**The Judicial System of Pakistan**

Law and order are essential components of any civilized society. A country cannot progress or function with the implementation of a proper judicial system. Country like Pakistan is deprived for such an effective and transparent judicial system that can punish the culprit irrespective of his power and authority and save the innocent. Unfortunately, legal system of Pakistan is highly biased and has many flaws that need to be corrected to restore the faith of common man.

**The Law of Pakistan**

The Law of Pakistan is based on the legal system of the Islamic Republic of Pakistan. The origin of Pakistani law is based upon the legal system of old British India; incorporating the common law of England and Wales. Amendments in the legal system of Pakistan came during the reign of General Muhammad Zia-ul-Haq, when elements of Islamic Shariah law were incorporated into Pakistani law. This led to the institution of a Federal Shariah Court (FSC). In Federally Administered Tribal Areas (FATA), a system of law employing traditional practices is persistent at the local level. At this level, disputes are settled by a Jirga, a council of tribal elders. Ministry of Law and Justice is an advisory service organization providing services to all the offices of Federal and Provincial Governments on legal, judicial and constitutional matters.

**The Judicial System of Pakistan**

The Judiciary of Pakistan is a hierarchical system with two classes of courts: the superior judiciary and the subordinate judiciary. The superior judiciary is composed of the Supreme Court of Pakistan, the Federal Shariah Court and five High Courts, with the Supreme Court at the apex. There is a High Court for each of the four provinces as well as a High Court for the Islamabad Capital Territory. The Constitution of Pakistan delegate the superior judiciary with the obligation to preserve, protect and defend the constitution. However, neither High court nor Supreme Court can practice jurisdiction to tribal areas except of the special case. The disputed regions of Azad Kashmir and Gilgit–Baltistan have separate court systems.

**Islam and the Legal System**

The legal system of Pakistan is based on English common law and Islamic law. Between 1947 and 1978, Islamic law was largely restricted to the sphere of personal status issues, such as marriage, inheritance and divorce. The Islamisation of the legal system began in earnest under General Zia ul Haq (1977-1988). Through a series of presidential decrees, Zia introduced far reaching changes in Pakistan’s criminal justice system, regulated by the Pakistan Penal Code of 1860 and the Code of Criminal Procedure (1898). He also created a parallel court system, consisting of Shariat courts, and amended the country’s anti-blasphemy laws. While most of the “Islamic” laws he instituted are still on the statute, and some were reinforced by conservative governments, Pakistan’s parliament has recently introduced legal changes aimed at improving the status of women in the private and public spheres.

**Division of Courts**

**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 therefore the final arbiter of law and the Constitution. Its decisions are binding on all other courts. 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 determined the number of judges. The number fixed at the moment is Chief Justice and 16 judges. There is also 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.

**High Courts**

There is a High Court in each province and a High Court for the Islamabad Capital Territory. Each High Court consists of a Chief Justice and other 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.

**District & Sessions Courts**

District courts exist in every district of each province, and have civil and criminal jurisdiction. In each District Headquarters, there are numerous Additional District & Session Judges who usually preside the courts.

District & Sessions Judge has executive and judicial power all over the district under his jurisdiction. The Sessions court is also a trial court for heinous offences such as Murder, Rape, Haraba offences (armed robbery where specific amount of gold and cash is involved), and is also appellate court for summary conviction offences and civil suits of lesser value.

Each Town and city now has a court of Additional District & Sessions judge, which possess the equal authority over, under its jurisdiction. When hearing criminal cases, it is called the Sessions Court, and when it hears civil cases, the District Court. Executive matters are brought before the relevant District & Sessions Judge.

• The High Court of each province has appellate jurisdiction over the lower courts.

• The Supreme Court has exclusive jurisdiction over disputes between and among provincial governments, and appellate jurisdiction over High Court decisions.

**Federal Shariyat Court**

The Court consists of 8 Muslim Judges including the Chief Justice .Procedure for appointment of judges of Federal Shariah 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, judges of Federal Shariat Court are also appointed through Judicial Commission which comprises Chief Justice of Pakistan as Chairperson, four senior most Judges of the Supreme Court, One former Chief Justice or a retired judge of the Supreme Court appointed by the Chairperson in consultation with the four member judges for a period of two years, the Attorney General for Pakistan, the Federal Law Minister, Chief Justice of Federal Shariat Court and most senior judge of the Federal Shariat Court.

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 the judge of the Federal Shariat Court, it goes to an Eight member Parliamentary Committee that has equal representation of the government and the opposition as well as of two houses. This Committee has two weeks to review the recommendation after which 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 sends another nomination.

**Special Tribunals and Boards**

There are numerous special tribunals such as;

• Banking Courts

• Custom Courts

• Drug Courts

• Federal Services Tribunal

• Provincial Services Tribunals (one for each province)

• Income Tax Tribunals

• Anti Corruption Courts

• Anti Terrorism Courts

• Labor Courts

• Labor Appellate Tribunal

• Environmental Courts

• Board of Revenue

• Special Magistrate courts

• Control of Narcotic Substances (Special Courts)

• Consumer Courts

**Family Courts**

The West Pakistan Family Courts Act 1964 governs the jurisdiction of Family Courts. These courts have exclusive jurisdiction over matters relating to personal status. Appeals from the Family Courts lie with the High Court, where the Family Court is presided by a District Judge, an Additional District Judge, or a person notified by the Government to be the rank and status of a District Judge or an Additional District Judge and to the District Court, in any other case.

Every town and city or Tehsil has court of family judge. In some areas, where it is only Family Court but in most areas Civil Judge Courts have been granted the powers of Family Court Judges. According to section 17 of the Family Court Act, 1964, the provisions of C.P.C. (Civil Procedure Code) and Qanun-e-Shahdat Order (Evidence Law) are not applicable over to Family Court and the same are allowed forming or regulating its own procedure to decide case expeditiously, properly and in the best interest and convenience of lady litigants.

**Juvenile Courts**

Section 4 of the JJSO authorizes the Provincial Government to establish one or more juvenile courts for any local area within its jurisdiction, in consultation with the Chief Justice of the high court. Ten years have passed, and not a single such court has been established; and instead the High Courts have been conferring status of the juvenile courts on the existing courts.

The High Court cannot be doing this on their own, and must be instructed by the provincial governments to do so. In this era of independent judiciary, the High Courts should stand up against the governments on this issue and refuse to confer powers on the already over-burdened courts and instead should insist upon establishing exclusive juvenile courts.

Section 6 of the JJSO prescribes special procedure for the juvenile courts which involves issues like not ordinarily taking up any other case on a day when the case of a child accused is fixed for evidence on such day; attendance of only specified persons in the court; and dispensing with the attendance of the child in the trial.