



FEDERAL JUDICIAL ACADEMY BULLETIN

October - December 2013



**President Mamnoon Hussain administering oath of office to Hon'ble
Mr. Justice Tassaduq Hussain Jillani as Chief Justice of Pakistan**

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PROFILE OF

HONOURABLE MR. JUSTICE TASSADUQ HUSSAIN JILLANI Chief Justice of Pakistan/Chairman BoG

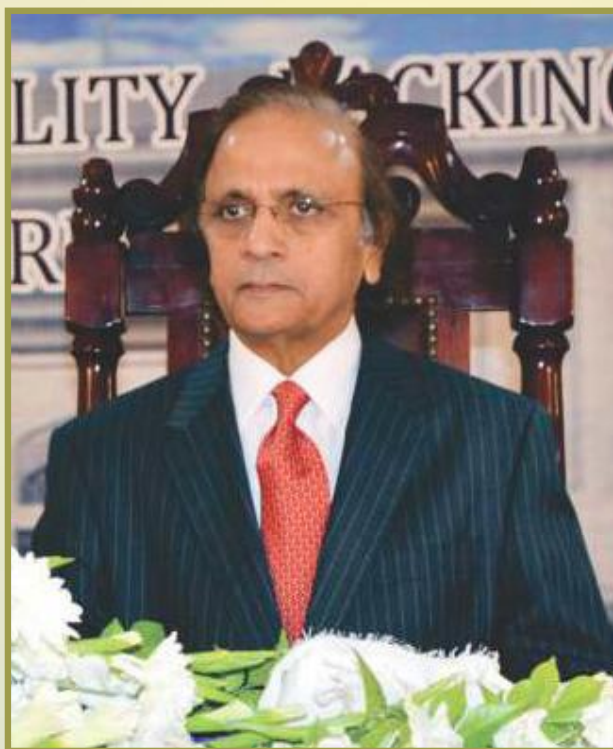
Hon'ble Mr. Justice Tassaduq Hussain Jillani was born on July, 6, 1949; did Masters in Political Science from Forman Christian College, Lahore, L.L.B from the University of Punjab, Lahore and a course in Constitutional Law from the University of London in the Institute of Advance Legal Studies.

He started practice at District Courts, Multan in 1974; enrolled as an Advocate of the High Court in 1976; elected as General Secretary, District Bar Association, Multan in 1976; elected Member Punjab Bar Council in 1978; appointed as Assistant Advocate General, Punjab in July, 1979; enrolled as an Advocate of the Supreme Court in 1983; appointed as Additional Advocate General, Punjab in 1988; appointed as Advocate General Punjab in 1993.

He took oath as a Judge of Lahore High Court on August 7, 1994 and was elevated as Judge of the Supreme Court of Pakistan on 31st July, 2004 where he served till the imposition of the state of emergency on the 3rd of November, 2007. As he refused to take fresh oath, he was made dysfunctional as a Judge of the Supreme Court. After the restoration of judiciary, he resumed as Judge of the Supreme Court in September, 2009.

The Hon'ble judge has participated and represented in a number of international meetings, conferences, seminars, colloquiums and dialogues. Naming few amongst many are 3rd Malta Judicial Conference on Cross-Frontier Family Law Issues held from 24-26 March 2009 in St. Julian's Malta; International Family Justice Judicial Conference for Common Law and Commonwealth Jurisdictions at Cumberland Lodge Windsor, England from 4th to 7th August in 2009; the "Conference on Religious and Cultural Freedom under a Bill of Rights" (13-15 August, 2009) organized by the University of Adelaide, Canberra, Australia; World Justice Forum-II from 11-14 November, 2009; 10th Congress International Association of Supreme Administrative Jurisdictions held in Australia from 7th to 11th March, 2010 and the International Judicial Conference on Cross-Border Family Relocation held in Washington, D.C. from 23-25 March, 2010.

The Hon'ble Judge was awarded "Key of the City of Detroit (Michigan)" by the Mayor at a function on 12th of October, 2007, conferred "Honorary Doctorate in Humane Letters" at a special Convocation held in Southern Virginia University, Washington; he was conferred the Honorary Chair by the American Bar on its "The World Justice Project" --- an initiative to promote the rule of law the world over. In July, 2008, he was invited by the American Bar Association to receive the '2008 Rule of Law Award' on behalf of those Judges of Pakistan who demonstrated courage in upholding the 'Rule of Law' in the country. He is co-chair of the Hague Conference Mediation Committee in Family International Law. His lordship took the oath of the office of the Chief Justice of Pakistan on 13th December, 2013.



DELAYED JUSTICE CONTRIBUTES TO EROSION OF FAITH IN JUDICIAL SYSTEM

Hon'ble Mr. Justice Tassaduq Hussain Jillani

Mr. Justice Tassaduq Hussain Jillani, Senior Puisne Judge, Supreme Court of Pakistan said that without the rule of law neither the people can enjoy their rights nor can the democracy remain stable.

He expressed these views in the inaugural ceremony of one week training on "How to be an effective Senior Civil Judge" for Senior Civil Judges from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, on Monday, 30th September, 2013, in which he was the chief guest.



Hon'ble Mr. Justice Tassaduq Hussain Jillani exchanging views with participants

He said, "The enjoyment of fundamental rights guaranteed under the Constitution is possible only through the enforcement of rule of law. The enforcement of the rule of law is a multi-disciplinary exercise in which each organ of the State and each institution has to play its role."

He said, "The most crucial role for the enforcement of rule of law is that of the courts. The task of a Judge is to apply the law without fear, favour or ill-will. Judges have no manifesto except the enforcement of law. Judges should constantly be on the guard against bias, preconceived notions and opinions. You should consider your work as a craft, try to get to the bottom of the facts presented before you as a carpenter saws, fits and tightens the screws. You should listen, read, appreciate the arguments addressed and explore whether there could be any counter arguments. Once you reach a conclusion, be bold and announce it".

He said, "Providing justice to people is one of the foundational functions of the State and various institutions have been established under the Constitution and law which discharge this function. It is a constitutional command in terms of Article 37(d) that the State shall ensure inexpensive and expeditious justice. The district judiciary is one of the pillars of the justice system geared towards that end. It is here that 70 to 80% of the litigation is pending; it is here that the litigants get first feel of the justice system; it is here that the image of judiciary as an institution is made or marred. It is therefore important that judges should ensure

expeditious and fair trial to all. All civilized societies have endeavored to evolve and develop their own mechanisms to curtail litigation and to provide expeditious justice. Delayed justice has contributed to the erosion of faith in the judicial system which is a challenge for all of you, for the society and for the State".



Hon'ble Mr. Justice Tassaduq Hussain Jillani presiding over the ceremony

Regarding the enforcement of fundamental rights, he said, "It is imperative that judges at the district level should clear off the misconception that it is the function of the superior courts alone to ensure enforcement of fundamental rights. With the addition of Article 10-A in the Constitution whereby right to fair trial has been declared a fundamental right, the task of a trial judge has become all the more onerous. Every judge be it a civil judge of third class or of a higher level is called upon to enforce this right almost in every case and other fundamental human rights in appropriate cases. If judges at this level are conscious of this dimension of their role, hundreds of individual grievances can be redressed at this level".



Hon'ble Mr. Justice Tassaduq Hussain Jilani addressing the course participants

He further said, "A Senior Civil Judge is first among the equals in his jurisdiction. In the said capacity, he/she has a leadership role to play and should be a role model for his peers both in his court conduct as also in his judicial work. He/she should remember that judging is not merely a job or an occupation providing salary, perks and status. Judging is a way of life and if he/she has that spirit in mind it becomes more challenging and satisfying. Some of the things that he and every judge should always endeavor to pursue and strive can be described as, a fair trial, a fair judgment, he/she should know the art of judgment writing, in a criminal trial while deciding the question of sentence, besides keeping the law in view, he/she should always follow the principle of proportionality, while conducting the court, he/she must radiate fairness, dignity and balance, he/she should never be complacent about himself/herself and should keep updating his/her knowledge about the latest developments in law."

At the outset, Mr. Parvaiz Ali Chawla, DG of the Academy presented his welcome speech and a profile of the honorable Judge of the Apex Court who is also Judge Incharge of the Academy on academic matters.



Participants of the course in a group photo with Hon'ble Mr. Justice Tassaduq Hussain Jilani and faculty of the Academy

JUDGE OF APEX COURT TERMS DISTRICT JUDICIARY A REAL FACE OF THE INSTITUTION

Hon'ble Mr. Justice Nasir-ul-Mulk

Mr. Justice Nasir-ul-Mulk, Hon'ble Judge Supreme Court of Pakistan has said that a judge should behave and act in a manner compatible with the dignity of the judicial office.

He expressed these views in the certificate awarding ceremony of one week training on " How to be an effective Senior Civil Judge" for Senior Civil Judges from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan on Friday, 4th October, 2013 in which he was the chief guest.

He said, "A judge should maintain the dignity appropriate to judicial office and act in a manner which may not bring his/her conduct questionable in the eyes of the litigant public who become very sensitive, anxious to listen

the Judge, whatever a Judge talks in the court, whatever gesture he gives, they watch it and become very sensitive about it. Apparently, these things seem insignificant and very small issues but in the court when these things happen, when any judge exchanges pleasantries or smiles with senior counsel, then, the litigant becomes very sensitive to it. During my professional career as a lawyer I have learned that how much sensitive the litigants become and when they see such things in the court, then, they ask that their case should be transferred



Hon'ble Mr. Justice Nasir-ul-Mulk addressing the course participants



Participants of the course in a group photo with Hon'ble Mr. Justice Nasir-ul-Mulk and faculty of the Academy

from such a judge. However, a judge should remain calm, composed and dignified in his work and also maintain a balance in his behavior."

Regarding the recent image of the superior courts, honorable Judge said, "During the last few years the image of the Supreme Court of Pakistan and that of the High Courts has enhanced but the real face of the institution of judiciary is the district judiciary. It is here that 80% of the litigation is pending; it is here that the litigant public gets encounter with the law and with our justice system and it is here that the image of judiciary as an institution can be made. District Judiciary has to strive to improve its image by imparting expeditious justice to the litigant public."

Earlier, Mr. Parvaiz Ali Chawla, DG of the Academy presented his brief welcome speech and an overview of the training course. In the end, the honorable chief guest awarded certificates to the participants of the course.

COMPETENCE, INTEGRITY: MORAL IMPERATIVES FOR A JUDGE

Hon'ble Mr. Justice Sh. Azmat Saeed

Lamenting growing intellectual laziness in society, Hon'ble Mr. Justice Sh. Azmat Saeed, Judge Supreme Court of Pakistan said, "We are aware that to which degree we have become intellectually lazy, cynical and those who retreat into simplistic ways of learning or those who resort to short-cuts, both in profession and life. We need an intellectual renaissance".

He expressed these views at the inaugural ceremony of one week orientation on "Case and Court Management and Enforcement of Intellectual Property Rights (IPRs) Laws in Pakistan" for Civil Judge-cum-Magistrates from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan at the Federal Judicial Academy, on



Hon'ble Mr. Justice Sh. Azmat Saeed addressing the course participants

Monday, 7th October, 2013 in which he was the chief guest.

He said, "Efficiency counts but one can't impress the relevant people with irrelevant activities and things. We need such teaching and training strategies in the educational and capacity-building institutions which genuinely foster basic moral and intellectual development among the young people; we also need those practices, exercises and ideas which develop and deepen the most basic intellectual skills and abilities, concepts and virtues among our young generation. I would like to emphasize this point here that prepare and train your mind, acquire new methods and tools of research and also learn an effective application of those new methods and tools of research; whenever and wherever you get an opportunity for training and orientation as you have got this opportunity here in this Academy, then, don't go empty-headed, and try to get your basic concepts about different subjects clear. If ones basic concepts are clear, then, it will develop intellectual humility in him/her. If ones basic concepts are not clear, then, it will develop an intellectual arrogance in him/her".

About the case and court management, the honorable Judge said, "On the basis of my past experience as a practicing lawyer, the first thing which I would like to advise you here is to respect a lawyer who appears before you in your court, respect the legal community, you have to command respect with your competence and integrity, these are moral imperatives for you, only then, you can command respect and manage your court and the cases. I would like to say it once again that you will never be able to manage the court and the cases if you do not command respect in the eyes of the legal community. Mind that legal fraternity never gets impressed with your irrelevant things, if they know that someone (a Judge /judicial officers or a magistrate) knows the law better than them, then, they would shower upon him/her due respect and honour".



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

Earlier, Mr. Parvaiz Ali Chawla, Director General of the Academy presented his precise welcome speech and said that such training courses are devised for the judicial officers which inculcate in them the professionalism and moral values.

HON'BLE MR. JUSTICE NASIR-UL-MULK LAUDS YOUNG JUDICIAL OFFICERS COMMITMENT TO RULE OF LAW, DISPENSATION OF SPEEDY JUSTICE

Hon'ble Mr. Justice Nasir-ul-Mulk has said that in the wake of growing population, increasing awareness of rights and people's confidence in the judiciary we have witnessed a tremendous spurt in litigation but unfortunately the number of judges and the courts has not increased that much as required in the country to cope with the swelling number of litigation.

He expressed these views in the certificate awarding ceremony of one week orientation on "Court and Case Management and Enforcement of Intellectual Property Rights (IPRs) Laws in Pakistan" for Civil Judges/Judicial Magistrates from all over Pakistan, Azad Jammu and Kashmir on Friday, 11th October, 2013 in which he was the chief guest.



Hon'ble Mr. Justice Nasir-ul-Mulk presiding over the ceremony

He said, "A mind-boggling number of cases pending in our courts, estimated to be one million, demands that various steps and mechanisms such as Alternative Dispute Resolution Mechanisms (ADRM), discouraging frivolous litigation, may be applied to reduce the pendency of cases. Even our neighboring country India has an alarming number of pending cases, more than ten million, but they have developed a system of alternative dispute resolution what they call Lok Adalat system. Singapore has also developed a community-based system which helps in reducing the pendency.

We have to learn from all such countries and have to put in practice all those ways and means to reduce pendency and impart speedy justice to the litigant public. However, I appreciate the commitment of young judicial officers for the enforcement of rule of law and speedy justice to people."

Lamenting the factors including social, psychological, biological, physical such as idleness, ego, something wrong with our genes which fuel litigation in the subcontinent, he said, "Why too much litigation

among the people of South Asia, in particular, the subcontinent? It, indeed, is a complex and comprehensive subject and calls for an extensive research but what you are required as young judicial officers is to control frivolous litigation and use all modern skills to impart speedy justice to the litigant public."

Earlier, Mr. Parvaiz Ali Chawla, DG, FJA, presented his welcome speech and appreciated the keen interest, devotion and love for learning of the participants. In the end, the honorable judge of the Apex Court gave away certificates to the young judicial officers.



Hon'ble Mr. Justice Nasir-ul-Mulk gives away certificate to a participant



Participants of the course in a group photo with Hon'ble Mr. Justice Nasir-ul-Mulk and faculty of the Academy

CONTRAST BETWEEN WORDS AND DEEDS IS THE CHIEF MALADY OF OUR SOCIETY

Hon'ble Mr. Justice Ijaz Ahmed Chaudhry

Hon'ble Mr. Justice Ijaz Ahmed Chaudhry, Judge, Supreme Court of Pakistan, said that contrast between words and deeds, was one of the chief maladies of our society, adding that, "We all have to strive to discourage and eliminate the growing chasm between words and deeds in our society because such like maladies, social ills and evils create confusion and chaos."



Hon'ble Mr. Justice Ijaz Ahmed Chaudhry addressing the course participants

He expressed these views in the inaugural ceremony of a one week refresher course on "Effective Financial Management Control over Process Serving Agency and Environmental law with special reference to Jurisdiction and Powers of Green Courts, etc" for Senior Civil Judges from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, on Monday 28th October, 2013, in which he was the chief guest.

He said, "If our thoughts are not in unison with our words and deeds, then, the strength of our creativity is diminished. If someone's thoughts, words, deeds are in disarray, then, he/she cannot be considered a great soul or a man of perfection. If we reflect on the noble message of the glorious Quran and study the noble life of our Holy Prophet (SAW), it teaches us to cultivate the three fold unity of thoughts, words and deeds. A true believer never thinks, speaks or acts in such a way as would cause harm to others. Judges act and behave, as if what they do make a difference in the society. For change in life, it is necessary to remove the contrast between our words and deeds. I would like to ask the management of the Academy to evaluate the impact of such like trainings, if these trainings actually make any difference in their personal and professional life, then, it augurs well. If these trainings do not make any obvious difference in their person and performance, then, it is nothing but sheer wastage of resources."

"Past mistakes should not be repeated, neither in your words nor in your actions, I mean your decisions. To err is human but there should be no room at all for intentional mistakes in your personal and professional life. I would like to advise you to bring more and more improvement in your words and deeds, in your thoughts and

actions in the wake of such like trainings. It is you people who have to deal with the rights, property and criminal cases of the people", he maintained.

He also emphasized the importance of the court and case management, building of reputation and the promotion of sense of responsibility among judges, lawyers and other key stakeholders of the administration of justice for inexpensive and expeditious dispensation of justice.

Recounting an example of the German nation, he said that the German nation remained divided due to the Wall of Berlin, they fought with each other, they killed each other but once they thought to be united, then, no power on the earth could stop them from their unification. "It is thinking which brings change in the individuals and nation's life. Look at the Germans they are known as the civilized nation because they thought and changed the course of the history. We must have to take a leaf out of their history and improve things here in this country" he concluded.

Earlier, Mr. Parvaiz Ali Chawla, DG FJA, presented his concise but thought-provoking welcome address and touched upon the milestone capacity building achievements under the visionary guidance of the Hon'ble Chief Justice of Pakistan and two honorable Judges Incharge of the Academy.



Mr. Parvaiz Ali Chawla, Director General, FJA addressing the participants

Earlier, Mr. Parvaiz Ali Chawla, DG FJA, presented his concise but thought-provoking welcome address and touched upon the milestone capacity building achievements under the visionary guidance of the Hon'ble Chief Justice of Pakistan and two honorable Judges Incharge of the Academy.



Participants of the course in a group photo with Hon'ble Mr. Justice Ijaz Ahmed Chaudhry and faculty of the Academy

Injustice anywhere is a threat to justice everywhere.
Martin Luther King Jr.

LAWYERS ASKED TO WORK WITH COMPLETE DEVOTION TO ENSURE RULE OF LAW: BE A ROLE MODEL FOR OTHERS IN SOCIETY: Hon'ble Mr. Justice Sarmad Jalal Osmany

Mr. Justice Sarmad Jalal Osmany, Judge, Supreme Court of Pakistan, has asked lawyers to work with complete devotion, integrity and honesty to earn respect adding that "In the legal profession, it is easy to earn money but it is very difficult to earn respect. Your ultimate object should be to earn respect because the respect that you earn lives on even after your death while riches perish."

He expressed these views in the inaugural ceremony of one week training course on "Continuing Legal Education" for one hundred lawyers from High Court Bar Association, Hyderabad and other districts of Sindh province in the Federal Judicial Academy, Islamabad, on Monday 25th November, 2013.

He said, "In every field of work, the most regarded people are those who are the best at what they do. Everyone loves competent people, especially those who present their best work all the time and the same is applicable in the legal profession."



Hon'ble Mr. Justice Sarmad Jalal Osmany presiding over the ceremony

He said, "Everything in this world has limits but there is no limit to human greed. There is no limit to human urge for riches. It is human nature to want more and more. However, I will advise you to set your limits in your life and then lead life according to those limits. Try to excel in your profession. Burn your midnight oil. Be a role model for others. Always work with complete conviction."

He said, "It is easy to earn degree (of law) in this country but very difficult to practice. On the contrary, it is very difficult to earn degree in the western world but it is very easy to practice there."

Regarding the role of lawyers in the society, Hon'ble Judge said, "Lawyers have always been in the forefront of change, be it social or democratic. They also played a momentous role when an earth-shaking event occurred in our history. Had they been not there to lead the politicians and civil society, when our judiciary came into crisis and a dictator made our judiciary dysfunctional, we would not have been restored. I salute these lawyers for their courage and their movement. You are also required to ensure the rule of law in this country. A country where there is no rule of law, there will be lawlessness and it cannot progress."



Hon'ble Mr. Justice Sarmad Jalal Osmany addressing the course participants

Presenting his welcome speech, DG of the Academy said, "the role of judiciary like other organs of the State is crucial in achieving the dream of a peaceful and prosperous life on this planet and this dream can't be a reality in a country like ours where we have adversarial system in vogue".

PARTICIPANTS OF THE COURSE WITH HON'BLE MR. JUSTICE SARMAJ JALAL OSMANY AND FACULTY OF THE ACADEMY



PROMOTION OF CONTINUING LEGAL EDUCATION, TRAINING ESSENTIAL FOR PROFESSIONAL INTEGRITY

Hon'ble Mr. Justice Khilji Arif Hussain

Hon'ble Mr. Justice Khilji Arif Hussain Judge, Supreme Court of Pakistan, said that the promotion of continuing legal education and training was essential for the protection of professional integrity adding that "Great lawyers stay on top of developments in the legal field and also pursue continuing training". He expressed these views in the certificate awarding ceremony of a one week training course on "Continuing Legal Education" for lawyers from High Court Bar Association, Hyderabad and other districts of Sindh province, on Saturday 30th November, 2013.



Hon'ble Mr. Justice Khilji Arif Hussain presiding over the ceremony

Hon'ble Judge said, "Lawyers shall at all times have to maintain the honour and dignity of their profession as essential agents of the administration of justice. However, the touchstone for the survival and success of any advocate or any Bar will be its excellence. The legal profession is much bigger and it is fragmented by specialization. The practice of law is now highly competitive but those who are the best; those who show sheer commitment to their profession, they always succeed in their life."

He said, "It is a great honour to be here at this certificate awarding ceremony today because I also belong to Sindh province. Becoming a lawyer requires a great deal of commitment; however, the commitment of lawyers from High Court Bar Association, Hyderabad is praiseworthy. I speak through my personal experience, that they always come well-prepared to the court. They invest the time needed to achieve a successful conclusion to the case. Their commitment and dedication to the profession and to the client is appreciable."

Congratulating the lawyers on the successful completion of one week-training on "Continuing Legal Education" in the Academy, Mr. Parvaiz Ali Chawla, DG of the Academy in his welcome address said, "The coming decades will bring new challenges as legal education and the legal profession change. I am confident that the FJA will meet those challenges with relish."

Speaking on behalf of the course participants, Mr. Nisar Ahmed Durrani, President, High Court Bar Association Hyderabad, said, "This training course will be highly productive for the participants because it has enlightened them with an appropriate education and training and made them aware of the ideal and ethical duties of lawyer".

Expressing their sentiments and impressions regarding the trainees from High Court Bar Association, Hyderabad and other districts of Sindh province, the members of the faculty including the DG of the Academy said that the enthusiasm and energy, urge for learning and commitment to profession, discipline and decorum, dynamism and decency which this batch of trainee lawyers had shown during the weeklong training was, indeed, rare and commendable.

In the end, Hon'ble chief guest gave away certificates to the course participants. On the occasion, the office bearers of High Court Bar Association Hyderabad, Sindh, presented traditional Sindhi *ajrak* and caps to the Hon'ble Judge of the Apex Court, DG, faculty members and other officers of the Academy.

PICTURE GALLERY





DELAYS IN DISPOSAL OF CASES A GREAT MENACE

Hon'ble Mr. Justice Iqbal Hameed-ur-Rehman

Mr. Justice Iqbal Hameed-ur-Rehman, Hon'ble Judge, Supreme Court of Pakistan, has asked the judicial officers to eliminate delays in the disposal of cases in the courts. He expressed these views in the inaugural ceremony of one week orientation course on "Criminal Trial and Appreciation of Evidence" for Civil Judges-cum- Magistrates from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan on Monday, 9th December, 2013.

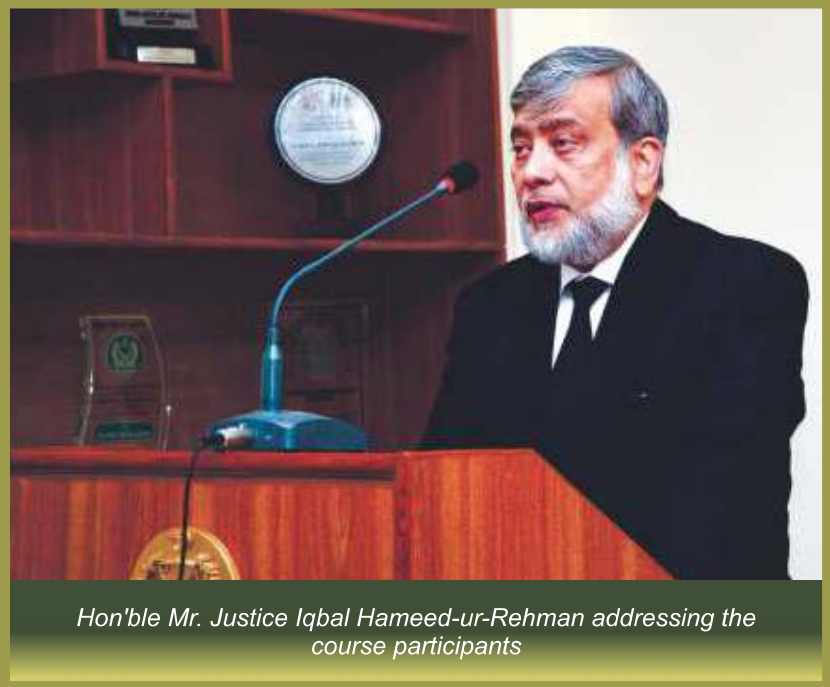
He said that delays in the disposal of cases was a great menace; however, the courts were required to curtail the granting of adjournments and our judges have to equip

themselves with the requisite knowledge, information and sharpen their skills to ensure the expeditious disposal of cases.

"People get frustrated in the system if at every stage there is delay and the process of justice is not allowed to take its normal course, more so, when deliberate attempts are made to subvert and delay the process. Lack of expertise and sustained effort in investigation and non-utilization of scientific methods of investigation is resulting in low rate of convictions" he maintained.

He said, "Learning is a continuous process and sky is the limit. You have to enhance your knowledge, and upgrade your skills. Enhance your judicial competence and apply the law in a proper manner. Speak through your judgments and orders. Prove yourselves judges in all manners. A true judge is more than a judicial officer." About the training he said: "I wish and pray that this one week training will sufficiently equip you with necessary techniques and skills and procedures which are indispensable for administration of justice in the criminal justice system. I hope that your knowledge of law would be further polished by this short term training course by virtue of sharing your ideas on different issues with your fellow judicial officers of the course as family from all over the country, Azad Jammu and Kashmir and Gilgit Baltistan as well as the resource persons. There is no doubt that it is a short term training course but I believe that it would leave deep impact on your existing skills and capabilities".

Earlier, Mr. Parvaiz Ali Chawla, DG of the Academy presented his welcome speech, a brief introduction of the honorable chief guest and also spoke about the content of the course and hoped this one week training orientation would be highly productive for the young judicial officers.



Hon'ble Mr. Justice Iqbal Hameed-ur-Rehman addressing the course participants

Law in origin was merely a codification of the power of dominant groups, and did not aim at anything that to a modern man would appear to be justice.

Bertrand Russell



Participants of the course in a group photo with Hon'ble Mr. Justice Iqbal Hameed-ur-Rehman and faculty of the Academy

CONDUCT OF A JUDGE MORE IMPORTANT THAN KNOWING LAW: Hon'ble Mr. Justice Nasir-ul-Mulk

Mr. Justice Nasir-ul-Mulk, Hon'ble Judge, Supreme Court of Pakistan, said that the conduct of judges is of the highest importance; therefore, every judge should observe the highest standards of judicial conduct. He expressed these views at the certificate awarding ceremony of one week orientation course on "Criminal Trial and Appreciation of Evidence" for Civil Judges-cum-Judicial Magistrates from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan, on Friday, 13th December, 2013.

He said "the conduct of a judge is more important than his/her knowing of the law. As you know that judges are termed as 'Honorable' or 'Your honor' therefore, they should be honorable in all manners, whereas, the lawyers are called as 'the learned lawyer' or 'the learned counsel', therefore, they should also



Hon'ble Mr. Justice Nasir-ul-Mulk addressing the course participants

observe the highest standards of legal conduct." Regarding the incumbent Chief Justice of Pakistan, Hon'ble Mr. Justice Tassaduq Hussain Jilani, he said, 'The Hon'ble Chief Justice of Pakistan takes keen interest in the district judiciary because he believes that 80 percent of the litigation comes to the district judiciary, therefore, all possible steps will be taken to strengthen the district judiciary. It was the district judiciary that was extensively discussed during the first full court meeting of the Hon'ble Chief Justice of Pakistan.' About the recently retired Chief Justice of Pakistan, he said, "He will be remembered for a long time to come due to his great contribution."



Hon'ble Mr. Justice Nasir-ul-Mulk, gives away certificate to a participant



Participants of the course in a group photo with Hon'ble Mr. Justice Nasir-ul-Mulk and faculty of the Academy

Earlier, Mr. Parvaiz Ali Chawla, Director General of the Academy presented his welcome speech and an overview of the training.

DISTRICT ATTORNEYS AN INTEGRAL PART OF OVERALL SYSTEM OF ADMINISTRATION OF JUSTICE

Hon'ble Mr. Justice Nasir-ul-Mulk

Mr. Justice Nasir-ul-Mulk, Hon'ble Judge, Supreme Court of Pakistan, has said that the district attorneys were an integral part of the overall system of administration of justice by which the rule of law was upheld. He expressed these views in the inaugural ceremony of one week training course on "District Attorneys and Management of Civil Cases" for District Attorneys/ Deputy District Attorneys from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan on Monday 16th December, 2013.

He said, "The goal of this training is to give each of you the opportunity, the chance to enhance your knowledge and sharpen your skills for an effective administration of justice. We all, the key players of the legal and judicial system have to understand particularly that justice cannot be administered without their active cooperation."

Earlier, Mr. Parvaiz Ali Chawla, Director General of the Academy presented his welcome speech and said that district attorneys were the frontline legal advisers, representatives and sometimes agents of government, therefore, such a weeklong training course was devised for them which was highly focused, task-oriented and all necessary subjects were incorporated in it. "I hope that this training tailored and directed to the attorney's specific practice area would be optimal and highly productive for them" he concluded.



Participants of the course in a group photo with Hon'ble Mr. Justice Nasir-ul-Mulk and faculty of the Academy

DG FJA URGES DISTRICT ATTORNEYS TO LEARN, APPLY KNOWLEDGE

Mr. Parvaiz Ali Chawla, Director General, Federal Judicial Academy, Islamabad, said that knowledge has to be improved, applied and shared with others for the benefit of humanity, adding that "Apply your knowledge which you already possess and the knowledge you have gained here during this one-week training for an expeditious dispensation of justice to the justice-seekers."

He expressed these views in the certificate awarding ceremony of one week training course on "District



Parvaiz Ali Chawla, Director General gives away certificate to a participant

Attorneys and Management of Civil Cases" for District Attorneys/ Deputy District Attorneys hailing from all over Pakistan, Azad Jammu and Kashmir and Gilgit-Baltistan on Saturday, 21st December, 2013.

He said, "Action sans Knowledge is useless and knowledge sans action is futile. Try to acquire new and better forms of knowledge. Those who acquire the latest knowledge and apply the same to their work, such people earn tremendous respect in the society. I will advise you to follow virtue and knowledge".

He said, "It is a commonly known fact that many difficulties and challenges are being faced by the District Attorneys and Deputy District Attorneys at their respective working stations but those who work with total devotion and dedication despite a plethora of problems at work, they not only earn respect in this society but also earn the pleasure of Allah."

He concluded, "Let me say that Judges are only one component of the administration of justice and we, all key players including lawyers, attorneys, prosecutors, and courts have to understand particularly that justice cannot be administered without their active cooperation."

In the end, the chief guest gave away certificates to the course participants.



Participants of the course in a group photo with faculty of the Academy

NEWS IN BRIEF

HON'BLE CHIEF JUSTICE OF PAKISTAN CHAIRS FJA, BOARD OF GOVERNORS MEETING



The 38th meeting of the Board of Governors of the Federal Judicial Academy was held on Saturday, the 2nd November, 2013, which was presided over by Hon'ble Mr. Justice Iftikhar Muhammad Chaudhry, the Chief Justice of Pakistan and Chairman Board of Governors of the Academy. Matters relating to converting the Academy into a Centre of Excellence as also acquiring the status of a degree awarding institution were discussed inter-alia and decisions made.

At the outset, the Hon'ble Chief Justice of Pakistan in his capacity as the Chairman, Board of Governors of Academy welcomed all the honorable members of the board, in particular, the two new members Hon'ble Mr. Justice Maqbool Baqar, Chief Justice, High Court of Sindh, and Barrister Zafarullah Khan, Federal Law Secretary, who were present in the meeting. He further said that the Attorney General for Pakistan, Mr. Munir A. Malik, also happened to be the new member; "we would have welcomed him in this Board of Governors Meeting but he could not reach due to flight problem."

Earlier, Mr. Parvaiz Ali Chawla was asked by the HCJP to read out the items on the agenda of the meeting.

The administration of justice is the firmest pillar of government.
George Washington

HONOURABLE CHIEF JUSTICE OF PAKISTAN UNVEILS PLAQUE OF FJA-PHASE-II NEW BUILDING



Hon'ble Mr. Justice Iftikhar Muhammad Chaudhry, Chief Justice of Pakistan/ Chairman Board of Governors of Academy is unveiling plaque of FJA-Phase-II

Hon'ble Chief Justice of Pakistan unveiled the plaque of the newly-constructed FJA Phase-II building on Saturday the 2nd November, 2013. The honorable chief justices of provincial High Courts, the judges of superior courts, district judiciary and members of legal fraternity were present during the ceremony.

Those who attended the meeting among others were Mr. Justice Tassaduq Hussain Jillani, Hon'ble Judge, Supreme Court of Pakistan, Mr. Justice Nasir-ul-Mulk, Hon'ble Judge, Supreme Court of Pakistan, Hon'ble Mr. Justice Qazi Faez Isa, Chief Justice, High Court of Balochistan, Hon'ble Mr. Justice Dost Muhammad Khan, Chief Justice, Peshawar High Court, Hon'ble Mr. Justice Umar Ata Bandial, Chief Justice, Lahore High Court, Hon'ble Mr. Justice Maqbool Baqar, Chief Justice, High Court of Sindh, Barrister Zafarullah Khan, Federal Secretary, Ministry of Law & Justice, Mr. Parvaiz Ali Chawla, DG, FJA and Dr. Faqir Hussain, Registrar, Supreme Court of Pakistan.

One of the big events of the celebrations was shields presentation to a few celebrated figures, who played pivotal role in the construction of the Phase-II of the Academy. Mr. Justice Iftikhar Muhammad Chaudhry, Hon'ble Chief Justice of Pakistan, awarded shields to: Hon'ble Mr. Justice Tassaduq Hussain Jillani, Judge Supreme Court of Pakistan/Judge In charge (Academics), Federal Judicial Academy, Hon'ble Mr. Justice Nasir-ul-Mulk, Judge Supreme Court of Pakistan/Judge Incharge (Administration), Federal Judicial Academy, Hon'ble Mr. Justice(R) Mian Shakirullah Jan, former Judge, Supreme Court Pakistan, Mr. Naveed Akram Cheema, Chief Secretary Punjab, Dr. Waqar Masood Khan, Secretary, Ministry of Finance, Mr. Hassan Nawaz Tarar, Secretary, Planning and Development Division and Mr. Sohail Qadeer Siddiqui, Project Director, Access to Justice Programme. On the occasion, Hon'ble Mr. Justice Iftikhar Muhammad Chaudhry, Chief Justice of Pakistan/Chairman Board of Governors, Federal Judicial Academy, was also presented a shield.

FJA CELEBRATES SILVER JUBILEE

The Federal Judicial Academy, Islamabad, celebrated its Silver Jubilee in newly-built Phase-II building of the Federal Judicial Academy, on 2nd November, 2013 with Hon'ble Chief Justice of Pakistan in the chair. It was a special occasion for an important event because it coincided with a one-day workshop on "Prisoners Vulnerability-Lacking Awareness" and the inauguration of Phase-II of the Federal Judicial Academy building.

Hon'ble Judges of the Supreme Court of Pakistan, Honorable Chief Justice, Supreme Court of Azad Jammu & Kashmir, Hon'ble Chief Justices of Provincial High Courts and High Court of Azad Jammu & Kashmir, Hon'ble Chief Judge Supreme Appellate Court Gilgit Baltistan and Chief Judge, Gilgit Baltistan, Hon'ble Judges of the Federal Shariat Court and High Courts, Vice Chairmen of Bar Councils, President and office bearers of the Supreme Court Bar Association, members of the District Judiciary, Presidents and office bearers of the High Court and District Courts Bar Associations, eminent members of civil society and media and hundreds of other distinguished guests from across Pakistan attended the Silver Jubilee Celebration. On the occasion, Honorable Chief Justice of Pakistan also gave away certificates to the participants of one-week training course in the ceremony.



Hon'ble Mr. Justice Iftikhar Muhammad Chaudhry, Chief Justice of Pakistan offering prayer after unveiling the Silver Jubilee memento

Equal rights for all, special privileges for none.
Thomas Jefferson

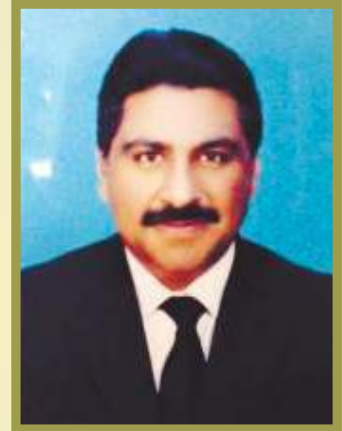
PICTURE GALLERY





POSITION HOLDERS

Mian Javaid Akram Baitu, Civil Judge-cum-Magistrate, Kasur, secured first position and Mr. Ghulam Shabbir Hussain, Civil Judge-cum-Magistrate Ferozewala, clinched second position in the essay competition on the topic "Role of a judge at district level in the enforcement of fundamental rights" during one week orientation course on "How to be an effective Senior Civil Judge" for Senior Civil Judges from all over Pakistan, Azad Jammu & Kashmir and Gilgit-Baltistan (30th September to 5th October, 2013).



THE ROLE OF JUDGE AT DISTRICT LEVEL IN THE ENFORCEMENT OF FUNDAMENTAL RIGHTS

*Mian Javaid Akram Baitu
Civil Judge-cum-Magistrate, Kasur*

FUNDAMENTAL RIGHTS

Fundamental rights are a generally regarded set of legal protection in the context of a legal system, wherein such system is itself based upon this same set of basic, fundamental, or inalienable rights. Such rights thus belong without presumption or cost of privilege to all human being under such jurisdiction. The concept of human rights has been promoted as legal concept in the large part owing to the idea that human being have such FUNDAMENTAL RIGHTS, such that transcend all jurisdiction, but are typically reinforced in different ways and in different emphasis within different legal system (Reference from Wikipedia)

LEGAL MEANING

Though many fundamental rights are considered human rights, the classification of a right as fundamental invokes special legal tests courts used to determine the constrained condition under which various state governments may limit these rights. In such legal context, courts determine whether rights as fundamental by examining this historical foundation of those rights, and determining whether their protection is part of longstanding tradition. (Wikipedia)

ADDRESS TO THE PARTICIPANTS OF FEDERAL JUDICIAL ACADEMY

The Honorable judge, Supreme Court of Pakistan, addressing the participants at Federal Judicial Academy, Islamabad, expressed his views regarding the role of district judiciary in the enforcement of fundamental rights he said: it is imperative that judges at district level should clear off misconception that it is the function of superior courts alone to ensure enforcement of fundamental rights. With the addition of article 10-A in the constitution whereby right of fair trial has been declared a fundamental right, the task of judge and of the senior civil judges has become all onerous. Every judge, be it a civil judge of third class or of higher level is called upon to enforce this right almost in every case and other fundamental rights in appropriate case, if judge, at this level conscious of this dimension of their functions, hundreds of individuals grievances can be redressed at this level. The ever growing concept of human rights in its varied dimensions in substantive and procedural

law makes the task of a trial court judge all the more demanding. A trial judge is required to have an interest and a wholesome understanding of human rights jurisprudence both in domestic law as also in the domain of international human rights. About civil rights, the honorable judge further expressed his views that "those are mostly spelt out in statutes. These include the right in respect of the property of a person, his legal status, religion, reputation, privacy, inheritance and marriages etc. then there are rights under law of tort, specific relief under the statute and right to claim damages from injury to body and the property. Then there are rights conferred by special law which are enforced by special tribunals and courts. These include the rights of an employee and the employer under labour and service laws. The rights under the tax laws, the right of a customer and the banking companies under the special statutes. All these rights and their enforcement require resolution by courts of general and special jurisdiction, as the case may be.

ROLE OF COURTS IN PROTECTION OF HUMAN RIGHTS

Mr. Justice P. Sathasivam, judge, Supreme Court of India in south zone regional conference has said that "two simple words but when put together, they constitute the very foundation of our existence. Human rights are commonly understood as inalienable fundamental rights to which a person is entitled simply because she or he is a human being. It is duty of a judge to read between the lines and to enforce these rights for the betterment of the society. In precise, our judgments should be articulated in such a manner to accommodate human rights whenever it is required.

ACTIVE ROLE OF JUDICIARY

All legal rights are human rights but it is unfortunate that all human rights have not become legal rights. This is because the law follows the action, as a consequence, it is not possible to codify all probable law in anticipation of protection of human rights and this is when the due procedure of laws or the principle of natural justice plays an active role in protecting the rights of the people when there is no legislation available. The judiciary no doubt plays a vital role in protection of human rights over the decades. Some of the most unpleasant violations of human rights like honor killing, slavery and child labour etc have been abolished wholly owing to wide spread awareness and strict implementation measures taken by the judiciary. The status of a human right is fairly high under the constitution which makes provision for fundamental rights and empowers courts to enforce these rights. Working towards the protection of a human right ought to be the paramount goal of any court of the country. The expansion of scope of human rights, the ambit of safeguarding the rights also increased, as a result, judiciary should toil more to prevent the violation of human rights. Judiciary is the only organ which can translate the rights into reality which is not possible without the help of judicial officer of the respective court.

FUNDAMENTAL RIGHTS IN THE CONSTITUTION OF PAKISTAN 1973

Article 8 of the Constitution of Pakistan, 1973 provides that "Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this chapter, shall, to the extent of such inconsistency, be void"

FUNDAMENTAL RIGHTS CONFERRED BY THE CONSTITUTION

In the constitution of Pakistan, 1973, fundamental rights are provided in article 9 to Article 28. It includes security of a person, safeguard as to arrest and detention, slavery and forced labour, protection against the retrospective punishment, protection against the double punishment, inviolability of a human being, freedom of movement, freedom of assembly, freedom of association, freedom of trade and business and freedom of speech etc. As the Constitution is the supreme law, the fundamental law of the land, it is paramount to other laws. Therefore, if there be a law, not in conformity with the constitution, it must, in its application to a particular case, yield to the superior law, namely, the constitutional provision. Refer to Farid Ahmad vs

Government of West Pakistan, PLD 1965 Lah 135. An order which is contrary to the Constitution cannot be validated by law. Refer to Haji Ghulam Zamin vs A.B. khondkar, PLD 1965 Dacca 156.

CHANGES IN PROCEDURE

If a procedural law conflicts with a fundamental right and the trial under that law has not been finally concluded, because an essential step in the proceedings had to be taken before the Constitution came into force, the better view is that the whole trial becomes void and the proceedings can no longer be continued. Reference: Muhammad Bashir Vs the Province of West Pakistan, PLD 1985 Lah 853. Likewise, post-constitutional law inconsistent with the fundamental rights shall be void ab initio.

ROLE OF A JUDGE AT DISTRICT LEVEL IN THE ENFORCEMENT OF FUNDAMENTAL RIGHTS

As discussed above, the judges at district level should clear off their misconception that to enforce the fundamental right is the function of the superior courts. At district level a court can enforce the following fundamental rights.

RIGHT OF BEING HEARD

The principle of natural justice is that nobody should be condemned unheard. In my view, it is basic fundamental right of every citizen of this country that before any adjudication, he should be heard.

SAFEGUARDS TO ARREST AND DETENTION

In Article 10 of the Constitution of Pakistan, 1973 it is provided that every person arrested and detained in custody shall be produced before a magistrate within a period of twenty four hours, excluding the time for the journey from the place of arrest to the court of nearest magistrate. The courts at district level should enforce this fundamental right as provided by sec. 167 CrPC according to which, whenever a person is arrested by the police and is detained in custody and when the investigation cannot be completed within a period of twenty four hours fixed by sec. 61 Cr.PC, he shall be produced before the nearest magistrate. A judge at district level could watch and supervise in his jurisdiction that nobody should be kept in custody illegally i.e. more than twenty four hours. The word "within twenty for hours" used in clause 2 of article 10 of the Constitution denotes that the right to be produced before a magistrate arises as soon as a person is arrested and in case of a prolonged detention, compliance with this clause at any time afterwards does not satisfy the constitutional requirement. (State of UP vs Abdul Samad, AIR 1962 SC 1506)

RIGHT TO CONSULT AND BE DEFENDED BY A LEGAL PRACTITIONER OF HIS OWN CHOICE

The person arrested has a right to consult a legal practitioner of his own choice from the moment of his arrest. The guarantee offered by this clause continues even after the arrested person has been released on bail. (Motilal Vs State, AIR 1954 Raj 241 & State of MP vs Shobaram, AIR 1966 SC 1910) Prisoner made a request from jail to engage an advocate for him but no action was taken on it. It was observed by the court that facility of engaging counsel could not be denied to prisoner and a request made in this behalf remaining unattended amounted to denial of facility guaranteed under article 10 of the Constitution. Refer to Ch Zahoor Ellahi Vs State, 1975 PCr.J 1413. The judge at district level should ensure the enforcement of this fundamental right which is also clearly provided by sec 340 CrPC. Section 340 CrPC confers on an accused person the right to be defended by a pleader in criminal cases. If it is denied, it deprives the accused of his fundamental rights to be defended by a pleader of his own choice in any trial of the crime for which he is arrested even though such tribunal may not have the power to pass a sentence of imprisonment. (State of MP vs Shobaram, AIR 1966 SC 1910)

RIGHT OF FAIR TRIAL

Article 10-A of the Constitution of Pakistan ensures the enforcement of this fundamental right of fair trial. It provides that for the determination of his civil rights and obligations or in any criminal charge against him, a person shall be entitled to a fair trial and due process of law. Courts at district level can enforce this fundamental right in every civil and criminal case. The Honorable Chief Justice, Pakistan Mr. Justice Iftikhar Muhammad Ch while addressing an international convention titled "fair trial, prospects and implementation" organized by Supreme Court Bar Association said that "No society can survive without justice and that Islam lays great importance on it". He said that "Right to a fair trial is universally recognized by countries respecting the rule of law; justice forms the corner stone of each nation's law. I would also add that expeditious and speedy trial is also the right of an individual".

DOUBLE JEOPARDY

Article 13 of the Constitution of Pakistan enforces this fundamental right against double punishment. It provides that "No person shall be prosecuted or punished for the same offence more than once; or shall, when accused of an offence, be compelled to be witness against himself. Court of law at district level enforces this fundamental right by invoking the provision of section 403 CrPC. This section is based on the ancient maxim Nemo debet bis vixari pro una eadem causa which means that a person cannot be tried a second time for an offence which is involved in the offence with which he was previously charged. It is held in Muhammad Ishaq vs the state, 1992 PCr.LJ 1273 that "second prosecution for the same offence is barred under article 13 for only where prosecution has finally concluded and ended either in acquittal or in conviction". Conviction for the second time on the same facts is not legal. Refer to PLD 1997 Lah 307, 1997 PLC 353, 1997 MLD 1692.

POWER TO ISSUE DIRECTIONS OF THE NATURE OF A HABEAS CORPUS

Proviso 1A of Section 491 CrPC provides that at district level, sessions judge and the additional sessions judge within the territorial limits of a sessions division may whenever it think fit direct that a person be brought up before the court illegally and improperly detained. This section provides a safeguard against the illegal detention. This fundamental right against illegal detention is protected by judges at district level by issuing a direction to a person to bring the detenu in the court. No law authorizes a private individual to keep a person who is sui juris in his private capacity (PLD 2009 S.C 507). This section or the power of courts at district level provides a shield against the illegal detention of a person by the police. In PL J 1999 CrC Lah 12, it is held that "free hand cannot be granted to police to arrest a criminal without any legal and factual justification. Arrest not shown in the police diary, detenu not found in any case, released. Refer to PLJ 1999 CrC Lah 9.

WRONGFULL CONFINEMENT

Section 100 CrPC also empower the magistrate at district level to issue a search warrant where he has reason to believe that such confinement amount to an offence. The court can issue a search warrant to a person to search the person so confined and if he is found, shall be immediately brought before a magistrate.

ROAD AHEAD

Yes, it is true that judiciary has done a tremendous job in the past by actively involving in safeguarding human rights in process of delivering justice but the future is far more challenging with new social innovations like cyber and terrorism etc. Therefore, it is only with due conviction and determination by the district judiciary, these challenges can be overcome in an orderly manner.



Mian M. Kamran Younis, Civil Judge-cum-Magistrate, Attock, secured first position and Mr. Muhammad Muneeb Saqib, Civil Judge-cum-Magistrate, Bhakkar and Mr. Sadruddin A. Bohyo, Civil Judge-cum-Magistrate, Karachi West, clinched jointly second position in the essay competition on the topic "Cases of prosecution fail invariably due to non-appearance of witnesses---duty of the court to ensure the attendance of witnesses" during one week orientation course on "Appreciation of evidence and management of criminal trial" for Civil Judges-cum-Magistrates from all over Pakistan, Azad Jammu & Kashmir and Gilgit-Baltistan (9th to 14th December, 2013).



THE CASES OF PROSECUTION FAIL INVARIABLY DUE TO NON APPEARANCE OF WITNESSES--DUTY OF THE COURT TO ENSURE THE ATTENDANCE OF WITNESSES

*Mian Muhammad Kamran Younis
Civil Judge-cum-Magistrate, Attock*

In the era we are living in, the world in general and the third world in particular, is facing turmoil and chaos. A myriad of socio-economic factors coupled with different political and religious issues has resulted in an alarming increase in crimes which range from petty offences to the most gruesome ones. Pakistan, is specifically the hub of different activities and events happening around. The social, economic and psychological challenges which a common citizen is currently facing, has damaged the psyche of a whole generation and has resulted in a rapid growth of crime rate which seems to be increasing alarmingly. However it appears that the justice system in Pakistan is failing to cope with these challenges. The offences are regularly being committed but the conviction rate is decreasing with each passing year. It has led the general public to believe that the judicial system is flawed.

Although the faulty investigation and lack of proper conduction of trial by the prosecution is the main reason for the loopholes from where the culprits escape, however the responsibility of a magistrate cannot be undermined. In Pakistan, a large number of criminal trials have resulted in acquittal of the accused not because he was innocent, but because of non production of evidence. But being the presiding officer of the court, responsible on our shoulders too, to make sure that a person does not find an escape merely because the attendance of witnesses against him could not be procured.

In this respect, it must be kept in mind that the courts are not meant to be silent spectators. A magistrate is empowered by the Code to ensure the attendance of witnesses. The authoritative pronouncements of apex Court of the country also urge the magistrate to utilize the powers given to them for administering the justice. Courts have ample powers to meet the increasing menace of non appearance of witnesses or non-production of accused persons from jail which are bestowed upon courts for being exercised effectively. Such luxuries on the part of police, prosecution, jail authorities or witnesses must be met by resort to coercive and penal measures against delinquents and posture of helpless passive onlookers adopted by trial courts should be met with exemplary measures. Ultimate responsibility of administration of justice rests with courts. Police and Investigating agencies are only instruments to assist them in discharge of this responsibility. Courts are operators and not slaves of these tools. Courts if at any stage feel that these instruments have got blunted or rusted, then courts must sharpen and chisel them through lawful means.

First of all according to Section 173(5) of Cr.P.C where the officer in charge of a police station forwards a report under sub Section (1) he shall produce the witnesses in the court except the public servants and the magistrate shall bind such witnesses for appearance before him or some other court on the date fixed for trial. But in practice, the witnesses are seldom produced before the court by the officer in charge of a police station as required by Section 173(5) CrPC The Courts should make sure that this provision of law is followed in letter and spirit. If the court finds that an officer in charge of a police station is disobeying the court orders, necessary action should be taken against him and even he can be proceeded against under the police rules.

Furthermore, it is the need of the hour to reform the process of service of summonses in criminal cases. Specially it is required that there should be an independent force to ensure the service of summonses and attendance of witnesses. It is also pertinent to mention here that if some official witness is not appearing, not only he can be summoned through his departmental head, but his attendance can also be procured by ordering the attachment of his salary through the District Accounts Officer.

As far as the duty of the court to ensure the attendance of prosecution witnesses is concerned, when the summonses are issued for the attendance of witnesses and the witnesses do not appear in response thereto, reasons must be examined and recorded and where necessary, coercive steps should be taken for securing the attendance of witnesses and should not lay entire responsibility on prosecutor alone. The court can take coercive steps and under section 87 Cr.PC court can Issue a proclamation requiring the attendance of a witness and Form No. V given in [Schedule V] Cr.P.C is form of proclamation requiring the attendance of a witness. The Court can pass an order under Section 88 Cr.PC of attachment to compel the attendance of a witness and form No. VI given in [Schedule V] Cr.P.C is form of order of attachment to compel the attendance of witnesses. In the light of what has been discussed above it has become clear that court can take coercive steps to ensure the attendance of witnesses. The court should take strict action against the witnesses who deliberately attempt to flout order or cause delay in court process.





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