

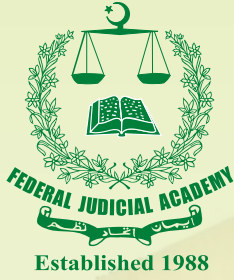


FEDERAL JUDICIAL ACADEMY BULLETIN

April-June, 2016



Hon'ble Chief Justice of Pakistan, Mr. Justice Anwar Zaheer Jamali, addressing the learned participants in the opening ceremony of the First Roundtable Conference on Judicial Education in Karachi on May 7, 2016.



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HON'BLE MR. JUSTICE MUSHIR ALAM ASKS ATTORNEYS TO REALIZE A SENSE OF RESPONSIBILITY TOWARDS DUTY

No man is free from weaknesses, shortcomings: Hon'ble Judge, Apex Court

Judge Supreme Court of Pakistan, Hon'ble Mr. Justice Mushir Alam has urged the District Attorneys/Deputy District Attorneys to have a strong sense of responsibility and commitment towards profession and a deep concern for fellow human beings in the society.

He was addressing the participants at the certificate awarding ceremony of a one-week training course on “Management of Civil Cases” for District Attorneys/ Deputy District Attorneys from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan at the Federal Judicial Academy, in which twenty- two participants were awarded certificates on June 11, 2016.

He said, “We live in an ephemeral world. Needs and necessities, dreams and desires of this world should not occupy much of our attention and energies. These should not sweep us away. No man is free from weaknesses and shortcomings but we should not be the meek in heart, not like those who always become ready to multiply ills and evils on the earth. We all have to create a new world, a new civilization where there is a strong sense of responsibility, self-accountability, self-regulation, self-analysis



Hon'ble Mr. Justice Mushir Alam addressing the District Attorneys/Deputy District Attorneys.

and self-evaluation for better service delivery. It is only possible through self-reformation. Only through self-reformation that humanity en masse can be uplifted and made wholesome.”

The honourable Judge also enlightened the participants with the meaning, message and philosophy of Surah al-Fatiha. “Neither legislative enactments can wipe out selfishness, lust, anger and greed, nor even religious preaching can succeed in destroying selfishness, but we have to look inward, start our self-reformation to bring change in the society,” he concluded.



District Attorneys/Deputy District Attorneys in ceremony.



Keep Your Eyes On the Prize: District Attorneys/Deputy District Attorneys being awarded certificates in the ceremony.

Earlier, Mr. Fakhar Hayat, DG of the Academy presented his welcome speech in which he discussed a brief profile of the

honourable Chief Guest and an overview of the training course.



A Great Moment To Cherish: District Attorneys/Deputy District Attorneys in group photo with the honourable Chief Guest.

HON'BLE MR. JUSTICE QAZI FAEZ ISA ASKS DISTRICT AND SESSIONS JUDGES TO PLAY PROACTIVE ROLE

Hon'ble Apex Court Judge urges district judiciary judges to play pragmatic role in protection of environment, promotion of judicious use of water

Judge, Supreme Court of Pakistan, Hon'ble Mr. Justice Qazi Faez Isa has urged the heads of district judiciary to be more proactive while discharging their judicial and administrative duties and play pragmatic role in the protection of environment and promotion of judicious use and conservation of water.

He was speaking in the certificate awarding ceremony on April 23, 2016 at the conclusion



Hon'ble Mr. Justice Qazi Faez Isa addressing the course participants.

of a one-week training course on “Role of District and Sessions Judges being Non-Financial Managers in Financial Management and New Laws” for newly promoted District and Sessions Judges, in which he was the chief guest.

He said, “A District & Sessions Judge is the head of district, therefore, he should be active to ensure that justice is done in all manners and in all spheres in the district, wherever he is posted. A District and Sessions Judge should always be ready to play a more proactive role for change in the district of duty station. We all know that environment is the wellspring of life on earth. No one can overlook the harm we

ourselves have caused to the environment, including wildlife, flora and fauna. As District and Sessions Judges, you can promote rights of people to a healthy environment.”

In his more than two hours long dialogue and intellectualization of the learned participants, the honourable Judge lamented the “tax non-payment culture” and our collective insensitivity towards healthy environment and natural resources in the country.

“If we promote our environment, I mean save from degradation and promote tax culture in the country then many of our problems will be solved,” he concluded.

Earlier, Mr. Fakhar Hayat, DG of the Academy presented his welcome speech and

an overview of the training course.



Great Moments Are Born From Great Opportunities: District & Sessions Judges are being awarded certificates in the ceremony.



A MATTER OF HONOUR: District & Sessions Judges in group photo with Hon'ble Mr. Justice Qazi Faez Isa and Faculty members at the conclusion of a certificate awarding ceremony.

“HAPPINESS IS NOT READY-MADE.
IT COMES FROM YOUR OWN ACTIONS.”
DALAI LAMA.

It's not easy to do justice: Hon'ble Chief Justice, BHC
**JUDICIAL TEMPERAMENT ESSENTIAL FOR ADMINISTERING JUSTICE:
 HON'BLE MR. JUSTICE MUHAMMAD NOOR MESKANZAI**

Mr. Justice Muhammad Noor Meskanzai, Hon'ble Chief Justice, Balochistan High Court, said, “the present administration of justice system suffers from many infirmities and in the presence of those it is not easy to do justice.”

He was speaking as chief guest at the certificate awarding ceremony at the conclusion of a one-week training course on “Management of Sessions Trial and Appreciation of Evidence” for Newly Promoted/Inducted Additional District and



Hon'ble Mr. Justice Muhammad Noor Meskanzai, Chief Justice, BHC, addressing the newly promoted / inducted Additional District and Sessions Judges at the conclusion of a certificate awarding ceremony.

Sessions Judges, here in the Federal Judicial Academy, Islamabad, on June 4, 2016.

possess the virtues such as prudence, judicial temperament, and fortitude so as to dispense justice because it is a noble and virtuous act. It is an attribute of Allah.”

He said, “A highly effective judge must



MOMENTS OF HONOUR AND PRIDE: Participants being awarded certificates in the ceremony.

Regarding the Additional District and Sessions Judges he said, “They are the pillars of our justice system. A good Additional District and Sessions Judge must be with strong, stable mind and character. He should be as cool in his temperament as the cold flowing stream. He must be learned in law and he must have the ability to grasp the facts of the dispute with his judicial wisdom. His minor or major mistake or error in the decision can earn a bad name not only for his own person but also for the entire institution of district judiciary. He should always have an

urge to improve through such trainings, his personal study and interaction with erudite lot.”

Earlier, in his welcome speech, Mr. Fakhar Hayat, DG of the Academy presented a brief profile of the honourable Chief Guest and an overview of the training course.



A MATTER OF HONOUR: Participants in group photo with Hon'ble Mr. Justice Muhammad Noor Meskanzai, Chief Justice, BHC, and Faculty members at the conclusion of a certificate awarding ceremony.

His Secret To Long Health!

*Li Ching Yuen, a man who lived an astonishing 256 years! –
Li was asked what his secret was to longevity. This was his reply: “Keep a quiet heart, sit
like a tortoise, walk sprightly like a pigeon and sleep like a dog.”
These were the words of advice Li gave to Wu Pei-fu, the warlord, who took Li into his
house to learn the secret of extremely long life.*

SERVICE TO HUMANITY GUARANTEES ALLAH'S REWARD AND PLEASURE: HON'BLE MR. JUSTICE NOOR- UL- HAQ N. QURESHI

Judge, Islamabad High Court, Hon'ble Mr. Justice Noor-ul-Haq N. Qureshi urges judicial officers to show patience, persistence and perseverance to achieve any kind of success in life or the ultimate success in the life after death.

He was speaking on the occasion of certificate awarding ceremony at the conclusion of a one-week training course on “New Laws” for Senior Civil Judges from all over Pakistan and Azad Jammu and Kashmir at the Federal Judicial Academy, Islamabad on May 6, 2016, in which he was the Chief Guest.

He said, “Nothing can take place in the universe that is not willed by Allah (SWT). Allah (SWT) has written the destiny of all creatures and what Allah (SWT) wills, it happens and what He does not will, it will never happen. Whatever happens in the heavens or on the earth but it happens by His will. We all are human beings. We all have unique dreams, goals and aspirations in life. But whatever is written in our destiny, we will get it. We should never get frustrated with the vicissitudes of life and those who look out for shortcuts, they suffer at the end. We must continue our sustained and relentless efforts to



overcome difficulties, obstacles or discouragements in the journey of life or in a course of career and action”.

Advising the mid-career judicial officers of the district judiciary, he said, “Always keep in mind the noble goal of earning the pleasure of Allah through pious intentions, righteous-actions, and service to humanity. Service to humanity guarantees Allah's reward and pleasure.”

Earlier, Mr. Fakhar Hayat, DG of the Academy presented his welcome speech, a brief profile of the honourable Chief Guest and an overview of the training course.



Hon'ble Mr. Justice Noor-ul-Haq N. Qureshi addressing Senior Civil Judges in certificate awarding ceremony. DG, FJA and Additional Director Instructions also seen in the picture.



NOTHING BUT HONOUR: Senior Civil Judges being awarded certificates in the ceremony.



MEMORY IS VERY IMPORTANT: Senior Civil Judges in group photo with Hon'ble Mr. Justice Noor-ul-Haq N. Qureshi and Faculty members at the conclusion of a certificate awarding ceremony.

HON'BLE MR. JUSTICE MOHSIN AKHTAR KAYANI URGES JUDGES, LAWYERS TO ACQUIRE KNOWLEDGE, DEVELOP SKILLS TO EXPEDITIOUSLY DISPENSE JUSTICE

Judge, Islamabad High Court, Hon'ble Mr. Justice Mohsin Akhtar Kayani emphasizes the need for the key players of administration of justice system to acquire knowledge, develop skills and abilities to promptly dispense justice to the litigant public. While addressing the participants in the certificate awarding ceremony on April 9, 2016 at the conclusion of a one-week course on "New Laws", the honourable Judge said, "Our legal and judicial system inherits the deficiencies, loopholes and lacunas. Our



Hon'ble Mr. Justice Mohsin Akhtar Kayani addressing the participants in certificate awarding ceremony.

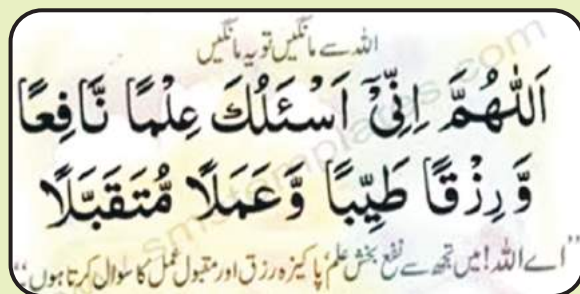
legislative process and law framing appear to be the product of "cut and paste" psyche. All these faults make the judicial process complex and cumbersome and hinder effective administration of justice. We must reform our legal and judicial system to administer speedy justice to the litigants."

Dwelling at length on the importance of new laws such as Enforcement of Intellectual Property Rights Laws, Protection of Women Against Violence, Anti-money Laundering Act, Cyber Crimes, Environmental Legislation, Alternative Disputes Resolution (ADR), he encouraged the young judicial officers to use Alternative Dispute Resolution mechanism and also use technology.

Presenting his welcome speech and an

overview of the training course Mr. Fakhar Hayat, Director General said that the judges do not make law, but only apply it. Therefore, you have to apply all laws and knowledge gained from here effectively to give relief to the litigant public.

In the end, the honourable Chief Guest awarded certificates to the twenty-six Civil Judges-cum-Magistrates from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan in the ceremony.





Achieving Recognition: Participants being awarded certificates in a certificate awarding ceremony.



A Photograph shouldn't be just a Picture, it should be a Philosophy: Participants grouping for photo with the honourable Chief Guest and Faculty members.

DESTRUCTIVE HABIT (Self-Discipline)

The most destructive habit is not being in control of your thoughts. The unnecessary chatter that goes on in our minds all day long is a detrimental addiction - one that is very hard to break.

Being able to control your thoughts is the hardest form of self-discipline. Since your internal environment creates your external environment, it's this form of self-discipline that is the most important of them all. When you take control of your thoughts, you change your external environment... Jack.

REGISTRAR, SCP, URGES SUPERINTENDENTS OF SESSIONS COURT TO ADOPT “BEST PRACTICES”

Arbab Muhammad Arif, Registrar, Supreme Court of Pakistan, urges the Superintendents of the Sessions Courts to start adopting “best practices” for effective management and performance in the district courts.

While addressing the Superintendents of Sessions Courts on the occasion of certificate awarding ceremony on May 14, 2016 at the conclusion of a one-week training course on “How to be Effective Superintendents,” he



Arbab Muhammad Arif, Registrar, Supreme Court of Pakistan, and Mr. Fakhar Hayat, DG, FJA sitting on the stage. Mr. Hashim Abro, CPMO/Associate Editor on the rostrum.

said, “To have a truly effective performance, the Superintendents, who play a role of controlling officer, including the variegated duties and responsibilities, they must adopt and encourage the use of “best practices “and quit and discourage the use of outdated and ineffective practices.”

“Learning never exhausts the mind but it refreshes and enriches the mind. Whenever I come to Academy, I always feel privileged and learn something and try to practice the same in my practical life. I urge all of you to practice and share with others whatever you could learn from here during this training,” he concluded.

Earlier, Mr. Fakhar Hayat, DG of the

Academy, presented his welcome speech and an overview of the training course.

He said, “Superintendents of the Sessions Courts perform manifold duties and different functions because they become some sort of “hub” and coordination officers and this course was tailored keeping in view their practical problems and challenges so as to enhance their effectiveness in performance.”

Twenty six Superintendents of the Sessions Courts from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan were awarded certificates in the ceremony.



They also deserve appreciation: Superintendents of Sessions Courts being awarded certificates in ceremony.



A Picture Tells a Thousand Words: Superintendents of Sessions Courts in group photo with Registrar, Supreme Court of Pakistan, and Faculty members.

“Honour your father and your mother, so that you may live long in the land the LORD your God is giving you.”

(Holy Bible)

AD&Js UNDERWENT TRAINING ON “MANAGEMENT OF SESSIONS TRIAL AND APPRECIATION OF EVIDENCE”

“To ensure that judicial officers are well-equipped to manage their professional and future challenges, this prime continuing judicial education institution of the country, the Federal Judicial Academy, holds continual training courses to hone their skills in different disciplines/subjects directly relevant to the expeditious dispensation by justice system”, said Mr. Fakhar Hayat, Director General, Federal Judicial Academy, Islamabad on May 30, 2016.



An Educated Person Is Respected Everywhere: DG addressing Additional District and Sessions Judges in inaugural ceremony.

While inaugurating a one-week training on “Management of Sessions Trial and Appreciation of Evidence” for Newly Promoted / Inducted Additional District and Sessions Judges, he said, “ The immediate objective of this training is to enhance judicial officer's ability to discharge their judicial functions . In this training course, the erudite trainers will share their knowledge and experience with you on subjects/topics such as Sessions Trial, Trial of Lunatic, Recording/ Appreciation of Evidence, Recording of Statement u/s 342, Sentencing, An overview of Probation of Offenders

Ordinance, An overview of Qisas & Diyat Laws with special focus on Islamic standards of evidence, Illegal Dispossession Act, New Dimensions in Medical Jurisprudence, Computer Orientation/ Literacy, etc.”

As usual after inauguration, the introduction of the faculty and that of the course participants took place in the classroom.

Twenty five newly promoted/ inducted Additional District and Sessions Judges from all over Pakistan and Azad Jammu and Kashmir underwent this one week training at the Federal Judicial Academy.



Very Few Photographs That Survive: Additional District and Sessions Judges posing for group photo with DG and Faculty members.

FJA ENRICHES JUDGES APPLICABILITY OF NEW LAWS: DG

Mr. Fakhar Hayat, DG, Federal Judicial Academy says that the purpose of these continual training courses in this premier Academy of the country is to build capacity and enrich the participants in the applicability of new laws and new subjects for effective dispensation of justice.

While inaugurating a one-week training course on “New Laws” on May 2, 2016 he said, “The Academy always tries to use participatory methods. Exchange views, share

knowledge and experience with the learned resource persons and also amongst yourselves because this one week training is a wonderful opportunity for all of you.”

As usual after inauguration, the introduction of the faculty and that of the course participants took place in the classroom.

Twenty five Senior Civil Judges from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan underwent this one week training at the Federal Judicial Academy.



Education is the Ability is to Listen to Almost Anything Without Losing Your Temper: DG addressing Senior Civil Judges in inaugural ceremony.



Thanks To Photography, Some Memories Overstay: Senior Civil Judges in group photo with DG and Faculty members.

DG, FJA, HIGHLIGHTS IMPORTANCE OF FINANCIAL MANAGEMENT, NEW LAWS FOR DISTRICT AND SESSIONS JUDGES

Mr. Fakhar Hayat, Director General, Federal Judicial Academy says that “all trainings and capacity building programmes aim to strengthen the institution of judiciary and to develop a common and shared ambition, vision and set of principles for expeditious and inexpensive dispensation of justice.”

While inaugurating a one-week training



Mr. Fakhar Hayat, DG sitting on the stage and Ms. Nusrat Yasmeen, Director (Programmes) on rostrum in inaugural ceremony.

course on “Role of District and Sessions Judges being Non-Financial Managers in Financial Management and New Laws” for newly promoted District and Sessions Judges on April 18, 2016 he said, “The purpose of this training course is two-pronged. First, it is to improve your efficiency in financial management. It is to streamline financial operations and enable the heads of district Judiciary to implement financial management best practices. The learned resource persons will strive to familiarize you with General Financial Rules, Preparation of Budget, Implementation of Budgetary Plan,

Transparency through Public Procurement Regulatory Authority (PPRA) Rules, etc. The second is to keep you update with the new laws and emerging legislation in the country.”

After inauguration, the introduction of the faculty and officers of the Academy and that of the course participants took place in the classroom.

Twenty five newly promoted District and Sessions Judges, two of them females, from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan underwent this one week training at the Federal Judicial Academy.



Golden Moments and Golden in Group photo: District and Sessions Judges in group photo with DG and Faculty members.

JUDICIAL OFFICERS ASKED TO STAY INFORMED ABOUT NEW LAWS, LEGAL DEVELOPMENTS

Mr. Fakhar Hayat, Director General, Federal Judicial Academy has urged the young judicial officers to keep themselves up-to-date with the new laws and new developments in the legal and judicial arena because by developing expertise in their profession, they could earn trust and respect in the society. While



DG addressing Civil Judges –cum-Magistrates in inaugural ceremony. Director (Programmes) also seen on the stage.

inaugurating a one-week course on April 4, 2016 on “New Laws” for Civil Judges –cum-Magistrates, he referred to a wide variety of subjects such as Enforcement of Intellectual Property Rights Laws in Pakistan, Comparative study on Protection of Women Against Violence, Overview of Anti-money Laundering Act, Cyber Crimes Scenario and its Relevant Laws in Pakistan, Overview of Environmental Legislation in Pakistan, Alternative Disputes Resolution(ADR)-Disputes and Disputes Resolution-System,

New Dimensions in Medical Jurisprudence, among others, in which training would be imparted to the trainees during this weeklong training.

“Effective learning is relevant to the learner's life and work. This training in the Academy provides you the chance to sharpen your minds, strengthen your understanding and deepen your experience. You acquire both breadth of understanding and depth in different professional areas, skills and subjects,” he concluded.



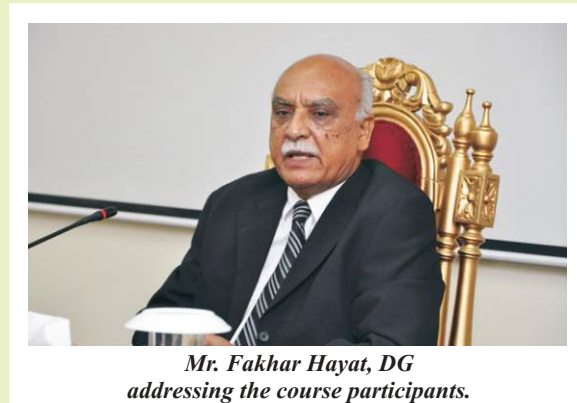
Education of Mind and Heart: Civil Judges-cum-Magistrates in group photo with DG and Faculty members.

“MANAGEMENT OF CIVIL CASES” COURSE FOR DISTRICT ATTORNEYS/ DEPUTY DISTRICT ATTORNEYS ARRANGED

FJA is committed to the professional development: DG, FJA

“Federal Judicial Academy is committed to the professional development of all key players of the administration of justice system. The Academy recognizes that professional capacity building training is essential to a District Attorney/ Deputy District Attorney's professional development and effective dispensation of justice. The Academy therefore arranges an extensive and in-depth training course as per our Annual Judicial Education Calendar”, said Mr. Fakhar Hayat, Director General, Federal Judicial Academy, Islamabad, on June 6, 2016.

He was speaking during the inaugural ceremony of a one-week training course on “Management of Civil Cases” for District Attorneys/ Deputy District Attorneys from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan at the Federal Judicial Academy, in which twenty- two participants



*Mr. Fakhar Hayat, DG
addressing the course participants.*

underwent the training.

He said, “This training course will not only build your capacity but also keep you abreast of changing legal matters and develop your expertise in particular in areas of law, among others. All of you are required to be sensitive towards the importance of this weeklong training and actively involve yourselves in the process of training for acquiring the maximum information and knowledge.”

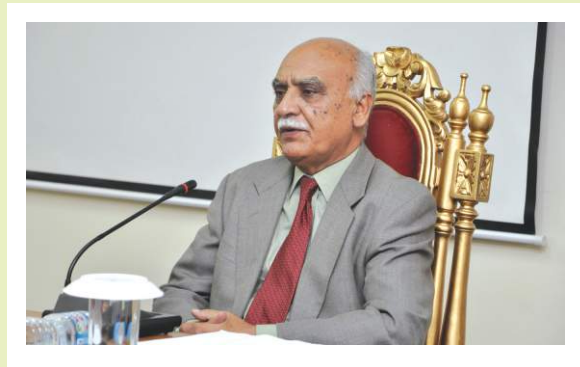


Memorable Moments: District Attorneys/ Deputy District Attorneys in group photo with DG and Faculty members.

TRAINING, A NEVER ENDING PROCESS: MR. FAKHAR HAYAT

Mr. Fakhar Hayat, Director General, Federal Judicial Academy says that “training is continuous and never ending process. It enhances the skills, capabilities and knowledge of the participants. Employees who are properly trained they become more efficient and productive.”

While inaugurating a one-week training course on “How to be Effective Superintendents” for Superintendents of the



DG addressing Superintendents in inaugural ceremony.

Sessions Courts from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan on May 9, 2016, he said, “Since Superintendents of the Sessions Court become senior officers of the court in our district judiciary, this training is designed to refresh and enhance your knowledge to enable you to cope with the existing problems and emerging challenges in a befitting manner.”

“This is a golden opportunity for all of you to get things off to a good start. Try your best to

get knowledge from the learned resource persons. Sit and interact with each other. Share your knowledge and experience and sharpen your professional skills and strengthen your fraternal bond. You people have a wonderful opportunity to improve your computer skills”, he concluded.

The inaugural session concluded with introduction of the Faculty members and also with the self-introduction of twenty six participants.



The Reality Looks Magnificent: Superintendents of Sessions Courts in group photo with DG and Faculty members.

News in Brief

First National Roundtable Conference on Judicial Education

WHOLE SOCIETY RESPONSIBLE FOR RULE OF LAW: HCJP

Hon'ble Chief Justice of Pakistan, Mr. Justice Anwar Zaheer Jamali, said that the rule of law was the main focus and the role of judiciary was of the utmost importance in establishing it. There could be no compromise on the concept of rule of law. This is the backbone of any system; whole society is responsible, and not just the judiciary.

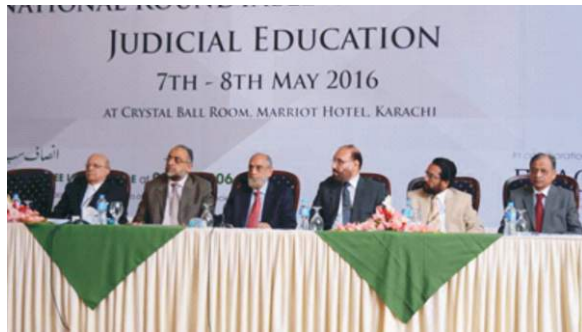
The HCJP addressed both the inaugural and concluding sessions of the first National Roundtable Conference on Judicial Education which was attended, among others, by the

chief justices of high courts of Sindh, Balochistan and Peshawar.

The faculty members of the Federal Judicial Academy, Islamabad, namely Mr. Fakhar Hayat, DG, Miss Nusrat Yasmeen, and Mr. Salahuddin, Directors Instructions also attended this two-day conference, jointly organized by the Legal Aid Society and the Sindh Judicial Academy, in which HCJP was the chief guest on the inaugural and closing ceremony of the conference.



DG, FJA, and others in First National Roundtable Conference on Judicial Education.



HCJP, Honourable Chief Justices of Provincial High Courts and others in the First National Roundtable Conference on Judicial Education in Karachi.

PAKISTAN AND TURKEY TO SHARE EXPERIENCE IN JUDICIAL TRAINING

A high-level delegation comprising members of higher judiciary from Pakistan visited Turkey from 15-20 May 2016 at the invitation of the Justice Academy of Turkey. The visit was aimed at sharing experiences on judicial training of the two brotherly countries that would contribute to further promoting mutual cooperation in the field of judicial training.

Led by Hon'ble Chief Justice of Federal Shariat Court, Mr. Justice Riaz Ahmad Khan, the Pakistan delegation included honourable judges and senior officials of the Federal Shariat Court, High Court of Sindh, Balochistan High Court, Islamabad High Court, Federal Judicial Academy, Sharia Academy of International Islamic University, Competition Appellate Tribunal, and Al-Meezan Foundation.

The delegation was apprised of the structure and functioning of Turkish judicial system during a briefing at the Turkish Justice Academy that was also attended by President of the Academy Mr. Yılmaz AKÇYL. The Pakistani delegation also called on the President of the Constitutional Court of Turkey, Mr. Zühtü ARSLAN, besides visiting Ministry of Justice, Court of Cassation, Council of State, and Country Court House in Sincan, Ankara. During these interactions, the delegation also apprised the Turkish hosts about the judicial system in Pakistan and showed keen interest in sharing best practices on both sides.

Pakistan's Ambassador to Turkey Sohail Mahmood also welcomed the visiting delegation and senior members of the Justice

Academy of Turkey at the Pakistan House. Matters relating to Pakistan-Turkey cooperation came under discussion. Both sides reaffirmed the resolve to further deepen

mutual collaboration, including through regular exchange of information, high-level visits, and organizing training activities.



Group photo of Pakistani delegation at Justice Academy of Turkey.

MID-CAREER MANAGEMENT COURSE PARTICIPANTS VISIT FJA

The Mid-Career Management Course (MCMC) participants led by Mr. Khawaja Ovais Adil, Director General, National Institute of Management (NIM) Quetta, visited the Federal Judicial Academy on May 5, 2016.

Welcoming the participants belonging to different cadres from various parts of the country, Mr. Fakhar Hayat, Director General, FJA, shed light on the aims and objectives of the training. Khawaja Ovais Adil, DG, NIM, Quetta, also spoke on the occasion.

Ms Nusrat Yasmeen, Director Programmes, briefed the participants through her PowerPoint presentation regarding the FJA, Judicial training education and different facilities for trainees in the Academy, among others. The visiting officers evinced keen interest in the presentation and asked questions.

Also present on the occasion were the faculty members and officers and staff of the Academy in the auditorium.



Mr. Fakhar Hayat, DG, FJA, Khawaja Ovais Adil, DG, NIM, Quetta and Ms Nusrat Yasmeen, Director (Programmes) in chair and Mr. Hashim Abro, CPMO/Associate Editor, on the rostrum. Ms Nusrat Yasmeen also seen giving her presentation to the visiting officers regarding the Academy.



The visiting NIM, Quetta, trainees in group photo with FJA and Faculty members.

CAPACITY-BUILDING: LESSONS FROM FJA

In order to increase capacity building of the National Accountability Bureau (NAB) to combat corruption in an effective manner, Mr. Waqas Qadeer Dar, Prosecutor General of NAB along with two other senior officers

visited the Federal Judicial Academy. Mr. Fakhar Hayat, DG, FJA and other faculty members shared their professional wisdom with them.

FJA GETS THREE NEW OFFICERS

The Academy welcomes there new officers namely Ms Sadaf Khokhar, Additional District and Sessions Judge, as Additional

Director, Mr. Wajid Ali Shah, as Administrative Officer and Mr. Muhammad Shahid Amin as Librarian.

ایک وقت آنے والا ہے جب لوگ نیکی پر شرم اور گناہ پر فخر کریں گے۔

(حضرت محمد ﷺ)

SHAMILAT, LEGAL PRINCIPLES & PRACTICE

Miss Nusrat Yasmeen
D&S Judge/Director
FJA



Shamilat is a very important subject in the arena of civil litigation. Courts in general, while that of Civil Judges in particular, are always confronted with multiple questions regarding shamilat lands, and it is therefore very essential that this concept should be more than clear to the Courts, so as to resolve disputes concerning shamilat lands in a legal and judicious manner.

Shamilat is a vernacular or common parlance for Village Common Land, which land is usually left by the original owners/proprietary body of the village for their common use, giving rights to the residents of village of grazing their cattle, collecting fuel wood and using natural ponds for their cattle etc. To be more specific, any portion of waste land of the village designated by the original owners of the village for their common use. Such land would be called “Shamilat” land, which would be collectively owned by the village owners.

The original cultivators, who were the founders of the village were called “Aala Maliks” or “Proprietary Body of village”; and all others, who would later enter the village by purchasing lands from the original owners were called “Adna Maliks” or “Malik Qabza”.

Upon introduction of land revenue laws, formal settlement for the purpose of payment of land revenue took place. Formal records of

lands were prepared, wherein the details of the lands were incorporated. These details included as to what property is the individually owned agricultural property of the original landowners, what area is occupied for residential use by the founders of the village and what area is designated as Shamilat. There were also mentioned the details of rights attached to Shamilat lands, with express mention that such land belonged to the Aala Malkan.

Exclusively owned property of the Aala Malkan was termed as khewat or Milkiyati land and the owner as khewatdar, property under residential or other form of occupation was called Abadi Deh; and Aala Malkan would be treated as collective owners in the village and would be called as Malkan Deh. The Abadi Deh would comprise areas where houses had been actually constructed as well as areas reserved to meet certain other needs of the Abadi such as places of worship, graveyards, areas reserved for village expansion, or communal activities, etc. Shamilat land would include the waste land held in common by the khewatdars, who would enjoy collective rights of various nature in respect of the Shamilat properties. These rights find mention in important land revenue record document called “Wajib-ul-Arz”. This document records various customs and usages of the village. It expressly lays down the mode and manner of the use of shamilat land and also the scheme of partition

as to what should be the scale for distribution of this land in case of partition. All these facts find mention in the revenue record pertaining to the particular lands.¹

The entire scheme of preparation of revenue record, in this behalf, is regulated by revenue laws. Section 39 of the “West Pakistan Land Revenue Act 1967” says that:

There shall be a record of rights (Misl-e-Haqiyyat) for each estate, which shall include the following documents!

- (a) Statements showing, so far as may be practicable:-
 - (i) The persons who are land-owners, tenants or who are entitled to receive any of the rents, profits or produce of the estate or to occupy land therein;
 - (ii) The nature and extent of the interest of those persons, and the conditions and liabilities attaching thereto; and
 - (iii) The rent, land revenue, rates, cesses or other payments, due from and to each of those persons and Government.
(Known as Jamabandi)
- (b) A statement of customs respecting rights and liabilities in the estate.
(Wajib-ul-Arz)
- (c) A map of the estate (commonly known as Aqs Shajra Kishtwar)
- (d) Such other documents as the Board of revenue may with the previous approval of Government prescribe.

A statement of customs is locally and legally termed as Wajib-ul-Arz, which is prepared during the settlement in presence and with the participation of the entire proprietary body of the village. Para No 7.44-E of Land Record Manual, Prescribes the procedure of preparation of Wajib-ul-Arz, which says that a

statement of customs (Wajib-ul-Arz) respecting rights and liabilities in the estate shall be prepared at the time of preparation of Record-of-Rights and which shall expressly contain information respecting common land, its cultivation and management, and the enjoyment of the proceeds thereof. Rights of grazing etc in common land.²

Thus, whenever settlement takes place in an estate or village, and record of rights is prepared, there shall be prepared a proper Wajib-ul-Arz which shall contain a statement of customs concerning Common land/Shamilat, its cultivation, management, and the enjoyment of the proceeds thereof, rights of grazing etc in common land.

Proprietary body of village, which notionally remains owner of such land could evolve any formula to regulate its status.³ Such formula may assume the status of local custom or may be regarded as an agreement amongst the proprietary body of the village and shall find mention in the Wajib-ul-Arz of that estate/village.

The rights of the proprietary body of the village are always to be controlled by the entries of Wajib-ul-Arz prepared at the last settlement. The Wajib-ul-Arz, thus, forms a part of the standing record prepared under S. 39 of the West Pakistan Land Revenue Act, 1967 and its entries are not to be repeated in the amended version of such record i.e. Jamabandi which is prepared after every four years in terms of section 41(2) of the said Act. But such entries shall always be considered as a part of the Jamabandi, unless they are changed, modified or rescinded in a subsequent settlement with the consent of the land-owners.⁴

Entries in a Wajib-ul-Arz may be of two kinds.

¹ http://ahmedandqazi.com/docs/publications/notes_opinions/Shamlat%20Lands.pdf

² Land Record Manual, 1969, Para No 7.44-E

³ Mohammad Saleem Shah and others Vs Aziz-ur-Rehman Shah and others, PLD 2002 S.C 280

⁴ Misri through LR's and others Vs Mohammad sharif and others, 1997 SCMR 338

They may be statements of local custom or usage or they may be recitals of agreements. As statements of usage or custom they are strong piece of the existence of such customs or usages. Likewise the proprietary body of the village may enter into special agreements concerning the use of village common land/Shamilat and such agreements are incorporated into Wajib-ul-Arz. Agreements incorporated in the Wajib-ul-Arz are binding on the parties to the agreement.

Whenever some agreement concerning common land/Shamilat is entered into and duly recorded in Wajib-ul-Arz, it is commonly known as Shart Wajib-ul-Arz. Regardless of the nature of the agreement incorporated in the Shart Wajib-ul-Arz, the revenue record, however, reflects the same to be a village common property (Shamilat-e-Deh) wherein every owner recorded in the proprietary body of the village i.e. the original owner in the village, will have proportionate right of ownership as per his ownership in the village. Subsequent purchasers/ Malikan Qabza of village property will have no right in the village common property because as per the settled law, every owner of the land situated in village is not the shareholder in the shamilat-e-Deh. It is only Aala-Malik/original owner, who has such share. And similarly, as per well settled law, uncultivable common land has to be recorded in possession of the owners of the village.⁵

❖ **General legal principles concerning Shamilat Land**

➤ Use of Shamilat land.

It is understood that the Shamilat land is left by the original owners for their common use, so this land can be commonly used by all the owners and no one can either claim its exclusive use nor can prohibit its common use. Wajib-ul-Arz is the proper document which expressly mentions rights concerning Shamilat land in particular giving rights to the residents of village of grazing their

cattle, collecting fuel wood and using natural ponds for their cattle etc.

➤ Ownership of Shamilat land.

Ownership to Shamilat lands, whether Abadi Deh or Shamilat Deh belongs to the whole proprietary body of the village and a single person can not claim exclusive ownership to such lands. Therefore, no one can legally seek a decree for declaration of exclusive ownership in his favour in respect of shamilat lands.

➤ Partition of Shamilat land.

Wajib-ul-Arz of the village would reflect the terms for partition of Shamilat lands. It is however generally accepted condition that Shamilat lands can only be partitioned with the consensus of the owners. Usually each owner gets share proportionate to the land owned by him or on the basis of the revenue being paid by him (Hasab-e-rasad Khewat). In certain cases, grazing rights of the village people are specially protected. In case of partition of Shamilat Deh, the Revenue Authorities remain conscious not to disturb the actual possession of the khewatdar or Malik Qabza. Partition is hardly ever permitted for Abadi Deh land covered by houses. The Abadi Deh is shown in revenue papers encircled with a red line (lal lakeer). Civil court is not competent to order the partition of shamilat lands and it is the job of the revenue courts.

➤ Transfer of share in shamilat.

A khewatdar, if in possession, can validly transfer his share only in shamilat to a vendee and the vendee shall be put in possession of the particular portion; however the sale shall be subject to proper partition and the vendee would be deemed stepped into shoe of his vendor.

Similarly an owner can sell his khewat/ Malkiyatee land, without selling any share in shamilat and in such situation the vendor remains owner of his share in the

shamilat of the village. However if the seller expressly transfers his share in shamilat too, and if it is so agreed between the seller and the buyer, the same shall be specifically mentioned in the sale document. {This legal position has also been given statutory recognition in “West Pakistan Land Dispositions (Savings of Shamilat) Ordinance, 1959”} In absence of an express sale agreement concerning Shamilat share, the sale regarding khewat land would cover only the khewat land, and corresponding rights to the Shamilat would remain with the Seller.

➤ **Position of Malik Qabza.**

Where a person has purchased share of Shamilat, and has also got possession, he would be its owner (subject to partition) but his name would be mentioned in the column of cultivation/possession only and the word Shamilat would be mentioned in the ownership column of the fard jamabandi meant for stating names of the owners. This practice would continue till partition of Shamilat takes place. Similarly if a person has purchased portion of malkiyatee land only, without any share in shamilat, he will have no proportionate share in village shamilat.

❖ **Law Suits Concerning Shamilat Lands**

(1) **Suit For Possession, declaration and correction of revenue record**

Where Shamilat Deh (village common land) is recorded in the revenue record to be joint and unpartitioned; persons recorded in proprietary body of village would be entitled to Shamilat Deh to the extent of their respective proprietary holding in village. Any of such persons could claim possession only through partition of entire Shamilat Deh, but not otherwise.⁶

(2) **Suit for declaration and injunction**

The first ever settlement in the area took place in the year 1977-78 and a document Shart Wajib-ul-Arz Exh.P.W. 1/3 besides the Misl-e-Haqiat was also prepared which would reflect that the suit property was the common village property though in possession of some of the petitioners but the entire evidence on the record was deficient to the fact that what was the actual ownership of the petitioners in the village and what was the share to be claimed by the petitioners in the village common property measuring 1764 Kanals 7 Marlas in total. The revenue record reflected the same to be a village common property (Shamilat-e-Deh) wherein every owner recorded in the proprietary body of the village would have the proportionate right of ownership as per his ownership in the village”.⁷ In the said case, suit was dismissed.

(3) **Evidentiary value of entries of Wajib-ul-Arz**

Entry shown in the Shart Wajib-ul-Arz reflecting the prevailing custom in a particular locality and prepared under the instructions of the Government is admissible in evidence as a prima facie proof regarding the custom recorded therein. Such document is prepared by a village official on the basis of the statements of persons possessing interest in the village regarding their rights and customs and it is recorded as an official record of the local custom of the area and is taken as a part of record of rights, and is admissible under Art. 49 of the Qanun-e-Shahdat, Order 1984.⁸

⁶ Firdos Khan and others Vs Zain Mohammad and others, 2011 MLD 521 [Peshawar]

⁷ Mst Amtari and other Vs Mst Hakim Jan and others 2011 YLR 58 [Peshawar].

⁸ Maskin and others Vs Mst Bagh sultan and others, PLD 2001 Lahore 481

LEADERSHIP ROLE OF DISTRICT & SESSIONS JUDGE

Abdul Naeem Memon
D&SJ/Judge Anti-Terrorism Court No. VI
Karachi



The role of District & Sessions Judge is three-fold assignment i.e. Judicial, Administrative and Financial management. Such assignment is to be discharged with utmost discipline and proactive approach, which shall depict the picture of exemplary role of subordinate judiciary in whole society, so that the expectations of the people may be filled with colour of confidence. I may endeavour to focus on all three job descriptions of a District and Sessions Judge as under:

1. Judicial Assignment

To discharge such duty, the District & Sessions Judge has to lead from the front, as such he has to take up all important and complex cases himself for conducting the criminal and civil trials and also to hear the criminal and civil appeals for just decision by delivering the quality judgments and orders within the particular scheme of law. The integrity in deciding the matters is necessary consideration. Once the District and Sessions Judge decides the cases in order to guide the subordinates then it would be more beneficial for junior colleague judges and as well as subordinate judges.

Being the senior most judge of the district, he has to encourage and train the newly-entrant judges and junior colleagues. By playing the role of an inspiring judge, he then demands the quantitative disposal of cases by delivering quality judgments from his subordinates. Resultantly, it would be

compulsive for the subordinate judges to meet the expectations of their District & Sessions Judge, hence it would be more beneficial for the judiciary at large. It is also imperative for District & Sessions Judge to control the judicial proceedings by curtailing the element of backlog and in such process, he is under obligation to remove all impediments gracefully, including unnecessary adjournments and frivolous litigation. The role of a proactive presiding officer is required from the District and Sessions Judge in the discharge of judicial functions, which will pave the way for speedy disposal of cases.

2. Administrative Assignments

Besides judicial work, the District and Sessions Judge performs the administrative duty of a judicial district as to monitor and control the day to day affairs of a district. While discharging administrative duty, the District & Sessions Judge has prime consideration to facilitate the bench and bar together with litigants for dispensation of justice. In that way, he has to play the role of leader and elder amongst the legal fraternity of such district. Moreover, issues relating to the infrastructure and equipment are to be resolved by District & Sessions Judge. Similarly, the fall time establishment of District Bar within the premises of District Courts needs consideration for resolving the problems in accordance with law sometimes litigants or the concerned people feeling aggrieved from the judicial officer of the

district approach the District and Sessions Judge for redressal of justified grievance then obviously as a first forum of administration the District and Sessions Judge has to resolve all such matters within the scope of law.

Regular visits of District & Sessions Judge in order to monitor the affairs of the district is one of the functions of District and Sessions Judge.

Monthly meetings with subordinate judges in order to evaluate their performance and issuing guidelines for speedy disposal of cases by maintaining quality is one of the functions of District & Sessions Judge. The process of monitoring the quality, integrity, discipline, etc. is also the duty of District & Sessions Judge. More particularly in the province of Sindh, the District and Sessions Judge writes the quarterly report of every subordinate judge by forwarding the same to the Honourable High Court of Sindh. However, every year, the Annual Confidential Reports are to be filled by the subordinate judges, which are to be evaluated by the District & Sessions Judge, the ACRs are to be forwarded for countersigning by the Honorable Chief Justice. Such ACRs at that the level of ADJs, he has to forward the same to the Honourable Chief Justice.

Moreover, the District and Sessions Judge plays a role of chairman of the Selection Committee for the appointment of ministerial staff and also Departmental Promotion Committee for the ministerial and clerks staff. This is also a leading role to be played by the District and Sessions Judge. The departmental inquiries and service matters of judicial district are also to be dealt with by the District and Sessions Judge.

Moreover, the District and Sessions judge is under legal obligation to look into the matters of district prison and for that he has to pay visits to the district prison in order to redress the grievances of prisoners in accordance with law. He can also make recommendations for

reforms and betterment of the conditions of prison.

Apart from that he is designated ex-officio Justice of Peace, according to the Criminal Procedure Code. By exercising such powers, the District and Sessions Judge can also redress the grievance of public at large. The District and Sessions Judge transfer the cases to the AD&Js of his District and also has to give jurisdiction of certain police stations to Civil Judges and Judicial Magistrates and Senior Civil Judges and Assistant Sessions Judges for deciding the civil and criminal matters.

In province of Sindh, the District and Sessions Judge is authorized to visit the Government Hospitals and if finds any irregularity, he has to issue directions to the concerned Medical Officer in order to facilitate the citizens.

The District and Sessions Judge also convenes the monthly meetings with local administration, including the district heads of the police and prison authorities in order to improve the performance of administration of justice. The production of the custody of UTPs before trial courts and so also procuring the attendance of PWs and case property before trial courts is also one of the administrative assignments of District and Sessions Judge. By calling such meetings and with due deliberation, he has to issue directions to the local administration and police department for ensuring the dispensation of justice.

3. Financial Assignment

In order to run the District Courts, there is obvious need of funds, the provincial government through High Court allocates the yearly budget of every court of the district and such allocation of funds are to be released quarterly. The District and Sessions Judge has to manage the funds according to needs. He is the sanctioning authority to grant the funds for expenditure from the defined head of account. However, he has the authority to assign the

duty to any senior judicial officer to perform the role of D.D.O.

At any time but more specifically in the last quarter he can assess that if a certain fund in a certain head cannot be utilized then he may seek permission to re-appropriate funds from one head to another head and such permission is to be accorded by the Honourable Chief Justice of the province. Nevertheless, certain funds of certain heads cannot be re-appropriated such as P.O.C or salaries, etc. The District and Sessions Judge can also conduct the internal audit before or at the time of reconciliation. The District and Sessions Judge cannot raise funds himself except allocation of yearly budget from provincial government through honorable High Court of the province. In that way, the District and Sessions Judge has to play role of financial manager.

From the above discussion, it is obvious that District and Sessions Judge has to perform the role of a leader so that every concerned person of judicial district must feel at ease by finding refuge under the shadow of District and Sessions judge as and when they come across a difficulty and problem. In that way every word of District and Sessions Judge would be honoured. Thus, I would conclude that the District and Sessions Judge is a symbol of leadership and towering personality in any judicial district.

1. The writer got first position in the Essay Competition during one-week training course "Role of District and Sessions Judges being Non-Financial Managers in Financial Management and New Laws" for newly promoted District and Sessions Judges from all over Pakistan and Azad Jammu and Kashmir (18-23 May, 2016) at the FJA.

حضرت علی کرم اللہ وجہہ فرماتے ہیں
حاسد ہمیشہ مریض رہتا ہے۔

غزوات - ج ۶۸۲۷

SHOULD COSTS BE AWARDED IN CASES OF FALSE, FRIVOLOUS OR VEXATIOUS COMPLAINTS!

Syed Farhan Zafar
Civil Judge & Judicial Magistrate,
Kotri



Before I begin the essay, it will be more than apt to first put a glance at the definitions of all the three words mentioned in the title as all the three are usually simultaneously used. According to Black's Law Dictionary Ninth Edition, (page 677) word 'false' has been defined as (1) Untrue (2) Deceitful; lying (3) Not genuine; Inauthentic. Word 'frivolous' has been defined (on page 739) as lacking a legal basis or legal merit; not serious; not reasonable purposeful. Word 'vexatious' is defined (on page 1701) as without reasonable or probable cause or excuse; harassing; annoying.

Code of Criminal Procedure was enacted in the year 1898 but perhaps legislature realized that it lacked a comprehensive provision enabling criminal court to impose compensation on the false, frivolous and vexatious complaints therefore in the year 1929 a rather more comprehensive provision in shape of section 250 was brought on the statute book. Therefore for the purpose of this essay, it is this very section which is pertinent and perusal of relevant case law regarding the section at hand reveals that in order to direct compensation to be made to the accused by the complainant or informant of false, vexatious and frivolous complaint, court has to first see that all the three ingredients mentioned in the title exist therein because their existence is pre-requisite for exercising powers under section 250 Cr.P.C. Reference can be made to 1984 P.Cr.L.J 2872. Section

250 of the Code of Criminal Procedure does not contemplate that compensation shall be awarded just because the case is found to be false. If it had been so intended by the Legislature, the law would have so expressed. Section 211 of the Penal Code on the other hand expressly makes the instituting of a false case with the intent to injure an accused and with knowledge that there is no just or lawful ground for the accusation, an offence. The words "frivolous" and "vexatious" in Section 250 indicate an accusation merely for the purposes of annoyance, not an accusation of an offence which is absolutely false.

After having discussed the outline and purpose of section 250 Cr.P.C, now we can entertain the main question i.e. whether costs should be imposed on false, frivolous and vexatious complaints and its answer has to be in the affirmative.

Honorable Supreme Court in a landmark judgment recently delivered and reported in 2015 SCMR 724 observed that people who registered false or vexatious complaints/cases were rarely prosecuted. Islamabad High Court likewise recently observed in a judgment reported in 2015 CLC 34 that frivolous, and vexatious litigation based on suppression of facts has serious consequences for administration of justice and such litigation subverts course of justice for other bona fide litigants by clogging judicial system and give rise to mistrust of legal system. It causes delay

for others by wasting public time and loss to exchequer and is, therefore, an abuse of process of Court and thus court has duty to protect its process from being abused, which is in the nature of fiduciary duty which Court owe towards public and bona fide litigants. Being conscious of such onerous duty, Courts cannot show leniency when its process is abused, despite the fact that grace and magnanimity is its essential attributes.

Thus, there can be no two thoughts that imposing costs on false, frivolous and vexatious complaints is the need of the hour and is also the desire of superior judiciary of the country but the maximum limit prescribed by section 250 Cr.P.C for awarding compensation is Rs. 25,000/-. Now whether this limit is sufficient in the present era and what parameters are to be considered by a court while invoking powers given under section 250 Cr.P.C are two questions which are posed to us at next stage. Firstly, the maximum limit for a 1st class Magistrate in this respect should at least be 250,000/-. In fact, amendments should be brought and the amount of compensation in case of false, frivolous and vexatious complaints should be fixed according to the nature of allegations that were leveled by the complainant against the accused, for instance, if someone has audacity to bring a false, frivolous and vexatious complainant against an accused leveling allegation of murder or rape and after trial, accused is acquitted of the charge with a finding that the complaint was false, frivolous and vexatious, then the amount of compensation to be awarded should be much higher than the one wherein the allegation was of merely of commission of criminal intimidation. As for the second point, I am of the opinion that if at the end of a criminal trial, court acquits an accused and reaches to the conclusion that the complaint was false, frivolous and vexatious then while awarding compensation (after adopting due procedure) court should take into consideration the number of hearings attended by the accused, the distance between the residence of accused and court and the usual conveyance adopted

by accused for attending court on each date of hearing, the probable fee given by him to his counsel and in addition to these court may also take into account the status accused enjoys in the society and then grant compensation to him. By adopting this approach, criminal court may reduce the chances of accused approaching civil court for claiming damages and thus multiplicity of litigation may be avoided nevertheless the section 250 Cr.P.C itself allows such an accused to claim damages from the complainant before a civil court irrespective of the fact that he had been granted compensation under section 250 Cr.P.C. In 2006 SCMR 1834 Honorable Supreme Court granted compensation to the accused in terms of section 250 Cr.P.C by taking into account the time of court wasted by the complainant for filing a false, frivolous and vexatious complaint.

Another aspect of the provision under discussion is that it has not made it mandatory to award compensation/cost rather the provision is directory in nature and with the increasing number of false, frivolous and vexatious complaints being filed, it is imperative that there should be a mandatory provision of law for awarding cost for bringing false, frivolous and vexatious complaints and can be avoided only if court gives reasons for doing so. It may also happen in some cases that accused is acquitted after a trial wherein complainant was persistent in his stance but his witnesses did not support him deliberately. Amendment of currently available provision or enactment of new provisions are need of the hour in order to cater such a situation so as to prevent a complaint, otherwise filed with clear intention by the complainant, from being treated as false, frivolous and vexatious. By the same token, why to award compensation to be paid only by the complainant? Why not to have something in law for penalizing or bringing the witnesses under compensation/cost when they are proved to have made false depositions in favor of complainant against the accused? Taking this a bit further, at times complainant manages to get hold of a

fabricated and fake medico legal certificate issued by medico legal officer in order to serve foundation of a false complaint. It would be in the fittest of the things to award compensation, jointly and severally, against the complainant as well as such medico legal officers and witnesses.

Summarizing the above discussion, I am of the firm opinion that cost should mandatorily

be awarded in false, frivolous and vexatious complaints and I also take this opportunity to submit the above noted suggestions in this regard.

1. The writer secured first position in the Essay Competition during one-week training course on "New Laws" for Civil Judges-cum-Magistrates from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan (4-9 April, 2016) at the FJA.

شاہ جو رسالو

مارواں دی نہیں ریت، جو سونے نال سجن بدلاون
آکے امر کوٹ دے وچ، کوئی کراں گی نہ میں کریت
جھونپڑیاں دی ایہہ پریت، کدے نہ محلاں سنگ پرتاواں۔

زر کے بدلے پیار بچیں، یہ نہیں ان کی ریت
آن کے اب تو عمر کوٹ میں، کروں میں کیسے کریت
ان جھگیوں کی پریت، میں محل سے نہ بدلوں گی۔

سرمائی

لیکن میں اپنا اٹھارہ سالہ ججی کا تجربہ جب شیئر کرنا چاہوں گا تو میں آج آپ کے سامنے اس بات کو کہتے ہوئے کوئی شرم اور جھجک محسوس نہیں کرتا کہ میں وکالت کے پچیس سال میں وہ کچھ قانون کے بارے میں نہیں سیکھا تھا جو کہ بحیثیت جج شروع کے دو سال کی نوکری میں سیکھا تھا۔ لیکن اس کاراز اور اس کا گریہ تھا کہ آپ جب عدالت میں بیٹھے ہیں اور کسی کیس کی سماعت کرتے ہیں اور جج صاحبان اپنا نقطہ نظر آپ کے سامنے پیش کرتے ہیں تو ایک تو وہ خود آپ کے لئے تعلیم کا ذریعہ ہے اور اس کے بعد آپ کے لئے ضروری ہو جاتا ہے کہ اس کیس کے حوالے سے جب آپ فیصلہ لکھنے بیٹھے ہیں تو اس کیس سے متعلق قانون کی سٹڈی کریں اس کے اوپر لاء ریسرچ کریں اور یہ continuous process ہے جو آپ کو خود جسے کہتے ہیں کہ شہر جو ہے وہ خود کو تو الی سکھا دیتا ہے تھانیدار کو اور آپ لوگوں کو اس چیز کا احساس ہونا چاہیے، یہ بات میں خاص طور پر جج صاحبان سے مخاطب ہو کے کہہ رہا ہوں کہ اپنے کام کو عبادت سمجھ کے کریں اور اس پر Concentrate کریں کہ کس طرح آپ اپنے کام کے اوپر زیادہ سے زیادہ عبور حاصل کر سکتے ہیں۔

معاشرے میں اخلاقی اقدار کا شدید انحطاط اور احساسِ ذمہ داری کا فقدان دو ایسی اہم اخلاقی برائیاں ہیں جن کے اثرات سے ہمارا موجودہ عدالتی نظام بھی شدید طور پر متاثر ہوا ہے۔ یہ بات عام تجربے میں آئی ہے کہ جس طرح ہمارے ملک کے اشرافیہ اور سیاستدان اپنی چھوٹی چھوٹی بیماری کے علاج کے لئے مغربی ممالک یا امریکہ کا رخ کرتے ہیں اسی طرح بعض اوقات ہم اپنے مخصوص مسائل کے حل کے لئے دوسرے ممالک کے قانونی اور عدالتی نظام سے استفادہ حاصل کرنے کی کوشش میں رہتے ہیں۔ یہ کوئی بری بات نہیں ہے لیکن میرے خیال میں ضرورت اس بات کی ہے کہ ہم اپنے مخصوص حالات کو پیش نظر رکھتے ہوئے اُن کا حل مقامی سطح پر بھی تلاش کریں اور یہ اسی بات کو اسی چیز کو مد نظر رکھتے ہوئے میں نے آپ سے ذکر کیا کہ اس چیز کا فیصلہ ہونا انتہائی ضروری ہے کسی بھی لیول پر کہ ہمیں آخر اپنا یہ نظام عدل، عدالتی نظام اور قانونی نظام اپنا قانونی تعلیم کا نظام کس طرح چلانا ہے۔ جسٹس ناصر اسلم صاحب نے اپنے تجربے کی بنیاد پر جو کمپیوٹریزیشن اور دوسرے modern gadgets کے استعمال کا ذکر کیا ہے تو میں سمجھتا ہوں کہ یہ بات انتہائی اہمیت کی حامل ہے اور اس کے بارے میں کوئی دورائے قائم نہیں کی جاسکتیں۔ تو اس سلسلے میں بھی جہاں تک میرے علم میں ہے کہ نہ صرف یہ کہ یہ کام، یہ ٹریننگ یہ سب کورس جو ہیں جج صاحبان اور وکلاء حضرات اپنے اپنے لیول پر خود سیکھ سکتے ہیں لیکن جوڈیشل اکیڈمیز میں بھی اس چیز کو as a subject پڑھانے کی شدید ضرورت ہے۔ آج ملک میں ایک دوسرے پر الزامات لگانے کا کلچر پنپ رہا ہے، ہر شخص حقوق کی بات کرتا ہے اور اپنی ذمہ داری نبھانے اور سمجھنے کو تیار نہیں ہے جب کہ قانون کی حکمرانی کا خواب اسی صورت میں ممکن ہے جب کہ بحیثیت مجموعی ہم سب اس سلسلے میں اپنا اپنا کردار پوری ذمہ داری، دیانت داری، جذبہ ایثار اور قربانی سے ادا کریں اور ظاہر ہے عدلیہ سے بھی ہم ہر سطح پر ایسے ہی اُمید رکھتے ہیں۔

انہی الفاظ کے ساتھ میں آج کی اپنی تقریر کا اختتام کرتا ہوں اور اُمید کرتا ہوں کہ آئیو الے سیشنز میں purposeful discussion کے ذریعے ہم بہت productive conclusion draw کرنے میں کامیاب ہوں گے۔

بہت بہت شکریہ

ہمیں قانون سے متعلق تعلیمات کے شعبے کو مزید تباہی سے بچانا ہے تو اس سلسلے میں ہنگامی بنیادوں پر عملی اقدامات کرنا ہوں گے اور اس کے لئے ایسے تمام قانونی تعلیم سے منسلک اداروں کی رجسٹریشن کا اُن کی کارکردگی کو مد نظر رکھتے ہوئے دوبارہ سے جائزہ لینا ہوگا جن کا قیام اس مدت میں مشکوک حالات میں عمل میں آیا ہے۔ اسی طرح دیگر پیشہ وارانہ ڈگریوں، ڈاکٹری (MBBS) اور انجینئرنگ (BE) سے مطابقت رکھتے ہوئے قانون کی ڈگری حاصل کرنے کے کورس کو بھی پانچ سالہ کرنا ہوگا جو کہ انٹرمیڈیٹ کے بعد سے رائج ہو۔ مزید بہتری کے لئے ہمیں تمام اس قسم کے تعلیمی اداروں میں اس چیز کو یقینی بنا ہوگا کہ تجربہ کار اور بہتر اساتذہ اس سلسلے میں اپنی خدمات پیش کریں اور اپنا کردار ادا کریں۔ جہاں تک لاء کالجز کے نصابِ تعلیم کا تعلق ہے اس سلسلے میں بھی بہتری کی بہت گنجائش موجود ہے۔ اس کے لئے اس بات پر بھی توجہ دیتے ہوئے عملی اقدامات کی ضرورت ہے۔ اکثر دیکھنے میں آیا ہے کہ بار کونسلز ایکٹ کے تحت وکالت کے پیشے سے منسلک ہونے سے پہلے پبلنج کی requirement کو بھی ایک formality کے طور پر لیا جاتا ہے اور مصالحانہ رویہ اختیار کرتے ہوئے ان چیزوں کو جو کہ نہایت اہمیت کی حامل ہیں درگزر کر دیا جاتا ہے۔ غرض یہ کہ ہر سطح پر قانونی تعلیم سے وکالت کے پیشے میں آنے تک ہم مصلحتوں کا شکار ہو کر درگزر کرتے ہیں حالانکہ یہ سب کچھ ہماری نظروں کے سامنے اور علم میں ہوتا ہے۔ ان تمام باتوں کے سدباب کے لئے یہ بات انتہائی ضروری ہے کہ پاکستان بار کونسل، صوبائی بار کونسلز اور دیگر متعلقہ ادارے ہر قسم کے مصالحانہ رویے سے بالاتر ہو کر اپنا اپنا کردار ذمہ داری اور دیانت داری سے ادا کریں۔ قانون کی تعلیم کے حوالے سے میں آپ تمام حضرات کی توجہ اس طرف بھی مبذول کرنا چاہتا ہوں کہ اپنی وکالت کے دوران وکلاء کو بھی اس چیز کے لئے متوجہ کرنے کی ضرورت ہے کہ وہ اپنی مزید اعلیٰ تعلیم یعنی ایل ایل ایم یا پی ایچ ڈی وغیرہ پر زور دیں اور اسی طرح جج صاحبان بھی اعلیٰ تعلیم پر توجہ دیں کیونکہ علم ایک ایسا سمندر ہے جس کا کوئی کنارہ نہیں۔ یہ مقولہ خاص طور پر قانون کے پیشے سے منسلک افراد پر اور بھی زیادہ لاگو ہوتا ہے کہ وہ اپنی پیشہ وارانہ مصروفیات سے ہٹ کر روزانہ کچھ وقت قانون کی مزید تعلیم اور تحقیق کو دیں تاکہ آنے والے وقتوں میں وہ بہتر سے بہتر کارکردگی دکھاسکیں۔ میں امید کرتا ہوں کہ آج جب ہم سب یہاں ایک نیک مقصد کے لئے جمع ہوئے ہیں اس موضوع پر بھی ہم مزید پیش رفت کر سکیں گے۔ اب آخر میں، میں کچھ باتیں ہمارے موجودہ جوڈیشل سسٹم کے حوالے سے بھی کرنا چاہوں گا۔ سب سے پہلے میں آپ سے اپنی 25 سالہ وکالت کے تجربے کو شیئر کرنا چاہوں گا۔ جب میں نے 1974 میں اپنے کیریئر کے طور پر وکالت کے پیشے کو منتخب کیا تو اس بات کو خاص طور پر نوٹس کیا کہ اکثر عدالتوں میں پابندی اوقات کار کا شدید فقدان ہے۔ اکثر جج صاحبان اس خوش فہمی میں رہتے ہیں کہ وہ ان معاملات میں قانون سے بالاتر ہیں۔ یہ رویہ نہ صرف انتہائی مایوس کون ہے بلکہ اس کے بڑے شدید منفی اثرات بھی ہمارے عدالتی نظام پر مرتب ہو رہے ہیں۔

جیسا کہ آپ بخوبی واقف ہیں کہ نہ صرف وفاقی سطح پر بلکہ صوبائی سطح پر قانونی تعلیم کی اہمیت کو محسوس کرتے ہوئے اور جج صاحبان کی ان سروس ٹریننگ کی ضرورت کو محسوس کرتے ہوئے جوڈیشل اکیڈمیز کا قیام عمل میں لایا جا چکا ہے جو سب الحمد للہ آج فعال ہے اور اپنے اپنے کام انجام دے رہی ہیں لیکن جس بات کی سب سے زیادہ ضرورت ہے اگر ہم قانون کے شعبے میں بحیثیت طالب علم بحیثیت وکیل یا بحیثیت جج بہتری لانا چاہتے ہیں تو وہ ہے ہماری اپنی internal motivation جس کا میرے تجربے کے مطابق شدید فقدان موجود ہے۔ جہاں تک معزز جج صاحبان کی ان سروس ٹریننگ اور تعلیم کا تعلق ہے اس کے علاوہ کہ فیڈرل جوڈیشل اکیڈمیز میں ان کی مسلسل ٹریننگ کی جاتی ہے کہ ان کا معیار judgment writing کا قانون کی تشریح کا بہتر ہو سکے

میں اس کی بنیاد مضبوط اور مستحکم نہیں رکھی جائے گی اس پر تعمیر ہونے والی عمارت ہمیشہ مخدوش اور غیر مستحکم رہے گی۔

دوسری بات جس کی طرف اب میں آنا چاہتا ہوں اس کا تعلق بھی ایک طرح سے بہت اہمیت کا حامل ہے یعنی ہماری قومی زبان، اس سلسلے میں، میں سب سے پہلے آئین پاکستان مجریہ 1973 کے آرٹیکل 251 کا ذکر کرنا چاہوں گا جس میں اس بات کا واضح طور پر عندیہ دیا گیا ہے کہ ہماری قومی زبان اردو ہے اور اس کے مکمل نفاذ کے لئے حکومت پندرہ سال کے اندر ضروری اقدامات کرے گی اور جب تک اردو زبان انگریزی کی جگہ سرکاری طور پر نہیں لے لیتی انگریزی کو بھی سرکاری زبان کے طور پر استعمال کیا جاسکے گا۔ یہ ہماری بد قسمتی ہے کہ باوجود اس کے کہ یہ پندرہ سال کی مدت 1988 میں پوری ہوگئی اور اب مزید تقریباً 28 سال کا وقت گزر چکا ہے۔ ہم عوام سے کئے ہوئے اپنے آئینی وعدے کو پورا نہیں کر پائے ہیں۔ آج پاکستان کے مختلف صوبوں میں ماسوائے سندھ قومی زبان کے نفاذ کے سلسلے میں کچھ نہ کچھ عملی اقدامات کئے جا رہے ہیں اور ذیلی عدالتوں میں اس سلسلے میں کافی حد تک کامیابی بھی حاصل ہوئی ہے۔ یہاں تک کہ حال ہی میں عدالت عظمیٰ پاکستان نے بھی اپنے کچھ فیصلے قومی زبان میں صادر کئے تاکہ اس کی اہمیت کو واضح طور پر اُجاگر کیا جاسکے۔

یہ بات میرے چالیس سال سے زیادہ عرصے کے تجربے کے دوران مشاہدے میں آئی ہے کہ ایک طرف تو اکثر نوجوان صاحبان انگریزی پر نا کافی عبور ہونے کی وجہ سے اپنا نقطہ نظر بیان کرنے میں خاصی دشواری محسوس کرتے ہیں تو دوسری طرف وکلاء حضرات بھی مقدمات کی پیروی کے دوران اسی قسم کی مشکلات سے دوچار رہتے ہیں۔ وقت آ گیا ہے کہ اس حقیقت کو پیش نظر رکھتے ہوئے ہمیں ایک حتمی فیصلہ کرنا ہوگا کہ آیا اپنا موجودہ عدالتی نظام اور قانونی تعلیمات کو مکمل طور پر اپنی قومی زبان میں رائج کرنا چاہتے ہیں تاکہ اس قوم کی مشکلات پر قابو پایا جاسکے، یا ماضی میں غلامی کی علامت کے طور پر انگریزی کو اشد ضروری سمجھتے ہوئے اسے جاری رکھا جائے۔ اس سلسلے میں یہ بات قابل ذکر ہے کہ ماسوائے دنیا کے چند ممالک کے جو ماضی میں Commonwealth کا حصہ رہے ہیں ہر ملک میں قانونی تعلیمات کا نظام اور عدالتی نظام اپنی قومی زبان میں رائج ہے۔ میری ذاتی رائے میں آئین کے آرٹیکل 251 کی پاسداری کرتے ہوئے ہمیں اس سلسلے میں مزید کسی ہچکچاہٹ یا تذبذب کا شکار نہیں ہونا چاہئے کہ ہم اپنے عدالتی نظام کو بتدریج اردو زبان میں منتقل کریں تاکہ کسی بھی حیثیت سے قانون کے پیشے سے منسلک حضرات انگریزی زبان پر کم عبور رکھنے کی پریشانی سے نجات حاصل کر سکیں۔

یہاں یہ بات اور بھی میں کہنا چاہوں گا اس تعلق رکھنے کی بنیاد پر کہ ہمارے ملک میں حالانکہ خاص طور پر سندھ میں تمام عدالتی کارروائی انگریزی زبان میں کی جاتی ہے ماسوائے دو سے پانچ فیصد ان وکلاء حضرات کے جن کو بہتر تعلیمی اداروں سے تعلیم حاصل کرنے کا موقع ملتا ہے یا بیرون ملک جا کے تعلیم حاصل کرنے کا موقع ملتا ہے یہ مسائل بہت اہمیت اور بنیادی اہمیت کے حامل ہیں جو حل طلب ہیں۔

تیسری بات جس کی طرف اب میں آنا چاہتا ہوں اس کا تعلق ملک میں مروجہ نظام تعلیم برائے قانون سے ہے۔ اس سلسلے میں سب سے پہلے تو میں یہ ذکر کرنا چاہوں گا کہ گزشتہ دو دہائیوں میں بے شمار پرائیویٹ لاء کالجز کے قیام کے نتیجے میں ماسوائے چند اداروں کے قانون کا معیار تعلیم شدید انحطاط کا شکار ہوا ہے اس کی بنیادی وجہ یہ ہے کہ حکومتیں اور وہ قانونی تنظیمیں جن پر یہ بھاری ذمہ داری عائد ہوتی ہے وہ اس سلسلے میں اپنا مثبت کردار ادا کرنے میں ناکام رہی ہیں۔ آج اگر ہم اس بات پر متفق ہو جاتے ہیں کہ

نشان دہی کی جائے اس کا سد باب نہ کر سکیں۔

اگر ہم آج کے عنوان قانون کی حکمرانی (rule of law) اور عدلیہ کا کردار (role of judiciary) کا بغور الگ الگ جائزہ لیں تو آپ دیکھیں گے کہ قانون کی حکمرانی کی بابت کوئی ایسی واضح تشریح نہیں کی جاسکتی جو اس کے تمام پہلوؤں کو اپنے اندر سمو لے اور جس پہ تمام لوگ متفق ہو جائیں۔ مختلف قانون دان اور محققین نے وقتاً فوقتاً اس سلسلے میں اپنے نقطہ نظر پیش کئے ہیں لیکن مقصدیت کے لحاظ سے یہ بات بہت واضح ہے کہ یہ کسی بھی مہذب معاشرے میں یہ ریڑھ کی ہڈی کی حیثیت رکھتے ہیں اور اس پر عمل درآمد کی ذمہ داری صرف عدلیہ نہیں بلکہ پورے معاشرے پر مشترکہ طور پر عائد ہوتی ہے۔ اسی طرح جب ہم عدلیہ کے کردار کو قانون کی حکمرانی کے تناظر میں دیکھتے ہیں تو یہ ایک بہت وسیع موضوع ہے جس پر مباحثے کے لئے طویل وقت درکار ہے۔ مختصراً مقلدہ، انتظامیہ، اس سے متعلقہ دیگر ادارے اور عدلیہ کو مشترکہ طور پر اپنا اپنا کردار ادا کرنے کی ضرورت ہے اور یہ اسی صورت ممکن ہو سکتا ہے کہ ملک میں قانون کی مکمل حکمرانی ہو اور اس سلسلے میں عدالتیں اپنا بھرپور کردار ادا کر سکیں۔

یہ ہمارے ملک کا ایک بڑا المیہ ہے کہ باوجود اس کے کہ ہمارے ملک کے قیام کو 68 سال گزر چکے ہیں ہم بہت سے نہایت بنیادی اور اہم قومی معاملات پر نہ تو کوئی متفقہ لائحہ عمل مرتب کر سکے ہیں اور نہ ہی اس سلسلے میں کوئی طویل مدتی منصوبہ بندی کی ہے۔ قانون کی حکمرانی کے حوالے سے قانون کی تعلیم اور اس سے متعلق پیشہ وارانہ امور بشمول نظام عدل بھی ہمارے ملک میں کچھ اسی قسم کی صورت حال سے دوچار ہے جن کی وجوہات کی ایک طویل فہرست مرتب کی جاسکتی ہے۔ اس سلسلے میں سب سے پہلے تو ہمیں اپنے ملک کی آبادی کے حوالے سے مروجہ بنیادی تعلیم کے نظام کا جائزہ لینا ہوگا۔ آپ میں سے اکثر لوگ بخوبی واقف ہوں گے کہ حالیہ جمع کردہ اعداد و شمار کے مطابق ہمارے ملک جس کی آبادی 19 کروڑ سے تجاوز کر چکی ہے اس میں تعلیم یافتہ لوگوں کی تعداد 58 فیصد ہے لیکن اس سے زیادہ فکرمندی کی بات یہ ہے کہ جن لوگوں کو ہم تعلیم یافتہ لوگوں کے زمرے میں شمار کرتے ہیں ان کا معیار تعلیم کیا ہے۔ میرے خیال میں مجموعی طور پر دیکھا جائے تو نہ صرف مڈل بلکہ میٹرک، انٹر اور یہاں تک کہ گریجویٹیشن کے لیول تک بلخصوص پبلک سیکٹر میں اور دیہی علاقوں میں معیار تعلیم اتنا فرسودہ اور پست ہے کہ یہ سرٹیفیکیٹس اور ڈگریاں لینے والے حضرات نہ تو کسی زبان پر اتنا عبور رکھتے ہیں کہ اپنے خیالات کا بھرپور اظہار تحریری طور پر یا کسی اور طریقے سے کر سکیں نہ ہی ان میں عمومی، علمی قابلیت کا وہ معیار ہوتا ہے جس سے یہ پتہ چل سکے کہ جو تعلیم انہوں نے حاصل کی ہے اس کے ذریعے انہیں دنیا کے عام معلوماتی اور سماجی زمرے میں کچھ آگاہی حاصل ہے۔ جب اس قسم کے تعلیمی پس منظر سے گزر کر ایک فارغ التحصیل طالب علم قانون کی تعلیم حاصل کرنے کے لئے کسی تعلیمی ادارے میں داخلہ لیتا ہے تو اسے ان تمام وجوہ کی بنیاد پر بے پناہ مشکلات اور مسائل کا سامنا کرنا پڑتا ہے بلخصوص اس وجہ سے کہ بنیادی طور پر قانون کا پیشہ اس چیز کا متقاضی ہے کہ آپ کو عدالتی زبان پر مکمل عبور ہو، تاکہ نہ صرف تحریری طور پر بلکہ زبانی طور پر بھی آپ اپنے موکل کا نقطہ نظر بہتر سے بہتر طور پر پیش کر سکیں۔ اسی طرح زبان پر مکمل مہارت و عبور قانون کو صحیح طور پر سمجھنے اور اس کی تشریح کے لئے بنیادی اہمیت کا حامل ہے۔ ان تمام باتوں کا لب لباب یہ ہے کہ قانون کی تعلیم کے حوالے سے مزید بات کرنے سے پہلے ہمیں اس چیز کو یقینی بنانا ہوگا کہ وہ لوگ جو آگے چل کے قانون کے پیشہ کو بحیثیت وکیل یا بحیثیت جج اپنا کیریئر بنانا چاہتے ہیں وہ اس معیاری تعلیم سے آراستہ ہوں جو اس کی بنیادی ضرورت ہے۔

میرے اس نقطہ نظر کی مزید وضاحت کے لئے میں یہ مثال دینا مناسب سمجھتا ہوں کہ جب تک کسی عمارت کی تعمیر کے سلسلے

جناب جسٹس ناصر اسلم، سابق جج سپریم کورٹ آف پاکستان اور چیئر پرسن لیگل ایڈسوسائٹی
 محترم مشیر عالم صاحب، فیصل عرب صاحب اور خلیجی عارف حسین صاحب، جج عدالتِ عظمیٰ پاکستان
 محترم سجاد علی شاہ صاحب، مظہر عالم صاحب، محمد نور مسکن زئی صاحب
 چیف جسٹس صاحبان، سندھ ہائی کورٹ، کے پی کے ہائی کورٹ اور بلوچستان ہائی کورٹ
 دیگر معزز جج صاحبان عدالتِ عالیہ سندھ اور فیڈرل شریعت کورٹ
 بیرون ملک سے آئے ہوئے معزز مہمانانِ گرامی
 قانون کے پیشے سے منسلک دیگر معزز مہمانانِ گرامی
 خواتین و حضرات
 السلام علیکم!

آج کی اس پروقار تقریب بعنوان National Roundtable Conference on Judicial Education کے انعقاد کے موقع پر مجھے اس میں شرکت کی دعوت دینے پر میں منتظمین کا دل کی گہرائیوں سے مشکور ہوں۔ اس کانفرنس میں شرکت کے دوران مجھے نہ صرف بحیثیت چیف جسٹس عدالتِ عظمیٰ پاکستان اپنے خیالات کا اظہار کرنے کا موقع ملے گا بلکہ دیگر شرکاء کے خیالات سُننے کا بھی موقع ملے گا۔ اس طرح اُمید کی جاسکتی ہے کہ ہماری مشترکہ کاوشوں سے آنے والے وقتوں میں ہم اپنے ملک میں قانون کی تعلیم، اس کی حکمرانی اور عدلیہ کے کردار کے بارے میں ایک مربوط اور دیرپا لائحہ عمل مرتب کرنے میں کامیاب ہو سکیں گے۔ جیسا کہ آج مجھ سے اسی موضوع کے حوالے سے پانے خیالات کا اظہار کرنے کے لئے کہا گیا ہے تو یہ ایک بہت وسیع عنوان ہے جس کو سمجھنے اور اپنا نقطہ نظر پیش کرنے کے لئے کافی وقت درکار ہوگا۔ بہر حال میں اس بات کی پوری کوشش کروں گا کہ اس موضوع پر اپنا نقطہ مختصر ترین وقت میں بیان کر سکوں۔

یہ بات میرے لئے بلکہ ہم سب کے لئے باعثِ مسرت ہے کہ آج کے موضوع تقریب کی اہمیت کا احساس کرتے ہوئے اس سلسلے میں اپنی مربوط کاوشوں کا ایک نئے جوش اور ولولے کے ساتھ آغاز کر دیا ہے۔ اگر ہم کسی بھی اہم موضوع پر کھلے ذہن اور مثبت سوچ کی بنیاد پر کوئی مباحثہ کرتے ہیں تو ہمیں اس موضوع سے متعلق ایک سے ایک بہتر تجاویز لینے کا موقع ملتا ہے یہی کچھ صورتِ حال موضوع بحث عنوان کی ہے۔

بہت سے تجربے کار قانون دان اور محققین اس سے پہلے اس بارے میں اپنے خیالات کو اس سسٹم کی بہتری کے لئے مختلف زاویوں سے پیش کرتے رہے ہیں۔ لیکن ان تمام خیالات کا محور ہمیشہ قانون کی حکمرانی پر مذکور رہا ہے۔ مسلم قانون دانوں نے اپنے مخصوص پس منظر کی روشنی میں اپنے خیالات کا اور تجربات کا اظہار کیا ہے اور اسی طرح مغربی قانون دانوں نے قانون کی حکمرانی کی اپنی تشریح پیش کی ہے۔ بہر حال اپنی مقصدیت کے حصول کے لئے ان سب کا نقطہ نظر بحیثیت مجموعی ایک ہی رہا ہے۔ جہاں تک اس سلسلے میں انسانی بنیادی حقوق کا تعلق ہے اس کی بہت واضح اور تفصیلی تشریح ہمارے آئین کے حصہ دوئم میں کی گئی ہے جو ہمارے نظامِ عدل کی روح ہے اور جس سے متصادم کوئی قانون یا عدالتی نظام نہیں چل سکتا۔

کوئی وجہ نہیں ہے کہ اگر ہم اپنے ارادوں میں مخلص ہیں تو ہم اس متعلقہ مسائل کا معقول حل تلاش نہ کر سکیں اور جن خامیوں کی

چیف جسٹس آف پاکستان کا پہلی گول میز کانفرنس
برائے عدالتی تعلیم سے کراچی میں خطاب



در راه طلب عاقل و دیوانه یک است
در شیوهی عشق خویش و بیگانه یک است
ان را که شراب وصل جانان دادند
در مذهب او کعبه و بتخانه یک است.

Quatrain 305

*On the Seeker's Path. Wise men and
Fools are one. In his love. Brothers and Strangers
are one. Go on! Drink the wine of the Beloved!
In that faith. Muslims and Pagans are one.*



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