



RESEARCH PAPER

Justice Delayed is Justice Denied: Reflections of Lawyers and Media Persons to Improve the Legal System

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ABSTRACT

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The access to justice is a serious issue in the developing countries. It is worse, if we talk about Pakistan. The purpose of the study is to investigate different reasons for delay in court trials and access to justice in Pakistani courts. This qualitative study was conducted through structured interviews of law practitioners and media personnel working in Lahore, the capital of the largest populated Punjab province of the country. The data comprising five different themes was analysed using the technique of thematic analysis. The study results revealed that there were seven reasons of delayed justice; including lawyers' strikes and non-professional behaviour, long procedure, unavailability of petitioners and respondents, carelessness of court staff, less number of judges, frequent transfers of judges and shortage of courts. Talking about solutions, the participants suggested that the Supreme Judicial Council should come up with specific laws for lower courts. The use of information technology can be one of the best option as it can help establish electronic courts (E courts) which can be very helpful for case hearings from distance (distance hearing). The traditional and social media can play role by spreading awareness to stress upon the need of speedy justice.

Introduction

Delay in justice means that if relief to an injured party is obtainable, but injured party is not getting it in a timely manner, it will be same as not getting any justice or remedy. Individual cases may also get exaggerated by court reluctance to make a decision on time (Schuman, 1992). The burden of the courts has increased as a result of the rapid growth of the population, as well as technical and industrial progress, but the negative effects of these developments have caused massive issues with regulation and order in society in multiple ways. It is obvious that a number of variables are combining to cause delays in the resolution of cases. The term "judicial

delay" refers to lengthy procedures and a shortage of available courts (Gupta & Agarwal, 2019).

Numbers from 171 nations throughout the world demonstrate a substantial and adverse connection between court delays and a country's worth of justice from 2003 to 2016. Similarly, a quick justice without quality is not beneficial for the business environment, and it falls under the maxim "justice delayed is justice denied" (Melcarne, Ramello & Spruk, 2020).

In his book "Crime, Justice and Social Media" Salter (2016) states that discussion on any topic especially judicial system can be made comparatively easily on social media as compared to main stream media. Faults, mismanagement and postponements in whole judicial system to provide quick and timely justice are being criticized by social media which is helpful for proper management of justice.

According to Indian Law Commission delay to provide justice is due to unnecessary complexities in litigation process of civil and commercial cases which causes enormous rise in number of pending cases. Covid-19 pandemic situation has caused further delay in courts' proceedings in India by shifting the hearing from physical courtrooms to virtual courts. Possible solutions to overcome this international issue of justice delayed needs to be addressed at lawmakers' level (Sarkar & Bandyopadhyay, 2021).

Pakistan, an unevenly developed state, is a country that has lived with all dimensions, which includes tribal areas, rural areas, bourgeois areas, proletarian areas and absolutely globalized areas as well. Due to these complex dimensions existence of media and its role for justice become more important. People have different values, different systems and more or less extreme forms of the same beliefs (Aslam & Ali, 2009).

Due to a variety of factors, including system inefficiency, poor record administration, unreal and unneeded complexities, slow trial and unnecessary delay, Pakistani courts are facing a massive backlog (Zafeer, Xue & Maqbool, 2020).

In his study, Jilani (2006) stated that Alternative Dispute Resolution (ADR) indicates dissatisfaction with the official court system as assessed by delays, but it is also an effort to promote a less formal dispute resolution method. This development is unrelated to any legal perspective. The rise of business litigation, which demanded a quick decision, required the creation of alternate methods.

Literature Review

Patil (2015) argues that the Lok Adalat provides a quick and efficient resolution of disputes between parties in the Indian legal system. Illiterate persons seek justice in a regular court, which is adverse to both the parties and the courts because a settlement might be achieved prior to the court's ruling.

Although administration of justice is directly related with judicial system but political environment is also one of the main reason as discussed by Elias and Pereyra (2021) in their book, "Political Corruption and Organizational Crime", that

corruption is one of the most important factor in the Argentina's judicial system which is causing a lot of backlogs of cases in courts.

The judicial system of Pakistan is very inefficient, cost consuming, tedious and uninteresting for general masses. Only influential people can get timely justice by using any form of their influence. They recommend in their study that drastic organized reforms in the existing judicial system are required to cope up with such problems which are increasing every passing day (Kaleem & Salim, 2021).

The regular and fast growth of usage of information technology can be one of the best and most reliable options in the judicial sector of Pakistan. By using IT techniques courts can do distance hearing in case of unavailability of parties in the court of law (Munir & Muhammad, 2005).

Ahmad Saeed (2021) of voice.net reported a case of Shahid Masih and his brother who were arrested by Lahore police in 11 Oct 2006 with the allegation to keep drugs. In year 2013 Lahore High Court gave verdict against them with life sentence. After completion of sentence they were released in September 2021 but Lahore High Court declare them innocent in December 2021.

In the Daily Times newspaper, Shahabuddin (2020) stated that in a democracy, the entire state machinery should have an environment in which each department may operate freely and jointly in order to provide the best possible justice to the people. He went on to say that India's judicial system was inherited from the British Empire, and that the local residents were treated as second-class citizens.

Pakistani news channel, 24 News (2021) demonstrated about case between landlord and tenant which was pending even after 26 years of long litigation. Even in December 2021, Justice Faisal Zaman Khan of Lahore High Court gave another date of February 2022 for its hearing.

Surette (1998), the author, looks at how people use the information and data they get from the media to form their own narrative of the world. Most importantly court cases linking the media's influence on crime and criminal justice are considered by author.

Material and Methods

The qualitative research structured interview method was used for data collection to know about the main delaying factors in the judicial system of Pakistan. The participants were selected from the population of registered lawyers and media persons with a total 30 sample size, out of which 20 were male and 10 were female, aged between 25 to 39 years. All participants were professional, acting as law practitioners and media personnel in Lahore, the capital of largest populated Punjab province of Pakistan.

The convenient sampling technique was used to research out interview participants law practitioners, law academicians and media personnel of Lahore, the

provincial capital of the largest populated Punjab province of Pakistan. Structured interviews were conducted in order to get responses from interviewees. Questions were divided into five sections other than demographics.

1. Causes of delay in court decisions/trials.
2. Role of Bar Councils to provide timely justice
3. Role of CPC Amendments 2020 for speedy justice.
4. Role of media for quick Justice
5. Redress/compensation/solutions of delay in justice

Based upon the interviews of the research participants, different themes were developed using the technique of thematic analysis for measuring the data of this qualitative research. Thematic Analysis (TA) is a technique for recognising and studying patterns and arrays of meaning in a dataset (Braun & Clarke, 2006). It is flexible approach to reach out results based upon the available data. It demonstrates which themes are significant in the description of the issue/question/topic under study (Daly, Kellehear & Gliksman, 1997).

Responses from the interviewees were arranged to get better ‘familiarization’ of the interviews text. After getting general idea about the data, coding was made, before making themes of the study. Through coding, study highlighted important parts of the interviews and labeled “codes” to describe the expressions or sentences mentioned by the respondents. Once codes generated, “themes” were derived from the common codes. At this phase the recurrence of concepts was removed by making single theme for common type of ‘codes’ which is basically a combination of codes. Proper labels were assigned to the themes for analytical purpose (Sarwar, Shafiq & Haq, 2021).

Results and Discussion

Tables A and B show coding of interviews of lawyers and media persons and later these codes were converted into themes.

Table 1
Coding of interviews of Lawyers regarding ‘justice delayed is justice denied’

	Section 1 (Reasons for delayed court trials)	Section 2 (Role of bar councils)	Section 3(role of CPC Amendments 2020)	Section 5 (Solutions suggested by experts)
Lawyer 1	<ul style="list-style-type: none"> • Less courts • Shortage of judges • No check and balance • Purposeless transfer of judges 	<ul style="list-style-type: none"> • Supreme Court bar should make rules for lawyers in order to stop lengthy case trials 	<ul style="list-style-type: none"> • With the help of High Court these amendments can play role for speedy justice 	<ul style="list-style-type: none"> • Fixation of time period at the time of admission of case
Lawyer 2	<ul style="list-style-type: none"> • Relaxation provided by judges to lawyers 	<ul style="list-style-type: none"> • Provincial bars can make laws for lower bars 	<ul style="list-style-type: none"> • It can be very helpful especially U/S 	<ul style="list-style-type: none"> • Financial penalties on parties

	<ul style="list-style-type: none"> • Absence of parties from courts • Absence of judges • Lawyers' strikes 	so that court strikes can be minimized	27A, alternative method, should be encouraged to minimize no. of cases which are to be filed in courts	<ul style="list-style-type: none"> • Punishment for lawyers' over irresponsible behaviour
Lawyer 3	<ul style="list-style-type: none"> • Transfer of judges • Court strikes • Mismanagement during evidences 	<ul style="list-style-type: none"> • District bars can play its role by making laws for lawyers presence in courts during case proceedings 	<ul style="list-style-type: none"> • Duration for hearing of evidence is 15 days which is a good move. 	<ul style="list-style-type: none"> • By removing of redundant and old laws. • Increment in no. of judges
Lawyer 4	<ul style="list-style-type: none"> • Parties irresponsible behavior • Less no. of courts 	<ul style="list-style-type: none"> • It should be Office bearer's responsibility to stop strikes 	<ul style="list-style-type: none"> • Amendments are good but lawyers' majority is against it. 	<ul style="list-style-type: none"> • Use of technology • Distance hearing resultantly Cost reduction
Lawyer 5	<ul style="list-style-type: none"> • Extra work load on judges • Lawyers' strikes 	<ul style="list-style-type: none"> • Strikes have been main reason which can be settled by bar councils 	<ul style="list-style-type: none"> • Strict compliance required to act upon these amendments 	<ul style="list-style-type: none"> • Increase in courts • Electronic courts • Electronic hearing
Lawyer 6	<ul style="list-style-type: none"> • Political pressure • Weak system • Lengthy procedure 	<ul style="list-style-type: none"> • By making laws for lawyers 	<ul style="list-style-type: none"> • Yes it is serving the purpose but not at its best level, due to unprofessional behavior of lawyers 	<ul style="list-style-type: none"> • Online mode of case trials • Introduction of alternate methods to resolve issues
Lawyer 7	<ul style="list-style-type: none"> • Self-benefited strikes • Huge backlog 	<ul style="list-style-type: none"> • Temporary suspension of bar licenses for those who deliberately cause delays during hearings 	<ul style="list-style-type: none"> • Appeal time period is defined, 30 days, which can minimize further backlogs of cases in courts 	<ul style="list-style-type: none"> • Use of IT for distance hearing • Increase in courts
Lawyer 8	<ul style="list-style-type: none"> • Frequent transfer of judges • Complex procedure 	<ul style="list-style-type: none"> • Laws should be made 	<ul style="list-style-type: none"> • Application for revision time is point which catered in it 	<ul style="list-style-type: none"> • Special courts for long litigated cases
Lawyer 9	<ul style="list-style-type: none"> • shortage of courts • shortage of resources • lawyers' strikes 	<ul style="list-style-type: none"> • Supreme court bar should make strict compliance regarding delays due to lawyers' behaviour 	<ul style="list-style-type: none"> • Yes these amendments are serving the purpose 	<ul style="list-style-type: none"> • Artificial intelligence system should be practiced by using Information Technology
Lawyer 10	<ul style="list-style-type: none"> • discouragement of alternate methods 	<ul style="list-style-type: none"> • Suspension of bar councils licenses for 	<ul style="list-style-type: none"> • Framing issues and recording of evidence take 	<ul style="list-style-type: none"> • Increase in no. of judges • Use of IT

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	<ul style="list-style-type: none"> • lawyers' unprofessional behavior 	fixed duration based upon lawyers' behavior which causing delay	much time which is fixed by 90days in these amendments	<ul style="list-style-type: none"> • Supreme Judicial Council should play its role
Lawyer 11	<ul style="list-style-type: none"> • Strikes • no one is answerable for delay 	<ul style="list-style-type: none"> • By making answerable to lawyers, bar councils can minimize delay 	<ul style="list-style-type: none"> • Appeal duration is 30 days, which can help to minimize delays 	<ul style="list-style-type: none"> • Distance court hearing • E courts
Lawyer 12	<ul style="list-style-type: none"> • rules against Quran and Sunnah • strikes 	<ul style="list-style-type: none"> • Bars should lay down standards for legal education in consultation with the Universities 	<ul style="list-style-type: none"> • Not properly implemented due to lawyers' pressure 	<ul style="list-style-type: none"> • By using Information technology • Supreme Judicial Council strong role for judges administration
Lawyer 13	<ul style="list-style-type: none"> • legal counsels' strikes • parties irresponsible behavior 	<ul style="list-style-type: none"> • Bars should organize legal aid for needy and poor people 	<ul style="list-style-type: none"> • lawyers' are big hurdle in the way 	<ul style="list-style-type: none"> • E courts • Distance hearing • No political interference
Lawyer 14	<ul style="list-style-type: none"> • political pressure • lawyers' absentees 	<ul style="list-style-type: none"> • Laws should be made for district bars by provincial bars. 	<ul style="list-style-type: none"> • Yes it is helping but not implemented at optimal level because of lawyers' strikes against these amendments 	<ul style="list-style-type: none"> • Increment in no. of judges • Law making for judiciary should be added in Supreme Judicial Council's role
Lawyer 15	<ul style="list-style-type: none"> • frequent transfer of judges • unlawful strikes 	<ul style="list-style-type: none"> • To promote and support for law reforms 	<ul style="list-style-type: none"> • Not serving the purpose 	<ul style="list-style-type: none"> • Distance court hearing • Electronic courts
Lawyer 16	<ul style="list-style-type: none"> • lawyers' lack of preparation • Strike calls 	<ul style="list-style-type: none"> • To lay down morals of professional conduct and protocol for advocates in order to avoid strikes 	<ul style="list-style-type: none"> • Framing issues time fixed by 90days is good clause for speedy disposal 	<ul style="list-style-type: none"> • Use of Information technology • Supreme Judicial Council should play its role
Lawyer 17	<ul style="list-style-type: none"> • Political pressure • Lengthy procedure 	<ul style="list-style-type: none"> • Suggest amendments in laws 	<ul style="list-style-type: none"> • Due to lawyers' it is just waste of time 	<ul style="list-style-type: none"> • Increment in no. of courts • Increase no. of judges
Lawyer 18	<ul style="list-style-type: none"> • Political pressure • Parties behavior 	<ul style="list-style-type: none"> • The bar with the help of judges can play an important role in proper administration of justice. 	<ul style="list-style-type: none"> • Parallel proceedings U/S 141 of CPC amendments 2021 can work for speedy trial 	<ul style="list-style-type: none"> • Supreme Judicial Council should play its role

Lawyer 19	<ul style="list-style-type: none"> • System loopholes • System give ways which cause delay 	<ul style="list-style-type: none"> • Rules should be made by Supreme court bar council so that it can have supervision and control over the provincial bar council 	<ul style="list-style-type: none"> • These amendments are not being practiced in true spirit 	<ul style="list-style-type: none"> • Increment in no. of courts • Supreme Judicial Council should make laws for judges
Lawyer 20	<ul style="list-style-type: none"> • Extra load on courts • Lawyers' purposeless strikes 	<ul style="list-style-type: none"> • Bar and bench relation in law refers to the cordial relationship in terms of quick justice. 	<ul style="list-style-type: none"> • Yes but the clause 75A, insertion of spot check, is creating more delay. 	<ul style="list-style-type: none"> • Strengthened legal system by making laws on equality basis. • Use of distance hearing process

Table 2
Coding of interviews of media persons regarding 'justice delayed is justice denied'

	Section 1 (Reasons f delayed court trials)	Section 2 (Role of t councils)	Section 4(roll of media & political environment)	Section 5 (Solutio suggested by experts)
Media Person 1	<ul style="list-style-type: none"> • Less no. of courts • strikes 	<ul style="list-style-type: none"> • Supreme court bar should lead in law making for provincial bars 	<ul style="list-style-type: none"> • Judicial system is weak and always helping politicians. • Media can educate nation 	<ul style="list-style-type: none"> • Distance court hearing • Electronic courts • Use of Information technology techniques
Media Person 2	<ul style="list-style-type: none"> • Legal counsel's Strikes 	<ul style="list-style-type: none"> • Punishments criterion should be defined for lawyers who are causing delays 	<ul style="list-style-type: none"> • Social media can be handy in order to create awareness 	<ul style="list-style-type: none"> • Use of IT for latest techniques for quick justice
Media Person 3	<ul style="list-style-type: none"> • lawyers' lack of ability • Strikes 	<ul style="list-style-type: none"> • To provide support for law reforms 	<ul style="list-style-type: none"> • Awareness and education can be key options for media • Judicial system have soft corner for politicians 	<ul style="list-style-type: none"> • Electronic courts • Distance hearing
Media Person 4	<ul style="list-style-type: none"> • Shortage of judges • Zero check & balance on judges regarding delayed justice. 	<ul style="list-style-type: none"> • Suggestions for amendments in laws for district bars 	<ul style="list-style-type: none"> • Under specified rules social media can be best platform to create awareness 	<ul style="list-style-type: none"> • Use of artificial intelligence technique for quick disposal of case

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			<ul style="list-style-type: none"> Parliament is lacking in law making. 	
Media Person 5	<ul style="list-style-type: none"> Shortage of courts Strikes by lawyers 	<ul style="list-style-type: none"> The bar & bench play an important role in quick disposal of justice by making laws. 	<ul style="list-style-type: none"> It will be very healthy process if media reporters work in true spirit as Police officers and criminals also have been showed several ways 	<ul style="list-style-type: none"> Online mode of case trials Introduction of alternate methods to resolve issues
Media Person 6	<ul style="list-style-type: none"> Poorly managed System provide options to delay justice 	<ul style="list-style-type: none"> Supreme court bar should make laws for lower bars 	<ul style="list-style-type: none"> Lawyers are common in television and film, as they can and do generally appear in any type, to lead for creating awareness 	<ul style="list-style-type: none"> Financial penalties on parties Punishment for lawyers' over irresponsible behaviour
Media Person 7	<ul style="list-style-type: none"> Strikes no one is answerable for delay 	<ul style="list-style-type: none"> By making answerable to lawyers, bar councils can minimize delay 	<ul style="list-style-type: none"> Print media still provide a lot of information for readers. Laws making process is very poor 	<ul style="list-style-type: none"> Distance court hearing E courts
Media 8	<ul style="list-style-type: none"> Legal counsel's Strikes 	<ul style="list-style-type: none"> Punishments criterion should be defined for lawyers who are causing delays 	<ul style="list-style-type: none"> Social media can be handy in order to create awareness 	<ul style="list-style-type: none"> Use of IT for latest techniques for quick justice
Media Person 9	<ul style="list-style-type: none"> legal counsels' strikes parties irresponsible behavior 	<ul style="list-style-type: none"> Bars should organize legal aid for needy and poor people 	<ul style="list-style-type: none"> Judicial system have soft corner for politicians 	<ul style="list-style-type: none"> E courts Distance hearing No political interference
Media Person 10	<ul style="list-style-type: none"> political pressure lawyers' absentees 	<ul style="list-style-type: none"> Laws should be made for district bars by provincial bars. 	<ul style="list-style-type: none"> Media can create awareness programs Political interference needs to be discouraged 	<ul style="list-style-type: none"> Increment in no. of judges

Conversion of Codes into Themes

Data arranged after interviews of lawyers practicing in Lahore, all similar codes were put under one theme. After that all important themes were given 'separate names' to show the problems.

Themes drawn from interviews Theme 1: Lawyers' strikes

- Theme 2: Party's behaviour
- Theme 3: Frequent transfer of judges
- Theme 4: Increase in no. of judges
- Theme 5: Media awareness campaigns
- Theme 6: Bar councils law making ability
- Theme 7: Supreme Judicial Council
- Theme 8: Political environment
- Theme 9: CPC Amendments 2020
- Theme 10: Financial penalties
- Theme 11: Check and balance on judges
- Theme 12: E courts/Distance hearing
- Theme 13: Use of Information Technology

While discussing regarding reasons for delay in justice, it was founded that lawyers or legal representative of parties are one of the main reasons because they call strikes, most of the time, only for their own benefits. As Ismail, Azmi and Yasoja (2011) had found that legal counsels can play vital role to minimize the delay in justice. They also discussed the role of parties to the case and it was found in this study as well that most of the times parties ask their counsels for delay and long litigation during the cases which cause a lot of unwanted delays.

Taking about solutions, most of the participants are of the view that by increasing the no. of judges and courts as discussed by Zafeer, Xue and Maqbool (2020) in their article about delayed justice system, intensive communication among the lawyers, judicial personals, judges and other organizational bodies, which are related to the judicial structure, should be managed regularly. It was also discussed by Hassan (2021) in express tribune that shortage of judges/courts usually cause prolonged litigation especially during trial. These delays can be minimized by using Information Technology techniques for distance hearings of the cases and same was discussed by Biard, Hoevenaars, Kramer and Themeli (2021) in their study. Different sessions, workshops, seminars can play big role for the development and improvement of judicial system. Moreover, Munir and Muhammad (2005) also found in their study for judicial sector of Pakistan that use of technology can play its role to establish E-courts for distance hearing of cases. Technology based trainings can also play very vital role in this regard. It was also mentioned by Narasappa (2019) in his report that Indian judicial system needs to admit and adopt latest advancement in technology in order to minimize the delay in the judicial system. After analysing the data received from participants and based upon research results from different scholars, I reached at the point that use of IT can be one of the best solution for proper administration of justice. It can be cost effective and most appropriate to remove backlogs in courts which are in hundreds of thousands.

Conclusion

This study on "Justice Delayed is Justice Denied: Perspective of Law Practitioners" was conducted on the basis of structured interviews of experts in Lahore. The study was based on six research questions. It was found that lawyers or

legal representatives, of parties to the case, are responsible for delay in justice. Moreover lawyers' strikes are another reason behind this unwanted delay in justice. Discussing about solutions, law academicians and media persons think that by increasing the number of courts or even increment in number of judges can sort the issue of delayed justice. Few of the participants think that by using latest technology, for distance hearing of cases, delay can be minimized. Study revealed that lawyers themselves think that their own irresponsible behavior is the main cause behind delay and litigation of cases. Another reason for delay is party's attitude and behavior during case proceedings. Participants gave last number to strikes as cause in delay of justice. Study showed interesting responses from participants as they thought that politicians are beneficiary of delayed justice system and it suits them in order to get political benefit.

Recommendations

Based upon the research findings and conclusion, the study recommends:

- Supreme Judicial Council to play its role to make laws for speedy justice;
- Deadline for decision of every case should be mentioned once case trial starts;
- Bar and Bench should work collectively to educate the whole system regarding the importance of speedy justice;
- Media should run awareness campaigns with the help of lawyers

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