

(NIMS)
NUST Institute of Management Sciences

FINAL RESEARCH THESIS

**PRODUCTIVITY AND QUALITY MANAGEMENT
IN PAKISTAN'S JUDICIAL SYSTEM**

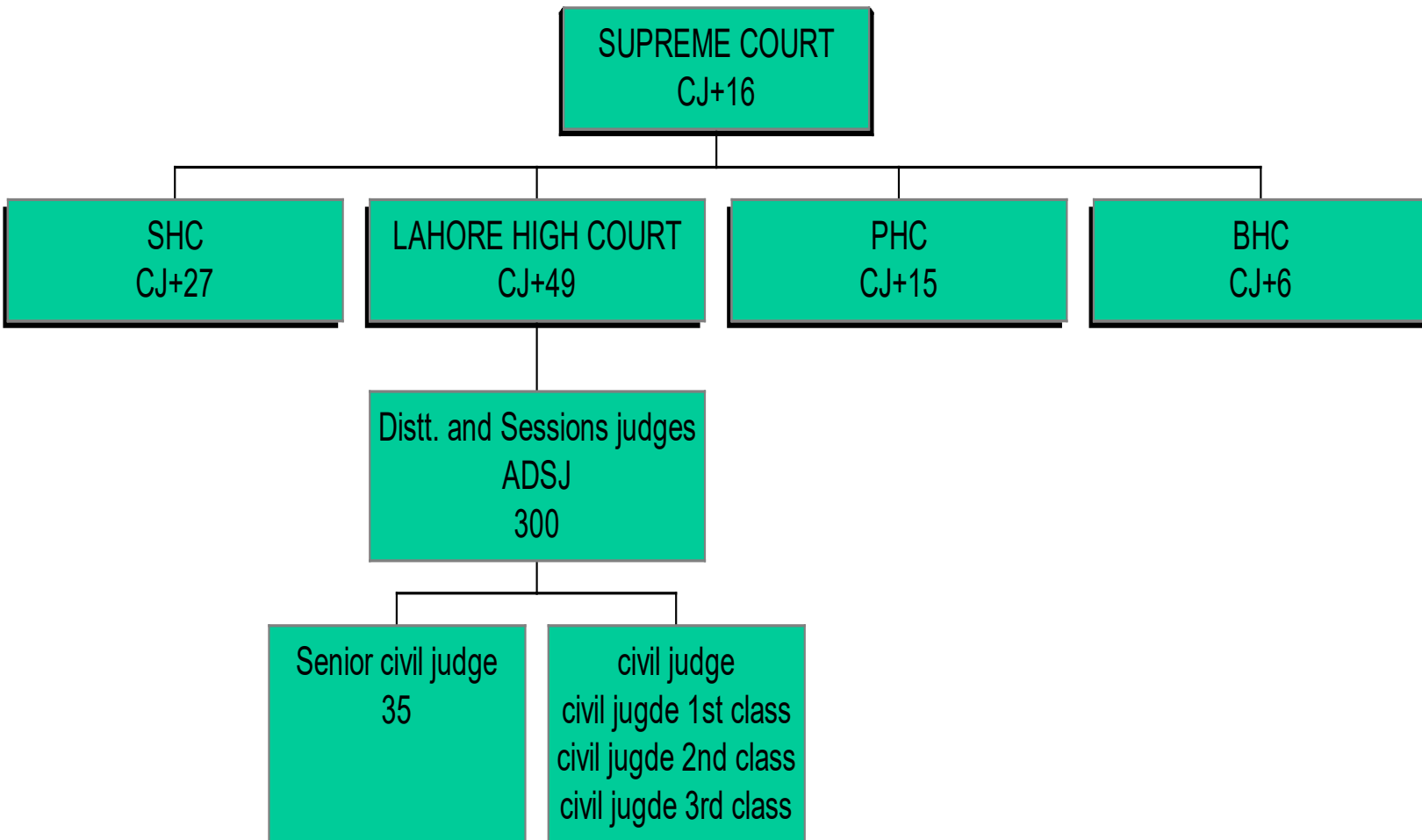
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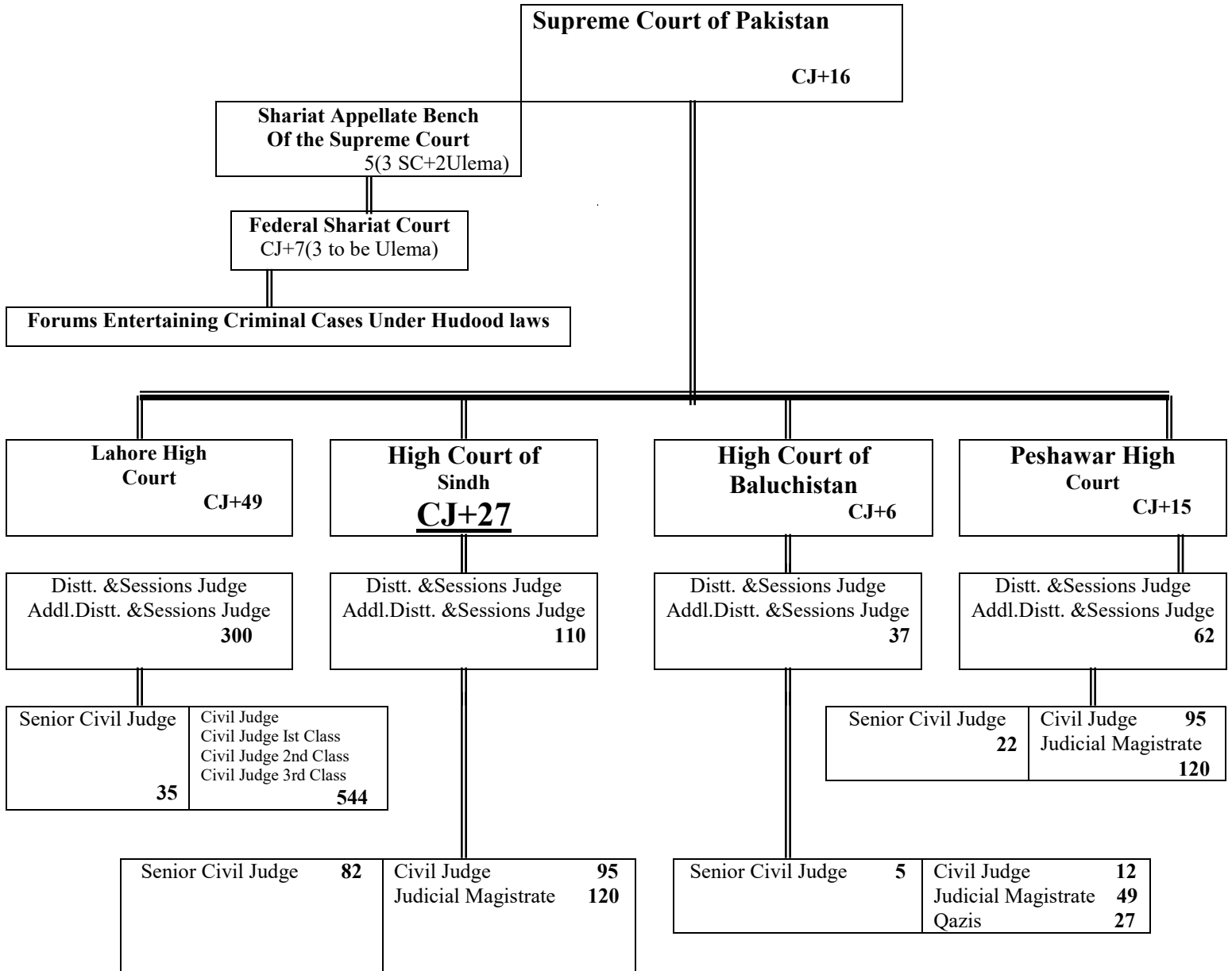
Annexure-A

JUDICIAL HIERARCY OF PAKISTAN

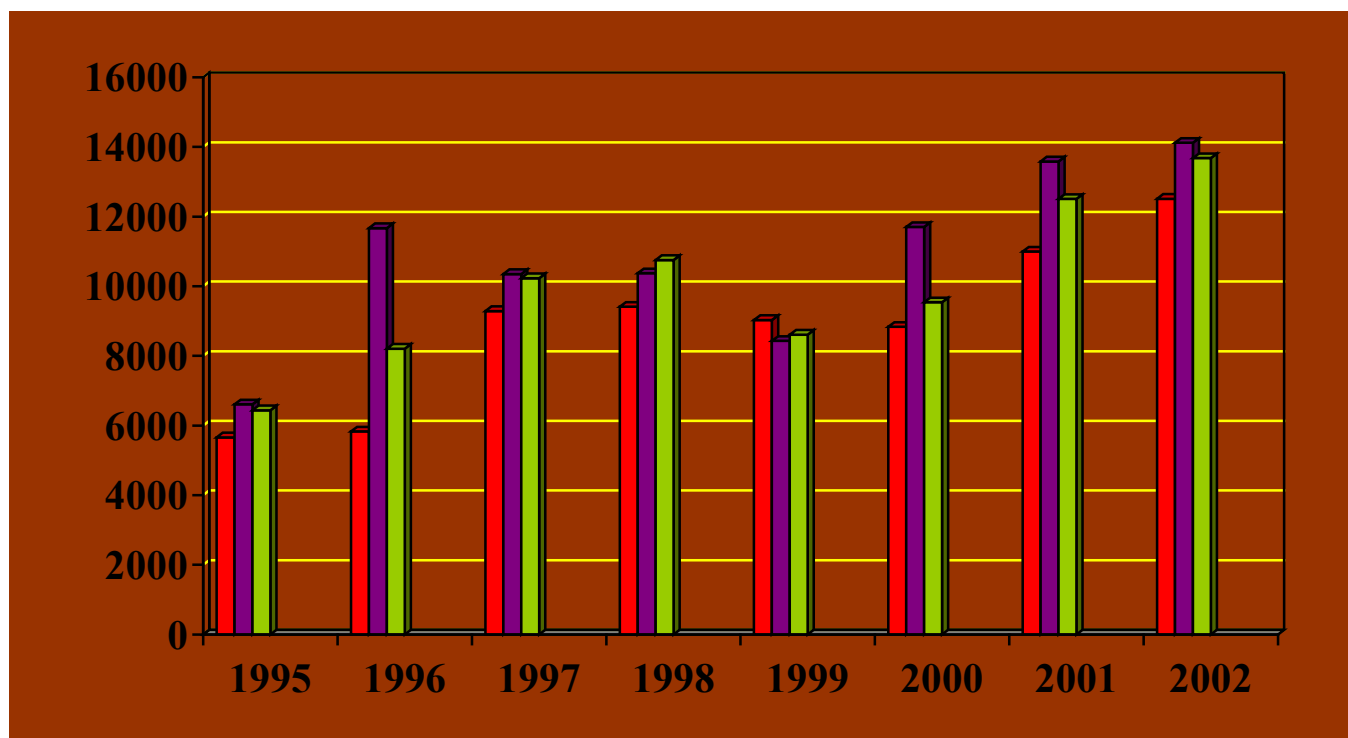


Annexure - B

**JUDICIAL HIERARCHY OF PAKISTAN
(Sanctioned Strength Of Judges)**



**Petitions and Appeals Filed, Disposed and Pending in the
Supreme Court of Pakistan.**



Annexure - D

**Institution, Disposal and Pendency of Cases in
Lahore High Court.**

	Institution	Disposal	Pendency
Principal Seat	59,253	61,208	29,038
Bahawalpur Bench	8,706	8,334	8,053
Multan Bench	20,192	21,039	19,092
Rawalpindi Bench	8,808	8,560	9,502
Total (as on 31-12-02).	96,959	99,141	65,685

Category wise Break Down of Pending Cases.

Civil Cases	All Categories	23,880
Criminal cases		17,131
Constitutional Cases		20,338
Commercial Cases		4,336

Annexure - E

**Institution, Disposal and Pendency of Cases in Session Courts
of Punjab.**

Sr.No	District	Instituted During 2002	Disposed	Pending on 31-12-02
1	Attock	3176	4325	103
2	Bahawalnagar	5365	5691	1508
3	Bahawalpur	8002	7653	3182
4	Bhakhar	1266	1475	936
5	Chakwal	2509	2670	730
6	D.G.Khan	1779	1968	1044
7	Faisalabad	15,579	14,808	4307
8	Gujranwala	4171	3822	2179
9	Gujrat	5082	5075	1208
10	Hafizabad	6086	6016	598
11	Islamabad	3081	2664	1130
12	Jhang	8634	8240	3347
13	Jhelum	2112	1966	802
14	Kasur	9397	9888	1817
15	Khanewal	6035	5120	1556
16	Khushab	785	1711	609
17	Lahore	7727	8517	7189
18	Layyah	2314	2264	1092
19	Lodhran	4490	4206	1312
20	Mandi.B.Din	3128	3679	1280
21	Mianwali	2244	2519	991
22	Multan	11,785	10,210	2616
23	Muzzafargarh	4774	6470	1944
24	Narowal	2301	2840	564
25	Okara	9962	10,289	1751
26	Pakpatan	5250	5220	1339
27	Rahim.Y.Khan	8890	8357	3504
28	Rajanpur	2084	2369	451
29	Rawalpindi	9777	9968	3530
30	Sahiwal	8132	7902	2637
31	Sargodha	8862	9052	2593
32	Sheikhupura	12,448	13,518	1939
33	Sialkot	8732	9217	2585
34	Toba.T.Singh	3152	3283	1057
35	Vehari	8276	7954	3205
Total		207,387	210,926	66,635

Annexure - F

**Budgetary Allocation For The Judiciary
For Financial Year 2001-02**

S.NO	PARTICULARS	RUPEES MILLION/THOUSAND
1. 2. 3.	Total Budget of Federal Government Total Budget of Supreme Court of Pakistan Percentage of Federal Budget	Rs. 3,033,686.4400 (Million) Rs. 115.2290 (Million) 0.0037 %
1. 2.	Total Budget of Federal Shariat Court Percentage of Federal Budget	Rs. 26.7780 (Million) 0.0008 %
1. 2. 3.	Total Budget of Punjab Province Administration of Justice in the Punjab Percentage of Punjab Budget	Rs. 127,640.2000 (Million) Rs. 230.6150 (Million) 0.1806 %
1. 2. 3. 4.	Total Budget of Sindh Province Total Budget of Sindh High Court Percentage of Sindh Budget Administration of Justice in the Sindh	Rs. 82,148.7000 (Million) Rs. 83,8874 (Million) 0.1021 % Rs. 83,887.4 (Thousand)
1. 2. 3.	Total Budget of N.W.F.P Administration of Justice in the N.W.F.P Percentage of N.W.F.P Budget	Rs. 52,024.2000 (Million) Rs. 29.0862 (Million) 0.0559 %
1. 2. 3.	Total Budget of Balochistan Province Administration of Justice in the Balochistan Percentage of Balochistan Budget	Rs. 26,337.9060 (Million) Rs. 38.08 (Million) 0.1445 %
1. 2. 3.	Total Federal and Province Budget Total Budgetary Allocation of Superior Court Total Percentage of Expenditure on Administration of Justice	Rs. 3,321,837.4460 (Million) Rs. 523.6720 (Million) 0.0157 %

Annexure - G

**Strength of the Supreme Court,
High Courts, District & Sessions Judges/Senior Civil Judges &
*Civil Judges/ Judicial Magistrates and Ministerial Staff of the Courts.***

	Supreme Court of Pakistan	Lahore High Court	High Court of Sindh	Peshawar High Court	High Court of Balochistan
Chief Justice & Judges	17	50	28	15	6
Administrative Staff	499	2022	695	345	294
District & Sessions Judges/Civil Judges & Civil Judges Cum- Judicial Magistrate, under each High Court	-	879	407	212	146
Administrative Staff of the district Courts under Administrative Control of High Courts.	-	8088	3942	1976	951

Annexure - H

Information Relating To Administration Of Justice.

Number Of Advocates

	Supreme Court of Pakistan	Lahore High Court	High Court of Sindh	Peshawar High Court	High Court of Balochistan
Senior Advocates	245	-	-	-	-
Advocates	2533	17800	4770	2087	537
Advocates-on-Record	195	-	-	-	-
Advocates of District Courts under each High Court	-	15216	5714	4012	599

Number Of Law Colleges.

FEDERAL CAPITAL	PUNJAB	SINDH	NWFP	BALUCHISTAN
01	31	15	15	03

Strength Of Law Officers In Federation & Provinces.

As On 31-10-2001

Federal Government	Punjab	Sindh	NWFP	Balochistan
15	227	179	57	36

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EXECUTIVE SUMMARY

The delays of the laws are proverbial everywhere. However, in Pakistan, this tendency has been stretched to such extra ordinary lengths that the people have lost their faith in the judicial system. Cases keep dragging on for years, frequently adjournments are the norm, and day to day hearings, which is what normally should happen in both criminal and civil cases, are rarely held. What is more, corruption has infected this institute as well. Pakistan's judicial system, its organization, its services and administration suffer from many problems and shortcomings. Some of these are avoidable. But many, such as shortages of judges, courthouses, equipment, poor salaries of judges and lack of professionalism, have arisen because of the chronic inadequacy of the needed resources, both financial and technical. As a result, access to justice is virtually denied in many cases for reasons of cost, delays and inefficiency, while those who access the system suffer grossly from the inordinate delays and uncertainties in the course of its dispensation. Commercial contracts have been rendered meaningless by the twists and turns in the legal and judicial processes. Because of these reasons, Pakistan has been denied its expected share in foreign and domestic investment, as investors are reluctant to operate in markets where their investment is not provided with adequate legal cover. Our analysis indicates that Pakistan's economy suffers a staggering loss of Rs. 25 – 30 billion annually due to our dysfunctional judicial system.

This study makes an effort to analyze the causes of poor working of the judicial system and evolve some remedial measures based on the total quality management concepts and scientific productivity improvement techniques.

CHAPTER 1: ITRODUCTION.

1.1 Background:

Judiciary is one of the three pivotal state institutions of the country, along with Legislature and the Executive. The modern day state and society is primarily based on a system of checks and balances established through these institutions. The strengthening of all these institutions is therefore vital for maintaining social fiber of a society. Role of Judiciary in particular, is crucial as it exercises the necessary check on working of the other two state institutions, i.e., Legislature and Executive. However, Pakistan's chequered history amply demonstrates that performance of all state institutions has left much to be desired. Performance of the Judiciary, regrettably, has been no exception. It is therefore, necessary to revive confidence in the administration of justice not only for the maintenance of independence of judiciary, but the very survival of the institution. This would involve certain important measures to gear the system of administration of justice towards producing improved performance.

1.2 Significance of the Study:

Civilization of a country is measured by the respect of the rule of law, and thus for judiciary, the institution entrusted with the responsibility to ensure the rule of law. A fair and effective criminal justice system marks the distinction between the civilized society and anarchy. If the judiciary is allowed to function without any let or hindrance, and if it works effectively, people can live their lives peacefully and enjoy freedom, security of their persons as well as rewards for their labor. On the other hand, if the judicial system is not working effectively or

it is not allowed to work effectively, the lives of the people would be marred by the constant fear of crimes. A genuine effort must therefore be made for the maintenance and encouragement of public confidence in the existing judicial system. What is needed is an overall strategy to be evolved, determining the priorities and objectives in a coherent way.

1.3 Objective of the Study:

The legal system and the rule of law in Pakistan are in extraordinary disrepair, and the list of judiciary's shortcomings is formidable. The courts are clogged with frivolous litigation. Delay is deep and widespread. The analysis of available data reveals that commercial cases in the Sindh High Court keep lingering on for an average of ten years before they are decided. With respect to business law, the legal structure is incomplete, and in fact, damaging to the enterprises. For instance, laws in Pakistan guaranteeing title of ownership to land are extremely weak. The ratio of judges to population in Pakistan is among the worst in the world. The general public, the primary customers of the entire judicial edifice, have no recourse to even express their grievances about such chronic problems as undue delays, unfair land settlements, frivolous litigation, incompetent legal support, mal-administration or outright illegality in the courts. Other deep-seated problems afflicting our judicial system are structural. The salary and benefit package of the sub-ordinate courts judges is insufficient to even maintain an average household. Judicial facilities are overcrowded, chaotic, and poorly maintained. Legal education centers area of extremely poor quality. There are no institutions with enforcement teeth to oversee these structural flaws. In fact no institution has authority or responsibility to enact policy governing the court system and the judiciary. The resources available to address these problems are scarce and dwindling, as the budget for the

administration of justice has contracted in real terms over the last few years. The federal government allocates less than 0.1% of current, non-developmental expenditure to law and justice, provincial support varies from 0.78% of total expenditure in Punjab to 0.68% in Sindh, 0.48% in Balochistan, and 0.44% in the NWFP.

The restoration of public confidence in our judicial system would require a major reform of the Judiciary, aimed at improving both its effectiveness and efficiency. It is therefore necessary to analyze, with a fresh perspective, the ways and means to strengthen the system of administration of justice, enhance its efficiency, and secure reduction in court delays and reducing the eternal pendency of cases. This study makes an effort to analyze the causes of low productivity and poor quality of the judicial system, and evolve some remedial measures based on the concepts of total quality management and scientific productivity improvement techniques.

A serious effort for legal and judicial reform can have a number of benefits in Pakistan. First and foremost, serious reform can help restore public confidence that civil institutions in Pakistan serve the common good rather than private interests. Secondly, successful legal and judicial reform can decrease the tension between the judiciary and the executive. This relationship, which has been strained for most part of Pakistan's fifty six year's history, cannot be resolved until the judiciary can execute its duties and responsibilities reliably and well. Third, legal and judicial reforms can significantly affect the fundamentals of economic growth. According to one analyst, the countries that attempt economic reform with a weak judiciary will suffer at least 15% penalty in their growth momentum (Robert Sherwood,

“Judicial Systems and Economic Performance,” Quarterly Review of Economics and Finance, 1994). One of the most significant deterrents of private investment is a high level of crime and violence, coupled with an unpredictable judiciary. Thus the stability and predictability of a functional legal system has direct growth consequences.

1.4 Research Methodology:

The research methodology adopted to conduct this study included:

- Review of available literature.
- Visits to Supreme Court of Pakistan/ Lahore High Court, Rawalpindi Bench, Sub-ordinate courts and Federal Judicial Academy.
- Interviews with different judicial personalities/ members of the Bar.
- Collection of Data about Judiciary’s performance.
- Detailed study of a Court of ICT.

The main focus was on studying the causes of low productivity and poor quality of our judicial system. The working of judiciary was evaluated in terms of white-collar productivity measurement techniques and total quality management concepts. It was then possible to come out with certain suggestions and recommendations to improve the working of our judicial system.

1.5 Limitations to the Study.

Working of judiciary is such that it is not possible to measure its performance objectively. It was difficult to evolve indices to quantify productivity level of any court, without some degree of subjectivity.

It is relatively easy to devise productivity improvement techniques in theory. The hard part is their practical implementation. This is especially true in case of the public sector, due to the proverbial resistance to change, lack of resolve and the resource constraint.

CHAPTER 2: LAW, BUSINESS AND ECONOMY

Issues of Law and Judiciary are not abstract notions for a student of management sciences. In fact, there is a strong nexus between law, business and economy. Political/ Legal elements constitute a significant factor affecting mega environment or general environment of a business, along with technological, economic, socio-cultural and international elements. The process of Globalization is also creating pressure on the legal systems to converge and to perform efficiently and effectively as a pre-requisite for free flow of investment. According to Prof. Douglas North, “the difficulty in creating a relatively impartial judicial system that enforces agreements has been a critical stumbling block in the path of Economic Development.”

2.1 Rule of Law, Governance and Economic Performance:

Effective as well as efficient governance is a necessary precondition for policy implementation. Weak Governance in Pakistan is primarily an outcome of corruption, low efficiency and weak law enforcement. It is simply not possible to separate legal and judicial reform from the larger issues of Governance in Pakistan. Governance, rule of law and predictability are important factors in economic development. A dysfunctional legal and Judicial system leads to: -

- Increased transaction costs.
- Abuse of power.
- Erosion of public sector credibility.

In short, there is growing evidence to suggest a strong and growing nexus between effective judicial institutions and economic development. According to a World Bank survey,

“One of the most significant factors deterring private sector investment is high level of crime and personal violence, coupled with an unpredictable judiciary.”

The level of public confidence in the judiciary in Pakistan today, at all levels, but especially at the subordinate level, is insufficient to sustain its institutional legitimacy, although the basic legitimacy of the legal and judicial system is tied to Pakistan’s economic, political and social development.

2.2 Support Fundamentals of Economic Growth:

Legal and judicial reforms can influence the shape and pace of economic growth. Pakistan’s dysfunctional legal and judicial system has economic costs such as increased transaction costs, long delays, and an inability to make or enforce contracts over time. Law and judiciary also have significant impact on distributive aspect of economy. Despite Pakistan’s relative strong annual economic growth rate of 5% from 1947 - 2000, poverty remains pervasive and income disparities have become even more yawning. Dr. Ishrat Hussain, a former senior economist at the World Bank and presently Governor of State Bank of Pakistan, has analyzed that economic growth has not improved the lives of the poor because of the “decay of institutions, particularly the judiciary and the financial and educational institutions, and the short-term, opportunistic and ad hoc nature of decision making”. Finally, despite strenuous efforts, Pakistan has met with little success in attracting domestic and foreign private

investments. One of the most significant deterrents of private investment is a high level of crime and violence, coupled with an unpredictable judiciary. Judicial and legal reform is necessary to stimulate growth, and to channel it to benefit all the citizens, not just the elite. It is very difficult to attain broad-based growth without improving the reliability, speed and accessibility of the legal system, because the economic and legal institutional fabrics are closely interwoven.

CHAPTER 3: JUDICIAL SYSTEM OF PAKISTAN.

3.1 Evolution of Pakistan's Judicial System:

The roots of the current judicial system of Pakistan stretch back to the medieval period and even before. The judicial system that we practice today has evolved over a long period of time, passing through several epochs covering the Hindu era, Muslim rule, British colonial period and post-independence period. Notwithstanding the successive changes, which resulted in the socio-economic and political transformation of the society, the judicial system generally maintained a steady and gradual advance towards consolidation and refinement, without any major disruption or substantial change. The system, thus, has evolved through a process of reform and development. During this process of evolution and growth, the judicial system was influenced by foreign doctrines and notions as well as indigenous norms and practices, both in terms of organizing structure and hierarchy of the courts, and following procedures and practices in reaching decisions. Therefore, the present judicial system is not an entirely foreign transplant, as is commonly perceived, but has acquired an indigenous flavor and national color. While this system may not fully suit the genius of our people or meet the local conditions, its continued application and practice has made it intelligible to the common man. The very fact that the people are making resort to the courts for resolution of their disputes indicates that the system enjoys a degree of legitimacy and acceptance.

3.2 Structure of Judiciary in Pakistan:

The Judicial system in Pakistan comprises the Supreme Court, Provincial High Courts and other lower courts exercising civil and criminal jurisdiction (an organogram depicting the

judicial system of Pakistan is at Annexure – A). The Supreme Court is the apex Court of the land, exercising original, appellate and advisory jurisdiction. It is the Court of ultimate appeal and therefore final arbiter of law and the Constitution. Its decisions are binding on all other courts. The Supreme Court consists of a Chief Justice and other judges, appointed by the President. An Act of Parliament has determined the number of judges to be 17. The Chief Justice of the Supreme Court is appointed by the President, whereas the other Supreme Court judges are appointed by the President after consultation with the Chief Justice. The Chief Justice and other judges of the Supreme Court may remain in office until acquiring age of sixty-five (raised to sixty-eight years through Legal Framework Order (LFO) promulgated in 2002).

There is a High Court in each of the four provinces. The Islamabad Capital Territory falls within the jurisdiction of the Lahore High Court. A High Court consists of a Chief Justice and so many others Judges as may be determined by law or fixed by the President. At present, the Lahore High Court, the High Court of Sindh, the Peshawar High Court and High Court of Balochistan consist of fifty, twenty-eight, fifteen and six Judges including the Chief Justices, respectively. Judges of the Provincial High Courts are appointed by the President after consultation with the Chief Justice of the Supreme Court, as well as the Governor of the province and the Chief Justice of the High Court to which the appointment is being made. High Courts have original and appellate jurisdiction.

There is also a Federal Shariat Court consisting of eight Muslim judges, including a Chief Justice appointed by the president. Three of the judges are Ulema (Islamic Scholars) who are well versed in Islamic law. The Federal Shariat Court has original and appellate jurisdiction. This court decides whether any law is repugnant to the injunctions of Islam. When a law is deemed repugnant to Islam, the President, in the case of a federal law, or the Governor, in the case of a provincial law, is advised to take steps to bring the law into conformity with the injunctions of Islam. The court also hears appeals from decisions of criminal courts under laws relating to the enforcement of hudood laws, that is, laws pertaining to such offenses as intoxication, theft, and adultery.

In addition, there are special courts and tribunals to deal with specific kinds of cases, such as accountability courts, drug courts, commercial courts, labor courts, traffic courts, insurance appellate tribunal, income tax appellate tribunals, and special courts for bank offenses. There are also special courts to try terrorists. Appeals from special courts go to high courts except for labor and traffic courts, which have their own forums for appeal. Appeals from the tribunals go to the Supreme Court.

A further feature of the judicial system is the office of Wafaqi Mohtasib (Ombudsman), which is provided for in the constitution. The office of Mohtasib was established in many early Muslim states to ensure that no wrongs were done to the citizens by the state/ governmental authorities. Appointed by the President, the Mohtasib holds office for four years; the term cannot be extended or renewed. The purpose of Mohtasib's office is to

institutionalize a system for enforcing administrative accountability, through investigating and rectifying any injustice done to a person through mal-administration by a federal agency or a federal government official. The Mohtasib is empowered to award compensation to those who have suffered loss or damage as a result of mal-administration. Excluded from jurisdiction, however, are personal grievances or service matters of a public servant as well as matters relating to foreign affairs, national defense, and the armed services. This institution is designed to bridge the gap between administrator and citizen, to improve administrative processes and procedures, and to help curb misuse of discretionary powers.

The subordinate judiciary in Pakistan may be broadly divided into two classes; i.e. civil courts established under the West Pakistan Civil Courts Ordinance 1962 and criminal courts, created under the Criminal Procedures Code of 1898. Civil Courts deal with the matters concerning civil rights of the citizens, whereas Criminal Courts undertake trial of crimes.

3.3 Hierarchy of Courts:

The multi-layered structure of Judiciary in Pakistan follows a rigid hierarchical pattern. (An organogram of judicial hierarchy of Pakistan and sanctioned strength of different courts is given at Annexure-B). The Supreme Court is at the apex of this structure followed by the provincial High Courts, and the two constitute the ‘Superior Judiciary’. Under each High Court is a complex hierarchy of function specific courts. The hierarchy of different types of courts is as under.

3.3.1 Civil Courts:

- a) Civil Judge.
- b) District Judge.
- c) High Court.
- d) Supreme Court.

3.3.2 Criminal Courts:

- a) Judicial Magistrate.
- b) Sessions Judge.
- c) High Court.
- d) Supreme Court.**

3.3.3 Revenue Courts:

- a) Assistant Collector.
- b) Deputy District Officer (Revenue)
- c) District officer (Revenue)
- e) Executive District Officer
- f) Board of Revenue
- d) High Court
- g) Supreme Court

3.4 Trial Process:

The Judicial system has clear and well laid out procedures for processing cases. Different ‘Procedural Codes’ contain the appropriate clarity of legal and organizational relationships. The processing of cases proceeds in a fairly structured manner. The procedures vary for different types of cases. However, a typical trial process moves through the following stages:

- Service of Summons
- Pleadings
- Framing of Issues
- Recording of Evidence
- Closing of Arguments
- Pronouncement of Judgment

CHAPTER 4: MAJOR AREAS OF CONCERN

The Judicial system of Pakistan suffers from a number of problems. However, here we will discuss only two major areas of concern, that are, huge number of pending cases and protracted court delays.

4.1 Delay in Case Disposal:

Problem of prolonged delay in processing and disposal of case, both civil as well as criminal, is severe in Pakistan's Judicial system. As a result, the general public is gradually losing confidence in the judiciary. The long delay in provision of justice means increased cost of litigation, which further discourages the aggrieved parties to approach judiciary as a viable channel for pursuing genuine claims. The huge number of frivolous cases filed with malafide intentions compounds the scourge of protracted litigation

We will briefly cover some statistical figures regarding taxonomy of court delays to highlight the gravity of situation. For instance, the Civil cases proceeding through all steps of litigation take an average of 57.2 months. In Sindh High Court, average period for disposal of complete civil case is as high as 119 months. Over 6% Civil cases endure more than 100 adjournments, whereas about 15% cases have more than 50 adjournments.

From the above analysis, it becomes clear that for all intents and purposes, Pakistan's judicial system has become dysfunctional. Such a dysfunctional judicial system can only have stark practical implications, some of which are: -

–A high percentage of frivolous cases.

- Small number of pre-trial settlements.
- Low level of voluntary compliance.
- Under developed risk allocation (e.g. for Insurance sector).
- Motivation to sue and goal of litigation is often to seek delay.
- Delay is principal service product. Harassment.

4.2 Huge Backlog of Cases:

The foremost problem afflicting the judicial system of Pakistan is the huge pile up of pending case accumulated over many years. Low level of Judicial Productivity results in piling up huge backlog of cases. This Huge number of pending cases in turn severely overburdens the judicial system. A brief review of statistics regarding number of pending cases in different courts of Pakistan will help in understanding the magnitude of problem. A graph depicting the number of cases filed, disposed off and pending in the Supreme Court of Pakistan is at ‘Annexure-C.’ A table giving number of cases filed, disposed and pending in different benches of the Lahore High Court, as well as category wise breakdown of pending cases is at ‘Annexure – D’. Another table showing number of cases filed, disposed off and pending in the District & Sessions Courts of Punjab is at ‘Annexure – E’.

The following table gives the status of cases disposed and number of pending cases in the Supreme Court for the year 2002.

Pending as on 31/12/01.	Instituted during Year.	Disposed	Balance as on 31/12/02.
12072	14121	13679	12514

The following table gives the status of case disposal and pending cases in the four provincial High Courts. These figures reveal that the case disposal rate has been fairly good, especially in Lahore High Court, where about 83 thousand cases were disposed off during the year as against 74 thousand cases filed. However, the numbers of pending cases in the High Courts still remain disturbingly high.

Name of Court	Pending as on 31/12/00.	Instituted during Year.	Disposed	Balance as on 31/12/01.
LHC	75756	74052	82963	66845
SHC	28319	18951	19218	28052
PHC	15907	8993	8282	16618
BHC	1846	2745	2400	2191

The situation is really alarming in the subordinate courts. The following table gives the figures for case disposal and pending cases in the Subordinate Courts during the last year. More than one million cases remain pending in the sub-ordinate courts of Punjab. The situation in other provinces is equally grim.

Province	Pending as on 31/12/00.	Instituted during Year.	Disposed	Balance as on 31/12/01.
Punjab	986,418	735,140	720,538	1,001,020
Sindh	113,259	80,616	64,786	129,089
NWFP	119,821	135,132	116,997	137,956
Balochistan	5,286	17,823	16,741	8,214

4.3 Frivolous Litigation:

There is evidence to suggest that fairly high number of frivolous, illegitimate case are filed with malafide intentions to harass the opponents. In Lahore's District Courts, 40% cases did not complete all steps in litigation process. Less than 20% cases conclude with a judicial decision, whereas about 80 percent cases are either withdrawn or dismissed as parties failed to pursue them in earnest.

CHAPTER 5: SOCIO-ECONOMIC IMPLICATIONS.

As we have already noted, Judiciary is one of the three pivotal state institutions of the country, along with Legislature and the Executive. The entire edifice of modern day state and society is primarily based on a system of checks and balances established through these institutions. Role of Judiciary in particular, is crucial as it exercises the necessary check on working of the other two state institutions. Given this vital importance of the institution of Judiciary for maintaining the social fabric of society, it should come as no surprise that a dysfunctional judicial system would have profound socio-economic implications for the society. Another significant aspect of a dysfunctional judicial system is the crucial issue of good governance. Effective as well as efficient governance is a necessary precondition for policy implementation. Weak Governance in Pakistan is primarily an outcome of corruption, low efficiency and weak law enforcement. It is simply not possible to separate legal and judicial reform from the larger issues of Governance in Pakistan. Governance, rule of law and predictability, in turn, are important factors in economic development.

5.1 Judicial Implications:

First and foremost, a dysfunctional judicial system has stark practical implications for the very sustenance and survival of the judicial system and the rule of law itself. This debilitating aspect manifests itself in many dimensions. One is the high percentage of frivolous cases, filed with the malafide intent of misusing the lacunas in the judicial system to achieve some illegitimate objectives. Other manifestations of the dysfunctional judicial system reflect

themselves in the small number of pre-trial settlements and very low level of voluntary compliance.

In fact, due to significant lacunas and dysfunctional nature of the judicial system, very often the overriding motivation to sue and goal of litigation is delay. The law does not perform its basic purpose of providing a redressal mechanism for aggrieved parties to seek justice, but becomes a tool in the hands of those who use it to further oppress and intimidate the weak. Delay is principal service product of this dysfunctional system, which is used by those who know how to manipulate the system to harass their opponents.

5.2 Social Implications:

The level of public confidence in the judiciary in Pakistan today, at all levels, but especially at the subordinate level, is insufficient to sustain its institutional legitimacy, although the basic legitimacy of the legal and judicial system is tied to Pakistan's economic, political and social development. A poorly functioning judicial system gives rise to, or further compounds a number of social problems in the society. Law is a strong deterrent that helps in maintaining peace and harmony in the society, and ensuring basic rights of every individual. Weakening of the judicial system leads to a serious erosion of the concept of Rule of Law, and gives rise to the anarchic notion of 'Might is Right'. This creates a sense of alienation among the 'have nots', who feel that law is not meant for common good of the society, but only looks after the vested interests of the powerful segments of society.

Another serious implication of the dysfunctional judicial system is the extremely poor state of Law and Order through out the country. Incidents of violence and lawlessness are bound to increase if people feel that their genuine grievances are not legally remedied, while on the other hand, those with resources can get away with any crime. The poor law and order creates an acute sense of insecurity among the citizens. This not only has direct economic consequences, but also moulds the mental and psychological framework of people who become primarily concerned about their day to day survival. Such a state of mind inevitably puts further strain on the social fabric of society.

5.3 Economic Implications:

As we have already noted in Chapter 2 of this study, there is a strong nexus between law, business and economy. A dysfunctional judicial system also costs the nation heavily in pure economic terms. Pakistan's dysfunctional legal and judicial systems have economic costs such as increased transaction costs, long delays, and an inability to make or enforce contracts over time. Here we shall make an attempt to quantify the amount of loss suffered by Pakistan's economy due to poor working of judicial system. As the effects of dysfunctional judicial system on different aspects of economy are varied, multi-dimensional and wide ranging, this quantification is by no means comprehensive, but only suggestive, and may only have touched the tip of the iceberg. We shall try to quantify the economic costs of the dysfunctional judicial system at two levels, at limited micro-level and the broader macro-level.

5.3.1 Micro Level:

At the micro level, we shall try to evaluate the cost of non-conformance (to good working standards), that has to be borne by the nation only in respect of two major functionaries of the judicial system, the judges (of sub-ordinate judiciary only) and the lawyers.

Cost of Non – conformance (Judges).

The functioning of Pakistan’s judicial system is human resource intensive, implying that a major chunk of available resources (in some cases, up to 90 %) are spent on pay and allowances of the judicial personnel. Now based on average salary figures, and measured scrap time per day, the cost of non - conformance in cases of sub-ordinate judiciary can be worked out as under:

Average wasted time per day = 2.5 hrs

Average Salary = Rs. 18,000

Scrap time/ month = $2.5 \times 26 = 65$ hrs

Salary / hour = Rs. 86.53

Unearned salary = Rs. 5625 (Approx. 30 %).

This implies that as much as 30% of the establishment cost of judicial system is being lost due to very basic problems hampering the productivity of the system.

Cost of Non – Conformance (Lawyers).

Now we shall use a similar procedure for calculating the cost of non – conformance in

cases of lawyers, based on a single factor, that is, the number of non appearances or the adjournments sought by any party on some pretext.

Average fee = Rs. 23,000

No. of Appearances (average per case) = 56

Fee per appearance = Rs. 411

No of non appearances = 12

Capital waste = Rs. 4932

Total waste = Rs 414,288,000

5.3.2 Macro Level:

Now we shall try to quantify the economic cost of a dysfunctional judicial system for Pakistan. According to a path breaking study conducted by Prof. Robert Sherwood, countries that attempt economic reform with a weak judiciary will suffer at least 15% penalty in their growth momentum. (“Judicial Systems and Economic Performance,” Quarterly Review of Economics and Finance, 1994). This postulate has been established in a number of subsequent studies conducted with reference to different countries.

Now this 15 % penalty in terms of economic growth translates into 0.75 % of Pakistan’s Gross Domestic Product, taking into account its present economic growth rate of about 5 % (15% of 5% = 0.75% of GDP). This roughly translates into Rs. 28.125 billion. Even according to our very conservative estimates, Pakistan is suffering an economic loss

amounting to the staggering figure of Rs. 25 – 30 billion annually due to a dysfunctional judicial system.

This huge economic loss cannot be attributed to a single source or aspect, but is a combination of a host of factors. Here we shall briefly consider just one such source, that is, investment, to get some idea of the magnitude of the problem. Despite strenuous efforts, Pakistan has met with little success in attracting domestic and foreign private investments. One of the most significant deterrents of private investment is a high level of crime and violence, coupled with an unpredictable judiciary. The dysfunctional judicial system impedes foreign investment by practically imposing an enhanced risk premium of 2-3%, expected or demanded by the investors because of poor legal coverage of their investment.

The difficulty in creating a relatively impartial judicial system that protects investment and enforces agreements has been a critical stumbling block in the path of economic development. Legal and judicial reforms can influence the shape and pace of economic growth. Judicial and legal reform is necessary not only to stimulate growth, but also to channel it to benefit all the citizens, not just the elite. It is very difficult to attain broad-based growth without improving the reliability, speed and accessibility of the legal system, because the economic and legal institutional fabrics are closely interwoven.

CHAPTER 6: CAUSES OF LOW PRODUCTIVITY OF JUDICIARY.

The Judicial system of Pakistan is working at an extremely low level of Productivity. It's working, both in terms of efficiency and effectiveness, leaves a lot to be desired. The low productivity level of Judiciary can be attributed to a diverse range of causes, both within the Judicial system, and extraneous to it. Here we will discuss some of the more significant causes of low productivity of Pakistan's Judicial system.

6.1 Lack of Resources:

The Pakistani judiciary has been financially starved for a long period of time. This is because Judicial system in Pakistan has always been a low budget priority for the government. Resource allocation for Judiciary at both Federal and Provincial levels is abysmally low. For instance, expenditure on administration of justice is 0.6% of total revenue expenditure in provinces and only 0.1% in the center. A table showing budgetary allocation for law and justice by the federal as well as provincial governments, and its comparison with total allocations, is at 'Annexure – F'. The available figures indicate that government has been actually reducing the level of financial support to the judicial system. The obvious result has been a judicial system with inadequate physical infrastructure, low compensation, poor equipment and a host of other problems

6.2 National Policy Making Body:

There is no centralized coordinating body to develop legal and judicial policy. Such a body is required to: -

- Establish overall policy for Court system.
- Articulate problems faced by Judiciary.
- Formulate procedural & administrative policies for efficient administration of justice.

Till recently, the Law Commission, headed by the Chief Justice of Pakistan use to perform these functions. The government has recently formed a National Judicial Policy Making body through an ordinance, comprising Chief justices of the Supreme Court and four provincial high Courts. However, it is not sufficiently broad based to articulate interests of all stakeholders in our judicial system.

6.3 Non Professional Court Management:

A Court Management system can significantly increase court efficiency. However, unfortunately the judiciary has yet to develop an integrated Court Management Structure. Judges without management training handle administrative matters. There are no standards for time and case processing, and no system to track cases such as a case flow system.

6.4 Lack of Automation:

A major problem for the public is to find out information about where to file a case, the status of a case and other necessary information. The judicial system relies heavily on

handwriting, with some use of typewriters. The judges have to write judgments and at times even record witness with their own hands as there is no system for recording oral testimony. Computerization is almost non-existent in courts and judicial offices. Court automation can facilitate public enquiries and case tracking by using Special Case Management Software, now being used in different countries including Sri Lanka.

6.5 Quality of Human Resource:

The judicial system suffers from an acute shortage of staff. About 20-30% posts are lying vacant in the sub-ordinate judiciary. A table showing sanctioned strength of judicial officers and administrative staff for different courts is at ‘Annexure – G’. The quality of human resource is extremely poor. The training for both judicial and non-judicial personnel is a critical element to a modern judicial system. However, in Pakistan, a newly inducted judge has to undergo only 8-weeks pre service training. No formal training in areas of Management, Finance etc is imparted.

6.6 Poor Compensation:

There is no conclusive evidence to suggest that raising salaries would reduce delays and increases case disposal rate. However, the fact remains that extremely low compensation levels in Judiciary are a serious demoralizing factor.

- Discourage qualified recruits.
- Impede structural independence of Judiciary.
- Breed corruption.

6.7 Unscientific Performance Appraisal:

There are no adequate standards to evaluate performance of judges and seniority is the primary criteria for promotion. Standards are not just tools that help in evaluating performance for the purpose of discipline or promotion, but they can also serve to improve judicial performance. They also provide the essential element of accountability.

6.8 Inadequate Physical Infrastructure:

One of the most serious problems afflicting the Judicial system is the extremely poor state of physical infrastructure. This grossly inadequate Court infrastructure is particularly severe in case of sub-ordinate Judiciary, and a serious impediment to effective administration of Justice. This state of affairs can be attributed to low resource allocation, and perhaps, misplaced priorities. The poor physical infrastructure suffers from years of neglect and manifests itself in many forms. Court facilities are over crowded, and there is inadequacy of all spaces, courtrooms, waiting areas etc. There is no proper storage of records. Working conditions are extremely poor, with little care for lighting, heating etc. There is hardly any signage or public information booth guide the general public. The inadequate Court infrastructure projects a negative image about the status and independence of judiciary in Pakistan.

CHAPTER 7: QUALITY MANAGEMENT IN JUDICIARY

7.1 Quality In Services:

According to Dr. Deming, Quality is the degree of excellence that a product or a service provides. Quality objective is to provide customers with quality products and services that meet or exceed customer requirements and expectations. This is accomplished by:

- Maintaining an efficient and effective quality system that is integrated across all organizations and functions.
- Achieving total customer satisfaction through commitment to quality, delivery, communication and services we provide.
- Providing employees with the necessary training, tools, equipment and support to continuously produce desired results.
- Supporting Process Improvement Teams (PIT) for continuous improvements in quality and manufacturing processes.
- Management of internal audit programs through scheduled audits of all elements of our Quality System to assure compliance to documented policies and procedures.

Responsibility for the implementation of this policy has been delegated to all employees through senior management.

Today's customer has before him the possibility of a wider choice of products and services than ever before. He is going to be demanding and keen on having the best services in the shortest possible time and at the minimum cost. He will look for solutions that are more specific to his needs thus creating opportunity of many niche markets. So what is different with regard to quality in service?

- Service is also a product of different kind.
- No time delay between the production & delivery of service.
- A defective product can be replaced but a defective service may create a permanent damage.

The basic challenge facing the Service sector is to satisfy, rather delight customers:

- In a dynamic environment that is changing fast.
- In growing competitive market.
- With relatively short product life cycle.
- Requiring more customization.

7.2 Service Quality Dimensions:

Quality of Services differs from manufactured products. Its special characteristics include: -

- Intangibility
- Simultaneity
- Heterogeneity
- Unique dimensions of some services (e.g. Banking)

Dimensions of Service Quality may include:

- **Time:** Length of time customer has to wait for the service and completion of service.
- **Timeliness:** Ability to provide promised service on right time.
- **Completeness:** Ability to provide each and every item that was requested by the customer.
- **Courtesy:** Behavior of the employees with the Customer.
- **Consistency:** Uniformity in provision and delivery of service.
- **Accessibility & Convenience:** Is service easily obtainable?
- **Responsiveness:** Agility to solve customer problems.

To meet challenges of dynamic environment and rapidly growing competitive market, Service sector will have to take up the challenges and: -

- Redefine current methodologies & standards.
- Change attitudes & orient & motivate personnel to enhance customer satisfaction.
- Identify and adapt appropriate technology for the future.
- Devise methods to provide customized service.

7.3 Quality Indicators Of Judiciary:

The Judicial system of Pakistan is working at an extremely low quality level, with hardly any effort at quality management in the judicial system. It's working, both in terms of efficiency and effectiveness, leaves a lot to be desired. An effort for quality management in any organization must start with identification of basic quality indicators. The low quality of

Judiciary can be attributed to a diverse range of causes, both within the Judicial system, and extraneous to it. Here we will discuss some of the more significant quality indicators of Pakistan's judicial system.

7.3.1 Timeliness:

Timeliness is perhaps the most importance criteria for measuring efficacy of a judicial system, as 'Justice delayed is Justice denied'. However, problem of prolonged delay in processing and disposal of case, both civil as well as criminal, is severe in Pakistan's Judicial system. As a result, the general public is gradually loosing confidence in judicial system. The long delay in provision of justice means increased cost of litigation, which further discourages the aggrieved parties to approach judiciary as a viable channel for pursuing genuine claims. For instance, the civil cases proceeding through all steps of litigation take an average of 57.2 months. In Sindh High Court, average period for disposal of complete civil case is as high as 119 months. Over 6% civil cases endure more than 100 adjournments, whereas about 15% cases have more than 50 adjournments.

From the above analysis, it becomes clear that for all intents and purposes, Pakistan's judicial system has become dysfunctional.

7.3.2 Quality of Judgments:

The proverbial delay in dispensing of justice is compounded by extremely poor quality of judicial processes, and its final outcome, judicial judgments. The poor quality of judgments results in unsatisfied clientele, and gives rise to a very high appeal rate, which in turn further overburden the judicial system.

7.3.3 Access to Legal Information:

There is a need to enhance availability of legal information. To state the obvious, the quality of that access is dependent upon the information available. Information regarding judicial decisions and performance should be readily available. For example, judicial decisions should be published and publicly available; judicial discretion should not unduly impede the publication of decisions. The Law Reports Act of 1875 as amended by the Law Reports (Amendment) Act, 1989, sets forth the standard for publication. The decision to publish or not publish should be straightforward and guided by practical considerations, while honoring the general principle of the public and the legal profession's right to know.

7.3.4 Quality of Human Resources:

The judicial system suffers from an acute shortage of staff. About 20-30% posts are lying vacant in the sub-ordinate judiciary. The quality of human resource is extremely poor. The training for both judicial and non-judicial personnel is a critical element to a modern judicial system. However, in Pakistan, a newly inducted judge has to undergo only 8-weeks pre service training. No formal training in areas of Management, Finance etc is imparted. Besides, extremely low compensation levels in Judiciary are a serious demoralizing factor.

7.3.5 Physical Infrastructure:

One of the most serious problems afflicting the judicial system is the extremely poor state of physical infrastructure. This grossly inadequate Court infrastructure is particularly severe in case of sub-ordinate Judiciary, and a serious impediment to effective administration of

Justice. This state of affairs can be attributed to low resource allocation, and perhaps, misplaced priorities. The poor physical infrastructure suffers from years of neglect and manifests itself in many forms. Court facilities are over crowded, and there is inadequacy of all spaces, courtrooms, waiting areas etc. There is no proper storage of records. Working conditions are extremely poor, with little care for lighting, heating etc. There is hardly any signage or public information booth guide the general public. The inadequate Court infrastructure projects a negative image about the status and independence of judiciary in Pakistan.

7.3.6 Legal Literacy and Information Deficiencies:

Legal illiteracy is a significant barrier to accessing the justice system in Pakistan, especially for the poor. Citizen's lack of awareness essentially deprives them of their rights. Nearly two-thirds of the population in Pakistan is illiterate, still, most laws and judgments are written in English. In the Supreme Court and the High Courts, for example, proceedings are typically conducted in English, and in the lower courts they reflect a mixture of English, Urdu, and the regional language. The use of a foreign language excludes the vast majority of the population. If individuals cannot comprehend the law or follow the court proceedings, they are kept at a severe disadvantage.

7.3.7 Customer Information at the Courts:

The subordinate courts are most unfriendly to the uninitiated citizen trying to access the courts. There are no public information booths, and touts are abundant. The process of approaching the courts can be bewildering, if not intimidating, especially for the poor.

Notices sent to the parties by the Court do not mention the name of the judge who is scheduled to hear their case. Because the administrative staff is also difficult to locate, litigants are left to wander around making inquiries. Furthermore, no public signs instruct litigants where judgments or copies of petitions can be obtained.

7.3.8 Predictability:

Certain classes of cases either encourage or discourage access depending on the predictability factor. In other words, litigation appears to be fairly common in certain areas where the law is well settled and the outcome is more or less predictable. For example, more than half of the litigation in family cases is seeking dissolution of marriage, and more than 90% of these cases succeed in dissolving the marriage in question. Furthermore, very few of these dissolution cases are abandoned or compromised. The law in this area is clear, and outcomes are predictable. In contrast, maintenance for divorced wives is rarely granted, mostly because the law is not so clearly defined. The case law on this subject is conflicting, so outcomes are not predictable. As a result, these cases are often abandoned. About 35% of the maintenance cases are not pursued, withdrawn or compromised.

CHAPTER 8: DELAY REDUCTION

The analysis of the judicial system in the previous chapters clearly indicates that the foremost problem afflicting our judicial system is prolonged delay in disposal of cases. Any serious effort aimed at reforming the judicial system must predominantly focus on addressing the issue of delay. However, given the multifarious causes of delay in case disposal, any reform effort would be an uphill task. Its successful implementation would require unflinching judicial leadership, information, strong policy against continuation of the status quo and support of all stakeholders. It would be especially vital to have strong cooperation between the bench and the bar.

8.1 Problem Analysis:

In the specific context of delay in case disposal, the following major problems have been identified: -

- The number of adjournments in a case management system indicates the effectiveness of the system. There is a universal agreement that number of adjournments in our judicial system is excessive, indicating inefficiency in the system and control of it by the lawyers. For implementing an effective court management system, judiciary will have to an active management approach to reduce unnecessary appearances and adjournments.

- There is a perversion of the concept of court management in our judiciary, where the lawyers are in effective control of the courts, by dictating the flow of the case, notwithstanding the contrary rules on the issue.

- The legal profession has developed techniques to make the case processing system work to their tactical and financial advantage. The fee basis of lawyers often creates an incentive to make many appearances, not all of them necessary. Tactics include repeated requests for adjournment, calendaring cases on days when judges are overburdened so that the case would not be heard, and resistance to seek a negotiated settlement in favor of a court judgment.

- The system of breaking down the elements of the resolution process into a series of piecemeal appearances, instead of consolidating appearances and hearings, creates built in delay, as the substantive issues in a case are not focused in this process.

- Cases can easily be manipulated within the rules to pass many years in the pending status. The fact that cases can be appealed on both fact and legal issues creates further delay in the ultimate disposition of the case. There are no effective bars or costs to appeal to minimize this tactic.

- The dual responsibility for civil and criminal matters by subordinate court judges (due to relative new responsibility assumed by civil judges from magistrates to try criminal cases) creates problems in case processing that affect the efficiency of the overall

court system, and especially of civil case processing. The appropriate priority that criminal cases require obviously has a negative effect on resolution of civil cases.

- The legal system does not make use of alternative dispute resolution mechanisms (ADRs) for accelerated disposal of cases and reducing burden on courts.
- The existing administrative structure is inadequate to manage the day-to-day operations. Indeed, the administrative systems necessary to manage the complex operations of courts do not exist.
- The statistical reporting system being used in the judiciary is not based on a case specific system. It is therefore a less reliable indicator of productivity and an inferior measure of actual delay in the system. It is imperative to develop a statistical profile of the current delay in order to establish a baseline of data against which to develop a delay reduction strategy.
- The court support staff has never received any training in the field of court operations and management. In fact the day-to-day operations are not guided by court management manuals.
- The lack of effective service of process (i.e. delivery of summons) is another significant cause of delay. Even after service has been effectively made, there still is a significant rate of adjournments for failure to appear.

- Court facilities design is a major impediment to the effective functioning of the system. The clustering of all the court divisions in the center of major cities creates a problem of congestion that often overwhelms the entire court structure.
- The complete decentralization of authority for the management of judicial system translates into a debilitated judicial system, unable to achieve its constitutionally mandated status. The decentralization of the administrative structure also impedes any coordinated national effort to curtail delay.

8.2 Framework of Delay Reduction Strategy:

Before proceeding any further, it is important to lay the groundwork and a set of common reference points for our delay reduction strategy. First, it is important to find a commonly accepted definition of what constitutes ‘delay’. There is always much anecdotal evidence, but only by directly measuring can we establish the actual delay. The main causes of delay are deeply rooted in the legal culture and affect how the judiciary and the bar interact within it.

Second important step is to measure delay. The best way to do it would be through sampling from a statistically reliable group of cases that have recently been concluded. The pace of litigation should be measured for all kinds of cases and should include settled cases as well. Each stage of the litigation has to be measured to identify particular problems and bottlenecks in different stages.

Third, and perhaps the most crucial step, is developing standards for case processing. This would require a consensus on what is the acceptable pace of litigation. This should obviously be done through consultation and active collaboration among bench, bar and officials in other branches of the government, such as prosecutors. The key premise, however, must be that the court, and not the lawyers or litigants, must control the pace of litigation.

Fourth step would be implement the standards of case disposal. This would require introduction of standards into the case management system. Written administrative and clerical procedures must be developed, educational programs to train each participant with the new procedures and policies should be in place, and an information system capable of tracking the progress of each case has to be developed.

8.3 Statistical Process Control in Judiciary:

A process is defined as a series of activities or steps used to transform inputs into outputs. An input or output may exist or occur in the form of data, information, raw material, partially finished units, purchased parts, product or service or the environment. Process is thus the steps used by an individual or a group to perform work or a complete task. According to this definition, every thing is a process. Whether it is providing justice to an aggrieved party, handling customers at a checkout counter or opening a new account for a bank's customer, all involve a series of activities that are interrelated and must be managed. Every process has customers (those who depend on it or are affected by it) and suppliers (those who provide the

necessary for that process). Therefore, everyone in an organization serves a customer or serves someone who is serving a customer.

8.4 SPC Model for a Judicial Entity:

Based on the project study, the group has endeavored to develop a Statistical Process Control Model for a judicial entity, Which in this case was the Court of an Additional District and Sessions Judge. The aim of this model is to evaluate and improve the overall process from the time a case is filed (whether in original or appellate jurisdiction of the court) till the time it is disposed off, in a manner to better meet the requirements of the customer (i.e. the litigant). The steps involved in introducing the proposed SPC in the judiciary include the following:

8.4.1 Team Membership:

A cross-functional team should be developed with members from all concerned offices and departments. The proposed team includes the following members:

- Administrative Judge of the HC.
- District and Sessions Judge.
- Additional District and Sessions Judge.
- District Superintendent of Police (Investigations).
- Superintendent of District Prisons.
- District Attorney.

8.4.2 Customer Definition:

The next crucial step is the defining of customer for the judiciary. There are both internal customers and external customers, which may include litigants, businesses, lawyers, police, prison officials and the society as a whole. The expectations of every customer should be evaluated in terms of the process. This exercise shows that judiciary is not a self-contained organization. It depends on lot of other institutions and organizations for optimal performance.

8.4.3 Process Analysis:

With the above mentioned background study, it is possible to start the actual SPC. In order to analyze the process, it is necessary to use as many CQI tools as deemed applicable and necessary to reach an improvement of the process. Some of such tools may include:

- Flowchart.
- Histogram.
- Run chart.
- Pareto Chart.
- Cause and Effect Diagram.

The detailed analysis of the judicial process shows that absence of a clearly defined process makes any activity subject to an arbitrary mode of execution and its outcome or output subject to unpredictable performance. In order to ‘do it right the first time’ and ‘do the right

things right', processes must be effectively managed. When processes are not adequately managed, quality is bound to regress to mediocrity.

9. RECOMMENDATIONS:

- There should be a central policy making body to formulate policy for all judicial activity in the country. This central policy making body should have a clearly defined mandate and a strong administrative capacity, including a human resource system, a management information system, an operation and analysis office (which also compiles judicial statistics), and a planning function.

- The central policy making body should also be entrusted with the following tasks of coordination: -
 - Representation of the judicial branch in dealing with other ministries, media, legal community, other interest groups and the public.
 - Preparation of budget and allocation of resources, including funds for the provincial judiciary.
 - Development of long range plans for the judicial system.
 - Human Resource Management for the courts, including planning, hiring, training and evaluation of personnel.
 - Supervise the induction and usage of new technology, including planning, development and maintenance of new computerized systems.
 - Preparation of manuals to streamline working of courts.

- There is a need to develop a public information system within the judicial system. A judicial information office should be formed to prepare and disseminate information about rights of citizen and other common issues concerning law and judiciary. This office

should use means like pamphlets, videos, lectures, and curriculum for distributing educational and informational materials. The primary objective of this office will be to ensure that the public understands the judicial process and their rights and responsibilities in this process.

- Provide a reception desk at every court premise; post the current cause list at the entrance to the courts, and post maps showing the courtrooms and the copy branches that are available or displayed near the reception desk.
- Develop a legal literacy agenda of key issues and broadly disseminate materials in the vernacular using both print and broadcast media.
- Translate key laws of importance to the poor and lower middle classes, such as those focusing on family laws, bonded labor abolition laws, fundamental and constitutional rights etc. into Urdu. Legal literacy materials, in printed form, should be made available in not only in Urdu, but in the regional languages as well. Stickers, posters and illustrated materials can also be very help in disseminating legal information.
- The level of funding provided for the judicial system at the national and provincial level is clearly inadequate. Given the centrality of the legal system within the function of state, the funding for judiciary must be enhanced. There is also a need to enhance skills in preparing and executing budget and stronger advocacy to secure the needed funds. At the same time, judiciary must generate more funds by rationalizing court fee structure. For instance, a fee should be charged for seeking adjournments beyond a certain limit in civil cases.

- A suitably designed Management Information System must be introduced in the judicial system. Courts create information, and they are in the information business. It is accordingly vital to identify, acquire, develop and implement technology that will serve the information needs of the courts. In this context, there are at least six benefits that can be derived through automation of the judicial function.
 - Reduction in repetitive tasks.
 - Enhancement of data quality.
 - Increased information accessibility.
 - Increased organizational integration.
 - Better monitoring/ statistical analysis.
 - Increased effectiveness.

- There is a dire need to enhance the quality of human resource, including both judges and court staff, through capacity building. Judicial system costs are primarily in the area of human resource. The Federal Judicial Academy should be upgraded to meet the growing training needs of judicial officers and staff in the changing environment. An independent Judicial Service Commission should be formed with authority to administer a transparent appointment, promotion and discipline process.

- The salary structure of lower judiciary must be improved, with some performance based reward system. Salaries and benefits sufficient to allow a judge and his/ her family to live a respectable lifestyle consistent with the community expectation of the office of a judge are traditionally viewed as a necessary condition for judicial independence. However, the

subordinate court salaries are not adequate to attract qualified candidates nor to support a modest respectable lifestyle consistent with the office of a judge.

- Operational manuals should be developed to guide the work of non-judicial staff and promote uniformity of procedures. These manuals should address both procedural and administrative processes. The development of the manuals will also provide an opportunity to evaluate the processes in use. The process of defining operational guidelines should not be merely a descriptive process, but rather a prescriptive process in which the procedures in use are critically analyzed and changed, where necessary.
- The records management system in the courts should be streamlined on scientific lines. There is no current reliable inventory of the number of cases that are open in the judicial system. Moreover, as there is no systematic purging of cases, the courts of Pakistan suffer from accumulation of files, which are not active in the judicial offices. These accumulated files create space and efficiency problems and must be purged, so that the courts are only handling those case files that are truly active.
- To conduct an effective purging exercise would be a huge, arduous task, as such activity has not been carried out in the judiciary. This exercise involve preparing an inventory of case files of cases that are pending in the courts, establishing a system of purging cases that are closed or no longer actionable according to certain parameters which are consistent with the codes, purge the cases and send the purged files to national archives

for long term storage or for destruction as appropriate, and institutionalize the purging process so that it continues on an ongoing basis.

- The civil and criminal justice systems should be separated at the subordinate judiciary's level, by creating specialization of judges in either civil or criminal matters at the subordinate court level, especially in high volume courts. This will result in greater efficiency and appropriate specialization of judges.

- The judicial system should make use of Alternative Dispute Resolution Mechanisms (ADRs) to reduce delay. However, the creation of ADRs as an alternative to the traditional litigation process represents a significant challenge to the local legal culture, which is highly conflictive in nature. The main steps in creating an effective ADR system would include design of the procedure, selection of the neutrals, an intensive training program, compensation of the neutrals and staffing of the centers.

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