



Alternative Dispute Resolution in Sindh:

A Quantitative Evaluation of Case Diversion
Potential & Community Demand

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Ahsan Mashhood¹, Amal Fatima², Fatima Aamir³

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- 1) **Ahsan Mashhood** is a Senior Delivery Associate at the Legal Aid Society and an incoming graduate student at the University of Oxford, reading for the MSc in Evidence-Based Social Intervention and Policy Evaluation. He can be reached at ahsan.mashhood@las.org.pk
 - 2) **Amal Fatima** is a Delivery Associate at the Legal Aid Society and a New York University (NYU) graduate student pursuing an MA in Political Economy focusing on gender and economics. Amal can be reached at amal.fatima@gmail.com
 - 3) **Fatima Aamir** is a research and evaluation professional, currently working as the Research Manager, heading the Research and Development Unit at the Legal Aid Society. Her work is focused on generating evidence to drive decision making in the Rule of Law sector. She can be reached at fatima.bilal@las.org.pk

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**Legal Aid Society First Floor, Block C,
FTC Building Shahrah-e-Faisal, Karachi**



(92) 021 - 35390132 - 33



(92) 021 - 99266015



communications@las.org.pk



www.las.org.pk



@LegalAidSocietyPakistan

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Acronyms

ADR	Alternative Dispute Resolution
LNA	Legal Needs Assessment
CAPI	Computer-Assisted Personal Interview
OECD	Organization for Economic Co-operation & Development
MIT	Member Inspection Team
PSU	Primary Sampling Unit
SSU	Secondary Sampling Unit
USU	Ultimate Sampling Unit
TOR	Terms of Reference
KPI	Key Performance Indicators
M&E	Monitoring & Evaluation
CSO	Civil Service Organization
NGO	Non Government Organization
DC	District Commissioner
AC	Assistant Commissioner
DPC	District Peace Committee
DRC	Dispute Resolution Center
DLEC	District Legal Empowerment Committee
LJCP	Law and Justice Commission Pakistan

Foreword

With 2.2 million cases pending in Pakistan and less than 3,500 judges to adjudicate them across the country, the average life a civil case in Pakistan is over 10 years. This, coupled with rigorous court procedures, adjournments, and other hurdles, impedes access to justice not only for vulnerable individuals and families, but also for commercial entities and investors (both local and foreign). Keeping this in mind, we at the Legal Aid Society began our journey of institutionalizing ADR in 2015 across Sindh, Islamabad and recently in Gilgit Baltistan.

Our demand-side ADR interventions have ensured that communities are made aware of ADR, its benefits and successes and actively start utilizing ADR as a justice mechanism. So far, we have conducted more than 2,000 community awareness sessions across Sindh, sensitizing more than 30,000 community members. On the supply end, LAS has regularly built capacities and offered technical support to judges, members of the legal fraternity and offices of the Ombudspersons. LAS has been actively involved in drafting and advocating for the Amendments to sections 89A and B of the Civil Procedure Code in Sindh that have led to a formal mediation regime being legislatively established. In order to enhance the supply of ADR in the province, LAS has also trained and notified 250 Saalis members (accredited community mediators) across Sindh, 50 lawyers nominated by the High Court in Islamabad as internationally accredited civil and commercial mediators, and senior members of community as accredited mediators across Gilgit Baltistan. LAS in collaboration with Sindh Judicial Academy (SJA) has also trained 100 Senior Civil Judges and Judicial Magistrates in Sindh on the process of court-referred mediations in civil and commercial cases, and has conducted a similar training program for 60 judges in Islamabad in partnership with the Federal Judicial Academy. In order to establish a robust ADR ecosystem in Gilgit Baltistan, LAS not only drafted the Gilgit Baltistan Mediation Bill 2023, which makes mediation in civil cases mandatory, but also trained 50 members of the community and legal fraternity as internationally accredited civil and commercial mediators (38 have successfully cleared the assessments and will be notified once the Mediation Bill 2023 is passed by the GB legislative assembly).

The aforementioned efforts are however, a drop in the ocean in comparison to the scale of the problem. In order to understand and predict how case pendency problem in Pakistan is likely to evolve if no interventions are undertaken, and to examine the demand of ADR mechanisms amongst the users of justice in order to explore its potential as an alternative to traditional court-based adjudication, LAS has undertaken a comprehensive research study that analyzes historical court data from Sindh between 2018 and 2022 alongside insights derived from a wide-ranging Legal Needs Assessment (LNA) survey across eight regions in Sindh. It is with great enthusiasm that we share our findings in this report, uncovering substantial potential for ADR, indicating an encouraging path for alleviation of the judicial burden.

Justice Arif Hussain Khilji

Former Judge of the Supreme Court of Pakistan
Chief Legal Advisor, Legal Aid Society

Executive Summary

This comprehensive report examines the potential of Alternative Dispute Resolution (ADR) mechanisms in Sindh, Pakistan, as an alternative to traditional court-based adjudication. By examining historical court data from 2018 to 2022, supplemented with a primary quantitative Legal Needs Assessment (LNA) survey conducted across eight regions of Sindh, this report projects how the pressing issue of mounting court case pendency will likely increase by 2030. It presents a series of strategic recommendations aimed at bolstering the efficiency and accessibility of the justice system by harnessing the potential of ADR.

Analysis of case pendency using historical data from 2018 to 2022 underscores a consistent upward trajectory in pending cases within categories amenable to diversion towards ADR. As per the linear regression model, the total number of pending cases in categories with potential for diversion towards ADR in Sindh is projected to rise by approximately 184% from 9,697 in 2018 to an estimated 27,528 by 2030. This persistent rise emphasizes the immediate need to address the challenge of exponentially rising court backlog.

This finding is further triangulated by data received from the communities whereby, despite the majority of cases (over 85%) belonging to categories with ADR potential, courts continue to be the most preferred means of dispute resolution for the people. It is so because citizens continue to exhibit high confidence in the formal justice system despite the acknowledged drawbacks of delays and high costs. The LNA survey further unveils a strong inclination of the public towards community-based informal dispute resolution mechanisms, such as jirgas and panchayats. This inclination further highlights the potential of ADR in reducing costs, enhancing access to justice, and addressing the legal needs of communities, and though currently operating in a legally ambitious space, it underscores the necessity to recognize and fortify community-level ADR mechanisms within legally permissible bounds.

The report proposes a cohesive set of four strategic recommendations in light of these findings. Firstly, by mandating mediation through the amendment of provincial ADR laws, a significant proportion of civil, commercial, and family cases can be redirected away from the formal justice system. It entails the establishment of court-annexed mediation centers supported by a comprehensive monitoring and quality assurance framework.

Secondly, the report suggests identifying and training community mediators and Saliseen members to capitalize on the preference for community-based dispute resolution. These state-recognized mediators can facilitate dispute resolution within communities while ensuring adherence to legal guidelines.

Thirdly, this study suggests reducing financial barriers to mediation by introducing an "Easy Opt-Out Model" that incentivizes mediation by covering the cost of the first three hours. This model also emphasizes maintaining a list of pro bono mediators and private ADR centers providing services for judges' referrals for economically disadvantaged parties.

Lastly, addressing the lack of awareness amongst the public on ADR, this report advocates for targeted awareness campaigns at national and provincial levels whereby collaborative efforts across media platforms, government bodies, NGOs, and religious scholars can help enhance public understanding of, and engagement with, ADR mechanisms.

Introduction

Alternative Dispute Resolution (ADR) is a form of dispute resolution that diverges from the traditional court system, encompassing a range of processes such as arbitration, mediation, and conciliation, and offering a cost-effective and timely resolution of disputes. ADR mechanisms have become increasingly popular worldwide as a viable alternative to court-based adjudication. While ADR has been shown to have numerous benefits, such as greater efficiency and reduced costs, its potential to alleviate court load and meet the demand for dispute resolution in communities, particularly in the Global South, has yet to be thoroughly explored- Pakistan is no exception. The country faces additional complications due to a dearth of information and research pertaining to cases with the potential for ADR, prolonged court pendency, and a lack of consolidated data. These issues ultimately impede the ability to inform socio-legal interventions with empirical evidence, thereby hindering progress.

In light of the existing knowledge gap, this study aims to conduct a comprehensive quantitative analysis of the potential for ADR in Sindh, Pakistan. Specifically, this study will evaluate the potential of ADR mechanisms to divert cases from the traditional court systems and discern the nature of community demand for ADR.

This study comprises two fundamental components. The first component entails the development of a statistical model that uses linear regression projection utilizing secondary data derived from district courts from the last five years, to yield informed predictions concerning case pendency up until the year 2030. This projection model seeks to enhance our understanding of the potential scope of ADR and its capacity to alleviate the burden on the court system.

Court data can serve as a crucial resource for understanding litigation patterns and trends. Kufandirimbwa, in his article "Towards Judicial Data Mining: Arguing for Adoption in the Judicial System," advocates for using court data to reveal litigation trends and provide otherwise hidden insights into the justice system. Similarly, Boyd et al., in their paper "Mapping the Iceberg: The Impact of Data Sources on the Study of District Courts," highlight the significance of court data in facilitating effective justice delivery interventions. Similarly, Amsler et al., in their article "Dispute Resolution and the Vanishing Trial: Comparing Federal Government Litigation and ADR Outcomes," showcase how court data can analyze ADR outcomes and unearth trends in ADR utilization. Their study, which compares litigation and ADR in civil cases, reveals that ADR can serve as an efficient and effective procedural solution to the issues of time and cost in the justice system without compromising on the quality of macro justice.

Likewise, MacCoun et al.'s paper, "Alternative Dispute Resolution in Trial and Appellate Courts," extracts data from a substantial corpus of work on ADR procedures in American courts, gleaning intriguing insights into the psychology of law and dispute resolution. Lewin et al. in their article, "Evaluating the administrative efficiency of courts" demonstrate the potential of court data in assessing court performance in dispute resolution, thereby aiding researchers in comparing the utility of litigation versus ADR centers.

With regards to Pakistan, however, the scholarship could be more extensive. Only a selected few studies, such as Chemin's "The Impact of the Judiciary on Entrepreneurship: Evaluation of Pakistan's Access to Justice Programme" and Newberg's "Judging the State: Courts and Constitutional Politics in Pakistan," have ventured into utilizing court data to analyze various aspects of the justice system. These studies provide unique insights into litigatory behavior and present models for analyzing court trends to ascertain end users' perceptions of ADR.

The second component of this study is a household survey, a first-of-its-kind primary quantitative Legal Needs Assessment (LNA), that provides a holistic understanding of the demand for ADR across eight regions of Sindh (Karachi, Khairpur, Larkana, Sukkur, Nawabshah, Hyderabad, Dadu, Sanghar). This multifaceted survey encompasses the examination of various components, including the nature of cases, knowledge, perceptions, access, cost, and inclination toward ADR.

In recent years, bottom-up development has gained scholarly attention as a tool to promote sustainable development, particularly in the legal context. This approach leverages surveys to capture the views of local communities, identify their needs and priorities, and guide the development of sustainable legal policies and programs. It is eloquently demonstrated in Wallner et al.'s study, "Islands of Sustainability: A Bottom-up Approach towards Sustainable Development," and Van Rooij's "Bringing Justice to the Poor, Bottom-up Legal Development Cooperation." International organizations, such as the World Justice Project and the Open Society Foundation, have made meaningful strides toward capturing broader legal awareness and, consequently, legal needs.

However, such efforts still need to be developed in the local context. The World Justice Project's study on the Rule of Law in Pakistan reveals that the average Pakistani adult possesses a moderate level of legal knowledge, as indicated by an average score of 6.1 out of 10 on a quiz about legal rights; suggesting their suitability for survey participation, even in relatively niche thematic areas such as ADR.

The primary survey component of this study is arguably one of the most suitable means for acquiring context-specific data that can bridge the gap between academic research and policy development on ADR in Pakistan. This LNA survey tool has drawn heavily from the OECD guide for the design of the legal needs surveys, covering aspects such as perceptions, knowledge, accessibility, community history, and individual experience (OECD, 2019). By synergizing these components, the study aims to offer a holistic depiction of the current status of ADR in Sindh.

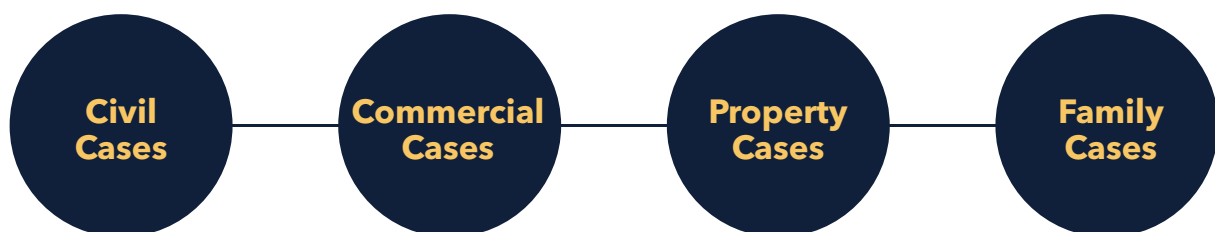
The following sections will delve deeper into our research methodology, analysis, and implications. Our findings provide an evidence-based understanding of the potential and demand for ADR and pave the way for meaningful policy recommendations aimed at augmenting the capacity and effectiveness of ADR mechanisms in Sindh.

Methodology

This study was initially conceptualized as a predictive analysis aimed at identifying cases with the potential for a diversion towards ADR prior to their entry into the formal court system. The ultimate objective was to forecast the potential reduction in court burden that could be achieved through the utilization of ADR mechanisms by the year 2030.

However, due to the unavailability of a comprehensive data repository that consolidates information on the year-on-year nature of cases in Pakistan, which is essential for accurate predictive modeling, an alternative approach was adopted for data collection and subsequent analysis. This alternative approach sought to overcome the limitations of data on cases entering the formal justice system by employing innovative methods to gather information on case pendency pertaining to cases that fall within broad legal categories having potential for ADR.

This alternative approach entailed a linear forecasting model of pending cases across four broad legal categories of cases that may be diverted towards ADR as per provisions under Pakistan's current legal framework:



Collection of this data was an iterative exercise that entailed letters of requests for data acquisition addressed to the Member Inspection Team (MIT), operating under the jurisdiction of the Registrar Karachi High Court. This was supplemented with personal visits by the field team (two field support officers, assisted by one field advocate) to the district and session judges across all eight regions under the scope of this study. The purpose of these visits was to seek their participation in completing a standardized legal case matrix form which served as the primary instrument for data collection.

An accompanying letter was provided to the district judges to ensure clarity and understanding, explaining the research team's requirements in clear and accessible English. Specifically, the letter requested data on case pendency from 2018 to 2022, categorized according to the aforementioned categories.

When MIT finalized the data, it was sent to the district judges for review, approval, and validation. These completed forms, which underwent rigorous quality control measures, including sealing, stamping, and signatures by the respective court judges, were subsequently compiled into a time-series dataset. This dataset served as the fundamental source for subsequent analysis.

To forecast the number of pending court cases pertaining to the above-identified four legal categories until 2030, we use a linear regression model based on consolidated court data spanning from 2018 to 2022. The linear regression formula used is as follows.

$Y = X\beta + \epsilon$	
Y	The predicted value of case pendency
X	Time variable
β	Coefficient estimated during historical data
ϵ	Residual error term

In order to ensure that the values of subsequent years are not influenced by the forecasted data of previous years, the rate of change in pendency numbers is fixed on real data collected from 2018 to 2022, enabling us to predict anticipated increase up to 2030.

The model appraises a conservative estimation by assuming a linear relationship between case pendency and time. It is critical to note here that the actual number of pending cases that may be diverted towards ADR by 2030 in Sindh is likely to be much higher since growth in court pendency is a non-linear function. However, robust historical data that allows the creation of such a non-linear predictive model is not available. Our model, therefore, is the next-best approximation since it estimates future case pendency values by extrapolating observed trends and allows for a cautious projection. It is important to note further that a better estimation of case diversion would entail projection of the number of cases within four categories, with potential for ADR, entering the formal justice system; however, the dearth of data maintenance systems makes the acquisition of this number impossible. Since our model only takes into consideration pending civil, commercial, property, and family cases, court resources directed towards disposed of cases of these categories over the last five years are not accounted for. We, therefore, further note that the potential for diversion of cases is significantly higher than the current estimation.

Moreover, to assess the accuracy of the trend line in the regression model, we use a statistical measure called the coefficient of determination, more commonly known as R-squared. This measure represents the proportion of variance in the dependent variable (court cases) that can be explained by the independent variable (time) in the model. In the case of consolidated court data, the coefficient of determination is 0.832, where 0 represents no fit, and 1 represents a perfect fit. This exercise is repeated to analyze and forecast court pendency by (a) district and (b) the nature of cases.

The second component of this study is a community-based, CAPI survey that attempts to identify the potential demand and reception of ADR amongst the target population. It is also used to corroborate and gain insights concerning the legal needs of the population in question. The survey collects data across five themes: (a) demographic information, (b) experience with court cases, (c) experience with ombudsperson, (d) experience with court-annexed mediation, and (e) perceptions and inclinations towards out-of-court dispute settlement. Questions related to personal experiences cover a period of ten years, from 2012 to 2022, and are directed to the member of the household with the most knowledge on legal matters.

The tool is scripted to an online platform, the SurveyCTO, and employs several sequence and logic checks in order to ensure reliability and validity. For example, a respondent reporting their age as below 18 is automatically discontinued from participation in the remainder of the survey due to issues of consent. Similarly, when asked about their experience with court-annexed mediation, respondents who had never used mediation mechanisms were guided to skip questions related to the specifics of their court case experience, such as the type of case or specifics of mediation.

A field team comprising 24 enumerators (3 per district) received comprehensive training to administer the CAPI survey. The training emphasized ethical considerations, effective probing techniques, and maintaining respondent interest, with significant attention given to household randomization techniques such as skip-rule and right-hand rule.

To ensure a representative sample, we employed a simple randomization strategy by utilizing an information directory from the ADR program team, which identified 60+ communities in each of the eight regions. One-third of the communities were randomly selected per district using a random number generator, and these communities formed the Primary Sampling Unit (PSU) of our sampling methodology. Since the scope of our study, and consequently, our sampling methodology, is restricted to the scope of program implementation, every PSU (community/village) selected had an equal chance of selection, regardless of its size or population.

Within each community, participant figures for awareness clinics under program implementation were used to identify the sample size. Since the smallest sample for legal clinics in communities was 14 participants, this was capped as the maximum number of surveys per community. Since each household corresponded to one respondent, this consequently meant that number of households surveyed per community was capped at 14.

At this stage of sample design, the Secondary Sampling Unit (SSU), i.e., the households, were randomly identified by the enumerators using the right-hand rule and the skip rule. Accordingly, field enumerators were given the aforementioned randomized list of communities for their respective districts and were asked to identify landmarks as starting points of the data collection exercise. These landmarks could be the closest marketplace, mosque, school/university, or any other central location. From this location, enumerators were to turn right on every junction until a cluster of households was reached. This was done to ensure random identification of the first household for the interview. Following the attempt of the survey on this household, enumerators were to skip two households and attempt a fourth household for the survey. Thus, enumerators were to attempt surveys on the fourth, seventh, tenth, thirteenth, and so on households using the right-hand rule (i.e., interview households on the right-hand side and turn right on every junction, until 14 households were successfully surveyed). This was done to ensure randomization of the SSU and to avoid convenience sampling at the household level.

Lastly, since the survey aimed to capture legal needs and concerns at a household level, the Ultimate Sampling Unit (USU) under this study was not randomly selected. Instead, our survey sought to interview the household member with the most knowledge regarding legal matters of the household. It was understood that this inevitably introduced certain limitations to the representativeness, and the sample was expected to be skewed in favor of middle-aged to older male respondents. While this was true to a small degree, the actual dataset was gender representative, with 43% women.

Once a household was selected and the most knowledgeable respondent identified, enumerators were to ensure the completion of the interview with the said household member only. In case of unavailability, respondents sought a date and time for a call-back interview as per availability and convenience of the respondent. Under no circumstance were they allowed to replace the original respondent with another member of the same household. In case of refusal for an interview, or unavailability of the most knowledgeable household member for a call-back interview, the next house was attempted using the skip rule.

Accounting for attrition rates, a total of 2,323 respondents were successfully surveyed by the end of the data collection exercise. The total sample size of this study allows for generalizability with a 95% confidence level and a confidence interval of +/-2%. This means that the sample size is considered large enough to accurately report overall findings with a margin of error of only two percentage points and the probability of the study's findings being pure chance is less than 2%.

Quality Assurance

The implementation of the methodology outlined above was accompanied by a comprehensive quality assurance mechanism, which was developed to improve the accuracy, reliability, and validity of the study methodology and ensure adherence to ethical considerations and best practices in data collection and analysis. The quality assurance mechanism emphasized standardization and minimal quality criteria for the selection of data points that ultimately informed the analysis.

In the case of the linear forecasting model based on case pendency data, a standardized legal case matrix form was utilized for data collection in order to ensure consistency in data collection across different regions and categories of cases. This standardized form further ensured that data was collected in a manner that was interpretable and utilizable in a forecasting model. Collected data further underwent a robust review, approval, and validation process by the district judiciary, which included rigorous measures like sealing and stamping of the hard copies of the data under the signatory of respective court judges to ensure accuracy and reliability.

For the household survey component on the demand for ADR within communities, a three-stage quality assurance mechanism was implemented during the pre-data collection, data collection, and data analysis stages.

At the pre-data selection stage, a robust data collection tool was developed by a team of field experts including ADR practitioners and research leads. The tool underwent multiple phases of vetting to ensure contextual accuracy and appropriateness. It was also translated into Urdu and Sindhi in order to mitigate language bias and enhance the inclusiveness and representation of the surveyed population. The translations were reviewed by multiple area experts not directly involved in the study to identify errors in translation and ensure comprehension. Once finalized, all three versions of the data collection tool (English, Urdu, and Sindhi) were scripted to SurveyCTO, the online data collection platform used for the administration of the survey. The scripting included the insertion of multiple logic and skip checks to avoid manual and recall data entry errors, and to prompt enumerators on potential contradictions in entered data. The scripting process also underwent multiple vetting stages by the research team to ensure logical and sequential accuracy.

Furthermore, all enumerators underwent a comprehensive 3-day training from the 18th to the 20th of October 2022. This training comprised detailed instructions on access and use of SurveyCTO, an in-depth review of the tool in Urdu and Sindhi, randomization and data collection rules and protocols, and iterative rounds of mock surveys. By the end of three days, enumerators were well-versed in the use of SurveyCTO, the protocols of the right-hand rule and the skip rule, the content of the data collection tool along with instructions for the interviewers, and the ethical considerations to be followed during data collection, such as seeking informed consent and prioritizing respondent's anonymity and comfort.

Following the 3-day long training, all enumerators undertook a pilot exercise whereby both randomization protocols, as well as the data collection tool, were extensively tested on the field, with real-world conditions from 21st October to 7th November 2022. Learnings from these pilot interviews were reported to the research team and incorporated into the data collection tool for further testing. A refresher training was conducted virtually on 28th November 2022 for a review of the final data collection tool with all feedback incorporated. Consequently, the final data collection fieldwork was launched on 29th November 2022 and was spread over a duration of three months, with fieldwork concluding on 25th February 2023.

At the data collection stage, the study employed random sampling techniques for the identification of one-third of communities mapped by the program implementation team, using a random number generator. Within these identified communities, households were also further randomly identified using established randomization rules. This entailed the identification of a landmark from which enumerators were to exclusively follow right-hand (anti-clockwise) directions until a household was reached. Attempt on a household (successful or unsuccessful) was followed by skipping the next two households for an attempt on the fourth. This was done for all houses on the right-hand side until the end of the street. At the end of the street, enumerators were to turn right again until the next cluster of households was identified. Owing to the vast variations in geographical setups of the urban Karachi regions and the more rural communities of interior Sindh, the right-hand rule and skip rule were contextualized for the enumerator's ease and convenience. For urban settings like Karachi and Hyderabad with residential buildings and complexes, the skip rule was expanded to apply to skipping of building floors such that when one household was attempted on floor one, the enumerator skipped the second and third floor to attempt survey with the first household on the right-hand side on floor four. Similarly, for rural settings of interior Sindh like Dadu, where households were not arranged in the street but rather were clustered together, enumerators were to skip two houses that appeared when walking anti-clockwise from the attempted household before attempting the fourth household.

As an additional quality assurance parameter, the research team conducted in-person spot-checks across all communities and enumerators to ensure that randomization protocols and data collection procedures were being followed appropriately. A spot-check tool was developed and administered to ensure standardization in the measurement of quality.

During the data collection phase, the research team also reviewed received data weekly on some pre-set parameters of quality such as the average duration of the interview, the average number of interviews per day, the average duration between interviews, the average number of straight responses per enumerator, and the average number of missing responses per enumerator to identify those that did not meet the quality criteria. All such interviews were dropped from the final sample, and enumerators were required to conduct replacement interviews within the same communities.

The same criteria were used to run quality checks on the final sample at the data analysis stage. This allowed for the removal of all incomplete surveys from the dataset prior to analysis. At this stage, the study also utilized statistical measures to ensure generalizability and accuracy of the findings.



Understanding Survey Population: **Demographic Profiling**

A total of 2,323 respondents were successfully surveyed by the end of the data collection exercise.

A district-wise breakdown of the sample size



Fig A

Note: Figure represents district-wise distribution of total sample. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

Despite postulations that lack of randomization at the respondent level is likely to skew our dataset in favor of men, we note a 43% representation of women across the sample. This is primarily because male household heads were not always available during survey hours. Gender representation split across geographic regions also varies significantly with all districts, apart from Hyderabad, having larger male representation in the sample.

Gender Breakdown

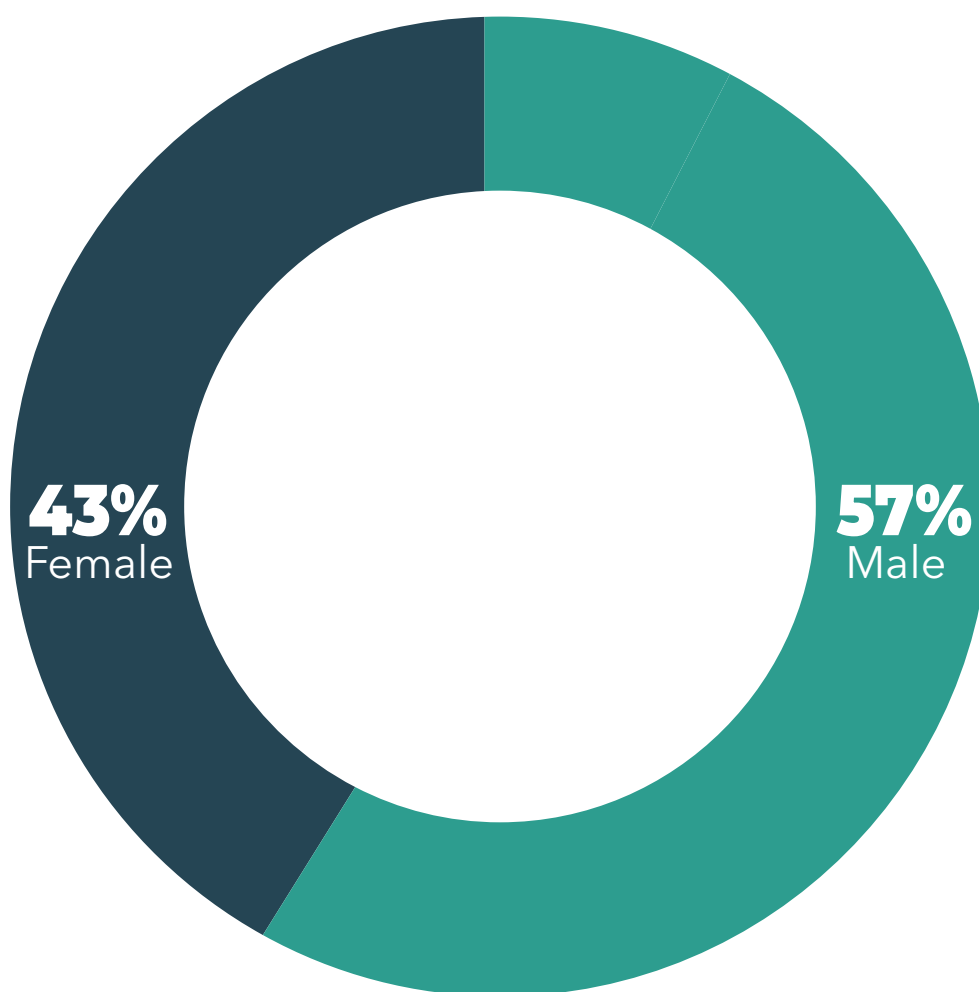


Fig B

Note: Figure represents gender-wise split of respondents in the total sample. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

Region-wise Gender Breakdown

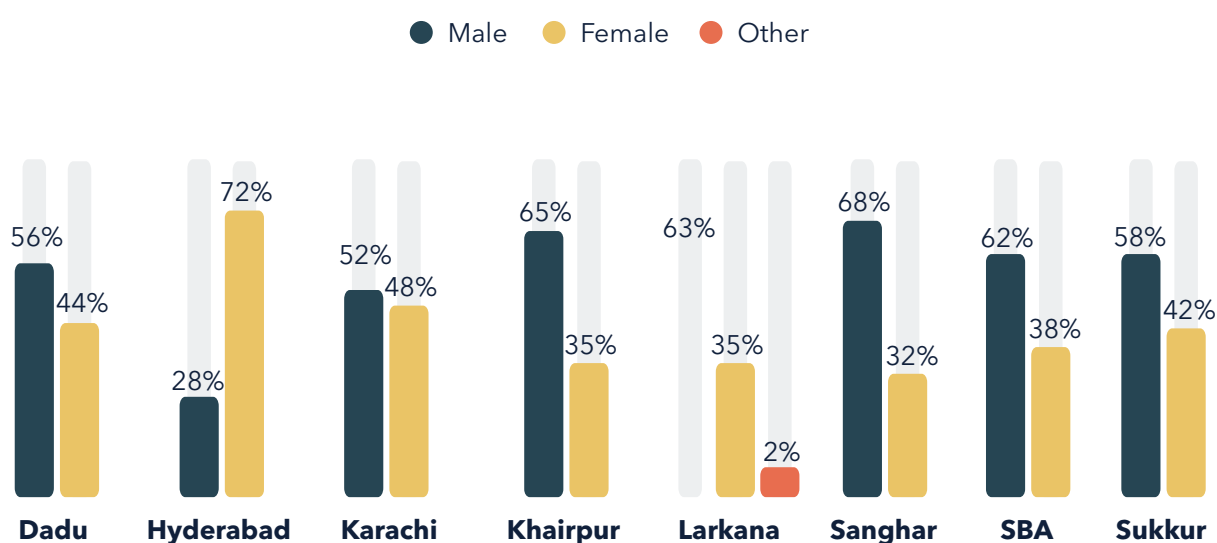


Fig C

Note: Figure represents gender-wise split of respondents across each of the 8 regions. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

The average age of a respondent in our sample was 38 years. There was no significant difference in the average age of male (38 years) and female respondents (37 years). Furthermore, the majority of the sample respondents, 61%, reported to be earning less than 30,000 PKR monthly. Aligned with this finding, over one-third (38%) of the respondents report having received no education at all followed by 14% of respondents who report having only received primary-level education (up to 5th grade).

Income Breakdown

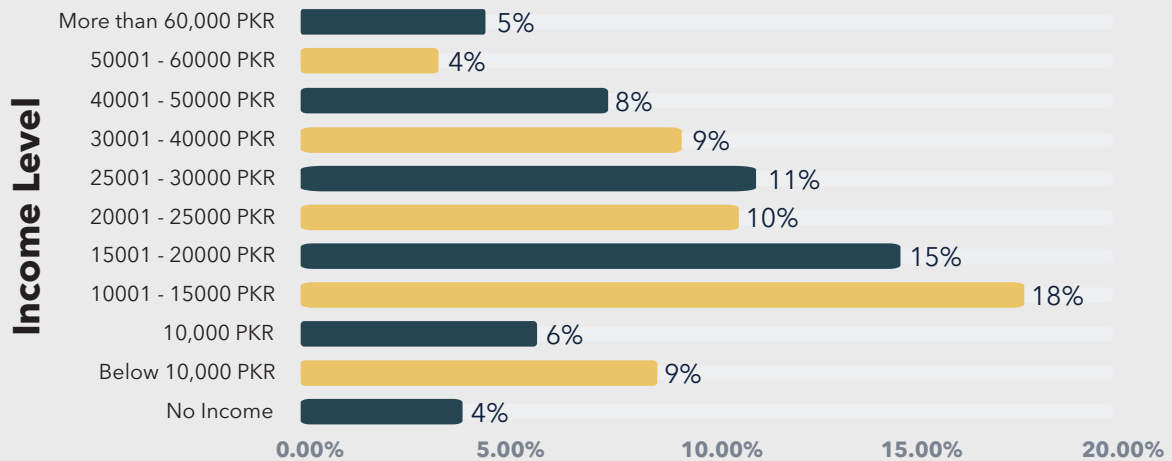


Fig D

Notes: Figure represents sample profiles by income. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

Key Findings

Historical Data Analysis

- (i) Increasing Case Pendency 2018-2022
- (ii) Case Pendency Forecast for 2030
- (iii) District-Level Case Pendency Forecast 2018-2030
- (iv) Case Pendency Expected by Category 2018-2030

Community Survey Data Analysis

- (v) Triangulating Court Data and Survey Data: A Consistent Story
- (vi) Demand for ADR in Communities Across Sindh
- (vii) Direct & Indirect Cost of Court Litigation
- (viii) Inclination for Court Litigation
- (ix) Perceptions about the Legal Justice System

01 Increasing Case Pendency from 2018 - 2022

The data clearly shows a rise in pendency of cases with potential for diversion towards ADR, with the number of cases growing from 9,702 in 2018 to 16,487 in 2022, an increase of almost 70%.

Court Pendency Across Sindh

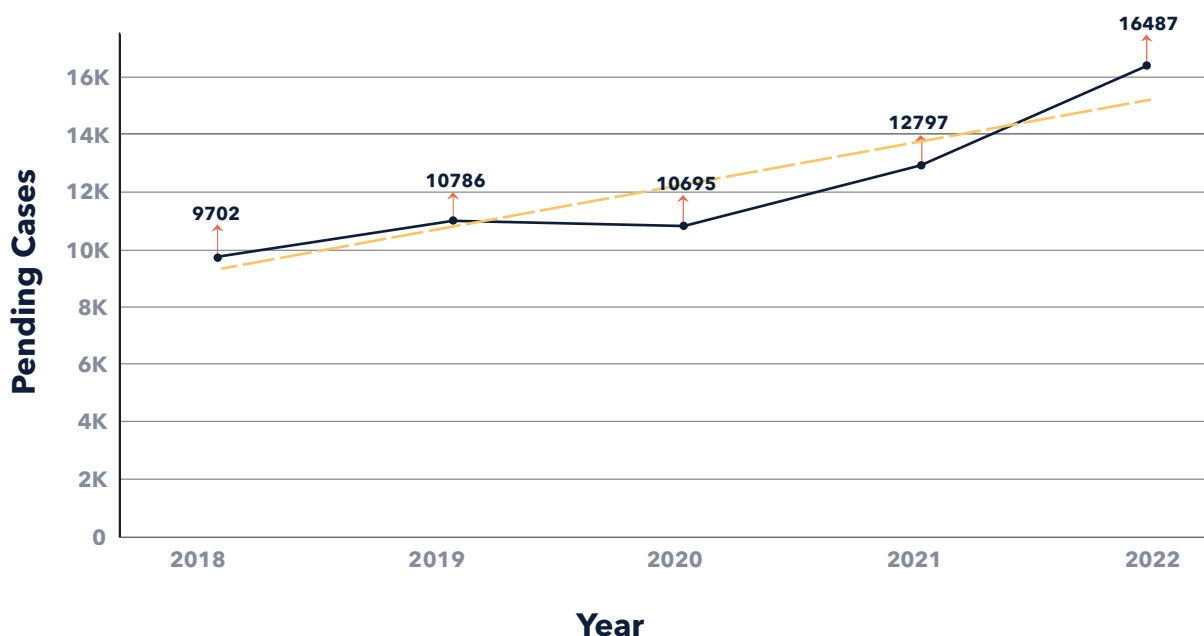


Fig 1.1

Notes: Figure showing the total number of pending cases across four legal categories: Civil, Commercial, Property, and Family. Data points on the graph represent the total pendency (across four categories) in all eight mapped districts of Sindh. Source: Data collected manually by LAS field staff and research assistants from each district court and Sindh High Court Member Information Team department.

Throughout the analyzed period from 2018 to 2022, one of the most notable trends in Figure 1.1 is the consistent increase in the number of pending cases in categories with potential for diversion towards ADR across all eight districts. The data clearly shows a rise in overall pendency, with the number of cases growing from 9,702 in 2018 to 16,487 in 2022, an increase of almost 70%. The red dotted line in Figure 1.1 represents the line of best fit, indicating the overall upward trend in pendency for cases with potential for diversion in Sindh - we observe that pendency numbers continue to steadily increase between 2018 and 2022.

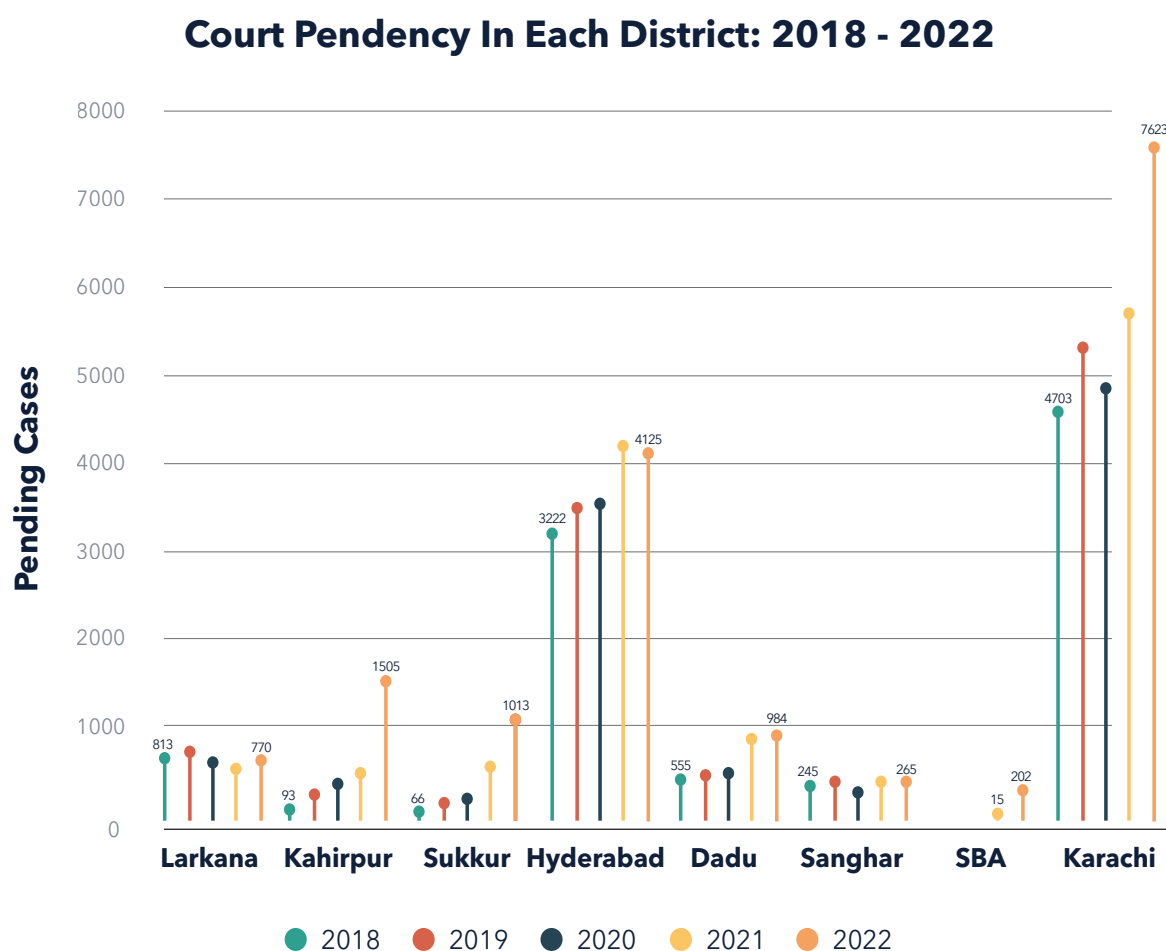


Fig 1.2

Notes: Figure showing the number of pending cases across four legal categories: Civil, Commercial, Property, and Family. Data points on the graph represent the annual pendency from 2018-2022 (across four categories) in each of the eight mapped districts of Sindh. Source: Data collected manually by LAS field staff and research assistants from each district court and Sindh High Court Member Information Team department.

When historical data is bifurcated along district lines, Figure 1.2 also reveals a similar upward trend of increasing case pendency in categories with potential for diversion towards ADR across all districts in Sindh. Notably, in Karachi, the number of pending cases surged from 4,703 in 2018 (Blue Column) to 7,623 in 2022 (Orange Column), indicating a growth rate of over 62%.

Furthermore, certain districts experienced exponential growth in case pendency over the same period. Khairpur, for instance, witnessed a dramatic increase from just 93 Civil, Commercial, Property, and Family cases in 2018 to 1,505 cases in 2022, representing an astounding growth rate of over 1,500%. Similarly, in Sukkur, the number of cases rose from 66 to 1,013 during the same period, reflecting an increase of over 1,400%. The substantial growth rates in these specific districts underscore critical concerns for the legal landscape of those areas.

Moreover, a new phenomenon emerged during the analysis period, with previously unaffected districts experiencing case pendency in categories with case diversion potential. For example, Shaheed Benazirabad (SBA) had no pending cases in categories under consideration until 2020 but faced 202 pending cases by 2022, as indicated in Figure 1.2. It is difficult to postulate whether this growing presence of new case pendency in previously unaffected districts points towards a trend of developing case pendency in newer districts, or whether it highlights gaps in data maintenance with no records of case pendency pre-2020.

Another noteworthy observation is the inconsistency in the growth trend of case pendency across all districts, suggesting varying degrees of inefficiencies and challenges within their respective legal administration. As seen in Figure 1.1, there was a slight drop in pending cases from 2019 to 2020, amounting to a decrease of about 1%. At the district level in Figure 1.2, Larkana experienced a decrease in pending Civil, Commercial, Property, and Family cases from 841 in 2019 to 676 in 2021, only to see a rise again to 770 in 2022 (Figure 1.2). This fluctuating trend in case pendency could indicate intermittent efforts at case resolution or fluctuations in the inflow of new cases.

However, it is crucial to emphasize that despite some temporary fluctuations, there is an overall persistent rise in case pendency, as shown by both total pendency levels across Sindh (Figure 1.1) and at an annual district level (Figure 1.2). The most significant surge in pendency occurred from 2021 to 2022, with an increase of about 29%. These patterns underscore the urgent need for more efficient methods for addressing the growing court pendency challenge.

02

Case Pendency Forecasted Based on Historical Data: 2018 - 2030

The total number of pending cases in categories under consideration across all districts is expected to rise from 9,697 in 2018 and nearly triple to approximately 27,527.5 in 2030, reflecting an overall increase of approximately 184%.

Forecasted Pendency in Courts 2018 - 2030

Data from till 2022 was utilized to estimate the pending cases in district courts across Sindh for the following 7 years

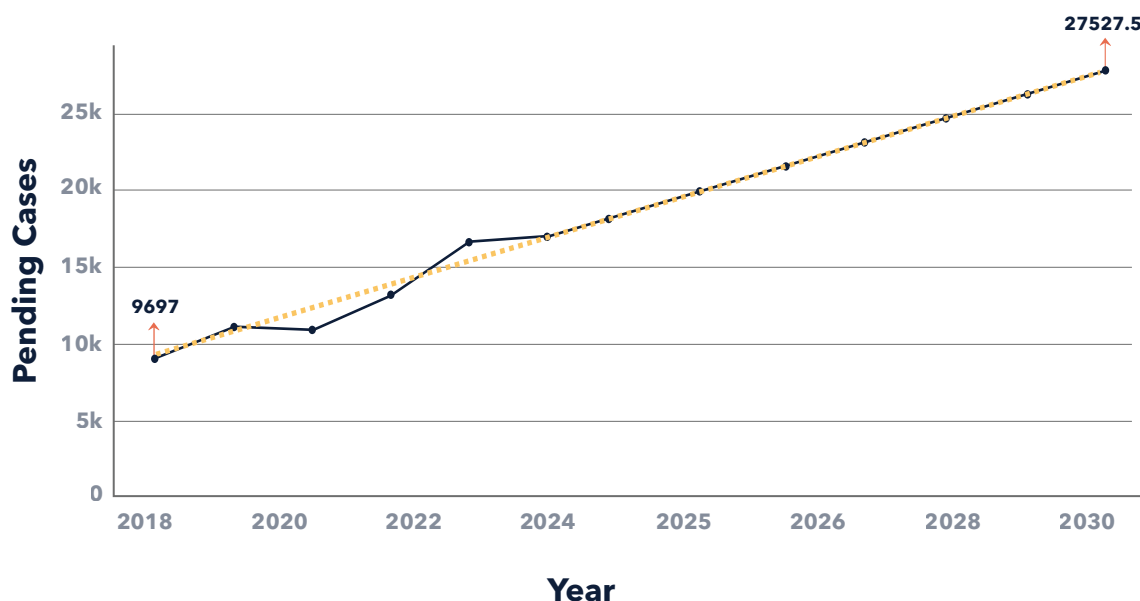


Fig 2.1

Note: Figure showing the number of pending cases across four legal categories: Civil, Commercial, Property, and Family. Data points on the graph represent the total pendency from 2018-2030 (across four categories) based on forecasted values across eight mapped districts of Sindh. Source: Data collected manually by LAS field staff and research assistants from each district court and Sindh High Court Member Information Team department.

Using historical data from 2018 to 2022, we constructed a linear regression model that sought to forecast case pendency across four categories through the districts of Sindh for each year until 2030 as shown in Figure 2.1. The analysis reveals a significant projected increase in pending cases for each year up until 2030. Figure 2.1 shows the total number of pending cases in categories under consideration across all districts is expected to rise from 9,697 in 2018 and nearly triple to approximately 27,527.5 in 2030, reflecting an overall increase of approximately 184%. The red dotted line in Figure 2.1 represents the line of best fit across all individual values for total case pendency in each year. The line gradually continues to rise from 2022 until 2030, with no dips and spikes - therefore indicating that a similar increasing trend from 2018 till 2022 is likely to remain consistent till 2030, leading to an ever-growing to exponentially growing number of pending Civil, Commercial, Property, and Family cases across Sindh.

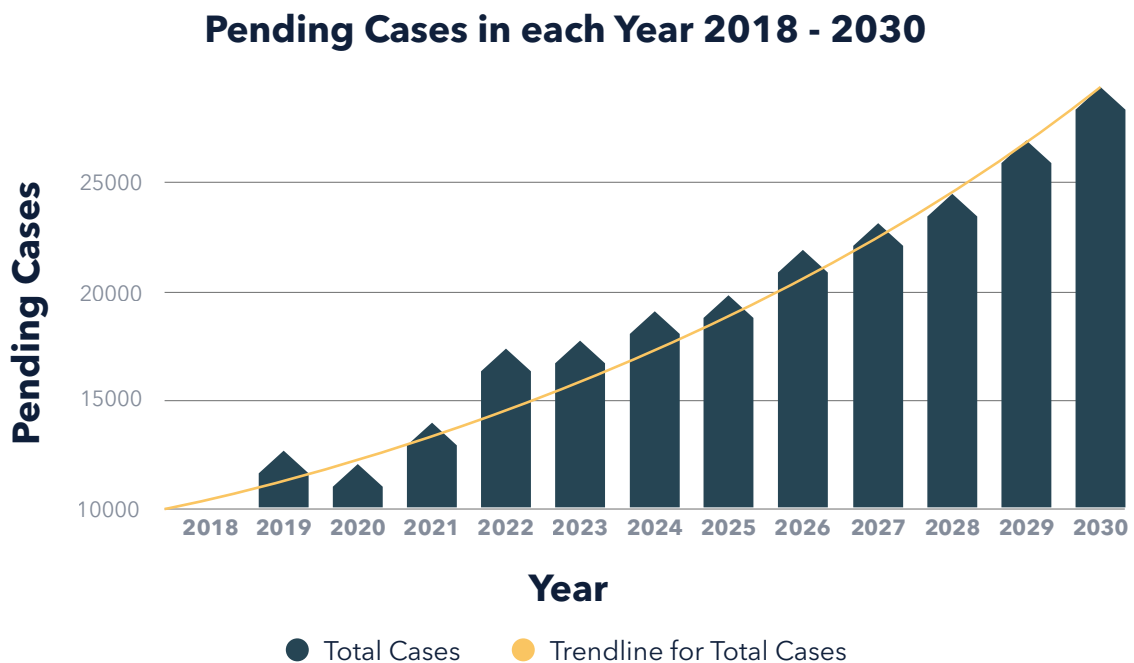


Fig 2.2

Note: Figure showing the number of pending cases across four legal categories: Civil, Commercial, Property, and Family. Each column on the graph represents the total pendency in each year from 2018-2030 (across four categories) based on forecasted values across eight mapped districts of Sindh. Source: Data collected manually by LAS field staff and research assistants from each district court and Sindh High Court Member Information Team department.

Visualizing the line chart from Figure 2.1 into a bar chart in Figure 2.2 helps conceptualize the magnitude of the anticipated rise in case pendency. The red trend line in Figure 2.2 represents the rate of increase in pendency rates for each subsequent year. Noticing the shape of the trendline, we ascertain that the rise in pendency anticipated beyond 2022 will likely be an exponential increase.

03 Case Pendency Forecasted Based on Historical Data: District-Level

A significant increase is observed in pending Civil, Commercial, Property, and Family cases across various districts, pointing towards potential challenges and inefficiencies within the legal system.

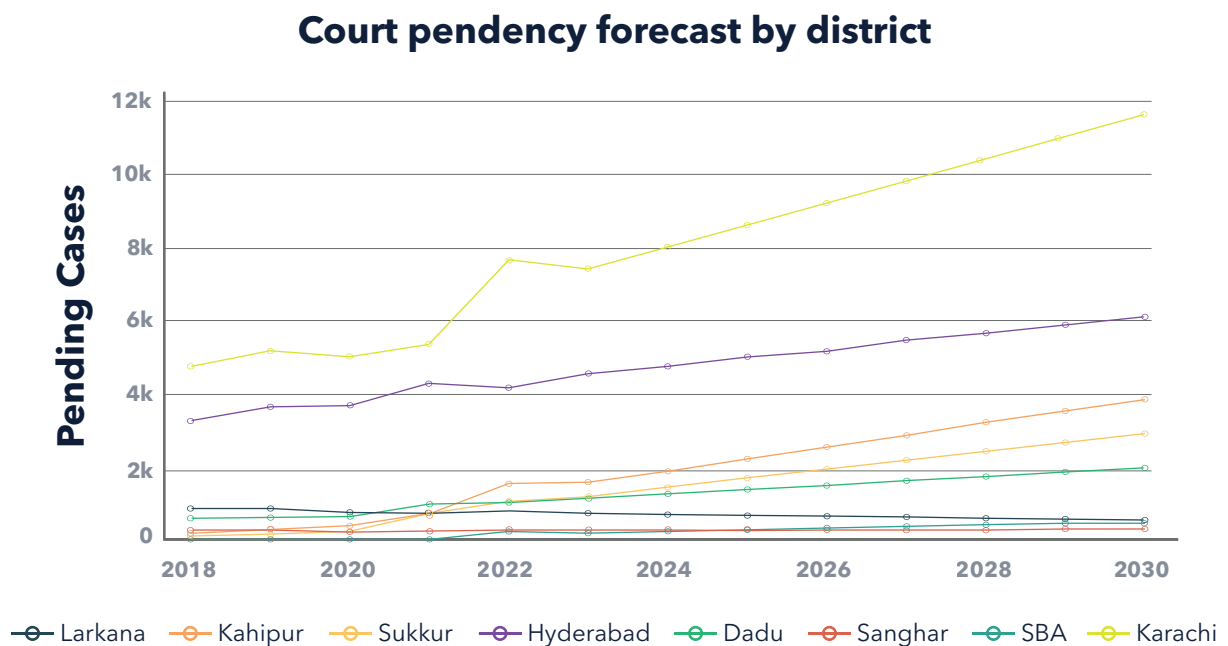


Fig 3.1

Note: Figure showing the number of pending cases across four legal categories: Civil, Commercial, Property, and Family. Data points on the graph represent the annual pendency from 2018-2030 in each of the eight districts of Sindh (across four categories) based on forecasted values. Source: Data collected manually by LAS field staff and research assistants from each district court and Sindh High Court Member Information Team department.

Figure 3.1 represents the volume of pending cases in each district. Smaller districts such as Sanghar, SBA, and Dadu have much smaller values in comparison to larger districts like Hyderabad. It is important to note that Karachi, in particular, along with being the largest city in Sindh, is also the only city with a division status and, consequently, is the only city in which data collection spanned 4 district courts. In contrast, all other districts had a single district court.

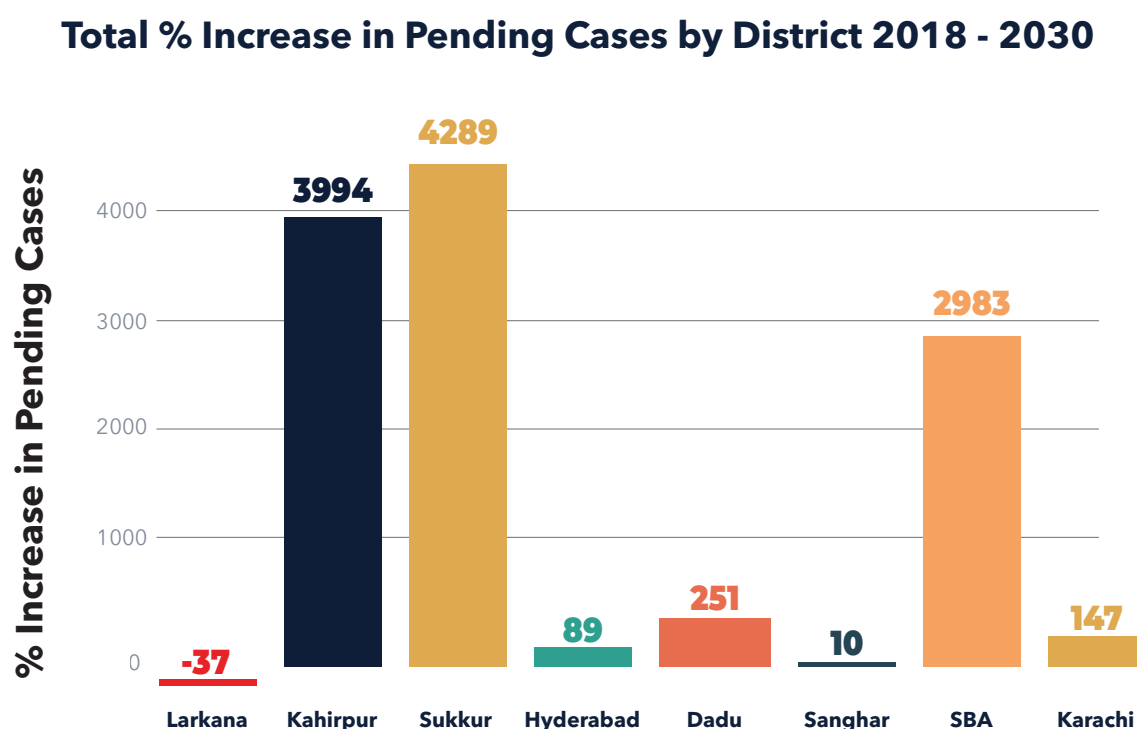


Fig 3.2

Note: Data points on the graph represent the total percentage increase in pendency across four categories (Civil, Commercial, Property, and Family) from 2018 to 2030 in each of the eight districts under study based on forecasted values. Source: data collected manually by LAS field staff and research assistants from each district court and Sindh High Court Member Information Team department.

Figure 3.2 highlights a significant increase in pending Civil, Commercial, Property, and Family cases across various districts, pointing toward potential challenges and inefficiencies within the legal system. As per the linear regression model, the total number of pending cases in categories with potential for diversion towards ADR in Sindh is projected to rise by approximately 184% from 9,697 in 2018 to an estimated 27,528 by 2030.

Examining specific districts, Khairpur and Sukkur are expected to experience dramatic increases of 3,994% and 4,289% respectively, by 2030. While some districts, like Larkana, show a decrease in the number of pending cases by 2030 (-37%), as shown in Figure 3.2, this positive trend is outweighed by significant increases observed in other districts. Shaheed Benazirabad (SBA), for instance, is predicted to experience a remarkable surge of 2,983% (Figure 3.2) in pending Civil, Commercial, Property, and Family cases by 2030, highlighting the fact that even districts previously unaffected by case pendency are not immune to this escalating issue.

Furthermore, larger cities like Karachi and Hyderabad consistently exhibit an increase in pendency, with projected growth rates of 147% and 89%, respectively, by 2030 (Figure 3.2). Similarly, smaller districts such as Dadu are expected to face a substantial rise of 251% (Figure 3.2) in pending cases during the same period.

The persistently increasing number of pending cases, coupled with intermittent decreases in some districts, suggests systemic issues such as resource limitations or inefficiencies in case resolution processes.



04

Case Pendency Expected by Category: 2018 - 2030

Family disputes may become the most predominant type of cases among categories, with ADR potential pending in courts by 2030, highlighting the need for alternative dispute resolution mechanisms to address this growing demand.

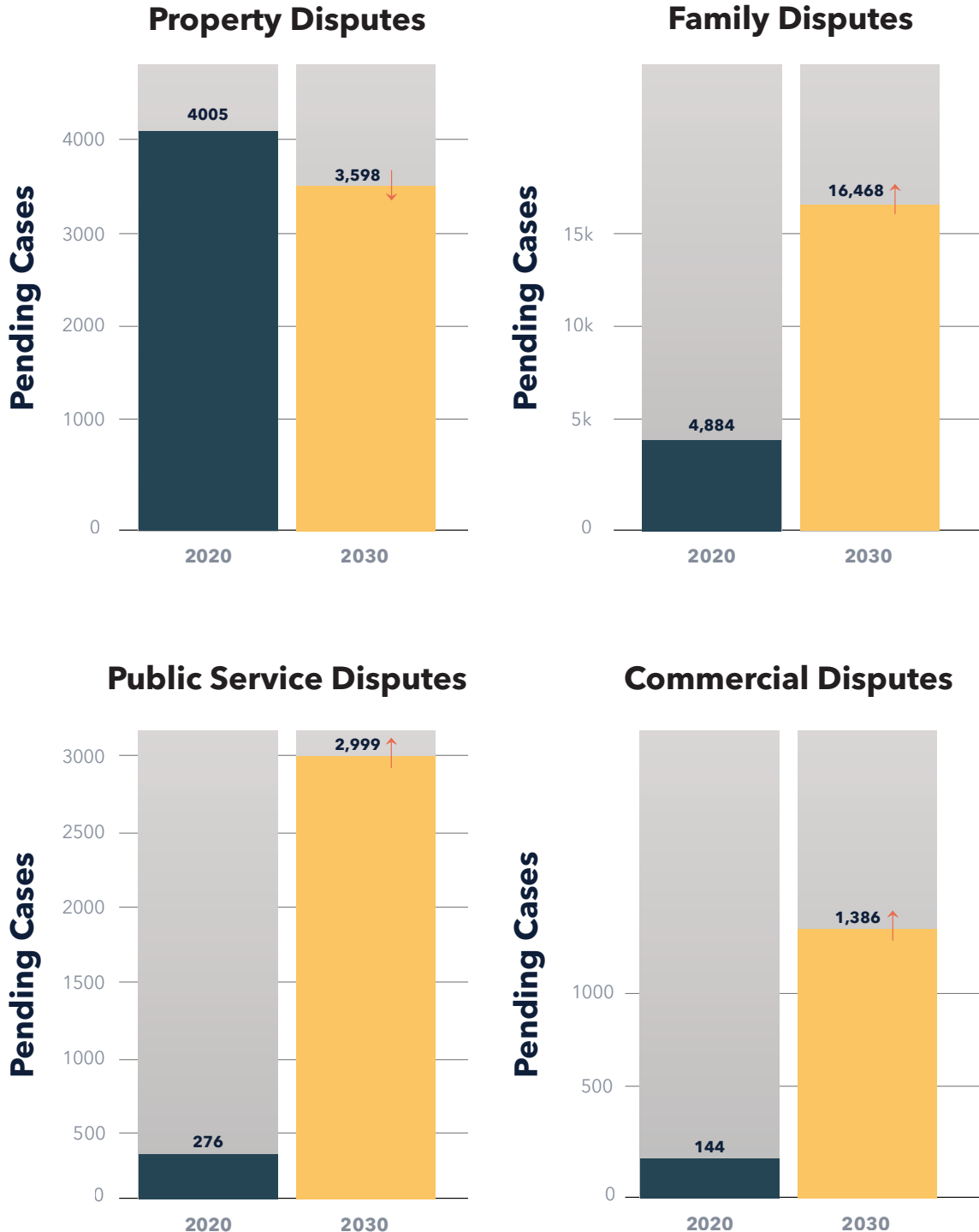


Fig 4.1

Note: Figure showing the number of pending cases in each of the four legal categories: Civil, Commercial, Property, and Family. Data points on the graph represent the total number of pending cases in 2018 and 2030 across all of the eight districts of Sindh based on forecasted values. Source: Data collected manually by LAS field staff and research assistants from each district court and Sindh High Court Member Information Team department.

The data in Figure 4.1 reveals a notable trend in case categories, pointing towards potential shifts in the types of pending cases in the future. The most apparent trend is a significant increase projected for Family Disputes, from 4,884 cases in 2018 to an estimated 16,468 cases by 2030. It suggests that family disputes may become the most predominant type of cases among categories, with ADR potential pending in courts by 2030, highlighting the need for alternative dispute resolution mechanisms to address this growing demand.

Moreover, Commercial and Public Service Disputes are expected to experience a notable surge. As shown in Figure 4.1, pending Commercial disputes are forecasted to escalate from 144 cases in 2018 to approximately 1386 cases in 2030, while pending public service disputes may rise from 276 cases to approximately 2999 cases over the same period. These changing dynamics in pending cases reflect the evolving nature of legal challenges and suggest potential shifts in economic and societal factors.

Interestingly, property disputes are the only category expected to decrease in the number of pending cases, from 4,005 in 2018 to approximately 3,599 in 2030 (Figure 4.1). This decline could be attributed to more efficient resolution mechanisms or a decrease in the filing of property disputes. While this decrease in property disputes shows promise, it is essential to note that the overall annual percentage increase in court cases continues to rise steadily at 10% (Figure 2.4). Consequently, the decrease in property disputes is not of sufficient magnitude to offset the growing pendency rate.

05

Triangulating Court Data and Survey Data: A Consistent Story

To validate the historical data findings, we sought to gather additional insights through the survey, asking respondents about their anticipated need for legal remedy in the upcoming year, specifically 2023-2024.

Legal Remedy Foreseen 2023-2024

The results indicate that 34% of respondents expressed a clear expectation for requiring legal remedy, while a majority of 50% remained uncertain about their future legal needs (Figure 5.1).

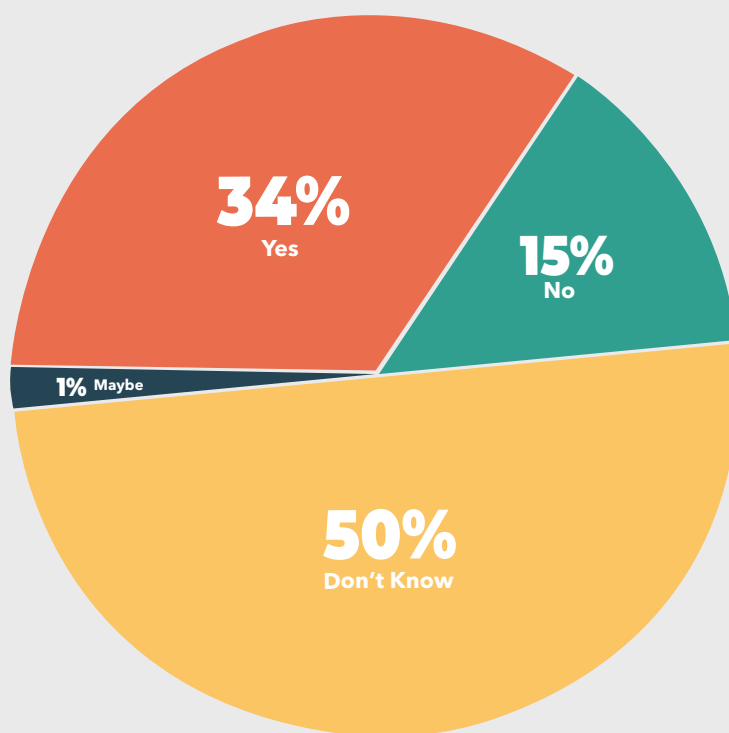


Fig 5.1

Note: Data represents response to question: "Do you foresee needing to seek legal remedy against any dispute in the upcoming year, 2023-2024?" Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

Further analysis of those respondents who affirmed the need for legal remedy showed that 56% intended to approach the Court (Figure 5.2). A similar proportion (55%) expressed their inclination to seek assistance from family elders.

Notably, Jirgas emerged as another prominent choice, with 53% of respondents considering them a potential avenue for seeking resolution. It is important to note that despite the declaration of Jirgas and Panchayat as illegal and in violation of Pakistan’s international commitments under the Universal Declaration of Human Rights (UDHR) by Chief Justice Mian Saqib Nisar in January 2019, these informal villages or tribal gatherings continue to not only operate as adjudicating bodies across the country but are also highly preferred as a means of informal dispute resolution owing to expedited and cost-effective disbursement of justice. The same judgment, however, has also noted that while the manner in which jirgas and panchayats functioned in the country violates articles 4, 8, 10-A, 25, and 175(3) of the Constitution of Pakistan, they may continue to operate within the permissible limits of the law to the extent of mediation, arbitration, negotiation, or reconciliation forums (Dawn, 2019).

The legal needs survey further noted that only a meager 21% anticipated accessing the Ombudsman for assistance, suggesting a relatively lower level of awareness. Given not only the number of respondents who foresee the need for a legal remedy (5.1) but also respondents who indicate expectation to take it to court, we can reasonably argue that the court pendency is expected to rise for 2024, as predicted.

Resolution Forum Foreseen 2023-2024

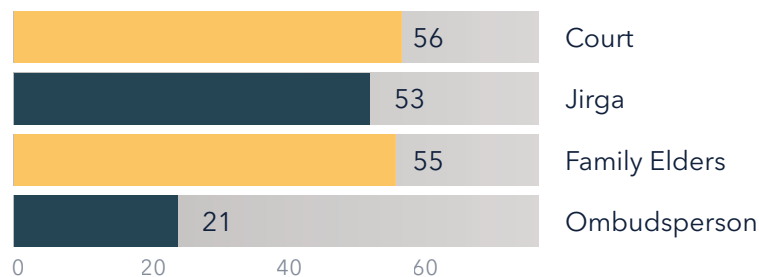


Fig 5.2

Note: Figure represents filtered data from respondents reporting to foresee a legal issue in the upcoming year., in response to the question: “What dispute resolution forum do you foresee yourself using for the upcoming year?”
Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

06

Demands for ADR in Communities Across Sindh

ADR Mechanisms have the potential to resolve over two-thirds of types of cases faced over the past 10 years, yet citizens continue to rely on Courts, Jirgas, and Family Elders.

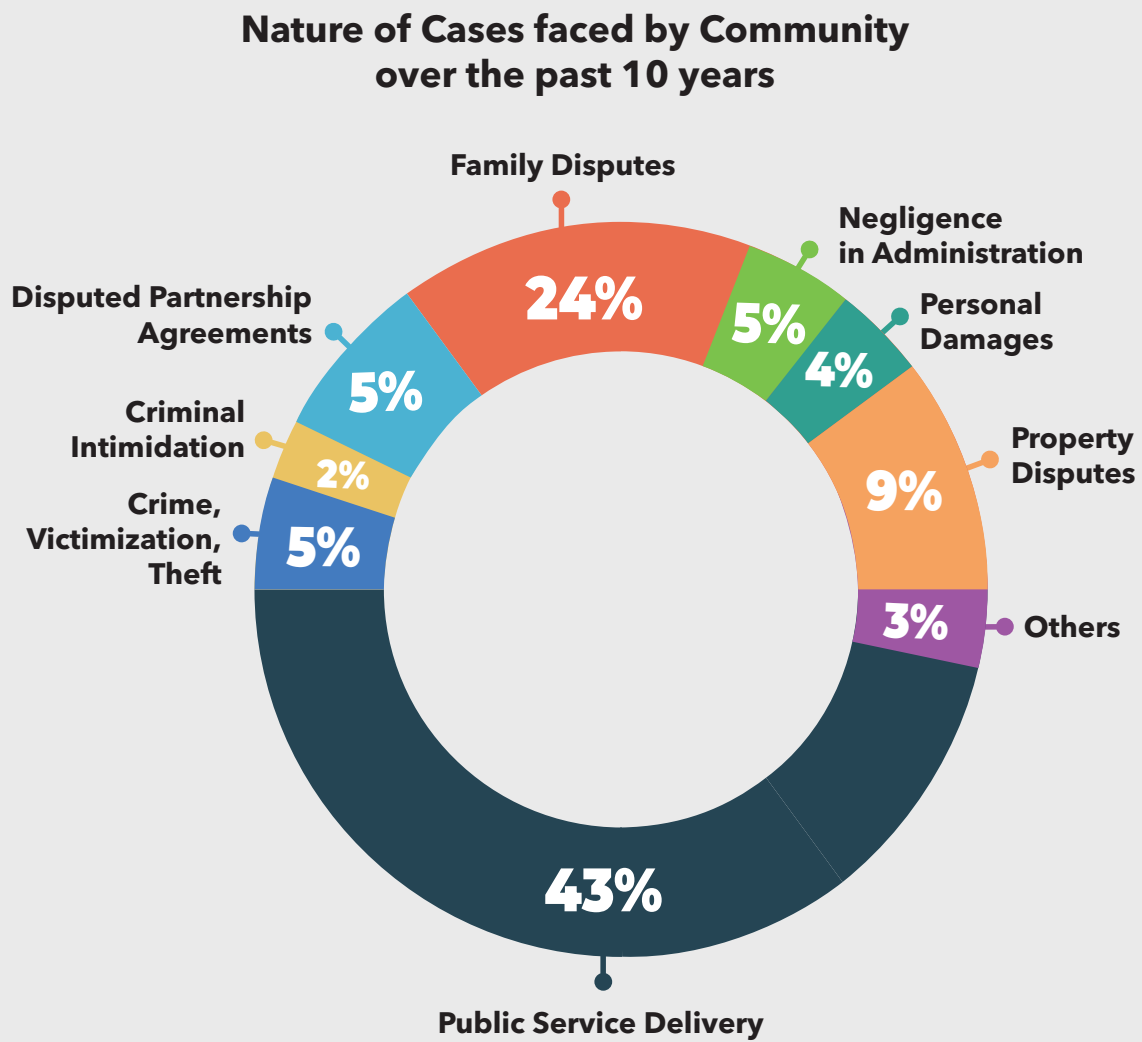


Fig 6.1

Notes: Figure represents nature or types of disputes faced by the community over the past 10 years. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

According to our survey, Public Service Delivery and Family Disputes are the most frequent cases reported across districts over the past 10 years, accounting for 43% and 24%, respectively (Figure 6.1). Combined, these categories make up over two-thirds of the nature of cases (67%). The most common Public Service Delivery cases reported involve the Benazir Income Support Programme (BISP) payments, utility provision (mainly electricity and gas), and NADRA documentation. Meanwhile, the reported Family Disputes primarily revolved around divorce/khula, custody, and maintenance charges. The survey itself did not disaggregate case types in such a fashion, i.e., Public Service Delivery was not divided into NADRA, BISP, or NDMA; instead, respondents could elaborate on the exact details of the case if they wanted to. Both these types of cases can easily be resolved by ADR mechanisms such as mediation and would significantly alleviate the backlog of cases that Pakistan, Sindh particularly, faces.

Moreover, the remaining categories of cases, such as Property Disputes (9%), Disputed Partnership Agreements (5%), and Negligence in Administration (5%), can also be resolved via ADR mechanisms. Less than 15% of cases demonstrate an inability to be resolved through ADR mechanisms; the nature and percentage of such cases are as follows: Crime and Theft (5%), Criminal Intimidation (2%), and Personal Damages (4%).

Dispute Resolution Forum used over the past 10 years

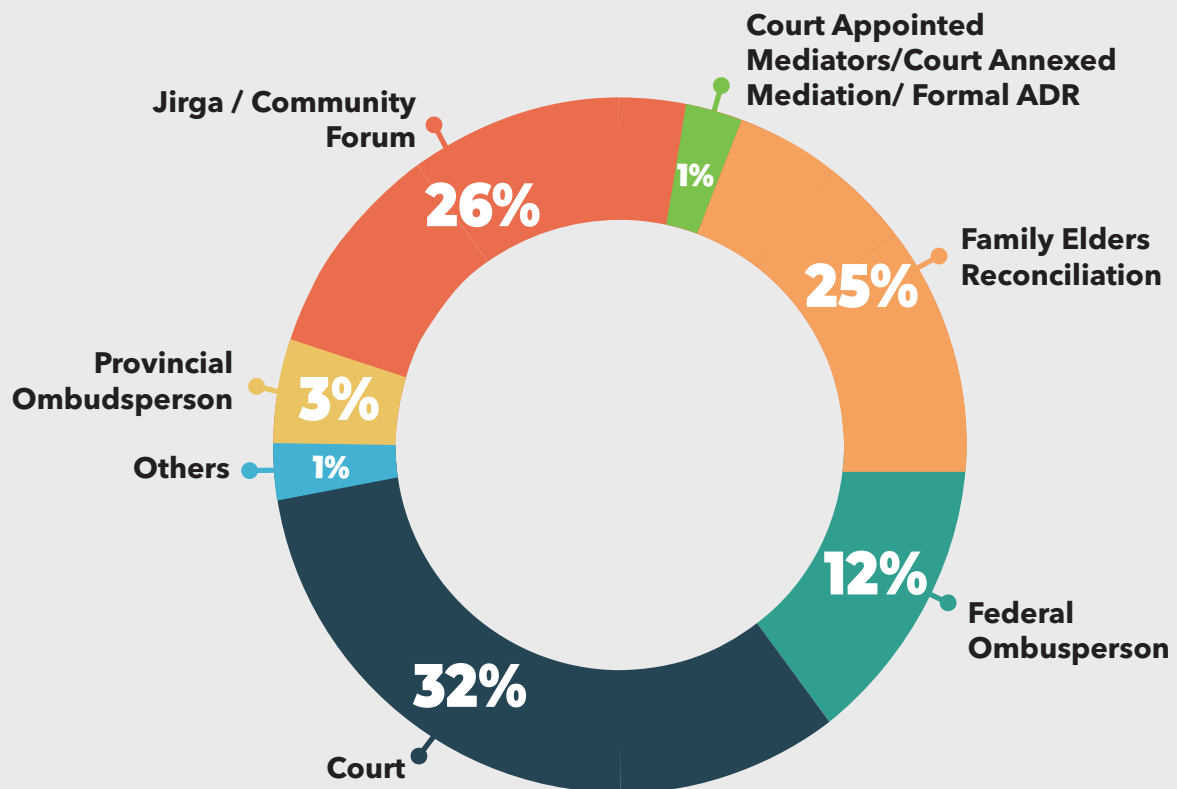


Fig 6.2

Notes: Figure represents filtered data from respondents reporting to have faced a legal issue in the past 10 years., in response to the question: "What dispute resolution forum did you use for the resolution of this dispute?"
 Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

After selecting cases they had heard of or experienced personally, respondents were asked to pick which forum they took their dispute to. As shown in Figure 6.2, one-third of the cases, 32%, were taken to court. In comparison, around a quarter (26%) were taken to Jirgas or local Community Forums, and another quarter were reconciled by Family Elders (25%). This is consistent with the historical data collected from the sessions and district court - respondents have historically preferred to use court mechanisms, therefore adding to increasing court pendency.

Representation of awareness for ADR in communities across Sindh

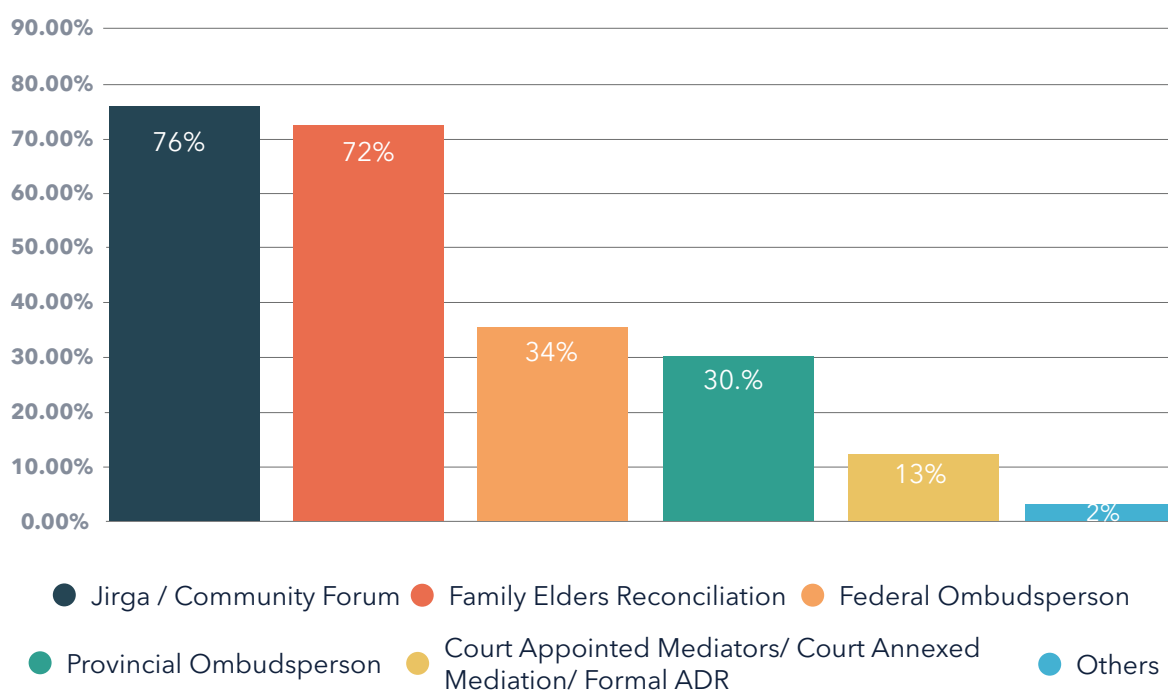


Fig 6.3

Notes: Figure represents reported awareness of respondents on both formal and informal means of alternative dispute resolution. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

Given our objective to understand the potential for ADR, the CAPI survey asked respondents to identify ADR mechanisms they were aware of as an alternative to the formal court system, as shown in Figure 6.3. The results show that the most frequently recognized and utilized mechanisms were Jirga or Community Forum, with 77% of respondents indicating knowledge of this forum, followed closely by Reconciliation by Family Elders with 73% indicating awareness of this mechanism.

Other alternative mechanisms, such as Federal and Provincial Ombudsperson, were less well-known, with 34% and 30% of respondents, respectively, indicating knowledge of these forums. The least recognized alternative mechanism was Court Appointed Mediators/ Court annexed mediation/ formal ADR mechanisms, with only 13% of respondents indicating familiarity with this mechanism. These findings suggest that traditional cultural and community-based mechanisms are still highly regarded and preferred over formal court systems for dispute resolution in Pakistan. When specifically asked about why their case was not taken to ADR, 57% of respondents reported, "No ADR mechanisms available locally," 50% reported, "We do not know how ADR works," and 32% reported, "ADR decisions are not binding." This finding complicates our current understanding of the demand for ADR, demonstrating that despite having cases that can easily go for ADR, respondents' lack of knowledge and access to ADR mechanisms significantly inhibits their ability to receive speedy, cost-effective justice.

07

Direct and Indirect Cost of Court Litigation

Court costs are at least three times more expensive than alternative dispute resolution mechanisms.

Cost of dispute resolution by forum

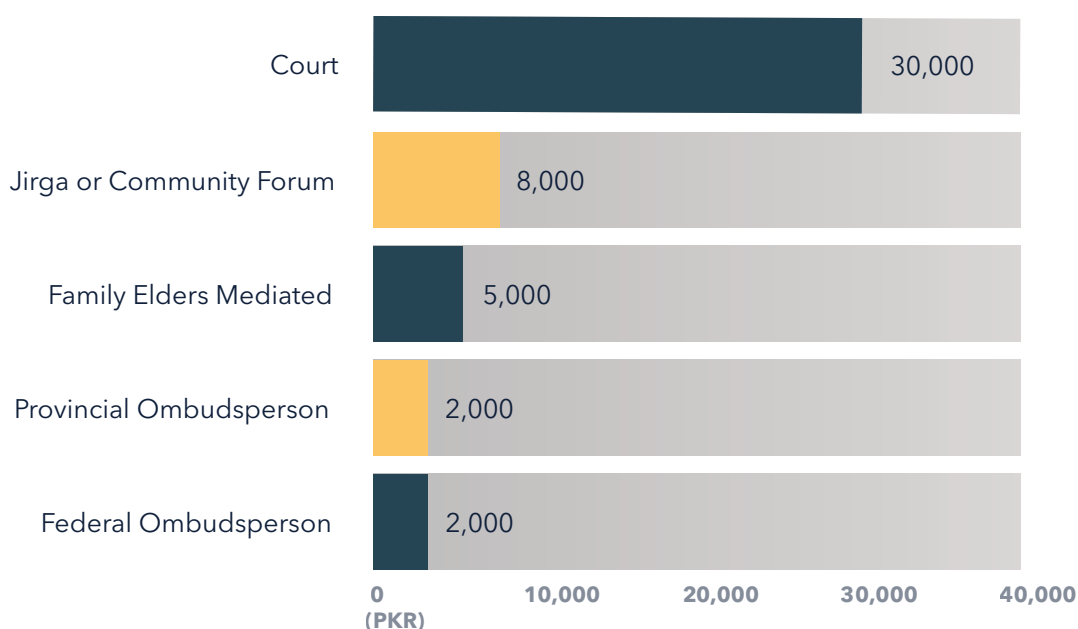


Fig 7.1

Notes: Figure represents median cost, or the central value of cost incurred for each forum of dispute resolution used, as reported by respondents. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

Focusing solely on the median costs of utilizing various dispute resolution forums in Pakistan (Fig 7.1), it becomes apparent that courts are the most expensive option, with a median cost of PKR 30,000, while Provincial Ombudsperson and Federal Ombudsperson have the lowest median cost at PKR 2,000. The median cost of resolving a dispute through Jirga or Community Forum (informal ADR) is less than half that of resolving a dispute through a court. Similarly, the median cost of resolving a dispute through family elders' reconciliation is almost six times less than resolving a dispute in a court, highlighting the significant cost savings of utilizing informal ADR mechanisms. It is important to note that the population in question is socio-economically disadvantaged communities, highlighting the significant financial burden of court litigation. For perspective, without savings, it would take, on average, a whole month's salary to fight a legal battle in court (Figure 7.1). Given demographic data, the occupation (over 55% as wage laborers and home-makers), and education levels (51% having less than five years of schooling) of our respondents, it is difficult to imagine a significant change in earnings, savings, or quality of life to suggest improvement in access to court-litigation. Accordingly, direct litigation costs remain high, and given the recent inflation in Pakistan, they should be expected to become more unaffordable.

Another direct cost incurred by parties is that of travel. The survey highlights how even the nearest court is significantly far (and therefore inaccessible) in terms of the cost of distance.

Distance to Nearest Court in KM

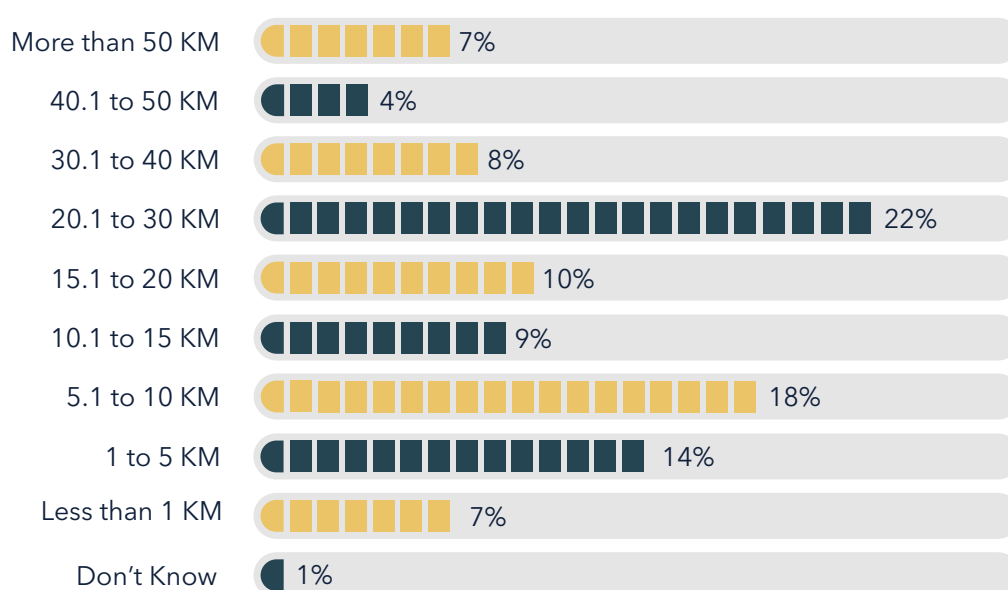


Fig 7.2

Note: Figure represents distance to the nearest court, as reported by the respondents. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

Similarly, the estimated cost by respondents of one round trip to court is visualized below. When asked, "What was the average cost of one round trip to the court in rupees? For private transport, give a rough estimate of petrol or diesel cost." 33% of the most significant cohort respondents reported 100 - 500 PKR, followed by 30% reporting 500 - 1,000 PKR.

Cost of One Round Trip to Court

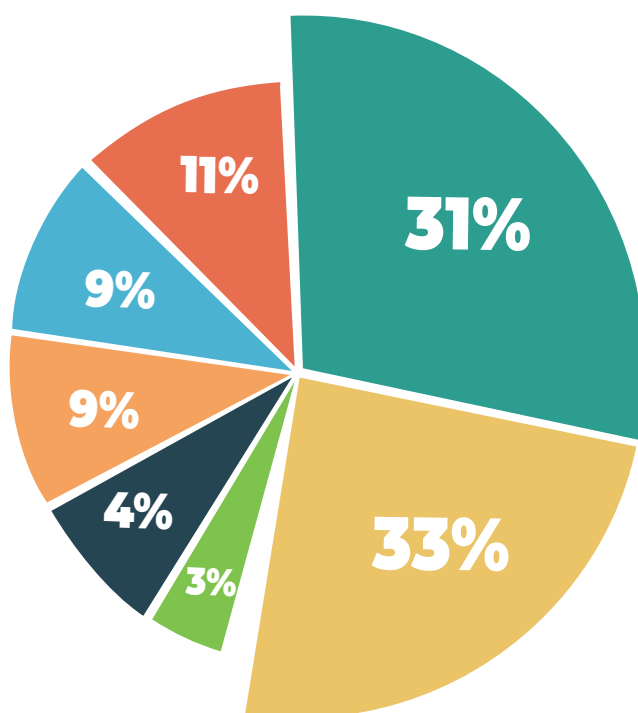


Fig 7.3

● No Cost
 ● Less than 100 Rs
 ● 101 to 500 Rs
 ● 501 to 1000 Rs
● 1001 to 1500 Rs
 ● More than 1500 Rs
 ● Don't Know

Note: Figure represents transportation cost incurred on one round-trip to the court. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

At the median cost of approximately 500 PKR, assuming a trip once a month, every year, it comes down to approximately 6000 PKR (median cost is 500 PKR for transport).

Literature regularly focuses on how there are also indirect or hidden costs associated with litigation. We captured these in the survey as well. Below (3.3) is the opportunity cost of missing work, self-reported by household heads.

Opportunity Cost of Missed Work for each year case is in Litigation

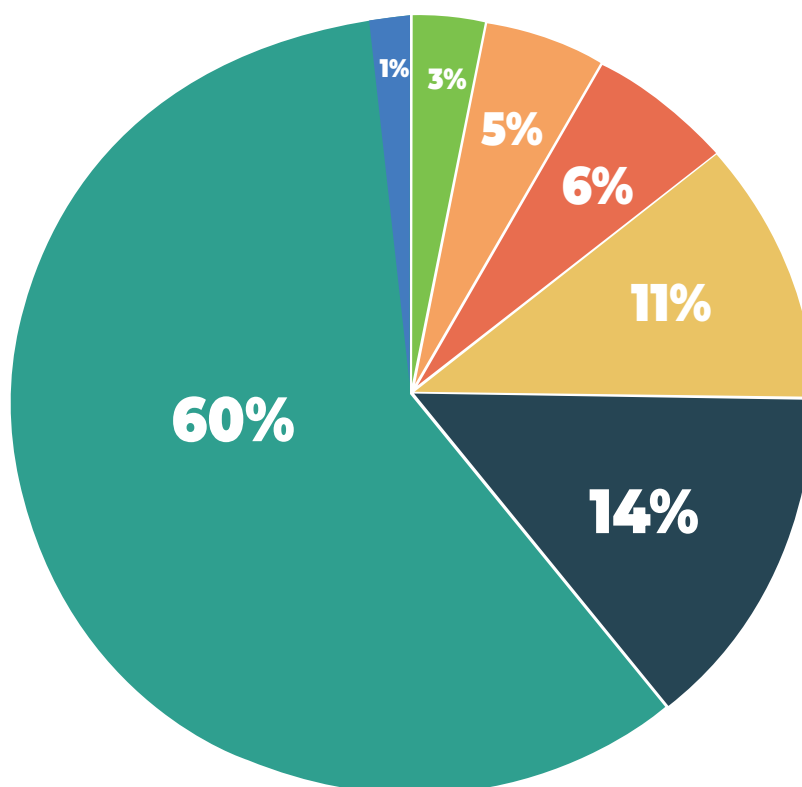
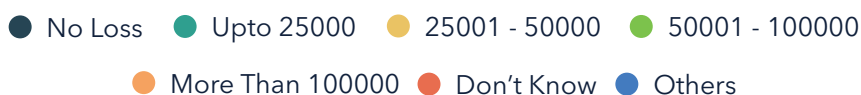


Fig 7.4



Note: Figure represents the annual opportunity of missing work to pursue case in litigation, as estimated by respondents. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

Accordingly, 60% of respondents incur a yearly cost almost equal to their monthly salary for missing work and appearing in court. This is closely followed by 11% of respondents noting an opportunity cost of 25,001 to 50,000 PKR per year for missing work to appear in court or engage in affairs related to their litigation case.

Overall, our findings suggest that, compared to alternative dispute resolution mechanisms, high court litigation costs in Pakistan disproportionately impact socio-economically disadvantaged communities, which comprise the majority of the population. In addition to direct costs, such as legal fees, there are significant indirect costs associated with litigation, including lost wages due to missed work and transportation expenses.

08 Inclination for Court Litigation

Inclinations and Preferences explain the increasing court pendency for over 85% of all possible case categories, save for family disputes.

In the third section of the CAPI survey, respondents were presented with hypothetical case scenarios and asked to indicate which dispute resolution forum they would prefer for each case. In instances where necessary, the nature or category of the case was elaborated on to provide clarity to the respondents. Shown below is a heat chart displaying the results.

Heatmap of potential resolution sought by case nature

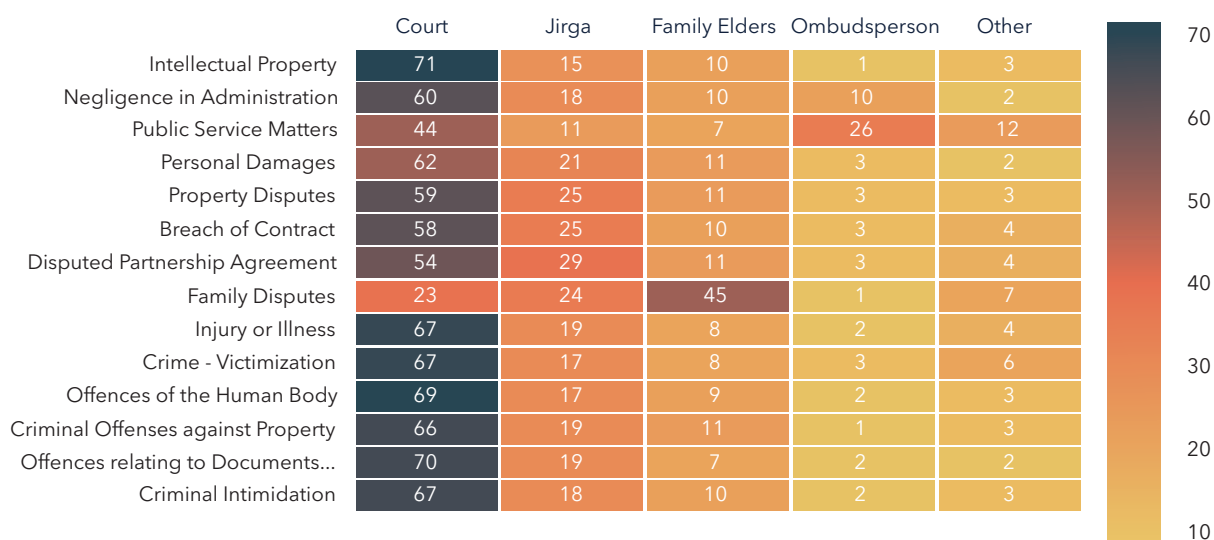


Fig 8.1

Note: Shown above is a heat map charting forum preferences for hypothetical cases. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

The data suggests that the court system is the most preferred method of resolving disputes, with over 85% of case categories (12 out of 14) indicating an inclination toward court litigation; the highest among these include Intellectual Property (71%), Offences relating to Documentation, Property and Trade Marks (70%), Offences of the Human Body (69%)

Interestingly, this reinforces the previously discussed knowledge and access gap concerning ADR, i.e., communities must be made aware of local ADR mechanisms or learn about ADR. The only exception to this rule is family disputes, where individuals routinely report wanting familial disputes to be resolved by family elders. Intuitively, this makes sense; family disputes dragged to court are seen as dishonoring the broader kinship network (Roberts, 2014). Similarly, Public Service Delivery is less likely (relative to other case categories) to be taken to court, as they can be resolved through the Ombudsperson.

09

Preceptions About the Legal Justice System

Findings suggest positive perceptions of the general public regarding the formal Justice System.

The CAPI survey also asks general questions concerning perceptions of the legal system shown below (Figure 9.1).

Perception of General Public regarding the formal Justice System

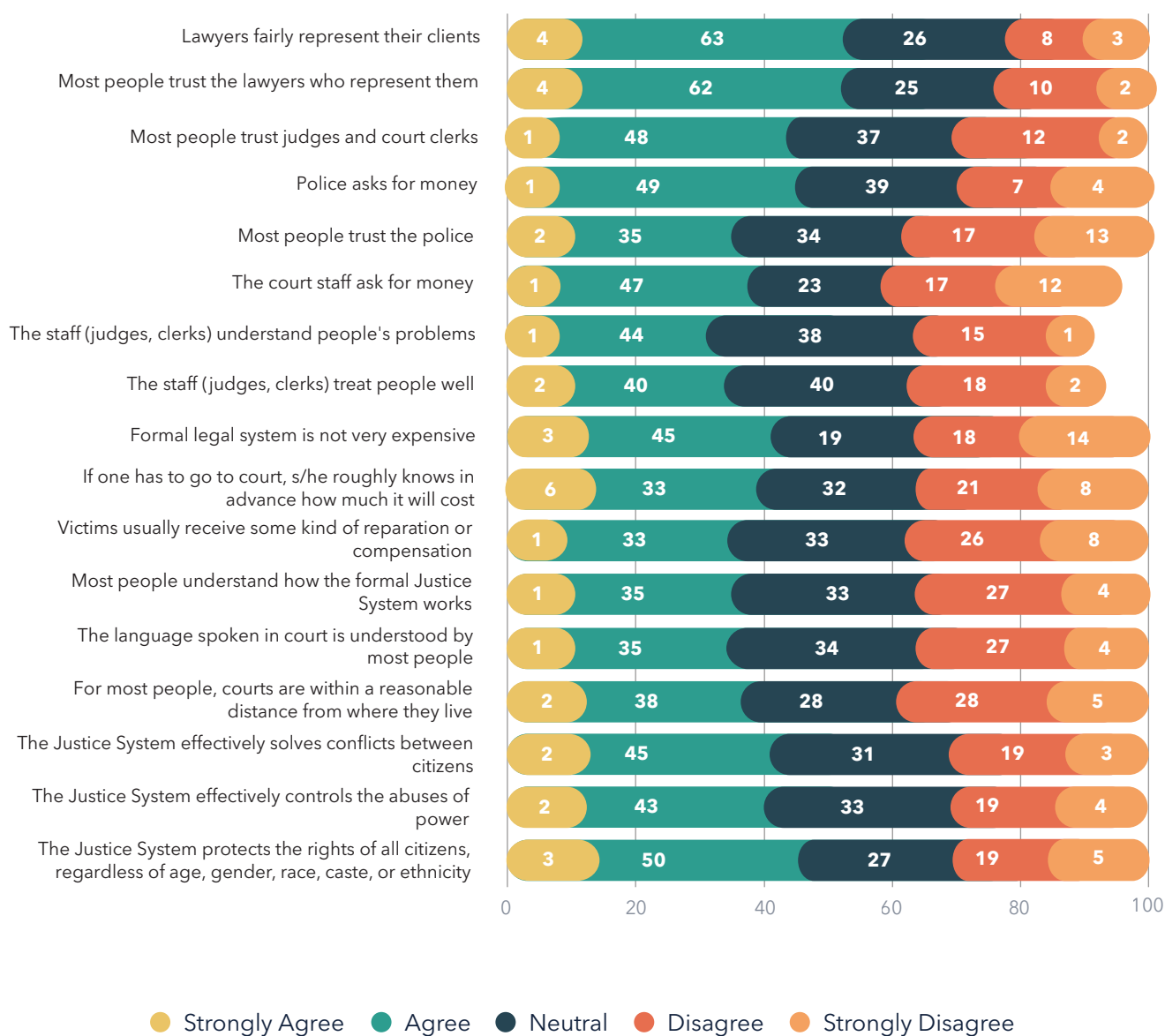


Fig 9.1

Note: The table above is a five-point Likert scale, whereby respondents were read statements and requested to demonstrate agreeability, ranging from Strongly Agree to Strongly Disagree. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

Findings suggest positive perceptions of the general public when it comes to the formal Justice System, with over 50% of the surveyed population reporting that the Justice System protects the rights of all citizens, 45% of the surveyed population opining that the Justice System effectively controls abuses of power, and almost 50% of the surveyed population reporting trust in judges and court clerks. It is critical because it highlights the need for state-sanctioned ADR mechanisms under the formal justice system.

Moreover, 45% of respondents agreed that the justice system effectively solves conflicts between citizens. As many as 44% of respondents noted that court staff understands people's problems, suggesting that there are issues in access (cost, time, distance) to justice, not faith in justice or the legal fraternity.

Interestingly, the survey reveals that many respondents trust their lawyers (62%) and strongly agree that lawyers fairly represent their clients (63%). Therefore, exploring the potential of court-annexed mediation or other forms of formal ADR where lawyers represent the parties may be worthwhile, as this could effectively resolve disputes. Building capacities of lawyers via mediation advocacy trainings is an important part of the development of the ADR landscape in the country.

The findings of this survey component further suggest that ADR may offer opportunities to offer more accessible locations for dispute resolution, as a significant proportion of respondents (38%) disagree that courts are within a reasonable distance from where they live.

Finally, the survey findings indicate that there is a need for greater transparency and predictability in the costs associated with legal proceedings, as a significant proportion of respondents (33%) disagreed that they roughly know in advance how much it will cost to go to court. This perception is consistent with previous findings that there is a knowledge gap when accessing justice.

When asked to rank problems with the judicial system based on their lived experiences and perceptions, 80% of respondents indicated that it is expensive, with a nearly equal proportion of respondents noting how justice is delayed (78%). Similarly, when asked about lawyers, 93% of respondents, a significant proportion, said lawyers are expensive. Less than half the proportion report the uncertainty of availability, which inevitably causes delays (44%), or that they are overworked, i.e., cannot cater to the individual needs of the clients (40%). Accordingly, by probing for both the judicial component and the lawyer's role in litigation, it is reasonable to assert that cost and delay are, based on perceptions (and previous findings), the most significant barrier to accessing justice for most respondents (Figure 9.2, 9.3).

Issues assumed or experienced with the judicial system, ranked

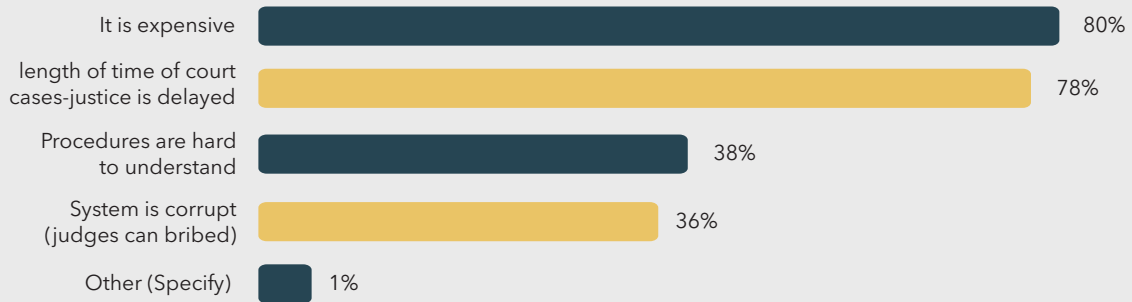


Fig 9.2

Note: This item asks respondents to rank issues of the judicial system. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

Issues assumed or experienced with lawyers, ranked



Fig 9.3

Note: Respondents are required to rank issues with lawyers in this item. Source: Primary data collected through a CAPI household survey with 2,323 respondents across 8 regions of Sindh: Karachi, Hyderabad, Sukkur, Larkana, Khairpur, Dadu, SBA, and Sanghar.

Limitations

It is important to acknowledge certain limitations in access and methodology design when interpreting the findings from this study and to identify areas of improvement in future research for greater accuracy and representativeness.

One of the primary limitations of creating an effective predictive model in order to estimate the potential for ADR in the country is the unavailability of a comprehensive data repository that consolidates the year-on-year nature of cases in Pakistan. This has necessitated the adoption of an alternative forecasting model for data collection and analysis. First, the lack of data on cases pertaining to categories with potential for diversion towards ADR entering the formal justice system is non-existent, therefore, this model relies on pending cases in court as a proxy for projection of future cases. Secondly, this model assumes a linear relationship between case pendency and time, however, growth in case pendency is likely to be a non-linear function. Both of these limitations result in a rather conservative estimation of pending cases that may be diverted toward ADR by 2030.

Furthermore, there is a lack of clarity on missing data instances, making it difficult to ascertain cases where significant jumps in pendency result from missing base values (such as Khairpur, Sukkur, and SBA).

The lack of robust data maintenance systems poses challenges in acquiring accurate and comprehensive data on case diversion and the number of cases with potential for ADR entering the formal justice system. This limitation affects the precision of the estimations made in the study.

Furthermore, while the primary survey component of this study utilizes rigorous scientific randomization within the scope of program implementation, the findings of this study may have limited generalizability due to the specific scope of the program. The sample was restricted to the regions and communities within the program's scope, which may not represent the entire population of the regions of interest.

Another limitation of the household survey is the reliance on self-reported data captured through the CAPI survey which may introduce the possibility of response bias. Respondents' perceptions and inclinations towards out-of-court dispute settlement may be influenced by various factors, including social desirability bias or limited understanding of legal concepts.

Furthermore, while the household survey successfully captured a significant number of respondents, attrition rates and non-response may have influenced the representation of the final sample, albeit by a very small degree (<3% attrition rate).

Recommendations

01

Making Mediation Mandatory for all Civil, Commercial, and Family Cases

Findings from the legal needs assessment survey component of this study reveal that citizens continue to trust the formal justice system as an effective means of dispute resolution, despite high costs and delays in dispensation of justice. In order to ensure that ADR mechanisms are accepted and utilized by those in pursuit of justice at large, it is crucial to leverage their trust in the justice system and ensure that alternative dispute redressal and resolution mechanisms are recognized and endorsed by the formal civil and criminal justice systems. By ensuring that mediation is made mandatory for all cases entering the formal justice system across the categories of civil, commercial, and family disputes, a significant case-load can be diverted away to allow for more effective and expeditious resolution of cases that do not have the potential for case diversion:

1.1. Amend provincial ADR laws to mandate mediation in cases with case-diversion potential.

1.2. Audit private ADR centers to ensure adherence to Terms of Reference (TORs) before they can be recognized across all districts. Establish court-annexed mediation centers.

1.3. Develop a robust Monitoring and Evaluation (M&E) framework for ongoing monitoring and audit of ADR centers, tracking the following Key Performance Indicators (KPIs):

1.3.1. Details of the mediator including professional experience and number of years of mediation practice

1.3.2. Details of parties involved in the mediation

1.3.3. Details of the case, its type, source of referral, value of case, etc.

1.3.4. Court case number (if the case has been referred from the court)

1.3.5. Place/ geographic location of the mediation proceedings (specify name of ADR center if used)

1.3.6. Result of the mediation (whether or not the mediation has been successful)

1.3.7. Time taken for mediation

1.3.8. All supporting documentation (settlement agreement, mediation agreement, court order, etc.). If mediation is unsuccessful, supporting documents will include the mediation agreement and the mediator's report

1.4. Provide accredited national and international mediation training opportunities for court-recommended lawyers to create a list of qualified neutrals.

1.5. Conduct extensive mediation training programs in collaboration between ADR centers, Bar Councils, and Bar Associations in order to ensure that members of the legal fraternity are equipped to represent clients in mediation and are made an active part of the ADR ecosystem period

1.6. Provide comprehensive training to judges on ADR, recognition of cases that are suitable for ADR, and case referral mechanisms.

1.7. Set up ADR help-desks in courts to inform referred parties of the process and remedies available.

02 **Creating and Strengthening State/ Court recognized dispute prevention and redressal mechanisms at community level**

Another key finding from the survey revealed a high preference for dispute resolution through community-based informal gatherings like jirgas or panchayats, despite these being declared illegal under the Supreme Court judgment by Chief Justice Mian Saqib Nisar in January 2019. The same judgment also recognizes the potential of these jirgas and panchayats as dispute resolution bodies within permissible limits of the law to the extent of arbitration, mediation, negotiation, or reconciliation forums. In order to ensure that citizens have access to justice within their communities, it is critical for the state to recognize and capacitate ADR mechanisms at the community level:

2.1. An internal nomination process must be initiated to identify community members who can operate as mediators and Saliseen, with an emphasis on ensuring the representation of gender and religious minorities. These members must then be assessed by private ADR centers operating in these districts in collaboration with Civil Society Organizations (CSOs) before they are notified by the relevant district courts. Training and capacity building of notified mediators and Saliseen members must be conducted on a regular basis.

2.2. Initiate awareness campaigns to promote services of notified Saliseen members and community-level ADR mechanisms.

2.3. Establish and strengthen database and data management system for monitoring and quality assurance of community mediators and Saliseen members, as well as ADR services provided, in collaboration with CSOs. Database mechanisms must be linked to provincial MIT to track progress and check for inconsistencies.

2.4. In order to ensure that mediating parties have access to state-recognized mediation services without engaging with the formal justice system, District Commissioner (DC) and Assistant Commissioner (AC) offices may be utilized to support the finalization of settlement agreements derived through the mediation process. The DC/AC offices may also facilitate the acquisition of court orders against the mediation agreement.

2.5. Linkages must be established between community mediators and Saliseen and:

2.5.1. District Peace Committees (DPCs)

2.5.2. DC Offices

2.5.3. Police Dispute Resolution Centers (DRCs)

2.5.4. CSOs

2.5.5. Lady Health Workers (LHWs)

03 **Conduction Mass Awareness Campaigns to Promote ADR amongst Justice System Users**

3.1. Design and implement an “Easy Opt-Out Model” whereby disputing parties with cases falling under categories of civil, commercial, property, or family disputes are mandated by law to attempt mediation for the first 3 hours. The cost of mediation for these 3 hours is to be covered by the state utilizing the savings resulting from reduced court load or from the District Legal Empowerment Committee (DLEC) funds, under the custody of the Law and Justice Commission of Pakistan (LJCP). If mediation continues for longer than three hours, parties are to cover the full cost of the mediation.

3.2. Courts must maintain a list of pro bono mediators or private ADR centers offering pro bono mediation services across the district for those beneficiaries who are unable to cover the cost of mediation or afford the mediator fee.

04 **Creating a Financial Structure to Incentivize the Uptake of Mediation**

Lack of awareness regarding formal ADR mechanisms and court-annexed mediation contributes towards reliance on informal dispute resolution mechanisms like family-facilitated reconciliation and jirgas/ panchayat. It is paramount that targeted awareness campaigns that promote the availability of formal ADR services, including Saliseen members and community mediators and court-referred mediation processes, as well as their benefits and relevance to Islamic junctions, are ensured at both national and provincial levels in Pakistan:

4.1. In order for the awareness campaigns to be successful, target audiences must be identified in collaboration with ADR centers and CSOs, with a focus on the identification of key community stakeholders like government officials, religious scholars, and media representatives.

4.2. Collaborative efforts must be taken to develop clear and concise messages about the benefits and significance of ADR services in resolving disputes. Messages must highlight how ADR processes align with Islamic teachings on conflict resolution in relevance to Pakistani society.

4.3. Targeted campaigns must utilize a mix of media platforms for the campaigns, including television, radio, print media, social media, and online platforms.

4.3.1. At the National level, informative television and radio commercials may be produced to highlight the availability and benefits of ADR services. These may also be supplemented with articles and op-eds in leading newspapers and magazines, interviews and talk shows with ADR experts and religious scholars, and real-life case studies showcasing successful mediation outcomes.

4.3.2. At the provincial level, all campaign messages and materials must be translated and customized to suit local cultural and linguistic nuances. Efforts must be made to engage local media outlets, religious institutions, celebrities and influencers, and other community leaders to endorse and amplify messages. It is also critical to develop partnerships with relevant government departments, ministries, NGOs, and CSOs to pool resources for extensive and continuous outreach supplemented with ongoing monitoring and evaluation efforts.

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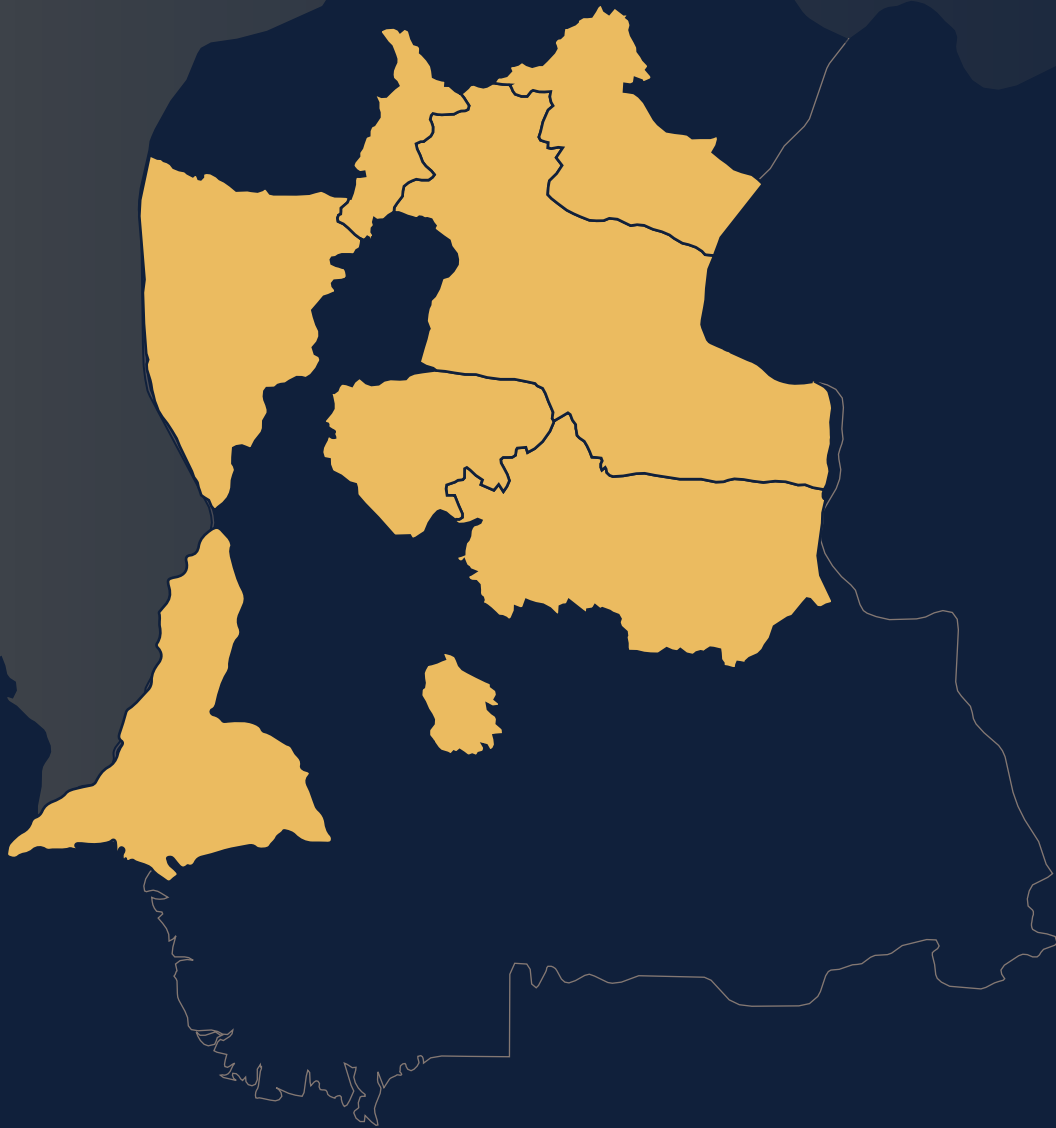
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 Legal Aid Society First Floor, Block C,
FTC Building Shahrah-e-Faisal, Karachi

 **(92) 021 - 35390132 - 33**

 **(92) 021 - 99266015**

 communications@las.org.pk

 www.las.org.pk

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