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Press Release

The 8th Judicial Conference was held at Islamabad on 4th and 5th May 2018. The Inaugural & Concluding sessions of the Conference were presided over by the Hon'ble Chief Justice of Pakistan/Chairman, Law and Justice Commission of Pakistan. National and International Researches, Members of Academia, Judges, Lawyers and Professional experts deliberated upon the thematic groups of the conference which were chaired by the Hon'ble Judges of the Supreme Court of Pakistan.

The recommendations of thematic groups were presented by the Chairperson of each thematic group in the concluding session and the same were approved by the house as the *Islamabad Declaration 2018*. Consolidated recommendations of the *Islamabad Declaration 2018* are as follows:

Group I: Regional, Economic Integration and Effective Dispute Resolution Mechanism in the Context of China Pakistan Economic Corridor (CPEC)

1. Introduction of Multimodal Transport Law and Infrastructure in the region to increase the significance of Pakistan's position as a Transit State in the trade between Central Asian Republics. Specifically, the modernization of the law on Carriage of Goods by Sea.
2. Creation of a Multilateral Investment Guarantee Agency at a regional level akin to the one established under World Bank (MIGA).
3. Establishment of a Multi-tier Regional Arbitration Centre to resolve any disputes that may arise. First tier can be the appointment of Dispute Resolution Advisors, as a method to avoid disputes, second tier could be; constituting a dispute review board and the third tier would involve appointment of a dispute adjudication board. Such a mechanism should exist at a district and provincial level to make dispute resolution accessible.
4. Amendment of Article 8 of the *Agreement between Government of Peoples Republic of China and Government of Islamic Republic of Pakistan for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Tax on Income*, to make the distribution of tax revenues between both countries more equitable and to explicitly allocate the fiscal rights of both signatories to the agreement.
5. Higher Environmental Standards to be applied to all CPEC projects which based on a harmonized set of policies agreed between the two countries. There should also be cooperation and exchange of skills between all provincial environmental protection agencies.
6. The Ministry of Planning, Development & Reforms should make their documents and agreements, made under CPEC, more accessible to the public at large.

Group II: Alternative Dispute Resolution Methodologies and Deterring Factors

1. ADR is admittedly a more effective and efficacious mode of dispute resolution as compared to regular litigation. In several countries. It has effectively been implemented through different models.
2. It is the need of the hour in Pakistan. Directly transplanting a foreign model may not be advisable. Indigenization is the key to cater for Pakistani conditions in the following manner:
 - A. *Commercial disputes especially involving local or foreign investment:*
Time honored international models can be easily adopted and adapted but with emphasis on mediation rather than arbitration which may then be translated into

court decrees through appropriate proceedings and legislation if necessary. In this regard special emphasis needs to be placed on international co-operation and human resource development in Pakistan.

- B. In pending litigation effective selection of disputes amenable to mediation and ADR is necessary. Judges need to be specially trained for this purpose because court annexed mediation has been found to be the most effective way
- C. Vast expanse of people, for socio-economic reasons, have no access to courts at all for redressal of their grievances and protection of their rights. We tend to forget these faceless voiceless, teeming millions. Access to justice needs to be facilitated through an alternative to our existing court system at the grass root level under the cover of law.

Group III: Strategy for Delay Reduction and Expeditious Disposal of Backlog of Cases

1. Reducing Adjudication Tiers: Instead of having a 4 tier system, a 3 tier system should be introduced, having trial, appeal and constitutional stages, where purely legal issues would be adjudicated. Questions of facts will be finalized at the 2nd tier.
2. An effective ADR mechanism be instituted: ADR should be made a compulsory part of the dispute resolution process and should be enforced through effective legislation and encouraged by the courts. It is also important for the parties to follow Pre-Action Protocols/Pre-trial procedures, by meeting beforehand in an attempt to settle their issues, before bringing their case to the court. As a whole there is a need for an effective ADR program to reduce the burden of litigation from courts.
3. Adjournments on Frivolous Grounds to be curbed: Unnecessary adjournments sought by counsel should be discouraged. Adjournments should only be allowed in exceptional circumstances. There is, furthermore, a dire need for reduction of strikes in the courts. It is of utmost importance that the communication between the Bar Councils and Bar Associations is enhanced so that neither unnecessary adjournments are sought nor granted by the courts.
4. Case-flow Management System: It is recommended that a Case Management System be introduced in order to keep track of cases that as a consequence will help in reducing backlog by speedy disposition of cases.
5. Use of Information Technology and Forensic Sciences: It is imperative that the use of information technology is implemented in different aspects of our justice system, in areas such as registration of electronic FIR, electronic record of case documents, case scheduling and judgments.
6. Strictly following Statutory provisions that curb delays and discourage unnecessary applications: Judges must actively avail the powers granted to them under various laws to curb delays. For example, the maximum duration of stay orders, or the submission of documents within a given time period, must be strictly followed. Frivolous applications and appeals should be disposed at the earliest opportunity and strongly discouraged.
7. Training of Lawyers and Judges: Participants emphasized on the need of training for lawyers and Judges. In order to achieve this, training programs for lawyers and judges should be commenced, and the role of judicial academies needs to be strengthened.
8. Increased number of judges and Courts: It is also recommended that the number of courts and judicial staff should be increased in order for speedy disposition of cases.
9. Increased cooperation between Bar and Bench: It is emphasized that both the Bar and the Bench must work together in order to curb delays.

GROUP IV: Legal Education and Uniform Selection Criteria for Judicial Officers in Pakistan

Legal Education:

1. Need for greater scrutiny and governance by law schools based on international standards. The criteria for admission of students and recruitment of teachers should be stringent and meritorious and should be clearly defined.
2. Need for a centralized entrance examination that is uniform for all provinces. Should it be equivalent to the CSS examination?

3. Need for a system that would enable a mechanism to determine which universities are regulated and which are unregulated and consequently, what do with unregulated universities?
4. Legal education should also encompass several exercises such as mock trials so that students possess the requisite communicational and advocacy skills. It should also include opinion writing and drafting lessons so that students can develop important critical analysis skills.
5. Need for an interdisciplinary and multidisciplinary approach towards legal education – apart from the standard and major law subjects, students should also be taught alternative dispute resolution, clinical education, case study as a method of teaching and other non-legal subjects. Alternative dispute resolution, in particular, should be taught in detail, as to encompass the various branches that stem from it.

Uniform Selection Criteria:

1. The profession of a judicial officer is an ever-evolving one in terms of learning. Whether renewal of licenses should be made on this basis?
2. There is need to upgrade the standard equivalent and set a uniform standard selection criteria which currently varies from province to province. Whether there needs to be a centralized system of examination across all provinces that also promotes equality, transparency and meritocracy.
3. How many years of practice are relevant for induction? Whether lateral entry into the judicial system should be allowed? Or is there a need to restrict ourselves to initial induction?
4. Analytical grading system: Alongside standard eligibility requirements, it is also very important to have a uniform interpretation of qualities whilst selecting judicial officers as is done in other jurisdictions in the world. These include: appropriate knowledge of the relevant law and its underlying principles, integrity and independence of mind, impartiality, decisiveness, motivation, sound judgment and temperament, ability to quickly absorb and analyse information and work under pressure, ability to communicate orally and in writing in clear standard English, ability to ensure fair court proceedings, ability to work constructively with colleagues and treat everyone with respect and sensitivity as well as the willingness to learn and develop professionally.
5. There was a thought that there should be a federal judicial bureau that offers career planning and Federal Judicial Academy should be improved in a manner that it serves as a centre of excellency.

Group V: Relationship of Political and Economic Stability with Revamping of Criminal Justice System

Political and Economic Stability:

1. Political instability undermines economic stability and therefore should be avoided.
2. An unstable political environment reduces investment and the pace of economic development.
3. Broad based political consensus should develop the economic agenda to foster investment and economic growth.

Nexus between an Efficient Criminal Justice System and the Economy:

4. The Criminal Justice system should operate to engender confidence in those investing in the economy and safeguarding their persons and property.

Record Keeping, Investigation and Prosecution:

5. Photographic and biometric record both, of under trial and convicted offenders be maintained in provincial and central databases.
6. The above mentioned provincial and central databases should be so maintained, that they can interact with NADRA record to help trace criminals and determine their identities
7. Law enforcement and prosecution agencies should be trained to gather evidence scientifically and without contaminating crime scenes and latest DNA, fingerprints and forensics techniques should be employed to solve crimes, applying forensic protocols diligently for the successful prosecution of criminals.
8. Enforced disappearances and what are specialized as extrajudicial killings are crimes and those responsible for the commission of such acts must be prosecuted as criminals.

9. Prosecution should ensure that sufficient evidence has been collected that will be of assistance in convicting the accused.
10. All crime scenes should be professionally secured, forensically examined, and extensively photographed as soon as possible.
11. If the investigation officers do not properly collect evidence and investigate crimes, their failure / negligence should be recorded in their personal file and disciplinary action may also be initiated against such officers.
12. Police should be specialized, held accountable; should have operational autonomy, functional specialization—in investigation, to better serve the community.

Criminal Trials:

13. Priority should be given by courts to criminal trials and when a trial commences, the must proceed without being adjourned. As a major cause of adjournments is the non-production of the accused, there must be sufficient vehicles available for transporting them to court.
14. In terrorist cases where witnesses may be vulnerable, mechanisms be developed to ensure recording of evidence promptly and concealment of the identity of witnesses, if necessary. Testimony of such witnesses may also be recorded electronically from a location where the witness feels secure.

Combating Extremism:

15. Anti-Terrorism Act should be enforced, terrorists and terrorist organizations must be proscribed without delay and they must not be permitted to hold meetings or propagate their views, must not be allowed to contest elections and those claiming to be members of proscribed organizations be prosecuted in accordance with Anti-Terrorism Act.
16. To counter extremist ideology a counter terrorism narrative must be developed and disseminated. Those under trial for terrorist acts or convicted for them must be weaned away from the extremist ideology espoused by them.
17. If the media broadcasts and propagates the views of terrorist, then those doing so must be prosecuted in accordance with the law.

Terrorism:

18. Standard operating procedures should be developed with the help of experts as to how law enforcement agencies should act/react after a terrorist attack.

Jails and Specialized Detention and Rehabilitation:

19. The law (Juvenile Justice System Act 2018) with regard to the detention of juveniles and their rehabilitation be implemented.
20. Hardened and desperate criminals should not be kept with first time offenders.
21. The Probation of Offenders Ordinance, 1960, which is applicable to offenders convicted and sentenced to less than three years imprisonment, should be applied for rehabilitation purposes and keeping prison population low. Avenues should also be explored for supervised community services.
22. The Control of Narcotic Substances Act 1997 mandates the establishment of rehabilitation centres and these be established to properly treat addicts and rehabilitate them.

Aerial Firing:

23. Specific law should be enacted prohibiting aerial firing, as the bullets fired in the air upon return to earth can cause fatalities and serious injuries.

Crime Statistics and Research:

24. Crime statistics with genre of the type of crime committed be maintained including convictions and acquittals to better develop future methodologies.
25. Universities and academia should be encouraged to conduct research in respect of different aspects of the criminal justice system as such research would help highlight shortcomings and is an invaluable tool for reform.

This press release can also be downloaded from the website of Law & Justice Commission of Pakistan (www.ljcp.gov.pk).

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