

DOING BUSINESS (2018) – PAKISTAN

Lahore

Enforcing Contracts

Introduction

1. This briefing paper considers the current position of the DB topic of Enforcing Contracts in Pakistan.
2. Specific commentary is made herein only to data relating to Lahore and its associated district courts in various locations in Punjab (referred to collectively as the ‘Lahore District Court’).
3. Pakistan is ranked overall 141 out of 190 countries, as measured by the Doing Business 2017 report with a Distance to Frontier (DTF) of 51.77%¹.
4. In relation to Enforcing Contracts, Pakistan ranks 157/190 in 2017 with a DTF of 43.49%.
5. The DB data (2017) for Lahore District Court shows attainment of 41.86% against the three respective indicators (Time for disposing of claims, cost of claim, and quality of judicial processes index).
6. In relation to various elements of the quality of judicial processes index, Lahore District Court scores five out of a possible 18 points.
7. The reasons for the comparative low score of Lahore District Court may be explained by the following factors:
 - Lengthy time to dispose of claims – data shows an average of 1,025 days to resolve a simple commercial matter.
 - Case management is lacking in tools to assist the court and the parties efficiently handle claims (Pakistan scores 0.5/6)²:
 - Existing procedural standards enshrined to ensure disposal of claims are not complied with in more than 50% of issued proceedings.

¹ The Distance to Frontier score captures the gap between an economy’s performance and 100 – a measure of best practice.

² Comparison may be made here with the Shanghai People’s Court (PC) in China which scores 5.5/6 in relation to Case Management and 14.518 on the Quality of Judicial Processes Index/(DB 2017 Enforcing Contracts: China). The Shanghai PC disposes of simple contract claims in an average of 406 days.

- There is a lack of control over the frequency with which parties may seek to adjourn a stage in proceedings.
 - Court time cannot be maximized and used efficiently as pre-trial conferences or electronic case management tools to assist judges and court staff are not used.
- The absence of a dedicated commercial court division or bench – it is noteworthy that 99/190 economies covered by the DB report have a specialized commercial jurisdiction within their existing civil court or a dedicated body of specialized commercial judges.
 - Under-utilization of mediation processes – there is a commitment to ADR on the part of the Lahore High Court but this is yet to extend to LDC.
8. The balance of this paper highlights both short-term solutions (to be considered capable of implementation within 100 days) and long-term goals to improve and benefit the Lahore District Court and increase its DTF score.

Table A - Steps to be considered to improve the DTF score of the Lahore District Court within 100 days

It is suggested that measures are considered and adopted to allow long-term goals to be introduced within the course of one year.

Indicator	Suggested measure
Case management procedures to establish timetable for disposal of claims	LDC to consider introduction of civil procedure rules to inter alia fix timetable for disposal of claim - from filing to hearing of claim and the adoption of judicial performance standards to measure enhanced timetabling of proceedings.
Case management of claims which have not been subject to prosecution by plaintiff	LDC to consider method (in line with introduction of civil procedure timetable above) to case manage claims where plaintiff has failed to prosecute claim.
Proposal to establishment of a specialist commercial division within LDC	Consideration of the proposal to train and develop a commercial specialism within

	district courts to enable streaming and disposal of contractual disputes in increased time.
Guidance to litigants/court users/LDC staff	Consideration of providing specific guidance on LDC website to explain civil procedure for enforcing contracts through courts including directed access to relevant or illustrative civil judgments of LDC (as utilized for other categories of LDC cases on website).
Expanding automated court systems	Review of existing electronic case management tools to determine their utilization by judges of the LDC
Extending newly-established ADR centers including mediation to certain types of civil disputes dealt with by the LDC	Consideration of whether ADR might be extended to cases falling within the remit of LDC – potentially on a trial basis for certain categories of claim and the suitability of existing mediation resources to this end.

Table B – Long-term goals to be attained to improve the DTF score of the Lahore District Court within one year

Goal	Task
Development and introduction of civil procedure rules for the LDC	Prepare draft civil procedure rules (New CPR) specifically for the LDC which focus on the timely case management of a claim from filing to hearing and delivering for approval by Parliament.
Training and induction of a specialized core of district judges for LDC	Commencing training of district judges in accordance with the aims and methodology of the New CPR.
Examination of extent of unprosecuted claims	Consideration of reducing claims by way of giving notice to and striking out in accordance with the New CPR those claims which have not been actively prosecuted by plaintiffs/claimants.

<p>Extending coverage of electronic case management tools</p>	<p>Introducing case management tools to allow filing, payment of court fees, and completion of stages of litigation and assist the court and its district judges/court staff in managing new claims. Ensure that the following four reports can be generated about the LDC: (i) timing of disposal of claims report; (ii) clearance rate report; (iii) age of pending cases report; and (iv) single case progress report</p>
<p>Extending ADR to simple contractual claims</p>	<p>Introducing pilot ADR in the form of mediation to claims filed from target date to assess suitability of existing ADR methods to extend to simple contractual claims.</p>