



RESEARCH PAPER

A Sociological Evaluation of Financial Issues of Litigants with Reference to the Impediments in Access to the Justice

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ABSTRACT

This study aimed to assess the financial barriers hindering access to justice from a sociological and socio-legal standpoint. Conducted in Karachi, Pakistan, this quantitative, descriptive, and exploratory study surveyed 547 litigants in district courts using purposive sampling. Data were collected via a Likert scale survey and analyzed using SPSS software. The research revealed a significant correlation between financial challenges and access to justice, indicating that financial constraints impede justice accessibility. It also found a noteworthy relationship between access to justice and sources of income, as well as higher court process expenses affecting access. The study linked lawyer fees to other litigation expenses and highlighted a positive correlation between stress levels and access-to-justice costs. Addressing financial barriers and reducing court expenses can enhance access to justice, necessitating policy reforms and support mechanisms to mitigate financial burdens on litigants.

KEYWORDS Access of the Justice, Financial Issues, Impediments, Litigants, Sociological Evaluation
Introduction

It is a fact that financial problems have roots in poverty. Hence, poverty is an evil that weakens a country economically. The socio-economic status of the citizens of such a country suffers at large and they become unable to bear the expenses of their routine life. Eventually, enduring the expenses of the litigation also becomes a trouble for them. Currently, Pakistan is also suffering from a financial crisis and poverty is a critical issue of it. According to the World Bank, the poverty rate in Pakistan is 39.4% in 2023. The poverty rate has shown an increase of five percent from the year 2022 (Ahmed, et. al 2015; Poverty & Equity Brief South Asia Pakistan, 2023). Under the prevailing conditions of poverty, in Pakistan tolerating the expenses of litigation in the courts of law has become difficult, resultantly, the access to justice of the citizens is hampered. In this context, Saeed (2020) stated that poverty is rampant in Pakistan and the income level of the people is low. The economic burdens of litigation play a vital role, even the potential litigants are discouraged from accessing the system of justice for the redress of their genuine grievances. Besides, a judicial process involves many expenses comprising court fees, charges of representation in the shape of a lawyer's fees, and miscellaneous costs. The low-income people find it difficult to cater to these expenditures, hence, their justice is impeded (Bock, 2021). Boyle (n.d.) also endorses this point of view. When the system of justice is inaccessible on the basis of financial constraints, it is equal to no access to justice (Woolf, 1995 as cited in Ahmed, 2017). The litigants who are financially weak abandoning their cases in the justice system as they feel that they do not have the financial capacity to meet litigation expenses (Collard, 2023). Low-income people find it difficult to reach the court system (Norton, 2022).

Access to justice for different people has different perceptions. Some consider it as the ability to appear in the system of justice. However, others perceive it in the context of the system of the courts and the difficulties they feel in reaching the system of justice (Alberta Civil Liberties Research Centre, 2019). Access to justice is the capability to get and

search for a remedy from both formal and informal systems of justice providing oneself within the scope of human rights (UNDP 2005: 5 and LASPNET, 2015). Currently, access to justice has been paid special attention across the world. In this context, UNO (United Nations Organization) has placed it under goal 16 of sustainable development (SDGs). The goal aims to promote justice, social development, remove violence, establish inclusive and peaceful societies, and prevail the rule of law. In this respect, access to justice is an essential component of sustainable development, and inclusiveness (Foco, 2016).

Moreover, impediment to access to justice has various aspects. It can be a structural hindrance that creates difficulty in reaching the system of justice. It could be any law that prevents a particular portion of a community from reaching the justice system (Khadar, 2019). Likewise, the elements that prevent people from accessing justice have occurrence in Pakistani society as well. Consequently, justice in Pakistani society is hampered based on structural, procedural, and weak financial capacity. Many research studies in Pakistan from the perspective of access to justice are conducted to know the structural and procedural hurdles of access to justice. Whereas, studies knowing the obstacles of access to justice from the perspective of financial issues, socio-legal, and sociological aspects are rare and need to be conducted more. Keeping in view the above-mentioned research gaps, this study aims to: 1) assess the litigant's financial issues creating impediments in access to justice, 2) examine how the earnings of the litigant act as a hurdle to access to justice, 3) know in what manners, the expenses of the court process obstacle the access to justice, 4) identify the association of lawyer's fee with access to justice. Besides, research has disclosed the philosophical as well as the hypothetical foundations of the financial issues posing the obstruction in the access to justice. It would be beneficial for society, particularly for the policymakers and litigants.

Literature Review

Pakistani people face multiple difficulties with access to justice. Limited financial capacity to bear the costs of justice is one of these. Besides, in Pakistan, access to justice has many determinants including the economic well-being of an individual. Such determinants decide whether to bring an issue to the system of justice or not (Mezzera & Aftab, 2009). It is difficult for the system of justice in Pakistan to cater to the justice needs of the poor and financially backward people. As a consequence, the crisis of the impediments to accessing justice has been deep-rooted and become more crucial (Ali, 2017). The benefits are provided in our justice system only to an affluent person. The person with less income finds the justice system more difficult to get remedy from it. Hence, fewer opportunities for persons with low financial capacities are a source of inequality (Pasha, 2020). Pakistani system of justice is expensive in nature and the proceedings in it take a long time to reach a decision. It is due to these features of the justice system; the trust of people has been decreased which is tantamount to hindrance to access to justice. Besides, people are alternatively more inclined to use the informal institution of the justice system in place of the formal (Ullah & Khan, 2021).

Poverty has an impact on justice access. It hampers access to justice for poor and marginalized people (Yew, 2008). In case when people in poverty are not provided an equal chance of access to justice, it causes inequality with them and they do not remain in a position to raise their voice. They do not develop a capacity to stop the cruelty committed to them. Hence, poverty makes them marginalized and their rights are infringed every time (Soros & Abed, 2012). People of less income encounter many difficulties while bringing their problems to the courts. Even they sell out their properties to adjust to their litigation expenses. In some cases, after selling the properties, the litigants still cannot bear the expenses of the system of justice (Gross, 2013). A person of a weak economic position has no capacity to enforce his/her rights including economic, property, social, and labour rights. It is difficult to avoid the exploitation of such an individual (Beqiraj & McNamara, 2014). The weak economic position of women is acting as a barrier to access to justice for them (Kangas et al., 2014). Three-quarters of people having a meager position of economic have remained

deprived of applying to the justice system due to its expensive character. Hence, justice is out of their reach (Greene, 2015). A study by Blackburn mainly identified that financial constraints do hamper access to justice (Blackburn, 2017). Economically sound people have more chances of accessing the justice system as compared to marginalized and poor people (Sandefur, 2019). People avoid using formal courts due to the high costs of advocates, transport services, and other related services as well (Lapkin, 2019). Socio-economic inequalities are the prominent elements of justice impediments (Greenbaum, 2020). It is identified that shortage of legal aid, digital barriers, complexity of the procedure, information, and costs of the economic nature are the hindering factors of access to justice (Teremetskyi et al., 2021).

Sociological Perspective on Access to Justice

Almost all the major sociological paradigms, particularly functionalism and conflict have a great relationship with the hindrances of access to justice. Hence, the variables of this study have a foundation in the sociological theory as well.

The theory of functionalism in sociology has its roots in the writings of Emile Durkheim (1858-1917). This theory focuses on the social structures of the macro-level. Notable sociologists like Auguste Comte (1798-1857), Herbert Spencer (1820-1903), Robert K. Merton (1910-2003), and Talcott Parsons (1902 -1979) are the supporters of this theory of functionalism in sociology. This theory has application to the problem of access to justice from the perspective of functions being performed by the institutions of the justice both formal as well as informal. The proper function when performed by the system of justice. As a consequence, solidarity, harmony, and equilibrium are achieved in society. When the justice system performs its functions properly. In this case, the issues of the poor and people of marginalized groups are resolved. Eventually, the smooth functioning of society is achieved. Due to the proper functioning of the justice system, an environment of conduciveness for the prosperity and peace of society is generated. Besides, from the point of view of the functional perspective, Little et al (2016) have provided that the justice system is composed of different parts which are interconnected and interlinked. Like the institutions of court, prosecution, police, and the witness. When all these systems discharge their function properly. The condition of peace, social order, stability, and equilibrium can be created in society.

Conflict theory in sociology studies human behavior from the perspective of the struggle to acquire dominancy. In this way, this theory has main four postulates (1) clashes of interest occur in social life (2) such clashes take place with the result of zero-sum in which one side acquires benefits and the other losses (3) the dominant groups, gain at the cost of others (4) radical change only can decrease the dominant group's power (Black, 2001). This theory in sociology was founded by Karl Marx (1818-1883). Marx also believed that interest clashes in the classes of society occur. Such clashes initiate class struggle which brings a change in the society. Deprivation and inequality is another aspect of this theory. This current study is related to this theory from the point of view of deprivation and inequality. A litigant with lower income and meager resources faces numerous hindrances in access to justice. The costs of the justice system are high and beyond the reach of a litigant with low income and facing multiple financial issues. Consequently, the access to justice of such a litigant is hampered. Which is equal to deprivation and inequality.

Hypotheses

- H₁: The higher the financial issues of a litigant, the lesser will be the access to justice.
- H₂: The source of earnings of a litigant is significantly related to access to justice.
- H₃: The higher the expenses of the court process, the lesser will be the access to justice.
- H₄: The lawyer's fee is significantly related to the other related expenses of the litigation.
- H₅: The expenses involved in access to justice are significantly related to stress caused to a litigant.

Material and Methods

The study is quantitative in approach. While it is descriptive and exploratory in type. The district courts of Karachi, Sindh, Pakistan were the universe of this study. The district courts of Karachi are comprised of South, East, West, Central, and Malir. Using the purposive sampling technique data were collected from 547 litigants. The data were collected on a closed-ended questionnaire (Likert scale) of five points applying the survey method of data collection. Point 01 on the scale was strongly disagree and point 05 was strongly agree. Keeping in view the educational background of litigants and for a good response, the questionnaire was self-administered by the researchers remaining in the field. The data were analyzed through the Statistical Package for Social Sciences (SPSS). The data were analyzed in two phases. In the first phase, it was analyzed descriptively and more clearly elaborated through the percentage tables. In the second phase, the hypotheses were tested by applying the Pearson correlation coefficient test. A total of five hypotheses were constructed in this study to determine the relationship of the variables. The reliability of the scale was tested through Cronbach's alpha test. The results revealed a .807 value for $n=09$ items of this scale, which is good and quite acceptable in social sciences.

Every possible effort was made to follow the ethical standards of social sciences across the whole process of the study. Special care of the ethical notions was taken while collecting the data, analyzing, and report writing. Before the collection of the data, participants were informed that their participation in this study was voluntary. Their names shall not be disclosed and will remain pseudonyms. The participants were assured that their personal information would only be used for academic and publication purposes. Moreover, they were assured that no potential harm in any way would be given to the participants. All the questions of the participants about the questionnaire and the study as a whole were answered with respect and in a polite manner. Lastly, with due care data were entered into SPSS and analyzed.

Results and Discussions

This research study analytically and scientifically examined the financial limitations that hamper access to justice from sociological and socio-legal aspects. The phenomenon of access to justice earlier has been considered from the perspective of institutional reports, administration, and from the point of view of procedural hindrances. This study has filled the gap from the sociological and socio-legal aspects. The findings highlight a significant relationship between financial issues and the impediments to access to justice. The data supported the hypotheses. Besides, the results of the descriptive portion are aligned with the findings of the hypotheses. Hence, in this section of results and discussions, the results have been described descriptively first. Thereafter the results of the hypotheses testing are discussed in detail. Table 01 describes the demographic particulars of the participants of this study.

Table 01
Demographic Particulars of Participants

		%
Participant's Gender	Male	62.3
	Female	37.7
Participant's Age	18 to 25	19.9
	26 to 35	38.9
	36 to 45	24.5
	46 to 55	6.6
	More than 55	10.1
Participant's Education	Uneducated	2.9
	Primary	7.5
	Matriculation	18.5

Intermediate	32.9
Graduate	33.8
Master	3.8
Doctoral Degree	0.5

It is revealed that out of a total of $n=547$ participants, 62.3% are male. While 37.7% represent the female respondents. The results indicate that in this study male respondents are greater as compared to the female. This difference is because of the lower reporting of the issues in the justice system by the female members of Pakistani society. Besides, there are multiple reasons for not reporting the issues by the female. Moreover, the participant's distribution age-wise is also summarized. It is revealed that 26-35 is the largest age group in this study formulating 38.9% of the total sample. However, 36-45 with a percentage of 24.5% appeared to be the second largest age group. The results show that the young people in Pakistan bring their issues more to the system of justice. Lastly, the educational level of the respondents of this study is disclosed. It appears that 33.8% respondents of in this study are graduate degree holders. Secondly, 32.9% of participants had an intermediate degree. However, only 0.5% indicate that the participants possess a Ph.D., degree. Significantly, the study has revealed that most of the respondents of this study are literate.

Table 02
Percentage Distribution of the Source of Earning of a Litigant

	%
Strongly Disagree	35.3
Disagree	18.8
Neutral	7.5
Agree	14.8
Strongly Agree	23.6
Total	100.0

It is identified that 35.3% of participants strongly disagree and 18.8% disagree. Combining these two responses of the respondents forms more than fifty percent of the total sample. Such a good number of the participants refused to have their own earning source. The results interpret that when such type of people bring their issues to the system of justice, face many difficulties in meeting their litigation expenses. Access to justice for them is impeded due to the no sources of earning.

Table 03
Percentage Distribution of easily finding the money to meet the expenses of litigation

	%
Strongly Disagree	38.2
Disagree	33.5
Neutral	5.7
Agree	10.8
Strongly Agree	11.9
Total	100.0

The percentage distribution in a total sample of $n=547$ regarding easily finding the money for meeting the expenses of the cases is provided in Table 03. The findings show that 38.2% of respondents and 33.5% respectively strongly disagree and disagree. In this large number, almost more than 70% of the participants deny and feel difficulties in finding the money to meet the litigation expenditures. The results conclude that a majority of the litigants in Pakistani courts possess a weak financial position. They are not in a position to cater to the litigation expenses with ease.

Table 04
Percentage Distribution of Expensive Court Process

	%
Strongly Disagree	43.7
Disagree	27.4
Neutral	3.3
Agree	10.2
Strongly Agree	15.4
Total	100.0

Regarding the expensiveness of the court process, the data is summarized in Table 04. Out of a total sample of $n=547$, 43.7% of participants strongly disagree, subsequently, 27.4% of respondents disagree that the court process is not expensive. In other words, they are of the view that in Pakistan, the court process is expensive and out of the reach of a financially weak litigant.

Table 05
Percentage Distribution of more charges of the lawyer to represent a case

	%
Strongly Disagree	43.3
Disagree	24.3
Neutral	4.6
Agree	13.5
Strongly Agree	14.3
Total	100.0

The fees of a lawyer in accessing justice play a very important role. Hence, table 05 has accumulated the responses of the participants from the point of view that lawyers do not charge more money to represent the cases. It is shown that out of a total sample of $n=547$, 43.3% and 24.3% of respondents respectively strongly disagree and disagree. These two responses collectively form more than 60% of the entire sample. Therefore, the results show that a good number of the litigants in Pakistan consider that lawyer charges more money to represent them in a court of law. As a consequence, their access to justice is hampered due to the more charges of the lawyer's community.

Table 06
Percentage Distribution of Fees to obtain access to courts is not very high

	%
Strongly Disagree	33.3
Disagree	22.3
Neutral	15.7
Agree	13.5
Strongly Agree	15.2
Total	100.0

Table 06 is about the court fees. It is identified in a total of sample $n=547$, 33.3% of responses are distributed as strongly disagree and 22.3% as disagree. It means the court fees involved in accessing the courts are high which as a result poses resistance to accessing justice. If compared to other items, it appears that 15.7% of participants have recorded their responses as neutral. However, 15.2% and 13.5% of respondents respectively strongly agree and agree that fees to access the justice system are not very high.

Table 07
Percentage Distribution of other related expenses and charges are not very high

	%
Strongly Disagree	52.8
Disagree	33.8
Neutral	5.1

Agree	4.6
Strongly Agree	3.7
Total	100.0

Table 07 is generated to identify the response distribution in a total sample of $n=547$ regarding the expensiveness of other related costs and charges like transportation, documentation, and accommodation involved in the litigation process. The findings reveal that 52.8% of participants strongly disagree. Subsequently, 33.8% of respondents are disagree. Such a good number, more than 80% of participants are of the view that other related expenses of litigation in Pakistan are expensive and have the effect of a hindrance to justice.

Table 08
Percentage Distribution of Losses of Money

	%
Strongly Disagree	53.2
Disagree	31.1
Neutral	6.0
Agree	4.4
Strongly Agree	5.3
Total	100.0

Table 08 reveals that 53.2% of respondents strongly disagree that their current litigation has not lost them a lot of money, followed by 31.1% as disagree responses out of a total sample of $n=547$. The percentage of neutral respondents in this context is 6.0%. While a smaller number of the participant 5.3% and 4.4% respectively strongly agree and agree that their current litigation has not incurred them greater losses of money.

Table 09
Percentage Distribution of Losses of Time

	%
Strongly Disagree	55.0
Disagree	28.7
Neutral	5.3
Agree	5.1
Strongly Agree	5.9
Total	100.0

About the losses of time, table 09 summarizes the response distributions of the participants in a total sample of $n=547$. It is shown that 55.0% of respondents are found to strongly disagree and 28.7% disagree about the perception that the litigation process has not suffered them many losses of time. Based on a good number of the frequency distribution as strongly disagree and disagree, it is concluded that in Pakistan, a lot of time is lost during a case in the system of justice.

Table 10
Percentage Distribution of Stress Caused by the Case

	%
Strongly Disagree	56.9
Disagree	28.0
Neutral	5.1
Agree	3.8
Strongly Agree	6.2
Total	100.0

Table 10 expresses the percentage distribution of responses from the participants about the point of view that current litigation has not caused them a lot of stress. Findings expose that 56.9% of respondents strongly disagree and 28.0% disagree. Combining these two responses formulates more than 70% of the entire sample. Hence, it suggests that a

larger number of the participants of this study have felt stress during their litigation process at the court of law. This further generalizes that in the Pakistani justice system, litigants suffer stress on account of many reasons and financial issues are one of them.

Results of Hypotheses Testing

The Pearson correlation coefficient test was used to identify a possible association of the variables. Table 01 explains the results of the hypotheses testing. It describes the value of the Pearson correlation coefficient, the direction of the relationship between the variables, and total number of the sample.

Table 11
Revealing the Results of Hypotheses Testing

Hypothesis	Value	P value	N
1. The higher the financial issues of a litigant, the lesser will be the access to justice.	-.150	.000	547
2. The source of earnings of a litigant is significantly related to access to justice.	.234	.002	547
3. The higher the expenses of the court process, the lesser will be the access to justice.	-.097	.023	547
4. The lawyer's fee is significantly related to the other related expenses of the litigation.	.478	.000	547
5. The expenses involved in access to justice are significantly related to stress caused to a litigant.	.404	.000	547

The study reveals a highly significant, but weak negative association of financial issues with access to justice at ($p < 0.05$, $r = -.150$). In this connection, H_1 (The higher the financial issues of a litigant, the lesser will be the access to justice) is supported. The result implies that when a litigant is facing financial issues, it becomes difficult for such a litigant to access justice easily. Moreover, as the economic problems increase, resultantly, the access to justice decreases. The findings of this hypothesis are compatible with the previous literature, like Mezzera & Aftab (2009) and Ali (2017). The study has indicated a positive and highly significant weak association of a litigant's source of earnings with access to justice at ($p < 0.05$, $r = .234$). So, H_2 (The source of earnings of a litigant is significantly related to access to justice) is also supported. This result connotes that good sources of earning for a litigant make justice accessibility easy. However, the litigants with meager earning sources definitely will face many difficulties in accessing justice. Besides, the findings of this hypothesis align with the earlier studies, such as Pasha (2020), Gross (2013), and Beqiraj & McNamara (2014). Furthermore, the study has also shown a negative, weak, but significant relationship between the higher expenses of the process of the court and access to justice at ($p < 0.05$, $r = -.097$). H_3 (The higher the expenses of the court process, the lesser will be the access to justice) is supported. Although, the strength of the association between the variables is not strong. Despite this, the direction of the association shows that as the process of the court becomes expensive, it in the consequences shall create hurdles in access to justice. A previous study by Ullah and Khan (2021) is related to the findings of this hypothesis. The results supported hypothesis 04 (The Lawyer's fee is significantly related to the other related expenses of the litigation). It is revealed that lawyer's fees have a moderately positive and significant association with the other related expenses of the litigation at ($p < 0.05$, $r = .478$). The results provide that higher fees for a lawyer in litigation shall create difficulties for a litigant to meet with other related expenses like documentation, notaries, photocopies, transportation, traveling, and the expenses of the accommodation. Lastly, hypothesis 05, (The expenses involved in access to justice are significantly related to stress caused to a litigant) is supported. The study significantly reveals that the feeling of stress for a litigant is moderately and positively associated with the expenses involved in access to justice ($p < 0.05$, $r = .404$). The results connote that the more the expenses involved in a litigation, the more they will cause stress to the litigant.

Conclusion

This study evaluated from a sociological and socio-legal manner, the financial issues hampering access to justice. In this context, a significant relationship between financial issues and access to justice is identified. This suggests that as the financial issues of a litigant increase consequently, the access to justice is decreased. Additionally, the study indicated a significant association between the source of earnings and access to justice. This relationship infers that access to justice increases in the case of good sources of income and decreases in less sources of income. Furthermore, a significant relationship between higher expenses of the process of the court and access to justice is also found in this study. This association concludes that as the process of the court becomes expensive, it in the consequences shall create hurdles in access to justice. Besides, the study has shown a positive and significant connection between lawyer's fees and other related expenses of the litigation. This suggests that higher fees for a lawyer in a litigation process shall create difficulties for a litigant to meet with other related expenses like documentation, notaries, photocopies, transportation, traveling, and the expenses of the accommodation. Significantly, the study has also expressed a positive association of feeling of stress for a litigant with the expenses involved in the access to justice. This relationship provides a sense that more expenses are involved in a litigation, resultantly, they will cause stress to a litigant. On the other end, descriptively the study identified that most of the litigants are young and represent the 26-35 age group. Significantly, most of the respondents of this study are literate and the majority of them hold intermediate and graduate degrees. Moreover, a good number of the litigants in Pakistani courts do not have their earning source which creates difficulties for them to reach the system of justice. Similarly, litigants do not find money easily to meet the expenses of their litigation. Study reveals that losses of money and time occur during the litigation process.

Recommendations

The study provides the following recommendations for the resolution of the financial issues that hamper access to justice.

- More sociological and socio-legal studies on the financial aspect of the impediments of access to justice are suggested to be conducted by sociologists and experts in other fields of social sciences as well as law.
- Financial issues have a greater potential to hinder the access to justice. Hence, more quantitative and qualitative studies on a large scale are recommended to be conducted in academia. Besides, stakeholders of the justice system should also be involved in such studies. In this context, the organization of conferences, symposiums, and seminars will be more helpful to understand the nature and the gravity of the problem.
- Poverty is the root cause of the financial issues which hinder access to justice. It is recommended for poverty alleviation in Pakistan. It can be possible by the initiation of more poverty alleviation programs by federal as well as provincial governments focusing on enhancing the sources of earning of the people. Besides, the poor litigants at large are recommended to be assisted financially by the legal aid programs.
- The justice system is recommended to be reformed. It should be smart and involve less expenses. In this context, international models of smartness and involving less costs are recommended to be applied in the justice system of Pakistan.

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