



JUSTICE AND RIGHTS FOR RELIGIOUS MINORITIES IN SINDH, PAKISTAN: A LEGAL NEEDS ASSESSMENT REPORT

ASSESSMENT OF THE LEGAL SYSTEM FOR
RELIGIOUS MINORITIES IN PAKISTAN

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For more copies and other related queries, please contact Legal Aid Society at:

📍 Legal Aid Society, Spanish Homes Apartment, Mezzanine Floor, Plot A-13, Phase – 1, D.H.A., Karachi, Pakistan

☎ Tel: (92) 021 – 35390132 – 33

📠 Fax: (92) 021 – 99266015

✉ Email: hr@lao.org.pk

🌐 Website: www.las.org.pk

📘 Facebook: [@LegalAidSocietyPakistan](https://www.facebook.com/LegalAidSocietyPakistan)

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Acknowledgements

Lead Researcher & Author:

Ms. Kashmala Tahir

Research Advisor:

Ms. Jawziya Zaman

Research Consultants:

Mr. Mohammad Moiz and Mr. Peter Jacobs

Research Managers:

Mr. Omer Akif and Mr. Dawar H. Butt

Research Intern:

Mr. Shahmurad Lodhi

Data collection:

Mr. Abdul Ghaffar (Dadu), Mr. Zahid Ali Messo (Hyderabad), Mr. Akbar Hussain (Karachi), Mr. Muhammad Baqir (Khairpur), Mr. Ameer Ali (Larkana), Mr. Muhammad Haseeb (Sanghar), Mr. Moazam Ali (Shaheed Benazirbad), Mr. Zulfiqar Ali (Sukkur)

Legal Aid Society has started the Religious Minorities (RM) project to build a holistic understanding of barriers against Access to Justice for RM communities in Sindh, Pakistan. Corollary to the research activities, the project also aims to add to the literature on Freedom of Religion & Belief (FORB) in Pakistan. The two main objectives of the project are: (i) Legally empower RM communities through education and provision of legal aid and support; and (ii) Assess the effectiveness of the justice system in responding to legal needs and protecting the legal rights of religious minority communities. This Legal Needs Assessment (LNA) is an in-depth and evidence-based study to capture RM communities' experiences when trying to access justice.

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Acronyms

RM	Religious Minorities
FGD	Focus Group Discussion
NIC	National Identity Card
UN	United Nations
NGO	Non-Governmental Organization
SDPI	Sustainable Policy Development Institute
OHCHR	Office of the United Nations High Commissioner for Human Rights
LNA	Legal Needs Assessment
ADR	Alternate Dispute Resolution
UNODC	United Nations Office on Drugs and Crime
WJP	World Justice Project
SBA	Shaheed Benazirabad
M&E	Monitoring and Evaluation
FIR	First Information Report





Executive Summary

The aim of the report is to understand the legal behaviours of the religious minority (RM) population in Sindh, Pakistan and the main barriers the face in accessing justice. For this study, data was collected through the provision of the first legal needs assessment (LNA) survey conducted with religious minorities in Pakistan in 8 districts across Sindh, followed by focus group discussions with some RM communities. LNA findings dictate that members of these marginalized communities (i) most commonly face problems related to consumer issues and other civil problems; (ii) are unaware of the legal nature of their problems and; (iii) do not trust the justice system. Our findings also suggest that the socio-economic standing of the respondents is the key component in determining their legal behaviours and access to the justice system.

This study begins with a general overview of the justiciable issues faced by religious minorities in Pakistan, and then moves towards a robust quantitative and qualitative analysis of key findings. Empirical data from our ground research highlights more civil than criminal issues, similar to other global legal needs surveys. This report is a step forward in filling the existing gap in literature regarding legal behaviours of religious minorities and will feed into further policy research and literature regarding barriers in accessing justice faced by RM communities.

1. Introduction

The 2020 Peoples Under Threat trends by Minority Rights Group International ranks Pakistan as the 9th worst country where religious minorities are systematically oppressed. These structural hurdles begin from the time minorities are children in school and continue into their adulthood as they attempt to join the workforce, participate in politics, claim basic rights of citizenship, and practice their faiths absent fear and intimidation. Seeking redress from courts, administrative bodies, and other state mechanisms is often not an easy option. Minorities often complain that state institutions turn a blind eye to the injustices they face, even when it comes to punishing perpetrators of crimes.¹

Existing studies on the difficulties religious minorities face have traditionally held focus on a few urgent problems, such as the weaponization of Pakistan's blasphemy law and the rampant spread of forced conversions of young Hindu and Christian girls, both of which highlight the abysmal failure of formal justice mechanisms in providing justice and redress. While these challenges are an important example of the justiciable problems minorities encounter, they are an incomplete picture of the challenges and hurdles these communities face, particularly when requiring interaction with or intervention from state institutions, legal forums, or other dispute resolution mechanisms. This report was undertaken to understand broadly, from the perspective of the communities themselves, the extent and nature of their interactions with state machinery. In doing so, we hope to contribute insights that open the door to new areas of research and policy reform.

2. Situation Analysis

Official figures from the 2017 population census estimate religious minorities in Pakistan at 3.51 percent of the total population.² It places Hindus at 1.73%, Christians at 1.27%, Scheduled Castes at 0.40%³, and other faiths at 0.02%.⁴ On paper, the Constitution of Pakistan guarantees citizens of all religions the right to profess, practice and propagate their religion,⁵ the right to receive an education in which no religious community is required to study other communities' religious beliefs,⁶ and the right to be free from religious discrimination in public appointments.⁷ But systemic discrimination against religious minorities has long been embedded in the socio-political landscape of Pakistan. This begins from the time minorities are children in school and continues into their adulthood as they attempt to join the workforce, participate in politics, claim basic rights of citizenship, and practice their faiths absent fear and intimidation. The marginalization faced by these communities vary by religion and other factors such as gender, social class, and ethnicity.⁸

1 "Prioritizing Needs: An Evidence-Based Study for Religious Minorities in Sukkur, Ghotki, and Larkana," Haya E. Zahid and Menaal Munshey, Legal Aid Society, 2016. Available at: <https://www.las.org.pk/wp-content/uploads/2018/09/Prioritizing-Needs-September-15-2016-1.pdf>

2 Pakistan Bureau of Statistics <<https://www.pbs.gov.pk/node/3374>>

3 Indian institute of Dalit Studies, "Long Behind Schedule: A Study on the Plight of Scheduled Caste Hindus in Pakistan" (2008) <https://idsn.org/wp-content/uploads/user_folder/pdf/Old_files/asia/pdf/RR_Pakistan.pdf> accessed 15 April 2021.

4 *ibid*

5 Constitution of Pakistan, Article 21.

6 *Id.*, Article 22.

7 *Id.*, Article 27.

8 Maria-Magdalena Fuchs and Simon Wolfgang Fuchs, 'Religious Minorities In Pakistan: Identities, Citizenship And Social Belonging' (2019) 43 South Asia: Journal of South Asian Studies.

2.1. Family and Marriage

Currently, the laws regulating Hindu, Sikh, and Christian family issues are either archaic or make it difficult to obtain the necessary registration of marriages.⁹ The Christian Marriage Act of 1872 and Divorce Act of 1869, for example, are outdated colonial-era laws that do not properly address or provide legitimacy for divorce.¹⁰ The Hindu Marriage Acts—both federal and Sindh-specific—have been noticeably ineffective in providing Hindu communities with greater family law rights and providing valid legal proof that a marriage has taken place.¹¹ Although updated legislation, the Sindh Hindu Marriage Act of 2016, has been introduced and passed, its implementation and enforcement leaves much to be desired.¹² Furthermore, a non-Muslim marriage can be invalidated if one of the two parties converts to Islam¹³. The absence of a cohesive codified personal law system for minorities in Pakistan leaves members of these communities vulnerable and without adequate legal relief for many family and marriage-related matters.¹⁴ An inability to attain legal proof and documentation on marital and personal status provides difficulties for several religious minorities, especially their women, who face serious challenges in remarrying, divorcing, separating, adopting, or even traveling abroad.^{15,16} According to reports, Hindu women who were unable to prove that they were married were reportedly threatened by the police with accusations of adultery.¹⁷

2.2. Registration, Public Services, and Relief Programs

Numerous basic rights of citizenship in Pakistan are linked to having a National Identity Card (NIC), such as access to state-sponsored income support programs, driver's licenses, health care, bank accounts, passports, and cellular connections. Some minority communities are reported to have difficulties when obtaining an NIC,¹⁸ and in many cases, members of RM communities are unable to receive national identity cards at all.¹⁹

9 Dilawri S and others, 'Searching For Security: The Rising Marginalization Of Religious Communities In Pakistan' (Minority Rights Group International 2014) <<https://minorityrights.org/wp-content/uploads/old-site-downloads/mrg-searching-for-security-pakistan-report.pdf>> accessed 7 April 2021

10 Ibid.

11 Sustainable Development Policy Institute, 'Protecting Religious Minority Women In Pakistan' (Sustainable Development Policy Institute 2020) <<https://www.jstor.org/stable/pdf/resrep24374.27.pdf?refreqid=excelsior%3Acc44cd62ef55366c85f96465f71e16fd>> accessed 7 April 2021

12 <https://tribune.com.pk/story/2019138/minority-matters-three-years-govt-moves-implement-hindu-marriage-law>

13 Dilawri S (n 18)

14 International Federation for Human Rights, 'Minorities Under Attack: Faith-Based Discrimination And Violence In Pakistan' (International Federation for Human Rights 2014) <<https://www.refworld.org/pdfid/57fb91e54.pdf>> accessed 7 April 2021

15 Ibid.

16 Ibid.

17 United Nations High Commissioner for Refugees, 'Eligibility Guidelines For Assessing The International Protection Needs Of Members Of Religious Minorities From Pakistan' (2017) <<https://www.refworld.org/pdfid/5857ed0e4.pdf>> accessed 7 April 2021

18 United Nations High Commissioner for Refugees, 'Eligibility Guidelines For Assessing The International Protection Needs Of Members Of Religious Minorities From Pakistan' (2017) <<https://www.refworld.org/pdfid/5857ed0e4.pdf>> accessed 7 April 2021

A recent example of the real-world consequences of not having an NIC was seen during the COVID-19 pandemic, when the government launched the Ehsaas Emergency Cash Program for low-income families and the Nationwide Vaccination drive—both of which were only accessible to those with NICs. Ironically, minorities able to obtain NICs also face problems due to their identification as non-Muslim on the card. One report explains that during the COVID-19 pandemic, Hindu families in Lyari were denied ration bags after having their NIC cards checked and being told, “[the rations] are not for Hindus.”²⁰ Further reports explained that other Hindus in similar situations were forced to recite the Kalima to receive rations.²¹

2.3 Blasphemy

Another factor that affects the ability of non-Muslim Pakistanis to access justice is the reported difficulty which they face when seeking legal support. In some blasphemy-related cases, members of RM communities have found difficulty finding lawyers to represent them for two reasons; many lawyers are themselves supportive of the existing practices, and procedures that are already tilted against minorities, and those that fear backlash for taking up such cases.²² These fears are not unwarranted, as multiple sources refer to the “militant intimidation of lawyers”²³ who choose to take on the cases of these minority communities.²⁴ Similarly, reports indicate that such cases are impeded by the fact that judges presiding over similar cases are also subjected to threats, aggression, and violence.^{25,26} While reports of such intimidation are primarily related to blasphemy cases, it is possible that the fear spills over in other matters relating to minorities as well.

2.4 Property and Land

Another area of a justiciable nature is when members of RM communities find difficulty in the context of their right to land and property. Other than land grabbing and evacuee property issues,²⁷ which are quite common, women in religious minority communities especially face many property-related issues due to their inability to register their marriages properly and legally.

19 Meibauer I, 'Pakistan's COVID-19 Response Fails Its Minorities' Providence (2020) <<https://providencemag.com/2020/07/pakistan-covid-19-response-fails-minorities/>> accessed 7 April 2021

20 Mirza J, 'COVID-19 Fans Religious Discrimination In Pakistan' The Diplomat (2020) <<https://thediplomat.com/2020/04/covid-19-fans-religious-discrimination-in-pakistan/>> accessed 7 April 2021

21 Ibid.

22 United Nations High Commissioner for Refugees, 'Eligibility Guidelines For Assessing The International Protection Needs Of Members Of Religious Minorities From Pakistan' (2017) <<https://www.refworld.org/pdfid/5857ed0e4.pdf>> accessed 7 April 2021

23 Curtis L, 'Religious Freedom In Pakistan: Glimmers Of Light On A Darkening Horizon' (2016) 14 The Review of Faith & International Affairs <<https://www.tandfonline.com/doi/full/10.1080/15570274.2016.1184439>> accessed 7 April 2021

24 In 2014, Rashid Rehman, a human rights lawyer defending Junaid Hafeez, a university lecturer on false blasphemy charges was gunned down in Multan, Pakistan. He was shot five times and succumbed to his injuries on the way to hospital. On the morning following the murder, an unsigned pamphlet was distributed in Multan saying Rehman met his “rightful end” for trying to “save someone who disrespected the Prophet Mohammed” The pamphlet further warned all lawyers to think of repercussions before engaging in similar cases.

Reuters, 'Gunmen Kill Pakistan Lawyer Defending Blasphemy Case' (2014) <<https://www.reuters.com/article/us-pakistan-blasphemy-idUSBREA4709N20140508>> accessed 8 May 2021.

25 United Nations High Commissioner for Refugees, 'Eligibility Guidelines For Assessing The International Protection Needs Of Members Of Religious Minorities From Pakistan' (2017) <<https://www.refworld.org/pdfid/5857ed0e4.pdf>> accessed 7 April 2021

26 Curtis L, 'Religious Freedom In Pakistan: Glimmers Of Light On A Darkening Horizon' (2016) 14 The Review of Faith & International Affairs <<https://www.tandfonline.com/doi/full/10.1080/15570274.2016.1184439>> accessed 7 April 2021

27 International Federation for Human Rights, 'Minorities Under Attack: Faith-Based Discrimination And Violence In Pakistan' (International Federation for Human Rights 2014) <<https://www.refworld.org/pdfid/57fb91e54.pdf>> accessed 7 April 2021

Women from these communities often find themselves facing challenges in claiming land which they have rightfully inherited from their deceased husbands.²⁸ This was extensively discussed by women who had faced similar problems, during focus group discussions conducted by the Sustainable Policy Development Institute (SDPI) in 2014.²⁹

2.5 Community Graveyards

There is a longstanding issue of minority communities not being allocated adequate space to bury their dead or complete their final rites. One source speaks of this issue disproportionately affecting Christians in Pakistan. In 2012, some space was allocated by the Government of Punjab for a Hindu graveyard. Despite the construction of the graveyard being completed in 2014, the area was sealed off by authorities due to the alleged desecration of a Muslim grave in the area. Numerous other reports speak of the lack of protection for existing graveyards of religious minorities. Sikhs, Christians, and Hindus are all subjected to the occupation and desecration of graveyards regularly.

2.6 Places of Worship

RM communities in Pakistan regularly suffer from a lack of protection of their places of worship. Concerning the attack on multiple Hindu temples and Christian churches in Pakistan, the OHCHR pointed to a “lack of protection for... the places of worship [of religious minorities].” Due to a series of attacks on Hindu temples, around 25,000 Hindus fled from Pakistan to India between 2009 and 2014.³⁴ Sources report that most members of RM communities experience issues related to the availability and the protection of their places of worship.³⁵ In many cases where these places of worship were being attacked, it is noted that “police reportedly only conduct poor investigations into the desecration, vandalism, and destruction of [these places] ... and reportedly fail to act to prevent such attacks.”³⁶ A 2014 Supreme Court judgment indicated that many of these incidents could have been prevented if authorities had taken appropriate preventative measures.³⁷

28 Dilawri S and others, 'Searching For Security: The Rising Marginalization Of Religious Communities In Pakistan' (Minority Rights Group International 2014) <<https://minorityrights.org/wp-content/uploads/old-site-downloads/mrg-searching-for-security-pakistan-report.pdf>> accessed 7 April 2021

29 Ibid

30 Craig T, 'In Expansive Pakistan, Christians Struggle To Find Space For Cemeteries' The Washington Post (2014) <https://www.washingtonpost.com/world/asia_pacific/in-expansive-pakistan-christians-cannot-find-space-to-bury-their-dead/2014/10/17/1de012e2-547d-11e4-892e-602188e70e9c_story.html> accessed 7 April 2021

31 Daily Pakistan, 'Sealing Of Cemetery Frustrates Hindus In Lahore' (2015) <<https://en.dailypakistan.com.pk/22-Aug-2015/sealing-of-cemetery-frustrates-hindus-in-lahore>> accessed 7 April 2021

32 United Nations High Commissioner for Refugees, 'Eligibility Guidelines For Assessing The International Protection Needs Of Members Of Religious Minorities From Pakistan' (2017) <<https://www.refworld.org/pdfid/5857ed0e4.pdf>> accessed 7 April 2021

33 'UN Human Rights Chief Condemns Pakistan Assassination, Urges Reform Of Blasphemy Laws' (Newsarchive.ohchr.org, 2021) <<https://newsarchive.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10784&LangID=E>> accessed 7 April 2021

34 Ibid.

35 United Nations High Commissioner for Refugees, 'Eligibility Guidelines For Assessing The International Protection Needs Of Members Of Religious Minorities From Pakistan' (2017) <<https://www.refworld.org/pdfid/5857ed0e4.pdf>> accessed 7 April 2021

36 Ibid.

37 S.M.C. No.1 of 2014 and C.M.A. Nos. 217-K/2014 IN S.M.C. No.1/2014 et al., Pakistan: Supreme Court, 19 June 2014, available at: https://www.refworld.org/cases,PAK_SC,559e57644.html [accessed 15 April 2021]

3. Why Conduct a Legal Needs Assessment Survey?

Access to justice is defined as “the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards,” and it is also seen as “fundamental to the protection of human rights”.³⁸ It is based on seven distinct factors: the substance of law; availability of formal or informal institutions to secure justice; the quality of formal or informal institutions of justice; availability of legal assistance; quality of legal assistance; quality of outcomes; and legal capability.^{39,40}

Legal Needs Assessment surveys (LNAs) are designed specifically to capture details of all civil and criminal issues. These include disputes about consumer issues, money, housing, family, and employment, and other remaining criminal matters. LNAs conducted by the government, local, and international NGOs can be traced back to the 1930s and have gained global popularity over the years. Over the past 25 years, at least 40 large-scale national legal surveys have been conducted with individual citizens in at least 22 separate jurisdictions. LNAs investigate the experience of solving a legal problem through a bottom-up approach (from the perspective of the person who faced a legal issue), rather than the standard top-bottom approach.⁴¹ Through an LNA, we first identify initial demographic details of the respondents, followed by issues faced by the population sample, their intensity, then gain an understanding of their problem-solving behaviours, choice of conflict resolution mechanisms, and categorize the impact of respondents' issues on their life. The tool also aims to understand the ways in which people categorize their issues.

Legal Needs Assessments are useful in evaluating if the legal needs are met or unmet for the population sample. A legal need is met when there is an agreement between the parties, a successful conclusion of a problem through formal or informal mechanisms, and whether the help was categorized as successful.⁴² Similarly, a legal need remains unmet if there was no substantial outcome because of a lack of legal support and capabilities.⁴³ Unmet legal needs exacerbate the poverty trap and cause vulnerable individuals more social and economic distress. Falling into a poverty trap has an addictive effect, which means that it provides leeway to other problems while keeping an individual stuck in the poverty cycle. This causes problem clustering. Problem clustering is defined as an increased tendency for other justiciable issues to co-occur when more than one type of problem is experienced.⁴⁴

Legal needs surveys are conducted to evaluate the usefulness of the justice system and quantify their overall experiences and map their problem-solving behaviours.

38 United Nations Office on Drug and Crime, 'Global Study on Legal Aid Global Report' (2016) <https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global_Study_on_Legal_Aid_-_FINAL.pdf> accessed 15 April 2021.

39 Legal capability is a term coined by economist, Amartya Sen 'Legal Capability - Public Legal Education' (Public Legal Education, 2021) <<http://www.plecanada.org/ple-theory/legal-capability/>> accessed 15 April 2021.

It refers to a measure of a person's real, practical ability to manage the legal aspects of everyday life, and it relies on some of those same core elements – knowledge, legal life skills, and comfort with legal professionals and processes, 'About Legal Capability - OJEN' (OJEN, 2021) <<http://ojen.ca/en/about/ojen/legal-capability/>> accessed 15 April 2021.

40 Legal Needs Surveys And Access To Justice (OECD Publishing 2019).

41 Legal Needs Surveys And Access To Justice (OECD Publishing 2019).

42 Legal Needs Surveys And Access To Justice (OECD Publishing 2019).

43 *ibid*

44 *ibid*

45 Pascoe Pleasence, "Legal Need' And Legal Needs Surveys: A Background Paper' (Namati, 2016) <<https://namati.org/resources/legal-need-and-legal-needs-surveys-a-background-paper/>> accessed 15 April 2021.

To understand a respondent's problem-solving behaviours, three activities must be evaluated; help-seeking; use of processes; other activities that support problem resolution.⁴⁵

The government of Pakistan has never conducted a legal needs assessment survey for its population. The only available data regarding citizens' legal needs is through Pakistan's participation in the global survey conducted by the World Justice Project – which works to advance rule of law worldwide.

According to WJPs 2019 report on global access to justice, more than 5.1 billion people or two-thirds of the total population has at least one unmet legal need, and approximately 1.4 billion people have unmet civil or administrative needs.⁴⁶ To analyse and quantify global legal needs, WJP conducted a large-scale survey as part of its global population poll. This study captures comparable data from 100,000 individuals in 101 countries using a standardized legal needs survey.⁴⁷ The survey was conducted with a sample size of 1840 individuals, collected from respondents in the three largest cities of the country. Analysis revealed that 82% of respondents reported having faced a legal problem in the last year. The three major problems recorded were regarding citizenship and identification documents (51%), community and natural resources (39%), and issues with public services (28%). 66% were aware of different avenues available to them for advice and information; 60% felt that they could get all the expert help they wanted; 59% were confident that they would achieve a fair trial, and 27% were able to access help for the issues. A major source of advice was friends and family (60%) and religious/community leaders (16%). 75% of respondents believed it a fair process for all involved parties;⁴⁸ 16% faced extreme financial difficulty in trying to solve their problem, while 48% reported that experienced some form of hardship during their legal issue. Detrimental effects on physical and mental health were recorded as the most main hardship faced by respondents.

4. Methodology

The methodology of this Legal Needs Assessment consists of a mixed-method approach. First, an extensive literature review was carried out to examine the breadth and intensity of problems faced by RM communities in Pakistan. This was supplemented by primary data collected through the LNA survey combining both qualitative and quantitative metrics. The LNA was succeeded by a set of six Focus Group Discussions (FGDs) to add another layer of qualitative and subjective insight to our understanding of minority issues, especially within a socio-legal context. The tools for these activities were designed after a thorough literature review and in close consultation with a research methodology expert.

46 'Global Insights on Access to Justice 2019' (World Justice Project, 2019) <<https://worldjusticeproject.org/our-work/research-and-data/global-insights-access-justice-2019>> accessed 15 April 2021.

47 Ibid

48 We observed similar trends between legal needs assessment conducted by WJP and LNA conducted with religious minorities. Issues regarding community resources and public services were a common finding. However, in the LNA with religious minorities, only 36.9% of respondents claimed that they were able to expert help as compared to 60% in the WJP survey. Similarly, 41.8% RM communities had confidence that they would be able to achieve a fair trial, to the 59% in WJP survey, and 47% of RM respondents were able to access help, compared to 66% of the other group. From the RM communities, 51.3% and 75% from WJP LNA believed that they had a fair process while trying to resolve their problem. Both the populations recorded detrimental effect on stress and mental health due to their legal problems.

For the present research, the term “legal needs” has been defined broadly to include the full range of 14 justiciable issues, which include consumer issues (e.g. disputes with utility providers); money (problems collecting money owed to you, or being misled about insurance, etc.); family matters (marriage, divorce custody of children); housing (problems or disputes with a landlord or tenant); land (disputes over title or boundaries, problems related to land grabbing, expropriation, etc.); employment (dismissal, unpaid wages, poor working conditions, denial of rights, discrimination, etc.); and access to public services (exclusion from public services, such as healthcare and education; fairness of examinations; tax disputes or disputes with other government bodies).

The LNA was designed to capture information through three main components; section 1 was based on initial demographic details, section 2 specifically focused on each of the 14 problem categories and included questions related to respondent’s attitudes and problem-solving behaviours and section 3 focused on respondent’s overall perception of the justice system.

The research team developed the LNA survey tool after a comprehensive review of global, regional, and national studies on religious tolerance, religious diversity, and perceptions of religious exclusion. The research team conducted a comprehensive assessment of the number and types of justiciable issues faced by an individual as it captures more data in a one-time implementation compared to a psychometric survey. One prospective limitation of the survey identified was that a long survey is difficult to implement in the field and risks faulty or low-quality data enumeration. For this purpose, one-day training for the data enumeration team was arranged to sensitize them on religious diversity, inclusion and provide them a walkthrough of the survey tool. The data enumeration team was also the field team for this project, which engaged in extensive community mapping and relationship building with the targeted minority populations in Sindh. Based on input from the field team, a few questions were amended, for ease of enumerators and to align with existing cultural sensitivities.



Picture 1 Enumerator conducting survey with members of the Sikh Community in Sukkur district

49 Legal Needs Surveys And Access To Justice (OECD Publishing 2019).

50 See Appendix for detailed examples of all 14 justifiable issues

For this study, purposive random sampling was employed to determine the sample of 324 individuals. Using snowball sampling methods, the local community leaders served as entry points to other community members that were willing to participate in the LNA survey. To do this, the field officer conducted a detailed interview with them (community leaders) and identified their primary and secondary contacts, which were then added to the total sample size. For better representation of women, a quota was set for at least 25% of all respondents to be female (in each district) to enable us to understand possible differences in the justiciable issues faced by the two genders during the analysis. The sample size was increased for districts that were unable to meet the required target for female representation.

Before the initiation of the LNA survey, the field officers (who later acted as data enumerators), spent three months identifying and mapping communities, building rapport and goodwill with local community leaders from different religious minority groups in the eight districts. An important goal of these community mappings was to establish trust, identify communities where the LNA was to be conducted, and record basic observations about general issues and problems faced by these communities. Before the initiation of data collection, the LNA survey tool was piloted in the districts of Larkana and Hyderabad. The questionnaire was structured to first identify the broad legal issues faced by an individual, followed by observations on the intensity of a broad issue, with subsequent follow-up questions to further explore the scope and impact of these issues in more detail.



Picture 2 Data collection with a female member of the Christian community in Sanghar district

The survey was conducted in 8 districts in the province of Sindh, Pakistan; Karachi, Hyderabad, Dadu, Sanghar, Larkana, Khairpur, Sukkur, and SBA. Respondents predominantly belonged to the Hindu (majority respondents) and Christian communities with limited participation from the Sikh community. The representation of different religions is largely in line with the breakdown proportions provided by the 2017 population census.⁵¹

51 Pakistan Bureau of Statistics <<https://www.pbs.gov.pk/node/3374>>

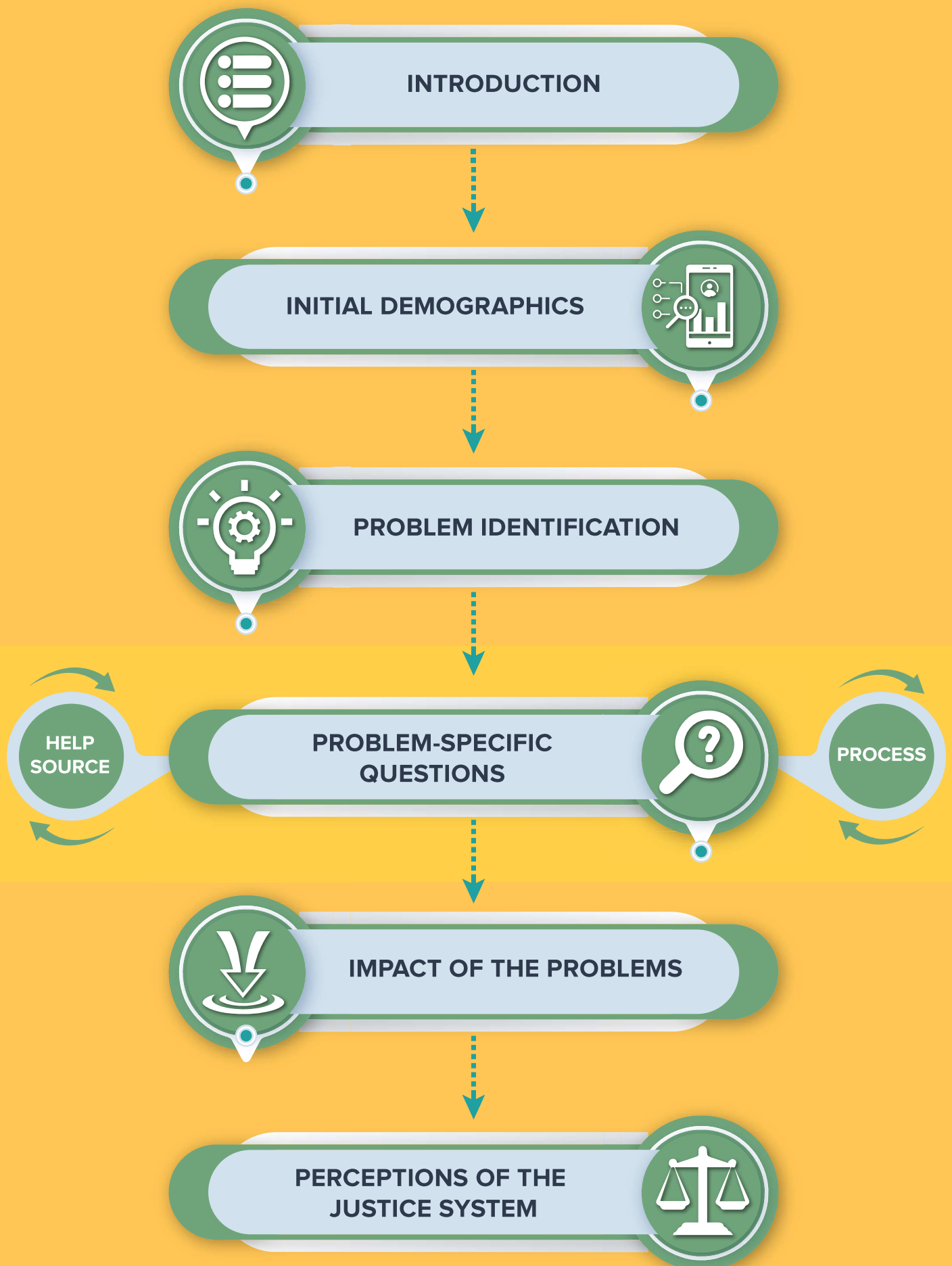


Figure 1 Components of Legal Needs Assessment Surveys

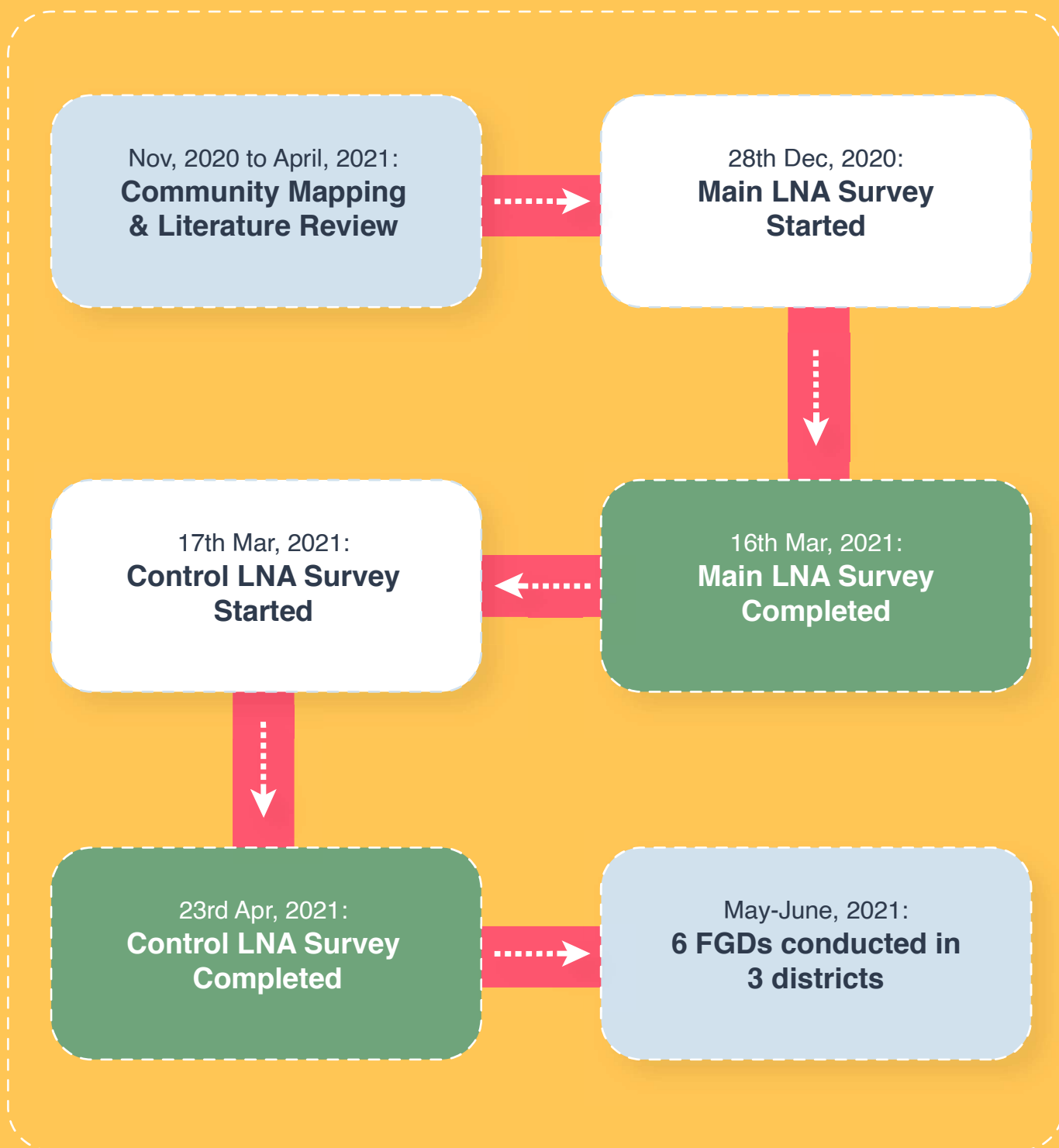
Data was collected using the app, SurveyCTO. The survey form was available offline and in three languages, English, Urdu, and Sindhi. The data collector could choose the language in which both they and the respondent were most fluent. Prior to data collection, all enumerators were extensively trained on the questionnaire and the app. Through SurveyCTO, data was collected on the enumerator's cell phones and automatically transferred via the main server to the program teams to ensure data security and confidentiality. Data collection was directly overseen by the research coordinator, with overall supervision by the program and research managers. For quality control, monitoring and evaluation officials frequently visited and accompanied the field teams during data collection, in addition to multiple field visits conducted by the program team to observe the process and ensure quality control.

The respondents' data was imported into the data processing and analysis software SPSS; cleaned, grouped, and re-coded for analysis. This entailed sorting the data on variables including district, gender, age, and income. To ensure the validity of the LNA, 19 control LNA were conducted where the data was collected by community focal persons with other community members, instead of the enumerator's of LAS. This exercise was also done to identify any potential courtesy bias in the respondents of the earlier surveys. Similarly, another 16 LNAs were conducted with the Muslim community in the same districts to ascertain any overlap between the issues faced by the religious majority and religious minority groups. The absence of significantly divergent information or insights from this activity reinforced the validity of the LNA.



Picture 3 FGD being conducted with female members of the Hindu community in Sanghar district

To supplement the LNA, a set of Focus Group Discussions (FGDs) were conducted as part of our primary data collection with minority communities to add a layer of nuance and subjective insight into their experiences, which cannot necessarily be captured through a survey. This was with particular focus to study the relationship and intersection of religious identity, socio-economic realities, and access to justice. The FGDs were conducted in Karachi, Sanghar, and Sukkur. These districts were selected due to their diversity and quantity of RM populations, extent of community engagement, the field officer's trust with community members, and responses based on the data collected through the LNA. Resource constraints did not allow conducting FGDs in all eight districts, therefore a decision was made to limit the geographic breadth and maximize the focus and depth of this activity.



The FGDs were held in person and were led by an experienced consultant familiar with conducting similar activities. During the discussions, we utilized a repository of approaches, including direct probing and Strategic Assumption Surfacing and Testing (SAST), without restricting to one single approach. Participants were selected using purposive random sampling, and were further divided into different social groups for the FGDs. These groups included separate discussions with Hindu women, Hindu men, Christian women, Christian men, and Sikhs. Separate FGD's were conducted with targeted groups in order to create a comfortable and safe environment for them to discuss issues that affect their communities specifically. The findings were discussed among the research team and the meeting transcript is available in verbatim for secondary analyses. Central themes, ideas, and direct quotes were used to identify types and extent of discrimination faced by religious minority communities.

5. Limitations

The LNA survey is subject to some limitations. First of these is the inadequate representation of all minority communities such as Sikh, Parsi, Baha'i, Ahmedi, and to some extent the Christian community. This is largely due to administrative and logistical constraints, restricting data collection in 8 districts in Sindh, which are predominately inhabited by the Hindu community. Certain key districts within Sindh like Badin, Tharparkhar, Ghotki were left out due to resource constraints even though there have been numerous reports of incidents like forced conversions of young girls from these regions. Data for LNAs was primarily collected from Hindu communities, followed by Christians due to the lack of presence of other RM communities in the province.

Moreover, the LNA itself as a tool carries some limitations. Despite being instrumental in understanding legal behaviours, it is largely quantitative which does not allow the enumerator to go into much depth about the responses and their underlying reasons. Additionally, the research team identified instances of possible bias in data collection during analyses of the LNA data. The overall trust in the system expressed and the low reporting of criminal issues, especially blasphemy and forced conversions, prompted us to hypothesize that the communities were not fully trustful of the LNA process. This hypothetical risk posited that we could not report our LNA findings as generalizable because of the disconnect between the LNA findings, and our field observations along with informal meetings with community leaders. We thus decided to conduct qualitative and ethnographic activities with the communities. Our aim was to establish trust and rapport, test our hypothesis of voluntary secrecy on criminal issues, and gain as much nuance as possible to understand the nature of legality and citizenship for religious minorities. As it stands, our hypothesis of voluntary secrecy was confirmed in the FGDs, and we gathered in-depth qualitative data that expanded our lens. We have therefore concluded that all research on sensitive issues should be supplemented by qualitative and ethnographic methods to minimize bias in research and to produce realistic and grounded knowledge rooted in “mixed” evidence.



Picture 4 Visit to the Sadhu Bela temple in Sukkur, Sindh

6. Ethical Considerations

Researching vulnerable groups such as religious minorities on sensitive issues raises unique ethical questions and considerations. For this study, we reached out to minority communities for informal meetings, LNA data collection, and FGDs. Informed verbal and written consent was obtained from all present members regarding their participation, and permission to record and take pictures. Respondents were provided the option to withdraw their participation at any time or not answer a question.

For LNA data collection, respondents were given the choice to select the language in which they were most fluent (Sindhi / Urdu / English). Complete anonymity of all respondents was ensured as no personal signifiers were noted in the LNA. Data was stored in an offline system only accessible to specific members of the program team.

7. Findings- Legal Needs Assessment with Religious Minorities in Sindh

7.1 Problems Faced by Religious Minorities

A legal needs assessment (LNA) survey was conducted with 324 members⁵² belonging to religious minority communities in 8 districts in Sindh: Dadu, Hyderabad, Karachi, Khairpur, Larkana, SBA, Sanghar, and Sukkur. Respondents belonged to either of the three main religious minority communities living in Pakistan: Hindu, Christians, and Sikh. Each respondent was asked about 14 different types of problems, as illustrated in fig.2, they may have faced in the last five years (2015-2020). This set of problems included issues on social, economic, and political aspects of an individual's life. Each respondent answered all 14 questions as a 'Yes' or 'No'. The sample size was bifurcated by the intensity determined by the respondent for any given type of problem. Detailed questions regarding sources of help, process for each problem, and attitudes were further asked from respondents who recorded an intensity of 3 or more⁵³ (on a scale of 1-10).

⁵² See Appendix B

⁵³ The intensity scale was determined in line with varying legal needs surveys across the globe. Problems with an intensity of less than or equal to 3 are considered trivial problems. (World Justice Project, 2019) <<https://worldjusticeproject.org/our-work/research-and-data/global-insights-access-justice-2019>> accessed 15 April 2021.

Types of Legal Issues



Figure 2 Problem categories in LNA

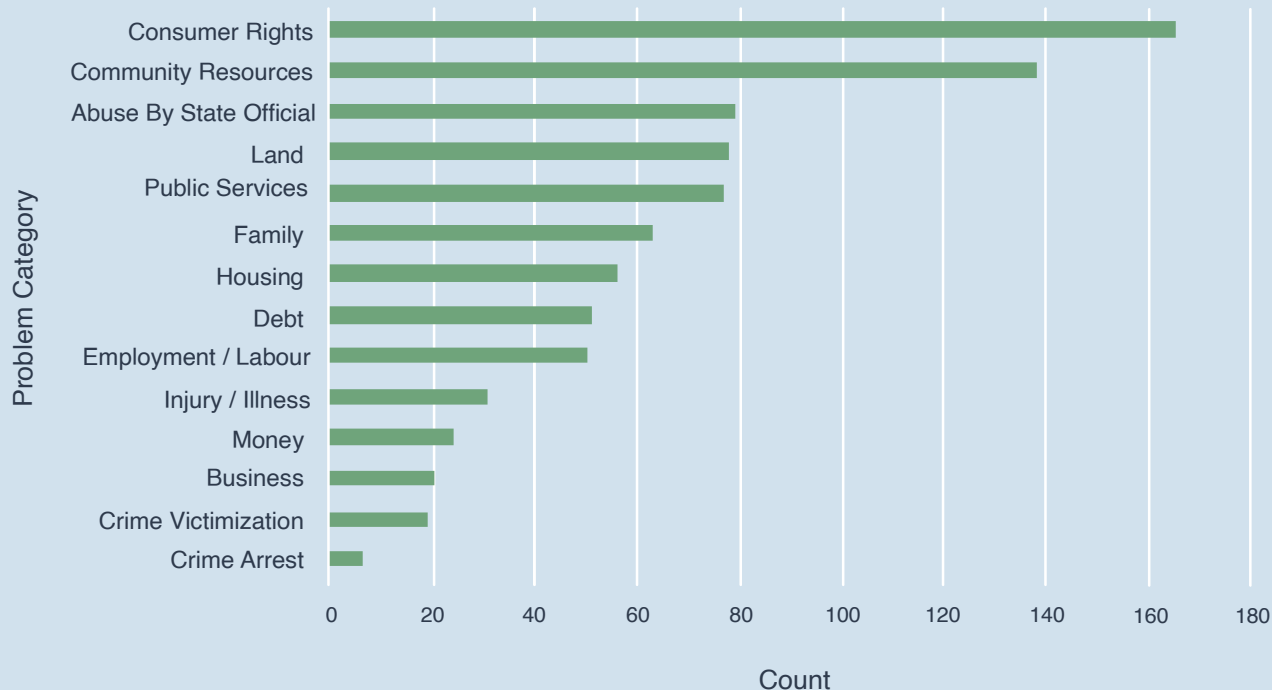


Figure 3 Number of responses per problem category

We observed similar trends between this LNA with religious minorities and several others conducted around the world, as the most common problem faced by RM communities in Sindh was also regarding consumer issues (50.9%, n=165), followed by community resources (42.6%, n=138), which includes access to community resources like graveyards and places of worship. Crime-arrest was the lowest reported problem (1.9%, n=6), which is most likely due to reservations of a formal survey and the perilous nature of the topic. Our researchers did, however, note that community members were more likely to bring up their experiences with problems such as harassment, forced conversions, theft, and blasphemy during informal meetings and community mappings that were conducted prior to the LNA. These meetings were a means of getting to know the community and building trust in the early phases of the project. As mentioned earlier under Limitations, this observation of ours was confirmed while conducting FGDs where most community members warmed-up and engaged in personal and political discourse on the issues of religious discrimination.



Women



Men



Figure 4 Major problems per gender

As illustrated in fig 4 and 5, the numbers were further divided based on gender and income levels. Women reported a comparatively higher number of problems in areas regarding consumer rights (51.8%, n=44), land (25.9%, n=22), housing (23.5%, n=20), family (25.9%, n=22), employment/labour (21.2%, n=18), and public services (24.7%, n=21); whereas more men reported problems related to community resources (47.7%, n=114), injury/illness (10.5%, n=25), abuse by state officials (26.4%, n=63), debt (18.4%, n=44), money (8.4%, n=20), business (7.5%, n=18), and crime victimization (7.1%, n=7).

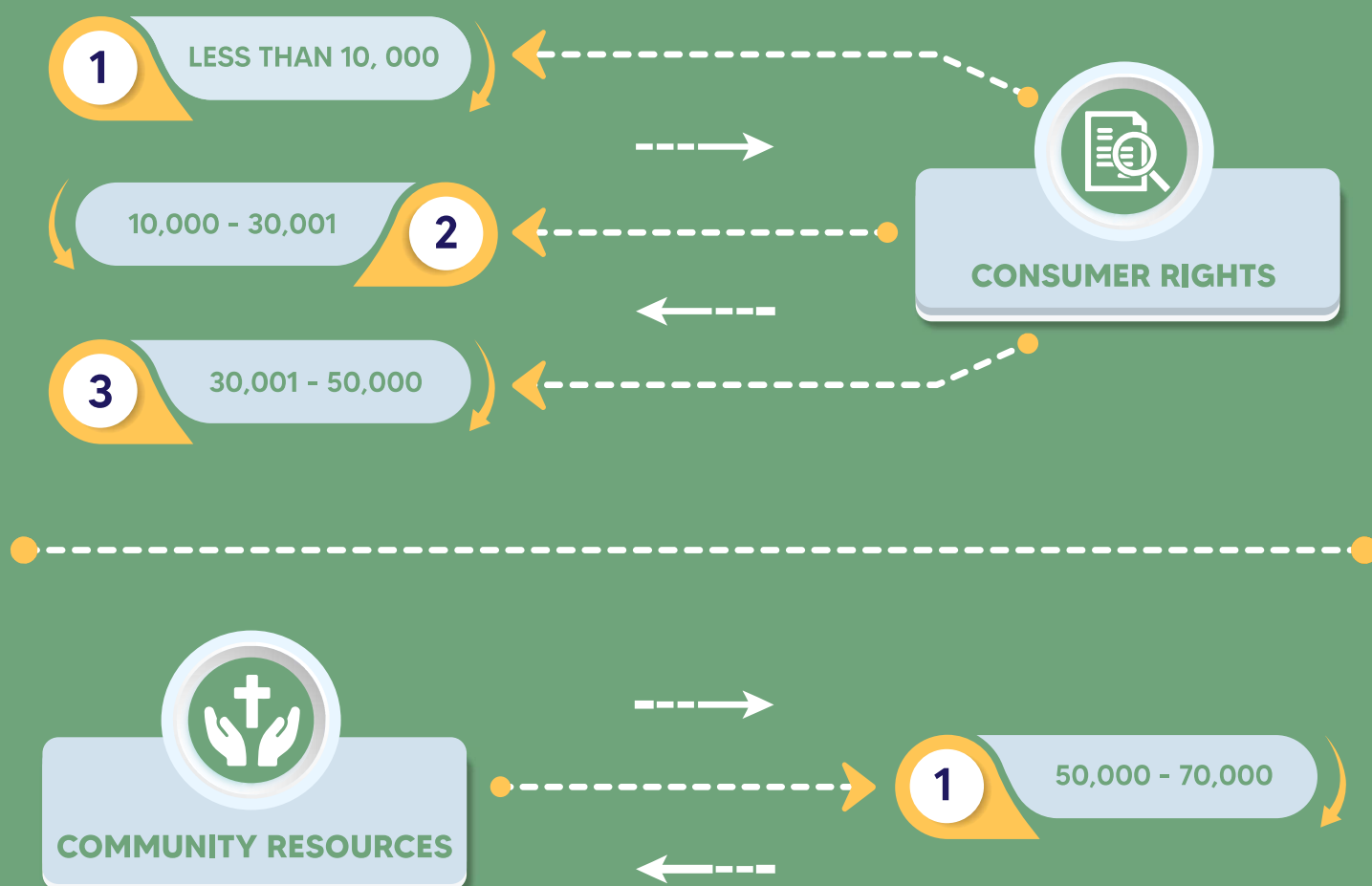
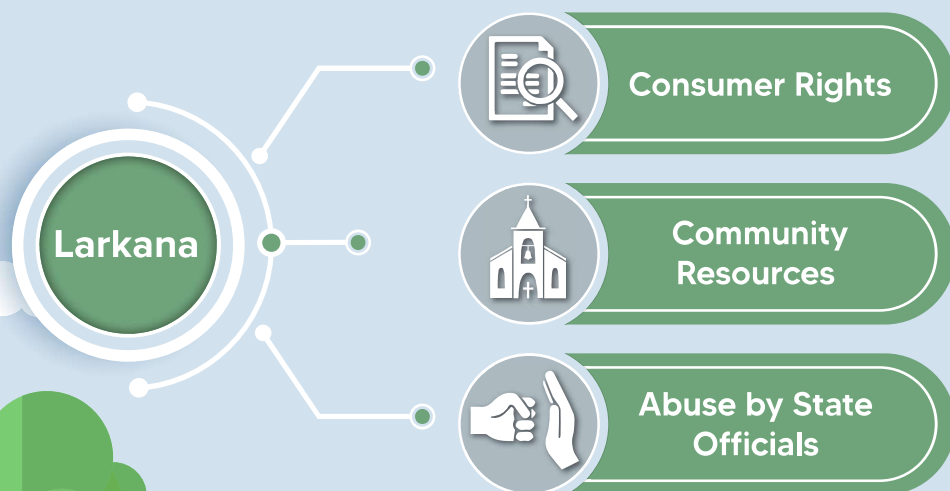
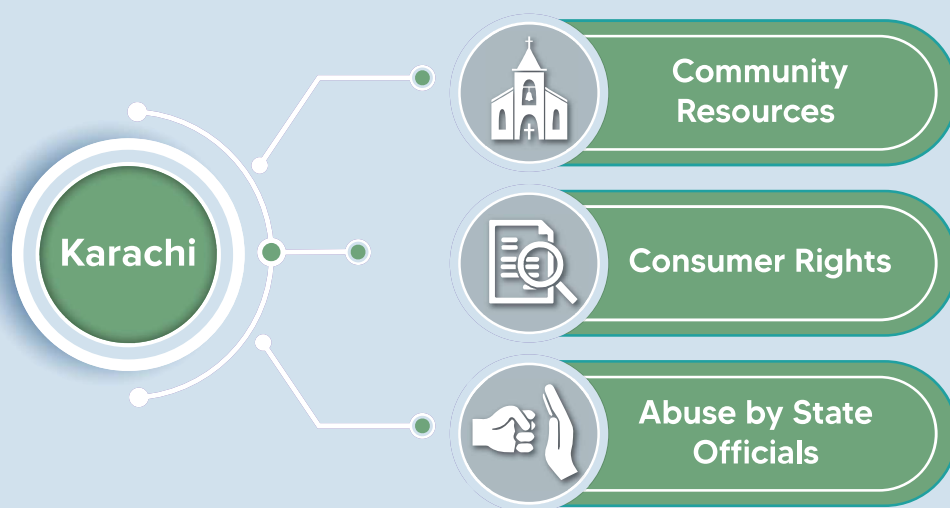
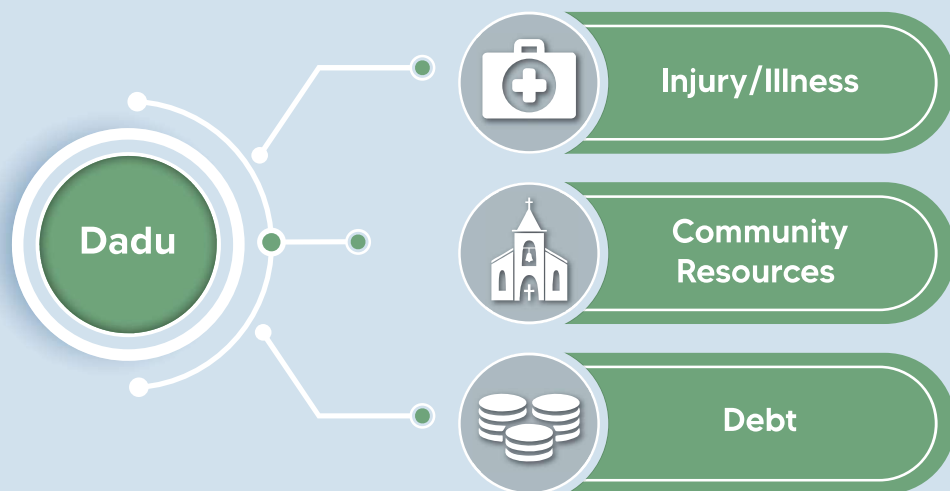


Figure 5 Major problems per income group

Furthermore, issues relating to consumer rights were the most prevalent problem in unemployed individuals (56.5%, n=26), followed by those with a monthly income of less than 10,000 (43.3%, n=39), 10,000-30,001 (55.6%, n=85), 30,001-50,000 (50%, n=15), while the most frequently reported problem for people in 50,000-70,000 income was community resources (80%, n=4).

Legal Problems in Districts Across Sindh



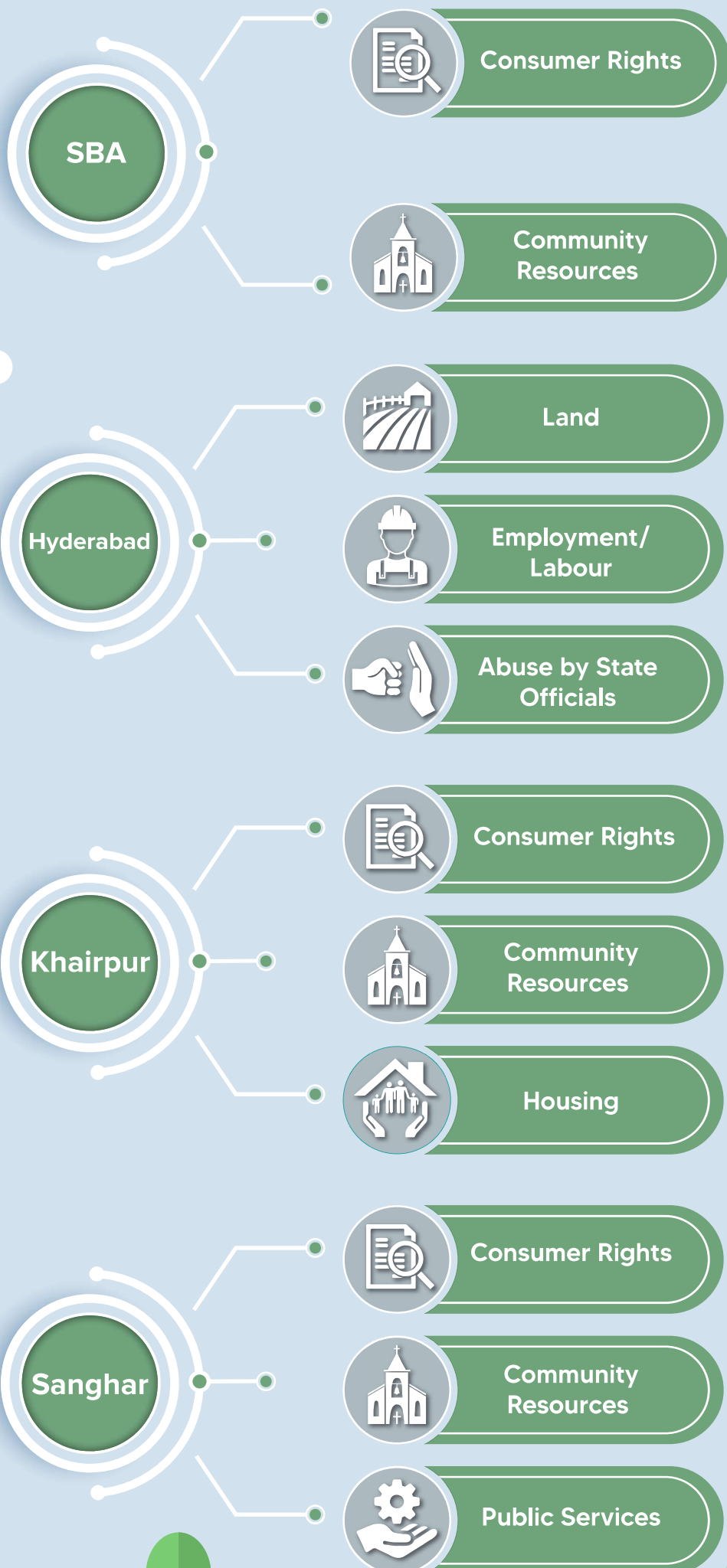




Figure 6 Major problems per district (Sindh)

The breakdown of respondents for each problem category per district was similar to the division as per income groups, as the major problem reported from each district was related to either consumer rights or community resources. Community resources was most prevalent in Dadu (23.5%, n=4), Karachi (37.5%, n=6), Larkana (87.5%, n=48), and SBA (16.7%, n=4); while consumer rights issues were frequently identified in Khairpur (69.9%, n=19), Sanghar (87.5%, n=70), and Sukkur (37.3%, n=19). Issues concerning land were the most frequent in Hyderabad (13.5%, n=26).



Figure 7 Problems faced by marginalized groups (2015-2020)

As is always the case, some groups are often more marginalized than their counterparts in facing legal problems and/or hurdles to justice. In our study, this especially marginalized group of respondents includes women, unemployed individuals, and members of the scheduled Hindu caste of Shudra. We found that caste-politics plays a defining role at an intra-community level in Pakistan, and the community's relationship with broader society is defined by it. This will be elaborated upon later in this report, under Barriers to Accessing Justice.

As illustrated in fig.7, respondents from these marginalized groups reported having faced at least one legal problem in the last five years. All problems were predominantly faced by these marginalized sub-groups approximately 1-2 times; women (73.3%, n=154), unemployed (86.1%, n= 99), and Shudra (87.7%, n=193).

Facing a justiciable problem has several personal, social, and economic effects. We observed that people facing a criminal issue were more prone to facing these effects compared to respondents who faced civil cases. As shown in fig 8, a larger percentage of individuals with criminal issues faced issues of ill-health, stress, breaking down of family relationships, harassment, threats, forced re-location, financial loss, lack of confidence, and intoxicant addiction, which they directly attributed to their problems.

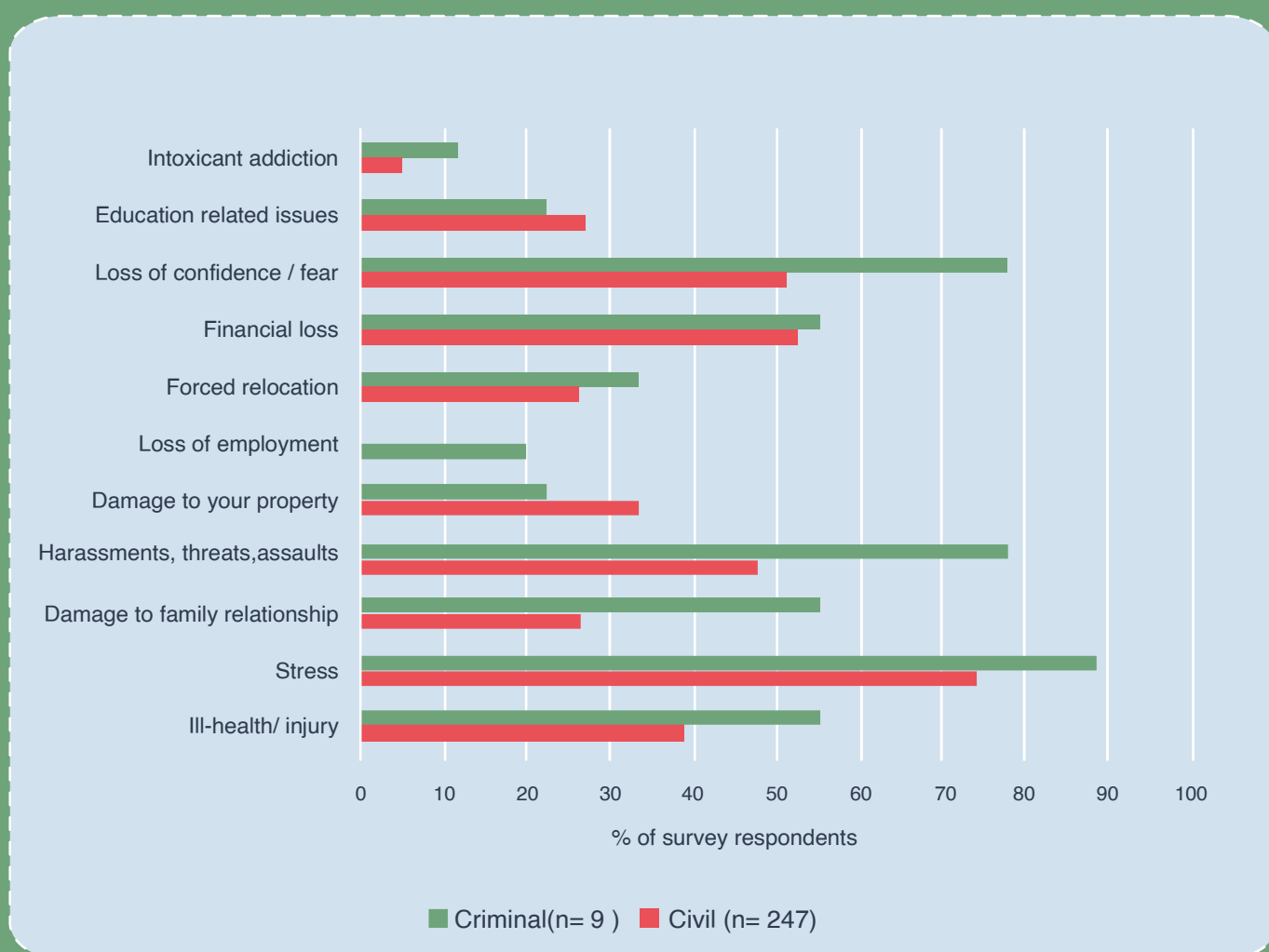


Figure 8 Impact of facing a legal problem

7.2 Legal Capabilities of Religious Minorities

Legal capability of a person indicates a person's ability to navigate through their everyday legal concerns and challenges. In the LNA, respondents were asked to describe their problem as either a social problem (community matter / family matter / bad luck / part of life), economic, legal, criminal, or as part of religious discrimination. The most frequently used categorization is illustrated in table 1. The most recurrent self-identified causes were bad luck and religious discrimination. Other factors indicating legal capabilities include an individual's preferred conflict resolution method and avenues of help.

Problem	Description of problem	sample size	Help obtained	Source of help	Fairness of the process and outcome			Mode of conflict resolution
						Fairness of process	Fairness of outcome	
		N	% (n)		N	% (n)		
Consumer rights	Bad luck	N=105	82.9 (87)	Family/ Friends	N=24	70.8 (17)	70.8(17)	Other/ informal
Community resources	Religious discrimination	N=95	90.5 (86)	Family/ Friends	N=12	41.7(5)	50(6)	Other/ informal
Land	Bad luck	N=31	96.8 (30)	Family/ Friends	N=7	42.9 (3)	42.9 (3)	Other/ informal
Housing	Bad luck	N=19	73.7 (14)	Family/ Friends	N=12	58.3 (7)	50(6)	Other/ informal
Family	Family/ Private matter	N=22	90.9 (20)	lawyer/ professional advisor/advice helpline	N=8	62.5 (5)	62.5(5)	Other/ informal
Injury/ Illness	Bad luck	N=12	66.7 (8)	Family/ Friends	N=8	50 (4)	50(4)	Other/ informal
Employment/ Labour	Religious discrimination	N=37	86.5 (32)	Family/ Friends	N=16	43.8 (7)	37.5(6)	Other/ informal
Abuse by state official	Religious discrimination	N=48	89.6 (43)	community/ religious leaders/ NGO/charities	N=26	23.1 (6)	26.9(7)	Other/ informal
Public services	Religious	N=23	100 (23)	Family/ Friends	N=8	87.5(7)	100(8)	Other/ informal
Debt	Bad luck	N=10	70 (7)	Community religious leaders/ NGO/charities	N=6	66.7 (4)	83.3(5)	Other/ informal
Money	Bad luck	N=4	75 (3)	Family/ Friends	N=1	0 (0)	0(0)	Other/ informal
Business	Religious discrimination	N=3	100 (3)	Family/ Friends	N=2	100 (2)	50(1)	Other/ informal
Crime Victimization	Religious discrimination	N=6	100 (6)	court/tribunal/ ombudsman	N=2	50 (1)	50(1)	Litigation / formal
Crime Arrest	Bad luck	N=3	100 (3)	Family/ Friends	N=2	100 (2)	100(2)	Litigation / formal

Table 1 Legal capabilities per problem category

Instances of being arrested for criminal activity were termed as mere bad luck by 100% (n=3) of the respondents who faced this problem, while categorization of an issue as a legal problem was most frequently used for issues related to land (71%, n=22), and least frequently for problems regarding debt (10%, n=1). Not recognizing their problem as a legal issue results in a self-constructed barrier to the justice system, as respondents are unlikely to approach to even approach the justice system in such cases.

People who attributed their problems to religious discrimination largely faced problems related to community resources, employment / labour, abuse by state officials, public services, business, and crime-victimization.

Furthermore, as highlighted in table 1, most of the respondents obtained some form of help (formal / informal) for all their problems. Reasons for not getting any help included organizational / procedural complaints (66%, n=35), non-reliance on legal advice (52.8%, n=28), fear due to religious identity (26.4%, n=14), and others⁵⁴ (30.2%, n=16).



Picture 5 The RM team conducting a FGD with male members of the Hindu community in Sukkur district

54 'Others' include problems solved without need of help; damaged personal relationships; scared to take advice

However, the most frequent source of help for all respondents was informal, through family and friends.⁵⁵ It was interesting to note that these informal means were also resorted to for arrests for criminal acts, which is due to a lack of faith in judicial avenues, identifying the “law” as something that “belongs” to the affluent and powerful, and vice versa. They foremostly identified themselves as not affluent and powerful, and therefore not possessing the “law” to seek protection within its ambit, nor the law taking ownership of them. Consequently, they seldom approach the judicial system to seek justice.

Yet, despite this general ambivalence towards the judicial process and its associated machinery, there were still certain moments when communities would seek the services of lawyers and other professional legal advisors; specifically, for domestic issues. Contestations over child maintenance / alimony were most frequently defined by respondents as a primary reason for approaching legal counsel.

Women had serious misgivings about using these formal processes in domestic cases due to the insulting and ill-dignified questions asked of them. A significant number of respondents mentioned that they mostly have no choice but to brave this humiliation and seek lawyers to ensure that they can receive an adequate sum to live off and to help them raise their children. They are compelled to turn to a judicial system that they distrust at a supra-level, even though it comes at the expense of their own dignity and intra-community marginalization. This also highlights another serious concern: religious minority women are subject to systemic patriarchal barriers as well as intra-community patriarchal violence.

Regarding an individual’s ability to deal with their legal issues, a significant number of LNA surveys investigate the respondent’s confidence in resolving their problems. From our sample, the highest confidence in achieving justice was observed in people who faced problems related to their business (100%, n=3), while the lowest levels were recorded by people who faced abuse by state officials (20.8%, n=10). Victims of police abuse face many difficulties in obtaining justice, due to refusal by police to register FIRs, their demands for bribes, and biased investigations. Public surveys and reports of government accountability and redress institutions show that the police are one of the most widely feared, complained against, and least trusted government institutions in Pakistan, lacking a clear system of accountability and plagued by corruption at the highest levels.⁵⁶

Religious minorities’ expression of their own experience with the police is not dissimilar. They believe that the police disproportionately collude with aggressors rather than empathizing with them, in most cases. They also harbour a bias in favour of the Muslims and deliberately antagonize the non-Muslims. Within this overarching narrative, some alternative opinions on the police illuminate why minorities are unable to trust them, regardless of positive overtures. According to some respondents, the police might not harbour any conscious, malignant “ill-intent” or “conspiracy” against them, but they are institutionalized within an organization that is helpless when met with the mere possibility of mob violence, especially in blasphemy cases.

55 During community mapping, community members identified panchayat as the go-to forum for dispute resolution given their general lack of trust in the justice system. Other concerns with the justice system included its high cost, time consumed, political interference and unawareness about the process.

56 Najm-ul-Sahr Ata-ullah and Saroop Ijaz, “This Crooked System”-Police Abuse And Reform In Pakistan’ (Human Rights Watch 2016) <<https://www.hrw.org/report/2016/09/27/crooked-system/police-abuse-and-reform-pakistan>>.

In regards to a fair outcome of their problem, 82.3% (n=51) respondents who used an informal resolution believed that the output to their problem was fair, as compared to only 46.8% (n=29) of respondents who utilized a formal mechanism. This showcases more trust in informal system than in the State system.

7.3 Conflict Resolution Methods

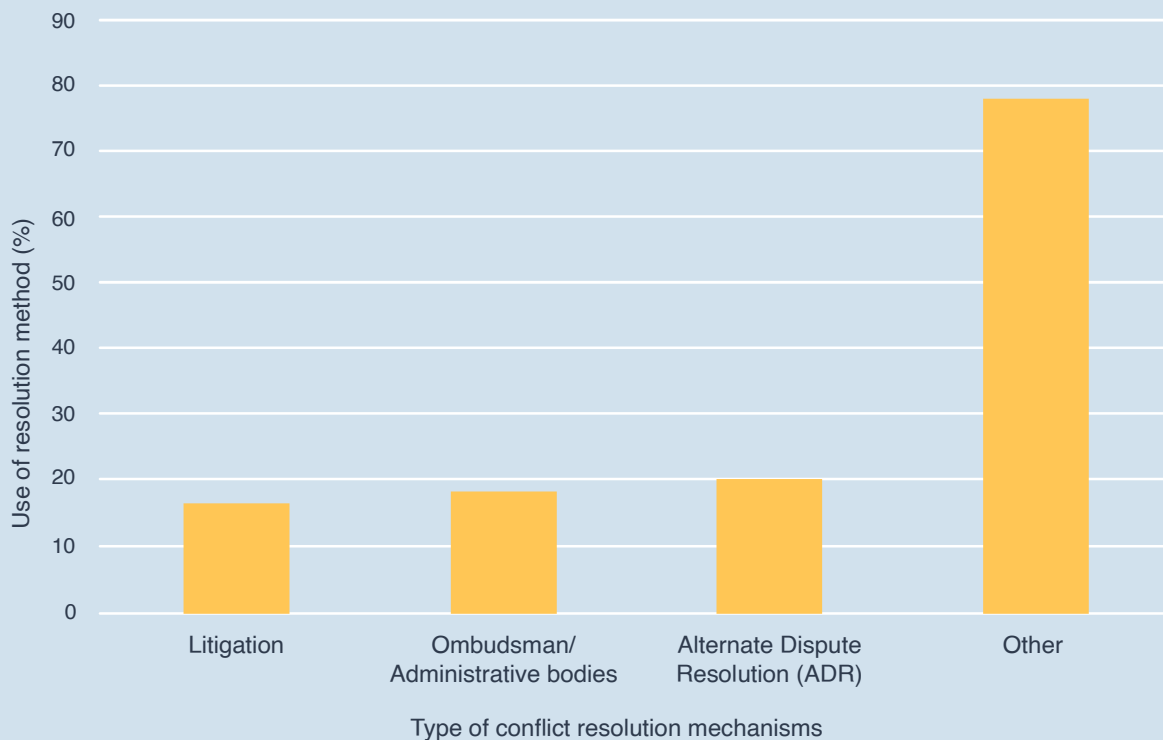


Figure 9 Use of conflict resolution methods

As shown in Fig. 9, we identified four main methods of conflict resolution; litigation (16.8%, n=20); filing an application with the Office of the Ombudsperson or an administrative body (18.5%, n=22); Alternate Dispute Resolution (ADR) (20.2%, n=24); and other (78.2%, n=93). The 'other' category includes mutual settlement between parties, withdrawing from the case, any other third-party resolution.

The highest number of problems were resolved through mutual agreement between the parties, particularly in cases relating to family, abuse by state officials, and debt.

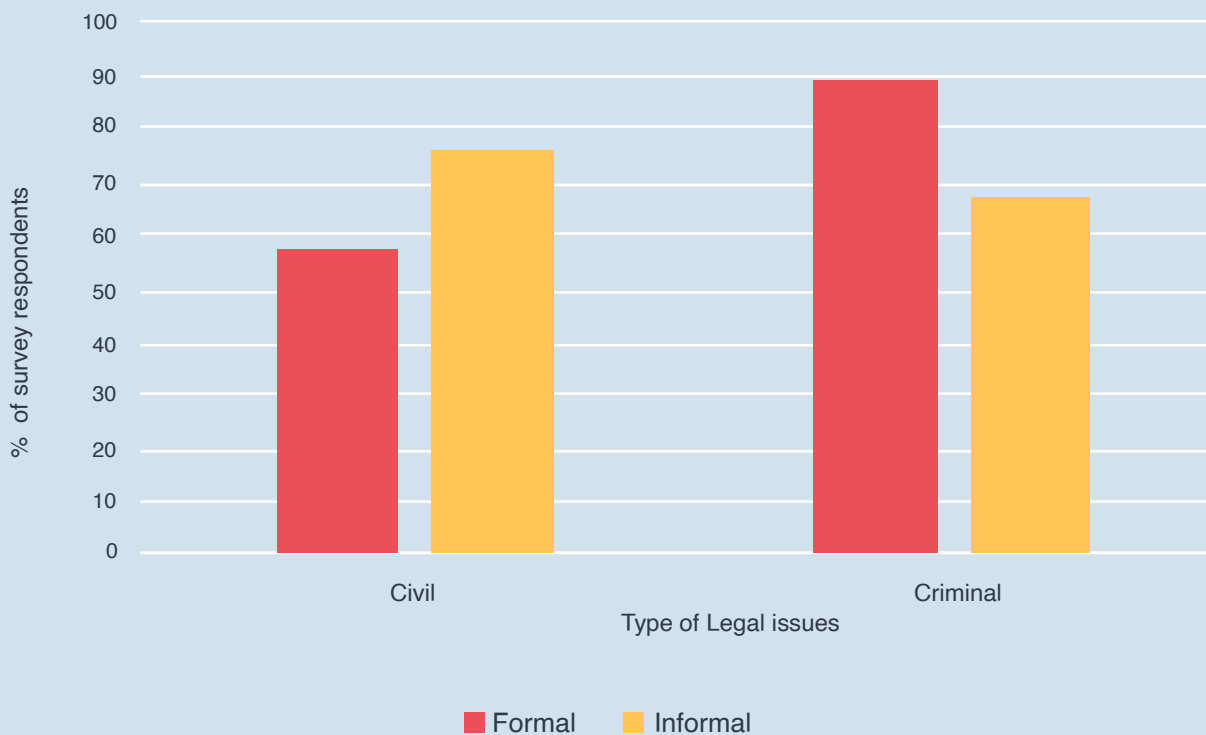


Figure 10 Method of conflict resolution (Civil & Criminal)

In civil cases, survey respondents reported they most frequently communicated with the other party to resolve their issues (73.3%, n=181), and refrained from involving formal resolution bodies such as office of the Ombudsperson or the police. The least frequently used option for conflict resolution for civil cases was to make use of formal mediation / conciliation and arbitration services (13.8%, n=34). In criminal cases, going to the police was the most common resolution method (77.8%, n=7).

Problem Solving Mechanisms

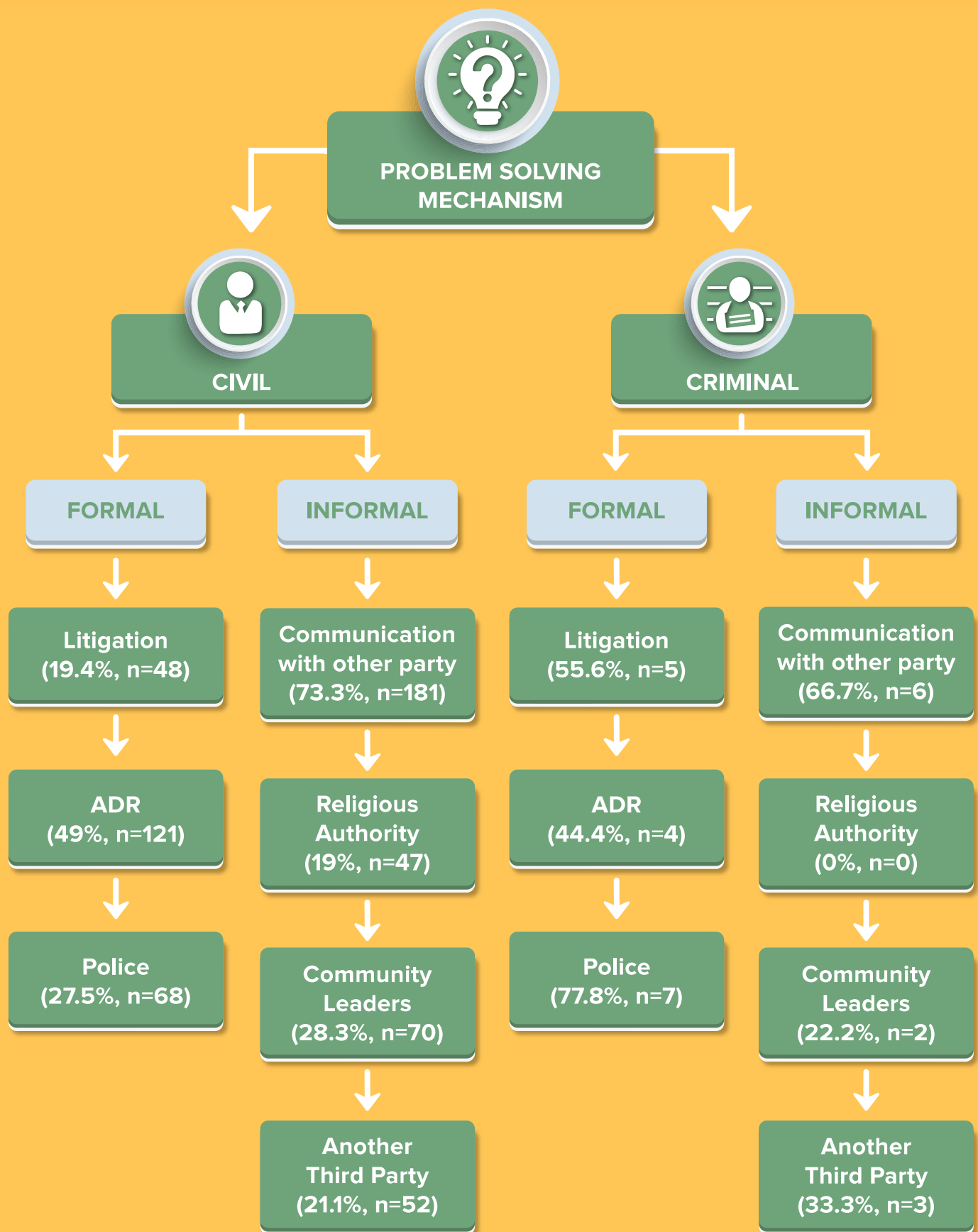


Figure 11 Formal and informal resolution methods

7.4 Barriers to Access to Justice: Extent of Religious Discrimination

The most prominent barriers to accessing justice, especially for people from low-socioeconomic groups were related to costs and lack of helpful resources.

When asked what their “biggest problem” was, religious minorities repeatedly referenced poverty, and not religious discrimination. Upon

further questioning, they identified their minority status as an exacerbator of their poverty, but not the root cause of it. Instead, a dearth of opportunities, corruption, and administrative incompetence were the primary suspects. Respondents also viewed more affluent members of their respective communities as being complicit in their wealth deprivation.

Travel cost was the most frequent expense bore by respondents while trying to solve their problems. This includes bus fares, and the cost of fuel to courts and other legal advisors.

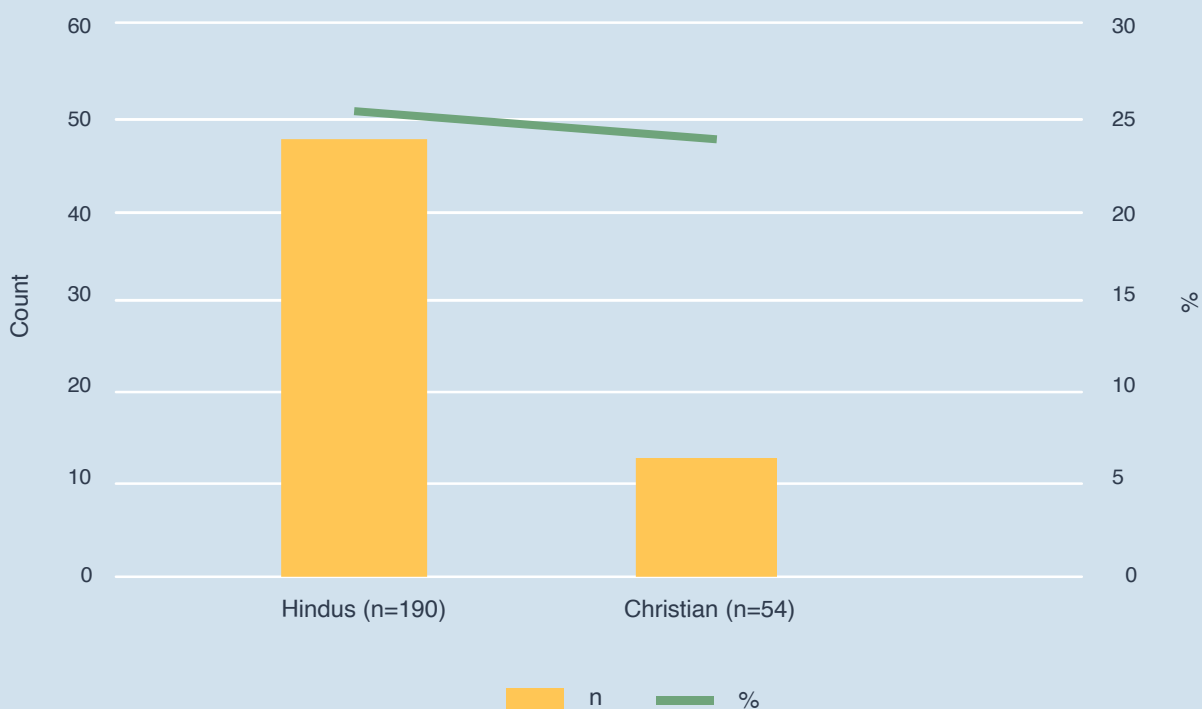


Figure 12 Problems faced due to religious identity

There exists a common notion that respondents belonging to religious minority communities attribute a lot of their problems directly to their minority status, however, the LNA did not find a consensus on this as only 25.3% (n=48) Hindus, and 24.1 % (n=13) replied in the affirmative. Many were also unsure about their stance: 25.3% (n=48) Hindus, 29.6% (n=16) Christians, and 80% (n=4) Sikh.

Our FGDs, however, deepened our understanding regarding the issue. Not only were our respondents well-aware of their minority status, but they also had tangible narratives on how they

are discriminated against because of their minority status in criminal cases. This discrimination has its root in the word 'minority'. To them, it felt like an inherent Otherization within a nation state that places significant emphasis on its Islamic identity, creating an "Us vs. Them" dichotomy, with a special focus on the terms reserved for them, i.e. Mazhabi aqliat (religious minority), which makes it difficult for the state to take ownership of their issues.⁵⁷

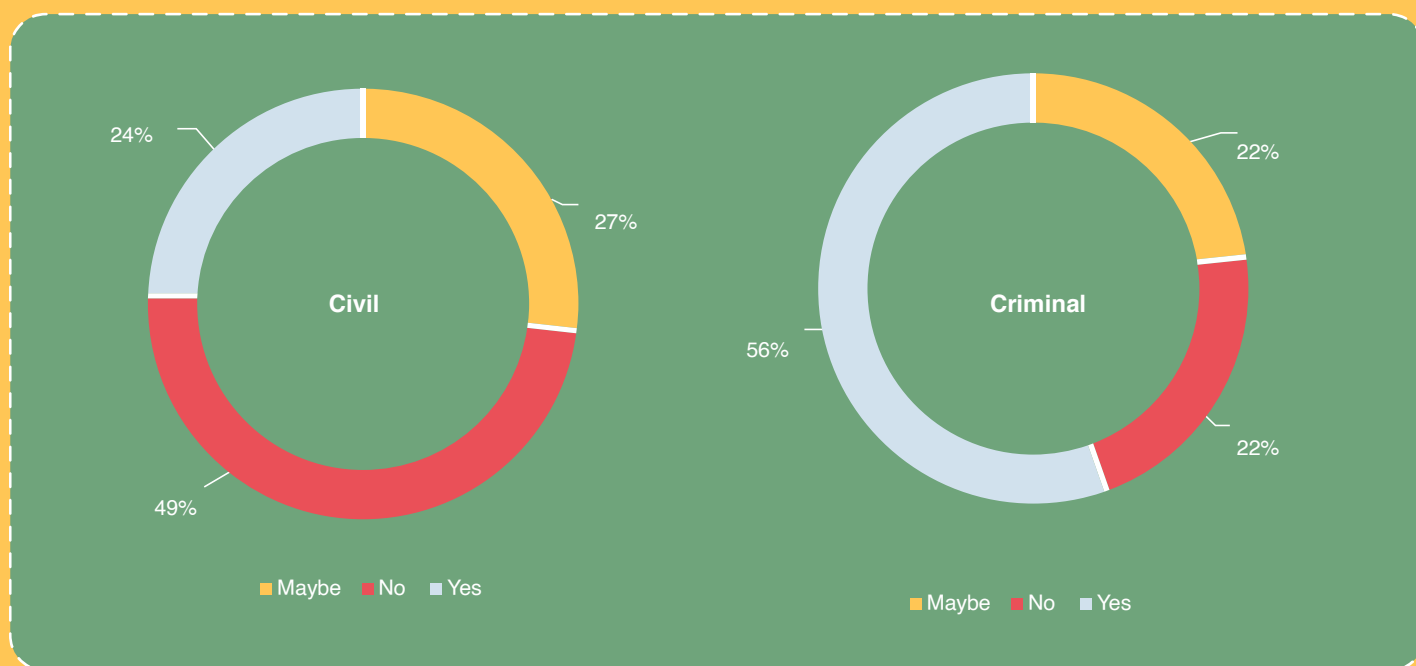


Figure 13 Problems faced due to religious identity (civil and criminal)

Respondents facing a criminal issue were more likely to believe that their problems were a result of their minority status (55.6%, n=60), while only 24.3% (n=5) of respondents stated the same on civil issues; none of the civil issues had a majority of respondents stating that they faced their problem due to their religious identity.⁵⁸ The association of criminal issues with discrimination based on religious status is not surprising. Actors in the criminal justice system, such as the police are often accused of being irresponsive to complaints by religious minorities, especially in criminal cases of blasphemy or forced conversions. As discussed in multiple reports, as well as earlier in this one, police are generally prejudiced against these vulnerable communities and their cases are not thoroughly investigated and correct procedures provided in the Criminal Procedure Code, 1898 (CrPC) are not followed. There have been incidents where the accused have been killed by the police or the prison guards and killers are glorified by the police. There are even reports where the police have kissed the hands of the killer and allowed "fans" to garland the accused killer⁵⁹.

57 Arjun Appadurai, 'Number In The Colonial Imagination', 44th Annual South Asia seminar, Orientalism and the postcolonial predicament: perspectives on South Asia; 1988; Philadelphia; PA (University of Pennsylvania Press 1993).

58 See Appendix C

59 Ibn Abdur Rehman, 'DISCRIMINATION AGAINST RELIGIOUS MINORITIES IN PAKISTAN: AN ANALYSIS OF FEDERAL AND PROVINCIAL LAWS' (2021) <<https://appgfreedomofreligionorbelief.org/media/RE-SEARCH-DOCUMENT-1-discrimination-against-religious-minorities.-Analysis.pdf>>.

LEGAL PROBLEMS & THEIR CATEGORIZATIONS



Figure 14 Frequent description of the problem

Many respondents with respect to crime victimization reported the highest likelihood of their problems occurring due to religious discrimination (83.3%, n=5), whereas a similar inclination was not found in family matters, money, and crime-arrest. For Hindus, community resources (15.8%, n=32), and for Christians, issues related to consumer rights and community resources (7.1%, n=5) were linked to their religious identity.

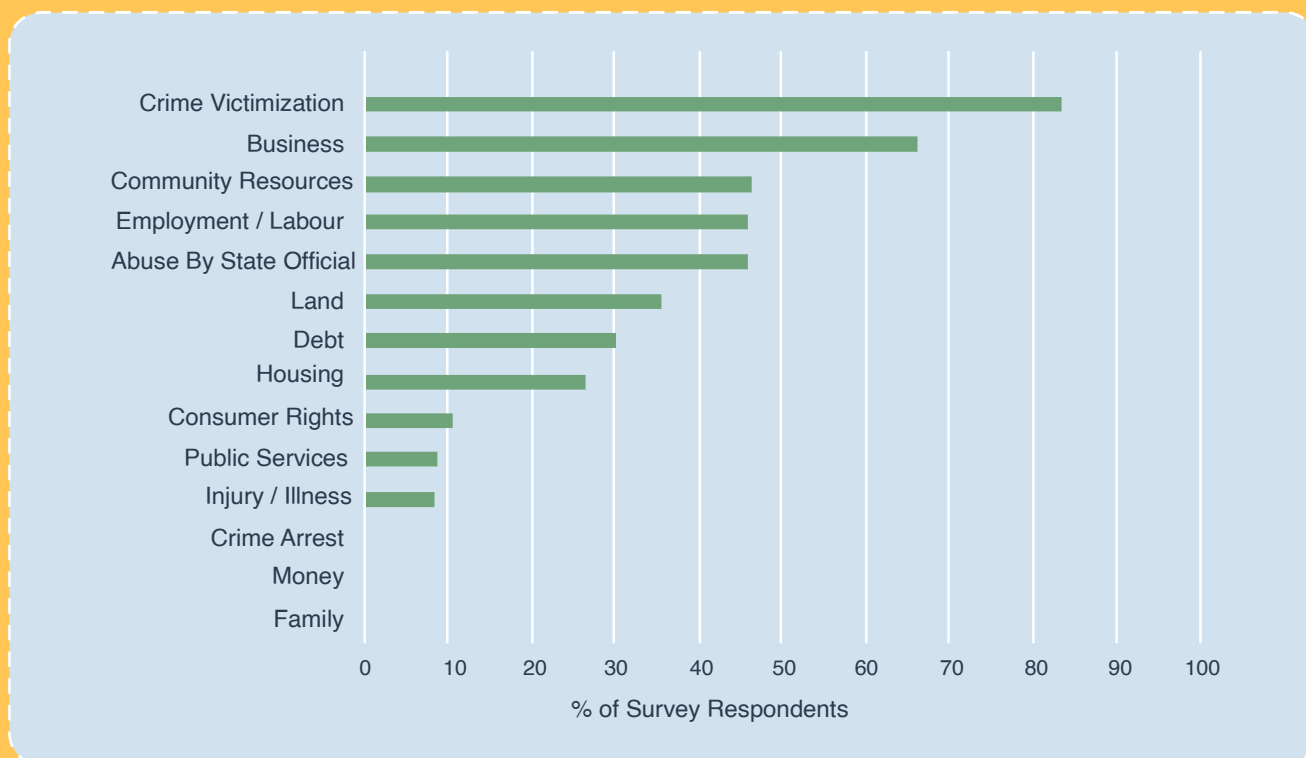


Figure 15 Religious discrimination per problem category

There was no significant association found between respondents who believed that they faced their problems due to their minority status and those who faced them based on income levels and caste. However, the highest proportion of respondents believing this discrimination belonged to the (monthly) income group of 10,000-30,000 rupees (52.4%, n=76), whereas only 2.1% (n=3) of respondents who belonged to the highest income bracket (50,000-70,000 Rupees) stated the same.

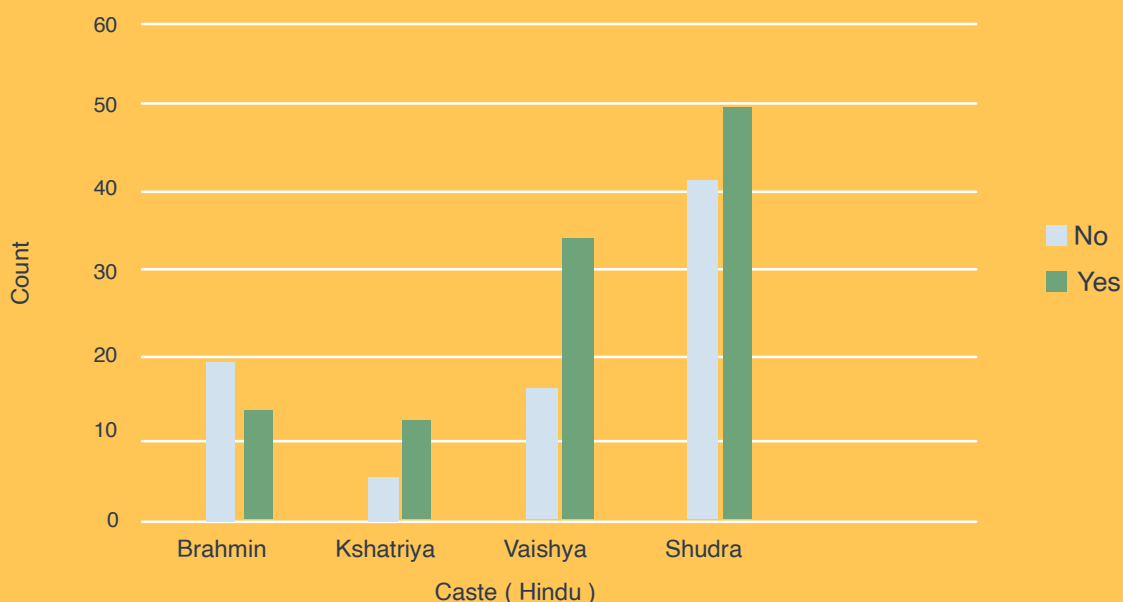


Figure 16 Relationship between caste and religious discrimination

In the case of Hindus, evidence of caste-based discrimination finds support in the LNA results, as illustrated in fig 16.

Literature on casteism within the Hindu community in Pakistan remains insufficient, making some of the responses particularly illuminating. Respondents frequently used the term “selected” for members representing religious minorities in the various Provincial and Federal legislatures. They saw them as people chosen by political

parties and not constituents of the community. Seats reserved for minorities are distributed to political parties according to the share of votes they received. Members representing the various religious minorities are then assigned these seats in descending order from a list submitted by each party to the Election Commission of Pakistan. Typically, these lists are dominated by the upper-caste, Brahmins and wealthy Christians and Sikhs; and even if the representative does not belong to an upper caste of the same social stature, the affluent person when allotted the seat, would endorse a similar behaviour with the other community members because they would be a part of a system where they only help themselves rise to the top. This disparity also detached the representatives from experiencing, relating to, and understanding the issues expressed by most of their community.

Brahmin respondents were the only Hindu sample population who believed that their problems were not intertwined with their religious identities. Whereas Kshatriya, Vaishya, and Shudra communities believed otherwise.

Since these representatives would rely upon their party to put them in the list and deliver them to the Parliament, they would become yes-persons and tow the party line, even if it came at the detriment of other, “lower-caste” members of the community. Respondents did not see them as accountable to them, but rather to whatever political party they came from. Their “selected” status stripped them of their ability to legislate and lobby in favour of the community they are supposedly representing.

7.5 Experience with the Legal System

Overall, all respondents reported a generally positive view of the justice system: those who had a positive experience with the justice system (54.3%, n= 175), those nervous about accessing the justice system (61.7%, n= 200), those whose acquaintances had a positive legal experience with the justice system (54.6%, n= 177), those who believe that the justice system in Pakistan is equal for Muslims and religious minorities (62.3%, n=202), those having complete trust in the justice system (66.7%, n=216), and those believing in the easy accessibility to the justice system in this country (54.9%, n=178). However, as stated earlier, our qualitative findings absolutely refuted this trust in the system. They highlighted that the justice system is a system of the rich and the powerful.

People who had a positive experience with the justice system were less nervous about accessing it too (65%, n=130). However, it was interesting to note that although many respondents claimed that they had a good experience with the justice system, most of them had used informal methods to resolve their problems, rather than litigation or formal mediation by the Office of the Ombudsperson or any other administrative bodies: from the pool of respondents who had a positive experience with the justice system, 77.1% used an informal mode for conflict resolution, while 22.9% did not. Similar, 44.6% of these respondents stated they utilized some form of a formal

mechanism, while 55.4% said no. However, it is also important to note that there we did not find any significant association between respondents having a positive experience and the ways of conflict resolution, thus implying that any relationship between the two variables is coincidental and cannot be statistically determined. This finding can imply that the survey respondents categorize informal mechanisms as part of the justice system or they are sceptical of recording an unfavourable account of the system due to external social, cultural, or political factors. We observed that despite high levels of trust in the system, issues of respondents were majorly solved using an informal resolution mode; 74% (n=57) of respondents who trusted the system, used an informal resolution mode.

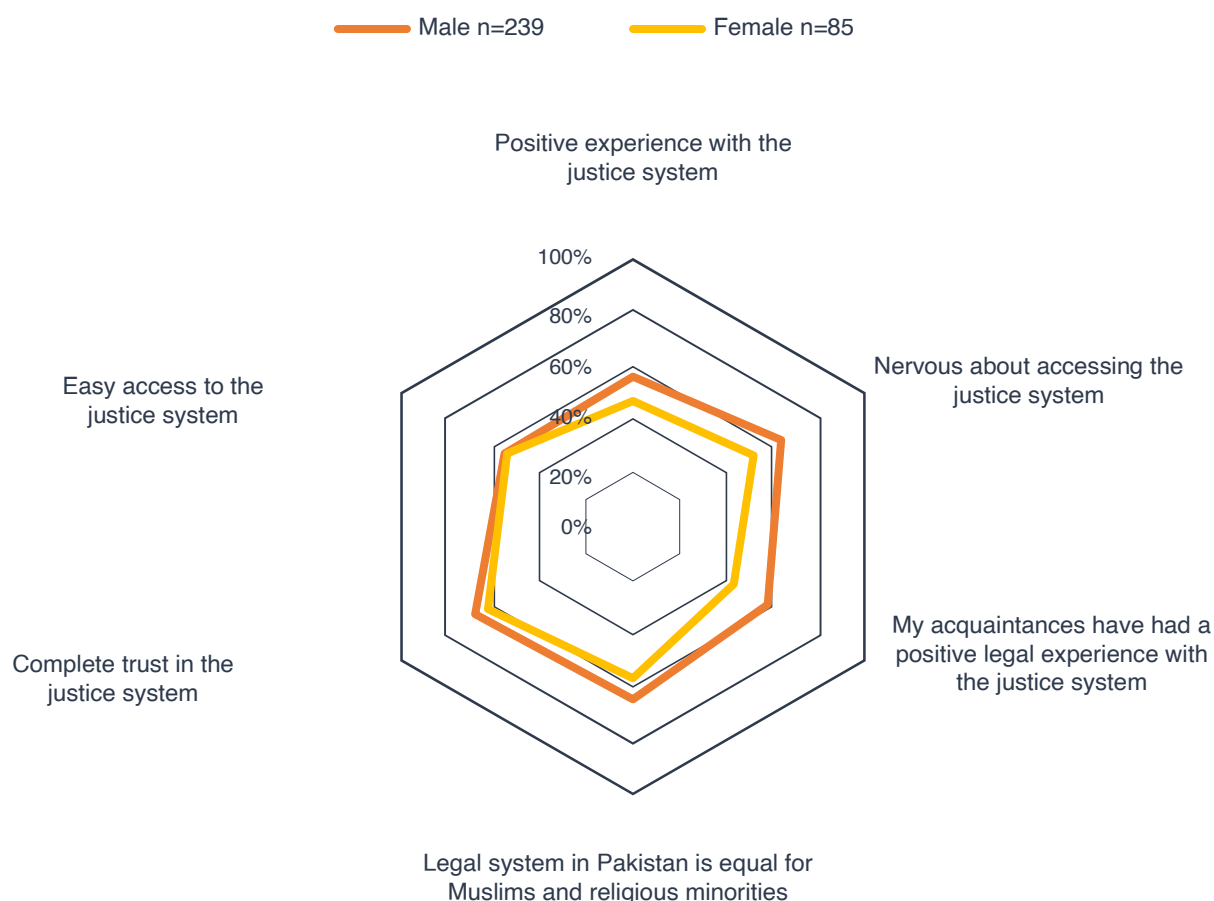


Figure 17 Perceptions of the justice system (gender)

As illustrated in fig 17, male respondents recorded a comparatively higher percentage of positive experience with the justice system. As noted in various studies, women are hesitant to approach the judicial system due to cultural limitations. As discussed earlier, the concept of honour governs a women's behaviour and stigmatizes her if she disgraces the household by involving external lawmakers or institutions in what are considered 'family matters'. Courts are already considered expensive and inaccessible, and women face additional barriers to access to justice as there are a limited number of female legal staff.⁶⁰ Studies show that women are more comfortable approaching female staff, which is an additional barrier as most of the court staff is male.⁶¹

Courts fail to provide basic infrastructure for women in most districts as they lack sitting areas, functioning female toilets, and private areas where they can discuss the issues of their case with their lawyers.⁶²

There is also ambivalence regarding the divorce and dissolution laws, with many women from non-Muslim communities explaining how men from their community are afforded “more” rights through this colonial-era legislation than they are. Women must overcome all these legal and institutional disadvantages and obstacles to seek the legal recourse they need for domestic issues so that they can receive sufficient alimony to simply survive in an economy that does not value divorced women, much less divorced women from non-Muslim communities.

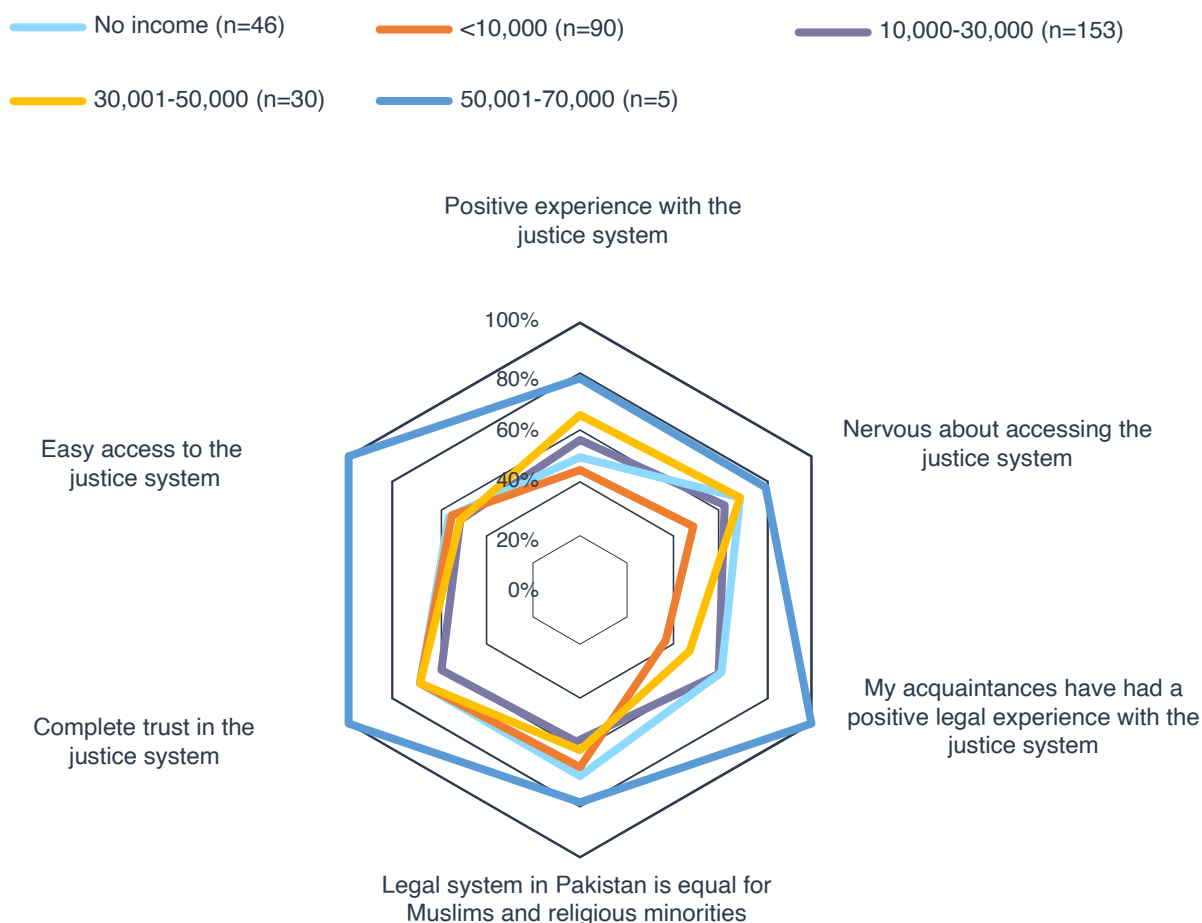


Figure 18 Perceptions of the justice system (income)

As fig. 18 demonstrates, people in the highest income bracket had an overwhelmingly positive experience with the judicial system. Whereas individuals earning less than 10,000 rupees per month had the least positive experience, (45.6%, n=41). Similarly, individuals in the income bracket of 10,000-30,000 rupees. showed the least amount of trust in the legal system (62.1%,

60 Ammaz Khan and Rabia Manzoor, 'Women's Access to Justice in Pakistan: Understanding Barriers' (Sustainable Development Policy Institute 2020) <<https://www.jstor.org/stable/resrep24374.26>> accessed 15 April 2021.

61 Sindh has 564 female judges (8%)

62 Ammaz Khan and Rabia Manzoor, 'Women's Access to Justice in Pakistan: Understanding Barriers' (Sustainable Development Policy Institute 2020) <<https://www.jstor.org/stable/resrep24374.26>> accessed 15 April 2021.

n=95), and compared to other income groups, believed that they did not have equal opportunities or easy access to the system. It should be noted additionally that all income groups claimed high levels of trust in the justice system, but a comparatively smaller number of positive experiences with it. We observed that despite high levels of trust in the system, issues of respondents were majorly solved using an informal resolution mode; 74% (n=57) of respondents who trusted the system, also used an informal resolution mode.

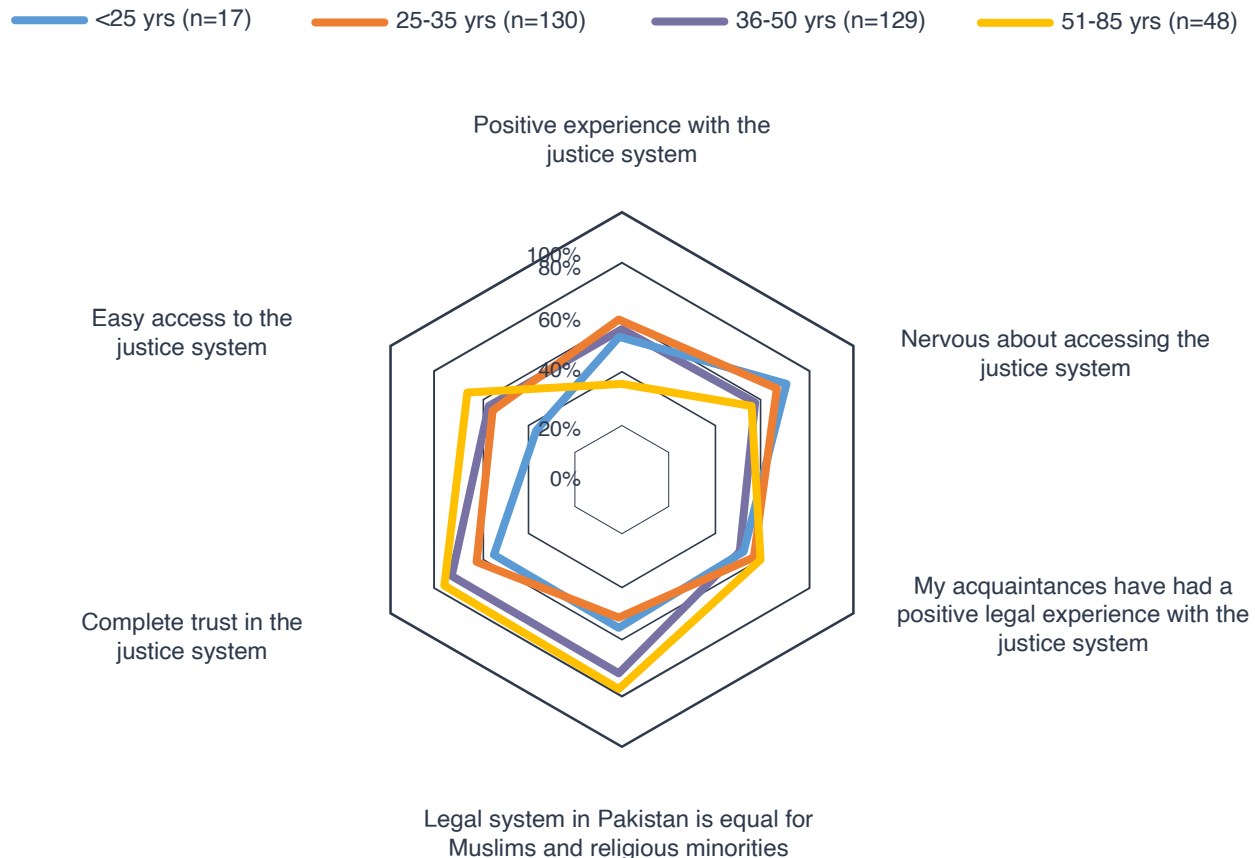


Figure 19 Perceptions of the justice system (age)

Individuals aged between 51 - 85 years had the highest percentage of respondents who believed that the legal system in Pakistan is equal for Muslims and other religious groups. Nervousness in the justice system was found to be highest among respondents aged less than 25 years; this feeling consistently reduced as the age of respondents increased. Similarly, trust in the justice system also increased with age, and so did the perception of easy access to the justice system, where young respondents were comparatively more sceptical. All individuals aged 25+ had a higher trust level in the justice system but a comparatively lower percentage of positive experience.

This generational shift was also observed in the kind of ideas and policies expressed by respondents. Older generations repeatedly turned to the common teleological narrative of Pakistan's history; everything was fine until Zia-ul-Haq came into power. They identified Zia's "Islamization process" as the primary culprit for introducing policies and discourses that placed them at a disadvantaged position, particularly the changes to the blasphemy law. For these older activists, nostalgia for the pre-Zia era was a common feature, and they would often advocate for a "return" to the past.

This was in sharp contrast to the younger activists, who would cite examples from the experiences of Black people and racism in Europe and North America to argue in favour of radical proposals, such as abolishing the category of “religious identity” altogether. Younger respondents did not like to be boxed within a narrow identity, instead seeing themselves as embodying multiple identities.

Even then, they would identify themselves as “Pakistani first,” with everything else being irrelevant. Some younger activists insisted on not being called a “minority” altogether.

This rhetoric is like Saba Mahmood’s findings on Coptic Christians in Egypt, where representatives of the community refuse to be seen as minorities, and instead insist on simply being called “Egyptian”.⁶³ Coptic Christians see the label of “minority” as anti- or non-majority, and therefore non-Egyptian. This bifurcation of Egyptian society into majorities and minorities is itself a colonial ethno-state project, designed to assist with and secure the state’s governance. By identifying Coptic Christians as a distinct group from the majority Muslims, the British created a narrative around them that inherently saw them as insufficiently Egyptian. In response, leaders of the community insist on not being described a minority and being entitled to the same rights that all Egyptians are.

Younger activists from non-Muslim religious communities in Pakistan deploy a similar anti-minoritarian discourse, insisting they be provided by the same protections and opportunities “all” other Pakistanis are by virtue of their national identity alone. By displacing the entire majority-minority binary that informs discourse and policy, younger activists seek to remove the taint of “Otherness” that minority inherently carries. This way, they can assert their opinions in a way that is not only not seen as threatening to the entrenched status of the majority, but also allows them to join ranks with them as “equal” Pakistanis.

Nevertheless, community and political structures privilege older activists over younger ones, stifling the latter’s perspectives by default. This is in addition to older activists actively silencing their younger counterparts’ opinions under the guise of the youth’s naivety and respect.



63 Saba Mahmood, *Religious Difference In The Secular Age* (Princeton University Press 2015).

8. Conclusion

The intent of this report was to identify the structural barriers to access to justice faced by religious minorities in Sindh, and in doing so we found that the root of structural discrimination lies in the word ‘minority’, further aggravated by the rhetoric of ‘Mazhabi aksariat vs. Mazhabi aqliyat (religious majority vs. religious minorities)’ and ‘Muslims vs. Non-Muslims’. As highlighted in the report’s findings, presence of structural discrimination against these communities is undeniable and traceable. It starts with the ‘Otherization’ of Pakistani citizens, making all citizens unequal before the law. This study finds that our respondents lack trust in the justice system, which stems from unfair treatment by government officials, such as the police and other judicial and administrative actors of the said system. This glaring absence of trust is not only perpetuated by the wrong rhetoric but also the social and economic inequalities.

Similar to other global legal needs assessment surveys, civil issues were the most prominent kind of legal problems faced by our respondents. We also observed similar trends between this LNA survey conducted with RM communities and a previous one conducted with people across Pakistan. Issues regarding community resources and public services were a common finding. However, the former group of respondents was less likely to access expert help for their legal problems, and were less confident on the possibility of attaining a fair trial, as compared to their Muslim counterparts.

These problems are a direct result of poverty and dire living conditions. Structural discrimination, including absence of employment opportunities and lack of provision of legal identities, creates and traps these communities in a problem loop by limiting avenues for awareness and information and thus altering legal behaviours. Majority of our respondents were unaware that their problems are legal issues, with a predetermined solution. We can argue that this is a self-constructed barrier to justice, but in doing so we fail to acknowledge that our majority vs. minority rhetoric has made our respondents believe that *“ye mulk unka hai, aur qanoon bhi”* (this country is also theirs [Muslims], and so is the law).

The discrimination faced by these marginalized communities is not only external but is also fuelled by casteism and socio-economic disparity within these communities. Affluent members of minority communities are protected from structural and legal discrimination, and have also been known to use discriminatory social practices, e.g. misuse of the blasphemy law as a tool for personal vendettas.

An in-depth analysis of our findings highlight the importance of viewing the accessibility of the justice system and legal behaviour of the marginalized communities from a holistic lens, encapsulating both, religious and social identities of all citizens.



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Appendix

Appendix A: Problem categories used in LNA

Category	Form of presentation	Illustrative examples
Consumer	Problems or disputes to do with defective or undelivered goods or services	Such as difficulties obtaining a refund, billing errors, or disputes with utility providers (such as water, electricity, gas, telephone, or Internet), or professionals (such as accountants, lawyers, mechanics, plumbers, etc.).
Community resources	Problems or disputes to do with community resources	Such as denial of or unfair access to the benefits of community land/forest/water groups, disputes over community resource governance, and disputes over fees and revenues
Land	Problems or disputes to do with land or buying and selling property	Such as disputes over title or boundaries, problems to do with land grabbing, expropriation, mining, or environmental damage, or problems to do with land transfers or building permits
Housing	Problems or disputes to do with housing	Such as problems or disputes with a landlord or tenant, concerning, for example, poor maintenance, the terms of a lease, eviction or becoming homeless; also problems concerning an owners' corporation, problems with neighbours (for example, excessive noise or threatening behaviour).
Family	Problems or disputes to do with family and relationship breakups	Such as divorce, access to or custody of children, child support, disputes over property division, children being taken into care, [violence or harassment] *, guardianship or adoption, or inheritance.
Injury / Illness	An injury caused by someone else, or injury or illness caused by an accident at work, working conditions, or negligent or wrong medical treatment (including dental and other healthcare treatment).	
Employment / Labour	Problems or disputes to do with employment or labour.	Such as dismissal, unpaid wages, poor working conditions, denial of rights, discrimination, harassment, unfair disciplinary procedures, changes to contract terms
Social protection	Problems or disputes to do with government payments	Such as disputes concerning your entitlement to, or the amount of, suspension of, or registration for government payments; for example, social safety net assistance, state pension, and education grants or loans.
Abuse by state officials	Problems or disputes to do with abuse by state officials	Such as threatening, discriminatory, or corrupt treatment by the police, [military] *, [a customary authority] *, or other government official.
Public Services/administration	Other problems or disputes to do with government and public services	Such as problems to do with citizenship or residency status, obtaining a passport, [identity document,] * or other public documentation; obtaining access to or being excluded from public services, such as healthcare and education; fairness of examinations; tax disputes or disputes with other government bodies.
Debt	Problems to do with debt	Such as being behind and unable to pay the money you owe, action by a creditor for non-payment (including harassment), or the prospect of bankruptcy.

Money	Problems or disputes to do with defective or undelivered goods or services	Such as insurance claims being denied, repeated unfair bank charges, credit rating inaccuracy, problems collecting money owed to you, or being misled about insurance, a pension, or other financial product you acquired.
Business	Problems or disputes to do with community	Such as disputes concerning sales, purchases, or business premises; or problems concerning permits, regulations, tax assessment, insolvency, employees, corruption, demands for "protection", intellectual property, or the use, acquisition, or expropriation of land or property.
Crime: Victimization	Problems or disputes to do with housing	Such as theft, attempted theft, fraud, threats, violence, or sexual violence or abuse.
Crime: Arrest	Have you been arrested, charged, or prosecuted for any alleged offence (other than a motoring offence that cannot lead to disqualification)?	



Refers to those individuals that answered q4-23 for a given problem.

Appendix B: Sample size

N (Total Number of Respondents)	Problem Categories	Number of respondents who faced this problem	Bifurcated by intensity (n) ¹
324	Consumer rights	165	105
	Community resources	138	95
	Land	78	31
	Housing	56	19
	Family	63	22
	Injury/ Illness	31	12
	Employment/ Labour	50	37
	Abuse by state official(s)	79	48
	Public services	77	23
	Debt	51	10
	Money	24	4
	Business	20	3
	Crime Victimization	19	6
	Crime Arrest	6	3
	Gender (n)		
	Male	239	
	Female	85	
	Religion (n)		
	Hindu	247	Brahmin 48
			Kshatriya 22
			Vaishya 58
			Shudra 119
	Christians	7	
	Sikh	70	
	Income		
	Un-employed	46	
	<10,000	90	
	10,000-30,000	153	
	30,001-50,000	30	
	50,0001-70,000	5	

Appendix C: Religious Discrimination

[Did you think you faced your problem because of religious discrimination?]

	Faced due to religious discrimination			
	Yes		Maybe	
	n	%	n	%
Consumer rights (n=105)	11	10.5	29	27.6
Community resources (n=95)	44	46.3	26	27.4
Land (n= 31)	11	35.5	6	19.4
Housing (n=19)	5	26.3	7	36.8
Family (n=22)	0	0	0	0
Injury/ Illness (n=12)	1	8.3	3	25
Employment/ Labour (n=37)	17	45.6	14	37.8
Abuse by state official (n=48)	22	45.8	19	39.6
Public services (n=23)	2	8.7	13	56.5
Debt (n=10)	3	30	2	60
Money (n=4)	0	0	1	25
Business (n=3)	2	66.7	1	33.3
Crime Victimization (n=6)100	5	83.3	1	16.7
Crime Arrest (n=3)	0	0	1	33.3



Appendix D: Problems per District

Problem category	Dadu (n=17)	Hyderabad (n=52)	Karachi (n=16)	Khairpur (n=28)	Larkana (n=56)	Sanghar (n=80)	SBA (n=24)	Sukkur (n=51)
	%							
Consumer rights	5.9	7.7	31.3	67.9	80.4	87.5	8.3	37.3
Community resources	23.5	7.7	37.5	39.3	85.7	68.8	16.7	11.8
Land	5.9	13.5	18.8	28.6	69.6	20	4.2	5.9
Housing	0	0	12.5	39.3	39.3	20	0	9.8
Family	0	5.8	6.3	39.3	41.1	28.7	0	3.9
Injury/illness	17.6	3.8	6.3	25	28.6	0	0	3.9
Employment/Labour	0	9.6	18.8	21.4	42.9	6.3	4.2	11.8
Abuse by state officials	0	7.7	25	17.9	75	26.3	0	5.9
Public services	0	5.8	0	3.6	62.5	41.3	4.2	7.8
Debt	11.8	1.9	0	7.1	37.5	28.7	4.2	2
Money	0	1.9	6.3	0	19.6	12.5	0	2
Business	0	0	18.8	0	26.8	2.5	0	0
Crime-Victimization	0	1.9	6.3	3.6	25	1.3	0	20
Crime - Arrest	0	1.9	0	3.6	1.8	2.5	4.2	0

Appendix E: Attribution as a Legal Problem

	Considered it a legal problem	
	%	n
Consumer rights (n=105)	14.3	15
Community resources (n=95)	48.4	46
Land (n= 31)	71	22
Housing (n=19)	21.1	4
Family (n=22)	36.4	8
Injury/ Illness (n=12)	16.7	2
Employment/ Labour (n=37)	16.2	6
Abuse by state official (n=48)	39.6	16
Public services (n=23)	34.8	8
Debt (n=10)	10	1
Money (n=4)	25	1
Business (n=3)	33.3	1
Crime Victimization (n=6)100	50	3
Crime Arrest (n=3)	66.7	2

Appendix F: Control LNA

Percentage of each problem faced by religion in Control LNA

Problem Category	Hindu (n=10) %	Christians (n=9) %
Consumer rights	30	55.6
Community resources	30	33.3
Land	40	22.2
Housing	10	11.1
Family	30	11.1
Injury/ Illness	0	11.1
Employment/ Labour	10	66.7
Abuse by state official	20	22.2
Public services	30	22.2
Debt	10	0.0
Money	10	0.0
Business	10	0.0
Crime Victimization	20	0.0
Crime Arrest	10	0.0



