



A COMPARATIVE STUDY OF PANCHAYAT SYSTEM AND STATE'S JUDICIAL SYSTEM IN PUNJAB, PAKISTAN

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ABSTRACT

The fundamental structure of the current formal judicial system of Pakistan has been taken from the medieval period and even before. Panchayat system has been basic and critical informal judicial system for the villages of Pakistan for justice provision as the decentralized power, and local governance and it has never been completely adopted by national or provincial governments. This research aimed at a comparative study of Panchayat System and state's judicial system in Punjab, Pakistan. The study was confined to three randomly selected representative districts of Punjab. 14.4% of the respondents claimed speedy justice from Panchayat. 10.8% of respondents having primary level education said that the state formal judicial system is more expensive than Panchayat system. Surprisingly, 5.8% of the government employees also favored Panchayat system and 5.8% of non-government employees favored state judicial system for delivering reliable and affordable justice.

Keywords: *Affordable Justice System, Accessible Justice System, Panchayat, State Judicial System.*

INTRODUCTION

The panchayat system is a type of justice system usually practiced in the Indian subcontinent, India, Pakistan, and Bangladesh. The word Panchayat means "assembly" (ayaṭ) of five (panch). Panchayats comprised of respected and wise elders accepted by the local people conventionally. There were different forms of such assemblies and these assemblies settled disputes between individuals of a particular local and among different villages. It is part of India's legal justice system in many states even nowadays. The panchayat system is also considered as an informal justice system in Pakistan. The parameters of Panchayat are part of a self-rural government system that was taken from the Mughal government or even before. Sharma (1965) stated that Panchayat has been a source of justice for a very long time. Mughal (2009) mentioned that Different kinds of courts could be found in the Mughal period dealing with different cases. These institutions were known as a blessing for the poor people of rural areas rather than a threat. The system was bound to solve problems relating to local administration and domestic disputes. As Ahsan (2009) mentioned that these two systems, based on the present egalitarian spirit, were stripped of their good features and colonial regime devastated the Panchayat Justice System in context of International Human Rights Law 10 spirit of such forums during their time and

formalized them into court-like institutions to impose and enforce legitimate unjustifiable and harsh laws just to suppress the village community.

Yasin and Buniri (2004) observed that the colonial power had a perception that the people residing in specific areas of the country were potential criminals and they could pose a direct threat to their power, and only an iron hand could deal with this kind of threat. Pal (2009) says that the special rules and laws were made to benefit the people of different locales. The successive changes i.e. one rule/dynasty substituted by the other, which resulted in the form of socio-economic and political change in Indian society, the judicial system exercised frequent growth and easy progress towards consolidation and improvement, without passing through any major breakdown. Ahmad (2006) observed that Panchayat system has been basic and important for the villages in Pakistan for justice provision as the decentralized power, and local governance has never been completely adopted by the government. Cast system is also playing the vital role in justice system in these areas. Alabi (2003) stated that these administrative bodies were/are autonomous and self-regulatory, providing the community with possible solutions to their problems for the functioning of social structure at the local level. In the context of judicial systems, Pakistan is a plural society where completely different and independent systems of law like the state law, Islamic law, and the traditional law exist. Mirza (2010) mentioned that the state and the state law though do not recognize the non-state laws as laws, but the reality is that the frequently practiced law in Pakistan is the traditional law. Traditional law is found in different forms like panchayats, jirgas, informal meetings of families, pirs, Chaudhary, etc. The jirga/panchayat mystique suggests that people turn to this institution because they have lost faith in the state's judicial system, as it guarantees quick settlement of matters and the accused is tried by people. Rehman (2014) stated that the issue of wadera/tribal justice is quite complicated as the institution of jirga/panchayat is sustained by a pro-democracy socio-economic order. The panchayat system is being practiced as an informal judicial system in Punjab Pakistan due to its limitations and some controversial decisions. No doubt there are still some deficiencies in the judicial system of Pakistan in spite of present reforms which made it comparatively more efficient. Quick access to justice is still not available for the people living in distant areas. Contacting the police has own hazards. The courts are overburdened with cases. Rehman (2002) stated that people have no choice but to contact these forums. All the above-mentioned arguments have been rebutted time and again.

METHODOLOGY

The methodology is the logic of scientific procedure. Methodological technique and observation analysis are important for sociological perspectives and empirical research. Neuman (2001) stated that it helps to describe and explain research design and techniques. The validity and precision of a study may give a misleading picture unless the study has not been put to rigorous and scientific methodology. The sample of this study included Punjab, Pakistan. The study was confined to randomly select three districts of Punjab. Respondents were selected through Multi-stage sampling. A sample of 480 respondents was taken. At the first stage, three districts were selected from Punjab through simple random sampling technique. At the second stage, two tehsils were selected randomly from each district. At the third stage, two union councils from each tehsil were randomly selected. At the fourth stage, one village from each union council was selected randomly. At the fifth stage, 40 respondents were selected through convenient sampling



technique from each village. The interview schedule was used for the collection of data. Both descriptive and inferential techniques were used for the analysis of data. In the end, some conclusions were drawn and suggestions systems.

RESULTS AND DISCUSSIONS

i. Education level and high-cost Justice System

The following hypothesis was constructed to explore the degree of association between the respondents' level of education and opinion about the high cost of the judicial system.

H₁ = There is an association between the level of education of the respondents and opinion about the cost of different judicial systems.

H₀ = There is no association between the level of education of the respondents and opinion about the cost of different judicial systems.

The results of the analysis are given below.

Table 1: Respondents' education level and opinion about the high-cost Justice System

Respondents' Education Level	Which system is more expensive?			
	State judicial system	Panchayat system	Both	Total
Illiterate	55 (11.5)	27 (5.6)	2	84 (17.5)
Primary Pass	52 (10.8)	32 (6.7)	4 (1)	88 (18.3)
Middle Pass	68 (14.2)	29 (6)	1	98 (20.4)
Secondary School Certificate	68 (14.2)	48 (10)	4 (1)	120 (25)
Intermediate and Graduation	40 (8.3)	26 (5.4)	4 (1)	70 (14.6)
Master/MPhil/Ph.D.	10 (2.1)	7 (1.5)	3 (0.8)	20 (4.2)
Total	293 (61)	169 (35.2)	18 (3.8)	480

$\chi^2_{(10)} = 14.428^*$; $\phi = 0.173^*$; Cramer's V = 0.123*. (braces contain percentages of frequencies, * and ** indicate value is significant at 5% and 1% level of significance, respectively).

The above table presents that there are 52 respondents (10.8%) out of total respondents having a primary level of education who said that the state judicial system is more expensive. 32 respondents (6.7%) considered the panchayat system as more expensive. 14.2% of the respondents with middle education considered the state judicial is more expensive, while 29% of the respondents considered the panchayat system more expensive. About 14% of the respondents having a secondary school certificate considered state judicial system more expensive, while 8.3% of the respondent having intermediate and graduation level education considered the state judicial system more expensive. 2.1% of highly educated respondents and 11.5% of illiterate respondents considered the state judicial system more expensive. The Pearson chi-square value was 14.428 and statistically significant. So, there was a significant association between the respondents' level of education and the opinion about the high cost of the judicial system. The respondent's education had a weak and significant effect on the opinion about the high cost of judicial system. The correlation between "the respondent's education level" and "the opinion about the high cost of the judicial system" was statistically insignificant.

ii. Profession and Reliable and Affordable Justice system

The following hypothesis was constructed to explore the degree of association between the respondents' profession and opinion about the reliable and affordable justice system.

H_1 = There is an association between the profession of the respondents and opinion about the reliable and affordable justice system.

H_0 = There is no association between the profession of the respondents and opinion about the reliable and affordable justice system

The results of the analysis are given below.

Table 2: Respondents Profession and Opinion about Reliable and Affordable Justice system

Respondents' Occupation	Which system is more reliable and affordable justice system in your village?			
	State judicial system	Panchayati System	Both	Total
Agriculture	53 (11)	52 (10.8)	53 (11)	158 (32.9)
Labor	5 (1)	19 (4)	7 (1.5)	31 (6.5)
Business	39 (8.1)	35 (7.3)	39 (8.1)	112 (2.3)
Govt. Employee	26 (5.4)	28 (5.8)	32 (6.7)	86 (17.9)
Non-Govt. Employee	28 (5.8)	26 (5.4)	18 (3.6)	72 (15)
Any other	6 (1.3)	10 (2.1)	5 (1)	21 (4.4)
Total	157 (32.7)	170 (35.4)	153 (31.9)	480

$\chi^2_{(10)} = 15.074^*$; $\phi = 0.173^*$; Cramer's V = 0.123^{*}. (braces contain percentages of frequencies, * and ** indicate the value is significant at 5% and 1% level of significance, respectively).

The results of the above table show that 11% of the respondents with a farming profession considered the state judicial system more reliable and affordable. While 10.8% and 11% considered the panchayat system and both the state's judicial and panchayat systems more reliable and affordable, respectively. 4% of respondents working as laborers considered the panchayat system more reliable and affordable. 8.1% of the respondents from the business background favored the state judicial system in the provision of reliable and affordable justice. 5.8% of the government employees favored the panchayat justice system and while 5.4% of the government employees favored the state's judicial system. 5.8% of non-government employees favored the state judicial system for delivering reliable and affordable justice. The Pearson chi-square value was 15.452, which is statistically significant. Therefore, there is a significant association between the respondent's profession and the opinion about the justice system in the provision of reliable and affordable justice. The respondent's profession had a weak but statistically significant effect on the opinion about the justice system in the provision of reliable and affordable justice.

iii. Effectiveness of State's Judicial and Panchayat System

The following hypothesis was constructed to explore the degree of association between the respondents' issues of engagements and marriages, and opinion about the effectiveness of the state's judicial and panchayat system.



H₁ = There is an association between the issues of engagements and marriages and opinion about the effectiveness of the state's judicial and panchayat system.

H₀ = There is no association between the issues of engagements and marriages and opinion about the effectiveness of the state's judicial and panchayat system.

The results of the analysis are given below.

Table 3: Opinion about the Effectiveness of State's Judicial and Panchayat System

Is the state's judicial system is effective in solving issues of engagements and marriages in your family?	Is the panchayat system effective in solving issues of engagements and marriages in your family?			
	Agree	Neutral	Disagree	Total
Agree	57 (11.9)	64 (13.3)	39 (8.1)	160 (33.3)
Neutral	73 (15.2)	52 (10.8)	47 (9.8)	172 (35.8)
Disagree	48 (10)	44 (9.2)	56 (11.7)	148 (30.8)
Total	178 (37.1)	160 (33.3)	142 (29.6)	480 (100)

$\chi^2_{(10)} = 10.665^*$; $\phi = 0.149^*$; Cramer's V = 0.105^{*}. (braces contain percentages of frequencies, * and ** indicate the value is significant at 5% and 1% level of significance, respectively).

The above table presents that 11.9% of respondents, who agreed with the statements that the state's judicial system is effective in solving issues of engagements and marriages, also agreed that the panchayat system is effective in solving issues of engagements and marriages. 8.1% of the respondents disagreed with the statement that the panchayat system is effective in solving issues of engagements and marriages. 15.2% of the respondents agreed that the panchayat system is effective in resolving the issues of engagements and marriages in their family, while they were neutral about the effectiveness of the state's judicial system in the same issue. 10.8% of the respondents were neutral and undecided about the effectiveness of both state judicial and panchayat system in resolving the issues of engagements and marriages in their family. 9.8% of the respondents disagreed that the panchayat system is effective in resolving the issues of engagements and marriages in their family, while they were neutral in opinion about the effectiveness of the state's judicial system in the same issue. 10% of the respondents disagreed that the state's judicial system is effective in resolving the issues of engagements and marriages, while they agreed about the effectiveness of the panchayat system regarding the same issues. 9.2% of the respondents disagreed on the effectiveness of the state's judicial system in solving the issues of engagements and marriages, while they were neutral in opinion about the effectiveness of the panchayat system regarding the mentioned issue.

The Pearson chi-square value was 10.665 that is statistically significant. There is a statistically significant association between the effectiveness of the state's judicial system and the panchayat system in solving the issues of engagements and marriages. The effect size (coefficient of Cramer's V) was weak (0.105) and statistically insignificant. The correlation between "the effectiveness of the state's judicial system and the panchayat system in solving the issues of engagements and marriages" was statistically insignificant.

iv. State Judicial System and Preferred Justice System

The following hypothesis was constructed to explore the degree of association between the respondents' issues of domestic disputes and opinion about the state's judicial system and the preferred justice system.

H_1 = There is an association between issues of domestic disputes and opinion about the state's judicial system and the preferred justice system.

H_0 = There is no association between issues of domestic disputes and opinion about the state's judicial system and the preferred justice system.

The results of the analysis are given below.

Table 4: Opinion about the State Judicial System and Preferred Justice System.

Is the state's judicial system effective in solving issues of domestic disputes?	If you have any kind of dispute with someone, then which kind of system will you decide on?			
	Police Station	Panchayat	Both police and panchayat	Total
Agree	52 (10.8)	54 (11.2)	71 (14.8)	177 (36.9)
Neutral	48 (10)	63 (13.1)	53 (11)	164 (34.2)
Disagree	35 (7.3)	53 (11)	51 (10.6)	139 (28.9)
Total	135 (28.1)	170 (35.4)	175(36.4)	480

$\chi^2_{(4)} = 3.935$; $\phi=0.091$; Cramer's $V = 0.064$. (braces contain percentages of frequencies, * and ** indicate the value is significant at 5% and 1% level of significance, respectively).

The above table presents that 10.8% of respondents agreed with the statements that the state's judicial system is effective in solving issues of domestic disputes, and they go to the police station when they have any kind of domestic dispute with someone. 11.2% of respondents agreed that the state's judicial system effectively resolved domestic disputes. 14.8% of the respondents reported their disputes to both police, and panchayat and they also agreed that the state judicial system is effective in the resolution of a domestic dispute. 10% of the respondents who were neutral in the opinion about the effectiveness of the judicial system in resolving the domestic dispute, when they had any dispute with someone, they reported to the police station. 13% of the respondents who were neutral in opinion about the effectiveness of the judicial system in resolving the domestic dispute, when they had any dispute with someone, reported to the panchayat. 11% of the respondents who were neutral in opinion about the effectiveness of the judicial system in resolving the domestic dispute, when they had any dispute with someone, reported to both police stations and the panchayat system. 7.3% of respondents disagreed that the state's judicial system effectively resolve the domestic disputes, however, they reported their disputes to the police. 11% of respondents disagreed that the state's judicial system effectively resolve the domestic disputes, however, they reported their disputes to the panchayat. 10.6% of the respondents who reported their disputes to both police and panchayat, disagreed with the statement that the state judicial system is effective in solving domestic disputes. The Pearson chi-square value was 3.935 that is statistically insignificant. It can be concluded that there is an insignificant association between the effectiveness of the state's judicial system in resolving the domestic dispute and the respondents' dispute reporting to the police station. The effect size (coefficient of Cramer's V) of the effectiveness of state's judicial system in resolving the domestic dispute based on the respondents' dispute reporting to the station was weak (0.064 and statistically insignificant). The correlation between "the effectiveness of the state's judicial system in resolving the domestic dispute" and "the respondents' dispute reporting to the station" was weak (0.091) and statistically insignificant.



CONCLUSION

Pakistan is a plural society, where people from different social and cultural backgrounds are living. People observe and practice different social and cultural practices in all aspects of their daily life, the same is the case with following different judicial systems. In Punjab, generally different kinds of judicial systems are being practiced. One is the state's judicial system known as the formal judicial system and the other is the panchayat judicial system known as the informal justice system. The punishments given by panchayats are entirely different from the penalties and relieves given by the state judicial system. The panchayat system primarily emphasizes and focuses on compensation rather than imprisonment. Many incidents have been reported and highlighted by national and international media, which have lead to the perception that this old traditional justice system is a violation of human rights, and particularly women and children are considered the first to be subjected to panchayat decisions. Human rights perspective in panchayat justice forums has been explicitly discussed in this research and efforts were made to inquire about the hidden truth and nuts and bolts of the centuries-old traditional justice system.

The level of education and the high cost of the justice system has been discussed in this research paper. Profession, reliable, and affordable justice systems have been elaborated by different variables; the effectiveness of panchayat and state judicial system is the subject of this research paper. The informal justice systems often viewed as discriminatory, and not always adhering to international human rights standards. If we streamline the panchayat rules and laws, it can benefit the current state's judicial system.

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