Evolution of Judicial System in Pakistan

Outlines

- Introduction
- Historical Retrospect
- Hindu Period
- Muslim Period
- British Period
- Post-Independence Evolution
- Superior Judiciary
    - i.Supreme Court

ii.High Courts

iii.Federal Shariat Court

- Subordinate Judiciary

iv.Civil & Criminal Courts

v.Revenue Courts

vi.Special Courts

vii.Service Tribunals

- Procedure
- Organisation of Subordinate Judiciary

Essay

The roots of the current judicial system of Pakistan stretch back to the medieval period and even before. The judicial system that we practise today has evolved over a long period of time, spanning roughly over a whole millennium. The system has passed through several epochs covering the Hindu era, Muslim period including the Mughal dynasty, British colonial period and post-independence period. Notwithstanding the successive changes i.e. one rule/dynasty substituted by the other, which naturally resulted in the socio-economic and political transformation of the Indian society, the judicial system generally maintained a steady growth and gradual advance towards consolidation and improvement/refinement, without indeed, having to undergo any major disruption or substantial change. All in all, the system experienced and passed through 3 distinct stages of historical development, namely, Hindu Kingdom, Muslim-rule and British colonial domination. The 4th and current era, commenced with the partition of India and the establishment of Pakistan as a sovereign and independent State. The system, thus, has evolved through a process of reform and development. This conclusion enjoys near unanimity among historians and commentators of Indian legal history. During this process of evolution and growth, the judicial system did receive influences and inspirations from foreign doctrines/notions and indigenous norms/practices, both in terms of organising courts' structure and hierarchy, and following procedures/practices in reaching decisions. Therefore, the present judicial system is not an entirely foreign transplant, as is commonly alleged, but has acquired an indigenous flavour and national colour. And whereas the system may not fully suit the genius of our people or meet the local conditions, it's continued application and practice has made it intelligible to the common man. The very fact that the people are making resort to the courts for the resolution of their conflicts/disputes indicates that the system enjoys a degree of legitimacy and acceptance.

The Hindu period roughly extends from 1500 BC until 1500 AD. Information on the judicial system during Hindu period has been somewhat sketchy, gathered mostly from scattered sources, such as ancient books like *Dharamshastra*, *Smiritis* and *Arthashastra*, and commentaries of the same by historians and jurists. These sources construct a well-defined system of administration of justice during the Hindu period. The King was regarded as the fountain of justice who also discharged judicial functions. In this task, judges as well as his ministers and counsellors assisted him. He was the final judicial authority and court of ultimate appeal. At the Capital, besides the King's Court, the Court of Chief Justice existed. This Court, in hierarchy, was next to the King's Court and appeal against its decisions lay to the King's Court. The judges were appointed on the basis of their qualifications and scholarship but the choice was mostly restricted to upper caste i.e. Brahmins.

At the village level, tribunals dispensed justice, consisting of the assembly of the village, or the caste or the family. The village Headman acted as Judge/Magistrate for the community. Decisions by such tribunals were usually through conciliation. The decisions of village/town courts/tribunals were appealable in the higher courts and final appeal lay before the King's Court. Besides, judgment by the courts, the system of arbitration was also invoked.

As regards the procedure followed in the courts/tribunals, no formal rules existed, as the law applicable was not statutory but customary and moral. The determination of truth and punishment of the wrong-doer was regarded as a religious duty. Civil proceedings commenced with the filing of a claim which was replied to by the opposite party. Both parties were allowed to produce witnesses so as to prove their respective claims. On the conclusion of the trial, decision was pronounced which was duly enforced. It appears thus, that the system of administration of justice, as it operated in ancient India, was not substantially different from what it is in the modern times. In a sense, the current system seems to be a continuation of the former practices and procedures.

The Muslim period in the Indian Sub-Continent roughly begins in the 11th century A.D. This period may be divided into two parts i.e. the period of early Muslim rulers who ruled Delhi and some other parts of India and the Mughal period, which replaced such Muslim and other rulers in 1526 A.D. The Mughal dynasty lasted until the middle of 19th century.

During the period of Muslim rulers, the Islamic law generally held the ground and remained the law of the land in settling civil and criminal disputes. However, common customs and traditions were also invoked in settling secular matters. These rulers were not particularly keen on applying the Islamic law to each and every sphere of life, and let the indigenous customs and institutions to continue side by side with Islamic

law and institutions. During this period, different courts were established and functioned at the central, provincial, district and tehsil (*pargana*) level. These courts had defined jurisdiction in civil, criminal and revenue matters and operated under the authority of the King. On the top of judicial hierarchy was the King's Court, presided over by the King himself, exercising original as well as appellate jurisdiction. The King was the head of judicial administration and he made all appointments to judicial posts. Persons of recognised scholarship, known competence and high integrity were appointed to such posts. The judges held office during the pleasure of the King.

The Mughal improved upon the previous experience and created an organised system of administration of justice all over the country. Courts were created at each and every unit of the administrative division. At the village level, the Hindu system of Panchayats (Council of Elders) was retained, which decided petty disputes of civil and criminal nature, using conciliation and mediation as means of settling disputes. At the town level, there existed courts, presided over by Qazi-e-Parganah. Similarly, at the district (Sarkar) and Provincial (Subah) level, courts of Qazis were established. The highest court at the provincial level was that of Adalat Nazim-e-Subah. Similarly, for revenue cases, officers known as Amin were appointed at the town level. At the district level, revenue cases were dealt with by Amalguzar and at the provincial level by Diwan. The Supreme Revenue Court was called, the Imperial Diwan. Side by side, with civil and revenue cases, criminal courts, presided over by Faujdar, Kotwal, Shiqdar and Subedar functioned. The highest court of the land was the Emperor's Court, exercising original and appellate jurisdiction.

Although these courts generally exercised exclusive jurisdiction in different categories of cases, however, sometime their jurisdiction was inter-mixed, in as much as, officers dealing with criminal cases were also required to act as revenue courts. Furthermore, whereas territorially these courts formed a concentric organisation, their jurisdiction was not always exclusive on the basis of territorial limits. Thus, a plaintiff may choose to file his suit in a town or a district or a province. The pecuniary jurisdiction of the courts was also not defined; hence, a case of higher value may be filed in a court of small town. Similarly, appellate jurisdiction existed but was not well defined. Thus, a plaintiff or a complainant, not satisfied with a decision, may file a second suit/complaint in another court. Such later court would decide the matter afresh, without indeed taking into consideration the earlier finding of the court.

The emperor made the judicial appointments and persons of high scholarship and good reputation were appointed to the posts. Instructions were given to the judges to be neutral and impartial; and complaints against them were taken seriously. Corrupt officials were removed. Consequently, the scales of justice were very high.

The procedure followed in civil cases was not much different from the procedure, which is applicable today. On a suit being filed, the court summoned the opposite party to admit or deny the claim. Issues were framed in the presence of both the parties who were then required to produce evidence in support of their respective claims. Simple cases were decided, based on such evidence, however, in complicated cases, the judge may launch his own investigation into the matter. Maximum effort was made to find the truth. On the conclusion of the proceedings, judgment was pronounced and duly executed. Litigants were allowed to present their cases either personally or through agents. Such agents were not exactly lawyers (in the modern sense of the term) but were fully conversant with the judicial procedure. An officer of the court called Mufti, attached to the court, made the interpretation of law.

The East India Company was authorised by the Charter of 1623 to decide the cases of its English employees. The Company, therefore, established its own courts. The President and Council of the Company decided all cases of civil or criminal nature. The subsequent charters further expanded such powers. Thus the Charter of 1661 authorised the Governor and Council to decide not only the cases of the Company employees but also of persons residing in the settlement. In deciding such cases, the Governor and the Council applied the English laws. As the character of the Company changed from one of a trading concern into a territorial power, newer and additional courts were established for deciding cases and settling disputes of its employees and subjects. The administration of justice was initially confined to the presidency town of Bombay, Calcutta and Madras. In view of the huge distances between these towns and the peculiar conditions prevailing there, the administration of justice, which developed in these towns, was not uniform. There were established two sets of courts, one for the Presidency tows and the other the mufussil. The principal courts for the town were known as the Supreme Courts and Recorders Courts. These courts consisted of English judges and applied English laws. The English people, residing in such towns alone, were subject to its jurisdiction. The native inhabitants, who were mostly living in the mufussil, were governed under separate courts called Sadar Dewani Adalat and Sadar Nizamat Adalat, dealing civil and criminal cases respectively. Such courts applied the local laws and regulations.

The Supreme Court of Calcutta was established under the Regulating Act 1773. The Court consisted of a Chief Justice and other Judges, exercising both civil and criminal jurisdiction. The Court could also issue certain prerogative writs. In 1798, Recorders Courts were established at Madras and Bombay with powers identical to the Supreme Court of Calcutta. Afterwards, the Recorders Court at Madras was substituted by the Supreme Court (under the Parliament Act 1800). A few years later, the Recorders Court at Bombay was also replaced by the Supreme Court (under the Parliament Act 1823). These new Courts

had indeed the same composition, jurisdiction and powers as exercised by the Supreme Court of Calcutta.

The High Court Act 1861 abolished the Supreme Courts as well as the Sadar Adalats and in their place constituted the High Court of Judicature for each Presidency-town. This Court consisted of a Chief Justice and such other number of Judges, not exceeding 15. The Act prescribed professional qualifications for such Judges together with the mode of their appointment. Thus, it was provided that 1/3rd of the Judges should be appointed from amongst the barristers with 5 years standing and 1/3rd from amongst the civil servants, having 3 years experience as a District Judge. The remaining 1/3rd seats were filled from amongst pleaders and members of subordinate judiciary, having 5 years experience. The Judges were appointed by the Crown and held office during his pleasure. The High Courts exercised original as well as appellate jurisdiction in civil and criminal matters and were also required to supervise the functioning of the subordinate courts in their respective domain. Besides the Presidency-towns, High Courts were also established in Allahabad in 1866, Patna in 1919, Lahore in 1919 and Rangoon in 1936. The Sind Chief Court was established under the Sind Courts Act 1926. Similarly, under the NWFP Courts Regulation 1931 and the British Baluchistan Courts Regulation 1939, the Court of Judicial Commissioner was created in each such area.

The Code of Civil Procedure 1908 created principal civil courts, namely, the Court of District Judge, the Court of Additional District Judge, the Court of Civil Judge and the Court of Munsif. Their territorial and pecuniary jurisdictions were also defined.

The Government of India Act 1935 retained the High Courts and also provided for the creation of a Federal Court. The Federal Court was established in 1937. Its Judges were appointed by the Crown and held office till completing the age of 65 years. The qualifications prescribed were, 5 years experience as a Judge of a High Court or 10 years experience as a barrister or 10 years experience as a pleader in a High Court. The Act further provided that the Judges of the Federal Court and High Courts should hold office during good health and behaviour, meaning they may not be removed except on the grounds of infirmity of mind or body or misbehaviour, only when on a reference made by the Crown, the Judicial Committee of Privy Council so recommends. The Federal Court exercised original, appellate and advisory jurisdiction.

On independence, the Government of India Act 1935 was retained as a provisional Constitution. As a consequence, the legal and judicial system of the British period continued, of course, with due adaptations and modifications, where necessary, to suit the requirements of the new Republic. This way, neither any vacuum occurred nor any break resulted in the continued operation of the legal system. The judicial structure remained the same. The Lahore High Court continued to function and so did the Sindh Chief Court and the Courts of Judicial

Commissioner in NWFP and Baluchistan. A new High Court was set up at Dacca. Similarly, a new Federal Court for Pakistan was also established. The powers, authority and jurisdiction of the Federal Court and High Courts, as prescribed in the Government of India Act 1935, remained intact. The Government of India Act 1935 was amended in 1954 with a view to empower the High Courts to issue the prerogative writs. The subsequent Constitutions i.e. 1956, 1962 and 1973 did not drastically alter the judicial structure or the powers and jurisdiction of the superior courts. The changes effected were, renaming the Federal Court as the Supreme Court by the 1956 Constitution and the upgradation of the Chief Court of NWFP and Judicial Commissioner Court of Baluchistan into full-fledged High Courts, by the 1973 Constitution. Later on, a new Court called, Federal Shariat Court was created in 1980 with jurisdiction to determine, suo moto or on petition by a citizen or the Federal or a provincial Government, as to whether or not a certain provision of law is repugnant to the injunctions of Islam.

The Constitution of Pakistan deals with the superior judiciary in a fairly comprehensive manner and contains elaborate provisions on the composition, jurisdiction, powers and functions of these courts. The Constitution provides for the "separation of judiciary from the executive" and the "independence of judiciary". It entrusts the superior courts with an obligation to "preserve, protect and defend" the Constitution. The qualifications of Judges, their mode of appointment, service conditions, salary, pension, etc are also laid down in the Constitution. The remuneration of judges and other administrative expenditures of the Supreme Court and High Courts are charged on the Federal/Provincial Consolidated Fund, which means it may be discussed but cannot be voted upon in the legislature.

The Constitution also provides for the grounds as well as forum and procedure for the removal of judges of the superior courts. The Supreme Judicial Council, consisting of the senior judges of the Supreme Court and High Courts, on a reference made by the President, may recommend the removal of a Judge on the ground of misconduct or physical or mental incapacity. Thus, the Constitution ensures the freedom, independence and impartiality of the superior judiciary.

The Supreme Court and High Courts have been given a degree of financial autonomy. This measure followed the Supreme Court ruling in the case of Government of *Sind v Sharaf Faridi*. The Court held that the independence of judiciary also means the elimination of financial control of the Executive over the judiciary, and therefore, the Chief Justice of the Supreme Court and High Courts should be authorised to make re-appropriation of funds within the budgetary allocation, without the approval of Finance Ministry. The Court went on to elaborate that the Chief Justices would thus be competent to re-appropriate amounts from one head to another and may also create or abolish posts and upgrade or downgrade the same.

This ruling came during the course of interpretation of Article 175(3) of the Constitution, which provides that "judiciary shall be separated progressively from the Executive with 14 years". The Court held that as per such constitutional mandate, the functions of magistracy should be bifurcated and the judicial magistrates must be placed under the administrative control of the High Court. This Court fixed the 23rd of March 1994 as the last date for carrying out this measure. In its order dated 24th January 1996 on the review petition, the Supreme Court extended the said date to 23rd March 1996 and reiterated that separation must be effected by the due date and added that no request for further extension in time will be entertained. Consequently, through appropriate amendments in law, judicial magistrates were placed at the disposal of High Courts. Later, the Supreme Court in the cases of *Al-Jehad Trust v Federation* and *Asad Ali v Federation* further interpreted various provisions in the Constitution and clarified the procedure and qualifications for appointment to the Supreme Court and High Court and appointment of the Chief Justices of the said courts.

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 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. An Act of Parliament has determined the number of judges. The number fixed at the moment is 17. 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. The standing practice is that the Chief Justice recommends a list of names to the President and the President selects Judges from the said list. The recommendation of the Chief Justice is binding on the President, except for sound reasons to be recorded by the President. Similarly, the most senior judge is appointed as the Chief Justice, except for concrete and valid reasons to be recorded by the President.

The Court exercises original jurisdiction in 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.

The Court appoints its own staff and determines their terms and conditions of service. The Supreme Court (Appointment of Officers and Servants and Terms of Service) Rules 1982 prescribe the qualification for and mode of appointment and promotion of staff together with penalties and procedure for disciplinary proceedings against them. The Court may also frame its own rules of procedure. The Supreme Court

Rules 1980 laid down detailed procedure for the filing of petition and appeals and their processing through the Court.

As compared to the practice elsewhere in the world, particularly the United States and Great Britain, where fewer cases reach the apex Court, the Supreme Court of Pakistan deals with cases far beyond its capacity to deal with. 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, Service Tribunals and some special courts. The Court also entertains cases of violation of Fundamental Rights under its original jurisdiction (Art 184(3)). Besides being deputed to act as special court/tribunal, the judges are also engaged as members of enquiry commissions. As a consequence, there is always a huge workload to dispose of. It raises the question as to whether the Court can devote adequate time and serious attention to important cases, involving the interpretation of law and the Constitution, ensure their timely disposal through sound reasoning and quality judgment, as is expected of an apex Court. There is a need, thus, to ponder whether or not the jurisdiction of the Court should be restricted to important and serious cases.

There is no system of adequate research assistance being made available to the Court so as to facilitate the judges in their research assignments concerning the clarification/elaboration of a legal provision or interpretation of the Constitution. Such a measure will undoubtedly help in improving the quality of judgment and facilitate in correct interpretation of law.

To facilitate the litigant public and ensure prompt disposal of cases, the Court, except in very important cases, generally operates through benches. Besides its permanent seat at Islamabad, benches have been constituted, and are functional, almost round the year, at Karachi and Lahore. Special benches are also constituted periodically for the provincial headquarters of Peshawar and Quetta. Whereas the division of Court into benches and their operation in various cities, facilitates the public and ensures prompt disposal of cases, this 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 and principles. There is, therefore, perhaps a need to re-examine the wisdom of bench system.

There is a High Court in each province. Each High Court consists of a Chief Justice and puisne judges. The Chief Justice is appointed by the President in consultation with the Chief Justice of Pakistan and other judges, in consultation with the Chief Justice of Pakistan, Governor of the Province and the Chief Justice of the concerned High Court. 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. The standing practice for the appointment of Judges of High Courts is that initially the Chief Justice of the concerned High Court prepares a list of candidates which is submitted to the President through the Governor of the province and Chief Justice of Pakistan. The President finally selects Judges from the said list. The recommendation of the Chief Justice of Pakistan and Chief Justice of the High Court is binding on the President, except for sound reasons to the contrary. The most senior judge would have legitimate expectancy of being appointed as the Chief Justice except for concrete and valid reasons, to be recorded by the President.

The Court exercises original jurisdiction in the enforcement of Fundamental Rights and appellate jurisdiction in judgments/orders of the subordinate courts in civil and criminal matters. A large number of cases are pending in various High Courts.

The 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.

An extremely controversial provision in the Constitution has been the transfer of a judge from one High Court to another without his consent or consultation with the Chief Justice of Pakistan or Chief Justices of the concerned High Courts. The original 1973 Constitution made such a transfer subject to such consent as well as consultation. A proviso added by the Constitution (Fifth Amendment) Act 1976 empowered the President to order such transfer for a period not exceeding one year, and the President Order No. 14 of 1985 extended such period from one to two years. Similarly, Article 203-C(4) of the Constitution, added by the Constitution (Amendment) Order 1980, also provides that a judge of a High Court may be transferred to act, for upto two years, as a judge of the Federal Shariat Court, and in the event of refusal, shall be deemed to have retired from the service. Ever since such amendments, the transfer provisions have been the subject of intense criticism, and rightly so, as the provisions have seldom been used in public interest. The provisions have often been misused or abused for pressurising the judges so as to obtain from them favourable opinions/judgments or punish them for their upright behaviour. The Supreme Court in the case of *Al-Jehad Trust v Federation* examined this provision as well in the light of other provisions pertaining to the independence of the judiciary and concluded that no judge may be transferred to the Federal Shariat Court and further that transfer to another High Court is permissible only in public interest.

The Court consists of 8 Muslim Judges including the Chief Justice. Such Judges are 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. Of the 8 Judges, 3 are required to be Ulema 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.

The Court, on its own motion or thrcugh 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. Appeal against its decisions lie to the Shariat Appellate Bench of the Supreme Court, consisting of 3 Muslim Judges of the Supreme Court and 2 Ulema, appointed by the President. 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 exercise revisional jurisdiction over the criminal courts, deciding Hudood cases. The decisions of the Court are binding on the High Courts as well as subordinate judiciary. The Court appoints its own staff and frames its own rules of procedure.

The subordinate judiciary may be broadly divided into two classes; one, civil courts, established under the West Pakistan Civil Court Ordinance 1962 and two, criminal courts, created under the Criminal Procedure Code 1898. In addition, there also exist other courts and tribunals of civil and criminal nature, created under special laws and enactments. 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 civil courts may be classified as follows:

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

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

The Constitution authorises the federal legislature to establish 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 the Special Banking Court, Special Court Custom, Taxation and Anti-corruption, Income Tax (Appellate) Tribunal, Insurance Appellate Tribunal, etc etc. The juridical officers operating in these courts are appointed on deputation from the provincial judicial cadre.

Under Article 212 of the Constitution, the Government is authorised to set up administrative courts and tribunals for exercising jurisdiction in matters, inter alia, relating to the terms and conditions of service of civil servants. Accordingly, service tribunals, both at the centre and provincial level have been established and are functional. The members of these tribunals are appointed by the respective Government. Appeal against the decision of the Provincial Service Tribunal and the Federal Service Tribunals lie to the Supreme Court.

As mentioned earlier the High Courts exercise supervision and control over the functioning of the subordinate judiciary. Such supervision and control is both administrative as well as judicial. In the administrative sphere disciplinary proceedings may be initiated against a judicial officer by the High Court. Judicial control is also exercised through revision and appeals being filed in the High Court against the orders/decisions of the subordinate courts. The High Court carries out its supervisory functions through inspections and calling of record of record from the courts. The Member Inspection Team (MIT) mostly deals with the issue; however, the Chief Justice of the High Court or any other judge deputed by the Chief Justice also carries out regular as well as surprise inspections. The Chief Justice is competent to initiate disciplinary action against a judge and take appropriate action in the matter.

The subordinate judiciary in almost all the provinces operates under severe constraints. There exists chronic shortage of judicial officers, their supporting staff and equipment. The strength of subordinate judiciary has not kept pace with the rise in litigation due to which huge arrears of cases are piling up and there are enormous delays in deciding cases. As against the recommendations of several commissions and committees that the number of cases pending with a civil judge should not be more than 500 and the number of units pending with a District & Sessions Judge should not be more than 450 at a time, in actual practice the number of cases and units is far in excess of this prescribed limit. This number is gradually increasing due to the separation, as all criminal cases have been transferred to court of civil judges cum judicial courts. There is a backlog of civil and criminal cases at the level of subordinate judiciary in all provinces.

This phenomenon is caused partly because of the inadequate budgetary allocation towards the judiciary. Unfortunately the administration of justice, so far has been regarded merely as a welfare

service to the community rather than a social responsibility. As a result, the judiciary is suffering from the problem of under-staffing (both judicial and ministerial), lack of courtrooms, lack of equipment, lack of residential accommodation and lack of library material, etc. Obviously these and other problems shall have to be addressed and resolved if the administration of justice is to improve and become efficient. Needless to say, a sound and effective judicial system is a sine qua non for keeping peace in the society and maintaining growth and developed.