



EVALUATING IMPACT OF INSTITUTION OF CASES ON DISPENSATION OF JUSTICE IN DISTRICT JUDICIARY OF PAKISTAN

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ABSTRACT

District judiciary is the formal forum of redressal of grievances of people who bring their cases for adjudication. Institution means filling of cases. Due to non availability of other effective avenues of justice people rush to this forum that causes overburdening. This paper has tried to explore the factors causing overburdening of the system like frivolous litigation, disposal on technical grounds etc.

The Research was done by developing a hypothesis and after operationalization of hypothesis it was tested with statistical tools and techniques to get results. Population of study was infinite therefore the required sample of 245 people from five categories 95 litigants, 75 lawyers, 25 Judges, 25 Court administrative staff and 25 Law enforcement agencies were selected through non-probability convenience sampling technique. Five-point Likert scale was used to measure research variables. The study explored the insignificant relationship of institution of case with dispensation of justice as both the variables were not mutually co related.

Key words: Institution of cases, Dispensation of justice, District Judiciary.

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1. INTRODUCTION

The judiciary being one of the three pillars of the State is responsible for interpretation of the Constitution of the country and dispensation of justice to public at large. The Constitution is basic document that confers power and defines jurisdiction of each and every pillar of the State, therefore, it defines the powers and jurisdiction of judiciary as the pillar of the State also. According to article 37(d) of the Constitution, “State shall ensure inexpensive and expeditious justice.”

To provide relief to aggrieved persons, there are other forums available in Pakistan that includes Jirgas [A tribal assembly of elders meant to take consensus decisions especially in Pathans], Panchayat [An assembly of elders of the village (local) community], Peace councils, Relief Commissions, Tribunals & Ombudsman etc but the most relevant forum is the court.

The Constitution of Islamic Republic of Pakistan provides for establishment of the Courts in Pakistan and their jurisdictions. Superior Courts and District Courts. The subordinate courts or the District level Courts are at the lowest level in judicial hierarchy of Pakistan. These Courts deal with cases of civil and criminal nature in accordance with their jurisdictions. The cases which are civil in nature are brought to the Court of District Judge.

The slow pace of dispensation of justice in District judiciary of Pakistan has given rise to unbridled crime rate and enhanced despondencies in people. It portrays the poor picture of the dispensation of justice at the end of District Judiciary. Most of the criminal are scot free and are causing terror in society due to lack of effective checks and balance and pendency of cases. Last five years record shows that institution is higher than disposal. The disposal is 2,672,737 cases while institution is 2,714,683. The institution figure is 41946 cases higher than disposal, (LJCP,2014).

District judiciary is the primary step for dispensation of justice. Litigation starts at this level but unfortunately more than 80% cases are pending in district judiciary of Pakistan. Any comprehensive study regarding delays in Civil Justice in Lower Courts on dispensation of Justice in general and the Pakistani context in particular could not be found. Most of the studies conducted in the past tried to evaluate causes for delay in civil Justice in Lower courts of Pakistan by Raza Ullah Shah, Shadi Ullah Khan & Sumera Farid (2014) but did not measure the effects of delays in Civil Justice in Lower Courts on dispensation of Justice in Pakistan. Furthermore, most of these studies were descriptive and literature based but none of the study had measured the impact of institution of cases in district judiciary of Pakistan on dispensation of justice empirically. This study helps to understand real relationship of cause and effects.

2. LITERATURE REVIEW

Frivolous Litigation

Record reveals that only little number of genuine litigants knock the doors of the courts while the rest of the litigants move the Courts not only to seek justice but to perpetrate and perpetuate injustice and treachery (Khan,1998). Frivolous litigations comprise of fabrication accompanied by unwarrantable additional claims filed by a party for causing annoyance to other party, (Shah,2005). It is argued that civil litigation does not attempt to peacefully resolve the disputes; rather it presents an opportunity to pursue and prolong local rivalries, (Khan,2004). Nelson in

his unpublished Ph.D thesis said that the root cause of delay in courts is the litigants' interest in delaying rather than expediting the case. One can impede the process of the case at any stage by managing the situation like pushing any false claim, concealing any fact, raising any other plea, bringing any false documents to record and denying any document just to delay the case of indefinite period of time, (Mohan,2009). Frivolous litigation is made to pester the opponent, to enhance the reputation in the society, to affect the evidence of the opposite party, to reduce value of an award of damages, (Khan & Khan,2003). Frivolous litigation is wastage of time, (Shaheen,2016). Heavy fine can discourage frivolous litigation (Asad,2016). Unluckily, there is dearth of law in Pakistan to restrain unnecessary and frivolous litigation, (Azad,2012).

Disposal on Technical grounds

According to the World Development Report, (2002), procedural simplification is the most important segment for the redressal of the grievances of public at large, (World Bank, 2002). Higher procedural complexities extend the disposal time of the cases, (Djankov, et, al,2003).

Technicalities play stepmother role that occasionally proves incurable for the litigant party, (Nahaki,201). These legal and procedural technicalities exploit the case that causes delay, (Lone,2011). Our procedural laws are complex and intricate, obsolete, and as old as colonial time. These laws cause prolong and lengthy litigations, (Ghazi,2006). The difficult procedure causes corrupt conduct when lawyers influence the outcome of case by managing their cases faster or slower, (Blue, et, al,2008). Much of the time is consumed on the arguments of procedural litigation like jurisdiction of action, amendments of plaint, sufficiency of notice, and other procedural issues. Furthermore, the terminology in the Bare Acts is too technical and difficult to comprehend for a common man, (Aggarwal,1978).

Record of last six years for institution of cases at district judiciary of Pakistan is as under:

Table 1 Institution of cases 2009 – 2014

Year	Institution of cases
2009	1306471
2010	2389702
2011	2573461
2012	2566479
2013	2551976
2014	2714683

Since 2010, figure of institution is increasing every year. If we evaluate the record of last six years of district judiciary of Pakistan, the rate of institution will be 6529.061111 cases per day.

Hypothesis

H1A. There is relationship between dispensation of justice in District judiciary of Pakistan and institution of cases.

3. METHODOLOGY

Since the present study is of descriptive nature so it used positivist’s philosophy due to its advantages of economical collection of data, opportunity of control over research process and easily comparable data. Shajahan (2004) elaborated five stages of positivistic approach which are as follows:

- Development of hypotheses from the literature.
- Operationalization of hypotheses.

- Testing hypotheses with appropriate statistical tools and techniques
- Decision about hypotheses (Acceptance or Rejection of Hypotheses).
- Modifying the theory in light of findings, if necessary.

The population of study was infinite. Sample size was devised by Godden Formula 2004. The sample was selected through non-probability convenience sampling technique from five categories i.e., 95 litigants, 75 lawyers, 25 Judges, 25 Court administrative staff and 25 officials of law enforcement agencies. Since any published item scale for the measurement of research variables could not be found hence items scale using five-point Likert Scale was constructed to collect primary data, while secondary data was collected through books journals, magazine, records and online sources. Backup Interviews with judges and other stakeholders were also used.

As the research project is of the social nature, both the qualitative and quantitative methods were used to analyze data into information and deduce support for the hypothesis generated from the literature. Both literature and field surveys gave rise to a body of facts and figures, which were analyzed both descriptively as well in inferential manners. By using SPSS 21.0, empirical data was put into a well-structured database comprising research variables and their characteristics to get a Data Matrix for statistical manipulation. All the descriptive tables were created from the same matrix.

4. RESULTS

4.1 Reliability of the measures: Cronbach’s Alpha

The primary task of the researchers is to verify the reliability of the construct due to the reason that better reliable data instills confidence amongst the researchers to advance the research for further analysis of the data collected. For fulfilling such requirements, the inter-item reliability or the Cronbach’s Alpha reliability coefficient of dependent and independent moderating variables is achieved which is all about .639 to .866. The outcomes of Cronbach’s alpha are given in table 2.

Table 2 Reliability test

Construct/Variables	Number of Items	Cronbach’s Alpha- Reliability
Dispensation of Justice	10	.866
Institution of Cases	8	.725

The outcomes of the reliability test indicate the range of Cronbach’s Alpha, (.639 to .866), which is considered good as scholars are of the view that nearer the reliability coefficients to 1.0, the better, reliability coefficient less than .60 is considered to be poor and reliability coefficient in the range of .70 is acceptable and reliability coefficient those over .80 is good (Sekaran, 1999: 311). Given that the Cronbach’s Alpha for the research study at hand ranges from (.639 to .866), therefore, it can be considered high in reliability.

4.2 Demographic Profile.

Table 3 Gender Profile of the Respondents

Gender				
		Frequency	Percent	
Valid	Male	221	90.2	
	Female	024	9.8	
	Total	245	100.0	

Gender profile of the respondents mentioned in table 3 depicts that out of 245 respondents, 90.2% are males while remaining 9.8% are female.

Table 4 Profession Profile of the Respondents

Profession			
		Frequency	Percent
Valid	Lawyer	75	30.6
	Judge	25	10.2
	Court staff	25	10.2
	LEAS	25	10.2
	Litigants	95	38.8
	Total	245	100.0

The professional detail of the respondents given in table 4 shows that out of total respondents 61.2% are LEAs, 51% are court staff 40.8% are Judges and the remaining 30.6% are the Lawyers.

Table 5 Qualification Profile of the Respondents

Qualification			
		Frequency	Percent
Valid	Matric	30	12.2
	Intermediate	26	10.6
	Graduate	84	34.3
	Post graduate	105	42.9
	Total	245	100.0

The qualification distribution of the respondents given in table 5 indicates that out of total respondents 57.1% are post-graduates, 22.9% are intermediate and the remaining 12.2 % are matriculate.

Table 6 Experience of the Respondents

Experience			
		Frequency	Percent
Valid	5 years	53	21.6
	10 years	40	16.3
	More than 10 years	152	62.0
	Total	245	100.0

The detail of experience given in table 6 depicts that 62% of the respondents have more than 10-year experience, 16.3% have 10-year experience and remaining 21.6% respondents have only 5 year experience

Table 7 Income Profile of the Respondents

Income			
		Frequency	Percent
Valid	More than 10 thousand	245	100.0

Income distribution of the respondents given in table 7 indicate that all the respondents have an income more than ten thousand.

Table 8 Pendency of Cases

Pendency			
		Frequency	Percent
Valid	Civil Judge	133	54.3
	Sr. Civil Judge	53	21.6
	ADJ	17	6.9
	D & J	42	17.1
	Total	245	100.0

The detail given in table 8 regarding pendency of cases reveals that majority of the cases (54.3%) are with the Civil Judges. The next higher pendency of cases (21.6%) is with Sr. Civil Judges while the remaining 17.1% and 6.9% cases are pending with District and Session Judges and Additional district judges respectively.

Table 9 Visit Detail of the Respondents

Visit			
		Frequency	Percent
Valid	less than 5 times	118	48.2
	More than 5 times	127	51.8
	Total	245	100.0

Detail given in table 9 indicates that majority of the respondents (51.8%) visited courts more than five times while the remaining 28.2% respondents were of the view that they visited courts less than five times.

Table 10 Traveling Details of the Respondents

Travel			
		Frequency	Percent
Valid	less than 10 KM	115	46.9
	More than 10 KM	130	53.1
	Total	245	100.0

Traveling detail of the respondents given in table 10 indicates that majority of the respondents (53.1%) travel more than 10KM to reach courts while the remaining 46.9% respondents were of the view that they travel less than 10 KM to reach court and pursue their cases.

4.3 Hypothesis Testing

There is relationship between dispensation of justice in District judiciary of Pakistan and institution of cases.

Table 11 Summary of Regression Analysis

Model Summary				
Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.097 ^a	.009	.005	.89786
a. Predictors: (Constant), IOC				

R (.097) in the second column of the table 11 shows relationship of independent and dependent variable whereas the R² (.009), which is the explained variance, actually the square of R (.097) ². The given statistics indicate that two variables are not mutually correlated, and independent variable institution of cases is explaining 009% variation in the dependent variable.

Table 12 Table of Regression Model

ANOVA ^a						
Model		Sum of Squares	Df	Mean Square	F	Sig.
1	Regression	1.845	1	1.845	2.289	.132 ^b
	Residual	195.895	244	.806		
	Total	197.740	245			
a. Dependent Variable: DOJ						
b. Predictors: (Constant), IOC						

The results given in the fifth column of the above table 12 it shows that the F statistic is (2.289) that indicates the independent variable institution of cases is not significant explanatory variable of dependent variable dispensation of justice.

Table 13 Coefficient of Regression Model

Coefficients ^a						
Model		Unstandardized Coefficients		Standardized Coefficients	T	Sig.
		B	Std. Error	Beta		
1	(Constant)	3.039	.290		10.479	.000
	IOC	.121	.080	-.097	1.513	.132
a. Dependent Variable: DOJ						

In the second column of the table 13, the results show the t-statistic (1.513) in the model for regression analysis is insignificant since the calculated p-value is greater than 0.05 levels and indicates that insignificant impacts of institution of cases on dispensation of justice. On the basis of statistical insignificance of the model we can conclude that hypothesis is rejected.

5. DISCUSSION

People move courts to get relief, but some people file cases other than redressal of grievances, (Asad,2016). Frivolous cases are instituted for self-promotion or cheap publicity or for other vested interest, (Jahangiri,2016). Different factors relating to institution of cases like trust of people in judiciary, non-availability of other formal forum of justice, lack of trust in other administrative institutions, frivolous litigation, and disposal of cases on technical grounds were studied in detail. Questionnaire was constructed to explore the impact of institution of cases on dispensation of justice in district judiciary of Pakistan and relationship of both variables which was found insignificant.

6. CONCLUSION

On the basis of statistical data, it is concluded that Institution of cases has no significant impact upon dispensation of justice in district judiciary of Pakistan.

RECOMMENDATIONS

- Drastic measures should be taken to cater the needs of public litigants in terms of facilities to institution of cases so that their trust in judicial system can be retained.
- Alternate Dispute Resolution (ADR) system must be put into practice to share the burden of judiciary and facilitate people to get their issues resolved promptly.
- Laws should be introduced to discourage frivolous litigation and heavy fines may be imposed upon habitual frivolous litigants.
- Laws must be translated into national as well as regional languages so that common people can understand the essence of law.
- Disposal on technical grounds like non prosecution, absence of parties etc should be discouraged so that rate of institution can be controlled.
- Government must take steps to monitor the performance of other institutions of the State in terms of better service delivery so that public can get their rights without moving the courts.

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