



Refugee Documentation Centre (Ireland)
LEGAL AID BOARD

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Are land disputes with a religious basis common in Pakistan? Any information regarding procedures for resolving such disputes.

A *BBC News* report which states:

“Human rights groups say Pakistan's blasphemy laws are routinely abused to settle land disputes and village or tribal vendettas.” (BBC News (12 November 2003) *Death penalty in blasphemy case*)

A public statement from *Amnesty International* states:

“Evidence from Amnesty International and other human rights groups suggests that charges brought against individuals under the blasphemy laws are founded solely on the individuals' minority religious beliefs or unfounded malicious accusations stemming from personal enmity, often with the motivation to have people imprisoned to gain advantage in business or land disputes.” (Amnesty International (10 August 2009) *Pakistan: government should take concrete action to amend or abolish the blasphemy laws within a year* AI Index: ASA 33/008/2009)

In an editorial the Pakistani newspaper *Daily Times* states:

“There is a pattern to the incidence of blasphemy in Pakistan. First one accuses a Christian of blasphemy. Then one pressurises the sessions judge into convicting the victim. Upon conviction of the accused, one immediately grabs the house of the victim. When Sipah Sahaba began this hobby in the 1990s, it quoted the hadith for its property grabs. Younis Masih of Factory Area Lahore was convicted for blasphemy by a sessions judge on May 30. His wife has now complained that the house that belonged to her and her husband has been snatched from her by one Sheikh Abdul Shakoore.” (Daily Times (10 June 2007) *Second Editorial: Blasphemy law and property grabbing*)

In regard to the settling of land disputes a document from the *Business Anti-Corruption Portal* states:

“In the Pakistani countryside, many land disputes are settled in the panchayat rather than in the formal courts. As the formal judicial system has a reputation for being corrupt and for serving the interests of the wealthy and powerful only, rural people reportedly prefer to settle land disputes through informal compromises.” (Business Anti-Corruption Portal (2009) *Pakistan Country Profile: Land Administration*)

In a paragraph titled "Individual Corruption" a *Business Anti-Corruption Portal* document states:

"The judicial system in Pakistan is regarded as one of the most corrupt institutions in the country. The vast majority of people that interacts with members of the judicial system encounters corruption. People regard the courts as a place where only wealthy and influential individuals can afford to pay for, and thereby obtain, fair trials. Average citizens often find themselves forced to resort to informal dispute resolution mechanisms (panchayat), rather than getting themselves involved with the official court system. The panchayat is meant to be used as a secondary institution in order to circumvent the costs and long delays in the courts. Particularly in family and land disputes, the panchayat is being utilised as a primary institution. Normally, it is only if the panchayat cannot settle the dispute that the case will be taken to a formal court." (Business Anti-Corruption Portal (2009) *Pakistan Country Profile: Judicial System*)

In a section titled "Denial of Fair Public Trial" the 2009 *US Department of State* country report on Pakistan states:

"Feudal landlords in Sindh and Punjab and tribal leaders in Pashtun and Baloch areas continued to hold local council meetings (known as panchayats or jirgas), at times in defiance of the established legal system. Such councils, particularly prevalent in rural areas, settled feuds and imposed tribal penalties on perceived wrongdoers, including fines, imprisonment, or even the death penalty. In Pashtun areas, such councils were held under the outlines of the Pashtun Tribal Code. Under the code, a man, his family, and his tribe are obligated to take revenge for wrongs real or perceived to redeem their honor. Frequently these disputes arose over women and land and often resulted in violence." (US Department of State (25 February 2009) *2008 Human Rights Report: Pakistan*)

In a section titled "Of deeds and misdeeds" a special report from the Pakistani newspaper *The News on Sunday* comments on the legal remedies available to a person involved in a land dispute as follows:

"Theoretically, a person who has been illegally dispossessed from his land has remedies both under the civil law and the criminal law. Under the civil law, the remedies available are provided under Sections 8 and 9 of the Specific Relief Act, 1877 and under the criminal law, the remedies are available under the Illegal Dispossession Act, 2005, and Chapter XII of the Criminal Procedure Code, 1898. 'Once a person is dispossessed illegally from his land, he shall first of all institute a criminal case against his physical dispossession under the Illegal Dispossession Act. The District and Sessions Court then has to decide on the matter of the physical dispossession but not the ownership of the said property. In case, which it usually is, the land grabbers have forged documents to show for the property in question, the matter of illegal dispossession goes into the backburner and the dispute has to be taken to the civil courts for a suite for declaration to decide who the rightful owner of the land is,' explains Barrister Asad Qayyum. According to Asad, determining the title of property takes quite long and once the court goes into recording the evidence it is difficult to resolve the matter in one lifetime. This, however, is not due to a lack of supporting law or

legislation, but because certain individuals are above the system. (The News on Sunday (8 April 2007) *Special Report*)

In a section titled “Case Delay and Access to Justice” a report from the *United States Agency for International Development* states:

“In commercial and land disputes, the uncertainty created by the legal posture is highly damaging to investment prospects and ordinary commercial dealings. It is reported that contracts generally are dishonored until enforced in court. Land disputes must go to court for resolution because of the absence of any land recording and registration system—this makes it necessary for every party to prove their right to land *ab initio* every time any question arises. Estimates of the huge impact of land cases ranged from 60 to 80 percent of court caseloads. These cases clog the courts because they are not easy to resolve speedily. While the courts proceed more expeditiously in resolving criminal and family cases, the presence of the land cases, which cannot be resolved elsewhere, occupy the great portion of the civil docket, leading lawyers to seek alternative means such as arbitration to resolve commercial and other large civil matters.” (United States Agency for International Development (USAID) (November 2008) *Pakistan Rule of Law Assessment – Final Report*, p.16)

In a paragraph titled “Private Property” a *Bertelsmann Stiftung* report states:

“Pakistan’s economy has always been based mainly on private property. In recent years, deregulation and the privatization of remaining state enterprises (banks, telecommunications, oil and gas) have contributed to economic growth. Private property is protected by law, and private companies are able to act freely. However, the acquisition of private property, as well as the awarding of contracts, is still affected by very high levels of corruption and nepotism. Initial reports indicate that this is likely to worsen further under the new government.” (Bertelsmann Stiftung (2009) *BTI 2010 Pakistan Country Report*, p.12)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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