



## Caseflow Management in Courts in Punjab: Frameworks, Practices and Reform Measures

*Report and Recommendations to the Lahore High Court for improving Caseflow Management and Case Disposals*



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## EXECUTIVE SUMMARY

### Caseflow Management – The International Experience

Delay, case pendency and caseload reduction have received particular attention by the Pakistani judicial leadership, especially over the past decade and a half. Various initiatives have been undertaken in this regard and some headway made. However, they remain perennial challenges, as evidenced by various past and recent scholarly reports, third-party assessments and public perception surveys. This points to the continuing need for meaningful large-scale structural and institutional reforms, modernisation of laws and processes, and fresh approaches to improving administration of justice.

**Section 1** of this Report maps and discusses international reform experience that demonstrates that merely boosting judicial and court resources, incremental legal and procedural modifications, and automation of certain aspects of the legal process, offer limited assistance towards promotion of sustainable efficiency and predictability in legal processes and effective on-going management and redressal of delays and case backlog.

- Instead, there is now considerable evidence to show that the reform focus ought to be on scientifically measuring, tracking, monitoring and streamlining case processing times and judicial workloads as well as on meaningful identification and control of resilient barriers to effective case processing.
- In this context, there is now a vast, fast growing and deep literature on various aspects of Caseflow Management that has evolved into an advanced domain of specialised thinking and practice. A close review of this literature reveals certain core purposes, vital characteristics and prominent aspects of Caseflow Management on which there is a general academic, policy-makers' and practitioners' consensus amongst those who study, analyse and operate in this area.
- The upshot is that an effective, comprehensive, contextualised and dynamic Caseflow Management system is now widely believed to be the fundamental discipline, approach and mechanism required to ensure judicial independence, the administrative control of judges over litigation, and the efficient, effective and fair administration of justice.
- Closely connected to this idea is the conviction that in order to enable just and efficient resolution of cases, it is the court, and not the lawyers or litigants, who should control the pace of litigation and thus meaningfully monitor and address the problems of delay and backlog.
- Since courts are expected to play a pivotal role it is also deemed necessary that the judicial leadership must assume primary responsibility for the pace of litigation and that judges must be the formal leaders of any reform efforts.
- Caseflow Management involves (but is not limited to) the entire set of actions that a court takes to monitor and supervise the progress of cases, from initiation to conclusion, including organisation and management of daily dockets, setting calendars and time standards, establishing case processing tracks, management of individual cases, management of the court's overall pending caseload, vision-setting and strategic planning, budgeting and resource utilisation, and overall judicial policymaking, goal-setting and leadership.
- This Report sets out to examine the current state of Caseflow Management in Punjab by focusing on the following three important and inter-connected areas: (1) Actual pace of litigation in the district courts of certain selected districts and the observed impediments to efficient administration of justice; (2) The current legal framework for Caseflow Management in the

province; and (3) The administrative edifice, personnel and processes at the Lahore High Court ('LHC') as well as in the districts for conducting and monitoring Caseflow Management in the districts.

## Actual Pace of Litigation and Delays in District Courts: Ambit and Scope of Empirical Analysis

**Section 2** of this Report presents and discusses the results of detailed statistical analysis conducted on the basis of a sample of 1476 randomly selected civil and criminal case files of different types of disposed cases from 2014, excavated from the three Target Districts ('Target Districts') of this Report (i.e., Multan, Bahawalpur and Muzaffargarh). It closely analyses this data to gauge, *inter alia*: the duration of different selected types and sub-categories of cases; their level of complexity; their outcomes; the impact of case type, complexity and nature of outcome on case durations; the extent of delays caused by adjournments and hearings where no progress took place in the case as well as the instigators of such delays; stage-by-stage quantum of time consumed by the cases; and, the extent of occurrence as well as the time consumed by any interlocutory proceedings. Quite apart from providing vital empirical insights germane to the object of this Report this scope and level of analysis is further necessary due to the hitherto absence of any disaggregated data analysis of Caseflow Management in the country.

- Current Timelines for Case Disposal are not being met

The first significant finding is that most of the criminal and civil cases that constitute the sample consumed more time for disposal than any currently applicable overarching timeline benchmarks provided by the existing Caseflow Management system. The broad benchmarks used for this analysis are six (6) months for all civil cases and six (6) months or one (1) year for all criminal cases in the subordinate courts (based on the quantum of punishment involved), as provided by the National Judicial Policy 2009 ('NJP').

- Extent of Delay (Criminal Cases)

More specifically, while almost half (48%) of all the criminal cases that constituted the sample were disposed in up to twelve (12) months; another 42% took between thirteen (13) months to three (3) years to reach disposal; and, finally, 10% cases even took between three (3) years and over five (5) years to be disposed. It merits attention that despite the fact that the sample set included: (a) cases that involved lesser crimes and/or little complexity and relatively straight forward trials as well as; (b) cases that came to an early disposal and hence had a considerably shorter duration than a case that follows the entire legal process available for final disposal on merits (in other words the early disposal cases involved a compromise, a guilty plea, withdrawal by prosecution or an acquittal by the court at any stage of the case under Section 265-K of the Criminal Code) more than one-quarter (27%) of the overall sample constitutes of criminal cases which took more than two (2) years to be disposed.

- Extent of Delay (Civil Cases)

When it comes to civil cases that constitute the sample, 73.5% of the cases took more than six (6) months to be disposed; 60% of the cases took more than one (1) year to be disposed; 41.5% of the cases took more than two (2) years to be disposed; 23.5% of the cases took more than three (3) years to be disposed; and, 14% of the cases took more than four (4) years to be disposed. Once again it merits attention that despite including: (a) cases that involved simpler legal questions and legal regimes and/or little complexity and relatively straight forward issues as well as; (b) cases that came to an early disposal and hence had a considerably shorter duration than a case that follows the entire legal process available for final disposal on merits (in other words the early disposal cases involved a compromise, a rejection of plaint, a withdrawal of suit with permission, a withdrawal of suit without permission, an *ex parte* dismissal on default, or a dismissal for non-prosecution) as many as 41.5% of this overall sample constitutes of cases which took more than two (2) years to be disposed.

▪ Low Proportion of Complex Cases in Overall Disposals

While further probing to categorise and analyse cases according to their complexity (based on the number of legal documents and witnesses involved) it emerged that a very small component of the cases – only just over 6.5% – were actually cases of high complexity. The remaining were cases of moderate or low complexity. To the extent that this sample is representative of the typical disposal performance of district courts it, therefore, emerges that relatively very few disposed cases are of a complex nature and that the disposal numbers essentially comprise of relatively simpler matters. Furthermore, this raises the question whether a sizable proportion of these relatively simple cases were not amenable to a less time and resource consuming non-court solution.

▪ The more Complex the Case the Greater the Delay

The statistical results confirm that complexity not only majorly contributes to case longevity but that it also makes such cases vulnerable to delaying tactics and additional wastage of time.

▪ Low Proportion of Decisions on Merits in Final Disposal Numbers

Evaluating what proportion of the cases actually went through the entire available legal process it emerged that only 12% of all the criminal cases and just over 25% of all the civil cases were decided on merits and thus entailed the full available legal process. The rest were disposed in a variety of manner at different earlier stages in the case and hence entailed lesser time than a full-fledged case eventually decided on merits.

▪ An Inaccurate Picture of Delay Reduction

On the basis of the results from the representative sample used for this Report, a telling insight is that the aggregate disposal numbers for all types of cases provided by the district courts and reproduced by the High Court do not reveal the full picture in terms of delay reduction and backlog reduction as they are largely a function of not so quick solutions to simpler cases while the more troublesome, complex cases likely remain pending along with more contentious cases that have multifarious and deep impact on peoples' rights and societal obligations.

▪ Possible Perverse Incentives for not Disposing Complex Cases

A related significant question is whether the inadequacies of the currently very broad official disposal-oriented performance evaluation mechanism may be causing certain district judges to prefer simpler cases and presenting perverse incentives for them to put the complex ones on the backburner.

▪ High Average Duration of Cases

Given the fact that such a large proportion of the criminal and civil cases in the sample were not complex and that they were also decided at various stages earlier than a final disposal through judgement on merits, the average durations of time taken for disposal by the various categories and sub-categories of cases in the sample are quite high.

▪ Weak Investigations, Prosecutions and Pre-trial Scrutiny in Criminal Cases

The high numbers of early acquittals and compromises in the criminal cases in the sample point to continuing weaknesses of police investigations and prosecutions as well as inadequate pre-trial scrutiny of cases before admitting them into the formal legal system. It also underlines the high possibility that an insufficient number of such cases actually proceed to trials where robust police investigations and effective prosecutions could ensure convictions.

▪ Weak Pre-Trial Scrutiny in Civil Cases

The high numbers of withdrawn suits, dismissals for non-prosecution, ex parte decisions and compromises in the civil cases also point to weak pre-trial scrutiny that potentially allowed many unmeritorious or unripe cases to enter the formal legal system.

- High Incidence of Adjournments and ‘No Progress’ hearings

Examining the reasons for delays and the long average duration of disposed cases the discovery of a very high incidence of adjournments and overall hearings as well as hearings where the case did not progress (‘No Progress’ hearings) is another crucial finding. Furthermore, these numbers majorly escalate as the complexity of the cases increases.

- Instigators for Adjournments in Criminal Cases

The data reveals that in criminal cases the judicial officers themselves are by far the biggest contributors to the large number of adjournments reflected in the data. It demonstrates that the judicial officers seem to have had little control over the pace and progress of the cases before them and felt it necessary to grant a very high number of adjournments. As a consequence, it transpires that unless involved in a relatively simple case or one where an early outcome for a whole host of reasons is possible, one can expect multiple adjournments and ‘No Progress’ hearings and the resulting delays before reaching a solution.

- Instigators for Adjournments in Civil Cases

In civil cases, the top three instigators for adjournments in three of the categories of civil cases (‘Property,’ ‘Contractual’ and ‘Family’) are the plaintiffs, strikes by lawyers, and the judicial officers themselves. In the fourth category of civil cases (‘Rent’), it turns out that the judicial officers are the main instigators of adjournments, followed by plaintiffs and strikes by lawyers almost tied in second place as the next major causes. Once again, the results divulge very weak control over the pace and progress of the cases on part of the judicial officers.

- A Culture of Delay

The inescapable impression from the data pertaining to adjournments and ‘No Progress’ hearings is that of a prevalent general culture of not using the minimum required and necessary hearings to arrive at a final decision. The numbers get much more inflated for cases involving any greater degree of complexity.

- Most-Time Consuming Stages of the Cases

The statistical analysis also identifies certain stages of the criminal and civil cases that are particularly time-consuming. In criminal cases, the stage between the receipt of Challan in Court and the successful ‘Service of Summons’ on the parties generally stands out as the most time-consuming stage. Thereafter, the steps that span the stages between ‘Service of Summons’ and the ‘Close of the Prosecution Evidence’ are generally the next most time-consuming ones. ‘Service of Summons’ is also generally the most time-consuming step in civil cases. Furthermore, ‘Filing of Written Reply,’ ‘Formulation of Issues,’ ‘Start of Plaintiff’s Evidence,’ and ‘Close of Plaintiff’s Evidence,’ also divulge high consumption of time.

- High Incidence of Interlocutory Proceedings

Interlocutory proceedings have a high incidence and seem to contribute majorly to stalling progress during the early stages and elongating the overall duration of cases. In civil cases, almost 70% of the interim stay applications (under Order 7 Rule 10) were filed between the first and the second stages of the case i.e. between ‘Filing of Complaint’ and ‘Service of Summons.’ This also partially explains the long delays witnessed in the data analysis in the service of summons. The next most prominent phase of the case for the filing of such applications is between the ‘Date of Filing of Written Reply’ and the ‘Date of Formulation of Issues.’ Meanwhile, the most common phase of the case for stay applications (under Order 7 Rule 11) is also between the ‘Date of Filing of Written Reply’ and ‘Date of Formulation of Issues’ (almost 45%), and between the ‘Date of Formulation of Issues’ and the ‘Date of Start of Plaintiff’s Evidence’ (almost 25%).

- Age of Pendency in Target Districts in 2014 and NJP Standards: Aggregate Numbers

The empirical portion of this Report also looks at aggregate officially available numbers as well as statistics collected from the courts in the Target districts. It emerges that the age of case pendency in the Target Districts appears to have little to do with the prescribed NJP overall timeline standards. Around

60% of the civil cases in all three Target Districts have been pending for a time period well over the prescribed NJP time limit of six (6) months (and many went over the even shorter NJP time limits for certain sub-categories of civil cases); and, over 60% of the criminal cases in Multan, over 31% of the criminal cases in Bahawalpur, and, around 35% of the criminal cases in Muzaffargarh have been pending over the prescribed NJP upper time limit of one (1) year (in addition there are also many cases involving less serious offences and hence the lower NJP time limit of six (6) months, which exceed this shorter time limit). The situation in Multan is the least promising as for both civil and criminal cases well over 60% of the cases have been pending for well over the NJP prescribed time limits.

- Age of Pendency of Criminal Cases in Target Districts in 2014 and NJP Standards: Sample Numbers

As to criminal cases in the sample set, it turns out that 52% of all the criminal cases in the sample went beyond the NJP prescribed upper time limit of one (1) year for disposing criminal cases (in addition there are also many cases involving less serious offences and hence the lower NJP time limit of six (6) months, which exceed this shorter time limit). Furthermore, 27% of these cases took over 730 days to be disposed (i.e. over two (2) years).

- Age of Pendency of Civil Cases in Target Districts in 2014 and NJP Standards: Sample Numbers

Looking at the civil cases it could be seen that 73% of all the civil cases in the sample went beyond the NJP prescribed time limit of six (6) months for disposing civil cases (and many went over even shorter NJP time limits for certain sub-categories of civil cases). Furthermore, 41% of these cases took over 730 days to be disposed (i.e. over (2) two years).

- Pendency Figures for Target Districts in 2015 (Criminal Cases)

The statistical analysis also encompassed an evaluation of the consolidated pendency figures for the Target Districts according to the age of the pending cases as of 2015. For criminal cases it transpired that 48% of the cases had been pending for one (1) year or less while the rest of the 52% had already exceeded the upper NJP Timeline of one (1) year for criminal cases (in addition there are also many cases involving less serious offences and hence the lower NJP time limit of six (6) months, which exceed this shorter time limit). Further, 31% of the cases had been pending for two (2) years, 13% for three (3) years, 5% for four (4) years, and an aggregate of the rest of the 3% for over three (3) years.

- Pendency Figures for Target Districts in 2015 (Civil Cases)

For civil cases, it emerged that 38% of the cases had been pending for six (6) months or less while the rest of the 62% have already exceeded the NJP Timeline of six (6) months for civil cases (and many went over even shorter NJP time limits for certain sub-categories of civil cases). Further, 28% of the cases had been pending for one (1) year, 15% for two (2) years, 9% for three (3) years and an aggregate of the rest of the 10% for over three (3) years.

- The ineffectiveness of the Current Caseflow Management System

The upshot of the empirical analysis portion of this Report is that delays and pendency are rife in the system and any currently applicable broad as well as the few case type/category specific timelines for case disposals seem to have little impact.

- Future Needs as to Data Collection, Analysis and Incorporation into Policy Making

The current type, range and depth of statistics collected for Caseflow Management by the court system doesn't allow for the meaningful excavation, diagnosis and analysis of the phenomenon of delay and its causes that are necessary for effective Caseflow Management. The empirical and statistical analysis conducted in this Report is thus also meant to offer a possible template for the types of statistics that ought to be regularly collected in future and the multifarious statistical analyses that ought to be conducted in order to better diagnose problems and prescribe evidence-based solutions on a dynamic basis.



## The Existing Legal Landscape for Caseflow Management

**Section 3** of this Report contains a detailed evaluation of the current laws, procedures, orders, rules, directions and notifications pertaining to Caseflow Management in Punjab.

- Inaccessible and Often Outdated Framework

A major challenge to effective Caseflow Management in Punjab is posed by the fact that the extant operational framework and primary guidelines for Caseflow Management are not conveniently identifiable and readily accessible in a single document. Flowing from various sources and institutions as well as processes, they are spread across the Civil Code, the Criminal Code, other applicable procedural laws, the Lahore High Court Rules and Orders, relevant judgements of the Supreme Court and the High Courts, and administrative Directions, Notifications and Instructions of the LHC of very different vintage.

- Need for Focus, Intelligibility and Awareness

While the Lahore High Court Rules and Orders are available in five extensive volumes they deal with a variety of themes; any specifically Caseflow Management related Rules and Orders are not thematically organised therein. Instead, they are interspersed with Rules and Orders pertaining to various other areas and topics. It, therefore, requires considerable effort even to identify relevant Rules and Orders, their order of precedence, any possible duplication and even possible conflict, and current applicability – especially those of comparatively older Rules and Orders. On the other hand, the Directions by the LHC are not available in a compiled and consolidated form and thus also not easily accessible. The same also applies to Notifications and Instructions. These have also not been rationalised and organised to address duplication and highlight current applicability. It is, therefore, not difficult to imagine that the lack of a consolidated, integrated, well-publicised, and regularly updated and disseminated document on Caseflow Management very likely creates multiple problems for the relevant court personnel entrusted with the task of Caseflow Management and wishing to have a clear and consistent vision and understanding of its underlying ethos and institutional goals and imperatives.

- Need to Embrace Contextual Realities

An important related general finding is that the Directions, Notifications and Instructions by and large do not seem to take into cognizance existing pressures on the time of judges, their workloads, and/or the environment they operate in, while advocating the pursuit of a general goal such as fast overall disposal of cases or clearance of case backlogs.

- Past General Judicial Approach to Penalizing Delays

Furthermore, how the appellate judiciary approaches procedural laws and their justice, legal and policy implications also has a strong bearing on the scope and shape of Caseflow Management in the province. Generally speaking, Pakistani appellate courts have frequently looked upon Caseflow Management tools, such as imposition of limits on the scope of opportunity for presenting evidence, and, the imposition of costs and sanctions on parties and their lawyers seeking unnecessary or frivolous adjournments and/or otherwise elongating the legal proceedings, as inhibitive of the litigants' rights to employ the legal process to seek justice.

- Need to Strike Balance between Adherence to Due Process and Preventing Process Abuse

It is understandable that the judges are trying to avoid an overly rigid and formalistic approach to procedures and that they prefer to look upon procedure as a vehicle to enhance access to courts and justice rather than to inhibit it as a framework to ensure that the parties get ample opportunity to adequately plead their cases; and, as a mechanism to guarantee that courts have ample opportunity and information to get to the heart of the matter in order to reach just outcomes. However, an over-indulgent and rigid approach in the matter can have debilitating effects and can in fact be counterproductive to the ideals of access to justice and indeed access to expeditious justice.

▪ Absence of Timelines for Completion of Important Stages of the Criminal Case

While there are some statutory timelines for certain stages of the criminal trial, there are no such timelines provided for various other stages. While in some situations it is arguable that there can be no stringent timelines given that the nature of the stage, the multiplicity of possible situations, and varying case complexity and the need to ensure justice, requires flexibility and greater judicial discretion, which is not true for all the other stages. Further, the absence of any realistic and zealously pursued overall timetables for the completion of criminal cases (and for that matter for different types of criminal cases) means that more often than not the absence of any stage-wise timelines translates into long and unregulated phases in the life of the case. The empirical analysis conducted in Section 2 of this Report highlights various such stages of criminal cases that experience such delays, either because existing timelines are not properly implemented or because they are missing or inadequate in the first place.

▪ Absence of Timelines for completion of Certain Stages of the Civil Case

There are statutory timelines for certain stages of the civil case but not for others. Judicial discretion to extend time has been granted in some cases. Again, while in some situations it is arguable that there can be no stringent timelines given the nature of the stage, the multiplicity of situations, and varying case complexity and the need to ensure justice, that is not true for all the other stages – particularly if there is little or no monitoring of exercise of judicial discretion and calibrated oversight over the pace of progress of the case. Further, the absence of any realistic and zealously pursued overall timetables for the completion of civil cases means that more often than not the absence of any stage-wise timelines translates into long and unregulated phases in the life of the case. The empirical analysis conducted in Section 2 of this Report highlights various such stages of civil cases that experience such delays, either because existing timelines are not properly implemented or because they are missing or inadequate in the first place.

▪ Non-cognizance of Gaps by Existing Caseflow Management Mechanisms

While there is some statutory attempt to provide some stage-wise timelines, the High Court Rules and Orders as well as the Directions are (barring a few exceptions) largely silent on this important Caseflow Management area. This is even though these are two essential and flexible administrative vehicles meant precisely for streamlining and regulating the legal process. Hence, these two essential and flexible vehicles appear to be underutilised for filling the various gaps, for streamlining and regulating the legal process, and, for elaborating upon and extending emphasis on the meeting of the statutory timelines.

▪ Limitations of the NJP Timelines – Missing Sub-Categories

Unlike relevant statutes, High Court Rules and Orders and Court Directions, the NJP puts forward certain broad overall timetables for completion of criminal and civil cases as well as a few separate timelines for certain categories of the same. Other than these, the NJP does not provide any overall timelines for many other types and sub-categories of cases or any desirable timelines for individual stages of these cases. There are also insufficient stipulated timelines for the disposal of the various kinds of interlocutory applications. This is telling considering that the empirical analysis conducted in Section 2 of this Report has confirmed the common perception that certain interlocutory proceedings and interim stay applications as well as stay applications play an important part in elongating civil proceedings, especially at certain distinct stages of the case.

▪ Limitations of the NJP Timelines – Not Factoring in Case Type/Nature and Complexity

The broad overall timelines put across by the NJP for criminal cases are blanket and not tailored according to the specific type/nature of the cases and their relative complexity, factors that make them inherently less or more time-consuming than others due to the nature and state of the area of law, the number of legal steps involved, and the degree of contentiousness of underlying disputes. The current timelines only take into account the seriousness of offences in criminal cases; thus a broad distinction is made between cases that involve offences where the quantum of punishment is up to seven (7) years and those where it is seven (7) years or more. Unlike its approach for criminal cases the NJP puts forward

some additional thematic sub-categories of civil cases while prescribing different overall timetables for the disposal of such cases. However, not only is the coverage of the typologies of civil litigation insufficient but once again case complexity is not a factor taken cognizance of. Further, like in the case of criminal cases, the NJP does not provide any additional prescriptions for desirable timelines for individual stages of the civil cases – it only focuses on certain overall timetables.

▪ Limitations of the NJP Timelines – Practicability

The mandated timetables appear to be quite tight and this raises questions as to their practicability as well their basis given that in practice such cases take far more time, as has been shown by the empirical evidence conducted in Section 2 of this Report. Once again, the overall timetables put across by the NJP for criminal and civil cases are blanket and not tailored according to the relative complexity of the cases. They also don't take into account the current workload of judges and thereby fall short of extending a pragmatic consideration of the amount of time the disposal of different cases ought to take. Furthermore, the NJP's mandated timetables for certain sub-categories of civil cases also appear to be quite tight and unrealistic. In some cases, they echo the applicable statutory timetables but how realistic such statutory time limits are is also open to question. In other cases, they fill a gap where the statutes don't provide any timelines. However, there remain many additional gaps.

▪ Limitations of the NJP Timelines – Need for Administrative Prioritisation and Guidance

The NJP does not offer much by way of direction as to how judges ought to practically manage their growing workloads due to increasing litigation and institution of new cases and hence its timelines appear to lack sufficient engagement with important ground realities and contextual challenges. The NJP timelines also do not take into account any additional prioritisation of certain types of cases over others due to greater social, human rights, economic, and/or political ramifications – age of cases is seemingly the only consideration.

▪ Limitations of Current Framework for Pre-Filing Scrutiny/Review of Cases

While there are some available provisions for determining the payment of court fees and ascertainment of certain key pieces of information there are obvious gaps in terms of levels of possible scrutiny/review of cases. There is also lack of standardisation that inhibits the achievement of the afore-stated goals of such scrutiny/reviews. Current actual pre-filing scrutiny is rather minimal and requires revisiting in order to make it much more robust so as to avoid problems and delays at later stages of the case. The inadequacy of pre-filing scrutiny is evidenced in the statistics in Section 2 that show a very large number of cases exiting the system fairly early in the process, and yet still proving to be a burden on the court system as they were not properly filtered at the initiation stage.

▪ Capacity Constraints of Court Staff

Court staff is integral to the efficient, thorough and fair review of cases and yet there is currently room for great exercise of discretion and subjective decision-making due to the absence of a detailed and consistent framework as well as the historical neglect towards the training and skills up-gradation of court staff.

▪ Absence of Case-Tracks

There is no formal and established system of following different 'case processing tracks' according to order of priority to be attached to a case due to any policy reasons/imperatives as to why it ought to be on a higher or lower priority – such as, ripeness, readiness, social impact, human rights dimensions, impact on a vulnerable group, important economic ramifications etc. While the NJP has emphasised that 'older' cases ought to be cleared first, that should not be, as it is, the only policy prioritisation. As a result, personalised and subjective judicial determinations (uninformed and unguided by any data and statistics) that vary a lot from judge to judge (especially in appellate courts) determine which cases are to be prioritised. In other words, there is no clear and detailed judicial policy that dynamically evolves through regular consultations and translates into a formal system of different tracks for different types of cases.

▪ Absence of Caseload Assessment

There is currently no requirement and mechanism to predict, predetermine and fix the quantum of work a case will generate for the court system and thus also its magnitude and complexity – such as the number of documents that will be filed and number of witnesses that will be presented (with some pragmatic flexibility for exceptional deviations later). As a result, there is little court control over the pace and progress of the cases when introduction of additional documents and witnesses at later stages of the cases end up elongating them far beyond what ought to have been their optimal lives.

▪ Limitations of Current Framework for Post-Filing Scrutiny/Review of Cases

As in the case of pre-filing reviews, post-filing reviews are also minimal and require revisiting in order to make them much more robust so as to avoid problems and delays at later stages of the case.

▪ Weaknesses of Case Allocations/Transfers Mechanism

The fieldwork in the Target Districts revealed certain endeavors towards ensuring that cases are generally distributed in accordance with workload. ‘Monthly Case Disposal Statements’ of different judges are also used to gauge the pendency/work load before them, as well as certain additional individual factors/characteristics of judges before making case allocation decisions. There is, however, considerable need for a standardised, formalised and documented system, run by better-trained court staff, in order to unburden overworked judges and save precious judicial time. This is also necessary for more optimal, equitable and nuanced distribution of work amongst the judges, equal opportunities for the professional growth of all judicial officers and the raising of overall institutional standards, more effective monitoring of judicial output quality, integrity and efficiency, and satisfactory allaying of any litigant grievances and complaints.

▪ The Absence of Data and its Ramifications

The biggest obstacle constraining a more efficient and sophisticated case allocation/transfer system (as indeed constraining many other areas of Caseflow Management) is the absence of any regularly collected, detailed and reliable data. As a consequence, there is currently simply no way that the LHC, let alone an external observer, can actually determine whether even the existing Rules and Directions for case allocations/transfers are being consistently and meaningfully followed. Unsurprisingly, evidence from the field suggests considerable variation in actual practices.

▪ Weaknesses of the Caseflow Monitoring System

Current rules and frameworks are both inadequate in terms of outreach and also less than definitive in terms of the overarching goal of curbing unnecessary adjournments and delays. Further, they vest far too much discretion with individual judges in the districts. While necessary discretion is vital and desirable, given the local contextual reality of the politicisation of legal bars and of certain unscrupulous lawyers routinely browbeating district judges into adjourning hearings and even otherwise causing delays and/or obstructing court proceedings, existing rules and mechanisms are no longer effective for ensuring that the courts meaningfully control the pace, timing and outcome of cases.

▪ Overall Timetables and Classification of Cases according to Complexity

As to the employment of timelines/timetables, a detailed review of the current legal regime reveals that while there are certain rules regarding progress and timely completion during particular stages of a case, there are no rules regarding issuance of overall timetables for the resolution of cases. Similarly, there is an absence of meaningful rules for classifying cases according to their complexity, which in turn would help determine the development of timetables. It would not be an exaggeration to say that this very concept is currently unknown to the existing Caseflow Management system in Pakistan. The very broad directions provided by the NJP for reaching decisions in civil and criminal cases are inadequate and suffer from various limitations already discussed above. There are internationally well-recognised policy and managerial considerations that inform the pursuit of meaningful timetables for legal cases in modern jurisdictions; the current Pakistani Caseflow Management system is currently lagging behind these

international developments where multiple tracks with timetables have been developed for the processing of different types of legal cases.

▪ Inadequate Recourse to ADR

While the essential framework to utilise ADR methods exists there is less than optimal utilisation of ADR by the courts for various reasons including: insufficient procedures for operationalizing ADR; lack of viable and trustworthy ADR forums; a general antipathy on part of both the judges and the lawyers to the idea of ADR as it pushes cases out of their domain of operations and influence; the prevalence of the misplaced notion that the trial is an end in itself and always the most appropriate manner of resolving a dispute rather than acknowledgment of the fact that it is one of many ways to resolve disputes, only suitable for certain kinds of cases, and the most expensive and time-consuming of all options; and, inadequate institutional follow-up on the idea of promoting, establishing and sustaining ADR when it was first pushed forward with great gusto in the 2000s when international justice sector reform funding programs underlined its significance.

▪ Inadequate Utilisation of Early Judgements/Summary Judgements

This is once again an area that requires revisiting in order to bring the current rules up to speed with contemporary trends for more effective Caseflow Management as well as greater administrative oversight to ensure that cases deserving of an early/summary judgement are indeed dealt with in that manner.

▪ Weakness of Provisions relating to Costs/ Limitations on Presentation of Evidence

The current legal framework does contain an array of provisions to both penalise vexatious litigation as well as delaying tactics. At the same time, there are also provisions available to ensure that parties and their counsels remain alert to the stage of legal proceedings and plan accordingly so that documents and witnesses are produced in a timely and predictable manner and not in a way that impedes and/or elongates litigation. However, these seem to have negligible impact on the actual state of play. This necessitates a revisiting of both their content as well as the framework for their regular implementation.

▪ Lack of Requisite Administrative Control over Legal Fraternity

The single most significant factor due to which provisions relating to costs/ limitations on presentation of evidence as well as delay reduction in general are not appropriately and diligently applied by the courts is the growing power of the legal fraternity as a lobby, which causes the judges, especially in the districts, to be apprehensive of regulating any inefficient and/or unscrupulous lawyers. The current frameworks for effective implementation of these provisions as well as those for regulating, disciplining, coordinating and liaising with the legal bars are in urgent need of up-gradation.

▪ Judicial Monitoring

Furthermore, unless there is more meaningful and effective monitoring of whether district judges are appropriately employing applicable provisions of the law for discouraging delays and penalising non-compliance (which is currently next to impossible due to the current state of data collection to inform monitoring and policy-making), bolstered by even more comprehensive rules and clear instructions, as well as solid institutional support and appreciation for such actions, these provisions are likely to remain on paper only.

▪ Weak Provisions relating to Additional Modes of Recording Evidence

While there are some possibilities to furnish evidence in writing (through affidavits) in special circumstances, that is far from being the norm and the onus is on the party wanting to employ this mode to justify its use (in civil cases). While there will be particular situations that fully justify the currently standard mode of presenting oral evidence, in view of latest international trends the impetus should be to revisit this area of law in order to explore how the ambit of less onerous ways of providing evidence can be expanded and regularised due to the considerable costs, complexities and delays associated with the current practice of furnishing evidence. This includes greater employment and acceptance of evidence in writing as well as evidence through video-links and other means made possible by modern technology.

- Inadequate Provisions relating to Forms and Documents

There are currently no forms regarding estimates/proposals of parties regarding time (and resources) to be allotted to a case as well as other modern methods and protocols for effective Caseflow Management. Like the other afore-discussed areas this too is an area that requires close revisiting owing to the many gaps, the out dated nature of certain forms, and the fact that there is inadequate emphasis on ensuring that much of the key information pertaining to a case/trial is captured at the very outset in order to save time and effort later.

- Weak Provisions relating to Sanctioning Powers for Caseflow Management

The review of the legal landscape reveals that the courts are equipped with an array of sanctioning powers in order to expedite case flow and discourage frivolity and delaying tactics as well as obstruction of justice. A meaningful assessment of whether these powers are being optimally utilised is only possible once a Caseflow Management framework is adopted that in turn sets overall as well as stage-wise timelines for different cases and also collects and evaluates disaggregated data to determine whether the above-enumerated powers are being suitably employed and whether they are actually having an impact on reducing delays and ensuring procedural justice.

- The Menu of Necessary Reforms

On the whole, more extensive pre-trial checklists; utilisation of multiple tracks – Small Claims, Fast-Tracks and Multi-tracks for appropriate cases; determination of a trial timetable and time estimates (including time to be allowed for various stages of the case/trial, and the nature and scope of the activities to be undertaken and the documents to be submitted, with respective timelines); and additional types of case specific Caseflow Management directions and protocols to better control, streamline and make predictable the eventual progress of a case/trial are key ingredients of modern Caseflow Management. These need to be embraced in order to bring the LHC's current Caseflow Management framework up to speed with latest trends in modern Caseflow Management.

## **The Existing Administrative Framework and Human Resource Capacity for Caseflow Management: Need for Modernisation and Up gradation**

Section 4 of this Report essentially focuses on actual processes and institutional and administrative structures, personnel and practices that govern, influence and characterise current Caseflow Management in the province. Thus, the emphasis is less textual (or on 'law in books,' as in **Section 3**) and more on institutional and administrative capacity, legal culture, organisational design, leadership quality, and the common, every-day ways of doing things (or on 'law in practice').

- Absence of Court Management Professionals

A primary finding is that there are no formal court managers or a specialised court management service as in other advanced jurisdictions like the U.K. The court staff operating at the district level essentially performs secretarial and ministerial services and is required to follow the instructions of the District and Sessions Judge ('DSJ') or his overall policy with regard to case allocations and various other facets of Caseflow Management. It does not possess the training, skills, authority and TORs to evaluate past performances and results and proactively prepare, inform and propose Caseflow Management deliberations and interventions. It also has no access to specialised trainings. Other than the DSJs and Senior Civil Judges ('SCJs') (who are already encumbered with various responsibilities), there are no judges to monitor case disposal/case management. The DSJs and/or SCJs also do not possess any special expertise or training in Caseflow Management.

- Administrative Oversight: Centralisation and Lack of Clarity of Functions

Two prominent features/characteristics of the current monitoring of Caseflow Management in the districts are 'centralisation' and 'lack of clarity of respective functions.' The administrative oversight responsibilities of the performance of subordinate judiciary are spread across the offices of the Chief

Justice of the LHC, an Administrative Committee, Administrative Judges and various administrative officials of the LHC, with the office of the Member Inspection Team (“MIT”) as the most directly relevant organ. Multiple inquiries and factual excavations of the internal processes of the LHC revealed lack of clarity as to the precise functions of these various organs as well as a propensity for all key and final decision-making to stem from the office of the Chief Justice of the LHC. Given how encumbered the office of the Chief Justice already is and also that he or she may not necessarily be well versed in Caseflow Management techniques and approaches, given his or her focus and emphasis on judicial functions, he or she would necessarily require both active assistance and gain from meaningful devolution of these responsibilities to experts in this administrative area. At the time of the formulation of this Report the LHC was undertaking some internal administrative reforms to address these challenges but it is too early to comment on how they pan out.

- Court Management Staff Under Capacitated

The various registrars and MIT – all judicial officers – appear merely as implementation organs for periodic follow-up on occasional Caseflow Management directions. In the absence of both feedback loops from the district judiciary as well as any clear and consistent overarching policy of Caseflow Management, how actively, frequently and deeply the Administrative Committee or Administrative judges engage in any Caseflow Management related deliberations thus becomes very much a function of the level of interest of the Chief Justice and/or some individual senior judges.

- Inadequate TORs, Overlap and Unclear Vision

It emerged from the field work that various administrative organs of the LHC are not always completely clear about their functions and the functions and powers of other organs and as a result there are often overlaps or gaps in terms of what they may be expected to deliver or what they perceive that they are expected to deliver.

- Irregular Reform Deliberations and Unclear Central Ethos

Given the above, reform deliberation outcomes pertaining to Caseflow Management are restricted to periodic dissemination of certain broad case disposal targets to the district courts and occasional and miscellaneous instructions to focus on certain categories of cases. Spread as they are across Orders, Rules, Directions, Notifications and Instructions and stem as they do from various sources – the Chief Justice, the Administrative Committee, Administrative Judges, concerned registrars, National Judicial Policy Making Committee (NJPMC), MIT etc., – it is hard to detect a central ethos and inter linkages of an overall policy towards Caseflow Management. The lack of success in detecting any organised, centralised, and regularly updated records of deliberations and statistics also make it hard to determine whether there is more to the LHC’s approach to Caseflow Management than responding to individual complaints by litigants or periodic emphasis on reducing case backlog.

- Weakness or Absence of Feedback Loops

This is an area of concern in terms of any mechanisms for attracting and paying attention to any feedback both from the district judiciary as to the primary challenges being faced by it in ensuring smooth and timely disposal of cases as well as from the administrative staff of the LHC in view of their assessment and analysis of information and data collected from the districts. This state of affairs appears to hinder the emergence of a comprehensive and informed overall policy towards Caseflow Management.

- Available Data does not feed into Broader Policy

There is also an element of pedantry to the periodic submission of the various types of case disposal reports and follow-up on the same – in other words, there does not seem to be any structured and regular macro evaluation of the situation that emerges in view of such reports or any systematic reassessment of the current system of rules, procedures and administrative practices.

- Excessive Steps in Information Collection/Reporting

A review of the various currently followed institutional processes for reform deliberation and information sharing and dissemination reveals excessive and unnecessary steps that pose the potential problems of the process getting bogged down as well as vital information slipping through the cracks. These processes can be shortened as well as made more efficient through the use of technology – currently many of the stages of the processes involve additional ministerial steps and out dated modes of communication.

- Out-dated Record Keeping and Insufficient use of Technology

The research found central record keeping of case files in the districts to be gulphed in chaos. The space, procedures, staff and facilities for record keeping are in a very bad shape. At the same time, absence of a clear and logical system also on occasion causes certain files to remain in the courtroom or to be forwarded to the central record room with no clear idea on part of the staff of either side where certain files may be at any given time and why so. This not only makes it more probable for files to at times go missing but also for any unscrupulous staff members to generate a political economy of rent seeking around providing access to any files that any desperate litigants may be seeking. The current use of technology for maintaining case file records in the Target Districts is at a very nascent level and incapable of anchoring any meaningful Caseflow Management and data collection for informing Caseflow Management policy-making. Use of technology in various other aspects of court and case management is also vastly in need of uplift.

- Need Greater Expertise and Empowerment in Administrative Wing

The MIT is the main administrative and operational arm of the LHC for a multitude of functions directly and indirectly relevant to Caseflow Management. First, given the significant and far-reaching ramifications of many of the tasks entrusted to the MIT it appears that there is really no requirement of relevant past background and expertise pertaining to these administrative tasks as well as no training in these areas once any personnel joins the MIT. Second, much of what the MIT does is to follow up on instructions and directions issued by the Chief Justice and the Administrative Committee and it does not appear capable of or empowered to engage in any regular and meaningful deliberations on its own to inform Caseflow Management deliberations at the top; its role is thus once again essentially ministerial.

- Record Keeping, Institutional Memory and Institutional Follow-Up at the LHC

The administrative wings/offices relevant to/entrusted with Caseflow Management do not appear to maintain a full and regular record of Caseflow Management deliberations at the LHC and/or build any datasets and empirical records for informing future policy-making and building institutional memory. At least hardly any such records were forthcoming in the various excavations conducted for this Report. It is also unclear as to how regular and meaningful their follow-up actions are once they are in receipt of any disposal timesheets from the districts. Whether it was in response to queries about follow-ups on case disposal statements or with regard to private party complaints or in view of directions from judges, what the research team received were essentially anecdotal descriptions; it was very hard to adduce any written polices, minutes, deliberations and recorded data.

- Limitations of Current Mode of Monitoring Caseflow and Disposals: The ‘Unit System’

The primary emphasis of Caseflow Management at the LHC is on speeding up case disposals and the primary tool for pursuing that goal is the ‘Unit System.’ A closer review of the ‘Unit System’ reveals that there are various fundamental structural, approach and content-based problems with it. These are at the following levels.

- ‘Unit System’ too Narrow in its Focus

The ‘Unit System’ focuses purely on the individual judges and not on the institution – in other words, it does not gauge institutional factors, constraints, lack of coordination, absence of internal targets and arrangements, contextual realities, and systemic inefficiencies that may impede individual judges from achieving fast disposals. It also does not lend itself to help create any impetus and incentive for there to



be greater institutional advance planning, goal and target-setting, and related administrative arrangements and facilitation for individual judges to achieve fast disposals.

- ‘Unit System’ ignores Quality of Justice and Quality of Litigant Experience

The ‘Unit System’ does not gauge performance along additional parameters that have a bearing on the quality of justice as well as the quality of the litigant experience with the court system – it does not look at, *inter alia*, the number of complex cases decided, progress along individual stages of cases, the time taken by witness testimonies, the number of hearings the parties have to go through, the number of adjournments at every stage of the case, the number of hearings where no progress takes place in the case etc.

- ‘Unit System’ overlooks Stages of Litigation leading to Final Disposal

By ignoring the constituent parts of a case and looking only at final disposals, the ‘Unit System’ also takes attention away from the importance of monitoring individual stages of the cases in order to identify any glitches, bottlenecks and causes for delays.

- ‘Unit System’ may be creating Perverse Incentives

Over-emphasis on final disposals can create perverse incentives for judges to avoid difficult cases and meet their targets by only taking on the simpler ones – they can then also employ various ways to ensure that the more difficult cases don’t appear in pendency numbers and continue to languish while remaining invisible to the gaze of their supervisors.

- Perverse Incentives can Impair Speed and Quality of Justice

Needless to say, the aforementioned perverse incentives can also have an adverse bearing on the quality of judgements as not only can a fixation with final disposals cause judges to skip important steps and due process considerations but the fact that the ‘Unit System’ is only looking at broad disposal numbers and that it does not look at the quality of judgements at all (through looking at the number of subordinate court judgements successfully appealed against for instance) means that while there is an over-emphasis on ‘speed,’ neither efficiency nor quality may actually be achieved in many cases.

- ‘Unit System’ provides an Incomplete Picture of Disposals

The categories and descriptions of case types currently laid out in the ‘Unit System’ are inadequate in terms of capturing the actual complexity of cases (and thus the weightage that ought to be assigned to them) and thus they fall short of achieving appropriate allocation of weightage according to the actual judicial effort entailed by the adjudication of different types of cases of varying complexity. The terms ‘Contested’ and ‘Uncontested’ employed for purposes of the ‘Unit System’ are also problematic, with no clear meaning assigned to them and thus subject to different interpretations and amenable to possible manipulation in order to avoid difficult and deeply contested cases that require more work.

- Parallel Systems, Duplication and Lack of Clarity of Value-Added

A parallel source and mode of Caseflow Management-related instructions at the LHC is the National Judicial Policy (NJP) Cell. It mandates the submission of its own sets of periodic reports from the districts which raises issues of overlap, duplication and increase in the administrative and reporting burden on the district courts. Like in the case of the MIT, it is unclear whether the various statements required by the NJP lead to any regular and comprehensive evaluation of the data presented therein and whether such deliberations then lead to informing policy-making in any systematic manner. It also appears that the NJP Cell has now become more or less dormant after the initial impetus and zeal following the launch of the NJP Policy 2009. Reports are still collected and forwarded to the NJPMC but nothing further appears to take place at the NJP Cell level; the NJP Cell also seems to be otherwise isolated from the work conducted by the MIT and other administrative wings of the LHC.

- Limitations of Overall Implementation Framework

The fieldwork did not divulge a clear framework and mechanism for regular and systematic implementation of court directions and targets pertaining to Caseflow Management – the current approach is essentially to pursue individually determined targets rather than a comprehensive framework. In terms of the ‘Unit System’ or a specific direction to expedite a long-standing case the concerned judge is required to furnish reasons (along with submission of the periodic Case Disposal Statements). What is unclear is what happens if he is unable to meet any other general Caseflow Management directions. What is equally unclear is what happens if his failure to meet targets set by the ‘Unit System’ or a specific direction to expedite a long-standing case is not backed by acceptable or persuasive reasons. Little by way of records, written policies and data was forthcoming. Equally unclear is what happens if there is a repeat pattern or on the positive side if certain judges regularly exceed/surpass targets. What is also unclear is whether the MIT also entertains other types of applications/complaints regarding inefficiency, incompetence, prejudice and bias (and not just corruption and/or delayed proceedings) – in other words whether the monitoring system also does something to address such issues. Lack of accessible and comprehensive historic information and data impeded the task of determining, for instance, how many complaints were registered over the past five years, what follow-up actions took place and what systemic changes were brought about to ensure less complaints.

- Lack of a Clear and Effective Framework of Incentives and Penalties

The existence of a concrete and currently implemented policy for rewarding good performance or compliance with instructions or meeting of targets could also not be determined; any incentives offered in the past have been one-off. Also, poor or good performances do not appear to have any adverse or salutary service ramifications in terms of promotions, transfers, and other incentives – at least as a matter of policy.

- Professional and Administrative Domain Expertise and Capacity

Efficacy of implementation is of course also a function of capacity – both in terms of numbers as well as relevant experience, training and skills. As stated earlier, there wasn’t any available policy and framework to suggest that the personnel in the MIT are expected to meet certain higher or different standards for performing their vital administrative jobs, which also require highly developed statistical, organisational and human resource management credentials.

- Weak Reform Sustainability without Embedded and Supportive Framework

The review divulges certain procedural reforms undertaken by the LHC in aid of Caseflow Management in the recent past. However, the lack of an overall Caseflow Management framework causes them to appear as incremental and piecemeal. There are also various gaps in terms of unaddressed areas of vital concern as well as an absence of an enabling framework and monitoring and implementation structure.

- Information Crisis and Difficulty in Predicting Impact of Past Reforms

The fact that data and information officially collected from the districts is very limited (both in terms of ambit and detail) and also not systematically processed, collated and analysed, means that one cannot really tell whether any past reform endeavours have had any impact in terms of systematic and sustainable delay, pendency and caseload reduction in the districts. The absence of meaningful emphasis on and monitoring of various steps and stages of the cases and possible bottlenecks could have well reduced these well-meant endeavours to reforms on paper.

- Calibrating Discretion

The applicable case law has at times emphasised certain principles and goals of Caseflow Management. These judicial exhortations are, however, no substitute for a full-fledged Caseflow Management system with all its necessary trappings. Furthermore, these pronouncements are often incremental and at times of limited scope and hence many areas of Caseflow Management still remain less than fully addressed. In addition, there is an element of contradiction as one examines various general principles as well as specific pronouncements – so that while encouraging courts to clamp down on abuse of the legal process to

cause delay and/or impede justice there are also broad and strongly worded cautions against ‘technicalities’ and ‘procedures’ coming in the way of justice and the litigators’ rights to produce documents and evidence, and to carry on with litigation etc. Importantly, the ‘tests’ and ‘principles’ laid down for the courts’ exercise of discretion are not always lucid or embracing of all conceivable practical scenarios with the inescapable conclusion that there are relatively very few distinct bars on production of documents and evidence throughout the life of a case – the onus of proving wilful defaults or non-compliance is quite high to fulfil and as a result one can expect judges to just go with the flow and allow the parties’ counsels to overtake the progress of the case.

- Structural and Cultural Changes Imperative

While a review of past reform programs reveals multiple proposed and agreed upon interventions, it appears that necessary broad institutional, structural, cultural and process reforms were never fully undertaken. The primary reason is that their successful implementation and consolidation required certain necessary follow-up steps, such as the formulation of detailed modern procedures, the recruitment of professional court management personnel, and extensive automation of court processes and record keeping. However, none of this has quite materialised at all or materialised at the desired pace, primarily because once the internationally funded reform programs formally ended, institutional inertia, or in some cases, stiff institutional opposition to some of these steps, blocked further progress.

- Change Individual rather than Institutional

The fact that much of what happens by way of institutional direction-setting and policy goal identification and prioritisation vests with key top individuals also makes pursuit of reforms very much incumbent on a single individual and his or her orientation – lack of continuity of reforms ideas, approaches and emphasis is thus a logical outcome of the same.

- Training and Capacity Building

Past reform deliberations and programs included significant reform steps geared towards larger institutional capacity building for generally more informed and effective judicial policy making and development of a dynamic framework for on-going improvements and adjustments. In addition to less than successful development of key institutions and creation of vital institutional space for on-going reforms and informed and meaningful policy-making, there were also setbacks in other areas where successful reforms could have resulted in more sustainable delay reduction and lessening of the burden of the courts. For instance, notwithstanding certain salutary and promising recent steps, training of judges remains a lesser institutional priority, change of leadership and staff at the Punjab Judicial Academy (PJA) is all too frequent, the talent pool hired at the PJA mostly lacks requisite domain expertise, resourcefulness, initiative, autonomy and regular support, and training approaches, pedagogy, curricular, syllabi and policies are in need of major reforms.

- Organic and Contextually Informed Reform

A review of past attempts at reforms also furnishes various illustrations of thwarted reforms where the reform design did not sufficiently cater to contextual realities and was thus found wanting. This Report endeavors to prioritise contextual realities and embed its analysis and prescriptions in both evidence gained from international best practices as well as close cognizance and appreciation of local needs and constraints.

- Need for Leadership, Ownership, Continuity and Sustainability

This underlines once again that any real Caseflow Management cannot succeed through inert rule changes and rigid templates; instead it requires monitoring, appropriate modifications and consistent institutional guidance, incentives, oversight, and support.

## **Detailed Recommendations**

**Section 5** of this Report contains detailed reform recommendations as to the desirable legal, administrative and process frameworks for Caseflow Management reforms.

## 1. Introduction and Background

### 1.1 Introduction

In 2013, the European Union (EU) and the Government of Pakistan (GoP) entered into an Agreement whereby the EU would sponsor an effort to increase Access to Justice to Poor and Vulnerable Populations in Punjab. The EU Punjab Access to Justice Project (hereafter “Punjab Access to Justice Project”), envisions, *inter alia*, a comprehensive assessment of the administration of justice in Punjab with a focus on Caseflow Management and the development of recommendations for upgrading and modernising Caseflow Management in the province’s courts and prosecution offices.

In 2014, Galway Development Services, Inc. (GDSI) of Galway, Ireland was contracted by the EU to conduct the research and development activities necessary for achievement of these objectives. This Report (hereinafter the “Report”) documents the initial phase of Goal 2 of the Punjab Access to Justice Project – improve Caseflow Management processes in the Target Districts. It undertakes an exhaustive analysis of the existing framework for Caseflow Management in the province, excavates the actual state of Caseflow Management in the Target Districts, and provides specific recommendations for improvement in the extant Caseflow Management system.

In order to conduct this study, a study team was formed in the fall of 2014 to analyse case processing practices in the court systems of the three Target Districts, to determine the extent of backlog and delay in the courts, to assess the overarching legal and administrative framework for addressing backlog and delays in the courts, and to propose solutions to resolve issues of backlog and delay. The team comprised of Dr. Osama Siddique, principal analyst and author of this report, a Legal Team, led by Faisal Mahmood Khan and a Business Process Review Team, from LUMS. Francis Bremson, Component 2 Lead, served as overall Project Manager.

### 1.2 Judicial Responsibility towards Efficient and Effective Resolution of Cases

The primary goal of the judiciary is to enable justice to be delivered in a prompt, independent, impartial and fair manner in all cases. Over the past half century this has come to be recognised as and is a defining priority for judicial systems throughout the world. For instance, The European Convention for the Protection of Human Rights and Fundamental Freedoms (signed in Rome in 1950) provides that:

"In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."<sup>1</sup>

The United Nations’ “Basic Principles on the Independence of the Judiciary,” (approved in 1985), also laid out the essential characteristics and functions of an independent judiciary. According to these Principles:

- “The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the laws of the country.”
- “There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision.”

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<sup>1</sup> Article 6(1) of The European Convention for the Protection of Human Rights and Fundamental Freedoms at [https://www.google.com.pk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CBsQFjAAahUKEwiX3tmKzOfHAhWGCB0KHTLfAFE&url=http%3A%2F%2Fwww.echr.coe.int%2FDocuments%2FConvention\\_ENG.pdf&usq=AFQjCNGQk4wq3OGSUm\\_dbr8416ZvmW4h6lw&bvm=bv.102022582,d.ZGU](https://www.google.com.pk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CBsQFjAAahUKEwiX3tmKzOfHAhWGCB0KHTLfAFE&url=http%3A%2F%2Fwww.echr.coe.int%2FDocuments%2FConvention_ENG.pdf&usq=AFQjCNGQk4wq3OGSUm_dbr8416ZvmW4h6lw&bvm=bv.102022582,d.ZGU)

- “The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.”<sup>2</sup>
- “It is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions.”<sup>3</sup>(underlining by the author)

Furthermore, The Council of Europe has categorised, “[T]he excessive length of judicial proceedings a central concern.”<sup>3</sup> The Recommendation No R (94) 12 of the Committee of Ministers of the Council of Europe to Member States on the Independence, Efficiency and Role of Judges (adopted on 13 October 1994), unequivocally prescribed case processing standards for member states, including:

“And the Charter of Fundamental Rights recently adopted by the European Union provides for – the right to an effective remedy and to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law.”<sup>4</sup>(underlining by the author)

Additional international bodies have also emphasised the direct connection between judicial independence, timely justice and efficient Caseflow Management, including: “The Judges’ Charter in Europe” (adopted on March 20<sup>th</sup>, 1993 in Wiesbaden, Germany by the European Association of Judges, Regional Group of the International Association of Judges); “The European Charter on the Statute for Judges of the Council of Europe” (approved in Strasbourg on 8-10 July 1998); and, “The Universal Charter of the Judge” (unanimously adopted in November 1999 in Taipei, Republic of China-Taiwan by the International Association of Judges).

### 1.3 Concepts and Definitions: Caseflow Management, Backlog and Time Standards

Traditional reform approaches for delay reduction – especially, prior to the 1970’s – were informed by research that focused on the impact of increasing resources, including judges and staff, or revising operational procedures, such as implementing settlement conferences. In the U.S. context, which in various ways is the leading jurisdiction in terms of the evolution and progress of such reforms, research conducted at the Federal Judicial Center and the National Center for State Courts, however, found no correlation between boosting judicial resources and structural reforms and delay reduction, i.e., adding judges in one jurisdiction did not automatically result in increased productivity, nor did changing a court’s calendaring system from individual to master or vice versa have much of an impact. Instead, the research found that the contributory factor most directly related to delay in individual courts was the “local legal culture” – i.e., the perceptions of the bench and bar regarding what case processing times and practices were deemed appropriate for disposing cases.

As a result, the focus of such research and resulting reforms has shifted in the past decades to a court system’s capacity to operate efficiently and predictably and to effectively manage backlog and delay by measuring and tracking case processing times and judicial workloads; related to this also is the growing recognition of the necessity to better identify and control barriers to effective case processing. The emerging science of effective and efficient case processing is called Caseflow Management or Case Management. Further elaboration of the term Caseflow Management as well as some key terms and concepts relevant to Caseflow Management are provided below:

<sup>2</sup> United Nations’ “Basic Principles on the Independence of the Judiciary” (Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly Resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985) at <https://www.google.com.pk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CBsQFjAAahUKEwiMh8KPzefHAhXCVRoKHbeBAiw&url=http%3A%2F%2Fwww.ohchr.org%2FEN%2FProfessionalInterest%2FPages%2FIndependenceJudiciary.aspx&usq=AFQjCNERZMAj1FKgPyyvEQw-CZ3xG2Cz4w&bvm=bv.102022582.d.ZGU>

<sup>3</sup>See European Commission for the Efficiency of Justice, *Framework Programme* (June 2004).

<sup>4</sup>See Council of Europe to Member States on the Independence, Efficiency and Role of Judges.

## Caseflow Management

In the context of legal systems the term Caseflow Management refers to procedures, approaches and systems employed for managing legal cases. Caseflow management includes management of cases throughout all the applicable legal processes and not just within the court system.

In the United Kingdom, the term is used in the following senses:

**In its broad public policy sense** Caseflow Management Rules are a procedural code that has the overriding objective of enabling the court to deal with cases justly and at proportionate cost. Dealing with a case justly and at proportionate cost includes, according to the applicable UK procedure, so far as is practicable –

- a) ensuring that the parties are on an equal footing;
- b) saving expense;
- c) dealing with the case in ways which are proportionate;
  - to the amount of money involved;
  - to the importance of the case;
  - to the complexity of the issues; and
  - to the financial position of each party.
- d) ensuring that the case is dealt with expeditiously and fairly;
- e) allotting to the case an appropriate share of the court's resources, while taking into account the need to allot resources to other cases; and
- f) enforcing compliance with rules, practice directions and orders.<sup>5</sup>

**In its narrower, operational sense** Caseflow Management means the active management of cases to achieve the aforementioned broad policy goals. Such 'active case management' entails:

- a) encouraging the parties to co-operate with each other in the conduct of the proceedings;
- b) identifying the issues at an early stage;
- c) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;
- d) deciding the order in which issues are to be resolved;
- e) encouraging the parties to use an alternative dispute resolution procedure if the court considers that appropriate and facilitating the use of such procedure;
- f) helping the parties to settle the whole or part of the case;
- g) fixing timetables or otherwise controlling the progress of the case;
- h) considering whether the likely benefits of taking a particular step justify the cost of taking it;
- i) dealing with as many aspects of the case as it can on the same occasion;
- j) dealing with the case without the parties needing to attend court;
- k) making use of technology; and
- l) giving directions to ensure that the trial of a case proceeds quickly and efficiently.<sup>6</sup>

There is now a vast, fast growing and specialised literature on various aspects of Caseflow Management. An overview of the same reveals certain core purposes and aspects of Caseflow Management on which there is a general agreement amongst those who study and analyse this area.<sup>7</sup> For instance, the literature

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<sup>5</sup>CPR Rules and Directions, Part 1, Rule 1.1 (2) (U.K. Ministry of Justice)

<sup>6</sup>CPR Rules and Directions, Part 1, Rule 1.4 (2) (U.K. Ministry of Justice)

<sup>7</sup>See for instance, *Court Case Management Systems* by James E. McMillan and John T. Matthias with Matt Kleima, – National Center for State Courts (May 25, 2015); *Business Process Automation Case Studies* – National Center for State Courts (September 16, 2013); and, *Court Administration and Caseflow Management: Key Issues for Justice System Leaders*, Barry Mahoney – The Justice Management

divulges that it is a court's duty to manage cases and that effective Caseflow Management enables courts to achieve the following core purposes:

- to provide justice in individual cases – fairly, promptly, and economically
- to appear to do justice
- to provide an impartial forum for the resolution of legal disputes
- to protect against the arbitrary use of government power
- to establish a formal record of legal status

Furthermore, this literature also enunciates multiple goals for a Caseflow Management system, including:

- i. Fair treatment of all litigants: Similar cases treated similarly and through a fair process
- ii. Timely disposition of cases: Establishment of reasonable timeframes for disposition. Time frames can vary, depending on case complexity and other circumstances.
- iii. Adequate time and opportunity for case preparation, negotiations concerning resolution, consideration of difficult issues: Establishment of reasonable time frames for events so that counsels have adequate time to prepare but no extra time to be allowed for unnecessary gaps in the process
- iv. Predictability/certainty in case scheduling: In a predictable system, events occur on the first date scheduled by the court
- v. Promotion of public confidence in the court system<sup>8</sup>

The following concepts merit further explanation, as they are key to Caseflow Management:

### **Backlog and Delay**

Backlog is understood as the number of cases pending for more than the case processing time standard applicable to that category of cases. Thus, by definition, in order to know if a court has a backlog problem and to quantify that problem, a court system must have reasonable and enforceable time standards.

Key Point: Measuring delay is dependent upon the establishment and enforcement of case processing time standards.

One established way of measuring and tackling delay and resulting backlog is to establish outside time limits for disposal of different types of cases. To look at an illustrative example, The American Bar Association Standards on Judicial Administration has adopted outside limits on the amount of time deemed appropriate for disposal of 90% and 100% of different types of cases.

Another way to measure backlog is by tracking the age of pending cases: thus, any cases older than the applicable time standards would constitute the court's backlog.

Likewise, tracking the increase or decrease in the number of dispositions per judge over time is another useful measure of backlog.

Measuring and tracking case processing times enables us to determine if and to what extent a court is experiencing delay. According to the American Bar Association, the definition of delay is any elapsed

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Institute (May 26, 2008).

<sup>8</sup> In this context it is important to point out that a significant proportion of the respondents to a citizens survey regarding public perceptions of the justice system conducted in the Target Districts earlier this year found that the public's lack confidence in the courts was based on widespread perceptions that the courts cost too much and took too long to decide matters. Various other surveys in the recent past report similar findings. See for instance, Osama, Siddique, Law in Practice – The Lahore District Courts Litigants Survey (2010-11), DPRC Working Paper No 3, LUMS, 2011.



time other than that which is reasonably necessary for pleading, discovery or court events.<sup>9</sup> Thus, in documenting the length of time required for cases to be disposed, it is important to determine the number of days lost to adjournments – including lawyer strikes, or other periods of time when the case is not moving forward – requested and granted for inadequate reasons. Time lost due to unnecessary or duplicative legal or operational procedures constitute a significant component of delay.

Documenting operational procedures that could be streamlined, therefore, constitutes a critical task in determining the extent of and the opportunities for elimination of delay. One measure of a court's capacity to effectively manage case processing to reduce delay is the percentage of scheduled hearings that take place on the date scheduled.

### **Time Standards**

Time standards provide a statement of purpose and intent; set forth what the court will seek to accomplish; acknowledge the public interest in prompt and fair resolution of cases; establish expectations so that lawyers, parties, and court staff will know how long cases are expected to take; provide a framework for scheduling case events in individual cases; provide a way of measuring overall effectiveness in Caseflow Management; and, stimulate self-examination and continuing assessment of case management practices.

Time standards are contained in rules and statutes; although absent enforcement, such rules serve no particular purpose other than to require increased use of judicial resources for issuance of letters and notices, whether or not such letters or notices have any effect on the process.

### **Caseflow Management and Judicial Independence**

Caseflow Management is both a function of judicial independence and also a major contributory to the promotion of the same. It enshrines the coordination of court processes and resources that ensures that cases move from filing to resolution in a timely manner. There has been considerable progress in analysing this area in the U.S. legal and court administrative contexts. The following resulting principles underscore the importance of judicial control of the pace of litigation.

*“The first important concept for delay reduction programming is that the court must control the pace of litigation. The support and the encouragement of the bar is helpful for judges taking this step.”<sup>10</sup>*

At the same time, there is also recognition that it is the legal culture that causes delay to become an acceptable norm and hence it is such a pernicious culture that ought to be overhauled for any sustainable reforms.

*“Delay is most often perpetuated because the judges and lawyers accept it as the norm. Changing this acceptance of delay as normal requires everyone to agree that delay is unsatisfactory.”<sup>11</sup>*

*“Delay can be defeated if everyone accepts that delay is a problem, that the problem is solvable, and that the program can solve the problem.”<sup>12</sup>*

Equally, it is now recognised that without judges embracing and performing a strong leadership role delays would continue to blight a legal system.

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<sup>9</sup>ABA Standard 2.50: Caseflow Management and Delay Reduction: General Principle.

<sup>10</sup>See *Defeating Delay: Developing and Implementing a Court Delay Reduction Program* (Based upon the American Bar Association's Court Delay Reduction Standards) (1986), at page 6. ABA's Standard 2.50 also requires that the court, not the lawyers or the litigants, control the pace of litigation.

<sup>11</sup>*Id.*

<sup>12</sup>*Id.* At page 7.

*“The key to an effective delay reduction program is effective leadership.”<sup>13</sup>*

*“Since it is the judges who must be responsible for the pace of litigation, it is the judges who must be the formal leaders of the reform effort.”<sup>14</sup>*

And it is an effective, contextualised and dynamic Caseflow Management system that is now widely believed to be the fundamental discipline, approach and mechanism required to ensure judicial independence and the efficient and effective administration of justice. Closely connected to this idea is the conviction that in order to enable just and efficient resolution of cases, it is the court, not the lawyers or litigants, who should control the pace of litigation and thus address the problems of delay and backlog.

Caseflow Management involves (but is not limited to) the entire set of actions that a court takes to monitor and supervise the progress of cases, from initiation to conclusion, including organisation and management of daily dockets, setting time standards, management of individual cases, management of the court’s overall pending caseload, vision-setting and strategic planning, budgeting and resource utilisation, and overall judicial policymaking, goal-setting and leadership.

Meaningful Caseflow Management is characterised by, *inter alia*, the following:

- a) Early and continuous control of case progress: The court takes control of the case at the earliest possible time following initiation in order to screen a case for its disposition potential and/or its complexity for case scheduling purposes. It further establishes meaningful events – meaning those events at which judicial management decisions need to be made, and not just clerical or administrative steps;
- b) Differentiated case management for different types of cases;
- c) Dispositions only take place when key decision-makers have the necessary information;
- d) Every case must always have a certain date assigned for achieving a certain purpose;
- e) Dispositions are sought to be achieved before trial dates are set in order to conserve time and resources;
- f) Accurate and timely information is laid a large premium on; and,
- g) Meaningful data collection and reporting: In other words, what you count *counts*, and information reports influence behavior.

#### **1.4 Research Methodology**

The methodology used for this Report involves multiple research approaches:

**Section 1** entails (as has been seen) a close review of international academic and policy literature on Caseflow Management.

**Section 2** is based on the design and conduct of a data collection survey based on actual case files from the Target Districts using different social science research techniques, a close review of these case files to excavate data and information, and then extensive data analysis using various statistical tools and approaches.

**Section 3** entails a close review of applicable Pakistani statutes, procedural laws, Court rules, orders and directions, reported case law from appellate courts, judicial policies, and related documents that pertain to extant Caseflow Management in the local context.

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<sup>13</sup>Id. At page 8.

<sup>14</sup>Id.

**Section 4** entails an assessment of the current administrative and Caseflow Management frameworks and processes at the Lahore High Court and in the Target Districts through a review of available documents, actual observation of processes, and detailed interviews with various key officeholders, including judges, court administrative staff, prosecutors, and, trial and appellate court attorneys. It further includes a critical review of past and current reform initiatives – both indigenous/organic as well as driven by external/international donor funded justice sector reform programs – for Caseflow Management reforms.

**Section 5** offers a detailed set of recommendations for holistic Caseflow Management reforms built on the analysis conducted in the previous sections.

### 1.5 Report Structure

**Section 1** of the Report briefly explains the background of this Report. It goes on to elaborate upon current thinking in leading international legal jurisdictions – particularly in the U.S.A, the U.K., and the European Union – on the problems of delay and backlog and the growing consensus on the importance of Caseflow Management systems to effectively address these problems. Furthermore, it defines and elaborates upon the main ingredients and principles of Caseflow Management.

**Section 2** describes the research methodology used for data collection and case file sampling in the Target Districts in order to bolster the analysis in this Report with solid empirical findings. It then goes on to present and analyse the findings from the aggregate data collected from the Target Districts as well as the case file analysis. The research conducted in this section also proposes a template for the types of data collection and analysis that the Lahore High Court ought to undertake on a regular basis.

**Section 3** excavates, maps, organises and closely analyses the existing legal and regulatory framework for Caseflow Management in Punjab. It then proceeds to critically examine its scope, exhaustiveness, and effectiveness and the extent to which it is up to speed with modern approaches and mechanisms for Caseflow Management in leading international legal jurisdictions.

**Section 4** documents, maps and analyses the Lahore High Court's current Caseflow Management framework for the district courts. It also documents and analyses the mechanisms and processes in the Target Districts to respond to Caseflow Management directions and instructions from the Lahore High Court. In addition, it describes and critically analyses past and current reform endeavours – both indigenous/organic as well as driven by external/international donor funded justice sector reform programs – since 2001, and gauges the impact of the same in addressing perennial problems of delays and backlogs in the courts.

**Section 5** summarises the main findings of the Study and its various analytical sections, identifies additional important areas for further exploration, and proposes a framework for desirable Caseflow Management interventions for boosting, supplementing and augmenting the existing Caseflow Management framework and practice.

## 2. Empirical Findings: Caseflow in the Target Districts

This Report is based on both empirical research into the impact (if any) of and also a textual review of the currently operational Caseflow Management framework in the district courts of Punjab. The empirical analysis portion of the Report is based on a close review of a random sample of case files selected from the civil and criminal courts of Multan, Bahawalpur and Muzaffargarh districts of South Punjab, which are a focus of the EU Punjab Access to Justice Project – the Target Districts. However, the geographical bias in the sample is insignificant since Caseflow Management practices and frameworks are similar throughout the province and premised on identical sets of laws, rules, instructions and directions. The

textual review part of this Report – which follows in the next section – is based on an analysis of relevant sections of, *inter alia*, the Code of Civil Procedure (hereafter the ‘Civil Code’), the Code of Criminal Procedure (hereafter the ‘Criminal Code’), Rules and Orders of the Lahore High Court, and directions issued by it from time to time.

## 2.1 Sampling & Research Methodology: Sample Size

**Table 2.1** below lays out the disaggregated sample breakup used for the empirical portion of this Report. It was determined that a total of a minimum of 1400 case files would need to be excavated from the three Target Districts of Multan, Bahawalpur and Muzaffargarh, in order to meaningfully cover certain important legal and case categories as well as varying complexity levels of legal disputes, with a view to capture a representative cross-section of district court litigation.<sup>15</sup> Given the fact that a sufficient number of case files that met these stipulated criteria were not always available in a particular jurisdiction some minor adjustments were made to both the overall sample size (a somewhat larger number of case files were thus excavated to ensure that all criteria were met in all identified case categories) as well as the sizes of different legal categories. As a result, the overall sample size is 1476 case files (Civil: 769 and Criminal: 707).

**Total Sampling size: 1,476  
decided case files**  
**Civil: 769; Criminal 707**  
**Multan: 619**  
**Bahawalpur &  
Muzaffargarh: 857**

### Relative Differences of Sample Size for Target Districts

The relative difference between the overall sample size for Multan and those for Bahawalpur and Muzaffargarh broadly reflects the comparative sizes of the litigation universe in these districts; while the latter two districts are not exactly the same in terms of actual size they are more or less equivalent in terms of overall case disposal figures. Meanwhile, roughly speaking they are just over half the size of Multan.

### Relative Differences between Sample Size for Civil and Criminal Cases

While there are surely more civil cases than criminal cases in the court system a more or less equal weight was assigned to these categories. This is because they reflect two distinct broad types of case law and well-recognised distinctions of legal approaches and also an essential dichotomy as to how law is generally perceived by the public as well as analysed and practiced by practitioners. Their basic underlying legal processes and approaches are also very different and hence both have been accorded equal significance. In the same vein, for purposes of future policy prescriptions they have equal weight and will be dealt with fairly distinctly.

### Overall Sample Size

The researchers looked at several official data sources and confronted the paucity of reliable and consistent annual case disposal numbers. The extant data categorisations are also confusing and counter-intuitive. At the same time, the international literature on Caseflow Management does not appear to put forward a specific statistical basis for selecting a sample size for such research. There is remarkable subjectivity in this area with ideas as disparate as analysing the entire sample universe or picking up say 300 cases on offer. In view of this, the sample size numbers for this Report were chosen on the following basis and with the below-stated imperatives in view:

- (a) What could be realistically covered in the narrow time frame available for the Study and especially given the clearly determined approach on part of the researchers to dig deeper and collect different kinds of information from each case file;

<sup>15</sup>See Annexure C for the initial envisioned sample breakup.

- (b) To ensure that there were enough case files chosen to provide a good sense of trends in each case category (both for different sub-categories as well as for difficult and simpler cases in such categories); and
- (c) The considered estimate that data collection, cleaning, tabulation and analysis would take considerable time due to the poor state in which case records are currently being physically maintained in district courts, the novelty of such research excavation to the concerned court staff and the time required to orient them, and unreliable documentation and current systems for keeping tab of different case files.

### **Rationale for Selection of Particular Sub-Categories of Civil and Criminal Law**

Since Civil and Criminal laws are very vast areas and involve a whole host of legal actions and remedies certain specific categories of Civil and Criminal laws were selected for purposes of selecting a segregated sample. The justifications for selecting this sample are:

- (a) It represents the most typical types of legal disputes before the district courts and hence high frequency as well as a large proportion of the courts' caseloads – this is borne out by available official statistics and reviewed local legal literature as well as the researchers' past professional experience of working in this area;
- (b) It involves differences of legal processes and hence enriches this Report's analysis of the variety of legal remedies sought in courts, the steps involved, and the time taken to reach a legal outcome;
- (c) The selected sample also allowed the researchers to review and analyse simple as well as complex and long-drawn cases (which has a bearing on envisioning and proposing time standards for Caseflow Management); and,
- (d) It encompasses multiple types of rights, remedies, contestations, social imperatives, and judicial priorities etc., which have a bearing on Caseflow Management policy-making.

### **Rationale for Selection of Additional Thematic Sub-Categories & Capturing Case Complexity**

Despite breaking down the proposed sample into multiple selected categories, these categories were still quite broad and hence were further divided into additional thematic sub-categories in order to facilitate data identification, excavation and analysis. This was additionally necessary because the language of legal remedies is the language according to which the Pakistani legal system envisions, catalogues and stores case files – hence the eventual selected sample also had to be envisioned according to the legal parlance currently employed to conduct any rudimentary existing Caseflow Management by the Pakistani court system. It is also the language of the lawyers and the judges.

The transposition of any other categorising language for purposes of collecting and analysing case files was likely to create confusion at the ultimate stage of presenting recommendations based on this Report's analysis. It was deemed very important that the eventual audience of this Report ought to be able to understand and relate to what the Report was putting forward. For instance, the use of the broad term 'property' cases was unlikely to make much sense unless we nuanced our communication and talked instead about 'case types' in the legal lingo *en vogue* in the Pakistani court system. Highlighting these sub-categories was, therefore, expected to further enrich the data set and capture diversity and variety, while ensuring focused collection of specific and sufficient data, adhering to well defined sub-categories for meaningful comparison and analysis. The field survey team was also provided sections numbers of relevant laws as well as the Court types pertaining to the selected sub-categories in order to further help identify and select relevant case files for the sample.

### **Additional Considerations while Choosing a Sample of Criminal Cases**

Regarding the method used for sub-categorisations, various possible approaches were carefully evaluated. One possible criterion for sub-categorising the Criminal cases could be the schema of varying quantum of punishment for different offences under the Pakistani legal system (for instance: capital punishment, 25 years imprisonment, less than 14 years imprisonment, and less than 7 years imprisonment). However, the problem with such an approach is that the same quantum of punishment can cut across/apply to very different kinds/types of crimes. At the same time, a particular kind/type of crime can cut across different quanta of punishment e.g. different kinds of homicide carry different punishment under the Pakistani law – as indeed in international jurisprudence, due to the degree of culpability and fault assigned to them.

Therefore, greater conceptual and thematic clarity required that we start off by using first of all the broad categories of ‘Crimes against Person’ and ‘Crimes against Property’ – two age-old thematic typologies of crime – and then identify and select further specific crimes underneath the same. Employing this approach the researchers looked at available aggregate data on crime and chose some of the most prevalent crime categories as well as the ones that adequately cover the spectrum for a particular thematic category of crime and also the different quanta of punishment for the same broad type of crime.

Hence, homicide (*Qatl-e-Amd/Qatl committed under Ikrab/Qatl Shibb-i-Amd/Qatl-i-Khata/Qatl bis Sabab*), sexual offences (rape), hurt (assault/injury) and kidnapping were eventually chosen as sub-categories under ‘Crimes against Person.’ This was done with a view to ensure that the eventual collected data would include more and less heinous versions of the same crime type and hence also the different quanta of punishment. In other words, the underlying idea was that the selected sample of cases involving say the crime of homicide would cut across different possible quanta of punishment (depending on level of heinousness and culpability) and thus also capture different levels of complexity of such homicide cases heard by the courts.

Frequency of occurrence of different crimes – as deduced by available crime statistics – was used as the parameter for arriving at the precise sample size. To further explain, available data shows that ‘Crimes against Property’ for instance, are the most prevalent types of crime and hence that particular category was accorded a higher sample size than ‘Crimes against Person.’ In other words, the numbers are higher for the more prevalent and frequent crimes i.e. ‘Crimes against Property’ as compared to less frequent crimes i.e. ‘Crimes against Person’ because of expected marked differences in the frequency of such cases in courts. A third category of ‘Local and Special Laws’ was also introduced in order to capture various other prevalent sub-categories of criminal cases that occupy the Pakistani courts and also involve somewhat different legal processes.

### **Additional Consideration while Choosing a Sample of Civil Cases**

The same logic was employed while assigning sample sizes to the different sub-categories of civil cases – hence a higher sample size accorded to the broad category of ‘Property Cases’ which by far dominate civil litigation in Pakistan, as compared to other important but comparatively less ubiquitous categories of civil cases. All of them, however, have been collectively chosen to be representative of the broad nature of prevalent civil litigation in the country as well as the levels of complexity and resulting longevity of the same. While it was not possible to cover all existing case categories the endeavour was to identify the most representative case categories to collect an exhaustive and meaningful sample.

### **Ensuring Randomisation of Selection of Case Files**

Despite pre-selecting certain sample categories and sub-categories, various steps were undertaken to achieve randomisation within the same. The survey team went chronologically through the district courts’ case lists (after randomly choosing certain number of courts of different relevant types) and picked all the first occurring relevant cases (for a particular sub-category or sub-categories) in the court lists till they arrived at the desired number (repeating this process in all the courts that were chosen for that particular

category/categories of cases). The only caveat to this approach was that the survey team was asked to ensure that they picked out slim as well as extensive files (file size being a manifestation of complexity and extent of litigation involved). Where such cases were not available in the courtrooms and piles of case files had to be taken out from the record rooms, the same approach was used. The idea was that by following such an approach it was equally likely to end up with a fair cross section of both simpler as well as complex cases in each sub-category.

### **Ensuring Randomisation of Selection of Courts**

As said earlier, the selected case types were to be found in different kinds of courts. Thus, for rent cases rent courts were targeted, for family cases family courts were targeted and so on. Given that the Target Districts have multiple special and general jurisdiction courts (see section 2.5.2) the sample was excavated from multiple courts falling in these categories in order to avoid individual judge biases. Randomisation in terms of selection of courts was achieved by endeavouring to roughly cover 25% of each court category to capture variation of judicial styles and expertise.

While the selection methodology was successful in excavating the intended data in the selected categories and sub-categories, as indicated earlier, the final sample size and disaggregation underwent some changes due to various expected and unexpected factors.

Expected factors included discarding a certain number of files due to incompleteness (either because the original file was incomplete or because key documents were either not fully copied or inadequately copied by the court staff assigned to the task). The overall sample size was also larger than the minimum 1,400 intended because a somewhat larger number of files were excavated in order to ensure that if any were discarded for any reasons, the research team would not be left with an overall sample size lower than 1,400. This meant that after having retained all relevant and complete sample files we ended up with an overall sample of 1476.

Unexpected factors included phenomena such as lack of access to relevant files or lesser than expected frequency of certain types of disputes. There were several additional factors that made the task of accessing relevant sample files highly challenging, including, at times some uncooperative court staff, lack of reliable or multiple and at times contradictory case record lists, the disorganisation of the record rooms, very difficult working conditions, and the fact that some of the courts claimed to be undergoing some changes in their record keeping methods that put the record into further disarray.

The research team also discovered instances where multiple court staff members were assigned the tasks of keeping tabs on and storing files and at times there was lack of clarity as well as duplication of roles and also lack of mutual coordination. In other instances, relatively few disposal files of a particular sub-category could be physically located or even existed – such as rent cases in Muzaffargarh – because even though it is an area of considerable litigation elsewhere in the country the unique combination of local factors caused it to be less prevalent. Suitable adjustments were accordingly made to the intended disaggregated sample size in order to meet the overall goals (as can be seen through a comparison of the originally intended and final disaggregated sample). The underlying imperative remained a representative coverage of different types of cases that occupy the courts' time as well as striking a balance between cases of certain types as well as higher levels of complexity that mandate a bigger investment in the adjudicative process and those that are well-suited for much quicker disposals.

### **Data Excavation from Case Files**

The information required for purposes of this analysis was painstakingly collected through a close scrutiny of the case files and recorded and organised through the use of five different Caseflow Management Information Forms (separate ones for criminal, property, contractual, rent, and family cases due to certain differences in the type of information being excavated). These Caseflow Management Information Forms are reproduced at the end of this Report as **Annexures D, E, F, G and H**.

In view of the aforementioned adjustments the following is the final break-up of the overall data across various categories and sub-categories of Civil and Criminal cases targeted in the survey. This will be the sample distribution that will be used for the various statistical tests, the consequent results, and analyses of the same, that will be reproduced in the remainder of this section.

**Table 2.1: Final Sample Size and Categories of Case Files**

Sample Size per Case Categories and per District									
Case Categories		Case Sub-Categories	Multan		Bahawalpur and Muzaffargarh		Totals		
Civil	Property Cases (Moveable & Immoveable)	(a) Declaratory Suits with Possession	130	34	222	13+10	352	57	
		(b) Succession Applications		26		19+18		63	
		(c) Enforcement Suits for Specific Performance re: Immoveable Property		19		26+24		69	
		(d) Suits for Partition		13		10+8		31	
		(e) Suits for Pre-emption		14		17+20		51	
		(f) Declaration of Title to Property		24		32+25		81	
	Family Cases	(a) Divorce	89	25	108	14+16	197	55	
		(b) Custody		41		23+25		89	
		(c) Maintenance or Dowry		23		10+20		53	
		(d) Guardianship							
	Contractual Disputes (Non-Property)	(a) Recovery of Money/Damages Suits	60	21	110	40+49	170	110	
		(b) Negotiable Instruments Cases		28		0		28	
		(c) Commercial Disputes		11		9+12		32	
	Rent Cases	Application for Eviction of Tenant	40	40	10	5+5	50	50	
	Total Civil Cases			319		450		769	
	Criminal	Crimes against Person	(a) Homicide ( <i>qatl-e-amd</i> )	99	25	123	14+16	222	55
(b) Sexual Offences (rape)			24		16+15		55		
(c) Hurt (assault/injury)			32		16+16		64		
(d) Kidnapping			18		14+16		48		
Crimes against Property		(a) Robbery/Theft	142	41	197	26+29	339	96	
		(b) Cheating/Fraud/Forgery		31		17+16		64	
		(c) Bouncing of Cheques		33		30+24		87	
		(d) Criminal Trespass		37		26+29		92	
Local and Special Laws (except Traffic Laws)		(a) Special Offences	59	24	87	27+25	146	76	
		(b) Special Laws		35		6+13		54	
		(c) Gambling		0		7+9		16	
Total Criminal Cases			300		407		707		

## 2.2 Data Analysis Framework

The sample data was randomly chosen to provide a snapshot of the typical cross-section of caseload encountered by the district courts and ordinarily disposed by them on a regular basis. Thus it was expected to contain both cases of a simpler nature as well as more complex and time-consuming cases. Complexity was gauged according to:

- (i) The type of case, as the very nature of a case also provides an indication as to whether it would be of a more complex nature (based on the seriousness of the legal right or offence involved and the elaborateness of the law and legal process applicable to the same as well as the number of legal steps involved) or not;
- (ii) The number of documents filed in a particular case; and
- (iii) The number of witnesses testifying in a case.



The duration of disposed cases according to their types was the first variable gauged through statistical analysis of the data set (in Sub-Section A) and then the duration of disposed cases according to their complexity (Sub-Section B).

The purpose of determining the duration of disposed cases was twofold:

- (a) To gauge the overall average duration of cases across the broad categories of Civil and Criminal law; and
- (b) To then gauge the overall average duration of cases across the various sub-categories of Civil and Criminal law.

Thus, Sub-section A contains the following analysis:

### A) Duration of Cases–Time Taken to Dispose Cases

For purposes of this section the data was statistically analysed in order to gauge the following (the term “average” includes mean, median and mode calculations):

- Different timespan categories in which the sample cases fall;
- Average durations of all criminal and civil cases;
- Average durations of all the sub-categories of criminal and civil cases;
- A determination of variations in time duration amongst the different sub-categories of criminal and civil cases i.e. which sub-categories of cases are mostly disposed in a shorter duration and which take longer;
- A determination of the extent of differences in timespan of disposed cases between sub-categories that take a shorter time and sub-categories which take a longer time for final disposals; and
- A determination of variations within the aggregate durations for selected sub-categories of cases to determine whether there is a greater propensity for cases in certain sub-categories to take a long time to be disposed.

#### Criminal Cases

The total number of disposed criminal cases that constitute the overall sample is **707**. **Table A-1** and **Figure A-1** provide a breakup of the duration of criminal cases according to the different breakups of timespans.

As can be seen from Table A-1, a greater proportion of criminal cases have been decided in somewhat shorter timespans (as compared to civil cases for which the timespan breakup is provided in Table A-2) – which is intuitive given that criminal cases normally tend to involve less complex questions and processes than civil disputes and hence take lesser time. It can be seen that almost half (48%) of the cases have been disposed in up to twelve months; another 42% have taken between thirteen months to three years to reach disposal; and, finally, 10% cases took between three years and over five years to be disposed.

It needs to be underlined here that this is data for all the criminal categories in the sample – serious crimes and less serious cases. Furthermore, it needs to be emphasised that these timespans are for final disposals and are regardless of whether the case came to an early end due to a compromise, a guilty plea, withdrawal by prosecution or an acquittal by the court because of no possibility of conviction (Sections 249A and 265K of the Criminal Code). In other words, it is not representative of the duration of time taken by cases that go through the full legal cycle of the case in order to arrive at a decision on merits.

However, it merits attention that despite including: (a) cases that involved lesser crimes and/or little complexity and relatively straight forward trials as well as; (b) cases that came to an early disposal and hence had a considerably shorter duration than a standard case (in other words they involved a

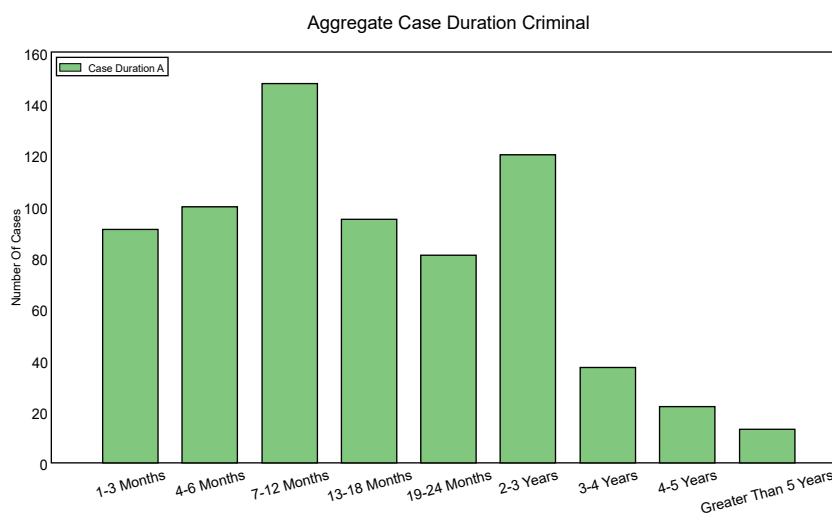
compromise, a guilty plea, withdrawal by prosecution or an acquittal by the court at any stage of the case under Sections 249A and 265K of the Criminal Code) **more than one-quarter (27%)** of this overall sample constitutes of cases which took **more than two years to be disposed** (adding the numbers for the final four categories – in bold in the Table). These are the cases that will require further scrutiny in order to better understand their nature, the factors that may have contributed to the time taken for their disposal, and whether such disposal timespans are efficient and realistic.

**Table A-1 Criminal Case Disposals according to Time Duration**

Criminal Case Duration	Number of Cases	% of Cases
1-3 Months	91	13
4-6 Months	100	14
7-12 Months	148	21
13-18 Months	95	13.5
19-24 Months	81	11.5
<b>2-3 Years</b>	<b>120</b>	<b>17</b>
<b>3-4 Years</b>	<b>37</b>	<b>5</b>
<b>4-5 Years</b>	<b>22</b>	<b>3</b>
<b>More Than 5 Years</b>	<b>13</b>	<b>2</b>
<b>Total</b>	<b>707</b>	<b>100%</b>

**Figure A-1** graphically displays the criminal cases that constituted the sample in terms of the time taken for their disposal.

**Figure A-1 Criminal Case Disposals according to Time Duration**



### Civil Cases

The total number of disposed civil cases that constitute the overall sample is 769. **Table A-2** and **Figure A-2** provide a breakup of the duration of civil cases according to the different breakups of timespans.

As can be seen from Table A-2 there is a more or less an even spread of cases across various broad aggregated timespans: between 1 month and twelve months (collectively the first three categories); between thirteen months and three years (collectively the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> categories); and between three years and more than five years (collectively the last three categories). This distribution was to be expected given that the sample included both simple civil disputes (hence amenable to quicker resolutions) and complex civil cases (those requiring more engaged adjudication).

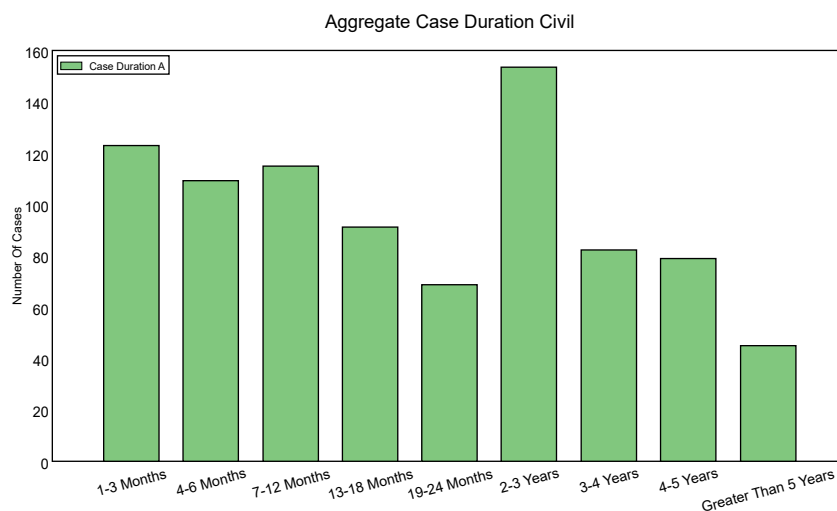
However, it once again merits attention that despite including: (a) cases that involved simpler legal questions and legal regimes and/or little complexity and relatively straight forward issues as well as; (b) cases that came to an early disposal and hence had a considerably shorter duration than a standard full-duration case because of a compromise, a rejection of plaint, a withdrawal of suit with or without permission, an *ex parte* dismissal on default, or a dismissal for non-prosecution) as many as 41.5% of this overall sample constitutes of cases which **took more than two years** to be disposed (adding the numbers for the final four categories – in bold in the Table). These are the cases that will require further scrutiny in order to further understand their nature, the factors that may have contributed to the time taken for their disposal, and whether such disposal timespans are efficient and realistic.

**Table A-2 Civil Case Disposals according to Time Duration**

Civil Case Duration	Number of Cases	% of Cases
1-3 Months	109	14
4-6 Months	97	12.5
7-12 Months	102	13.5
13-18 Months	81	10.5
19-24 Months	61	8
<b>2-3 Years</b>	<b>136</b>	<b>18</b>
<b>3-4 Years</b>	<b>73</b>	<b>9.5</b>
<b>4-5 Years</b>	<b>70</b>	<b>9</b>
<b>More Than 5 Years</b>	<b>40</b>	<b>5</b>
<b>Total</b>	<b>769</b>	<b>100%</b>

**Figure A-2** graphically displays the civil cases that constituted the sample in terms of the time taken for their disposal.

**Figure A-2 Civil Case Disposals according to Time Duration**



### Average Duration of Cases

The overall selected sample across different categories and sub categories provides a good cross-section of the more typical types of cases that populate the district courtrooms. Determination of average duration times of sub-categories helps determine which types of cases on the average take more time for disposal than others as well as the average time taken for their disposal.

**Table A-3** below provides a breakup of different types of criminal cases according to average durations of their disposals. The various categories and sub-categories of criminal cases that constitute the sample have been organised in Table A-3 in descending order according to average time durations for the same. For instance, the category ‘Crimes Against Person’ heads the table as the average duration of time taken for disposal of such cases is the highest amongst all the categories of criminal cases that constitute the survey sample. This category is further divided into sub-categories of the offences that constitute ‘Crimes Against Person’ and the average time durations for the disposal of cases under these sub-categories have also been provided.

For ease of review this information has been colour coded so that: those categories of cases that took more than two years to dispose are displayed in red (long duration cases); those that took between one and two years are displayed in yellow (medium duration cases); and, those that were disposed in a year or lesser duration of time are displayed in green (shorter duration cases).

**Table A-3 Average Duration of Categories and Sub-Categories of Criminal Cases**

Criminal - Duration of cases			
Categories	Mean	Median	Mode
Crimes Against Person	20 months	17 months	7 months
Homicide	26 months	20 months	7 months
Hurt	23 months	20 months	10 months
Kidnapping	17 months	11 months	59 months
Sexual Offences	14 months	10 months	4 months
Crimes Against Property	18 months	13 months	0 months
Cheating	24 months	24 months	0 months
Criminal Trespass	17 months	12 months	5 months
Theft	17 months	13 months	4 months
Bouncing of Cheque	14 months	10 months	0 months
Local and Special Laws	10 months	8 months	0 months
Special Laws	11 months	8 months	0 months
Special Offences	10 months	7 months	1 month
Gambling	6 months	4 months	8 months

As can be seen, ‘Crimes against Person,’ is the category in which the average disposal time of cases (Mean) is the highest (twenty months), followed by ‘Crimes against Property,’ (eighteen months) and ‘Local and Special Laws’ (ten months). Within the category of ‘Crimes against Person,’ ‘Homicide’ is the leading sub-category, in which a case takes an average of twenty-six months to be disposed. At the other end of the spectrum is the sub-category of ‘Gambling’ under the category of ‘Local and Special Laws,’ for which the average disposal time of a case is six months. On the whole, most of the sub-categories that constitute the overall sample fall in the medium duration type (disposal takes between one to two years).

**Table A-4** below provides a breakup of different types of civil cases according to average durations of their disposals. The various categories and sub-categories of civil cases that constitute the sample have been organised in Table A-4 in descending order according to average time durations for the same. For instance, the category ‘Property’ heads the table as the average duration of time taken for disposal of such cases is the highest amongst all the categories of civil cases that constitute the survey sample. This category is further divided into sub-categories of the types of civil disputes that constitute ‘Property’ cases and the average time durations for the disposal of cases under these sub-categories have also been provided.

For ease of review this information has once again been colour coded so that: those categories of cases that took more than two years to dispose are displayed in red (long duration cases); those that took between one and two years are displayed in yellow (medium duration cases); and, those that were disposed in a year or lesser amount of time are displayed in green (short duration cases).

**Table A-4 Average Duration of Categories and Sub-Categories of Civil Cases**

Civil – Duration of cases			
Categories	Mean	Median	Mode
Property	28 months	26 months	7 months
Possession	40 months	35 months	7 months
Pre-emption	33 months	34 months	49 months
Specific Performance	33 months	27 months	84 months
Declaration	32 months	31 months	47 months
Partition	32 months	30 months	3 months
Succession	4 months	2 months	1 month
Contracts	26 months	23 months	32 months
Negotiable Instruments	35 months	36 months	45 months
Recovery of Money	27 months	23 months	15 months
Commercial Disputes	14 months	14 months	2 months
Family	14 months	8 months	2 months
Maintenance	20 months	18 months	29 months
Custody	10 months	10 months	18 months
Guardianship	10 months	5 months	1 month
Divorce	8 months	4 months	2 months
Rent	11 months	9 months	9 months
Ejectment Petitions	11 months	9 months	9 months

As can be seen, ‘Property,’ and ‘Contract’ are the categories in which the average disposal time of cases (Mean) is the highest (twenty eight months and twenty six months respectively). Most of the sub-categories within these two categories are ‘long duration’ sub-categories as the average disposal time of a case is more than two years. At the other end of the spectrum are ‘Rent’ cases and some of the sub-categories of ‘Family’ cases in which most cases get disposed in less than a year. On the whole, as is apparent and intuitive, the average disposal times of cases across various sub-categories of civil law are higher than those of the various sub-categories of criminal law. The data also seems to be in accord with

the performance ratings accorded by the World Justice Project to the two processes in the Pakistani context where the criminal process has a somewhat higher performance rating than the civil process.<sup>16</sup>

It is instructive to further probe those sub-categories of cases that involve a more intensive adjudicative process owing to the nature of the case and the complexity of the issues and laws involved. In this regard, certain sub-categories of criminal and civil law that have been highlighted above further lend themselves to such analysis as they fall in the long-duration type (where average disposal period is over two years).

### (1) Crimes Against Persons: Homicide

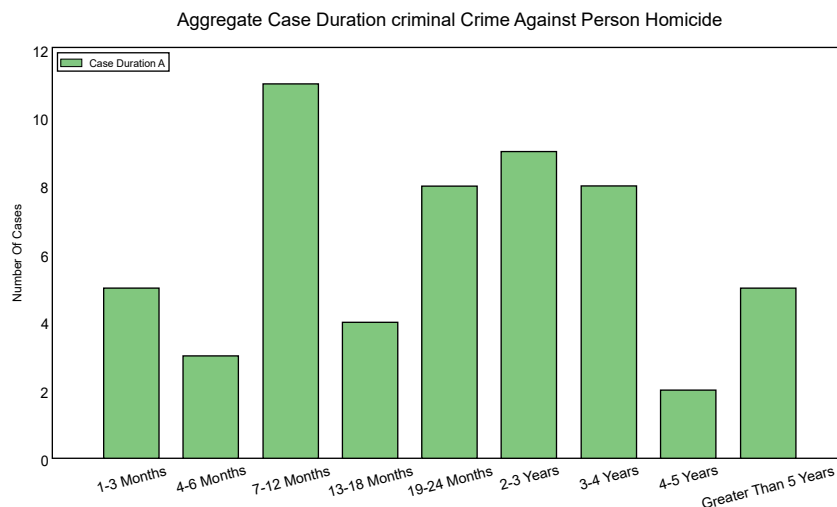
**Table A-5 Duration of Homicide Cases**

Case Duration	Number of Cases	% of Cases
1-3 Months	5	9
4-6 Months	3	5.5
7-12 Months	11	20
13-18 Months	4	7.5
19-24 Months	8	14.5
2-3 Years	9	16.5
3-4 Years	8	14.5
4-5 Years	2	3.5
More Than 5 Years	5	9
Total	55	100%

A review of the statistics for homicide cases tells us that not only did almost half (43.5%) of such cases (where the average disposal period is twenty six months) took more than two years to be disposed, but more than one-quarter (27%) of these cases took more than three years or even longer than five years.

**Figure A-5** illustrates that the disposal time for this sub-category of cases is rather skewed and that a large proportion of Homicide cases took considerable time for disposal.

**Figure A-5 Duration of Homicide Cases**



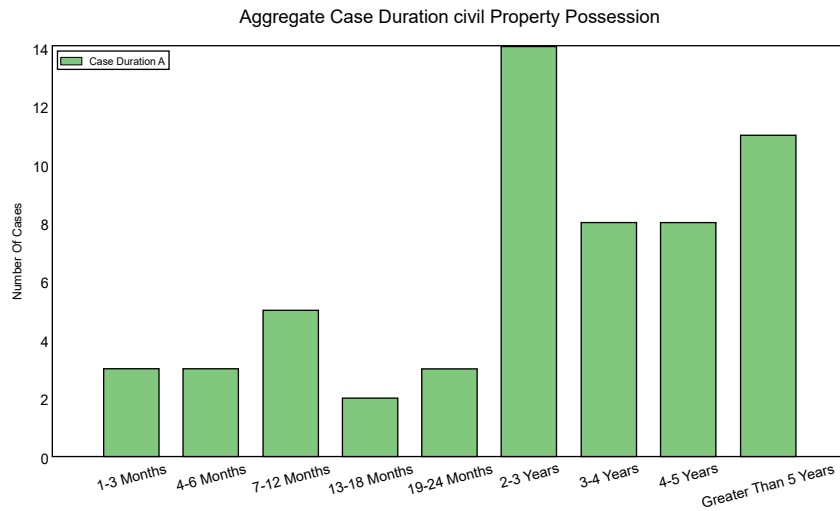
<sup>16</sup> Factor 7.5: Civil Justice is not subject to unreasonable delays: 0.26, page 126, WJP Index; Factor 8.2: Criminal Justice is timely and effective: 0.36, page 165, WJP Index.

**(2) Property: Suits for Possession****Table A-6 Duration of Suits for Possession**

Case Duration	Number of Cases	% of Cases
1-3 Months	3	5
4-6 Months	3	5
7-12 Months	5	9
13-18 Months	2	4
19-24 Months	3	5
2-3 Years	14	<b>24.5</b>
3-4 Years	8	<b>14</b>
4-5 Years	8	<b>14</b>
More Than 5 Years	11	<b>19.5</b>
Total	57	100%

It emerges from **Table A-6** that not only did almost three-quarters (72%) of the Suits for Possession (where the average disposal period is forty months) took more than two years to be disposed, but that almost half (47.5%) of these cases took more than three years or even longer than five years.

**Figure A-6** illustrates that the disposal time for this sub-category is quite lop-sided and that a large proportion of Suits for Possession took considerable time for disposal.

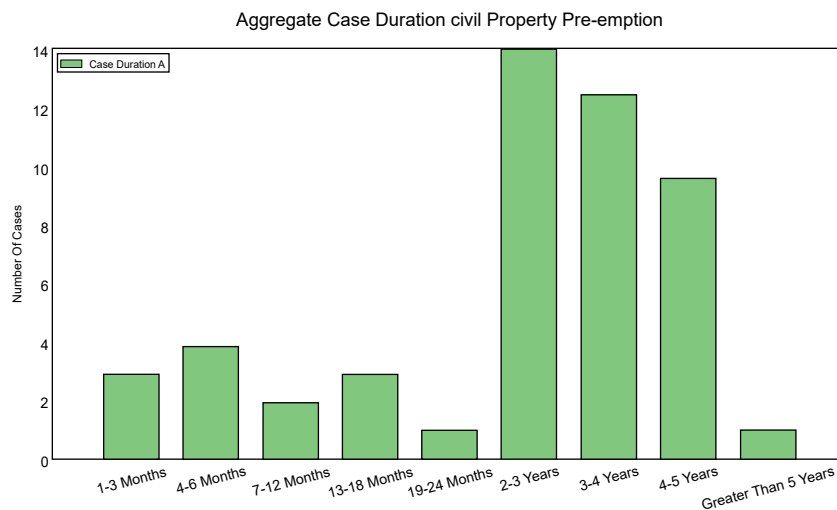
**Figure A-6 Duration of Suits for Possession**

**(3) Property: Suits for Pre-emption****Table A-7 Duration of Suits for Pre-emption**

Case Duration	Number of Cases	% of Cases
1-3 Months	3	6
4-6 Months	4	8
7-12 Months	2	4
13-18 Months	3	6
19-24 Months	1	2
2-3 Years	14	27
3-4 Years	13	25.5
4-5 Years	10	19.5
Greater Than 5 Years	1	2
Total	51	100%

A review of the numbers for this sub-category reveals that not only did almost three-quarters (74%) of the Suits for Pre-emption (where the average disposal period is thirty three months) took more than two years to be disposed, but almost half (47%) of these cases took more than three years or even longer than five years.

**Figure A-7** illustrates that the disposal time for this sub-category is quite lop-sided and that a large proportion of Suits for Pre-emption took considerable time for disposal.

**Figure A-7 Duration of Suits for Pre-emption**

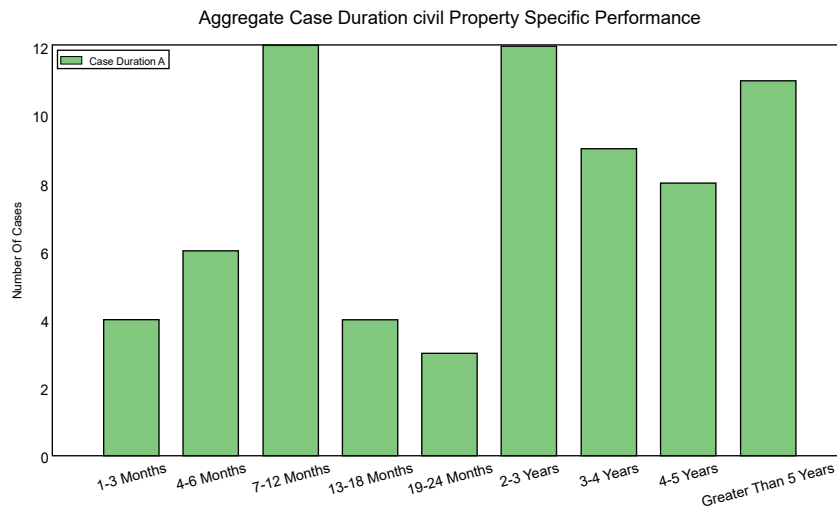


**(4) Property: Suits for Specific Performance****Table A-8 Duration of Suits for Specific Performance**

Case Duration	Number of Cases	% of Cases
1-3 Months	4	6
4-6 Months	6	8.5
7-12 Months	12	17
13-18 Months	4	6
19-24 Months	3	4.5
2-3 Years	12	17.5
3-4 Years	9	13
4-5 Years	8	11.5
More Than 5 Years	11	16
Total	69	100%

With regard to this sub-category, not only did more than half (58%) of the Suits for Specific Performance (where the average disposal period is thirty three months) took more than two years to be disposed, but closer to half (40.5%) took more than three years or even longer than five years.

**Figure A-8** illustrates that the disposal time for this sub-category is rather skewed and that a large proportion of Suits for Specific Performance took considerable time for disposal.

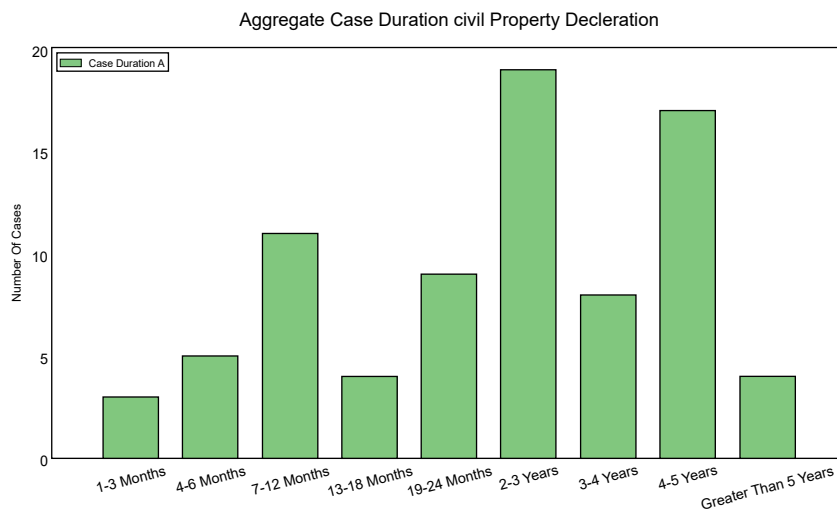
**Figure A-8 Duration of Suits for Specific Performance**

**(5) Property: Suits for Declaration****Table A-9 Duration of Suits for Declaration**

Case Duration	Number of Cases	% of Cases
1-3 Months	3	3.5
4-6 Months	5	6.5
7-12 Months	11	13.5
13-18 Months	4	5
19-24 Months	9	11.5
2-3 Years	19	<b>23.5</b>
3-4 Years	8	<b>10</b>
4-5 Years	17	<b>21.5</b>
More Than 5 Years	4	<b>5</b>
Total	80	100%

The data reveals that well over half (60%) the Suits for Declaration (where the average disposal period is thirty two months) took more than two years to be disposed and further that more than one-third (36.5%) took more than three years or even longer than five years.

**Figure A-9** illustrates that the disposal time for this sub-category is quite skewed and that a large proportion of Suits for Declaration took considerable time for disposal.

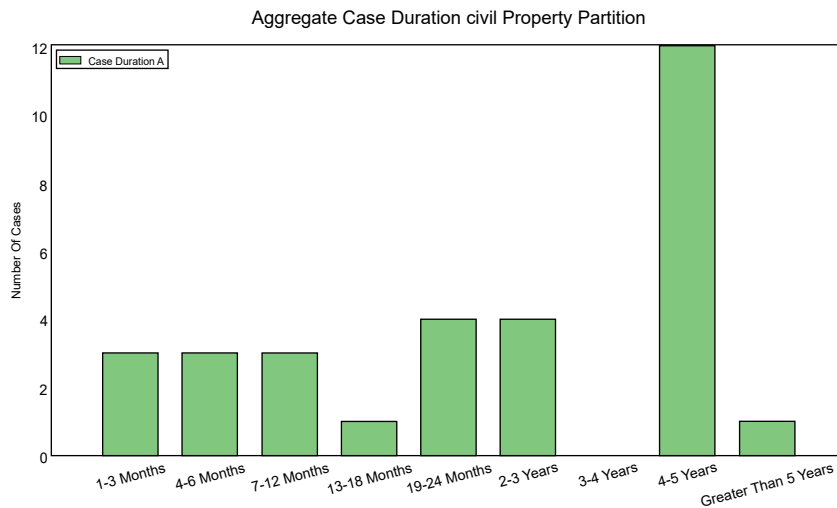
**Figure A-9 Duration of Suits for Declaration**

**(6) Suits for Partition****Table A-10 Duration of Suits for Partition**

Case Duration	Number of Cases	% of Cases
1-3 Months	3	9.5
4-6 Months	3	9.5
7-12 Months	3	9.5
13-18 Months	1	3
19-24 Months	4	13
2-3 Years	4	13
3-4 Years	0	0
4-5 Years	12	39.5
More Than 5 Years	1	3
Total	31	100%

In this sub-category, not only did more than half (55.5%) of the Suits for Partition (where the average disposal period is thirty two months) took more than two years to be disposed, but closer to half (42.5%) took more than three years or even longer than five years.

**Figure A-10** illustrates that the disposal time for this sub-category is quite lop-sided and that a large proportion of Suits for Partition took considerable time for disposal.

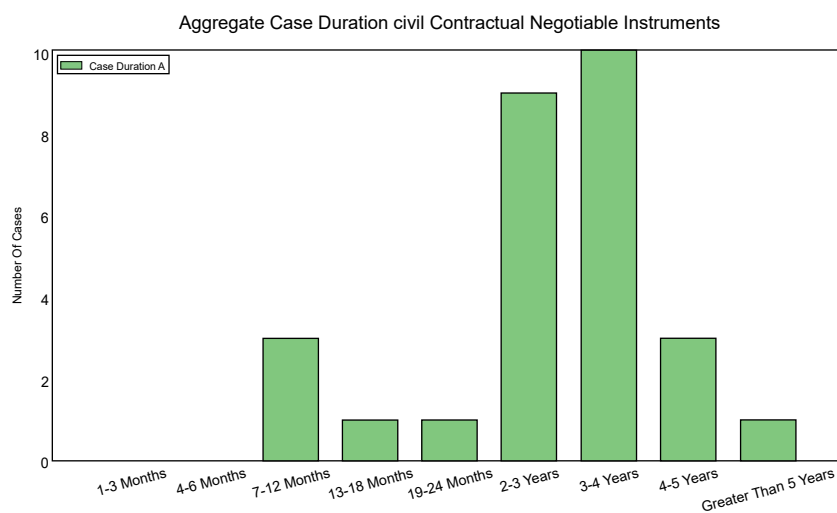
**Figure A-10 Duration of Suits for Partition**

**(7) Contract: Negotiable Instruments****Table A-11 Duration of Negotiable Instruments Cases**

Case Duration	Number of Cases	% of Cases
1-3 Months	0	0
4-6 Months	0	0
7-12 Months	3	11
13-18 Months	1	3.5
19-24 Months	1	3.5
2-3 Years	9	32
3-4 Years	10	35.5
4-5 Years	3	11
More Than 5 Years	1	3.5
Total	28	100%

In disposed cases involving Negotiable Instruments it turns out that not only did well over three-quarters (82%) of these cases (where the average disposal period is thirty five months) took more than two years to be disposed, but half (50%) of them took over three years or even longer than five years.

**Figure A-11** illustrates that the disposal time for this sub-category is quite lop-sided and that a large proportion of Negotiable Instruments cases took considerable time for disposal.

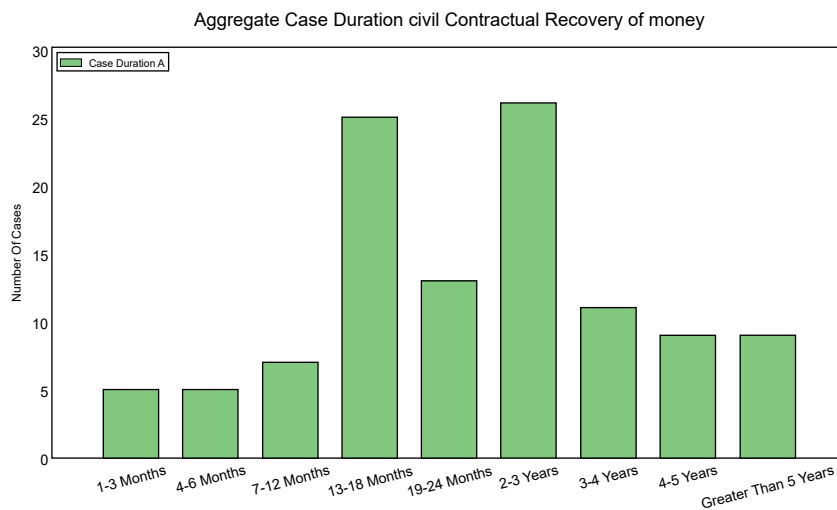
**Figure A-11 Duration of Negotiable Instruments Cases**

(8) Contract: Recovery of Money**Table A-12 Duration of Recovery of Money Cases**

Case Duration	Number of Cases	% of Cases
1-3 Months	5	4.5
4-6 Months	5	4.5
7-12 Months	7	6.5
13-18 Months	25	23
19-24 Months	13	12
2-3 Years	26	<b>23.5</b>
3-4 Years	11	<b>10</b>
4-5 Years	9	<b>8</b>
Greater Than 5 Years	9	<b>8</b>
Total	110	100%

In disposed cases involving Recovery of Money it turns out that not only did almost half (49.5%) of the cases (where the average disposal period is twenty seven months) took more than two years to be disposed, but that one-quarter (26%) of them took more than three years or even longer than five years.

**Figure A-12** illustrates that the disposal time for this sub-category involves both considerable variation as well as a tilt towards cases consuming considerable time.

**Figure A-12 Duration of Recovery of Money Cases**

## B) Complexity of Cases and their Duration

While overall case duration statistics discussed in the section above present some important initial insights, further determination of whether these durations are acceptable or unacceptable requires that this data be further sub-classified and examined according to the complexity of the cases. More complex cases understandably require a comparatively longer period of time to reach resolution (quite apart from what their optimal duration ought to be) as compared to less complex ones. By classifying data according to complexity we can then separately examine the durations and other characteristics of these data subsets in a more nuanced fashion.

### Number of Legal Documents and Witnesses

Case complexity can be gauged by looking at the number of legal documents produced for the court's examination and the number of witnesses testifying in that case. Invariably, the greater the number of legal documents and witnesses the more complex and hence also the more time-consuming a case.

### Criminal Cases

The meaning of the term 'documents' as employed here needs clarification. It does not include documents which are a statement of the state's case against the defendant and which are not considered part of the 'prosecution' evidence, such as *the Calendar of Information*, or the police reports/*Challans*.<sup>17</sup> The term 'documents' here pertains to any prosecution and/or defence exhibits and/or additional court documents, such as copies of F.I.Rs, documentary evidence like dishonoured cheques, specialised reports such as those by forensic experts, recovery memos of recovered articles such as weapons, and/or real evidence such as weapons or narcotics substances (which are referred to as 'case property').

**Table B-1** below classifies all the criminal cases in the dataset according to the number of legal documents submitted and examined by the courts. As it emerged, a vast section of these randomly selected disposed criminal cases never reached the evidence stage and were disposed before that. Hence, there are relatively few cases that can be described as complex because of the fact that they involved additional 'documents' of the nature described in the above paragraph. As it turns out, as many as 123 'Crimes against Person' case files, 257 'Crimes against Property' case files, and 118 'Local and Special Laws' case files did not contain any additional documents of the nature described above. It can, therefore, be safely argued that these were simple cases and/or cases that did not evolve to any greater level of complexity, as they were disposed before more complex stages of presentation and evaluation of evidence could be reached.

There are, however, at the other end of the spectrum, 16 'Crimes against Person' case files that contained over 20 'documents.' On the other hand, for 'Crimes against Property' there are no such case files with as many documents though 6 had 11-15 documents and 15 had 6-10 documents. Lastly, the 'Local and Special' law case files predominantly contained no additional 'documents' or relatively few additional 'documents' and hence at least using this variable of additional 'documents' they can be deemed as far less complex than the 'Crimes against Person' cases – these on the average had more 'documents' and thus greater complexity than the other two broad categories of criminal cases. (*See table on next page*)

<sup>17</sup> Calendar of Information or *Qalandara* is a police form that contains information on and details of charges against an accused in non-cognizable cases. It is the equivalent of a police report or *Challan* in cognizable cases. While one or the other of these were part of all criminal case files, neither the *Qalandara* nor police reports/*Challans* were treated as and counted towards 'documents' for purposes of this analysis.

**Table B-1 Classification of Criminal Cases according to Number of Legal Documents**

Criminal Case Complexity: Number of Documents					
	Categories – No of cases	Sub Categories – No of cases			
Number of Documents	Crimes Against Person	Homicide	Hurt	Kidnapping	Sexual Offence
0	123	21	52	22	28
1-5	59	6	9	21	23
6-10	14	4	3	4	3
11-15	5	5	0	0	0
16-20	5	3	0	1	1
More Than 20	16	16	0	0	0
	Crimes Against Property	Cheating	Criminal Trespass	Theft	Bouncing of Cheque
0	257	49	64	66	78
1-5	61	10	19	25	7
6-10	15	5	6	3	1
11-15	6	0	3	2	1
16-20	0	0	0	0	0
More Than 20	0	0	0	0	0
	Local and Special Laws	Special Laws	Special Offence	Gambling	
0	118	38	64	16	
1-5	23	14	9	0	
6-10	5	2	3	0	
11-15	0	0	0	0	
16-20	0	0	0	0	
More Than 20	0	0	0	0	

The other variable used for gauging case complexity was the number of witnesses who appeared in a criminal case. The more the number of witnesses the greater the case complexity and the prospects of it taking a longer period of time to be disposed.

**Table B-2** below classifies all the criminal cases in the sample according to the number of witnesses who appeared in these cases. In ‘Crimes against Person’ cases the greatest concentration is in the categories of 1-5 witnesses, 6-10 witnesses and 11-15 witnesses with 32, 128 and 39 cases falling in these three categories respectively. Within this category, the sub-category of ‘Homicide’ involved relatively higher number of witnesses with 25 cases falling in the 11-15 witnesses category and 16 cases falling in the 16-20 witnesses category. The only 2 cases that had more than 20 witnesses are also ‘Homicide’ cases. In ‘Crimes against Property’ cases the greatest concentration is in the categories of 1-5 witnesses and 6-10 witnesses with 164 and 160 cases falling in these two categories respectively. Finally, the ‘Local and Special Laws’ category cases also displayed the maximum concentration in the 1-5 and 6-10 witnesses categories with 92 and 53 cases falling in these two categories respectively.

**Table B-2 Classification of Criminal Cases according to Number of Witnesses**

Criminal Case Complexity: Number of Witnesses					
	Broad Categories – No of cases	Sub Categories – No of cases			
Number of Witnesses	Crimes Against Person	Homicide	Hurt	Kidnapping	Sexual Offence
0	5	3	1	0	1
1-5	32	1	10	13	8
6-10	128	8	48	32	40
11-15	39	25	5	3	6
16-20	16	16	0	0	0
More Than 20	2	2	0	0	0
	Crimes Against Property	Cheating	Criminal Trespass	Theft	Bouncing of Cheque
0	7	4	3	0	0
1-5	164	35	50	41	38
6-10	160	24	37	50	49
11-15	8	1	2	5	0
16-20	0	0	0	0	0
Greater Than 20	0	0	0	0	0
	Local and Special Laws	Special Laws	Special Offence	Gambling	
0	0	0	0	0	
1-5	92	34	42	16	
6-10	53	20	33	0	
11-15	1	0	1	0	
16-20	0	0	0	0	
More Than 20	0	0	0	0	



### Civil Cases

As for criminal cases, for purposes of the civil cases as well the term ‘documents’ carries a particular meaning – once again only those documents were counted that are in addition to the standard documents that are common to all civil cases and essential for their initiation and admission. In other words, the term ‘documents’ as used here does not include standard pleadings documents such as complaints, written statements, applications and replies to applications etc. What was included instead were plaintiff, defendant and court documents produced as court exhibits, such as documentary evidence (for instance, agreements and contracts), *nikahnamas* or marriage contracts in family cases, title deeds, gift deeds, bank statements, birth certificates, death certificates, wills, revenue record etc.

**Table B-3** below sub-classifies all civil cases according to the number of legal ‘documents’ that were introduced in these cases as court exhibits/added documents. The reason why many cases (as in the case of criminal cases) are placed in the category of 0 documents is that their case files didn’t contain any additional documents beyond pleadings/applications; hence these cases are not necessarily distinguishable on the basis of added complexity. As can be seen below, the vast majority of the civil cases that constituted the random sample can be categorised as relatively simple cases if examined according to the criterion of number of ‘documents’ produced as court exhibits. As many as 129 ‘Property’ case files had no such ‘documents’ and another 137 had only 1-5 such ‘documents.’ Similarly, as many as 89 ‘Contractual’ cases had no such ‘documents’ and another 57 had only 1-5 such ‘documents.’ As for ‘Family’ cases, as many as 64 cases had no such ‘documents’ and another 94 had only 1-5 such ‘documents.’ Finally, in ‘Rent’ cases, 24 cases had no such ‘documents’ and another 17 had only 1-5 such ‘documents.’

There are relatively very few cases in all these categories that have a high number of ‘documents,’ though on the whole ‘Property’ cases on the average have more ‘documents’ than the other three categories. Thus, on the whole it can be said that the vast majority of civil cases in the sample cannot be categorised as complex at least on the basis of the number of ‘documents’ put forward as court exhibits – any relative differences in complexity in the issues at stake in these cases notwithstanding. At least, such relative complexity did not translate into many of these cases involving additional ‘documents’ and hence greater need for court time and attention for analysing and evaluating the same. *See table next page.*

**Table B-3 Classification of Civil Cases according to Number of Legal Documents**

Civil Case Complexity: Number of Documents							
	Broad Categories – No of cases	Sub Categories – No of cases					
	Property	Possession	Pre-emption	Specific Performance	Declaration	Partition	Succession
0	129	29	31	23	26	18	2
1-5	137	18	7	27	25	9	51
6-10	49	6	7	13	13	3	7
11-15	21	4	3	1	10	1	1
16-20	5	0	1	1	3	0	0
More Than 20	11	0	2	4	3	0	2
	Contractual	Negotiable Instruments	Recovery of Money	Commercial Disputes			
0	89	3	60	26			
1-5	57	15	38	4			
6-10	14	5	8	1			
11-15	5	3	2	0			
16-20	3	0	2	1			
More Than 20	2	2	0	0			
	Family	Maintenance	Custody	Guardianship	Divorce		
0	64	29	3	14	18		
1-5	94	26	2	32	34		
6-10	21	14	0	6	1		
11-15	6	4	0	1	1		
16-20	7	6	0	0	1		
More Than 20	5	4	1	0	0		
	Rent	Ejectment					
0	24	24					
1-5	17	17					
6-10	5	5					
11-15	3	3					
16-20	0	0					
More Than 20	1	1					

The other variable used for gauging case complexity once again was the number of witnesses who appeared in a civil case. The more the number of witnesses the greater the case complexity and the prospects of it taking a longer period of time to be disposed.

**Table B-4** below classifies all the civil cases in the sample according to the number of witnesses who appeared in the cases. Once more a pronounced concentration of civil cases falls in the categories of 0 witnesses or 1-5 witnesses. On the other hand, there are almost no civil cases that had more than 11 witnesses (actually there are only two such cases that have 11-15 witnesses and none with more witnesses than that in the entire sample). To put things into further perspective, as many as 147 ‘Property’ cases had 0 witnesses and another 179 cases had 1-5 witnesses; 84 ‘Contractual’ cases had 0 witnesses and another 78 cases had 1-5 witnesses; 48 ‘Family’ cases had 0 witnesses and another 153 cases had 1-5 witnesses; and, finally, 26 ‘Rent’ cases had 0 witnesses and another 22 cases had 1-5 witnesses.

**Table B-4 Classification of Civil Cases according to Number of Witnesses**

Civil Case Complexity: Number of Witnesses							
	Broad Categories – No of cases	Sub Categories – No of cases					
	Property	Possession	Pre-emption	Specific Performance	Declaration	Partition	Succession
0	147	34	31	35	25	19	3
1-5	179	17	11	31	52	10	57
6-10	24	5	9	3	3	2	2
11-15	2	1	0	0	0	0	1
16-20	0	0	0	0	0	0	0
More Than 20	0	0	0	0	0	0	0
	Contractual	Negotiable Instruments	Recovery of Money	Commercial Disputes			
0	84	3	55	26			
1-5	78	22	50	6			
6-10	8	3	5	0			
11-15	0	0	0	0			
16-20	0	0	0	0			
More Than 20	0	0	0	0			
	Family	Maintenance	Custody	Guardianship	Divorce		
0	48	24	2	8	14		
1-5	153	47	4	43	41		
6-10	14	12	0	2	0		
11-15	0	0	0	0	0		
16-20	0	0	0	0	0		
More Than 20	0	0	0	0	0		
	Rent	Ejectment					
0	26	26					
1-5	22	22					
6-10	2	2					
11-15	0	0					
16-20	0	0					
More Than 20	0	0					

The upshot of the analysis of the data presented in **Tables B-1, B-2, B-3** and **B-4** is that a predominant majority of the criminal and civil cases that constitute the random sample collected for this Report are not complex in the sense that they involve a large number of court documents and witnesses. Even though some of these cases may have involved more complex factual and legal questions than others, at least that did not translate into presentation of additional ‘documents’ and witnesses in these legal contestations.

Given this, it would be instructive now to analyse the average duration of these cases according to complexity – complexity defined according to the number of ‘documents’ and witnesses that were produced in a case. The following criteria were used for defining different levels of complexity:

**High Complexity** – Collective number of ‘documents’ and witnesses combined is 16 or above.

**Medium Complexity** – Collective number of ‘documents’ and witnesses combined is between 8 and 15.

**Low Complexity** – Collective number of ‘documents’ and witnesses combined is from 0 to 7.

**Table B-5** below lists the average duration of criminal cases according to case complexity. It needs to be borne in mind here that since comparatively very few criminal cases fell in the ‘High Complexity’ category as compared to those that fell in ‘Medium Complexity’ and ‘Low Complexity’ categories the average duration of ‘Complex’ cases is based on a relatively small sample number. Even then there are some clear and logical trends that emerge from Table B-5. In the broad categories of ‘Crimes against Person’ and ‘Crimes against Property,’ the ‘High Complexity’ and ‘Medium Complexity’ cases take more than double the time to be disposed than ‘Low Complexity’ cases. This is an intuitive and logical result. Exceptions to this trend are explicable by the low sample share of the ‘High Complexity’ cases.

The most significant finding, however, is the fact that the average duration of ‘High Complexity’ ‘Crimes against Person’ Cases’ is 2 years and 8 months and that of ‘Medium Complexity’ cases in this category is 2 years and 10 months – this is palpably high considering that this average includes cases that were disposed early and never went through the full cycle of a criminal trial. The same can also be said for ‘Crimes against Property’ cases, where the average duration of ‘Complex’ cases’ is 3 years and 9 months, and that of ‘Medium Complexity’ cases is 3 years and 5 months.

Another telling finding is that the average duration of ‘Low Complexity’ cases is also – objectively speaking – quite high. For instance, the average duration of ‘Low Complexity’ ‘Crimes against Person’ cases is 1 year and 4 months while the average duration of ‘Low Complexity’ ‘Crimes against Property’ cases is also 1 year and 4 months.

In the ‘Local and Special Laws’ category – which is both substantively known to be a less complex area of law as compared to ‘Crimes against Person’ and ‘Crimes against Property’ and where most cases fall in ‘Medium Complexity’ category, the average duration of cases once again appears to be quite high – at 1 year and 11 months. *See table on next page.*

**Table B-5 Average Duration of Criminal Cases according to Case Complexity**

Criminal Cases: Average Duration by Complexity					
Complexity Type	Broad Categories	Sub Categories			
	<b>Crimes Against Person</b>	<b>Homicide</b>	<b>Hurt</b>	<b>Kidnapping</b>	<b>Sexual Offence</b>
High	2 Years 8 Months	2 Years 9 Months	1 Year 9 Months	0 Year 7 Months	1 Years 4 Months
Medium	2 Years 10 Months	2 Years 6 Months	3 Years 10 Months	2 Years 7Months	2 Years 9 Months
Low	1 Year 4 Months	1 Year 5 Months	1 Year 9 Months	1 Year 4 Months	1 Years 0 Month
	<b>Crimes Against Property</b>	<b>Cheating</b>	<b>Criminal Trespass</b>	<b>Theft</b>	<b>Bouncing of Cheque</b>
High	3 Years 9 Months	3 Years 11 Months	2 year 10 Months	3 Year 10 Months	5 years 5 Months
Medium	3 Years 5 Months	3 Years 6 Months	3 Year 6 Months	3 Year 0 Months	5 years 5 Months
Low	1 Year 4 Months	1 Year 10 Months	1 Year 2 Months	1 Year 4 Months	1 Year 1 Month
	<b>Local and Special Laws</b>	<b>Special Laws</b>	<b>Special Offence</b>	<b>Gambling</b>	
High	0 Year 0 Months	0 Year 0 Months	0 Year 0 Months	0 Year 0 Months	
Medium	1 Year 11 Months	1 Year 3 Months	3 Years 2 Months	0 Year 0 Months	
Low	0 Year 9 Months	0 Year 10 Months	0 Year 9 Months	0 Year 6 Months	

The findings are of a similar nature when we look at results for civil cases in terms of average duration of cases of different complexity. **Table B-6** below lays out the civil case average duration data according to complexity.

Once again, it needs to be borne in mind here that since comparatively very few civil cases in the sample fell in the ‘High Complexity’ category as compared to those that fell in ‘Medium Complexity’ and ‘Low Complexity’ categories the average duration of ‘High Complexity’ cases is based on a relatively small sample number. Even then there are some clear and logical trends that emerge from Table B-6. In the broad categories of ‘Property,’ ‘Contractual,’ ‘Family,’ and ‘Rent’ cases the ‘High Complexity’ and ‘Medium Complexity’ cases take more than double the time (and at times even thrice as much time) to be disposed than ‘Low Complexity cases. This is an intuitive and logical result.

The most significant finding, however, is the fact that the average duration of ‘High Complexity’ ‘Property’ Cases,’ which is 3 years and 10 months and that of ‘Medium Complexity’ cases in this category, which is 3 years and 1 month, is palpably high considering that this average includes cases that were disposed early and never went through the full cycle of a civil case. The same can also be said for ‘Contractual’ cases, where the average duration of ‘High Complexity’ cases’ is 3 years and 5 months, and that of ‘Medium Complexity’ cases is also 3 years and 5 months. In case of ‘Family’ cases ‘High Complexity’ cases took 2 years on the average to dispose and ‘Medium Complexity’ cases took 1 year and 8 months to dispose. Finally, for ‘Rent’ cases, ‘High Complexity’ cases consumed 3 years and 6 months on the average and ‘Medium Complexity’ cases took 5 months to dispose on the average.

Another telling finding, however, is that the average duration of ‘Low Complexity’ cases is also – objectively speaking – quite high. For instance, the average duration of ‘Low Complexity’ ‘Property’ cases

is 2 years; the average duration of 'Low Complexity' 'Contractual' cases is 1 year and 11 months; the average duration of 'Low Complexity' 'Family' cases is 11 months; and, the average duration of 'Low Complexity' 'Rent' cases is 9 months.

**Table B-6 Average Duration of Civil Cases according to Case Complexity**

Civil Cases: Average Duration by Complexity							
	Broad Categories	Sub Categories					
	Property	Possession	Pre-emption	Specific Performance	Declaration	Partition	Succession
High	3 years 10 Months	4 years 2 Months	3 Years 6 Months	4 Years 4 Months	4 Years 4 Months	0 Year 0 Month	0 Year 2 Months
Medium	3 years 1 Month	4 Years 10 Months	4 Years 3 Months	3 Years 11 Months	2 Years 6 Months	3 Years 9 Months	0 Year 6 Months
Low	2 Years 0 Months	2 years 10 Months	2 Years 3 Months	2 Years 1 Months	2 Years 4 Months	2 Years 6 Months	0 Year 4 Months
	Contractual	Negotiable Instruments	Recovery of Money	Commercial Disputes			
High	3 Years 5 Months	3 Years 3 Months	3 Years 8 Months	2 Years 10 Months			
Medium	3 Years 5 Months	3 Years 5 Months	3 Years 6 Months	1 Year 6 Months			
Low	1 Year 11 Months	2 Years 6 Months	2 Years 0 Months	1 Year 1 Month			
	Family	Maintenance	Custody	Guardianship	Divorce		
High	2 Years 0 Months	2 Years 2 Months	1 Year 6 Months	0 Year 1 Month	2 Years 1 Month		
Medium	1 Year 8 Months	2 Years 0 Months	0 Year 7 Months	1 Year 1 Month	0 Year 8 Months		
Low	0 Year 11 Months	1 Year 4 Months	0 Year 9 Months	0 Year 10 Months	0 Year 7 Months		
	Rent	Ejectment					
High	3 Years 6 Months	3 Years 6 Months					
Medium	0 Year 5 Months	0 Year 5 Months					
Low	0 Year 9 Months	0 Year 9 Months					

The analysis conducted in **Tables B-1 to B-6** highlights and confirms both that complex cases take more time on the average than less complex ones and also that the random sample used for this report is by and large characterised by cases that are moderately complex or less complex. Furthermore, it also emerges from this analysis that given that a vast majority of the cases are not that complex their average duration is quite high.

It would be instructive now to focus purely on the 'High Complexity' cases and gauge both their share of the overall sample as well as the typical outcomes of such cases. **Table B-7** provides aggregate numbers for disposal of all the 'High Complexity' criminal and civil cases in the sample according to their outcomes. Two findings are quite apparent. First, the 'High Complexity' cases constitute a very small proportion of the overall sample: on the criminal side there are only 31 'Crimes against Person' cases, 6 'Crimes against Property' cases, and no 'Local and Special Laws' cases that could be categorised as 'High Complexity' cases due to the high number of 'documents' and witnesses presented in these cases; on the Civil side, only 31 'Property' cases, 9 'Contractual' cases, 19 'Family' cases and 4 'Rent' cases could be categorised as 'High Complexity' cases due to the high number of 'documents' and witnesses presented

in these cases. Second, 3/4th of all the 'High Complexity' cases have been decided on merits while 1/4th resulted in acquittals, compromises, withdrawal of suits, dismissals, adjourned *sine die* or *ex parte* decisions, as applicable. Collectively speaking, out of the 100 'High Complexity' cases across all the criminal and civil categories 76 (which is also 76%) were decided on merits while the remaining 24 (24%) were disposed through any of the other possible modes of disposal mentioned herein. The fact that 1/4<sup>th</sup> of all disposed 'High Complexity' cases were disposed in such manner means that the average duration numbers for 'High Complexity' cases have to be gauged while keeping this in mind.

**Table B-7 Aggregate Numbers for Disposal of 'High Complexity' Cases according to Outcomes**

Aggregate Numbers for Disposals for High Complexity Cases according to Disposal Type			
Criminal		Civil	
Disposal Type	Crimes Against Person	Disposal Type	Property
All	31	All	31
Judgement on Merits	26	Judgement on Merits	21
Disposal through other procedures	5	Disposal through other procedures	10
Compromised		Compromised	3
Withdrawal by Prosecution		Withdrawal of suit with permission	
Acquittal under S 249A		Withdrawal of suit without permission	1
Acquittal under S 265K	5	Dismissals	1
Consigned to Record Room		Rejection of Plea under O 7 R 11	
Guilty Plea		Return of Plea under O 7 R 10	
		Adjourned <i>Sine Die</i>	1
		<i>Ex Parte</i>	4
	Crimes Against Property		Contractual
All	6	All	9
Judgement on Merits	5	Judgement on Merits	5
Disposal through other procedures	1	Disposal through other procedures	4
Compromised		Compromised	
Withdrawal by Prosecution		Withdrawal of suit with permission	
Acquittal under S 249A	1	Withdrawal of suit without permission	
Acquittal under S 265K		Dismissals	
Consigned to Record Room		Rejection of Plea under O 7 R 11	
Guilty Plea		Return of Plea under O 7 R 10	
		Adjourned <i>Sine Die</i>	
		<i>Ex Parte</i>	4

	Local and Special Laws		Family
All	0	All	19
Judgement on Merits		Judgement on Merits	15
Disposal through other procedures		Disposal through other procedures	4
Compromised		Compromised	1
Withdrawal by Prosecution		Withdrawal of suit with permission	
Acquittal under S 249A		Dismissals	
Acquittal under S 265K		Rejection of Plea under O 7 R 11	
Consigned to Record Room		Return of Plea under O 7 R 10	
Guilty Plea		Adjourned <i>Sine Die</i>	
		<i>Ex Parte</i>	3
			Rent
		All	4
		Judgement on Merits	4
		Disposal through other procedures	0
		Withdrawal of suit without permission	
		Compromised	
		Withdrawal of suit with permission	
		Dismissals	
		Rejection of Plea under O 7 R 11	
		Return of Plea under O 7 R 10	
		Adjourned <i>Sine Die</i>	
		<i>Ex Parte</i>	

### C) Outcome of Cases and Duration

The previous two sections provided us an indication of the durations and average durations of different types of criminal and civil cases in the sample according to their nature and complexity.

It emerged that all things considered the duration numbers are on the high side. But how high is this high? One important factor that has been mentioned time and again in this Report but will now be explored in greater detail is that of case outcomes. As explained before, it is perfectly clear that a standard contested criminal or civil case that goes through all the legally available prescribed stages to ensure due process and that eventually reaches a judicial decision on merits is a very different phenomenon as compared to a case that is disposed early for any reason. Of course, early disposal is not necessarily an undesirable thing. If anything, it can be quite desirable in various instances because it evidences that the court is ensuring that legal contestations come to as early an end as they can as long as the ends of justice are fully met; or that it is making certain that those unmeritorious cases that don't deserve to stay in the legal system are extricated from it as soon as possible in order to free up precious court time and resources for other cases that deserve greater attention.

#### Criminal Cases

**Table C-1** lays out the breakup of criminal cases according to their outcomes. These outcomes are classified according to the procedure employed with cases 'decided on merit' undergoing the full legal process and hence lasting longer than those that come to an early end due to the following procedures:

- (i) Compromises;
- (ii) Cases withdrawn by Prosecution;



- (iii) Guilty pleas;
- (iv) Acquittals under Section 249-A or 265-K of the Criminal Code (at any stage, because the court feels that the charge is groundless or there is no probability of the accused being convicted of any offence);<sup>18</sup> and
- (v) Cases consigned to the record room for absence of prosecution witnesses.

**Table C-1 shows that cases decided through ‘judgement on merits’ constitute only a small portion of all disposed criminal cases that constitute the sample dataset for this Report**

As a matter of fact, if we look at the three broad categories of ‘Crimes against Person,’ ‘Crimes against Property,’ and ‘Local and Special Laws,’ cases decided through judgement on merits comprise roughly 16%, 10%, and 9.5% respectively of all disposed cases in these three categories. The key findings from this analysis are as follows:

- To the extent that this is a representative sample of typically disposed cases a very small proportion of cases are ‘decided on merits’ and thereby consume the full legal process.
- Vast majority of cases comes to a relatively premature end for a whole host of reasons.
- In terms of gauging the duration numbers discussed in Section A above, it is important to acknowledge that these average duration numbers are largely drawn from cases that did not employ the entire legal process and go through all the prescribed stages. If these were excluded, averages would be significantly higher than they already are.
- Whether courts consciously take on less complex cases because such cases seem to comprise a very small component of typically disposed cases is a thought worth further exploration.

The very high numbers of acquittals under Sections 249-A and 265-K also tell an important story – a number of criminal defendants are prosecuted without sufficient evidence. The number of total acquittals also shows this – acquittals account for 66% of the outcomes in all ‘Crimes against Person’ and 62.5% of all ‘Crimes against Property’ cases in the sample.

This flags two very important observations. First, given that so many of the criminal cases came to an end due to acquittals at various stages of the case, the average duration of ‘Crimes against Person’ cases is quite high at one year and eight months; further, the average duration of ‘Crimes against Property’ cases is also quite high at one year and six months – as presented in Module A of this section. Second, with such a high proportion of these cases resulting in acquittals, the inescapable conclusions are both that far too many unmeritorious cases (suffering from weak police investigations and/or prosecutions) went to trial and consumed the courts’ precious time and also that cases in which robust police investigations and prosecution had taken place were very few.

In addition, almost 16% of the ‘Crimes against Person’ and 20.5% of the ‘Crimes against Property’ cases resulted in compromises. It would be instructive to see later in this Report that at which stage of their lives were these cases compromised. Also, in those cases where the outcomes were acquittals, it will be instructive to determine at which stages of their lives did the acquittals take place. If compromises and acquittals are mostly taking place at the early stages then that points to inadequate pre-trial scrutiny/inability to keep unmeritorious cases out of the court system.

<sup>18</sup>S. 249-A of the Criminal Code: **Power of Magistrate to acquit accused at any stage.** Nothing in this Chapter shall be deemed to prevent a Magistrate from acquitting an accused at any stage of the case if, after hearing the prosecutor and the accused and for reasons to be recorded, he considers that the charge is groundless or that there is no probability of the accused being convicted of any offence; S. 265-K of the Criminal Code: **Power of Court to acquit accused at any stage.** Nothing in this Chapter shall be deemed to prevent a Court from acquitting an accused at any stage of the case; if, after hearing the prosecutor and the accused and for reasons to be recorded, it considers that there is no probability of the accused being convicted of any offence.

In case of 'Local and Special Laws' only 9.5% of the cases were decided on merits and in as many as 85.5% of cases the accused pleaded guilty – thus indicating the very high possibility of an early disposal. And yet the average duration of 'Local and Special' Laws cases is still ten month.

**Table C-1 Aggregate Numbers for Disposed Criminal Cases according to Outcomes**

	Criminal Cases: Aggregate Number of Disposals according to Outcomes				
	Broad Categories	Sub Categories			
Disposal Type	Crimes Against Person	Homicide	Hurt	Kidnapping	Sexual Offence
All	222	55	64	48	55
Judgement on Merits	36	22	6	3	5
Disposal through other procedures	186	33	58	45	50
Compromise	35	9	23	2	1
Withdrawal by Prosecution	2	1	0	1	0
Acquittal under S 249A	52	0	34	10	8
Acquittal under S 265K	95	23	0	31	41
Consigned to Record Room	2	0	1	1	0
Plead Guilty	0	0	0	0	0
	Crimes Against Property	Cheating	Criminal Trespass	Theft	Bouncing of Cheque
All	339	64	92	96	87
Judgement on Merits	35	10	14	9	2
Disposal through other procedures	304	54	78	87	85
Compromise	70	2	6	3	59
Withdrawal by Prosecution	2	0	1	1	0
Acquittal under S 249A	211	45	69	73	24
Acquittal under S 265K	1	0	0	1	0
Consigned to Record Room	14	7	2	3	2
Plead Guilty	6	0	0	6	0
	Local and Special Laws	Special Laws	Special Offences	Gambling	
All	146	54	76	16	
Judgement on Merits	14	9	5	0	
Disposal through other procedures	132	45	71	16	
Compromise	0	0	0	0	
Withdrawal by Prosecution	0	0	0	0	
Acquittal under S 249A	5	3	2	0	
Acquittal under S 265K	1	0	1	0	
Consigned to Record Room	1	1	0	0	
Plead Guilty	125	41	68	16	

## Civil Cases

The situation when it comes to the sample dataset for civil cases is not dissimilar to the one for criminal cases. **Table C-2** lays out the breakup of civil cases according to their outcomes. Cases ‘decided on merit’ invariably undergo the full legal process and hence last longer than those that come to an end because of the following procedures:

- (i) Compromise;
- (ii) Cases withdrawn with the Court’s permission;
- (iii) Cases withdrawn without the Court’s permission;
- (iv) Dismissed Cases;
- (v) Plaints rejected under Order 7 Rule 11 of the Civil Code;<sup>19</sup>
- (vi) Plaints rejected under Order 7 Rule 10 of the Civil Code;<sup>20</sup>
- (vii) Dismissed Cases;
- (viii) *Sine Die* adjournments; and
- (ix) *Ex Parte* Decisions.

Table C-2 shows that cases where a ‘judgement on merits’ was delivered constitute only a small portion of all the disposed civil cases that constitute the sample dataset for this Report. As a matter of fact, if we look at the four broad categories of ‘Property,’ ‘Contractual,’ ‘Family,’ and ‘Rent,’ cases decided through judgement on merits comprise roughly 21%, 19.5%, 33% and 44% respectively of all disposed cases in these four categories. Other key findings from this analysis are as follows:

- To the extent that this is a representative sample of typically disposed civil cases in the district courts a very small proportion of such cases (especially for ‘Property’ and ‘Contractual’ cases) are ‘decided on merits’ and thereby consume the full legal process.
- In terms of gauging the duration numbers discussed in Section A above, it therefore, becomes highly significant to acknowledge that these average duration numbers largely stem from cases that did not employ the entire legal process and go through all the prescribed stages. If these were excluded, averages would be significantly higher than they already are.
- Whether courts consciously take on less complex cases because such cases seem to comprise a very small component of typically disposed cases is a thought worth further exploration.

An interesting finding is the number of suits withdrawn (with or without permission of the Court). As many as 15% of the ‘Property’ cases; 16.5% of the ‘Contractual’ cases; and, 18% of the ‘Rent’ cases were withdrawn, with the predominant majority of these cases being withdrawn without permission of the Court. This too flags two very important observations. First, given that so many of the civil cases came to a premature end due to withdrawal of suits at various stages of the case, the average duration of civil cases presented in Module A of this Section of the Report is quite high. Second, with such a high proportion of these cases resulting in withdrawal of suits the inescapable conclusions are that either pre admission scrutiny is weak or these cases have been settled. If we add to these the component of cases that ended in dismissals due to non-prosecution and *ex parte* decisions – thus not necessarily undergoing

<sup>19</sup>According to Order 7 Rule 11: The plaint shall be rejected in the following cases:

- a) where it does not disclose a cause of action;
- b) where the relief claimed is under-valued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- d) Where the suit appears from the statement in the plaint to be barred by any law.

<sup>20</sup>According to Order 7 Rule 10: 1) the plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.

(2) On returning a plaint the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it.

the full court process – this too makes the average duration of civil cases presented in Module A of this Section of the Report appear quite high. Of all the ‘Property’ cases, 21% ended in dismissals and 17.5% ended in ex parte orders; of all the ‘Contractual’ cases, 31% ended in dismissals and 27% ended in ex parte orders; of all the ‘Family’ cases, 7% ended in dismissals and 37% ended in ex parte orders; and, of all the ‘Rent’ cases, 4% ended in dismissals and 34% ended in ex parte orders.

In addition, 23% of ‘Property’ cases and 20% of the ‘Family’ cases resulted in compromises. If compromises are mostly taking place at the early stages of cases then that points to absence of case diversionary procedures. Data further indicates that 21% of ‘Property’ suits and 31% of ‘Contractual’ cases were dismissed. If dismissals are mostly taking place at the early stages of cases then that points to the additional problem of inadequate pre- trial scrutiny.

**Table C-2 Aggregate Numbers for Disposed Civil Cases according to Outcomes**

Civil Cases: Aggregate Number of Disposals according to Outcomes							
	Broad Categories	Sub Categories					
Disposal Type	Property	Possession	Pre-emption	Specific Performance	Declaration	Partition	Succession
All	352	57	51	69	80	31	63
Judgement on Merits	75	12	13	12	31	3	4
Disposal through other procedures	277	45	38	57	49	28	59
Compromise	82	5	6	21	2	6	42
Withdrawal of Suit without permission	52	11	14	13	5	8	0
Withdrawal of Suit with permission	1	0	0	0	0	1	0
Dismissals	75	17	18	7	23	9	1
Rejection of Complaint under Order 7 Rule 11	2	1	0	0	1	0	0
Return of Complaint under Order 7 Rule 10	0	0	0	0	0	0	0
<i>Sine Die</i>	3	0	0	0	1	2	0
<i>Ex Parte</i>	62	11	0	16	17	2	16
	Contractual	Negotiable Instruments	Recovery of Money	Commercial Disputes			
All	170	28	110	32			
Judgement on Merits	33	11	20	2			
Disposal through other procedures	137	17	90	30			
Compromise	0	0	0	0			
Withdrawal of suit without permission	27	1	24	2			
Withdrawal of suit with permission	1	0	1	0			
Dismissals	53	1	31	21			
Rejection of Complaint under Order 7 Rule 11	6	0	4	2			
Return of Complaint under Order 7 Rule 10	3	1	1	1			
<i>Sine Die</i>	1	0	1	0			
<i>Ex Parte</i>	46	14	28	4			

	Family	Maintenance	Custody	Guardianship	Divorce		
All	197	83	6	53	55		
Judgement on Merits	65	46	1	6	12		
Disposal through other procedures	132	37	5	47	43		
Compromise	40	9	1	28	2		
Withdrawal of suit without permission	5	5	0	0	0		
Withdrawal of suit with permission	0	0	0	0	0		
Dismissals	14	4	2	7	1		
Rejection of Complaint under Order 7 Rule 11	0	0	0	0	0		
Return of Complaint under Order 7 Rule 10	0	0	0	0	0		
<i>Sine Die</i>	0	0	0	0	0		
<i>Ex Parte</i>	73	19	2	12	40		
	Rent	Ejectment					
All	50	50					
Judgement on Merits	22	22					
Disposal through other procedures	28	28					
Compromised	0	0					
Withdrawal of suit without permission	8	8					
Withdrawal of suit with permission	1	1					
Dismissals	2	2					
Rejection of Complaint under Order 7 Rule 11	0	0					
Return of Complaint under Order 7 Rule 10	0	0					
<i>Sine Die</i>	0	0					
<i>Ex Parte</i>	17	17					

## Case Duration and Average Duration Numbers in Context: Accounting for Complexity and Nature of Outcomes

### Criminal

The analysis of the duration numbers for criminal cases presented in **Module A** can thus be further fine-tuned by using the case complexity numbers provided in **Module B** and the case outcomes details put out in **Module C**.

As has been illustrated, cases of 'Medium Complexity' and 'Low Complexity' constitute the predominant portion of the criminal case law data set. The outcomes data pertaining to these categories presents some striking results when juxtaposed against the average duration of cases in these categories laid out in Table B-5 above.

Overall just 12% of the cases were decided on merit and thus followed the full available legal process while the rest were disposed earlier in various manners.

#### (1) Crimes against Person

'Judgement on Merits' is the outcome in 42% of all 'Crimes Against Person' cases of 'Medium Complexity.' 58% of these cases, however, resulted in acquittals under Sections 249-A and 265-K of the Criminal Code, which could be at any stage of the case. And yet the average duration of 'Medium Complexity' 'Crimes Against Person' cases is still as high as two years and ten months.

'Judgement on Merits' is the outcome in only 1% of all 'Crimes Against Person' cases of 'Low Complexity.' 77% of these cases resulted in acquittals under Sections 249-A and 265-K of the Criminal Code, which could be at any stage of the case. And yet the average duration of 'Low Complexity' 'Crimes Against Person' cases is still as high as one year and four months.

**(2) Crimes against Property**

'Judgement on Merits' is the outcome in only 14% of all 'Crimes Against Property' cases of 'Low Complexity.' 22% of these cases ended in compromises, which could be at any stage of the case. Furthermore, as many as 66.5% of these cases resulted in acquittals under Sections 249-A of the Criminal Code, which could be at any stage of the case. And yet the average duration of 'Low Complexity' 'Crimes Against Person' cases is still high at one year and four months.

**(3) Local and Special Laws**

'Judgement on Merits' is the outcome in only 8.5% of all 'Local and Special Laws' cases of 'Low Complexity.' 87% of these cases resulted in guilty pleas, which means that the cases did not proceed for their entire possible length and ended earlier. And yet the average duration of 'Low Complexity' 'Local and Special Laws' cases is still nine months.

**Table C-3 Aggregate Numbers for Disposed Criminal Cases according to Outcomes**

Criminal Cases: Aggregate Disposal Outcomes by Complexity															
				High C			Medium C			Low C					
Disposal Type	Broad Categories			Sub Categories											
	Crimes Against Persons			Homicide			Hurt			Kidnapping			Sexual Offence		
All	31	19	172	26	6	23	2	4	58	1	4	43	2	5	48
Judgement on Merits	26	8	2	21	1	0	2	3	1	1	1	1	2	3	0
Disposal through other Procedures	5	11	170	5	5	23	0	1	57	0	3	42	0	2	48
Compromise	0	0	35	0	0	9	0	0	23	0	0	2	0	0	1
Withdrawal by Prosecution	0	0	2	0	0	1	0	0	0	0	0	1	0	0	0
Acquittal under S 249A	0	1	51	0	0	0	0	1	33	0	0	10	0	0	8
Acquittal under S 265K	5	10	80	5	5	13	0	0	0	0	3	28	0	2	39
Consigned to Record Room	0	0	2	0	0	0	0	0	1	0	0	1	0	0	0
Plead Guilty	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Disposal Type	Crimes Against Property			Cheating			Criminal Trespass			Theft			Bouncing of Cheque		
All	6	21	312	1	6	57	2	9	81	2	5	89	1	1	85
Judgement on Merits	5	17	13	1	6	3	2	7	5	1	4	4	1	0	1
Disposal through other Procedures	1	4	299	0	0	54	0	2	76	1	1	85	0	1	84
Compromise	0	1	69	0	0	2	0	0	6	0	1	2	0	0	59
Withdrawal by Prosecution	0	0	2	0	0	0	0	0	1	0	0	1	0	0	0
Acquittal under S 249A	1	2	208	0	0	45	0	1	68	1	0	72	0	1	23
Acquittal under S 265K	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0
Consigned to Record Room	0	1	13	0	0	7	0	1	1	0	0	3	0	0	2
Plead Guilty	0	0	6	0	0	0	0	0	0	0	0	6	0	0	0
Disposal Type	Local and Special Laws			Special Laws			Special Offence			Gambling					
All	0	8	138	0	5	49	0	3	73	0	0	16			
Judgement on Merits	0	2	12	0	1	8	0	1	4	0	0	0			
Disposal through other Procedures	0	6	126	0	4	41	0	2	69	0	0	16			
Compromise	0	0	0	0	0	0	0	0	0	0	0	0			
Withdrawal by Prosecution	0	0	0	0	0	0	0	0	0	0	0	0			
Acquittal under S 249A	0	0	5	0	0	3	0	0	2	0	0	0			
Acquittal under S 265K	0	0	1	0	0	0	0	0	1	0	0	0			
Consigned To Record Room	0	1	0	0	1	0	0	0	0	0	0	0			
Plead Guilty	0	5	120	0	3	38	0	2	66	0	0	16			

## Civil

The analysis of the duration numbers for civil cases presented in **Module A** can be further fine-tuned by using the case complexity numbers provided in **Module B** and the case outcomes put out in **Module C**.

Cases of 'Medium Complexity' and 'Low Complexity' also constitute the predominant portion of the civil case law data set. The outcomes data pertaining to these categories presents some striking results when juxtaposed against the average duration of cases in these categories laid out in Table B-6 above.

Overall just over 25% of the cases were decided on merit and thus followed the full available legal process while the rest were disposed earlier in various manners.

### (1) Property

'Judgement on Merits' is the outcome in 44% of all 'Property' cases of 'Medium Complexity.' 21% of these cases, however, resulted in compromises, which could be at any stage of the case. Another 24.5% cases ended with ex parte decisions, which meant that they did not necessarily undergo the full possible duration and all the steps of the case. And yet the average duration of 'Medium Complexity' 'Property' cases is still as high as three years and one month.

'Judgement on Merits' is the outcome in only 8% of all 'Property' cases of 'Low Complexity.' 26% of such cases ended in compromises, which could be at any stage of the case. Furthermore, as many as 19% of such cases came to an end because the suits were withdrawn without the permission of the court, which could be at any stage of the case. Another 29% were dismissed, which too could be at an earlier stage of the case. Finally, another 16% cases ended with ex parte decisions, which meant that they did not necessarily undergo the full possible duration and all the steps of the case. And yet the average duration of 'Low Complexity' 'Property' cases is still as high as two years.

### (2) Contractual

'Judgement on Merits' is the outcome in only 9% of all 'Contractual' cases of 'Low Complexity.' 21% of these cases, however, resulted in compromises, which could be at any stage of the case. Another 24.5% cases ended with ex parte decisions, which meant that they did not necessarily undergo the full possible duration and all the steps of the case. Further, as many as 24.5% of such cases came to an end because the suits were withdrawn without permission of the court, which could be at any stage of the case. Another 38.5% were dismissed, which too could be at an earlier stage of the case. Another 26% cases ended with ex parte decisions, which meant that they did not necessarily undergo the full possible duration and all the steps of the case. Finally, in another 6.5% of the cases the plaint was rejected or returned, which happens at an early stage of the case. And yet the average duration of 'Low Complexity' 'Contractual' cases is still as high as one year and eleven months or almost two years.

### (3) Family

'Judgement on Merits' is the outcome in 39% of all 'Family' cases of 'Medium Complexity.' 43% of these cases, however, resulted in compromises, which could be at any stage of the case. Another 18% cases ended with ex parte decisions, which meant that they did not necessarily undergo the full possible duration and all the steps of the case. And yet the average duration of 'Medium Complexity' 'Family' cases is still one year and eight months.

'Judgement on Merits' is the outcome in only 26% of all 'Family' cases of 'Low Complexity.' 22.5% of these cases, however, resulted in compromises, which could be at any stage of the case. Another 38.5% cases ended with ex parte decisions, which meant that they did not necessarily undergo the full possible duration and all the steps of the case. Furthermore, another 9.5% were dismissed, which too could be at an earlier stage of the case. And yet the average duration of 'Low Complexity' 'Contractual' cases is still eleven months.



**(4) Rent**

'Judgement on Merits' is the outcome in 41.5% of all 'Rent' cases of 'Low Complexity.' In 58.5% of these cases the suit was withdrawn or dismissed or the decision was ex parte, which could be at any earlier stage of the case. And yet the average duration of 'Low Complexity' 'Rent' cases is still nine months.

**Table C-4 Aggregate Numbers for Disposed Civil Cases according to Outcomes**

Civil Cases: Aggregate Disposal Outcomes by Complexity																							
<table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 33%; background-color: #f28b82;">High C</td> <td style="width: 33%; background-color: #ffff00;">Medium C</td> <td style="width: 33%; background-color: #c6e0b4;">Low C</td> </tr> </table>																					High C	Medium C	Low C
High C	Medium C	Low C																					
Disposal Type	Broad Categories			Sub Categories																			
	Property			Possession			Pre-emption			Specific Performance			Declaration			Partition			Succession				
All	31	77	244	5	11	41	7	8	36	6	17	46	11	23	46	0	4	27	2	13	48		
Judgement on Merits	21	34	20	4	4	4	6	7	0	3	6	3	8	14	9	0	1	2	0	2	2		
Disposal through other Procedures	10	43	224	1	7	37	1	1	36	3	11	43	3	9	37	0	3	25	2	11	46		
Compromise	3	16	63	0	0	5	0	0	6	2	3	16	0	0	2	0	2	4	1	11	30		
Withdrawal of suit without permission	1	5	46	0	1	10	1	1	12	0	1	12	0	1	4	0	0	8	0	0	0		
Withdrawal of suit with permission	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0		
Dismissals	1	3	71	0	0	17	0	0	18	0	0	7	1	2	20	0	1	8	0	0	1		
Rejection of Plaintiff under O 7 R 11	0	0	2	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0		
Return of Plaintiff under O 7 R 10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
<i>Sine Die</i>	1	0	2	0	0	0	0	0	0	0	0	0	1	0	0	0	0	2	0	0	0		
<i>Ex Parte</i>	4	19	39	1	6	4	0	0	0	1	7	8	1	6	10	0	0	2	1	0	15		
	Contractual			Negotiable Instruments			Recovery of Money			Commercial Disputes													
All	9	24	137	3	9	16	5	14	91	1	1	30											
Judgement on Merits	5	15	13	2	6	3	3	9	8	0	0	2											
Disposal through other Procedures	4	9	124	1	3	13	2	5	83	1	1	28											
Compromise	0	0	0	0	0	0	0	0	0	0	0	0											
Withdrawal of suit without permission	0	3	24	0	1	0	0	2	22	0	0	2											
Withdrawal of suit with permission	0	0	1	0	0	0	0	0	1	0	0	0											
Dismissals	0	0	53	0	0	1	0	0	31	0	0	21											
Rejection of plaintiff under O 7 R 11	0	0	6	0	0	0	0	0	4	0	0	2											
Return of Plaintiff under O 7 R 10	0	0	3	0	0	1	0	0	1	0	0	1											
<i>Sine Die</i>	0	0	1	0	0	0	0	0	1	0	0	0											
<i>Ex Parte</i>	4	6	36	1	2	11	2	3	23	1	1	2											

	Family			Maintenance			Custody			Guardianship			Divorce							
All	19	28	150	50	18	50	1	1	4	1	8	44	2	1	52					
Judgement on Merits	15	11	39	23	10	23	1	0	0	0	1	5	1	0	11					
Disposal through other Procedures	4	17	111	27	8	27	0	1	4	1	7	39	1	1	41					
Compromise	1	5	34	7	2	7	0	0	1	1	3	24	0	0	2					
Withdrawal of suit without permission	0	0	5	5	0	5	0	0	0	0	0	0	0	0	0					
Withdrawal of suit with permission	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0					
Dismissals	0	0	14	4	0	4	0	0	2	0	0	7	0	0	1					
Rejection of Complaint under O 7 R 11	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0					
Return of Complaint under O 7 R 10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0					
<i>Sine Die</i>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0					
<i>Ex Parte</i>	3	12	58	11	6	11	0	1	1	0	4	8	1	1	38					
	Rent			Ejectment																
All	4	5	41	4	5	41														
Judgement on Merits	4	1	17	4	1	17														
Disposal through other Procedures	0	4	24	0	4	24														
Compromise	0	0	0	0	0	0														
Withdrawal of suit without permission	0	0	8	0	0	8														
Withdrawal of suit with permission	0	0	1	0	0	1														
Dismissals	0	0	2	0	0	2														
Rejection of Complaint under O 7 R 11	0	0	0	0	0	0														
Return of Complaint under O 7 R 10	0	0	0	0	0	0														
<i>Sine Die</i>	0	0	0	0	0	0														
<i>Ex Parte</i>	0	4	13	0	4	13														

## Timing of Withdrawal of Suits and Compromises

### Criminal

**Table C-5** below highlights the stages of the criminal cases with the greatest incidence of withdrawal of cases and compromises. In ‘Crimes against Person’ it is the ‘service of summons,’ ‘charging’ and ‘close of prosecution evidence’ stages that stand out as the stages of the case where all the withdrawals and compromises took place. Whereas, in ‘Crimes against Property’ cases, once again these are the very stages where invariably all the withdrawals and compromises took place.

One immediate observation of concern is that to the extent that a vast majority of these withdrawals and compromises in ‘Crimes against Person’ and Crimes against Property’ cases took place at early stages of the case a more extensive and rigorous pre-trial scrutiny/effort to attempt ADR could have excluded some of these cases from the court system– while it may be true that withdrawals and compromises can take place in even otherwise robust and highly contentious cases to start with, given the large numbers of such outcomes chances are that some of these cases were always non-starters.

The other important observation is that considering that many of these cases were disposed at early stages of the case, the overall duration averages for criminal cases has to be gauged keeping in mind the short court life of these cases and their dampening impact on the overall average duration numbers.

**Table C-5 Aggregate Numbers: Compromises/Case Withdrawals according to Stages of Criminal Case**

Criminal Cases: Aggregate Number of Compromises and Case Withdrawals according to Stages of the Case					
	Broad Categories	Sub Categories			
Date of:	Crimes against Person	Homicide	Hurt	Kidnapping	Sexual Offence
Receipt of Challan in court	0	0	0	0	0
Service of summons	6	2	2	2	0
Charge	13	3	9	0	1
Start of prosecution evidence	0	0	0	0	0
Close of prosecution evidence	16	4	12	0	0
Recording of statement under S 342	0	0	0	0	0
Start of defence evidence	0	0	0	0	0
Close of defence evidence	0	0	0	0	0
	Crimes against Property	Cheating	Criminal Trespass	Theft	Bouncing of Cheque
Receipt of Challan in court	0	0	0	0	0
Service of summons	27	2	3	1	21
Charge	22	0	1	0	21
Start of prosecution evidence	0	0	0	0	0
Close of prosecution evidence	20	0	2	1	17
Recording of statement under S 342	0	0	0	0	0
Start of defence evidence	0	0	0	0	0
Close of defence evidence	1	0	0	1	0
	Local and Special Laws	Special Laws	Special Offence	Gambling	
Receipt of Challan in court	0	0	0	0	
Service of summons	0	0	0	0	
Charge	0	0	0	0	
Start of prosecution evidence	0	0	0	0	
Close of prosecution evidence	0	0	0	0	
Recording of statement under S 342	0	0	0	0	
Start of defence evidence	0	0	0	0	
Close of defence evidence	0	0	0	0	

## Civil

**Table C-6** lays out compromises and withdrawals in the civil cases data set according to where they occurred during the lives of the cases.

In 'Property' cases these events either occurred mostly at the very start of the case i.e. at the 'filing of plaint' or 'service of summons' stages, or towards the very end i.e. 'closing of plaintiff's evidence' or 'closing of defendant's evidence,' with some occurrences sprinkled across the middle stages.

In 'Contractual' cases compromises and withdrawals appear to have mostly taken place at the middle stage of 'formulation of issues;' and, in 'family' cases some of the compromises and withdrawals took place at the very early 'filing of plaint' or 'service of summons' stages while the larger proportion of compromises and withdrawals occurred at the later stages of 'closing of plaintiff's evidence' or 'closing of defendant's evidence.'

Once again, not only does this highlight the fact that an important chunk of the disposed civil cases exited the court system at early stages (due to compromises or withdrawals of suits) and hence by excluding these cases the average durations of these categories of cases becomes higher but also the fact that pre-trial scrutiny and case filtration mechanisms/case diversionary procedures need revisiting to exclude unmeritorious cases/cases ready for ADR from the court system. (See table on next page)

**Table C-6 Aggregate Numbers: Compromises/Case Withdrawals according to Stages of Civil Case**

Civil: Aggregate Number of Compromises and Withdrawals according to Stages of the Case																								
Broad Categories		Sub Categories																						
Date of:	Property			Possession			Pre-emption			Specific Performance			Declaration			Partition			Succession					
Filing Plaint Date	1	7	1	0	2	0	0	1	0	0	1	0	0	1	0	0	1	0	0	2	1	1	0	0
Service of Summon	16	9	0	4	3	0	2	2	0	7	1	0	0	0	0	3	3	0	0	0	0	0	0	0
Filing of Leave to Defend	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Filing of Reply to Leave to Defend	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Decision of Leave to Defend	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Filing Written Statement	7	9	0	0	1	0	0	0	0	5	6	0	0	2	0	1	0	0	1	0	0	1	0	0
Formulation of Issue	6	17	0	1	4	0	2	8	0	2	2	0	0	1	0	1	2	0	0	0	0	0	0	0
Start Plaintiffs Evidence	1	3	0	0	0	0	0	1	0	0	2	0	0	0	0	0	0	0	0	0	0	1	0	0
Close Plaintiffs Evidence	26	3	0	0	0	0	2	1	0	5	0	0	2	1	0	1	1	0	16	0	0	0	0	0
Start Defendants Evidence	0	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Close Defendants Evidence	25	3	0	0	1	0	0	1	0	2	0	0	0	0	0	0	0	0	23	0	0	0	0	0
	Contractual			Negotiable Instruments			Recovery of Money			Commercial Disputes														
Filing Plaint Date	0	2	1	0	0	0	0	0	1	0	2	0												
Service of Summon	0	3	0	0	0	0	0	3	0	0	0	0												
Filing of Leave to Defend	0	0	0	0	0	0	0	0	0	0	0	0												
Filing of Reply to Leave to Defend	0	0	0	0	0	0	0	0	0	0	0	0												
Decision of Leave to Defend	0	0	0	0	0	0	0	0	0	0	0	0												
Filing Written Statement	0	2	0	0	0	0	0	2	0	0	0	0												
Formulation of Issue	0	15	0	0	0	0	0	15	0	0	0	0												
Start Plaintiffs Evidence	0	2	0	0	0	0	0	2	0	0	0	0												
Close Plaintiffs Evidence	0	2	0	0	1	0	0	1	0	0	0	0												
Start Defendants Evidence	0	0	0	0	0	0	0	0	0	0	0	0												
Close Defendants Evidence	0	1	0	0	0	0	0	1	0	0	0	0												

	Family			Maintenance			Custody			Guardianship			Divorce								
Filing Plaintiff Date	0	3	0	0	3	0	0	0	0	0	0	0	0	0	0						
Service of Summon	5	0	0	3	0	0	0	0	0	0	0	0	2	0	0						
Filing of Leave to Defend	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0						
Filing of Reply to Leave to Defend	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0						
Decision of Leave to Defend	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0						
Filing Written Statement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0						
Formulation of Issue	4	0	0	2	0	0	0	0	0	2	0	0	0	0	0						
Start Plaintiffs Evidence	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0						
Close Plaintiffs Evidence	11	1	0	2	1	0	1	0	0	8	0	0	0	0	0						
Start Defendants Evidence	1	1	0	1	1	0	0	0	0	0	0	0	0	0	0						
Close Defendants Evidence	19	0	0	1	0	0	0	0	0	18	0	0	0	0	0						
	Rent			Ejectment																	
Filing Plaintiff Date	0	1	0	0	1	0															
Service of Summon	0	3	0	0	3	0															
Filing of Leave to Defend	0	1	0	0	1	0															
Filing of Reply to Leave to Defend	0	0	0	0	0	0															
Decision of Leave to Defend	0	0	0	0	0	0															
Filing Written Statement	0	1	0	0	1	0															
Formulation of Issue	0	1	0	0	1	0															
Start Plaintiffs Evidence	0	1	0	0	1	0															
Close Plaintiffs Evidence	0	0	1	0	0	1															
Start Defendants Evidence	0	0	0	0	0	0															
Close Defendants Evidence	0	0	0	0	0	0															

**D) Reasons for Delay**

Having already determined that the **optimal duration of a case is a function of its type as well as complexity**, a case may be efficiently conducted and its pace controlled by the court or there may be instances of excessive delay through multiple uncalled for adjournments, undue elongation of different stages/steps of the case, and an unnecessarily high number of hearings to decide different questions before the court. Further elaboration of the causes of delays is as follows:

**Adjournments**

The number of adjournments of hearings in a case is a very good indicator of how efficiently it has been conducted by the court. While there are legitimate justifications for adjourning hearings in some instances and the applicable law allows the judge such flexibility, adjournments also stem from a whole host of less than acceptable reasons. These reasons are:

- Judge’s lack of readiness or willingness to progress the case
- Counsels’ lack of readiness or willingness to progress the case
- Judge’s inability to manage his/her docket
- Judge’s inability to enforce his/her orders or to thwart delaying tactics employed by either or both parties
- Judge’s unavailability due to reasons within or beyond his/her control

**Aggregate Adjournments**

**Table D-1** below provides aggregate numbers for adjournments in all the criminal sub-categories of the overall sample. Keeping in mind once again that the data includes simple as well as complex cases with different durations it can be seen that the classifications ‘16-20’ and ‘Greater than 20’ (shaded in the Table) have fairly sizable numbers. So in the broad categories of criminal cases, namely, ‘Crimes against

Person,' 'Crimes against Property,' and 'Local and Special Laws,' 47%, 31%, and 20% of the cases actually fall in these two categories i.e. this proportion of all cases in these sub-categories had 16 to 20 adjournments or greater than 20 adjournments during the course of their adjudication. Not only this, if we just look at the most extreme category of 'Greater than 20' adjournments it turns out that 38% of all cases involving 'Crimes against Person'; 23% of all cases involving 'Crimes against Property'; and 14% of all cases involving 'Local and Special Laws,' involved greater than 20 adjournments during the course of their adjudication.

**Table D-1 Aggregate Number of Adjournments in Categories and Sub-Categories of Criminal Cases**

Criminal Cases: Aggregate Adjournments					
	Broad Categories	Sub Categories			
	Crimes Against Person	Homicide	Hurt	Kidnapping	Sexual Offence
0	11	1	4	2	4
1-5	50	8	16	9	17
6-10	28	2	8	10	8
11-15	28	6	3	10	9
16-20	21	3	9	4	5
Greater Than 20	84	25	24	13	12
	Crimes Against Property	Cheating	Criminal Trespass	Theft	Bouncing of Cheques
0	44	5	14	7	18
1-5	109	17	30	31	31
6-10	50	6	15	15	14
11-15	30	6	7	12	5
16-20	29	8	7	9	5
Greater Than 20	77	22	19	22	14
	Local and Special Laws	Special Laws	Special Offence	Gambling	
0	33	10	17	6	
1-5	54	15	30	9	
6-10	21	10	10	1	
11-15	9	2	7	0	
16-20	8	4	4	0	
Greater Than 20	21	13	8	0	

Moving on to a similar analysis of civil cases it emerges that once again – as can be seen from **Table D-2** – a fairly large proportion of the cases involved a large number of adjournments. If we examine the main sub-categories of 'Property,' 'Contractual,' 'Family,' and 'Rent' we find out that almost 54% of all Property cases; almost 49% of all Contractual cases; 33.5% of all Family cases; and, 24% of all Rent cases involved either between 16 to 20 adjournments or greater than 20 adjournments (shaded in the Table). Even here, the larger number of cases lie in the segment denoting the highest number of adjournments i.e., greater than 20. In other words, 46% of all Property cases; 37.5% of all Contractual cases; 25% of all Family cases; and 18% of all Rent cases involved greater than 20 adjournments during the course of their lives.

**Table D-2 Aggregate Number of Adjournments in Categories and Sub-Categories of Civil Cases**

Civil Cases: Aggregate Adjournments <sup>21</sup>							
	Broad Categories	Sub Categories					
	Property	Possession	Pre-emption	Specific Performance	Declaration	Partition	Succession
0	25	1	3	2	0	1	8
1-5	68	6	4	15	5	6	32
6-10	35	6	5	8	10	2	4
11-15	30	2	4	10	8	3	3
16-20	27	5	4	5	8	4	1
Greater Than 20	157	34	30	28	45	15	4
	Contractual	Negotiable Instruments	Recovery of Money	Commercial Disputes			
0	8	1	6	1			
1-5	21	2	8	11			
6-10	33	3	19	11			
11-15	25	2	21	2			
16-20	19	4	12	3			
Greater Than 20	64	16	44	4			
	Family	Maintenance	Custody	Guardianship	Divorce		
0	14	4	0	3	7		
1-5	81	11	3	31	36		
6-10	24	11	0	6	7		
11-15	10	7	2	0	1		
16-20	16	12	1	3	0		
Greater Than 20	49	36	0	10	3		
	Rent	Ejectment					
0	5	5					
1-5	10	10					
6-10	10	10					
11-15	13	13					
16-20	3	3					
Greater Than 20	9	9					

### Average Number of Adjournments and Causes for Adjournments

#### Criminal

It would be instructive to now examine the sources and causes of adjournments – a significant phenomenon during the adjudicative process – as clearly evidenced by Tables D-1 and D-2 above.

**Table D-3** below indicates both average number of adjournments for all the sub-categories of criminal cases in the sample and also further breaks them up according to the primary instigators and/or causes for these adjournments. First of all, it is highly illuminating to observe the overall average number of adjournments in the different broad categories of criminal cases. There were an average of 23.5 adjournments per case in the cases involving ‘Crimes against Person’; an average of 13.3 adjournments per case in cases involving ‘Crimes against Property’; and, an average of 8.4 adjournments per case in cases involving ‘Local and Special Laws.’ Amongst these broad categories the clearly prominent sub-categories in terms of a very high frequency of adjournments are ‘Homicide’ (with an average of 43.1 adjournments per case); ‘Cheating’ (with an average of 19.2 adjournments per case); and cases involving

<sup>21</sup> This data does not include 10 Property and 3 Family cases due to incomplete Order Sheets.

‘Special Laws’ (with an average of 11.7 adjournments per case). The average number of adjournments is generally very high across all the sub-categories of ‘Crimes against Person.’

In terms of the instigators and causes for adjournments various reasons have been indicated as they emerged from the data, namely: defendants, strikes, judges, prosecution, the non-appointment of a judicial officer to adjudicate the case, and, the absence of the accused. Table D-3 divulges that while all these reasons contributed to the clearly very large number of adjournments in criminal cases the judicial officers themselves are by far the biggest contributors to the large number of adjournments reflected in the data – as ascertained by a scrutiny of the order sheets that indicate why an adjournment is taking place and at whose request (in case of any of the parties requesting it the order sheets mention that). This phenomenon, therefore, requires further scrutiny, as it is evident that average numbers are unusually high across almost all the various sub-categories of criminal cases.

What also has to be borne in mind is that the data set contains cases with all kinds of outcomes reached before a final disposal as well as final disposals based on judgements on merit. In other words, these are not all longer duration cases where the entire available legal process for a full trial was followed. If this is kept in view then the average number of adjournments appear to be extraordinarily high.

**Table D-3 Average Number of Adjournments in Categories and Sub-Categories of Criminal Cases according to their Instigators**

Criminal: Average Number of Adjournments according to their Instigators					
	Broad Categories	Sub Categories			
Type of Adjournment	Crimes against Person	Homicide	Hurt	Kidnapping	Sexual Offence
All	23.5	43.1	18.5	18.6	14.2
Defendants	2.6	7.5	0.6	1	1.4
Strikes	2.6	6	1.4	1.7	1.3
Judge	11	18.5	9.5	8.9	7.1
Prosecution	2.6	4.1	1.8	2.6	1.8
Non Appointment	0.3	0.6	0.09	0.22	0.4
Absence of Accused	3.4	4.6	4	3.5	1.6
	Crimes Against Property	Cheating	Criminal Trespass	Theft	Bouncing of Cheque
All	13.3	19.2	12	13	10.7
Defendants	0.6	0.9	0.6	0.6	0.5
Strikes	1	1.6	0.8	1.1	0.8
Judge	7.3	10.5	6.8	6.7	6.3
Prosecution	1.2	1.5	1.2	1.1	1
Non Appointment	0.04	0.07	0	0.06	0.04
Absence of Accused	2.6	3.9	2.1	3.1	1.6
	Local and Special Laws	Special Laws	Special Offences	Gambling	
All	8.4	11.7	7.5	1.5	
Defendants	0.5	0.7	0.5	0.06	
Strikes	0.42	0.48	0.47	0	
Judge	6	9	4.9	1.3	
Prosecution	0.2	0.12	0.34	0	
Non Appointment	0.1	0.2	0.05	0	
Absence of Accused	1	1.1	1.2	0.1	



## Civil

We move on now to an analysis of the average number of adjournments in the various categories and sub-categories of civil cases as well as the main contributors to and causes of such adjournments. **Table D-4** below indicates both average number of adjournments for all the sub-categories of civil cases in the sample and also further breaks them up according to the primary instigators and/or causes for these adjournments.

Like in the case of the average adjournments for criminal cases displayed in Table D-3 above, the averages are very high in the case of civil cases as well. There were an average of 24.9 adjournments per case in the 'Property' cases; an average of 21.5 adjournments per case in 'Contractual' cases; an average of 12.8 adjournments per case in 'Family' cases; and, and average of 14.64 adjournments per case in 'Rent' cases. Amongst these broad categories there are several sub-categories with a very high frequency of adjournments: the sub-categories of 'Possession,' 'Pre-emption,' 'Specific Performance,' 'Declaration,' and 'Partition' under the category of 'Property' cases; 'Negotiable Instruments,' and 'Recovery of Money' under the category of 'Contractual' cases; 'Maintenance' and 'Guardianship' under the category of 'Family' cases; and, all of the 'Rent' cases where the nature of litigation took the form of suits for 'ejectment.' As a matter of fact, almost all the sub-categories of civil cases divulge a very high number of adjournments as the norm.

In terms of the instigators and causes for adjournments various reasons have been indicated as they emerged from the data, namely: plaintiffs, defendants, both parties, strikes, and, judges. Table D-4 divulges that while all these reasons contributed to the clearly very large number of adjournments in civil cases the top three instigators for adjournments in three of the categories of civil cases (Property, Contractual and Family) are the plaintiffs, strikes by lawyers, and the judicial officers themselves. In the fourth category of civil cases (Rent), it turns out that the judicial officers are the main instigators of adjournments, followed by plaintiffs and strikes by lawyers almost tied in second place as the next major causes. The term 'plaintiffs' here denotes the parties that have filed the suits as well as their counsels and an adjournment has been ascribed to them in the data results if the order sheet of a case indicates that they are the ones who sought the adjournment.

Civil litigation in Pakistan is often critiqued for the long delays and a lot of blame is usually ascribed to plaintiffs and their lawyers who at times come to court not for seeking a legal solution but in order to embroil their opponents in a case and to coerce them by elongating litigation, thereby bolstering their negotiating leverage. Otherwise, it would make sense for people approaching the court to try and expedite a legal remedy. Quite apart from the fact that delays in meeting some legal requirements may have caused some of the adjournments, such high numbers for adjournments sought by the plaintiffs indicate that the plaintiffs and their lawyers in these cases could well have deliberately abused the legal process.

Over the past decade the increasingly weak regulation of the lawyer community by the bars and their frequent unruliness in courts is now a well-documented phenomenon. It is evidenced in this data set as adjournments caused due to strikes by lawyers come across as a palpable phenomenon and contributor to delay in justice delivery. Finally, as in the criminal cases, the judicial officers themselves seem to have weak control over the pace and progress of cases since not only have a sizable portion of the adjournments come at their behest but also because the overall high number of adjournments – for whatever reason – also display a general culture of not using the minimum required and necessary hearings to arrive at a decision.

What also has to be borne in mind is that the data set contains cases with all kinds of outcomes reached before a final disposal as well as final disposals based on judgements on merit. In other words, these are not all longer duration cases where the entire available legal process for a full trial was followed. If this is kept in view then the average number of adjournments appear to be extraordinarily high.

**Table D-4 Average Number of Adjournments in Categories and Sub-Categories of Civil Cases according to their Instigators**

Civil: Average Number of Adjournments <sup>22</sup>							
	Broad Categories	Sub Categories					
Type of Adj.	Property	Possession	Pre-emption	Specific Performance	Declaration	Partition	Succession
All	24.9	36	26.9	25.8	28.2	31.7	4.8
Plaintiff	7.7	12.1	7.9	8.6	8.1	7.3	2
Defendant	2.9	3.8	1.8	3.4	3.5	5.5	0.3
Both Parties	3.8	4.5	4.8	3.4	5.2	4.6	0.5
Strikes	5.9	7.7	7.2	5.9	6.9	8.2	0.8
Judge	4.5	7.8	5	4.3	4.5	6	1
Type of Adj.	Contractual	Negotiable Instruments	Recovery of Money	Commercial Disputes			
All	21.5	29.1	22.9	9.9			
Plaintiff	8	10.6	8.5	3.9			
Defendant	2.8	4.5	2.9	0.9			
Both Parties	2.2	3.7	2.2	0.8			
Strikes	4.7	5.8	5.2	2.1			
Judge	3.6	4.3	3.9	2			
Type of Adj.	Family	Maintenance	Custody	Guardianship	Divorce		
All	12.8	20.3	9	10.1	4.8		
Plaintiff	3.3	4.6	1.3	3.4	1.5		
Defendant	2.1	3.4	2.6	1.4	0.64		
Both Parties	1.7	3.2	0.16	1.09	0.22		
Strikes	3.1	5.2	3	2.2	0.92		
Judge	2.5	3.7	1.8	1.8	1.5		
Type of Adj.	Rent	Ejectment					
All	14.64	14.64					
Plaintiff	3.22	3.22					
Defendant	2.44	2.44					
Both Parties	2.2	2.2					
Strikes	3.2	3.2					
Judge	3.58	3.58					

Tables D-1, D-2, D-3 and D-4 have shown that adjournments are a rampant phenomenon in both criminal and civil cases (in terms of aggregate numbers as well as averages). However, this analysis involved the entire data set without distinguishing between cases that were more complex, of medium complexity and of less complexity (based on the number of witnesses and legal documents involved). While it is logical that a more complex case will take up greater time, consume more hearings and will proportionately also have a higher number of adjournments it is worth examining whether the increase in number of adjournments is plausible or disproportionately high.

### Adjournments according to Complexity and Instigators

#### Criminal

Table D-5 below indicates average adjournments across various categories of criminal cases according to the complexity of the case. The data puts across some very interesting results. The average number of adjournments in 'High Complexity' cases across the various sub-categories of criminal cases is understandably higher than the averages for all the cases (of different complexity) in such sub-categories (displayed in Table D-3 above). However, several striking results stand out:

<sup>22</sup> This data does not include 10 Property and 3 Family cases due to incomplete Order Sheets.

(1) The average number of adjournments for 'High Complexity' cases in various categories and sub-categories is not **just higher** than the average for those categories and sub-categories in various instances but **considerably higher** (at times even twice or thrice as high). For instance, while the average number of adjournments for the category 'Crimes against Person' is 23.5 adjournments per case and for 'Crimes against Property' is 13.3 adjournments per case (as can be seen in Table D-3) if we focus on the 'High Complexity' cases in these categories the average numbers of adjournments shoot up to an astounding 57.8 adjournments per case and 43 adjournments per case respectively. This incredible inflation in the average number of adjournments per case for 'High Complexity' cases can be seen across various sub-categories of criminal cases displayed in Table D-5 below.

(2) The same upward trend is also to be seen in 'Medium Complexity' cases as well. So for instance, while the average number of adjournments for the category 'Crimes against Person' is 23.5 adjournments per case and for 'Crimes against Property' is 13.3 adjournments per case if we focus on the 'Medium Complexity' cases in these categories these numbers shoot up to 43.7 adjournments per case and 43 adjournments per case respectively.

(3) It is thus only the comparatively much lower aggregate numbers of adjournments in the 'Low Complexity' cases that bring the overall averages somewhat down. The averages for adjournments are uniformly much lower across the various sub-categories of 'Low Complexity' cases.

(4) While the averages for 'High Complexity' and 'Medium Complexity' cases are consistently much higher than the averages for 'Low Complexity' cases, in a few instances the average number of adjournments for 'Medium Complexity' cases are even higher than those of the very high averages of 'High Complexity' cases (case sub-categories in point are 'kidnapping,' 'sexual offences,' 'criminal trespass,' and, 'bouncing of cheques'), thus underlining that the culture of adjournments characterises even cases that are relatively less complex and hence potentially requiring less adjudicative investment to reach an outcome.

(5) Consistent with the results in Table D-3, 'adjournments attributable to judges' (as opposed to any other factor) comes out as the leading reason for adjournments across the various sub-categories of criminal cases and also regardless of the level of complexity of the case.

(6) The upshot is that unless involved in a relatively simple case or one where an early outcome for a whole host of reasons is possible, one can expect multiple adjournments and the resulting delays before reaching a solution.

**Table D-5 Average Number of Adjournments in Criminal Cases (Case Complexity and Instigators)**

Criminal Cases: Average Number of Adjournments of Cases by Complexity and the Instigators															
Reason for Adjournment	Broad Categories			Sub Categories Averages											
	Crimes Against Person			Homicide			Hurt			Kidnapping			Sexual Offence		
All	57.8	43.7	15.3	62.2	42.6	21.6	52.0	52.0	15.6	14.0	42.5	16.5	29.0	41.2	10.8
Defendants	12.8	4.1	0.6	14.2	4.2	0.9	7.5	4.7	0.2	2.0	1.0	1.0	7.0	6.2	0.7
Strikes	9.5	4.1	1.1	9.8	6.3	1.6	10.5	5.3	0.9	0.0	3.5	1.6	9.5	1.4	1.0
Judge	20.6	20.8	8.3	21.5	21.8	14.3	27.5	22.3	8.3	10.0	20.8	7.9	8.0	18.8	5.9
Prosecution	6.0	6.2	1.6	6.6	2.2	2.0	5.5	11.3	1.2	0.0	6.3	2.4	2.0	8.0	1.2
Non Appointment	0.7	1.5	0.1	0.8	2.3	0.2	0.0	0.0	0.1	1.0	0.5	0.2	0.5	2.4	0.3
Absence of Accused	5.6	4.3	3.0	6.7	4.3	2.4	0.0	1.7	4.3	1.0	9.5	3.0	0.5	1.8	1.7
Reason for Adjournment	Crimes Against Property			Cheating			Criminal Trespass			Theft			Bouncing of Cheques		
	All	43.0	43.0	10.7	55.0	42.5	16.1	32.5	40.4	8.3	43.0	32.0	11.2	52.0	124.0
Defendants	6.5	4.0	0.4	12.0	5.2	0.3	3.5	3.2	0.2	7.0	1.6	0.5	6.0	15.0	0.3
Strikes	7.0	5.4	0.7	13.0	4.3	1.2	2.5	4.8	0.4	6.5	4.6	0.8	11.0	21.0	0.5
Judge	18.8	20.5	6.3	23.0	22.5	9.1	15.5	20.0	5.2	21.0	15.0	5.9	17.0	40.0	5.8
Prosecution	4.5	5.5	0.9	3.0	1.7	1.5	2.0	5.3	0.8	2.5	6.4	0.8	15.0	25.0	0.6
Non Appointment	0.2	0.0	0.0	0.0	0.0	0.1	0.0	0.0	0.0	0.5	0.0	0.1	0.0	0.0	0.0
Absence of Accused	4.8	5.9	2.4	4.0	7.3	3.6	7.5	5.8	1.7	4.5	3.6	3.0	1.0	10.0	1.6
Reason for Adjournment	Local and Special Laws			Special Laws			Special Offence			Gambling					
	All	0.0	29.7	7.2	0.0	22.6	10.6	0.0	41.6	6.1	0.0	0.0	1.5		
Defendants	0.0	3.9	0.4	0.0	2.8	0.6	0.0	5.7	0.3	0.0	0.0	0.1			
Strikes	0.0	2.6	0.3	0.0	2.0	0.3	0.0	3.7	0.3	0.0	0.0	0.0			
Judge	0.0	15.5	5.5	0.0	13.0	8.6	0.0	19.7	4.3	0.0	0.0	1.4			
Prosecution	0.0	2.5	0.1	0.0	0.2	0.1	0.0	6.3	0.1	0.0	0.0	0.0			
Non Appointment	0.0	0.5	0.1	0.0	0.6	0.2	0.0	0.3	0.0	0.0	0.0	0.0			
Absence of Accused	0.0	4.6	0.9	0.0	4.0	0.9	0.0	5.7	1.0	0.0	0.0	0.1			

## Civil

**Table D-6** below indicates average adjournments across various categories of civil cases according to the complexity of the case and also the instigators of these adjournments. The data puts across some very interesting results. Like in the criminal cases discussed above, the average number of adjournments in ‘High Complexity’ cases across the various sub-categories of civil cases is higher than the averages for all the cases combined (of different complexity) in such sub-categories (displayed in Table D-3 above). However, several striking results stand out:

- (1) The average number of adjournments for ‘High Complexity’ cases in various categories and sub-categories is not **just higher** than the average for those categories and sub-categories in various instances **but** actually **considerably higher** (at times even twice or thrice as high). For instance, while the average number of adjournments for the category ‘Property’ is 24.9 adjournments per case, for the category ‘Contractual’ is 21.5 adjournments per case, for the category ‘Family’ is 12.8 adjournments per case, and for the category ‘Rent’ is 14.64 adjournments per case (as can be seen in Table D-4), if we focus on only the ‘High Complexity’ cases in these categories these numbers shoot up to an astounding 46.3 adjournments per case for ‘Property’ cases; 50.9 adjournments per case for ‘Contractual’ cases; 26.8 adjournments per case for ‘Family’ cases; and, 54 adjournments per case for ‘Rent’ cases respectively. This incredible inflation in the average number of adjournments per case for

'High Complexity' cases can also be seen across various sub-categories of civil cases displayed in Table D-6 below.

(2) The same upward trend is also to be seen in 'Medium Complexity' cases as well. So for instance, while the average number of adjournments for the category 'Property' is 24.9 adjournments per case, for the category 'Contractual' is 21.5 adjournments per case, and, for the category 'Family' is 12.8 adjournments per case (as can be seen in Table D-4), if we focus on only the 'Medium Complexity' cases in these categories, the numbers are considerably inflated. In consequence, we arrive at 33.9 adjournments per case for 'Property' cases; 30.8 adjournments per case for 'Contractual' cases; and, 19 adjournments per case for 'Family' cases. 'Rent' is an interesting category where the overall average is 14.64 adjournments per case and yet the average for 'Medium Complexity' cases is actually a lower figure of 5.2 adjournments per case. However, this is likely due to the relatively small number of cases in the sample that fell in this classification. If we look at the 'Low Complexity' cases for 'Rent' the average number of adjournments per case is 12. This and the very high average number of adjournments for 'High Complexity' 'Rent' cases is what drives up the overall average.

(3) Like in the case of the data for average number of adjournments in criminal cases according to complexity (displayed in Table D-5) it is thus only the comparatively much lower aggregate numbers of adjournments in the 'Low Complexity' civil cases that bring the overall averages somewhat down. The averages for adjournments for 'Low Complexity' cases are uniformly much lower across the various sub-categories of civil cases (barring some exceptions in some of the sub-categories of 'Family' and 'Rent' cases).

(4) While the averages for 'High Complexity' and 'Medium Complexity' cases are consistently much higher than the averages for 'Low Complexity' cases (barring the few exceptions noted above) in a few instances the average number of adjournments for 'Medium Complexity' cases are even higher than those of the very high averages of 'High Complexity' cases (cases in point are the sub-categories of 'pre-emption,' 'succession,' and 'guardianship'). This underlines the fact that the culture of adjournments characterises even cases that are relatively less complex and hence potentially requiring less adjudicative investment to reach an outcome. In any event, for most sub-categories, the average number of adjournments for 'Medium Complexity' cases is not much lower than those for the 'High Complexity' cases – and these as we have already seen are fairly high numbers.

(5) 'Plaintiffs' are the main triggers for adjournments in 'High Complexity' civil cases. The term 'plaintiffs' here denotes the parties that have filed the suits as well as their counsels and an adjournment has been ascribed to them in the data results if the order sheet of the case indicates that they are the ones who sought the adjournment. 'Strikes by lawyers' is the next most significant contributing factor. However, in the 'High Complexity' cases, 'judges,' 'both parties,' and 'defendants' also emerge as major contributing factors though there are some variations in the relative importance of these contributing factors in terms of the different categories and sub-categories of civil cases. It emerges that adjournments are rife in such cases and while a whole host of triggers bring them about they all point to the inability of the judicial officers to control the pace and progress of the civil cases. The very same is also true of cases of 'Medium Complexity' across the various sub-categories of civil cases.

(6) The upshot is that unless involved in a relatively simple case or one where an early outcome (for a whole host of reasons) is possible one can expect multiple adjournments and the various resulting delays before reaching a solution.

**Table D-6 Average Number of Adjournments in Civil Cases (Case Complexity and Instigators)**

Civil: Average Number of Adjournments of Cases by Complexity and the Instigators <sup>23</sup>																						
Reason for Adjournment	Broad Categories			Sub Categories Averages																		
	Property			Possession			Pre-emption			Specific Performance			Declaration			Partition			Succession			
All	46.3	33.9	19.4	57.6	54.4	28.5	34.1	43.5	21.6	54.6	40.5	16.4	53.8	27.2	23.6	0.0	53.2	28.5	2.5	8.7	3.8	
Plaintiff	12.8	11.1	5.9	16.6	23.2	8.7	10.7	8.2	7.3	15.8	13.7	5.7	12.8	8.8	6.8	0.0	17.2	5.8	1.5	2.5	1.8	
Defendant	8.4	3.9	1.9	10.6	4.8	2.7	2.5	3.7	1.2	12.0	5.2	1.5	11.3	3.1	2.1	0.0	7.2	5.2	0.0	1.3	0.0	
Both Parties	6.8	5.0	3.0	8.6	4.9	3.9	3.0	11.0	3.8	6.5	6.1	2.0	10.5	3.9	4.8	0.0	6.0	4.4	0.0	1.7	0.2	
Strikes	11.3	8.2	4.5	14.8	11.4	5.8	11.1	12.5	5.2	12.8	9.7	3.6	11.1	6.3	6.3	0.0	16.0	7.1	0.5	1.5	0.7	
Judge	6.8	5.6	3.9	7.0	10.1	7.3	6.7	8.0	3.9	7.5	5.5	3.4	8.0	5.0	3.5	0.0	6.7	5.8	0.5	1.6	0.8	
	Contractual			Negotiable Instruments			Recovery of Money			Commercial Disputes												
All	50.9	30.8	18.0	57.3	38.1	18.8	52.2	27.5	20.7	25.0	10.0	9.4										
Plaintiff	20.6	6.8	7.4	31.0	7.6	8.6	15.6	6.3	8.5	14.0	7.0	3.5										
Defendant	6.6	6.2	2.0	4.0	8.3	2.4	9.4	5.3	2.2	0.0	0.0	1.0										
Both Parties	3.4	5.0	1.7	4.0	6.9	1.9	3.8	4.1	1.9	0.0	0.0	0.9										
Strikes	13.6	7.6	3.6	12.7	8.2	3.2	15.4	7.7	4.3	7.0	1.0	2.0										
Judge	6.8	5.2	3.2	5.7	7.1	2.6	8.0	4.1	3.7	4.0	2.0	2.0										
	Family			Maintenance			Custody			Guardianship			Divorce									
All	26.8	19.0	10.0	27.4	26.0	15.9	15.0	5.0	8.5	4.0	6.1	11.0	53	10.0	3.8							
Plaintiff	6.6	3.8	2.8	6.4	5.0	3.9	4.0	0.0	1.0	1.0	1.7	3.8	19	4.0	1.2							
Defendant	5.5	4.1	1.2	5.6	6.1	1.7	5.0	0.0	2.7	0.0	0.6	1.6	10	2.0	0.4							
Both Parties	3.5	3.2	1.2	4.0	4.6	2.4	1.0	0.0	0.0	0.0	0.5	1.2	1	3.0	0.1							
Strikes	5.6	4.4	2.6	5.7	6.1	4.7	4.0	1.0	3.2	1.0	1.6	2.3	11	0.0	0.7							
Judge	5.5	3.2	2.0	5.6	4.1	3.0	1.0	4.0	1.5	2.0	1.6	1.9	12.0	1.0	1.3							
	Rent			Ejectment																		
All	54.0	5.2	12.0	54.0	5.2	12.0																
Plaintiff	8.8	1.4	2.9	8.8	1.4	2.9																
Defendant	12.3	0.8	1.7	12.3	0.8	1.7																
Both Parties	7.0	0.2	2.0	7.0	0.2	2.0																
Strikes	14.5	0.8	2.4	14.5	0.8	2.4																
Judge	11.5	2.0	3.0	11.5	2.0	3.0																

<sup>23</sup> This data does not include 10 Property and 3 Family cases due to incomplete Order Sheets.

### **Number of Hearings in which Actual Progress is made: Aggregates**

One way to gauge the effectiveness and efficiency of case proceedings and case and court management is to determine the number of hearings it took to reach a final outcome. At the same time, it is invaluable to gauge which were productive hearings ('Progress Hearings') i.e., hearings where the case actually progressed to the next step or stage as well as hearings where no progress was made ('No Progress Hearings') i.e., where the judge either reiterated his earlier order or instructions in view of non-compliance with the previous order or the court proceedings otherwise did not progress the case. A large number of 'No Progress Hearings' are a very clear indication that the judicial officer is not effectively managing the pace of litigation and therefore falling short of efficiently taking the case towards final disposal. The order sheets of the cases sampled for the survey were carefully perused in order to determine which hearings progressed the case and which did not. They were then accordingly classified as 'Progress Hearings' and 'No Progress Hearings.'

### **Criminal**

Looking first of all at the phenomenon of overall hearings, **Table D-7** below classifies the criminal cases in the sample according to the aggregate number of hearings. At the same time, it also lays out the number of average 'No Progress Hearings' for the different categories and sub-categories of criminal cases. While looking at these figures it should be borne in mind that this data reflects 'High Complexity,' 'Moderately Complex' and 'Less Complex' cases as well as cases that went through the full legal process and were decided on merits as well as those that came to an earlier closure for any of the previously enumerated legal reasons.

While the data displays a vast spread of cases in terms of aggregate number of hearings during the duration of the cases – and also a fair proportion that fall in the highest category of 'greater than 40' hearings – what is particularly telling is the high number of cases that have large aggregate numbers of 'No Progress Hearings.' In 'Crimes against Person,' for instance, (which like the rest of the sample includes both cases that ran the full trial as well as others that reached an earlier disposal, as many as 40 cases had greater than 40 'No Progress Hearings.' There were also 20 such cases for 'Crimes against Property.'

Furthermore, quite apart from the frequency of such cases in the top category in terms of number of 'No Progress Hearings,' it is also illustrative to see the high number of cases that fall in the categories of cases with 6-10, 11-15, 16-20, and 21-25 'No Progress Hearings.'

Cases falling under the category of 'Local and Special Laws,' however do adduce a greater frequency of cases where 'No Progress Hearings' are low or non-existent – owing probably to the tighter and less elaborate legal process involved than the one that applies to more serious offences pertaining to crimes against person and property.

**Table D-7 Aggregate Number of Hearings and 'No Progress Hearings' in Criminal Cases**

Aggregate Number of Hearings and No Progress Hearings: Criminal										
Broad Categories			Sub Categories							
Hearing ranges	Crimes Against Person		Homicide		Hurt		Kidnapping		Sexual Offence	
	Hearings – No of cases	No Progress Hearings – No of cases	Hearings	No Progress Hearings-	Hearings-	No Progress Hearings	Hearings	No Progress Hearings	Hearings	No Progress Hearings
0	0	13	0	1	0	4	0	4	0	4
1-5	11	53	0	8	6	18	2	9	3	18
6-10	36	29	7	3	11	10	8	8	10	8
11-15	18	31	1	5	6	5	4	11	7	10
16-20	26	21	5	7	7	6	6	3	8	5
21-25	18	13	2	1	6	5	6	5	4	2
26-30	26	13	5	3	7	6	7	2	7	2
31-35	14	3	1	2	6	1	3	0	4	0
36-40	9	6	3	2	3	2	1	1	2	1
Greater Than 40	64	40	31	23	12	7	11	5	10	5
Crimes Against Property			Cheating		Criminal Trespass		Theft		Bouncing of Cheque	
Hearing ranges	Hearings – No of cases	No Progress Hearings – No of cases	Hearings	No Progress Hearings	Hearings	No Progress Hearings	Hearings	No Progress Hearings	Hearings	No Progress Hearings
	0	0	52	0	6	0	13	0	11	0
1-5	59	112	8	18	17	34	10	32	24	28
6-10	89	52	11	9	26	13	27	17	25	13
11-15	38	30	7	3	9	8	12	14	10	5
16-20	31	28	6	8	9	7	10	7	6	6
21-25	23	22	3	7	9	5	7	6	4	4
26-30	23	9	9	2	3	2	6	2	5	3
31-35	17	10	2	2	4	5	9	2	2	1
36-40	15	4	4	0	3	2	4	2	4	0
Greater Than 40	44	20	14	9	12	3	11	3	7	5
Local and Special Laws			Special Laws		Special Offence		Gambling			
Hearing ranges	Hearings – No of cases	No Progress Hearings – No of cases	Hearings	No Progress Hearings	Hearings	No Progress Hearings	Hearings	No Progress Hearings		
	0	0	32	0	9	0	17	0	6	
1-5	43	52	13	14	22	29	8	9		
6-10	40	29	10	11	23	17	7	1		
11-15	19	7	6	3	12	4	1	0		
16-20	13	7	7	5	6	2	0	0		
21-25	7	8	3	5	4	3	0	0		
26-30	3	1	2	1	1	0	0	0		
31-35	7	5	5	3	2	2	0	0		
36-40	3	2	2	1	1	1	0	0		
Greater Than 40	11	3	6	2	5	1	0	0		



## Civil Cases

Moving on to civil cases, **Table D-8** below provides the sample cases classified according to the aggregate numbers of hearings as well as the aggregate number of ‘No Progress Hearings.’

In the main categories of ‘Property’ and ‘Contractual’ cases the maximum number of cases (and by a significant margin in the case of ‘Property’ cases with as many as 86 such cases; there are also 34 such ‘Contractual’ cases) are the ones that fall in the highest classification of cases with over 40 ‘No Progress Hearings.’ At the same time, a fair number of cases also fall in the classifications of 11-15, 16-20, 21-25, 26-30, 31-35, and 36-40 ‘No Progress Hearings’ per case. As a matter of fact, the aggregates for these six classes are 140 such ‘Property’ cases and 84 such ‘Contractual cases.

As for ‘Family’ cases, 19 cases had 40 or more ‘No Progress Hearings’ and 68 cases fell in lower classifications of between 11 and 40 ‘No Progress Hearings.’ There are comparatively more ‘Family’ cases with even less or no ‘No Progress Hearings’ as compared to ‘Property’ and ‘Contractual cases.

Finally, as for ‘Rent’ cases, 4 cases had 40 or more ‘No Progress Hearings’ and 31 cases fell in lower classifications of between 11 and 40 ‘No Progress Hearings.’ The comparatively less ‘Family’ and ‘Rent’ cases with higher number of ‘No Progress Hearings’ is also owing to the fact that they follow relatively simpler processes, involve simpler issues and hence have lesser overall hearings. This is evident if one compares the number of ‘Family’ and ‘Rent’ cases with 1-5 and 6-10 hearings with ‘Property’ and ‘Contractual’ cases in the same classifications. Whereas for ‘Family’ and ‘Rent’ such classifications collectively have 73 and 12 cases respectively, for ‘Property’ and ‘Contractual’ categories the numbers are 80 and 22 (despite the much larger overall number of cases in the sample belonging to these two latter categories).

**Table D-8 Aggregate Number of Hearings and ‘No Progress Hearings’ in Civil Cases**

Aggregate Number of Hearings and ‘No Progress Hearings’: Civil <sup>24</sup>														
Broad Categories		Sub Categories												
Property-		Possession		Pre-emption		Specific Performance		Declaration		Partition		Succession		
Hearings – No of cases	NP Hearings–No of cases	Hearings	NP Hearings	Hearings	NP Hearings	Hearings	NP Hearings	Hearings	NP Hearings	Hearings	NP Hearings	Hearings	NP Hearings	
0	20	0	1	0	3	0	0	0	0	0	1	0	15	
1-5	66	3	6	4	2	3	13	0	5	1	5	18	35	
6-10	30	5	4	2	5	6	9	4	8	5	1	29	3	
11-15	27	1	2	3	5	10	6	3	9	0	3	5	2	
16-20	33	2	5	4	2	5	11	11	9	2	4	2	2	
21-25	23	6	6	2	7	9	3	6	4	2	1	1	2	
26-30	23	6	2	4	6	1	2	4	9	3	3	2	1	
31-35	15	3	4	1	2	5	2	7	6	3	0	2	1	
36-40	19	1	3	3	6	2	6	5	1	1	1	0	1	
Greater than 40	86	27	21	27	12	27	16	36	25	14	12	3	0	

<sup>24</sup> This data does not include 10 Property and 3 Family cases due to incomplete Order Sheets.

	Contractual		Negotiable Instruments		Recovery of Money		Commercial Disputes							
	Hearings	NP Hearings	Hearings	NP Hearings	Hearings	NP Hearings	Hearings	NP Hearings						
0	0	6	0	0	0	6	0	0						
1-5	12	19	0	3	4	6	8	10						
6-10	10	27	2	3	4	15	4	9						
11-15	15	26	2	0	9	20	4	6						
16-20	27	19	2	3	19	13	6	3						
21-25	21	11	1	2	16	8	4	1						
26-30	12	11	2	2	8	8	2	1						
31-35	11	9	2	2	9	7	0	0						
36-40	2	8	1	1	1	6	0	1						
Greater than 40	60	34	16	12	40	21	4	1						
	Family		Maintenance		Custody		Guardianship		Divorce					
	Hearings	NP Hearings	Hearings	NP Hearings	Hearings	NP Hearings	Hearings	NP Hearings	Hearings	NP Hearings				
0	0	10	0	2	0	0	0	2	0	6				
1-5	22	74	4	11	0	2	10	31	8	30				
6-10	51	23	8	6	2	0	20	5	21	12				
11-15	26	12	7	7	0	2	6	2	13	1				
16-20	15	16	3	10	1	2	3	1	8	3				
21-25	7	14	5	10	0	0	1	4	1	0				
26-30	10	10	6	8	2	0	2	1	0	1				
31-35	8	10	5	8	0	0	3	1	0	1				
36-40	11	6	9	3	1	0	1	3	0	0				
Greater than 40	44	19	34	16	0	0	7	3	3	0				
	Rent		Ejection											
	Hearings	NP Hearings	Hearings	NP Hearings										
0	0	3	0	3										
1-5	2	12	2	12										
6-10	10	8	10	8										
11-15	6	14	6	14										
16-20	19	5	19	5										
21-25	1	1	1	1										
26-30	3	2	3	2										
31-35	0	0	0	0										
36-40	2	1	2	1										
Greater than 40	7	4	7	4										

### Number of Hearings in which Actual Progress is made: Averages

#### Criminal

The data in **Table D-9** below lays out the average number of hearings for the different categories and sub-categories of criminal cases from which the survey sample was drawn. At the same time, it also lays out the number of average 'No Progress Hearings' for these different categories and sub-categories. While looking at these figures it should be once again borne in mind that this data contains 'High Complexity,' 'Moderately Complex' and 'Less Complex' cases as well as cases that went through the full legal process and were decided on merits as well as those that came to an earlier closure for any reason.

A perusal of these figures reveals high averages for ‘No Progress Hearings’ across the various categories. Furthermore, they constitute a high percentage of the average number of hearings in these categories. For instance, for ‘Crimes against Person’ ‘No Progress Hearings’ constitute almost 74% of the average number of hearings for this category; for ‘Crimes against Property’ ‘No Progress Hearings’ constitute 56% of the average number of hearings for this category; and, for ‘Local and Special Laws’ ‘No Progress Hearings’ constitute almost 57% of the average number of hearings for this category.

Even accounting for a certain number of additional hearings that were necessary to allow the parties and their counsels more time to meet the legal requirements for any stage of the case or that were unproductive due to any other exigencies, this is a very high quantum of hearings that were essentially unproductive in terms of progressing the case.

The numbers appear all the more jarring when one looks at the even otherwise very high numbers of hearings for certain sub-categories – not only because it took this many hearings to reach an outcome but also because a large percentage of these hearings were meaningless and yet had a financial and time cost for the parties as well as the court. ‘Homicide’ cases, for instance, had an average of 62.7 hearings and on the average 39.8 of these were ‘No Progress Hearings.’ The upshot is that these cases could have reached their final outcome in far lesser time and in a more resource efficient fashion.

**Table D-9 Average Number of Hearings and ‘No Progress Hearings’ in Criminal Cases**

Criminal Cases: Average Number of Hearings and ‘No Progress Hearings’					
	Broad Categories	Sub Categories			
	Crimes Against Person	Homicide	Hurt	Kidnapping	Sexual Offence
Average Hearings	36.1	62.7	27.1	29.1	26.2
Average No Progress Hearings	26.6	39.8	16.7	16.1	13.8
	Crimes Against Property	Cheating	Criminal Trespass	Theft	Bouncing of Cheque
Average Hearings	21	28	19.7	21.2	16.9
Average No Progress Hearings	11.8	17.3	10.9	10.9	9.7
	Local and Special Laws	Special Laws	Special Offence	Gambling	
Average Hearings	14.3	18.2	13.3	5.5	
Average No Progress Hearings	8.1	11.7	6.9	1.5	

## Civil

The data in **Table D-10** below lays out the average number of hearings for the different categories and sub-categories of civil cases from which the survey sample was drawn. At the same time, it also lays out the number of average ‘No Progress Hearings’ for the different categories and sub-categories. While looking at these figures it should be once again borne in mind that this data contains ‘High Complexity,’ ‘Moderately Complex’ and ‘Less Complex’ cases as well as cases that went through the full legal process and were decided on merits as well as those that came to an earlier closure for any reason.

As in the case of criminal cases, a perusal of these figures reveals that ‘No Progress Hearings’ constitute a very large proportion of the average hearings across the various categories. For instance, for ‘Property’ cases ‘No Progress Hearings’ constitute almost 67% of the average number of hearings; for ‘Contractual’ cases ‘No Progress Hearings’ constitute 66.5% of the average number of hearings; for ‘Family’ cases, ‘No Progress Hearings’ constitute 62% of the average number of hearings; and, for ‘Rent’ cases ‘No Progress Hearings’ constitute almost 62.5% of the average number of hearings for this category.

Even accounting for a certain number of hearings that were necessary to allow the parties and their counsels more time to meet the legal requirements for any stage of the case or that were unproductive due to any other exigencies, like in the case of the criminal cases, this is a very high quantum of hearings that were essentially unproductive in terms of progressing the case.

The numbers seem all the more jarring when one looks at the even otherwise very large average numbers of hearings for various sub-categories – not only because it took this many hearings to reach an outcome but also because a large percentage of these hearings were meaningless and yet had a financial and time burden for the parties as well as the court. This is particularly true for the various sub-categories of ‘Property’ (barring ‘Succession’) and some of the sub-categories of ‘Contractual and ‘Family’ cases (most notably, ‘Negotiable Instruments,’ ‘Recovery of Money,’ and ‘Maintenance’). The upshot, once again, is that these cases could have reached their final outcome in far lesser time and in a more resource efficient fashion.

**Table D-10 Average Number of Hearings and ‘No Progress Hearings’ in Civil Cases**

	Civil Cases: Average Number of Hearings and ‘No Progress Hearings’ <sup>25</sup>						
	Broad Categories	Sub Categories					
	Property	Possession	Pre-emption	Specific Performance	Declaration	Partition	Succession
Average Hearings	41.0	55.0	42.8	44.5	47.2	49.4	11.2
Average No Progress Hearings	27.4	38.4	29.7	27.6	32.8	35.2	5.1
	Contractual	Negotiable Instruments	Recovery of Money	Commercial Disputes			
Average Hearings	35.23	51.46	35.65	19.59			
Average No Progress Hearings	23.43	32.64	24.76	10.81			
	Family	Maintenance	Custody	Guardianship	Divorce		
Average Hearings	25.7	39.4	21.6	17.7	13.4		
Average No Progress Hearings	16	26.6	11.1	11.01	5.4		
	Rent	Ejectment					
Average Hearings	24.38	24.38					
Average No Progress Hearings	15.28	15.28					

## Complexity of Cases and Average Number of Hearings and ‘No Progress Hearings’

### Criminal

Additional disaggregation of this data according to case complexity presents some predictable results. It comes as no surprise, for instance, that the more complex cases take up more hearings. What becomes even more dramatic, however, is not only how much higher these average number of hearings are but also the amount of time wasted during the course of these longer duration cases where a vast number of hearings did not progress and take forward these meandering cases, as evidenced by the very high average numbers of ‘No Progress Hearings.’ Even for the ‘Moderate Complexity’ cases the averages for hearings and ‘No Progress Hearings’ appear very high (as has been highlighted in **Table D-11** below).

<sup>25</sup> This data does not include 10 Property and 3 Family cases due to incomplete Order Sheets.

Individual sub-categories are worth further attention. In ‘homicide’ cases that are of ‘High Complexity’ on the average there are 57.4 ‘No Progress Hearings’ and in ‘hurt’ cases that are of ‘High Complexity’ an average of 52.5 ‘No Progress Hearings.’ The average numbers of ‘No Progress Hearings’ are also very high for these two sub-categories even in cases of ‘Moderate Complexity.’ Similarly, the average number of ‘No Progress Hearings’ are particularly high for both ‘High Complexity’ cases and cases of ‘Moderate Complexity’ in the various sub-categories of ‘Crimes against Property’ cases. An exceptionally high number of both hearings as well as ‘No Progress Hearings’ seems to have occurred in ‘bouncing of cheque’ cases – there has been a recent amendment in the law relating to this area that has boosted the applicable penalty for extension of cheques that bounce and it merits further scrutiny as to what is transpiring here. Similar trends can also be seen in some of the ‘Rent’ sub-categories.

**Table D-11 Average Number of Hearings and ‘No Progress Hearings’ in Criminal Cases (Case Complexity)**

Criminal Cases: Average Hearings and ‘No Progress Hearings’ by Complexity						
	Broad Categories	Sub Categories				
		Crimes Against Person	Homicide	Hurt	Kidnapping	Sexual Offence
High	Avg. Hearings	84	88.3	76.5	41	58.5
	<b>Avg. NP Hearings</b>	<b>53.8</b>	<b>57.4</b>	<b>52.5</b>	<b>13</b>	<b>28.5</b>
Medium	Avg. Hearings	64.4	67.6	72.3	57.2	61.6
	<b>Avg. NP Hearings</b>	<b>41.7</b>	<b>39.1</b>	<b>51.6</b>	<b>37</b>	<b>42.8</b>
Low	Avg. Hearings	24.6	32.4	23.1	26.2	21.2
	<b>Avg. NP Hearings</b>	<b>13.7</b>	<b>20</b>	<b>13.7</b>	<b>14.2</b>	<b>10.2</b>
		Crimes Against Property	Cheating	Criminal Trespass	Theft	Bouncing of Cheque
High	Avg. Hearings	71.3	68	52.5	87	81
	<b>Avg. NP Hearings</b>	<b>44</b>	<b>50</b>	<b>30.5</b>	<b>53</b>	<b>47</b>
Medium	Avg. Hearings	60.5	63	56.7	47	148
	<b>Avg. NP Hearings</b>	<b>39.6</b>	<b>40.3</b>	<b>37.6</b>	<b>28</b>	<b>112</b>
Low	Avg. Hearings	17.3	23.7	14.7	18.2	14.6
	<b>Avg. NP Hearings</b>	<b>9.3</b>	<b>14.3</b>	<b>7.5</b>	<b>9</b>	<b>8</b>
		Local and Special Laws	Special Laws	Special Offence	Gambling	
High	Avg. Hearings	0	0	0	0	
	<b>Avg. NP Hearings</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
Medium	Avg. Hearings	42.3	31.4	60.6	0	
	<b>Avg. NP Hearings</b>	<b>27.6</b>	<b>21</b>	<b>38.6</b>	<b>0</b>	
Low	Avg. Hearings	12.7	16.9	11.4	5.5	
	<b>Avg. NP Hearings</b>	<b>7</b>	<b>10.8</b>	<b>5.6</b>	<b>1.5</b>	

## Civil

The results are equally disturbing when one looks at the average number of hearings and ‘No Progress Hearings’ for different sub-categories of civil law according to case complexity. This is brought out in **Table D-12** below. Once again the average number of hearings as well as average number of ‘No Progress’ hearings really shoot up for both the ‘High Complexity’ cases as well as cases of ‘Moderate Complexity.’

It is also interesting to note that with growing case complexity not only do the ‘No Progress Hearings’ shoot up in terms of the averages but the numbers below further show that they also rise up somewhat further as a proportion of the total number of hearings for ‘High Complexity’ cases. To cite examples: whereas for all ‘Property’ cases ‘No Progress Hearings’ constitute 67% of the average number of hearings, for ‘High Complexity’ ‘Property’ cases they increase to 69% of the average number of hearings for such cases; whereas for all ‘Contractual’ cases ‘No Progress Hearings’ constitute 66.5% of the average number of hearings for ‘High Complexity’ cases they increase to 70% of the average number of hearings; and, whereas, for all ‘Rent’ cases ‘No Progress Hearings’ constitute almost 63% of the average number of

hearings for this category for ‘High Complexity’ cases they increase to 68% of the average number of hearings.

**The underlying trends appears to be that the more complex the case, the more the hearings and also the more the occurrence of ‘No Progress Hearings’ as a proportion of overall hearings.** In ‘Family’ cases, however, the data does not show much change in this number.

**Table D-12 Average Number of Hearings and ‘No Progress Hearings’ in Civil Cases (Case Complexity)**

Civil Cases: Average Hearings and ‘No Progress Hearings’ by Complexity <sup>26</sup>								
		Broad Categories	Sub Categories					
		Property	Possession	Pre-emption	Specific Performance	Declaration	Partition	Succession
High	Avg.Hearings	72.6	79.8	56.2	92.33	82.7	0	8
	<b>Avg. NP Hearings</b>	<b>50.0</b>	<b>60</b>	<b>37.57</b>	<b>58</b>	<b>59.5</b>	<b>0</b>	<b>2.5</b>
Medium	Avg.Hearings	52.42	71.1	65.25	63	44.5	77.5	16.46
	<b>Avg. NP Hearings</b>	<b>35.7</b>	<b>54.6</b>	<b>47.75</b>	<b>40.35</b>	<b>30.1</b>	<b>61.25</b>	<b>9.15</b>
Low	Avg.Hearings	33.5	46.2	35.08	31.2	41.4	45.25	9.8
	<b>Avg. NP Hearings</b>	<b>22.1</b>	<b>31.5</b>	<b>24.05</b>	<b>18.75</b>	<b>28.8</b>	<b>31.37</b>	<b>4.1</b>
		Contractual	Negotiable Instruments	Recovery of Money	Commercial Disputes			
High	Avg.Hearings	72.77	81	74	42			
	<b>Avg. NP Hearings</b>	<b>50.88</b>	<b>51.66</b>	<b>55.2</b>	<b>27</b>			
Medium	Avg.Hearings	55.41	69.77	48.78	19			
	<b>Avg. NP Hearings</b>	<b>36.16</b>	<b>43.55</b>	<b>33.14</b>	<b>12</b>			
Low	Avg.Hearings	29.23	35.62	31.52	18.86			
	<b>Avg. NP Hearings</b>	<b>19.4</b>	<b>22.93</b>	<b>21.8</b>	<b>10.23</b>			
		Family	Maintenance	Custody	Guardianship	Divorce		
High	Avg.Hearings	49.2	50.13	40	7	87		
	<b>Avg. NP Hearings</b>	<b>30.0</b>	<b>32.53</b>	<b>18</b>	<b>4</b>	<b>31</b>		
Medium	Avg.Hearings	36.39	47.61	18	15.75	18		
	<b>Avg. NP Hearings</b>	<b>21</b>	<b>28.44</b>	<b>11</b>	<b>6.75</b>	<b>11</b>		
Low	Avg.Hearings	20.85	33.04	18	18.34	11.94		
	<b>Avg. NP Hearings</b>	<b>13.3</b>	<b>24.14</b>	<b>9.5</b>	<b>11.95</b>	<b>4.84</b>		
		Rent	Ejectment					
High	Avg.Hearings	88.5	88.5					
	<b>Avg. NP Hearings</b>	<b>60.25</b>	<b>60.25</b>					
Medium	Avg.Hearings	13.4	13.4					
	<b>Avg. NP Hearings</b>	<b>5.8</b>	<b>5.8</b>					
Low	Avg.Hearings	19.46	19.46					
	<b>Avg. NP Hearings</b>	<b>12.04</b>	<b>12.04</b>					

### E) Breakdown of Trial Stages according to Time Taken

Having examined the bearing of the nature and complexity of cases and their outcomes on their duration and the number of hearings involved, we now move on to discover and examine which stages of the criminal and civil cases tend to consume the most time and court resources. This analysis is based on breaking up the criminal and civil litigation in the district courts into their main constituent parts – the stage numbers used in the Tables below shall correspond to the stage numbers indicated below.<sup>27</sup> While there are some variations in the legal processes in case of certain types of litigation the following broad frameworks cover the essential contours of typical criminal and civil litigation in district courts:

<sup>26</sup> This data does not include 10 Property and 3 Family cases due to incomplete Order Sheets.

<sup>27</sup> We have deleted 10 property cases and 3 family cases from this part of analysis due to incomplete order sheets.

### Stages of Criminal Cases

1. Date of Receipt of Challan in Court
2. Date of Service of Summons
3. Date of Charge
4. Date of Start of Prosecution Evidence
5. Date of Close of Prosecution Evidence
6. Date of Recording of Statement under Section 342
7. Date of Start of Defence Evidence
8. Date of Close of Defence Evidence
9. Date of Judgement

### Stages of Civil Cases

1. Date of Filing of Complaint
2. Date of Service of Summons
3. [Date of Filing of Leave to Defend] [These three stage only apply in certain types
4. [Date of Filing of Reply to Leave to Defend] of cases like banking court cases]
5. [Date of Decision of Leave to Defend]
6. Date of Filing of Written Reply
7. Date of Formulation of Issues
8. Date of Start of Plaintiff's Evidence
9. Date of Closing of Plaintiff's Evidence
10. Date of Start of Defendant's Evidence
11. Date of Closing of Defendant's Evidence
12. Date of Judgement
13. Date of Decree

### Stage-wise Duration Analysis

#### Criminal

**Table E-1** below indicates average durations (in days) between different stages of a criminal case, as determined from the survey sample. Once again this is based on the data for all criminal cases in the sample, regardless of their complexity as well as whether they went through a full trial or were disposed at an earlier stage.

The first result that stands out is the time involved on the average after the receipt of Challan in Court and the successful 'Service of Summons' on the parties – an area of perennial and longstanding delay in litigation in Pakistan. Despite some attempts at improvement (and the long-standing but never adopted reform idea of creating a professional service processing agency), it is readily apparent that this essential first step consumes a remarkably high number of days on the average (as highlighted in Table E-1 below). As a matter of fact, it turns out that it is the single most time-consuming step in 'Crimes against Property' cases as well as 'Local and Special Laws' cases. It is also the fourth most time-consuming stage in 'Crimes against Person' cases.

The next important result is the sheer magnitude of the average number of days consumed by the next three stages that span the time between 'Service of Summons' and the 'Close of the Prosecution Evidence' in 'Crimes against Person' cases as well as 'Crimes against Property' cases. It is also instructive to see that these numbers are invariably high across all the sub-categories for these two larger categories of crime.

The most plausible explanation for the low number of days (as an average) for the defence evidence stage is that the cases in the sample didn't make it to that stage because of paucity/inadequacy of evidence at the prosecution stage – if we look at the overall sample, out of the 707 cases, 105 cases resulted in

compromises, 365 cases resulted in acquittals under Sections 249-A or 265-K of the Criminal Code (due either to compromising statements of witnesses or judicial determinations that there was no chance of conviction) and in 131 cases the accused pleaded guilty.

**Table E-1 Average Durations (in Days) between different Stages of Criminal Cases**

Criminal Cases: Average Duration of Stages of the Case (in days)					
Days Between Stages	Broad Categories	Sub Categories			
	Crimes Against Person	Homicide	Hurt	Kidnapping	Sexual Offence
1-2	87	50	127	121	47
2-3	147	203	136	107	138
3-4	184	153	224	146	200
4-5	109	263	50	32	93
5-6	13	50	0	0	1
6-7	1	2	1	0	0
7-8	0	0	0	0	0
8-9	2	2	4	0	0
Days Between Stages	Crimes Against Property	Cheating	Criminal Trespass	Theft	Bouncing of Cheque
	1-2	138	196	135	121
2-3	96	150	121	91	33
3-4	163	146	206	199	92
4-5	28	49	20	34	16
5-6	1	2	2	0	0
6-7	2	0	10	0	0
7-8	0	0	0	0	3
8-9	5	3	7	2	9
Days Between Stages	Local and Special Laws	Special Laws	Special Offence	Gambling	
	1-2	112	101	118	118
2-3	32	50	22	14	
3-4	38	66	26	0	
4-5	22	10	35	0	
5-6	0	0	0	0	
6-7	0	0	0	0	
7-8	0	0	0	0	
8-9	0	0	0	0	

## Civil

**Table E-2** below on the other hand lays out the duration (in days) between different key stages of various kinds of civil cases (regardless of complexity as well as whether they underwent a full-fledged adjudication and were not compromised or dismissed at an earlier stage).

‘Service of Summons’ emerges once more as a tremendously time-consuming stage – so much so that it is the most time-consuming stage in ‘Contractual,’ ‘Family,’ and ‘Rent’ cases and the second most time-consuming stage in ‘Property’ cases.

While ‘Leave to Defend’ related stages are not pertinent in ‘Property’ cases, the next key stages that pertain to ‘Filing of Written Reply,’ ‘Formulation of Issues,’ ‘Start of Plaintiff’s Evidence,’ and ‘Close of Plaintiff’s Evidence,’ (stages 6-7, 7-8, and 8-9) also divulge fairly high number of average days. And this is true across the various sub-categories of ‘Property’ cases.

The numbers are also very high between stages 7-8 (between ‘Formulation of Issues’ and ‘Start of Plaintiff’s evidence’) and stages 8-9 (between ‘Start of Plaintiff’s Evidence’ and ‘Closing of Plaintiff’s Evidence’) for ‘Contractual cases,’ especially given that these are numbers for all kinds of cases in the sample (of all degrees of complexity and including those that did not follow the entire available legal process and were decided on merits). Stages 7-8 and 8-9 also consumed a lot of time in ‘Family’ cases.



**Table E-2 Average Durations (in Days) between different stages of Civil Cases**

Civil Cases: Average Duration of Stages of the Case (in days)							
Days Between Stages	Broad Categories	Sub Categories					
	Property	Possession	Pre-emption	Specific Performance	Declaration	Partition	Succession
1-2	117	204	154	147	80	98	33
2-3	0	0	0	0	0	0	0
3-4	0	0	0	0	0	0	0
4-5	0	0	0	0	0	0	0
5-6	0	0	0	0	0	0	0
6-7	107	99	63	125	205	109	4
7-8	138	103	340	133	168	80	2
8-9	62	107	62	87	59	41	8
9-10	22	21	22	21	29	50	3
10-11	7	9	1	7	15	5	0
11-12	22	35	12	18	24	29	16
12-13	0	0	0	0	0	3	1
	Contractual	Negotiable Instruments	Recovery of Money	Commercial Disputes			
1-2	135	192	135	87			
2-3	8	10	10	0			
3-4	4	7	5	0			
4-5	13	9	18	0			
5-6	9	21	8	0			
6-7	37	51	34	35			
7-8	100	193	105	3			
8-9	58	133	51	18			
9-10	20	35	22	0			
10-11	4	5	5	0			
11-12	37	64	41	0			
12-13	0	0	0	0			
	Family	Maintenance	Custody	Guardianship	Divorce		
1-2	87	96	71	49	113		
2-3	0	0	0	0	0		
3-4	0	0	0	0	0		
4-5	0	0	0	0	0		
5-6	0	0	0	0	0		
6-7	0	0	0	0	0		
7-8	43	59	99	31	25		
8-9	60	72	2	25	83		
9-10	14	32	2	4	1		
10-11	9	20	2	1	0		
11-12	10	17	2	9	0		
12-13	0	0	0	1	0		
	Rent	Ejectment					
1-2	64	64					
2-3	4	4					
3-4	2	2					
4-5	8	8					
5-6	0	0					
6-7	39	39					
7-8	19	19					
8-9	12	12					
9-10	28	28					
10-11	3	3					
11-12	7	7					
12-13	0	0					

**Stage-wise Duration Analysis according to Case Complexity**

Having examined the average number of days consumed by different stages for all the cases in the sample it is instructive once again to determine what happens if they are classified according to complexity.

## Criminal

In 'High Complexity' 'Crimes against Person' cases stages 4-5 (Recording of Prosecution Evidence) emerges by far to be the most time-consuming phase of the trial. The number of days taken by this phase are on the average remarkably high when we look at some of the sub-categories such as 'Hurt,' 'Homicide' and 'Sexual Offences.' Stages 3-4 (between Date of Charging and Start of Prosecution Evidence) and stages 4-5 also appear to be very time-consuming for 'Crimes against Person' cases of 'Moderate Complexity' across all its sub-categories. The very same trends are also evident for 'High Complexity' 'Crimes against Property' and 'Moderately Complex' 'Crimes against Property' cases. Stages 3-4 and stages 4-5 also stand out in 'Local and Special Laws' cases of 'Moderate Complexity.'

Some of the very high numbers in the various sub-categories are also quite striking.

**Table E-3 Criminal Cases: Average Durations (in Days) between different stages of Cases by Complexity**

Criminal Cases: Average Duration of Stages of Case according to Case Complexity															
Days Between Stages	Broad Categories			Sub Categories											
	Crimes Against Person			Homicide			Hurt			Kidnapping			Sexual Offence		
1-2	9	83	101	7	125	78	43	131	130	0	49	130	0	23	52
2-3	181	132	142	184	225	218	135	68	141	160	110	106	207	89	141
3-4	170	369	166	181	275	90	262	483	205	5	446	121	19	329	195
4-5	480	342	17	486	267	9	835	321	4	55	264	10	260	510	42
5-6	90	4	0	106	2	0	7	4	0	0	2	0	4	10	0
6-7	4	7	0	4	0	0	0	28	0	1	0	0	0	4	0
7-8	0	2	0	0	2	0	0	9	0	0	0	0	0	0	0
8-9	4	16	0	5	2	0	0	64	0	3	0	0	1	9	0
Days Between Stages	Crimes Against Property			Cheating			Criminal Trespass			Theft			Bouncing of Cheque		
	1-2	69	173	137	189	196	196	80	199	129	0	127	123	69	38
2-3	178	161	90	28	268	140	438	171	108	83	44	94	0	7	34
3-4	242	623	131	112	401	120	157	556	168	308	804	163	411	1655	69
4-5	642	178	6	875	352	3	317	117	2	1000	74	10	344	222	9
5-6	17	16	0	40	22	0	31	14	0	1	5	0	0	43	0
6-7	2	46	0	7	1	0	2	108	0	0	0	0	0	0	0
7-8	50	0	0	0	0	0	0	0	0	0	0	0	304	0	0
8-9	183	39	0	205	6	0	22	67	0	8	37	0	835	0	0
Days Between Stages	Local and Special Laws			Special Laws			Special Offence			Gambling					
	1-2	0	117	111	0	5	111	0	304	110	0	0	118		
2-3	0	63	30	0	74	47	0	44	21	0	0	14			
3-4	0	154	32	0	200	53	0	76	24	0	0	0			
4-5	0	238	9	0	62	5	0	530	15	0	0	0			
5-6	0	4	0	0	0	0	0	12	0	0	0	0			
6-7	0	0	0	0	0	0	0	0	0	0	0	0			
7-8	0	0	0	0	0	0	0	0	0	0	0	0			
8-9	0	0	0	0	0	0	0	0	0	0	0	0			

## Civil

As can be seen from **Table E-4** below, 'Service of Summons' (stages 1-2) emerges as a time-consuming phase regardless of case complexity – if anything the numbers are invariably even higher for 'Moderately Complex' and 'Less Complex' cases than they are for 'High Complexity' cases if we look at the broad

categories of 'Property' and 'Contractual' cases. It is also a time-consuming phase in 'Family' and 'Rent' cases.

However, when we move to **more advanced stages, case complexity appears to have a direct correlation with the average number of days consumed by these stages.** For instance, in Property cases the average number of days consumed by all the subsequent stages are considerably higher for 'High Complexity' cases as compared to 'Moderately Complex' and 'Less Complex' cases. Barring a few exceptions this is also true for 'Contractual' and 'Family' cases. Such comparison is not quite possible for 'Rent' cases where there were relatively very few cases that could be categorised as 'Moderately Complex' and hence no viable averages could be calculated for the same.

The other main finding is the very high number of average days consumed by the advanced stages in 'High Complexity' cases – for instance, 497 days on the average between 'Formulation of Issues' and 'Start of Plaintiff's Evidence' (stages 7-8), and 236 days on the average between 'Start of Plaintiff's Evidence' and 'Close of Plaintiff's Evidence' (stages 8-9) in 'Property' cases; 320 days on the average between stages 7-8 and 253 days on the average between stages 8-9 in 'Contractual' cases; and, 186 days on the average between stages 7-8 and 144 days on the average between stages 8-9 in 'Family' cases. This underlines the need to revisit the procedural requirements and court practices at these particular stages in order to identify the bottlenecks, as they seem to be the most time-consuming.

Furthermore, these are just broad category averages and some of the sub-categories for these broad categories adduce even higher average number of days for these stages that require special attention (e.g. the sub-categories of suits for pre-emption and suits for declaration under 'Property;' negotiable instruments cases under 'Contractual' cases; custody and divorce cases under 'Family' cases).

Rent cases seem to suggest long delays between 'Filing of Written Reply' and 'Formulation of Issues' (stages 6-7) and between 'Closing of Plaintiff's Evidence' and 'Start of Defendant's Evidence' (stages 9-10).

**Table E-4 Civil Cases: Average Durations (in Days) between different stages of Cases by Case Complexity**

Civil Cases: Average Duration of Stages of Case according to Case Complexity																					
		Broad Categories			Sub Categories																
Days Between Stages	Property			Possession			Pre-emption			Specific Performance			Declaration			Partition			Succession		
	1-2	77	111	123	73	256	208	124	248	139	80	78	181	56	77	86	0	83	100	16	27
2-3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3-4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4-5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5-6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6-7	143	80	112	64	47	118	28	30	78	224	115	115	255	111	241	0	4	124	0	22	0
7-8	497	295	46	460	218	28	775	1028	96	331	280	51	522	257	55	0	197	62	0	9	0
8-9	236	111	25	408	218	40	190	158	14	337	132	37	161	81	28	0	177	21	0	10	8
9-10	79	50	7	181	25	0	17	126	0	98	52	0	74	62	4	0	4	57	4	17	0
10-11	61	6	0	93	4	0	3	3	0	62	8	0	102	9	0	0	3	5	0	3	0
11-12	100	42	6	157	110	0	46	39	0	119	31	0	115	22	7	0	72	23	20	34	11
12-13	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	24	0	8	0	2

	Contractual			Negotiable Instruments			Recovery of Money			Commercial Disputes											
1-2	106	185	128	33	283	170	111	120	139	294	212	76									
2-3	3	11	8	10	30	0	0	0	12	0	0	0									
3-4	2	7	4	7	11	5	0	5	5	0	0	0									
4-5	1	17	13	3	14	8	0	21	19	0	0	0									
5-6	12	18	7	36	41	8	0	5	10	0	0	0									
6-7	7	81	31	0	134	14	14	53	33	0	0	37									
7-8	320	228	64	414	197	150	327	264	68	0	0	3									
8-9	253	119	35	192	151	112	293	99	30	238	110	8									
9-10	139	89	0	152	59	0	158	115	1	0	0	0									
10-11	26	17	0	2	15	0	46	19	0	0	0	0									
11-12	150	197	2	67	177	0	230	224	3	0	0	0									
12-13	0	0	0	0	0	0	0	0	0	0	0	0									
	Family			Maintenance			Custody			Guardianship			Divorce								
1-2	93	70	90	96	76	104	38	142	62	7	54	50	180	17	114						
2-3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0						
3-4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0						
4-5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0						
5-6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0						
6-7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0						
7-8	186	58	23	165	81	18	441	0	38	0	19	34	437	31	17						
8-9	144	86	45	132	117	36	9	7	0	0	27	25	604	59	73						
9-10	66	44	2	77	65	15	14	0	0	0	8	3	30	0	0						
10-11	48	29	0	54	43	1	13	0	0	0	4	0	35	0	0						
11-12	31	26	4	36	34	5	13	0	0	4	16	8	0	0	0						
12-13	0	0	0	0	0	0	0	0	0	0	3	1	0	0	0						
	Rent			Ejectment																	
1-2	152	93	52	152	93	52															
2-3	15	0	4	15	0	4															
3-4	0	0	3	0	0	3															
4-5	0	0	10	0	0	10															
5-6	0	0	0	0	0	0															
6-7	351	0	13	351	0	13															
7-8	73	0	16	73	0	16															
8-9	131	4	2	131	4	2															
9-10	353	0	0	353	0	0															
10-11	39	0	0	39	0	0															
11-12	93	0	0	93	0	0															
12-13	0	0	0	0	0	0															

**Average Number of Hearings over the Key Phases of the Case**

For purposes of the following analysis certain stages of criminal and civil litigation have been collapsed and consolidated into key phases of litigation in order to get an indication of the average number of hearings during these broad overall phases of the life of a typical case. The following is a description of how the case stages have been collapsed and consolidated for purposes of the following discussion. Further details of the stages of criminal cases are provided in **Annexure I** and details of civil cases are provided in **Annexure J**.

**Criminal**

Hearing Phase 1: => No of hearings from Receipt of Challan to Charge

Hearing Phase 2: => No of hearings from Charge to Close of Prosecution Evidence

Hearing Phase 3: => No of hearings in which any Defence Evidence recorded

**Civil**

Hearing Phase 1: => No of hearings from Filing of Plaintiff to Filing of Written Statement

Hearing Phase 2: => No of hearings from Start of Plaintiff's Evidence to close of Plaintiff's Evidence

Hearing Phase 3: => No of hearings from Start of Defence's Evidence to Close of Defence's Evidence

**Table E-5** below provides a snapshot of the average frequency of hearings at different phases of the criminal cases that constitute the sample.

**Table E-5 Average Number of Hearings between Phases (Criminal Cases)**

Criminal Cases: Average Number of Hearings Between Main Phases of the Case					
	Broad Categories	Sub Categories			
Hearings in Phases	Crimes Against Person	Homicide	Hurt	Kidnapping	Sexual Offence
1-2	12	20	8	10	11
2-3	18	37	11	9	13
3-4	0	1	0	0	0
	Crimes Against Property	Cheating	Criminal Trespass	Theft	Bouncing of Cheque
1-2	7	10	7	7	4
2-3	8	10	8	11	5
3-4	0	0	0	0	0
	Local and Special Laws	Special Laws	Special Offence	Gambling	
1-2	4	6	3	2	
2-3	3	6	3	0	
3-4	0	1	0	0	

**Civil**

**Table E-6** below provides a snapshot of the average frequency of hearings during different key phases of the civil cases that constitute the sample.

**Table E-6 Average Number of Hearings between Phases (Civil Cases)**

Civil: Average Number of Hearings Between Main Phases of the Case							
	Broad Categories	Sub Categories					
Hearings in Phases	Property	Possession	Pre-emption	Specific Performance	Declaration	Partition	Succession
1-2	5	5	7	6	7	5	2
2-3	4	4	4	5	4	3	1
3-4	0	1	0	0	1	1	0
	Contractual	Negotiable Instruments	Recovery of Money	Commercial Disputes			
1-2	6	5	7	2			
2-3	3	5	3	1			
3-4	0	0	0	0			
	Family	Maintenance	Custody	Guardianship	Divorce		
1-2	3	5	4	3	1		
2-3	3	4	1	2	1		
3-4	1	1	0	0	0		
	Rent	Ejectment					
1-2	2	2					
2-3	1	1					
3-4	0	0					

## Average Number of Hearing over the Key Phases of the Case according to Case Complexity

### Criminal

**Table E-7** below provides the average number of hearings in criminal cases over the key phases of the case according to case complexity. Key Phase 2 (from ‘Charge’ to ‘Close of Prosecution Evidence’) emerges as the phase that requires the most hearings in ‘High Complexity’ as well as ‘Moderately Complex’ cases across the three broad types of criminal cases captured in the sample.

**Table E-7 Average Number of Hearings between Phases according to Case Complexity (Criminal Cases)**

Criminal Cases: Average Number of Hearings Between Phases of the Case by Case Complexity															
	Broad Categories			Sub Categories											
Hearings in Phases	Crimes Against Person			Homicide			Hurt			Kidnapping			Sexual Offence		
1-2	22	17	10	23	27	15	10	8	8	18	21	9	20	8	11
2-3	62	34	8	66	33	6	49	35	9	20	17	8	33	48	9
3-4	2	1	0	3	1	0	0	6	0	2	0	0	1	0	0
	Crimes Against Property			Cheating			Criminal Trespass			Theft			Bouncing of Cheque		
1-2	10	11	6	8	15	9	18	13	6	6	7	7	5	3	4
2-3	48	41	6	37	45	6	26	28	6	80	40	8	38	126	3
3-4	3	2	0	5	0	0	3	3	0	0	1	0	6	0	0
	Local and Special Laws			Special Laws			Special Offence			Gambling					
1-2	0	7	4	0	5	6	0	9	3	0	0	2			
2-3	0	24	2	0	18	4	0	35	1	0	0	0			
3-4	0	2	0	0	3	1	0	0	0	0	0	0			

## Civil

**Table E-8** below provides the average number of hearings in civil cases over the key phases of the case according to case complexity. Key Phase 2 (from ‘Start of Plaintiff’s Evidence’ to ‘Close of Plaintiff’s Evidence’) emerges as the phase that by and large requires the most hearings in ‘High Complexity’ as well as ‘Moderately Complex’ cases across the broad types of civil cases captured in the sample; though in the case of ‘Moderately Complex’ cases Key Phase 1 (from ‘Filing of Plaintiff’ to ‘Filing of Written Statement’) also stands out in certain categories.

**Table E-8 Average Number of Hearings between Phases according to Complexity (Civil Cases)**

Civil Cases: Average Number of Hearings Between Phases of the Case by Case Complexity																					
Broad Categories		Sub Categories																			
Hearings in Phases	Property			Possession			Pre-emption			Specific Performance			Declaration			Partition			Succession		
1-2	6	8	5	6	12	3	6	7	7	8	9	5	7	7	7	0	8	5	0	5	1
2-3	15	6	1	19	11	1	15	10	1	28	6	2	7	6	2	0	10	2	1	1	1
3-4	5	1	0	8	1	0	1	2	0	8	1	0	6	1	0	0	3	1	0	0	0
Contractual		Negotiable Instruments			Recovery of Money			Commercial Disputes													
1-2	4	8	6	6	7	4	4	9	7	0	0	2									
2-3	12	5	1	12	6	3	13	5	2	10	6	0									
3-4	2	1	0	1	1	0	3	2	0	0	0	0									
Family		Maintenance			Custody			Guardianship			Divorce										
1-2	7	4	3	8	4	5	7	0	5	4	5	3	9	0	1						
2-3	11	4	2	10	5	3	2	2	0	1	1	2	36	5	1						
3-4	5	2	0	5	3	0	3	0	0	1	1	0	3	0	0						
Rent		Ejectment																			
1-2	9	0	1	9	0	1															
2-3	10	1	0	10	1	0															
3-4	3	0	0	3	0	0															

## F) The Impact of Interlocutory Proceedings

It would also be very useful to determine how much of the time in a typical case’s life is taken up/consumed by interim proceedings and the hearing of miscellaneous applications to the detriment of the progress of the main case. The ‘Event-to-Event’ sections of the five Caseflow Management Information Forms (reproduced at the end of the report as **Annexures D, E, F, G and H**) allowed for the plotting of such information in order to determine the overall quantum of time taken up by such events as well as the frequency of such events. Such information can also be disaggregated according to case categories/sub-categories as well as case complexity. The types of interim proceedings/applications can vary according to the case type and the Caseflow Management Information Forms endeavoured to capture the most prevalent interlocutory proceedings.

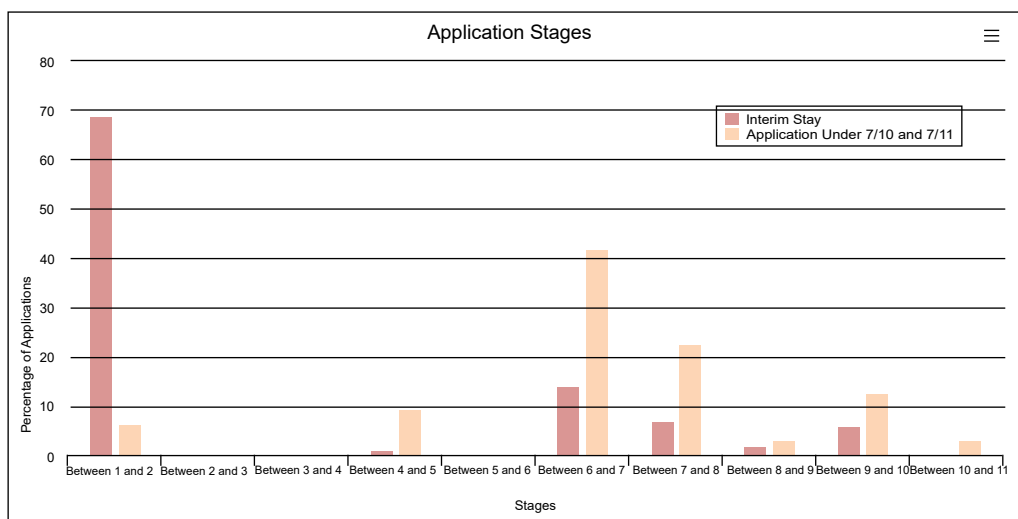
**Figure F-1** below plots the frequency of interim stay applications and stay applications under Order 7 Rule 10 and Order 7 Rule 11 of the Civil Code – the most typical legal vehicles for interlocutory proceedings in Pakistani civil litigation – by focusing on those cases within the overall sample wherein such applications were filed. Identifying the dates when such applications were filed, they were then plotted according to the stage of the case where they were filed. The following figure, therefore, shows the percentage of both types of stay applications filed between two specific stages of the case, out of the total number of such applications filed.



As can be seen from Figure F-1 below, almost 70% of the interim stay applications (under Order 7 Rule 10) were filed between the first and the second stages of the case i.e. between ‘Filing of Plaintiff’ and ‘Service of Summons.’ This also partially explains the long delays witnessed earlier in the data analysis in the service of summons. The next most prominent phase of the case for the filing of such applications is between stages 6 and 7 i.e. between ‘Date of Filing of Written Reply’ and ‘Date of Formulation of Issues.’ Meanwhile, the most common phase of the case for stay applications (under Order 7 Rule 11) is between stages 6 and 7 (almost 45%), followed by stages 7 and 8 (almost 25%) i.e. between ‘Date of Filing of Written Reply’ and ‘Date of Formulation of Issues’ and between ‘Date of Formulation of Issues’ and ‘Date of Start of Plaintiff’s Evidence.’

These applications are in many ways the defendants’ challenge to the continuation of the case in the court system. The prevalence of these applications persuasively indicates that pre-admission scrutiny was inadequate or certain information was not obtained from the plaintiff at the appropriate stage. A more comprehensive approach to filing and scrutiny of cases can help reduce the number of these applications—which ought to be necessary given the significant impact they have on slowing down the overall pace of progress of the cases. Thus, it is an area of great importance while developing an overall Caseflow Management system.

**Figure F-1 Frequency of Occurrence of Interlocutory Proceedings during the life of a Case**



### 2.3 Macro Data Analysis for the Target Districts

While the primary focus of the empirical research for this Report was a representative sample of case files from the Target Districts, the researchers also excavated macro data from the same in order to develop a better understanding of the overall workload for judges as well as the state and level of case flows in the courts. This is helpful towards providing a context for the case file sample used for this Report.

Furthermore, the idea was also to gauge whether actual disposal times for cases (at the macro level) correspond or respond to any current time standards being pursued and implemented by the Lahore High Court for disposal of cases. While the current framework of time standards and Caseflow Management rules shall be explored at length in the following section, it can be safely stated that the most recent and prominent broad and over-arching time standards that have been laid out by the judicial

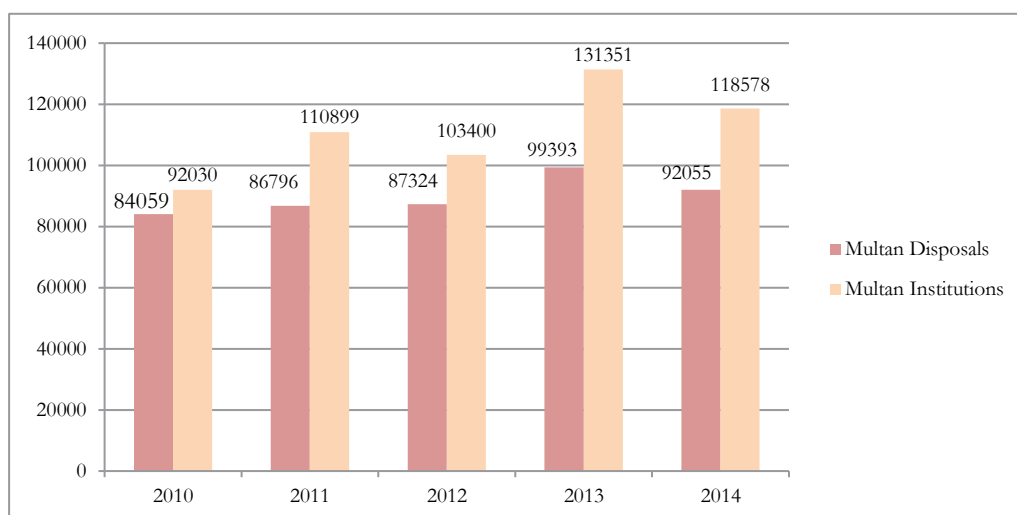
leadership for disposal of cases are the ones put forward by the National Judicial Policy, 2009 (hereafter the 'NJP'). The NJP laid out timetables/time standards of six (6) months for all civil cases and six (6) months or one (1) year for all criminal cases according to whether the quantum of punishment is less than or more than seven (7) years imprisonment.

One quick way to gauge whether these standards have had any impact on the actual time taken for the disposal of cases can be quickly gauged by taking a look at the Figures provided below which provide an overview of currently available data on the courts' caseloads in the three Target Districts as well as the pace of their disposal.

### Aggregate Five-Year Case Disposals and Institutions in the Target Districts

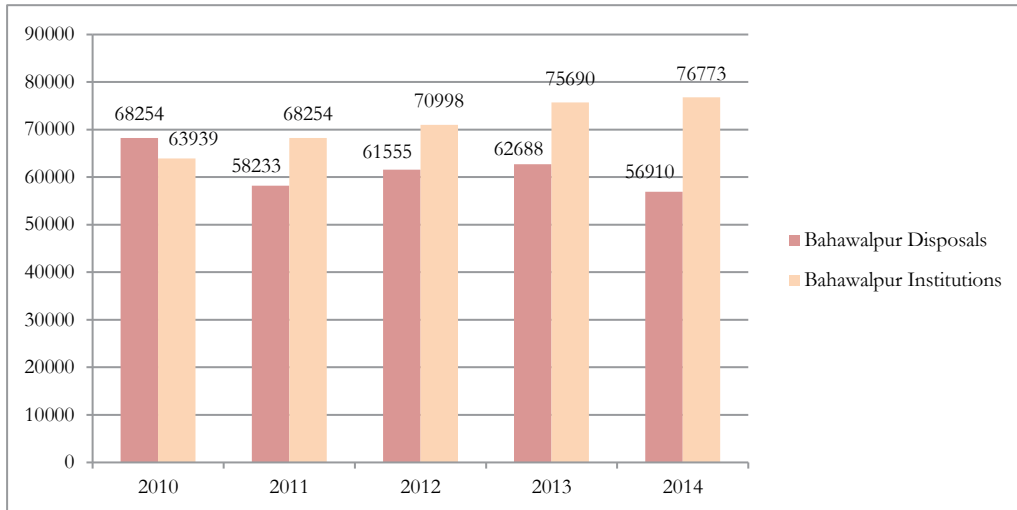
**Figure G-1** below provides the most recent trends (over a period of five years) in terms of new case institutions and case disposals in the Multan District according to available official statistics. These numbers are based on Annual Reports from 2010-2013 and monthly statements for 2014 collected from Multan. As can be seen, while the general trend is for case disposals to be invariably going up every year, so are the new case institutions and hence the escalating gap between disposals and institutions. The numbers may likely be somewhat higher for 2014 but one awaits the Annual Report statistics. Also worth noting is the fact that the gaps are getting bigger in 2013 and 2014 as compared to previous years.

#### Figure G-1 Five-Year Case Institutions and Disposals in Multan



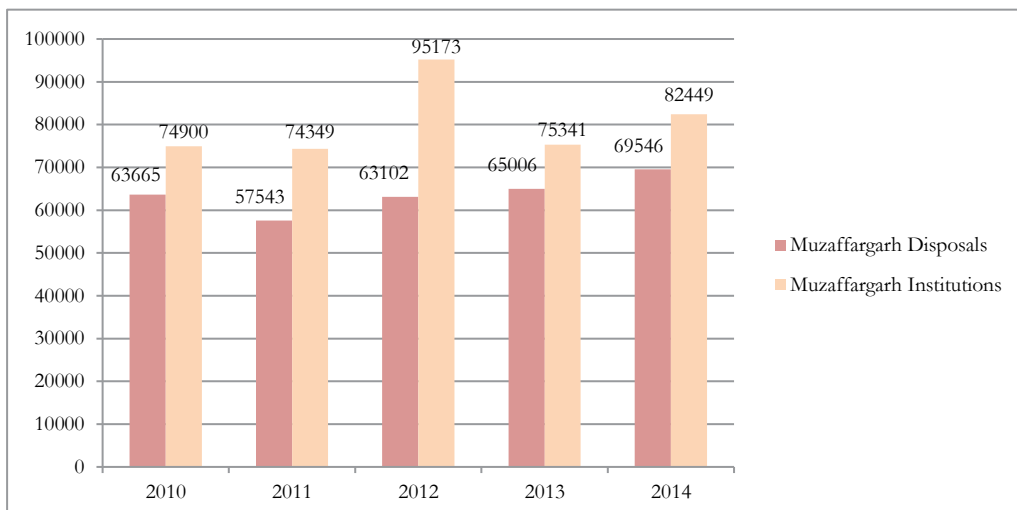
**Figure G-2** below provides the most recent trends (over a period of five years) in terms of new case institutions and case disposals in the Bahawalpur District according to available official statistics. These numbers are based on Annual Reports from 2010-2013 and monthly statements for 2014 collected from Bahawalpur. As can be seen, while the general trend is for case disposals to be invariably going up every year, so are the new case institutions and hence the escalating gap between disposals and institutions. The numbers may likely be somewhat higher for 2014 but one awaits the Annual Report statistics. Also, only in 2010 did the case disposals outstrip new case institutions. Furthermore, the gap between disposals and institutions was the maximum in 2014.

**Figure G-2 Five-Year Case Institutions and Disposals in Bahawalpur**



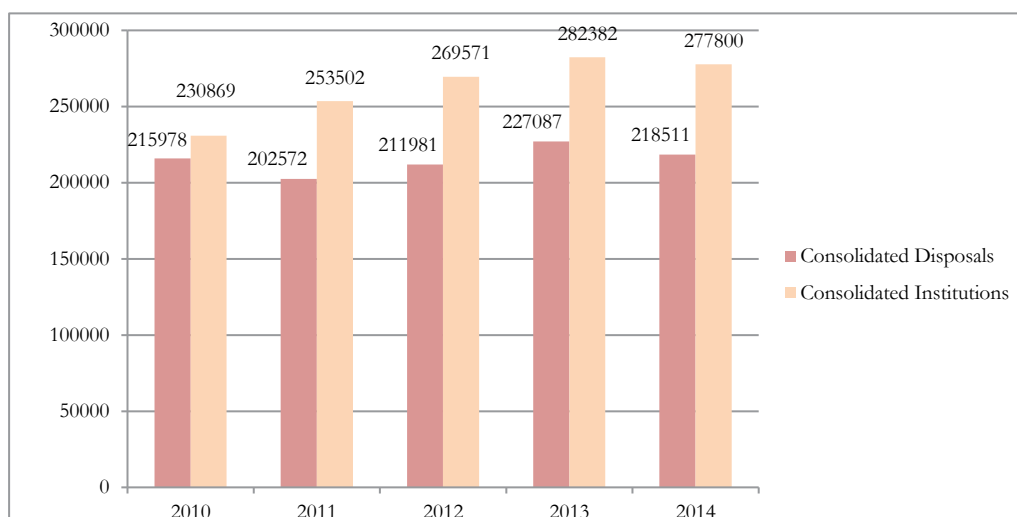
**Figure G-3** below provides the most recent trends (over a period of five years) in terms of new case institutions and case disposals in the Muzaffargarh District according to available official statistics. These numbers are based on Annual Reports from 2010-2013 and monthly statements for 2014 collected from Muzaffargarh. As can be seen, while the general trend is for case disposals to be invariably going up every year, so are the new case institutions and hence the gap between disposals and institutions. The numbers may likely be somewhat higher for 2014 but one awaits the Annual Report statistics. The gap between disposal and institutions is the maximum in 2012.

**Figure G-3 Five-Year Case Institutions and Disposals in Muzaffargarh**



**Figure G-4** below provides the most recent trends (over a period of five years) in terms of consolidated new case institutions and case disposals in the three Target Districts according to available official statistics. These numbers are based on Annual Reports from 2010-2013 and monthly statements for 2014 collected from the Target Districts. As can be seen, while the general trend is for case disposals to be invariably going up every year, so are the new case institutions and hence the escalating gap between overall disposals and institutions. The numbers may likely be somewhat higher for 2014 but one awaits the Annual Report statistics. It is also obvious that the extent of the gap between per year disposals and institutions is also a widening one in the more recent years.

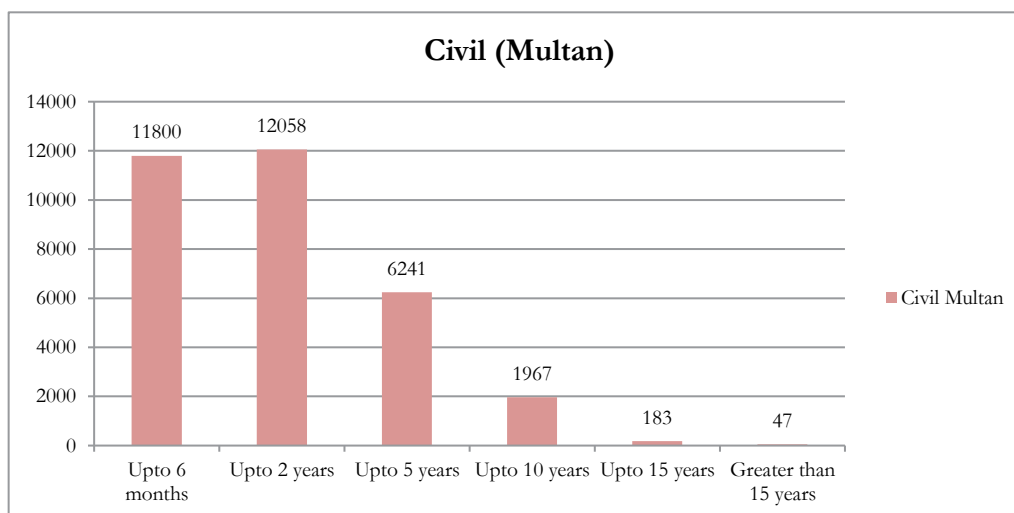
**Figure G-4 Five-Year Consolidated Case Institutions and Disposals in Target Districts**



#### Aggregate Case Pendency according to Age of Case in the Target Districts

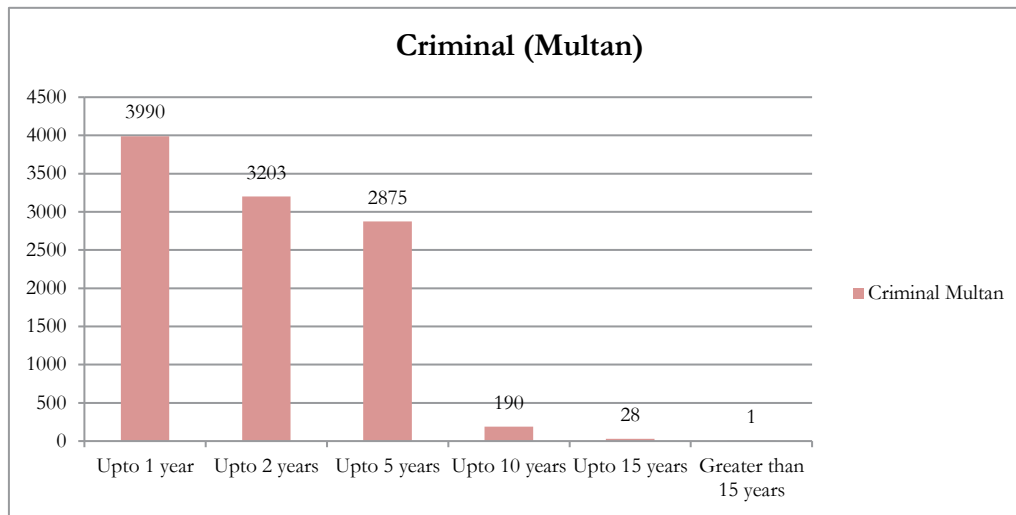
**Figure H-1** provides the current pendency/backlog statistics of civil cases in Multan. As it turns out civil cases pending for over six months in the Multan courts actually account for almost 63.5% of all pending cases – and of course there is no certainty that the remaining too will be disposed within the stipulated six-month period under the NJP. What is also noteworthy is that almost 37.5% of the cases have been pending for up to two years, almost 19.5% of the cases have been pending for up to five years, and 6% have been pending for up to ten years.

**Figure H-1 Pending Civil Cases in Multan according to Age of the Cases**



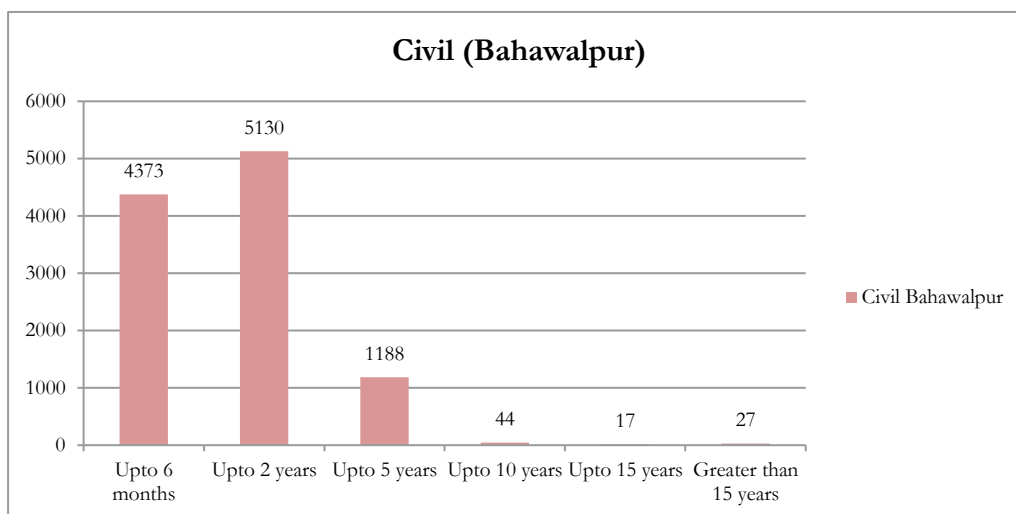
**Figure H-2** provides the current pendency/backlog of criminal cases in Multan. As it turns out, criminal cases pending for over one year in the Multan courts actually account for just over 61% of all pending cases – and of course there is no certainty that the remaining too will be disposed within the stipulated one-year period under the NJP (while keeping in consideration that for criminal cases NJP actually puts forward two timelines of six months and one year according to the quantum of punishment for the offence). What is also noteworthy is that as many as 31% of the cases have been pending for up to two years and almost 28% of the cases have been pending for up to five years.

**Figure H-2: Pending Criminal Cases in Multan according to Age of the Cases**



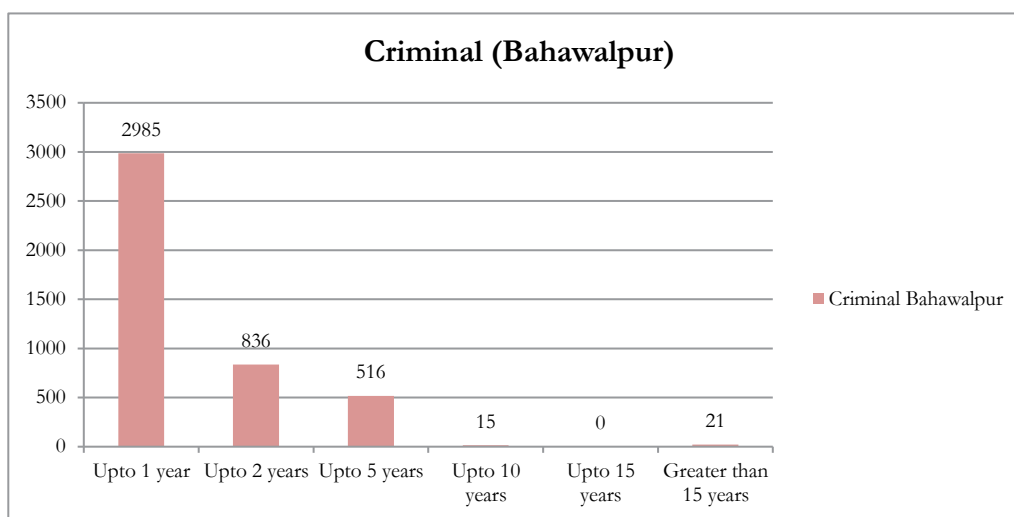
**Figure H-3** provides the current pendency/backlog of civil cases in Bahawalpur. As it turns out, civil cases pending for over six months in the Bahawalpur courts actually account for almost 59.5% of all pending cases – and of course there is no certainty that the remaining too will be disposed within the stipulated six-month period under the NJP. What is also noteworthy is that 47.5% cases have been pending for up to two years and 11% of the cases been pending for up to five years.

**Figure H-3: Pending Civil Cases in Bahawalpur according to Age of the Cases**



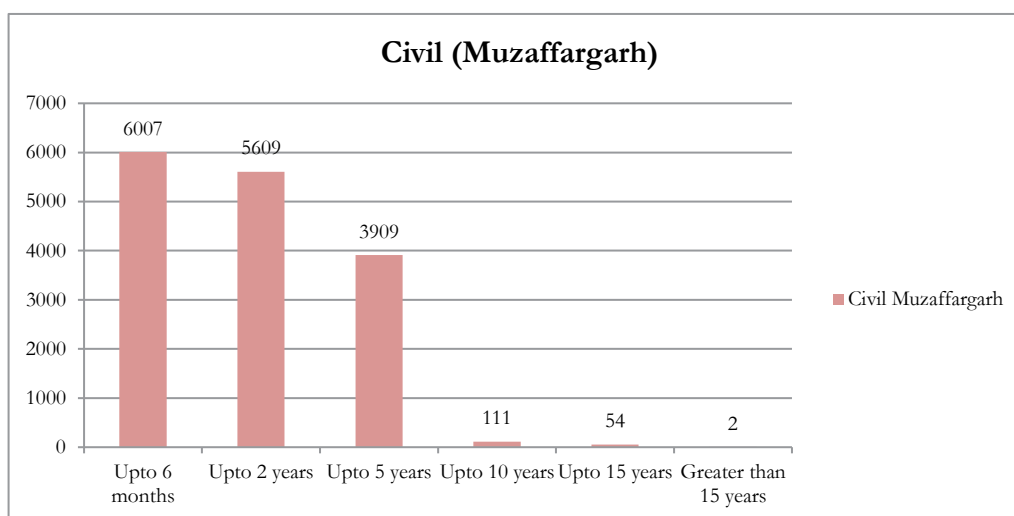
**Figure H-4** provides the pendency/backlog of criminal cases in Bahawalpur. As it turns out criminal cases pending for over one year in the Bahawalpur courts actually account for just over 31.5% of all pending cases – and of course there is no certainty that the remaining too will be disposed within the stipulated one-year period under the NJP (while keeping in consideration that for criminal cases NJP actually puts forward two timelines of six months and one year according to the quantum of punishment for the offence). What is also noteworthy is that just over 11.5% of the cases have been pending for up to five years.

**Figure H-4: Pending Criminal Cases in Bahawalpur according to Age of the Cases**



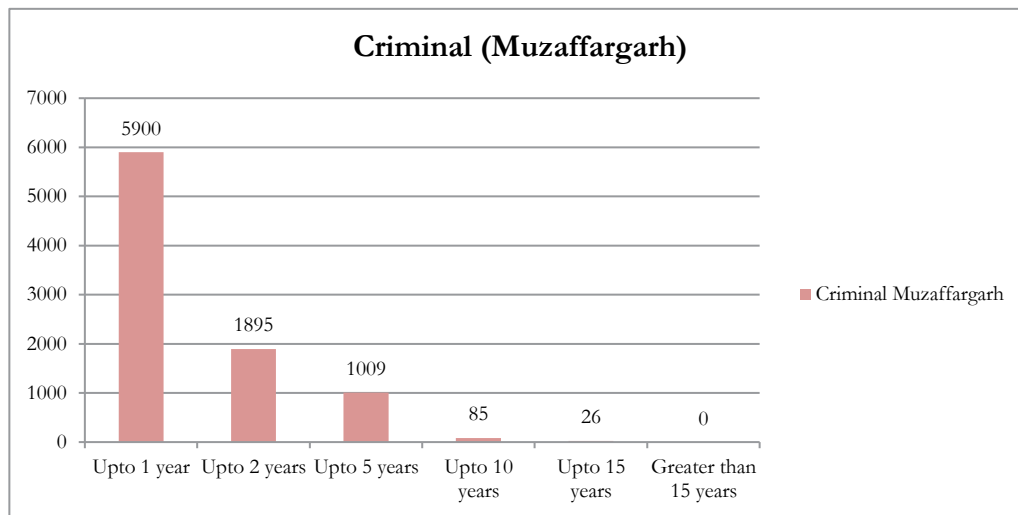
**Figure H-5** provides the pendency/backlog of civil cases in Muzaffargarh. As it turns out, civil cases pending for over six months in the Muzaffargarh courts actually account for over 61.5% of all pending cases – and of course there is no certainty that the remaining too will be disposed within the stipulated six-month period under the NJP. What is also noteworthy is that over 35.5% of the cases have been pending for up to two years and almost 25% of the cases have been pending for up to five years.

**Figure H-5: Pending Civil Cases in Muzaffargarh according to Age of the Cases**



**Figure H-6** provides the pendency/backlog of criminal cases in Muzaffargarh. As it turns out, criminal cases pending for over one year in the Muzaffargarh courts actually account for almost 34% of all pending cases – and of course there is no certainty that the remaining too will be disposed within the stipulated one year period under the NJP (while keeping in consideration that for criminal cases NJP actually puts forward two timelines of six months and one year according to the quantum of punishment for the offence). What is also noteworthy is that just over 23% of the cases have been pending for up to two years and just over 11% cases have been pending for up to five years.

**Figure H-6: Pending Criminal Cases in Muzaffargarh according to Age of the Cases**



**Figures H1 to H-6** reveal that the age of case pendency is not in line with NJP time standards. Around 60 % of the civil cases in all three Target Districts have been pending for a time period well over the prescribed NJP time limit of six months; and, over 60% of the criminal cases in Multan, over 31% of the criminal cases in Bahawalpur and around 35% of the criminal cases in Muzaffargarh have been pending over the prescribed NJP time limit of one year (while keeping in consideration that for criminal cases NJP actually puts forward two timelines of six months and one year according to the quantum of punishment for the offence). The situation in Multan is the least promising as for both civil and criminal cases well over 60% of the cases have been pending for well over the NJP prescribed time limits.

#### **Disposals of Cases in the Sample Set according to the Age of the Cases**

This is an appropriate place to juxtapose and compare the disposal statistics for the cases in the sample set according to their age against the macro case disposal trends (according to age) that have been discussed above.

**Tables I-1 and I-2** below provide a breakup of all the civil and criminal cases that constitute the sample for this Report according to the quantum of time it took them to be disposed. These are consolidated numbers for the three Target Districts. Looking first at the civil cases **it can be seen that 73% of all the civil cases in the sample went beyond the NJP prescribed time limit of six months for disposing civil cases.** Furthermore, 41% of these cases took over 730 days to be disposed (i.e. over two years).

As to criminal cases, it turns out that 52% of all the criminal cases in the sample went beyond the NJP prescribed upper time limit of one year for disposing criminal cases (while keeping in mind that the NJP actually puts forward a shorter time limit of six months for cases involving a punishment of less than seven years; the upper time limit of one year only applies to cases involving offences with a punishment exceeding seven years). Furthermore, 27% of these cases took over 730 days to be disposed (i.e. over

two years). This data more or less reflects the trends in terms of longevity of pending cases in the Target Districts – if anything the numbers are worse here for civil cases and slightly better for criminal cases (although one has to account for the fact that these are consolidated numbers of the three Target Districts).

**Table I-1 Consolidated Statistics for Civil Case Disposals in Target Districts according to Age of the Case**

<b>Civil</b>			
<b>Age (days)</b>	<b>Number of cases</b>	<b>Percentage</b>	<b>Cumulative Percentage</b>
0-90	108	14%	14%
91-180	97	13%	27%
181-270	56	7%	34%
271-365	47	6%	40%
366-450	33	4%	44%
451-540	46	6%	50%
541-630	37	5%	55%
631-730	26	4%	59%
Over 730	319	41%	100%

**Table I-2 Consolidated Statistics for Criminal Case Disposals in Target Districts according to Age of the Case**

<b>Criminal</b>			
<b>Age (days)</b>	<b>Number of cases</b>	<b>Percentage</b>	<b>Cumulative Percentage</b>
0-90	91	13%	13%
91-180	94	13%	26%
181-270	77	11%	37%
271-365	77	11%	48%
366-450	51	7%	55%
451-540	36	5%	60%
541-630	48	7%	67%
631-730	41	6%	73%
Over 730	192	27%	100%

## **The Scale of Operations: Institution, Disposal, Transfer and Pendency and Gaps**

### **Institutions**

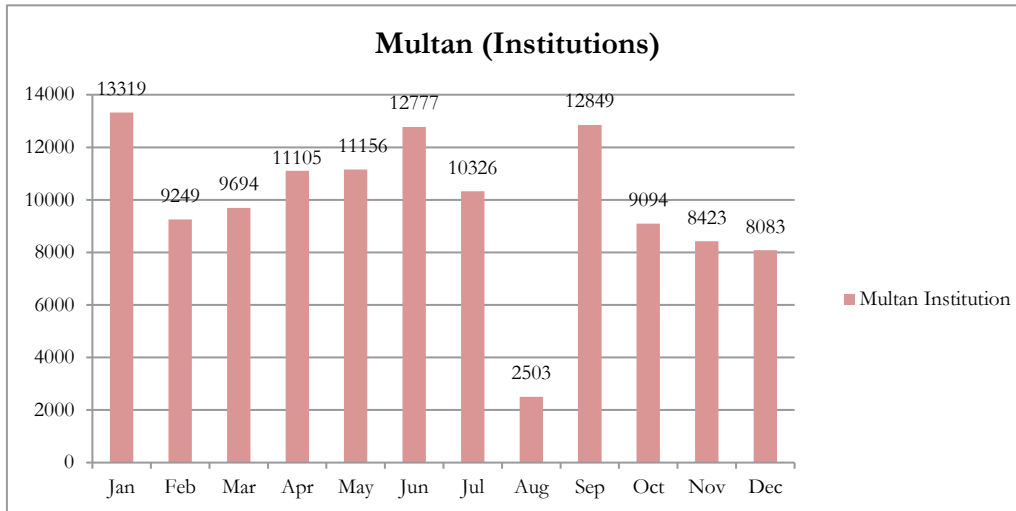
While we have now a clearer idea of the distinct patterns of delay and the extent of delay in the resolution of cases in the Target districts, the following Figures provide a more detailed month-by-month overview of the scale of activity and operations within which such delays are taking place.

Institution of Cases numbers provide an idea of the extent of litigation and the amount of additional workload that the judges are having to deal with while adjudicating and deciding cases pending from before. **Figures J-1, J-2 and J-3** below provide an indication of the scale of institution of new cases in the Target Districts over 2014 – the year from which the sample data set for this Report was drawn. The data for case institutions reproduced here includes fresh institutions during the month as well as cases received via transfer. This data is extracted from the monthly statements of the three Target Districts.



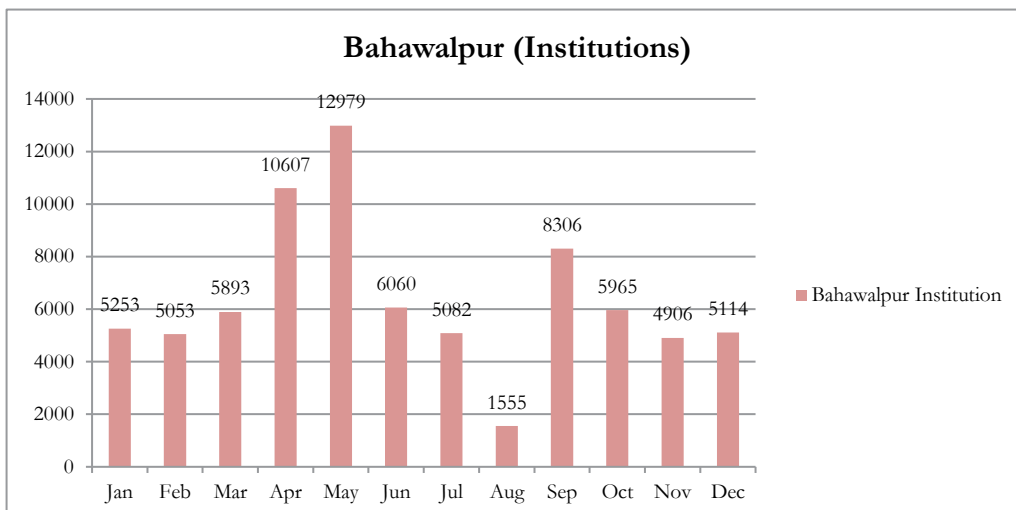
**Figure J-1** shows that barring a month with the summer break having a bearing on the operation of courts, anywhere between 8000 to almost 13000 cases were being instituted every month in Multan. The total case institutions for 2014 add up to 118578 cases (or around 9882 cases per month on the average or almost 10552 cases on the average per month if we exclude the lean month of August).

**Figure J-1 Consolidated Institution of Cases (Month by Month) in Multan (2014)**



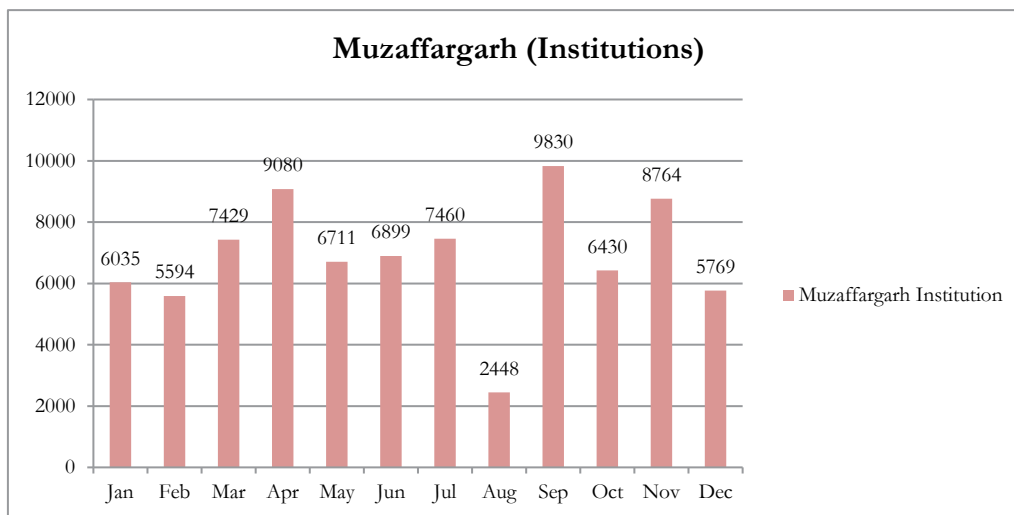
**Figure J-2** shows that barring a month with the summer break having a bearing on the operation of courts, anywhere between 5000 to almost 13000 cases were being instituted every month in Bahawalpur. The total case institutions for 2014 add up to 76773 cases (or around 6398 cases per month on the average or 6838 cases on the average per month if we exclude the lean month of August).

**Figure J-2 Consolidated Institution of Cases (Month by Month) in Bahawalpur (2014)**



**Figure J-3** shows that barring a month with the summer break having a bearing on the operation of courts, anywhere between 5500 to almost 10000 cases were being instituted every month in Muzaffargarh. The total case institutions for 2014 add up to 82449 cases (or around 6871 cases per month on the average or 7273 cases on the average per month if we exclude the lean month of August).

**Figure J-3 Consolidated Institution of Cases (Month by Month) in Muzaffargarh (2014)**

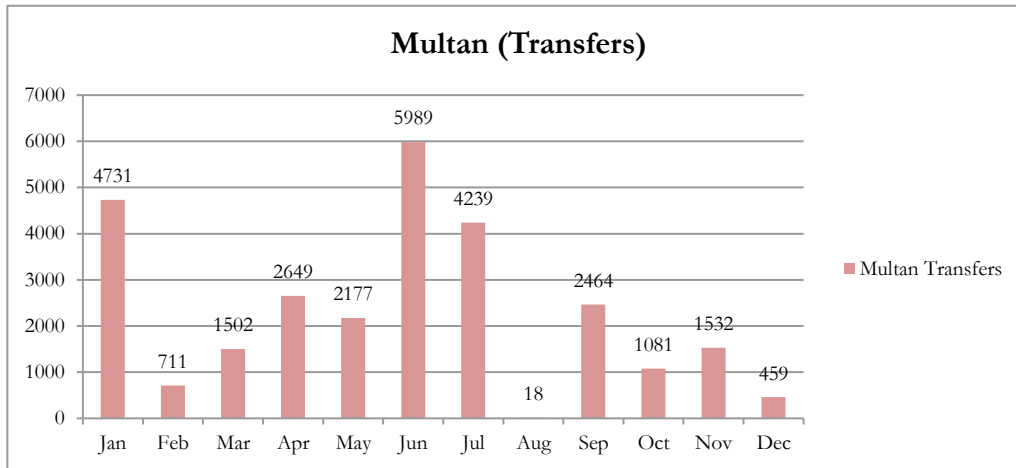


### Transfers

Case transfers have a bearing on the pace of progress and longevity of cases and on the overall judicial workload – even if they may be necessary in certain situations. These statistics represent inter-court transfers within the district (which constitute the majority of transfers) as well as transfers from other districts. While certain transfers are justifiable, a high frequency of transfers necessitates further investigation into the reasons as they entail a fresh start of proceedings and hence reinvestment or duplicative investment of court time. **Figures J-4, J-5 and J-6** present aggregate transfer of cases in the Target Districts during 2014.

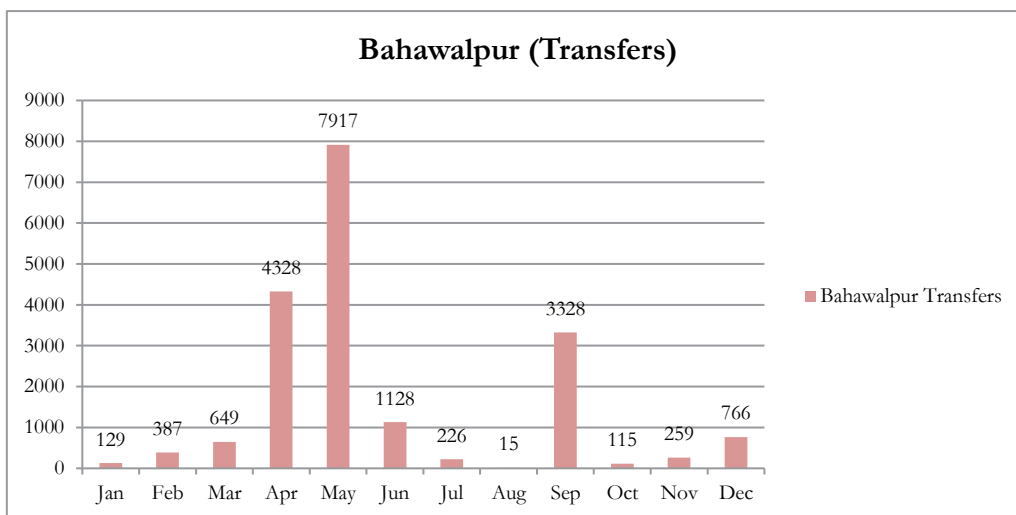
As **Figure J-4** shows, barring August there has been a fair level of case transfers in Multan ranging from around 450 cases to almost 6000 cases in a given month. Furthermore, during the course of the year an aggregate of as many as 27552 cases were transferred (which means 2296 cases on the average per month or 2503 cases on the average per month if we exclude the lean month of August).

**Figure J-4 Consolidated Transfer of Cases (Month by Month) in Multan (2014)**



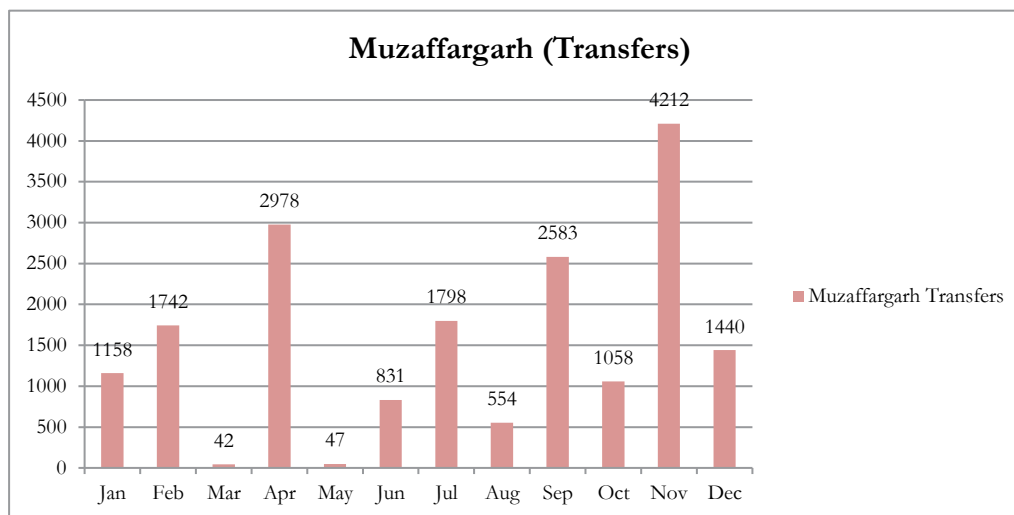
As **Figure J-5** shows, barring August there have been quite a few case transfers in Bahawalpur though there is much higher variation here than in Multan – transfers range from around a few hundred cases to almost 8000 cases in a given month. Furthermore, during the course of the year an aggregate of as many as 19247 cases were transferred (which means almost 1604 cases on the average per month or just over 1748 cases on the average per month if we exclude the lean month of August).

**Figure J-5 Consolidated Transfer of Cases (Month by Month) in Bahawalpur (2014)**



As **Figure J-6** shows, barring August there have been quite a few case transfers in Muzaffargarh though – transfers range from around a few score cases to over 4000 cases in a given month. Furthermore, during the course of the year an aggregate of as many as 18443 cases were transferred (which means almost 1537 cases on the average per month).

**Figure J-6 Consolidated Transfer of Cases (Month by Month) in Bahawalpur (2014)**

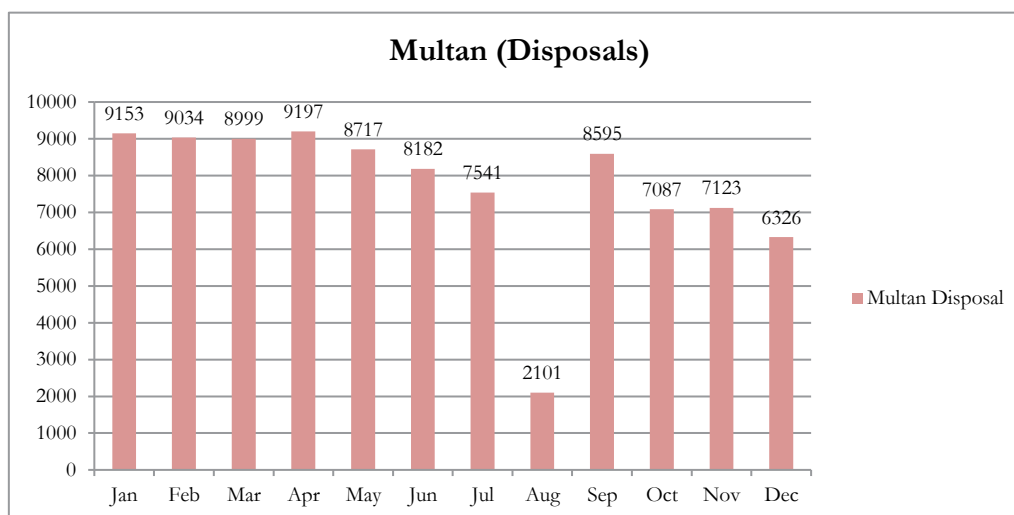


### Disposals

Having looks the statistics for monthly institution of new cases as well as transfers in the Target Districts it would now be instructive to examine the monthly disposal numbers for the same year. **Figures J-7, J-8** and **J-9** below provide an indication of the scale of disposal of cases in the Target Districts over 2014 – the year from which the sample data set for this Report was drawn.

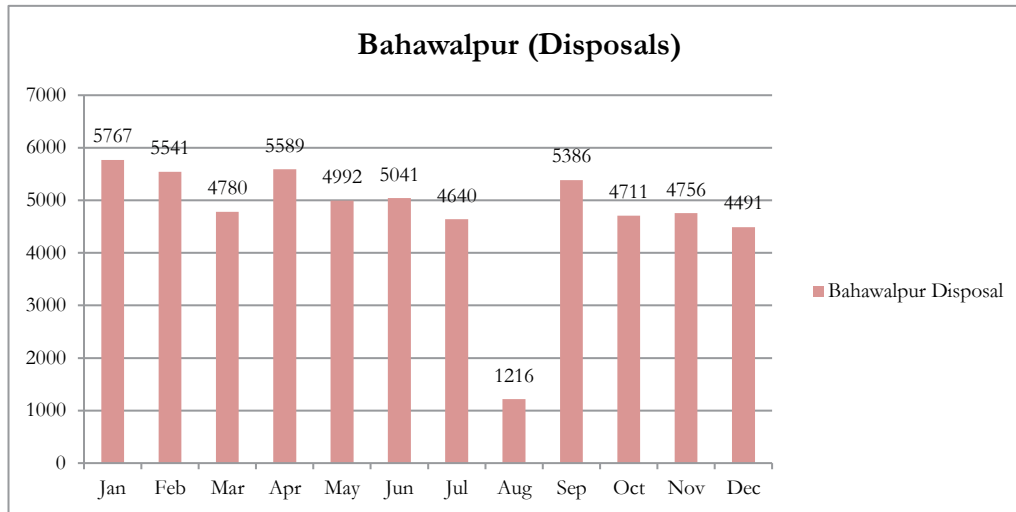
**Figure J-7** shows that barring a month with the summer break having a bearing on the operation of courts; anywhere between just over 6000 to just over 9000 cases were being disposed every month in Multan. The total case disposals for 2014 add up to 92055 cases (or around 7671 cases per month on the average or 8178 cases on the average per month if we exclude the lean month of August).

**Figure J-7 Consolidated Disposal of Cases (Month by Month) in Multan (2014)**



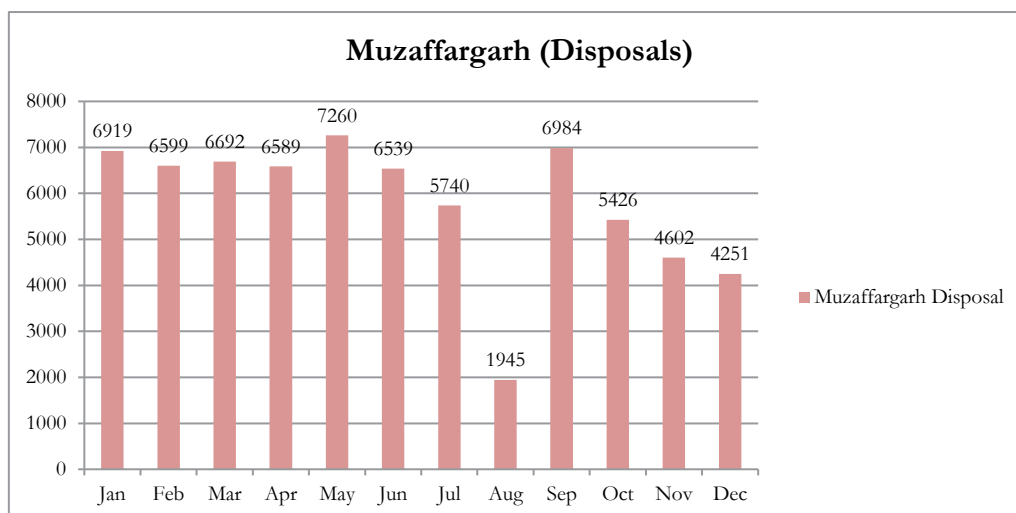
**Figure J-8** shows that barring a month with the summer break having a bearing on the operation of courts; anywhere between just over 6000 to just over 9000 cases were being disposed every month in Bahawalpur. The total case disposals for 2014 add up to 56910 cases (or around 4743 cases per month on the average or 5063 cases on the average per month if we exclude the lean month of August).

**Figure J-8 Consolidated Disposal of Cases (Month by Month) in Bahawalpur (2014)**



**Figure J-9** shows that barring a month with the summer break having a bearing on the operation of courts; anywhere between just over 4000 to just over 7000 cases were being disposed every month in Muzaffargarh. The total case disposals for 2014 add up to 69546 cases (or around 5796 cases per month on the average or 6146 cases on the average per month if we exclude the lean month of August).

**Figure J-9 Consolidated Disposal of Cases (Month by Month) in Muzaffargarh (2014)**



Having looked at monthly new case institutions (including transfers) as well as disposal figures for the three Target Districts it would be instructive to see what is the extent of the gap between the two – while such gaps are natural as obviously new cases cannot be immediately disposed the extent of the gap provides an idea of the number of cases carried over to the next year and contributing to any already

accumulating backlog (and also the overall workload of judges when combined with newly instituted cases the following year).

The following emerges from this comparison:

### Multan

Total case disposals for 2014 add up to 92055 cases.

Total case institutions for 2014 add up to 118578 cases.

### Bahawalpur

Total case disposals for 2014 add up to 56910 cases.

The total case institutions for 2014 add up to 76773 cases.

### Muzaffargarh

Total case disposals for 2014 add up to 69546 cases

Total case institutions for 2014 add up to 82449 cases

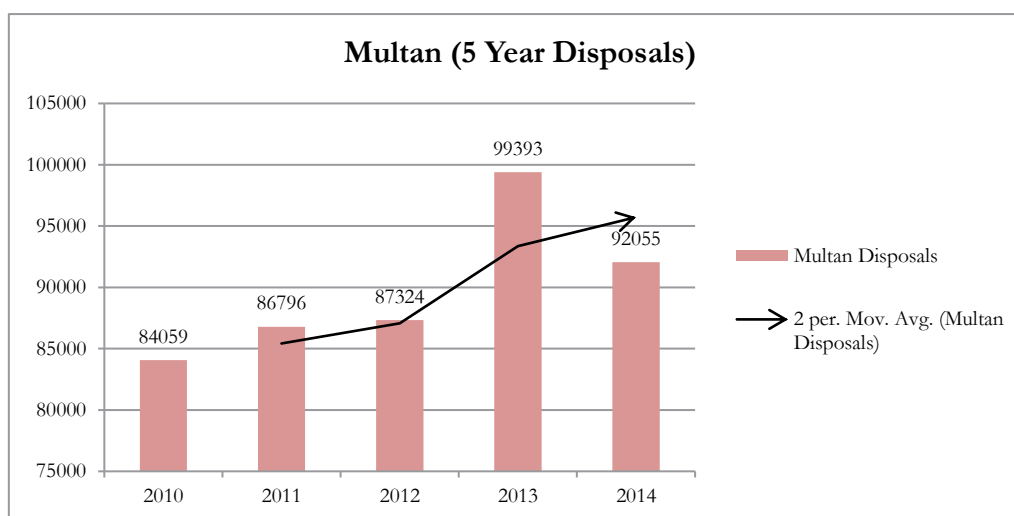
While these numbers on their own indicate some logical gaps, it is only when we consolidate new case initiation, pendency and disposal numbers over a period of time that we get a good indication of how the gap between disposed cases and as yet disposed cases (newly initiated (including transferred), remanded and pending cases from previous years).

### Historical Disposal Trends across Target Districts

Given the above it is useful to re-examine historical disposal trends across the Target Districts over a five-year period. These statistics combined with case transfer, remand and case carryover numbers as well as new case initiation numbers indicate whether the backlog is growing and if so then at what pace. The disposal statistics presented and analysed here are based on High Court Annual reports from 2010-2013 and Monthly Statements for 2014 collected from the Target Districts.

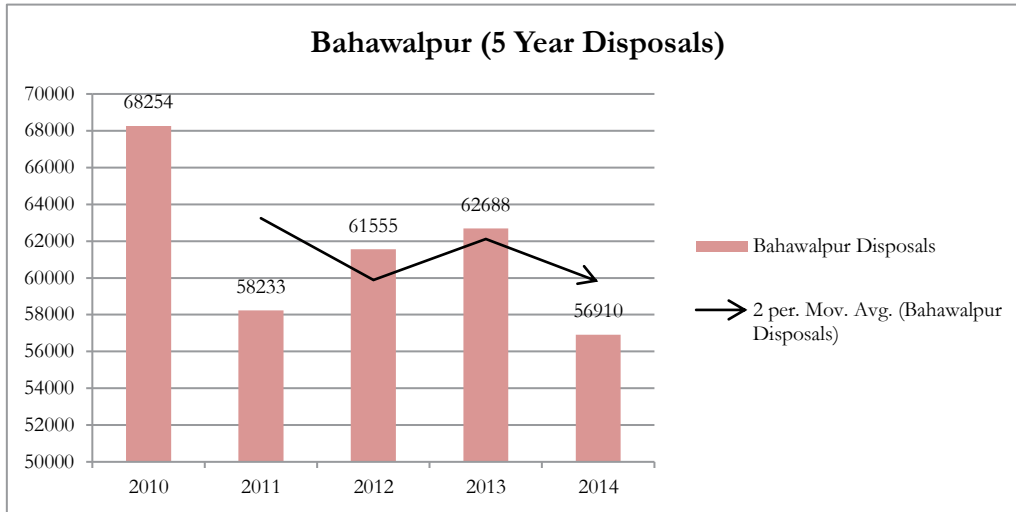
Figures K-1, K-2 and K-3 show the disposal numbers in the Target Districts over a five-year period. As can be seen from Figure K-1 the disposal numbers are somewhat going up from 2010 to 2014 though there is a dip in 2014 as compared to 2013 that showed a comparatively much higher number of disposals.

**Figure K-1 Five-Year Aggregate Case Disposal Numbers (Multan)**



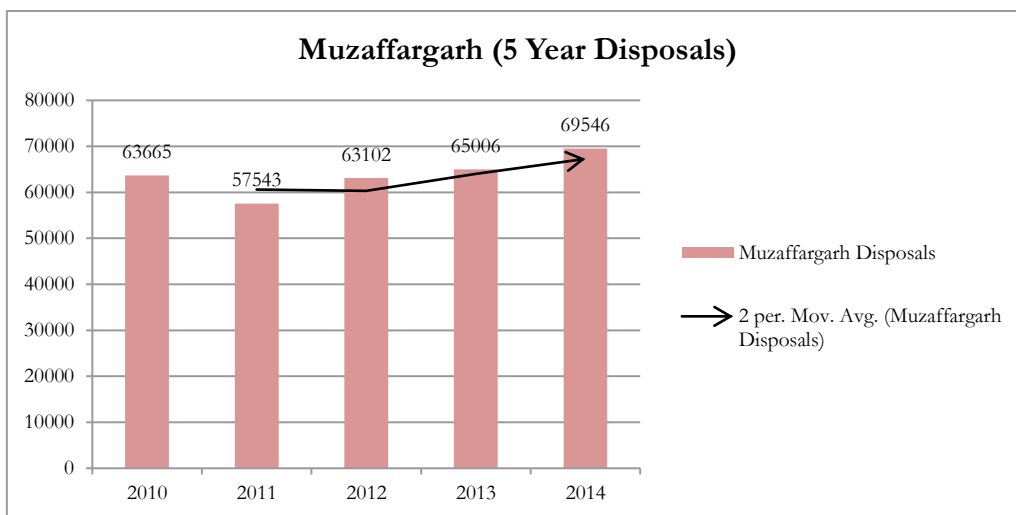
**Figure K-2** provides the consolidated case disposal numbers for Bahawalpur over a five-year period. As can be seen from Figure K-2 the disposal numbers have gone down as compared to the base year of 2010 over the following four years, with some escalation in 2012 and 2013 but with 2014 displaying the lowest disposal aggregate in five years.

**Figure K-2 Five-Year Aggregate Case Disposal Numbers (Bahawalpur)**



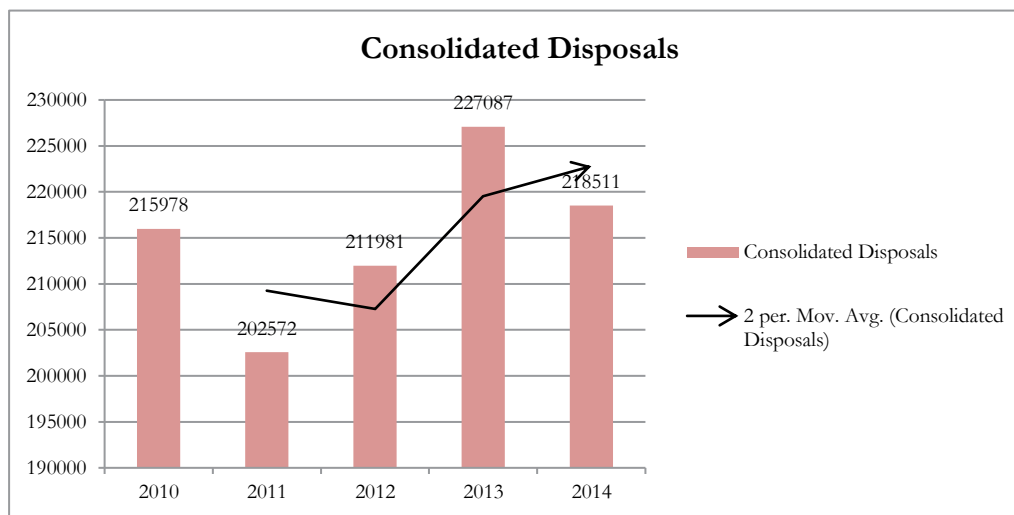
**Figure K-3** provides the consolidated case disposal numbers for Muzaffargarh over a five-year period. As can be seen from Figure K-3 the disposal numbers have remained more or less steady across the five years, with 2014 displaying the highest disposal aggregate in five years.

**Figure K-3 Five-Year Aggregate Case Disposal Numbers (Muzaffargarh)**



**Figure K-4** presents consolidated case disposals from the three Target Districts and the picture is one of a steady number between 200,000 case disposals and 230,000 case disposals per year. These numbers do not divulge any dramatic trends of increasing disposals in the Target Districts.

**Figure K-4 Five-Year Consolidated Case Disposal Numbers for Target Districts**



#### Consolidated Case Pendency across Target Districts according to Age of the Case

Given this overview of five-year case initiation and disposal figures for the Target Districts it would be instructive now to look at consolidated pendency figures for the Target Districts according to the age of the pending cases. This data has been extracted from individual courts in the Target Districts and is up to date till June 2015.

As can be seen from **Table L-1** below, 38% of the cases have been pending for six months or less while the rest of the 62% have already exceeded the NJP Timeline of six months for civil cases. Further, 28% of the cases have been pending for a year, 15% for two years, 9% for three years and an aggregate of the rest of the 10% for over three years.

**Table L-1 Consolidated Case Pendency across Target Districts – 2015 (Civil Cases)**

Age of Case (Years)	Number of Cases	Percentage	Cumulative Percentage
6 months	31281	38%	38%
1 Year	23393	28%	66%
2 Years	12593	15%	81%
3 Years	7892	9%	90%
4 Years	3288	4%	94%
5 Years	1976	2%	97%
6 Years	795	1%	98%
7 Years	567	1%	98%
8 Years	453	1%	99%
9 Years	340	0%	99%
10 Years	113	0%	99%
Over 10 Years	505	1%	100%



Moving on to criminal cases, as can be seen from **Table L-2** below, 48% of the cases have been pending for one year or less while the rest of the 52% have already exceeded the NJP Timeline of one year for criminal cases (while keeping in mind that NJP has a shorter timeline of 6 months for cases involving offences carrying a punishment of less than seven years and a one year timeline for cases involving offences carrying a punishment of over seven years). Further, 31% of the cases have been pending for two years, 13% for three years, 5% for four years, and an aggregate of the rest of the 3% for over three years.

**Table L-2 Consolidated Case Pendency across Target Districts – 2015 (Criminal Cases)**

Age of Case (Years)	Number of cases	Percentage	Cumulative Percentage
6 months	13240	26%	26%
1 Year	10833	22%	48%
2 Years	15535	31%	79%
3 Years	6701	13%	92%
4 Years	2393	5%	97%
5 Years	479	1%	98%
6 Years	372	1%	99%
7 Years	278	1%	99%
8 Years	138	0%	99%
9 Years	92	0%	100%
10 Years	46	0%	100%
Over 10 Years	124	0%	100%

## 2.4 Main Findings of the Section

### A) Case Durations

The sample set was deliberately structured to capture a representative picture of the most typical types of criminal and civil cases that take up the time of the district courts.

The duration of time that a case takes to be decided appears to be a function of the following factors:

- a) **its generic type**, which is to say whether it falls in a more complex area of law and involves a significant right and an elaborate legal process or whether it is amenable to a quicker solution through a relatively straight forward process;
- b) **the complexity of issues involved**, which can usually be gauged by the number of legal documents and witnesses involved, which obviously have a direct bearing on the longevity of the life of a case; and,
- c) **the possibility of early disposal** (i.e. whether it runs its full course in the court or comes to one of various possible and earlier legal outcomes).

**Typical Timeframe for Disposal of Most Cases (regardless of Case Type, Complexity and/or Outcome)**  
**The first most significant finding is that most of the criminal and civil cases that constitute the sample consumed more time for disposal than any currently applicable timeline benchmarks provided by the existing Caseflow Management system** (these benchmarks shall be discussed at length in the next section of this Report). For current purposes the broad benchmarks are six (6) months for all civil cases and six (6) months or one (1) year for all criminal cases, based on the quantum of punishment involved – as provided by the National Judicial Policy 2009.

More specifically, while almost half (48%) of all the criminal cases that constituted the sample were disposed in up to twelve months; another 42% took between thirteen months to three years to reach disposal; and, finally, 10% cases even took between three years and over five years to be disposed.<sup>28</sup> It merits attention that despite the fact that the sample set included: (a) cases that involved lesser crimes and/or little complexity and relatively straight forward trials as well as; (b) cases that came to an early disposal and hence had a considerably shorter duration than a standard case (in other words they involved a compromise, a guilty plea, withdrawal by prosecution or an acquittal by the court at any stage of the case under Section 265-K of the Criminal Code) more than one-quarter (27%) of the overall sample constitutes of criminal cases which took more than two (2) years to be disposed. These cases therefore require further scrutiny to better understand the factors that contribute to late disposals and whether such disposal timespans are efficient and realistic

When it comes to civil cases that constitute the sample, 73.5% of the cases took more than six (6) months to be disposed; 60% of the cases took more than one (1) year to be disposed; 41.5% of the cases took more than two (2) years to be disposed; 23.5% of the cases took more than three (3) years to be disposed; and, 14% of the cases took more than four years to be disposed.<sup>29</sup>

Once again it merits attention that despite including: (a) cases that involved simpler legal questions and legal regimes and/or little complexity and relatively straight forward issues as well as; (b) cases that came to an early disposal and hence had a considerably shorter duration than a standard case (in other words

<sup>28</sup> It needs to be underlined here that these results are based on overall data for all the criminal categories in the sample – those involving more serious crimes as well as less serious offences. Furthermore, it needs to be emphasised that these timespans are for final disposals and are regardless of whether the case came to an early end due to a variety of reasons such as a compromise, a guilty plea, withdrawal by prosecution or an acquittal by the court at any stage of the case under Section 265-K of the Criminal Code. In other words, it is not representative of the duration of time taken by purely those cases that go through the full legal cycle of the case in order to arrive at a decision on merits.

<sup>29</sup> It needs to be noted that this sample included simple civil disputes and/or cases involving little complexity and hence amenable to a quicker resolution as well as those requiring more detailed adjudication.

they involved a compromise, a rejection of plaint, a withdrawal of suit with permission, a withdrawal of suit without permission, an *ex parte* dismissal on default, or a dismissal for non-prosecution), as many as 41.5% of this overall sample constitutes of cases which took more than two years to be disposed. These cases therefore require further scrutiny to better understand the factors that contribute to late disposals and whether such disposal timespans are efficient and realistic

#### Average Timeframe for Disposal of Cases (regardless of Case Complexity and/or Outcome)

Once we incorporate the factor of case type, the dataset puts forward and highlights certain types/sub-categories of criminal and civil cases (i.e., 'homicide' as well as certain sub-categories of the 'Property' and 'Contractual' categories) where the average duration of disposal of cases is longer than two (2) years, which is higher than the other types/sub-categories in the sample.

These higher averages in certain sub-categories are obviously also a function of the spread of cases within the same. In other words, a fair proportion of the cases in these selected sub-categories took not just over two years to be disposed but in many cases even much longer duration of time. This finding requires additional deconstruction of these data sub-sets to further gauge which kinds of cases are taking a very long time to be disposed and why.<sup>30</sup>

A determination of even more representative numbers regarding the typical or average duration of disposed cases in the selected sub-categories that have gone through the full legal process, allows various additional types of important analyses. One main purpose would be to gauge whether the process followed involved any avoidable waste of time and unnecessary delays in order to determine whether the entire adjudication could be more efficient and tightly run. Thus, statistical findings as to the number of adjournments, their reasons, number of hearings, hearings where no actual progress was made in the case, the role of interlocutory proceedings, and any other factors that caused delays in proceedings and final disposals will also be closely examined below.

Finally, even before the collected data is further classified and examined based on the important factors of case complexity and nature of final outcomes, the data examined at this preliminary stages for the selected categories of cases has an important story to tell. The story is that though the average duration of cases maybe somewhere between two (2) to three (3) years, a large proportion of the cases have actually taken considerable time ranging from three (3) years to periods even longer than five (5) years for final disposals.

The next step is to examine what happens when a case is relatively complex and also when the final outcome is a judgement on merits and not an early disposal for a whole host of possible reasons. In other words, the essential query is whether it is the norm that cases that run the full course of the legal process and involve important rights and challenging questions are always quite time-consuming in terms of final adjudication.

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<sup>30</sup> While looking at overall and average duration numbers it is significant once again to bear in mind that the cases in the data sets for these selected sub-categories have not been further classified according to case complexity. Once the relatively simple cases have been separated from the rest (simplicity and complexity being a function of the number of documents and witnesses involved in a case) it is possible to get a better idea of the amount of time taken by courts to dispose the more complex cases. Quite apart from complexity, the cases in these data sets have also not been further classified as yet according to the mode of disposal or the precise nature of final outcome. The essential idea here is that if a case is disposed but has not gone through the full cycle of a typical case, then while it divulges other important information to us (such as the proportion of cases ending in one particular mode of disposal or another), it does not provide a representative idea of the duration of a typical case that goes through its full life in a court. In other words, once we excavate all criminal cases where the disposal is actually a judgement on merits (and not a compromise, a guilty plea, withdrawal by prosecution or an acquittal by the court at any stage of the case under Section 265-K of the Criminal Code) as well as civil cases in which the disposal is once again a judgement on merits (and not a compromise, a rejection of plaint, a withdrawal of suit with permission, a withdrawal of suit without permission, an *ex parte* dismissal on default, or a dismissal for non-prosecution) we will get a much more accurate picture of the typical duration of a criminal and a civil case as well as even longer duration numbers.

If that turns out to be the situation, then the aggregate disposal numbers for all types of cases provided by the district courts and reproduced by the High Court do not reveal the true picture in terms of delay reduction and backlog reduction as they are largely a function of quick solutions to simpler cases while the more troublesome, complex cases remain pending along with the cases that have multifarious and deep impact on peoples' rights and societal obligations.

### **B) The Proportion of Complex Cases and Impact of Case Complexity on Case Durations**

There were two main reasons for the focus on case complexity in the statistical analysis. The first idea was to determine whether judges prefer simpler cases to more complex ones especially given perverse incentives for judges to delay complex cases even further due to current lack of incentives as well as inadequacies of the performance reporting systems. The random sample divulged that a very small component of the cases were of 'High Complexity' which justifies further probing whether that is the general state of play i.e., whether 'High Complexity' cases really form a very small portion of the overall volume of cases before the courts or whether judges are deliberately avoiding adjudication and disposal of such cases (and hence their smaller representation in the decided cases sample). The additional idea was to further gauge the correlation between complexity and delay while proceeding with the basic premise that more complex cases will logically take more time. **The statistical results confirmed that complexity not only majorly contributes to case longevity but that it also makes such cases vulnerable to delaying tactics and additional wastage of time.** An additional interesting finding was the long durations of cases in the overall sample despite 'High Complexity' cases comprising a very small component of this sample.

#### **Very few Complex Cases and yet High Case Durations**

The first important insight here is that a predominant majority of the criminal and civil cases that constitute the random sample collected for this Report are not of 'High Complexity' in the sense that they do not involve a large number of court documents and witnesses. Only a hundred (100) cases out of the entire sample of could actually be categorised as those of 'High Complexity' based on the number of documents and witnesses produced in these cases – a mere 6.7%. An intuitive result from the statistical analysis is that 'High Complexity' cases take more time on the average than less complex ones. However, there are only hundred (100) such cases in the entire sample.

As a corollary, if this is a representative cross-section of typical cases that constitute case disposals by district courts then the upshot is that most of the typically disposed cases are not of 'High Complexity.'

The fact that these disposed cases are mostly not of 'High Complexity' further magnifies the fact that these cases still consumed the amount of time that they did consume for disposal – as evidenced by the typical timeframe and average duration numbers discussed above. In other words, given that most cases that constituted the random sample used for this Report were either 'Moderately Complex' or 'Less Complex' their average duration is quite high.

The additional finding worthy of attention is that while 3/4th of all the 'High Complexity' cases were decided on merits, as many as 1/4th of all the 'High Complexity' cases resulted in acquittals, compromises, withdrawal of suits, dismissals, sin dies or ex parte decisions, as applicable. Thus, collectively speaking, out of the 100 'High Complexity' cases across all the criminal and civil categories 76 (which is also 76%) were decided on merits while the remaining 24 (24%) were disposed through any of the other possible modes of disposal mentioned herein. The fact that 1/4<sup>th</sup> of all disposed 'High Complexity' cases were disposed in such manner means that the average duration numbers for 'High Complexity' cases have to be gauged while keeping this in mind.

### C) Case Durations and Case Outcomes

#### **Relatively few cases that went through entire available legal process**

As explained before, it is perfectly clear that a standard contested criminal or civil case that goes through all the legally available prescribed stages to ensure due process and eventually reaches a judicial decision on merits is a very different phenomenon as compared to a case that is disposed early for any reason. Of course, early disposal is not necessarily an undesirable thing. If anything, it can be quite desirable in various instances because it evidences that the court is ensuring that legal contestations come to as early an end as they can, as long as the ends of justice are fully met. Or that it is making certain that those unmeritorious cases that don't deserve to stay in the legal system are extricated from it as soon as possible in order to free up precious court time and resources for other cases that deserve greater attention.

However, for purposes of gauging and evaluating the extent of case durations it is important to separate outcomes that constituted 'decision on merits' and all other kinds of outcomes that are possible at earlier stages of the case and hence consume lesser time.

An important finding is that cases where a 'judgement on merits' was delivered constitute only a small portion of all the disposed criminal cases that constitute the sample dataset for this Report.

#### **Criminal Cases**

To the extent that this is a representative sample of typically disposed criminal cases in the district courts a very small proportion of such cases (12%) are 'decided on merits' and thereby consume the full legal process. A vast majority comes to a relatively premature end for a whole host of reasons. In terms of gauging the duration numbers discussed in Section A above, it therefore, becomes highly significant to acknowledge that these typical and average duration numbers are largely drawn from cases that did not employ the entire legal process and go through all the prescribed stages. These duration numbers then emerge to be a fair bit higher than they already are.

There is also the related question of whether courts consciously take on less 'High Complexity' criminal cases that require greater investment in adjudication and lead to a decision on merits because such cases seem to comprise a very small component of typically disposed cases.

#### **Few cases that went all the way and yet high overall duration numbers**

To elaborate further on this point, given that so many of the criminal cases came to an end due to acquittals at various stages of the case, the typical and average duration of 'Crimes against Person' cases is quite high at one year and eight months, and the average duration of 'Crimes against Property' cases as also quite high at one year and six months.

Considering that many of these cases were disposed at early stages of the case, the overall typical and average duration of criminal cases has to be gauged keeping in mind the short court life of these cases and their dampening impact on the overall typical and average duration numbers.

#### **High number of early acquittals and compromises and resulting insights into police/prosecution performance and state of pre-trial scrutiny**

Second, with such a high proportion of these cases resulting in acquittals, the inescapable conclusions are both that far too many unmeritorious cases (suffering from weak police investigations and/or prosecutions) went to trial and consumed the courts' precious time and also as a corollary, that not sufficient cases actually proceeded to trials where robust police investigations and prosecution could ensure convictions.

If compromises and acquittals are mostly taking place at the early stages of these cases then that points to the additional problem of inadequate pre-trial scrutiny in order to keep unmeritorious and unripe cases out of the court system. One immediate observation of concern is that to the extent that a vast majority of these acquittals and compromises in 'Crimes against Person' and Crimes against Property' cases took

place at early stages of the case a more extensive and rigorous pre-trial scrutiny could have excluded some of these cases from the court system. While it may be true that acquittals and compromises can take place in even otherwise robust and highly contentious cases to start with, given the large numbers of such outcomes chances are that some of these cases were always non-starters.

### **Civil Cases**

Coming now to the civil cases, one very obvious finding is as follows: to the extent that this is a representative sample of typically disposed civil cases in the district courts, a small proportion of such cases (especially for 'Property' and 'Contractual' cases) are 'decided on merits' (25%) and thereby consume the full legal process. A vast majority comes to a relatively premature end for a whole host of reasons.

There is also the related question of whether courts consciously take on less 'High Complexity' cases that require greater investment in adjudication and lead to a decision on merits because such cases seem to comprise a very small component of typically disposed cases.

### **Few cases that went all the way and yet high overall duration numbers**

In terms of gauging the typical and average duration numbers discussed in **Section A** above, it therefore, becomes highly significant to acknowledge that these duration numbers largely stem from cases that did not employ the entire legal process and go through all the prescribed stages. These numbers then emerge to be a fair bit higher than they already are.

### **High number of withdrawn suits, dismissals, *ex parte* decisions and compromises and insights into state of pre-trial scrutiny**

An interesting additional finding as to the civil cases is the number of suits withdrawn (with or without permission of the Court). As many as 15% of the 'Property' cases; 16.5% of the 'Contractual' cases; and, 18% of the 'Rent' cases were withdrawn, with the predominant majority of these cases withdrawn without permission of the Court. This too flags two very important issues: First, given that so many of the civil cases came to a premature end due to withdrawal of suits at various stages of the case, the typical and average duration of civil cases presented in **Section A** of the Report is quite high. Second, with such a high proportion of these cases resulting in withdrawal of suits the inescapable conclusions are that potentially far too many unmeritorious and/or unripe cases were admitted for hearing and consumed the court's precious time.

If we add to these the component of cases that ended in dismissals and *ex parte* decisions – thus not necessarily undergoing the full court process – this too makes the typical and average duration of civil cases presented in **Section A** of the Report appear quite high. It is worth noting that of all the 'Property' cases, 21% ended in dismissals and 17.5% ended in *ex parte* orders; of all the 'Contractual' cases, 31% ended in dismissals and 27% ended in *ex parte* orders; of all the 'Family' cases, 7% ended in dismissals and 37% ended in *ex parte* orders; and, of all the 'Rent' cases, 4% ended in dismissals and 34% ended in *ex parte* orders. In addition, 23% of the 'Property' case and 20% of the 'Family' cases resulted in compromises.

Once again, this highlights that an important chunk of the disposed civil cases exited the court system at early stages (due to compromises or withdrawals of suits or additional outcomes) and hence excluding these cases the average durations of these categories of cases becomes higher. Furthermore, this also highlights the fact that pre-trial scrutiny and case filtration mechanisms need revisiting to exclude unmeritorious and unripe cases before they become a burden on the court system.

## D) Reasons for Delays

### Adjournments

While there are legitimate justifications for adjourning hearings in some instances and the applicable law allows the judge such flexibility, adjournments can also stem from a whole host of less than acceptable reasons: the judge or the counsels not being ready to or unwilling to progress the case; the judge being unable to properly manage his docket or being unavailable for reasons beyond her control; the judge's inability to complete a key stage or step of the case in a reasonable amount of time; and, the judge's inability to thwart delaying tactics employed by either or both parties.

### Criminal Cases

#### High Instances of Adjournments<sup>31</sup>

The statistical analysis of survey results divulges high instances of adjournments in criminal cases.

If we just look at the most extreme category of 'Greater than 20' adjournments it turns out that 38% of all cases involving 'Crimes against Person'; 23% of all cases involving 'Crimes against Property'; and 14% of all cases involving 'Local and Special Laws'; involved greater than twenty (20) adjournments during the course of their adjudication.

In terms of averages, looking at the various categories of criminal cases, there were an average of 23.5 adjournments per case in the cases involving 'Crimes against Person'; an average of 13.3 adjournments per case in cases involving 'Crimes against Property'; and an average of 8.4 adjournments per case in cases involving 'Local and Special Laws.'

Amongst these broad categories the clearly prominent sub-categories in terms of a very high frequency of adjournments are 'Homicide' (with an average of 43.1 adjournments per case); 'Cheating' (with an average of 19.2 adjournments per case); and cases involving 'Special Laws' (with an average of 11.7 adjournments per case).

The average number of adjournments is generally very high across all the sub-categories of 'Crimes against Person.'

If we focus on the 'High Complexity' cases in the categories of 'Crimes against Person' and 'Crimes against Property' these numbers shoot up to an astounding 57.8 adjournments per case and 43 adjournments per case respectively. This incredible inflation in the average number of adjournments per case for 'High Complexity' cases can also be seen across various sub-categories of criminal cases.

If we focus on the 'Medium Complexity' cases in these two categories these numbers shoot up to 43.7 adjournments per case and 43 adjournments per case respectively.

In a few instances, the average number of adjournments for 'Medium Complexity' cases are even higher than those of the very high averages of 'High Complexity' cases (case sub-categories in point are 'kidnapping,' 'sexual offences,' 'criminal trespass,' and, 'bouncing of cheques'), thus underlining that the culture of adjournments characterises even cases that are relatively less complex and hence potentially requiring less adjudicative investment to reach an outcome.

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<sup>31</sup> Once again what also has to be borne in mind is that the data set contains cases with all kinds of outcomes reached before a final disposal as well as final disposals based on judgements on merit. In other words these are not all longer duration cases where the entire available legal process for a full trial was followed. If this is kept in view then the average number of adjournments appear to be extraordinarily high.

## Instigators of Adjournments

While various reasons contributed to the clearly very large number of adjournments in criminal cases the judicial officers themselves are by far the biggest contributors to the large number of adjournments reflected in the data – as ascertained by a scrutiny of the order sheets that indicate why an adjournment is taking place and at whose request (in case of any of the parties requesting an adjournment the order sheets mention that). This phenomenon, therefore, requires further scrutiny as it is evident from the numbers that the judicial officers seem to have had little control over the pace and progress of the cases before them and felt it necessary to grant a very high number of adjournments – the average numbers are unusually high across almost all the various sub-categories of criminal cases.

‘Adjournments attributable to judges’ (as opposed to any other factor) also comes out as the leading reason for adjournments across the various sub-categories of criminal cases and also regardless of the level of complexity of the case.

The upshot is that unless involved in a relatively simple case or one where an early outcome for a whole host of reasons is possible one can expect multiple adjournments and the resulting delays before reaching a solution.

## Civil Cases

### High Instances of Adjournments<sup>32</sup>

Even in the civil cases, a very large number of cases lie in the segment denoting the highest number of adjournments i.e., greater than 20. In other words, 46% of all ‘Property’ cases; 37.5% of all ‘Contractual’ cases; 25% of all ‘Family’ cases; and 18% of all ‘Rent’ cases involved greater than (20) twenty adjournments during the course of their lives

In terms of averages, looking at the various categories of civil cases there were an average of 24.9 adjournments per case in the ‘Property’ cases; an average of 21.5 adjournments per case in ‘Contractual’ cases; an average of 12.8 adjournments per case in ‘Family’ cases; and, and average of 14.64 adjournments per case in ‘Rent’ cases. As a matter of fact, almost all the sub-categories of civil cases divulge a very high number of adjournments as the norm.

Like in the criminal cases, the average number of adjournments in ‘High Complexity’ cases across the various categories of civil cases is understandably higher than the averages for all the cases combined (of different complexity) in such sub-categories

If we focus on only the ‘High Complexity’ cases in these categories these numbers shoot up to an astounding 46.3 adjournments per case for ‘Property’ cases; 50.9 adjournments per case for ‘Contractual’ cases; 26.8 adjournments per case for ‘Family’ cases; and, 54 adjournments per case for ‘Rent’ cases respectively. This incredible inflation in the average number of adjournments per case for more complex cases can also be seen across various sub-categories of civil cases.

If we focus on only the ‘Medium Complexity’ cases in these categories, the numbers are once again inflated considerably. In consequence, we arrive at 33.9 adjournments per case for ‘Property’ cases; 30.8 adjournments per case for ‘Contractual’ cases; and, 19 adjournments per case for ‘Family’ cases.

In a few instances, the average number of adjournments for ‘Medium Complexity’ cases is even higher than those of the very high averages of ‘High Complexity’ cases (cases in point are the sub-categories of ‘pre-emption,’ ‘succession,’ and ‘guardianship’). This underlines the fact that the culture of adjournments characterises even cases that are relatively less complex and hence potentially requiring less adjudicative

<sup>32</sup> Once again what also has to be borne in mind is that the data set contains cases with all kinds of outcomes reached before a final disposal as well as final disposals based on judgements on merit. In other words these are not all longer duration cases where the entire available legal process for a full trial was followed. If this is kept in view then the average number of adjournments appear to be extraordinarily high.



investment to reach an outcome. In any event, for most sub-categories, the average number of adjournments for 'Medium Complexity' cases is not much lower than those for the 'High Complexity' cases – and these as we have already seen are fairly high numbers.

### **Instigators of Adjournments**

While various reasons contributed to the clearly very large number of adjournments in civil cases the top three instigators for adjournments in three of the categories of civil cases ('Property,' 'Contractual' and 'Family') are the plaintiffs, strikes by lawyers, and the judicial officers themselves. In the fourth category of civil cases ('Rent'), it turns out that the judicial officers are the main instigators of adjournments, followed by plaintiffs and strikes by lawyers almost tied in second place as the next major causes.

Quite apart from the fact that delays in meeting some legal requirements may have caused some of the adjournments, such high numbers for adjournments sought by the plaintiffs indicate that the plaintiffs and their lawyers in these cases could well have deliberately abused the legal process.

Adjournments caused due to strikes by lawyers also come across as a palpable phenomenon and contributor to delays in justice delivery. Finally, as in the criminal cases, the judicial officers themselves seem to exercise weak control over the pace and progress of cases since not only have a sizable portion of the adjournments come at their behest but also because the overall high number of adjournments – for whatever reason – also display a general culture of not using the minimum required and necessary hearings to arrive at a decision.

If we focus on 'High Complexity' civil cases, 'Plaintiffs' are the main triggers for adjournments. 'Strikes by lawyers' is the next most significant contributing factor. However, in the 'High Complexity' cases, 'judges,' 'both parties,' and 'defendants' also emerge as major contributing factors though there are some variations in the relative importance of these contributing factors in terms of the different categories and sub-categories of civil cases. It emerges that adjournments are rife in such cases and while a whole host of triggers bring them about they all point to the inability of the judicial officers to control the pace and progress of the civil cases. The same is also true of cases of 'Medium Complexity' across the various sub-categories of civil cases.

The upshot is that unless involved in a relatively simple case or one where an early outcome for a whole host of reasons is possible one can expect multiple adjournments and the various resulting delays before reaching a solution.

### **Productive vs. Non-Productive Hearings**

Productive hearings have been defined for purposes of this Report as hearings where the case actually progressed to the next step or stage.

Non-Productive/No Progress hearings are hearings where no progress took place i.e., in which the judge either reiterated his earlier order or instructions in view of non-compliance with the previous order or the court proceedings otherwise did not progress the case. These are distinguished from hearings that did not take place purely due to a prior adjournment.

### **Criminal Cases:**

#### **High Incidence of No Progress Hearings**

While the data displays a vast spread of cases in terms of aggregate number of hearings during the duration of the cases – and also a fair proportion that fall in the highest category of 'greater than 40' hearings – what is particularly telling is the high number of cases that have large aggregate numbers of 'No Progress' hearings.

In ‘Crimes against Person,’ for instance (which like the rest of the sample includes both cases that ran the full trial as well as others that reached an earlier disposal), as many as 40 cases had greater than 40 hearings where ‘No Progress’ was actually made in the case. There were also 20 such cases for ‘Crimes against Property.’

Furthermore, quite apart from the frequency of such cases in the top category in terms of number of ‘No Progress hearings,’ it is also illustrative to see the high number of cases that fall in the categories of cases with 6-10, 11-15, 16-20, and 21-25 ‘No Progress’ hearings.

In terms of averages, the statistical results reveal high averages for ‘No Progress’ hearings across the various categories of criminal cases. Furthermore, they constitute a high percentage of the average number of hearings in these categories. For instance, for ‘Crimes against Person’ ‘No Progress’ hearings constitute almost 74% of the average number of hearings for this category; for ‘Crimes against Property’ ‘No Progress’ hearings constitute 56% of the average number of hearings for this category; and, for ‘Local and Special Laws’ ‘No Progress’ hearings constitute almost 57% of the average number of hearings for this category.

Even accounting for a certain number of additional hearings that were necessary to allow the parties and their counsels more time to meet the legal requirements for any stage of the case or that were unproductive due to any other exigencies, this is a very high quantum of hearings that were essentially unproductive in terms of progressing the case.

The numbers appear all the more jarring when one looks at the even otherwise very high numbers of hearings for certain sub-categories – not only because it took this many hearings to reach an outcome but also because a large percentage of these hearings were meaningless and yet had a financial and time cost for the parties as well as the court. ‘Homicide’ cases, for instance, had an average of 62.7 hearings and on the average 39.8 of these were ‘No Progress’ hearings. The upshot is that these cases could have reached their final outcome in far lesser time and in a more resource efficient fashion.

### **Case Complexity and No Progress Hearings**

It comes as no surprise, for instance, that the more ‘Complex’ cases take up more hearings. What becomes even more dramatic, however, is not only how much higher these average number of hearings are but also the amount of time wasted during the course of these longer duration cases where a vast number of hearings did not progress and take forward these meandering cases, as evidenced by the very high average numbers of ‘No Progress’ hearings. Even for the ‘Moderate Complexity’ cases the averages for hearings and ‘No Progress’ hearings appear very high.

Key findings in this area are:

- In ‘High Complexity’ ‘homicide’ cases there are on the average 57.4 ‘No Progress’ hearings.
- In ‘High Complexity’ ‘hurt’ cases there are on the average 52.5 ‘No Progress’ hearings.
- The average numbers of ‘No Progress’ hearings are also very high for these two sub-categories even in cases of ‘Moderate Complexity.’
- The average number of ‘No Progress’ hearings is also particularly high for both ‘High Complexity’ cases and ‘Moderate Complexity’ cases in the various sub-categories of ‘Crimes against Property’ cases.
- Both hearings as well as ‘No Progress’ hearings are exceptionally high in ‘bouncing of cheque’ cases.

## Civil Cases

### High Incidence of No Progress Hearings

In the main categories of 'Property' and 'Contractual' cases the maximum number of cases (and by a significant margin in the case of 'Property' cases with as many as 86 such cases; there are also 34 such 'Contractual' cases) are the ones that fall in the highest classification of cases with over 40 'No Progress' hearings. At the same time, a fair number of cases also fall in the classifications of 11 -15, 16 - 20, 21 - 25, 26 - 30, 31 - 35, and 36 - 40 'No Progress' hearings per case. As a matter of fact, the aggregates for these six classes are 140 such 'Property' cases and 84 such 'Contractual cases.

In terms of averages, as in the case of criminal cases, a perusal of the statistical results reveals that 'No Progress' hearings constitute a very large proportion of average hearings across the various categories. For instance, for 'Property' cases 'No Progress' hearings constitute almost 67% of the average number of hearings; for 'Contractual' cases 'No Progress' hearings constitute 66.5% of the average number of hearings; for 'Family' cases, 'No Progress' hearings constitute 62% of the average number of hearings; and, for 'Rent' cases 'No Progress' hearings constitute almost 62.5% of the average number of hearings for this category.

Even accounting for a certain number of hearings that were necessary to allow the parties and their counsels more time to meet the legal requirements for any stage of the case or that were unproductive due to any other exigencies, like in the case of the criminal cases, this is a very high quantum of hearings that were essentially unproductive in terms of progressing the case.

The numbers seem all the more jarring when one looks at the even otherwise very large numbers of hearings for various sub-categories of civil cases – not only because it took this many hearings to reach an outcome but also because a large percentage of these hearings were meaningless and yet had a financial and time burden for the parties as well as the court. This is particularly true for the various sub-categories of 'Property' (barring 'Succession') and some of the sub-categories of 'Contractual and 'Family' cases (most notably, 'Negotiable Instruments,' 'Recovery of Money,' and 'Maintenance'). The upshot, once again, is that these cases could have reached their final outcome in far lesser time and in a more resource efficient fashion.

### Case Complexity and No Progress Hearings

Once again the average number of hearings as well as average number of 'No Progress' hearings really shoot up for both the more 'Complex' cases as well as cases of 'Moderate Complexity.'

It is also interesting to note that with growing case complexity not only do the 'No Progress' hearings shoot up in terms of the averages but the statistical results further show that they also rise up somewhat further as a proportion of the total number of hearings for 'High Complexity' cases. To cite examples: whereas for all 'Property' cases 'No Progress' hearings constitute 67% of the average number of hearings, for 'High Complexity' 'Property' cases they increase to 69% of the average number of hearings for such cases; whereas for all 'Contractual' cases 'No Progress' hearings constitute 66.5% of the average number of hearings for 'High Complexity' cases they increase to 70% of the average number of hearings; and, whereas, for all 'Rent' cases 'No Progress' hearings constitute almost 63% of the average number of hearings for this category for 'High Complexity' cases they increase to 68% of the average number of hearings.

The underlying trends appears to be that the more complex the case, the more the hearings and also the more the occurrence of 'No Progress' hearings as a proportion of overall hearings.

## E) Breakdown of Trial Stages according to Time Taken

### Criminal Cases

#### Most Time-consuming Stages

The first statistical result that stands out is the time involved on the average after the receipt of Challan in Court and the successful ‘Service of Summons’ on the parties – an area of perennial and longstanding delay in litigation in Pakistan.

As a matter of fact, it turns out that it is the single most time-consuming step in ‘Crimes against Property’ cases as well as ‘Local and Special Laws’ cases. It is also the fourth most time-consuming stage in ‘Crimes against Person’ cases.

The next important result is the sheer magnitude of the average number of days consumed by the next three stages that span the time between ‘Service of Summons’ and the ‘Close of the Prosecution Evidence’ in ‘Crimes against Person’ cases as well as ‘Crimes against Property’ cases. It is also instructive to see that these numbers are invariably high across all the sub-categories for these two larger categories of crime.

### Civil Cases

‘Service of Summons’ emerges once more as a tremendously time-consuming stage – so much so that it is the most time-consuming stage in ‘Contractual,’ ‘Family,’ and ‘Rent’ cases and the second most time-consuming stage in ‘Property’ cases.

While ‘Leave to Defend’ related stages are not pertinent in ‘Property’ cases, the next key stages that pertain to ‘Filing of Written Reply,’ ‘Formulation of Issues,’ ‘Start of Plaintiff’s Evidence,’ and ‘Close of Plaintiff’s Evidence,’ (stages 6-7, 7-8, and 8-9) also divulge fairly high number of average days consumed. And this is true across the various sub-categories of ‘Property’ cases.

The numbers are also very high between stages 7-8 (between ‘Formulation of Issues’ and ‘Start of Plaintiff’s evidence’) and stages 8-9 (between ‘Start of Plaintiff’s Evidence’ and ‘Closing of Plaintiff’s Evidence’) for ‘Contractual cases,’ especially given that these are numbers for all kinds of cases in the sample (of all degrees of complexity and including those that did not follow the entire available legal process and were decided on merits). Stages 7-8 and 8-9 also consumed a lot of time in ‘Family’ cases.

### Criminal Cases

#### Case Complexity and Time Taken by different Stages of the Case

In more complex ‘Crimes against Person’ cases, stages 4-5 (involving Recording of Prosecution Evidence) emerge by far to be the most time-consuming phase of the trial. The number of days taken by this phase are on the average remarkably high when we look at some of the sub-categories such as ‘Hurt,’ ‘Homicide’ and ‘Sexual Offences.’ Stages 3-4 (between ‘Date of Charging’ and ‘Start of Prosecution Evidence’) and stages 4-5 (between ‘Date of Start of Prosecution Evidence’ and ‘Date of Close of Prosecution Evidence’) also appears to be very time-consuming for ‘Crimes against Person’ cases of ‘Moderate Complexity’ across all its sub-categories.

The very same trends are also evident for more Complex ‘Crimes against Property’ and ‘Moderately Complex’ ‘Crimes against Property’ cases. Stages 3-4 and stages 4-5 also stand out in ‘Local and Special Laws’ cases of ‘Moderate Complexity.’

## **Civil Cases**

'Service of Summons' (stages 1-2) emerges as a time-consuming stage in civil cases regardless of case complexity – if anything the numbers are invariably even higher for 'Moderately Complex' and 'Simple' cases than they are for 'High Complexity' cases if we look at the broad categories of 'Property' and 'Contractual' cases. It is also a time-consuming stage in 'Family' and 'Rent' cases.

However, when we move to more advanced stages, case complexity appears to have a direct correlation with the average number of days consumed by these stages. For instance, in Property cases the average number of days consumed by all the subsequent stages are considerably higher for 'High Complexity' cases as compared to 'Moderately Complex' and 'Less Complex' cases. Barring a few exceptions this is also true for 'Contractual' and 'Family' cases.

The other main finding is the very high number of average days consumed by the advanced stages in 'High Complexity' cases – for instance, 497 days on the average between 'Formulation of Issues' and 'Start of Plaintiff's Evidence' (stages 7-8), and 236 days on the average between 'Start of Plaintiff's Evidence' and 'Close of Plaintiff's Evidence' (stages 8-9) in 'Property' cases; 320 days on the average between stages 7-8 and 253 days on the average between stages 8-9 in 'Contractual' cases; and, 186 days on the average between stages 7-8 and 144 days on the average between stages 8-9 in 'Family' cases.

This underlines the need to revisit the procedural requirements and court practices at these particular stages in order to identify the bottlenecks, as they seem to be the most time-consuming.

### **F) Interlocutory Proceedings and the Pace of Litigation**

Focusing on civil cases, almost 70% of the interim stay applications (under Order 7 Rule 10) were filed between the first and the second stages of the case i.e. between 'Filing of Plaint' and 'Service of Summons.' This also partially explains the long delays witnessed earlier in the data analysis in the service of summons.

The next most prominent phase of the case for the filing of such applications is between stages 6 and 7 i.e. between 'Date of Filing of Written Reply' and 'Date of Formulation of Issues.'

Meanwhile, the most common phase of the case for stay applications (under Order 7 Rule 11) is between stages 6 and 7 (almost 45%), followed by stages 7 and 8 (almost 25%) i.e. between 'Date of Formulation of Issues' and 'Date of Start of Plaintiff's Evidence.'

### **G) Macro Evaluations**

#### **Aggregate Case Pendency according to Age of Case in the Targer Districts**

The statistical analysis also looked at some aggregate numbers to gauge case pendency in Target Districts according to age of the case. The benchmark used once again was the NJP's timetables/time standards of six (6) months for all civil cases and six (6) months or one (1) year for all criminal cases according to whether the quantum of punishment is less than or more than seven (7) years imprisonment.

It emerged that the age of case pendency in the Target Districts appears to have little to do with the prescribed NJP timeline standards. Around 60 % of the civil cases in all three Target Districts have been pending for a time period well over the prescribed NJP time limit of six months; and, over 60% of the criminal cases in Multan, over 31% of the criminal cases in Bahawalpur and around 35% of the criminal cases in Muzaffargarh have been pending over the prescribed NJP upper time limit of one year (even though the numbers include cases involving less as well as more serious offences). The situation in Multan is the least promising as for both civil and criminal cases well over 60% of the cases have been pending for well over the NJP prescribed time limits.

### **Disposal of Cases in the Sample Set according to the Age of the Cases**

Another important finding from the statistical analysis emerged from an evaluation of the disposal statistics for the cases in the sample set according to their age (the quantum of time it took for them to be disposed) compared against the aggregate case pendency trends (according to age) in the Target Districts that have been discussed above.

As to criminal cases in the sample set, it turns out that 52% of all the criminal cases in the sample went beyond the NJP prescribed upper time limit of one year for disposing criminal cases (even though the sample included both less serious and more serious cases and hence with the lesser timeline of six (6) months applicable to less serious cases). Furthermore, 27% of these cases took over 730 days to be disposed (i.e. over two years).

Looking at the civil cases, it could be seen that 73% of all the civil cases in the sample went beyond the NJP prescribed time limit of six months for disposing civil cases. Furthermore, 41% of these cases took over 730 days to be disposed (i.e. over two years).

This data more or less reflects the aggregate trends in terms of longevity of pending cases in the Target Districts – if anything the numbers are worse here for civil cases and slightly better for criminal cases (although one has to account for the fact that these are consolidated numbers of the three Target Districts).

### **Consolidated Case Pendency across Target Districts according to Age of the Case**

The statistical analysis also encompassed an evaluation of the consolidated pendency figures for the Target Districts according to the age of the pending cases as of 2015.

For criminal cases it transpired that 48% of the cases had been pending for one year or less while the rest of the 52% had already exceeded the upper NJP Timeline of one year for criminal cases (even though these numbers include both less serious and serious cases with the different timelines of six (6) months and one (1) year). Further, 31% of the cases had been pending for two years, 13% for three years, 5% for four years, and an aggregate of the rest of the 3% for over three years.

For civil cases, it emerged that 38% of the cases had been pending for six months or less while the rest of the 62% have already exceeded the NJP Timeline of six months for civil cases. Further, 28% of the cases had been pending for a year, 15% for two years, 9% for three years and an aggregate of the rest of the 10% for over three years.

## **3. Existing Caseflow Management Framework – The Legal Framework**

As was briefly enunciated at the start of this Report, it would be inadequate to look upon Caseflow Management as merely an administrative or managerial intervention. It has an important and direct bearing on the promotion of due process, the conduct of a fair trial, and protection of key citizens' rights at stake in the legal process. Therefore, while it is understandable to undertake Caseflow Management to promote efficiency of court and case operations, its important fairness and justice implications ought not to be lost sight of; as a matter of fact, they ought to have equal primacy while making important Caseflow Management policy and administration choices.

The successful implant of a more updated and sophisticated Caseflow Management framework is not possible without a clear understanding of the opportunities, constraints, challenges and essential edifice of the legal system expected to benefit from such an implant.

This section provides an essential overview of the current Caseflow Management system in place at the Lahore High Court in order to:

- (i) Determine its scope, capacity, strengths and weaknesses; and
- (ii) Gauge whether the kinds of Caseflow Management issues identified in the empirical analysis part of this Report owe themselves to
- a weak Caseflow Management framework and rules; or
  - inadequate implementation of an otherwise satisfactory framework and rules; or
  - both inadequate framework and rules and also the weak implementation of whatever rules are available.

The scoping and analysis conducted here is based on an exhaustive as well as close reading of available and applicable laws, rules, administrative directions and procedures that pertain to current Caseflow Management approaches and practices in Punjab. The existing framework has been examined both from an ‘efficiency-promotion’ as well as a ‘rights protection’ perspective. As a result, there are some important findings based on this legal review.

In the ultimate analysis, the endeavour is for this deeper understanding of the existing framework – on paper – to provide a necessary template for comparison with how Caseflow Management laws and rules are actually applied in the system – in practice – to determine gaps, if any, between law in books and law in practice.

The analysis conducted herein and qualitative assessments of the existing Caseflow Management system are also informed by benchmarks borrowed from Caseflow Management practices in international jurisdictions such as the U.S.A and U.K.

### 3.1 The Overarching Framework

The powers of the court to control and manage cases and courts are contained in both the Constitution and the statutes. The constitutional provisions that confer this power (and obligation) on the courts are Articles 202 and 203. Article 202 enables a High Court to make rules regulating its own practice and procedure as also that of any courts subordinate to it.<sup>33</sup> Article 203 lays the responsibility of superintending and supervising all provincial courts on the provincial High Court.<sup>34</sup>

**Article 202: Subject to the Constitution and law, a High Court may make rules regulating the practice and procedure of the Court or of any court subordinate to it – Constitution of Pakistan, 1973**

As can be seen, Article 202 requires any rule making by the High Courts to be subject to the provisions of the Constitution and the ‘law.’ Thus, such rules cannot be in derogation of the country’s Code of Criminal Procedure (‘Criminal Code’), Code of Civil Procedure (‘Civil Code’), the law of evidence and other applicable procedural laws. Any review of the current High Court rules and rulemaking, therefore, needs to be mindful of the impact and primacy of procedural laws in the areas regulated by the High Court. A review must also be mindful of the fact that the Constitution squarely places the responsibility of the administration of justice in the provinces with the High Courts and suitably enables and empowers them to discharge this obligation.

The High Court’s extant operational framework for the superintendence of courts and regulation of cases is contained, in turn, in various statutory rules, High Court Rules and Orders (hereafter ‘Lahore High Court Rules and Orders’), which is a voluminous compendium of various statutory provisions and rules

<sup>33</sup>See Art 202. Rules of Procedure. Subject to the Constitution and law, a High Court may make rules regulating the practice and procedure of the Court or of any court subordinate to it.

<sup>34</sup>See Art 203. High Court to superintend Subordinate Courts. Each High Court shall supervise and control all courts subordinate to it.

issued under Article 202, various directions issued by the Court, and extracts of relevant decisions of the High Court on the topic of court administration and Caseflow management.

As mentioned above, the Lahore High Court also issues various types of Caseflow Management directions. The term ‘directions’ or ‘instructions’ in the High Court parlance normally refer to the administrative orders of the High Court issued by the Chief Justice or the Administrative Committee of the High Court or the Administrative Judge (Member Judges of the Administrative Committee of the High Court).<sup>35</sup> In terms of hierarchy of applicable rules, if they clash with any statutory rules or decisions of the High Court, the latter will prevail. In addition to such administrative orders, the High Court can also issue Caseflow Management directions while acting in its judicial capacity.

It is important to note that these ‘directions’ or ‘instructions’ are distinct from the Lahore High Court Rules and Orders that are issued by the High Court in exercise of its constitutional powers. A review of various High Court ‘directions’ and ‘instructions’ pertaining to Caseflow Management allows them to be classified as follows:

- (a) Those that set time lines for disposal of cases and proceedings;
- (b) Those that offer guidance on the use and interpretation of Caseflow Management related provisions of law e.g., principles governing court discretion in the grant of adjournments; and,
- (c) Those that deal with additional administrative matters relating to cases, e.g., ascertaining of whether requisite court fees etc., have been duly paid in cases.

Due to significant differences in the processes and management practices in the criminal and civil areas we have separately identified the Caseflow Management frameworks for these areas:

#### A) Framework on the Criminal side

The statutory framework for the management of criminal cases is contained in the Criminal Code, Lahore High Court Rules and Orders and certain additional relevant High Court directions for management of criminal cases. Provisions of the Criminal Code can be supplemented and explained by issuing rules under Section 554 of the Criminal Code. Rules under Section 554 require the previous sanction of the provincial government, which is a desirable thing as it allows consultation and streamlining of procedures between various parts of the criminal justice system.<sup>36</sup> Lahore High Court Rules pertaining to criminal cases are contained in Volume 3 of the Lahore High Court Rules and Orders. In addition, the Lahore High Court has issued miscellaneous Caseflow Management directions over the years for management of criminal cases; these were procured for purposes of this Report from various administrative departments of the Court.

**Section 554: Power of High Courts to make rules for inspection of records of subordinate courts...**

**(2) Every High Court may, from time to time, and with the previous sanction of Provincial Government:**

**(a) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts:**

**(b) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided**

**(c) make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it, ....**

<sup>35</sup> Rule 2, Part A, Chapter 10, Volume V of Lahore High Court Rules and Orders.

<sup>36</sup> See Section 554 (c) of the Criminal Code.



## B) Framework on the Civil side

The statutory framework for the management of civil cases is similarly contained in the Civil Code, Lahore High Court Rules and Orders and certain additional relevant High Court directions for management of civil cases. Section 122 of the Civil Code enables the High Court to issue rules to regulate its own practice and proceedings as well as those of all civil courts subordinate to it.<sup>37</sup> Lahore High Court Rules pertaining to civil cases are contained in Volume 1 of Lahore High Court Rules and Orders. In addition, the Lahore High Court has issued miscellaneous Caseflow Management directions over the years for management of civil cases; these were procured for purposes of this Report from various administrative departments of the Court.

**Section 122: The High Court may from time to time after previous publication make rules regulating their own procedure and the procedure of the civil courts subject to their superintendence ...o all or any of the Rules in the first schedule.**

### 3.2 Court Structures

Before proceeding to an evaluation of the extant Caseflow Management framework in Punjab, it is useful to have a brief overview of the overall court structure in the country. This will enable the reader to understand the district based management structures and appeal systems in place. Depending on the legal instrument employed for the establishment of the institution, there are two kinds of courts in Pakistan: a) Superior Courts, and b) Subordinate Courts.

#### 3.2.1 Superior Courts

Superior Courts are the courts created by the Constitution of Pakistan. There are seven (7) superior courts in Pakistan – the Supreme Court of Pakistan, the five Provincial High Courts and the Federal Shariat Court. Appointments to Superior Courts are self-regulated and controlled and are made from a limited pool of advocates and lower court judges. Superior Courts have the following constitutional and legal jurisdictions:

#### A) Supreme Court

The Supreme Court has both limited original and extensive appellate jurisdiction.<sup>38</sup> Its original jurisdiction is limited to disputes between two or more governments<sup>39</sup> and matters relating to alleged violations of Fundamental Rights under the Constitution that are of public importance.<sup>40</sup> The appellate jurisdiction of the Supreme Court comes into play in the following situations:<sup>41</sup>

- a) The High Court on appeal has reversed an order of acquittal and has sentenced the defendant to death or imprisonment for life or, on revision, has enhanced a sentence to death or imprisonment for life;
- b) The High Court has directly convicted a person to death or imprisonment for life;
- c) The High Court has imposed any punishment on a person for contempt of court;
- d) The High Court has varied or set aside the judgement, decree or final order of the court immediately below and it involves some claim or question respecting some property of a stipulated amount; and,
- e) The High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution.

<sup>37</sup> See Section 122 of the Civil Code.

<sup>38</sup> See Pakistan Rule of Law Assessment, at Page 19.

<sup>39</sup> Article 184(1), Constitution of Pakistan, 1973.

<sup>40</sup> Article 184 (3), Constitution of Pakistan, 1973.

<sup>41</sup> Article 185, Constitution of Pakistan, 1973.

Appeal to the Supreme Court in any other kinds of cases is only possible with its permission and not as a matter of right. Appeals filed requiring the permission of the Supreme Court are called civil or criminal petitions for leave to appeal. The Supreme Court also possesses advisory jurisdiction to extend advice to the President of Pakistan, upon his approach, to render advice on a question of law of public importance.<sup>42</sup> The Supreme Court also has the power to issue rules to regulate its practice and procedure, which are called the Supreme Court Rules.

## B) High Courts

The High Courts enjoy both original as well as appellate and revisional jurisdictions under various statutes. The extensive general legal jurisdiction of the High Courts arise from and is enshrined in the Civil Code, the Criminal Code, and local and special laws. At the same time, the Constitution also endows the High Courts with certain special powers. The High Courts may exercise their Constitutional jurisdiction in the following manner:<sup>43</sup>

- a) Power to review administrative and judicial orders – commonly called writ jurisdiction;
- b) Power to enforce Fundamental Rights under the Constitution; and
- c) Power to supervise, regulate and oversee the administration of justice through the courts in the province (the Supreme Court cannot prescribe or regulate practice in any court except through a judicial decision).<sup>44</sup>

Notably, in exercise of its legal jurisdiction, the High Court can conduct criminal trials (only four have been conducted till date);<sup>45</sup> hear criminal appeals,<sup>46</sup> criminal revisions,<sup>47</sup> civil appeals,<sup>48</sup> and, civil revisions.<sup>49</sup>

### 3.2.2 Subordinate Courts

Subordinate Courts are of two types: a) Courts of General Jurisdiction, b) Courts of Special Jurisdiction. Courts of General Jurisdiction are courts, which can adjudicate upon all matters of civil or criminal nature unless barred by law.

#### A) Courts of General Criminal Jurisdiction

There are two kinds of Courts of General Criminal Jurisdiction:

- a) Sessions Courts, and
- b) Courts of Magistrates.

The Sessions Court comprise of one District and Sessions Judge ('DSJ'), who is in charge of the court, and a number of Additional Sessions Judges. There are, on the other hand, four types of Courts of Magistrates, namely: Courts of First Class Magistrates, Courts of Second Class Magistrates, Courts of Third Class Magistrates, and Courts of Special Magistrates. Magistrates do not sit on a single court and in this way there is no single registry of cases for these courts. The DSJ allocates cases to Judges and Magistrates for conducting trials and hearing appeals. Magistrates, in addition to undertaking trials of less

<sup>42</sup>Article 186, Constitution of Pakistan, 1973.

<sup>43</sup>This text is the author's summary of the relevant provisions pertaining to the constitutional powers of the High Courts. For the actual text see Article 199 of the Constitution of Pakistan, 1973.

<sup>44</sup>Article 203, Constitution of Pakistan, 1973.

<sup>45</sup>Section 265-B, Criminal Code.

<sup>46</sup>Sections 408 and 417, Criminal Code.

<sup>47</sup>Section 435, Criminal Code.

<sup>48</sup>Section 96, Civil Code.

<sup>49</sup>Section 115, Civil Code.

serious cases, also deal with pre-trial issues in criminal investigations and are allocated police stations in this regard.

## **B) Courts of General Civil Jurisdiction**

Courts of General Civil Jurisdiction are also of two types: a) District Courts, and b) Courts of Civil Judges.<sup>50</sup> The District Court comprises of a District and Sessions Judge (‘DSJ’) and a number of Additional District Judges. There are also four types of Civil Judges, namely: Senior Civil judge (‘SCJ’), Civil Judge Class I, Civil Judge Class 2, and Civil Judge Class 3 (according to their pecuniary jurisdictions). Pecuniary limits of the different civil judges are fixed by the High Courts.<sup>51</sup> The DSJ allocate cases to Judges for conducting trials at their respective court levels. He may delegate his power of allocating cases to any subordinate court.<sup>52</sup> The SCJ is entrusted with the responsibility of allocation of cases to civil judges. Besides, the SCJ is also responsible for the administration and supervision of the Civil Process Serving Agency.

## **C) Courts of Special Jurisdiction**

Courts of special jurisdiction hear particular types of criminal or civil matters. These courts follow general civil or criminal procedure except where their constituting statutes provide otherwise. Examples of Courts of Special Jurisdiction or in common parlance, special courts are: a) Drug Courts, b) Consumer Courts, c) Anti-Corruption Courts, d) Anti-terrorism Courts etc. These courts have limited caseloads as compared to courts of general jurisdiction.

### **3.3 The Current Operational Framework – Rules, Orders, Directions, Notifications and Instructions**

Given the afore-described landscape of relevant Caseflow Management procedures, Rules, Orders, Directions, Notifications, Instructions etc., it is important at this juncture to clearly define, differentiate and enunciate these various terms for purposes of this Report.

The term ‘Rules’ in this Report refers to any legal enactments or legal precedents that regulate the progress of a case in court – to the extent that these are Rules pertaining to Caseflow Management. Rules can stem from various sources as will be soon seen. Since the potential impact of the Rules varies based on their legal basis and/or the practitioners’ responses to them, for purposes of this Report we have identified and organised relevant Caseflow Management Rules in the following sections according to their legal basis. Types of Rules according to their legal basis are:

- a) Statutory Rules (Civil Code Rules and Criminal Code Rules): Procedure for issuance of Civil Code Rules is contained in Sections 122 to 127 of the Civil Code. Detailed procedure for issuance of Civil Code rules is contained in Rules 1-7, Part B, Chapter 10, Volume V of the Lahore High Court Rules and Orders. Rules under the Criminal Code are issued under the provision of Section 554 of the Criminal Code. Both categories of Rules require previous sanction of the Provincial Government.
- b) Lahore High Court Rules are issued under the authority of Article 202 of the Constitution.

A ‘Direction’ refers to a letter issued by the Lahore High Court regarding any aspect of Caseflow Management. A Direction may reiterate a Rule, explain a Rule, or it may just be a general exhortation to the judges to act in accordance with the Rules and/or generally dispose off cases expeditiously.

<sup>50</sup>Section 3, Civil Court Ordinance, 1962.

<sup>51</sup> Section 9, Civil Court Ordinance, 1962.

<sup>52</sup>Section 16, Civil Court Ordinance, 1962.

**What do Rules provide for?** An exhaustive review of available Rules reveals that they both lay down **the stages of cases as well as the powers of the court to move and progress a case from one stage to another.** Thus, while mapping relevant Caseflow Management Rules we have laid down the various stages of a case to which they are meant to apply and organised them accordingly.

Furthermore, for purposes of the analysis conducted in this Report we have also identified the following as evaluative parameters in order to gauge the scope and efficacy of the Rules currently being employed for Caseflow Management in Punjab:

- Whether the Rules prescribe time limits for or between various stages of a case?
- Whether the Rules provide for any issuance of overall timetables (for the whole case)?
- Whether the Rules allow for reduction of stages in exceptional circumstances?
- Whether the Rules provide for case diversions/alternative methods of resolution?
- Whether the Rules provide limits on presentation of evidence in the interest of Caseflow Management?

As is apparent, all of the above are internationally well-recognised modes of effective Caseflow Management and hence the intent here is to determine the extent to which extant Rules promote and adhere to these approaches and strategies for effective Caseflow Management in the province. The same parameters were also employed while gauging any Orders, Directions, Notifications and Instructions pertaining to Caseflow Management.

**What do Directions provide for?** Directions can also provide for timelines, use of forms, and guidance regarding implementation of Rules and statutory provisions. Directions often reiterate earlier directions or exhort judges to act in a particular manner in order to achieve certain goals.

**Difference between Rules and Orders:** As to the distinction between the terms ‘Rules’ and ‘Orders’ (as used in the Lahore High Court Rules and Orders) we were advised by the concerned branch of the Lahore High Court that the word ‘Order’ was used for such Rules that were made by the Lahore High Court prior to coming into force of the Lahore High Court Rules and Orders. Rules, on the other hand, are defined as rules and forms contained in the First Schedule or made under Sections 122 or 125 of the Civil Code (Section 2 (18) of the Civil Code).<sup>53</sup>

**Difference between Notifications and Directions/Instructions:** In addition, a term often used, as mentioned earlier, is Notifications. Notifications are those instructions, which are issued publicly and are published in the official gazette as opposed to Directions, which are departmental orders and are internal in nature. Notifications cover a broad spectrum of themes and are issued by the Chief Justice, the Administrative Committee, and/or Administrative Judges of the High Court; these are printed and published by the Gazette Branch and are public documents. Directions and Instructions on the other hand are issued to regulate the internal matters of the High Court; unlike Notifications these are not meant to pertain to or concern other pillars/departments of the State/Government and hence are not public.

### 3.4 Rules, Orders, Directions, Notifications and Instructions – The Overall Challenges

At the very outset it is important to highlight a major challenge to effective Caseflow Management in Punjab, which is posed by the fact that the operational framework and primary guidelines for Caseflow

<sup>53</sup> The past practice was for the Chief Justice of the Lahore High Court to issue Orders to regulate the business and processes of the district judiciary and the High Court. Subsequently, the practice changed to the High Court’s (pursuant to Article 202 of the Constitution) issuance of Rules to regulate the business and processes of the district judiciary and High Court. The Lahore High Court Rules and Orders are thus a combination of Orders issued by the Chief Justice and Rules made by the Rule Making Committee of the High Court.

Management in the provincial court system are not conveniently identifiable and readily accessible in a single document. Flowing from various sources and institutions as well as processes, they are spread across the Civil Code, the Criminal Code, other applicable procedural laws, the Lahore High Court Rules and Orders, relevant judgements of the Supreme Court and the High Courts, and administrative Directions, Notifications and Instructions of the Lahore High Court.

A summary of the various High Court Rules and Orders pertaining to Caseflow Management that were compiled, consolidated and analysed for this Report are contained in **Annexure K** herewith; a summary of the various High Court instructions pertaining to Caseflow Management that were compiled, consolidated and analysed for this Report are contained in **Annexure L** herewith.

The Office of the Member Inspection Team (MIT) – which shall be discussed at length later in this Report – issues the Lahore High Court Rules and Orders and High Court Directions.

While the Lahore High Court Rules and Orders are available in five extensive volumes they deal with a variety of themes; any specifically Caseflow Management related Rules and Orders are not thematically organised therein. Instead, they are interspersed with Rules and Orders pertaining to various other areas and topics. It, therefore, requires considerable effort to identify relevant Rules and Orders, their order of precedence, any possible duplication and even possible conflict, and current applicability – especially those of comparatively older Rules and Orders.

On the other hand, the Directions by the Lahore High Court are not available in a compiled and consolidated form and thus also not easily accessible. The same also applies to Notifications and Instructions. These have also not been rationalised and organised to address duplication and highlight current applicability. Considerable effort was, therefore, invested in identifying and locating relevant Directions, Notifications and Instructions. It is, therefore, not difficult to imagine that the lack of a consolidated, integrated, well-publicised, and regularly updated and disseminated document on Caseflow Management very likely creates multiple problems for the relevant court personnel entrusted with the task of Caseflow Management and wishing to have a clear and consistent vision on the Caseflow Management ethos and imperatives being put forward by the Lahore High Court. This was confirmed during conversations with court personnel at the Lahore High Court and in the Target Districts.

An important related general finding is that the Directions, Notifications and Instructions by and large do not seem to take into cognizance existing pressures on the time of judges, their workloads, and/or the environment they operate in, while advocating the pursuit of a general goal such as fast disposal of cases or clearance of case backlogs. This point will be discussed in greater detail later in this Report.

Furthermore, how the appellate judiciary approaches procedural laws and their justice, legal and policy implications also has a strong bearing on the scope and shape of Caseflow Management in the province. Generally speaking, Pakistani appellate courts have looked upon Caseflow Management tools, such as imposition of limits on the scope of opportunity for presenting evidence, imposition of costs and sanctions on parties and their lawyers seeking unnecessary or frivolous adjournments and/or otherwise elongating the legal proceedings, as inhibitive of the litigants' rights to employ the legal process to seek justice.<sup>54</sup>

While it is understandable that the judges are trying to avoid an overly rigid and formalistic approach to procedures and that they prefer to look upon procedure as a vehicle to enhance access to courts and justice rather than to inhibit it; a framework to ensure that the parties get ample opportunity to adequately plead their cases; and, a mechanism to guarantee that courts have ample opportunity and information to get to the heart of the matter in order to reach just outcomes. However, an over-indulgent and rigid

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<sup>54</sup> Selected texts from the most relevant case law on this will be analysed further down in this Report to support this claim.

approach in the matter can have debilitating effects and can in fact be counter productive to the ideals of access to justice. Such an approach is very likely to have the following affects:

- I. It can cause the judiciary to get oblivious to those who routinely manipulate the procedural safeguards, such as lawyers and litigants pursuing frivolous causes and/or using every procedural juncture to delay matters;
- II. As a consequence, it can allow lawyers and not judges to control the flow and duration of cases, resulting in increasing backlog and pendency; and,
- III. Delayed proceedings and misused procedural safeguards can contribute to cynicism and despondency in the litigating public and their weakening of faith in the legal system's capacity to reach efficient and just outcomes.

### 3.5 Stages of Cases, Overall Timetables for Disposal of Cases and Timelines for Individual Stages of Cases

Before embarking on a critical review of applicable Caseflow Management Orders, Rules, Directions, Notifications and Instructions (unless referred to individually they will be collectively referred to hereafter as the 'Current Caseflow Management Framework'), it is necessary to lay out the various stages of legal cases. These have been determined in view of a review of the relevant laws and procedures, in particular the Criminal Code and the Civil Code. The primary emphasis here, in view of the main focus of this Report, is on district court litigation.

All section references are to the Criminal Code, the Civil Code and High Court Rules and Orders, as applicable, unless otherwise indicated.

#### 3.5.1 Stages of Criminal Cases

The following is a description of the various stages of a criminal case along with any currently legally stipulated timelines for the completion of that stage. Also indicated is wherever the law or the Current Caseflow Management Framework is silent in terms of a timeline or allows the judicial officer discretion in terms of when to complete the stage.

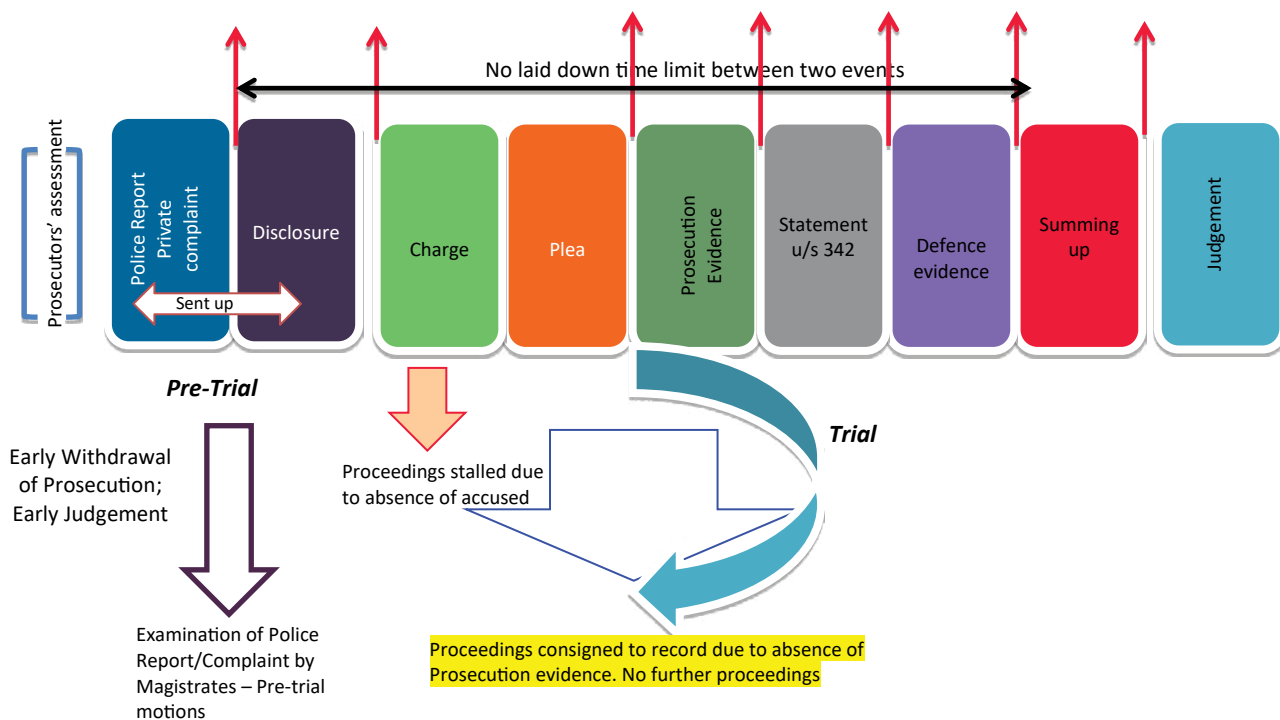
**Original Criminal Cases:** Police Cases triable before the High Court and the Courts of Sessions have the following stages:

- **From Registration of F.I.R to Submission of Police Report (Section 173)** – The police is under a directory obligation to submit a final Police Report to the Magistrate through the Public Prosecutor within fourteen (14) days of the registration of the F.I.R. or an Interim Report within a further period of three (3) days. The Court may commence trial on this report or may grant further time in its discretion.
- **Cognizance/Sending up (Section 190(2))** – A Magistrate after having reviewed the Police Report and upon finding sufficient material for trial takes cognizance of it. In cases triable by the Sessions Court she must send up the case to that court without recording any evidence.
- **Sharing of the Police Case with the Defendants (Disclosure) (Section 241-A and Section 265-C)** – Disclosure must be made within seven (7) days before the commencement of trial. The law does not provide the starting time for this period but requires that there should be a lag of at least seven (7) days between the charge and the disclosure.
- **Framing of Charges (Section 265-D)** – Where the court, on perusal of the prosecution's case, finds that there is ground for proceeding, it frames the charges(s). The law is silent on the maximum time allowed for framing of charge(s) after disclosure.

- **Plea of Guilt (Section 265-E)** – As soon as the charge is framed the accused must be asked about his plea. If the accused pleads guilty the court must record the plea and may in its discretion convict the accused. Once again, the law is silent as to the time period in which the court ought to decide whether it will convict the accused on a plea of guilt or order a trial.
- **Submission of Prosecution Evidence (Section 265-F)** – If the accused does not plead guilty or pleads guilty but the court orders a trial, the court must proceed to hear the complainant and such evidence as may be produced in support of the prosecution. The law is silent as to the time to be allowed between the plea and the start of the prosecution’s evidence.
- **Examination of the Accused (Section 342)** – The court must generally question the accused after the closure of the prosecution’s evidence and record his statement. There is no legal time limit for completion of this stage.
- **Submission of Defense Evidence (Section 265(4)-F)** – Upon conclusion of the prosecution’s evidence and the examination of the accused, the accused is to be asked to produce his or her evidence. Once again, there is no legal time limit prescribed for this stage.
- **Summing up by the Prosecution and the Defense (Section 265-G)** – The summation is conducted in two ways:
  - In case of no defense evidence, immediately after the closure of the prosecution’s evidence the prosecution sums up and the defense then replies; or
  - In case of the defense’s evidence, the defense sums up the case and then the prosecution replies.
- **Judgement (Section 366)** – A judgement must be recorded upon completion of the trial or earlier where there is no probability of conviction of an accused (**Section 265-K**). The judgement, in case of conviction, must also contain the sentence (**Section 367**).

Figure 3.5 A below provides a diagrammatic representation of the criminal cases triable before the High Court and Sessions Courts. It also identifies the stages of the case for which there are no legally prescribed time limits for completion.

**Figure 3.5 A Diagrammatic Representation of Stages of Criminal Case and Stipulated Timelines for Completion**





**Table 3.5 A** below lists in even greater detail the various stages of the criminal case process and any legal time limits provided by the law or the Current Caseflow Management Framework for the different stages of the criminal case as well as the source of any such legal time limits – statutory, High Court Rules and Orders, Court Directions etc.

**Table 3.5 A Timelines for Progress of Criminal Cases from Stage to Stage and Stipulated Timelines for Completion, if any**

Stage	Time line as per Statute	Time Line as per High Court Rules and Orders	Time line as per Directions
From Registration of F.I.R to Submission of Police Report	14 days (Section 173 of the Criminal Code).	No provision	No provision
From Submission of Police Report to Completion of Review by Prosecution	3 days (Section 9(5) of the Punjab Criminal Prosecution Service Act, 2006)	No provision	No provision
From Completion of Review to Submission in Court	Immediate (Section 9 of the Punjab Criminal Prosecution Service Act, 2006)	No provision	No provision
From Submission of Police Report in Court to decision by Magistrate regarding Cognizance	No provision	No provision	No provision
From Cognizance to sharing of Copies of materials	No provision	No provision	No provision
From Sharing of Copies of Material to Charging	Not less than 7 days (Section 265-C of the Criminal Code)	No provision	No provision
From Plea to Start of Prosecution Evidence	No provision	No provision	No provision
From Start of Prosecution Evidence to Statement of Accused under Section 340(2)	Timelines are not provided due to variability of cases	Trial of Sessions cases shall be held from <u>day to day</u> and unless there is a compelling need for adjournment, no adjournment shall be granted (Rule 2,3 and 4, Chapter 24, Volume 3)	No provision
Time for making Statement under Section 342	No provision	No provision	No provision
Start of Defence Evidence including Statement under Section 340(2)	No provision	No provision	No provision
From Closure of Evidence to Judgement	Judgement must be pronounced immediately on termination of trial or at some subsequent date of which notice is given to parties (Section 366, Criminal Code)	No provision	No provision

### 3.5.2 Review of Current Caseflow Management Framework for Completion of Stages of Criminal Cases

The following becomes readily apparent from a review of Figure 3.5 A and Table 3.5 A.

- a. While there are some statutory timelines for certain stages of the criminal trial, there are no such timelines provided for various other stages (as highlighted in Table 3.5 A). While in some situations it is arguable that there can be no stringent timelines given that the nature of the stage, the multiplicity of possible situations, and varying case complexity and the need to ensure justice, requires flexibility and greater judicial discretion, that is not true for all the other stages. Further, the absence of any overall timetables for the completion of criminal cases (and for that matter for different types of criminal cases) means that more often than not the absence of any stage-wise timelines translates into a long and unregulated phase in the life of the case. The empirical analysis conducted in Section 2 of this Report highlights various such stages of criminal cases that experience such delays, either because existing timelines are not properly implemented or because they are missing or inadequate in the first place.
- b. While there is still some statutory attempt to provide some stage-wise timelines the High Court Rules and Orders as well as the Directions are largely silent on this important Caseflow Management area even though these are two essential and flexible administrative vehicles meant precisely for streamlining and regulating the legal process.
- c. Unlike the relevant statutes, the High Court Rules and Orders and also High Court Directions, the National Judicial Policy (as shall be seen and evaluated later on in this Report) puts forward certain specific overall timetables for the completion of different types of criminal cases. These, however, are open to a separate set of issues and limitations, which shall be shortly discussed.

### 3.5.3 Stages of Civil Cases

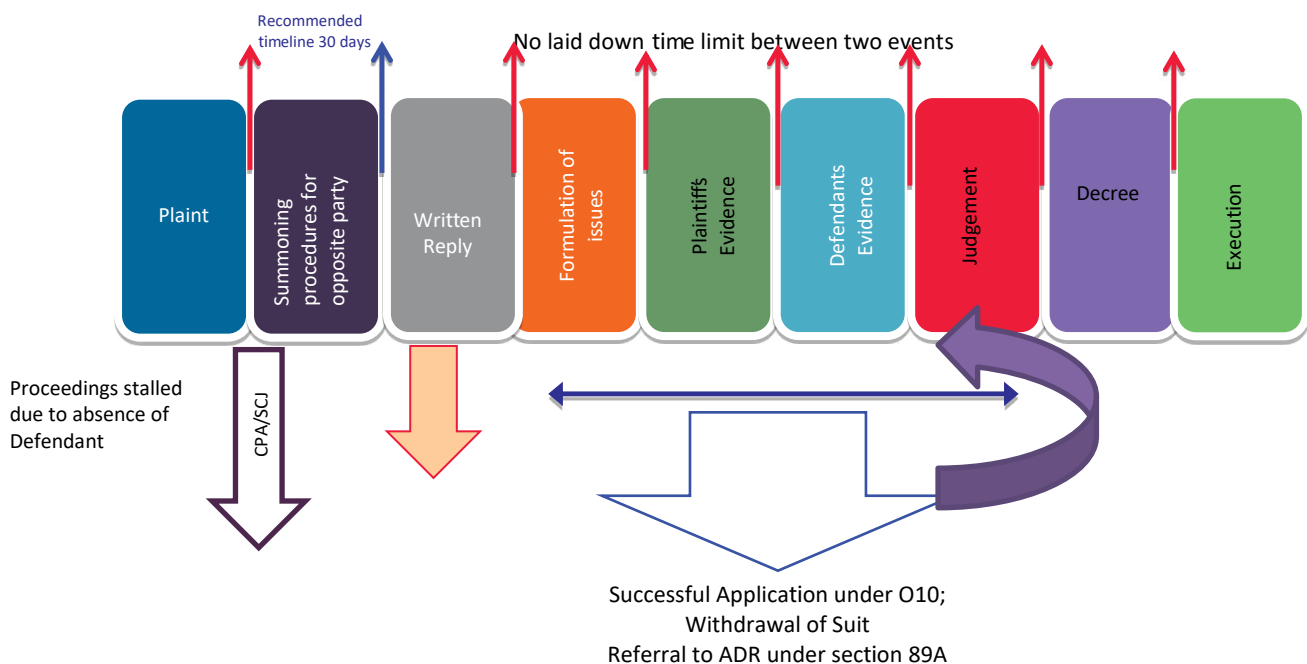
**Original Civil Cases:** The procedure applicable to ordinary Civil Cases (except Banking Court cases) is laid down in the Civil Code and the High Court Rules and Orders. All section references are, therefore, to the Civil Code and High Court Rules and Orders unless otherwise indicated. An ordinary civil case follows the following trajectory (excluding any interlocutory applications and orders) during trial:

- **Filing of Plaintiff: (Order 4 Rule 1 & Rule 2) (Also, Rule 7, Part B, Chapter 1-Vol 1).**
- **Registration:** Senior Civil Judge orders registrations, assigns number and assigns the case to a civil judge.
- **Service on Defendant (Order 5).**
- **Submission of Written Statement (Order 8):** The written statement may be filed on the first day of hearing but the court may permit additional time provided that the period allowed for filing the written statement shall not ordinarily exceed 30 days.
- **Formulation of Issues (Order 14):** Where parties are found at variance on material issues of fact and law, issues are framed.
- **Submission of Plaintiff's Evidence (Order 18).**
- **Submission of Defendant's Evidence (Order 18).**

- **Arguments (Order 20, Rule 1):** On completion of evidence the court fixes a date for hearing of arguments from both sides and on that date it hears their arguments.
- **Judgement (Order 20).**
- **Drawing up of Decree (Section 33):** When Judgement is pronounced the court formulates a decree based on it. The decree contains the number of the suit, the names and descriptions of the parties and specifies clearly the relief granted or other determination of the suit (**Order 20, Rule 6(1)**).
- **Execution of Decrees (Order 21):** The holder of a decree applies to the court to execute it (**Order 21 Rule 10**). All applications for execution need to be in writing except where the decree is for payment of money (**Order 21 Rule 11**).

**Figure 3.5 B** below provides a diagrammatic representation of the various stages and corresponding legally or administratively prescribed timelines for ordinary civil cases. It also identifies the stages of the case for which there are no prescribed time limits for completion. **Table 3.5 B** below indicates any legal or administrative time limits for the different stages of the civil case as well as the source of any such time limits – statutory, High Court Rules and Orders, Court Directions etc.

**Figure 3.5 B: Diagrammatic Representation of Stages of Civil Case and Stipulated Timelines for Completion**



**Table 3.5 B: Timelines for Progress of Civil Cases from Stage to Stage and Stipulated Timelines for Completion, if any**

Stage	Time line as per Statute	Time Line as per High Court Rules & Orders	Time line as per Directions
From presentation of case in office of SCJ to allotment of Case Number  <b>Outcome:</b> Case Registration Number	No provision	No provision	No instruction
From allotment of Case Number to assignment to Court  <b>Outcome:</b> Assignment to trial court	No provision	No provision	No instruction
From receipt in trial court to Fixation of Case for Preliminary Hearing  <b>Outcome:</b> Preliminary Hearing in Trial Court	No provision	No provision	No instruction
From Preliminary Hearing to Service of Summonses/Substituted Service  <b>Outcome:</b> Appearance of Defendant	<ul style="list-style-type: none"> <li>Unless the court orders otherwise Service has to be effected and report of service provided to the court <u>within 15 days</u> of issuance of summonses (Order 5 Rule 9 (3))</li> <li>Where service is substituted by Order of the Court, the Court shall fix such time for the appearance of the defendant, as the case may require which shall <u>not ordinarily exceed 15 days</u> (Order 5 Rule 20 (3))</li> </ul>	No provision	No instruction
From Service of Summonses to filing of Written Reply  <b>Outcome:</b> Filing of Written Statement in Court	<p><u>Within 30 days of first hearing</u>. Further, <u>more than two adjournments cannot be granted for presentation of Written Statement</u> (Order 8 Rule 1)</p> <p>In cases where the Government is the defendant a pre-filing notice has to be given. Where such notice is not given the Government has <u>3 months to file a Written Statement</u> (Section 80(2), Civil Code)</p>		On the date fixed for filing the Written Statement <u>adjournment should not normally be granted for filing it</u> . The Court should insist that the Written Statement be filed on that very day and if there be supervening circumstances <u>a short adjournment, say of a fortnight, should be granted and it should be made clear that no further adjournment shall be allowed</u> . (D.O No. 660/RHC dated 22 October, 1978).
Discovery of Issues  <b>Outcome:</b> List of Documents/Reply to Interrogatories	The Court must dispose off application for discovery/submission of replies to interrogatories etc. <u>within 3 hearings</u> (Order 9A Rule 1)	Requirements to file a list of documents and discouraging mention of documents during trial  Rule 2 & 4, Part G, Chapter 1- Volume 1	
From Filing of Written Statement to Framing of Issues  <b>Outcome:</b> Issues Framed	No provision	No provision	No instruction
From Framing of Issues to start of Recording of Evidence	The parties must present a certificate of readiness to produce evidence along	No provision	No instruction

<b>Outcome:</b> Start of Recording of Evidence	with a list of witnesses within 7 days of framing of issues. A party cannot produce or call witnesses other than those contained in the list without the permission of the Court (Order 16 Rule 1)		
From Start of Recording of Evidence to Closure of Recording of Evidence <b>Outcome:</b> Closure of Recording of Evidence	Timelines are not provided due to variability of cases – courts in various international jurisdictions, however, issue overall timetables to control the flow of cases through such stages  <u>Day to day hearing unless ordered otherwise by the Court</u> (Order 17 Rule 1)	No provision	No instruction
From Closure of Recording of Evidence to Judgement <b>Outcome:</b> Arguments; Judgements	<ul style="list-style-type: none"> <li>● On completion of evidence the Court shall fix a <u>date not exceeding fifteen days</u> for hearing of arguments of parties (Order 20 Rule 1(1))</li> <li>● The Court shall after the case has been heard announce judgement in open court either at once or on some future day <u>not exceeding thirty days</u> for which due notice shall be given to the parties or their advocates. (Order X20 Rule 1(2))</li> </ul>	No provision	No instruction

### 3.5.4 Review of Current Caseflow Management Framework for Completion of Stages of Civil Cases

Once again, at the very outset the following becomes readily apparent from a review of **Figure 3.5 B** and **Table 3.5 B**.

- (1) There are statutory timelines for certain stages of the civil case but not for others. Judicial discretion to extend time has been granted in some cases (highlighted in Table 3.5 B). While in some situations it is arguable that there can be no stringent timelines given the nature of the stage, the multiplicity of situations, and varying case complexity and the need to ensure justice, that is not true for all the other stages – particularly if there is little or no monitoring of exercise of judicial discretion and oversight over the pace of progress of the case. Further, the absence of any overall timetables for the completion of civil cases means that more often than not the absence of any stage-wise timelines translates into a long and unregulated phase in the life of the case. The empirical analysis conducted in Section 2 of this Report highlights various such stages of civil cases that experience such delays, either because existing timelines are not properly implemented or because they are missing or inadequate in the first place
- (2) While there is still some statutory attempt to provide stage-wise timelines the High Court Rules and Orders as well as Directions (barring a few exceptions) are silent on this important Caseflow Management area. It could be argued that given the presence of statutory timelines there is no need for anything more. However, in view of the fact that the absence of timelines is all too frequently abused there may be additional need for timelines. Any existing timelines are largely perceived to only exist on paper; hence, these two essential and flexible vehicles appear to be underutilised for filling the gaps, for streamlining and regulating the legal process, and, for elaborating upon and extending emphasis on the meeting of the statutory timelines.
- (3) Unlike the relevant statutes, High Court Rules and Orders and Court Directions the National Judicial Policy (as shall be seen and evaluated later on in this Report) puts forward certain specific

overall timetables for the completion of different types of civil cases. These, however, are open to a separate set of issues and limitations, which shall be shortly discussed.

### 3.5.5 National Judicial Policy

In the wake of the Pakistani Lawyers' Movement and the subsequent assertions by the country's judicial leadership to focus on reforming the legal process and the court system, key policy documents such as the National Judicial Policy, 2009 (hereafter the 'NJP') provide important indications of the focus and nature of such intended reforms towards making the legal process more efficient and equitable.

The NJP remains the most recent relevant example of any specific overall time standards for Caseflow Management. The NJP time standards, however, do not distinguish between case types other than the very broad dichotomy of criminal and civil cases. They put forward a time standard of six (6) months for disposition of 100% of specific case types, such as 6 months for criminal cases punishable by up to seven years and one (1) year for criminal offenses with penalties over 7 years, including capital cases. However, other than the requirement that civil cases filed after 1/1/2009 should be disposed within 6 months, there are no overall NJP standards for processing typical civil case categories/types (e.g., contracts, property, etc.).

At the same time, certain NJP standards have been put forward for some sub-categories of civil cases (regardless of case complexity), including Rent (4 months); Family (4-6 months); Public Revenues (6 months); Negotiable Instruments under Order 37 of the Civil Code (90 days); Civil Appeals arising out of family cases including custody of minors, guardianship cases, succession and insolvency (1-4 months); Review Applications (30 days); Rent Appeals (60 days); and, Revision Petitions (3 months). These specific sub-categories, however, only account for a limited portion of the district and session courts' overall caseload. In certain cases they don't really put forward any new timelines but reiterate some of the existing statutory timelines for disposal of certain types of cases.

**It is also instructive to see that the data collected in the pilot districts and the empirical analysis conducted in Section 2 of this Report confirms that in many cases NJP timeframes were not adhered to.** This is in many ways a function both of whether these are realistic timelines (given both the nature of these case sub-categories as well as the relative complexity of the cases therein) and also weakness of available enforcement systems to effectively sanction those accountable, whether courts, counsel or litigants, for failure to comply.

**Table 3.5 C** below provides the National Judicial Policy Timelines for certain categories of criminal cases.

**Table 3.5 D** below provides the National Judicial Policy Timelines for certain categories of civil cases.

**Annexure M** at the end of this Report provides details of additional areas of focus for the NJP in terms of expediting case processing and disposal times.

**Table 3.5 C Timelines under National Judicial Policy for deciding certain categories of Criminal Cases**

Type of case	Timeline	Statutory time line, if any
All criminal cases punishable with imprisonment of up to 7 years registered after 1.1.2009	Within 6 months	Nil
All criminal cases carrying punishment of 7 years or more including death	Within 1 year	Nil

**Table 3.5 D Timelines under National Judicial Policy for deciding certain categories of Civil Cases**

Type of case	Timeline	Statutory time line, if any
Rent Cases	Within 4 months	4 months
Family Cases	3-6 months	6 months (Section 12A of the Family Courts Act, 1964)
Cases related to Public Revenues	Within 6 months	
Cases pertaining to Negotiable Instruments under Order 37, Civil Code	Within 90 days	
Civil Appeals arising out of family cases including custody of minors, guardianship cases, succession and insolvency	1-4 months <sup>55</sup>	
Review Applications	Within 30 days	
Civil Suits filed after 1.1.2009	Within 6 months	
Rent Appeals	Within 2 months	Section 28, Punjab Rented Premises Act, 2009
Revision Petitions	Within 3 months	

### 3.5.6 Review of National Judicial Policy Timelines

- (1) Other than some broad overall timelines for certain sub-categories of cases, the NJP does not provide any overall timelines for many other types and sub-categories of cases or any additional prescriptions for desirable timelines for individual stages of these cases.
- (2) The overall timelines put across by the NJP for criminal cases are blanket and not tailored according to the relative complexity and specific nature of the cases. They do, however, take into account the seriousness of offences in criminal cases; thus a broad distinction is made between those cases that involve offences where the quantum of punishment is up to seven years and those where it is seven years or more;
- (3) The mandated timetables appear to be quite tight and this raises questions as to their practicability as well their basis given that in practice such cases take far more time, as has been shown by the empirical evidence presented in Section 2 of this Report;
- (4) The NJP does not offer much by way of direction as to how judges ought to manage their growing workloads due to increasing litigation and institution of new cases and hence these timelines appear to lack sufficient engagement with important ground realities and contextual challenges;
- (5) They do, however, provide a useful benchmark to gauge the actual time currently consumed by criminal cases in the field and thus also the positive impact if any that the laying out of such timelines has had on law in practice;

<sup>55</sup>The four-month period is for family appeals under Section 14 of the Family Court Act, 1964, except in cases of insolvency and succession.

- (6) Unlike its approach for criminal cases the NJP puts forward more sub-categories of civil cases while prescribing different overall timetables for the disposal of such cases;
- (7) However, like in the case of criminal cases, the NJP does not provide any additional prescriptions for desirable timelines for individual stages of the civil cases – it only focuses on overall timetables;
- (8) Once again, the overall timetables put across by the National Judicial Policy for civil cases are blanket and not tailored according to the relative complexity of the cases;
- (9) Furthermore, once again the NJP’s mandated timetables for certain sub-categories of civil cases appear to be quite tight and this raises questions as to their practicability as well their basis given that in practice such cases take far more time. In some cases they echo the applicable statutory timetables but how realistic such statutory time limits are is also open to question. In other cases, they fill a gap where the statutes don’t provide any timelines;
- (10) The situation for civil cases is identical to that of criminal cases in the sense that the NJP does not offer much by way of direction as to how judges ought to manage their growing workloads due to increasing litigation and institution of new cases and hence these overall timetables appear to lack sufficient engagement with important ground realities and contextual challenges; and
- (11) They do, however, provide a useful benchmark to gauge the actual time currently consumed by civil cases in the field and thus also the positive impact if any that the laying out of such timetables has had on law in practice.

### 3.5.7 Additional Areas of Litigation requiring Timelines

Quite apart from the ordinary criminal and civil adjudication at the trial level, the following are certain additional significant areas relevant to district court litigations that are currently largely unregulated in terms of overall or stage-wise timelines for completion.

**A) Interlocutory Applications in Civil Cases:** <sup>56</sup>Interlocutory Applications are a significant consumer of time and effort in civil cases. Examples of Interlocutory Applications are, *inter alia*:

- Applications for interim injunction regarding possession of property pending final outcome of the case;
- Applications for disposal of property pending final outcome of the case;
- Applications for final disposal of case without trial; and
- Interim stay applications and stay applications under Order 7 Rule 10 and Order 7 Rule 11 of the Civil Code.

Interlocutory applications have the following stages:

- Filing of Application
- Reply by Respondent
- Arguments
- Decision

<sup>56</sup> Interlocutory applications are not defined in the Civil Code. Applications that are incidental to the suit are called interlocutory applications. They are also referred to as miscellaneous or interim applications. They are distinguished from applications, which could start the proceedings (for example application for restoration of suit). Such applications are called substantive applications (see AIR 1944 N 161). This section essentially identifies those interlocutory orders that are appealable and does not set out to comprehensively define the concept of interlocutory applications or to illustrate the precise ambit of their application.



The High Court requires that applications for *ad interim* injunction must be decided within four (4) weeks.<sup>57</sup> However, there isn't much else by way of rules and directions that attempt to streamline and discipline interlocutory hearings during the course of civil cases. There are also no stipulated timelines for the disposal of the various other kinds of interlocutory applications. This is telling considering that the empirical analysis conducted in Section 2 of this Report has demonstrated and confirmed common perceptions that interlocutory proceedings and interim stay applications and stay applications under Order 7 Rule 10 and Order 7 Rule 11 of the Civil Code play an important part in elongating civil proceedings, especially at certain distinct stages of the case.

**B) Criminal Appeals:** Criminal appeals can be made to the next higher-level court than the court that passed the original order. Appeals (and not Revisions) are filed towards the pursuit of reduction of sentences. The process of appeal is expected to be much shorter than the trial process and entails less paper work. Appeals have the following stages:

**a. In the Sessions Court**

- Deposit of Appeal in the Petition Box
- Examination of the Appeal regarding attachment of required documents
- Admission Notice to Parties (Section 422, Criminal Code)
- Arguments
- Decision

**b. In the High Court**

- Direction of the Government to file an Appeal (Section 417(1) of the Criminal Code)[Appeal against Acquittal]
- Filing of Appeal by State (no Special Leave to Appeal required)/Filing of Appeal by Private Complainant on grant of Special Leave to Appeal (Section 417(2) of the Criminal Code)
- Examination of the Appeal and fixation before a Judge
- Perusal of Appeal/Summary Dismissal of Appeal (Section 421 of the Criminal Code)
- Summoning of Record (Section 423(1) of the Criminal Code)
- Notice to Parties (Section 422 of the Criminal Code)
- Hearing of the Appellant/Public Prosecutor/Accused (Section 423(1) of the Criminal Code)
- Judgement
- Certification of Judgement to the Court, which passed the order appealed against (Section 425 of the Criminal Code)

**C) Criminal Revisions:** Criminal Revisions can be filed against the orders of the Magistrates in the Sessions Court and against the orders of the Sessions Court in the High Court. Criminal Revisions are filed in pursuit of the enhancement of sentences (Sections 439/439A of the Criminal Code). A Criminal Revision goes through the following stages:

**a. In the Sessions Court (Section 439A of the Criminal Code)**

- Deposit of Revision Application in the Petition Box
- Examination of the Application regarding attachment of required documents
- Fixation before Judge
- Notice to Parties
- Hearing of Parties/Arguments
- Show Cause Notice to accused where sentence is proposed to be enhanced
- Hearing of Show Cause Notice
- Decision

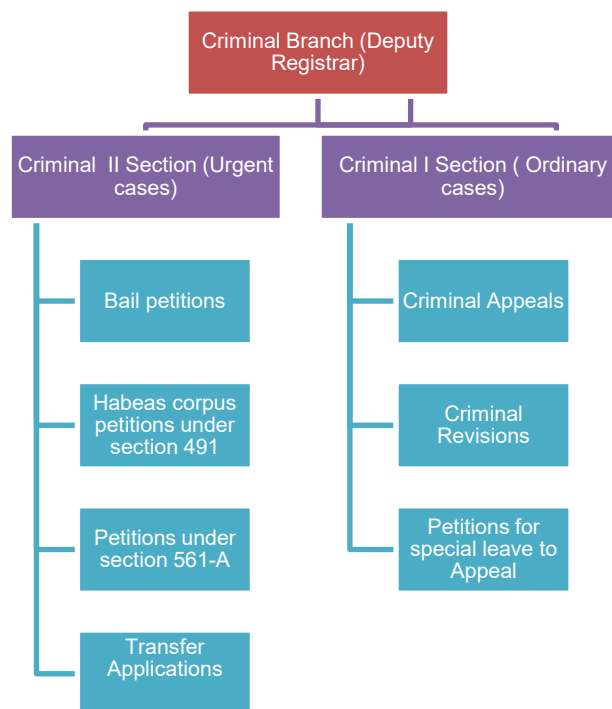
<sup>57</sup>See Letter No 10486- CONT/XXVI.A.73 dated 1.9.1972.

**b. In the High Court (Section 439 of the Criminal Code)**

- Filing of Criminal Revision in branch
- Fixation of Revision
- Summary Dismissal
- Notice to Parties
- Hearing of Parties/Arguments
- Show Cause Notice to accused where sentence is proposed to be enhanced
- Hearing of Show Cause Notice
- Decision

**Figure 3.5 C** below provides a flow chart indicating the location and processing of criminal cases within the High Court

**Figure 3.5 C Organogram for Criminal Appeals to High Court**



**D) Civil Appeals:** An appeal can be pursued against every decree of a civil court unless provided otherwise by statute. Appeals are required to be made to the court authorised to hear appeals against the decision of the issuing court (Section 96 of the Civil Code). Every appeal is in the form of a memorandum clearly indicating the grounds of the objection(s) to the decree (Order XLI Rule 1 of the Civil Code). A civil appeal follows the following process:

**a. In the District Court (Section 96 of the Civil Code)**

- Deposit of Appeal in the Petition Box (Rule 7, Part B, Chapter 1-Vol 1 of High Court Rules and Orders)
- Examination of the Appeal regarding attachment of required documents
- Fixation before Judge
- Notice to Parties
- Arguments
- Decision

**b. In the High Court**

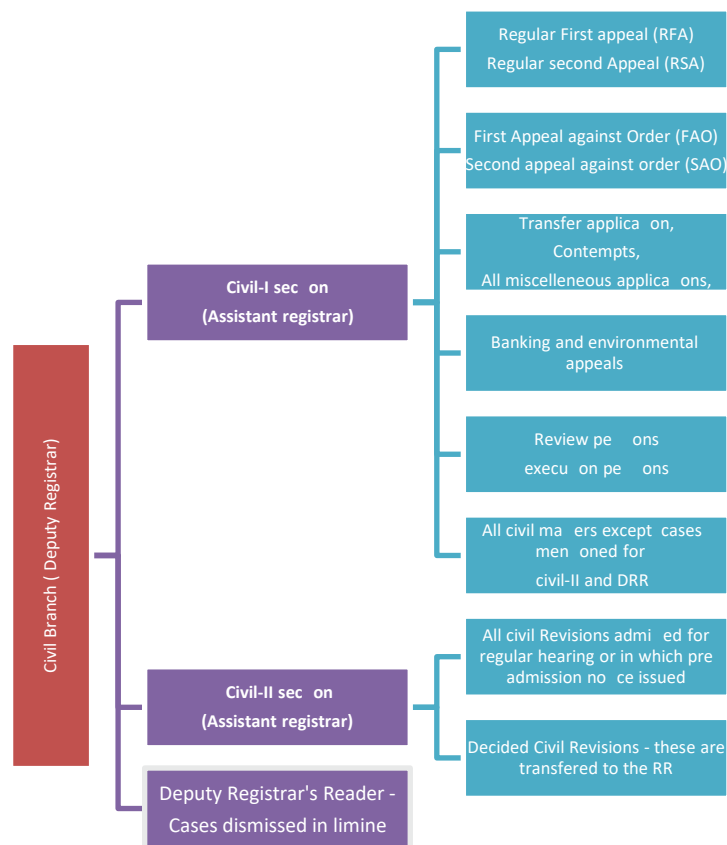
(Section 96 of the Civil Code (First Appeal); Section 100 of the Civil Code (Second Appeal))  
Where the value of the original suit in which the decree or order was made exceeds Rs 2.5 million the First Appeals are to be made to the High Court instead of the district court. This is also true for all such cases where the district judge has exercised her original jurisdiction. Otherwise, all First Appeals are to be made to the next level in the district courts. Furthermore, in the case of all decrees passed in appeal by any court subordinate to the High Court a Second Appeal can be made to the High Court if: the decision is contrary to law; the decision fails to determine some material issue of law; or a substantial error or defect has occurred in procedure which may have produced error or defect in the decision of the case upon merits. Second Appeals follow the process of filing of Appeal in Appeal Branch along with the Opening Sheet for Appeals (Order XLI, Rule 1, Civil Code). The following are the subsequent stages of a Second Appeal:

- Examination of the Appeal by Office regarding attachment of required documents
- Fixation before Court
- Notice to Parties
- Arguments
- Decision

**E) Civil Revisions:** A Civil Revision can lie at both the following levels:

- a. In the District Court
- b. In the High Court

**Figure 3.5 D** below provides a flow chart indicating the location and processing of Civil Appeals within the High Court

**Figure 3.5 D: Organogram for Civil Appeals to High Court**

### 3.6 Mechanisms for Caseflow Management - International Benchmarks and Situation on the Ground

In the previous sections we have endeavoured to map and analyse the existing Caseflow Management framework in the courts in Punjab by focusing on district court civil and criminal legal processes and any overall timetables for the disposal of such cases as well as any timelines for individual stages of such cases provided by applicable statutes, High Court Rules and Orders, Court Direction and NJP guidelines. As can be seen, there are a fair number of gaps in this regard. Furthermore, even the existing timetables and timelines (where provided) ought to have been subjected to further institutional scrutiny to gauge how realistic and pragmatic they are and also whether they are actually adhered to by the court system. The empirical evidence in section 2 suggests that they are not.

This section evaluates the state of additional mechanisms routinely employed in advanced legal systems to manage and control the flow and progress of cases in the court system. These include:

- A. Initial review of cases for determining the suitability and readiness of such cases for trial, their classification, and future trajectory;
- B. Allocation of cases to suitable courts and their subsequent workload management;
- C. Timetables and fixation of dates of hearing; and
- D. Appropriate routing of suitable cases to non-court based resolution.

Effective management of these areas allows the court system to develop a better sense of the overall existing and expected workloads, suitable allocation of cases to appropriate forums, regular filtration of the system to retain and focus on only the meritorious cases, avoidance of waste of court time and resources and duplication of effort, rationalisation of workloads across courts and judges of different

expertise, better control over the pace of progress and duration of cases, and thereby, fast disposals, less pendency, and better quality of judgements. This section will now proceed to gauge the existing Caseflow Management system in Punjab to determine how it utilises any of the aforementioned methods for effective management of cases.

### A) Scrutiny/Review of Cases

All court systems in advanced legal jurisdictions undertake comprehensive initial review of all freshly filed cases in order to determine whether they are in the proper format and form, whether all preliminary legal requirements have been met, whether they are complete and suitable to proceed to trial, and if they are indeed ready to be taken up in court then where should they be routed to. Standardised forms and formats assist these court systems in systematically checking for all these prerequisites. These forms and formats ordinarily contain the following prerequisites, including, *inter alia*:

**Unlike civil cases, defendants in criminal cases are under no obligation to disclose the names of witnesses and documents they will present. In terms of case management this makes it difficult for the manager to assess the potential time that a case will take to completion.**

- Whether the case has been filed in the correct jurisdiction?
- Whether a related matter has been or is under litigation?
- Whether all relevant court fees have been paid?
- Whether there is enough evidence for conducting a trial?
- Whether the case is ready/ripe for trial?
- Whether the requisite forms have been filled and/or documents appended?<sup>58</sup>
- Whether a trial is the most appropriate way of dealing with the case?
- Which track ought the case be allocated to in view of its nature as well as the priority to be attached to it?<sup>59</sup>
- Under which jurisdiction (or court) should the case fall?

Adequate coverage of the above-enumerated areas is deemed integral to the smooth and systematic management of cases in a court system.

### Legal Provisions

A review of applicable laws, procedures and rules divulges the following existing provisions that are relevant to Caseflow Management at this level:

#### On the Criminal side

- Section 9(5) of the Criminal Prosecution Service Act, 2006 requires and enables prosecutors to undertake pre-trial scrutiny of police investigation reports and submit their opinion.
- Rule 3, Part A, Chapter 24, Volume 3 of High Court Rules and Orders requires the Magistrate to apply his mind to the material before him to ascertain whether the case is exclusively triable by the Sessions Court.

#### On the Civil side

- Rule 1, Part B, Ch. 1, Volume 1 of High Court Rules and Orders states that the receiving officer should determine the payment of court fee and cancel for non-payment in the manner prescribed.
- Rule 5, Part B, Ch. 1, Volume 1 of High Court Rules and Orders states that it is the duty of the clerks of the Courts of DSJs/SCJs and Small Causes Courts and the Readers of all judges to determine that all appeals, complaints and petitions etc., received in courts are properly stamped. In case of doubt they should seek and obtain the orders of the presiding officer.

<sup>58</sup>For additional details on the requirements entailed in such forms see the following section.

<sup>59</sup>Further details on Multi-Track case processing systems will be provided in a later section.

- Rule 1, Part C, Ch.1, Volume 1 of High Court Rules and Orders states that on the presentation or receipt of a plaint the court should examine whether the plaint contains the name of the courts, the names of the parties etc.

### Practice

In our context reviews are envisioned as follows:

**Pre-Filing Review**—The process of review before a police report is filed in a criminal court, or after a civil plaint has been filed in the office of the Senior Civil Judge and before a civil registration number has been allotted.

**Post-Filing Review**—The process of review undertaken by the Magistrate after a police case has been received or the process of review undertaken by the Reader or Civil Judge after a case has been numbered.

Our consultations in the field revealed the following current practices in the district courts in terms of scrutiny/review of cases at the pre-filing as well as post-filing stages:

#### On the Criminal side

Unlike civil cases, Police reports are not filed centrally but are transmitted directly to individual courts through prosecutors who undertake the pre-filing scrutiny of cases. This scrutiny may be quite detailed for Sessions cases but minimal for Magistrate court cases. Data regarding pre-trial scrutiny and processing is being studied separately, which will be made available by the Project in due course of time.

Once a police investigation report has been received in the court, the *Ablmad* attaches bail bonds with the case and puts it up for orders of the Magistrate/Senior Civil Judge/Additional District and Sessions Judge.

#### On the Civil side

Petitions are presented to the Clerk of the Senior Civil Judge (Clerk of the Court) who undertakes pre-filing review of cases for compliance with basic requirements. Before accepting the suit, the clerk is instructed to check:

- Whether the Plaintiff has signed the suit?
- Whether there is any on-going litigation on the same subject?<sup>60</sup>

If the Plaint has not been signed the clerk asks the counsel to submit a signed copy. Where the suit is duly signed he obtains a certificate regarding on-going litigation on the same subject and cancels the court fee stamp so that it may not be reused.

Readers of the court undertake post-filing review of cases. However, during fieldwork we did not come across any standard template according to which reviews are actually conducted. Some of the key issues reported by the Readers during interviews in the Target Districts were short stamping and non-payment of process fees.<sup>61</sup>

### **Main Findings as to Current Mechanisms for Scrutiny/Review of Cases**

The following are some of the main insights from the review conducted in this area:

1. While there are some available provisions for determining the payment of court fees and ascertainment of certain key pieces of information there are obvious gaps in terms of levels of

<sup>60</sup>No 221/MIT/HC dated 4-10-2006.

<sup>61</sup>Rule 5, Volume 1, Chapter 1, Part B, High Court Rules and Orders.

possible scrutiny/review of cases. There is also a lack of standardisation that would surely inhibit the achievement of the afore-stated goals of such scrutiny/reviews. Current actual pre-filing scrutiny is rather minimal and requires revisiting in order to make it much more robust so as to avoid problems and delays at later stages of the case;

2. Court staff is integral to the efficient, thorough and fair review of cases and yet there is currently room for great exercise of discretion and subjective decision-making due to the absence of a detailed and consistent framework as well as the historical neglect towards the training and skills up-gradation of court staff;
3. There is no real formal and established system of following different ‘case processing tracks’ according to order of priority to be attached to a case due to any policy reasons/imperatives as to why it ought to be on a higher or lower priority – such as, ripeness, readiness, social impact, human rights dimension, impact on a vulnerable group, important economic ramifications etc. While the NJP has emphasised that ‘older’ cases ought to be cleared first, that should not be, as it is, the only policy prioritisation. As a result, highly personalised and subjective judicial determinations (uninformed and unguided by any data and statistics) that vary a lot from judge to judge (especially in appellate courts) determine which cases are to be prioritised. In other words, there is no clear and detailed judicial policy that dynamically evolves through regular consultations and translates into a formal system of different tracks for different types of cases; and
4. There is also currently no requirement and mechanism to predetermine and fix the quantum of work a case will generate for the court system and thus also its magnitude and complexity – such as the number of documents that will be filed and number of witnesses that will be presented (with some pragmatic flexibility for exceptional deviations later). As a result, there is also little control over the pace and progress of the cases when introduction of additional documents and witnesses at later stages of the cases end up elongating them far beyond what ought to have been their optimal lives.
5. As in the case of pre-filing reviews, post-filing reviews are also minimal and require revisiting in order to make them much more robust so as to avoid problems and delays at later stages of the case.

Whether some of the additional goals stated above are addressed by any additional systems, mechanisms and forms shall be discussed in the following sub-sections.

## **B) Case Allocations/Transfers**

In many international jurisdictions cases are centrally filed and then allocated to different appropriate courts. Such a centralised filing system requires clear and detailed rules for allocation of cases and/or transfer of cases in order to control and rationalise the workload of courts and to also ensure that the cases end up before the right forums. Given that the Pakistani court system also follows such a centralised filing system it is instructive to determine and evaluate the currently applicable rules for allocation and transfer of cases.

### **Legal Provisions**

#### **On the Civil side**

- Rule 3(I), Part B, Ch.1, Volume 1 of High Court Rules and Orders states that petitions and plaints presented at the headquarters will be received and distributed by the District and Sessions Judge who may delegate this power under Section 16 of the Punjab Civil Courts Ordinance, 1962 to

any civil judge and should always do so when it is for the convenience of the litigants. The Rule further requires the District and Sessions Judge to have regard to Sections 15 and 20 and Order 4 Rule 1 of the Civil Code in framing directions regarding the reception of civil suits.

- Rule 3(II), Part B, Ch.1. Volume 1 of High Court Rules and Orders states that the work of distribution must not be left to the Reader or the Clerk of Court and that the judge should personally attend to this work.
- Rule 4, Part B, Ch.1, Volume 1 of High Court Rules and Orders states that every plaint or petition should at the time of its reception be at once endorsed with the date of its receipt and such endorsement should be signed by the receiving officer. Rule 4 further requires the receiving officer to prepare a list of all plaints and applications received each day and distribute them in accordance with the orders passed and general instructions given by the District and Sessions Judge/Senior Civil Judge.
- Rule 6, Part B, Ch. 1, Volume 1 of High Court Rules and Orders endows the District and Sessions Judge with the power to transfer cases in order to equalise workloads.<sup>62</sup>

### On the Criminal side

- Rules 3,4,5,6,7,8,9,10,11,12, and 14, Part A, Ch. 26, Volume 3 of the High Court Rules and Orders provide for transferring of criminal cases for public convenience or due to a grievance of parties.
- Section 346 of the Criminal Code empowers the Magistrate to stay proceedings in a case in which it appears to him that it ought to be tried by another magistrate or the Court of Sessions. The Section further requires such a Magistrate to submit a brief report regarding the matter to the Sessions Judge.

### For All Cases

- The NJP states that the administrative judges should consider the experience of judges while marking cases to different courts.

### **Practice**

While existing Rules/Directions essentially highlight a few criteria for case allocations relating to case disposals and workloads, detailed conversations with District and Sessions Judges and Senior Civil Judges<sup>64</sup> in the Target Districts reveal that they also take into account additional criteria while allocating cases. These criteria are:

- Monthly case disposal statements of the courts
- Specialisations of judges and their ability to deal with specific types of work
- Integrity
- Work ethic
- Interpersonal skills

### **Main Findings as to Current Mechanisms regarding Allocation/Transfer of Cases**

1. The fieldwork in the Target Districts revealed that certain endeavors are made towards ensuring that cases are generally distributed in accordance with workload. According to court and administrative officials interviewed, DSJs and Senior Civil Judges utilise 'Monthly Case Disposal Statements' of different judges to gauge the pendency/work load before them, as well as

<sup>62</sup> In practice, interviews in the field divulge that the concerned judges rely on 'Monthly Case Disposal Statements' of the courts to determine the workload in each court in order to decide whom to allocate cases to. However, where the reason for transferring a case is an allegation of bias or any other judge related reason, the concerned judges may transfer the case under Section 528 of the Criminal Code. In the case of Magistrates, since they are assigned specific police stations all cases pertaining to those police stations can only be tried by them. In other words, such cases cannot be transferred for workload reasons under Section 192 of the Criminal Code or under Section 528 of the Criminal Code.

<sup>63</sup> See National Judicial Policy, Chapter II, page 40.

<sup>64</sup> Interviews with Judges in the Target Districts.



additional factors before making case allocation decisions. Furthermore, criminal bails and trials are distributed in accordance with the police stations allocated to different courts.

2. Both the interviews in the field and the laws and rules reproduced above divulge the existence of a broad framework for allocation and transfer of cases as well as rationalisation of workloads across courts and judges. Furthermore, it also provides evidence of some underlying general policy goals to: address the general convenience of litigants as well as any legitimate grievances of particular litigating parties, rationalise workloads, and allocate cases according to judicial expertise. There is also an endeavor to involve judicial officers in such work in order to promote more responsible and nuanced decision-making and thereby prevent case allocations/transfers from becoming a mechanical and/or ill-informed exercise conducted by court staff.
3. There is, however, paucity of recognition here as to whether the already overworked judges may be able to adequately perform such tasks and also whether a more standardised, formalised and documented system, run by better-trained court staff, may not be a much more optimal utilisation of precious judicial time.
4. In other words, while it is understandable and even desirable to retain a certain level of subjective flexibility in the allocation of cases in order to ensure that such allocations are realistic, workable and in consonance with ground realities, there are several justifications for bringing greater formality and consistency to this process as well. While various individual supervising judges would continue to allocate cases in an efficient and nuanced manner in order to run a tight ship, others may not do so unless provided with greater direction and a clear framework. Furthermore, while it is understandable that certain complex cases of a specialised nature ought to go to judges with relevant expertise it is also important that such judges are not over-burdened and others with lesser skill and expertise are also nurtured and graduated towards undertaking more complex and demanding duties – there has to be a basic minimum level of expertise and rigor that all of them ought to possess and regularly demonstrate.
5. The fact that some of the supervising judges divulged that ‘integrity,’ ‘work ethics,’ and ‘interpersonal skills’ are important factors while allocating cases raises the question whether there are effective parallel steps to address the inadequacies of those who are not reliable on these scores. Quite apart from the fact that they ought not to be allowed to get away with less volume and complexity of work than their colleagues with a greater level of expertise and rigor surely there ought to be no judges around with well-known dubious integrity, poor work ethic and weak interpersonal skills. It is worth further inquiry and monitoring whether such individuals are routinely being allowed to not only persist in the system but also whether the fate of certain cases is being regularly entrusted to them since those who are impeccably honest, possess a robust work ethic and have a pleasant demeanor can’t possibly decide all the cases in a district.
6. The biggest problem constraining a more efficient and sophisticated case allocation/transfer system (as indeed constraining many other areas of Caseflow Management) is the absence of any regularly collected, detailed and reliable data. As a consequence, currently there is simply no way that the High Court, let alone an external observer, can actually determine whether even the existing Rules and Directions for case allocations/transfers are being consistently and meaningfully followed. Unsurprisingly, evidence from the field also suggests considerable variation in actual practices. Without a more detailed set of rules, an appropriate monitoring system, and standardised formats and processes, a centralised case allocation system cannot be expected to adequately meet any policy goals and that may well be the situation in local context.

### C) Issuance of Timetables/Fixation of Dates of Hearing

As mentioned earlier, overall timetables provide a meaningful timeframe during which a case must be decided. International practice reveals that timetables often contain both start and end dates and also the number of hearings that may be allocated to a case. Timetables are, thus, a key feature of Caseflow Management since they provide, inter alia: a target date amenable to monitoring, an assessment of the workload involved on part of the court to meet the target date and hence essential information for it to accordingly manage its resources, a clear roadmap for litigants and their lawyers to suitably argue their cases, and limits on the extent to which litigation can be extended. As a result, it is of tremendous help to court managers in organising dockets (fixing cases for hearing).

It is important to note that in modern Caseflow Management systems, timelines for every stage of the case are not necessarily provided (though it must be emphasised that for all key stages timelines are indeed provided). However, given that overall timetables apply to all cases in such contexts means that on the whole there is much greater certainty and predictability about the life of a case in court, the amount of court resources it will consume, and its eventual conclusion.

#### Case Study: Gains made in the U.K. through a fresh approach to Caseflow Management and a revised and modern set of Rules

It is instructive here to briefly visit an international legal context that has been active in upgrading and modernising its Caseflow Management approach and framework. Quite apart from the availability now of a detailed set of cohesive, centralised, easily accessible, intelligible, and meaningful rules, the courts in the U.K. also use their discretionary powers in matters of procedures to achieve the overriding objective even if such powers are not derived from the Civil Procedure Rules 1998 ('CPR'). The current widely shared understanding of Caseflow Management in the U.K and other such jurisdictions persuades judicial officers and court managers to embrace an understanding of management power that includes the power to set timetables, order disclosures, decide what procedures would be followed etc. The comprehensive compliance powers at the disposal of the courts then allow courts to enforce compliance with the applicable rules of procedure and to rectify any procedural mistakes. Not only do the courts proceed with the understanding that dismissal of a case does not bar a new action within the limitation period, they also have at their disposal a range of sanctions short of the draconian sanction of striking out a case, which are highly effective in discouraging delays.

**Rule 1.1** These Rules are a new procedural code with the overriding objective of enabling the Court to deal with cases justly – CPR, 1998

It is significant to note here that the problems faced by the U.K. court system prior to the introduction of the currently in place CPR were not dissimilar to those that presently challenge the Pakistani court system.<sup>65</sup> For instance, the following have been enumerated as some of the problems confronting the U.K. courts in the pre-CPR days:

- The appearance of a general policy of lax enforcement of procedural obligations by courts (failure to submit written replies/statements) because the superior courts interpreted the procedural provisions in the light of a 'justice on merits' approach.
- While the courts did have certain powers to control the conduct of the proceedings they were not always willing to exercise those powers.
- The parties and not the courts controlled the pace and intensity of litigation.
- The courts lacked adequate management powers (such as that for the allocation of tracks) and also effective compliance powers (such as sanctions like those of striking out a claim for non-compliance).

<sup>65</sup> See *Biguzzi v Rank Leisure* [1999] 4 All ER 934.

- The discretion of the courts to manage cases had become almost unfettered in matters of implementation of procedural duties.
- The approach of the courts to match the process to the dispute at hand was a jurisdictional one. The lower tier courts were vested with the jurisdiction to hear cases of low financial value whereas upper tier courts tried cases of higher financial value and complexity. The cases of low financial value were not subject to detailed procedures. However, many litigants and lawyers involved in such cases shared the perception that the upper tier courts were more capable of adjudicating their matters and in order to get their cases placed before them, they often attempted to present their cases as complex in order to get them heard at the higher level. This frequently ended up increasing the workload in the higher courts and defeated the purpose of the then extant policy.
- The courts did not have effective powers to decide cases in a proportionate manner.
- The courts often ignored even inordinate delays on part of the litigating parties and did not always consider it important to follow any timelines.

CPR and the policy thinking surrounding it aimed to shift the control of litigation from the parties and their lawyers to the courts, thus empowering the courts to take control of the cases. The ‘overriding objective’ to be pursued by the courts was redefined to entail enabling the Courts to deal with cases justly. Dealing with cases justly included as far as practicable:

- Ensuring that the parties are on equal footing
- Saving expense
- Dealing with a case in ways which are proportionate to the amount of money involved, the importance of the case, the complexity of the issues and the financial position of each party
- Ensuring that cases are dealt with expeditiously and fairly
- Allotting an appropriate share of the courts’ resources to a case

The ‘overriding objective,’ as was clarified, was not intended to merely enable courts to do substantial justice in a particular case but to do procedural justice in all “cases” before it. It thus entailed pro-active management of cases, allocation of time and resources according to particular needs of a case, and decision-making in individual cases while keeping in view its effect on the progress and outcome of other cases. The courts were also required to meaningfully interpret the CPR in order to further the overriding objective. There was also valid recognition of the risk that the previous legal authorities might stand in the way of interpreting those provisions from the pre-CPR legal regime that had also found their way into the CPR. This could result in the courts once again adopting a ‘pro-justice on merits’ approach while deciding any issues of procedures.

To address this risk, the ‘overriding objective’ provided a guiding principle to the courts on how to apply the CPR. It clarified that the courts were not to refer to old authorities in interpreting the CPR – where they stated any principles contrary to those provided under the CPR. The reform approach was thus mindful not merely of specific reform interventions but also an old, inhibiting legal culture that could stall and retard meaningful reforms.

The CPR provides a list of aims and objectives of Caseflow Management (Part 1.4 (2)). These include:

- Encouraging parties to settle or use ADR
- Identifying issues at an early stage
- Fixing timetables or otherwise controlling the progress of the case
- Considering if it is justified to take a procedural step given its costs
- Dealing with as many issues on the same occasion as possible
- Dealing with a case without requiring parties to attend a hearing
- Use of technology
- Giving directions for the expeditious progress of a case

Furthermore, the CPR also puts forward a general list of the courts' Caseflow Management powers (Part 3.1 (2)). These include powers to:

- Extend or shorten the time for compliance with a rule or court orders
- Adjourn or bring forward a hearing
- Receive evidence by telephone or any other method of direction communication
- Stay the whole or part of any proceedings till a particular date
- Consolidate proceedings
- Take any other step to further the 'overriding objective'
- Exclude any issue from consideration
- Dismiss a claim or give judgement on a claim after a decision on a preliminary issue

A significant feature of modern approaches to Caseflow Management is the utilisation of different procedural tracks for different types of cases. The factors kept in consideration while allocating case to different tracks include, complexity of facts, law and evidence; nature of remedies available and sought etc. In the U.K. the following three tracks are used:

### **Small Claims Track**

The Small Claims Track is for claims involving financial value of up to 5000 GBP. This track was also available in the form of and under the name of 'small claims arbitration' in the pre-CPR system. The court can employ any fair procedure to deal with cases in this track. Some procedures like the disclosure, however, are not permissible. The right of appeal is limited. Parties can pursue the case without lawyers and without attending the final hearing subject to permission by court. Only fixed cost for the proceedings can be awarded except where a party has behaved unreasonably in which case costs of lawyers can be also be awarded. Standard Caseflow Management directions apply in such case.

### **Fast Track**

The Fast Track cases in the U.K. are those cases that involve claims from 5000 GBP to 15000 GBP. In such cases the court can issue various Caseflow Management directions, including, exchange of documents, disclosures, filing of listed questionnaires by the parties etc. Directions are normally given at two stages: at the time of the allocation of track and at the time of filing of questionnaires. Parties are expected to file their applications at the dates when direction hearings are held. The key feature of 'Fast Track' cases is that the dates for filing of listing questionnaires, and the date and duration of trial cannot be altered without permission from court. The parties cannot vary any dates with mutual consent if such variations would affect the date of completion of the said activities. This ban on the parties' autonomy is a significant innovation in the procedure. Even the courts' own discretion to allow for variation of the timetable can only be exercised in exceptional circumstance. Any breach of the stipulated timetable is meant to lead to sanctions and costs of various kinds.

### **Multi Track**

Multi track cases are those cases that are complex and varied. The procedure followed in such cases is largely similar to the one applicable to Fast Track cases except that there is a provision for additional hearings, such as pre-trial review, case management conferences etc.

### **Non-Alterable Dates of Hearing and the Sanctions for Delay**

Although it was legally possible even in the pre-CPR era for a party's case to be struck off if there was delay in advancing his case, it was subject to an additional condition that the delay also undermined the right to fair trial or prejudiced the evidence of the defendant. Thus, delay itself was no ground to strike off a claim or defence. CPR has changed that for as mentioned earlier it has introduced certain provisions whereby the parties cannot alter certain dates of hearings even with mutual agreement. Those important dates include dates of/during the case management conference, pre-trial review, trial and period of trial.

Except for those dates that are not changeable, parties can still alter the schedule of hearings with mutual agreement in writing.

The U.K. courts still, however, have the power to extend or shorten the dates of hearing. But this power is not unfettered and it is expected to be exercised only in order to promote the CPR's aforementioned 'overriding objective.'

### **Exclusion of Evidence**

The U.K. Courts cannot deprive a party from producing evidence; however, they may exclude evidence if the usefulness of it is outweighed by the costs or inconvenience to the parties. They may also exclude any unnecessary evidence. They are also required to decide the type and nature of evidence relevant to a case on the basis of the particular circumstances of the case.

### **Modes for Ensuring Compliance**

Amongst other things, under the applicable U.K. law, a party cannot use evidence it has not disclosed in pursuance of a disclosure order. Similarly, a court can specify the consequences of failure to comply with orders in the 'Unless Order.' The 'Unless Order' is a tool of Caseflow Management whereby a party is required to fulfil certain process requirements on certain conditions and which sets forth consequences for the party failing to do so. Examples include an order requiring a party to present a witness statement within a specified time failing which he will not be allowed to rely on it. Where a party fails to comply with a rule, order or practice direction that imposes sanctions, such sanctions will take effect automatically. A Court upon the request of a party can set these sanctions aside in default; however, the exercise of such discretion is regulated by a rule which requires that a court ought to consider whether it would be just and proportionate to excuse a default. The Courts can respond to any procedural defaults in various ways:

- Court can extend time
- Court can pass an 'Unless Order'
- Court can order costs
- Court can rectify procedural defects
- Court can strike off a claim or defense if there is an abuse of process

### **The Local Context**

Given this case study of a legal jurisdiction that has undergone an overhaul of its Caseflow Management framework, it would be instructive now to determine where things stand in the local context. The following are the main relevant Rules regarding fixation of cases for hearing:

#### **On the Civil side**

- Rule 14, Part H, Ch. 1, Volume 1 of High Court Rules and Orders stipulates that the judge should hear the evidence on the date fixed.
- Rule 15, Part H, Ch. 1, Volume 1 of High Court Rules and Orders discourages the practice of the grant of adjournments on the offer to pay costs.

#### **On the Criminal side**

- Section 344 of the Criminal Code empowers the court to postpone or adjourn the hearing by order on such terms as it thinks fit and for such time as it considers reasonable. The Court however must pass a written order and provide reasons for the adjournment.

## Main Findings as to Current Mechanisms for Issuance of Timetables/Fixation of Dates of Hearing

1. As is apparent, especially given the discussion of the prevalent international trends of employing timetables as well as different tracks for different types of cases, these rules are both inadequate in terms of outreach and also less than definitive in terms of curbing adjournments and delays.
2. Further, they vest far too much discretion with judges. While necessary discretion is vital and desirable, given the local contextual reality of the politicisation of legal bars and of certain unscrupulous lawyers routinely browbeating judges into adjourning hearings and even otherwise causing delays and/or obstructing court proceedings, these rules are no longer effective for ensuring that the courts effectively controls the pace, timing and outcome of cases.
3. As to the employment of timelines/timetables, as seen in the previous section, a review of the Civil and Criminal Codes and High Court Rules and Orders reveals that while there are certain rules regarding progress and timely completion during particular stages of a case, there are no rules regarding issuance of overall timetables for the resolution of cases.
4. Similarly, there are also no meaningful rules for classifying cases according to their complexity, which in turn would help determine the development of timetables.<sup>66</sup> It would not be an exaggeration to say that this very concept is currently unknown to the existing Caseflow Management system in Pakistan. It could be argued by some that the very broad directions provided by the NJP for reaching decisions in civil and criminal cases amount to timetables. However, as discussed before, there are several issues with the timelines put forward by the NJP, such as: (i) they make insufficient allowance for the different amounts of time that ought to be taken up by various additional sub-categories of criminal and civil cases (where certain categories of cases are inherently more time-consuming than others due to the nature and state of the area of law, the number of legal steps involved, and the degree of contentiousness of underlying disputes) beyond the very broad categories put forward by the NJP; (ii) they do not take into account the relative complexity of individual cases within these sub-categories which also ought to have a bearing on how much time should be allowed for their disposal; (iii) they do not take into account any additional prioritisation of certain types of cases over others due to greater social, human rights, economic, and/or political ramifications; and, (iv) they also don't take into account the current workload of judges and thereby fall short of extending a pragmatic consideration of the amount of time the disposal of different cases ought to take.
5. These are now well-recognised policy and managerial considerations that inform the pursuit of meaningful timetables for legal cases in modern jurisdictions; the current Pakistani Caseflow Management system is plainly lagging far behind these international developments where multiple tracks with timetables have been developed for the processing of different types of legal cases.<sup>67</sup>

### D) Appropriate Routing of Cases to Alternative Forums/Early Decisions

An important and well-recognised ingredient of effective Caseflow Management systems is the early and correct determination whether a case merits a full life in the courtroom or whether it is amenable to a quicker resolution, thus freeing up precious court time and resources for other more deserving cases. In other words, a time and resource consuming full trial is not always regarded as the normal course for every case to follow. Furthermore, such an approach also benefits many litigants who are very keen for an early outcome and discourages those who approach the court with frivolous matters and/or to merely stall matters and embroil their opponents in litigation for coercive reasons and/or for gaining greater

<sup>66</sup>Although Order 10 Rule 1A may be pressed into service for issuing such timetables.

<sup>67</sup>See for instance Lord Woolf, Access to Justice (Final Report: 1996) at <http://www.dca.gov.uk/civil/final/index.htm>

negotiating leverage outside the courtroom. In addition, certain types of cases lend themselves to an amicable and less adversarial resolution and appropriate routing of the same minimises the various costs (social and financial) of a full-blown trial to the disputing parties. The following are two common modes of dealing with these types of cases.

#### **a) Alternative Dispute Resolution**

All modern Caseflow Management frameworks have mechanisms that trigger an early inquiry on part of the court to explore whether Alternative Dispute Resolution ('ADR') has been tried and/or whether given the particular nature and facts of the case it ought to be tried. Relevant Rules pertaining to ADR in the existing court framework in Punjab are:

- Section 89A of the Civil Code allows the court to adopt ADR methods with the consent of the parties.
- Order 10 Rule 1A of the Civil Code allows the Court to adopt any method of ADR. However, the Rule does not lay down any procedures to operationalize Section 89A.
- Section 345 of the Criminal Code lays down the procedure for accepting private settlements of cases (compositions).
- Rule 12, Part H, Ch.1, Volume 3 of the High Court Rules and Orders states the factors to be considered by judges while allowing composition of cases under Section 345 of the Criminal Code.

While the essential framework to utilise ADR methods exists there is less than optimal utilisation of ADR by the courts for various reasons including:

- Insufficient procedures for operationalizing ADR;
- Lack of viable and trustworthy ADR forums;
- A general antipathy on part of both the judges and the lawyers to the idea of ADR as it pushes cases out of their domain of operations and influence;
- The prevalence of the misplaced notion that the trial is an end in itself and always the most appropriate manner of resolving a dispute rather than acknowledgment of the fact that it is one of many ways to resolve disputes, only suitable for certain kinds of cases, and the most expensive and time-consuming of all options; and
- Inadequate institutional follow-up on the idea of promoting, establishing and sustaining ADR when it was first pushed forward with great gusto in the 2000s when international justice sector reform funding programs underlined its significance (this will be discussed in additional detail in the following Section of the Report).

#### **b) Early Judgement/Summary Judgements**

Provisions for summary judgement allow courts to pass judgement without following the full trial process. Pursuit of such an approach in appropriate cases offers efficiency benefits for the system (by expeditiously removing from the docket any cases amenable to such solutions and thereby increasing the time available for other cases that require more time and effort) as well as quicker justice to parties whose matters lend themselves to such an outcome and ought not to indefinitely linger on in courts. The following is a snapshot of the current local situation with regard to early/summary judgement provisions in the existing Caseflow Management framework:

- There is currently no provision in the Civil Code to pass judgement in cases where there is insufficient evidence for the plaintiff (*contra* Judgement as a matter of law (JMOL) – under U.S. law).
- Order 15 Rule 1 of the Civil Code, however, enables the court to pass judgement where the court finds that the parties are not at issue.
- An Instruction dated 22-10-1978<sup>68</sup> requires the presiding officer to immediately apply the provisions of Order 7 Rule 11 of the Civil Code on receiving a copy of the plaint i.e., to dismiss the case if it does not disclose a cause of action etc.
- Early judgement can be passed in criminal cases under the provisions of Sections 265-K and 249-A of the Criminal Code. These two sections allow the court to acquit a criminal defendant early on in the case if there is no probability of conviction.

**JMOL is a Judgement on a Motion made by a party during trial that the opposite party has insufficient evidence to support its case and a full trial is not warranted- Federal Rules of Civil Procedure Rule 50. JMOLs (or Renewed JMOLs) continue to be called j.n.o.v by practitioners and laypersons where they are filed after the verdict**

This is once again an area that requires revisiting in order to bring the current rules up to speed with contemporary trends for more effective Caseflow Management as well as greater administrative oversight to ensure that cases deserving of an early/summary judgement or ADR are indeed dealt with in that manner.

### 3.7 Provisions relating to Costs/Limitations on Presentation of Evidence

An additional important component of Caseflow Management frameworks are meaningful and suitably utilised provisions for imposition of costs and/or limitations on presentation of evidence where a case, in the judicial determination, is unable to progress due to delaying tactics, inadequate follow-up on judicial instructions, and/or sub-optimal utilisation of available legal provisions and opportunities by contesting parties and their lawyers. The underlying idea is to penalise and deter recalcitrant parties and to ensure smooth and fair progress of legal cases in court. The existing provisions relating to imposition of costs and limits on presentation of evidence in the local legal system are as follows:

#### A) Civil Cases

##### Powet to impose Costs

- Section 35 of the Civil Code allows the court to impose general costs.
- Section 35A of the Civil Code allows the court to grant costs in case of false and vexatious claims or defenses.

##### Limitation on Presentation of Evidence

- Order 8 Rule 10 of the Civil Code allows the court to pronounce judgement or pass such orders as it thinks fit where a party does not file a written statement within the period granted to it.
- In civil cases, parties are required to produce at the first hearing of the suit all documentary evidence of every description (Order 13 Rule 2 of Civil Code). Documentary evidence, which is not produced in accordance with this Rule, cannot be received at a subsequent stage unless good cause is shown to the satisfaction of the court.

**'No documentary evidence in the possession or power of any party which should have been but has not been produced in accordance with the requirements of Rule 1 shall be received at any subsequent stage of the proceedings unless good cause is shown to the satisfaction of the court' (Order 13 Rule 2).**

<sup>68</sup> DO No 660/RHC dated 22-10-1978.



- The court may reject at any stage of the suit, any document, which it considers irrelevant or otherwise inadmissible while recording the ground(s) for such rejection. (Order 13 Rule 3 of the Civil Code).
- Rule 1, Part H, Chapter 1, Volume 1 of the High Court Rules and Orders requires that a list of witnesses must be submitted after settlement of issues.
- A party is barred from producing witnesses if they are not contained in the list of witnesses produced within seven (7) days of framing of issues (Order 16 Rule 1 of the Civil Code).

## **B) Criminal Cases**

### **Power to impose Costs**

- Section 250 of the Criminal Code empowers the court to grant compensation in case of vexatious or false accusations.

### **Limits on presentation of Evidence**

- In criminal cases, the court may refuse to summon a witness if in its opinion such a witness is being summoned for the purpose of delay (Section 265F (3) of the Criminal Code).

The above overview divulges an array of existing provisions to both penalise vexatious litigation as well as delaying tactics. At the same time, there are also provisions available to ensure that parties and their counsels remain alert to the stage of legal proceedings and plan accordingly so that documents and witnesses are produced in a timely and predictable manner and not in a way that impedes and/or elongates litigation. However, it remains to be said that:

1. The single most significant factor due to which these provisions are not appropriately and diligently applied by the courts is the growing power of the legal fraternity as a lobby, which causes the judges, especially in the districts, to be apprehensive of taming any inefficient and/or unscrupulous lawyers. Especially in the wake of the Lawyers' Movement, the perception amongst the district judiciary is that the judicial leadership will not stand by them in situations where they take on individual or groups of lawyers who routinely engage in flouting procedure and judicial instructions and react violently in case of imposition of any costs. Already documented in existing published research this impression was further bolstered during engagements and interviews in the Target Districts.
2. The situation has exacerbated over the past few years due to growing incidents of violent lawyers besieging courts and even threatening and manhandling judges, police, journalists and members of the opposing parties.<sup>69</sup>
3. Furthermore, unless there is more meaningful and effective monitoring of whether judges are appropriately employing applicable provisions of the law for discouraging delays and penalising non-compliance (which is currently next to impossible due to the current state of data collection to inform monitoring and policy-making), bolstered by even more comprehensive rules and clear instructions, as well as institutional support for such actions, these provisions are likely to remain on paper only. The existing system of judicial monitoring is discussed further later in this Report.

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<sup>69</sup>See Osama Siddique, *Judicialization of Politics: Pakistan Supreme Court's Jurisprudence after the Lawyers' Movement*, in UNSTABLE CONSTITUTIONALISM: LAW AND POLITICS IN SOUTH ASIA (Mark Tushnet and Madhav Khosla eds., New York: Cambridge University Press) (2015).

### 3.8 Provisions relating to Additional Modes of Recording Evidence

The contemporary practice in U.K. is that most evidence in civil cases can be taken by affidavit.<sup>70</sup> This is in line with modern trends in international court management and greatly helps in saving the time of the courts and the parties invested in recording of evidence. The applicable provisions under local law pertaining to presentation of evidence through affidavits are as follows:

- Order 19 Rule 1 of the Civil Code allows the trial court to take evidence through affidavit where sufficient reason is shown. However, this facility is not available in situations where the opposite party wants to cross-examine the witness.
- Section 510 of the Criminal Code allows the reports of government or forensic experts to be taken in evidence without their personal appearance.
- Section 539-A of the Criminal Code allows private persons to give evidence of facts by affidavit with regard to any application respecting the conduct of a public servant.

As can be seen, while there are some possibilities to furnish evidence in writing (through affidavits) in special circumstances, that is far from being the norm and the onus is on the party wanting to employ this mode to justify its use (in civil cases).

While there will be particular situations that fully justify the currently standard mode of presenting oral evidence, surely the impetus should be to revisit this area of law in order to explore how the ambit of less onerous ways of providing evidence can be further expanded and regularised due to the considerable costs, complexities and delays associated with the current practice of furnishing evidence. This includes greater use of evidence in writing as well as evidence through video-links and other means made possible by modern technology.

**1) Evidence must be given by affidavit instead of or in addition to a witness statement if this is required by the court, a provision contained in any other rule, a practice direction or any other enactment. Rule 32.15 UK Civil Procedure Rules**

### 3.9 Provisions relating to Forms and Documents

The various Forms of Pleadings/Reports and additional items to be included in/appended to Pleadings/Reports are important both from the perspective of getting essential information and for preparing a case for trial/proceedings. Appropriate collection of information can greatly help expedite and streamline the subsequent trial and thus reduce waste of time and additional inefficiencies. The current provisions relating to Forms of Pleadings/Reports and additional items to be included in/appended to Pleadings/Reports under the local law are as follows:

#### A) For Civil Cases

- Order 7, Rule 1 of the Civil Code requires the plaintiff to state the names and addresses of the parties, name of the court, facts constituting the cause of action and when it arose, the fact showing that the court has jurisdiction and the relief the plaintiff claims. The plaint must also contain a statement of the value of the suit.
- Rule 4, Part B, Ch.1, Volume 1 of High Court Rules and Orders states that every plaint or petition should if possible specify the provision of law under which it is presented.
- Order 5 Rule 2 of the Civil Code requires copies of plaints to be enclosed with summonses and notices (in order to provide advance notice of the pleadings).

<sup>70</sup>See generally U.K. Civil procedure Rules and Directions. Practice Direction 32: Evidence.

## B) For Criminal Cases

- Police Rule 25.56(1) prescribes the form to be used for submission of investigation reports.
- Cancellation Reports/Reports of the Untraced are filed in Form 25.57(2).
- The Punjab Prosecution Department has recently prescribed a detailed form for review of police cases.
- There is currently no prescribed format for a complaint or an application under Sections 265-K/249-A of the Criminal Code.
- Schedule V of the Criminal Code prescribes forms for summons, warrant of arrest, bail bond after arrest, proclamation regarding the appearance of the accused, and attendance of the witnesses etc.

## C) Generally

- There are currently no forms regarding estimates/proposals of parties regarding time (and resources) to be allotted to a case as well as other modern methods and protocols for effective Caseflow Management.

Like the other afore-discussed areas this too is an area that requires a close revisiting owing to the many gaps, the out dated nature of certain forms, and the fact that there is inadequate emphasis on ensuring that much of the key information pertaining to a case/trial is captured at the very outset in order to save time and effort later.

### 3.10 Provisions relating to Sanctioning Powers for Caseflow Management

It is also important here to have a broad idea of the courts' current powers to impose any sanctions in order to progress cases, ensure the integrity of the legal process, protect rights and discourage frivolous litigation.

**Table 3.10 A** provides a summary of such powers in civil cases. (CPC refers to the Civil Code)

**Table 3.10 A** Court's Sanction Powers in aid of Caseflow Management in Civil Cases

Sr. No	Rules	Summary of rules
1	Section 32 CPC	The Court may compel the attendance of a witness to whom summons have been issued under Section 30 by issuance of his arrest warrant, by attachment of or selling his property, by imposing a fine not exceeding two thousand rupees and by order to furnish security for his appearance.
2	Section 35 CPC	Power to determine cost on specific suit, to what extent such cost are to be paid, and interests on such cost at any rate exceeding 6 per cent per annum
3	Section 35-A CPC	Power to award compensatory cost in respect of false or vexatious claims or defences
4	Section 55 CPC	To arrest and detain a judgement debtor
5	Order 6 Rule 16	The Court may at any stage of the proceedings order to be struck out or amended any matter which is unnecessary, causes prejudice, embarrasses or delays the fair trial of suit or to prevent abuse of process of court
6	Order 6 Rule 18	If a party does not amend the matter within fourteen (14) days from obtaining permission to amend, the court will not allow amendment unless the Court extends the time.
7	Order 7 Rule 18	If the document is not produced at the time of presentation of plaint or not entered in the list annexed to the plaint it will not be allowed to be presented as evidence without leave of Court
8	Order 7 Rule 21	Where a plaintiff fails to file an address for service he shall be liable to have his suit dismissed or his petition rejected by the Court
9	Order 8 Rule 10	When a Party fails to file a written statement within the fixed time the Court may pronounce judgement against him or make any other order
10	Order 8 Rule 12	Where a Party fails to file an address for service his right of defence is struck out
11	Order 9 Rule 3	Where neither party appears in the suit the Court may make an order that the suit be dismissed. The suit can be restored on showing good cause

12	Order 9 Rule 6	When only plaintiff appears and defendant does not appear, and if the summons have been duly served, the Court may proceed ex-parte and or pass ex parte decree. Power to set aside ex-party decree if sufficient cause is shown by defendant (Order 9, Rule 13)
13	Order 9 Rule 8	Where defendant appears and plaintiff does not appear the Court shall make an order that the suit be dismissed. Re-filing same cause of action barred unless order is set aside by showing sufficient cause
14	Order 9 Rule 12	Non-appearance of parties in person entails the same consequences as mentioned in Order 9, Rules 3,6,8
15	Order 10 Rule 4	If a pleader of any party refuses to answer any material question relating to the suit the Court may direct the party to appear in person and if such party fails to appear in person the Court may pronounce judgement against him
16	Order 11 Rule 21	Powers to strike out defence or dismiss a suit for non -prosecution if defendant or plaintiff fails to comply with the disclosure orders. Party affected has to seek the order of court
17	Order 11 Rule 7	Power to strike out interrogatories if they are in violation of procedure i.e., vexatious etc.
18	Order 13 Rule 2	Documentary evidence not produced at the first hearing shall not be admitted unless court condones the default on the ground of good cause
19	Order 13 Rule 8	Power to impound any document
20	Order 14 Rule 5	Power to strike out or amend any issues
21	Order 15 Rule 4	If a case is fixed for final disposal, the Court may pronounce judgement against a party who has not produced evidence on which it relies without showing sufficient cause
22	Order 16 rule 4	Court may refuse to direct a witness to give evidence if expenses for his appearance are not paid
23	Order 16 Rule 1	Witnesses not allowed to give evidence whose names are not on the list of witnesses to be submitted to court within seven (7) days of settlement of issues unless court gives permission to produce upon being satisfied of good cause advanced
24	Order 16 Rule 4	Court may refuse to direct a witness to give evidence if his expenses are not paid into court
25	Order 16 Rule 10, Rule 12, Rule 17	Where a witness fails to comply with summons to give evidence or produce a document without lawful excuse and such evidence or production is material, the Court may issue arrest warrants, attach his property, order fine up to Rs. 2000
26	Order 16 Rule 20	Where a party refuses to give evidence to Court it may pronounce judgement against him
27	Order 17 Rule 1	The Court may order costs for adjournment on party in default
28	Order 17 Rule 2	Power to proceed with suit where parties fails to perform their duties and to pass appropriate orders
29	Order 25 Rule 1	Require plaintiff to give security for costs
30	Order 38 Rule 1	Where defendant intended to delay or to avoid any process of Court or delay the execution of decree by absconding or leaving the limit of the jurisdiction of the Court or if he is about to abscond or dispose or remove his property from the jurisdictional limits of the Court, the Court may order to furnish security for his appearance
31	Order 41 Rule 3	Where the memorandum of appeal is not drawn up in the manner prescribed by the Court, the Court may return the memorandum of appeal for amendment or may reject the memorandum of appeal
32	Order 41 Rule 17	Where the appellant does not appear on the fixed date of hearing, the Court may dismiss the appeal
33	Order 45 Rule 11	Where the appellant fails to comply with the order of payment of costs the proceeding shall be stayed

**Table 3.10 B** provides a summary of such powers in criminal cases

**Table 3.10 B Court's Sanction Powers in aid of Caseflow Management in Criminal Cases**

Sr. No	Sections	Powers
1	Section 87 Cr.P.C	After taking satisfactory evidence the Court may issue proclamation of a person who absconded or is concealing himself intentionally, and fix the proclamation in his locality, on his house and a conspicuous part of the Court.
2	Section 88 Cr.P.C	Power of the Court to attach any movable or immoveable property of any person whose proclamation is issued by the Court and if that person does not appear in the Court within the period of six (6) months the Court may sell the attached property and if that property consists of live-stock or is of perishable nature, the Court may order to sell the same before six (6) months.
3	Section 90 Cr.P.C	The Court may issue a warrant of a person for his appearance when summons are duly served and the Court sees reason that he has absconded without reasonable excuse.
4	Section 91 Cr.P.C	The Court may require a bond for appearance of a person in Court.
5	Section 92 Cr.P.C	If a person does not appear after the execution of a bond for his appearance the Court may issue warrant of arrest
6	Section 94 Cr.P.C	The Court may issue the summons for the production of any document or anything which it thinks necessary for the trial except a document or thing in custody of a bank or banker as defined in Banker's Books Evidence, Act 1891
7	Section 96 Cr.P.C	Where any Court has reason to believe that a person to whom summons are issued under section 94 will or would not produce the document or thing, the Court may issue a search warrant for that document or thing.

As can be seen, the courts are equipped with an array of sanctioning powers in order to expedite case flow and discourage frivolity and delaying tactics as well as obstruction of justice. A meaningful assessment of whether these powers are being optimally utilised is only possible once a Caseflow Management framework is adopted that sets overall as well as stage-wise timelines for different cases and also collects and evaluates disaggregated data to determine whether the above-enumerated powers are being suitably employed and thus having an impact on reducing delays and ensuring procedural justice.

On the whole, more extensive pre-trial checklists; utilisation of multiple tracks – Small Claims, Fast-Tracks and Multi-tracks for appropriate cases; determination of a trial timetable and time estimates (including time to be allowed for various stages of the case/trial and the nature and scope of the activities to be undertaken and the documents to be submitted with respective timelines); and additional types of case specific Caseflow Management directions and protocols to better control, streamline and make predictable the eventual progress of a case/trial are key ingredients of modern Caseflow Management in courts which are currently alien to the local system.<sup>71</sup> The LHC's current Caseflow Management framework, therefore, requires meaningful revisiting to bring it up to speed with latest trends in modern Caseflow Management.

### 3.11 Main Findings of the Section

This section essentially focused on the available legal frameworks – the laws, procedures, Rules, Orders, Directions, Notifications, Instructions and Guidelines etc., – that define and outline the scope, depth and efficacy of the existing Caseflow Management system being used to administer justice in the province.

By comparing it with modern trends and established Caseflow Management laws and regimes in advanced international jurisdictions it demonstrated that the local Caseflow Management regime is both dated and also suffers from various gaps – which have been identified with a great level of specificity.

<sup>71</sup>See generally U.K. Civil Procedure Rules and Directions. Section 1 of Part 3 – The court's case management powers; Part 26: Case Management – Preliminary Stage; Part 28: Fast-Track; Part 29: The Multi-Track; Part 31: Disclosure and Inspection of Documents; Part 32-34: Evidence; Part 35: Experts and assessors; and, Rule 26.6(5) – which makes provision about limitations on expert evidence and the length of trial in fast track cases.

Empirical results from Section 2 of this Report have also demonstrated that the existing Caseflow Management system appears to have little impact in controlling the pace and progress of cases in the district courts – further proof that the existing system is not working.

The next Section will supplement the analysis conducted in this Section by focusing on actual processes, institutional and administrative structures and practices that govern, influence and characterise current Caseflow Management in the province. Thus, the emphasis will be less textual (or on ‘law in books’, as in this Section) and more on institutional and administrative capacity, legal culture, organisational design, leadership quality, and the common, every-day ways of doing things (or on ‘law in practice’).

#### 4. Existing Caseflow Management Framework – The Oversight Dimension

In the previous Section we evaluated both the available legal provisions for Caseflow Management in the districts and also primary standard practices – to the extent that they could be gauged from the fieldwork in the Target Districts. These were also compared to current trends and consensus on the most effective Caseflow Management practices in some of the leading international legal jurisdictions.

In this Section we look at the institutional frameworks and mechanisms that are currently in place in order to monitor, incentivise, and promote the same as well as the larger judicial approach and vision for Caseflow Management in the districts. This Section describes and analyses the following:

- Administrative structures and processes in the districts as well as the Lahore High Court (as en vogue by the end of July 2015)
- Processes for envisioning, formalising and disseminating Caseflow Management reforms
- MIT and its various functions
- The ‘Unit System’ for monitoring case disposals in the districts
- Role of the National Judicial Policymaking Committee (‘NJPMC’) and the NJP Cell at the Lahore High Court
- Available implementation and sanction powers at the disposal of those entrusted with the responsibility of Caseflow Management in the districts
- More recent legal and procedural amendments in aid of Caseflow Management
- Select judgements on procedural reforms and judicial approaches to Caseflow Management
- Past reform endeavours towards Caseflow Management reforms and their outcomes

This mapping and analysis will be followed by general findings and observations as to all these significant and connected areas.

#### 4.1 Caseflow Management in the Districts and the High Court

##### A) Caseflow Management in Districts: Key Players and Support Staff

As has been pointed out earlier in this Report, case (and court) management is considered to be part of the judicial function. The District and Sessions Judge – a key player entrusted with Caseflow Management responsibilities in the district – is assisted in this work by an administrative staff constituting of a Superintendent, criminal and civil *Ablmads*, and a Reader to the Court. Individual judges perform case management work with the support of an *Ablmad* and a Reader. There are, however, no formal court managers or a court management service as in other advanced jurisdictions like the U.K. The court officials noted above are required to

**Her Majesty’s Courts Service (HMCS) is an executive agency within the Ministry of Justice in the U.K. The HMCS supports the judiciary in the administration of justice and ensures that cases are dealt with as efficiently as possible.**

follow the instructions of the District and Sessions Judge or his overall policy with regard to case allocations.

Other than being the top designated judicial officers in the districts there is no additional managerial skill-set that they bring to the table by dint of their past education and training –same is the case with Senior Civil Judges and Additional District and Sessions Judges. Previous inquiries in this area reveal that court administrative staff has limited Caseflow Management knowledge and skills and negligible access to any specialised trainings for their functions.<sup>72</sup>

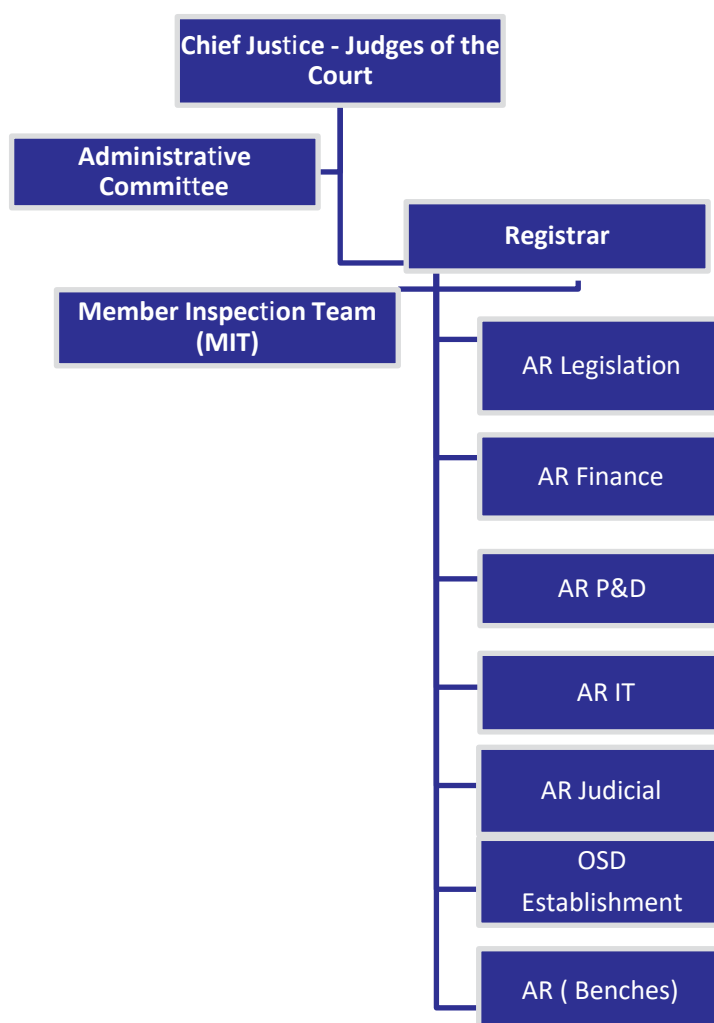
### **B) Caseflow Management: Administration and Oversight by High Court**

While gauging the scope and efficacy of Caseflow management in the districts it is necessary to explore the current administrative framework for Caseflow Management at the Lahore High Court (‘LHC’) which is responsible for supervising and managing all courts in Punjab. Currently this administrative framework constitutes of the Chief Justice, an Administrative Committee, Administrative Judges and various administrative officials of the LHC. The following is a brief description of the roles that they play, based on various conversations with concerned LHC staff.

**Table 4.1** below presents an administrative organogram of the LHC.

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<sup>72</sup>See for instance, *Pakistan: Local Court Efficiency Assessment Report* (USAID: 2010). See also, *Pakistan: Report on Training Needs Assessment for Judges & Court Staff* (USAID: 2010).

Table 4.1 Administrative Organogram of the LHC

## The Key Administrative Functionaries

### 1. The Chief Justice

The Chief Justice of the LHC is empowered to act on behalf of the LHC in respect of a host of administrative matters. He is also responsible for the composition of benches of the judges of the LHC – both for general categories of cases as well as to hear specific matters.

### 2. Administrative Committee

The Administrative Committee of the LHC comprises of seven (7) Judges of the LHC, including the Chief Justice and the Senior Puisne Judge. The Administrative Committee of the LHC is responsible for the disposition of the administrative business of the courts. The Chief Justice appoints the members of the Administrative Committee. Its wide ranging functions include, *inter alia*: management of financial and human resources functions, extending advice on court management, making recommendations for amendments of rules, extending advice on continuing development/training courses for the judges etc.

The Administrative Committee is empowered to decide how to conduct its business.<sup>73</sup> Exercising such power, it has formed various sub-committees consisting of one or more judges of the LHC that, *inter alia*,

<sup>73</sup>Rule 8, Chapter 10 A, Volume V of the High Court Rules and Orders.



are entrusted with the task of making recommendations for the reforms of the administration of justice in the province.

Apart from such committees, officials from other sections/departments/wings of the LHC are also entitled to bring to the Administrative Committee's notice any existing administrative problems as well as recommendations to resolve such problems. Such recommendations are, however, first presented to the Chief Justice. It is within the discretion of the Chief Justice to approve the suggestions/recommendations and issue directions for them to be presented before the Administrative Committee for consideration.

### **3. Administrative Judges**

The Administrative Judges, being members of the Administrative Committee, assist it in performing its functions. The Chief Justice also defines their powers. Their tasks include discharging various administrative functions and advising on policy matters.

### **4. Registrar**

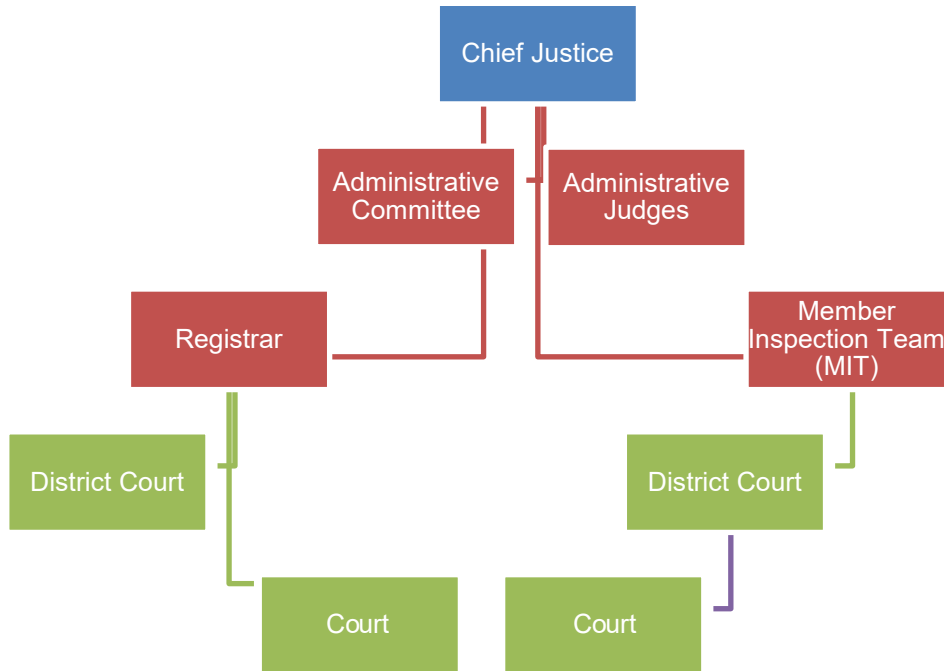
The Registrar of the LHC is its key liaison officer for various administrative functions. He also provides administrative and secretarial support to the Chief Justice and other judges of the LHC. His main responsibilities include: provision of secretarial support to the LHC in the law-making process; coordination of correspondence between the LHC and other departments or courts; communication of the Chief Justice's directions to other judges etc. He may also be authorised to exercise the functions of an Administrative Judge of the High Court. The Registrar in the recent past has always been a judicial officer of the rank of DSJ.

### **5. Member Inspection Team (MIT)**

A District and Sessions Judge heads the LHC's Inspection Team. The MIT is empowered to inspect the records and performances of judges of the subordinate judiciary. He is mandated to handle and address complaints of improper conduct against any judges of the subordinate courts. He also monitors and ensures meeting of and compliance with the performance targets and any quality standards set by the High Court. The MIT reports to the Chief Justice and the Administrative Judges. Apart from enforcing the schemes periodically introduced by the LHC relating to early disposal of cases, the MIT also assists in transmitting any Caseflow Management directions to the subordinate judiciary. The MIT's organisational structure and full range of powers and responsibilities will be discussed further below.

**Figure 4.1** provides a diagrammatic representation of the current administrative framework of the LHC as it pertains to Caseflow Management.

**Figure 4.1 Administrative Structure of the Lahore High Court: Re: Caseflow Management**



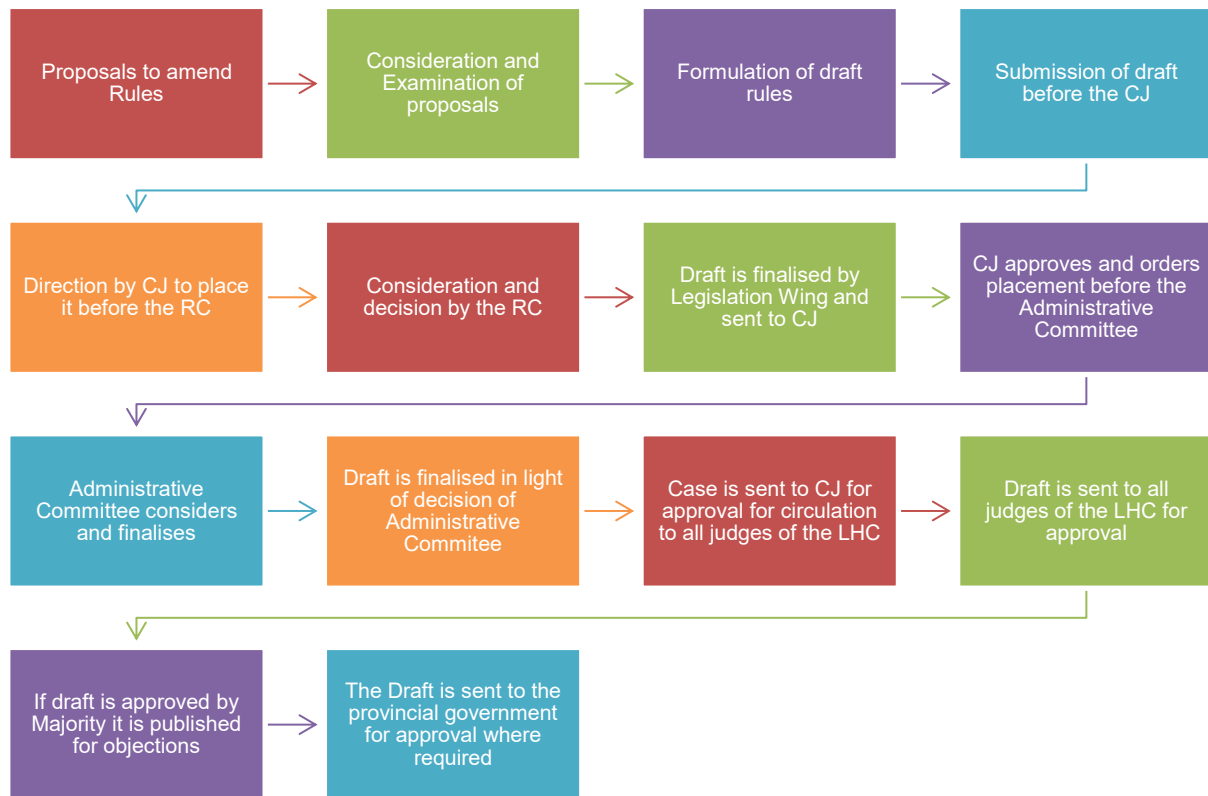
#### 4.2 Caseflow Management: Process of Deliberation, Finalisation and Dissemination

As has been seen in Section 3, there are various modes and mechanisms of introducing Caseflow Management reforms—Orders, Rules, Directions, Notifications and Instructions. This sub-section will briefly outline how these reform ideas are generated, agreed upon and communicated to the district courts and what are the follow-up and compliance mechanisms pertaining to the same.

Extensive interviews with key staff of the LHC reveals the following processes for the emergence and issuance of Caseflow Management framework. As it emerges these are not essentially always systemic and across the board directions but may be specifically responding to particular instances and cases.

##### 1. Rules – The Deliberation and Issuance Process

Reported practice within the High Court for issuance of Rules is depicted in **Figure 4.2 A** below:

**Figure 4.2 A Process of Issuance of Rules by LHC**

## 2. Directions in Individual Cases

Parties to a case may file an application to the MIT in order to seek directions for the early disposal of a prolonged litigation. The application must contain particulars of the case and details about its pendency and should be accompanied by an affidavit. The designated clerk at the MIT section of the LHC is required to scrutinise the request and if the litigation has indeed exceeded any stipulated time lines for disposal (as set by the MIT from time to time), he is obliged to refer the matter to the Additional Registrar of the LHC. The Additional Registrar of the LHC is in turn empowered to send a direction to the concerned court to decide the matter within a stipulated time period. The direction is addressed and sent to the District and Sessions Judge of the district in which the concerned court is situated and operational.

At the other end of the spectrum, the direction is received by the English Branch of the district court which then forwards it to the District and Sessions Judge who is expected to pass an order for compliance with the direction by the concerned court. The concerned court in turn is obligated to update the District and Sessions judge on whether it has complied with such direction. If the concerned judge fails to meet the deadline stipulated in the direction, he is required to provide a justification for the delay to the District and Sessions judge who in turn is supposed to apprise the MIT of the same, along with the current status of the case.

## 3. Directions from the Chief Justice or a Judge of the High Court

The Chief Justice, the Administrative Committee or an Administrative Judge may issue a Caseflow Management direction in their administrative capacity, either *suo motu* or basing it on some recommendation. Apart from such administrative directions, a judge of the High Court may also issue directions, while acting in a judicial capacity and adjudicating a particular case or category of cases, or in the form of a general direction. Such directions will be then forwarded by the Registrar's office to the relevant person(s) or institution(s).

While Directions, Notifications and/or Instructions are issued with the approval of the Chief Justice of the Lahore High Court, the Administrative Committee of the Lahore High Court, and/or an Administrative Judge of the Lahore High Court (member judges of the Administrative Committee), can and routinely do authorise the Registrar, Additional Registrar or Deputy Registrar of the concerned wing of the Lahore High Court for the issuance of the same. Furthermore, Inspection Judges (judges entrusted with the inspection of individual districts to monitor compliance of case management instructions) can also issue instructions. A Sub-Committee established by the High Court is not authorised to issue any Directions, Notifications and Instructions; it can only forward recommendations regarding matters assigned to them.

#### **4. Directions from the NJPMC**

Since its introduction over a decade ago the National Judicial Policymaking Committee ('NJPMC') acts, *inter alia*, as an overarching entity with representation from provincial High Courts to envision overall judicial policy and contemplate various necessary reforms. The NJPMC has a permanent representative at the LHC to liaise between the two entities and to follow up on any directions issued by the NJPMC. The directions communicated by the NJPMC are required to then be issued and implemented by the concerned High Court.

**Figures 4.2 B, 4.2 C and 4.2 D** below endeavour to present the various current processes for generating, finalising, disseminating and following up on oral directions and administrative reforms by the LHC as well as submission of monthly disposal reports by the district courts to the MIT.

**Figure 4.2 B** below displays a process flow chart for any individual administrative direction orally issued by the LHC and communicated to and received by a district court.

Figure 4.2 B Flow Chart for Issuance, Formalisation and Dissemination of Oral Directions

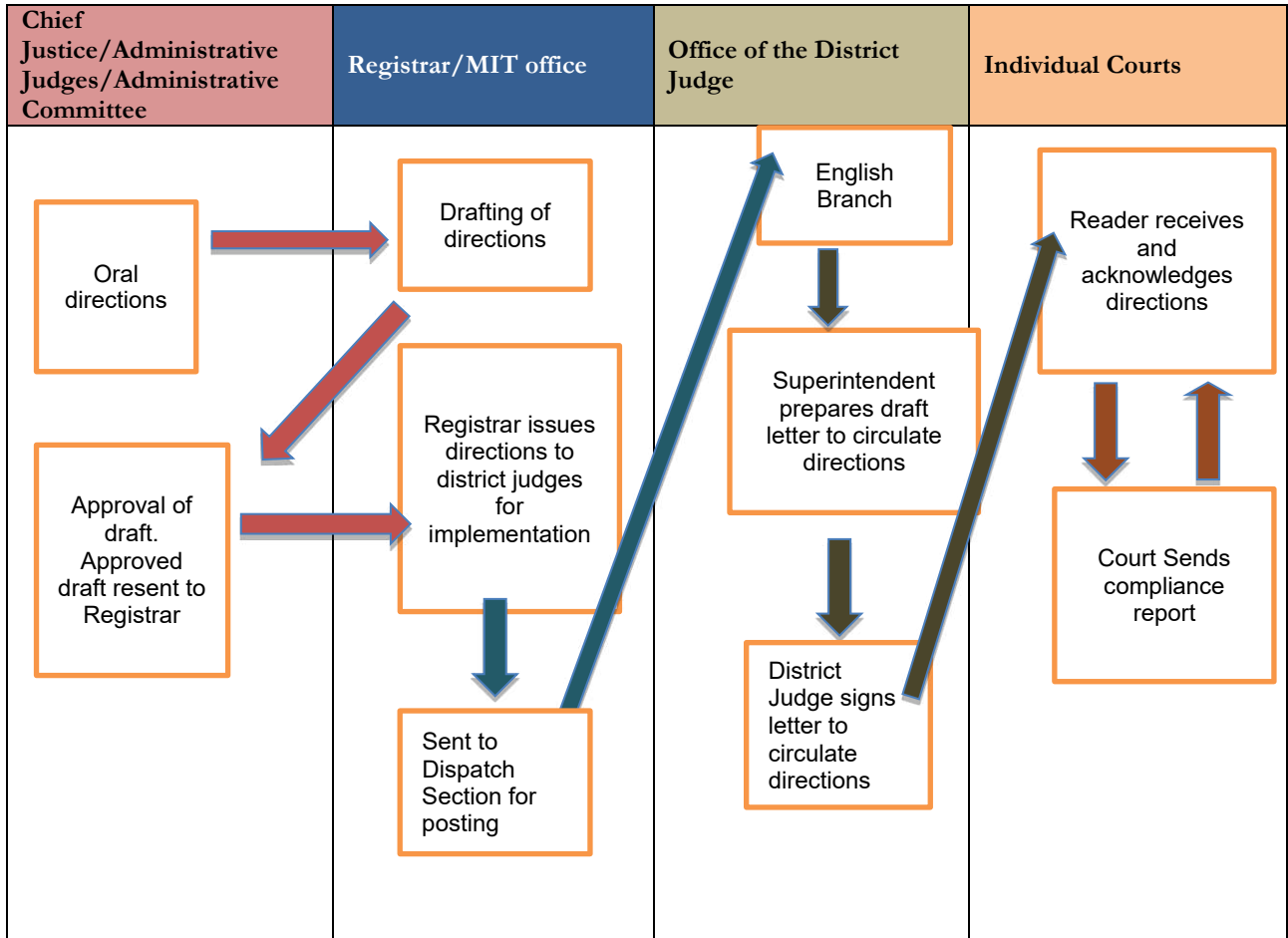


Figure 4.2 C below displays a process flow chart for the initiation, consideration, approval and dissemination of any administrative reforms by the LHC.

**Figure 4.2 C Flowchart for Initiation, Consideration, Approval and Dissemination of Administrative Reforms**

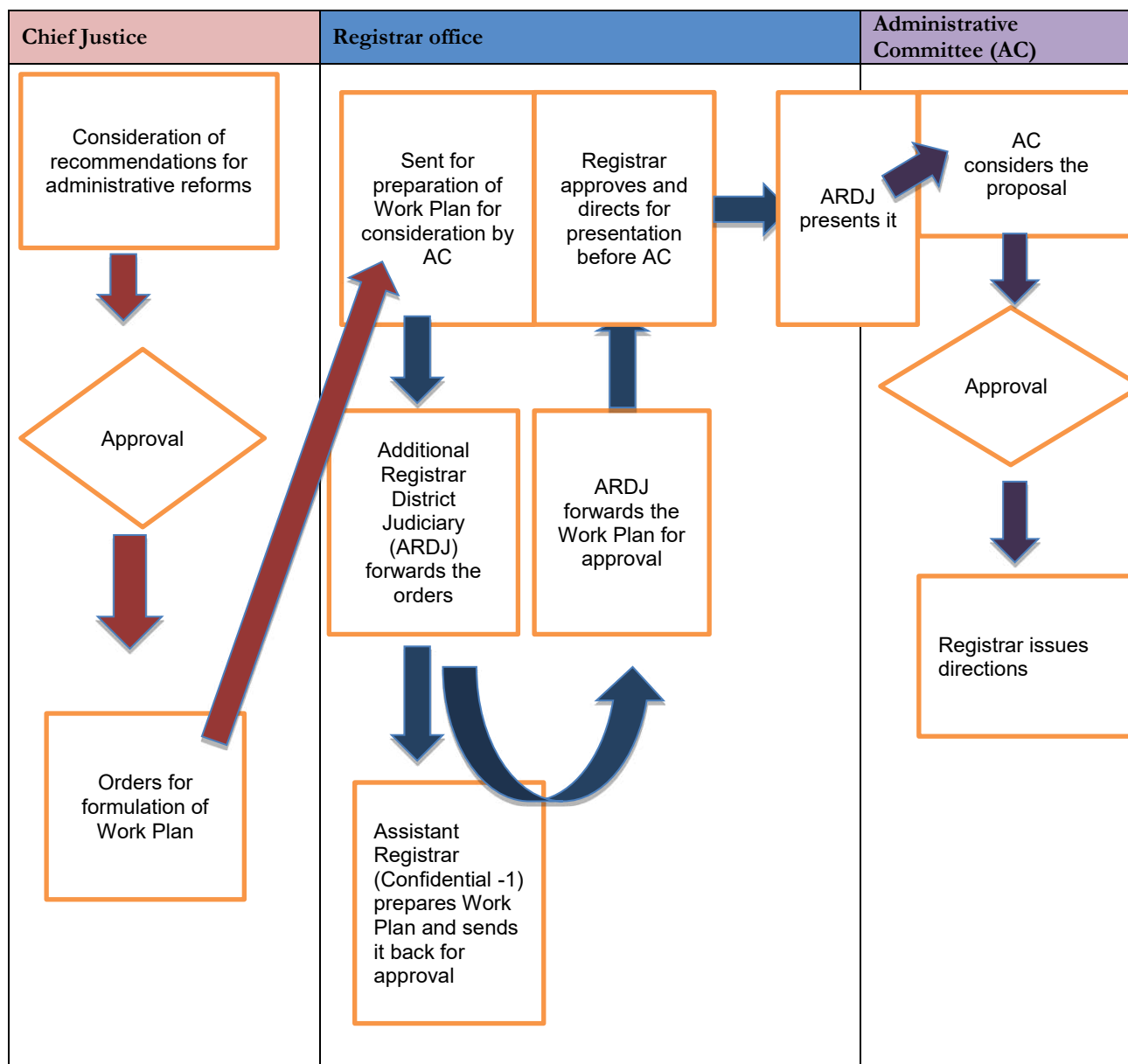
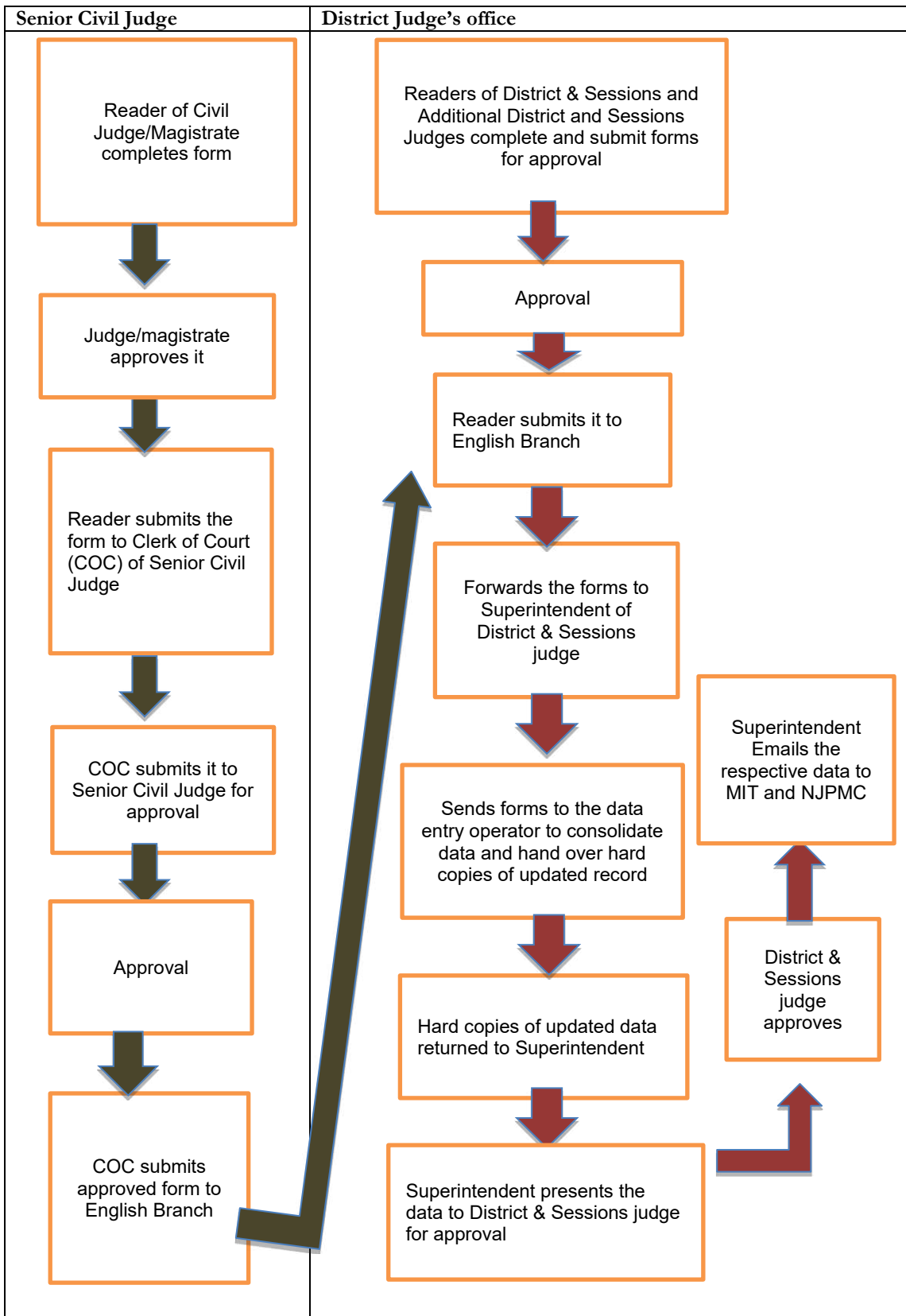


Figure 4.2 D below shows the process flow chart for submission of monthly/periodic case disposal statements by the district courts to the MIT and NJPMC.

All Civil Judges and Magistrates are required to send their Case Disposal Statements in hard copy, with their sign and stamp, to the Senior Civil Judge. The Senior Civil judge, after consolidating the data, is required to forward it to the District and Sessions judge in hard copy, with his sign and stamp. Additional District and Sessions judges also send their data to District and Sessions judge in hard copy. The District and Sessions judge, after consolidating all this data, endorses the eventual consolidated hard copy with his sign and stamp and then forwards its scanned soft copy to the MIT/NJP via email and also in hard copy by post.

Figure 4.2 D Flowchart for Submission of Monthly/Periodic Case Disposal Statements



### 4.3 Member Inspection Team (MIT): Roles and Powers

The MIT section was established in Lahore and Sindh High Courts in 1969. The key functions of MIT are listed down in Notification No.197/Legis. 28/6/2003 as under (rephrased by author):

1. To deal with complaints against judges and staff of subordinate courts
2. To execute of the scheme of 'unit wise' disposal
3. To support Inspection Judges in carrying out their functions
4. To recommend measures to reduce delays in the disposal of cases
5. To maintain the record of inspection of jails.

In terms of its administrative structure, the MIT is divided into three sections that, *inter alia*, perform the following primary tasks:

- AMIT I is entrusted with the task of handling complaints against judges and staff of subordinate courts;
- AMIT II is entrusted with the tasks related to meeting case disposal targets and performance evaluations; and
- AMIT III deals with any complaints against government departments as well as the oversight and coordination of various judicial inspections and coordinating bodies.

The MIT also has a Human Rights Cell with certain prescribed functions. These functions are elaborated upon further below.

A judicial officer of the rank of a District and Sessions Judge heads the MIT. Each of the three MIT sections in turn is headed by an Additional Registrar and is supported by a team of Assistant Registrar and clerical staff.

**Figures 4.3 A, B, C, D and E** present the organisational structure as well as functions of the various sections of the MIT and the Human Rights Cell.

**Figure 4.3 A** below presents an organogram displaying the MIT's administrative structure.



Figure 4.3 A MIT – Organogram

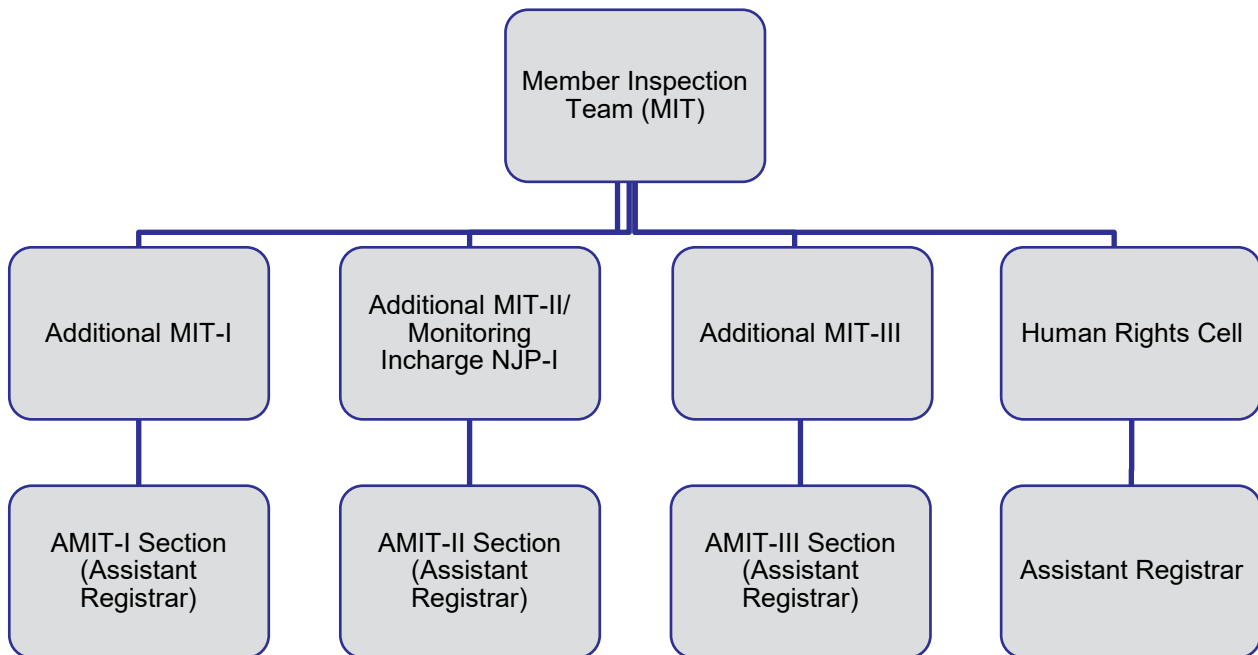
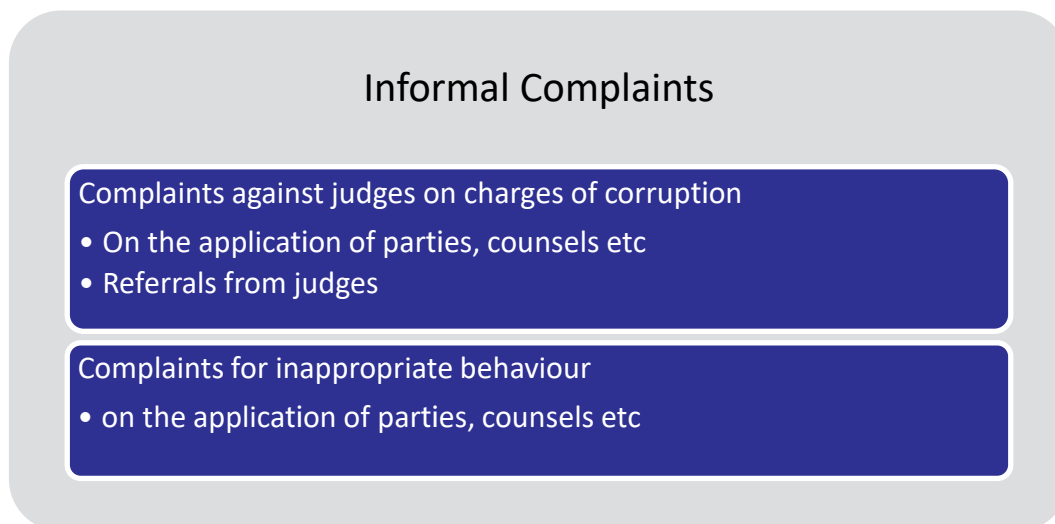


Figure 4.3 B below illustrates AMIT-I's functions

Figure 4.3 B AMIT- I: Functions

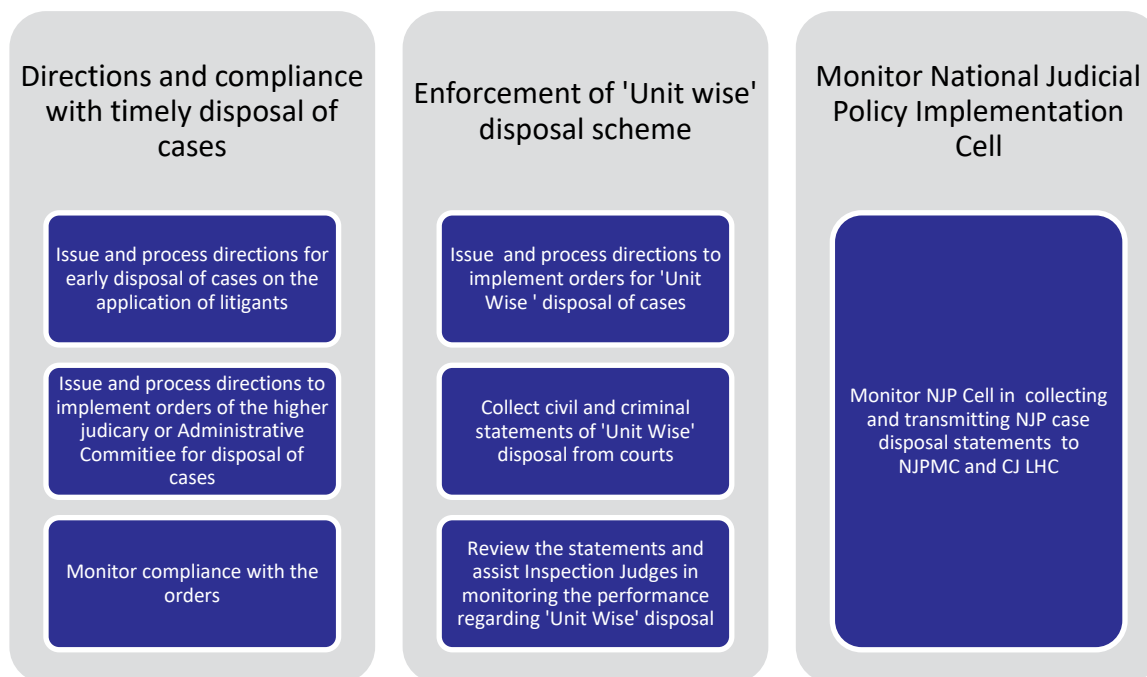


AMIT-I is entrusted with the highly sensitive task of following up on and investigating any informal complaints against judges of the subordinate judiciary and their staff relating to alleged misconduct or inappropriate behaviour. Upon the approval of the Chief Justice, it may refer the complaint to an Inspection Judge who is then expected to appoint an enquiry officer to conduct a discreet enquiry against the said judicial officer or administrative staff member and share its findings with the MIT.

The Administrative Committee is the competent authority to decide whether to initiate a formal enquiry on the recommendation of the Inspection Judge. A complainant is to be informed of the outcome of his complaint within six (6) weeks of its submission.

Figure 4.3 C below illustrates AMIT-II's functions.

Figure 4.3 C AMIT- II: Functions



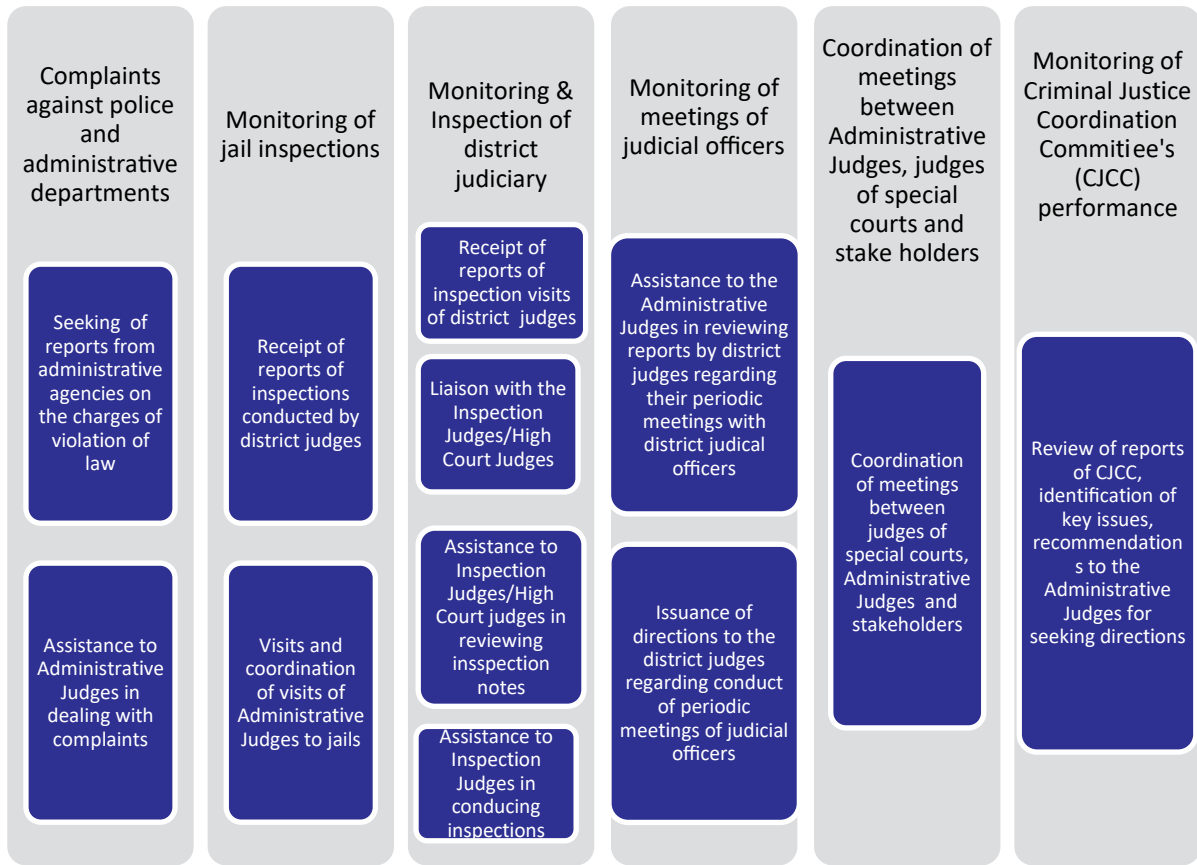
The AMIT-II's primary functions are the implementation and oversight of the 'Unit Wise' Scheme, assurance of compliance with any other LHC directions related to delay reduction, and liaison with and assistance to the NJP Cell to facilitate its functioning. AMIT- II is also tasked to assist and support the Administrative Committee and Administrative Judges of the LHC in formulating and implementing schemes and issuing directions for expeditious disposal of cases and other Caseflow Management related matters. Furthermore, it also issues directions for expeditious disposal in response to applications by litigants. It also acts as a focal point for liaison with the NJPMC and coordinates between the NJPMC (through the NJP Cell), the LHC and the district judiciary.

Since both the MIT and the NJPMC are involved in assigning case disposal targets and require regular updates, the district judiciary is obliged to regularly submit updated case disposal data through two separate case disposal data reporting mechanisms. The first reporting relationship is with the NJP and the deadlines for submission of the NJP forms mainly depend on the age of a case – under this reporting relationship, the forms regarding cases filed up to year 2011 are meant to be submitted to the MIT-NJP Implementation Cell on a daily basis; the forms regarding Sessions Court cases filed up to 2008 are meant to be submitted to the MIT-NJP Implementation Cell twice a week; and, forms regarding all other cases are meant to be submitted every fortnight to the NJPMC cell at the High Court. All these submissions are made electronically.

The other reporting relationship is with the MIT and the district judiciary is obliged to submit the MIT form for 'Unit Wise' case disposals as monthly statements. These are required to be submitted in hard copy to the MIT LHC along with the data for fresh institution of cases by all district and sessions judges.

Figure 4.3 D below illustrates MIT-III's functions.

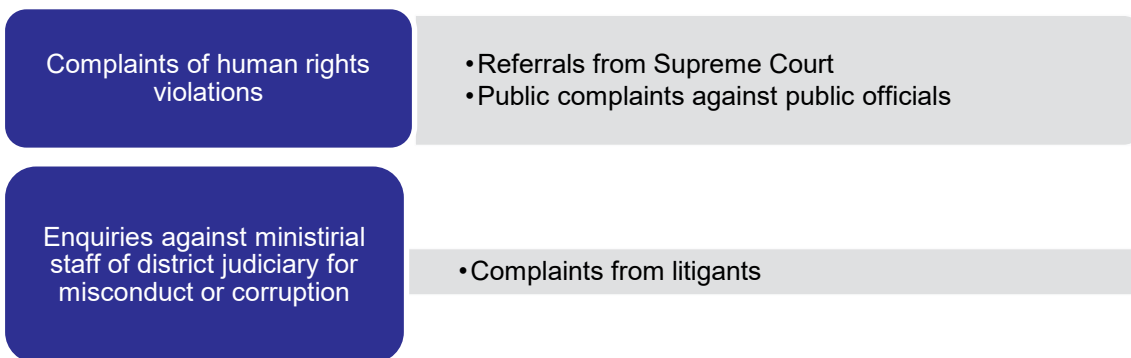
Figure 4.3 D AMIT- III: Functions



As can be seen, AMIT-III is entrusted with a variety of tasks ranging from following up on complaints against police officials and administrative departments to various important monitoring, liaison and coordination tasks involving the LHC and district judiciary.

Figure 4.3 E below illustrates the functions of the Human Rights Cell.

Figure 4.3 E Human Rights Cell: Functions



#### 4.4 Performance Monitoring – The ‘Unit System’

As indicated above, the performance of district judges is gauged on the basis of their output in terms of case disposals. For this purpose, the Lahore High Court currently employs a ‘Unit System’ (the ‘Unit System’). According to the ‘Unit System’ different units are allotted to particular actions and the overall performance of judges is determined on the basis of their scores in terms of different kinds of overall case disposals.

**Table 4.4 A** below lays out the performance indicators in terms of case disposals under the ‘Unit System.’ What becomes readily evident from a general overview of the ‘Unit System’ is that it is a very disposal-oriented framework and does not take into account essential institutional factors and targets, such as, *inter alia*, the number of complex cases decided as opposed to overall disposals, percentage of cases commenced/instituted within the target period (it needs mentioning here that there are no target periods or for that matter any overall and regularly revised policy goals keeping in view the current workloads and resources of the district courts), the average time taken for witness testimonies, the average time taken from the charging stage to disposal, the average number of hearings held for each court and/or each category of cases, the relative complexity of cases etc. These are just some of the primary illustrative issues.

**Table 4.4 B** on the other hand lays out expected monthly disposals by different designations of district judges under the ‘Unit System’ – the primary mechanism employed by the Lahore High Court to monitor the flow and pace of flow of cases in the district courts.

**Table 4.4 A Units allotted to different Case Disposal Categories**

Courts	DSJs/Additional DSJs
Sessions Case (contested)	6 units
Sessions Case (uncontested)	3 units
Civil Appeals	2 units
Criminal Appeal/Revision including jail appeal	1 unit
Regular civil suit (contested)	6 units
Regular civil suit (uncontested)	1 unit
Civil case of summary nature involving evidence (contested)	3 units
Civil case of summary nature involving evidence (uncontested)	1 unit
Reference made under Section 123 (2) of Cr.P.C	1/2 unit
Reference made to High Court under Section 438 of Cr.P.C	1/2 unit
Election Petition	6 units
Waqf Act case (contested)	3 units
Waqf Act case (uncontested)	1 unit
Land Acquisition Act	6 units
Civil Revision	1 unit
Revision petition referred under Section 8(2) of the Conciliation Court Ordinance, 1961	1 unit
Inspection of courts	3 units
Cases under Hudood Ordinance (contested)	4 units
Cases under Hudood Ordinance (uncontested)	1 unit
Bail Application (contested)	1/4 unit
<b>Court</b>	<b>Senior Civil Judges</b>
Regular civil suit (uncontested)	2 unit
Civil case of summary nature involving evidence (contested)	3 units
Civil case of summary nature involving evidence (uncontested)	1 unit
Reference made under Section 123 (2) of Cr.P.C	1/2 unit
Reference made to High Court under Section 438 of Cr.P.C	1/2 unit
Special case under the Criminal Law (Amendment Act)	6 units
Election Petition	6 units
Waqf Act case (contested)	3 units
Waqf Act case (uncontested)	1/2 unit
Land Acquisition Act	6 units
Civil Revision	1/2 unit
Settlement Revision	1 unit
Revision petition referred under Section 8(2) of the Conciliation Court Ordinance, 1961	1/2 unit
Inspection of courts	3 units
Cases under Hudood Ordinance	6 units
Inquiry (departmental)	6 units

**Table 4.4 B Monthly Case Disposal Targets for District Court Judges**

Designation of Judges	In case of	Units per month	Minimum work requirements per month
DSJ Lahore	Mixed Civil and Criminal cases	45	Decision in 3 contested Sessions cases; Decision in 10 contested Appeals.
DSJ Multan, Faisalabad, Sahiwal and Rawalpindi	Mixed Civil and Criminal cases	50	
All other DSJs	Mixed Civil and Criminal cases	60	
Additional DSJs across the province	Mixed Civil and criminal cases	75	
Senior Civil Judges cum Magistrates	Mixed Civil and Criminal cases		Decision in 5 contested Civil and 5 contested Criminal cases
Civil Judges cum Magistrates	Mixed Civil and Criminal cases		
Judicial Magistrates	Criminal cases only		Decision in 10 contested Criminal cases

#### 4.5 National Judicial Policy Cell (NJP Cell): Role and Areas of Focus

According to information provided by LHC staff, the NJP Cell was established at the LHC in 2010 under the supervision of its Registrar in order to implement various aspects of the NJP. The following have been its essential areas of emphasis from 2010 to 2013 (both years inclusive). See also **Annexures N and O** for a detailed description of the various directions, instructions, guidelines and follow-ups by the LHC in view of NJP directions.

- Directions to district judiciary to dispose old cases within stipulated time limits – categorisation of such cases into *Oldest*, *Older* and *Old* Cases as well as revision of the same every year and follow up on status of disposal in these categories as well as other sub-categories of the same.
- Directions to district judiciary to adopt a prescribed system for fixing cases; to prioritise appeals of convicts and their old cases; to provide waiting sheds for women visiting courts; to acquire legal research website; to set up a bench-bar liaison committee to resolve any issues between the two; to rationalise judicial records; to minimise adjournments; to curtail corruption by administrative staff; to reduce delay and prevent abuse of process in specific areas of criminal cases; to ensure maintenance of court premises; to set up of forensic science laboratories; and, to operationalize of Criminal Justice Coordination Committees to advance various NJP policy goals.
- Directions to Home Department, Government of Punjab as well as the district judiciary, regarding various areas pertaining to welfare of prison inmates and under trial prisoners, probation, parole, prison security etc.

#### 4.6 Implementation Mechanisms

Whether it is general or category specific Caseflow Management directions or compliance with the targets for case disposals set under the ‘Unit System,’ their successful implementation is a function of available incentives as well as penalties, a well-functioning system to ensure rigorous oversight as well as

compliance, and a data based system to monitor impact and inform future interventions. A review of the Lahore High Court Rules and Orders and interviews with various relevant court officials did not divulge a clear framework and mechanism for regular and systematic implementation of directions and targets – the approach is more to pursue individually determined targets rather than adoption of and adherence to a comprehensive framework.

This much is evident that where a judge is unable to meet targets set by the ‘Unit System’ or a specific direction to expedite a long-standing case he is required to furnish reasons (along with submission of the periodic Case Disposal Statements in relevant situations). What is less clear is what happens if he or she is unable to meet any other general Caseflow Management directions. What is equally unclear is what happens if his or her failure to meet targets set by the ‘Unit System’ or a specific direction to expedite a long-standing case is not backed by acceptable or persuasive reasons.<sup>74</sup>

Equally unclear is what happens if there is a repeat pattern or on the positive side if certain judges regularly exceed/surpass targets. It would also be useful to know if the MIT has also entertained applications/complaints regarding inefficiency, incompetence, prejudice and bias (and not just corruption and/or delayed proceedings) – in other words whether the monitoring system also does something to address such issues. The lack of accessible and comprehensive historic information and data impeded the task of determining say how many complaints were registered over the past five years, what follow-up actions took place and what systemic changes were brought about to ensure less complaints

Interviews with relevant court officials further revealed that in non-compliance cases the MIT-II (entrusted with this particular function) refers the matter of non-compliance to the judge of the High Court who has been appointed to assist the Administrative Committee in the matter of inspections. Further, if the said judge considers that the default is either persistent or serious, he can refer the matter to the Administrative Committee for initiating appropriate action.

Warnings have apparently been issued in such cases in the past.<sup>75</sup> However, there is no documented policy and standard operating procedures (SOPs) for dealing with such situations or any accessible record of past punitive actions against recalcitrant judges.

On the incentives side, well performing judges have in the past been issued letters of appreciation – and once even cash rewards almost a decade and a half ago. Furthermore, under an incentive scheme run in the past by the Supreme Court, laptops were also awarded to judges for disposing old cases in line with targets set by the apex court. However, no regular and on-going policy for rewarding good performance or compliance with instructions or meeting of targets was identifiable; the incentive schemes have been one-off. Whether, poor or good performances have any adverse or salutary service ramifications in terms of promotions, transfers, and other incentives could also not be detected from research conducted for this Report, as no such record was forthcoming. It was, however, ascertained from relevant LHC staff that the performance vis-à-vis ‘Unit Wise’ disposal of cases by the judges of the district judiciary is not

<sup>74</sup> Some of the court staff interviewed for the Report opined that in almost 99% of the cases, the requirements of ‘Unit Wise’ disposals were not only complied with but that the earned units were actually more than the stipulated targets. In the rare cases where targets were not met with, the judges themselves sent explanations along with their monthly ‘Unit Wise’ Disposal Statement. It is pertinent to mention here that the MIT relies upon the information provided by Judicial Officers with respect to ‘Unit Wise’ disposals and that there is no mechanism or process in place for the MIT to independently verify the same. There are only instances when the MIT may demand explanation from any Judicial Officer with respect to reported disposal of less than stipulated number of ‘contested’ cases. However, there is no actual mechanism to catch any over-reporting.

<sup>75</sup> Some of the interviewees reported that if targets set by NJP/NJPMC/MIT or delay reduction related directions issued by MIT/Inspection judges etc., are not complied with by any judges of the district Judiciary, they are only called for furnishing an explanation. According to them no disciplinary action has ever been initiated against any judge so far for non-compliance with delay reduction targets/directions. As to the usual explanations furnished by the judges summoned to explain the reasons for non-compliance, they attribute the delay to strikes by bar associations, personal reasons for absence of the judge from the court (such as sickness, transfers, trainings, election duties etc.), non-appearance of witnesses, and/or non-furnishing of key documents such as reports of the chemical examiner etc.

cited in their Annual Confidential Reports (ACRs). These ACRs are written by the District and Sessions Judges of the concerned districts and may otherwise contain adverse or advisory remarks against particular judges given any issues with their behaviour, punctuality, quality of judgements etc.

Efficacy of implementation is of course also a function of capacity – both in terms of numbers as well as relevant experience, training and skills. There wasn't any available policy and framework to suggest that the personnel in the MIT are expected to meet certain higher or different standards for performing this vital administrative job which also requires highly developed organisational and human resource management credentials.

AMIT-III – as has been stated before – deals with complaints against police and other administrative authorities and follows certain procedures for following up on such complaints.<sup>76</sup> According to staff interviewed at the LHC, in 90% of the complaints, the complaints are filed and the complainants informed to explore a judicial remedy; only, roughly 10% of the complaints lead to the MIT issuing any directions. However, even when a direction is issued, in cases of non-compliance with such directions, the interviewees said that the MIT takes no penal/coercive/disciplinary action against respondent but issues direction to the complainant to avail a judicial remedy. MIT also follows certain processes while performing its various coordination, liaison and supervisory functions.<sup>77</sup> Once again there was no accessible records to confirm the same but according to court staff interviewed for this Report, as regards the various reports from District and Sessions judges pertaining to jail inspections, surprise visits, Criminal Justice Coordination Committee meetings etc., in 90% of the cases the concerned Inspection Judge files the same with the observation “seen.” In another 9% cases, the concerned Inspection Judges issue directions to the MIT to inspect/look into the matter personally, and in **around** 1% cases, the Inspection Judges forward them to the Administrative Committee for a policy decision.

In a similar vein, the MIT's Human Rights Cell (HRC) also follows certain processes on receipt of any complaints/applications against the ministerial staff of the district courts for corruption, misconduct or missing records.<sup>78</sup> According to information received from LHC two additional sections have been added to operate under the supervision of the Additional Registrar (District judiciary). However, the said sections are not yet operational. They are: HR Section – to deal with the recruitment of civil judges and Additional District and Sessions Judges; and, Lower Court Establishment – to deal with service matters etc., of ministerial staff of the district Judiciary.

A summary of MIT directions and instructions to district judiciary is reproduced at the end of this Report as **Annexure P**.

<sup>76</sup> According to interviews conducted at LHC, complaints against administrative authorities/police are sent by post to 'General Issue Section' or dropped in the complaint box outside the Chief Justice's court or sent directly to MI. All such complaints are then forwarded to the Assistant Registrar MIT-III via MIT and AMIT-II respectively. AR MIT-III puts up a note on application and forwards it to AMIT-II and AMIT-II then sends it to the MIT. The MIT may call for a report from the concerned authority or pass a direction or just file it with a direction to the complainant to avail a judicial remedy. If the MIT calls for a report from the concerned authority, the complaint is sent to the Administrative Judge for appropriate order.

<sup>77</sup> According to interviewed court staff, MIT receives various reports from District and Sessions judges with respect to jail inspections, surprise visits, Criminal Justice Coordination Committee meetings etc. It forwards the same to the AR MIT-III via AR MIT-II. AR MIT-III puts up notes without any observations/opinions and forwards the same to MIT via AMIT-II. MIT then forwards these to the Inspection Judge of the concerned districts

<sup>78</sup> According to interviewed court staff, such applications are received by the HRC via the Supreme Court's Human Rights Cell, the Complaint Box at the Lahore High Court or the MIT. HRC examines the application to determine whether it is complete in all respects and to check whether a copy of the CNIC of complainant and an affidavit are attached. If the complaint is not complete HRC directs the complainant to complete it. If the complaint is complete in all respects, the HRC puts up a note and forwards it to the MIT. The MIT may file the application without any action or call for a report from the concerned District and Sessions judge by way of a preliminary inquiry via the HRC. The District and Sessions judge submits his report to the MIT via the HRC. If the MIT thinks it appropriate, it forwards it to the Inspection Judge for appropriate order; otherwise it files the application. The Inspection judge, if he deems it fit may direct the case for regular inquiry by the District and Sessions judge and suitable disciplinary action may be taken thereafter. The HRC only processes the application; it cannot conduct inquiry of its own accord and nor it can take any disciplinary action.



#### 4.7 Statutory Reforms pertaining to Caseflow Management in the Recent Past

It would also be instructive to provide a snapshot at this stage of the primary procedural amendments relating to Caseflow management that have been undertaken over the past decade and a half.

The Lahore High Court undertook amendments to the Schedule of the Civil Code (CPC rules) while those to the main text of the Civil Code were brought about through legislative action. **Table 4.7** below provides a brief summary of the same.

**Table 4.7 Key Procedural Amendments in the More Recent Past**

Section/Order	Amendment rule	Reference
Section 89-A CPC	Court may adopt Alternate Dispute Resolution Method for expeditious disposal of the case	Added by Ordinance XXXIV of 2002 (NLR 2002 Fed. St. 206)
Section 102 CPC	No second appeal shall lie against decisions of small causes courts or where value of suit does not exceed a certain amount	Subs. By Act VIII of 2004 dated 30-11-2004
Order 8 Rule 1 CPC	No more than two adjournments shall be granted for presenting written statement	Added by notification No.300 or Rules/XI-Y-26 of 02-10-2001 issued by LHC
Order 9-A CPC	After the close of pleadings, the court shall fix intermediate dates for filling of applications in respect of certain matters, their replies and disposals.	Added by notification No.300 or Rules/XI-Y-26 of 02-10-2001 issued by LHC
Order 12 Rule 4-A CPC	Court may call upon any party to admit any document or fact	Added by notification No.300 or Rules/XI-Y-26 of 02-10-2001 issued by LHC
Order 10 Rule 1-A CPC	Court may adopt any lawful procedure to expedite case, issue commission and to adopt any alternate method to resolve dispute	Inserted by ordinance XXXIV of 2002
Order 33 Rule 5 CPC	The court shall reject an application for permission to sue as pauper – where the suit appears from the statement in the application to be barred by any law	Added, in clause (d) of rule 5 of order 33, by Notification no.65/legislation/XI-Y-26, dated 26-03-2007.
Order 33 Rule 7 CPC	On the day fixed for receiving evidence of applicant's pauperism, the court shall further examine and cross examine the applicant or his agent and the opposite party	Rule 7 substituted by Notification No. 65/ legislation /XI-Y-26, dated 26-03-2007.
Order 37 Rule 2 CPC	In Rule 2 of Order 37, sub rule (1) has been added, wherein certain classes of suits have been stated where Order 37 applies	Amendment made by Notification no.65/legislation/XI-Y-26, dated 26-03-2007.
Order 39 Rule 2 CPC	Sub Rule 3 of Rule 2 of Order 39 deleted (steps to prevent disobedience of Injunction i.e. attachment of property and detention of the person)	Deleted by Notification no.65/legislation/XI-Y-26, dated 26-03-2007.
Order 39 Rule 2-B CPC	Order of injunction shall cease to have effect on the expiration of 6 months (reducing the period from one year to six months) unless extended by court	Words six months Substituted with the word one year by Notification no. 65 /legislation/ XI-Y-26, dated 26-03-2007.
Order 47 Rule 4 CPC	No application for review shall be entertained unless the person seeking review furnishes cash security of Rupees Five Thousand. The security shall stand forfeited if the review petition be dismissed at the initial stage without notice to opposite party	Sub rule 3 added in rule 4 of order 47 by Lahore High Court Notification No.49/Legis/XI-Y-26 dated 28-02-2011

#### 4.8 Judicial Pronouncements in Aid of Caseflow Management

Over the years, the appellate courts have provided clarifications and supported various principles of efficient Caseflow Management. At the same time, certain judgements have created ambiguity about how to strike the optimal balance between procedural efficiency and procedural fairness. The following is a representative sample of their areas of focus and themes of emphasis. The author has at times highlighted language relevant to the analysis being conducted here.

**Table 4.8 A Brief Summary of Judgements Relevant to Procedural Justice, Due Process and Caseflow Management in Civil Cases**

Citation	Law/Section	Principle laid down
PLD 2001 SC 355	Section 5 Limitation Act 1908	Sufficient cause – meaning - circumstances beyond control of party concerned
1989 SCMR 883	Order 9 Rule 9 CPC	<u>Sufficient cause – meaning – not susceptible of any exact definition and no hard and fast rule could be laid down and if non-appearance was not intentional that should not be viewed very strictly</u>
1990 MLD 1368	Order 8 Rule 2 CPC	First hearing of suit means the date on which pleadings are considered and issues framed by court – <u>list of documents could be filed within 10 days from the date issues are framed</u>
1994 (4) SCC 659	Order 13 Rule 1 CPC	Delay in producing documentary evidence before settlement of issues – explanation for delay is not rigorous as required under Section 5 of Limitation Act – <u>if documents are not in the party's possession or custody, it shall be filed by the party along with an application to condone delay in filling them</u>
2001 MLD 1159	Order 7 Rule 11 CPC	<u>Plaint can be rejected suo motu at any stage of the proceedings, even by appellate court or revisional court – where the suit was meritless and ultimately it was not possible to grant relief sought or no fruitful result thereof was expected to come out, provisions of Order 7 Rule 11 CPC would come into play –where the matter does not come within the scope of Order 7 Rule 11 CPC the court can reject the plaint if it finds that the suit is impliedly barred by law</u>
2011 MLD 266	Order 9 rule 9 - NJP	<u>Party should not be visited with penalty of being deprived of a fair trial on merits except when there was a positive evidence of negligence on the part of the counsel or the party – unless the bar and the bench both perform their sacred duties with due care, diligence and devotion, the purpose of National Judicial Policy would not be achieved</u>
2015 PCR.L.J 869	NJP	Speedy trial could not be termed to be an illegality, rather it was within meaning of instructions, so issued to enforce the National Judicial Policy – <u>speedy trial should never be at the cost of the procedure, or rights for which one was, otherwise entitled; because, the ultimate object of the administration of justice was to administer justice, and not speedy disposal of case</u>
PLD 1998 Lah. 474	151 CPC	Courts, while exercising this jurisdiction, are to bear in mind that this authority can be exercised on the calls of reasons, good conscience and equity and subject to condition that there is no express provisions in Code to meet the given situation. Exercise of this power is subject to three necessary elements, firstly the court can exercise its jurisdiction in a manner which is not prohibited by any law; secondly, when there is any express provision in Code, the court cannot exercise this authority to defeat or circumvent such express provision; thirdly, expression "court" in section 151 CPC means each civil court before whom the lis is pending.
1997 CLC 578	Order 7 Rule 11 CPC	<u>Essentials –Court while rejecting plaint must take into consideration; that recording of evidence had yet not commenced; that averment, in plaint and other authentic documents produced by the parties, could be looked into; that facts as to cause of action as stated by plaintiff should be assumed as proved and then to decide whether same legally constituted cause of action or not; and that provisions of Order 7 Rule 11 CPC being not exhaustive, purpose behind it was that still-born suit should be properly buried at its inception so that no time of litigation and court was consumed in fruitless litigation</u>
2013 CLC 1276	Order 17 Rule 3 CPC/Administration of Justice	Non production of evidence by plaintiff despite several opportunities – plaintiff due to such conduct seemed to be least interested in pursuing his case – trial court dismissed suit for want of evidence – High Court maintained order – object of rule of procedure in administration of justice being resolution of dispute between parties in accordance with law and check unnecessary delay in disposal thereof – <u>party to lis could not be allowed to play hide and seek with court and waste its time and prolong case</u>

2010 SCMR 973	Order 7 Rule 2 & Order 9 Rule 13/Administration of Justice	Nonappearance of the defendant on 21-03-2005 fixed for plaintiff's evidence resulted in passing ex parte decree on 9-04-2005 – on 20-6-2005 defendant filed application for setting aside ex parte decree on the plea that he wrongly noted date of hearing as 11-4-2005 – plea duly supported by affidavit- such bonafide mistake of defendant would amount to sufficient cause for restoration of suit – <u>Courts in absence of express provision, normally should not refuse proper relief to a party on technical ground – Law favours adjudication on merits and this principle is to be followed unless there are practical difficulties, which cannot be surmounted.</u>
2013 YLR 2846		Discretionary powers have to be exercised judicially and in a reasonable manner – Authorities could not be allowed to exercise their discretion at their whims, sweet will or in an arbitrary manner, rather they were bound to act fairly and justly
1992 SCMR 1778		<u>If one or the other party had failed to produce all the material document/signatures, the court had ample power to do needful so as to advance justice rather than injustice</u> – The concept of bar against filling the gaps is no more available in the present Pakistan jurisprudence and the law: including the precedent law on Islamic principle: which are being made applicable progressively to the proceedings before the courts and other forums which are required to record/admit evidence.
1988 CLC 778	Order XI Rules 12 & 21 CPC	Plaintiff for purposes of discovery and inspection of material documents in his possession was called upon under O. XI, R. 12, C.P.C. – Plaintiff did not bother to comply with order of Court and remained absent from Court without any sufficient cause – Defendant company suffered on account of irresponsible attitude and conduct of plaintiff – Suit filed by plaintiff was dismissed for non-prosecution in terms of O.XI, R.21, C.P.C.
1993 MLD 425	Order XI Rules 11, 12, 14, 18 & 21 CPC	Court directed plaintiff to produce certain documents, but plaintiff failed to comply with direction of Court – Court dismissed suit of plaintiff – <u>Appellate Court set aside order of Trial Court holding that failure of plaintiff to comply with order of production of documents, could not entail dismissal of suit, but at the most an adverse presumption could be drawn – Court could dismiss suit of plaintiff or strike off defence of defendant under OXI, R.21, C.P.C. only on three grounds, firstly on refusal to answer interrogatories under O XI, R.11, C.P.C; secondly on refusal to make discovery of documents under O.XI, R.12, C.P.C, and thirdly on refusal to permit inspection of documents under O.XI, R.18, C.P.C. Order for production of documents under OXI, R.14, C.P.C. being not one of orders mentioned in R.21 of OXI, C.P.C. Court could not act under that Rule and could not dismiss suit of plaintiff.</u>
1996 CLC 833	Order XIII Rules 1, 2, 17 & Order XII Rules 2, 3 CPC	Special Court Banking disallowed defendant to present its documentary evidence on ground that no good cause had been shown for non-production of same at first date of hearing – Plaintiff's documentary evidence was received in evidence and admitted in spite of objection of defendant – O.VIII, R.2, C.P.C. being applicable to defendant, <u>there was nothing in said provision of law that defendant was required to establish good cause for non-production of documents earlier whereas Court was vested with discretion to allow defendant to produce documentary evidence which was not entered in list of reliance</u> – Banking Court failed to exercise discretion in the matter of allowing defendant to produce documentary evidence on 'assumption' that it was subject to same strict and stringent provisions of O.XIII, R. 1 & 2, C.P.C. as were applicable to plaintiff
1999 CLC 356	Order XI Rule 21	Ingredients: - (1) There should be a specific order of the Court for filing of affidavit of documents. (2) The defaulting party wilfully fails to comply with the order – <u>Purpose of Order XI, Rule 21, C.P.C. with regard to discovery of documents on oath is to compel the opposing party to disclose all documents that he relies on so that the other side is not surprised later. It also serves to nip the evil in bud, as it were, inasmuch as frivolous proceedings can be summarily disposed of at an early stage. But since the penalty for non-compliance with this provision is so stringent, it is necessary that the penal provision must be strictly construed and the party concerned must be non-suited only if the above-mentioned ingredients are fully met.</u>
2002 YLR 2569	Order XIII Rule 2	<u>No documentary evidence in possession and power of a party can be received in evidence at subsequent stage unless cause is shown to the satisfaction of Court for non-production thereof at the first hearing of the suit</u> – Application for production of additional documentary evidence was dismissed by Trial Court for the reason that the evidence sought to be produced was already in possession of the petitioner and no satisfactory reason was given by the petitioner for non-production of the same – Trial Court had rightly refused to receive the documents in evidence

2003 CLC 1579	Order XIII Rules 1 & 2	Application for permission to produce documents in evidence – After affirmative evidence of plaintiffs was concluded, defendants moved an application for seeking permission to produce in evidence some documents – Said application was accepted by Trial Court – Trial Court had allowed application for production of documents on two grounds, firstly that many of the documents sought to be produced by defendants had come into existence during proceedings of suit and were not in existence previously and secondly that said documents were required by Court for just decision of the case – Trial Court while allowing application of defendants had also found that plaintiffs would be at liberty to produce evidence in rebuttal of said documents – <u>Validity – Delayed production of documents by itself should not have been a ground for refusing permission to produce documents as documents could be produced even at appellate stage</u> – No prejudice was caused to plaintiffs as they were allowed to produce, evidence in rebuttal.
2007 SCMR 433	Order XII Rule 6	Suit was decreed by Trial Court under O.XII, R.6, C.P.C. on the ground that defendant had admitted the facts mentioned in the plaint – Plea raised by defendant was that once Trial Court had framed issues, it could not have decreed the suit on the basis of admissions – <u>Validity – Court was empowered under O.XII, R.6, C.P.C. to pass a judgement on the basis of admissions of facts made by the parties to their pleadings, at any stage of proceedings</u>
2012 CLC 234	Order XIII Rule 1	Application of plaintiffs, after closing of oral evidence, seeking permission to produce documents, which they could not append with the plaint inadvertently– Documents sought to be produced, not only were appended with the plaint but were also not mentioned in the list of reliance in compliance of O.XIII, R.1, C.P.C. – <u>Inadvertence, could not be considered a good cause to allow the production of documents</u>
2012 SCMR 900	Order X Rule 1A	<u>Expeditious and inexpensive justice – Discretionary remedies such as specific performance are particularly amenable to expeditious adjudication in cases where equitable considerations are readily discernable or can be ascertained under the provisions of Order X of C.P.C.</u> – Provisions of Rule IA of Order X C.P.C. are of particular significance which allow the court to "ado", any lawful procedure.... to conduct preliminary proceedings and issue orders for expediting processing of the case "---Rule IA of Order X, C. P. C. appears to be a legislative attempt to give effect to the command of Art.37(d) of the Constitution
2013 CLC 1789	Order XIII R. 2	<u>Phrase "good cause" used in O.XIII, R.2, C.P.C. should be construed liberally to serve the ends of justice and said provision was general provision applicable to both the plaintiff as well as the defendant and benefit of this provision should be made available to them both liberally – Court may in its discretion admit documents at subsequent stage of proceedings to dispense with justice with the sole aim and objective that the function of the court was to do substantial justice and decide the rights on merits rather than technicalities</u>
2013 MLD 679	Administration of justice	<u>Spirit of the law was to impart justice, substantial in nature, which could only be done after hearing both sides and following the principles of merit instead of technical knockout – Technicalities of law are always to be avoided in order to do complete justice and to ensure that justice is not only done but also seen to be done– Rules of procedure are enacted for fostering the ends of justice and for preserving rights rather than to stifle the dispensation of justice and unless they are insurmountable, ends of justice always outweigh the manner of practice and procedure– Justice at no cost and at no stage should be allowed to fall prey to procedural technicalities which may be ignored if they tend to create hurdles in the way of justice</u>
2013 CLC 122	Administration of Justice	<u>When a party otherwise had a good case, same could not be thrown out on basis of technicalities and the court should decide the lis between the parties after recording of evidence</u>
2014 CLC 112	Order XVIII Rule 8	Recording of evidence through local commission on basis of national Judicial Policy – Failure of Judge to make in his handwriting a memorandum of substance of what each witness deposed in open court and affix thereon his signature – Validity – such policy required recording of evidence through commission in physical presence of judge – such omission of judge, if not caused any prejudice to any party, could not be termed as an illegality

The following is a representative sample of principles laid down in this area in criminal cases. The author has at times highlighted language relevant to the analysis being conducted here.

**Table 4.8 B Brief Summary of Judgements Relevant to Procedural Justice, Due Process and Caseflow Management in Criminal Cases**

Citation	Law/Section	Principle laid down
2003 YLR 2101	265-F & 540 Cr.P.C	Application filed under Section 540 Cr.P.C to summon a witness after recording of cross examination of PWs – under sub section (3) of Section 265-F Cr.P.C <u>the court is empowered to refuse summoning of any such witness, if it is of the opinion that such witness is being called for purpose of vexation or delay or defeating the ends of justice – application dismissed</u>
2000 MLD 220	249-A Cr.P.C	Court will interfere under section 249-A CR.P.C whenever there is an exceptional and extraordinary reason for doing so. <u>One of the tests/ingredients to apply in order to determine whether any particular case falls under exceptional clause or not is to see whether from the admitted facts of the case, the court can be satisfied that it is a fit case for its interference even at preliminary stage. The second test to be applied is to judge whether in the admitted circumstances of the case, it would be a mockery of trial if the case is allowed to proceed and broadly speaking, the court will interfere in the interest of justice and to stop the abuse of process of law.</u>
2010 SCMR 973	Administration of Justice	<u>Courts, in absence of express provision, normally should not refuse proper relief to a party on technical ground</u>
2012 SCMR 1258	Administration of Justice	<u>Justice at no cost and at no stage should be allowed to fall prey to procedural technicalities, which may be ignored if they tend to create hurdles in the way of justice</u>
2009 YLR 1370	265-K Cr.P.C	<u>Powers under Section 265-K Cr.P.C could be exercised at any stage, provided that the court, on hearing of the parties, had to come on conclusion that there was no probability of accused being convicted – For exercising said power, accused had to show that even if, material/evidence available on record was taken to be true, he could not be convicted</u>

It is apparent from this cross-section of representative judgements that the recent jurisprudence is at pains to strike a balance between ensuring that legal process and technicalities in no way impede just outcomes and rights protection and at the same time ensuring that the legal process isn't used in a vexatious and frivolous manner.

While helpful in further elaborating on the courts' powers to run cases in a just and efficient manner these pronouncements are no substitute for a re-envisioned, detailed and clearly articulated Caseflow Management framework for several reasons that will be shortly elaborated upon.

#### **4.9 Review of Past Caseflow Management Interventions**

The legal review conducted earlier in Section 3 of this Report has already revealed that while there are some local interventions they have been sporadic, infrequent and incremental and not holistic/systemic. Further, they are spread unhelpfully across a dizzying array of documents that precludes any convenient comprehension of their ambit and scope, let alone envision any meaningful and rigorous compliance. Therefore it comes as no surprise that even the existing provisions are not consistently and diligently applied on the ground. Earlier parts of Section 4 have also revealed that key Caseflow management areas lag far behind international best practices. It would therefore not be an exaggeration to say that the current Caseflow Management practices are by and large (barring some initiatives) still in the pre-modern age.

While Caseflow Management has never been a key area of focus in Pakistan – either institutionally or for international donor funded justice sector reform programs – certain Caseflow Management interventions have nevertheless been identified over the years, both internally and externally. Many of these ideas were, however, not actually adopted by the judicial system. The following is a brief description and analysis of these various ideas.

### A) Internally Identified

The issue of delay has been perennial and the judicial organ has made certain interventions to address problems. Quite apart from what has already been identified in the previous narrative, some additional important internal interventions are:

- Allocation of cases to judges at the principal bench through computers;
- Introduction of a UAN for inquiring about the status of cases;
- Initial case data recording pilot in the Sheikhpura district; and
- Various information technology interventions by the IT Wing of the LHC (details provided in **Annexure Q** to this Report).

### B) Externally Identified

From early 2000 and till the end of the decade, the Asian Development Bank's ('ADB') Access to Justice Program ('AJP') dominated the reform landscape in Pakistan.<sup>79</sup> AJP laid down sixty-four (64) policy actions in order to attain its desired reforms. These policy actions were meant to achieve twelve (12) 'broad outcomes,' six (6) each in the judicial and police sectors. These 'broad outcomes' were further broken up into twenty-five (25) specific 'outcome areas,' that delineated the intended reforms with greater precision.

For current purposes, the six (6) broad 'judicial outcomes' were: (i) better policymaking; (ii) stronger judicial independence; (iii) greater efficiency; (iv) legal empowerment of the poor and vulnerable; (v) better judicial governance; and, (vi) human resource development.<sup>80</sup>

For the purposes of this Report 'policy actions' pursued under the 'judicial outcomes' of 'better policy making' and 'better judicial governance' are of direct relevance. AJP put forth some specific Caseflow Management reform related actions thereunder that were adopted by the Lahore High Court in compliance with stipulated policy actions (though whether they continue to fulfil their full intended purposes is a separate discussion). These include:

- Publication of Annual Reports and holding of Annual Judicial Conferences.<sup>81</sup>
- Initiation of criminal action under existing legislation against delinquent process servers.<sup>82</sup>

At the same time, the following policy actions that go to the heart of Caseflow management reforms unfortunately fell short of full or adequate implementation:

- Each High Court to finalise a time-bound and costed action plan for professionalising its management to begin implementation in 2003.<sup>83</sup>
- Enactment of law or making of rules or issuance of instructions whereby one or more High Court Judges were to be designated or nominated by the Chief Justice of the High Court to devote their time mainly for the purposes of coordination of functions of the Member Inspection Team (MIT) – an internal High Court unit tasked with looking into complaints against district court judges

<sup>79</sup> "AJP was, in various ways, very vast and ambitious in scope – though also very narrow in other ways; complex and extensive in operation; and, it remains to date the largest externally funded justice sector reform program in the world. It dominated the Pakistani reform landscape for an entire decade and left an indelible imprint on local reform thinking and implementation. Compared to AJP, many of the other donor-driven reform programs in Pakistan during this period were comparatively insignificant in terms of their scope and financial outlay. Also, they did not offer anything by way of content or methodology that was not already part of AJP's thematic coverage, reform menu, and implementation strategies. Hence, they were predominantly subsumed by or dovetailed with AJP's reform interventions." See Osama Siddique, *Pakistan's Experience with Formal Law: An Alien Justice* (Cambridge: Cambridge University Press, 2013) [hereafter *Pakistan's Experience with Formal Law*].

<sup>80</sup> See PROGRAM COMPLETION REPORT: ACCESS TO JUSTICE PROGRAM (Pakistan) (Loans 1897-PAK, 1898-PAK, and 1899-PAK), ADB, 29 December, 2009.

<sup>81</sup> Policy Action No 10, AJP Policy Matrix, ADB.

<sup>82</sup> Letter No 1216/Legis, Dated 25.1.2005.

<sup>83</sup> Policy Action No 9, AJP Policy Matrix, ADB.

and with monitoring district court outputs – and monitor performance and investigation of complaints regarding the subordinate judiciary, including through regular inspections of the district. Such judge or judges were to be responsible to the Chief Justice of the High Court and were to perform their functions in view of instructions and orders that the Chief Justice of the High Court deemed appropriate.<sup>84</sup>

- Each High Court was to finalise and approve a program for delay reduction and commence implementation during Financial Year 2003. The program was required to include: (i) guidelines on delay reduction for all courts; (ii) dedicated full-time benches for commercial cases in the Lahore and Karachi High Courts; and (iii) performance-based incentives to support adoption of delay reduction procedures.<sup>85</sup>
- Each province to prepare and approve a phased plan to establish separate civil and criminal courts in consultation with the relevant agencies.<sup>86</sup>
- Substantial compliance and implementation of the approved phase plan in each province for separation of civil and criminal courts.<sup>87</sup>

The primary reason why the above policy actions did not go far beyond formal acceptance of the same is that their successful implementation and consolidation required certain necessary follow-up steps, such as the formulation of detailed procedures, the recruitment of professional court management personnel, and extensive automation of court processes and record keeping. However, none of this materialise at all or materialise at the desired pace, primarily because once AJP rolled up, institutional inertia, or in some cases, stiff opposition from within the judiciary to some of these step, blocked progress.<sup>88</sup>

While the above are specifically delineated reform ideas, additional significant reform steps were geared towards larger institutional capacity building for generally more informed and effective judicial policy making and development of a dynamic framework for on-going improvements and adjustments. These included, for instance, amendments to the Law Commission Ordinance, 1984 to improve administration of justice – with a logically envisioned impact on court administration and case management. While a restructured and differently constituted Law and Justice Commission of Pakistan (LJCP) did emerge through compliance with this policy action it fell far short of becoming the proactive and reform-oriented entity that it was meant to be. As a result, it has not been able to provide the leadership and technical input that it was meant to in order to steer on-going administrative reforms in the court system.<sup>89</sup>

A very similar fate has also befallen what was anticipated to be a meaningful National Judicial Policy Making Committee ('NJPMC') envisioned to provide a much needed platform for regularly discussing, developing, and updating a larger vision of the future shape and goals of the legal system and to accordingly prescribe a roadmap for achieving such goals. For reasons discussed at length in available scholarly literature in this area, the NJPMC also fell short of emerging as a dynamic, multi-stakeholder entity and has been reduced to a purely judge and court-centric body which has had little impact in developing a meaningful and holistic vision for judicial reforms and performance improvement.<sup>90</sup> These larger institutional limitations have had a clearly adverse impact on the pursuit of Caseflow Management and court administration reforms in Pakistan.

<sup>84</sup>Policy Action No 26, AJP Policy Matrix, ADB.

<sup>85</sup>Policy Action No 4, AJP Policy Matrix, ADB.

<sup>86</sup>Policy Action No 5, AJP Policy Matrix, ADB.

<sup>87</sup>Policy Action No 6, AJP Policy Matrix, ADB.

<sup>88</sup>See Pakistan's Experience with Formal Law.

<sup>89</sup>Characterised by a highly formal and hierarchical structure – explicit in its membership – which precludes divergent opinions, insights, priorities, experiences, as well as open criticism and free exchange of views, the LJCP has an over vast ambit of functions, very limited capacity, and little actual say in matters. It acts more like an extended secretariat of the Supreme Court rather than an autonomous, empowered and energised institute with a clear mandate and requisite resources. For a detailed evaluation of its genesis, evolution and performance see Pakistan's Experience with Formal Law.

<sup>90</sup>Id.

In addition to less than successful development of key institutions and vital institutional space for on-going reforms and informed and meaningful policy-making, there were also setbacks in other areas where successful reforms could have resulted in more sustainable delay reduction and lessening of the burden of the courts. The most obvious example is that of ADR related reform policy actions. AJP had two policy actions to support ADR and another policy action to look at the impact of ADR and other equity and efficiency based interventions.<sup>91</sup> While an amendment was introduced in the Civil Code to enable judges to refer matters to ADR on a voluntary basis, the absence of institutional commitment to make it a success, a lack of follow-up by judges, the antipathy of the legal bars, unclear procedures, absence of mechanisms for mandatory referrals, the dearth of specialised ADR resource persons, and lack of a requisite enabling framework as well as training has precluded ADR from really taking off.<sup>92</sup>

Another AJP policy action for delay reduction was establishment of special courts for minor claims, with reduced case processing time. However, since the enabling law did not require the establishment of exclusive courts, existing courts/judicial officers were declared to be Small Claims and Minor Offences Courts ('SMOC courts'). Thus, no actual SMOC courts were established and very few SMOC cases appear to have been filed.<sup>93</sup>

Another AJP reform initiative was geared towards increased provision of budgets and the introduction of modern budgeting methodology for judicial budgets. An effective budgeting methodology is of course essential for ensuring not just the smooth functioning of the existing system but timely fuelling of any reform endeavours. Effective operation of the district courts is especially dependant on the strength and robustness of a centralised budgeting system. AJP had five policy actions geared towards more effective budgeting and the provision of additional funding for the judiciary. Two of these policy actions called for the introduction and implementation of medium term budgetary frameworks ('MTBF') for the judiciary and fixing formulas for provision of funds to the judiciary from provincial budgets.<sup>94</sup> Another two policy actions required the establishment and operationalization of an 'Access to Justice Development Fund' (AJDF) in order to provide a non-budgetary stream of money to the judiciary.<sup>95</sup> The fifth and last policy action called for increased funding to the judicial sector on an incremental basis for a five-year period.<sup>96</sup> The success of both the MTBF and the AJDF would have had significant long-term ramifications for better planning and funding of important reforms, including those of court administration and case management but they turned out to be box-ticking exercises, with incremental budgeting fitted mechanically into MTBF forms, without any effort to ensure that the new framework was understood, fully adopted and consistently used.<sup>97</sup> The AJDF, on the other hand, (which has many funding windows for financing reforms in various areas of the justice sector) remains largely underutilised

<sup>91</sup> PROGRAM COMPLETION REPORT: ACCESS TO JUSTICE PROGRAM (Pakistan) (Loans 1897-PAK, 1898-PAK, and 1899-PAK), ADB, 29 December 2009. At page 51-52.

<sup>92</sup> See *Pakistan's Experience with Formal Law*.

<sup>93</sup> See PROGRAM COMPLETION REPORT: ACCESS TO JUSTICE PROGRAM (PAKISTAN) (Loans 1897-PAK, 1898-PAK, and 1899-PAK), Asian Development Bank, 29 December 2009. At page 51. See also *Pakistan's Experience with Formal Law*.

<sup>94</sup> *Id.* At page 49.

<sup>95</sup> *Id.* At page 49-50.

<sup>96</sup> *ibid.*

<sup>97</sup> See Blue, Hoffman and Berg, PAKISTAN RULE OF LAW ASSESSMENT – FINAL REPORT, USAID (November 2008). At page 15. The report delivers a scathing indictment of the lack of impact of AJP's budgetary reforms as well as the AJDF reforms. It says: "Subordinate court budgets are processed through the High Court, which has attended first to its own perceived needs, and has also had the principal authority over use of the proceeds from the Access to Justice Development Fund (AJDF) established by the Asian Development Bank. MTBF budgeting – not unlike other budget "fads" worldwide such as zero-based budgeting and planning-programming-budgeting systems (PPBS) – has not succeeded in bringing true strategic planning to the budget process; at best, incremental budgets are merely fitted to an MTBF form, according to officials close to the process. Budget preparation does not seem to focus on responding to actual needs or to determine whether existing staff are contributing to the effectiveness of the judicial process, which becomes significant in view of the sizeable number of staff. This staff, ostensibly serving as budget specialists, has little training in budgeting, much as administrative staff generally receives little initial training and no continuing education. Budgets for the judiciary are closely tied to politics, exemplified by a provincial executive (chief minister) reportedly holding up approval of judicial budgets until judges of his choice could be appointed to the bench."



and has not translated into any visible improvement in the state of affairs at the level of the district judiciary. A combination of various institutional factors has brought about this situation.<sup>98</sup>

There are additional illustrations of thwarted reforms where the reform design did not sufficiently cater to contextual realities and was thus found wanting. Once such reform – which falls under the larger rubric of Caseflow Management – was an endeavour to fast-track resolution of family disputes. Accordingly, certain amendments to the Family Courts Act introduced mandatory mediation as well as fixed time limits for disposals. However, once made operational, recourse to mediation became a mechanical exercise with no tangible results – rather than a closely supervised and incrementally improved process to achieve clear goals. Furthermore, the legal amendments did not provide for a mechanism of marriage counsellors and entrusted the business of mediation to the judges instead. This was another case of well-intentioned but ill-considered and inadequately followed through reform that produced less than the desired impact and also certain unintended negative consequences, as it did not fully appreciate the social and cultural context in which the reform was being introduced.<sup>99</sup>

This underlines once again that any real Caseflow Management cannot succeed through inert rule changes and rigid templates; instead it requires monitoring, appropriate modifications and consistent institutional incentives, oversight, and support.

#### 4.10 Summary of Main Findings

##### Court Administrative Structures and Staff

- There are no formal court managers or a specialised court management service as in other advanced jurisdictions like in the U.K.
- The court staff operating at the district level essentially performs secretarial and ministerial services and is required to follow the instructions of the District and Sessions Judge or his overall policy with regard to case allocations and various other facets of Caseflow Management. It does not possess the training, skills, authority and TORs to evaluate past performances and results and proactively prepare and propose Caseflow Management interventions. It also has no access to specialised trainings.
- Other than the District and Sessions Judges and SCJs (who are already encumbered with various responsibilities) – there are no judges to monitor case disposal/case management.
- The DSJs and/or SCJs do not possess any special expertise in Caseflow Management.

##### Oversight by the High Court

- Two recurrent themes of Caseflow Management monitoring of the districts are centralisation and lack of clarity of respective functions. The administrative oversight responsibilities of the performance of subordinate judiciary are spread across the offices of the Chief Justice of the

<sup>98</sup>For further analysis of this see Osama Siddique, *The Retrospective Report: Mapping and Assessment of Justice Sector Interventions – Donors and Government, 1998-2010* (with co-author) (The Asia Foundation: 2010) [hereafter *Retrospective Report*].

<sup>99</sup> “In societies such as Pakistan – where the micro-family has not become the norm – the larger family, community, and clan frequently play an important role in resolving family disputes. Courts are invariably looked upon as the undesirable last resort in such situations. While speed of resolution is generally a desirable goal, in delicate family disputes, time and good counselling can play a more constructive role than quick verdicts of winners and losers – which can be especially unsuitable where the disputants are embittered spouses and there are dependent children. A purely court based solution to family disputes – emerging once again from a court-centric view of the world – without requisite attention to the provision of meaningful counselling and mediation services, was always going to have some adverse consequences in situations that impact many parties, particularly minors.” See *Pakistan’s Experience with Formal Law*. See also the *Retrospective Report*. See also Blue, Hoffman and Berg, *PAKISTAN RULE OF LAW ASSESSMENT – FINAL REPORT*, USAID (November 2008).

LHC, an Administrative Committee, Administrative Judges and various administrative officials of the LHC, with MIT as the most directly relevant organ. Multiple inquiries and factual excavations of the internal processes of the LHC revealed both lack of clarity of the precise functions of these various organs as well as a propensity for all key and final decision-making stemming from the office of the Chief Justice of the LHC.

- Given how encumbered the office of the Chief Justice already is and also that he or she may not necessarily be well versed in Caseflow Management techniques and approaches given his focus and emphasis on his or her judicial functions, he or she would necessarily require both active assistance and gain from meaningful devolution of these responsibilities to the experts in this administrative area.
- Once again the registrars and MIT appear merely as implementation organs for periodic follow-up on occasional Caseflow Management directions. In the absence of both feedback loops from the bottom as well as any clear and consistent policy of Caseflow Management, how actively, frequently and deeply the Administrative Committee or Administrative judges engage in any Caseflow Management related deliberations becomes very much a function of the level of interest of the Chief Justice and some individual judges.
- What was also evident in the field work was that various administrative organs of the Lahore High Court are not always completely clear about the functions and powers of other organs and as a result there is often overlap or gaps in terms of what they may be expected to deliver.

#### **Reform Deliberations, Finalisation and Dissemination**

- Given the above, reform deliberations pertaining to Caseflow Management are restricted to periodic dissemination of case disposal targets to the district courts and miscellaneous instructions to focus on certain categories of cases. Spread as they are across Orders, Rules, Directions, Notifications and Instructions and stem as they do from various sources – the Chief Justice, the Administrative Committee, Administrative Judges, concerned registrars, NJPMC, MIT etc., – it is hard to detect a central ethos and inter linkages of an overall policy towards Caseflow Management. The lack of success in detecting any organised, centralised, and regularly updated records of deliberations and statistics also make it hard to determine whether there is more to the High Court's approach to Caseflow Management than responding to individual complaints by litigants or periodic emphasis on reducing case backlog.
- The weakness or absence of feedback loops – both in terms of any feedback from district judiciary as to the primary challenges being faced by it in ensuring smooth and timely disposal of cases as well as from the administrative staff of the High Court in view of their collection and analysis of information and data collected from the districts – appears to hinder the emergence of a comprehensive and informed overall policy towards Caseflow Management.
- There is an element of pedantry to the periodic submission of case disposal reports and follow-up on the same – there does not seem to be any broad evaluation of the situation that emerges in view of such reports and any systematic reassessment of the current system of rules, procedures and administrative practices.
- The flowcharts for the various processes for reform deliberation and dissemination also reveal excessive number of steps that pose the potential problems of the process getting bogged down as well as vital information or vitality slipping through the cracks. These processes can be shortened and made more efficient through the use of technology – currently many of the steps involve additional ministerial steps and out dated modes of communication.

- Record keeping appears to be out dated at several levels, as does the use of technology. In the district courts the research revealed that the central record keeping of case files is shambolic – in Multan a new process of record keeping being currently undertaken further inhibited precise determination of how records are currently kept. However, it did not hide the fact that the space, staff and facilities for record keeping are in a very bad shape. At the same time, absence of a clear and logical system also on occasion causes certain files to remain in the courtroom or be forwarded to the central record room with no clear idea on part of the staff of either side where certain files may be at any given time and why so. This not only makes it more probable for files to at times go missing but also for any unscrupulous staff members to generate a political economy of rent seeking around providing access to any files that any desperate litigants may be seeking.
- The current use of technology for maintaining case file records in the Target Districts is at a very nascent level and incapable for any meaningful Caseflow Management and data collection for informing Caseflow Management policy-making.

### **The Administrative Arm – MIT**

- The MIT is the main administrative and operational arm of the Lahore High Court for a multitude of functions directly and indirectly relevant to Caseflow Management. First, given the significant and far-reaching ramifications of many of the tasks entrusted to the MIT it appears that there is really no requirement of relevant past background and expertise pertaining to these administrative tasks as well as no training in these areas once any personnel joins the MIT.
- Second, much of what the MIT does is to follow up on instructions and directions issued by the Chief Justice and the Administrative Committee and it does not appear capable of or empowered to engage in any regular and meaningful deliberations on its own to inform Caseflow Management deliberations at the top; its role is thus once again essentially ministerial.
- Third, it also does not appear to maintain a full and regular record of Caseflow Management deliberations at the High Court and/or build any datasets and empirical records for informing future policy-making and building institutional memory. At least no such records were forthcoming in our excavation.
- Fourth, it is also unclear as to how regular and meaningful its follow-up actions are once it is in receipt of any disposal timesheets from the districts. Whether it was in response to queries about follow-ups on case disposal statements or private complaints or directions from judges, what the research team received was essentially anecdotal descriptions; it was very hard to adduce any written polices, minutes, deliberations and recorded data.

### **The ‘Unit System’ – Limitations and Problems**

- The primary emphasis of Caseflow Management at the Lahore High Court is on speeding up case disposals and the primary tool for pursuing that goal is the ‘Unit System.’ A closer review of the ‘Unit System’ reveals that there are various fundamental structural, approach and content-based problems with it. These are at the following levels:
- First, the ‘Unit System’ focuses purely on the individual judges and not on the institution – in other words, it does not gauge institutional factors, constraints, lack of coordination, absence of internal targets and arrangements, contextual realities, and inefficiencies that may impede individual judges from achieving fast disposals. At the same time, it creates no impetus and incentive for there to be greater institutional advance planning, goal and target-setting and related administrative arrangements and facilitation for individual judges to achieve fast disposals.

- Second, the ‘Unit System’ does not gauge performance along additional parameters that have a bearing on the quality of justice as well as the quality of the litigant experience with the court system – it does not look at, *inter alia*, the number of complex cases decided, individual stages of cases, the time taken by witness testimonies, the number of hearings the parties have to go through, the number of adjournments at every stage of the case, the number of hearings where no progress takes place in the case etc.
- Third, by ignoring the constituent parts of a case and looking only at final disposals, the ‘Unit System’ also takes attention away from the importance of monitoring individual stages of the cases in order to identify any glitches, bottlenecks and causes for delays.
- Fourth, over-emphasis on final disposals can create perverse incentives for judges to avoid difficult cases and meet their targets by only taking on the simpler ones – they can then also employ various ways to ensure that the more difficult cases don’t appear in pendency numbers and continue to languish while remaining invisible to the gaze of their supervisors.
- Fifth, needless to say, the aforementioned perverse incentives can also have an adverse bearing on the quality of judgements as not only can a fixation with final disposals cause judges to skip important steps and due process considerations but the fact that the ‘Unit System’ is only looking at disposal numbers and that it does not look at the quality of judgements at all (through looking at the number of subordinate court judgements successfully appealed against for instance) means that while there is an over-emphasis on ‘speed,’ neither efficiency nor quality may actually be achieved in many cases.<sup>100</sup>
- Sixth, the categories and descriptions of case types currently laid out in the ‘Unit System’ are inadequate in terms of capturing the actual complexity of cases (and thus the weightage that ought to be assigned to them) and thus they fall short of achieving appropriate allocation of weightage according to the actual judicial effort entailed by the adjudication of different types of cases with varying complexity.
- Finally, the terms ‘Contested’ and ‘Uncontested’ employed for purposes of the ‘Unit System’ are also problematic, with no clear meaning assigned to them and thus making them subject to different interpretations (as revealed by conversations with different court staff who at times offered different explanations), and amenable to possible manipulation in order to avoid difficult and deeply contested cases that require more work. These terms are frequently used in the current Lahore High Court Caseflow Management practices. ‘Contested’ cases, as one has been led to understand, means those cases in which the parties contested the matter up to the delivery of the judgement. Thus, it does not include those cases that were withdrawn or compromised.<sup>101</sup>

### National Judicial Policy Cell (NJP Cell)

- A parallel source and mode of Caseflow Management related-instructions at the Lahore High Court is the NJP Cell. It, however, mandates the submission of its own sets of periodic reports from the districts which raises issues of overlap, duplication and raising the administrative and reporting burden on the district courts.

<sup>100</sup>For further discussion of the banes of the pursuit of ‘efficiency’ through less than efficient means see, *Osama Siddique, Approaches to Legal and Judicial Reform in Pakistan: Post Colonial Inertia and the Paucity of Imagination in Times of Turmoil and Change*, DPRC Working Paper No 4, LUMS, 2011.

<sup>101</sup>Based on conversations with concerned High Court staff. See also MIT LHC Lahore Letter No 12283-GZ (1)/IX.C 14, dated 12/11/1974.

- Like in the case of the MIT it is unclear whether the various statements required by the NJP lead to any regular and comprehensive evaluation of the data presented therein and whether such deliberations then lead to informing policy-making in any systematic manner.
- What also became evident during research and conversations with key administrative staff in the Lahore High Court is that the NJP Cell has now more or less become dormant after the initial impetus and zeal following the launch of the NJP Policy 2009. Reports are still collected and forwarded to the NJPMC but there is nothing further that is done at the NJP Cell level; the NJP Cell also seems to be otherwise isolated from the work conducted by the MIT and other administrative wings of the High Court.

### Overall Implementation Framework

- A review of the Lahore High Court Rules and Orders and interviews with various relevant court officials about currently followed systems and processes did not divulge a clear framework and mechanism for regular and systematic implementation of court directions and targets – the current approach is essentially to pursue individually determined targets rather than a comprehensive framework.
- In terms of the ‘Unit System’ or a specific direction to expedite a long-standing case the concerned judge is required to furnish reasons (along with submission of the periodic Case Disposal Statements). What is unclear is what happens if he is unable to meet any other general Caseflow Management directions. What is equally unclear is what happens if his failure to meet targets set by the ‘Unit System’ or a specific direction to expedite a long-standing case is not backed by acceptable or persuasive reasons. The responses to these queries were anecdotal and no records, written policies and data were forthcoming.
- Equally unclear is what happens if there is a repeat pattern or on the positive side if certain judges regularly exceed/surpass targets.
- What is also unclear is whether the MIT also entertains applications/complaints regarding inefficiency, incompetence, prejudice and bias (and not just corruption and/or delayed proceedings) – in other words whether the monitoring system also does something to address such issues. The lack of accessible and comprehensive historic information and data impeded the task of determining say how many complaints were registered over the past five years, what follow-up actions took place and what systemic changes were brought about to ensure less complaints.
- The existence of a concrete and currently implemented policy for rewarding good performance or compliance with instructions or meeting of targets could also not be determined; any incentives offered in the past have been one-off.
- Also, poor or good performances do not appear to have any adverse or salutary service ramifications in terms of promotions, transfers, and other incentives.
- Efficacy of implementation is of course also a function of capacity – both in terms of numbers as well as relevant experience, training and skills and, as stated earlier, there wasn’t any available policy and framework to suggest that the personnel in the MIT are expected to meet certain higher or different standards for performing this vital administrative job which also requires highly developed organisational and human resource management credentials.

### Past Procedural Reforms

- The review divulges certain procedural reforms undertaken by the High Court in aid of Caseflow Management in the recent past. However, the lack of an overall Caseflow Management framework causes them to appear as incremental and piecemeal. There are also various gaps in terms of unaddressed areas of vital concern as well as an absence of an enabling framework and monitoring and implementation structure.
- Furthermore, the fact that the data and information collected from the districts is very limited both in terms of ambit and detail and is not systematically processed, collated and analysed also means that one cannot really tell whether these amendments have had any impact in terms of delay, pendency and caseload reduction in the districts. The absence of a meaningful emphasis on and monitoring of various steps and stages of the cases and possible bottlenecks could have well reduced these well-meant amendments to reforms on paper.

### Judicial Approaches to Caseflow Management

- The case law has at times emphasised certain principles and goals of Caseflow Management. These judicial exhortations are, however, no substitute for a full-fledged Caseflow Management system with all its necessary trappings. Furthermore, these pronouncements are incremental and at times of limited scope and hence many areas of Caseflow Management still remain inadequately addressed.
- In addition, one can't help but notice an element of contradiction where one comes across general principles as well as specific exhortations – so that while encouraging courts to clamp down on abuse of the legal process to cause delay and/or impede justice there also seem to be broad and strongly worded cautions against 'technicalities' and 'procedures' coming in the way of justice and the litigators' rights to produce documents, evidence, and to carry on with litigation etc.
- Importantly, the 'tests' and 'principles' laid down for the courts' exercise of discretion are not always very clear or embracing of all conceivable practical scenarios with the inescapable conclusion that there are relatively very few distinct bars on production of documents and evidence throughout the life of a case – the bar of proving wilful defaults or non-compliance is quite high to clear and as a result one can expect judges to just go with the flow and allow the parties' counsels to overtake the progress of the case.

### Institutional, Systemic and Procedural Reforms in the Recent Past

- While a review of past reform programs reveals multiple proposed and agreed upon interventions it appears that necessary institutional, structural and process reforms were never fully undertaken. The primary reason why these reform ideas did not progress much further than formal acceptance of the same is that their successful implementation and consolidation required certain necessary follow-up steps, such as the formulation of detailed procedures, the recruitment of professional court management personnel, and extensive automation of court processes and record keeping. However, none of this has quite materialised at all or materialised at the desired pace, primarily because once the internationally funded reform programs formally ended, institutional inertia, or in some cases, stiff opposition from within the judiciary to some of these steps, blocked further progress.
- The fact that much of what happens by way of institutional direction-setting and policy goal identification and prioritisation vests with the office of the Chief Justice also makes pursuit of reforms very much incumbent on a single individual and his or her orientation – lack of continuity of reforms ideas, approaches and emphasis is thus a logical outcome of the same.

- Past reform deliberations and programs included significant reform steps geared towards larger institutional capacity building for generally more informed and effective judicial policy making and development of a dynamic framework for on-going improvements and adjustments. In addition to less than successful development of key institutions and vital institutional space for on-going reforms and informed and meaningful policy-making, there were also setbacks in other areas where successful reforms could have resulted in more sustainable delay reduction and lessening of the burden of the courts.
- A review of past attempts at reforms also furnishes various illustrations of thwarted reforms where the reform design did not sufficiently cater to contextual realities and was thus found wanting.
- This underlines once again that any real Caseflow Management cannot succeed through inert rule changes and rigid templates; instead it requires monitoring, appropriate modifications and consistent institutional incentives, oversight, and support.

## 5. Reform Recommendations

### 5.1 Summary

There is a wealth of critical scholarly and policy literature on and documentation of persistent delays in the Pakistani legal system; the situation closely resembles other countries in the South Asian sub-continent and elsewhere in the developing world where the legal and court systems have descended from the British colonial system and have not been adequately modernised and upgraded.<sup>102</sup> The causes of delay are multifarious and involve several factors such. Over the years some of the main contributory causes identified in this literature are, *inter alia*:

**Pakistan has the following scores on efficiency indicators in the WJP Rule of Law Index (which are one of the lowest in the world)**  
**Civil justice is not subject to unreasonable delays: 0.26**  
**Criminal Adjudication System is timely and effective: 0.33**  
**WJP Rule of Law Index, page 177, 175**

- High disputation rates and crime arising out of growing social conflict, process/operational failures of government agencies and ineffective regulatory laws and frameworks;
- Inadequate number of judges and staff and supply side constraints of quality candidates – this most notably the outcome of a deteriorating system of legal education and a non-existing system of continuing legal education (CLE);
- Absence of comprehensive and effective Caseflow management and court administration systems;
- (Seriously) antiquated procedural laws and rules;
- Weak regulation of legal bars and professional accountability of lawyers and negligible efforts for their professional up gradation;
- Weak utilisation of ADR systems and court directions as well as neglect of other informal mechanisms for dispute resolution;
- Resistance of the courts to share powers with other actors in the criminal justice system and growing insularity of judicial decision-making from larger justice sector discourses and other important stakeholders; and
- The absence of a clear and integrated justice policy involving all the important stakeholders.

The current challenges faced by the existing framework of court and Caseflow Management in Punjab area manifestation of the above as well as the fact that such reforms have been postponed for so long. As a consequence, it is increasingly the lawyers, and not the judiciary, who in most cases actively control the pace of cases; pressurise judges (especially in the districts) to allow adjournments upon their instigation – such adjournments are mostly sought either because they are not prepared, busy with another case, or because they are pursuing a general strategy of delaying adjudication for as long as possible for strategic advantages or for fleecing their clients. On the other hand, at times certain judges also fast track cases for legitimate considerations to expedite delivery of justice or less justifiable ones such as the pressure of powerful lawyers endeavouring to coerce their opponents through the legal system.

<sup>102</sup>For the linkages between colonial legal design and outdated post-colonial legal system see 'Pakistan's Experience with Formal Law.'



In short, it is difficult to gauge the presence of an overarching judicial approach and policy to Caseflow Management and as a result the more resourceful can mostly manipulate the system. One big cultural and institutional obstacle is that barring certain exceptions, the judicial leadership has in the past been in general averse to modernise the existing Caseflow Management system either because of institutional inertia, the erroneous belief that it will increase their workload (whereas the outcome is meant to be exactly the opposite), apprehension of greater performance accountability, or the misplaced idea that everything to do with operating a court system is a judicial function (in other words, non-recognition of the now well-recognised fact that Caseflow Management is a purely a managerial function – and a sophisticated one – and best performed by relying on the feedback and assistance of those trained to conduct it.)<sup>103</sup>

This Report has endeavoured to both provide additional and much-needed empirical basis for advocating the necessity of a modern Caseflow Management framework and systems and also to provide specific recommendations as to how such a major and significant reform can be brought about.

## 5.2 Recommendations

### A) Regarding the Policy and Legal Framework

As has been demonstrated and argued in this Report, the current legal framework for Caseflow Management in the province is deficient and ill-equipped to bring about comprehensive and rigorous Caseflow Management – this is evident both from a close review of this framework as well as the data from the field. In consequence, there is no choice but to meaningfully revisit the current legal framework in order to consolidate, rationalise and upgrade it as well as to fill the various existing gaps.

The following are general and specific recommendations in this regard:

#### General – Institutional Policy Level

- a) Formal deliberation and adoption of a clear and succinct judicial policy to guide and inform forthcoming Caseflow Management reforms with a focus on: (i) judicial control over the pace of litigation, and, (ii) establishment of a case screening approach, clearly delineated overall and stage-wise timelines for different categories of cases, a framework for early and continuous control of cases (including Differentiated Case Management (DCM)),<sup>104</sup> and effective monitoring and future planning systems.
- b) Major re-examination, augmentation and updating of the out-dated aspects and rules of the current legal framework of Caseflow Management as well as adoption of new rules to fill the various gaps.

<sup>103</sup> PAKISTAN RULE OF LAW ASSESSMENT — FINAL REPORT — USAID Pakistan (November 2008).

<sup>104</sup> “The DCM premise is simple: Because cases differ substantially in the time required for a fair and timely disposition, not all cases make the same demands upon judicial system resources. Thus, they need not be subject to the same processing requirements. Some cases can be disposed of expeditiously, with little or no discovery and few intermediate events. Others require extensive court supervision over pretrial motions, scheduling of forensic testimony and expert witnesses, and settlement negotiations. The early case screening that a DCM system promotes also enables a court to prioritise cases for disposition based on other factors such as prosecutorial priorities, age or physical condition of the parties or witnesses, or local public policy issues.” Differentiated Case Management – National Criminal Justice Reference Service at <https://www.google.com.pk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0CCYQFjACahUKEwiW8N-w3MTIAhUQao4KHeUJASK&url=https%3A%2F%2Fwww.ncjrs.gov%2Fpdffiles%2Fdifm.pdf&usq=AFQjCNEwk9RyJA-nGr85C6N54Z7Ue2rXvg&bvm=bv.105039540,d.c2E> Adopting different case-processing tracks/multiple-track system for different types of cases is a framework and technique used under DCM whereby cases are allocated to different procedural tracks while keeping in consideration different factors such as, complexity of facts, law and evidence; nature of remedies available and sought, any public policy imperatives, need to decide certain types of cases early etc.

- c) Updating, consolidation and making more intelligible and accessible the current framework of Caseflow Management rules that are spread across several sources and documents that frequently makes them inaccessible, unintelligible and difficult to navigate – one clear, succinct and rigorous document should contain all applicable Caseflow Management rules.
- d) Development of a viable framework to engage with and seek the on-going support of other stakeholders in the justice process – legal bars, prosecutors, police, rights groups, legal departments etc., – for the sustainable success of the new Caseflow Management policy and reforms.
- e) Meaningful awareness generation and education of general public and media about the judiciary's commitment to and its new policy and legal framework for Caseflow Management for generating and boosting citizen oversight and support for these initiatives.

### **Specific – Consolidation, Updating and Promulgation of New Rules and a Rule-based Regime for Caseflow Management**

- a) Development of a single comprehensive document that contains all revised and new Caseflow Management frameworks and rules in a consolidated form.
- b) While retaining relevant and viable rules from the extant system and updating others, new Caseflow Management rules and related processes, documents and forms also need to be introduced in the following areas:
  - While keeping in mind any existing time standards and timelines for completion of different stages of the legal process, the Court ought to issue new Caseflow Management rules for issuance of litigation timetables under Section 544 of the Criminal Code for criminal cases and under Section 122 of the Civil Code for civil cases.
  - Development and introduction of new overall as well as stage-wise timelines for completion of different categories of cases.
  - New rules for filing requirements for different types of civil and criminal cases.
  - New filing formats as well as new Forms of Pleadings/Reports for getting essential information for adequately preparing a case for trial/proceedings for different types of civil and criminal cases.
  - New requirements, framework and forms for Pre-filing review of cases.
  - New requirements, framework and forms for Post-filing review of cases.
  - New rules regarding case allocations and transfers.
  - New rules regarding imposition of Costs/ Limitations on Presentation of Evidence.
  - Enhancement of rules to allow representation of parties through ancillary counsels
  - New policies as to scheduling, fixation of dates and adjournment of cases and follow-up rules as to maximum number of adjournments to be granted during the life of as well as at different stages of the case.

- New rules on timeframes for completion of any interlocutory proceedings.
- New framework and rules for effective case diversions, summary judgements and ADR.
- Development of additional Modes of recording evidence and related rules.
- New framework for closer coordination of police and prosecution processes with the court's Caseflow Management of criminal cases.
- New framework for judicial interface with prosecutors regarding the assessment of fitness of criminal cases for trial.
- New rules related to overall institutional monitoring of Caseflow Management at the district and LHC levels.

### **B) Regarding Organisational Re-structuring and Up-gradation and Streamlining of Functions and Processes**

The Court must majorly revisit its overall existing administrative framework including that for Caseflow Management and also seriously consider the possibility of establishing a Court Management Service for the subordinate courts at the earliest. The Court Management Service should assist the Judges in making key management decisions and once those decisions have been made, to help implement them. It is important for the Court to recognise Caseflow Management as a specialised professional function and expertise quite distinct from the judicial function and expertise.

#### **General – Institutional Policy Level**

- a) Court administration and Caseflow Management must be recognised as a function, expertise and responsibility that is distinct from the judicial function.
- b) The current ability of the courts to implement any framework is limited and must be greatly enhanced through utilisation of a professional Court Management Service – this is an area for which at least the initial steps ought to be taken for scoping the introduction of such a service in the near future.
- c) Current overall system of incentives and penalties need to be realigned to promote a culture of rule-based management.

#### **Specific**

- a) In the short-term, the existing MIT based system needs to be revisited to bring additional focus and clarity of functions – this would entail development of a clearer institutional roadmap, separation of the complaint redress function of the MIT from the Caseflow Management function, development of clear TORs for administrative functionaries, removal of current overlaps and ambiguity about the respective function of administrative functionaries, and development of clearer and well-understood internal processes.
- b) A time-line based graduation in the near future to a separate and specialised department/wing within the LHC that deals purely with all aspects of Caseflow Management, capacity building and the development of a Court Management Service manned by professionals with requisite skill-set for the task – the goal ought to be to create an entity with the capacity not just to provide expected empirical information to inform policymaking but that has the ability to proactively and

regularly look at data and bring any important insights and emerging trends to the knowledge of the judicial leadership.

- c) Development of framework for collection, processing and analysis of detailed, meaningful and disaggregated data from the courts to monitor Caseflow Management and to bring about empiricism-based judicial policy-making and court administration – the data analysis section of this Report puts forward a template for the kind and levels of data collection and analysis that will be required for meaningful future Caseflow Management. The existing Legal Research Wing of the LHC is one possible candidate for up-gradation into a full-fledged Caseflow Management wing and will require further clarity of role, empowerment and capacity building.
- d) Augmentation and professionalization of data collection and record-keeping at the district levels with clear processes and responsibilities and capacity building of relevant staff.
- e) Further clarity of the judicial oversight role of Caseflow Management as a priority and clearer delineation of powers and responsibilities to committees and individual judges to make the process less centralised and more comprehensive.
- f) Development of comprehensive records and institutional memory pertaining to Caseflow Management for greater transparency and efficiency of operation and to better inform decision-making.
- g) Rationalisation of the current disposal statistics collection system and the multiple forms required by the MIT and NJP Cell that create duplication and excessive workload – replacement of the same with new forms and processes in line with the new Caseflow Management system and the additional, detailed data it requires.
- h) Reassessment of the role played by the NJP Cell and its streamlining with the new Caseflow Management system.
- i) Reassessment of the current ‘Unit System’ and its replacement with a more comprehensive objective, multi-factor and quantifiable assessment system in line with the new Caseflow Management system to ensure meaningful performance indicators and monitoring and progress along the same.
- j) Nuanced rule-based alignment of judicial performance as to Caseflow Management with service structure, rules, performance incentives, penalties, postings, transfers etc., – related development of a professional human resource management function.
- k) Requisite structure and process for robust feedback loops from the district judiciary to the LHC to capture meaningful on-the-ground information and suggestions as well as to promote an ethos whereby the district judiciary gains further confidence that its feedback is accorded value and importance.

### **C) Regarding Technology**

Appropriate and customised use of technology – especially in contexts involving very large volume and varying complexity of cases – is an uncontested necessity. This is especially true with regard to issuance of cause lists and the monitoring and implementation of stipulated timetables. However, technology cannot even start playing its role without the existence of a modern and comprehensive rule-based framework to support the same. Thus rule-based interventions are necessary for the successful launch and sustainability of a Caseflow Management system in order to evolve from a culture of largely executive

decision-making to a clearly delineated system where executive decision-making is only required in exceptional situations and not as a matter of norm.

Technological developments and interventions will of course be required along the line but the eventual shape, scope and precise nature of the final technological edifice will only be determinable once the shape, scope and precise nature of the rule-based framework is ascertained and formalised.

The rule-based framework is of course also predicated, as already emphasised earlier, on certain key policy decisions that the judicial leadership will have to undertake in order to provide necessary direction, consistency and contours for rule reforms. Once, a rule-based framework supported by the right technology is embedded, the judicial leadership will have the benefit of empirical data and deeper insights generated by technology that will inform their future policy-making.

LHC has already made important forays into adopting technology for achieving greater efficiency of operations. The following are some additional specific recommendations in the context of this Report.

### Specific

- a) The eventual overall technology solutions in terms of the more expensive software will have to await the development and adoption of the above-mentioned policies, rules, processes and administrative structure. Technology will have to be tailored to and respond to the organic local Caseflow Management system developed for the province rather than it being the other way around – that is the established sequence of reform in all developed jurisdictions.
- b) At present there are aspects of the Caseflow Management process in the districts and their supervision by the LHC that are still not automated and don't employ technology thus adding to workload and impairing accuracy and efficiency – at the outset these need to be addressed.
- c) Record-keeping remains highly variable and unreliable in different districts and insufficient development and dissemination of a consistent system across the board as well as under-utilisation of technology remain challenges – the direction and technological input and support to address these will have to flow from the LHC.
- d) The eventual technological interventions will be sustainable only if supported by a clear policy, support for a culture that enables reliance on and understanding of technology, and capacity building of requisite staff.
- e) Meaningful data collection, processing and analysis will have to be a vital ingredient and function of any technological interventions.
- f) Operationalization of innovations that have been in the works for some time such as use of smartphones to monitor process serving, electronic documents, electronic transcription of proceedings, etc.

## **D) Regarding Training**

Training will have to be accorded a much more integral role not just because it has been largely under-prioritised in the past but also because the judges will have to be effectively trained in the new rule-based framework as well as the technological tools working to support it in order to make any Caseflow Management reforms successful. Some prescribed specific areas of focus are as follows.

### **Specific**

- a) Development of comprehensive and meaningful training modules for judicial officers and court staff to introduce and train them in the new Caseflow Management rules, processes, reporting mechanisms, and related technological aspects as well as greater use of technology for various aspects of the legal process where use of technology ought to be promoted, including recording of evidence etc.
  
- b) The success and sustainability of Caseflow Management training is of course a function of the overall quality of training at the Punjab Judicial Academy (PJA). Quality of leadership, size and quality of permanent faculty, academic and administrative autonomy, rigor and quality of PJA's academic and administrative policies, PJA's ability to consistently attract multi-disciplinary adjunct faculty, the frequency and rigor of its training programs, the pedagogical innovations, PJA faculty's exposure to advance training, the PJA's ability to offer induction, mid-service and specialised trainings to all the judges in the province over a meaningful period of time (as well as court staff and increasingly others from the justice sector), to offer refresher courses and to utilise technology for long-distance learning, quality of syllabi and curricula development and regular updating of the same, and linkage of training performance of judges with their career progression are some of the major areas that still require further boosting and will have a tremendous direct bearing not just on Caseflow Management but the overall quality of administration of justice in the province.

**Annexure A: List of Abbreviations**

AC	Administrative Committee of Lahore High Court
ADB	Asian Development Bank
ADR	Alternative Dispute Resolution
AJDF	Access to Justice Development Fund
AMIT	Additional Member Inspection Team – Lahore High Court
AR	Assistant Registrar
ASJ	Additional Sessions Judge
COC	Clerk of Court
CJ	Civil Judge
CJCC	Criminal Justice Coordination Committee
DJ	District Judge
DSJ	District and Sessions Judge
EU	European Union
GoP	Government of Pakistan
IT	Information Technology
LHC	Lahore High Court
LJCP	Law and Justice Commission of Pakistan
MIT	Member Inspection Team – Lahore High Court
MTBF	Medium Term Budgetary Financing
NJPMC	Nation Judicial Policymaking Committee
PJA	Punjab Judicial Academy
SCJ	Senior Civil Judge

## Annexure B: Glossary of Terms

<i>Ablmad</i>	Record keeper in civil and criminal courts.
Reader	Court official responsible for issuing cause lists, presenting the file to the judge, returning the record to the <i>Ablmad</i> and making entries in the relevant registers.
<i>Naib Court</i>	Police constable responsible for maintaining the police record and assisting the prosecutor in a criminal court.
<i>Naib Qasid</i>	Court official responsible for calling up court cases and doing miscellaneous work.



## Annexure C: Initial Template: Sample Size and Categories of Case Files

Sample Size per Case Categories and per District								
Case Categories		Case Sub-Categories	Multan (300 + 300)		Bahawalpur and Muzaffargarh (each 200+ 200)		Totals	
Civil	Property Cases (Moveable & Immoveable)	(a) Declaratory Suits with Possession	120	20	90	15	300	50
		(b) Succession Applications		20		15		50
		(c) Enforcement Suits for Specific Performance re Immoveable Property		20		15		50
		(d) Suits for Partition		20		15		50
		(e) Suits for Pre-emption		20		15		50
		(f) Declaration of Title to Property		20		15		50
	Family Cases	(a) Divorce	80	10	40	5	160	20
		(b) Custody		60		30		120
		(c) Maintenance or Dowry						
		(d) Guardianship		10		5		20
	Contractual Disputes (Non-Property)	(a) Recovery of Money/Damages Suits	60	30	40	20	140	70
		(b) Negotiable Instrument Cases		15		10		35
		(c) Commercial Disputes		15		10		35
	Rent Cases	Application for eviction of tenant	40	40	30	30	100	100
	<b>Total Civil Cases</b>			<b>300</b>		<b>200 x 2 = 400</b>		<b>700</b>
Criminal	Crimes against Person	(a) Homicide (qatl-e-amd)	100	25	60	15	220	55
		(b) Sexual Offences (rape)		25		15		55
		(c) Hurt (assault/injury)		25		15		55
		(d) Kidnapping		25		15		55
	Crimes against Property	(a) Robbery/theft	140	35	100	25	340	85
		(b) Cheating/Fraud/Forgery		35		25		85
		(c) Bouncing of Cheques		35		25		85
		(d) Criminal Trespass		35		25		85
	Local and Special laws (except Traffic)	(a) Arms Ordinance	60	15	40	10	140	35
		(b) Food cases		15		10		35
		(c) Environment		15		10		35
		(d) Pesticides		15		10		35
<b>Total Criminal Cases</b>			<b>300</b>		<b>200 x 2 = 400</b>		<b>700</b>	

**Annexure D: Caseflow Management Information Form – Criminal****Case Management Information Form – (Criminal) – (Page 1)**

Case Category	Criminal									Multan
Type of Case										Bahawalpur
Level of Court										Muzaffargarh
Case Complexity Information									Method of Disposal of Case	
Case No	No of Accused	No of PWs in Challan	No of PWs who Deposed	No of Court Witnesses	No of Court Docs	No of Defence Witnesses who Deposed	No of Defence Exhibits	No of Prosecution Exhibits	Compromise Judgement on Merits Withdrawal by Prosecution S. 265 K Acquittal Pleaded Guilty	
		Person entering Info.							Samples Checked	
		Verified by:							Sample Checking by	

**Case Management Information Form – (Criminal) – (Page 2)**

Hearings									Event to Event			
Total Hearings	No Progress hearings	Prosecution sought adjournments	Defense sought adjournments	Adjournments on the instance of both parties	Adjournments attributable to non-appointment of Defence Counsel	Adjournments due to strike	Adjournments attributable to absence of arrested accused in court	Judge attributable adjournments	Date of Receipt of Chalan in court	Date(s) of service of summons	Date of Charge	No of hearings from receipt to Charge

**Case Management Information Form – (Criminal) – (Page 3)**

Date of start of Prosecution Evidence	Date of close of Prosecution Evidence	No of hearings for prosecution evidence	No of hearings in which no prosecution evidence recorded	No of hearings from charge to close of prosecution evidence	Date of start of defence evidence	Date of close of defence evidence	Date(s) of recording of statement u/s 342	No of hearing for defence evidence	No of hearings in which no defence evidence recorded	No of hearings from close of prosecution evidence to close of defense evidence	Date of Judgement	No of probation hearings
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**Annexure E: Caseflow Management Information Form – Property****Case Management Information Form - Civil (Property) – (Page 1)**

	Case Category	Civil Property Cases (Moveable and Immoveable, as applicable) (120)									Multan
	Type of Case										Bahawalpur
	Level of Court										Muzaffargarh
Case Complexity Information										Method of Disposal of Case	
Case No	No of Plaintiffs	No of Defendants	No of Plaintiff witnesses	No of Plaintiff docs	No of Defendant witnesses	No of Defendant docs	No of Court witnesses	No of Court docs	If suit restored after dismissal for default, indicate number of dismissals and date of dismissal and restoration	Compromise Withdrawal of Suit without Permission Withdrawal of Suit with Permission Judgement on Merits Ex-parte Dismissal on default For Non Payment of Fee Rejection of Complaint	
Person entering Info.										Samples Checked	
Verified by:										Sample Checking by	

**Case Management Information Form - Civil (property) – (Page 2)**

Hearings							Event to Event				
Total Hearings	No progress hearings	Adjournments on the instance of Plaintiffs	Adjournments on the instance of Defendants	Adjournments on the instance of both parties	Adjournments due to strike	Judge attributable adjournments	Date of Filing of Plaintiff	Date(s) of service of summons	Date of filing of application under 07 R 10 or 11	Date(s) of filing of written statement	Date of formulation of issues

**Case Management Information Form – Civil (Property) – (Page 3)**

Date of decision of ad interim injunction (stay) if any	No of hearings from filing of Plaint to filing of written statement	Date of start of Plaintiffs evidence	Date of close of Plaintiffs evidence	No of hearings from start to close of plaintiff evidence	Date of start of Defendants evidence	Date of close of Defendants Evidence	No of hearings from start to close of defence evidence	Date of Judgement	Date of Decree
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**Annexure F: Caseflow Management Information Form – Civil (Contractual – Non-Property)****Case Management Information Form - Civil (Contractual Non-Property) – (Page 1)**

Case Category	Civil (contractual disputes non-property)									Multan
Type of Case										Bahawalpur
Level of Court										Muzaffargarh
Case Complexity Information									Method of Disposal of Case	
Case No	No of Plaintiffs	No of Defendants	No of Plaintiff witnesses	No of Plaintiff docs	No of Defendant witnesses	No of Defendant docs	No of Court witnesses	No of Court docs	If suit restored after dismissal for default, indicate number of dismissals and date of dismissal and restoration	Compromise Withdrawal of Suit without Permission Withdrawal of Suit with Permission Judgement on Merits Ex-parte Dismissal on Default For Non Payment of Fee etc. Rejection of Plaintiff
Person entering Info.									Samples Checked	
Verified by:									Sample Checking by	

## Case Management Information Form - Civil (Contractual Non-Property) – (Page 2)

Hearings							Event to Event				
Total Hearings	No progress hearings	Adjournments on the instance of Plaintiffs	Adjournments on the instance of Defendants	Adjournments on the instance of both parties	Adjournments due to strike	Judge attributable adjournments	Date of Filing of Plaintiff	Date(s) of service of summons	Date of filing of Leave to Defendant (in negotiable instruments suits)	Date of filing of reply to Leave to Defendant	Date of decision of Leave to Defendant

## Case Management Information Form - Civil (Contractual Non-Property) – (Page 3)

Event to Event (continued)												
Date of filing of application under 07 R 10 or 11	Date (s) of filing of written statement	Date of formulation of issues	Date of decision of ad interim injunction (stay) if any	No of hearings from filing of Plaintiff to filing of written statement	Date of start of Plaintiffs evidence	Date of close of Plaintiffs evidence	No of hearings from start to close of plaintiff evidence	Date of start of Defendants evidence	Date of close of Defendants evidence	No of hearings from start to close of defence evidence	Date of Judgement	Date of Decree

**Annexure G: Caseflow Management Information Form – Civil (Rent)****Case Management Information Form – Civil (Rent) – (Page 1)**

	Case Category	Civil (Rent)									Multan
	Type of Case										Bahawalpur
	Level of Court										Muzaffargarh
Case Complexity Information										Method of Disposal of Case	
Case No	No of Plaintiffs	No of Defendants	No of Plaintiff witnesses	No of Plaintiff docs	No of Defendant witnesses	No of Defendant docs	No of Court witnesses	No of Court docs	If suit restored after dismissal for default, indicate number of dismissals and date of dismissal and restorations	Compromise Withdrawal of suit without Permission Withdrawal of Suit with Permission Judgement on Merits Ex-parte Dismissal on Default Dismissal for Non Prosecution For Non Payment of Fee etc. Rejection of plaint	
		Person entering Info.							Samples Checked		
		Verified by:							Sample Checking by		



## Case Management Information Form – Civil (Rent) – (Page 2)

Hearings							Event to Event				
Total Hearings	No Progress hearings	Adjournments on the instance of Plaintiffs	Adjournments on the instance of Defendants	Adjournments on the instance of both parties	Adjournments due to strike	Judge attributable adjournments	Date of Filing of Plaintiff	Date(s) of service of Summons	Date of filing of Leave to Defendant	Date of filing of reply to Leave to Defendant	Date of decision of Leave to Defendant

## Case Management Information Form – Civil (Rent) – (Page 3)

Event to Event (continued)												
Date of filing of application under 07 R 10 or 11	Date(s) of filing of written statement	Date of formulation of issues	Date of decision of adjournment (stay) if any	No of hearings from filing of Plaintiff to filing of written statement	Date of start of Plaintiffs evidence	Date of close of Plaintiffs evidence	No of hearings from start to close of plaintiff evidence	Date of start of Defendants evidence	Date of close of Defendants evidence	No of hearings from start to close of defence evidence	Date of Judgement	Date of Decree

## Annexure H: Caseflow Management Information Form – Civil (Family)

## Case Management Information Form – Civil (Family) – (Page 1)

	Case Category	Civil Family Case								Multan
	Type of Case	(Divorce, Maintenance, Custody, Guardianship)								Bahawalpur
	Level of Court	Family Court / Judge								Muzaffargarh
Case Complexity Information									Method of Disposal of Case	
Case No	No of Plaintiffs	No of Defendants	No of Plaintiff witnesses	No of Plaintiff docs	No of Defendant witnesses	No of Defendant docs	No of Court witnesses	No of Court docs	If suit restored after dismissal for default, indicate number of dismissals and date of dismissals and restorations  Compromise Withdrawal of Suit without Permission Withdrawal of Suit with Permission Judgement on Merits Ex-parte Dismissal on Default Dismissed for Non-Prosecution	
Person entering Info.									Samples Checked	
Verified by:									Sample Checking by	

**Case Management Information Form – Civil (Family) – (Page 2)**

Hearings							Event to Event			
Total Hearings	No Progress hearings	Adjournments on the instance of Plaintiffs	Adjournments on the instance of Defendants	Adjournments on the instance of both parties	Adjournments due to strike	Judge attributable adjournments	Date of Filing of Plaintiff	Date(s) of service of summons	Date of first opportunity of compromise	No of opportunities for compromise

**Case Management Information Form – Civil (Family) – (Page 3)**

Event to Event (continued)										
Date of formulation of issues	Date of second opportunity of compromise	No of hearings from filing of Plaintiff to filing of Written Statement	Date of start of Plaintiffs evidence	Date of close of Plaintiffs evidence	No of hearings from start to close of Plaintiffs evidence	Date of start of Defendants evidence	Date of close of Defendants Evidence	No of hearings from start to close of Defendants evidence	Date of Judgment	Date of Decree

### Annexure I: Standard Stages of Criminal Cases

<u>1</u>	Date of Receipt of Challan in Court
<u>2</u>	Date of Service of Summons
<u>3</u>	Date of Charge
<u>4</u>	Date of Start of Prosecution Evidence
<u>5</u>	Date of Close of Prosecution Evidence
<u>6</u>	Date of Start of Defence Evidence
<u>7</u>	Date of Close of Defence Evidence
<u>8</u>	Date of Recording of Statement under S 342
<u>9</u>	Date of Judgement

**Annexure J: Standard Stages of Civil Cases**

Stage	Family Cases	Rent Cases	Contractual Disputes	Property Cases
1	Date of Filing of Plaint	Date of Filing of Plaint	Date of Filing of Plaint	Date of Filing of Plaint
2	Date of Service of Summons	Date of Service of Summons	Date of Service of Summons	Date of Service of Summons
3	Date of Filing of Written Statement	Date of Filing of Leave to Defend	Date of Filing of Leave to Defend	Date of Filing of Written Statement
4	Date of Formulation of Issues	Date of Filing of Reply to Leave to Defend	Date of Filing of Reply to Leave to Defend	Date of Formulation of Issues
5	Date of Start of Plaintiff's Evidence	Date of Decision of Leave to Defend	Date of Decision of Leave to Defend	Date of Start of Plaintiff's Evidence
6	Date of Closing of Plaintiff's Evidence	Date of Filing of Written Reply	Date of Filing of Written Reply	Date of Closing of Plaintiff's Evidence
7	Date of Start of Defendant's Evidence	Date of Formulation of Issues	Date of Formulation of Issues	Date of Start of Defendants Evidence
8	Date of Closing of Defendant's Evidence	Date of Start of Plaintiff's Evidence	Date of Start of Plaintiff's Evidence	Date of Closing of Defendant's Evidence
9	Date of Judgement	Date of Start of Plaintiff's Evidence	Date of Start of Plaintiff's Evidence	Date of Judgement
10	Date of Decree	Date of Start of Defendant's Evidence	Date of Start of Defendant's Evidence	Date of Decree
11		Date of Closing of Defendant's Evidence	Date of Closing of Defendant's Evidence	
12		Date of Judgement	Date of Judgement	
13		Date of Decree	Date of Decree	

## Annexure K: Case Management Provisions in LHC Rules &amp; Orders

Category	Civil Cases		
Event	Rule	Gist of Rule	Nature/Objective of Rule
Reception of Cases	Rule 1, Part B, Chapter 1- Volume 1	Courts should receive cases during office hours	Ministerial
	Rule 2	Courts whose place of sittings is at a distance from headquarters should receive the case directly	Ministerial
	Rule 3	Cases at headquarters shall be received by the District Judge	Ministerial
	Rule 3	Plaints and petitions presented at headquarters shall be received by the District Judge who may delegate this power	Ministerial
	Rule 7	Cases to be deposited in the Petition Box which shall be opened three times	Ministerial
Examination of cases	Rule 3 & 4	Cases shall be checked for stamp duty and shall be distributed by the Receiving officer in accordance with the instructions of the District Judge or the Senior Civil Judge	Screening
Transfer of cases to equalise work	Rule 6	District Judge may use the power of transfer to achieve equalisation in work	Best Use of Court Resources
Examination of cases for trial	Rule 1, Part C, Chapter 1- Volume 1	Examination of legal points	Assessment of Complexity
	Rule 2 & 4, Part G, Chapter 1- Volume 1	Requirements to file a list of documents and discouraging mention of documents during the trial	Limits on Evidence
List of witnesses	Rule 1, Part H, Chapter 1 – Volume 1	List of witnesses must be submitted after settlement of issues.	Ministerial
Category	Criminal Cases		
Court	Magistrate Courts		
Event	Rule	Gist of Rule	Remarks
Reception of cases	Rule 2, Part-A, Chapter 1, Volume 3	Petitions to be received ordinarily through a petition box. Urgent petitions may be accepted directly.	Ministerial
	Rule 3, Part-B, Chapter 1, Volume 3	Complaints shall be received during office hours on all days other than public holidays. Upon institution of a complaint the date of presentation shall be immediately endorsed upon the complaint together with the name of the Magistrate to whom the case is sent for trial	Ministerial
Case fixation	Nil		
Transfer of cases	Rule 2, Part A- Chapter 26, Volume 3	Session Judge may transfer cases and reasons for transfer	Best use of Court Resources/Impartiality
Transfer of cases on grounds of public convenience and/or grievance	Rule 3,4,5,6,7,8,9, 10,11,12,14 Part A- Chapter 26, Volume 3	These rules deal with issues of transfer of cases due to public convenience or grievance of parties	Best use of Court Resources/Impartiality
Compounding of cases	Rule 10,11,12, Part H, Chapter 1, Volume 3	Compounding should be discouraged in cases of grievous hurt. The Magistrates should take into account the discretion granted to them	Best method of disposal of cases
General case management	Rule 4	The Rules requires speedy disposal of cases where an accused is in custody	Speed criteria

Caseflow Management in Courts in Punjab

Category	Criminal Cases		
Court	Sessions Courts		
Event	Rule	Gist of Rule	Nature/Objective of Rule
<b>Sending cases to Sessions Court</b>	Rule 3, Part A, Chapter 24- Volume 3	The Magistrate must apply his mind to the material before him to ascertain whether the case is exclusively triable by the Sessions Court	Determination of trial forum
<b>Examination of record</b>	Rule 8, Part B, Chapter 24 - Volume 3	Case will be registered and memorandum shall be made on the calendar	Ministerial
<b>Case fixation</b>	Rule 2,3 and 4	Trial of session cases shall be held from day to day and unless there is a compelling need for adjournment, no adjournment shall be granted	Time table

**Annexure L: Summary of Notifications/Instructions of the LHC**

Notification	No and Date	Nature/Objective of Instruction
<b>Lahore High Court</b>		
Allocation of districts to LHC benches	No 424/RHC/Legis dated 26-12-2003	Use of court resources
Filing of civil original suits of commercial branch in green colour folders	No AR (J) dated 24-6-2003	Ministerial
High Courts Establishment Order, 1970 (P.O. 8 of 1970)		
<b>All cases</b>		
Expeditious disposal	No 557/RHC/MIT Dated 13-09-1995	General exhortation to dispose cases expeditiously
Computerised copy of judgements	No 12705/L-10 (IT) dated 22-10-2003	Ministerial
Orders to be passed by judges as opposed to ministerial staff	No 2823/MIT/HC dated 24-2-2007	Ministerial – Rules increases delays
Displaying of notices outside the court rooms	No 8104/2004 dated 25-5-2004	Ministerial
Boycotts by lawyers	No 17618/MIT/HC-1150/75 dated 18-12-1975	Administrative – Delay reduction
Expeditious disposal of 5 years plus old suits/cases	No 8945/MIT/HC/08 dated 30-4-2008	Fixation of limits for case disposal
Rational Distribution of work	No 28329/RHC/NJP	Best use of court resources/Efficiency
Disposal of Old cases under National Judicial Policy	No 28604/RHC/NJP	Fixation of limits for case disposal (increase in target date to 31/12/2012)
<b>Civil cases</b>		
Address of the parties to the suit	No 11792/MIT/HC dated 5.7.2003	Ministerial- Information gathering
Filling of data sheet pasted inside the approved file covers by members of the bar	No 11237/AR/Judl) dated 26-6-2003	Ministerial- information gathering
Expeditious disposal of petitions for succession certificate	No 8946/MIT/HC/2-S dated 30-4-2008	Fixation of limits for case disposal
Expeditious disposal of petitions for succession certificates	No 4839/MIT/HC dated 5-3-2008	
Disposal of miscellaneous applications	No 2374/MIT dated 22-11-2006	
Certificate regarding earlier suit on the same subject	No 221/MIT/HC dated 4-10-2006	
Expeditious disposal of family suits	No 1251/MIT dated 29-1-2008	
Submission of fortnightly reports about the disposal of family suits	No 29/RHC/2008 dated 7-2-2008	
Examination of plaints on their presentation	No 20223/MIT/HC dated 25-9-2006	
Tort suits against public servants	No 16199 dated 23-8-2004	



Criminal cases		
Minimum disposal limit of 12 for terrorism cases	No 12247/MIT/ATC dated 5-9-2007	
Delay in trial of murder cases	No 265/MIT/HC/2005 dated 25-1-2005	
Expeditious disposal of session cases	No 9936/MIT/HC dated 27-6-2007	Fixation of limits for case disposal
Disposal of property seized by police – direction for early disposal	No 1601/RHC/Legis dated 11-12-2003	
Collection of data regarding appeals and trials pending in trial courts qua juveniles and women offenders	No 24157/MIT/HC/2-S	

### **Annexure M: Additional Case Processing and Disposal related Directions by NJP**

Further review of available NJP directions pertaining to criminal matters divulges the following instructions:

1. In bail matters, notice to the State for production of record shall not exceed beyond three (3) days.
2. Bail applications under Section 497 of Criminal Code shall be decided not beyond a period of three (3) days by the Magistrate, five (5) days by Court of Sessions, and seven (7) days by the High Court.
3. Applications for cancellation of bail under Sub-Section (5) of Section 497 of the Criminal Code should be decided within fifteen (15) days by the courts including High Courts.
4. In criminal cases, it is the duty of the Police/Investigating Agency to submit Challan (Police Report) within a period of fourteen (14) days as contemplated in Section 173 of Criminal Code in case of non-completion of investigation; an interim report shall be submitted and in such cases, the court shall not grant remand beyond fifteen (15) days period.
5. All Criminal cases punishable with imprisonment for up to seven (7) years registered after 1<sup>st</sup> January 2009 will be kept on fast track for disposal within six (6) months.
6. All criminal cases punishable with imprisonment from seven (7) years and above, including death cases, shall be decided within a period of one (1) year.
7. Cases relating to preventive detention under Section 107 read with Section 151 of the Criminal Code should be decided as early as possible by following the procedure as envisaged under Sections 112, 117 and 118 of the Criminal Code.
8. Transfer applications under Sections 526 and 528 of the Criminal Code, miscellaneous applications like *Supardari* of Vehicle, and disposal of property under Chapter 43 of the Criminal Code and other applications to be decided within seven (7) days.

## Annexure N: Summary of Lahore High Court's Directions and Instructions (2010- 2013) in pursuit of the National Judicial Policy

### 2010

- Direction by LHC to all the Judicial Officers to achieve the target of disposal of old cases (Criminal/Civil) within stipulated time i.e. up till 31.05.2010, which was later on extended up to 31.12.2010.
- Pursuant to NJPMC directions dated June 11, 2010, LHC apprised the District & Sessions Judges that the old cases had been divided into three categories i.e., **Oldest Cases** (up to 31-12-2000) **Older Cases** (01.01.2001 to 31.12.2005) **Old Cases** (01.01.2006 to 31.12.2006) with a decision that the oldest cases were to be decided first.
- Pursuant to NJPMC directions dated 11<sup>th</sup> June 2010, LHC directed all the District & Sessions Judges to adopt Diary Lock System for fixing cases of lawyers in order to curtail the adjournments of cases as all the Courts would know in advance the engagements or otherwise of the lawyers in other Courts.
- Impressed upon all the Judicial Officers that appeals of convicts be given preference and old cases prioritised to save the under trial prisoners from the hard ships of the jails.
- Required the Govt. of Punjab, Home Department, Lahore to grant remission to the deserving convicts and take steps for improving the living conditions of inmates of jails while providing necessary facilities to them according to Jail Manual.
- Required the Govt. of Punjab, Home Department, Lahore to take steps for implementation of the decision of the Committee regarding making full use of the Parole law so that the eligible good conduct prisoners, not involved in serious crimes like murder and terrorism etc., can be released.
- Directed all the District & Sessions Judges to submit feasibility report of construction of visible and open waiting sheds for women in the Court premises/Judicial Complex while earmarking sheds for the purpose, where available.
- Directed all the District & Sessions Judges to acquire the facility of PLJ web-site [www.pljlawsite.com](http://www.pljlawsite.com) for the office of District & Sessions Judge, Senior Civil Judge, and senior most Addl. Sessions Judge (at Tehsil Head Quarter) and Senior most Civil Judge 1st Class (at Tehsil Head Quarters).
- Directed all the District & Sessions Judges to constitute a Committee comprising District & Sessions Judge, President, District Bar Association/General Secretary, District Bar Association, Member, Punjab Bar Council, one Senior Counsel (Civil side) and one Senior Counsel (Criminal side) to resolve conflicts, if any, arising due to misconception between the two stakeholders.
- Required the Govt. of the Punjab, Home Department, Lahore to strictly follow the Jail Manual as well as to immediately ban the use of Cell Phones by the prisoners in the jails.
- Desired the Director R&P Department to direct the Probation Officers to attend the meetings of the Criminal Justice Coordination Committee so as to enable the courts to evolve the strategy for effecting enforcement of Probation Laws.

- Directed all the District & Sessions Judges to implement the decision that in Districts where the backlog is not heavy evidence should be recorded by the Presiding Officers rather than by the Commission.
- Directed all the District & Sessions Judges to ensure that the cases should not be adjourned unnecessarily and when a case is fixed, the court must make all possible efforts to decide it within the prescribed time limit.
- Directed all the District & Sessions Judges to include salient features of National Judicial Policy, 2009 in the agenda items of the meetings of Criminal Justice Coordination Committees.

## 2011

- Directed all the Judicial Officers to achieve the target of disposal of old cases (Criminal/Civil) within stipulated time in accordance with the aim of the National Judicial Policy.
- Subsequently, pursuant to the directions of the Committee dated 26.03.2011, set the timeline of Old Cases as Oldest Cases (up to 31.12.2000), Older Cases (up to 31.12.2005), Old Cases Cat-I (up to 31.12.2008), Old Cases Cat-II (up to 28.02.2011) and New Cases (up to 01.03.2011).
- Directed all the Judicial Officers to provide details of every old case Criminal/Civil (Oldest, Older & Old) cases pending on 28.02.2011 with reason for delay.
- Directed all the Judicial Officers to make thorough physical inspections of judicial record to remove discrepancies in figures already provided to National Judicial Policy (Making) Committee.
- Directed all the Judicial Officers to take special measures to minimise chances of corruption of all kinds including periodical transfers and withdrawal of important assignments from staff and the Superintendents of Sessions & Civil Courts.
- Directed all the Judicial Officers to direct the Judicial Officers to leave no stone unturned to achieve the target of disposal of old cases till 30th October, 2011 which was subsequently extended up to 31.12.2011.
- Sought the attention of the Courts of Magistrates towards the principles laid down in the case titled “Ghulam Sarwar and others vs. The State” (1984 P Cr. LJ 2588) for compliance in letter and spirit while allowing remand or granting adjournments.
- Directed all the District & Sessions Judges to provide information pertaining to delay in completion of investigation/submission of Challan.
- Directed all the District & Sessions Judges to implement the directions of Committee dated 11.06.2010 regarding appointment of Commission out of agreed list/panel in rotation ensuring that there is no favouritism/nepotism and no repetition of names as a favour to anyone.
- Desired all the District & Sessions Judges to implement the directions of Committee dated 11.06.2010 so as to check the abuse of process of Recording of Evidence through Commission.

- Directed all the District & Sessions Judges to implement the directions of Committee dated 26-27 March 2011 pertaining to Disposal of Old Cases, Eradication of Corruption, Reforms in Jails and Administrative/Legal Reforms.
- Directed all the District & Sessions Judges to implement the directions issued by this Court for Eradication of Corruption amongst the staff of establishment of District Judiciary.

## 2012

- Desired all the District & Sessions Judges to ensure the expeditious disposal of cases within stipulated time.
- Issued instructions to the District Judiciary to decide the New Oldest Category (Criminal/Civil) Cases up to 2008 in line with National Judicial Policy 2009.
- Directed all the District and Sessions Judges to dispose off New Oldest Category Cases by 31.12.2012 pursuant to the directions of the NJPMC dated 03.11.2012.
- Directed all the District & Sessions Judges to provide information pertaining to delay in completion of investigation/submission of Challan.
- Required all the District & Sessions Judges to provide details of every old case Criminal/Civil (Oldest, Older & Old) cases pending on 31.12.2011 with reason for delay.
- Directed all the District & Sessions Judges to provide details of every old case Criminal/Civil (Oldest, Older and Old Cat-I) cases pending on 31.08.2012 with reason for delay.
- Desired Chief Secretary Government of the Punjab to establish Forensic Science Laboratories at Rawalpindi and Multan pursuant to directions of NJPMC meeting dated 27th-28th April, 2012.
- Launched NJP Implementation Cell to monitor the disposal of New Oldest Category Cases on daily basis through collection of e-reports from all the Districts and its onward transmission to Law and Justice Commission of Pakistan.
- Directed all the District and Sessions Judges to monitor the disposal of New Oldest Category Cases after rationalising the pendency of New Oldest Category Cases.
- Directed all the District and Sessions Judges to nominate a Judicial Officer as Focal Person for monitoring the disposal of New Oldest Category Cases.
- Directed all the District and Sessions Judges to provide list of New Oldest Category Cases in which stay orders have been granted by this Court.
- Directed all the District and Sessions Judges to constitute Committees at District and Tehsil level to inspect Judicial Complexes along with offices of the Districts periodically for monitoring the cleanliness.
- Announced 20 laptops along with appreciation letters to 20 Judicial Officers showing optimum level of disposal of the New Oldest Category Cases.

- Directed all the District and Sessions Judges to observe practice and procedural measures contained in Practice Note for applications u/s 22-A & 22-B Cr.P.C.

## 2013

- Directed all District & Sessions Judges to provide details of every old case Criminal/Civil (Oldest, Older and Old Cat-I) cases pending on 10.01.2013 with reasons for delay.
- Directed all District & Sessions Judges to maintain healthy environment in Judicial Complexes, cleanliness, hygienic conditions and properly lit courts.
- Directed all District & Sessions Judges to provide information pertaining to delay in completion of investigation/submission of Challans.
- Directed all District & Sessions Judges to provide information pertaining to number of Jail visits by Judicial Officers and release of prisoners involved in petty offences.
- Directed all District & Sessions Judges to provide information pertaining to number of UTPs (under trial prisoners) not produced before the Court for remand/trial.
- Directed all District & Sessions Judges to ensure the disposal of New Oldest (up to 31.12.2008) cases by deciding the backlog positively till 28.02.2013.
- Directed all the District & Sessions Judges to feed fortnight statements of NJP through online software.
- Directed all District & Sessions Judges to observe practice and procedural measures contained in Practice Note for applications u/s 22-A & 22-B Cr.P.C.
- Directed all District & Sessions Judges to provide information regarding delayed/ non-submission of Challans and action taken against delinquent investigating officers for non-submission of Challans in timely manner.
- Directed all District & Sessions Judges pursuant to the directions of NJPMC Meeting dated 23.11.2013 to revise the categories with new timelines as Old up to 31.12.2011 and new commencing from 01.01.2012. The time period for disposal of Old Cases is up to 28.02.2014.

**Annexure O: Summary of MIT's Instructions (2005- 2014)<sup>105</sup>**

<i>S.N.</i>	<i>Notification</i>	<i>From .... To</i>	<i>Dated</i>	<i>Instructions Detail</i>	<i>Nature of Instruction</i>
1	265 MIT/HC/2005	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	25-Jan-2005	Murder cases shall continue day to day till conclusion of the case.  Adjournment of a case on the ground of pendency of revision shall not be granted unless revisional court has stayed the proceedings.	Disposal of Murder Cases
2	264 MIT/HC/2005	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	25-Jan-2005	Court Registers be maintained properly by the Presiding officers.	Administrative Work
3	306 MIT/HC/2005	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	31-May-2005	Directions in respect of Full particulars of the parties in the suits as well as in the written statements be followed by the Presiding officers.	Administrative Work
4	4966 MIT/HC/2-S	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	14-Mar-2006	A separate register to enter the cases under small claims and minor offence courts Ordinance 2002 be maintained on regular basis by District Judiciary.	Administrative Work
5	6906/MIT/2006	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	19-Apr-2006	The complaint under section 4 of The Illegal Dispossession Act, 2005 is to be filed in the Court of Sessions and not in the Court of Magistrate.	Application of Law
6	9658/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	17-May-2006	Previous directions of MIT regarding disposal of Family, Guardian and rent cases in particular time frame be complied.	Administrative Work
7	12844/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	3-Jun-2006	Direction to ensure that full particulars and complete addresses of parties to the suit and their legal representatives are obtained as far as possible, copies of their ID cards are appended with the pleadings.	Administrative Work

<sup>105</sup>The language of the information in this Annexure is verbatim that of the official documents from which it has been extracted.

Caseflow Management in Courts in Punjab

8	13008/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	10-Jun-2006	Monthly Statements on prescribed Performa along with explanations, if any, of the officers who do not achieve the required target both in number or units in contested cases must reach to High Court before 10 <sup>th</sup> of every month.	Administrative Work
9	19128/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	7-Sep-2006	All the judicial proceedings shall be conducted and regulated by the Presiding Officers themselves while sitting in the court rooms and  All interim/interlocutory orders and evidence on judicial files shall either be in the hand of Presiding Officers or are typed by the Stenographers on their dictation and not in any case in the hand of ministerial staff.	Administrative Work
10	19650/MIT/HC/2-S	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	15-Sep-2006	Direction to furnish the pendency and disposal of cases under Small Claims and Minor offences Ordinance through fax.	Administrative Work
11	19923/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	19-Sep-2006	Direction to dispose of the applications made in different cases in which interim injunctions have been issued and civil appeals arising therefrom, before the end of year 2006.	Disposal of cases
12	387/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	21-Jul-2006	Direction to send data/information about the implementation of methodology of A.D.R i.e. S.89-A of the Code of Civil procedure, 1908, the provisions of Small Claims and Minor Offences Ordinance 2002 and role of our subordinate judiciary as contemplated by section 102,103,104 of Punjab Local Government Ordinance, 2001, is urgently required and same be sent through fax/special messenger.	Administrative Work
13	17828/RHC /MIT	From the Registrar Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	3-Aug-2006	Direction to maintenance of separate registers for making entries of civil/criminal cases disposes of through A.D.R.	Administrative Work
14	24461/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	21-Jul-2006	Direction to obtain copy of NIC of Plaintiffs/Appellant in Civil Suits/appeals and that of complainants in criminal matters with full particulars and complete addresses of the parties at the time of institutions of aforesaid matters.	Administrative Work
15	20223/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	25-Sep-2006	Direction to adhere the provision of Chapter 1-C of The High Court Rules and Orders Volume-1, before entertaining fresh plaints.	Application of Law



16	20530/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	29-Sep-2006	Direction to provide particulars of all those cases which are pending in the sub ordinate Courts, notwithstanding directions for their early hearing.	Administrative work
17	221/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	4-Oct-2006	Direction to obtain the certificate on every plaint at the time of institution, whether the subject matter or material issue has directly or substantially been in issue in a formal suit or between the same parties or between parties under whom the or any of them claimed, litigating under the same title before a Court of competent Jurisdiction and, if so, its result? Or whether the subject matter or the material issue came up before the High Court or Supreme Court and, if so, its result?	Administrative work
18	21228/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	12-Oct-2006	District & Sessions Judges/Add. District and Sessions Judges Shall mention their correct corresponding nomenclature in the judgements/orders in Civil/Criminal cases using the words, "District" & "Sessions", respectively in accordance with their relevant jurisdiction. Similarly Senior Civil Judges, Civil Judges/Guardian Judges, Family Judges, Rent Controllers and Magistrates Shall also use their correct Corresponding nomenclature Judgements/Orders.	Application of Law
19	23033/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	13-Nov-2006	Efforts should be made, in bailable offences, to release the accused who are in a position to furnish their surety bonds in accordance with Law.	Disposal of cases
20	23743/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	22-Nov-2006	Direction to decide Misc. Applications made in different cases, and the Civil Appeal/Revision petitions emanating thereof, before January 31, 2007 and to focus attention on expeditious disposal of the main cases.	Disposal of cases
21	23742/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	25-Nov-2006	Direction to dispose of applications made in different cases, wherein interim injunction were issued and the Civil appeal emanating therefrom, before the end of 2006 and to focus on main cases.  Direction to submit consolidated report regarding disposal of applications for interim injunctions and civil appeals arising therefrom.	Disposal of cases

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22	23842/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	27-Nov-2006	<p>Monthly Civil/Criminal statement should clearly display date of the Head Quarters and Sub-Divisions separately and grand total of the figures be made on the Performa.</p> <p>Monthly statements/ inspection notes be accompanied by history of the five each oldest Civil &amp; Criminal cases of each court and reason for the delay in their disposal.</p> <p>Effort should be made by Judicial Officers to dispose of the old cases of five years plus by 30-04-2007.</p>	Disposal of Cases
23	117/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	6-Jan-2007	Extension of target date for the disposal of applications for Interim Injunctions and the Civil Appeal and submission of compliance report up till 28 <sup>th</sup> February 2007.	Disposal of cases
24	2334/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	15-Feb-2007	Direction to make concerted effort to ensure that all the five years+ old cases are disposed of by the target date i.e. 30-04-2007 and brought the pendency under that head to zero as far as possible in the monthly report of May, 2007 onward.	Disposal of Cases
25	2335/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	15-Feb-2007	All family, guardian, rent matters and execution petitions filed before 31-12-2005 be disposed of by 30-06-2007 ensuring that all such fresh cases decided by the trial Courts within prescribed time which is six months.	Disposal of Cases
26	2234	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	15-Feb-2007	<p>Direction to ensure that meetings of Criminal Committee shall be held positively at least once a month and minutes thereof shall be recorded.</p> <p>Direction to ensure that in future Criminal matters are not adjourned / postponed without the accused being produce before the Court while making simply and endorsement on the Jail Warrant/Robkars.</p>	Administrative Work
27	2823/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	24-Feb-2007	<p>All the judicial proceedings shall be conducted and regulated by the Presiding Officers themselves while sitting in the court rooms and</p> <p>All interim/interlocutory orders and evidence on judicial files shall either be in the hand of Presiding Officers or are typed by the Stenographers on their dictation and not in any case in the hand of ministerial staff.</p>	Administrative Work

Caseflow Management in Courts in Punjab

28	9936/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	27-Jun-2007	Direction for speedy disposal of Sessions cases, delay without sufficient cause may entail disciplinary proceedings against concerned Judges.	Disposal of Cases
29	11915/MIT/HC/AT C	Member Inspection Team, Lahore High Court, Lahore To The Registrar, Supreme Court of Pakistan, Islamabad for consideration of draft rules drafted under section 35 of the Terrorism Act	25-Aug-2007	Instructions of Supreme Court of Pakistan to draft rule under section 35 Anti -Terrorism Act, 1997 are being complied, rules under section 35 are drafted under the guidance of Hon'ble Mr. Justice Mian Muhammad Najam-uz- Zaman and same were forwarded for approval.	Administrative Work
30	12247/MIT/HC/AT C	Member Inspection Team, Lahore High Court, Lahore To All the Presiding Officers, Anti-Terrorism Court, in the Punjab	5-Sep-2007	Direction to improve disposal of cases and to achieve the target of at least 12 cases per month in the upcoming month without fail.	Disposal of Cases
31	1251/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	29-Jan-2008	List of family cases, Appeals etc. pending in districts be furnished within 7 days without fail and same should be disposed of till 31-03-2008.  In future all Family matters should be decided within two months.  Family matters be entrusted to lady Judges preferably.	Disposal of Cases
32	39/RHC/2008	From the Registrar Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	7-Feb-2008	Instructions with reference to letter# 1251/MIT on the subject "Expeditious Disposal of Family Suits"  Statement regarding the pendency as well as disposal of Family Suits, Appeals etc. filed in your respective districts be furnished without fail.	Report about the Disposal of Family suits
33	4431/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	27-Feb-2008	Directions regarding the entrustment of some family cases to the Courts therein with low pendency through redistribution as to ensure the compliance of the instructions issued through letter# 1251/MIT dated 29 Jan, 2008 in letter and spirit.	Administrative work
34	4839/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	5-Mar-2008	Direction to decide all pending petitions for grant of succession certificates by 30-06-2008 positively and it should also be ensure that in future such petitions are decided within 60 days.  The above directions be complied within letter in spirit and the progress report be submitted on the enclose Performa along with the monthly Civil Statement.	Disposal of Cases
35	8945/MIT/HC/08	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions	30-Apr-2008	All the Judicial Officers were directed to dispose of old cases of five year plus by 30-04-2007. The perusal of the Civil and Criminal statement	Disposal of Cases

		Judges in the Punjab & Islamabad		reveals that the pendency of such old cases still very high.  Direction to furnish the list of more than five years old cases pending before the Civil and Criminal courts showing the date of institution, latest stage reason for the delay in disposal within 10 days.	
36	8946/MIT/HC/2-S	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	30-Apr-2008	In order to ensure the expeditious disposal of petitions for succession certificates by the target date i.e. 30-06-2008, such cases should not be entrusted to the Civil Judges who are dealing with the family matters.	Disposal of Cases
37	14461/MIT/HC/FC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	17-Jun-2008	Direction to expeditious disposal of the family cases. The pendency/appeals be brought to the minimum level by 31-07-2008 and special attention to be given towards disposal of more than six months old family suits/appeals.	Disposal of Cases
38	18098/MIT/HC/2.S	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	23-Aug-2008	Direction to ensure that family suits and appeals instituted before 1-1-2008 be decided immediately without further loss of time.	Disposal of Cases
39	21599/HC/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	18-Nov-2008	Direction to show progress in the disposal of family suits/appeals pending and unnecessary adjournments shall not be granted.	Disposal of Cases
40	26167/MIT/HC/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	19-Dec-2008	Direction for the Family Courts not to adjourn the case without just cause.	Disposal of Cases
41	2078/MIT/HC/ATC	Member Inspection Team, Lahore High Court, Lahore To All The Presiding Officers, Anti-Terrorism Court, in the Punjab Except ATC-1 & 2, Lahore AT Court, DG Khan	7-Feb-2009	Direction for Anti-Terrorist courts to decide the remaining cases expeditious and in accordance with the spirit of law and need of the day.	Disposal of ATA Cases
42	10697/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	18-May-2009	Direction to reduce the hardships difficulties and problems faced by the litigants in seeking of redressal of their grievances and remedies to wrong could be discovered and attended to.  Taking suitable measures for removal of litigant's hardships and difficulties.	Case management

43	19871/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	13-Aug-2009	<p>Direction for special Magistrates or Civil Judges-cum-Judicial Magistrates while dealing with cases under special Laws or trying offenders thereunder to exercise diligence and care at the time of awarding punishment in a way which is appropriate to the gravity of the offence committed by the offenders.</p> <p>Direction to furnish monthly Statement with regard to the aforesaid cases, highlighting an offence and the sentence passed thereabout.</p>	Application of Law
44	19878/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	15-Aug-2009	<p>The Govt. of The Punjab has launched a vigorous campaign against hoarders of Sugar. A feeling that stock seized by the Executive is restored to custody of the hoarders (Under Section 516.A Cr.P.C on Supardari) sooner than Later. Instructions for special Judicial Magistrates or Civil Judge- Cum-Judicial Magistrates dealing with the offences under the Price Control and Prevention of Profiteering and Hoarding Act, 1977 (XXIX of 1977) to be proactive in curbing the aforesaid menace and assist the Executive in bringing these offenders to Justice.</p>	Application of Law
45	25329/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	19-Oct-2009	<p>Directions for Civil &amp; Criminal Courts that flimsy ground for adjournments be not entertained by the Courts and cases be adjourned for valid, strong &amp; substantial reasons only. The Presiding Officers shall be recording these reasons in their orders for adjournments.</p> <p>Directions to make sure that these and earlier instructions on the subject are carried out in letter and spirit.</p>	Disposal of Cases

46	24875/RHC/NJP	From the Registrar Lahore High Court, Lahore To All District & Sessions Judges in the Punjab & Islamabad	16-Oct- 2009	<p>In order to reduce heavy backlog of old and new cases and to achieve the goal of expeditious disposal as set out in NJP, 2009 the presiding officers have option record the evidence in appropriate cases though commission with the consent of parties.</p> <p>The District and Sessions Judge shall in consultation with president of Bar associations concerned shall prepare list of panel of advocates including female advocates to be appointed as a Commission for Recording of evidence. A reasonable fee of Commission will be fixed with the consent of parties.</p> <p>Evidence of the parties through Commission shall be recorded insight Courts within the view of concerned presiding officer so that objection raised by any party in cross examination may be decided by Court.</p>	Administrative Work
47	29514/RHC/NJP	From the Registrar Lahore High Court, Lahore To District & Sessions Judges 1. Bahawalpur  2. Bhakkar 3. Chiniot, 4. Gujranwala, 5. Islamabad, 6. Lahore, 7. Mianwali, 8. Multan, 9. M.B Din, 10. Okara, 11. Sargodha, 12, Vehari	23-Nov- 2009	<p>Instructions to forward statement where evidence of witness recorded through commission for the period from 15-10-2009 to 31-10-2009.</p>	Administrative Work
48	31764/RHC/NJP	From The Registrar Lahore High Court, Lahore To The Director Human Rights Cell, Supreme Court of Pakistan, Islamabad	17-Dec- 2009	<p>Directions with reference to letter# HRC 15352-S/2009 on the subject recording of evidence of through appointment of commission in all cases and to inform your good-self that District and Sessions Judges Muzaffargarh visited the Tehsil Head Quarter, Kot Addu met the advocates and enhanced the number of commissions for recording of evidence of 87 and now the matter stands amicably resolved.</p>	Administrative Work

<b>49</b>	2034/RHC/NJP	From The Registrar Lahore High Court, Lahore To All District & Sessions Judges, in Punjab and Islamabad	21-Jan- 2010	<p>The presiding Officers of the Court may refer the cases for recording of evidence through commission with the consent of parties by appointing the advocate as a Commission the evidence shall be recorded in the light of Order 36 of the CPC. The period for completion of recording of evidence shall not be more than one week and the objection if any shall be decided by recording proper order.</p> <p>The commission shall complete the evidence within week and submit its report to the court. It is desirable that commission is appointed out of a panel of advocate having not less than three years' experience and good record of pleading of cases.</p>	Implementation of NJP
<b>50</b>	4510/MTT/HC/CO. 777/2010	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	26-Feb- 2010	Summoning of doctors as witness by Courts in medico-legal cases through issuance of non-bailable Warrants.	Application of Law
<b>51</b>	17757/RHC/NJP	From The Registrar Lahore High Court, Lahore To All District & Sessions Judges, in Punjab and Islamabad	26-Jun- 2010	<p>National Judicial (Policy making) Committee vide its meeting dated 11<sup>th</sup> June, 2010 has considered the complaint of abuse of process of recording evidence through Commission and resolve that:</p> <p>The appointment of Commission should be Streamline and in each district a list of lawyers should be maintain for appointment as a Commission in consultation with the representative of Bar. The commission should be appointed out of agreed list/Panel in rotation, ensuring that there is no favouritism/nepotism and no repetition of names as favourite to some.</p> <p>The appointment should be made on merit by considering the qualification and standing at Bar.</p> <p>Commission should be appointed with free consent of the parties.</p> <p>The commission should record evidence in the Court Room in physical presence of Judicial Official.</p> <p>On closure of proceedings the presiding officer should give a certificate that the evidence was recorded by the commission in his physical presence.</p> <p>To narrow down the controversies in civil cases the presiding officer should ascertain from each party whether he admits or denies such allegation of facts as are made in the plaint or in written statement, if any.</p>	Application of Law

				If workload is manageable then Recording of evidence through Commission should be avoided.	
52	25122/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab (Including Islamabad)	4-Sep-2010	Direction to District Judiciary to record name of the advocates appearing before them in their Interim/Interlocutory/Final Order and their own names while concluding and signing the orders/judgements.	Administrative Work
53	33962/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab (Including Islamabad)	23-Dec-2010	<p>Direction for all the District &amp; Sessions Judges to have a case registered with the Anti-Corruption establishment (Punjab) in appropriate case against a Court official where Concrete and sound allegation of corruption, excepting Bribe or Illegal gratification are received along with the commencement of disciplinary proceedings against Him which must be finalised within a period of 45 days.</p> <p>Action may be taken against an Inquiry Officer who fails to conduct such proceedings within the said period.</p> <p>Direction to all such cases to High Court.</p>	Application of Law
54	602/MIT/HC/S-S	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab (Including Islamabad)	12-Jan-2011	Hon'ble Chief Justice has been pleased to require all employees of Sessions and Civil Courts in Punjab and Islamabad not to engage in any other case or business in addition to their official assignments.	Administrative Work



55	5921/MIT/HC/S-S	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab (Including Islamabad)	14-Mar-2011	<p>Direction for all the District and Session Judges to insist upon trial courts for due observance to the statutory provisions and to decide all the pending cases within a period of two months, under intimation to this Court, as well as to be on guard regarding future intuition of cases under Illegal Dispossession Act, 2005.</p> <p>Direction for proceedings under Section 145/146 Cr.P.C pending at present are less than 200 and be decided comfortably within a period of three months. Cases filed under Section 9 of Specify Relief Act are around 2500 for disposal. The pendency is heavier in Districts of Muzaffargarh and Sargodha. Except these two districts all districts are directed to conclude and decide such cases by the end June 2012. In the district of Sargodha and Muzaffargarh all such cases are decided, in faces, within six months.</p>	Disposal of Cases
56	6540/RHC/NJP	From The Registrar Lahore High Court, Lahore To All District & Sessions Judges, in Punjab and Islamabad	21-Mar-2011	<p>Direction of National Judicial (Policy Making) Committee dated 11<sup>th</sup> June 2010 regarding appointment of Commission out of agreed list/Panel in rotation ensuring that there is no favouritism/nepotism and no repetition of names as favourite to someone.</p> <p>Instructions to ensure that directions ibid regarding appointment of Commission for Recording of Evidence are implemented in letter and spirit.</p>	Implementation of NJP
57	15993/MIT/HC/Ref .37/11	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	7-May-2011	<p>Directions for all the District and Sessions Judges to decide / get decided all those cases on priority bases even if Courts has to proceed from day to day.</p> <p>All the District and Sessions Judges shall evolve mechanism for the Implementations of the revised NJP, 2009, with regard to the oldest, older and old cases.</p> <p>All the District and Sessions Judges shall monitor the disposal of those cases on daily basis and if some default is committed by any Judicial Officer, let this Hon'ble Court now about such default / situation, failing which concerned District and Sessions Judge shall be held personally responsible.</p>	Implementation of NJP
58	15967/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	7-May-2011	National Judicial (Policy Committee) has directed all the District and Sessions Judges to Transfer five oldest cases from each Jail on their roster on monthly basis and decided those cases on fast track.	Implementation of NJP

Caseflow Management in Courts in Punjab

59	16591/MIT/HC Ref 42/11	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	12-Jul-2011	All the Districts & Sessions Judges have been empowered by the authority to transfer all part heard oldest/older/old cases falling within the confines of revised NJP, 2009 their respective roster at their own.	Disposal of Cases
60	17211/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab (Except Islamabad)	21-Jul-2011	Direction for Sessions Judges to carry out the inspection of respective Sessions Divisions on 23-7-2011 positively and submit a comprehensive reports regarding pendency of Civil and Criminal cases with a certificate of correctness.  Direction to furnish the reports to the Secretariat of NJPMC by 25-7-2011.	Implementation of NJP
61	28952/MIT/HC/Training	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	23-Dec-2011	In order to deploy the Caseflow Management System all over the Punjab High Court has organised training sessions for the computer operators working in Sessions and Civil Courts Accordingly, Instructions to direct the computer operators working in Sessions and Civil Courts to attend the training Sessions at given time and date.	Administrative Work
62	564/MIT/HC-2-S	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges, working under principle Seat	9-Jan-2012	Direction to collect the data of all pending criminal cases (falling in category of oldest, older and old-I AS mentioned in NJP) up till 31-12-2008.  Direction to provide the requisite data on the prescribed profoma, with a certificate of its correctness, within a period of four days.	Disposal of Cases
63	5110/MIT/HC/S.S	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	23-Feb-2012	Direction to provide the data according to the enclose Performa for annual report in Judicial Statistics of Pakistan for the year 2011 for onward transmission Sectary Law & Justice Commission of Pakistan, Supreme Court, within two days positively.	Disposal of Cases
64	11097/MIT/HC/Ev	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab (Except Islamabad)	20-Apr-2012	Admin Judge directed to provide list of Green Courts along with the name of the judges and their email contacts he also directed the Green Courts to supply the green data on a monthly basis i.e. title and number of the case, environmental issue involved, interim/final order and status of the case pending/disposed off.	Disposal of Cases
65	15442/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	13-Jun-2012	Direction to maintain daily attendance sheet, under the direct supervision of District & Sessions judge, in which the timings of check in and check out of all the judicial officers as well as the staff of the court shall be noted.	Administrative Work

66	15443/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	13-Jun-2012	Direction to replicate a notice for public at large drawn in Urdu in respect of eradication of corruption be on a notice board displayed outside the court of District & Sessions judge and Senior Civil judge etc.	Administrative Work
67	16864/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	23-Jun-2012	<p>Following are the directions for recording of evidence through commission.</p> <p>Frequent appointment of commission in case has escalated the cost of litigation therefore the commission should only be appointed in simple cases i.e. rent, family etc.</p> <p>The court should ensure the appointment of commissions should be made on merit by considering the qualification and standing on Bar.</p> <p>The civil judges invested with III and II class powers be emphasised to record the evidence in the cases themselves in initial years of their Judicial Service so that they could learn the art of recording evidence and mature their Judicial skills.</p> <p>The list of lawyers maintained in this regard should be updated regularly on yearly basis in consultation with representative of the Bar.</p> <p>Commission should not be appointed in the contested and cases involving delicate question of law.</p> <p>One commission should be appointed for recording the whole evidence.</p>	Application of Law
68	16865/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	23-Jun-2012	Direction to furnish the information about the case in which the proceedings have been unduly stayed/stopped by the courts just on the excuse of pendency of appeals, revisions or writ petitions before the higher courts in-spite of the fact that no stay order has been issued in those cases. The information should be court wise and with total number of such matters.	Disposal of Cases
69	16963/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	25-Jun-2012	Direction to carry out regular inspection by the Hon'ble Inspection Judges as per newly designed proforma.	Administrative Work

70	18040/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	5-Jul-2012	<p>Direction to make aware the District Bar Associations about the following instructions issued by the High Court</p> <ol style="list-style-type: none"> <li>1. Instructions regarding mentioning of the name of the Counsels on order sheet</li> <li>2. Instruction regarding information in respect of cases unduly stayed</li> <li>3. Instruction regarding eradication of corruption</li> </ol>	Administrative Work
71	15444/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab 2. All the Presiding Officers Ex-Cadre, Posts in the Punjab	13-Jun-2012	<p>Direction for Judicial Officer marking attendance of counsel for parties in civil and criminal cases shall necessarily mention/note down the name of the counsel/lawyer and in case of State Representative name of concerned Prosecutor.</p> <p>While recording of evidence in civil and criminal case the name of counsel cross-examining the witness shall be particularly mentioned before start of cross-examination.</p> <p>Every Judicial Officer while signing each order passed in civil and criminal cases shall necessarily note down his full name with designation and date with stamp.</p>	Application of Law
72	22926/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	18-Sep-2012	<p>Notification regarding addition in third schedule of Anti-Terrorism Act1997 for information and necessary action.</p>	Application of Law
73	16255/MIT/HC/Ahlmads	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	19-Jun-2012	<p>Direction regarding maintenance of register by Ahlmads.</p> <p>Complete the register of the court as per proformas given in High Court Rules &amp;Orders.</p> <p>Enter the results of cases in the relevant column, consign the decided judicial file to the record room and enter the consignment numbers against the cases in the registers.</p> <p>On transfer or retirement ahlmads shall hand over the register to his successor.</p> <p>On quarterly inspection ahlmads shall produce the registers before the Judicial Officer of respective Courts.</p>	Administrative Work
74	22880/MIT/HC/ATC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges & All Senior Judges in the Punjab	18-Sep-2012	<p>Direction for District &amp; Sessions Judges as well as Senior Civil Judges in Punjab to ensure the marking of all freshly instituted case themselves with their own hand-writing and signature. They shall not depute any officer/official for marking of freshly instituted cases.</p>	Application of Law

75	22881/MIT/HC/AT C	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	18-Sep-2012	Direction to constitute a committee comprising of two judges for transfer and posting of ministerial staff. The said committee will regulate the transfer and posting of ministerial staff.	Administrative Work
76	2419/MIT/HC/2-S	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	29-Jan-2013	Direction to ensure the compliance of previous directions for submission of monthly statement on prescribed proforma showing institution, disposal and pendency of Sessions/Civil and Criminal cases together with explanation if any, of the officer who do not achieve the required target both in number of units and contested cases, before the 10 <sup>th</sup> of every month without fail.	Administrative Work
77	11934/MIT/HC/Scp	From The Registrar Lahore High Court, Lahore To All District & Sessions Judges, in Punjab except Islamabad	10-Apr-2013	Direction for Presiding Officers should not leave the litigants on the mercy of Reader/Peshkar and they must sit in the Court till they exhaust board of the day by proceeding the matters and if date is given then they adjusting the dairy of the court and convenience of the litigants but not deviating from NJP.	Administrative Work
78	17420/MIT/HC/J.I	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	21-May-2013	Direction to submit the reports regarding to questions framed in order dated 27-3-2000(SUO MOTO action regarding deplorable state of prisoners in jails), observations made in the order dated 8-6-2009 as well as direction passed in order dated 9-5-2013 for onward transmission to the August Supreme Court of Pakistan, within five days positively, without fail.	Application of Law
79	19140/MIT/HC/AT C	Member Inspection Team, Lahore High Court, Lahore To All the Presiding Officers, Anti-Terrorism Courts in Punjab	10-Jun-2013	Direction to submit daily performance report of ATA cases on prescribed proforma, before leaving the office daily, through fax.	Disposal of Cases
80	19720	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	15-Jun-2013	Direction to submit the report about untoward incidents of firing causing death of any person in the court premises of district/tehsil on 17-06-2013 before 10:00 am.	Administrative Work
81	29439/MIT/HC/ED /1107/2013	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	23-Oct-2013	Direction to take up the cases of accused who are in custody for the offence 489-F and proceed with the trail expeditiously without giving unnecessary adjournments unless the same is un avoidable and decide the cases preferably within 30 days on receipt of the direction and submit the report in this regard.	Disposal of Cases
82	29627/MIT/HC/ED /736/2013	Member Inspection Team, Lahore High Court, Lahore To 1. All District & Sessions Judges in the Punjab, 2. All the Presiding Officers	25-Oct-2013	Direction to mentioning the name of Advocates/Counsels on the order sheet of case.	Administrative Work

Ex-Cadre Posts, in The Punjab					
83	32526/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	28-Nov-2013	Direction to provide list of cases up held by Apex court.	Disposal of Cases
84	34598/AMIT-1/HC/13	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	20-Dec-2013	Direction for correspondence addressed to Worthy Registrar, must bear reference number of letter of High Court, in order to avoid any inconvenience in delivery of the letter to concerned branch.	Administrative Work
85	34949/MIT	From The Registrar Lahore High Court, Lahore To All District & Sessions Judges, in Punjab	27-Dec-2013	Direction for District & Sessions Judge to make surprise visit to the courts and submit report with views about their own district regarding the abuse of process in recording of evidence through appointment of commission within 10 days.	Administrative
86	2443/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	30-Jan-2014	Direction for "The cases of parental child abduction should be dealt with by specialist in family courts" as approved by the chairman NJPMC in a meeting held on 23 <sup>rd</sup> of November, 2013.  Direction to intimate the action taken in this regard to NJPMC, within a week.	Implementation of NJP
87	3206/MIT	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	3-Feb-2014	Direction for Judicial Officers to not forcible borrowing of personal services from the Process Server or Naib Qasids.  Direction for Judicial Officers to avoid such kind of practice in future and inculcate discipline amongst the ministerial staff under their control.  Direction for ministerial staff of civil and district judiciary to wear a prescribed uniform and badges to identify their designation so as to avoid malpractice, if any.	Administrative Work
88	4616/MIT/HC	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	19-Feb-2014	Direction for Sessions Judges to verify the statement of their respective Districts regarding contested and uncontested units/cases furnished to the office of MIT in monthly civil as well as criminal cases statement to scrutinise the inclusion of fudge units shown earned. The respective learned District & Sessions Judge will be responsible if found that the statement are incorrect.	Administrative Work

<b>89</b>	7692/MIT/HC/S.V	Member Inspection Team, Lahore High Court, Lahore To District & Sessions Judge Faisalabad	20-Mar-2014	<p>Direction for recording of evidence through local commission by Judicial Officers be forthwith discontinued.</p> <p>Direction for Senior Civil Judge to make surprise visit of copying agency for inspections.</p> <p>Direction for District &amp; Sessions Judge to dispose the petitions under section 22A/22B expeditiously by speaking order and complaint filed under Illegal Dispossession Act at the earliest stage.</p> <p>Direction to decide the pre-arrest bail petition as per dictate of NJP.</p> <p>Direction for Judicial Officers to submit the explanations pertaining to the recording of evidence in suits through local commission.</p> <p>Direction to establishment of copying agency.</p>	Administrative Work
<b>90</b>	18109/MIT/HC/ED	The Registrar, Lahore High Court, Lahore To 1. All District & Sessions Judges in the Punjab, 2. All the Presiding Officers Ex-Cadre Posts, in The Punjab	19-Jul-2014	<p>Direction to ensure the compliance of Order III, Rule 1, Civil Procedure Code, 1908 while recording interim/final orders/judgement in civil criminal cases by the Judicial Officers.</p>	Application of Law
<b>91</b>	18365/RHC/NJPI Cell	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	22-Jul-2014	<p>Direction to make all efforts in order dispose the old cases .Old cases filed up to 28-02-2011 be decided by 31<sup>st</sup> October 2014.All cases filed up to 31-12-2011 also put on fast track.</p> <p>District &amp; Sessions Judge will personal monitor the work and disposal of all Judicial Officers and send weekly report in this regard.</p>	Disposal of Cases
<b>92</b>	28373/MIT/NJP Imp. Cell	Member Inspection Team, Lahore High Court, Lahore To All District & Sessions Judges in the Punjab	1-Dec-2014	<p>Extension in target date in order to dispose the old case, old cases should be disposed till 31<sup>st</sup> March 2015.</p>	Disposal of Cases

**Annexure P: Summary of Directives/Instructions by MIT to District Judiciary (2010 – 2013)<sup>106</sup>**

**During the year 2010**, the MIT Section issued, inter-alia, the following directives/instructions for smooth running of Court work and expeditious disposal of cases:-

- Letter No.25122/MIT/HC dated 04.9.2010 whereby, direction was issued to all the District and Sessions Judges for issuance of directions to the Judges of District Judiciary to record the names of the Advocates appearing before them in their interim/interlocutory/final orders and also their own names while concluding and signing the orders/judgements to avoid discrepancies.
- Through letter No.27925/MIT/HC, dated 06.10.2010, addressed to all the District and Sessions Judges in the Punjab and Islamabad, all the Judicial Officers were impressed upon to apply the provisions of Probation of Offenders Ordinance, 1960 and the Good Conduct Prisoners Probation Release Act, 1926 in its true letter and spirit to reduce the burden of the courts and jails, requiring them to identify suitable cases for recommendations to the Government for appropriate action under the Act *ibid*.
- Vide letter No.33627/MIT/HC/C.O.538/2010, dated 20.12.2010, following order dated 08.11.2010 passed by the Hon'ble Supreme Court of Pakistan in Human Rights Petition No.16369/2010 was circulated amongst all concerned for information and compliance:-

*“After hearing the learned Additional Advocate General, Punjab and having gone through the comments so filed by him, we dispose of this petition with the observation that in future all the Courts shall deal with the Police Officers/Officials strictly in accordance with law.”*

- Letter No.33962, dated 23.12.2010 was written to all the District and Sessions Judges in Punjab and Islamabad to take action against the corrupt court officials by registering cases with the Anti-Corruption Establishment especially in the matters where concrete and sound allegations of corruption, accepting bribe as illegal gratification are found and initiating disciplinary proceedings against them. The Inquiry Officers were also directed to conclude the proceedings within 45 days failing which action would be taken against them by this Court.

**During the year 2011**, MIT Section issued, inter-alia, following directives/instructions for smooth running of Court work and for effective implementation of National Judicial Policy as well as for expeditious disposal of the cases.

- Letter No. 602/MIT/HC/S-S dated 12.1.2011 whereby direction was issued to all the District & Sessions Judges in the Punjab that all employees of Sessions and Civil Courts in Punjab and Islamabad not to engage in any other job or business, in addition to their official assignments, and violation of this would constitute misconduct.
- Letter No. 5921/MIT/HC/S-S dated 14.3.2011, whereby, a direction was issued to all the District & Sessions Judges in the Punjab for due observation of the statutory provisions regarding reforms aimed at combating Qabza Group/Illegal land grabbing and to decide all the pending cases within a period of two months and to remain on guard regarding future institution of the cases under Illegal Dispossession Act, 2005. It was further directed that proceedings filed under section

<sup>106</sup>The language of the information in this Annexure is verbatim that of the official documents from which it has been extracted.



145/146 Cr.P.C. be decided comfortably within a period of three months and the cases filed under section 9 of the Specific Relief Act should be concluded by the end of June 2011.

- Letter No.15967/MIT/HC dated 5.7.2011, whereby, a direction was issued to all the District & Sessions Judges in the Punjab to transfer five oldest cases from each jail on their roster on monthly basis and to decide those cases on fast track for effective implementation of the decisions taken in the National Judicial Policy Making Committee.
- Letter No.15993/MIT/HC Ref. 37/11 dated 5.7.2011, whereby, a direction was issued to all the District & Sessions Judges in the Punjab to decide oldest cases on priority basis even if the courts have to proceed on day to day basis and they were also directed to evolve the mechanism for the implementation of the Revised National Judicial Policy with regard to the oldest, older and old cases. Further, all the District & Sessions Judges were directed to monitor disposal of those cases on daily basis.
- Letter No.17211/MIT/HC dated 21.7.2011, whereby, a direction was issued to all the District & Sessions Judges in the Punjab to carry out physical inspection of pendency of the civil and criminal cases.
- Letter No.16591/MIT/HC Ref 42/11 dated 12.7.2011, whereby, all the District & Sessions Judges in the Punjab were directed to transfer all part heard oldest/older/old cases falling within the confines of revised National Judicial Policy to their respective roster at their own.
- Letter No.28952/MIT/HC/Training dated 23.12.2011, whereby, all the District & Sessions Judges in the Punjab were directed to nominate Data Entry Operators for training of software to monitor hearing of the cases pending in the district courts.

**During the year 2012**, MIT Wing issued, inter-alia, following directives/instructions for smooth running of Court work and for effective implementation of National Judicial Policy as well as for expeditious disposal of the cases.

- Letter No.15443-MIT/HC, dated 13.06.2012 whereby direction was issued to all the District and Sessions Judges in the Province that notices for public in Urdu be affixed on a notice board made of wood outside the Court regarding Eradication of Corruption.
- Letter No.15442-MIT/HC, dated 13.06.2012, whereby direction was issued to all the District and Sessions Judges in the Punjab to ensure discipline and improvement in the system of administration of justice, Daily attendance sheet shall be maintained/prepared in a confidential manner, in which the timings of check-in and check-out of all the Judicial Officers as well as the staff of the Courts shall be noted down.
- Letter No.15444-MIT/HC, dated 13.06.2012, whereby direction was issued to all the District and Sessions Judges in the Punjab that Judicial Officers while recording interim/final orders/Judgements in civil and criminal cases mark attendance of parties counsel without mentioning their name and in some cases while recording attendance of proxy counsel. The foregoing carelessness and inefficiency breeds confusions and problems in subsequent or future proceedings of those cases, if taken before appellate forums, disapproving the said practice.
- Letter No.16865-MIT/HC, dated 23.06.2012 whereby the direction was issued to all the District and Sessions Judges in the Punjab to furnish the information about the cases in which the

proceedings have been unduly stayed/stopped by the courts just on the excuse of pendency of appeals, revisions or writ petitions before the higher courts in spite of the fact no stay order has been issued in those cases.

- Letter No.16255-MIT/HC/Ahlmads, dated 19.6.2012 whereby the direction was issued to all the District and Sessions Judges in the Punjab that the Authority has taken serious notice of complaints against Ahlmads of District Judiciary regarding incomplete registers, not entering the results of the cases in relevant columns, non-consignment of the files to Record Room, non-production of registers before the Judicial officers on the quarterly inspection and non-delivery of registers at the time of transfer or retirement to the successor Ahlmads.
- Letter No.22880-MIT/HC/ATC, dated 18.9.2012 whereby the direction was issued to all the District and Sessions Judges in the Punjab to ensure the marking of all freshly instituted cases themselves with their own handwriting and signatures. They shall not depute any officer/official for marking of freshly instituted cases. Any defiance of the said instruction coming to this Court may entail serious consequences.
- Letter No.22881-MIT/HC/ATC, dated 18.9.2012 whereby the direction was issued to all the District and Sessions Judges in the Punjab to constitute a committee comprising of two Judges for transfer and posting of the ministerial staff working in the Civil as well as Sessions Courts within the District. The Said committee will regulate the transfer and posting of ministerial staff process indeed with the guidance and concurrence of District and Sessions Judge.

**During the year 2013**, MIT Wing issued, inter-alia, following directives/instructions for smooth running of Court work and for expeditious disposal of the cases.

- Letter No.2419-MIT/HC/2-S, dated 29.01.2013, whereby direction was issued to all the learned District and Sessions Judges to ensure that monthly statements on prescribed proforma showing institution, disposal and pendency of Sessions/civil and criminal cases together with explanations, if any, of the officers who did not achieve the required targets both in number of units and contested cases, must reach this Court before the 10th of every month without fail.
- Letter No.10087-MIT/HC/ATC, dated 19.3.2013 whereby direction was issue to all the learned District and Sessions Judges and all the Judges of Anti-Terrorism Courts in Punjab to comply with the orders of august Supreme Courts of Pakistan passed in CMA No.1145 of 2013 in SMC No.16 of 2011.
- Letter No.11934-MIT/HC/SCP, dated 10.04.2013 whereby direction was issued to all the learned District and Sessions Judges in Punjab in the light of orders of august Supreme Court of Pakistan while disposing of a complaint moved by Mr. Ashley Advocate, B-167, SMCHS, Karachi regarding eradication of corruption amongst the Court personnel of the District Judiciary.
- Vide letter No.19140-MIT/HC/ATC, dated 10.06.2013, direction was issued to all the learned Judges of Anti- Terrorism Courts in Punjab passed in the meeting held on 8.6.2013 to submit the daily performance report of ATA cases.
- Vide letter No.34598-AMIT-I/HC/13, dated 20.12.2013 written to all the learned District and Sessions Judges in Punjab with the direction that it was noticed that the correspondence addressed to Hon'ble Court was often bereft of reference number which created difficulty and it made onerous to trace the proper files. In future, every correspondence addressed to the Worthy

Registrar, must bear reference number of the letter of this Court in order to avoid any inconvenience in delivery of the letter to the concerned branch.

- Letter No.34949-MIT/HC, dated 27.12.2013 whereby the direction was issued to all the learned District and Sessions Judges in the Punjab to submit the reports with views regarding the abuse of process in recording of evidence through appointment of commission.

## Annexure Q: Information Technology and other Initiatives at LHC (2010-2013)<sup>107</sup>

2010

### ESTABLISHMENT OF INFORMATION KIOSK

One of the important IT developments during the year was the establishment of an Information Kiosk for the facilitation of lawyers and public at large. The staff of the IT section of the LHC has been posted therein. The Information Kiosk is providing following information:-

- **Information on Location of Courts:** Information qua location of court rooms can be gotten from the map available on the Notice-Board as well as from the operating staff.
- **Copy Status:** Information as to the status of the certified copy of order or any matter, whether prepared, under process or delivered, can be inquired from the information desk.
- **Roster Information:** Information qua weekly Roster/sittings of Hon'ble benches functioning at the Principal Seat as well as three benches can be sought from the counter.
- **Case Search:** Information regarding any judicial case can be retrieved from the system available at the counter having multiple searching options such as case number, FIR No. and party names etc.
- **Case History/Status:** The chronological history of any judicial case regarding dates of hearing, Hon'ble Judges concerned and interim orders/status can be tracked by the system available at the Kiosk.
- **Issuance of Lawyers' Codes:** The advocates can also obtain their new computer codes from the Kiosk by filling in the relevant proforma. Moreover, facility of having list of pending/disposed cases of any particular lawyers is also available.

### EXPERIMENT OF ELECTRONIC COURTS

The IT-section has adopted measures to convert Courts of Hon'ble Chief Justice and Hon'ble Mr. Justice Syed Mansoor Ali Shah (current Chief Justice of Lahore High Court) to model E-Courts by introducing on experimental/trial basis, the softwares/computerised systems as per details indicated below:-

2011

### AUTO-MARKING SYSTEM

Marking of fresh cases to relevant courts is a time consuming task. Software was developed by the IT team of this Court to automatically mark fresh cases to the relevant Courts.

### SYSTEM GENERATED NOTICE TO DPO'S THROUGH ELECTRONIC MEDIA

Earlier notices were prepared manually; now notices are generated through the system and emailed to the DPO's on the email addresses provided by them.

### EXTENSION OF CASE MOVEMENT SOFTWARE

IT Section has developed a software Viz. **"extension of case movement system."** This system helps in tracking the movement of cases among different quarters. It was initially installed in the writ branch

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<sup>107</sup>The language of the information in this Annexure is verbatim that of the official documents from which it has been extracted.

on trial basis. After successful execution of the software, it has now been installed in the Criminal Branch. Efforts are also underway that the same will be installed in all the remaining branches.

### **SUPREME COURT/ICA CASES STATUS SOFTWARE**

IT wing has developed software for the cases, which are challenged in Supreme Court or ICA. It was initially installed in the judicial branch. It helps in the generation of various statistical reports.

### **COURT CALENDAR SYSTEM**

IT wing has developed software viz **“Court Calendar System”** This software counts the cases that are fixed in advance. This system also indicates the cases of lawyers fixed in other courts.

### **SMS SERVICE FOR THE LAWYERS**

The court started an SMS service for the lawyers regarding case hearing schedules, cause lists & electronic mail.

### **ON-LINE ATA COURTS CASES MONITORING SYSTEM**

An online applications system has been developed to get day-to-day hearing of ATA Cases of all of Punjab.

### **WEBSITES OF DISTRICT COURTS**

To facilitate the lawyers as well as the public at large IT section has developed websites of district courts. It provides information about case status & cause list.

## **2012**

### **SOFTWARE APPLICATIONS AND DATABASE DEVELOPMENT**

The following software systems have been, or are being, developed to automate various functions at Lahore High Court Lahore.

#### **KOHA LIBRARY SYSTEM**

Software was developed by the IT team of this Court for Data entry qua cataloguing of books in the library of this Court and its allied benches. Soon this will be online and available to the courts.

#### **COURT PENDENCY COUNTER**

IT wing has developed software for the pendency of cases of this Court and its allied benches. The software presents daily updated status of the cases instituted, disposed of and pendency statistics at the Principal Seat and its Benches.

#### **DISTRICT COURT PROGRESS MONITORING**

Two software applications were developed to monitor progress of case disposals at different stages of each district:-

#### **NEW OLDEST CATEGORY CASES**

Fortnightly Statement of Oldest Cases, Old Cases and New Cases Categories. Computer operator(s) of all districts of Punjab enter daily disposal of cases online by use of software applications. After completion of data entry the reports are readily available for NJP Implementation Cell and NJP Cell.

#### **SURETY MANAGEMENT**

A Software module has been developed to update the record of sureties being deposited and refunded by/to the litigants. The aim is to keep track of the deposits and refunds along with the liabilities of

balances kept in banks. The application dashboard is available to the concerned authorised to visualise the up-to date status of balances.

### **REPORTING APPLICATION FOR STATISTICAL CELL**

A comprehensive reporting module for Statistical Cell has been developed to generate different types of reports based on institution, disposal and pendency of cases.

### **SYSTEM GENERATED AUTOMATIC EMAILS**

IT wing has developed number of software applications to produce system generated reports through emails. Some of them are mentioned hereunder:

- Disposal stats (court wise)
- Daily Urgent Cause List
- Court Pendency Counter
- Cause List to Additional Prosecutor General, Punjab

### **IVR HELPLINE**

IVR Helpline project is under progress with the coordination of PITB, Government of the Punjab and The Resource Group (Pvt.). This project has been extended to include the data of benches as well and now ready for inauguration. This help line is a free service for public and lawyers to get information through landline/mobile by dialing 1134. All helpline agents are fully trained to handle judicial inquiries. In addition to dealing with the routine matters, the I.T. Wing also performs the following tasks/assignments:

- Database software running at benches was up-graded from old version (8) to latest version Oracle 11g
- Numerous applications active at Principal Seat were implemented at Benches as well.
- Categories of cases were made uniform at Principal Seat as well as the Benches.
- A Software Module for Leave Management of Hon'ble Judges and adjournment of Lawyers has been developed to manage and keep track of leaves and adjournments of Hon'ble Judges and lawyers respectively.
- A revamping of Assets Management Software has been developed to have comparison and tracking of assets of officers / employees during his entire service.
- Tracking of cases which are challenged in Supreme Court against the order of Lahore High Court has been launched. Now Hon'ble Judges can get status of their cases that are decided by the Hon'ble Apex Court.
- Regular printing of cases lists, issuance of computer code numbers and issuance of id cards to the staff of this court and district Judiciary

### **JUDGEMENT APPROVED FOR REPORTING**

User of Courts may use this online interface to upload Judgement Approved for Reporting on website instantly from their own Courts. Information will be displayed on website once the Administrator of this website view / approve the information.

### **DISTRICT PROGRESS MONITORING**

Web application for entering cases data, daily disposal and reporting services to get cases information of District Judiciary. District users using their specific logins may enter Judge wise case information in web application on daily basis and the reports can be generated accordingly.

### **JUDGEMENT / SHORT ORDER**

User of specific courts may use this online interface to upload Judgement / Short Orders on website. Information regarding Judgement / order will be uploaded instantly on website for general public view.

### **GREEN BENCH ORDER**

User of specific courts may use this online interface to upload Green Bench Orders on website. Green Bench cases will be combining into one tag word / subject and user can view all short orders of any specific case.

### **LAST HEARING STATUS**

By using this interface users can upload text file to insert data into Live Database for updating case last hearing status on website so that general public may be facilitate to view the status of their cases even from their homes.

### **CREATE ROSTER**

User now can with authentic login can create / edit Roster of current and coming week.

### **CREATE CAUSE LIST**

User now with authentic login can create / edit cause List of current by fetching data directly form Database server and upload / update live server to display on Lahore High Court's website.

### **WEBSITES OF DISTRICT COURTS**

To facilitate the lawyers as well as the public at large IT section has developed websites of district courts. It provides information about cases Statistics, Cause List, Posting/ Transfer, Judge Information, Judges Performance etc.

### **MONITORING OF KIOSK**

One of the important developments of IT wing was establishment of an Information Kiosk for the facilitation of lawyers and public at large. Assistant Registrar Computer runs its affairs and regularly monitors and updates the status of facilities includes Information about Location of Courts, Copy Information/Status, Roster Information, Case search, Case Fixation Dates, Case History/Status, and Lawyers Data Collection & Issuance of Lawyers Code to provide easy, accurate & useful information to all concerned.

**2013**

### **INFORMATION TECHNOLOGY WING**

#### **SOFTWARE SECTION**

##### **IVR HELPLINE**

IVR Helpline project is under progress with the coordination of PITB, Government of the Punjab and The Resource Group (Pvt.). This project has been extended to include the data of benches as well and now ready for inauguration. This help-line is a free service for public and lawyers to get information through landline/mobile by dialing 1134. All helpline agents are fully trained to handle inquires.

### **AUTO MARKING OF CASES**

Whenever an urgent case is instituted in this court, it is automatically marked to some court depending upon the Roster, workload of Hon'ble Judges and their specialty. There is no human intervention involved in this process which helps to make the system transparent and trust worthy. Reference cases entry in the software has been restricted (which was allegedly misused) and the decision is left for the Hon'ble Courts, whether reference is valid or other-wise. System automatically marks bail matters to Hon'ble Courts depending upon FIR information fed into it. To avoid accidental missing of FIR data, System has been improved to mark only those bail matters in which FIR information has been fed. Some new features have been added to make this system more efficient and impartial.

### **ELECTRONIC NOTIFICATIONS**

IT Branch is also serving this court by sending electronic notification to lawyers and public. Messages are being delivered through two mediums i.e. e-mail and mobile SMS.

### **COURT QUERY MANAGER SOFTWARE**

A software is already developed for the Research Centre of this Court. Some new features such as search using keywords, tagline, act, section or query no, Graphical representation of reports, online module to share/add are incorporated for improvement of the already developed software.

### **E-COURT INITIATIVES**

A first step towards e-court is to automate the court workings to facilitate litigants to have easy and quick access to information of their cases. Now litigants and aspirants get the judgements approved for reporting from LHC website. Last Hearing Status of any case can be viewed from LHC website. Lahore High Court website and District Courts websites provide effective and faster 24-hours access to facilitate general users, petitioners and lawyers to visit and access the desired information (Cause List, Rosters, and Copy Status, etc.) from their own premises.

### **COURT CALENDAR**

Court Calendar software is developed to facilitate the Hon'ble Courts to maintain daily workload.

### **OPENING SHEET IMPLEMENTATION**

Software was developed and installed in the urgent cell feeding the data of the cases at the time of filing of the cases. Some features are as under:

- Category and sub-category of the case.
- Mobile and email addresses of all parties.
- Verification of CNIC through NADRA.
- Lower Court Case information.
- Case Law involved etc.

Software for the said purpose has been installed in Urgent Cell.

### **INVENTORY MANAGEMENT SYSTEM**

Stock Inventory Management System has been developed for finance wing to record the stock position, acquisition of new stock, the issuance of stock item and estimating the need of stock in the next financial year. Moreover, it has the capacity to maintain all the records of purchase orders and bills. A dashboard has also been developed as part of the system to visualise the utilisation and acquisition of new stock at real time.



### **PRESERVATION OF LAWYERS RECORD**

A software application has been developed to computerise the scanned digital records of lawyer registration forms for CC, pictures and other required necessary documents. The system has the capability to track records of all changes made in the lawyer profiles, documents and quick retrieval of any document.

### **QUEUE MANAGEMENT SYSTEM IN URGENT CELL (TOKEN SYSTEM)**

Token system was developed by the IT software team of this Court to facilitate the litigant public. Litigant are required to get printed token from reception, after that he/she will wait in lounge, as soon as his/her token number appears on display system, he/she will move to respective counter. By implementation of this system the culture change is obvious in Court.

### **MONITORING OF KIOSK**

One of the significant developments of IT wing was establishment of Information Kiosks for the facilitation of lawyers and public at large. Assistant Registrar Computer runs its affairs, regularly monitors and updates the status of facilities including Information about location of courts, copy information/status, roster information, case search, case fixation dates, case history/status, and lawyer's data collection & issuance of lawyer's code to provide easy, accurate & useful information to all concerned.

(Barring light editing the information in this Annexure reproduces information provided by the IT Wing of the LHC).

**Annexure R: Legal Texts and Documents Reviewed**

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2. Code of Criminal Procedure, 1898
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4. Lahore High Court Rules and Orders, Volumes III and V
5. Civil Court Ordinance, 1962
6. National Judicial Policy, 2009, 2012
7. Family Courts Act, 1964
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10. Judicial and Court Statistics, 2011, Ministry of Justice, UK
11. Lord Woolf, Access to Justice (Final Report: 1996)
12. U.K. Civil procedure Rules and Directions
13. European Convention for the Protection of Human Rights and Fundamental Freedoms (1953)
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16. The Council of Europe Committee of Ministers Rec (94) 12E to Member States on the Independence, Efficiency and Role of Judges
17. American Bar Association (ABA) Standards for Court Delay Reduction
18. World Justice Project (WJP) Rule of Law Index (2014)
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22. Pakistan: Report on Training Needs Assessment for Judges & Court Staff (USAID: 2010)
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26. Defeating Delay: Developing and Implementing a Court Delay Reduction Program (Based upon the American Bar Association's Court Delay Reduction Standards) (1986)
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31. Osama Siddique, Pakistan's Experience with Formal Law: An Alien Justice (Cambridge: Cambridge University Press, 2013)
32. Osama Siddique, *Judicialization of Politics: Pakistan Supreme Court's Jurisprudence after the Lawyers' Movement*, in *Unstable Constitutionalism: Law and Politics in South Asia* (Mark Tushnet and Madhav Khosla eds., New York: Cambridge University Press) (2015)



# European Union

## Punjab Access to Justice Project

Promoting access to justice requires both empowering citizens and supporting government and private efforts to improve justice systems. Providing quality legal services for citizens is essential. Improving justice sector institutions and procedures is equally important to sustain access to justice for the future.

The Punjab Access to Justice Project is a three-year initiative funded by the European Union and implemented by GDSI Limited and consortium partners. The project aims to support sustainable ways to increase access to justice in Punjab, especially for poor and vulnerable individuals in selected southern districts. Providing professional development opportunities for both judges and lawyers are core activities of the project.

The project aims to increase the availability of quality legal services for citizens in both civil and criminal cases and to support reform of court and prosecutor management systems in order to decrease delay and backlog. Another goal of the project is to enhance the information available to citizens from courts, prosecutors and the bar in order to increase transparency and accountability.



This project is funded by the European Union

This project is implemented by GDSI



Gateway Development Services International