



Established 1988

Centre of Excellence for Law  
and Judicial Education

# FEDERAL JUDICIAL ACADEMY BULLETIN

April – June, 2014



President Mamnoon Hussain administering oath of office to Mr. Justice Nasir-ul-Mulk as Chief Justice of Pakistan in a ceremony held at the Aiwan-e-Sadr, Islamabad on July 6, 2014. Prime Minister Muhammad Nawaz Sharif is also present.

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## GOOD CONDUCT RESTORES HONOUR AND RESPECT Hon'ble Mr. Justice Asif Saeed Khan Khosa

Alluding to past respect, glory and majesty of the District and Sessions Judges in the country, Judge Supreme Court of Pakistan, Hon'ble Mr. Justice Asif Saeed Khan Khosa said that the District and Sessions Judges can restore the respect and honour of the district judiciary only through their conduct and effective administration of justice to the litigant public. He was addressing the newly promoted District and Sessions Judges at the certificate awarding ceremony of a one-week training course on “Role of District and Sessions Judges being Non-financial Managers in Financial Management, Constitutional Jurisdiction of Courts and other New Laws”, on Thursday 17th April, 2014.

Hon'ble Judge dwelt at length on the topics/subjects of the training course such as Financial Management, Constitutional Jurisdiction of Courts and New Laws. Regarding the financial management, he said, “The orientation about the financial



*Hon'ble Mr. Justice Asif Saeed Khan Khosa addressing the course participants*

management is, indeed, very fascinating. Being a head of the district judiciary, the District & Sessions Judge is also the manager and administrator of the judiciary, hence, he has to manage the finance also and thus, this orientation will be extremely helpful to them.”

About the constitutional jurisdiction of the district courts, he said, “The Constitution of Pakistan is very clear and it has not provided the constitutional role to the district judiciary but there are some statutes which have mandated them to play that role in certain domains such as the writ of Habeas Corpus for enforcement of fundamental rights which are enshrined and guaranteed in the Constitution of Pakistan. When it comes to the enforcement of fundamental rights, even our civil courts are mandated to get those rights enforced. Get those rights enforced and the superior courts will support you. Here I must mention the powers delegated to the Sessions courts as ex-officio Justices of peace under S.22-A and 22-B of the Criminal Procedure Code.”



*Hon'ble Mr. Justice Asif Saeed Khan Khosa gives away certificate to a participant*

Speaking about the importance of new laws, the honourable Judge of the apex court said, “We live in a rapidly changing world where new issues are emerging and various laws are developing as we have the growing issue of white collar crime. People don't know about e-laws, e-governance and in future we will have one new law in Pakistan called the Protection of Pakistan Act, if passed by the Senate of

Pakistan. We must read and understand these new laws for an effective administration of justice.”

Earlier, Mr. Parvaiz Ali Chawla, Director General of the Academy presented his welcome speech and urged the judges to do all in their power to win back the confidence of the people to the district Judiciary.



*Participants of the Course with Hon'ble Mr. Justice Asif Saeed Khan Khosa, Faculty of the Academy and Delegation from Judicial Institute, Edinburgh, Scotland*

“We have all taken oaths of office before the Almighty and have vowed to deliver justice without favour or fear,” he concluded. A two member delegation from Judicial Institute Edinburgh, Scotland, namely Sherriff Welch

and Sherriff Duff along with Mr. Mark Carroll, Liaison Prosecutor of British High Commission in Pakistan also attended the certificate awarding ceremony and shared their experience and wisdom with the participants.

## **A STRONG DISTRICT AND SESSIONS JUDGE CAN PROTECT COMMON MAN FROM EXCESSES, INJUSTICES OF GOVERNMENT OFFICIALS**

### **Hon'ble Mr. Justice Amir Hani Muslim**

A strong District and Sessions Judge in any district can protect individuals and groups from the excesses and injustices of public officials and he can also protect the marginalized groups and further the interest of the poor public. He expressed these views in the inaugural ceremony of a one-week training course on “Role of District and Sessions Judges being Non-financial Managers in Financial Management, Constitutional Jurisdiction of Courts and other New Laws” for newly

promoted District and Sessions Judges from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan on Monday 14th April, 2014.

He said, “I strongly believe that where there is any strong district and sessions judge he can protect the citizens from the excesses and injustices of the public officials. They always exercise their judicial powers so that common man may not suffer at the hands of government officials.”

Shedding light on the importance and scope of short-training courses, he said, “I believe that this short course will broaden your vision and it will also keep you updated with the modern tools and skills being used in the dispensation of justice. As we know that this Academy plays a role of 'nursery' for our judicial officers, hence, it nurtures all abilities and skills among them. However, the topic which they have chosen, “Role of District and Sessions Judges being Non-financial Managers in Financial Management,” is very important. During this training you will have a lot of information and a proper exposure of the topic and it will help you a lot in your day to day working in the field.”

In his welcome speech, Mr. Parvaiz Ali Chawla, DG of the Academy said, “In the Glorious



*Hon'ble Mr. Justice Amir Hani Muslim addressing the course participants*

Quran and all other holy scriptures it is clearly defined that God is Knowledge. God is Just and Justice. The Almighty loves those who do justice and one also earns prayers of the litigant public”.



*Participants of the course in a group photo with Hon'ble Mr. Justice Amir Hani Muslim and faculty of the Academy*

## WOMEN BECOME BETTER JUDGES Hon'ble Mr. Justice Sh. Azmat Saeed

“If you open any national newspaper you will find several news items regarding ruthless murder of women. We are living in a society where newlywed women are burnt to death. We are living in a society where mothers invent the murder of their daughters. We are living in a society where justice seekers are being killed in a broad daylight right under nose of police and in the presence of a crowd. This is the society in which we all are living today”. Mr. Justice Sh. Azmat Saeed, Hon'ble Judge Supreme Court of Pakistan expressed these views in the inaugural ceremony of a one-week refresher course on “Gender Sensitization and New Laws” for Senior Civil Judges from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan on Monday 2nd June, 2014.

He said, “Women-hating or misogyny is a deep rooted problem. We never address our problems properly based on facts and research. Research conducted on this very important social issue reveals that inadequate punishments coupled with attitude of police and attitude of judges towards the victim encourages such mob frenzy incidents. It is a problem of our attitude. Women-hating is a concrete attitude problem. We take those attitudes and adopt in our culture. Our attitudes are like dinosaurs, we still find polite ways to describe topics such as “gender discrimination”, as “gender-sensitization.” We have to discourage those attitudes which insult and oppress women. There is nothing polite about such horrible incidents.”

He said, “The brutal murder of women on one pretext or another is not, and it should not be the law of the land. I know that these cruel things



*Hon'ble Mr. Justice Sh. Azmat Saeed, Judge,  
Supreme Court of Pakistan addressing the course participants*

happen against women around the world. If we listen to the world media and go through the net we come across several such like horrible reports but my concern is my country. Such like cruel things should not happen with our women anywhere in the country. It's a man's misogynistic attitude which claims innocent lives of women. We have to shun this attitude.”

Hon'ble Judge said, “There is consensus among all sociologists that status given to women in any society reflects its civilization. It is a rule of thumb. Attitudes prevalent in our society have not been conducive towards them. You visit village after village in the rural areas, you will not find even a single inch of land inherited by women”.

He said, “It is my personal observation, I could observe it when I was the Chief Justice of Lahore High Court that women become better judges, if they are given a proper environment. Indeed, their requirements are treatable and those should be treated properly and we have to make sure that there should not be any discrimination against them.”



*Participants of the course in a group photo with Hon'ble Mr. Justice Sh. Azmat Saeed and faculty of the Academy*

Presenting his welcome speech and a brief profile of the honourable chief guest, Dr. Faqir Hussain, Director General, CELJE/FJA thanked the honourable chief guest to find time from his busy schedule to grace the inaugural ceremony. He said, "Since the Academy has been converted into the Centre of Excellence for Law and Judicial Education, its scope has expanded. Besides imparting trainings to the key stakeholders of administration of justice system, it has also to impart trainings to others

who are related to the administration of justice such as lawyers, prosecutors, prison officers investigators, government officers, etc. Courses/ modules are being designed for them."

He also highlighted the salient features of the course and said that primarily two issues such as gender sensitization and new laws along with some conventional subjects would become focus of this weeklong course.

## **DISCRIMINATION IS A GLOBAL PROBLEM. WE HAVE TO ELIMINATE GENDER DISCRIMINATION FROM OUR SOCIETY**

### **Hon'ble Mr. Justice Mushir Alam**

Hon'ble Mr. Justice Mushir Alam, Judge, Supreme Court of Pakistan, has said that discrimination is a global issue and it exists in many forms and manifestations even in our society, therefore, we all have to wage war against this menace at all levels. He expressed these views at the certificate awarding ceremony of a one-week refresher course on "Gender Sensitization and New Laws" for Senior Civil Judges/ Civil Judges from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, held here at the Federal Judicial Academy, on Saturday 7th June, 2014.

caste, creed and community, prejudice, and intolerance, all these emanate from our social attitudes. Discrimination is a menace to our society. As we all know that Pakistan has ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, we have to eliminate it from our society."

He said, "Discrimination, be it gender discrimination or regional discrimination, provincial discrimination, religious discrimination, discrimination on the basis of

Regarding Islam and the Constitution, he said, "Our religion Islam and our Constitution of Pakistan have given equal rights to men and women. Comparatively speaking, our Constitution gives special focus to women and minority rights. We have to shun our discriminatory attitude against women and have to protect and promote their rights."

He termed the Federal Judicial Academy as “Melting pot” and said that by dint of well-conceived and well-designed trainings it had

always produced thorough professional and staunch Pakistanis.



*Hon'ble Mr. Justice Mushir Alam, Judge, Supreme Court of Pakistan addressing the course participants*

Earlier, Dr. Faqir Hussain, Director General, Centre of Excellence for Law & Judicial Education, presented an overview of the training course and a brief profile of the honourable chief guest. He said, “While Pakistan is moving forward towards achieving gender equality but women still face discrimination in our society. We have to make

coordinated and collective efforts to eliminate oppression, repression, discrimination and injustice against women so as to march forward as progressive, tolerant and women rights protecting nation in the comity of nations.” At the end, the hon'ble chief guest awarded certificates to the course participants.



*Participants of the course in a group photo with Hon'ble Mr. Justice Mushir Alam and faculty of the Academy*

## **DISCOURAGE UNSCRUPULOUS LITIGANTS WHO FILE FRIVOLOUS CASES TO TORMENT INNOCENT CITIZENS**

**Hon'ble Mr. Justice Dost Muhammad Khan**

Hon'ble Mr. Justice Dost Muhammad Khan, Judge, Supreme Court of Pakistan, underscored the need for institutionalizing judicial training in the country, saying that “Adhocism will neither build nor improve efficiency of our courts.” He expressed these views at the certificate awarding ceremony of a one-week refresher course for newly promoted Additional District and Sessions Judges from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, on Friday 4th April, 2014.



*Hon'ble Mr. Justice Dost Muhammad Khan  
addressing the course participants*

He said, “Judicial education and training is one of the important means to develop judicial competence and improve the quality of justice and the performance of courts in the country. Well-designed, well-developed and research –oriented programs with focus on improving the quality, will definitely improve and enhance the efficiency of courts.”

He said, “Courses for the training of Judicial Officers may be developed in consultation with the national and international legal brains in line with the current modern trends in practice in the world of judiciary. Faculty and resource persons of high profile and caliber may be sourced out to impart trainings. There are many grey areas and drawbacks which need to be addressed seriously”.

“I would like to advise you that when you go back to your duty stations and sit in your courts, then, must realize on this very point that these trainings cost expenses and those come from the public money and you have to deliver to the litigant public who suffer due to undue delay in the administration of justice”.

“While exercising judicial powers try to discourage unscrupulous litigants who rush to the courts and file frivolous cases against innocent people. You know very well that once a criminal case is registered against any innocent citizen, how much mental agony and pain he has to undergo during the tedious process”.

The honourable Judge also spoke about the importance of the modern methods of investigation skills and tools to unearth and cope with the menace of money laundering which takes place every day and leads to militancy in the country.

Presenting his welcome speech, Mr. Parvaiz Ali Chawla, Director General, FJA, said that the Federal Judicial Academy was determined to impart the desired knowledge and information to the participants and provide them repeated opportunities to exchange wisdom so as to emerge as the Judges of the twenty-first century.



*Participants of the course in a group photo with Hon'ble Mr. Justice Dost Muhammad Khan and faculty of the Academy*

## **LET JUSTICE BE DONE EVEN THOUGH THE HEAVENS FALL** **Hon'ble Mr. Justice Muhammad Anwar Khan Kasi**

Hon'ble Mr. Justice Muhammad Anwar Khan Kasi, Chief Justice, Islamabad High Court, has urged the Additional District and Sessions Judges to maintain and uphold the best traditions of the judiciary.

He expressed these views at the inaugural ceremony of a one-week refresher course for newly promoted Additional District and Sessions Judges from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, on Monday 31st March, 2014.

He said, "Judges must uphold the highest standards of integrity and impartiality. They are required to maintain and uphold the best traditions of judiciary and



*Hon'ble Mr. Justice Muhammad Anwar Khan Kasi addressing the course participants*

dispense justice to the litigant public without fear or favour. Let justice be done even the heavens fall."

Appreciating the contents of the course he said, “The hardworking faculty of the Academy has designed the course in the light of its professional experience and expertise. The informative lectures to be delivered by the eminent resource persons would increase the knowledge and information of the participants in the conducive atmosphere of FJA, Islamabad. I am confident that this refresher course will be highly helpful to improve efficiency of the course participants.”

Presenting his welcome speech, Mr. Parvaiz Ali

Chawla, Director General of the Academy said, “I urge all the senior judicial officers to bear in mind that every time you step in the courtroom, you are there to render justice and for no other reason; and that justice must not only be done, it must manifestly be seen to be done. You must earn the public trust by how you conduct your affairs. Our Judiciary must become an institution of service for the people. All of you must strive to be true to the words of the oath of your office to uphold the dignity and respect for the judiciary and judicial system.”



*Participants of the course in a group photo with Hon'ble Mr. Justice Muhammad Anwar Khan Kasi and faculty of the Academy*

## **TRAINING VITAL FOR EFFECTIVE SERVICE DELIVERY** **Hon'ble Mr. Justice Asif Saeed Khan Khosa**

Lauding the role of Federal Judicial Academy (FJA) now converted into a Centre of Excellence for Law and Judicial Education (CELJE) Judge Supreme Court of Pakistan, Mr. Justice Asif Saeed Khan Khosa said that training was vital for all for an effective service delivery and this Academy had also played a pivotal role to improve the efficiency of its subjects as per its mandate. He expressed these views in his informal talk with the District Attorneys and Deputy District Attorneys from

all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan in the Course/Dinner Night, held on Thursday 19th June, 2014.

He said, “These short-term and long trainings become highly effective to hone ones professional skills and we all learn a lot about new subjects and developments in the field. Above all, these trainings provide us an opportunity to develop professional networking. I believe that professional

networking is possibly the single most important skill that contributes to one's career development.”

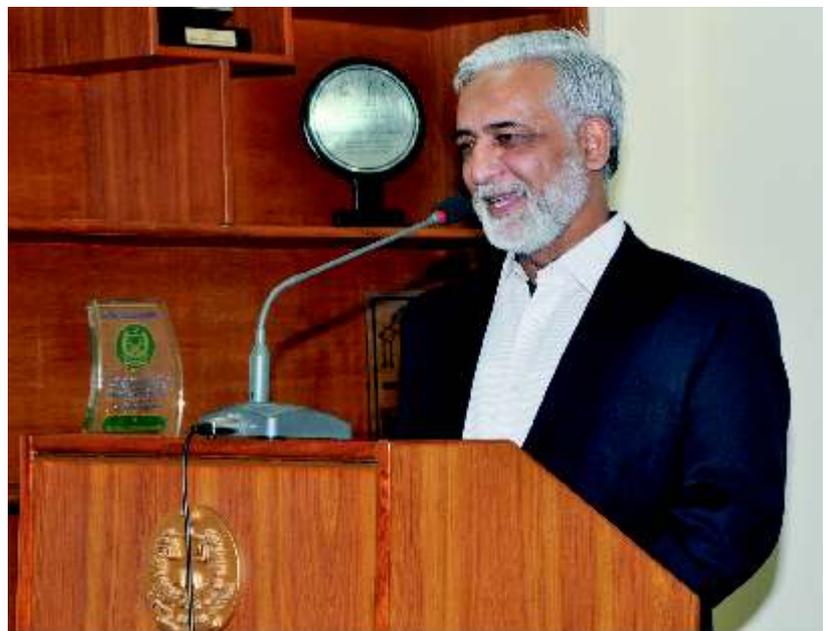
The course participants candidly shared their professional and career growth related problems and challenges being faced by them with the hon'ble chief guest and he listened attentively and also guided and motivated them. After listening to a plethora of problems and challenges being faced by the District Attorneys and Deputy District Attorneys throughout the country he remarked,

“Problems exist and these problems deserve to be addressed for an effective performance of these attorneys. I strongly believe that incentives are essential and the lack of incentives in the career growth generates ills and evils”.

Earlier, Dr. Faqir Hussain, DG CELJE/FJA briefly highlighted the importance of Chief Guest's interaction with the course participants during the Course/Dinner Night, when issues/problems faced by professionals are discussed in an informal atmosphere.

## **JUSTICE KEEPS PEACE IN SOCIETY** **Hon'ble Mr. Justice Mushir Alam**

Mr. Justice Mushir Alam, Judge, Supreme Court of Pakistan, has said that only laws were not enough to eliminate, reduce or prevent crime from the society but social, moral, and ethical pressures could play a vital role to deter crime in the society. He expressed these views at the certificate awarding ceremony of a one-week refresher course titled “Criminal Trial and Appreciation of Evidence” for Civil Judges-cum-Magistrates from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, on Saturday 10th May, 2014.



*Hon'ble Mr. Justice Mushir Alam addressing the course participants*

He said, “A crime must not be glamorized in the society. Once a crime is glamorized, then, others are likely to commit crime in the society. I believe that if there is an injustice, something that is unfair, it allows the possibility of another injustice in the society. Hence, it is very important for everyone and everywhere, to prevent the loss of justice. Justice is meant to keep peace, and if there is no peace it's called injustice, so, when injustice raises its wake up call for justice, justice must be dispensed to keep, order and harmony in the society”.

Shedding light on the importance of administration of criminal justice system, he said, “Punishments are awarded to the criminals on the grounds that the society has a moral obligation to protect the safety and welfare of its citizens. A just punishment is very important. Punishments exist but proper enforcement of those punishments ensures the safety of the society which brings justice to those who have suffered. Indeed, Shariah has prescribed the adequate punishments for various offences but at the same time it has also fixed very strong and strict standards.



*Hon'ble Mr. Justice Mushir Alam, gives away certificate to a participant*

I would like to advise all of you to go through the punishments under the Shariah law.” Advising the young judges he said, “Positive thinking is like seeds; water seeds of positive thinking wherever you are in the society and wherever you are working. The very purpose of these training courses, here in the Academy

is to provide you a chance to interact with each other, share your ideals, new ideas so as to promote positive and pragmatic thinking for your field work. Try to be creative, thinking and research-oriented minds for effective administration of justice in the country. “

Presenting his welcome speech Mr. Parvaiz Ali Chawla, DG of the Academy, advised the young judges by saying, “God does not help to change the condition of a people until they make an effort to help themselves. We must improve ourselves. Prepare yourself to assume the role of a leader, impart speedy justice to the litigant public and make things happen and that is the aim and object behind the creation of this Academy, this Centre of Excellence and frequent trainings and other capacity building measures.”

At the end, the honourable chief guest gave away certificates to the course participants in the ceremony.



*Participants of the course in a group photo with Hon'ble Mr. Justice Mushir Alam and faculty of the Academy*

Heaven is above all yet; there a judge That no king can corrupt.

*William Shakespeare*

## CONTINUOUS EDUCATION, TRAINING SHARPENS COMPETENCE, EFFICIENCY

### Hon'ble Mr. Justice Muhammad Anwar Khan Kasi

Hon'ble Mr. Justice Muhammad Anwar Khan Kasi, Chief Justice, Islamabad High Court has said that continuous education and training would go a long way to sharpen the competence and efficiency of the judicial officers. He expressed these views at the inaugural ceremony of a one-week refresher course titled “Criminal Trial and Appreciation of Evidence” for Civil Judges- cum- Magistrates from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, on Monday 5th May, 2014.

He said, “The need for sensitivity training, judicial accountability, how to manage judicial power and the judicial function, including the efficient and expeditious delivery of judgments, how to manage the nuanced aspects

of the judicial function, including the judicial temperament, are critical as part of our society's reality. Importantly, the inculcation of individual independence and the importance of legal competence, proper judicial insights and effective delivery of access to justice cannot be overemphasized.”

Regarding training courses at the Academy he said, “Education and training programmes designed for judges, among others, are indeed, significant efforts of the Faculty of the Academy. This one-week training will expose you to lot of subjects and enrich your knowledge and information and that will help you in your judicial work.”



*Participants of the course in a group photo with Hon'ble Mr. Justice Muhammad Anwar Khan Kasi and faculty of the Academy*

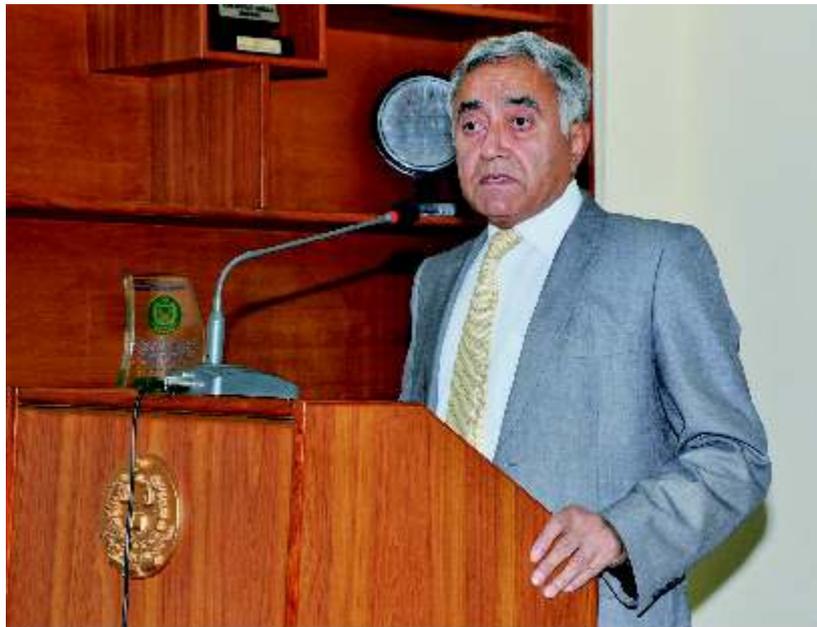
Earlier, presenting his welcome speech, Mr. Parvaiz Ali Chawla, Director General of the Academy, said that this *alma mater*, whom all of you call as Federal Judicial Academy, but now onwards we would call it as “Centre of Excellence for Law and Judicial Education.”

“I hope that this unique *alma mater* of all of us would be able not only to widen our horizons and to appreciate the richness of life but that also of other new stakeholders such as lawyers, investigators, prosecutors, prison officers, government officers, etc.,” he concluded.

## ACADEMY COMMITTED TO PROFESSIONALISM, EXCELLENCE Dr. Faqir Hussain, Director General, CELJE/FJA

Dr. Faqir Hussain, Director General, Centre of Excellence for Law and Judicial Education/ Federal Judicial Academy has said that training courses in the Academy are devised in such a manner so as to develop skills which are compatible with the professional requirements of the key players of the justice sector. He expressed these views at the certificate awarding ceremony of a one-week refresher course titled “How to be an effective Nazir/Budget and Accounts Examiner” for Nazirs/Budget and Accounts Examiners from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, on Saturday 24th May, 2014.

He said, “The fundamental aim of this training is to make you more professional and ultimately that will improve performance of your professional activities in the field. You got the opportunity to learn about relatively new and advanced subjects about the budget and accounts. You learned about New System of Financial Control and budgeting, PIFRA, Computer applications etc. I strongly believe that such orientations always improve public financial management. Fundamental and Supplementary Rules for all government organizations are the same. We at all levels in Pakistan, at federal or provincial, apply those rules. However, the very purpose of this training is also to educate you about the best audit and account practices in the world so that you bring into your working set up to improve



*Dr. Faqir Hussain, Director General, CELJE/FJA  
addressing the course participants*

the efficiency and transparency”. He said, “This training orientation also provided you the opportunity to visit various parts of Islamabad, and develop professional contacts with each other. Such trainings at the federal level are imperative because these trainings play a pivotal role to promote national cohesion and consolidation.” Reiterating the importance of orientation in etiquettes and manners he said, “We are all aware of this reality that etiquettes and manners are not something new. These are social and moral values and ethos those are found in every family but orientation in them is very essential for the employees of judiciary and government. It sensitizes them how to behave with the litigant public. It is attitude and behavior of the employees which enhances the image of judiciary.” In the end, the Director General distributed certificates among the course participants.

Law is not law, if it violates the principles of eternal justice.

*LYDIA MARIA CHILD, speech, 1861*



*Participants of the course in a group photo with Dr. Faqir Hussain, Director General, CELJE/FJA and faculty of the Academy*

## **TRAINING ESSENTIAL TO IMPROVE SKILLS OF NAZIRS/ BUDGET AND ACCOUNTS EXAMINERS OF COURTS Mr. Parvaiz Ali Chawla, Senior Director, CELJE/FJA**

Reiterating the importance of training and orientation for Nazirs/ Budget and Accounts Examiners, Mr. Parvaiz Ali Chawla, Senior Director, has said that in-service training and orientation for Nazirs, Budget and Accounts Examiners was essential to enhance their efficiency and effective management of the court budget and accounts. He expressed these views as a chief guest in the inaugural ceremony of a one-week refresher course titled “How to be an effective Nazir/Budget and Accounts Examiner” for Nazirs/Budget and Accounts Examiners from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, on Monday 19th May, 2014.



*Mr. Parvaiz Ali Chawla, Senior Director, CELJE/FJA addressing the course participants*

He said, “I have gone through the list of subjects and on the basis of my personal experience as a career judge I am of the view that this kind of

training is an important way to improve the skills of each one of you who develop budget and perform accounting and finance related activities in various courts. As we are aware that the judicial officers are mostly busy in their judicial work, therefore, accounting professionals such as Nazirs, Budget and Accounts Examiners play a vital role to maintain accounts/finance. I am confident that you people will make this course highly successful with your active participation in it.”

Speaking about the role of erstwhile Federal Judicial Academy, forthwith to be called “The Centre of Excellence for Law and Judicial Education”, Mr. Parvaiz Ali Chawla said that

in the wake of conversion of FJA into the Centre of Excellence for Law and Judicial Education its area of operation, scope and importance had widened. After amendment in the Federal Judicial Academy Act, 1997 through a Presidential Ordinance, the Centre of Excellence would be a degree awarding institution and its targeted groups will also include prosecutors, prisons officer, investigators, lawyers and government officers besides other key players in the administration of justice system. We all have to make our collective and coordinated efforts to materialize its aims and objects.” In the end, the chief guest distributed certificates among the course participants.

## **PROTECT THE RIGHTS OF THE POOR, MARGINALIZED AND VULNERABLE CITIZENS**

### **Hon'ble Mr. Justice Athar Minallah**

Mr. Justice Athar Minallah, Judge, Islamabad High Court has advised the district attorneys and deputy district attorneys to play a vibrant and vigorous role to secure the interests of the State and also protect the rights of the poor, marginalized and vulnerable citizens.

Hon'ble newly-elevated Judge of the Islamabad High Court expressed these views in the certificate awarding ceremony at the conclusion of a one-week training course on “District Attorneys and Management of Civil Cases” for District Attorneys/ Deputy District Attorneys from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, at the Centre of Excellence for Law and Judicial Education/ Federal Judicial Academy, on Friday 20th June, 2014, in which he was the chief guest.

He said, “You have a big role to play to maintain common man's confidence in the State, in the government and also our legal and judicial

system. We all have to make collective efforts so that the goals of historic lawyer's movement should be attained.”

He said, “The government pleaders have a key role to play and that role has yet to be recognized by the government. Being a professional lawyer and now elevated as Judge I consider that proper training and grooming was essential for government pleaders. They



*Hon'ble Mr. Justice Athar Minallah  
addressing the course participants*



*Hon'ble Mr. Justice Athar Minallah, gives away certificate to a participant*

should be well-conversant with the conventional laws and subjects and also with new laws and developments. They have to be well-equipped with arbitration and corporate laws in this age of trade and commerce.”

Earlier, Dr. Faqir Hussain, Director General CELJE/ FJA spoke about an enviable role of the chief guest in the momentous lawyer's moment for the restoration of judiciary and other noble humanitarian causes such as promotion of rule of law, human rights etc. and sounded optimism that in his capacity as Judge he would also carry forward the noble mission.



*Participants of the course in a group photo with Hon'ble Mr. Justice Athar Minallah and faculty of the Academy*

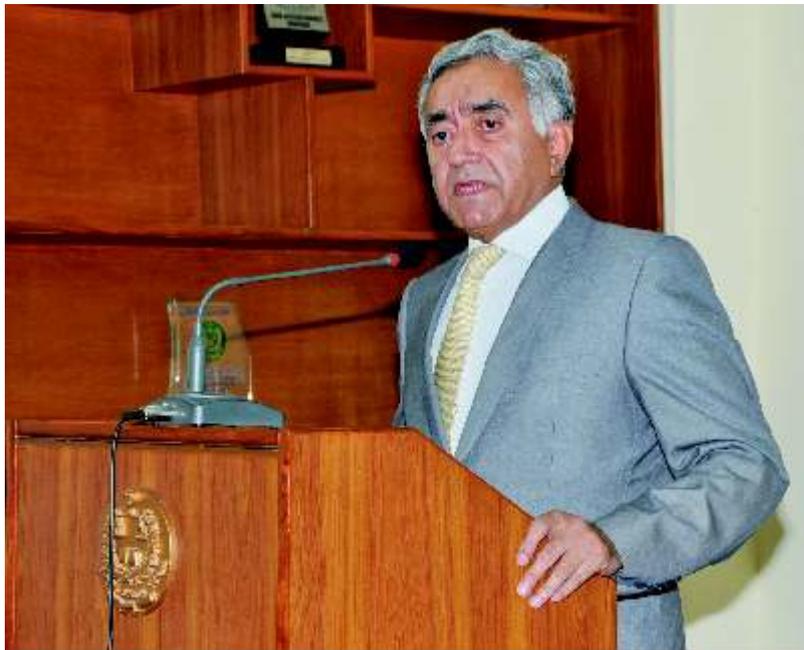
The golden eye of justice sees, and requites the unjust man.

*SOPHOCLES, Ajax the Locrian (Fragment)*

# JUDICIAL TRAINING TO ATTAIN PERSONAL DEVELOPMENT AND PROFESSIONAL EXCELLENCE

**Dr. Faqir Hussain**

This was stated by Dr. Faqir Hussain, Director General, Centre of Excellence for Law and Judicial Education/Federal Judicial Academy in the inaugural ceremony of a one-week training course on “District Attorneys and Management of Civil Cases” for District Attorneys/ Deputy District Attorneys from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, held at the Federal Judicial Academy/ Centre of Excellence for Law and Judicial Education, Islamabad, on Monday 16th June, 2014.



*Dr. Faqir Hussain, Director General, CELJE/FJA  
addressing the course participants*

He said, “Like previous trainings, this one-week training is also based on learning, knowledge and training. I believe that a one-week training for any occupational group is not enough but this training is specifically designed to improve your performance at work. This training will give you the opportunity to learn about some new developments in your profession and also in the domain of law. You will also share your knowledge with our learned 'in-home' resource persons and outside resource persons and also with each other about your profession, cultural backgrounds, etc. You will also be imparted training through modern proven techniques such as dialogue, discussion, interaction and it will surely improve your performance at work.

Sensitizing the attorneys about the use of Information Technology for efficient service delivery and an easy access to information and knowledge he said, “We live in the era of Information and Communication Technology. It is, indeed, an era of knowledge and information. The computers have revolutionized the modern world. Access to information has become very easy but proper orientation regarding application of computer is essential to sift the desired knowledge from 'junk information'. Hence, in this duration we have also arranged computer orientation classes which will be highly beneficial for you.”

Injustice alone can shake down the pillars of the skies, and restore the reign of chaos and night.

*HOREACE MANN, A Few Thoughts for a Young Man*



*Participants of the course in a group photo with Dr. Faqir Hussain, Director General, CELJE/FJA and faculty of the Academy*

## NEWS IN BRIEF

### CONVERSION OF FEDERAL JUDICIAL ACADEMY INTO CENTRE OF EXCELLENCE

The President of Pakistan signed the Federal Judicial Academy (Amendment) Ordinance 2014, on April 10, 2014. Whereby the Federal Judicial Academy has been converted into a “Centre of Excellence for Law and Judicial

Education” with a status of degree awarding institution enhancing its functions to offer programmes for the study of law and specialized courses in specific disciplines and judicial education/training.

Justice is truth in action.

*BENJAMIN DISRAELI, speech, Feb. 11, 1851*

## SHERIFFS IN CELJE/FJA

A two-member delegation from Judicial Institute Edinburgh, Scotland, namely Sherriff Welch and Sherriff Duff along with Mark Carroll, Liaison Prosecutor of British High Commission in Pakistan visited the Centre of Excellence for Law and Judicial

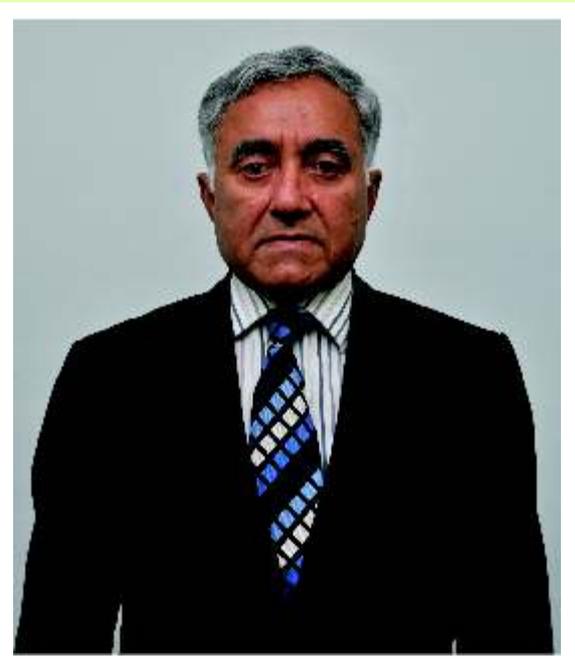
Education/Federal Judicial Academy on April 17, 2014. They shared their professional experience and judicial wisdom with the faculty members and course participants from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan.



*Delegation from Judicial Institute Edinburgh, Scotland, with the Director General, CELJE/FJA in his chamber*

## CELJE/FJA GETS NEW DG

Hon'ble Chief Justice of Pakistan, Mr. Justice Tassaduq Hussain Jilani appointed the noted scholar and researcher Dr Faqir Hussain as the Director General of Centre of Excellence for Law and Judicial Education/Federal Judicial Academy on 15th May, 2014. Dr. Faqir Hussain carries an enviable legacy of experience as former Registrar, Supreme Court of Pakistan, Secretary, Law and Justice Commission of Pakistan and also to his credit number of books and several research papers on a variety of subjects such as judiciary, constitutionalism, rule of law, role of law, human rights and such like other issues.



## SIGNING CEREMONY OF PROJECT IMPLEMENTATION LETTER US EMBASSY- FJA SIGN PIL

The Federal Judicial Academy now converted into Centre of Excellence for Law and Judicial Education and the Bureau of International Narcotics and Law Enforcement Affairs of the US Embassy signed the Project Implementation Letter (PIL) on Friday 13th June, 2014 under which some assistance in the form of provision of Information Technology (IT) equipment/ furniture, etc. would be provided to the Centre to enhance the capacity and performance of the Centre.

Mr. Khalid Ameen Tareen, Director Administration, CELJE/FJA and INL Director John Hennessey Niland signed the Project Implementation Letter (PIL) in a signing ceremony held at the Centre. INL Director John Hennessey Niland exchanged the document with Dr. Faqir Hussain, Director General, in the ceremony.

Welcoming the guests Dr. Faqir Hussain, Director General of the CELJE/ FJA shed light on the extensive and expansive role of the Centre in the areas of legal education and judicial training in the wake of its conversion into a Centre of Excellence for Law and Judicial education.

Regarding the operational strategy of the Centre of Excellence he said, “civil works and infrastructure has been completed but still lot of homework is needed to make this Centre of Excellence fully operational. Assistance including technical assistance from the developed countries especially from the US in line with the aims and objects of the Centre would be highly appreciated.”

Acknowledging the good relations with the Academy, INL Director John Hennessey made some brief remarks about the nature of the



*After signing of MoU between INL and CELJE/FJA documents being exchanged*

project and the future of the Academy as it becomes a Centre of Excellence for Law and Judicial Education.

Reiterating his vow John Hennessey said that they were focusing on the professional development and training in the areas of justice and law enforcement sector mainly on building, equipping and training of all stakeholders of legal and judicial system and that whole cycle helps to strengthen the rule of law. Since they all fall under the mandate of the Academy/ Centre now, therefore, all possible assistance would be extended to the Academy to strengthen the rule of law so as to have safe and secure Pakistan.”

The Faculty members, the administration of the CELJE/FJA and Charles L. Jenkins, Resident Legal Advisor, U.S Department of Justice, Tahir Bilal, Legal Advisor, Hiba Michael, Program Assistant, Steve Castonguay, Press Officer from the US Embassy and Hashim Abro, CPMO of the CELJE/FJA attended the signing ceremony.

## TESTING THE VIRES OF PPA ON THE TOUCHSTONE OF CONSTITUTION

by

**Dr. Faqir Hussain, Director General, CELJE/FJA**

*(Extract from presentation to the participants of a one-week training course on “Role of Prosecutor in Quick Disposal of Cases” for Prosecutors from all over Pakistan, Azad Jammu & Kashmir and Gilgit-Baltistan on 14th July, 2014)*

**Criticism:** The protection of Pakistan Act 2014 (PPA), having been adopted by Parliament and signed by the President, has come into force. Earlier, the Protection of Pakistan Ordinance 2013, as amended by the Ordinance 1 of 2014, remained in operation for 8 months and subjected to intense debate/criticism by various segments of society e.g. parliamentarians, legal community, media and human rights activists. The Ordinance was referred to as “black law” and “draconian measure”, impinging on individual's most cherished legal/fundamental rights. The PPA is not much different, it is merely a rehash of the old law i.e. Ordinance, softening few harsh provisions thereof but still retaining some extremely controversial clauses. No wonder then, the criticism persists!

Having said so, however, there are others who defend the law on the plea that it addresses a critical situation prevailing in the country. There is a raging insurgency in parts of the country, with belligerents taken up arms against the State and fighting the armed forces. Local and foreign militants have successfully executed attacks on government institutions/military installations and are threatening to destabilise the State and dismantle the Government. Besides, there is a rising trend of religious/sectarian violence, incidents of damage to or destruction of vital installations like electric/gas supply lines and disruption of means of communication/transportation. There operate organized criminal gangs, who indulge in commission of heinous offences like armed robberies, bank heists, kidnapping for ransom, money grabbing (Bhatha collection), etc. In short, the country is confronted with multiple challenges, indeed, facing an existential threat.

This state of affairs warrant more stringent measures to quell the insurgency, control the law and order situation, protect life/property and restore normalcy.

The PPA was approved following a compromise between the Government and opposition parties. As a result, some changes were made to the text of the law e.g. the life span of the new law fixed at 2 years, the maximum period of remand reduced from 90 to 60 days and judicial oversight provided to watch against the abuse/misuse of the law, etc.

**Object:** The stated objects of the law are, “to provide for protection against waging of war or insurrection against Pakistan and the prevention of acts threatening the security of Pakistan”. Thus, several ordinary crimes listed in the Pakistan Penal Code (PPC) or Anti-terrorism Act, when committed with above-mentioned object, constitute offences under the PPA.

**Offences:** The following offences are listed in the Schedule of the Act:

- i Crime against ethnic, religious, political groups or minorities including offences based on discrimination, hatred, creed or race;
- ii Use of arson, fire bombs, suicide bombs, biological/chemical weapons, nuclear arms, explosives to kill or cause hurt or destroy property anywhere including government buildings, historical places, business concerns, sites of worships;

- iii Killing, kidnapping, extortion, assault on national institutions (parliament, judiciary, executive, media, armed forces, law enforcement agencies) or their personnel, social welfare workers, other important personalities, foreign officials/visitors, tourists or any other person;
- iv Destruction of or attack on means of communication, energy facilities, dams, power generating units, grid stations, gas/oil installations, aircraft/airport; educational institutions, police stations, security organizations;
- v Wrecking, disrupting or attacking mass transport system including trains, buses, cars and their stations/ports;
- vi Violence or attack against nuclear arms/sites, maritime navigation, shipping, post installations, nationals abroad;
- vii Other PPC offences viz waging or attempting/abetting to wage war against Pakistan, condemning the creation of State, defiling or unauthorized removal of national flag, assault on President/Governor to restrain him from exercising lawful powers, sedition, waging war against any Power in alliance with Pakistan, public servant allowing prisoner of state/war to escape, abetting mutiny, attempting to seduce armed forces personnel, harbouring armed forces deserters, wearing garb or token used by armed forces personnel to impersonate (Section 121-140, PPC);
- viii Illegally crossing national border in connection with scheduled offences;
- ix Cyber crimes, internet offences and other offences related to information technology which facilitate any offence under this Act; and
- x Preparation, abetment, attempt or conspiracy to commit any of the scheduled offences.

The Act authorises the Government to amend the Schedule by adding or modifying any entry therein or omitting any entry therefrom. The law is given overriding effect, vis-à-vis others. In case of conflict, the provisions of the Act prevail.

**Arrest and Seizure:** The scheduled offences are made cognizable and non-bailable. The police or armed forces (when deployed in aid of civil power) may arrest without warrant, a person who is alleged to have committed a scheduled offence or about whom there is a reasonable suspicion or credible information that he has or is about to commit any such offence. A police officer not below BPS-15 or member of armed forces may, on reasonable apprehension of commission of a scheduled offence, after giving warning, use necessary force to prevent the commission of such offence. Such officer may, after forming a reasonable apprehension that death or grievous hurt may be caused by such act, after giving warning and as a last resort, fire/order firing to prevent the commission of such offence. Incidents of firing resulting in death or grievous hurt shall be reviewed in an internal inquiry conducted by a person appointed by head of the law enforcement agency, and if the facts and circumstances so warrant, may also be reviewed in a judicial inquiry, caused by the Federal Government.

Police/armed forces may enter and search premises, without warrant, to make arrest, take possession of any fire arms, explosives or weapons likely to be used in the commission of a scheduled offence. Such raid be reported within 2 days to the Special Judicial Magistrate, mentioning the circumstances justifying it and items recovered.

For detention beyond 24 hours, remand must be obtained from Special Judicial Magistrate, who may, from time to time, extend the same for upto 15 days; the total period of remand however must not exceed 60 days.

**Preventive Detention:** The law permits preventive detention. The Government may authorize the detention of a person for upto 3 months, if it has reasonable grounds to believe that he is acting in a manner prejudicial to

national integrity, security, defence or external affairs or public order or maintenance of supplies/services. Detention shall be in accordance with provision of Art. 10 of the Constitution meaning within 15 days of arrest, the grounds of detention be communicated to the detainee to make representation against the order. For detention exceeding 3 months, the case is referred to the Review Board and further detention is permissible only when the Review Board is satisfied that there is sufficient cause for extension.

An enemy alien (militant whose identity is unascertainable or deprived of citizenship, acquired by naturalization) may also be detained and such detention regulated by Act 10 of the Constitution. Government, in the interest of security of Pakistan, may not disclose the grounds for detention or divulge any information relating to a detainee, who is enemy alien or militant. Armed forces called in aid of civil power under Art. 245 of the Constitution or otherwise under the Anti-Terrorism Act 1997 may detain an enemy alien or militant in designated internment camps. Such detention be regulated under Art. 10 of the Constitution. Government shall frame regulations to regulate the internment orders/camps and approve mechanism for representation against such orders. The law states that past detainee shall be deemed to have been detained pursuant to this Act.

**Denial of Safeguards:** The accused is deprived of legal safeguards available under Cr.P.C. e.g. confirmation of death sentence by High Court (S 374), suspension of sentence/release on bail pending appeal (S 426), power of High Court to call for records of inferior courts (S 435), High Court/Session Court powers of revision (S 439, 439-A), power of Session Court to issue direction of the nature of Habeas Corpus (S 491), bail in bailable/non-bailable offences (S 496-498) and power of High Court to exercise inherent powers (S 561-A).

The law provides for exclusion of public from proceedings of Special Court on application made by the Prosecutor General on the ground that the disclosure of evidence to be produced may prejudice public safety. Government may determine the place of custody, investigation, trial of offender and confinement of convict.

The Government is required to take appropriate measures for security of witnesses, investigators, prosecutors, Special Judicial Magistrate and Judge of Special Court, and for this purpose may also establish security prison within courtrooms.

**Burden of Proof:** An enemy alien or militant facing the charge of scheduled offence, on existence of reasonable evidence against him or a person arrested in preparation to commit or while attempting to commit such offence shall be presumed to be engaged in waging war or insurrection against Pakistan, unless he establishes his non-involvement in the offence.

**Investigation and Trial:** The offence is required to be investigated by a Joint Investigation Team (JIT), headed by gazetted police officer and comprising 2 other officers of armed forces or civil armed forces. The report of JIT is placed through Prosecutor General before Special Court; the Judge, being a serving or retired Session Judge or an advocate of 10 year standing at High Court, appointment by Government after consultation with Chief Justice of High Court. Punishment prescribed for scheduled offences is 20 years imprisonment with fine and confiscation of property, unless higher punishment prescribed. The Court may also deprive the convict of citizenship acquired by naturalization. Appeal against its verdict lies in High Court.

**Analysis:** Undoubtedly, the law is fairly harsh/stringent, even though it addresses a peculiar situation in our national history, when the State is confronted with multiple challenges to its very existence/survival and has to deal with the menace of rising militancy, extremism, violence, hate crime, killings, and extortion for money and destruction of property. However, it must be in accord with legal norms/principles and Fundamental Rights, guaranteed by the Constitution.

**Fundamental Rights:** The human/fundamental rights are about recognizing the value and dignity of life. They are crucial for civilized existence, enabling individual to enjoy life and develop his faculties, so as to make advancement in life and become useful/productive member of society. In civilized societies, governed under

constitutional/democratic system of governance, basic rights and fundamental freedoms are available to citizens. The PPA may offend certain provisions of our Constitution, in particular fundamental rights/freedoms, as under:

- i Preamble/Art. 2-A provide for observance of principles of democracy, freedom, equality, social justice; guarantee of fundamental rights including equality of status, opportunity and before law; social, economic and political justice; freedom of thought, expression. The fundamental rights are to be enforced by independent/impartial judiciary.
- ii Art. 4 provides for rights of individual to be dealt with in accordance with law.
  - a No action detrimental to life or liberty, save in accordance with law;
  - b No person shall be prevented from doing that which the law does not prohibit him to do;
  - c No person shall be compelled to do that which the law does not require him to do.
- iii Art. 9: No person shall be deprived of life or liberty save in accordance with law.
- iv Art. 10 provides safeguards against arrest/ detention. No arrest except for breach of law, right to know grounds of detention, to engage a legal counsel of choice and be produced before Magistrate within 24 hours of arrest. No further detention except on remand granted by Magistrate.
- v Art. 10A provides for right to fair trial and due process.
- vi Art. 14 provides for inviolability of dignity of man, privacy of home and prohibits torture for extracting evidence.
- vii Art. 15, 16, 19 provide for freedom of

movement, assembly, speech.

- viii Art. 24 provides for protection of property.
- ix Art. 25 provides for equality before law and equal protection of law.

The constitution is basic document, it enjoys supremacy vis-à-vis ordinary enactments/legislation and customary laws/practices. Any law/custom in conflict with the constitution is a nullity. So is ordained by Art. 8 of the Constitution. Chief Justice Munir wrote, constitution is the “supreme law from which all authorities derive their powers, all laws their validity and all subjects their rights”. Therefore, it should prevail at all times and in all circumstances. It must be respected and enforced. In the words of George Bidault: “The good or bad fortune of a nation depends on three factors: its constitution, the way the constitution is made to work and the respect it inspires”. In short, the law must be in accord with the basic document i.e. constitution, failing which, it could be challenged and Art. 8 invoked to have it declared as null and void.

**Offensive Provisions:** Tested on the touchstone of established legal/Constitutional norms/principles and fundamental rights, guaranteed by the Constitution as well as precedents set by the superior courts e.g. Liaquat Hussain v Federation (PLD 1999 SC 504) and Mehram Ali v Federation (PLD 1998 SC 1445), certain provisions of the Act may not qualify the test. It is so because they are vague, hence, capable of being abused/misused by the law enforcement agencies. Certain other provisions exceed the limit set by law/Constitution, and some are indeed too harsh, inconceivable in a civilised polity. Exception can be taken to the following:

- i Loose/vague definitions of scheduled offences and authorizing the Government to make additions/deletions to entries in the Schedule (S 2 & 22): It is a serious flaw in the PPA. The acts/offences listed in the Schedule are not new, rather taken out of diverse other laws. The PPA provides for linkage/connection between the specific act/offence and

object/purpose of its commission. Thus, both the act and object must be proved. The Prosecutor will be required to establish the mensrea/acstrea in the 'double action' or 'two-in-one offence'. It is no easy task though. Lacking in knowledge/expertise and having no professional training, the JIT will find it difficult to obtain convincing evidence, which the Prosecutor has to show to the court to prove the offence, beyond reasonable doubt. The JIT has a strange composition: a police officer and 2 members from armed forces. Members of armed forces have no qualification, training or experience of investigation. Therefore, it is hard to conceive that they will assist in the task of conducting competent investigation.

- ii Power of police/armed forces to use force, also fire/order firing, and arrest, enter/search premises, without warrant, on mere suspicion (S 3): Entrusting a low grade police official of the rank of sub-inspector (BPS-15) or his equivalent in the armed forces with the authority to shoot to kill on suspicion/apprehension that a scheduled offence is likely to be committed, is a serious flaw in law. It is contrary to a ruling of the Supreme Court in case of Mehram Ali (supra), wherein power to order firing without check/guidance was declared to be violative of Art. 9 of the Constitution.
- iii Withholding information regarding the location of detainee, accused, interne or internment centre from court (S 9): Whereas the Government may be justified in withholding information pertaining to the location of a detainee, accused or interne, in view of security threats and recent incidents of jailbreak and attacks on police convoy to free militants/hard criminals, however, the measure is an after-thought, perhaps to justify the illegal detention of persons and their retention in secret location by the armed forces. When the Supreme Court took up the cases of such persons, known as “missing persons”, after a few hearings, they were reported to be

confined in internment Centres, run by the armed forces. Anyhow, the matter of keeping persons in internment camps is a sub-judice matter in High Court/Supreme Court and such courts may perceive this measure as stratagem to validate the original illegal action of arrest/detention of internes. It is impermissible to frustrate or obstruct the course of judicial process.

- iv Refusal to disclose the grounds of detention or divulge information relating to the detainee, accused or interne (S 9): With fundamental rights, in particular, right to personal liberty, freedom of movement, etc available to citizens, it would be hard for the courts to concede such a power to the executive. More so, because of Article 10 safeguards e.g. knowing grounds of arrest, so as to engage a defense counsel or making representation against detention order or filing writ of habeas corpus. Furthermore, the superior judiciary has given a string of judgments on this point; hence, the courts will find it hard to concede the ground.
- v Simply because the identity of person is unascertainable or he has been deprived of citizenship, therefore, he shall be considered as enemy alien and presumed to have joined war/insurrection against Pakistan. Such person (together with other militants and persons accused of committing schedule offence), on existence of reasonable evidence, be presumed to be engaged in waging war/insurrection against Pakistan, unless he establishes his non-involvement in the offence (S5(5) & 15): The courts will not take it lightly to let an accused be punished on suspicion, with conviction secured on mere presumption. Indeed, the presumption of innocence is a centuries-old principle, well established, locally as well as at the internationally plane; hence, its reversal will be hard to justify.
- vi Person deprived of his right of

- citizenship (S 16): The right of citizenship is provided by law i.e. The Pakistan Citizenship Act 1951. The international law also lays stress on the point that individuals must not loose or be deprived of their nationality, as a stateless person is exposed to all sorts of indignities and the rigours of law, without support from the state.
- vii Exclusion of public from trial (S 10): In-camera proceedings are generally discredited and deprecated by courts. This is so because it violates fundamental rights to fair trial and raises doubts about courts' independence/impartiality and their ability to dispense justice freely and fairly. Therefore, very strong/valid reasons will have to be advanced to convince the court to allow in-camera proceedings.
- viii Appointment of Special Court/Special Judicial Magistrate from outside the judiciary (S 8): The Act authorizes the Government to appoint judge/magistrate from amongst lawyers meaning outside the regular judicial hierarchy. It is extremely controversial. This provision is contrary to the Supreme Court judgment in the case of Liaquat Hussain (supra), wherein the Court held that such an appointment is unrecognized by law and the forum cannot avail/execute judicial powers which is the prerogative of regular courts.
- ix Non-applicability of legal safeguards available under the Cr. P.C. (S 18): This is a novel provision wherein centuries-old established legal safeguards, available under the Cr.P.C. have been denied to an accused/detainee under the PPA. Such safeguards also include the legal right to writ of habeas corpus (S 491 of Cr.P.C.) as well as fundamental right to similar remedy under Art. 199 of the Constitution, and the inherent power of High Court to make orders to prevent the abuse of judicial process or secure the ends of justice, etc. It is difficult, to conceive as to how this may be achieved and how could the courts allow such blatant derogation from established legal norms/ fundamental rights.
- x Arrested person kept in internment Centres, past detainees deemed to have been arrested/detained pursuant to the provision of the Act (S 6): It is hard to conceive as to why internment Centres need be established in the presence of prisons/police stations. Furthermore, in the case of missing persons in the Supreme Court, it was revealed that the armed forces are keeping some suspects in secret locations. Such suspects were picked up from houses/streets and/or taken out of prisons/police custody, without any charge or registration of FIR. The act was palpably illegal and brazen violation of the fundamental rights to personal liberty and freedom of movement, etc. Therefore, the Court insisted that citizens cannot be denied their fundamental rights; hence their prolonged detention in internment Centres is illegal. The Government of KPk then reported to the Supreme Court that the Ministry of Defense have decided to proceed against delinquent armed forces officers, responsible for unauthorized detention of such persons in the internment Centres. The Court ruled that all missing persons must be accounted for, if there is any allegation against anyone, proper FIR be registered against him, otherwise released. The case is pending. The provision in the PPA to regularize the past detentions is tantamount to validating an illegal detention, an unwarranted interference in judicial process and an attempt to cause miscarriage of justice.

**The Way Forward:** The above are only some of the glaring examples of excesses contained in law. The list goes on and on. The PPA may be the need of hour, and justified in the prevalent disturbed conditions in the country, but many of its clauses far exceed the permissible limits, set by law/Constitution. The above-referred provisions, seemingly, are offensive to

established legal norms/principles and militate against fundamental rights, hence, may be reviewed with a view to bringing it in harmony with norms of civilised system of governance and democratic dispensation. This would entail chipping off certain ends/objects, sought to be achieved by the Act and suitably amending other clauses for the sake of greater clarity and securing conformity with legal/constitutional safeguards.

An eminent and pressing need of the time is for the Government to take steps to improve the mechanism of implementation of laws in the country. If this is done, there would be no special need for enacting harsh/stringent laws. The penal laws, and in particular, provisions of the Anti-terrorism Act 1997 (ATA), are already fairly stringent. The ATA is a most comprehensive code and modern legislation on the subject. It has been frequently amended/reformed, but unable to achieve its objectives of curbing terrorism through improved mechanism of crime detection, arrest/detention of perpetrators of the crime, their prosecution and conviction. The conviction rate is alarmingly low and further

dwindling. The fault lies in the failure to implement the law. In the present national scenario, when no one's life, honour or property is safe, no adequate security/protection has been provided to witnesses, investigators, prosecutors, judges, despite categorical assertion to the effect in law. In the circumstance, how may witnesses come forward to depose against hardened criminals and dreaded militants, and how can the investigators/prosecutors discharge their functions effectively and efficiently to produce strong/valid evidence in court and secure conviction. These professionals lack capacity and have no adequate training arrangements to update their knowledge and enhance their experience/expertise. And even though judicial training academies exist for the purpose, their services are not being fully utilized. Mere law reforms and introducing stringent penal provisions would not do until security is provided and resources allocated for the capacity building and training of professionals in the justice sector. Only then may the objects of law realized, conviction rate enhanced and deterrent effect given to the law.

## JUSTICE DELAYED IS JUSTICE DENIED

By

**Abdul Karim Ansari<sup>1</sup>**

**Additional District & Sessions Judge**

**Naushahro Feroze**

The topic “**Justice delayed is justice denied**” assigned by Hon'ble Mr. Justice Muhammad Anwar Khan Kasi, Chief Justice, Islamabad High Court, who was the chief guest in the inaugural ceremony of a one-week refresher course on March 31, 2014, for research paper/researched essay, is, indeed, not a new one but has remained a proverbial talk of the table among eminent jurists, scholars, judicial educators, academicians and various Law Commissions/Committees constituted by the Government in order to evolve ways and means to meet the challenge of delayed justice. Pitiably, there is still a long way ahead to achieve the desired results, I mean, the dispensation of inexpensive and expeditious justice to the litigant public. Being a career judge and a humble researcher who is busy nowadays with the PhD thesis, I have gone

through a various reports, editorials of daily newspapers, magazines and researched books, *interalia*, to justify with this always debatable and demanding topic. It is on record that since 1956, successive governments have come up with a large number of Commissions and Committees on judicial reforms, the details of which are as follows:-

- Commission on Marriage and Family Laws, 1956;
- Law Reform Commission, 1958;
- Law Reform Commission, 1967;
- High Powered Law Reform Committee, 1974;
- Law Committee for Recommending Measures for Speedy Disposal of Civil Litigation, 1978;
- Secretaries' Committee set up by the

President to Examine the Recommendations of the Law Committee set up for Recommending Measures for Speedy Disposal of Civil Litigation, 1979; and

- Committee to Formulate Concrete Proposals for Simplifying the Present Legal Procedure.

In 1981, the government set up a permanent Pakistan Law Commission (PLC). The Pakistan Law Commission has been recording and publishing judicial statistics and the Pakistan Law Digest (PLD), but it has not been very effective in changing the nature of dispensation of justice. Some of the recommendations of these commissions relating to the Family Laws Ordinance, the establishment of the Federal Judicial Academy, the Pakistan Law Commission and separation of the executive from the judiciary have been implemented after a considerable delay. Substantive issues concerning day-to-day dispensation of justice, such as those concerning court facilities, buildings, salaries of the judges, changes in process serving, production of witnesses, improvements in investigation and prosecution of criminal cases, implementation of rules and codes to cut down on delay and prolonged inaction and prison reforms have not been implemented despite their repeated articulation in reports.

Members of civil society have also come up with ideas for judicial reform. One such idea was to revamp the judiciary through improvements in incentives, institutions, infrastructure and information. The analysis points out that the government's political will to reform needs to be directed in a manner that will lead to motivation of judicial officials through better incentives, internal and external accountability and monitoring by introducing measures such as the trial by jury system and appointment of a parliamentary protection of citizen's rights, changing infrastructural parameters such as provision of professional court clerks, computation facilities, law interns, libraries and the facilitation of a better quality of decision-making through proper legal education and training for judges which would require improvements in law colleges' curricula.

Doubtlessly, delay in justice is not only a challenge but poses a serious threat to the civil and criminal justice system in Pakistan. Delay is a universal phenomenon but in Pakistan, the position has become alarming. The Pakistan Law Commission has taken cognizance of the issue and observed that "the civil and criminal justice system in Pakistan is confronted today with serious crises of abnormal delays. Delay in litigation of civil and criminal cases has become chronic and proverbial. The phenomenon is not restricted to Pakistan; it is rather historical and universal. It is inherent in every judicial system which meticulously guards against any injustice being done to an individual, in a civil dispute or a criminal prosecution.

A paramount principle of the criminal justice system is that an accused is punished only after his guilt is proved beyond reasonable doubt. Similarly, justice demands that in the trial of a civil case, the dispute must be decided strictly in accordance with law and on the principles of equity, justice and fair play. Such universally recognized and time-tested principles are in accordance with the injunctions of Islam as the Holy Quran ordains that 'Muslims must eschew injustice, coercion, and suppression'. In our country, one serious drawback of the administration of justice is, delay. Delays invariably occur in the disposal of civil and criminal cases.

It is normal for an ordinary civil suit to linger on for as long as two decades, and on the completion of the trial, perhaps another half a decade passes by in the execution of the decree. In criminal cases also, the situation is quite dismal. Unusual delays occur in the disposal of cases by the courts. An example of unusual delays is manifested by the fact that, according to a rough figure, currently more than two-thirds of the jail inmates comprise of under-trial prisoners. Such phenomenon erodes the trust of the people and their confidence in the administration of justice. Delays in the settlement of civil disputes, besides causing frustration to the litigant public, also hamper the socio-economic development of the society. It serves as a disincentive to foreign investment in our economy and affects our trade relations with foreign governments/multi-national companies. The causes of backlog and delays are diverse and profound, arising due to factors

both inside and outside courts, and legal/procedural gaps/lacunae. Justice delayed is, undoubtedly, justice denied.

Consequently, it has always been the primary concern of civilized societies to address the issue of delayed justice with a view to find ways and means of removing defect/deficiencies in the administration of justice. It would be wrong to assume that the problem of backlog/delays has been totally neglected in the past. It has received government attention from time to time. Various Law Reform Commissions and Committees were constituted with a view to examine/analyze the causes of delay as well as to suggest appropriate measures for reform. Such Commissions/Committees carried out an exhaustive examination of the procedural laws and rules and suggested appropriate measures for reform thereof. Some such recommendations were accepted by the Government and implemented through amendments in laws/rules. The Supreme Court and High Courts have always been reviewing their respective rules of procedure so as to ensure quick and inexpensive disposal of civil and criminal cases. From time to time, the High Courts have issued administrative instructions to the subordinate courts for expeditious disposal of cases.

The reform of procedural law, however, has been a constant and continuous process. Laws need to be reviewed and reformed in keeping with the changing times so as to cope with the emerging realities. The expeditious disposal of cases is undoubtedly a laudable objective. However, it is not an end in itself; it is merely a means to an end, that end being the provision of prompt and inexpensive justice. It is indeed not delay per se which is objectionable but an unreasonable and unjustifiable delay which needs to be checked. The requirements of justice demand that sufficient time and adequate opportunities should be made available to the litigant parties and accused persons to state their cases and put across their defence before the court of law. In the process delays may occur, but it should be tolerated and condoned if it is in the interest of a just and fair disposal of the case. On the contrary, the tendency to hasten disposal of cases must be checked if it is likely to result in an unjust, unfair or arbitrary order or decision. The

question of delayed justice has been examined by various Commissions and Committees and recommendations were made at different points of time but no radical change was recommended in the existing judicial system. These recommendations can be summarized as follows:-

- i) Appropriate amendment in the relevant laws.
- ii) Increase in the number of Judicial Officers.
- iii) Provisions of adequate number of court-rooms and proper accommodation to Judicial Officers.
- iv) Improvement into the working of investigation and prosecution agencies.
- v) Training facilities to Judicial Officers.
- vi) Improvement in Process Serving Agency.
- vii) Enhancement in the retirement age of Judges.
- viii) Submission of Challan in time, the Investigation Branch of the Police should be strengthened, the number of Forensic Science Laboratories be increased in the provinces and the Court should take serious notice of negligence or undue delay/default in the time of submission of Challan.
- ix) Frequent adjournment of cases should be avoided.
- x) Bifurcation of the civil and criminal functions at the level of District and Sessions Judges.
- xi) Methodical arrangements of supervisions and control by the High Court over the functioning of subordinate courts. The cases of corruption, inefficiency and in-proficiency must be taken notice of and appropriate punishments awarded.

Regrettably, delays in the dispensation of justice have resulted in a parallel system of justice. There is no cavil to the proposition that to place judicial power in the hands of private individuals no matter what the pretext is not only unconstitutional but that it also encourages misguided vigilantes to take the law in their own hands. This system of rough justice is not new and definitely not restricted to FATA alone. In Punjab, a punchayat sanctioned the gang rape of a woman as a punishment for a crime allegedly committed by her brother while in Shikarpur two young girls who wanted to

marry were declared a Kari in the draconian Jirga and hence liable to be killed. Such repressive and barbaric systems of adjudication are found most commonly in the rural Pakistan where people often need the protective arm of the law and assurance of justice, both of which are non-existent. A high level of illiteracy, a backward and feudal mindset and the prevalence of misogynistic views among a large section of the people further compound the problem. Besides providing education and enforcing respect for the law, the government has to ensure that the justice system reaches rural areas so that those who live there are not left at the mercy of panchayats, jirgas etc. . Also, instead of acting as an accomplice in such misdeeds, it would be better if official authorities discourage all forms of arbitrary and summary justice anywhere in the country.

I have concluded that the desired results cannot be achieved without making drastic changes and reforms in the legislative, judicial and police departments to make the dispensation of justice expeditious. This is the only way which can restore the confidence of people in the judicial system which confidence has been eroding over the years for a number of reasons. An affordable, easily accessible and efficient judicial system will discourage many from resorting to the parallel justice system, prevalent especially in the rural area in the form of Jirga or Panchayat, which in many cases have been instruments of miscarriage of justice. The Police Act and the Local Bodies Act also needs improvement and the impression that everything is well at the grass root level is not correct. Besides that, high remuneration, better working and living conditions for the police and the lower judiciary needs to be implemented. The physical look and feel of the police stations and courts also need to be improved.

These are the areas which must be dealt with on a priority basis if expeditious and inexpensive justice is to be made available to the people.

The judicial reform programme must be an ongoing exercise across the country and financial resources should not be a hindrance in this regard. The race for money coupled with the easy chances of getting interim orders from the Courts on the basis of misrepresentation of

facts and false urgencies and the known delay in disposal of cases, has tempted a sizable portion of the public to take up litigation as a profession and benefit from the rights and properties of others. The result is that the number of cases is piling up every year, adding to the previous unbearable delay in their disposal. The present backlog of the cases and the continuous addition to it is thus a direct result of not genuine litigation but of false and fraudulent litigation. The encouragement for such litigation is the delay in disposal of cases. The process is thus; not only depriving the genuine aggrieved persons from enjoying their properties or getting their cases disposed of promptly but is sapping the moral vitality of the people. In other words, the prevailing situation is not only encouraging but multiplying what Islam wants to eradicate. Islam insists on justice. The strong who is a usurper or a bully must be dealt with in such a manner that he is compelled to abandon his ways. The weak must feel strong so that no one dare usurp his rights. In practice the bully, the usurper and the unscrupulous are not only flourishing but the saddest part of it is that they are doing so with the help of law and the legal process, just because the cases take so long to be finally decided. The strangest aspect of this situation is that there is in this country, not even a single person who would openly permit this sad state of affairs to go on but still it is flourishing. In any event, the important question is how to get rid of it and introduce prompt and pure justice? It is undoubtedly, an extremely odd and complex problem but, as noted above, the failure for any reason to grapple with the problem and to overcome it, is providing further temptations for more unscrupulous people to enter the field and reap attractive harvests. One of the remedies being very loudly suggested now all around, particularly, by the members of judiciary and the legal profession, is to increase the number of Judges.

Our criminal laws have the following drawbacks due to which the desired respect for law and expeditious dispensation of justice cannot be achieved:-

- (i) absence of politico-religious sanction of the penal, local and special laws as well as lack of their mass understanding by people;

- (ii) "Justice delayed is justice denied" is a cardinal principle of Islamic jurisprudence. It is yet to be realized in Pakistan. We lag behind under colonial system. Quicker, inexpensive, popular and better-administered justice is the demand of the people of Pakistan;
- (iii) lack of specificity of multi-dimensional laws according to our local needs on rational lines by objective and parallel provisions of many laws operated by parallel justice forums also confuses people;
- (iv) non--adaptation of much needed unification and simplification of laws for popular understanding and non-availability of criminal codes in legal Urdu is another hurdle; and
- (v) irrational penal sanctions as against set patterns of Islamic penology also confuses people.

The criminal justice system existing in Pakistan was transplanted by the British during their colonial rule in the last century and a half which is now the main cause of neglect in redress of public grievances. There is a dire need of improvement of the lot of our judiciary to make it more independent with better service conditions to provide justice to the masses according to the universal principles of inexpensive and speedy adjudication of victim's grievances. The prosecution wing also needs immediate reinforcement after its separation from the Police with much more strengthened staff, better regulated management of tasks, proper offices and housing-cum-transport facilities. The community based justice, which has a history of thousands of years of our better existence in this sub-continent, needs rethinking and the system of conciliation courts needs strengthening. The speedy disposal of cases with certainty of fair justice, appropriate punishments to real culprits and community response for perfect social defence should be our national priority to build-up a crimeless Islamic state in Pakistan.

Crime impairs the overall development of nations, undermines people's spiritual and material well-being, compromises human dignity and creates a climate of fear and violence that erodes the quality of life. Therefore, all crime prevention policies should

be co-ordinated with strategies for social, economic, political and cultural development of a nation. Criminal justice systems in many countries are seriously lagging behind increasingly more sophisticated and more efficient ways of committing crimes, evolved by criminals as a result of technological developments and modernization. Rapid advances in communications, travel, trade, and technology have spurred the growth and internationalization of crimes. Piecemeal approaches are insufficient to deal with the full scope of the problem. Furthermore, criminal justice processes often suffer from obsolescence and are not sufficiently flexible to cope with the new forms and over-widening dimensions of crime. The ability of many criminal justice systems to effectively respond to the new challenges, brought about by changing conditions, is seriously inhibited by a lack of funds, non-availability of trained personnel and uncoordinated policies. No longer is attention Centreed primarily on "traditional crimes," such as the theft and violence in local communities, but now every nation must focus on combating crime committed on the national and international levels, such as illicit trafficking of drugs and weapons, economic crimes, computer crimes, bribery and corruption, terrorism, hijacking, kidnapping, abuse of power, violations of human rights; such as mass killings and torture, and other detrimental practices which may severely damage an economy or cause widespread social disruption. Such crimes often victimize large segments of the population and create a climate of fear and insecurity which impairs the quality of life, impedes harmonious development and diminishes the possibility of increasingly interdependent nations, living together in peace.

Special measures have to be adopted for expeditious disposal of such cases and to deter them in the future. The idea that separate courts for women should be established is commendable but it should not be confined only to the matrimonial matters. Female criminality in Pakistan does not receive special official notice as a separate category of crime. In the past two decades, women criminality has always alarmed masses. We have separate mention of crime against women in different

laws to protect their chastity, modesty and respect but crime by women receives no special treatment. Women's delinquencies include the socially castigated crime of prostitution, culturally negated offence of illicit sexual intercourse, infanticide, homicide, involvement in murders, illicit relations, marriage offences and female abductions. Trafficking of narcotics by woman, murders, sexual corruption, alcoholism, prostitution, fornication, alcoholism and rape through female agents are the immediate and urgent most concerns of all the nations to control the growing feminine criminality. Anyhow woman criminality has been a subject of limited academic attention throughout the world, though feminine criminality is on the serious rise.

Many laws are in operation in Pakistan to control crimes and to maintain the official conduct of citizens. These are implemented by heterogeneous organs of state functioning parallel to each other at federal and provincial levels. All these laws can be codified in Urdu into one simplified penal code. It will make it easy for the man in the street to know the law of his land. "Ignorance of law is no excuse" was a colonial concept to curb the subjects in a law and order state. It must be changed to guide people to understand their laws to prove their good citizenship.

A uniform code will lead to a popular crime control system respected by all as well as to expeditious disposal of justice. A uniform code should be available to everyone in Urdu on low cost for personal guidance. It will help individuals to be masters of their own deeds rather a pawn in the hands of others.

### **State of Justice delayed, justice denied in Pakistan**

"Justice delayed is justice denied" is a universal truth. Delay devalues judgments, creates anxiety in litigants and results in loss or deterioration of the evidence upon which rights are determined .....delay signals a failure of justice and subject the courts to public criticism and the loss of the confidence of the public in its fairness and utility as a public institutions.

The litigant public in Pakistan have by now the

bitter experience of running around lower courts for years in cases of original jurisdiction and then in higher courts for many more years, in appeal and counter-appeals. Offenders sentenced to death wait for seven to ten years in agony to reach their end. The process of litigation involves the expense of hundreds of thousands of rupees in courts to get justice after the loss of countless man hours of most talented people engaged in such litigation. "Justice hurried is justice buried." It is against the principles of Islam. Islam prescribes the best solution to every human problem because the middle path is the best way \* but the delay which is incidental to the proceedings, and which allows the parties to settle the issues and to collect the evidence, cannot amount to improper delay. The time consumed in such matters will not amount to a denial of justice. The lawyers are not responsible for improper delay in the process of justice. The working of the court, case load, the complexity of the litigation and quantum of evidence is the relevant material for speedy justice and the decision of cases cannot be equated with treatment of a patient. Thus without providing full opportunity for the production of evidence to the opposite party, the decision of a suit in hurried and haphazard manner will amount to denial of justice and the real purposes of administration of justice may be flouted by speedy disposal which amount to a burial of justice. \* Therefore, we need a genuinely speedy justice system which imparts judicious decisions with less cost in money and less loss of the human energies of the best minds of the nation in such adjudication. \*

Delay, bribery, extortion, exploitation of the weak party, insults at every step, physical torture by police, calculated absenteeism from court appearance, replacement of Judges, frivolous litigation – these are the characteristics of the current state of our judicial system. Thus we can hardly blame a poor and weak citizen for his/her lack of confidence in the judicial system. This paper not only profiles the abysmal situation of access and dispensation of justice in Pakistan, but also sheds light on the way forward through comprehensive reforms in the judicial system. It is an undeniable truth that in the absence of justice, societies cannot flourish or survive for long. The rule of law is as indispensable to a

nation-state as oxygen is to human beings. Yet the thana-kutcheri problems top the list of issues confronting people in Pakistan. Such everyday problems are a manifestation of the state's insensitivity towards the people, and they tend to perpetuate the prevalent power dynamics. "Rule of law" is intrinsically linked to the concept and functioning of the modern nationstate, as it epitomizes the notion of a "social contract" between citizens and the state. However, the justice system in Pakistan is in a state of disarray. Although Article 25(1) of the Constitution promises equality before law, the gap between this pledge and its actual dispensation is far too wide. Justice is a basic social service that the state is obliged to deliver to its citizens, and is closely linked to issues of poverty, social justice and economic growth. There is also a need to review the role of lawyers and determine how their perceived role can be transformed, from being only interested in fleecing litigants into legal experts who give advice to courts in an independent manner. It will also contribute to the process of judges taking more control over proceedings rather than allowing the cases to drag at the behest of the litigants and lawyers. In order to do so, legal education and physical and human resources of the court need to be improved.

The overall analysis of the judicial system in Pakistan reveals that delays in courts and the accompanying expense and loss of time are the major problems. Besides improving the quality of law education and bar facilities, there is a need to consider whether an independent legal services system can replace the present system. In such a system, lawyers will not argue on behalf of any party. Rather, they will assist the court on points of law. Such a system will also enhance judicial control over case proceedings.

It is high time that we overhaul, reengineer and restructure our justice processes and court administration as well as put in place a new culture, a value set and a strategic framework to ensure that the process of renewal is continual and sustainable. The district courts form an integral part of our judicial system; in some ways they even play the more important part. Although their jurisdiction is limited by statute, it is in these subordinate courts that the public comes into direct contact with the processes of law. Therefore, special attention should be paid

to their efficiency and output.

The challenge of delayed justice can be faced by adopting the concept of mediation. The distinguishing feature of mediation is that the parties themselves decide the outcome of their dispute. This is on terms acceptable to both of them, as opposed to the zero-sum outcome of the adjudication process, which is premised on an adversarial model in which the "winner takes all". In the context of most Asian societies, this is particularly important as it ensures that no one walks away with the feeling that he has lost face. The third party intervenor does not impose a decision but uses the structured process to assist the parties. Since mediation emphasizes co-operation or what is termed as "win-win" solutions, it is useful in civil disputes, especially so in matrimonial disputes involving the division of matrimonial assets and the custody of children, because it avoids costly trials and possibly even more costly

appeals thereafter. Of course, mediation exists in many forms. But our own experience has shown that, once litigation has begun in the first heat of dispute, the possibility of early settlement is often precluded. This is because neither party is willing to offer to talk, lest this be thought by the other party to be a sign of weakness. An initiative by the court gets over this primary difficulty. As such, settlement conferences should be arranged at the earliest possible stage of the proceedings so as to minimize costs.

The length and expense of civil litigation does not only affect the litigants, but also has an indirect adverse impact on the overall economy as the efficiency and responsiveness of the judicial and legal system are influential factors governing business decisions. Justice must function efficiently. Some critics may argue that fairness suffers on the way to speedy disposal of cases. It may even result in a miscarriage of justice. The value of a judgment is greatly diminished when it is obtained after much delay and expense. In some cases it may even be a pyrrhic victory of little value to the successful litigant. The entire civil justice process needs to be re-examined. As a start, the role of the judge in the civil litigation process should go beyond that of a mere silent and passive adjudicator. He has to exercise effective

judicial leadership by taking on additional responsibilities, such as overseeing the pace and length of proceedings and supervising the effective and efficient use of trial time, instead of leaving it to the parties to the disputes and presumably their legal advisers. To do this, judges must play a more managerial role in the litigation process. This means exercising a tight control on the length of trial, setting timetables for the completion of all pre-trial matters, fixing time limits on lawyers' arguments and on the use of cross-examination. The Judge's duty then, is to ensure that the litigation is brought to a definite conclusion expeditiously. This change in judicial attitude has led in recent years to the adoption of the concept of caseflow management. It may be of interest to note that, even in England where the adversarial system is deeply rooted, case flow management techniques are fast gaining acceptance.

New technologies especially in communication and information technology (CIT) are revolutionizing the way in which we live and work. While this brings immense benefits to consumers and businesses, it is not without its problems. Criminals armed with equally sophisticated technology will not be slow to exploit them. We have already witnessed the cloning of mobile cellular telephones by crime syndicates. In no time, other new forms of crimes will appear. The internet will also bring with it a whole new set of problems; crime may no longer be committed within territorial boundaries; it may take place in what is now commonly referred to as cyberspace. When the use of electronic forms of money such as e-cash become widespread on a global scale, offences such as cheating, theft and even money laundering will appear in a new form.

The law and the courts will have to respond quickly and decisively to the situations brought about by these new technologies. Even the nature of civil disputes will become increasingly complex, with rapid scientific advancements such as those in the biotechnological held of genetic engineering. To prepare for these new challenges, the legal education of judges and lawyers may well have to be broader and multi-disciplinary in order for them to understand and deal with the ever changing profile and complexity of cases. We should also keep abreast of trends and

developments in information technology and explore new and better technologies to assist us in our work. Already, we are witnessing the rapid evolution of an electronic marketplace in which commercial transactions between consumers and businesses are done electronically and globally, via a network of computers. The same technology can be applied to the justice system. For example, the Singapore judiciary is using electronic date interchange, workflow and imaging technologies to develop a system by which lawyers will be able to file, serve and obtain extracts of court documents electronically from their offices. This will also allow the courts to save on time and storage space as the filed documents are stored in optical disks which have immense capacity, and allow almost instantaneous retrieval. This can also be tried in Pakistan.

Still on the subject of technology, whilst it is important that the judges and courts do not turn a blind eye to the application of technology in the justice system, they must not forget that technology alone does not improve the system. It is people, assisted by technology, who make the justice system work. We can, and should, always experiment with new technologies. But we must be careful not to allow the substitution of technology where a human presence is more helpful. What is technologically feasible may not always be desirable.

We must be conscious of the need to enhance access to the courts for those who desire to and are required to use them. Those who need to resort to the courts must be able to resolve their disputes without undue hardship, cost, inconvenience or delay. Affording access to justice alone is of course not enough. This brings me to the three goals. The first is that cases or disputes should also be decided or resolved justly.

Proceedings should be conducted in an expeditious and fair manner with equal application of the law to all. Next, there has to be an effective administration, adequately resourced and organized to give effect to the objectives. In this regard, courts must be administered in accordance with sound management practices which foster the efficient use of public resources and enhances

the effective delivery of court services. The third goal is to preserve public trust and confidence. The justice system lies at the heart of a democracy. It serves as the primary protector of the rights and liberties guaranteed by the Constitution. It sustains the rule of law. It is in the courts where our people feel the keen cutting edge of the rule of law. In order to fulfill this role, the subordinate courts must maintain the trust and confidence of the public. They must be better understood and made more accountable and responsible to the concerns of the people.

History is witness to this fact that the future is always uncertain; discontinuities cannot be foreseen. We must therefore inculcate and internalize a court culture that endures and welcomes continuous change. We must anticipate change; we must plan for the unexpected. We must execute change skillfully. We must drive the change process; we cannot wait for change to knock at our doors. With the growing complexity of global issues and the number of people involved in the decision-making process, institutions like the judiciary face a challenge in finding new approaches to management, decision-making and judicial redresses. \* However, such new approaches are

the only way to meet the challenge of delayed justice. -----

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<sup>1</sup>The writer clinched first position in the Essay Competition during their one-week training at the CELJE/FJA.



**The only thing that is constant is change**





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