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**A Benchmark Study on Law-And-
Order and the Dispensation of
Justice in the Context of Power
Devolution**

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A Benchmark Study on Law-And-Order and the Dispensation of Justice in the Context of Power Devolution

by

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Glossary

ADB	Asian Development Bank
AJP	Access to Justice Program
Bang	Marijuana in liquid form
Beraderi	Patrilineal clan. Also used to denote sub-caste groups
Cr. P. C.	Criminal Procedure Code
Challan	Court notice
Ehtaram-e-Ramdan	Observing the sanctity of the Islamic holy month of fasting
FIR	First Information Report
Insaf committee	Justice Committee (at the tehsil level)
Izzat	Prestige, honor
Karo-kari	"Honor killing"
Khoji	Footprints tracer / tracker
Naib-nazim	Deputy mayor
Nazim	Mayor
NWFP	North West Frontier Province
Musalihat anjuman	Dispute Resolution Association (at the union council level)
NRB	National Reconstruction Bureau
Numbardar	Village headman
Panchayat/jirga	Informal judicial council based at the local level
Patwari	Revenue department official
Qazi	Judge
Quom	Literally means nation. Implied meaning is caste in the context of kinship relations
Sardar	Chief of tribe
Tehsil	Sub-district
Tehsildar	State functionary operating at the tehsil level
Wadero	Chieftain or chief of clans or tribes at various levels
Walwar	Bride price
Zila	District

A Benchmark Study on Law-And-Order and the Dispensation of Justice in the Context of Power Devolution

Foqia Sadiq Khan and Shahrukh Rafi Khan

Abstract

The main objective of this study was to establish service delivery benchmarks regarding law-and-order and the dispensation of justice. An additional objective was to review the establishment of the judicial institutional structure that was being put into place by the devolution of power plan, 2000. Thus, the overall objective was to facilitate the assessment of this institutional structure in the future. We anticipated that the state of service delivery in this area would depend on the power structure, socio-economic status, gender and beraderi (caste) or tribe. Using a range of quasi-anthropological and other research tools that generated five data sets, we discovered this was indeed the case. For us, the surprising finding was the extent of regional variation in the nature of crime and the non-formal methods used for resolution and the relationship of village prosperity and household income with dispute resolution preferences. The poor did not trust the formal system institutions, including the police and courts, across the board, and they preferred the informal dispute resolution mechanisms such as the jirga or panchayat. In some localities, the lack of an alternative allowed feudal structures to have full play. Thus, the alternative dispute resolution mechanisms put into place by the devolution of power plan are much needed.

1. Introduction

The objective of this research was to establish benchmarks for the state of service delivery in rural Pakistan with respect to law-and-

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order and the dispensation of justice based on a documentation of people's experiences and stated perceptions and preferences and an analysis of case materials. An additional objective was to review the establishment of the judicial (service delivery) institutional structure put into place by the military government's devolution of power plan, 2000. The justification for this research was two-fold. First, to address the gap in rigorous empirical research to date on this issue and second, to establish a research benchmark to enable the documentation of improvements, if any, introduced by the devolution of power plan, 2000, via follow-up research.²

Among one of the main early initiatives of the military government that assumed power in October 1999 was the devolution of power to the grassroots level. The assumption was that accountability to the grassroots level would improve service delivery, including that of law-and-order and the dispensation of justice. Very soon after coming to power, the military government founded the National Reconstruction Bureau (NRB) and its first task was to plan this devolution. By March 23, 2000, within six months, a devolution model was proposed for public debate³ and by August 14, 2000, a proposed devolution plan was released.⁴ One of the stated objectives of the devolution plan was to bring "justice to the doorsteps" of the people at the grassroots level.

The provincial governments were expected to take this plan on board in making their own plans and for notifying the rules of business. The plan envisaged a four-tier structure below the

2 One of the co-authors of this report has conducted research to capture litigant's perceptions and experiences in another perspective (Khan, forthcoming). The Asian Development Bank has funded a series of reports on the judiciary since 1996 with The Asia Foundation as the executing agency. However, these mostly dealt with case delay, management systems, and incentive structures. The results of the latest research on local judiciary carried out by The Asia Foundation had not yet been made public at the time of our writing this report.

3 Government of Pakistan (2000a).

4 Government of Pakistan (2000b).

provinces including district (*zila*), sub-district (*tehsil*), union council, and village. No formal institutional structure was conceived for the village (grassroots) level, and hence no elections for office holders, but the plan did propose an elaborate structure of councils and committees even for this lowest foundational tier in the chain.

The provincial election commissions managed the elections in five phases for the councilor seats and *nazim* (mayor) and *naib-nazim* (deputy mayor) offices.⁵ They were completed by January and March 2001 for 18 and 20 districts respectively. The third and fourth phases were conducted for 19 and 31 districts in May and June respectively. The remaining 16 districts, excluding AJK (Azad Jammu and Kashmir) and Islamabad, had elections in the fifth phase in July. This was followed by elections for the all powerful district *nazim* and *naib nazim* offices and on August 14, 2001 (independence day), less than two years after the military take over, it was declared that the district governments were in place and that devolution of power was a reality.

The dates have been deliberately emphasized because, given the breath-taking speed with which devolution was planned and executed, it was unlikely that the proposed institutional structure would be in place and operational when declared to be so. In fact, this institutional structure, in terms of law-and-order and the dispensation of justice, was barely evident in the field by the time we did our fieldwork for this study in the spring of 2002. This is as expected and fortunate given that this was designed to be a benchmark study.

Nonetheless, we reviewed the federal (NRB) and provincial documents to identify initiatives proposed for improving service delivery with regards to law-and-order and the dispensation of justice. The proposed plan was very elaborate in institutional

5 Government of Pakistan (2000b).

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structures.⁶ For law-and-order, the investigation and prosecution branches were separated, and subsequently police reforms proposed in another NRB document. In addition, a system of union guards was proposed at the union level. Public safety and justice (*insaf*) committees were proposed for all the tiers to monitor the functioning of the police and courts based on citizen participation. Small cause and women courts were proposed at the *tehsil* level and an alternative dispute-resolution mechanism or conciliation courts at the village level. These have subsequently been referred to as the *musalihat anjuman* and are to be based on the local dispute resolution system. In addition, it is expected that councilors and office holders across the various tiers will informally engage in dispute resolution.

This study is based on quasi-anthropological field research that documents people's experiences, preferences, and perceptions regarding law-and-order and the dispensation of justice in rural Pakistan. A semi-structured questionnaire and case record analysis complements the quasi-anthropological research. We conducted this study in the rural districts of Pakistan for three reasons. First, rural areas still cover the bulk of the country's population and those with the least access. Second, it is easier to define community in rural areas with respect to a particular service. Third, urban areas are much more complex with regards to the supply of services and attributing a particular change to devolution is more difficult to ascertain.

We outline the conceptual issues we planned to work with before the fieldwork in section 2. We describe our research design and method in section 3. We present findings based on the qualitative analysis in section four. In section five, we complement this with a quantitative analysis. In both sections, the concern is with law-

6 Refer to Government of Pakistan (2000b) for the relationship at the various tiers of the bureaucracy and elected officials and other aspects of the plan.

and-order and the dispensation of justice, and a hard and fast distinction is not made. In section 6, the focus is on analyses of case materials and hence with the dispensation of justice. In section 7, we present an assessment of the dispensation of justice based on a follow-up survey of litigants and an evaluation of case histories by our legal expert. We end with a summary.

2. Conceptual issues and literature review

During the brainstorming period of the plan and after it was released, we argued that the devolution of power is only one aspect of making service delivery more effective and, to truly empower the grassroots level, it is also necessary that devolution be accompanied with other reforms including that of the police, judiciary, and administration. More important, we argued that the structural basis of power needs to be understood and that the poor can never be empowered and service delivery improved until the power structure that impedes such service delivery is altered in favor of the poor. The most obvious of such reforms include land⁷ and other asset redistribution and human and social capital formation required to undermine the power of the feudal system.⁸

In fact, to achieve the desired objective of diffusing power, the implementation of land reforms is critical and merely passing Acts is meaningless. In his study on class and power in a Punjabi village, Ahmad (1977) explored the impact of land reforms at the micro level. He studied a village in the Canal Colony in *Tehsil* Shahpur, District Sargodha, to explore the impact of the 1959 land reforms on the redistribution of “social hierarchy” four years after the reform. He found that the prerequisites to implement the various clauses of the Land Reform Act were missing. He concluded that the Land Reform Act did not change the social

7 While police, judicial and administrative reforms have been proposed or implemented, land reform as the most critical of the required set of reforms was only briefly discussed and quickly abandoned.

8 Refer to Khan (2002) for an elaboration of these arguments.

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hierarchy at the local level and that “the de facto control of land had remained in the hands of original owners.”⁹

The predominant approach in the judicial reform literature is management –oriented rather than power based.¹⁰ As earlier indicated, The Asian Development Bank (ADB) has funded extensive studies on judicial reforms in Pakistan.¹¹ These studies have fed into the ongoing "Access to Justice Program" (AJP) funded by the ADB and implemented by the Government of Pakistan. AJP is one of the most extensive programs on judicial reform undertaken in Pakistan.

It is not the mandate of this study to assess if the delivery of law-and-order and the dispensation of justice can improve via devolution without actually addressing the power structures that impede the fair delivery of these services. However, it is necessary that, as part of establishing benchmarks, the impact of feudal structures, where they exist, on law-and- order and the dispensation of justice be documented. It is important to do so in our view because even a first rate management-oriented approach to legal and judicial reforms may not fully ensure justice for the poor and the marginalized groups unless it focuses on transforming the local power structure to a more just and equitable one.

As indicated above, for establishing benchmarks on law-and-order and the dispensation of justice, our approach was documenting people’s experiences and stated perceptions and preferences and reviewing case materials. Nelson (2002) has also utilized a preferences approach and contrasted assumed preferences with revealed preferences.¹² The categories across which he assesses

9 Ahmad (1997, p. 127).

10 For example, refer to Asia Foundation (1999).

11 We were able to get access to only one of the recent reports, Asian Development Bank (2001).

12 He also refers to them as preferences in "theory" (i.e. assumed) and preferences in "practice" (i.e. revealed). In the economics literature, consumer revealed preferences, based on demonstrated behavior, has been used in the theory of consumer behavior to

preferences include individual property rights versus collective property rights, efficiency versus delay, class dispute versus tribal conflict, and law (*shari'ah*) versus custom.

He used revealed preferences to criticize the judicial reforms approach and one that merely focused on addressing “delay” as one of the main causes of the poor dispensation of justice. Based on his fieldwork in the late 1990s, he explored the relationship between property rights and preference formation in the context of land, law, and local politics in the Punjab, by looking at property case records at the district judiciary level in Lahore, Sialkot and Sargodha. He asserted that the popular perception is that “the adjudication of individual landed property disputes was compromised by the administrative problems of delay.” He argued that in fact “civil litigation in the Punjab does not represent an attempt to expedite the resolution of landed property disputes at all.” Rather, “it represents an opportunity to pursue (and prolong) local political rivalries.” Nelson viewed frivolous litigation and courtroom delay as giving an opportunity to “individual litigants to reconcile dramatic institutional change (i.e. the institution of formal law and individual property rights) with enduring local interests (i.e. kinship networks and custom).”

Nelson followed Cohn's (1987) research on law and change in North India in the early 1950s. Cohn did his fieldwork in a large Village, Senapur, in Jaunpur District of eastern Uttar Pradesh in 1952-3. The Rajput landlords adjudicated disputes prior to the introduction of British legislation in such villages. They decided disputes amongst themselves through their own Council and in addition dealt with the disputes of the lower castes, in instances when the lower castes Councils were unable to deal with them. He contrasted the local Indian attitude towards law with the formal British attitude. He concluded that while British law assumed equality of individuals before the law, people are not considered inherently equal in North Indian society. Hence, contract-driven

predict that the quantity of a commodity or service consumed will vary inversely with its price.

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rules of British law did not suit Indian society "largely dominated by values surrounding the concept of status." Thus, while British law is premised on arriving at a "decision," "the indigenous adjudication procedure of India was geared to postponing a clear-cut decision as long as possible."

This finding is echoed in Nelson's research showing the attempt of litigants in the Punjab to prolong their property disputes. According to Cohn, the North Indian society essentially looks for "compromise" and not for win or loss. The British legal system was geared to see each case in its "specific" context, while Cohn thought that a "specific case does not stand alone (in traditional North Indian society), but is usually part of a string of disputes." According to him, Indians manipulated the formal justice system from its very inception with forgery and perjury and fabricated cases to cover the real disputes and this was "an inevitable consequence of the British decision to establish courts in India patterned on British procedural law (as compared to Indian customary law).

The way people settle disputes is part of their social structure and value system. In attempting to introduce British procedural law into Indian courts, the British confronted the Indians with a situation in which there was a direct clash of the values of the two societies. The Indian response was that of manipulating the courts to prolong disputes rather than settling them. Nelson's findings are similar and he points out "...many clients visit the courts simply to prolong the resolution of their disputes. They include delay, in other words, as an integral part of their legal strategy, a strategy that is designed, above all, to avoid the strict terms of the law (*shari'ah*) in favor of the logic of local politics (custom)."

However, Nelson's work does not go much beyond this. He does not explain why custom and collective property rights continue to be the "logic of local politics?" Thus, it is important to be able to identify the incentive structures that perpetuate such logic at the local level. Further, it is important to understand how institutional

change transforms local interests, politics, and economy. In addition, it may not be helpful to think in terms of a juxtaposition of binary constructions such as "law" versus "custom" since there is complex interplay between them in the real world. For example, our field research showed that the customary practices and informal institutions such as *panchayat* or *jirga* affect the formal judicial system of police and courts, and that there is a reverse impact.

Another development is that, unlike in pre-colonial India, when the landlords used to adjudicate all disputes, now litigants prefer to approach the police or the court first in the case of criminal dispute i.e. physical fight or murder. The *panchayat* is used as a secondary institution to reach a compromise due to the delay in the court. However, the *panchayat* is often used as the primary institution in land and family disputes and, if not resolved, then the disputers engage the formal justice system. In reality, both the formal and informal justice system complement each other. However, returning to our earlier theme, both systems follow the dictates of the local power structure. The emphasis is not often on justice but on following the local balance of power among households, patrilineal clans, and factions. Hence, unless the local power structure is made more equitable through land reforms and providing opportunities for social mobility such as education, it would be difficult for either formal or the informal justice systems to dispense justice.

Following from this, we paid particular attention to the experience of crime and dispute and the delivery of justice by income group and, in some cases, based on "average" village prosperity. Our prior was that justice is neither blind nor uniform and that the social demand for a particular institutional structure for law-and-order and justice can vary both by village prosperity and income group. This is something that, to the best of our knowledge, has not been explored in this particular perspective.¹³

13 Cohn (1987) mentions the role of class only as a tertiary category. Nelson (2002) refutes the role of social class and emphasizes

Another recurring theme in this report concerns the importance of local culture and traditions in addressing the issues of law-and-order and the dispensation of justice. Thus, the research design was tailored to identify the importance of this parameter. Other conceptual constructs that we anticipated would have a bearing on the dispensation of justice included gender and, at least in an informal sense, *quoms* (caste), and *beraderis* (clan/tribes).¹⁴

In summary, our analysis is holistic and includes the role of inter-related factors like social institutions (caste/tribe), determinants of influence (land, wealth), factions (based both on local socio-political interests), and social mobility (achieved through education and migration). The particular research issues we explored in the context of the broad general themes identified above are as follows:

- What, if any, judicial institutional innovations that were introduced by the devolution of power plan, 2000, at the village level were present in the field at the time of this benchmark study?
- The nature of disputes at the village level, and how they affect the poor and women in particular,
- Dispute-resolution mechanisms people prefer to use and how they vary by income group and village prosperity.

3. Research design and method

kinship groups. Ahmad started with a class analysis of village life but did not explore the linkage of class with the disputes.

- 14 There can be many clans (*beraderis*) within a caste (*quom*). For example, in parts of the NWFP and the Punjab, Syed, Gujjar, and Swati are separate castes. Within these castes, there are various sub-castes, clans, or *beraderis*. These distinctions are not strictly maintained in common parlance and people sometimes use the terms interchangeably. In parts of the NWFP, Sindh and Balochistan, tribes play a more prominent role. There is much anthropological and sociological literature on the nature of castes and tribes and their social impact. According to Ahmad (1997), caste does not play as rigid a role in the Canal Colony as it does in most parts of India.

Our research objective, as stated earlier, was to provide benchmarks on judicial governance and record preliminary changes, if any, due to the implementation of the devolution of power plan, 2000. The initial empirical approach to doing this was to be based on exploring public perceptions regarding law-and-order and the dispensation of justice at the grassroots level. We developed a detailed semi-structured questionnaire based on the UN Report Card instrument.¹⁵ We had resources to cover four districts and chose one rural district per province. We had the following three options for the selection of rural districts, each likely to present distinct policy findings:

- 1) Choose the most advanced rural districts,
- 2) Choose the most backward rural districts,
- 3) Select rural districts randomly.

We adopted the first option on grounds that the most advanced district should roughly reflect the best of what is available in terms of service delivery. Thus, as a benchmark, it would provide a useful indicator of the policy task that needed to be addressed. Our research design was a purposive selection of the most advanced district in each province based on development rankings.¹⁶ After the purposive district selection, we randomly selected *tehsils*, union councils, and villages as indicated in Appendix 1 (based on a 10 percent selection within each category).

Initially, our research method was based entirely on a semi-structured questionnaire. We spent over a month to develop a detailed and comprehensive semi-structured questionnaire (Appendix 3) to establish a benchmark on the handling of law-and-order and the judicial system in the transition period with the onset of devolution. We worked on over a dozen drafts of this questionnaire. The main sources were some priors, the knowledge gained from a project done with the Asia Foundation,¹⁷ and

15 A "report card" instrument has been used by the UNDP in other contexts to assess public perceptions regarding service delivery.

16 Ghaus et. al. (1996, pp. 593-614).

17 Khan, forthcoming.

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documentation on devolution available from the National Reconstruction Bureau (NRB) and the Provinces.

To summarize, our sample design was to purposively select districts and then randomly select *tehsils*, union councils, villages, and households. Thus, the unit of analysis was to be the sampled household, based on a 10 percent household selection in the sampled villages. Having engaged in the selection, the intention was to solicit the respondents' views on the following:

- 1) Identifying the nature of problem/s or dispute/s households confront,
- 2) Mapping the chain of the mechanisms/institutions for dispute resolution and role of new institutions, if any, introduced by the devolution of power plan,
- 3) Identifying the difficulties/problem in getting fair, speedy, and inexpensive justice.

The objective was to get information on both informal (family and community, *panchayat* or *jirga*) and formal (police, local bureaucracy, civil courts) mechanisms for resolving disputes. We planned to also inquire about the institutional innovations introduced by the devolution of power plan i.e. the *musalihaat anjuman* and *insaf* committee and the role played by the union, *tehsil*, and district councilors and office holders. By soliciting information on old as well as current problems, we planned to also identify the initial difference between the functioning of the old district administration and the new district, *tehsil* and union administration after devolution.

We selected and trained the field team in the first week of March 2002. After intensive training, we pre-tested our questionnaire in Village Saloha, District Kahota, with a seven-member field team. Unfortunately, the questionnaire was a complete failure in being able to capture social reality regarding the subject under study for the following reasons:

- 1) People were reluctant to divulge the details of their personal disputes and the semi-structured questionnaire

- approach, no matter how sophisticated and nuanced the instrument, was clearly not adequate,
- 2) Institutional innovations such as the *musalihat anjuman* had varying designs, that were locality specific, relative to the one identified in the proposed local government rules of business,
 - 3) Valuable information about the design of village based *musalihat anjuman* and the role of a member of the union council in addressing harassment was forthcoming during informal discussions and probing rather than from responses to the semi-structured questionnaire.

We decided to stick to the random selection of *tehsils*, union councils, and villages as identified above. However, our research design changed in that the randomly selected village, rather than households, became the unit of observation. Based on our observation and discussions with the field team after the pre-test, we also decided to rely more heavily on quasi-anthropological qualitative techniques. The reason was that information relating to disputes is very private and people do not want to reveal it unless one builds a rapport with respondents. Generally, villagers were extremely reluctant to talk about disputes in their respective villages. “There are no disputes in our village” is the most frequent response encountered during fieldwork. Thus, a high degree of sensitivity and persistence was required to acquire the needed information.

While the sampled village became the unit of analysis, our investigative approach changed from merely focusing on people’s perceptions. Given the sensitivity of the issue at hand and the obvious danger of response bias, we decided to also document people's experiences regarding law-and-order and the dispensation of justice. Thus, real-life stories would reveal both experiences and perceptions. Hence, we decided to interview respondents in the households with direct experience with the formal and/or informal dispute resolution mechanism. We took their oral testimonies of

the dispute resolution mechanisms as an empirically valid commentary on the dispensation of justice at the local level.

We used the research tools identified below to gather information about disputes and their resolution mechanisms. The fieldwork was conducted from March to May 2002 in 26 sampled villages of Toba Tek Singh (Punjab), Haripur (the N.W.F.P), Sibi (Balochistan), and Larkana (Sindh) in this stated order.

3.1 Village socio-economic profile

With the help of group interactions, we constructed a village profile that revealed the composition of the various *beraderis* (clans/tribes) and the socio-economic status of the village. As anticipated, we observed correlations between the village's socio-economic development and its dispute resolution pattern that is elaborated on in the findings section below.

3.2 Village dispute map

We needed to identify households in the village that had been involved in dispute(s) and had experienced the formal and/or informal dispute resolution mechanism(s). It was difficult to locate such households for reasons cited earlier. We went to a village influential's (also the village councilor) house in our first sampled village Chak No. 713. We found out about a dispute and then located others through a snowballing technique.¹⁸

We decided to change our strategy in the next village. After introducing ourselves, we used a social mapping technique that proved to be very effective in enabling us to quickly build rapport with the villagers. We found a public place, introduced ourselves, and requested villagers to make a map of the village. We initiated the process by asking villagers to draw the prominent landmarks

18 This entails asking a household involved in a dispute about other similar households and then following the lead and in a snowballing fashion generating more leads as one goes along.

and communal places in the village (i.e. mosque, schools, shop, main square, water channel, village meeting place) and/or the residence of members of the *panchayat*.¹⁹ Generally, following some initial hesitation, a few villagers showed an interest and we encouraged them to draw the map. It started with a few lines and then others joined in. We adopted this process for the rest of the villages.

As observers and facilitators, field researchers took notes and prompted only when necessary as the social mapping took off. They gradually moved the mapping towards acquiring more sensitive information i.e. the mapping of major disputes and identifying the names of households who had been involved in disputes in the village. Using this method, villagers not only constructed a “dispute” map, but, in the process, we obtained general information to construct the village socio-economic profile.²⁰ The field team was also alert to the possibility of identifying key informants to work with as they compiled an inventory of households engaged in disputes. Both female and male research teams engaged in separate social mapping exercises to get a female and male perspective on disputes.

3.3. In-depth interviews

Based on 3.1 and 3.2, we selected respondents, who had directly experienced a dispute for the in-depth interviews based both on qualitative methods and the semi-structured questionnaire (Appendix 3). At this stage, we had decided that it was best to ascertain people's perceptions and preferences by carefully documenting their recounting of their experiences.

3.4 Control interviews

We also interviewed some households who had not been identified as being directly involved in a dispute, as in 3.3. The purpose of

19 Alternative names for *panchayat* in the local idiom in the villages in Toba Tek Singh are “*akhath*” or “*parya*”.

20 The whole process was documented for each village.

doing so was to get a holistic picture of the prevalent perceptions on law-and-order and judicial issues.²¹ Ideally, we wanted to interview households in the neighborhood of an in-depth interviewer with roughly similar socio-economic status as those engaged in the disputes. However, it was difficult to do so without a detailed socio-economic and dispute census of the village. Hence, we conducted some control interviews in every village based on information that the respondents had not been involved in disputes. In quite a few cases, our control respondents also turned out to have been involved in a dispute. This reflects the under-reporting of information about disputes.²² While we initially confronted statements such as there is "no dispute in the village," by the end of our fieldwork in most villages, we came away certain that almost every household was involved in some dispute.

Wherever possible, we interviewed members of the union council, the union council *nazim/naib-nazim*, members of the *musalihaat anjuman*, and judges to get a perspective on dispute resolution from the viewpoint of local decision-makers and to document their views on the role of the new devolution initiated institutions as dispute resolution mechanisms.

3.5 Case record analysis

Keeping in mind the objective of establishing benchmarks, we decided to triangulate our qualitative and quantitative field findings with case record analysis. The purpose was to get another perspective on the dispensation of justice at the local level.

Since our primary concern was to analyze the state of affairs of the judiciary at the grassroots level, we focused on the case record at the lower tiers of the judiciary: civil judge and additional and sessions judge. In every district, we covered the courts in our sampled *tehsils*. The number of lower courts varies from district to

21 Due to the difficult nature of this research, we were not able to use strict controls for age, socio-economic status, or education.

22 Based on our fieldwork, we can confidently state that disputes related to women are the most under-reported.

district depending on the size of the district. We sampled cases based on resources available as follows:

- 1) One additional, one sessions, and one civil judge (we covered a senior civil judge when possible). We managed to cover more than 50 percent of the courts of our sampled *tehsils* in all cases.
- 2) We randomly sampled 2.5 percent of decided cases.²³
- 3) We gathered the files of the sampled cases from the courts. In some cases, we only got the application, rebuttal, witness statements, and the decision of the court. In other cases, we were able to get details of the hearings as well. This was a laborious process and, while the district and sessions judges were cooperative, the judges at the lower level were generally apprehensive. They rightly feared that access to the decisions adjudicated by them would enable their performance to be accessed.
- 4) In a follow-up survey, we interviewed the litigants of the sampled decided cases to gather socio-economic data and to ask follow-up questions on the case.²⁴ We tried to interview both the plaintiff and defendant, but this was not always possible.²⁵
- 5) In the final stage in this analysis, we engaged a prominent legal expert to get an objective evaluation on the quality of dispensation of justice based on documents we provided them with.²⁶ The idea was to ascertain if justice was blind to socio-economic status and gender.

The research tools identified above to generated five complementary data sets. Based on 3.1 - 3.5, a large amount of qualitative information was generated in the form of field notes. The field notes recorded the respondents' stories and experiences with the formal and informal

23 Details by provinces are provided in Appendix Tables 2.1 – 2.4.

24 The socio-economic status sheet is included as part of the semi-structured questionnaire in Appendix 3.

25 The follow-up survey was made more challenging in family cases because we were told that, on the advice of the lawyer, the litigants often provided the wrong address on court documents.

26 Justice Shafi-ur-Rahman.

justice system. These notes were then converted into detailed field reports by the field researchers. The quantitative information in the semi-structured questionnaires generated a data set for quantitative analysis. The case records represented the third data set. The follow-up survey of litigants enabled us to compliment the case records by reporting the litigant's perspective. During the follow up interview, we also gathered socio-economic data to profile the litigants. We also gathered some basic information from the litigants on the expenses they incurred. Finally, we had our legal expert evaluate the case histories and respond to a performa. All five data sets were used for this report, although the qualitative data set, as expected, yielded the richest insights.

4. Findings from qualitative data

The qualitative research complemented earlier research conducted by SDPI.²⁷ In the earlier study, we explored the perspective of people who attended the courts. In the present study, we were able to attain a more holistic picture of litigants, non-litigants, and would be litigants.

The new institutional innovations such as the *musalahat anjuman* and *insaf* committee were not in place and that is not surprising. However, union councilors, *nazims*, and some tiers of local government were in place and they did get involved with case adjudication. However, their sphere of influence and degree of effectiveness varied.

The presence of the union council members, *nazim*, and other functionaries was evident in quite a few villages in the Punjab and the NWFP. However, the local elite captured the important positions of union council *nazim*, *tehsil nazim*, and district *nazim*.²⁸ Hence, one could not expect them to go beyond the dictates of the local power structure to dispense justice.

²⁷ Khan, forthcoming.

²⁸ This is consistent with the findings of several reports on local government elections. For example, refer to Bari (2001), Bari and Khan (2001), and Khan, Akhtar and Khan (2002).

Nonetheless, they still needed to appear responsive to their electorate.

We interviewed an energetic woman councilor in Naqarchian, Tehsil Ghazi, District Haripur, NWFP. She was a mid-wife before becoming a woman councilor, and was intent on working for the people in her village. Such individuals represent a small window of opportunity for justice created by the devolution plan.

The devolution plan initiated institutions for the dispensation of justice were not present in Sindh and Balochistan during the fieldwork. Even the role of union council members and *nazim* was not mentioned to us during the qualitative interviews. Perhaps due to the greater presence of a feudal / tribal structure in the rural areas of these two provinces, the need to be responsive to the electorate is not as a compelling force as in the non-feudal parts of the Punjab and the NWFP.

Across the board, poor households generally found it difficult to access the formal justice system because of the prohibitive costs associated with litigation. A chapter on socio-legal issues in Asia Foundation's Integrated Report (1999) is consistent with this finding. However, this is only part of the story. Rich households refrain from getting into litigation to avoid the costs this entails in terms of time and money. Hence, in a prosperous village in Toba Tek Singh, people preferred to resolve their disputes through the *panchayat* to save on these costs.

Apart from poor households, women also found it difficult to access the formal system. Women are killed, ostensibly to protect the family honor, but these crimes are actually part of local economic exchange as will be explained below. Unlike the poor households in general who do not approach the courts and police due to prohibitive costs, women also suffer from social sanctions in case they do approach the formal system. As such, crimes against them are not considered "violations." Due to social and economic pressure, parents or guardians of *karokari* (honor killing) victims

are entitled to pardon the aggressors even if the murder is reported and makes it to the court. This does not leave the judge with any choice but to accept the pardon. A recommendation voiced by the women from Balochistan and Sindh was that these so-called “honor killings” should be considered murder and as such non-pardonable.

The violation of *izzat* (honor), directly or indirectly, underlay many disputes. Litigants often spent more money than the worth of the property at stake for the sake of *izzat*.²⁹ While *izzat* is generally translated as honor, a more appropriate translation is “prestige” or “face saving.”³⁰ While disputes related to women are generally viewed as honor related, the concept is broader. Thus, it may appear puzzling to outsiders to observe people spending money and time to protect their prestige. However, it represents a strong cultural compulsion in the “highly interactive” societies of rural Pakistan. Socio-economic status is determined not only by wealth or assets (land) but also by intangible indicators such as *izzat* and this probably partly explains the high incidence of *izzat* related property and criminal disputes. This finding also represents an important conceptual issue that was not part of our “priors” before the fieldwork.

The rest of this section reports on findings from the four districts and these are summarized at the end of the report.

4.1. Toba Tek Singh

According to the local folklore, Toba Tek Singh was named after a water pond that belonged to a Sikh called Tek Singh.³¹ It was developed as a planned settlement by the British government in the

29 Lefebvre (1999) has also studied the impact of honor in his study of two villages in the Punjab. The higher expense resulted both from court delays and their being milked by layers and other court functionaries and their unwillingness to let go because their “*izzat*” was at stake.

30 In more simple terms one could refer to it as ego.

31 A water pond is called *toba* in Punjabi. According to folklore, Tek Singh used to provide water to visitors from the pond by the railway station.

1860s with every village almost a square. Villages usually consist of about 62 *murabahs* (25 acres). Sugar cane, wheat, and rice were among the main crops grown. Arain and Jat were the common castes across Toba Tek Singh, and the language most commonly spoken was Punjabi. We reflect below on the research issues identified in section 2.

4.1.1 Institutional innovations introduced by the devolution of power plan

Institutional innovations such as *musalihat anjuman*, *insaf* committees, public safety committees, or conciliation courts had not been established at the grass roots level (i.e. by March 2002). *Nazims*, *naib-nazims*, and members of the union councils were in place. However, people generally did not approach them for dispute resolution.

Some information was gleaned about the *musalihat anjuman* in Chak No. 703/45 GB, Union Council, 694/GB, *Tehsil* Kamalia, District Toba Tek Singh. The *numbardar* (head) of the village, Raja Tahir, was one of the members of the *musalihat anjuman*. The *anjuman* was formed at the union council level and represented the 14 villages of the union council. However, out of the 14 *numbardars*, only five of the more influential ones along with the union council *nazim* were members of the *anjuman*. Since the formal *anjuman* was only a few weeks old at the time of the survey, it had received only six cases, the majority being family cases.

It was much easier for Union Council 694/GB to institutionalize the *musalihat anjuman* because the prominent *numbardars* of some villages were already resolving disputes in their own union council under the leadership of a former district council chair. The *anjuman* had resolved three cases and had referred the other three to other formal institutions such as the police and courts. The police considered the recommendations of the *anjuman* on resolved cases as binding.

4.1.2. Nature of rural disputes

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Disputes in rural areas were conditioned by the local power structure. People often got involved in disputes for “face saving” or “prestige” defined above as *izzat* (honor). We interviewed several households that had spent five to ten times more on litigation than the monetary value of the disputed property.

Dispute and factionalism between *beraderis* in a village could develop and be exacerbated by party politics. Establishing *chaudhrahath* (primacy or superiority) or the inferiority of the other, was often the obsessive behavior underlying the dispute.

Most disputes in the villages were land related, and land was more than just an economic asset but a symbol of honor. Even criminal disputes (i.e. murder or assault) were generally linked to land related disputes. The role of *Patwaris* (revenue department’s employee at the village level) was often perceived as having exacerbated disputes.

There can be a great deal of cultural variation in the nature of disputes and the perception of justice. Thus, while blood money is viewed to be consistent with Islamic law and a common practice in some regions (refer to sections 4.3 and 4.4), in this region, such an offer was considered both disgusting and insulting.

Gender played an important role in rural disputes. We observed a high degree of gender discrimination in almost all the villages we visited. Often brothers did not want to share their father’s land with their sister/s as per the Islamic inheritance laws, and doing so was viewed as weakness and often subject to taunting and ridicule. This led to disputes and sometimes the dispute turned into endless litigation. Thus gender discrimination and land disputes often co-existed. Murders related to honor can also be viewed as a form of gender discrimination.³²

Sometimes, when influential households got involved in a dispute, and, if one or both parties used the formal legal system, this took

³² Murders related to honor varied across region and locality as will become evident by the end of this section.

on a life of its own. Plaintiffs were not necessarily the aggrieved party. In most cases, the influential party approached the legal system first. Both parties filed additional cases against each other and supporters/opponents of the two factions as a pressure tactic. In such situations, there were no clear-cut boundaries between plaintiffs and defendants.

4.1.3. Dispute resolution preferences

Our findings suggest that the social demand for particular institutional mechanisms for justice in Toba Tek Singh depended on both the socio-economic status of the household and the general prosperity of the village. We categorized villages based on the village profiling and the market price of land into poor, average, or rich. However, we acknowledge that there are rich households in poor villages and poor households in rich villages and so this is a crude aggregation for broad generalizations. Such generalizations are required because, for service delivery, the village has to be the unit of analysis. That said, there are clearly shared resources in a village. For example, even rich households in poor villages are affected by the lack of physical infrastructure, although the rich often have ways to insulate themselves against poor social sector delivery via the private provisioning of say schooling, health, and water supply.

4.1.3.1. *Poor villages*

People in poor villages often did not approach the formal legal system i.e. police, courts, and the district bureaucracy. They viewed the police and courts and their delaying tactics, to generate bribes, as a luxury good for the rich. These institutions were perceived as partial to the influential, and hence they preferred to have their disputes resolved locally through the *panchayat*. Even if some people did approach the formal legal system, they were often forced to abandon this due to the high cost involved.

Households in Chak no. 703/45 GB in Union Council 694 GB, *Tehsil Kamalia*, are an example of poor people's preferences. The

villagers did not have access to irrigation water, drinking water, or a paved road. The price of land per acre was less than half of that compared to the other sampled villages. The village influential and *numbardar*, Raja Tahir, resolved most of the cases. Two households stopped pursuing their murder and land allotment cases due to the high cost involved. Such villages are more likely to be receptive to the new institutional innovations such as the *musalihat anjuman* and the active involvement of union council *nazims*, given that formal alternatives are unaffordable.

4.1.3.2. Average villages

People belonging to villages of average prosperity generally approached the formal legal system to resolve their disputes. In both the villages of *Tehsil* Gojra (i.e. Chak No. 282 JB and Chak No. 161 GB), people were generally not satisfied with the traditional role of the *panchayat*. It was not perceived as impartial or as effective in resolving disputes. The nature of the *panchayat* seated varied across village and dispute. A few village influentials played a regular role in mediating disputes. However, they usually decided on behalf of the powerful so the *panchayat* was perceived as reinforcing the balance of power or catering to the powerful “party.”³³ The *panchayat* was also considered ineffective because it did not have any formal implementation authority.

People may be receptive to institutional innovations in such villages if they embody enforcement authority and are perceived as impartial. They revealed a greater desire for a reformed police and court structure, and were willing to spend large sums of money to

33 “Party” does not necessarily refer to groupings based on political party affiliations. A more accurate term to capture this village reality is faction politics. There can be several factions in the village, and they can result from previous disputes and who sided with whom in those disputes. Generally, the original basis of the alignment is perceived to be *beraderi*. However, these factions can change their character, and there can also be two or more factions within a *beraderi*.

get “even” or justice. They generally did not trust the *nazim* or members of the union council to resolve their disputes.

4.1.3.3. *Rich villages*

People belonging to a prosperous village confronted a more diffused power structure. There was much more balance of power in such villages compared to those in the other categories, because of a much larger number of rich households. Chak No. 713 in Union Council Bairoon Kamalia, *Tehsil* Kamalia, was a case in point. Rich households did not generally like to approach the formal legal system such as the police and the courts and viewed it as a waste of time. The dividends received by getting involved in a dispute or approaching the formal legal system did not outweigh the cost. However, the few households that had approached the formal legal system, for “face saving” reasons, were involved in endless litigation.

4.2. *Haripur*

District Haripur is geographically scattered. It has plains to its south and mountainous areas to its north. Haripur and Ghazi are the two *tehsils*. *Tehsil* Haripur is again quite widespread and every village visited was different. Villages are not “settled,” contrary to the case of Toba Tek Singh. There was a high degree of intra and inter district migration and internal displacement because of large water projects (Tarbela dam and Ghazi Borotha project). Those affected had moved to various existing villages or had established new villages and hence fundamentally transformed the old village structure.

Haripur’s proximity to Islamabad (the capital city) and its twin city, Rawalpindi, led to higher social mobility. As an NWFP district on the border of Punjab, it has been a melting pot for people belonging to various *beraderis* and regions. Though agriculture was still the main source of livelihood, many people worked in the informal sector, as unskilled workers or in transportation. People mostly spoke variants of the Hindko

language and so it was linguistically quite homogeneous. Even so, perhaps because of the “unsettled” nature of the area, there was a low level of trust among people. Hence, we sensed even a greater reluctance on people’s part to talk to outsiders, particularly on the subject being researched.

4.2.1. Institutional innovations introduced by the devolution of power plan

The *musalihat anjuman* was in place only in Village Ghaer Khan, Union Council Pandak, *Tehsil* Haripur, and in Village Sultan Pur, Union Council Tofkian, *Tehsil* Haripur. However, it was not commonly viewed as an alternative dispute-resolution mechanism. Most villagers did not know about it or did not think of it as an alternative dispute-resolution mechanism. The field team kept referring to it in discussion, but only a few people who were involved in it or knew someone involved in it were aware of it.

In Village Ghaer Khan, Union Council Pandak, *Tehsil* Haripur, one village influential, Pir Balay Shah, was a member of the *musalihat anjuman*. It was formed at the union council level with the union council *nazim* as the head. However, we were unable to determine the structure of *musalihat anjuman*, other than that there were three other members of the union council on it. Even Pir Balay Shah did not remember the names of the other members and was unclear about the legal status of the *anjuman*. The *musalihat anjuman* had decided on about three cases (two family cases and one land case) and was hearing another two family cases at the time of the fieldwork. Both parties were asked to appear before the *musalihat anjuman*, which was bound to decide cases within four months and to meet at least once in a month.

Union Council Pankak had four large villages and the *musalihat anjuman* had one member per village. Members of the

anjuman were not elected councilors, but were people who were generally respected in their villages for their integrity. According to Pir Baley Shah, the other members were also regarded as non-political “clean” people. This may reflect a lack of trust in the union council *nazim* and elected councilors or opposition based on factional politics. Pir Balay Shah, who belonged to the respected Syed *beraderi*, did not own much land any longer. His father used to be a respected local *pir* (spiritual man) whose shrine people still visited.

In Village Sultan Pur, Union Council Tofkian, *Tehsil* Haripur, there was a *musalihat anjuman* at the union council level. While the union council had eleven villages, the *anjuman* had four councilors (of four different villages) and the union council *nazim* headed it. The *kissan* (peasant) councilor of Village Sultan Pur, Raja Aslam, was also a member of the *anjuman*, which had dealt with four cases at the time of fieldwork (two family cases and two land cases).

The field team had the opportunity to observe the filing of another land fraud case. A councilor from another village (who was also a member of *musalihat anjuman*), accompanied by the aggrieved party, came to see Raja Aslam to discuss the land fraud case. Both the councilors decided to file a formal application before the union council *nazim* in the coming general council meeting. The application would then to be formally forwarded to the *musalihat anjuman*. The decisions of the *anjuman* were then to be made available to the concerned parties. In case a party did not accept the decision, the union council *nazim* would then send his recommendation to the concerned police station/revenue department/civil court.

4.2.2. Nature of rural disputes

“*Izzat*” was also important in explaining the motives behind disputes in Haripur as in Toba Tek Singh. However, in Haripur, *izzat* had additional baggage attached to it. People were very

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sensitive about how their perceived or real opponents talked to them, looked at them, or gestured towards them. One person got killed in Ghaer Khan because he started fighting after having noticed a bad gesture from his opponents. *Izzat* is also closely linked to gender. Men kill others if they suspect a violation of what they view as the “honor” of their women and most of the murder cases pertain to this issue.

As earlier indicated, there was a very high prevalence of assault and murder cases in Haripur. This can be explained by a historically aggressive and violent “fighting” culture of people who live in border areas on the ‘invader’ route.³⁴ In almost all the villages except Kanni Kot, the origins of some murder cases can be traced back to a fight among children or students. A popular method of fighting among youngsters was punching each other with literally iron fists (knuckle-dusters).

There were fewer land related cases than in Toba Tek Singh. However, murders generally had multiple-causation. Disputes over “honor,” property, faction politics, and votes often resulted in murders. People also killed to implicate their opponents in a murder case. Involvement in a murder case was a major social, financial, and emotional curse to burden an opponent with. The formal legal system was manipulated in this way to settle scores with opponents.

4.2.3. Dispute resolution preferences

The *jirga*, often at the *beraderi* level, was not perceived to be effective in District Haripur.³⁵ Considering the close geographical proximity of villages to city centers, people preferred the formal dispute resolution mechanisms. When inquiring about the old patterns of dispute resolution, the feudalistic past was mentioned. Generally, “feudals” or their “clients” used to resolve disputes in

34 This is a reference to the many invasions of the sub-continent across the millenniums.

35 In the NWFP, *jirga* is the equivalent term for *panchayat*.

the villages.³⁶ Villagers recall the “good old times” of feudalism when disputes used to be dealt with at the village level.³⁷ We were informed in Village Naqarchian, Union Council Qazi Pur, *Tehsil* Ghazi, about how the Tahirkheli family (a prominent landowning family), resolved disputes. “Police never came to our village; the Khan used to decide and would use ‘*chitarpola*’ (literally translated as beating with a shoe) to resolve disputes.”³⁸ People told us similar stories in Chak No. 281, Union Council 282, *Tehsil* Gojra, in District T.T. Singh.

The finding in Toba Tek Singh about the poor not approaching the formal legal system was confirmed in Haripur. Poverty in the village was defined in terms of personal assets, but also in terms of the poor access to social and physical infrastructure. Villagers in Kanni Kot, Union Council Kalinjer, *Tehsil* Haripur, were almost cut off from the rest of the world. The village did not have a road or other basic social services. Hence, disputes were mostly resolved within the village by the *numbardar* (head) of the village. While, we were hiking up to the village, members of a household involved in a murder case traveled with us. The plaintiffs had agreed to a compromise after three months of litigation. They accepted blood money and pardoned the killer. These cases could go on for years in villages with better facilities and more access to the courts. Thus, the issue was not that the plaintiffs found it easy to compromise, but that they felt they had little choice. The plaintiff’s extended family started to cry publicly, as villagers do when someone dies, when we reached the village after a two-hour

36 The term “feudal” is used to convey the absolute and arbitrary authority and associated behavior that resulted from the ownership of large tracks of land. Such attitudes often persist even after the size of land holdings shrink via inheritance and extravagant living.

37 Such practices continue in parts of Sindh and Balochistan as explained in section 4.3 and 4.4. It is interesting thus to find Haripur on a continuum in the evolution to a more formal and sophisticated, albeit so far corrupt, system of justice.

38 We attribute much of this attitude to the human tendency of romanticizing the past.

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hike accompanied by both parties. Pardoning the killer was almost like re-experiencing the death of their relative.

People generally preferred the formal legal system i.e. police, courts, and the district bureaucracy. This was surprising since Haripur police had a very bad reputation in resolving disputes.³⁹ Bribes were accepted from both parties, even in murder cases. Even so, people much preferred the formal legal system. This phenomenon can also be understood in the context of social mobility earlier referred to whereby, due to access to more opportunities, people had more money. One member of a feudal family in Village Sultan Pur explained it as follows: "...now people have '*musawat*' (equality)...so they don't want to come to us with their disputes...they want to go to the police...every one thinks of himself as '*bara*' (big)."

There was another paradox in people's perceptions of the formal legal system. People did not generally air negative views about the judiciary in Haripur. This was puzzling because we were told that no one gets punished for murder in Haripur. The maximum punishment for murder was a two year jail sentence after about half a dozen years of litigation. This may explain the high prevalence of murder in this district.

The new local body set up again got more play in the poorer villages and households as in Toba Tek Singh. Thus, the households in Village Naqarchain, Union Council Qazi Pur, *Tehsil* Ghazi, referred more frequently to the union council *nazim*, Babu Ayub, for their dispute resolution than they did in the richer villages/households. However, even poor households in the better off Village, Ghaer Khan, were not happy with the union council set-up. They thought that only people with money and influence get the assistance of the union council *nazim*. This confirms our finding for Toba Tek Singh indicating that the new local government institutions can be more effective in dispute resolution

39 In villages close to the Punjab boundary, people thought highly of the Punjab police compared to those in Haripur.

in poorer villages, since they are more willing to explore low cost opportunities to resolve their disputes.

4.3. Larkana

Larkana is a settled district in the southern part of Sindh. It was given the status of district in the early twentieth century. Larkana is known for various things including the 5000 years old archeological ruins in *Moenjo Daro* (mound of the dead), rice canals, guava gardens, and Prime Minister Zulfikar Ali Bhutto. It has seven *talukas* (*tehsils*). Only Larkana *taluka* was urban while the rest of the *talukas* were rural. Rice was the main crop, and due to canal irrigation, salinity, and water logging were common problems. Fishponds were also catching on as an alternative livelihood in the villages. The majority of the population was Sindhi, but there was a sizable Baloch population who had migrated to Sindh. The migrants still spoke Balochi and were influenced by Baloch traditions and history.

4.3.1. Institutional innovations introduced by the devolution of power plan

We did not encounter the *musalihaat anjuman* anywhere in Larkana. While the local body system was in place, people generally did not mention it as a dispute resolution mechanism. In one village in Union Council Kalar, *Tehsil* Qamber, a wadero's (landed influential) son, also a member of the union council, was mentioned as having played a role in dispute resolution. His landed identity was probably complemented by his new role in the union council. In another case in *Tehsil* Ratodero, we were informed that one of the parties approached the tehsil *nazim* for mediation.

4.3.2 Nature of rural disputes

We observed that there were more criminal than civil or property disputes in Larkana. Property disputes generally revolved around a shared boundary. However, the magnitude of property disputes was far less in Larkana

compared to the Punjab and the NWFP districts in our sample.

We inferred that most of the murder cases were related to *karo-kari* (so-called honor killing)⁴⁰, since this is the only form of murder we were informed of.⁴¹ This practice was linked to a region's cultural history and socio-economy and hence the practice varied. In some villages, where Baloch traditions were strong, both the *karo* and *kari* were killed. In other communities, only the *kari* was killed and the *karo* was spared.

In some locations, it was practiced as a form of exchange. Thus, both parties were pardoned in exchange of money and *sang* (committing a female associated with the family of the guilty party to the other party for a marriage in the future). If the life of a *kari* was spared, she was sold for marriage for a price higher than other women. This might have something to do with sale outside the community fetching a greater price than within the community. Thus, women were bought, sold, owned, and dispatched off like commodities.

40 The accused woman is called *kari* (literally a black woman) and the accused man is called *karo* (literally a black man). In 2002, the Human Rights Commission Report claimed that 450 women fell victim to "honor killing". The electronic bulletin of Lawyers for Human Rights and Legal Aid (Madadgaar) developed a database based on press reports that they conceded grossly understated the problem. They cited 549 cases of women killed due to this rite in the first eight months of 2002. In addition, 106 males, 19 girls, and three boys were killed. Of the total 677 cases, the provincial distribution was 377 in Sindh, 227 in the Punjab, 41 in Balochistan, and 32 in the NWFP respectively.

41 In almost all the villages, women respondents were willing to talk about *karo-kari* cases. This was quite different from our experience in Sibi (section 4.4) where very few *karo-kari* cases were mentioned. The female research team interviewed about half a dozen respondents on some days in different villages in Larkana and all spoke of "honor killings."

Unlike in Haripur, physical assault cases were not very common. In other criminal cases, people got involved in a conflict with the state. Police harassment figured as one of the most cited problem in Larkana. Villagers complained of police harassment in almost all the villages we studied where the police got involved in cases of theft and robbery. In areas where there was a high incidence of migration to the Gulf States, theft and robbery resulted because of the electronic appliances g sent back. Electricity theft was also common via the *kunda* system and WAPDA (Water and Power Development Authority) enlisted the support of the police to catch the culprits.⁴²

4.3.3. Dispute resolution preferences

Once again, there was a mix of formal and informal judicial systems present in Larkana. Quite a few clans lived in one village and every tribe had its own head called *wadero*. The *wadero* of respective tribes resolved petty disputes. For serious disputes, the concerned parties either went to the next higher tier *wadero* of their tribe or to the formal justice system. For example, a member of the Birohi tribe living in a village in Union Council Qamber first went to their local *wadero* and, if the problem was not solved, then went to the senior *wadero* of the Birohi tribe in Jacobabad District. If the problem remained unresolved, they could go to a Birohi sardar in Balochistan.⁴³ Informal negotiations continued and the tribal leaders approached, even when parties took a case to the police or courts.

Mehr was one of the popular forms of informal dispute resolution. The accused party took a few local notables, and in some cases their women, to the aggrieved party's house and asked for

42 *Kunda* means latching on. Electricity theft was achieved via latching on to the main pole via an ingenious locally developed method.

43 Sardar means chief.

forgiveness in exchange of money and/or a commitment of a female of their family to the other party for a future marriage. This practice of taking women along had cultural significance since women generally practiced *pardah* (use of a veil or seclusion from non-family males). Hence, if the aggrieved party took their women to the other party's house, it was the equivalent of shedding the *pardah* of their women to be pardoned. Since women were sold as brides, if the accused party committed a girl of their family to the other family for a future marriage, then the aggrieved family saved on a bride price sometime in the future.

Karo-kari cases were dealt with according to the cultural and economic customs of the tribe. Decisions were adjudicated mostly by the informal justice system. Even when such cases reached the formal justice system, the relatives of the victims generally reconciled with the other party for compensation. This practice is endorsed by the "Islamic" legislation enacted in the 1980s. One representative of the local judiciary told us, "...what can we do if parents are willing to sell the blood of their children?"

The police was perceived as corrupt and inefficient. The police in Sindh had introduced an innovation in the registration of complaints. When one of the parties went to the police to record their complaint, instead of registering the First Information Report (FIR) as per law, the police registered what was referred to as an NC.⁴⁴ The objective was to dismiss the complaint without any official record of the complaint after taking a bribe from the other party. We discovered that people spent money to even get their NC noted and the other party paid money to ward off this non-registered complaint.

Due to the large number of theft cases, our respondents mentioned the role of the *khoji* repeatedly. A *khoji* is a footprints tracking expert and has been used for a long time to track thieves.

44 We were unable to determine what this abbreviation stood for. Perhaps, it stood for a non-complaint, since that is how the complaint was treated. The NC had no official standing.

Respondents told us that a road or a railway track can hinder the tracking, an inadvertent consequence of modernization.

We were told of several ways of getting the stolen/robbed material back. One method was to ask the suspected party to return the stolen items or swear innocence on the Qur'an. Another method was to take the Qur'an along but pay to retrieve the stolen/robbed items. An alternative was to simply pay to retrieve the stolen/robbed items. We also interviewed the family of a person who was kidnapped for ransom and were informed that there were certain "no-go" areas near villages where criminals/robbers lived.

To sum up, criminal cases were quite extensive in Larkana. The "honor killings" were prevalent almost everywhere. Theft/robbery was the most common problem, providing the police a pretext for harassing both parties if they were brought into the picture. Disputes were mostly resolved by the informal justice system that existed parallel to the formal justice system. There was no significant role, up to the time of the fieldwork for this study (Spring 2002), for the institutional innovations introduced by the devolution of power plan. While union council and *tehsil nazims* were beginning to be talked about in a few cases, they had not gained widespread acceptance as a mechanism for resolving disputes.

4.4. Sibi

Balochistan is divided roughly into two main belts i.e. the Baloch belt and the Pashtoon belt. However, this linguistic difference accompanies many other differences. The sardari (feudal) system is much more entrenched in the Baloch belt than in the Pashtoon belt. This could account for the Pashtoon belt is far more developed compared to the Baloch belt. Sibi District mostly falls in the Baloch belt. In a recent delimitation of districts, some areas of the Pashtoon belt have also become part of Sibi district.

To the east of the Baloch part of Sibi District is southern Punjab and upper Sindh on the south side. Balochi, Sindhi and Seraiki

were the commonly spoken languages. *Tehsil* Sibi and *Tehsil* Lehri are among the arid areas of District Sibi. The newly added third *Tehsil*, Harnai, is a mountainous area of the Pashtoon belt bordering Ziarat. Harnai had a better water storage system compared to Lehri.

Sibi, like the rest of Balochistan, suffered from an acute shortage of infrastructure. People did not have adequate access to irrigation water, drinking water, roads, schools, and health care facilities, and the majority of the population was very asset poor. The Government of Pakistan exercised limited control throughout this district, particularly in *Tehsils*, Lehri, and Harnai which are part of the tribal belt.⁴⁵ The sardars rule in these areas, and exercise control through the local *tehsildar* (state functionary) via the tribal police force (levies).⁴⁶ Every tribe (*qabila*) contributes members to this force. There are no courts in the tribal areas either and the sardar, or his nominees, resolved disputes and implemented their decisions.

It was interesting to compare the formal judicial system in the Punjab, NWFP, and Sindh with the informal judicial system in Balochistan.⁴⁷ Direct access to the respondents was not possible, and we had to take permission from the local *sardars* through a

45 The normal state administration does not extend to the tribal belt or "tribal areas."

46 The role of *tehsildar* was quite different in the tribal areas of Balochistan compared to the other provinces. In the Punjab and the NWFP, the *tehsildar* is a local revenue officer. In District Lehri, the *tehsildar* is an all encompassing representative of the government at the local level. Other than handling revenue, he also runs the Station Headquarter Office (SHO) of police and is the commander of the tribal levies.

47 Generally, the formal and informal judicial systems do not exist as binary opposites, but complement each other in the Punjab, NWFP, and Sindh. Similarly, *Tehsil* Sibi had a formal justice system in the district headquarters in Sibi. Even in the tribal areas, *qazi* courts functioned and, in principle, residents of tribal areas could approach the formal judicial system through the *tehsildar*.

longwinded process. A Baloch tribe, Domki, inhabited one of our sampled *tehsils*, Lehri. The sardar of the Domki tribe and his family governed *Tehsil* Lehri and the sardar's son was the district *nazim*. The sardar was suspicious of our identity and objectives, since field research teams in this remote area are not common. It took a long time to build a rapport with the sardar. Even with the sardar's permission to conduct the research, we found the villagers reluctant to talk freely. They were very conscious of us as "outsiders" and praised the sardar for his role in dispute resolution. However, it was easy to see through these statements to the underlying fear and oppression.

Another problem we confronted during the fieldwork was out migration. In *Tehsil* Harnai, we were able to conduct our fieldwork in only one of the union councils because residents of the sampled village in the other union council had migrated. We experienced similar problems in *Tehsil* Lehri.

4.4.1. Institutional innovations introduced by the devolution of power plan

The institutional innovations were not in evidence in Sibi, and we did not hear about anything even remotely similar to *musalihat anjuman*. While the mainstream institutions of *nazim* and *naib-nazim* were in place, the devolution plan was overshadowed by the sardari system. Elections were not contested in *Tehsil* Lehri. The sardar selected all the candidates up to the *tehsil nazim* level, and they all won the elections without contest.

The district *nazim*'s seat was however contested. The opponent was a Pashtoon from the Pashtoon belt, but the sardar's son easily won. The *tehsil nazim* in Lehri was the sardar's nephew and was elected unopposed. People did not suggest that the union council *nazim* or councilors were influential in dispute resolution as agents of the new devolution plan. In any case, the union council *nazim* and others were sardar loyalists in their respective constituencies. In one village in *Tehsil* Lehri we discovered that the village influential (councilor) was involved in the resolution of petty

disputes, the legitimacy for his role probably emanated from his association with the sardar rather than from being a councilor.

4.4.2. Nature of rural disputes

The incidence of disputes among villagers was quite low and associated with their socio-economic status. As earlier mentioned, people had very limited access to social services or infrastructure. The lack of water had eroded the contribution of agriculture or horticulture as sources of livelihoods. As in other provinces, the incidence of dispute among poor households was lower and they avoided litigation if disputes arose. A women respondent succinctly summed it up as follows: "...we do not have money to eat food, how can we get involved in disputes?" The inexpensive tribal system of justice administered by the sardars seemed to suit the dispute-resolution needs of the poor tribal people.

However, offsetting this low incidence of inter-household disputes was the prevalence of tribal disputes. An offence against one member of the tribe was often considered an offence against the whole tribe and the principle of an "eye for an eye" prevailed. Tribes fought each other for years to take revenge, particular when the sardar family got involved, and fights become long tribal wars with adult males engaged in the dispute.⁴⁸

Karo-kari was prevalent in its worst form in Balochistan. As in Sindh, it was a form of economic exchange and had social acceptance. According to one official of the district administration, it is one of the easiest ways of getting rid of one's wife and earning some money along with that crime. However, during our research in a village in *Tehsil* Lehri, we came across an interesting counter-

48 This information is based on general information provided to us. In the localities that we conducted our research, we did not come across such an on-going tribal dispute. However, once again, the general reluctance to provide information earlier noted may have accounted for this.

example. A woman told us that she was accused of being a *kari* because she was seen talking to her male cousin early in the morning while her husband was not at home. However, her husband decided to stand by her and refused to believe that his wife was involved in any illegitimate relationship. He opposed his family's desire to kill the woman, acquire compensation money, and a female from the alleged *karo*'s family.

As in Larkana, the resolution of *karo-kari* was dependent on the socio-economic status of the household and norms of the tribe. *Karo-kari* cases were naturally grossly under-reported, and there is no way to find out the magnitude of this form of murder. We came across only a few cases during our research, but are certain that others withheld information.

Cases of theft were relatively few compared to Larkana. The credit goes to the strict control imposed by the sardar in the tribal areas. We saw the sardar's brother taking a round of the area at night to maintain order. Thus, the law-and-order situation was good from the perspective of residents of those areas.

For outsiders, the area was dangerous and kidnapping and night robbery was common. We were told that the sardars in the adjacent areas provided protection to criminals who conducted ransom kidnapping and robberies. The sardars of the Domki family had soured their relationship with the sardars of one of the neighboring tribe, who were also their blood relatives, because they were viewed as giving protection to robbers and criminals. The Domki sardar was opposed to such practices and had ordered the killing of a few robbers as a deterrent. In general, the pattern of theft, ransom kidnapping, and robbery varied from tribe to tribe.

4.4.3. Dispute resolution preferences

The village influential resolved petty fights and other small disputes. We observed a similar pattern in Sindh also. However, in Sibi, the village influential was more formally a nominee of the sardar. Serious disputes such as those involving land, theft, *karo-*

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kari, and murder were brought to the attention of the sardar. The sardar's decisions depended on the behavior and status of the concerned parties. If there was a need to involve the formal judicial system in some way, the sardar asked one or both parties to approach the *tehsildar* to register the complaint.

On the face of it, the tribal justice system seemed like a reasonable alternative to the formal justice system. Disputes did not have to go through the lengthy and laborious process as in the court system. The sardar summoned both parties, and, given his coercive powers and the village based verification system, the parties in general refrained from lying. Unlike the formal courts, parties were spared the expense and frustration of a court fee, engaging a lawyer, producing the witnesses, dealing with the extra-ordinary delay in cases, and, in the end, not getting justice. In the tribal system of justice, the sardar listens to both parties or to their representatives, makes his decision, and ensures that it is implemented.

For example, in *karo-kari* cases, if the family did not murder the *kari* then the sardar decided the pardon money and made sure that it was delivered to the family whose honor had supposedly been violated. In murder cases, other than levying pardon money, the sardar also asked the guilty party to commit one of their females to the aggrieved family for a future marriage. The Domki sardar explained that this is one of the ways to stop the cycle of revenge killing between families.⁴⁹

By contrast, the formal courts have no implementation authority and, in many instances, the aggrieved party has to approach the court repeatedly to get the verdict implemented. The tribal justice system involves no such problems since the sardar controls the tribal police. As one of the sardars summed it up, "We have not

49 We were informed that in most cases the committed woman spent her life like a prisoner of war in enemy territory. Thus, the woman is denied agency and is used as an instrument for serving "justice."

been afflicted with the evils of the (formal) police." Thus, in the sardari system, police and court related corruption was virtually non-existent.

However, despite appearing an ideal alternative dispute-resolution mechanism, the sardari or tribal system of justice is, subjective, coercive, and open to abuse because there is no check on the absolute authority of the sardar and no appeal system. More important, it denies individual freedom. Naturally, if an individual is not perceived to be loyal to the sardar, it is unlikely that the decision will go in her or his favor. We were also told that in a nearby tribal area, the sardar levied a penalty of Rs. 25,000 if a "subject" approached the formal justice system without his approval. This enabled the sardar to keep his authority intact and ensure that there was a low level of court litigation.

The sardari justice system is also effective in intra-tribal disputes. The sardar adjudicates disputes between members of his tribe. For example, Sardar Chakar Domki resolved problems of those who belonged to his Domki tribe in *Tehsil* Lehri. A sardar, or more than one collectively, also resolved inter-tribal disputes. For instance, Sardar Chakar Domki and Sardar Akbar Bugti, or either individually, decided cases between parties belonging to the Domki and Bugti tribes.

However, the norms applicable to inter-tribal dispute did not apply when the dispute involved either of the sardar families in the disputes. The sardar's family was like the royal family in the tribe. There was no supra-sardar person or institution to resolve disputes among the various sardars. Thus, when the sardars engaged in a dispute with each other, the whole tribe was at war on either side because commoners owed their loyalty to the sardar and would do their bidding.

During the time of our field survey, almost all the prominent Baloch tribes, except Jamalis, were at war with each other. The

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Raisanis were fighting the Domkis and the Bugtis. The Murrees, Magsis, and Jogaizis were involved in inter-tribal dispute either alone or in alliance with other friendly tribes. In some cases, inter-tribal revenge dispute among commoners pushed tribes into conflict. However, in general, this happened when the sardar family was involved.

The dispute resolution mechanism opted for was linked with the socio-economic status of the household. The sardars of the Domki tribe owned hundreds of thousands of acres of land, though most of the land was non-arable due to the lack of water. Thus, all commoners went to the Domki sardars in *Tehsil Lehri*. However, we discovered in Village Threahar that Shamsi Syeds, who were influential in their own right, did not go to the Domki sardars for dispute resolution. They tried to get their disputes resolved at the village level, and, if they did not succeed, then they approached the formal justice system. They were able to assert this degree of independence because they owned about 25,000 acres of land (again mostly non-arable).

To sum up, the tribal justice system was quick, efficient, and less expensive than the formal court system. However, in our view, the cons outweigh the pros. It is a highly authoritarian, subjective, and coercive system of justice. Notwithstanding speedy justice, the murder rate was high due to the legitimacy given by this system to revenge and “honor killing.” In addition, ransom killing and robberies were also high. Whether this system is more effective as a deterrent to crime would require a comparison with the Pukhtoon belt that is otherwise culturally similar but which is subject to a formal judicial system.

5. Findings from the quantitative data

5.1 Sample characteristics

We filled in an in-depth questionnaire on law and order and justice for 207 respondents and interviewed 64 respondents as a control group (see section 2). Table 5.1 below provides background

information for the two groups to enable one to put the responses into perspective.

Table 5.1. Background characteristics of respondents and control group

Background characteristics	Respondents	Control group
Education (mean years)	4.2 (4.7)	3.3 (4.5)
Age (mean years)	42.8 (16.7)	39.2 (14.5)
Gender (% female)	29	39
Marital status (% married)	83	78
Household size (mean)	11.0 (7.0)	9.2 (5.6)
Status (% head of household)	46.4	42.9
N	207	64

Source: SDPI Survey

Note: Parentheses contain standard deviations

For the most part, the two groups were sufficiently similar for a valid control group comparison. However, the control group was slightly less educated and had more females. In addition, for the most part, both the respondent and control group households were not wealthy. Only one household in each category owned an air-conditioner that we regard as a true mark of wealth in a rural area.⁵⁰

5.2 Disputes

We allowed for the possibility of multiple responses in ascertaining the nature of disputes that the individuals were involved in. Table 5.2 below identifies the main dispute categories that the individuals were involved in. These have been aggregated for presentation from the 38 possible responses.

⁵⁰ Given the respondent's reluctance to reveal household income and the difficulty in computing it for farm households, possessing luxury durable goods are often used as a proxy for wealth. Apart from air conditioners, other relevant durable goods are an automobile and a VCR. However, several households could use an old personal automobile to run a taxi and many households receive VCRs as gifts from relatives working abroad.

Table 5.2. Main disputes experienced by rural households by gender

Percentage responses

Dispute type	Male	Female
Property / civil	43.8	34.6
Criminal	43.4	57.7
Family	2.1	7.7
With state agency	3.2	-

Source: SDPI Survey

Women were engaged in a higher number of criminal cases and 55 percent of them pertained to murder or “honor killings.” Of the property cases, almost two-thirds for the males were land related, and a quarter indicated that the other disputes were also indirectly land related. At the time of the survey, about half of the disputes had been resolved for both males and females.

Even though we sought to identify individuals in the control group who were not involved in any dispute, in depth probing during the interviews revealed that a quarter of them were in fact involved in some dispute.

5.3 Dispute resolution

The community, *punchayat*, police, and courts figured most prominently in dispute resolution and the new dispute resolution mechanisms instituted by local government were not so far being approached. Only four respondents reported having actually approached the new local body institutions set up to dispense justice. Of these, three approached the *nazim* and only one approached the *musalihati anjuman*. Similarly, only five respondents approached the union council.

Of the 42 who went to the community, 36 were satisfied and said they would approach the community again, with fairness and expense prominent among reasons for this decision.

Those who went to the *panchayat*, generally had to make between one to three visits to various dispute related meetings. The local landlord was the chairman of the *panchayat* in 44 percent of the cases and the *lumbardar* (village headman) in another ten. Thirty-five respondents cited an average expenditure of about Rs. 30,000 and another 8 respondents cited an average expenditure of over Rs. 1.5 lakhs.⁵¹ Again, there was a very high level of satisfaction expressed with justice provided by the *panchayat* and of the 118 respondents, 79 percent said they would continue to use the *panchayat* in the future. Fairness (31.5 percent), speediness (30.6), and expense (26 percent) were the reasons cited for this confidence in the traditional system of justice.

Fifty-six respondents had approached the police, and of these, 54 percent thought it was difficult to file an FIR (First Information Report) that is necessary for a case to be investigated. The bulk of those who thought it was difficult said this was the case because the police required a bribe to file the FIR and, as poor people, they had difficulty in coming up with the requisite funds. Moreover, they thought the police generally catered to the rich and influential. Eighty-four respondents said that they had made up to an average of 19 visits (with the maximum in the range cited as 300). Given that the average distance of the police station from where they lived was nine miles, this represented a high time cost. Other expenses, including fee, documents, transportation, and particularly bribes, were also high. Sixty-four respondents claimed to have spent an average of Rs. 95,000 and another 10 claimed to have spent an average of over Rs. 40,000, significant amounts for poor households. Even so, two-thirds said they would go back to the police and 86 percent said this was because they had no other real choice. Only 4 out of 56 who responded to this question said they would go back to the police because they considered the police fair. Only ten respondents mentioned having gone to the local bureaucracy such as the assistant commissioner (5) or the deputy commissioner (1).

51 A *lakh* is equal to 100,000.

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The courts represented a major problem for many respondents because of repeat visits to the courts. One set of respondents mentioned having had to visit an average of 72 times with one respondent saying that he had made about 500 visits over the years. Another set of ten respondents, who cited it as their second case, mentioned having made an average of 25 visits.⁵² On average, nineteen respondents mentioned having to visit once a month, 34 twice a month, and 9 three times a month respectively.

The courts also proved to be very expensive for most respondents. Including legal and illegal “fees,” documents, transportation, and lawyer’s fees, the average amount spent by 89 respondents was Rs. 2.7 lakhs per case. However, an outlier suggesting an expenditure of Rs. 7 million influenced this statistic. For 14 cases (out of 18) in which the case had been resolved, the mean expenditure was about Rs. 22 thousand, which is still substantial for poor households. For the 18 respondents who said the case was resolved, more than three-fourths said they would go back, but two-thirds said this was so because there was no other choice. Those whose cases were on going echoed these responses.

Respondents were given a range of choices to indicate their preferences for various institutions for dispute resolution based on their experience, allowing for multiple responses. Table 5.3 reports these for both the respondents and the control group.

Table 5.3. Preferred institutions for dispute resolution
(Percentages)

Institution	Respondents	Control group
Family or community	12.9	11.7
<i>Panchayat</i>	33.4	37.8
New local body institutions	9.9	11.7
Police	18.0	19.8
Rural bureaucracy	2.8	2.7

52 These responses by set result from our allowing for a multiple response option in case individuals were involved in more than one dispute.

Court	22.3	16.2
Responses	395	111

Source: SDPI survey

The similarity in responses across the two groups is striking and suggests robustness of the finding. Notable in the responses is the relatively high level of confidence placed in the *panchayat* and the relatively low level of confidence placed in the courts. About a tenth of the respondents, and slightly more among the control group, are willing to try the new institutions, but the percentages suggest a very high degree of skepticism and weariness of the institutional innovations.

The patron-client system is relied upon for dispute resolution and about two-thirds of the respondents and the control group indicated that they relied upon an influential to help them with their legal or law-and-order problems. Over half the respondents and about three-fifths of the control group respectively mentioned that they relied on a *wadera* or tribal leader to help resolve their problem. Another 10 and 13 percent respectively relied on the village headman. This system of relying on a patron will continue, as will the feudal system, until fair and speedy justice is available to the poor.

6. Dispensation of justice: case record analysis

This section is based on analyses of the sampled record of cases decided in the lower courts during the one year before the starting of the fieldwork for the qualitative analysis. Fieldwork was also done, based on a random sample, as a follow-up of the case record analysis to check on related facts, solicit the opinions of the litigants, and to ascertain their socio-economic status to assess what bearing if any the latter had on the dispensation of justice. These analyses uncover important issues pertaining to the dispensation of justice and identify commonalities and differences across the four districts in the sample.

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We sampled 203 case files from the four provinces of which 29.6 percent were civil cases, 12.8 percent family cases, and 57.6 percent criminal cases.⁵³ The case analysis reveals much about the nature of the cases, courts, litigants, and the sociology of court proceedings. The various types of cases have a different life cycle as briefly described below.

In criminal cases, after the FIR (First Investigation Report) is registered, the police present the *challan* (court notice) in order for the trial to commence. The judge reads out the allegations against the accused and both the prosecution and the accused present their evidence. After arguments from both parties are heard, the judgment is given. For the proceedings to get underway, the identified accused is required to be present in the court. The case is held-up if one or more of the accused is missing, unless their case is separated from the on-going case.

In civil cases, one of the parties files a case in the court while the other party/parties are summoned to the court. The trial cannot formally begin unless both of the parties are present in the court, except in those cases when the court has declared one of the parties to be an ex-party. This generally occurs when the judge determines that one of the parties is informed but not interested in the court proceedings. The defendants are summoned through the court process server. Without a formal service, either due to genuine or contrived reasons, it is more difficult for the judge to declare the absentee an ex-party. This is one of the causes of a delay in the court proceedings. When both parties are present or if one of them has been declared ex-party, the defendant is asked to submit the rebuttal. After the rebuttal has been submitted, the issues of the case are framed and the court proceedings begin. The plaintiff and defendant present their evidence respectively, the arguments are

53 The cases are referred to by the numbers given to them in Appendix IV. TTS, H., L. and S. are used for Toba Tek Singh, Haripur, Larkhana, and Sibi respectively. Thus, TTS Case No. 14 would be a reference to case number 14 for Toba Tek Singh cited in Appendix IV.

heard, and the judgment is delivered. This pattern also applies to family cases.

In all categories of cases, each phase of the case is dependant on the previous one. For example, in civil cases, unless summons have been served and pleadings (suit and rebuttal) completed, or one of the parties has not been declared ex-party, the judge cannot move to the next phase of framing of issues. Similarly, the plaintiffs and defendant's evidence is crucial to move the case to the next phase of arguments and judgment.

We gathered from the fieldwork that the role of the lawyers was often obnoxious. For example, in Toba Tek Singh, they almost preyed on the litigants in property cases. They continued to give false hopes about the imminent end of the trial while enriching themselves and court officials (including secretarial functionaries referred to as the *munshi* and *almad*) at the expense of the litigants. Layers for the defendants and prosecution both encouraged the use of their office to bribe the judge when the time for the final decision approached. The lawyer of the losing party would return the money stating that the other side offered more. A few litigants with big stakes informed of us of buying the decision.

The devolution plan is not even mentioned once in the narrative that follows. This is because the court proceedings were completely unaffected by this plan and it was not mentioned as relevant by the litigants, lawyers, police, or judges. For example, in not a single case had the public safety or *insaf* committees played their prescribed role in monitoring the police and the courts, along with grassroots participation, to ensure an improved dispensation of justice.

6.1 Toba Tek Singh (Punjab)

In Toba Tek Singh, Punjab, we studied 57 cases: 9 Criminal (50.9 percent), 29 Civil (33.3 percent), and 19 Family (15.8 percent). After an examination of sampled cases, our legal expert concluded that all three categories of cases in the Punjab (criminal, civil, and

family) were pending three or fourfold more than the prescribed standard. Thus, there were adjournments for insufficient reasons and long delays.

6.1.1. Criminal cases

Delays occurred for several reasons in criminal cases. Serious criminal cases like murder took a very long time to conclude because the courts insisted on getting the witnesses served through the prescribed procedure as specified in section 173(5) of the Criminal Procedure Code. While it is possible to separate a particular party for the trial to proceed if there are delays in serving of the summons or if the accused absconds, in practice this was rarely done.

In TTS Case No. 1, the summons was issued at least seven times before the court separated the accused and hence this contributed to the delay in court proceedings. This case started on February 18, 1996, and the accused was declared an absconder on November 3, 2000, i.e. after four and a half years. There was a similar delay in TTS Case No. 46. In TTS Case No. 47, there were two accused. One regularly attended the hearings while the other did not show up. The court took twenty months to separate the two accused. The case was adjourned twenty times due to the absence of one of the accused. Such delays are unjust to the complainant/accused who regularly attend hearings. In addition, no compensation is given to the defendants who are acquitted after such a long trial.

Other causes of delay included the transfer of the judge or the transfer of the case to other courts. The judges were often transferred without being replaced. In TTS Case No. 46, the judge was on leave during eight scheduled hearings and twelve hearings were adjourned because the case was transferred to another court. In TTS Case No. 47, eleven hearings were adjourned because the judge was transferred. In none of these situations were alternative arrangements made.

Delay in the presentation of prosecution evidence emerged as a major cause of delay. Generally, the stronger party used this as a delaying tactic. Since police officials are an integral part of prosecution's evidence in criminal cases, they can also delay the court proceedings due to a lack of cooperation. For example, it took the prosecution three years to present its evidence in TTS Case No. 46. Witnesses were absent during eighteen of the hearings.

Poor litigants confront a longer wait even if they are suspected of having been involved in petty crimes. TTS Case No. 47 concerned the theft of Rs. 100, and it took four years and three months for the court to decide not to pursue this case. One of the accused absconded while the other kept on appearing in the court for over four years and then finally decided to discontinue his appearance. The court decided to declare both absconders and stopped the proceedings until their arrest. Thus, one of the accused was made to suffer repeated appearances to no end.

Sometimes the courts took a sympathetic view when the poor were involved in a case. TTS Cases Nos. 1 and 6 demonstrate this point because, in both cases, the minimum prescribed punishment was high but the courts, either from ignorance or deliberately, awarded a lesser sentence than prescribed by law. However, this was not until after the patience of persons involved was tested to the limit.

TTS Case No. 6 seemed to be an obvious case of police harassment with court collusion. The accused had informed the police that his friend had hidden heroin in a nearby graveyard while he (the accused) was under investigation on another case. For the next six hearings, the accused was not served and hence was not present in the court. In May 1998, the court was informed that the accused was already in jail due to some other case. Thus, the accused was not served summons and not produced in the court despite being accessible. He was present on the next hearing but the hearing was adjourned. For the next twenty-six months delays occurred because the accused was not produced from jail, the Judge was on leave, or the witnesses were not present. The first prosecution witness was examined in July 2000. The accused moved an application for

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acquittal under section (u/s) 294A after two months in September 2000. The case continued at the same pace and this forced the accused to look for relief by admitting guilt. The accused pleaded guilty in April 2001 after being on trial for three years and two months.

According to our legal expert, when the Judge finally awarded a punishment, it was a lesser punishment than was applicable. The punishment prescribed by law (Section 4 Proviso to Prohibition Enforcement of Hadd Order 1979) is a minimum of two years. The sentence awarded was 6 months and a fine of Rs. 500. Thus, the Judge presiding at the time took into consideration the undue hardship the accused had been put through. Our follow-up field survey indicated that the accused belonged to a lower middle class family and that probably explained the police harassment and the delay in resolving the case.

Since most of the criminal offenses have become compoundable due to Islamic legislation prepared in the 1980s, after experiencing the court procedures and the attending costs, the parties are generally willing to compromise and agree to an out of court settlement. The settlement is seldom on record as is evident from reviewing TTS Cases Nos. 24, 35, 47, and 54.

6.1.2. Civil cases

In civil cases, pleadings were generally delayed due to a lack of process service or a lack of interest of one or more parties. Another cause of delay was the court practice of accepting and taking up miscellaneous applications causing avoidable delay in disposal of the main case. In TTS Case No. 36, the court took two years and six months to complete the pleadings.

The core property cases involving title, inheritance, and encroachment took a long time in the courts and mostly ended with some sort of compromise or the abandonment or withdrawal of proceedings. Compromises are usually

not reflected by decrees, as was true for TTS Cases Nos. 5, 13, 17, 19, 21, 42, and 52.

TTS Case No. 17 is instructive as an unusual case of the use of the courts for personal protection. The plaintiff was a tenant who farmed 55 *kanals* and 8 *marlas* of land.⁵⁴ He feared that his fellow tenant on the nearby farm wanted to forcibly make a waterway through his land. According to his statement, he received threats to this effect. He got a temporary injunction from the courts to stop his neighbor. The case lasted only four months. The service and pleadings were completed against one of the defendants. The others were declared ex-party. The plaintiff attended nine hearings in five months. He was not present on the tenth hearing when the case was dismissed. The Judge in this case quickly decided for dismissal, while in other cases of non-interest of parties it generally took a long time to reach such a decision. Even before the case could go to another stage, it was dismissed. The plaintiff successfully used the court to stop his neighbors from making inroads into his land.

The plaintiffs sometimes delayed the litigation by not actively pursuing the case. TTS Case No. 50 is an example of such a case. The case went on for sixteen months during which twenty-five hearings took place. The case was filed for property worth Rs. 26,000. The limit for the exemption of case fee is Rs. 25,000, and it appears that the plaintiff was not aware that his case would be subject to a case fee. In any case, he did not submit the court fee despite repeated notices. It is instructive to report the details of the twenty-five hearings in chronological order.

Notice to submit the remainder of court fee issued;
Notice issued again;
Judge transferred;
Notice issued again;
Notice issued again;

54 There are 20 *marlas* to the *kanal*.

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One of the defendants appeared but the other defendant was absent;
Address of the second defendant was not correct in the plaint, and the plaintiff was asked to provide the correct address;
Notice issued again;
The plaintiff filed an application to amend the plaint;
The defendant submitted a reply to the application;
No objection was made on the amendment pleaded by the plaint;
Judge on leave;
Adjournment to receive the amended plaint;
Lawyers on strike;
Amended plaint filed and notices were re-issued;
Notice issued again;
Notice issued again;
Notices issued again;
Notices issued again;
Notices issued again;
Notice issued again;
Notice issued again;
Notice issued again;
Plaintiff was not present, and the case was dismissed due to non-prosecution.

The court records for this case indicate how the courts can be needlessly engaged in litigation, adding to congestion, and used to harass defendants.

6.1.3. Family cases

In most family cases, whatever the nature of the dispute, a compromise outside the court and within the family circle was reached as revealed by Family Case Nos. 14, 39, 40, 55, 56, and 57. Often the defendants simply did not appear while the court pursued the cases. One example of such a case, which went on for six months, is TTS Case No. 14. The wife in question did not pursue the case despite being summoned. Her absence might have resulted from societal or family pressure, lack of interest in the

litigation, or prohibitive costs of litigation. The plaintiff appeared as the prosecution witness (PW) 1 and essentially restated his suit and got an ex-party decree in his favor.

In TTS Case No. 39, the wife sought dissolution of the marriage, and the husband chose to be the ex-party. In TTS Case No. 40, the husband filed a suit to get a decree for restitution of conjugal rights, and the wife did not contest it. Eventually the husband lost interest and stopped pursuing the case. The case went on for nine months and there were eleven hearings. The husband was not even willing to deposit the fee for process serving. Our follow-up survey revealed that the husband wanted to use the court to pressure his wife to come back to him, but the tactic did not work.

TTS Case No. 55 was a divorce case that lasted for eight months. The defendant appeared in one hearing and did not submit his written statement. The case was decided in the wife's favor. Again, our follow up survey revealed that there was a settlement outside the court, which is why the case was not contested.

TTS Case No. 56 was also a divorce case filed by a wife against her husband. This went on for sixteen months, which is a long time for a family case. The service and completion of pleadings took six months. The plaintiff presented the written statement after one month and the plaintiff withdrew the case after sixteen months without ever presenting her evidence. It is most likely that an out of court settlement was reached as usual.

TTS Case No. 57 was a divorce case that went on for 14 months and ended in a compromise. However, it was the only divorce case we read in which the wife secured a divorce. Even in this case, the service and completion of pleadings took a long time. However, as it turned out, there was no need for producing the plaintiff or defendant's evidence or of going to the arguments stage since the parties reached a compromise anyway. Our legal expert's view is that in family cases, the wife is at a disadvantage in prosecuting the

cases in courts and the longer such cases remain pending the greater is their toil and expense.

6.2. Haripur (NWFP)

We sampled 66 cases for Haripur: 40 Criminal (60.6 percent), 23 Civil (34.8 percent), and 3 Family (4.6 percent). The judiciary appeared to be more efficient in the NWFP compared to the Punjab. Drug addiction emerged as a major problem in criminal cases, as evident from the qualitative findings also. In addition, as evident from the qualitative findings, physical fights resulted in criminal cases. Petty criminal cases, related to prohibition, unlicensed firearms, and price control seemed to be linked to police harassment. Delays in civil cases occurred for similar reasons as reviewed above for Toba Tek Singh, Punjab. The need for revenue officials to present the evidence caused delays in property cases. Again, most civil and criminal cases resulted in an out of court compromise. The court proceedings were used to gain leverage in the compromise decisions. The parties reached a compromise in serious criminal cases such as those resulting from physical fights and injury much quicker compared to Toba Tek Singh, Punjab. This might have had something to do with the established *jirga* traditions and socially accepted norms of compensation.

6.2.1. Criminal cases

The main types of criminal cases in our sample included physical fights and injury, drug addiction, price control, security proceedings, and unlicensed firearms. Police harassment was an issue in the drug addiction, price control, and unlicensed arms cases.

Criminal cases are generally an offence against the state. When an individual physically hurts or kills another individual, it is not only a crime against the victim or his/her family, but also a crime

against the society and the state and hence a non-compoundable offence.⁵⁵ However, the Islamic legislation introduced in the 1980s changed such cases into compoundable offences. Since these cases have been made compoundable, sooner or later, barring a few exceptions, the parties compromise due to social pressure, in exchange for compensation, or due to a lack of faith in the judicial system.

In Haripur, there was a high incidence of physical fights, and the parties often went to court for prestige reasons or to settle the score by using the court. H. Case No. 12 is one such case. We determined from our follow-up survey that the complainant was the relatively richer party. This is consistent with our observation in the qualitative section that it is not always the aggrieved party that goes to the police or court, but often the more influential party that does so. In this case, the accused did not appear for many hearings and so warrants were issued for his arrest. He appeared after four months and his lawyer justified his absence. The trial went on for another four months after which the parties reached a compromise. The case seemed to be typical of prestige litigation. After a minor fight, one of the parties (the influential one) goes to the court to avenge the injury to his prestige. During the trial, the prosecution does not bother to submit its evidence and neither does the defence. Eventually, an apology or compensation settles the matter, and the court is used as an instrument to settle the score.

H. Case No. 13 is another such case of litigation subsequent to a fight. The complainant was a hawker who was hit by a stone thrown by an accused shopkeeper after a verbal argument. The stone fractured the plaintiff's head, and he was hospitalised for treatment for quite sometime. The hearing took place in this case after one and half months, which is a long time for a serious criminal case like this one. The FIR was lodged on the day of the incident and the *challan* was submitted after four days. The trial

55 In a non-compoundable offence, it is not sufficient for the offender(s) to be pardoned by the aggrieved person(s). The court also needs to pardon the offense.

began after eleven months because the complainant remained in the hospital for a long time. The parties reached a compromise seven months after the trial began and eighteen months after the incident. The case did not go to the stage where prosecution could present their evidence. The accused gave Rs. 30,000 as compensation to the complainant to pay for his medical expenses. This was in accordance with traditional justice where the guilty party pays retribution and the offence is pardoned.

H. Case No. 18 was also a stone-injury case. The FIR and *challan* were submitted on the same day that the complainant was admitted to the hospital, but the trial began nine months after the incident and went on for eleven months. This lag in the start of the trial was a common pattern. A compromise was attained twenty months after the incident. Again no prosecution evidence was presented, and the complainant got Rs. 10,000 as compensation. The complainant was not satisfied with the court proceedings and said during our follow-up survey that “the courts do not fulfil their mandate and only money counts.” In this case, it appeared that the aggrieved party wanted the accused to be punished by the court.

H. Case No. 64 was also an injury case. The complainant was a WAPDA employee, and he sent an inspection team to the flourmill of the accused. The next day, the complainant was stopped while driving his car and beaten up by the accused. The FIR was lodged on the day of incident and the *challan* was submitted after two days. The trial subsequently commenced after three and a half months. The parties reached a compromise four months after the commencement of trial, and again the case did not reach the stage of the prosecution presenting evidence.

A few commonalities are evident from these criminal cases. FIR and *challans* are submitted very quickly after the incident takes places. However, the trial begins after a considerable gap. In the three cases reviewed, this period varied from 3.5 to 11 months after the incident. The other commonality is that all of these cases resulted in a compromise and an out of court settlement. This

seems quite deliberate and in none of the cases discussed above did the prosecution present its evidence.

Drug addiction cases were close to 20 percent of the sample of criminal cases in Haripur, indicating a high incidence of drug addiction in this part of the NWFP. Data from case records reconfirms our qualitative findings that drug addiction cases are associated with police harassment. Instead of arresting the mafias that produce or peddle drugs, the police arrest small-time drug addicts to extort money. If they fail to procure a bribe, the case is referred to the courts. Dealing with the courts appears to be easier for drug addicts who are knowledgeable about court procedure. They plead guilty on the day they are produced in court and are generally charged as having consumed hashish. The court also convicts them the same day that they are produced under prohibition section 3/4 PO and they are fined a few hundred rupees. In addition, they are required to be on court premises either until the rising of the court (end of court proceedings) on that day or for a few days. These cases are generally quickly decided in the first hearing. The Senior Civil Judge, Haripur's Office, came up with a standard form for such petty crimes. Our follow-up survey showed that most of the people convicted for petty crimes were poor.

The intensity of punishment meted out to a drug addict could also be harsh for the crime, as the cases below indicate. Thus, responding to a police shakedown with a bribe might well be the easier option in many cases. In H. Case No. 6, the accused was charged with possessing 350 grams of hashish, and he was given seven days imprisonment and a fine of Rs. 700. In H. Case No. 8, the accused was caught with 100 grams of hashish, and the court convicted him for three days imprisonment and a fine of Rs. 250. In H. Case No. 9 the accused was said to be in possession of 8 grams of hashish, and was awarded sixteen days imprisonment with a fine of Rs. 1,600. In H. Case No. 20, the accused was charged for the possession of 480 grams of hashish and was awarded 10 days imprisonment with a fine of Rs. 1,000. In H. Case No. 23, the accused was charged with possession of 119 grams of hashish

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and was awarded three days imprisonment and a fine of Rs. 300. In H. Case No. 25, the accused was charged with possession of 200 grams of hashish and was convicted with an imprisonment of four days and a fine of Rs. 400.

There was only one case of heroin possession that lasted for three and a half months, despite the fact that the accused had pleaded guilty on the very first hearing. The accused was given three months rigorous punishment and a fine of Rs. 1,000. The case went on for a long time because of the non-production of the accused from the police station.

Small shopkeepers and stallholders by the roadside were prosecuted for over charging and provided the police with another opportunity for a shakedown and harassment. Most of those charged pleaded guilty in court on their first appearance and were penalized until the rising of the court and required to pay a small fine. Thus, it meant the loss of at least a day's work. In H. Case No. 53, the accused was charged for over-pricing under the price control ordinance. He pleaded guilty on the very same day and was convicted until the rising of the court with a fine of Rs. 500. In H. Case No. 62, the accused was charged for over-pricing, pleaded guilty the same day, and was convicted until the rising of the court with a fine of Rs. 200.

Security proceedings were also disposed off quickly. They were usually linked with another property or criminal dispute/case. If one of the parties in the dispute fears a threat of physical assault, s/he can go to the court to seek a bond of security from the other party. The security is sought and paid to protect against the impending threat of breach of public peace. Hence, these cases are titled as "respondent versus the public." The security case proceedings are simple and generally end in a compromise. Since these proceedings are linked with other cases, they are also at times used to influence the outcome of the main case.

In H. Case No. 5, security proceedings under section 107/151 Criminal Procedure Code (Cr.P.C.) went on for one and a half months. The parties were involved in other pending litigation. The respondent accepted the plea of the plaintiff and offered to pay the required security. The case finished without being contested. H. Case No. 17 lasted about two weeks due to the lack of pursuit by the complainant and the plea was dismissed. H. Case No. 52 under security proceedings was an offshoot of a family dispute. The wife complained against her husband and father-in-law apprehending a breach of peace. As required, security was offered without any contest and the proceeding ended in one week. Similarly, in H. Case No. 55, the parties agreed to pay the security, and the case ended in three months. The litigants were involved in a civil case over property. H. Case No. 63 was also similar and took four months to dispose off. Finally, in H. Case No. 66, a compromise was reached in one month and a party agreed to pay the security.

Unlicensed firearms cases were also decided quickly in general and were also usually linked with other criminal litigation. As in the drug addiction and price control cases, the accused generally pleaded guilty and got convicted under the Arms Act. These cases were also linked to police harassment.

In H. Case No. 14, the accused was charged for firing in the air during his own wedding on the complaint of the Assistant Sub-Inspector (ASI). He pleaded guilty on the first hearing and the case ended with a conviction and a confinement to court premises until the rising of the court and a fine of Rs. 300 as the sentence. H. Case No. 15 was an offshoot of a murder case. While investigating the murder case, the police allegedly recovered an illegal weapon. The accused was acquitted in the murder case and it led to his acquittal in this case as well after one year and eight months. H. Case No. 21 was also an offshoot of a murder case but went for three years. The accused was acquitted after a long delay of a murder charge. The delay occurred because of the failure of the prosecution to provide evidence and case property (i.e. the illegal

weapon). The prosecution did not bring the accused from jail while under detention.

H. Case No. 32 was a case of police harassment and also an interesting example of how the police and judiciary collude. The accused was alleged to be in possession of 95 rounds of a non-registered 30 bore pistol and was booked under the Arms Act. In the Prosecution Inspector's report, he was charged for the possession of a different brand of cartridges i.e. those of a 12-bore pistol. The police took a long time to report the case, and the Judge did not object to the delay. The accused pleaded guilty, and was given five months rigorous imprisonment and a fine of Rs. 400.

A tactic used by innocent poor people is to plead guilty and to get themselves out of the shackles of the police and judiciary. However, there is a price to pay because if someone is convicted, s/he is not eligible for the government service or entry into public educational institutions. However, most alleged petty criminals are willing to pay rather than dealing with the judicial process. The accused often claimed police harassment in our follow-up survey.

6.2.2. Civil cases

Our qualitative research showed that property suits were filed to manipulate out of court decisions in order to maintain or change the status quo at the local level. Generally, delaying tactics used by the influential party (whether plaintiff or defendant), in collusion with the lawyers and the court, influenced the outcome.

In H. Case No. 1, the plaintiff filed a suit to get a stay order against his brother regarding inherited property. According to the plaintiff, the property was divided through the *jirga's* decision in 1963. The defendant sold his share to a third party in November, 1998, and the plaintiff filed the suit seven months after the transfer of ownership. The purpose of the suit seemed to be to get a temporary injunction to stop the new owners from fencing, building a wall, cutting down trees, or changing the status of the property in any

way. The case seemed malafied to us as the plaintiff claimed his share in the property on the basis of the deceased father's will in 1963. In our follow-up interview, the defendant validated this point of view by claiming that “the plaintiff filed this case only to harass and to put me down and hence it should be dismissed.”

The plaintiff delayed the proceedings in H. Case No 1, which is the most he could have achieved. There was not much substance in the suit, and he was well aware that it was not going to be declared in his favour. However, since he had the temporary injunction against any change in the status quo regarding the property, his objective was to delay the proceedings. The service and pleadings were completed within two weeks of the filing of the suit, and the issues were framed the same day as the completion of the pleadings. The plaintiff provided the list of witnesses two weeks after framing the issues and listed himself, the defendant, the *patwari* (an official of the revenue department), the *numbardar*, and the *maulvi* (mosque keeper) of the village as witnesses. The defendant's list of witnesses was similar, and, in addition, he listed the property co-sharers and the court bailiff as his witnesses.

Despite the quick pleadings and issues framing, the prosecution evidence started twelve months later. Though the plaintiff submitted the list of witnesses, the plaintiff's lawyer and *patwari* took turns in being absent. The plaintiff's lawyer would show up for the hearing intended to declare the plaintiff as an ex-party, and thus save his client from being thrown out of the proceedings only to disappear again. Every prolonged absence was pleaded on the pretext of some urgent matter or the other (i.e. being out of the city on urgent business or hospitalised). The *patwari* was similarly absent and the court sent non-bailable warrants for the arrest of the *patwari*. He appeared on the very next hearing citing an urgent reason for his absence. Hence, the prosecution evidence began one year after the framing of the issues.

The defendant was unable to present his evidence due to the absence of the *patwari*. Our legal expert pointed out that the

court's practice of summoning the *patwari* and other revenue officials contradicted the strict requirement of Chapter 5B, Vol. 1, of High Court Rules and Orders, which only require affidavits and satisfactions as to why the authorized copy of the revenue record can not adequately serve the purpose in question. Thus, this practice of requiring the presence of revenue officials is a violation committed by the judges in civil courts. Thus, in this case, it is not clear why the Judge did not declare the plaintiff as an ex-party. These delays continued until a compromise was reached two years and eight months after the filing of the suit.

H. Case No 31 was also an inheritance suit in which the well-off defendant delayed the proceedings because the plaintiff had a legitimate claim. The defendant built the house on common property and the plaintiff pleaded that the property was not divided up fairly in the *khang*i (family/community) decision. Accordingly, the plaintiff sought re-distribution of the common property. The service and completion of pleadings alone took three years and nine months for this case. Either the plaintiff did not give the correct address of the other party, or the defendants bribed the process server. It is also not clear why the Judge did not declare the defendants ex-party despite such a massive delay. In any case, the issues were framed after three years and nine months. The plaintiff presented his evidence on the very next hearing after the framing of issues while the defendant again took another three hearings (five months) for the presentation of his evidence prior to the argument stage. The judge asked the court's witnesses to appear in the arguments stage and this took another six months. The proceedings were postponed a few times on the plea that the counsels for the parties were trying to achieve a compromise. Finally, the preliminary decision was granted in favour of the plaintiff after six years and one month and both parties compromised at the same time. If one takes the view that justice delayed is justice denied, the plaintiff was denied justice given the six-year delay that benefited the defendant.

Our follow-up survey indicated that the *patwari* had registered the plaintiff's land on the defendant's name. The defendant took possession of the land, built his house, and wanted to occupy it. Both parties had a similar socio-economic status in terms of their respective land ownership. However, the defendant also owned a hotel that made him more influential in the local power structure. The suit was filed over the disputed six *marlas* of land. The plaintiff claimed that the land was worth Rs. 12,000 while the defendant claimed it to be worth Rs. 6,000. The plaintiff claimed to have spent Rs. 100,000 on the suit and the defendant had spent Rs. 6,000. Given these numbers, it is likely that this dispute was motivated by "prestige" as discussed in the qualitative findings. It is difficult otherwise to rationalize why the plaintiff and the defendant would fight a legal battle for over six years and the plaintiff would spend many fold more on the suit than the value of land.

H. Case No. 36 could be termed a pre-emption case, and was similar to other land cases where one of the parties, this time the plaintiff, was allowed to endlessly extend the proceedings. The dispute was over three *marlas* of land worth Rs. 6,000. Initially, the defendant's lawyer did not show up until the seventh hearing. This may have been due to the non-service by the plaintiff or the lack of willingness of the defendant to receive the summons. The defendant submitted the rebuttal soon after being served. The issues were framed within two months, and the witnesses were summoned after another two months. However, the plaintiff's witnesses did not appear in the court. The plaintiff kept on pleading for permission to present secondary evidence (i.e. documents etc.) instead of witnesses. Our reading of the court proceedings suggested to us that the plaintiff was not serious in pursuing the case. However, the Judge did not dismiss the suit despite this, and the plaintiff was allowed many adjournments. Finally, after almost eight years, the dispute was settled out of court through a compromise. The defendant claimed to have spent Rs. 50,000 on the suit while the plaintiff spent Rs. 8,000. Our follow-up survey indicates that the plaintiff owned more land and was wealthier. This fits in with the pattern we identified in the qualitative analysis that the more

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influential parties, in this case the plaintiff, are able to sway the court proceedings with the cooperation of the lawyers and the judge.

This case showed that the court allows itself to be manipulated. The Judge granted adjournments without imposing costs on the party at fault or compensating those not at fault. Similarly, the process of serving the defendants is such that it could take almost four years to complete the first stage of the suit as in H. Case No 31. Also, while there is no need to summon a *patwari*, or any other official of the revenue department in person unless there are substantive grounds for believing that the certified copy is not an adequate indicator of the official record, this was routinely done by the court. In such cases, the courts contribute to delays by even violating the law. The courts also adjourned cases in response to applications seeking interim relief because the party to the dispute was involved in another case. In most such situations, the two cases can proceed simultaneously.

There were five cases of succession certificates (H. Case Nos. 42-46) in our sample. Generally, the heirs of deceased persons filed these cases to claim their property or assets. These are cases against the public since the purpose of the court proceedings is to ensure that no other legal heir of the deceased individual is deprived of his/her entitlement. All five cases were disposed of within a few months as no additional claimants surfaced and no procedural delays took place.

6.2.3. Family cases

Family cases often included guardianship and custody matters, and these were mostly uncontested and disposed off swiftly. They were also often related to other cases. H. Case No. 29 was a suit for dowry money and a compromise was reached within a month. According to our follow-up survey, this case was linked to a divorce case that went on for much longer. H. Case No. 41 was a case pertaining to the seeking of guardianship of a twelve year old boy and his property. The case was filed by the father who himself was a lawyer and the case was decided ex-parte in favour of the plaintiff in twenty days. H. Case No. 65 was another case of dowry and maintenance, and it ended in dismissal by default after six months due to non-prosecution. The

plaintiff did not pursue the case and our follow-up survey indicated that the parties reached a compromise.

6.3. Larkana (Sindh)

In Larkana, Sindh, we sampled 46 cases: 45 criminal (97.8 percent) and 1 family (2.2 percent). This reflects the nature of litigation in rural Sindh civil where few civil cases come to the courts. By the same token, the large number of criminal cases drawn in a random sample is notable. The majority of these cases pertained to robbery or theft of animals. While animal theft was a prominent issue in the interviews for the qualitative analysis, the significant issue of honour killings captured by the qualitative research did not show up in the case record analysis. However, this is not surprising because our qualitative findings indicated that such cases are not registered with the police and do not reach the courts. Police harassment was also a crucial issue in the dispensation of justice in Larkana and one that the judiciary encouraged at least by neglect.

As indicated in the TTS analysis, criminal cases cannot proceed unless the entire accused are present. The way around this is for the court to separate the case of the attending accused from the absent and to proceed. However, the courts did not follow this strategy and so we came across cases of prolonged delays of up to eight years when there were absconding accused. The lack of presentation of the prosecution evidence was also a major cause of delay of the court proceedings, and the police played a central role in the presentation of the prosecution evidence.⁵⁶

6.3.1 Criminal cases

Most of the criminal cases resulted in acquittals. This could reflect the prosecution's inefficiency, but generally the intention is to harass the defendant with police connivance and that is successfully

⁵⁶ One of the civil judges in *Taluka* Ratodero was reluctant to pass on the judicial record to us despite being asked to do so more than once by his superior officer, the District and Sessions Judge. We finally got this record with a three-month delay after the whole record was re-typed for our use.

done. In prosecutions under Arms Ordinance, almost all cases ended in acquittal. Security proceedings cases were discharged on becoming infructuous. While the common police practice in Toba Tek Singh and Haripur was to register FIRs as called for, in Larkana, the registration of the FIR represented a bureaucratic hurdle. When an incident was reported, the police registered an interim report (NC). This enabled the police to kill the case if they were adequately bribed. Otherwise, they could convert the interim report into an FIR and initiate the court proceedings. That is why there was generally a long gap between the occurrence of a criminal act and the registration of the FIR. Just as the prohibition and price control laws were used as a pretext for police harassment in Haripur, petty cases of violation of *Ehtaram-e-Ramdan* (observing the sanctity of the Islamic holy month of fasting) and the price control law were similarly used in Larkhana.

According to our legal expert, criminal cases were generally disposed off quite expeditiously. Delays occurred when the accused absconded (L. Case Nos. 42, 43, 45), were not produced from jail by the police (L. Case No. 2), or the case was mismanaged (L. Case No. 1). These problematic cases were revealing about the quality of justice dispensed in Larkana at the civil judge level.

Theft and robbery cases revealed the pattern of delay in the dispensation of justice. L. Case No. 45, pertaining to the theft of buffalos, went on for eight years and is particularly illustrative in this regard. The complainant registered a case against four accused for stealing four buffalos worth Rs. 50,000 from him. He employed the services of a *khoji* to trace footprints to the village of the accused. The police registered an interim report and an FIR was lodged one year after the incident. One of the accused was released on bail, and he kept on attending hearings that were held almost every month. From the date of registration of the FIR and submission of the *challan* (July 1, 1993 to September 2, 1994), one of the accused kept on appearing while the other three were declared missing. Another accused then appeared, and, for the next

eight hearings, two accused were present. This went on for five months, and then for the next two and a half months the Judge was transferred without a replacement. After the replacement of the Judge, hearings continued for two months and then the Judge went on leave for a month. When the Judge returned, the proceedings continued, but one of the two accused absented him-self and did not appear for 13 months. Following that, one of the other accused was arrested but not produced from jail by the police for two months. Finally, on August 21, 1996, three years and seven months after the trial began, all four of the accused were present for the first time but the Prosecution Inspector was missing. The hearing remarks for the next hearing a month later were "all present, adjourned, no reason given". Again, after another four hearings, "all accused (were) present." However, this time the Judge adjourned the proceedings until the next hearing to allow for the framing of charges.

The accused were then granted bail and all of them went missing for another eight months. One accused then started appearing again for the next five months. For the next seven months, two of the accused were present on bail. Following that, the Judge was on leave for the next hearing. Two of the accused remained absent for the next eight and a half months. Then one of the accused was arrested and put in jail but not produced in the court for the next three and a half months. After that, two accused were present and one was still absent for another four and a half months. Finally, one of the absent accused got killed and the other was declared absconding after seven years and three months on April 7, 2000, and the trial finally began.

The complainant was asked to fill the criminal disposition form when the trial began. The prosecution witnesses began recording their statements three months after separating the case of the absconding accused on July 13, 2000, and the recording of prosecution evidence continued for two months. This was followed by another delay as the prosecution witnesses went missing for the next six months. Finally, when the witnesses reappeared, it took

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only four hearings to examine them, record the statement of the accused, hear the arguments, and acquit the two attending accused. One absconder was noted to be a public offender while the other one was dead.

When the court decided to do so, the case was efficiently dispatched in only four hearings. No compensation was provided for the long delay and expense to either the defendants or the complainant. The Judge could have declared the missing accused as absconders much earlier. In any case, the process was not just to either the accused present or the complainant in terms of the time, trouble, and justice delayed.

L. Case No. 42 pertained to the theft of a television in August 1996 and followed a similar pattern of delay and quick resolution. An interim report was filed after a month and the trial began in October 1996. The prosecution evidence was not presented for four years and six months. The accused was examined in the following three months and acquitted after almost five years. The proceedings could not begin for four and a half years because the police *challan* had recorded two accused as absconders but the court did not take it this into account and kept summoning the absconders.

Most of the cases in Larkhana district ended with an acquittal. In addition, most of the cases were brought to the court by the police rather than by the two contending parties. By contrast, in Toba Tek Singh and Haripur, even serious criminal cases like assault and murder often ended with a compromise after some compensation was offered.

There were however some cases that did end with a compromise. L. Case No 9 pertained to a physical fight and ended with a compromise within six weeks. L. Case No. 32, a murder case, also ended with a compromise. The police registered the case two weeks after the incident and the compromise was affected within six weeks, even before the trial could begin.

However, as indicated earlier, a compromise was not always reached. L. Case No. 43 pertained to a physical fight and the case went on for years. The complainant was attacked and injured and the police lodged an interim report. The formal report was recorded in February 1995 and the *challan* was filed seven months later. On the next hearing after two months, all accused were present, the charges were framed, and the accused pleaded not guilty. The case moved to the prosecution stage after three months. However, at this stage, the case lingered on for one and a half years because the prosecution inspector and prosecution witnesses did not appear. This period of delay was followed by another of six months because the accused was absent. Following that, a delay resulted because the weapon used for the assault was not presented. The witnesses were not present for the next three months, following which the witnesses were present, but for two months the court did not examine them and no reason was given for the lack of examination. After that, the witnesses and record were absent for the next sixteen months. One of the absenting accused was declared a public offender, his bail was cancelled, and sureties filed. After a brief examination of the prosecution and the evidence of the accused, the attending accused was acquitted after five years. The delay was easily avoidable had the court separated the case earlier. The police were not reprimanded for not appearing as prosecution inspector or producing witnesses as required under section 173 (5) Cr.P.C.

A few cases such as L. Cases Nos. 1 and 2 experienced delays because the accused were not brought from jail and no reasons were recorded for their lack of their appearance. L. Case No. 1, pertaining to a *bhang* addict, was disposed off in seven months even though this could have been disposed off much more expeditiously.⁵⁷ The case property (in this case the *bhang*) was not produced, and the accused, absent on a few hearings, was rearrested but not produced. Similar proceedings took place in L. Case No 2.

57 *Bhang* is the culturally acceptable imbibing of the marijuana plant for intoxication in liquid form.

Violations of *Ehtaram-e-Ramzan* in L. Cases Nos. 4 and 41 provided evidence of police harassment with the connivance of the judicial process. In L. Case No 4, a shopkeeper was arrested for violating the sanctity of the holy month of fasting under the *Ehtaram-e-Ramzan* Ordinance. He pleaded guilty and was convicted the same day and fined Rs. 50. This kind of police harassment is much like the hashish addiction cases in Haripur. Our follow up survey indicated that the shopkeeper was better off than the average common people in rural Sindh and also smart enough not to get trapped by the system. Similarly in L. Case No. 41, a few shopkeepers were caught, pleaded guilty, charged Rs. 50 each, and discharged. Other than money and socio-economic status, information about the court procedures was an asset available to these shopkeepers. Poor *bhang* addicts in rural Sindh were not aware of the possibility of pleading guilty and getting off the hook.

Price control cases were similar to those in Haripur. L. Case Nos. 3 and 8 were tried under section 5/6 Price Control Act 1977, and could be viewed as police harassment. In L. Case No. 3, the accused was convicted the same day, pleaded guilty, and was let off with a fine of Rs. 800. In L. Case No. 8, the accused were convicted on the second hearing after two weeks and paid a fine of Rs. 200.

Security proceedings differed across cases, though most of them remained inconclusive due to a lack of interest of the complainant or the lack of prosecution witnesses. In L. Case No. 25, the request for securities was lodged along with the FIR of a criminal case. The trial started one month after the FIR, but no evidence from either the prosecution or defendant side was recorded. The court awarded an acquittal fourteen months after the trial's commencement. The lapse of thirteen months from the commencement of the trial to the acquittal was caused because neither the accused nor the witnesses were present. According to our legal expert, this whole case was pointless.

L. Case No. 24 went on for two years because the respondent was not served. The proceedings became infractious due to the passage of time and no decision was handed out. Similarly, L. Case No. 26 was discharged after remaining indeterminate for two and a half years. The trail had gone on without proceedings due to the non-appearance of the witnesses. L. Case No. 27 also fell into the same category and the case was discharged due to the non-appearance of witnesses. The respondent was already in jail and kept appearing, but the prosecution witnesses did not appear and hence the case was discharged.

The security proceedings cases took longer in Larkana than in Haripur. A few cases were registered by the police on suspicion that the accused gave protection to dacoits and so the cases were filed as “threat to public security.” In L. Case No. 14, the accused was suspected to have given protection to notorious dacoits, and he was booked under section 21 of the *Hadood* Ordinance 1979. The FIR was filed six weeks after the incident, and the accused was acquitted five months after the commencement of trial. The prosecution and defence counsel were absent during most of the trial.

L. Case No. 2 again seemed to be a case of police harassment and the judiciary's negligent behaviour. The police caught the accused in connection with another case. However, they discovered that the accused was a habitual thief and that he had been dealing in stolen articles and *bhang* and providing hospitality to thieves. He was therefore charged with being a threat to public security and this enabled the police to keep him in custody even though he was discharged on bail in the original case. The trial began six months after the FIR was launched. Both the respondent and Prosecution Inspector attended hearings in the first two months and the Judge adjourned these hearing without recording any reasons. For the next two months, he was not produced in court. In the following four months, there were many adjournments without recording evidence and also delays occurred due to the non-production of the

accused from the jail. The accused was finally discharged after being on trial for eight months.

Unlicensed firearms cases also had a similar pattern to that noted for Haripur. These cases, booked under the violation of The Arms Act, were generally linked with some other criminal case. Most of the cases were disposed off in a matter of a few months. L. Cases Nos. 7, 10, 11, 20, 28, and 36 were all disposed off from within six weeks to four and a half months. The only exception was L. Case No. 28 that lasted for six months because the trial began after five months. This rapid rate of case disposal indicates that the court can move quickly when it chooses to and this was true for both Larkhana and Haripur. However, one major difference was that most of the accused pleaded guilty in Haripur. It is much easier to decide cases promptly if the accused pleads guilty. Even so, in Larkana, the accused were quickly acquitted. The pattern in this, as in other petty cases, seems to be that people are brought up on false charges as part of a shakedown.

Even petty crime cases were prolonged sometimes. In a *Zina Hadood* (punishment for adultery) case, L. Case No. 16, the trial started five months after the police report and the prosecution evidence took another five and a half months. The case ended with the acquittal of the accused after thirteen months. In another *Zina Hadood* case, L. Case No. 35, while the accused was under arrest, the police recovered an unlicensed pistol from him. The *challan* was submitted within a week and the trial commenced after five months. The prosecution evidence started after another nine months. It was the familiar pattern of delay earlier recounted. The accused was not produced from jail, the case was adjourned pending charge, the bail was filed, the Prosecution Inspector was not present, the bail was granted, the charge was not framed and so on. The prosecution witnesses from the police department were absent for the next four months on twenty-three hearings. In the last two months of the trial, the witnesses were examined, statement of the accused was recorded, arguments heard, and the

accused was acquitted. Even so, it took almost twenty-one months for this to happen.

L. Case No. 22 lasted for two and a half years. The police report was filed two weeks after the recovery of the weapon and the trial started soon after. The prosecution evidence was presented in the next three months. However, the evidence of the defendant took two years and two months to conclude. The witnesses required to give evidence on behalf of the accused were missing on twenty-seven hearings and witnesses' statements were not recorded on the next four hearings when they were finally present. The accused was acquitted after two and a half years.

Barring the petty criminal cases pertaining to *Ehtaram-e-Ramzan*, drug addiction, and price control, the accused were generally acquitted. L. Case No. 30 was a rare case regarding the possession of unlicensed arms that led to the conviction of a jailed accused. The accused was booked for possessing unlicensed arms under the Arms Act and convicted after two years and six months. The delay took place because the accused was not produced from jail or because the witnesses were not present. The trial started two months after the police report, and the prosecution witnesses did not show up for over two years. Once the witness appeared, the evidence was presented over a three-month period, the case was decided immediately following this, and the accused was convicted.

Police harassment seems to be present across the board, although it is sometimes more obvious. In L. Case No. 44, the accused was charged for showing pornographic movies. He pleaded guilty, the case went on for six months over eighteen hearings, and a fine of Rs. 250 was awarded. As earlier indicated, knowledge of the system can result in shorter delays.

Some cases remained unresolved. L. Case No. 33 went on for three months and then the proceedings were stopped because all the accused absconded. The trial was to begin again after the arrest of the accused. In L. Case No. 37, the proceedings stopped after

sixteen months due to the non-availability of the complainant. L. Case No. 38 remained unresolved because the charge sheet was not complete.

6.3.3. Family cases

There was only one family case in our sample. In L. Case No. 6, a husband sought restoration of conjugal rights. The wife did not contest the case despite the service of the process. She was declared ex-party after two and a half months. The plaintiff presented his evidence on the next hearing and the case was decided in the plaintiff's favor within three months. It is interesting that in criminal cases, the courts took years to separate the case of absenting accused from the present one while in the family case, the judge declared ex-party much quicker. The absence of the other party in this family case could have been a result of a compromise in the background as happened in family cases in Haripur.

6.4. Sibi (Balochistan)

In Sibi, Balochistan, we sampled 35 cases; 24 criminal (68.6 percent), 8 civil (22.9 percent), and 3 family (8.6 percent). The judiciary in Sibi was more efficient than in the other districts. However, because of the reliance on the *sardari* system for justice, low litigation and congestion was an obvious reason for this. Cases were informally investigated by the *tehsildar*, and then sent to the courts. The delay mostly occurred at the police level in the other districts. The judges in Sibi were able to efficiently dismiss the civil cases if the plaintiffs were not pursuing them. This is something that judges in the other provinces can easily do also.

6.4.1. Criminal cases

An FIR was generally lodged some time after a physical fight and injury in Sibi, while in the TTS or Haripur it was lodged the same day. Balochistan has almost a third of the country's land mass but is sparsely populated and hence distances to all facilities are much greater and public transportation is limited. Thus, less access to police for registration of cases is one possible cause for this delay.

Another likely reason is the special role of the *tehsildar* in the tribal belt in Sibi. The latter has police duties along with revenue duties. If an incident takes place in the tribal belt, he can investigate it himself before formally recording it with the district police. In Sibi, the courts also conducted inquiries, as in S. Case No. 3. Such cases often ended with an out of court compromise.

Out of 24 criminal cases, 13 ended with a compromise and 9 ended with an acquittal. The high rate of compromise is not surprising, since the formal judiciary is not the main conflict resolution mechanism in the tribal *tehsils* of Sibi. The acquittal pattern is similar to the one observed in Larkana, Sindh. However, the criminal cases ending with a compromise in Larkana were proportionately higher. S. Cases Nos. 2, 3, 4, 5, 6, 7, 10, 11, 12, 17, 21, 34, and 35 ended with a compromise and S. Cases Nos. 1, 9, 13, 14, 15, 16, 18, 30, and 32 ended with an acquittal.

S. Case No. 21 was an injury case under section 337-A. The FIR was lodged ten days after the incident and the trial began soon after. The parties reached a compromise within two months without any substantive proceedings having gotten underway. S. Case No. 34 also pertained to a physical fight. The FIR was lodged three months after the incident and the case ended up with compromise one month after that. In S. Case No. 35, an FIR was lodged against the five accused two months after the occurrence of the incident, and the parties reached a compromise one week after the filing of the FIR. In S. Case No. 10, the trial ended with a compromise after one month.

The trial in S. Case No. 16 went on for five months. It seems that the parties had agreed to an out of court settlement since no witnesses appeared from either side. The medical doctor was the only witness and his testimony was official. The case ended with an acquittal. Cases Nos. 2, 6, 7, 11, and 17, were all related to physical fights / injury and the parties reached a compromise without the commencement of the trial. In S. Case No. 17, the FIR was registered after a five-month delay and the *challan* was

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submitted nine months after the registration of the FIR. The police delayed the proceedings for fourteen months and when the trial was about to formally begin, the parties reached a compromise and the trial was over after one month.

As in Toba Tek Singh and Haripur, some criminal cases were a spill over of land disputes. S. Case No. 13 lasted for two years. The three accused allegedly trespassed on land they had attempted to claim via civil litigation. The *challan* was submitted two months after the FIR. The presentation of the prosecution evidence started after another four months and went on for six months. The evidence of the accused was presented one month after that and the accused was acquitted after another two months. The case lasted for twenty-two months. S. Case No. 12 was also related to civil litigation. The complainant had won a civil case and his opponents wanted to forcibly construct a building on the contested land despite the fact that the verdict went against them. He filed a complaint to stop the construction. The FIR was lodged two weeks after the threat of occupation and the trial was to begin one month after the *challan* was issued. The parties reached a compromise in a month and a half, even before the trial could begin.

S Case No. 18 was also a spill over of a land dispute. However, it was not considered “maintainable” because there was other pending litigation over the title of the land in question. Therefore, the case was dismissed in four months. S. Case No. 33 reached a compromise within one month. The accused had allegedly caused damage to the complainant’s crop. Investigation by the *tehsildar* in *tehsil* Bhag took eleven months. This time period may have given the parties, particularly the influential party, time to negotiate. After the commencement of trial, the parties reached compromise soon after the presentation of the prosecution's evidence.

S. Case No. 9 was fully contested and still ended in three and a half months. The FIR was registered one month after the incident and the trial began soon after. The prosecution's evidence was presented in the next month and the evidence of the accused was

presented in the next two months. It was followed by arguments, and one of the accused was acquitted and the others convicted.

Theft cases usually ended in acquittals after short trials. S. Case No. 15 was a case of cattle theft. The *tehsildar* took seven months to investigate the theft. The trial took three months to begin because of the accused was absent. However, once the accused appeared, he was acquitted within six weeks. In S. Case No. 30, the complainant claimed Rs. 18,000 was stolen during a break-in at night. He lodged the complaint three months after the incident, but the accused were acquitted due to the lack of evidence.

As in the other districts, cases launched based on liquor prohibition seemed invariably linked to police harassment. In S. Case No. 1, the police arrested five people who they alleged were about to consume liquor. The police recovered half a bottle of liquor and filed a case against them under the Prohibition Article 3 (manufacture and sale) and Article 4 (use and possession). The *challan* was presented in the court after a week and charges were framed in another week. Witness examination started two months after the framing of charges and went on to another hearing. The accused were acquitted after the next hearing, three months after the case started. S. Case Nos. 4 and 14 were also prohibition cases and they also ended with the acquitted of the accused in less than three months after a quick trial.

In S. Case No. 5, the complainant claimed that he managed to rain-harvest by building a small embankment. He alleged that the accused tried to break the embankment to irrigate his fields and this resulted in a loss to him of Rs. 70,000-80,000. Since water is an extremely scarce resource in Sibi, this was a serious charge. An FIR was registered five days after the incident, and the court held a local inquiry over a two-week period. After the inquiry and examination of the prosecution's evidence, the case was dismissed in two months. S. Case No 29 was the only one in our sample pertaining to a succession certificate, and it was granted within a month without any contest.

6.4.2. Civil cases

The judges handled both the simple and the more complicated cases expeditiously. In S. Case No. 9, there was more than one accused. The Judge examined the case of each accused separately and came to a quick decision. In S. Case No. 23, the plaintiff was driving a vehicle simply on the basis of evidence of ownership and thus had no locus standing in court. The service of the completion of pleadings took one month and ten days and the application for interim injunction was argued and dismissed due to the lack of recorded evidence after another two months. The case ended within three and a half months. S. Case No. 25 was filed to correct the ownership entry in a municipal record. A tenant was seeking title on the basis of false documents. The suit was dismissed due to the lack of evidence within three months. This manner of cutting down delays was not practised in the other districts.

S. No. 8 was a more complicated case and filed to challenge an arbitrator's decision in a dispute between two villagers. Service and completion of pleadings took four months. The issues were framed the same day as the completion of pleadings and no plaintiff's or defendant's evidence was presented. The suit was dismissed after two and a half months due to the lack of prosecution. The plaintiff subsequently filed an application for the restoration of the suit after three weeks. The suit was restored two months after the application and transferred to *tehsil* Harnai court. Arguments were heard after three months and the suit was dismissed. The case lasted for one year and interestingly the arguments were heard without the plaintiff's and defendant's evidence based on the legal issues involved. This was again a useful innovation to cut delay. In addition, in this case, the plaintiff challenged a decision made by a tribal sardar. The judiciary upheld the decision made by the *jirga*. It is not easy for the judiciary to overturn the decision of the tribal sardar even when the decision is based on strong legal grounds.

In S. Case No. 24, a female heir claimed her share in the father's property and contested the right of her male siblings to transfer the disputed property to another owner. She sought interim relief and title. The plaintiff was not present on the first hearing and her case was dismissed. She successfully filed the application to restore the suit and submitted her written statement on the next hearing, and, after two weeks, the suit was again dismissed because she did not possess the contested property. She filed an appeal against the dismissal and the High Court allowed her to file her case as a fresh suit. It was again dismissed due to her absence in the court. She again sought restoration and this was granted. However, she withdrew her case with permission to file a new suit. This may well have been due to an out of court compromise.

S. Case No. 25 concerned the recovery of Rs. 5,500. The service of completion of pleadings took two weeks. The parties reached a compromise on the first hearing, and the case finished in three weeks. This is similar to the pattern evident in serious criminal cases where the parties reached a compromise quickly.

S. Case No. 28 also ended with an out of court compromise. The suit was instituted to claim ancestral possession over land and moved for an order of removal of protective bushes around the land. The Judge dismissed the suit after a month due to the non-perusal of the case by the plaintiff. A week later, the application for the restoration of suit was filed. After another two weeks, the court rejected the application for interim relief. Issues were framed in two and a half months. There was a delay in the case because the plaintiff had appealed against the rejection of interim relief. The file from the appeal court was received after four and a half months and the suit was withdrawn after another month.

S. Case No. 27 concerned Balochistan's custom of *walwar* (bride price). In this traditional practice, the bride's family receives payment from the groom's family in exchange of marriage. This case was filed to recover the promised *walwar*. The groom did not pay the agreed amount of Rs. 10,000 as *walwar* and Rs. 6,500 on

wedding expenses. The suit was dismissed the same month after the service of completion of pleadings, since the law does not endorse *walwar*.

6.4.4. Family cases

In S. Case No. 22, a woman sought the dissolution of her marriage based on a number of allegations. Due to family pressure exerted on the plaintiff, the suit was withdrawn and the case ended with a compromise in less than a month. There were two family cases of guardianship. In one case, the guardianship was granted in three weeks to the minor's paternal uncle without being contested from any side. In another case, the suit went on for ten weeks and ended with a compromise. Originally, the minor's uncle sought custody and guardianship of property. Since the minor's father was in the Railway Police, it also enabled the guardian to receive the family's pension.

7. Findings from the litigant follow-up survey and legal expert data

This section is based on two data sets. First, we profile the socio-economic status of the litigants to see if they fit roughly into the same categories as the respondents and control group interviewed in the villages. We also gathered some basic information from the litigants on the expenses they incurred. Next, we draw on the information based on the performa (Appendix 5) our legal expert filled in on reviewing each case history.

The background characteristics of the litigants are generally similar to those of the respondents and control group (Table 5.1) interviewed in the village survey as evident from Table 7.1 below.

Table 7.1. Background characteristics of litigants

Background characteristics	Litigants
Education (mean years)	5.4 (6.8)
Age (mean years)	43.7

	(37.9)
Gender (% female)	12.2
Marital status (% married)	78
Household size (mean)	9.5 (5.5)
Status (% head of household)	59.3
N	264

Source: SDPI Survey

Note: Parentheses contain standard deviations

The notable differences in background characteristics are that fewer of the litigants in the follow-up survey were women and more were head of households. We gathered information on total expenses and these were averaged Rs. 46,721 per case. The 42 respondents who reported paying illegal fees (bribes) said this amounted to a mean of Rs. 22,663 per case or roughly half of total expenses incurred. Considering that only four households of the ones we visited could be classified as rich (had air-conditioners), these expenses represented a significant burden.

Our legal expert filled in 199 performas (two missing), and, of these, 57.3 percent were for criminal cases, 28.6 for civil cases, and 14.1 for family cases. The data set generated by our legal expert confirms the findings reported earlier, but the numbers provide an important complement to that analysis. The decomposition of the delays in the civil cases is listed below in Tables 7.2.

Table 7.2. Decomposition of delays in civil cases

Stages of the case	Months (averages)
Service and completion of pleading	15.6 (36.1)
Framing of issues	4.5 (10.5)
Plaintiff's evidence	9.7 (35.8)
Defendant's evidence	4.6 (13.5)

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Arguments	5.3 (16.7)
Judgment	22.9 (56.6)

Source: SDPI survey

Note: Parentheses contain standard deviations

It is clear that the delays were inordinately long in general and exceedingly long in some cases as evident from our earlier narrative and the high standard deviations. The decomposition of criminal cases was done separately because it follows a different cycle and the results are reported in Table 7.3 below.

Table 7.3. Decomposition of delays in criminal cases

Stages of the case	Months (averages)
Occurrence	0.9 (5.0)
Filing of police report	6.7 (13.0)
Commencement of trial	6.7 (17.5)
Prosecution's evidence	11.8 (51.1)
Defendant's evidence	2.2 (5.5)
Argument	0.8 (3.5)
Judgment	6.9 (20.9)

Source: SDPI survey

Note: Parentheses contain standard deviations

Once again, Table 7.3 indicates how prolonged the trials were. Despite this, only two-fifths of all cases ended with a court decision, 23 percent of the cases ended with a compromise, while the rest were either dismissed or otherwise unresolved.

Summary

Our main research questions concerned the establishment of institutional innovations introduced by the devolution plan, 2000,

the nature of rural disputes, and preferences about dispute resolution mechanisms. The conceptual issues we paid particular attention to included the prevailing power structure, socio-economic status of the households, and the level of development of the village, gender, local culture, and *quom* (caste) or *beraderi* (clan or tribe).

The qualitative research methodology included village profiling, social mapping, and in-depth interviews of households members identified as party to disputes as well as a control group of households, ostensibly not party to any dispute. These findings are based on villages selected randomly from four purposely-selected districts. The district selection was based on district rankings that enabled us to identify the most developed district in each Province. Within this district, *tehsils*, union councils, and villages were randomly selected and the village was the unit of analysis. Apart from this qualitative data set, to which we attached the greatest significance, we had four other data sets to draw on. We utilized a semi-structured questionnaire to gather quantitative data from the respondent and control group households. To get further insight into the dispensation of justice, we randomly selected case records at the local court level from four districts. The case record analysis was complemented by a follow-up survey of litigants to get their perspective. We also gathered socio-economic information about the litigants to profile them. We also solicited some basic information on litigation expenses incurred. Finally, we generated another quantitative data set based on having our legal expert fill in a *perfoma* after an examination of each case. The information base that these five data sets yield concerning law-and-order and the dispensation of justice is very comprehensive.

The nature of disputes in rural areas differed a great deal across locality. In Toba Tek Singh, Punjab, most disputes appeared to revolve around land. Thus, the prime cause of criminal disputes could often be traced back to land. Women were systematically discriminated against by being deprived of their due share in accordance to Islamic law.

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In Haripur, NWFP, a particularly violent area, numerous murders revolved around preserving “izzat” (honor, prestige, or face), often in connection preserving their women’s honor. In Toba Tek Singh, middle or wealthier households were willing to engage in litigation even if the cost was several times more than the cost of the land that initiated the dispute. At times, village factions got involved, and the courts become an instrument for playing out factional rivalry.

In Larkana, Sindh, *karo-kari* or the so-called “honor killing” predominated and this often resulted in killing the woman (*kari*) and seeking compensation from the *kari*’s household. This compensation could be the pledge of a woman from the *kari* family that represents the saving of a bride price. Mediation was often done by a *wadero* (landed influential) at the local level and if unresolved, the case moved to bigger *waderos* within a particular tribe at higher tiers, all the way up to the district or provincial levels. In any case, women were often killed and others treated like chattel.

Theft and robbery by dacoits (bandits) had also become common with the influx of wealth from the out-migration to the Middle East countries. Once again, these cases were generally dealt with via informal systems at the local level. The poor avoided involving the police, since it usually resulted in harassment and shakedowns and naturally worked in favor of the rich who had more resources for bribery.

There were some parallels in the situation in Larkana, Sindh and Sibi, Balochistan. In both districts, *karo-kari*, robbery, kidnappings, and theft were the main crimes. Again, the tribal sardars or their nominees resolved disputes. This system was speedy and did not entail the costs of the formal court system. However, it was also coercive, authoritarian, subjective, and without any system of checks and balances or appeal.

While we anticipated variation across the provinces in law-and-order and dispute resolution based on local culture and traditions, the extent of variation we found surprised us and this represents an important finding for public policy as devolved institutional mechanisms for more effective service delivery continue to evolve.

Despite the differences across the provinces, there were some common themes. First, women across the board were the butt of the informal system and were deprived of their agency. This is particularly the case in the practice of *karo-kari*. Second, across the board, the poor shunned the police and the courts. So disgraced was the formal system that a tribal chief of Balochistan claimed with some pride that their one person “*qazi*” (judge) system was far superior to the formal police and court system. Third, the rich were more likely to engage the formal system as a mark of their status, and because they could purchase justice.

In this regard, the poor were least likely to engage in litigation since it was not affordable. Thus, they are also likely to be most receptive to the institutional innovations like the *musalihat anjuman* that is based on the formalization of the *panchayat* or *jirga*, institutions they are already familiar with. However, the middle income or richer households only approach the *panchayat* or *jirga* if they are able to influence it. Its more generalized acceptance would have to be premised on establishing its credibility as impartial in dispensing justice and in addition being able to get decisions implemented.

Based on discussions and observations, a few generalizations can be made about the structure and role of *musalihat anjuman*. First, as expected, it was not yet in place in most union councils. It was established only in a few union councils where there appeared to be a track record of informal dispute resolution. Second, few people knew about the *musalihat anjuman*, even if it was present. Third, the *anjuman* mostly deals with family cases and, in this regard, it follows the old union/district council role of dispute resolution. There is a change in that land cases are also being dealt with by the

anjuman. Fourth, the *musalihat anjuman* is capable of bridging the gap between the informal *panchayat/jirga* system and the formal legal system. Although, its recommendations are not binding, they are given weight by the police/revenue departments and the court. Finally, its composition varies a great deal across locality in that it adapts to the existing informal dispute resolution patterns.

A few interesting findings emerged from the analysis of the data set based on the semi-structured questionnaire. For the most part, the findings from this data set confirmed what has been summarized above based on the qualitative reports and the summary of the case reviews to follow. The quantitative data set confirmed that the new institutions established by the power devolution plan were not yet in use.

Eighty-six percent of the respondents were satisfied with community based dispute resolution and four-fifths were satisfied with the informal system. More than half responded that it was difficult to register a case with the police and most indicated that this was the case because the police wanted a bribe. Only 7 percent thought that the police were fair and most indicated that they only went to the police when there was no alternative.

The courts represented a problem for most respondents because of delays, repeat visits, and the expense. Once again, over two-thirds indicated that they only went to the courts when no alternative was available. Both the respondents and the control group placed over twice the confidence on justice dispensed by the community or informal institutions than they did on the courts. Given this lack of confidence in the police and the courts, the patron-client system was prevalent in rural areas. About three-fifths and four-fifths of the respondents and the control group respectively stated that they tried to secure the assistance of some influential to help resolve their problem.

The court-case reviews provide further insight about why there is so little confidence in the courts to dispensing justice. Except for Balochistan, delays in the courts and the accompanying expense and loss of time was the major problem. In Toba Tek Singh, the delays occurred because the summons were not served, a party absconded, the case was not complete, gross bureaucratic neglect, diversion due to the entertainment of miscellaneous applications, the judge was absent or transferred without a replacement, or the case was simply transferred to another court. The judges also allowed the case to continue interminably rather than simply separate the case of the absconders. For the most part, the poor got rough justice, although there were a few cases in which the poor were given lighter punishments than prescribed by the law, but only after they had been put through the grind in the court. The influential used the courts to settle scores and the police and courts obliged and seemed to collude to harass the poor.

While the FIR (First Investigation Report) was quickly registered in Haripur, there was a long delay before the trial proceedings got underway. This often allowed time for a compromise and out of court settlement, which is what the plaintiff seemed to be striving for, and in not a single case in our sample was the prosecution evidence presented in criminal cases. Physical fights and drug abuse were a large proportion of the criminal cases in Haripur.

Most of the cases (98 percent) in our Larkhana sample were criminal. Many of these cases pertained to theft. Honor killings were not reported and so none pertained to that in our sample. Massive court delays often resulted from absconding accused or delays in the presentation in prosecution evidence.

Police harassment seemed even more of an issue than in Toba Tek Singh and Haripur. The police generally refused to register FIRs and would register an interim report instead that has no legal status. This enabled them to kill the case if the other party adequately bribed them. Most of the cases ended in acquittal or, due to long

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delays on the prosecution side, a compromise would eventually be arrived at.

Various laws such as *Ehteram-e-Ramadan* (sanctity of fast), price control, gun laws, and drug abuse, were used by the police as a method to shakedown the less influential in Toba Tek Singh, Haripur, and Larkhana. Another commonality in these three districts was that the courts could move expeditiously when they wanted to. Finally, the courts were used by the influential as an instrument to settle scores. In addition, it was usually the influential rather than the injured party that started the litigation. The judges were party to frivolous delaying tactics even to the point of violating the law.

The handling of cases by courts in Sibi was exemplary compared to the other three districts. The congestion of cases in the courts was certainly lower because much of the load was taken up by the tribal system of justice meted out by the sardars. Even so, several court practices in use in Sibi could be adapted to good effect by the other districts. For example, if the plaintiff did not pursue the case, the judges would terminate it. In fact, if the plaintiff was absent on a given day without informing the court, the case would be terminated because of a revealed lack of interest. Again, in the more complex cases, the judges would separate the cases rather than delay them if some of the parties were absconding. Finally, the practice of examining cases, when relevant, based on the legal issues involved rather than case presentations also aided in the cases being handled expeditiously.

The quantitative data sets based on a follow-up survey of litigants and performas filled by the legal expert confirmed the findings from the three sources already reported on. We were able to show the inordinate delays in civil and criminal cases decomposed by the various stages. In addition, only two fifths of all cases reached some resolution. Finally, almost half the average expense incurred for the litigation was in the form of an illegal fee or bribe.

The findings in this report concerning the prevalent systems, formal, informal, and tribal, and about the inception of the alternative institutional mechanisms being introduced by the devolution of power plan should be of value in and of themselves. However, we believe that these findings will provide a useful benchmark for a follow-up study on the effectiveness of the devolution of power plan in improving service delivery on law-and-order and the dispensation of justice. A key finding of this study is that the devolution plan urgently and effectively needs to contest the law-and-order and judicial space since the current mistrust of the police and courts by the poor allow full play to the feudal system of justice and perpetuates a patron-client system.

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Appendix VI:

Distribution of in-depth and controlled interviews by village

Sr.#	District (4)	Village	In-depth questionnaires	Control questionnaires
	T.T. Singh		48	18
	Tehsil Kamalia			
1		Chak#713	8	4
2		Chak#668/9	13	3
3		Chak#703	7	1
	Tehsil Gojra			
4		Chak#181	10	5
5		Chak#282	10	5
	Haripur		52	30
	Tehsil Haripur			
6		Gehar Khan	12	8
7		Shadi	9	7
8		Kanni Kot	7	1
9		Sultan Pur	14	5
	Tehsil Ghazi			
10		Naqartian	10	9
	Sibi		37	17
	Tehsil Lehri			
11		Mohallah Hindu Baksh	0	0
12		Tarriharr	6	3
13		Tehrri Brahmani	1	1
14		Mohallah Arian	6	0
15		Qazi Mir Wah	4	2
16		Khanu	5	5
	Tehsil Harnai			
17		Sazu	9	3
18		Gacheena	6	3
	Larkana		56	44
	Tehsil Qambar			
19		Taj Mohammad Jee Wandh	6	5
20		Rasool Bux Mughal	13	8
21		Zafar Abad brohi	4	5
22		Wali Dad Mugheri	12	7
	Tehsil Rato Dero			
23		Nandha Bosan	4	8
24		Faiz Mohammad Jeho	6	4
25		Behman	4	2
26		Moosa jee Wandh	7	5
	Total	26	193	109

Source: SDPI field survey

Appendix 2

Sampling of case records

Table 2.1. District Toba Tek Singh

Court	Tehsil	Total cases decided #	Sampled cases
Additional district & session court	Kamalia	280	7
Senior civil court	Kamalia	1220	30
Additional district & session court	Gojra	218	5
Senior civil court	Gojra	820	20
Total		2533	52@

Source: SDPI field survey

Note: # = The population of cases from which the sampling was done was all cases decided between March 2001 to March 2002. We sampled 2.5 percent of the cases. We had initially hoped to select 5 percent, but to save fieldwork time and the expense involved, we settled for about a 2.5 percent sample for Toba Tek Singh and Haripur. In Larkana and Sibi, far fewer cases were adjudicated and so to make the sampled cases roughly equivalent to Toba Tek Singh and Haripur, we often sampled over 10 percent. Apart from fieldwork, the major expense is that of getting a legal opinion on the settlement of each case.

@ = Ten case files were not made available to us.

Table 2.2. District Haripur

Court	Tehsil	Total decided cases	Sampled cases
Civil judge	Ghazi	557	14
Senior civil judge	Haripur	563	16
Additional session judge	Haripur	243	6
Civil judge	Haripur	1274	31
Total		2637	67

Source: SDPI field survey

Table 2.3. District Sibi

Court	Tehsil	Total decided case	Sampled cases
Judicial magistrate	Sibi-Lehri@	165	16
Civil judge	Sibi-Lehri	129	11
Judicial magistrate	Hernai	39	3
Civil judge	Hernai	10	1
Judicial magistrate, Bhag	Lehri	60	5
Total		503	36

Source: SDPI field survey.

Notes: @ = There were no courts in Tehsil Lehri. The civil judge and judicial magistrate based in *Tehsil* Sibi dealt with *Tehsil* Lehri cases. Therefore, we sampled cases in Sibi courts, even though *Tehsil* Sibi was not part of our selected sample.

Table 2.4. District Larkana

Court	<i>Tehsil</i>	Total decided cases	Sampled cases
Judicial magistrate	Kambar	160	8
Civil judge	Kambar	313	16
Additional session judge	Kambar	55	3
Judicial magistrate	Rato Dero	86	4
Civil judge and FCM@	Rato Dero	217	11
Additional session judge	Rato Dero	90	5
Total		901	47

Source: SDPI field survey.

Note: @ = FCM stands for first class magistrate.

Appendix 3

Semi-structured in-depth questionnaire⁵⁸

Note: Guidelines for questions to be explored *only* through qualitative interview are in bold letters.

LAW AND ORDER GUIDELINES

ID:

Village:

Union Council:

Tehsil:

District:

Q1 Education/years

Q2 Age

Q3 Gender

1 Male

2 Female

Q4 What is your marital status?

1) Single

2) Married

3) Separated/divorced

4) Widow/widower

58 The control group questionnaire draws on this and is not appended to save space.

Q5 What is the number of people residing in the household?

Total: _____

Male _____

Female _____

Children _____

Q6 What is your position within the household?

- 1) Head of the household
- 2) Housewife
- 3) Adult in the family
- 4) Other

Q7 Have you or anyone in your household (all those who share kitchen constitute a household) been or are currently involved in a legal or a law and order problem?

- 5) No
- 6) Yes

Relationship with the member of household (in case the respondent had no direct experience): _____

(Please try your best to speak to the person who has had any experience with the law and order problem directly within the household).

Q8 What is the nature of law and order problem/s that you/your household member experience/d? (please encircle below and be open to multiple responses)

No	Nature of the Problem
1)	Dispute over land -(Property)
2)	Dispute over tenancy-(Property)
3)	Dispute over land tilt (declaration) -(Property)
4)	Dispute over water sharing-(Property)
5)	Dispute over inheritance-(Property)
6)	Dispute over shared boundary of land/house-(Property)
7)	Dispute over possession-(Property)
8)	Dispute over transacting (buying or selling) property--

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	(Property)
9)	Dispute with government over land compensation- (Property)
10)	Motor vehicle accident (injury)
11)	Dispute over votes/elections- (Criminal)
12)	Petty family/neighbourhood fight- (Criminal)
13)	Eviction from land/house- (Property)
14)	Physical attack- (Criminal)
15)	Theft/robbery/burglary- (Criminal)
16)	Dispute over debt- (Property)
17)	Fraud (e.g. defective goods vis-à-vis money, land, or documents) - (Criminal)
18)	Kidnapping- (Criminal)
19)	Murder - (Criminal)
20)	"honour" killing (<i>karo-kari</i>) - (Criminal)
	Divorce-(Family)
21)	Child custody/child support- (Family)
22)	Domestic violence- (Criminal)
23)	Harassed at work- (Criminal)
24)	Dangerous working conditions
25)	Harassed by the landlord- (Criminal)
26)	Harassed by local criminals- (Criminal)
27)	Harassed by the police- (Criminal)
28)	Harassed by military- (Criminal)
29)	Harassed by intelligence agencies- (Criminal)
30)	Arbitrary arrest or detention- (Criminal)
31)	Abuse or torture while in detention- (Criminal)
32)	Problem with a government agency (e.g. WAPDA)
33)	Problem with the district bureaucracy (e.g. DC or AC)
34)	Problem with the revenue staff (e.g. <i>patwai</i> , <i>Tehsildar</i>) - (Property)
35)	Problem with the union council nazim or members
36)	Problem with enforcement of contract- (Property)
37)	Problem with official permit or license
38)	Others (code later)

- Q9** How many problems/disputes/cases have you or your household members been involved in? (For interviewer: Please note down the nature of problem/dispute under the broad categories mentioned below in column 3)

No.	Status of problem/dispute/case		Broad categories of problem/dispute/case			
	On-going	Resolved	Property	Criminal	Family	Others
1						
2						
3						
4						
5						

(If the problem/dispute is land/property related, then Skip to Q11)

- Q10** You have indicated that your/your household member's problem/dispute is not land related. Is there an indirect link between your problem/dispute with land?

- 1) No
- 2) Yes

- Q11** How much is the value of the land/property (directly or indirectly) involved in your/your household member's problem/dispute?

Number of Problem/s or Dispute/s Total value in Rs.

1. _____
2. _____
3. _____
4. _____
5. _____

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Q12 What is your or your household member's status regarding the legal or law and order problem/s?

No.	Nature (as listed in Q8)	Your/your household member's status			
		Plaintiff	Defendant	Witness	Others
1					
2					
3					
4					
5					

Q13 How did you deal with the legal or law and order problem (please encircle the relevant choices from the list below, note down the nature and sequence of problem/dispute resolution mechanism in the table below, follow all problem/dispute resolution mechanism identified in column 3 and be open to multiple response. For more than one problems/disputes, please use separate module, note down the code in column 4 and attach with the main questionnaire)

No.	Nature (as listed in Q8)	Sequence of Problem/Dispute Resolution Mechanisms (e.g. <i>Panchayat</i> ->UC->police->TMO/DCO->Courts)
1		
2		
3		
4		
5		

FAMILY/COMMUNITY (go to LO13.1 on page no. 6)

- 1) Talked directly with those who were involved in the problem/dispute
- 2) Involved another family member for mediation
Approached a local notable from the community (non-binding mediation)
- 3) Approached a local religious person (e.g *qazi*, *maulvi*, *mullah*, *pir*)

- 4) Approached the local landlord

PANCHAYAT (go to LO13.2 on page no.8)

- 5) Requested a meeting of local *panchaya* or *jirga*
- 6) Requested binding arbitration (*salsi*)

NEW LOCAL BODY SET-UP (go to Q13.3 on page no.10)

Approached the Union Council (UC)'s members

- 7) Approached the UC's Nazim or Naib-nazim
- 8) Approached the UC's *Musalihat Anjuman*
- 9) Approached the UC's *Insaf* Committee
- 10) Sent a local influential/s to file a complaint with the UC
- 11) Filed a personal complaint with the UC
- 12) Approached the *Tehsil* Nazim or Naib-nazim
- 13) Approached the District Nazim or Naib-nazim

POLICE (go to Q13.4 on page no.25)

- 14) Went to the police station but did not file a formal complaint
- 15) Went to the police station and filed a formal complaint

LOCAL BUREAUCRACY (go to Q13.5 on page no.29)

- 16) Sent a local influential/s to the Additional Commissioner (AC)/ Deputy Commissioner (DC) office
- 17) Approached the AC/DC office myself
- 18) Sent a local influential/s to the *Tehsil* Municipal Officer (TMO)/ District Coordination Officer (DCO) office
- 19) Approached the TMO/DCO office myself

THE COURT (go to Q13.6 on page on.38)

- 20) Went to civil court without a lawyer
- 21) Went to civil court with a lawyer
- 22) Went to the civil court with the help of a community organization/civic organization
- 23) Went to the civil court with the help of a Legal Aid Agency

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OTHERS

24) Others
(specify): _____

FAMILY/COMMUNITY

Respondents who chose family/community (options 1-5 in Q13). Later, please also fill in the other options identified in the column 3 of Q13.

Q13.1.1 You chose to settle your problem/dispute through family/community dispute resolution mechanisms. Can you please tell me why?

Q13.1.2 How long did the family/community take to address/resolve your problem/dispute/s?

No	Nature (as listed in Q8)	Time (Days, Months, Years)			
		On-going	Resolved	Not resolved and closed	Not resolved and moved to another level
1					
2					
3					
4					
5					

Q13.1.3 What kinds of problems did you face within the family/community in getting justice?

Q13.1.4 Who is the elder in family/community who decides problems/disputes?

1) *Lambardar*

- 2) Landlord
- 3) Religious leader
- 4) Other (specify): _____

Q13.1.5 Would you go back to the family/community to solve your problem/dispute?

- 1. No
- 2. Yes

(If No, Skip to Q13.1.7)

Q13.1.6 If yes, why?

- 5) Fairness
- 6) Speediness
- 7) Inexpensiveness
- 8) No other choice
- 9) Other (specify): _____

Q13.1.7 If no, what alternative mechanism would you use?

Alternative mechanism _____

PANCHAYAT

Respondents who chose panchayat (options 6-7 in Q13). Later, please also fill in the other options identified in the column 3 of Q13. For others, skip to next relevant question

Q13.2.1 You chose to settle your problem/dispute through *panchayat*.

Can you please tell me why?

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Q13.2.2 How long did the *panchayat* take to address your problem/dispute, how much time have you spent on it and how many visits did you make?

No	Nature (as listed in Q8)	No. of Visits	Time (in days, months, years)				
			Address	On-going	Resolved	Not resolved and closed	Not resolved and moved to another level
1							
2							
3							
4							
5							

Q13.2.3 How much money have you spent?

No	Nature (as listed in LO8)	Total Amount
1		
2		
3		
4		
5		

Q13.2.4 What kinds of problems did you face at the *panchayat* or *jirga* in getting justice?

Q13.2.5 Who is the chairperson/head of the local *panchayat/jirga*?

- 1) Lambardar
- 2) Landlord
- 3) Religious leader
- 4) School teacher
- 5) Retired government employee
- 6) Local businessman
- 7) Other (specify): _____

Q13.2.6 Would you go back to the *panchayat/jirga* to solve your problem/dispute?

1. No
2. Yes

(If No, Skip to Q13.2.8)

Q13.2.7 If yes, why?

- 8) Fairness
- 9) Speediness
- 10) Inexpensiveness
- 11) No other choice
- 12) Other (specify): _____

Q13.2.8 If no, what alternative mechanism would you use?

Alternative mechanism _____

NEW LOCAL BODY SET-UPS

Respondents who chose new local body sets-up (options 8-15 in Q13).

Later, please also fill in the other options identified in the column 3 of

Q13. For others, skip to next relevant question

Q13.3.1 Who did you or your household member approach in the new local body set-up:

- 13) *Musalihati Anjuman*
- 14) *Insaf* Committee
- 15) Village Council
- 16) UC Nazim
- 17) UC Naib-Nazim
- 18) UC members

Q13.3.2 Sequence of access to the new local body set-ups?

No.	Nature (as listed in Q8)	Sequence of access to the new local body sets-up (e.g. Nazim-> <i>Musalihat Anjuman</i> -> <i>Insaf</i> Committee->Pilot Court)
1		
2		
3		
4		
5		

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Musalihati Anjuman

Respondents who chose *Musalihat Anjuman* in Col 3 of Q13.3.2. For others skip to next relevant question

Q13.3.3 Do you have a *Musalihat Anjuman* or not?

- 1) No
- 2) Yes

Q13.3.4 If yes, total members of *Musalihati Anjuman*?

Total members: _____

Q13.3.5 What is the composition of the *Musalihati Anjuman*? (open to multiple response and please list down the number across each category)

- | Members | No. |
|---|-------|
| 3) Family members | |
| 4) <i>Lambardars</i> | |
| 5) Landlord | |
| 6) Respected elders (even if they are uneducated) | |
| 7) Members of the <i>ulema</i> | |
| 8) Local religious people (e.g. <i>qazis</i> , <i>maulvis</i> , <i>pirs</i>) | |
| 9) Local school teachers | |
| 10) Local politicians | |
| 11) Educated people (even if they are young) | |
| 12) Retired government employees | |
| 13) Local businessman | |
| 14) Members of local CBO/NGO | |
| 15) Retired police people | |
| 16) Retired military personnel | |
| 17) Other | |
| (specify):- | _____ |

Q13.3.6 What is the structure of *Musalihat Anjuman*?

Q13.3.7 You chose to settle your problem/dispute through the *Musalihati Anjuman*. Can you please tell me why?

Q13.3.8 How long did the *Musalihati Anjuman* take to address your problem/dispute, how much time have you spent on it and how many visits did you make?

No	Nature (as listed in Q8)	No. of Visits	Time (in days, months, years)				
			Address	On-going	Resolved	Not resolved and closed	Not resolved and moved to another level
1							
2							
3							
4							
5							

Q13.3.9 How far away is the *Musalihati Anjuman* office from your house?

Kilometers _____

Q13.3.10 How much money did you spend?

No.	Nature (as listed in Q8)	Fee	Illegal bribe	Documents	Transportation	Other	Total amount
1							
2							
3							
4							
5							

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Q13.3.11 Has the *Musalihat Anjuman* improved the problem/dispute resolution?

- 1) No
- 2) Yes

(If No, Skip to Q13.3.13)

Q13.3.12 If yes, what improvements are notable due to the *Musalihat Anjuman*?

- 1 Easy access
- 3) Speedy dispensation of justice
- 4) Less/no bribes
- 5) Cooperative attitude of the officials
- 6) Others
(specify): _____

Q 13.3.13 Would you go back to the *Musalihati Anjuman* to solve your problem/dispute?

1. No
2. Yes

(If No, Skip to Q13.1.15)

Q13.3.14 If yes, why?

- 1) Fairness
- 2) Speediness
- 3) Inexpensiveness
- 4) No other choice
- 5) Other (specify): _____

Q13.3.15 If no, what alternative mechanism would you use?
Alternative mechanism _____

Q13.3.16 What kinds of problems did you face dealing with the *Musalihati Anjuman* in getting justice?

Union Council

Respondents who chose option 5-7 in Col 3 of Q13.3.2. For others, skip to next relevant question

Q13.3.14 You chose to settle your problem/dispute through the Union Council representatives. Can you please tell me why?

Q13.3.15 How long did the Union Council take to address your problem/dispute, how much time have you spent on it and how many visits did you make?

No	Nature (as listed in LO8)	No. of Visits	Time (in days, months, years)				
			Address	On-going	Resolved	Not resolved and closed	Not resolved and moved to another level
1							
2							
3							
4							
5							

Q13.3.16 How far away is the Union Council office from your house?
Kilometers _____

Q13.3.17 How much money did you spend?

No.	Nature (as listed in Q8)	Fee	Illegal bribe	Documents	Transportation	Other	Total amount
1							
2							
3							
4							
5							

Q13.3.18 Has the **new** Union Council set-up improved the problem/dispute resolution?

- 1) No
- 2) Yes

(If No, Skip to Q13.20)

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Q13.3.19 If yes, what improvements are notable due to the Union Council?

- 1) Easy access
- 2) Speedy dispensation of justice
- 3) Less/no bribes
- 4) Cooperative attitude of the officials
- 5) Other(specify): _____

Q13.3.20 What kinds of problems did you face dealing with the Union Council in getting justice?

Q13.3.21 Would you go back to the Union Council to solve your problem/dispute?

- 1) No
- 2) Yes

(If No, Skip to Q13.3.36)

Q13.3.22 If yes, why?

- 1) Fairness
- 2) Speediness
- 3) Inexpensiveness
- 4) No other choice
- 5) Other (specify): _____

Q13.3.23 If no, what alternative mechanism would you use?

Alternative mechanism _____

POLICE

Respondents who chose police (options 16-17 in Q13). Please fill in all the options identified in the column 3 of Q13. For others skip to next relevant question

Q13.4.1 You approached the police to settle your problem/dispute. Can you please tell me why?

Q13.4.2 When you went to the police station, did you intend to file a First Information Report (FIR)?

- 1) No
- 2) Yes

(If Yes, Skip to Q13.4.4)

Q13.4.3 If not, why not?

- 1) The police does not file an FIR unless I pay them a bribe
- 2) The police usually says that my problem/dispute is not serious enough to merit an FIR
- 3) The police does not file an FIR unless I am recommended by a local tout
- 4) The police does not file an FIR unless I have the backing of a local influential (landlord, local religious person, local criminal head)
- 5) The police only files an FIR of people who have money, influence, and/or *sifarish*
- 6) Filing an FIR will make my situation worse
- 7) The police is biased against me because of my previous encounter with them
- 8) The police is biased against me because of my group/clan/*beraderi* affiliation
- 9) The police does not file an FIR because I am a poor person
- 10) Other
(specify): _____

Q13.4.4 Was it easy to file an FIR or not?

- 1) No
- 2) Yes

(If Yes, skip to Q13.4.6)

Q13.4.5 Why was it difficult to file an FIR?

- 1) The police refused to file an FIR unless I paid them a bribe

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- 2) The police said that my problem/dispute was not serious enough to merit an FIR
- 3) The police refused to file an FIR unless I was recommended by a local tout
- 4) The police refused to file an FIR unless I have the backing of a local influential (landlord, local religious person, local criminal head)
- 5) The police only files an FIR of people who have money, influence, and/or *sifarish*
- 6) The police said that filing an FIR would make my situation worse
- 7) There was no one present in the police station to register an FIR
- 8) The police is biased against me because of my previous encounter with them
- 9) The police is biased against me because of my group/clan/*beraderi* affiliation
- 10) The police did not file an FIR because I am a poor person
- 11) Other(specify): _____

Q13.4.6 How long did the police take to address your problem/dispute, how much time have you spent on it and how many visits did you make?

No	Nature (as listed in LO8)	No. of Visits	Time (in days, months, years)				
			Address	On-going	Resolved	Not resolved and closed	Not resolved and moved to another level
1							
2							
3							
4							
5							

Q13.4.7 How far away is the police station from your house?
Kilometers _____

Q13.4.8 How much money did you spend during the police investigation?

No.	Nature (as listed in Q8)	Fee	Illegal bribe	Documents	Transportation	Other	Total amount
1							
2							
3							
4							
5							

Q13.4.9 What kinds of problems did you face at the police station in getting justice?

Q13.4.10 Would you go back to the police to solve your problem/dispute?

- 1) No
- 2) Yes

(If No, Skip to Q13.4.12)

Q13.4.11 If yes, why?

- 1) Fairness
- 2) Speediness
- 3) Inexpensiveness
- 4) No other choice
- 5) Other (specify): _____

Q13.4.12 If no, what alternative mechanism would you use?

Alternative mechanism _____

LOCAL BUREAUCRACY BASED MECHANISMS (Old and New)

Q13.5.1 Who did you approach to solve your/your household member's problem/dispute (open to multiple response):

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Additional Commissioner (AC)
Deputy Commissioner (DC)
Tehsil Municipal Officer
Assistant District Officer (at the Tehsil level)
Deputy District Officers –Law (at the District level)
District Officer Law (at the District level)
District Coordination Officer (at the District level)
1) Other (specify): _____

Q13.5.2 Sequence of access to the local bureaucracy?

No.	Nature (as listed in Q8)	Sequence of access to the local bureaucracy (e.g. TMO- ->DO Legal->DCO)
1		
2		
3		
4		
5		

Old Bureaucracy

Respondents who chose (options 1-2 in Q13.5.2). Please fill in all the options identified in the column 3 of Q13.5.2. For others skip to next relevant question

Q13.5.3 You went to the Additional Commissioner (AC)/Deputy Commissioner (DC) to resolve your problem/dispute. Can you please tell me why?

Q13.5.4 How long did the AC/DC take to address your problem/dispute, how much time have you spent on it and how many visits did you make?

No	Nature (as listed in LO8)	No. of Visits	Time (in days, months, years)				
			Address	On-going	Resolved	Not resolved and closed	Not resolved and moved to another level
1							
2							
3							
4							
5							

Q13.5.5 How far away is the AC/DC office from your house?
Kilometers _____

Q13.5.6 How much money did you spend?

No.	Nature (as listed in Q8)	Fee	Illegal bribe	Documents	Transportation	Other	Total amount
1							
2							
3							
4							
5							

Q13.5.7 What kinds of problems did you face at the AC/DC office in getting justice?

New Bureaucracy: Tehsil Municipal Officer, District Officer-Law, Assistant District Officer, District Coordination Officer

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Respondents who chose (options 3-7 in Q13.5.2). Please fill in all the options identified in the column 3 of Q13.5.2. For others skip to next relevant question

Q13.5.8 You went to the *new* local bureaucracy to resolve your problem/dispute. Can you please tell me why?

Q13.5.9 How long did the *new* local bureaucracy take to address your problem/dispute, how much time have you spent on it and how many visits did you make?

No	Nature (as listed in Q8)	No. of Visits	Time (in days, months, years)				
			Address	On-going	Resolved	Not resolved and closed	Not resolved and moved to another level
1							
2							
3							
4							
5							

Q13.5.10 How far away is the *new* local bureaucracy office from your house?

Kilometers _____

Q13.5.11 How much money did you spend?

No.	Nature (as listed in Q8)	Fee	Illegal bribe	Documents	Transportation	Other	Total amount
1							
2							
3							
4							
5							

Q13.5.12 What kinds of problems did you face at the *new* local bureaucracy in getting justice?

Q13.5.13 Would you go back to the *new* local bureaucracy to solve your problem/dispute?

- 1) No
- 2) Yes

(If No, Skip to Q13.5.15)

Q13.5.14 If yes, why?

- 1) Fairness
- 2) Speediness
- 3) Inexpensiveness
- 4) No other choice
- 5) Other (specify): _____

Q13.5.15 If no, what alternative mechanism would you use?

Alternative mechanism _____

THE COURT

For Respondents who chose Options 24-27 in Q13 (please fill in all the options identified in the column 4 of Q13. For others skip to next relevant question

Q13.6.1 You filed a case in the court resolve your problem/dispute. Can you please tell me why?

Q13.6.2 What is/was the status of your case?

- 1) Not admissible by the court
- 2) Reached a compromise
- 3) Contesting/continuing
- 4) Decided through the court's judgment
- 5) In the appeal process

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Q13.6.3 How long did the court take to address your problem/dispute, how much time have you spent on it and how many visits did you make?

No	Nature (as listed in Q8)	No. of Visits	Time (in days, months, years)				
			Address	On-going	Resolved	Not resolved and closed	Not resolved and moved to another level
1							
2							
3							
4							
5							

Q13.6.4 On average, how often do you visit the court?
Average visit time _____

Q13.6.5 How far away is the court from your house?
Kilometers _____

Q13.6.6 How much money did you spend?

No	Nature	Legal fee	Illegal bribe	Documents	Transportation	Lawyer's fee	Other	Total amount
1								
2								
3								
4								
5								

Q13.6.7 Was there any attempt to reach a compromise during the trial in the court?

- 1) No
- 2) Yes

(If No, skip to Q13.6.10)

Q13.6.8 If yes, did the efforts succeed?
1) No

2) Yes

(If Yes, go to Q13.6.10)

Q13.6.9 Why did your effort to reach a compromise fail?

Q13.6.10 What kinds of problems did you face at the court in getting justice?

Q13.6.11 Would you go back to the court to solve your problem/dispute?

1. No

2. Yes

(If No, Skip to Q13.6.13)

Q13.6.12 If yes, why?

1) Fairness

2) Speediness

3) Inexpensiveness

4) No other choice

5) Other (specify): _____

Q13.6.13 If no, what alternative mechanism would you use?

Alternative mechanism _____

Q13.7 What is the *worst* legal or law & order problem/dispute you experience/d?

Problem/dispute (as listed in Q8): _____

Q13.8 If you have/had land related problem/dispute, did the local revenue department (e.g. *patwari*, *gardawar*, *tehsildar*) make it *worse* for you to deal with it?

1) No

2) Yes

Q13.9 If yes, how?

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For All Respondents

Q14 Which are the three preferred institutions that you would go to in the *future* to have problem/dispute resolved (please choose from the list below or specify others)?

1. _____
2. _____
3. _____

- 1) Family/Community
- 2) *Panchayat*
- 3) New Local Body Sets-up
- 4) Police
- 5) Local Bureaucracy
- 6) Court

(Personal data on respondent's socio-economic status)

- Q15 What is the status of your employment?
- 1 Tenant
 - 2 Share-cropper
 - 3 Farm labourer
 - 4 Own and cultivate land
 - 5 Landlord
 - 6 Home-based worker
 - 7 Unskilled labourer
 - 8 Skilled labourer/artisan
 - 9 Office worker
 - 10 Professional employee or a technician
 - 11 Small business owner
 - 12 Trader
 - 13 Executive or manager
 - 14 Own medium business enterprise
 - 15 Industrialist
 - 16 A civilian government employee
 - 17 Work for police
 - 18 Work for military
 - 19 Sailor/fisherman
 - 20 Religious teacher (*maulvi*)
 - 21 Broker or tout

- 22 Contractor
- 23 Self-employed
- 24 Unemployed
- 25 Other

Q16 Which of the following electric appliances are available in the household?

- 1 Radio
- 2 Cassette player
- 3 Fridge
- 4 TV
- 5 VCR
- 1) None

Q17 Which mode of transportation does the household have?

- 1 Bicycle
- 2 Motorcycle
- 3 Public transport (bus/wagon)
- 4 Personal car
- 5 Taanga or cart pulled by animal/s
- 6 None

Q18 What heating/cooling system do you use?

- 1 Fan
- 2 Heaters
- 3 Room cooler
- 4 Air conditioner
- 5 None

Q19 Total arable land in the village?

Acres _____

Q20 Respondent's arable land-ownership / acres

- 1 Personal land-ownership in acres _____
- 2 Household's land-ownership in acres _____
- Rs. _____

Q21 Do you belong to any of the following committees/organisations?

- 1) Village Committee

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- 2) *Zakat* and *Ushr* Committee
- 3) Community-based organization (CBO)
- 4) Parent-teacher committee
- 5) Religious volunteer group
- 6) Farmer's association
- 7) Labour Union
- 8) Co-operative for production, sales, or purchasing
- 9) Political Party
- 10) Other
- 11) None

Q22 What is your *bedareri*/clan/tribe?

Q23 What is the dominant/rich/influential beraderi in your village?

Q24 What is the majority beraderi in your village?

Q25 Does any influential **regularly** help you out with legal and law & order problems?

- 1. No
- 2, Yes

(If No, Skip to Q28)

Q26 If Yes, who is this influential?

- 1 Numbardar/Zaildar
- 2 Wadera
- 3 Religious Leader
- 4 Tribe Leader
- 5 Member of Union Council
- 6 Family Member
- 7 Other

Q27 What is the identified influential's land-ownership?

Acres _____

Q28 Please encircle the appropriate box describing the interview circumstances (for the interviewer)

- 1) Respondent alone
- 2) Respondent+other members of the household
- 3) Respondent+members of the neighbourhood
- 4) Respondent+members of the community
- 5) Respondent+colleagues
- 6) Respondent+local official

Name of enumerator _____ Schedule
checked _____

Signature for confirmation _____

Appendix 4

List of sampled cases

Toba Tek Singh, Punjab

TTS Case No. 1. No.243 of 31-01-96

State through Faqir Muhammad vs. Muhammad Nadeem
(Criminal)

TTS Case No. 2. No.37-10 of 25-06-01

Naziran alias Pathani Vs. Noor Ahmed (Family)

TTS Case No. 3. No.3/1 of 03-01-2001

Dur Shahbaz Khan vs. Shabbir Haider (Civil)

TTS Case No. 4. No.71/10 of 24-04-94

Zahoor Shah vs. Kouser Mai (Civil)

TTS Case No. 5. No. -- of 18-08-02

Jamal Khan vs. Rajab Ali (Civil)

TTS Case No. 6. No.207/97

State vs. Muhammad Nadeem (Criminal)

TTS Case No. 7. No.3FC/03-01-01

Allah Ditta vs. Nazir Ahmed (Family)

TTS Case No. 8. No.398-1 of 08-05-99

Bashir Ahmed vs. Safia Bibi (Civil)

TTS Case No. 9. No.53-1 of 04-02-02

Muhammad Hanif vs. Muhammad Hussain (Civil)

TTS Case No. 10. No.248FC of 3-11-00

Syeda Noor Jahan vs. Babar Ali (Family)

TTS Case No. 11. No.70G of 09-01-00

Abdul Khaliq vs. Nusrat Perveen (Family)

- TTS Case No. 12. No.Nil of 21-09-01
Nazran Bibi vs. Nur Ahmed (Civil)
- TTS Case No. 13. No.91-1 of 01-03-01
Mumtaz Hussain vs. Javed Rana (Civil)
- TTS Case No. 14. No.157FC of 23-06-01
Liaqat Ali vs. Sakina Bibi (Family)
- TTS Case No. 15. No.431-1 of 18-07-95
Lal Din vs. M. C. Kamalia (Civil)
- TTS Case No. 16. No.422-1 of 22-10-96
Habib Ahmed vs. Muhammad Ramzan (Civil)
- TTS Case No. 17. No.471-1 of 07-12-00
Sarfraz vs. Fareed (Civil)
- TTS Case No. 18. No.186-1 of 03-05-01
Muhammad Munir vs. Jafar (Civil)
- TTS Case No. 19. No.3-1 of 11.12.99
Naziran Bibi vs. Muhammad Ashiq etc. (Civil)
- TTS Case No. 20. No.8 of 07-04-99
Akram vs. Qaim Khan (Civil)
- TTS Case No. 21. No.122-10 of 30-09-99
Muhammad Haider vs. Muhammad Arshad (Civil)
- TTS Case No. 22. No.51-6 of 20-06-98
Syed Rasool vs. Mariam Bibi (Civil)
- TTS Case No. 23. No. 522-6.
Mohammad Yasin Vs. Kulsoom Bibi (Family)
- TTS Case No. 24. No. 535-C.
Shams Rani Vs. Bashir (Criminal)
- TTS Case No. 25. No.124-B of 23-12-00

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- Lal vs. Irshad Bibi (Family)
TTS Case No. 26. No.41-14 of 16-07-99
Ghulam Haider vs. Abdus Sattar (Civil)
- TTS Case No. 27. No.8-13 of 10-01-01
Pehlwan vs. Zaman Shah (Civil)
- TTS Case No. 28. No.04-14A of 25-01-02
Abdul Haleem vs. Mushtaq (Civil)
- TTS Case No. 29. No.58-14 of 12-10-00
Ghulam vs. Manzoor Ahmed (Civil)
- TTS Case No. 30. No.129-13 of 15-12-01
Muhammad Yusuf vs. Amir (Civil)
- TTS Case No. 31. No.17-10R of 04-11-00
M. Farooq vs. Major Khalid Abdul Hafeez (Criminal)
- TTS Case No. 32. No.20-14 of 15-03-01
Muhammad Ramzan vs. Ayesha Begum (Civil)
- TTS Case No. 33. No.9-7 of 2001
State vs. Naseer Ahmed (Criminal)
- TTS Case No. 34. No.100 of 99
Muhammad Amin vs. Asghar Ali (Civil)
- TTS Case No. 35. No.59-7 of 05-09-00
State vs. Ghulam Fareed (Criminal)
- TTS Case No. 36. No.562-1 of 1999
Abdul Nisar vs. Muhammad Shafi etc. (Civil)
- TTS Case No. 37. No.87-F of 14-04-01
Abdul Hafeez vs. Noureen Begum (Family)
- TTS Case No. 38. No.21-FC of 2001
Muhammad Siddique vs. Zarina Parveen (Family)

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- TTS Case No. 39. No.267 FC of 18-09-00
Kammму vs. Allah Ditta (Family)
- TTS Case No. 40. No.289 FC of 03-10-00
Hafeez Ahmed vs. Zabaida Bibi (Family)
- TTS Case No. 41. No.77FC of 03-05-02
Bilqis vs. Shoukat Ali (Family)
- TTS Case No. 42. No.323-1 of 19-09-01
Muhammad Ramzan vs. Muhammad Ashraf (Civil)
- TTS Case No. 43. No.47-10 of 21-07-01
Muhammad Ramzan vs. Muhammad Ashraf (Civil)
- TTS Case No. 44. No.272 FC of 18-12-00
Mahnaz Akhtar vs. Muhammad Saleem (Family)
- TTS Case No. 45. No.517-1 of 11-11-98
Muhammad Hasan Vs Rahmat Ali (Civil)
- TTS Case No. 46. No.573-C of 25-06-01
State vs. Pitras (Criminal)
- TTS Case No. 47. No.96-C of 01
State vs. Shoukat Ali (Criminal)
- TTS Case No. 48. No.169-FC of 99
Zeenat Fatima vs. Abdul Rehman (Family)
- TTS Case No. 49. No.148-FC of 2001
Farzana Bibi vs. Muhammad Bashir (Family)
- TTS Case No. 50. No.522-1
Muhammad Sarwar vs. Khushi Muhammad (Civil)
- TTS Case No. 51. No.490-1 of 22-12-99
Muhammad Rafiq vs. Siraj Din and others (Civil)
- TTS Case No. 52. No.182-1 of 26-06-01

Babar Siddique vs. Muhammad Ramzan (Civil)
TTS Case No. 53. No.107-FC of 10-05-01
Sughran Bibi vs. Abdul Ghafoor (Family)

TTS Case No. 54. No.654-C of 04-07-01
Asiya Bibi vs. Mushtaq (Criminal)

TTS Case No. 55. No.240-FC of 31-07-00
Surayya vs. Boota (Family)

TTS Case No. 56. No.195-FC of 28-06-00
Akhtari Begum Vs. Shahid (Family)

TTS Case No. 57. No.271-FC of 19-09-00
Nargis vs. Wali Muhammad (Family)

Haripur, N.W.F.P

H. Case No 1. No. 233 of 1999
Karamdad vs. Muhammad Banaras (Civil)

H. Case No. 2. No. 451 of 1999
Muhammad Saleem vs. Abdul Munir (Civil)

H. Case No. 3. No. 25/10
Raja Ishtiaq vs. Tahir Hussain (Civil)

H. Case No. 4. No. 117/1
Raja Zulqarnain vs. Sadaqullah (Civil)

H. Case No. 5. No. 36/2
State vs. Khane Zaman (Criminal)

H. Case No. 6. No. 392/3 of 2001
State vs. Nasir Hussain (Criminal)

H. Case No. 7. No. 200/2 of 2000
State vs. Muhammad Zaman (Criminal)

H. Case No. 8. No. 166/3 of 2001
State vs. Muhammad Anwar (Criminal)

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H. Case No. 9. No. 270/3 of 2001
State vs. Muhammad Arif (Criminal)

H. Case No. 10. No.1/3 of 2002
State vs. Akmal (Criminal)

H. Case No. 11. No.
State vs. Shed Ahmed (Criminal)

H. Case No. 12. No. 50/2 of 2000
State vs. Chanzeb (Criminal)

H. Case No. 13. No. 171/2 of 2000
State vs. Abdul Waheed (Criminal)

H. Case No. 14. No. 80/3 of 2002
State vs. Hafiz Tahir (Criminal)

H. Case No. 15. No. 162/99 of 1999
State vs. Matiur Rahman (Criminal)

H. Case No. 16. No. 125/3 of 2001
State vs. Akhtar Abbas (Criminal)

H. Case No. 17. No.
State vs. Samiullah (Criminal)

H. Case No. 18. No. 140/2 of 2000
State vs. Aurangzeb (Criminal)

H. Case No. 19. No. 100/2 of 2002
State vs. Haji Rais Khan (Criminal)

H. Case No. 20. No. 211/3 of 2001
State vs. Fayyaz (Criminal)

H. Case No. 21. No. 134/2 of 1999

State vs. Zaid Iqbal (Criminal)

H. Case No. 22. No. 23/2 of 2000
State vs. Akleem Azhar etc. (Criminal)

H. Case No. 23. No. 508/3 of 2001
State vs. Nisar Ahmed (Criminal)

H. Case No. 24. No. 55 of 2002
State vs. Inayatullah Rahman (Criminal)

H. Case No. 25. 12/3 of 2002
State vs. Jashim Khan (Criminal)

H. Case No. 26. NO. 7RC of 2001
Ghulam Sabir vs. Rohail Akhtar (Civil)

H. Case No. 27. No. 367/10 of 2000
Farooq Ahmed vs. Habib Bank (Civil)

H. Case No. 28. No. 145/1 of 2001
Ahmed Sultan vs. Riaz Hussain (Civil)

H. Case No. 29. No. 12/FC of 2001
Sadia Qazi vs. Muzaffar Khan (Family)

H. Case No. 30. No. 115/1 of 2001
Muhammad Ashraf vs. Mazloom (Civil)

H. Case No. 31. No. 99/1 of 1995
Muhammad Irfan vs. Samiuddin etc. (Civil)

H. Case No. 32. No. 119/2
State vs. Nazakat Hussain (Criminal)

H. Case No. 33. No. 36/3 of 2000
State vs. Neegwan (Criminal)

H. Case No. 34. No.

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State vs. Abdul Mateen (Criminal)

H. Case No. 35. No. 23/3

State vs. Azhar Mahmood (Criminal)

H. Case No. 36. No. 203/1 of 1993

Gulzar Bibi vs. Muhammad Ashraf (Civil)

H. Case No. 37. No. 314/1 of 1993

Seth Muhammad Idrees vs. Mst. Nasreen Akhtar (Civil)

H. Case No. 38. No. 128/1 of 2001

Zeeshan Sadiq vs. Head Master (Civil)

H. Case no. 39. No. 214/1 of 1994

Muhammad Khan vs. Ashraf Khan (Civil)

H. Case No. 40. No. 241/1 of 2001

Muhammad Naeem vs. Muhammad Afsar (Civil)

H. Case No. 41. No. 66/2 of 2001

Shamsul Islam vs. Qazi Mohibur Rahman (Family)

H. Case No. 42. No. 157/2 of 2000

Tazim Bibi vs. Public (Civil)

H. Case No. 43. No. 91/2 of 2001

Naseeb Jan etc. vs. Public (Civil)

H. Case No. 44. No. 13/2 of 2002

Ayaz Shoukat etc. vs. Public (Civil)

H. Case No. 45. No. 191/1 of 2001

Mst. Quraishan and others vs. Public (Civil)

H. Case No. 46. No. 21/2 of 2000

Muhammad Ramzan vs. Gohar Din (Civil)

H. Case No. 47. No. 45/8 of 1998

State vs. Gul Zaman (Criminal)

- H. Case No. 48. No. 1/12 of 2001
Aurangzeb vs. Yunus (Criminal)
- H. Case No. 49. No. 120 of 2000
State vs. Muhammad Iqbal (Criminal)
- H. Case No. 50. No. 163/82 of 2000
State vs. Tahir Mahmood (Criminal)
- H. Case No. 51. No. 22/3 of 2001
State vs. Mumtaz Ali (Criminal)
- H. Case No. 52.
State (Mahnaz Bibi) vs. Niaz Muhammad (Criminal)
- H. Case No 53. No. 37/3 of 2001
State vs. Mir Afzal (Criminal)
- H. Case No 54.
Ghulam Dastgir vs. Muzaffar Khan (Criminal)
- H. Case No. 55. No. 96/3
State vs. Samunder (Criminal)
- H. Case No. 56. No. 85/1 of 2001
Zaristan vs. Gul Rahman (Civil)
- H. Case No. 57. No. 39/1 of 2001
Sajid Ali vs. Daud (Civil)
- H. Case No. 58. No. 8/2 of 2001
Mst. Naziran vs. Public (Civil)
- H. Case No. 59. No. 31/1 of 2001
State vs. Gulfaraz (Criminal)
- H. Case No. 60. No. 137/12 of 2000
Appeal - Liaqat vs. Mst. Kariman (Civil)
- H. Case No. 61. No. 148/8 of 2000
State vs. Zahid Shah (Criminal)

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- H. Case No. 62. No. 83/3 of 2001
State vs. Khawaj Gul (Criminal)
- H. Case No. 63.
Jamshaid vs. Abid Hussain etc. (Criminal)
- H. Case No. 64. No. 51/2 of 2001
State vs. Iftikhar Ahmed (Criminal)
- H. Case No. 65. No. 31/F
Mst. Safraj vs. Muhammad Afzal (Family)
- H. Case No. 66. No. 6/3 of 2002
State vs. Shakeel Ahmed (Criminal)

Larkana, Sindh

- L. Case No. 1. No. 83 of 2000
State vs. Sikandir Jarevar (Criminal)
- L. Case No. 2. No. 78-2001
State vs. Manthar Ali Ansari (Criminal)
- L. Case No. 3. No. 157 of 2001
Market Committee vs. Mashooq Ali (Criminal)
- L. Case No. 4. No. 137 of 2001
State vs. Farooq Ahmed (Criminal)
- L. Case No. 5. No.32 of 2001
State vs. Dillo and others (Criminal)
- L. Case No. 6. No. 7 of 2001
Waqar Ali vs. Mst. Ainha Begum (Family)
- L. Case No. 7. No. 87 f 2000
State vs. Akhlaque Ahmed Shahani (Criminal)
- L. Case No. 8. No. 186 of 2001
Inspector Market Committee vs. Niamatullah (Criminal)

- L. Case No. 9. No. 44 of 2001
State vs. Assadulah Dayo (Criminal)
- L. Case No. 10. No. 188 of 2001
State vs. Rahim Bux Chandio (Criminal)

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- L. Case No. 11. No. 93 of 2001
State vs. Manzoor Junejo (Criminal)
- L. Case No. 12. No. 154 of 1999
State vs. Pir Ali Shah (Criminal)
- L. Case No. 13. No. 105 of 2001
State vs. M. Murad (Criminal)
- L. Case No. 14. No. 562 of 2000
State vs. Taimur (Criminal)
- L. Case No. 15. No. 18 of 2001
State vs. Saifullah (Criminal)
- L. Case No. 16. No. 72 of 2000
State vs. Abdur Rasool Meman (Criminal)
- L. Case No. 17. No. 14 of 2000
State vs. Mumtaz and others (Criminal)
- L. Case No. 18. No. 25 of 2001
State vs. Syed Mehr Ali Shah (Criminal)
- L. Case No. 19. No. 29 of 2001
State vs. Mehar Shah (Criminal)
- L. Case No. 20. No. 122 of 2001
State vs. Manzoor Janwari (Criminal)
- L. Case No. 21. No. 103 of 2002
State vs. Hajan Gopang (Criminal)
- L. Case No. 22. No. 19 of 1999
State vs. Deedar Ali (Criminal)
- L. Case No. 23. No. 5 of 2001
State vs. Hamzoo Khan and others (Criminal)
- L. Case No. 24. No. 57 of 2001

- State vs. Asghar (Criminal)
L. Case No. 25. No. 75 of 2001
State vs. Oughan (Criminal)
- L. Case No. 26.No. 55 of 2001
State vs. Nazir Buledi (Criminal)
- L. Case No. 27.No. 30 of 2001
State vs. Roshan Ali (Criminal)
- L. Case No. 28.No. 80 of 2000
State vs. Karam Ali (Criminal)
- L. Case No. 29.No. 65 of 2000
State vs. Fida Hussain (Criminal)
- L. Case No. 30.No. 148 of 1998
State vs. Gada Hussain (Criminal)
- L. Case No. 31.No. 186 of 2000
State vs. Ghulam Ali etc (Criminal)
- L. Case No. 32.No. 430 of 2001
State vs. Muhammad Urisn (Criminal)
- L. Case No. 33.No. 50 of 2001
State vs. Baggon Bhalli (Criminal)
- L. Case No. 34.No. 71 of 2001
State vs. Ali Gul (Criminal)
- L. Case No. 35.No. 100 of 1999
State vs. Gudu Parwer Ali (Criminal)
- L. Case No. 36.No. 166 of 2001
State vs. Muhammad Ayub (Criminal)
- L. Case No. 37.No. Nil of 2001
State vs. Khadum Hussain (Criminal)

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- L. Case No. 38.No. 90 of 2001
State vs. Shabir Ahmed (Criminal)
- L. Case No. 39.No.34 of 2001
State vs. Lal Bux Buriro and others (Criminal)
- L. Case No. 40.No. 727 of 2001
State vs. Ghulam Mustafa Hashio (Criminal)
- L. Case No. 41.No. 1 of 2001
State vs. Muhammad Uris and others (Criminal)
- L. Case No. 42.No. 409 of 1996
State vs. Dilawar Lolai (Criminal)
- L. Case No. 43.No. 410 of 1996
State vs. Azizullah (Criminal)
- L. Case No. 44.No. 231 of 2001
State vs. Shahid Laghari (Criminal)
- L. Case No. 45.No. 3 of 1993
State vs. Arbelo Lolai and others (Criminal)

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- S. Case No. 1. No. 127 of 2001
State vs. Sher Muhammad etc. (Criminal)
- S. Case No. 2. No. 21 of 2001
State vs. Shah Jahan Company (Criminal)
- S. Case No. 3. No. 5 of 2001
Muhammad Zulfiqar vs. Muhammad Sharif (Criminal)
- S. Case No. 4. No. 11 of 2001
State vs. Ali Akhtar (Criminal)
- S. Case No. 5. No. 25 of 2001
Abdul Wahab vs. Doda Khan (Criminal)
- S. Case No. 6. No. 44 of 2001

- State vs. Muhammad Sultan (Criminal)
- S. Case No. 7. No. 28 of 2001
State vs. Nawab Khan & others (Criminal)
- S. Case No. 8. No. 16/2001; 21/2002
Dad Gul 258 others vs. Muhammad Din and six others (Civil)
- S. Case No. 9. No. 4 of 2001
State vs. Saeed Mulan etc. (Criminal)
- S. Case No. 10. No. 2 of 2002
State vs. M. Rafique (Criminal)
- S. Case No. 11. No. 11 of 2002
State vs. Farman Ullah (Criminal)
- S. Case No. 12. No. 14 of 2001
State vs. Sattar Khan and others (Criminal)
- S. Case No. 13. No. JC 53 of 1999
State (Dad Karim) vs. Gul Mir (Criminal)
- S. Case No. 14. No. 31 of 2001
State vs. Sher Muhammad (Criminal)
- S. Case No. 15. 28 of 2001
State vs. Syed Gulzar Hussain Shah etc. (Criminal)
- S. Case No. 16. 29 of 2001
State vs. Muhammad Munir etc. (Criminal)
- S. Case No. 17. 44 of 2001
State vs. Muhammad Sultan (Criminal)
- S. Case No. 18. 35 of 2001
Muhammad Ismial vs. Haji Abdul Hakim (Criminal)
- S. Case No. 19. 01 of 2002
Tariq Hamid vs. Samina Bibi (Family)

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- S. Case No. 20. 05 of 2001
Muhammad Murad vs. Jan bibi (Family)
- S. Case No. 21. 43 of 2001
State vs. Lakhmir (Criminal)
- S. Case No. 22. 21 of 2001
Mst. Moomal vs. Maula Bux (Family)
- S. Case No. 23. 24 of 2001
Muhammad Qasim vs. DS Railway (Family) (Civil)
- S. Case No. 24. 29 of 2001
Mst. Gul Pari vs. Khuda Dad (Civil)
- S. Case No. 25. 47 of 2001
Gul Sher vs. Abdul Hameed (Civil)
- S. Case No. 26. 10 of 2001
Muhammad Raheem Vs. Administrator MC Sibi (Civil)
- S. Case No. 27. 06 of 2002
Haji Abdul Karim vs. Muhammad Azam (Civil)
- S. Case No. 28. 64 of 2000
Pur Muhammad vs. Asst. Commissioner (Civil)
- S. Case No. 29. 09 of 2001
Muhammad Iqbal vs. Public at large (Civil)
- S. Case No. 30. 06 of 2001
State vs. Muhammad Ismail (Criminal)
- S. Case No. 31. 16 of 2001
State vs. Doda Khan (Criminal)
- S. Case No. 32. 02 of 2001
State vs. Rais Akhtar (Criminal)
- S. Case No. 33. 09 of 2001
State vs. Khair Muhammad (Criminal)

S. Case No. 34. 04 of 2002
State vs. Gulab (Criminal)

S. Case No. 35. 03 of 2002
State vs. Mumtaz etc. (Criminal)

Appendix 5

Performa for the evaluation of case histories by the legal expert

Title of the case:

Court:

Tehsil:

District:

Q1. When was case filed?

Q2. When was case decided? (Length of case in months and years)

Q3. Did the case end as a result of:

- 1) Compromise
- 2) Dismissal
- 3) Non-appearance of parties
- 4) Ex-party
- 5) Contested decision
- 6) Others (please state)

Q4. What different stages did the case pass through and how much time did each step take?

CIVIL CASE

Sr. No.	Stages of case	Amount of time (against the previous step)
1	Service and completion of pleading	
2	Framing of issues	
3	Plaintiff's evidence	
4	Defendant's evidence	
5	Arguments	
6	Judgment filtering	

CRIMINAL CASE

Sr. No.	Stages of case	Amount of time (against the previous step)
1	Occurrence	
2	Filing of police report	
3	Commencement of trial	
4	Prosecution evidence	
5	Accused's evidence	
6	Argument	
7	Judgment filtering	

Q5. Is order sheet attached to the file?

- 1) Yes
- 2) No

Q6. Was justice done?

- 1) Yes
- 2) No

Q7. If yes, how?

Q8. If no, how?

Q9. Was there any discrimination against one or more parties?

- 1) Yes
- 2) No

Q10. If Yes, what was the basis of discrimination?

- 1) Wealth/social status/class
- 2) Bribes
- 3) Gender
- 4) Religious affiliation
- 5) Others (please state):

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Q11. Do you think the case delay beyond what is necessary?

1) Yes

2) No

Q12. If delayed what are the causes of delay?

Q13. Comments of the quality of justice.

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