

PIDE

SLUDGE AUDIT

VOL - 3



PIDE SLUDGE AUDIT

VOLUME 3

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Designed, composed, and finished by RASTA-PIDE

PREFACE

PIDE SLUDGE is now widely quoted research that has revealed how we are overly bureaucratic and market unfriendly.¹ Investment-GDP ratio remains low because every economic activity undergoes an extremely sluggish, paper-based process that works its way slowly through officialdom, sometimes taking years to undertake activities. Businesses getting disheartened often move out of the country or reduce growth.

It is no wonder that Pakistan has stunted companies and shrinking stock market.²

Here we turn the lens of SLUDGE on the judicial system. A wise, speedy and reliable judiciary plays a pivotal role for fostering trust and confidence among investors and businesses while cultivating a conducive investment environment. Through the enforcement of contracts, protection of property rights, and resolution of market irregularities, it *substantially reduces transaction costs* enforcing rules of the market with clarity and transparency.

GDP can be seen as the sum of transactions. Speedy and numerous transactions are a sign of a growing economy. Judicial delays and inefficiencies impede speedy and reliable transactions hampering growth and development.

PIDE BASICS – a large survey across the country – has shown that public’s trust in the judicial system is very low.³ Research conducted by PIDE and RASTA has uncovered the significant challenges plaguing Pakistan's judicial system, including a burgeoning backlog of cases and prolonged delays, with over 2 million

¹ <https://rasta.pide.org.pk/wp-content/uploads/pide-sludge-audit-vol-1.pdf>

² https://file.pide.org.pk/pdfpideresearch/wp-0203-a-small-club-distribution-power-and-networks-in-financial-markets-of-Pakistan.pdf?_gl=1*_lcfymh*_ga*MjMzOTEwOTQwLjE3MTMzMzIxOTc*_ga_T5TLWHEVW9*MTcxNDExOTY1Mi4zLjAuMTcxNDExOTY1Mi42MC4wLjg5MjUyNTA5NQ..

³ https://file.pide.org.pk/pdfpideresearch/bqr-01-identity-inclusion-and-social-capital-in-upper-and-southern-punjab.pdf?_gl=1*_17y855i*_ga*MjMzOTEwOTQwLjE3MTMzMzIxOTc*_ga_T5TLWHEVW9*MTcxNDExOTY1Mi4zLjEuMTcxNDEyMTMyNC41MS4wLjg5MjUyNTA5NQ..

cases pending and some cases taking up to 20 years to resolve.

While judicial reform is always a topic of discussion and Asian Development Bank's loans have been used to study and undertake this initiative, little has been achieved. PIDE has undertaken several areas of judicial work in this volume to study how transactions are affected by the judicial process. We have attempted here to estimate the SLUDGE in the judicial system of Pakistan, including the delays and the costs incurred through inefficiencies in the judicial system.

Despite our best efforts, we feel that we are reporting to you results that are likely to be far lower than what people actually experience. Actual costs that people face as suggested by anecdotal evidence, we expect, is much higher.

We do hope that this study will shed light on much needed judicial reform. The quality of the justice system is fundamental pillar of an efficient economy. We urge our policymakers and thinkers to look at our research, and take the necessary steps to speed up judicial reform. As we have pointed out in our reform manifesto, our demographic bulge, as well as, high level of indebtedness should force us to treat all reform including that of the judiciary to eke out all the efficiency that we can from our economy.⁴

Our youth demands it and our survival depends on it!



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⁴ https://file.pide.org.pk/pdfpideresearch/rr-pide-reform-manifesto-transforming-economy-and-society.pdf?_gl=1*18apc9d*_ga*MjMzOTEwOTQwLjE3MTMzMzIxOTc.*_ga_T5TLWHEVW9*MTcxNDExOTY1Mi4zLjEuMTcxNDEyMjMzNS42MC4wLjg5MjUyNTA5NQ.. And https://file.pide.org.pk/pdfpideresearch/rr-immediate-reform-agenda-imf-and-beyond.pdf?_gl=1*futk2z*_ga*MjMzOTEwOTQwLjE3MTMzMzIxOTc.*_ga_T5TLWHEVW9*MTcxNDExOTY1Mi4zLjEuMTcxNDEyMjMzNS42MC4wLjg5MjUyNTA5NQ

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EXECUTIVE SUMMARY

The cost of Regulations in these selected activities is around 4 percent of the GDP

1

Criminal Trial: Homicide Case

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
4 Years	76	0.07

2

Criminal Trial: Theft

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
1.3 Year	66	0.1

3

Civil Trial: A Divorce Trial

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
1.12 Year	31	0.22

4

Civil Trial: Inheritance Case

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
4.25 Year	58	0.25



5

Inland Revenue Court Case

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
3.6 Years	multiple	1.4

6

Customs Appellate Tribunal: Smuggling And Duty Evasion Case

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
3.3 Year	153	0.22

7

Income Tax Case Under The Appellate Tribunal Inland Revenue

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
1.9 Year	67	0.46

8

The National Accountability Bureau (NAB) Anti-Corruption Trial

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
6.2 Year	96	0.26



9

Banking Court: Suit of Recovery

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
1.4 Year	47	0.28

10

Consumer Courts

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
8.8 months	28	0.006

11

Fraudulent Investment Trial

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
3.39 Years	73	0.71

12

Competition Appellate Tribunal

Time Taken	Number of Trips	Cost of Sludge (% of GDP)
1.55 Year	67	0.005



WHAT IS SLUDGE IN THE ECONOMY?

Social scientists use the term sludge for excessive or unjustified frictions that make it difficult for people to achieve what they want, or do as they wish (Sunstein, 2021).¹ These frictions make processes difficult to navigate and entail burdens.

Examples of sludge include:

- Complicated application forms.
- Duplicative paperwork.
- Waiting in queues to get a task done.
- Time spent seeking registrations, licenses, certificates, and other permits (RLCOs).
- Securing attestations/verifications.

All interactions between individuals seeking a service and institutions, both public and private, involve sludge. In an interaction between a citizen and a public institution, sludge is simply the administrative burden borne by a citizen.

Herd and Moynihan (2018)² elaborate that these administrative burdens occur in the form of learning costs (the cost that people encounter when they search for information about a service), compliance costs (related to compliance with rules and requirements), and psychological costs (related to the experience of stress, loss of autonomy, or stigma).

WHY DOES SLUDGE MATTER?

Studies from behavioral economics show that individuals prefer to avoid such

¹ Sunstein, C. R. (2021). *Sludge: What Stops Us from Getting Things Done and What to Do About It*. MIT Press

² Herd, P. and Moynihan, D. (2018). *Administrative Burden: Policymaking by Other Means*. Russel Sage Foundation.



administrative burdens in the present, even if it means forgoing long-term benefits.³

This implies that the presence of sludge in the form of administrative burdens lowers the frequency of transactions. Since GDP is the sum of transactions that happen in the economy, **sludge is consequential** and constrains GDP growth.

Sludge also costs the economy in terms of waste of resources and incidence of higher opportunity costs. For example, requiring a document to be delivered in person that can be delivered online imposes several costs such as travel expenditures, the cost of time spent, and even pollution caused due to travel. Such costs discourage investment and lower the overall productivity in the economy, which ultimately constrains GDP growth.

Besides, resources are required to overcome sludge, and resource-constrained individuals face more difficulty in tackling sludge. Therefore, **sludge is distributive** and reinforces inequality. It also imposes psychological costs in the form of frustration, humiliation, and stigma. Finally, it can be used to seek rents, which again constrains economic activity.

OBJECTIVES OF PIDE SLUDGE AUDIT

The identification of sludge involved in different interactions between citizens and public institutions is essential to reduce the magnitude of the burden imposed by the frictions.

PIDE sludge reports aim to serve this goal. The objectives of these audit reports are:

³ For instance, see

Clarke, S. (2010). Cognitive Bias and the Precautionary Principle: What with the Core Argument in Sunstein's Laws of Fear and a Way to Fix It. *Journal of Risk Research*.

Thaler, R.H. and Sunstein, C. R. (2008). *Nudge: Improving Decisions About Health, Wealth, and Happiness*. Yale University Press.



- To highlight the sludge involved in different activities.
- Induce the concerned agencies to work to reduce sludge.
- To pin down areas where sludge can be reduced either by shortening the procedure or through digitization.

To compute the sludge involved in an activity, we have estimated the time consumed and cost incurred during performing the activity. The cost of sludge includes both processing costs as well as opportunity costs. Expenditures incurred for the execution of an activity such as fees, taxes, travel expenditures, etc., fall in the category of processing expenditures. At the same time, opportunity cost captures the overall cost of sludge to society from a broader perspective. For instance, opportunity costs include the revenue foregone due to delayed execution of the activity such as the rental income that a building may generate if allowed to be constructed earlier than is the case, the time cost of the person(s) facing the administrative burdens, trips to a government office and waiting for a public official to get a task done, etc. The profile of the person undertaking the activity has been accounted for while assuming the wage income lost.



THE INTERPLAY BETWEEN JUDICIARY AND ECONOMIC DEVELOPMENT

According to the World Justice Project Report (2023), Pakistan holds the 130th rank out of 142 countries in the Rule of Law Index.⁴ This indicates that the justice system of Pakistan is not efficient, and facing major challenges including inadequate infrastructure, flawed incentive systems, malpractices, lack of accountability, delays, and backlogs. Other obstacles include high costs of litigation, complex procedures, insufficient judges and supporting staff, along a lack of transparency in appointments (Sarwar and Idress, 2023).⁵

A well-functioning judicial system is one of the central institutions, playing a key role in fostering trust and confidence among investors and businesses while simultaneously promoting a favorable investment environment. By ensuring the enforcement of contracts, safeguarding property rights, and addressing market irregularities, a well-functioning judicial system significantly contributes to the reduction of transaction costs. The literature from institutional economics provides convincing evidence that the institution of the judiciary is critical in the development discourse of a country.⁶

In Pakistan, the relationship between the rule of law and economic development is poorly understood, unfortunately. The judicial system of Pakistan is inefficient and provokes rent-seeking activities, impeding economic activities, and hurting

⁴ For details see: <https://worldjusticeproject.org/rule-of-law-index/downloads/WJPIIndex2023.pdf>

⁵ For details see:

<https://rasta.pide.org.pk/cgp/bottlenecks-or-inefficiencies-a-critical-analysis-of-judicial-efficiency-and-court-productivity-in-the-lower-judiciary-system-of-punjab/>

⁶ See among others:

North, C. (1990). *Institutions, Institutional Change and Economic Performance*. Cambridge University Press.

Sherwood, R. (1995). *Judicial Systems and National Economic Performance*. Inter-American Development Bank Conference.



growth. Studies conducted by PIDE and RASTA⁷ have revealed that the judicial system of Pakistan is crippled with the mounting judicial backlog and delays, and there are more than 2 million cases in pendency with some cases taking up to 20 years to be resolved. The disposal rate is relatively speedy in the case of criminal cases, however, civil and family case disposition is staggeringly slow. This pendency issue is particularly acute in the lower courts and around 82 percent of pendency is attributed to the district judiciary (Pirzada et al. 2023).⁸ The key reasons for this backlog and delays include:

- The number of judges and infrastructure in the district court are inadequate. Besides, the working environment in the district court is poor due to a shortage of space, basic facilities, and a low level of compensation to the judicial staff.
- Transfers, especially in the lower court, are frequent and cause abrupt interruptions to cases. Newly transferred judges require additional time to familiarize themselves with the case proceedings and are sometimes required to repeat essential procedural requirements.
- Adjournments are frequent and prevalent. The lawyers even seek adjournments on frivolous grounds and judges often adopt a blanket approach to such applications. In some cases, more than 70 adjournments can be observed.
- The evidence phase, on average, spans twice the duration of other case proceedings due to the frequent instances of witnesses willfully defying court orders. While summoning witnesses in a fragmented manner is also common and results in some witnesses testifying months apart. This sequential approach frequently prompts lawyers to request additional adjournments for thorough case preparation.

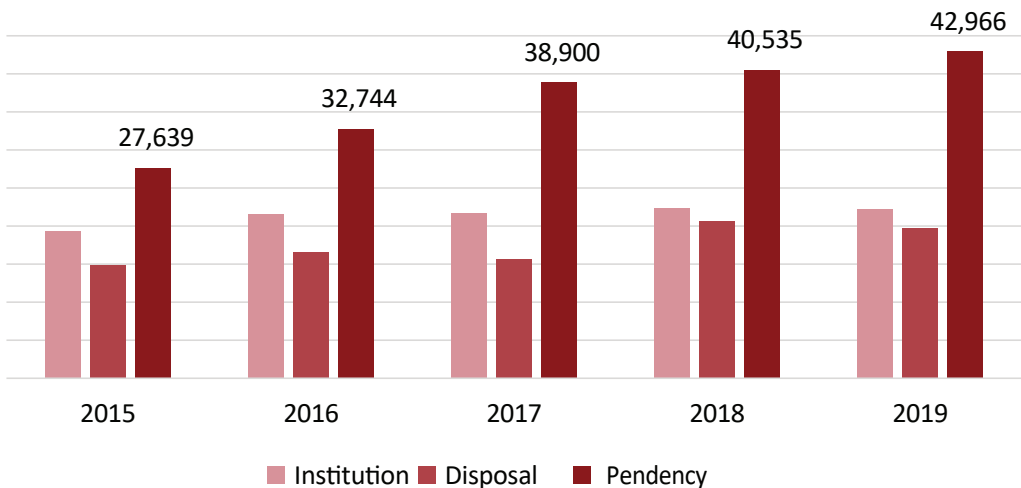
⁷ For details see: <https://pide.org.pk/?s=judiciary> and <https://rasta.pide.org.pk/?s=judiciary>

⁸ Pirzada, A. J. et al. (2023). Investigating Procedural, Institutional and Circumstantial Impediments Leading to Delay in Dispensation of Justice. RASTA Conference.



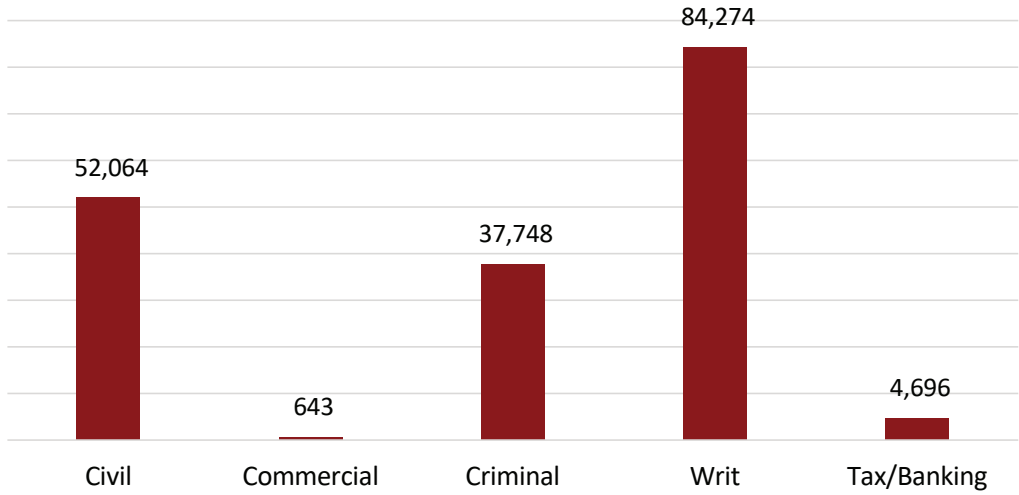
- The court staff is highly susceptible to receiving bribes for either delaying or expediting cases due to corrupt practices within the subordinate judiciary.
- The cost of litigation is substantial, and the conduct of lawyers does not contribute to the expeditious resolution of cases. A lawyer’s fee constitutes from 43 to 55 percent of the total cost of litigation.
- The non-cooperative behavior of the police department during the investigation stage worsens the problem of delayed case disposal.
- The Code of Civil Procedure (1908) is outdated and has been manipulated to seek delays and adjournments, which have resulted in pendency and backlog. For example, the identification of parties under Rule 10 can be manipulated by filing an application for striking out or for the addition of parties at any stage of the case, which wastes the time and resources of the court.
- Obtaining injunctions is too easy, and it is widely recognized that they are utilized to exert influence on transactions and outcomes.

Trends in Institution, Disposal and Pendency of Cases in The Supreme Court of Pakistan

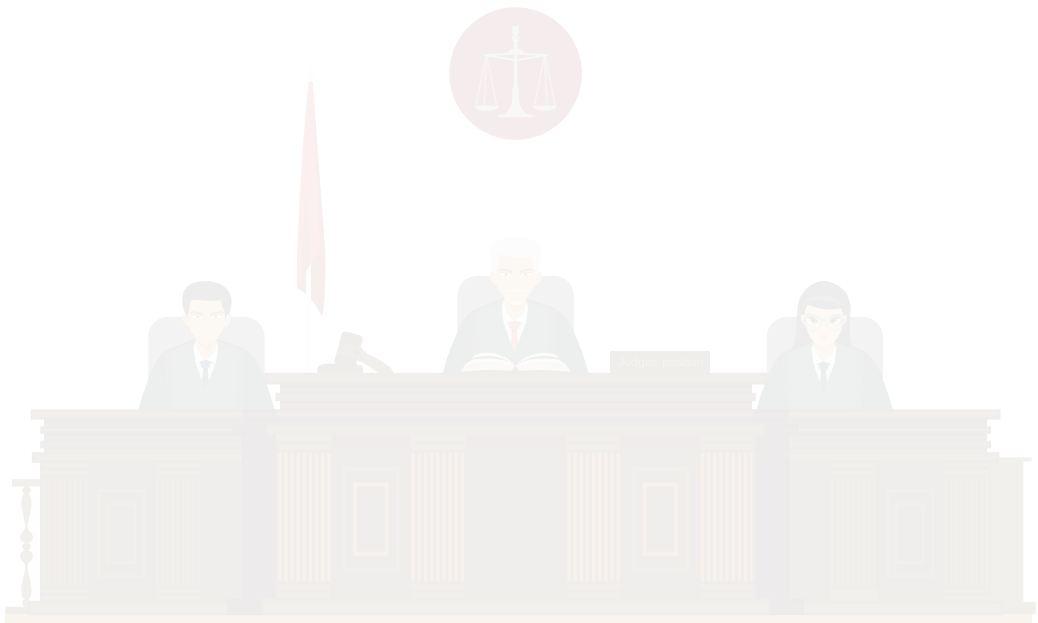




Pendency of Cases at The Lahore High Court



Source: The Annual Reports of High and Supreme Courts





1.

**CRIMINAL TRIAL:
HOMICIDE CASE**



1. CRIMINAL TRIAL: HOMICIDE CASE

The Pakistan Penal Code (1860) defines, classifies, and describes punishments for various offenses, including homicide. Homicide refers to the unlawful killing of a person, and it is categorized into different degrees based on the intention and circumstances surrounding the act. The Pakistan Penal Code classifies homicide into broadly four categories that include;



willful murder (Qatl-e-amd) - Section 300 of the Penal Code defines willful murder and Section 302 prescribes its punishments.



unintentional killing resulting from an inherently dangerous act (Qatl shibh-i-amd) - Section 315 of the Penal Code defines Qatl shibh-i-amd and Section 316 prescribes its punishments.



homicide by mistake (Qatl-i-khata), Section 318 of the Penal Code defines Qatl-i-khata and Section 319 prescribes its punishments.



murder without reason (Qati-bis-sabab), Section 321 of the Penal Code defines Qati-bis-sabab and Section 322 prescribes its punishments.

Within this volume, our focus lies on the judicial process in cases of willful murder, with a specific aim to identify and understand the sludge involved. Section 300 of the Penal Code defines Qatl-e-amd as “whoever, to cause death or to cause bodily injury to a person, by doing an act which in the ordinary course of nature is likely to cause death, or with the knowledge that his act is so imminently dangerous that it must in all probability cause death, causes the death of such person, is said to commit qatl-e-amd.”

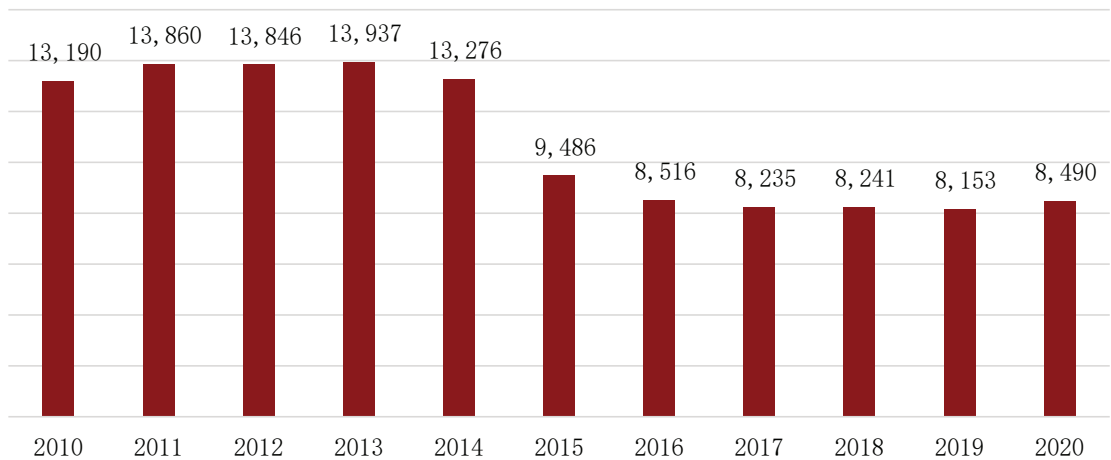


The punishment is defined in Section 302 as “whoever commits qatl-e-amd shall, subject to the provisions of this Chapter be: (a) punished with death as qisas; (b) punished with death or imprisonment for life as ta'zir having regard to the facts and circumstances of the case, if the proof in either of the forms specified in Section 304 is not available; or (c) punished with imprisonment of either description for a term which may extend to twenty-five years, where according to the injunctions of Islam the punishment of qisas is not applicable: Provided that nothing in this clause shall apply to the offense of qatl-i-amd if committed in the name or on the pretext of honor and the same shall fall within the ambit of (a) and (b), as the case may be.”

Nevertheless, the Penal Code stipulates a minimum age of seven years (Section 82) for the offender.

The judicial process often involves all three tiers – Session Courts, High Courts, and the Supreme Court – in this case.

Number of Reported Murder Cases




Source: Pakistan Statistical Yearbook (2020), Pakistan Bureau of Statistics.




Homicide Rate in Pakistan⁹


Year	Homicide rate	Change
2017	3.96	5.29% decline from 2016
2018	3.88	1.96% decline from 2017
2019	3.76	3.05% decline from 2018
2020	3.84	2.09% increase from 2019




The judicial process for resolving a murder case typically spans approximately four years.



The process requires 71 visits to courts and other departments



The judicial procedure incurs a cost exceeding Rs. 696,420 for each party involved.



Overall, the cost of sludge is around 0.07 percent of the GDP

Stages of Criminal Cases

Criminal cases in general and homicide cases, in particular, have four stages

Pre-investigation Stage

Police register the First Information Report (FIR) upon the request of the complainant. Police can initiate an initial investigation after registration of the FIR. They visit crime scenes, collect preliminary evidence, and interview witnesses.

01

Investigation Stage

Upon approval from the Court, police conduct a thorough investigation that involves gathering information, reviewing forensic records, and recording statements of witnesses and potential suspects. In addition to collecting other documents and pieces of evidence.

02

⁹ For details see: <https://www.macrotrends.net/countries/PAK/pakistan/murder-homicide-rate>



Pre-trial Stage

Police formally submit the report to the court, commonly known as Challan submission. The court decides whether the pieces of evidence presented are sufficient or not and whether to initiate the trial or not.

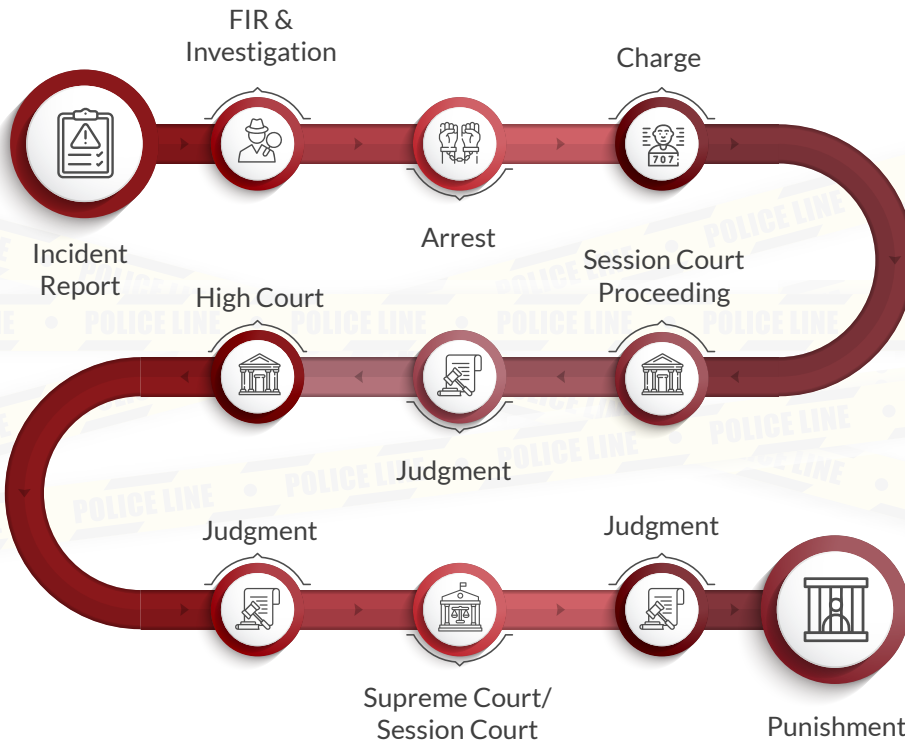
03

Trial Stage

Once the trial starts and the accused is charged then argumentation and evidential trial take place according to the Qanoon-e-shahadat. Based on pieces of evidence and witnesses, the Court gives final judgment. The judgment issued by the Session Court can be appealed at the High Court.

04

Key Steps Involved in Murder Cases



Note: Typically, a single criminal case involves an average of 20-30 court hearings. The Pakistan Penal Code does not specify the maximum time lapse between two hearings. Delays in proceedings are primarily attributed to absent witnesses.



Table 1: Time, Monetary Cost, and Stress Involved to Solve a Murder Case

S. No	Steps	Description	No of Trips	Time Taken (Days)	Cost- Travelling Documents and Fee	Stress Level
1	File the Complaint	Visit-1 Police Station	1	1	1,240	3
		Meet Station House Officer (SHO)				
		Submit complaint				
2	Register First Information Report (FIR)	CNIC copy of reporting person	3	7	4,270	4
		Written details of the murder				
		Copy of complaint form				
		Medical reports (if available)				
		Visit-2 Police Station				
		Submit document				
		Obtain FIR				
3	Hire a Lawyer	Search for a Lawyer	3	15	403,600	3
		Present the case with documents				
		Hire the Lawyer (Agreement)				
		Power of Attorney				
		Pay initial fee				
4	Police Investigation	Goods seized by the police	5	125	6,000	5
		Medical examination and report				
		The arrest of the concerned accused				



	Wait for the Next Step			40		5
5	Review of Police Investigation by the Prosecutor		3	30	3,600	2
	Wait for the next step			30		2
6	Submission of the case to Session Court		1	3		2
	Wait for the Next Step			14		2
7	Pre Trial-Stage	Initial Court proceeding	1	30	1,200	5
		Submission of Wakalatnama (Lawyer's Power of Attorney)				
		Initial Assessment by the Court				
		Issuance of Arrest Warrant				
8	Attempt to Arrest the Accused		5	14	6,000	6
9	The Arrest of Relatives if Accused is Absconder	The prosecutor visits the Court		3		3
		Request for the Arrest Warrant				
		Obtain Arrest Warrant				
10	The Arrest of Relative		3	15	3,600	3
	Wait for the Next Step			45		2
11	Remand and Court Proceedings	Visit-3 Court	1	3	1,200	4
		Prosecutor request for physical remand				
		Obtain physical remand				
12	Police Inquiry - Further Investigation Report	Review of Previous Police Investigation	7	15	8,600	5
		Goods seized by the police		20		5
		Medical examination and report		45		2
		The arrest of the concerned accused		48		3
	Wait for the Next Step			40		5
13	Remand and Court Proceedings	Visit-4 Court	1	3	1,200	4
		Prosecutor request for physical remand				



		Obtain physical remand				
		Wait for the Next Step		15		3
14	Framing of Charge	Visit-5 Court	1	1	1,200	4
		The prosecutor files the Charge Sheet				
		Wait for the next step		15		3
15	Indictment	Visit-6 Court	2	3	1,650	1
		The Court read the Charges				
		Remand request by Prosecutor (if needed)				
		Wait for Trail Start		45		2
16		Meet the Lawyer	1	3	3,200	4
		Wait for the Next Step		30		3
17	1 st Hearing Day	Visit-7 Court	2	1	10,000	5
		Submit documents and evaluation form				
		Produce witnesses				
		Record statements				
		Evaluation and issuance of notice				
		Submit fee for a letter of next hearing				
		Obtain the letter of the next hearing				
18		Wait for the Next Hearing		20		2
19		Meet the Lawyer	1	7	3,200	4
20	2 nd Hearing Day	Visit-8 Court	1	1	2,000	5
		Absconder report by Prosecutor (in case of no arrest)				
		Issuance of absconder letter				
		Submit fee for a letter of next hearing				
		Obtain the letter of the next hearing				



21	Wait for the Next Hearing			25		2
22	Meet the Lawyer		1	7	3,200	4
23	3 rd Hearing Day	Visit-9 Court	1	1	2,000	5
		Testification of the Respondent's witnesses				
		Submission of related documents				
		Submit fee for a letter of next hearing				
		Obtain the letter of the next hearing				
24	Wait for the Next Hearing			20		2
25	Meet the Lawyer		1	7	3,200	4
26	4 th Hearing Day	Visit-10 Court	1	1	2,000	5
		Testification of the Accused's witnesses				
		Submission of related documents				
		Submit fee for a letter of next hearing				
		Obtain the letter of the next hearing				
27	Wait for the Next Hearing			15		2
28	Meet the Lawyer		1	7	3,200	4
29	5 th Hearing Day	Visit-11 Court	1	1	2,000	5
		Argumentation by Respondent's Lawyer				
		Submission of related documents				
		Submit fee for a letter of next hearing				
		Obtain the letter of the next hearing				
30	Wait for the Next Hearing			15		2
31	Meet the Lawyer		1	7	3,200	4



32	6 th Hearing Day	Visit-12 Court	1	1	2,000	5
		Argumentation by Accused's Lawyer				
		Submission of related documents				
		Submit fee for a letter of next hearing				
		Obtain the letter of the next hearing				
33	Wait for the Next Hearing		15		2	
34	Meet the Lawyer	1	7	3,200	4	
35	7 th Hearing Day	Visit-13 Court	1	1	2,000	5
		Case proceeding and argumentation				
		Submission of related documents				
		Submit fee for a letter of next hearing				
		Obtain a letter of the next hearing				
36	Wait for the Next Hearing		15		2	
37	Meet the Lawyer	1	7	3,200	4	
38	8 th Hearing Day	Visit-14 Court	1	1	2,000	5
		Case proceeding and argumentation				
		Submission of related documents				
		Submit fee for a letter of next hearing				
		Obtain a letter of the next hearing				
39	Wait for the Next Hearing		15		2	
40	Meet the Lawyer	1	7	3,200	4	
41	9 th Hearing Day	Visit-15 Court				
		Case proceeding and argumentation				



		Submission of related documents	1	1	2,000	5
		Submit fee for a letter of next hearing				
		Obtain a letter of the next hearing				
42	Wait for the Next Hearing			15		2
43	Meet the Lawyer		1	7	3,200	4
44	10 th Hearing Day	Visit- 16 Court	1	1	2,000	5
		Examination of witnesses				
		Closing arguments				
		Verdict by the Court - guilty or not guilty				
45	Wait for the Written Verdict			15		2
46	Obtain Verdict	Visit-17 Court	1	1	2,000	4
		Obtain verdict				
47	Wait for Defence Plea			7		3
48	Obtain Defence Plea	Visit-18 Court	1	1	2,000	3
		Obtain defense plea				
49	Wait for Detail Judgment			30		3
50	Obtain Judgment	Visit-19 Court	1	1	2,000	3
		Obtain final sentencing				
	Wait for the Next Step			30		3
An appeal in the High Court						
51	Meet the Lawyer	Visit-1 to the court	3	15	120,000	3
		Discuss the case and verdict				
		agreement with the Lawyer				
		Pay initial fee				
Wait for the Next Step			30		3	
52	Submission of Appeal in the High Court	Prepare documents	CNIC copy of reporting person			
			Written details of the murder			



			Copy of complaint form	3	14	5,560	4
			Medical reports (if available)				
			FIR copy				
			Evidence & Witnesses details				
			Verdict copy				
		Visit-2 High Court					
		Write petition					
		Submit document					
Wait for the Next Step				30		3	
53	Review of the Lower-case record by the High Court		2	5	2400	2	
54	Receiving High court decision copy		1	7	1200	2	
55	High court Hearing	Visit-3 High Court	1	1	7,200	5	
		Case proceeding and argumentation					
		Examination of witnesses					
		Submission of required documents					
		Submit High Court fee					
56	Wait for the Written Verdict			15		2	
57	Obtain Order & Remedies	Visit-4 High Court	1	240	2,500	3	
		Obtain verdict					
Implementation of the High Court Order by Lower Court							
58	Receipt of High Court Order by the Lower Court			7			
59	Notification to the parties			14			
60	Scheduling of Hearing			10			
61	Review of High Court Orders			15			



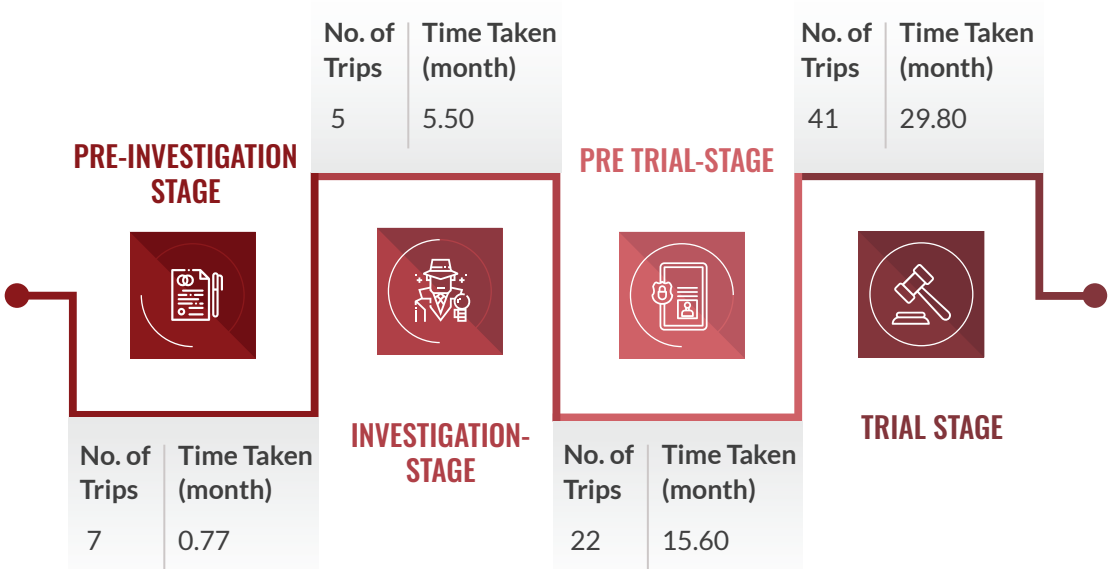
62	Presentation of Compliance Plan (Hearing-1)	Visit-20 Session Court	1	1	22,000	5
		Present plans for complying with the High Court's orders				
		Case proceeding and argumentation				
		Submission of related documents				
		Submit evidence sheet				
		Submit fee for a letter of next hearing				
		Obtain a letter of the next hearing				
63	Wait for the Next Hearing		14		2	
64	Meet the Lawyer	1	7	3,200	4	
65	Presentation of Compliance Plan (Hearing-2)	Visit-21 Session Court	1	1	22,000	5
		Present plans for complying with the High Court's orders				
		Case proceeding and argumentation				
		Submission of related documents				
		Submit fee for hearing				
		Submit evidence sheet				
66	Assessment and Decision of the parties' compliance plans and arguments by the Lower Court		15			
67	Direction and Execution		7			
68	Completion and Reporting to the High Court		10			
69	Wait for the Final Judgment		15			
70	Obtain Final Judgment	Visit-22 Court	1	1	2,000	3
		Obtain final sentencing				
		Finish the day				
Total			76	1,460 (4.0 Years)	696,420	



The stress distribution across steps has been determined by multiplying the total process time for each step (inclusive of travel, waiting, and transaction time) with the corresponding stress level.

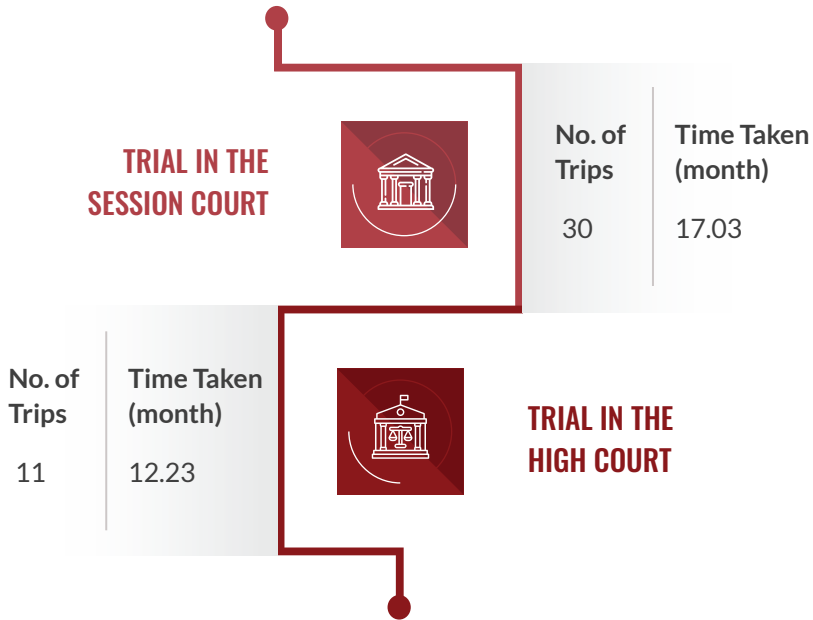


2. SOURCE OF SLUDGE





The trial stage takes the most time in the above-mentioned stages of solving a murder case. This stage takes almost 2.5 years, while the pre-trial stage also takes more than a year.



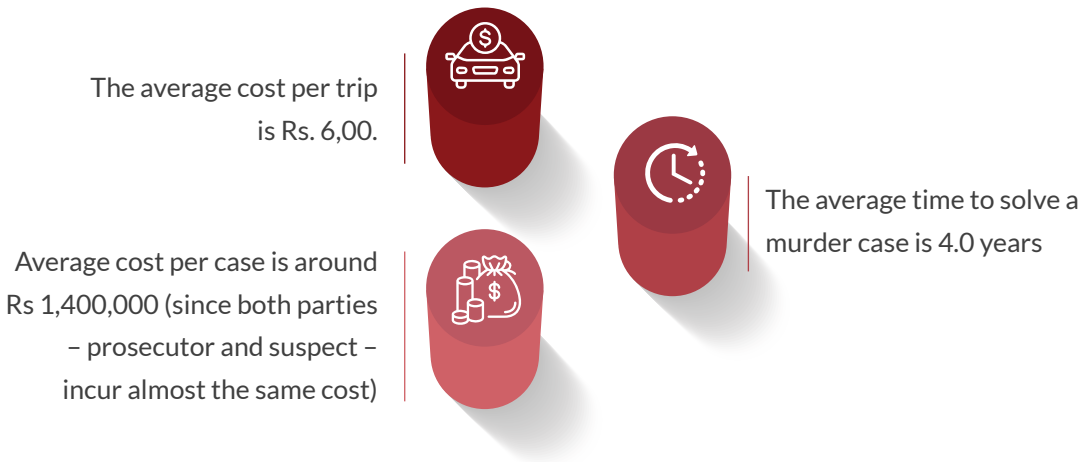
The main source of sludge in solving a murder case is the waiting period. Waiting for the next hearing or initiating the next phase of judicial proceedings consumes more than 1.5 years.

Steps	Time Taken (month)
Wait for the Next Step	13.63
Wait for the Next Hearing	5.63



3. COST OF SLUDGE

In addition to time and monetary costs, a criminal case at various courts also entails opportunity costs. To gauge the opportunity cost, we conducted calculations based on the following assumptions:



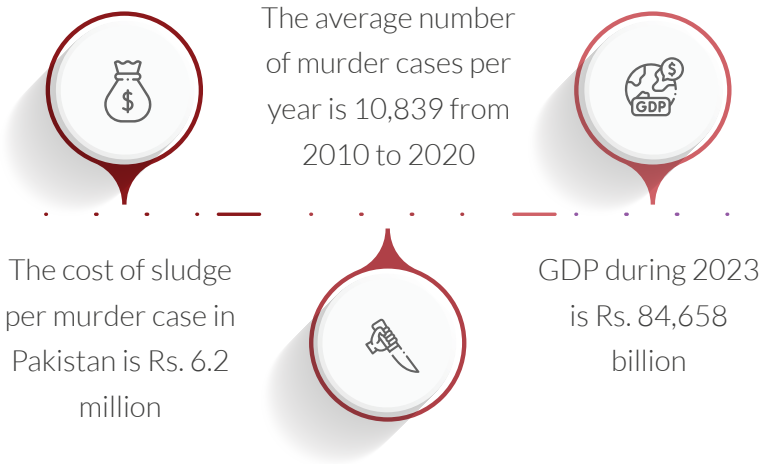
3.1. Opportunity Cost

Opportunity cost is the cost of Personal Time. It is the potential advantage that a person or household has to forgo due to engagement in the judicial process of the murder case. The average household income in Pakistan is Rs. 41,545 as per the Household Income and Expenditure Survey (HIES). Since the judicial process takes around 48 months, therefore, the sludge in solving the murder case costs indirectly around Rs. 2.1 million to each accuser and accused family.



3.2. Cost of Sludge in terms of GDP

To assess the cost of regulations on the economy, we translate the cost of sludge in terms of GDP. The task is carried out based on the following information:



Based on the information above, we estimated the cost of sludge in a murder case by two parties is 0.06 percent of the GDP.

Head	Murder Case
Processing cost	Rs. 1.40 million
Opportunity cost	Rs. 4.20 million
Cost per case	Rs. 5.6 million
Number of murder cases	10,839
The total cost of the sludge	Rs. 60,698 million
Cost of sludge (% of GDP)	0.07



2.

**CRIMINAL TRIAL : THEFT -
BURGLARY AND SNATCHING**



2. CRIMINAL TRIAL: THEFT – BURGLARY AND SNATCHING

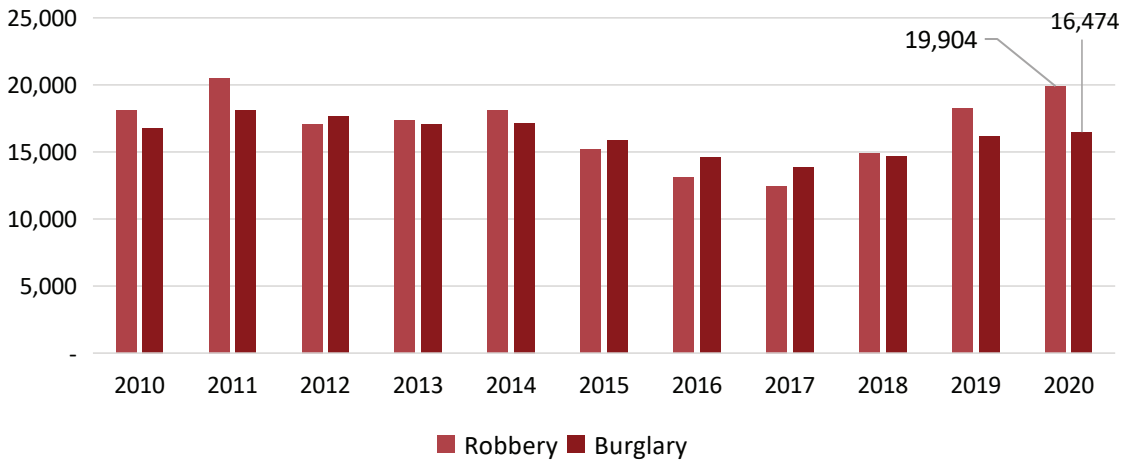
Section 378 of the Pakistan Penal Code (1860) defines theft as “whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property to such taking, is said to commit theft.” The punishment for any kind of theft described in Section 379, “whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

Burglary is generally considered a property crime, and it focuses on unauthorized entry with criminal intent, regardless of whether the crime is successfully committed. Sections 457 to 460 of the Penal Code describe what constitutes burglary and how it will be punished. As described in Section 457, “whoever commits lurking house-trespass by night, or house-breaking by night, to the committing of any offense punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offense intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.”

The act of theft by snatching covers under Section 356 states “whoever assaults or uses criminal force to any person in attempting to commit theft on any property which that person is then wearing or carrying shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

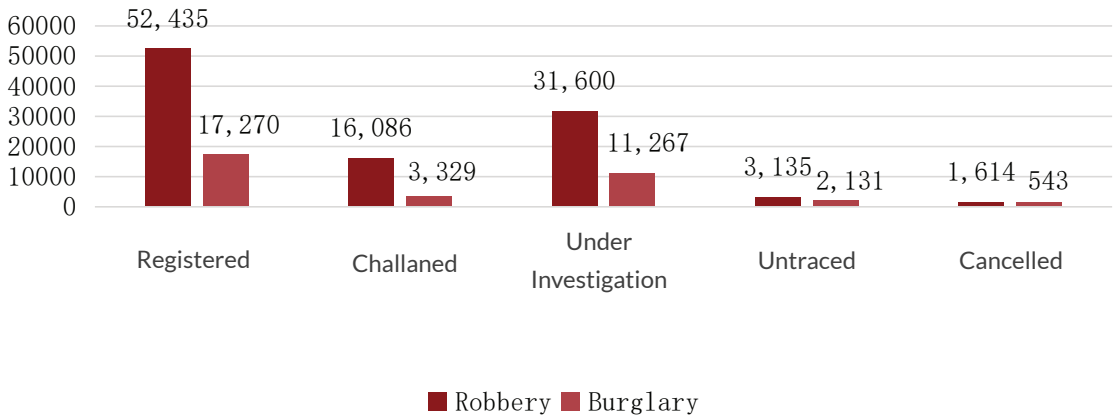


Number of Cases Related to Robbery and Burglary

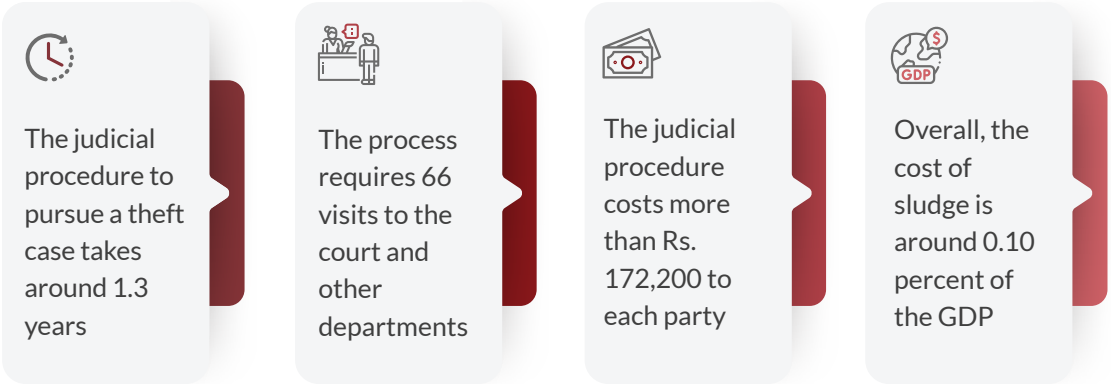


Source: Pakistan Statistical Yearbook (2020), Pakistan Bureau of Statistics.

Status of Reported Cases in Punjab During Calender Year 2023



Source: The Punjab Police, access at: <https://punjabpolice.gov.pk/>.



Stages of Theft-related Cases

When police arrest a burglar in Pakistan, they typically follow a series of procedures to ensure a lawful and effective apprehension. Here is an overview of the typical process:

Initial Report

01

The process usually begins with a report filed by the victim or a witness regarding a burglary/snatching. This report provides crucial information about the incident, including the location, time, and description of the suspect.

Investigation Stage

02

Once a report is filed, the police initiate an investigation. This involves collecting evidence from the crime scene, such as fingerprints, footprints, and any other potential traces left behind by the burglar. They may also gather CCTV footage and interview witnesses to gather more information about the suspect.

Identification of Suspect

03

If there are any leads, such as a description of the suspect or their possible whereabouts, the police will use this information to identify potential individuals involved in the burglary.



Arrest Warrant

04

If the police have enough evidence or reasonable suspicion to believe a specific individual is a burglar, they can obtain an arrest warrant from a court. This warrant gives them the legal authority to apprehend the suspect.

Arrest and Interrogation

05

With an arrest warrant in hand, the police locate and apprehend the suspect. They may do this by visiting the suspect's residence or place of work. If the suspect is found in possession of stolen items, that can further strengthen the case against them. The police interrogate to gather more information about the burglary/snatching and any potential accomplices. The suspect's statement is taken, and it is important to ensure that the interrogation process follows legal guidelines and does not involve coercion.

Legal Proceedings

06

The arrested individual is presented before a court of law. The court will review the evidence, and if the case is strong, formal charges may be filed against the suspect. Bail or remand decisions are also made during this stage.

Trial

07

If the case goes to trial, both the prosecution and defense will present their evidence and arguments. The court will then make a judgment based on the evidence presented.





Key Steps Involved in Theft Cases





Table 2: Time, Monetary Cost, and Stress Involved to Solve a Theft Case

S. No	Steps	Description	No of Trips	Time Taken (Days)	Cost- Travelling Documents and Fee (Rs)	Stress Level
1	File the Complaint	Visit-1 the Police Station	1	1	1,560	3
		Meet the Official				
		Submit a complaint with incident details				
2	Register First Information Report (FIR)	CNIC copy	2	7	4,150	3
		Challan				
		Witnesses list				
		Detail of the snatcher/burglar				
		Other relevant information (CCTV)				
		Complaint form copy				
		Visit-2 the Police Station				
		Submit documents				
Obtain FIR copy						
3	Hire a Lawyer	Search for a Lawyer	2	3	52,400	4
		Present the case with documents				
		Hire the Lawyer (Agreement)				
		Power of Attorney				
		Pay initial fee				
4	Police Investigation	Police visit the scene	5	10	8,540	5
		Gather information				
		Interview witnesses				
		Search for footprints/traces				



	Wait for the Next Step			45		1
5	Review of Police Investigation by the Prosecutor		3	30	3,500	2
	Wait for the Next Step			30		
6	Submission of the Case	Visit-1 to District Court	1	3	4,000	2
		Submit the case				
		Request for the Arrest Warrant				
		Issuance of Arrest Warrant				
7	Arrest of Accused	Police raid the suspected locations	3	30	3,600	4
		Taken into custody the suspect				
		If the police fail - the court will take another action				
	Police Investigation		7	14		
8	Pre Trail-Stage	Visit-2 the Court	1	1	5,350	3
		Initial Court Proceeding				
		Submission of Wakalatnama				
		Police Investigation Report Submission				
		Court Initial Assessment				
9	Remand and Court Proceedings	Visit-3 Court	1	1	1,200	4
		Prosecutor request for physical remand				
		Obtain physical remand				
10	Police Inquiry - Further Investigation Report	Review of Previous Police Investigation	7	15	8,400	5
		Goods seized by the police				
		Call for Doctor and medical report				



	Wait for the Next Step			40		5
11	Optional Investigation	Visit-3 the Court	15	30	18,000	5
		Submission of inquiry report with seized items				
		Request for further investigation				
		Court assessment				
		Obtain further investigation permission				
		The search of documents or things or houses by police				
		Recording of statements by police under the code of criminal procedure				
		Identification parade				
12	Framing of Charge	Visit-4 the Court	1	7	4,300	2
		Police submit final investigation report with pieces of evidence				
		The court assesses the evidence				
		Approval to start trial				
	Wait for the Next Step			30		
13	Before Trial Summary Report	Visit-5 the Court	5	10	6,000	2
		Bail (If applicable)				
		Duties of an investigating officer & Magistrate				
		Challan or police report				
14	1 st Hearing Day	Visit-6 the Court	1	1	5,150	5
		Witnesses' testimony				
		Issuance of notice				
		Submit fee for a letter of next hearing				
		Obtain the letter of the next hearing				



	Wait for the Next Step			25		2
15	2 nd Hearing Day	Visit-7 the Court	3	15	5,700	5
		Witnesses' testimony				
		Issuance of notice				
		Submit fee for a letter of next hearing				
		Obtain the letter of the next hearing				
	Wait for the Next Step			25		2
16	3 rd Hearing Day	Visit-8 the Court	3	15	2,850	4
		Submission of security Letter				
		Submission of the final sheet				
		Apply to get a final copy				
17	Wait for the Next Step			30	15,000	1
18	Surety Bond	Visit-9 the Court	5	15	3,950	3
		Collect stamp paper				
		Print letter				
		Witness signing				
		Notarize letter				
		Submit surety bond				
19	4 th Hearing Day	Visit-8 the Court	1	1	2,850	4
		Final Arguments from both party's lawyers				
20	Wait for the Verdict			30	15,000	1
21	Obtain Final Judgement	Visit-10 the court	1	1	700	5
		Get a report of the judge's final decision				
22	Application for Receiving Subedari	Visit-11 the Court	1	1	1,250	3
		Apply to the judge				



23	Order Letter by Judge to Investigation Officer regarding robbed property			15		1
24	Receiving Subedari	Visit the Thana	2	15	2,700	3
		Obtain the Subedari (if that is not disposed of) otherwise, the accused will pay the equivalent amount				
Total			66	482 (1.3 Years)	172,200	

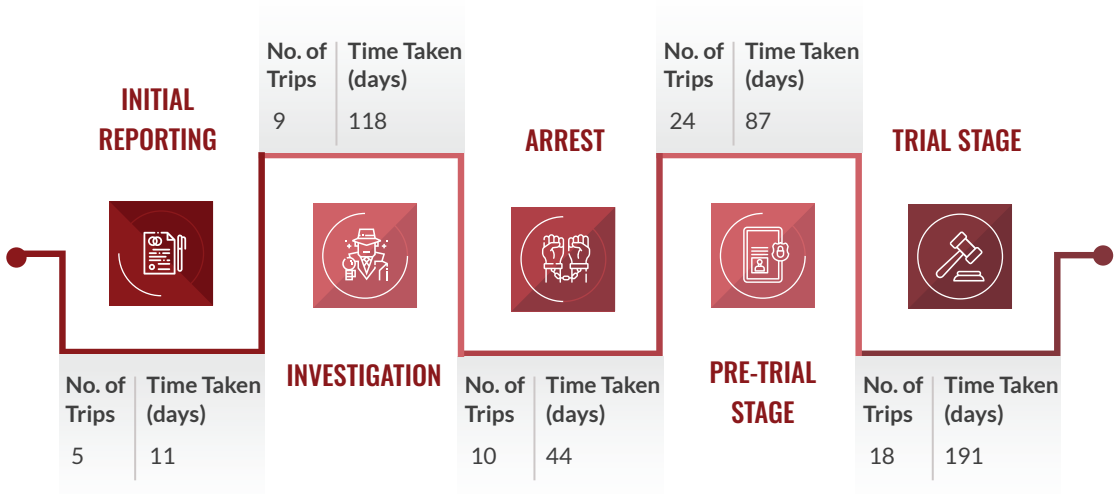
The stress distribution across steps has been determined by multiplying the total process time for each step (inclusive of travel, waiting, and transaction time) with the corresponding stress level.



On average, burglary & snatching cases take 1.3 years. An exact number of hearings cannot be given because it varies from case to case. The complex nature of the case, the effectiveness of the legal system, the accessibility of the evidence, and the availability of witnesses can all affect how many hearings are held in burglary and snatching cases.



2. SOURCES OF SLUDGE



The trial stage consumes around 6.3 months, while the investigation phase consumes more than 4 months. The pre-trial stage and arresting the suspect consumes more than 4 months.

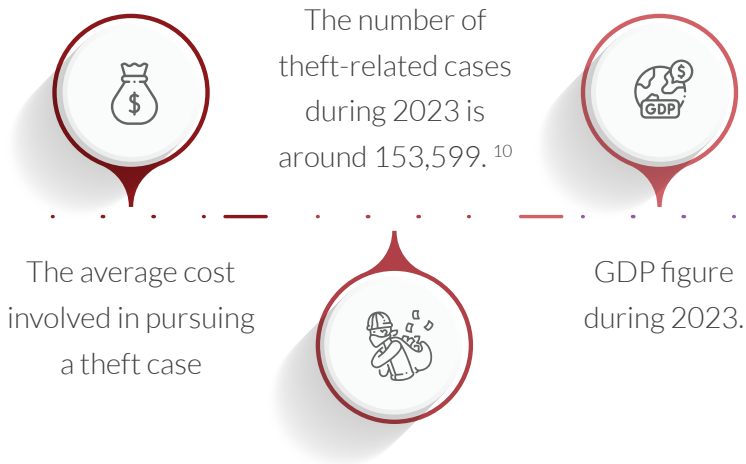
3. COST OF THE SLUDGE

Cost of Personal Time: There are around 66 trips involved in the judicial procedure of solving a theft case, which means the plaintiff spends more than 2 months pursuing the case. This pursuance of the case costs the plaintiff, and the opportunity cost is around Rs. 91,366 based on an average income of Rs. 41,545 (the figure is based on the Household Income and Expenditure Survey).



3.1. Cost of Sludge in terms of GDP

To assess the cost of sludge in terms of GDP, we consider;



Head	Theft Cases
Processing cost	Rs. 344,400
Opportunity cost	Rs. 182,732
Cost per case	Rs. 527,132
Number of theft-related cases	153,599
The total cost of the sludge	Rs. 80,966 million
Cost of Sludge (% of GDP)	0.10

¹⁰ <https://www.geo.tv/latest/355753-how-many-cases-are-pending-in-pakistans-courts-and-why>



3.

**CIVIL TRIAL: A
DIVORCE TRIAL**



3. CIVIL TRIAL: A DIVORCE TRIAL

According to the Muslim Family Laws Ordinance (1961), a marriage contract can be dissolved through (a) talaq (b) mutual consent, and (c) judicial decree. Section 7 of the Ordinance describes the first and most common method to divorce, i.e., talaq as, “any man who wishes to divorce his wife shall, as soon as may be after the pronouncement of talaq in any form whatsoever, give the Chairman¹¹ notice in writing of his having done so, and shall supply a copy thereof to the wife.” The sub-section 4 reads “within thirty days of the receipt of notice under sub-section (1), the Chairman shall constitute an Arbitration Council to bring about a reconciliation between the parties, and the Arbitration Council shall take all steps necessary to bring about such reconciliation.”

The dissolution of marriage otherwise than by talaq is described in Section 8 as “where the right to divorce has been duly delegated to the wife and she wishes to exercise that right, or where any of the parties to marriage wishes to dissolve the marriage otherwise than by talaq, the provisions of section 7 shall, mutatis mutandis and so far as applicable, apply.”

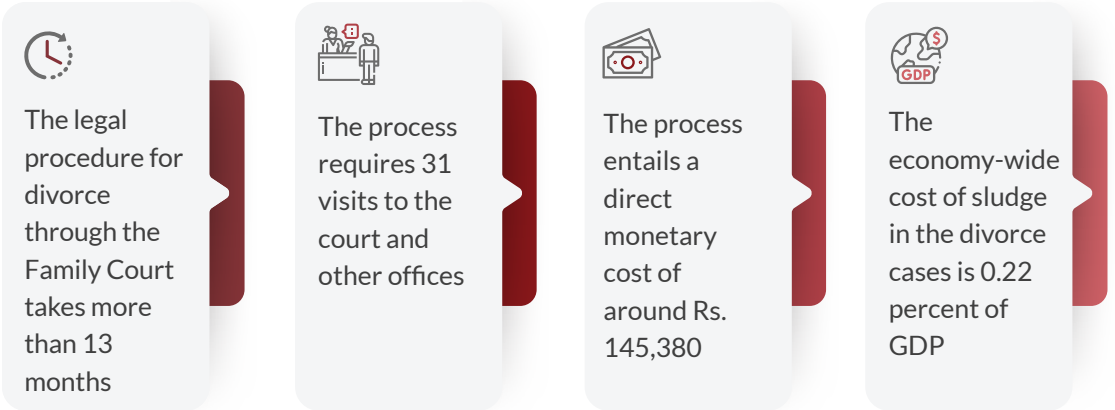
The Dissolution of Muslim Marriage Act (1939) provides Muslim women the right to dissolve their marriage and Section 2 describes, “A woman married under Muslim Law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely:

- i. that the whereabouts of the husband have not been known for a period of four years
- ii. that the husband has neglected or has failed to provide for her maintenance for a period of two years

¹¹ Chairman means the Chairman of the Union Council, or a person appointed by the Federal Government in the Cantonment areas, or by the Provincial Government in other areas, or by an officer authorized on that behalf by any such Government, to discharge the functions of Chairman under this Ordinance.



- iii. that the husband has taken an additional wife in contravention of the provisions of the Muslim Family Laws Ordinance, 1961
- iv. that the husband has been sentenced to imprisonment for a period of seven years or upwards
- v. that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years
- vi. that the husband was impotent at the time of the marriage and continues to be so; (vi) that the husband has been insane for a period of two years or has leprosy or a virulent venereal disease
- vii. that she, having been given in marriage by her father or other guardian before she attained the age of sixteen years, repudiated the marriage before attaining the age of eighteen years: Provided that the marriage has not been consummated
- viii. that the husband treats her with cruelty, that is to say,
 - a. habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or
 - b. associates with women of evil repute for leading an infamous life, or
 - c. attempts to force her to lead an immoral life, or
 - d. disposes of her property or prevents her from exercising her legal rights over it, or
 - e. obstructs her in the observance of her religious profession or practice, or
 - f. if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran,
- ix. on any other ground which is recognized as valid for the dissolution of marriages under Muslim Law.”



Family Courts

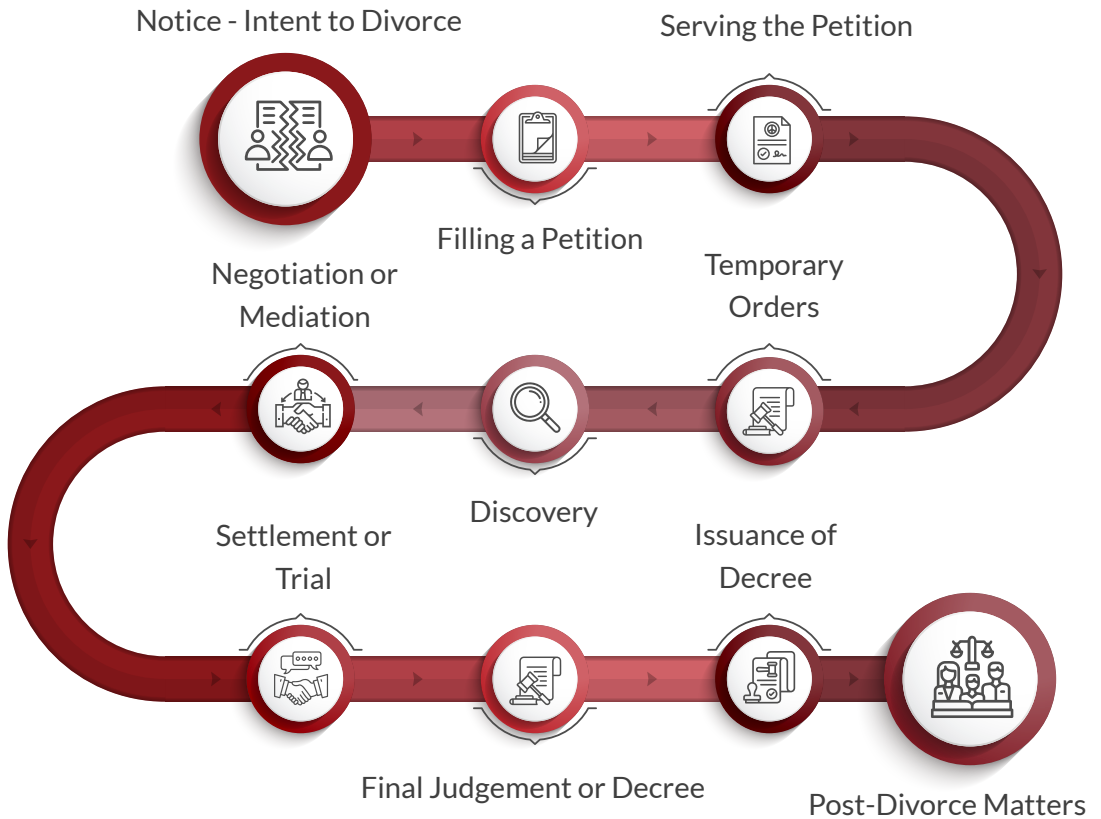
Family Courts specialize in family and matrimonial matters and primarily manage cases related to marriage, divorce, child custody, maintenance, and inheritance disputes. Most family-related cases are often resolved at the Family Courts and appeals to the High Courts are rarely rendered. The enactments related to family matters are:

- The Muslim Family Laws Ordinance, 1961
- Dissolution of Muslim Marriage Act, 1939
- Divorce Act, 1869
- Guardian and Wards Act, 1890
- High Court Rules [Volume II] Guardian and Wards
- Maintenance Order Enforcement Act, 1921
- Family Courts Act, 1964
- Family Court Rules, 1965
- Foreign Marriage Act, 1903
- Christians Marriage Act, 1973
- Child Marriage Restraint Act, 1929



Recent trend indicates a surge in divorce cases in Pakistan, for instance, the District Court of Rawalpindi reported a 10 percent annual increase in divorce cases in 2021.¹²

Key Steps in the Divorce Cases



Note: On average, there are 3-8 hearings for divorce-related cases. Law and Rules of Business remain silent about the adjournment period between the hearings. Often, adjournment of the proceeding is caused by the absence of witnesses.

¹² For details see; <https://dailytimes.com.pk/857465/32000-family-cases-in-a-year-rawalpindi-witnesses-significant-rise-in-divorce-ratio/>



Table 3: Time, Monetary Cost, and Stress Involved in Divorce Case

S. No	Steps	Description	No of Trips	Time Taken (Days)	Cost- Travelling Documents and Fee (Rs)	Stress Level	
1	Notice - Intent to Divorce	Visit the Local Union Council/Union Committee Office	2	2	3,100	2	
		Obtain the Talaqnama form					
		Submit the form					
2	Hire a Lawyer	visit-1 the Lawyer	3	21	83,600	4	
		Discuss the matter and share details					
		Hire the Lawyer					
		Power of Attorney (wakalat nama)					
		Pay initial fee					
3	File the Divorce Petition	Prepare documents	2	3	4,000	3	
							CNIC copy
							Nikahnama copy
							Reasons for filing divorce
							List of dowries
		Talaqnama form					
		visit-1 the Family Court					
		Meet with chairperson					
		File a formal Petition					
4	Identification Memo	visit-2 the Family Court	2	7	3,200	4	
		Complete the petitioner and respondent's identification process					
		Submit fee					
		Receive Farad (Identification Memo)					



5	Motion for Arbitration	visit-3 the Family Court	1	3	2,500	1
		Pray for reconciliation				
Wait for the Next Step				14		
6	Reconciliation By the Court	visit-4 the Family Court	1	1	1,200	5
		Initial Court proceeding				
		Discussion about reconciliation possibilities				
Wait for the Next Step				14		
7	Second Reconciliation By the Court	visit-5 the Family Court	1	1	1,200	5
		Further discussion about reconciliation possibilities				
Wait for the Next Step				40		
8	Documentations Registration (Registry Receipt)	visit-6 the Family Court	1	1	2,000	3
		Record statements of relatives and friends				
		Submit fee				
Apply for Registry Receipt						
9	Wait for the Registry Receipt			7		
10	Obtain Registry Receipt	visit-7 the Family Court	1	1	1,200	3
		Obtain Registry Receipt				
11	Time for Reconsideration by the Court due to the Sensitivity of the Case			28		
12	Start of Trail	visit-8 the Family Court	3	14	5,800	4
		Initial Court proceeding				
		Present evidence				
		Obtain the next hearing appointment				
13	Wait for the Next Hearing			20		
14	Meet the Lawyer		1	1	3,200	4
15	1 st Hearing	visit-9 the Family Court	1	1	1,200	4
		Present witnesses and evidence				



		Record statements				
		Obtain the next hearing appointment				
16	Wait for the Next Hearing			45		
17	Meet the Lawyer		1	1	3,200	4
18	2 nd Hearing	Visit-10 the Family Court	1	1	7,530	5
		Present evidence related to marriage and finance				
		Children custody-related matters				
		Obtain the next hearing appointment				
19	Wait for the Next Hearing			45		
20	Meet the Lawyer		1	1	3,200	4
21	3 rd Hearing	Visit-11 the Family Court	1	1	4,850	4
		Court proceeding				
		Obtain the next hearing appointment				
22	Newspaper Post (in case of not appearing the Respondent)	Visit Newspaper office	1	1	75,00	5
		Ask for a newspaper post				
23	Posting Certificate Roznama	Visit-11 the Family Court	1	25	1,200	2
		Submit newspaper post				
24	Wait for the Next Hearing			30		
25	Meet the Lawyer		1	1	3,200	4
26	4 th hearing day	visit-12 the Family Court	1	1	2,750	5
		Case proceeding and present previous details				
		Submission of related documents				
		Judgment by the Court - divorce or relation				



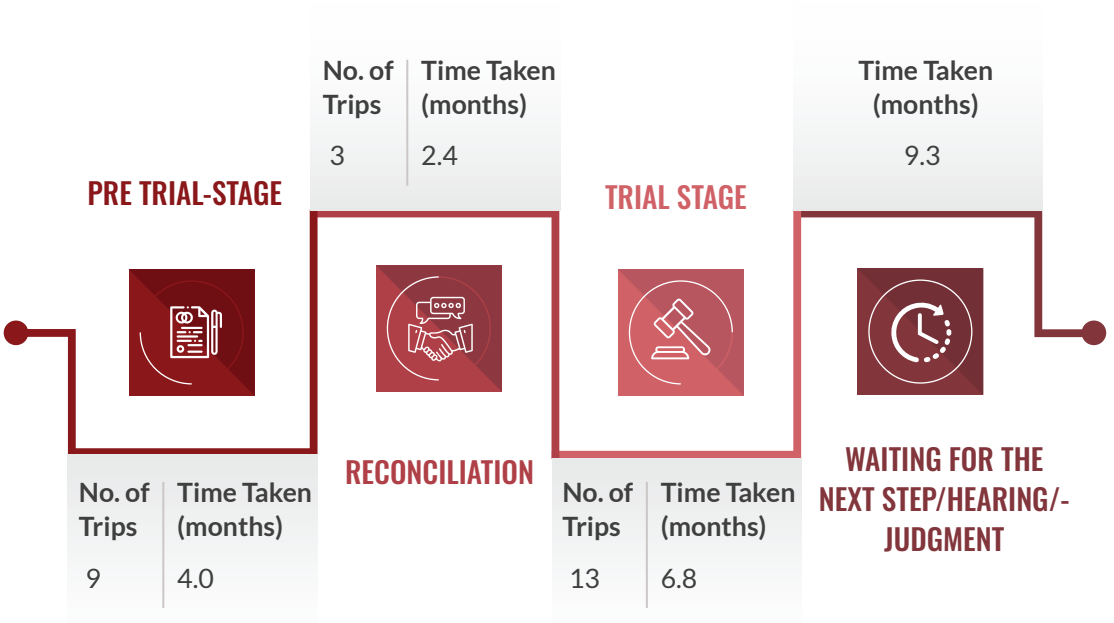
		closing arguments				
27	Wait for Written Judgment			15		
28	Maintenance and Custody	visit-13 the Family Court	1	1	3,950	3
		Submit financial support-related records				
		Submit the children's custody statement				
		Present and testify witnesses				
29	Wait for the Court Decision			15		
30	Closing submissions	visit-14 the Family Court	1	1	1,500	3
		Final arguments from both parties				
31	Wait for Detail Judgment			45		2
32	Obtain Decision (Issuance of Decree)	Visit-15 the Family Court	2	2	18,00	2
		obtain final decision (officially dissolving the marriage) if divorce granted				
Total			31	410 (1.12 Year)	145,380	

The stress distribution across steps has been determined by multiplying the total process time for each step (inclusive of travel, waiting, and transaction time) with the corresponding stress level.





2. SOURCE OF SLUDGE



The main source of sludge is the waiting period due to the adjournment of hearings. This constitutes around 69 percent of the total time involved in the disposal of a divorce case.

3. COST OF SLUDGE

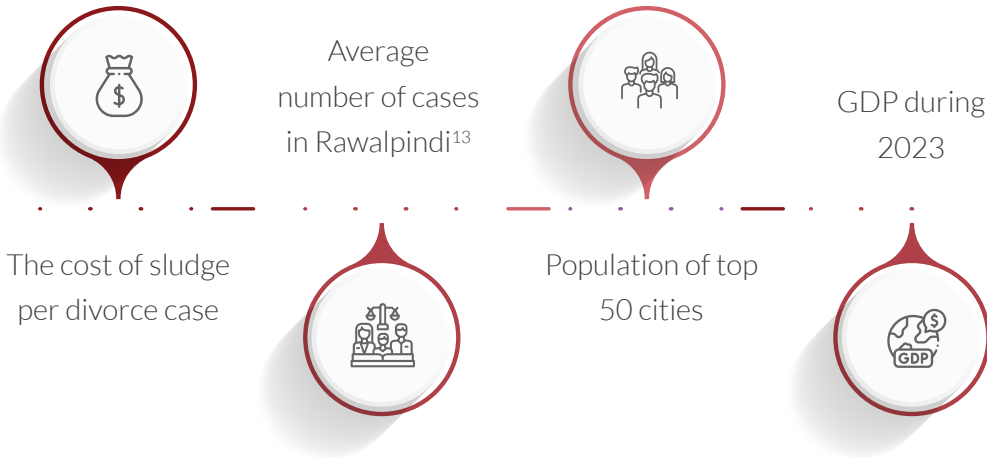
The time invested in the divorce case also has opportunity costs, besides huge psychological and social costs. Measuring the social cost of divorce in the form of stigma and trauma that each party may have to face during and after the divorce is not out of scope in this exercise, yet its presence is undeniable in our society. To monetize the opportunity cost associated with more than yearlong legal proceedings, we use the average monthly income as reported in the Household Income and Expenditure Survey (HIES). We assumed that the household that is going through the divorce process lost around 2 months of income because of



trips involved in the legal process. Therefore, the opportunity cost is around Rs. 83,090.

3.2. Cost of Sludge in terms of GDP

To assess the cost of sludge in terms of GDP, we use the following information;



Based on this

Head	Divorce Case
Processing cost	Rs. 290,760
Opportunity cost	Rs. 83,090
Cost per case	Rs. 373,850
Number of Cases in Rawalpindi	38,000
Cost of divorce cases	Rs. 3,157 million
Population of Rawalpindi (2023 Census)	1.7 million
Per capita cost of sludge	1,811
population of the top 50 cities.	103.5 million
Total cost of sludge in the top 50 cities	Rs. 187.6 billion
Cost of Sludge (% of GDP)	0.22

¹³ For details see:

<https://dailytimes.com.pk/857465/32000-family-cases-in-a-year-rawalpindi-witnesses-significant-rise-in-divorce-ratio/>



4.

**CIVIL TRIAL:
INHERITANCE CASE**



4. CIVIL TRIAL: INHERITANCE CASE

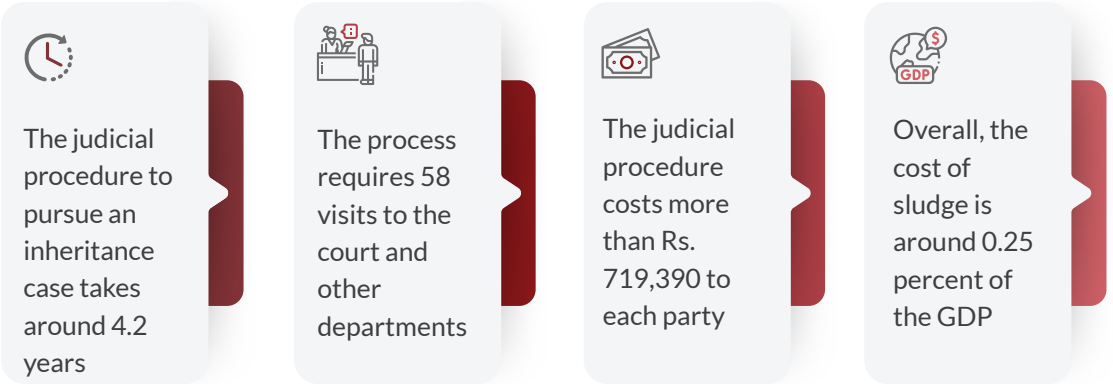
The West Pakistan Muslim Personal Law (Shariat) Act (1962) states that “Notwithstanding any custom or usage, in all questions regarding succession (whether testate or intestate), special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, legitimacy or bastardy, family relations, wills, legacies, gifts, religious usages or institutions, including waqfs, trusts, and trust properties, the rule of decision, subject to the provisions of any enactment for the time being in force, shall be the Muslim Personal Law (Shariat) in case where the parties are Muslims.” Therefore, all cases related to inheritance are subject to Muslim Shariat Laws.

The resolution of land disputes in urban areas in Pakistan is typically managed by the Civil Courts, with the option to appeal to the High Court and Supreme Court provided by law. Land disputes in the Civil Courts can be classified into 35 distinct types based on the kind of land involved (state, private, or common property), the nature of the conflict, the legitimacy of action, and the level of violence. Here we focused on one particular kind of immovable property dispute, which is the inheritance dispute.

Statistics of the District Judiciary in Punjab (2022)

	Previous Pendency	Institution	Received	Disposal	Transferred	Balance Pendency
Civil Cases	54,457	121,419	35,720	115,229	38,291	58,076
Appeal for Succession	5,311	15,022	5,499	16,926	5,565	3,341

Source: Annual Report, Lahore High Court, Lahore



Stages of Inheritance Case

01

Legal Notice

Before going to court, it is common to send a letter to the other party, explaining the issue and requesting a solution. This is analogous to allowing them to rectify the situation without legal intervention.

02

Filing of Suit

If the dispute is not resolved through legal notice or direct negotiation, the aggrieved party may file a suit in the appropriate Civil Court. The jurisdiction of the Court depends on the value of the property, or the nature of the relief sought.

03

Submission of Pleading

Both parties submit their respective pleadings – the plaintiff submits a "Plaint" detailing the claim, and the defendant submits a "Written Statement" in response.

04

Evidence & Documentation

Both parties will present evidence to support their claims, which may include land records, property documents, witnesses, and expert testimony.

05

Trials & Hearing

The Court will hold a trial to review the evidence presented and hear the arguments of the parties. Witnesses may be cross-examined during the trial.



Final Argumentation and Judgment

After the evidentiary phase is completed, both sides present their final arguments to the Court. Based on the evidence presented and the applicable law, the court pronounces its decision after considering the evidence and arguments. This decision may favor the plaintiff or the defendant, or it may provide a different form of relief altogether.

06

Alternate Dispute Resolution (ADR):

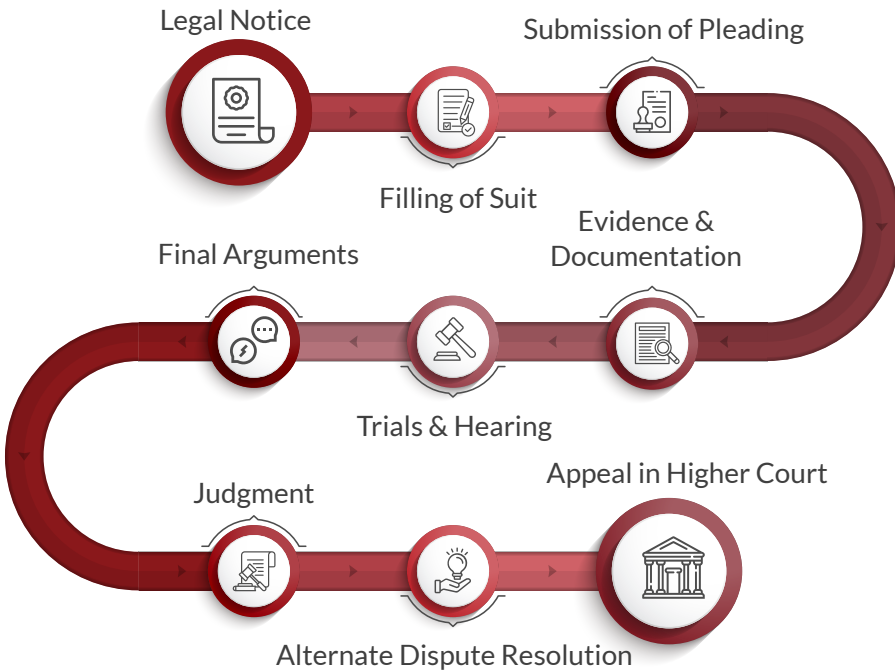
The court may, at any stage, refer the parties to an alternative method of dispute resolution, such as arbitration, mediation, or negotiation. This can be particularly useful for land disputes, which can sometimes be resolved more amicably and effectively through negotiation rather than litigation.

07

Appeal in Higher Court

If either party is not satisfied with the decision of the lower court, they have the right to appeal to the higher court.

08



Note: On average, there are 5-20 hearings for land dispute cases.



Table 4. Time, Monetary Cost, and Stress Involved in Inheritance Dispute Resolution Through Court

S. No	Information	Description	No of Trips	Time Taken (Days)	Cost- Travelling Documents and Fee (Rs)	Stress Level	
1	Gather Information	Visit the local Land Revenue/CDA Office	2	7	2,480	3	
		Meet the concerned official					
		Identification of land and rights holder in records					
		Receive land records and ownership slip					
2	Hire a Lawyer	Search for a Lawyer	3	15	217,540	3	
		Present the case with documents					
		Hire the Lawyer (Agreement)					
		Power of Attorney					
		Pay initial fee					
3	Notice of Demand	visit-2 the Civil District Court	1	3	1,400	4	
		Meet the concerned lawyer					
		Prepare notice					
4	Sending Legal Notice	Visit to the Post Office	1	1	970	2	
		Envelope the notice					
		Pay charges					
5	Wait for Response			30			
6	File the Suit Under Section 30	Record documents	2	3	3,500	4	
							CNIC copy applicant(s)
							Written detail of the land
		Copy of complaint form					



		Other relevant documents				
		Visit-1 the Civil District Court	2	7	2,480	3
		Write an application				
		Submit the fee				
		File a civil suit				
7	Record of Rights (Farad)	Visit relevant Patwarkhana/CDA	1	21	5,600	2
		Write an application				
		Submit documents				
		Revisit relevant Patwarkhana/CDA				
		obtain farad				
8	Dawa Istaqrare-e-Haq (Confession of Truth)	Visit-3 the Civil District Court	2	41	2,530	3
		Apply for ownership, possession, and legal rights of a piece of land				
		Submit farad and application in the court				
		Obtain letter				
9	Dawa Dakhilia (Counterclaim)	Visit-4 the Civil District Court	1	3	2,190	3
		Apply for receiving Dawa Dakhila				
		Submit fee and application in the court				
		Obtain letter				
10	Interim Order	Visit-5 the Civil District Court	2	7	3,650	5
		The court read the case to the parties and lawyers				
		Issue interim orders and injunctions until the case is resolved				



		Submit documents on court demand (if needed)				
		Obtain the interim order copy				
	Wait for Trail Start			90		2
11	Meet the Lawyer		1	1	3,200	4
	Wait for the next step			45		2
12	1 st Hearing day	Visit-6 the Civil District Court	1	1	2,000	5
		Fill out the evaluation form				
		Submit relevant documents				
		Record statement				
		Submit the fee for the next hearing				
		Obtain a letter for the next hearing				
13	Wait for the Next Step			45		2
14	Meet the Lawyer		1	1	3,200	4
15	2 nd Hearing day	Visit-7 the Civil District Court	1	1	2,000	5
		Submit relevant documents and evaluation form				
		Identification of the parties				
		Statement of the parties				
		Submit the fee for the next hearing				
		Obtain letter for next hearing				
16	Wait for the Next Step			15		2
17	Meet the Lawyer		1	1	3,200	4
18	3 rd Hearing day	Visit-8 the Civil District Court	1	1	1,450	3
		Submit relevant documents and evaluation form				



		Court proceeding				
		Statement from both parties				
		Submit the fee for the next hearing				
		Obtain letter for next hearing				
19	Wait for the Next Step		15			2
20	Meet the Lawyer		1	1	3,200	4
21	Newspaper proclamation	Visit the newspaper office	1	1	1,450	3
		Sharing details for the proclamation				
		Receive proclamation date copy				
22	Wait for the Next Step			45		2
23	4 th Hearing day	Visit-9 the Civil District Court	1	1	2,000	5
		Submit relevant documents and evaluation form				
		Court proceeding				
		Submit the fee for the next hearing				
		Obtain letter for next hearing				
24	Wait for the Next Step			45		2
25	Meet the Lawyer		1	1	3,200	4
26	5 th Hearing day	Visit-10 the Civil District Court	1	1	2,000	5
		Court proceedings and argumentation				
		Submit the fee for the next hearing				
		Obtain letter for next hearing				
27	Wait for the Next Step			90		2
28	Meet the Lawyer		1	1	3,200	4



29	6 th Hearing day	Visit-11 the Civil District Court	1	1	3,600	5
		Submit relevant documents and evaluation form				
		Court proceedings and argumentation				
		Submit the fee for the next hearing				
		Obtain letter for next hearing				
30	Wait for the Next Step			90		2
31	Meet the Lawyer		1	1	3,200	4
32	7 th Hearing day	Visit-12 the Civil District Court	1	2	2,000	5
		Submit relevant documents and evaluation form				
		Court proceedings and argumentation				
		Submit the fee for the next hearing				
		Obtain letter for next hearing				
33	Wait for the Next Step			90		2
34	Meet the Lawyer		1	1	3,200	4
35	8 th Hearing day	Visit-13 the Civil District Court	1	1	2,000	5
		Submit relevant documents and evaluation form				
		Court proceedings and argumentation				
		Submit the fee for the next hearing				
		Obtain letter for next hearing				



36	Wait for the Next Step			90		2
37	Meet the Lawyer		1	1	3,200	4
38	9 th Hearing day	Visit-14 the Civil District Court	1	1	2,740	5
		Examination of witnesses				
		Statement of the facts by the Judge				
		Closing arguments				
		Verdict by the Court - partition or ejection				
39	Wait for the Written Verdict			30		2
40	Obtain Verdict	Visit-15 the Civil District Court	1	1	1,800	4
		Obtain verdict				
41	Wait for Detail Judgment			45		2
42	Obtain Judgment	Visit-16 the Civil District Court	1	1	1,800	3
		Obtain final sentencing				
	Wait for the Next Step			30		2
Appeal in the Civil Session Court						
43	Meet the Lawyer	Visit the lawyer	7	15	354,000	3
		Discuss the case and decision				
		Agreement with the Lawyer				
		Pay Lawyer fee				
	Wait for the next step			20		2
44	Submission of Appeal in the Session court	Prepare documents	CNIC copy of plaintiff	3	14	5,500
			Written detail of the mentioned land			
			CNIC copy of plaintiff			



		Letter and reports (if available)				
		Letter of attorney				
		Other evidence and details				
		Copy of the District Court's Decision				
		Visit-1 the Session Court				
		Write petition				
		Submit document				
	Wait for the next step			60		2
45	Review of the lowercase record by Session court		2	15	222,200	2
46	Receiving Notice of the Session Court		1	7	1,250	2
47	Hearing at the Session Court	Visit-2 the Session Court	1	1	7,640	5
		Case proceeding and argumentation				
		Examination of witnesses				
		Submission of required documents				
		Submit Session Court fee				
48	Wait for the Written Verdict			290		2
49	Obtain Order & Remedies	Visit-3 the Session Court	1	1	2,500	4
		obtain verdict				
Appeal in the High Court						
50	Receipt of Session Court Order by High Court			7		
51	Notification to the parties			35		
52	Scheduling of Hearing			10		
53	Review of Session Court Orders			15		



54	Hearing at the High Court	Visit-1 the High Court	1	1	22,800	5
		Present plans for complying with the Court's orders				
		Case proceeding and argumentation				
		Submission of related documents				
		Submit evidence and details				
		Submit fee for a letter of next hearing				
		Obtain the letter of the next hearing				
55	Wait for the Next Hearing			30		
56	Meet the Lawyer and gather more information for further steps		1	1	3,200	4
57	2nd Hearing at the High Court	Visit-24 to the High Court	1	1	22,800	5
		Case proceeding and argumentation				
58	Assessment and Decision of the parties' compliance plans and arguments by Higher court			35		
59	Direction and Execution			7		
60	Completion and Reporting to the High Court			10		
61	Wait for the Final Judgment			30		
62	Final Judgment	Visit-25 to the Court	1	1	1,850	3
		Obtain final judgment				
Total			58	1554 (4.25 Years)	719,390	

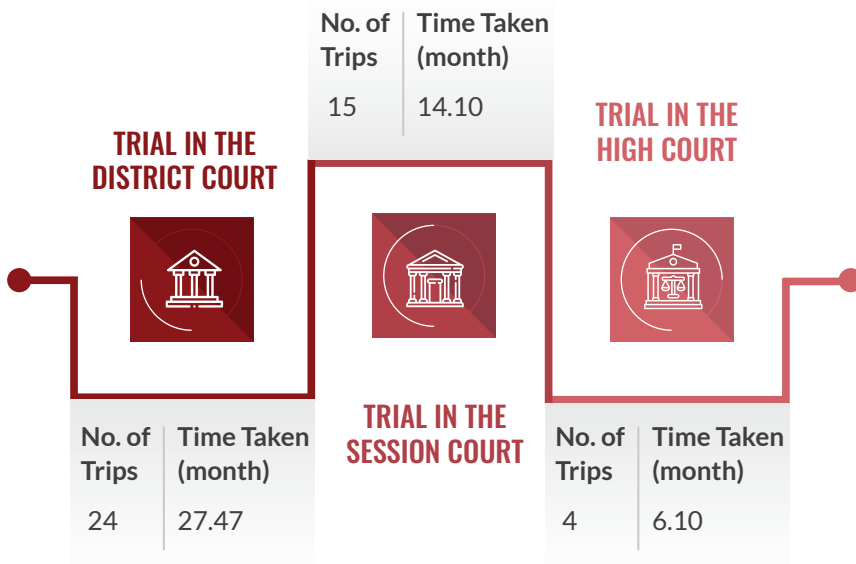


The stress distribution across steps has been determined by multiplying the total process time for each step (inclusive of travel, waiting, and transaction time) with the corresponding stress level.



2. SOURCE OF SLUDGE

- The main source of sludge is the adjournment of the hearing. In most cases, waiting for the next hearing or the judgment constitutes more than 80 percent of the total time involved in case disposition.



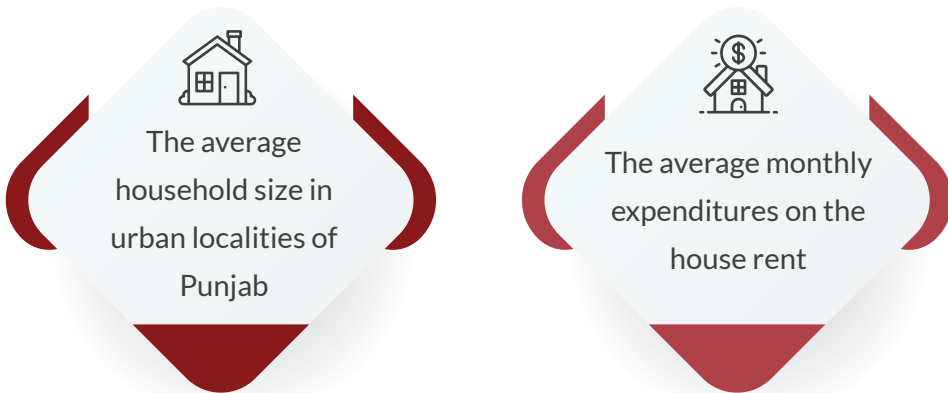


3. COST OF SLUDGE

To measure the opportunity cost associated with inheritance disputes, we focused on the rental cost and cost of personal time.

3.1. Rental Cost

To assess the indirect costs associated with litigation, we first consider the rental cost that each of the litigants may have to face. The underlying rationale for considering this cost component is the customary practice of not living together in a house once such an inheritance dispute arises. To estimate the rental cost, we consider;



The information is collected from the Pakistan Social and Living Standard Measurement (PSLM-2020) and the Household Income and Expenditure Survey (HIES-2019).



The average household size in urban Punjab	6.4
Assumed siblings living in rented houses due to dispute	2
Average monthly house rent in urban Punjab (2023)	12,908
Rental cost per month	25,816
No. of months involved in dispute resolution	50.8
Total rental cost	1,311,453

3.2. Cost of Personal Time

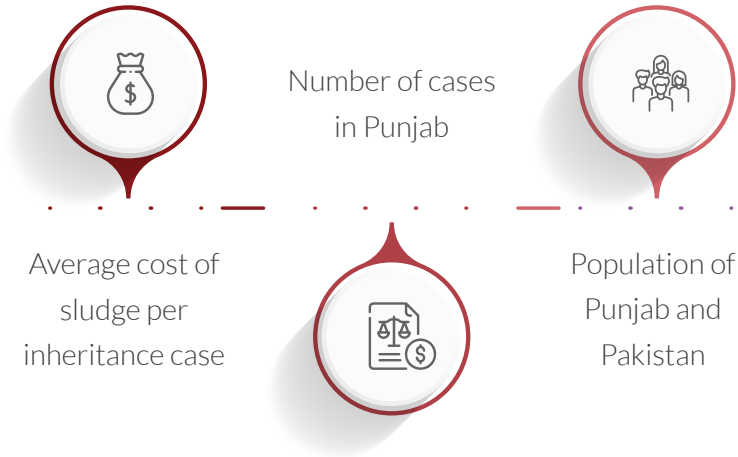
The time spent on legal proceedings might prevent individuals from engaging in productive or income-generating activities. This opportunity cost can be estimated based on the potential earnings or economic value of the time lost. The average household income in Pakistan is Rs. 41,545 as per the Household Income and Expenditure Survey (HIES). Since the judicial process takes around 58 trips, therefore, the sludge in solving the inheritance case costs indirectly around Rs. 249,270 to the family provided 3 family members engage in economic activities.





3.3. Cost of Sludge in terms of GDP

To assess the cost of regulations on the economy, we translate the cost of sludge in terms of GDP. The task is carried out based on the following information:



Based on the information above, we estimated the economy-wide cost of sludge is around 0.25 percent of GDP.

Processing cost	Rs. 1.44 million
Opportunity cost	Rs. 1.55 million
Cost per case	Rs. 2.99 million
Number of cases in Punjab (2022)	15,022
Cost of sludge in Punjab	Rs. 44.93 billion
Urban population of Punjab	51.97 million
Per capita cost of sludge	865
Population of Pakistan	240.48 million
The total cost of the sludge	Rs. 207.91 billion
Cost of sludge (% of GDP)	0.25



5.

**INLAND REVENUE
COURT CASE**



5. INLAND REVENUE COURT CASE

By Saad S. Khan, Ambreen Ashfaq, Mahrukh Imtiaz, and Isra Imtiaz¹⁴

As opposed to the civil courts, which deal with mostly urban civil disputes involving property, the revenue court has been defined as “[a] Court having jurisdiction under any local law to entertain suits or other proceedings relating to the rent, revenue or profits of land used for agricultural purposes.” These courts and their procedures are governed by the West Pakistan Land Revenue Act, 1967 having exclusive jurisdiction on matters of mutation, partition, inheritance, and those pertaining to the production of agricultural land. These courts are presided upon by civil servants from administrative service; starting from the Tehsildar to the Assistant Commissioner, the route in a revenue court goes up to the Commissioner and then to the Board of Revenue (BoR), which is the final authority in each province.

Land is the most expensive – and probably the most important too – asset for the people, especially in the rural areas, of Pakistan. This is depicted by the fact that not only 60 – 70 percent of the civil litigation in the country pertains to landed property but also 40 – 50 percent of criminal litigation is invariably due to land-related matters.

For Punjab, the land revenue cases mainly fall into six categories. The bulk of our cases pertain to the partition of land

¹⁴ This activity is extracted from the study funded by the Research for Social Transformation and Advancement (RASTA) under the Competitive Grant Program for Policy-oriented Research (CGP). For details see the RASTA website; <https://rasta.pide.org.pk/>



What are the major types of Litigation case?

There are six major types of Litigation cases with the following percentages



91% of Litigants are males



15% of Litigants are respondents, rest are plaintiffs

48%

Partition of Land

- Partition of Land (48%)
- Correction of Record (1%)
- Mutation (19%)
- Inheritance (14%)
- Eviction (12%)
- Demarcation (6%)

The data for the study were collected from multiple sources namely via surveys of the litigants of the Revenue courts and via interviews of the Revenue Officers (ROs) and other relevant officials. The sample size of the study consisted of the revenue courts of selected districts from both Punjab and the KPK. Based on their proximity with the provincial capitals and the quantum of revenue cases pending in their courts, the study identified four districts, namely, Kasur and Toba Tek Singh in Punjab, and Mardan and Dera Ismail Khan in Khyber Pakhtunkhwa.

Stages of Revenue Court Case

The steps a litigant may incur during his case have been cataloged under seven main headings and they are mentioned below. These are not in any particular order as a litigant could go through some of these steps at different points in their case and sometimes multiple times.



Step 1:
Gathering Information Phase



Step 2:
Hiring the Lawyer



Step 3:
Document Gathering



Step 4:
Document Correction (if applicable)



Step 5:
Hearings (includes questions on both scheduled hearings and delayed hearings as well as case filing duration)



Step 6:
Meetings with Revenue Officers and other personnel related to the Revenue Court System namely the Patwari, Girdawar Qanungo, Naib Tehsildar, Tehsildar, Deputy Commissioner (DC), Assistant Commissioner (AC), Additional Deputy Commissioner Revenue (ADCR), Commissioner and finally the Board of Revenue (BoR of each province.



Step 7:
Clerk costs or money spent on revenue personnel (for gratification)





Table 5A: Time Involved in the Revenue Court Case

S. No	Information	Description	Average Number of Visits	Average Travel Time per visit (2 way) (hours)	Average Wait Time per visit (hours)	Average Agency/Collecti on Time (hours)	Average Total Sludge Time (months)
1	Gather Information	Sludge in Time taken to gather information					2.14
2	Document Collection	Sludge in Collection of Fard Malkiat	3.66	9.29	2.77	1733.63	2.44
		Sludge in Collection of Jamabandi	4.98	5.86	2.69	999.6	1.41
		Sludge in Collection of Khasra Girdwari	5.78	3.89	1.09	4715.77	6.38
		Sludge in Collection of Shajra Nasb	6.15	3.76	0.94	5199.41	7.13
		Sludge in Collection of all Documents	10.61	12.65	4.01	4994.03	7.01
3	Document Collection from Patwari	Sludge in Document Collection from Patwari	6.68	3.49	2.08	430.21	0.54
4	Document Collection from Arazi Record Center	Sludge in Document Collection from Arazi Record Center	6.36	5.18	1.58	660.48	0.99
5	Hearings	Sludge in Hearings in a Month	2.17	7.72			0.03
6	RO Meetings	Visits to Patwari in the past year	6.68	2.96	2.03		0.056
		Visits to Girdawar Qanungo in the past year	5.78	1.64	0.13		0.022
		Visits to Naib Tehsildar in the past year	10.06	2.09	1.69		0.068
		Visits to Tehsildar in the past year	7.61	3.43	1.49		0.046



	Visits to AC in the past year	12.18	5.54	0.73		0.102
	Visits to DC/ADCR in the past year	12.57	3.73	1.85		0.133
	Visits to All Revenue Officers in the past year	16.02	6.16	2.86		0.36

Average Total Sludge Time is calculated by summing up travel time, wait time & agency/collection time per respondent and then taking an average over its observations. It is not a sum of the individual averages of its components as there are respondents who may not have incurred one or two of the components. This means that the number of observations for the Average Total Sludge Time column is different from its components' number of observations.

Table 5B: Monetary Cost Involved in the Revenue Court Case

S. No	Information	Description	Average Monetary Cost	Average Travel Cost per visit	Average Opportunity Cost	Average Total Sludge Cost
1	Gather Information	Total Sludge in Rupees			81,099	81,099
2	Document Collection	Cost Borne by litigant for Jamabandi	18,822		8,892	
		Cost Borne by a litigant for Fard Malkiat	17,969		8,973	
		Cost Borne by litigant for Khasra Girdawari	22,294		9,324	
		Cost Borne by litigant for Shajra Nasb	25,420		12,273	
		Total Cost borne by litigant for all Documents	34,223		22,008	44,581
3	Document Collection from Patwari	Sludge in Money Spent on Patwari for Document Collection			18,122	



4	Document Collection from Arazi Record Center	Sludge in Money Spent on Arazi Record Center for Document Collection		3,560	14,191	
5	Hearings	Cost borne by litigant due to hearings per year	17,969	1,635	55,880	71,196
6	RO Meetings	Money spent on the Patwari in a year	20,124		6,456	
		Money spent on the Girdawar Qanungo in the past year	7,008		3,136	
		Money spent on the Naib Tehsildar in the past year	21,105		9,402	44,581
		Money spent on the Tehsildar in the past year	12,866		5,647	
		Money spent on the AC in the past year	21,921		19,508	
		Money spent on the DC/ADCR in the past year	69,164		18,529	
		Money spent on all Revenue Officers in the past year	53,328		21,583	58,000
7	Expenses	Lawyer fees, Revenue Court Staff, and Food per year	144,000			144,000
Overall Total Processing Cost						250,487

Average Total Sludge Cost is calculated by summing up travel cost, monetary cost, and opportunity cost per respondent and then taking an average over its observations. It is not a sum of the individual averages of its components as there are respondents who may not have incurred one or two of the components. This means that the number of observations for the Average Total Sludge Cost column is different from its components' number of observations.



The prescribed period for disposal of a case in the revenue court is six months, according to the instructions of the Board of Revenue, Punjab.

The cases in our survey were lingering on for 4.64 years on average in Punjab. There is a high variance in these figures as seen by the high standard deviation but that is to be expected since about 12.2 percent of our respondents have cases over 10 years old with the maximum being 50 years old. For KPK, this figure is 6.29 years. The total duration till case disposal can last many decades.

2. SOURCES OF SLUDGE

Excessive paperwork and extensive procedures in revenue case matters

For a simple partition case in Revenue Courts numerous documents need to be obtained by the parties. These documents include Fard-Patwar, Fard Sarkar, Khasra Gardwari, Naqsh e Alif, Aks Shajra, Jamabandi, Shajra Nasb, etc. This excessive documentation has significant sludge costs for the litigants. While obtaining such documents is a major challenge for the litigants, as most of the time Patwaris – as the junior level revenue officials are known – do not give the requisite documents unless they are given speed money.

Long route of appeal

There are multiple appeal and review forums in Revenue Courts. Depending on the nature of the dispute and the court of first instance, the appeal route may go through the Assistant Collector, the Collector, or the Commissioner. The Board of Revenue can be approached for Revision against the decisions in appellate jurisdiction by the Commissioners, which is, by law, the ultimate forum on revenue matters against which no appeal lies. Unscrupulous lawyers contest the final decisions of the Board of Revenue in the High Court in the form of writ jurisdiction. The High Court either remands back the case to the Board of Revenue for deciding afresh or if they decide it themselves, the aggrieved party has an option to go to the Supreme Court through the Constitutional Petition for Leave to Appeal (CPLA). In either case, the final adjudication may be delayed by years or even decades.



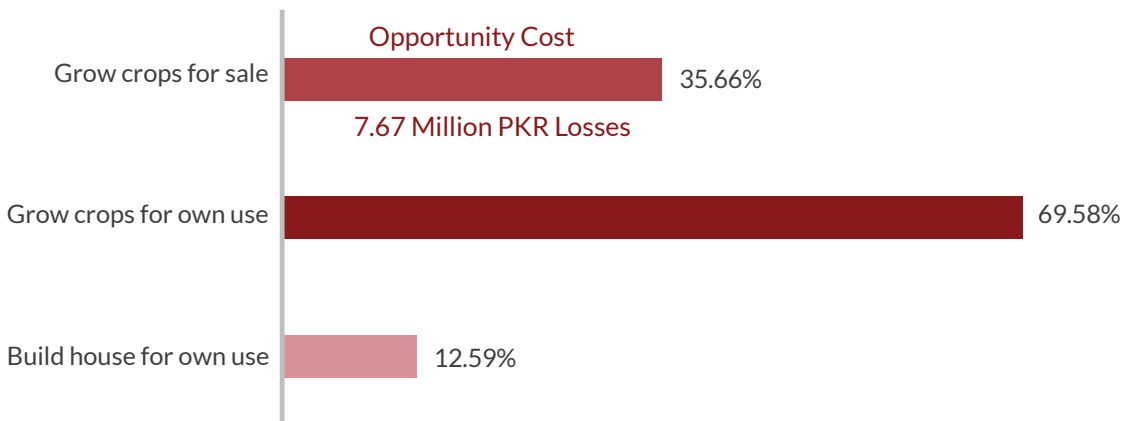
Parallel Court Structure

As discussed above, even though the law delineates the powers of Revenue Officers and Revenue Courts to oust civil courts jurisdiction in revenue court matters some loopholes compromise the effectiveness of the exclusion provisions. One such example is section 141(2) of the West Pakistan Land Revenue Act, 1967 which gives the power to civil courts to adjudicate upon the question of title. The lawyers exploit the loophole by converting a simple case of mutation or eviction by challenging the very title of the property. This makes the case, to the extent of the question of title, a civil matter. This has led to dualism and parallel court structure. To further compound the problem, the national-level problems of tussles between the executive, the judiciary, and the legislature are more pronounced at the unit level such as Districts and Tehsils.

3. COST OF SLUDGE

We also looked at the potential foregone agricultural output that could have been produced had the land not been in dispute. In our survey for Punjab, we asked litigants how they planned to use the land if it had not been in dispute and found three main findings are;

Usage if land was not Disputed in Punjab





We calculate the opportunity cost of land from agricultural income foregone on this 35.66% of people in Punjab. Sugarcane is the main agricultural crop in our locations under survey in Punjab (Kasur & Toba Tek Singh). We, therefore, assume that had the land not been under dispute our litigants would have used the land to produce sugar cane in Punjab. For KPK, we assume a rice-wheat rotation as these two crops are often grown together in KPK.

We then convert this foregone output to a monetary value by using the minimum support price (MSP) (for sugarcane and wheat) which is announced by the Punjab government every year. Data for the minimum support price for wheat and sugarcane is taken from AMIS (2023a), AMIS (2023b), and the Crop Reporting Service (2023b). For rice, we use indicative price, the data for which is taken from the Crop Reporting Service (2023b). Lastly, we also account for the cost of production of all crops, the data for which has also been taken from the Crop Reporting Service (2023b). Lastly, we assumed that the rice grown in KPK was basmati rice.

We found that on average total sugar cane production lost due to the case is about 22,113 pounds which in monetary terms is about Rs. 7.67million on average. To calculate the potential profit that could have been earned from the sale of sugar cane we used the cost of production data and found that the potential profit could have been about Rs. 2.09 million on average.

The longer a case goes on the more agricultural income is forgone, thus, we also calculated yearly production loss which comes out to be about 4,703 maunds per case with a monetary sale value of about 16.2 lakh rupees. The yearly profit from the sale of sugarcane is about 4.6 lakh rupees on average.

For KPK, the total output loss of rice and wheat is 7,564.24 maunds on average which in monetary terms is Rs. 2.16 million. Average rice and wheat production loss is about 435.4 maunds per year and the average yearly profit lost due to land disputes in KPK is about Rs. 319,000. Owing to a lack of data availability, the



monetary values of the opportunity cost of rice and wheat for KPK have been calculated for the years 2001-2021 only.

3.1. Cost of Sludge in terms of GDP

Lastly, we calculated sludge as a percentage of GDP. To do so, we first calculated the average sludge incurred by a litigant per year. This includes sludge incurred from each step a litigant may go through during a case, namely,



Adding all these together shows that the average cost of sludge per litigant per year is about Rs. 7.1 lakhs for Punjab and Rs. 6.26 lakhs for KPK. We also calculated a sludge figure to account for years when the litigant did not incur the one-time costs associated with the document.

To measure the yearly sludge cost in Punjab, we collected information about the total number of revenue court cases in Punjab from the Punjab Board of Revenue. We multiplied this average yearly sludge figure by the number of cases that have been in the revenue court system for more than 12 months from 1st January 2022 - 31st December 2022 (a total of 65,396 cases for the year ended 2022). If litigants went through all the steps in a year, then the total yearly sludge in Punjab is Rs. 46,437.68 million for 2022. If they only go through the yearly steps (excluding one-time costs), then the total yearly sludge for Punjab is Rs. 43,037.55 million for 2022. As a percentage of GDP this comes out to be about



0.092 percent and 0.085 percent respectively, which means that regardless of whether the litigants go through the one-time costs or not, the impact of delaying timely adjudication of agricultural land cases is approximately 0.1 percent of GDP per year.

Similarly, for KPK, we also calculate sludge as a percentage of KPK’s agricultural GDP, which is 0.57 percent (all steps) and 0.53 percent (excluding one-time steps). Sludge as a percentage of crop GDP for KPK is 3.77 percent (all steps) and 3.51 percent (excluding one-time steps).

Variable	Mean
Average Cost of Sludge Per Litigant in a Year (all steps)	700927.5
Average Cost of Sludge Per Litigant in a Year (excluding one-time costs)	649831.5
Total Cases in Punjab that are more than 12 months old (1 Jan 2022 - 31 Dec2022)	65396
Total Cases in KPK that are more than 12 months old (1 Jan 2022 - 31 Dec2022)	12852
Total Cases in KPK & Punjab older than 12 months (1 Jan 2022-31 Dec 2022)	78248
Cost of Sludge in million rupees in Punjab (all steps)	46437.7
Cost of Sludge in million rupees in KPK (all steps)	8045.06
Cost of Sludge in million rupees in KPK & Punjab (all steps)	54482.76
Cost of Sludge in million rupees in Punjab (excluding one-time costs)	43037.6
Cost of Sludge in million rupees in KPK (excluding one-time costs)	7482.56
Cost of Sludge in million rupees in KPK & Punjab (excluding one-time costs)	50520.16
Sludge as a percentage of GDP per year for Punjab & KPK (all steps)	.11
Sludge as a percentage of GDP per year for Punjab & KPK (excluding one-time costs)	.1



Sludge as a percentage of Agricultural GDP per year for Punjab & KPK (all steps)	.47
Sludge as a percentage of Agricultural GDP per year for Punjab & KPK (excluding one-time cost)	.44
Sludge as a percentage of Crop GDP per year for Punjab & KPK (all steps)	1.4
Sludge as a percentage of Crop GDP per year for Punjab & KPK (excluding one-time cost)	1.3
Value of disputed territory in Punjab & KPK as a percentage of Real Estate Activities GDP per year	47.6





6.

**CUSTOMS APPELLATE
TRIBUNAL: SMUGGLING AND
DUTY EVASION CASE**



6. CUSTOMS APPELLATE TRIBUNAL: SMUGGLING AND DUTY EVASION CASE

Customs, Excise, and Sales Tax Appellate has been established under section 194 of the Customs Act, 1969. The appellate deals with cases related to customs violations, taxation offenses, and smuggling. Customs cases in Pakistan encompass a variety of types, including smuggling, duty evasion, customs valuation, tariff classification, misdeclaration, seizure and forfeiture, as well as appeals against customs decisions.

In this volume, we consider cases related to smuggling and duty evasion. Smuggling is generally referred to as the illegal or clandestine trade of people or products across borders without the necessary paperwork or payment of customs and taxes. It includes a broad range of operations, including the smuggling of illegal drugs, people, guns, counterfeit items, and animals. On the other side, customs duty evasion or customs fraud refers to the illegal act of evading or avoiding the payment of customs duties and taxes that are legally imposed on imported or exported goods.

As per the official statement of the Federal Board of Revenue (FBR) “for enhancing international cooperation in controlling smuggling, Pakistan Customs has so far signed 22 MoUs/agreements with foreign governments/Customs administrations for cooperation in Customs matters. The current lead taken by Customs Operations FBR, and the effective control measures implemented by enforcement collectorates against currency smuggling have led to record seizures of approx. Rs. 450 million from July 2018 to April 2019, against seizures of Rs. 150 million in the corresponding period last year, exhibiting an increase of more than 200 percent. During the current year, more than 30 persons have been arrested for currency smuggling, with ongoing investigations to unearth their domestic/international linkages.”




There are several customs courts in Pakistan. However, information about the category-wise cases related to customs, taxation, and Anti-smuggling is not readily available.


Cases in Customs, Taxation and Anti-Smuggling Court w.e.f. 01.01.2022 to 31.12.2022

No.	Name of Courts/ Tribunals	Pendency	Institution	Total	Disposal	Balance
1	Customs, Taxation and Anti-Smuggling Court, Lahore	320	429	749	235	514
2	Customs, Taxation and Anti-Smuggling Court, Rawalpindi	28	52	80	64	16


Source: Lahore High Court Annual Report, 2022




The judicial procedure to resolve a case in the Customs Appellate Tribunal takes around 3.3 years



It requires 135 visits to the Tribunal and other departments



The judicial procedure costs more than Rs. 582,900



Overall, the cost of sludge is around 0.22 percent of the GDP



Mechanism of Cases in the Customs Appellate Tribunal

The general procedures for handling incidents of duty evasion and smuggling in Pakistan are as follows:

01

Detection

Intelligence gathering, surveillance activities, tip-offs, or routine inspections at borders, airports, seaports, or other entry points are frequently used to identify smuggling situations. Suspicious people, things, or cargo may spark suspicion and prompt further investigation.

02

Investigation

Law enforcement agencies begin an inquiry after discovering a smuggling or duty evasion case. This entails gathering intelligence, identifying the people or networks involved in the smuggling operation, and acquiring proof. Investigators may employ a variety of strategies, such as forensic analysis, covert work, informants, and surveillance.

03

Arrest and Seizures

The people involved in the smuggling or duty evasion operation may be detained by the police provided the authority has enough evidence to do so. Smugglers, intermediaries, couriers, and anybody else involved in the unlawful trade may fall under this category. Smuggled goods, illegal products, and contraband are all simultaneously seized for use as evidence in court cases.

04

Interrogation

To learn more about the smuggling network, accomplices, funding, and other pertinent information, the arrested individuals are questioned and interrogated. This procedure tries to expose the whole plan and discover any connections to other illegal activities.

05

Legal Proceedings

The individuals in custody are brought before the Tribunal, and legal action is taken against them. The evidence gathered during the investigation is presented by the prosecutors to prove guilt and demand the proper punishment under the applicable legislation. The defendants have the right to legal representation, and the court considers the arguments and the facts before making its decision.



Conviction & Sentencing

If the accused is found guilty by the Court/Tribunal, they are convicted and penalized by the appropriate law. The type of the smuggling offense, the number and value of the smuggled items, and any aggravating circumstances that may have been present all affect how severe the punishment will be. Penalties may consist of fines, imprisonment, or both.

06

Assets Confiscation

Authorities may try to seize the proceeds of the illegal business when smuggling includes sizable financial benefits. This includes seizing money, freezing bank accounts, and giving up property connected to the smuggling business.

07

International Cooperation

If the smuggling operation has international components, Pakistani authorities may coordinate with international counterparts through joint operations, intelligence sharing, or mutual legal aid to break up smuggling networks, identify key individuals, and disrupt their operations.

08

Key Steps Involved in Customs Cases





Table 6: Time, Monetary Cost, and Stress Involved in Cases Related to Customs Appellate Tribunal

Custom Appellate Tribunal: Smuggling and Duty Evasion Dispute (Law Enforcement Side)							
S. No	Information	Description		No of Trips	Time Taken (Days)	Cost- Travelling Documents and Fee (Rs)	Stress Level (out of 5)
1	Detection of Violation	FBR intelligence gathering (Directorate of Customs)					
		Routine inspections					
		Surveillance operations					
2	Custom Investigation	Submission of the case					
		Collecting evidence					
		Gathering relevant information					
		Identifying the individuals					
		identifying the networks					
3	Arrest and Seizures	Issuance of warrant of arrest					
		Arrest of culprits					
		Seizure of smuggled items					
4	Interrogation	Submission of seized items and culprits					
		Interrogation of culprits					
		Additional Information	Smuggling network				
			Accomplices				
			Financial network				
			Other relevant details				
Identification links to other criminal activities							



Custom: Smuggling and Duty Evasion Dispute Proceedings (Applicant)							
1	Show Cause Notice	visit-01 to FBR Custom Office		2	7	2,480	3
		Meet the investigation department					
		Receive notification					
2	File a Complaint	visit-02 to FBR Custom Office		1	7	3,100	2
		Meet the official					
		fill out a complaint form					
		Attach violation and other details					
		Submit a Complaint with an incident date					
3	Register First Information Report (FIR)	Prepare Documents	CNIC Copy of the reporting person	2	6	5,930	4
			Notification copy				
			Complaint copy				
			Transaction details				
			written details				
			Other related documents				
		visit-03 to FBR Custom Office					
		submit relevant documents					
		record statement					
		Obtain FIR					
4	Investigation	visit-04 to FBR Custom Office		1	1	1,200	5
		Inquire about investigation					



5	Hire lawyer	visit-05 to the Court	3	15	322,500	3
		Discuss the case with a lawyer				
		Hire the lawyer				
		Letter/power of attorney				
		Pay initial fee				
6	Gathering Information	Visit the lawyer's chamber	15	30	4,200	5
		Provider of documents, records, or other things				
		Provide details of violations				
	Wait for the Next Step			30		2
7	Further Investigation	visit-06 to the Court				5
		Inquire about investigation				
	Wait for the Trial to Start			45		2
8	Framing of Charge	visit-07 to the Court	5	10	2,800	2
		Submit the case				
		Present Arguments				
	Present counter-arguments					
Wait for the Next Step			30		2	
9	Indictment	visit-08 to the Court	8	14	700	3
		Receive charge sheet of violence details against whom committed				
	Wait for the Next Step			30		2
10	Start of trial	visit-09 to the Court	7	14	5,350	3
		Present the charges				
		Receive a first hearing letter				
	Wait for the Next Step			60		2



11	Meet the Lawyer		1	3	3,200	4
12	1 st Hearing Day	visit-10 to the Court	5	15	12,500	5
		Submit documents				
		Record statement				
		Receive notice for the next hearing				
13	Meet the Lawyer		1	7	2,800	4
	Wait for the Next Hearing			20		2
14	2 nd Hearing Day	visit-11 to the Court	3	5	3,500	5
		Provide additional details				
		Submit documents				
		Record statement				
		Receive notice for the next hearing				
15	Meet the Lawyer		1	7	2,800	4
	Wait for the Next Hearing			20		2
16	3 rd Hearing Day	visit-12 to the Court	8	30	3,500	4
		Provide additional details				
		Submit documents				
		Record statement				
		Receive notice for the next hearing				
17	Meet the Lawyer		1	7	2,800	4
	Wait for the Next Hearing			20		2
18	4 th Hearing Day	visit-13 to the Court	8	30	3,500	4
		Provide additional details				
		Submit documents				
		Record statement				
		Receive notice for the next hearing				
19	Meet the Lawyer		1	7	2,800	4
	Wait for the Next Hearing			20		2



20	5 th Hearing Day	visit-14 to the Court	8	30	3,500	4
		Provide additional details				
		Submit documents				
		Record statement				
		Receive notice for the next hearing				
21	Meet the Lawyer		1	7	2,800	4
	Wait for the Next Hearing			20		2
22	6 th Hearing Day	Visit-15 to the Court	8	30	3,500	4
		Provide additional details				
		Submit documents				
		Record statement				
		Receive notice for the next hearing				
23	Meet the Lawyer		1	7	2,800	4
	Wait for the Next Hearing			20		2
24	7 th Hearing Day	Visit-15 to the Court	8	30	3,500	4
		Provide additional details				
		Submit documents				
		Record statement				
		Receive notice for the next hearing				
25	Meet the Lawyer		1	7	2,800	4
	Wait for the Next Hearing			30		2
26	Surety Bond	Visit-16 to the Court	5	3	3,950	3
		Prepare documents				
		Submit surety amount				
		Obtain Surety Bond				
	Meet the Lawyer			30		2
27	Closing Submission	Visit-17 to the Court	14	30	2,700	4
		Final Arguments from both party's lawyers				



28	Wait for the Next Step			7		2	
29	Obtain Verdict	Visit-18 to the Court	1	1	2,000	4	
		Submit application					
		Obtain verdict					
30	Wait for Detailed judgment			14		3	
31	Obtain Judge Decision	Visit-19 to the Court	7	45	700	5	
		Get a report of the judge's final decision					
	Wait for the Next Step			30		2	
Appeal - High Court/ Customs Tribunal							
32	Meet the Lawyer	Visit the lawyer	3	15	153,700	3	
		Discuss the case and the judge's decision					
		Pay initial fee					
Wait for the next step			20				
33	Submission of appeal	Prepare documents	CNIC Copy of the reporting person	3	14	6,440	4
			Notification copy				
			Complaint copy				
			Transaction details				
			written details				
			Other related documents				
			Final decision's copy				
		Visit-1 the High Court					
		Write petition					
		Submit document					



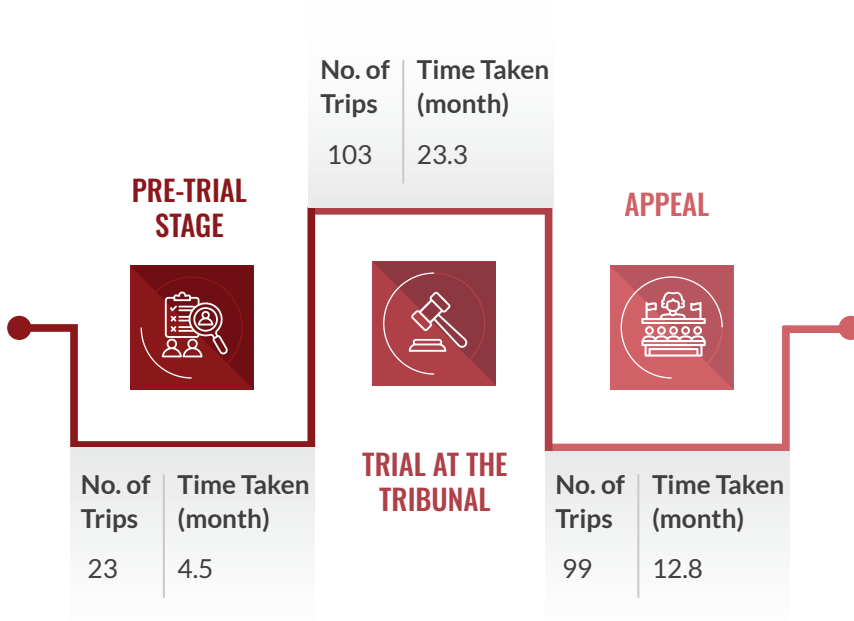
34	Wait for the next step			30		
35	Review of the Case by the High Court		1	15	1,460	2
36	Wait for the High Court Hearing			30		2
37	High Court Hearing	Visit-2 the High Court	1	1	6,800	5
		Case proceeding and argumentation				
		Examination of witnesses				
		Submission of required documents				
		Submit High Court fee				
38	Wait for Written judgment			20		2
39	Obtain a Higher Court Order	Visit-3 High Court	1	240	1,870	4
		Obtain verdict				
Total			135	1,221 (3.3 Years)	582,900	

The stress distribution across steps has been calculated by multiplying each step's total process time (including travel, waiting, and transaction time) with the stress level.





2. SOURCES OF SLUDGE



The trial stage at the Appellate Tribunal is the most time-consuming stage in these cases and the Tribunal on average takes around 2 years to decide a case related to smuggling and duty evasion. Appeals to the High Court also take around one year to dispose of.

In all these proceedings, the most time-consuming step is waiting for the next hearing or step, which consumes more than 1.3 years of the accused.

3. COST OF SLUDGE

Since any litigation not only involves direct costs but also entails indirect costs to both parties. Therefore, we measured the opportunity cost of litigation by assuming;

- Personal Time Cost:** To measure the opportunity in the form of personal time invested in pursuing judicial proceedings, we assume that the average monthly income of the accused businessperson is Rs. 350,000



monthly. Due to the accusation, he/she would not be able to earn this monthly income during the proceeding, which takes around 40.7 months. Therefore, the cost of personal time per case is around Rs. 14.2 million.

Based on the assumptions described before, we estimated the economy-wide cost of sludge in the following manner;

Head	Customs Appellate Tribunal
Processing cost	Rs. 1.16 million
Opportunity cost	Rs. 14.24 million
Cost per case	Rs. 15.41 million
Number of cases in Lahore	749
Cost of sludge in Lahore	Rs. 10.66 billion
Population of Lahore	13.97 million
Per capita cost sludge for Lahore	Rs. 763
Population of Pakistan	240.48 million
The Total cost of Sludge	Rs. 183.54 billion
Cost of sludge (% of GDP)	0.22



7.

**INCOME TAX CASE UNDER
THE APPELLATE TRIBUNAL
INLAND REVENUE**

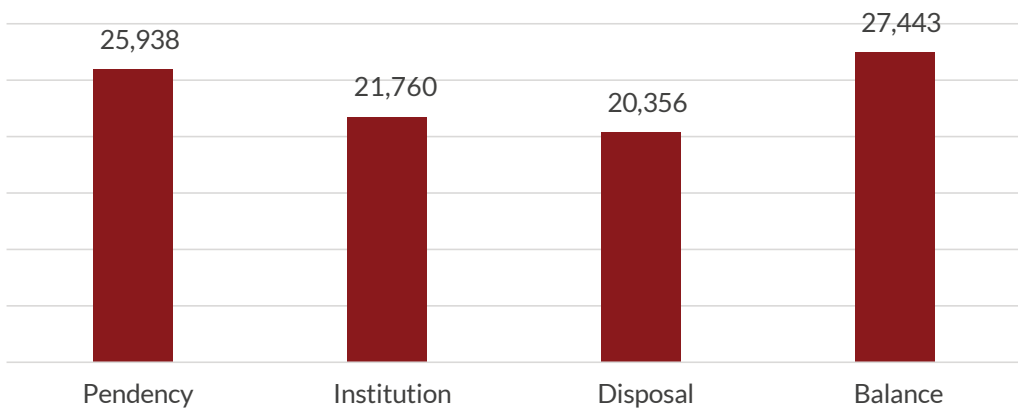


7. INCOME TAX CASE UNDER THE APPELLATE TRIBUNAL INLAND REVENUE

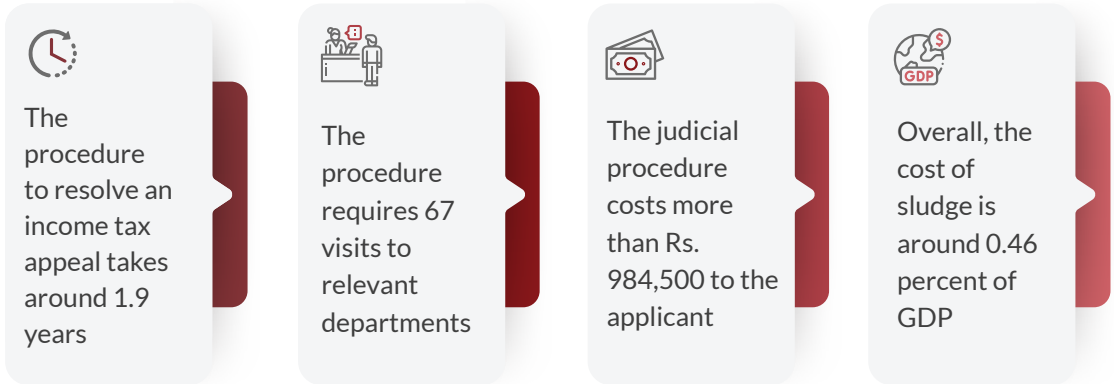
In Pakistan, if an individual or a company wishes to appeal against an income tax decision, they can do so with the relevant appellate forum. Section 127 of the Income Tax Ordinance 2001 states that any person who is dissatisfied with any order passed by a commissioner or an officer of Inland Revenue has a right to appeal to the commissioner (Appeals), Appellate Tribunal, High Court, or Supreme Court.

Section 130 of the Income Tax Ordinance 2001 states that “there shall be an Appellate Tribunal to be called the Appellate Tribunal Inland Revenue to exercise the powers and perform the functions conferred on the Appellate Tribunal Inland Revenue by this Act.” The Ordinance confers the Appellate Tribunal the power to regulate its own procedure to discharge its functions. The Appellate Tribunal Inland Revenue Rules 2010 describes the procedure of the appeal.

Statement of Cases in the Appellate Tribunal Inland Revenue in Punjab During 2022



Source: Lahore High Court Annual Report, 2022



Stages of Appeal to the Appellate Tribunal Inland Revenue

The appellate process is generally structured, and appeals are typically filed with the following authorities:

Commissioner (Appeals)

The first level of appeal is to the Commissioner (Appeals) of Inland Revenue. Taxpayers can file an appeal with the Commissioner (Appeals) against the decisions or orders issued by the tax authorities within 30 days of receiving the demand notice.



Appellate Tribunal Inland Revenue (ATIR)

If the taxpayer is not satisfied with the decision of the Commissioner (Appeals), they can further appeal to the Appellate Tribunal Inland Revenue (ATIR) within 60 days. The tribunal reviews the particulars of each case, applies the pertinent sections of the Income Tax Act, and renders decisions based on the merits of the presented arguments. After evaluating the situation, the ATIR will issue a ruling or directive.



High Court

If the taxpayer is dissatisfied with the decision of the Appellate Tribunal Inland Revenue, they can file a reference with the High Court within 90 days. The High Court has the jurisdiction to hear references against the decisions of the Appellate Tribunal.





Supreme Court

In certain cases, if a substantial question of law is involved, an appeal can be made to the Supreme Court of Pakistan. The Supreme Court has the final jurisdiction in matters of income tax appeals.



Steps in the Income Tax Appeal

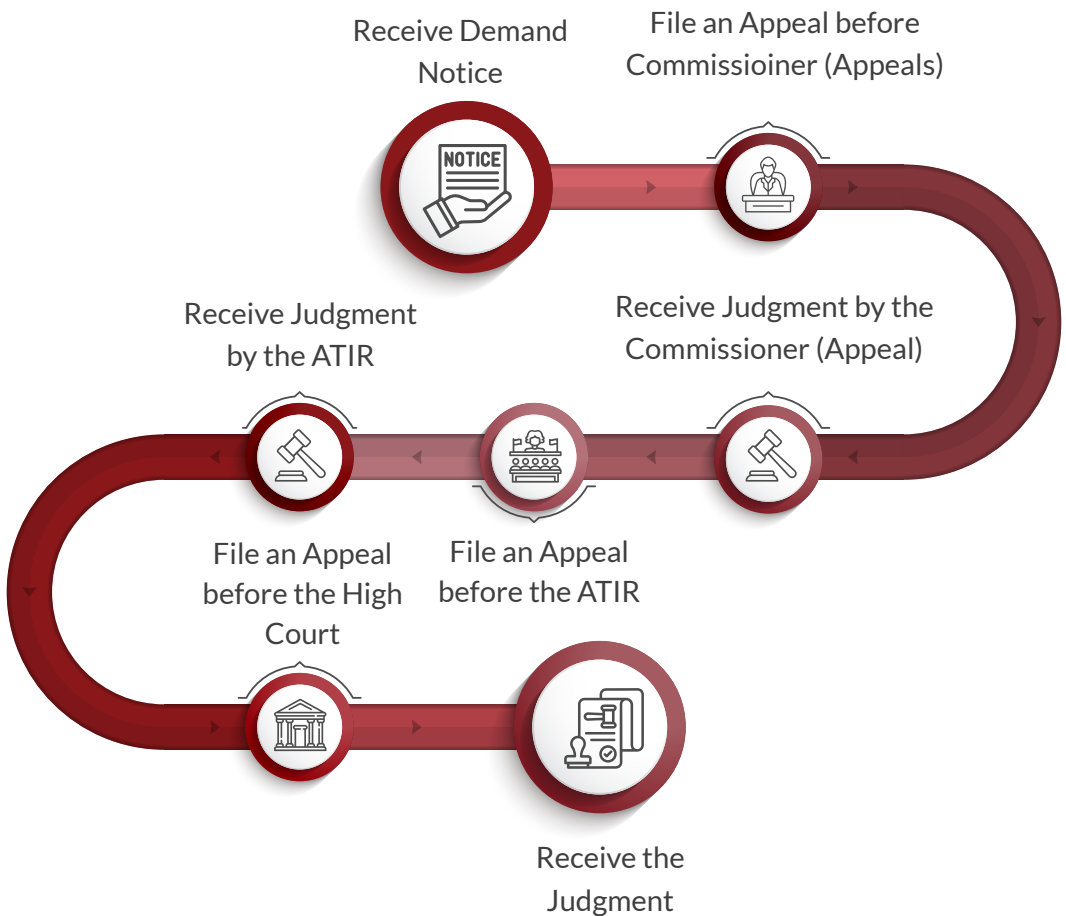




Table 7: Time, Monetary Cost, and Stress Involved in Income Tax Appeal

S. No	Steps	Description	No of Trips	Time Taken (Days)	Cost- Travelling Documents and Fee (Rs)	Stress Level	
1		Receive A Demand Notice (From the Inland Revenue Department, FBR)				5	
2	Gather Information	Visit FBR and gather information against the Notice	1	1	1,200	4	
Appeal Before the Commissioner (Appeals)							
3	Hire a Lawyer	Visit-1 to Lawyer	2	2	102,400	4	
		Discuss the case					
		Hire the Lawyer					
4	Pay Due Tax	Visit-2 to Lawyer					
		Submit the income tax return					
5	Prepare the Case	Visit-3 to Lawyer	5	21	12,500	3	
		Prepare documents (4 copies)					Fill out the memorandum
							State grounds of appeal
							Challan form of the applicable fee
							Financial statements
							Original demand notice
							Copy of assessment and penalty
							Personal documents
Other required documents							



		Handover the Authority letter/ Power of Attorney	3	3	3,050	3
6	File The Appeal before the Commissioner (Appeal)	Visit-3 to Lawyer	2	3	5,000	2
		File an appeal				
7	Wait for Appeal Processing			45		2
8	Wait for Hearing			7		3
9	Start of Trail	Visit-2 to FBR	1	1	1,200	4
		Justify the grounds of appeal				
		Cross-examination by the Commissioner (Appeal)				
10	Wait for the Next Hearing			60		3
11	Meet the Lawyer		1	1	5,600	2
12	2 nd Hearing Day	Visit-3 to FBR	1	1	5,050	4
		Cross-examination by the Commissioner (Appeal)				
13	Wait for the Next Hearing			35		
14	Meet the Lawyer		1	1	3,200	3
15	3 rd Hearing Day	Visit-4 to FBR	1	1	2,500	5
		Cross-examination by the Commissioner (Appeal)				
		Submission of related documents				
16	Wait for the Next Hearing			15		4
	Meet the Lawyer		1	1	3,200	
17	4 th Hearing Day	Visit-5 to FBR	1	1	2,500	5
		Case proceeding and argumentation				
18	Wait for the Next Hearing					
	Meet the Lawyer					



19	Final Hearing	Visit-6 to FBR		1	1	3,950	4	
		Case proceeding and argumentation						
		Submission of related documents						
20	Closing Submissions by Commissioner (Appeal)	Visit-7 to FBR		1	15	3,000	4	
		Verdict by the Commissioner (Appeal)						
21	Wait for Detail Judgment			15			3	
22	Obtain Written Judgment	Visit-7 to FBR		1	7	2,000	5	
		Obtain final Judgment letter						
Appeal Before the Appellate Tribunal Inland Revenue (ATIR)								
23	Hire a Lawyer	Visit the Lawyer		2	2	202,400	4	
		Discuss the case						
		Hire the Lawyer						
24		Visit the Lawyer		5	21	12,500	3	
		Prepare documents (5 copies)	Fill out the form of the memorandum					
			State grounds of appeal					
			Challan form of the applicable fee					
			Financial statements					
			Original demand notice					
			Copy of assessment and penalty					
			Personal documents					



		Copy of evidence that appeals file sent to the Commissioner				
		Copy of Commissioner (Appeal) Judgement				
		Handover the Authority letter/ Power of Attorney	3	3	3,050	3
25	File The Appeal to Appellate Tribunal Inland Revenue (ATIR)	Visit the Lawyer				
		File an appeal	2	3	5,000	2
26	Wait for Appeal Processing			35		2
27	Wait for Hearing			15		3
28	Meet the Lawyer		1	1	5,600	2
29	Start of Trail	Visit FBR				
		Cross-check the evidence	1	1	5,100	4
		Finish task				
30	Wait for the Next Hearing			45		3
31	Meet the Lawyer		1	1	5,600	2
32	1 st Hearing at ATIR	Visit-7 to FBR				
		Obtain final Judgment letter	1	1	5,250	5
33	Wait for the Next Hearing			25		3
34	Meet the Lawyer		1	1	5,600	2
35	2 nd Hearing at ATIR	Visit-2 ATIR				
		Testification of the record	1	1	2,500	5
		Submission of related documents				



36	Wait for the Next Hearing			21		3
37	Meet the Lawyer		1	1	5,600	2
38	3 rd Hearing at ATIR	Vist-3 ATIR	1	1	2,500	5
		Case proceeding and argumentation				
		Submission of related documents				
39	Wait for the Next Hearing			25		3
40	Meet the Lawyer		1	1	5,600	2
41	4 th Hearing at ATIR	Vist-4 ATIR	1	1	2,500	5
		Cross-examination of the evidence				
42	Wait for the Next Hearing			25		3
43	Meet the Lawyer		1	1	5,600	2
44	5 th Hearing at ATIR	Visit-5 ATIR	1	1	2,000	5
		Case proceeding and argumentation				
		Submission of related documents				
45	Wait for the Next Hearing			23		3
46	Meet the Lawyer		1	1	5,600	2
47	Final Hearing Day	Visit-6 ATIR	1	1	3,950	2
		Closing remarks				
48	Wait for the Judgement			15		3
49	Decision By Judge	Visit ATIR and obtain a judgment	1	1	200	4
Appeal Before the High Courts						
50	Hire a Lawyer	Visit the Lawyer	2	2	502,400	4
		Discuss the case				
		Hire the Lawyer				
51	Prepare the Case	Visit the Lawyer	5	35	12,500	3
		Prepare documents				



		Challan form of the applicable fee				
		Financial statements				
		Original demand notice				
		Copy of assessment and penalty				
		Personal documents				
		Copy of Commissioner (Appeal) Judgement				
		Handover the Authority letter/ Power of Attorney	3	3	3,050	3
52	File The Appeal before the High Court	Visit the Lawyer	2	3	5,000	2
		File an appeal				
53	Wait for Appeal Processing			35		2
54	Wait for Hearing			15		3
55	Examination of the Application	Visit the court	1	1	1,750	3
		Case proceeding and argumentation				
		Submission of related documents				
		Exemption petition of final order				
56	Wait for the Court's Judgment			25		4
57	Wait for Hearing			21		
58	Start of Trail	Visit the court	1	1	5,100	4



		Cross-check the evidence and investigate other parties				
59	Wait for Hearing			21		
60	Final Documents Submission	Visit the court	1	1	3,950	3
		Submit additional documents				
61	Wait for the Final Order			21		
62	Final Order Day	Visit the court	1	1	5,050	5
		Obtain final Judgment Order				
Total			67	723 (1.9 Years)	984,500	

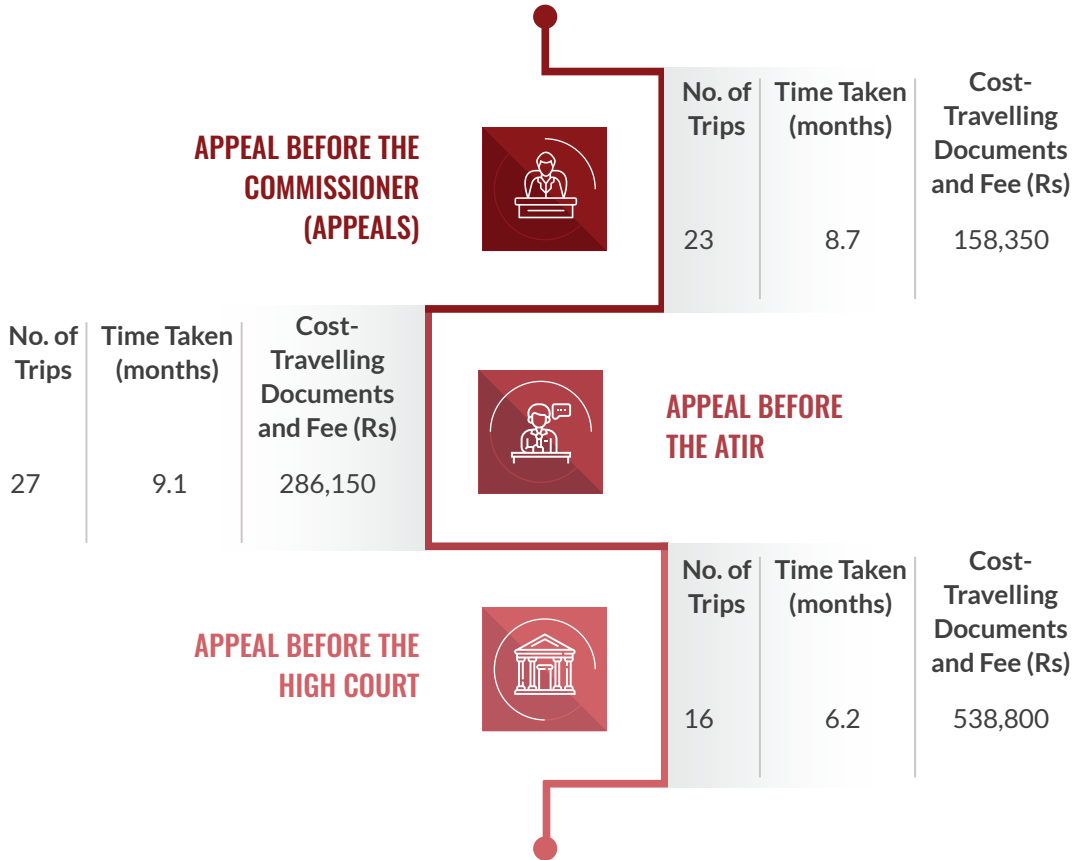
The stress distribution across steps has been determined by multiplying the total process time for each step (inclusive of travel, waiting, and transaction time) with the corresponding stress level.





2. SOURCES OF SLUDGE

APPEALS



Although rules of business do define some specific time frame to conclude an appeal in the case of ATIR, however, the cases take more than the prescribed time. Appeals before the ATIR takes around 9 months in aggregate. While filing a reference before the High Court entails the highest monetary cost.

The main source of sludge during these appeals comes in the form of waiting for the next hearing, which takes up to 60 percent time of the procedure.



Steps	Time Taken (Months)
Wait for Appeal Processing	3.8
Wait for the Next Hearing	14.4

3. COST OF SLUDGE

Appealing against the decision of the assessment done by the FBR agent at any forum not only involves direct cost but also entails indirect costs to both parties, applicant and respondent. Therefore, we measured the opportunity cost of income tax appeals by assuming;

- Personal Time Cost:** To measure the opportunity in the form of personal time invested in pursuing judicial proceedings, we assume that the average monthly income of the accused businessperson is Rs. 350,000 monthly. Due to the accusation, he/she would not be able to earn this monthly income during the proceeding, which takes around 24.1 months. Therefore, the cost of personal time per case is around Rs. 8.4 million.

Based on the assumption that the cost of appeals incurred by the FBR is half of the applicant, we estimated the economy-wide cost of sludge in the following manner;

Head	Customs Appellate Tribunal
Direct monetary cost	Rs. 1.47 million
Indirect opportunity cost	Rs. 8.43 million
Cost per case	Rs. 9.91 million
Number of cases in Punjab	27,433



Cost of sludge in Punjab	Rs. 231.48 billion
Number of tax filers in Punjab	1.69 million
Per capita cost sludge for Punjab	Rs. 136,444
Number of tax filers in Pakistan	2.85 million
The Total cost of Sludge	Rs. 388.91 billion
Cost of sludge (% of GDP)	0.46





8.

**THE NATIONAL
ACCOUNTABILITY BUREAU
(NAB): ANTI-CORRUPTION TRIAL**



8. THE NATIONAL ACCOUNTABILITY BUREAU (NAB) ANTI-CORRUPTION TRIAL

The National Accountability Bureau (NAB) was established in 1999 as an anti-corruption institution to promote accountability in the public and private sectors. The NAB can conduct investigations and initiate legal proceedings against individuals or organizations suspected of corrupt practices, financial misconduct, and other white-collar crimes as part of its mandate.

Section 9 of the National Accountability Ordinance (1999) describes what constitutes corruption and corrupt practices in the case of a public office holder or any other person. This includes accepting or offering gratification, valuable things, fraudulent and dishonest misappropriation of public property, holding benamidar assets, misuse of authority, cheating, breach of trust, and undue personal concessions. Section 10 states that corruption and corrupt practices are punishable offenses, and the punishment for these crimes will be according to the schedule.

Section 16 prescribes that the court shall hear the case from day to day and shall dispose of it within 30 days, which was later extended to one year through the amended National Accountability Act 2022.

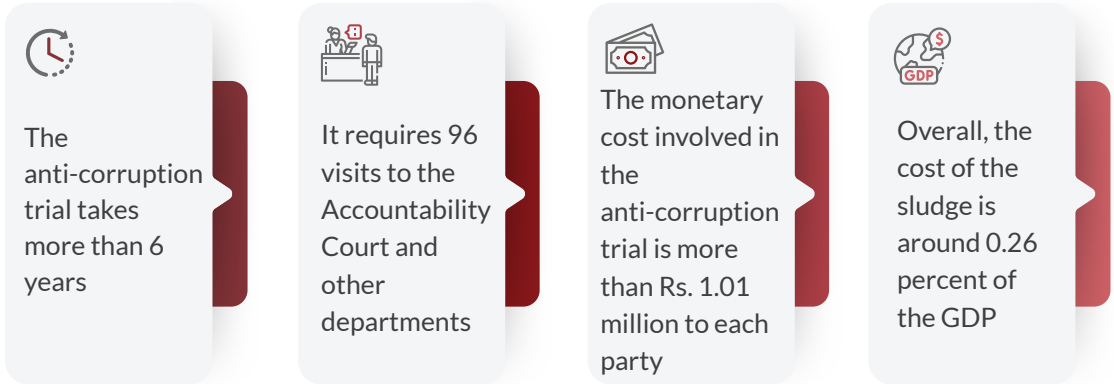
NUMBER OF CASES IN THE ACCOUNTABILITY COURTS

Year	Karachi	Lahore	KP	Balochistan	Sukkur	Multan	Rawalpindi	Pakistan
2018	10,561	10,211	5,756	1,191	20,575	4,695	8,057	61,046
2019	11,381	14,008	4,397	836	26,161	5,555	8,727	71,065
2020	6,483	5,023	2,474	473	29,208	3,063	4,287	51,011
2022	1,871	513	64	53	3,570	126	1,547	7,744

Source: Raza (2021) and BR (2024)¹⁵

¹⁵ <https://www.dawn.com/news/1625188>

<https://www.brecorder.com/news/40218850/nab-receives-7000-complaints-against-corrupt-elements-in-2022>



Stages of Anti-corruption Trial

The procedure of an NAB case typically follows these stages:

01

Complaint or Reference Registration

A NAB case usually begins with filing a complaint or reference. Individuals, government departments, or any other concerned party can submit this.

02

Preliminary Inquiry

NAB conducts a preliminary inquiry to determine whether there is enough evidence to proceed with a formal investigation. If the evidence is found to be substantial, the case moves forward.

03

Formal Investigation

NAB initiates a formal investigation to gather evidence, record statements, and collect relevant documents. This phase involves thorough scrutiny of financial transactions and other relevant activities.

04

Arrests and Detention

If deemed necessary, NAB has the authority to arrest and detain individuals during the investigation. However, this is subject to the applicable laws and regulations.



05

Reference Filing

After completing the investigation, NAB prepares a reference against the accused. This reference contains details of the charges, evidence collected, and a list of witnesses.

06

Accountability Court Proceedings

The reference is then submitted to an accountability court. The court conducts hearings and trials to determine the guilt or innocence of the accused based on the evidence presented.

07

Judicial Process

The accountability court follows the judicial process, including examination and cross-examination of witnesses, presentation of evidence, and legal arguments from both the prosecution and defense.

08

Verdict

The court delivers a verdict based on the evidence and arguments presented during the trial. If the accused is found guilty, the court will pass judgment and decide on the appropriate punishment.

09

Appeals

Both the prosecution and the defense have the right to appeal the verdict. The case may proceed to higher courts for review.





STAGES OF NAB CASE

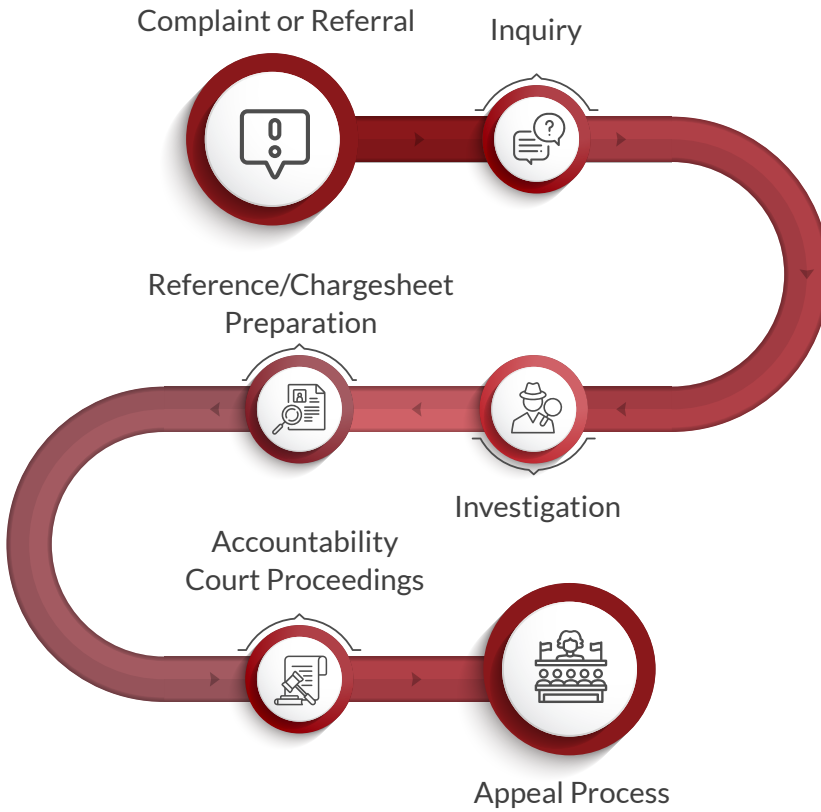




Table 8: Time, Monetary Cost, and Stress Involved in a NAB Case

S. No	Steps	Description	No of Trips	Time Taken (Days)	Cost- Travelling Documents and Fee (Rs)	Stress Level
Reference Registration						
1	Register a Complaint	Visit NAB by the applicant to file a reference	2	3	2,700	3
		Submit reference with evidence				
Preliminary Inquiry by NAB						
2	Preliminary Inquiry	Initiate inquiry process	7	30	50,650	3
		Assign Inquiry Officer				
		Collection of relevant information by the Inquiry Officer				
3	Approval for Filing a Reference	Evaluation of the reference	2	25	24,00	4
		Submit a report to the Director General				
		Forward the report to the Headquarters				
		Seek approval for filing a reference against the accused				
Formal Investigation						
4	NAB Investigation	Start the inquiry process		120		
		Collect evidence				
		Formally Submit the Challan				
		Arrest the accused (if necessary)				
		Physical remand (if necessary)				
		Prepare report				
		Submit the inquiry report				



		Inquiry copy provided to accused		60		
		Record statements				
		Determine liability for a plea bargain				
		Report submission to Director General				
		Obtain approval from the Chairperson				
5	File the Reference in the Account-ability Court	File reference		30		
		Start verification of the case				
		Submit progress report				
6	Optional Investigation	Search of documents		30		
		Record statements by the Court under the code of corruption procedure				
		Record statements of witnesses by NAB				
		Record confessions				
		Identification parade				
7	Prosecution process	Production of evidence		60		
		Record production of witnesses' statements before the Court				
		Witness signing				
8	Essentials of Challan, when Accused, are sent up for Trial	cognizance by Court		30		
		Orders from the Court				
		Submit required documents				
9	Pre Trial-Stage	Initial Court proceeding		15		
		Submission of required documents				
		Initial assessment by the Court				



10	Framing of Charges	Submission of charge sheet		2		
		Allegation details				
Formal Investigation (Accused Perspective)						
11	Receive notification of the Inquiry					
12	Gather Information	Visit NAB Office	2	3	2,400	5
		Collect Relevant information				
13	Hire a Lawyer	Visit the Lawyer	3	7	303,600	4
		Discuss the case				
		Hire the Lawyer and pay the initial fee				
14	Submit Document	Gather all the relevant documents	7	15	25,000	5
		Submit them to the Lawyer				
15	Wait for the Next Step			150		
16	Apply for Bail (in case of Arrest)	Visit to Court	2	2	1,680	2
		Apply for absolution				
17	Wait for the Next Step			90		
18	Meet the Lawyer		1	1	12,000	2
19	1 st Hearing	Visit the court	1	1	5,000	4
		Court appearance				
		Produce witnesses				
		Record statements				
		Submit documents and evaluation form				
		Issuance of notice & and date fixed for next hearing				
obtain a letter for the next hearing						
20	Wait for the Next Step			60		3



21	Reproduction of the Charge Sheet	Visit the Court	1	1	1,500	3
		Submit the charge sheet				
		Accused of attendance and supplying copies				
		Allegation details				
Wait for the Next Step			60			
22	2 nd Hearing	Visit the Court	1	1	5,000	4
		Court appearance				
		Submit documents and evaluation form				
23	Wait for the Next Step			24		
24	3 rd to 47 th Hearing	wait for the next step	45	45	60,000	4
		On average, cases in Accountability Court take 48 hearing		1125		
25	48 th Hearing	Visit the Court	3	2	2,750	4
		Submit the security letter				
		Submit the final sheet				
		Apply to get a final copy				
25	Wait for the Next Step			60		
26	Closing submissions	wait for the next step	1	2	1,450	3
		On average, cases in Accountability Court take 48 hearing				
	Wait for the Next Step			35		
27	Final Judgment by the Court		1	1	1,350	2
28	Obtain Final Copy of the Judgment		1	1	1,200	1
Appeal to the Higher Court						
29	Hire a Lawyer	Visit the Lawyer	2	2	502,400	4
		Discuss the case				
		Hire the Lawyer				



30	Prepare the Case	Visit the Lawyer		5	35	12,500	3	
		Prepare documents	Application					
			Order copy					
			Challan form of the applicable fee					
			Financial statements					
			Copy of assessment and penalty					
			Personal documents					
Handover the Authority letter/ Power of Attorney		3	3	3,050	3			
31	File The Appeal to the High Court	Visit the Lawyer		2	3	5,000	2	
		File an appeal						
32	Wait for the Next Step				38			
33	Examination of the Application	Visit the court		1	1	1,750	3	
		Case proceeding and argumentation						
		Submission of related documents						
		Exemption petition of final order						
34	Wait for the Court's Judgment				25		4	
	Wait for Hearing				21			
35	Start Of Trail	Visit the court		1	1	5,100	4	
		Cross-check the evidence and investigate other parties						
36	Wait for Hearing				21			
37		Visit the court						



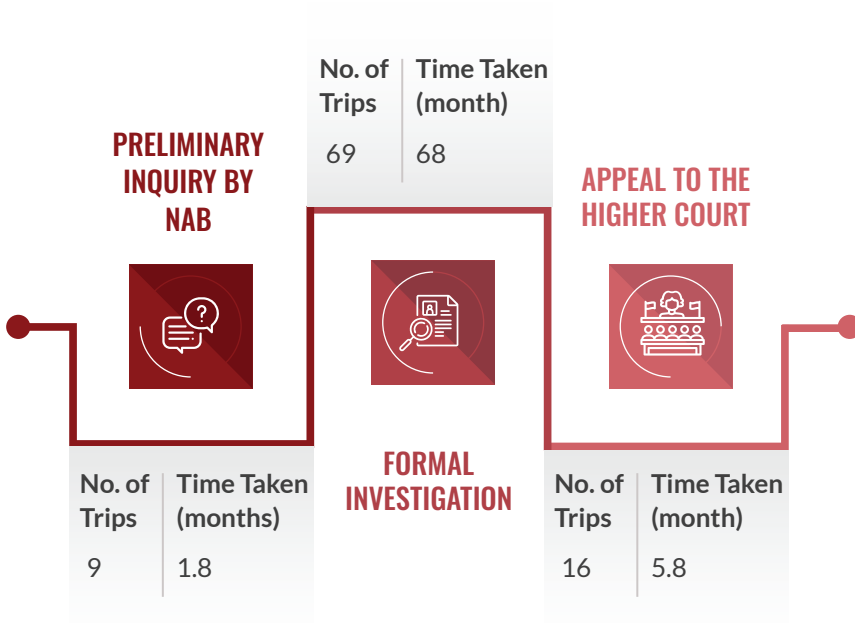
	Final Documents Submission	Submit additional documents	1	1	3,950	3
38	Wait for the Final Order			21		
39	Final Order Day	Visit the court	1	1	5,050	5
		Obtain final Judgment Order				
Total			96	2264 6.2 Years	1,017,480	

The stress distribution across steps has been determined by multiplying the total process time for each step (inclusive of travel, waiting, and transaction time) with the corresponding stress level.



2. SOURCE OF SLUDGE

The most time-consuming stage in the NAB case is the formal investigation, which takes more than 5 years to complete.



The actual sludge is the waiting period for the next hearing or next step, which consists of more than 94 percent of the procedure.

3. COST OF SLUDGE

The anti-corruption case procedure in the Accountability Court does not involve only direct monetary costs, but also indirect costs. The indirect costs in the form of loss of trust, investment opportunities, and personal stigma are critical, however, the quantification of these costs presents a daunting task. Yet to assess these indirect costs, we measured them through the opportunity cost with acknowledgment that it may be an underrepresentation of the actual costs.

- Personal Time Cost:** To measure the opportunity in the form of personal time invested in pursuing judicial proceedings, we assume that the average monthly income of the accused businessperson/public servant is Rs. 350,000. Due to the accusation, he/she would not be able to earn this monthly income during the proceeding, which takes around 75.4 months. Therefore, the cost of personal time per case is around Rs. 26.4 million.



3.1. Cost of Sludge in terms of GDP

To assess the cost of sludge in terms of GDP, we consider the following assumptions



The cost of litigation incurred by the NAB is half of the accused



Average number of cases per year is 7744

Head	NAB Case
Direct monetary cost	Rs. 1.52 million
Indirect opportunity cost	Rs. 26.41 million
Cost per case	Rs. 27.93 million
Number of cases	7,744
Cost of sludge	Rs. 216,36 billion
Cost of sludge (% of GDP)	0.26



9.

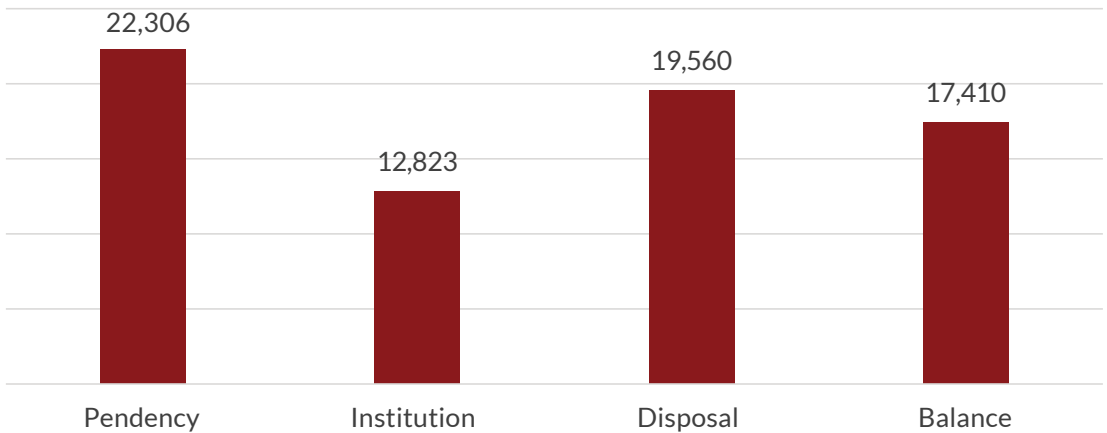
**BANKING COURT:
SUIT OF RECOVERY**



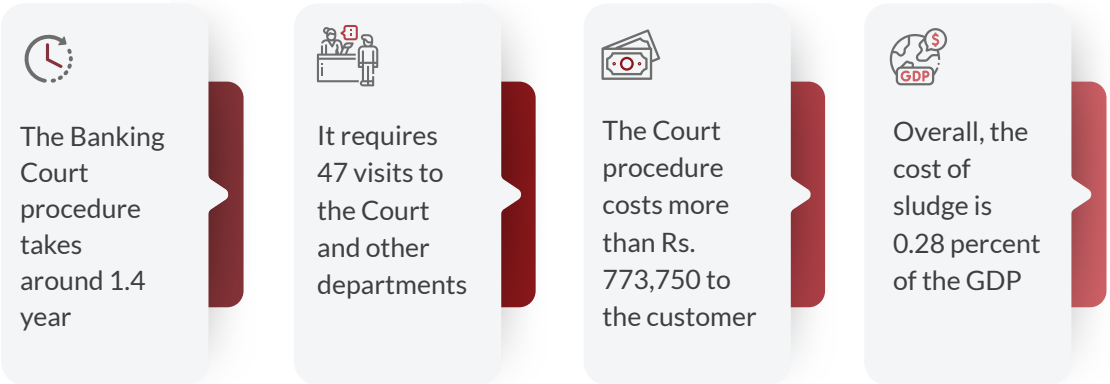
9. BANKING COURT: SUIT OF RECOVERY

The Banking Courts in Pakistan are specialized courts and work under the Financial Institutions (Recovery of Finances) Ordinance of 2001. Section 7 of the Ordinance describes the power of these Courts including the power of a civil Court as well as the power of a criminal Court. Banking Courts have jurisdiction over cases that involve the recovery of the amount loaned by banking companies or other financial institutions in the event of customer default or vice versa. Section 3 of the Ordinance stipulates that the responsibility for covering the cost of funds accrued by the financial institution, from the date of the customer's default until the actual realization, lies with the customer.

Banking Court Cases in Punjab During the Year 2022



Source: Lahore High Court Annual Report (2022)



Procedure of Banking Court

Sections 9 and 10 of the Ordinance outline the procedure that must be followed in the Banking Court.

Present a Complaint

In case of failure to fulfill obligations, a customer or financial institution can sue by presenting a verified complaint to the Banking Court along with the required documents.



Issuance of Summons

The court will issue a summons to the defendant through the bailiff by registered post and by publication in one English and one Urdu newspaper.



Leave to Defend

The defendant must apply for leave to defend within thirty days of issuance of summons. This application should include a concise overview of the significant legal questions and relevant facts for which, in the defendant's judgment, evidence should be documented.



Filing a Reply

Upon receipt of the leave-to-defend application, the plaintiff will be granted an opportunity to submit a reply.





Interim Decree

The Court can pass an interim decree after considering the contents of the plaint, the application for leave to defend, and the reply of the plaintiff.



Trial Stage

Once the leave to defend is granted and an interim decree passed, then the Court starts hearing the suit regularly. No adjournment for more than seven days is allowed, and the Court is bound to dispose of the suit within ninety days of the day on which leave was granted.



Final Decree

Based on evidence and argumentation, the Court passed the final decree. The judgment issued by the Banking Court can be appealed in the High Court.

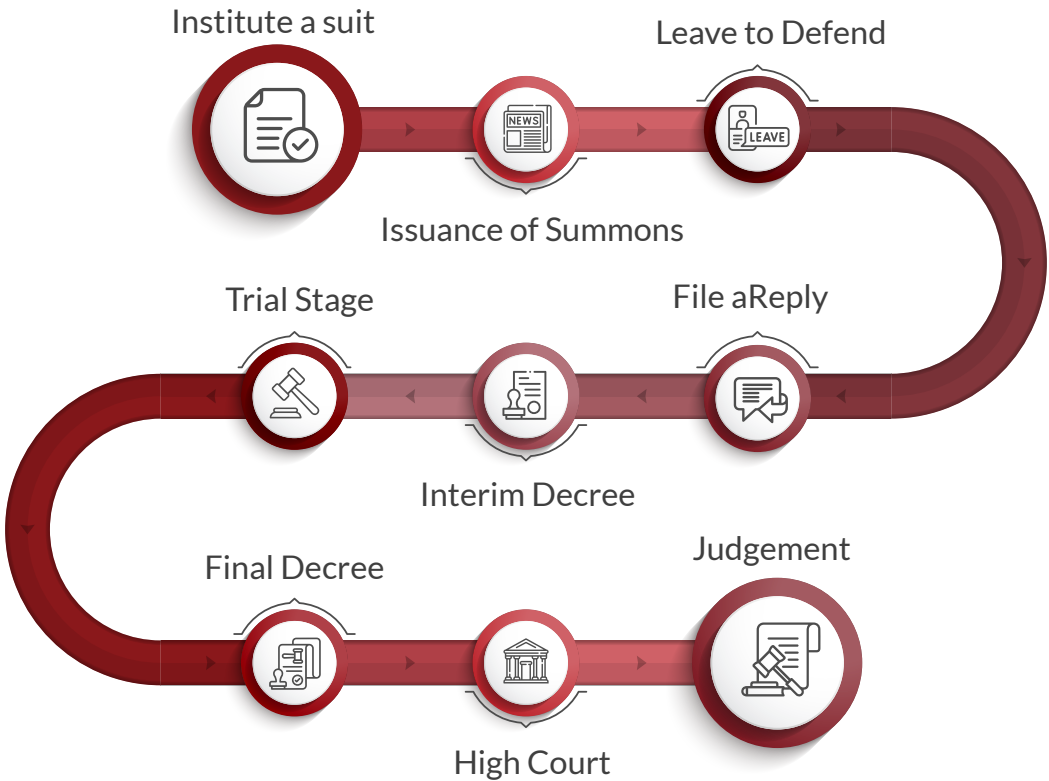




Table 9: Time, Monetary Cost, and Stress Involved in the Suit of Recover

S. No	Steps	Description	No of Trips	Time Taken (Days)	Cost- Travelling Documents and Fee (Rs)	Stress Level
1	Initial Bank Notice	Contact customer (in the case of default on first payment)		30		
2	Intimation Charges Notice	Send intimation charges in the case of no-compliance		30		
3	Front-desk Review	Initiate front desk review along with other internal departments		15		
		Send the case to the head office				
4	File a Suit of Recovery	Bank account statement		15		
		Amount involved				
		Number of payments/installments made				
		Date when the customer fails to submit the installment				
		Detail of charges and payables				
5	Issuance of Summon	A summon will be issued to the defendant along with a copy of plaint u/s 9(5)		14		
		A second summon will be issued in the case of no-compliance		14		



6	Hire a Lawyer	Search for a Lawyer	3	15	153,600	3
		Present the case with documents				
		Hire the Lawyer (Agreement)				
		Power of Attorney				
		Pay initial fee				
7	Prepare Document	Bank account statement	7	7	13,600	5
		Amount involved				
		Number of payments/installments made				
		Reply to the summon				
		Other details				
8	Leave to Defend	Visit Court	2	3	2,400	4
		File a leave to defend application along with documents				
9	Wait for the Court Proceeding	The Court may fix a date for recovery evidence		7		
10	Court Hearing	Visit-2 the Court	1	1	1,200	4
		Oral argumentation				
		Initial assessment by the Court				
11	Wait for the Court Proceeding			15		
12	2 nd Court Hearing	Visit-3 the Court	1	1	1,200	4
		Oral argumentation and assessment of evidence				
		Final assessment by the Court				
13	Wait for the Next Step			15		
14	Interim Decree	Visit-4 the Court	1	1	1,200	4
		Obtain interim decree				



15	Wait for the Next Step			25			
16	3 rd Hearing	Visit the Court	1	1	5,000	4	
		Court appearance					
		Submit documents and evaluation form					
17	Wait for the Next Step			24			
18	3 rd to 12 th Hearing	wait for the next step	9	70	50,000	4	
		On average, cases in the Banking Court take 12 hearing		7			
19	12 th Hearing	Visit the Court	3	2	2,750	4	
		Submit the final sheet					
		Apply to get a final copy					
20	Wait for the Next Step			15			
21	Closing submissions	Visit the Court	1	2	1,450	3	
		submission of final arguments from both party's lawyers					
	Wait for the Next Step			7			
22	Final Judgment by the Court		1	1	1,350	2	
23	Obtain Final Copy of the Judgment		1	1	1,200	1	
Appeal to the Higher Court							
24	Hire a Lawyer	Visit the Lawyer	2	2	502,400	4	
		Discuss the case					
		Hire the Lawyer					
25	Prepare the Case	Visit the Lawyer	5	30	12,500	3	
		Prepare documents					Application
							Order copy
							Challan form of the applicable fee
							Financial statements



		Copy of assessment and penalty					
		Personal documents					
		Handover the Authority letter/ Power of Attorney	3	3	3,050	3	
26	File The Appeal to the High Court	Visit the Lawyer	2	3	5,000	2	
		File an appeal					
27	Wait for the next step			45		2	
28	Examination of the Application	Visit the court	1	1	1,750	3	
		Case proceeding and argumentation					
		Submission of related documents					
		Exemption petition of final order					
29	Wait for the Court's Judgment			25		4	
	Wait for Hearing			21			
30	Start Of Trail	Visit the court	1	1	5,100	4	
		Cross-check the evidence and investigate other parties					
31	Wait for Hearing			21			
32	Final Documents Submission	Visit the Lawyer	1	1	3,950	3	
		File an appeal					
33	Wait for the Final Order			21			
34	Final Order Day	Visit the court	1	1	5,050	5	
		Obtain final Judgment Order					
Total			47	513 (1.4 Year)	773,750.00		



The stress distribution across steps has been determined by multiplying the total process time for each step (inclusive of travel, waiting, and transaction time) with the corresponding stress level.



2. SOURCE OF SLUDGE

While Pakistan's banking courts play a crucial role in the resolution of banking disputes, they often face several challenges that can impact their effectiveness.



Litigation can be expensive, both in terms of legal fees and the time and effort required to prepare a case. This can discourage some litigants from pursuing their claims, even if they have a convincing case.



Legal proceedings in these courts often get prolonged due to bureaucratic red tape, procedural delays, and inefficiencies, leading to delayed judgments.



Banking courts are often busy, with a backlog of cases. This can make it difficult to get a case scheduled for trial.



3. COST OF SLUDGE

Extended legal processes and delayed execution of judgments can result in heightened expenses for both financial institutions and borrowers. Banks may incur financial losses due to delayed recoveries and escalating legal costs, while borrowers may encounter accumulating interest and penalties as a consequence of prolonged legal proceedings. It is important to note that the cost of sludge per loan default case can encompass a variety of factors, including but not limited to legal fees, opportunity costs due to delays, and wider economic costs resulting from potentially reduced lending activity by banks due to uncertainties in the loan recovery process

The time and resources devoted to protracted court cases could be redirected to more productive endeavors. This expenditure not only impacts the parties engaged in the legal dispute but also has broader implications for the overall economy. To estimate these costs of sludge we consider the opportunity cost of the customers as follows:

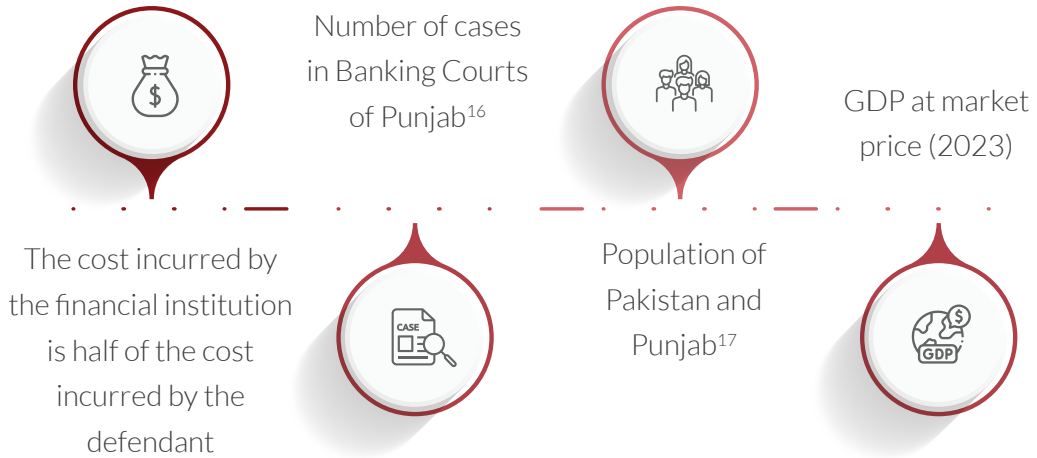
- **Personal Time Cost:** To measure the opportunity in the form of personal time invested in pursuing judicial proceedings, we assume that the average monthly income of each party is Rs. 350,000. Due to the litigation, he/she would not be able to earn this monthly income during the proceeding, which takes around 17.1 months. Therefore, the cost of personal time per case is around Rs. 5.98 million.

3.1. Cost of Sludge in terms of GDP

Our approach involves determining the cost per case and extrapolating this figure based on the total number of cases, to estimate the annual cost of sludge about loan default cases. Subsequently, we will compare this calculated value to the Gross Domestic Product (GDP) to gain insights into the proportion of the total economy affected by the cost of sludge. The calculations are based on the



following considerations:



Head	Banking Court
Direct monetary cost	Rs. 1.16 million
Indirect opportunity cost	Rs. 5.98 million
Cost of Sludge per case	Rs. 7.14 million
Number of cases in Punjab	17,410
Cost of sludge in Punjab	Rs. 124.40 billion
Population of Punjab	127.68 million
Cost of sludge per capita in Punjab	Rs. 974.28
Population of Pakistan	241.49 million
Cost of sludge	Rs. 235.28 billion
Cost of sludge (% of GDP)	0.28

¹⁶ The annual report of the Lahore High Court (2022)

¹⁷ The Pakistan Bureau of Statistics



10.

CONSUMER COURT



10. CONSUMER COURTS

Consumer Courts were established to protect and promote the interests of consumers. The courts are intended to improve the standard of goods and services by removing defective products and faulty services. In 1994, the National Assembly of Pakistan debated consumer rights legislation. As a result of the discussion, the federal ICT Consumer Rights Protection Act was promulgated in 1995. The proposed court's function was to receive complaints and investigate those complaints. Later on, the Khyber Pakhtunkhwa (KPK) government also passed the Consumer Protection Act in 1997. The governments of Balochistan and Sindh promulgated the Consumer Protection Act in 2003 and 2004, respectively, while the Punjab government legislated the Punjab Protection Act in 2005.

The main objective of the consumer protection courts is to protect consumers from damaged or substandard products, faulty services, and misleading information. It provides judicial, quasi-judicial, and alternate dispute Resolution (ADR) for Consumer complaint-driven mechanisms.

Consumer Protection Courts in Pakistan

PUNJAB	SINDH
Bahawalnagar	Badin
Bahawalpur	Dadu
Bhakkar	Ghotki
DG khan	Hyderabad
Faisalabad	Jacobabad
Gujranwala	Karachi
Gujrat	Karachi Central
Lahore	Karachi East
Layyah	Karachi West



Mainwali	Kashmore Kandhkot
Multan	Larkana
Mundi Bahauddin	Mirpur Khas
Rahim Yar Khan	Nawabshah
Rawalpindi	Noshero Feroz
Sahiwal	Sajawal
Sargodha	Sanghaar
Sialkot	Shahdad Kot
KPK	Sukkur
Abbottabad	Sukkur
Bannu	Tando AllahYar
D.I Khan	Tando Muhammad Khan
Mansehra	Tharparkar
	Thata

Number of Cases in the Consumer Courts in Punjab

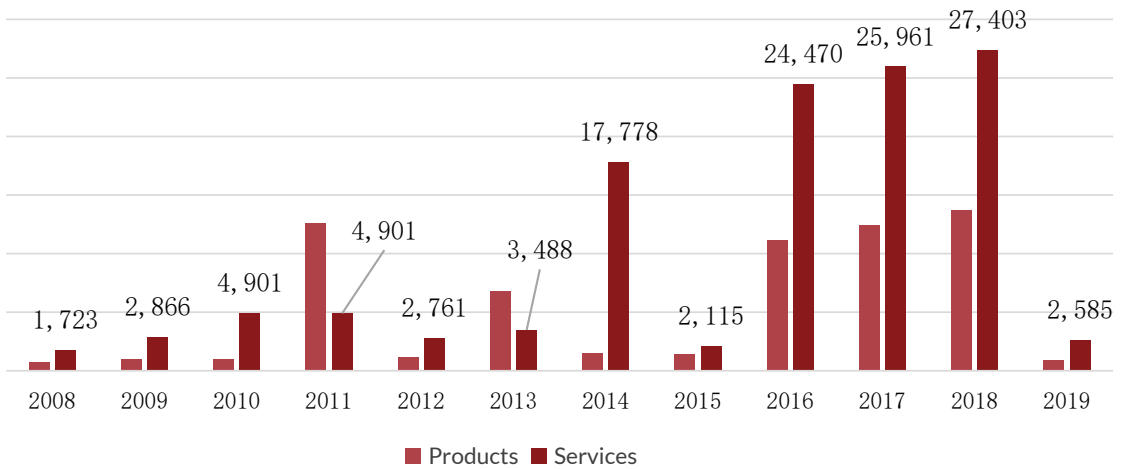
Year	Institution	Disposal	Total Pending
2008	2,418	1,503	1,107
2009	3,838	2,750	2,195
2010	3,534	3,058	3,672
2011	3,534	3,058	2,017
2012	4,668	4,487	2,687
2013	5,259	5,068	2,687
2014	4,322	5,131	2,168
2015	3,525	3,993	1,704
2016	3,006	2,639	2,071
2017	2,722	2,638	2,196




2018	2,975	2,794	2,405
2019	4,477	3,557	920

Source: Directorate of Consumer Protection Council

Nature of cases in the Consumer Cases in Punjab




 The court procedure to address consumer grievances takes around 9 months


 It requires 28 visits to the Court and other departments


 The procedure costs around Rs. 201,720 to the consumer



Stages of Consumer Court Cases

Consumers have the option to file claims against defective products and substandard services. If they are unwilling to settle, they are expected to resort to the consumer court. However, the Act acknowledged alternate dispute resolution mechanisms, where both parties can amicably resolve their disputes before formal court proceedings commence.

File a complaint

If a consumer receives a defective product or faulty services then he should complain about it to the provider. However, if the service provider does not respond within 15 days or the consumer is unsatisfied with the response, then the consumer can register a complaint in the consumer court within 30 days. The process begins with the consumer filing a complaint against the seller, service provider, and manufacturer. The complaint should be submitted in writing to the concerned consumer court.



Issuance of Notice

Once the complaint is reviewed and accepted, the court will issue a notice to the defendant and summon them.



File a Reply

Against the notice, the service provider should submit a reply in the consumer court. If there is a need to evaluate the product, the court may refer the sample of the defective product to the laboratory. However, if the service provider accepts the charges then settlement will occur.



Inquiry and Inspection

The court can issue an order to inquire and inspect by appointing a director. The director can take samples from the service provider and evaluate its standard through laboratory tests or other means.



Hearing and Argumentation

The consumer court schedules hearings where both parties present their arguments and evidence.





Judgment

After considering the arguments and evidence presented, the court gives the final judgment. The judgment can include orders for compensation, refunds, or other remedies, depending on the case.



Appeal

If either party is dissatisfied with the court's judgment, they may file an appeal in a higher court within the prescribed time frame.



Table 9: Time, Monetary Cost, and Stress Involved in the Suit of Recover

S. No	Steps	Description	No of Trips	Time Taken (Days)	Cost- Travelling Documents and Fee (Rs)	Stress Level	
1	Filing a Complaint	Visit Consumer Court	2	4	2,300	3	
		Apply with the documents					
		Obtain complaint notification					
2	Jurisdiction Determination	Wait for the Court revision about the complaint	1	21	3,800	4	
		Visit-02 Consumer Court					
		Obtain a copy of the revision					
	Wait for the Next Step			15		3	
3	Prepare Documents	Gather relevant documents	2	7	2,550	4	
		Prepare documents					CNIC copy
							Written detail of purchasing goods
							Warranty card copy



		Complaint form				
		Payment receipt copy				
		Purchase agreements				
4	Issuance of Notice	Visit-03 Consumer Court	1	3	1,870	3
		Take a copy of the notice				
	Wait for the Next Step			15		3
5	Hire a Lawyer	Search for a Lawyer	3	15	153,600	3
		Present the case with documents				
		Hire the Lawyer (Agreement)				
		Power of Attorney				
		Pay initial fee				
6	Pre-trial Stage	Visit-04 Consumer Court	3	11	6,200	5
		Defendant responds against the complaint				
		Record statement				
		Obtain a copy of the statement				
	Wait for the Next Step			15		3
7	Inquiry and Inspection	Initiation of inquiry process	2	7	4,250	3
		Wait for court inquiry				
		Visit-05 Consumer Court				
		Submit required documents				
	Wait for the Next Step			15		3
		Visit-06 Consumer Court				



8	Evidence Gathering	meet with the lawyer	1	5	2,600	2
		Gather relevant documents and proofs				
		progress report submission				
		product sample and witnesses				
Wait for the Next Step				28		3
9	Pre-Trial Stage	Visit-07 Consumer Court	1	3	5,100	5
		initial Court proceeding				
		submission of required documents				
		Initial Assessment by the Court				
Wait for the Next Step				7		3
10	1 st hearing day	Visit-08 Consumer Court	3	2	5,100	5
		Submit evidence				
		initial argumentation				
		The date fixed for the next hearing				
Wait for the Next Step				15		3
11	2 nd hearing day	Visit-09 Consumer Court	3	2	5,100	5
		Cross-examination and argumentation				
		Issuance of notice				
		The date fixed for the next hearing				
Wait for the Next Step				21		2
12	3 rd hearing day	Visit-10 Consumer Court	3	2	4,750	5
		Submit required documents				
		Submit written statement				



	Wait for the Next Step			14		4
14	Closing submissions	Visit-11 Consumer Court	1	2	1,600	3
		Submit final arguments				
	Wait for the Next Step			28		3
15	Decision by Judge	Visit-12 Consumer Court	1	2	1,450	1
		Final judgment by the Court				
16	Obtain decision	Visit-13 Consumer Court	1	5	1,450	1
		Receive a copy of the final judgment				
Total			28	264 (8.8 months)	201,720	

The stress distribution across steps has been determined by multiplying the total process time for each step (inclusive of travel, waiting, and transaction time) with the corresponding stress level.



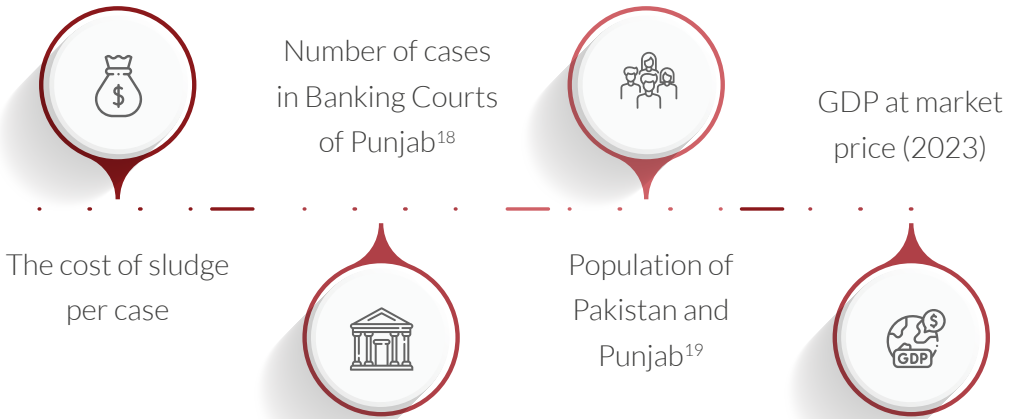


3. COST OF SLUDGE

The time invested in consumer cases also has opportunity costs, besides huge psychological and social costs. To monetize the opportunity cost associated with legal proceedings, we use the average monthly income as reported in the Household Income and Expenditure Survey (HIES). We assumed that the household that is going through the consumer court process lost around 8 months of income because of trips involved in the legal process. Therefore, the opportunity cost is around Rs. 365,596.

3.2. Cost of Sludge in terms of GDP

To assess the cost of sludge in terms of GDP, we use the following information;



¹⁸ The annual report of the Lahore High Court (2022)

¹⁹ The Pakistan Bureau of Statistics



Head	Banking Court
Direct monetary cost	Rs. 403,440
Indirect opportunity cost	Rs. 365,596
Cost of Sludge per case	Rs. 769,036
Number of cases in Punjab	3,609
Cost of sludge in Punjab	Rs. 2.77 billion
Population of Punjab	127.68 million
Cost of sludge per capita in Punjab	Rs. 21.74
Population of Pakistan	241.49 million
Cost of sludge	Rs. 5.24 billion
Cost of sludge (% of GDP)	0.006



The background is a solid red color with a complex, repeating pattern of concentric circles and dots. The pattern consists of many overlapping circles of varying sizes, each filled with a grid of small dots. The overall effect is a dense, textured, and somewhat hypnotic visual.

11.

**FRAUDULENT
INVESTMENT TRIAL**



11. FRAUDULENT INVESTMENT TRIAL

Investment fraud refers to the act of deceiving people or organizations into investing money in schemes that promise high returns, but eventually lead to monetary loss. These frauds typically prey on individuals who are eager to make quick and significant profits. Fraudulent investment tactics include misleading information, false promises, and other unethical practices that aim to trick people into handing over their money. Scammers often engage in deceptive practices by concocting fictitious investment opportunities in various sectors, such as real estate, commodities, cryptocurrency, or foreign exchange (FX) trading. To lend an air of legitimacy to their schemes, they go to great lengths to forge documents, create fraudulent websites, and produce misleading marketing materials. This elaborate ruse makes it challenging for victims to verify the authenticity of the investment, contributing to the success of the fraud. As a result, individuals are more susceptible to falling prey to fraudulent schemes, believing in the legitimacy of investments that are, in reality, nonexistent or fraudulent.

Cases involving fraudulent investment schemes are typically addressed through the legal system, and the specific court managing these cases can vary based on jurisdiction, the nature of the fraud, and local laws. Criminal courts often come into play when fraudulent investment schemes involve illegal activities such as theft, embezzlement, or fraud, and individuals responsible may face criminal charges.

In the context of Pakistan, the Securities and Exchange Commission of Pakistan (SECP) serves as the regulatory body overseeing commodities and securities markets. It holds the authority to investigate cases related to securities fraud and other financial regulatory violations, as well as to prosecute those found responsible.



Civil courts may become involved when investors or victims seek to recover their losses through legal action. In such cases, individuals may pursue compensation for damages incurred due to fraudulent investment practices.

For matters that extend beyond national borders, international courts or organizations may be involved, especially in cases of cross-border fraud or investment schemes. The resolution of such cases may depend on agreements and treaties between nations.

Within the Pakistani legal system, higher courts like the High Courts and the Supreme Court may become involved in hearing appeals or addressing matters of significant concern. These higher courts play a crucial role in ensuring justice and interpreting the law in complex cases, including those related to fraudulent investment activities.

Fraudulent Investment Cases

A substantial fraud amounting to Rs. 3.6 trillion in National Savings has been uncovered by a public sector organization.²⁰

A group of scammers, operating under the name "PSlash," has defrauded 105,000 investors in an online investment fraud, resulting in a financial loss of Rs. 5.6 billion in Pakistan's northwest province.²¹

²⁰ <https://www.dawn.com/news/1443672>

²¹ <https://www.arabnews.pk/node/1782216/pakistan>



A Karachi-based social media influencer and businessperson, operating a monthly ballot committee system, has been accused of allegedly robbing hundreds of people, predominantly women, of Rs. 420 million.²²

The Grand Avenue Housing Project, a purported housing society in Lahore, is facing accusations of engaging in fraudulent activities. Specifically, it is alleged that the project sold 2,818 files of Block A&B and 2,582 files/plots of Block C, despite not having the complete land required for the sold-out Block C of the Grand Avenue Society.²³



The fraudulent investment trial takes around 3.39 years



It requires more than 73 visits to the court and other departments



The judicial procedure costs more than Rs. 813,970 to each party



Overall, the cost of sludge is around 0.71 percent of GDP

²² <https://www.dawn.com/news/1724659>

²³ <https://profit.pakistantoday.com.pk/2021/09/05/another-day-another-fraudulent-housing-society/>



Stages of Fraudulent Investment Trial

Complaint or Petition

The plaintiff presents their accusations and petitions the court for the remedies outlined in their complaint or petition. This document encompasses details regarding the case's facts, the legal basis for the claims, and the damages or remedies sought by the plaintiff.



Framing of charges

once the application is received in the court. Then formal written responses are submitted by both the plaintiff and the defendant in reaction to the opposing party's allegations. These documents, which comprise answers, counterclaims, cross-claims, and replies, are part of the official court records and play a crucial role in shaping the legal proceedings.



Trial Stage

The trial stage, on average, a single fraudulent case entails 25-35 hearings. The specific times for these hearings are not explicitly stipulated in the law. In situations where absent witnesses need to appear, the case cannot progress until their attendance is ensured. The responsibility for procuring the presence of witnesses lies with the relevant parties involved in the legal proceedings.



Final Decree

Based on evidence and argumentation, the Court passed the final decree. The judgment issued by the Court can be appealed in the High Court.



Appeal

Both the prosecution and the defense retain the right to appeal the court's decision to higher courts if they believe errors occurred in the trial process or legal interpretation. The appeals process allows for a review of the case, and there is the potential for the reconsideration of decisions at various stages during this appellate procedure.





PROCEDURE OF FRAUDULENT INVESTMENT TRIAL

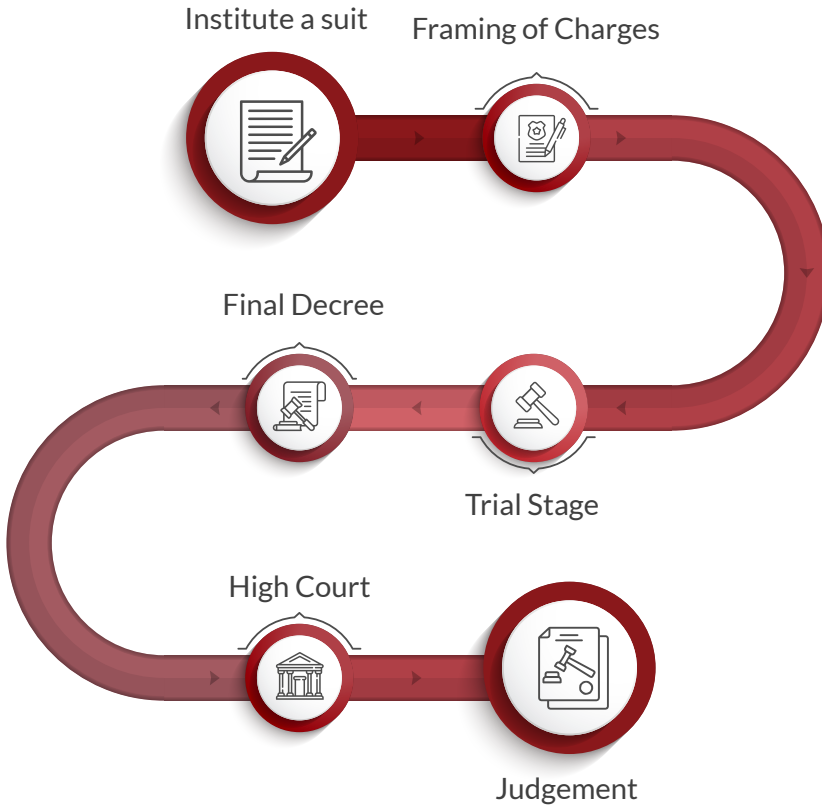




Table 11: Time, Monetary Cost, and Stress Involved in Fraudulent Investment Trial

S. No	Steps	Description	No of Trips	Time Taken (Days)	Cost- Travelling Documents and Fee (Rs)	Stress Level (out of 10)	
1	Filing a Complaint	Visit the Police Station	1	1	1,600	1	
		File a complaint and obtain a copy					
2	Hire a Lawyer	Search for a Lawyer	3	2	202,600	2	
		Present the case with the document					
		Hire the Lawyer (Agreement)					
		Power of Attorney					
		Pay initial fee					
3	File the case	Visit-1 the Court	1		300	1	
		Submit application along with documents					
		pay the Court fee					
		Prepare documents	CNIC copy	3	3	7,850	3
			Complaint form				
			Details of the case				
			Scheme related documents				
	Any other document						
4	Wait for Court's Evaluation			15			
5	Issuance of Notice	Visit-2 the Court	1	1	1,870	3	
		Take a copy of the notice					
	Wait for Court's Evaluation		7				
6	Framing of Charge	Visit-3 the Court	5	10	2,800	2	
		Submit the case					



		Present Arguments				
		Present counter-arguments				
	Wait for the Next Step			30		2
7	Written Statements	Visit-4 the Court	2	2	1,650	3
		submit written statement				
		submit the statement of evidence				
		receive date for first hearing				
Wait for the Next Step			30		2	
8	1 st Hearing	visit to the Court-09	1	2	1,600	2
		Initial argumentation				
		Cross examination by the parties				
Wait for Court's Evaluation			43			
9	2 nd Hearing	visit to the Court-10	3	3	1,650	3
		Cross examination by the parties				
Wait for the Next Step			35			
10	3 rd to 34 th Hearing	wait for the next step	31	775	46,500	
		On average, cases takes around 34 hearings		31		
11	35 th Hearing	Visit the Court	3	2	2,750	4
		closing evidence				
12 Wait for the Next Step			60			
13	Closing submissions	Visit the Court	1	2	1,450	3
		submission of final arguments from both party's lawyers				
14 Wait for the Next Step			7			
15 Final Judgment by the Court		1	1	1,350	2	
16 Obtain Final Copy of the Judgment		1	1	1,200	1	



Appeal to the Higher Court								
18	Hire a Lawyer	Visit the Lawyer		2	2	502,400	4	
		Discuss the case						
		Hire the Lawyer						
19	Prepare the Case	Visit the Lawyer		5	30	12,500	3	
		Prepare documents	Application					
			Order copy					
			Challan form of the applicable fee					
			Financial statements					
			Copy of assessment and penalty					
		Personal documents						
Handover the Authority letter/ Power of Attorney		3	3	3,050	3			
20	File The Appeal to the High Court	Visit the Lawyer		2	3	5,000	2	
		File an appeal						
21	Wait for the next step				45		2	
22	Examination of the Application	Visit the court		1	1	1,750	3	
		Case proceeding and argumentation						
		Submission of related documents						
		Exemption petition of final order						
23	Wait for the Court's Judgment				25		4	
	Wait for Hearing				21			



24	Hearing Day	Visit the court	1	1	5,100	4
		Cross-check the evidence and investigate other parties				
25	Wait for Hearing			21		
26	Final Documents Submission	Visit the court	1	1	3,950	3
		Submit additional documents				
27	Wait for the Final Order			21		
28	Final Order Day	Visit the court	1	1	5,050	5
		Obtain final Judgment Order				
Total			73	1,239 (3.39 Years)	813,970	

The stress distribution across steps has been determined by multiplying the total process time for each step (inclusive of travel, waiting, and transaction time) with the corresponding stress level.



2. COST OF SLUDGE

Since any litigation not only involves direct costs but also entails indirect costs to both parties. Therefore, we measured the opportunity cost of litigation by



assuming;

- Personal Time Cost:** To measure the opportunity in the form of personal time invested in pursuing judicial proceedings, we assume that the average monthly income of the accused businessperson is Rs. 350,000 monthly. Due to the accusation, he/she would not be able to earn this monthly income during the proceeding, which takes around 41.3 months. Therefore, the cost of personal time per case is around Rs. 14.45 million.

2.2. Cost of Sludge in terms of GDP

To assess the cost of sludge in terms of GDP, we use the following information;



Head	Fraudulent Investment Case
Direct monetary cost	Rs. 1.62 million
Indirect opportunity cost	Rs. 14.45 million
Cost of Sludge per case	Rs. 16.08 million
Number of cases	37,364
Cost of sludge	Rs. 600.92 billion
Cost of sludge (% of GDP)	0.71

²⁴ <https://www.graana.com/blog/common-types-of-financial-frauds-in-pakistan-tips-laws-more/>



12.

**COMPETITION
APPELLATE TRIBUNAL**



12. COMPETITION COMMISSION APPELLATE TRIAL

Established as an autonomous regulatory entity, the Competition Commission of Pakistan (CCP) is dedicated to fostering equitable competition in economic endeavors to enhance economic efficiency and consumer well-being. The 2010 Competition Act serves as the guiding legislation for the CCP, seeking to thwart anti-competitive practices in the market, shield consumers from the exploitation of dominant positions, and uphold a fair and competitive environment for enterprises.

The Competition Commission of Pakistan (CCP) is tasked with handling a diverse range of cases about anti-competitive practices and the enforcement of competition laws. These cases encompass Anti-Competitive Agreements, Abuse of Dominant Position, Deceptive Marketing Practices, Merger Control, Bid Rigging and Collusion, Price Fixing and Cartels, Market Inquiries and Advocacy, Consumer Complaints, Leniency Applications, as well as Compliance and Enforcement Actions.

In accordance with Section 42 of the Competition Act, 2010, an individual who feels aggrieved by an order issued by the Commission, which involves two or more members of the Appellate Bench of the Commission, is entitled to file an appeal with the Competition Appellate Tribunal within sixty days of receiving communication of the said order.

Section 33 of the Act delegates the same power as are vested in a Civil Court to the Commission in respect to:



Summoning and enforcing the attendance of any witness and examining him on oath



Discovery and production of any document or other material object producible as evidence



Accept evidence on affidavits



Requisitioning of any public record from any Court or office



Issuing of a commission for the examination of any witness, document, or both.

The List of CCP Orders

Sr. No	Categories	Total	Section the Act	Nature of Voilation
1	Deceptive Marketing Practices	46	Section 37 of the Act	Deceptive Marketing Practices
2	Prohibited Agreement	30	Section 4	Unfair trading conditions, Price Fixation
3	Miscellaneous (Orders on Non-Compliance of Commission's Orders)	1	Section 38 of the Act	For not complying with the conditions of earlier Order
4	Miscellaneous (Actions initiated under MRTPO & Disposed of under the Act by the Commission)	4	Section 5, 6 of the MRTPO	Unreasonably restrictive trade practices
5	Miscellaneous (Interim Orders)	7	Section 10, 20 32 of the Act	Interim Order
6	Miscellaneous (Withdrawal of Complaint/Application)	2	Section 5 and 9, Regulation 4 of the General Enforcement	Exemption Application under Section 5, Section 4 and Alleged Non-Compliance of Regulation 4 of the General Enforcement



7	Miscellaneous (Exemptions)	1	Section 5	Exemption Order
8	Miscellaneous (Orders Passed Pursuant To High Court Directions)	3		
9	Appellate Bench's Orders	6	Section 41 of the Act	Price fixing
10	Abuse of Dominant Position	19 353	Section 3	Unfair trading conditions, price hike, Refusal to deal Excessive pricing, Tie- in, Refusal to deal etc.
11	Approval of Mergers - Ph I		Section 11 of the Act	
12	Approval of Mergers - Ph II		Section 11 of the Act	

Source: Khan and Fraz (2022)

Main Steps in Competition Commission Cases:

Similar to many other jurisdictions, the legal process for addressing deceptive marketing practices by the Competition Commission of Pakistan involves several steps. If deceptive market practices are suspected in Pakistan, individuals or businesses can initiate legal action to address the issue. The following are the general steps that may be involved in pursuing a case related to deceptive marketing practices in Pakistani courts:

Identification of Deceptive Practices

Recognizing and documenting instances of deceptive marketing practices that may violate competition laws.





Filing a Complaint

Initiate legal proceedings by filing a formal complaint with the Competition Commission of Pakistan, providing details of the deceptive practices and the parties involved.



Commission Investigation

The Competition Commission investigates the alleged deceptive marketing practices to assess their validity and potential impact on competition.



Issuance of Show Cause Notice

If the Commission finds merit in the complaint, it may issue a show cause notice to the alleged violators, requiring them to explain their conduct.



Hearing and Evidence Submission

A hearing is conducted where the parties present evidence, witnesses, and arguments to support their respective positions.



Commission's Decision

Based on the evidence and arguments presented, the Commission decides the deceptive marketing practices, which may include penalties or corrective measures.



Appeal to Competition Appellate Tribunal

Either party dissatisfied with the Commission's decision may appeal to the Competition Appellate Tribunal within the specified timeframe.



Judicial Review

In certain cases, parties may seek judicial review by higher courts if they believe legal errors have occurred during the proceedings.



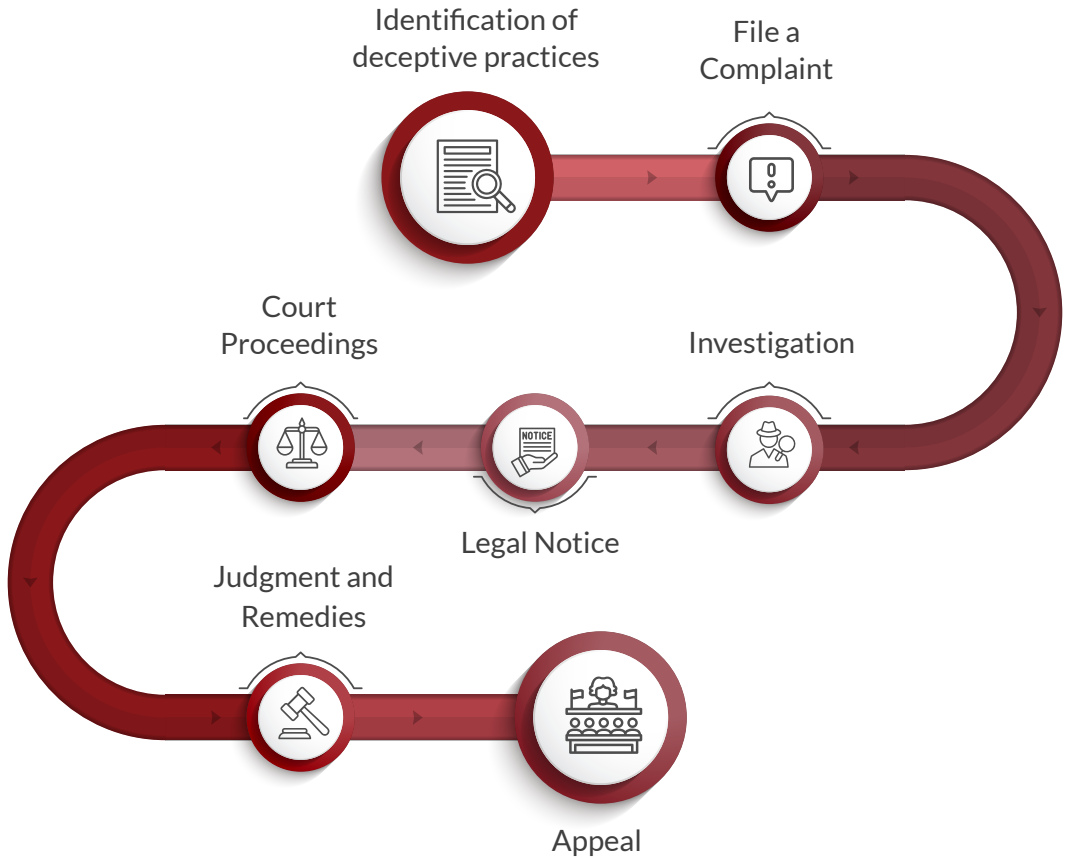
Enforcement of Decision


If the decision is upheld, the Commission enforces the penalties or corrective measures determined in its ruling.







The Procedure of CCP Trial




 The Commission trial takes around 1.47 years


 It requires more than 65 visits to the Commission and other departments


 The judicial procedure costs more than Rs. 633,845


 Overall, the cost of sludge is around 0.005 percent of GDP



Table 12: Time, Monetary Cost, and Stress Involved in Competition Appellate Tribunal Trial

S. No	Steps	Description	No of Trips	Time Taken (Days)	Cost- Travelling Documents and Fee (Rs)	Stress Level	
1	Initiate Proceeding	CCP can initiate proceedings or inquiry					
2	Documents of Deceptive Practices	Visit different sites and Markets	3	21	1,170	4	
		Gather materials, evidence, communication					
		Field survey (if required)					
		Discussions with expert/professionals					
3		Discuss the case with experts					
		Review of competition laws/consumer protection laws					
		Gather guidance and plan					
		Prepare documents					Advertisement proof
							Information of the person, address, etc.
							Detail of the case
							Written application
Copy of relevant laws/clauses							
Complaint form							



			Other necessary documents				
4	Hire a lawyer	Visit the lawyer		4	30	575,500	3
		Discuss the case					
		Hire the lawyer					
		Pay initial fee					
5	File the Complaint	Visit-02 to the CCP		2	5	1,850	2
		Apply along with all documents					
6	Evaluation and Investigation by CCP	Call for reports and other information		4	20	6,720	3
		Waiting for the Next Step					
7	Legal Notice	CCP issued a legal notice		1	5	1,640	2
	Waiting for the Next Step						
8	Alternative Dispute Resolution (ADR)	Visit-05 to the CCP		2	14	3,255	4
		Negotiation and mediation					
		Present the deceptive information and documents					
		Try to resolve the matter without a lengthy court process					
Waiting for the Next Step					15		
9	Filing of Lawsuit	visit-07 to the CCP		2	7	2,800	2
		Submit the case					
10	Pre-Trial Stage	Visit-08 to the CCP		1	14	2,200	4
		Initial Court proceeding					
		Submission of Lawyer's Power of Attorney					
		Initial assessment by the Court					



	Waiting for the Next Step			30		2
11	1 st Hearing Day	visit-09 to the CCP	2	1	9,970	5
		Submit the required documents and form				
		Provide pieces of information and sources				
		Record statements				
		Evaluation and issuance of notice				
12	Waiting for the Next Step			22		2
13	Meet the Lawyer		1	1	3,200	4
14	2 nd Hearing day	Visit-10 to the CCP	5	1	5,200	5
		Argumentation and assessment				
	Waiting for the Next Step					
15	Court Process	Visit-11 to the CCP	3	60	1,280	4
		Exchange of evidence between parties				
		submission of evidence and documents on Court demand				
16	3 rd Hearing	Visit-12 to the CCP	5	1	2,550	5
		Court appearance				
		Submission of letters and evaluation form				
	Waiting for the Next Step			38		
17	4 th Hearing day	visit-13 to CCP along with witnesses	8	1	3,150	5
		Case proceeding and argumentation				
		The witness appeared in the court				
	Waiting for the Next Step			30		



18	5 th Hearing day	Visit 14 to the CCP	2	1	3,150	5
		Case proceeding and argumentation				
		Submit required documents				
Waiting for the Next Step				28		
19	6 th Hearing day	Visit-15 to the CCP	8	1	2,750	5
		Exchange of evidence between parties				
		Waiting for the Next Step				
20	Court Last Hearing	visit-16 to the CCP	4	1	2,960	5
		Cross-examinations				
		Final arguments from both parties				
	Waiting for the Next Step				21	
21	Judgment	Visit-17 to the CCP	2	14	1,200	3
		Submit required documents				
		Receive a copy of the final decision				
22	Execution of Decision	visit-18 to the Court	6	28	3,300	3
		Apply to execution				
		execution of judgment				
		enforcement of the court's order				
Total			65	540 (1.4 Years)	633,845	



The stress distribution across steps has been determined by multiplying the total process time for each step (inclusive of travel, waiting, and transaction time) with the corresponding stress level.



2. COST OF SLUDGE

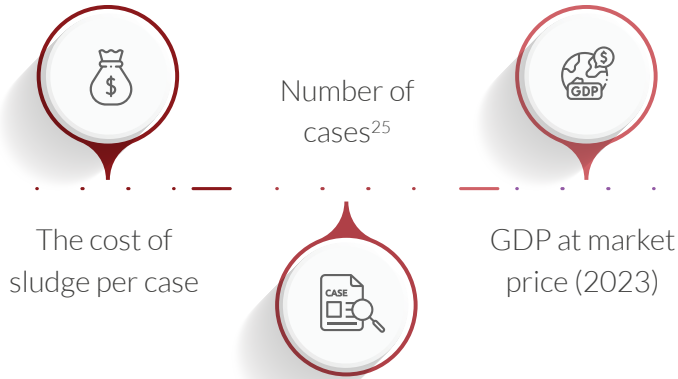
Since any litigation not only involves direct costs but also entails indirect costs to the concerned parties. Therefore, we measured the opportunity cost of litigation by assuming;

- Personal Time Cost:** To measure the opportunity in the form of personal time invested in pursuing judicial proceedings, we assume that the average monthly income of the accused businessperson is Rs. 350,000 monthly. Due to the accusation, he/she would not be able to earn this monthly income during the proceeding, which takes around 18 months. Therefore, the cost of personal time per case is around Rs. 6.3 million.



2.2. Cost of Sludge in terms of GDP

To assess the cost of sludge in terms of GDP, we use the following information;



Head	Competition Commission Trial
Direct monetary cost	Rs. 1.26 million
Indirect opportunity cost	Rs. 6.3 million
Cost of Sludge per case	Rs. 7.56 million
Number of cases	559
Cost of sludge	Rs. 4.23 billion
Cost of sludge (% of GDP)	0.005

²⁵ <https://www.thenews.com.pk/print/1123947-559-ccp-cases-involving-over-rs67bn-pending-in-courts>



WAY FORWARD: PROPOSED MODEL FOR CODE OF CIVIL PROCEDURE OVERHAUL

(Adopted from Pirzada, et al. (2023) – Investigating Procedural, Institutional, And Circumstantial Impediments Leading to Delay in Dispensation of Justice)

For a complete overhaul of the Code of Civil Procedure (1908), the automation of court processes, active case management, and the establishment of an independent body of observers to evaluate the performance of the judiciary is critical. Based on best practices around the world and key informant interviews of experts in Pakistan, the reform suggestion includes the creation of e-port and pre-condition protocols, automation of case management, the establishment of a separate administrative wing, and an independent body of observers.

E-Portal and Pre-action Protocols:

The system that has been proposed is based on two main portals - one for lawyers and one for judges. The purpose of the judge's portal is to oversee the digitized 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 if a litigant has not hired a lawyer, the main point of reference will be the kiosk desk in the administrative wing. 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 their login profile 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 promote the settlement of issues without further need to litigate.

To develop pre-action protocols, study recommendations are;

- **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** – 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 towards 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 a 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, parties should be required to present evidence of them having considered ADR along with an affidavit furnishing reasons for why ADR has failed/may not be appropriate.
- **Offers to Settle** – The defendant should consider presenting a formal offer to settle the dispute 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.

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. Furthermore, the rationale behind these pre-action protocols was to encourage the adjudication of disputes before going into litigation and to save time for Courts.



Automation

The proposed judicial model should 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 and is hoped to add an element of accountability and remedy the issue of unnecessary adjournments caused by clashes in counsel schedules alongside 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 the 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 records of file number, litigant and counsel details (address, phone number, CNIC), court fee status as well as special notes such as relinquishment of claims, and other details of 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 log 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 resilience to data breaches must be given top priority in the development of the software. Furthermore, access to the system must be strictly restricted to authorized personnel only.

Court Automation not only helps to expedite the judicial process, but it also makes the court operational in times of crisis. In Pakistan, currently, the Supreme Court, Federal Shariat Court, and High Courts have in place their automated system covering case flows and case management processes. The superior judiciary has the resources and infrastructure to adapt to the automation process. However, the status of automation in the district judiciary is grim.

Administration Wing

separate administrative judicial wing should be constituted. This wing will act in the capacity of the court to dispose of all preliminary matters of a suit that do 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 for 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 the 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., specify 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
- Decide on other preliminary matters e.g., maintainability, jurisdiction, appropriateness of court fees
- Consolidation/separation of trials where necessary
- Allocation to fast track/multitrack based on complexity of issues.
 - Fast track – cases to be resolved in a single day, submissions/evidence may be filed as affidavits or telephone submissions.
 - Multitrack – 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, conducting a cost/benefit analysis of any further steps to be taken, whether attendance of parties is necessary, and how to best utilize technological infrastructure available.

- In making any orders for adjournment/amendment 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 of proportionality.
- Costs may be imposed for repeated applications.
- Extend/shorten 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 statement

Based on the information provided, the administrative wing will assess the case. For small claims, the case may be directed to a specialized 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.

Costs, Penalties, and Adjudgments

various provisions in CPC refer to costs, however, it has been ignored by the District Judiciary and still, it has not been established as a standard court practice. This indicates that provisions regarding costs are under-utilized and therefore there are a lot of unmeritorious and vexatious cases. But with the enactment of the Cost of Litigation Act, 2017 courts in Islamabad Capital Territory (ICT) are working vehemently to award costs to successful litigants. 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.

he 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) and whether the party has succeeded on the part of 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. This will not only incur mandatory incremental costs for each adjournment, but any adjournment exceeding the predetermined limit by the administrative wing will be subject to substantial costs. Exceptions will apply in cases of acts of God, death, or public emergencies such as insurgency, imposition of martial law, tsunamis, etc.



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 authorization and mandate, they can oversee the functioning of courts, court staff, lawyers, and judicial proceedings and thereby analyze 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 the 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 are adjourning trials time and again without any sufficient cause. Further, observers can visit courtrooms and carefully monitor the behavior of judges toward 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 his actions. For instance, if the performance of a judge is not on par with the best practices for six months, he may be given show cause notice as to why disciplinary action may not be initiated against him. However, if a judge satisfies the Chief Justice, then he should only be given a fair warning for the future. This whole mechanism can make the subordinate judiciary accountable and can, therefore, enhance the performance of the judicial system.

Currently, in Pakistan, all high courts have established MIT (Member Inspection Team) wings with the purpose of monitoring and evaluating 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. Further, there is no empirical evidence that suggests that the steps taken by MIT have reduced the backlog or otherwise, improved judicial performance. Additionally, they are only deploying quantitative indicators and not addressing issues relating to the behavior of judges with litigants and lawyers which can be best assessed through a qualitative approach and by the recruitment of trained observers of courts.



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