**COURTS**

Court is the second main agency of criminal justice system. When the police arrest an offender, they present them before the court with-in the prescribed time according to the law. The court proceeds the trial of the offender. Courts are formal institutions to resolve disputes and to test and enforce laws in a fair and rational manner. The courts are an impartial forum, and judges are free to apply the law without regard to the government's wishes or the weight of public opinion. When you see a judge or magistrate sitting in court, you are actually looking at the result of 1,000 years of legal evolution. However, the judiciary is still changing and evolving to meet the needs of our society, and despite its oddities it is widely regarded as one of the best and most independent in the world.

**Classification of courts in Pakistan**

The judiciary of Pakistan is a hierarchical system with two classes of courts: the superior (or higher) judiciary and the subordinate (or lower) judiciary. The Constitution of Pakistan entrusts the superior judiciary with the obligation to preserve, protect and defend the constitution. In Pakistan, the courts are classified as fallows;

**Supreme Court**

The Supreme Court is the apex Court of the land, exercising original, appellate and advisory jurisdiction. It is the Court of ultimate appeal and final arbiter of law and the Constitution. Its decisions are binding on all other courts. The Court exercises original jurisdiction in settling inter-governmental disputes, be that dispute between the Federal Government and a provincial government or among provincial governments. The Court also exercises original jurisdiction concurrently with High Courts for the enforcement of Fundamental Rights, where a question of 'public importance' is involved. The Court has appellate jurisdiction in civil and criminal matters. Furthermore, the Court has advisory jurisdiction in giving opinion to the Government on a question of law.

As compared to the practice elsewhere in the world, particularly the United States and United Kingdom, where fewer cases reach the apex court, the Supreme Court of Pakistan deals with cases, far beyond its capacity to handle. Its jurisdiction? original as well as appellate? is fairly wide. Besides entertaining civil and criminal appeals from the High Courts, the Court also hears appeals from the judgments against the Federal Shariat Court, Federal/provincial service tribunals and some special courts. The Court also entertains cases of violation of Fundamental Rights under its original jurisdiction i.e. Art 184(3). Therefore, there is always huge number of pending cases before the Court. As per latest data available, on 31st December 2013, a total of 20,480 cases were pending in the Supreme Court. Approximately, 14000 – 16000 cases (both petitions and appeals) are annually filed in the Court. The current backlog is about 2200 cases. In addition, thousands of applications/letters are annually received under Article 184(3) of the Constitution and processed by the Court. Obviously, the Court has a very heavy workload.

**Organizational structure of supreme court**

The Court consists of a Chief Justice and other judges, appointed by the President as per procedure laid down in the Constitution. An Act of Parliament has fixed the number of Judges at 17 i.e. Chief Justice and 16 judges. There is also a provision for appointment of acting judges as well as ad-hoc judges in the court. A person with 5 years’ experience as a Judge of a High Court or 15 years standing as an advocate of a High Court, is eligible to be appointed as judge of the Supreme Court.

To facilitate the litigant public and ensure prompt disposal of cases, the Court generally operates through benches, working at the Principal Seat and the 4 Branch Registries, one at each provincial metropolis. Such benches work, almost round the year. Whereas the constitution of Benches and their operation in various cities facilitate the public and ensures justice at the doorstep; the system does affect the quality of judgments and deprives the Court of collective wisdom, so very vital for the apex Court, dealing with important issues, involving the interpretation of law/Constitution.

**High Courts**

The High Court exercises original jurisdiction in the enforcement of Fundamental Rights and appellate jurisdiction in respect of judgments/orders of the Subordinate Courts in all civil and criminal matters. There is a High Court in each province and yet another High Court for the Islamabad Capital Territory. Appeals are also entertained against orders/judgments of Special Courts. The High Court supervises and controls all the courts subordinate to it. It appoints its own staff and frames rules of procedure for itself as well as courts subordinate to it.

**Organizational structure**

Each High Court consists of a Chief Justice and other puisne judges. The strength of Lahore High Court is fixed at 60, High Court of Sindh at 40, Peshawar High Court at 20, High Court of Baluchistan at 11 and Islamabad High Court at 7. Qualifications mentioned for the post of a judge are, 10 years’ experience as an advocate of a High Court or 10 years’ service as a civil servant, including 3 years’ experience as a District Judge or 10 years’ experience in a judicial office.

**Appointment procedure for judges**

For the appointment of judges of High Courts, in the past, the practice used to be that initially the Chief Justice of the concerned High Court would prepare a list of candidates which was submitted to the President, through the Governor of the province and the Chief Justice of Pakistan. The President made the final selection from the said list.

The procedure of appointment of judges in the High Courts has been changed after the 18th and 19th amendments. The judges of High Courts are appointed by the Judicial Commission and Parliamentary Committee. For appointment of judges of High Courts, the Judicial Commission comprise the Chief Justice of Pakistan, as Chairman with four senior most judges of the Supreme Court, one former Chief Justice or a retired judge of the Supreme Court, appointed by the Chairman, in consultation with the four member judges of Supreme Court, Attorney General for Pakistan, Federal Minister for Law & Justice, Chief Justice and most senior judge of the High Court to which appointment is being made, provincial Minister for Law and an Advocate, (of fifteen years standing), nominated by the respective provincial Bar Council, as members. For appointment of Chief Justice, the requirement of most senior judge of the High Court, as member of the Commission is excluded. Once the Judicial Commission approves a new name for appointment as judge of High Court, it goes to an 8-member Parliamentary Committee that has equal representation of the Government and the Opposition as well as of two houses i.e. National Assembly and Senate. This Committee has two weeks to review the recommendation. If the recommendation is approved, it goes to the Prime Minister who forwards the same to the President for appointment. The Parliamentary Committee, for reasons to be recorded, may not confirm the recommendation by three-fourth majority; in which instance, the decision is forwarded to the Judicial Commission through the Prime Minister, and the Commission is then required to send another nomination.

**Federal Shariat Court**

The Court may, on its own motion or through petition by a citizen or a government (Federal or provincial), may examine and determine as to whether or not, a certain provision of law is repugnant to the injunctions of Islam. If a certain provision of law is declared to be repugnant to the injunctions of Islam, the Government is required to take necessary steps to amend the law, so as to bring it in conformity with the injunctions of Islam. The Court also exercises appellate and revision jurisdiction over the criminal courts, deciding Hudood cases.

**Organizational structure**

The Federal Shariat Court consists of 8 Muslim judges including the Chief Justice. Of the 8 judges, 3 are required to be Ulema (Islamic scholars), who are well versed in Islamic law. The judges hold office for a period of 3 years and the President may further extend such period.

**Appointment procedure of judges**

Procedure for appointment of judges of Federal Shariat Court has been changed after 18th and 19th amendments as previously such judges were appointed by the President from amongst the serving or retired judges of the Supreme Court or a High Court or from amongst persons possessing the qualifications of a judge of the High Court. At present, the judges of Federal Shariat Court are also appointed through the Judicial Commission, which comprises the Chief Justice of Pakistan, as Chairman with four senior most Judges of the Supreme Court, one former Chief Justice or a retired judge of the Supreme Court, appointed by the Chairman, in consultation with the four member judges of the Supreme Court, Attorney General for Pakistan, the Federal Minister for Law and Justice, Chief Justice of Federal Shariat Court and most senior judge of the Federal Shariat Court, as members. For appointment of Chief Justice, however, the most senior judge of the Federal Shariat Court is excluded from the composition of the Commission. Once the Judicial Commission approves a new name for appointment as a judge of the Federal Shariat Court, it goes to an 8-member Parliamentary Committee that has equal representation of the Government and the Opposition as well as of two houses i.e. National Assembly and Senate. This Committee has two weeks to review the recommendation. If the recommendation is approved, it goes to the Prime Minister who forwards the same to the President for appointment. The Parliamentary Committee, for reasons to be recorded, may not confirm the recommendation by three-fourth majority, in which instance, the decision is forwarded to the Commission through the Prime Minister, and the Commission is required to send another nomination.

**Subordinate Courts**

The Subordinate Judiciary may be broadly divided into two classes; one, civil courts, established under the Civil Courts Ordinance 1962, and criminal courts, created under the Code of Criminal Procedure 1898. In addition, there also exist other courts and tribunals of civil and criminal nature, created under special laws. Their jurisdiction, powers and functions are specified in the statutes, creating them. The decisions and judgments of such special courts are assailable before the superior judiciary (High Court and/or Supreme Court) through revision or appeal.

The provincial governments fund the justice sector. The civil and criminal courts judges and their terms and conditions are regulated under the provincial rules. The High Court, however, exercises administrative control over such courts. The civil courts consist of District Judge, Additional District Judge, Senior Civil Judge and Civil Judge Class I, II & III. Similarly, the criminal courts comprise of Sessions Judge, Additional Sessions Judge and Judicial Magistrate Class I, II & III. Law fixes their pecuniary and territorial jurisdictions. Appeal against the decision of civil courts lies to the District Judge and to the High Court, if the value of the suit exceeds specified amount. Similarly, in keeping with the quantum of penalty, appeals against criminal courts lie to Sessions Judge or High Court.

**Special Courts and Administrative Tribunals**

The Constitution authorizes the Federal Legislature to establish special courts as well as administrative courts and tribunals for dealing with federal subjects. Consequently, several special courts/tribunals have been created which operate under the administrative control of the Federal Government. Most of these courts function under the Ministry of Law & Justice, however, certain courts also operate under other ministries/departments. Such courts/tribunals include: Special Courts (Control of Narcotics Substances), Banking Courts (Recovery of Loans), Special Courts (Offences in Banks), Special Courts (Customs, Taxation & Anti-smuggling), Income Tax Appellate Tribunal, Environmental Tribunal, Insurance Appellate Tribunal, Customs, Excise & Sales Tax Appellate Tribunal, Special Judges (Central), Drugs Courts, Anti-terrorism Courts, Accountability Courts. Similarly, the provincial governments have their own special courts/tribunals, established under statutes. Such provincial courts/tribunals include Labour Courts, Consumer Protection Courts, Anti–terrorism Courts and Anti-Corruption Courts. The judicial officers presiding over these courts are mostly appointed on deputation from the provincial judicial cadre.

Besides, there exist revenue courts, operating under the WP Land Revenue Act 1967. The revenue courts may be classified as the Board of Revenue, Commissioner, Collector, Assistant Collector of the First Grade and Second Grade. The provincial government that exercise administrative control over them, appoints such officers. The WP Land Revenue Act 1967 prescribes their powers and functions.

**Service Tribunals**

Under Article 212 of the Constitution, the government is authorized to set up administrative courts and tribunals for exercising exclusive jurisdiction in matters, relating to the terms and conditions of service of civil servants. Accordingly, service tribunal has been established at the Federal level. The provincial governments have established their own service tribunals. The members of these tribunals were previously appointed by the respective government. However, as the service tribunals, both Federal and provincial, perform judicial functions, the Supreme Court has directed the government to make appropriate legislation to ensure the independence and impartiality of such bodies and ensure their financial autonomy. Appeals against the decision of the Federal/provincial service tribunals lie to the Supreme Court.