

QAZI COURTS ORDINANCE, 1982

An Ordinance to provide for speedy and inexpensive dispensation of justice.

WHEREAS it is expedient, in the public interest, to provide for speedy and inexpensive dispensation of justice and for matters connected therewith or ancillary thereto;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, In pursuance of Proclamation of the fifth day of July, 1977, read with the Provisional Constitution Order, 1981 (CMLA Order No. 1 of 1981), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance, namely—

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement.—(1) This Ordinance may be called the Establishment of Courts of Qazis Ordinance, 1982.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date as the Federal Government may, by notification in the official Gazette, appoint in this behalf.

2. Definitions.—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "Courts of Qazis" means Courts of Zila Qazis and Ilqa Qazis!

(b) "Ilqa" means the area of a police-station.

(c) "Ilqa" Qazi" Includes Izafi Ilqa Qazi.

(d) "prescribed" means prescribed by rules

(e) "recognised religious Institution" means a religious Institution recognised as such in the prescribed manner.

(f) "rules" means rules made under this Ordinance.

(g) "Selection Board" means a Selection Board constituted under subsection (2) of section 9.

(h) "Zila" means a revenue district; and

(i) "Zila Qazi" Includes Izafi Zila Qazi.

(2) In the application of this Ordinance to the Islamabad Capital Territory—

(a) any reference to Province or Zila shall be read as a reference to the said Territory and

(b) any reference to Governor shall be read as a reference to the President

3. Ordinance to override other laws.— The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

CHAPTER II COURTS OF QAZIS

4. Classes of Courts. —Besides the courts constituted by or under any other law for the time being in force, there shall be the following classes of Courts of Qazis, namely:—

- (a) Zila Qazis; and
- (b) Ilqa Qazis.

5. Zila Qazis. (1) The Provincial Government shall establish a Court of Zila Qazi for each Zila and appoint as many Zila Qazis as it thinks fit;

Provided that the same person may be posted as Zila Qazi for more than one Zila.

(2) The Provincial Government may also appoint Izafi Zila Qazis to exercise jurisdiction in one or more such Courts.

Provided that an Ilqa Qazi who is not a Matriculate or does not hold a sanad with specialization in fiqh, from a recognised religious institution shall not be qualified for such promotion.

(3) A person who is serving as a District and Sessions Judge or an Additional District and Sessions Judge at the commencement of this Ordinance may be appointed to be a Zila Qazi.

(4) A person shall be disqualified for appointment as a Zila Qazi if he—

- (a) Has been convicted of any offence incling moral turpitude or.
- (b) has been dismissed, removed or compulsorily retired on the ground of misconduct from the service of Pakistan or the service of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest or.
- (c) Is, or has been declared to be, disqualified by or under any law from holding public office or being elected as a member of any elective body.

7. Ilqa Qazis.—(1) The Provincial Government shall establish a Court of Ilqa Qazi for each Ilqa.

(2) The Provincial Government may appoint Izafi Ilqa Qazis to exercise jurisdiction in one or more such Courts.

(3) The Provincial Government may post one or more Ilqa Qazis in an

Ilqa and where more than one Ilqa Qazis are appointed in an Ilqa, the Provincial Government shall determine the area within which, or the class of cases in which each ilqa Qazi shall exercise jurisdiction.

8. Qualifications and disqualifications for appointment as Ilqa Qazi,—

(1) A person shall be qualified to be appointed as Ilqa Qazi by direct recruitment if he—

- (a) is a citizen of Pakistan
- (b) is a man of honesty, integrity and good reputation.
- (c) is not less than twenty-three years of age and
- (d) is a Matriculate and holds a sanad, with specialization in fiqh from a recognised religious institution, or holds a law degree from a recognised University and has adequate knowledge of fiqh or is or has been a Qazi in the Makran Division or Kalat Division of the Province of Baluchistan.

(2) A person who, at the commencement of this Ordinance, is serving as Senior Civil Judge, Administrative Civil Judge or a Magistrate of the first class and holding a degree in law, may be appointed to be an Ilqa Qazi.

(3) A person shall be disqualified for appointment as an Ilqa Qazi if he suffers from any of the disqualifications specified in sub-section (4) of section 6.

9. Selection Board—(1) All appointments of Zila Qazis and Ilqa Qazis whether by direct recruitment or by promotion, shall be made on the recommendation of the Selection Board.

(2) As soon as may be after the commencement of this Ordinance, the Governor of a Province shall constitute a Selection Board consisting of a Chairman, who shall be an eminent person of known integrity possessing knowledge of law and fiqh, and such other members, including representatives of the Bar and Ulama, as the Governor may appoint.

(3) The Selection Board shall, before recommending for appointment any person such as is referred to in sub-section (3) of section (6) or sub-section (2) of section 8, take into consideration the service record of such person, including his honesty, integrity, reputation and knowledge of fiqh.

(10) Establishment of Qazis Service Academy.—(1) As soon as may be after the commencement of this Ordinance the Provincial Government shall establish Qazis Service Academy, hereinafter referred to as the Academy, headed by a person who is or has been or is qualified to be a Judge of a High Court or a member of the Federal Shariat Court;

Provided that two or more Provinces may jointly establish a common Academy, headed by a person who is or has been or is qualified to be a Judge of a High Court or a member of the Federal Shariat Court;

Provided that two or more Provinces may jointly establish a common Academy.

(2) The head of the Academy shall be appointed—

- (a) In the case of an Academy established by a Province, by the Governor in consultation with the Chief Justice of the High Court and
- (b) In the case of an Academy established by two or more Provinces, by the President in consultation with the Chief Justices of the High Courts of these Provinces.

11. Training of Qazis.—(1) A person appointed as a Zila Qazi or Ilaqa Qazi by direct recruitment shall undergo a training course at the Academy for such period as the Provincial Government may determine.

(2) A person appointed as Zila Qazi or Ilaqa otherwise by direct recruitment may be imparted training at the Academy for such period as the Provincial Government may determine.

(3) The Provincial Government may, from time to time, arrange refresher courses at the Academy for Zila Qazis and Ilaqa Qazis.

(4) The training courses at the Academy shall include training of Qazis in the following subjects, namely:—

- (a) fiqh;
- (b) principal of Ijtihad;
- (c) Islamic laws;
- (d) civil, criminal and revenue laws and
- (e) administration of justice in Muslim countries.

(5) Every Zila Qazi and Ilaqa Qazi appointed by direct recruitment shall be required to take a qualifying examination on the conclusion of his training at the Academy and a person who does not qualify in the examination shall be liable to be removed from service.

12. Probation.—(1) A Zila Qazi or Ilaqa Qazi appointed by direct recruitment shall be on probation for a period of two years extendable by a period of one year.

(2) The appointment of a Zila Qazi or Ilaqa Qazi otherwise than by direct recruitment may also be made on probation for a period of one year extendable by a period of six months.

(3) On satisfactory completion of the period of probation, the Provincial Government may confirm the appointment of a Zila Qazi or Ilaqa Qazi, or, if his work or conduct has not been satisfactory, dispense with his services without notice.

13. Liability to serve.—A Zila Qazi or Ilaqa Qazi shall be liable to serve anywhere within the Province.

CHAPTER III
JURISDICTION OF COURTS OF QAZIS

14. Classification of Ilaqa Qazis.— There shall be the following classes of Ilaqa Qazis, namely:-

- (a) Ilaqa Qazis of the first class and
- (b) Ilaqa Qazis of the second class.

15. Sentences which the Courts of Qazis may pass.—(1) A Zila Qazi may pass any sentence authorised by law but any sentence of death passed by a Zila Qazi shall be subject to confirmation by the High Court.

(2) The Courts of Ilaqa Qazis may pass the following sentences, namely:-

- (a) Ilaqa Qazi of the first class Imprisonment for a term not exceeding three years, including such solitary confinement as is authorised by law.

Fine not exceeding twenty-five thousand rupees.

Whipping not exceeding forty stripes.

- (b) Ilaqa Qazi of the second class Imprisonment for a term not exceeding one year, including such solitary confinement as is authorised by law.

Fine not exceeding five thousand rupees.

Whipping not exceeding thirty stripes.

(3) The Provincial Government may invest any Ilaqa Qazi of the first class with power to try all offences not punishable with death and any Ilaqa Qazi so empowered may pass any sentence authorised by law, except a sentence of death or imprisonment for a term exceeding seven years.

16. Civil and criminal jurisdiction of Ilaqa Qazis.—(1) The Ilaqa Qazis shall in the exercise of their civil jurisdiction, try suits of the following pecuniary value, namely:

- (a) Ilaqa Qazi of the first class Without limit.
- (b) Ilaqa Qazi of the second class Up to the value of fifty thousand rupees.

(2) Subject to the pecuniary limits laid down in sub-section (1), all suits and proceedings of a civil nature including succession, dissolution of marriage, dower, divorce, maintenance, restitution of conjugal rights, juction of marriage, minority, custody of children, guardianship, wills, gifts, waqf, posses-

sion of immovable property, mortgage, foreclosure, redemption, determination of any other right to, or interest in, immovable property, damages, compensation for wrong to immovable property, recovery of movable property actually under distraint or attachment or suits under the Canal and Drainage Act, 1973 (VIII of 1973), and any other class of cases which the Provincial Government may, by notification in the official Gazette, specify, shall be instituted in and tried by the Court of Ilqa Qazi having territorial jurisdiction:

Provided that every suit shall be instituted in the Court of Ilqa Qazi of the first class competent to try it.

(3) The civil powers, functions and duties conferred or imposed on a Civil Judge on a Civil Court under any law for the time being in force shall be exercised, performed or discharged by an Ilqa Qazi and any reference to a Civil Judge or a Civil Court in any law, rule, regulation, notification or order shall be deemed to be a reference to an Ilqa Qazi.

(4) The criminal powers, functions and duties conferred or imposed on a Magistrate under the Code of Criminal Procedure, 1898 (Act V of 1898), or any other law for the time being in force shall be exercised, performed or discharged by an Ilqa Qazi, and any reference to a Magistrate in any law, rule, regulation, notification or order shall be deemed to be reference to an Ilqa Qazi.

17. Civil and criminal jurisdiction of Zila Qazis--(1) The civil powers, functions and duties conferred or imposed on a District Judge or an Additional District Judge under any law for the time being in force shall be exercised, performed or discharged by a Zila Qazi or an Izafi Zila Qazi respectively and any reference to a District Judge or an Additional District Judge in any law, rule, regulation notification or order shall be deemed to be a reference to a Zila Qazi or Izafi Zila Qazi respectively.

(2) A suit of a civil nature triable under any law for the time being in force by a District Court shall be tried by the Court of a Zila Qazi, and any reference to a District Court in any law, rule, regulation, notification or order shall be deemed to be a reference to the Court of Zila Qazi.

(3) The criminal powers, functions and duties conferred or imposed on a Sessions Judge or an Additional Sessions Judge under the Code of Criminal Procedure, 1898 (Act V of 1898), or any other law for the time being in force shall be exercised, performed or discharged by a Zila Qazi or an Izafi Zila Qazi, respectively, and any reference to a Sessions Judge or an Additional Sessions Judge in any law, rule, regulation, notification or order shall be deemed to be a reference to a Zila Qazi or an an Izafi Zila Qazi respectively.

(4) An offence triable under any law for the time being in force by a Court of Session shall be tried by the Court of a Zila Qazi and reference to a Court of Session in any law, rule, regulation, notification or order shall be deemed to be a reference to the Court of Zila Qazi.

18. Power to transfer and withdraw cases. - (1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of his own motion without such notice the Zila Qazi may, at any stage—

- (a) transfer any suit, case, appeal, or other proceeding pending before him for trial or disposal to any Izafi Zila Qazi or Ilqa Qazi competent to try or dispose of the same or
- (b) withdraw any suit, case, appeal or other proceeding pending before any Izafi Zila Qazi or Ilqa Qazi and
 - (i) try or dispose of the same or
 - (ii) transfer the same for trial or disposal to any Court competent to try or dispose of the same or
 - (iii) retransfer the same for trial or disposal in the Court from which it was withdrawn.

(2) Where any suit, case, appeal or proceeding has been transferred or withdrawn under sub-section (1), the Court which thereafter tries such suit, case or proceeding or hears such appeal shall proceed from the stage at which it was transferred or withdrawn and shall deal with any evidence already recorded or proceeding already taken as if such evidence or proceeding had been recorded or taken by the said Court.

19. Places of sitting of Courts of Qazis. - The Provincial Government may fix the place or places at which a Zila Qazi and an Ilqa Qazi shall sit and hold their Court:

Provided that, unless otherwise directed by the Provincial Government by official or special order, the place of sitting of a Zila Qazi and an Ilqa Qazi will be within the local limits of their jurisdiction.

CHAPTER IV

SUPERINTENDENCE AND INSPECTION OF COURTS OF QAZIS

20. Superintendence and control of Courts of Qazis. - All Zila Qazis and Ilqa Qazis in a Province shall be subordinate to the High Court of that Province and, subject to the general superintendence and control of the High Court, Zila Qazi shall have control over, and the power to inspect the Courts of, Ilqa Qazis within the local limits of a Zila.

21. Inspection of Courts of Qazis. - (1) Every Provincial Government shall, in consultation with the High Court, appoint one or more Inspecting Qazis.

(2) The Inspection Qazi shall inspect the Courts of Zila Qazis and Ilqa Qazis and submit their reports to the High Court and the Provincial Government for such action as may be deemed necessary.

22. **Maveneen-e-Qazi.**—(1) The Provincial Government shall from time to time draw up for each Ilqa a panel of not less than twenty and not more than thirty persons, to be known as Moaveneen-e-Qazi who being to different walks and possess good moral character and enjoy good reputation as Saleh.

(2) Women shall be eligible to be included in the panel of Moaveneen-e-Qazi.

(3) The Provincial Government may, by notification in the official Gazettee specify the class of cases in which a Zila Qazi or an Ilqa Qazi shall associate not more than three Moveen-e-Qazi to attend the Court for assistance in the disposal of such cases.

(4) It shall be the duty of the Moaveneen-e-Qazi to attend the sittings of the Court and, if a trial is adjourned, to attend at the adjourned sitting, and every subsequent sitting, until the conclusion of the trial.

(5) On the conclusion of the trial, the Moaveneen-e-Qazi shall deliver their opinion to the Zila Qazi or, as the case may be, Ilqa Qazi, who shall—

- (a) If the Moaveneen-e-Qazi are agreed in their opinion and he agrees with that opinion, record his verdict accordingly
- (b) If the Moaveneen-e-Qazi are agreed in their opinion and he does not agree with that opinion, record his verdict and his reasons for such disagreement and
- (c) If the Moaveneen-e-Qazi are divided in their opinion, record his own verdict.

23. **Absence of Moaveneen-e-Qazi.**— Where any Moavin-e-Qazi is prevented from attending throughout a trial, or absents himself and it is not practicable to enforce his attendance, the Court shall proceed with the trial with the aid of the remaining Moaveneen-e-Qazi or Moavin-e-Qazi present or, if no Moavin-e-Qazi is present, in the absence of any Moavin-e-Qazi.

CHAPTER VI

TRIAL IN CRIMINAL CASES

†\$ Cognizance of offences.—A Zila Qazi or an Ilqa Qazi shall take cognizance of an offence on receiving—

- (a) a report in writing made by the police officer, or
- (b) a complaint in writing by any person, of the facts which constitute such offence.

25. **Investigation and report in cognizable cases.**—(1) As soon as may be, after a police officer has recorded the information relating to the commission

of a cognizable offence under section 154 of the Code of Criminal Procedure, 1898 (Act V of 1898), he shall transmit a copy of such information to the Ilaqa Qazi within whose jurisdiction such offence has been committed.

(2) A police officer seized of the investigation shall complete it and submit his report to the Ilaqa Qazi, within a period of fifteen days or within such time as the Ilaqa Qazi may, for reasons to be recorded in writing, allow.

26. Cognizance of complaint cases.—(1) A Zila Qazi or an Ilaqa Qazi taking cognizance of an offence or a complaint shall immediately examine the complainant upon oath and record such other relevant evidence as is produced by the complainant.

Provided that when a complaint is made in writing by a public servant in the discharge of his official duties, it shall not be necessary for the Zila Qazi or an Ilaqa Qazi to examine the complainant or record his statement.

(2) After examining the statement of the complainant and other relevant evidence as produced by him, a Zila Qazi or an Ilaqa Qazi, as the case may be, may if in his opinion there is no sufficient ground for proceeding further, dismiss the complaint.

(3) Where the Zila Qazi or an Ilaqa Qazi, after recording the statement and examining the other relevant evidence as is produced before him, is of the opinion that there is sufficient ground for proceeding, he shall summon the opposite party for a date fixed for the trial of the case.

27. Investigation by police in non-cognizable cases not necessary.— In a non-cognizable case, the Zila Qazi or the Ilaqa Qazi may proceed with the trial without referring the case to the police for investigation.

28. Trial.—(1) On the date for the trial of a case, the Zila Qazi or the Ilaqa Qazi taking cognizance shall—

- (a) direct the production of the accused, if he is in custody; or
- (b) Issue a process for the appearance of the accused, if he is on bail or has not been arrested,

for appearance in the Court on the date fixed by the Zila Qazi or Ilaqa Qazi as the case may be.

(2) When the accused appears or is brought before the Zila Qazi or the Ilaqa Qazi, as the case may be, the substance of the accusation relating to the offence with which he is charged, statement of the complainant and the evidence, if already recorded, shall be read over to him and he shall be asked whether he admits that he has committed the offence with which he is charged.

(3) Where an accused pleads guilty, the Court shall pronounce the judgement forth with.

(4) Where the accused does not plead guilty, the Zila Qazi or the Ilaqa Qazi, as the case may be, shall record the evidence as may be produced by

the prosecution.

(5) After the conclusion of the evidence produced by the prosecution, the Court shall examine the accused for the purpose of enabling him to explain any circumstance appearing in the evidence against him and record evidence in defence if the accused so desires.

(6) The Court shall refuse to take or admit any evidence which is not admissible under Shariah and may disallow any question which in its opinion is indecent or scandalous and, for reasons to be recorded, refuse to take or admit any evidence which, in its opinion is being tendered for the purpose of causing vexation or delay or to insult or annoy any person or for defeating the ends of judgement.

(7) The Zila Qazi or the Ilqa Qazi may in any proceedings pending before it make such interim orders as he may consider necessary.

(8) After the conclusion of evidence and hearing the oral exposition of the parties or their authorised agents if any, and taking into consideration the opinion of the Moavneen-e-Qazi, if any, the Court shall pronounce its judgment.

CHAPTER VII PROCEDURE IN CIVIL MATTERS

29. Presentation of Civil matters.—(1) In every civil suit the plaint shall be in writing and shall be accompanied by the documents in possession of the plaintiff, if any, and by a list of documents relied upon by him and shall be presented to the Court personally by the plaintiff or his authorised agent.

(2) On receipt of the plaint referred to in sub-section (1) the Court may record the statement of the plaintiff on oath, on material questions relating to the suit.

(3) If, after the examination of the plaint and the documents attached thereto and the statement of the plaintiff, the Court is of the opinion that a case appears to have been made out the Court shall issue summons to the defendant for a date to be fixed by the Court for filing his written statement.

(4) Where the Court is of the opinion that no case has been made out, the Court may reject the plaint.

30. Written statement.—(1) On the first hearing or within such time as the Court may allow the defendant shall either personally or through his authorised agent, present a written statement and the Court may record the statement of the defendant, on oath, on material questions relating to the suit.

(2) A written statement shall be accompanied by the documents in possession of defendant, if any, and by a list of documents relied upon by him.

31. Admission of claim.—(1) Where a defendant admits the claim of the plaintiff, Court shall at once pronounce the judgment accordingly.

(2) Where there are more than one defendants, and any one of the defendants admits the case of the plaintiff, the Court may at once pronounce the judgment against such defendant and the suit shall proceed only against the remaining defendant or defendants.

(3) Where a defendant admits a part of the claim, the Court may, if the plaintiff so desires, pronounce the judgement in respect of such admitted claim and the suit shall proceed in respect of such claim unless the plaintiff gives up that claim.

32. Settlement of dispute. —(1) If the defendant does not admit the claim of the plaintiff, the Court shall, before framing the issues, attempt to bring about a settlement of the dispute between the parties, either itself or through a mediator.

(2) Where the parties agree to the appointment of a mediator the provisions contained in section 45 shall apply.

33. Framing of Issues.— If the parties do not reach a settlement, the Court will proceed to frame the issues on which the decision of the case appears to depend and fix a date for production of evidence by the parties in support of their respective claims.

34. Responsibility of the parties to produce evidence.— It shall be the responsibility of the parties to produce evidence, whether oral or documentary or both:

Provided that, where the Court is satisfied that it is beyond the control of a party to produce a witness or a document, it may, on an application made to it within seven days of the framing of issues, through a process of the Court, summon any witness for making deposition or producing documents in the Court.

35. Power to Issue Interim orders.— The Zila Qazi or the Ilaqa Qazi may in any proceedings pending before him make such interim orders as he may consider necessary.

36. Judgment and decree.— After the conclusion of evidence and hearing the oral exposition of the parties or their authorised agents, if any, the Court shall pronounce its judgement and a decree shall follow.

37. Decision of case on the basis of oath.— Notwithstanding anything contained in this Chapter, if at any stage of the proceedings but before the judgment is pronounced either the plaintiff or the defendant makes before the Court an offer that he will admit or accept the claim or defence of the other party if the other party asserts its claim or defence on oath in the name of Allah Almighty on the Holy Quran and the other party accepts the offer and asserts its claim or defence on such oath, the case shall be decided by the Court in accordance with such assertion and a decree shall follow.

38. Execution of decrees.—(1) After a final decree has been passed in a

case, the Court shall, without any application by the decree holder, take steps and pass such orders for its execution as it considers appropriate.

(2) The execution of a money decree shall not be stayed except on deposit of the decretal amount by the judgement-debtor or on his furnishing security to the satisfaction of the Court.

CHAPTER VIII APPEALS, ETC.

39. Appeals in criminal matters.—(1) A person aggrieved by a final order passed by an Ilqa Qazi in a criminal case may within thirty days from the date of such order, prefer an appeal to the Zila Qazi and the order of the Zila Qazi in appeal shall be final.

(2) A person aggrieved by a final order passed by a Zila Qazi in a criminal tried by him may, within thirty days from the date of such order, prefer an appeal to the High Court and the order of the High Court in appeal shall be final.

Provided that nothing in this section shall apply to a case decided by a Zila Qazi under—

- (a) the Offences Against Property (Enforcement of Hudood) Ordinance, 1979 (VI of 1979).
- (b) the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979)
- (c) the Offence of Qazi (Enforcement of Hadd) Ordinance, 1979 (VIII of 1979) and
- (d) the Prohibition (Enforcement of Hadd) Order, 1979 (P.O.No. 4 of 1979).

40. Confirmation of death sentence.— A sentence of death passed by a Zila Qazi shall be subject to confirmation by the High Court.

Provided that nothing in this section shall apply to a case decided by a Zila Qazi under—

- (a) the Offences Against Property (Enforcement of Hadood) Ordinance, 1979 (VIX of 1979) and
- (b) the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979).

41. Appeals in civil subjects.—(1) A person aggrieved by a decree passed by an Ilqa Qazi, other than a decree referred to in section 37, may prefer an appeal to—

- (a) the Zila Qazi, when the amount or value of the subject-matter of the original suit does not exceed fifty thousand rupees and
- (b) the High Court, when the amount or value of the subject-matter of the original suit exceeds fifty thousand rupees.

(2) An appeal against a final order or decree passed by an Ilqa Qazi in a suit of civil nature referred to in sub-section (2) of section 16 shall be to the Zila Qazi.

(3) Every appeal under this section shall be preferred within thirty days from the date of the order or decree appealed against.

(4) An order passed by the Zila Qazi in an appeal preferred to him under clause (a) of sub-section (1) or under sub-section (2) shall be final.

(5) Subject to sub-section (4), a person aggrieved by a decree passed by a Zila Qazi, other than a decree referred to in section 37, may prefer an appeal to the High Court and the order of the High Court in appeal shall be final.

42. Disposal of appeals.— A Zila Qazi or the High Court shall unless he or it dismisses the appeal in limine for reasons to be recorded in writing decide the appeal after examining the record of the case and after giving the parties an opportunity of being heard and, if necessary, after such further inquiry as he or it may deem fit:

43. Bar of revision petition.— No petition for revision of an order or decree passed by a Zila Qazi or an Ilqa Qazi shall lie to any Court.

CHAPTER IX MISCELLANEOUS

44. Interpretation. In all proceedings under this Ordinance the Courts of Qazis shall be guided by the Injunctions of Islam set out in the Holy Quran of Sunnah.

45. Mediation.—(1) Before the commencement of the trial of a suit or a case computable under any law for the time being in force, a Zila Qazi or Ilqa Qazi may, with the consent of the parties, appoint a person as mediator for bringing about a settlement of the dispute between the parties.

(2) A mediator appointed under sub-section (1) shall, within fifteen days of his appointment submit his report to the Zila Qazi or the Ilqa Qazi, as the case may be.

(3) If the parties reach a settlement, the Zila Qazi or the Ilqa Qazi, as the case may be, shall pronounce his decision accordingly.

(4) If the mediator reports that the parties have not reached any settlement, the Zila Qazi or the Ilqa Qazi, as the case may be, shall proceed with the trial of the case.

46. Local Inspection by Qazis.— Whenever a Zila Qazi or an Ilqa Qazi thinks that for the proper adjudication of a matter pending before him, it is necessary to inspect the place of occurrence or the property or place in dispute, he may visit such place or property, as the case may be, and record the statement of such person or persons as he may deem necessary.

47. Case to be heard day to day.— Every case coming before a Zila Qazi or an Ilqa Qazi shall be heard day to day and where the Court considers that an adjournment of case is necessary it shall record reasons for such adjournment.

48. Pending cases.—(1) Upon the establishment of the Courts of Qazis, all cases to which the jurisdiction of the Courts of Qazis extends and which may be pending in or before any court, tribunal or authority immediately before the establishment of the Courts of Qazi shall stand transferred to the Courts of Zila Qazis and Ilqa Qazis of competent jurisdiction.

(2) In respect of a case transferred to a Zila Qazi or an Ilqa Qazi by virtue of sub-section (1), the Zila Qazi or the Ilqa Qazi, as the case may be, shall proceed with the trial in accordance with the provisions of the Ordinance and shall deal with any evidence already recorded and proceeding already taken as if such evidence or proceeding had been recorded or taken under this Ordinance.

49. Suits for or against Government.— The High Court shall, from time to time, designate the Ilqa Qazis of the first class and the Zila Qazis who shall try suits and hear appeals, as the case may be, for or against the Government or any public officer as defined in clause (17) of section 2 of the Code of Civil Procedure, 1908 (Act V of 1908), in his official capacity:

Provided that such Ilqa Qazis and Zila Qazis shall try such suits and hear such appeals at the headquarters of the Zila.

50. When Ilqa Qazi disposes of petition for bail.—(1) Where a petition for bail is granted or refused by the order of an Ilqa Qazi, a person aggrieved by such order may make an application to the Zila Qazi for reversal of such order.

(2) Where an application under sub-section (1) is made to Zila Qazi, no application for grant or cancellation of bail shall lie to the High Court.

51. Where Ilqa Qazi disposes of application for temporary injunction—
(1) Where an application for temporary Injunction is disposed of by order of an Ilqa Qazi, a person aggrieved by such order may within thirty days from the date of the order, prefer an appeal to the Zila Qazi whose order thereon shall be final.

(2) No appeal shall lie against the order of Zila Qazi made under sub-section (1)

52. Representation through authorised agents.—A party to any proceedings under this Ordinance may be represented by an authorised agent, including a legal practitioner or an aalim.

53. Abolition of existing civil and criminal courts.— On the establishment of the Courts of Qazis under this Ordinance, the criminal courts established under the Code of Criminal Procedure, 1890 (Act V of 1898), and the civil courts established under the law relating to the establishment of such courts in

force in a Province, shall stand abolished and any court established under any other law shall cease to exercise jurisdiction in respect of any matter to which the jurisdiction of the Courts of Qazis extends.

54. Power to make rules.—(1) The Provincial Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) Subject to the provisions of this Ordinance and the rules, the High Court may lay down such guidelines and issue such instructions as it considers necessary or expedient for carrying the provisions of this Ordinance into effective operation.

55. Certain laws not to apply to proceedings under the Ordinance.— Nothing contained in the Code of Civil Procedure, 1908 (Act V of 1908), or the Evidence Act, 1872 (I of 1872), shall apply to the proceedings under this Ordinance.

Provided that no case shall be remanded to a lower Court unless it has committed an error, omission or irregularity by reason of which there has not been a proper trial or an effectual or complete adjudication of a case and the complaining of such error, omission or irregularity has been materially prejudiced thereby.
