

Agricultural tribes

In 2002 Muhammad Anwar took the District Commissioner of Faisalabad to court for allowing the sale of a piece of land to a person from a non-agricultural tribe (SCMR 422). The Supreme Court ruled that it was not the competent authority for questioning the decision of the land revenue department which was empowered on this matter by the Punjab Land Alienation Act of 1900. In another case in 2002, Peer Baksh disputed, also under the same act, the sale of land to one Nabi Baksh on the grounds that the latter was from a non-agricultural tribe (YLR 1624). The Lahore High Court decided since no evidence was provided of Nabi Baksh being from a non-agricultural tribe, the sale could not be barred.

In both cases the courts refrained from questioning or even commenting on the constitutionality of a law that empowers the government to divide the population into agricultural and non-agricultural tribes, and to bar sales of land from the former to the latter. Granted, that the merit of the law was not part of the plea of the petitioners who, in both these cases, happened to be individuals belonging to agricultural tribes and wanted the law applied in their favour.

But the superior judiciary routinely hears cases under this act and makes no observation about a law which perpetuates a caste-based hierarchy. As any informed observer of the Punjabi society knows, the social distance between the so-called agricultural tribes, and the 37 per cent of the province's population they called kammi and mussali, underpins the everyday practice of class rule. No-one is better informed than the representatives who populate the legislature, and they too forego any opportunity of repealing a law which was found in violation of the constitution and removed from the statutes in Indian Punjab in 1951.

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In 'What has been the most landmark court case in Pakistan?', Herald, March 2014