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Melting Glaciers

**Does a criminal
cease to be
human?**

**Gender-Based
discrimination at
workplace**

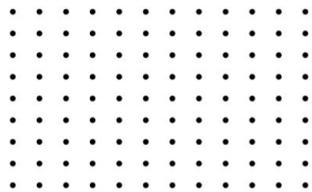
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Title Report

Pakistan is grappling with the impacts of climate change and its glaciers are melting at a phenomenal pace. The picture shows one of the biggest glaciers of the country that's melting and causing outburst flooding in the Nothren Area. Read our special report on page 16-22



THE LEGAL INTERNATIONAL

Never miss an issue

The Legal International is a law research & development digital magazine of the concise content mostly published on www.the-legal.org. It also covers law news, major legal issues, legal analysis and important events of law and justice community. Our editorial focus tracks significant news and research articles from across the key practice areas, jurisdictions and sectors. We are the first of its kind digital publication in Pakistan with a multi platform approach.

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Editor's Note

The final quarter of 2024 will be etched in memory as a period of intense politico-legal turmoil, with the three branches of government vying for supremacy.

Amidst questions of legitimacy, the government succeeded in passing the 26th Constitutional (Amendment) Act, paving the way for subsequent auxiliary legislation to fortify its rule. According to reliable sources, the government is poised to introduce yet another constitutional amendment – the 27th – aimed at consolidating its hold on power. An independent judiciary would have posed significant challenges, but the relentless pressure it faced resulted in a chaotic atmosphere, with divisions within the bar and bench. The critical question remains: how long can this system sustain itself?

Despite vocal opposition from lawyers, their protests have been relatively restrained. Hamid Khan, leader of the Professional Group of lawyers, has announced an all-Punjab lawyers' representative convention in Lahore on November 30. Meanwhile, numerous petitions have been filed challenging the contentious 26th Amendment. The jurisdiction and authority to hear these cases remain unclear.

The nation's intellectuals are anxiously awaiting when the system sets itself on the auto-correction mode. In the current climate, one thing is certain: the people and the country will bear the brunt of this turmoil, with the first instalment paid on November 26. As we approach the new year, there is a collective hope for politico-legal stability and a conducive environment for the bar and bench.

The Chief Justice of the restructured Supreme Court has outlined plans to reduce the backlog of pending cases, but the lower courts continue to suffer from delays in justice delivery. This issue has been highlighted in several articles this month to inform our readers of the current situation.

Additionally, hazardous smog has emerged as a pressing concern, underscoring the rapidly deteriorating environment. While the judiciary has provided legal grounds for necessary actions, authorities have failed to prioritise environmental issues. This month, we have included a special report to highlight the severe environmental threats and the judiciary's efforts to address them. It is noted that Pakistan's environmental laws are more remedial than punitive, necessitating stronger enforcement measures.

Our team has worked diligently to present engaging content in this issue. We hope you find it informative and welcome your comments and suggestions.

Aftab Kazmi
Editor in Chief

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IMAGE: SOCIAL MEDIA

Jinnah

The Gifted Lawyer

Staff Report

In commemoration of Quaid-i-Azam Mohammad Ali Jinnah's 148th birth anniversary on 25 December, we reflect on his storied career as an eminent lawyer and the revered father of the nation. Known for his sharp judgement and meticulous arguments, Jinnah's professional integrity is universally acknowledged.

Joachim Alva, a prominent Indian Congress politician, lawyer, and journalist, lauded Jinnah as the epitome of the Bar's highest standards. His courtroom prowess captivated judges, juries, solicitors, and clients alike. Recognised as the most courageous advocate in the Indian subcontinent, he was respected by all and no judge dared to intimidate him. His articulate advocacy resolved "judicial storms" and garnered widespread admiration.

Sheikh Mohammad Abdullah, a notable Kashmiri leader, recounted in his autobiography *Atish-e-Chinar* an instance where Jinnah's legal brilliance was showcased in Srinagar High Court in 1935. In a single appearance, Jinnah successfully argued a high-profile criminal case involving the marriage of Hanifa Begum, capturing the attention of all Kashmir.

In 1935, Mohammad Ali Jinnah, already a prominent figure in Indian politics and law, visited Srinagar with his sister Fatima Jinnah. They resided on a houseboat in Shivpora during this time. Concurrently, the Chief Justice Sir Birjud Lal's court was deliberating on the contentious marriage of Hanifa Begum and Mehr Ali, police Thanidar, specifically regarding his second marriage to Hanifa.

Hanifa's first husband had died tragically in a police firing incident in September 1931. Subsequently, she married Abdul Kabir and later Mirza Mehr Ali. Abdul Kabir filed a criminal complaint under section 494 of the Ranbir Penal Code, which addresses the offence of marrying a person already married, against both Hanifa and Mehr Ali. The lower court convicted Hanifa but acquitted Mehr Ali due to lack of knowledge.

Mehr Ali challenged the lower court's verdict in an appeal before the Srinagar High Court, presided over by Chief Justice Birjud Lal. The case, previously argued unsuccessfully by Afzal Beig in the trial court, seemed unlikely to succeed based on the facts.

To turn the tide, Sheikh Abdullah and Afzal Beig sought the legal prowess of Jinnah, who agreed to take the case for a fee of Rs. 1000 per court appearance. Though the fee posed a financial challenge for Mehr Ali, Jinnah's insistence on maintaining his professional standards left them with no choice but to comply.

On the day of the hearing, Jinnah's exceptional advocacy shone through as he won the case in a single hearing, deftly navigating a complex point of Islamic calendar law. His meticulous arguments and legal acumen were instrumental in securing the victory.

Further accounts of the case are detailed by MJ Aslam in an article, excerpted from Justice Muhammad Yousuf Saraf's book *Kashmiris Fight for Freedom*.

Jinnah's courtroom prowess left everyone in awe as he deftly unravelled the complexities of Islamic law. The crux of the case

Jinnah's Career Origin

It is often stated that Jinnah began his career as a presidency magistrate in Bombay after returning from England in 1898. However, Dr Arifa Farid, former Dean of the Faculty of Arts at the University of Karachi, contests this claim. In an article, she asserts that Mohammad Ali Jinnah actually commenced his law practice with Harchandrai and Co in Karachi, not Bombay, contrary to the accounts of Stanley Wolpert and Shareefuddin Peerzada.

Dr Farid supports her argument by referencing her late father, Abdul Hamid Farid, who was a lawyer in Pune and Mumbai during the pre-partition era, and Abdur Rahim Chagla, the then registrar of the Chief Court. Chagla, a close friend of her father and brother to the composer of Pakistan's national anthem, lived near Wazir Mansion, Jinnah's old residence.



IMAGE: SOCIAL MEDIA

revolved around whether Hanifa Begum had remarried Abdul Kabir during the *Iddat* period—a mandatory four months and ten days of waiting after a husband's death before a widow can remarry. If Begum's marriage to Kabir occurred within this period, it was invalid under Islamic law, thus rendering her subsequent marriage to Mehr Ali lawful. Conversely, if her marriage to Kabir was valid, then the marriage to Mehr Ali would be invalid and the criminal complaint under section 494 legitimate.

Entering the courtroom without reference books, Jinnah contended that the *Iddat* period should be calculated in lunar months only when the death occurs on the first day of the lunar month. Otherwise, it should be counted as 130 days, according to the solar calendar. By applying this principle, Jinnah demonstrated that Hanifa's marriage to Abdul Kabir fell within the *Iddat* period, making it null and void, while her marriage to Mehr Ali remained

valid under Shariat law.

The courtroom audience was astounded by Jinnah's legal acumen. When Chief Justice Birju Lal inquired, "Mr. Jinnah, is there any authority?" Jinnah confidently replied, "My Lord, I am the authority." The room erupted in admiration at this masterful display of legal expertise.

Aslam, in his article, firmly rebutted Sheikh Abdullah's assertion regarding Jinnah's fee for the case, branding it an "allegation." Aslam pointed out that during Jinnah's holiday in Kashmir, he would typically refrain from accepting or arguing any case. However, Mehr Ali, a fervent supporter of the Muslim Conference who had actively participated in the Kashmir Movement, managed to persuade Jinnah to take on his brief. Upon hearing the circumstances, Jinnah consented to represent Mehr Ali, declining to accept any fee for his services. Justice Muhammad Yousuf Saraf noted that Mehr Ali personally relayed this information to him. ■

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NEWS BRIEF



Burqa Ban

ZURICH - Switzerland has announced to introduce fines up to 1,000 Swiss francs (\$1,144) for wearing a Burqa from January 1, 2025, according to Swiss Federal Council.

The ban will be enforced in Swiss canton, while a similar ban is already established in St Gallen and Ticino. The ban does not apply to planes or in diplomatic and consular premises, and faces may also be covered in places of worship and other sacred sites, the government announced.

Facial coverings will remain permitted for reasons relating to health and safety, for native customs, or due to weather conditions. They would also be allowed on artistic and entertainment grounds and for advertising.

Case against Hasina Wajid

The Hague - Asraful Arafin, a London-based lawyer, has filed a case against former Bangladeshi prime minister Sheikh Hasina Wajid with the International Criminal Court at The Hague.

The petition has been filed under Article 15 of Rome Statute, seeking an independent investigation into alleged targeted extrajudicial killings during the July-August mass uprising in Bangladesh, torture at secret detention centres, and other atrocities.

In the uprising, more than 1,400 civilians were reportedly killed and 22,000 injured. The lawyer said that there is considerable doubt over the ability of Bangladesh's judicial system to conduct and impartial investigation into these serious offences because a large number of the country's law enforcement and state officials were chosen by the Hasina administration.

\$38million in damages

NEW YORK - A Missouri man, Ryan Ferguson, who spent 10 years behind bars for a crime he did not commit will receive \$38 million from an insurance company in damages in the case against Traveler's Insurance, who failed to pay to him the money owed in a lawsuit.

The insurance company - which was hired by the city from 2006 to 2011 - tried to skirt financial responsibility for that payout. It is believed that the verdict will have a widespread effect on wrongful conviction cases across the US when the insurer refuses to participate in the settlement negotiations and refuses to pay their share of the verdict immediately.

Ferguson was convicted at age 19 of killing Kent Heitholt, a then-Columbia Daily Tribune sports editor. Ferguson was just 21 when he was sentenced to 40 years for a murder his friend Chuck Erikson had implicated him in. His conviction was thrown out in 2013 after it was revealed prosecutors withheld evidence from the defence. Ferguson sued Travelers in 2017 after he had already been released from prison.

The company was ordered to pay him \$1million for each year he was in prison, plus an additional \$354,000 for legal fees on behalf of the City of Columbia.

Notification 'missing'

New Delhi - Delhi High Court has overturned a 36-year-old import ban on Salman Rushdie's controversial novel, *The Satanic Verses*, due to the original notification by the customs department being 'missing'. The book, banned in 1988, is now legally permitted for sale in India.

On 5th November, the court declared that such a notification "does not exist". The division bench, comprised of Justice Rekha Palli and Justice Saurabh Banerjee, noted that the Central Board of Indirect Taxes and Customs (CBIC) has failed to produce the notification since 2019.

The issue was brought to the court's attention in 2019 by Sandipan Khan, an Indian citizen, who had attempted to purchase the novel from bookshops but was informed it was illegal. However, when Khan tried to locate the notification of the import ban, it was absent from all government websites.

Khan filed a writ petition in Delhi High Court, challenging the import ban on constitutional grounds. The case lingered for years, with the government repeatedly seeking extensions to locate the original order, but to no avail. Ultimately, the government conceded that the import ban order was "untraceable" and could not be produced.

The court concluded: "In light of the aforesaid circumstances, we have no option but to presume that no such notification exists, and therefore, we cannot examine the validity thereof and dispose of the writ petition as infructuous."

Salman Rushdie, born into a Muslim Kashmiri family in Mumbai, before relocating to the United Kingdom, has faced persistent death threats over his novel. In 2022, Rushdie was attacked in New York by a man Hadi Matar. He was stabbed in the neck in front of an audience of 7,500 people. Rushdie survived though he lost an eye.

Luxury Goods Seizure

Stockholm - Sweden has enforced a new law on November 8, permitting the police to seize luxury items from individuals who cannot prove their lawful acquisition, even if they are not suspected of a crime.

This measure, approved by parliament on October 2, forms part of the right-wing government's intensified efforts to combat organised criminal gangs. It empowers the police to confiscate cars, gold watches, and designer goods from individuals suspected of links to criminal gangs, where such items are believed to have been purchased with proceeds from illicit activities, despite the person not being formally charged with a crime.

Prime Minister Ulf Kristersson emphasised that the law targets the seizure of assets evidently connected to criminal activities. He described the legislation as "the biggest reform since the criminal code was introduced in 1965."

Politician sentenced

Malmo - A Swedish court has sentenced a far-right politician to four months in prison for two counts of "incitement against an ethnic group" following hateful comments made at political rallies two years ago.

The 42-year-old Danish-Swedish man, identified by Swedish media as Rasmus Paludan, founder and leader of the Danish nationalist anti-immigration party Stram Kurs, had previously been convicted and sentenced by a Danish court on similar charges, according to the Malmö District Court.

In 2022, Paludan made offensive remarks targeting Muslims, Arabs, and Africans during protests he led in the southern city of Malmö. He also burned a copy of the Quran, Islam's holy book, on at least one occasion. These actions sparked a violent wave of riots across the country.



Legal reprieve

WASHINGTON - Donald Trump's victory in the US presidential elections not only propels him back into the White House but also offers him a respite from impending court battles and mounting legal expenses.

It is anticipated that he will make the federal criminal cases against him disappear and see the state cases deferred until he vacates the Oval Office in four years. The president-elect has already vowed to dismiss Jack Smith, the special counsel who brought federal charges against him, immediately upon assuming office. Although a US president lacks the authority to remove a special counsel directly, Trump could appoint a new attorney general who could do so. He could also instruct the Justice Department to drop the charges.

In a significant case, Trump faces accusations of conspiracy to defraud the US and conspiracy to obstruct an official proceeding, specifically the session of Congress on January 6, 2021, by a mob of his supporters.

Crimes against humanity

The Hague - International Criminal Court (ICC) issued arrest warrants, on November 21, for Israeli Prime Minister Benjamin Netanyahu and former Israeli Defence Minister Yoav Gallant, accusing them of war crimes and crimes against humanity.

While the warrants do not ensure their arrest or trial at the ICC, some countries have announced their intention to comply. Consequently, both Israelis will face significant travel restrictions, as signatories to the ICC treaty are obliged to arrest and hand over individuals accused of such crimes.

Israel is not a signatory to the ICC, meaning it does not recognise the court's jurisdiction within its territory. Some 124 countries are the signatories, but the US, Russia, and China are not either. The US, a main ally of the so-called Zionist state, even has a troubled past with the court. Washington has sanctioned ICC officials attempting to investigate war crimes committed by the CIA and US military personnel in Afghanistan.

Meanwhile, the Jerusalem District Court has dismissed Netanyahu's plea to defer his testimony in an ongoing corruption trial. Netanyahu sought an 80-day postponement, citing his involvement in the current Israeli military aggression in Gaza and Lebanon. However, the Israel Attorney's Office has opposed this request.

Lawsuit against TikTok

PARIS - In a first of its kind group case in Europe, seven French families have filed a lawsuit against social media giant TikTok, accusing it of exposing their adolescent children to harmful content that led to two of them taking their own lives at 15.

The lawsuit alleges TikTok's algorithm exposed the seven teenagers to videos promoting suicide, self-harm and eating disorders. The families are taking joint legal action in the Creteil judicial court. The parents want TikTok's legal liability to be recognised in court.

Sex Offenders Register

ISLAMABAD - The Ministry of Law and Justice has inaugurated Pakistan's first National Sex Offenders Register in the capital, aimed at monitoring individuals convicted of sexual crimes to protect the public.

The register was established in collaboration with NADRA (National Database and Registration Authority) and the National Police Bureau (NPB) under Section 24 of the Anti-Rape (Investigation and Trial) Act, 2021. The rules for the register, which will track convicted offenders after their release from prison, were finalised in September 2023 by the Ministry of Law and Justice, in conjunction with the special committee formed under the Act.

The real-time updating register will be accessible to both private and public institutions, as well as the general public, via SMS service. Tariq Malik, Chairman of NADRA, urged citizens to use this service to verify the computerised national identity card (CNIC) numbers of individuals before employing them for household chores or at educational institutions and workplaces. To use the service, the CNIC number can be sent via SMS to 7000, and the register will respond following the verification process.

School transport

LAHORE - As a measure to combat smog, Lahore High Court has ordered all school, on November 23, to provide transport to students after the upcoming winter vacations.

"Schools failing to comply with the order will face closure," said Justice Shahid Karim while hearing environmental petitions. Government has 15 days to draft a transport policy addressing vehicle fitness.

ATC Pendency

ISLAMABAD - Chief Justice Yahya Afridi has voiced his alarm over the significant backlog of cases in Pakistan's anti-terrorism courts (ATCs). During a meeting with the administrative judges of ATCs at the Supreme Court on November 8, it was revealed that 2,273 cases remain unresolved, with a substantial share of 1,382 cases pending in Sindh province alone. According to the Daily Express Tribune, some 385 cases are also awaiting adjudication in Punjab's ATCs.

Shelter home reforms

LAHORE - The Lahore High Court has mandated Punjab authorities to formulate comprehensive rules within six months, emphasising the necessity of a safe and supportive environment in all shelters and child protection centres.

Justice Tariq Saleem Sheikh stated that new regulations should be established under Section 29 of the Punjab Protection of Women Against Violence Act 2016 and Section 22 of the Punjab Women Protection Authority Act 2017, to standardise all shelter homes and protection centres across Punjab.

Ultra vires prison rule

ISLAMABAD - Justice Ehasz Ishaq Khan, a judge of Islamabad High Court, has declared Rule 265 of the Pakistan Prison Rules 1978 ultra vires the Prison Act 1894.

The IHC noted that Section 59 of the Prison Act confers rule-making power on the provincial government, providing that "[T]he provincial government may make rules consistent with this act." No provision in the Prison Act...either prohibits political discussions between a prisoner and his visitors, the court said.

New SCP registrar

ISLAMABAD - The former chief secretary of Khyber Pakhtunkhwa, Muhammad Saleem Khan has been appointed as the new registrar of the Supreme Court of Pakistan.

Khan will replace Jazeela Aslam, a district and session judge from Lahore, who was appointed as registrar by the former chief justice Qazi Faez Isa. The new appointment has been made, with the approval of Chief Justice Yahya Afridi, in BS-22 on contract basis for a term of three years, effective from November 7, 2024.

NAB's Toothless Reality

ISLAMABAD - During a last month hearing at Islamabad High Court, the National Accountability Bureau (NAB) was asked to confront its "toothless" status.

Justice Mohsin Akhtar Kayani observed that an amendment to the National Accountability Ordinance (NAO) of 1999, the legislation governing NAB, had led to the dismissal of corruption cases worth billions of rupees. He noted that over a hundred significant cases were closed, with many accused individuals fleeing the country. "By the time parliament realises this, it will be too late," he remarked, as reported by national media.

Justice Kayani suggested that NAB should now ascertain whether it has the authority to initiate proceedings against individuals, given that parliament has effectively rendered it a "toothless" entity with limited powers. This observation came during the hearing of a petition filed by a citizen challenging a NAB inquiry. The court remarked that, following the amendment, it was time for both NAB and the public "to enjoy".

The previous PML-N government had introduced substantial changes to the NAO, 1999, including reducing the tenure of the NAB chairman and prosecutor general to three years, restricting NAB's jurisdiction to cases involving over Rs500 million, and transferring all pending inquiries, investigations, and trials to the relevant authorities.

On September 15, 2023, the Supreme Court of Pakistan nullified these amendments through a majority ruling. However, on September 6 this year, the Supreme Court reinstated the changes to the country's anti-corruption law, upholding the federal government's appeal against the earlier verdict. Former Chief Justice of Pakistan Qazi Faez Isa delivered the reserved judgement on June 6 following intra-court appeals by the federal government and other parties.

US Police Accountability

LOUISVILLE – A US court has found a former police officer guilty of violating the civil rights of a 26-year-old black woman, Breonna Taylor, and three of her neighbours by using excessive force. The officer, who burst into homes without warning and fatally shot Taylor, faces a maximum life sentence with sentencing scheduled for March 2025. The killing, which grabbed nationwide attention, ignited months of protests, particularly targeting the Louisville Metro Police Department. Following Taylor's death, the department underwent intense scrutiny, leading to the firing of the police chief in 2020. A Justice Department report last year found the department discriminating against black people. Reports indicate that former detective Brett Hankison, along with colleagues Myles Cosgrove and Jonathan Mattingly, fired 10 shots into Taylor's apartment – an emergency room technician's home. The warrant for the raid was based on flawed surveillance. Although initially signed off by a judge, officers were later instructed to announce themselves, a directive they ignored. Federal prosecutors charged the officers with providing false information in an affidavit to secure the warrant. One officer, Kelly Goodlett, pleaded guilty in 2022. Hankison, who is white, was the only officer charged for his actions during the failed operation. Cosgrove and Mattingly, also white, fired the fatal shots but were not charged. They shot through a covered glass door into Taylor's apartment. The raid, conducted in search of evidence that Taylor's ex-boyfriend was selling drugs, turned tragic when Taylor's current boyfriend, Kenneth Walker, mistaking the officers for intruders, fired a shot that struck an officer in the leg.

Lawyers' protest

DERA ISMAIL KHAN – The relocation of the district court has ignited a protest among lawyers from the Tank and South Waziristan districts. The demonstration was led by Pir Abdul Ghaffar, President of the Tank District Bar Association, Sher Pao Mehsud, President of the South Waziristan Bar Association, and senior lawyer Shah Fahad Ansari. The protesters condemned the court's relocation as "illegal and unconstitutional," asserting that the move has disrupted public access to justice. Ghaffar and Ansari highlighted that both lawyers and citizens have faced significant challenges in pursuing their legal matters over the past 48 days. It was also announced that the lawyers' boycott of the court would continue until their demands are met.

Sindh Constitutional Bench

ISLAMABAD – The Judicial Commission of Pakistan has nominated justice Muhammad Karim Khan Agha to head the new judge constitutional bench of Sindh High Court which is established under the 26th Constitutional Amendment. The other nominated members of the bench include Justice Salim Jessar, Justice Omar Sial, Justice Yousaf Ali Sayeed, Justice Abdul Mobeen Lakho, Justice Zulfikar Ali Sangi, Justice Ms Sana Akram Minhas, Justice Khadim Hussain Soomro and Justice Arbab Ali Hakro.

SC judges' allowances raised

ISLAMABAD – The federal government has raised the allowances and house rent for Supreme Court judges through President's Order No. 2 of 2024, amending the Supreme Court Judges (Leave, Pension and Privilege) Order, 1997. Signed by acting President Syed Yousaf Raza Gillani on November 4, the order increases the house rent for judges to Rs350,000 per month from the previous Rs68,000, where no official residence is provided. The government will also cover the maintenance costs, including local rates, taxes, and utilities for the residence, staff quarters, and gardens. Additionally, the superior judicial allowance has been increased to Rs1,161,163 from Rs428,040 under paragraph 22 of the order. The presidential order took immediate effect and is retroactive from July 1, 2024.

'Weak and cowardly'

BRISTOL (UK) – In a tragic case of mistaken identity, Bristol Crown Court has sentenced Antony Snook, 45, to a minimum of 38 years for his role in the brutal machete murders of two teenage boys. Snook, who transported the four teenage attackers to and from the scene, was condemned by Mrs Justice May as 'weak and cowardly' during sentencing. The attackers, also convicted after a six-week trial, are due to be sentenced on December 16. The victims, Mason Rist, 15, and Max Dixon, 16, had been best friends since nursery. They were chased down and murdered just moments after leaving Mason's home on Ilminster Avenue at 11:13 pm on January 27 to buy pizza in the Knowle West suburb. The entire incident was captured on CCTV installed at Mason's house. The boys were mistakenly identified as the culprits behind an earlier incident involving bricks being thrown at a house in the rival Hartcliffe district. Tragically, they were attacked with a machete, suffering fatal stab wounds, and both succumbed to their injuries in hospital in the early hours of January 28.

Frivolous petition

ISLAMABAD – The Constitutional Bench of the Supreme Court of Pakistan dismissed, on November 18, a petition seeking to mandate that only candidates who secure over 50 per cent of the vote in elections can be declared winners, deeming the petition frivolous. A seven-member bench, led by Justice Amin-ud-Din Khan, heard the case and dismissed the petition and upheld a fine of Rs20,000.

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REVIEW



IMAGE: Designed by Freepik

Gender-Based Discrimination at Workplace

Federal Ombudsperson's ruling ensuring equitable treatment for all employees, irrespective of gender



by **Fatima Mazhar**

A law student in Islamabad & serving president of the Law Students' Council Pakistan

Systemic discrimination against women at workplace remains prevalent, manifesting in various forms, from unequal pay to limited access to leadership roles. In a recent landmark ruling, the Federal Ombudsperson has substantiated claims of discrimination in the case of *Amina Hassan versus Khushhali Microfinance Bank*.

Each defendant in the case has been fined Rs. 500,000, and the bank has been ordered to pay the victim Rs. 5 million in damages in addition to her severance benefits, to be provided once her loan balance is settled. The complainant was represented in the court by Syed Ahmad Hassan Shah ASC of Hassan Kaunain Nafees (HKN) Legal Practitioners & Advisers, Islamabad.

Amina Hassan, a senior employee, reported to the Federal Ombudsperson that after over two decades of distinguished service, she was forced to resign, denied severance pay, and faced systemic discrimination that obstructed her career progression. Rising to the position of Group Head of Business, Hassan had developed a 'collection and recovery plan' which was approved by the bank in July 2022. However, she was pressured to step down two months later amid allegations of unsatisfactory performance. She alleged that she was subjected to the gender-based discrimination.

Evidence, as outlined in Section 2(h)(ii) of the Protection Against Harassment of Women at Workplace Act, indicated that Amina was denied a severance payment, contrary to the bank's standard practice, which saw male employees in similar roles receiving such

payments. After her resignation, her position remained unchanged and was filled by a male successor. Additionally, retaliatory actions were taken against her, including a civil lawsuit aimed at recovering unpaid loan amounts. The court found these actions indicative of systemic bias and discrimination.

The court's judgment highlighted institutional bias and a discriminatory attitude towards the complainant as evidenced by her coerced resignation, denial of severance benefits, and subsequent treatment. Although Amina's case was improperly escalated to the bank's board and dismissed, the Ombudsperson identified procedural discrepancies, noting that male employees in comparable positions received ex-gratia rewards. The Ombudsperson's conclusion regarding discriminatory intent was further substantiated by retaliatory actions, such as the filing of a civil lawsuit for debt recovery following her harassment complaint.

The timing of this decision is particularly significant, as it aligns with a rise in workplace harassment and discrimination complaints across Pakistan. In 2023 alone, some 725 cases of this nature were reported, highlighting a troubling escalation in such incidents. The ruling by the Ombudsperson underscores the urgent need for robust legal frameworks to protect employees from discrimination. It serves as a timely reminder for organisations to address these issues promptly and effectively, ensuring justice and fostering safer, fairer workplaces for all.

The ruling carries substantial implications for corporate responsibility and workplace equality. It delivers a robust message to organisations to adopt fair policies and practices, underscoring that gender-based discrimination, however subtle or widespread, will not be tolerated. The fines and compensation requirements establish a precedent, holding both individuals and organisations accountable for discriminatory actions.

The verdict lays bare the systemic flaws in the bank's

The ruling in this case sets a significant precedent, empowering future victims of workplace discrimination to seek justice.

handling of gender discrimination and workplace harassment. It must now overhaul its procedures, which include implementing a clear code of conduct, training employees, and setting up a compliant inquiry committee. These measures aim to foster a safer and more inclusive workplace. Furthermore, the ruling inspires others facing similar challenges to seek redress, reaffirming the legal protections for women under the Protection Against Harassment of Women at Workplace Act. It also serves as a stark reminder to organisations to prioritise fairness in their decision-making.

The ruling in this case sets a significant precedent, empowering future victims of workplace discrimination to seek justice. By acknowledging and penalising gender-based bias, the decision sends a clear message that discriminatory behaviours will not be tolerated. It underscores the importance of adhering to workplace harassment regulations and ensuring organisational decisions are fair. The enforced policy changes and awarded compensation deliver a powerful message, encouraging other victims to come forward without fear of retaliation. Moreover, the stipulations for continuous training and compliance are poised to create a more inclusive environment, reducing systemic prejudice and fostering safer, more equitable workplaces for future employees.

It underscores the paramount importance of fair treatment, urging organisations to prioritise diversity and justice in their policies and practices. Holding powerful individuals



IMAGE: © THE LEGAL

accountable fosters societal progress towards gender equality by signalling that systemic prejudice will not be tolerated. This decision also sparks broader societal change, empowering individuals, especially women, to assert their roles in traditionally male-dominated fields by highlighting the pervasive nature of workplace discrimination and the critical importance of safeguarding rights.

In a landmark move to combat workplace discrimination, especially gender-based biases in leadership roles, the ruling is historic. It not only holds the offenders accountable but also reinforces the legal framework protecting workers' rights, ensuring equitable treatment for all employees, irrespective of gender. The judgment

highlights the importance of fairness, transparency, and adherence to policies by mandating compensation. It sends a strong message to organisations to foster inclusive environments and combat systemic prejudice.

Traditional workplace cultures often link leadership with masculine traits, subjecting women in senior roles to greater scrutiny. This bias can result in fewer mentorship opportunities, lower pay, and limited promotions for women. Discriminatory practices persist due to the inadequate enforcement of progressive policies in some organisations. To combat these issues, proactive organisational changes and rigorous enforcement of gender equality laws are essential. ■

Elections 2025

A vision for Islamabad Bar Council

Javaid Iqbal Bandy, a distinguished Advocate, is vying for a position in the forthcoming IBC elections in 2025. With a wealth of experience in both contentious and non-contentious legal matters, Mr. Bandy offers legal advice, consultancy, and litigation services from his base in Islamabad. His expertise spans a broad spectrum of laws, including Corporate, Commercial, Labour, Banking, Tax and Customs, as well as Oil & Gas and Energy Laws and Agreements.

Q: What is your vision for the Islamabad Bar Council (IBC)? What key initiatives do you propose if elected?

A: My vision for the IBC centres on radical reforms. These reforms should focus on enhancing professional skills of lawyers, particularly in court presentation, maintaining decorum, and conducting legal research. Training is paramount—we must first prepare lawyers to meet professional standards before

considering stricter regulations. As both a practising lawyer and a teacher, I have observed that gaps in legal education significantly contribute to these issues. Legal education should be lifelong, not something forgotten after exams.

Q: Your emphasis is on training; could you summarise your core focus areas for enhancing lawyers' capacity?

A: Certainly. My focus would be on four pivotal skills: in-depth knowledge of the law, proficient legal research with an emphasis on understanding precedents, adept drafting abilities, and competence to effectively present and argue cases in court. These skills should be cultivated from university onwards, and the Bar Council should actively support institutions in bridging the current gaps.

Q: Reputation is critical for any institution. How would you enhance the IBC's standing?

A: To bolster our reputation, the IBC must establish strong linkages both domestically and internationally. Collaborating with human rights organisations, training institutions, and governments is essential. While looking up to developed nations like the UK or the US can be inspiring, we should also emulate models from countries with legal systems similar to ours. Practical and achievable reforms will serve us better than unattainable ideals.

Q: Lawyers often face challenges regarding fair working conditions and professional support. How would you advocate for their rights and welfare?

A: The first step is to build a comprehensive database of lawyers to understand their

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Staff Report

Legal education should be lifelong, not something forgotten after exams.



educational backgrounds and areas of interest, whether in civil, criminal, corporate, or labour laws. With such a database, we can guide lawyers towards opportunities suited to their skills and inclinations. Additionally, promoting pro bono work can help bridge the gap in access to justice while providing valuable experience for lawyers.

Q: Issues of ethics, transparency, and accountability are frequently raised on legal professionals. How would you address these concerns?

A: The solution lies in comprehensive training rather than fear-based regulation. If we thoroughly train lawyers, unethical practices will diminish. Regulation should only follow once lawyers are fully equipped to meet professional standards. Furthermore, for any systemic changes to be effective, societal compliance must first reach a critical threshold. We cannot enforce laws effectively if a significant portion of the profession remains non-compliant.

Q: The relationship between the bar and the bench is delicate. How would you manage conflicts and maintain unity?

A: The IBC should adhere to principles and play a constructive role in resolving disagreements. Continuous engagement with the judiciary is essential. While addressing lawyers' misconduct, the IBC must also hold the bench accountable when necessary. A collaborative rather than confrontational approach will foster mutual respect and efficiency.

Q: How would you address political divisions within the bar, such as those witnessed recently in some other bar councils?

A: Political affiliations often divide lawyers, undermining the unity of the profession. The IBC should focus on inclusive decision-making, seeking the majority opinion of members before passing resolutions. Mechanisms such as petitions or general body meetings can ensure decisions reflect the collective will of lawyers rather than a select few. ■

Political affiliations often divide lawyers, undermining the unity of the profession.



IMAGE: © THE LEGAL

SPECIAL REPORT

Stymied

Environmental Efforts

Pakistan suffers enforcement gaps despite strong laws and **finest judicial support**

by **Ayesha Imdad**
ISLAMABAD

While environmental concerns may not always top the list of priorities for developing nations like Pakistan—where economic development often takes precedence—the advent of smog season starkly shifts the focus. Each year, as the grey haze envelops cities, the environment rises to the forefront as a critical issue demanding immediate attention. This heightened awareness, however, tends to be fleeting; once the smog dissipates, attention typically reverts to other pressing matters. In recent years, there has been a notable shift, with improved stances from the legal system, judiciary, and government towards environmental issues, signalling a positive change.

A significant move was observed recently with the introduction of Article 9A into the constitution through the contentious 26th Amendment. This inclusion stands out as a positive development, enshrining the right of the populace to a clean, healthy, and sustainable environment within the Constitution.

Justice Mansoor Ali Shah, in *the Constitution Petitions No.4 and 14 of 2021 vs Province of KPK*, noted that the courts have interpreted Article 9 as a right to a clean and healthy environment and established the principle of environmental protection via such interpretation in the cases of *Imrana Tiwana* and *Asghar Leghari*. He emphasised that Article 9 and Article 14 (the right to dignity), when interpreted in line with social, economic and political justice, are widened to include the principle of sustainable development and environmental impact assessment within their ambit. Thus, it is evident that the judiciary views the climate as a pressing issue and, within its capacity, has aimed to enforce not only Article 9 but also other environmental laws in Pakistan.

The significance of Article 9 to the judiciary is further accentuated



IMAGE: © THE LEGAL

in *Civil Petitions No. 3347 to 3351, 4229 and 4263 of 2021 vs the Capital Development Authority (CDA)*. Justice Shah underscored that the adverse impacts of climate change impinge upon fundamental rights to life, dignity, and property—rights safeguarded by Articles 9, 14, 18, and 23 of the Constitution. He stressed that, consequently, it becomes a constitutional duty to pursue climate resilience and sustainability.

The CDA was mandated to consider environmental repercussions, conducting proper investigations and assessments of the ecological impacts of its actions. Recently, the Supreme Court issued an injunction preventing the CDA



“
Post climate change, democracies have to be redesigned and restructured to become more climate resilient and the fundamental principle of rule of law has to recognise the urgent need to combat climate change.”

Justice Syed Mansoor Ali Shah
(Supreme Court of Pakistan)

from felling trees or continuing deforestation in Fatima Jinnah Park, Sector F9, Islamabad, ruling it a violation of Article 9 as established in the Public at Large vs the CDA. These rulings illustrate the judiciary's robust stance on environmental issues, particularly emphasising the profound implications and scope of Article 9.

The judiciary has affirmed its commitment to addressing climate concerns in numerous rulings, notably in the case of PILAP vs Federation of Pakistan. The dispute centred on the non-enforcement of sections 5 and 12 of the Pakistan Climate Change Act 2017, highlighting the absence of both the Pakistan Climate Change Authority and the Pakistan Climate Change Fund, rendering the act ineffective. The court mandated the Attorney General of Pakistan and Advocate Generals of all provinces to report on the climate challenges they face and the steps their respective governments have taken in response.

This case underscores why there may be a perception of inadequacy in environmental efforts. While laws and legislation are in place and the judiciary diligently interprets and implements them, the executive branch must enforce these laws and decisions to make meaningful progress.

It is important to note that the judiciary's role is to interpret and apply the legislation, which they evidently perform. However, enforcement remains the prerogative of the government. In this context, the judges recognised that Pakistan's substantial debt hinders its ability to invest in climate mitigation and adaptation measures. Consequently, they proposed establishing a loss and damage fund to support marginalised communities in coping with the impacts of climate change and to enhance international cooperation and financial commitments for a sustainable and equitable future.

In the landmark ruling of *DG Khan Cement Company vs Government of Punjab*, Justice Shah halted the expansion of a cement plant in an environmentally sensitive area. The court invoked the precautionary principle of international environmental

The judiciary and legislature are effectively fulfilling their roles, **where are we falling short?**



IMAGE: © THE LEGAL

law, as encapsulated in Principle 10 of the Rio Declaration 1992 and Principle 5 of the IUCN (International Union for Conservation of Nature) World Declaration on the Environmental Rule of Law. According to Principle 10, the absence of complete scientific certainty should not be used as a reason to delay measures to prevent severe environmental damage. Principle 5 stipulates that all matters before the courts should be resolved with a bias towards protecting and conserving the environment.

The court determined that the provincial government was required to adhere to both principles, thus aligning with constitutional mandates to safeguard the rights to life, sustainability, and dignity. It was emphasised that the environment deserves protection in its own right. Globally, legislatures and courts have recognised elements of personhood in nature to ensure its protection and preservation, and legal frameworks must treat environmental entities as bearers of legal rights. Judges do not hesitate to apply international law in such contexts.

It is worth noting the distinctions between how the environment is safeguarded under international law compared to our domestic legal framework. Justice Shah highlighted the crucial role of the judiciary in upholding climate justice and observed that democracies globally have progressed towards greater climate resilience. He emphasised that to realise the Constitution and the fundamental rights it guarantees, we must move towards a climate democracy. Thus, it is fair to assert that the judiciary is cognisant of the disparity between international environmental law and our domestic legislation, as well as the differing approaches adopted by judiciaries and governments worldwide in contrast to our own.

The judiciary has exerted its utmost efforts within its remit to safeguard the environment, leaving the primary responsibility to the executive branch and government. In defence of the perceived inaction by the executive and government, some might argue this stems from a lack of

legislation, rules, and regulations. However, this argument is untenable given the introduction of Article 9A in the 26th Amendment and the plethora of existing environmental laws.

The Pakistan Environmental Protection Act 1997 mandates the protection, conservation, rehabilitation, and enhancement of the environment, along with pollution control and sustainable development promotion. National and provincial Environmental Protection Agencies (EPAs), environmental tribunals, and the Pakistan Environmental Protection Council were established. The National Environmental Quality Standards (NEQS) regulate environmental quality across various domains, including ambient air, drinking water, noise, and gaseous emissions.

Approved in 1992, the Pakistan National Conservation Strategy aims to conserve national resources, promote sustainable development, enhance resource management efficiency, and integrate environmental and economic considerations into decision-making. The Pakistan Climate Change Act 2017 instituted the Pakistan Climate Change Council to monitor international agreement implementation, integrate climate change concerns into decision-making processes, implement mitigation policies, and approve guidelines for protecting renewable and non-renewable resources.

These are just a few of the laws, regulations, and frameworks in place. Therefore, one must ask: When the judiciary and legislature are effectively fulfilling their roles, where are we falling short?

The Environmental Protection Agency (EPA) possesses the authority to levy administrative penalties on those who violate environmental legislation; however, these penalties are a mere Rs200, which underscores the legislature's insufficient commitment to effective environmental conservation and protection. Similarly, fines stipulated under sectoral laws for water, air, and noise legislation are minimal, starting at Rs100, with a maximum of Rs1,000, and imprisonment ranging from one month to two

Pakistan's environmental laws are more remedial than punitive highlighting the necessity for stronger enforcement measures.



IMAGE: © THE LEGAL



IMAGE: GOOGLE MAPS

years. These negligible penalties render the legislation ineffective, as there is little incentive for compliance.

Moreover, the environmental tribunal was inoperative for a period due to the absence of a chairman, a situation that further impeded proper environmental protection. There is also a pressing need to raise awareness about environmental issues and the protection of rights under Article 9, which complicates efforts to encourage adherence to legislation.

One could argue that Pakistan's environmental laws are more remedial than punitive, highlighting the necessity for stronger enforcement measures. Additionally, there is a marked need for more professional environmental managers, lawyers, specialists, and experts to effectively administer and implement these laws.

Regarding the NEQS (National Environmental Quality Standards), as noted by Dr Imran S Khalid and Ahmed Awais Khaver in their working paper "*Political Economy of Water Pollution in Pakistan: An Overview*," the initiative has faltered due to weak enforcement provisions and a lack of trust between industries and the government, leading to low participation. The federal government allocates the budget for the EPA under the PEPA (Pakistan Environmental Protection Act), resulting in competition between the provincial EPAs and development agencies for budget allocation.

For proper functioning, these bodies require independent funding. The PEPA also mandates projects to undergo an initial environmental examination (IEE) and an environmental impact assessment (EIA) before commencement. However, according to an EIA mapping report based on a 2010 analysis of regional EIA mapping results, only 20 per cent of projects in Punjab and Sindh undergo EIAs, with this figure dropping below 10 per cent in other provinces—highlighting the need for greater efficiency and implementation.

In conclusion, neither the judiciary nor the legislature can be blamed for inadequate environmental protection, as both have performed their roles adequately and effectively. The onus of ineffectiveness lies with the insufficient implementation and enforcement by government bodies. Nonetheless, the judiciary's efforts to interpret and implement environmental law and the legislature's initiatives to foster environmental consciousness must be acknowledged and appreciated. ■

Melting Glaciers & Rising Outburst Floods

Pakistan is grappling with the profound impacts of climate change, including shifting weather patterns and catastrophic floods.

The issue is grossly under-highlighted, despite the alarming situation. Pakistan, although not a primary contributor to global warming, must acknowledge and confront its fallout, especially to combat pressing local issues like air pollution and smog.

Antarctica and Greenland hold the majority of the world's glacial ice, with most glaciers found in either mountainous regions or polar areas. Pakistan, however, boasts over 7,000 known glaciers, which is more glacial ice than any other country outside the polar regions. Norway and Switzerland follow, each with about 1,600 glaciers.

Pakistani glaciers contribute 60 to 70 per cent of the water flow in the Indus River. These glaciers have been shrinking significantly, with an estimated 23 per cent decrease since 1960. Accelerated glacial melt has resulted in the formation of over 3,000 glacial lakes in Pakistan's Northern Areas. Among these, approximately 33 lakes are at risk of outburst flooding, endangering the lives of over seven million people. The country requires enhanced support for monitoring glacier health, early warning systems, climate-resilient agricultural practices, and investment in alternative water solutions.

The northern regions of Pakistan are home to some of the largest glaciers outside the polar areas. Stemming from glacial changes due to climate change. The lack of information on climate change and glacial assessments makes it challenging to predict these hazards.

The size of some melting glaciers in Pakistan is substantial. Biafo Glacier, at 67 km (42 miles), feeds into the Indus River. Baltoro Glacier, at 62 km (39 miles), is the source of the Shigar River, while Batura Glacier, at 56 km (35 miles), is located in the Gojal region of Gilgit-Baltistan. Experts classify these as temperate glaciers, meaning they are essentially at the melting point, with liquid water coexisting with glacier ice. A slight temperature change can significantly impact the melting, area, and volume of these temperate glaciers.

Pakistan is one of the most vulnerable countries globally to catastrophic glacier outburst floods (GLOFs), with an estimated 800,000 people residing within 15 km (9.3 miles) of a glacier. According to the International Centre for Integrated Mountain Development (ICIMOD), glaciers in South Asia are projected to lose up to 75% of their ice by the end of the century due to global warming. Consequently, Pakistan experienced 14 glacial lake outburst floods between 2018 and 2021, a figure that surged to 75 in 2022, as per data from the UNDP.

In May 2022, a flood displaced over 1,000 families across the Hunza and Nagar districts in Gilgit-Baltistan. In Hunza alone, around 500 families were forced to leave their homes, especially in Hassanabad and nearby villages, as floodwaters destroyed homes, infrastructure, and agricultural land, leaving hundreds stranded and in urgent need of assistance. ■

Climate Justice

Leghari vs Federation of Pakistan

A lodestar in the growing tide of climate change lawsuits

—
Staff Report

Ashgar Leghari, a determined claimant, law student, and agriculturist from Rahim Yar Khan District in Pakistan's South Punjab region, faced severe water scarcity and temperature fluctuations impacting his family's 500-acre sugarcane farm due to climate change. In a bid to prompt action from relevant departments and ministries, he filed a public interest lawsuit against the Federation of Pakistan for its failure to implement the 2012 National Climate Change Policy and the Framework for Implementation of Climate change Policy (2014-2030).

Leghari argued that Pakistan, as a direct victim of climate change, required urgent adaptation measures to address the disruptive climatic patterns. He contended that the government's inaction violated his fundamental rights enshrined in the Constitution of Pakistan, specifically the right to life under Article 9 and the inviolability of human dignity under Article 14.

In two closely linked court orders, Justice Mansoor Ali Shah, then Chief Justice of

IMAGE: © THE LEGAL



Lahore High Court and now Senior Justice of the Supreme Court of Pakistan, lambasted the state's "delay and lethargy" in implementing the Framework, emphasising its adverse effects on the citizens' fundamental rights. In his first order on 4 September 2015, Justice Shah mandated the creation of a Climate Change Commission to oversee the Framework's progress. He also summoned the Joint Secretary for Climate Change, who had recently been reassigned, and required each ministry, department, and authority to appoint a Climate Change Focal Person to participate in the next hearing.

In his second order on 14 September, Justice Shah meticulously reviewed the Framework and Policy, officially establishing the Climate Change Commission and setting expectations for its operations. He retained supervisory jurisdiction to ensure the Commission's activities were diligently carried out.

The high court emphasised the vulnerable position of Pakistan in the face of climate

change, identifying it as a "defining challenge of our time." It acknowledged that Pakistan is particularly affected by "heavy floods and droughts," which undermine water and food security.

This case concentrated on adaptation measures rather than mitigation. Emily Barritts, a lecturer at King's College London, and Boitumelo Sediti, Justice Dikgang Moseneke Law Fellow, described Leghari as "undoubtedly a lodestar in the growing tide of climate change lawsuits across the globe." They noted that "(Justice Syed Mansoor) Ali Shah takes very seriously the need for effective judicial enforcement in environmental law."

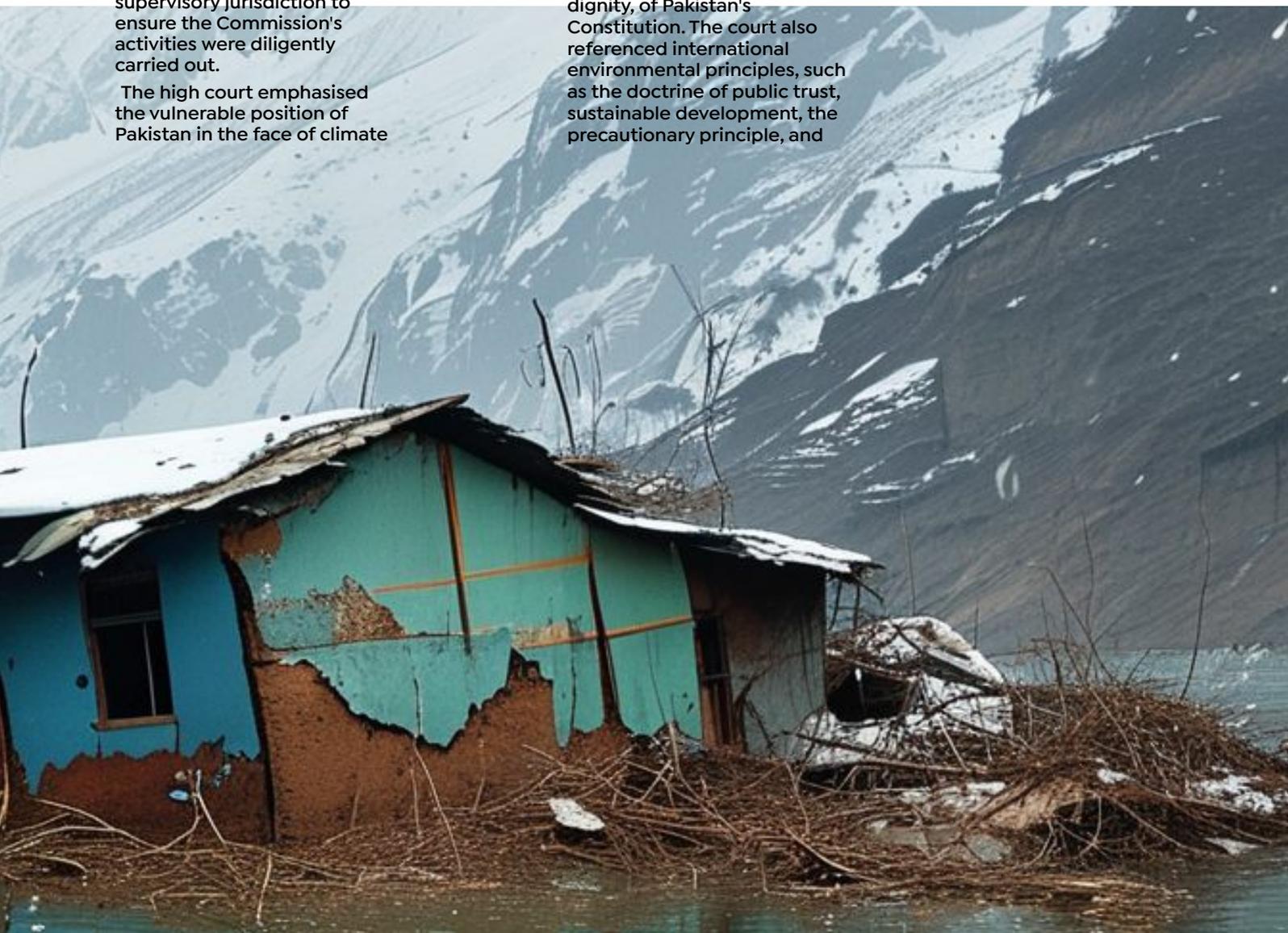
Legal experts highlighted that the court relied on the rights enshrined in Article 9, the right to life (including a right to a healthy environment), and Article 16, the right to human dignity, of Pakistan's Constitution. The court also referenced international environmental principles, such as the doctrine of public trust, sustainable development, the precautionary principle, and

intergenerational equity.

In January 2018, the high court acknowledged a report submitted by the Climate Change Committee, which revealed that 66 per cent of the priority actions from the Framework for Implementation of Climate Change Policy had been executed between September 2015 and January 2017.

It is the first time that court in Pakistan uses the concept "climate justice" in the context of calling for more governmental action to combat climate-change. The decision was widely published, analysed, and commented upon in the world.

Download the High Court's decision of [April 4, 2015](#), decision of [April 14, 2015](#), and the judgement of [January 25, 2018](#) in PDF format.



Choking on Progress

Toxic Air Pollution Endangers Future Generations

Staff Report

IMAGE: © THE LEGAL



For several months, most of the upper Pakistan was engulfed in a thick, toxic smog, prompting a de facto climate emergency, particularly in the Punjab province. Lahore, the nation's second-largest city, has been at the epicentre of this crisis, with dense, polluted clouds so prominent that they have been captured in striking satellite images by NASA.

Seasonal smog, coupled with persistent urban air pollution, remains a silent killer, wreaking havoc on public health. This critical issue has long been neglected, and many of its facets have failed to capture the attention of the authorities. However, Pakistan's superior judiciary has been instrumental in bringing environmental concerns to the forefront.

The nation's future, particularly children from birth to the age of five, is at grave risk due to unchecked and rising pollution levels. These young citizens face potential lifelong health issues, including autism and Asperger Syndrome. One specific pollutant, nitric oxide (NO), a gas emitted from burning fossil fuels in vehicles, plays a significant role in the onset of autism spectrum disorders (ASD).

Experts assert that four key components of air pollution—nitrogen oxides (including nitric oxide), particulate matter, sulphur dioxide, and ozone—are linked to autism. Particulate matter, comprised of microscopic pollutants, penetrates deep into the human body, and high exposure to all four pollutants, particularly nitric oxide, correlates with increased autism diagnoses.

Sulphur dioxide, a colourless gas or liquid, is

“Unique Idea”

In a rather perplexing turn of events, the recurring phenomenon of smog during early autumn appears to have caught the authorities off-guard once again, with only superficial measures in place to address the issue.

Justice Shahid Karim of the Lahore High Court expressed his frustration on November 12, noting, “The government has not done anything yet and I am pointing it out daily.” This observation was made during the hearing of multiple petitions aimed at mitigating the province's escalating smog crisis.

Each winter, the region is shrouded in a thick blanket of smog, a result of multiple factors including farmers burning agricultural residue, emissions from coal-fired power plants, vehicular traffic, and a lack of wind. The government's response, or lack thereof, reached a new level of absurdity when the Advocate General of Punjab (AGP) proposed an unconventional solution to the problem. He suggested that next year, marriages should be conducted in October, advising against weddings in November, December, and January to combat smog levels. This remark was made in the high court.

The United Nations Children's Fund (UNICEF) has issued a grave warning regarding the hazardous air quality in Punjab, highlighting severe risks to residents, particularly the more than 11 million children under the age of five. UNICEF's representative in Pakistan, Abdullah Fadil, stated, “As smog continues to persist in Punjab province, I am extremely concerned about the well-being of young children who are forced to breathe polluted, toxic air.”

Meanwhile, the impact of smog on public health is becoming increasingly evident, with a surge in cases of dry cough, breathing difficulties, pneumonia, and chest infections among children. Over 35,000 patients were reported in five major government hospitals in Lahore during the second week of last month.

produced from the combustion of fossil fuels or the smelting of metals like aluminium. Ozone, another colourless and odourless gas, is released from chemical plants, oil-based paints, and print shops.

A plethora of international studies unequivocally demonstrate that air pollution significantly contributes to ASD and should be considered an emerging risk factor. Vulnerability to these effects is greatest during prenatal development and early childhood, periods when the brain is still forming. This could also explain the rise in diagnoses of Asperger Syndrome, now recognised as a form of autism.

Classic symptoms of autism include difficulties in communication, sensitivity to certain stimuli, and repetitive behaviours. Experts argue that autism remains vastly underdiagnosed in Pakistan, where public awareness is almost non-existent. Even the government has no data on the prevalence of autism in school children. Given the current situation, authorities should launch a public awareness campaign and mandate autism screenings for all schoolchildren. ■



REVERSE OSMOSIS

EXOTIC DRINKING WATER

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BENEFITS OF HYGIENIC WATER

1. Strengthen Immune System
2. Strengthen Digestive System
3. Refreshes Your Taste Bud
4. Boost Skin's Health.
5. Delivers Oxygen Throughout the Body.
6. Regulates Body Temperature

NUTRITIONAL FACTS

| | |
|-----------|-------------|
| Magnesium | 7-50 ppm |
| Sodium | 7-50 ppm |
| Sulphate | 5-150 ppm |
| Calcium | 30-100 ppm |
| Potassium | 0.01-5 ppm |
| Chloride | 5-200 ppm |
| Fluoride | 0.1-0.7 ppm |
| TDS | 100-200 ppm |
| PH | 6.5-8.5 |



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Does a criminal cease to be human?

Allahabad High Court's Ruling Raises Questions on Human Dignity

IMAGE: THE LEGAL

Aleeza Ali

An Indian high court has recently dismissed a writ petition alleging 'inhuman acts' by police officers against a citizen, deeming it imprudent to accept claims of human rights violations from individuals with criminal records.

The observation underscores the 'judicial mind' of the judges while raising concerns about the Indian justice system, wherein individuals with criminal records cease to be human and lose their rights. This remarkable judgement was handed down by the Allahabad High Court, India, in response to a petition filed by Shah Faisal, a resident of Prayagraj, who sought compensation, alleging that police officials had subjected him to 'inhuman acts'.

In his petition, Faisal stated that two policemen from Partawal police station outpost in Maharajganj took him to the outpost, where a sub-inspector and a constable demanded Rs. 50,000 from him. They allegedly threatened to frame him in a criminal case if he did not comply. Faisal claimed that when he expressed his inability to pay, he was beaten in the lock-up.

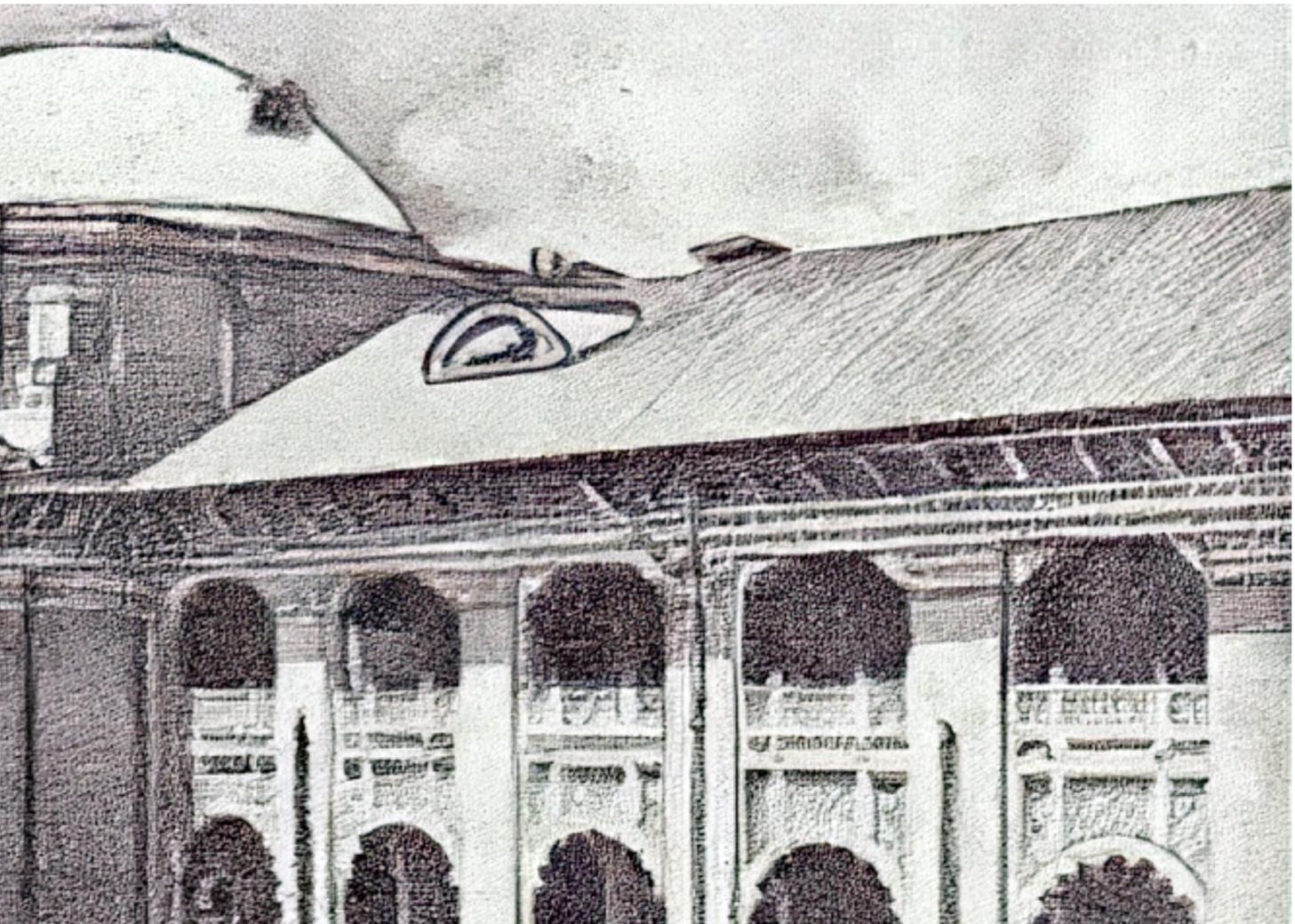
The petitioner also reported that he went to the police station the following day to file an FIR (First Information Report) against the policemen and later approached the Superintendent of Police, but no action was taken. He noted that there was an FIR against him, accusing him of beating a person with a rod, and he was called to the police station for interrogation in connection with that case.

However, the petitioner's lawyer failed to present evidence of the

alleged physical torture in court, which also maintained that there was no proof of custodial torture by the accused policemen. Although the petition could have been dismissed due to lack of evidence, the court adopted an unusual stance.

The court said: "It may not be prudent to accept the claims of human rights violation by persons having criminal records in a routine manner for awarding compensation. If this is allowed then it would lead to a wrong trend and every criminal arrested or interrogated would turn up and file a petition seeking heavy compensation against the action of police officers."

In societies such as India, Pakistan, and Bangladesh, police corruption, torture, and



inhumane treatment of individuals are alarmingly common. Incidents of police brutality and custodial torture occur daily, with officers often resorting to extreme measures to extort money from vulnerable people.

However, there are proper procedures for interrogation in civilised societies, yet in these third-world countries, it is easier for police to torture an accused person to extract confessions. The filing of false FIRs is another issue, and those who file them must be punished to discourage this practice. No one should be allowed to arrest until the police have concrete or credible evidence against them; unfortunately, people are often left at the mercy of the police.

The court misconstrued the

idea that individuals, regardless of their criminal status, demanding their rights would set a 'wrong trend'. Discouraging such individuals through these observations actually sets the wrong trend. This violates Articles 12 to 35 of the Indian Constitution, which deal with fundamental rights, including the right to equality before the law, prohibition of discrimination on various grounds, and equality of opportunity in matters of employment.

The court overlooked the petitioner's right to equality before the law and delivered a discriminatory ruling. In this situation, the high court should have shown leniency towards the petitioner instead of dehumanising persons with criminal records. Courts are the custodians of civil liberties and constitutional rights, and a citizen's rights do not cease upon committing a crime. This case, which should have been a routine matter against police brutality, highlighted the court's failure to dispense justice rationally, morally, and legally. It not only insulted a common citizen but also gave the police a license to continue their illicit acts.

The observation by the court of the so-called world's largest democracy must be challenged in the Supreme Court of India. Human rights organisations must also play their role in safeguarding human dignity. It is high time that countries in the subcontinent shun the influence of the colonial era, where people had no rights before the authorities. In the 21st century, all police rules, regulations, and acts need to be revised to adopt international best practices and standards. ■

RESEARCH

Ghulam Shabbir, a murder convict, served over 34 years, including 24 in death cell, before Supreme Court decided his criminal appeal.

**Justice delayed is justice denied:
Why is so the case
in **Pakistan?****

IMAGE: © THE LEGAL
This is an Ai generated picture, the person shown in it is not Ghulam Shabbir.

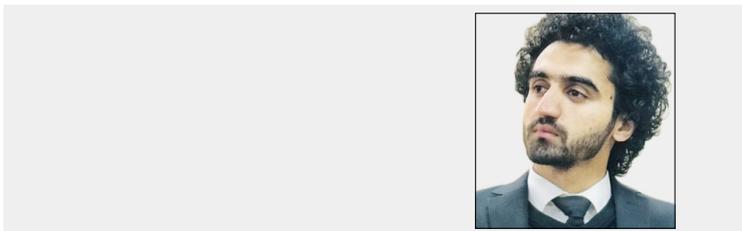
Justice system needs **legislative and structural reforms** or else continue to be plagued with delays.

“Tragic is the only word that comes to mind when an innocent accused (individual) is released after wasting decades behind bars.” These were the words of the Attorney General of Pakistan during the judicial year's opening ceremony. The Attorney General substantiated his statement with a recent judgment from the Supreme Court of Pakistan, authored by Mr Justice Jamal Khan Mandokhail. In this judgment, the death sentences of the accused were commuted to life imprisonment. This decision was made despite the fact that the accused had already been incarcerated for 10 years, exceeding a full term of life imprisonment, resulting in a total of 34 years of imprisonment without remission.

In the said judgment (*Ghulam Shabbir vs The State, Crl. RP 103 of 2017*) Justice Jamal Khan Mandokhail observed;

“Because of the fact that the courts are overburdened, it takes years and sometimes decades in conclusion of the proceedings in normal course. The delay in conclusion of judicial proceedings and execution of sentence awarded to the petitioner was on account of the system, hence, was beyond his control. Due to this hard fact, the petitioner has faced the agony of prolonged criminal proceedings, hence, is a victim of circumstances, therefore, he cannot be penalised for the act of the Court or the Executive”.

British statesman William E. Gladstone's words truly resonate for Pakistan's criminal justice system even today “Justice delayed, is Justice denied”. In the aforementioned case, justice has been delayed beyond comprehension. Not that delay happened only in this case, but also in thousands of other cases that hardly see light of the day.



by **Syed Faisal Hayat**, Advocate
ISLAMABAD

While the Constitution of the Islamic Republic of Pakistan, 1973 in article 37 (d) ensures inexpensive and expeditious justice for promotion of social justice and eradication of social evils. The history and facts of criminal justice system in Pakistan, however, say otherwise as litigants, victims and accused persons have to wait for decades for their fates.

Nodus of the delayed justice is two folded; on one hand delayed justice causes the victims and accused persons suffer, while on the other hand delay defeats criminal justice and is fatal for the prosecution's case. As the Supreme Court of Pakistan in the case of *State vs Gulzar Muhammad* observed that the delay of 15, 16 years in cases, after the submission of *challan* in trial court, cannot be explained on any hypothesis. It is a good ground for quashment of the proceedings.

The Pakistan Penal Code (PPC), 1860, contains substantive provisions of offences while the Criminal Procedure Code (CrPC), 1898, provides the procedure for dispensation of criminal justice. The PPC substantively defines criminal offences and the CrPC contains procedures for criminal dispensation of justice. The criminal justice system is primarily consisting of three major components, which are law enforcement, courts, and prisons. The legal process is the machinery designed to bring rule of law, it can be put into use to meet the ends of justice or it can be abused on contrary as well. To meet the ends of justice, it is put into use for the vindication of one's rights and is abused when diverted from its true course of action and to oppress one's rights.

This article delves into the three major components of the criminal justice system of Pakistan and identifies defects therein.

At the first step, the police (a law enforcement agency) assess whether an offence has actually taken place or not. Investigation begins the moment when police come to know about the commission of offence. Investigation is defined in the Section 4 (i) of the CrPC as "Investigation": -Investigation includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf." An investigation is also conducted to collect evidence regarding the commission of either a cognisable or non-cognisable offence.

Cognisable offence is defined in the Section 4(f) as a case in which police may arrest without warrant and non-cognisable offence is defined in Section 4(n) CrPC as a case in which police may not arrest without a warrant. The information related cognisable offence, if given orally to an officer in charge of police station, shall be reduced into writing by such officer and be read over to the informant and be signed by such person giving the information. And the substance thereof shall be entered in book to be kept by such officer, which is called first information report



“Commercial transactions and decision-making in digital and traditional economy are influenced by digital innovations.”

(FIR). Information related to non-cognisable offences is entered into a book called as “*Roznamcha*” or “Daily Diary”.

As soon as the investigation is completed, which must be completed without unnecessary delay under Section 173 of the CrPC, police have to submit such report (through the public prosecutor) to magistrate. The statutory period of submission of police report is 14 days, and if the *challan* is not submitted in 14 days, then within three days the officer in-charge of the police station shall submit an interim report on the basis of which the court shall commence the trial. However, delay in the submission of Report of Police Officer under section 173 of the CrPC often turns out to be the reason of delayed justice, and when justice is delayed it amounts to justice being denied. The same was observed by the Supreme Court in *Adnan Prince vs The State through PG Punjab*, PLD 2017 Supreme Court 147 in these words:

“This conduct and attitude as well as performance of investigating, prosecution and detective agencies are absolutely un-acceptable and un-condonable because on the one hand, the law is disregarded while on the other hand, with the passage of time and long delay in the submission of *challans*, trial in each case is delayed and some of the witnesses including star witness either vanish being killed by the opponents, meet natural death or abandon their permanent abode/place of official duties due to transfer to another place or district making it a cumbersome job for the trial court to procure their attendance. This is one of the major contributory factors in the backlog, crisis/pendency of criminal cases. Such type of un-condonable delay in many cases becomes a cause of frustration both for the accused, the aggrieved complainant party and in some cases; the aggrieved party ordinarily takes the law into hands indulging in revengeful act.”

Delay in submission of the police report on one hand makes the accused suffer through mental agony and fall victim to the circumstances, while on the other hand such delay results in vitiating of the proceedings. As was held in the *Mutaz ul Haq vs The state*, 2023 YLR 2144; “It can safely be held that the delay of about eight (8) years in submission of *challan* is sufficient to vitiate the entire proceedings.”

Such delay in submission of police report not only results in vitiating of the proceedings, but also vitiates the “right to fair trial and due process” as enshrined in the constitution. Article 10-A of the constitution says: “For the determination of his civil rights and obligations or in any criminal charge against him, a person shall be entitled to a fair trial and due process.” It was observed by the Supreme Court in similar words in *Amjid Khan v. The State*, 2021

SCMR 1458: “We are constrained to observe that this unjustifiable delay in the submission of investigation reports (*challans*) also vitiates the Fundamental Rights of ‘fair trial and due process’ which the Constitution of the Islamic Republic of Pakistan guarantees in its Article 10A.”

Late submission of police report is one of the reasons for delay in criminal dispensation of justice; despite the fact the speedy justice is an important component of fair trial. Late submission of police report is also in contravention of Article 10 of the Universal Declaration of Human Rights to which Pakistan became signatory in 1948. This Article says that “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”.

Second component which makes the criminal justice system in Pakistan is courts. A court is the place where litigants, victims and persons

Petitioners face the agony of prolonged criminal proceedings.

The PPC substantively defines criminal offences.

accused for criminal offences knock its doors with the belief that justice will be served and injustice done to someone will be compensated and those who wronged others would be punished for such wrongs.

The courts are known as custodians and upholder of citizens' freedom, liberty and rights. Nevertheless, courts in Pakistan often contribute a great fraction of responsibility in delayed justice. A trial commences in the first instance court which is of the magistrate. After the judgment, decisions are appealed in the sessions or additional sessions court. The high court of the province serves as the appellate forum. The case ends at the Supreme Court.

It takes years and even decades in some cases for a case to go through all this hierarchy. The dilemma here is that the delayed justice puts a lot of burden on the state exchequer, and also the persons involved in criminal litigation suffer irreparable loss. Sindh High Court had observed in *Mutaz ul Haq vs The state*, 2023 YLR 2144 that:

“Many years back, the State/Government with the object to put the criminal justice system into the correct channels, bifurcated the police force to preventive/detective, investigation and prosecution wings. The establishment of the same cost dearly the public exchequer because extraordinary budget was allocated for this purpose by all the Governments of the Provinces including Federal Government, however, such costly exercise could not improve the system because supervising officers of these three wings of the police are taking least interest to streamline the working of each wing, in an efficient and effective manner and to comply with the mandatory provisions of law. Thus, even today charge sheets and submission of the *challans*

before the competent courts in criminal cases are delayed beyond the mandatory statutory period for no reason much less plausible. Even interim *challans* as required under the law are not submitted within the statutory period. This conduct and attitude as well as performance of investigating, prosecution and detective agencies are absolutely un-acceptable and un-condonable because on the one hand, the law is disregarded while on the other hand, with the passage of time and long delay in the submission of *challans*, trial in each case is delayed and some of the witnesses including star witness either vanish being killed by the opponents, meet natural death or abandon their permanent abode/place of official duties due to transfer to another place or district making it a cumbersome job for the trial court to procure their attendance.”

Such delays are one of the reasons for huge backlog of the cases in Pakistan. These delays contribute to the burden on courts, at the end such delays are fatal for the merits of the case and often results in the acquittal of offenders. It was observed in *Mrs Nasima Yousuf V. Tehseen Abass Gilgiti*, PLD 2020 Sindh 68 that “Court cannot, legally and morally, take excuse of 'rush of work'. Not a single decision of a court of law should reflect that it was not a 'decision' but an attempt to earn 'numbers/units' or to lessen the number of cases entrusted to it for disposal 'according to law', Thin line between two known legal maxims i.e. 'justice delayed is justice denied' and 'justice hurried is justice buried' must always be appreciated by every single court.”

Delays in conclusion of criminal trials leave the litigants at the mercy of an outdated criminal justice system. Yet it is the duty of the courts and judges to make sure that justice is served and not denied for the reason of unnecessary and unjustified delay. The Supreme Court of Pakistan said (in *Mehboob Hassan vs Akhtar Islam*, 2024 SCMR 757) that “Another issue which is being faced by the litigants is the inordinate and unreasonable delay in conclusion of criminal trials and appeals/petitions, without any substantial progress, which is a crucial challenge to the Administration of Criminal Justice System in our country. Such delay is antithetic to the foundational principles of liberty, fair trial and due process. Under such circumstances, it is the primary duty of the investigating agencies and every judge of the country to take into account such fundamental rights of persons, whose cases are brought before them by strict adherence to law.”

Delay also causes the victims and person accused of criminal offences suffer from immense mental distress and uncertainty. This brings us to the last component of the criminal justice system which is prisons and probation. In most of the cases the convicts remain incarcerated for years or even in some cases convicts are put in solitary confinement while their final appeals are yet to be fixed and decided by the apex courts. While deciding a case (*Ghulam Shabbir vs The State*, Crl. RP 103 of 2017) Lahore High Court observed:

“There is nothing on record to show that the petitioner contributed towards the delay in decision of his main appeal. Under the circumstances, if the sentence awarded to the petitioner is not suspended then there is likelihood that he may serve out his entire sentence before the decision of main case on merits. It will amount to awarding the petitioner punishment in advance.”

Delays in resolving main appeals before the Supreme Court or high courts are not due to the convicts. In most cases, convicts are already serving their sentences in prison while their appeals remain pending. Tragically, many convicts complete their life sentences before their appeals are even heard or decided.

As has happened in the case *Ghulam Shabbir vs the State*, in which the petitioner was sentenced to death but before his case and criminal appeal were decided by the Supreme Court the convict had served out more than 34 years sentence, out of which he was in death cell for 24 years.

Given these reasons, it's unsurprising that Pakistan ranked 130th out of 142 countries in the World Justice Project's rule of law index and 99th out of 142 in the Criminal Justice Index. Serious measures are needed to fulfil the purpose of Article 37(d) of the constitution. Without legislative and structural reforms, delayed justice will continue to plague the system. ■

Adjournments

A Barrier to Justice



by **Muhammad Bakhsh Meskanzai**, Advocate
QUETTA

Delay is considered a significant impediment in Pakistan's judicial system, frustrating litigants and straining an already overburdened the courts. This pervasive issue, aggravated by the unchecked practice of seeking adjournments which strikes at the heart of people's right to speedy justice.

For millions of people entangled in legal disputes, delays prolong emotional, social, and financial suffering, leaving families and businesses in legal limbo or abeyance for years. The Supreme Court of Pakistan has also highlighted this chronic problem in PLD 2024 SC 887 and 2020 SCMR 300, exposing the far-reaching and detrimental impact adjournments have on both individuals and society as a whole.

As of 31 December 2023, Pakistan's judiciary was grappling with a staggering 2.26 million cases, with 82% of them (approximately 1.86 million cases) pending adjudication in the district judiciary alone. Despite this overwhelming backlog, the culture of frequent adjournments persists unrestrained. Each adjournment serves to delayed justice, compounding public distrust and dissatisfaction with the legal system.

Besides, the law is unequivocal; adjournments cannot be demanded as a matter of right. Under Order XVII, Rule 1 of the Civil Procedure Code (CPC) 1908, courts are empowered to grant adjournments only when "sufficient cause is evident." This legal provision underscores the seriousness with which adjournments must be treated, mandating that any request for adjournment must be submitted in writing and supported by valid evidence—whether medical certificates, unavoidable personal circumstances, or other legitimate grounds. This procedural safeguard is designed to prevent abuse of the system and protect the interests of all parties involved in a case.

It is, however, not merely the existence of these rules that matters but the way they are enforced. The judiciary must exercise its discretion judiciously. The Supreme Court emphasised the need



IMAGE: © THE LEGAL



for courts to assess each adjournment request carefully and, when granted, impose costs on the requesting party. Imposing costs serves a critical dual purpose; it discourages frivolous adjournments and compensates the opposing party for any inconvenience or financial burden caused by the delay. Moreover, it acts as a deterrent to those seeking to misuse the court's precious time and resources.

Nonetheless, undue adjournments impose both tangible and intangible costs on litigants and the court system. For the litigants, the financial toll is particularly harsh. Each delay means additional travel costs, lost daily wages, and mounting legal fees. This burden is especially acute for marginalised communities and economically disadvantaged individuals who can ill afford repeated court visits. In addition, the cost to the state is considerable. The judiciary incurs operational expenses, including the salaries of judges, clerks, and staff, and the maintenance of courtrooms—costs that go to waste when sessions are adjourned on illogical or insubstantial grounds.

The most pernicious cost is psychological. For litigants, delays generate a sense of uncertainty, eroding trust in the justice system. The emotional toll of unresolved legal disputes can be immense, with families enduring prolonged stress, businesses incurring financial setbacks, and individuals left in a state of uncertainty. Adjournments do not just prolong cases; they deepen frustrations, often leading to a perception that the courts are complicit in the delays, further disillusioning those who seek justice.

When a court denies an adjournment, Order XVII, Rule 3 of the CPC grants it the authority to proceed with the case. This provision is vital to ensuring that cases are not indefinitely stalled by one party's failure to act. If a party fails to produce evidence or fulfil any other obligation necessary for the progress of the case, the court can—and should—make a decision based on the available facts. This rule prevents parties from exploiting adjournments as a tool for delay and ensures that the judicial process continues unimpeded.

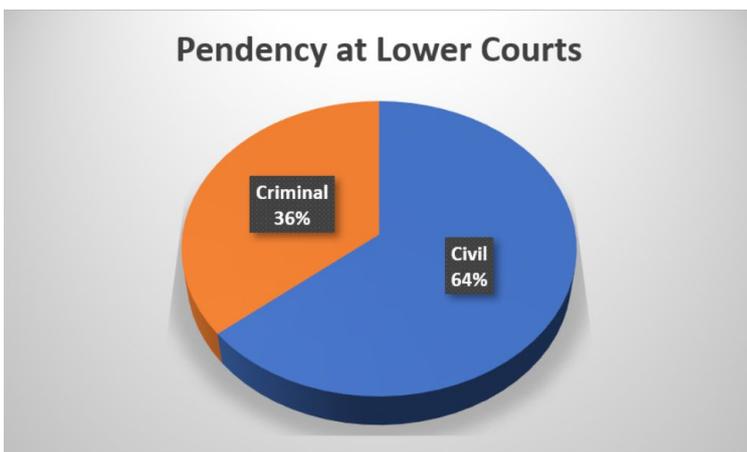
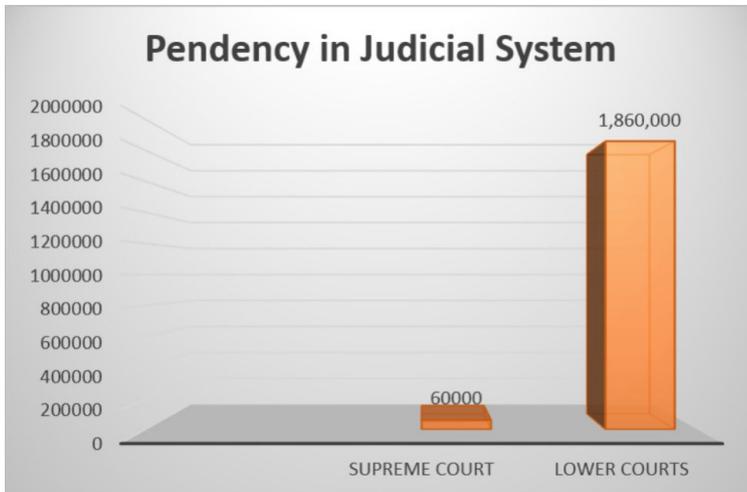
Courts must strictly enforce existing rules and ensure that adjournments are granted only when necessary, with clear reasons recorded for each decision. They should make it routine to impose costs for undue and unnecessary adjournments and hold parties accountable for delays. By doing so, the judiciary will discourage frivolous requests and encourage all parties to approach their cases with the seriousness they deserve.

The use of technology in court management, including e-filings and remote hearings, can help reduce delays caused by logistical or geographical challenges, streamlining the entire judicial process. Litigants deserve to have their cases resolved promptly, without the frustration and suffering that adjournments cause. A legal system that allows unneeded adjournments not only fails to serve justice but actively harms those it is meant to protect. The time for reforms is now. ■



Case Pendency at Courts

Staff Report



Chief Justice of Pakistan (CJP) Yahya Afridi has initiated a comprehensive plan to address the backlog of thousands of cases pending before the Supreme Court. He has established several committees and commissioned a diagnostic study to devise a strategy for clearing approximately 60,000 cases.

The CJP has implemented the Case Management Plan 2023, crafted by Senior Puisne Judge Justice Syed Mansoor Ali Shah. The court will conduct monthly reviews of the cases, following the resolution of its first full court session on 28 October. The next meeting is scheduled for 2 December 2024.

However, the situation at the lower courts is alarming, with media reports indicating that 1.86 million cases are awaiting decisions, representing 82 per cent of the total case backlog in the judicial system. A report from February this year highlighted that civil cases constitute 64 per cent of the pending cases in the district judiciary, with the remaining 36 per cent comprising criminal cases.

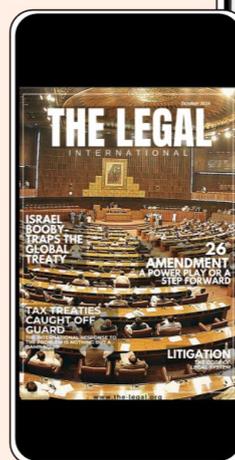
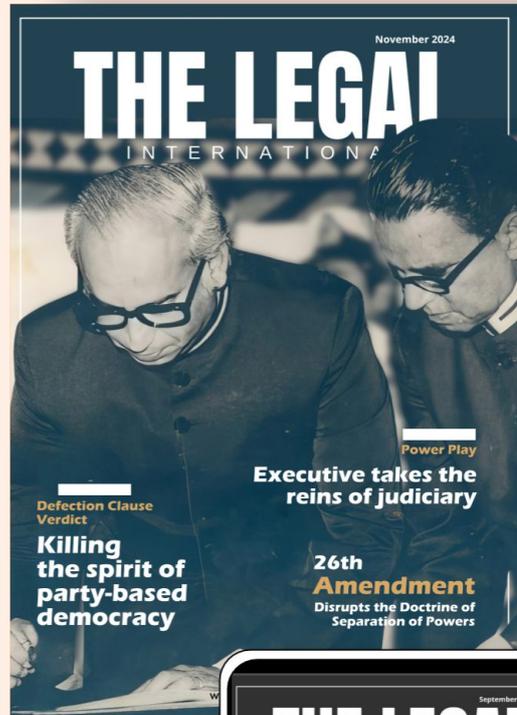
The government has introduced a series of constitutional and legal reforms, ostensibly to alleviate the plight of ordinary citizens. Critics, however, argue that these measures merely consolidate the government's power and undermine judicial independence. ■

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License to Practice

The Trials of Law Graduates

The author delves into the hurdles encountered by both domestic and international law graduates in securing their practising licences. Highlighting the pressing necessity for reforms within the legal education framework, particularly the Bar Vocational Course (BVC), the piece also addresses the ongoing discourse concerning the SEE-Law examination.



by **Habib Hanzalah**, Advocate
ISLAMABAD

Securing a practising licence for law graduates – a crucial milestone in their legal careers – is fraught with delays and systemic issues. The process needs reforms, particularly at Islamabad Bar Council (IBC) is in dire need of reform to alleviate the early challenges faced by both local and foreign graduates.

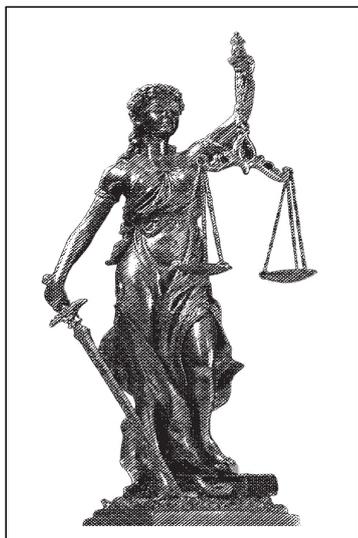
A large number of budding lawyers have been reportedly struggling in navigating the licensing process at the IBC and resorting to applying for licenses from other provincial bar councils, especially the Punjab Bar Council, due to its quicker processing time and clearer guidelines. According to recent data, approximately 30% of Islamabad-based law graduates have opted to apply for licenses from Punjab Bar Council in the last five years.

At the IBC, the process also varies significantly for local and foreign law graduates. Applicants in both the categories follow a series of steps, but the road is often longer and more complex for foreign graduates.

Local law graduates, having completed their LLB degrees from universities recognised by the Higher Education Commission (HEC) and the Pakistan Bar Council (PBC), must pass the Law Graduate Assessment Test (Law-GAT). This test assesses their understanding of core legal subjects and determines their eligibility to apply for a practicing license.

A panel of senior lawyers and members of the Bar Council then interviews graduates. Upon successful completion of the interview, they receive a provisional license and must complete a six-month apprenticeship (pupillage) under a senior lawyer before receiving their final practicing license.

For foreign law graduates, the process is even more time-consuming. They must first have their degrees verified by the HEC and the PBC to ensure their institutions meet local



educational standards, a process that can take several months. Once verified, they too must pass the Law-GAT, which is challenging due to the syllabus being based on Pakistan's legal system, often unfamiliar to foreign graduates.

Foreign graduates face additional scrutiny during interviews, as they are expected to demonstrate a solid understanding of both international and local legal practices. Delays in degree recognition and the requirement to pass the SEE-Law examination, an exam created solely for foreign law graduates, have further prolonged their entry into the legal profession.

The introduction of the SEE-Law exam for foreign graduates has been widely criticised for adding unnecessary barriers. Foreign graduates, especially those from programs like the University of London's LLB, already struggle with unfamiliar local laws. The additional SEE-Law exam has become a roadblock, causing significant delays in obtaining a practicing license. Many foreign graduates feel they are unfairly singled out compared to their locally educated counterparts.

In response, the Pakistan Bar Council has recently applied to the Supreme Court, seeking the removal of the SEE-Law exam. This move aims to streamline the licensing process for foreign graduates, ensuring they are not disadvantaged by an exam tailored specifically to their educational background. This

issue is now on the table for the newly appointed Chief Justice of Pakistan, who will face the challenge of addressing this growing concern and ensuring a fair process for future lawyers.

Securing apprenticeships with senior lawyers is also a substantial hurdle for both local and foreign graduates. The process is often influenced by personal connections, leaving those without a strong legal network at a disadvantage. Foreign graduates, in particular, find it difficult to establish these connections, often leading to extended delays in completing their apprenticeship.

Moreover, law graduates face financial burdens, with high application fees, the cost of the Law-GAT, and the SEE-Law exam, coupled with the low income earned during the apprenticeship period. This financial strain has contributed to a high attrition rate, with many graduates abandoning the profession altogether.

The broader legal education system in Pakistan is also in dire need of reform. One of the key areas under focus is the Bar Vocational Course (BVC), a vital step for new lawyers to acquire the necessary practical skills for their legal careers. The lack of consistency across provincial bar councils regarding the BVC curriculum has further exacerbated the issues faced by law graduates. The need for a standardized BVC program that can be uniformly adopted nationwide has been emphasised by the legal fraternity, particularly through the Supreme Court case of *Malik Aneeq Ali Khatana vs. Khalid Javed and Others*, which called for comprehensive changes to the BVC system. After which the Law Ministry has disbursed a sum of Rs. 20 million to Punjab Bar Council, Rs. 10 million for Sindh Bar Council, Rs. 10 million to the KPK (Khyber Pakhtunkhwa) Bar Council, and Rs. 5 million to Baluchistan and Islamabad Bar Councils for adequate arrangements for the BVC.

Foreign law graduates face additional complexity when dealing with the Inter Board Committee of Chairmen (IBCC) to verify their British O and A-level results. The IBCC's slow processing times and strict documentation requirements often delay the equivalence certification necessary for further academic or professional pursuits in Pakistan. For foreign graduates, especially those not residing in Pakistan, the verification process can take months, hindering their ability to proceed with the Law-GAT and other licensing requirements swiftly. These bureaucratic hurdles have exacerbated the frustrations of foreign graduates, adding yet another roadblock to their legal careers in Pakistan.

In the digital age, the legal profession must adapt to technological advancements. The introduction of e-learning platforms for the BVC would make legal training accessible to a broader audience, mitigating delays caused by limited physical venues. Additionally, conducting the Law-GAT, SEE-Law, and BVC exams in both Urdu and English would promote inclusivity, aligning with Article 251 of the Constitution of Pakistan, which promotes the use of Urdu as the national language.

The challenges faced by law graduates, particularly in the context of the SEE-Law examination, are set to become a critical issue for Chief Justice Yahya Afridi. His tenure will coincide with growing calls for reform in legal education and the licensing process, particularly the removal of barriers that disproportionately affect foreign graduates. Addressing these issues will not only benefit upcoming lawyers but will also ensure the strength and fairness of Pakistan's legal infrastructure in the years to come.

The challenges in obtaining a practicing license from the Islamabad Bar Council reflect larger systemic inefficiencies within Pakistan's legal education and licensing frameworks. Whether due to delays, financial burdens, or unfamiliar legal frameworks, graduates find themselves disillusioned and frustrated. With growing pressure on the Pakistan Bar Council and the judiciary to reform the licensing process and legal education, especially in relation to the SEE-Law exam, significant changes are necessary to support the next generation of lawyers. The legal community, particularly the Islamabad Bar Council, must step up to address these issues or risk further alienating bright legal minds who may seek opportunities elsewhere. ■

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