

February 2025

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FEBRUARY 2025 _ VOL. 02 _ NO. 02

Gender-Based Persecution

ICC Seeks Arrest of Taliban Leaders

The International Criminal Court prosecutor, Karim Khan, has sought arrest warrants for Taliban leaders Haibatullah Akhundzada and Abdul Hakim Haqqani. They are accused of persecuting women and girls in Afghanistan, with "reasonable grounds" for their criminal responsibility for gender-based persecution, a crime against humanity.



 STOP HARASSMENT / PERSECUTION

IMAGE: © THE LEGAL

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Trump Pardons January 6 Convicts



In the early hours of his second term, US President Donald Trump granted pardons to nearly all individuals convicted of crimes related to the January 6, 2021, insurrection at the US Capitol. He also commuted the sentences of 14 others. It is reported that nearly 1,600 individuals were charged, with approximately 1,300 convicted for crimes committed on that day. Around 300 cases remain active and unresolved.

What's on Your mind?

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Editor's Note

Law's Fragile Balance

Law is the jewel of society, reflecting its finest attributes: ethics, values, traditions, culture, and justice. The notion of domination and 'might is right' are wild tendencies, and humanity suffers greatly from them. Laws are enacted and implemented for the common good of society, to curb negative acts and inclinations with the rule of law. When society ceases to respect the law, the justice system collapses.

The world has been passing through a difficult phase. All of human intellectual sophistication cannot prevent wars, aggression, occupation, and crimes against humanity. Despite a plethora of international laws, rules, regulations, and religious guidance, the world has been plagued with crimes due to a decaying justice system. Laws are wielded to penalise weaker nations, while the powerful club of nations blatantly enjoys 'the might.' Those who strive to uphold justice are either neutralised or meet the fate of the International Court of Justice (ICJ).

According to Reuters, the ICJ has taken measures to shield its staff from potential US sanctions, paying salaries three months in advance as it braces for financial restrictions that could cripple its war crimes tribunal. The US House of Representatives recently voted to punish the court for issuing arrest warrants for Israeli Prime Minister Benjamin Netanyahu and his former defence minister over Israel's actions in Gaza.

The laws or the system are either fake or purposely designed to serve the powerful. Often, laws are left ambiguous that makes them easier to be misused. Utmost care must be taken for the enactment of new legislation or amendments. Pakistan's coalition government has currently been on a legislative spree, perhaps, aiming to set a world record for hasty legislation. It could not realise that law has an innate fragile balance, which could endanger peace and security if not maintained. Also, laws cannot control negative tendencies alone, especially when the justice system is hacked, divided, or confused.

Anyhow, this month's issue was the most interesting to compile, as much was happening on the legislative, executive, and judicial fronts. A formidable tussle, never seen in the judicial history of Pakistan, has been going on with the situation changing daily. We have, however, included a number of thought-provoking articles in this issue that highlight vital legal aspects vis-à-vis examining some core concepts. I hope they will be a valuable read.

As you, dear readers, contemplate the myriad trends, it is evident that the situation on the legislative and judicial fronts is far from praiseworthy. While courts and judges appear busier than ever, we can only hope that the integrity and independence of the judiciary will prevail.

Aftab Kazmi
Editor in Chief



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NEWS BRIEFING

Mediator Appointments

Islamabad - The federal government has accredited 31 lawyers and experts as mediators under the Alternative Conciliation Mechanism for Dispute Resolution. This was done following the approval of the Alternative Accreditation Resolution (Accreditation) Rules, 2023, by the Re-accreditation Committee on 6th January 2025.

Those accredited include Syed Sabiul Hasan Advocate, Barrister Salar Ali Kiani, Kaniz Fatima Advocate, Khawaja Azhar Rashid Advocate, Saba Batool Advocate, Arshad Mahmood Kayani Advocate, Mohammad Bilal Khan Advocate, Hamza Adeel Advocate, Jehanzeb Durrani Advocate, Dr Fakhra Rizwan Advocate, Mohammed Khalid Ameer Advocate, Azhar Iqbal Advocate, Muhammad Amir Advocate, Muzaffar Ahmed Mirza Advocate, Akhtar Mahmood Raja Advocate, Raza Allah Khan Advocate, Dr Malik Jawad Faisal, Asim A. Faridi, Engineer Sanaullah Khan, Abeer Nisar, Adeel Ahmed, Noor Rahman, Zain al-Abin Hashmi, Hasan Shahzad, Ahmed Iqbal, Jamal Shah, Kamran Abdullah, Mohammad Abid, Mohammed Yadav, and Sharafat Ali Chaudhry.

Tax Cases

Islamabad - The Pakistan Tax Bar (PTB) has expressed concerns regarding the Federal Board of Revenue's (FBR) approach to legal matters, alleging that the revenue collection authority is pursuing unwarranted tax cases.

The PTB, in a letter to Prime Minister Shehbaz Sharif, criticised the FBR for lodging baseless and weak cases, which they argue undermines taxpayer confidence. These cases are currently pending in various courts and platforms.

The PTB has called upon the government to establish a steering committee to review these tax cases, suggesting that the formation of such a committee could reduce the number of cases by 50 per cent.

Imran Khan Sentenced

Islamabad - The Accountability Court sentenced former Prime Minister Imran Khan and his wife, Bushra Bibi, to a collective jail term of 21 years—14 years for Khan and 7 years for Bibi—in the £190 million case. Judge Nasir Javed Rana announced the order on January 17, after several postponements over the last two months, in a courtroom inside the Central Jail (Adiala) in Rawalpindi. Following the announcement, Bibi, who was previously on bail, was arrested immediately from the court's premises.

In his judgement, the court also imposed a fine of Rs1 million on Khan and Rs500,000 on his wife. They will have to serve an additional six months and three months imprisonment, respectively, upon non-payment of the fines. Under Section 10(a) of the National Accountability Ordinance, 1999, the court also forfeited the "sham trust," Al-Qadir University Project Trust, property to the federal government.

The former PM and his wife's conviction stemmed from charges of receiving gifted land worth Rs7 billion from a real estate developer during his premiership as a bribe through the Al-Qadir Trust, established in 2018, in exchange for illegal favours. According to the prosecution, Khan allowed the property tycoon to pay fines imposed on him in a separate case out of the laundered amount of £190 million. The British National Crime Agency (NCA) later returned the money to Pakistan in 2022 to be deposited into the national exchequer.

The National Accountability Bureau (NAB) filed charges in this case against eight individuals, including Khan and Bibi, on December 1, 2023. On January 6, 2024, the court declared the remaining six accused as proclaimed offenders. Khan and Bibi were indicted on February 27, 2024, with the prosecution presenting 35 witnesses, all cross-examined by the defence.

Khan's previous convictions for selling state gifts, leaking state secrets, and violating marriage laws, totalling 31 years, have been suspended or overturned. He has remained in jail since May 2023 on various charges, including terrorism.

A senior member of Khan's party, Pakistan Tehreek-e-Insaf (PTI), announced plans to appeal the verdict. Khan and his party, however, describe all the cases as politically motivated.

SEC Sues Musk

Columbia (USA) - In a fresh twist to the ongoing saga, the Securities and Exchange Commission (SEC) has levelled new allegations against Elon Musk. The billionaire stands accused of misleading shareholders over his Twitter stock purchases, heightening tensions with the regulatory body.

The SEC's lawsuit, filed in the federal court of the District of Columbia, claims that Musk's tardy disclosure of his Twitter stock holdings allowed him to save a staggering \$150 million. This delay, according to the SEC, left investors in the lurch, selling their shares at depressed prices without knowledge of Musk's moves.

Following a lengthy probe, periodically stalled by Musk's no-shows, this lawsuit emerges at a critical juncture. With Musk now in close cahoots with President-elect Donald Trump, he's poised to urge the new SEC leader to drop the case, a litmus test for the commission's independence from the White House.

Iranian Judges Assassinated



IMAGE: © THE LEGAL

Tehran - In an apparent act of premeditated assassination, two senior judges of the Iranian Supreme Court were shot and killed within the court's premises in Tehran on January 18. The assailant subsequently took his own life.

Asghar Jahangir, spokesperson for the Iranian judiciary, confirmed: "An individual armed with a handgun entered the room where the two judges were present and shot them." No further details regarding the perpetrator or his motive have been disclosed.

The slain judges, Ali Razini, 71, and Mohammad Moghisseh, 68, were notable for adjudicating cases involving terrorism, espionage, and crimes against Iran's national security. Judge Razini, who had survived an assassination attempt in 1998 involving a magnetic bomb attached to his car, had held several high-ranking positions within Iran's judiciary. He joined the judiciary in 1980 and served as the judge of the Revolutionary Court of Tehran in 1981. He was appointed as the Sharia judge of the Special Clergy Court by Ayatollah Ruhollah Khomeini and later presided over special courts dealing with war-related violations.

Judge Moghisseh, who had been on the unfavourable side of the US administration and was sanctioned in 2019 for his rulings, had been serving Iran's judiciary since the Islamic Revolution of 1979.

Judges Security

Peshawar - A committee formed to review security measures for judges in Khyber Pakhtunkhwa (KP) province has put forward several recommendations, primarily focusing on judges stationed in sensitive areas. The proposal includes personal security for the judges, as well as for their residences and travel routes.

Media reports indicate that the Counter Terrorism Department will be tasked with identifying these sensitive areas. The committee also advocates for bulletproof vehicles for Peshawar High Court benches. The proposal suggests that security for district and sessions judges should be designated as Category A. If ratified by the KP cabinet, 116 personnel will be assigned to district and sessions judges, 180 personnel to additional sessions judges, and 87 personnel to senior civil judges.

AJK Judges' Monograms

Muzaffarabad - In a unanimous decision, the Judicial Policy Making Committee of Azad Jammu and Kashmir has mandated that all district judges' vehicles must display a monogram along with the judges' designations.

The committee's meeting, held on January 16 under the leadership of Chief Justice Raja Saeed Akram Khan of the Azad Jammu and Kashmir Supreme Court, also concluded that district judges would be exempt from maintaining logbooks. However, they must adhere to the prescribed fuel limits for official vehicles as per existing laws.

Special Police Units

Lahore - In a key move, Punjab Police will deploy 1,450 trained personnel to bolster the Special Sexual Offences Investigation Units across the province.

These units have been established under Section 9 of the Anti-Rape (Investigation and Trial) Act, 2021, in response to the alarming rise in violence against women.

In reality, many such cases remain unreported due to societal taboos and fear, contributing to the underreported crime statistics. According to the Sustainable Social Development Organisation, a staggering 10,201 incidents of violence against women were officially recorded in Punjab in 2023 alone.

This measure aims to address the urgent need for specialised investigation in such sensitive cases, providing both justice and support to victims.

Hen Havoc

Karachi - Raising hens at home has sparked a constitutional interpretation at the Sindh High Court on January 21, following a woman's complaint that residents have been keeping chickens without a licence, resulting in noise disturbances for their neighbours.

The court has ordered the area police to submit a report within three weeks regarding the complaint against her neighbour for keeping hens at home. This issue has ignited a debate over the constitutional right to rear poultry within the jurisdiction of the Cantonment Board Clifton (CBC).

Consequently, CBC lawyers have been left scrambling to locate anti-hen clauses in the bylaws, to no avail.

On Tuesday, the Sindh High Court's constitutional bench considered the woman's plea, arguing that the fundamental rights of Clifton residents are being infringed upon. The petitioner urged the court to mandate the CBC to take action against those maintaining chickens in the area.

National Forensics Agency Act 2024

Pakistan Ushers in a New Era of Forensics

The National Forensics Agency Act 2024 marks a pivotal step in modernising Pakistan's forensic capabilities, ensuring reliable and advanced support for the judicial system."

The government has established the National Forensics Agency (NFA), via Pakistan's National Forensics Agency Act 2024, to transform forensic science with cutting-edge technology and unified services. The move aims to revolutionise support for judicial and investigative bodies, marking a new era in the country's justice system.

The NFA is poised to serve as a centralised entity catering to forensic requirements at both federal and provincial levels. As outlined in Section 3 of the Act, passed on December 24, 2024, the NFA is established as an autonomous corporate body, headquartered in Islamabad, with provisions for regional offices as necessary.

Governed by a Board of Governors and led by a Director General, the agency's mission is to provide expert forensic services to courts, tribunals, and investigative bodies throughout Pakistan. This unification is expected to remedy the current fragmented forensic services, ensuring uniformity and dependability.

The Act covers both traditional and digital forensic methodologies. Section 4 details the NFA's responsibilities, including setting up state-of-the-art facilities for conventional forensic disciplines such as DNA analysis, toxicology, and ballistics. Moreover, the Act mandates the development of advanced digital forensic technologies to combat cybercrimes, deep fakes, and other digital frauds. By leveraging artificial intelligence (AI), the NFA aims to establish a comprehensive framework for digital evidence collection and analysis.

Additionally, Section 6 empowers the NFA to act as an accreditation body for forensic laboratories and experts, ensuring adherence to international standards. The agency will also function as a research hub, tasked with identifying gaps in Pakistan's forensic capabilities and proposing innovative solutions tailored to the country's needs.

A key feature of the Act is its focus on the admissibility and credibility of forensic evidence. Section 14 stipulates that reports generated by the NFA are admissible under Section 510 of the Code of Criminal Procedure, 1898, and Articles 59 and 164 of the Qanun-e-Shahadat Order, 1984. This provision enhances the legal weight of forensic evidence in judicial proceedings. To uphold integrity and accountability, Section 25 prescribes penalties for experts or officials who knowingly provide false or misleading opinions. These measures are crucial for maintaining public trust

in forensic processes and upholding the agency's credibility.

The Act's potential lies in its ability to unify and elevate Pakistan's forensic landscape. Training programmes for judicial and law enforcement personnel, coupled with accreditation processes as outlined in Section 4, will ensure a skilled workforce and standardised practices. Additionally, the integration of AI, as highlighted in Section 4(m), positions Pakistan's forensic capabilities in line with global trends.

However, challenges remain. Timely resource allocation, infrastructure development, and effective federal-provincial coordination are critical for the NFA's success. Privacy concerns surrounding digital evidence must also be addressed, as Section 14 emphasises re-examination and proper handling of forensic material to ensure compliance with privacy laws and prevent misuse.

To maximise the NFA's impact, the government must prioritise funding, as mentioned in Section 13, which establishes the creation of a dedicated fund for the agency. Public awareness campaigns can also build trust and educate citizens about the benefits of forensic advancements. Regular legislative updates will ensure that the Act evolves alongside technological progress.

The National Forensics Agency Act 2024 is more than just legislation; it is a vision for a future where justice is swift, reliable, and equitable. By institutionalising best practices and embracing technological innovation, Pakistan is set to establish a new benchmark in forensic science. The Act not only enhances the administration of justice but also reinforces the nation's commitment to upholding the rule of law. For legal practitioners, policymakers, and citizens alike, the NFA stands as a testament to the transformative power of forensic science. ■

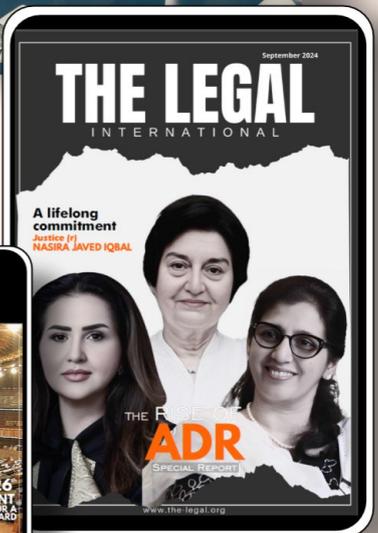
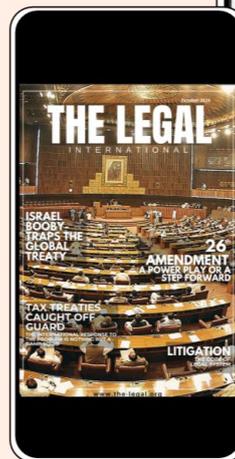


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This is summary of the research report "The Conundrum of Family Justice in Pakistan: Exploring the Challenges faced by Family Courts in a patriarchal Society." The full-length paper can be read at www.the-legal.org

A Crisis in Family Courts:

Pakistan's Custody Conundrum

Rising divorce rates and patriarchal biases have turned Pakistani family courts into battlegrounds, leaving children caught in the crossfire and exposing glaring flaws in the legal system.

by **Fahad Ahmad Siddiqi**
AHC - Lahore



Amid the tangled corridors of Pakistan's family courts, a crisis brews as thousands of children are ensnared in bitter custody battles. Trapped in a system plagued by patriarchal traditions, outdated laws, and adversarial litigation, these vulnerable lives highlight an urgent need for reform in the nation's child custody framework.

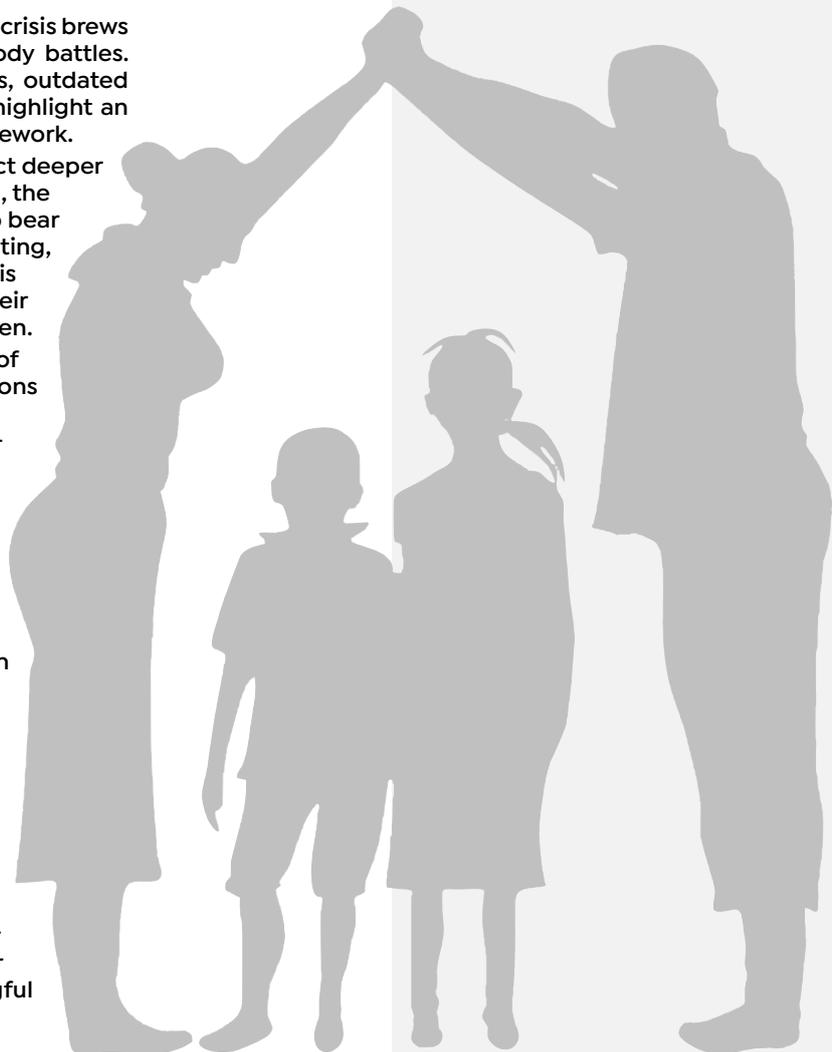
The challenges faced by family courts in Pakistan reflect deeper societal and systemic issues. Without significant reform, the country's most vulnerable—its children—will continue to bear the brunt of these failings. A shift towards shared parenting, equitable legal practices, and a child-centric approach is essential. Only then can Pakistan's family courts fulfil their mandate to protect the welfare and futures of its children.

Each year, over 40,000 divorces occur in Pakistan, half of which involve children. In the aftermath, custody decisions overwhelmingly favour mothers, leaving fathers with meagre visitation rights, often restricted to brief, court-supervised interactions. The current system operates under the outdated Guardian and Wards Act (1890) and the Family Courts Act (1964), which focus on sole custody rather than shared parenting. This winner-takes-all approach ignores the best interests of the child, treating custody as a zero-sum game.

Children are frequently treated as trophies in these disputes, their emotional well-being sidelined. Research underscores that maintaining meaningful relationships with both parents is critical for a child's emotional and psychological health. Yet, Pakistan's legal framework offers little to support such balanced outcomes.

Gender bias is a pervasive issue in child custody cases. Pakistani courts often default to traditional norms, presuming mothers to be the primary caregivers and relegating fathers to the sidelines. This bias persists even when fathers are willing and capable of sharing parental responsibilities. Non-custodial parents, usually fathers, are often limited to mere hours of visitation per month, leaving little room to build or maintain meaningful bonds with their children.

Such practices exacerbate emotional distress for both



Call for Reforms

Experts and advocates argue that Pakistan's family courts need a complete overhaul. The following reforms are urgently needed:

■ **Legislative Updates:**

The Guardian and Wards Act (1890) and Family Courts Act (1964) must be revised to include provisions for shared custody and co-parenting. International best practices should be incorporated to ensure child-centric solutions.

■ **Mandatory Mediation:**

Introducing alternative dispute resolution mechanisms, such as mediation and counselling, could reduce hostility and encourage amicable settlements. Litigation should be a last resort, not the default.

■ **Judicial Training:**

Judges need specialised training in family law, child psychology, and modern custody practices. This would enable them to make more informed, child-focused decisions.

■ **Monitoring and Evaluation:**

Custodial arrangements during litigation should be regularly reviewed to ensure they serve the child's welfare. Courts should also enforce visitation rights more rigorously to maintain relationships between children and non-custodial parents.

■ **Child-Friendly Processes:**

Court environments must be made less intimidating for children. Interviews and interactions should occur in safe, supportive settings, away from the tension of the courtroom. –FAS

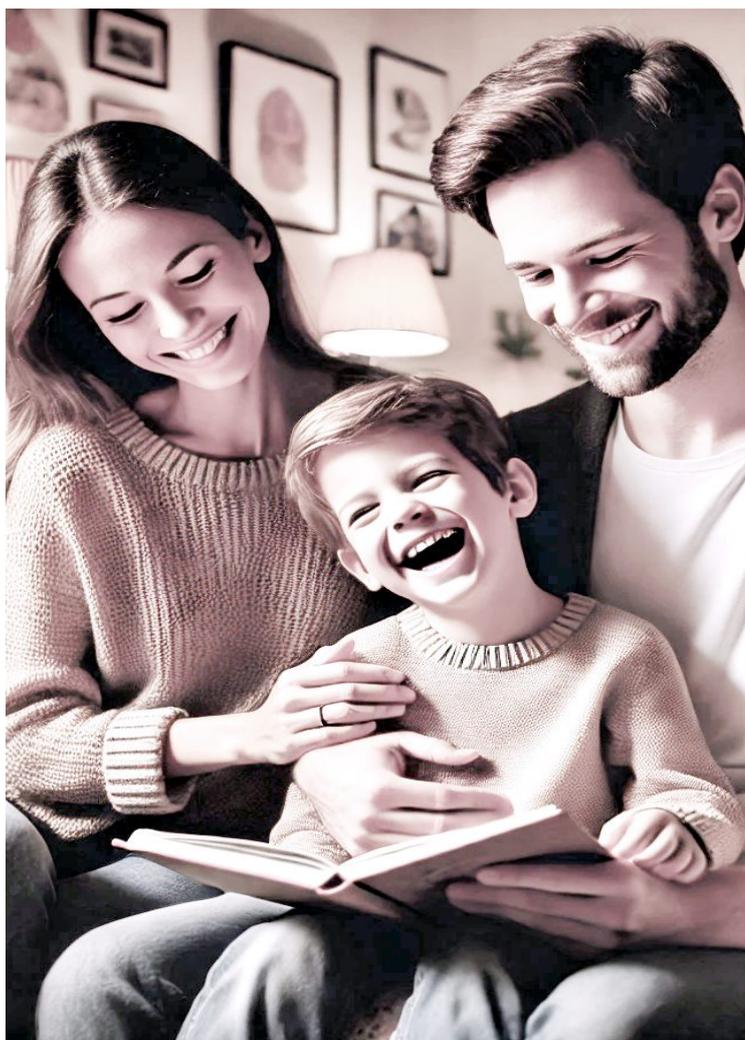


IMAGE: © THE LEGAL

children and parents. Children are deprived of the stability and security of having both parents actively involved in their lives, while non-custodial parents endure the heartbreak of being sidelined. Custody battles are framed as contests, where one parent emerges victorious at the expense of the other. This approach fosters animosity, prolongs litigation, and shifts the focus from the child's welfare to the parents' conflict. Prolonged legal battles often leave families drained emotionally, financially, and psychologically.

One of the critical issues lies in the absence of codified guidelines. The term "welfare of the minor" is neither clearly defined nor consistently applied, leaving decisions to judicial discretion. This results in inconsistent rulings and growing frustration among litigants.

Moreover, courts lack mechanisms to monitor the quality of custodial arrangements during litigation. Complaints about neglect or abuse often go unaddressed, as there is no structured system for interim evaluations. Meanwhile, allegations of misconduct are rife, further clouding already contentious cases.

The consequences of this flawed system are profound. Children denied meaningful contact with one parent are at greater risk of anxiety, depression, and behavioural issues. They may feel abandoned, caught in the crossfire of their parents' disputes. Research shows that children who maintain healthy relationships with both parents fare significantly better in terms of emotional, academic, and social development.

There have been some positive steps. In a landmark 2018 judgement, Pakistan's Supreme Court called for balanced visitation rights, recognising the importance of maintaining relationships with both parents. However, much remains to be done to translate such rulings into systemic change. ■



**YOU'RE THE
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A Call for

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IMAGE: © THE LEGAL

With socio-economic pressures and lack of support, young lawyers' struggle is overlooked. Reforms like the Madras High Court ruling for stipends could ensure fair treatment and foster a supportive legal environment.



Reforming the Treatment of Junior Lawyers in Legal Landscape



The exploitation of junior lawyers is a pressing issue that demands immediate attention.

Sarmad Mahmood Chechi, Advocate - Lahore

Amidst the hallowed halls of justice, young lawyers in Pakistan often find themselves navigating a treacherous landscape fraught with exploitation and challenges. While they enter the legal profession with dreams of advocacy and justice, many junior lawyers face significant hurdles at the hands of their senior counterparts. This issue, though pervasive, remains largely underreported and warrants urgent attention.

Senior lawyers hold considerable sway within the legal community. Their experience and established reputation afford them a level of authority that can be both a source of guidance and a tool for manipulation. Junior lawyers, eager to learn and carve out a niche in the legal field, often become targets of exploitation. Senior lawyers frequently assign case-related responsibilities to their junior associates without offering any compensation. This practice not only places an undue financial burden on young lawyers but also leaves them feeling undervalued and demoralised.

The socio-economic pressures on junior lawyers exacerbate their plight. Many young attorneys come from modest backgrounds and face the dual challenge of establishing their careers while supporting their families. The expectation to work long hours without pay further strains their financial and emotional well-being. In such an environment, the passion and enthusiasm that these young professionals bring to the legal field are quickly eroded.

The lack of a robust framework to protect the interests of junior lawyers in Pakistan further compounds the problem. Unlike their counterparts in countries like the UK, USA, and Australia, where trainees and young paralegals receive financial remuneration as part of their professional development, young lawyers in Pakistan often go without such support. This disparity underscores the need for systemic reform to ensure that the rights and welfare of junior lawyers are safeguarded.

In a noteworthy development, the Madras High Court in India has taken steps to address the issue by mandating that senior lawyers pay a stipend to their junior associates. This ruling serves as a beacon of hope and a potential model for other regions to follow. By implementing similar measures across the board, the legal fraternity can create a more equitable and supportive environment for young lawyers.

Madras High Court observed: "Further, it is brought to our notice that young brilliant lawyers after enrolling themselves as Advocates in Bar council of Tamil Nadu is unable to survive on

account of the fact that the senior lawyers engaging the services of these junior lawyers, are not paying even the minimum stipend to meet out their livelihood. Extracting work without payment is an exploitation and directly in violation of the fundamental rights enshrined under the Constitution. The livelihood of these young brilliant lawyers, who have started their practice with a fond hope must be encouraged by the senior lawyers, legal fraternity and the Courts."

It is essential for bar associations, legal institutions, and policymakers to recognise the contributions and struggles of young lawyers. Providing adequate financial support, mentorship, and opportunities for professional growth will not only benefit these individuals but also strengthen the legal profession as a whole. Just as a fire requires fuel to continue burning, the passion of young lawyers needs nurturing and sustenance to thrive.

The exploitation of junior lawyers is a pressing issue that demands immediate attention. By addressing these challenges, the legal community in Pakistan can foster a culture of respect, support, and fairness, ensuring that the future torchbearers of justice are empowered to pursue their noble calling with dedication and enthusiasm. ■

ELECTIONS
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HIGH COURT BAR ASSOCIATION

Chaudhary Manzoor Ahmad Jajja

A Progressive Leadership for
the Bar Secretary

Ch. Manzoor Ahmad Jajja, a distinguished Advocate of the High Court, is a seasoned and astute lawyer with a keen professional and political acumen. Since 2007, he has been diligently practicing law in the federal capital, Islamabad. Having previously triumphed in district bar elections, he has consistently championed the welfare of his peers. This time, his supporters and well-wishers have encouraged him to vie for the esteemed position of Secretary of the Islamabad High Court Bar Association. The Legal International conducted a brief interview with him to delve into his life, career, and election manifesto. Here's what he shared:



"I'm pious to create a more resourceful environment for legal community."

IMAGE: © THE LEGAL

Q: Could you share your background and how you embarked on your legal journey?

A: I earned my LLB from the esteemed International Islamic University in 2006, an institution renowned for fostering legal excellence. My legal odyssey began in 2007 under the exceptional mentorship of Raja Rizwan Abbasi Advocate, whose guidance was instrumental in shaping my career. By 2008, I had the privilege of establishing my own independent practice, delving into the intricate realms of both criminal and corporate law. These formative years were a blend of rigorous learning and exhilarating growth, laying a solid foundation for the advocate I am today. The journey has been both challenging and rewarding, filled with moments that have tested my mettle and honed my expertise.

Q: Have you been involved in bar politics or held any positions in the past?

A: Well, I have been actively engaged in bar politics since 2014, when I successfully contested and secured the position of Joint Secretary of the District Bar. This role allowed me to advocate for the interests of my colleagues and contribute to the legal community. It also enabled me to implement meaningful changes and support the professional growth of my peers. Currently, I am vying for the esteemed position of General Secretary of the Islamabad High Court Bar Association (IHCBA), driven by a vision to enhance the legal profession and uphold the principles of justice and integrity.

Q: Could you please outline the key features of your manifesto for the IHCBA elections?

A: My primary focus is on enhancing the infrastructure, facilities, and professional development opportunities for lawyers. The main aspects of my manifesto include:

- ♦ Completing the office of Islamabad High Court Bar with essential amenities such as a state-of-the-art library, an auditorium, ladies' barrooms, consultation rooms, and



IMAGE: © THE LEGAL

underground parking.

- ◆ Providing improved parking facilities and establishing a high-quality canteen to ensure a comfortable environment for all members.
- ◆ Creating dedicated conference and meeting rooms to cater to the needs of corporate lawyers and senior practitioners, fostering a collaborative and professional atmosphere.
- ◆ Enhancing transportation for lawyers commuting between district courts and the high court by operating a reliable shuttle service, ensuring convenience and efficiency in their daily routines.

These initiatives are designed to create a more supportive and resourceful environment for our legal community, ultimately contributing to the

betterment of the profession as a whole.

Q: You've mentioned digitisation as part of your manifesto. Can you elaborate?

A: Indeed, I am keen on modernising the bar's operations. This includes advocating for the removal of the biometric system in the Islamabad High Court, which I find unnecessarily cumbersome for both lawyers and litigants. Additionally, I propose upgrading our library facilities with digital resources, extended hours, and onsite services for legal drafting and verification processes.

Q: What is your vision for the future of IHCBA?

A: My vision is to create an inclusive, modern, and well-facilitated environment for all lawyers. I want to strengthen our bar's position nationally and internationally by fostering partnerships with organisations and providing professional opportunities for members. With these efforts, I aim to ensure that IHCBA becomes a benchmark for excellence in the legal community.

Q: How do you plan to support corporate lawyers specifically?

A: I aim to bridge the gap between young lawyers and corporate law firms by organising training sessions and workshops in collaboration with seasoned corporate law practitioners. Additionally, I plan to create opportunities for young lawyers to intern with experienced professionals, enabling them to gain practical skills and confidently embark on independent practices.

Q: What initiatives do you envision for young lawyers?

A: Young lawyers are the future of our profession, and I am committed to fostering their growth and confidence. My initiatives include:

- ◆ Encouraging judges to provide constructive feedback, allowing young lawyers to develop their confidence in court.
- ◆ Organising national and international internships, training programmes, and scholarships in collaboration with universities and bar associations.

- ◆ Securing stipends for young lawyers through government grants.

Q: What steps do you propose to improve the bar & bench relations?

A: The relationship between the bar and bench has faced some challenges in recent years. To address this, I believe in fostering mutual respect and understanding. I propose organising training sessions and lectures where judges and lawyers can mutually benefit, improving decorum and building a positive rapport between the two. ■



IMAGE: © THE LEGAL

JUDICIARY

2024

Eesha Arshad AHC - Rawalpindi

The year 2024 emerged as one of the most contentious periods for the Pakistani judiciary. A confluence of high-profile cases, political strife, significant judicial reforms, and economic instability created a perfect storm that tested the judiciary's resilience and independence. The rapid and politically motivated legislation, as experts opined, disrupted the unity of the bar and the bench, leading to widespread debates on the role and independence of the judiciary in Pakistan.

The events of the year undoubtedly highlighted the challenges faced by the judiciary in maintaining its impartiality and upholding the rule of law in a politically charged environment. Moving forward, it is crucial for the judiciary to restore public trust and ensure that it remains a pillar of justice and fairness in Pakistan.

Here are some of the important events and cases for which the 2024 will be remembered in the annals of the country's political and judicial history:

1. The Zulfikar Ali Bhutto's Trial Verdict

One of the most sensational events of the year was the Supreme Court's decision to declare the trial of former Prime Minister Zulfikar Ali Bhutto as unfair. This landmark verdict reopened old wounds and led to discussions about historical justice and the role of the judiciary in politically motivated cases. The decision was celebrated by Bhutto's supporters but criticized by others who saw it as an attempt to rewrite history.

2. Justice Shaukat Aziz Siddiqui's Reinstatement

Another significant event was the Supreme Court's decision to overturn the dismissal of Justice Shaukat Aziz Siddiqui. Siddiqui had been dismissed from his position in 2018 for making controversial remarks about the involvement of the intelligence agencies in judicial matters. His reinstatement sparked a debate about judicial independence and the influence of external forces on the judiciary.

3. Interpretation of Article 63-A

The Supreme Court's interpretation of Article 63-A of the Constitution also made headlines. The court invalidated its own previous interpretation, which had curtailed the powers of Parliament. This decision was seen as a move to restore the constitutional balance of power, but it also led to accusations of judicial overreach and political bias.

4. The Reserved Seats Saga

The dispute over reserved seats in the Parliament added to the year's controversies. The Supreme Court ruled in favour of the Pakistan Tehreek-e-Insaf (PTI) in its dispute with the Sunni Ittehad Council and the Election Commission of Pakistan. This decision was perceived by some as a political manoeuvre to favour a particular party, further eroding public trust in the judiciary's impartiality.

5. The 26th Amendment

The introduction of the 26th Amendment brought sweeping changes to the judiciary. This amendment revised the process for appointing the Chief Justice and curtailed some judicial powers. While proponents argued that these changes were necessary to ensure judicial accountability, critics saw them as an attempt to undermine the independence of the judiciary.

6. Chief Justice Yahya Afridi's Reforms

The appointment of Justice Yahya Afridi as the Chief Justice marked the beginning of a series of reforms aimed at improving the efficiency and transparency of the judicial system. One of his notable initiatives was the overhaul of the prison system, which aimed to improve conditions for inmates. However, Afridi's reforms faced resistance from within the judiciary, leading to ongoing tensions.

7. Controversial Convictions

2024 also saw the controversial convictions of prominent political figures, including Imran Khan and Shah Mahmood Qureshi, in the cipher case, *Toshakhana* case, and *iddat* case. These convictions were perceived by their supporters as politically motivated, leading to protests and further polarization in the country.

8. Legal Battles and Political Protests

The year was marked by numerous legal battles and political protests, which often intersected with judicial proceedings. The judiciary's involvement in these political matters led to accusations of judicial activism and bias. Public confidence in the judiciary was shaken as it became increasingly entangled in the nation's political turmoil.



The Supreme Court 2024 Key Cases

Here are some of the most important cases from the superior courts of Pakistan in 2024, along with a brief summary of what they were about and the court's outcome. These cases reflect a wide range of legal issues, from constitutional matters and employment disputes to family law and procedural rules.

1. **Zulfikar Ali Bhutto's Trial:** Declared unfair by the Supreme Court, leading to discussions on historical justice.
2. **Justice Shaukat Aziz Siddiqui's Dismissal:** Overturned by the Supreme Court, reinstating the judge.
3. **Article 63-A Interpretation:** Invalidated by the Supreme Court, restoring constitutional powers to Parliament.
4. **Reserved Seats Case:** Favoured PTI in a dispute with the Sunni Ittehad Council and the Election Commission of Pakistan.
5. **Mrs. Faryal Arif Latif v. Arif Latif:** Concerned the interpretation of Order IX, Rule 8&9 of CPC.
6. **Malik Mahmood Ahmad Khan v. Malik Moazam Mahmood:** Addressed child justice and child-centred approach.
7. **Babar Ali Solangi v. Intelligence Bureau:** Concerned due process and natural justice in departmental inquiries.
8. **Sadaqat Ali v. Nasreen Akhtar:** Involved rent and ejection issues.
9. **Syed Ali Ahmed Shah v. Syed Shoukat Hussain Shah:** Concerned permanent injunction and declaration.
10. **Province of Punjab v. Qasim Mehmood:** Addressed regularization of contractual employees.
11. **Muhammad Ali (Haider) v. Province of Sindh:** Involved dispute resolution between Karachi University and HEC.
12. **Government of Punjab v. Zaka Ullah:** Concerned regularization of service.
13. **Shamlat Deh Ownership:** Maintainability of declaratory suit claiming exclusive ownership.
14. **Frivolous and Vexatious Cases:** Imposing costs to curb the practice.
15. **Insourcing and Outsourcing:** Yardstick to decide controversies between direct and contracted employees.
16. **Family Court Appeals:** Power of High Court to act as a court of appeal. -EA

New Legal Attire

In a bid to uphold a professional and respectful atmosphere within the legal profession, the Pakistan Bar Council (PBC) has instituted a mandatory uniform for law students and apprentices. This regulation was formalised through the addition of sub-rule (6) to Rule 108-C of the Pakistan Legal Practitioners Bar Councils Rules, 1976, during the PBC's 244th meeting last month. The meeting was presided over by Mansoor Usman Awan, the Attorney-General of Pakistan and Chairman of the Pakistan Bar Council.

According to the new rule, male students are required to don a white shirt accompanied by a grey coat and maroon tie, while female students must wear a maroon dupatta, shawl, or scarf with a grey coat. For apprentices, the dress code stipulates a white shirt paired with a black coat and maroon tie for males, and a black coat with a maroon dupatta, shawl, or scarf for females.

The same dress code applies to undergraduate law students conducting research within court premises. Furthermore, apprentices, pupils, and undergraduate law students are prohibited from participating in or campaigning for Bar Council and Bar Association elections.

The enforcement of these regulations, including addressing complaints of non-compliance, will be managed by the executive committee of the respective Bar Council. Penalties for non-compliance may include extensions to the periods of apprenticeship or pupillage.

Admissions Ban

The Pakistan Bar Council (PBC) has enforced a ban on new admissions to nine law education institutions nationwide due to non-compliance with legal education standards. This decision, which affects aspiring legal professionals, aims to uphold the quality and integrity of legal education in Pakistan. The council has called upon the universities to address these issues before the ban can be lifted.

According to the [PBC website](#), the following universities are prohibited from accepting new admissions:

1. Hyderabad Institute of Law, Hyderabad
2. Government Islamia Law College, Karachi
3. Hamdard University, Karachi
4. University of Sindh, Jamshoro
5. University of Karachi, Karachi
6. University of Punjab, Lahore
7. Hazara University, Mansehra
8. Fatima Jinnah Women University, Rawalpindi
9. Islamia University of Bahawalpur

READER'S VIEW

INTEGRITY

UP IN SMOKE

IMAGE: © THE LEGAL

Abdul Kareem – Islamabad

The ongoing political struggle has severely compromised the judiciary's independence. Supreme Court benches are clashing over jurisdiction, orders are ignored, the executive dominates, politicians appoint judges, and a challenged bench hears petitions against itself. Lawyers are in conflict, and the situation remains tense, with the prospect of further exacerbation looming large.

The so-called politicians, who are the instruments of this fiasco, are giving themselves a clean chit and pointing fingers at this crumbling state pillar, saying on national television that the 'faulty judicial system' is the root cause of the country's problems. Meanwhile, senior journalist Hamid Mir said on [Voice of America \(VOA\)](#) that "a country where judges are asking for justice and are unable to get it, what can we say about the judiciary?"

The law fraternity must realise that the judiciary, being blatantly used, will not be able to mend the damage as its integrity is already up in smoke. Supreme Court Justice Athar Minallah, addressing a ceremony in Lahore, said the court was used during General Zia's rule. It is now being ambushed from within.

Experts believe that the controversial 26th Constitutional Amendment has tied the judiciary's hands. The amendment undermines essential features of the Constitution by compromising judicial independence and the trichotomy of power. The amendments are challenged through various petitions, but the irony is that the Constitutional Bench (CB) of the Supreme Court, a product of the amendment, would hear them.

The CB is a beneficiary of the 26th Amendments; how can it hear the petitions? Where on earth does that happen? It is an established principle of law that "nobody can be a judge in his own case." A full-court session of the Supreme Court to adjudge the constitutional merits of the amendments can settle the situation and prevent further turmoil. It is beyond comprehension what has been preventing Chief Justice Yahya Afridi, who took an oath to protect the constitution, from calling it.

The daily Express Tribune wrote in one of its editorials: "Chief Justice Yahya Afridi must live up to his resolve of keeping the superior judiciary united. It goes without saying that the 26th amendment has led to fissures, and dichotomy is evident at the Supreme Court, as a parallel court to rule on constitutional matters is in the eye of the storm... It is incumbent upon the judiciary to undertake a review of recent legislation to clear the air of misgivings, paving the way for upholding the spirit of constitutional supremacy."

£190m reference

Verdict delay raises questions on judiciary's integrity

Legal experts say there is a need to end the perception that external forces are instrumental in postponement of verdict

HASNAAT MALIK
ISLAMABAD

The postponement of verdict in 190 million pounds reference for the third time in a row has not only left a question mark on the credibility of judiciary but it



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Tax Case Caught in Legal Limbo

Supreme Court Faces 'Unsavoury Situation'

Ambiguities of hasty legislation led to a legal quagmire, raising serious questions about judicial integrity and procedural adherence, with multiple objections and reconstitutions further complicating matters.

A Hussain – Islamabad

As the government opts to contest the regular bench's order, the transfer and hearing of the partly heard Tax/Regulatory Duty case to the constitutional bench has precipitated an 'unsavoury situation' at the Supreme Court of Pakistan.

The case appears to have devolved into a legal quagmire owing to ambiguities introduced by the 26th Constitutional Amendment, which has already been challenged in the apex court. In the four conservative hearing of the Tax case and its offshoots at two different benches, several critical questions have surfaced while various rules and precedents are *prima facie* being overlooked. This quandary is far from commendable, as it has been undermining the integrity and independence of the nation's highest court.

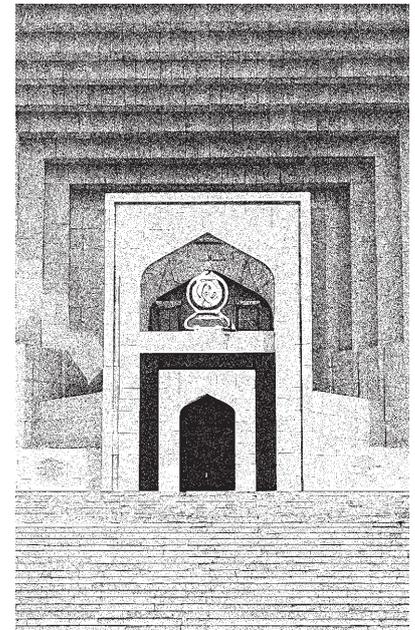
At the outset of the proceedings on January 13 at the 3-member regular bench, comprising on Justice Syed Mansoor Ali Shah, Justice Ayesha A. Malik, and Justice Irfan Saadat Khan, an objection was raised regarding the bench's jurisdiction to hear these cases, which involved a challenge to the constitutionality of a law, on the basis of Article 191A of the Constitution.

The learned counsel for the respondents asserted that, given the objection raised and its basis pertain to the jurisdiction of the present bench, it is imperative that the bench must itself decide it. After hearing arguments of the learned counsel on the jurisdictional objection, the bench adjourned the hearing to January 16 for necessary preparation on the question.

Here, the alarm bells were sounded and it was, apparently, assumed that the regular bench is indirectly going to challenge the 26th Amendment. At the next hearing, on January 16, the three-member regular bench was reconstituted and Justice Irfan Saadat Khan was replaced by Justice Aqeel Ahmed Abbasi. This was done by the committee, knowing that Justice Abbasi was the author judge of the Sindh High Court decision which is challenged through the Civil Petition for Leave to Appeal (CPLA). He cannot sit on the bench that hears this CPLA.

Experts believe that this was done to buy time, as Justice Abbasi informed the bench and the case was adjourned with a judicial order directing the registrar's office to fix the case before the previously constituted bench on January 20. The case was, however, not fixed for hearing as per the order. Instead, it was fixed before the Constitutional Bench (CB) on January 27 on the decision of the committee constituted under the Supreme Court (Practice and Procedure) Act, 2023.

The Justice Shah's bench initiated contempt of court proceedings, saying: "It is a sad state of affairs that a judicial order of this Court has been ignored by the office, and the cases put up before the Committee for a decision, despite the precedents of this Court to the contrary... The defiance of the judicial order of this Court lowers the dignity and honour of this Court and



hampers the administration of justice." The registrar's office was ordered to fix the contempt case before the bench the next day (January 21).

The next day, the bench was again reconstituted and Justice Ayesha A. Malik was excluded from it. The case was listed before this reconstituted 2-member bench comprising Justice Shah and Justice Abbasi. The Registrar presented copies of two decisions made by two different Committees: first, the decision of the committee constituted under Section 2 of the Supreme Court (Practice and Procedure) Act 2023; and second, the decision of the

committee constituted under Article 191A, which was inserted into the Constitution through the 26th Amendment.

The later committee had convened its meeting on January 17, and directed that all cases challenging the vires of the 26th Constitutional Amendment and vires of law be fixed for hearing before the CB on January 27. This was a weird decision since the CB is itself a creation of the amendment. It cannot hear cases challenging the amendment. It is obvious that if a law is challenged, the status of anything operating under it is also challenged. In this case, the constitutional bench is a beneficiary. Nobody can be a judge in his own case.

The situation raises two important questions at Justice Shah's bench which are also stated in its decision of January 21:

- I. "Whether the Committees constituted under Section 2 of the Act (the Supreme Court (Practice and Procedure) Act, 2023) and Article 191A of the Constitution have the authority to withdraw a case [from a Bench], in which cognisance has already been taken by a regular Bench and serious questions of constitutional law relating to the jurisdiction of the regular Bench have been framed; and
- II. Whether the said Committees can, by an administrative order, undo the effect of a judicial order, whereby next date of hearing a specific case has been fixed before a regular Bench [to hear arguments on the jurisdiction of the regular Bench]."

The bench heard arguments on these questions on 22 and 23 January and announced judgement on January 27 saying:

"... the Bench which passed the order dated January 13, 2025

"Distinction between judicial orders and administrative orders must be adhered to strictly."



IMAGE: © THE LEGAL

had not commenced hearing the matter concerning the constitutionality of the law. Instead, it was hearing arguments on the objection raised to its jurisdiction to entertain such matters based on Article 191A. Furthermore, the Bench was also deliberating on whether it could examine the constitutionality of Article 191A itself, as the objection to its jurisdiction was rooted in that very Article. Thus, the Bench was addressing the jurisdictional question rather than the substantive matter of the constitutionality of the law involved in the cases before it."

The judgement also said that: "... it can be held unequivocally that no administrative authority, including the Committees constituted under Section 2 of the Act (of 2023) and 191A of the Constitution, can, by an administrative order, undo the effect of a judicial order."

The bench, therefore, said: "We are sanguine" that the office shall fix the main case before the original 3-member bench, comprising Justice Shah, Justice Khan, and Justice Malik, in the first week of February 2025. The bench also withdrew the show-cause notice issued to the Additional Registrar.

The bench said in its judgement that: "The first Committee unlawfully withdrew the part-heard cases from a Bench and transferred it for the consideration of the other Committee, through an administrative order by undoing the effect of a judicial order. While the second Committee, in total disregard of the judicial order passed by the regular Bench, simply in pursuance of the direction of the first Committee, went ahead and fixed the case before the Constitutional Bench on 27 January 2025. Both the Committees were not legally authorized to take administrative decisions dated 17 January 2025 in violation of the judicial order... we refer this matter to the Hon'ble Chief Justice for the convening of the Full Court to deliberate and decide on this important issue."

Separately, Justice Ayesha Malik also voiced support for the sanctity of the judicial order. She said: "Distinction between judicial orders and administrative orders must be adhered to strictly. Sanctity of judicial orders must be preserved and safeguarded. Judicial orders cannot be overlooked, contravened or evaded by anyone."

It is beyond comprehension what is preventing Chief Justice Yahya Afridi from calling a full-court session as per demand of the court's regular bench. The chief justice has already shown no interest in full-court session to adjudge the constitutionality of the 26th Amendment. Although, there are precedents of full-court hearings on constitutional amendments, such as the 18th Amendment in 2010 and the 21st Amendment in 2015. The full court heard and gave its decision on their constitutionality.

On the other hand, the constitutional bench (CB) also heard the Tax/Regulatory Duty case on 27 January, and the judges who were part of the case-transferring committee were also sitting on the bench. The CB recalled the Justice Shah bench's order of 13 and 16 January in a bid to dismantle the structure of the contempt case. The CB also directed that the record of the Nazar Abbas, Additional Registrar, contempt case be linked with the customs duty case and adjourned the hearing indefinitely. It is believed that by recalling the orders, Justice Shah's order of January 23 has silently been made ineffective. ■

Judicial Overhaul:

Reforms or Executive Overreach?

Unpacking Pakistan's 2024 Judicial Commission Rules and Their Implications

by **Ali Mohiuddin**
Law Graduate – Rawalpindi



In a bold departure from tradition, the recently introduced Judicial Commission of Pakistan (Appointment of Judges) Rules, 2024, has upended the established norms for judicial appointments. Emerging in the wake of the controversial 26th Constitutional Amendment, many view these rules as an encroachment on judicial independence.

The amendment has fundamentally altered the criteria for judge elevation, igniting concerns over meritocracy, transparency, and possible executive overreach. This contentious development has been thrust into the spotlight, with Justice Mansoor Ali Shah, the senior puisne judge of the Supreme Court, advocating for the establishment of robust, merit-based criteria for judicial elevation.

The 26th Amendment curtailed the judiciary's autonomy by granting the executive an increased role in the nomination and confirmation of judges. Under Article 175A of the Constitution, the amendment restructured the Judicial Commission of Pakistan (JCP) by emphasising nominations through members with government affiliations, thereby shifting the balance of power. According to the changes made to Article 175A, the Legislature now has a significant role in the appointment of judges to the superior courts. Two members from the treasury benches and two from the opposition benches will sit on the JCP, along with a female representative nominated by the Speaker of the National Assembly.

This reshaping greatly benefits the government, as it will have greater representation within the commission. Such provisions invite scrutiny regarding their compatibility with the doctrine of separation of powers. The inclusion of political actors in judicial appointments raises legitimate concerns about the erosion of judicial impartiality. Furthermore, these structural changes appear to undermine the foundational principle of meritocracy, which was central to the original framework.

Key Changes in the 2024 Rules

1. **Criteria for Merit:** The JCP rules for the appointment of judges to the superior courts in 2024 outline detailed parameters for assessing merit, emphasising qualifications, integrity, efficiency, and independence. A form must be filled by each nominee, which contains sections for personal details and the number of cases they have handled in high courts. Categories include civil appeals, criminal appeals, murder references, bail applications, and writ petitions. Nominees must also report the number of judgements in each category. Similarly, they must mention cases conducted in the Supreme Court of Pakistan, with categories divided into civil leave to appeal, criminal leave to appeal, criminal



IMAGE: © THE LEGAL

applications, civil applications, jail petitions, and review petitions, including the number of judgements reported. Additionally, lawyers must indicate the number of pending cases in each category. The criteria apply equally to law officers. Judicial officers must complete a separate Form B.

2. **Increased Representation:**

The rules underscore the importance of diversity in judicial appointments (Rule 8), which is a commendable step towards inclusivity. However, the subjective interpretation of diversity and potential biases in its application remain areas of concern.

3. **Nomination Process:**

According to the new rules, any member of the JCP can propose a name for the elevation of judges to the superior courts. Previously, only the chief justice of the concerned court would interview the nominee and recommend them for the post. Now, any JCP member has the power to nominate any person he deems fit for this post. This raises a question: wouldn't this change politicise the nomination process? Could someone with easy access to a minister or political party be nominated, thus undermining the merit process?

4. **Revised Confirmation Process:**

The confirmation of additional judges is now contingent on performance evaluations (Rule 9). This layer of scrutiny aims to ensure judicial competence but could be misused to exclude judges deemed



IMAGE: © THE LEGAL

unfavourable to the executive or other interest groups. This provision raises a question: what will constitute good performance for a judge? Will it be favouring the executive or higher-ups, or delivering justice to those who seek it? Only time will tell.

Comparison with the 2009 Rules

The 2024 rules diverge from the 2009 framework by repealing its emphasis on judicial autonomy. The older rules were minimalist, granting the judiciary greater discretion in nominations and confirmations. In contrast, the new rules require an elaborate verification and voting process, which risks diluting judicial primacy in favour of executive influence. Additionally, the 2009 rules did not involve intelligence agencies or require medical examinations, focusing instead on judicial competence and seniority. The 2024 rules introduce mechanisms that could potentially be used for partisan objectives.

Critical Analysis

The 2024 framework aims to enhance transparency and inclusivity in judicial appointments. However, its execution raises serious concerns. The increased role of external actors, particularly those aligned with the executive, could undermine judicial independence and public trust. The focus on merit, diversity, and detailed performance evaluations reflects a progressive outlook, but their subjective implementation could be counterproductive. Ultimately, the success of these rules hinges on their impartial application and resistance to political interference.

The recent JCP meeting on January 17, 2025, revealed that the merit criteria and new rules were merely for show. In the end, it came down to which candidates received more votes, rather than assessing the quality of work and professionalism. With increased representation of the executive, the ruling party can easily appoint judges of their choice, having the upper hand in the voting process.

Conclusion

The JCP (Appointment of Judges) Rules, 2024, represent a complex mix of reformist aspirations and contentious political influences. While they aim to enhance merit and diversity, they also open the door to potential misuse and executive overreach. The judiciary must tread cautiously to preserve its independence and credibility, ensuring these rules strengthen the judicial system rather than compromise its foundational values.

Only vigilant application and sustained oversight can yield the intended outcomes without jeopardising judicial impartiality. The JCP meeting on January 17, 2025, for the appointment of judges to Islamabad High Court and Baluchistan High Court was a test case for these new rules. However, the process still relied on which candidates received more votes, ignoring merit criteria and increased representation of women and minorities. ■

Concerns arise over the impartial application of the new rules, with fears of executive influence overshadowing judicial integrity.

Anti-Harassment Laws

The Fight Against Harassment

The scourge of workplace harassment remains prevalent in Pakistan, impacting women who often find themselves at the receiving end of unrelenting, inappropriate behaviour. This pressing issue necessitates a thorough examination not only of the social dynamics at play but also of the legal frameworks devised to mitigate such misconduct.

by **Amna Khan**
Advocate - Islamabad



Although significant strides have been made, a more consistent, efficient, and victim-sensitive approach is needed to ensure prompt justice for the victims of gender inequality and harassment.

In a society that is by design or default rooted in a patriarchal architecture, where the female labour force participation rate is drastically lower than that of male's, stepping out to work is a daunting prospect. Though the terrain of impediments has changed over time, challenges like harassment still persist. As per various research studies, one of which was carried out by the Alliance Against Sexual Harassment ([AASHA](#)), a Pakistani woman today is actively navigating her way to find safety, protection, and liberty as well as ensuring her basic rights, which she is entitled to as a citizen.

From street catcalling to cyber-harassment, women from all strata of society face these challenges, be it as employees or students. We have come a long way in countering the challenges faced by women. However, when it comes to creating a safe work environment, anti-harassment laws play a crucial role in setting a yardstick for acceptable behaviour. Criminal laws cover various forms of harassment, but there were some noticeable gaps. To bridge these gaps, the Protection Against Harassment of Women at Workplace (PAHW) Act, 2010, was introduced. It was an appreciable move in the right direction to correct the internal mechanisms within workplaces.

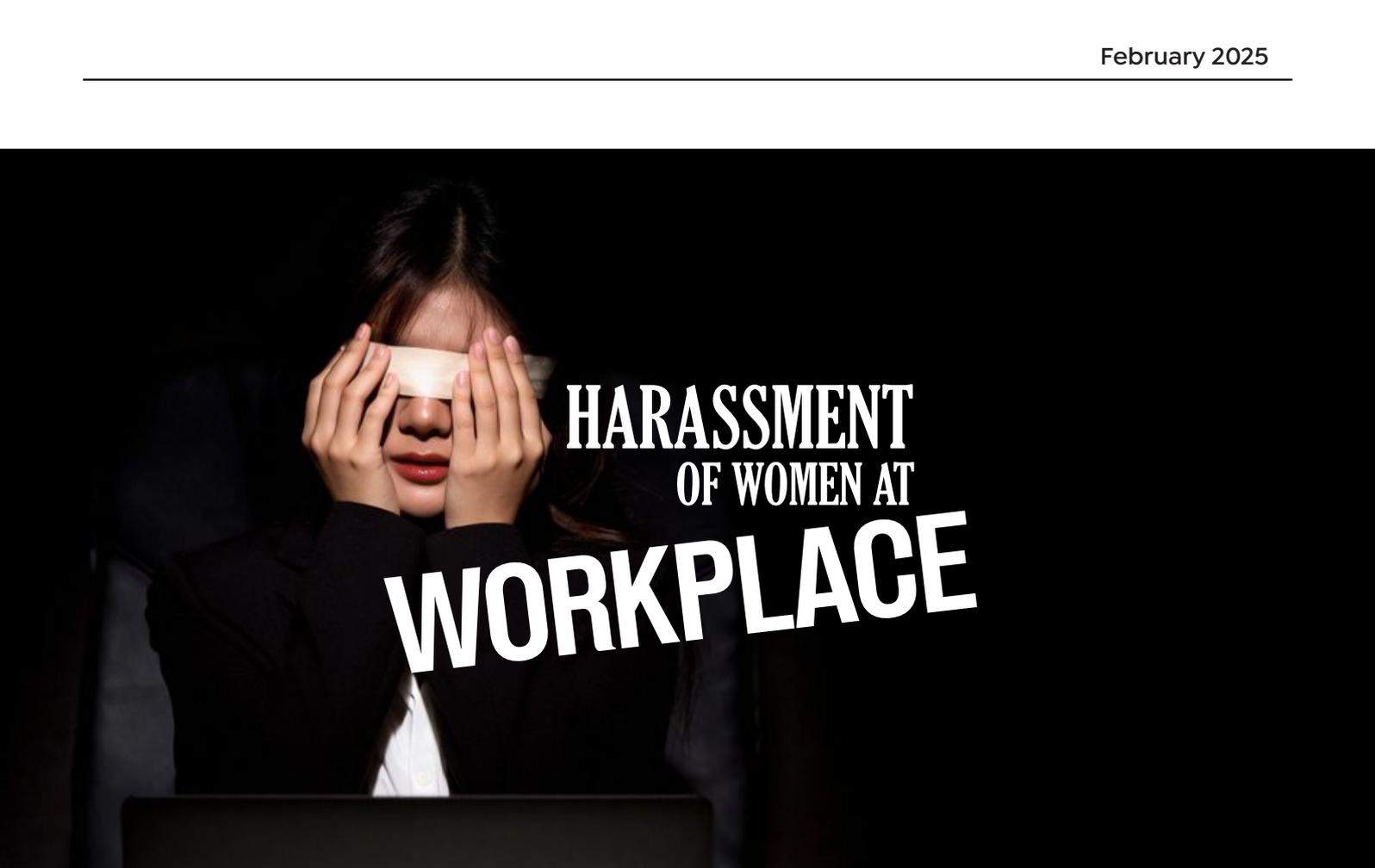
Tackling harassment is crucial, given that the whole social fabric and economic progress hinge significantly on the participation of women in the workforce. It serves as a conduit to legal and social justice, and holds the potential to spark a revolution in our societal values.

The government established the Federal Ombudsman Secretariat

for Protection Against Harassment (FOSPAH) as a quasi-judicial body operating under the PAHW and other relevant laws. FOSPAH has a comprehensive procedure for reporting and addressing workplace harassment within organisations, including the formation of an inquiry committee to conduct investigations.

The PAHW Act defines harassment broadly to include any unwelcome physical, verbal, or non-verbal conduct of a sexual nature. It also covers any other sexual act that creates an intimidating, hostile, or offensive work environment, while also expanding the definition to encompass gender-based discrimination. The Act which was also amended in 2022, has a broader scope as compared to other anti-harassment laws in Pakistan, as it encompasses both public and private organisations including educational institutions.

Despite the amendments to the law, the Act continues to face challenges in its implementation. Complex procedures and the negative perception surrounding women who pursue legal



HARASSMENT OF WOMEN AT WORKPLACE

IMAGE: © THE LEGAL

action create hurdles for victims seeking justice. However, the Supreme Court's ruling in the [Nadia Naz v. PTV Home](#) case sets a promising precedent for upholding the constitutional principles of dignity, respect, equality, and societal fairness for all individuals in Pakistan.

The tale of [Mumtaz Bibi in Muhammad Imran vs. The State and Another](#) exemplifies the challenges that a rape victim faces within the traditional justice system in Pakistan. In that case, the charge of rape was converted into one of fornication on the grounds of delay in filing the FIR and due to the absence of evidence of resistance by the victim. However, basing an entire judgement on the expected standard response of the victim is not only contrary to the fundamental right of dignity guaranteed to every person under Article 14 of the Constitution but also reflects a regressive and narrow-minded approach of the justice system in cases of gender-based violence. Furthermore, this case sets us back in our efforts to create a justice system that is sensitive, victim-centred, inclusive of gender, and forward-thinking. ■

Legal Safeguards

Pakistani laws empower women against harassment, and women are protected under various national and provincial legislation. Harassing a woman in a public place, on social media, or privately is an offense. The penal laws in Pakistan are also available in cases of harassment, and various provisions criminalize acts under the domain of harassment and sexual violence. Some of the notable sections are 294, 354A, 366A, 509, and 510 of the Pakistan Penal Code.

- The Acid Control and Acid Crime Prevention Act, 2011
- Prevention of Anti-Women Practices Act, 2011
- The Anti-Rape (Investigation and Trial) Act 2021
- Criminal Law (Amendment)(Offences in the Name of Pretext of Honour) Act 2016
- Enforcement of Women's Property Rights Act, 2020

The harassment laws chiefly target holding perpetrators accountable via criminal prosecution. Section 509 of the Pakistan Penal Code, for instance, criminalises actions aimed at insulting a woman's modesty through words, gestures, or deeds, carrying a penalty of up to three years' imprisonment, a fine of Rs500,000, or both. Like other criminal statutes, Section 509 emphasises punishment and deterrence, adhering to the conventional justice system's procedural pathway, which includes lodging a complaint with the police, investigation, trial, and sentencing if guilt is established. However, the judicial backlog, gender-insensitive court personnel and processes, women's financial constraints, and their limited mobility due to safety concerns and cultural norms, all impede women's access to justice via the formal system. —AK

RIGHT OF CROSS-EXAMINATION

A crucial aspect of legal proceedings but not unlimited

The absence of cross-examination can lead to unjust outcomes, as demonstrated in various legal rulings.

Tariq Aziz, ASC - Islamabad

The right to cross-examine is a crucial element in the judicial process, ensuring fairness and justice within the legal system. As an essential aspect of legal proceedings, it is deeply rooted in the adversarial system of justice, enabling each party to challenge the evidence against them. However, this right is not without limits and is subject to specific constraints.

An American legal scholar John Henry Wigmore (1863–1943) says: “Cross-examination is beyond any doubt the greatest legal engine ever invented for the discovery of truth.” The art of cross-examination, characterised by skilful and strategic questioning, has its roots in ancient legal systems. However, it was the English legal system that profoundly influenced and refined the modern practice of cross-examination.

The British House of Lords in *Bingham, R v.* [1999] UKHL 13; [1999] 1 WLR 598, reaffirmed that once a witness is sworn in, he is subject to cross-examination by the opposing counsel, even if his own

counsel has not questioned him. This aligns with earlier rulings, such as in *The King v. James Paul* and *The King v. Robert McFarlane* [1920] 2 K.B. 183, which held that a witness, irrespective of their testimony, can be cross-examined.

Fair cross-examination is vital in legal proceedings to expose the truth and ensure justice. It is essential for validating testimony and protecting due process. The absence of cross-examination can lead to unjust outcomes, as demonstrated in various legal rulings.

Authorities must ensure fair cross-examination to maintain the integrity of the legal process.

In a case reported as *2024 SCMR 1757* (dated 9th August 2024 and published on the Supreme Court of Pakistan's website on 3rd September



IMAGE: SOCIAL MEDIA

2024, i.e., well before the impugned judgment), the court observed in paragraph 6 that: “A fair opportunity of cross-examination metes out the opposing party a leeway and possibility to accentuate the weaknesses or flaws in his testimony which is a most effective tool to shatter the testimony of witness or witnesses to disprove the charge or allegations both in civil and criminal matters including the domestic/departmental inquiries conducted under the labour laws or civil servant laws.”

The court further stated that: “Under the civil and criminal law, the examination-in-chief or mere statement of any witness has no legal value or sanctity unless he appears for cross-examination to the other side. No evidence which is accusatorial to the opposite party would be admissible unless such party is afforded an even-handed opportunity of skimming its exactitudes by cross-examination which is a most effective device invented to unearth the truth. It is not a concession but a vested right, hence not only this right should be safeguarded and made available but this right should be provided for effective cross-examination which is a fundamental limb and is at the heart of due process and the doctrine of natural justice. If any such grave lapses are committed by the Courts in judicial proceedings or quasi-judicial authorities in their proceedings, it will deduce without any shadow of doubt that the matter has not been decided in accordance with law. If the elementary principle of law is not contented, then obviously, the whole edifice of unwarranted proceedings will fall apart. In the case of *Federation of Pakistan through Chairman FBR v. Zahid Malik (2023 SCMR 603)*, it was held that the right of proper defence and cross-examination of witnesses by the accused is a vested right. Whether the evidence is trustworthy or inspires confidence could only be determined with the tool and measure of cross-examination ... The whys and wherefores of cross-examination lead to a pathway which may dismantle

Cross-examination must be relevant and concise, as outlined in Chapter X of the Qanun-e-Shahadat, 1984, and should not be used to manipulate or harass the witness.

and impeach the accurateness and trustworthiness of the testimony given against the accused and also uncovers the contradictions and discrepancies. While the judgment rendered in the case of *Raja Muhammad Shahid v. The Inspector General of Police (2023 SCMR 1135)*, articulates that during regular inquiry it is obligatory for the inquiry officer to allow an even-handed and fair opportunity to the accused to place his defence and if any witness is examined against him, then a fair opportunity should also be afforded to cross-examine the witnesses. It is an onerous duty of the Inquiry Officer or Inquiry Committee to explore every avenue so that the inquiry may be conducted in a fair and impartial manner and razing and annihilating the principle of natural justice is avoided which may ensue that there is no miscarriage of justice. While in the case of *Usman Ghani v. The Chief Post Master, GPO, Karachi (2022 SCMR 745)*, it was held that the foremost aspiration of conducting departmental inquiry was to find out whether a prima facie case of misconduct was made out against the delinquent officer for proceeding further. The guilt or innocence could only be thrashed out from the outcome of inquiry and at the same time it was also required to be seen by the Service Tribunal as to whether due process of law or right to fair trial was followed or ignored which was a fundamental right.”

In para 9 it has conclusively been held that “Not affording the right of cross-examination in the inquiry was a serious defect and in no way can be construed as taking refuge in procedural lapses; it was a grave blunder which in fact destroyed the whole substratum of inquiry and the case of misconduct made out by the department against the petitioners. It was the legal duty of the Service Tribunal to vet the whole inquiry report for the purposes of fact-finding, including, the effect of non-affording the right to cross-examine which was necessary to decide the appeal on merits.”

The right to cross-examination is crucial but not unlimited. It must be conducted promptly after examination-in-chief or within a reasonable time, as stipulated in various legal provisions, such as the Code of Civil Procedure, 1908, and the Cost of Litigation Act, 2017.

Cross-examination must be relevant and concise, as outlined in Chapter X of the Qanun-e-Shahadat, 1984, and should not be used to manipulate or harass the witness. Prolonged cross-examination without purpose is discouraged, and judges should intervene if it becomes abusive. The Supreme Court (in PLD 2023 SC 211) states that:

“There is, however, a regrettable practice to use the tool of prolonged cross-examination for the purpose of leading the witness into some error by exhausting him through unnecessary and irrelevant questioning. This practice is designed not for the disclosure of truth but for the manipulation of error. In such a situation the presiding officer of the court, the judge, should not remain a silent spectator but should act as a vigilant supervisor, for the right of cross-examination is neither unlimited nor unbridled. When the judge observes that the right of cross-examination is being abused by asking questions which are irrelevant and intended to prolong the cross-examination with the object of manipulating error, or to scandalise, insult or annoy the witness, he should intervene and disallow such questions.”

Additionally, witnesses producing documents do not need cross-examination unless they are attesting witnesses, as per Article 134 of Qanun-e-Shahadat, 1984. ■



IMAGE: © THE LEGAL

Shahid Rasool - Hyderabad

Government Bulldozes Controversial Electronic-Crimes Amendments

With a Deferential Legislature,
Operation 'Executive Capture'
Marches on ...

In a swift and controversial move, the government bulldozed through a new cybercrime legislation from the Parliament, further tightening its grip on social and conventional media.

Legal experts have criticised the amendments, likening them to the hastily drafted 26th Amendment, and warning that they pose a significant threat to freedom of speech, especially in the wake of the judiciary's subjugation to executive control.

Legal experts warn that the ambiguous legislation will be used to penalise opponents, social media users, and journalists, posing the greatest threat to freedom of speech guaranteed by the Constitution. Some have even labelled it as a Damocles' sword hanging over the heads of journalists and the public.

Abdul Moiz Jaferii, a distinguished Advocate in Karachi, has highlighted the repeated failures to introduce new constraints within Article 19 of the Constitution, which safeguards freedom of speech. "No additional restrictions can be added to the existing list," he asserted. "Previous attempts to impose these constraints through the PECA and PEMRA Acts were struck down. Now, they have been included in the PECA amendments, under the assumption that the judiciary has been neutralised."

The Khyber Pakhtunkhwa (KP) Assembly has passed a resolution condemning the amendments, expressing solidarity with the journalist community and calling on the federal government to revoke the 'undemocratic' and 'controversial' changes to the Prevention of Electronic Crimes Act 2016 (PECA).

Federal Minister for Information, Broadcasting, National Heritage and Culture, Attaullah Tarar, however, claimed the amendments would not affect working journalists, a statement dismissed as 'fake news' by critics who argue that the changes are a deliberate attempt to suppress media freedom. The Pakistan Federal Union of Journalists (PFUJ) has strongly condemned the amendments, labelling them a 'betrayal' by the information minister and a 'deliberate attempt to suppress media, social media, and the media community in the country'. The Joint Action Committee of Journalist Organisations in Karachi has also rejected the amendments, announcing plans to challenge the amendment in the court of law as well as launch a protest movement.

The Prevention of Electronic Crimes (Amendment) Bill 2025 was approved within minutes after being tabled by Federal Minister for Industries and Production Division, Rana Tanveer Hussain, in the National Assembly. Opposition lawmakers and journalists in the press galleries protested vehemently, staging a walkout, with even the leader of the opposition denied the opportunity to speak.

The federal cabinet had previously, on January 21, shifted responsibility for the Prevention of Electronic Crime Act (PECA) from the Ministry of Information and Broadcasting to the Ministry of Interior, allowing the Standing Committee of Interior to approve the bill before it was passed by the National Assembly. ■

OBITUARY

Dr Khadija Mushtaq

Her legacy
LIVES ON

The pioneer of foreign law programme in Pakistan

Dr Khadija Mushtaq (Tamgha-i-Imtiaz), aged 50, founder of Roots IVY International Colleges and University and CEO of Roots School System, passed away on 14 January 2025, following a brief illness. Born on 23 August 1974, she was a visionary academic administrator and a compassionate advocate for youth empowerment.

Her sudden demise sent shockwaves among her family, colleagues, thousands of students, teachers, and well-wishers across the country and abroad. She was laid to rest in the ancestral graveyard of Bilawal Village, Chakri, Rawalpindi.

Khadija was raised in Rawalpindi/Islamabad by her parents, Col. (r) Mushtaque Rasul Chaudhry and Riffat Mushtaq. She completed her Master's degree in Economics, specialising in development studies and monetary policy, from Quaid-i-Azam University, Islamabad. Her passion for education emerged during her career as a teacher.

As the founder of Roots IVY International Schools, Roots IVY International College, and IVY College of Management Sciences, Khadija pioneered Transnational Education (TNE) in Pakistan, offering students access to world-class learning opportunities. Her vision bridged global educational standards with local aspirations, inspiring countless students to achieve their dreams.

She was also a committed patron of several NGOs, including the 'Liberating the Girl Child Foundation.' She tirelessly championed the cause of education for girls and advocated for equitable opportunities for all.

She is survived by her two children, Neha Mudassir and Meer Omair, who continue to uphold her legacy of resilience and excellence. Her passing leaves a void in the hearts of all who knew her, but her vision and dedication will continue to inspire for years to come. Khadija's legacy is one of hope, perseverance, and an unwavering commitment to the transformative power of education. She will be deeply missed but forever remembered.



In September 2024,
The Legal International interviewed her

The **Passion** She Described ...

Q: What inspired you to introduce foreign law programmes to Pakistan, and how did you embark on this journey?

A: My motivation stemmed from a passion to transform the landscape of international education for Pakistani students who are financially, personally, or socially constrained from travelling to different parts of the world. It is interesting to realise that the concept of transnational education was little known in Pakistan even at the end of the nineties. To me this was the perfect chance to help link local students with international qualifications. The journey started back in 1999, when I started considering the idea of launching a foreign law degree in Pakistan. This programme allowed students in Pakistan to be able to study for an internationally accredited LLB degree without having to travel abroad. I thought that we should begin with a limited number of students, but the reception was raving. This success fuelled my passion, and soon I began bringing in other esteemed law programmes like BPP University which is known for its excellence in preparing students for the Bar. We aimed at ensuring that these prestigious degrees could be offered to students who had no chance to travel internationally or pursue foreign education.

Police Constable Sentenced to Triple Death for Killing Lawyers in Attock

Staff Report



Malik Israr Ahmed

In a landmark verdict delivered on January 23, a special Anti-Terrorism Court (ATC) sentenced police constable Intizar Hussain to death thrice over for the shocking murder of two prominent lawyers. The chilling crime, which unfolded outside Attock District Courts, has left an indelible mark on the legal fraternity and the community at large.

The court handed down the severe sentence to Intizar Hussain, alongside a three-year rigorous imprisonment term and a hefty fine of Rs2 million. The verdict comes as a response to the brutal slaying of Punjab Bar Council member Malik Israr Ahmed and fellow advocate Zulfiqar Ahmed. This heinous act was carried out just a day before Eidul Azha, on June 15 of the previous year.

Malik Israr Ahmed was not only a senior lawyer but also a beloved figure among his peers. He had served as a member of the Education Committee of Punjab Bar Council and was revered for his brilliance and dedication to the legal profession. His tragic demise, along with Zulfiqar Ahmed, sent shockwaves through the entire community, prompting widespread condemnation and a call for justice.

The court proceedings revealed that Malik Israr had been representing the opposing side in a family case involving Intizar Hussain. The enraged constable, overcome by anger and frustration, targeted Malik Israr at the courtroom door. Tragically, advocate Zulfiqar Ahmed also fell victim to the violent assault.

The city police swiftly registered a case under Section 302 of the Pakistan Penal Code (PPC), Section 7 of the Anti-Terrorism Act (ATA), and the Lawyers Welfare Protection Act. In an unprecedented move, the court expedited the hearing process, culminating in a swift and resounding verdict. The courtroom was packed with lawyers, all seeking closure and justice for their fallen colleagues.

Presiding Judge Amjad Ali Shah delivered a stern sentence, condemning Intizar Hussain to three death penalties. Each lawyer's murder warranted a separate death sentence under Section 302, while a third death sentence was imposed under Section 7 of the ATA. Additionally, the court ordered the complete confiscation of all the convict's movable and immovable properties, coupled with a compensation of Rs1 million to be paid to the heirs of both deceased lawyers. A further three-year rigorous imprisonment term was added under the Lawyers Welfare Protection Act.

Despite the gravity of the sentence, Intizar Hussain has expressed his intention to challenge the verdict in the Lahore High Court Rawalpindi Bench. The legal fraternity remains resolute, viewing this verdict as a significant step towards justice and the preservation of the sanctity of their profession. The community continues to rally in support, united by their shared grief and determination to uphold the rule of law. ■



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A Day to Address

Child Abuse and Gender-Based Violence



Staff Report

On a chilly January morning in Islamabad, a packed audience gathered to discuss pressing issues: child abuse, gender-based violence, and youth rights.

Organised by welfare organisation Rozan, the event featured a lecture by Syed Shahbaz Ali Shah, Advocate of the High Court, followed by a Q&A session. Rozan promotes emotional health, tolerance, gender equality, and reduces violence against women and children.

Held at The Knowledge School and Technical Institute in Ghori Town, Islamabad, the event was attended by Rozan's project officers Waqas Qureshi, Saqlain Hameed, and senior programme officer Fozia Yaqoob.

The session began with a discussion on child abuse, encompassing physical, emotional, and sexual abuse, and neglect. Advocate Shahbaz Ali emphasised the laws in place to protect children, highlighting reporting mechanisms like hotlines and organisations for abuse reports. Legal protections such as the Pakistan Penal Code and Child Protection Act were underscored as vital for safeguarding children and prosecuting offenders. Support services, including counselling and rehabilitation, were portrayed as beacons of hope for victims.

The conversation then shifted to gender-based violence (GBV), including domestic violence and sexual harassment. Legal protections such as the Domestic Violence (Prevention and Protection) Act and the Protection Against Harassment of Women at the Workplace Act were highlighted as essential for safeguarding individuals. Support services, including shelters, hotlines, and counselling, were presented as crucial resources for GBV victims.

As the lecture progressed, the focus broadened to youth rights, covering education, employment, and protection from exploitation. Advocate Shahbaz Ali highlighted the Right to Education Act as a cornerstone of youth rights, along with employment laws regulating minimum age and protecting young workers. Laws against child labour and trafficking were discussed as critical measures to protect youth from exploitation and abuse.

The session concluded with an engaging Q&A segment, where attendees voiced their concerns and sought further clarity. The event served as a powerful reminder of the importance of awareness, legal protections, and support services in combating child abuse, gender-based violence, and youth exploitation. ■



INTERNSHIP

The Legal R&D Internship Programme

Shaping Legal Minds Through Research

Staff Report

The completion of the internship programme at The Legal Research & Development has left internees with a sense of achievement and satisfaction, having acquired invaluable skills while gaining professional experience. The interns, primarily recent law graduates, participated in a rigorous six-month learning journey, during which they honed their research, analytical, and writing abilities.

Guided by Syed Mohammad Ali, Advocate High Court and Founder and CEO of The Legal R&D, and implemented by Eesha Arshad, Advocate High Court and Manager of Operations, the programme was designed to elevate the interns' legal acumen. The Legal R&D is committed to nurturing future legal minds by enhancing their understanding of law through meticulous research, analysis, and writing.

Upon the completion of the training, the interns were awarded certificates of appreciation and excellence, recognising their hard work and dedication. The transformative experience has been lauded by former interns, who have shared how their time at The Legal R&D has enriched their knowledge of law and global affairs, equipping them with the skills to excel in their careers.

Some of the exemplary research conducted by the interns has been featured in The Legal International Magazine, The Legal R&D's flagship project. This esteemed publication, reaching thousands of dedicated online readers worldwide, serves as a platform to honour emerging professionals and showcase innovative legal research and analysis.

The impact of The Legal R&D's internship programme is evident in the testimonials of its alumni, who have spoken highly of the programme's ability to deepen their understanding of legal concepts and global issues. From earning Certificates of Excellence to gaining unparalleled insights, their tenure at The Legal R&D has been nothing short of extraordinary.

Through its commitment to fostering legal scholarship, The Legal R&D continues to make a significant contribution to the field. The Legal International Magazine stands as a testament to this dedication, reflecting the organisation's role in nurturing the future of legal research and development.

In conclusion, The Legal R&D's internship programme is more than just a training period; it is a transformative experience that equips budding legal professionals with the skills and knowledge needed to thrive in their careers. The organisation's unwavering commitment to excellence is evident in the success stories of its interns, who go on to make meaningful contributions to the legal profession. ■

Aimon Asif Advocate

"Thank you for issuing my internship completion certificate. I had an exceptional experience at your organisation The Legal Research and Development and I'm grateful for the skills and knowledge I acquired. Thanks a lot to Sir Syed Mohammad Ali and Eesha Arshad."

Faryal Fatima

"As my internship concludes, I would like to extend my heartfelt gratitude to Ma'am Eesha Arshad and Sir Syed Mohammad Ali for guiding me throughout this journey. I am extremely grateful for the experience I have gained and the skills I acquired, deepest thanks to my mentors."

Fatima Mazhar

"My internship with The Legal Research and Development has come to an end. I am extremely grateful to Ma'am Eesha Arshad and Sir Syed Mohammad Ali for the guidance and appreciation that they have showed me. My experience, working as a Legal research intern at TLR&D has greatly helped me improve my research and writing skills. In these past six months I acquired skills that I am sure I'll utilise for the rest of my career."



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