---------	0.7571*	---------	1.0000

Figure 61: Scatter Plot of the Estimated Models with Disposal Rate as Output w.r.t Caseloads in Civil and Criminal Cases

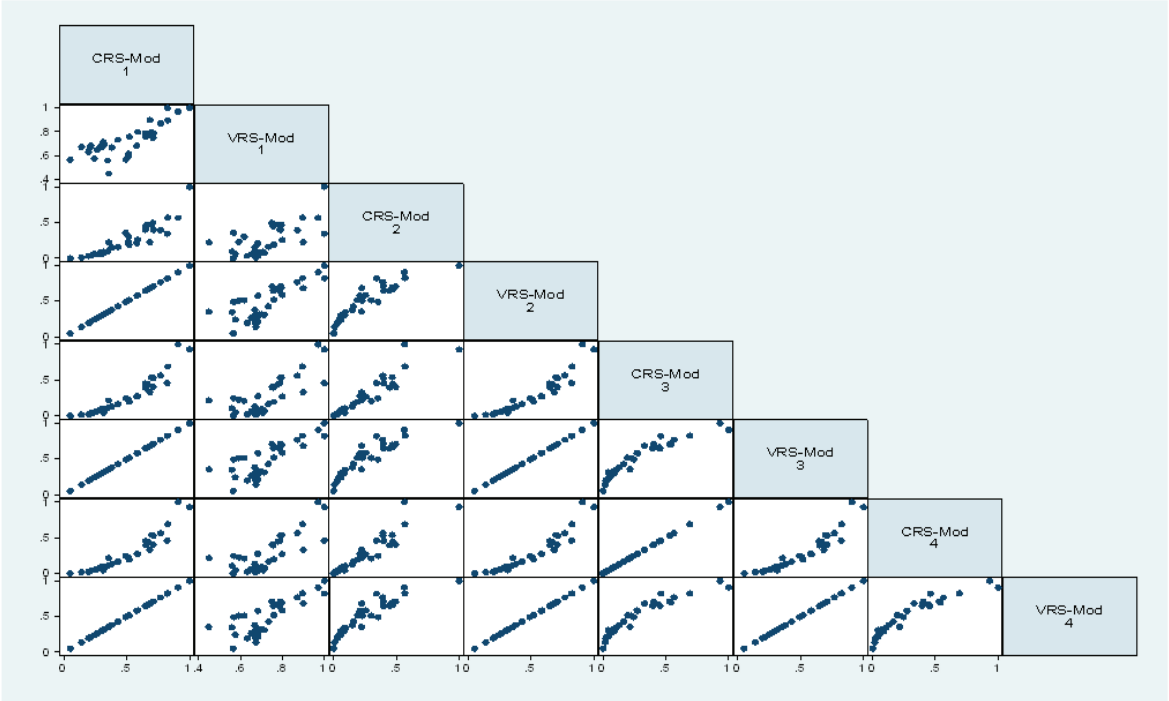


Source: Model estimations

Appendix F

Models	CRS_1	VRS_1	CRS_2	VRS_2	CRS_3	VRS_3	CRS_4	VRS_4
CRS_1	1.0000							
VRS_1	0.7538*	1.0000						
CRS_2	0.9530*	0.6261*	1.0000					
VRS_2	1.0000*	0.7538*	0.9530*	1.0000				
CRS_3	0.9754*	0.6895*	0.9557*	0.9754*	1.0000			
VRS_3	1.0000*	0.7538*	0.9530*	0.1000*	0.9754*	1.0000		
CRS_4	0.9754*	0.6895*	0.9557*	0.9754*	1.0000*	0.9754*	1.0000	
VRS_4	1.0000*	0.7538*	0.9530*	1.0000*	0.9754*	1.0000*	0.9754*	1.0000

Figure 62: Scatter Plot between Estimated Models with the Resolution Index as Output w.r.t Overall Pendency as an Exogenous Factor (Four Models)

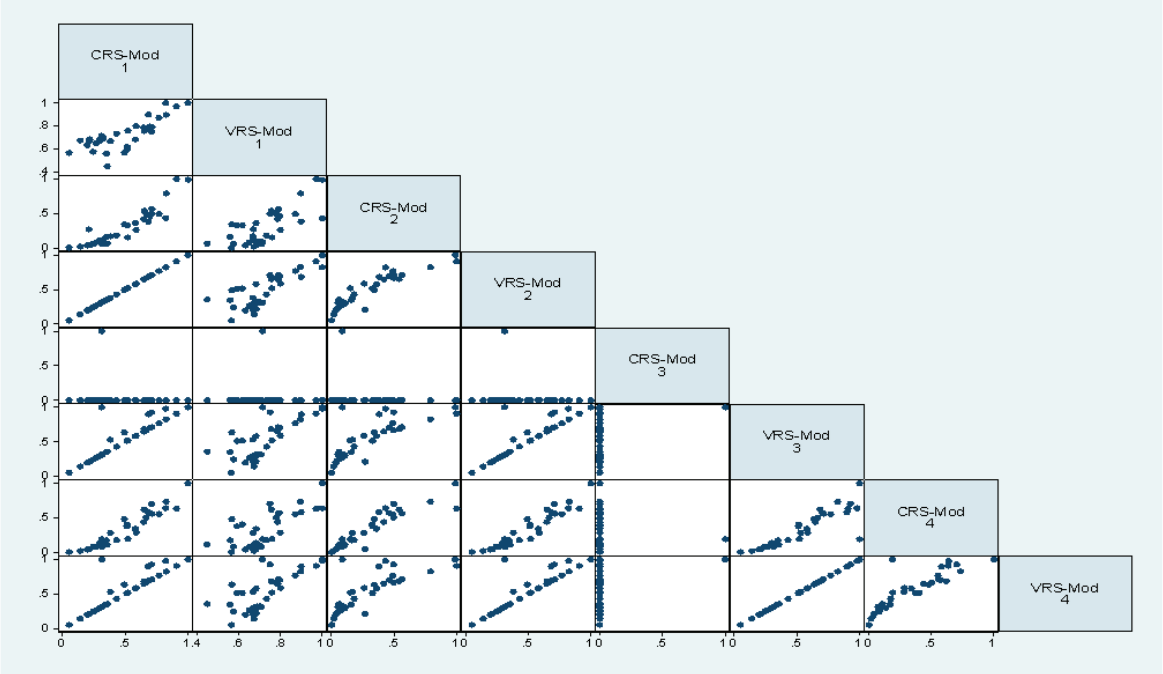


Source: Author's own based on estimation.

APPENDIX G

Models	CRS_1	VRS_1	CRS_2	VRS_2	CRS_3	VRS_3	CRS_4	VRS_4
CRS_1	1.0000							
VRS_1	0.7538*	1.0000						
CRS_2	0.9142*	0.6650*	1.0000					
VRS_2	1.0000*	0.7538*	0.9142*	1.0000				
CRS_3	----------	----------	---------	---------	1.0000			
VRS_3	0.9047*	0.7267*	0.8239*	0.9047*	---------	1.0000		
CRS_4	0.9577*	0.6775*	0.9284*	0.9577*	---------	0.9292*	1.0000	
VRS_4	0.9047*	0.7267*	0.8239*	0.9047*	---------	1.0000*	0.9292*	1.0000

Figure 63: Scatter Plot between Estimated Models with the Resolution Index as Output w.r.t Institution as an Exogenous Factor (Four Models)



Source: Model estimations.

Appendix H

Table 23: Descriptive Statistics of Judges' Survey

	N	Minimum	Maximum	Mean	Std. Deviation
Number of Questionnaires	301	1	326	97.3654	84.95767
Number of cases that have been resolved during the last one year	278	2	350,000	5,920.263	33,089.57
Number of cases at hand but pending	276	0	9,000	1,132.188	1,168.35

Source: Author's calculations.

Table 24: Descriptive Statistics of Lawyer's Survey

	N	Minimum	Maximum	Mean	Std. Deviation
Approximate number of cases you have registered since the start of your career?	3,605	1	70,000	842.85	2,401.281
Number of cases that have been resolved.	3,506	0	91,000	545.7661	2,216.101
Number of cases pending as caseload.	3526	0	21,000	173.4728	550.3351

Source: Author's calculations.

Table 25: Descriptive Statistics of Litigants' Survey

	N	Minimum	Maximum	Mean	Std. Deviation
Gender Male Female	3,772 54% 30%	-	-	-	-
Current Income	2,977	23	800,000	52,015.68	51,143.22
What type of case did you file? Civil Criminal	3774 65% 20%	-	-	-	-
You participated in the court proceedings in the capacity of: Complainant Accused Plaintiff Defendant	3,790 7.5% 12.4% 46.8% 18.7%	-	-	-	-
Case type has 2 categories i.e., civil and criminal. Capacity is categorised in 4 ways, i.e., complainant, accused, defendant and plaintiff					

Source: Author's calculations.

Table 26: Comparative Descriptive Statistics for Age Analysis of Judges, Litigants, and Lawyers

Age Bracket	Judges	Litigants	Lawyers
	Percentage		
Below 30	43.5	20	32.1
31-40 years	44.5	37.6	44.8
41-50 years	7.6	24.1	16.1
51-60 years	1	10.7	4.9
Above 60 years	0.7	7.6	1.3

Source: Author's calculations.

Table 27: Comparative Descriptive Statistics of Field of Expertise Analysis of Judges, Litigants and Lawyers

Field of Expertise	Judges	Lawyers
	Percentage	
Civil	33.6	32.6
Criminal	40.5	25.4
Both	20.3	8.3
Other[15]	2.7	32.2

Source: Author's calculations.

[15] 'Other' includes rent cases, criminal revision, civil revision, and bail applications.

Table 28: Comparative Descriptive Statistics for the Experience of Judges and Lawyers as Bar Members

Experience As a Bar member	Judges	Lawyers
	Percentage	
less than 5 years	54.8	30.1
5-10 years	27.6	38.2
11-15 years	4.7	17
16-20 years	0.3	7.5
more than 20 years	1	5.3

Source: Author's calculations.

Appendix I

Table 29: Sample of Judges

	Population		Stratified Random Sample
District	Frequency	%	Frequency %
Lahore	251	50%	150
Rawalpindi	81	16%	50
Multan	66	14%	40
	499	100%	240

Table 30: Sample of Lawyers

	Population		Stratified Random Sample
Districts	Frequency	%	Frequency
Lahore	12,970	40%	2,000
Rawalpindi	7,212	22%	1,112
Multan	5,108	16%	788
	32,373	100%	3,900

Table 31: Total Litigants

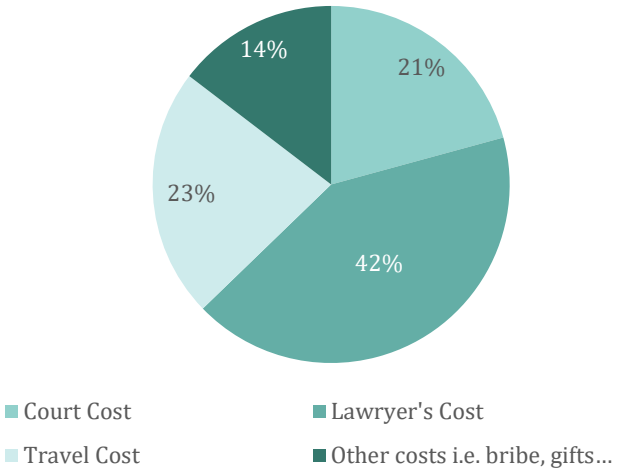
	Population		Stratified Random Sample
Districts	Frequency	%	Frequency
Lahore	22,5791	51%	2,560
Rawalpindi	72,150	16%	820
Multan	63,586	14%	720
	441,300	100	4,100

Table 32: Sample of Litigants by Case Type

	Population		Stratified Random Sample	
Districts	Civil	Criminal	Civil Sample	Criminal Sample
Lahore	164,499	61,292	1864	693
Rawalpindi	53,702	18,448	608	209
Multan	47,853	15,733	542	178
	317,588	123,712	3,014	1,080

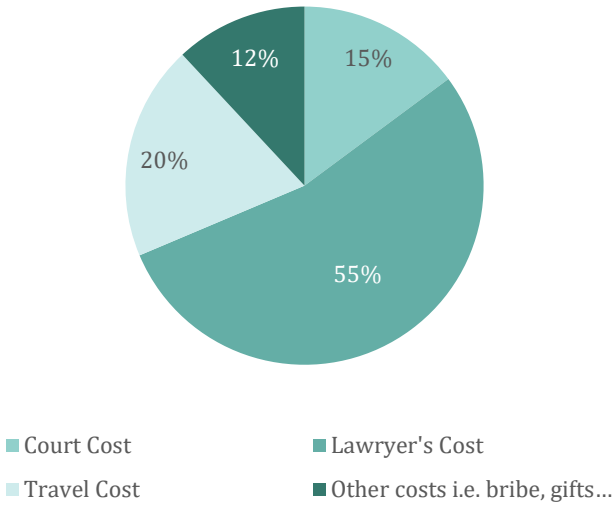
Appendix J

Figure 64: Cost Analysis of Civil Cases



Source: Author's calculations.

Figure 65: Cost Analysis of Criminal Cases



Source: Author's calculations.

INVESTIGATING THE PROCEDURAL, INSTITUTIONAL, AND CIRCUMSTANTIAL IMPEDIMENTS LEADING TO THE DELAY IN DISPENSATION OF JUSTICE

Ahsan Jamal Pirzada, Tanees Fatima, and Muhammad Adil

ABSTRACT

The paper explored the procedural, circumstantial, and institutional barriers that lead to backlogs in the administration of justice. It examined national and international reforms and their success in improving the judicial system. Additionally, to achieve the objective of this study, a review of cause lists and order sheets was conducted. Key informant interviews with legal practitioners, academics, and judicial professionals were also conducted to develop a model procedure that may be able to address the issues of delays in the adjudication of civil cases. Moreover, this paper also examined the judicial models and reforms in various countries, including the United Kingdom, the United States, Canada, and Australia, to identify and propose an optimal solution to the existing problem. The paper recommends a complete overhaul of the Code of Civil Procedure, 1908, and advocates for the automation of court processes, active case management, and the establishment of an independent body of observers to evaluate the performance of the judiciary.

1. PROLOGUE

Current State in Pakistan

Mounting judicial backlog and delays are long-standing problems that have been plaguing Pakistan's justice sector for several decades. According to the latest statistics provided by the Law and Justice Commission of Pakistan, there are about 2 million cases in pendency with some cases taking up to 20 years to be resolved. The problem is particularly acute in the lower courts where a lack of appropriate resources has led to 82 per cent of pendency being attributed to the District Judiciary (LJCP, 2021b). It can safely be stated that the major driving force behind this issue is the Code of Civil Procedure (CPC), 1908, which is not only an anachronistic relic inherited from the British Raj but also suffers from piecemeal amendments that lack a systematic policy framework that would allow them to be implemented seriously.

In light thereof, this research paper aims to demonstrate how overburdened the civil justice sector is in Pakistan by providing a review of cases showing excessive workload and other impediments faced over the course of proceedings. The paper also provides a breakdown of the civil procedure as-is to identify the bottlenecks and loopholes that allow the prevalence of dilatory practices at various stages during the life cycle of a civil trial, leading up to its disposal. An examination of cause lists and order sheets has also been conducted. Finally, this research paper, by drawing upon the findings from the aforementioned and in conjunction with responses from key informant interviews of prominent legal professionals, members of the judiciary and experienced academics, attempts to propose a model procedure which, if implemented, could significantly reduce the caseload and streamline the procedural landscape governing various stages of a civil trial.

Reasons Behind Delay

Judicial backlog and delay are multifaceted issues with a range of stimuli leading to the sustenance of the current adverse scenario Pakistan finds itself in. However, since delays within

courts and connected judicial backlog remain an international issue, affecting nearly every country in the world, (Hazra & Micevska, 2004) the said stimuli have been illustrated through academic discourse and research. The question then is, what are these said stimuli? They can be attributed to judicial, societal, and procedural causes. To best communicate their effect on the prevalence of backlog and delay, each is discussed individually.

Judicial factors mostly pertain to certain corrupt practices within the subordinate judiciary, with court staff being highly susceptible to receiving gratuity/bribes in return for either delaying or expediting cases (NAB, 2002). It may not come as a surprise that this has created a hostile attitude towards the court and has resulted in people losing confidence in the justice system as it stands. Beyond this, judges also suffer from the issue of regular transfers (Iqbal, 2006), due to which the cases are abruptly interrupted and the newly transferred judge needs additional time to acquaint themselves with the case and repeat certain important procedural requirements (Alam, 2010). These factors have a compounding effect on increasing delay and pendency.

Social factors mainly concern the attitudes of the legal fraternity towards cases and the connected attitudes of judges. This issue is most prevalent in the case of adjournments where lawyers have shown a tendency to apply for adjournments on frivolous grounds (Siddique, 2010) and, correspondingly, judges have a "blanket" approval approach to such applications (Feeley, 1992). It may be highlighted here that, most of the time these adjournments are granted at the request of clerks, appearing on behalf of the lawyer(s), engaged in the case before the concerned court. This symbiotic ignorance of the speedy dispensation of justice remains one of the major causes of delay.

Moreover, social factors also extend to the evidence phase where witnesses called are usually found to be in

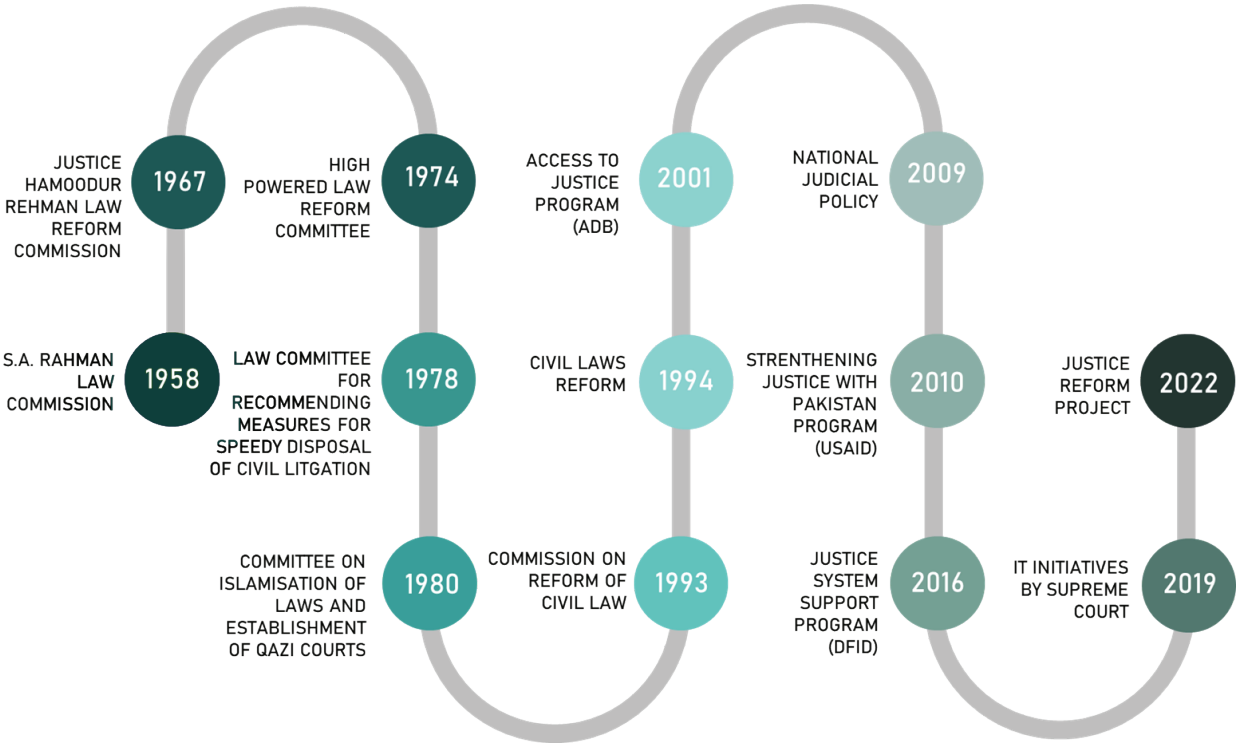
complete repudiation of court orders for them to come in for evidentiary hearings, which leads to circumstances where the evidence phase, on average, takes twice as long as the rest of the steps of the case (Asia Foundation, 1999). The foregoing may be attributed to the piecemeal basis for summoning witnesses, which results in some witnesses being heard months apart (ADB, 2003), leading to lawyers requiring additional adjournments to prepare their cases. It is imperative to note that, at times, this is done on purpose as a part of a well-thought-out strategy by the lawyers to cause further delay to appease their respective clients.

The root of all these problems can be found in the procedural deficiencies found within the CPC. These deficiencies result in the above-mentioned issues and many more. Hence, a separate section has been allocated to discuss the overall effect of a procedural law regime which is lacking as well as a discussion of its problematic application.

2. ATTEMPTS AT REFORM

This section looks at various national and international reform efforts to develop a contextual understanding of what considerations must be taken into account to ensure the success of future policies and initiatives.

Figure 1: Major Reforms Through the Years



Source: Authors' compilations.

National Efforts for Reform

With the promulgation of the Ordinance (LXXI) of 2002, the National Judicial Policy Making Committee (NJPMC) was established as the apex judicial forum for formulating policy for improving the capacity and performance of the judiciary. The Committee is headed by the Chief Justice of Pakistan as Chairman with the chief justices of the

Federal Shariat Court and the High Courts as members. Since its inception, the NJPMC has been responsible for, inter alia, collecting data on the institution, disposal, and pendency of cases in the courts as well as monitoring and setting standards for performance in the judiciary. Its functions also include coordinating, harmonising and ensuring the implementation of judicial policy (LJCP, 2021a).

In 2003, the NJPMC approved an 'Automation Plan' for the judiciary and accordingly, the National Judicial Automation Committee was constituted for its implementation. The plan proposed the replacement of the courts' manual information management system with a computerised one. The idea was to develop case flow management software for the automated tracking of institution/disposal of cases and the generation of electronic cause lists. The system was also envisioned as a tool for monitoring and evaluating judicial performance and complaints as well as a research and reference system (LJCP, 2004). However, since 2003, there has been limited progress in terms of automation as courts continue to manage cases manually and most efforts on this front have been piecemeal, limited in scope, or not being appropriately taken advantage of due to a lack of awareness and training.

The Law and Justice Commission of Pakistan (LJCP), in an attempt to provide an opportunity for all justice sector stakeholders to come forth and deliberate upon recommendations for reform, began hosting annual National Judicial Conferences from 2007 onwards. The said event is often attended by judicial officers, representatives of the bar, academics, and other prominent figures in the legal industry and has covered topics surrounding clearance of backlog, legal education, ADR, automation, and the eradication of corruption (LJCP, 2022). While the intent behind the initiative is certainly admirable, little of what has been discussed has been translated into real change.

In a 2008 report by the International Crisis Group, it was noted that the judiciary of Pakistan was suffering from not only a severe shortage of judges but the superior judiciary was also not willing to hold the subordinate judiciary appropriately accountable. As a result, most judges had to take up excessive caseloads even though an efficient system required that no judge had more than 300 cases in their file, which meant the quality of judgments often suffered. Furthermore, while lower court judges were often reprimanded by the superior judiciary for inefficiency and misconduct in the form of corruption, they were seldom held accountable even though the High Courts' revisional jurisdiction would allow them to take action on unfair proceedings. The NJPMC has also acknowledged that there was a pressing need for the superior judiciary to increase its monitoring of the lower courts (ICG, 2008).

Moreover, the National Judicial Policy 2009 (amended in 2012) (NJP) was formulated with the objective of reducing the judicial backlog, establishing timelines for civil and criminal proceedings, eradicating corruption, and incorporating modern technologies and techniques to increase judicial efficiency. However, in the years that followed its publication, very little implementation was seen concerning the objective of expeditious disposal of civil cases. For example, the policy recommended that there be a 4-month timeline for rent cases along with guidelines on how to make that possible, however, to date, there has been no such initiative. Moreover, even in the case of family disputes, where a 6-month timeline was established under s.12A of the Family Courts Act 1964, a study in 2021 showed that approximately a third of all family cases take over 6 months to be resolved (Munir, 2021). Reflecting on the achievements of the NJP, Sara et al. (2018) noted that the NJP had failed to meet any of its objectives and was essentially just another document without any real implementation. The primary precipitating factors leading to this outcome included weak political will, lack of appropriate training and development of judicial officers and lawyers, and a legal culture that is resistant to change

Notable efforts towards automation in the lower courts were made by the Sindh High Court which developed the Case Flow Management System for District Courts (CFMS-DC) in 2011. The system was later adopted by Balochistan and Islamabad and partially adopted by Khyber Pakhtunkhwa. The Punjab High Court resisted its adoption based on the reservations that the system's data would be stored in servers in Sindh but later implemented the case management system. Despite these initiatives, the LJCP acknowledged that automation in

the justice sector was still suffering from fundamental issues such as lack of a foundational policy, poor intra-sector and inter-provincial integration, patchy implementation and volatile administrative will (LJCP, 2016). The result of such a half-hearted implementation is that since the 2003 Automation Plan, the full potential of IT systems in reducing delays and resolving backlogs has yet to be reached. On the other hand, turning to the Supreme Court where the judiciary has been relatively proactive in the implementation and use of case management systems in recent times, a marked reduction in backlogs has been observed minimising the caseload from 54,735 to 52,450 cases in February, 2023 alone (Supreme Court of Pakistan, 2023).

As depicted in Figure 1 above, there have also been several Law Commission Reports through the decades that attempted to effect systemic reform in the existing legal regime, however, many of them have remained either inconsequential or found their recommendations later withdrawn due to poor reception from the public or legal profession. An example of this was the Law Reform Commission of 1958 which, under the chairmanship of Mr. Justice S. A. Rahman, proposed radical changes to the CPC. However, by 1962, most of the amendments were withdrawn as the litigants and members of the bench and bar had become accustomed to the technicalities of the existing procedure. Needless to say, to a certain degree, such resistance to change continues to be reflected in legal culture even today. An increase in the number of judges, courtrooms, and better working conditions was also a common recommendation that was regularly ignored[1] and, to date, many vacancies remain vacant against various judicial posts in the country, further compounding the problem of an understaffed judiciary (LJCP, n.d.).

Most recently, in 2022, the Islamabad High Court launched the Justice Reform Project (the "JRP") intending to transform the existing justice delivery system in the Islamabad High Court and District Courts, within the capital territory. The project was proposed to kick off with a 10-week diagnostic study providing for a Charter of Key Reforms and a Transformation Roadmap which would inform a 5-year transformation program in 12 identified reform areas including the development of an institutional framework for ADR, case flow management, organizational redesign etc. The JRP currently has approved funding of approximately PKR 310 million for 3 years, courtesy of the Departmental Developmental Working Party (Islamabad High Court, 2022). The project appears promising in that it is heavily focused on not just diagnosing the problems but also on operationalizing and implementing practical reforms. However, transparency, accountability and political will shall remain the major determinants of the JRP's success. If the project is successful, it could stir the much-needed overhaul of our colonial justice sector, not just in the capital but across the country.

International Efforts for Reform

Considering that judicial efficiency has a direct bearing on the economic growth of a country, and Pakistan being a nation rich with economic potential, many international bodies have tried to aid Pakistan in its battle against case pendency. The foremost of these efforts was the "Access to Justice Program" launched by the Pakistani Government with funding and aid from the Asian Development Bank (ADB) in 2002 (ADB, 2008). The funding amounted to USD 350 million in the form of a loan (ADB, 2008). The project focused on three urban centres in Pakistan with the highest case rates, namely, Karachi, Lahore, and Peshawar (Chemin, 2009).

The project took ten judges from each of these areas (seven civil and three criminal) and put them through three different steps, the first being the sending of said judges to Singapore to learn from its "state of the art" subordinate courts. This was followed by workshops on case management at the Judicial Academy. Lastly, a bench/bar liaison committee was established in each pilot district to monitor operations and develop and organise regular meetings and workshops (Chemin, 2009).

These activities accrued a cost of USD 3 million (Chemin, 2009), which did not even account for one per cent of the total aid awarded. There is also no financial breakdown available online to illustrate where the rest of the

[1] For further information on the European Commission for the Efficiency of Justice (CEPEJ) see COE (n.d.).

funding went. Though the project was fruitful within the ambit of the courts of the judges it took on as its subject (Saeed, 2020), the overall effect on pendency was negligible: when the project started the pendency was at 1.2 million cases (Armytage, 2003), while the pendency stands at more than 2 million cases (LJCP, 2021b).

Another notable result of the project was the publishing of court statistics (Saeed, 2020). However, the said statistics were not analysed and hence are difficult to appraise as a reflection of the judicial system. Moreover, the project also improved courthouses, increased the number of judges, and improved the benefit packages judges receive (ADB, 2008). However, there was no data published to illustrate what effect these steps had on court efficiency.

The narrow scope of the training aspects of this project, focusing on select districts and, even within those districts, on select judges meant that the project focused too much on training individuals rather than creating long-standing remedies within court institutions. Beyond that, the other aspects of improving judges' work and living standards as well as the publishing of statistics were too sporadic and open to interpretation, lacking any justification or analysis to conclusively reflect a positive effect on pendency.

Further collaborative attempts have been made in recent times, an example of which is the "Rule of Law in Pakistan Programme 2016," a project in which the Pakistani government collaborated with the UK government along with the Department for International Development (DFID) (DFID n.d.). To this end, the UK government awarded Pakistan a sum of 9.98 million pounds for stability and prosperity. Among its many proposed outcomes, the programme also aims to improve cross-institutional standards by improving professional standards (DFID n.d.). Importantly, the programme was projected to be completed in March 2020 (DFID n.d.), but at the time of writing this paper, its findings, methodology, and results are yet to be published. This lack of transparency in programmes and projects means that their results remain immeasurable. Nonetheless, the steady increase in cases of pendency from 2013 to 2021 (LJCP, 2021b) does reflect that the intended results of the project were not materialised.

Pakistan has, over time. also ratified several international conventions the objectives of which are to ensure and nurture judicial efficiency. Paramount amongst these are the Bangalore Principles of Judicial Conduct 2002 and the Latimer House Guidelines 1998. The former in its Value 6 (Judicial Group on Strengthening Judicial Integrity, 2002) contains an undertaking for judges to be "competent and diligent," however, the entire value mostly contains moral and professional competencies a judge must have, which are not measurable outcomes. The latter, in a similar vein, also contains moral and professional competencies with the addition of the requirement for judges to keep up with the times for expeditious justice (Commonwealth Secretariat, 1998).

Conclusion

The overall picture that emerges from the above exposition is that reform efforts, both national and international, have had lacklustre outcomes in terms of expediting the dispensation of justice in civil courts. In fact, most of these efforts amounted to little more than comprehensive reports on the subject that spurred temporary and sporadic bouts of reform that were seldom meaningful (for example the ADB's Access to Justice Project and the NJP). Certain reforms, such as those relating to automation and digitisation, have been in the pipeline for decades, seeing only partial and halfhearted implementation, which has led to a gross underutilisation of its potential to optimise and facilitate effective case management. Lack of transparency and accountability is perhaps another limiting factor in that the subordinate judiciary is accountable only to the high courts and there is no independent observer that can audit its performance against an objective standard. While the independence of the judiciary is a priority, this also means that there are limited external motivators. This is reflected in the negligible impact of various international efforts and law reform commissions. There is a great need for a radical reimagining of civil procedure that allows for the institutional incorporation of automation and other modern procedural tools. However, this may not be possible in the absence of sustained institutional demand and acceptance of change. In

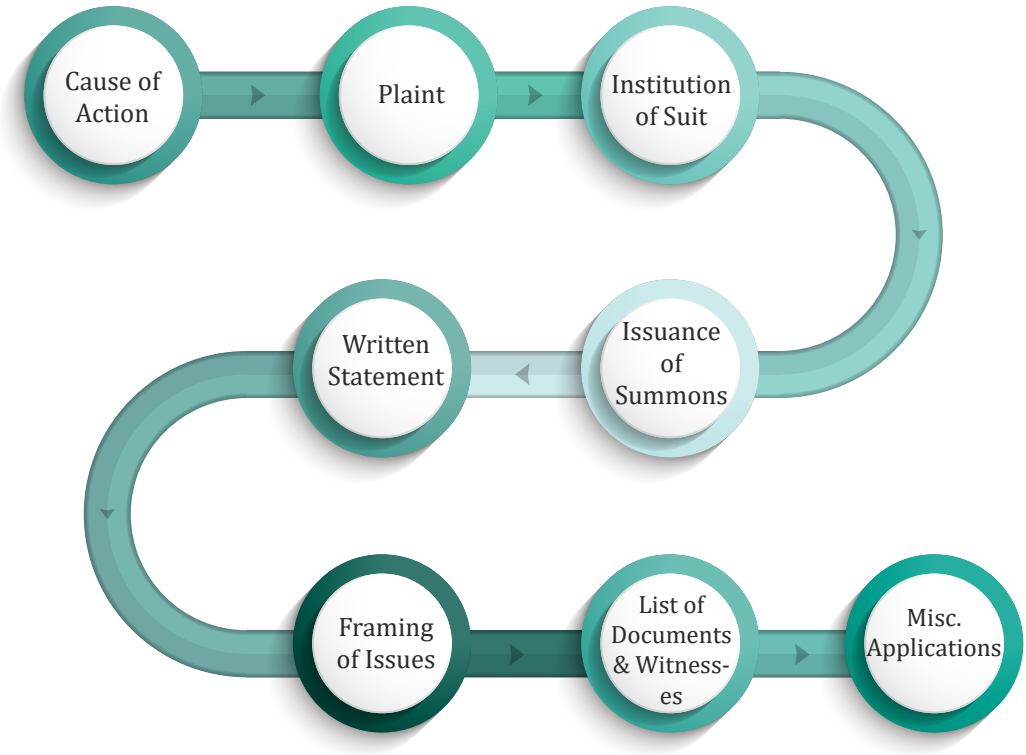
such circumstances, the bar councils and associations can play a pivotal role in not only regulating the industry and providing appropriate training to professionals but also in implementing policies keeping in view local concerns.

3. REVIEW OF CODE OF CIVIL PROCEDURE: PROCEDURAL SHORTCOMINGS

This section discusses findings from a detailed review of the CPC to identify key provisions that are either recommended to be updated and revised or repealed. These conclusions are drawn based on a diagnostic analysis of all relevant provisions (Orders I-XX, XXXVII, XXXIX) using various recognised commentaries, relevant case law and available literature as well as drawing from professional experience.

Pre-trial Phase

Figure 2: Snapshot of the Pre-Trial Phase



Source: Authors' Computations

The pre-trial phase consists of preliminary matters arising either at the time of the institution of a suit or shortly before the trial and evidence phases commence. This includes the identification of appropriate causes of action, jurisdiction (geographical and pecuniary), necessary parties, filing of plaint, subsequent issuance of summons, filing of written statements, framing of issues, and any relevant amendment to pleadings alongside filing of lists witnesses to be summoned by the court.

To this end, the first necessary part of any suit is establishing who the plaintiff and defendant shall be, commonly referred to as the parties to a suit. This is a necessary step as relief can only be sought by and sought from specific persons with interest in the suit. Impediments at this stage usually take the form of a party taking inordinate

liberties to request the impleadment/removal/substitution of all 'proper and necessary parties' at the expense of time and costs to the court and other stakeholders.

Starting with Order I of the CPC, which deals with parties to the suit, the roots of procedural delay regarding parties can be found in its rules. Importantly, Order I Rule 10 is, perhaps, the provision that is most exploited in this regard. The rule deals with the court's power to add, subtract or substitute any of the necessary parties to best decide the controversy in a case, if satisfied that the suit was instituted due to a bona fide mistake.

This rule can be enforced at any point of the suit (Muhammad Shaban v Malik Sher, 2007) and the court may exercise this jurisdiction of its own volition or through a relevant application (Order I Rule 10 (2)). The court need only be satisfied with a bona fide mistake, i.e., an unintentional error (Blacks Law) and the necessity of replacement of the necessary party for determining the real matter in dispute.

Due to the subjective nature of such applications and the fact that containing necessary parties is important for passing an effective decree (Vidur Impex Traders Pvt Ltd v Tosh Apartments Pvt Ltd, 2013), a suit can only proceed in the presence of such parties (Ghulam Sarwar v Province of Punjab, 1982). This means that many lawyers manipulate this rule by filing applications for the striking out or for the addition of parties, wasting the time and resources of the court. Moreover, if such an application is successful at a later stage of a case, it can mean a suit and its proceedings must start anew.

Once the parties to a suit have been decided, the next step in a suit is the issuance of a summons to the defendant, which is another phase where the procedure is often manipulated to cause further delays. The relevant provision for service of summons is Order V, therein, service may be made through three modes: personal service as per Order V Rules 12, 16 and 18, service by affixation as per Order V Rule 17, and substituted service as per Order V Rule 20 (Messrs Ark Garments Industry Pvt Ltd v National Bank of Pakistan, 2013). Service of summons is a considerable hurdle as where a service is ineffectual, mere knowledge of a suit is immaterial. For service simply serving a family member is also not sufficient unless the defendant has appointed them as their agent (Tahir Mehmood Afridi v Muhammad Dayar, 2011).

The current procedure, concerning the issue of summon, is erroneous as it works in steps, where at first, as per Order V Rule 10, the court orders service to be made in person, whereas if the defendant or their agent are not found at the address provided or the defendant or their agent refuse to sign the acknowledgement, a copy of summons is affixed to a conspicuous part of the property, whose address had been provided as per Order V Rule 17. It is to be noted that this is not usually the case as the common practice is for the courts to reissue summons multiple times, costing precious time and resources. Finally, if all else fails then the procedure for substituted service is followed under Order V Rule 20, whereby alternate methods may be used such as affixation as mentioned above, electronic mail such as fax, e-mail etc., courier services, or an ad in the press. According to Order V Rule 20, either one or all of these methods may be used simultaneously.

These steps waste time and lead to needless adjournments (Peshawar High Court, 1990) as the court is only empowered to deliver an ex parte decree if and where the court is convinced that the service of summons was done in a proper and timely manner. Moreover, the current situation of having to personally serve summons leads to added costs on the court. Additionally, judges often wait for an application under Order V Rule 20 to make an order for substituted service, however, judges are empowered to make relevant orders for substituted service without having received an application (Hassan et al., 2021), further wasting the time of the court.

Beyond this, another essential part of the pre-trial phase is pleadings, i.e., the plaint and written statement of the plaintiff and defendant, respectively. The provisions concerning pleadings are Orders VI, VII, and VIII of the CPC. Many problems arise out of pleadings, primarily regarding their amendment, the rejection or return of plaints and the striking off of the defence.

Order VI Rule 17 states that pleadings may be amended at any stage of the suit, with the leave of the court, to determine the real controversies in a suit. The only basis for rejecting such an application would be if the application is made due to mala fide (AIR 1940 PAT 555), i.e., any plea that is derogatory (Mumtaz Baig v Sarfraz Baig, 2003) or where an application is made with undue delay (AIR 1956 A 439).

Untimely amendments and frivolous applications for such amendments can lead to delays. Frequent amendments to written statements and plaints have been attributed as one of the leading causes of judicial delay (Alam, 2010) with 80 per cent of all applications under this provision being made to cause delays (Mohan, 2009). To remedy this, the Peshawar High Court Amendment of Order VI Rule 17 states that rather than the amendment of pleadings being allowed at any stage, it may only be allowed before the framing of issues. However, the effect this amendment has had is yet to be seen.

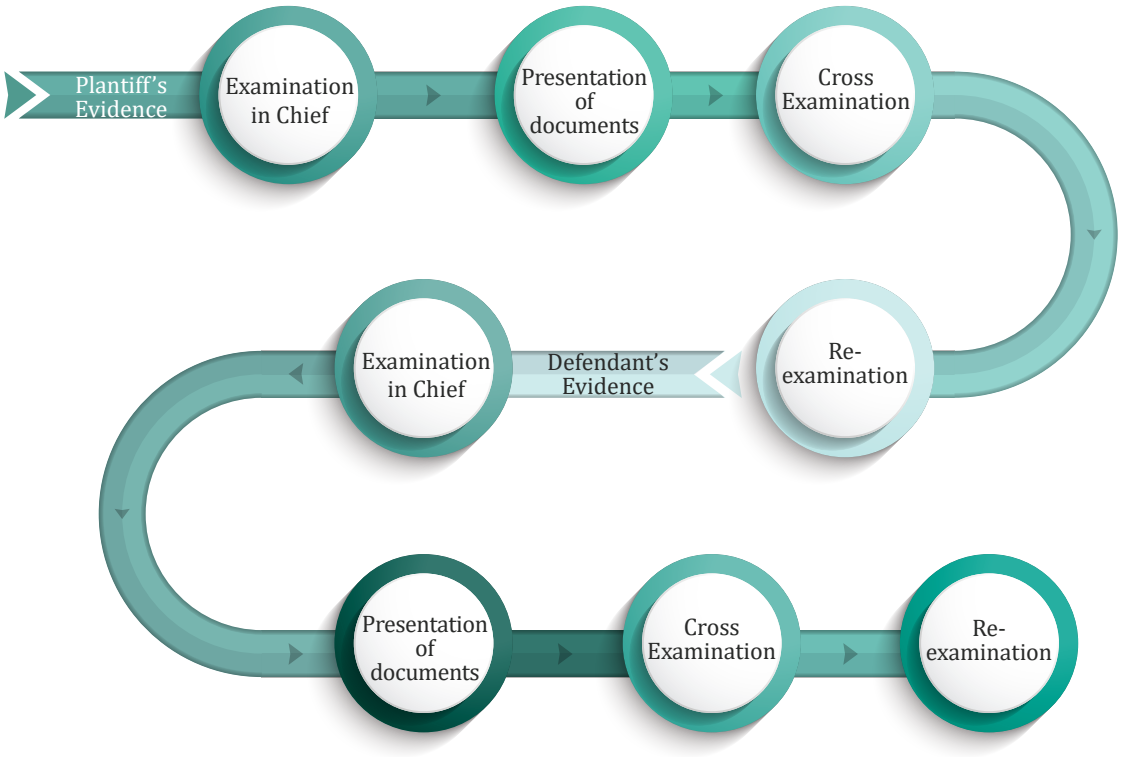
There are also issues that specifically apply to plaints and written statements individually. Concerning plaints, the first issue is the return of a plaint under Order VII Rule 10. This action can be taken by the court itself or through a relevant application. Return of plaint usually follows where the court does not have the correct jurisdiction to try a suit. Applications for the return of a plaint are often used as a dilatory practice, alongside applications made under Order VII Rule 11 for the rejection of a plaint, which is an application made based on either jurisdiction or improper filing of suit or no cause of action. It is claimed that, on average, 20 applications are filed in the lifespan of a suit leading to delays (Zaidi, 2017). Applications under these rules add to this number. To cause further delays, applications under Order VII Rule 11 are often appealed and further challenged in the High Court, which takes an average of two years to review and dispose of such applications. During this time, a suit cannot move forward in the district court leading to further delay (Zaidi, 2017).

The procedure for written statements is also used as a mechanism to create a delay. The relevant provision for written statements is Order VIII, Rule 1. It provides that a defendant has 30 days to file a written statement and no more than two adjournments will be granted for this filing. Failure to file the written statement within the given period activates Order VIII Rule 10, which empowers a judge to make an ex parte decree or any order the judge sees fit. The main problem here is that in most cases, more than two adjournments are granted for the filing of the written statement. A study by the Legal Aid Society shows that, on average, the period for filing written statements is 5.78 months far exceeding the 1-month time limit prescribed (Zaidi, 2017). It happens because as long as a lawful justification is provided, extensions may be granted for the filing of the written statement (Sarwas v State, 2017). Therefore, vague terms, such as lawful justification, and a lenient approach to the provision, along with the fact that the provision itself allows the court to make any order it sees fit rather than proceeding ex parte, are a leading cause for delay.

The proper institution of a suit is a necessary prerequisite for speedy disposal. The current scenario allows litigants to create halfway houses where a suit may be instituted but there is negligible substantive development. Such suits clog the judicial machinery by acting as a drain on public and private resources. For this reason, the language used to frame these procedural provisions must be altered to carry a more imperative connotation (as opposed to directory or discretionary). Section 5 further expands on potential solutions by putting forward a model procedure which posits a potential solution whereby institutional hiccups are handled by streamlining the procedure and allocating a responsible body for it.

Evidence Phase

Figure 3: Snapshot of the Evidence Phasea



Source: Authors' Computations.

The evidence phase comprises the considerations regarding the admissibility and weight of evidence at trial by way of examination of witnesses and documentary or other types of evidence. This stage reportedly takes twice as long as the other stages of a suit (Asia Foundation, 1999), which is partly due to the lax nature of witnesses who disobey summons, the court's tendency to grant an adjournment rather than enforce the summons (The Law Reform Commission of Tanzania, 1986) partly due to complex and confusing procedure attached to this phase, and a tolerant approach to the production of documentary evidence.

Regarding the production of documents, the first relevant provision is Order XII Rule 8, which provides the procedure for a notice to another party to produce evidence where it is relevant to the suit. Yet, there exists no provision for nonadherence to such a notice, meaning that necessary documents cannot be enforceably produced, this may lead to delay where such documents are necessary for the advancement of a suit. The subsequent relevant provision to produce documents can be found under Order XIII Rule 1, whereby a party must produce all relevant documents in their power on the first hearing of the suit. Rule 2 of the said Order further states that the court shall receive no documents in the parties' possession after the first hearing unless good cause is shown as to why such documents were not produced earlier. To this end, there is no hard and fast rule as to what good cause is it can be defined as any adequate, sound, or genuine reason (Shah Muhammad v Habibullah, 2020). Though necessary, this leniency opens documentary evidence to unscrupulous practices as there is no time bar for when such documents may be produced. This means that documents produced after the evidence phase may lead to the court having to reopen the evidence phase, which wastes time.

To remedy this, the Peshawar High Court Amendment of Order XIII Rule 1 provides an additional 30 days after the first hearing in which a party may provide supplementary documents. However, this only partially solves the issue as it still needs to create a time bar beyond which further documentary evidence shall not be entertained.

In addition to the aforementioned, the nonappearance of witnesses has been cited as one of the main reasons behind the delay (Nawaz, 2004). This leads to a trial being carried out on a piecemeal basis where certain witnesses are examined months apart. This goes against the principle of continuous hearing, making it difficult for all stakeholders in a suit to remember every witness statement (Sato, 2001). This leads to the need for more adjournments after the evidence phase to prepare litigant cases and to pronounce relevant judgements.

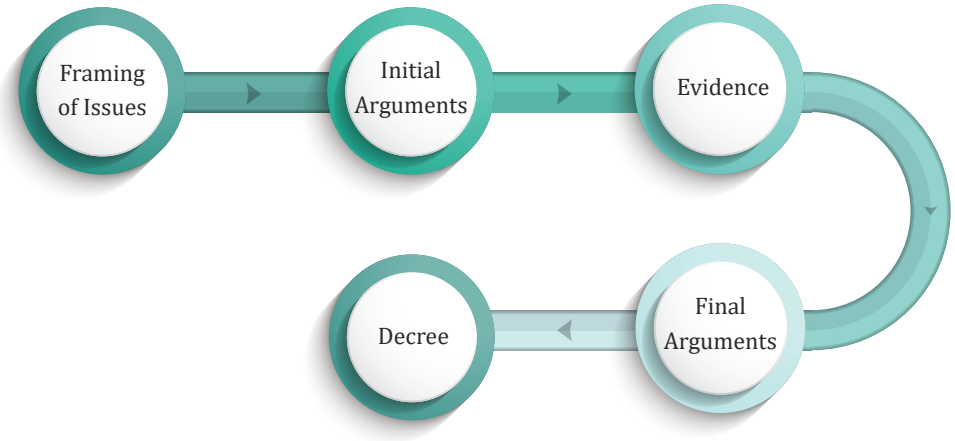
To combat this issue of nonappearance, the Code of Civil Procedure, 1908 contains three provisions. It has tried to reduce costs associated with the appearance of a witness by making provisions under Order XVI Rule 2 for the remuneration of witnesses so that witnesses feel encouraged to attend on time. The CPC has also made provision for the enforcement of attendance in Order XVI Rule 10, which empowers a judicial officer to issue a warrant for arrest in the name of a witness not complying with a summons to give evidence under Section 32 CPC. This, coupled with the PKR 2,000 fine a witness may incur under Order XVI Rule 12 for failing to appear in court or satisfy the court with their evidence, represents the right attitude towards witness compliance. However, unfortunately, these provisions are rarely applied as represented by the Legal Aid Society's research in the district courts of Larkana, which showed that, on average, the plaintiff's evidence alone took more than 9 months (Zaidi, 2017).

This can also be attributed to Order XVI Rule 1, which clearly states that a list of witnesses shall be submitted in court, at most, by the seventh day after the settlement of issues, and only witnesses named in the list shall be called for examination. However, it also says that additional witnesses may be called through an amendment to the list if a good cause is shown for the prior omission of the further witness from the list before. To remedy this, different jurisdictions have amended the rule. The Peshawar High Court Amendment extends the time for the initial list to 30 days after providing the list of witnesses. Still, it maintains that where an omission has been made, it may be remedied with the court's permission. On the other hand, the Lahore High Court Amendment allows other witnesses not contained in the list to be called for examination if good cause for the prior omission is shown. This is possibly to avoid procedural formality and to save time. These amendments reflect an ignorance of the real issue which is that there is no bar on the number of witnesses that can be called in a case, which has been referred to as one of the leading causes behind lengthy evidence phases (Vos, 2004).

While the concerns regarding open-ended and discretionary language are certainly carried forward in this and later phases in the life cycle of a trial, it must simultaneously be borne in mind that such flexibility is also important for carrying forward the interests of justice in a dynamic manner as the facts and circumstances of each case are undoubtedly unique. Therefore, while a complete overhaul of discretion (such as where inclusion of evidence at a later stage or re-examination of witnesses is concerned) may not be possible, there must be appropriate bars, such as bars on the maximum number of witnesses, to encourage a sense of urgency among litigants and the judiciary alike.

Trial Phase

Figure 4: Snapshot of the Trial Phase



Source: Authors' Computations

The trial phase is the most critical segment in the life-cycle of a case where issues are framed, arguments are made, and a judgment is passed. One of the main impediments faced at this stage is the nonappearance of parties (Chaudhry, 2011) and frequent adjournments by litigants not contested by the other side (Shah, 2017). This leads to many cases being dismissed for non-prosecution and, following that, often refixed due to lack of preparation by the counsels (8th Judicial Conference Pakistan). The Legal Aid Society's research in Karachi also showed that 37.7 per cent of the time the plaintiff was absent, whereas the defendant was absent 56.6 per cent of the time during the life span of a case (Zaidi, 2017).

The question then becomes, what provisions allow such blatant inefficiency caused by frivolous adjournments? Surprisingly, many provisions of the CPC empower the courts to deal with such situations. Foremost amongst these is Order IX Rule 3, which empowers (note, however, that it does not still require) the court to dismiss a suit where neither party appears. Following this Rule 8 of the said Rule also empowers (in this case, the provision is mandatory) dismissal when only a defendant appears, whereas if only the plaintiff appears. Rule 6 of the said Rule empowers an ex parte decree, subject to proper service of summons or any other relevant order. On the contrary, Rule 7 of the said Rule allows defendants to be saved from an ex parte decree so long as they can show good cause for their previous nonappearance. Good cause here simply being a justifiable reason which is wider than a sufficient cause (Muhammad Anwar v Mst. Ilyas Begum, 2013). Such vague and difficult-to-precisely-define parameters allow the judiciary considerable discretion in the management of case timelines.

This leeway within the procedure is often abused and most cases are adjourned. Order XVII Rule 2 specifically empowers the court to make an order for adjournment where both parties are absent. It also allows for adjournments during evidence even where sufficient time has been provided to parties to produce evidence as per Order XVII Rule 3. The party seeking an adjournment need only show sufficient cause. In a study conducted by the Legal Aid Society, it was shown that in an individual case, a total of 70 adjournments were applied (Zaidi, 2017). This behaviour subsists even in the presence of provisions for adjournment costs. However, save for rare examples, these are rarely enforced and judges provide blanket approval to adjournments (Feeley, 1983), with most adjournments being sought on frivolous grounds (Siddique, 2010).

It is evident from the above discussion that, once again, the relaxed language used to frame procedural provisions fails to adequately reflect the pressing need to expeditiously resolve cases. Even where the CPC itself provides for enforcement mechanisms, such as the dismissal of suit in case of nonappearance and orders for adjournment costs, the discretionary nature of these powers means that there is no impetus to move beyond default practices or keep in view the bigger picture when considering matters that affect case timelines. As a result, while there is certainly a need to update the procedural framework as a whole, such linguistic considerations must also be taken into account. Furthermore, any radical changes in the framework must be made in replacement of and not ancillary to the preexisting structure to guarantee that reform is taken seriously. This is to ensure that the implementation of critical reform efforts is not made dependent upon the justice sector, which, as discussed earlier, is liable to resist change as was seen in the treatment Order IX-B (KPK and Punjab amendments) which introduced concepts of active case management but has been largely ignored (see Section 5).

Costs

One of the most central enforcement mechanisms contained in the CPC is perhaps that of costs. According to s.35, the Courts have the full discretion to impose actual costs upon whichever party it deems fit and under s.35A, the Court is further empowered to impose special compensatory costs upon a party in respect of false or vexatious claims or defences.

Actual costs

The term 'actual costs' refers to all expenses borne on litigation including court fees, stamp fees, counsel fees,

process fees, or any other incidental costs. Black's Law Dictionary defines costs as the pecuniary allowance made to the successful party (and recoverable from the losing party) for their expenses in pursuing an action. This does not, however, take into account any actual injury to the person or their property which may be claimed via a separate suit for damages, and it is important that costs awarded are reasonable as opposed to nominal, fixed or unrealistic costs (Mehr Ashraf v Station House Officer, 2022).

The objective is to allow the successful litigant to secure their expenses and is not intended to penalise the unsuccessful party nor be a source of profit for the successful party (Abdur Rahim Sathi v Ghulam Sarwar, 2009). In theory, the provision also serves to deter frivolous litigation and encourage preaction settlement as the unsuccessful party would be burdened by not only its costs but also those of the successful party (Edwin Co LLP v Naseim Ahmed Sarfraz, 2022). However, it should be noted that despite the critical role of this provision in ensuring reasonable party behaviour, it has been woefully underutilised. This is partly attributable to the permissive language of s.35 which means that while judges certainly possess the discretion to make a costs order, need not feel compelled to do so as a standard practice. Furthermore, even though sub-section (2) requires judges to record reasons why they choose not to order costs, this is seldom seen in practice.

To remedy this, the Cost of Litigation Act of 2017 was brought into force in the Islamabad Capital Territory (ICT) which mandatorily required Courts to indemnify successful litigants. Following this and several recent judgments (Edwin Co LLP v Naseim Ahmed Sarfraz 2022 CLC 1064) in the Islamabad High Court, judges have reportedly started making cost orders on a routine basis (Ladha, 2022). Justice Babar Sattar asserts that it is the "right of the winning party" to be awarded costs (Edwin Co LLP v Naseim Ahmed Sarfraz, 2022). To further facilitate its implementation, the Act also requires parties to file a form with the details of the actual costs of litigation before the announcement of the final order/judgment/decree.

At the federal level, the Supreme Court reasserted the importance of imposing costs in the case of Qazi Naveed ul Islam v District Judge, Gujrat (2023 SCP 32). However, without the imperative language as provided by the Cost of Litigation Act of 2017, s.35, outside the ICT regions, it remains toothless.

Another salient feature is that, while normally it is the unsuccessful party that is required to pay costs, however, under the specific construction of s.35, the Courts are empowered to decide 'by whom' costs can be made, i.e., in special circumstances, an individual who is not a party to the proceedings may be ordered to pay costs. For example, in a case filed by a *benamidar*,[2] the real owner may be ordered to pay the costs of the successful party even though they were not a party to the proceedings (however, a party desirous of such should raise the point the Court so that the Court may implead such a stranger to the proceedings) (AIR 233, 1942).

Compensatory costs

Compensatory costs, like actual costs, are not intended to penalise an unsuccessful party and are separate from damages in that they do not take into account any actual injury to the party. Instead, they are merely provided to compensate an aggrieved party who has been unfairly strung along in a false or vexatious claim or defence in addition to any actual costs (Mehr Ashraf v Station House Officer, 2022) (Mehr Ashraf v Station House Officer, 2022).

The maximum amount that can be awarded as compensatory costs varies significantly from one province to another. KPK and Sindh still offer only PKR 25,000, whereas in Punjab and Balochistan, the maximum amount awarded can go up to one PKR 100,000 and PKR 1 million, respectively. The amount, as offered by KPK and Sindh, has remained unchanged since 1994, which means that taking into account inflation, the PKR 25,000 figure no longer remains commensurate with the original legislative intent. This problem was identified by the LJCP in

[2] According to s.2(9) Benami Transactions Prohibition Act 2017, a benamidar is "a person or a fictitious person in whose name the benami property is transferred or held."

2007 when they recommended, in their working paper, that the amount ought to be increased to PKR 50,000 (LJCP, 2007), but as has already been seen with most reform recommendations, this was largely ignored. The omission in the revision of this figure, all this time, further reflects the extent of neglect in the utilisation of costs as a procedural tool.

Notably, the amendment in the ICT by the Cost of Litigation Act of 2017 effectively restructures the framework for compensatory costs. Per the amendment, s.35A deals with adjournment costs which are to be imposed at no less than PKR 5,000 per adjournment unless there are unavoidable reasons beyond the control of the party. It should be noted that Order XVII, Rule 1 already provided the Courts with the discretion to impose costs, however, s.35A goes further in creating a mandatory requirement. Furthermore, the language of the new s.35A flips the starting position regarding adjournment costs to where Courts must impose adjournment costs unless there are appropriate reasons why this should not be done as opposed to leaving an open-ended discretion where Courts impose costs where the need for them is made apparent. This is a welcome initiative given that industry practice generally meant that costs were only imposed after several adjournments had already been granted, thus making the provision somewhat pointless in its objective of deterring dilatory practices or providing just compensation to the affected party (Haider, 2019).

S.35B, as added by the Cost of Litigation Act of 2017, provides for special costs in case of false or vexatious averments. In this version, there is no upper limit on the amount that can be awarded as compensation and in using the phrase "shall award special costs" as opposed to the prior, "may, after recording its reasons for holding such claim or defence to be false or vexatious, make an order…" it is perhaps once again intended to encourage the Courts to feel empowered in making such orders. Additionally, the Act also extends the use of these provisions to appeals which is another useful feature worth noting as previously this was not possible (Karim Dad v Mst. Shahzadgai, 2021). This has led to situations where appellate courts have been left powerless to impose costs even where there is obvious mala fide such as in the case of Sindh Industrial Trading Estates v Mst. Qamar Hilal (2001 SCMR 1680).

Interestingly, s.35C, which was also inserted, states that the Government shall not be liable for costs under the aforementioned section. The addition of this provision is concerning, given that not only is it a well-established precedent that the Government may be attacked with costs where it has acted with mala fide but also that the casual attitude of the Government in preparing reports or filing comments is a major source of delay in relevant proceedings. As such, the addition of this exception is manifestly against the interests of justice given that there is no conceivable public policy justification for condoning bad faith practices on the part of the Government (Haider, 2019).

Throughout the CPC, various provisions make specific reference to costs. These include:

- s.26A: it addresses the costs when seeking an adjournment to file a written statement.
- Order XI Rule 3. Costs of interrogatories.
- Order XII Rule 2 LHC Amendment: heavy costs for denying a document that is later proved in the trial.
- Order XII Rule 4: costs to be imposed where notice to admit facts is refused or neglected.
- Order XII Rule 9: costs where notice to admit or produce an unnecessary document.
- Order XVI Rule 12: a fine of up to PKR 2,000 where the witness fails to appear.
- Order XVII Rule 1: costs of adjournment.

The object of these costs is primarily to signpost to the Courts' opportunities to consider costs. However, beyond

that, these carry little applicability given the discretionary construction of most of these provisions.

Overall, the use of cost orders as a procedural tool for regulating reasonable party behaviour has remained a missed opportunity within the district courts of Pakistan. While the introduction of the Costs of Litigation Act of 2017, supported by the recent judgments from the Islamabad High Court, has certainly been a laudable effort in promoting the use of cost orders, there are still ways to go in firmly establishing it as a standard industry practice. Barring the questionable s.35C, it may also be worthwhile to expand the jurisdictional territory for the Costs of Litigation Act of 2017, to the other provinces as empowering the courts to impose costs through mandatory provisions is certainly the need of the hour. However, such an introduction can only be done if there exists legislative intent.

Alternate Dispute Resolution

The main objective in the administration of justice is to resolve a dispute by making the process cost-effective and resolving it without causing any delay (Jillani, 2012). However, in a state like Pakistan, courts are encumbered with a plethora of cases due to the archaic system in place which condemns litigants to prolonged litigation. Hence, many jurisdictions, including Pakistan, have attempted to incorporate Alternative Dispute Resolution (ADR) mechanisms to displace caseloads from the formal adjudication so that the use of the court's time and resources can be optimised.

There is no specific definition of the term ADR, but broadly it provides a range of alternatives to litigation available to resolve a civil dispute (Blake et al., 2016). Under the Alternative Dispute Resolution Act of 2017, ADR is defined as a method by which parties resolve a dispute other than adjudication by courts and includes, but is not limited to, arbitration, mediation, conciliation, and neutral evaluation (The Alternative Dispute Resolution Act, 2017) (The Alternative Dispute Resolution Act, 2017). Drawing focus towards mediation and arbitration, the former is a facilitation-based process that encourages parties to settle with the help of a mediator (Awan et al., 2019). In contrast, arbitration is a process where a dispute is contested and adjudicated upon by an arbitrator and the parties agree to be bound by the arbitrator's terms (Awan et al., 2019). The benefits of ADR in resolving civil disputes and then releasing its finances to the economy are known and real (World Bank, 2011). Its benefits can be summarised in the figure 5:

Figure 5: Benefits of ADR

Individual Benefit	Institutional Benefit	Private Sector Benefit
• Cost-effective redressal • Less time-consuming process • Swift Justice • No further litigation as parties reach an agreement consensually	• Improvement in the efficiency of courts due to a reduction in backlog of cases • Better access to justice through a variety of disput- resolution methods • Improved reputation of courts	• Creates a better business environment • Lower costs of enforcing a contract and resolution of disputes • Reinforces negotiation/mediation-based methods in businesses

Source: World Bank (2011).

Currently, in Pakistan, many laws encourage the use of ADR, i.e., The Arbitration Act of 1940, The Probation of Offenders Ordinance of 1960, The Small Claims and Minor Offences Courts Ordinance of 2002, The Local Government Ordinance, Family Law provisions, and so on. But for this research, the procedural laws that contain rules about dispute resolution are:

- The Code of Civil Procedure 1908 (Section 89A, Order IX -B, and Order X Rule 1.
- The Alternative Dispute Resolution Act of 2017.
- The Code of Civil Procedure 1908 (Sindh Amendment of 2018).
- The Punjab Alternative Dispute Resolution Act of 2019.
- The KPK Alternative Dispute Resolution Act of 2020.

In 2002, an amendment was made in the CPC wherein the resolution of disputes through mediation and conciliation became part of the law. The inserted section 89A provides that the Court may, when it deems necessary, with the consent of the parties adopt ADR for the expeditious disposal of cases. This means that it is the discretion of the court to make use of ADR after looking into the facts and circumstances of the case. Such provisions were also incorporated through the addition of Order IX-B and Order X Rule 1A of the CPC. However, after the 18th Amendment to the Constitution of Pakistan, when the provinces were empowered to make amendments to procedural laws, the province of Sindh specifically chose to insert section 89A wherein it provided that the Courts may use ADR to resolve civil and commercial disputes. It is pertinent to mention here that the said amendment defined the ambit of ADR methods and provides that it only includes mediation, conciliation, and negotiation. For arbitration, the rules of The Arbitration Act 1940 shall apply.

The law provides that the case is to be forwarded to mediation in the following cases:

- Upon consent of parties.
- Upon examination of the merits of the case, the court finds it beneficial for the parties to resolve the issue through ADR methods.
- At any stage even after the recording of admissions or denials, the court finds it beneficial for the parties to resolve the issue through ADR.

The court can then refer the case to ADR by issuing a notice to the parties to show cause as to why their case should not be referred to ADR. However, if there is no objection, the Court shall refer the case. The Alternative Dispute Resolution Act of 2017, is applicable in the Federal Capital, and it also recognises that certain civil matters can be referred to mediation. The Punjab Alternative Dispute Resolution Act of 2019, provides that the court shall refer the cases mentioned in Schedule I of the Act within 30 days of the appearance of the defendants. The Act further provides that the cases mentioned in Schedule II may be referred to at any time when the court deems fit that it can resolve the dispute through ADR. The time frame provided in the Act is 60 days, but in total, the proceedings of ADR cannot exceed 6 months in any case.

Moving on, Order IX-B Rule 1 provides that where no complex question of law or facts is concerned, the court may refer the same for mediation. While referring to the matter, the court may determine which issues are to be settled through mediation.

When the court refers the case for mediation, the parties have to appear before a mediation centre. After the mediation when parties reach an agreement, the mediator will certify that and submit it to the court.

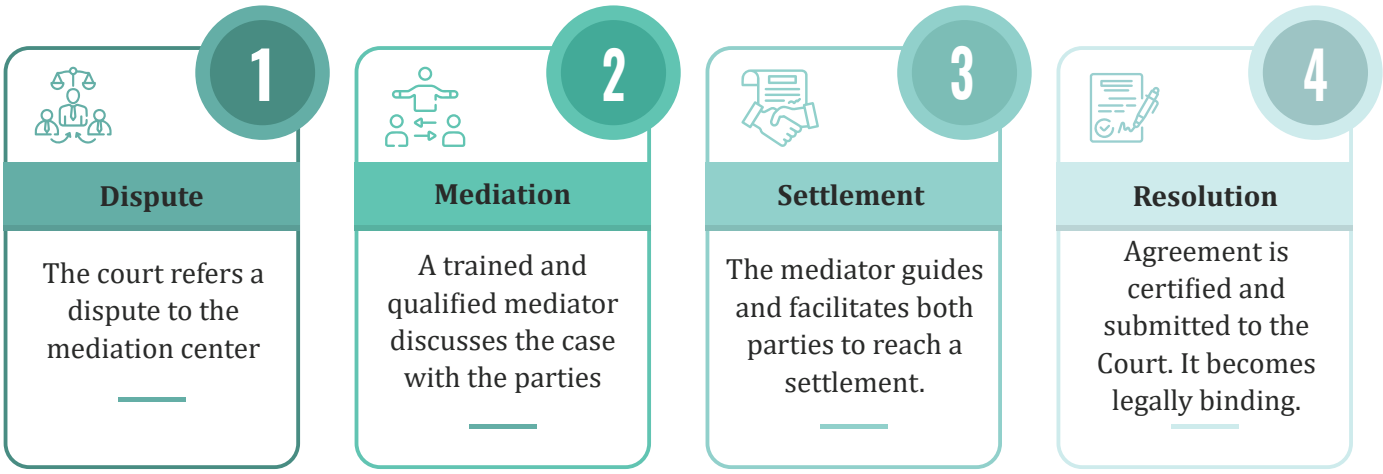
Order X Rule 1-A is very significant as it provides that the court can adopt any lawful procedure to conduct preliminary proceedings and issue orders or issue a commission to examine witnesses/documents for trial. The term 'lawful procedure' also includes in its ambit any other ADR method that the court adopts with the consent of parties to expedite the judicial process. The mediators for this process are nominated by the court under Order X Rule 1 C of CPC. The following organisations/persons can act as mediators or conciliators:

- Mediation Centres established or recognised by the Sindh High Court.
- A person who has been accredited as a mediator or conciliator by a certified organisation or a person who has undergone skill-based training of a minimum of 40 hours in mediation.
- Any judge who is certified as a mediator.
- Any other persons nominated by the parties are subject to the approval of the court.

These CPC provisions outline the whole contemporary concept of ADR methods in Pakistan. It has thoroughly explained the procedure of how and when courts can adopt these and provide speedy justice. On this front, the courts believe that as settlement of a dispute by parties is a recognised mode of dispute resolution, it would not only save the time of the court but also relieve parties of prolonged litigation (Dr Mrs Yasmeen Abbas v Rana Muhammad, 2005). In fact, it has been asserted that ADR methods are now universally accepted to be less cumbersome or time-consuming and hence courts should encourage such a fruitful and beneficial exercise (Messrs ALTSTOM Power Generation through Afaq Ahmed v Pakistan Water and Power Development Authority through Chairman, 2007).

In another case, the court provided that Section 89A not only allowed an alternate mode of resolution but also a preferred mode of resolution. (Nisar Khan and 7 others v Sawal Faqil and another, 2020). The idea is that in a state like Pakistan where the judiciary is so grossly overburdened, an effective ADR system carries the potential of significantly alleviating excessive workloads and providing speedy justice. The process as provided by the law is shown in figure 6.

Figure 6: The Mediation Process



Source: Authors' compilations.

The Constitution of Pakistan, 1973, in Chapter II 'Principles of Policy' explicitly made it mandatory for the state that it shall ensure inexpensive and expeditious justice. One of the features of ADR methods is that it is expeditious, and it allows for the adjudication of disputes without the hassle of litigation. However, the language of Section 89A makes it clear that it is the 'discretion' of the court that it may refer the matter to alternative dispute resolution. As a result, ADR is still viewed as optional rather than a point of first reference. It has also been observed by the Supreme Court of Pakistan that the rules relating to ADR provided in CPC were to give effect to Article 37(d) of the Constitution of Pakistan, but not much attention is being paid to them (Muhammad Sharif v Nabi Baksh, 2012). All this means that the courts have failed to reap the full potential benefits ADR has to offer.

In the Alternative Dispute Resolution Act 2017, it is provided that the court shall refer every civil dispute to ADR, however, exceptions are provided; for example, when a party does not agree to go for the ADR. This exception takes away from the effectiveness of the provision, therefore, the party which refuses to engage with ADR must suffer the cost of litigation even when it stands victorious in the trial. This will ensure that people opt for ADR and not oppose it unreasonably.

To make this method effective it is imperative that before litigation, in every civil dispute, it is made mandatory for every party to adopt ADR unless there are cogent reasons why this is not possible. This will then ensure the implementation of Article 37 (d) of the Constitution of Pakistan. To this end, The Punjab Alternative Dispute Resolution Act of 2019 has made it mandatory for courts to ensure that certain civil disputes mentioned in Schedule I should be referred to ADR within 30 days. This means that by law one can provide a general rule that all civil disputes should first proceed with ADR and then only exception should be given where it is extremely essential and not otherwise. This will ensure that mediation, conciliation, and neutral evaluation resolve disputes without litigation. This will be beneficial as courts' resources and time will be better allocated towards cases that need it the most. Furthermore, this will help the backlog of cases and also save the parties from spending time and money agonising over protracted litigation.

On the other end of the spectrum, there is the debate that ADR should not be made compulsory as it infringes on the basic human right of access to justice. However, this argument carries little weight because ADR does not preclude access to the courts, but rather should be viewed as simply the first step towards dispute resolution.

ADR in Pakistan

Though the amendment in the CPC regarding alternative dispute resolution was made in 2002, the courts have remained slow in the adoption of ADR. However, with time, this appears to be changing and significant work has been done in provinces and federal capital to incorporate ADR.

Punjab:

In Punjab, the Lahore Chamber of Commerce and Industry (LCCI) established a mediation centre in 2012. The main objective was to settle commercial and business disputes through mediation without litigation. A major development in this regard was that the Lahore High Court referred three cases to the LCCI (The Express Tribune, 2017) in 2017 for mediation. This was momentous as it showed that the courts were finally opening up to the use of ADR. Furthermore, the Lahore High Court established mediation centres as a pilot project in Lahore in 2017. Three mediation centres were established in Lahore with 'no litigation but reconciliation' as their motto. The project was so successful that in the same year, all 36 districts of Punjab inaugurated ADR centres in the lower courts.

Moreover, the province of Punjab gained so much from ADR centres that an ADR report of Punjab from June 2017 to 30th April 2021 indicated that the success rate of mediation of ADR centres was around 56 per cent (Imran, 2020). In a seminar," Mediation - A New Code of Adjudication" organised by The Asia Foundation and Kinnaird College Lahore, a district and sessions judge stated that 60 per cent of cases in District Chakwal are resolved by

ADR centres (Hussain, 2019). All these statistics indicate that with further encouragement from courts and public awareness, these ADR centres can prove to be very useful in ameliorating judicial burdens.

Sindh:

Karachi Centre for Dispute Resolution is considered to be the oldest mediation centre established with the consent of the Sindh High Court in 2007. Later on, it was renamed the National Centre for Dispute Resolution (NCDR), and it has reportedly been working efficiently as the centre has resolved civil disputes worth over USD 21 million and has trained more than 1,100 individuals in conflict resolution (Shamsi, 2017). Due to the success of NCDR, recently, in December 2022, 'Musaliha International Centre Karachi' and the Legal Aid Society (LAS) were also recognised by the Sindh High Court as approved ADR centres. Other than Karachi, ADR centres have also been established in Sukkur and Hyderabad.

Khyber Pakhtunkhwa:

The Jirga system has always been prevalent in KPK and tribal areas where, even after their merger with Pakistan, the system remains popular. These Jirgas are the source of mediation between the parties and their decisions are accepted and implemented. They are also the most prevalent form of out-of-court settlements in the tribal areas of Pakistan. In 2014, the KPK police established ADR centres in the province, however, the first codified law regarding ADR was passed in 2020 in KPK, i.e., The KPK Alternative Dispute Resolution Act of 2020. Apart from North Waziristan, the Act is enforced throughout KPK. The Act provides that a civil dispute can be referred by the relevant court, deputy commissioner or any other officer nominated by the government for alternative dispute resolution. Under this law, the *Saliseen* (mediators) Selection Committee will select mediators. These mediators can be engaged through the commissioner's office in 7 divisions of KPK, which include Peshawar, Mardan, Hazara, Malakand, Bannu, D.I. Khan, and Kohat. This is commendable progress on the ADR front which means that people can now engage with *Saliseen* (mediators) and resolve their issues without adjudication by the courts.

Balochistan:

The province of Balochistan still has not framed any parallel to the Alternative Dispute Resolution Act, hence, ADR methods are deployed under the Local Government Ordinance. This means that the government and the high court have yet to take any active steps towards the incorporation of ADR methods. It is quite alarming that while the provision of ADR has been recognised since 2002, still no work is being done to implement the same in the province.

Despite all that has been accomplished with reference to ADR, there is still room for improvement, and ADR must be established as a standard practice of the court. Balochistan still lags in the adoption of ADR methods and it is the duty of the state and courts to ensure ADR implementation there. In a recent development, a specialised course on ADR was developed by The Asia Foundation, which is currently being offered to undergraduate law students at the International Islamic University, Islamabad (female campus) and Kinnaird College for Women University in Lahore. Such initiatives can play a pivotal role in paving the way for mainstreaming ADR as they allow for the cultivation of a generation of legal professionals who are not only better trained on the subject but are also more amenable to welcoming such change and may encourage their respective clients to consider such alternatives.

Additionally, Section 8 of The Alternative Dispute Resolution Act of 2017 provides that parties can opt for ADR even before initiating legal proceedings. This can be done by giving an application to the court or ADR and then following the procedure provided by the law as outlined above. This process of referral of cases directly to ADR centres should be encouraged further in all other jurisdictions as this will help in reducing a lot of caseload from courts. Moreover, this practice will save the resources of the courts and save parties from bearing the costs of prolonged litigation. In all, ADR is an effective and reliable tool and should be mandatorily engaged before

initiating legal proceedings in most civil disputes.

Conclusion

This section has highlighted some of the overlapping issues within the Civil Procedure Code of 1908. As can be seen throughout the prior sub-units, many provisions already exist in the CPC to remedy many of the issues the judicial system currently faces. It is also apparent that these provisions are either grossly underutilised, mismanaged or are not completely in tune with the practical realities of what leads to the judicial backlog in the first place. Therefore, a system rewrite is required to jump-start the legal machinery and provide efficient and, more importantly, quick solutions to the backlog goliath. Hence, the next section explores just that, taking inspiration from success stories of backlogs around the world and melding them with the pragmatic reality which is Pakistani society.

Though many more issues exist within the legislation, the lack of empirical data and reliable research shortened the scope of this section chapter regarding this report. To this end, an examination of cause lists and order sheets was conducted (see below).

4. EXAMINATION OF CAUSE LISTS AND ORDER SHHETS

Cause Lists

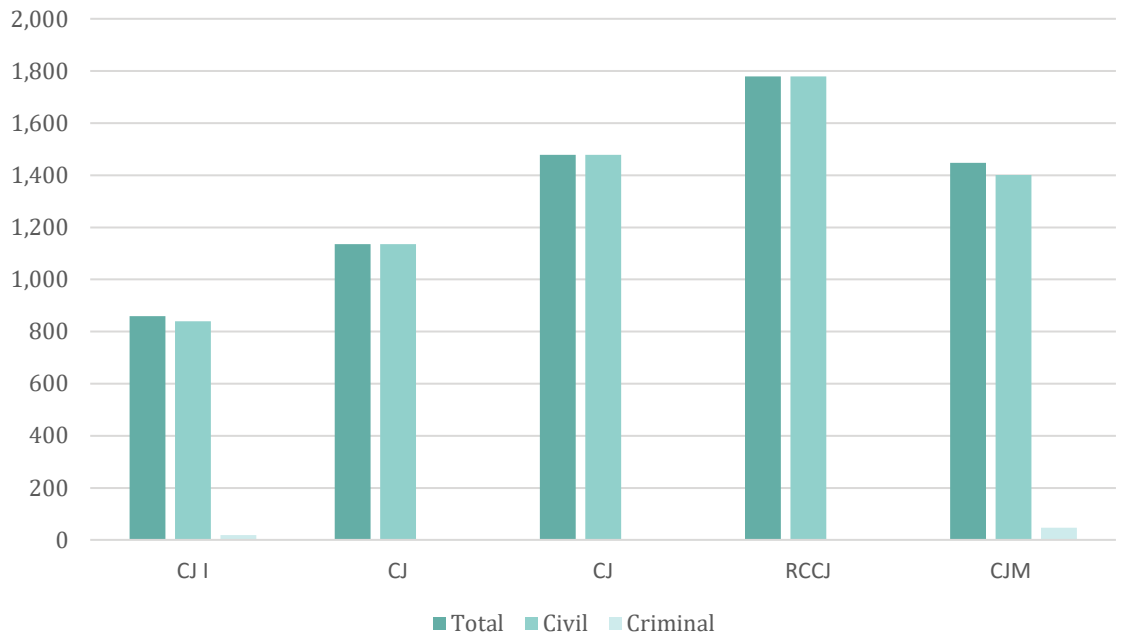
To ascertain the actual caseload judges, face daily, data was collected from the five major provinces in Pakistan, namely, the capital (Islamabad), Punjab, KPK, Balochistan, and Sindh in the form of cause lists from the courts of five Civil Judge Magistrates (CJM) from three separate districts within each province.

It is to be noted that, the cause list is a list of cases set for adjudication on any given day. These lists in the case of civil judges /Magistrates consist of both civil cases (which can be claims of unlimited pecuniary jurisdiction except in Sindh where a pecuniary jurisdiction of a civil judge is less than fifteen million rupees) and criminal cases (which are related to offences punishable to not more than 3 years and a fine not more PKR 45,000 and whipping).

The lists are, hence, an efficient marker to work out the daily workload a judicial officer faces. To this end, cause lists were sourced throughout January 2023 to gain a suitable efficacious sample size. Below are graphs that represent the caseloads of various judges as well as relevant findings and analysis.

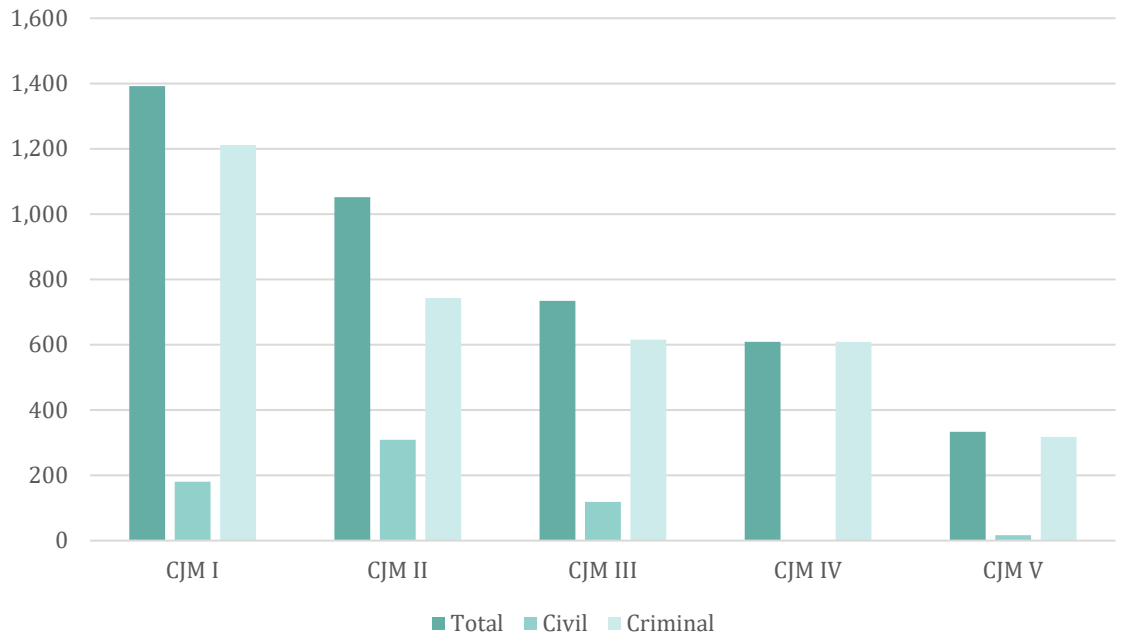
To further understand the effect of caseload, data was taken from the Law and Justice Commission Pakistan's annual reports and used to determine disposal, institution, and pendency rates. This information is depicted in the following figures.

Figure 7: Number of Cases Across 5 Separate Civil and Magistrate Courts in Islamabad West for January 2023



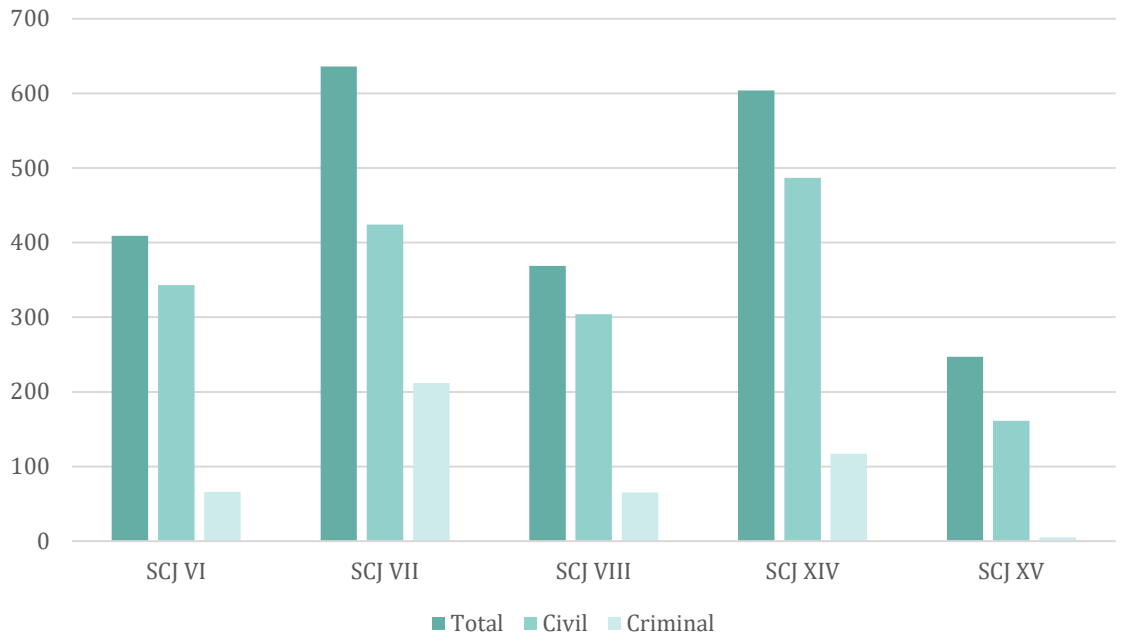
Source: Authors' Computations from Cause Lists of 5 Separate Civil and Magistrate Courts in Islamabad West.

Figure 8: Number of Cases Across 5 Separate Civil and Magistrate Courts in Karachi Central for January 2023



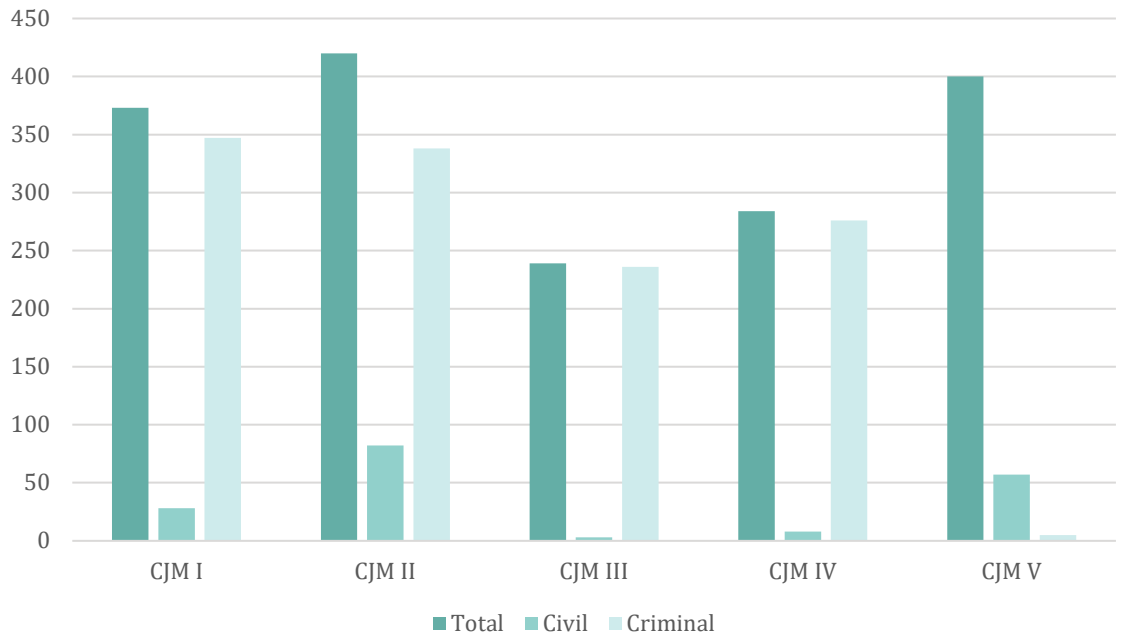
Source: Authors' Computation from Cause Lists of 5 Separate Civil and Magistrate Courts in Karachi Central

Figure 9: Number of Cases Across 5 Separate Civil and Magistrate Courts in Karachi West for January 2023



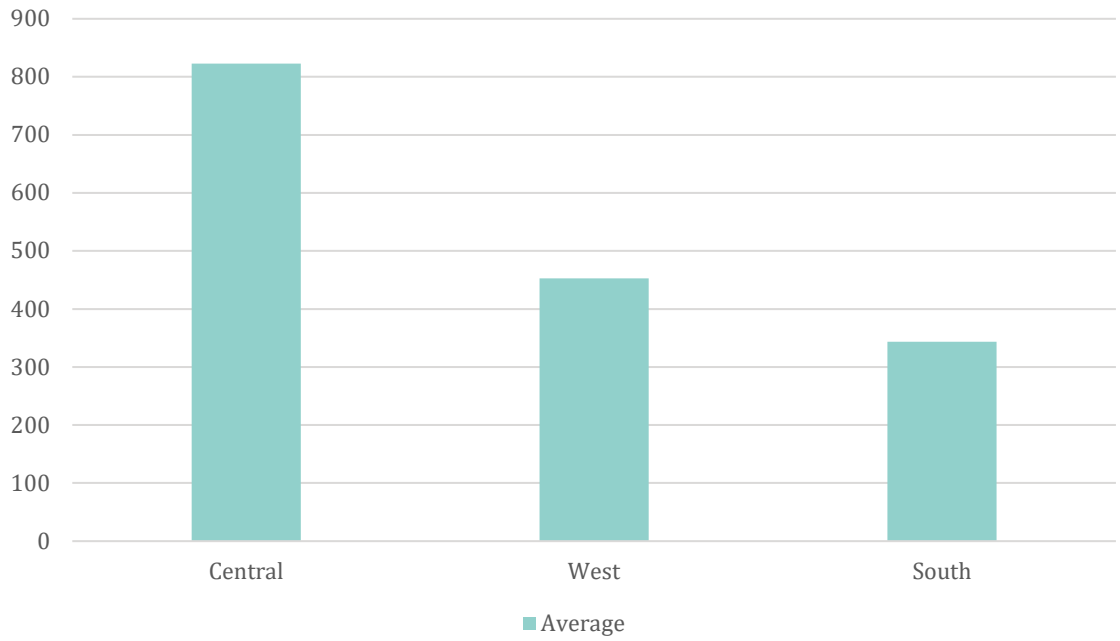
Source: Authors' Computations from Cause Lists of 5 Separate Civil and Magistrate Courts in Karachi West.

Figure 10: Number of Cases Across 5 Separate Civil and Magistrate Courts in Karachi South for January 2023



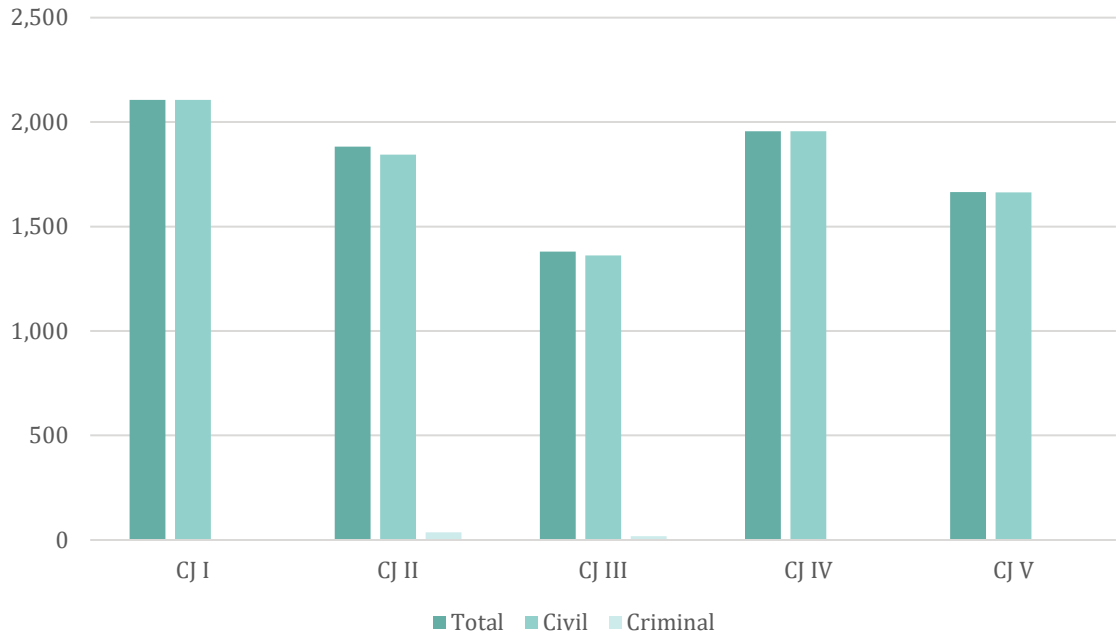
Source: Authors' Computations from Cause Lists of 5 Separate Civil and Magistrate Courts in Karachi South

Figure 11: Average Number of Cases Across Every 5 Courts in 3 Separate Districts of Sindh for January 2023



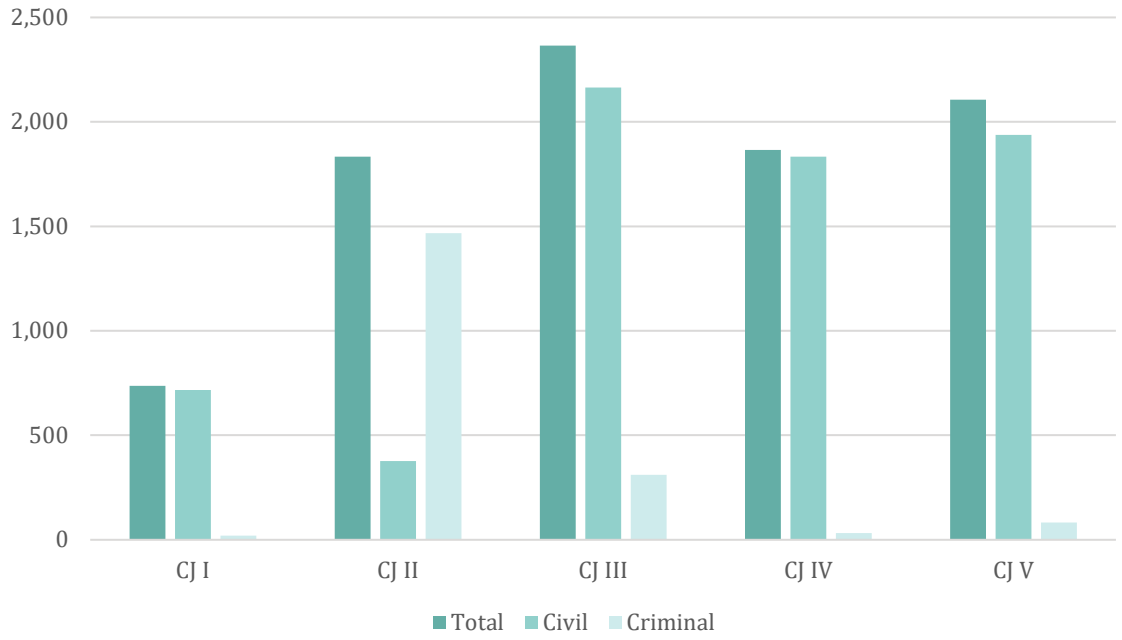
Source: Authors' Computations from Cause Lists of Every 5 Courts in 3 Separate Districts of South.

Figure 12: Number of Cases Across 5 Separate Civil and Magistrate Courts in Faisalabad for January 2023



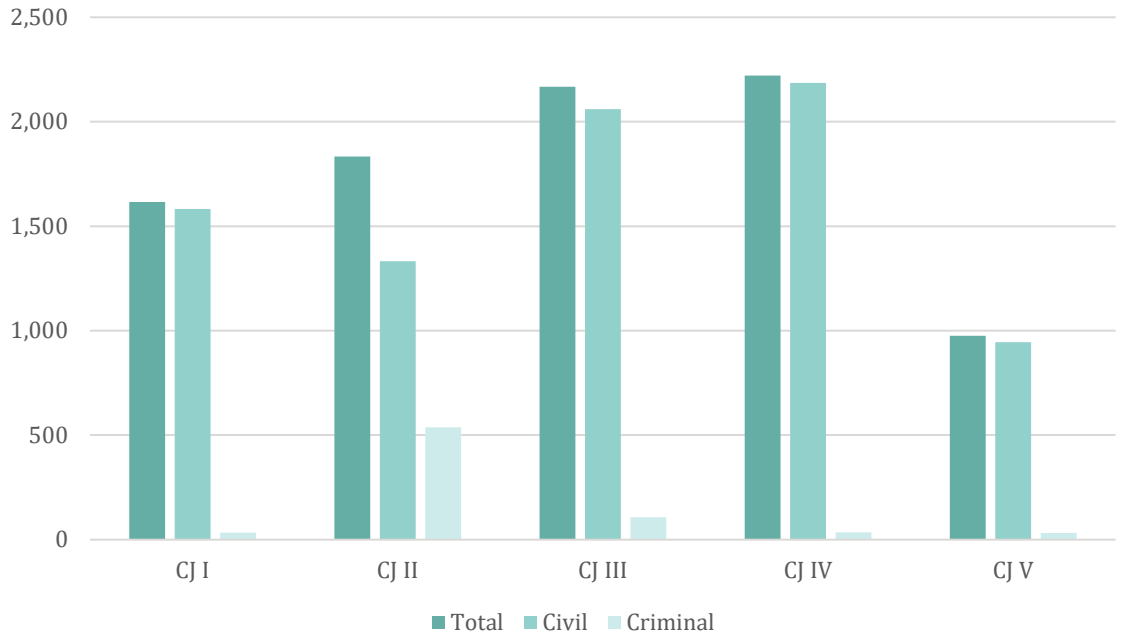
Source: Authors' Computations from Cause Lists of 5 Separate Civil and Magistrate Courts in Faisalabad.

Figure 13: Number of Cases Across 5 Separate Civil and Magistrate Courts in Multan for January 2023



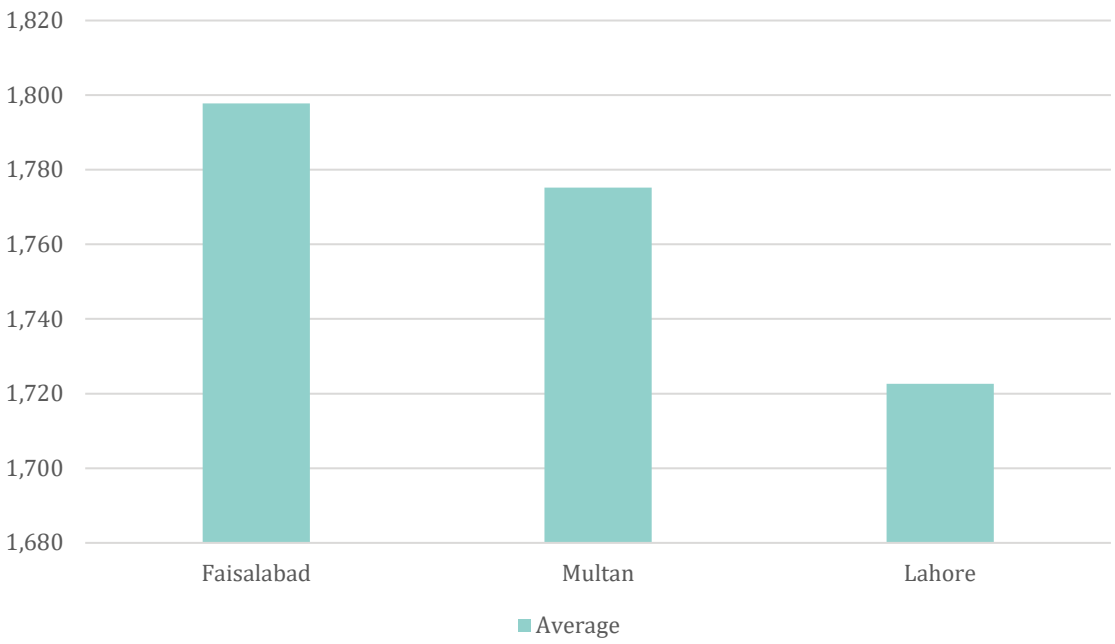
Source: Authors' Computations from Cause Lists of 5 Separate Civil and Magistrate Courts in Multan.

Figure 14: Number of Cases Across 5 Separate Civil and Magistrate Courts in Lahore for January 2023



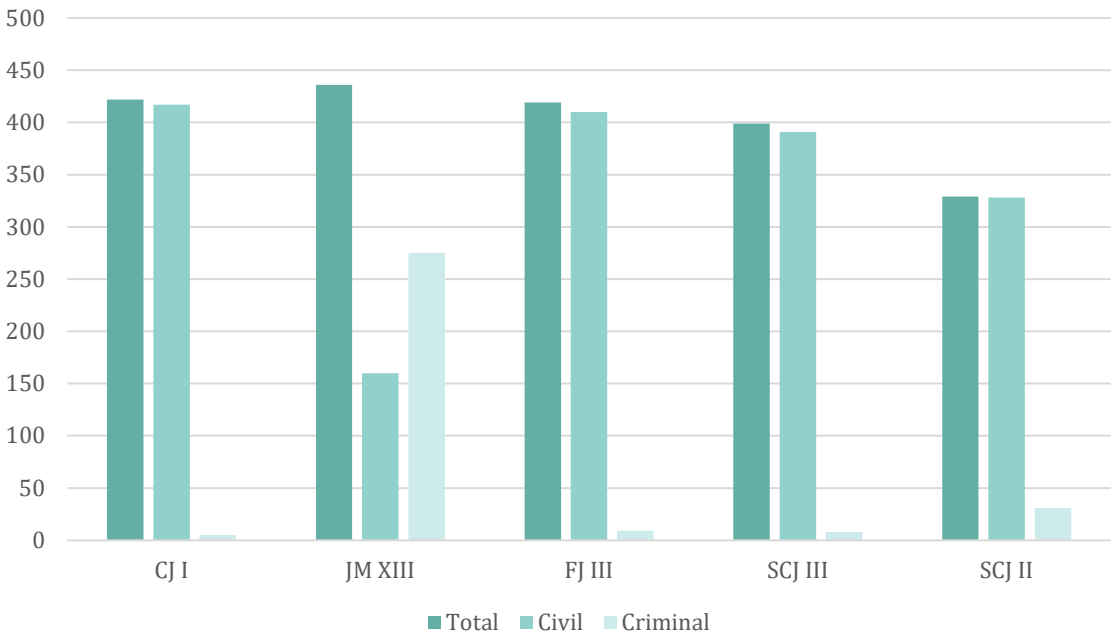
Source: Authors' Computations from Cause Lists of 5 Separate Civil and Magistrate Courts in Lahore.

Figure 15: Average Number of Cases Across Every 5 Courts in 3 Separate Districts of Punjab for January



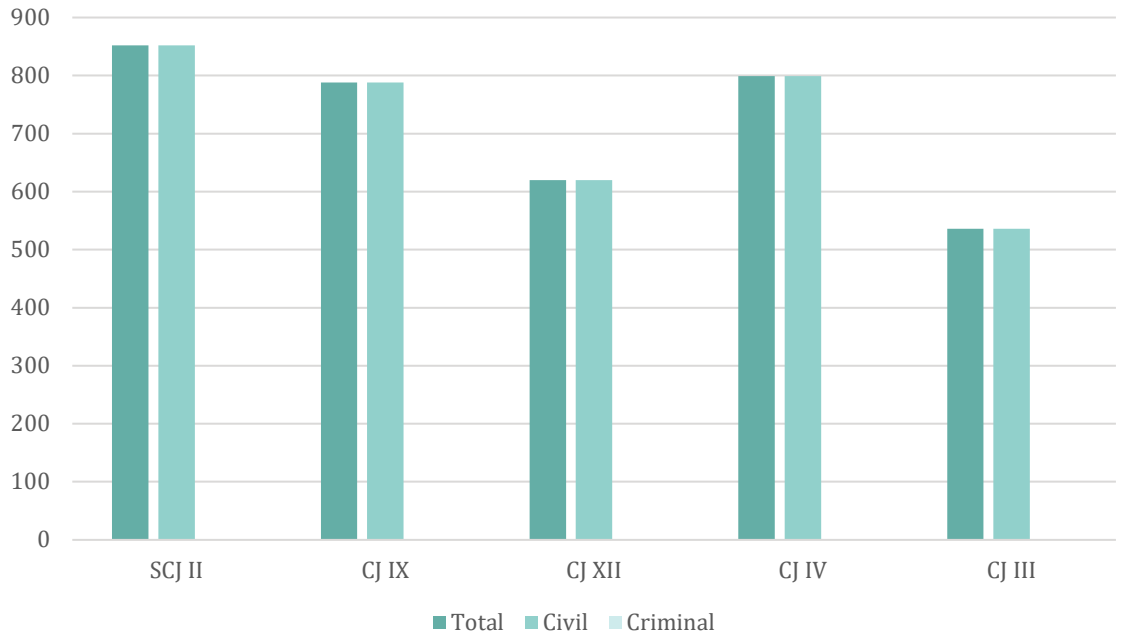
Source: Authors' Computations from Cause Lists of Every 5 Courts in 3 Separate Districts of Punjab.

Figure 16: Number of Cases Across 5 Separate Civil and Magistrate Courts in Quetta for February 2023



Source: Authors' Computations from Cause Lists of 5 Separate Civil and Magistrate Courts in Quetta.

Figure 17: Number of Cases Across 5 Separate Civil and Magistrates Courts in Nowshera for January 2023



Source: Authors' Computations from Cause Lists of 5 Separate Civil and Magistrate Courts in Nowshera.

Figures 7 to 10 represent a disparity between courts in the target districts in Punjab and Karachi. Figure 7 and Figure 9 represent, foremost, a disparity between the distribution of criminal and civil cases between courts/judges. It is not difficult to observe that due to the overbearing amount of criminal caseload a judicial officer has, they may tend to under-prioritise their civil caseload. Especially where, on average, a judge has between 300 and 800 cases per month.

It is also interesting to note the disparity in the caseload of judges within the same locality as represented by Figure 8, which shows that judges in Karachi Central had more than 800 cases in January 2023, while judges in Karachi South had less than half cases. This represents a potential improper distribution of work and resources.

Figures 12 and 13 represent another problem regarding the distribution of caseloads: while certain courts within a district are overburdened with more than 2,000 cases in a month, some deal with only 500 cases per month. This means that certain judges deal with around 83.33 cases a day, whereas others only deal with about 20 cases. The caseload distribution could be based on a judicial officer's seniority, where senior or experienced judicial officers receive higher caseloads as they have more legal acumen and capacity on the coattails of their experience. However, this represents a dearth in judicial training of newer judicial officers who should be properly prepared to enter the profession rather than the need to be eased into it.

Figure 17 is interesting in that it shows an even workload distribution across the entire district, which is made even more apparent when juxtaposed to Figure 7 which has a great difference between each court. Figure 16 represents a more manageable caseload per judge per day with most courts in Quetta having close to 400 cases or less per month.

The analysis shows that the current system does not have the capacity to deal with such large numbers of cases effectively and efficiently. Thus, the proposed model in Section 5 seeks to propose a solution by providing a new

system with better case flow management and other best practices that have been time-tested in other jurisdictions.

The figures represented in this chapter were sourced from the Sindh and Punjab online case management systems. There is no third-party research available before the current study, hence statistics from previous years cannot be compared. Moreover, only the LJCP has published somewhat recent reports of judicial performance in 2023 showing judicial performance up till 2021. However, there is a lack of transparency regarding the methodology for calculating these statistics or what the current situation is.

There is also a lack of transparency in providing the general public with statistics. Several letters were issued to the LJCP and district courts to obtain recent judicial data based on the Right of Access to Information Act of 2017, but these letters were either met with references to older data or no replies at all.

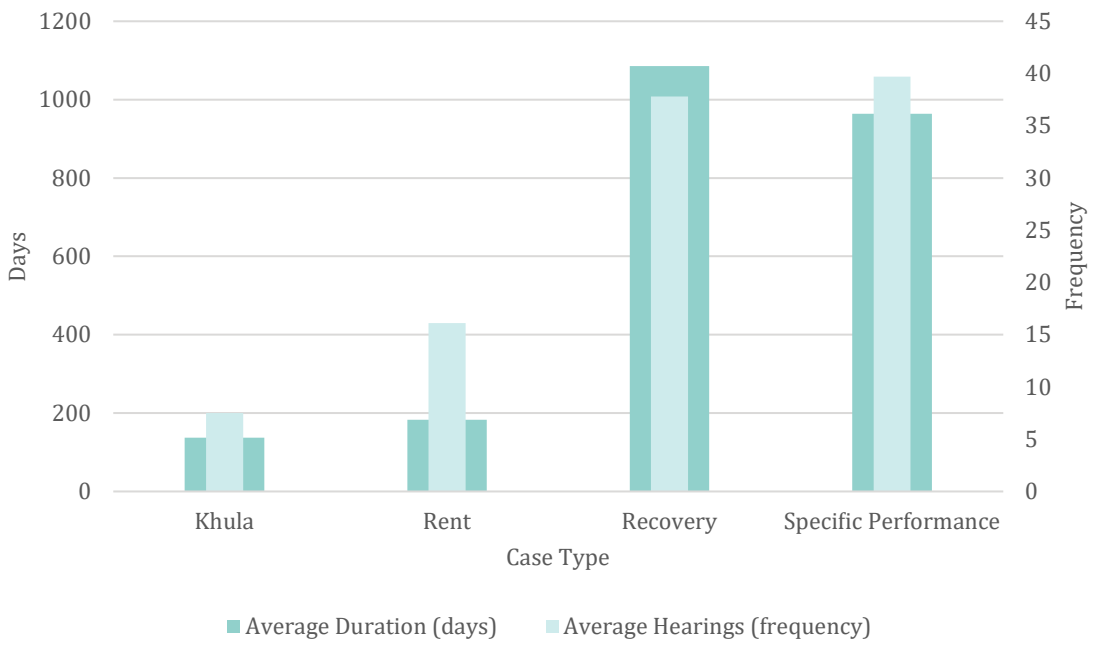
Order Sheets

To understand common causes of adjournment to demonstrate the phenomenon described in the literature review and key informant interviews, a review of order sheets (consisting of the original plaint, details of all subsequent hearings and orders passed, and final decree) from various jurisdictions was undertaken. Specifically, 20 order sheets of decided civil cases were obtained from each district studied, with 5 cases on khula, rent, recovery, and specific performance respectively. A total of 120 order sheets were collected from Islamabad, Rawalpindi, Lahore, Peshawar, Multan, and Swabi district courts.

The aforementioned categories were selected as they represent a few of the most common types of litigation encountered at the lower court level. It was also a point of interest to compare khula and rent (only in Punjab) cases with recovery and specific performance cases as the former two have dedicated courts, procedures, and codified time limits for disposal under the West Pakistan Family Courts Act 1964 and the Punjab Rented Premises Act of 2009. Section S.12A of the West Pakistan Family Courts Act of 1964 stipulates six months for the disposal of family matters, whereas s.27 of the Punjab Rented Premises Act of 2009 sets out four months for rent disputes.

It should be noted that challenges were faced in the collection of this data due to frequent court holidays and difficulties in identifying the correct order sheets due to lack of file organisation in record rooms and non-availability of digital record-keeping infrastructure, especially in the Punjab and Islamabad district courts. In contrast, scanned copies were readily made available from the KPK district courts. Other notable difficulties included the handwritten entries on order sheets which were often illegible and the practice of not recording reasons for adjournments in certain cases. These problems further illuminate the crucial need for the digitisation and inter-province integration of case management and record-keeping systems.

Figure 18: Cumulative Average Duration and Average Number of Hearings Across 80 Cases From Rawalpindi, Lahore, Swabi, and Islamabad



Source: Authors' Computations from Order Sheets Provided by the District Courts of Rawalpindi, Lahore, Swabi and Islamabad.

Table 1: Average Duration and Average Number of Hearings in Rawalpindi

Rawalpindi		
Type of Case	**Average Duration (Days)**	**Average Number of Hearings**
Khula	131.4	6.8
Rent	192.8	15.8
Recovery	946.2	29.8
Specific Performance	2231	92.4

Source: Authors' Computations from Order Sheets Provided by the District Courts of Rawalpindi.

Table 2: Average Duration and Average Number of Hearings in Lahore

Lahore		
Type of Case	**Average Duration (Days)**	**Average Number of Hearings**
Khula	76.6	7.8
Rent	167.2	18.4
Recovery	1213	54.2
Specific Performance	774.4	38.6

Source: Authors' Computations from Order Sheets Provided by the District Courts of Lahore.

Table 3: Average Duration and Average Number of Hearings in Swabi

Swabi		
Type of Case	**Average Duration (Days)**	**Average Number of Hearings**
Khula	105.2	5.6
Rent	258.8	23.8
Recovery	1095.8	49.6
Specific Performance	223.6	10.2

Source: Authors' Computations from the Order Sheets Provided by the District Courts of Swabi.

Table 4: Average Duration and Average Number of Hearings in Islamabad

Islamabad		
Type of Case	**Average Duration (Days)**	**Average Number of Hearings**
Khula	233.4	9.6
Rent	112	6.4
Recovery	1087.2	17.6
Specific Performance	626.2	17.6

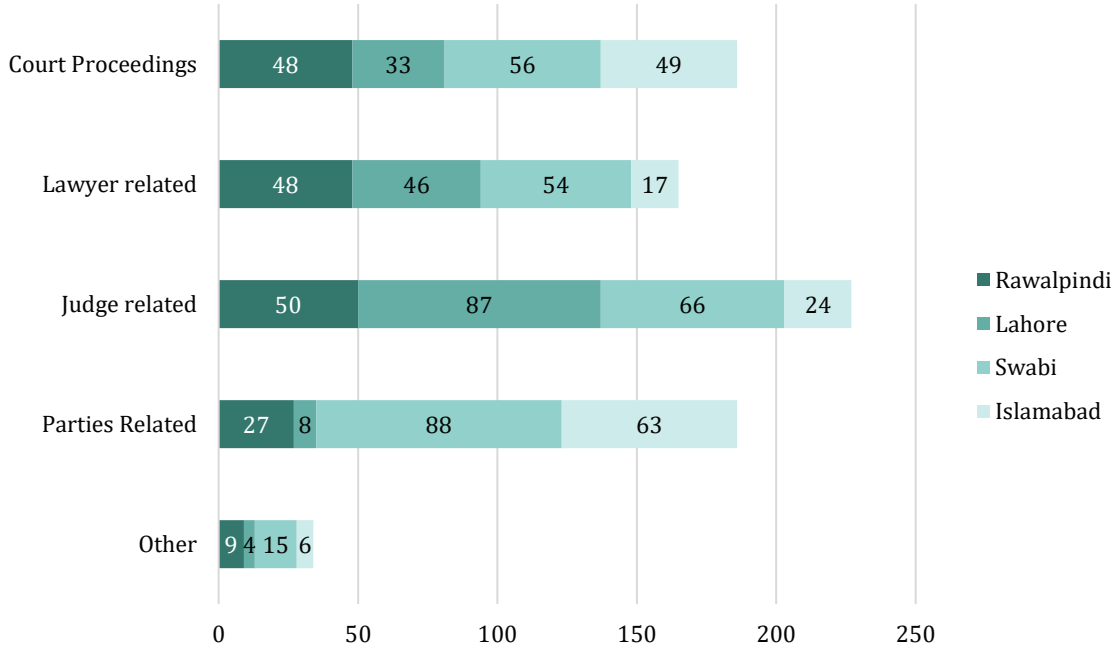
Source: Authors' Computations from the Order Sheets Provided by the District Courts of Islamabad.

The above tables clearly show that there is a marked difference between the durations of khula and rent cases versus specific performance and recovery cases (especially in Rawalpindi and Lahore). While the former cases tend to be resolved well within a year, the latter take significantly longer time. One might immediately jump to the conclusion that this is due to the abbreviated procedures and time limits, however, a similar effect is also seen with rent cases in Swabi and Islamabad although the procedures outlined in the Punjab Rented Premises Act of 2009 are not applicable in those regions.[3] Nonetheless, it cannot be denied that the establishment of separate courts allows for more efficient case management and limits the arbitrary discretion of the courts in granting adjournments. However, the relative simplicity of khula and rent cases may also be a factor. Interviewees, when inquired on the subject, attributed this effect to the unique arrangements made for khula and rent cases.

It should be noted that prescribing alternative procedures and creating separate courts for specific types of cases is not a pragmatic solution to the problem of judicial delays. The branches of law are far too diverse and each type of case may not be able to be abbreviated to the extent of some cases, such as khula, which, by virtue of being a no-fault cause of action, depends relatively less on evidence. The conclusion that can be drawn from this is that increasing the number of judges, dedicated active case management, and flexibility of court procedures is at the core of expediting case processes.

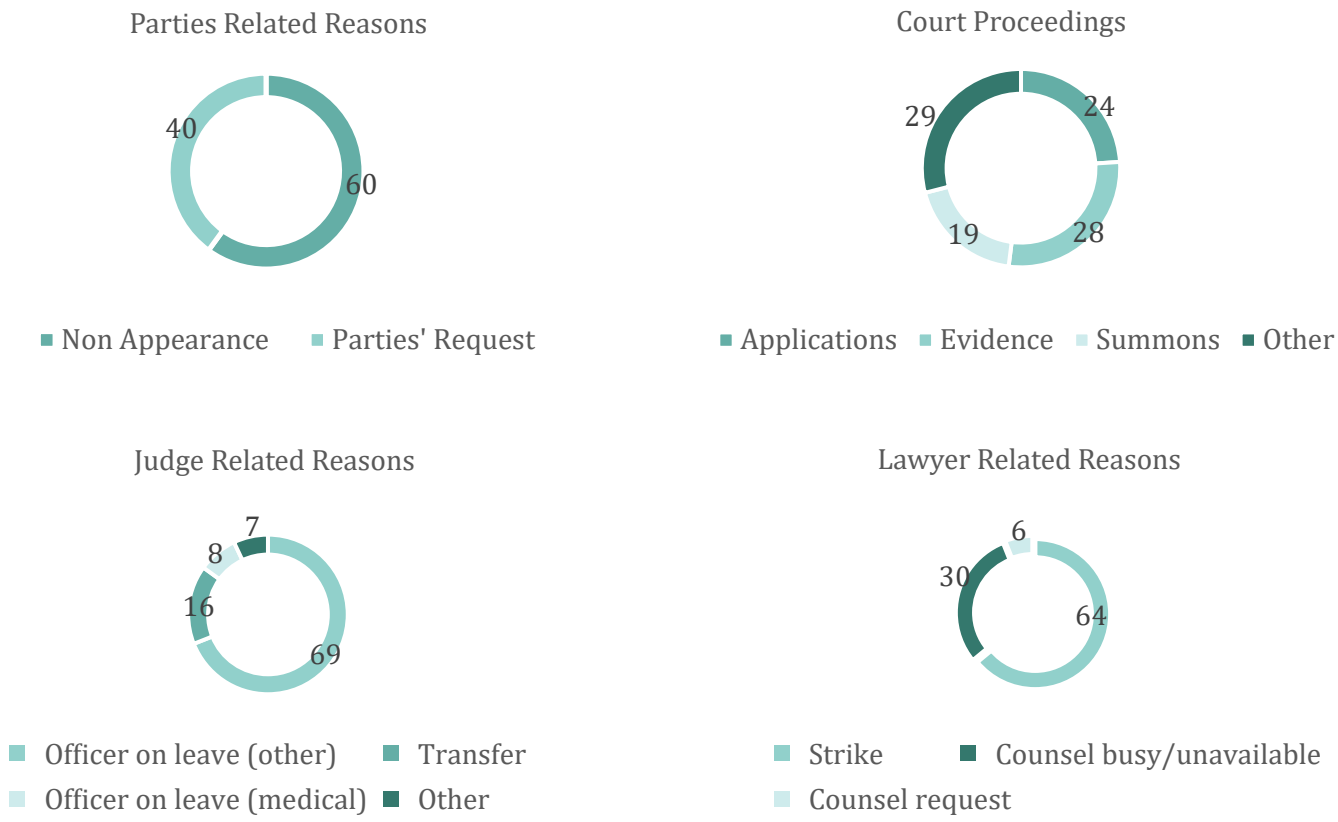
[3] Note that Rent cases in Islamabad and Swabi still do have dedicated courts in the form of "Rent Controllers" and summary procedures are still encouraged by the applicable laws in specific cases.

Figure 19: The Most Common Reasons for Adjournment of Court Proceedings



Note: "Other" reasons include public holidays and closures due to the COVID-19 pandemic.
Source: Authors' Computations from Order Sheets Provided by the District Courts of Rawalpindi, Lahore, Swabi and Islamabad.

Figure 20: Breakdown of Causes for Adjournment



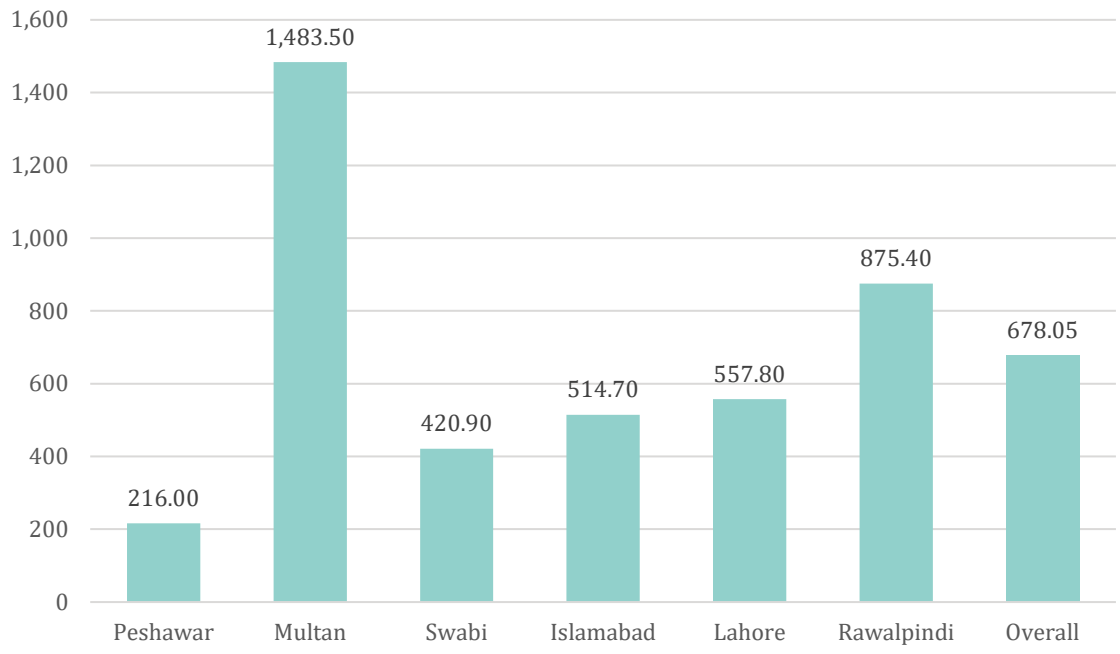
** Clockwise from the top: This diagram shows the main reasons why adjournments may be granted to parties; This diagram demonstrates which procedural stages were the most common causes for adjournment - "other" here generally refers to time given to parties to submit their replies or arguments; this diagram represents how lawyers may be contributing to adjournments; this diagram shows the main reasons judges remain unavailable for certain hearings – "other" here represents leaves due to judicial strikes, training, and requiring time for consideration due to excessive workload.*

Source: Authors' Computations from Order Sheets Provided by the District Courts of Rawalpindi, Lahore, Swabi and Islamabad.

Figure 20 summarises the key findings from our review of order sheets regarding the causes of adjournments. The most common causes of adjournment across all case types and jurisdictions were often attributed to judges in the form of casual leaves, medical leaves, transfers, training and other commitments. Interestingly, in our discussion with key informants regarding the causes of judicial backlogs, no respondent referred to this phenomenon. On the contrary, reasons falling into the other categories, i.e., lawyer-related, court proceedings, and parties-related were more commonly cited.

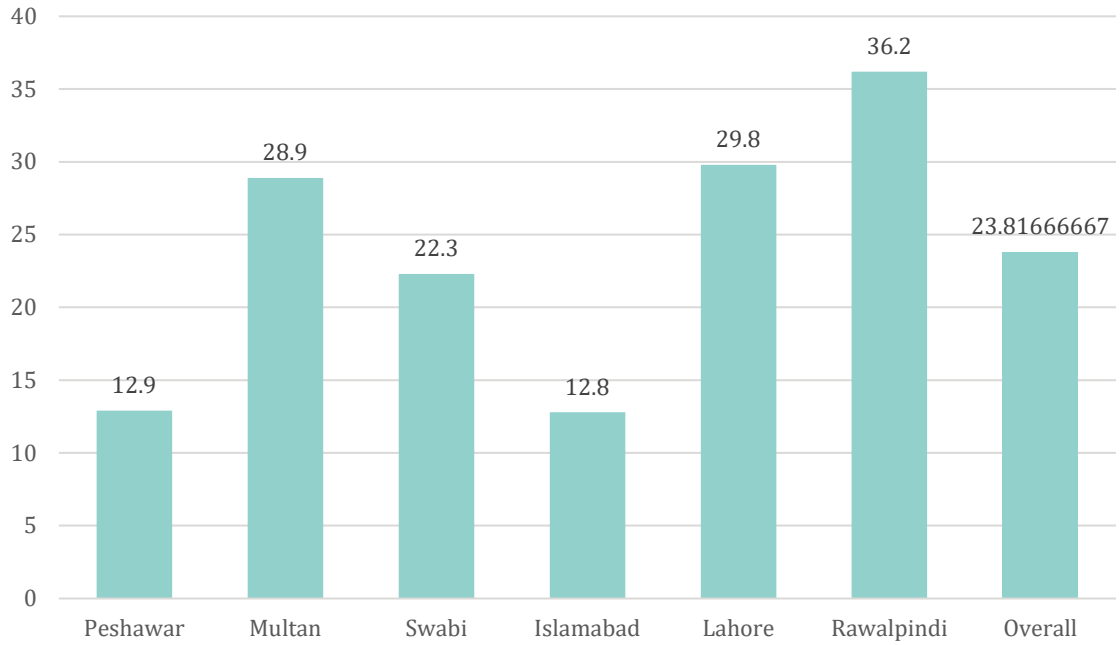
Furthermore, of the 2,051 total hearings across 80 cases, there were only 798 recorded reasons (39%). This is troubling as this makes it harder to evaluate the necessity of each adjournment. Even where reasons were recorded, there was often insufficient detail. For example, in the case of judge-related reasons, officers were on non-medical leave 69 per cent of the time (or for 156 hearings). There is no further context as to what necessitated these leaves and this is problematic as it was one of the leading reasons cited for adjournment. In a similar vein, adjournments were sometimes granted on frivolous grounds such as the "counsel unavailable due to Eid Milan party" or "death of a [distant] relative." All this points to a need for reducing judicial discretion and increased monitoring.

Figure 21: City-Wise and Overall Average Duration of Cases from A Sample of 120 Cases



Source: Authors' Computations from Order Sheets provided by the District Courts of Peshawar, Multan, Swabi, Islamabad, Lahore and Rawalpindi.

Figure 22: City-Wise and Overall Average Number of Hearings of Cases from a Sample of 120 Cases

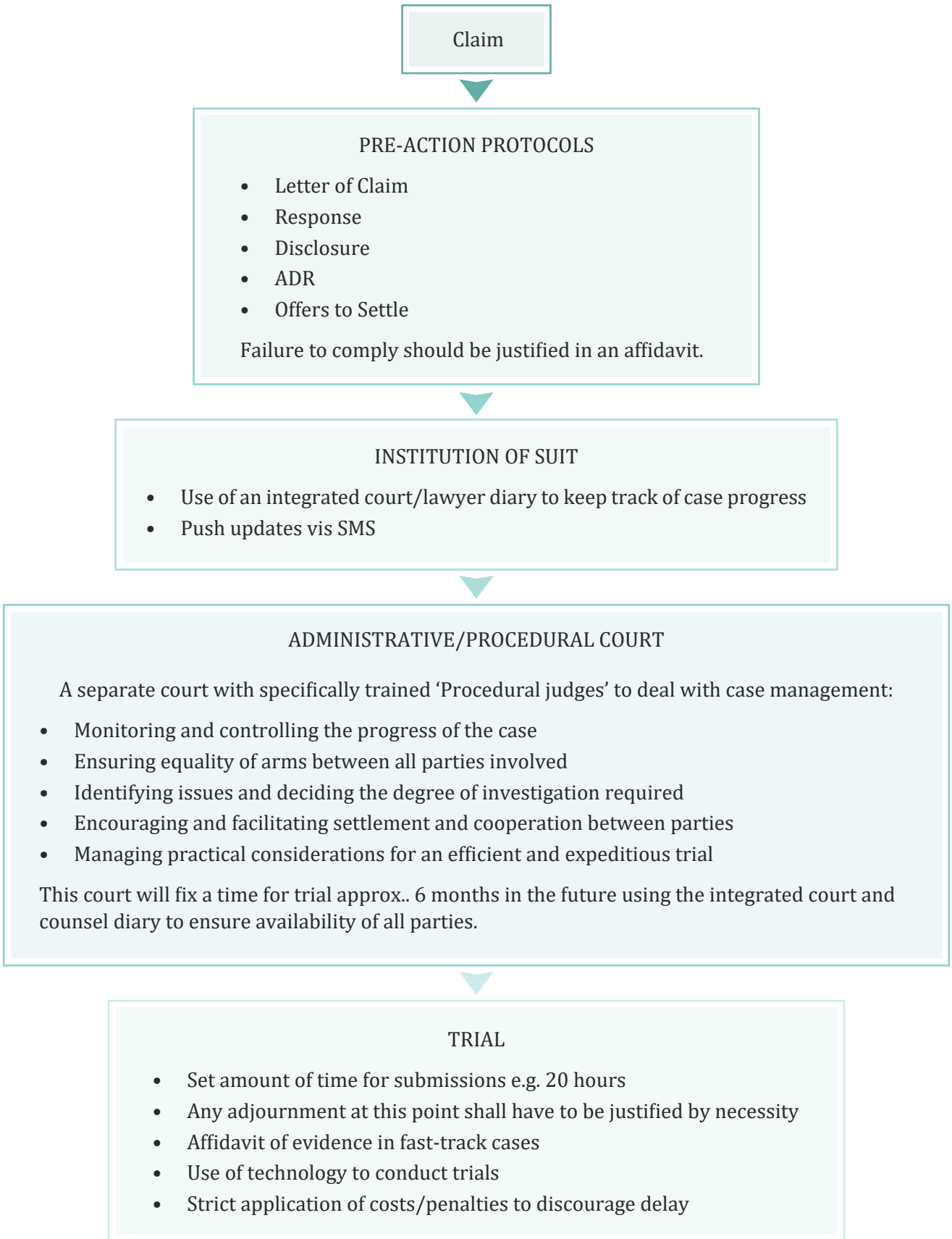


Source: Authors' Computations from Order Sheets provided by the District Courts of Peshawar, Multan, Swabi, Islamabad, Lahore and Rawalpindi.

Looking at the average durations and average number of hearings across the different cities it becomes apparent that there is no discernible pattern or trend across cities that underscores the delays in each city. This suggests that there may be local reasons unique to each district that contribute to the pendency of cases. While the overall averages that emerge are not too alarming, it must be remembered that hidden within these numbers are some relatively simple cases that have taken up to 15 years. Such cases are the ones responsible for the excessive backlogs we see today and even if, according to judicial statistics, more cases are resolved in any given year, backlogs will likely continue to accumulate without effective management. It is even more concerning to note that from our data, cases which exceeded proportionate durations, tended to end with either dismissal, withdrawal, or settlement out of court. Again, this points to the fact that these delays are not the result of the pursuit of substantive justice.

5. PROPOSED MODEL

Figure 23: Model Procedure



Source: Authors' compilations.

This research study thoroughly examined all the institutional and circumstantial impediments that cause judicial backlog and has developed a model procedure that will not only minimise prolonged litigation but will make the existing archaic judicial system compatible with the modern world. The proposed model procedure has been formulated through a multifaceted approach including comparative analysis with the international best practices while keeping in mind Pakistan's circumstantial and institutional realities; a comprehensive literature review to further address the deficiencies of the present legal system and devising a plan for its improvements; and, lastly, a peer-review of the procedure by presenting it to various bar council members, judges, and academics from different jurisdictions for their feedback. All the above has culminated in the following procedure.

The challenges faced while conducting key informant interviews were that some members of the lawyer's community and judiciary were reluctant to freely express their opinions due to the strained relationship between the bar and bench. The influence of the inherent political dynamics in the legal industry meant that respondents often felt that they had to take a diplomatic stance. This, along with the excessive workloads shouldered by legal professionals, made scheduling interviews considerably difficult. However, those who assisted with the proposed model procedure were found to be enthusiastic. The interviews revealed the difference of opinion between lawyers and judges on various propositions. The research would not be possible without their valuable contribution, and we are very much obliged to all the lawyers, judges, and academics who took part in interviews and group discussions.

This section provides an elaborate structure of our model procedure and the findings from the key informant's interviews. The suggestions and propositions made by the interviewees are incorporated and the dissenting views are also mentioned.

E-Portal and Pre-Action Protocols

In an age where digitisation is at the forefront of all reform, with many countries moving towards online databases, contactless processes, and even Artificial Intelligence integration, Pakistan too ought to reap the benefits that technology may provide, not only in the form of citizen facilitation but also in cost reduction and judicial ease. Therefore, the first recommendation as per the model procedure is the inculcation of e-portals. Much in the same vein as technology makes analogue processes more efficient and less time-consuming, many countries have instilled pre-action protocols to supplement their legal industries and, in some cases, discourage frivolous litigation while encouraging less adversarial means of dispute resolution. Pakistan is in dire need of incorporating such protocols and though efforts have been made, this section gives a detailed roadmap of what principles and systems may be incorporated and how.

The system envisages having two main portals - one for lawyers and the other for judges. The purpose of the portal for judges is to oversee the digitised diaries of lawyers and give them dates according to their calendars. The institution will take two forms either through the newly formed e-lawyers/vakalat portal or the kiosk desk in the admin wing (for an explanation of the admin wing please refer to section III) if a litigant has not hired a lawyer. The lawyers' portal will allow them to initiate legal proceedings on behalf of their clients and enable judges to view and manage cases assigned to them via their respective portals. Each lawyer will have login details based on their District or High Court license number. Additionally, special kiosks will be available at the proposed administrative wing in district courts, allowing litigants to initiate legal proceedings themselves. The number of kiosks will be dependent on the population density of an area. When a case is instituted through the system, litigants will provide their contact details, details of their claim, details of the potential defendant, their CNIC, and other details that are generally needed in a claim form. Based on this information, a provisional case number will be generated, along with a power of attorney form that must be verified biometrically and a letter of claim to be sent to the potential defendant. At this stage, the case will be held in suspension to allow the parties time to comply with pre-action protocols, which consist of steps the Court expects parties to have taken before the commencement of proceedings to promote consistency in pre-action correspondence and investigation as well as

the settlement of issues without further need to litigate.

Drawing inspiration from the UK, the establishment of certain "Pre-action Protocols" is recommended. These consist of steps the Court expects parties to have taken before the commencement of proceedings to promote consistency in pre-action correspondence and investigation as well as promoting the settlement of issues without further need to be litigated. Even where parties commence proceedings, the protocols require parties to exchange sufficient information to identify the matters in controversy for the expeditious disposal of issues. To this end, it may be worthwhile to develop specific protocols for certain types of common claims, e.g., suits for specific performance, tenancy, family, suits for maintenance and custody, restitution, and injunctions alongside general directions for pre-action conduct.

Potential directions may include:

- Letter of notification /claim – The claimant and their counsel should take steps to notify the proposed defendant(s) of the intention to issue proceedings at the earliest opportunity, especially where the defendant(s) may have limited knowledge of the facts giving rise to the claim. The letter should contain relevant details available that may assist the defendant in determining issues of liability and suitability of a claim for an interim payment or early rehabilitation. The letter should contain a clear summary of the facts on which the claim is based, what the claimant wants from the defendant, and, in the case of money, how much and how it has been calculated.

- Response – The proposed defendant should take steps to respond to the letter of claim within a reasonable amount of time (e.g., 30 days from the receipt of the Letter of Claim).

- Disclosure – Parties should aim for early disclosure of relevant documents and information. The objective of this is to assist with the framing and resolution of issues. Early and appropriate disclosure also allows for the protection of weaker parties, especially where there is a great discrepancy between the bargaining powers of parties. A non-exhaustive list of relevant documents potentially material to specific types of claims may be provided. The recipient party may also be imposed with a duty to preserve documents or evidence and in the case of destruction, the party may be held liable for contempt of court.

- Alternative Dispute Resolution – Litigation must be the last resort. Parties should actively consider whether negotiation or some other form of ADR might enable them to settle the dispute without recourse to formal proceedings. If parties still wish to litigate, they should be required to present evidence of them having considered ADR along with an affidavit furnishing reasons for why ADR failed/ may not be appropriate.

- Offers to Settle – Referred to as "Part 36 Offers to Settle" in the UK, the proposed defendant should consider making a formal offer to settle to the claimant. This is, once again, an opportunity for the parties to settle the matter outside of court. However, even where the offer is not accepted, it places a burden on the claimant to seriously consider whether they would like to reject or ignore such an offer. This is because if the offer is not accepted, the issue regarding costs in proceedings is whether the judgment in the proceedings is for a sum exceeding the amount of the offer. If the judgment does not exceed the amount of the offer, then the claimant should have accepted the offer and, therefore, the judge will award the defendant costs following the offer to settle.

Note that specific timelines for particular protocols may vary and templates for letters of claim and response may also be provided for further structure and clarity.

The idea behind the imposition of pre-action protocols is that it not only places greater emphasis on out-of-court settlement but also clearly defines how prudent parties to a suit ought to act allowing for greater accountability.

Parties should be compelled to comply with these protocols as a prerequisite to commencement to proceeding keeping in view principles of proportionality, i.e., it must be ensured that parties are not using these protocols as a tactical device to gain an unfair advantage over the other party, and parties should not be compelled to incur disproportionate costs in attempting to comply with the protocols. Failure to sufficiently comply should be taken into account in the giving of directions for costs (Sime, 2020).

Furthermore, the rationale behind these pre-action protocols is to encourage the adjudication of disputes before going into litigation and to save time of Courts. The efficacy of pre-action protocols can be found in The Retail Lease Statistics of Australia from 2002 to 2011. The figures show that from 2002 to 2011 in Australia, the successful outcome of mediation increased from 52.3 per cent to 64.8 per cent (Sourdin, 2012). Similarly, The Annual Reports of the Office of the Victorian Small Business Commissioner (VSBC) show that approximately 80 per cent of the matters are resolved during mediation (Sourdin, 2012). Moreover, the research project that focused on retail leases in Australia showed that mediation is such a success that 76 per cent of the cases are concluded and finalised without the need for formal adjudication (Sourdin, 2012). In contrast, the data regarding the success rate of mediation centres in Pakistan is limited and statistics for the province of Punjab reveal that the success rate of mediation centres stands at 56 per cent, which is very good but it is low compared to Australia. Moreover, this is the case of one province in Pakistan and it would remain toothless unless it is encouraged throughout Pakistan. This shows the need for pre-action protocols and demonstrates that when claimants comply with pre-action protocols and opt for mediation, they resolve their disputes without going into the hassle of a prolonged litigation process.

One may contemplate whether pre-action protocols serve a useful purpose or not. The answer to this was presented in The Report of Lord Justice Jackson Published in 2009. The report states that there was a consensus that these specific [pre-action] protocols serve a useful purpose (Sourdin, 2012). The report recommended that these must be retained, and we have seen that in the United Kingdom, pre-action protocols now extend to the matters of resolution of clinical disputes, construction, engineering, and judicial review.

On the question of the establishment of the lawyers' portal, the majority of the informants called it a 'progressive idea' and agreed with it. Informants argued that making lawyers' diaries digitised will be a step in the right direction and this will help in managing the caseload of lawyers. However, few of the informants argued that the portal as an idea appears to be a good option but keeping in mind the realities and practicalities, it may not be a viable option.

Regarding pre-action protocols, most of the informants were of the view that this must be adopted. However, the prudent thing to do is to start with the awareness sessions on pre-action protocols and then work on their enforcement. Informants said that one of the features of a pre-action protocol is ADR, which is already present in Pakistan but lacks implementation. A few of the informants proposed that ADR is a cost-effective method and, in this regard, one of the concerns of lawyers was that while they can charge the desired for for litigation, there is no established fee structure for ADR. Thus, to make it more effective, certain remuneration for lawyers must be fixed to make it financially viable for them if they are engaged by the parties.

Informants agreed on making ADR mandatory in all civil cases. A few of the informants told us that Pakistan has adopted the Turkish model, which was made mandatory in Turkey in 2012. However, it was not fully operational until 2017 when it was made mandatory for land disputes. ADR was later expanded to commercial disputes in 2019 and it was made mandatory across the board in 2020. Hence, the informants proposed that this phase-wise implementation should be adopted in Pakistan as well.

Therefore, this paper recommends that it is essential that e-portal and pre-action protocols are adopted as it will resolve many issues of litigation even before the institution of suits. This will also help in resolving the backlog as one of the informants recommended that all the backlog should now go through the process of ADR to resolve the matters expeditiously.

Automation

The proposed model for reform shall be based on an integrated online register of suits, court schedules, and counsel diaries, which will allow for optimal allocation of court time and resources. Hopefully, it will add an element of accountability and remedy the issue of unnecessary adjournments caused by clashes in counsels' schedules along with being a record-keeping tool.

- Scheduling Trials - Upon the commencement of proceedings, a date may be set for trial, for example, 6 months from the institution of the suit, with a precise allocation of date, time, location, and total time allocated for the case hearing, keeping in view availabilities in court and counsel schedules.

- Record-keeping – The system will also be used to keep a record of file numbers, litigants' and counsels' details (address, phone number, CNIC), court fee status, and special notes, such as the relinquishment of claims and other details pertaining to the maintainability of the suit.

- NADRA database – This system may also be integrated with NADRA's database to allow the court access to important contact information for service and summons. Note that for this to be possible, there must be a requirement for parties to provide their CNICs upon submission of pleadings.

- Progress updates – All developments in ongoing cases shall be tracked. Parties and their counsels shall be given regular progress updates and reminders via SMS regarding upcoming hearings, issuance of any orders/decrees, or any other crucial developments.

- Accountability – It may be possible to hold counsels and courts accountable for the use of unprofessional dilatory practices as all instances of unnecessary adjournments and amendments will be readily accessible to relevant authorities.

- Biometric attendance record – Counsels, court staff, and officers shall be required to mark biometric attendance to ensure utmost punctuality in proceedings.

- Privacy and Security – Given that this system will carry a great deal of private and sensitive information, protection of privacy and protection from data breaches must be given the top priority in the development of the software. Furthermore, access to the system must be strictly restricted to authorised personnel only.

Court automation not only helps in expediting the judicial process but also makes the court operational in times of crisis. The World Bank Report demonstrates that during the pandemic the states that had court automation systems in place managed to avoid interruption of the judicial process in approximately 44 per cent of the cases (Popova et al., 2021). In contrast, the states without automation processes had to suspend judicial services in around 71 per cent of the cases (Popova et al., 2021). This proves the worth of court automation and shows that to make the civil justice system more accessible and affordable, digitisation is the way forward.

In Pakistan, currently, the Supreme Court, Federal Shariat Court, and High Courts have automated systems in place covering the case flows and case management processes. The superior judiciary has the resources and infrastructure to adapt to the automation process, but the status of automation in the district judiciary is grim. The Law and Justice Commission Report on the Application of Information Technology in the Justice Sector demonstrates that the district judiciary in Sindh has adopted automated functions, while KPK has partially adopted the system. The report shows that Punjab has been reluctant to adopt the system, while Gilgit Baltistan still follows the manual procedures. It concluded that the existing automation model is very limited and even the general functions like management and finances of the organisation are not integrated with the automation model. This depicts that lack of cooperation among the superior and subordinate judiciaries and their reluctance

towards IT procedures is the main reason that our courts are still working manually.

On the question of court automation and integration of judicial data with the NADRA database for effective summoning, the majority of the informants praised this idea and said that in many civil suits, the summoning of defendants and witnesses causes delays. One of the key informants, who is a civil judge in Islamabad, suggested that the process of summoning should involve district management and they should deploy the NADRA database, as proposed, to issue the summons. The informant gave the example of Saudi Arabia where district management issues summons, and there is never an adjournment on summons as the office makes sure that summons are properly issued and served to the relevant person. Another informant further suggested that along with the NADRA database, summons should also be served by using the SIM card address of the person. Another informant, while calling it a progressive idea, said that it is not difficult to implement this model as passport offices are linked with NADRA hence same can be done with the judicial system.

A High Court advocate from Lahore said that this can solve 40 per cent of the problems as the majority of the adjournments and delays are caused due to summons. The informant further suggested that lawyers' information should also be linked with the database so that fake lawyers are held accountable as the system will have all the relevant information. In contrast, one informant was of the view that this can be applicable in the modern world but in Pakistan, it is not a practical solution.

Regarding the use of video links and flexible trial options, all the informants agreed that it should be adopted as a standard practice of the court. One of the informants, who is an advocate of the Supreme Court, mentioned that the Lahore and Peshawar registries of the Supreme Court conduct trials on video links; thus, if they can adopt this method then it should not be a problem for the district judiciary. However, a few concerns were raised by informants, such as the lack of infrastructure in the district judiciary. The key informants suggested that the district courts first should be equipped with the system required to conduct seamless trials. Another concern about the video link trial was that there is no mechanism in place to regulate the process of verification or authentication, which must be considered.

Hence, the research suggests that court procedures must be compatible with the modern world, and this could be achieved by using advanced technology. Additionally, with court automation, there is a need to establish a more secure server that cannot be breached because it will have all the relevant and confidential information. Moreover, the privacy and security of the court database must be reviewed and maintained according to international standards so that it can combat any hacking attempt. IT professionals must be given this task to make the automation process secure so that it runs the daily affairs of the judicial process smoothly without being exposed to the threats of data breaches.

Administration Wing

In 2018, the Peshawar High Court made an amendment to Order IX-A of CPC which provided that the court shall, in each case, start case management and schedule a conference. The purpose of this amendment was to streamline the process of a trial through early identification of issues and disclosure of evidence. Similarly, the Lahore High Court also amended the said Order and provided that the plaintiff and defendant should fill out and submit a case management questionnaire. However, this amendment is not thorough and lacks the basic requirements of active case management. The said amendments do not provide for the constitution of a separate administrative wing, which would essentially prioritise the whole pre-trial phase and make case management more effective. Additionally, the effects of these amendments are yet to be seen.

As a proposed model, the current study recommends that a separate administrative judicial wing should be constituted. This wing will act in the capacity of the court to dispose of all preliminary matters pertaining to a suit that does not include substantive adjudication. The department will be run by separate judicial officers who will

be specifically trained in active case management. The body should be empowered to make all orders related to the management of a case except for the final determination of substantive issues.

Case management broadly refers to the following duties:

- Monitoring and controlling the progress of the case
- Requiring submission of a pre-trial checklist or conducting a pre-trial review
- Issuing notices/summons
- Ensuring equality of arms between all parties involved
- Giving directions for appropriate pre-trial disclosure, e.g., specifying documents for disclosure.
- Facilitating and guiding unrepresented parties
- Identifying issues and deciding the degree of investigation required
- Determining the appropriateness of pleadings, considering the joinder of parties, causes of action, etc.
- Deciding on other preliminary matters, e.g. maintainability, jurisdiction, appropriateness of court fees, etc.
- Consolidating/separating trials where necessary
- Allocating to fast track /multitrack based on the complexity of issues.
    - Fast-tracking – cases to be resolved in a single day, submissions/evidence may be filed as affidavits or telephone submissions.
    - Multitracking – allocation of an appropriate number of hours for adjudication, assessing the need for pre-trial checklists /review, filing of proposed directions (including a proposed timetable, provision for disclosure)
- Encouraging and facilitating settlement and cooperation between parties
- Managing practical considerations for an efficient and expeditious trial, e.g., fixing timetables, carrying out a cost/benefit analysis of any further steps to be taken, whether attendance of parties is necessary, and how to best utilise the technological infrastructure available.
- In making any orders for adjournment/amendment/ impleadment of parties/ rejection or return of plaint / adding witnesses, the admin judge should keep in view the primary objective as stipulated under s.1(4) of the CPC and principles proportionality.
- Costs may be imposed for repeated applications.
- Extending/shortening the time limit for compliance with any particular step.
- Potential directions may include:
    - Parties must submit a bundle of documents at least 7 clear days before trial.

- Parties must exchange skeleton arguments 3 clear days before the trial.
- Give directions for any further information if necessary.
- Specify which documents/evidence should be disclosed
- Consider a date for further CMC.
- Direct simultaneous exchange of witness statements

Note that directions are instructions that the parties must comply with to the best of their abilities. Non-compliance will need to be justified and there may be cost implications for failure to comply.

Parties may also be required to file a directions questionnaire and a case summary before a CMC. To this end, there may be a need for greater emphasis on practical judicial training that focuses on active case management and prioritises the need to run cases expeditiously and ethically (Sime, 2020).

Based on the information provided, the administrative wing will assess the case. For small claims, the case may be directed to a specialised small claims court with specific directions, such as relying on affidavits or conducting trials through web links. In complex matters, the administrative wing will schedule a conference where both parties can present their cases, and the court will establish a timeline. After assessing the case, the administrative wing will provide a timeline within 2-4 weeks. This timeline will be accessible through the portal and sent to both parties via push notification. Witnesses will be notified of their designated time slots for court appearances. If a witness is unavailable, they will have three opportunities to request a change, provided they inform the court at least one day in advance through the portal. Failure to comply or repeated non-appearance may result in penalties.

The automated system will also address adjournments, additional evidence, and the addition of witnesses. It will introduce a small/short claims court that will expedite the litigation process, primarily following the directions given by the administrative wing. The court may require additional documents and consider written arguments, ultimately delivering judgments or conducting short hearings. Lawyers will face penalties for taking adjournments, including costs, and may be flagged based on the timeline and profile, prompting action by the local bar association /council. If a party wishes to add a witness, they can make an online application to the administrative wing, which will evaluate the necessity of the witness and determine if costs should be incurred.

The success of an effective case management system on judicial backlog can be drawn from the fact that a tech company in Canada submitted its report to the Senate Standing Committee on Legal and Constitutional Affairs and demonstrated that a case management system can reduce the number of courtrooms that are scheduled inappropriately and thus maximising the capacity of courts to hear more cases (Government of Canada, 2017). The report further shows that an effective case management system in place can resolve the issue of adjournments as it will update the availability of counsel/witness without scheduling a court date to address the change (Government of Canada, 2017). Thus, our research recommends that the establishment of an administrative wing and case flow management form be duly incorporated and implemented in civil trials to resolve the issue of dilatory practices and judicial backlog.

The question regarding a separate administrative wing was not very well received by most of the lawyers and judges from Islamabad and KPK. They believed that there was no need to create a separate admin wing as it would not be successful. Furthermore, they mentioned that the number of judges is not in any way equal to the number of cases allotted to them. Hence, to have effective case management the number of judges must be increased. Moreover, one of the key informants, who is a civil judge, said that "*if you want judges to be able to set timelines effectively then the court's power to enlarge time under s.148 needs to be done away with.*" One informant was in

favour of an admin wing and claimed that one such system, known as the "Directorate of District Judiciary" exists which handles judges' transfers and internal management. Therefore, according to him, there should be separate administrative courts where all interim applications are expeditiously decided.

In contrast, key informants from Punjab were in favour of a separate administrative wing. They said that the model was present in Lahore and some minor improvements were observed and, therefore, this should be implemented in letter and spirit. One of the informants from Sindh was also of the view that this would be very beneficial for lawyers as it would make the whole process very smooth and easy.

In the context of Pakistan, case management through an established admin wing with trained administrative judges can be extremely beneficial as it can save time and speed up the process in the pre-trial phase. As mentioned in Section 3, during a trial, there are many instances where courts allow amendments to pleadings and, accordingly, statistics indicate that 80 per cent of all the applications made for amendments in the plaint or written statement cause delay. By law, the time limit prescribed to file a written statement is one month, but due to adjournments given by courts, some studies indicate that defendants take up to 5 months to file the written statement. Moreover, the provisions in the CPC regarding the return and rejection of a plaint are also abused, and this can be resolved through active case management where the issues regarding jurisdiction and maintainability are decided beforehand and there is no need to make applications once the trial has commenced. Note that the OECD found that spending on computerisation supported by active case management techniques along with the systematic production of statistics has been associated with better judicial performance. The idea is that such a system allows for effective monitoring and enforcement of deadlines, screening of cases for the appropriate track allocation, and early identification of complex cases (Palumbo et al., 2013).

Therefore, the present study recommends the establishment of a separate administrative wing where specially trained judges empowered with all the powers of a trial court will be responsible for active case management. Furthermore, the admin wing will also determine the issues regarding interim applications, maintainability of the suit, and matters of jurisdiction. This system, if adopted, can resolve the problems that increase the life span of a case and make the matters pending in the court for years.

Costs, Penalties, and Adjournments

The primary means for encouraging responsible party behaviour for courts in the UK is via the imposition of costs. The general rule is that a successful party in a claim will be awarded an order for costs against the unsuccessful party, which would, in turn, act as a disincentive against unnecessary litigation (Hoare v United Kingdom (2011) 53 EHRR SE1). The court, in making an order for costs, must consider all circumstances of the case including the conduct of the parties (e.g., willingness to settle, compliance with protocols, use of dilatory practices, etc.), and whether the party has succeeded to prove their claim. Moreover, frequent adjournments are a commonly cited cause of judicial delay. To remedy this, a two-tier cap on adjournments is recommended with a statutory maximum (e.g., only a total of ten allowed) with additional limits placed during case management based on what the administrative wing determines is needed for that particular case. Not only will this involve mandatory incremental costs for every adjournment but any adjournment beyond the decided amount by the admin wing shall be met with punitive costs except because of acts of God, death, or public emergency (e.g., insurgency, imposition of martial law, tsunamis, etc.)

To this extent, various provisions in the CPC refer to costs, but it has been ignored by the district judiciary and still has not been established as a standard court practice. This indicates that provisions regarding costs are underutilised and therefore there are a lot of unmeritorious and vexatious cases. However, with the enactment of the Cost of Litigation Act of 2017, courts in Islamabad Capital Territory (ICT) are working vehemently to award costs to successful litigants. The Act is laudable as it also provides special costs in case of false or vexatious averments. This step can change the procedural landscape of civil cases in Pakistan. However, as this law is

applicable only in the Federal Capital, its effects on preventing frivolous petitions cannot be accessed unless all provinces enact the law on awarding costs and make mandatory provisions as present in the Cost of Litigation Act of 2017.

The Supreme Court of Pakistan has recently ruled to impose costs and fines in a case to discourage and end frivolous and vexatious litigation, which is a welcome step as it will set a precedent for subordinate courts. The case was just about granting a succession certificate to the legal heirs, but the petitioner, the apex court held, repeatedly abused the court process and went on with this frivolous case in various courts. The court dismissed the petition with costs of PKR100,00 for not only abusing and wasting precious time of the Courts but also for causing pain to the party for this prolonged litigation. Hence, vexatious litigants who misuse the freedom of access to courts by launching large numbers of unmeritorious actions or numerous interim applications with the object of causing trouble for their victims may be hit by a Civil Proceedings Order. With such an order in place, a litigant who habitually and persistently institutes vexatious or meritless proceedings without reasonable cause may be barred from commencing further proceedings without the permission of the Court (Qazi Naveed ul Hassan v District Judge, Gujrat, etc., 2023).

The current situation of costs, according to the majority of the informants, is that this practice has been adopted by superior courts as mentioned above. However, the district judiciary is still adamant about award costs. In our session with the key informants, every one of them was of the view that heavy costs should be imposed and the discretion of judges should be curtailed by making the provisions mandatory. One of the informants, who is a judicial officer, said that the words "Every adjournment shall be with costs" must be added to the statute and the minimum amount of costs should be mentioned in the Civil Procedure Code. Another interesting observation made by one of the informants practising in twin cities was that the district judiciary in Islamabad is awarding costs and a change has been observed in this regard, but the same is not being implemented in Rawalpindi. On this information and for this research when we tried to procure judgements from the district judiciary of Islamabad, we observed that there was no order as to cost and the same was not being executed in Islamabad, even after the promulgation of the Cost of Litigation Act 2017. This indicates that the judiciary is not implementing the law in letter and spirit due to which we do not see any substantive change.

Regarding a cap on the number of adjournments for a particular case, the majority of the informants were of the view that there should be a definite cap and it should be codified. In contrast, a few of them believed that instead of introducing a cap on adjournment, there should be heavy costs as the situation is such that in some cases due to the caseload on each judge, they have to give adjournment. Therefore, unless the number of judges is compatible with the number of cases the judges preside over each day, there should not be a cap on adjournments.

Hence, the present research recommends that costs should be adopted as a standard practice in courts and penalties should be imposed on every litigant/lawyer who abuses the court procedures. Furthermore, as adjournments are a major cause of delay in every civil case, there should be a definite cap and imposition of incremental costs on every adjournment. This will help in minimising all the frivolous cases that are filed in the judiciary daily, and also help in building a more efficient system for the dispensation of justice.

Independent Body of Observers

The presence of an 'Independent Body of Observers' can be an evidence-based diagnostic tool that can provide a mechanism to monitor and evaluate the performance of judges regarding the dispensation of justice. With proper authorisation and mandate, they can oversee the functioning of courts, court staff, lawyers, and judicial proceedings and thereby analyse and evaluate each judge's performance. The framework for the appraisal of judges may include quantifiable indicators such as case closure rate, the volume of backlog of cases, the total number of cases, and comparison with judges working under similar working conditions. This can draw attention

towards those judges who adjourn trials time and again without any sufficient cause. Moreover, observers can visit courtrooms and carefully monitor the behaviour of judges towards litigants and assess their judgments on different cases.

Moreover, the observers can then draft impartial reports on their findings and submit them to the chief justice of the respective province. The report may include further suggestions and guidelines as to how to make the judge accountable for their actions. For instance, if the performance of a judge is not at par with the best practices for six months, they may be given a show cause notice as to why disciplinary action may not be initiated against him. However, if a judge satisfies the chief justice, then they should only be given a fair warning for the future. This whole mechanism can make the subordinate judiciary accountable and can enhance the performance of the judicial system.

In the USA, the Federal Judiciary has the office of 'administrative oversight' (AO) to prevent fraud, abuse of resources and waste, which also oversees comprehensive audits of judicial funds conducted by certified public accountant firms (US Courts, n.d.). Additionally, the AO regularly accesses the judicial workloads and surveys the court operation to check the system's effectiveness and then submit biannual reports to the Judicial Conference Committee. The AO makes certain that the courts are working in compliance with the legal rules and ethics to administer effective and expeditious justice. The American Bar Association updated its guidelines for Judicial Performance Evaluation (JPE) in 2005 and recommended that to enhance the quality of judiciary and judicial self-improvement, all courts must have a system in place for courtroom observations (Woolf & Yim, 2011).

The State of Utah then enacted the Judicial Performance Evaluation Commission Act of 2008 and created an independent body for evaluation (Woolf & Yim, 2011). This impartial commission recruits and trains individuals for courtroom observation who observe judges in courts, score their performance and also add comments (Woolf & Yim, 2011). The criteria laid down for observers are simple as they have to report about neutrality, respect, voice, and the behaviour of the judge with litigants. This whole qualitative-based exercise benefits the judges and the overall judiciary as it gives them feedback and provides necessary recommendations for self-improvement.

This depicts that the monitoring and evaluation of judges or the formation of a body of observers is neither a novel concept nor undermines the independence of the judiciary in any way. In fact, this ensures much-needed transparency and accountability in the judicial system and paves the way for it to be more efficient. According to the European Networks of Councils for the Judiciary (ENCJ), citizens do not trust a judiciary if it is not accountable and this trust deficit thereby endangers the independence of the judiciary, hence, they state that: "Independence must be earned. It is, by no means, automatic. The best safeguard is excellent and transparent performance" (ENCJ, 2014).

Currently, in Pakistan, all high courts have established Member Inspection Team (MIT) wings to monitor and evaluate the performance of the district judiciary. They are given the mandate to monitor the institution and disposal rates of the district judiciary and also to inspect the courts at random. The problem is that these MIT wings are part of the high courts and they do not fall under the category of independent observers and one may question their method of transparency and accountability. Furthermore, there is no empirical evidence to suggest that the steps taken by MITs have reduced the backlog or improved judicial performance. Additionally, they are only deploying quantitative indicators and not addressing issues relating to the behaviour of judges with litigants and lawyers, which can be best assessed through a qualitative approach and by the recruitment of trained observers of courts.

In all the interviews with the informants, the question regarding the 'independent body of observers' was not very well received as judges considered it an attack on the integrity and the independence of the judiciary. It was a sensitive subject in our all group discussions as well and the relationship between the bar and the bench was revealed to be very strained. Almost all judicial officers from various jurisdictions opposed this idea and argued that judges are already under strict scrutiny and are held accountable for misconduct. They said that this might

be an excessive step and there was no need to establish an independent body. In addition, lawyers were also not very receptive to this idea and stated that it would be a stop-gap arrangement and would not be very effective in the long run. However, one civil judge from Islamabad said that the MIT branch of High Courts is a general branch and supervises everything, therefore, it is essential that there is an independent body of observers to do qualitative and quantitative analyses reports on all judges.

During these key informant interviews, one of the informants recommended that instead of an independent body of observers for judges, there should be an independent body to issue licenses to lawyers. The informant further elaborated that the authority of bar councils to issue licenses should be done away with as they never take action against their fellow lawyers because they have to take votes from them each year.

When the question regarding an independent body to issue licenses was put forward to lawyers and judges, the majority of the informants hailed this suggestion. One of the informants said that it would resolve the issue of fake lawyers as currently bar councils neither check the degrees of lawyers nor take any disciplinary action. The informant further explained that the situation of fake lawyers in Lahore is worse as two famous lawyers (Jameel Asghar and Shah Nazwaz Ismail) who practised for 30 years and were elected as vice chairman bar councils twice had fake degrees, which shows that there is a need of independent body for lawyers.

Thus, the research recommends that MIT wings of High Courts should be replaced with the Office of Administrative Oversight (AO), which would act as an independent body. The AO office should consist of inspection teams that would randomly inspect the courts and monitor institution/disposal rates. Inspection teams should consist of people from academia to avoid conflict of interest. Moreover, it should have a department of certified accountants who would audit the district judiciary. In addition, the AO should recruit independent observers who would sit in courtrooms during the proceedings and evaluate judges' conduct. The recruiters must be qualified professionals from various fields of social sciences so that they can bring an impartial and independent mind while observing the courtrooms. A team of professionals must conduct training of all recruiters so that they can conduct courtroom observation with perfection. Furthermore, the head of the AO office would seek reports from all departments and then send a comprehensive and impartial report to the CJs of the respective province with recommendations and guidelines.

Moreover, this research study further recommends that the AO office should have a separate and independent body with the sole purpose of issuing licenses to all the lawyers in Pakistan. Bar councils should focus on the welfare of lawyers and other issues. However, this step must be taken after consulting all the stakeholders involved.

Conclusion

The proposed model for reforms in the civil justice system of Pakistan is operational in the United Kingdom, Australia, and other states. Evidence suggests that with the adoption of pre-action protocols and an effective ADR, many cases are concluded without the need to go into litigation. The UK has further expanded the ambit of pre-action protocols to other areas because it is beneficial in dispensing civil justice more effectively and expeditiously. The proposed e-portal for lawyers, which was well received by the majority of the key informants, can significantly change how cases are instituted and improve the overall situation. The suggestion of flexible trials and conducting trials on video link can be a step in the right direction as it can be cost-effective and time-efficient. In a state like Pakistan where resources are already limited and judges face backlog and a plethora of new cases, it is imperative that Pakistan not only adopt the best practice of pre-action protocols, automation, and effective mediation but implement it wholeheartedly. With the establishment of an Admin Wing at subordinate and superior courts, all petty matters can be adjudicated and with a case management system, the trial phase can be streamlined by resolving the issue of adjournments. The Administrative Oversight Office with independent observers and its separate department for the issuance of licenses to lawyers, can revolutionise the

judicial system. In essence, all the shortcomings of judicial services, processes of civil litigation, and circumstantial impediments can be resolved by adopting the proposed model. However, this requires a strong commitment and the will to change the archaic system that has been in place for decades.

6. EPILOGUE

In the dispensation of civil justice in Pakistan, the overall national and international efforts at reforms demonstrate that they were seldom meaningful and had little impact and this is echoed in both the findings of this research paper along with previous papers on the subject. The extensive analysis of the provisions of CPC and other literature shed light on the procedural shortcomings and problematic provisions which in turn cause delays, hence, there is a dire need to revisit them. As discussed, several provisions in place pave the way for an 'adjournment culture', which is known to prolong the litigation process. Similarly, the discretionary nature of provisions relating to costs and ADR fundamentally destroy the legislative intent of providing swift and cost-effective justice to the citizens ensured by the Constitution of Pakistan 1973. Though the laws enacted on this front are noteworthy, they are limited by the discretion of the court. Furthermore, while the judiciary has taken steps to encourage it in judgments and seminars, it has little meaning without implementation in the subordinate courts.

In addition, the research paper conducted an in-depth review of selected cause lists and order sheets from various jurisdictions. This analysis revealed a significant burden on judges across all jurisdictions, highlighting the need for measures to address the overburdened judiciary. The review of order sheets further corroborated these findings, exposing procedural impediments within the judicial system. Notably, both lawyers and judges were found to contribute to the adjournment culture, suggesting that systemic changes, including digitisation, flexibility of court processes, and active case management, are crucial to addressing this issue.

As an answer to our antiquated judicial system, this research paper has attempted to frame a model procedure based on international best practices. It must be noted that the proposed framework's various aspects are not novel concepts, rather, they are already operational in multiple jurisdictions in some form with a notable degree of success as demonstrated hereinabove. Similar ideas have also been advocated for by local academia. Hence, by making reforms in the CPC and adopting the best practices necessary in the litigation process, we can curtail the menace of prolonged and frivolous litigation.

Additionally, the research conducted key informant interviews with lawyers, judges, and academics in different cities of Pakistan. This allowed the investigators to further build upon the proposed framework with the object of identifying enforcement mechanisms that are critical for the practical implementation of reforms. Finally, the findings and recommendations from the key informants were incorporated in our model procedure, keeping in view the practical realities and resources, to resolve the underlying problems that cause the judicial backlog.

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PRISONS AS PATHWAYS TO REHABILITATION OR CRIMINALITY? A CASE STUDY OF THE PRISON'S EFFECT ON LONG-TERM REHABILITATION OUTCOMES IN HARIPUR JAIL

Shujahat Ali, Aamer Raza, and Muhammad Fahim Khan

ABSTRACT

The primary goal of this study was to examine the efficiency of the prison system in Pakistan, with a focus on facilities in Khyber-Pakhtunkhwa's prisons, in assisting convicts with their reintegration. A single prison, i.e., Haripur Central Jail, was selected for the study. However, the study also took into account other major prisons in the province in seven administrative divisions, totalling six high-profile central jails. The investigation was conducted using a mixed technique. Of the total 180 respondents, 105 jail inmates (adults and adolescent male prisoners who were either under trial or convicted) were chosen randomly from the seven divisions in the province and administered a semi-structured questionnaire. Prison executives, jail staff, probation officers, and ex-prisoners made up the remaining 75 respondents who were purposefully chosen and interviewed using an interview guide. Additionally, a focus group discussion was organised to acquire a deeper understanding of the aforementioned issue. The random sampling technique was used for data collecting and analysis. It was discovered that the jail personnel in Pakistan possess the motivation but lack the expertise needed to turn prisons into institutes for correction. Further, there are shortage of funds and infrastructure. The study also found that the common perception that overcrowding is the main barrier to reintegration is overstated. In fact, the core issues are lack of conviction, undertrained staff, little oversight or follow-up once a convict leaves the prison, lack of specific procedures for convicts in terrorism-related charges, and the general lack of government and society's ability to provide opportunities to individuals upon release. The suggested solutions to the issue include giving prison staff the best training possible while keeping in mind modern needs, raising their pay in tandem with sound service structures, selecting, promoting, and transferring employees based on merit, hiring the necessary staff to close the enormous staff-inmate gap, and ensuring that prisons have an effective accountability system.

1. INTRODUCTION AND BACKGROUND

A prisoner is a person who commits an offence and gets proper and lawful punishment from the state's justice system to keep them in prison (Harigovind, 2013). Prison is the physical space where offenders are kept legally as punishment for their wrongdoings. However, prison also serves as a facility to rehabilitate individuals for better integration back into society. Therefore, it is also referred to as a correctional facility where offenders are held in confinement after conviction or while awaiting trial (Hanser, 2012; McShane & Williams, 2004). The study proposes to assess the effectiveness of prisons in Pakistan, with a special focus on the prison system in Khyber Pakhtunkhwa (KP) mentioned in the spatial map (Figure 1), in carrying out rehabilitation. By understanding the prison system's capacity to rehabilitate inmates, the study analyses whether prisons contribute to rehabilitation or contribute to increased criminal behaviour.

Figure 1: Spatial Map of the Khyber Pakhtunkhwa Prison System

Source: Authors' computations based on information retrieved from the Spatial Map of the Central Prison Haripur by Google Earth (Software).

In our preliminary research, we found that previous research findings identify overcrowding as the leading challenge to rehabilitation outcomes in prisons in Pakistan. Prisons become overcrowded when the number of existing prisoners increases in prison outmatching available space and resources (Hough et al., 2008). In 2009, during the 8th Commission on Crime Prevention and Criminal Justice, it was concluded that overcrowding in prisons has very serious effects on the health and behaviour of the inmates, limiting the possibility of rehabilitation. The standard minimum rules for the treatment of prisoners (SMR) Rule 10 reads "Prisons shall provide all the accommodation facilities like sleeping place, health care, climate condition, minimum floor space, heating and ventilation and lighting." However, in many prisons around the world, the prisoners sleep in shifts or congested places on one another with a lack of basic facilities. This study investigates the extent and effects of overcrowding and other issues which are often overlooked and relates it causally with the question of the quality of facilities and therefore to the eventuality of recourse to crime among released inmates. During the study, we found that the issue of recidivism and integration is not merely related to what transpires in prisons. Rather, the

larger justice system, including investigation, prosecution, and adjudication plays a deterministic role in rehabilitation outcomes.

Background

Pakistan has the 23rd-largest prison population in the world and the 5th-largest death row population (World Prison Brief, 2019). As noted, the number of prisoners in prisons is more than the available space. According to Malik (2019), the number of total prisons in Pakistan was 120 in all four provinces and the total capacity of accommodation was for 57,712 people, but states had accommodated 77,275 prisoners against the SMR rules and inmates suffered poor physical and social conditions (Dawn, 2019). According to the report of World Prison Brief (2019), in Pakistani prisons, 35.5 per cent were legal offenders against whom the justice system has announced imprisonment, while 64.5 per cent of inmates were pre-trial or awaiting trial. Demographically, 98.6 per cent were male, 1.6 per cent were female, 1.7 per cent were juveniles, and 1.2 per cent were those who held foreign citizenship (World Prison Brief, 2019).

In 1950, the first programme for prison reform was introduced in Pakistan and the ex-IG (India) Colonel Salamat Ullah was the chairman of the commission. Afterwards, various commissions were constituted for reforms in different provinces of the country under the support of the federal government and these suggestions were unvaryingly agreed upon, but no prolific work was completed in the prison system due to financial constraints (Khan, 2010).

Out of 120 prisons in Pakistan, the KP has 43 prisons, Punjab 40, Sindh 26, and Balochistan 11. These prisons are overcrowded because the total authorised capacity is only for 57,712 prisoners, but 77,275 prisoners are incarcerated in these prisons (Malik, 2019). Although prison Rule No. 745 says that each prisoner should have 18 square meters in a barrack, the available space is on the decline (Niazi, 2016).

Types of Prisons

There are different types of prisons and among them, the number of district jails is 51, central jails are 25, and sub-jails are 21. Besides this, the other types are few as mentioned in Table No.1

Table 1: Types of Prisons

No.	Prison Type	Number of Prisons
1	High-security Prison (H.S.P.)	1
2	Central Jail (C.J.)	25
3	District Jail (D.J.)	51
4	Sub-Jail (S.J.)	21
5	Judicial lock-up (J.L.)	4
6	Bristol Institutions and Juvenile Jail (B.I)	5
7	Youthful Offender Industrial School (Y.I.)	6
8	Women Jail (W.J.)	7
9	Open Prison (O.P)	1
10	Interment Center	5
	Total	120

Sources: Khyber Pakhtunkhwa Prisons (2020), Punjab Prisons (2020), Sindh Prisons & Corrections service (2020) and Balochistan Prison Department (2020).

Province-Wise Distribution

Among 120 prisons, 43 are in the KP, 40 are in Punjab, 26 are in Sindh, and 11 are in Balochistan.

Table 2: Province-Wise Prisons

No.	Province	Number of Prisons
1	Khyber Pakhtunkhwa	43
2	Punjab	40
3	Sindh	26
4	Balochistan	11
	Total	120

Sources: Khyber Pakhtunkhwa Prisons (2020), Punjab Prisons (2020), Sindh Prisons & Corrections service (2020) and Balochistan Prison Department (2020).

Distribution by Type

The following table shows the distribution of prisons in all four provinces based on their types.

Table 3: Province-Wise Distribution of Different Types of Prisons

Prison Type	Punjab	Sindh	Khyber Pakhtunkhwa	Balochistan
High-security Prison	01	00	00	00
Central Jail	09	06	06	04
District Jail	25	11	08	07
Sub-Jail	02	00	19	00
Judicial lock-up	00	00	04	00
Bristol Institutions and Juvenile Jail	02	00	01	00
Youthful Offender Industrial School	00	05	00	00
Women Jail	01	03	00	00
Open Prison	00	01	00	00
Internment Centre	00	00	05	00
Total	40	26	43	11

Sources: Khyber Pakhtunkhwa Prisons (2020), Punjab Prisons (2020), Sindh Prisons & Corrections service (2020) and Balochistan Prison Department (2020).

Prison Population

The latest data from the prison departments of all provinces shows that Pakistani jails have the authorised capacity to accommodate 57,712 prisoners, but there are 77,275 prisoners in these prisons, which has made the system overcrowded.

Table 4: Province-Wise Statistics of Prison Population

No.	Province	Number of Prisons	Capacity	Prison Population
1	Punjab	40	32,447	47,077
2	Sindh	26	13,038	17,239
3	Khyber Pakhtunkhwa	43	9,642	10,871
4	Balochistan	11	2,585	2,088
	Total	120	57,712	77,275

Sources: Khyber Pakhtunkhwa Prisons (2020), Punjab Prisons (2020), Sindh Prisons & Corrections service (2020) and Balochistan Prison Department (2020).

Convicted and Under-Trial Prisoners

Although the number of female inmates is less than male inmates in all provinces, the number of under-trial prisoners is more than the convicted ones, which is the reason for overcrowding in jails. Of the total 77,275 prisoners, only 29,367 are convicted, while the remaining 48,008 are under trial. Furthermore, there are also 1,204 female prisoners in all prisons of the country.

Table 5: Population of Inmates in Pakistan's Prisons

No.	Province	Prison Population	Male	Female	Convicted	Under Trail
1	Punjab	47,077	45,646	769	20,352	26,725
2	Sindh	17,239	16,852	214	4,808	12,431
3	Khyber Pakhtunkhwa	10,871	10,670	201	3,203	7,668
4	Balochistan	2,088	2,068	20	904	1,184
	Total	77,275	74,870	1,204	29,267	48,008

Source: Malik (2019).

Objectives

1. To assess the availability of existing financial, human, and infrastructural resources in Haripur Jail to determine whether these are used effectively to ensure the rehabilitation of prisoners.

2. To qualitatively and quantitatively survey the availability of resources and facilities in prisons in Pakistan against international standards, and to measure whether the availability of these facilities in some places has resulted in better outcomes.

3. To put forth concrete policy guidelines to improve the effectiveness of jails as a space for the rehabilitation of criminals.

Research Questions

Central Question

- Are the resources available in the Haripur Jail used optimally to ensure maximum rehabilitation outcomes for the incarcerated population?

Sub Questions

1. What are the human, financial, and infrastructural resources available in Haripur Jail?

2. What policy improvements are possible to improve the rehabilitation outcomes for prisoners in Haripur Jail?

2. LITERATURE REVIEW

Gul & Asad (2018) notes that prisons in Pakistan are punitive rather than rehabilitative in the approach. He cites numerous issues such as overcrowding, mental and physical abuse, and the lack of properly trained staff, to name a few, with which the prison system is riddled. The study provides a good theoretical assessment. However, it does not provide empirical data to promote its central hypothesis.

Bhutta & Akbar (2012) note that although the government does realise that criminal behaviour is often linked with the situation of prisons and reform commissions have been set up to deal with the issue, few practical steps have been taken in follow-up.

Bhutta & Akbar (2012) provide a comparative study of prisons in Pakistan and India where they note that with slight differences, prisons in both countries face the same situation. Many other useful studies focus on a specific segment of the prison population such as Ahmad and Murtaza who focus on juvenile delinquents, and Khan et al. (2017) who study psychological depression among women prisoners in Peshawar.

Other studies focus on specific issues related to prisons such as Gorar & Zulfikar (2010) who studied the prevalence of Hepatitis C among the prison population in Pakistan, and Ishfaq & Kamal (2024) on criminal behaviour in the prisons as the gateway to long-term criminality. Interestingly, although all the existing studies on prisons in Pakistan point to several problems and the effect of these problems on inmate rehabilitation, none of the studies makes empirical investigation to make a causal relationship, and therefore, do not provide concrete policy proposals.

Theoretical Framework

The study employs the organisational responsibility theory of prison management proposed by Susan C. Craig. This theory is used based on the condition of prisons in Pakistan. Craig (2004) holds that the twin objectives of detaining a criminal away from the rest of society and rehabilitating and reintegrating them often come into conflict with each other. On account of the growing prison populations, the need to accomplish the day-to-day functioning of the prisons, and related logistical difficulties, prison staff often prioritise control of prisoners over their rehabilitation. This 'control model of management' overlooks the rehabilitation needs of the prisoners and is effective insofar as it minimises the risk of disorderly conduct in the prisons.

The organisational responsibility approach presupposes the prisoners as responsible subordinates. The

prisoners are considered responsible since they are understood as having the capacity to understand the needfulness of their time in the prisons and they are considered subordinate since they are meant to follow the structure which is managed and overseen by the prison staff. This approach calls for greater social cohesion between the prison staff and prisoners. It also allows for decision-making where prisoners play some decision-making role. Once the incarcerated population feel that their will has been integrated into the structure and programs, they show greater willingness to follow directions, thereby making rehabilitation more effective.

3. RESEARCH METHODOLOGY

The study adopted a mixed method involving elements of qualitative and quantitative research. It also included the collection of both primary and secondary data. Firstly, empirical data on the state of prisons in the KP after 9/11 was collected. Data included information such as the number and type of prisons in KP, the number and types of prisoners housed by each prison, and the related facilities in each prison. Such data is largely in the public domain. However, wherever the data was unavailable online, we reached out to the relevant prison department or the prison and district administration.

The second part of the research that narrows down the focus on Haripur jail generated more primary data. Data was collected through interviews with current and former prisoners and the jail staff, both staff of the line agencies and the staff departments. In-depth interviews were conducted, especially with repeat offenders. The questions tried to gauge to what degree their stay in jail had resulted in their drifting away or into criminality. Five interviews were conducted with individuals who remained incarcerated in the past but had since avoided criminal persecution. These latter respondents were chosen through the snowball method.

Interviews were also held with the provincial bureaucracy concerned with managing the public policy affecting the prisons, even when they may not be directly involved in prison management. The interviews with the prisoners followed representative sampling techniques where the interviewees included the number at which they were incarcerated. We used the snowball method for reaching out to former inmates and the provincial bureaucracy.

The secondary data focused on international standards dealing with prisoners. There are several UN and Human Rights Watch documents that provide guidelines for humane practices, norms, the treatment of inmates, and training prison staff. Furthermore, some literature is available on prisons in Pakistan that the study consulted.

A thematic analysis of the interviews was conducted to identify specific areas of concern. The thematic analysis highlighted comparisons of how different categories of individuals viewed the challenges and conditions of prisons and how the resources were made available and allocated. The quantitative analysis was used to make international and interprovincial as well as temporal comparisons. We also quantitatively traced changes in resource allocation and staff training and correlated them with changes in the conditions of prisons.

Sampling for Questionnaires

a. ***Sampling Framework:*** The entire population of inmates in Haripur Jail was the population for the study. The framework estimated that there were 300 convicts in total, with 294 males and 6 females.

b. ***Random Selection Procedure:*** A random selection procedure was used to choose one male and one female prisoner to participate in the survey. We followed the systematic random sampling technique. In this technique, after making a random initial selection from the sample frame, every kth person in the frame is selected. (See Appendix G for Questionnaires)

c. ***Sampling Technique:*** The disclosed sampling technique is not simply random sampling since not all members of the population were given an equal probability of being picked. However, if the underlying population is sufficiently randomised, systematic random sampling paired with random starting points may still give a representative sample. The outcomes of the random sample procedure are presented in the different sections of the study's final report. Every fifth male and all the female inmates at Haripur Jail were included in the sample.

The findings provided further context for thinking about the potential for long-term change within Haripur Jail's inmate population. The research found gender-based differences or parallels in rehabilitation progress or problems experienced by male and female convicts by comparing their replies. The findings also provide insight into how successful rehabilitation programmes are inside the confines of a correctional facility.

4. FINDINGS AND DISCUSSION

A Brief History of Prisons, Prison Laws, and Prison Reforms in Pakistan

British Era

The available records of prisons in ancient India suggest that prisons were typically places of detention where criminals were held in captivity while they waited for and underwent trial. Imprisonment was rarely seen as punishment in itself. Typically, accused individuals were confined in prisons while they awaited their trials or their judgements by authorities were pending. The conditions in prisons in ancient India were brutal and lacked the basic needs of life (Mohanty & Narayan, 1990). The same practice continued during the Mughal period with one major distinction, that is, the creation of 'noble prisons' where castles were used as prison facilities to detain individuals with social or political distinctions. Three such facilities existed in Gwalior, Ranthambore, and Rohtas, the last being in modern-day Pakistan (Sarkar, 1920).

The British colonial authorities established the idea of modern prisons in India. The new prison system was consistent with the notions of punishment that were becoming commonplace in Europe and North America. These new prisons, which McGowen refers to as the "well-ordered prisons", were run by professionally trained prison administrators. These prisons were cleaner and provided various aspects of life for the prisoners (McGowen, 1995). The first British proclamation of the new prison system was the Bengal Regulation III of 1819. Omar (1996) notes that the regulation established the idea of 'preventive detention' whereby the colonial authorities could detain an individual without having to bring the prisoner to trial. Such measures could be taken in anticipation that the individual might commit a crime. The Committee on Prison Discipline 1838 (Henry, 1838) proposed the establishment of a prison system that involved "monotonous, uninteresting labour" and deprivation from all indulgences "not absolutely necessary to health" (Yang, 1987). The prison system established under such conceptualisations was fashioned to suit the requirements of the colonial system.

The Bombay Act II of 1874 was the first British initiative that demanded the assessment of conditions in prisons. The provisions of the Act were limited to the Bombay Presidency. It called for the appointment of a medical officer by the government. Such a medical officer had the authority to inspect the sanitary conditions of prisons and inform the district judge regarding the state of the prisons and the prisons (The Civil Jail Act, 1874). The Act, which was also titled the Civil Jails Act, outlined various other initiatives that the staff of jails or the supervisor (called naazirs) were supposed to undertake to ensure the well-being of the prison population. For our study, it is noteworthy that this Act laid the foundation of the idea of treating prisoners more humanely, and for making prisons a more hospitable place.

The most comprehensive legal instrument dealing with the administration of prisons in British India was Act No. IX of 1894 also referred to as the Prisons Act 1894. The comprehensive law that extended to all of British India detailed all aspects of prison life in its twelve chapters. It included the details of the roles and responsibilities of the prison officials. These officers included superintendents, jailers, medical officers, and other subordinate officers. Furthermore, it provided thorough guidelines on the food and clothing, employment, and health facilities for the prisoners. Additionally, the Act described the conditions for visits to prisoners and the offences related to prisoners (The Prisons Act, 1894)

In 1897, the Reformatory School Act was passed. The Act, also called Act No. VIII of 1897, instituted reformatory schools for youthful offenders. In addition to calling for sanitary and healthy conditions for the prisoners, the law also outlined specific conditions needed to deal with young inmates, such as the capacity to separate prisoners at night. Notably, for our current study, the Act also called for occupational training for young offenders to facilitate their rehabilitation. (The Reformatory Schools Act, 1897) Further legislation was carried out in Punjab to establish Borstal Institutions under the Borstal Act 1926. These institutions were created to house adolescent offenders. This exhaustive Act provided that the adolescent offenders would receive vocational as well as moral training for better integration into society upon their release (The Punjab Borstal Act, 1926).

The Prisoners Act of 1900 (Act III of 1900) provided further guidance on carrying out writs, warrants, and orders of courts and other competent authorities concerning prisoners (The Prisoners Act, 1900) The first stand-alone detailed manual for prison administration was passed in 1932. The Prison Manual 1932 laid the foundation for prison administration rules after the independence of Pakistan. The manual that came into force under Section 59 of the Prisons Act of 1894, complemented the aforementioned laws. The manual provides a comprehensive view of issues related to prison management, such as dealing with bonds and bails, the procedures for carrying out punishments, dispensing matters related to European prisoners, and overseeing the question of accidental or natural death of those in custody (Bhutta & Akbar, 2012). It should be understood that the establishment of jails under the British Empire was supposed to cater to the needs of a colonial authority to counter resistance, in addition to detaining the criminals. The prison administration, it needs to be understood, followed the systemic "legal construction of racial difference in India." As Elizabeth Kolsky has highlighted in her seminal work Colonial Justice in British India, the legal apparatus, to which the prisons constituted an integral part, deprived the Indian subjects of protections that were available to the white subjects and officials of the British Raj. As we discover in the succeeding lines and sections, many of the features of such colonial practices have seeped into Pakistan's prison system after independence.

Prison Law and Reform after Independence:

The first important matter about prisoners that surfaced in the immediate aftermath of the independence was the repatriation of prisons to and from India. To deal with the matter, the Pakistan (Exchange of Prisoners) Ordinance 1948 was issued. This ordinance was issued in response to the commitment reached by the Governments of Pakistan and India. The Indian government also passed a corresponding act to the same effect. Principally, the act laid down conditions and articulated the procedures for the repatriation of prisoners to India. It highlighted the role of the provincial governments and outlined the jurisdiction of courts and other authorities in dealing with these prisoners (The Pakistan (Exchange of Prisoners) Ordinance, 1948) The interesting aspect of the Ordinance is that it was the first instance after the creation of Pakistan where laws dealing with prisoners were issues to correspond to and to comply with international agreements.

The first notable effort to introduce prison reforms in Pakistan was the establishment of the Punjab Prison Development Commission in 1950. The Commission was led by Salamat Ullah who had previously served as the Inspector General Uttar Pradesh. The recommendations of the commission resulted in the development of the Punjab Prison Manual 1955 (Anwar & Shah, 2017). Similarly, the East Pakistan Jail Reform Commission was established under the headship of Rehmat Ullah (CSP) who served as the Commissioner Dacca Division. The

Commission published a report in November 1957 (Government of East Pakistan, 1957). Both these commissions advocated for more humane treatment of prisoners held in the respective regions.

In 1968, the West Pakistan Jail Reforms Committee was constituted under the chairmanship of Justice S.A. Mahmood. The committee remained operative until 1970. Taking a more practical approach to jail reforms, the committee pointed out many glaring inadequacies in the prison system of Pakistan. In 1969, Justice Mahmood noted that West Pakistan needed at least ten more jails to fulfil the need for housing the incarcerated population. He also lamented the fact that there existed only a single juvenile prison in West Pakistan located in Landhi, near Karachi. The committee proposed the establishment of more juvenile facilities in major cities. It also emphasised the need for broadening vocational training facilities and industries in prison and the need for providing religious and moral training to prisoners. The committee recommended the establishment of a fund to support prisoners upon release until they found themselves a suitable source of livelihood (Nyrop, 1975).

As a more ambitious effort to deal with the issue of prison reforms, a month-long Jail Reforms Conference was held in mid-1972. The conference participants included provincial home secretaries, jail officials, superintendents of jail, academics dealing with the subject of the imprisoned population, and members of the civil society. The conference identified overcrowding as the main challenge for the prison system. At the time, it was estimated that, on average, the prison system had to deal with 65 per cent more prisoners than the capacity of the system. The conference highlighted both the reduction in the number of prisoners as well as the establishment of new prison facilities to create jails that fulfilled the need for better centres of rehabilitation (Nyrop, 1975). It is important to highlight that the Constitution of Pakistan 1973 vested the responsibility of managing prisons with the provinces.

The currently in-vogue Pakistan Prison Rules 1978 are largely a product of the Jail Reform Conference 1972 (HRCP, 1995). The 1978 prison rules were adopted by all provinces and are, with some changes, the current legal framework for the operations of prisons in Pakistan. The rules are divided into various chapters in which the rules provide detailed directions on wide-ranging issues. They lay down the type of criminals and detainees and the treatment for each type and class. The rules also specify the four types of prisons, namely, central prisons, special prisons, district prisons, and sub-jails (Pakistan Prison Rules, 1978).

The rules provide guidelines on admission, transfer, discharge, and removal of prisoners. It provides directives on delivering medical services to prisoners and describes the procedures for medical examination of the prisoners – in particular outlining a separate procedure for female prisoners. The rules prescribe the procedures for registering and maintaining records, dealing with special cases of prisoners such as mothers with innocent children and foreigners, collecting and dispensing with the fines levied on prisoners, and ensuring the safe custody of prisoners' property (Pakistan Prison Rules, 1978).

Ultimately, the rules lay down the most elaborate set of procedures for ensuring humane confinement and potential for rehabilitation in Pakistan's history. It calls for ensuring the health, education, moral development, and special needs of the prisoners. It goes into the minute details of issues such as vaccination against specific diseases, the intricacies of prison administrative hierarchy, and the roles of each officer (Pakistan Prison Rules, 1978). With some changes, these rules have been the standard for the management of prisons and the treatment of prisoners.

On various occasions since the adoption of the 1978 rules, committees, commissions, and other bodies, both at the federal and provincial levels, have been constituted with an agenda of proposing prison reforms. Special Committee on Prison Administration (1981), Prison Reforms Committee (1985), Jail Reforms Committee (1994), Pakistan Law Commission (1997), and Task Force on Prison Reforms (2000) are a few prominent examples (Khan, 2010). It is important to mention that in all the reports completed by these reform bodies, overcrowding has been identified as the main source of prison challenges in Pakistan. It has been highlighted that all other issues, such as inadequate care, lack of proper rehabilitation facilities, under-resourced and under-trained staff,

and the lack of space, are a consequence of overcrowding in prisons.

Although prison reform initiatives had been introduced with a degree of regularity, the core issues in prisons remained largely unaddressed. Foremost, the issue of widespread overcrowding, as highlighted by almost every reform commission, could not be resolved. Despite the construction of new facilities for incarceration, the capacity could not keep pace with the overall growth of the population, consequently enhancing the growth in prison populations. Similarly, prisons and prison staff were not equipped to deal with new types of incarcerated populations. Most notably, when the number of individuals confined for terrorism-related crimes increased manifold, the prisons did not adopt procedures and programmes suited to dealing with these individuals. Similarly, the training of prison staff which was a recurring theme in these reform initiatives and proposals was only paid lip service. Even when training was made available, it usually had little relevance for carrying out the routine business of prisons.

Prison Law and Reform in Khyber Pakhtunkhwa

As noted, according to the Constitution of Pakistan, the subject of prison administration falls under the authority of the provincial governments. It is important, therefore, to take into account the specific laws that deal with prisons and prison management in Khyber Pakhtunkhwa. Like other provinces, the aforementioned Prisons Act 1894 and the Prison Rules 1978 remain in vogue in Khyber Pakhtunkhwa. Although all provinces in Pakistan have adopted and to a large degree retained the same acts, these Acts have been amended from time to time. In the following section, we discuss how the KP legal landscape surrounding prison administration changed over the past few decades.

The noteworthy examples of changes in existing laws in the KP prison system have been the Prisons NWFP (Amendment) Act of 1996 that came into force in July 1996 as an Amendment to the Prisons Act 1894 (The Prisons N.W.F.P (Amendment) Act, 1996) and the Good Conduct Prisoners Probational Release the NWFP (Amendment) Act 1996 that facilitated the waiver of partial sentence for prisoners demonstrating better conduct (The Good Conduct Prisoners Probational Release The N.W.F.P (Amendment) Act, 1996).

Additionally, in 2011, the Khyber Pakhtunkhwa Borstal Institutions Act was passed to establish Borstal institutions to better manage the affairs of young offenders. The act laid down the groundwork for the establishment of such institutions. It also outlined the responsibilities of the staff in these institutions in particular the director and the principal. Furthermore, the act provided details on handling matters such as the release, transfer, and remission of the inmates, the imposition of penalties for disorderly behaviour, and providing other resources needed at the correctional facility (Khyber Pakhtunkhwa Borstal Institutions Act, 2011).

In 2018, the Khyber Pakhtunkhwa Assembly passed Khyber Pakhtunkhwa Prison Rules 2018 as an amendment to the 1894 prion rules. The amendment expunged more than 200 rules from the 1894 Act. These changes aimed to remove the clauses of the Act that had become irrelevant over time. Some other clauses were merged to enhance coherence. Furthermore, the purported objective of the amendments was to make the rules more closely adhere to the international standards enshrined in the Bangkok and Mandela Regulations (KP Prison Rules, 2018).

The latest change to the Prison Act 1894 adopted in the KP is the Prisons (Amendment) Act 2020. The key purpose of the amendment was to establish and regulate facilities for skill training and business activities inside jails. The Amendment also aims to organise the use of proceeds that may be generated from these business activities. Specifically, it allows the Inspector General of Prisons to use these resources for the welfare of the prisoners and to improve the working and living conditions of the prisoners (The Prisons (Amendment) Act, 2020).

International Rules and Standards for Treatment of Prisoners

Scholars have identified two broad models of prison management – control and rehabilitation. Each category, as denoted in the nomenclature, corresponds to specific goals. Unsurprisingly, therefore, the strategies that either model adopts in dealing with the incarcerated population are different. As the brief history of prisons and prison management described in the previous section highlights, the initial notion behind establishing prisons was to ensure compliance with the population. Therefore, the control model was considered more suitable for the purpose. Gradually, however, as the relationship between states and societies continued to change, the treatment of the imprisoned population also transformed, and the rehabilitative model was considered more appropriate for the purpose. This latter model is designed to reform rather than control individuals who find themselves on the wrong side of the law (Craig, 2004). The international standards set in the aftermath of such an academic change run parallel to the change and take a more rehabilitative and reformative view of prisons. The same view has since become commonplace in many societies, but the Scandinavian countries have elevated it to exemplary levels.

The International Penal and Penitentiary Commission (initially called the International Prisons Commission) was founded by various European nations in 1872 to develop a common framework for criminal and prison reforms. After the League of Nations was created in 1919, the Commission became associated with the League. The Commission organised conferences in 1926, 1930, and 1935 with the agenda to develop international standards on prisons. In 1926, the IPPC worked on proposing Standard Minimum Rules for the treatment of prisoners. In 1934, the League endorsed 55 rules that the IPPC had proposed (Clifford, 1972). However, during the Second World War, the League and, consequentially, the IPPC remained inactive (UN, 1991).

After the creation of the United Nations in 1945, the IPPC was integrated into the new world body. The United Nations had already included in its mandate the development of a justice system that ensures citizens their basic rights. In December 1950, the IPPC was replaced by the International Penal and Penitentiary Foundation (IPPF) in 1951. Although the Geneva Conventions had already laid down standards for the treatment of prisoners, those standards applied to a specific set of prisoners who were captured in a war – prisoners of war. The first significant effort to codify and apply benchmarks for fair treatment of ordinary inmates under the UN system was the Standard Minimum Rules for the Treatment of Prisoners (Bassiouni, 1995).

The standards were adopted in the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Geneva in 1955. The standards, it should be noted, were considered 'soft sources' of international law which entails that the standards provide guidelines on matters of international concern but are not legally binding. The rules were adopted by the Economic and Social Council in its resolutions in 1957 and 1977 (Rodriguez, 2007). The purpose of the rules, it was stated, was to integrate the humanitarian spirit codified in the Universal Declaration of Human Rights into the prison systems (Besharov & Mueller, 1971). However, it should also be understood that, as the nomenclature suggests, the Minimum Rules lay down the lowest expectations a state should meet towards the treatment of its prison population.

Since then, the Standard Minimum Rules (SMRs) have undergone changes and expansion. The most expansive addition to the Rules came in 2015 when the General Assembly reformed and reintroduced SMRs under the title 'Nelson Mandela Rules' – to honour the most-noted prisoner in recent memory. Today, the Nelson Mandela Rules set the standards for the treatment of prisoners whether awaiting trial or serving time for sentences. The United Nations Office on Drugs and Crime (UNODC) led the development of the rules and the United Nations Office of the High Commissioner for Human Rights (OHCHR) ensured that the Nelson Mandela Rules were consistent with the international standards on human rights (Gilmour, 2023).

The provisions of Nelson Mandela Rules can be broadly categorised into seven subject areas:

- basic principles of treatment;

- safeguards [against mistreatment];
- material conditions of imprisonment;
- security, order and discipline;
- prison regime;
- healthcare; and
- [the professional and personal suitability of the] prison staff.

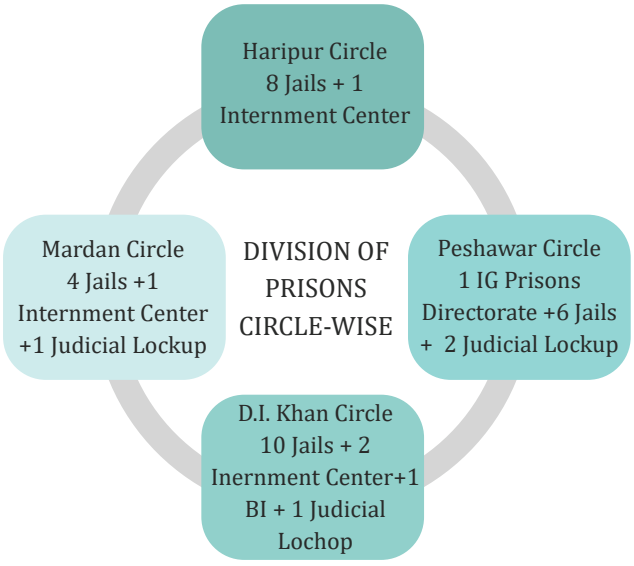
The areas have been categorised in the UNODC-published document titled Assessing Compliance with the Nelson Mandela Rules: A Checklist for Internal Inspection Mechanisms (UNODC, 2012). The document helps assess whether the prison system in a particular jurisdiction complies with the Nelson Mandela Rules. Our current study also uses the checklist as a set of measures against which the efficacy of Pakistani prisons, especially the Haripur Jail, is evaluated.

Prison Department Khyber Pakhtunkhwa

Central Jail Peshawar is the largest and recently restored jail in the KP with the capacity to house 3,000 prisoners in a 3-storey building. Central Jail Mardan is the second largest jail in the KP with a capacity to hold 2,000 prisoners. The third largest jail of the KP is the Central Jail Haripur with the capacity to detain more than 1,700 prisoners. Total capacity for prisoners in the KP has been recently enhanced after the development of several sectors and with the construction of new blocks in different jails. At the moment, the total capacity of prisons in the KP has increased to about 13,500 inmates.

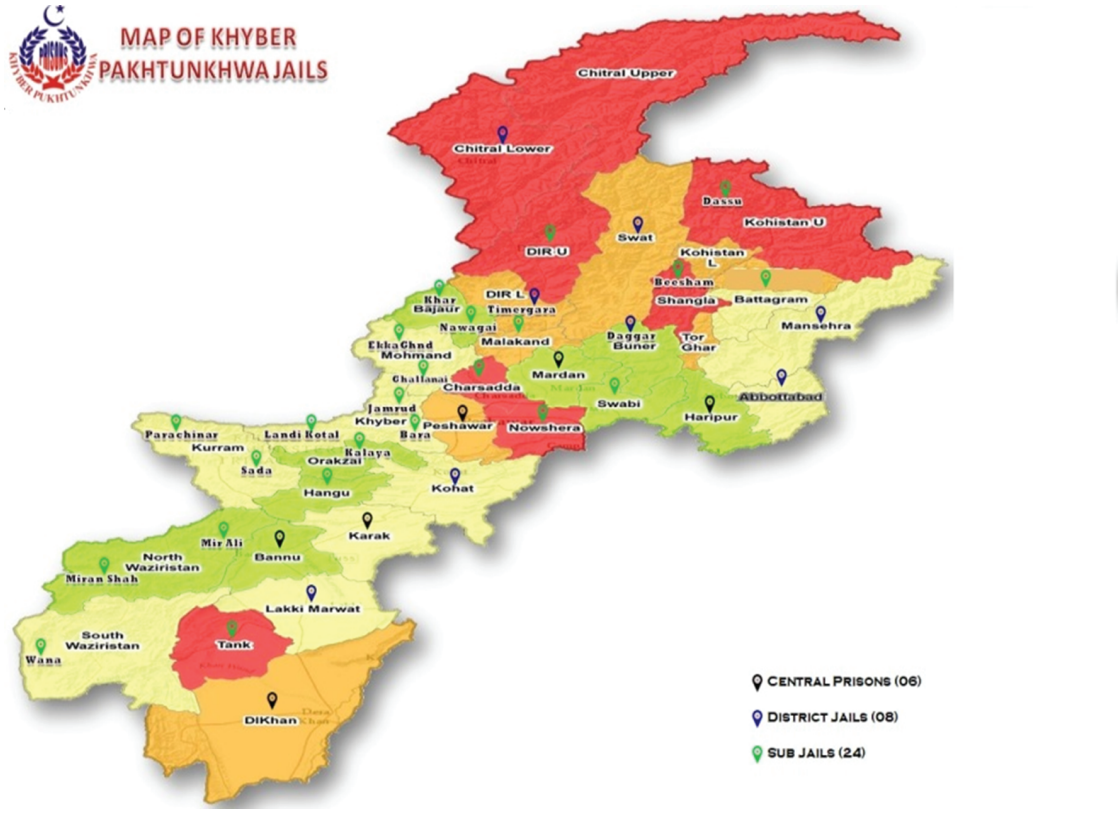
The Prison Department functions under the administrative control of the Khyber Pakhtunkhwa Home Department. The Inspector General of Prisons is the head of the Department at the provincial level, assisted by Five (5) Circle Headquarters of Prisons in the KP, i.e., Circle Headquarters Prison (Peshawar, Mardan, Haripur, Bannu, D.I.Khan).

Figure 2: Circle-Wise Division of Prisons



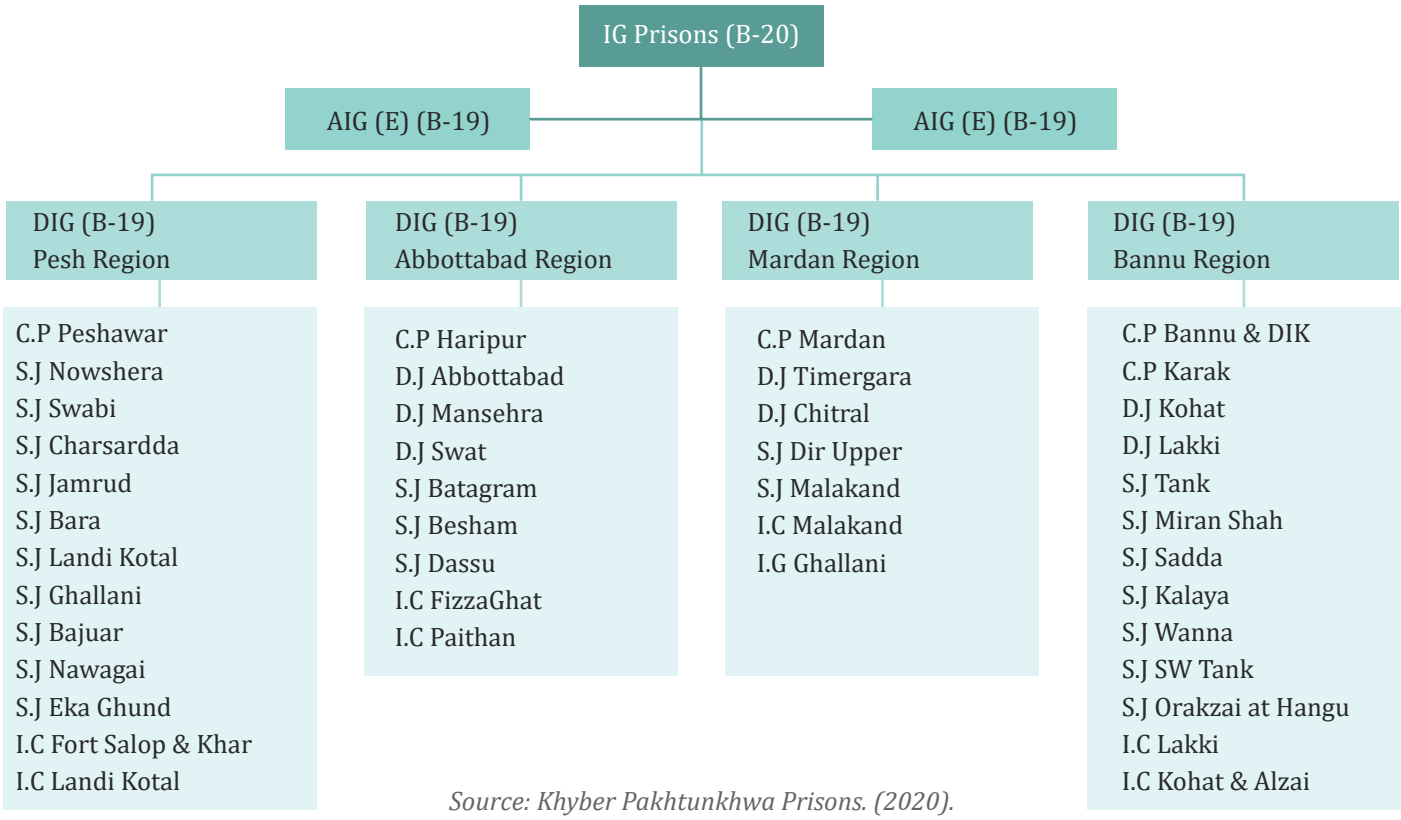
Source: Khyber Pakhtunkhwa Prisons (2020), (See Appendix A).

Figure 3: Prison Map of Khyber Pakhtunkhwa



Source: Khyber Pakhtunkhwa Prisons. (2020).

Figure 4: Organogram of the Prison Administration



Source: Khyber Pakhtunkhwa Prisons. (2020).

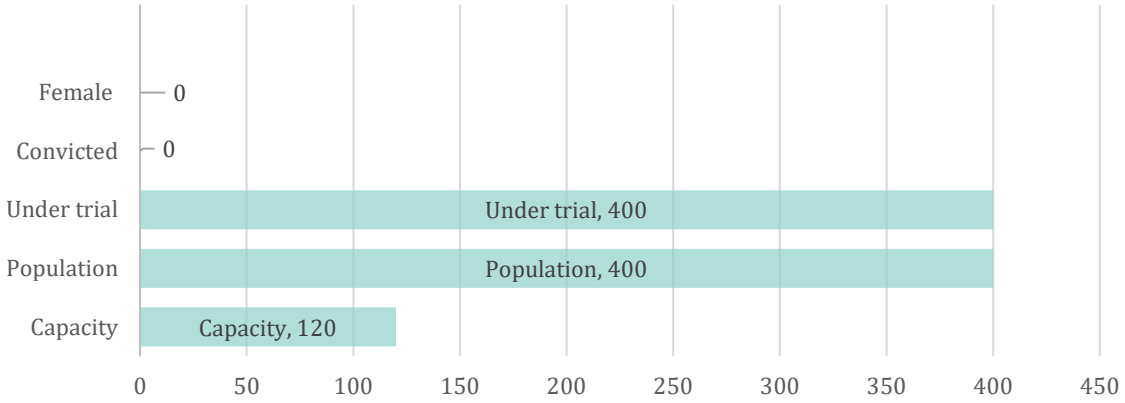
Staff hierarchy of prisons in Khyber Pakhtunkhwa can be seen in Appendix B.

Current Conditions of Selected Prisons of Khyber Pakhtunkhwa

This section provides an overview of the current conditions of select prisons in the KP. The analysis in this section looks at the various markers, associated with the Mandela Rules, with the quality of imprisonment facilities. It allows us to understand the degree to which the Haripur Jail can be deemed as an exemplar for prisons in Pakistan in general and those in Khyber Pakhtunkhwa in particular.

Sub-Jail Swabi

Figure 5: Prison Population of Sub-Jail Swabi



Source: Authors' computations based on information retrieved from Visit to Sub Jail Swabi (December 2022).

Swabi Jail was established in 1894 as a judicial lockup. It remained in this status until 2018. In 2019, the status of the incarceration facility was upgraded to a sub-jail. Our preliminary research found that the jail is overcrowded. According to the staff of the sub-jail, the prison housed inmates almost four times its capacity. The majority of inmates were said to be under trial and a large number of them were also drug addicts.

Facilities and Issues

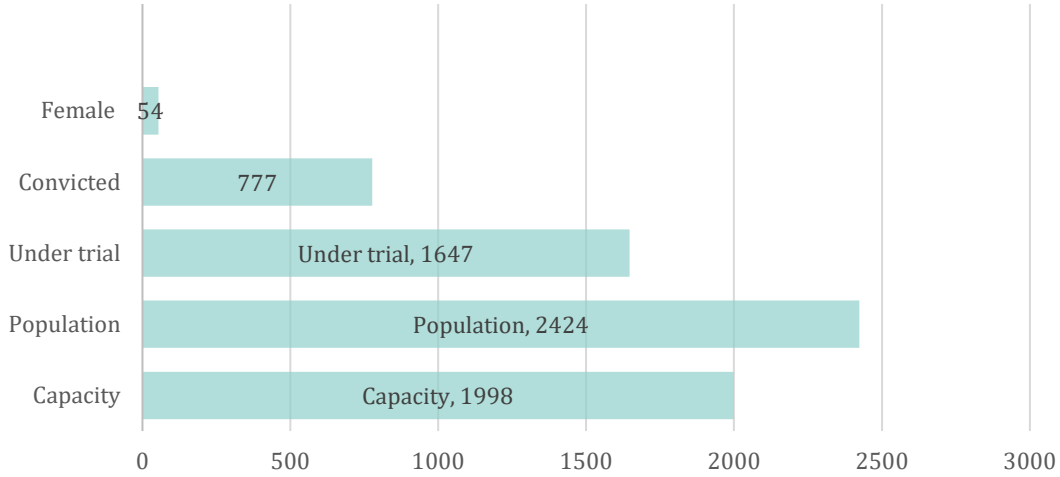
Interestingly, there is a 6-bed health facility that has been established by the prison staff. The facility has no record in the government records. Three medical officers and two hakeems help run the facility. Needless to say, the jail does not provide any rehabilitation facility to the large number of drug addicts it houses. It also lacks psychological or psychiatric assistance for the prisoners or prison staff.

In addition to the lack of proper health facilities, the prison has poor hygiene which further deteriorates the health conditions of the prisoners. Several prisoners carry tuberculosis. As noted, many prisoners are drug addicts. The available facilities are much below the expected level.

Another issue that was raised by the staff at the prison was the absence of residences for the staff. Such absence of space makes it difficult for the jail staff to perform their duties, many of whom are from far away areas.

Central Jail Mardan

Figure 6: Prison Population of Central Jail Mardan



Source: Authors' computations based on information retrieved from Visit to Central Jail Mardan (December 2022).

The Jail was established and was handed over to the Jails Department in 2015. A majority of convicted inmates were moved to this jail from the surrounding jails (Swabi, Nowshera, Charsadda, and Malakand).

Facilities

The jail has a 180-bed hospital with 16 paramedics, 8 doctors, and 1 psychiatrist (facilities and staff are available for male and female inmates and the jail staff). This facility is quite well-equipped and better-resourced than most other prisons in the province. The jail also boasts an advanced surveillance system. Additionally, the prison also has a separate mess for staff members.

Skill Development and Training Facility

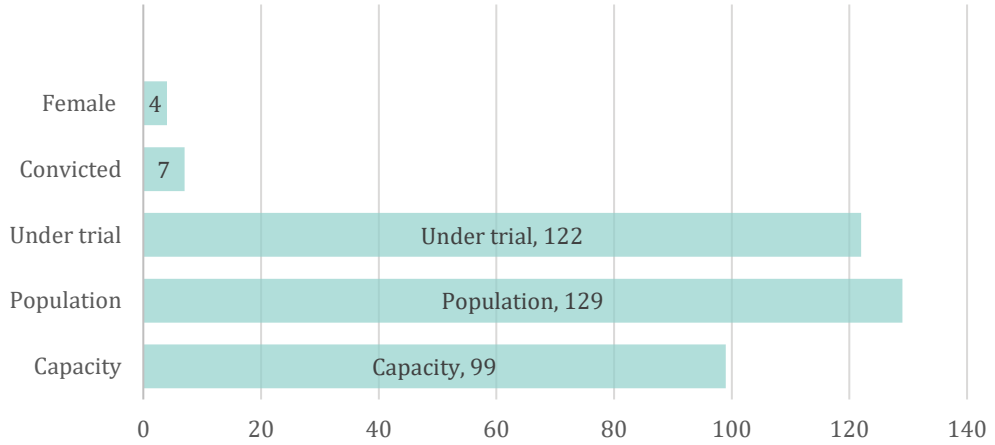
The jail, according to the staff, has vocational training facilities for the prisoners. Notably, the marble industry (theory and practical classes) classes had been completed and they were working on practical classes at the time of the interviews.

The training facilities were also made available for the jail staff. For instance, the jail can train staff members inside jail premises. Such training mainly focuses on stress management, PPR, and physical training. The officials claimed that 309 staff members were fully trained and had subsequently passed out. Two more batches of 30 and 27 were also under training.

The officials conveyed that the prison holds various events such as stage shows and sermons from religious leaders for staff and inmates. Regular sports gala, which includes cricket and basketball matches between inmates and the jail staff and between inmates of different prisons in the surroundings, is also held.

Sub-Jail Malakand

Figure 7: Prison Population of Sub-Jail Malakand

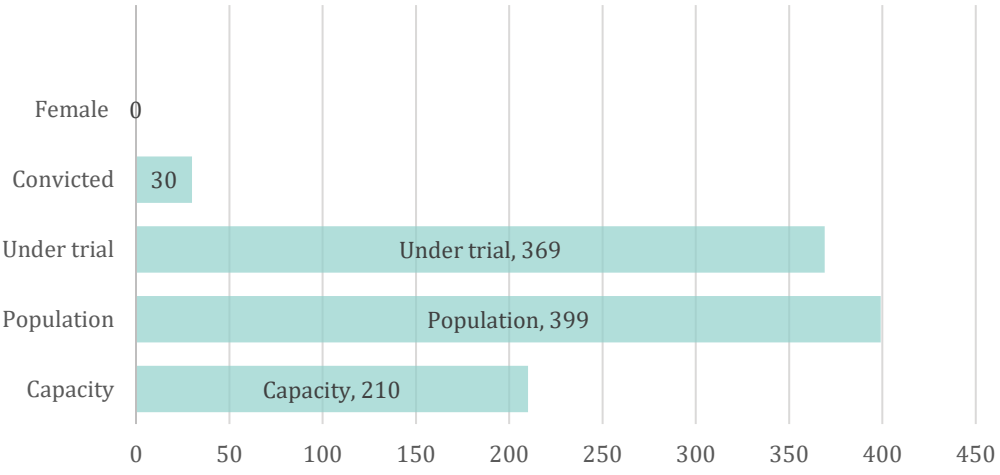


Source: Authors' computations based on information retrieved from Visit to Sub Jail Malakand (December 2022).

The jail was established in 2003. It can house 99 inmates. However, the current prison population is 129. It should be noted that the majority of inmates are under trial. Staff members are 43 male and 3 female.

Sub-Jail Charsadda

Figure 8: Prison Population of Sub-Jail Charsadda



Source: Authors' computations based on information retrieved from Visit to Sub Jail Charsadda (December 2022).

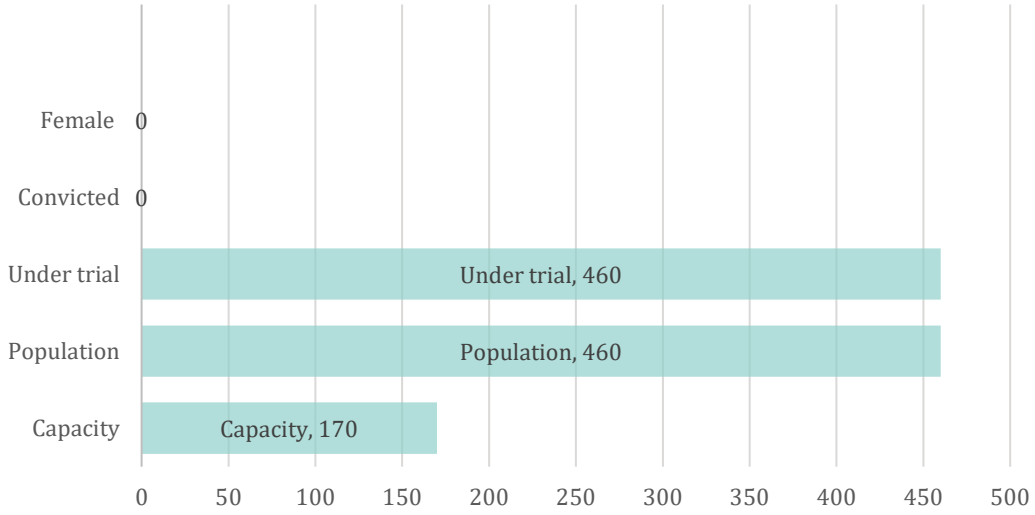
The Charsadda Sub-Jail has a capacity of 210 inmates, there are currently 399 inmates in the prison, which is almost double its capacity. The total male staff members are 62 and female staff are 7. The covered area is about 10 kanal 11 marlas.

Facilities

The Charsadda Sub-Jail has a detoxification centre. The staff members also include a medical officer. The advantage that Charsadda Sub-Jail has over some other prisons is that it provides residence for the staff in the form of a colony. The staff noted that, as per the ruling of the High Court, psychiatrists and other medical facilities are provided from outside the jail.

Sub-Jail Nowshehra

Figure 9: Prison Population of Sub-Jail Nowshera



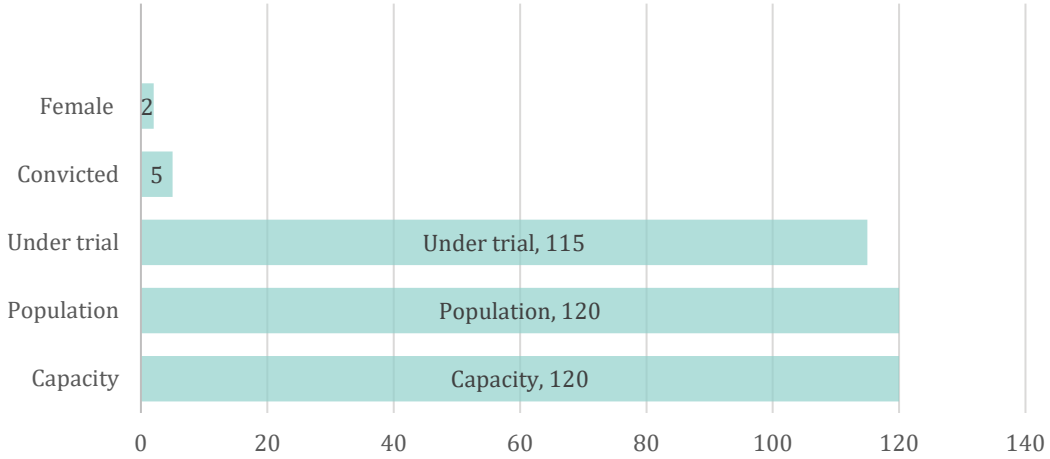
Source: Authors' computations based on information retrieved from Visit to to Sub Jail Nowshera (December 2022).

The Sub-Jail Nowshehra remained a judicial lockup till 2018. It was upgraded to a sub-jail in 2018. Officially, the jail has a capacity to accommodate 170 prisoners. However, the jail has almost inmates three times the capacity making it overcrowded with a population of 460 inmates (male inmates). Interestingly, all the inmates are under trial. Also, there is currently no female prisoner in Nowshera Jail.

One of the foremost issues raised was that there were poor residence facilities for staff members. They reside in barracks and quarters. The jail has 60 male and 4 female staff members. It was noted that there were suggestions that the sub-jail may be elevated to a district jail in the near future.

District Jail Buner

Figure 10: Prison Population of District Jail Buner



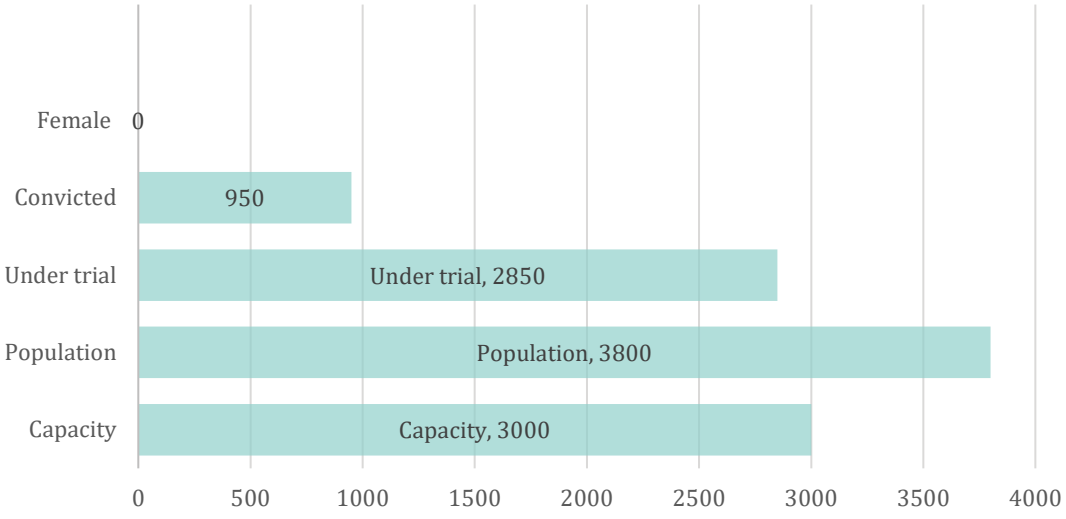
Source: Authors' computations based on information retrieved from Visit to District Jail Buner (December 2022).

The District Jail Buner houses 118 male and 2 female prisoners. The staff reported that the inmates themselves established a hospital of 4 beds. In addition, a quarantine centre and other basic health facilities are available. Only five convicted inmates are present in the jail and the rest are under trial.

Among the staff members, there are 5 females. There is a basketball court for prisoners. The staff arranges regular sermons from religious leaders. Whenever needed, a visit by the doctor or another physician is facilitated.

Central Jail Peshawar

Figure 11: Prison Population of Central Jail Peshawar



Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

The provincial headquarters jail, i.e., Peshawar Jail was established in 1854. The jail has skill development for inmates (leather industry) in a 3-storey building.

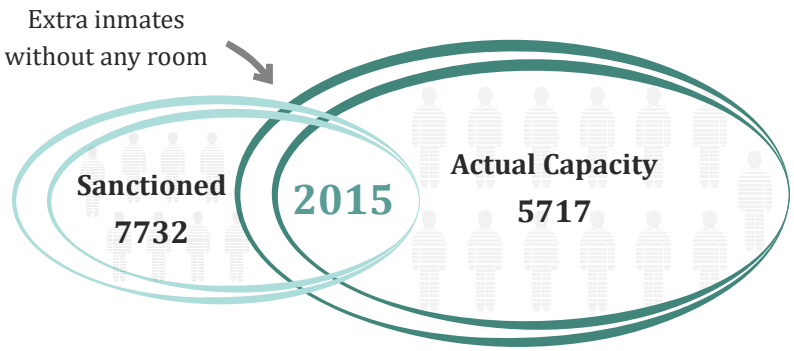
The prison has limited residence facilities for staff. There is a hospital and doctors. The jail has separate staff for male and female inmates. The prison is also equipped with an advanced surveillance system.

Findings and Discussion

The above-mentioned prisons are constructed to accommodate 5,717 inmates but 7,732 prisoners are incarcerated in these prisons creating overcrowding, which creates health and hygiene issues for inmates. Moreover, the ratio of under-trial prisoners to convicts was found to be very high. The majority of the inmates were drug addicts and drug peddlers. It was revealed during the interviews that new constructions were in progress in some areas to enhance the capacity. Although there was a hospital, psychiatric section, indoor sports activities, regular sermons by religious leaders, and other facilities in some prisons, it was not enough to facilitate inmates because of overcrowding, and high under-trial-convict ratio.

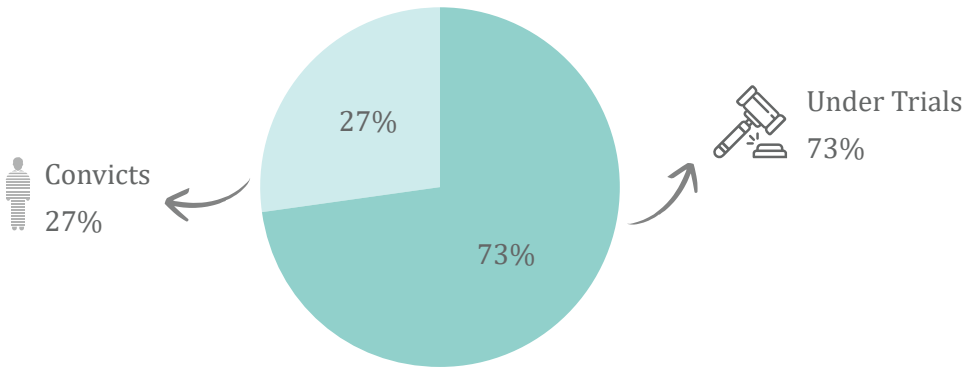
CRITERIA FOR SITE SELECTION

Swabi, Mardan, Peshawar, Charsadda, Malakand, Nowshera & Buner
Sub Jails, District Prison and Central Prison
Allocated Capacity and available inmates in different prisons



Source: Authors' compilations.

CLASSIFICATION OF PRISONERS IN SELECTED PRISONS



7732 Prisonsers in Khyber Pakhtunkhwa, **5632** have not been yet found guilty. they may be innocent

Under Trials > Convicts

Source: Authors' compilations.

Khyber Pakhtunkhwa Prison Department Budget and Cost of Prisoners

The following data represents the Khyber Pakhtunkhwa Prison Department's cost of prison and per-prisoner cost, provided by Inspector General Prison Directorate Peshawar.

Table 6: Per-Prisoner Cost Excluding Development Budget (Annual)

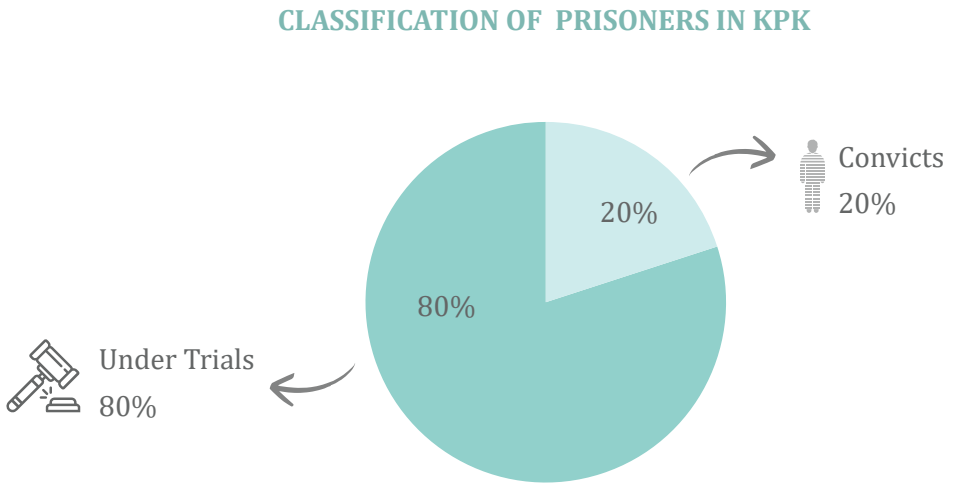
1	Allocated Budget - Salary (PKR Million)	2,717.098
2	Allocated Budget - Non-Salary (PKR Million)	1,359.00015
3	Total - Salary + Non-Salary (PKR Million)	4,076.0995
4	Per-Prisoner Cost (PKR Million)	4,076.0995/14,321=0.285
5	Per-Day Per-Prisoner Cost (PKR)	0.285/365 = 779.791

Source: IG Prison Directorate, Peshawar (personal communication, January, 2023).

Table 7: Per-Prisoner Cost Including Development Budget

1	Total Current Budget (PKR Million)	4,076.0995
2	Total Development Budget (PKR Million)	563.492
3	Total (PKR Million)	4,639.5915
4	Per-Prisoner Cost (PKR Million)	4,639,591,500/14321=0.324
5	Per-Day Per-Prisoner Cost (PKR)	0.324/365=887.591

Source: IG Prison Directorate, Peshawar (personal communication, January, 2023).



13500 Prisonsers in Khyber Pakhtunkhwa, **10800** have not been yet found guilty. they may be innocent

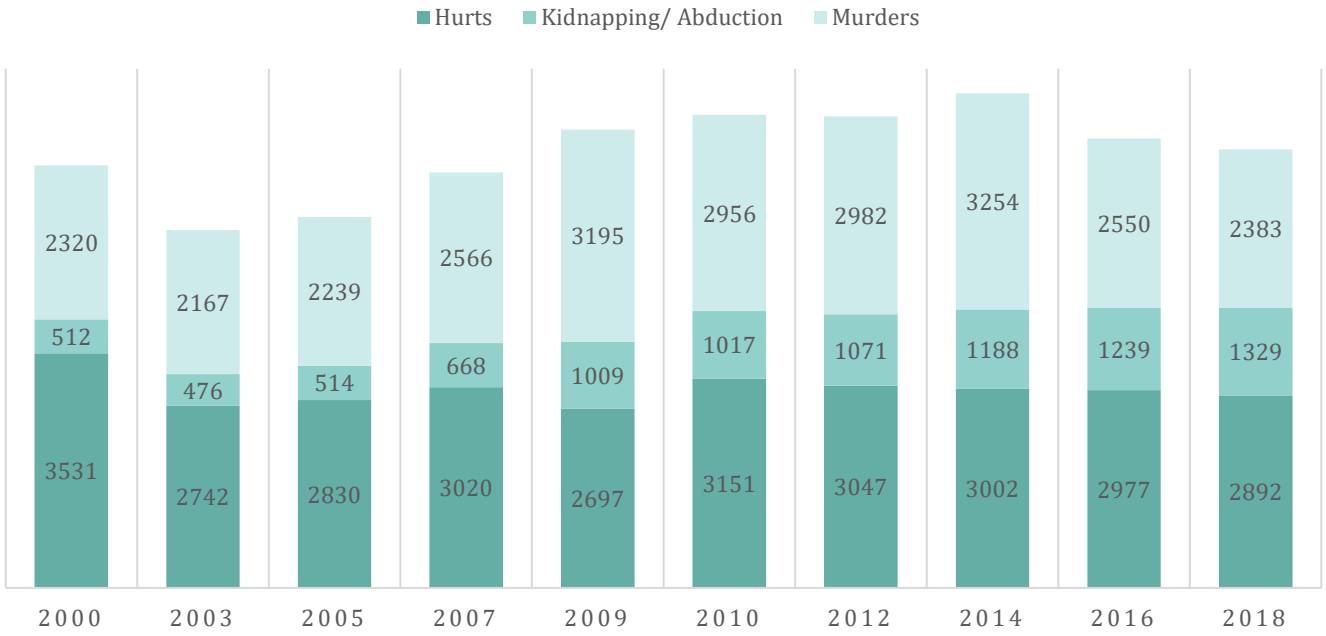
Under Trials > Convicts

Source: IG Prison Directorate, Peshawar (personal communication, January, 2023).

Crime Data of Khyber Pakhtunkhwa 2000-2018

The number of reported cases in the KP as a whole is given in Figure 12 below. (Detailed city-wise data according to the nature of the crime, i.e., snatching, motorcycle theft, terrorism, etc. is given in the appendix.)

Figure 12: Reported Cases in Khyber Pakhtunkhwa: 2000–2018



Source: Bureau of Statistics, Khyber Pakhtunkhwa. (n.d.).

Countering Violent Extremism Initiatives in the Khyber Pakhtunkhwa Prisons Since 2001

Academics have paid much attention in recent years to the function of deradicalisation and rehabilitation programmes in preventing and combatting violent extremism in prisons. Scholars and practitioners have paid close attention to programmes like the United Kingdom's "Prevent" component of its counter-terrorism policy, Saudi Arabia's "Prevention, Aftercare, and Rehabilitation," and Indonesia's "De-radicalization." These programmes show a substantial change towards a soft strategy for fighting terrorism and violent extremism, with a primary emphasis on the reintegration of ex-extremists into society (Ahmed & Shahzad, 2021).

Similarly, Pakistan has launched several deradicalisation initiatives in various contexts, which are collectively called De-Radicalization and Emancipation Programmes (DREPs) (Noor, 2013) (see Table I for an overview). Many DREPs have focused on the Pakistani province of the KP, especially the (previously federally governed) tribal areas since violent extremism was understood to be most pervasive there. Although DREPs have yielded the expected outcomes, many experts in the field still need to be convinced about their usefulness. These doubts may be traced back partly to the absence of hard evidence linking the programmes with improved rehabilitation or social reintegration outcomes. Furthermore, some academics have pointed out the lack of a coherent and institutionalised method and process for assessing the efficacy and sustainability of the deradicalisation and rehabilitation centres.

This study "rethinks" current deradicalisation efforts in Pakistan via the lens of prison-based rehabilitation frameworks, elaborating on the possibility of KP prisons as an alternative vehicle for an organised and lasting rehabilitation process (Ahmad et al., 2022). It does so by pinpointing vital elements of the 'correctional

environment,' or prison system, built on rehabilitation and reintegration. The Khyber Pakhtunkhwa Facilities Department is the primary source of information used. The data collected helped shed light on the prisons' current (indigenous) infrastructure and its potential for rehabilitation and post-release reintegration into the community. This study claims that the Khyber Pakhtunkhwa Prisons Department is a plausible institutionalised setup for deradicalisation and fighting violent extremism if one views the correctional environment and accompanying infrastructure as the critical element affecting the behaviour of subjects (i.e., inmates/prisoners). The study elaborates on the disciplinary processes used inside prisons, particularly the educational programmes (vocational, religious, and technical training), developed with an eye on the pre-arrest and post-release job (prospects) and community (re)integration.

"Youth" constituted a vast majority of individuals arrested as militants or for having (indirect or direct) ties to terrorist groups. Many experts have recognised multiple micro- and macro-level socioeconomic and psychological elements as structural causes of violent extremism and terrorism. Because of these considerations, it was determined that a "soft" strategy was necessary to guarantee not only their "rehabilitation" but also their "reintegration" into their respective society.

After Operation Rah-e Rast was successfully concluded in 2009 in the KP, the Pakistani military publicly began operations to rehabilitate and deradicalise terrorists in Pakistan in light of the above (Shah, 2018). Subsequently, DREPs were expanded to include all of Punjab and some of the former FATA (Afridi et al., 2014) (see Table I). There are four main components of these types of programmes:

1. Psychological counselling.

2. Countering extremist beliefs with alternative religious narratives.

3. Providing (formal) education, including vocational training and skill development and easing the individual's transition back into mainstream society.

Table 8: Deradicalisation and Emancipation Programmes in Khyber Pakhtunkhwa

No.	Centre(s)	Audience Intended	Facility Region
1.	Khyber Programme (Centres)	Adults	District Khyber
2.	Sahar De-radicalization Centre	Adults	N. Waziristan
3.	Navi Sahar	Adults	Bajaur
4.	Mishal	Adults	Mingora
5.	FEAST	Females	Swat
6.	Sparley	Families of the militants	Tank
7.	Sabaoun and Rastun	Juveniles	Malakand

Source: ur Rehman (2021).

Since the Newly Merged Tribal Districts (NMTDs) (Mahmood & Malik, 2022) have been included in Khyber Pakhtunkhwa, the province's Prisons Department has operated as an institutionalised apparatus to serve the (provincial) legal system. Table 9 shows the distribution of correctional facilities by kind throughout the province. The goal of the Khyber Pakhtunkhwa Prisons Department is to help incarcerated individuals change their lives for the better and contribute to society by teaching them life skills, ethics, and vocational trades. The IG Prisons Department has also been very mindful of the need for a well-functioning community reintegration process (Javaid, 2016), which is a huge plus (personal communication, December 06, 2022). Consequently, the reformation and rehabilitation of the topics are given considerable attention.

Table 9: Types of Prisons

No.	Type of Prisons	Count
1.	Central	06
2.	District	08
3.	Sub-Jail	09
4.	Sub-Jails of Newly Merged Districts	15
5.	Internment Centre	05
	Total	43

Source: Khan et al. (2017).

Division of Corrective Centers and KP Prisons

Prisons increasingly emphasise formal, moral, vocational and technical education as part of their corrective strategies. Inmates may use a wide variety of educational opportunities in this area, including electrical technology, tailoring, carpentry, computer science, and IT classes. The primary goal of these classes is to prepare participants for life after incarceration, or "post-release."

Table 10: An Overview of Population and Categorisation of KP Prisons

No.	Category	Under Trial	Convicts	Civil	Condemned	Total
1	Male adult	8,789	2,481	32	337	11,679
2	Female Adult	154	33	0	01	118
3	Male Juvenile	336	21	0	0	359
4	Female Juvenile	02	0	0	0	2
	Total	9,281	2,535	32	378	12,226
	Percentage (%)	75.90	20.73	0.19	3.9	100.00

Source: ur Rehman (2021).

Table 11: Formal Education

Degree/ Certificate	No. of Prisoners
SSC	386
HSSC (F.A./F.Sc.)	286
B.A./B.Sc.	158
M.A./M.Sc.	44
Oriental Languages	1,033
Total	190

Source: ur Rehman (2021).

Table 12: Religious Education in KP Prisons.

Sanad/Certificate	No. of Prisoners
Nazira Quran	577
Tarjuma	93
Hifz e Quran	8
Total	678

Source: Gul & Asad (2018).

These efforts to improve employability are coordinated with the National Vocational and Technical Training Commission (NAVTEC), the Khyber Pakhtunkhwa Technical Education and Vocational Training Authority (KP TEVTA), and other relevant government agencies. The success of the attempts to reintegrate formerly incarcerated individuals back into society depends on the level of cooperation between many parties involved. Currently, approximately 442 inmates participate in technical programmes and of them, about 741 have graduated. The Higher Education Commission of Pakistan approves the testing centres that administer these exams. The management of the KP jails strongly supports the inmates' participation in educational and training programmes to the point that they provide specific reductions to nudge them into taking part in these necessary forms of rehabilitation (Waqas & Khan, 2022).

Table 13: Individuals under Skill Development Training in KP Prisons

No.	Jail/Trade	Haripur	Bannu	Mardan	Abbottabad	
1	Electric	25	80	36	-	
2	Tailoring	63	60	36	-	
3	Computer	29	60	-	-	
4	Wood Working	19	-	-	-	
5	Plumbing	29	-	-	-	
6	Mobile Repairing	-	-	-	-	
7	Non-woven Bags	-	-	-	05	
	Total	165	200	72	05	
	Grand Total					442

Source: ur Rehman (2021).

Table 14: Completed Skills Development Training in KP Prisons

No.	Jail/Trade	Haripur	Bannu	Mardan	Peshawar	Abbottabad	
1	Electric	42	120	20	-	-	
2	Tailoring	65	120	20	-	-	
3	Computer	68	62	-	-	-	
4	Wood Working	50	-	-	-	-	
5	Plumbing	09	-	-	-	-	
6	Mobile Repairing	-	-	-	60	-	

7	Non-Woven Bags	-	-	-	-	05	
	Total	334	302	40	60	05	
	Grand Total						741

Source: Waqas & Khan, 2022

Concerning deradicalisation, the current KP jail system generates an abstract model of interventions at a socioeconomic scale. It already represents the "correctional" process that must be used to implement systematic initiatives to fight violent extremism in society. The suggested role of prisons in deradicalisation is not without its (potential) flaws and, as such, it cannot be regarded "perfect" paradigm. As noted, our jails are overcrowded, understaffed, and poorly managed, which might hinder the rehabilitation process.

However, the prison-based rehabilitation model provides a more accurate picture of the underlying mechanisms, which can be formally established through careful and timely planning and implementation of multifaceted non-linear pathways and the provision of much-required infrastructural support. Like other contributions to the literature, the present study recognises the need for more research to completely capture the formulation of prison-based deradicalisation and its underlying constituent components. Having established the foundational prison-based model, it is proposed that it be expanded based on several ancillary stages throughout the deradicalisation process.

An indigenous and institutionalised framework for deradicalisation is envisioned via the dynamics of the prison system. Such (re)modelling requires regular reviews of counter-radicalisation strategies. Therefore, the present corrective method is only claimed to be applicable in this study with adequate adaption for extremists. Further investigation is also needed to understand better the characteristics and components that might draw people to correctional programmes and ensure their results are sustained. This study will also aid in bringing to light the many hidden features of the KP prisons' institutional framework (Hussain, 2013).

The Role of Probation in the Prison System

Pakistan strengthened the legislation enacted by the Government of British India to maintain the probationary component of the criminal justice system after the subcontinent's partition in 1947. It included the Good Conduct Prisoners Probational Release Act of 1926 and sections 380 and 562–564 of the Indian Code of Criminal Procedure. The Indian Code was then used to refer to the Criminal Procedure Code.

Reclamation and Probation Departments (RPD) were established by all provincial governments in 1927 to manage the parole release of prisoners. At the time of independence, Punjab was the only province in Pakistan with an RPD. RPDs were established in 1957 in the rest of Pakistan. With the help of an early conditional social release, convicted criminals who had behaved well were allowed to reintegrate, thanks to the Good Conduct Inmates Probational Release Act of 1926. However, only prisoners incarcerated for brief periods were eligible to use it. The colonial government of British India made an effort to enact unique probationary laws. The All-India Probation Bill was created in 1931 and submitted for review to each province's administration. However, because of the ongoing independence movement, which prevented the bill from becoming law, the country was in a political crisis.

After Pakistan gained independence in 1947, the government passed the Probation of Offenders Ordinance 1960/Rules 1961. The 1960 Probation of Offenders Ordinance mainly modifies the 1931 Probation Bill. However, it mandated the establishment of the department's probation division by the RPDs and allowed for the appointment of probation officers for criminal defendants who were undergoing court-ordered trials.

The Pakistani government's introduction of the Juvenile Justice System Ordinance 2000 (JJSO) in response to its obligations under the United Nations Convention on the Rights of the Child is another recent development. The JJSO's Section 11 places a strong emphasis on young offenders being released on probation.

The pre-trial phase of bail, the sentencing phase of fines and probation, and the post-sentencing phase of parole are the legal foundations of alternatives to incarceration in Pakistan's current criminal justice system. Bail is the most popular non-custodial option in legal situations and is much better known to the general public. The least used option, in contrast, is probation and parole services, which deny offenders their fundamental right to freedom, the capacity to start a family, and the chance to make a positive contribution to society. Retributive punishment has lost favour in recent years in favour of more compassionate theories like restorative justice and community rehabilitation. In the best interests of both the offender and the victim, these models are frequently more effective at deterring reoffending and elevating the significance of non-custodial sanctions. The community benefits from an effective offender's reintegration into society by being shielded from the negative effects of crime and by receiving a better return on taxpayer money than it would from keeping an offender in jail, according to the evidence.

The majority of Pakistani prisons are overcrowded, which results in subpar jail administration that leads to torture, rioting, and corruption. It also causes poor health and sanitation, high-risk behaviour (such as suicide, unprotected and forced sexual contact, and drug abuse), and poor health and sanitation. Due to the lack of adequate rehabilitation programmes, prisoners who have committed minor or first-time offences are particularly at risk of reoffending. According to the Human Rights Commission of Pakistan, 64 per cent of all inmates are remand detainees who are held in custody while awaiting a court decision (Dost Foundation, 2013). When it comes to the community reintegration of criminals and lowering the prison population, an effective and efficient probation and parole system may be crucial. As a result, prison operations and conditions are enhanced. To analyse Pakistan's current probation and parole system, make recommendations for reform, and advance non-custodial probation and parole techniques, Penal Reform International conducted this evaluation.

Information was gathered through focus groups, key personnel interviews with stakeholders, including the provincial directors of probation and reclamation, probation and parole officers, prison officials, legal counsel, and representatives of civil society/NGOs/INGOs, as well as desk reviews of pertinent reports and literature. These conclusions were reached as a result of the review's findings.

Structure and Functioning of the Probation and Parole System in Pakistan

In Punjab, Sindh, Balochistan, and the KP, provincial Directorates of Reclamation and Probation, which function as departments affiliated with the provincial Home Departments, are responsible for managing the release of inmates on probation and parole as an alternative to jail. A Director of Reclamation and Probation (R&P) oversees each Provincial Directorate, assisted by Deputy Directors, Assistant Directors, probation and parole officers, office superintendents, and other administrative and support employees. The Directorates of Reclamation and Probation have their general mission to "kill the crime, not the criminal," decrease prison congestion, minimise government spending on prisons, and rehabilitate and reintegrate convicts as law-abiding citizens. However, a lack of political will, insufficient human and trained resources, and inadequate infrastructure impede their ability to participate effectively in Pakistan's criminal justice system.

Although there are regional variations in staffing and distribution, the general operation is uniform. It is controlled by the West Pakistan Probation of Offenders Rules of 1961 and the Probation of Offenders Ordinance (XLV of 1960).

The Good Conduct Prisoners' Probational Rules, 1927, and the Good Conduct Prisoners' Probational Release Act, both date from 1926.

Definitions, Procedures and Statistics

With the proviso that if their behaviour after release does not comply with the requirements of the releasing authority, parole, and probation process for the conditional release of convicted criminals or adjudicated delinquents, they may be committed or sent back to a correctional facility. Imagine that an administrative body releases a prisoner who has already served a part of a term in jail. In such a situation, the release is often referred to as parole in the US and licence in the UK. If a judge approves this kind of release as an alternative to incarceration, it is sometimes referred to as probation. These regulations were primarily enacted for the benefit of "first-time" offenders and those capable of leading a useful and productive life to reduce the possibility that they may develop into seasoned criminals as a result of the effects of incarceration.

Probation

The Probation of Offenders Ordinance of 1960 defines probation as the suspension of the execution of a jail sentence or the postponement of the final decision in a legal proceeding. While the offender is subject to additional restrictions that the court may impose for minor offences, a probation officer will supervise and counsel them. It is a judicial warning that allows the offender to change and commit no more offences. There are presently 15 provisions in the Probation of Offenders Ordinance of 1960. After leaving out two of its sections, Section 3 states that the following courts have the authority to use the authority granted by the ordinance as mentioned above:

Court of Session Judicial Magistrate High Court any other magistrate with particular authority.

The Ordinance gives the courts the authority to sentence qualifying criminals to probation or a conditional discharge. The Trial Court may, per the Ordinance, discharge any offender after proper admonishment who has committed a crime punishable by imprisonment for not more than two years after, taking into account the offender's age, character, health, and background as well as the nature and circumstances leading to the offence.

The focus group discussion with R&P personnel revealed that Section 4 is either sometimes or never used in court and that probation orders are typically given by Section 5 of the Ordinance. Its use in court settings must be improved as a result. This is a grey area that needs to be further investigated and brought up with the courts.

Once placed on probation, the concerned probation officer supervises, monitors, and assists with the offender's community rehabilitation. However, a probation officer's job is ineffectual in offenders' rehabilitation because of insufficient institutional and individual competence. A significant part of the procedure of creating and submitting the "social investigation report" (SIR) to the court has been given to the probation officer. A probation officer creates a SIR on the court's instruction and contains details regarding the character, history, commission, and type of the offence, as well as the offender's family environment and other conditions. In reality, most cases were placed on probation without a formal SIR by the court. Further investigation is required into these court procedures because, in many instances, people are placed on probation after confessing without the probation officer being asked for a SIR. This practise may be due to a lack of probation officers, a lack of trust on the part of the court in their professional competence and skills, or simply the length of time it takes to find one. The court can determine whether or not to sentence a criminal offender to probation in any given circumstance. SIRs are ready to help the courts make the best choice possible.

Section 13 of the Probation of Offenders Ordinance of 1960 and accompanying Rule 10 outline the responsibilities and obligations of the probation officer when the criminal on probation is released. A probation officer's primary responsibilities and tasks include the following:

He explains the terms and conditions of each probationer under his supervision and works to ensure compliance with the order, including warnings, as needed.

They meet each probationer under supervision at least once every two weeks for the first two months of their probation. They then frequently stay in touch with each probationer, visit them, inquire about their behaviour, way of life, and environment, and, whenever possible, make sporadic visits to their homes, all while adhering to the rules set forth by the officer in charge.

Assist, befriend, counsel, and work to improve the behaviour and general living situations of any probationer under their supervision if they cannot obtain employment.

Encourage every probationer under his or her supervision to utilise any reputable organisation, whether statutory or non-profit, to support their welfare and general well-being, and to benefit from the social, recreational, and educational services such agencies may provide.

Suppose a probationer under his or her supervision who has signed a bond with sureties under Section 5 is found to have broken any of the bond provisions or behaved improperly in any other way. In that case, the probationer must notify the sureties of the breach or improper behaviour.

Subject to the requirements of these rules, carry out the orders of the court with relation to any probationer placed by the court under his/her supervision. Maintain the books and records and make reports as required by these rules.

Each district has a Case Committee comprising the district magistrate, who acts as chairman, along with all of the first-class judges in the district, as well as the district probation officer, as per the 1961 Probation of Offenders Rules. The committee is entrusted with receiving and assessing oral or written reports from probation officers and developing recommendations on the status of probationers. The committee acts as an advisory body for the cases that fall within its jurisdiction. These committees should meet once every three months, although, in practice, they typically meet less frequently. The role that the Case Committees once performed is substantially replaced by the mandatory Criminal Justice Coordination Committees (CJCC) mandated by the Police Order 2002. The district and session judge presides over meetings of the CJCC, with the Superintendent of Police serving as secretary. A district probation officer, superintendent (director of the prison), district prosecutor, and district police officer are other members. The CJCC provides a more thorough and fruitful forum for discussing the issues and advancements connected to probation. It has been reported that probation officers only sometimes or symbolically attend these meetings in several areas. Due to their lower service grade and lack of professional competency, probation officers can have trouble carrying out their tasks as needed. There are certain cases when the probation officers participate in these CJCC meetings more actively.

Scope of the Probation of Offenders Ordinance 1960

The scope of the Pakistan Probation of Offender Ordinance of 1960 is limited in that not every kind of offence qualifies for probation. First-time offenders of severe crimes are not eligible for probation because the court considers the offender's needs, personal characteristics, and kind of offence when granting a court probation order. Instead, a thorough risk assessment precedes an offence’s character when determining whether a case qualifies for probation.

Both male and female criminals are subject to probation laws. However, the laws are more forgiving of female offenders. The probation legislation does not apply to male offenders guilty of crimes of a severe character as defined in the Pakistan Penal Code of 1860 under the following provisions, in addition to crimes punishable by death or life in prison:

Table 15: Provisions Under the Pakistan Penal Code of 1860

216	**Harbouring robbers or dacoits**
311	Being a thug
328	Causing hurt, utilising poison, etc.
346	Kidnapping or abducting to murder
382	Theft after preparation made for causing death, hurt, or restraint to commit the theft
386-389	Putting a person in fear of injury or death to commit extortion
392-402	The commitment of robbery, dacoity or belonging to a gang of thieves
413	Habitual dealing in stolen property
455	House-trespass or house-breaking after preparation for hurt or assault
460	Where several persons are jointly concerned in house-trespass or house-breaking by night, and death or grievous hurt was caused by one of them
Chapter VI	Offences against the state
Chapter VII	Offences relating to the Army, Navy and Air Force
The Offence of Zina Ordinance 1979	Offences of rape, adultery, and fornication
The offence of Qazf Ordinance 1979	The offence of false accusation of *Zina* (rape)

Source: Pakistan Penal Code of 1860.

On the other hand, female criminals are qualified for probation orders in all cases except those involving the death sentence.

Release on Probation for Children Under the Juvenile Justice System Ordinance, 2000

By Section 11 of the Juvenile Justice System Ordinance, if the juvenile court determines after an investigation or trial that a child has committed an offence, it may, if it deems it appropriate, order the child offender to be released on probation for good behaviour and place the child in the custody of a guardian or other suitable person who executes a bond with the court.

According to the Ordinance:

a. Issue an order requiring the minor offender to be placed in a borstal facility until he becomes 18 years old or for the duration of their sentence, whichever comes first.

b. The sentence may be reduced if the court determines that further time behind bars or on probation is not required.

c. The clause mentioned above may be used by juvenile offenders under 18 when the offence was committed.

It is good that probationary releases have grown recently, especially in instances involving juvenile offenders. However, experience reveals that most release orders are given in situations where the state is a party, such as drug offences. In circumstances where a private party is a victim, the courts show a great deal of caution, to the point where even in proper cases, they refrain from passing orders for release on probation out of concern that

the victim would seize control and seek retribution outside of the court. The suffocating effects of specific legislation like the Anti-terrorism Act further constrain the use of non-custodial sentences.

Province-Wise Strength of Probation and Parole Officers

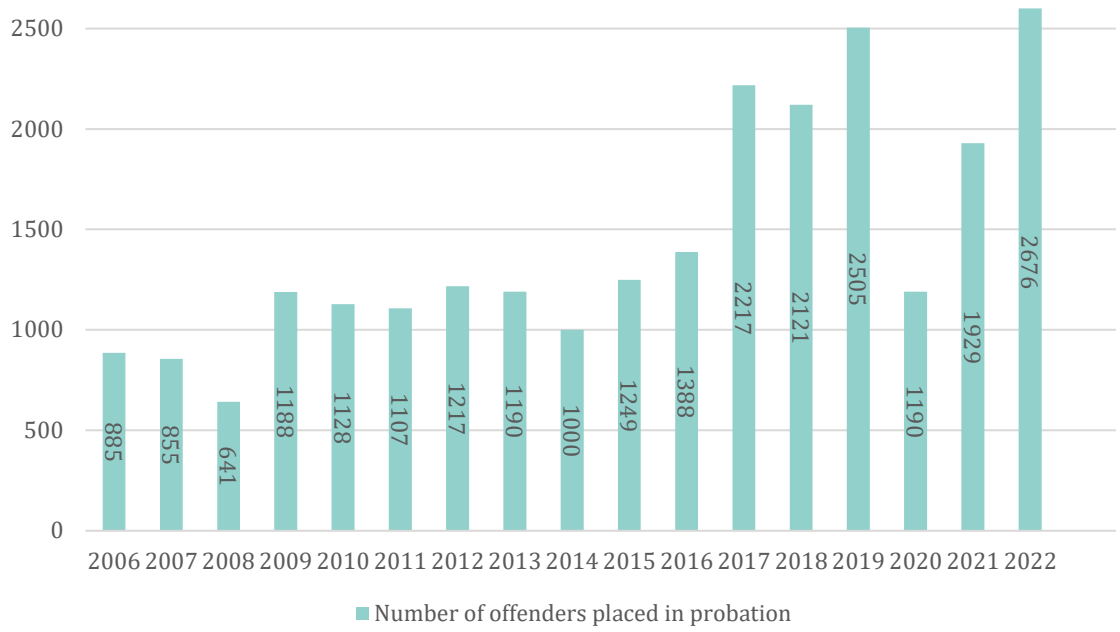
The following table lists the number of probation and parole officers currently employed throughout all the provinces:

Table 16: Strength of Probation and Parole Officers in All Four Provinces

Province	Director	Deputy Director	Assistant Directors	Probation Officers		Parole Officers		Total
				Male	Female	Male	Female	
Punjab	01	04	10	53	04	16	04	92
Khyber Pakhtunkhwa	01	04						
Sindh	01	00	02	15	01	14	00	33
Balochistan	01	02	02	07	02	05	01	20

Source: Authors' computations based on information retrieved from Visit to National Academy for Prison Administration (NAPA) Lahore Pakistan (former CJSTI).

Figure 14: Number of Offenders Placed on Probation Since 2006



Source: Authors' computations based on information retrieved from Visit to Reclamation & Probation Khyber Pakhtunkhwa (March 2023).

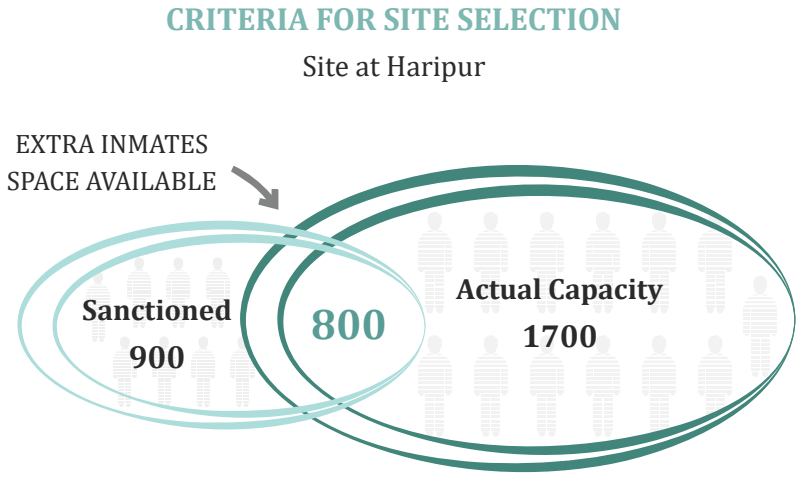
5. A CASE STUDY OF THE PRISON'S EFFECT ON LONG-TERM REHABILITATION OUTCOMES IN HARIPUR JAIL

Construction work on Haripur Jjail was started in 1929 during British rule. After completion, it was delivered to the jail staff in 1932 (Mahmood, 2016). Construction material, like steel bars, used in the construction was produced by the famous Indian company, Tata. The bricks used in the construction of the jail were prepared inside the premises of the jail, and there is a myth that this laid the foundation of the brick industry (Bhattas) in Haripur.

The land was given by Bani Begum, a Tareen from Darwesh Village. She was distantly related to both former Provincial Assembly Speaker Habibullah Khan Tareen and former President Ayub Khan. According to the family lore, the land was given in exchange for two things, i.e., there would be no gallows in the prison and the facility would not hold any female inmates.

Although the agreement was never written down, the Tareen clan claims that the government upheld her words and that all executions took place in the Abbottabad District Jail until 2005, when the structure was destroyed by a devastating earthquake. Later, the authorities banned executions and padlocked the gallows all around the nation. When the women's section was established in 2005, one of the requirements was broken (Mahmood, 2016). In 2015, with the imposition of the death sentence, Bani Begum's second requirement was also transgressed with the establishment of the gallows in the jail (Dawn, 2019).

Haripur Central Jail is the province's third-largest jail. Initially, it had the capacity to house 1,500 inmates, but over time the capacity has increased to 1,673 inmates. The prison is spread over 890 kanals with a covered area of 200 kanals for inmates, while the rest of the area is allocated for a garden, staff colony, Prison Staff Training Academy (PSTA), residence for judges, district administration, and some space is under the use of the Water and Power Development Authority (WAPDA).



Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

The current Condition of Jail Infrastructure

The jail is partially equipped with a CCTV camera to monitor the premises and outside area.

Medical Facilities

There is a 126-bed hospital in Central Jail Haripur, with one senior medical officer, two medical officers, one female doctor, a psychiatrist, a Hakeem, and a Qarshi matab to facilitate inmates and staff members. The prison has a partially equipped laboratory with the capacity to carry out all major tests (HIV, TB, Hepatitis B & C, screening tests, etc.). There is also a detoxification centre for drug addicts and 75 inmates were detoxed from drug addiction in the last few months of 2022.

Prisoners receive insufficient psychological counselling and training. The prison administration claimed that only one psychological counsellor was assigned by the government to the division's jails. Even though there was a doctor on staff, there was no plan in place for the inmates to receive daily medical checks. The prisoners further stated that, in the event of illness, they were only given one or two tablets per day. Rarely does the psychologist go to the prison. The doctor only infrequently examines the prisoners, according to one of the key informants.

Wards

Two wards were fully occupied by psychiatric patients. Some of these patients were in the worst condition and did not recognise anyone, while some of them were in the process of recovery. There are two ambulances for patients.

Accommodation

A vital aspect of a prisoner's life is their accommodation. Unfortunately, the barracks—the facility used to house prisoners—were found to be subpar. In one of the prisons that was studied, the cleanliness situation was somewhat satisfactory. The prison superintendents sketched a perfect picture of the prison in terms of cleanliness and their role in the rehabilitation of offenders. However, the situation turned out to be different after visiting the barracks in person. The rectangular barracks were overflowing with prisoners. Inside the prison, the restrooms and toilets were situated in the barrack's corner and emitted a foul smell. The prisoners claimed that because they were accustomed to the smell, they did not experience it in the same way as outsiders. The restrooms and toilets in some prison sections lacked doors and resembled the ablution stations found in mosques. It was easy to see through the half-sized doors on toilets and bathrooms when prisoners were bathing or using the toilet if someone was standing close to the door. It was learned that there was a shortage of warm water in the winter. The inmates frequently got sick from the cold water. The inmates bathed once a month out of fear of illness. There was a kitchen area near the restrooms. For cooking, the inmates only had access to coal or small pieces of wood because gas and electric heaters were not allowed. The coal smoke in the barracks caused the walls to become black and yellow. Several clotheslines were hanging from the barracks' walls. The clothing of the prisoners lacked proper hangers.

It seemed like the walls had not been whitewashed in a year. Moreover, the barracks were whitewashed two years ago, according to a reliable source. The barracks had no windows, and its longer walls were covered with iron grills. The inmates claimed that the winter winds prevented them from getting any sleep. Plastic sheets were sometimes installed to block the chilly air, but the sheets were not broken. Prisoners once slept on the dirt. The blankets were too filthy and were firmly attached to the ground. Prisoners requested the researcher to improve their barracks because they thought that the researcher was a guest who was there to improve the state of prisons. They further said that the summertime heat in the barracks had altered the hue of their skin. The prisons lacked a fan, air conditioner, or air cooler. Inside the unsanitary prison, the inmates washed their utensils. Because standing water was a mosquito breeding ground, the barracks were overrun with them at night. The lack of pesticides and anti-mosquito spray caused the detainees to become mosquito and other bug prey.

Checking and Balancing

The prison regulations require the administration to conduct thorough searches of the barrack for illegal items like drugs, knives, and other dangerous items. Drug users, snuff rounds, and cigarette filters were all present in the jail, which was evidence of the ineffectiveness of the prison administration. They, nevertheless, asserted that they upheld strictness, but the observation was to the contrary.

Education

Formal Education facilities are available to the students from matric to M.A. There are regular teachers for this purpose. Jail staff make arrangements for matric to master's level exams inside the jail premises. Haripur Jail is also the examination centre for the Board of Intermediate and Secondary Education (BISE) and university exams for prisoners. A proper religious teacher is also available for religious studies.

Free education from the school to MA levels.

Center for the Board and University exams (only for prisoners).

Library

Books for formal and informal education are also available in the library of the Central Jail Haripur. It holds a rich amount of more than 3,000 books available in the library. Most of the books were provided by different donors. Jail staff allowed donors to bring books according to their requirements and the syllabus of the affiliated Board and University.

Industry

The jail has a rich history of producing quality products. Before independence, the factory in the jail was very famous for producing various products, such as Furniture, tablecloths, towels, carpets, and rugs, among other products. It won several gold medals and appreciation certificates in United India during British Rule and after independence. However, with time, it fell gradually after 1970 and was completely closed in 2010. Currently, rug and furniture factories are working partially. Cloth, towels, carpets, and blacksmith factories are not working. There are some reasons for the decay of the industry that are mentioned below:

Shift in Policy

Furniture and tablecloths were supplied to the government offices and uniforms for inmates were also prepared in the factory. However, after abolishing the requirement of wearing uniforms in jail and shifting the manufacturing of furniture and tablecloths to local contractors, the factory is in decay.

Terrorism

Terrorism is one of the major causes of the decline in industrial production in the jail because the handling of instruments such as scissors and needles by dangerous and trained persons may cause a security situation in the jail.

Reprieve to Inmates / Low Conviction Rate

The decrease in punishment and pardon of several years many times in the previous 20 years was also the reason for the shortage of skilled and trained workers and the great imbalance of convicted and under-trial prisoners was also a reason for the fall of the factory department of the jail. Currently, there are approximately 300

convicted inmates excluding terrorists and the total population of the prison is less than 900, while the rest of the prisoners are under trial.

Garden

According to different accounts, there is a proper garden in the jail premises where a variety of vegetables and fruits are cultivated with the help of inmates and supplied to the local market. However, no such garden was found upon visiting the jail.

Fish Farm

Recently, a fish farm was renovated after being inoperational for a long time.

Mess

There is a proper arrangement for the supply of food for the inmates. For a healthy diet for the inmates, the jail staff has arranged a proper menu for the whole week. The prison administration is in charge of providing food for the inmates. They are required to feed the prisoners hygienic food. during a conversation with a deputy superintendent, he expressed his opinion that the prisoners should be served with clean food. The menu, according to the deputy superintendent, includes rice, meat, chicken, vegetables, and pulses. However, the findings of the researchers of the present study are different. Firstly, a contractor provides the food. It is plausible to expect that he provides a small quantity of low-quality food to make money, which was what was found. Although the vegetables that were given to be cooked were not fresh, the food items were examined and deemed okay. A key informant revealed that the contractor was not questioned because the contract was allegedly awarded based on collusion. Other than this, the prison did not have a designated cook. The prisoners, who are skilled cooks, prepare the food. Langar is the name of the location where food is prepared. The researchers noticed a foul smell coming from the sanitation water while visiting the langar. The caldrons were not completely cleaned. The deputy superintendent added that they used 10 grams of tomato for one prisoner. One kilogram of tomatoes, which is a very small amount, is used in the meal prepared for 100 prisoners, according to this statistic. The respondent gestured in the direction of the bread, pointing to its weight. The bread indeed had reasonable weight. However, even though such bread was not made for sale, there was a problem. It was observed that a prisoner was using his feet to prepare flour for bread. He claimed that preparing forty to fifty kilogrammes of flour by hand was very challenging. His body perspired in the summer, affecting the flour and bread's hygiene. There was no filtering of the water used to clean the food and utensils. In terms of cleanliness, the individuals involved in the cooking process as a whole were in poor condition. The barracks lacked clean drinking water in addition to food. The same pipes that supply water to the restrooms and toilets also supply water to the prisoners. One of the main causes of hepatitis in Pakistan is contaminated water. Consequently, it was found that the prisons under study had poor hygiene.

Haripur Jail Detention Place for Political leaders

This jail remained a detention house for some of the famous and renowned political leaders including Abdul Ghaffar Khan (Bacha Khan of the Awami National Party)[1], Sheikh Rasheed Ahmed (Awami Muslim League), Khawaja Asif (PML-N), and many others.

The Duties and Responsibilities of Staff Members

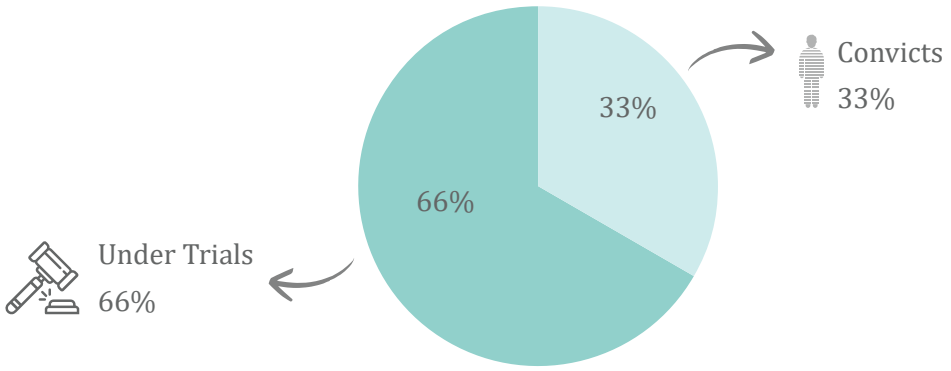
There are a total of 695 employees in CJ Haripur, out of which 43 belong to the officer rank and 652 belong to the other staff category (warder, clerical staff, etc.).

[1] There is a barrack named after Abdul Ghaffar Khan known as the Bacha Khan Barrack).

There are 6 main branches of the Haripur Central Jail, i.e., Warrant Branch, Hawalat Branch, Bagh Branch, etc. All authorities directly report to the superintendent daily and take necessary orders to run the affairs of the jail smoothly. Furthermore, the staff other than the officer rank staff include a chief warder, head warder, and warder. These staff and the executive are generally known as essentials (uniform staff) who are responsible for security and management. The supporting staff, generally known as admin (ministerial staff), IT staff (PMIS), teachers, and medical staff, work in their domains and also support the essentials.

Previously, the duties of the Central Jail and the rest of the divisional jails were assigned to the Superintendent of the Central Jail. He also had the authority to appoint grade 5 staff in his region. However, to relieve the burden from the Superintendent, a few months ago authorities approved and inducted a Deputy Inspector General (DIG). Currently, the Superintendent is performing the above-mentioned duties but soon, these duties will be assigned to the DIG.

CLASSIFICATION OF PRISONERS IN CJ HARIPUR



900 Prisonsers in CJ Haripur, **600** have not been yet found guilty. they may be innocent

Under Trials > Convicts

Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

Skill Development Programme

Skill development and technical education programmes were initiated in the jails of the KP with the collaboration of several National and International Institutions /NGOs, i.e., the National Commission for Human Development (NCHD), TEVTA, NAVTEC, and several United Nations agencies. Programmes taught to the male inmates were tailoring, plumbing, electric equipment repairing (electrician), computer skills, and technical education, while dressmaking, dress designing, and beautician courses were initiated for female inmates.

Table 17: Session 2017-18: UNCTITF Funded a Project on the Rehabilitation of Juvenile offenders (Date of Commencement 19/10/2017 Date of Completion 20/01/2018)

S.No	SDC Central Jail Haripur	Enrolled Students	Passed Out	Remarks
Duration: 03 Months				
	Technology			
1	Electrical Equipment Repairing (Electrician)	14	07	10 trainees were released from jail
2	Tailoring	16	13	
Total		30	20	

Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

Table 18: Session 2021-22: Prime Minister's "Skill for All" Hunarmand Pakistan Programme under Kamyab Jawan Initiative.
Date of Commencement 19-04-2021 Date of Completion: 30-11-2021

S.No	SDC Central jail Haripur	Enrolled students	Passed Out
Duration: 06 Months			
	Technology		
1	Certificate in Office Management	22	21
2	Woodwork	16	14
3	Carpet Weaving	16	14
Total		54	49
Grand Total		82	77

Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

Table 19: Trade- & Year-Wise Passed-Out Trainees in the SDC Central Jail Haripur

S#.	Technology	2017-18	2018-19	2018-19	2019-20	2020-21	2021-22	Grand Total
1	Computer	0	12	09	09	09	21	**60**
2	Dressmaking (Male)	13	08	13	13	15	13	**75**
3	Electrical	07	11	13	08	09	0	**48**
4	Woodwork	0	0	08	08	0	14	**30**
5	Pipe Fitting	0	0	0	09	0	0	**09**
6	Dressmaking/ Hand Embroidery (Female)	0	0	0	08	07	08	**23**
7	Carpet Weaving	0	0	0	0	0	14	**14**
Total		**20**	**31**	**43**	**55**	**40**	**70**	**259**

Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

Tailoring courses and games initiatives for the terrorism section were taken in the Central Jail Haripur recently. There is a separate arrangement for this purpose. The staff serving in the normal area also serves in the terrorist block. The classes are arranged in a strict environment and already prescribed limited areas to develop the skills of those inmates.

Prison Management Information System (PMIS)

Prisons Management Information System (PMIS) is a web-based system that includes an online/computerised record of various prison inmates and staff members, as well as an automated remission system, HR management, and token-based visiting system.

Two rounds of training for the prison staff using the Prison Management Information System (PMIS) Khyber Pakhtunkhwa, funded by the U.S. Embassy, have been completed successfully. Seven women were among the 84 prison staff members who attended the two 5-day PMIS training sessions that were held at the Prison Training Academy in Haripur on March 6–17, 2023.

With UNODC's technical assistance, the International Narcotics and Law Enforcement Office (INL) of the U.S. Embassy hopes to install computer networking in 40 prison facilities in the KP and the merged districts. The project also calls for the development of the PMIS, the delivery of IT tools, and training sessions for prison staff members on PMIS administration and use.

Participants in the PMIS training became familiar with the PMIS manual and technical modules, such as barrack allocations, reallocations, barrack history, visitor management, and inmate check-in and check-out. The court production module was taught to the participants, giving them an overview of how effectively the production procedure in the jail is run using the digital module. Hospital admissions, OPD prescriptions, and the addition, transfer, and distribution of medications were all covered by hospital and medical management modules. The HR module, which covered staff profile management, brought the training to a close.

The Inspector General of Prisons presented certificates to the participants and congratulated the prison staff on completing the PMIS course on day 5 of each training round. The trainers then gave an overview of their respective modules and invited feedback and inputs to be incorporated into the system. The participants of the PMIS course emphasised the need for additional PMIS skill development and management of prison operations training in the future (UNODC, 2023).

Prison Staff Training Academy (PSTA)

There are several training institutes to train prison staff to fulfil their duties. A similar institute was initiated in Central Jail Haripur four years ago but, due to lack of funds and commitment, was not functional. Prison Staff Training Academy (PSTA) was officially inaugurated on 5th August 2022, which has the capacity to train lower-ranked staff (warder, head warder, and assistant superintendent). The PSTA is fully equipped with all the facilities to train the above-mentioned rank. It holds a library, classes equipped with multimedia projectors, halls, and all necessities. Two batches of 100 students have passed out since the academy was inaugurated and became functional.

There is a proper syllabus for training on physical and mental health, law, and Pakistan Prison Rules. Although the recommended course duration is 6 months, due to the burden of work, it provides 2-month training courses to the staff. The third batch induction is in progress. This is the first training academy for the prison staff in the KP. It is working with the help of local administration. Law experts, local government, judiciary, information technology experts, physical training instructors (Karate masters), criminology experts, experts on Pakistan Prison Rule, and several other experienced visiting faculty are available to the student. There is also a facility of hostel for students as well. The PSTA has four regular instructors. The PSTA is planning training courses for

deputy superintendents and refresher courses for the already-trained personnel to improve their professional skills.

Budget of the PSTA

PSTA Haripur has recently been made functional in August 2022. Presently, no major budget under various heads of accounts is available due to the current financial condition in the province. However, the budget for plant and machinery, other contingencies, stationery, pay, etc. is available to run the important affairs of the Academy. With time, budget for other various heads will be provided by the government. The academy provides all possible facilities, i.e., boarding facility, washing machine, iron, messing utensils, and beds, and also arranges a team of martial arts for trainees on a volunteer basis.

Per-Warder Cost

The per-ward cost is approximately PKR 8,000 per month, which is incurred only on food.

Details of Successful Passed-Out Batches

Since August 2022, two basic training courses for warders and a promotion course for the post of assistant superintendent of jail have been completed successfully (see Appendix F for details).

Table 20: Contribution of Probation

S.No	District	Adult Offenders on Probation		Juvenile Offenders on Probation		Total
		Male	Female	Boys	Girls	
	Haripur	105	00	05	01	112

Source: Authors' computations based on information retrieved from Visit to Prison Staff Training Academy Haripur (2023).

6. CONCLUSION

The prison system in Pakistan generally follows the patterns that were established by the British authorities in the 19th century. There have been occasional reforms without significant divergence from the trend. The various reform commissions and the amendments in prison-related laws suggest a general dissatisfaction with the operations and outcomes of prisons. Overcrowding has often been identified as the reason for stunting the effectiveness of prisons as rehabilitation centres. Moreover, the lack of effective training of the prison staff and resources is also among the challenges.

The amendments in the prison laws aim to make the prisons more humane and by implication increase the possibility of rehabilitation and reintegration. However, if the Mandela Rules serve as the guidelines for our understanding of prisons, we recognise that the rules and practices of prisons in Pakistan continue to be in effect control mechanisms with little regard for the rehabilitation process. Furthermore, there appears to be little coordination between the prison authorities and the authorities that deal with prisoners before prison, such as police and judiciary, and authorities that may deal with prisoners upon release such as the parole and probation officers.

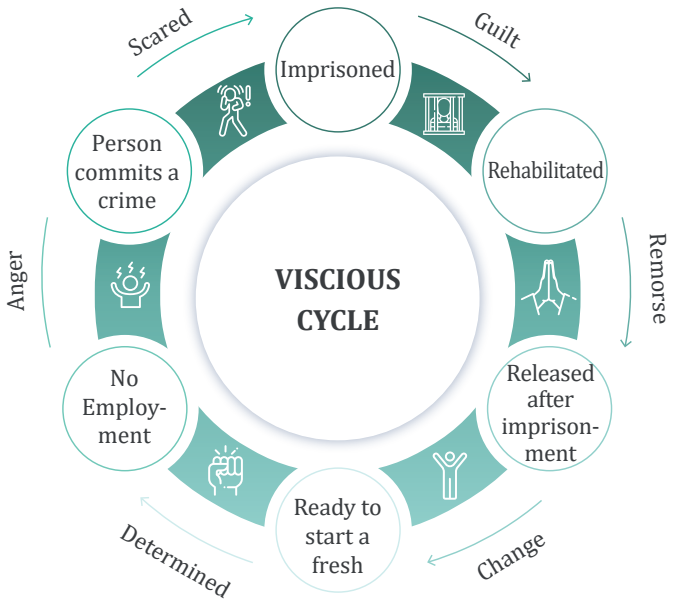
According to the study's findings, there are 43 jails in the KP, and they are all severely overcrowded. There are

twice as many people behind bars as there is space available. The Standard Minimum Rules (SMR) are practically broken by this overcrowding, yet the majority of the convicts were held in a single barrack. A staggering 80 per cent of those who are currently incarcerated are awaiting trial because their cases have not yet been resolved by the courts. This overcrowding not only affects the rehabilitation of the inmates but also is a burden on the national economy. Three key government actors – courts, prosecution and probation officers – are responsible for balancing jail populations and reducing congestion in the nation. These officials are capable of performing the finest roles in the criminal justice system, but sadly, Pakistan has a relatively small number of these officers, making it difficult for them to provide services to a large number of probationers and parolees. It is often mentioned that there are fewer courts in the nation than there should be to handle the thousands of cases that need to be resolved, but it is also true that it takes a long time for even one case to be resolved. The only way to reduce prison congestion is for the government to increase the number of parole and probation officials in each province commensurate with the number of convicts. Additionally, courts should move cases forward quickly, concluding them in two to three hearings.

Prisons are designed to house offenders and assist in their rehabilitation. However, the research shows that prisoners are not treated in a way that will allow for their rehabilitation. Prison lighting shows that there were few basic facilities available: the prisoner accommodation offered was not adequate; the barrack environment was unfit for habitation; and the lack of industrial, technical, vocational, and educational training for prisoners had made them lazy and gave them no chance to form relationships. Lack of games, drills, gymnastics, and sports has a physical impact on them. The prisoners' health problems are exacerbated by the unhygienic food served to them from the communal kitchen. The lack of skilled chefs is a factor in the subpar quality of the food. Lack of adequate checks and balances and alleged official collusion with inmates allow for sexual abuse, possession of forbidden items, and drug use by inmates. Inmates who receive harsh punishments for petty offences develop a hatred of the law, which drives them to recidivate in the future. Inmates were subjected to labour that mimicked slavery and had an impact on them. Prisoners' health deteriorates due to inadequate medical attention. The prison administration declared that the government was to blame for the suffering of the inmates. Governments appear uninterested in the rehabilitation of prisoners, which explains why they are hesitant to supply the prisons with trained personnel and other amenities. As a result, it was determined that the prison system could only hope for a society free from crime while vying for offenders' rehabilitation.

The below-mentioned figures present a true picture of our society and prison system

LIFE THROUGH THE EYES OF A PRISONER



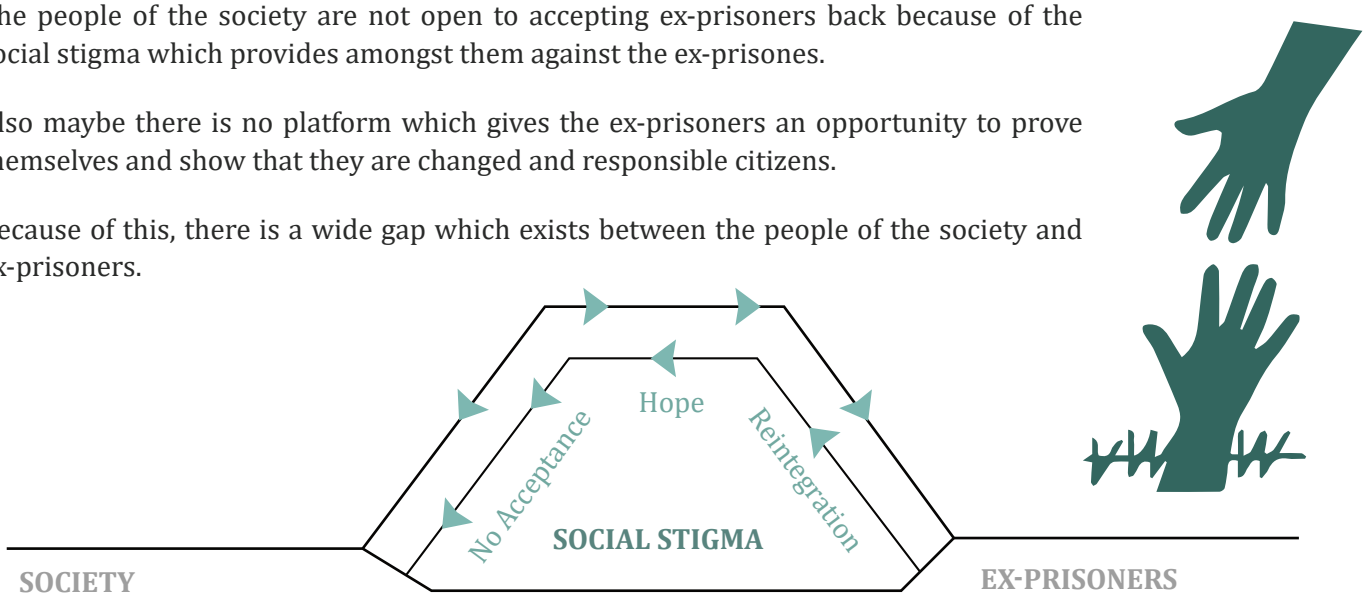
Source: Authors' computations.

EFFECT OF THE PRISON ON SOCIETY

The people of the society are not open to accepting ex-prisoners back because of the social stigma which provides amongst them against the ex-prisones.

Also maybe there is no platform which gives the ex-prisoners an opportunity to prove themselves and show that they are changed and responsible citizens.

Because of this, there is a wide gap which exists between the people of the society and ex-prisoners.

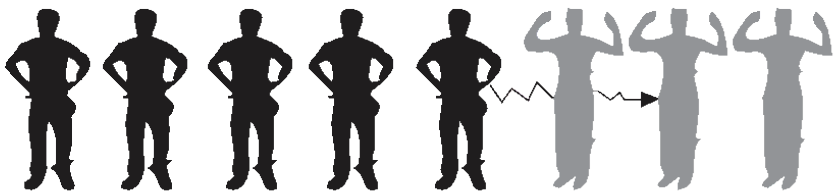


Source: Authors' computations.

ABSENCE OF A TRANSITIONAL SPACE

PHASE INSIDE THE PRISON | **PHASE OUTSIDE THE PRISON**

3 out of **5** these inmates will return to prison within **5 years** of being released



Source: Authors' computations.

While the Chief Minister of the KP approved the K-P Probation of Offenders Act of 2018, the province has identified the "rule of law road map" to improve "the service structures of reclamation and probation department." In the KP, at least 21 of the 25 districts have jails, and four more are building prisons. In the recently merged tribal districts, at least 15 political detention facilities have been designated as sub-jails.

In partnership with TEVTA, vocational centres were built in Haripur, Bannu, and Mardan. Before Eid al-Fitr, at least 20 criminals were freed after paying a fine of PKR 6.95 million, but the release of 33 prisoners required additional funds totalling PKR 13.24 million.

7. RECOMMENDATIONS/ POLICY IMPLICATIONS

The following recommendations for a better system that can rehabilitate prisoners are drawn from the study's findings.

- The government must construct new prisons with a minimum capacity of 1,000 inmates in each district, as well as provide trained staff.
- The use of digital monitoring by inmates inside of barracks needs to be properly checked and balanced.
- The officials who are accused of conspiring with inmates should be deterred.
- A clean environment and hygienic food should be offered to reduce health issues.
- Lodging needs to be upgraded.
- Provide all prisons with technical, vocational, industrial, and educational facilities.
- Provide psychological counselling to prisoners.
- House first-time offenders separately from other prisoners
- Distinguish criminals who commit minor crimes from those who commit serious felonies.

This study contends that by providing the aforementioned amenities, a sense of hope can be fostered that the prisoners will be rehabilitated and turned into valuable members of society who observe the law.

In addition to all other prison-related problems, the administration's difficulties also contribute to the miserable conditions inside and among the inmates. These issues stand in the way of effective offenders' rehabilitation. The prison administration claims that the prison staff, including the police and wardens, is not trained in how to interact with inmates. Most of them are not familiar with the prison regulations. The situation of prisoners is made worse by a lack of understanding of how to deal with offenders. The majority of the prisons studied were overcrowded. There is an urgent need for the government to construct new prisons. The majority of these prisons were constructed by the British in the middle of the 20th century. Although at the time these prisons were adequate, there is a need for expansion due to the significant population growth. The prison administration acknowledged that although they have repeatedly brought this issue to the attention of the government, no concrete action has yet been taken. The province's prisons department does not have a large enough budget to construct new prisons in every district. The government's decision to start building new prisons in the province, though, offers a ray of hope. Additionally, facilities for the inmates' training and rehabilitation are needed so they can find employment after their release. Technical, industrial, and educational training are all provided in these facilities. Only three prisons in the KP offer these services, i.e., Dera Ismail Khan, Bannu, and Haripur central

prisons. The lack of these amenities in the remaining prisons in the province caused the inmates to become lethargic and preoccupied with forming relationships.

For prisoners' mental rehabilitation, psychological counselling is essential. Both anger management and mental therapy are part of it. Several offences can be reduced with anger management. Such counselling was not seen by the researchers in the prisons. Because the government cannot provide a resident psychologist to counsel inmates, the prison administration added that there is a lack of psychological counselling. Such therapy is only offered at Peshawar's principal jail for the province. Counselling is offered to prisoners in Peshawar by a social welfare group called the Dost Welfare Organisation. This institution is mostly absent from the other jails, which hinders rehabilitation efforts.

The convicts' physical conditioning is also essential for their fitness. Gymnastics, exercises, and games are all part of physical training. A physical education teacher is an essential need in the jail for the convicts' physical education. During visits to jails, we never saw any type of physical exercise by the prisoners. The prisoners also said that they had never received such instruction. The prison administration believed that physical training for inmates was essential, but these facilities were not available in the prisons. The administration has not assigned any drill instructors or physical trainers to the prisoners.

For the convicts to have the chance to play games, there are not enough sports supplies or money. In addition to the aforementioned shortcomings, the jails lack the space necessary to hold these activities. They also said that they seldom ever put the prisoners in the accessible space. The officials said that because the government was unable to supply the prisons with trained staff, the prisons needed staff to strengthen their administration. Despite their effort in the shape of PSTA, it will take time for it to mature. Police constables who are unable to handle the detainees properly are moved from the district or border reserve police. These issues are to blame for the miserable conditions in prisons and the poor rehabilitation of inmates.

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APPENDICES

Appendix A: KP Circles

Haripur Circle

1	Central Prison Haripur
2	District Jail Abbottabad
3	District Jail Mansehra
4	District Jail Buner at Daggar
5	District Jail Swat
6	District Jail Battagram
7	District Jail Besham (Shangla)
8	District Jail Dassu (Kohistan)
9	Internment Center Paithom & Fizaghat

D.I Khan Circle

1	Central Prison D.I. Khan
2	Central Prison Karak
3	Central Prison Bannu
4	District Jail Kohat
5	District Jail Lakki Marwat
6	Internment Center Lakki Marwat
7	Internment Center Kohat
8	Judicial Lockup Kohat
9	Sub-Jail Hangu
10	Sub-Jail Parachinar
11	Sub-Jail Tank /Wana
12	Sub-Jail Miran Shah
13	Sub-Jail Sadda (Kurram)
14	B.I. Bannu

Mardan Circle

1	Central Prison Mardan
2	District Jail Timergara
3	District Jail Chitral
4	Sub-Jail Dir Upper
5	Judicial Lockup Malakand
6	Internment Center Malakand

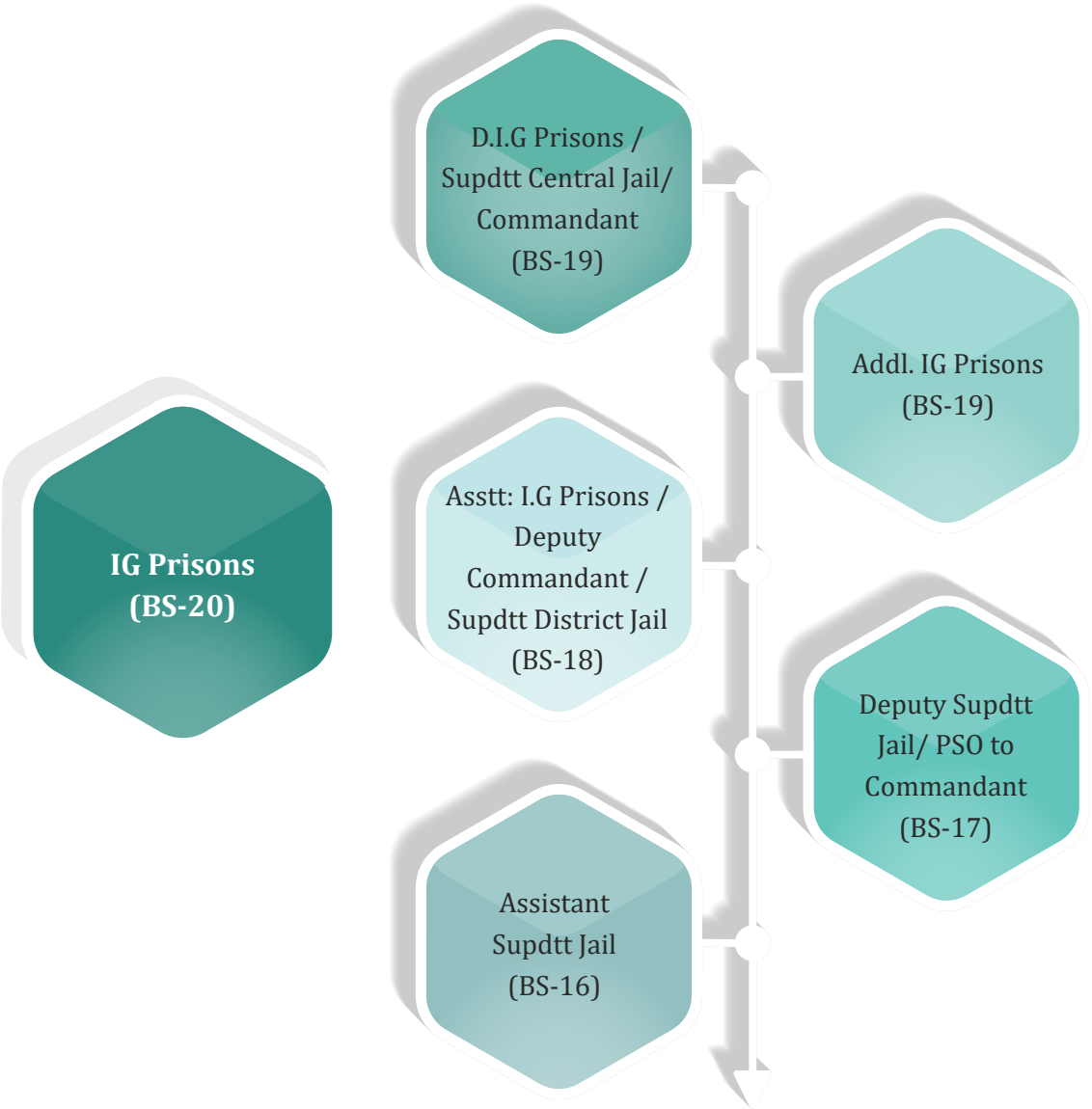
Peshawar Circle

1	Inspectorate General of Prisons
1	Central Prison Peshawar
2	Sub-Jail Charsadda
3	Judicial Lockup Nowshehra
4	Judicial Lockup Swat
5	Sub-Jail Bara
6	Sub-Jail Jamrud
7	Sub-Jail Ghalanai
8	Sub-Jail Khar (Bajaur)

Source: Khyber Pakhtunkhwa Prisons. (2020).

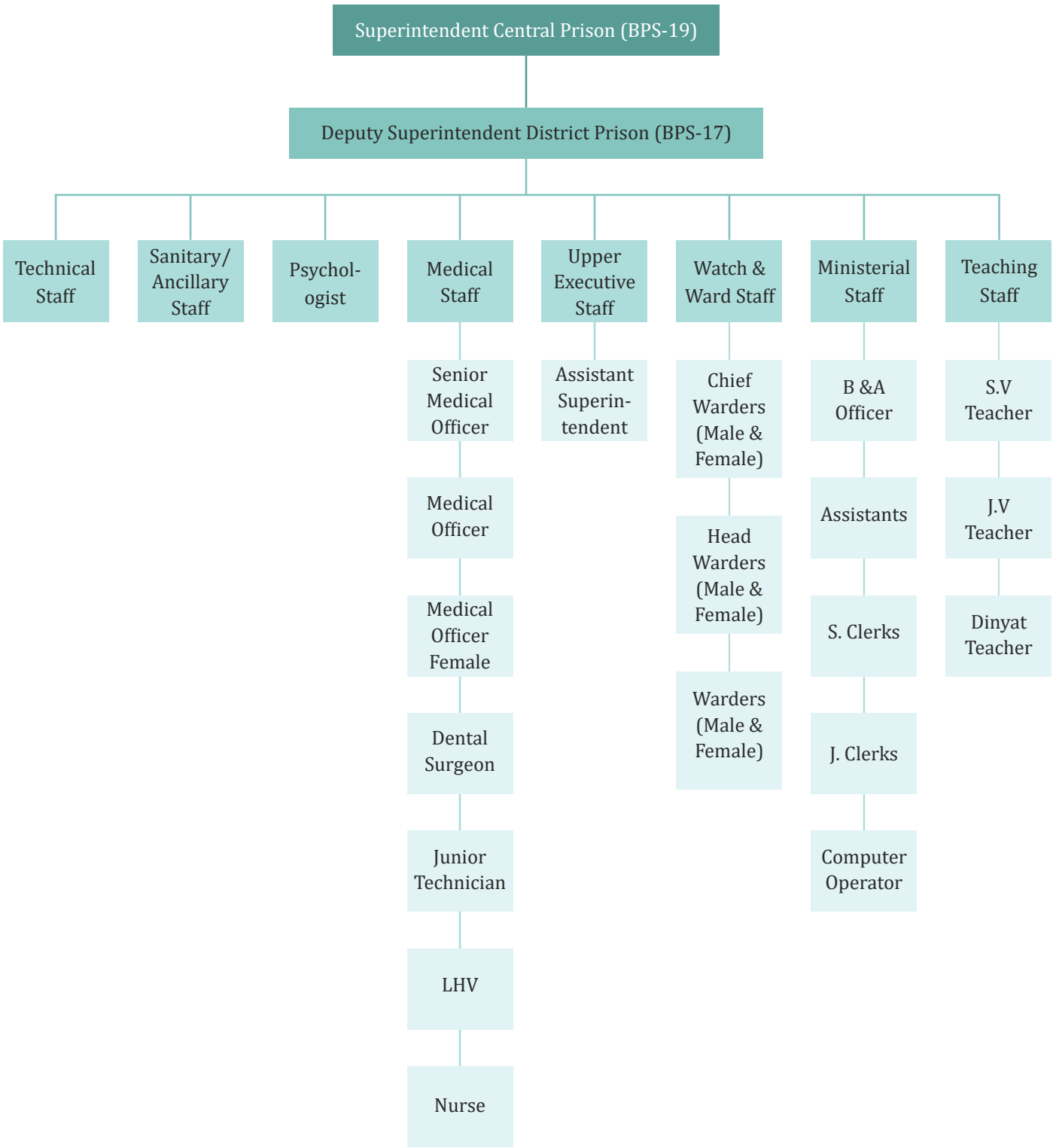
Appendix B

Staff Hierarchy



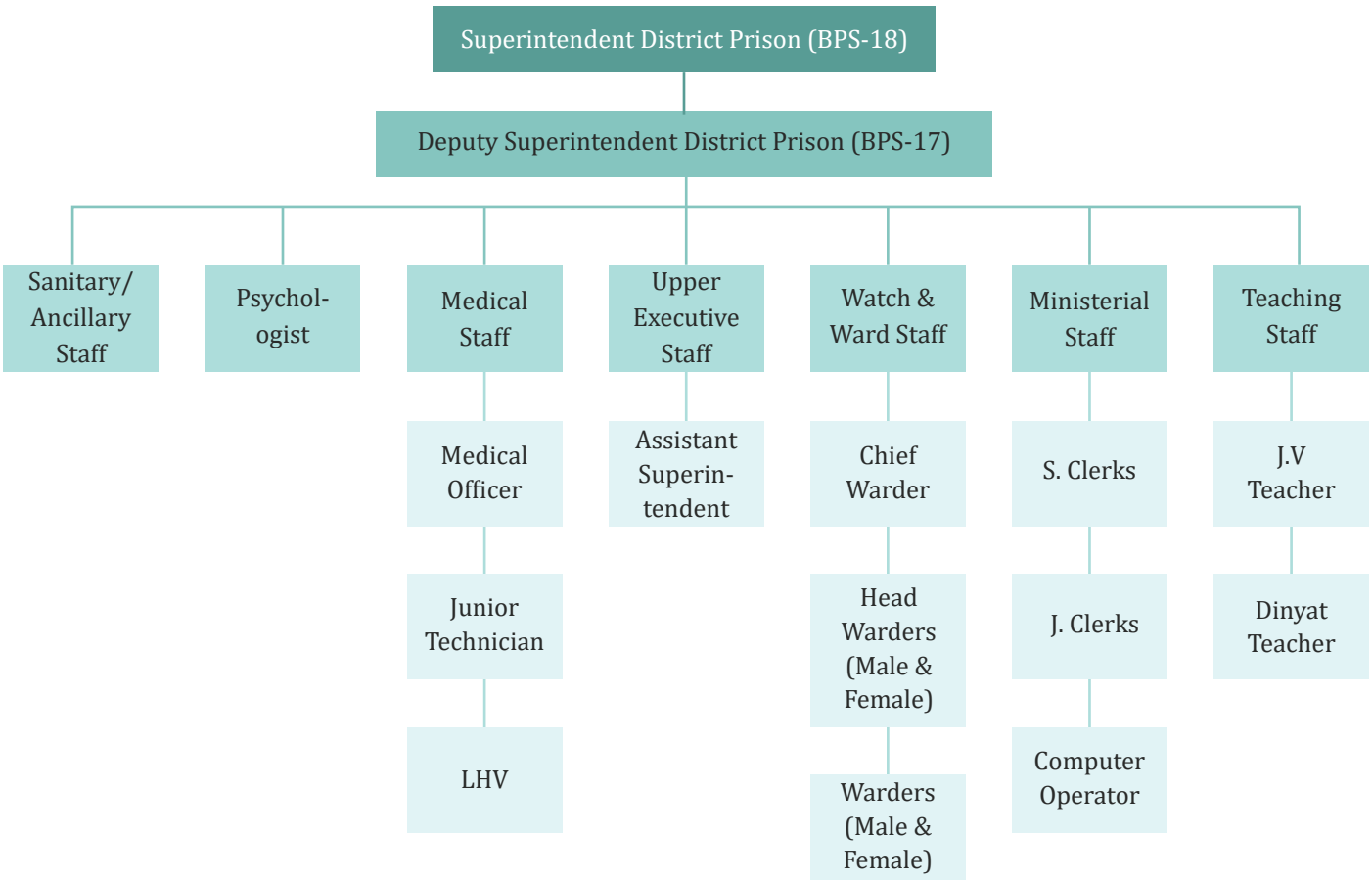
Source: IG Prison Directorate, Peshawar (personal communication, January, 2023).

Staff Hierarchy of Central Prison



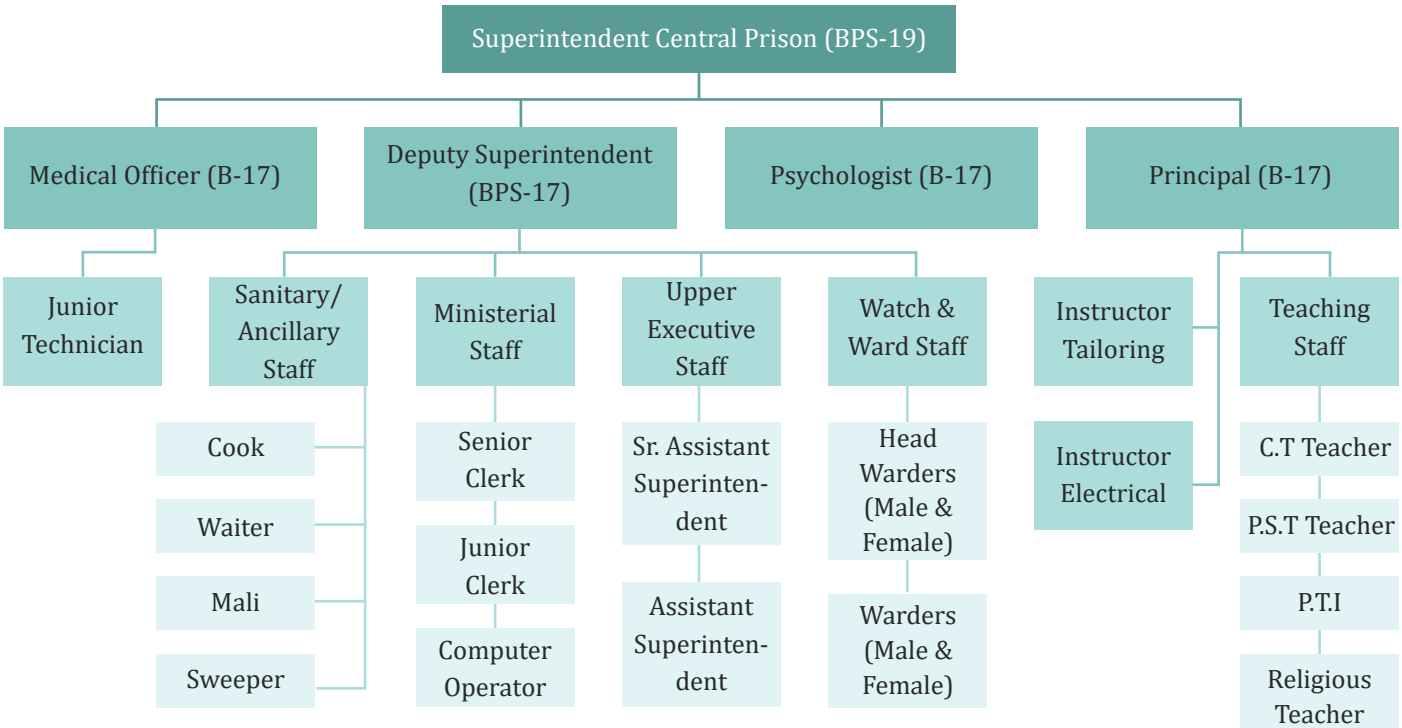
Source: Khyber Pakhtunkhwa Prisons. (2020).

Staff Hierarchy of District Prison



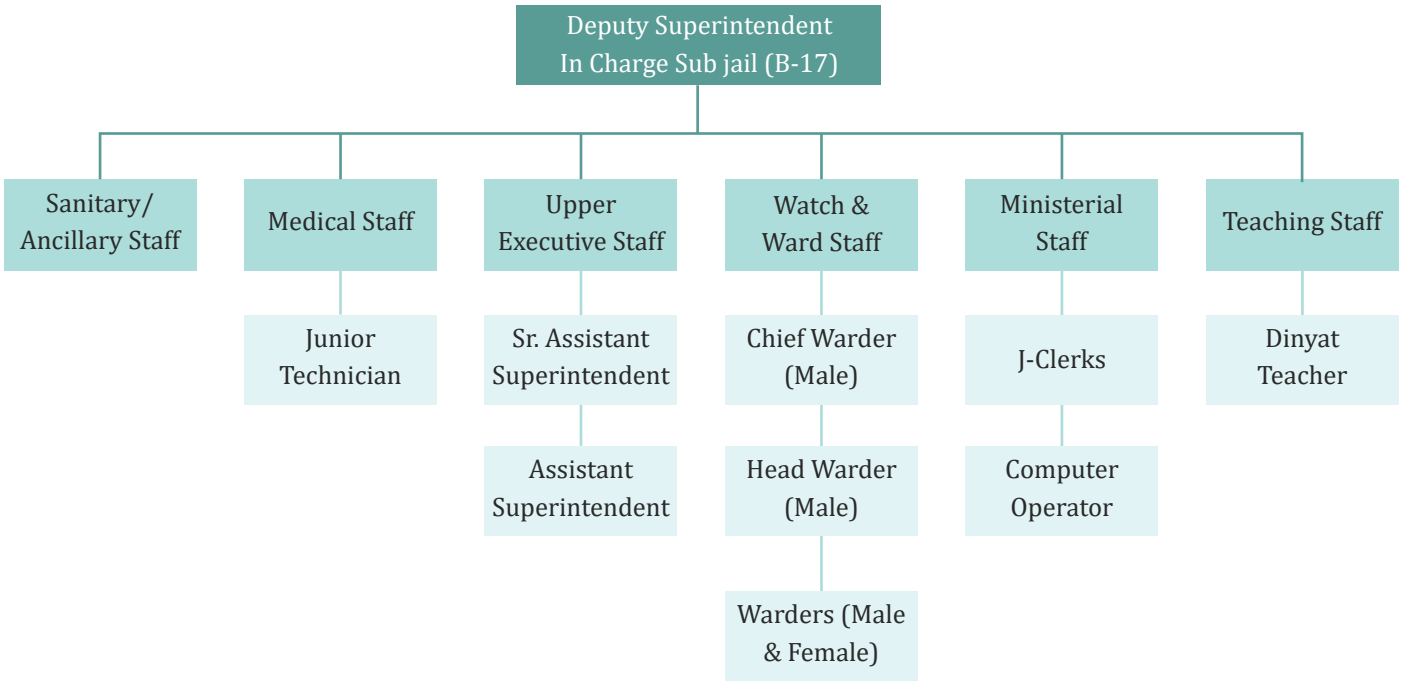
Source: Khyber Pakhtunkhwa Prisons. (2020).

Borstal Institution



Source: Khyber Pakhtunkhwa Prisons. (2020).

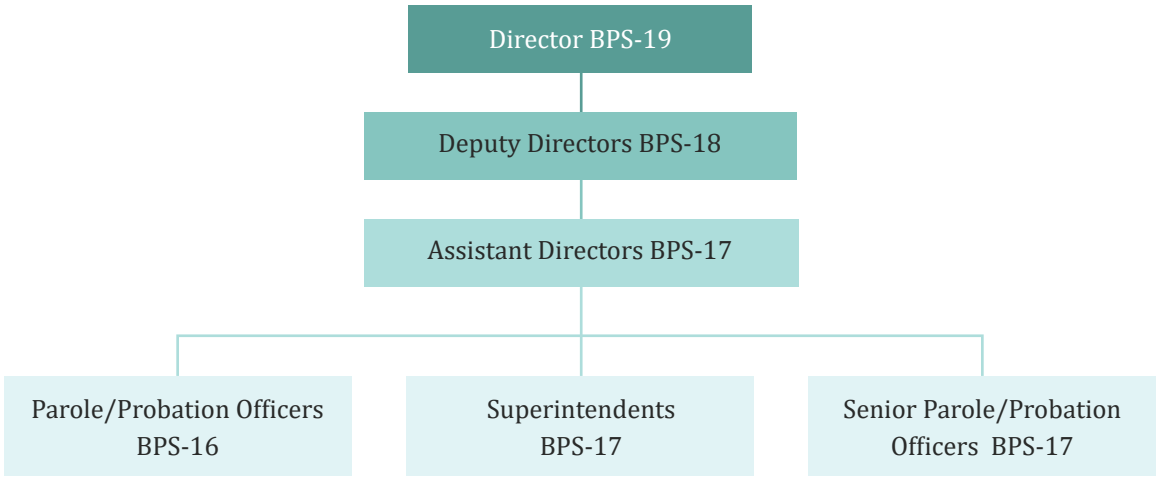
Sub-Jail



Source: Khyber Pakhtunkhwa Prisons. (2020).

Appendix C

Staff Hierarchy of Probation in Khyber Pakhtunkhwa



Source: Khyber Pakhtunkhwa Prisons. (2020).

Strength of Probation & Parole Officers KP

S.No	Designation	Scale	Staff (Numbers)
1	Director	BPS-19	01
2	Deputy Director	BPS-18	04
3	Assistant Director	BPS-17	01
4	Senior Probation Officers	BPS-17 (M/F)	21
5	Superintendent	BPS-17	02
6	Probation Officer	BPS-16 (M/F)	22
7	Office Assistant	BPS-16	07
8	Computer Operator	BPS-16	01
9	Senior Scale Stenographer	BPS-16	01
10	Junior Scale Stenographer	BPS-14	01
11	Senior Clerk	BPS-14	13
12	Junior Clerk	BPS-11	47
13	Driver	BPS-06	05
14	Naib Qasid	BPS-03	51
15	Chowkidar	BPS-03	02
16	Sweeper	BPS-03	01
Total Staff Members			**180**

Source: Authors' computations based on information retrieved from Visit to Reclamation & Probation Khyber Pakhtunkhwa (March 2023).

Appendix D

Session 2018-19

1st Batch Date of commencement 01/05/2018 Date of Commencement 31/10/2018

S.NO	SDC Central Jail Haripur Courses Detail	Enrolled Students	Passed-Out
Duration: 06 Months			
	Technology		
1	Electrical	14	11
2	Tailoring	17	08
3	Computer	16	12
Total		47	31

Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

2nd Batch Date of commencement 01/11/2018 Date of Completion 30-04-2019

S.No	SDC Central Jail Haripur	Enrolled Students	Passed-Out
Duration: 06 Months			
	Technology		
1	Electrical	16	13
2	Tailoring	19	13
3	Computer	14	09
4	Woodwork	14	08
Total		63	43

Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

Session 2019-20

1st Batch Date of Commencement 16-08-2019 Date of Completion 15-02-2020

S.No	SDC Central Jail Haripur	Enrolled Students	Passed-Out
Duration: 06 Months			
	Technology		
1	Electrical	19	09
2	Tailoring	19	13
3	Computer	15	08
4	Woodwork	08	08
5	Pipe Fitting	10	09
6	Dress Making (Female)	10	08
Total		71	55

Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

Session 2020-21

1st Batch Date of Commencement 15-09-2020 Date of Completion 15-03-2021

S.No	SDC Central Jail Haripur	Enrolled Students	Passed-Out
Duration: 06 Months			
	Technology	06 Months	
1	Electrical	09	09
2	Tailoring	22	15
3	Computer	22	9
4	Woodwork	0	0
5	Pipe Fitting	0	0
6	Dress Making (Female)	07	07
Total		59	49
Grand Total		260	180

Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

Session 2021-22

1st Batch Date of Commencement 21-06-2021 Date of Completion 20-12-2021

S.No	SDC Central Jail Haripur	Enrolled Students	Passed-Out
Duration: 06 Months			
	Technology		
1	Electrical	13	13
2	Dressmaking (Male)	07	07
3	Hand Embroidery (Female)	08	08
Total		28	28

Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

Appendix E

1st Batch Prime Minister's "Skill for All" Hunarmand Pakistan Programme under Kamyab Jawan Initiative. Date of Commencement 01-03-2022 Date of Completion: 30-08-2022

S.No	SDC Central Jail Haripur	Enrolled Students	Passed-Out
Duration: 06 Months			
	Technology		
1	Electrical	0	
2	Dress Making (Male)	08	
3	Hand Embroidery (Female)	04	
Total		12	

Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

2nd Batch Prime Minister's "Skill for All" Hunarmand Pakistan Programme under Kamyab Jawan Initiative. Date of Commencement 07-03-2022 Date of Completion: 06-09-2022

S.No	SDC central jail Haripur	Enrolled students	Pass Out	Remarks
	Technology	06 Months		
1	Certificate in Office Management	25		
Total		25		
Grand Total 2022		37		

Source: Authors' computations based on information retrieved from Visit to Haripur Jail (2023).

Appendix F

Basic Training Courses of Warders (Male)

S#	Name of Training Course	No of Trainees	Course Duration	Date of completion
1	Basic Training Course of Warders (Batch-I)	100	02 Months	02-09-2022 to 31-10-2022
2	Basic Training Course of Warders (Batch-II)	70	02 Months	07-11-2022 to 09-01-2023

Source: Authors' computations based on information retrieved from Visit to Prison Staff Training Academy Haripur (2023).

Promotion Courses (Male)

S#	Name of Training Coursed	No of Trainees	Course Duration	Date of completion
1	Mandatory Promotion Course of Chief Head Warders (BPS-11) and Senior Clerks (BPS-14) to the Post of Assistant Superintendent Jail (BPS-16)	29	02 Months	07-11-2022 to 09-01-2023

Source: Authors' computations based on information retrieved from Visit to Prison Staff Training Academy Haripur (2023).

Course Outline for Basic and Promotion Courses

Promotion Courses at Prisons Staff Training Academy, Haripur
Duration: 08 weeks

S#	**Name of Subject**	**Trainer/ Teacher**
1.	Law (Acts related to Prisons)	Law Instructor
2.	Prison Administration/ Khyber Pakhtunkhwa Prisons Rules	Assistant Supt; Jail (Retired)
3.	Criminal Psychology	Psychologist
4.	Mental Health Training	Psychologist
5.	Health Training Program (First Aid / how to manage/handle sick prisons)	Medical Officer
6.	Health Training Programme (Self-health Management by inmates)	Medical Officer
7.	I.T Basic Course & PMIS Introduction	Network Administrator
8.	Weapon Handling	Instructor
9.	Drills of all Kinds	Drill Instructor
10.	Physical Training	Drill Instructor

Source: Authors' computations based on information retrieved from Visit to Prison Staff Training Academy Haripur (2023).

All types of Physical Training of Trainees (Basic/Promotion Courses) are supervised by the Trainees in charge / Senior Drill Instructor.

Basic Training Course of Warders at Prisons Staff Training Academy, Haripur
Duration: 08 weeks

S#	Name of Subject	Trainer/ Teacher
1.	Prison Administration/ Khyber Pakhtunkhwa Prisons Rules	Assistant Supt; Jail (Retired)
2.	Criminal Psychology	Psychologist
3.	Mental Health Training	Psychologist
4.	Health Training Program (First Aid / how to manage/handle sick prisons)	Medical Officer
5.	Health Training Program (Self-Health Management by inmates)	Medical Officer
6.	Islamic Ethics	Islamic Scholar
7.	E&D Rules	Superintendent
8.	I.T Basic Course & PMIS Introduction	IT Experts
9.	Weapon Handling	Instructor
10.	Drills of all Kinds	Drill Instructor
11.	Physical Training	Drill Instructor

Source: Authors' computations based on information retrieved from Visit to Prison Staff Training Academy Haripur (2023).

Khyber Pakhtunkhwa Prisons Rules & Prison Administration

1. Chapter No. 2- Kind of Prisons (Rule No. 04)
2. Chapter No. 3- Admission of Prisoners (Rules No. 11, 12, 13, 14, 16, 21)
3. Chapter No. 9- Classification & Separation of Prisoners. (Rules No. 226, 227, 228, 231, 232, 248, 339)
4. Chapter No. 14- Prisoners under sentence of death. (Rules No. 330, 334, 337, 338,339, 340, 341, 342)
5. Chapter No. 15- Under-Trial Prisoners. (Rules No. 373, 383, 399)
6. Chapter No. 20- Dietary. Rules No. 493)
7. Chapter No. 22- Letter & Interviews. (Rules No. 544, 558, 559, 563)
8. Chapter No. 23- Offences & Punishments. (Rules No. 571, 572)
9. Chapter No. 29- Prisoner in Cells. (Rules No. 628 to 632)

10. Chapter No. 32- Watch & Wards.

    (Rules No. 694, 697, 703, 704, 706, 711, 712, 721, 723)

11. Chapter No. 44- General Rules.

    (Rules No. 1065, 1066, 1067, 1068, 1069, 1071, 1072, 1080,

    1084, 1085, 1086, 1089, 1090, 1093)

12. Chapter No. 48- Uniform. (Rules No. 1210)

Criminal Psychology

(Course Content)

1. Theories related to criminal behaviour
2. Competency to stand trial
3. Criminal responsibility
4. Eyewitness testimony
5. Polygraph testing
6. Psychological disorders related to criminal behaviour
7. Battered women's syndrome
8. Psychology in correctional settings
9. Rehabilitation of offenders.

Mental Health Training

(Course Content)

1. Stress
2. Causes of Stress
3. Stress Management techniques
4. Metal Disorders
5. Anxiety- causes/ Symptoms /treatment
6. Psychotic and neurotic disorders
7. Memory Full topic
8. Human Brain

9. Why were counselling techniques used
10. How to treat depression in Prisons
11. How to improve mental Health in Prisons.

Health Training Program

(Course Content)

1. How to manage/handle sick prisoners
2. First Aid
3. Response to diabetic emergencies
4. Child Care
5. Dental Emergencies
6. Referral of inmates with health complaints to health staff
7. Patient confidentiality
8. Introduction –common diseases/ prevention and home remedies.

Health Training Program

(Course Content)

1. How to train inmates about self-monitoring techniques
2. Guidelines
3. Diabetes
4. Personal glucose monitoring for insulin users
5. To operate glucometer
6. Guideline for infection control requirements
7. Uses of finger stick device
8. Health self-management in hypertension
9. Hypertension/ Normal/High B.P
10. Long-term complications due to hypertension
11. Introduction (Common Diseases)
    - Flu/cold

- Cough
- Diarrhoea- causes & symptoms
- Temperature- Normal, High grade
- Heart failure
- Kidney failure and stroke
- Headache
- Chickenpox
- HIV/AIDS
- Tetanus

Islamic Ethics

(Course Content)

1. Ethical system in Islam
2. Right of Prisoners as human beings
3. Prisoners of war in Islam
4. Five Moral of Islam
   i. Kindness
   ii. Charity
   iii. Forgiveness and patience
   iv. Honesty
   v. Justice
5. Life and Teaching of the Holy Prophet (P.B.U.H)
6. Haqooq Allah
7. Haqooq ul Ibad (particularly in reference to prisoners).

LAW

(Course Content)

Acts related to Prisons

E&D Rules

(Course Content)

1. Punishment and Reward
2. Allegations of Accused
3. Appointing Authority
4. Inquiry
5. Guilty of offenses
6. Penalty
7. Minor Penalty
8. Major Penalty
9. Appeal
10. Appeal to higher Authorities.

Network Administrator

(Course Content)

Basic I.T Courses and Introduction to PMIS

Weapon Handling

(Course Content)

1. Normal Safety Precautions (N.S.P)
2. Familiarization with all available weapons
3. Main point of impact
4. Techniques of firing
5. Analysis of firing at the target
6. Moving with all types of weapons
7. Name of Parts field stripping/ detailed stripping
8. Assembling of all available weapons
9. Mechanism of weapon & stoppages and immediate action

Basic Firing/ Advance Firing

(Course Content)

1. Firing range discipline
2. Definition of Aim and Method of Aim
3. Principles of good shooting
4. Theory of group and method of zeroing of weapon
5. Basic fire from all positions
6. Zeroing, grouping fire
7. Snap shooting, volley fire
8. Standing position assault fire with all assault weapons
9. Standing turning fire with all assault weapons
10. Turning the moving pistol fire
11. Various position pistol fire
12. Timing fire all weapons
13. Range efficiency fire from 100 metres to 200 metres
14. Sharpshooting firing techniques and practice

Physical Fitness-training

(Course Content):

i) Air Borne Physical Training Exercises

ii) 1 Mile runs (initially on a daily basis)

iii) 4 Miles run (to be achieved up to half term of the course)

iv) 6 Miles run (to be achieved at the end of the course)

Drills

(Course Content for all types of Drills):

i) Assembling in the parade ground.

ii) Formation of parade

iii) Parade without rifle

iv) Parade with a rifle

v) Salutation

vi) Sentry drill

vii) Rifle drill

Sample of the Completion Certificates


B.T.C-II-2022-23/CH#66

بسم اللہ الرحمن الرحیم

PRISONS STAFF TRAINING ACADEMY HARIPUR

KHYBER PAKHTUNKHWA

CERTIFICATE OF COURSE COMPLETION

AWARDED TO WARDER

Shahid Ali s/o Yousaf Khan

2nd Basic Training Course (BATCH-II)

w.e.f 07-11-2022 To 09-01-2023

DEPUTY COMMANDANT
PRISONS STAFF TRAINING ACADEMY
(PSTA) HARIPUR

COMMANDANT
PRISONS STAFF TRAINING ACADEMY
(PSTA) HARIPUR

Appendix G

SURVEY QUESTIONNAIRES FOR INMATES

The purpose of this questionnaire is to seek your view about the quality of this prison. 120 randomly selected prisoners are being asked to complete this questionnaire related to this prison and your mental and psychology and not any other you may have been in. We will ask you about the experience you may have and if you have seen any improvements in the system of jail.

This questionnaire will be anonymous and therefore, no name should be written on it.

If you want to leave this questionnaire at any level, you are allowed to quit.

Thank you for your cooperation.

PART 1

Gender

- ☐ Male
- ☐ Female

Education

- ☐ Illiterate
- ☐ Primary
- ☐ Middle
- ☐ Secondary
- ☐ Intermediate
- ☐ Graduate
- ☐ Postgraduate
- ☐ Other

1. How long you have been in this prison?

- ☐ Less than a month
- ☐ 1-6 months
- ☐ 7-12 months
- ☐ 13-24 months
- ☐ More than 02 years.

2. Did you begin your current sentence or period of remand in this prison?

- ☐ Yes
- ☐ No

3. Is this your first time in prison?

- ☐ Yes
- ☐ No

If yes then,

4. How many times have you been in prison before?

- ☐ Once before
- ☐ 2-5 times before
- ☐ 6-9 times before
- ☐ 10 or more times before

5. Have you been in this prison before?

- ☐ Yes
- ☐ No

6. What is your status?

- ☐ Remand/Untried
- ☐ Convicted but not yet sentenced
- ☐ Sentenced

7. If sentenced, then what type of sentence you're serving?

- ☐ (EPP) Extended Sentence
- ☐ Intermediate Sentence (IPP)
- ☐ Life Sentence
- ☐ None of above

8. How long is your sentence or if you are a life sentence or IPP prisoner, how long is your tariff?

- ☐ Less than one year
- ☐ 1 year but less than 2 years
- ☐ 2 years but less than 14 years
- ☐ 14 years or more

9. How soon do you expect it to be released?

- ☐ Less than 1 month
- ☐ 1 month but less than 3 months
- ☐ 3 months but less than 6 months
- ☐ 6 months or more

10. What is the total length of time you have spent in prison over a year lifetime?

- ☐ Less than 1 year
- ☐ More than 1 but less than 3 years
- ☐ More than 4 but less than 5 years
- ☐ More than 5 but less than 10 years
- ☐ More than 10 years

11. What wing are you located in ?

Ans

12. Which regime level are you on?

- ☐ Basic
- ☐ Standard
- ☐ Enhanced
- ☐ Other

- ☐ Specify_____

13. What is your main daytime activity?

- ☐ Education
- ☐ Education & work
- ☐ Work
- ☐ Induction Course
- ☐ Offending behaviour program
- ☐ Drug Rehab
- ☐ Sick
- ☐ Other Specify

14. Do you spend most of the time in your cell?

- ☐ Yes
- ☐ No

15. Are you a foreign national prisoner?

- ☐ Yes
- ☐ No

16. How would you describe your national identity

- ☐ Pakistani
- ☐ Afghan
- ☐ Other, write in_____

17. What is your religion?

- ☐ Muslim
- ☐ Christian
- ☐ Hindu
- ☐ Sikh
- ☐ Other (specify)_____

18. Are you able to practice your religion in this prison (if you want to)?

- ☐ Yes
- ☐ No
- ☐ Don't Know

19. Have you ever experienced the use of Control & Restraint procedures by officers in the prisons?

- ☐ Yes
- ☐ No

20. Have you ever self-harmed?

- ☐ No, never self-harmed
- ☐ Yes, outside of prison only
- ☐ Yes, in prison, only
- ☐ Yes outside & in prison

21. Have you ever attempted suicide?

- ☐ No, I never attempted
- ☐ Yes, outside of prison, only
- ☐ Yes, in prison, only
- ☐ Yes, outside and in prison

22. Have you ever been on Assessment, care in custody, and teamwork plan OR self-harm monitoring

- ☐ No
- ☐ Yes, in this prison
- ☐ Yes, in another prison
- ☐ Yes, in this and another prison

23. Did you use drugs (other than alcohol) before coming to prison?

- ☐ Yes
- ☐ No

24. Did you have a problem with drug or alcohol misuse before you came into prison?

- ☐ No problem with either
- ☐ Yes, only with drugs
- ☐ Yes, only with alcohol
- ☐ Yes, with both drugs & alcohol

25. Did you receive help to detox in this prison?

- ☐ Yes
- ☐ No
- ☐ N/A

26. Have you used the services of healthcare in this prison?

- ☐ Yes
- ☐ No

27. Are you doing or have you done in an accredited offending behaviour course like Thinking Skills Programme, Anger Management, or other? In this prison?

- ☐ Yes
- ☐ No
- ☐ If yes, state the programme name_____

28. Do you receive visits in this prison

- ☐ Yes
- ☐ No

29. Are you close to your home area in this prison?

- ☐ Yes
- ☐ No

30. Are you in regular contact with your family either by phone or mail while you are in this prison?

- ☐ Yes
- ☐ No

PART 2

Sr. No.	Questions	Strongly Disagree	Disagree	Don't know	Agree	Strongly Agree
1	When I first came to this prison I felt looked after.					
2	This is a well-controlled prison?					
3	I have no difficulties with other prisoners here.					
4	Relationships between staff and prisoners in this prison are good?					
5	I receive support from staff in this prison when I need it.					
6	The staff here treat prisoners fairly when applying the rules.					
7	Does the Staff here treat prisoners fairly when distributing privileges?					
8	I am being looked after by humanity here.					
9	I have thought about suicide in this prison.					
10	The best way to do your time here is to mind your own business and have as little to do with other prisoners as possible.					
11	Do Victims of bullying get all the help they need to cope?					
12	Prisoners are treated decently in the care and separation units (segregation) in this prison.					
13	The regime of this prison allows me to think of opportunities for myself.					
14	Anyone in this prison on a self-harm monitoring form gets the care and help from the staff that they need.					
15	All they care about in this prison is my "risk factors" rather than the person I really am.					
16	Anyone who harms themselves is considered by staff to be more of an attention seeker than someone who needs care and help.					
17	Every effort is made by this prison to help prisoners to stop committing offences on release.					

18. Rate your experience in this prison from 1-10.

1	2	3	4	5	6	7	8	9	10

19. What are the 3 most positive things about life in this prison?

1. _____

2. _____

3. _____

20. What are the 3 most negative things for you about life in this prison?

1. _____

2. _____

3. _____

Any suggestions:

_____

_____

_____

SURVEY QUESTIONNAIRES FOR PRISON STAFF

The purpose of this questionnaire is to seek your view about the quality of this prison. 30 prison staff are being asked to complete this questionnaire related to this prison and your mental and psychology and not any other you may have been in. We will ask you about the experience you may have and if you have seen any improvements in the system of jail.

This questionnaire will be anonymous and therefore no name should be written on it.

If you want to leave this questionnaire at any level, you are allowed to quit.

Thank you for your cooperation.

PART 1

1. Gender

- ☐ Male
- ☐ Female

2. Education

- ☐ Illiterate
- ☐ Primary
- ☐ Middle
- ☐ Secondary
- ☐ Intermediate
- ☐ Graduate
- ☐ Postgraduate
- ☐ Other

3. Age

- ☐ Under 30
- ☐ 30-45
- ☐ 46 or older

4. Which body or group you belong to?

- ☐ Security
- ☐ Healthcare treatment
- ☐ Offices & services
- ☐ Fresh trainee

5. Do you think that drug use has increased in this prison?

- ☐ Not at all
- ☐ A little
- ☐ Quite a lot
- ☐ A lot

6. Have you had any professional (capacity building) training/workshop during your service?

- ☐ Yes
- ☐ No

7. If yes, what kind of training (capacity building) programme did you have?

_____

8. Is there a medical facility here in this prison?

- ☐ Yes
- ☐ No

9. What kind of medical facility does this prison have?

- ☐ Clinic

- ☐ Dispensary
- ☐ Hospital

10. Is there a full-time doctor?

- ☐ Yes
- ☐ No

11. Does that medical facility work 24 hours?

- ☐ Yes
- ☐ No

12. Do the inmates have regular checkups?

- ☐ Yes
- ☐ No
- ☐ Occasionally

13. Does this medical facility have a proper psychiatrist?

- ☐ Yes
- ☐ No
- ☐ Occasionally

14. Do you have any conflictive situations between inmates & wardens?

- ☐ Not at all
- ☐ A little
- ☐ A lot
- ☐ Quite a lot

15. Do you have any conflictive situations between inmates & health personnel?

- ☐ Not at all
- ☐ A little
- ☐ A lot
- ☐ Quite a lot

16. How do you deal with this kind of situation?

- ☐ Politely
- ☐ Brutally
- ☐ Moderately

17. What are the positive aspects for you in this prison?

_____

_____

_____

18. What are the Negative aspects for you in this prison?

_____

_____

_____

19. Your suggestion to the policymakers?

_____

_____

_____

PART 2

Sr. No.	**Questions**	Strongly Disagree	Disagree	Don't know	Agree	Strongly Agree
1	This is a well-controlled prison.					
2	We have no difficulties with any prisoners.					
3	Relationships between staff and prisoners in this prison are good.					
4	Prisoners receive support from staff in this prison when they need it.					
5	The staff here treat prisoners fairly when applying the rules.					
6	The staff here treat prisoners fairly when distributing privileges.					
7	All the prisoners are being looked after by the staff with humanity here.					
8	The victims of bullying get all the help they need from staff to cope.					
9	Prisoners are treated decently in the care and separation unit (segregation) in this prison.					
10	The regime of this prison allows prisoners to think of opportunities for themselves.					
11	Anyone who harms themselves is considered by the staff to be more of an attention seeker than someone who needs care and help.					
12	Every effort is made by this prison to help prisoners to stop committing offences on release.					

13. Rate your experience in this prison from 1-10.

1	2	3	4	5	6	7	8	9	10

13. What are the 3 most positive aspects for you in this prison?

1. _____

2. _____

3. _____

14. What are the 3 most negative aspects for you in this prison?

1. _____

2. _____

3. _____

Any suggestions to the policymakers:

_____

_____

_____

Appendix H: Sample of History Ticket of Convicted Prisoner

History Ticket Of CONVICTED Prisoner

Registration Number	1391-14/01/2023		
Prisoner Name	Muhammad Safeer		
Prisoner Father Name	Khan Baz		
Prisoner Husband Name			
Address	Changi Bandi (District: Haripur, Province:Khyber Pakhtunkhwa ,Country: Pakistan)		
Date of Admission	23/09/2022		
Education	SSC	Sentence	2 years - 0 months - 0 days
Religious Education	Nazira-Quraan	Fine	Rs.500000
Occupation	Labour	Fine Against Sentence	0 years - 3 months - 25 days
Caste	Awan	Date of Sentence	14/01/2023
Sentence Description	Probation Convict	Comp / Diyat / Arsh	

Warrant Information

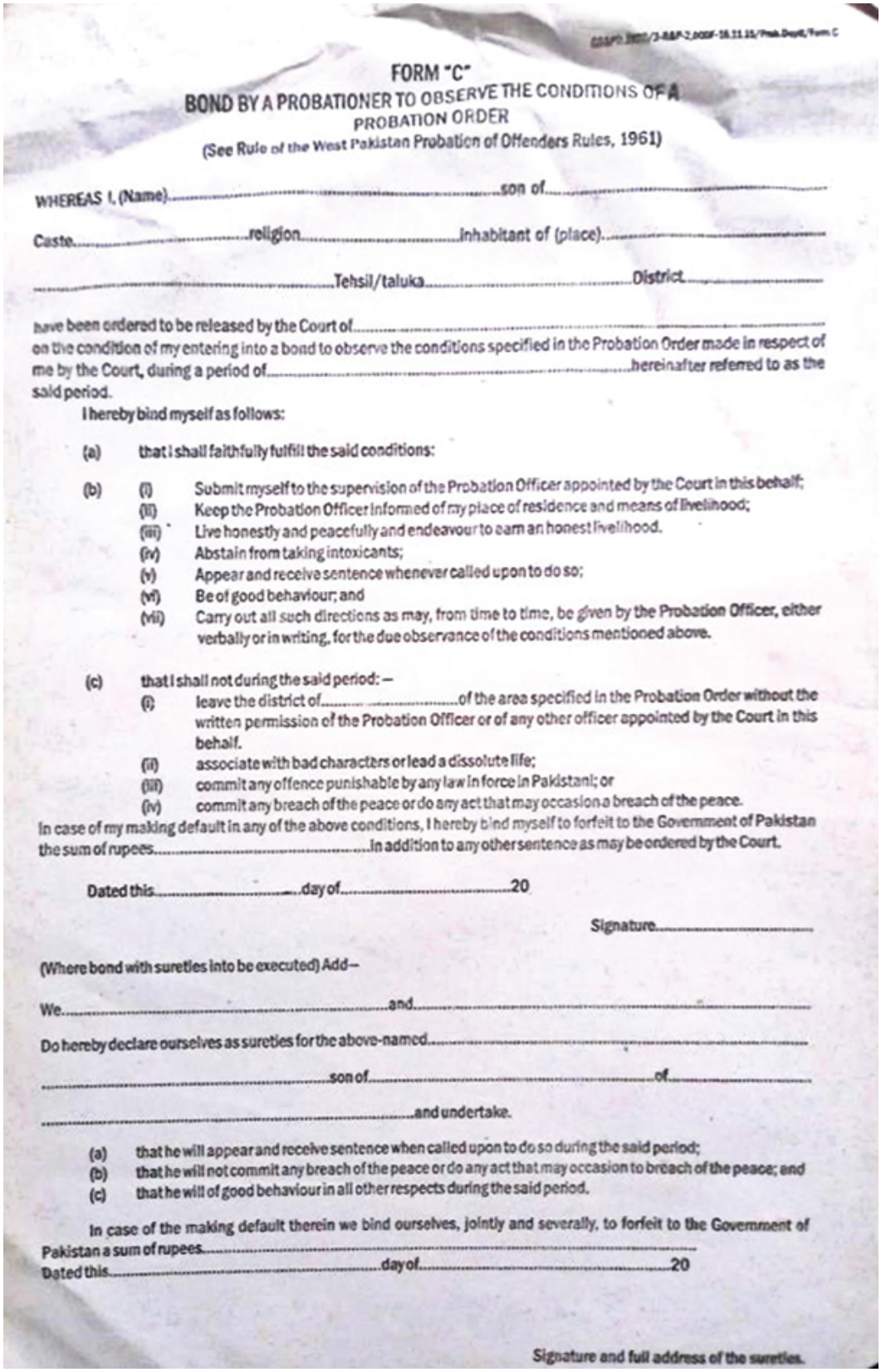
Warrant Date	FIR/Date	PS	Warrant Court	W/S	Charges / Acts	Last Date of Hearing	Next Date of Hearing	Trial Court	Total Number of Hearings
23/09/2022	420-21/09/2022	Saral Salah Haripur	Judicial Magistrate-I Haripur	Convict	9D 17-CNSA	14/01/2023	No Hearing	Additional District And Session Judge-III Haripur	10

Age	Height	Weight	Health on Admission	Identification Mark	Disease if Any	Psychologist / Pscyciatrist Openion

Medical Officer

A/S D/S SUPERINTENDENT

Appendix I: Sample of Forms C & D for Probation of Inmates



FORM "C"

BOND BY A PROBATIONER TO OBSERVE THE CONDITIONS OF A PROBATION ORDER

(See Rule of the West Pakistan Probation of Offenders Rules, 1961)

WHEREAS I, (Name).....son of.....

Caste.....religion.....Inhabitant of (place).....

.....Tehsil/taluka.....District.....

have been ordered to be released by the Court of.....on the condition of my entering into a bond to observe the conditions specified in the Probation Order made in respect of me by the Court, during a period of.....hereinafter referred to as the said period.

I hereby bind myself as follows:

(a) that I shall faithfully fulfill the said conditions:

(b)
- (i) Submit myself to the supervision of the Probation Officer appointed by the Court in this behalf;
- (ii) Keep the Probation Officer informed of my place of residence and means of livelihood;
- (iii) Live honestly and peacefully and endeavour to earn an honest livelihood.
- (iv) Abstain from taking intoxicants;
- (v) Appear and receive sentence whenever called upon to do so;
- (vi) Be of good behaviour; and
- (vii) Carry out all such directions as may, from time to time, be given by the Probation Officer, either verbally or in writing, for the due observance of the conditions mentioned above.

(c) that I shall not during the said period: –
- (i) leave the district of.....of the area specified in the Probation Order without the written permission of the Probation Officer or of any other officer appointed by the Court in this behalf.
- (ii) associate with bad characters or lead a dissolute life;
- (iii) commit any offence punishable by any law in force in Pakistan; or
- (iv) commit any breach of the peace or do any act that may occasion a breach of the peace.

In case of my making default in any of the above conditions, I hereby bind myself to forfeit to the Government of Pakistan the sum of rupees.....in addition to any other sentence as may be ordered by the Court.

Dated this.....day of.....20

Signature.....

(Where bond with sureties into be executed) Add–

We.....and.....

Do hereby declare ourselves as sureties for the above-named.....

.....son of.....of.....

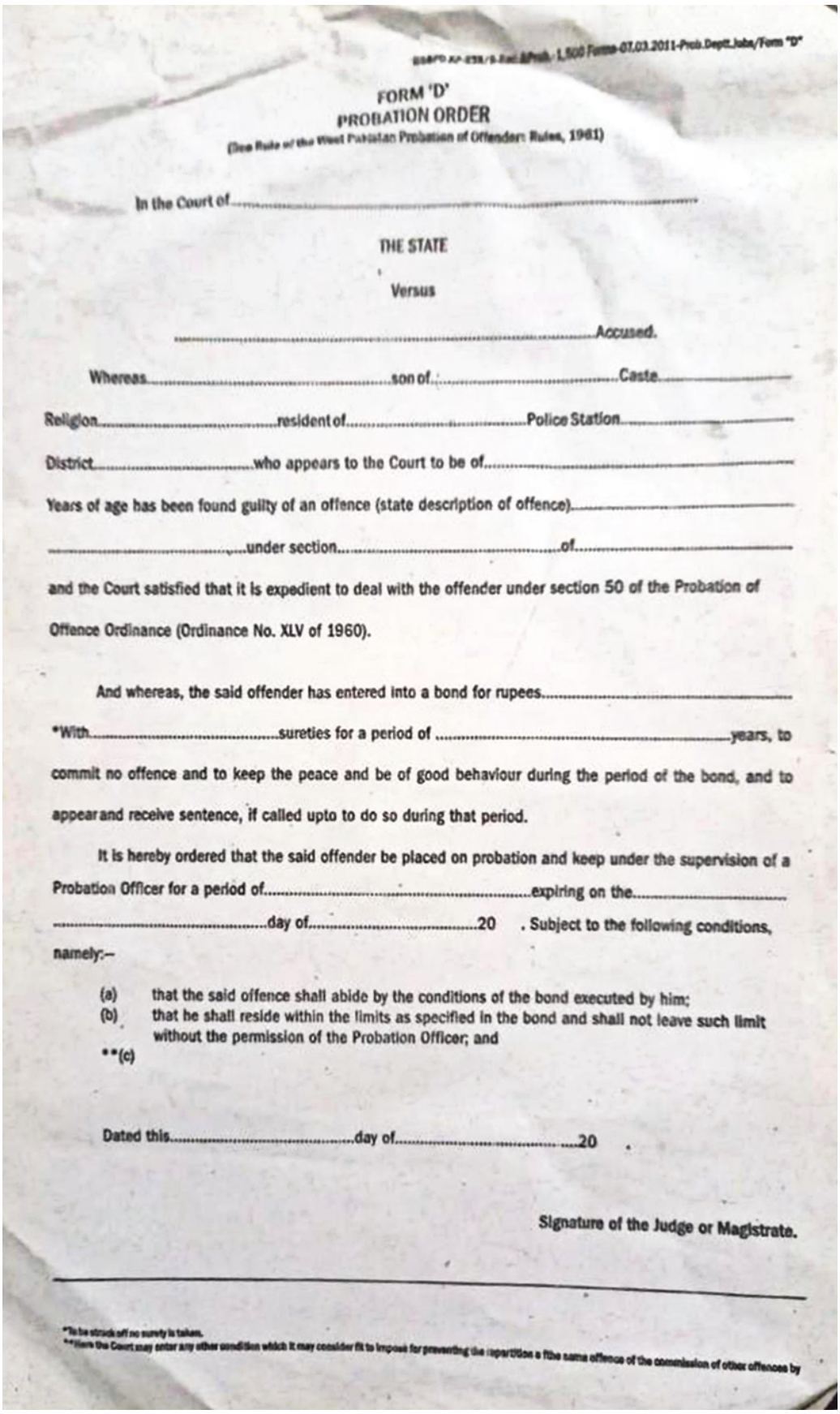
.....and undertake.

(a) that he will appear and receive sentence when called upon to do so during the said period;
(b) that he will not commit any breach of the peace or do any act that may occasion to breach of the peace; and
(c) that he will of good behaviour in all other respects during the said period.

In case of the making default therein we bind ourselves, jointly and severally, to forfeit to the Government of Pakistan a sum of rupees.....

Dated this.....day of.....20

Signature and full address of the sureties.



1,500 Forms-07.03.2011-Prob.Deptt.Jobs/Form "D"

FORM 'D'

PROBATION ORDER

(See Rule 9 of the West Pakistan Probation of Offenders Rules, 1961)

In the Court of.....

THE STATE

Versus

.....Accused.

Whereas.....son of.....Caste.....

Religion.....resident of.....Police Station.....

District.....who appears to the Court to be of.....

Years of age has been found guilty of an offence (state description of offence).....

.....under section.....of.....

and the Court satisfied that it is expedient to deal with the offender under section 50 of the Probation of Offence Ordinance (Ordinance No. XLV of 1960).

And whereas, the said offender has entered into a bond for rupees.....

*With.....sureties for a period of .....years, to commit no offence and to keep the peace and be of good behaviour during the period of the bond, and to appear and receive sentence, if called upto to do so during that period.

It is hereby ordered that the said offender be placed on probation and keep under the supervision of a Probation Officer for a period of.....expiring on the.....

.....day of.....20 . Subject to the following conditions, namely:–

(a) that the said offence shall abide by the conditions of the bond executed by him;
(b) that he shall reside within the limits as specified in the bond and shall not leave such limit without the permission of the Probation Officer; and
**(c)

Dated this.....day of.....20 .

Signature of the Judge or Magistrate.

*To be struck off no surety is taken.
**Here the Court may enter any other condition which it may consider fit to impose for preventing the repetition o f the same offence of the commission of other offences by

PART II

LAW & JUDICIARY

Policy Briefs

BOTTLENECKS OR INEFFICIENCIES? A CRITICAL ANALYSIS OF JUDICIAL EFFICIENCY AND COURT PRODUCTIVITY IN THE LOWER JUDICIARY SYSTEM OF PUNJAB

Saima Sarwar and Alvina Sabah Idrees

INTRODUCTION

A sound judicial system is considered one of the important pillars of economic development. A transparent judiciary not only builds confidence and trust among investors but also promotes the efficiency of the social, economic, and political systems. However, developing economies' judicial systems generally face major constraints such as poor infrastructure, poor incentive systems, malpractices, lack of accountability, delays and backlogs, high costs of litigation, complex procedures, lack of judges and supporting staff vis-a-vis lack of transparency in appointments. These challenges ultimately trigger socioeconomic and political unrest in the country. Furthermore, without a well-functioning judiciary system, it is difficult to induce public harmony and conflict resolution to create an enabling environment for sustained peace and security, enforcement of human rights, good governance, and economic development.

The study on which this policy brief is based attempts to critically explore the hindrances to speedy justice at the district courts of Punjab. Unfortunately, even after the adoption of the World Bank project for developing economies 'Access to Justice', the situation is still the same at the district court level without any considerable improvement. This raises the question of why is so if judicial reforms are there and what are the factors restricting the performance of these courts, i.e., whether these are internal or external issues causing delays every year.

Punjab is the largest province of Pakistan both in terms of population and the share allocated for resource mobilisation. However, the performance of lower courts has become a serious concern for the masses, which, in turn, is affecting their social and economic lives. Thus, the study examined the existing situation of the district courts in Punjab, both criminal and civil cases, using the available secondary datasets (reports and websites) and a field survey to highlight the issues at the very basic level so that a proper solution can be provided to the responsible authorities.

METHODOLOGY

Both quantitative and qualitative techniques were used. The facts were gathered using secondary data from the published reports and websites on various case types for 36 districts of Punjab for the last four years from 2018-2021. Two approaches were used for situational analysis. First, a graphical analysis was carried out. Second, the non-parametric data envelopment analysis (DEA) technique was used to measure the efficiency of each district court. The study adopted an output-oriented model, which assumes variable returns to scale (VRS) to show how efficient are the existing inputs in the desired production of output. In this case, the disposal of cases and resolution index is the output, while judges, administrative staff, and court expenses are the inputs. Lastly, based on the findings from the efficiency estimates, the three most inefficient districts, i.e., Lahore, Multan, and Rawalpindi were selected for the survey of their court users, i.e., lawyers, litigants, and judges. The sample size was drawn using proportional sampling technique and almost 8,300 respondents were approached for the survey. The collected data was used graphically to understand the dynamics of these three district

courts and, interestingly, all had similar kinds of issues and similar intensity. In the end, the service quality (SERVQUAL) analysis was used to show the gap between the expectations and satisfaction level of both lawyers and litigants about the court service.

FINDINGS AND CONCLUSIONS

The findings show that the district courts in Punjab are facing an alarming rise in case pendency for civil matters. The disposal rate is satisfactory and speedy in the case of criminal case matters, while the disposal time is startling for civil cases and family matters. Using efficiency analysis based on 36 districts of Punjab, the district courts of Lahore showed the highest level of inefficiency, whereas Khushab and Rajanpur turned out to be the most efficient districts in terms of court productivity. However, these results do not necessarily conclude that the institutional arrangements and quality of court services are very ideal there and therefore the clearance rate is high. Rather, these numbers reflect the crime rate, customs, and practices of a region, which can be held responsible for this and are somehow difficult to quantify. For example, in Khushab and Rajanpur districts, case filing in courts is not a usual practice of people for the demand for justice; rather, they have their own 'Jirga System' or 'Punchayet' where they prefer to resolve their matters through arbitration. Hence, the pendency is lower not because of a higher clearance rate but rather it is due to the fewer institution of cases, which portrays no backlog and efficiency of the district. For this reason, when the case institution as an exogenous factor is incorporated, the observed average efficiency declined overall from 50% to 3%.

The findings show that the institution of cases in civil matters has played an intense regressive role as an external factor in triggering the inefficiency of courts at the district level compared to the cases' pendency and caseloads with judges. All this shows the over-utilisation of resources without an increase in court output. This exhibits the inability of the existing resources, i.e., judges and administrative staff to clear the backlog. Hence, if Lahore is regarded as the most inefficient district productivity-wise, then this may be due to the size of the city, its population dynamics, and income disparities which are causing a higher crime rate and corruption leading to more case filing ultimately causing backlogs. Hence, this calls for not only increasing the capacities of existing courts in megacities to cater for the demand for justice in the best possible way but also on the one hand, this stresses for the better role of Law enforcement agencies to control the malpractices in society.

For measuring the capacity of courts, scale efficiency was calculated, which shows that all the district courts are operating at decreasing returns to scale. It means that the court size is too large to take full advantage of economies of scale and operates at a supra-optimum scale. All this demonstrates that courts are overly congested and therefore dispensation of justice is slow.

The findings of the survey from all three districts showed that multiple adjournments and the conduct of lawyers and behaviour towards poor people are highly disappointing and cause poor court performance. Moreover, the service quality gap analysis proved that courts are less empathetic towards the poor both in terms of court fees and lawyers' fees and that is why they are unable to resolve their cases timely because of their inability to make payments. The behaviour of lawyers is given the top priority by the litigants to make the system more efficient and user-friendly. When the litigants were asked about the specifications of court fees, lawyer's fees, and travel costs for completing the judicial process of their cases, they highlighted that it was the lawyer's fee that covered almost 55% of their total expenses in the case of criminal cases and 43% for civil cases.

Other than these factors, the respondents emphasised that the most troubling stage during the trial is the stage of evidence in both civil and criminal cases due to which they faced a huge number of hearings. This made their position difficult both in terms of monetary and time costs. In terms of the age of pendency of the filed cases, the results show that some civil cases were pending for more than 30 years and criminal for less than 10 years. The litigants also blamed the lack of cooperation of the police department during the investigation process which instigates the issue of delayed disposal of cases. Lawyers, on the other hand, held the performance of the forensic department responsible and its lack of

coordination with courts in the delivery of speedier court services.

The overall findings show that there exists a quality gap between the expectations and satisfaction level of the court users, which implies that the district courts are underdelivering the services and the users of the services are not contended due to over-commitment. Moreover, the survey outcomes also depict that the role of media is somehow damaging the sanctity of many court decisions due to exaggeration. As for alternative dispute settlement (ADR), litigants, lawyers, and judges showed a strong positive response to ADR to avoid delays in settlements. Judges disagreed with pre-trial detention of the cases and also regarded adjournments as one of the major causes of the delay and blamed ill-preparedness of lawyers, absence of witnesses, and bar strikes responsible for this.

RECOMMENDATIONS

Based on the findings, here are a few policy recommendations which can help improve the judicial process at lower district courts.

- According to the judges' perspective, there is a need to increase the capacity of existing courts by improving both the infrastructure availability and the number of serving judges so that on average the clearance rate can be improved. Judges stressed court automation for informing about hearings litigants and lawyers must be well-regulated in all districts for symmetry of information and for increasing judicial governance.

- The lawyers' community also underlined the role of adjournments, political influence from external sources, and lack of training of lawyers and judicial professionals, which can enhance the efficiency of the court systems at the district level. Therefore, it is suggested that a penalty must be imposed on lawyers in case of multiple adjournments to avoid intentional delays and to increase the turnover of the judges.

- Survey responses highlighted the inefficiency and lack of transparency in the behaviour of the supporting staff and lawyers which is to be corrected. The supporting staff is involved in taking bribes and using many other informal means to exploit the interests of both parties. Thus, the court should develop a plan of action for dealing with such kinds of crimes.

- As the cost of proceedings is beyond the capacity of a common man, it is suggested that the government should try to make such policies that facilitate the poor people in bearing these expenses. In this regard, there exists a pro bono culture[1] in Western economies to facilitate those litigants who cannot afford lawsuits. Judicial bodies in Punjab should develop a policy framework to give protection to both the lawyers and litigants during the lawsuits. They should draft a policy that gives a certain weight to taking up a minimum number of pro bono cases for the elevation of judicial professionals in their careers.

- The adoption of pro bono culture should also be used to give maximum exposure to young law students at the early stages of their careers. This will provide them with an opportunity to work with highly skilled professionals for their training for the future. Such young law practitioners must be given weight to taking up pro bono cases in their profiles when they enter the professional

[1] In the legal profession, free legal services that are provided by an advocate to an individual who is not capable of hiring a lawyer and paying its fee are termed pro bono services. However, the State can offer a waiver of court fees to such lawyers to avoid any kind of personal monetary loss. Pro-bono cases can also be used as a marketing strategy for lawyers and offer recognition, increase clientele to the lawyers, and help them earn a reputation. Even though pro bono cases do not allow lawyers to earn enough money, they certainly offer several benefits and open numerous doors of opportunities for them. If a lawyer represents a pro bono case that is highly publicized, then the lawyer also earns a lot of reputation and fame, thus increasing the possibility of future clients. If the lawyer wins the pro bono case, he receives an appraisal, and more people are willing to hire him.

field for job search.

- The lawyers should be incentivised by different policies designed for them by the government, e.g., providing some form of financial/medical security to the lawyers as this will boost their trust and confidence level in the system, and they will become more compassionate towards such clients who are unable to pay heavy fees. Medical card facility is already one kind of example in this regard, but there still exists room for more such policies, like entitlement of basic education facilities for their children in both public and private schools, and housing facilities. Such steps can make their conduct empathetic towards the poor.

- To reduce the multiple hearings and adjournments, a maximum limit should be fixed by the government in collaboration with judicial authorities so that resolution time can be minimised. On the other hand, there must also be a set mechanism for lawyer's fees at different stages of proceedings both in civil and criminal cases. Moreover, there should be a check by the authorities as well in the form of a penalty for exceeding the prescribed limits of fees.

- All of the above major amendments are required to be made in CPC and CRPRC rules for the early disposal and to restrict the interim appeals as shown by a serious concern in the judges' survey. The ideal example of such modification of laws can be observed in the case of the Punjab Rented Premises Act of 2009 in which after the judgment of the district court, no further appeal is allowed in the high court and the supreme court. Using these practical solutions will enhance the assurance and reliability of court services for litigants.

INVESTIGATING PROCEDURAL, INSTITUTIONAL & CIRCUMSTANTIAL IMPEDIMENTS LEADING TO DELAY IN DISPENSATION OF JUSTICE

Ahsan Jamal Pirzada, Tanees Fatima, and Muhammad Adil

INTRODUCTION

The judicial system in Pakistan has been facing mounting judicial backlog and delays for decades with around 2 million cases in pendency. This problem is particularly acute in the lower judiciary. The issue is mainly attributed to the archaic and outdated Code of Civil Procedure 1908 (CPC) and the haphazard amendments made to it. The study, on which this policy brief is based, investigated the procedural, circumstantial, and institutional impediments that cause delays in the administration of justice. A comprehensive review of problematic provisions of CPC was conducted to identify the bottlenecks and gaps that cause delays during the life span of a civil trial.

In addition, the research explored the overwhelming burden on Pakistan's civil justice system by examining the cases that illustrate the excessive workload of civil judges and the challenges faced throughout the legal proceedings. Moreover, a review of causes lists and order sheets from different jurisdictions was also undertaken to determine the common reasons that cause delays. Based on key informant interviews with members of the legal and judicial fraternity and after carefully examining the suggestions given, a model procedure that addresses the issue of prolonged litigation in civil suits was developed. The proposed model procedure, if adopted, can substantially reduce the backlog and streamline the procedural framework that governs different stages of a civil trial.

METHODOLOGY

A thorough review of three authoritative commentaries regarding the Civil Procedure Code 1908 authored by Chitley, M. Mahmood and Amir Raza was conducted. Additionally, a comprehensive analysis of 330 civil cases was conducted to have an in-depth understanding of the provisions of the CPC. The main objective of this analysis was to identify any procedural hindrance embedded in the code. Moreover, 'The White Book', a compilation outlining the civil procedures rules in the United Kingdom, was carefully examined to draw comparisons and optimal solutions. The research further studied legal procedures of various jurisdictions including the United Kingdom, Australia, Canada and the United States to incorporate the best practices into our findings.

Furthermore, to gather empirical data, courts' Cause Lists from 10 distinct districts from all over Pakistan were procured and reviewed to analyse the caseload of a civil judge. In addition, order sheets of 120 different categories of civil cases were procured and meticulously reviewed to determine the main causes and reasons for prolonged litigation in Pakistan. For historical and institutional insight, visits were made to the National Archives and Law & Justice Commission of Pakistan. Further, visits were made to various courts situated in Punjab, Islamabad, and Peshawar, and these visits were pertinent in identifying the circumstantial impediments in the judicial processes. Moreover, the research conducted key informant interviews and group discussions with 21 professionals belonging to the legal, judicial, and academic fields to identify challenges in the judicial sector and propose a solution to them.

The findings from these diverse sources of research paved the way to develop a model procedure that can

potentially address the existing impediments, streamline procedures and set in place a more effective and efficient judicial process.

FINDINGS AND CONCLUSIONS

The research conducted a comprehensive review of the CPC, cause lists and order sheets of 120 civil cases. The findings of the research are:

Problematic CPC Provisions

The research has identified that the summoning process in CPC is archaic and no provision makes it mandatory for courts to simultaneously utilise all resources available at disposal to issue summons. The court follows the usual procedure starting with personal services, if unsuccessful, then summons are affixed to the property and at a very last resort a substituted service is opted for. These steps result in time wastage and needless adjournments. In addition, provisions regarding pleadings (plaint and written statement) in Orders VI, VII & VIII are frequently abused and contribute to delays and frivolous applications. For instance, as per Order VI Rule 17, pleadings can be amended at any stage. In the review of order sheets, it was observed that in many cases, the application of amendment of pleadings was accepted even after several years of a trial. Similarly, there used to be a prescribed time limit for filing written statements. However, a recent amendment in 2023, applicable in Islamabad, has struck down the time limit and this will further cause unnecessary delays. Furthermore, there is no bar on the number of witnesses which can be called in a case hence, this is one of the causes of lengthy evidence phases in a civil trial.

Review of Cause Lists

Cause lists are lists of cases scheduled for adjudication on a given day, including both civil and criminal cases. The data collection focused on four major provinces of Pakistan: Punjab, Khyber Pakhtunkhwa, Balochistan, Sindh, and Islamabad Capital Territory. Disparities were observed in caseloads between different courts within the same locality and across districts. Caseload distribution raised concerns about the potential under-prioritization of certain types of cases, improper work distribution and the need for better case flow management.

Order Sheets

Order sheets containing details of civil case proceedings were analysed for various categories of cases, such as Khula (divorce), rent, recovery, and specific performance. The analysis revealed variations in case durations and the number of hearings required for different case types across districts. Notable differences were observed between Khula and rent cases compared to recovery and specific performance cases. Challenges were encountered in collecting order sheet data, highlighting the need for digitisation and improved record-keeping systems. A review of reasons for adjournments in court proceedings was also conducted. The most common causes of adjournment occurring due to judge-related factors include leaves, transfers, and training, which were often overlooked in discussions about judicial backlogs. In addition, major reasons for an adjournment because of lawyers include strikes and busy schedules of lawyers.

Hence, the findings suggest that there are eminent disparities in caseloads and case durations. Furthermore, the provisions of the CPC are abused, and it is pertinent to mention that judges and lawyers are equally responsible for adjournments as evident from the data collected through order sheets. The findings emphasised the need for better case flow management, reducing judicial discretion, and addressing factors contributing to delays in court proceedings.

KEY POLICY RECOMMENDATIONS

Based on the findings and analysis, the following recommendations are proposed:

E-Portal

The research recommends the establishment of an E-portal for judges and lawyers. The primary goal of this portal would be to digitise diaries of lawyers which would pave the way for judges to set a timeline of a trial based on the availability of a lawyer. This

would reduce unnecessary adjournments and will further provide lawyers with an opportunity to initiate legal proceedings on behalf of their clients.

Pre-Action Protocols

The research recommends the establishment of pre-action protocols which consist of certain steps the court expects parties to take before the commencement of proceedings, to promote consistency in pre-action correspondence and investigation as well as promoting the settlement of issues without further need to litigate. Alternate Dispute Resolution (ADR) falls under the ambit of pre-action protocols and it is already present in Pakistan, but the problem is that it lacks implementation. Hence, it is further recommended that there is a need to create more mediation centres all over Pakistan so that more people opt for ADR.

Integration of Judicial Data with NADRA Database

In many civil suits 'summoning' of defendants and witnesses is one of the major reasons that cause delays because parties to a suit do not have updated residential addresses of them. Therefore, the research recommends the integration of judicial data with the NADRA Database for effective summoning. It is pertinent to mention here that this proposition is not difficult to implement as passport offices are also linked with the NADRA Database, so the same can be replicated in the judicial system.

Admin Wing

The research recommends that a separate administrative judicial wing should be constituted. This wing will act in the capacity of the court to dispose of all preliminary matters about a suit that does not include substantive adjudication. The department will be run by separate judicial officers who will be specifically trained in active case management.

Imposition of Costs & Penalties

The provisions regarding costs in CPC are under-utilized therefore we see a lot of unmeritorious and vexatious cases. Hence, the research recommends that costs should be adopted as a standard practice of courts and penalties should be imposed on everyone who abuses the court procedures.

Cap on Adjournments

In the review of order sheets, it was observed that in some instances judges grant adjournment without recording any reason and in some cases, the matter was adjourned time and again to allow one party to provide evidence. Hence, the research recommends that there should be a definite cap on the number of adjournments for a particular case.

Independent Body of Observers

Currently, there is no independent body for monitoring and evaluation of judges. Hence, there must be an independent body of observers to make qualitative and quantitative analysis reports on all judges. Therefore, the research recommends the establishment of the office of 'Administrative Oversight', an independent body that will monitor and evaluate the performance of judges and also issue licenses to lawyers.

Increase in Number of Judges

One of the key recommendations this research study proposes is that there is a dire need to increase the number and strength of judges in the district judiciary. The proposed model procedure and active case management can only be adopted in letter and spirit when there are more judges in the district judiciary and there is no disparity regarding the caseload.

Training Sessions

The research recommends that training judges and lawyers on pre-action protocols, active case management, and scheduling conferences is essential. There are provisions regarding case management and ADR in the CPC, but lack enforceability. Hence, it is suggested that there should be proper training sessions for legal and judicial fraternities where they are made aware of the benefits of these provisions and encouraged to adopt these practices.

Overhaul of CPC

The piecemeal amendments in the CPC with vague and discretionary language did not serve a useful purpose. Hence, the research recommends a complete overhaul of the CPC, provided that it is done by considering the propositions of all the stakeholders involved in the judicial process.

PRISONS AS PATHWAYS TO REHABILITATION OR CRIMINALITY?

Shujahat Ali, Aamer Raza, and Muhammad Fahim Khan

INTRODUCTION

Prisons are traditionally built to serve the dual purpose of punishing and rehabilitating lawbreakers. Many academic discussions have focused on the relationship between these two objectives. Many believe that prisons contribute more to crime than prevent it, even though they are supposed to deter criminal behaviour and at the same time work on the rehabilitation of criminals.

The Haripur Jail, with its interesting sociopolitical setting, provides an intriguing case study to examine these results. Prisoners may learn about the larger dynamics of the criminal system and its repercussions by studying the jail's microcosm, which is characterised by its unique demography of prisoners, rehabilitation programmes, and obstacles. This brief highlights findings from the research on the enduring effect of imprisonment on people by concentrating on long-term rehabilitation results rather than only anecdotal evidence or short-term evaluations.

The study not only recorded data on Haripur Jail but also used the data for discussion about punishment. The study tried to answer such questions as do prisons serve as effective reform tools, rehabilitating convicts into productive members of society? Or do they possibly unintentionally reinforce criminal behaviour, making for alienated and repeat-offender elements of society? In short, the study gave a nuanced picture of the prison system's effects on rehabilitation, recidivism, and, ultimately, the larger social fabric via an in-depth investigation of previous and contemporary convicts at Haripur Jail.

METHODOLOGY

The research used a mixed-method approach to provide a complete picture of the situation of prisons in KP after 9/11, with a particular emphasis on the Haripur Jail. This approach combined qualitative and quantitative studies for a more complete understanding of the issue at hand. Here is a comprehensive rundown of the approaches taken:

Information Gathering

Facts and Figures:

First, data on prison populations, jail infrastructure, and inmate characteristics was collected. The majority of the information used came from freely available web sources, but where that was not enough, appropriate jail departments and local government were approached.

Interviews with current and past convicts, as well as staff, were done with a focus on Haripur Jail. Repeat offenders were studied in depth to determine the impact their prison terms had on their later actions. Five former prisoners who have avoided criminal activities since their release were also interviewed. These people were found using a snowball sampling method to interview them. Interviews were also conducted with members of the provincial bureaucracy, with a focus on those directly or indirectly engaged in public policy as it relates to jail administration.

Tertiary Sources:

Humane treatment of convicts and training procedures for prison employees were established using documents from the United Nations, Human Rights Watch, and other relevant material on Pakistan's jails.

Examining the Numbers

Thematic analysis was used to identify recurring topics and points of view across respondent types in the qualitative data collected via interviews. Finding out what problems are most common, how resources are distributed, and what jail conditions are like was the goal.

Using this quantitative information, the outcomes were compared outcomes at global, international, and historical scales. Quantitative data was also utilised to examine the dynamics between resource allocation, staff training, and jail conditions.

Questionnaire Sampling Method

The overall population of Haripur Jail, estimated at 300 inmates (294 male and 6 female), was the major target of the sampling plan.

Method: A random selection of detainees from Haripur Jail was followed by systematic random sampling of every fifth male inmate and all female inmates. This method strikes a good compromise between complete randomisation and systematic information collecting.

Analysis of the Data

The collected was comprehensively analysed. This allowed for comprehensive studies of the demographics, rehabilitation results, and other variables affecting the inmates at Haripur Jail. Some of the most important takeaways are the evaluation of the efficacy of present rehabilitation programmes and the identification of gender-based differences in rehabilitation results.

CONCLUSIONS AND RESULTS

Context and Current Situation

The foundations of the modern jail system in Pakistan may be traced back to the 19th-century British Raj. The subsequent, intermittent, improvements and revisions show a continuing discontent with the jail system's status and results. Constant difficulties include insufficient space, unqualified employees, and little available resources. While changes to the law are intended to make jails more humane, they frequently come into conflict with international standards like the Mandela Rules.

Overcrowding and the Slow Justice System

- In the Khyber Pakhtunkhwa (KP) area, where there are 43 prisons, inmates exceed available beds by a factor of two to one. There is a clear breach of the SMR in this circumstance.
- 80% of the prison population is awaiting trial, suggesting a lengthy legal system.
- The strain on the economy is just one of the ways that overcrowding hinders recovery efforts.

Condition of Prisons and Treatment of Prisoners:

- The vast majority of detainees are housed in crowded barracks with less-than-ideal amenities.
- There is a shortage of even the most fundamental amenities, such as decent lighting, comfortable lodging, and a clean environment.
- Inmates are deprived of the opportunity to develop their skills and enhance their likelihood of associating with criminal elements when positive activities and training are not provided.

- Negative behaviours such as slave-like forced labour, poor nutrition, and insufficient medical care further delay the recovery process.
- Harsh punishments for small transgressions, combined with reports of sexual assault, unlawful possession of property, and drug usage by convicts, all contribute to a climate of animosity against the law.

New Policies and Programmes from the Government

- The K-P Probation of Offenders Act of 2018 is proof of the ongoing effort to overhaul the correctional system.
- The "rule of law road map" is an effort to improve prisoner rehabilitative service delivery.
- New prisons are being constructed in a variety of jurisdictions as part of the ongoing infrastructure development.
- Many communities now have vocational centres, thanks to joint efforts with TEVTA.
- However, financial limitations continue to prevent the release of certain inmates.

Suggestions for Convicts' Rehabilitation and Reintegration into Society

- Construct brand-new jails, staffed by qualified professionals.
- Use digital surveillance to keep an eye on the cells within the jail.
- Demand accountability from corrupt authorities.
- Keep jails clean and make sure inmates have access to nutritious meals.
- Improve the state of lodging.
- Provide inmate populations with access to training programmes.
- Include prisoners in psychological counselling.
- Keep recurrent offenders apart from first-time offenders.
- Make a distinction between small and major offenders to ensure that punishment fits the crime.

The jail system in Pakistan, and especially in KP, is in serious need of improvement. Despite ongoing difficulties stemming from the past and the current system, progress may be made by concerted efforts that put a premium on convict rehabilitation rather than just containing them. The correctional system has the potential to become a true place of rehabilitation if appropriate measures are taken, releasing transformed persons who can make constructive contributions to society.

The Major Results of the Study

- Lack of availability or knowledge likely contributed to just 40% of offenders taking part in rehabilitation programmes.
- 30% of formerly incarcerated people reoffended within two years of their release, pointing to failures in the rehabilitation system.
- Inmates who participated in vocational training had a 20% lower recidivism rate than those who did not.
- Inmates' mental health: While 60% showed symptoms, just 10% were given the help they needed.
- 25% more ex-offenders were successful in mainstream society after receiving post-release help such as job placement or community integration programmes.

RECOMMENDATIONS

- Increase Rehabilitative Options: The prison population has varying demands, thus it is

important to increase the quantity and range of rehabilitation options accessible to convicts.

- Improve Vocational Education: Team up with businesses and non-governmental organisations to teach convicts marketable skills.
- Improve Inmate Mental Health Services: Invest in the hiring of mental health specialists and provide consistent therapy.
- Employment and community reintegration programmes, as well as ongoing counselling, should be part of a comprehensive post-release support system.
- Set up a mechanism to keep tabs on recently released convicts and help them get back on their feet so that they don't end up back in jail.
- The rehabilitation of detainees is difficult at Haripur Jail, as it is at many jails across the globe.

Analysis

- The high recidivism rate suggests that prisons may be unintentionally encouraging criminal behaviour rather than its opposite, rehabilitation. Potential issues include the absence of adequate rehabilitation programmes and post-release services.
- Due to a lack of resources, jails may make convicts more dangerous because of the prevalence of untreated mental health problems among inmates.
- Recidivism is more likely to occur among ex-cons who are unable to find gainful employment after serving their time in prison.

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The Research for Social Transformation and Advancement (RASTA) at the Pakistan Institute of Development Economics (PIDE) is the largest economics and public policy research grants programme in Pakistan. Its mission is to promote research culture and develop extensive network of academia and think tanks across Pakistan producing high-quality, evidence-based policy research to inform public policy processes. The Competitive Grants Programme (CGP) is the flagship initiative of RASTA under which research proposals are invited bi-annually on specific themes/topics decided by the Research Advisory Committee (RAC). Applications from all around Pakistan and abroad are invited through open competition and awards are decided by the RAC after a rigorous and transparent review process. Anyone with a research focus on Pakistan's public policy issues relevant to the CGP themes/topics of each round can participate and win the CGP award.

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