

HONOURABLE CHIEF JUSTICE OF PAKISTAN - SPEECH

"Transforming the Criminal Justice System"

Honourable Judges of the Supreme Court of Pakistan

Honourable Chief Justices and Judges of Azad & Jammu Kashmir, Gilgit Baltistan and Federal Shariat Court

Honourable Judges of the respective High Courts

Attorney General for Pakistan

Heads of justice sector organisations and departments

Lord MacDonald of River Glaven

Learned speakers

Distinguished guests

Ladies and Gentlemen:

Aslam-u-alaikum.

- 1. I must express my deep appreciation to all the learned speakers, judges of the Supreme Court of Pakistan, chief justices of the respective High Courts and heads of the provincial justice sector organisations and departments for your participation, in this first national conference of the provincial justice committees.
- 2. For the last many years, we have been passing through extraordinarily difficult times marked by terrorism, violence and corruption that continue to challenge the criminal justice system. According to reports on the recent Gulshan-i-Iqbal suicide bombing incident, over 72 innocent citizens lost their lives and at least 300 were injured with many more directly affected such as family members. Legislature, in its wisdom, has taken steps, but we, as the justice sector, also need to address this scenario to our best efforts in our respective areas of competence and available resources.
- 3. Whilst we are bound to ensure just outcomes, I have no doubt that the low conviction rate is a matter of concern for us all. It reflects on us both as individual organizations and collectively, as interdependent multi-organisational justice sector. And rightly so; since no one organization acting on its own can significantly change the conviction rate, as it requires a collective sector-wide coordinated and concerted effort from all parts of the justice sector.

- 4. Beyond our everyday functions, it must concern us that this apparent "inability" to provide justice to the aggrieved, adversely affects public confidence in the formal justice system, encouraging citizens to seek justice by whatever means possible, thereby undermining the formal rule of law. We need to therefore come together to learn from each other, deliberate on what we can do and move together to improve the quality of our justice services.
- 5. This Conference thus deals with some of the more difficult questions that we must address to ensure a fair and effective criminal justice system. It requires us to critically, honestly, openly and constructively reflect on our performance.
- 6. The provincial justice committees are key to this effort. By bringing together the provincial heads of the criminal justice system, the provincial justice committees fill a critical institutional gap in terms of Justice sector level operations, coordination, policy, planning, monitoring and reforms. The provincial justice committees can reach out to the district level through their local service delivery units such as the local police stations and courts; and also as members of the district criminal justice coordination committees whose performance and recommendations can now be reviewed directly by a provincial counterpart. The provincial justice committees are thus well placed to examine the quality of service delivery based on officials and citizens' feedback.
- 7. Dr. Andrew Rathmell has set out the emerging criminal justice challenges in a megacity context, a discussion that is presently and directly relevant to Karachi, Lahore and Faisalabad. He has explained how technology and globalization are challenging criminal justice capacities in terms of intelligence, investigation and evidence collection. Given our rate of urbanization, which is the highest in the region, we can expect such crime patterns in other cities that are nearing megacity status.
- 8. But the complexity does not stop at megacities. We also have tribal societies, settled and rural urban areas which have their own diverse crime profiles which may be affected by megacity crime and criminality. These profiles and trends need to be studied to ascertain the nature of the emerging challenges and capacity needs to effectively address them. One such effort was the annual policing plans introduced under the Police Order 2002 that tried to move towards a more proactive, studied and informed policing based on inclusive policing plans for each district, which unfortunately did not take off. We need to strengthen our analytical and planning capacities, test our reforms in these diverse contexts and then replicate successful interventions. This is a methodology that our information technology experts are implementing to test their solutions and then scale them up to the provincial level. We, as law officials, can also learn from these approaches.

- 9. Dr. Rathmell has also pointed out the need to strengthen our information and datasets to capture the nature and magnitude of crime, and the effectiveness and fairness of our service delivery response. It is encouraging that Police departments have begun gathering actionable intelligence and information in its effort to combat crime. The critical value of information is being highlighted. To this end, the Law & Justice Commission of Pakistan was specifically mandated by the Commission in its 39th meeting on 17 August 2015 to improve the quality of its information datasets in relation to justice needs and service delivery, and will therefore be seeking your support and cooperation for gathering information. We also need to develop our analytic, evaluation and research capacities so that can effectively track needs and analyse our performance in accordance with local service delivery plans.
- 10. Dr. Faisal Bari has drawn our attention to the fairness of laws and legal frameworks in the context of Fundamental Rights, and more particularly, the need to strengthen the quality of organisations to improve implementation and enforcement. As law officers, we tend to focus on the quality of laws, which is very much a professional bias, but there is no doubt that the greater challenge is weak implementation. For this purpose, we need to focus on the quality of our institutions. We need to reduce organisational mal-administration and inefficiencies, and eliminate corruption and criminality from our ranks, which is undermining Constitutional values, our rule of law and service delivery. We need to take deliberate and concrete steps to modernize our organizations by, for example, utilizing information technology, revamping our training systems and organizing on the basis of functional specialization.
- 11. Whilst we may be experts in investigation, adjudication or prosecutions, we must admit that we need to address broader capacity gaps that are adversely affecting our performance. We are not experts in organizational strengthening and management, nor are we familiar with the latest developments on these subjects. Therefore, we must obtain the relevant expertise to improve organizational and managerial capacities for more effective and responsive service delivery, implementation and the enforcement of laws.
- 12. Information technology can be a significant enabler and multiplier to improve service delivery including transparency and reducing discretion. We are pleased to learn that there have been significant achievements in the application of information technology as management and operational tools, as information databases to store and retrieve information efficiently, and as social media to engage and inform citizens.
- 13. There has been progress. Websites and social media are now being treated as essential tools for transparency and communicating with citizens as a core function of our respective mandates. They can, for example, be further developed as free public sector portals providing justice related information, discussion or feedback, and complaint registration mechanisms to enhance access to

justice. These are often cost-effective solutions that require collective leadership and vision for their development rather than significant capital investment.

- As we develop information technology based solutions for courts, prosecution, judiciary, prisons and the like, we need to coordinate our efforts so that our technology does not create new barriers and hurdles in the way of better integration and coordination, and to ensure access to justice for citizens by reducing transaction costs. For example, common standards and protocols may need to be developed to ensure seamless integration and coordination. The Commission recently conducted a situational analysis and found that there has been significant investment in information technology in the justice sector but, overall, it is piecemeal, does not integrate too well across departments and provinces, and the emphasis vary from information management, to operational tools to performance analytics. The provincial justice committees are suitably placed to lead and coordinate such efforts keeping in view the ambition of an integrated and transparent criminal justice system.
- 15. Professor Keilitz has also drawn our attention to the need for quality assuring our respective justice services and shared relevant global experiences. Although the Court monitoring and evaluation teams do monitor judicial performance quantitatively, we must admit that we are not experts in devising quality assurance mechanisms, indicators and standards. Given the critical nature of our subject, namely, protecting public and private safety, citizens' life, property and liberty, we must admit that regrettably there is very little idea or concept of quality assuring our services. We need to learn from the relevant experiences and implement such standards to best effect.
- 16. As we discussed earlier, we need to strengthen our internal inspection and analytic capacities to monitor and evaluate service delivery against citizens' justice needs and organizational performance targets. Crucially, this requires a shift in our attitude and outlook to move towards more evidence based policy and planning. Citizens' complaints, for example, are a rich source of user information for identifying weaknesses in service delivery, yet typically, we try to resolve the complaint and fail to analyse the information in relation to organisational functioning that may highlight the need for systemic reform.
- 17. In terms of implementing reforms and new initiatives, Syed Ali Murtaza has shared with us the Government of Punjab's process and outline for developing justice sector roadmaps so that reforms are well deliberated, informed by stakeholder consultations alongwith a shared multi-organisational vision and effort to strengthen justice service delivery.
- 18. Inter-organisational issues the backward and forward linkages and processes that connect the different justice organisations are, unfortunately, all too often ignored. Heads of organizations tend to naturally focus on their organisations without effectively addressing the connecting processes,

procedures and capacities, which require a supra-organisational, sector level commitment based on a shared understanding of problems and solutions. For instance, the head of prosecution will focus on the prosecution and prosecutors without considering the need to bridge the gap with the police and the judiciary. It is this operational and planning gap that the provincial justice committees can address most effectively. A foremost priority must therefore be to develop monitorable provincial sectoral roadmaps based on a shared understanding of the problems and solutions.

- 19. Lord MacDonald has raised the need for justice sector leadership. In many ways it is the most critical element and perhaps the least that we invest in. As we discussed earlier, there may be departmental or organizational leadership but there is certainly no justice sector leadership that is taking collective responsibility for the state of affairs and leading the sector forward at the operational level. The provincial justice committee is precisely the forum for the collective leadership function to be developed and exercised. As such, these committees are not about any one partner directing the other, they are about finding shared solutions for problems affecting the justice system as a whole. The emphasis is on collective responsibility, and shared understandings and solutions.
- With secretary LJCP, the ex officio secretary for all the provincial justice committees, the Law & Justice Commission of Pakistan can ensure horizontal coordination between the respective provincial justice committees to share and exchange ideas and learn from each other. Similarly, the Commission can provide an important vertical linkage between the provinces and the Federal level to ensure communication and coordination. For this purpose, we also need to strengthen the Commission's capacities to provide effective technical and coordination support to the respective committees.
- 21. We also need to develop and invest in leadership skills within our organisations especially at the service delivery level so that officers are technically well equipped and capable to manage their units effectively. For this purpose, we should consider developing specific leadership courses that bring together justice sector officials to better understand justice planning, policy and management. At the same time, it is crucial that we modernize our professional training content and methodologies in order to be better equipped at all levels to deliver our mandates.
- 22. We can never afford to be complacent especially in these testing times. We need to be innovative and alert to opportunities for getting ahead of events to proactively address justice challenges. Admittedly, many of the subjects discussed today may be unfamiliar to us as law officers but we need to develop and/or acquire the necessary expertise to effectively strengthen the justice sector.
- 23. Once again, I thank you all for your participation and commitment to transform and strengthen the criminal justice system to effectively address citizens' needs and expectations, to ensure

a safe, secure and just Pakistan in the midst of such difficult times. I have all the trust and faith that we have the capacity to transform our criminal justice system. At stake is the rule of law, which ultimately means the lives and the wellbeing of the citizens of Pakistan.

- 24. This Conference is an earnest effort on the part of the justice sector to lead reform projects to develop and strengthen it from within but in consultation with other stakeholders. Whilst we assume responsibility as law officers for justice sector performance, we are well positioned as "insiders" to understand the weaknesses and to strengthen the administration of justice. Tomorrow, we look forward to hearing from the respective provincial justice committees about how we may move forward, and wish you every success with your efforts.
- 25. Thank you, and Pakistan Zindabad.