

Exploring the Consequences of Delayed Justice System in the Disposition of Civil and Criminal Cases

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Abstract

The present study explored the possible consequences of delayed justice system in the disposition of civil and criminal cases. In Pakistan, the disposition of justice in civil cases is one of the burning issues due to the presence of several flaws in the justice system. The current study was limited to land disputes among peasants and landlords. Data were collected through interview schedule from 20 respondents- including petitioners and respondents involved in the lengthy process by adopting purposive sampling technique. The study concluded that the judicial system is inefficient, cost consuming and boring for general masses. The study recommended drastic institutional reforms in the existing judicial system to cope with such problems.

Keywords: Delayed Justice, Judiciary, Backlog of cases, civil and criminal cases, prolong litigations, consequences

Introduction

Delayed justice encourages corruption and nepotism by compelling people to adopt the alternative means for settling their disputes outside the Courts which has many drawbacks because of its informal structure (Xavier, 2009). Delayed justice is a worldwide phenomenon in the litigation of civil cases. The cases' load is increasing day by day in the civil courts. A recent report revealed that the institution of civil cases in USA increased from 2000000 in 2000 to 20000000 in 2009 which clearly indicates the process of delay in the disposition of cases (Pearsall, 2012).

There is no single nation which is exempted from delayed justice in the disposition of civil cases. Masses become tired of it and also condemn it globally. Unnecessary delay leads to dissatisfaction. Frequent adjournments leads to disappointment of people (Dijk, 2014). Similarly, the consequences of increase in trial days of a case lead to unsolved cases. For ensuring the rule of law, every

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court is bound to decide a case within reasonable time. The provision of speedy justice is necessary for development and it is also the legal obligation of a law court (Crook, 2004).

The Los Angeles superior court is one of the nation's largest judicial complexes. This court is considered to be the most delayed one in the provision of access to justice. In the year 1989, all civil cases took more than five plus years in their disposition. Causes of delayed justice in the court of Los Angeles includes the increase in recruitment of judicial officers but the gap between resources and supply of justice is the main cause of delayed justice. In simple words, we can say that filing of a new case will give birth to extra load which ultimately results in delay (James S.Kaklik, 1990).

The issue of delayed justice is one of the burning issues related to the structure of judicial tribunals. Usually, judges decide the complicated cases, and for that the judges consume more time. Of course, the judges are well trained in their profession but in some manner they also practice delayed justice. The problem of delay is more common in every judicial set up which is an interrogative mark on institutions (McMillan, 2006). One of the major issues of delayed justice is high cost of hiring a lawyer. The attributes of delayed justice are the high rate of hiring a lawyer, the hourly rate and other fees. There are other charges to be paid by clients like court filing and reader fees. The charging of these fees retards the process of justice especially in civil cases (Commission, 2012). Similarly, the famous lawyers extend a case through requesting the courts for giving another date for hearing. Higher courts take too much time on already decided cases which is a flaw in itself. Lawyers change a date on one pretext or another while sometimes pretending that they had not read the case yet. Similarly, sometimes they give application that they are busy in another law court and pave the way for postponement of a case which leads to congestion and burden on the courts (Cooper, 2013).

Masses develop lack of confidence in the flawed judiciary. According to the World Bank report many decisions of the court are not executed due to corruption and negative role of police. Parties intentionally try their best to settle their disputes outside the formal courts because the performance of the courts is less satisfactory (Goresh, 2009).

The problem of delayed justice is due to incapability of staff and their wish for black money thereby retarding the pace of speedy and fair justice. Barristers sometimes take money from the defenders to postpone or challenge a case in the higher court which is injustice in itself. Stay order is another flaw of our judicial system: if the decisions of the lower courts are wrong, there is no need to waste money and time of people on it (Khan, 2000).

People pay no respect to the law because they consider the role of judiciary in vain. People do not wait for such lengthy processes and delayed decisions and indulge in the vicious circle of enmity. Due to delayed justice simple cases are converted into complex ones and people commit murder due to elongated and useless justice (Mazhar Hussain, 2005). Delayed justice paves the way for anarchy and disturbs social solidarity. International organisations label Pakistan's judiciary as fragile, malfunctioning, undernourished and not satisfactory. In simple words, we can say that judiciary of Pakistan is tiring, cost consuming and inaccessible to all the people (Siddique, 2011).

Flawed system of summon and ineffective role of lawyers adds fuel to the fire. Lawyers for personal gains extended a case as well and the competent courts adjourn a case even for three months with exploitation by the name of justice (Falt, 1985). According to an estimate, more than twenty two million cases are still pending in lower courts of the country. Similarly, five million cases are pending in the higher courts for final decisions. Frequent adjournments are given as there are no criteria that a case has taken six to seven year and still pending in the courts (Vidhi, 2016). Majority of the cases are delayed in the registrar office from three to four years and then heard by the full bench. When a case is presented to the panel then the panel decide whether this case is fake or genuine. The consumption of too much time in the registrar office is injustice (Raheem, 2018).

In the light of the above discussion, it is concluded that delayed justice system in the disposition of civil cases prevails everywhere in the world. However, the literature shows that delayed justice in civil cases has some significant consequences for society. The present research work has tried to answer to the basic question that what could be the possible consequences of delayed justice system in the disposition of civil cases.

Objectives of the study

The following were the main objectives of the study:

1. To highlight the main issues in the judicial system in the targeted area
2. To identify the main consequences of delayed justice system in society
3. To document a research based study for policy makers.

Materials and Methods

The study was conducted in the judicial complex of district Charsadda, as civil cases between landlords and peasants exist in this area. The masses of this area fall victims to delayed justice. Data were collected with the full consent of the participants in this regard. Data from lawyers, petitioners and respondents were collected for assessing the societal perception towards delayed justice. In-depth

interviews were conducted with 25 respondents on the issue of delayed justice to explain and highlight the possible consequences of delayed justice.

Purposive sampling technique was utilized for collection of data from respondents. Respondents were approached to fully participate in the research activity (complete an interview). An information sheet was handed over to the participants thereby explaining the purpose of the research to them. Those participants who accepted the offer were interviewed. An interview guide was used that focused on hurdles regarding delayed justice in civil cases. Duration of interviews lasted from 10 minutes to 15 minutes and was audio taped. All the interviews were transcribed and codified for the purpose of content analysis. Medium of interview was English and Urdu because all the respondents could not speak English fluently. All participants were medically fit and their ages were above eighteen years.

Major Findings of the Study

About three quarters of participants were of the ages between 33 and 57; all of them were male. More than 60% were petitioners or respondents, who were engaged in delayed justice directly, 21% were lawyers who contested civil cases in different courts and 11% were defendants following civil suits. Almost half were farmers, 22% were engaged with the profession of law and 15% were employed in government organizations.

Analysis of the interview transcripts revealed the following themes:

Instituting a case in the court is final option of masses

Majority of the respondents reported that people hesitate from filing a case in the formal court of the country. It is due to the facts that they consider it useless and fruitless for them. People have no confidence in the existing judiciary because of its lengthy and flawed processes. People in general termed it a waste of time, money and at the end dispute is resolved outside the court premises through informal alternative dispute resolution mechanisms. One of the respondents Azam reported that their case took two and a half decades and finally the dispute was resolved through local *jarga* which was a blow on the face of judiciary. Similarly, if a case is settled in the lower court it is appealed again and again and there is no condition for filing a case.

Delayed justice indulges people in quarrelling with each other

The study reveals that according to the respondents delayed justice compels people on quarrelling each other. One of the respondents of village *ijara* reported that a case was decided by the high court but local people did not respect the

decision which led to the murder of three people and destruction of fifty houses in the locality. Same was the case with many other issues but due to no coverage of media, it is not disclosed to people. The decisions of the courts are not implemented in letter and spirit. Similarly, majority of the respondents reported that due to failure in implementing the decision of the cases people want to set their grudges with the help of *jarga*. In simple words, it is stated that this is the formal system which compels the masses to resolve their disputes through informal mechanism which is not based on merit.

Delayed justice gives birth to domestic issues

Findings of the study reveal that anarchy is the outcome of inefficient judiciary. The current domestic problems are due to delayed justice. One of the respondents reported that the base of the Swat tragedy was one of the consequences of judicial set up. People of the then Federally Administered Tribal Areas (FATA) considered themselves as a colony of Pakistan where they even could not appeal to the higher courts. This discrimination led to anarchy and disturbances in the country. Constitution of Pakistan guaranteed all the basic rights to its citizens. But some hawks dominated over the machinery of the state using it for their interests only. One of the respondents revealed that judiciary of Pakistan traced back to the dominancy of British who suppressed the people and now after independence we had not seen any improvement in this regard. Sue motto actions are not the solution of the problem; flaws of the system are manmade and imposed intentionally.

Decisions of the formal courts are not implemented

The study reveals that if cases are decided then its implementation is not less than a headache. Because frequent and unending appeals are existed and in most of the decided cases people compel to adopt informal *jarga* for the final solution. People try their best to avoid the formal structure of courts and devise alternative dispute resolution mechanisms, however, oftentimes their decisions are not based on merit. Members of the *jarga* are mostly illiterate and favour the mighty and powerful. State within state is the product of our flawed judicial set up.

Discussion

Possible consequences of delayed justice are the outcome of out-dated mechanism for provision of justice. Provision of speedy justice is the characteristic of any cultured society. Without a formal system of justice, no

nation can rise to the top of glory. The possible consequences of delayed justice are: people hesitate to institute a case in the court, indulge people in quarrelling with each other, and give birth to domestic issues.

Conclusion

The present study concludes that there are several causative factors which pave the road for delay in justice. The number of judges are not proportionate to the population, transfer of judges are highly politicized besides unchecked corruption. Further, the adverse effects of delay are domestic issues and anarchy which are fatal for public order and social harmony. No state is free from the hydra headed problem of delay in the comity of nations. Moreover, each and every nation is affected by delayed justice. Similarly, people perceive this deliberate delay as waste of time and money which encourages mutual enmity and quarrel. The study recommends drastic institutional reforms in the existing judicial system to cope with such problems.

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