



SUMMARY REPORT ON COURT SERVICES SITUATION ANALYSIS



Judicial Strengthening Project
Implemented by
Supreme Court of Bangladesh and UNDP



*Empowered lives.
Resilient nations.*



Summary Report on Court Services Situation Analysis

December 2013

Judicial Strengthening Project (JUST)

Supreme Court of Bangladesh

Tel : +88-02-7124800, Fax : +88-02-7124787

Website : www.justbd.org



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Supreme Court of Bangladesh

About Judicial Strengthening Project

Complex procedures, case backlogs, and a lack of effective case management are key constraints to the court system in Bangladesh. They put pressure on the capacity of the system, and create challenges for citizens in accessing justice. The Judicial Strengthening Project supports the judiciary to strengthen its capacity by reducing these constraints. This will in turn provide a sustainable foundation for citizens of Bangladesh, in particular women and vulnerable groups, to access justice. The project is being jointly implemented by UNDP and the Supreme Court of Bangladesh, which focused on achieving the following four outputs:

1. Improved case management in the Supreme Court;
2. Improved strategic planning and administrative capacity of the Supreme Court;
3. Three district courts delivering improved services for court users; and
4. Strengthened training capacity on case management.

December 2013

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Survey conducted by

SURCH

(A House of Survey Research)
18/2 Bakshi Bazar Road (3rd floor)
Dhaka-1211
Phone: +88-02-7300433
Email: surch@bangla.net.bd



FOREWORD

I am pleased to present the Summary Report of the "Court Services Situation Analysis" for the Judicial Strengthening (JUST) Project. This groundbreaking survey is first of its kind in the history of the judiciary in Bangladesh.

The overall objective of the "Court Services Situation Analysis" was to provide a situation analysis on access to justice in targeted areas, and to gather baseline information which addresses the indicators in the JUST Project's results framework. The specific objectives were to provide a situation analysis on access to justice in the three Pilot Districts. This included developing a solid understanding of how people, including women, children, and people with disabilities, resolve legal disputes; the challenges they encounter in obtaining a just decision through both the formal and informal justice systems; establishing baseline information for the indicators in the JUST Project's results framework; conducting an analysis of the case backlog situation in the Supreme Court and the courts in the three pilot district; and measuring court users' level of satisfaction with the current justice system.

The results of this landmark study are presented in brief in this Summary Report and offer critical observations which will help in setting targets and making decisions, particularly in the area of case management.

I express my sincere gratitude to the talented team of experts from SURCH. The team worked in close collaboration with the Supreme Court, Pilot District Courts and UNDP JUST Project staff to conduct the Baseline Survey and produce a quality brief report.

Finally, I would like to thank UNDP for its financial assistance and untiring support to the judiciary of Bangladesh.

S. M. Kuddus Zaman,
Senior District Judge & Special Officer-Supreme Court of Bangladesh, and
National Project Director (NPD) - JUST Project



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Mr. Justice Md. Muzammel Hossain, Honorable Chief Justice of Bangladesh
S. M. Kuddus Zaman, Senior District Judge & Special Officer-Supreme Court of
Bangladesh and National Project Director (NPD) - JUST Project
Abdul Majid, District and Session Judge, Dhaka district
A M Md. Syeed, District and Session Judge, Kishoreganj district
Md. Golam Hossain, District and Session Judge, Rangamati district
Jakhongir Khaydarov, Chief Technical Advisor (CTA) -JUST Project
Masud Karim Ripon, Programme Officer, Democratic Governance Cluster, UNDP
Bangladesh
Hamidul Haque Khan, Capacity Building Analyst- JUST Project
Reazul Al Masum, ICT Manager- JUST Project
Md. Mostak Ahmed, Monitoring & Evaluation Officer- JUST Project
Salima Sultana, Project Officer- JUST Project
Md. Kabir Hossain, Communications Officer- JUST Project
Keenan G. Casady, International Court Management Consultant, UNDP Bangladesh
Ross Alex McIntosh, Communication Consultant, JUST Project
Saqeb Mahbub, Junior Justice Consultant- JUST Project

SURCH Consultant Team

Professor Muhammad Shuaib
Professor Liaquat A. Siddiqui
Professor Raasheed Mahmood
MAFM Ahnaf
Md. Mokhlesur Rahman
Md. Ziaul Hasan Sikder
Md. Shakwat Hossain Khan
Muhammad Rashed
Advocate Md. Salim Jahangir
Ms. Munny Islam
Ms. Afroza Begum

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ACRONYMS

ADR	Alternative Dispute Resolution
APP	Assistant Public Prosecutor
CJM	Chief Judicial Magistrate
CMM	Chief Metropolitan Magistrate
Cr.P.C	Criminal Procedure Code
FGD	Focus Group Discussion
FIR	First Information Report
GD	General Diary
GoB	Government of Bangladesh
GR	General Registration
IDI	In-depth Interview
IO	Investigation Officer
JUST	Judicial Strengthening
KII	Key Informant Interview
PC	Penal Code
PP	Public Prosecutor
PPS	Probability Proportional to Size
PSU	Primary Sampling Unit
S/D	Settling Date
SR	Service Return
SURCH	A House of Survey Research
TAPP	Technical Assistance Project Proposal
TIB	Transparency International Bangladesh
UNDP	United Nations Development Program
UP	Union Parishad



Introduction

The formal justice system in Bangladesh remains relatively inaccessible for the vast majority of people. Vulnerable groups, including women, children, ethnic minorities, the poor, and people with disabilities, face particular difficulties in accessing timely and affordable justice. A large case backlog, currently estimated at around 2.7 million cases, is slowly overwhelming the court administration and undermining access to justice. It is increasingly acknowledged that this situation is a barrier to good governance and the rule of law, and those steps must be taken to address these problems.

Despite significant challenges in improving access to justice through the formal court system, a combination of factors has created a historic opportunity to strengthen the judiciary. The Chief Justice of Bangladesh has committed to improving the effectiveness and efficiency of the judiciary. The establishment of the "Supreme Court Special Committee for Judicial Reform" demonstrates the present political will to invest time and resources to improving the justice system. Further, important structural changes have been implemented in recent years, including the formal separation of the judiciary from the Executive. Strengthening the judiciary is now a key component of the government's outline prospective and five-year plans.

This new focus demonstrates that the judiciary is key to establishing good governance and the rule of law. It upholds rule of law by resolving disputes in a fair and equitable manner. This includes acting as a check and balance to other parts of the government, such as the Executive and the Legislature. Public service provision of "justice" also contributes to economic growth, social cohesion, human development and the overall legitimacy of the state. A solid foundation of rule of law is widely acknowledged as a necessary precondition for poverty reduction and equitable economic development.

Strengthening the formal justice system is a priority for the Government of Bangladesh and the Supreme Court. There is increasing demand for improvements in the administration of affordable, timely and equitable justice. One of the key constraints facing the judiciary is the large case backlog. The backlog is placing considerable pressure on the court system and is hampering access to justice. It is also symptomatic of a number of other issues, including complex procedures and a lack of effective case management.

Judicial Strengthening Project

Against this backdrop, the United Nations Development Program (UNDP) Bangladesh and the Supreme Court agreed to implement a long term development and capacity building program for the judiciary under the name of the 'Judicial Strengthening (JUST) Project. JUST aims to improve access to justice, especially for disadvantaged and vulnerable groups, by supporting the judiciary to improve case management, reduce case backlogs, and improve resource utilization, planning, and functional effectiveness.

¹A total of 2,747,468 cases were pending in 2013, across the Supreme Court, the Judges Courts and the Magistrates Courts. Statistical Report on Bangladesh Supreme Court (2013) Bangladesh Supreme Court, Dhaka, Bangladesh



The project aims to achieve the following four outputs:

1. Improved case management in the Supreme Court;
2. Improved strategic planning and administrative capacity of the Supreme Court;
3. Three district courts delivering improved services for court users; and
4. Strengthened training capacity on case management.

The Supreme Court and three district courts (Dhaka, Kishoreganj and Rangamati) have been selected for the pilot phase of the JUST project. The ultimate beneficiaries of the project are the citizens of Bangladesh, and, in particular, court users.

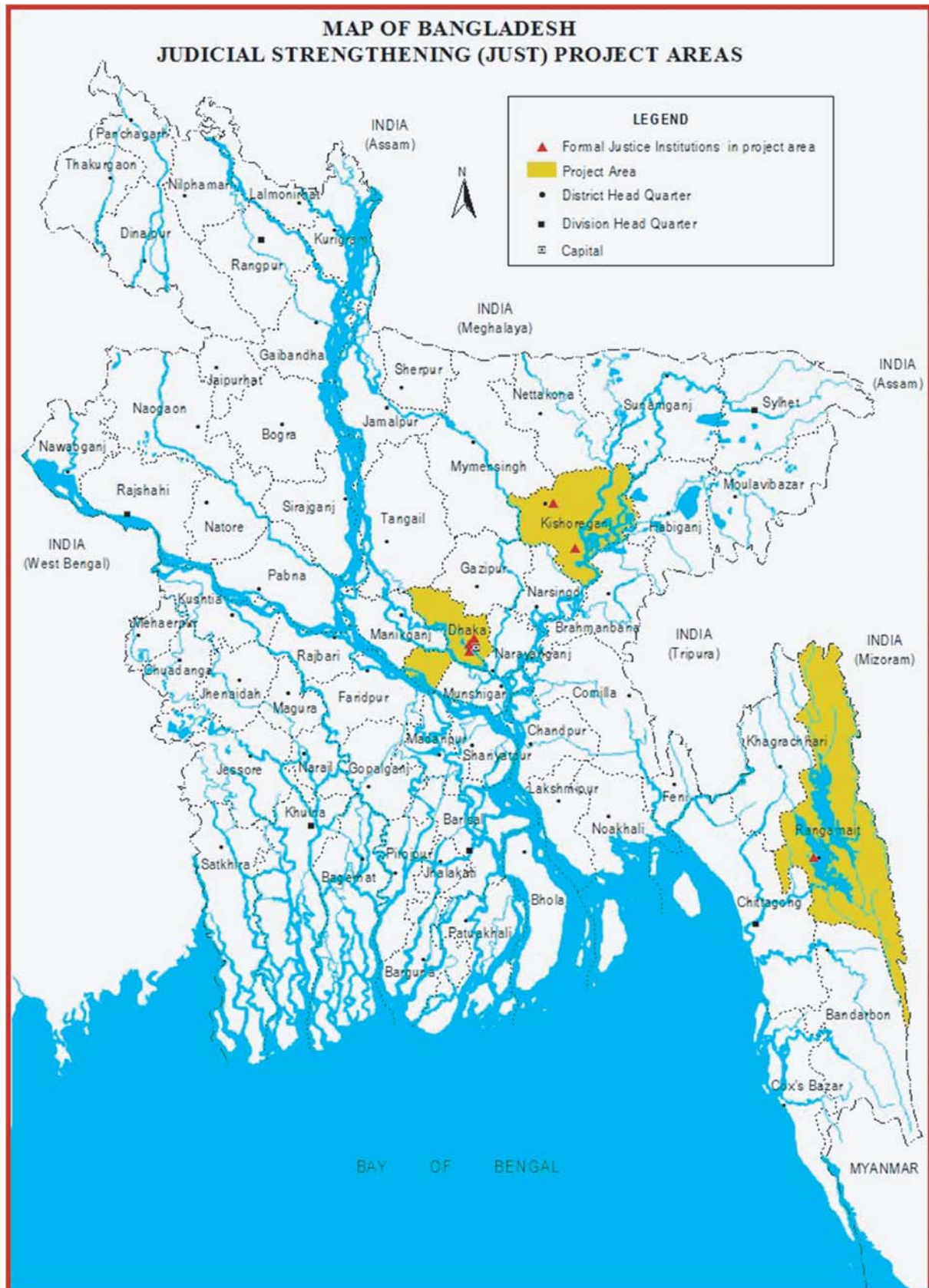
The judiciary of Bangladesh, especially the higher judiciary, is burdened with a case backlog, and has become inefficient due to weak case management. In democratic systems, the higher judiciary plays a crucial role in supporting the fundamental components of good governance. The higher judiciary requires support in order to strengthen its capacity to administer the court system.

To attain the above outputs, UNDP, at the request of the Supreme Court of Bangladesh, has established a baseline prior to the implementation of the project. This will allow for a thorough evaluation of the impact of JUST, and for better implementation of the planned activities.

The objectives of this Baseline Survey were to:

1. Provide a situation analysis of access to justice in three Pilot Districts. This allows for a solid understanding of how people, including women, children, persons with disabilities and other marginalized groups, resolve legal disputes and the challenges they face in doing so, through both the formal and informal justice systems.
2. Establish baseline information for indicators in JUST's results framework for which data was not already available.
3. Analyze the case backlog situation in the Supreme Court and courts in the three pilot districts.
4. Measure in court respondents' level of satisfaction with the justice system.

The Baseline Survey covered the three pilot districts of JUST Project, namely Dhaka, Kishoreganj and Rangamati.





Methodology

The baseline study used both quantitative and qualitative survey methods. The quantitative survey comprised two surveys: a household survey and a court user survey (at court point).

To support findings from these surveys, qualitative research was conducted, including:

- Document review of relevant reports, project design documents, and court documents
- 18 Focus Group Discussions (FGDs)
- 65 Key Informant Interviews (KIIs)
- 36 in-depth interviews
- 30 case studies of particular court cases, of which 15 were criminal cases and 15 civil cases

The listing of households, undertaken in order to create a sampling frame, began on 1st September 2013 and ended on 30th September. Quantitative data collection took place between 11th September 2013 and 3rd October, while qualitative data collection took place between 15th September 2013 and 20th November.



Conducting the household survey

Quantitative methodology

Quantitative data was collected in face to face interviews between 1st September and 3rd October 2013.

Household Survey

Information on a household's experience with the judicial system was collected from the household head or another senior figure in the household.

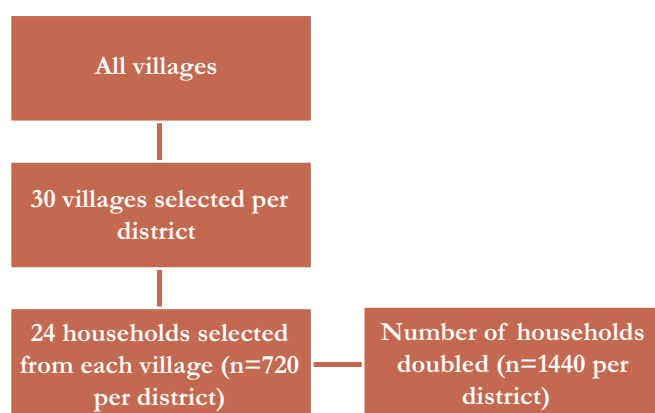
At a confidence level of 95%, the necessary sample size for the household survey was estimated to be 2162.² A sample of this size allows for disaggregation by district.

² The absolute precision level was 0.08, and the design effect was 1.75. These calculations were based on findings from another recent study (Corruption in Service Sectors: National Household Survey, Executive Summary, Transparency International Bangladesh, 2012: 19), which found that 9% of households use the justice system each year, and that 57% of households report experiencing corruption in the justice system.



The survey used a two-stage cluster sampling design. In first stage, 30 mahallah/villages were selected as primary sampling units (PSUs) from a list of all such villages, using standard systematic probability proportional to size (PPS) sampling method. A total of 24 households were then selected from each PSU through systematic sampling, to achieve the total desired sample of 720 households per district (excluding non-responses).

Given that the household survey identified households at random, it was necessary to factor into the research design the likelihood that a substantial number of households would not have been involved in disputes or court cases in the preceding two years. The sample size was therefore doubled in order to account for this for few indicators.



In Court Survey

A second survey was also conducted, which surveyed respondents on the court premises, asking similar questions. This provides an additional level of data to that of the household survey, allowing researchers to triangulate responses in order to produce a richer analysis.

At a confidence level of 95%, the necessary sample size for the household survey was estimated to be 275 per district.³ In designing the sample, a group of persons coming to court on the same day were considered to be a cluster. Twenty people attending the court in order to obtain services were selected per cluster from courts in Dhaka, while 27 people were selected per cluster in the other districts. This alteration was necessary because the number of courts and judges in Dhaka is higher than those in the other districts.

Qualitative methodology

The qualitative component of the research included FGDs, KIIs, in-depth interviews (IDIs), case studies, and a review of court documents in court. A total of 18 FGDs, 65 KIIs, 30 case studies of court cases (of which 15 were criminal cases and 15 civil cases, all of which were closed with verdict delivered in between 2010 and 2013) and literature review of relevant reports, project design document and court documents, were employed. Target groups for the FGDs, KIIs and in-depth interviews were vulnerable group people, judges, peshkar, sherestadar, public prosecutors (PPs), assistant public prosecutors (APPs), government pleaders (GPs), lawyers, and Investigation Officers (IOs) of the police.

³ The absolute precision level was 0.08, and the design effect was 1.25.



Findings

Demographics of Household Survey Respondents

Among the respondents to the household survey, 41 percent were male and 59 percent were female. The highest proportion of female respondents was in Dhaka district. In Rangamati district, the proportion of male respondents was higher than the proportion of female respondents. Household sizes tended to be large, with the majority of the households comprising 3-4 or 5-6 members (42.7% and 35% respectively). The average household size across the whole sample is 4.8; with only a small variation between districts (Dhaka has a lower average household size, at 4.4 people per household, while Kishoreganj households comprise 5.1 people and Rangamati 5.0).

About 44% of respondents are illiterate, or can only sign their names (17.4% and 26.4% respectively). Around 44% also have a primary or secondary level of education (22.4% primary, 21.3% secondary), while 12% have a Secondary School Certificate or a higher level of education. Ninety percent of the sample population are married.

As would be expected, male and female respondents are involved in different kinds of employment. A little over one third of male respondents are involved in agriculture (36.4%), with others employed in 'business' (19.7%), 'skilled labor' (10.8%) and 'unskilled labor' (10.4%). The great majority of female respondents are housewives (82.2%). The proportion of male respondents involved in agriculture is higher in Rangamati (56.7%) than in the other two districts, while the proportion of male respondents involved in business and skilled labor is higher in Dhaka.

Mean monthly average household income is Tk. 12,213. This mean conceals some inequality of incomes within the sample: the median household income is considerably lower, at Tk. 9,000 per month. Both figures are higher for Dhaka in comparison to the other districts.

Seventy nine percent of households are Bengali, followed by Chakma (15.8%) and Marma (1.8%). These averages disguise significant regional variation. All households in Dhaka and Kishoreganj are Bengali; while in Rangamati 47% are Chakma, 38% Bengali, and the remainder of other ethnicities. Only 4% of household have disabled household members.

Involvement in disputes

The survey aimed to assess respondents' involvement in disputes, crime, and adjudication in the two years prior to the survey.

Qualitative work showed that in Dhaka and Kishoreganj, the most common forms of civil disputes and criminal offences are land disputes; inter-family conflict; theft; banditry; political conflict; violence against women; and violence against children. Less frequently, citizens in these districts also report disputes relating to drug addiction; defaulting on loans; financial transactions; and harassment with false cases. In Rangamati, the kinds of disputes are very different, including communal riots; political violence; land and land boundary disputes; and the abduction of political actors. To a lesser extent, respondents also report disputes around violence against women and children; dowry; sexual harassment; rape; and family matters.



The household survey shows that 12% of households have been involved in disputes or litigation relating to criminal offences, while 11% have been involved in disputes or litigation relating to civil matters. A further 2.5% have been involved in both kinds of disputes.

Among disputes relating to criminal offences, 'theft and banditry' was cited by 6% of all households, followed by 'scuffle or fight' (3.2%), 'grabbing of money' (1.9%), 'cheating' (1.7%) and 'abuse of women' (1.1%). Among disputes, relating to civil matters,

'land or property disputes' was more common, being faced by about 10% of all households. The next frequently occurring type of civil dispute was 'illegal grabbing of land property' (1.5%).

Many more men were involved in disputes than were women. Two-thirds of those involved in disputes were male, while 18.4% of cases involved both male and female household members. Men and women tended also to be involved in different types of disputes.

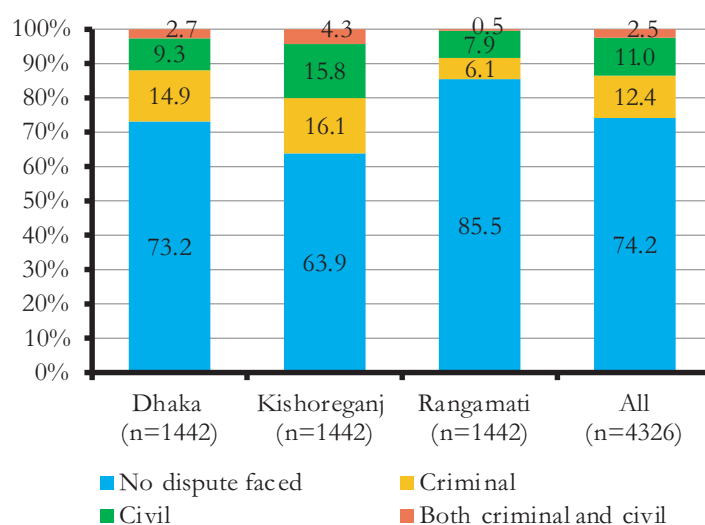
Use of Formal and Informal Justice Systems

Bangladesh has informal and formal justice systems. People's awareness of the formal justice system is very low. There is therefore a widespread preference for informal justice systems. There are two key forms of informal justice; that provided by the traditional *shalish*⁴, which takes place at the level of individual communities, and that of the village court, which is conducted by the Union Parishad (UP).

The qualitative research shows that citizens select the kind of justice system that they use according to their needs. In Dhaka and Kishoreganj, citizens use informal systems in order to resolve smaller disputes, such as those relating to land, dowry, family conflict and fights. For large land disputes or criminal offences, the formal justice system is instead used.

In Rangamati, a similar pattern is observed. Disputes are first taken to traditional community leaders, who try to resolve the dispute. If this is not possible, the case is referred to the UP Chairman. For serious crimes, such as abduction, rape, murder, and big land disputes, the formal justice system is again used instead. Participants in FGDs and in-depth interviews report that the informal system is preferred in all districts for reasons of speed and cost.

Figure-01: Disputes and nature of disputes faced by household, by district, JUST_UNDP 2013

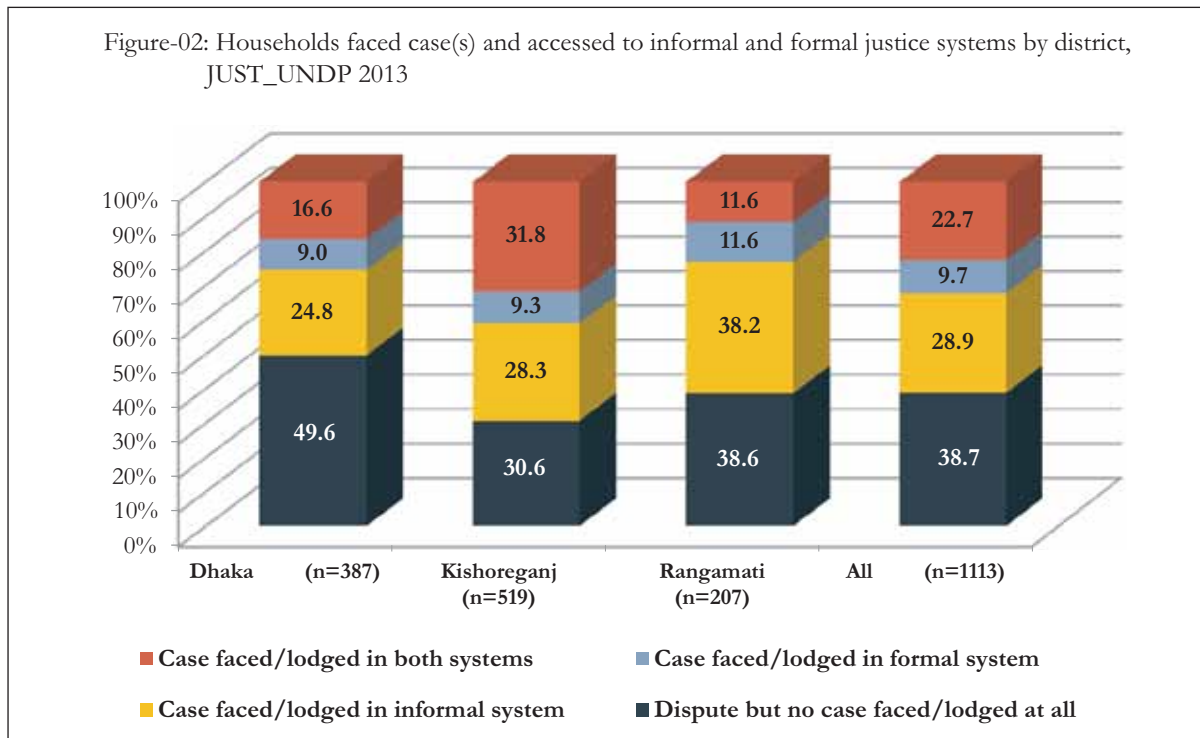


⁴ Shalish is a traditional dispute resolution process, practiced mainly in rural Bangladesh. Influential people in the community, such as traditional village leaders, religious leaders, teachers, headmen/karbari (in the Hill Tract areas) work as mediators, adjudicating between both parties involved in a dispute.



However, participants in Dhaka and Kishoreganj reported that over time, dissatisfaction with informal justice is increasing, as it is seen as being open to favoritism, nepotism, bribery and political influence, which it is felt, has led to political leaders and others being capable of distorting the judgment/decision-making process. About two thirds (65.8%) of respondents reported that they are unsatisfied with the informal justice system. This does not seem to be the case in Rangamati, where participants were more satisfied with decisions made in informal systems.

A substantial proportion (39%) of households have not lodged cases after becoming involved in a dispute. Twenty nine percent of households filed case in the informal justice system, while 10% used the formal justice system, and a further 23% lodged their case in both the informal and formal systems. This means that a total of 51.6% of households lodged cases in the informal justice system, accompanied or not by lodging a case in the formal system.



In Rangamati district, there appears to be some differences in access to the informal justice system between different ethnic groups. About 42% of Bengalis used the informal justice system, compared to 60% of those in other ethnic groups. However, the total number of cases is small (n=90), so such statistics should be treated cautiously.



Table-01: Household access to formal justice system by gender, JUST_UNDP 2013

Access to justice system	Percent				
	Male	Female	Male and female	Child less than 18 years	All
Involved in a dispute but did not access any system	42.3 (174)	50.0 (28)	38.6 (56)	4 0.0 (2)	42.1 (260)
Involved in a dispute and has accessed the informal justice system	28.5 (117)	32.1 (18)	27.6 (40)	60.0 (3)	28.8 (178)
Involved in a dispute and has accessed the formal justice system	10.5 (43)	5.4 (3)	9.7 (14)	-	9.7 (60)
Involved in a dispute and has accessed both systems	18.7 (77)	12.5 (7)	24.1 (35)	-	19.3 (119)
n	411	56	145	5	617

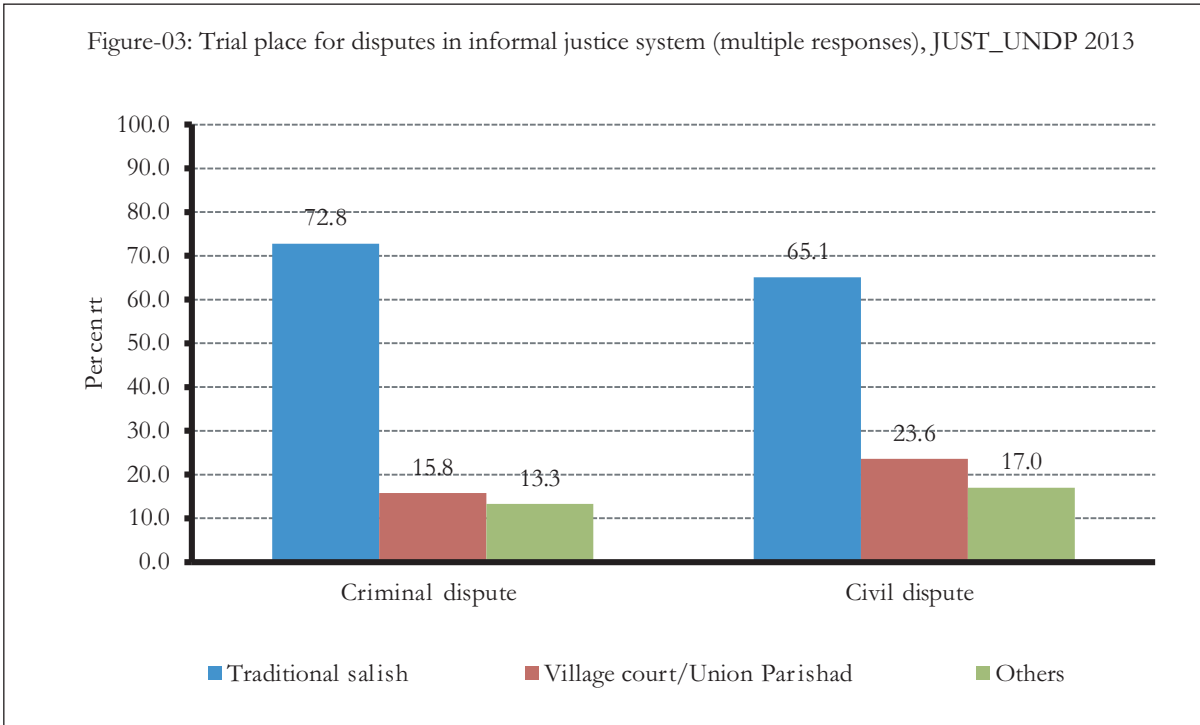
Household members, who faced dispute as plaintiff/defendant or complainant/accused, were mostly male members, while in some cases they were female. In few cases they were male, female and child aged less than 18 years combined

Findings suggest that less educated household members are more likely to use the informal system than those with higher education. Forty seven percent of those with a primary level education reported using informal systems, compared to 38.2% of people with the Secondary School Certificate (SSC). There also appears to be an occupational difference, with 41.2% of those involved in service or business using informal systems, against 48.6% of those who are housewives, working in agriculture or day labor.

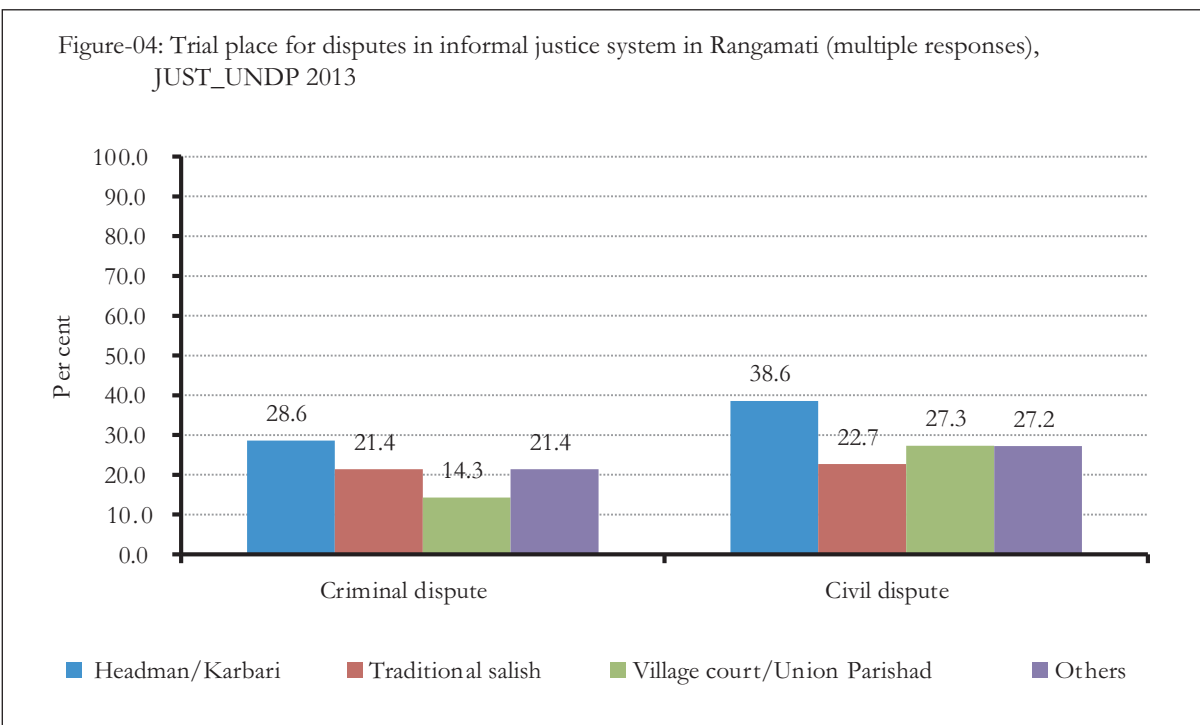
The behavior of respondents in seeking justice from the informal justice system also varies with household income. There is an inverse relationship between income and preference for informal justice systems. This is unsurprising, as the institutions which provide informal justice are inexpensive and easy to access.

Informal Justice System

Slightly more than half of households use informal justice systems to settle disputes. Within this category of justice systems, the traditional shalish was the most frequently used, with 72.8% of criminal disputes and 65.1% of civil disputes referred to informal systems taking place through this method. The village courts run by the Union Parishad, by contrast, accounted for 15.8% of criminal disputes and 23.6% of civil disputes.



There was a significant difference in Rangamati district, where the traditional elders were used for 28.6% of criminal and 38.6% of civil disputes channeled into informal justice systems, compared to 21.4% of criminal and 22.7% of civil cases through the shalish, and 13.3% of criminal and 27.3% of civil disputes through the village court.





Some households were involved in a dispute but chose not to use the informal justice system. The most frequently cited reason for this was that they 'did not think it was necessary', with 80.5% of respondents in Kishoreganj, 77.8% of respondents in Rangamati, and 42% of respondents in Dhaka. The next most frequently mentioned reason was that 'the opponent is influential', with 18.6% of respondents in the overall sample reporting this as a reason for avoiding the informal justice system.

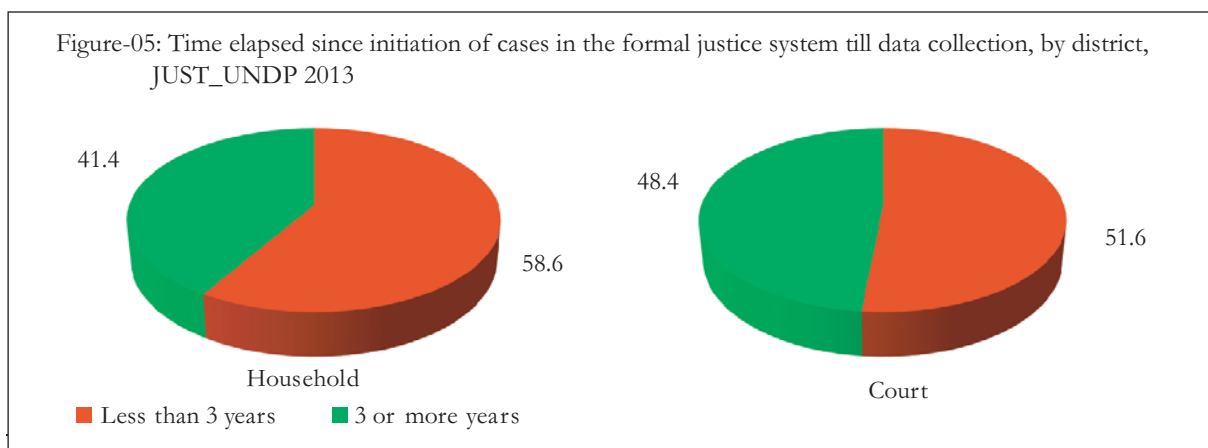
Slightly over 35% cases in the informal system were annulled without reaching a final decision, despite several sessions of adjudication. About 29% of disputes were resolved through adjudication, with the decisions taken having been fully implemented. In another 23.9% of cases, however, the decisions had not been implemented at all. This demonstrates that informal justice systems face some difficulty in enforcing their decisions. This appears to be more of an issue with regard to civil cases than for criminal cases. About 38% of criminal disputes and 23.6% of civil disputes were reported as being resolved with decisions implemented.

According to the survey respondents, the principal reasons for partial or non-implementation of decisions are "the opponent's non-compliance with the decision" (52.9%), 'the opponent is influential' (47.1%), and 'the opponent is wealthy' (22.4%). There were no major gender differences in these findings. However, these figures should be treated cautiously, as the sample sizes are too small to be statistically sound.

Of those reporting dissatisfaction with the informal justice system, 29.4% of respondents were dissatisfied because 'the decision is influenced by interference, or it is delivered based on political considerations'. A further 20.6% felt that 'the decision/judgment or process is influenced by nepotism and favoritism'. Of those who reported being satisfied with informal justice systems, 95.5% reported that their satisfaction is because they 'get a fair judgment or decision'. This did not vary between districts.

Formal Justice System

Around one third of respondents reported that they have filed cases in the formal justice system. Of these, 41% of respondents to the household survey, and 48% of respondents to the in court survey, reported that since initiation till date of data collection their cases had been in process for three years or more.





The overall average waiting time for cases (i.e. time elapsed since initiation) still pending a verdict was around five years. Some cases had been in process for remarkable lengths of time, with around 14% of respondents to the household survey and 12% of the in court respondents reporting that their cases had been running for more than 10 years. The average waiting time - from the initiation of the case to the date of data collection - is three to four years for criminal cases, and more than five years for civil cases.

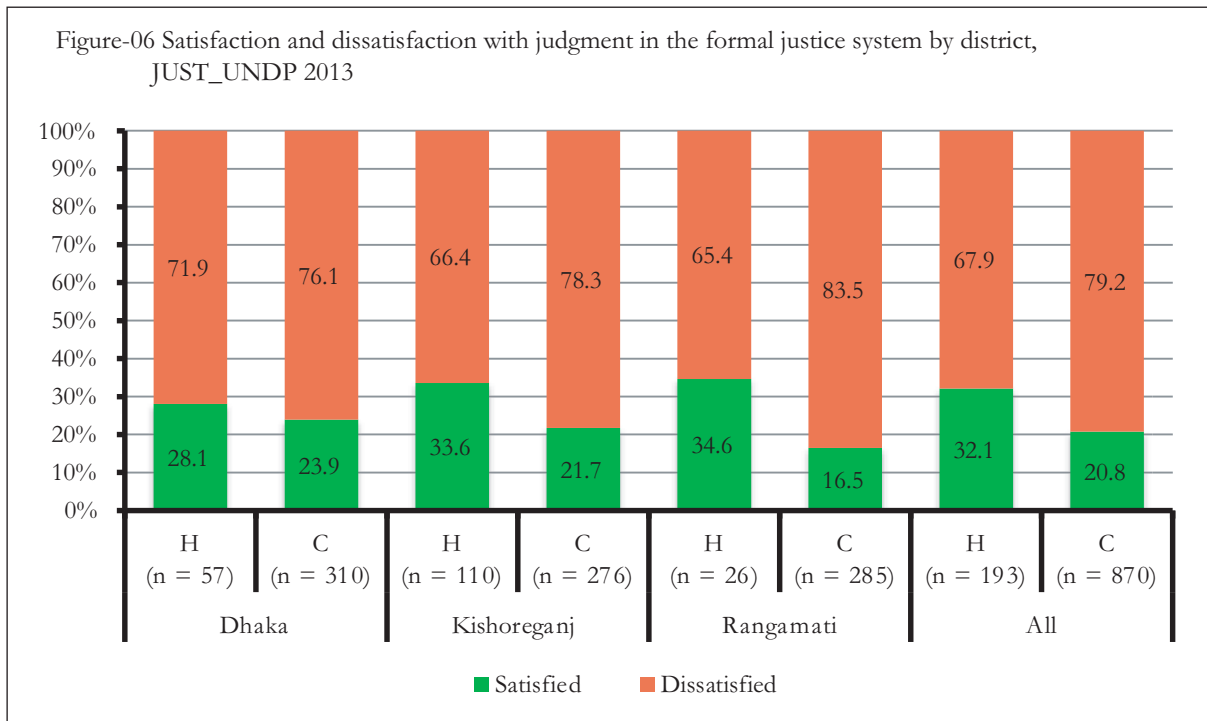
In the formal justice system, a criminal case must pass through a number of specific stages, namely; a First Information Report; submission of charge sheet; framing of charges; hearing of witnesses; placing of arguments; and the delivery of a judgment.

Likewise, a civil case must pass through a different process, namely; the filing of the case; service return or acknowledgement due; witness's statements; framing of the issue; settling date; peremptory hearing; and a further hearing; placing of arguments; and the delivery of a judgment. Due to case backlogs and a lack of sitting courts and judges, these processes are very slow in both criminal and civil cases.

In order to assess which of these stages produced the greatest bottlenecks, the two surveys asked questions to determine whereabouts in the process cases were waiting at the point in time when the surveys were conducted.

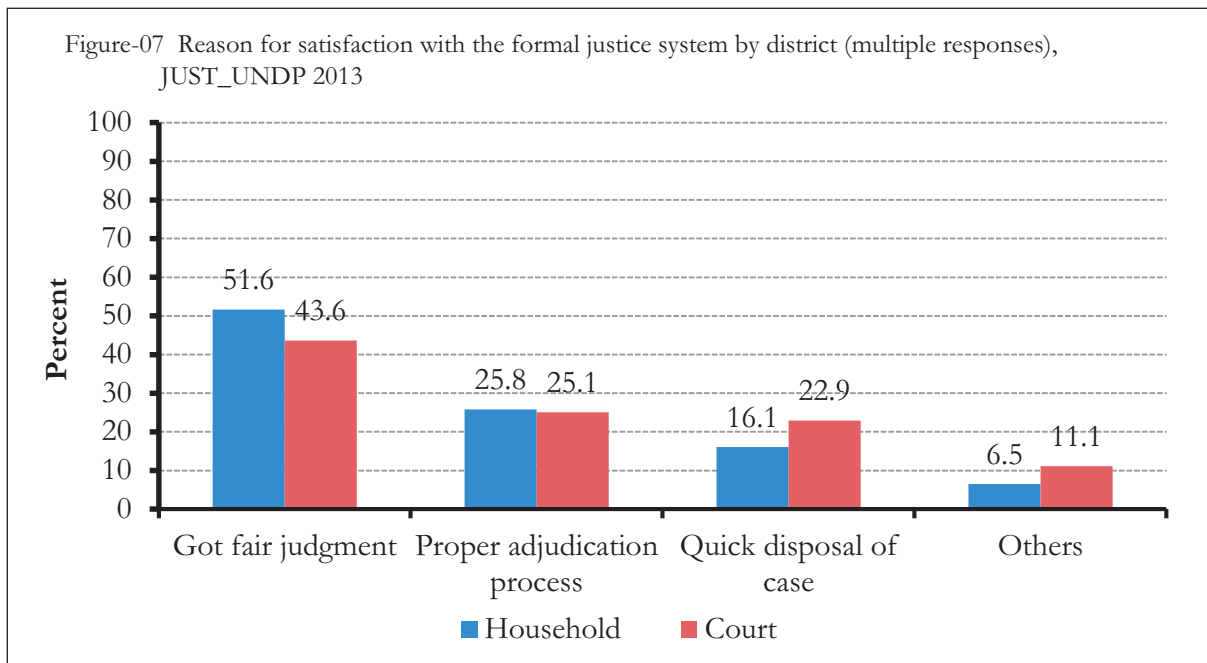
Findings show that the largest proportion of cases were awaiting the hearing of witness testimony (34% in the household survey, and 50.6% in the in court survey). This was followed by the placing of arguments (16.5% of respondents in the household survey, and 10.9% in the in court survey), then 'subject of judgment was decided/the charge was framed' (9.3% of respondents to the household survey, and 9.3% in the in court survey). These therefore appear to be the most serious bottlenecks in the system.

Around one third of respondents in the household survey and 21% in the in court survey reported being satisfied with the verdict and adjudication process in the formal system. Slightly over two thirds (67.9%) of respondents in the household survey, and 79% in the in court survey, were dissatisfied with the verdict and / or the process.



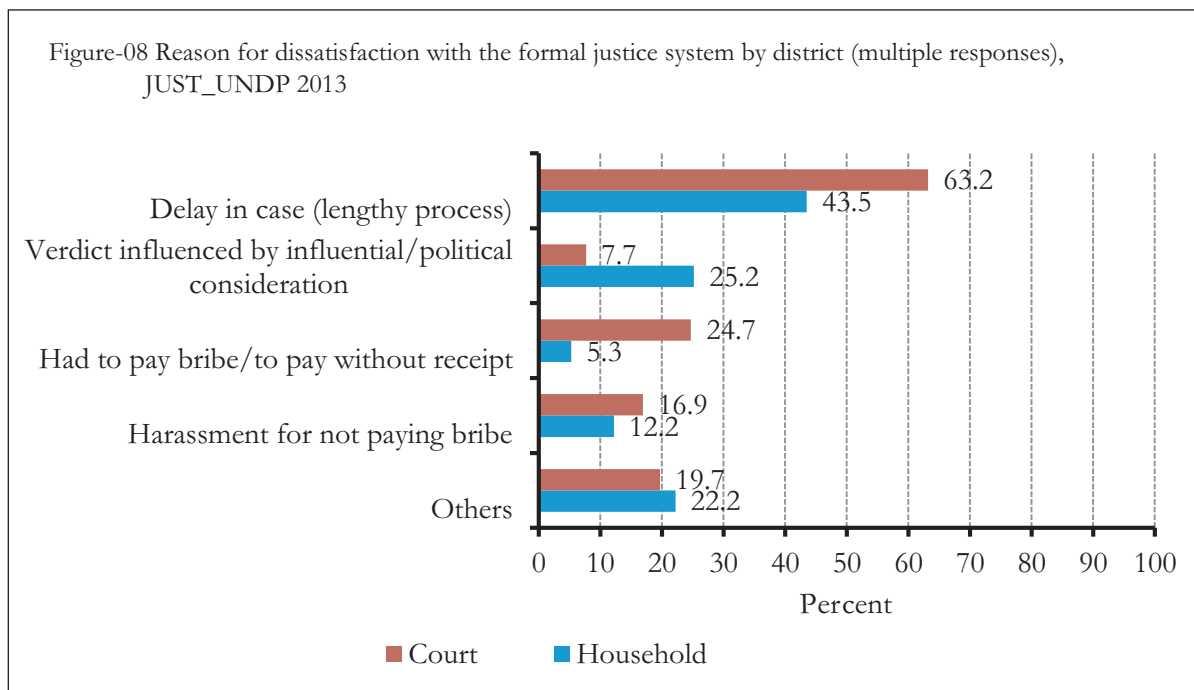
Note: H refers to selected household member and C refers to court point respondent; (CI 25.0-39.0% for overall proportion of HH respondents satisfied)

Of those, who reported satisfaction with the formal justice system, 51.6% in the household survey and 43.6% in the in court survey report that they are satisfied because they have 'received a fair judgment'. This is followed by the proportion of people who report that the trial was undertaken through 'a proper adjudication process' (25.8% in the household survey, and 25.1% in the in court survey).



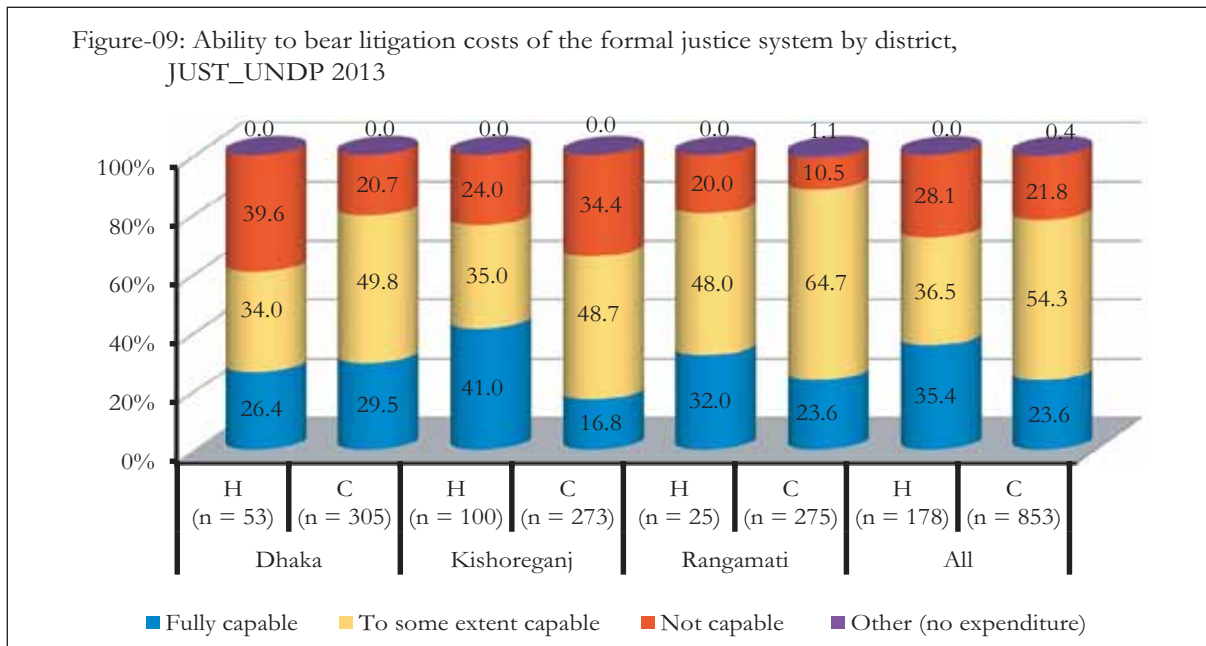


Of those who were dissatisfied, the principal reasons given were 'delays in the case' (44% in the household survey, and 63% in the in court survey); 'verdict influenced by the interference of an influential person, or was biased by political considerations' (25.2% and 7.7%); and 'had to pay a bribe or pay a fee without a receipt' (5.3% and 24.7%). There was no large difference between districts in this respect.



Litigation costs are a major aspect of conducting cases in the formal justice system. There are several stages of the process which are expensive. Therefore, a long case has a further disbenefit for a litigant, as it increases the amount of money which must be paid. Both surveys therefore asked questions regarding the ability to pay litigation costs.

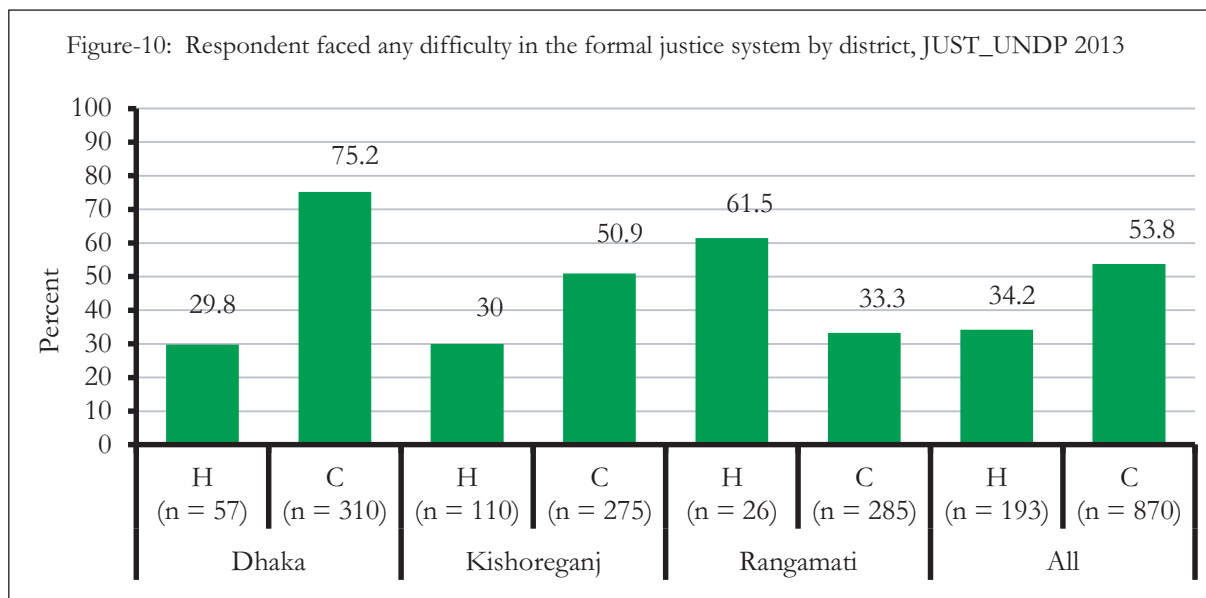
Over one third of respondents to the household survey (35.4%) and about a quarter of respondents to the in court survey (23.6%), reported being fully able to bear such expenses. Overall, around 65% and 76% of respondents could not bear the expenses, or had some difficulty in meeting the expenses of a case.



Note: H refers to selected household member and C refers to court point respondent, Confidence Interval for proportion of household respondents (All) reporting 'fully capable' is 27.0-44.0%

Respondents to the household survey, who were involved in disputes but decided against using the formal justice system, were asked for their reasoning. Slightly over 58% of respondents reported that they 'did not think it was necessary', while 21.3% reported that 'the opponent was influential', and 13% reported that 'lack of money' was the principal reason.

Both respondents to the household survey and the in court survey report a range of issues in seeking justice through the formal justice system. Slightly over 34% of the former and 53.8% of the latter reported difficulties with the functioning of the court.

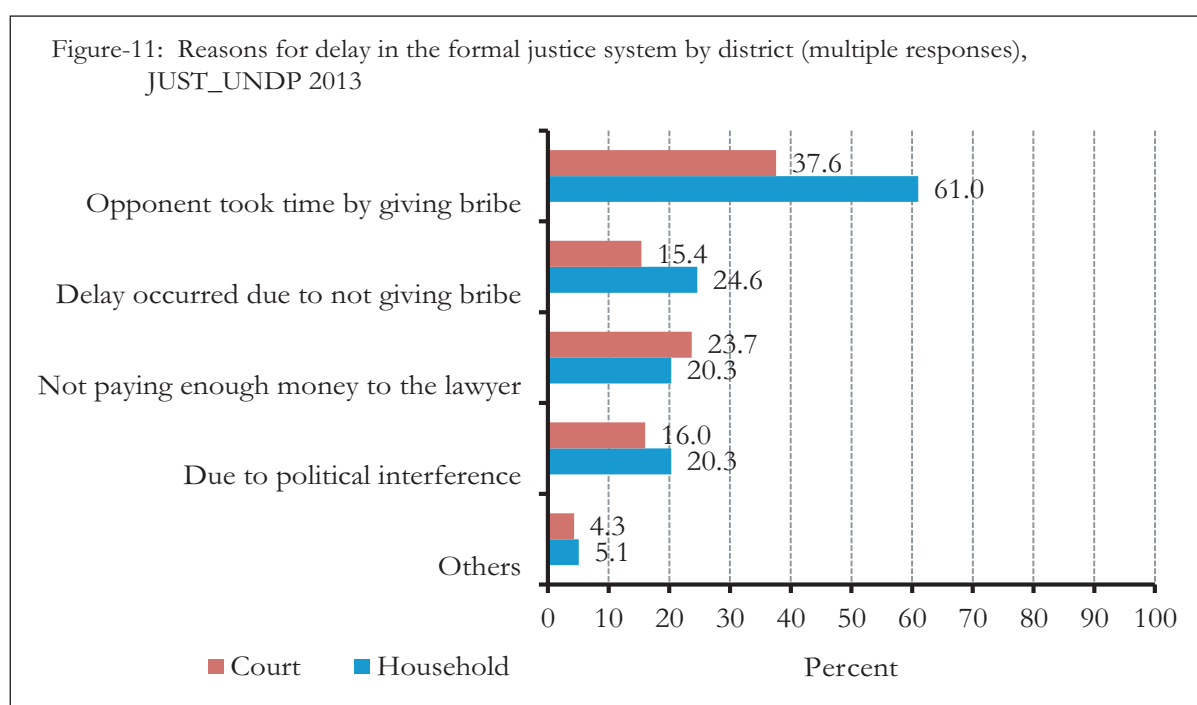


Note: H refers to selected household member and C refers to court point respondent



The most frequently cited issues were 'harassment by lawyers' (16.7% and 29.5%); 'delay in disposal of cases' (16.7% and 57.9%); 'frequent adjournment of court by changing trial or hearing dates' (16.7% and 18.8%); and 'being compelled to pay extra legal fees' (4.5% and 21.4%). Females reported substantially higher incidences of these difficulties. The sample size for the household survey here is small, so the figures from the in court survey are likely to be considerably more accurate.

Delays are another important issue. According to both surveys, delays took place due to 'opponents taking extra time by paying bribes' (61% and 37.6%); 'not paying bribes' (24.6% and 15.4%); 'not paying enough to the lawyer' (20.3% and 23.7%); and 'political interference' (20.3% and 16%). Corruption therefore appears to be a major issue in this respect.



The survey also asked a number of questions relating to perceptions of the benefits of the formal justice system. Respondents felt that equal and uniform procedures, fairness, and transparency are advantages of the formal justice system. Perceptions of the neutrality of the formal justice system were mixed. The majority felt that the judiciary is fully independent and neutral, though others felt that neutrality is not maintained. This perception of neutrality is contradicted by the high proportion of people who feel that there is some level of corruption in the system.

Very few of the household respondents (6%) and in court respondents (10%) fully agree that the judiciary is free from corruption. A small proportion of the household respondents (6%) and in court respondents (15%) agree that disputes can be resolved properly and fairly through formal justice system; while a slightly higher proportion of them do not agree at all with this notion (18% of household respondents and 27% of in court respondents). Only a few of the household respondents (3%) and in court respondents (7%) fully agree that the existing judiciary



is effective and helpful in providing services in matters of legal protection and safety of people, while most of them do not agree with the notion at all (24% of household respondents and 38% of in court respondents).

Only a few of the household respondents (5%) and in court respondents (2%) felt that the police administration is fully independent and neutral in the existing judicial system, while a higher proportion of them think that it is not independent (household respondents: 45%, in court respondents: 77% including proportions of 'not independent at all'). Similarly, majority of other respondents (lawyers, PPs etc.) observed that the police administration is not fully independent and neutral, and felt that it is influenced by politics and money. Few of the household respondents (3%) or in court respondents (9%) feel that the public prosecutors are fully independent and neutral. A larger proportion feel that they are not independent and neutral (16% of household respondents and 37% of in court respondents). On the other hand, the majority of the other respondents (lawyers, PPs etc.) think that the PPs cannot work independently and neutrally due to political influence.

More or less similar views are held by the respondents about independent and neutral role of the general lawyers. Only 3% of the household respondents and 10% of the in court respondents think that the lawyers work fully independently and neutrally. The majority of other respondents (lawyers, PPs etc.) think that lawyers work independently and neutrally because they face less political influence.

Regarding the role of independent legal aid providing bodies, some of household survey respondents (14%) and in court survey respondents (10%) report that such bodies are fully independent and neutral. Again, some of the respondents perceive them partially independent and neutral (household respondents: 19% and in court respondents: 18%). However, a few do not think these bodies are independent and neutral at all (household respondents: 4% and in court respondents: 11%). On the other hand, according to majority of the other respondents (lawyers, PPs etc.) such bodies can work independently and neutrally. The picture is therefore very mixed.

Qualitative work found manifold concerns. Key difficulties in judicial system were described around the non-appearance of witnesses, slow reporting by police investigators and medical officers, late reporting to court by plaintiffs, defendants and their counsellors to court, deliberate stalling of cases, and the neglect of duties by court staff.

There are also some issues with the police being slow to submit charge sheets due to administrative workloads, and the acceptance of bribes by the police. The courts are late in issuing warrants, and sometimes issue incorrect warrants, especially for criminal cases. In general registered cases filed in the police station (i.e. the thana), the accused are not presented in the court properly or are delayed. Some participants mentioned that both plaintiffs and defendants often submit petition for extra time without a valid reason. Sometimes lawyers and judges remain absent from the court, which causes delays in adjudication. A shortage of judges and support staff and logistics is a further impediment to timely disposal of cases as well.



Regarding problems in accessing to the formal system key informants, such as judges, government pleader (GP), public prosecutor (PP), assistant public prosecutor (APP), sherestadar, peshkar and lawyers reported that the lack of proper knowledge about the formal justice system and court procedures and a lack of finance are major impediments encountered by citizens in using the formal justice system. FGD participants felt that formal justice is beyond the reach of the common people, due to this financial barrier.

Participants in the qualitative research made a number of recommendations for reducing the case backlog in the formal justice system (i) infrastructure should be enhanced; (ii) more judges should be appointed and the number of court staff should be increased, as well as the number of courts/sitting courts; (iii) disputes should be resolved through mediation and plea-bargaining; (iv) police should be more active and should be held accountable; (v) backlogged cases need to be resolved on a priority basis; (vi) logistical support and necessary facilities should be provided in order to conduct the cases, and arrangements could be made to provide judges quick access to expert opinion while conducting cases and delivering judgment; (vii) a monitoring cell should be formed in order to ensure the accountability of judges and, for this a separate study may be conducted to identify the issues to be addressed for developing an effective monitoring system and establishing its enforcement mechanism; (viii) proper training should be imparted to the judicial magistrates to increase their efficiency; (ix) use of information technology should be expanded; (x) higher number of cases should be resolved through ADR; (xi) trial dates should be fixed and limited to less than one month.

Difficulties faced by vulnerable people

There was a widespread perception that vulnerable people, such as women, children, and people with disabilities, face difficulties in seeking justice through both the informal and formal justice systems.

With regard to the informal justice system, the problems reported are that 'importance is not given to such people' (29% of respondents to the household survey, and 41% of respondents to the in court survey); 'family opposition or obstruction' (14.9% and 19.5%); 'do not receive justice' (33% and 55%); 'false accusations' (14.6% and 23.5%); and 'not allowed to talk' (13.9% and 20.1%).

With regard to the formal justice system, the problems reported are that there are 'family objections' (17.1% and 21.8%); 'financial problems' (14.5% and 36.2%); 'delays in receiving judgment' (13.4% and 24.3%); 'harassment by lawyers' (12.8% and 22.1%); and 'lawyers compel such clients to pay additional fees' (10.3% and 17.7%).

Status of cases in courts

In addition to the surveys and the qualitative research, an analysis of court records was also undertaken, in order to understand the current case load. For this, records from the Appellate Division of the Supreme Court, the High Court Division of the Supreme Court, and the Judges and Magistrates Courts were considered.



Findings from the Appellate Division of the Supreme Court show that a huge number of cases were pending at the beginning of 2010. Civil cases comprised around 80% of these cases. The scenario is similar for the 'number of cases filed in the year 2010' (total: 5,464, civil: 4,133, criminal: 1,277), 'number of cases disposed' (total: 1,583, civil: 1,327, criminal: 246) and 'number of cases pending at the end of year' (total: 9,141, civil: 6,922, criminal: 2,169). The pattern is very similar for the years of 2011, 2012 and 2013. Regarding proportion of cases disposed out of total cases newly filed (not out of total pending and newly filed cases combined) it is found that, overall, about 29 percent of the cases of both types were disposed of during the year 2010 compared to the number filed in the same year, where the proportion was higher for civil cases (32.1%) compared to that of criminal cases (19.3%). However, in the later years (2011 to 2013), the proportion of cases disposed of is higher for the cases related to criminal offences compared to cases related to civil matters.

Table-02: Summary of statuses of cases in Appellate Division of Supreme Court by year, JUST_UNDP 2013

Type of cases by year		Pending cases at the beginning of year	New cases filed	Total cases pending	Total cases disposed	Total pending at the end of year	Percent of cases disposed
2010	Civil case	4116	4133	8249	1327	6922	32.1
	Criminal case	1138	1277	2415	246	2169	19.3
	Other case	6	54	60	10	50	18.5
	Total	5260	5464	10724	1583	9141	29.0
	Average*	1753.3	1821.3	3574.7	527.7	3047.0	9.7
2011	Civil case	6922	3639	10561	1040	9521	28.6
	Criminal case	2169	1101	3270	365	2905	33.2
	Other case	50	19	69	54	15	284.2
	Total	9141	4759	13900	1459	12441	30.7
	Average*	3047.0	1586.3	4633.3	486.3	4147.0	10.2
2012	Civil case	9521	4597	14118	1239	12879	27.0
	Criminal case	2905	1423	4328	588	3740	41.3
	Other case	15	16	31	3	28	18.8
	Total	12441	6036	18477	1830	16647	30.3
	Average*	4147.0	2012.0	6159.0	610.0	5549.0	10.1
2013	Civil case	12879	4753	17632	3708	13924	78.0
	Criminal case	3740	1212	4952	1321	3631	109.0
	Other case	28	24	52	7	45	29.2
	Total	16647	5989	22636	5036	17600	84.1
	Average*	5549.0	1996.3	7545.3	1678.7	5866.7	28.0
Average on grand total		10872.3	5562.0	16434.3	2477.0	13957.3	43.5

Source: Statistical Reports by Bangladesh Supreme Court, Years: 2010, 2011, 2012 and 2013; *Average refers to average number of cases per year (all types of cases combined)

Findings related to case statuses by type and years (2010-2013) in the High Court Division of the Supreme Court reveal a similar picture. A total of 314,613 cases (both criminal and civil combined) were pending at the beginning of 2010, where a higher number of cases were related to civil matters compared to criminal offences (civil: 196,772, criminal: 117,841). The scenario is similar for 2010, as the total number of cases filed in the year 2010 was 57,111 (civil: 39,629, criminal: 17,482), and 'total number of cases disposed' was 69,306 (civil: 56,705, criminal:



12,601) and the 'total number of cases pending at the end of year' was 302,777 (civil: 179,698, criminal: 123,079). A similar pattern is observed in 2011, 2012 and 2013. However, the proportion of cases disposed of compared to cases filed, 120.6 percent of the cases of both types were disposed of during the year 2010 compared to the number filed in the same year. The proportion was higher for civil cases (143.1%) compared to that of criminal cases (70.6%). Thus, there are indications that such a high disposal rate has contributed in reduction of the civil case backlog to some extent. A more or less similar picture is evident in 2011, 2012 and 2013 (Table 03).

Table-03: Summary of statuses of cases in High Court Division of Supreme Court by year, JUST_UNDP 2013

Type of case by year		Pending cases at the beginning of year	New cases filed	Total revived cases	Total cases pending	Total cases disposed	Total pending at the end of year	Percent of cases disposed
2010	Criminal	117841	17482	357	135680	12601	123079	70.6
	Civil	196772	39629	02	236403	56705	179698	143.1
	Total	314613	57111	359	372083	69306	302777	120.6
	Average*	157306.5	28555.5	179.5	186041.5	34653.0	151388.5	60.3
2011	Criminal	123079	19117	394	142590	16276	126314	83.4
	Civil	179698	25569	04	205271	52149	153122	203.9
	Total	302777	44686	398	347861	68425	279436	151.8
	Average*	151388.5	22343.0	199.0	173930.5	34212.5	139718.0	75.9
2012	Criminal	126314	25121	353	151788	14329	137459	56.2
	Civil	153122	31254	04	184380	24108	160272	77.1
	Total	279436	56375	357	336168	38437	297731	67.8
	Average*	139718.0	28187.5	178.5	168084.0	19218.5	148865.5	33.9
2013	Criminal	137459	19672	201	157332	11881	145451	59.8
	Civil	160272	30134	03	190409	12405	178004	41.2
	Total	297731	49806	204	347741	24286	323455	48.6
	Average*	148865.5	24903.0	102.0	173870.5	12143.0	161727.5	24.3
Average on grand total		298639.3	51994.5	329.5	350963.3	50113.5	300849.8	97.2

Source: Statistical Reports by Bangladesh Supreme Court, Years: 2010, 2011, 2012 and 2013; Percent of cases disposed of is calculated through dividing total cases disposed by total new cases filed; *Average refers to average number of cases in a year (all types of cases combined)

The data further show that, in the Judge Courts in Dhaka, the number of pending cases related to criminal offences was higher than cases relating to civil matters at the beginning of 2010 (criminal: 92,474 civil: 49,313). The scenario is similar for 2010 with regard to the 'number of cases filed in the year 2010' (criminal: 36,251, civil: 23,310), 'number of total cases' including pending cases and cases newly filed during 2010 (criminal: 128,725, civil: 72,623), 'number of cases transferred' (criminal: 13,761, civil: 4,323), 'number of cases disposed' (criminal: 16,429, civil: 13,986 including cases disposed through Alternative Dispute Resolution, or ADR) and 'number of cases pending at the end of year' (criminal: 98,535, civil: 53,785).



The scenario is quite the opposite for all these issues in the other two districts, where the number of cases related to civil matters was higher for all the issues mentioned, compared to that of cases related to criminal offences (except transferred cases) in Kishoreganj. The disposal rate for civil cases was higher (Kishoreganj: 85.2%, Dhaka: 62.3%) compared to criminal cases (Kishoreganj: 65.0%, Dhaka: 45.3%). A different situation exists in Rangamati where the proportion of case disposal for civil cases was far lower than that for criminal cases (civil: 43.7%, criminal: 182.7%). In the Magistrate Court, the proportion of disposal of criminal cases in Rangamati is also much higher than in the other two districts. A similar pattern is observed in the later years 2011, 2012 and 2013 in three districts in this regard.

The proportion of cases cleared in these three districts (including cases disposed of in court, through ADR, or transferred out) compared to the number of new cases filed has also been calculated. In the Judge Courts, 82% of cases were cleared in 2010 (this was a little lower in Rangamati: 74.2%, compared to the other two districts, Dhaka: 82.3%, and Kishoreganj: 81.4%). The corresponding figure for the Magistrate Court in the same year is 85% (Table 04).

Table-04: Summary of statuses of cases in Judge Courts and Magistrate Courts in 2010 by district, JUST_UNDP 2013

Type of court by district	Type of case	Pending cases at the beginning of the year	New cases filed	Total cases pending	Total cases disposed	Cases disposed through ADR	Cases transferred	Total pending at the end of year	Percent of cases disposed	Percent of clearance
Judge Court#										
Dhaka*	Civil	49313	23310	72623	13986	529	4323	53785	62.3	80.8
	Criminal	92474	36251	128725	16429	0	13761	98535	45.3	83.3
	Total	141787	59561	201348	30415	529	18084	152320	52.0	82.3
Kishoreganj**	Civil	10982	4313	15261	3528	147	7	11592	85.2	85.4
	Criminal	5031	3482	8503	2262	0	401	5850	65.0	76.5
	Total	16013	7795	23764	5790	147	408	17442	76.2	81.4
Rangamati	Civil	2400	798	3198	349	0	4	2845	43.7	44.2
	Criminal	1580	220	1800	402	0	0	1398	182.7	182.7
	Total	3980	1018	4998	751	0	4	4243	73.8	74.2
Total		161780	68374	230110	36956	676	18496	174005	55.0	82.1
Average per district		53926.7	22791.3	76703.3	12318.7	225.3	6165.3	58001.7	55.0	82.1
Magistrate Court										
Dhaka***	Criminal	40203	38716	78919	29798	0	2450	46671	77.0	83.3
Kishoreganj	Criminal	6250	3132	9382	2714	0	192	6476	86.7	92.8
Rangamati	Criminal	1667	1018	2685	1397	0	0	1288	137.2	137.2
Total		48120	42866	90986	33909	0	2642	54435	79.1	85.3
Average per district		16040.0	14288.7	30328.7	11303.0	0	880.7	18145.0	79.1	85.3
Average on grand total per district		104950.0	55620.0	160548.0	35432.5	338.0	10569.0	114220.0	64.3	83.3

Data source: Study team collected data from court documents

Land Survey Tribunal & Vested Property data not included * District Judge Court, Metropolitan Judge Court, Divisional Special Judge Court, District Judge for Public Safety, District Judge Quick Adjudication -1 to 4, Women & Child Oppression Control Judge Court -1 to 5 and Special Judge -1 to 10; ** District Judge Court and Women & Child Oppression Control Judge Court; *** CJM, CMM



A similar pattern is observed in 2011, 2012 and 2013. A notably higher proportion of civil cases was disposed of and closed during 2013 in two districts (Dhaka: 64.5%, Kishoreganj: 107.9%) compared to criminal cases (Dhaka: 50.6%, Kishoreganj: 63.4%).

Table-05: Summary of statuses of cases in Judge Courts and Magistrate Courts in 2011 by district, JUST_UNDP 2013

Type of court by district	Type of case	Pending cases at the beginning of the year	New cases filed	Total cases pending	Total cases disposed	Cases disposed through ADR	Cases transferred	Total pending at the end of year	Percent of cases disposed	Percent of clearance
Judge Court[#]										
Dhaka*	Civil	53785	21840	75625	12715	791	3223	58896	61.8	76.6
	Criminal	98535	41052	139587	18298	0	13853	107436	44.6	78.3
	Total	152320	62892	215212	31013	791	17076	166332	50.6	77.7
Kishoreganj**	Civil	11592	4795	16387	3899	55	244	12189	82.5	87.5
	Criminal	5850	4994	10732	3535	0	418	6779	70.8	79.2
	Total	17442	9789	27119	7434	55	662	18968	76.5	83.3
Rangamati	Civil	2845	743	3588	973	0	0	2615	131.0	131.0
	Criminal	1398	1317	3548	730	0	20	2798	55.4	56.9
	Total	4243	2060	7136	1703	0	20	5413	82.7	83.6
Total		174005	74741	249467	40150	846	17758	190713	54.9	78.6
Average per district		58001.7	24913.7	83155.7	13383.3	282.0	5919.3	63571.0	54.9	78.6
Magistrate Court										
Dhaka***	Criminal	46671	35858	82529	23953	0	988	57588	66.8	69.6
Kishoreganj	Criminal	6476	3481	9957	3189	0	240	6528	91.6	98.5
Rangamati	Criminal	1288	957	2245	984	0	0	1261	102.8	102.8
Total		54435	40296	94731	28126	0	1228	65377	69.8	72.8
Average per district		18145.0	13432.0	31577.0	9375.3	0.0	409.3	21792.3	69.8	72.8
Average on grand total per district		114220.0	57518.5	172099.0	34138.0	423.0	9493.0	128045.0	60.1	76.6

Data source: Study team collected data from court documents

Land Survey Tribunal & Vested Property data not included * District Judge Court, Metropolitan Judge Court, Divisional Special Judge Court, District Judge for Public Safety, District Judge Quick Adjudication -1 to 4, Women & Child Oppression Control Judge Court -1 to 5 and Special Judge -1 to 10; ** District Judge Court and Women & Child Oppression Control Judge Court; *** CJM, CMM



Table-06: Summary of statuses of cases in Judge Courts and Magistrate Courts in 2012 by district, JUST_UNDP 2013

Type of court by district	Type of case	Pending cases at the beginning of the year	New cases filed	Total cases pending	Total cases disposed	Cases disposed through ADR	Cases transferred	Total pending at the end of year	Percent of cases disposed	Percent of clearance
Judge Court#										
Dhaka*	Civil	58896	22944	81840	12243	860	3897	64840	57.1	74.1
	Criminal	107436	43874	151310	17785	0	17468	116057	40.5	80.4
	Total	166332	66818	233150	30028	860	21365	180897	46.2	78.2
Kishoreganj**	Civil	12189	5231	17420	3871	37	0	13512	74.7	74.7
	Criminal	6779	4770	11549	3146	0	507	7896	66.0	76.6
	Total	18968	10001	28969	7017	37	507	21408	70.5	75.6
Rangamati	Civil	2615	579	3195	364	59	0	2772	73.1	73.1
	Criminal	2798	223	1710	125	0	0	1585	56.1	56.1
	Total	5413	802	4905	489	59	0	4357	68.3	68.3
Total		190713	77621	267024	37534	956	21872	206662	49.59	77.8
Average per district		63571.0	25873.7	89008.0	12511.3	318.7	7290.7	68887.3	49.59	77.8
Magistrate Court										
Dhaka***	Criminal	57588	43356	100944	31731	0	1357	67856	73.2	76.3
Kishoreganj	Criminal	6528	4406	10934	3665	0	287	6982	83.2	89.7
Rangamati	Criminal	1261	863	2124	757	0	0	1367	87.7	87.7
Total		65377	48625	114002	36153	0	1644	76205	74.4	77.7
Average per district		21792.3	16208.3	38000.7	12051.0	0.0	548.0	25401.7	74.4	77.7
Average on grand total per district		128045.0	63123.0	190513.0	36843.5	478.0	11758.0	141433.5	59.1	77.8

Data source: Study team collected data from court documents

Land Survey Tribunal & Vested Property data not included * District Judge Court, Metropolitan Judge Court, Divisional Special Judge Court, District Judge for Public Safety, District Judge Quick Adjudication -1 to 4, Women & Child Oppression Control Judge -1 to 5 and Special Judge -1 to 10; ** District Judge Court and Women & Child Oppression Control Judge Court; *** CJM, CMM





Table-07: Summary of statuses of cases in Judge Courts and Magistrate Courts in 2013 by district, JUST_UNDP 2013

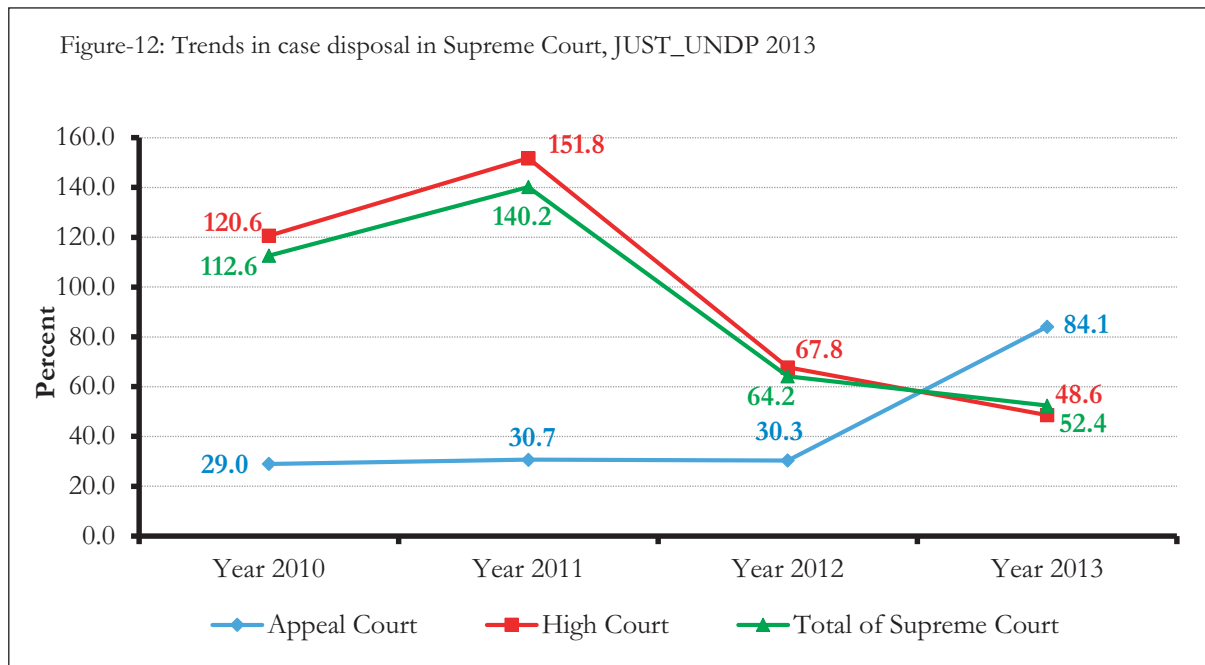
Type of court by district	Type of case	Pending cases at the beginning of the year	New cases filed	Total cases pending	Total cases disposed	Cases disposed through ADR	Cases transferred	Total pending at the end of year	Percent of cases disposed	Percent of clearance
Judge Court#										
Dhaka*	Civil	64840	43107	107947	26691	1128	790	79338	64.5	66.4
	Criminal	116057	43422	159479	21975	0	15251	122253	50.6	85.7
	Total	180897	86529	267426	48666	1128	16041	201591	57.5	76.1
Kishoreganj**	Civil	13512	4667	18179	4949	89	0	13141	107.9	107.9
	Criminal	7896	5875	13771	3726	0	1701	8344	63.4	92.4
	Total	21408	10542	31950	8675	89	1701	21485	83.1	99.3
Rangamati	Civil	2772	682	3454	342	123	0	2989	68.2	68.2
	Criminal	1585	285	1870	178	0	0	1692	62.5	62.5
	Total	4357	967	5324	520	123	0	4681	66.5	66.5
Total		206662	98038	304700	57861	1340	17742	227757	60.4	78.5
Average per district		68887.3	32679.3	101566.7	19287.0	446.7	5914.0	75919.0	60.4	78.5
Magistrate Court										
Dhaka***	Criminal	67856	28109	95945	25014	0	1441	69490	89.0	94.1
Kishoreganj	Criminal	6982	3731	10713	3629	0	0	7084	97.3	97.3
Rangamati	Criminal	1367	700	2067	539	0	0	1528	77.0	77.0
Total		76205	32540	108745	29182	0	1441	78122	89.7	94.1
Average per district		25401.7	10846.7	36248.3	9727.3	0.0	480.3	26040.7	89.7	94.1
Average on grand total per district		141433.5	65289.0	206722.5	43521.5	670.0	9591.5	152939.5	67.7	82.4

Data source: Study team collected data from court documents

Land Survey Tribunal & Vested Property data not included * District Judge Court, Metropolitan Judge Court, Divisional Special Judge Court, District Judge for Public Safety, District Judge Quick Adjudication -1 to 4, Women & Child Oppression Control Judge Court -1 to 5 and Special Judge -1 to 10; ** District Judge Court and Women & Child Oppression Control Judge Court; *** CJM, CMM

This data was also used to find the proportion of cases not disposed of in a given year, in order to uncover any trend in the disposal rates of the various courts between 2010 and 2013. In the High Court Division of the Supreme Court, 2010 and 2011 saw high disposal rates early in the study period (120.6% in 2010 and 151.8% in 2011). This was followed by a steep decline, with rates falling to 67.8% in 2012 and 48.6% in 2013.

The Appellate Division of the Supreme Court saw a different trend, with a very low disposal rate of around 30% each year, which was between 2010 and 2012, and then a large jump to 84.1% in 2013. In other words, 70% of cases remained pending every year during 2010-2012 in the Appellate Division. Trend analysis found that the case backlog situation in the High Court Division was better than that in the Appellate Division during 2010-2012. However, this reversed in 2013, with 51% of cases in the High Court Division and 16% in the Appellate Division remaining outstanding.



Throughout the analyzed period, case disposal rates were higher in the Judge Courts in Kishoreganj (76.2%, 76.5%, 70.5% and 83.1% in the four relevant years), and in Rangamati (73.8%, 82.7%, 68.3% and 66.5%) districts, than in Dhaka (52.0%, 50.6%, 46.2% and 57.5%).

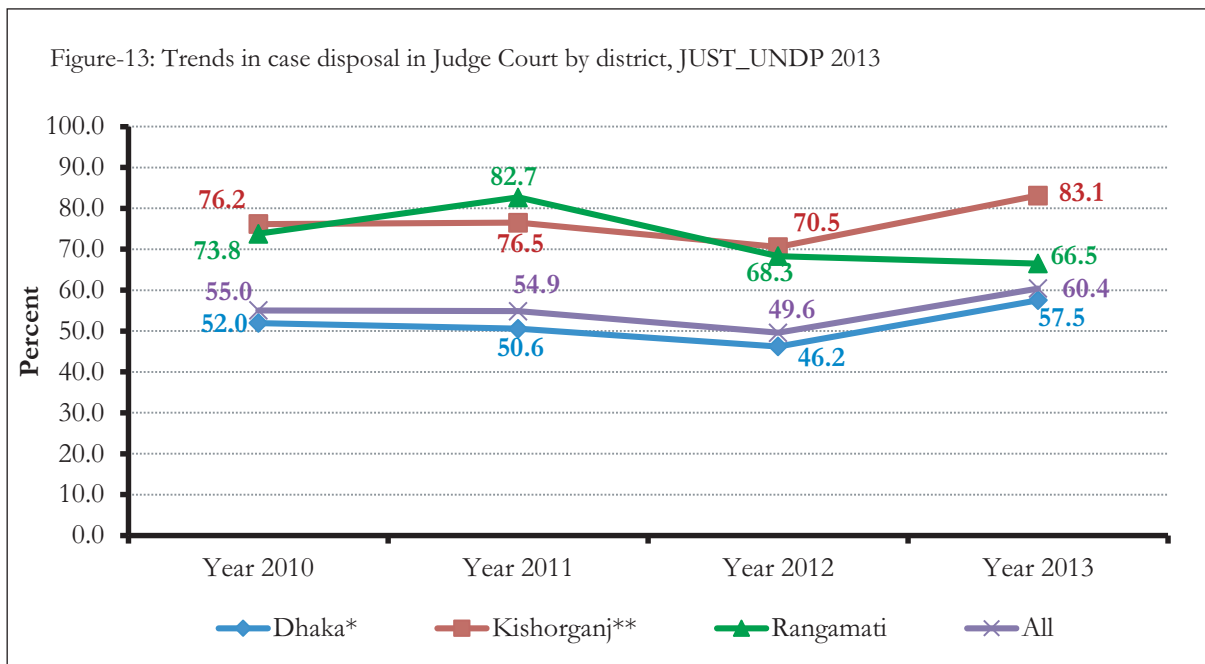
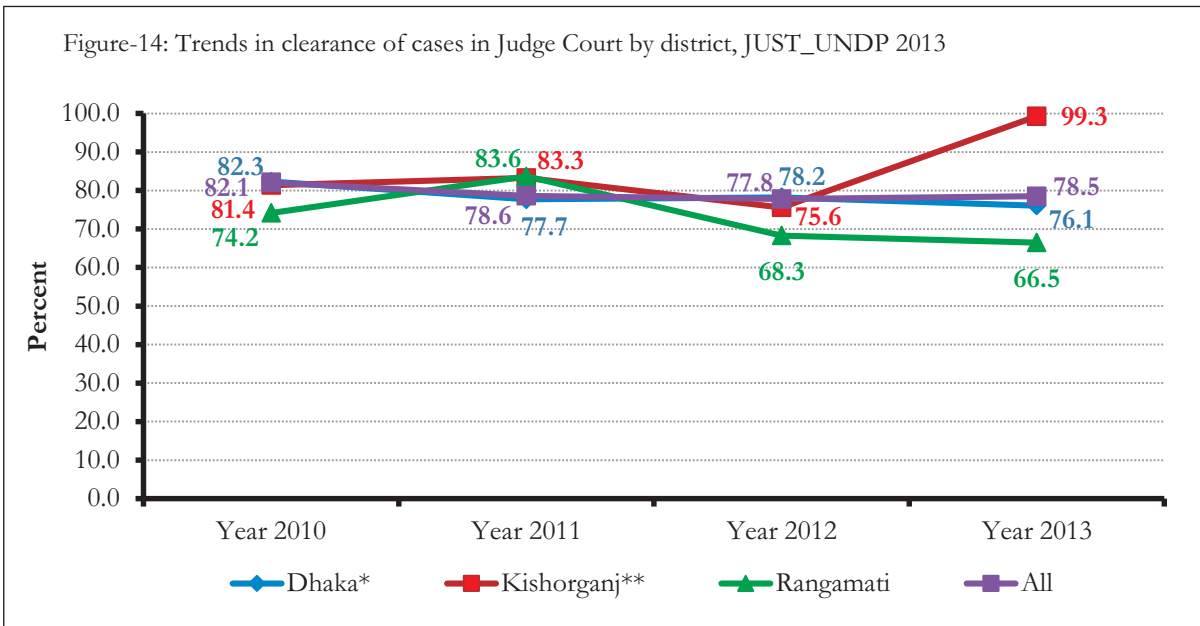
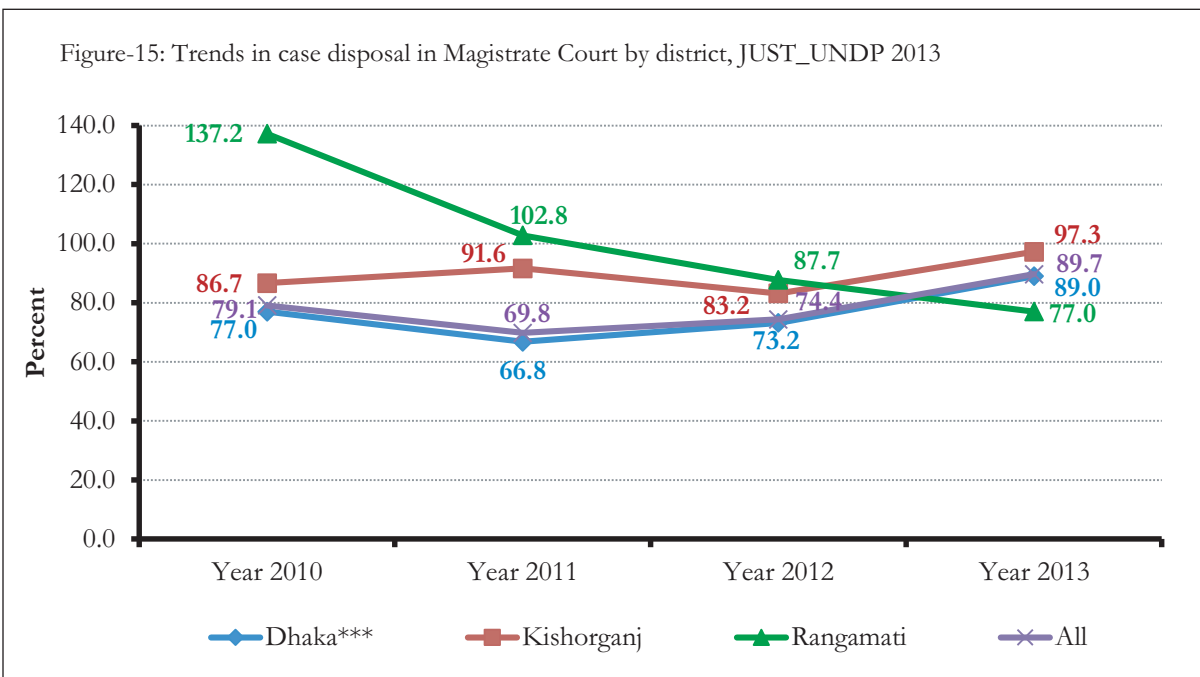


Figure 14 shows that, throughout the period of 2010-2013, case clearance rates were higher in the Judge Courts in Kishoreganj (81.4%, 83.3%, 75.6% and 99.3%) and in Dhaka (82.3%, 77.7%, 78.2% and 76.1%) than in Rangamati (74.2%, 83.6%, 68.3% and 66.5%).

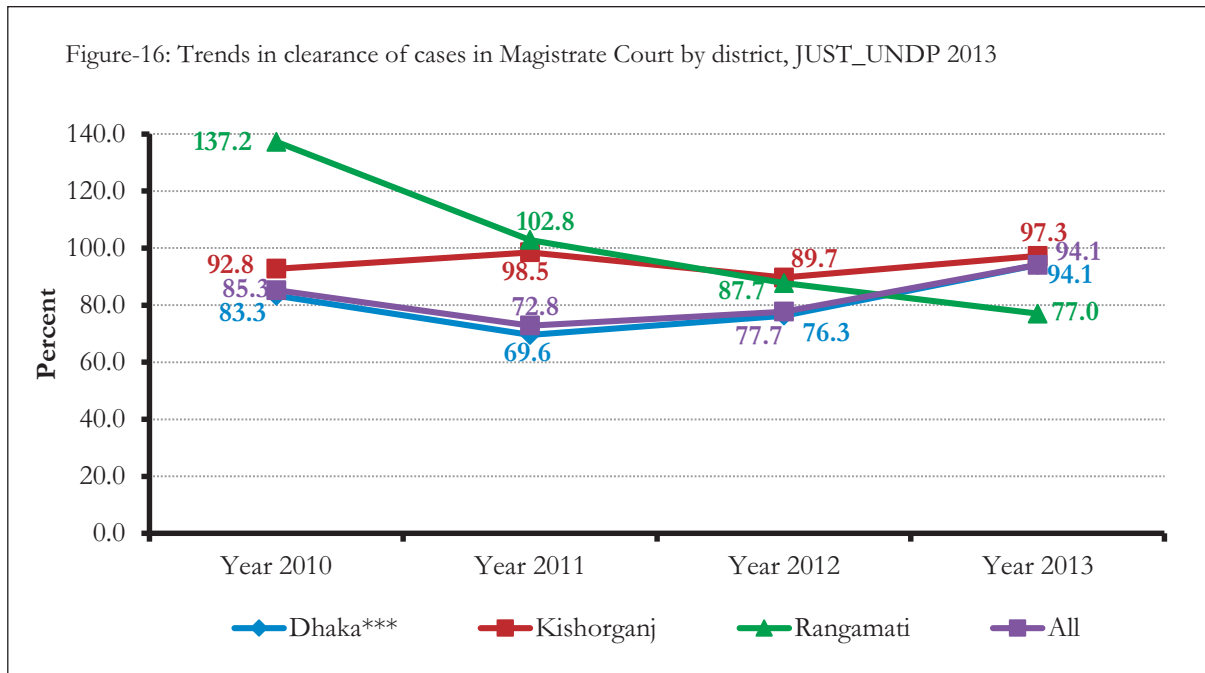


Throughout the period of 2010-2013, the case disposal rate in the Magistrate Courts was higher than that of the Judge Courts. In Rangamati, the disposal rate was very high in 2010 (137.2%). However, it shows a decreasing trend over the years; 103% in 2011, 88% in 2012 and 77% in 2013. In Dhaka and Kishoreganj districts, disposal rates remained almost static with a slight improvement in 2013 (Dhaka: 77%, 66.8%, 73.2% and 89.0% and in Kishoreganj: 86.7%, 91.6%, 83.2% and 97.3% respectively).





Throughout the period of 2010-2011, case clearance rates were higher in the Magistrate Courts in Rangamati (137.2%, and 102.8%, which decreased to 87.7% and 77.0% in 2012 and in 2013 respectively) compared to the other two districts (Kishoreganj: 92.8%, 98.5%, 89.7% and 97.3% respectively) and Dhaka: 83.3%, 69.6%, 77.7% and 94.1% respectively).



Findings from the case study series

The research included a series of thirty studies of particular court cases. Two cases studies are provided below, in order to ground this data in its context.





Civil cases in the formal justice system

Declaration Decree Case: This case was filed on the 30th November 1998. The trial lasted 12 years and two months, included 104 dates of appearance, and finally ended on 30th January 2011.

The court adjudication proceeded in three stages. In the first stage, the original case was dismissed for lack of proof from the plaintiff, in November 2002, after four years and 44 dates of appearance. In the second stage, the review case was dismissed after a further nine years, in March 2010, including 49 more dates. In the third stage, the appeal case against dismissal ended after another year, in 2011, and 11 further dates.

The court set 29 dates for service return (SR) and 26 dates for pursuance. At the third stage of the case proceedings, the appeal case against dismissal was decided after hearing of both the parties on 6 February 2011, after 11 dates. The court adjourned the case for 4 dates on account of not issuing summons, 20 dates for not returning SR, and 36 dates for approving time petitions filed by both the plaintiff and defendant. Out of total 104 dates set to dispose the case, 44 dates were employed for different judicial activities.

Criminal cases in the formal justice system

Acid Abuse Case: The case was filed in August 2002, and ended in October 2011, after 9 years and 2 months. The case required 107 dates in court. The state was unable to make the witness appear in court, and the case was finally disposed of. Of the dates in court, 57 were required to issue summons to witnesses. 5 dates were required to submit the investigation report.

The civil cases, which were reviewed, relate to partition, dowry, land rights, *khas* land⁵, injunctions, a land registration petition, and money. The case related to 'declaration of property rights' took the longest time, while that related to 'partition' took the shortest time.

The criminal cases reviewed were filed under different laws and penal codes effective in Bangladesh including the Special Power Act, Bangladesh Penal Code (BPC), Arms Act, Drug Control Act, Women and Child Oppression Control Act and Acid Abuse Act. Cases took a long time to resolve, with the shortest example found in this case study series being three and a half years. The longest stretched to twenty years. The minimum amount of dates set to reach these decisions was 32, and the maximum was 160. It is clear that there are serious problems with the efficiency of the justice process.

⁵ Khas land is government-owned land, which is sometimes leased or sold to private owners. The rules around khas land in Bangladesh are complex, and a matter of some dispute.



Both criminal and civil cases were frequently adjourned, at the request of one of the parties. An excessive workload in the court delayed the closing of many cases, and issuing summons to witnesses needed to be undertaken repeatedly in order to finally secure their attendance, which also caused major delays.

Recommendations

The study presents a number of findings. The formal justice system, though it faces some serious problems, such as delays and the case backlog, is still trusted by citizens, as it is able to adjudicate cases neutrally and independently. However, there are clear restrictions on citizens' ability to access the formal justice system. There are some measures which can be taken to ameliorate this situation.

- The judicial system should be made truly independent. All institutions, from the lower court to the higher court, should be allowed to function without outside interference, and special legal arrangements should be implemented to this effect.
- Citizens' confidence in the judiciary will be improved if the system is freed from political pressure. The administrative function of the judicial service, such as appointments, postings and transfers, should be performed by the judiciary itself. Judges and other persons in important posts should be appointed on a meritocratic basis, free of political considerations.
- A work load analysis should be undertaken across the formal justice system, and the number of staff adjusted accordingly. Such steps are necessary to reduce the case backlog. New courts, tribunals, appellate courts and other institutions should be established in order to support this effort.
- A computerized case documentation and management system should be introduced, in order to provide access to information for citizens seeking to use the formal justice system. This would include all relevant information, such as a general diary, First Information Reports, and details on the current status of individual cases. This should be easily accessible online.
- Audio and video evidence is not currently legally acceptable as evidence. Laws should be changed to make such evidence permissible, which, aside from the clear justice implications, could increase the speed at which cases are disposed of.
- Modern communications systems, such as mobile phones and SMS, should be used to inform citizens of summons.
- An effective monitoring system of the judicial system should be established to eradicate serious complaints of undue influence and corruption in the judiciary. There is currently a Monitoring Cell in the Supreme Court, but this is not sufficient, and new approaches to monitoring should be developed. This should have the power to recommend measures against judges if they are found prima facie guilty of such offenses.



- NGOs should raise citizens' awareness of legal issues and the formal justice system. This could be achieved through a media campaign, including text messages and including such issues in textbooks.
- The Police should establish a new administrative unit, which will be responsible for liaison with the legal system. This would ensure faster communication between the police and the courts, and would make the police force itself more accountable.
- Approaches to formalizing or institutionalizing the shalish system maybe considered.
- ADR can be a very useful tool for reducing the workload of the courts. A full policy approach and legal framework should be developed in order to encourage and facilitate the use of ADR in the legal system. Alongside family disputes, criminal cases could also be brought into the ADR framework and plea bargaining.
- Training programs, based on a needs assessment, should be conducted, in order to improve human capacity in all areas of the legal system.

Survey conducted by



(A House of Survey Research)
18/2 Bakshi Bazar Road (3rd floor)
Dhaka-1211
Phone: +88-02-7300433
Email: surch@bangla.net.bd

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