

Management of Speedy Justice System: A Road towards Progress of Balochistan

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Abstract: The history of Balochistan is full of inter-tribal feuds and conflicts. The tribal system has given rise to the institution of “Jirga” just as system of “Panchayat” of India. These kinds of systems had been an essential part of all primitive societies. People of Balochistan have resisted enforcement of criminal procedure code or police administration, just because they feel a sense of security in this apparently backward system of Jirga. Currently people are frustrated from the currently prevailing Civil Justice system to the extent that they have given up on the whole system and getting back to tribal system in the tribal areas especially in Baluchistan in order to get prompt judgment. This process of going backward is not a good sign for a developing province like Baluchistan and its economic growth. This study will focus on the delays in the resolution of civil disputes, erode public confidence in the civil justice system, disappoint and frustrate those who seek compensation through the legal system. Hence, this study makes everybody realize that there can be no peace without order and there can be no order without timely justice at your door-step.

In general, many law suites take years or decades. Even if one receives a judgment, the judgment does not mean anything unless properly executed or enforced to give the person his rightful ownership and/or possession/remedy. Such factors, individually and collectively, undermine public faith and confidence in the ability of the civil justice system to operate efficiently. The main purpose of this study is to give speedy justice to the people in Baluchistan. The specific objectives are to bring public faith and confidence in the civil justice system and encourage masses to give up the old traditional “Jirga” system by moving forward towards “Speedy Justice System ” for prompt decisions.

Keywords: Speedy Justice, Jirga, Panchayat, Civil Disputes, Judgement, Justice,

Introduction

There is no society in the cosmos that can exist without managing justice. The judiciary is an essential state institution that has a very important part to play in the society's constancy by providing speedy justice to the people. If it is so, the failure of judiciary begins when justice is delayed and at the same time we could see lawlessness in the society. Every human being in the society must receive justice and fair play quickly. When every person begins to feel that he/she is treated equally in dispensing justice fairly and quickly, it will help in the proper functioning of the society and at the same time the society will develop speedily towards success and the people will feel important (Gul, R., Tahir., Ishfaq, U., Batool, T. (2021).

The Universal Declaration of Human Rights also emphasizes that in view of the law every human person is equal and has the right to be equally protected by the law. If we consider the Judiciary system especially the existing civil law in Pakistan could provide solution for the same,¹ but the general public could not get speedy and inexpensive justice from the Judiciary due to certain reasons (Bukhari, S, K, S.; Said, Hamdan; Gul, R; Seraj, P, M, I. (2021). As a result, the country is plagued with extremism, terrorism and sectarianism.

A well-known and famous personality Martin Luther King² in his letter to fellow Clergymen as well as the British Prime Minister William Edward Gladstone³ used to say that justice should be provided in time to all the subjects who are knocking at the door of Judiciary, if not it is reflected that no justice is provided. Through this study focus is tried to keep on the reasons as to why the resolution of civil disputes is delayed which destroy the confidence of the public in the civil justice system, dissatisfy and discourage those who seek recompense through the legal system. Hence, this study makes everybody realize that without order there can be no peace and to inculcate order, justice should be dispensed in a timely manner at the door-step. Public believe that all the rulings of the courts are strictly followed by the Government of Pakistan as well as the law enforcing agencies which are expected to make Pakistan strong and stable but in reality it is not so. So the following question arises from the heart of the public: Where can be find solution to this destructive system which is unfair and disorganized?

Through this study, focus is only on High and session courts of Quetta in Baluchistan. A questionnaire is used to find out the number of cases / type of cases / duration of each case in order to get a more clear view about justice system especially in how many cases have been given final verdict within the time limit.

Literature Review

Every human being must receive justice and fair play promptly. When people feel that they are treated equally and given justice promptly and fairly, then only the society will function properly, develop speedily towards success and everyone will realize his/her importance in the society (Ahmad, I., Gul, R. 2021). The huge number of cases awaiting settlement by the lower and superior judiciary clearly indicates that the judicial system is not functioning effectively or not up to the mark (Gul, R., Zakir, S., Ali, I., Karim, H., Hussain, R. 2021). It is estimated that around a million cases are waiting for settlement by the civil courts; around 0.1 million cases are to be settled by the high courts and almost 16 to 17 thousand cases awaiting settlement by the highest court in the country known as Supreme Court of Pakistan. The

International Crisis Group (ICG) released a report in the year 2010 which states at least one or two decades are needed to decide these cases. Hence, speedy justice is needed for progress of the system.

The Universal Declaration of Human Rights, articles 5- 11, also emphasizes the equality of all human beings before the law and it is their right to be equally protected by the law. On 27th April, 2016, an article of the Università del Piemonte Orientale entitled as, Delayed Justice is denial of growth, indicates from a relative viewpoint released that the experimental scrutiny on 175 countries in the 2004-2015 period, clearly shows the bond between judicial delay and economic growth making use of the information comprising panel dataset.

An article of Anwar Naseer Khan (Professor Andy Khan) on 07th June, 2015, entitled as “Justice Delayed is Justice Denied” has given clear picture that how the developed countries are strictly following their rules to provide speedy trials. (1) The Magna Carta 1215 clearly indicates the promise made by King John of England the right of every person to receive justice without delay.(2) The Sixth Amendment of US provides for speedy trials.(3) The Canadian Charter of Rights, section 11, Proceedings that consist of the right to speedy trials are Criminal and Punitive Matters; Part(b) of the same Section also affirms that if a person is accused with an offence, it is his right to expect that he will be tried within a equitable time.

The Civil Procedure Code-1908 that developed by the philosophy of civil law of the West, and essentially drained from the Napoleonic Code of Civil Procedure is the basis of measure for all civil matters in Pakistan⁴. The civil law is based purely on law of equity in most of the countries in the world but in the South Asian countries like Pakistan, India, Bangladesh, Sri Lanka, etc... also consist of common law doctrines and religion.

The Law is Justice

The use of power as appointed by law is called Justice, the criteria for the upkeep of being treated fairly with a required incentive. Philosophers, sociologists and others say that justice is the right administration of people and things. The perception of justice indicates the concept of balanced, correct, fair and fitting treatment meted out to people.

Justice is a legal or philosophical theory by which fairness is administered(Ali, I., Gul, R., Khan, S. S., Karim, K. 2021; Bukhari, S. K. U. S., Gul, R., Bashir, T., Zakir, S., &Javed, T. (2021). Justice makes the offender feel guilt of what he/she has done thereby the victim fees trust and confidence in the system and the society (Ayub, A., Gul, R., Ali, A., Rauf, B., M. 2021). In other words, it is the capacity to maintain and administer in a just manner especially on occasions of conflicting claims and being able to reward or punished based on merit. Justice is an idea like truth. Law is the tool of a Judge in the pursuit of justice (Gul, R., Talat, M., Mumtaz, M., Shaheen, L. 2021).

Law is considered justice because it rightly speaks about the collective organization of the individual has right to lawful defence. There are people in our society looking forward for justice go to courts for a fair justice to their dues (problems). According to our juridical system the judgment must be fair, just, and reasonable. Well when a citizen comes for justice to the court it takes a lot of time to give justice; and till justice is given the purpose for which just was appealed is perished. There comes the quote **“justice delayed is justice denied.”**

No emphasis is given to fasten up justice. Justice stands with evidence, morals, and facts, if the facts itself are fastened up the speed of judgement will increase but there is more possibility or danger to bury

⁴ Pakistan Civil Procedure Code, 1908,

justice. As there is an ancient quote “**high greed is dangerous; justice hurried is justice buried.**” So what I want to say is that there are different types of cases and different timeframes for each type. Therefore each case must tried to be dealt with in its procedural timeframes and give justice to the people on due time.

Delayed Justice in Reality is Denied Justice

In the year 2015 the Lahore High Court (LHC) Chief Justice, Rt. Hon. Manzoor Malik, expressed great concern in his opening speech as a Chief Justice that the continuing undue and unwanted postponements in the system of justice in Pakistan which needs prompt and quality dispensation of justice is a supreme priority of the judicial system⁵. The challenges of delaying are faced not the country of Pakistan alone but also other countries and very much in South Asian countries More than 3 crore cases are pending before the three levels of the Indian courts.

Number of Pending Cases in India

| Number of Undecided Cases in the Supreme Court | As Dated |
|--|-------------------|
| | |
| 59468 | 19-February-2016 |
| 62281 | 30-June-2015 |
| 65970 | 30-June-2014 |
| 66603 | 30-September-2013 |

Among these cases lying unsolved in the Supreme Court, about 80% are civil cases in nature and the rest are criminal cases. Furthermore the Law Ministry in the data that it released in 2016 indicates that there as of 19 February 2016, there are about 85 criminal cases and around 1,135 civil cases which remain unsolved for over 10 years⁶.

We could see a similar trend in the High Courts of India where there were number of pending cases in twenty four (24) High Courts.

| Number of Undecided Cases in the High Courts | As Dated |
|--|-------------------|
| | |
| 4005704 | 30-June-2015 |
| 4107524 | 30-September-2014 |
| 4589920 | 30-September-2013 |

According to the data released on 31 December 2014, there were more than 18% of the cases awaiting settlement for over 10 years in the High Courts, whereas the amount of pending cases in the District, Secession and Lower Courts has been around 27 million for the last two years⁷.

One of the promises made by King John of England in Clause 40 of the Magna Carta 1215 is that it is every person’s right to have access to justice without delay and at the same time Lord Tom Bingham also highlights in his book that the cardinal requirement of the rule of law is the right to fair trial⁸.

⁵ The News, March 3, 2015.

⁶ Pending cases in Indian courts, <https://thecompanion.in/tli-pendency-in-indian-courts/>.

⁷ Ibid

Number of Pending Cases in Pakistan

William Ewart Gladstone (1809-1898), the former Prime Minister of the United Kingdom was one of the esteemed English Politicians. His writing on “Justice delayed justice denied” was well appreciated and remembered still. As I mentioned earlier that Pakistan is not the only a country that has been victimized but unfortunately at present Pakistan falls into this category as a clear example because the present system of judiciary tends to be lethargic and very slow. The delay as such is that a grandson would get verdict for a case that was started by his grandfather. In Pakistan a civil suit takes maximum fifteen to twenty years to get settled or judgment to be pronounced by the civil court. The same situation of delay applies to the Sessions and District Courts as well as in the High and Supreme Courts of Pakistan. Even though the National Judicial Policy (NJP) was enforced on the 1st of June in the year of 2009 to make sure that justice is dispensed promptly but the circumstances as such have not enhanced considerably. According to a recent research that around 2 million cases still remain unsolved in the judiciary of the country i.e. before the Sessions Courts, HCs and SC⁹.

Judicial system in Pakistan is having three basic or elementary laws known as, Pakistan Penal Code Pakistan-1860; The Criminal Procedure Code -1898 and the Civil Procedure Code -1908 with some modifications.

According to the data released by the Pakistan Law and Justice Commission there were around 1,873,100 cases undecided for final verdict in the Supreme as well as in the subordinate courts of Pakistan as on November 30, 2017¹⁰.

| S.# | As Dated | Judiciary / Courts | Number of Undecided Cases |
|---------------|-----------|------------------------------|---------------------------|
| 1 | 30-Nov-17 | Supreme Court | 38,071 |
| 2 | 30-Nov-17 | Lahore High Court (LHC) | 147,633 |
| 3 | 30-Nov-17 | Sindh High Court (SHC) | 93,404 |
| 4 | 30-Nov-17 | Peshawar High Court (PHC) | 29,525 |
| 5 | 30-Nov-17 | Balochistan High Court (BHC) | 6,510 |
| 6 | 30-Nov-17 | Islamabad High Court (IHC) | 16,244 |
| 7 | 30-Nov-17 | Other subordinate courts | 1,541,698 |
| TOTAL: | | | 1,873,085 |

As it is mentioned in the previous chart that around about 1,541,700 cases were awaiting final verdict in the district and session courts along with the Federal Shariat Court, other than the Supreme and the High Courts, given below are details basing on the data released by the LJCP. The subordinate courts are the district judiciary which includes session and additional session judges as well as civil and senior civil judges¹¹.

⁸ Tom Bingham, *The Rule of Law*, 90.

⁹ Nasir, J. A., “JUSTICE DELAYED IS JUSTICE DENIED”, on July 13, 2016.

¹⁰ Butt, T.

¹¹ Butt, T.,

| S.# | As Dated | The District Judiciary | Number of Undecided Cases |
|---------------|-----------|------------------------|---------------------------|
| 1 | 30-Nov-17 | Punjab | 1,187,076 |
| 2 | 30-Nov-17 | Islamabad | 37,005 |
| 3 | 30-Nov-17 | Sindh | 99,820 |
| 4 | 30-Nov-17 | Khyber Pakhtunkhwa | 204,209 |
| 5 | 30-Nov-17 | Balochistan | 13,009 |
| 6 | 30-Nov-17 | Federal Shariat Court | 579 |
| TOTAL: | | | 1,541,698 |

Even though Balochistan is big in size compared to other provinces because it is covering 44% of the whole Pakistan but as per population it is small with lots of tribal groups.

Sample Cases for Delayed Justice

Case – 1: Therivals of MrWaheed who were occupying the land, came up with the objection to the executing court that the disputed plot was an evacuee property and cannot be sold. In spite of this objection, the executing court confirmed the sale in favour of the buyer on July 7, 1960.

On Feb 6, 1966, the matter reached the SC, before it was remanded back to the Lahore High Court (LHC), where it was decided in favour of MrWaheed¹².

Case – 2: In yet another case, the son of Raja Arif (late) is going through another round of litigation over a property dispute. Arif had a property dispute with Haji Usman Ilahi over a commercial plot in Rawalpindi in 1986. After 20 years of litigation, in 2005, the SC decided the matter in Arif's favor¹³

What Magistrates can try cases summarily?

According to Pakistan Criminal Procedure Code (CrPC), 1898, Sections 260 of the Chapter XXII specifies that only the Magistrate of the First Class possesses the power of trying cases summarily but no other Magistrate who is in the Second or Third Class, possesses this power by virtue of his/ her being such Magistrate. Such powers to the full extent possessed by the Magistrate of First Class will have to be conferred upon him/ her by the Provincial Government¹⁴.

According to the Section 261 of CrPC, the power may also be conferred on Benches of Magistrate of the Principal (first) Class. The Government of Province may confer restricted power, e.g. power less than those possessed by the Magistrate to try cases summarily, upon Benches of Additional Magistrates those who belong to the Second and Third Class, but no power to try summarily can be conferred upon a Magistrate of Second or Third Class individually. Two or more Magistrates of a Second or Third Class may exercise greater powers, under the authority of the Provincial Government¹⁵.

¹² Dawn, January 21, 2018; <https://www.dawn.com/news/1384319>.

¹³ Ibid

¹⁴ . CrPC, Section 260, P-1221

¹⁵ . CrPC, Section 261, P-1224

Research Methodology

Survey Report / Data Collections

Design of Research:

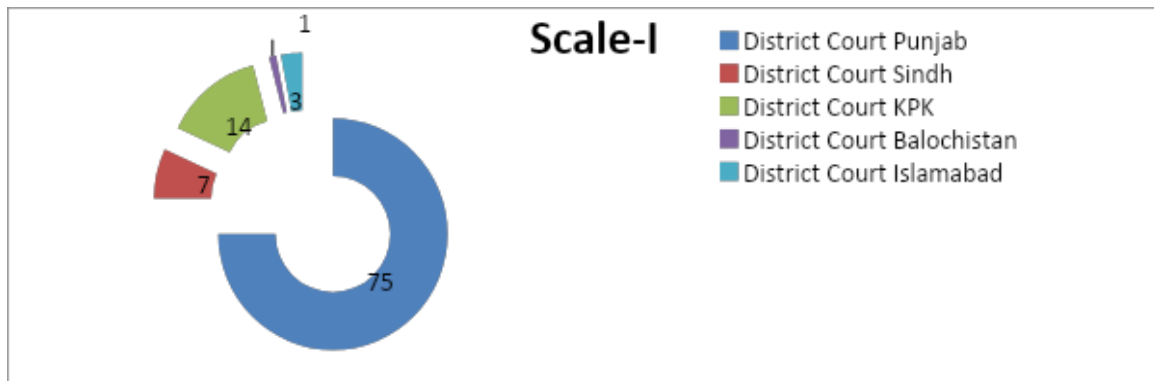
To know the delays in the resolution of civil disputes, a descriptive survey model is used to understand the stated issues under study. Descriptive survey model is designed in such a way that it includes all three kinds of cases such as Normal Cases, Priority Cases and Complex Cases and at the same time the three different types of cases such as Criminal Cases, Civil Cases and Administrative Cases. This type of research will help to understand the case types that contribute to long delays in reality and a solution in processing of cases speedily and to improve the quality of services rendered to the court users to confer justice fairly and promptly in order to uplift the general public of Baluchistan.

Data Collection & Variables of Study:

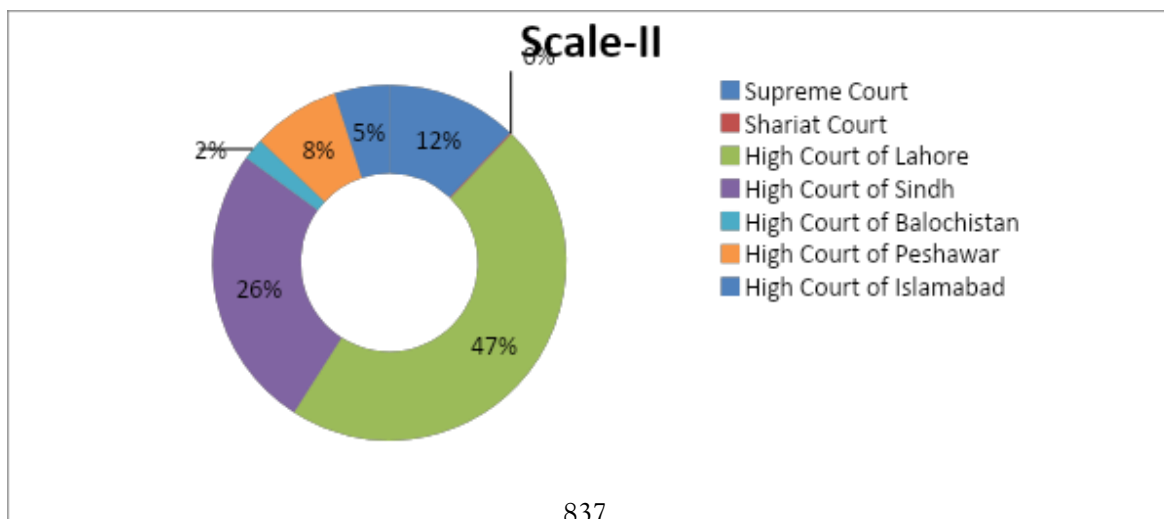
Collecting data is essential because the report is prepared on the basis of the evidence collected which is based on accuracy. So, the data will be collected at least from 10 to 15 judges from High and session courts in Quetta primarily. Once a clear picture of the survey from Quetta is made, the second phase of the survey will be conducted from other selective courts that are situated outside Quetta but in Balochistan, especially where there are more tribal groups, the 'Jirga' system is very much in practice.

The general figure of the pending cases in Pakistan

While I was doing the survey in the district courts of Quetta, I was able to get the following latest data of the general figure of the pending cases as well as cases outstanding per judge, as of 30th of September 2018.



Scale-I: The percentage of the pending cases in the District Courts.



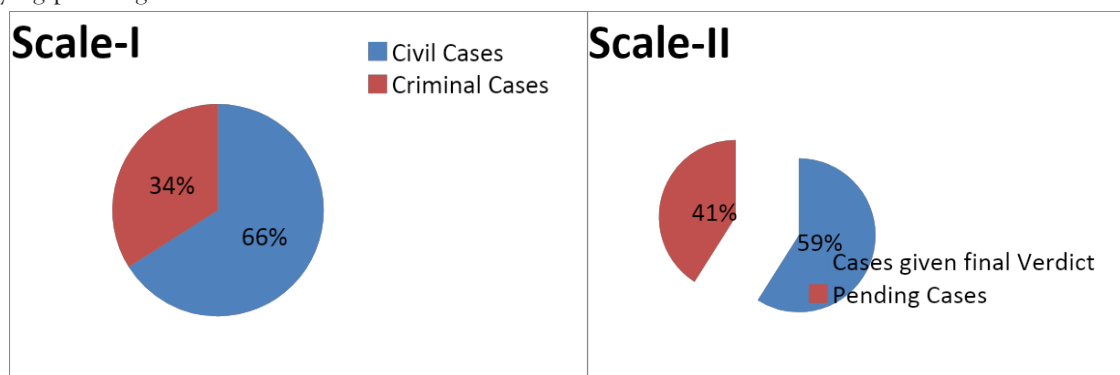
Scale -II: The percentage of the pending cases in the Supreme & High Courts

| Pending Cases in the Courts of Pakistan (as of 30.09.2018) | | | | |
|--|-------------------------|--------------|-----------------|--|
| Judiciary / Courts | Number of Pending Cases | No of Judges | Cases per Judge | |
| Supreme Court of Pakistan | 40,243 | 17 | 2,367 | |
| Federal Shariat Court | 422 | 5 | 84 | |
| Lahore High Court, Lahore | 165,515 | 56 | 2,956 | |
| High Court of Sindh, Karachi | 92,169 | 34 | 2,710 | |
| Peshawar High Court, Peshawar | 29,624 | 17 | 1,743 | |
| High Court of Balochistan, Quetta | 6,842 | 8 | 855 | |
| Islamabad High Court | 17,085 | 5 | 3,417 | |
| District Court Punjab | 1,095,542 | 1,291 | 849 | |
| District Court Sindh | 101,059 | 359 | 282 | |
| District Court KPK | 209,984 | 313 | 671 | |
| District Court Balochistan | 13,969 | 171 | 82 | |
| District Court Islamabad | 38,291 | 49 | 741 | |
| TOTAL | 1,810,745 | 2,325 | 779 | |

Table - I: Pending Cases in the Courts of Pakistan.

Data Analysis of cases in Quetta

The data collected from the Judicial Magistrates and Senior Civil Judges of Quetta shows that around 59% of the total Criminal and Civil cases have been given final verdict and 41 % of both the cases are lying pending.



Scale -I: The percentage of Civil & Criminal cases. final verdict & the pending cases.

Scale -II: The percentage of the cases given

While the Magistrates were filling the data collection form they expressed their views regarding the reasons behind the delay for giving the final verdict with regard to the pending cases. Even though I have mentioned a few general reasons for the delay in the data collection form, they inscribed few more reasons and at the same time few of them articulated without any hesitation certain valid and serious reasons for the delay.

Reasons Behind the Delay

There are many reasons for the delay in giving the final verdict in each Civil and Criminal cases. Some of the reasons are very common that could be applicable in many countries or states as the reasons for delay in giving justice or the final verdict but few reasons are very typical only for certain countries.

The security of the judges is one of the factors of the failure of judiciary. Judges in lower and high courts are not provided proper security; they are either frightened or under duress. A clear example is the judge who sentenced Mumtaz Qadri to life imprisonment, the murderer of the governor of Punjab Salman Taseer, was harassed by lawyers who even entered his chamber to kill him, but luckily he escaped unhurt. Eventually, he left the county along with his family owing to death threats.

There are many reasons for the failure of judiciary but here I would like to state a few and important reasons for the failure. The first one is corruption but it reflects in the form of Bribery, Political or Tribal pressure and Nepotism. The other reasons are the over burden or load of cases, the Tense situation, non-interest of one of the parties and General Election duty due to which the judgments are not given on reserved date.

And above all the main reason for the delay is “**the lawyers and the police officers**”. This reason was given by a good number of magistrates repeatedly.

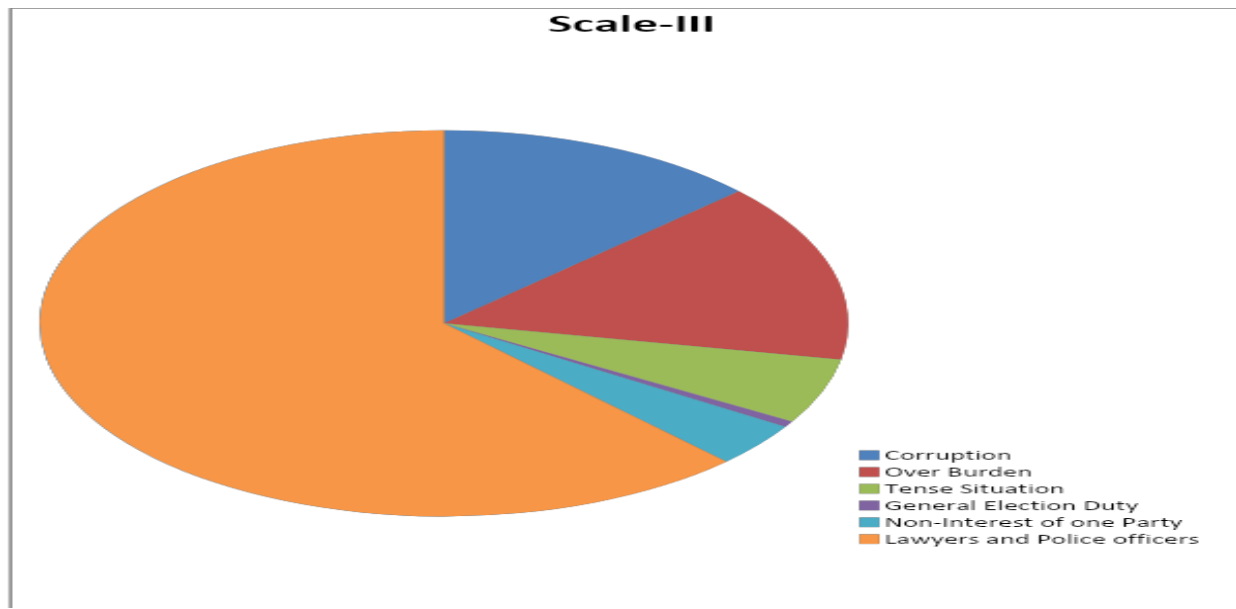
There are a few advocates who delay the cases intentionally for different reasons by non-appearance; other few have accepted many cases beyond their capacity and without keeping proper assistants but most of all is the frequent Strikes of the advocates for anything and everything. The other main party for the delay is the police officers who often neglect their duties by nonappearance as police witnesses and give lots of justifications in order to justify their absenteeism.

| Reasons behind the Delay of Justice | Rank | |
|-------------------------------------|----------|-----------|
| | Yes / No | App. In % |
| a) Corruption | Yes | 13% |
| i) Bribery | Yes | 03% |
| ii) Political or Tribal pressure | Yes | 06% |
| iii) Nepotism | Yes | 04% |
| b) Over Burden | Yes | 15% |

| | | |
|---|-----|-------|
| c) Due to Tense Situation | Yes | 5.5% |
| d) General Election duty | Yes | 0.5% |
| e) Non-interest of one of the parties | Yes | 3.7% |
| f) Lawyers and Police officers are the main reasons | Yes | 62.3% |
| i) Nonappearance of advocates for different reasons | Yes | 32% |
| ii) Nonappearance of police witnesses | Yes | 19% |
| iii) Strikes of the advocates | Yes | 11.3% |

Table - II: Reasons behind the delay of justice in Baluchistan.

| Survey Report / Data Collections | | | |
|--|---|-----------------|--------------------|
| Period: One Year (1st of October 2017 to 30th of September 2018) | | | |
| Name of the Court | | | |
| Name of the judge: | | | |
| Place: Duration: | | | |
| S. # | Questions | | Number |
| 1 | How many cases you have attended during last one year? | | |
| | A) Criminal Cases | | |
| | B) Civil Cases | | |
| | C) Administrative Cases | | |
| | D) | | |
| 2 | In how many cases you have given the final verdict during the period? | | |
| | A) Criminal Cases | | |
| | B) Civil Cases | | |
| | C) Administrative Cases | | |
| | D) | | |
| 3 | How many cases lying pending for final verdict? | | |
| | | | |
| Civil Appeal Vs Criminal Appeal | | | |
| Days | Civil Appeal Vs Criminal Appeal | Civil App. in % | Criminal App. in % |
| 0-30 | | | |
| 31-60 | | | |
| 61-90 | | | |
| 90-120 | | | |
| 120 + | | | |
| Total | | | |
| | | | |
| Reasons behind the Delay of Justice | | Rank | |
| | | Yes | No |
| a) Corruption | | | |
| i) Bribery | | | |
| ii) Political or Tribal pressure | | | |
| iii) Nepotism | | | |
| b) Over Burden | | | |
| c) Due to Tense Situation | | | |



Scale -III:Reasons behind the delay of justice in Baluchistan

The tables and the scales that are given above give a clear picture of all what I have written under the title “Reasons behind the delay” and at the same time the percentages (%) itself shows the gravity of the reasons for the delay of Justice.

Results

Pakistan judicial system has three basic laws – Pakistan Penal Code-1860, the Criminal Procedure Code-1898 and the Civil Procedure Code-1908 – with a few modifications. There is nothing wrong in the law but the different factors that are responsible for the delay must be removed with immediate effect. Currently there are only seventeen Supreme Court judges for 208 million populations to handle their disputes but often political cases keep the Superior judiciary engaged with two or more, or full bench of judges to deal with these cases. When we pay attention towards Balochistan, there is a total number of 179 judges are there in the High Court and District courts of Balochistan to handle 12 million populations (12,344,408) that comes around 68963 individual for one judge¹⁶. After analyzing the data collected especially from the Judicial Magistrates and Senior Civil Judges, despite the fact that the Constitution of Pakistan 1973, through the Article 37 (d) assured that the State shall ensure inexpensive and expeditious justice¹⁷, the state, especially the Province of Balochistan, is still facing severe delay in timely disposal of cases.

Discussion:

Impact of justice delayed and Management of Speedy Justice system:

A speedy trial is a trial conducted according to the established sets of laws, which is considered to be free from any undue and unjust adjournment. Justice dispensed in a speedy and timely manner saves the valuable time of the court as well as the legal process; it helps to reestablish and maintain the confidence and faith the public has in the justice system(Gul, R., Ayub, A., Mazhar, S., Uddin, S., S., Khanum, M.

¹⁶ Province wise provisional results of census – 2017.

¹⁷ The Constitution of Pakistan, 1973, Article 37 (d), 48.

2021; Gul, R., Khan, S. S., Mazhar, S., & Tahir, T. 2020). It will encourage people to knock at the door of the court without any hesitation to get their disagreements settled. We are aware that the justice system existing in Pakistan is really miserable due to which years and even generations pass before people get justice. Legal process in civil cases is extremely slow with regard to the disposal of cases¹⁸.

The justice system is so confusing and depressing for the quantity of people which cannot be explained in a word. It is very expensive too; there are several occasions where unfortunate people who went to court to report their complaints after selling off their lands and property to meet the expenditures of the court, did not get final verdicts for their cases during their lifetime. Now the world has become a global village, so the demand of the mass people at this present time is the speedy approach to justice. Certainly, it is the peak time to implement effective steps to bestow justice punctually.

There are many more victims who don't want to go to court or even think of going to the courts to seek out justice because they know it will take years and years to prove a clearly noticeable wrongdoer who is the tangible criminal. The danger is that the frustration or the hopelessness of people might lead them in some other direction to acquire justice (Gul, R., Khilji, G. 2021; Gul, R., Tahir, T., Ishfaq, U. 2020). At the end of the day they may obtain justice but the path they have chosen may not be the right track and at the same time if they remain in the same track to acquire justice that is the beginning of destruction.

There are number of reasons which seem to be responsible for making this situation paralyzed. So, I thought of pointing out some of the reasons which are obvious in our society. The following are the leading causes of delay:

- a. Shortage of worthy lawyers.
- b. Accepting cases beyond their capacity.
- c. Inadequate number of judges.
- d. Shortage of judiciary
- e. Adjournment in litigations due to the delay in submitting the investigation or inquiry reports.
- f. Continuous strikes of the Lawyers for their own benefits.
- g. Unreasonable absence of witnesses.
- h. The modern technology is available to keep records and documents but there is no interest to utilize it.
- i. Nonappearance of advocates for different reasons.
- j. Nonappearance of police witnesses

Delay in the courts is extremely bad. It is bad because it denies a basic public service rendered to the general public, the space of time often causes weakening of evidence, delay may cause several hardships to some parties and it does not make much impact when the final verdict is declared because undue or long delay in the process makes the concern parties tired and frustrated. The general public may also feel that the justice is given to them at last not because that the judiciary is concerned about them or their problems but because they wanted to close their files and finish it off with the pending cases. It brings to the entire court system a loss of public confidence and respect.

Long delay in any cases creates problem for the public as well as for the judiciary. But the problem is much more serious with regard to the criminal cases as compare to the civil cases. If the accused is found that he / she is innocent after a long delay, the justice that is acquired by the person has no meaning in it because the suffering under went by the person during that long period cannot be measured with the justice that he/ she acquired after a lengthy postponement. The justice that is not given on time cannot be

¹⁸ *Right to a Speedy Trial*, by Professor K.N. chandrasekharan Pillai, Published by VAAKAY LEGAL

considered as a just but as an obligation that is fulfilled in a passage of time. The consequences of delaying justice especially with regard to the Criminal cases may lead to people concern as well as the society to select a different approach but in border sense the delay affects not the society alone but the whole future generation at large.

Delay in our justice system has become legendary because of that the credibility of courts to administer justice is practically traumatized¹⁹. There are many causes of the failed judicial system and the consequences are Lawlessness, rates of terrorism and go back to their tribal system.

Increasing Lawlessness

The increasing mob violence in our society is the evidence that confirms the peak of lawlessness. Every now and again we hear of massacre of people due to bomb blast or suicide attacks in cities and villages. This directs to the common people to think that since the judiciary has failed to provide justice in many cases to the people, they have taken law into their own hands to punish the criminals.

Increasing rates of Terrorism

The situation has changed from bad to worse; as a result the country is struggling with the rapidly increasing threat of terrorism and the law has no teeth to catch the would-be terrorist.??

Up to now there are many terrorists who have been released from the courts owing to the absence of either eye witnesses or evidence. The few terrorist attacks i.e. the attacks on Mehran Base in Karachi, assault raid on GHQ in Rawalpindi, disturbance on PAF in Chaklala and invasion on Peshawar Airport, etc... show that terrorists have lost their trepidation and have become bold and encouraged. Their attacks are getting lethal day by day because they have realized that even if they are caught, they will be released by the authorities concerned.

Increasing Support for tribal System

The general impression of the people is that the Government and law enforcing functionaries abide by all the verdicts of the courts meant to make Pakistan strong and stable but in reality it is not so. So the following question arises from the hearts of the public: Is there any way of rectifying this system which is unfair, disorganized, and destructive?

Presently the general public is so discouraged that it has lost confidence in the entire system, as a result people are getting back to the tribal system in tribal areas especially in Balochistan in order to get prompt relief. This process of going backward does not appear to be a healthy sign for the economic growth of Pakistan which is a developing country.

Management of Speedy Justice system:

Pakistan inherited its legal justice system from the British after sliding doors of the sub-continent into two sovereign states namely Pakistan and India. The state of Pakistan has all the sets of laws to keep a balanced order in the society and gear it towards prosperity and progress. It is difficult for those states that have unjust orders and practices who cannot even visualize going towards developments and embellishments.

¹⁹Kalanauri, Z. I., Combating Delayed Justice, proposal for reform in judicial system in Pakistan, www.zklaassociates.com

Mr. Sarmad Ali said in his article to the Daily Times on the August 10, 2017, that a civil suit in Pakistan takes nearly two decades to get the final verdict by the civil court and the proceedings of the Sessions Courts, High Courts and Supreme Court of Pakistan also take almost similar time. He further said that the judiciary has to be aware of its responsibilities and provide justice on merit bases as per the Constitution of Pakistan, especially to the people who have no influence and seeking justice purely on merit²⁰.

Constitutionally, the Supreme Court of Pakistan is the uppermost institution of the system of justice; it has the authority to regulate the country's legal justice system. It possesses the ultimate authority due to which petitions could be filed and the judgment dispensed by it is accepted as absolute and final verdict, legally and constitutionally binding.

Since the Supreme Court is considered as the uppermost body of the system of justice, bench of judges of this highest body will be able to probe out the factors pertaining to the judicial matters which contribute to the adjournment of justice and at the same time the highest body should be firm enough to take a stand on decisions and give guarantee to all the citizens in this country to avail inexpensive and speedy justice, as one of the quotations indicates "Do justice even if heaven falls."

The suggestions to curb delay in justice are based on the judicial issues that are the grounds for the delay of justice.

Frequent Transfer of Judges

The judges being transferred repeatedly in the course of trial delays the disposes of cases and also it is believed that in general the frequent changes of judges affect the function of the system in an effective manner. The policy of the national judicial system of 2009 directs that the term of a judicial officer should be at least for three years and he/she should not be transferred before he / she completes his / her term unless an early transfer is required in the interest of the public or the institution.²¹

Relaxation Provided by Judges

One of the main causes of delay is due to the fact that judges provide relaxation to the absentee witnesses without taking any kind of serious actions against them. This easygoing attitude of the judges, granting adjournment for another hearing, in spite of having the authority to make sure that the witnesses are present in the courts, will not only delay the case but also give encouragement to do it again.

So, the judges must give up this relaxed approach and be strict by using their power to make sure that the witnesses attend the court, unless having a valid reason with confirmation²².

Repeated Delays in Cases

Generally the law permits grant of adjournments but the plaintiffs should not make use of their counsels to abuse or misrepresent this relaxation for their benefit. Often the courts remain compassionate and permits adjournments.

Usually the party or its lawyer requests for adjournments for two reasons, either due to weak position of the case or sometimes it is taken to pester the opposite party. This point was stated by the

²⁰ Salman Ali on Daily Times, August 10, 2017.

²¹ National Judicial Policy 2009 (Revised Edition 2012); No.10 Under "Eradication of Corruption", 14.

²² Science International Lahore (Journal), Publication International, Lahore, 2016,563.

Honorable Mr. Nizam Hussain Saddique, the then Chief Justice of Pakistan, in his speech in SAARC law conference which took place in Karachi, that the repeated postponements having no persuasive and legitimate justifications has become a major cause which brings about delay in justice. This negative tendency has also made serious damages towards the expeditious dispensation of justice. So, the Judges must not give frequent adjournments without cogent and legitimate reasons.

Conclusion and Recommendations

Unfortunately, in Pakistan and especially in Balochistan many law suites take years or decades. We may have reasons to say that compared to other provinces the number of pending cases in Balochistan is less. Of course, here we cannot forget to see that the province is big, almost half the area of Pakistan is occupied by this Province but the population as such is very less in contrast to the other provinces.

Even if one receives a judgment or a final verdict, if it is not implemented to make the concerned person feel that he has received justice and rightfully take ownership or possession as remedy. Furthermore when the case is prolonged indefinitely expenses incurred in the case also increases manifold. Further the relaxation provided by the judges, excessive strike by advocates has a negative effect on the quality of evidence due to failure of memory which spoils the evidence and sometimes it ends up with the death of the litigants and / or of the witnesses. Factors of this nature both individually and collectively have negative effect on the faith and trust of the public as to the ability and efficiency of the civil justice system. So the delays that occur in settling the civil disputes wear down the trust and confidence the public has on the civil justice system and the litigants who seeks some relief and compensation get dissatisfied and frustrated with our legal system.

It is strongly felt that the people who are working for human development too agree, that public does not have much faith in the judiciary. The main reason is the constant delay at every stage, the judges' unwillingness to pronounce judgments and predictable suspensions. This compels the people to move towards the Tribal Leaders to seek speedy and summary justice.

Last but not least, owing to the failure of judiciary, the support for the parallel judicial system is increasing because the tribal groups and their managements still exist in the tribal areas in Balochistan and tribal leaders in general don't prolong any case but give prompt judgment in their own method.

If the system goes backward instead going forward, it will be difficult for the Province of Balochistan for any kind of development and to compete with the other provinces of Pakistan, as well as the rest of the world. Stated Issue of **"Management of Speedy Justice system"** in order to pay attention towards the judicial system of Balochistan in particular and help the people of this province to come up to stand at par with the people of other provinces.

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