



# SUPREME COURT OF PAKISTAN



ANNUAL REPORT 2004





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**Chief Justice of Pakistan**

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# 1 FOREWORD



(In the name of Allah, Most Beneficent, Most Merciful)

It is my pleasure to present to the nation the Annual Report of Supreme Court of Pakistan for the year 2004. To serve the nation as Chief Justice of Pakistan is a great honour for me. Supreme Court of Pakistan being a Constitutional Court is the custodian of the Constitution of Islamic Republic of Pakistan but it is also custodian of independence of Judiciary and rights of the people of Pakistan. In protecting the independence of judiciary and rights of the people of Pakistan the role of Chief Justice of Pakistan is very vital. The independence of judiciary demands that judicial decisions in the courts shall be made without any political and executive influences and pressures. During my tenure as Chief justice of Pakistan, myself and my brother judges in the Supreme Court have endeavored our best to remain impartial in making decisions between executive of the country and citizens of Pakistan. To remain impartial is not an easy task. The people at bench are not from different planet. The vast majority of superior Court's judges is appointed from the members of legal profession. It is not very difficult to know that how much integrity of character or independence of judgment is possessed and practiced by an average member of the legal profession.

“Justice delayed justice denied” is a well known maxim in the business of administration of justice. For providing quick justice to the people of Pakistan, our focus remained in the year 2004, in clearing huge backlog of cases pending in the Supreme Court of Pakistan. For this purpose we constituted as many benches as we could at Principal Seat of the Court at Islamabad and at four branch registries of the Court Karachi, Lahore, Peshawar and Quetta. Even during the vacations at least one Bench of the Court remained functioning at each Registry. In the year 2004, Supreme Court of Pakistan disposed of 9938 cases, while in this period a record number of 17521 fresh cases were instituted. The cause for such influx may be attributed to much number of cases decided in the lower forums.

In the year 2004, the Court continued to accord importance to cases of national importance. A section of this report is devoted to some of the important cases decided by the Court during the year 2004. In my opinion this Annual report 2004 may serve as a source for viewing the Court activity and its performance during the year 2004.

I thank my learned brother judges for contributing their best under demanding circumstances and I would also like to appreciate the Officers of the Court and other Staff members for their efficient working and cooperation toward effective performance of the Court. This report has been prepared under the able guidance of Mr. Justice Sardar Muhammad Raza Khan, Judge Supreme Court of Pakistan. I would like to extend my thanks to the honorable judge for his valuable contribution.

(Nazim Hussain Siddiqui)  
Chief Justice Of Pakistan



# **SUPREME COURT OF PAKISTAN**



## **2 THE SUPREME COURT OF PAKISTAN**

### **2.1 Introduction**

#### **2.1.1 The Supreme Court of Pakistan**

The Supreme Court is the court of ultimate jurisdiction in the land. It is the final arbiter of the law and the Constitution. Its orders/decisions are binding on all other courts in the country. All executive and judicial authorities are bound to act in aid of the Supreme Court.

Establishing a system of trichotomy of power, the Constitution assigns the Supreme Court a unique responsibility of maintaining harmony and balance between the three pillars of the State; namely, the legislature, the executive and the judiciary. The purpose is to ensure that the state organs perform their respective functions under the stipulated limits and constraints. As guardian of the Constitution, the Court is required to preserve, protect and defend this document. Its multiple roles include resolving conflicts and disputes, be they among governments (Federal/provincial) or between government and individual or individuals inter se. The Court is also a custodian and upholder of citizens' rights, liberties and freedoms. Seen in this context, the Court indeed occupies a pivotal status and a crucial position in constitutional dispensation facilitating the unification and integration of the nation, its regions, institutions and communities.

The Supreme Court of Pakistan includes the Chief Justice and 16 Judges. The permanent seat is at Islamabad, but the Court also sits, from time to time, at the provincial headquarters; namely, Lahore, Karachi, Peshawar and Quetta. The Constitution stipulates the qualifications of Judges of the Supreme Court. Such qualifications are: to be a citizen of Pakistan and having 5 years experience as Judge of a High Court or 15 years experience as a practicing advocate of a High Court.

The Chief Justice of Pakistan is appointed by the President and the other Judges are also appointed by the President, but after consultation with the Chief Justice of Pakistan. The most senior Judge, in the absence of solid and strong reasons, to be recorded by the President, is appointed as the Chief Justice of Pakistan. As regards the other Judges, the recommendations of the Chief Justice, except for "sound reasons", to be recorded by the President, are binding on the President. A Judge holds office until attaining the age of 65 years, unless he resigns earlier or is removed from office, in accordance with the Constitution.

No Judge may be removed from office except on grounds specified by the Constitution; namely, "physical or mental incapacity", or "misconduct", to be determined by the Supreme Judicial Council. The Supreme Judicial Council includes the Chief Justice of Pakistan, 2 most senior Judges of the Supreme Court and 2 most senior Chief Justices of High Courts. On a reference received from the President, or on its own motion, the Supreme Judicial Council investigates the matter and presents its findings to the President. If the Council decides that the Judge is incapable of performing the duties of office, or is guilty of misconduct, and therefore should be removed from office, the President may order the removal of such judge. A judge may not be removed from service except on the specified grounds and subject to the prescribed procedure.

The Supreme Court exercises original, appellate and review jurisdiction. It possesses exclusive original jurisdiction for settlement of inter-governmental (federal/provincial) disputes. Under this jurisdiction, the Court pronounces declaratory judgments. The Supreme Court can



also exercise original jurisdiction, with respect to the enforcement of fundamental rights, if the case involves a question of public importance. The Court also exercises advisory jurisdiction under which the President may obtain its opinion on a question of law. Under its appellate jurisdiction, the Court entertains appeals against orders and decisions of High Courts and other special tribunals and courts. The Constitution also provides for the “independence of judiciary” and its “separation from the executive.” Consequently, there prevails in the country, full institutional and decisional judicial independence. The Supreme Court and High Courts also possess a degree of financial autonomy in as much as the concerned Chief justice is authorized to re-appropriate funds within the budgetary allocation. These superior courts are also empowered to make their own rules of practice/procedure, hire/fire their staff and determine their terms and conditions of service.

Under the rules, the Chief Justice, as the head of the Institution, may nominate Judges for hearing cases and exercise other administrative powers and functions. The Court, with the approval of the President, may also make rules providing for appointment of its staff and determining their terms and conditions of service. Such rules empower the Chief Justice to exercise the same powers, in respect of officers and servants of the Court, as the President may exercise in respect of the Federal Government employees.

### **2.1.2 Construction of Phase II of Supreme Court Building at Islamabad**

The Capital Development Authority has been asked to start work on phase II of the Supreme Court Building at Islamabad. The work was scheduled to be started in the middle of year 2004 but due to paucity of funds could not. Now the work is likely to start in the year 2005. It shall provide additional accommodation to the Supreme Court Bar, Attorney General for Pakistan and Law and Justice Commission of Pakistan. The project will be completed in two years time from the date of start of work.

### **2.1.3 Automation Plan**

Work on automation of various branches of the Court is in progress. Display boards showing the status of cases being heard in the Court Rooms have been installed and are successfully operating in the following places:

- a) Outside each Court Room.
- b) Public Entrance Hall.
- c) Bar Room.
- d) Bar’s Library.
- e) The information is also visible on the computer network in the Court Building.

Work on redevelopment of the existing Case Flow Management System is in progress so that the information about case proceedings in particular courtrooms may be made available on the web site. In that event, the people sitting at Karachi, Lahore, or Peshawar will be able to observe the progress of the cases in Court Rooms. The cases fixed in the proposed and final cause lists are now generated electronically to facilitate the Advocates-on-Record concerned to have a list of their own cases. New case entries are being made at the filing station and all

Judicial Branches are exclusively updating their respective cases on their own desks. Full query of case tracking is available to all the officers. The automation of data on Advocates and Advocates-on-Record of Supreme Court has been made and data processing is in progress. Automation of Administration Sections' records for officers/employees of the Court has been updated, implemented and data processing is in progress. Automation of Accounts Section is in progress.

## **2.2 Jurisdiction of the Court**

The Supreme Court has jurisdiction to decide matters in its original, appellate, review and advisory jurisdictions.

### **2.2.1 Original Jurisdiction**

1. The Supreme Court has exclusive original jurisdiction in any dispute between any two or more Governments, where "Governments" means the Federal Government and the Provincial Governments.
2. In the exercise of this jurisdiction, the Supreme Court pronounces declaratory judgments.
3. Where the Supreme Court considers that a question of public importance, with reference to the enforcement of any of the Fundamental Rights conferred by Chapter 1 of Part II of the Constitution, is involved, it has the power to make an order of the nature mentioned in Article 199 of the Constitution of Pakistan.

### **2.2.2 Appellate Jurisdiction**

1. Subject to Article 185, the Supreme Court shall have jurisdiction to hear and determine appeals from judgments, decrees, final orders or sentences of a High Court.
2. An appeal shall lie to the Supreme Court from any judgment, decree, final order or sentence of a High Court—
  - (a) if the High Court has on appeal reversed an order of acquittal of an accused person and sentenced him to death or to transportation for life or imprisonment for life; or, on revision, has enhanced a sentence to a sentence as aforesaid; or
  - (b) if the High Court has withdrawn for trial before itself any case from any court subordinate to it and has in such trial convicted the accused person and sentenced him as aforesaid; or
  - (c) if the High Court has imposed any punishment on any person for contempt of the High Court; or
  - (d) if the amount or value of the subject-matter of the dispute in the court of first instance was, and also in dispute in appeal is, not less than fifty thousand rupees or such other

sum as may be specified in that behalf by Act of [Majlis-e-Shoora (Parliament)] and the judgment, decree or final order appealed from has varied or set aside the judgment, decree or final order of the court immediately below; or

- (e) if the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value and the judgment, decree or final order appealed from has varied or set aside the judgment, decree or final order of the court immediately below; or
- (f) if the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution.

3. An appeal to the Supreme Court from a judgment, decree, order or sentence of a High Court in a case to which clause (2) does not apply shall lie only if the Supreme Court grants leave to appeal (Art. 185). Under Article 212 (3): An appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court, being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal.

### **2.2.3 Advisory Jurisdiction**

1. If, at any time, the President considers that it is desirable to obtain the opinion of the Supreme Court on any question of law, which he considers of public importance, he may refer the question to the Supreme Court for consideration.
2. The Supreme Court shall consider a question so referred and report its opinion on the question to the President (Art. 186).

### **2.2.4 Review Jurisdiction**

The Supreme Court shall have power, subject to the provision of any Act of [Majlis-e-Shoora (Parliament)] and of any rules made by the Supreme Court, to review any judgment pronounced or any order made by it (Art. 188).

### **2.2.5 Appellate Jurisdiction against Judgments of Federal Shariat Court**

Article 203-F of the Constitution confers on the Supreme Court, appellate jurisdiction against final decisions of the Federal Shariat Court under Article 203-D, i.e., determining whether or not any law or provision of law is repugnant to the injunctions of Islam. Such Appeal is heard by the Shariat Appellant Bench of the Supreme Court consisting of three Muslim Judges of the Supreme Court and not more than two Ulema appointed by the President to attend sittings of the Bench as ad hoc Members.



### **2.2.6 Power to Transfer Cases**

The Supreme Court may, if it considers it expedient to do so in the interest of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court (Art. 186A).

### **2.2.7 Decision of the Supreme Court binding on other Courts**

Any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan (Art. 189).

### **2.2.8 Issue and Execution of Process of the Supreme Court**

Subject to clause (2) of Article 175, the Supreme Court has the power to issue directions, orders or decrees for doing complete justice in any case or matter pending before it, including an order for securing the attendance of any person or the discovery or production of any document. Any such direction, order or decree is enforceable throughout Pakistan, and if a question arises as to which High Court shall give effect to a direction, order or decree of the Supreme Court, the decision of the Supreme Court on the question is final (Art. 187).

### **2.2.9 Rule Making Powers**

Article 191 says that subject to the Constitution and law, the Supreme Court may make rules regulating the practice and procedure of the Court. Accordingly, the Supreme Court Rules, 1980 have been framed.

## **2.3 Role and Functions of the Chief Justice**

The Chief Justice of Pakistan is appointed by the President under Article 177 of the Constitution. He provides leadership to the Court. Among other functions and responsibilities, the Chief Justice of Pakistan:

- *Is consulted* by the President for appointment of Judges of the Supreme Court as well as Chief Justices and Judges of High Courts. In the absence of sound reasons to the contrary, to be recorded by the President/Chief Executive, his opinion as to the fitness of a person for judgeship is accepted.
- *Appoints:*
  - with the approval of the President, ad hoc Judges of the Supreme Court from among the retired Judges of the Supreme Court, who retired less than three years prior to such ad hoc appointment; and
  - with the approval of the President and consent of the Chief Justice of the High Court concerned, ad hoc Judges of the Supreme Court from among the serving Judges of the High Courts who are qualified for appointment as Judges of the Supreme Court.

- Federal Review Board consisting of a Chairman and two other persons, each of whom is or has been a judge of the Supreme Court or a High Court, for reviewing orders made under a law providing for preventive detention.
- an arbitrator to determine any question arising as to whether any conditions imposed on any Provincial Government are lawfully imposed, or whether any refusal by the Federal Government to entrust functions is unreasonable with respect to broadcasting and telecasting.

• *Administers oath:*

- to the President of Pakistan;
- to the Auditor General of Pakistan;
- to the Judges of the Supreme Court; and
- to the Chief Election Commissioner.

• *Nominates:*

- a Judge of the Supreme Court to act as Chief Election Commissioner, during the absence of the Chief Election Commissioner; and
- Judges of the Supreme Court to various bodies of the Bar, e.g., Disciplinary Committees and Syndicates/Governing Bodies of universities.

• *Is ex-officio Chairman of:*

- Law and Justice Commission of Pakistan;
- National Judicial (Policy Making) Committee;
- Governing Body, Access to Justice Development Fund;
- the Supreme Judicial Council;
- the Federal Judicial Academy; and
- Al-Mizan Foundation.

• *Exercises:*

- administrative powers to appoint/remove officers/staff of the Court and upgrade/downgrade posts.

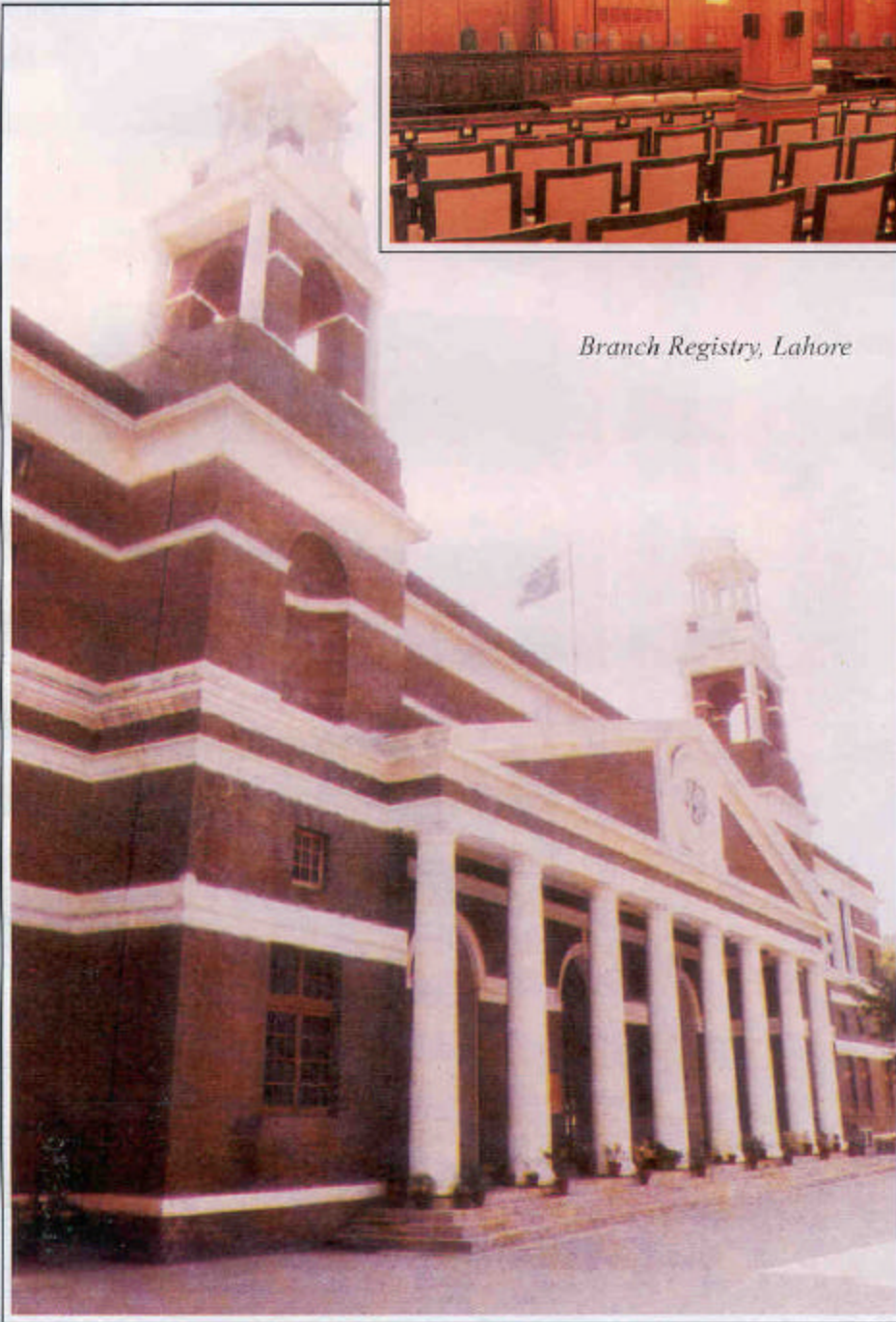
- financial powers to sanction expenditure and re-appropriate funds within the budgetary allocation of the Court.
- *Prepares* the Court Roster and constitutes benches of the Court to hear cases.
- *Heads benches* constituted for hearing of important cases.
- *Presides over* Full Court Meetings and leads in taking important policy decisions.
- *Supervises and directs* the Court administration and acts as intermediary between the Court and the judicial system.
- *Initiates* internal Court operation policies.
- *Supervises* case-flow management.
- *Assigns Judges* to specialized work and responsibilities to assist and aid the Chief Justice in formulating policies of court management.
- *Deals with* cases of leave of the Judges.
- *Prescribes* working hours of the Court and business in chambers and Court holidays.
- *Conducts* judicial conferences and studies to plan for improvement of the system of administration of justice.
- *Oversees* pre-service and in-service training courses of the judges of the subordinate courts in the Federal Judicial Academy.



*A view of  
Court No. 1.  
Lahore  
Registry.*



*Branch Registry, Lahore*



Branch Registry, Karachi







**BRANCH REGISTRY PESHAWAR**



A VIEW OF COURT NO. 1 PESHAWAR BRANCH REGISTRY





## 2.4 Seat of the Court and Branch Registries

The Constitution of Pakistan provides that the Principal Seat of the Court shall be at Islamabad and the Court may, from time to time, sit in such other places as the Chief Justice of Pakistan, with the approval of the President, may appoint (Art.183). Today, the Court with its Principal Seat at Islamabad, has Branch Registries at all the four provincial headquarters. The Branch Registries at Lahore, Karachi, Peshawar and Quetta have been established for the convenience of the public and for providing justice at the doorstep.

The Main Registry of the Court remained at Lahore in a borrowed wing of the Lahore High Court for a period extending a little over 25 years, from October, 1949 to November, 1974, after which the Main Registry was moved to Rawalpindi. At Rawalpindi, the Main Registry was housed in what was then called “East Pakistan House”. The Main Registry was moved to the Supreme Court Building at Islamabad in 1993.

### 2.4.1 The Principal Seat

At the Principal Seat, Islamabad, the following matters are dealt with:

#### Original Jurisdiction

1. Constitution Petitions under Article 184(3) of the Constitution for enforcement of Fundamental Rights.
2. Constitution Petitions under Article 186(A).

#### Appellate Jurisdiction

1. Civil and criminal petitions under Article 185(3) of the Constitution.

2. Civil and criminal appeals under Article 185(2) (d)(e) and (f) of the Constitution, against the judgments and orders of:
  - (a) All the High Courts;
  - (b) The Rawalpindi Bench, Lahore High Court.
3. Appeals and petitions under Article 203 (F) of the Constitution arising out of judgments of the Federal Shariat Court of Pakistan.
4. Civil petitions for leave to appeal under Article 212(3) of the constitution arising out the judgments of the Federal Service Tribunal as well as all the Provincial Service Tribunals.

### 2.4.2 The Branch Registry Lahore

When the Main Registry was moved to Rawalpindi in 1974, a Branch Registry was established at Lahore in a borrowed wing of the Lahore High Court. Later, the Old State Bank Building located at Nabha Road was acquired and renovated to house the Branch Registry. The new building has three courtrooms, Chief Justice Chamber, six other Chambers, library, conference room, Bar room and Registry Offices. A Rest House for lodging Judges during Court sessions has also been acquired, which is situated on 12-C, Aikman Road, GOR-I, Lahore.

All petitions instituted in the Branch Registry are heard at Lahore, subject to any special order by the Court. Petitions, appeals and miscellaneous applications are instituted in the Branch Registry arising out of judgments and decisions of:—

1. Lahore High Court excluding those of the Rawalpindi bench;
2. The Federal Shariat Court, Lahore;
3. The Federal Services Tribunal, Lahore;
4. The Punjab Services Tribunal.

All appeals by leave of the Court, or direct appeals, presented in the Registry, are transferred to the Main Registry for registration, printing of record and hearing.

### **2.4.3 The Branch Registry at Karachi**

This Registry was established on 14<sup>th</sup> October 1957 in a borrowed wing of the High Court of Sindh. The Registry remained housed, for some time, in Karachi Development Authority (KDA) Rest House, Stadium Road opposite PTV Centre and later the old State Bank building situated at M.R. Kayani Road, was acquired and renovated to house the Registry. The Registry shifted to its new building has 2 courtrooms, Chief Justice Chamber and 5 other Chambers, besides a library, conference room, Bar room and Registry Offices. Rest House for lodging Judges during Court sessions has also been acquired, which is situated in Bath Island, Clifton, Karachi.

All petitions instituted in the branch registry are heard at Karachi, subject to any special order by the Court. All petitions in which leave to appeal is granted are transferred to the Main Registry for registration as appeal. Similarly, direct appeals filed in the Registry are also forwarded to the Main Registry. The work done in the Branch Registry is as follows: -

Petitions, appeals and miscellaneous application are instituted in the Branch Registry arising out of judgments and decisions of:

1. Sindh High Court;

2. Federal Shariat Court, Karachi;
3. Federal Service Tribunal, Karachi; and
4. Sindh Service Tribunal.

As a special case, it has been provided that the cases which may be instituted and heard at the Branch Registry at Quetta may also be instituted and heard at the Branch Registry at Karachi due to the shortage of Advocates-on-Record at Quetta.

### **2.4.4 The Branch Registry at Peshawar**

The Registry at Peshawar was established on 28<sup>th</sup> October 1960 in a borrowed wing of the Peshawar High Court. With the passage of time it was felt that there should be an independent and self-sufficient Court building for the Peshawar Branch Registry at Peshawar. To fulfill this need it was decided to construct a suitable building for the branch registry at the site of Old Radio Pakistan Building located on Khyber Road. The foundation stone of the building was laid on 17<sup>th</sup>, November 2001. The building was completed in February, 2004 and branch registry was shifted to the new building on 11<sup>th</sup> September 2004. This new building contains 2 Court rooms; 6 judges chamber; one library room; one Conference room; one Bar Room; 8 staff rooms; a servant block and one mosque for prayer. A rest house for lodging judges during court sessions at Peshawar has also been acquired.

All petitions instituted at the Branch Registry are heard at Peshawar, subject to any special order by the Court. All appeals, by leave of the Court, are transferred to the main Registry for registration, printing of record and hearing.

The following work is undertaken at the Branch Registry.

Petitions, appeals and miscellaneous applications are instituted at the Branch Registry when they arise out of judgments and decisions of:

1. Peshawar High Court;
2. Federal Shariat Court, Peshawar;
3. Federal Services Tribunal, Peshawar; and
4. N.W.F.P Service Tribunal.

#### **2.4.5 The Branch Registry at Quetta**

The Registry was established on 19<sup>th</sup> November 1978 in a borrowed wing of the High Court of Balochistan, and is still functioning there. Efforts are, however, being made to acquire a permanent site for the Registry. A Rest House for lodging Judges during Court sessions has also been acquired, which is situated on Shakra-i-Zarghoon, Quetta.

All petitions instituted in the Branch Registry are heard at Quetta, subject to any special order. All petitions in which leave to appeal is granted are transferred to the Main Registry for registration as appeals. The work done in the Branch Registry at Quetta is as follows: -

Petitions, appeals and miscellaneous applications are instituted in the Branch Registry arising out of judgments and decisions of:

1. Balochistan High Court;
2. Federal Shariat Court, Quetta;
3. Federal Service Tribunal, Quetta; and
4. Balochistan Service Tribunal.

## 2.5 Supreme Court Composition 2004

### 2.5.1 The Chief Justice

Mr. Justice Nazim Hussain Siddiqui	Appointed on 31.12.2003
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### 2.5.2 The Judges of the Court

Mr. Justice Iftikhar Muhammad Chaudhry	Appointment on 04.02.2000
Mr. Justice Rana Bhagwandas	Appointment on 04.02.2000
Mr. Justice Mian Muhammad Ajmal	Retired on 14.08.2004
Mr. Justice Syed Deedar Hussain Shah	Retired on 10.12.2004
Mr. Justice Javed Iqbal	Appointed on 28.04.2000
Mr. Justice Hamid Ali Mirza	Appointed on 28.04.2000
Mr. Justice Abdul Hameed Dogar	Appointed on 28.04.2000
Mr. Justice Tanvir Ahmed Khan	Retired on 16.01.2004
Mr. Justice Sardar Muhammad Raza Khan	Appointed on 10.01.2002
Mr. Justice Khalil-ur-Rehman Ramday	Appointed on 10.01.2002
Mr. Justice Muhammad Nawaz Abbasi	Appointed on 10.01.2002
Mr. Justice Faqir Muhammad Khokhar	Appointed on 10.01.2002
Mr. Justice Falak Sher	Appointed on 06.09.2002
Mr. Justice Mian Shakirullah Jan	Appointed on 31.07.2004
Mr. Justice M. Javed Buttar	Appointed on 31.07.2004
Mr. Justice Tassadduq Hussain Jillani	Appointed on 31.07.2004

### 2.5.3 Ad-Hoc Members, Shariat Appellate Bench

Mr. Justice Allama Dr. Khalid Mahmud  
Mr. Justice Dr. Rashid Ahmed Jullundari

### 2.5.4 Attorney General for Pakistan

Mr. Makhdoom Ali Khan

### 2.5.5 Registrar

Mr. Muhammad Amin Farooqi

## Chief Justice of Pakistan and Judges of the Supreme Court



- L to R (sitting) : Mr. Justice Hamid Ali Mirza, Mr. Justice Rana Bhagwandas, Mr. Justice Iftikhar Muhammad Chaudhry, Mr. Justice Nazim Hussain Siddiqui (Chief Justice of Pakistan), Mr. Justice Syed Deedar Hussain Shah (retired on 10-12-2004), Mr. Justice Javed Iqbal, Mr. Justice Abdul Hameed Dogar.
- L to R (standing) : Mr. Justice M. Javed Buttar, Mr. Justice Falak Sher, Mr. Justice Muhammad Nawaz Abbasi, Mr. Justice Sardar Muhammad Raza Khan, Mr. Justice Khalil-ur-Rehman Ramday, Mr. Justice Faqir Muhammad Khokhar, Mr. Justice Mian Shakirullah Jan, Mr. Justice Tassadduq Hussain Jillani.



## **2.6 Bio-Data of Mr. Justice Nazim Hussain Siddiqui, Chief Justice of Pakistan**

Name:	Mr. Justice Nazim Hussain Siddiqui
Father's Name:	Late Mukarram Hussain Siddiqui
Date of birth:	30th June, 1940
Educational Qualification:	B.A., LL.B. From University of Hyderabad; LL.M. From University of Karachi

### **PRACTICE AS A LAWYER:**

Practiced at Hyderabad for 4/5 years.

### **SERVED AS:**

- i) Civil Judge;
- ii) Senior Civil Judge;
- iii) Additional District & Sessions Judge;
- iv) District & Sessions Judge at Sukkar and Dadu;
- v) Registrar, High Court of Sindh (twice);
- vi) Customs Judge (thrice);
- vii) Special Judge, Anti-Corruption;
- viii) Special Judge, Banking Court;
- ix) Chairman, Commercial Court and Drug Court;
- x) Member, Appellate Insurance Tribunal;
- xi) Presiding Officer, Labour Court;
- xii) Member, Supreme Appellate Court/Tribunal;
- xiii) Chairman, Institute of Business Administration (I.B.A.) Karachi;
- xiv) Member, Board of Governors of Aga Khan University, Karachi;
- xv) Member, Board of Governors of Indus Valley School, Karachi;
- xvi) Chairman, Central Zakat Council of Pakistan, Islamabad; and
- xvii) Member, Selection Board of the Quaid-i-Azam University, Islamabad.

- ? Elevated as Judge, High Court of Sindh on 24<sup>th</sup> March 1992.
- ? Appointed as Chief Justice, High Court of Sindh on 22<sup>nd</sup> April 1999.
- ? Elevated as Judge, Supreme Court of Pakistan on 4<sup>th</sup> February 2000.
- ? Appointed as Chief Justice of Pakistan on 31<sup>st</sup> December 2003.

**EX-OFFICIO CHAIRMAN OF:**

- (i) Law and Justice Commission of Pakistan, Islamabad.
- (ii) Federal Judicial Academy, Islamabad.
- (iii) National Judicial Policy Making Committee.

**FOREIGN VISITS/INTERNATIONAL CONFERENCES:**

- ? Visited France twice in connection with meetings of the Agha Khan University at Paris.
- ? Represented Pakistan in the First UK-Pakistan Judicial Conference on Child and Family Laws held at London from 15<sup>th</sup> to 17<sup>th</sup> January 2003.
- ? Participated in the second UK-Pakistan Judicial Conference on Child and Family Laws held at Islamabad from 21<sup>st</sup> to 24<sup>th</sup> September 2003.
- ? Hosted and chaired the 7<sup>th</sup> SAARC Chief Justices Conference held at Karachi on 21<sup>st</sup> February, 2004.

## 2.7 Judges of the Supreme Court

### **Justice Iftikhar Muhammad Chaudhry**

Passed LL.B. from Law College, Hyderabad University in 1973; enrolled as Advocate in 1974, and Advocate of the High Court in 1976 and of the Supreme Court in 1985. Elected Member, Bar Council in 1983. Appointed Advocate-General for Balochistan in 1989. Elevated as Additional Judge, High Court of Balochistan in 1990 and confirmed in 1993. Appointed as Chief Justice, High Court of Balochistan in 1999. Elevated as Judge, Supreme Court on 4th February, 2000; Chairman, Enrolment Committee of Pakistan Bar Council and Chairman, Provincial Review Board for the Province of Balochistan.



### **Mr. Justice Rana Bhagwandas**

Passed M.A. (Islamic Studies) in 1966, LL.B. in 1965 and LL.M. in 1981 from the University of Karachi, authored thesis on “Law of Contempt of Court” and secured 2nd position in the examination. Appointed Civil Judge and Magistrate 1<sup>st</sup> Class in 1967; promoted as District and Sessions Judge in 1979; served as Judge, Sindh Labour Court, Karachi from 1980 to 1983; Special Judge Anti-Corruption, Sukkur from 1983 to 1988; District and Sessions Judge, Khairpur, Karachi East and Sukkur from 1988 to 1991; served as Member, Inspection Team, High Court of Sindh from 1991 to 1992 and Registrar, from 1992 to 1994; elevated as Judge, High Court of Sindh in 1994; served as Election Tribunal, Member /Chairman Service Tribunal for Subordinate Judiciary in Sindh, Elevated as Judge, Supreme Court on 4th February 2000.



### **Mr. Justice Mian Muhammad Ajmal**

Passed M.A. (Economics) in 1963; LL.B. from Law College, University of Peshawar in 1965; enrolled as a Pleader in 1965, Advocate High Court in 1968 and Advocate Supreme Court in 1976. Elected Secretary, High Court Bar Association, Peshawar in 1975 and as Vice President of the same Association in 1979. Visiting Lecturer at Provincial Civil Service Academy, NWFP, Peshawar in 1972; Law Officer, Assistant Advocate-General, Additional Advocate-General and Deputy Attorney-General from 1980 to 1991. Appointed as Additional Judge, Peshawar High Court in 1991 and confirmed in 1993. Served as Chairman, NWFP Bar Council Tribunal, Labour Appellate Tribunal and Member, Subordinate Judiciary Service Tribunal, Review Board, Election Tribunal and Syndicate, University of Engineering and Technology, Peshawar. Appointed as Chief Justice, Peshawar High Court on 6<sup>th</sup> January 2000. Elevated as Judge, Supreme Court on 28<sup>th</sup> April 2000. (Retired on 14-08-2004)



### **Mr. Justice Syed Deedar Hussain Shah**

Passed LL.B. from Sindh University in 1965; enrolled as Advocate in 1967 and as Advocate of the High Court in 1974. Elected Member, District Council and remained as such from 1979 to 1983 and again from 1987 to 1991. Served as Member, Syndicate Sindh Agricultural University. Elected as Member, Provincial Assembly of Sindh for the period 1988 to 1990 and again from 1990 to 1993. Elevated as Judge, High Court of Sindh in 1994. Appointed Chief Justice, High Court of Sindh on 4<sup>th</sup> February 2000. Elevated as Judge, Supreme Court on 28<sup>th</sup> April 2000. (Retired on 10-12-2004)



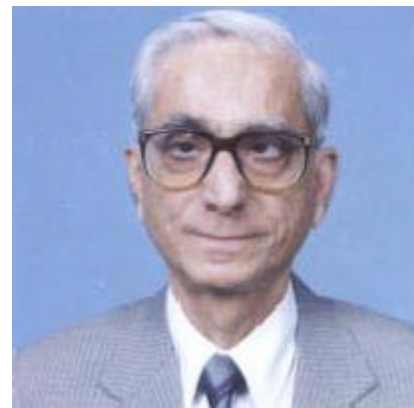
### **Mr. Justice Javed Iqbal**

Passed his M.A. (Political Science) in 1969 and LL.B from Punjab University in 1968; Master of International Law (Australia); qualified in Islamic Fiqh and Shariah Course from International Islamic University, Islamabad; appointed as Member, National Industrial Relations Commission in 1988. Elevated as Additional Judge, High Court of Balochistan in 1993 and confirmed in 1995. Appointed as Chief Justice, High Court of Balochistan on 4th February, 2000. Elevated as Judge, Supreme Court on 28th April, 2000.



### **Mr. Justice Hamid Ali Mirza**

Passed LL.B. from University of Sindh in 1961; enrolled as an Advocate in 1961; joined the Provincial Judicial Service in 1973 as Senior Civil Judge and Assistant Sessions Judge; promoted as District and Sessions Judge in 1983. Elevated as Judge, High Court of Sindh in 1995; nominated as Member, Election Commission of Pakistan in 1996. Elevated as Judge, Supreme Court on 28th April 2000.



### **Mr. Justice Abdul Hameed Dogar**

Passed LL.B. from Law College, Punjab University in 1969; enrolled as Advocate in 1970 and practiced law for 25 years. Elected as President, District Bar Association, Khairpur. Completed the 3<sup>rd</sup> Lawyer's Course in Shariah from the International Islamic University, Islamabad in 1991. Appointed as Judge, High Court of Sindh in April 1995; elevated as Judge, Supreme Court on 28th April, 2000.



### **Mr. Justice Tanvir Ahmed Khan**

Passed L.L.B. in 1965 and L.L.M. in 1967 from University College London (University of London); called to the Bar from Hon'ble Society of Lincoln's Inn. Remained as Secretary Pakistan Society, University of London from 1964 to 1969. Participated in the World Peace Through Law Conference in Holland in 1969. Enrolled as an Advocate of the High Court in 1970 and of the Supreme Court in 1977; Visiting Lecturer in the University Law College, Lahore from 1972 to 1977. Elevated as Judge, Lahore High Court in 1988 and Supreme Court on 27<sup>th</sup> September, 2000.



### **Mr. Justice Sardar Muhammad Raza Khan**

Born in District Abbottabad in the year 1945. After graduating from Government College Abbottabad, obtained Masters degree in Economics from the Punjab University through Forman Christian College Lahore; passed his LLB from the same University in 1967; joined PCS (Judicial Branch) in 1970 after passing a competitive examination held in 1968-69; appointed as Senior Civil Judge in 1973; as Additional District and Sessions Judge in 1976 and as District and Sessions Judge in 1979. Remained Judicial Commissioner for Northern Areas for more than four years; visited USA in 1985 to study the American Legal System; appointed Special Judge Customs Taxation and Anti Smuggling in 1992-93. Elevated to the Bench on 14<sup>th</sup> December 1993 and confirmed as Judge Peshawar High Court in June 1995; visited Tokyo Japan in 1999 to attend a Three Months Training Course on "Corruption Among Public Officials"; elevated as Chief Justice Peshawar High Court oath whereof was taken on 28.04.2000 and elevated as Judge of the Supreme Court of Pakistan and took the oath on 10<sup>th</sup> January 2002; visited Ipoh—Kualalumpur, Malaysia in connection with and International Seminar on "Human Rights and Independence on the Judiciary in the Islamic and Non-Islamic Judicial Systems" in June 2004.





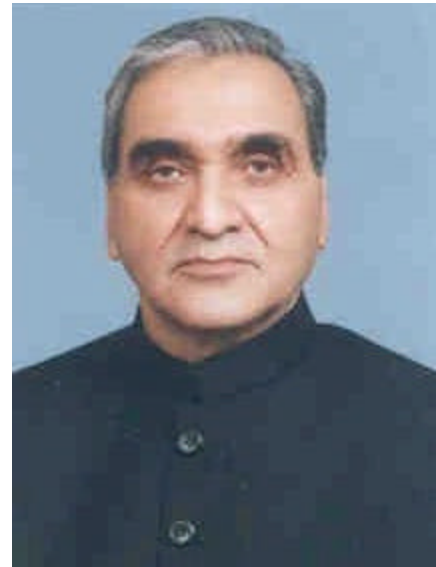
### **Mr. Justice Khalil-ur-Rehman Ramday**

Born in Lahore on 13th January, 1945; studied at Gordon College, Rawalpindi where he was President of the Minerva Club and Editor of the “Gordonian”; participated actively in debates winning many prizes; was Secretary of the Punjab University Law Society and also Editor of AL-MIZAN; joined the legal profession as an Advocate in 1969 and in 1976 was appointed Assistant Advocate General for the province of Punjab; elevated to the Bench of the Lahore High Court in October, 1988 and as Judge Supreme Court of Pakistan on 10th January, 2002.



### **Mr. Justice Muhammad Nawaz Abbasi**

Born in Murree in the year 1943; graduated from the Punjab University and passed his L.L.B in 1969; obtained diploma in labor laws in 1973; joined the legal profession in 1973 and became an Advocate of the Supreme Court in 1981; was appointed Assistant Advocate General in 1985; taught different law subjects in many respected institutions from 1987 to 1991; was elevated as Judge of the Lahore High Court in 1992; was Chairman of the Tribunal constituted under Anti-Terrorist Act, 1977; was elevated as Judge Supreme Court of Pakistan on 10-01-2002 and remained Principal Secretary, Ministry of Law and Human Rights from 21-06-2003 to 13-06-2004.



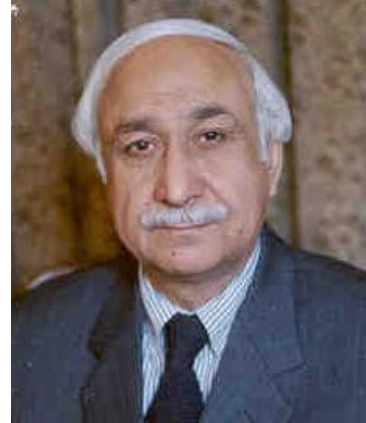
### **Mr. Justice Faqir Muhammad Khokhar**

Born in Lahore in the year 1945; after obtaining his L.L.B. degree he joined the Bar and practiced for 21 years; was Deputy Attorney General (Senior) from 24-07-1990 to 09-12-1996; was elevated as Judge Lahore High Court on 10-12-1996; served as Secretary, Ministry of Law, Justice and Human Rights from 01-01-2000 to 09-01-2002; during his career, he has visited many countries—People’s Republic of China, U.K., Canada, U.S.A., Singapore and Manila—on study tours; on 10-01-2002, he was elevated as Judge of the Supreme Court of Pakistan.



### **Mr. Justice Falak Sher**

Born in September, 1943; he graduated from the Punjab University (Government College, Lahore) in 1964 and passed his L.L.B. in 1966; is a Barrister-at-Law from the Gray's Inn and was called to the Bar in England in 1972; joined the legal profession in 1966 becoming an Advocate of the High Court in 1969 and Advocate of the Supreme Court of Pakistan in 1975; was appointed Legal Adviser to the British Ministry of Health and Social Security, but gave up the office to pursue legal practice; taught at the Punjab University Law College for over a decade and has also been a guest speaker at the Administrative Staff College, Lahore; was elevated as Judge of the Lahore High Court on 11<sup>th</sup> March, 1987 and as Chief Justice of the Lahore High Court on 14-07-2000; on 6<sup>th</sup> September, 2002, he was elevated as Judge of the Supreme Court of Pakistan.



### **Mr. Justice Mian Shakirullah Jan**

Born on 18<sup>th</sup> August, 1947; graduated from Islamia College, Peshawar; Obtained Law degree from the Khyber Law College, Peshawar University in 1972; enrolled as advocate of Lower court in 1973, High Court in 1975 and Supreme Court in 1980. Elected unanimously Vice president and Secretary of Peshawar Bar Association during 1977-78 and 1984-85 respectively, Secretary and Vice President of Peshawar High Court Bar Association during 1979-80 and 1987-88 respectively, Member of the Provincial Bar Council, NWFP Peshawar during 1989-93 & Member of the Executive Committee Supreme Court Bar Association 1993-94; Appointed Additional Advocate General, NWFP in July 1993 and elevated as Additional Judge of Peshawar High Court on 13 December 1992 and Supreme Court on 29<sup>th</sup> July 2004.



**Mr. Justice M. Javed Buttar**

Born on 16<sup>th</sup> November, 1948 in Multan, he graduated from Punjab University (Government College, Lahore) in 1967 and passed his L.L.B in 1969 from Punjab University Law College, Lahore. Joined Legal profession in the year 1971, enrolled as an Advocate High Court in the year 1974 and Advocate of Supreme Court in the year 1985. Elevated as Judge Lahore High Court on 7<sup>th</sup> August 1994. He was elevated to Supreme Court of Pakistan on 29-07-2004 and was administered oath of office on 31-07-2004. As a member of the Bar, he was a known Human Rights Activist. He, as a lawyer, attended conference in Manila on the “Conflict Resolution of Philippines”. He also attended a Judicial Administration and Reform Course (JARC) in Sydney in the year 2002. He belongs to a family of lawyers. His late father, Haji Muhammad Anwar Buttar, was a Senior Advocate of Supreme Court of Pakistan. His Brother Mr. N. Pervaiz A. Buttar is a practicing solicitor in Sydney, Australia.



**Mr. Justice Tassadduq Hussain Jillani**

Born on 6<sup>th</sup> July 1949; did his M.A. (Political Science), from F.C College Lahore, and graduated in Law from University of Punjab Lahore; did a course in Constitutional Law from the Institute of Advance Legal Studies, University of London; started practice at District Courts, Multan in 1974; enrolled as an Advocate of the High Court in 1976; elected Member Punjab Bar Council in 1978; appointed as Assistant Advocate General Punjab in July 1979; enrolled as an Advocate of the Supreme Court of Pakistan in 1983; promoted as Additional Advocate General Punjab in 1988; Elevated as a Judge of Lahore High Court on August 1994; Elevated as Judge Supreme Court of Pakistan on 31<sup>st</sup> July 2004.



### **Mr. Justice Allama Dr. Khalid Mahmood**

Born on 17th October, 1925; graduated from the Punjab University in 1942 and obtained Masters degrees from the same University in Arabic, Islamic Studies and Persian in the years 1946, 1951 and 1953 respectively; obtained a Masters degree in Theology in 1969 from the University of Birmingham and went on to complete his doctoral degree (Ph.D.) from the same University in the same discipline; has been head of the Arabic and Persian departments in institutions in Pakistan as well as in the United Kingdom; has a number of books to his credit, among these are: Athaar al-Tanzeel, Athaar al-Hadeeth, Athaar al-Tashree and Athaar al-Ihsan ; was elevated to the Supreme Court of Pakistan in the year 2002.



### **Mr. Justice Dr. Rashid Ahmad Jullundhri**

Belongs to Lahore; graduated from Jaami‘a Abbasiyya, University of Bahawalpur and obtained his Masters degree in Arabic from al-Azhar University, Cairo; obtained his doctoral degree (Ph.D.) in 1968 from the University of Cambridge, England; has held the position of Professor at the Allama Iqbal Open University and the University of Balochistan, Quetta and the position of Director at the Institute of Islamic Research, Islamabad and the Institute of Islamic Culture, Lahore; from 1983 to 1985, he was Senior Fulbright Fellow at the Universities of Chicago and Harvard in the United States of America. He has a number of papers and books to his credit, among these is his dissertation on Qur’anic Exegesis and Classical Tafsir; was elevated to the Supreme Court of Pakistan in the year 2002.



**IMPORTANT CASES DECIDED BY  
THE SUPREME COURT  
DURING THE YEAR 2004**







Chief Justice of Pakistan in his Chamber





### **3 IMPORTANT CASES DECIDED BY THE SUPREME COURT DURING THE YEAR 2004.**

#### **3.1 Mian Muhammad Shahbaz Sharif Vs. Federation of Pakistan and others ( PLD 2004 SC 583).**

In this matter two petitions namely Constitutional Petition N0.55 of 2003 & Civil Petition N0.791 of 2004 were involved. Both the Petitions were filed by the Petitioner Mian Muhammad Shahbaz Sharif. In Const.P.No.55 of 2003, filed under Art.184 (3) of the Constitution of Pakistan, it was alleged that the Petitioner is a President of Pakistan Muslim League (Nawaz Group ) and was elected as Chief Minister of Punjab in the result of General Elections 1997. On 12.10.1999, the Pakistan Army took the reigns of Political Administration of the Country in their hands. The Petitioner was taken into custody and remained as such till December 2000. The Petitioner was involved in airplane hijacking case, but was acquitted. In December 2000, while in custody, Petitioner was forcibly deported along with his other family members to Saudi Arabia. Now Petitioner is in United Kingdom and wants to return to Pakistan, but he apprehends that the Respondents will not allow him to enter into Pakistan and will deport him forcibly out of Pakistan from the Air Port. It was alleged that his apprehension is not ill-founded but is based on Press statements of the various Ministers of the Federal Government of Pakistan. Petitioner further claimed that as a citizen of Pakistan he has a Constitutional right to enter into Pakistan and to participate in political activities of Pakistan. Respondents have no lawful authority to refuse or interfere with his return. In civil Petition No.791 of 2004, filed under Art.185 (3) of the Constitution, it was alleged by the Petitioner that while he was in forcible exile, a criminal case was registered against him at Police station Sabzazar Lahore under S.302, 365A, 452,148,149,109 PPC and Ss.6/7 of Anti-Terrorism Act, 1997. A Challan in this case was submitted before Anti-Terrorism Court Lahore. The Court summoned the Petitioner in that case. The process server reported to the Court that the Petitioner is in Saudi Arabia and not in Pakistan. In spite of this report the trial Court declared him proclaimed offender under S.87 of the CR.PC and ultimately issued Perpetual warrants against him. It is further alleged that the Petitioner was not aware of the Proceedings of this case. On learning the particulars of this case through News Papers, the Petitioner informed the trial court through Fax from USA that he is ready to surrender before the Court and he be allowed to enter into Pakistan to defend himself against this case. The trial Court was requested to pass appropriate order to this effect. The trial Court turned down this request vide its order dated 2-8-2003. The Petitioner challenged this Order of the Trial Court before the Lahore High Court Lahore through a writ Petition. The High Court did not entertain this Writ Petition Vide its Order dated 17-10-2003 on the objection of the office that the Petitioner is absconder and unless he surrenders before the Court the Writ Petition cannot be entertained. This Petition for leave to appeal was filed against this order of the High Court. The Supreme Court of Pakistan after hearing the learned Counsel of the Petitioner and Attorney General of Pakistan for the Respondents held that Const.P.No.55 of 2003 is not maintainable before this Court under Article 184 (3) of the Constitution because Petitioner's grievance qua his fundamental Rights is of individual nature having no element of Public importance which is a condition precedent for invoking the jurisdiction of this Court under Article 184 (3) of the Constitution. It was further observed that Court couldn't entertain a

Petition, which had its basis on a premature act. No document except Press reports have been placed on record to prove the apprehensions of the Petitioner that Respondents will not allow entry of Petitioner into Pakistan. Press Reports cannot straight away prove question of facts. Nor they create any legal right or basis to invoke the extraordinary jurisdiction of the Court. It is merely apprehension of the Petitioner in his mind, which cannot be adjudicated upon. A Petition cannot be entertained merely on apprehension whatever its nature may be. It appears that the Petitioner left the country on his own and nothing on record has been placed to substantiate that he was forced to live in exile. As for plea regarding declaration of the Petitioner, as Proclaimed offender is concerned it is noted that the Petitioner had never taken concrete steps for coming back to Pakistan in spite of the fact that there existed no order prohibiting his entry into Pakistan. As such it would be an exercise in futility to examine the issue. In the circumstances C.P. No.791of 2004 also fails.

### **3.2 Ch. Muhammad Siddique and others Vs. Government of Pakistan and others (Const. P. No 23 of 1999 & 21 of 2004 decided on 5-11-2004 ).**

Earlier this matter was heard and oral order was announced by this Court but due to retirement of Presiding HCJ of the Court judgment Could not be signed by him. Therefore this matter was placed before the Court for rehearing the matter afresh by the Order of HCJ in office. In this matter two Constitutional Petitions No 23 of 1999 & 21 of 2004 were filed before Supreme Court of Pakistan under Article 184 ( 3 ) of the Constitution of Pakistan, challenging the vires of Marriage Functions ( Prohibition of Ostentatious Display and Wasteful expenses ) Ordinance II of 2000 and Punjab Marriage Functions ( Prohibition of Ostentatious Display and Wasteful Expenses ) Act No. V of 2003 respectively. Ordinance II of 2000, promulgated by Federation of Pakistan, prohibits the serving of meals or other edibles except hot and cold soft drinks to persons participating in the marriages in a Club, Restaurant, Wedding Hall, Community Centres or any other places. Owners of these places are prohibited from serving the meals or other edibles except hot and cold soft drinks to persons participating in the marriages being held therein. Act No. V of 2003, promulgated by Province of Punjab prohibited the serving of meals or other edibles except hot and cold soft drinks to persons participating in the marriages in a Club, Restaurant, Wedding Hall, Community Centers or any other places. However this Act allowed service of one dish to 300 guests attending a *Walima ceremony*. Contention of the Petitioners was that holding of *Walima* being *Sunnah* of the Holy Prophet is obligatory in nature. Since provisions of impugned Ordinance and Act are against *Sunnah* of the Holy Prophet as such beyond the legislative competence of respective legislatures and the same are liable to be struck down. And further these instruments militates against Articles 18 and 25 of the Constitution. Contention of the Respondents was that in these matters original jurisdiction of this Court cannot be invoked as such these Petitions are not maintainable under Art.184 (3) of the Constitution. The Court after hearing the Learned Counsel for the parties concluded that Petitioners have alleged violation of fundamental rights guaranteed under Articles 18 and 25 of the Constitution. The question raised in these petitions are of great public importance, which involve interpretation of various provisions of the Constitution. The decision of the Court, one way or the other, will directly effect the entire population of the country. We therefore hold that the petitions are maintainable. It was observed that *Walima* is an invitation to meals given by the bridegroom intended basically to make the factum of marriage known to the people of locality lest there is

any doubt about the new relationship between man and a woman. From the various Ahadees of the Holy Prophet regarding *Walima* following principles are deducible:-

- ? *Walima* invitation is a pre-Islamic concept liked and adopted by the Holy prophet ( PBUH );
- ? Only such items be given in *Walima* as the person celebrating *Walima* can afford from his own resources;
- ? The invitation of *Walima* should be offered to all and sundry in the vicinity and should not be confined to relatives, friends, influential, etc.

It was further observed that the *Walima* and other marriage functions prevalent in our society had been made a source of ostentatious display of wealth inasmuch as the wealthy people spent huge money on the occasion of *Baraat*, *Walima* and other functions. This has taken the form of *Asraf* (extravagance), which is strictly prohibited in the Holy Quran. The impugned provisions of Ordinance II of 2000 never prohibited holding of *Wailma*. People are at liberty to celebrate *marriage and Walima*. What is prohibited is extravagance and ostentatious display of wealth. This is quite in line with the teachings of Islam. Islam lays great emphasis on simple way of life. It is duty of the state to take steps to encourage the celebration of marriage ceremonies in simple and informal ways, such as performance of *Nikah* in the mosque of the locality so that element of inconvenience/ harm is eliminated from the society. In our view Ordinance II of 2000 has been framed with the noble object of prohibiting extravagance and ostentatious display on the marriage functions. It is an important step to prepare the society as a whole for a change in its behavior toward this issue and thereby curb the tendency of wasteful expenses so as to relieve the poorer segment of the society of the undue burden of exorbitant expenditures incurred on these occasions. The exploitative customs observed on the eve of marriage ceremonies in our society and the social evils emanating therefrom have not only added to the miseries of the poor but have put at stake their very existence too. The lower middle and poor classes of society are being crushed under the evils of extravagance and ostentatious display of wealth. It is unacceptable as it is against all norms and values known to a civil society. It must stop. The functions celebrated on the eve of the marriage such as *Mayun*, *Mehndi/Rasme Hina*, *Barat*, etc. and even the custom of giving large dowries all are of Hindu origin and have nothing to do with the Islamic concept of marriage. The Muslims of the subcontinent had offered great sacrifices for the establishment of an independent State wherein they could lead their lives in accordance with the teachings of Islam. The Constitution of Pakistan contains sufficient provisions whereby the State is obliged to take steps to eradicate social evils. The issue in hand needs to be seen in this larger contest. Under item 5 of the Concurrent legislative list, Fourth Schedule to the Constitution the Federal Government is competent to enact the law on the subject; therefore Ordinance II of 2000 is a valid piece of legislation and in force. So far Act No. V of 2000 issued by Government of Punjab is concerned, it is in direct conflict of the Federal law, i.e. Ordinance II of 2000 as such it is void by virtue of the provisions of Article 143 of the Constitution. This Article of the Constitution clearly postulates that where Provincial law is in conflict with the Federal Law, the later shall prevail. The Ordinance II of 2000 holds the field as it was neither withdrawn nor amended nor struck down. The result of the ongoing discussion is that Constitution Petitions Nos. 23/1999 and 21/2004 are dismissed. The Act No. V of 2003 passed by the Provincial Assembly of the Punjab is struck down. The Ordinance II of 2000 holds the field and applicable throughout Pakistan and guests in marriages be served in terms of Sections 4 and 5 of the Ordinance.

### **3.3 Arshad Mehmood & others Vs Government of Punjab and others (Civil Appeal 224 to 227 of 2003 & Const. P. No. 18 of 2004 A/W C.M.As.No.1383, 2376 &2604 of 2004 decided on 5-11-2004).**

In all these matters a common question of law and facts arised was, whether S. 69-A of the West Pakistan Motor Vehicles Ordinance 1965 [hereinafter referred as the Ordinance] inserted by the Government of Punjab is contrary to fundamental rights of the Appellants as enshrined in Article 18 & 25 of the Constitution because in Pursuance thereof Appellants /Transporters have been restrained/ousted completely from the trade/business of transport which they were carrying on against valid route permits issued by competent authority under the provisions of the ordinance for the last many years and in which they had made huge investment for purchase of vehicles . The franchise of routes on which they were plying their stage carriages have been given to the private respondents in pursuance of the scheme under S.69-A of the Ordinance. Thus feeling dissatisfied by the grant of franchise to private respondents, Appellants/Transporters preferred Constitutional Petitions under Article 199 of the Constitution before Lahore High Court Lahore, challenging Vires of S.69-A of the Ordinance. All these Petitions were dismissed by the High Court. Feeling aggrieved by the decision of the High Court Appellants preferred Petitions for leave to Appeal before this Court. Constitutional Petition No.18 of 2004 was filed under Art. 184 (3) of the Constitution on behalf of general Public who have to travel in stage carriages as passengers. Their grievance was also against the promulgation of S.69-A of the Ordinance as according to them their right of movement cannot be limited by compelling them to undertake journey in the ransport owned by private respondents because they have obtained franchise rights and are charging exorbitant fare as compared to other transporters who used to ply buses on the same route, if competition is allowed, they will charge less fare from them as such citizens having limited resources of income are not bound to pay fare to respondents transporters at high rates.

Leave was granted to Appellants/Transporters to consider the questions inter alia “ *whether the insertion of S.69-A in Punjab Motor Vehicles Ordinance 1965 by virtue of Punjab Ordinance No. XLVI of 1999 is in public interest and is not violative of the constitutional guarantee of right of trade and business under Article 18 of the Constitution of Islamic Republic of Pakistan, 1973 and is in consonance with the provisions of Monopolies and Restrictive trade practices (control and prevention) Ordinance No. V of 1970*”.

After hearing the learned Counsel of the Parties and Advocate General of Punjab, this august Court observed that the Constitution is a living document which portrays the aspiration and genius of the people and aims at creating progress, peace, welfare, amity among the citizens, and the nations abroad. It is the basic structure on which the entire edifice is built; therefore, it has to be interpreted in a manner to keep it alive and blossom under all circumstances and in every situation.

Perusal of S. 69-A of the Ordinance reveals that it has introduced “*franchise system*” for operating stage carriages absolutely different from the system prescribed by the Ordinance. One of the salient feature of this law is that under its subsection (2), Government has been empowered to declare the routes “*franchise*” to be granted under its instructions by the Regional Transport Authority, to the exclusions of all other operator of stage carriages and upon grant of the “*franchise*” on a specific route, the Regional Transport Authority under subsection (4) has been empowered to cancel all existing stage carriages permits on such routes or portion of routes. Such oppressive provision has been inserted in statute without realizing that the operators of the

stage carriages are already carrying on a lawful trade under valid permits, since long without any allegation of violating the law under which routes permits were granted to them. Further more, no notice, before canceling their lawful licenses, were given to them as section 69-A does not envisage such provision . Thus it can be safely said that a right which had accrued to them to carry on a lawful business, according to the ordinance has been denied to them by introducing “franchise” system by the provincial Government, in view of the guarantees provided to them under Article 18 of the Constitution.

“Franchise” is a privileged contract between the “grantor” and “grantee” in respect of trade or business to the exclusion of any one else, which does not belong to citizens generally, with a view to create a monopoly in respect thereof, which is also known as Cartel.

It is well settled that the right of trade/business or profession under Article 18 of the Constitution is not an absolute right but so long a trade or business is lawful a citizen who is eligible to conduct the same cannot be deprived from undertaking the same, subject to the law which regulates it accordingly. The word “regulation” as used in Article 18 of the constitution means, as defined in Black’s Law Dictionary, the act of regulating: a rule of order prescribed for management or government; a regulating principle; a precept. Rule of order prescribed by superior or competent authority relating to action of those under its control. Regulation is a rule or order having force of law issued by executive authority of government. From the Perusal of the above definition of word “regulation” it is held that there cannot be denial of the Government’s authority to regulate a lawful business or trade, but under the garb of such authority the government cannot prohibit or prevent running of such business or trade at all. The Government of Punjab instead of promulgating section 69-A of the Ordinance for the purpose of granting franchise on specified routes to the respondent by excluding all other transporters, running their stage carriages against valid route permits on the same routes, ought to have granted route permits to respondents as well under the Ordinance, in order to cater the pressure of the passengers on those routes with clear direction to them charge less fare from passengers, compared to fares which is being charged by the appellant transporters, who are already plying their vehicles on the same routes and if owing to such free competition, if any of them had failed to compete, it could have excluded itself from the business, instead of providing a cause of grievance to the appellants, to whom ‘right to live’ has been denied as they are not in a position to survive, on account to being excluded from the business in terms of Article 9 of the Constitution. The word “life” used in this Article of the Constitution, as explained in the case of *Shela Zia Vs Wapda (PLD 1994SC693)*, includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally. It is further explained therein that the word “life” in the constitution has not been used in a limited manner. A wide meaning should be given to enable a man not only to sustain life but to enjoy it. Moreover under the Objective Resolution which is a part of the Constitution, it is the duty of the legislature to ensure an egalitarian society, based on Islamic concept of fair play and justice. As observed hereinabove Constitution is a living document which portrays the aspiration and genius of the people and aims at creating progress, peace welfare amity among the citizens, therefore while interpreting its different Articles particularly relating to the fundamental rights of the citizens, approach of the courts should be dynamic rather than static, pragmatic and not pedantic and elastic rather than rigid. As such following this principle and also keeping in view other provisions of the Constitution including Article 3, 9, 18, as well as Article 38 of the Constitution, which deals with the principles of State Policy, we are inclined to hold that if the definition of the word “regulation” as laid down in judgments cited hereinabove is applied to hold that under

licensing system, unless the business is unlawful or indecency is involved therein, the legislature can enact laws, which will promote a free competition in the field of trade , commerce and industry. At any rate if restrictions are to be imposed to regulate such trade or business, those should not be arbitrary or excessive in nature, barring a majority of persons to enjoy such trade. In the instant case, as per requirement of Section 69-A of the ordinance, the appellants who are the owner of the stage carriages as per the definition under section (2) 37 of the Ordinance, would not be in a position to run the business on the specified routes, franchise of which has been offered to the respondents, because for running stage carriages on one route they have to arrange a fleet of stage carriages. Obviously the appellants are not in a position to arrange such fleet, on account of their financial position or being un-influential person. Consequently such conditions appear to be not only arbitrary but oppressive in nature and tend to deprive them from enjoying the fundamental right of freedom of trade and business, as per Article 18 of the Constitution.. Therefore in such situation it becomes duty of the court to see the nature of restrictions and procedure described therein for regulating the trade and if it comes to the conclusion that restrictions are not reasonable then same are bound to be struck down. As discussed hereinabove, the conditions imposed under S.69-A of the ordinance are held to be very harsh, unjust, arbitrary, oppressive and contrary to the principles of natural justice. This section of the Ordinance is couched in such a language that one feels no difficulty to draw an inference that a new transport system is being introduced, which is absolutely different and distinct from the licensing system of running the transport as has been provided under the ordinance, without providing right of hearing to these stage carriages owners, who are being excluded from the trade. As observed hereinabove but no right of appeal or revision against the order of Secretary Regional Transport Authority or the Government, has been provided, therefore due to this reason as well, S.69-A seems to be unreasonable and against the fundamental right of freedom of trade as envisaged under Article 18 of the Constitution. Article 18 of the Constitution does not recognize the ‘franchise system’ of public transportation as being introduced by S.69-A of the Ordinance. This Court has ample power under Article 8 of the Constitution to strike down any law, which is found against the fundamental rights of the citizen as provided in the Constitution. Thus for the foregoing reasons appeals/Petitions are accepted, Section 69-A of the Motor Vehicle Ordinance is declared ultravires of the Constitution as consequence whereof the impugned judgments are set aside. However existing arrangements may continue for a period of a four months enabling the Provincial Government to take appropriate legislative/administrative measures in accordance with constitution and law.

### **3.4 The State Vs Nasir Javed Rana, Civil judge 1st Class/ Magistrate S. 30, Rawalpindi (PLD 2005 SC 86).**

In this *Suo Motu* matter an F.I.R.No.420 dated 16-9-2004 against Mr. Whabul Khari, a senior Advocate Supreme Court of Pakistan, at Police Station New Town Rawalpindi was registered under Sections 420, 471 R/W S.468 PPC. Accused in this case was arrested on 17-9-2004 by police. S.I. Abdul Qayyum Head quarter, Investigation Rawalpindi (hereinafter referred as the S.I ) obtained the physical remand of the accused for ten days from the Respondent, Nasir Javed Rana, Civil Judge Ist Class/Magistrate S.30. Accused, being a senior Advocate Supreme Court of Pakistan, commanding a high respect among the legal and judicial fraternity of Pakistan complained to the Chief justice of Pakistan that Police in this case has obtained his Physical remand without producing him personally before the Respondent Magistrate which is a flagrant



disregard of the law of Remands by the Magistrate . On this Chief justice of Pakistan acting under his Sou Motu Powers under the Constitution and Supreme Court Rules, 1980, issued a notice on 24-9-2004 to the respondent to appear before this court and to explain as to how he granted Physical remand of the accused while he was not produced before him. The Magistrate was also directed to explain why action be not taken against him for acting in gross violation of law. On the same day the S.I in presence of many senior Lawyers of this Court stated that Mr. Khari, the accused was not produced before the Magistrate and remand in police custody was taken only on producing the case file. Beside Mr. Khari, many lawyers stated on oath that on 18-9-2004, Mr. Khari accused was not produced before the Magistrate. In reply of the Show cause notice the Magistrate appeared before the Court and submitted his written reply wherein he stated that in this matter he granted physical remand of the accused on 18-9-2004 while he was produced personally before him by the Police. In support of his statement the Staff of his court and some lawyers of the District Bar Rawalpindi filled affidavits wherein they stated that in this matter Police obtained the remand of Mr. Khari accused while he was produced personally before the Respondent /magistrate. After scrutiny of the facts, this court concluded that soon after the news of the arrest of Mr. Khari, a number of Advocates who were present in the District Court premises wanted to witness the remand proceedings of Mr. Khari. From the affidavits filled by various Advocates in Support of Mr. Khari's version, it is evident that Mr. Khari was never produced before the Magistrate. All these Advocates remained in and around the court of the Magistrate from morning till the courtroom was closed at 4.15.P.M. Above referred Advocates have great respect for Mr. Khari and they wanted to know his whereabouts and also his welfare. Nothing substantial is available on record to discard their affidavits. It is significant that the Advocates, who have filed affidavits in support of the version of the Magistrate, said nothing about presence of various advocates who supported Mr. Khari. None of them has refuted the detailed facts given in the affidavits of Advocates supporting Mr. Khari. Mr. Khari is Advocate of this court, is well known member of Supreme Court Bar and commands a great respect in the entire legal community. There is a irrefutable material on the record to indicate that Mr. Khari was not produced at all before the Magistrate and he has granted remand only on the basis of case papers placed before him. The Magistrate in fact, became tool in the hands of the police officers and granted remand at the behest of someone behind the scene. A Magistrate who grants remand is under a legal duty to satisfy himself if under the circumstances remand is to be granted or not. Liberty of a person cannot be curtailed and he has a legal right to explain his point of view before the Magistrate when remand is to be granted. It is sacred duty of the Magistrate to safeguard the rights of the people. *It is well settled law that remand is not to be granted automatically after the police makes such request. The remand order would be illegal if at the time of its passing, accused was not produced before the court, which passed the remand order.* Main reason for separation of Executive and Judiciary was the fact that remands were not properly granted by Executive Magistrates and sometimes bail applications were not attended to seriously. If same type of working, which was prevalent before separation was adopted. It would lay the foundation of injustice in subordinates courts. Unfortunately, in the facts and circumstances of the present case, it is not possible to take lenient view in respect of the Magistrate. In this particular case the dispute is about quarter/house, emanating from a general power of Attorney executed as far back as 24-8-1966. The matter was finally decided by the Supreme Court. It was dispute of civil nature and the Magistrate without applying mind, to favor somebody, granted remand. He has deliberately misconduct himself and passed an illegal order, handing over a senior lawyer in police custody an atmosphere and in a manner, which has

seriously jeopardized the sanctity attached to a court of law. He had not observed the legal formalities before passing the remand order. Not only he passed a wrong order, but also took a brazen faced stand that Mr. Khari was produced before him. He has a strong tendency of committing any mischief and is absolutely unfit for judicial service. His judicial powers are withdrawn forthwith. It is directed that another judicial officer be posted in his place. The matter is referred to Lahore High Court Lahore for further action against him according to law and these proceedings shall be concluded as early as possible, preferably within two months. The District and Sessions Judge Rawalpindi was directed to suspend and take disciplinary action against the staff of the Magistrates Court who had filed false affidavits in favor of the Magistrate. The Punjab Bar Council was also directed to take disciplinary action against the Advocates who had filed false affidavits in the favor of the Magistrate, as they are guilty of grave indiscipline and misconduct.

### **3.5 Ayatollah Dr. Imran Liaquat Hussain Vs. Election Commission of Pakistan Islamabad and another ( PLD 2005 SC 52 ).**

In this matter the Petitioner filed a Constitutional Petition under Article 199 of the Constitution before the High Court of Sindh Karachi with the prayer that Election Commission of Pakistan be directed to reject the nomination papers of all those Candidates of General Election 2002 (especially of Muthida Quami Movement) who are not faithful to declaration by the founder of Pakistan and bear true faith and allegiance to Pakistan and their election campaign shall be banned until the decision of this Petition. The High Court of Sindh rejected this Constitutional Petition. Against this decision of the High Court Petitioner sought leave to appeal. Before this Court Petitioner in Person contended that in this matter the High Court has not appreciated the controversy in its true perspective and proper opportunity of hearing was not afforded to the Petitioner which resulted in serious miscarriage of justice. It was further contended that Mr. Altaf Hussain the Quaid of Muthida Quami Movement who is anti Pakistan and deadly against the Quaid-e-Azam Muhammad Ali Jinnah, the founder of Pakistan, has not been adverted to, which caused serious Prejudice to him. To substantiate his allegations he referred to various Press clippings and speeches of Mr. Altaf Hussain the Quaid of Muthida Quami Movement. He referred Article 63 of the Constitution in support of his contentions.

The Learned Deputy attorney General and Learned Advocate General of Sindh appeared on Court Notice and contended that as a result of the General Elections, the National Assembly, Senate and Provincial Assemblies are performing their functions and at this stage to examine the eligibility of the Candidates would be an exercise in futility. It was further contended by them vehemently that the Petitioner for redress of his grievance should have invoked the relevant provisions of Election Laws. After adverting to the contentions of the both sides this august Court held that no doubt allegations leveled against Muthida Quami Movement are very serious, but how the genuiness and authenticity of such allegations could be determined by this court merely on the basis of press clippings and speeches made on various occasions. Beside that all the elected members of Senate, National Assembly and Provincial assembly of Sindh belonging to Muthida Quami Movement are not impleaded as a party to these proceedings and they cannot be condemned unheard which would be in violation of principles of natural justice, fair play and equity. It was further observed that relevant provisions contained in the Representation of Peoples Act, 1976 and Elections Tribunals provided therein sufficient Alternate forum to determine the allegations leveled by the Petitioner and redress his grievances. The forums

provided by S.14 (5-A) of the Representation of Peoples Act, 1976 could not be by passed without sufficient justification, for resolving the controversy under extraordinary jurisdiction of High Court, which is lacking in this case. After availing the remedy provided in the Election Law, the Petitioner however could invoke the Constitutional Jurisdiction of the High Court. It was further observed that Article 63 of the Constitution hardly provides any assistance to contentions of the Petitioner because this Article of the Constitution provides mode to oust a member of Parliament or the Provincial Assembly if he incurs disqualification subsequent to his election as a member. Members of Parliament and Provincial Assemblies could not be disqualified as a member, by this Court under Article 63 of the Constitution. If a question arises whether a particular member has incurred any of disqualifications mentioned in Article 63 (I)(a) to (P) then jurisdiction to decide that question via Speaker or Chairman of the Senate would be that of Chief Election Commissioner whose jurisdiction in the matter is exclusive. No doubt against his decision a constitutional petition before the Superior courts would be competent. It was further observed that Petitioner by filling Constitutional Petition before the High Court, has ignored the provisions of Article 225 of the Constitution which enjoins that all election disputes shall be decided by the Election Tribunals appointed by the Election Commission under the election laws. The Constitution itself prohibits to call in question of any election of member of Parliament or Provincial Assembly except through an Election Petition filled before Election Tribunal appointed by the Election Commission under the Election Law. Therefore in this matter writ jurisdiction was barred, as other adequate remedy was available. However the bar created by Article 225 does not apply where the matter has been finally decided by the Election Tribunal and such disposal may be agitated before superior courts through their Constitutional Jurisdictions. In sequel of the above discussion it was held that all the grievances agitated before this Court could have been conveniently brought to the notice of concerned Forums available in the hierarchy of election laws by the Petitioner. The judgment impugned being well based does not warrant interference. The Petition being meritless is dismissed and leave refused.

### **3.6 In re: Suo Motu case No.4 of 2003 (PLD 2004 SC 556).**

A shocking news item appeared in Daily “Dawn” dated 11-10-2003 with the caption “Couple Killing ordered by Jirga”. Wherein it was published that according to reliable source the decision to execute Mst. Shazia and her husband Muhammad Hassan Solangi was made at a Jirga of Khasakheil clan by firing Squad at Sim drain who had married each other of their own which was considered by Khasakheil clansmen as a stigma on the honor of their clan. According to the publication, the couple was caught near the D.P.O. office and was taken to Nizamani Mohalla where Muhammad Hassan Solangi was severely tortured while Mst. Shazia was confined in her grand’s father house. Though the father of the daughter had pardoned her daughter, even then they were done to death.

Taking Sou Motu notice of the incident learned Chief Justice of Pakistan directed District and Sessions Judge, Sanghar to hold an inquiry into the matter and submit a detailed report before this Court within a week. Inspector General of Police Sindh was also directed to make up probe into the matter and submit a separate report about the incident on 24-10-2003. Superintendent of Police Sanghar and SHO of Police Station Sanghar were also directed to appear in person on the same date. The learned District and sessions Judge in compliance of the Chief Justice of Pakistan’s direction conducted a detailed inquiry into the matter and submitted his report wherein it was stated that Crime No. 151 of 200 under Sections 11/16 of the offence of Zina

(Enforcement of Hudood ) Ordinance, 1979 was lodged by Mir Hassan Khassikheil, father of the deceased girl Mst.Shazia at Police station Sanghar on 5-10-2003 in which it was disclosed that deceased Muhammad Hassan Solangi had forcibly taken away deceased Mst. Shazia. Crime Report No.157 of 2003 was lodged on behalf of State through Zahid Ahmad Nasir, S.H.O on 8-10-2003 at Police Station Sanghar under S.302/34, P.P.C. wherein he stated that he received a spy information that four persons are about to commit murder of a lady and her paramour at Sim Nala. He, along with other Police officials rushed to the Scene but before his arrival at place of the incident he heard two fire shots and when they approached to the place they saw that a Lady and a man were lying dead. Latter they were identified as Mst. Shazia and Muhammad Hassan Solangi. Out of four persons two were slipped and other two, one of them was Mir Hassan Khaskekheil, father of the deceased girl Mst Shazia were arrested with their Fire Arms. The report Khaskekheil, further disclosed that dead bodies of both the deceased were sent for postmortem examination to the Civil Hospital Sanghar. After the autopsy no body claimed the body of Muhammad Hussan deceased and his body was buried unclaimed. According to the report no fruitful action has been taken by the police in this Crime Report. It was suggested in his report that the incident took place as a result of deep conspiracy hatched between local Police and Khaskekheil Clan. I.G.Police Province of Sindh has also submitted his report. According to his report he constituted a Committee to inquire into the matter. The Committee concluded that Mst. Shazia deceased was married with her cousin Hazoor Bux. She had disappeared from her house on 23-9-2003. Her father lodged FIR under Section 11/16 of the Offence of Zina Ordinance, 1979 against Muhammad Hassan Solangi for abduction of her daughter at police Station Sanghar. The Complainant Party made search of the girl and his paramour on their own. Both were captured by them and later on both were murdered by four men on 8-10-2003. The committee dispelled the suggestion that any Jirga took place for their murder. It was observed that since the Police Report on the subject is contradictory to the Report of District and Sessions Judge Sanghir, in the circumstances we feel it appropriate to refer the matter to IGP Sindh, who shall look into the matter personally in order to ascertain the individual liability of concerned Police Officers about their involvement in the matter. The manner in which this case has been handled from the very beginning casts serious doubts in our mind which is to be dealt with seriously. This exercise must be completed within one month after receipt of copy of this order. Final report whereof be forwarded to the Registrar of this Court immediately.

### **3.7 Federation of Pakistan and others Vs. Syed Ali Murad Shah and others (PLD 2004 SC 399).**

In this matter a Constitutional Petition was filled before High Court of Sindh, Bench at Sukkhar wherein it was urged that the Respondenents/Petitioners being the registered voters of Khair Pur District had legal right under the law not only to contest the election but also to elect the representative of their choice by casting their votes in their favour. It was further urged that about 104 seats of members of different union council situated in various talukas of District Khair Pur were lying vacant for the purpose of constituting District Council, Taluka Council and Zila Council. The Chief Election Commissioner Islamabad Petitioner No.2/Respondent vide a Notification announced the Election Schedule for filling these Vacant seats, but latter on postponed these election without assigning any reason. Now he has announced by a Notification a schedule of election to fill the vacant seat of Naib Zila Nazim of District Khair Pur without first filling the 104 vacant seats of union councils of District Khair Pur which constitute as electoral

college of election of Naib Nazim of the District. It was prayed therein that Petitioners/Respondents be directed to hold election regarding 104 said vacant seats and that the impugned notification for holding the election of Naib Zila Nazim Khair Pur be declared illegal, improper and without jurisdiction, being violative of law. The Sindh High Court after obtaining parawise comments of the Petitioners/Respondents and hearing the parties accepted the Petition and declared the impugned Notification as illegal and without jurisdiction and directed the Petitioners/respondents to first hold election of 104 vacant seats of members of Union Councils. Feeling aggrieved Petitioners/ respondent filed this Petition for leave to appeal against the order and judgment of the High Court before this Court and contended before the Court that though the Election Commission of Pakistan/Petitioner No. 2 has announced a Schedule for the election of vacant seats of members of various union councils of District Khair Pur and this Petition has become infructuous, yet keeping in view the importance of the matter, the Petition be disposed of on merits. On merits it was urged by them that explanation attached to Section 148 of the Sindh Local Government Ordinance stipulates that all members of union Council notified as returned candidates in the elections held under this Ordinance shall be deemed to be the members of the electoral college. In view of this provision of law, it is not necessary to first hold elections about 104 seats, the members already notified will constitute electoral college about the election of Naib Zila Nazim. After hearing the Learned Deputy Attorney General for the Petitioners and Additional Advocate General Sindh for the Performa respondents, this Court held that from the bare reading of S.148 of the Ordinance, it is manifest on the face of it that the electoral college for the election of Zila Nazim and Naib Zila Nazim shall consist of all members of Union Councils in the District. It is an admitted fact that presently as many as 104 seats of members of different union councils are lying vacant in District Khair Pur for the last more than 2 years and the process of by elections has not been initiated so far, thus electoral college for the election of Naib Zila Nazim is not complete. The concept of the Local government system envisages participation of the local population at gross root level and it was with this spirit that the present system of Local Government has been introduced through the ordinance. The basic idea to enforce this system is not only to decentralize the democratic system but also to promote the welfare of common man. For its success and stability, the completion of above mentioned 104 voters would not only be against the object of adult franchise but would be denial of the privilege of fundamental rights as guaranteed in the Constitution. It was further observed that Section 148 of the Ordinance deals with the election of the members of the Union Councils including Union Nazims and Naib Union Nazims based on adult franchise and through separate electorate, Whereas Section 156 of the Ordinance requires that in the event, a seat of a member in a council falls vacant during the tenure of that council, the same shall be filled through by election. Subsection (3) of section 156 of the Ordinance requires that such bye-election shall be held once in a year on a date fixed by the Chief Election Commissioner. Whereas in terms of subsection 3 (a) of the aforesaid section, the period of one year has to be computed from the date of assumption of office of the Council. However it is provided that in the year in which General elections are to be held, bye-elections may be held within 18 months. Thus bear reading of Section 148 of the Ordinance reveals that bye-elections on the vacant seats of the Union Councils has to be held within one year of its vacancy and at the most it may be delayed for another 6 months in case of a eventuality of General elections in the country. Bye-elections on these vacant seats cannot be delayed or postponed for an indefinite period. In this case admittedly a period of more than one year has elapsed since the Schedule for the election of the said 104 seats was announced but till date no such bye-election has been conducted, which is a

clear violation of Section 156 of the Ordinance. The explanation furnished by the learned Dyputy Attorney General in that respect is neither convincing nor justifiable as primarily it is the duty of Government to maintain law and order situation ---For the foregoing reasons no merit was found in the Petition and same was dismissed and leave to appeal against the impugned judgment refused.

### **3.8 All Pakistan Newspapers Society and others Vs. Federation of Pakistan and others (PLD 2004 SC 600).**

On 8-7-2000, Government of Pakistan Constituted 7<sup>th</sup> Wage Board under the Newspapers Employees (Condition of Service) Act, 1973, [hereinafter referred as the Act,1973] for the purpose of fixing the rates of wages of the Newspapers Employees. The Wage Board chaired by a retired judge of the Supreme Court, pronounced its Award which was published by the Government of Pakistan vide a S.R.O. The Petitioners/Owners of the Newspapers approached the Government of Pakistan for redress of their grievances against the Award but of no consequence. Therefore the Petitioners filed instant Petition under Article 184 ( 3 ) of the Constitution of Pakistan challenging the constitutionality of the Act,1973 being violative of the fundamental rights of the Petitioners and ultra vires of the Constitution because it do not provide any right of appeal, revision or review against the Award of the Wage Board. Thus the Award being Void ab inito is of no legal effect.

Respondents in reply to this Petition vehemently objected to the maintainability of the Petition on the grounds that the dispute in question does not relates to fundamental rights of the Petitioners in relation to matter of public importance. In the case of Const. Petition No.3-K of 1999 decided on 14-12-1993 by a Bench of five Judges of Supreme Court, in which 5<sup>th</sup> Wage Board Award was challenged, this Court has categorically announced that Wage Board Award under the Act,1973 hardly constitutes a question of Public importance and Petition under Article 184 ( 3 ) is not maintainable. Thus on question of 7<sup>th</sup> Wage Board Award also, the Ratio decendi of that case is binding on the present Bench of the Supreme Court which comprises of three judges of the Court. As such this Petition under Article 184 ( 3 ) is not maintainable. After hearing the Learned Counsels of the Parties, this Court held that before embarking on the merits of a case the court has to see whether proceedings have been validly instituted after having fulfilling the condition precedent for assuming jurisdiction by the court and no other adequate remedy is available. Undoubtedly without establishing the essential conditions mentioned in Article 184 (3) of the Constitution and furnishing convincing evidence that no other adequate remedy is available an Constitutional Petition under the Article 184 (3) cannot be heard on merits. In view of the statement of the counsel of the Petitioners that impugned Award is valid to the extent of working journalists, it may be safely held that the Award is valid to the extent of working journalists, therefore it does not give rise to question of public importance involving fundamental rights of the Petitioners to their extent. Moreover In the case of Const. Petition No.3-K of 1999 decided on 14-12-1993 by a Bench of five Judges of this Court, in which 5<sup>th</sup> Wage Board Award and constitutionality of the Act, 1973 was challenged, had held that controversy did not give rise to the question of public importance. The Principle of law laid down in that case is not , as contended by the counsel of petitioners, an obiter Dicta, but a ratio decendi of that case which is binding on us. That judgment has settled the question that challenging Award of Wage Board does not give rise to a question of public importance involving enforcement of any fundamental rights as conferred by Chapter I, Part II of the



Constitution. It was further observed that as for Petitioners are concerned, they have got a fundamental right to establish the business of Newspapers, but it is not their fundamental right how they would be managing financing to run their business which also include payment of wages to their employees because if they have no finances, then their business is bound to collapse and merely non availability of funds would not involve fundamental rights of the Petitioner nor it will give rise to a question of public importance. For the foregoing reasons this Petition is not maintainable under Article 184 (3) of the Constitution therefore the same is dismissed. The Petitioner may avail appropriate remedy before the appropriate forum.

### **3.9 M/s Ramna Pipe and General Mills ( PVT ) Limited Vs M/s Sui Northern Gas Pipe Lines and others ( 2004 SCMR 1274 ).**

In this matter the Respondent Company called Tender for the supply of Steel pipe line on the conditions noted in the Tender Notice. M/s Huffaz Seamless Pipe Industries Ltd. (hereinafter referred as M/s Huffaz) and M/S Ramna Pipe and Generals Mills (PVT) Limited (hereinafter referred as M/s Ramana) along with three other Companies participated in the Tender Proceedings. The Respondent Company/ SNGPL after some clarifications accepted the Tender of M/s Huffaz. Accordingly Respondent Company/ SNGPL on 21-7-1996 issued purchase order to M/s Huffaz for the supply of the seamless pipe lines. M/s Ramana/appellant challenged this purchase order in favor of M/s Huffaz before Lahore High Court, Lahore through a Constitutional Petition which was dismissed by a single judge of the High Court. Not satisfied with the order of the single Judge, Appellants filled Intra Court Appeal against the Order before the Same Court, which too was dismissed by Division Bench of the High Court. Against this Order of the High Court leave to appeal was granted to Appellant to consider inter alia the question “whether the Constitutional Petition was maintainable before the High Court in relation to the Contractual obligations surfacing themselves after the purchase order 21-7-1996 between the Appellant and Respondent Company/ SNGPL”. Learned Counsel for M/s Huffaz contended that the High Court in exercise of its constitutional jurisdiction cannot rewrite the contract executed between two public limited companies. Whereas Counsel for appellants stated that if the contract on the face of it is just, proper, truthful, honest, transparent, not capable to cause injury loss to the interest of the third party i.e. public at large and is also based on the subject, then High Court would be precluded in interfering with otherwise it has the jurisdiction under Article 199 of the Constitution to examine its validity. After hearing view points of learned counsel of the parties, this court observed that Respondent Company/SNGPL is a limited company incorporated under the Companies Ordinance, 1984. Its 36% shares are held by Government of Pakistan and rest are held by Public or by private and public sector companies, therefore, an incorporated body being custodian of public interest is bound to carry out its functions in a legal and highly transparent manner to ensure protection/safeguard the interest of public having shares in it as they have reposed confidence in it to run business on their behalf so that the benefit of the same could be extended to them. There is no dispute that as per Islamic rule of interpretation of contracts as it has been observed in Commissioner of Income Tax Peshawar Zone Peshawar Vs. M/S Siemen A.G.(1991 PTD 488) when two contracting parties agreed to do something by a mutual valid contract or intended to do so and the same is not prohibited by Islam, then a third party or Court has no power to modify either the contract or interfere with it. As per ratio of this precedent, emphasis has to be laid on expression ‘mutual valid contract’. But where a contract entered between the two parties carries an element of public

interest, then it is open for judicial review by the Superior Courts under their Constitutional jurisdiction. So far the instant case is concerned as M/s Huffaz has already completed supply of steel pipeline to Respondent Company in pursuance of the work order issued to it on 21-7-1997, no relief can be granted to Appellant Company.

### **3.10 Ghulam Mustafa Insari and 48 others Vs. Government of Punjab and others ( 2004 SCMR 1903 ).**

In this matter the petitioners were elected as Union Nazims and Naib Union Nazims of the Union Councils by direct Vote based on adult franchise and joint candidacy, under the provisions of Punjab Local Government Election Ordinance V of 2000 since repealed (hereinafter referred as the Election Ordinance). A number of Petitioners were voted out by the requisite majority of the members of the respective Union Councils through the 'internal recall motion' under the provisions of Sections 85 or 92 of the Punjab Local Government Ordinance 2001 (hereinafter referred as the Ordinance). The petitioners filed writ Petitions calling in question the validity of the internal recall motions as well as Vires of the provisions of Sections 85 and 92 of the Ordinance. The same were dismissed by a Division Bench of the Lahore High Court Lahore vide the impugned judgment. The petitioners challenged this decision of the High Court through a Petition for leave to appeal. Before this Court Petitioners contended that Sections 85 and 92 of the Ordinance were discriminatory and ultra Vires the provisions of the Constitution and the Ordinance itself. The legislature should have made a provision whereby a 'recall motion' could be moved and carried only by the electorate which had elected the Nazims and Naib Nazims and not by a different forum of members of Union Councils. The Nazims and Naib Nazims were elected through the same process of joint candidacy. Their relationship inter se was just like that of twin brothers. The procedure provided for the 'internal recall motion' of Nazims by section 85 was different and more cumbersome than one provided for in the case of Naib Nazims by section 92 of the Ordinance which was quite harsh and without any safeguards or safety valves. It was further contended that the provisions of sections 85 and 92 are invalid on the touch stone of the preamble of the Ordinance.

The learned Advocate General, Punjab for the Respondent argued that the provisions of the Ordinance including sections 85 and 92 are protected in terms of Article 270-AA of the Constitution and could not be called in question in any court on any ground whatsoever. It was further contended by him that the Nazims and Naib Nazims do not constitute the same class of persons because their functions and nature of duties is quite different, hence the impugned sections of the Ordinance are not discriminatory in their nature. This Court after surveying various provisions of the ordinance dealing with the duties and functions of the Nazims and Naib Nazims observed that position of a Union Nazim is quite different in nature from that of Naib Union Nazim. Under the scheme of the Ordinance Union Nazim occupies a primary and pivotal position. He is kingpin of the Union Administration as well as the union Council. Office of Naib Nazim is created to cater for the contingent situation when the Union Nazim is unable to perform his functions. It is therefore difficult to say that the Union Nazims and Naib Union Nazim constitute same class of persons. The classification qua both of them is reasonable, rational or with intelligible differentia. The equality is among the equals and unequals cannot be treated equally. Thus the legislature in its wisdom was empowered to provide a somewhat different procedure for internal call motion in respect of the Union Nazims and Naib Union Nazims notwithstanding that both are directly elected as joint candidates based on adult franchise

under the provisions of the Ordinance. The courts generally lean towards upholding the constitutionality of a statute rather than to destroy it unless such a statute is, ex facie discriminatory or capable of discriminatory application and otherwise clearly violative of any provision of the Constitution. It was further held that the validity or Vires of a statute cannot be tested merely on the touch stone of a preamble. The preamble of a statute can neither restrict nor control the meaning of the enacting part of the statute. The preamble of a statute is a useful aid for interpretation where language of provision of a statute is not clear or the same is otherwise susceptible to more than one meaning. If the enacting part of the statute goes beyond its preamble it is the enacting part which prevails and not the preamble. Moreover the learned counsel in this matter was unable to demonstrate any conflict between provisions of sections 85 and 92 of the Ordinance.

For the foregoing reasons this court did not find any merit in these petitions which were dismissed and leave to appeal was refused accordingly.

### **3.11 Shafi Muhammad Sehwani and another Vs. State ( PLJ 2004 SC 859).**

In this Ehtesab matter Mr. Shafi Muhammad Sehwani Ex-Chairman C.D.A. and one Abdul Qadir Shaukat/Appellants were convicted by a division bench of Lahore High Court Lahore in Ehtesab Reference No. 3 of 1997 under section 4 of the Ehtesab Ordinance XX of 1997 and were sentenced to five years R.I each with fine of Rs. 10,00,000/- and in default whereof to undergo further R. I for one year. They were however extended benefit of Section 382-B,Cr.PC. Feeling aggrieved by this judgment of the High court, both the appellants filed separate appeals against their conviction before this Court which were disposed by a common judgment of this Court. Charge against the appellants was that Appellant No.1 when he was member planning of the C.D.A., misled the then Chairman of C.D.A. in the matter of restoration of a plot cancelled from the name of appellant No.2 and its regularization of illegal construction thereon as such both the appellants by their connivance has caused a huge financial loss to the State exchequer. Therefore they are guilty of Corruption and corrupt practice under S.4 of the Ehtesab Ordinance, 1997. Before this Court it was contended by the Counsel of Appellants that the prosecution has failed to prove beyond any doubt that appellants No.1 is guilty of corruption or corrupt practice, therefore conviction and sentence awarded to him is not sustainable in law. For Appellant No.2 it was contended that none of the witness examined at trial has impleaded the Appellant in any manner with the commission of the offence, as such he has been falsely implicated and made a escape goat. On behalf of the State it was argued that though there was no direct evidence of corruption or corrupt practice against the Appellants but the circumstances under which the matter of restoration of allotment of plot and regularization of illegal construction sufficiently indicate that loss was caused to the estate exchequer for personal interest and for extraneous considerations.

After hearing both the Appellant's counsels and counsel for the State, this court held that Prosecution has failed to prove the charges against the appellants. Even not a single witness has implicated Appellant Abdul Qadir Shaukat in any manner with the commission of the offence. The question of *mens rea* is missing in the case of Appellant Shafi Muhammad Sehwani. Mere irregularity in regularization of the plot and allegation of misleading the then Chairman of the CDA would not constitute the offence under section 4 of the Ehtesab Ordinance. Thus in our view no case of any sort has been made out warranting the conviction and sentence of the appellants. It was further observed that on legal plane also the conviction and sentence of the

Appellants under the Ehetsab Ordinance cannot sustain because Ehtesab Ordinance,1997 and Ehtesab Act,1997 were challenged under Article 199 of the Constitution before a Full Bench of Lahore High Court Lahore, who by its judgment dated 26-3-1998 held that Section 31 ( 2 )( c ) of the Ehetsab Act,1997 is discriminatory and violative of the equal protection clause contained in Article 25 of the Constitution and cannot be sustained. It was further held that proceedings pending at the time of enforcement of the Ehetsab Act,1997 relating to period prior to 6-11-1990 could not continue under the Act. This judgment was challenged by Federation of Pakistan and others before Supreme Court of Pakistan judgment whereof is reported as Federation of Pakistan and others Vs. M. Nawaz Khokar and others (PLD 2000 SC 26), wherein it was held with majority opinion that after the promulgation of the Act, only holders of public offices since 6-11-1990 could be prosecuted and proceedings which related to offences committed prior to 6-11-1990 could not be continued under the Act after repeal of Ordinance,1997.It was further held that the provisions of the Act made it clear that it applies to the holder of public offices since 6-11-1990. Only those Proceedings pending under the Ehtesab Ordinance 1997 were observed to be saved which were pending at the date of promulgation of the Act,1997.Since proceedings under the Ordinance,1997 against the appellants were initiated after 611-1990, thus Proceedings against the Appellants under the Ehtesab Ordinance 1997 were Coram non judice and without lawful authority as such conviction and sentence of the appellants under the Ehetsab Ordinance,1997 cannot sustain . Accordingly appeals are allowed and conviction and sentence recorded by courts below are set aside.

### **3.12 Federation of Pakistan Vs I. A. Sharwani and others (2005 SCMR 292).**

This matter relates to grant of pension to retired civil servants. The Respondents/Retired civil servants/Pensioners agitated separately through Shariat Petitions before the Federal Shariat Court that the Government servants of the same grade though retired on different dates could claim same amount as pension and that the Notifications,1985 and 1986 issued by Federal Government of Pakistan dividing the Pensioners into new pensioners and old pensioners for the purpose of calculating pensionary benefits are against injunctions of Islam as laid down in Quran and Sunnah and hence liable to be struck down as such. The Federal Shariat Court allowed these Petition by a common judgment dated 14-10-1992 declaring therein that the division of pensioners into new and old pensioners is discriminatory. Pensioner is pensioner irrespective of the date on which he is retired and whenever is any revision of salary or pension each one of them is entitled to get pension equal to other in the same grade or category. Against the above said judgment of the Federal Shariat Court, Federation of Pakistan filed appeal before Shariat Appellate Bench of Supreme Court of Pakistan. The Shariat Appellate Bench after hearing the Attorney General for Pakistan on behalf of Appellant and the Respondents in Person observed that as a rule, the right of pension depends upon statutory provisions regulating it , therefore, the existence of such right or otherwise is determined primarily from the terms of the statute under which the right or privilege is granted. In general sense the term “pension” denotes to a grant after release from service. It is designed to assist the pensioner in providing for his daily wants and it presuppose the continued life after retirement. It was further observed that before Federal Shariat Court respondent’s contention was that pensioner is a pensioner and there could be no classification as “old pensioner” and “new pensioner”. This plea was accepted by the Federal Shariat Court , ignoring the fact that the quantum of pension is determined keeping in view the emoluments which the pensioner was receiving immediately before his retirement and it includes

pay as defined in Fundamental Regulation 9 ( 21 ) ( a ) ( 1 ) ; senior post allowance if any ; special pay of all types and nature ; personal pay; dearness allowance ; increments accrued during leave preparatory to retirement and any other emolument , which may be specially classified as pay. It is noted that , while in service the employee of any grade all the time do not get the same pay. For example , an employee, who enters into service earlier and get increments, his salary must be more than an employee who joined service in the same grade after year of the earlier employee. While serving in the same grade employees get different pay, how they could ask for computation of their pension in violation of the Pension Rules in force on the date of retirement of civil servant. Admittedly there is no contract between the pensioners and the Government regarding terms and conditions relating to change of rate of pension in future, as such the distinction between old pensioners and new pensioners could not be undone and each pensioner would get pay according to his entitlement under the law and this could not be termed as discriminatory. Pension is regarded as wealth and inequality in its distribution does not render it un-Islamic nor different rates could be termed as discriminatory. The quantum of pension is determined having taken into account : ( 1 ) the length of qualifying service ( 2 ) emoluments drawn and ( 3 ) as per rates in prescribed in relevant Rules. The concept of “Adl” and “Ehsan” as enunciated in Islamic principles is not contrary to the rules of pension, as applicable to the retired civil servants of Pakistan. As per Rules the pension of a retired civil servant is not to be recalculated on revision of pay and scale of serving employees. A benefit given to a person in employment, the same cannot be claimed by the pensioner as a matter of right. The contention that since the pension scheme in Pakistan is salary related, as such , revision in pay scales should also be made applicable to the pensioners, as the reason for the revision of the pay scales is the rising cost of living and escalating inflationary tendencies in the economy and also decrease in the economic value of the rupee, which affect both the serving civil servants and pensioners. Such contention was also raised in an earlier case reported as **I. A. Sherwani and others Vs Government of Pakistan ( 1991 SCMR 1041)**, wherein it was held that if the pay scales of serving civil servant are revised, the civil servants, who have by then already retired cannot have any legitimate grievance to agitate for notional revision of their pay scales for re-computing their pension amounts for any purpose as the pension is to be computed as per Civil Service Regulations, on the basis of pension rules in force on the date of retirement of a civil servant. The pension rules contain a formula as to the method of computation of pension amount with reference to salary drawn by him till the date of retirement and, therefore, there cannot be uniformity in the amounts of pension among the civil servants despite of having equal rank and length of service. Even otherwise respondents have not challenged any specific provision of law or rule and the impugned judgment is simply of general nature highlighting the grievance of the respondents arising from inflammation. Liberal interpretation of pension law/rules rendering them totally ineffective is neither permissible nor possible. Ex facie pension related laws are not inconsistent with or in derogation of fundamental rights . On the ground of personal hardship, inconvenience, disliking and paucity of funds of decent living of a pensioner, the pension related laws, rules and regulation cannot be altered, modified, or struck down. For the foregoing reasons Appeals were allowed, impugned judgment was set aside and Petitions of the Respondent filed before the Federal Shariat Court were dismissed.

### **3.13 Asif Ali Zardari Vs Federation of Pakistan and another (Civil Petition No. 1320/2003 decided on 22-11-2004 ).**

Petitioner Asif Ali Zardari, an MNA and husband of Former Prime Minister of Pakistan, Muhtarma Be Nazir Bhutto was charged for corruption and corrupt practices by NAB under Section 9/10 of the National Accountability Ordinance, 1999 ( hereinafter referred as the Ordinance ) by a Reference No. 59/2002. The charge in Reference was that he being a member of National Assembly/holder of public office in July-August 1995 by misusing his power, position and public authority illegally and fraudulently imported a BMW bullet proof Vehicle/car by showing it an ordinary 1600 horse power car in the name of Sajid Qayyum and get it registered, as such, by preparing false documents and fabricating the record, thus, committed an offence of corruption and corrupt practices as defined in the Ordinance. The Petitioner was taken into custody on 5-11-1996 when the then government of Pakistan Peoples Party was removed by the then President of Pakistan. Seven other criminal cases were also registered against the Petitioner. Petitioner moved Lahore High Court, Rawalpindi Bench vide a Writ Petition for bail in this Reference, which was declined by a Division Bench of the said court. Feeling not satisfied with the order of the High Court, Petitioner sought leave to appeal against the impugned Order from this Court. It was observed that it is established from the record that original owner of Car in question was Sajid Qayyum, who transferred the car to Badaruddin and latter transferred it to one Saeed Khan. It is also evident from the record that it was Sajid Qayyum who had imported it and paid the custom duty according to law. There is irrefutable evidence to the effect that that the petitioner at the relevant time was not in power. Nothing concrete has been brought on the record to show that the Petitioner had any link with Sajid Qayyum or Badruddin or Saeed Khan. No other person linked with this Car in question has been made accused in this case. One of the main prosecution witness, namely, Anis Ahmad , during the trial was declared hostile and he did not support the prosecution. No evidence worth mentioning is available on the record to indicate that custom duty and other charges were paid by the petitioner. Proceedings against the Petitioner in this matter were initiated when he was already granted bail/ acquitted in other cases registered against him. It seems that Petitioner was involved in this case malafidely. *Prima facie*, there is no evidence worth relying and evidence so collected is not enough to decline the bail to the Petitioner. A strong case of further inquiry is made out and bail is granted to the petitioner in Reference No. 59/2000 ( BMW car Reference) to the satisfaction of the Trial Court in sum of Rs.10,00,000/- and PR bond in the like amount.

### **3.14 Muhammad Shabbir son of Haji Qasim Vs. The State of Islamic Republic of Pakistan (Cr.App. No.194 of 1997 decided on 14-12-2004).**

In this matter appellant was convicted under S. 3(1)(d) r/w S.4(2) of the Ehtesab Ordinance, 1996 and Sections 107/108 PPC, and he was sentenced to imprisonment for a period of three years along with a fine of Rupees ten million by a learned full Bench of Sindh High Court on a Reference under section 14 of the Ehtesab Ordinance. The Charge against the Appellant was that he made an unauthorized construction over a plot, on which he was allowed to construct a building by the Karachi Building Control Authority. To regularize his illegal construction on the Plot, he obtained undue favour from the then Chief Minister Syed Abdullah Shah Co accused. Appellant not satisfied with the decision of the Learned Sindh High Court, preferred appeal to this august Court.



It was objected on behalf of appellant that all the proceedings under the Reference before the High Court were void ab initio, coram non iudice and without jurisdiction, because the Reference in question was filed on 16-1-1997 under the Ehtesab Ordinance, 1996 which was repealed on 1-2-1997 by Ehtesab Ordinance 1997, and later having subsequently merged into Ehtesab Act, 1997. This august Court held that this controversy has already been settled in the case of **M. Nawaz Khokar ( PLD 2000 SC 26 )** wherein it was held that it was not a case of simple repeal, but a case of simultaneous repeal and re-enactment of a legislation. The Ehtesab Act, 1997 was verbatim reproduction of Ehtesab Ordinance 1996 as such it was still in force and proceedings taken under the repealed Ordinance 1996 will continue under the provisions of Ehtesab Act, 1997. Therefore objection of the Counsel for the appellant do not hold the ground.

On merit it was held that an illegal construction over a plot can be fully dealt with extensively under the provisions of Sindh Building Control Ordinance, 1979. Any violation of this law can be dealt effectively under this law. Recourse to Ehtesab Ordinance 1996 could only be made if the Appellant obtained favourable Order for regularization of illegal construction on plot by exercising Corruption or corrupt means. There is no iota of evidence worth the name brought about the prosecution on record that appellant had resorted to corruption or corrupt practices or had bribed someone to obtain regularization of an unauthorized construction. To obtain a regularization Order for an illegal construction over a plot directly from the Chief Minister was an usual phenomenon at that time. The mere filing of application by the appellant for regularization of his building could not be considered an offence because of the precedent already in existence. Under the provisions of Sindh building Control ordinance, the competent authority to grant or refuse regularization is delegatee of the Government. Under the Sindh Governments Rules of Business 1996 any order passed by Chief Minister or any authority exercising delegated power is deemed to be order passed by the Government. Therefore Chief Minister in his capacity as the Government could pass any order which his delegate could pass under the provisions of Sindh building Control ordinance. Thus chief Minister in the instant matter was authorized to pass the impugned regularization order. For the foregoing reason, no offence is committed by the Appellant under S. 3(1)(d) r/w S.4(2) of the Ehtesab Ordinance, 1996 and Sections 107/108 PPC. Therefore this appeal is accepted and conviction and sentences by the High Court is set aside. Appellant is hereby acquitted of the charge and absolved of the liability under the bail bond executed by him under the order of this court.

### **3.15 Ramesh M. Udeshi Vs. The State (Cr. App. No. 205 of 1997 decided on 14-12-2004).**

In this matter Appellant, a former Secretary to the Government of Sindh was convicted and sentenced under Sections 3 and 4 of the Ehtesab Act, 1997, by Ehtesab Bench of Sindh High Court on a Reference No.5 of 1997. The charge against the appellant was that he being holder of public office in capacity of Secretary to Government of Sindh suggested and recommended allotment of a land with malafide and dishonest intention in favour of Co-accused Gulam Abbas Gobol, Ghulam Akbar Gobol and Muhammad Khan Gobol at the rate of Rs. 48,400/- per acre against the then prevailing price of Rs. 7,00,000/ and /or Rs. 8,00,000/- per acre in the area with a view to obtain illegal gratification and benefits for himself and Co-accused Syed Abdullah Shah, the then Chief Minister of Sindh Province and provide illegal and fraudulent gain/profits to other co-accused and thereby caused a loss of Rs.8.2 Million to the Government of Sindh.

Co-accused Abdullah Shah was declared absconder and against rest of the co-accused, the proceedings in the High Court were dropped due to their voluntarily return of allotted lands. The Convicted accused/Appellant preferred appeal against the Judgment and order of the Sindh High Court before this august Court under S. 26 of the Ehtesab Act.

After hearing the learned counsels for the appellant and the State, this august Court observed that core of this matter is whether the appellant exceeded any of his powers or acted illegally in forwarding and formulating the summary for the allotment of land to then Chief Minister of the Province of Punjab ( Co-accused ).The perusal of Summary in question, sent by the appellant to the Chief Minister Sindh for allotment of land to the Co-accused shows that all necessary facts qua the allotment of lands in the province were disclosed in the summary. Nothing was concealed in the summary. Therefore it was held that there is no cogent guilt of the appellant. The prosecution has failed to prove the appellant's involvement in the charge. Hence offence as alleged in the charge is not proved. This appeal is allowed , the impugned judgment of the Sindh High Court is set-aside and appellant is acquitted of the charge.

# **JUDICIAL ACTIVITY AND STATISTICS**



## **4 JUDICIAL ACTIVITY AND STATISTICS**

### **4.1 Court Performance During the Year 2004**

The past trend of increase in litigation continued relentlessly throughout the year 2004. Once again a large number of cases, both petitions and appeals, were filed. To deal with the situation the Supreme Court of Pakistan refined its earlier strategy for clearing the backlog of cases. Accordingly, the Chief Justice constituted different benches varying the number of Judges. Consequently, a substantial number of cases, both old and new, were disposed of and the pressure was managed adequately.

The measures adopted led to decisions in 9938 cases during the year 2004. The earlier pending cases prior to this were 20031, but during the year an overwhelming number of 17521 cases were filed. The causes for such increase may be attributed to the bulging population and an increase in commercial activity.

At the Principal Seat, Islamabad, against the balance of pending cases of 9046 from the previous year, a total of 6170 were decided. After 12463 new cases were instituted, the balance of pending cases at the end of the year was 15339. At the Lahore Branch Registry, against the previous balance of 8486 pending cases, 2276 cases were disposed of. After 3391 new cases were instituted, the balance of pending cases at the end of the year stood at 9601. At the Karachi Branch Registry 890 cases were decided against the previous pending case balance of 1241. With 732 new cases having been filed, the balance of pending cases for the year 2004 stood at 1083. At the Peshawar Branch Registry 257 cases were decided when the figure for pending cases was 974 with institution of 701 new cases, the balance of pending cases rose by 444 to reach 1418. At the Quetta Branch Registry 284 cases were pending, while 345 cases were decided, but with 234 new cases, the balance of pending cases declined by 11 to stand at 173. The consolidated figures for the Supreme Court, as a whole, reveal that against a pending balance of 20031, 9938 cases were decided. In the year 2004, the institution of 17521 new cases raised the balance of pending cases to 27614. All these figures reveal the rising pressure of new institutions upon the resources of the Supreme Court. Despite a large number of disposals by the Court at the Principal Seat as well as the Branch Registries, the pressure of litigation continued to mount.

The Supreme Court continued to accord importance, during the year 2004, to cases of national importance. A few such significant judgments have been included in this Report. To deal with these important cases as well as all the other cases, larger benches of 7 Judges and 5 Judges had to be constituted. At the Principal Seat, the sittings of the Court lasted for 36 weeks. At Lahore, it was 21 weeks 2 days, at Karachi 14 weeks, at Peshawar 5 weeks 1 day and Quetta the sittings were for 6 weeks and 1 day.

The detailed statistics of judicial activity during the year 2004, including the constitution of benches, are provided in the tables within this section. An effort has been made, where necessary, to highlight the significance of the tables through graphic representations.

## 4.2 Statement of Court Sessions During the Year 2004

### 4.2.1 Principal Seat Islamabad

S.No.	Working Period	No. of Weeks/Days	No. of Benches
1.	01-01-2004 to 02-01-2004	2 days	1 (Senior Judge )
2.	05-01-2004 to 09-01-2004	1 week	6
3.	12-01-2004 to 16-01-2004	1 week	7
4.	19-01-2004 to 30-01-2004	2 weeks	4
5.	03-02-2004 to 06-02-2004	3 days	3
6.	09-02-2004 to 13-02-2004	1 week	3
7.	16-02-2004 to 17-02-2004	2 days	3
8.	18-02-2004 to 20-02-2004	3 days	3
9.	23-02-2004 to 27-02-2004	1 week	4
10.	03-03-2004 to 05-03-2004	3 days	4
11.	08-03-2004 to 12-03-2004	1 week	4
12.	15-03-2004 to 16-03-2004	2 days	4
13.	17-03-2004 to 19-03-2004	3 days	5
14.	22-03-2004 to 26-03-2004	1 week	4
15.	29-03-2004	1 day	4
16.	31-03-2004 to 02-04-2004	3 days	4
17.	05-04-2004 to 09-04-2004	1 week	4
18.	12-04-2004 to 16-04-2004	1 week	4
19.	19-04-2004 to 22-04-2004	4 days	5
20.	23-04-2004	1 days	4
21.	04-05-2004 to 07-05-2004	4 days	1
22.	10-05-2005 to 21-05-2004	2 weeks	4
23.	24-05-2004 to 07-06-2004	2 weeks	5
24.	08-06-2004 to 11-06-2004	4 days	4
25.	14-06-2004 to 18-06-2004	1 week	1
26.	21-06-2004 to 25-06-2004	1 week	1
27.	28-06-2004 to 02-07-2004	1 week	1
28.	05-07-2004 to 09-07-2004	1 week	1
29.	12-07-2004 to 16-07-2004	1 week	1
30.	19-07-2004 to 23-07-2004	1 week	1
31.	26-30-2004 to 30-07-2004	1 week	1
32.	02-08-2004 to 06-08-2004	1 week	1
33.	09-08-2004 to 13-08-2004	1 week	5
34.	16-08-2004 to 20-08-2004	1 week	2
35.	23-08-2004 to 27-08-2004	1 week	1
36.	30-08-2004 to 03-09-2004	1 week	1
37.	06-09-2004 to 17-09-2004	2 weeks	5
38.	20-09-2004 to 01-10-2004	2 weeks	5
39.	04-10-2004 to 08-10-2004	1 week	3+1(5 Judges Shariat Bench)



40.	11-10-2004 to 13-10-2004	1 week	3+1(5 Judges Shariat Bench)
41.	14-10-2004	1 day	3+1(5 Judges Shariat Bench)
42.	15-10-2004	1 day	2+1(5 Judges Shariat Bench)
43.	18-10-2004 to 29-10-2004	2 weeks	3+1(5 Judges Shariat Bench)
44.	01-11-2004 to 05-11-2004	1 week	3+1(5 Judges Shariat Bench)
45.	08-11-2004 to 12-11-2004	2 days	1
46.	18-11-2004 to 19-11-2004	2 days	1
47.	22-11-2004 to 26-11-2004	1 week	4
48.	29-11-2004 to 03-12-2004	1 week	5
49.	06-12-2004 to 09-12-2004	4 days	5
50.	13-12-2004 to 17-12-2004	1 week	5
51.	20-12-2004 to 24-12-2004	1 week	2
52.	27-12-2004 to 31-12-2004	1 week	1
<b>Grand Total</b>		<b>36 weeks</b>	

#### 4.2.2 Branch Registry, Lahore

S.No.	Working Period	No. of Weeks/Days	No. of Benches
1.	06-02-2004	1 Day	1
2.	09-02-2004 to 13-02-2004	1 Week	1
3.	16-02-2004 to 20-02-2004	1 Week	1
4.	04-05-2004 to 07-05-2004	1 Week	1
5.	14-06-2004 to 25-06-2004	2 Week	2
6.	28-06-2004 to 02-07-2004	1 Week	2
7.	05-07-2004 to 08-07-2004	4 Days	3
8.	09-07-2004	1 Day	2
9.	12-07-2004 to 16-07-2004	1 Week	2
10.	19-07-2004 to 23-07-2004	1 Week	1
11.	26-07-2004 to 30-07-2004	1 Week	1
12.	02-08-2004 to 06-08-2004	1 Week	2
13.	23-08-2004 to 03-09-2004	2 Weeks	2
14.	04-10-2004 to 29-10-2004	4 Weeks	1
15.	01-11-2004 to 11-04-2004	4 Days	1
16.	08-11-2004 to 12-11-2004	1 Week	1
17.	18-11-2004 & 19-11-2004	2 Days	2
18.	20-12-2004 to 24-12-2004	1 Week	2
19.	27-12-2004 to 31-12-2004	1 Week	2
<b>Grand Total</b>		<b>21 Weeks, 2 Days</b>	<b>30</b>

### 4.2.3 Branch Registry, Karachi

S.No.	Working Period	No. of Weeks/Days	No. of Benches
1.	06-02-2004	1 Day	2
2.	09-02-2004 to 10-02-2004	2 Days	2
3.	11-02-2004 to 13-02-2004	3 Days	1
4.	12-04-2004 to 16-04-2004	1 Week	1
5.	04-05-2004 to 07-05-2004	1 Week	1
6.	21-06-2004 to 25-06-2004	1 Week	1
7.	28-06-2004 to 02-07-2004	1 Week	1
8.	05-07-2004 to 09-07-2004	1 Week	1
9.	19-07-2004 to 23-07-2004	1 Week	1
10.	26-07-2004 to 30-07-2004	1 Week	1
11.	02-08-2004 to 06-08-2004	1 Week	1
12.	16-08-2004 to 20-08-2004	1 Week	1
13.	08-11-2004 to 12-11-2004	1 Week	2
14.	18-11-2004 to 19-11-2004	2 Days	2
15.	29-11-2004 to 03-12-2004	1 Week	1
16.	27-12-2004 to 31-12-2004	1 Week	2
	<b>Grand Total:-</b>	<b>14 Weeks</b>	<b>21</b>

### 4.2.4 Branch Registry, Peshawar

S.No.	Working Period	No. of Weeks/Days	No. of Benches
1.	06-02-2004	1 Day	1
2.	09-02-2004 to 13-02-2004	1 Week	1
3.	04-05-2004 to 07-05-2004	4 Days	1
4.	19-07-2004 to 23-07-2004	1 Week	1
5.	08-11-2004 to 12-11-2004	4 Days	1
6.	18-11-2004 & 19-11-2004	2 Days	1
8.	27-12-2004 to 31-12-2004	1 Week	1
	<b>Grand Total:-</b>	<b>5 Weeks &amp; 1 Day</b>	<b>7</b>

### 4.2.5 Branch Registry, Quetta

S.No.	Working Period	No. of Weeks/Days	No. of Benches
1.	22-03-2004	1 Day	1
2.	24-03-2004 to 26-03-2004	3 Days	1
3.	14-06-2004 to 25-06-2004	2 Weeks	1
4.	04-10-2004 to 06-10-2004	3 Days	1
5.	08-11-2004	1 Day	1
6.	10-11-2004 to 12-11-2004	3 Days	1
7.	19-11-2004	1 Day	1
8.	22-11-2004 to 26-11-2004	1 Week	1
	<b>Grand Total:-</b>	<b>6 Weeks &amp; 1 Day</b>	<b>8</b>

### 4.3. Statistics on the Institution and Disposition of Cases During the Year 2004

#### 4.3.1 Statement Showing Institutions, Disposal and Pendency of cases at Islamabad (from 1-1-2004 to 31-12-2004)

#### PETITIONS

Description	Opening Balance	Institution	Total	Disposal	Balance as on 31-12-2004
Civil Petition	1887	7783	9670	3811	5859
Criminal Petition	694	1126	1820	555	1265
Civil Review Petition	309	431	740	402	338
Criminal Review Petition	93	59	152	94	58
Criminal Shariat Petition	57	38	95	63	32
Criminal Shariat Review Petition	08	04	12	0	12
Jail Shariat Petition	38	81	119	30	89
Jail Petition	645	289	934	38	896
Constitution Petition	106	24	130	10	120
Human Rights	18	0	18	0	18
<b>Total</b>	<b>3855</b>	<b>9835</b>	<b>13690</b>	<b>5003</b>	<b>8687</b>

#### APPEALS

Description	Opening Balance	Institution	Total	Disposal	Balance as on 31-12-2004
Civil Appeal	3896	2362	6258	871	5387
Criminal Appeal	1122	206	1328	214	1114
Criminal Shariat Appeal	104	05	109	53	56
Civil Shariat Appeal	53	-4	49	16	33
Miscellaneous Application	16	59	75	13	62
<b>Total</b>	<b>5191</b>	<b>2628</b>	<b>7819</b>	<b>1167</b>	<b>6652</b>

### **CONSOLIDATED STATEMENT FOR ISLAMABAD**

Cases	Opening Balance	Institution	Total	Disposal	Pending as on 31-12-04	Remarks
Petitions	<b>3855</b>	<b>9835</b>	<b>13690</b>	<b>5003</b>	<b>8687</b>	<b>Increased by 4832</b>
Appeals	<b>5191</b>	<b>2628</b>	<b>7819</b>	<b>1167</b>	<b>6652</b>	<b>Increased by 1461</b>
G/T	<b>9046</b>	<b>12463</b>	<b>21509</b>	<b>6170</b>	<b>15339</b>	<b>Increased by 6493</b>

**4.3.2 Statement Showing Institutions, Disposal and Pendency of cases at Lahore  
(from 1-1-2004 to 31-12-2004)**

**PETITIONS**

Description	Opening Balance	Institution	Total	Disposal	Balance as on 31-12-2004
Civil Petition	7541	2429	9970	1614	8356
Criminal Petition	749	602	1351	283	1068
Civil Review Petition	166	132	298	178	120
Criminal Review Petition	30	09	39	23	16
Jail Petition	0	52	52	11	41
Criminal Original Petition	0	10	10	10	0
<b>Total</b>	<b>8486</b>	<b>3234</b>	<b>11720</b>	<b>2119</b>	<b>9601</b>

**APPEALS**

Description	Opening Balance	Institution	Total	Disposal	Balance as on 31-12-2004
Civil Appeal	0	126	126	126	0
Criminal Appeal	0	31	31	31	0
<b>Total</b>	<b>0</b>	<b>157</b>	<b>157</b>	<b>157</b>	<b>0</b>

**CONSOLIDATED STATEMENT FOR LAHORE**

Cases	Opening Balance	Institution	Total	Disposal	Pending as on 31-12-04	Remarks
Petitions	8486	3234	11720	2119	9601	Increased by 115
Appeals	0	157	157	157	0	No Variation
G/T	8486	3391	11877	2276	9601	Increased by 115

**4.3.3 Statement Showing Institutions, Disposal and Pendency of cases at Karachi  
(from 1-1-2004 to 31-12-2004)**

**PETITIONS**

Description	Opening Balance	Institution	Total	Disposal	Balance as on 31-12-2004
Civil Petition	936	620	1556	637	919
Criminal Petition	77	65	142	71	71
Civil Review Petition	50	26	76	65	11
Criminal Review Petition	01	07	08	05	03
Human Rights	10	0	10	0	10
Jail Petition	01	0	1	01	0
<b>Total</b>	<b>1075</b>	<b>718</b>	<b>1793</b>	<b>779</b>	<b>1014</b>

**APPEALS**

Description	Opening Balance	Institution	Total	Disposal	Balance as on 31-12-2004
Civil Appeal	163	03	166	100	66
Criminal Appeal	03	11	14	11	03
<b>Total</b>	<b>166</b>	<b>14</b>	<b>180</b>	<b>111</b>	<b>69</b>

**CONSOLIDATED STATEMENT FOR KARACHI**

Cases	Opening Balance	Institution	Total	Disposal	Pending as on 31-12-04	Remarks
Petitions	1075	718	1793	779	1014	Decreased by 61
Appeals	166	14	180	111	69	Decreased by 97
<b>G/T</b>	<b>1241</b>	<b>732</b>	<b>1973</b>	<b>890</b>	<b>1083</b>	<b>Decreased by 158</b>

**4.3.4 Statement Showing Institutions, Disposal and Pendency of cases at Peshawar  
(from 1-1-2004 to 31-12-2004)**

**PETITIONS**

Description	Opening Balance	Institution	Total	Disposal	Balance as on 31-12-2004
Civil Petition	785	534	1319	206	1113
Criminal Petition	175	137	312	14	298
Civil Review Petition	10	-1	09	05	4
Criminal Review Petition	02	-1	01	0	1
Jail Petition	02	0	02	0	2
<b>Total</b>	<b>974</b>	<b>669</b>	<b>1643</b>	<b>225</b>	<b>1418</b>

**APPEALS**

Description	Opening Balance	Institution	Total	Disposal	Balance as on 31-12-2004
Civil Appeal	0	30	30	30	0
Criminal Appeal	0	02	02	02	0
<b>Total</b>	<b>0</b>	<b>32</b>	<b>32</b>	<b>32</b>	<b>0</b>

**CONSOLIDATED STATEMENT FOR PESHAWAR**

Cases	Opening Balance	Institution	Total	Disposal	Pending as on 31-12-04	Remarks
Petitions	974	669	1643	225	1418	Increased by 444
Appeals	0	32	32	32	0	No Variation
G/T	974	701	1675	257	1418	Increased by 444



**4.3.5 Statement Showing Institutions, Disposal and Pendency of cases at Quetta  
(from 1-1-2004 to 31-12-2004)**

**PETITIONS**

Description	Opening Balance	Institution	Total	Disposal	Balance as on 31-12-2004
Civil Petition	184	147	331	217	114
Criminal Petition	66	49	115	61	54
Civil Review Petition	01	02	03	02	01
Criminal Review Petition	01	02	03	02	01
Jail Petition	0	0	0	0	0
<b>Total</b>	<b>252</b>	<b>200</b>	<b>452</b>	<b>282</b>	<b>170</b>

**APPEALS**

Description	Opening Balance	Institution	Total	Disposal	Balance as on 31-12-2004
Civil Appeal	31	28	59	56	03
Criminal Appeal	0	06	06	06	0
Criminal Miscellaneous Appeal	01	0	01	01	0
<b>Total</b>	<b>32</b>	<b>34</b>	<b>66</b>	<b>63</b>	<b>03</b>

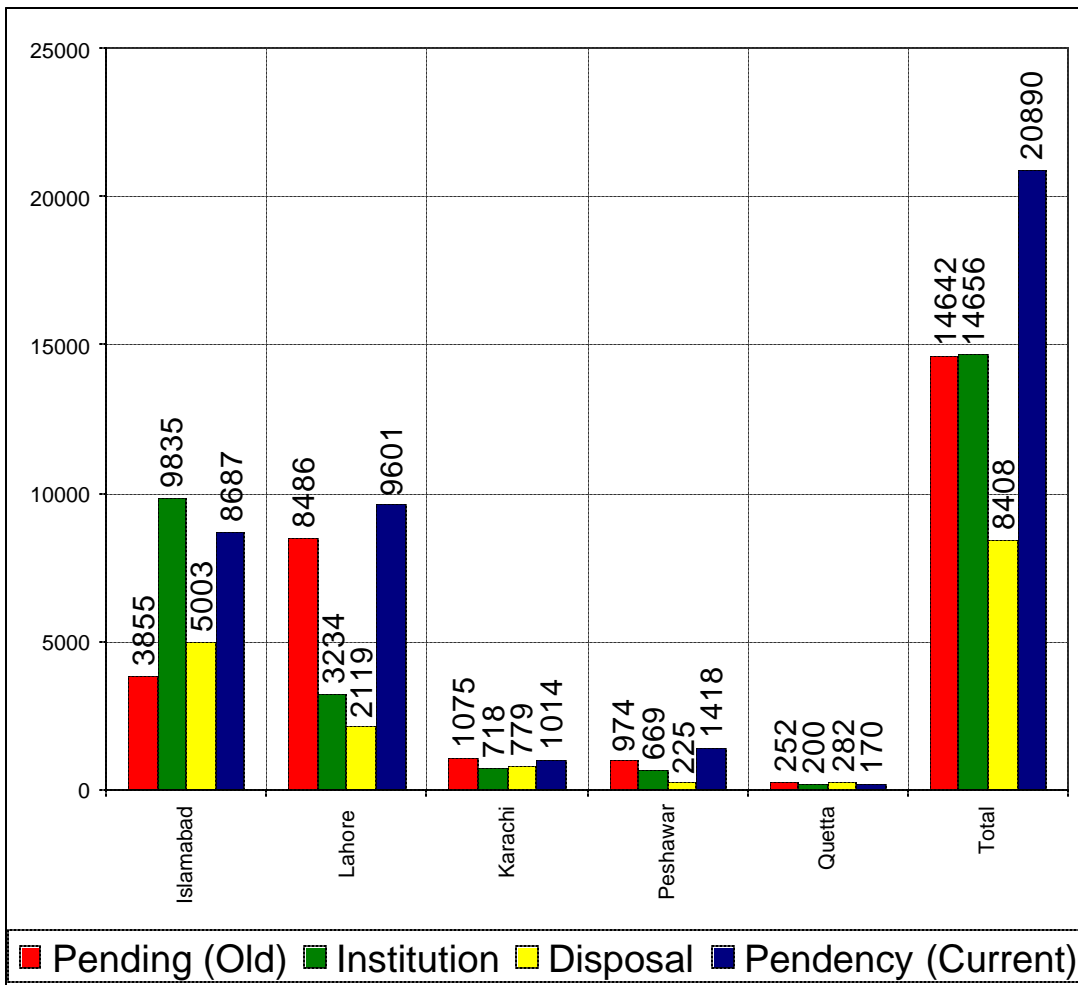
**CONSOLIDATED STATEMENT FOR QUETTA**

Cases	Opening Balance	Institution	Total	Disposal	Pending as on 31-12-04	Remarks
Petitions	<b>252</b>	<b>200</b>	<b>452</b>	<b>282</b>	<b>170</b>	Increased by 18
Appeals	<b>32</b>	<b>34</b>	<b>66</b>	<b>63</b>	<b>03</b>	Decreased by 29
G/T	<b>284</b>	<b>234</b>	<b>518</b>	<b>345</b>	<b>173</b>	Decreased by 11

**4.3.6 Consolidated Statements for the Principal Seat and Branch Registries (From 1-1-2004 to 31-12-2004)**

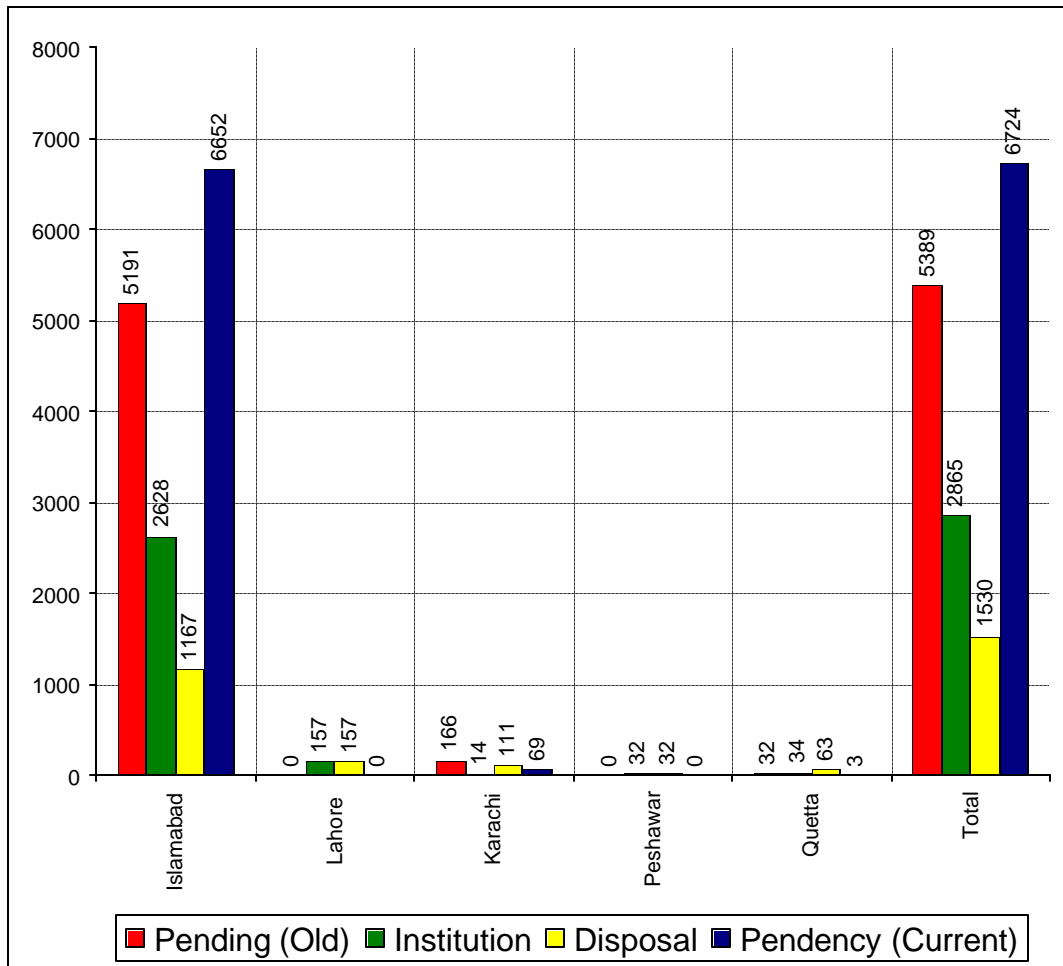
**PETITIONS**

Location	Balance as on 01-01-2004	Institution	Total	Disposal	Balance as on 31-12-2004
Islamabad	3855	9835	13690	5003	8687
Lahore	8486	3234	11720	2119	9601
Karachi	1075	718	1793	779	1014
Peshawar	974	669	1643	225	1418
Quetta	252	200	452	282	170
<b>Total</b>	<b>14642</b>	<b>14656</b>	<b>29298</b>	<b>8408</b>	<b>20890</b>



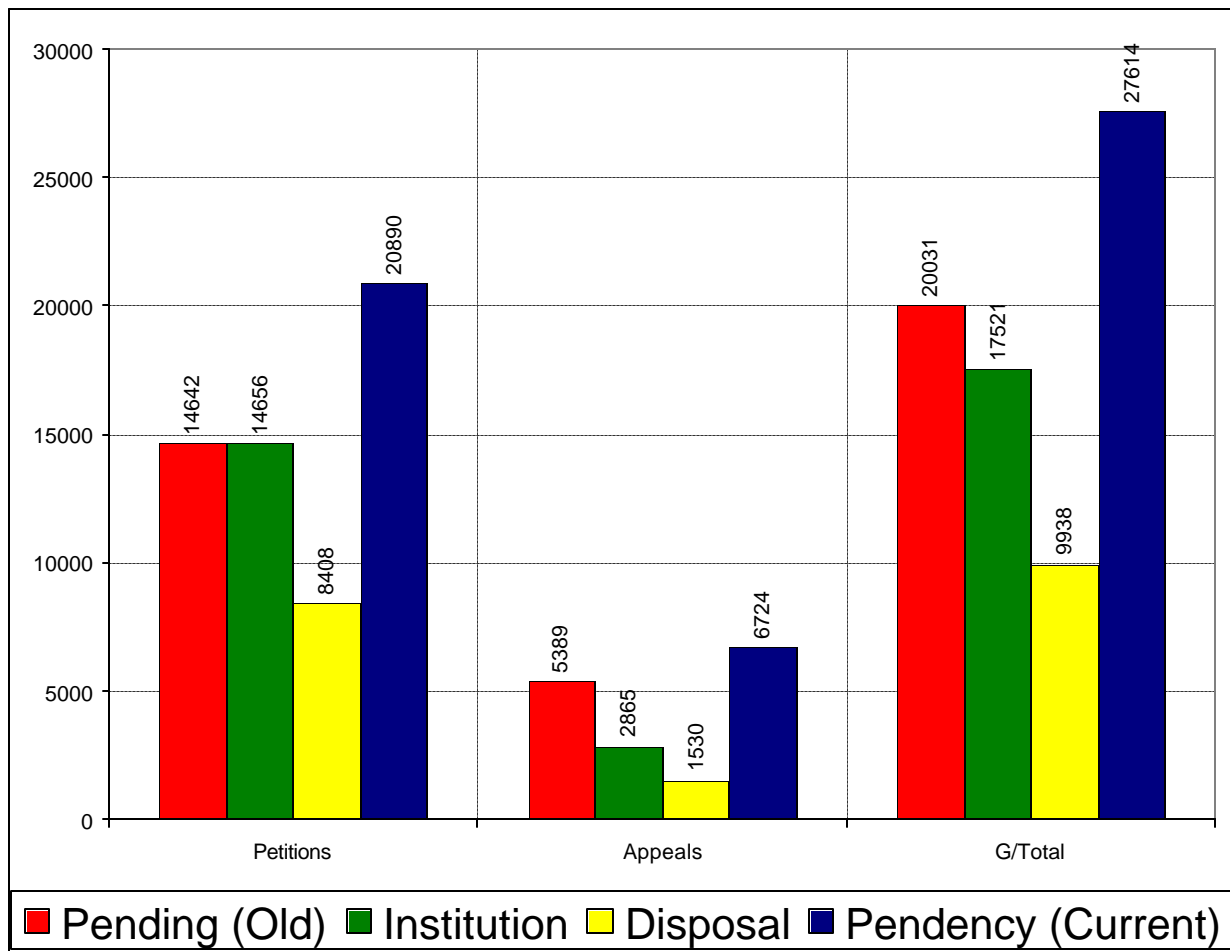
## APPEALS

Location	Balance as on 01-01-2004	Institution	Total	Disposal	Balance as on 31-12-2004
Islamabad	5191	2628	7819	1167	6652
Lahore	0	157	157	157	0
Karachi	166	14	180	111	69
Peshawar	0	32	32	32	0
Quetta	32	34	66	63	03
<b>Total</b>	<b>5389</b>	<b>2865</b>	<b>8254</b>	<b>1530</b>	<b>6724</b>



**CONSOLIDATED STATEMENT FOR ALL CASES FROM 01-01-2004 TO 31-12-2004**

Cases	Previous Pendency	Institution	Total Pendency	Disposal	Current Pendency	Remarks
Petitions	14642	14656	29298	8408	20890	Increased by 6248
Appeals	5389	2865	8254	1530	6724	Increased by 1335
G/T	20031	17521	37552	9938	27614	Increased by 7583



# **STATISTICAL DATA ANALYSIS**



# 5 STATISTICAL DATA ANALYSIS

## 5.1 The Ratio of Pending Cases to Disposal

The “Ratio of Pending Cases to Disposal” shows how long the Court will take, at the current rate of disposal, to dispose of the balance of cases pending at the end of the year<sup>1</sup>.

The ratio when applied to the consolidated figures for the Supreme Court for the year 2004, give the following results:

Cases	Previous Pendency	Institution	Total Pendency	Disposal	Current Pendency	Pendency Cases to Disposal (Ratio)
G/Total	20,031	17,521	37,552	9,938	27,614	278

**ENTIRE PENDING BALANACE**

The ratio reveals that it will take the Court approximately two years and nine months additional at the current rate of disposal to eliminate the pending balance. As this is the total of all the petitions and appeals, the ratio does not reveal the true picture.

Cases	Previous Pendency	Institution	Total Pendency	Disposal	Current Pendency	Pendency Cases to Disposal (Ratio)
Petitions	14,642	14,656	29,298	8,408	20,890	248

<sup>1</sup>A result of 100 means one year, 50 means six months, 25 means three months and so on. The ratio is easily calculated from the data provided in the table. The calculation is as follows:

$$\left( \frac{\text{Pending balance for the year}}{\text{Cases disposed of during the year}} \right) \times 100$$

Thus, if the number of pending case were 5000 at the end of the year, while those disposed of were 10000, the calculation will be as follows:

$$\left( \frac{5000}{10000} \right) \times 100 = 50$$

This means, it will take the Court six months to dispose of the balance. If the cases pending were 27,500, while those disposed of were 10000, the calculation would be.

$$\left( \frac{27500}{10000} \right) \times 100 = 275$$

This means that the Court will take 2 years and 9 months to dispose of the balance at the current rate of disposal.



### PENDING BALANCE OF PETITONS

At the current rate of disposal, it will take the Court approximately additional two year and six months to dispose of all the pending petitions.

Cases	Previous Pendency	Institution	Total Pendency	Disposal	Current Pendency	Pendency Cases to Disposal (Ratio)
Appeals	5389	2865	8254	1530	6724	439

### PENDING BALANCE OF APPEALS

*At the current rate of disposal, it will take the Court additional four years and four months to dispose of all the pending appeals. This does not include the appeals to be instituted during the period, therefore, the word "additional" is added.*

Cases	Previous Pendency	Institution	Total Pendency	Disposal	Current Pendency	Pendency Cases to Disposal (Ratio)
Islamabad	5191	2628	7819	1167	6652	570

### PENDING BALANCE OF APPEALS AT ISLAMABAD

*At the current rate of disposal, it will take the Court at the Principal Seat additional five years and nine months to dispose of all the pending appeals. This does not include new appeals to be instituted during these five years and nine months*

The conclusion may be drawn that a comprehensive strategy is needed to deal with rising pending balances, especially the appeals, keeping in view the fact that the number of Judges usually remains constant.

## 5.2 Median Time Analysis and the Supreme Court

It is not possible at present to undertake median-time analysis on the basis of the data available for the Supreme Court. Median-time means average time taken by the Court to decide a case, whether petition or appeal. Once the Automation Plan for the Courts is fully implemented such an analysis will become feasible. It may be mentioned, however, that median-time analysis is useful for measuring performance of different courts of the same status (For example, the District Courts). Such an analysis may not be very useful for the Apex Court, except to the extent that performance in different years can be compared.

### 5.3 Average Cost Per Case-Comparison with Last Year

The cost per case ratio will acquire greater significance when the automation plan is implemented and starts generating detailed data that will enable the assigning of weights to different cases in terms of time take to decide them. At present we may use the simple calculation.

$$\left( \frac{\text{Annual total expenditure for the year}}{\text{Cases disposed of during the year}} \right)$$

for last year as well as this year and compare the result.

year 2003	year 2004	+/(-)
Rs. 10796	11018	(+222)

#### **COST PER CASE**

Cost per case this year, as compared to the cost last year, has gone up by almost 2%

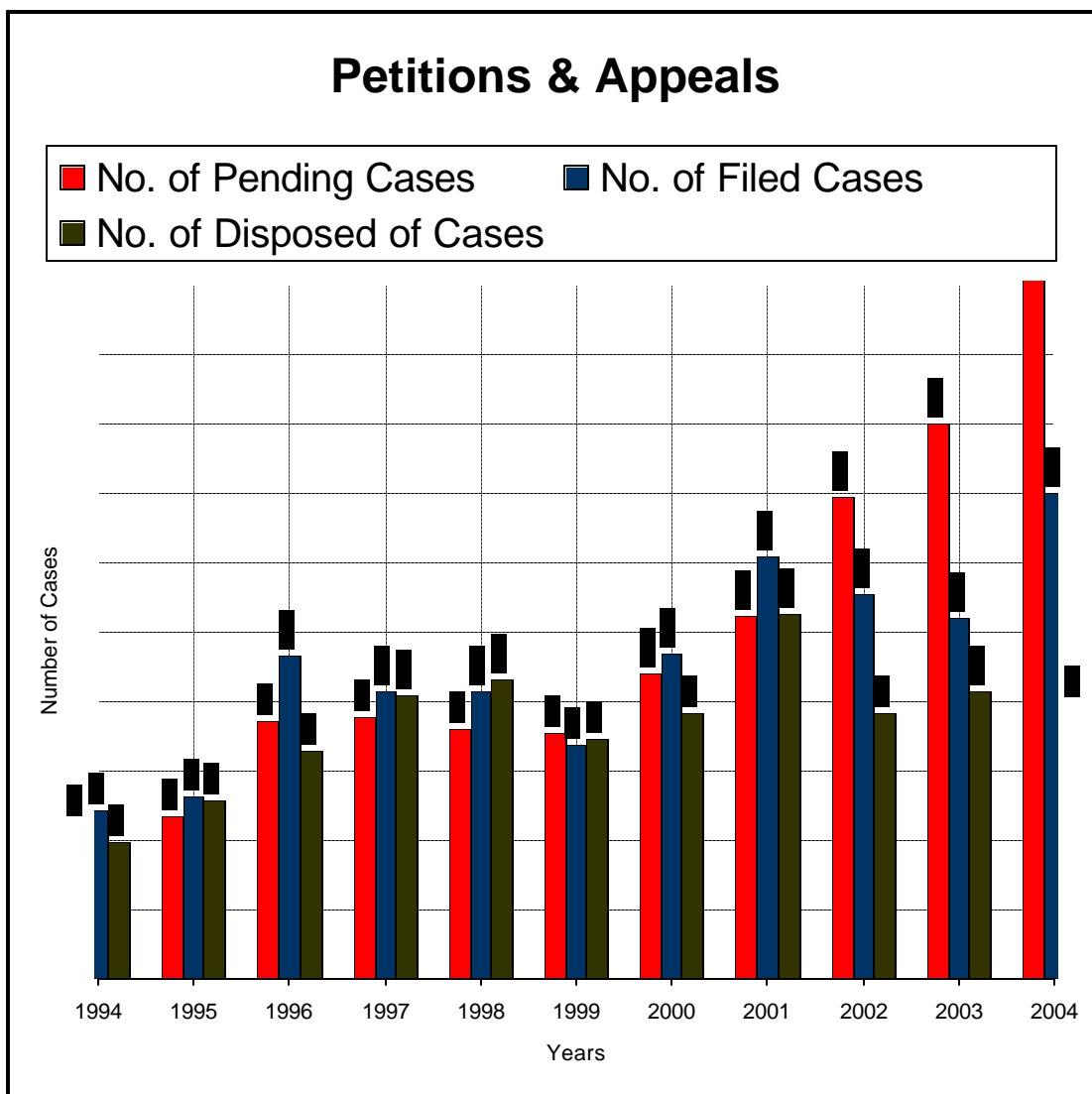
## 5.4 Some Visible Trends

### 5.4.1 Institution, Disposal and Pendency (1994 to 2004)

The pending balance shown for each year in the following graph is the pending balance of the previous year. Thus, the pending balance shown for 2004 is 20031, which was the final balance at the end of 2003. The pending balance as on 31.12.2004 was 27614.

### SUPREME COURT OF PAKISTAN

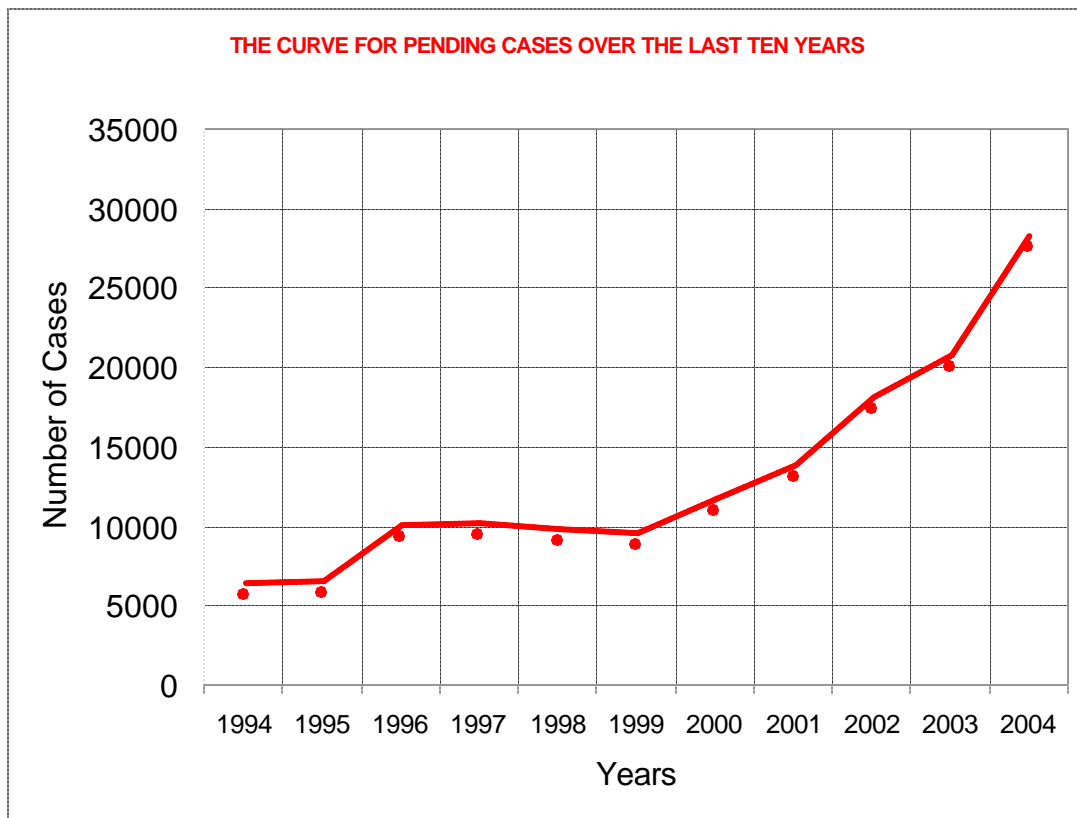
#### Year wise Institution, Disposal & Pendency of cases (1994 to 2004)



### 5.4.2 Trend of Pending Cases Over the Last Ten Years

The Pending balance continued to rise for the last five years and precipitous rise in this year due to sharp increase in institution of new cases in the year. Therefore, the increase in the pending balance this year was more than what it was last year.

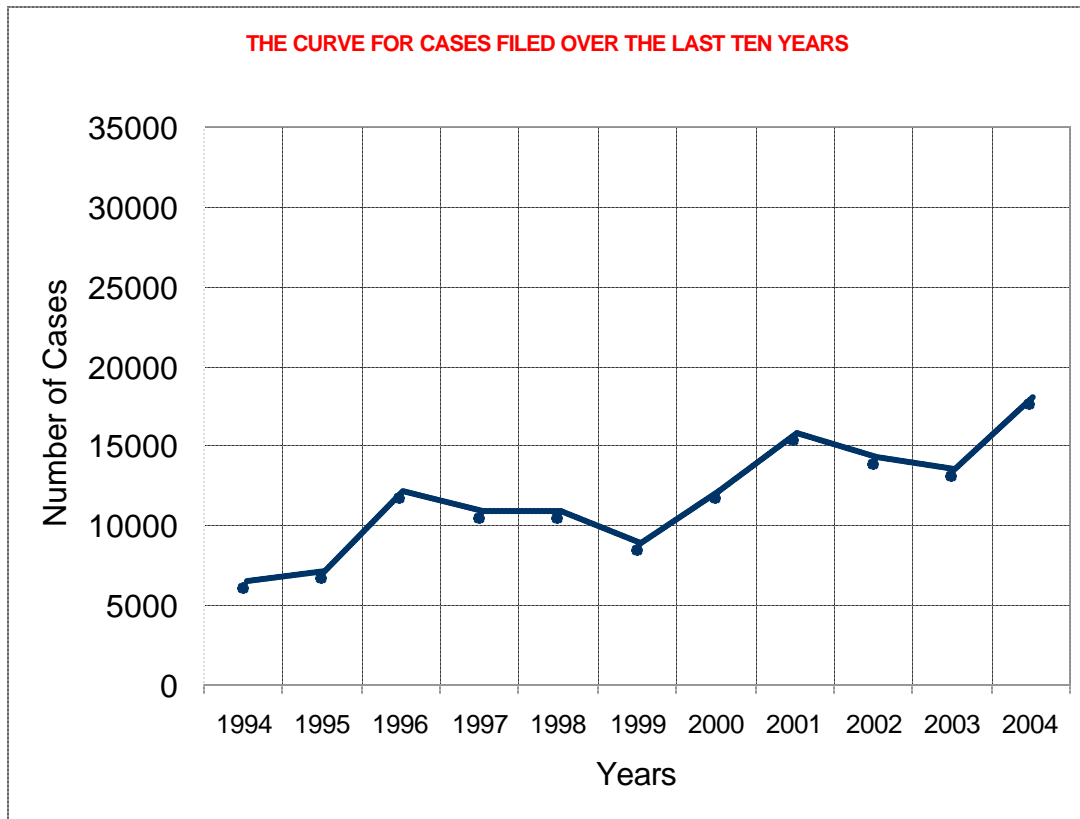
Year	Current	Previous	Increase/Decrease
1993	5134	2866	1268+
1994	5658	5134	524+
1995	5826	5658	168+
1996	9289	5826	3463+
1997	9409	9289	3463+
1998	9029	9409	380-
1999	8834	9029	195-
2000	10998	8834	2164+
2001	13070	10998	2072+
2002	17370	13070	4300+
2003	20031	17370	2661+
2004	27614	20031	7583+



### 5.4.3 Trend of Institution of Cases Over the Last Ten Years

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
6079	6607	11668	10379	10371	8413	11702	15243	13847	12990	17521

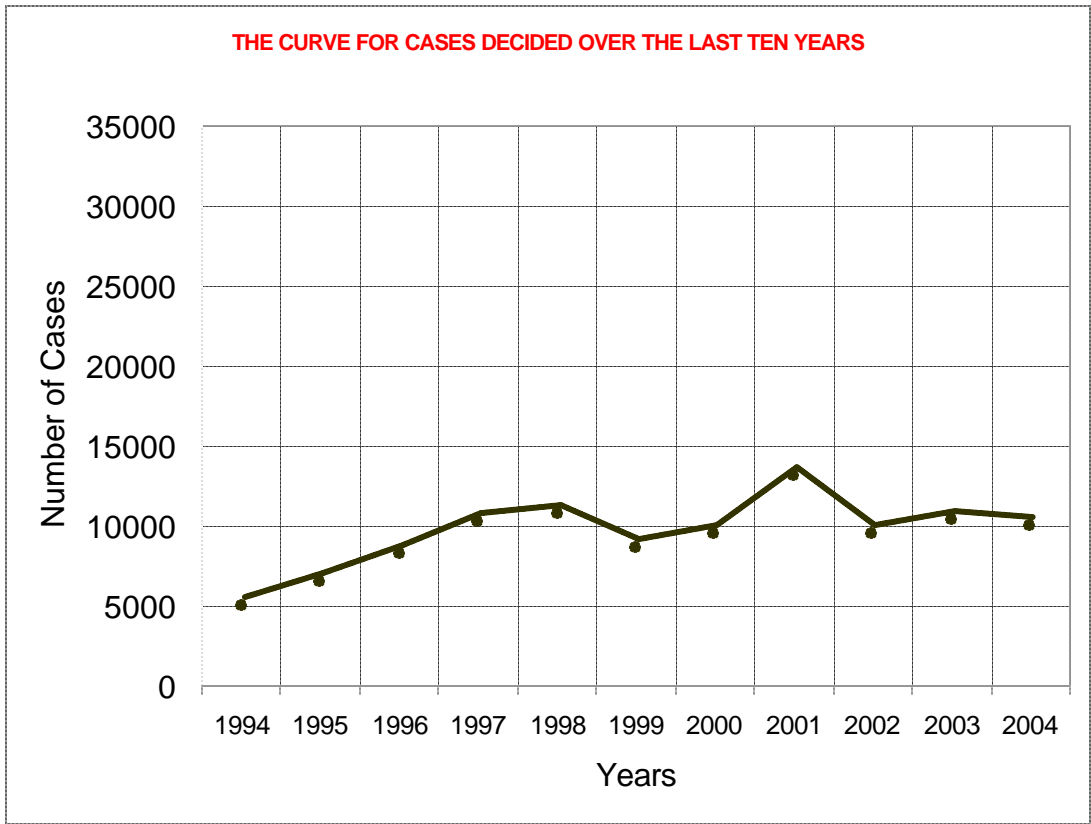
The number of new cases instituted has been declining in the years 2002 and 2003 whereas inclined in this year. The incline is sharper as compare to decline in the last some years.



#### 5.4.4 Trend of Disposal of Cases Over the Last Ten Years

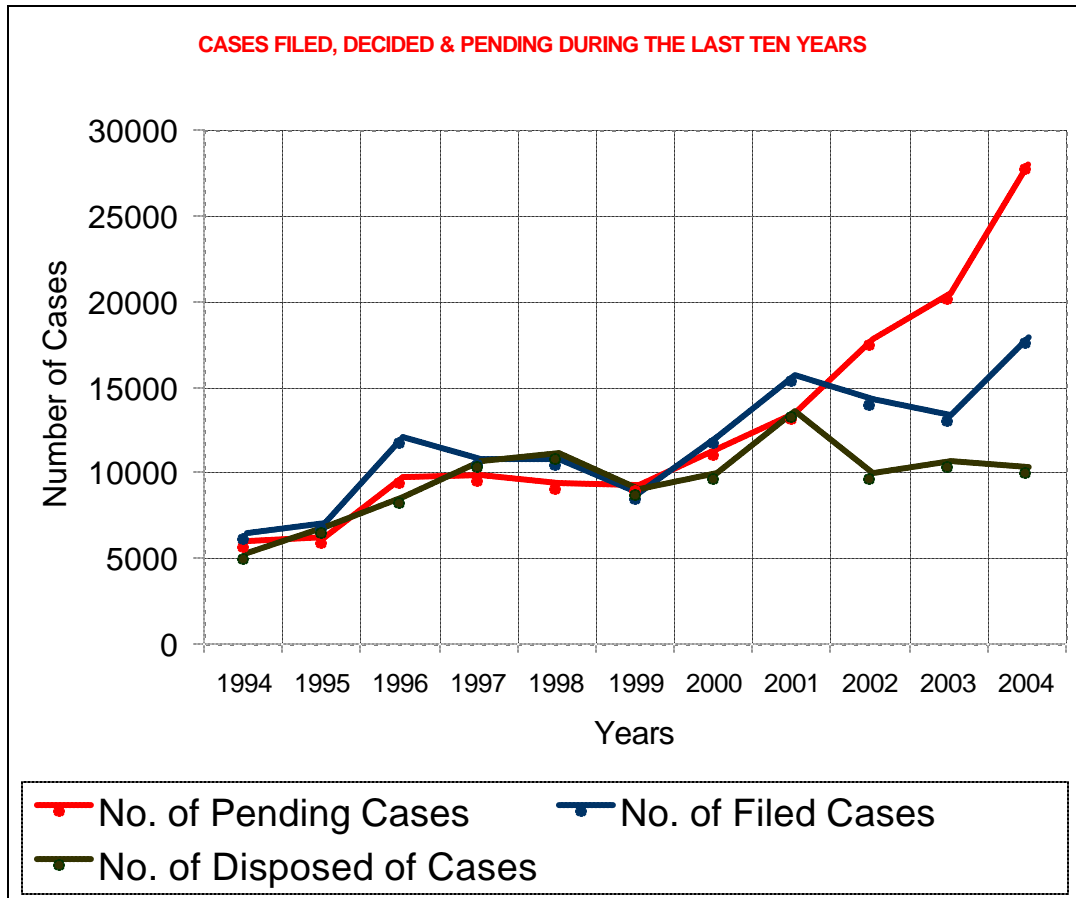
1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
4955	6439	8205	10229	10751	8608	9538	13171	9547	10329	9938

There is decrease in the number of cases disposed of this year. What is significant is that more petitions have been disposed of this year, despite this increase in disposal, the pendency of petition has been increased instead due to sharp increase in institution this Year.



### 5.4.5 Comparative Graph of Cases Filed, Decided and Pending

The pending balance for the current year increased by 7583, the number of cases instituted increased by 4531, and the number of cases disposed of decreased by 391.





#### 5.4.6 Analysis of the Pending Balance

To understand the Balance of pending cases, the following tables may be examined. The pending balance for all cases for the year 2004 is 27614, while the pending balance for appeals is 6724 and that for all petitions is 20890

##### **Civil Petitions at the Principal Seat and Branch Registries**

<b>Civil Petitions</b>	<b>Opening Balance</b>	<b>Institution</b>	<b>Total</b>	<b>Disposal</b>	<b>Current Balance</b>
Islamabad	1887	7783	9670	3811	5859
Lahore	7541	2429	9970	1614	8356
Karachi	936	620	1556	637	919
Peshawar	785	534	1319	206	1113
Quetta	184	147	331	217	114
<b>Total</b>	<b>11333</b>	<b>11513</b>	<b>22846</b>	<b>6485</b>	<b>16361</b>

*The pending balance of 16361 for civil petitions is 78.31% of all pending petitions and 59.24% of all pending cases.*

##### **Criminal Petitions at the Principal Seat and Branch Registries**

<b>Criminal Petitions</b>	<b>Opening Balance</b>	<b>Institution</b>	<b>Total</b>	<b>Disposal</b>	<b>Current Balance</b>
Islamabad	694	1126	1820	555	1265
Lahore	749	602	1351	283	1068
Karachi	77	65	142	71	71
Peshawar	175	137	312	14	298
Quetta	66	49	115	61	54
<b>Total</b>	<b>1761</b>	<b>1979</b>	<b>3740</b>	<b>984</b>	<b>2756</b>

*The pending balance of 2756 for criminal petitions is 13.19% of all the pending cases and 9.98% of all the pending cases.*

### Civil Appeals at the Principal Seat and Branch Registries

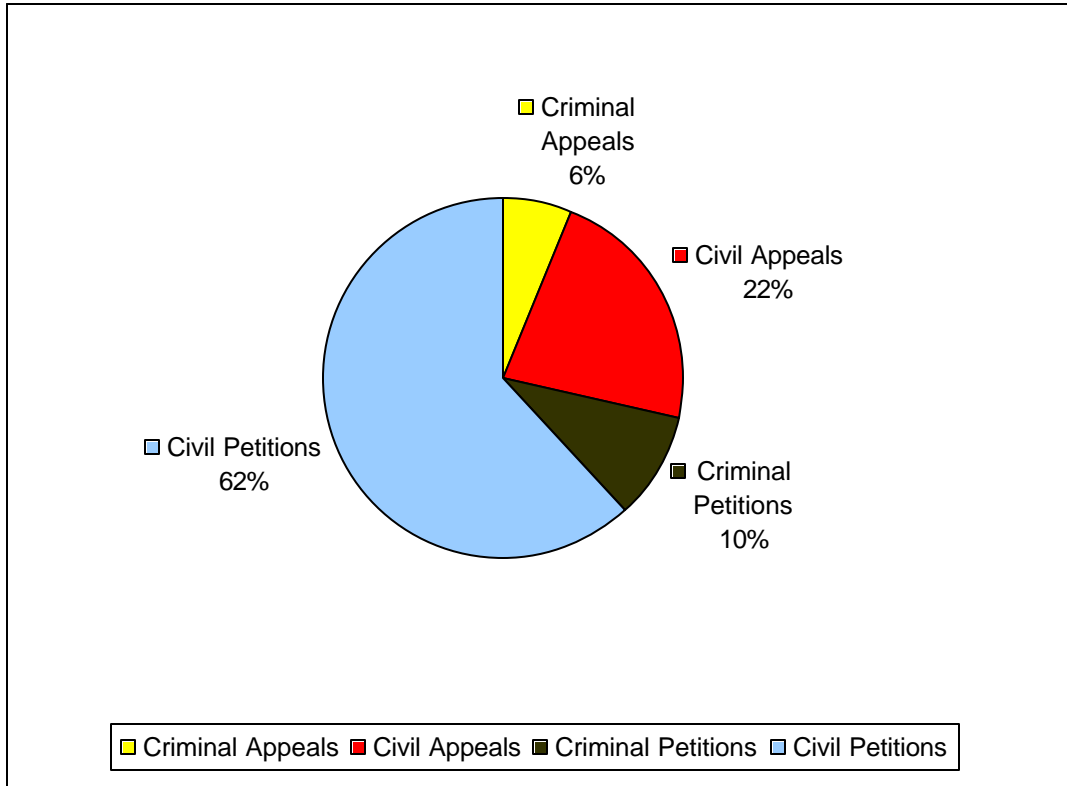
Civil Appeals	Opening Balance	Institution	Total	Disposal	Current Balance
Islamabad	3896	2362	6258	871	5387
Lahore	0	126	126	126	0
Karachi	163	3	166	100	66
Peshawar	0	30	30	30	0
Quetta	31	28	59	56	03
<b>Total</b>	<b>4090</b>	<b>2549</b>	<b>6639</b>	<b>1183</b>	<b>5456</b>

*The pending balance of 5456 for the civil appeals is 81.14% of all pending appeals and 19.75 of all pending cases.*

### Criminal Appeals at the Principal Seat and Branch Registries

Criminal Appeals	Opening Balance	Institution	Total	Disposal	Current Balance
Islamabad	1122	206	1328	214	1114
Lahore	0	31	31	31	0
Karachi	03	11	14	11	03
Peshawar	0	02	02	02	0
Quetta	01	06	07	07	0
<b>Total</b>	<b>1126</b>	<b>256</b>	<b>1382</b>	<b>265</b>	<b>1117</b>

*The pending balance of 1117 for criminal appeals is 16.61% of all pending appeals and 4.04% of all pending cases.*



*Civil Petitions and Civil Appeals from 84% of the balance of all pending cases*

## 5.5 Data for the Last Five Decades: Increase in Institution of Cases as Compared to Increase in the Number of Judges

### INSTITUTION, DISPOSAL AND PENDENCY OF CASES IN THE SUPREME COURT OF PAKISTAN FROM 1950 TO 31-12-2004

#### APPEALS

Year	Last Balance	Fresh Institution	Total	Disposal	Pending
1950	—	25	25	11	14
1951	14	31	45	19	26
1952	26	53	79	31	48
1953	48	65	113	95	18
1954	18	50	68	48	20
1955	20	140	160	92	68
1956	68	63	131	42	89
1957	89	44	133	59	76
1958	74	1	75	16	59
1959	59	210	269	91	178
1960	178	288	466	285	181
1961	181	287	468	285	183
1962	183	382	565	273	292
1963	292	454	446	326	420
1964	420	367	787	316	472
1965	472	392	864	379	485
1966	485	371	856	384	472
1967	472	328	800	335	465
1968	465	426	891	341	550
1969	550	829	1379	359	1020
1970	1020	541	1561	343	1218
1971	1218	118	1336	350	986
1972	986	138	1124	387	737
1973	737	166	903	249	654
1974	654	174	828	259	569
1975	569	207	776	225	551
1976	551	1208	1759	170	1589
1977	1589	603	2192	182	2010
1978	2010	1284	3294	579	2715
1979	2715	765	3480	613	2867

<b>Year</b>	<b>Last Balance</b>	<b>Fresh Institution</b>	<b>Total</b>	<b>Disposal</b>	<b>Pending</b>
1980	2867	1334	4201	410	3791
1981	3791	772	4563	536	4027
1982	4027	1127	9154	661	4493
1983	4493	1459	5952	1242	4710
1984	4710	541	5251	878	4373
1985	4373	978	5351	866	4485
1986	4485	1186	5671	1060	4609
1987	4609	1130	5739	972	4767
1988	4776	1415	6182	1012	5170
1989	5170	2279	7449	1472	5977
1990	5977	1301	7278	5601	1677
1991	1677	1208	2885	1095	1790
1992	1790	4808	6598	4245	2353
1993	2353	1525	3878	1559	2319
1994	2319	1200	3519	692	2827
1995	2827	1872	4799	876	3823
1996	3823	4919	8742	3227	5515
1997	5515	1949	7464	2487	4977
1998	4977	3282	8259	3817	4442
1999	4442	1883	6325	2237	4088
2000	4088	3055	7143	1806	5337
2001	5337	3100	5437	3738	4699
2002	4699	2375	7074	1669	5405
2003	5405	1920	7325	1936	5389
2004	5389	2865	8254	1530	6724

### PETITIONS

<b>Year</b>	<b>Last Balance</b>	<b>Fresh Institution</b>	<b>Total</b>	<b>Disposal</b>	<b>Pending</b>
1950	----	9	9	1	8
1951	8	154	162	93	69
1952	69	141	210	186	24
1953	24	213	237	217	20
1954	20	205	225	210	15
1955	15	228	243	199	44
1956	44	278	322	268	54
1957	54	305	359	314	45

<b>Year</b>	<b>Last Balance</b>	<b>Fresh Institution</b>	<b>Total</b>	<b>Disposal</b>	<b>Pending</b>
1958	45	408	453	408	45
1959	45	218	513	385	128
1960	128	199	327	251	76
1961	76	886	962	861	101
1962	101	1277	1378	1337	41
1963	41	1218	1259	1069	190
1964	190	1318	1571	1341	230
1965	230	2038	2268	1999	269
1966	269	1845	2114	1912	202
1967	202	2316	2518	1923	595
1968	595	1857	2452	2018	434
1969	434	1728	2162	1740	422
1970	422	1478	1900	1489	411
1971	490	640	1130	230	900
1972	900	974	1874	489	1385
1973	1385	1092	2477	678	1799
1974	1799	633	2432	373	2059
1975	2059	5755	7814	4266	3548
1976	3548	2370	5918	1746	4172
1977	4172	2651	6823	2676	4147
1978	4147	2651	6798	1153	5645
1979	5645	2455	8100	2734	5366
1980	5366	2519	7885	3804	4081
1981	4081	3689	7770	2249	5521
1982	5521	3365	8886	2399	6847
1983	6487	2888	9375	3270	6105
1984	6105	3934	10034	2302	7737
1985	7737	3663	14400	3616	7784
1986	7784	2935	10719	3486	7233
1987	7233	3803	11036	4379	6657
1988	6657	4429	11086	5942	5144
1989	5144	3534	8678	7528	1150
1990	1150	3999	4771	3621	772
1991	772	3560	4332	1604	2728
1992	2728	1818	4546	3033	1513
1993	1513	4983	6486	3671	2815
1994	2815	4879	7094	4263	2831

<b>Year</b>	<b>Last Balance</b>	<b>Fresh Institution</b>	<b>Total</b>	<b>Disposal</b>	<b>Pending</b>
1995	2831	4735	7566	4663	2003
1996	2003	6749	8752	4978	3774
1997	3774	8400	12174	7742	4432
1998	4432	7089	11521	6934	4587
1999	4587	6530	11117	6371	4746
2000	4746	8647	13393	7732	5661
2001	5661	12143	17804	9433	8371
2002	8371	11472	19843	7878	11965
2003	11965	11070	23035	8393	14642
2004	14642	14656	29298	8408	20890

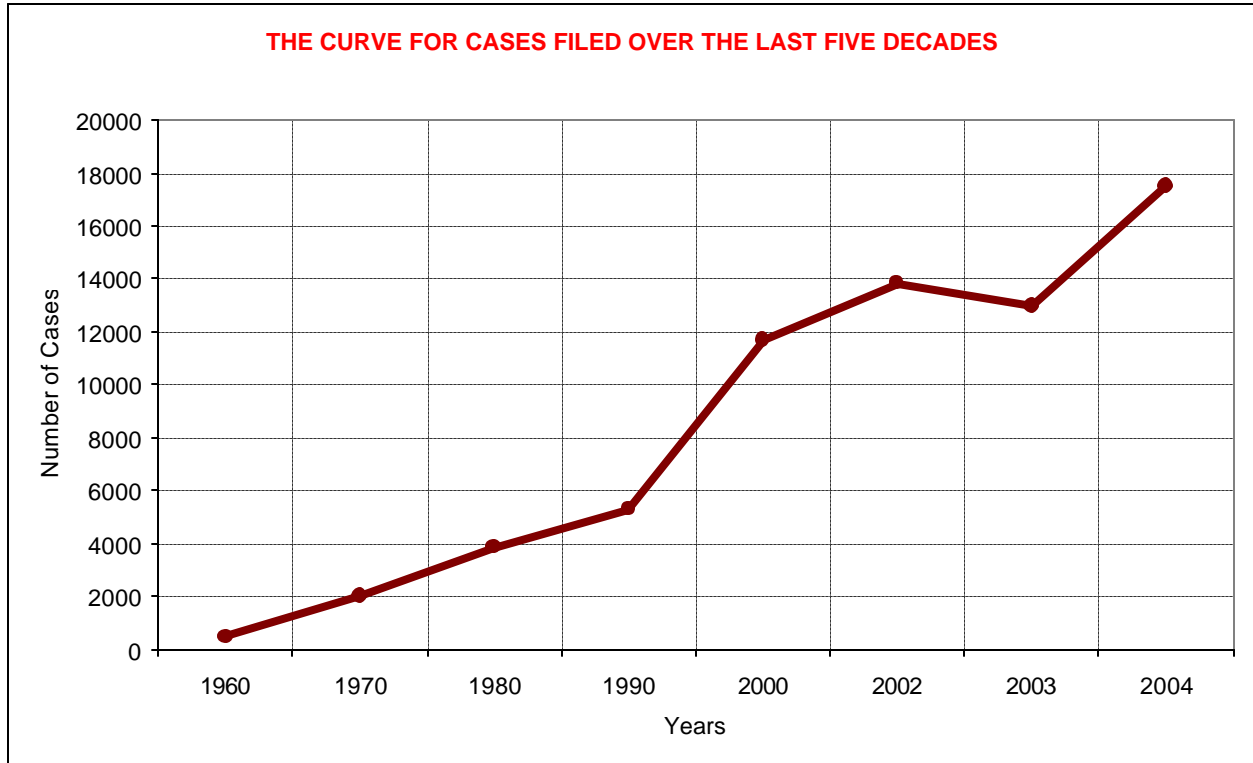
### **INCREASE IN THE NUMBER OF JUDGES OVER THE LAST FIVE DECADES**

<b>Period</b>	<b>Chief Justice</b>	<b>Judges</b>
1947-1950	1	...
1950-1951	1	2
1953-1955	1	4
1955-1956	1	5
1956-1977	1	6
1977-1979	1	7
1979-1981	1	8
1981-1986	1	10
1986-1987	1	12
1987-2004	1	16



### Institution of Cases Over the Last Five Decades

Cases	1960	1970	1980	1990	2000	2002	2003	2004
Petitions	199	1478	2519	3999	8647	11472	11070	14656
Appeals	288	541	1334	1301	3055	2375	1920	2865
<b>Total</b>	<b>487</b>	<b>2019</b>	<b>3853</b>	<b>5300</b>	<b>11702</b>	<b>13847</b>	<b>12990</b>	<b>17521</b>



# **SOCIAL OBJECTIVES AND THE CONTRIBUTION OF JUDGES**



## 6 SOCIAL OBJECTIVES AND THE CONTRIBUTION OF JUDGES

### 6.1 Judges of the Supreme Court Nominated to Various Committees, Tribunals, University Syndicates and other Bodies

Name of Judge	Name of Committee, Organization/Body
Mr. Justice Nazim Hussain Siddiqui	<ol style="list-style-type: none"><li>1. Chairman, Pakistan Law Commission (Ex-officio).</li><li>2. Chairman, Board of Governors of Federal Judicial Academy (Ex-officio).</li><li>3. Trustee of the International Islamic University (Ex-officio).</li></ol>
Mr. Justice Iftikhar Muhammad Chaudhry	<ol style="list-style-type: none"><li>1. Judge Incharge for Affairs of Staff Welfare.</li><li>2. Chairman, Building Committee, Islamabad, Lahore, Karachi, Peshawar Quetta and Murree.</li><li>3. Chairman of Enrolment of Committee of the Pakistan Bar Council (w.e.f. 29-09-2000)</li><li>4. Financial powers to sanction expenditure: -<ol style="list-style-type: none"><li>(i) Repair, maintenance &amp; purchase of official transport, machinery, furniture and other miscellaneous items.</li><li>(ii) Cost of petrol.</li><li>(iii) Medical charges for Hon. Judges and other staff of the Court.</li><li>(iv) Transport of goods.</li><li>(v) Law charges.</li><li>(vi) Advertisement and other miscellaneous expenditure.</li></ol></li></ol>
Mr. Justice Rana Bhagwandas	<ol style="list-style-type: none"><li>1. Member, Building Committee Karachi.</li><li>2. Member of the Library Committee.</li><li>3. Financial powers to sanction expenditure of 'Purchase of books, other misc. items/equipments/machinery for use in the Library.</li></ol>
Mr. Justice Javed Iqbal.	<ol style="list-style-type: none"><li>1. Member, Building Committee, Quetta</li><li>2. Member, Committee for maintenance of a panel of counsel at State expense.</li><li>3. Member of the Executive Council of the Allama Iqbal open University from 7.3.2002</li><li>4. Administrative Judge of the Supreme Court of Pakistan.</li><li>5. Chairman, Disciplinary Committee, Pakistan Bar Council.</li></ol>

Mr. Justice Hamid Ali Mirza	<ol style="list-style-type: none"> <li>1. As a Trustee of Shah Abdul Latif Education Trust.</li> <li>2. Chairman, Federal Review Board.</li> <li>3. Chairman, Election Tribunal of the Pakistan Bar Council w.e.f. 13.2.2004.</li> </ol>
Mr. Justice Abdul Hameed Dogar	<ol style="list-style-type: none"> <li>1. Member of Syndicate of Shah Abdul Latif University, Khairpur, Sindh.</li> <li>2. Chairman, Central Zakat Council</li> <li>3. Chairman, Supreme Court Employees Cooperative Housing Society.</li> </ol>
Mr. Justice Sardar Muhammad Raza Khan	<ol style="list-style-type: none"> <li>1. Member Selection Board of the Quaid-i-Azam University, Islamabad (w.e.f. 13-2-2004).</li> <li>2. Chairman, Disciplinary Tribunal of the Pakistan Bar Council w.e.f. 8.4.2004.</li> <li>3. Financial powers to sanction expenditure: - <ol style="list-style-type: none"> <li>(i) Under P.O. No.1/2001 and medical bills in respect of retired Judges.</li> <li>(ii) Purchase of stationary and printing, and</li> <li>(iii) Uniform and liveries.</li> </ol> </li> <li>4. Member, Building Committee, Peshawar.</li> </ol>
Mr. Justice Khalil-ur-Rehman Ramday	<ol style="list-style-type: none"> <li>1. Representation of the Air University, Board of Governors from 5<sup>th</sup> June, 2003.</li> <li>2. Member, Building Committee, Lahore.</li> <li>3. Member, Board of Governors of National University of Modern Languages, Islamabad w.e.f. 10.6.2004.</li> <li>4. Member of the Syndicate of the Quaid-i-Azam University, Islamabad, w.e.f. 2.9.2004</li> </ol>
Mr. Justice Faqir Muhammad Khokhar	Liason Judge
Mr. Justice Falak Sher	Member. Federal Review Board.

## 6.2 Interaction With International Judicial Institution

The Chief Justices of the SAARC Countries attended the 10<sup>th</sup> SAARCLAW and the 7<sup>th</sup> Chief Justices Conference under the aegis of South Asian Association for Regional Corporation on 20<sup>th</sup> to 22<sup>nd</sup> day of February 2004 at Karachi. The topic for deliberation was “ Leap Forward- Next Generation Laws”. The following Chief Justices reached and signed to a declaration, which is known as “THE KARACHI DECLARATION”:-

- (i) Mr. Justice J.R. Muddassir Hussain, Honorable Chief Justice of Bangladesh.
- (ii) Mr. Justice Lyonpo Sonam Tobgye, Honorable Chief Justice of Bhutan.
- (iii) Mr. Justice R.C. Lahoti, Honorable Judge of Supreme Court of India for Chief Justice of India.
- (iv) Mr. Justice Muhammad Rasheed Ibrahim, Honorable Chief Justice of Maldives.
- (v) Mr. Justice Govind Bahadur Shrestha, Honorable Chief Justice of Nepal.
- (vi) Mr. Justice Nazim Hussain Siddiqui, Honorable Chief Justice of Pakistan.
- (vii) Mr. Justice Sarath N. Silva, Honorable Chief Justice of Srilanka.

The Declaration is as under: -

We, the Chief Justices of the SAARC Countries, having gathered here in Karachi, this 21<sup>st</sup> day of February 2004 and believing in the objectives of the SAARC and the SAARCLAW;

Sharing the common aspirations of our people in the region to live in peace, freedom and justice—social and economic;

Conscious that in order to realize the said objectives it is necessary to develop people to people cooperation;

Realizing that we have common problems in the administration of justice in our respective jurisdiction and that those problems can be addresses by collective efforts;

Considering that the judiciary in every country is the ultimate guardian of the rights and liberties of the people and that good governance is the fountainhead of the emerging new social, economic, political and legal order;

Committed to making efforts aimed at eliminating discrimination, victimization and exploitation;

Recognizing that the attainment of ultimate goal of a just society is possible only with the establishment of rule of law;

Observing that rapid progress in information technology has caused radical shifts in the philosophical perspectives of law;

Accepting that it is equally the judiciary's responsibility to address itself and rise to the challenges of change;

DO HEREBY RESOLVE, DECLARE AND UNDERTAKE THROUGH THE

KARACHI DECLARATION: -

- (a) To strengthen the rule of law and recognition of merit in our countries by providing effective judicial support to the efforts aimed at curbing malpractices, malfeasance, corruption, favoritism and discrimination in any form;
- (b) To make concerted and collective efforts to exterminate, root and branch, the chronic malady of delay in the disposal of cases by introducing innovative changes including changes in procedures aimed at improving management and operations of the courts of the SAARC countries and redefining the work pattern of our judiciaries for optimal utilization of the resources so as to keep pace with the increase of litigation.
- (c) To evolve mechanisms that ensure positive cooperation and support of the Bar in regulating hearings and acceleration the process of administration of justice through collaborated and coordinated efforts;
- (d) To ensure selection of competent and independent Judges;
- (e) To ensure assessment and analysis of workloads of various courts and take appropriate remedial measures including increase in the number of courts along with requisite infrastructure;
- (f) To establish judicial academies, or strengthen the institutional capacity of academies already in existence, to improve the professional competence of the judges for improving dispensation of justice;
- (g) To emphasize the need for amendments in the judicial service rules to make induction level training necessary for such duration as may be suitable to the jurisdictions concerned and to link promotions with successful completion of in-service training;
- (h) To bring about collaboration of the judiciaries of the region with the judicial academies to plan and develop seminars for training in management, planning and research to foster interaction, cooperation and exchange of knowledge and information amongst various judicial institutions.

10<sup>TH</sup> SAARCLAW conference and the 7<sup>th</sup> Chief Justices Conference held  
on 20<sup>th</sup> to 22<sup>nd</sup> day of February 2004 at Karachi





### 6.2.1 Visit to Foreign Countries for Participating in Conferences on Law:

During the year 2004 Members of this apex Court represented Pakistan in different international conferences by sharing views and proposing avenues leading to the solutions to the problems affronting to World Judicial Tier in general and Islamic Judicial System in particular. The followings are the legal forum whereby Judges of this Court represented Pakistan.

1. **VIII Congress of the International Association of Supreme Court Administrative Jurisdictions (IASAJ).** This Conference held at Madrid, Spain from 26<sup>th</sup> to 28<sup>th</sup> April 2004. Mr. Justice Hamid Ali Mirza participated in the conference and contributed on the topic “the powers of Administrative Courts for Enforcing their Decisions.
2. **Conference on “Justice at Grass Roots—Local Courts and Delivery of Justice”.** This Conference was convened by the Commonwealth Magistrates and Judges Association (CMJA) on 20<sup>th</sup> to 23<sup>rd</sup> September 2004 at Jersey, United Kingdom. A delegation consisting of Judges of subordinate judiciary and High Court under the leadership of Mr. Justice Abdul Hameed Dogar, Judge, Supreme Court of Pakistan duly contributed in the Conference.
3. **Multaqa Sultan Azlan Shah and International Seminar on “the Independence of the Judiciary in the Islamic and Non-Islamic Judicial Systems”.** This Conference was held on 09<sup>th</sup> to 11<sup>th</sup> June 2004 at Casuarina Hotel, Ipoh, Perak, Malaysia under the auspices of “Institution of Islamic Understanding” Malaysia. Mr. Justice Sardar Muhammad Raza Khan contributed on the topic “the Independence of Judiciary under the Universal Declaration of Human Rights: A Shariah Law Perspective”.
4. **Seminar on Alternative Dispute Resolution (ADR).** This Seminar was coordinated by the “Institute for the Study and Development of Legal Systems” under the auspices of the “International Islamic University” (IIU) in Kuala Lumpur, Malaysia on 3<sup>rd</sup> to 4<sup>th</sup> December 2004. Mr. Justice Tassadduq Hussain Jilani participated in the Symposium.

## 6.3 The Supreme Court and the Media

The Press has free access to the Supreme Court, and the Court offices are open throughout the year. Court Sessions and proceedings are open for the Press and copies of judgments are provided to the member of the Press. Rooms have been provided within the Supreme Court building to facilitate their work. In addition to this, the Press can now access the Court website and this website is growing day by day. In short, the Court encourages the Press report on its proceedings. A few press reports are reproduced on the following pages:

### DAILY NEWS, ISLAMABAD

07-11-2004

# Implications of Supreme Court judgment

Tariq Butt

ISLAMABAD: While the poor and the middle class feel pleased over the landmark Supreme Court ruling on wedding meals, marriage clubs, hotels and poultry business are down in the dumps over it.

From day one, the affluent segment of the society has been in search of stratagem to evade the credible piece of legislation enacted by the Nawaz Sharif government, curbing pompous exhibition of wealth in serving sumptuous meals to wedding parties. And they had succeeded in nullifying the law through different means.

The law, in fact, meant to save the poor and the middle class from compelled hefty spending on wedding meals just to live with their heads up in the society despite being burdened by debts on such occasions. Traditions and customs had been forcing them to copy the rich. To invalidate the effect of the law, the Punjab government had got passed an act from the provin-

cial assembly. That has now been struck down and the previous law that is applicable all over Pakistan stands restored for the whole of the country including Punjab.

This law was largely followed till the time the Nawaz Sharif government remained in place. Sometimes, police had come into action to proceed against the violators. After its dismissal, the implementation of the law became patchy and half-hearted. The Punjab law had allowed one dish at wedding parties, but this was never adhered to. It was never one dish served to marriage parties. The menu of dishes had been elaborated because of the laxity provided by the law.

However, during this interlude, the wedding clubs, hotels and catering services did a roaring business. A number of movie houses that no more attracted viewers had been converted into wedding halls. The poultry business also flourished. All this created quite a few new jobs.

The court ruling rightly noted that functions related to marriage such as mayun, rasm-i-henna, baarat and the custom of giving large dowries were of Hindu origin and had nothing to do with the Islamic concept of marriage. Unfortunately, these customs have become unbreakable part and parcel of the wedding ceremonies.

There was a strange difference in the opinion of the apex court judges. In November 2003, a three-member Supreme Court bench headed by Chief Justice Riaz Hussain (now retired) had lifted the ban on meals at wedding ceremonies by declaring it un-Islamic. He could not write his judgment as he abruptly stood retired due to curtailment of judges' (enhanced) retirement age after the passage of the 17th constitutional amendment.

The judgment authored by Chief Justice Nazim Hussain Siddiqui, who replaced Sheikh Riaz, upheld the ban on wedding meals by shooting down the Punjab law.



# **Police action led to murder of couple: SC**

**By Our Staff Reporter**

ISLAMABAD, April 1: The Supreme Court on Thursday held that police had facilitated the murder of a couple who, after marrying of their free will, had approached them for protection, but they instead handed the couple over to relatives of the girl who murdered both of them.

The Supreme Court in its judgment in a suo motu case regarding the murder of the couple in Sanghar district, directed the Inspector-General of Police, Sindh, to personally look into the matter and submit a report within one month.

The apex court had taken notice of the matter in October 2003 after a report in *Dawn* said that Shazia Khaskheli and Mohammad Hasan Solangi, who had married of their free will, were shot by a firing squad in pursuance of a Jirga decision.

The SC bench comprising Justice Nazim Hussain Siddiqui, Justice Javed Iqbal and Justice Abdul Hameed Dogar conducted several hearings of the case and also summoned Sindh Police officials, including the DIG Hyderabad.

Justice Abdul Hameed Dogar, who authored the judgment, held that from the report of dis-

trict judge Sanghar it had transpired that the couple had contacted police to seek protection, but on the contrary they were handed over to relatives of the girl who murdered them.

"The police reports on the subject are contrary to the report of learned sessions judge Sanghar, we feel it appropriate to refer the matter to the IGP Sindh, who shall look into the matter personally in order to ascertain the individual liability of the concerned police officers about their involvement in any manner, for not conducting the investigation impartially."

The court order stated that the police officials who had appeared before the court had frankly conceded that there were "serious lapses in the investigation on their part".

The police officials, the court said, had also conceded that no action had been taken against any police official for not conducting investigation into the matter properly.

"Moreover, the manner in which this case has been handled from the very beginning casts serious doubts in our mind which is to be dealt with seriously within one month," the court held.

## Shahbaz free to return: SC

By Rifaqat Ali

ISLAMABAD, April 7: A Supreme Court bench on Wednesday allowed president of Pakistan Muslim League (N) Mian Shahbaz Sharif to return to Pakistan and face the cases pending against him.

After hearing the counsel for the petitioner, former judge Malik Abdul Qayyum, Attorney-General Makhdoom Ali Khan and Advocate-General Punjab Shahbaz Raza Rizvi, the bench dismissed the two petitions filed by Mian Shahbaz Sharif, and ordered: "The petitioner may come back from abroad subject to the law of the country."

The SC order said that during the course of arguments, the petitioner's counsel had submitted that his client was ready to

face the cases registered against him. He also stated that the petitioner would not mind even if he was arrested at the airport on his arrival.

The SC bench consisted of Chief Justice Nazim Hussain Siddiqui, Justice Javed Iqbal and Justice Abdul Hameed Dogar.

Mian Shahbaz Sharif had said in his petitions that his fundamental rights were being violated as he was denied access to justice by the state authorities.

He said he had learnt that an anti-terrorism court had declared him an absconder and he wanted to surrender before the court and clear his name.

The petitioner's counsel requested the court to allow his client to come back to Pakistan to defend himself.

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### Judgment covers entire Sharif family: Page 4

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Attorney-General for Pakistan and Advocate-General Punjab opposed the filing of direct petition under Article 184(3), arguing that there was no justification for filing a constitutional petition in the highest court of the country on the basis of apprehensions and assumption.

Advocate Malik Qayyum said his client who had been sent out of country against his will, would come back and face the cases to prove his innocence.

Asked if he was in possession of any such written order, the counsel referred to certain news reports and said that the reports, if not contradicted, could be relied upon.

Chief Justice Nazim Hussain Siddiqui observed that no citizen could be barred from entering the country and law provided equal protection to every citizen, whether he was Mian Shahbaz Sharif or any other person.



## CJ asks judges to ensure resolution of disputes

ISLAMABAD (PPI) - Chief Justice Nazim Hussain Siddiqui on Friday said the Courts while disposing of the cases must ask themselves whether the decision being rendered by them is settling the dispute or resolving the controversy before them or it is a mere disposal.

Speaking at a Full Court Reference in honour of Justice Syed Deedar Hussain Shah here in the Supreme Court building, he said it was a crucial question which every judge must put to himself before announcing the judgment, adding that the lawyers also must do the same while making arguments and seeking relief.

He said, this will help a great deal in rescuing the litigant public from frivolous prolonging of the cases, the cases which continue pending either before the same court or travel from one court to another, leaving the litigants in a state of bewilderment.

He said, some of the members of the Bar have made valuable suggestions for improving the working of the courts including the Supreme Court Bar.

The suggestions call for limiting time of arguments and en-

hancing working hours of courts, he added.

Justice Nazim termed the suggestion from the members of the Bar as a very good indicator. He said, "My emphasis, as always, is on expediting the decision of cases at every level.

He said that after insertion of Section 2-A in the Service Tribunal Act, 1973 a large number of litigation has thronged the Service Tribunals. He said, the Supreme Court stands at the receiving end, as there is no intervening forum, which would act as a filter.

So, every matter, be it imposition of major penalty, a minor penalty or even transfer of an employee from one place to another, decided one way or the other by a tribunal, is invariably brought to the Supreme Court, which he said has flooded the dockets of the Apex Court.

On the other hand, he said that the controversies, which need resolution at the Supreme Court level, call for detailed hearings. The Chief Justice emphasized that Bench and Bar must work together to strengthen the judicial system and must make sincere efforts to bring efficiency in the

judicial system so that miseries of the litigant public could be eliminated.

He said the rent and the family matters are another area, which requires to be concentrating upon. The rent and the family laws provide for expediting the disposal of cases.

He urged the lawyers to file only those cases in the Supreme Court, which raise genuine questions of law requiring interpretation by the Apex Court.

Earlier, Attorney General Makhdoom Ali Khan, President of Supreme Court Bar Association Qazi Muhammad Jameel and Vice-Chairman Pakistan Bar Council Rasheed A Rizvi also spoke on the occasion and paid tributes to Justice Syed Deedar Hussain Shah for rendering services as the judge of the Sindh High Court and Supreme Court.

Justice Syed Deedar Hussain Shah thanked the CJ, fellow judges, members of the PBC and members of the SCBA and said, "I am extremely grateful to all of you and have no adequate words to thank you for the honour you have given to me by assembling here today to bid me farewell."



23-11-2004

SC grants bail in BMW case

## Asif freed after eight years of detention

By Shamim-ur-Rahman, Nasir Iqbal and Baqir Sajjad Syed

KARACHI / ISLAMABAD, Nov 22: PPP leader Asif Ali Zardari, jailed on corruption charges on Nov 4, 1996, was released after the Supreme Court granted him bail in the BMW car reference, a prison official in Karachi confirmed on Monday.

"We have received the release orders for Asif Zardari," jail official Amanullah Khan said. "He is a free man now," he added.

Immediately after his release, Mr Zardari told Dawn that he was elated on his release.

"By the grace of Allah, I am very happy on my release and would like to go home," he said. "My release is a victory for democracy, for PPP and for the people of Pakistan."

Benazir Bhutto, who spoke to various television networks from Dubai, said her husband had faced the confinement with courage.

Earlier, a three-member Supreme Court bench in Islamabad comprising Chief Justice Nazim Hussain Siddiqui, Justice Abdul Hammed Dogar and Justice Shaukatullah Khan issued the release orders. "Bail is allowed subject to furnishing of surety bonds of Rs1 million before the trial court," said the short order.

"The situation reflects that Zardari was arrested in the BMW reference after the National Accountability Bureau realized that he had been bailed out in other corruption references," the chief justice observed during the hearing.

In the evening, the judge of an accountability court in Rawalpindi, Muhammad Aslam Khan issued release orders of Mr Zardari after accepting surety bond of Rs1 million submitted by PPP Secretary-General Raja Pervez Ashraf. Lawyers Senator Farooq Naek and Mr Abubakar Zardari had accompanied Mr Ashraf.

The bail orders were brought to the accountability court by a special messenger of the Supreme Court.

The orders were received by the accountability court reader, who then informed the judge at his residence about it. The judge asked his staff to complete the documentation and bring it to

Asif offers to liaise with political forces: Page 16

his residence along with the surety bond where he signed the release orders at around 6:15pm.

A large number of PPP leaders and workers were present in the court room and, as soon as the Chief Justice announced the orders, they rushed outside, cheering and congratulating each other.

Mr Zardari, who was admitted to the Dr Ziauddin Hospital Karachi for treatment of spondylitis, has been facing charges in many corruption, criminal and corporate cases.

In the Rawalpindi accountability court, the references pending against him are the Asset cases, Polo Ground case, Uraus Tractors case, SGS pre-shipment inspection case, ARY Gold case, Cotecna reference and the BMW car import case.

The LHC, Rawalpindi Bench, has already acquitted Mr Zardari in the Pakistan Steel Mills case in which he had been awarded seven years imprisonment. He was also awarded sentence in the SGS case but that too was set aside by the Supreme Court.

A former PPP senator, Mr Zardari has been facing nine criminal cases, the Mir Murtaza Bhutto murder case, Justice Nizam murder case, Container case, Alam Baloch murder case, Sajjad Hussain murder case, two suicide cases, the KESC case and the Narcotics case.

In the last reference he got bail, Mr Zardari has been accused of importing a 1993 model bullet-proof BMW from Sweden in the name of a student to evade customs duty worth millions of rupees during the second term of Benazir Bhutto government. The duties evaded are estimated at Rs5.5 million.

The panel of defence lawyers comprised Barrister Aitzaz Ahsan, Mr Naek and Dr Babar Awan.

Mr Ahsan while pleading before the bench said that BMW was a targeted reference against Mr Zardari as his name was never mentioned in any of the documents relating to the import. He was arrested the moment he was bailed out in the last case on Dec 15, 2001.

He said five prosecution witnesses - car-owner Anees Ahmed, Deputy Customs Collector Hasan Raza, Sub-Inspector Mohammad Jahangir, Head Constable Abdul Majeed and Excise and Taxation Officer Masood Hassan - were never implicated as co-accused though they all were involved in the case.

Mr Ahsan said the BMW was imported in 1995 and transferred to a workshop in Islamabad in 1999. An open-ended warrant was issued for Mr Zardari and he was arrested on Dec 15, 2001, aimed at keeping him behind bars, he said. He was indicted in the case in June 2002, he added.

Advocate Ibrahim Satti, representing the NAB, argued that Mr Zardari's bail petition should be

High Court as he (Mr Zardari) had come directly to the Supreme Court without challenging the LHC's orders of dismissing his petition on technical grounds.

During the hearing, NAB Deputy Prosecutor-General Abdul Baseer Qureshi was present in the court as were PPP lead-

ers Farhartullah Babar, Ehsanul Haq Piracha, Fehmida Mirza, Jasim Zia, etc.

AFP adds: Dispelling impression that Mr Zardari's release was outcome of some agreement with the government, PPP's senior vice-chairman Makhdoom Amin Fahim said: "The party's agenda is the democratization of the country's policy... it cannot, indeed will not, enter into any understanding with the regime."

Mr Aitzaz Ahsan said Mr Zardari should have been set free long ago.

**CODE OF CONDUCT FOR JUDGES  
OF THE SUPREME COURT AND THE  
HIGH COURTS**





# 7 CODE OF CONDUCT FOR JUDGES OF THE SUPREME COURT AND THE HIGH COURTS

*[Framed by the Supreme Judicial Council under Article 128 (4) of the 1962 Constitution as amended up to date under Article 209(8) of the 1973 Constitution]<sup>2</sup>*

The prime duty of a Judge as an individual is to present before the public an image of justice of the nation. As a member of his court, that duty is brought within the disciplines appropriate to a corporate body.

The Constitution, by declaring that all authority exercisable by the people is a sacred trust from Almighty Allah, makes it plain that the justice of this nation is of Divine origin. It connotes full implementation of the high principles, which are woven into the Constitution, as well as the universal requirements of natural justice. The oath of a Judge implies complete submission to the Constitution, and under the Constitution to the law. Subject to these governing obligations, his function of interpretation and application of the Constitution and the Law is to be discharged for the maintenance of the Rule of Law over the whole range of human activities within the nation.

To be a living embodiment of these powers, functions and obligations calls for possession of the highest qualities of intellect and character. Equally, it imposes patterns of behavior, which are the hall-mark of distinction of a Judge among his fellow-men.

In this Code, an attempt is made to indicate certain traditional requirements of behavior in the Judges of the Superior Courts, conducive to the achievement of a standard of justice worthy of the nation.

## ARTICLE I

On equiponderance stand the heavens and the earth. By equiponderance, oppression meaning unjust and unequal burdens, is removed. The Judge's task is to ensure that such equality should prevail in all things.

## ARTICLE II

A Judge should be God-fearing, law-abiding, abstemious, truthful of tongue, wise in opinion, cautious and forbearing, blameless, and untouched by greed.

While dispensing justice, he should be strong without being rough, polite without being weak, awe-inspiring in his warnings and faithful to his word, always preserving calmness, balance and complete detachment, for the formation of correct conclusions in all matters coming before him.

In the matter of taking his seat, of his personal behavior when in his seat and of rising from his seat, he shall be punctilious in point of time, mindful of the formal courtesies, careful to preserve the dignity of the Court, while maintaining an equal aspect towards all litigants as well as all lawyers appearing before him.

<sup>2</sup> First printed in PLD 1967 Jour.97.

### ARTICLE III

To be above reproach, and for this purpose to keep his conduct in all things, official and private, free from impropriety is expected of a Judge.

### ARTICLE IV

A Judge must decline resolutely to act in a case involving his own interest, including those of persons whom he regards and treats as near relatives or close friends.

A Judge must rigidly refrain from entering into or continuing any business dealing, howsoever unimportant it may be, with any party to a case before him. Should the dealing be unavoidable, he must discontinue his connection with the case forthwith.

A Judge must refuse to deal with any case in which he has a connection with one party or its lawyer more than the other, or even with both parties and their lawyers.

To ensure that Justice is not only done, but is also seen to be done, a Judge must avoid all possibility of his opinion or action in any case being swayed by any consideration of personal advantage, either direct or indirect.

### ARTICLE V

Functioning as he does in full view of the public, a Judge gets thereby all the publicity that is good for him. He should not seek more. In particular, he should not engage in any public controversy, least of all on a political question, notwithstanding that it involves a question of law.

### ARTICLE VI

A Judge should endeavor to avoid, as far as possible, being involved, either on his own behalf or on behalf of others, in litigation or in matters which are liable to lead to litigation such as industry, trade or speculative transactions.

To employ the influence of his position to gain undue advantage, whether immediate or future, is a grave fault.

A Judge must avoid incurring financial or other obligations to private institutions or persons such as may embarrass him in the performance of his functions.

### ARTICLE VII

Extra-Judicial duties or responsibilities, official or private, should be generally avoided. He should equally avoid being a candidate, for any elective office in any organization whatsoever.

### ARTICLE VIII

Gifts are to be received only from near relatives and close friends, and only such as are customary. Everything in the way of favors in consequence of the office must be refused. In accepting any entertainment offered, whether general or particular, care should be taken that its real purpose does not conflict with a Judge's duty to maintain detachment from likely litigants, and from partisan activity.

### ARTICLE IX

In his judicial work, and his relations with other Judges, a Judge should act always for the maintenance of harmony within his own Court, as well as among all Courts and for the integrity of the institution of justice. Disagreement with the opinion of any Judge, whether of equal or of inferior status, should invariably be expressed in terms of courtesy and restraint.

### ARTICLE X

In his judicial work a Judge shall take all steps to decide cases within the shortest time, controlling effectively efforts made to prevent early disposal of cases and make every endeavor to minimize suffering of litigants by deciding cases expeditiously through proper written judgments. A Judge who is unmindful or indifferent towards this aspect of his duty is not faithful to his work, which is a grave fault.

# **THE SUPREME JUDICIAL COUNCIL**



## 8 THE SUPREME JUDICIAL COUNCIL

Article 209 of the Constitution of the Islamic Republic of Pakistan, 1973, provides for a Supreme Judicial Council of Pakistan. The Article says:

209. Supreme Judicial Council.—(1) There shall be a Supreme Judicial Council of Pakistan, in this Chapter referred to as the Council.

(2) The Council shall consist of—

- (a) the Chief Justice of Pakistan;
- (b) the two next most senior Judges of the Supreme Court; and
- (c) the two most senior Chief Justices of High Courts.

Explanation.—For the purpose of this clause, the inter se seniority of the Chief Justices of the High Courts shall be determined with reference to their dates of appointment as Chief Justice, and in case the dates of such appointment are the same, with reference to their dates of appointment as Judges of any of the High Courts.

(3) If at any time the Council is inquiring into the capacity or conduct of a Judge who is a member of the Council, or a member of the Council is absent or is unable to act due to illness or any other cause, then—

(a) if such member is a Judge of the Supreme Court, the Judge of the Supreme Court who is next in seniority below the Judges referred to in paragraph (b) of clause (2), and

(b) if such member is the Chief Justice of a High Court, the Chief Justice of another High Court who is next in seniority amongst the Chief Justices of the remaining High Courts,

shall act as a member of the Council in his place.

(4) If, upon any matter inquired into by the Council, there is a difference of opinion amongst its members, the opinion of the majority shall prevail, and the report of the Council to the President shall be expressed in terms of the view of the majority.

(5) If, on information from any source, the Council or the President is of the opinion that a Judge of the Supreme Court or of a High Court—

(a) may be incapable of properly performing the duties of his office by reason of physical or mental incapacity; or

(b) may have been guilty of misconduct,

the President shall direct the Council to, or the Council may, on its own motion, inquire into the matter.

(6) If, after inquiring into the matter, the Council reports to the President that it is of the opinion—

(a) that the Judge is incapable of performing the duties of his office or has been guilty of misconduct, and

(b) that he should be removed from office,

the President may remove the Judge from office.

(7) A Judge of the Supreme Court or of a High Court shall not be removed from office except as provided by this Article.

(8) The Council shall issue a code of conduct to be observed by Judges of the Supreme Court and of the High Courts.

# **THE COURT REGISTRY**





## **9 THE COURT REGISTRY**

Under Article 208 of the Constitution, the Supreme Court, with the approval of the President, may make rules providing for the appointment of officers and servants of the Court and for their terms and conditions of employment. Accordingly, the Supreme Court (Appointment of Officers and Servants and Terms and Conditions of Services) Rules 1982 have been framed.

The Registry of the Supreme Court provides administrative services to the Court for facilitating its judicial functions. The sanctioned strength of the Court Registry is 548, comprising the Registrar, Additional Registrar, Secretary to Chief Justice, Principal Private Secretary to Chief Justice, 3 Deputy Registrars, 01 Senior Research and Reference Officer, 11 Assistant Registrars and other officers and servants.

### **9.1 Functions**

The Registry provides administrative services to the Court for carrying out its judicial functions. It prepares the cases for fixing before a bench and assists the Court in case flow management. The Registry provides information and assistance to advocates and the general public on legal procedures and formalities for filing cases and completing the record. The main Registry is situated at Islamabad, but Branch Registries have been established at Lahore, Karachi, Peshawar and Quetta.

### **9.2 Goals**

The Registry's goals are:

1. to provide services to the Court in cases flow and court management;
2. to provide to the Chief Justice and to other Judges necessary assistance and information relating to processing of cases pending in the Court;
3. to ensure that necessary documents are included and all legal procedural formalities have been complied with before a case is fixed for hearing;
4. to prepare cause lists and intimate fixation of cases to parties, advocates-on-record and advocates;
5. to implement Court judgments and orders;
6. to maintain Court records; and

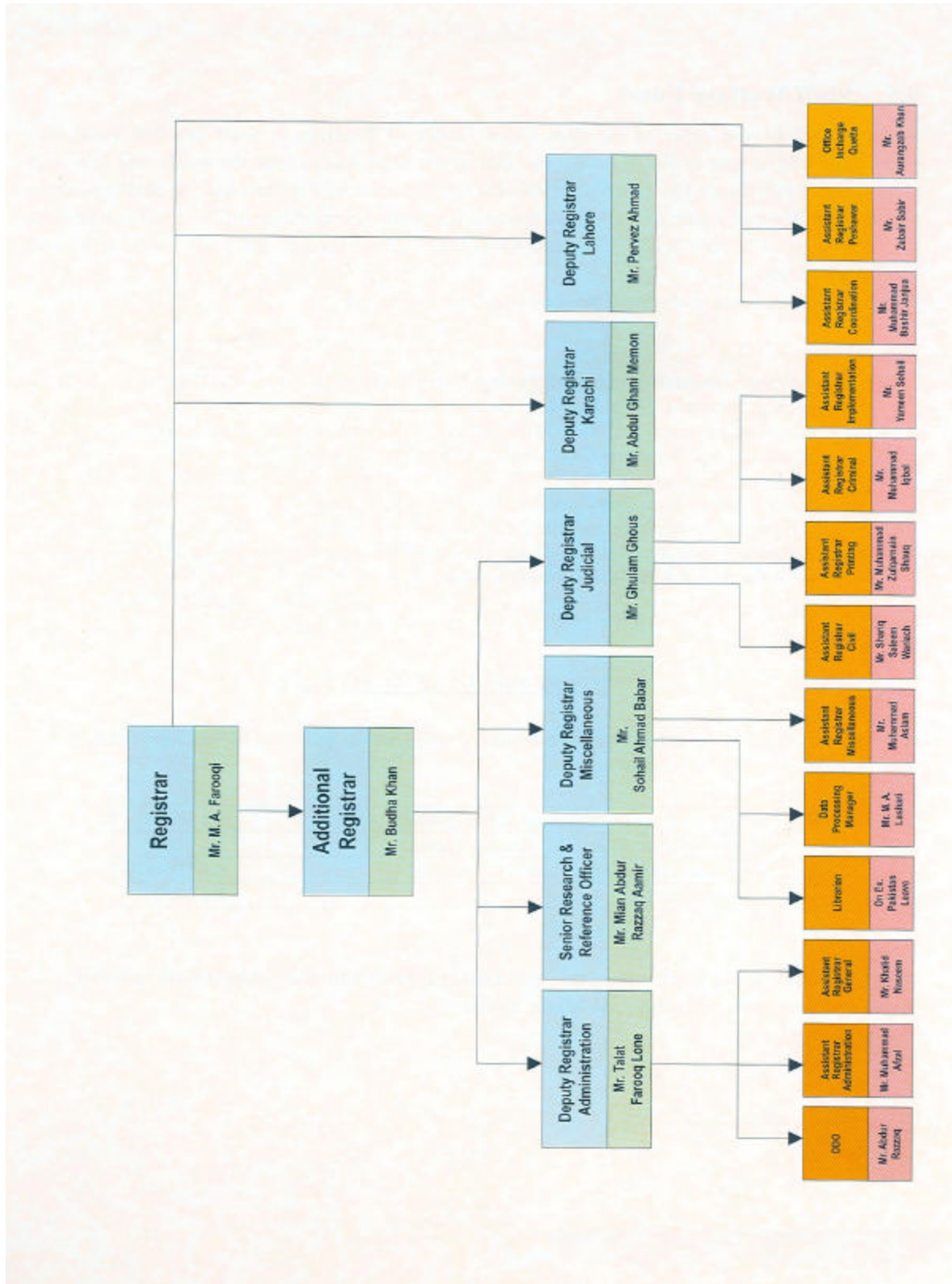
7. to maintain the record of senior advocates of the Supreme Court, advocates and advocates-on-record.

### **9.3 Services**

The Registry provides various services to the Court, the legal practitioners, and the litigant public. The staff ensures to the acquisition of necessary material and documents for preparing the cases for early hearing, and it conveys to lawyers as well as parties to the case, information about cases fixed for hearing. After the judgment is pronounced, the Registry makes copies of the judgment available to the parties and to general public and law journals for publication. It maintains record of advocates-on-record, advocates and senior advocates of the Supreme Court. Reception counters, manned by experienced personnel, have been established at the entrance halls of the Court Building with a view to facilitating the lawyers, litigant parties and general public in accessing various courtrooms, offices and information.

The staff is imparted periodic training in the areas of their respective professional operation, particularly to equip them with essential skills and modern techniques.

## 9.4 Organisational Chart of the Court Staff



## 9.5 Staff Welfare Fund

In July, 1990 by the order of the then Chief Justice of Pakistan, a Staff Welfare Fund was established with a sum of Rs.10,000/-. The aim of the fund was to help the needy and low paid employees of this Court. On 27th July, 1990, the Chief Justice of Pakistan and the Staff members of the Court donated a sum of Rs.50,000/towards the fund. The members of the Staff contributed the sums of Rs.47,500/-, Rs.39,350/- and Rs.91,000/- to the fund in the years 1991, 1992 and 1993 respectively.

The available amounts in the Staff Welfare Fund are as follows:

(i)	Amount invested in Special Saving Certificates with Post Office, Supreme Court Building Branch, Islamabad.	Rs.274,000.
(ii)	Amount invested in PLS-TDR. No.937782 with Habib Bank Limited Supreme Court Building Branch, Islamabad.	Rs.350,000.
(iii)	Amount invested in PLS-TDR. No.937787 with Habib Bank Limited Supreme Court Building Branch, Islamabad.	Rs.500,000.
(iv)	Amount given as loan and due from members of Staff.	Rs.20,000.
(v)	Balance Lying with Habib Bank Limited, Supreme Court Building Branch in Account No.PLS-375-0	Rs.1215879.12
	<b>TOTAL</b>	<b>Rs.2359879.12</b>

### STAFF WELFARE ACTIVITIES

A sum of Rs.35,000/- (Rupees thirty five thousand only) was granted out of the Supreme Court Staff Welfare Fund to the Following: -

1.	Widow of Late Muhammad Iqbal Qureshi, Assistant	Rs.10000/-
2.	Widow of Late Sharif Ali Kazmi, Qasid.	Rs.5000/-
3.	Mr. Imtiaz Danishwar, Library Assistant	Rs.10000/-
4.	Muhammad Sajid, Qasid.	Rs.10000/-

A sum of Rs 45,000/- ( Rupees forty five thousand only) was also granted to Beneficiaries of Supreme Court of Pakistan from Al-Mizan Foundation.

# **FINANCES OF THE SUPREME COURT**



## 10. FINANCES OF THE SUPREME COURT

### 10.1 Expenditure During the Last Financial Year 2003-2004.

**Statement Showing the actual expenditure incurred during the last financial year 2003-2004**

HEADS OF ACCOUNT.	ACTUAL EXPENDITURE INCURRED 2003-2004.
01101-Pay of officers.	RS.22,160,187
01201-Pay of Staff.	RS.16,043,309
02000-Regular Allowances.	RS.19,956,391
03100-Overtime Allowance.	RS. 1,192,381
03200-Night Duty Allowance.	RS. --
03300-Honorarium.	RS. 964,271
03400-Medical Charges.	RS. 5,338,258
03700-Pay of Contingent staff	RS.12,601,513
03800-Leave Salary.	RS. --
11000-Purchase of Transport.	RS. 2,883,500
12000-Purchase of Machinery.	RS. 1,040,465
13000-Purchase of Furniture.	RS. 588,858
19000-Purchaser of Others.	RS. 44,535
41000-R&M of Transport.	RS. 1,566,032
42000-R&M of Machinery.	RS. 305,279
43000-R&M of Furniture.	RS. 32,930
44000-R&M of Office Building.	RS. --
49000-R&M of Others.	RS. 10,991
51101-T.A.toGovt.Servants.	RS. 6,745,286
51200-Transportation of Good	RS. 1,095,584
51300-Cost of Petrol.	RS. 3,368,775
51400-Conveyance Charges.	RS. 343,006
52100-Postage & Telegraph.	RS. 334,551
52200-Telephone Charges.	RS. 6,264,357
52400-Courier Services.	RS. 112,003
53100-Gas Charges.	RS. 7,090

53300-Electricity Charges.	RS. --
53400-Hot & Cold W/Charges	RS. --
54000-Office Stationery.	RS. 1,406,182
55000-Printing Charges.	RS. 427,356
56000-Purchase of Books.	RS. 1,132,869
5700-Uniform & Liveries	RS. 117,635
58100-Rent of off.Building.	RS. --
58600-Rates & Taxes.	RS. 85,015
59300-Law Charges.	RS. 83,000
59500-Advertisement.	RS. 87,555
59900-Other Expenditure.	RS. 2,599,558
67000-Entertainment.	RS. 559,275
<b>GRAND TOTAL:-</b>	<b>RS.109,497,997</b>

## 10.2 Budgetary Allocation for the Year 2004-2005

Statement showing the budget allocation under various Sub-heads for the current financial year 2004-2005

<b>HEAD OF ACCOUNTS.</b>	<b>ALLOCATION</b>
01101-Pay of Officers.	Rs.27,568,000
01201-Pay of Staff.	Rs.17,567,000
02000-Regular Allowances.	Rs.29,671,000
03100-Overtime Allowance.	Rs. 800,000
03200-Night Duty Allowance.	Rs. 20,000
03300-Honorarium.	Rs. 500,000
03400-Medical Charges.	Rs. 3,550,000
03700-Pay of Contingent Staff.	Rs.26,160,000
03800-Leave Salary.	Rs. 50,000
11000-Purchase of Transport.	Rs. 4,000,000
12000-Purchase of Machinery.	Rs. 1,000,000
13000-Purchase of Furniture.	Rs. 1,000,000
19000-Purchase of Others.	Rs. 500,000
41000-R&M of Transport.	Rs. 1,416,000
42000-R&M of Machinery.	Rs. 330,000
43000-R&M of Furniture.	Rs. 100,000
44000-R&M of Buildings.	Rs. 24,000
49000-R&M of Others.	Rs. 80,000
51101-T.A. to Govt. Servants.	Rs. 6,200,000
51200-Transportation of Goods.	Rs. 1,400,000
51300-Cost of Petrol.	Rs. 3,500,000
51400-Conveyance Charges.	Rs. 600,000
52100-Postage & Telegraph.	Rs. 320,000



52200-Telephone Charges.	Rs. 5,900,000
52400-Courier Service.	Rs. 200,000
53100-Gas Charges.	Rs. 50,000
53300-Electricity Charges.	Rs. 300,000
53400-Hot & Cold W/Charges.	Rs. 10,000
54000-Office Stationery.	Rs. 1,200,000
55000-Printing Charges.	Rs. 650,000
56000-Purchase of Books.	Rs. 1,250,000
57000-Uniform & Liveries.	Rs. 200,000
58100-Rent of office building.	Rs. 20,000
58600-Rates & Taxes.	Rs. 200,000
59300-Law Charges.	Rs. 2,000,000
59500-Advertisement Charges.	Rs. 400,000
59900-Other Expenditure.	Rs. 1,600,000
67000-Entertainment Charges.	Rs. 400,000
<b>GRAND TOTAL</b>	<b>Rs.140,736,000</b>

RECONCILIATION STATEMENT OF EXPENDITURE FOR THE MONTH OF **JUNE, 2004. (FINAL)**

GRANT NO. NIL.

NAME OF DEPARTMENT.

SUPREME COURT OF PAKISTAN.

FUNCTION MAJOR

20000-LAW & ORDER

MINOR

21000-JUSTICE LAW COURTS.

DETAILED.

21102-08-SUPREME COURT.

OBJECT HEADS.	SANCTIONED BUDGET, 2003-2004.	SUPPLEMENTARY/ RE-APPROPRIATION/ SURRENDER.	RELEASED BUDGET, 2003-2004.	PROPORTION -ATE BUDGET, 2003-2004.	DEPARTMEN-TAL FIGURES DURING THE MONTH OF 06/2004.(FINAL)	PROGRESSIVE DEPARTMENT AL FIGURES.	AUDIT FIGURES DURING THE MONTH 06/2004. (FINAL)	PROGRESSIV E FIGURES OF AUDIT.	VARI- ATIONS	REASONS OF VARI- ATIONS.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
00000-ESTABLISHMENT CHARGES.	Rs.93,460,000	R (+)Rs. 5,661,419 R (-)Rs. 9,951,106 Sur (-)Rs.10,914,003	Rs.78,256,310	Rs.78,256,310	=	Rs.78,256,310	[+]Rs. 23,563	Rs.78,256,310	=	=
01101-PAY OF OFFICER.	Rs.23,472,000	R (+)Rs. 1,447,437 Surr()Rs. 2,759,250	Rs.22,160,187	Rs.22,160,187	-	Rs.22,160,187	-	Rs.22,160,187	-	-
01201-PAY OF STAFF.	Rs.17,223,000	R (+)Rs. 573,434 Surr()Rs. 1,753,125	Rs.16,043,309	Rs.16,043,309	-	Rs.16,043,309	-	Rs.16,043,309	-	-
02000-REGULAR ALLOWANCES.	Rs.22,550,000	R (-)Rs. 200,000 R (+)Rs. 938,019 Sur (-)Rs. 3,331,628	Rs.19,956,391	Rs.19,956,391	-	Rs.19,956,391	[+]Rs. 1,242	Rs.19,956,391	--	-
03000-OTHER ALLOWANCES.	Rs.30,215,000	R (+)Rs. 2,702,529 R (-)Rs. 9,751,106 Sur (-)Rs. 3,070,000	Rs.20,096,423	Rs.20,096,423	=	Rs.20,096,423	[+]Rs. 22,321	Rs.20,096,423	=	=
03100-Overtime Allowance.	Rs. 800,000	R (+) Rs. 400,000 R (-) Rs. 7,619	Rs. 1,192,381	Rs. 1,192,381	-	Rs. 1,192,381	-	Rs. 1,192,381	-	-
03200-Night Duty Allows.	Rs. 20,000	Surr (-)Rs. 20,000	Rs. --	Rs. --	-	-	-	-	-	-
03300-Honorarium.	Rs. 500,000	R (+) Rs. 464,271	Rs. 964,271	Rs. 964,271	-	Rs. 964,271	-	Rs. 964,271	-	-
03400-Medical Charges.	Rs. 3,500,000	R (+) Rs. 1,838,258	Rs. 5,338,258	Rs. 5,338,258	-	Rs. 5,338,258	[+]Rs. 22,321	Rs. 5,338,258	-	-
03700-Pay of C/Staff.	Rs.25,345,000	R (-) Rs. 9,743,487 Surr() Rs. 3,000,000	Rs.12,601,513	Rs.12,601,513	-	Rs.12,601,513	-	Rs.12,601,513	-	-
03800-Leave Salary.	Rs. 50,000	Surr() Rs. 50,000	Rs. --	-	-	-	-	-	-	-
10000-PURCHASE OF D/GOODS.	Rs. 3,000,000	R (+)Rs. 4,500,000 R (-)Rs. 1,142,642 Sur (-)Rs. 1,800,000	Rs. 4,557,358	Rs. 4,557,358	=	Rs. 4,557,358	=	Rs. 4,557,358	=	=
11000-Transport.	Rs. 500,000	R (+)Rs. 4,000,000 R (-)Rs. 116,500 Surr()Rs. 1,500,000	Rs. 2,883,500	Rs. 2,883,500	-	Rs. 2,883,500	-	Rs. 2,883,500	-	-
12000-Machinery..	Rs. 1,000,000	R (+)Rs. 500,000 R (-)Rs. 459,535	Rs. 1,040,465	Rs. 1,040,465	-	Rs. 1,040,465	-	Rs. 1,040,465	-	-
13000-Furniture..	Rs. 1,000,000	R (-)Rs. 411,142	Rs. 588,858	Rs. 588,858	-	Rs. 588,858	-	Rs. 588,858	-	-
19000-Others..	Rs. 500,000	R (-)Rs. 155,465 Surr (-)Rs. 300,000	Rs. 44,535	Rs. 44,535	-	Rs. 44,535	-	Rs. 44,535	-	-
20000-PRE-INVESTMENT PROJECT ANALYSIS	Rs. --	---	--	--	--	Rs. --	[ - ] Rs. 1,242	Rs. --	=	=
22000-Research & Surveys.	Rs. -	-	-	-	-	Rs. -	[ - ] Rs. 1,242	Rs. -	-	-

**JUNE,2004(FINAL).**

**-2-**

**SUPREME COURT OF PAKISTAN.**

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
3000-CONST.WORK.	Rs. -	=	=	=	=	=	[Rs. 22,321	Rs. -	=	=
34000-Building/Rest House.	Rs. -	-	-	-	-	-	[Rs. 22,321	Rs. -	-	-
40000-R&M OF DURABLE GOODS.	Rs. 1,902,000	R (+)Rs. 200,000 R (-)Rs. 136,768 Sur (-)Rs. 50,000	Rs. 1,915,232	Rs. 1,915,232	=	Rs. 1,915,232	=	Rs. 1,915,232	=	=
41000-Transport.	Rs. 1,400,000	R (+)Rs. 200,000 R (-)Rs. 33,968	Rs. 1,566,032	Rs. 1,566,032	-	Rs. 1,566,032	-	Rs. 1,566,032	-	-
42000-Machinery.	Rs. 325,000	R (-)Rs. 19,721	Rs. 305,279	Rs. 305,279	-	Rs. 305,279	-	Rs. 305,279	-	-
43000-Furniture.	Rs. 100,000	R (-)Rs. 67,070	Rs. 32,930	Rs. 32,930	-	Rs. 32,930	-	Rs. 32,930	-	-
44000-Office Buildings.	Rs. 2,000	R (-)Rs. 2,000	-	-	-	-	-	-	-	-
49000-Others.	Rs. 75,000	R (-)Rs. 14,009 Sur (-)Rs. 50,000	Rs. 10,991	Rs. 10,991	-	Rs. 10,991	-	Rs. 10,991	-	-
50000-COMMODITIES & SERVICES.	Rs.24,760,000	R (+)Rs. 4,055,740 R (-)Rs. 3,345,918 Sur (-)Rs. 1,260,000	Rs.24,209,822	Rs.24,209,822	=	Rs.24,209,822	=	Rs.24,209,822	=	=
51000-TRANSPORTATION	Rs.11,000,000	R (+)Rs. 1,500,000 R (-)Rs. 547,349 Sur (-)Rs. 400,000	Rs.11,552,651	Rs.11,552,651	=	Rs.11,552,651	=	Rs.11,552,651	=	=
51100-Travelling Allowance.	Rs. 6,000,000	R (+)Rs. 1,000,000 R (-)Rs. 254,714	Rs. 6,745,286	Rs. 6,745,286	-	Rs. 6,745,286	-	Rs. 6,745,286	-	-
51200-Transportation of Goods.	Rs. 1,300,000	R (-)Rs. 4,416 Surr()Rs. 200,000	Rs. 1,095,584	Rs. 1,095,584	-	Rs. 1,095,584	-	Rs. 1,095,584	-	-
51300-Cost of Petrol.	Rs. 3,100,000	R (+)Rs. 500,000 R (-)Rs. 231,225	Rs. 3,368,775	Rs. 3,368,775	-	Rs. 3,368,775	-	Rs. 3,368,775	-	-
51400-Conveyance Charges.	Rs. 600,000	R (-)Rs. 56,994 Sur (-)Rs. 200,000	Rs. 343,006	Rs. 343,006	-	Rs. 343,006	-	Rs. 343,006	-	-
52000-COMMUNICATIONS.	Rs. 6,200,000	R (+)Rs. 1,150,000 R (-)Rs. 639,089	Rs. 6,710,911	Rs. 6,710,911	=	Rs. 6,710,911	=	Rs. 6,710,911	=	=
52100-Postage & Telegraph.	Rs. 300,000	R (+)Rs. 100,000 R (-)Rs. 65,449	Rs. 334,551	Rs. 334,551	-	Rs. 334,551	-	Rs. 334,551	-	-
52200-Telephone Charges.	Rs. 5,700,000	R (+)Rs. 1,000,000 R (-)Rs. 435,643	Rs. 6,264,357	Rs. 6,264,357	-	Rs. 6,264,357	-	Rs. 6,264,357	-	-
52400-Courier Services.	Rs. 200,000	R (+)Rs. 50,000 R (-)Rs. 137,997	Rs. 112,003	Rs. 112,003	-	Rs. 112,003	-	Rs. 112,003	-	-
53000-UTILITIES.	Rs. 360,000	R (-)Rs. 12,910 Sur (-)Rs. 340,000	Rs. 7,090	Rs. 7,090	=	Rs. 7,090	=	Rs. 7,090	=	=
53100-Gas Charges.	Rs. 50,000	R (-)Rs. 12,910 Surr()Rs. 30,000	Rs. 7,090	Rs. 7,090	-	Rs. 7,090	-	Rs. 7,090	-	-
53300-Electricity Charges.	Rs. 300,000	Surr (-)Rs. 300,000	Rs. ---	Rs. -	-	-	-	-	-	-
53400-H & C W/Charges.	Rs. 10,000	Surr (-)Rs. 10,000	Rs. ---	Rs. -	-	-	-	-	-	-
54000-OFFICE STATIONERY.	Rs. 1,100,000	R (+)Rs. 306,182	Rs. 1,406,182	Rs. 1,406,182	-	Rs. 1,406,182	-	Rs. 1,406,182	-	-
55000-PRINTING CHARGES.	Rs. 650,000	R (-)Rs. 122,644. Surr (-)Rs. 100,000	Rs. 427,356	Rs. 427,356	-	Rs. 427,356	-	Rs. 427,356	-	-
56000-PURCHASE OF BOOKS.	Rs. 1,200,000	R (-)Rs. 67,131	Rs. 1,132,869	Rs. 1,132,869	-	Rs. 1,132,869	-	Rs. 1,132,869	-	-

**JUNE,2004 (FINAL).****-3-****SUPREME COURT OF PAKISTAN.**

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
57000-UNIFORM & LIVERIES.	Rs. 150,000	R (-)Rs. 32,365	Rs. 117,635	Rs. 117,635	-	Rs. 117,635	-	Rs. 117,635	-	-
58000-RENT & TAXES.	Rs. 200,000	R (-)Rs. 94,985 Sur (-)Rs. 20,000	Rs. 85,015	Rs. 85,015	=	Rs. 85,015	=	Rs. 85,015	=	=
58100-Office Buildings.	Rs. 20,000	Surr (-)Rs. 20,000	-	-	-	-	-	-	-	-
58600-Taxes.	Rs. 180,000	R (-)Rs. 94,985	Rs. 85,015	Rs. 85,015	-	Rs. 85,015	-	Rs. 85,015	-	-
59000-OTHER EXPENDITURE.	Rs. 3,900,000	R (+)Rs. 1,099,558 R (-)Rs. 1,829,445 Sur (-)Rs. 400,000	Rs. 2,770,113	Rs. 2,770,113	-	Rs. 2,770,113	-	Rs. 2,770,113	-	-
59300-Law Charges.	Rs. 2,000,000	R (-)Rs. 1,517,000 Surr()Rs. 400,000	Rs. 83,000	Rs. 83,000	-	Rs. 83,000	-	Rs. 83,000	-	-
59500-Advertisement.	Rs. 400,000	R (-)Rs. 312,445	Rs. 87,555	Rs. 87,555	-	Rs. 87,555	-	Rs. 87,555	-	-
59900-Others.	Rs. 1,500,000	R (+)Rs. 1,099,558	Rs. 2,599,558	Rs. 2,599,558	-	Rs. 2,599,558	-	Rs. 2,599,558	-	-
60000-TRANSFER PAYMENT.	Rs. 400,000	R (+)Rs. 400,000 R (-)Rs. 240,725	Rs. 559,275	Rs. 559,275	=	Rs. 559,275	=	Rs. 559,275	=	=
66000-Gifts.	Rs. --	Rs. --	Rs. --	-	-	-	-	-	--	-
67000-ENTERTAINMENT.	Rs. 400,000	R (+)Rs. 400,000 R (-)Rs. 240,725	Rs. 559,275	Rs. 559,275	-	Rs. 559,275	-	Rs. 559,275	-	-
TOTAL:-	Rs.123,522,000	Sur()Rs.14,024,003	Rs.109,497,997	Rs.109,497,997	Rs. -	Rs.109,497,997	Rs. -	Rs.109,497,997	NIL.	-

This is to certified that Mr.Shahzada Alam, Budget Officer , Mr.Mukhtar Nasir, L.D.C. Supreme Court of Pakistan, Islamabad have attended the office of the A.G.P.R., Islamabad on .....

.....and reconciled the figures of actual expenditure with audit figures upto **June, 2004 (Final)** for the financial year, **2003-2004**. The departmental figures of final grant and actual expenditure are based on departments record and actual expenditure amounting to **Rs.109,497,997** has been accepted by the department.

Accounts Officer,  
A.G.P.R.,Islamabad.

Dep.Rep.  
Supreme Court.

Assistant Accounts Officer,  
Expenditure.

Sr.Auditor,  
A.IV-Section.

Assistant Accounts Officer,  
A.IV-Section.

### 10.3 The Share of the Supreme Court of Pakistan in the Federal Budget

Year	Total Budget (Rs in Million)	Supreme Court Budget (Rs in Million)	As %age of Federal Budget
1993-94	327,316	38.471	.01
1994-95	375,427	71.741	.02
1995-96	450,475	40.262	.01
1996-97	482,612	42.916	.01
1997-98	554,696	75.768	.01
1998-99	613,658	83.949	.01
1999-2000	688,125	79.408	.01
2000-2001	686,104	84.587	.01
2001-2002	741,959	115.229	.02
2002-2003	747,674	128.289	.02
2003-2004	743,028	123.522	.02
2004-2005	786,573	140.736	.017

Share of the Supreme Court of Pakistan in the federal Budget 2004-2005.

(Rs. in Million)

<u>Year</u>	<u>Total Budget Government of Pakistan.</u>	<u>Supreme Court Budget</u>	<u>As % age of the Federal Budget</u>
2004-2005	786,573.165	140.736	0.0178%

# **LEGAL RESEARCH AT THE SUPREME COURT**



# 11 LEGAL RESEARCH AT THE SUPREME COURT

## 11.1 The Supreme Court of Pakistan Library

The Supreme Court of Pakistan maintains its own Library primarily for the use of Judges of the Court and for legal research to support their needs. The Supreme Court Library is one of the best libraries in the country. Besides the Main Library at the Principal Seat of the Court, three Libraries have been established at the Branch Registries: Lahore, Karachi and Peshawar.

The Library is situated in the basement of Judges Chamber Block. Currently it has total collection of 65347 books including general books, textbooks, law reports and journals on various subjects. It consists of 3 halls and separate offices for staff members and one study room for Judges. In the Main Hall, Law Reports of Pakistan and India have been shelved whereas in Hall No. 2 all the latest textbooks have been shelved and arranged subject wise. In the 3rd Hall Foreign Law Reports are available. All the Law Reports have been arranged alphabetically and are available from 1949 till the most recent. The All India Reports (AIR) is available from 1914 up to the most recent. All England Law Reports from 1558 till the present date. The Library also carries reference books like encyclopedias, dictionaries and Halsbury's laws of England, as well as Annual Law Digests from 1947. There is sufficient storage space for storing books. The Library has its own binding facilities with two Book Binders.

During the year the number of Books available in the Supreme Court Library increased. The following table reflects the increase in Library holdings: -

Location	Library Holdings as on 31-12-2003	Increase during the Year 2004	Available holdings as on 31-12-2004
Islamabad	49478	661	50139
Lahore	5886	1065	6951
Peshawar	1377	1165	2542
Karachi	5549	166	5715
Total:	62290	3057	65347

Among the significant valuable additions to the Library are the following encyclopedias:

1. Encyclopedia of Religion and Ethics edited by James Hastings.
2. Encyclopedia of Religious Rites and Ceremonies of all Nations.
3. The Encyclopedia of American Religions (3rd Edition).
4. The Cambridge Encyclopedia of India Pakistan Bangladesh and Srilanka.
5. Encyclopedia of Crime and Justice.
6. International Encyclopedia of the Social Sciences.



7. Encyclopedia of the American Judicial System.

8. The New Encyclopedia Britannica.

Besides the above Encyclopedias, the available number of copies of the well-known Law Reports likes PLD, SCMR, PLC, PTD, MLD and PLJ, as well as YLR (that has been published recently) has been increased in the Library. This has been done to ensure the smooth running of the Library.

The Librarian is responsible for providing information and reference material to the Judges and the Court as and when needed. He is assisted by three Assistant Librarians. The Library employs 16 officials for the various functions of the Library. The Main Library also deals with administrative matters such as the ordering and payment of books and materials. Among the components of the programme implemented are the automated inquiry logging system known as the Library Automation and Management Programme (LAMP), which is based upon the CDSIS program. This programme is used for cataloguing and to maintain an easily and swiftly accessible record of books and their movement. Almost all the books in the library have been fed into the programme. Besides this a programme, a Case Citation System is in the process of implementation. Once implemented fully, it will help in conducting quick searches through queries based on (1) name of the parties, (2) subject, (3) sub-subject and (4) case citation. The Library maintains an efficient photocopying service.

To meet the growing research needs a ‘**Research Cell**’ under the supervision of the Senior Research and Reference Officer, has been established. The Research Cell is responsible for doing extensive research on the matters referred to it and providing reference material to Judges in court as well as in their chambers. The Cell is also, apart from publishing Annual Report, maintains data of cases which helps the Court devising its policy. A programme is underway for providing electronic research facilities and services to the Judges. These facilities are under various stages of implementation.

## **11.2 Information Technology at the Supreme Court and Web Presence**

### **11.2.1 Court Automation Plan**

The Computer Section in the Supreme Court of Pakistan was established in 1996. Initially, a contract was awarded to IBM for developing software for: -

- *Case Monitoring System*
- *Library Management System*
- *Statute updating.*

The above software system was installed in 1997 and data entry was started, but due to lack of funds no worthwhile progress could be made till 1998. In 1998 a study was carried out for computerizations in the court relating to: -

- ? *Establishment of E-mail connection throughout the Court chambers/officers and Branch Registries*
- ? *Facilitating the making of queries and receiving replies;*
- ? *Providing access to case law in digital format; and*
- ? *Case Flow Management.*

In the light of this report, since 1999 a database of 50,000 library books has been updated under Library Management System, the Constitution of Pakistan has been updated on the Statutes Program; and the Case Flow Management System has been redeveloped. Consequently:

1. All judgments and short orders are automated through word processing software. In fact, all typing work of the office is done on the Computers including all financial statements.
2. Automation of Administration Section records for employees tracking is updated after implementation and data processing is in progress.
3. Statistical data pertaining to cases is completed and software is successfully updated and implemented.
4. Cause lists, notices, queries, different lists of pending cases, and the history of all cases are now generated electronically.
5. The cases of AOR's, fixed in proposed and final Cause Lists, are also generated electronically to facilitate the AORs concerns to have a list of their own cases.
6. New case entries are being made at the filing stage.
7. The Criminal and Civil Branches are exclusively updating their respective cases on their own desks.
8. Full query of case tracking is available to all the officers/offices.
9. The automation of Advocates (AOR, ASC, Sr. ASC) of Supreme Court is in progress.
10. E-mail connection has been established.
11. Computers have been provided in the Court to many officials, and automation for word processing of all departments of the Court is complete.
12. Display boards showing the status of cases being heard in the Court Rooms are installed successfully at following places: -

- (a) One in the public entrance hall;
- (b) One outside each Court Room, alongwith Computer and Printer;
- (c) One in the Bar Room; and
- (d) One in the Bar Room Library.
- (e) The information regarding cases is also visible on the computers of the officers.

13. Application Software of keeping record of expenditure of branches has been implemented.

In addition to this, 100 Computers are now connected with Server through LAN. Internet is operative for approved Officers/Sections. In-house Case Flow Management Software is also available for all 100 Computers through the central Server via LAN. File transfer via Server is also achieved and actively in process via LAN.

### **11.2.2 The Growing Website of the Court**

The Supreme Court launched its own website on 24th April 2001. The website was designed by M.A.Lashari, DPM and prepared by Malik Sohail Ahmad, Programmer, Computer Section. Recently the website was redesigned. It displays essential information about the Court and its functioning and can be accessed at the address <http://www.scp.com.pk>

The following information has been made available on the website: -

1. Bio-data of the Honourable Chief Justice and Judges of the Court.
2. Proposed, final and supplementary cause lists of the Court. Any information regarding any case can be searched only on currently available cause list. A plan is underway for making available dynamic searching of all cases.
3. Annual Reports of the Court.
4. Recent judgments of public importance.
5. List of Officers of the Court with telephone numbers.

Among the future plans of the website are the creation of dynamic cause lists that will be searchable by case number, by parties, or by names of Advocates. Further, dynamic Advocates lists with their address, telephone numbers, facsimile numbers and email addresses will be prepared. The query system mentioned above will be brought online for information on cases or any point of law. Finally, facilities will be created for updating case data between the Main Registry and Branch Registries via websites through a dialup connection. At present facilities in the in Bar Room include viewing of cause lists and case progress. The display is a static display for the time being and the provision of search facilities for the Bar is under consideration.

# **THE COURT BUILDING**







## **12 THE COURT BUILDING**

The Supreme Court complex, situated on Constitution Avenue, Islamabad comprises a Main Central Block, Judges Chambers Block and two Administrative Blocks. The height of the Main Central Block is 167 feet above the ground. It is surrounded by Judges' Chambers Block to the east and an Administrative Block each to the north and south. The total covered area of the building is 3,39,861 sq.ft. The building was designed by the Japanese firm, Kenzo Tange Associates. Pakistan Environmental Planning and Architectural Consultant (PEPAC) served as consultant and interior designer. Civil and electrical work was carried out by Moinsons (Pvt) Ltd and Siemens (Pvt) Ltd. The building was completed in 1993 with a total cost of Rupees 605.960 million.

### **12.1 Building Architecture**

The splendid and magnificent structure with white marble exterior is a classic blend of Islamic and European architecture. The Islamic motifs are used in the exterior and interior of the building, especially in the marble flooring of the Ceremonial Hall, Judges Entrance Hall and Public Entrance Halls. The walls have detailed Islamic motifs on marble in inlaid brass. The forefront of the building is landscaped as a symbolic and ceremonial space, highlighting the dignity of Court. The fountain in the front creates a soothing effect and adds to the charm and beauty of the building.

### **12.2 Main Central Block**

The Main Central Block is placed in the heart of the complex. It primarily comprises 11 court rooms, the Ceremonial Hall, Auditorium of 550 seats and a Prayer Hall for 300 persons. The main court room, on the first floor, with seating capacity for 141 persons, is 125 ft high. It is surrounded by four court rooms, each having seating capacity for 72 persons. Six additional court rooms, each having seating capacity for 36 persons, are situated on the ground floor.

### **12.3 Judges Chambers Block**

The Judges Chambers Block houses the office of the Chief Justice, 20 Judges Chambers and the office of the Registrar. The library containing a collection of 60411 books, reports and journals, is situated in the basement. This Block also contains an impressive entrance Hall, a Conference Room and a Dining Hall.

### **12.4 Administration Blocks**

The two Administration Blocks mainly contain the offices of the administrative officers / personnel. The northern Block is occupied by the staff of the Supreme Court. The southern Block contains the Secretariat of Law and Justice Commission of Pakistan, offices of the Attorney General for Pakistan, Advocates-General and the Pakistan Bar Council. The cafeteria is also situated on the ground floor of this Block.



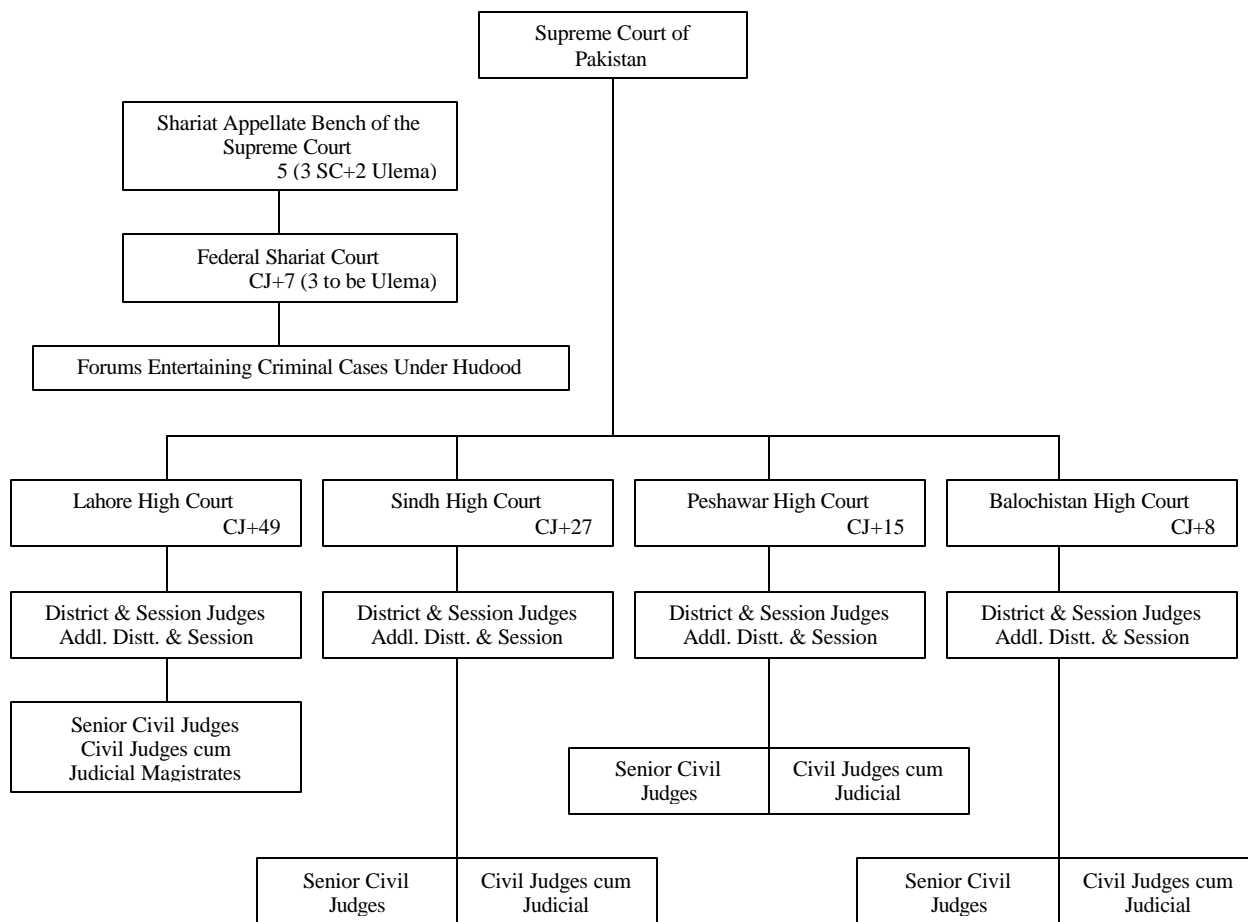
# **JUDICIAL HIERARCHY OF PAKISTAN**



# 13 JUDICIAL HIERARCHY OF PAKISTAN

## 13.1 Chart Showing Sanctioned Strength of Judges

**JUDICIAL HIERARCHY OF PAKISTAN**  
(Sanction Strength of Judges)



## 13.2 Strength of Judges and Administrative Staff of Superior Judiciary

Judges	Supreme Court of Pakistan	Federal Shariat Court	Lahore High Court	High Court of Sindh	Peshawar High Court	High Court of Balochistan
Chief Justice & Judges	17	08	50	28	16	09
Administrative Staff	548	216	1490	1178	361	358

# **INFORMATION ON THE ADMINISTRATION OF JUSTICE**



## **14 INFORMATION ON THE ADMINISTRATION OF JUSTICE**

### **14.1 Advocates on the Rolls of the Supreme Court**

<b>Senior Advocates</b>	<b>Advocates</b>	<b>Advocates-on –Records</b>	<b>Total</b>
250	2813	221	3284

### **14.2 Current Strength of Law Officers of the Federation and Provinces**

<b>Federal</b>	<b>Punjab</b>	<b>Sindh</b>	<b>NWFP</b>	<b>Balochistan</b>
32	43	20	12	05

**FORMER CHIEF JUSTICES, JUDGES  
AND REGISTRAR**





# 15 FORMER CHIEF JUSTICES, JUDGES AND REGISTRARS

## 15.1 Former Chief Justices of the Supreme Court of Pakistan

S.No	Name of Chief Justice	From	To
01.	Mr. Justice Sir Abdul Rashid (Chief Justice, Federal Court)	27.06.1949	29.06.1954
02.	Mr. Justice Muhammad Munir (Chief Justice, Federal Court)	30.06.1954	02.05.1960
03.	Mr. Justice Muhammad Shahabuddin	03.05.1960	12.05.1960
04.	Mr. Justice A.R. Cornelius	13.05.1960	29.02.1968
05.	Mr. Justice S.A. Rahman	01.03.1968	03.06.1968
06.	Mr. Justice Fazle Akbar	04.06.1968	17.11.1968
07.	Mr. Justice Hamoodur Rahman	18.11.1968	31.10.1975
08.	Mr. Justice Muhammad Yaqub Ali	01.11.1975	22.09.1977
09.	Mr. Justice S. Anwar-ul Haq	26.09.1977	25.03.1981
10.	Mr. Justice Muhammad Haleem	26.03.1981	31.12.1989
11.	Mr. Justice Muhammad Afzal Zullah	01.01.1990	18.04.1993
12.	Mr. Justice Dr. Nasim Hasan Shah	17.04.1993	14.04.1994
13.	Mr. Justice Sajjad Ali Shah	05.06.1994	02.12.1997
14.	Mr. Justice Ajmal Mian	03.12.1997	30.06.1999
15.	Mr. Justice Saiduzzaman Siddiqui	01.07.1999	26.01.2000
16.	Mr. Justice Irshad Hasan Khan	26.01.2000	06.01.2002
17.	Mr. Justice Muhammad Bashir Jehangiri	07.01.2002	31.01.2002
18.	Mr. Justice Sh. Riaz Ahmad	01.02.2002	31.12.2003

## 15.2 Former Judges of the Supreme Court

S.No.	Name of the Judge/Chief Justice	Nature of Appointment	Date of Appointment	Date of Retirement
1.	Mr. Justice Sir Abdul Rashid	Chief Justice	27.06.1949	29.06.1954
2.	Mr. Justice Abdul Rehman	Judge	07.02.1950	04.10.1953
3.	Mr. Justice A.S.M. Akram	Judge	15.02.1950	27.02.1956
4.	Mr. Justice Muhammad Sharif	Acting Judge	17.05.1950	
			to 23.05.1950	
		Judge	13.04.1954	01.04.1958
5.	Mr. Justice Muhammad Munir	Judge	01.10.1951	
			to 22.11.1951	
		Chief Justice	29.06.1954	02.05.1960
6.	Mr. Justice A.R. Cornelius	Judge	22.11.1951	
			to 09.06.1952	
		Judge	17.10.1952	
			to 31.05.1953	
		Judge	10.10.1953	
			to 12.05.1960	
		Chief Justice	13.05.1960	29.02.1968
7.	Mr. Justice M. Shahabuddin	Acting Judge	06.10.1952	
			to 23.12.1952	
		Acting Judge	06.02.1953	
			to 07.06.1953	
		Judge	04.10.1953	12.05.1960
8.	Mr. Justice S.A. Rehman	Ad hoc Judge	02.03.1955	
			to 23.05.1955	
		Judge	02.04.1958	
			to 01.03.1968	
		Chief Justice	01.03.1968	03.06.1968
9.	Mr. Justice Amiruddin Ahmad	Judge	12.03.1956	21.12.1960
10.	Mr. Justice Fazle Akbar	Judge	18.05.1960	
			to 04.06.1968	
		Chief Justice	04.06.1968	17.11.1968
11.	Mr. Justice Badi-uz-Zaman Kaikaus	Judge	25.07.1960	03.01.1966
12.	Mr. Justice Hamoodur Rahman	Judge	22.12.1960	
			to 18.11.1968	
		Chief Justice	18.11.1968	31.10.1975
13.	Mr. Justice Muhammad Yaqub Ali	Judge	04.01.1966	
			to 31.10.1975	
		Chief Justice	01.11.1975	22.09.1977
14.	Mr. Justice Sajjad Ahmad Jan	Judge	18.03.1968	31.03.1973
15.	Mr. Justice Abdus Sattar	Judge	04.06.1968	28.02.1971
16.	Mr. Justice Mujibur Rahman Khan	Judge	18.11.1968	23.11.1971
17.	Mr. Justice Waheeduddin Ahmad	Judge	22.09.1969	20.09.1974
		Ad hoc Judge	23.05.1977	06.02.1979
18.	Mr. Justice Salahuddin Ahmad	Acting Judge	04.12.1970	
			to 28.02.1971	
		Judge	01.03.1971	31.12.1976

S.No	Name of Judge/Chief Justice	Nature of Appointment	Date of Appointment	Date of Retirement
19.	Mr. Justice S. Anwar-ul-Haq	Judge	16.10.1972 to 22.09.1977	
		Chief Justice	23.09.1977	25.03.1981
20.	Mr. Justice Muhammad Gul	Judge	14.04.1973	31.12.1976
21.	Mr. Justice Muhammad Afzal Cheema	Judge	08.10.1974	31.12.1977
22.	Mr. Justice Abdul Kadir Shaikh	Judge	08.10.1974 to 23.01.1975	
		Judge	01.07.1979	24.03.1991
23.	Mr. Justice Malik Muhammad Akram	Judge	26.12.1975	31.09.1979
24.	Mr. Justice Dorab Patel	Judge	07.01.1976	25.03.1981
25.	Mr. Justice Muhammad Haleem	Judge	07.01.1977 to 25.03.1981	
		Acting Chief Justice	26.03.1981 to 22.03.1984	
		Chief Justice	23.03.1984	31.12.1989
26.	Mr. Justice Qaisar Khan	Judge	07.01.1977	30.07.1978
27.	Mr. Justice G. Safdar Shah	Judge	10.10.1977	16.10.1980
28.	Mr. Justice Karam Elahee Chauhan	Acting Judge	27.04.1978 to 13.06.1979	
		Judge	14.06.1979	04.02.1982
29.	Mr. Justice Aslam Riaz Hussain	Judge	12.01.1978	23.08.1988
30.	Mr. Justice Muhammad Afzal Zullah	Judge	14.06.1989 to 31.12.1989	
		Chief Justice	01.01.1990	18.04.1993
31.	Mr. Justice Dr. Nasim Hassan Shah	Ad hoc Judge	18.05.1977 to 14.06.1979	
		Judge	14.06.1979 to 16.04.1993	
		Chief Justice	17.04.1993	14.04.1994
32.	Mr. Justice Shafiur Rehman	Ad hoc Judge	14.06.1979 to 29.07.1981	
		Judge	31.07.1981	15.02.1994
33.	Mr. Justice Maulvi Mustaq Hussain	Acting Judge	02.06.1980	25.03.1981
34.	Mr. Justice Fakhruddin G. Ebrahim	Ad hoc Judge	17.06.1980	25.03.1981
35.	Mr. Justice Shah Nawaz Khan	Judge	05.04.1981	01.07.1982
36.	Mr. Justice S.A. Nusrat	Judge	04.08.1981	30.04.1989
37.	Mr. Justice Zafar Hussain Mirza	Judge	04.08.1981	09.10.1991
38.	Mr. Justice M.S.H Quraishi	Ad hoc Judge	30.07.1981 to 01.03.1982	
		Acting Judge	01.03.1982	30.09.1985
39.	Mr. Justice Mian Burhanuddin Khan	Acting Judge	02.03.1982 to 17.12.1984	
		Acting Judge	18.12.1984	17.12.1987
40.	Mr. Justice Ali Hussain Qazilbash	Acting Judge	17.04.1986 to 31.08.1988	
		Judge	01.09.1988	14.09.1991

S.No	Name of Judge/Chief Justice	Nature of Appointment	Date of Appointment	Date of Retirement
41.	Mr. Justice Dr. Javed Iqbal	Judge	05.10.1986	04.10.1989
42.	Mr. Justice Saad Saood Jan	Ad hoc Judge	05.10.1986 to 24.03.1987	
43.	Mr. Justice Ghulam Mujadid Mirza	Judge Judge	25.03.1987 25.03.1987 to 27.03.1987	30.06.1996
44.	Mr. Justice S. Usman Ali Shah	Acting CJ, LHC Judge Acting Judge	28.03.1987 to 21.04.1988 22.04.1988 08.12.1987 to 31.08.1988	31.03.1990
45.	Mr. Justice Naimuddin	Judge	01.09.1988	14.09.1991
46.	Mr. Justice Abdul Shakurul Salam	Judge	04.09.1988	09.11.1991
47.	Mr. Justice Abdul Qadeer Chaudhry	Judge	13.12.1988	31.03.1993
48.	Mr. Justice Ajmal Mian	Judge	13.12.1989 to 02.12.1997	12.07.1994
49.	Mr. Justice Rustam S. Sidwa	Chief Justice Judge	03.12.1997 14.12.1989	30.06.1999 31.08.1992
50.	Mr. Justice Abdul Hafeez Memon	Acting Judge	12.12.1989 to 08.10.1990	
51.	Mr. Justice Muhammad Afzal Lone	Judge	17.04.1994	22.07.1997
52.	Mr. Justice Sajjad Ali Shah	Judge	13.08.1990	03.07.1993
53.	Mr. Justice Muhammad Rafiq Tarar	Judge	05.11.1990	16.02.1998
54.	Mr. Justice Saleem Akhter	Judge	17.01.1991	01.11.1994
55.	Mr. Justice Wali Muhammad Khan	Judge Acting Judge	25.03.1991 28.10.1991 to 04.09.1993	22.03.1997
56.	Mr. Justice Saiduzzaman Siddiqui	Judge Judge	05.09.1993 23.05.1992 to 30.06.1999	31.10.1994
57.	Mr. Justice Fazal Elahi Khan	Chief Justice Judge	01.07.1999 03.04.1993	26.01.2000 31.12.1997
58.	Mr. Justice Manzoor Hussain Sial	Acting Judge	26.05.1993 to 04.09.1993	
59.	Mr. Justice Zia Mahmood Mirza	Judge Acting Judge	05.09.1993 07.06.1993 to 18.10.1994	24.03.1996
60.	Mr. Justice Fazal Karim	Judge Acting Judge	19.10.1994 07.06.1994 to 18.10.1994	20.04.1997
61.	Mr. Justice Muhammad Munir Khan	Judge Acting Judge Ad hoc Judge	19.10.1994 15.06.1994 07.08.1994	31.07.1996 06.08.1994 06.08.1996

S.No	Name of Judge/Chief Justice	Nature of Appointment	Date of Appointment	Date of Retirement
62.	Mr. Justice Muhammad Ilyas	Acting Judge	15.06.1994 to 18.10.1994	
63.	Mr. Justice Mir Hazar Khan Khoso	Judge Acting Judge Ad hoc Judge	19.10.1994 19.07.1994 30.09.1994	30.09.1996 29.09.1994 29.09.1996
64.	Mr. Justice Mamoon Kazi	Ad hoc Judge	22.02.1995 to 14.04.1996	
65.	Mr. Justice Mukhtar Ahmed Junejo	Judge	04.11.1997	26.01.2000
66.	Mr. Justice Raja Afrasiab Khan	Judge	19.10.1994	19.02.1998
67.	Mr. Justice Nasir Aslam Zahid	Judge Ad hoc Judge	22.02.1995 28.01.1991 to 28.04.1991	14.01.2000
68.	Mr. Justice Munawar Ahmed Mirza	Judge	18.04.1996	26.01.2000
69.	Mr. Justice Khalil-ur-Rehman Khan	Judge	17.11.1996	24.11.1999
70.	Mr. Justice Sh. Ijaz Nisar	Judge	17.12.1996	26.01.2000
71.	Mr. Justice Wajihuddin Ahmed	Judge	29.05.1997	15.06.2000
72.	Mr. Justice Kamal Mansur Alam	Judge	05.05.1998	26.01.2000
73.	Mr. Justice Rashid Aziz Khan	Judge	22.04.1999	26.01.2000
74.	Mr. Justice Abdul Rehman Khan	Judge	04.04.2000	07.07.2001
75.	Mr. Justice Muhammad Arif	Judge	04.11.1997	05.09.2001
76.	Mr. Justice Sh. Riaz Ahmad	Judge Chief Justice	04.11.1997 01.02.2002	09.01.2002 31.01.2002 31.12.2003
77.	Mr. Justice Munir A. Sheikh	Judge	04.11.1997	31.12.2003
78.	Mr. Justice Qazi Muhammad Farooq	Judge	04.02.2000	31.12.2003
79.	Mr. Justice Karamat Nazir Bhandari	Ad hoc Judge	07.09.2002	31.12.2003
80.	Mr. Justice Tanvir Ahmed Khan	Judge	27.09.2000	16.01.2004
81.	Mr. Justice Mian Muhammad Ajmal	Judge	28.04.2000	14.08.2004
82.	Mr. Justice Syed Deedar Hussian Shah	Judge	28.04.2000	10.12.2004

### 15.3 Former Registrar of Federal Court and Supreme Court of Pakistan

Sr.No	Name	Date of Appointment	Date of Retirement
1.	Mr. A.A.Mirza	15.08.1947	10.01.1971
2.	Mr. A.S.Faizul Islam Chowudhury	11.01.1971	17.07.1972
3.	Mr. Hidayat Hussain	31.03.1973	09.06.1977
4.	Mr. Sajjad Ali Shah	10.06.1977	09.08.1978
5.	Mr. S.A. Nizami	10.08.1978	31.10.1980
6.	Mr. M.A. Latif	01.11.1980	09.01.1995
7.	Mr. Ashiq Hussain (Acting Charge)	10.01.1995	05.10.1996
8.	Mr. Mohammad Zakaullah (Acting Charge)	06.10.1996	07.01.1998
9.	Mr. M.A. Latif (Contract)	08.01.1998	07.07.1999
10.	Mr. M.A. Farooqi	08-07-1999	21-02-2005

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