



RESEARCH PAPER

The Role of Civil Suits' Delay in the Criminal Tendencies among the Litigants: Evidence from Khyber Pakhtunkhwa, Pakistan

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PAPER INFO	ABSTRACT
Received: Februar 17, 2022	While there is substantial evidence of delay in civil and criminal cases in Pakistan. However, few researchers have highlighted the role of the delay and the provocation of criminal tendencies among the litigants. Therefore, to cover this gap in the literature, this study features litigants whose cases were pending before the civil courts of the district judiciary and high court bench in Swat, Pakistan. The main objective of this study is to investigate the role of delay in promoting criminal tendencies among litigants. A quantitative research approach was utilized and data were collected from 361 respondents through the interview schedule. For respondents' selection, stratified random sampling was used. The results reveal that there was a significant relationship between delay -independent variable- and criminal thoughts -dependent variable- with $P=0.001$. There was also a significant relationship with $P=0.000$ between delay and further aggravation of matter resulting in conflicts. The results further reveal that delay in civil suits between the parties may result in harmful thoughts, and actions for instance revenge. However, there was a non-significant association ($P=0.640$) between the independent variable delay and initiation of criminal cases.
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Introduction

Felstiner et al. (1980) argue that the study of dispute emergence and its transformation into a court case is a neglected area in the sociology of law. Delay in the court proceedings results in changing of objectives and it sometimes turns the useful procedure into pointless frustration. We suggest that court delay and its consequences for the litigants is also an important area because it is found in the justice system of many countries and has a negative impact on the lives of litigants. The famous saying "justice delayed is justice denied" has been repeatedly used by the great and influential thinkers from the past including William E Gladstone to Martin Luther King Jr. while the issues related to delay broadly exist in the civil and criminal justice systems across the world (Sourdin & Burstyn, 2014). Recent studies substantially confirmed that the time taken by the justice system is critical to the experience of justice by the litigants and too long a time could be perceived as unjust treatment (Kaleem et al. 2020; Shah et al. 2014). Delay can be considered as injustice and a violation of basic human rights where litigants are deprived of their basic rights (Asrafuzzaman & Hasan, 2021). There are different stakeholders of the justice system whereby the perspective of the litigants or the user of the justice system is important because it is the litigants who are adversely affected by the delay and could get benefit if their disputes are resolved timely. The concept of timeliness in the disposition of disputes is equally important because it is opposite to delay and the understanding of one is necessary for defining the other (Sourdin & Burstyn, 2014). Many countries and

constituencies have set time frames to ensure the timely disposition of civil cases. In the USA, the Conference of State Court Administrators (COSCA) has laid down a time standard for the disposition of civil suits. It recommends that all civil suits instituted in the court shall be disposed of within 18 months. The American Bar Association (ABA) has recommended that 98 percent of all civil suits shall be disposed within 18 months where the time required for disposing of the remaining 2 percent suits shall not exceed six months additionally (National Center for State Court [NCSC], August 2011). Some studies see the delay from a cost and delay perspective while some argue that the cost-delay narrative is detrimental to access to the civil justice system and may discourage people from accessing the courts (Reda, 2012; Zafeer et al. 2020; Choudry, 2004).

Though there is no time frame provided in the Code of Civil Procedure in Pakistan, However, there is a provision of law for Malakand Division through the Act of Sharia Nizam-e-Adl Regulation (SNAR) in (2009), Khyber Pakhtunkhwa that all suits of civil nature should be resolved within 6 months (As swat is a district of Malakand Division hence this provision is enforced in the study area) . Moreover, the aim of this Act was to provide speedy and cheap justice to the people (April 22, Dawn, 2009; Khan, March 3, 2009). The measure of time is a significant aspect in measuring delay in civil suits, but full understanding of delay and its impact is required to the perception of litigants regarding the delay in the justice system. The time standard is used by the stakeholders of justice system in different ways like the courts use it to set performance indicators and benchmarks; legal counsel set a milestone for themselves, whereby for litigants and public a time standard could influence the expectation from the justice system and timeliness in the resolution of justice could increase the expectation of from the justice system (Duizend et al. 2011).

Literature Review

Delay in civil cases is one of the initial problems of the judicial systems which has been empirically studied by the researchers since its initiation (Church, 1978). Starsburger (1999) suggests that we live in a litigious society where most of the people are involved in civil lawsuits and have pending claims before various civil courts. However, despite this trend, a handful of litigants are prepared for or could cope with the negative emotions and harms produced by the judicial system. These negative emotions and harms are further intensified with the delay in justice. Gutheil et al. (2000) refers to the term 'critogenic harms' which describes the emotional harms resulting from the justice system itself. It has been further suggested that critogenic harms are not those harms which arise from the regrettable situations such as unfair laws, the corrupt officials, incompetent judges, biased and alcoholic judges, or prejudice of the courts rather these harms are inescapable and intrinsic which are cause by the litigation process itself, even when the legal system working exactly as it should. Delay in civil suits could promote further the 'critogenic harms' which are caused by the judicial system and litigation.

The emotional gain from the resolution of the case is undermined by the delay and prolonged time that separates the incidence or injury claimed and the resolution through the justice system. Even in the case of winning, the perceived sense of victory is perceived as a hollow victory because of too much time taken by the court to resolve the dispute. The defendants and plaintiffs' wish of retribution, satisfaction, justice and revenge may have dried and sadness and disruption may prevail with the passing of prolonged time during the resolution of disputes on both sides (Charles, & Kennedy, 1985).

The litigants initiate the litigation in reaction to their feeling of disappointment and frustration which are backed by the fear of psychological and material loss. The litigants feel the sense of urgency to dispelling these uncomfortable feelings. Regardless of the type of disputes, the litigants are highly tensed and emotionally frustrated who seek consolation in litigating their suits. The feeling of hostility could be developed from the psychological

injuries which result in the initiation of litigation where litigants aim or desire to harm the opponent could be increased with the delay in the resolution of suits (Redmount, 1959). Although it is not a very important objective for most of the litigants, some litigants want to take revenge or they at least litigate as the only means for taking revenge (Cranston, 1986).

Relis (2002) argues that litigant's perception about the justice system is formed by the court experience and explains further those multiple factors shape the litigant's perception such as parties of the case, relationships with the opponents, court procedures, case types and outcome. Even after the court decides the case in favour of a party, litigants do not receive the economic remuneration from the party who lost the case. Baldwin (1997) contends that generalization about the litigants' feelings could be misleading but empirical findings could suggest some common threads. Genn (1999) highlights that distress and frustration and anxiety are generally experienced by the litigants who come to courts for the cases.

Individuals who seek redressals for their claims through the judicial system often receive injuries from the very system. Both defendants and plaintiffs are faced with the challenge of managing emotional harms of the litigation. Having undergone or undergoing litigation is often disruptive and distressing and it distracts litigants from the routine and normal life. The litigation process could result in negative emotions such as frustration, anger, sleeplessness, headaches, anxiety, inability to concentrate, isolation, loss of self-confidence, and helplessness. The delay in suits further promotes these feelings and thoughts (Strasburger, 1999). Buscaglia and Ulen (1997), examines the judicial system of latin American countries and found that litigants are frustrated with the delay in their cases while it results in the reduction of activities and retard the economic development in latin American countries.

Kaleem et al. (2020), reveal that delay in justice indulges people in other conflicts and feuds in the district Charsadda. They further describe the situation of justice as people do not respect the decision of the court which often results in further conflicts and criminal acts. The same study also explains that if cases are decided by the district judiciary in Pakistan, the aggrieved party often appeal before the high courts which take more time on the cases already decided by the lower courts and hence huge delay often compelled litigants to resort to informal system of dispute resolution such as '*Jirga*' which barely resolve the disputes on merit.

Materials and Methods

Owing to the nature of the study (Bryman, 2016), we utilized a quantitative research approach for conduct of this study. The data were collected from 361 research participants through Krejcie and Morgan (1970), in district Swat Khyber Pakhtunkhwa, Pakistan whose civil suits were pending before the district judiciary and high court bench. For data collection, we used interview participants since most of the participants were uneducated or less educated. While the participants were recruited through stratified random sampling (SRS). SRS is a type of sampling technique in which a sample is drawn from various sub samples or stratas randomly (Neuman, 2014). For better understanding and inferences, the collected data were analyzed through SPSS and presented in tabular and descriptive form representing descriptive and inferential statistics. The results have also been supported by relevant available literature where deemed necessary.

Results and Discussion

Table 1
Criminal Tendency among Litigants with Delay in Civil Justice System

Statements	Agree		Disagree		Don't Know		Total
	Frequency	Percentage	Frequency	Percentage	Frequency	Percentage	Frequency
Delay in your case promotes criminal thoughts	188	52.1	97	26.9	76	21.1	361
Litigants are frustrated with the civil justice system	232	64.3	79	21.9	50	13.9	361
Litigants indulge in other conflicts with the opposite party	238	65.9	74	20.5	49	13.6	361
delay can result in self-harm	236	65.4	55	15.2	70	19.4	361
Delay can result in revenge	239	66.2	68	18.8	54	15.0	361
Civil disputes can result in a criminal case	158	43.8	119	33.0	84	23.3	361

Univariate Analysis

Table 1 reflects the criminal tendencies among litigants caused by the prolonged civil disputes pending for months and years. While almost half of the participants i.e. 52.1 percent opined that criminal tendencies prevailed while 26.9 percent were against this view and the remaining 21.1 percent were uncertain about the question. When asked about their frustration, the majority of litigants i.e. 64.3 percent agreed that they were frustrated with the civil justice system while 21.9 percent disagreed with the question and the remaining 13.9 percent were unsure about the question asked. When the participants were asked about other conflicts with the opposite parties, the majority of them i.e. 65.9 percent confirmed that they sometimes indulge in other conflicts with the opposite party while 20.5 percent did not agree with the question being asked, while the remaining 13.6 percent were unsure about this statement. We asked participants if they had thoughts of harm and destruction for other parties and most of the litigants i.e. 65.4 percent who had replied that self-harm could be resulted due to delay in their civil suits while 15.2 percent disagreed with this and the remaining 19.4 percent did not have any concrete idea about the statement. Similarly, 66.2 percent of the participants reported that delay in their suits sometimes provokes negative thoughts that may compel towards crime e.g revenge against the parties at fault, while 18.8 percent disagreed that this is not valid. When asked about delay and criminal cases the participants having percentage 43.8 replied that sometimes the civil case results in criminal case while 33 percent of the litigants disagreed with the statement of delay in civil suits and criminal cases.

Table 2
Criminal Tendency among Litigants with Delay in Civil Justice System

Statement	Delay in Civil Justice System			Total	Statistics
	Agree	Disagree	Don't Know		
Delay promotes criminal thoughts.	Agree	152	27	9	X ² =19.459 P = .001
	Disagree	58	24	15	
	Don't Know	47	19	10	
Total		257	70	34	361
Litigants are frustrated with the civil justice system.	Agree	180	36	16	X ² =22.245 P = .000
	Disagree	40	27	12	
	Don't Know	37	7	6	
Total		257	70	34	361

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Total		257	70	34	361	
Litigants indulge in other conflicts with the opposite party.	Agree	184	38	16	238	X ² =23.545 P = .000
	Disagree	37	26	11	74	
	Don't Know	36	6	7	49	
Total		257	70	34	361	
Delay can result in self-harm	Agree	177	45	14	236	X ² =12.168 P = .016
	Disagree	33	14	8	55	
	Don't Know	47	11	12	70	
Total		257	70	34	361	
Delay can result in revenge	Agree	181	40	18	239	X ² =16.987 P = .002
	Disagree	35	23	10	68	
	Don't Know	41	7	6	54	
Total		257	70	34	361	
Civil disputes can result in a criminal case	Agree	114	29	15	158	X ² =2.527 P = .640
	Disagree	79	27	13	119	
	Don't Know	64	14	6	84	
Total		257	70	34	361	

Bivariate Analysis

Table 2, examines the association of delay in civil cases as an independent variable with the promotion of criminal tendencies among litigants. Civil cases are as important as criminal cases and therefore, they also need special attention for its dispensation. Delay in civil suits can result in crippling the justice system of a country while it is also equivalent to depriving the common of justice (Asrafuzzaman & Hasan, 2021). The delay is not only depriving the citizens of justice but also resulting in criminal tendencies amongst the aggrieved the opposite parties.

A significant relationship (P=0.001) was found between the delay in civil suits and promotion of criminal tendencies amongst the litigants whose cases were pending before the court. Due to the prolonged civil cases, there was a possibility of criminal provocation. The existing studies on the subject matter also found that delay in civil cases promotes criminal tendencies and hostility as most of the courts are bulky, unfair and not problem solving (Genn, 1999).

The results reveal a significant relationship (P=0.000) between delay and frustration amongst the respondents whose cases were delayed due to the mounting cases. The delay is not only depriving the participants of their basic right of justice but also resulting in their mental health deterioration through frustration. The studies previously conducted also found that unreasonable delay resulted in the frustration of litigants (Gutheil, 2000; Buscaglia & Ulen, 1997)

The results show a significant relationship (P=0.000) between delay and participants indulging in other conflicts with the opposite parties because their cases are already pending and unless those cases are resolved litigants will have hatred and envy for each other. Our findings validate the studies previously conducted that show a significant relationship of delay and conflicts pertaining to civil suits (Kaleem et al. 2020).

The results highlight a significant relationship (P=0.016) between independent variable delay and dependent variable self-harm The hostility among participants was fuelled by the delay in their cases which may stay around until their cases are disposed of. Moreover, the feeling of hostility could be developed from the psychological injuries where litigants aim or desire to harm the opponent (Redmount, 1959), however, there are no studies that found that delay in civil suits could result in self-harm.

The results calculate a significant relationship ($P=0.002$) between delay and revenge that may encourage litigants to take extra judicial steps and take the laws into their own hands. While they wait for the cases to be resolved, in the meanwhile participants, especially those who are suffering may end up taking revenge from other parties. Consequently, it is not an important objective for some litigants, some litigants want to take revenge, or they at least litigate as the only means for taking revenge (Cranston, 1986).

The results discovered a non-significant relationship ($P=0.640$) between delay and outcome of that delay in criminal cases. While this shows that delay in civil suits may result in criminal tendencies, however, it does not mean that litigants with delayed cases may resort to criminal activities. The existing studies on the delay and criminal cases suggest that delay may or may not result in criminal outcomes.

Conclusion

The number of civil and criminal cases is mounting thus creating pressure on our justice system as well as resulting in delay for the litigants. The delay has serious consequences for both the contesting parties which may result in further aggravation and even criminal outcomes for the parties. This study highlights the delay and the criminal tendencies among the litigants while the results of this study show that delay is a serious threat to peace between the two contesting parties. The delay encourages criminal actors while discouraging the authentic parties from lodging their cases at civil courts. Our results show that delay in civil suits results in promotion of criminal thoughts amongst the parties and could result in the escalation of conflicts and feuds. The results of this study further confirm the significant association of delay with the negative emotions such as frustration, feeling of revenge, harm giving thoughts and criminal thoughts. We suggest that criminal thoughts and provocation can be prevented through bringing the delay to as minimum as possible. The provision of free legal aid and awareness about mental health-care practice could improve the conditions of litigants. The results further highlight the negative and criminal tendencies like revenge and destructive behaviour with significant relationships between independent variable delay and dependent variables conflict and revenge. Thus, through the results, the study recommends that for minimizing delay in civil suits, there shall be a specific time frame for resolving the issue and delivering a verdict.

Recommendations

- 1- It is recommended that a specific time frame should be given for the disposition of each category of civil suits which will reduce the mental pressure on the litigants and their families.
- 2- Free of cost guidance shall be provided to the parties before the commencement of their suits.
- 3- The number of personnel including judges should be recruited for sharing the mounting number of cases.
- 4- Special redressal centres may be initiated where unimportant nature shall be resolved through mutual understanding and negotiation.

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