

From Jirga to Civil Court: Navigating Land Justice in Post-FATA Khyber District

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Abstract: Justice forms the cornerstone of any society, and the entire judicial framework of modern systems is built upon this principle. However, the repercussions of inefficient or delayed justice disposal are severe and include heightened frustration, diminished confidence in the legal process, and the substantial costs associated with litigation. A significant backlog of court cases exists in Pakistan, resulting in prolonged and costly litigation processes. This backlog contributes to delays, making the judicial system less efficient and economical. Judicial setup has recently extended to the erstwhile FATA, replacing the old Frontier Crimes Regulations Act of 1900, which primarily relied upon the Jirga System to resolve criminal and civil disputes. This research attempts to find gaps/loopholes/shortcomings in the new judicial setup in deciding land-related civil disputes in tehsil Landikotal of district Khyber. The study has been able to highlight the prevalence of undocumented land disputes and their serious impact on people, communities and the law as a whole, explains a number of factors that lead to such disputes; these may include unclear property rights, historical disputes, poor land management, and lack of proper documentation. This study reveals legal and social consequences of land disputes, such as trade barriers, social unrest, loss of livelihood, and challenges to access justice. Need to resolve these conflicts through law, regulation and social intervention to prevent block increases and promote stability and equality in land title.

Keywords: Jirga System, Legal Framework, Undocumented Land Disputes Property Rights, Judicial Delays, FATA, Access to Justice

Introduction

The natural and human-altered landscapes in Northern Pakistan's Khyber Pakhtunkhwa (KP) province have undergone substantial transformations over the past decade. These changes are attributed to the growing urban population, migration patterns, occurrences of two significant natural disasters, and the impacts of climate change (Baig et al., 2018). Against this backdrop, land disputes are widespread across Pakistan's rural and urban regions. These disputes are typically addressed at the tehsil level, equivalent to a county-level local government. However, they have faced criticism from landholders due to being time-consuming, complex, and susceptible to corruption. Pakistan's formal court system also handles land cases but faces challenges under a high volume of cases. Most of these cases, estimated at 50% to 75%, are related to land disputes. As per one estimate, there are over one million pending land cases nationwide. In tribal areas of Pakistan, disputes are traditionally resolved through a Jirga system. However, women are often excluded from participating in Jirgas, and the resolutions reached in these settings tend to perpetuate existing biases against women's land ownership and control (Ahmad & Alam, 2020).

In theory, a person unlawfully deprived of their land has legal remedies under civil and criminal laws. Specifically, civil law outlines remedies in Sections 8 and 9 of the Specific Relief Act of 1877. On the other hand, criminal law provides remedies through the Illegal Dispossession Act of 2005 and Chapter XII of the Criminal Procedure Code of 1898. Upon facing illegal dispossession from their land, the affected individual must initially file a criminal case based on the Illegal Dispossession Act of 2005. The District and Sessions

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Court then is responsible for adjudicating the physical dispossession issue, although the question of property ownership itself is not within the scope of this criminal proceeding (Ahmad & Alam, 2020).

"When land grabbers resort to fraudulent documentation to lay claim on the disputed property, the illegal dispossession case often gets sidelined, requiring the dispute to be escalated to civil courts for a declaration suit to determine the rightful owner," explains Barrister Asad Qayyum. As per Asad, establishing property ownership through the civil court system is lengthy, often spanning multiple lifetimes once evidence recording begins. However, this delay is not due to a lack of legal framework or legislation but rather to specific individuals circumventing the system. "The individuals engaged in land grabbing typically have strong connections and ample resources to garner support from various entities essential for executing such schemes — including police for physical possession, revenue officers for document forgery, lawyers for legal representation, and political backing to influence administrative processes in their favour," highlights Naeem Sultan Khan, a legal expert specialising in property laws.

While disputes are commonly viewed as inherently destructive social processes with no positive function, sociologically, they are crucial for driving social change. Land disputes, in particular, can instigate significant changes if they escalate to widespread objection, leading to alterations in the government's legal framework. For instance, the conflict between tenants and landlords has prompted the implementation of land reforms in Pakistan as a direct outcome (Iqbal, 2002).

Land disputes manifest in various forms, ranging from disputes between individual parties over land boundary demarcation and inheritance among siblings to disputes over land use. Some of these disputes can be resolved relatively quickly. However, disputes involving multiple parties, such as evictions or invasions affecting entire agreements, pose more significant challenges to resolve. In many countries, indigenous communities have faced land deprivation due to the lack of recognition of their land rights or being deemed invalid by the government, particularly during the privatization of land by state authorities (UN-Habitat 2008).

Land disputes are a prevalent social phenomenon occurring indiscriminately in various locations and times. Both necessity and greed play significant roles in the frequent emergence of land disputes. Factors such as land scarcity, escalating land values, and rapid population growth exacerbate the situation. Land acquisition can happen through diverse means such as sale, purchase, inheritance, wills, gifts, preemption, and evacuee rights.

Significant types of land disputes encompass disputes related to ownership stemming from inheritance, disagreements over land demarcation, disputes arising due to the absence of a land registration system, conflicts between state and private landowners over ownership, disputes triggered by multiple sales of land, restrictions on land transactions due to discriminatory laws or customs, violent confrontations during land acquisition, evictions initiated by landowners or illegal evictions, conflicts over payment for land use or purchase, disagreements regarding land prices, property destruction through violence, state expropriation of land either forcefully or without compensating the owners, various forms of intra-family land disputes, and disputes arising from land reform initiatives.

The Historical Background

The land and revenue policy before Emperor Sher Shah Suri was infamous for its shortcomings. One major issue was allocating land to soldiers instead of regular pay, often leading to land disputes and the mistreatment of cultivators by unscrupulous officials.

Land disputes are widespread in both urban and rural areas of Pakistan. These disputes encompass various aspects such as land documents, transactions, tenancy, and land revenue, all falling under the jurisdiction of land revenue courts. Unfortunately, land records maintained in land administration offices are frequently incomplete, and the officials responsible for land administration often lack efficiency in promptly providing these records to the courts. As a result, cases involving land disputes can linger unresolved for years (UK Border Agency, 2011).

The Rewaj (Custom) of miras (inheritance) is a distinct feature of traditional Pakhtun society, where disputes and even murders related to landed property are unfortunately common occurrences. In this

customary system, the wife of a deceased husband is not entitled to inherit his property. Instead, the eldest son assumes the role of the primary heir (Miraskhor), followed by any younger sons. However, conflicts between elder and younger sons regarding inheritance often lead to longstanding family enmities. Female heirs, such as daughters, are excluded from inheriting property under this custom. In some areas of the Pakhtun Belt, the eldest son may receive a larger share of the inherited property than other legal heirs, a practice known as Mashari. If a deceased individual has no male heirs, the inheritance passes to his brothers or the closest male relatives.

Caring for widows and unmarried daughters, if any, falls upon the individuals who inherit the deceased's property. In cases where the deceased leaves behind immature sons, the widow's care becomes the responsibility of her brothers-in-law, and it is common for one of them to marry her. The minor son receives marriage money once he reaches adulthood.

Under Islamic law (Shariat), it is deemed unfair for the mortgagee to profit from mortgaged land, as this constitutes a conditional purchase. Historically, women were discouraged from asserting their right to property inheritance, but legal reforms now encourage women to assert their rights without hesitation (Akhtar et al., 2013).

The historical graveyards in Peshawar city have been extensively encroached upon by the local land mafia, posing a significant threat to the availability of burial space for the deceased in the future. This trend of illegal occupation of graveyards, if allowed to continue, will likely result in a scarcity of burial places in the city. For instance, the area of Rahman Baba graveyard in HazarKhwani, as per official land records, is 770 Kanal and 18 Marlas, but it has shrunk to 758 Kanal and 11 Marlas due to encroachment. Similarly, the Kakshal graveyard's covered area has reduced to half its total area, initially 236 Kanal and 11 Marlas. Another graveyard, Takratheen of Peshawar, has also reduced the area from 490 Kanals to 446 Kanals.

The rapid population growth in Peshawar, fueled by immigration from various parts of Khyber Pakhtunkhwa province and the soaring land prices in the city and its outskirts, has exacerbated the situation. This situation raises concerns about the future challenges residents of the city may face in finding burial places for their deceased loved ones. (Khan, 2013).

Federally Administered Tribal Areas (FATA) have long been recognized as unresolved (Khattak, 2017). The region is classified into two administrative categories: "protected areas," directly governed by the central government through appointed political agents with judicial authority, and "non-protected areas," governed indirectly by local tribes. The administrative and judicial systems in tribal areas are intertwined through a triad of Jirga, Political Agent (PA), and the Frontier Crimes Regulation (FCR) of 1901, which collectively oversee protected and non-protected regions. At the national level, the Ministry of State and Frontier Regions (SAFRON) in Islamabad manages, develops, and addresses related concerns in FATA. The Governor of a province acts as the representative of the President of Pakistan and administers the Tribal Areas through the FATA Secretariat (Khattak, 2017).

After its independence, Pakistan adopted the existing administrative system in FATA as the most practical option for integrating the region into the country. This approach avoided straining Pakistan's resources while addressing governance challenges in FATA. The governance structure at the grassroots level in FATA relies on administrative and judicial institutions such as Political Agents (PAs), Maliks, and Lungi holders. The British introduced the concept of Political Agents, which proved effective in governing FATA. Currently, the seven federally administered tribal agencies in FATA have representatives appointed by the President, known as PAs. These PAs can enforce rewards and punishments on tribe members collectively and individually. They also have the power to arrest or release tribe members and impose fines on them individually or as a group. Additionally, PAs hold a distinct status in official circles of the Government of Pakistan (Khattak, 2018).

The governing system in FATA includes traditional elders called Maliks, who represent each tribe in government circles. Additionally, Lungis (turbans) are granted to loyal and influential individuals for their services to the government. Currently, FATA has 3,616 Maliks and 3,441 Lungi holders. Dispute resolution within tribes is facilitated through Jirgas, where tribal elders settle disputes based on their traditional

customs known as 'Riwaj.' Three main types of Jirgas are formed: Sarkari Jirga, nominated by a PA for inter-tribal disputes; Qaumi Jirga, formed by the tribe for intra-tribal issues; and Shakhshi Jirga, requested by disputing individuals.

The FATA Secretariat was established in 2000 to oversee this system, consolidating various directorates and departments under one roof. Funds are allocated by the federal government (via SAFRON) and the Governor's secretariat for each agency, which the FATA secretariat manages. The PA system maintains law and order through the FCR, while the political agent utilizes the Frontier Constabulary and Khasadars for enforcement. The FCR follows modern justice principles while excluding the technicalities of ordinary law (Khattak, 2018).

Landi Kotal, also known as Lwargai in Pashto, is a town in the Khyber Pakhtunkhwa Province of Pakistan. It serves as the administrative capital of Khyber District and was previously one of the largest towns in the Federally Administered Tribal Areas. Positioned at 1,072 meters (3,517 ft) above sea level, Landi Kotal lies on the path traversing the mountains leading to Peshawar city. This town is situated at the western boundary of the Khyber Pass, which serves as the entry point to Afghanistan's Nangarhar Province, located just 5 kilometers (3 mi) to the west.

Legislation in KP

According to Section 25 of the Rules under the practice of Ex-Dir State, immovable properties such as land, residential houses, shops, and trees, among others, will be legally considered the property of the possessor if they remain in continuous possession for fifteen years. No claims against such possession shall be entertained.

Section 26 of the same constitution states that if an immovable property remains in the continuous possession of a person or party for fifteen years, and the possessor lacks purchase documents, witnesses, or government purchase documents to support their claim, while the second party has valid ownership documents supported by witnesses or government decisions, the ownership of the disputed property will be decided according to Sharia law or local customs, such as through a local Jirga.

Section 27 maintains that if an immovable property remains in continuous possession for 25 years, the possessor will be considered the legal owner of the property, and twenty-five years of continuous possession will suffice for their ownership claim. However, Section 28 clarifies that Section 27 regarding twenty-five years of possession will not apply in mortgage cases.

Land Dispute Cases in KP

Land disputes frequently occur in Lower Dir due to the absence of a proper land settlement and registration system, as noted by Dennys and Marjana in 2012. The region faces escalating land issues due to population growth, remittance inflows from Middle Eastern countries, and limited available plain areas, leading to soaring land costs compared to other parts of Khyber Pakhtunkhwa. In commercial zones like Timargara, Chakdara, Samarbagh, and Khalil, the price of one marla of land ranges from ten to fifteen lac rupees. Consequently, the real estate sector has become highly profitable, attracting significant investments from property dealers pouring millions of rupees into land transactions.

Various land disputes are prevalent in the targeted area, with some major ones including a conflict between the Osakhel and Utmankhel tribes over cultivable and non-cultivable land in the Balambat area. Additionally, there is a land dispute between two rival groups in the Talash area concerning a forest-covered hilly area known as Kamrani, as well as a longstanding dispute between the villages of Kowary and Banda in the Malakand area of Lower Dir over a piece of forest-covered land.

Furthermore, other disputes within the district encompass a disagreement over a plain and partially fertile piece of land between the Khanan of Ouch village and the peasants of Osaki village. There is also a dispute over forest-covered hills among villages Namazkot, Safaray, Dawley, and Gorjai residents in the Maidan Area. Another ongoing source of rivalry is the dispute over the Sarlara mountain in the Maidan area between the Taran tribe and residents of Manyal village. Similarly, a land dispute exists between Nagotal and Nanbatai villages over mountainous land, and another litigation involves the Maliks of village

Khungi and the Government of Khyber Pakhtunkhwa concerning state-owned land. A dispute over a large land remains between the Miangan and Wardak tribes of Lajbok in Tehsil Balambat. Lastly, a land dispute case between Akbar Shah Shehzada and peasants of the Ex-Khan (ruler) of Jandool Valley in Lower Dir is being tried in the Supreme Court of Pakistan.

The land dispute over 560 kanals of cultivable land has been ongoing since 1917 and remains unresolved despite being under trial in various courts and Land Commissions. This case illustrates the slow and time-consuming process of resolving land disputes through formal courts, a situation that has persisted across generations. This information is based on official records from local courts in 2014. The above discussion highlights how land disputes have significantly impacted the socioeconomic landscape of Lower Dir, emerging as a significant sociological issue warranting investigation.

Undocumented Land Disputes in Pakistan

Undocumented land disputes in Pakistan pertain to conflicts or disagreements concerning land ownership or boundaries that lack official recording or documentation by legal entities. These disputes commonly emerge due to ambiguous land titles, historical disagreements, inheritance complexities, or unauthorized encroachments (Ali & Alam, 2021). Here are some critical aspects regarding undocumented land disputes in Pakistan:

1. Pakistan's land ownership history is intricate, particularly in rural regions where traditional landholding customs may conflict with contemporary legal structures. Numerous land disputes arise from inheritance and succession matters, with multiple heirs or family members asserting ownership claims over the same land parcel. Unauthorized occupation or land encroachment, especially in urban zones experiencing rapid urbanization and heightened land demand, can further fuel disputes. The country encounters difficulties maintaining precise and current land records, contributing to uncertainties and conflicts regarding land ownership and boundaries.
2. Pakistan's legal framework encompasses a range of laws and regulations concerning land ownership and dispute resolution. These include the Land Revenue Act, Land Acquisition Act, and pertinent Islamic law (Sharia) provisions. Land-related disputes in Pakistan can be addressed through established legal avenues, such as civil courts and revenue departments. Additionally, alternative dispute resolution methods like mediation and arbitration offer pathways for resolving land disputes non-adversarially.
3. Undocumented land disputes pose significant obstacles to economic development and investment. The lack of clear land titles and legal uncertainties create hesitancy among potential investors and developers, leading to a reluctance to engage in land-related ventures.
4. When affected individuals involved in land transactions or disputes in Pakistan approach court authorities, they face challenges in adjudicating Civil Cases.

Property disputes, especially those related to documentation and ownership, directly impact the harmonious coexistence of societies. The loss of property and possession is often perceived as a loss of honor and dignity, contributing to social tensions and conflicts. Social, cultural, and customary pressures can escalate disputes into violent confrontations. As a valuable and finite resource, land holds immense significance, and compromises over land rights, even if made voluntarily, are viewed as infringements on fundamental and economic rights.

Land disputes are prevalent globally, from the international level to local communities. Domestically, several factors exacerbate land disputes and impede effective land administration. These include climate change, food insecurity, unemployment, rapid and unplanned urbanization, deforestation, and encroachment on State and private lands due to weak property rights enforcement. These challenges have persisted in areas encompassing Pakistan for centuries, contributing to ongoing land-related issues (Ali & Alam, 2021). In contrast, several countries have successfully utilized technology to address land disputes. However, ineffective systems are vulnerable to failure, data loss caused by various disasters, and a lack of interoperability (Hanstad, 1997).

Like other parts of the world, land-related disputes in Pakistan disrupt peaceful coexistence within society. Conflicts often arise over boundary disputes and determining land ownership, prompting

claimants to seek resolution through revenue and civil courts. Civil courts have comprehensive jurisdiction, initiating trials for various suits. Despite delays being a common issue globally, the situation in Pakistan has reached a critical point where it undermines the entire legal system. In contrast to developed countries with robust legal safeguards protecting property rights, such protections are generally lacking in Pakistan. Alongside civil courts, revenue courts under the West Pakistan Land Revenue Act, 1967, from Naib Tehsildar courts to the Chief Settlement Commissioner/Senior Member Board of Revenue (SMBR), handle land disputes related to tenancy, leases, partitions, mortgages, and record corrections. Provincial governments oversee administrative control of these revenue courts. Unfortunately, these ineffective systems often prolong the suffering of both complainants and respondents instead of delivering swift justice. Due to Pakistan's fragmented and unsustainable civil judicial system, many cases are filed in civil courts under the guise of gathering evidence and further inquiry. However, aggrieved parties struggle to reach conclusive decisions, with delays often spanning generations, leading to subsequent generations receiving redressment, if at all. Hence, it is urgent to research and delve into the root causes of land disputes in Pakistan.

It is also crucial to critically analyse the effectiveness of existing civil courts in resolving cases and propose measures to enhance their performance by ensuring fair and expeditious dispensation of justice. Although the scope of this study is extensive, research constraints have confined it to the KP province, specifically in the Landikotal area. It is assumed that issues concerning court administration are relatively similar across Pakistan. This research endeavors to assess the effectiveness of civil courts, explore the causes of land disputes, scrutinize the role of civil courts, and provide actionable suggestions that, if implemented, would significantly contribute to achieving justice.

The term 'land dispute' refers to a conflict regarding land utilization rights between land users and other entities or individuals concerning the allocation or withdrawal of land from users. It encompasses disputes related to land management systems and the exercise of control and disposal functions concerning land.

Land disputes among claimants often stem from failing to meet the terms and conditions of land tenancy or allotment of state-owned land. Additionally, various other reasons contribute to disputes, such as cancelling conveyance deeds, fraudulent concealment of facts, and similar factors.

Article 23 of Pakistan's Constitution grants every citizen the right to acquire property anywhere in the country, allowing individuals not only to obtain property but also to possess and relinquish it at their discretion. However, this right must be exercised following the law and its limitations. Furthermore, Article 24 ensures that property cannot be forcibly taken from owners without appropriate compensation, which must be specified in terms of amount and method.

In the case of *Liaquat Hussain vs. Federation of Pakistan*, the Supreme Court of Pakistan highlighted the accumulated backlog in courts across all levels of the judicial hierarchy. Subsequently, in Report No. 60 titled "Expediting Trial Proceedings," the Law and Justice Commission of Pakistan emphasized the urgent need to reduce delays, reform procedures, lower litigation costs, and ensure the implementation of directives issued by the district judiciary. The report also advocates using alternative dispute resolution methods to minimize litigation expenses.

Regarding legal recourse, individuals dissatisfied with a civil judge's decision can file an appeal in the district judge's court based on the case's value. Furthermore, appeals or revisions can be pursued in the High Court against the district judge's court verdict. Typically, appeals can be made to the Supreme Court following verdict announcements by High Courts.

In Pakistan, public discussions have consistently highlighted the existence of specific individuals or groups engaging in coordinated and organized land-grabbing activities, collectively known as the "Land Mafia." These entities unlawfully seize land from legitimate owners by falsely asserting ownership claims over specific parcels of land. They then navigate various legal channels, exploiting the law to serve their malicious intentions. To address this issue, the Illegal Dispossession Act was enacted in 2004; however, its effectiveness in curbing such practices has been limited thus far.

Land administration refers to the systematic process of recording, managing, and allocating information related to land ownership, its value, use, property transaction rules, tax ratios, and associated legal matters. The agricultural revenue assessment system has existed for centuries in Pakistan, where the economy is primarily agriculture-based. However, this outdated system has become irrelevant and ineffective in addressing modern-day requirements. Therefore, there is a pressing need to leverage technology to digitize land records. This digitization effort aims to reduce disputes by streamlining the processing time for land record management, enhancing decision-making capabilities, facilitating strategic planning, and enabling predictive modelling. Embracing these technological advancements would significantly enhance the efficiency and accessibility of land records management (Raza et al., 2005).

Taking an international scenario, Malaysia initiated judicial reforms by amending civil procedural laws and introducing new Rules of Court in 2012. These reforms brought about significant changes, including implementing a more systematic and proactive court case management system. The new model proved highly efficient and practical, expediting the adjudication of matters before the courts and reducing delays and backlog of cases in civil courts. This innovation helped restore public confidence in Malaysia's judicial system. Similarly, Singapore's judicial system has also implemented a successful case management system that has garnered recognition worldwide for its effectiveness (Ismail, 2016).

The Courts' Hierarchy in Pakistan

The court hierarchy in Pakistan represents a sophisticated system designed to ensure justice and uphold legal principles. Pakistan's judicial system consists of multiple tiers, with each court handling specific legal matters. At the top of this structure is the Supreme Court of Pakistan, the highest judicial authority in the country. This hierarchical arrangement extends to other courts, such as high courts, the Federal Shariat court, civil courts, criminal courts, and specialized tribunals, each with unique jurisdictions and responsibilities.

Structuring Civil Courts for their Jurisdiction

The superior judiciary in Pakistan consists of the Supreme Court, Federal Shariat Court, and High Courts, while the district judiciary comprises Civil and Criminal Courts established by acts and operating under the supervision and control of the respective High Courts as per Article 203 of the Constitution.

1. Section 9 of the Code of Civil Procedure 1908 grants jurisdiction to civil courts to hear all civil suits except those explicitly or implicitly barred. In KP, the pecuniary jurisdiction of the Civil Judge's first class is unlimited, while that of the Civil Judge's second class and third class is enhanced to Rs. 5,00,000 and Rs. 1,00,000, respectively.
2. The principal seat of the High Court of Sindh holds Civil Original Jurisdiction in cases where the relief sought exceeds 6.5 crores, including company and admiralty cases, while the limit in banking matters exceeds five crores.
3. It is a well-established principle that even if civil court jurisdiction is barred and given to special tribunals, civil courts, being courts of ultimate jurisdiction, retain the authority to review the actions of such forums to ensure legality and absence of malfeasance. Section 24 of the Civil Court Ordinance 1962 empowers civil courts with unlimited jurisdiction to hear suits against the State and its officials in their official capacity.

Civil Courts in Pakistan

Civil courts, also known as courts of plenary jurisdiction, serve as the initial courts where trials for suits are initiated. They handle cases based on the nature of the subject matter, the value involved, and the court's territorial jurisdiction. Subject matter refers to the court's authority to hear cases of a specific nature related to particular subject matters. Territorial jurisdiction indicates that the court can resolve disputes within its geographical boundaries and not beyond.

Civil courts in Pakistan are organized under the jurisdiction and oversight of the High Court within each respective province. The high court exercises general superintendence and control over all civil courts. As stipulated by the Civil Courts Ordinance 1962, the primary classes of civil courts are as follows.

- The Court of District Judge,
- The Court of Additional District Judges,
- The Civil Court

These courts operate within the framework of the laws established by each province, providing a structured hierarchy for the administration of civil justice throughout the country.

Pecuniary jurisdiction relates to the monetary value of the subject matter. It is categorized into three classes: civil judges of the first, second, and third. A civil judge of the first class has unlimited jurisdiction regarding the value of the subject matter. Civil courts are subordinate to the High Courts and are under their supervision and control as per Article 203 of the Constitution of the Islamic Republic of Pakistan 1973. At the district level, the District Judge oversees all civil courts within the district's jurisdiction.

The district judiciary comprises the following classes of judges:

- 1) The Court of District Judge: This is the administrative head of the district judiciary.
- 2) The Court of Additional District Judge handles appeals and revisions.
- 3) The Court of Civil Judge: This court conducts civil trials.

Effectiveness of Civil Courts

While delays in legal proceedings are a global issue, the situation in Pakistan has reached a critical level, significantly undermining the entire legal system. As a result, public trust in the judiciary has been severely eroded, particularly concerning civil justice matters as opposed to criminal justice (Justice ® Ali Akbar Qureshi, 2021). In the case of Liaqat Hussain vs. Federation of Pakistan, the esteemed Supreme Court of Pakistan commented on the growing backlog of cases across all levels of the judicial hierarchy (Justice Javaid Iqbal ®, 2006).

Analysis of Pending Cases in all districts Courts of Pakistan

The chart indicates that the pendency of cases in the district judiciary KP is 17,000 cases, along with other parts of the country.

Causes of Land Disputes

The following sections highlight the causes of land disputes:

Lack of Titling and Land Registry System

Land disputes often arise due to the lack of a robust titling and land registry system coupled with an unreliable cadastre. The record of rights (misl-e-haqqyat) for landowners (haqdaran-e-zameen) is updated every four years; however, this periodic record (girdawri) grants rights based on a presumption of truth rather than presenting the complete truth.

These discrepancies and inherent weaknesses in title documents create opportunities for land grabbers ("qabza mafia") to exploit socially and economically vulnerable litigants by engaging them in civil and subsequent criminal litigation processes (Khalid et al., 2022).

Land Disputes–the State vs the Tenant

It was noticed that land disputes are frequent occurrences, particularly between the State and tenants, with primary reasons identified as follows:

- 1) Failure to comply with the terms and conditions of tenancy or allocating state land to individuals.
- 2) Determination of improvements made by tenants.
- 3) Granting of proprietary rights.
- 4) Issuance of final conveyance deeds.
- 5) Revocation of conveyance deeds due to fraud or withholding of information.
- 6) Lease payments/instalments and recovery of outstanding dues related to state land.
- 7) Disputes arising from unlawful occupation or cultivation of state land, eviction, and fines recovery (tawan), among others. Similarly, in revenue matters involving disputes between private parties, several factors are significant: 1) Title/ownership disputes, cultivation rights, occupation, and

partition. 2) Inheritance issues. 3) Division of produce shares. 4) Eviction of tenants. 5) Rights of way/easement rights. 6) Incorrect demarcation of land boundaries.

Research conducted on the effectiveness of informal justice mechanisms in Pakistan and the role of dispute resolution councils (DRCs) in resolving disputes in the district Charsadda and district Nowshera found that based on Restorative Justice Theory, the argument put forth is that informal justice mechanisms in traditional societies play a role in repairing, restoring, reconciling, and reintegrating both offenders and victims within their community.

Conclusion

Land disputes, whether they escalate peacefully or turn violent, have a range of negative impacts on individuals and society. It is undeniable that when land disputes occur, the parties involved inflict social and economic hardships on each other. They invest significant time and resources in legal battles in courts. In the Dir Lower district, land disputes often result in violence, loss of lives, property damage, injuries, and disruption of social, political, and economic stability. In some cases, one party may even relocate to avoid potential harm.

The prevalence of land sales, illegal land grabs, evictions, and other practices have fostered a sense of mistrust among individuals and towards the government. Violent land disputes further exacerbate social, economic, and political instability, posing severe threats to the stability of the study area and causing suffering to those involved.

These land disputes require attention from researchers and social reformers, as they are on the rise and are impacting the social fabric of KP. Additionally, the recent extension of the judicial system to the former FATA region, replacing the old Frontier Crimes Regulations Act of 1900 that relied heavily on the Jirga System, is relevant to this research. This study aims to identify gaps, ambiguities, and deficiencies in the judicial setup for resolving land-related civil disputes in Landikotal Tehsil of Khyber district. The research conducted in the KP province, with a case study on Tehsil Landi Kotal, seeks to illuminate the multifaceted nature of land conflicts primarily undocumented in the region. Land conflicts largely undocumented Landikotal Tehsil of Khyber district pose significant challenges and complexities.

These conflicts often arise for various reasons, such as unclear land titles, disputed boundaries, inheritance issues, encroachments, and competing claims over land ownership. The lack of proper documentation exacerbates these conflicts, making it challenging to resolve them through legal or official channels.

Undocumented land conflicts often lead to prolonged disputes, as there is no clear record or evidence to substantiate claims or resolve disputes. This can create a situation of uncertainty and insecurity among the parties involved, as well as hinder potential investment and development in the affected areas.

Addressing undocumented land conflicts requires comprehensive measures such as improving land registration systems, promoting transparency in land transactions, enhancing legal frameworks for resolving disputes, and supporting alternative dispute resolution mechanisms. Additionally, raising awareness among stakeholders about the importance of proper documentation and adherence to legal procedures is crucial in mitigating land conflicts and promoting sustainable land management practices.

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