

Federal Judicial Academy Bulletin

Islamabad

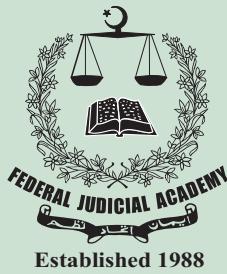
April-June 2011



Hon'ble Mr. Justice Mian Shakirullah Jan, Hon'ble Mr. Justice Muhammad Farrukh Irfan Khan, Judge Delissa A. Ridgeway, Judge Morrison C. England Jr., Mr. Joe Young and Mr. Parvaiz Ali Chawla, addressing the participants of one week orientation course on Intellectual Property Rights, at FJA.

Hon'ble Mr. Justice Mian Shakirullah Jan, Judge Supreme Court of Pakistan, presents a souvenir to Judge Morrison C. England Jr. and Judge Delissa A. Ridgeway also seen in the picture.

No Compromise on Quality, Durability of Construction Work: Hon'ble Chief Justice of Pakistan



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*Hon'ble Chief Justice of Pakistan
Mr. Justice Iftikhar Muhammad Chaudhry,
presides over the 35th meeting of BoG, FJA.
Hon'ble Members of the
BoG FJA also seen in the picture.*

Hon'ble Chief Justice of Pakistan Mr. Justice Iftikhar Muhammad Chaudhry has observed that quality, durability and scope of construction work of the Project Phase –II of the Federal Judicial Academy would not be compromised at any cost.

He observed this while presiding over the 35th meeting of Board of Governors of Federal Judicial Academy held under his chairmanship in Supreme Court Building, Islamabad on Saturday (14.5.2011). The meeting unanimously approved the revised PC-I for the construction of building of the Federal Judicial Academy.

The meeting was attended by Hon'ble Mr. Justice Mian Shakirullah Jan, Judge Supreme Court of Pakistan, Judge In-charge (Administration) of the FJA, Hon'ble Mr. Justice Tassadduq Hussain Jillani, Judge Supreme Court of Pakistan, Judge In-charge (Academics) of the FJA, Hon'ble Mr. Justice Qazi Faez Essa, Chief Justice, High Court of Balochistan,

Hon'ble Mr. Justice Ijaz Afzal Khan, Chief Justice, High Court of Khyber Pakhtunkhwa, Hon'ble Mr. Justice Chaudhry Ijaz Ahmed, Chief Justice Lahore High Court, Hon'ble Mr. Justice Iqbal Hameed-ur-Rehman, Chief Justice, Islamabad High Court and Hon'ble Mr. Justice Mushir Alam, Chief Justice, High Court of Sindh.

Senator Moula Bux Chandio, Federal Minister for Law, Justice and Parliamentary Affairs, who is also Vice Chairman of the FJA, BoG, Moulvi Anwar-ul-Haq, Attorney General for Pakistan, Dr. Faqir Hussain, Registrar, Supreme Court of Pakistan, Mr. Parvaiz Ali Chawla, D.G, FJA, Secretary, Planning Commission of Pakistan, Additional Secretary Finance and Representatives of Pak PWD and NESPAK also attended the meeting.

On the occasion, Hon'ble Chief Justice of Pakistan Mr. Justice Iftikhar Muhammad Chaudhry/Chairman FJA and other members offered Fatiha for the departed soul of (late) Pervaiz Mahmood Mian, Ex-Director FJA who passed away a few weeks ago and it was suggested that the FJA recommend the compensation for the departed soul to the Ministry of Law, Justice and Parliamentary Affairs, for further process, if admissible under rules. The Chief Justice of Pakistan also directed the DG of the Academy to convey condolences to the grieved family on behalf of the FJA, BoG.

HON'BLE CHIEF JUSTICE OF PAKISTAN SAYS



Hon'ble Chief Justice of Pakistan, Mr. Justice Iftikhar Muhammad Chaudhry

Nations and states which are based on dictatorship instead of the supremacy of the Constitution, the rule of law and protection of basic rights get destroyed.

The lawyers not only have professional role but also duty towards the citizens so as to create a culture of rule of law which is the foundation of democracy. Wednesday, (29.6.2011).

Lawyers community had rewritten the history of Pakistan with golden words and rule of law and independent judiciary was the need of the hour for every cultured and civilized society Wednesday, (8. 6. 2011).

COURTS NEED TO BE TRAINED TO FACE NEW CHALLENGES: HON'BLE MR. JUSTICE GHULAM RABBANI



Hon'ble Mr. Justice Ghulam Rabbani, Judge Supreme Court of Pakistan, Mr. Parvaiz Ali Chawla, DG FJA and Mr. Khalid Amin Khan, Director instructions sitting on the stage and one course participant on the rostrum.

Judge Supreme Court of Pakistan, Hon'ble Mr. Justice Ghulam Rabbani has said that the proactive approach by courts will not only benefit the weaker sections of society and litigants but also enhance the prestige of the judiciary in the eyes of the public.

Hon'ble Mr. Justice Ghulam Rabbani expressed these views in a certificate awarding ceremony held here at the Federal Judicial Academy on Saturday on the completion of a week-long course on "Role of District & Sessions Judges/ Senior Civil Judge being Non-Financial Managers in Financial Management and other New Laws" for District and Sessions Judges/ Senior Civil Judges from all over Pakistan including Azad Jammu and Kashmir and Gilgit-Baltistan (2nd April, 2011). in which he was the chief guest.

Hon'ble Judge of the Supreme Court urged the judges of district judiciary to broad base their knowledge by taking to various books of judicial and legal literature and other literary works. Justice Ghulam Rabbani said that by studying good legal and judicial literature books, the young judges, would imbibe good thoughts which in turn would propel them in the path of success.

He opined that what needs to be done is to increase efficiency in the judicial system, placing the emphasis on delivering more justice in the least amount of time and not simply being pressurized into delivering more decisions in less time. "

He appreciated the Federal Judicial Academy for arranging such a focused and purposeful course on very important subject.

Earlier, Mr. Parvaiz Ali Chawla Director General, Federal Judicial Academy presented his speech and an overview of the course. He asked the judges to have use of the information and skills which they have learnt here during the course for an effective management of courts and easy and expeditious administration of justice.

TRAINING PROGRAMME FOR CIVIL JUDGES/ RENT CONTROLLERS

The Federal Judicial Academy, Islamabad, organized one -week course on " Management of Rent Cases" for Civil Judges/ Rent Controllers from all over Pakistan including Azad Jammu and Kashmir (from 11th to 16th April 2011) in which 23 Officers participated. The course was inaugurated by Mr. Justice Nasir-ul-Mulk, Hon'ble Judge, Supreme Court of Pakistan.

While inaugurating the training course the Hon'ble Judge of the Supreme Court of Pakistan called upon the judges to act



Hon'ble Mr. Justice Nasir-ul-Mulk, Judge Supreme Court of Pakistan and Mr. Parvaiz Ali Chawla, DG FJA sitting on the stage. Mr. Khalid Amin Khan also seen in the picture.

without fear, favor or ill will. He further asked the judicial officers to uphold the spirit of Constitution of Pakistan so that the faith of the people in the judicial system is strengthened.

Regarding the course Hon'ble Judge said that the intention of holding such courses is to strengthen the skill of the officers who decide the cases so that speedy and economic justice can be delivered to the people.

At the outset, Mr. Parvaiz Ali Chawla, Director General of the Academy presented his welcome speech and shed light on the aim and objects of the course. He also informed that during this week-long training programme, the judges of the district judiciary both serving and retired and other experts will address on different topics relating to the management of rent cases.

JUDGES URGED TO DISPOSE OF RENT CASES EXPEDITIOUSLY.



Course Participants in a group photo with Hon'ble Mr. Justice Tariq Parvez, Judge Supreme Court of Pakistan and members of the FJA faculty.

Mr. Justice Tariq Parvez, Hon'ble Judge, Supreme Court of Pakistan, has urged the Judicial Officers/ Rent Controllers to dispose of the rent cases as expeditiously as possible so as to mitigate the miseries of parties concerned including the landlord and tenant, says a press release.

He expressed these views in a certificate awarding ceremony of one-week orientation course on, Management of Rent cases for Civil Judges/ Rent Controllers from all over Pakistan including AJ& K and Gilgit-Baltistan, held in the Federal Judicial Academy on Saturday (16th April, 2011).

Enlightening the trainee Judges with a host of recent rulings passed on by the Apex Court in rent cases he said that the objective of all the said Supreme Court rulings was to dispose of the rent cases expeditiously and discourage the inordinate delay which is caused by irrational adjournments. "Judges must have to work hard to cut down delays and backlog of cases to be brought down", he urged the participants of the course.

Regarding the training of the Judicial Officers/ Rent Controllers he said that trainings were of utmost importance for the Civil Judges/ Rent Controllers for their professionalism. The trainings and orientation courses not only open new avenues of learning for them but also educate the participants about different social and cultural backgrounds they come from, because they get a chance to interact with each other and share their experience and information during that training and that offers great learning and sharing he opined.

About the importance of learning he said that learning never comes to an end adding, sometimes one thinks that he /she has learnt a lot but it was not the case. Every time and in every training one can learn something new.

Earlier, DG of the Academy presented a detailed overview of the course and profile of the Hon'ble chief guest.

Hon'ble Mr. Justice Asif Saeed Khan Khosa inaugurates Pakistan Judicial Capacity Building program on IP Law and International Commercial Arbitration

Mr. Justice Asif Saeed Khan Khosa, Hon'ble Judge, Supreme Court of Pakistan, inaugurated a Judicial Enforcement of Intellectual Property Rights and International Commercial Arbitration Program at Pakistan's Federal Judicial Academy in Islamabad, Monday, 25-04-2011. Hon'ble Mr. Justice Asif Saeed Khan Khosa discussed the importance of judicial enforcement of intellectual property rights to Pakistan's economic development and praised CLDP's program.



Training programme participants in group photo with Hon'ble Mr. Justice Asif Saeed Khan Khosa, Judge Supreme Court of Pakistan, CLDP Delegation and FJA faculty members.

A group of 30 Civil Judges and District and Sessions Judges attended the programme organized in collaboration with the Commercial Law Development Programme (CLDP), US Department of Commerce. The IP segment of CLDP's program commenced on April 25 and concluded on April 26, 2011 and included topics such as Patents, Copyright and Trademark Infringement, Economic and Health/Safety Risks of Counterfeiting, Civil Remedies, Compensation and Remedies in Civil Cases and Deterrent Value of Civil and Criminal Penalties. The Honorable Morrison C. England, Jr., United States District Court, California, Eastern District, USPTO Attorneys Scott Baldwin and Kalpana Reddy and DOJ Attorney Philip Guentert served as the experts for the IP segment.

US JUDGE FOR PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

Judge Morrison C. England, Jr. US District Court Judge, Eastern District of California has said that expanding intellectual property protections throughout the world was in everyone's best interest.(26-04-2011)

He expressed these views here in the Federal Judicial Academy (FJA), Islamabad, in an intellectual deliberation regarding Intellectual Property Rights, organized in collaboration with the Commercial Law Development Program (CLDP), Office of the General Counsel, US Department of Commerce, on Wednesday. Judge Delissa A. Ridgway, Judge, US Court of International Trade who also dwelled at length on various aspects of the Intellectual Property Day and other such relevant issues, said that we have to make every effort to help others realize the significance of intellectual property rights and work to help implement and

enforce robust laws which ensure that intellectual property would flourish everywhere.

She was of the view that protection of Intellectual Property Rights paved the way for more capital investment in the country. "The more the protection of IPR, the more the capital investment" she observed.

On the occasion, Mr. Justice Shakirullah Jan, Judge Supreme Court of Pakistan, shed light on the historical perspective of this historic day (26th of April), its importance in the economy and in daily life as also its scope in this simple but impressive ceremony.

Highlighting World Intellectual Property (IP) Day Justice Shakirullah Jan said that it was essential for both the current and next generation of scientists, engineers and innovators to focus on the importance of protecting any novel methods and processes generated through the course of research activities.

He also spoke about the rationale behind the theme of this year coined by the WIPO titled, "Design the Future" and enlightened the participants with its meaning and core message. Lauding the role of WIPO Justice Shakirullah Jan said that the World Intellectual Property Organization was the primary organization in the world focused on the development and protection of intellectual property rights for all creators and all countries.

Appreciating the growing deep ties between the Pakistan and US Judiciary he said as of the International Judicial Family we would always look towards the US Judiciary to update our Judiciary with the latest trends and innovations in the world of IPR laws and copyright issues.



Training programme participants in group photo with Hon'ble Mr. Justice Mian Shakirullah Jan, Judge Supreme Court of Pakistan and CLDP Delegation on Intellectual Property day at FJA.

PROTECTION, PROMOTION OF INTELLECTUAL PROPERTY IS ESSENTIAL FOR COMPETITIVE ECONOMY: HON'BLE MR. JUSTICE SHAKIRULLAH JAN



Hon'ble Mr. Justice Mian Shakirullah Jan, Judge Supreme Court of Pakistan, addressing the participants on Intellectual property day at the FJA auditorium.

Hon'ble Mr. Justice Shakirullah Jan, Judge Supreme Court of Pakistan, on Saturday (30.4.2011) said that protection and promotion of Intellectual Property was essential for the growth of competitive economy in the wake of ongoing globalization.

He expressed these views in the certificate-awarding ceremony held in the Federal Judicial Academy, Islamabad, on the conclusion of one-week orientation course on Intellectual Property Rights in collaboration with the Commercial Law Development Program (CLDP), Office of the General Counsel, US Department of Commerce. Shedding light on the perspective of Intellectual Property Rights in Pakistan Justice Shakirullah Jan said that before 2005, Intellectual Property Rights in Pakistan were, internationally perceived to be constantly deteriorating.

"There were frequent complaints about the violation of Intellectual Property Rights in Pakistan but after 2005 there has been landmark progress in the enforcement and protection of Intellectual Property Rights in the country. In order to redress the situation and find solution for its IP problems, Government of Pakistan took a number of parallel decisions on the 8th April, 2005 such as the establishment of Intellectual Property Organization Pakistan as a focal organization for integrated management of intellectual property and enforcement coordination; Empowerment of Federal Investigation Agency (FIA) to eliminate piracy by including the Copyrights Ordinance 1962 (as amended in 2000) in the FIA Act, 1974; and activation of Pakistan Customs to effectively interdict import and export of pirated optical discs etc." he maintained.

Justice Shakirullah Jan pointed out that the Government of Pakistan supported the aforesaid three parallel decisions with

the additional measures which included that the IPO was attached with the Cabinet Division rather than any of the old Ministries, namely Ministry of Industries, Production and Special Initiatives, Ministry of Commerce and Ministry of Education which were previously supervising the Patents Office, Trade Marks Registry and the Copyrights Office respectively.

"The development and amendment in the Intellectual Property laws in Pakistan reflects that how much cognizant of the Intellectual Property Rights in Pakistan we are" he noted.

Educating the audience about the background of Pakistan-US Cooperation- sharing of Judicial Experience Justice Shakirullah Jan appreciated the role of Commercial Law Development Program or sharing expertise and experience on commercial and intellectual property rights laws with Pakistani Judges.

"The sustainability of such like programs for sharing and enhancing information of Judges of both the countries are critical, however, it is gaining ground nowadays" he claimed.

He also lauded the commitment and contribution of all resource persons including Judge Morrison C. England Jr. and Judge Delissa A. Ridgeway who despite her health fluctuations remained stuck to the cause with her missionary zeal and gave the best to the trainees.

Speaking on the occasion, Joe Young, Attorney-Advisor US Patent Office (USPTO) of CLDP, appreciated the efforts of all stakeholders to organize such a successful week long orientation course.

In the end the US Judges also gave away shields to the participants.

TRAINEE JUDGES TO HAVE PRAGMATIC APPROACH TO IMPART SPEEDY JUSTICE URGES HON'BLE MR. JUSTICE ANWAR ZAHEER JAMALI.

Hon'ble Mr. Justice Anwar Zaheer Jamali, Judge Supreme Court of Pakistan, has urged the judicial officers to have pragmatic approach while dealing with various cases so that expeditious justice be imparted to the litigant public in the real sense.

He expressed these views in an inaugural ceremony of one-week training course on, "Civil and Criminal Laws with special reference to appeal, revision, review and sessions trial" for newly recruited/ promoted Additional District and Sessions Judges from all over Pakistan including Azad Jammu and Kashmir, at the Federal Judicial Academy on Monday (16.05.2011).

Appreciating the selection of subjects included in the program for the trainee Judges he said that the selection of subjects was wise and productive.

Speaking about one of the subjects, "Judgment writing" he said, "Judgment writing, is an art. A Judge must clearly write the operative portion of the judgment. The object of good judgment is to conclude the dispute and not to leave the matter undecided. The judgment should leave nothing to be brought back to the Court. The operative portion of the order should be as far as possible, self-executing and self-contained. The Judgment should be precise and to the point. Brevity, simplicity and clarity are the hallmarks of a good judgment".

He maintained that in his humble opinion regarding the judgment the litigant public was concerned with the last paragraph of the judgment and not with the detail, whether relief had been given in that paragraph or not.

He also lauded the vibrant role of the Academy and incumbent DG for arranging maximum number of training courses to enhance information about the conventional subjects, developing laws, emerging trends and also for sharpening the skills of the members of the district judiciary.

He also shed light on the utility, scope and importance of the training and the orientation courses while saying, "The aim of such training courses is not to question the skills and capabilities of anyone but to share and learn something. Since decades and decades we remain the students of law, therefore, we have to come with the same spirit in the Academy."

He further said that such training courses, not only provide a chance for interaction among judges from all over Pakistan including AJ& K, but also they get a chance to share their experience with each other and learn a lot from the resource

persons. Earlier, DG of the Academy Mr. Parvaiz Ali Chawla presented his welcome speech and said that every effort was being made to develop and devise such training courses which might give maximum benefit to the trainees.

NATIONAL WAR COLLEGE DELEGATION VISITS FJA



Hon'ble Mr. Justice Mian Shakirullah Jan, Judge Supreme Court of Pakistan sharing views with National War College Delegation at FJA.

A five member delegation of National War College called on Hon'ble Mr. Justice Mian Shakirullah Jan, Judge Supreme Court of Pakistan/Judge Incharge FJA (Administration) in Federal Judicial Academy on 16-05-2011.

A number of issues of mutual interests, including the Capacity Building of Judicial Officers, Law Officers etc. were discussed at length. The delegation enormously appreciated the capacity building initiatives taken by the academy as well as the promotion of continuing judicial education in Pakistan.

RESPECT LITIGANTS AND LAWYERS HON'BLE MR. JUSTICE GHULAM RABBANI ASKS JUDGES TO BE RESPONSIBLE AND CAREFUL

Hon'ble Mr. Justice Ghulam Rabbani, Judge Supreme Court of Pakistan, said that the post of Additional District and Sessions Judge was very important in the hierarchy of district Judiciary; therefore, you need to be responsible and careful in the use of judicial powers.

He expressed these views in a certificate-awarding ceremony on the conclusion of one-week training course on, "Civil and Criminal Laws with special reference to appeal, revision, review and sessions trial" for newly recruited/ promoted Additional District and Sessions Judges from all over Pakistan, at the Federal Judicial Academy on Saturday (21.05.2011).



Course Participants in a group photo with Hon'ble Mr. Justice Anwar Zaheer Jamali, Judge Supreme Court of Pakistan and members of the FJA faculty.

Elucidating the advantages of life of uprightness, integrity and morality he urged the Judges not be gaudy and arrogant but down to earth, respectful towards the litigant public and lawyers.

“The more you respect the litigant public and legal fraternity, the more you will be respected by them because respect begets respect” he opined.

He urged the Judges “those who will misuse or abuse their judicial powers, hang innocent people to death, will be taken to the task on the Day of Judgment the real Judge, the Lord of Universe will conduct His Court”.

Speaking about the importance, scope and utility of knowledge he said that knowledge gave confidence and a man with knowledge became powerful and strong.

“The more you study the law books and judgments, the more powerful and strong you will become in your judicial intellect and in effective use of law” he advised the Additional District and Sessions Judges.

He further advised the trainee Judges to be honest with their own self, with their profession, with their duty and with the cause of justice.

At the outset, Ms Nusrat Yasmeen, Additional District and Sessions Judge, Charsadda, spoke on behalf of the trainee Judges and lauded the content of the course and intellectual efforts of the resource persons of repute from Faculty, judiciary and other domains.

Earlier, DG of the Academy presented his welcome speech and detailed profile of the chief guest. He said that every effort was made to develop and devise such a course which might become tremendously helpful to the trainees in the field.



Course Participants in group photo with Hon'ble Mr. Justice Ghulam Rabbani, Judge Supreme Court of Pakistan and members of the FJA faculty.

Twenty trainee Additional District and Sessions Judges hailing from all over Pakistan were awarded certificates and intellectual guidepost which the Hon'ble chief guest himself had authored for the education, guidance and practice of the judges once they were in the field.

JUDGES TO PROTECT INTERESTS OF POOR LITIGANT: HON'BLE MR. JUSTICE JAWWAD S. KHAWAJA ADVISED

Hon'ble Mr. Justice Jawwad S. Khawaja, Judge Supreme Court of Pakistan, has lamented upon the delays saying, “Because Justice if not dispensed speedily, people have come to believe that there is no such thing as justice in courts”.

He expressed these views in an inaugural ceremony of one-week orientation course on “Various Subjects Inclusive National Judicial Policy: of the Implementation with reference to problems faced by the courts” for District and Sessions Judges and Additional District and Sessions Judges from all over Pakistan at the Federal Judicial Academy on Monday (30.05.2011).

He said that our present judicial system was very exploitative, and the most exploited one of this system was the litigant public because the majority of the litigant was poor and only one percent litigant did not fall in that category.

“People sell out the golden ornaments of their wives so as to get justice and fail to get the justice. We have to sensitize ourselves. We have to think about certain fundamental changes in the present judicial system so as to impart speedy justice to the litigant” he opined.

He advised the judges to protect the interest of the poor litigant public who come to the courts for justice.

Regarding the sources of judgment he urged the judges to bank on our own cultural ethos and values, and need to benefit from the wisdom and intellect of sages such as Maulana Jalaluddin Rumi, Hafiz Shirazi, Shaikh Sadi, Imam Ghazali and others whose richness of thought and intellect was enviable.

“We must be well-acquainted with the latest developments around the world but should not be that much impressed with the Western Thought because we have our richness in our own history and culture. We have ancient history and culture but it does not mean to abandon the diversity of thought.”

estern thought because we have our richness in our own history and culture. We have ancient history and culture but it does not mean to abandon the diversity of thought.”

Referring to his recent landmark judgment regarding the



Hon'ble Mr. Justice Jawwad S. Khawaja Judge Supreme Court of Pakistan on the rostrum. Mr. Parvaiz Ali Chawla, DG FJA and Mr. Khalid Amin Khan, Director Instructions also seen in the picture.

appointment of judges in the wake of the 18th Amendment he said that he enormously benefited from our own cultural resources while writing that judgment.

On the occasion he gave one soul-searching topic to the participants titled, “if you had the authority a) what would be one change you would bring about in the present judicial system. b) “Why”-for their intellectual input.”

Earlier, DG of the Academy Mr. Parvaiz Ali Chawla presented his welcome speech and said every effort was being made to develop and devise such training courses which might give maximum benefit to the trainees.

JUDGES TO MAINTAIN AND ENHANCE KNOWLEDGE: HON'BLE MR. JUSTICE TARIQ PARVEZ

Hon'ble Mr. Justice Tariq Parvez, Judge Supreme Court of Pakistan, asked the trainee judges to take reasonable steps to maintain and enhance the knowledge, skills and qualities necessary for judicial office.

He expressed these views in a certificate-awarding ceremony on the conclusion of one-week orientation course on various subjects inclusive “National Judicial Policy: Review of Implementation with reference to problems faced by the courts” for District and Sessions Judges and Additional District and Sessions Judges from all over Pakistan at the Federal Judicial Academy on Saturday (04.06.2011).

About the continuing education and training course for judges he said: Judges need to enhance their understanding of law, all related disciplines coupled with emerging trends and changes in the world to the same extent as other professionals. In an age where rapid technological changes were revolutionizing

virtually every aspect of life, the law must keep pace with changes that society undergoes.

Regarding the Federal Judicial Academy he said, “The Academy provides quality educational programs to the judiciary, but it is not financially and practically possible for the Academy to bring all judges from all over Pakistan at one time and arrange their training, however, time to time short training courses are being arranged for them so as to achieve the desired goals.”

About independence of judiciary he said, “Independence of judiciary is not an end in itself, it is only a means to the end and end for sure is impartiality of judiciary.”

“Non independence of judiciary means chaos in the country and only independent judges give independent judiciary who decide cases in accordance with their own conscience and are bound solely by the law” *he opined*.

Advising the judges he said, “We should all work hard with honesty and integrity within the available means so as to take the country to new horizons of progress and development.”

Earlier, DG of the Academy Mr. Parvaiz Ali Chawla presented an overview of the course, shed light on the achievements of the chief guest and said, “Every effort is being made to make training courses result-oriented and productive for the trainee judges.”

Twenty District and Sessions Judges/ Additional District and Sessions Judges were given away certificates in the ceremony.



Hon'ble Mr. Justice Tariq Parvez, Judge Supreme Court of Pakistan, gives away certificate to a course participant in a certificate awarding ceremony.

“Lawless are they that make
their wills their Law”
William Shakespeare

HON'BLE MR. JUSTICE AMIR HANI MUSLIM JUDGE, URGES FOR EXPEDITIOUS CONDUCT OF TRIALS

Hon'ble Mr. Justice Amir Hani Muslim, Judge Supreme Court of Pakistan, said that in order to reduce the pendency of cases it was necessary to manage the cases effectively in the courts, adding that effective case management depends on the court management.

He expressed these views in an inaugural ceremony of one-week refresher course on “Management of Sessions Trial” for Additional District and Sessions Judges from all over Pakistan held in the Federal Judicial Academy, Islamabad, on Monday (13.06.2011).

He said that cases which were ready for trial should come on without delay. The conduct of trials should be expeditious, with issues, evidence and argument presented in as economical a manner as justice permits.

Speaking about the importance of the topic “Case Management” he opined: the objectives of case management include; early resolution of disputes, reduction of trial time, more effective use of judicial resources, the establishment of trial standards, monitoring of case loads, increasing accessibility to the courts, facilitating planning for the future, enhanced public accountability, the reduction of criticism of the justice system by reason of perceived inefficiency etc.

“It is a common practice that dates for hearing of the cases are given by the court readers, the judges do not bother even about it, hence, there are frequent complaints against the Judicial Officers in this matter. However, the Judges need to maintain their own diaries and provide date according to their own dairies, this practice of giving dates by readers in vogue



Hon'ble Mr. Justice Amir Hani Muslim, Judge Supreme Court of Pakistan is on the stage and Mr. Parvaiz Ali Chawla DG FJA on the rostrum.

can be minimized and by this way fifty percent delay in the disposal of cases can be avoided” he maintained.

In the end, Hon'ble Judge of the Apex Court wished the Academy and the course participants bright future while saying, “I am confident that this Academy will progress under the command of Hon'ble Chief Justice of Pakistan and its Hon'ble Judges In charges and young judicial officers will keep on learning and updating their knowledge and skills in its lap”.

Earlier, DG of the Academy, Mr. Parvaiz Ali Chawla presented his welcome speech and detailed profile of the chief guest and expressed his determination that every effort was being put in practice to impart such training to the judicial officers so that the lofty goals of the National Judicial Policy could be achieved.

HON'BLE MR. JUSTICE NASIR-UL-MULK, URGES JUDGES TO MINIMIZE DELAYS IN SESSIONS' TRIALS

Hon'ble Mr. Justice Nasir-ul-Mulk, Judge Supreme Court of Pakistan, urged the district judiciary judges to provide speedy justice to the litigant public within the available means.

He expressed these views in the certificate-awarding ceremony on the conclusion of one-week refresher course on “Management of Sessions Trial” for Additional District and Sessions Judges from all over Pakistan held in the Federal Judicial Academy, Islamabad, on Friday (17.06.2011).



Course Participants in a group photo with Hon'ble Mr. Justice Nasir-ul-Mulk, Judge Supreme Court of Pakistan and members of the FJA faculty.

“The first and the foremost objective of the law is welfare and betterment of society. It is to provide justice to a common man. In today's era Change is constant, this is evident as the time is changing and so is the law in the form of amendments. Our “Criminal Justice System” is yet to improve. The Criminal Justice System was working satisfactory but now

due to workload the same system was not so efficiently and effectively working” he maintained.

Hon’ble Judge of the Apex Court opined, “We have very old substantive and procedural laws for the criminal justice system. With the passage of time the conditions are changing, since the times are changing, the approach and outlook towards the legal system is also moving away from its goal.”

He said, “There was lot of talk about the speedy justice but no one thinks about the speedy trial, which is one of the obstacles in the way of speedy justice. There is huge pendency of criminal cases in our country, shortage of Judges is one of the cause.”

“This problem has been overcome, among others, by increasing the number of judges in the District Judiciary in the Malakand division” he added.

Sounding his optimism he said that the deliberation and interaction during the course would produce fruitful results in the administration of justice and enhance the knowledge and skills of the judicial officers to face new challenges and emerging trends in the judiciary, effectively and efficiently.

He asked the trainee judges hailing from all over Pakistan to give suggestions for improving the working of the Criminal Justice System in the country.

He also inspired the participants for their interactive dialogue and questions on various pertinent issues.

Earlier, DG of the Academy, Mr. Parvaiz Ali Chawla presented his welcome speech and an overview of the course with this determination that every humanly possible effort was being put in practice to update and enlighten the trainees so that they go back in the field and provide speedy justice to the litigant public and protect the interests of the downtrodden people.

Twenty Additional District and Session Judges, two of them females Judges from Sindh Judiciary, were awarded certificates in the ceremony.

HON'BLE MR. JUSTICE AMIR HANI MUSLIM, ADVISES JUDICIAL OFFICERS TO WORK WITH DEDICATION

Hon’ble Mr. Justice Amir Hani Muslim, Judge Supreme Court of Pakistan, urged the young judges to work with outstanding devotion and dedication so that speedy and quality justice, as envisaged in the National Judicial Policy, might be provided to the litigant public.

He expressed these views in the inaugural ceremony of one-week refresher course on “How to be an Effective Senior Civil

Judge” for newly promoted Senior Civil Judges from all over Pakistan held in the Federal Judicial Academy, Islamabad, on Monday (27.06.2011).

Regarding the scope and importance of trainings he said that the trainings were vital for improvement of administration of justice. Trainings like the present one provide platform to share the ideas, knowledge, best practices and experiences in vogue in and around.

He said that such trainings would produce fruitful results in the administration of justice and enhance knowledge of the judicial officers to face the new challenges in the world today.

Earlier, DG of the Academy, Mr. Parvaiz Ali Chawla presented his welcome speech and a detailed profile of the Hon’ble Chief Guest. He advised the young judges to take the maximum benefit of the experience and expertise of the erudite resource persons.

JUDGES HONORED

In order to promote intellectual discourse and enhance writing skills among Judges, while inaugurating various training courses, usually the Chief Guest gives a topic to the participants for writing an essay.

Hon’ble Mr. Justice Anwar Zaheer Jamali, Judge Supreme Court of Pakistan gave a topic titled, “Evidentiary value of the statement of approver and retracted confessional statement of accused” to the participants of one week orientation course on “Civil and Criminal Laws with Special Reference to Appeal, Revision, Review and Sessions Trails” for newly recruited/promoted Additional District & Sessions Judges from all over Pakistan including Azad Jammu & Kashmir (16th to 21st May). In the intellectual exercise Mr. Muhammad Aslam Gondal, Additional District & Sessions Judge Islamabad clinched first position respectively. Hon’ble Mr. Justice Tariq Parvez, Judge Supreme Court of Pakistan, was the evaluator of their intellectual input. The position holder Judge was honored with Chief Justice of Pakistan Award.

Hon’ble Mr. Justice Jawwad S. Khawaja, Judge Supreme Court of Pakistan assigned a topic titled “If you had the authority: what would be one change you would bring about in the present judicial system and why” to the participants of one week training course on “Various subjects inclusive National Judicial Policy: Review of implementation with reference to problems faces by the Courts” for District & Sessions Judges/Additional District & Sessions Judges from all over Pakistan (30th May to 4th June, 2011), in which Mr. Bahadur Ali Khan, District and Sessions Judge Lodhran, secured first position. Hon’ble Mr. Justice Mian Saqib Nisar, Judge

Supreme Court of Pakistan was the evaluator of their intellectual input. The position holder Judge was honored with Chief Justice of Pakistan Award.

Hon'ble Mr. Justice Amir Hani Muslim, Judge Supreme Court of Pakistan, gave a topic titled, "How to avoid delay in criminal trial" to the participants of one week refresher course on "Management of Sessions Trail" for additional District & Sessions Judges from all over Pakistan (13th to 18th June, 2011). In the intellectual exercise Mrs. Munawar Sultana Bhatti, Additional District & Sessions Judge Hyderabad, clinched first position respectively. Hon'ble Mr. Justice Tassadduq Hussain Jillani, Judge In charge FJA (Academics) was the evaluator of their intellectual input. The position holder Judge was honored with Chief Justice of Pakistan Award.

Hon'ble Mr. Justice Amir Hani Muslim, Judge Supreme Court of Pakistan, assigned a topic titled "Role of a Judicial Officer in a society" to the participants of one week orientation course on "How to be an effective Senior Civil Judge" for newly promoted Senior Civil Judges (27th June to 2nd July, 2011), in which Mr. Nadeem Muhammad, Senior Civil Judge Malakand, secured first position. Hon'ble Mr. Justice Asif Saeed Khan Khosa, Judge Supreme Court of Pakistan was the evaluator of their intellectual input. The position holder Judge was honored with Chief Justice of Pakistan Award.

EVIDENTIARY VALUE OF THE STATEMENT OF APPROVER AND RETRACTED CONFESSION OF ACCUSED

Section 337 Cr.P.C. deals with the tender of pardon to accomplice which says that in the case of any offence triable exclusively by the High Court or Court of Sessions or any offence punishable with the imprisonment which may extend to ten years, or any offence punishable under Section 211 of the Pakistan Penal Code, which may extend to seven years, or any offence under any of the following Sections namely Section 216-A 369,401 and 477-A officer incharge of the investigation or inquiry into, or the trial of the offence, with a view to obtain evidence of any person supposed to have been directly or in-directly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of all the circumstances within his knowledge relative to the offence and to every other person concerned, whether, as principal or abettor in the commission thereof:-

Provided that no person shall be tendered pardon who is involved in an offence relating to hurt or "Qatl" without permission of the victim or, as the case may be, of the heirs of

the victims.

The policy of the tendering pardon to accomplice is to prevent the escape of offenders from punishment in case of lack of evidence. The section provides for tender of pardon for three classes of offences:-

- i. Triable exclusively by the High Court and Court of Sessions;
- ii. Punishable with imprisonment extending to seven years;
- iii. Offences under Section 161, 165,165-A, 216-A, 369,401, 435 and 477-A PPC.

Section 337 Cr.P.C. is only empowering and provision of Section 337 Cr. P.C. are only enabling and not obligatory. It is only in exceptional cases that prosecution should move for tendering pardon to an accomplice and one such circumstance may be that it is otherwise not possible to bring whom the guilt to the other accused. There must be some complicity or privity in crime and accomplice must be a conscious participator in crime.

CONVICTION BASED ON APPROVER EVIDENCE

Evidence of approver cannot be accepted unless properly corroborated. In approver statement corroboration in material particulars is necessary. As per Article 16 of the Qanun-e-Shahadat Order 1984, an accomplice is a competent witness against an accused person, except in the case of an offence punishable with "hadd" and a conviction is not illegal merely because it proceeds upon the un-corroborated testimony of accomplice. But illustration (b) to Article 129 is a rule of guidance to which also the court should have regard. The combined effect of Article 16 and Article 129 illustration (b) is that though the conviction of an accused on the testimony of an accomplice cannot be said to be illegal yet the courts, while as a matter of practice, not accept the evidence of such a witness without corroboration in material particulars. The court may consider, though it is not bound to consider, an accomplice unworthy of credit unless he is corroborated in material particulars. The evidence of an accomplice requires to be accepted with a great deal of caution and security, because;

- a. he has a motive to shift the guilt from himself;
- b. he is an immoral person likely to commit forgery on occasion;
- c. he hopes for pardon or has secured it, and so favours to prosecution.

As a matter of strict law, the uncorroborated testimony of an accomplice, if accepted, form the basis of conviction in the criminal case. However, in the course of judicial precedent rule of prudence has been evolved under which it is always

insisted that there ought to be independent corroboration of an approver's statement, on material points suggesting a link between accused person and the crime before such statement could be accepted as a safe foundation for their conviction. The reason for the rules is obvious. There is always danger of substitution of the guilty by the innocent in such cases and it is realized that it could be extremely risky to act upon the statement of a self-confessed criminal who while trying to save his skin might be unscrupulous enough to accept suggestions of other to inculpate a person unconnected with the crime in a place of his real accomplice for whom he has a soft corner but the corroboration required would depend on the fact and circumstances of each particular case and no hard and fast rules can be laid down in this behalf.

The nature and extent of corroboration may be summed up as follows:-

- i). Independent evidence in case, apart from the testimony of the accomplice, in itself be sufficient to sustain conviction.
- ii). The material circumstances, noted to corroborate the accomplice evidence should be sufficient to make it probable that testimony of the accomplice was proved and was safe to be relied upon.
- iii). The corroboration should be from independent source and ordinarily a testimony of one accomplice is not considered sufficient corroboration of testimony of another accomplice.
- iv). It is not required that there should be direct evidence to corroborate the facts regarding commission of crime by the accused because it may not be right to expect that the independent corroboration should cover the whole of the prosecution story because accomplice evidence is used only when no direct evidence is otherwise available. (1995 MLD 1663).

EVIDENTIARY VALUE OF RETRACTED CONFESSION OF ACCUSED.

Confession means an admission of certain facts which constitute an offence. Confession is the total acknowledgment of one's guilt to admit or to concede to admit the truth of a charge or accusation. It is a voluntary statement made by a person charged with the commission of a crime. He acknowledges himself to be guilty of the offence charge and disclosed in the circumstances of case or the share and participation which he had in it (Black's Law Dictionary).

Retracted confession whether judicial or extra judicial may legally be taken into consideration against the maker of those confessions and if the confession is found to be true and voluntary then there is no need at all to look for further corroboration. If the court is satisfied and believes that it was

true and voluntary and was not obtained by torture or coercion or inducement, it may be taken into consideration by the court. However, it is a settled rule of evidence that unless retracted confession is corroborated in material particulars, it is not prudent to base a conviction in a criminal case on its strength alone. (PLD 1964 S.C. 813, 1996 P.Cr.L.J 1477, 1669 S.C.M.R 442).

According to one view no basic difference exists between the confession or retraction if element of truth is not missing, which being question of fact had to be adjudged by the court on the attending circumstances of the case. Where an accused gives an account of incident and its truth is not doubted, such statement is proved to be correct in its entirety and can be used against the accused. (2001 P.Cr.L.J 554).

When confessional statement is retracted, same would result, in absence of any corroborative evidence in line with the contents of the statement, in failure of prosecution case. Rule that confession can be accepted as a whole or rejected as a whole is a safe and time tested principle in administering criminal justice. (2011 P.Cr.L.J. 890).

Conviction can be based on retracted judicial confession provided it is corroborated by the independent circumstantial evidence. (2008 S.C.M.R 329).

Where a retracted confession is believed, the same has to be taken into consideration in toto and in its entirety and has to be scrutinized minutely by the court while relying on it. (2001 P.Cr.L.J. 435)

The other view is that it is un-safe to rely upon a confession much less on a retracted confession, unless the court is satisfied that the retracted confession is true and voluntarily made and had been corroborated in material particulars. (2001 P.Cr.L.J 773).

Such confession can be used against maker thereof, if it is corroborated by other evidence. (2001 S.C.M.R 1914, PLD 1985, SC. 336, PLD 1964 S.C. 813).

Judicial confession, which is retracted may be treated sufficient to sustain conviction, provided the same is found to be voluntary and true and further should not be acted upon unless corroborated by some other reliable independent evidence (2008 S.C.M.R 649).

As observed by Munir C.J. in his commentary on Evidence Act "it is settled rule of evidence that unless a retracted confession is corroborated in material particulars, it is not prudent to base a conviction in a criminal case on its strength alone".

A retreated confession is admissible in evidence provided it is determined to have been made voluntarily and freely and is fully corroborated by authentic evidence as regards victim of crime and connection with the said crime.

Muhammad Aslam Gondal
Senior Civil Judge
(Islamabad)

IF YOU HAD THE AUTHORITY

a. **What would be the one change you would bring about in the present Judicial System?**

b. **Why?**

There are several stakeholders like lawyer, judiciary, police, litigants and other concerned departments which cause delay in dispensation of justice. The people of the country believe that the present judicial system is no longer serving the average person. It takes years to conclude the case.

If I had the authority to bring one change in present judicial system for early disposal of a case, I would introduce COSTS SYSTEM. According to this system, the party losing the case shall be bound to pay costs to the party in whose favour the case has been decided. It shall be mandatory for the court to decide every case with costs and the court shall not be left with any discretion with regard to the amount of costs. The costs may be fixed on adjournment basis or as per days spent on disposal of the case.

The party which lost the case should not be permitted/allowed to challenge the order before any higher forum till he deposits the costs.

The amount of the costs should be treated as money decree in favour of the party in whose favour the decision has been made. The amount of decree should be allowed to be recovered through execution petition.

WHY THIS CHANGE

This amendment will bring about the following changes i.e.,

1. Only real litigation shall remain in the courts and there shall be minimum fake and false litigation. The reason is that the fear of costs shall force the fake litigants to withdraw the case and not defend the genuine case.
2. Similarly the institution of false litigation shall stop.
3. Our present system has failed to bring the Lawyers in court well-prepared. By adopting this costs system the

parties shall force their respective counsels to appear in the court and get their case decided at the earliest.

(Bahadur Ali Khan)
District & Sessions Judge
(Lodhran)

HOW TO AVOID DELAY IN CRIMINAL TRIAL

There are various causes behind the delay in criminal trials; merely a single constituent part of the judicial system cannot be blamed for the delay; as a matter of fact, all the components of judiciary, in one or other way, are responsible for the delay in criminal trials.

Furthermore, neither it is just matter of sensitization on the part of judges and advocates, for the reason that the quality advancement of the 'judiciary as an institution' has hardly been on the priority list of the governments in different eras in Pakistan. In words of William E Gladstone, "justice delays justice denied", the denial of justice in Pakistan is rampant, be those cases of minor crime or killing of innocent people or assassination of political personalities, the justice has to tread on the thorny paths where weak governance keeps hindering the pace of justice.

This is also a fact that "justice hurried, justice buried". However, that is quite rare, while the issue of delayed justice is observed in every second case. Following are the causes behind the delay in criminal trial

Delay on the part of investigation Agency

1. One of the major causes of the delay in criminal trials is on the part of investigation agency. For example, after submitting report U/S 172 Cr.P.C, mostly police official witnesses, in spite of repeated process, do not attend court. DPO and high ups of police department, in spite of necessary reports against the concerned police official, do not take action.
2. In the charge sheet, the names of the witnesses are written incompletely and without any proper address, which ultimately results into return of the process as not served due to incomplete details. Sometimes, even the father's name of the witness is incorrectly written, which gives rise to objections from accused side, resulting into non examination of witness without clarification from concerned Investigation Officer (IO), who, on the one or the other pretext, avoids submitting clarification for long time.
3. This also happens that police challans one person

showing many accused as absconders without giving the parentage and address of the absconder, which not only causes delay in the justice process but various innocent people pass through legal trial just on the basis of similar name.

4. In injury cases, sometimes, no medical certificate/report is submitted with police papers. Chemical examiners' report, wherever necessary, is withheld by police and after issuance of repeated letters the same is submitted, however, the late submission of that important report hampers the proceedings. Police mostly sends the material for chemical examination to the concerned quarter very late therefore; on one hand it creates doubts, and delay in the proceedings on the other hand.
5. Case property mostly is not timely deposited with court but after long correspondence the police deposit the same.

Government's Role

1. The government's role in delayed justice holds foremost importance; it can be said that if the governance system is well-organized and competent, the ratio of delayed cases would be reduced.
2. Though the non-production of under-trail prisoners before the court is also caused by delaying tactics of police officers, the major hurdles in that process are also because of non-provision of security and transportation. This falls under the responsibility of the government to provide proper security arrangements for the prisoners.
3. This lack of proper working conditions in court, for example, absence of computerized system, construction of court rooms, necessary funds and provision of complete human resource with administrative and technical expertise, these are the problems that affect speedy justice system, the government is responsible for that.
4. The non-attendance of witnesses also causes delay in the disposal of criminal cases; the witnesses often tend to avoid attendance in the court due to various factors, such as waiting for long hours outside due to late coming of advocate in the court, non-provision of the adequate traveling allowance and diet expenses and no proper arrangements for their seating are the causes of non-attendance.
5. There is an acute shortage of judicial officers, looking to the number of cases.
6. There are quite scarce opportunities of training of judicial officers.

Advocates

1. Non attendance or other delaying tactics by lawyers and

the party involved are also cause of delay in the proceeding.

2. In criminal cases the complainant party engages private advocate, hence, the frequent cases of delay take place due to absence of complainant's advocate.
3. Unnecessary or irrelevant cross examination of the advocate is also one of the reasons of delay. If judge disallows such suggestions/cross examination the advocates resist which also wastes the time of the court.
4. The proceedings of murder cases cannot start without the presence of advocate. In several cases where there is multiple number of accused, each of them is represented by advocate of one's own choice; thus due to more than one advocate, all the advocates do not appear on the same date in the same court due to ones preoccupation and being busy in some other court at district headquarter. As a result the witnesses attending the court go unexamined. All the advocates representing the respective accused, in same cases, do not appear on the date fixed, which is the main hurdle to the expeditious disposal of the case.
5. After promulgation of 5th Proviso, in Section 497 Cr.P.C, the accused side, on one or the other pretext, gets adjournments only to delay the trial for the purpose of creating ground for bail. Even when the witnesses appear, the accused file application on the ground that he/she wanted to change the advocate, and thereafter, without changing advocate, he/she time to time seeks adjournments. The court for the purpose of expeditious conclusion of the trial employs efforts for providing advocate from State side, but the advocate declines to represent the accused on State expenses. If any advocate accepts to represent the accused on State expenses, the accused declares that he had no faith in the advocate, therefore the advocate steps back.

Judges

1. The strength of number of judges is important; for example, especially in most of the courts of Karachi there are more than one thousand cases under decision of one judge, it causes delay in disposal.
2. There is low number of judicial officers, and there are quite scarce opportunities of training of judicial officers.
3. The retirement age of 60 also causes shortage of judges, this is too an early age to retire, the experienced judges are replaced by new and inexperienced lot.

Recommendations

After necessary amendments in the law, the afore-mentioned reasons of delay in conclusion of trial can be overcome through the following recommendations.

1. There is need of recruitment of more judges. The overall management of the proceedings of huge number of cases in one court with massive number of witnesses is hard. If the same number of cases is divided among 3 to 4 judges, the disposal will be faster. The strength of judges is important; the government should increase number of judges.
2. Good governance measures should be reinforced, which would contribute to developing environment for improving legal and judicial system.
3. Legislation should be made to create office of Provincial Judicial Ombudsman.
4. There should be performance appraisal to rationalize the incentive to reward on the better judicial performance.
5. Training for the judicial officers is a must thing; there is speedy development and change in judicial system in all over the world, Pakistan too needs to move along in the pace of progress. Hence training should be made an essential part of the better judicial system.
6. Development of reading culture is a must measure to be taken. There should be updated libraries available in each court with latest books available.
7. The retirement age of judges of lower judiciary should be increased; it should be 65 instead of 60.

(Munawar Sultana Bhatti)
 Additional District and Session Judge
 Tando Muhammad Khan
 (Hyderabad)

“THE ROLE OF A JUDGE IN SOCIETY”

Out Lines

1. Introduction
2. Picture of Judge for society
3. Importance of the role of Judge in a society
4. The court speaks with one voice
5. In a democratic society, judicial authority is the bulwark of freedoms and rights
6. Judge displays restricted behaviour equipped ethical values enabling them to maintain credibility
7. Adherence to a strict moral code is universal
8. Adherence to the precedents
9. Public office is a public trust
10. Judge as a Protector of Democracy
11. Role of a judge in protecting individual rights
12. Judge is an assurance that rights and liberties of all citizens are protected
13. Role of Judge in Limited government
14. Criticism
15. How to get the desired results
16. The nutshell

“THE ROLE OF A JUDGE IN SOCIETY”

1. Introduction:-

The genesis of the institution of the judiciary-meaning those members of society who are entrusted to resolve disputes – varied from one human community to another. Without dwelling much in the domain of socio-anthropology, the long historical process of the evolution of judicial authority generally emphasized two linked characteristics of judges. Firstly, the judge's behaviour is characterized by wisdom and fairness, and that they resolve disputes in a consistent and equitable manner. Secondly, that members of the judiciary enjoy special reverence and deference resulting from their embodiment of these values.

2. Picture of Judge for society:-

When asked to think of a judge, most people of the society may picture a person sitting in the front of the court in a black robe. But the judge's role is much more complex. Judges must use their expert knowledge, education and experience to be sure in order to maintain equilibrium in the society.

3. Importance of the role of Judge in a society:-

The role of the judge/judiciary in the community is manifested not only in what judges do but also in how they do it. This might be called judicial style of judges in common law jurisdictions, and the style of judges in Civil law traditions. Moreover, democracy itself can hardly be said to contain an inherent definition of the role of the judiciary. It shall be kept in mind, particularly, the techniques by which judicial decisions are made, and the manner in which they are expressed.

4. The court speaks with one voice:-

The court speaks with one voice, there being no provision for concurrence or dissent. Above all, the decision is structured so as to give the appearance that the outcome was inevitable.

5. In a democratic society, judicial authority is the bulwark of freedoms and rights:-

Judiciary, in fact, is the medium contrived and adopted by society to achieve social peace and solidarity in order to guarantee the proper functioning of public life in a spirit of absolute justice and total impartiality. It is only natural for rules of conduct and basic human values to occupy a distinctive place in the sphere of judicial authority, given that such authority is the ultimate refuge for all quarrels between individuals and between

individuals and various other public authorities.

6. Judge displays restricted behaviour equipped ethical values enabling them to maintain credibility:-

“Since men are not angels”. It becomes imperative to restrict their behaviour. There has thus always been a concern with ensuring that a prospective judge displays the behaviour and ethical values which would qualify them to occupy a trustworthy position and resolve disputes between members of the community. Furthermore, once appointed, judges are expected to continue to adhere to strict behavioural requirements and ethical values which enable them to maintain the credibility required in an official trusted to administer their society's affairs. This is so imperative because:-

- I. The judges of superior as well as subordinate courts to acquaint themselves with a better knowledge of human society to resolve contemporary societal problems.
- II. The Constitution protects judicial independence to promote the rule of law and judges are expected to administer the law fairly without fear and favour.
- III. The absence of the concepts of the impartiality and independence of the judiciary leads to a denial of justice and makes the credibility of the judicial process dubious.
- IV. Impartiality and independence of the judiciary is more a human right of the consumers of justice than a privilege of the judiciary for its own sake. Hence, it is made sure while holding hearings and presiding over court, judges must be unbiased and carefully listen to all evidence and testimony presented, deciding what is admissible in each case.

7. Adherence to a strict moral code is universal:-

The belief that to attain the greatest level of justice when resolving disputes it is necessary to adhere to a strict moral code is universal. These fundamental beliefs are, of course, expressed differently in different societies.

8. Adherence to the precedents:-

Any Judge would know that most cases of that character can be decided by the application of well-established principles of law. A court whose workload consists in large part of such cases, (and this still applied to intermediate courts of appeal), is of more importance. Because, most of its decisions will be based on the application of precedent and settled principle. Only in a minority of cases will the court be called upon to develop or alter the law.

9. Public office is a public trust:-

Public office is a public trust and in order to preserve this public trust, incumbents of public office must adhere to certain code of ethics. In the case of the judiciary, the key elements are avoiding personal gain, partiality and falling under undue influence.

10. Role of a judge in protecting individual rights:-

The role of a judge in protecting individual rights, and especially that all-important right, “liberty”. Judges need to intervene for the sake of individual liberty. They must do so with reference to ultimate values.

11. Judge as a Protector of Democracy:-

The most important role of a judge is to protect democracy. Doing so-particularly insofar as protecting democracy means protecting individual liberties-requires an all-encompassing judiciary, for only thus can the judiciary protect individuals from an all-encompassing government.

12. Judge is an assurance that rights and liberties of all citizens are protected:-

It is the foremost duty of a judge to make sure that the rights and liberties of all citizens are protected, which makes the role of the judge the most important figure in the justice system.

13. Role of Judge in Limited Government:-

Limited government means limited judges too. What an acknowledgment that judges themselves are part of the government, help command the coercive apparatus of the state, and can themselves be a source of illiberal power. Alexander Hamilton wrote that judicial review did not presuppose the superiority of the judicial over the legislative power, but “only supposes that the power of the people is superior to both; and that where the will of the legislature, declared in its status, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. The idea is that the judiciary is limited by the same fundamental law that constrains the other branches.

14. Criticism:-

When judges take it upon themselves to tell us exactly what our society's values mean in practice, they become legislators and we face not judicial review but judicial supremacy. The study of judicial systems reveals that it includes the caveat that the judiciary is no threat to the general liberty of the people as long as the judiciary “remains distinct from the legislative and the executive.

It is asserted that judging involves ultimate values. Majoritarianism so thorough that judges have little role to play in standing up for individual liberty against majorities.

But the aforesaid criticism can be rooted out easily on the ground that judging without reference to ultimate values is impossible and undesirable.

15. How to get the desired results:-

As it has been elaborated that Judiciary plays a pivotal role for the society therefore, the dire need is that the Judge shall be well-placed not only at the time when he performs his duty but even after his superannuation. Above all, when they retire, it is to be ensured that they can continue to enjoy the same standard of living, as their serving colleagues on active duty, till they finally pass away.

The district judiciary is the first forum where litigating public interacts with the judicial system, therefore, these trial court judges were expected to listen patiently and act with full wisdom in their judgments.

Salary levels in the judiciary, must be amongst the highest, if not the highest. That is the price society must pay to have a judiciary that is fair, impartial, non-partisan, non-tribalistic and free of the miasma of corruption.

Professional training and education of judges is a subject receiving increasing attention. In recent years there has been a development in formal arrangements for continuing legal education of judges and magistrates, and also for training and orientation programmes for new appointees. Once again, it is essential that the judiciary should take charge of these programmes.

16. The Nutshell:-

The modern judiciary has to come to terms with the role played by the media in the relationship between judges and the general public. This is an important subject which will receive particular attention tomorrow. Judges must be protected from pressure not only from the government, but also from the public. Judicial codes of ethics must not become a tool for disaffected litigants or defendants to waste resources and harass judges. The role of a judge requires that s/he be given a high degree of immunity. Thus, any disciplinary system for judges must be transparent and accessible, whilst also providing the judge with a fair hearing and due process, including avenues of appeal against any sanctions imposed upon them. Moreover, the ethical codes derive from the universal values of independence, impartiality, equality, integrity, propriety and competence of judges. These

codes have largely been developed by the judicial profession itself, which is to be preferred as the fundamental criterion of independence renders the imposition of rules by the executive or legislature undesirable.

(Nadeem Muhammad)

Senior Civil Judge

(Malakand)



Muhammad Aslam Gondal,
Additional District & Sessions Judge,
Islamabad.



Bahadur Ali Khan,
District & Sessions Judge,
Lodhran.



Mrs. Munawar Sultana Bhatti,
Additional District & Sessions Judge, Hyderabad.

“Law and order exist for the purpose of establishing Justice and when they fail in this purpose, they become the dangerously structured dams that block the flow of social progress.”

Martin Luther King Jr.

WORLD JUSTICE FORUM III AT BARCELONA, SPAIN (20-23 JUNE, 2011)



Justice Martin of Supreme Court of North Carolina, U.S. and his lady wife.

Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada.

William H. Neukom, Founder President and CEO, The World Justice Project

Mr. Justice Tassaduq Hussain Jillani, Judge, Supreme Court of Pakistan.

Bill Gates Sr, Co-Chairman of Bill Gates Foundation

RULE OF LAW INDEX—AN ASSESSMENT TOOL.

The World Justice Project (WJP) is an independent, non-profit organization working to advance the rule of law for the development of communities of opportunity and equity worldwide.

This is a summary of the report submitted by a team of experts comprising of M/s Mark D. Agrast, Juan Carlos Botero and Alejandro Ponce, who were tasked to prepare the Rule of Law Index by the World Justice Project.

“The rule of law is the foundation for communities of opportunity and equity---it is the predicate for the eradication of poverty, violence, corruption, pandemics, and other threats to civil society.”

(William H. Neukom, President of the World Justice Project).

The Rule of Law Index is an innovative quantitative tool designed under the auspices of the World Justice Project. The tool offers a comprehensive picture of the extent to which countries adhere to the rule of law in practice. *“The Index introduces new indicators on the rule of law from the perspective of the ordinary person. It considers practical situations in which a rule of law deficit may affect the daily lives of people. For instance, whether people can access public services without the need to bribe a government officer; whether a basic dispute among neighbors or companies can be peacefully and cost-effectively resolved by an independent adjudicator; or whether people can conduct their daily activities without fear of crime or police abuse¹.*

Under this concept there are four universal principles which determine the parameters of the extent of rule of law in a society. Those are:-

- (I) *The government and its officials and agents are accountable under the law.*
- (II) *The laws are clear, publicized, stable, and fair, and protect fundamental rights, including the security of persons and property.*
- (III) *The process by which the laws are enacted, administered, and enforced is accessible, fair and efficient.*
- (IV) *Access to justice is provided by competent, independent, and ethical adjudicators, attorneys or representatives, and judicial officers who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve².*

The Rule of Law Index was initially presented by the team two years back in World Justice Forum II but the team has now presented the 2011 version of the Rule of Law Index which is composed of 9 factors and 52 sub factors from the afore-referred universal principles. Those factors are:-

Factor 1: Limited Government Powers

- 1.1 Government powers are defined in the fundamental law
- 1.2 Government powers are effectively limited by the legislature
- 1.3 Government powers are effectively limited by the judiciary
- 1.4 Government powers are effectively limited by independent auditing and review
- 1.5 Government officials are sanctioned for misconduct
- 1.6 Government powers are effectively limited by non-governmental checks
- 1.7 Transfers of powers occur in accordance with the law

Factor 2: Absence of Corruption

- 2.1 Government officials in the executive branch do not use public office for private gain
- 2.2 Government officials in the judicial branch do not use

¹ The World Justice Project: Rule of Law Index 2011, Page 7.

² “Defining the Rule of Law” from The World Justice Project: Rule of Law Index 2011, Page 9.

- 2.3 public office for private gain
- Government officials in the police and the military do not use public office for private gain
- 2.4 Government officials in the legislature do not use public office for private gain.

Factor 3: Order and Security

- 3.1 Crime is effectively controlled
- 3.2 Civil conflict is effectively limited
- 3.3 People do not resort to violence to redress personal grievances

Factor 4: Fundamental Rights

- 4.1 Equal treatment and absence of discrimination are effectively guaranteed
- 4.2 The right to life and security of the person is effectively guaranteed
- 4.3 Due process of law and the rights of the accused are effectively guaranteed
- 4.4 Freedom of opinion and expression is effectively guaranteed
- 4.5 Freedom of belief and religion is effectively guaranteed
- 4.6 Freedom from arbitrary interference with privacy is effectively guaranteed
- 4.7 Freedom of assembly and association is effectively guaranteed
- 4.8 Fundamental labor rights are effectively guaranteed

Factor 5: Open Government

- 5.1 The laws are comprehensible to the public
- 5.2 The laws are publicized and widely accessible
- 5.3 The laws are stable
- 5.4 The right to petition the government and public participation are effectively guaranteed
- 5.5 Official drafts of laws are available to the public
- 5.6 Official information is available on request

Factor 6: Effective Regulatory Enforcement

- 6.1 Government regulations are effectively enforced
- 6.2 Government regulations are applied and enforced without improper influence
- 6.3 Administrative proceedings are conducted without unreasonable delay
- 6.4 Due process is respected in administrative proceedings
- 6.5 The Government does not expropriate property without adequate compensation

Factor 7: Access to Civil Justice

- 7.1 People are aware of available remedies
- 7.2 People can access and afford legal advice and representation
- 7.3 People can access and afford civil courts
- 7.4 Civil justice is free of discrimination
- 7.5 Civil justice is free of corruption
- 7.6 Civil justice is free of improper government influence
- 7.7 Civil justice is not effectively enforced
- 7.8 ADR systems are accessible, impartial, and effective

Factor 8: Effective Criminal Justice

- 8.1 Crimes are effectively investigated
- 8.2 Crimes are effectively and timely adjudicated

- 8.3 The correctional system is effective in reducing criminal behavior
- 8.4 The criminal system is impartial
- 8.5 The criminal system is free of corruption
- 8.6 The criminal system is free of improper government influence
- 8.7 Due process of law and the rights of the accused are effectively guaranteed

Factor 9: Informal Justice

- 9.1 Informal justice is timely and effective
- 9.2 Informal justice is impartial and free of improper influence
- 9.3 Informal justice respects and protects fundamental rights.

In the light of the afore-referred 2011 Rule of Law Index, a team of experts studied the state of rule of law in 66 countries and by 2012 it is expected that the global coverage would expand to 100 countries. The countries covered so far are:-

- | | |
|--------------------------|--------------------------|
| 1. Albania | 34. Kazakhstan |
| 2. Argentina | 35. Kenya |
| 3. Australia | 36. Kyrgyzstan |
| 4. Austria | 37. Lebanon |
| 5. Bangladesh | 38. Liberia |
| 6. Belgium | 39. Malaysia |
| 7. Bolivia | 40. Mexico |
| 8. Brazil | 41. Morocco |
| 9. Bulgaria | 42. Netherlands |
| 10. Cambodia | 43. New Zealand |
| 11. Cameroon | 44. Nigeria |
| 12. Canada | 45. Norway |
| 13. Chile | 46. Pakistan |
| 14. China | 47. Peru |
| 15. Colombia | 48. Philippines |
| 16. Croatia | 49. Poland |
| 17. Czech Republic | 50. Romania |
| 18. Dominican Republic | 51. Russia |
| 19. El Salvador | 52. Senegal |
| 20. Estonia | 53. Singapore |
| 21. Ethiopia | 54. South Africa |
| 22. France | 55. South Korea |
| 23. Germany | 56. Spain |
| 24. Ghana | 57. Sweden |
| 25. Guatemala | 58. Thailand |
| 26. Hong Kong SAR, China | 59. Turkey |
| 27. India | 60. Uganda |
| 28. Indonesia | 61. Ukraine |
| 29. Iran | 62. United Arab Emirates |
| 30. Italy | 63. United Kingdom |
| 31. Jamaica | 64. United States |
| 32. Japan | 65. Venezuela |
| 33. Jordan | 66. Vietnam |

The Pakistan profile of the Rule of Law Index may be of interest. In terms of the report submitted,

"Pakistan shows weakness in most areas when compared to its regional and income group peers. Low levels of government accountability are compounded by the prevalence of corruption, a weak justice system, and a poor security situation, particularly related to terrorism and crime. Relatively strong areas include the courts' independence from improper government influence, and respect for due process in administrative proceedings."

The afore-referred brief comment about the state of rule of law in Pakistan is based on an assessment chart which is as under:-

Pakistan

Karachi, Lahore, Faisalabad

1. WJP Rule of Law Index™

Income Lower Middle	WJP Rule of Law Index Factors	Score	Global Ranking	Regional Ranking	Income Group Ranking
Region South Asia	Factor 1: Limited Government Powers	0.37	60/66	3/3	14/16
	Factor 2: Absence of Corruption	0.22	65/66	3/3	16/16
	Factor 3: Order and Security	0.35	66/66	3/3	16/16
Population 167m (2010) 37% Urban 14% in three largest cities	Factor 4: Fundamental Rights	0.40	65/66	3/3	16/16
	Factor 5: Open Government	0.25	65/66	3/3	16/16
	Factor 6: Regulatory Enforcement	0.41	59/66	3/3	15/16
	Factor 7: Access to Civil Justice	0.32	66/66	3/3	16/16
	Factor 8: Effective Criminal Justice	0.36	61/66	3/3	15/16

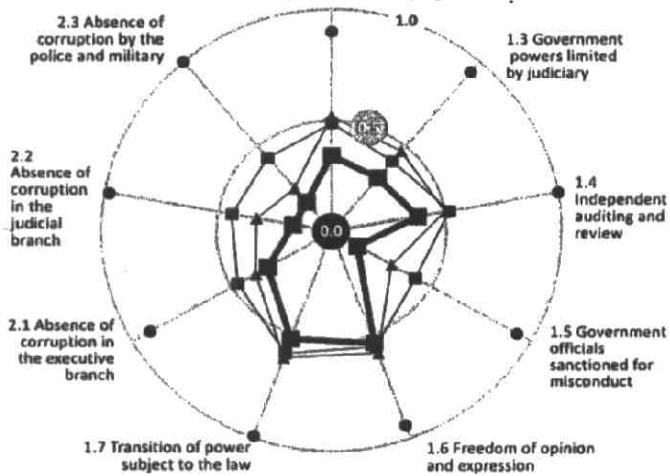
2. Scores for all WJP Rule of Law Index™ sub-factors

In each graph, a sub-factor is represented by a radius from the center of the circle to the periphery. The center of each circle corresponds to the lowest possible score for each sub-factor (0.00); the outer edge of the circle marks the highest possible score (1.00).

Key — ■ Pakistan ● Top Score ■ Lower Middle Income ▲ South Asia

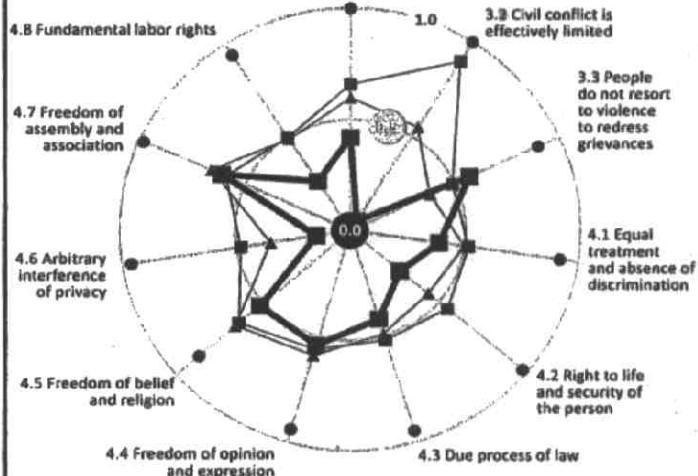
Accountable Government

1.2 Government powers limited by legislature



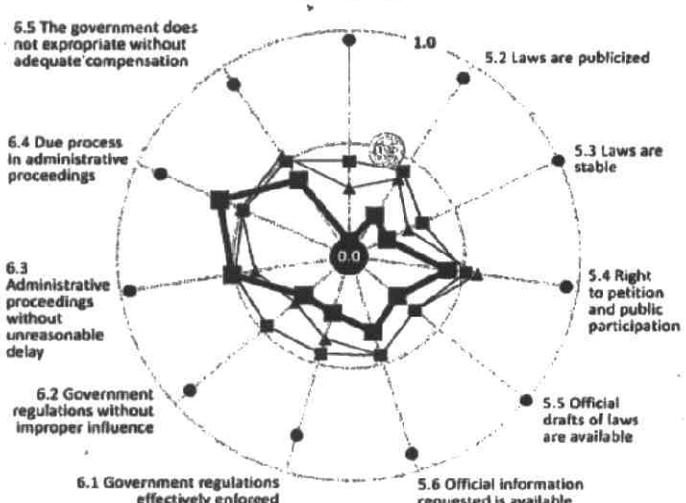
Security and Fundamental Rights

3.1 Absence of crime



Open Government and Regulatory Enforcement

5.1 Laws are clear



Access to Justice

7.2 People can access legal counsel

