



FEDERAL JUDICIAL
ACADEMY BULLETIN
January - March, 2013



Editorial Board

Patron-in-Chief

Hon'ble Mr. Justice Iftikhar
Muhammad Chaudhry
Chief Justice of Pakistan/Chairman
BoG

Patron

Hon'ble Mr. Justice Tassaduq
Hussain Jillani
Judge Supreme Court of Pakistan/
Judge In charge (Academics)

Editor-in-Chief

Mr. Parvaiz Ali Chawla
Director General

Editor

Mr. Khalid Amin Khan Tareen
Director (Instructions)

Associate Editor

Mr. Hashim Abro
Coordination, Publications & Media
Officer

Content

- ◆ A Judge should always act with complete Neutrality, Impartiality: 01
Hon'ble Mr. Justice Iftikhar Muhammad Chaudhry
- ◆ Female Judges can play an important role in providing speedy 03
justice to downtrodden: Hon'ble Chief Justice of Pakistan
- ◆ ADR essential to decide cases in a reasonable span of time: 05
Hon'ble Mr. Justice Khilji Arif Hussain
- ◆ A lot of litigation borne out of ego comes to courts: 06
Hon'ble Mr. Justice Nasir-ul-Mulk
- ◆ Collective efforts required to create awareness, educate masses 07
about Environment, its importance:
Hon'ble Mr. Justice Anwar Zaheer Jamali
- ◆ Role of Judiciary Crucial: 08
Hon'ble Mr. Justice Tassaduq Hussain Jillani
- ◆ Superintendents play linchpin role in District & Sessions Judges 09
Office: Dr. Faqir Hussain
- ◆ Computer, Internet a great source of knowledge: 11
Mr. Parvaiz Ali Chawla
- ◆ Settle Family matter disputes amicably through reconciliation, 12
earn 'Sawab': Hon'ble Mr. Justice Tariq Parvez
- ◆ Hon'ble Mr. Justice Nasir-ul-Mulk lauds probity, Professionalism 13
of Female Judges
- ◆ Hon'ble Mr. Justice Ejaz Afzal Khan says judges role pivotal to 14
maintain balance in society
- ◆ Judgeship should be an affair of heart: 16
Hon'ble Mr. Justice Sh. Azmat Saeed
- ◆ Judicial Officers should excel in Cyber Crime Laws: 17
Hon'ble Chief Justice, Islamabad High Court, Islamabad
- ◆ Hon'ble Mr. Justice Amir Hani Muslim laments growing incidents 18
of Terrorism
- ◆ Terrorism in all its forms, manifestations need to be curbed: 20
Hon'ble Mr. Justice Nasir-ul-Mulk
- ◆ Prosecutors exhorted to eliminate corruption: 22
Mr. Sadaqat Ali Khan
- ◆ Prosecutors need to be extraordinary to seek justice for vulnerable: 23
Mr. Hayat Ali Shah



A JUDGE SHOULD ALWAYS ACT WITH COMPLETE NEUTRALITY, IMPARTIALITY

Hon'ble Mr. Justice Iftikhar Muhammad Chaudhry

Hon'ble Chief Justice of Pakistan, Mr. Justice Iftikhar Muhammad Chaudhry says that Constitution is treated as mother of all laws and the courts in Pakistan are the upholders of the Rule of law.

This was stated by his lordship in the certificate awarding ceremony on the conclusion of a one-week refresher course on "Sessions Trial and Appreciation of Evidence" for Additional District and Sessions Judges from all over Pakistan including Azad Jammu and Kashmir here in the Federal Judicial Academy, Islamabad, on Saturday (2.03.2013).

He said, "While conducting trial and dispensing justice, the trial court has to be conscious not just of the legal safeguards available but also essentially to act in accordance with the newly added Article 10-A, providing for the right to fair trial".

His lordship said, "You are well aware that in ancient and medieval period, the test of guilt and innocence especially used by Germanic peoples had been that the accused was subjected to severe pain or torture, survival of which was taken as divine proof of innocence. Such ordeals involved a walk on glowing embers or to enter in the cold water and did not require any evidence other than the accusation to put the accused to trial. But times, values, standards and tests have now undergone radical changes. In contemporary methods, judicial control over the admissibility of evidence has been a significant factor in the administration of justice. The concept of fair trial under the existing rules of evidence requires in-court supervision by an un-biased judge who holds the balance clearly, truly and evenly between the prosecution and the accused. As to appraisal of evidence Whately said, "The judgment is like pair of scales, and evidence like the weights; but the will holds the balance on its hands; and even a slight jerk will be sufficient in any case, to make the lighter side appear the heavier". This is exactly what has been enjoined by Almighty Allah in the Holy Book as:

وَلَا تَحْسِرُوا الْمِيزَانَ

Regarding the Criminal Justice System he said, "Criminal Justice System in our jurisdiction is not unitary in nature. Its different components namely Police i.e. Investigation Agency, Prosecution, Court and Corrections



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

act in a centrifugal manner, all-striving to achieve common object. So the judicial officers administering Criminal Justice are advised to acquaint themselves not only with the substantive and procedural laws but also the salutary Police Rules and different sciences and modern techniques of investigation like Forensic Sciences, medicines, DNA, finger prints, handwriting, cyber laws, Prison Rules etc."

He said, "In Islamic Jurisprudence, rule of law was formulated in the seventh century, so that no official could claim to be above law, not even the Caliph."

About the Art of Judgment and Legal writing he said, "After a cumbersome exercise in trial the efforts of a judge culminate into judgment. The judgment should be well-thought of, analytical, based on evidence and free from grammatical errors. It should be transparent and even persuading for the loser of the case."

Regarding the course he said, “I have gone through the course of one week programme in which the participants were *inter alia* addressed on Sessions Trial, Recording and Appreciation of Evidence, Investigation in Criminal Cases, Medical Jurisprudence and Legal/Judgment Writing. I am glad to note that a talk on “Courts and their Jurisdictions in Constitutional Perspective” was also delivered. All these lectures, discourses and talks were not only subject specific but also useful to enhance the legal acumen and competence of the judicial officers who received such training.”

Speaking about the National Judicial Policy, Honourable Chief Justice of Pakistan said, “With the implementation of the National Judicial Policy, the backlog has been cut to a considerably small size. I sincerely congratulate the judicial officers on achieving optimum targets and hope they will continue their pursuits for bumper disposal but without slashing the cause of justice and thus deliver justice to the vulnerable segments in the society, with the sole objective of pleasing the Almighty Allah. I am proud of my district judiciary, which is the backbone of our judicial system as justice at the grass root level is provided by it.”



Hon'ble Chief Justice of Pakistan, Mr. Justice Iftikhar Muhammad Chaudhry gives away a certificate to one course participant-Judge. Director General Federal Judicial Academy also in picture

Advising judicial officers he said, “Judges while dealing with lawyers, litigants and supporting staff should remain cool, calm and quiet and never lose their temperament. A judge should always act with complete neutrality and impartiality. He has to perform his duties as a sacred duty because 'ADL' is the attribute of Almighty Allah. Work hard to alleviate the miseries of the aggrieved and persecuted people, especially, the poor and downtrodden in the society and earn the favour of Almighty Allah”.

Earlier, DG of the Academy presented an overview of the course. In the end, Hon'ble Chief Justice of Pakistan gave away certificates to eighteen Additional District and Sessions Judges- two of them-female judges- in the ceremony. Mr. Justice Tassaduq Hussain Jillani, Hon'ble Judge In charge FJA (Academics) and Mr. Justice Nasir-ul-Mulk, Hon'ble Judge In charge FJA (Administration), were also present in the ceremony.



Course participants in group photo with Hon'ble Chief Justice of Pakistan Mr. Justice Iftikhar Muhammad Chaudhry, Hon'ble Mr. Justice Tassaduq Hussain Jillani, Judge Incharge (Academics), Federal Judicial Academy and Hon'ble Mr. Justice Nasir-ul-Mulk Judge Incharge, (Admin) FJA also seen in the group photo

FEMALE JUDGES CAN PLAY AN IMPORTANT ROLE IN PROVIDING SPEEDY JUSTICE TO DOWNTRODDEN

Hon'ble Chief Justice of Pakistan

Hon'ble Chief Justice of Pakistan, Mr. Justice Iftikhar Muhammad Chaudhry has said that it was encouraging to see a considerable number of female judicial officers working in the district judiciary of the country nowadays adding that, "I believe that female judges can particularly play an important role in providing speedy justice to the downtrodden".

His lordship expressed these views in the certificate-awarding ceremony held in the Supreme Court of Pakistan Islamabad on February 14, 2013 in which his lordship awarded the certificates to twenty Female Judicial officers from all over the country.

His lordship said, "It is highly appreciated that female judges are now working comfortably at remote and backward areas like Chitral, Lower Dir, Malakand, Lakki, Marwat, Bannu Layyah, Bahawalnagar, Sibi, Pishin, Jaffarabad and interior

Sindh etc., which obviously would give a positive message to the outside world".

He said, "It is the need of the day that they should be provided sufficient security keeping in view the growing militancy and target killings. Female litigants and children normally feel comfortable and relaxed while appearing before female judges. We are considering induction and increase in number of female judges in the constitutional courts, keeping in view their trackrecord, hard work, integrity and devotion to the profession".

Regarding the capacity building of the female Judges, his lordship said, "As female judges need continuous training at all levels in judicial hierarchy, therefore, we have made special arrangements to impart training to all the judicial officers and the Federal Judicial Academy is playing pivotal role, besides provincial judicial academies, in imparting training to the female judicial officers jointly with the male judges as well as exclusively. In order to enhance the training capability, the Federal Judicial Academy is now being converted into a "Center of Excellence".



Hon'ble Chief Justice of Pakistan on the rostrum



Hon'ble Chief Justice of Pakistan, Mr. Justice Iftikhar Muhammad Chaudhry, Hon'ble Judges of Supreme Court of Pakistan and Mr. Justice Agha Rafiq Ahmed Khan, Hon'ble Chief Justice, Federal Shariat Court, in the premier show of documentary "Lady Judges of Pakistan"

The project of the establishment of “Federal University of Law and Judicial Administration” (FULJA) is in progress and for grant of its charter the matter has already been sent to the Federal Government which is under process and hopefully within short span of time, after the grant of charter, this university will also become functional. It will be a great achievement and it will pave the path to enhance knowledge and learning, not only of judicial officers but also of other stakeholders. The female judges in this course have pointed out certain problems which they are facing while having no facility of keeping their children, especially the infants with them during the training. We are seriously considering to address this issue appropriately and hopefully after the completion of the under construction building of phase-II of Federal Judicial Academy this problem would be solved”.

About the documentary titled “Lady Judges of Pakistan” prepared by Dr. Livia Holden, Associate Professor, Department of Humanities and Social Sciences-LUMS, and Marius Holden in collaboration with the Federal Judicial Academy, Islamabad, whose premier show was held in the Auditorium of the Supreme Court of Pakistan, Islamabad, his lordship said, “This uphill task was undertaken by the Italian couple by accepting this challenge and ultimately succeeded in achieving the goal. The underlying objective of preparation of this documentary is to highlight the circumstances and environment in which female judges of Pakistan are successfully administering justice to the vulnerable segments of the society. About three decades ago, the legal and judicial profession had overwhelming male domination and there was almost negligible representation of ladies.”



Hon'ble Chief Justice of Pakistan gives away a certificate to one course participant Female Judge

“I appreciate the efforts of Dr. Livia Holden and Marius Holden who under the guideline of Hon'ble brother judges Mr. Justice Tassaduq Hussain Jilani and Mr. Justice Jawwad S. Khawaja have accomplished the task successfully, “his lordship concluded.



Female Judges from all over Pakistan in group photo with Mr. Justice Iftikhar Muhammad Chaudhry, Hon'ble Chief Justice of Pakistan

*“Whoever wants to reach a distant goal
must take small steps.”*

– Helmut Schmidt

'ADR' ESSENTIAL TO DECIDE CASES IN A REASONABLE SPAN OF TIME

Hon'ble Mr. Justice Khilji Arif Hussain

Shedding light on the ADR mechanisms, Hon'ble Mr. Justice Khilji Arif Hussain said, "This new concept of deciding the cases by a way of settlement is very important and it has been very successful in many countries such as UK, Canada but unfortunately, it has not been that much successful in our country, perhaps, due to the lack of knowledge about the ADR techniques and also, in my personal view, due to a cheap litigation. Like other countries, there is no cost of litigation with a decree of court, which creates fear among the litigants. However, without adopting ADR tactics, it is impossible for judges to decide cases in a reasonable span of time."

Honourable Judge further said, "By adopting the ADR techniques such as arbitration, mediation etc., the commercial organizations not only save their resources but also keep their relationships intact and run the business".

He also spoke about the role of Karachi Dispute Resolution Center (KDRC) in the promotion of ADR education and techniques.

Earlier, Mr. Parvaiz Ali Chawla, DG of the Academy presented his welcome speech, highlighted the objectives of the training and importance of the new subjects and laws such as Cyber Crime, Intellectual Property Rights Laws etc. and also spoke about the future prospectus of the Academy as "Center of Excellence" and "University of Law and Judicial Administration."



Mr. Justice Khilji Arif Hussain, Hon'ble Judge Supreme Court of Pakistan, on the rostrum



Course participants in group photo with Mr. Justice Khilji Arif Hussain, Hon'ble Judge Supreme Court of Pakistan and faculty members

A LOT OF LITIGATION BORNE OUT OF EGO COMES TO COURTS:

Hon'ble Mr. Justice Nasir-ul-Mulk



Mr. Justice Nasir-ul-Mulk, Hon'ble Judge, Supreme Court of Pakistan, on the rostrum

Judge Supreme Court of Pakistan, Hon'ble Mr. Justice Nasir-ul-Mulk has said that a lot of litigation borne out of ego-gratification comes to the courts, adding that “in such a society the Alternate Dispute Resolution (ADR) techniques will be the best way to settle the disputes.”

He expressed these views in the certificate-awarding ceremony on the conclusion of a one-week course titled, “Skilled -based Alternate Dispute Resolution (ADR), Legal Writing and New Laws” for Civil Judges/ Judicial Magistrates from all over Pakistan including Azad Jammu and Kashmir here in the Federal Judicial Academy, Islamabad, on Saturday (12.01.2013)

About the importance and efficacy of ADR techniques, the honourable Judge of the Apex Court said “By applying the Alternate Dispute Resolution Techniques you are building a relationship between the parties and ending the dispute once and for all.”

Highlighting the importance of Legal Language and Legal Writing, he urged the young judicial officers to sharpen their skills and improve their proficiency in the legal language and legal writing.

“Always read the Law reports and good literature, not a trash literature, to get a mature command over language. Reading the best literature does not only increase ones command over the language but it also gives the understanding of human behaviour, human attitudes and human psyche. Read the best literature, may be classical literature also,” he maintained.

Giving a word of caution to the trainee Judges, the honourable Judge said, “One small mistake in the judgment leads to many complications, hence, always think your decision is the final decision. Keep this thing always in your mind and make no mistakes in your decisions. However, in the family matter cases always try to show more sensitivity and prudence because in those matters families and their lives are involved.”

Earlier, Mr. Parvaiz Ali Chawla, DG of the Academy presented his precise welcome address and about the chief guest who is also the Judge of the FJA (Administration) he said, “In this training and whatever we do here in this Academy there is a significant contribution of the Honourable Judge because he is the Judge In charge of this Academy and we always seek his guidance, among others, to arrange trainings and other activities in this Academy.”



Trainee judges posing for group photo with Mr. Justice Nasir-ul-Mulk, Hon'ble Judge, Supreme Court of Pakistan, at the Academy

COLLECTIVE EFFORTS REQUIRED TO CREATE AWARENESS, EDUCATE MASSES ABOUT ENVIRONMENT AND ITS IMPORTANCE

Hon'ble Mr. Justice Anwar Zaheer Jamali



Mr. Justice Anwar Zaheer Jamali
Hon'ble Judge, Supreme Court of
Pakistan, on the rostrum

Judge Supreme Court of Pakistan, Hon'ble Mr. Justice Anwar Zaheer Jamali says that collective efforts are required to create awareness and educate the masses about the environment and its importance.

He expressed these views in the inaugural ceremony of a one week training course on "Intellectual Property Rights Laws, Environmental Laws with Special Reference to Jurisdiction and Powers of Green Courts and other New Laws" for District and Sessions Judges/ Additional District and Sessions Judges from all over Pakistan including Azad Jammu and Kashmir in the Federal Judicial Academy, Islamabad, on Monday. (14. 01.2013)

About the importance of the Environmental Laws, the honourable Judge of the Apex Court said, "This subject is, indeed, very important. It is the need of the hour. Realizing its importance the Academy has done a good job to incorporate it in the training course. This subject starts from the destruction of Ozone layer and ends

up to your house when you throw the house waste and garbage on the streets.

It is a subject of human interest litigation. District Judiciary Judges should make sure that environmental laws are enforced. Environmental laws need your special attention."

He said: "Mere labeling of the Environmental Courts as Environmental Tribunals or Green Courts is not enough but more important is the conduct of the Presiding Officer, how active role he/she is playing in saving the environment in this age of environmental decay. It is not the gun but the man behind the gun who counts. How effectively and efficiently one is discharging his/her functions, his /her responsibilities. You have the backing of the enactment; you have the backing of the law. You are there to protect the individual's rights and also the interests of the masses of this country".

Lamenting about the Environmental Laws and Environmental Tribunals in the country, he said: Laws enacted in this country, decade or more than a decade, unfortunately our Environmental Protection Tribunals are only "on the record" working. This is, indeed, a sorry state of affairs about the Environmental Protection Tribunals or Green Courts in the country".

Regarding the Environmental Laws he said, "Nowadays seminars, workshops and walks are being organized but people need more and more education and awareness about this subject, especially, those people who have no proper exposure about this subject".

Hon'ble Judge of the Apex Court also enumerated the efforts of the emerging South Asian robust economies such as China, Japan, Korea, and Taiwan etc. where the Environmental Courts / Green Courts are actively working.

He also referred to the Last year's South Asian Conference on Environmental Justice and the Bhurban Declaration, 2012 and said that still more was required in this domain.

About the much more debated Intellectual Property Rights Laws in the world today, the Hon'ble Judge said, "These laws are also the need of the day to curb the menace of piracy but what it needs a very balanced approach."

"Intellectual Property Rights Laws are not made to exploit the poor of the developing and third world countries

like Pakistan and protect and advance the interests of the companies from the developed economies. You (Judges at the District Judiciary level) have to adopt a balanced and a pragmatic approach to tackle the issues arising out of it”, he emphasized.

Earlier, Mr. Parvaiz Ali Chawla, DG FJA, presented his welcome speech and highlighted the objectives of the training course.



Course participants in group photo with Hon'ble Mr. Justice Anwar Zaheer Jamali and FJA faculty members

ROLE OF JUDICIARY CRUCIAL

Hon'ble Mr. Justice Tassaduq Hussain Jillani



Hon'ble Mr. Justice Tassaduq Hussain Jillani, senior puisne, Judge Supreme Court of Pakistan/Judge In charge FJA (Academics), on the rostrum

Make good habits and they will make you.”

– Parks Cousins

Judge Supreme Court of Pakistan, Hon'ble Mr. Justice Tassaduq Hussain Jillani says that the country is passing through difficult times, hence, the role of judiciary is crucial.

He expressed these views in the certificate awarding ceremony on the conclusion of a one-week training course on “Intellectual Property Rights Laws, Environmental Laws with Special Reference to Jurisdiction and Powers of Green Courts and other New Laws” for District and Sessions Judges/ Additional District and Sessions Judges from all over Pakistan including Azad Jammu and Kashmir in the Federal Judicial Academy, Islamabad, on Saturday (19. 01.2013)

Highlighting the importance of judicial independence and the rule of law, the honourable Judge said, “It is enshrined in the Constitution of Pakistan 1973. The Constitution ensures the judicial independence with a view to provide justice to the people. Being a pivotal organ of the State, it has to be strong enough to protect the Constitution and its core values.

It has to ensure that each organ and institution remains within the parameters of its defined authority under the Constitution and Law. This would depend on the institutional and inner strength of judiciary. The inner strength, in turn, lies in the strength of character and professionalism of the persons manning the judiciary”.

“No country can realize the dream of progress and prosperity for its people without following the route of the rule of law and supremacy of Constitution”, he observed.

Hon'ble Judge of the Apex Court also spoke about the nation's trust reposed in the judiciary and reminded the learned district judiciary judges of a more onerous role that they have in the upcoming polls in the country for the promotion of democracy under the Constitution.

In his welcome speech, DG of the Academy, Mr. Parvaiz Ali Chawla presented a detailed profile including educational, academic and intellectual attainments of the honourable chief guest who is also Judge In charge FJA (Academics) and said that the honourable chief guest has reinvigorated this Academy.



Course Participants posing for group photo with Hon'ble Mr. Justice Tassaduq Hussain Jillani and FJA faculty members

SUPERINTENDENTS PLAY LINCHPIN ROLE IN DISTRICT AND SESSIONS JUDGES OFFICE

Dr. Faqir Hussain

Dr. Faqir Hussain, Registrar, Supreme Court of Pakistan, has said that the court personnel have to play a significant role; thus, effective trainings are essential for their better performance.

He expressed these views in the inaugural ceremony of a one-week training course on “How to be an effective Superintendent” for Superintendents of the District and Sessions Judges office from all over Pakistan including Azad Jammu and Kashmir here in the Federal Judicial Academy, Islamabad, on Monday (28. 01.2013)



Dr. Faqir Hussain, Registrar, Supreme Court of Pakistan, on the rostrum

Terming the court personnel as the “Real Face” of the court, worthy Registrar of the Apex Court said, “Indeed, first impression is the last impression. It is here where the litigant public interacts with the court staff, it is here where the 91 percent litigations come, and the litigant public gets the first impression about the subordinate courts and the same impression, whether good or bad, they carry that impression till the matter is over.

Trainings and orientations are imperative even for lower grade court personnel for their improved and effective performance. Here in this training you will not only learn about new subjects but also how to interact with the litigant public and perform better.

I have seen the syllabus in which very productive subjects such as Etiquette and Mannerism, Government Servant Conduct Rules, Senior –junior relationships, Self-stress and Time Management, T.A/ Pension/ Leave Rules etc. have been included. This orientation in all these subjects will improve your performance”.

About the National Judicial Policy (NJP), he said, “This policy demands a better performance from all the main stakeholders of the administration of justice system within the existing resources. That's why, a two-pronged approach was adopted in the National Judicial Policy- The speedy disposal of cases and imparting necessary trainings to the judges and others such as court personnel, law officers, attorneys and lawyers. This Academy has become more organized during the last four-five years. In the past, this Academy used to arrange the courses sporadically but nowadays it has arranged several highly productive training courses not only for the Judges but also for the prosecutors, district attorneys, court personnel and also for the lawyers. Lawyers are imparted education and trainings through seminars, workshops and conferences here in the Academy”.

He lauded the role of the subordinate courts saying, “In the wake of the National Judicial Policy, the performance of subordinate courts in the country has been appreciable. These courts have performed better and effectively”.

He further said, “These like trainings also promote national coordination, national cohesion and national integration.”

Earlier, Mr. Parvaiz Ali Chawla, DG, presented his welcome speech and spoke about the important role of the Superintendent in the affairs of the District and Sessions Judges office.



Course participants in group photo with Dr. Faqir Hussain, Registrar, Supreme Court of Pakistan and FJA faculty members

“Words have special powers. The power to create smiles or frowns. The power to generate laughs or tears. The power to lift up or put down. The power to motivate or de-motivate. The power to teach good or evil. The power to express love or hate. The power to give or take. The power to heal or harm. Choose your words carefully.”

– A.D. Williams

COMPUTER, INTERNET A GREAT SOURCE OF KNOWLEDGE

Mr. Parvaiz Ali Chawla

We live in the age of Information Technology and it is a well-known fact that computer is a great source of Information and knowledge; therefore, the court personnel are required to master computer skills for an effective management and administration and also to gain the desired knowledge about various subjects.

Mr. Parvaiz Ali Chawla, Director General, Federal Judicial Academy, Islamabad, expressed these views as a chief guest in the certificate – awarding ceremony on the conclusion of a one-week training course titled “How to be an effective Superintendent” for Superintendents of the District and Sessions Judges office from all over Pakistan including Azad Jammu and Kashmir and Gilgit-Baltistan, in the Federal Judicial Academy, Islamabad, on Saturday. (2.02.2013)



Mr. Parvaiz Ali Chawla, Director General, FJA Islamabad, on the rostrum

“Realizing the importance, role and advantages of Information Technology in the administration of justice system, we have made computer training an integral part of our every training here in the Academy, thus, I am positive that you would have got a reasonable knowledge and orientation about computer during this week-long training”, he maintained.

Regarding the Trainings and orientations in the Academy, he said, “This Academy arranges the trainings, orientations and refresher courses for the Judges, court personnel and others as per its mandate so that their Knowledge is widened about the routine and new subjects and their skills are sharpened.”



Course participants in group photo with Mr. Parvaiz Ali Chawla, DG, Federal Judicial Academy, Islamabad

About knowledge, he said, “much more knowledge is found in books but the knowledge and information which we acquire through interactions and orientations has no substitute. However, since you people are seniors in the District and Sessions Judges offices, hence, I would advise you all to share your knowledge which you already possess and the knowledge and information which you have gained from the resource persons during this training with your colleagues and juniors. By this way of sharing, we can build our institutions and institutionalize the knowledge and information for an effective delivery of justice to the litigant public.”

SETTLE FAMILY MATTER DISPUTES AMICABLY THROUGH RECONCILIATION, EARN 'SAWAB'

Hon'ble Mr. Justice Tariq Parvez

Judge Supreme Court of Pakistan, Hon'ble Mr. Justice Tariq Parvez has said that usually any and all good acts were considered to contribute towards earning “*sawab*”, but for our Family Court Judges it would be earning of “*sawab*”, apart from discharging of their duties, to settle the family matter disputes in the courts through pre and post trial reconciliation between the estranged parties.

He expressed these views in the inaugural ceremony of a one-week orientation on “Management of Family cases inclusive of two-day workshop on challenges being faced by Family Judges” for Female Judges hailing from all over Pakistan here in the Federal Judicial Academy, Islamabad, on Monday. (11. 02.2013)

“Family Court Judges are empowered with an extraordinary jurisdiction called a “parental jurisdiction”. It is a very special jurisdiction. Exercise this very special jurisdiction with rationality and extra-care so that disintegrating families are integrated, reunited or their family matters are settled amicably. Apply pre and post trial reconciliation jurisdiction and save the families from the break-up. This act on your part will not only bring satisfaction to your conscience but it will also earn some sort of “*sawab*” for you,” he maintained.

About the process and importance of learning he said, “Everyday every new experience and every new lecture adds to our knowledge. Since you people come from different parts of the country and with different socio-cultural backgrounds, therefore, your Interaction with the resource persons and that also with each other will certainly add to your knowledge and information. This is a very good occasion which the Academy has provided you all where you have not only to learn about your professional subjects but also interact with each other.”

In this context sharing his experience, he said “In our belief, learning starts from the cradle and ends up to the grave. I always try to act upon it. A day before yesterday, I was in Lahore with my family. While watching one television program in which the host of the program quoted the thought-provoking words of Hazrat Umar Farooq (R.A) which read as “Jahan Adl hoga, wahan rizq ki frawani hogi” “(wherever will be justice, there will be rizq (provision) in abundance)“. Honestly speaking, I have never read or heard these words before this television program so we have to keep on learning from the cradle to the grave.”

Earlier, Mr. Parvaiz Ali Chawla, DG of the Academy presented his welcome speech and read out a detailed profile of the chief guest.



Hon'ble Mr. Justice Tariq Parvez, Judge Supreme Court of Pakistan, on the rostrum



Female Judges from all over Pakistan in group photo with Hon'ble Mr. Justice Tariq Parvez and FJA faculty members

HON'BLE MR. JUSTICE NASIR-UL- MULK LAUDS PROBITY, PROFESSIONALISM OF FEMALE JUDGES



Hon'ble Mr. Justice Nasir-ul-Mulk sharing wisdom with the course participants

Lauding the probity and professionalism of Female Judges, Judge Supreme Court of Pakistan, Hon'ble Mr. Justice Nasir-ul- Mulk has said that it was encouraging to see that there were no allegations of corruption against our female judicial officers in the country.

He expressed these views on Friday in his “Talk with Female Judges” participating in a one-week orientation on “Management of Family cases inclusive of two-day workshop on challenges being faced by Family Judges” for Female Judges hailing from all over Pakistan here in the Federal Judicial Academy, Islamabad (15. 02.2013).

“Unfortunately, we hear public allegations of corruption against our male Judges but do not hear such allegations against our female judges dispensing justice in the country. Our female Judges have proven their integrity and professionalism in the field,” he maintained.

Regarding the hearing of Family matter cases by the Family Judges, he said, “Family matter cases are being heard by those Judges who are appointed as Family Court Judges, it is really encouraging for the society, especially, for a victim lady who comes to the court where she finds a male-dominated, intimidating and frightening environment all around in the Katchehry. All of a sudden when she enters the Family court where finds a Female Judge sitting there in the chair, she gathers up her courage and confidence and gets a sigh of relief and thinks that she is not alone there.”

On the occasion, the Hon'ble Judge also appreciated the candid views and creative ideas of the Female Judges about the documentary titled, "Lady Judges of Pakistan" which they watched *en masse* in its premier show before the certificate-awarding ceremony.

They were of the view that the said documentary was a good effort but it needed a professional editing, coherence, continuity in all respects including setting/placement of shots/ pictures, commentary as per settled professional standards.

Learned Judge, Ashraf Jahan, District and Sessions Judge from Karachi said that it would have been commendable if the documentary-makers had accorded proper projection to the neglected areas of the country such as Sindh province, particularly, Female Judges working in the jam-packed court rooms of Karachi.

In this backdrop, the Hon'ble Judge of the Apex Court who is also Judge In charge FJA (Administration) opined that the documentary carried the message but it needed fine-tuning to become more worth –watching.



Female Judges in group photo with Hon'ble Mr. Justice Nasir-ul-Mulk, Judge In charge (Admin) FJA

HON'BLE MR. JUSTICE EJAZ AFZAL KHAN SAYS JUDGES ROLE PIVOTAL TO MAINTAIN BALANCE IN SOCIETY

Judge Supreme Court of Pakistan, Hon'ble Mr. Justice Ejaz Afzal Khan has said that the role of a Judge in any society was pivotal to keep balance and it was similar to that of a tight-rope artist.

He expressed these views in a one-week orientation course on "Sessions Trial and Appreciation of Evidence" for Additional District and Sessions Judges from all over Pakistan including Azad Jammu and Kashmir and Gilgit-Baltistan here in the Federal Judicial Academy, Islamabad, on Monday. (25.02.2013)

He said, "This is not the end of the world. While sitting on the bench, the Judges should not forget their prominent role in the society. They should realize that their role is pivotal to put the society on the path to peace and progress."

In order to enlighten the course participants, he related the incident of Hazrat Imam Abu Hanifa (R.A) and the destitute old lady who used to live on the outskirts of Madina and one day Imam could see her that she was about to fall and he hurried to help her from falling on the ground. In this situation an inspiring and historical interaction took place between the two. However, the moral of that interaction can be summed up as: Imam or Qazi (Judge) must act as Judge, he should not fall into error because when an individual like the old lady falls or declines it is, indeed, the fall/decline of one particular individual but when the Imam/Qazi (Judge) falls into error, then, it is the decline/ fall of the entire society.”

“ T h i s m u c h importance, this much prominence has been accorded to Imam/Qazi (Judge) in our religion Islam and in its jurisprudence. We must have to reflect on it and act accordingly”, he maintained.

Hon'ble Judge also related one hadith concerning the Mukhzumi woman who committed a theft; the Holy Prophet (S.A.W) had a serious and severe attitude. No intermediary, however noble even if the issue concerns the nearest people to him, can intercede to abolish or relieve a punishment ordained by Allah. The Holy Prophet (S.A.W) rebuked



Hon'ble Mr. Justice Ejaz Afzal Khan, Judge Supreme Court of Pakistan, on the rostrum.

the intercessor, Usama Ibn Zayd, his beloved companion by saying, "Do you intercede to vitiate a punishment legalized by Allah. Then he started to deliver a speech. He said, "O people, those who lived before you would only punish the weak when committing a theft and leave the noble. *By Allah, had Fatima bint Muhammad committed a theft, I would have cut off her hand.*"

Hon'ble Judge urged the course participants to think and act upon this glorious message of the Holy Prophet (S.A.W) and administer justice to the people without any fear or favour.

On the occasion, he also quoted a few verses from the Holy Quran and widened the vision of the course participants with their logical interpretation and explanation.

He said, "the Holy Quran is the fountain of justice and it is all inclusive and all –encompassing. It contains all areas of justice and social justice. It focuses on Family, which forms the basis of social justice, how one should behave and handle the family and family matters. Everything is in the Holy Quran what we have to do, it is to read and learn from this Holy Book of Allah.

Once we learn to treat people around us fairly, justly and truthfully in accordance with the Holy Book, our task is accomplished,”

A b o u t t h e administration of justice, he said, "Administration of justice is not confined to the courts only but it is also indispensable in all walks of life. We have to be just, fair and transparent in all walks of life. It is pitiable that neither as Muslims nor as the citizens of the country we give our evidence fairly, justly and honestly. I believe that in such circumstances the task of our judges is gigantic but they have to put in practice their insight, acumen, prudence to get to the truth, to sift out the truth and discard the false. If you (Judges) are going to perform your task fairly, justly and faithfully, every passing day makes faith unshakable and firm, that our country will progress and become one of the most developed and prosperous country in the world.”

Earlier, Mr. Parvaiz Ali Chawla, DG of the Academy presented his welcome speech and illuminated the participants about the aims and objects of the Academy and said that this like trainings did not only build the capacity of the trainees but also build, promote and strengthen the spirit of judicial fraternity among the judicial officers across the country.



Trainee judges in group photo with Hon'ble Mr. Justice Ejaz Afzal Khan, Judge Supreme Court of Pakistan, at the Academy

JUDGESHIP SHOULD BE AN AFFAIR OF HEART

Hon'ble Mr. Justice Sh. Azmat Saeed

Judge Supreme Court of Pakistan, Hon'ble Mr. Justice Sh. Azmat Saeed has said that Judgeship was not a job but it has to be an affair of the heart. If judgeship was an affair of the heart, then, Judicial Officers would enjoy it, otherwise, they would destroy the innocent lives in the society.

He expressed these views in the inaugural ceremony of a one-week training course on "New Laws" for Civil Judges –cum- Judicial Magistrates from all over Pakistan including Azad Jammu and Kashmir here in the Federal Judicial Academy, Islamabad, on Monday. (4. 03.2013)

Regarding the importance of the courts and their effective functioning he said, "The entire system of any State depends upon the effective functioning of the courts. If the courts are not effectively functioning, then, the whole system of the State will be destined to fail. As nowadays we read and hear the stories about the "Failed State." If you are strong, then, the foundation of the State will be considered as strong and stable. Don't undersell or underestimate yourselves".

He said, "Self-discipline is the key to personal greatness. It is the magic quality that opens all doors for you, and makes everything else possible. With self-discipline, the average person can rise as far and as fast as his/her talents and intelligence can take him/her. But without self-discipline, a person with every blessing of background, education and opportunity will seldom rise above mediocrity".



Hon'ble Mr. Justice Sh. Azmat Saeed, Judge Supreme Court of Pakistan, on the rostrum

Besides the practice of self-discipline which will be key to your success, he said, “there are seven areas of your life which need your due attention to be a successful judicial officer. These include: goals, character, case management, time management, personal health, courage and responsibility”.

He also philosophically explained and illuminated the participants with the noble deep words such as trivia, knowledge, information and wisdom.

Earlier, Mr. Parvaiz Ali Chawla, DG of the Academy presented his welcome speech and a brief profile of the chief guest.



Trainee judges in group photo with Mr. Justice Sh. Azmat Saeed, Hon'ble Judge Supreme Court of Pakistan and FJA faculty members

HON'BLE CHIEF JUSTICE, ISLAMABAD HIGH COURT, ISLAMABAD ADVISES JUDICIAL OFFICERS TO EXCEL IN CYBER CRIME LAWS

Chief Justice Islamabad High Court, Hon'ble Mr. Justice Muhammad Anwar Khan Kasi said that under-training judicial officers should equip themselves with Environmental and Cyber Crime Laws to check pollution and white collar crimes in society, here at Federal Judicial Academy, on Saturday (09.03.2013).

Speaking to the under-training judges/judicial officers from all over Pakistan including Azad Jammu and Kashmir here in the Federal Judicial Academy, Islamabad, the Hon'ble Chief Justice said that environmental pollution had become a big issue in the developed as well as under-developed countries.

“The implementation of the law in this field is necessary to overcome the problems,” he opined.

He said that the latest knowledge about the Information Technology and cyber crime laws was also necessary as the world had become a global village. “You



Mr. Justice Muhammad Anwar Khan Kasi, Hon'ble Chief Justice, Islamabad High Court, on the rostrum

have to equip yourselves with the knowledge of updated laws and requisite skills to address all the intricate problems”, he added.

Hon'ble Mr. Justice Muhammad Anwar Khan Kasi advised the young judicial officers to exhibit judicial ethics to prove themselves as the judges in all respects.

Earlier, as usual, DG of the Academy, Mr. Parvaiz Ali Chawla, presented his welcome speech, an overview of the course and a brief profile of the Hon'ble chief guest.

He urged the young judicial officers to pass on their knowledge and information to their colleagues and juniors in the field so as to enhance their knowledge and information for an effective delivery of justice to the litigant public.

In the end, Honourable chief guest gave away certificates to the course participants in a simple but impressive ceremony.



Trainee judges in group photo with Mr. Justice Muhammad Anwar Khan Kasi, Hon'ble Chief Justice, Islamabad High Court, Islamabad

HON'BLE MR. JUSTICE AMIR HANI MUSLIM LAMENTS GROWING INCIDENTS OF TERRORISM

Lamenting the growing incidents of terrorism in Pakistan and around the globe, Hon'ble Judge Supreme Court of Pakistan, Mr. Justice Amir Hani Muslim has said that steps were being taken by the government and other related agencies to curb this growing scourge of terrorism which has created a plethora of problems throughout the world.

He expressed these views in the inaugural ceremony of a one-week colloquium on “Modern Investigation and Evidence Gathering Techniques in a Changing Criminal Justice and Counter Terrorism World” held here at the Federal Judicial Academy on Monday (11.03.2013)

Enumerating the initiatives taken so far, the Hon'ble Judge of the Apex Court said that the separation of anti-terrorism courts from the ordinary courts, amendments in the



Hon'ble Mr. Justice Amir Hani Muslim, Judge, Supreme Court of Pakistan, on the rostrum

Evidence Act, capacity building of the Special Judges for Anti-terrorism courts, were a few prominent steps which had been taken for speedy disposal of terrorism-related cases in the country.

Hon'ble Judge also lamented about the procedural and infrastructural problems which were being faced by the Judges of Anti-terrorism Courts, prosecutors and mainly by the investigating agencies such as lack of proper infrastructure.

Hon'ble Judge said, "Investigation Officers are required to equip themselves with Forensic Sciences, other related skills, and tools to fight terrorism in the country."

"A witness Protection Program may also be made a part of these techniques, among others, for an effective performance of the Anti-Terrorism Courts because when the witnesses are threatened or eliminated, then, the judges of the Anti-Terrorism Courts will not be in a position to convict the culprits," he maintained.

For an effective working of all main stakeholders such as prosecution, forensic sciences experts, he advised that the working of Forensic Sciences, which works under the provincial health department, and the prosecution, which works under the Home Department, should work under the one-roof for speedy disposal cases.

He also shed light on the administrative efforts of Government of Sindh which it had taken regarding the Anti-Terrorism Courts in the province.

Earlier, Mr. Parvaiz Ali Chawla, DG of the Academy, welcomed the honourable chief guest and highlighted the hazards, doom and destruction of this monster of terrorism and called for collective efforts including capacity building of all the main stakeholders on modern scientific lines to fight this menace of terror in a befitting manner.

He lauded the cooperation and coordination of the international partners to arrange this second in series unique colloquium for the Judges of Anti-Terrorism Courts, Prosecutors and Investigation officers here in the Academy.

Thirteen Judges of Anti-terrorism Courts, eight Prosecutors and two Investigation Officers including Secretary Prosecution, Government of Balochistan, AIG, Crimes, CPO, Quetta and SSP, Investigation Branch, Punjab, Lahore, attended this one-week colloquium at the Academy. This second in series colloquium was jointly organised by the FJA and the British High Commission, Islamabad, US Department of Justice, and Australian Federal Police (AFP). A galaxy of international experts from Metropolitan Police Service, New Scotland Yard, London, British High Commission, Islamabad, US Embassy, Islamabad, US Department of Justice-International Criminal Investigative Training Assistance Programme and national experts of international fame belonging to Counter Terrorism Wing/ Computer Forensic Expert, Federal Investigation Agency (FIA), Islamabad, Punjab Forensic Science Agency, Lahore, Civil Defence, Punjab, Bomb Disposal Unit, Karachi, and others enlightened the learned participants - Judges of Anti-Terrorism Courts, Prosecutors and Investigation Officers from all over Pakistan in this colloquium.

Mr. Mark Carroll, Liaison Prosecutor, British High Commission, Islamabad, was the moving spirit behind this one-week colloquium together with the FJA, Islamabad.



Colloquium-participants in group photo with Mr. Justice Amir Hani Muslim, Hon'ble Judge, Supreme Court of Pakistan, and FJA faculty members

"Our greatest glory is in never falling, but in rising every time we fall."

– Confucius

TERRORISM IN ALL ITS FORMS, MANIFESTATIONS NEED TO BE CURBED

Says Hon'ble Mr. Justice Nasir-ul- Mulk

INTERNATIONAL PARTNERS COMMITTED TO WORKING WITH PAKISTAN:

Mr. Peter Heyward, H.E. High Commissioner of Australia to Pakistan

Keeping in view the dynamics of terrorism in the present times, the stakeholders of the Criminal Justice System need to acquire enhanced skills and in-depth understanding of new areas of Forensic Sciences.

Judge Supreme Court of Pakistan, Hon'ble Mr. Justice Nasir-ul- Mulk expressed these views in the graduation ceremony at the conclusion of a one-week colloquium on "Modern Investigation and Evidence Gathering Techniques in a Changing Criminal Justice and Counter Terrorism World" held in the Federal Judicial Academy, Islamabad, on Saturday. (16.03.2012)

He said, "It is high time that scientific methods be adopted by the investigators for investigating crimes and collecting evidence. Terrorism is a global challenge and it has become a highly destructive phenomenon in Pakistan,

causing human sufferings in terms of loss of lives, property and undermining the very social fabrics of our society. Terrorism in all its forms and objectives need to be curbed."

Hon'ble Judge said, "It is the primary responsibility of the Government and the Security agencies to take effective steps to control terrorism. Those of us who are associated with the justice system in this country in whatever capacity can also contribute in our own way in the efforts to curb terrorism. An efficient and effective criminal justice system can bring to justice those involved in terrorist activities."



Mr. Peter Heyward, H.E. High Commissioner of Australia to Pakistan, on the rostrum



Hon'ble Mr. Justice Nasir-ul-Mulk, Judge, Supreme Court of Pakistan/Judge Incharge, (Admin) FJA, on the rostrum

Regarding the Criminal Justice System in the country, he said, "There is a tremendous room for improvement in our criminal justice system and for building the capacity of those involved in the running of the system; that is the investigators, prosecutors and adjudicators. The Supreme Court on its part has evolved a system of overseeing the working of the Anti-Terrorism Courts. A Judge in each High Court is tasked to oversee the working of such Courts within the Province which in turn is being supervised by a monitoring Judge of the Supreme Court. Recently a meeting was held which was presided over by the Chief Justice of Pakistan to take stock of terrorism cases. The reports submitted by the Provinces disclosed an appalling reality that the rate of convictions in trials by the Anti-Terrorism Courts ranged only between 23 to 30% which means more than 70% acquittals".

He said, "From threadbare examination of the judgments of acquittal by these Courts three broad reasons were identified for the low rate of convictions. These included: flaws in investigation; weaknesses in prosecution; and insufficiency of evidence. The investigators of crimes in Pakistan, whether or not involving terrorism, follow a set conventional pattern of investigation. Terrorists and other criminals can, then, be successfully prosecuted without the aid of eyewitnesses and confessional statements. However adoption of scientific methods by the investigators would achieve results only if the evidence collected is effectively used by the prosecutors and accorded due probative weight by Courts. This way we can bring about a qualitative change in our criminal jurisprudence.

Hon'ble Judge of the Apex Court who is Judge In charge of the FJA (Administration) also threw light on the working of the Jury System, in vogue, in different countries around the globe and also the Criminal Justice System in Pakistan where the learned Judge has to assign the substantial reasons, both, for the conviction or the acquittal.

About the monster of terrorism which has played havoc with life and limb in Pakistan, His Excellency, Mr. Peter Heyward, High Commissioner of Australia to Pakistan said, "We know the cost to Pakistan of terrorism has been great. Lamentably, incidents continue to occur, with huge impacts not only on life and property but also on the stability and effective functioning of society. These are high stakes and it is key that all parts of the justice system are fully able to apply the rule of law to those who would seek to undermine it. It is to this end that we are holding this colloquium."

Expressing his optimism about the colloquium, His Excellency, High Commissioner, said, "My hope is that this second Judicial Colloquium will have been just as useful. Criminal courts rely heavily on eye witnesses and confession evidence. Both are subject to external influences and potential unreliability. For this reason, forensic science is an integral part of criminal investigations through to prosecution and judgment. Forensic best practices are fundamental to recognizing and preserving items of evidence, for avoiding the loss, deterioration or contamination of this evidence, and for ensuring its continuity or 'chain of custody'.

Showing his determination H.E. High Commissioner said, "the ultimate objective of course, and the reason that international partners are so strongly committed to working with Pakistan in this area,



Colloquium-participants in group photo with Mr. Justice Nasir-ul-Mulk, Judge, Supreme Court of Pakistan/Judge Incharge FJA (Admin), and His Excellency Mr. Peter Heyward, High Commissioner of Australia to Pakistan at FJA, Islamabad

is to strengthen capacity to deliver and administer justice effectively in a changing criminal justice system and counter terrorism world-to hold those involved in terrorism and related criminality to account”.

Earlier, Mr. Parvaiz Ali Chawla, DG of the Academy presented his welcome address and an overview of the colloquium. He said, “I strongly believe that such like colloquiums would be highly beneficial to effectively tackle the scourge of terrorism”.

In the end, the honourable chief guest gave away certificates to the learned course participants and also a few staff members of the Academy in the certificate-awarding ceremony.

PROSECUTORS EXHORTED TO ELIMINATE CORRUPTION

Prosecutor General, Punjab, Mr. Sadaqat Ali Khan, exhorts the Prosecutors to put in practice pragmatic efforts to eliminate the menace of corruption from the prosecution department for an effective and speedy administration of justice.

While addressing to the Prosecutors in the inaugural ceremony of a one-week refresher course on “Role of Law Officers Vis- A –Vis Quick disposal of Criminal cases” held here at the Federal Judicial Academy, Islamabad, on Monday (25.03.2013), in which he was the chief guest. He lamented the lack of facilities, poor infrastructure, inefficient and unskilled clerical staff, lackluster attitude and lukewarm cooperation and response of police and rampant corruption in the prosecution department.



Mr. Sadaqat Ali Khan, Prosecutor General, Punjab, on the rostrum

“There is a strong impression about the corruption in the prosecution department. No doubt, there are “black sheep” in the prosecution department who have been found indulging in the corrupt practices; consequently, they are creating a bad impression in the minds of the people about the entire department as “corrupt one.” It is noticed that the clerical staff of the prosecution department in connivance with a few unscrupulous police officers indulge in the corrupt practices, they get money from the people saying that they have to pass on this money to the prosecutor and this unethical, immoral and amoral act on the part of the clerical staff and the police usually maligns the image of the prosecutor. In this situation, you are the persons who can eliminate the corruption from the Prosecution Department. What you are required to change the way of your working. You have to reduce the role of a clerical staff during the scrutiny and the submission of the challan to a minus level so as to reduce corruption and enhance efficiency,” he urged the participants.

“Obviously, all of you have a high volume of cases. It has been very gratifying that you people are doing a good job and I am of this firm belief that we can make a difference within the existing means if are devoted, dedicated and diligent,” he conclude.

As usual at the outset of the ceremony, Mr. Parvaiz Ali Chawla presented his welcome speech and an overview of the weeklong course. He said that the Federal Judicial Academy under the visionary leadership of Mr. Justice Iftikhar Muhammad Chaudhry, Hon'ble Chief Justice of Pakistan and two Hon'ble Judge In charges of the Academy, Mr. Justice Nasir-ul-Mulk, Judge In charge FJA (Administration) and Mr. Justice Tassaduq Hussain Jillani, Judge In charge FJA (Academics) accorded utmost importance to the capacity building of all the main stakeholders of the administration of justice system for an effective dispensation of justice in the country.



Prosecutors in group photo with Mr. Sadaqat Ali Khan, Prosecutor General, Punjab and FJA faculty members

PROSECUTORS NEED TO BE EXTRAORDINARY TO SEEK JUSTICE FOR VULNERABLE

Mr. Hayat Ali Shah, Director General, Khyber Pakhtunkhwa Judicial Academy, Peshawar

The Rule of law is the only tool which ensures justice in the society and justice ensures the very existence of the society. All the key stakeholders of administration of justice system have to play their proactive role to promote the Rule of law and administer speedy justice in the society.

Mr. Hayat Ali Shah, Director General, Khyber Pakhtunkhwa Judicial Academy, Peshawar, expressed these views in the certificate-awarding ceremony at the conclusion of a one-week refresher course on “Role of Law Officers Vis- A –Vis Quick disposal of Criminal cases” here at the Federal Judicial Academy, Islamabad, on Monday, in which he was the chief guest. (30. 03.2013)

He said, “The current practices are threatening the very existence of our society. People are compelled to take law into own hands. Sometimes they make their gangs and sometimes they make their outfits so as to take law into hands. All this happens in the society when people do not get justice. As a reaction to social injustice with them, people take law into own hands. Such like state of affairs create chaos and anarchy and, then, the Law of the Jungle becomes the fate of the nation. In our society also nowadays the law of the jungle is in practice. In such circumstances, the Prosecutors have to be extraordinary to seek justice for the poor and vulnerable segments of the society.



Mr. Hayat Ali Shah, Director General, KPK, Judicial Academy, on the rostrum

Justice system depends upon, not only on Judicial Officers, but also let me say it again, it also depends upon the prosecutors. Every one of us has to play the due and desired role to develop a just and lawful society. You have been sensitized about your role and scope during this one-week training.

Once you depart from this Academy and reach your respective duty stations, please, do sensitize your colleagues and juniors there and do tell them that our existence depends on our work. The more we have to work, the better it would be and we can survive in the hostile circumstances all around.”

Advising the persecutors, he said, “Since the role of prosecutors is very important and in the present situation it has become even more important, therefore, prosecutors need to be honest, loyal, possess knowledge of law, bold and courageous.”

Speaking on the occasion, Mr. Parvaiz Ali Chawla, DG of the Academy welcomed the chief guest and threw light on his professional profile and spoke at length about the utility and importance of such trainings in the Academy.



Prosecutors in group photo with Mr. Hayat Ali Shah, Director General, Khyber Pakhtunkhwa Judicial Academy, Peshawar and FJA faculty members

POSITION HOLDERS

Ms. Ena Junejo, Civil Judge-cum-Judicial Magistrate, Karachi (Central) clinched the first position in the Essay Competition on the topic, “Why the ADR system is not successful in our Judicial System?”, during the one-week training course on “Skilled based ADR, Legal Writing and New Laws” for Civil Judges cum Judicial Magistrates from all over Pakistan including Azad Jammu & Kashmir and Gilgit-Baltistan (7th to 12th January, 2013). Honourable Mr. Justice Khilji Arif Hussain, Judge, Supreme Court of Pakistan, assigned the topic and Honourable Mr. Justice Mian Saqib Nisar evaluated the intellectual input.

Mr. Abdul Hasnat Muhammad Zulqarnain, the Additional District & Sessions Judge, Mianwali, secured the first position in Essay Competition on the topic “Justice in courts is only possible when we learn to be just in every department of life”, during the one-week refresher course on “Sessions Trial & Appreciation of Evidence” for Additional District & Sessions Judges, from all over Pakistan including Azad Jammu & Kashmir and Gilgit-Baltistan (25th February to 2nd March, 2013). Honourable Mr. Justice Sh. Azmat Saeed, Judge, Supreme Court of Pakistan, gave the topic and the same was evaluated by Honourable Mr. Justice Muhammad Azam Khan, Chief Justice Azad Jammu & Kashmir, Muzaffarabad.

ALTERNATE DISPUTE RESOLUTION

BY ENA JUNEJO

Conflict is inborn or innate in every human. It is an undeniable element in every rational being and has grown and is growing and will grow till the end of this World. As God in His wisdom has created every man with a mind distinguished from the other and each of us is born with a mind possessing different ideas and opinions which are further sharpened and enhanced as the man grows older. And we all being social animals when come into contact or interaction with other individuals with diverse ideas and opinions the very concept of conflict arises from that point which in certain cases takes a more complex shape and becomes a dispute which arises from a conflict which is the beginning of consciousness. Conflict is usually based upon a difference over goals, objectives or expectations between individuals or groups. Conflict also occurs when two or more people or groups compete over limited resources and/or perceived, or actual, incompatible goals.

SETTLEMENT OF CONFLICTS AND DISPUTES IN DIFFERENT ERAS.

Conflicts and disputes have been settled differently in different eras by adopting different modes and means. Earlier the disputes were settled by the Rule of Power and force the one who was more powerful used to suppress the weaker in case of conflicts and disputes but after the advent of modernization and establishment of international organizations due to the human loss and devastation caused by the two world wars the Courts of Law were established to function under certain codified laws and it became one of the fundamental function of every peace loving and modern state to provide justice to the people in order to protect their lives, rights and liberties through an elaborate system of constitution, law enforcement mechanisms and judicature to settle the disputes between the State and the individual and the individuals inter se. Indeed, a court is the only forum to settle disputes; but it cannot be denied that all the matters do not land at courts of law for adjudication. For example, all and sundry disputes like quarrel over children, tenancy, property heirship and allied matters are settled by the elders and neighbours, without approaching any judicial forum, notwithstanding their availability in the nook and corner of the country. Obviously, there is a reason for it. Settlement of disputes through judiciary is not only cumbersome and costly, but it has been witnessed that the cases filed by grandfathers are fought by grandchildren. In case all these petty matters are brought before the courts of law, it will further hamper the snail-paced process of settlement of disputes in courts, given the huge number of disputes arising out in our daily life.

In such circumstances a lot depends on the context, the feelings and the way we manage conflict. In this process of managing a conflict, we identify and handle the dispute in a rational, equitable and efficient manner. As individuals, once we become acquainted with the techniques of managing conflict, we may utilize them in all aspects of our lives- be it our family issues, work-relation problems, social issues or educational disputes etc. By realizing the needs of such alternates in order to lighten the burden of the Courts and keeping in view the other factors prevailing in the modern society and in order to meet such demands which are emerging therefrom the system of ADR or Alternate Dispute Resolution has been introduced in many peace loving and modern countries for resolving the disputes by such acceptable and adequate alternates other than by way of litigation.

WHAT IS ADR?

Alternative Dispute Resolution (ADR) (also known as External Dispute Resolution in some countries includes dispute resolution processes and techniques that act as a means for disagreeing parties to come to an agreement short of litigation. It is collective term for the ways that parties can settle disputes, with (or without) the help of a third party. Despite historic resistance to ADR by many

popular parties and their advocates, ADR has gained widespread acceptance among both the general public and the legal profession in recent years. In fact, some courts now require some parties to resort to ADR of some type, usually mediation, before permitting the parties' cases to be tried. The rising popularity of ADR can be explained by the increasing caseload of traditional courts, the perception that ADR imposes fewer costs than litigation, a preference for confidentiality, and the desire of some parties to have greater control over the selection of the individual or individuals who will decide their dispute. Some of the senior judiciary in certain jurisdictions (of which England and Wales is one) are strongly in favor of the use of mediation to settle disputes. (Definition is taken from Wikipedia)

CONCEPT OF ADR IN ISLAM

Dispute resolution may be a new concept in many countries but it is deeply rooted in Islam and a familiar concept in the Islamic ideology. The Holy Quran refers, at several places, to the principle of resolving disputes amicably, calling on the protagonists to forgive. The Holy Quran very specifically mentions: if you fear a breach between them (husband and wife), appoint two arbiters, one from his family, and the other from hers. If they wish for peace, Allah will cause their conciliation. For Allah has full knowledge, and is Acquainted with all things (IV:35) in the Sunnah of the Holy Prophet (Peace Be Upon Him) the role of the person who reconciles differences between men is amply illustrated in various hadiths. The Prophet (Peace Be Upon Him) had accepted to judge an arbitration case, rather he had appointed an arbitration and had accepted. The latter's decision and he had also counselled a tribe to have a dispute arbitrated. The Khulafae-Raashideen did likewise with respect to disputes relating to goods and obligations.

WHY ADR?

ADR is an essential need and its recognition and adoption nowadays is required in every state as the litigation through a common and acceptable mode of resolving disputes and

getting justice is present but the Courts are bound by Laws and cannot exercise their functions beyond those codified Laws. I may take the liberty to quote here Lord Simonds on the subject. He said "*The duty of the Court is to interpret the words that the Legislature has used. Those words may be ambiguous, but even if they are, the power and duty of the Court to travel outside them on a voyage of discovery are strictly limited*".

As the people are becoming more aware about their right and duties there is a great rise in unaccepting the decisions of the Courts which leads to number of litigations emerging out from one Suit or Case which takes finality over the years. However, nowadays as the conflicts of more complex nature are growing; more and more occasions require negotiation. Everyone wants to participate in decisions that affect him. Conflicts in business, government or the family, people try to reach settlement through negotiation, even when their cases are in the court. In many countries, the judicial system can no longer with its case-load, or offer cost-effective procedures for resolving disputes outside the traditional, formal system. Further, the traditional legal system is felt to be adversarial, costly, unpredictable, rigid, over professionalized, damaging to relationships and limited to narrow remedies compared to realistic problem-solving.

As Dorothy Thompson very rightly said "Peace is not the absence of conflict, but the presence of creative alternatives for responding to conflict alternatives to passive or aggressive responses, alternatives to violence".

Thus the strength of ADR lies not in any formal definition but in its flexibility of practice-where it has helped to introduce new thinking to the choice of techniques available, when dispute or potential dispute arises. Undoubtedly, ADR has helped to broaden the criteria, by which appropriate methods of dispute resolution can be judged, including the role of the legal system itself.

ADR IN PAKISTAN

In Pakistan, resolution of disputes outside the court is not a new concept. Since centuries, resolution of disputes has been done through arbitration, mediation and by soliciting the service

of Panchayat or Jirga or similar other institutions or through the interference of elders. The father of all the Laws of our Country i.e. The Constitution of Pakistan mandates that State shall ensure inexpensive and expeditious justice. This clearly shows the desire of the founders of the Constitution by providing speedy and cheap justice to the people and ADR is one of those modes through which this goal can be achieved.

In the year 2002, the Law and Justice Commission of Pakistan recommended for implementation of the Alternate mode of Dispute Resolutions. Subsequently, the Government of Pakistan amended the Civil Procedure Code 1908, whereby powers were given to the civil courts under Section 89-A to adopt (subject to the consent of the parties), to settle a dispute by Alternate Dispute Resolution. Complementary addition was also made in Order X of Civil Procedure Code, whereby the court has been empowered to pass necessary orders for expediting the trial proceedings.

The relevant laws (or particular provisions) in Pakistan dealing with the ADR are summarized as under:

1. S. 89-A of the Civil Procedure Code, 1908 (as amended in 2002) read with Order X Rule 1-A (deals with alternative dispute resolution methods)
2. The Small Claims and Minor Offences Courts Ordinance, 2002.
3. Sections 102-106 of the Local Government Ordinance, 2001.
4. Sections 10 and 12 of the Family Courts Act, 1964.
5. Chapter XXII of the Code of Criminal Procedure, 1898 (summary trial provisions)
6. The Arbitration Act, 1940.
7. Articles 153-154 of the Constitution of Pakistan, 1973 (Council of Common Interest)
8. Article 156 of the Constitution of Pakistan, 1973 (National Economic Council)
9. Article 160 of the Constitution of Pakistan, 1973 (National Finance Commission)
10. Article 184 of the Constitution of Pakistan, 1973 (Original Jurisdiction when federal or provincial governments are at dispute with one another)
11. Arbitration (International Investment Disputes) Act, 2011
12. Recognition and Enforcement (Arbitration Agreement and Foreign Arbitral Awards) Act, 2011

Techniques or Methods of ADR

In negotiation, participation is voluntary and there is no third party who facilitates the resolution process or imposes a resolution.

In mediation, there is a third party, a mediator, who facilitates the resolution process.

In collaborative law or collaborative divorce, each party has an attorney who facilitates the resolution process within specifically contracted terms. The parties reach agreement with support of the attorneys (who are trained in the process) and mutually-agreed experts.

In arbitration, participation is typically voluntary, and there is a third party who, as a private judge, imposes a resolution. Arbitrations often occur because parties to contracts agree that any future dispute concerning the agreement will be resolved by arbitration.

BENEFITS

ADR has been both; increasingly used alongside, and integrated formally, into legal systems internationally in order to capitalize on the typical advantages of ADR over litigation:

- Suitability for multi-party disputes
- Flexibility of procedure – the process is determined and controlled by the parties to the dispute
- Lower costs
- Less complexity (“less is more”)
- Parties choice of neutral third party (and therefore expertise in area of dispute) to direct negotiations/adjudicate
- Likelihood and speed of settlements
- Practical solutions tailored to parties' interests and needs (not rights and wants, as they may perceive them)
- Durability of agreements
- Confidentiality
- The preservation of relationships; and the preservation of reputations

WHY ADR IS NOT SUCCESSFUL IN PAKISTAN?

It is an irony that we do not appreciate the achievements of our forefathers, or practices and customs which are our own, or are part of our religion unless someone from the West appreciates or acknowledges it. But the problems of proper implementation and acceptance of ADR in our judicial system is due to many reasons some of which are discussed as under

- In my opinion, it does not need the brilliance of lawyers of expertise in judicial matters, or acquaintance with cumbersome procedures. All it needs is basic common sense, intelligence to comprehend the problem, and a rational approach to evolve a consensus decision.
- Dispute resolution outside the courts of law is basically a part of the judicial process and is permissible in Pakistan, yet there are no specific provisions or special institutional setups for different kinds of disputes. In many countries, it is a civil society activity, which is performed in an organized way with the help and assistance of their judicial system but in Pakistan it has yet to take roots and needs to become a public policy issue for the government.
- One of the factors which are serving as an obstacle in success of ADR system in Pakistan is BAR/Advocates it cannot be denied that a massive resistance has been observed many times by the Advocates in respect of the adoption of ADR in our judicial system and same is the case in the Courts whenever any Presiding Officer attempts to persuade the parties for adopting ADR great displeasure is shown by the Counsels which at times reach such a peak that leveling of allegations start and it becomes next to impossible for the Court to initiate or encourage any such alternate.
- One other factor is unawareness of the general public in respect of the new system of ADR.
- It has also been observed that some of the Judicial Officers think that the people will lose their confidence and trust in courts if this system is promoted people might think that Courts are avoiding to entertain the matter.
- In Pakistan number of litigations is false and frivolous filed with an intention to drag the other party in lengthy proceedings for years and in such cases where either of the party is wrong such party would never be convinced for ADR.
- One other factor is the loss of trust and credibility amongst the public in respect of any new policy or change in the society because of the law and order situation and the indifference of the Administration and policy makers regarding the needs of general public
- One other factor is lack of peace and security which is leading to frustration amongst the people and which gives rise to feelings of revenge, ego and hatred and they become inflexible in adopting any such mode for resolving their disputes.

- Lack of trained and professional mediators and arbitrators
- Poor negotiating skills of one or both parties or their advisers
- Unrealistic expectations
- Illiteracy
- Unrealistic assessment of interests, or alternatives, or of what the other side can do
- Desire for revenge
- Failure to communicate interests or offers
- Inability of the parties to identify or solve a real problem in their dealings
- Panchayat/ Jirgah system in some areas of Pakistan

CONCLUSION:

ADR can play a positive role in support of judicial reforms. The strengthening of ADR system in Pakistan can be seen as one of the judicial reforms intended to provide quick and easy justice to the people. The courts must respect the development of the “ADR culture” as an autonomous, parallel and independent avenue of dispute resolution. ADR would serve as a supplement to the existing law courts, reducing the burden of the courts on the one hand, and the hardships and miseries of litigants on the other hand. This would also help restore confidence of the people in the judiciary, who will take a sigh of relief on escaping, to a large extent, the technicalities and rigmarole inherent in our judicial culture. It would reduce the cost and time required to resolve disputes. It can help increase access to justice for the traditionally disadvantaged groups. ADR would lead to greater activism among the disenfranchised for access to formal legal system. Developing a legal culture in support of ADR, however, poses a considerable challenge. Obstacles litter the path to reform. Successful development of ADR, therefore, requires candid self-awareness of the problems. Rigorous comparative study of worldwide experience, thoughtful adaptations mindful of local incentive structures, and effective implementation strategy, besides a will to do away with tautology.

**Ms. Ena Junejo,
Civil Judge-cum-Judicial Magistrate,
Karachi (Central)**



*“Open your eyes; look within. Are you satisfied
with the life you're living?”*

– Bob Marley

JUSTICE IN COURTS IS ONLY POSSIBLE WHEN WE LEARN TO BE JUST IN EVERY DEPARTMENT

INTRODUCTION

The topic suggests, justice in courts is only possible when we learn to be just in every department it can be only possible through improving the quality of judicial dispensation as what can possibly be achieved. This very aspect certainly enlarges the scope of discussion on the subject. Judicial skill is necessary for fair and effective administration of justice. To provide the subject with a philosophical perspective, it should be said that the importance and significance of judicial system is commensurate with the role of effective judicial dispensation in the evolution of a progressive, prosperous and truly democratic society, fully alive to its rights and obligations, not only within its own sphere, but also in relation to other such departments of life.

JUDICIAL DISPENSATION

In every walk of life we have observed that the justice in courts is only possible when we learn to be just in every department of life. In this respect the importance of fair and speedy administration of justice has been given high priority emphasis at various places not only in the Holy Qur'an, but also in all theologies of the world, obviously in recognition of the fact that there can be no peace without justice and its absence results in total disintegration of the social structure. These Quranic injunctions, as I understand, lead us to four definite conclusions: First, the doing of justice is an attribute of God Almighty. Second, the commandment to do justice and settle disputes between people emanates from and is the necessary incident of the appointment of prophets as Deputies of God. The third is that even the slightest deviation from what has been ordained will result in beguiling from the way of Allah. The last, but by no means the least, is that it is the bounden duty of the State, to establish an effective system of administration of justice, as one of its foremost and fundamental religious obligations for the creation of a just and civilized society. So that we may be able to learn to be just in every department of life.

Administration of justice is thus universally recognised as one of the most basic obligations of a state. In the South Asian jurisdictions where the civil societies are in the process of development, it should be regarded as a religious imperative, for there can be no civil society without an effective system of justice. It hardly requires an emphasis that, with reference to the prevalent socio-political and economic situation in the SAARC countries, our survival as successful nations can be possible only with the establishment of a system where the merit rules the roost and that can ensure fair, efficient and speedy administration of vertical, horizontal and all embracing justice; as would annihilate, tyranny, oppression and victimization. So we can safely held that dispensation of justice in courts is only possible when we learn to be just in every department of life.

PRECEPT OF INDEPENDENCE

Independence is a precept for any judiciary operating within the parliamentary system of government. It is the capacity of courts to perform their constitutional functions free from any interference, actual or apparent. Judicial independence is an essential element of a free, democratic society. Under the parliamentary system, the separation of powers doctrine provides a system of mutual checks and balances, between the executive, legislature and judicial organs of the State, so that one branch is incapable of arrogating all powers at the expense of other two organs. It is within the context of these considerations that the jurists visualized the need for independent judiciary to act as impartial arbiter of disputes between citizens and the state. A confidence inspiring independent judiciary is undoubtedly a source of great relief for the oppressed people, for it makes them conscious

conscious of the fact that they have got a place to go to, for the redress of their grievances.

Much has been said during the last fifty years about independence of judiciary; but it is still not enough to underscore its importance. The concept of independence owes its origin and sacrosance to the fundamental rights. It is essential and indispensable for just and fair resolution of disputes. There can be no peace without this independence. The curtailment or erosion of this independence would cause frustration, forcing people to throw up their hands in wail to God. This aspect also very vital through which we learn to be just in every department of life.

JUDICIAL EDUCATION

There is no touch stone to evaluate the limits of judicial education. This can be achieved only by a proficient judiciary, composed of professionally competent judges, capable of administering fair, speedy and quality justice. Continuing judicial education has, therefore, to be regarded as an accepted part of judicial life, for growth of the mental qualities of the judges, necessary for sustenance of judicial independence. Its basic requirement is that the judiciary should be accountable for its competency. It is a recognized proposition within the judiciary that judges should participate in continuing education, because this, amongst other reasons is an appropriate means to increase accountability, which, in turn, consolidates judicial independence in a democratic state.

For any proper understanding of the introduction of continuing judicial education, and its significance to the judiciary, it is necessary to recognize the overarching importance of the process of professionalization, and the significance of two themes in that process, namely the pursuit of competence and the provision of accountability. It will be seen that there is a need for the judiciary to formalize a means to enhance its performance in the light of public criticism, and to demonstrate its concern for improved performance to the community in an appropriate way. It will help us the justice can be secure in courts when we learn to be just in every department of life.

PROFESSIONALIZATION

This is a period of intense critical public scrutiny of the judiciary. There is nothing either unusual or incidental about this scrutiny; rather, it is a predictable part of refining the role of the judiciary in society. Professionalization is an essential element of this evolving relationship, and provides the judiciary with an important means to demonstrate its competence while preserving the integrity of its independence.

The process of professionalization describes the response of professions to recent and continuing public criticism generally, and to increasingly vociferous demands for accountability. For the judiciary, this criticism centered, for the most part, not on ignorance of the law, technical deficiency, ethical misconduct or individual behaviour, but on the performance of the judicial system at large and on a perceived failure of the judiciary to reflect the society over which it was seen to preside. As I see this criticism has imposed a pressure on the judiciary to improve its service, performing its functions at the highest possible standard of competency.

It was in the backdrop of these considerations that the concept of systemized continuing judicial education was evolved, for a linkage of professional performance with judicial training. With the passage of time, it become seen increasingly to be a means for improvement in its performance by the judiciary. I would say that the establishment of academies in common law countries for judicial training became an integral part of this institutional response to public criticism. "From the profession's perspective, these education services provided a means of implementing progressive and preventative measures to redress any public criticism of professional incompetence and to visibly demonstrate measures of self-help as a disincentive to external regulation by government. Continuing professional development thus became recognized as an important response to establishing patterns of growth within the professions, and a means of managing both personal and systemic change". It should be said that the acquisition of judicial skills is certainly more appropriate than the specter of intervention by the Executive. It will play very

good role for achieving the goal of justice in courts in order to be learn just in every department of life.

JUDICIAL COMPETENCE

A man, it is said, is an evil incarnate; but, at the same time and on the other end is Vicegerent to Allah.

The most delicate, intelligent, sensible and wise creature blessed & bestowed with knowledge (ILM), which rank him in superiority to the rest of the creatures whatever. And, of all the tasks enjoined unto him, above all is 'To Do Justice'.

Can anyone do Justice? Or, the justice may be a result of an unwarranted act of an common man? But, the persons designated to do justice in the narrowest possible sense i.e., a 'Judge', is duty bound to control his whims and to do the justice in its most specific sense resembling *fairness*.

The paradigm of 'Justice' consists in equilibrium of: right thing, at right place; at right time... the essence being the equilibrium.

This equilibrium guided to fix the mentor to administer justice in accordance with the law: to adjudicate qua the parties to the *lis* through the medium of human Senses and Wit requires the person so adjudicating; to reflex a symbol of great humanism.

The sole difference in being 'a judge' and 'good judge' is that of giving judgments and doing justice. That is why to be a good judge, a higher degree of intellectual and emotional quotient; a free, frank and open observation; a patient hearing; awareness of the Laws and being fair in almost all walks & departments of his life is indispensable.

The strong family ties, the social life and the vigour to flourish must be in equilibrium to the sacred nature & hectic task of adjudicating matters *in-personam* or *in-rem*.

How far *Fairness* a person is required to have to do justice? Is the basic question; which involves in itself a multidimensional treatment of the subject matter itself. The simplest answer would be it varies man to man.

For a common labourer the question might seem uninterested one. But the same may be a matter of survival of any social setup in the state.

A person blessed with bounties of fairness in his personal, marital, social and economic walk of life can do better justice than a person muddled with corruption, egoism or any unfairness sketching a background of his being unfair or evil in any walk of life.

The unfairness; like a whirlwind keeps his subconscious moving to and fro, corruption brings unjust rejoicing and unjust enrichment which always finds its way to flow even in the shape of blood, unfairness ruins the man not in body alone but in soul as well and makes the victim a rolling stone.

The standard or minimum degree of being a fair person suitable to do justice is not to become a prophecy, rather, would becoming a simple common pious man who believes in doing good, leading a fair life, and abstains himself from social evils.

He who himself believes in honesty, consistency and hard work; who believes in simplicity and adheres to the norms for uprighteousness.

In a nutshell, one cannot become a perfect symbol of humanity; but one can put himself to the right path of fairness in all his horizons of life to improve gradually and to become capable of being above board. One should not despair if he finds himself unfair in one department of life; only angles are

free from follies. In his work "Educating Judges" Livingston Armytage says that "Judicial competence should be seen as the mastery of the knowledge, practical skills and disposition of judging. Competence is the ability to perform a range of tasks through the application of knowledge and skills to the resolution of particular problems according to certain standards, within a framework of rules of conduct and ethics of the judicial profession".

"The purpose of above mentioned aspect is to provide a process, which is more or less formalized, to promote the continuing learning of judges. It will be argued that the mission of judicial education is distinctive from other forms of occupational training or professional development in the extent to which it should promote learning and the pursuit of professional excellence which lie beyond the domain of technical competence. Ultimately, the purpose of this learning is to improve judicial performance and, thereby, the quality of justice".

LEGAL EDUCATION

It goes without saying that the collegial knowledge of substantive laws constitutes a foundation for building of a proficient justice system to come up to the community's expectations. I would venture to say that the quality of legal education dished out to the students of law is certainly not enough to enable them to go into the legal profession for a useful contribution towards the standard and quality of judicial business. This is an urgent and serious problem, requiring collective efforts of those professionally concerned with legal education. I would suggest that a few workshops may be held, with Principals of law colleges as participants to examine the possibility of establishing a Legal Education Commission or any networking of the kind, as a strong, independent body to set standards for legal education throughout the country and support reform measures and establish centres of excellence in legal education. It may also recommend urgent steps to replace the existing outmoded, corrupt examination system.

ESTABLISHMENT OF JUDICIAL ACADEMIES

The judicial academy helps for achievement of ultimate goal of fair and effective administration of justice can be achieved only by establishing judicial academies at the federal and provincial level, with a charter to provide for the proper training of judicial officers and court personnel, in order to improve the professional competence of judges and the quality of justice administered in the courts. This charter can give us an idea of the scope and gamut of various activities of these institutions. However, the importance and relevance of their functions and the impact of their performance, in terms of social development, the establishment of a civilized society and overall national prosperity can be appreciated only in the context of what they purport to achieve. The significance and indispensability of training in improving efficiency and performance can hardly be over emphasized for human resource development. There is dire need to develop, "a distinctive model of judicial education which is designed to address the specific learning requirements of judges". The tradition of on the job learning has indisputably been slow and cumbersome and we urgently require institutionalization of the training and education of judges. The object in view is the creation of an environment, not only viable for the legal and judicial reform process, but also conducive for the development of centers of judicial excellence.

For improvement in the quality of instructions, it is of utmost importance to provide these academies with core teams of competent faculty members that can be done by making the terms and conditions of their service more attractive and giving due priority to training. Sincere and strenuous efforts should then be made, to create in the heartware of these academies, the kind of commitment and passion, required for the achievement of organizational efficiency, as would make them institutions "PRIMUS INTER PARES" (first amongst equals), to serve as rims of judicial dispensation, and be able to contribute towards modernization of our legal and judicial skills. We must remember that no ham handed approach can make it possible and that judicial training is absolutely necessary for achievement of the ultimate goal.

JUSTICE IN OTHER DEPARTMENTS

It is matter of great concern that justice in courts is not only possible unless and until we learn to be just in other departments like Police, Taxation, Finance, Trade, Revenue etc. we can secure goal through dispensation of justice if we maintain justice in other walk of life. It is not core responsibility of the courts to maintain the justice or dispense justice. If we apply same theory in all departments supra mentioned then definitely then absolute dispensation of justice can be done. The responsibility for dispensation of justice not exclusively costs upon judicial officers other officials of all departments and their functionaries are equally responsible for justice in the light of fountain of administration of justice.

There are certain parameters also very effective and we can say that through below mentioned points which may be reproduce as ready reference.

1. RULE OF LAW
2. EQUALITY BEFORE THE LAW
3. DOCTRINE OF ULTRA VIRES
4. NATURAL JUSTICE
5. CONTINUING JUDICIAL EDUCATION
6. ACCOUNTABILITY
7. RULE OF LOCUS STANDI
8. CITIZEN-COURT LIAISON PLAN
9. LEGAL AND MORAL EDUCATION
10. THE QUESTION OF ACCESS
11. ALLEVIATION OF POVERTY
12. ALTERNATIVE DISPUTE RESOLUTION
13. MASS AWARENESS
14. GUARANTEES OF THE ACCUSED DURING INTERROGATION
15. THE ROLE OF CRIME INVESTIGATION IN SECURING EFFECTIVE, EFFICIENT AND FAIR ADMINISTRATION OF CRIMINAL JUSTICE
16. PROFESSIONALIZATION
17. JUDICIAL COMPETENCE
18. PROFESSIONALISING DISTRICT JUDICIARY THROUGH TRAINING
19. ETHICS AND PROFESSIONALISM
20. DELAY REDUCTION WITH EFFECTIVE COURT MANAGEMENT
21. LAW REFORM COMMISSIONS AND COMMITTEES
22. SUPPLEMENTARY MEASURES PROFESSIONALISATION
23. DELAYED JUSTICE & THE ROLE OF A.D.R.

ISLAMIC PERSPECTIVES

The Holy Quran has laid down some principles for the criminal justice. Some of these are as under:-

- (i) Equality of human beings. (49:51)
- (ii) One is innocent unless proved guilty.
- (iii) No offence without intention. (33:51)
- (iv) Concealment of testimony is grave sin. (2:284)
- (v) No crime under compulsion. (16:106)
- (vi) No one can be held responsible for the acts of others. (35:18)
- (vii) Punishment in proportion to the crime. (49:17)
- (viii) Evidence must be conclusive and based on justice (28:20)

The Holy Prophet (PBUH) has established many principles for criminal justice. Some of the relevant ahadith are as under:-

- (a) The Prophet said, "Burden of proof lies on the complainant and the accused has to take oath."
- (b) The Prophet, while sending Hazrat Ali to Yamen as qazi, said to him, "Don't decide on the statement of one party until you hear the other party as you have heard the first party."
- (c) The Prophet had ordered that the case must be decided in the presence of both the parties.
- (d) The Prophet said, "The judge must maintain equality between the parties in sitting, talking and attention." (Jamiul Usul, Ibn Asir, Volume-III, pages 116-118).

Hazrat Umar in a letter to Abu Musa Ashary, writes about Islamic criminal justice, "After the praise to Allah the administration of justice is a definite religious duty and a generally followed practice. Understand the depositions that are made before you, for it is useless to consider a plea that is not valid. Consider all the people equal before you in your court and in your attention, so that the stronger will not expect you to be partial and weaker will not despair of justice from you. The burden of proof is on the claimant and the defendant may be put on oath. All Muslims are acceptable as witnesses against each other except those who have been punished with Hadd-e-Qazf (accusation of adultery) and those who have tendered false evidence and those who are suspected (of partiality) on (the ground of) accuser's status or relationship." (Al-Wakia, Akbar Al-Quzzat, Volume-1, page 70).

Hazrat Ali also in a letter to Ashtar Nakhi, writes about criminal justice "so far as dispensing of justice is concerned you have to be very careful in selecting officers for the same. You must select people of excellent character, superior calibre and meritorious record. They must possess following qualifications. Abundance of litigations and complexity of cases should not make them lose their temper. When they realize that they have committed a mistake in judgment they should not persist in it and should not try to justify it. They must exhibit patience and perseverance in scanning the details, in testing the points presented as true and in sifting facts from fiction. They should not develop vanity and conceit when compliments and praises are showed upon them. And they should not be misled by flattery and cajolery". (Abdul Hameed, Sherh Nahj Al-Badaghah, Volume IV, page 130)

The instructions of Qazi Aby Yusuf to the judges regarding criminal justice are worth mentioning which are as under:-

"You should not accept the complaint alone as proof of the man against another in murder, theft act. He should not be punished for a hadd crime save according to clear and certain evidence or a confession free from coercion. It is impermissible to imprison a man merely as a result of another man's accusation against him. The Prophet did not question the people with accusation. But the proper manner is that you must call both the accuser and the accused together. If he (accuser) produces positive evidence in support of his allegations, the judge will rule for him; otherwise, he will set the defendant free... The friends of the Prophet were so cautious about imposing punishments, for fear they might harm the innocent that they preferred to avoid the penalties... They would say to an accused thief "Did you steal? Say "no". (Abu Yusuf, Kitab al-Kharaj, Page 190)

"You should not accept the complaint alone as proof of the man against another in murder, theft act. He should not be punished for a hadd crime save according to clear and certain evidence or a confession free from coercion. It is impermissible to imprison a man merely as a result of another man's accusation against him. The Prophet did not question the people with accusation. But the proper manner is that you must call both the accuser and the accused together. If he (accuser) produces positive evidence in support of his allegations, the judge will rule for him; otherwise, he will set the defendant free... The friends of the Prophet were so cautious about imposing punishments, for fear they might harm the innocent that they preferred to avoid the penalties... They would say to an accused thief "Did you steal? Say "no". (Abu Yusuf, Kitab al-Kharaj, Page 190)

The Quran says,

- (i) And that man has only that for which he make efforts. (53:39)
- (ii) Whose doth right, it is for His should and whoso doth wrong, it is against him. (41:46)
- (iii) Each should earns on its own account. (6:165)
- (iv) No one will bear the burden of others. (35:18)
- (v) He who doth wrong will have the recompense thereof. (4:123)

The Prophet (PBUH) said, "A soul is not held responsible for acts committed by his father or by his brother." (Al-Baihaqi, Volume IX, page 138)

(c) Every nation had its messenger raised up to warn them. (35:25)

Under the principle of legality applied in Islamic Law a set of penalties should be assigned to all crimes, for which the judge can select the proper penalty according to the circumstances of each case, the background and personality of the accused and his inclination towards criminal conduct. The purposes of penalty in Islamic Law are to deter criminal conduct and to reform and rehabilitate the offender. The penalty should not cause unnecessary harm to the culprit. The penalty should be proportionate to the crime. The Prophet said, "He who imposes a hadd penalty to a non-hadd crime is considered among the oppressors." (Ibn Taimiyyah, Al-Siya sah al-Shariyyah, page 134)

CONCLUSION

In the background of above discussion, I sincerely hold that meaningful and effective dispensation of justice in every departments apart from courts and monitoring in other departments in order to maintain justice can bring about, by improvement in the quality of justice, a social order geared to meet the challenge of paradigm shifts in values, attitudes and outlook; and that of growing public criticism, and to avert an imminent danger of the collapse of environment necessary and viable for peaceful, prosperous and respectable living.

While concluding, I can do no better than making a reference to what was said by Mr. Livingston Armytage in his work "Educating Judges" "The challenge of Judicial education is to devise and provide a means to promote the continuing improvement of judicial competence. Once the formalizing requirements of professionalization have been met, it remains the task of educators to facilitate a process of meaningful learning. In essence, this is the challenge to promote and develop a process of continuing learning for those who are already the most expert and able in their field, who are charged by reason of this expertise and ability to both lead and reflect the community's values and yet retain their independence. Developing a more or less formalized process which retains these elements in harmony is the task ahead" succinctly saying justice in courts is only possible when we learn to be just in every department.

RECOMMENDATIONS

To enable the training programmes to achieve the avowed goal of improvement in the judicial dispensation, it is recommended that:

- We should establish, at the federal as also provincial level, judicial academies or strengthen the institutional capacity of academies already in existence, for pre-service and in-service training of judges, law officers and court personnel.
- Amendments should be made in the service rules to make pre-service training compulsory, for a duration of time suitable to the jurisdictions concerned;

- We may consider the creation and development of formal carrier path for those who are to be entrusted with the job of imparting instructions to the judicial officers, law officers and court personnel;
- Steps should be taken to ensure that the judicial academies have the services of a core team of permanent competent faculty members to attain the highest possible standard of instructions;
- At least once in a year, every judicial academy should arrange seminars and workshops for training of trainers, absolutely necessary for judicial resource development;
- We should put in place a system of evaluation that will make it possible to assess whether any and what difference has been made by the training programmes.
- There should be frequent needs assessment exercises for development of curricula to give the academies a direction for pragmatic approach to the training programmes.
- Steps should be taken to create a general awareness that training for transfer of judicial skills is indispensable for improvement in the quality of judicial work. The academies should assist the judicial leadership to develop a series of seminars designed to build the capacity of the system for improvement in the judicial business.
- In collaboration with the judicial academies, the judiciaries of SAARC countries should plan and develop seminars for training in project management, planning, management of change process and research for legal innovations.
- Then, and here again in collaboration with the judicial academies, the judiciaries should arrange seminars on (a) introduction of change into legal system, (b) awareness of social issues and paradigm shifts in philosophical perspective of law (c) role of courts in improving the existing social orders and building a true democracy and finally (d) improving operational performance, with a focus on topics such as human resources, case flow management, court automation applications and effective management of trial process. These training programmes will result in the emergence of a class of judicial officers, at the basic level in particular, with a sense of direction and a passion to manage speedy disposal of judicial business with quality and reduce the backlogs. They will hopefully contribute towards building of confidence and the acquisition of judicial skills necessary for an ambitious reform process.
- The Academies should hold or arrange seminars and workshops on topics such as human rights and gender sensitization.
- Those concerned with the management and operation of the Academies must constantly bear in mind that topics such as judicial ethics, character building, self management, awareness of contemporary social issues; disadvantaged groups and relationship with the Bar deserve special focus.

Abual Hasnat Muhammad Zulqarnain

Additional District & Sessions Judge

Mianwali





The Editor, Federal Judicial Academy, Khayaban-e-Jouhar, H-8/4, Islamabad, Pakistan.
Phone: 051-9250378, 9250301, Fax: 051-9250390, E-mail: editor@fja.gov.pk