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Platform & Workflow by: [Open Journal Systems](#)**Preventive measures in the light of Seerah: Divorce Cases and Court System in Tehsil Taxila****Fouzia Ayub**

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Abstract

Courts are the symbol of Justice. As Islam has given importance to Justice. It is the spirit of civilized society. The first human relation described by the Holy Quran is the relation of spouse that is based on Nikkah. The relation is sacred ones and depends upon the rights and obligation, on the bases of it strong family system builds. Justice, respect, patience, trust, forgiveness ethical and moral values are some of the characteristic that help to manage the sacred relation. In this article the major technical issues are discussed that become cause of delaying in provision of Justice in divorce in Tehsil Taxila and suitable recommendation will also be given according to Seerah.

Keywords: Technical Issues, Divorce Cases, Court System, Tehsil Taxila, Remarks of Judges, Recommendations

Introduction:

Comprehensive guidelines of the Holy Prophet (PBUH) regarding each and every sphere of life provide guidelines for various relationship to live purposeful life. Family is declared as first basic institution as strong relationship between spouses is the foundation of family and that contribute the social stability. Fairness, accessibilities and efficiency of court are affected by procedural delay and systematic challenges that are technical issues and it can be solved easily by proper management to give instant relief to a public. Unfortunately in Pakistan the divorce cases are prolonging by poor management. Few month are taken by lawyer to enroll the case and its issuance of summon, three summon issue by court to call the opposite parties and then its absence is announced by national news to inform the opponent. After that long un-ended and painful procedure with financial burden captured the parties. There are following few facts that high lights this procedure.

"Justice delayed is justice denied"

Delayed Justice has social and psychological impact not only on individual but also on our society.¹ The present study of Tehsil Taxila particularly with reference to cases of Divorce explores that, unfortunately in Pakistan the concept of delayed Justice exist. That is the main reason of increasing number of divorce cases because of the fault of the system.

Literature review:

1: Justice Delayed or Denied: The Myth of Justice in Pakistan, Dr. Muhammad Bilal LLM (UK) PhD (UK) Assistant Professor, Gillani Law College, Bahauddin Zakariya University, Multan, Pakistan, Farqaleet Khokhar Super Senior, LLB (Hons) Gillani Law

¹ Justice Delayed or Denied: The Myth of Justice in Pakistan, Dr. Muhammad Bilal LLM (UK) PhD (UK) Assistant Professor, Gillani Law College, Bahauddin Zakariya University, Multan, Pakistan, Farqaleet Khokhar Super Senior, LLB (Hons) Gillani Law College, Bahauddin Zakariya University, Multan, Pakistan, Journal of Law & Social Studies (JLSS) Volume 3, Issue 2, pp 124.

College, Bahauddin Zakariya University, Multan, Pakistan, Journal of Law & Social Studies (JLSS) Volume 3, Issue 2, pp 124-132. <https://www.advancelrf.org/wp-content:> In this article the causes of delaying in justice and pending cases are discussed with its impact. The recommendations are also given for the revival of Justice.

2: Causes for Delay in Civil Justice in Lower Courts of Pakistan: A Review Raza Ullah Shah, Shadi Ullah Khan & Sumera Farid, Pakistan Journal of Criminology, Volume 6, <http://www.pjcriminology.com/wp-content:>

In this article the various factors are highlight that become hurdle in provision of justice. The role of judges, Lawyers and administration are also discussed in this regard.

3: Natural Justice in Islam and Humans Law, Mustafa Rashis Issa. Journal of Philosophy, Culture and Religion, volume 15, 2016, <https://iiste.org/Journals/index.php/JPCR/article>.

In this article the concept of natural justice of Islam are discussed with reference to Quran, Hadith and fiqh and in parallel of natural justice in human law are elaborate with the concept of moral forces that are its foundation..

4: Conduct of Judge Mr. Justice (R) Shafiur Rahman, Federal Judiciary Academy, <https://www.fja.gov.pk/files/articles/conductofajudge:>

Mr. Justice Shafiur Rahman was the senior justice of Supreme Court of Pakistan gives his remark regarding Judges Conduct and he gives recommendation regarding Judges, lawyers and bar and its role in provision of justice.

5: Islam kea Ijtahadi Rawait ka Tarjaman: Ijtahad, publication 15, 2022-2023, Mohasar Iaalea Masail, Islami Nazratea Council Government of Pakistan, Islamabad:

Dr: Sjjada Ahmad Chaudhary Additional District and Session Judge Rawalpindi, gives her remark regarding Family Laws in Pakistan, She said that the purpose/objective of justice system and especially the objectives of family laws is to welfare of humanity.

6: Islam and the Concept of Justice Khalid Bin Ismail Centre for Islamic Thought and Understanding: <https://ir.uitm.edu.my/id/eprint/32047/1/32047:>

In this article the basic purpose and philosophy of Islamic Justice are explained according to Devine teaching.

7: Management Of Social Challenges In The Light Of Seerat Tayyab: An In-Depth Exploration Of Family Matters by Dr. Muzamal Raza, Farwa Naz Ahmad Bilal, Dr. Abdul Rouf Zahid Maryam Raza.

In this article the light has been thrown that how Holy Prophet (PBUH) has established the institution of family and provided guideline and stress on sanctity of marriage along with rights and responsibilities between the spouses.

Technical Issues:

Disputed parties known the reality that in Pakistan Justice has become myth and so they tries to torture the opponent by indulging in long un-justice procedure. The present study reflects that there are many reason of delayed in justice in Tehsil Taxila regarding Divorce cases:

1. Disloyalty of the Judges to their professions
2. Transfer of Judges and cases
3. Unnecessary adjournment
4. Ex-parties decision
5. Un-professional attitude Lawyers
6. Stock of pending cases
7. Ineffective complex legal frame work
8. Parties delayed tactic

9. Mismanagement in cases at evidence stages
10. Insufficient staff
11. Shortage of female judges
12. Corruption
13. External interference.

Consequences:

1. Unreasonable delay in justice violates freedom of individual and society as a whole. In which way the basic right of life and liberty are damaged that are given by not only 1973 constitution of Pakistan but also gifted by Allah Almighty. "Justice delayed is justice denied" and "justice hurried is justice buried" are two opposite legal principles that exist on extremes. To ensure Justice in true sense, balance is necessary between these legal principles.
2. Chance of reconciliation among the spouse becomes rare and more suspicious due to delay in justice.
3. The family and child of the spouse suffer a lot in this dilemma.
4. The spouse feels unsafe and loses their trust to each other's.
5. Economic problem arises. The economic resources of state are used by Court without giving positive output for the nation in form of timely and fair Justice.
6. Decent and responsible governance are absent due to which family court cases converted into criminal ones.

Remarks of Judges:

Dr: Sajida Ahmad Chaudhary:

Dr: Sajida Ahmad Chaudhary Additional District and Session Judge Rawalpindi, gives her remark ²regarding Family Laws in Pakistan, She said that the purpose/objective of justice system and especially the objectives of family laws is to welfare of humanity and if we as judge, lawyers and others office holder cannot play our positive role for the provision of justice then it is violence against our next generation, because Holy Quran has declared the spouse as a first relation.

وَقُلْنَا يَا آدَمُ اسْكُنْ أَنْتَ وَزَوْجُكَ الْجَنَّةَ وَكُلَا مِنْهَا رَغَدًا حَيْثُ شِئْتُمَا وَلَا تَقْرَبَا هَذِهِ الشَّجَرَةَ فَتَكُونَا مِنَ الظَّالِمِينَ

"We cautioned, "O Adam! Live with your wife in Paradise and eat as freely as you please, but do not approach this tree, or else you will be wrongdoers."³

It means:

- Hazarat Adam(AS) was born.
- The Angels also prostrated.
- But for their comfort, a compassionate being, Hazrat Hawa, was created.

The creation of Hazarat Awa (AS) from right rib has a certain sacred and objectives and among them is most significance is the continuity of human generation with education and training, high morals values and fulfillment of social necessity and completion of religion Islam.

The women is first created by right rib of man that is near to his heart as to treat with kindness and compassion to completion of higher objectives of Shariah, as declared in the Holy Quran:

لِكُلٍّ جَعَلْنَا مِنْكُمْ شُرَعًا وَمِنْهَا جَاءَ

² Islam kea Ijtahadi Rawait ka Tarjaman: Ijtahad, publication 15, 2022-2023, Mohasar laalea Masail, Islami Nazratea Council Government of Pakistan, Islamabad.

³ Al Quran:2:35

*"To each of you We have ordained a code of law and a way of life."*⁴

Holy Prophet (PBUH) teaches us Dua:

رَضِيتُ بِاللَّهِ رَبًّا وَبِالْإِسْلَامِ دِينًا وَبِمُحَمَّدٍ نَبِيًّا

*"I am pleased with God as Lord, with Islam as religion, and with Muhammad as Prophet,"*⁵

The verse revealed at the occasion of Hajat ul Wada:

كُنْتُمْ خَيْرَ أُمَّةٍ أُخْرِجَتْ لِلنَّاسِ تَأْمُرُونَ بِالْمَعْرُوفِ وَتَنْهَوْنَ عَنِ الْمُنْكَرِ

*"You are the best community ever raised for humanity you encourage good, forbid evil,"*⁶
The Divine instruction showed us that the Islamic Shariah does not related to Day of Judgement but infact the purpose of Shariah is to organized and train the Wordly life of human being. The life purpose of the Holy Prophet(pbuh) is to reform and salvation of the creation of Allah Almighty⁷. Holy Quran declared that:

إِنِّي أُرِيدُ إِلَّا الْإِصْلَاحَ مَا اسْتَطَعْتُ ۚ

*"I only intend reform to the best of my ability."*⁸

The faith of the Muslim are not completed until he followed the instruction of the Quranic verse:⁹

أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ

She added in her interview by giving the reference from Holy Quran.

وَأَحِلَّ لَكُمْ مَا وَرَاءَ ذَلِكَ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ مُحْصِنِينَ غَيْرَ مُسْفِحِينَ ۚ فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ فَرِيضَةً ۚ وَلَا جُنَاحَ عَلَيْكُمْ فِي مَا تَرَضَيْتُمْ بِهِ مِنْ بَعْدِ الْفَرِيضَةِ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

"Lawful to you are all beyond these as long as you seek them with your wealth in a legal marriage, not in fornication. Give those you have consummated marriage with their due dowries. It is permissible to be mutually gracious regarding the set dowry. Surely Allah is All-Knowing, All-Wise."

The purpose of Nikkah is that it's a long relation and to build the foundation of strong family system, in which both husband and wife are responsible of rights and obligation. This relation is the source of protection of human generation. The Holy Quran symbolized the nikkah as *حصن*, which is interpreted by fort and refer to protecting ones chastity and purity.¹⁰

Agreement of Nikah and Courts of Sub-Continents:

According to Privy Council of England, the nikkah is a civil contract, in 1886 the Muslim Justice Mahmood in Sub-Continent remark in case of Abdur Qadir verses Saleema Bibi that the Nikah is pure civil contract and have no consult with religious ceremony. So that in all Courts of Sub-Continent Nikah has declared as civil contract that is totally against Islamic concept. Justice Qadeer-ud-Dean from Karachi declared in his judgment in case of Muhammad Yaseen verses Khanam Khatoon that: If Nikah is not religious ceremony it does not mean that it has no sacred aspect and Allah's pleasure.

In fact, Nikah has spiritual aspect as well that are compliant on rights and obligation from its start to end. These rights and obligation are distinct characteristic of Islam, Nikah is not

⁴ Al Quran:5:48

⁵ Mishkat al-Masabih 2399

⁶ Al Quran:3:110

⁷ Islam kea Ijtahadi Rawait ka Tarjaman:Ijtahad,publication 15,2022-2023,Mohasar laalea Masail,Islami Nazratea Council Government of Pakistan,Islamabad.

⁸ Al Quran:11:88

⁹ Al Quran:59

¹⁰ Islam kea Ijtahadi Rawait ka Tarjaman:Ijtahad,publication 15,2022-2023,Mohasar laalea Masail,Islami Nazratea Council Government of Pakistan,Islamabad.

a civil contract but have religious sacred because the Nikah of Muslim is not only signify socially and civilized but has a objectives of religious and spiritual significance. Holy Prophet (PBUH) declared Nikah as

النِّكَاحُ مِنْ سُنَّتِي فَمَنْ لَمْ يَعْمَلْ بِسُنَّتِي فَلَيْسَ مِنِّي

.The objectives of Nikah has declared by Holy Quran as

: وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً ۖ

So Nikah is a *Sunnat-a- Moaqada*, in certain cases it's become *Wajib*.

Based on observations, following are the recommendations:

- I. There should be Ban on paper marriages by Government.
- II. The numbers of female Judges should be increased. The present female judges are facing multiple problems. Pressure group of lawyers can do anything to take a decision of their own interest.
- III. It is necessary to take prior consultation of females in marriage.
- IV. Independence judiciary is mandatory for delivery of justice.
- V. All types of media should follow the moral values to safe the present and future young generation. The State holders and Supreme Court should take urgently step to control Pakistani media; face book, twitter and mobile phone. The case of Dua Zahara highlights the use of mobile phone and its consequences.
- VI. Lawyers can play positive role for the delivery of quick justice.
- VII. Economic independence of women is one of the factors of Divorce in Pakistani society.
- VIII. Justice Sajida Chaudhary recommended that her PhD Thesis by the title of "*Concept of administration of Justice in Islamic Jurisprudence (A Comparative Study in Islamic and Western Legal Thoughts)*" would be help full for policy makers for the provision of justice to public.¹¹

Mr. Justice (R) Shafi ur Rahman remark for conduct of Judges:

Mr. Justice Shafi ur Rahman ¹²was the senior justice of Supreme Court of Pakistan gives his remark regarding Judges Conduct.

Recommendation:¹³

- I. He urged that there should be separate code of conduct for judicial officers, for fare and independent judiciary, because under present law of Pakistan judicial officers have two capacities: Civil Servant, Judicial officer. No special rules of conduct are formed for the judges in Pakistan.
 - i. There are four distinct characteristic of judicial officer should have:
 - ii. You should work and function for public welfare and your work will be reflected through your performance.
 - iii. You are responsible judges and your decision reflects your distinct abilities of decision by applying law.
 - iv. Personal state of mind is not reflected through your decision
- II. The task of the judges should be for personal by taking full responsibility of his duty and he cannot shift his duty to any one else.
- III. The judges should have the capacity of punctuality, politeness, control over his temper, and patience.

¹¹ Islam kea Ijtahadi Rawait ka Tarjama: Ijtahad, publication 15, 2022-2023, Mohasar laalea Masail, Islami Nazratea Council Government of Pakistan, Islamabad.

¹² <https://en.wikipedia.org/wiki/Shafi-ur-Rahman>

¹³ Federal juducary academy: <https://www.fja.gov.pk/files/articles/conductofajudge.pdf>

- IV. The lawyer should satisfy to work with him. His work reflects that justice to appear to have been done.
- V. The judges should enjoy exceptional independence in his decision. The judges should be the model of moderation, politeness and sobriety.
- VI. Reward, correction and recognition in time, for his work are also necessary for the system of justice.
- VII. Bar and Bench are two wheel of judiciary .The cooperation of bar are necessary for court and can enhance the performance of judges. Her bar should encourage assisting impartially. The atmosphere for the search of truth and discipline should reflect not only inside the court but also from outside the court.
- VIII. Your behavior is same for the friends and foe, and for the relative and stranger.
- IX. Mr. Justice Shafi ur Rahman at the end mention the reference of PLD 1967 Journal 97 which are related to code of Conduct framed by the Supreme Judicial Council under Article 128(4) of the constitution for Judges of the Supreme Court and the High courts in Pakistan (PLD 1967 Journal 97). Remember and never forget the very first sentence of it, the opening words which mention *"The prime duty of a Judge as an individual is to present before the public an image of the justice of the nation."*

Preventive measures according to Seerah:

Nature of the contemporary family system that has been affected by Western culture. There is noticeable absence of kindness, courtesy and management in our family system. Hazarat Ayesha (RA) reported that Holy Prophet (PBUH) showed his kindness and gentleness in behavior while in state of disagreement¹⁴. Holy Prophet (PBUH) has best example for his ummah in all sphere of lives. He treated his wives with respect and kindness.

Education with training of the children also reflected from the Prophetic life. He said that: "He gave glad tidings of Paradise to parents who diligently educated and trained their three children, emphasizing the importance of raising children with good manners and morals"¹⁵

Dowry become permanent issues in contemporary society. The dowry has given during the marriages of the Prophet's daughters and the mothers of the believers shows that moderation should be adopted in the matter of dowry in present times .Muslim should remembers it as a religious commandment with objectives. Morality serves as the ornament of humanity. But when morality deteriorates; the whole social structure is affected. Morality is set of principles that guide human conduct, between right and wrong. It is imperative to follow the Devine teachings to cultivate positive conduct among the families. That is the basic rules that have derived from the Seerah teachings. To avoid disintegration in the family it is necessary to cultivate love, tolerance and patience among the family members. That are basic values of human society that leads to further development and progress.

Recommendations:

The above mention causes of delayed highlight the required improvement in four sectors of court to ensure the quick Justice for the citizen for the stability of society.

1. Improve judicial system
2. To increase Budget

¹⁴ Management Of Social Challenges In The Light Of Seerat Tayyaba :An In-Depth Exploration Of Family Matters Dr. Muzamal Raza , Farwa Naz Ahmad Bilal , Dr. Abdul Rouf Zahid , Maryam Raza

¹⁵ Syeda Sadia, dr, Pakistani muashry mein khwatin ke smaaji o qanoni msayl, idara islamiyat, Lahore, 2017. pageno.85, Lahore, 2017.

3. Strategies for Lawyer contribution in achievement of justice
4. IT infrastructure and digitization of court of system
5. Need of collective and one unit of Judiciary
6. To enhance the Performance and efficiency of Court System:

1: Improve judicial system:

Justice is the foundation of civilized society. Dispensation of Justice has two aspects that should be discussed that is:

- Speedy Justice
- Delayed in Justice

Above mention both aspect are the hurdle in effective dissension of Justice. Pakistan has a least execution of Justice as an Islamic democratic country having proper legal system that have Billions of budgets for the purpose of better Justice Service that is:

- Actual delivery of Justice
- Liberation and empowerment of legal System

The suggestions like to increase the numbers of Judges and budget can help to improve and quick judicial system of Pakistan but this might not be an effective solution to the problem. It is more important to increasing efficiency of the existing system by decreasing corruption in judiciary. Following suggestions can be helpful to improve the Judicial System of Pakistan.

- Importance of Justice in Islam
- Punctuality of Judges
- Transfer of either cases or Judges
- Avoid unnecessary adjournment and absence of lawyers or parties
- Mismanagement and local culture

Importance of Justice in Islam:

Justice in Islam refers to placing specific things in its right place that is a real goal of every religion. As Islam is a complete code of life, its Justice is applicable in every field of life with wide and boundless concept. Allah declared in the Holy Quran

وَمَا خَلَقْنَا السَّمَوَاتِ وَالْأَرْضَ وَمَا بَيْنَهُمَا لَعِبٍ ۚ ۝ ٣٨

*"We did not create the heavens and the earth and everything in between for sport."*¹⁶

The whole universe is created for a specific purpose and every creation of Allah are working on specific principles, rules and regulation that is necessary for its survival and peace.

"أَلَا كُلُّكُمْ رَاعٍ وَكُلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ فَالْأَمِيرُ الَّذِي عَلَى النَّاسِ رَاعٍ عَلَيْهِمْ وَهُوَ مَسْئُولٌ عَنْهُمْ وَالرَّجُلُ رَاعٍ عَلَى أَهْلِ بَيْتِهِ وَهُوَ مَسْئُولٌ عَنْهُمْ وَالْمَرْأَةُ رَاعِيَةٌ عَلَى بَيْتِ بَعْلِهَا وَوَلَدِهِ وَهِيَ مَسْئُولَةٌ عَنْهُمْ وَالْعَبْدُ رَاعٍ عَلَى مَالِ سَيِّدِهِ وَهُوَ مَسْئُولٌ عَنْهُ فَكُلُّكُمْ رَاعٍ وَكُلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ " .

*"Each of you is a shepherd and each of you is responsible for his flock. The amir (ruler) who is over the people is a shepherd and is responsible for his flock; a man is a shepherd in charge of the inhabitants of his household and he is responsible for his flock; a woman is a shepherdess in charge of her husband's house and children and she is responsible for them; and a man's slave is a shepherd in charge of his master's property and he is responsible for it. So each of you is a shepherd and each of you is responsible for his flock."*¹⁷

مَا خَلَقْنَاهُمْ إِلَّا بِالْحَقِّ وَلَكِنَّ أَكْثَرَهُمْ لَا يَعْلَمُونَ ۝ ٣٩

¹⁶ Al Quran:44:38

¹⁷ Sunan Abi Dawud 2928

*"We only created them for a purpose, but most of these 'pagans' do not know."*¹⁸

The above mention verses declared that the purpose of creation is to uphold Justice. The word Justice has several meanings:¹⁹

- Justice is one of the attribute of Allah
- It refer to administration of law
- Legal validity
- It refer to a moral values
- Justice is linked to sacred trust
- Justice is referring to pleasing, accepted, quality and conformity to the laws.

Allah declares in the Holy Quran and orders us to judge impartially as Justice is a sacred trust.

﴿ إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ ۚ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ ۗ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا ﴾

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*"Indeed, Allah commands you to return trusts to their rightful owners; and when you judge between people, judge with fairness. What a noble commandment from Allah to you! Surely Allah is All....."*²⁰

According to Sarakhsi Justice is²¹ "constitutes one of the noblest acts of devotion". According to Kasani, justice is one of the best acts of devotion and one of the most important duties after belief in Allah Almighty. There are one hundred declarations either directly or indirectly in the Holy Quran indicating the concept of justice in such words as adl, qist, mizan There are over two hundred admonitions against injustice in such words as zulm, ithm, dalal and others. Therefore the Devine teaching had strongly stressed that the administration of Justice.

Our education system especially legal institutions and print, electronic and social media must be run in such a way to teach the legal scholars especially and every citizen in general the importance of Justice and responsibilities of Judges and lawyers. Divorce cases have more important that, it is a matter of family system.

Family is only institutions that build by Allah and Niikah is its foundation. It is matter of great consult that in Teshil Taxila the number of filed divorce cases exceed from 5000 from 2021-2024 period .The number of pending cases from previous years are also undecided that are alarming situation for us as a citizen of Muslim State. It is necessary to address the situation by giving awareness to the people about the importance of Justice. It is historic evidence that Justice Kharak Singh²² was famous for his unique approach to justice. He gives punish lawyers along with criminals .Due to this the number of cases reduce in his area and peace prevail in the society.

مَنْ طَلَبَ قَضَاءَ الْمُسْلِمِينَ حَتَّىٰ يَنَالَهُ ثُمَّ غَلَبَ عَدْلُهُ جَوْرَهُ فَلَهُ الْجَنَّةُ وَمَنْ غَلَبَ جَوْرُهُ عَدْلَهُ فَلَهُ النَّارُ .

*"If anyone seeks the office of judge among Muslims till he gets it and his justice prevails over his tyranny, he will go to Paradise; but the man whose tyranny prevails over his justice will go to Hell."*²³

Punctuality of Judges:

¹⁸ Al Quran :44:39

¹⁹ <https://ir.uitm.edu.my/id/eprint/32047/1/32047.pdf>: Islam and the Concept of Justice ,Khalid Bin Ismail

²⁰ Al Quran:4:58

²¹ Islam and the Concept of Justice, Khalid Bin Ismail

²² <https://www.viralnom.com/2023/10/18/judge-kharak-singh-unique-yet-intriguing-story-of-justice/>

²³ Sunan Abi Dawud 3575

Punctuality of judges is one of the virtues that are not only demand of Office of justice but also a fundamental duty as well. Punctuality of judges and pendency of cases are interrelated to each other's. Quran and Hadith stress on fair justice. According to Federal Shariat Court that, there should be no delay in dispensation of justice in Islamic perspective. Judges have knowledge, wisdom and authority that should be exercised to judge the case in time for the sake of providing justice to the citizen.²⁴

It is religious duty of Judge to handle the parties with justice and justice in-time is necessary.

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُونُوا قَوِّمِينَ بِالْقِسْطِ شُهَدَاءَ لِلّٰهِ وَلَوْ عَلَىٰ أَنْفُسِكُمْ أَوِ الْوَالِدَيْنِ وَالْأَقْرَبِينَ ۚ إِن يَكُنْ غَنِيًّا أَوْ فَقِيرًا فَاللّٰهُ أَوْلَىٰ بِمَا ۖ فَلَا تَتَّبِعُوا أَهْوَىٰ ۖ إِن تَعْدِلُوا ۖ وَإِن تَلْوُوا أَوْ تُعْرِضُوا فَإِنَّ اللّٰهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا

“O believers! Stand firm for justice as witnesses for Allah even if it is against yourselves, your parents, or close relatives. Be they rich or poor, Allah is best to ensure their interests. So do not let your desires cause you to deviate from justice”. If you distort the testimony or refuse to give it, then “know that” Allah is certainly All-Aware of what you do.”

To provide justice to the people is a noble act of devotion. Islam wants to establish the society in which human being become true slave of Allah Almighty. Society cannot achieve peace and prosperity without justice. There are three fundamental that are foundation of natural justice in Islam, which are: Quran, Sunnah and Hadith. But natural justice in human law is based on what is right and what is wrong?²⁵

Here the legal term of natural justice demand from judiciary to fair judicial procedure not in legal documents but in action with in time. In matter of divorce this punctuality of judges is more important because of sensitivity of issue. In Tehsil Taxila punctuality of judges should be monitor for delivery of instant relief.

Transfer of either cases or Judges:

The flow of legal procedure are discontinued in case of transfer of Judge or case. In Pakistan it is big reason of delaying in provision of justice. Transfer of judges in a situation when he is already engaged in several cases question on his independency. Political or any other pressure are common in our society that are faced our judges. Judges should have power and he must be free from any kind of external and internal pressure for the delivery of justice. It is necessary to avoid unnecessary delayed and economic loss of not only the individuals involved in case but also the state.

Avoid unnecessary adjournment and absence of lawyers or parties:

Reasonable ground of adjournment is not a question but here unnecessary adjournment and absence of either lawyers and parties are ordinary matter and used as tool to prolong the case to torture the opponent. In Tehsil Taxila this exercise is repeatedly adopted in Court especially in divorce cases to harass. This issue should be handling by amendment in laws that restricted unnecessary adjournment and absence of lawyer. The second solution is that our judges and lawyers should become professional in such extent that they consider it kind of worship in form of delivery of justice.

Mismanagement and local culture:

Mismanagement and local culture are basic reason to prolong delivery of justice. In Tehsil Taxila the local custom, belief, religious interpretation and practices of the people influence that how they deal with the situation. Lack of resources in court along with insufficient training of staff or inability, has leads to our court in situation of

²⁴ <https://www.federalshariatcourt.gov.pk/en/objective-and-functions/>

²⁵ Issa Mustafa Rashid, Natural Justice in Islam and Humans Law, Journal of Philosophy, Culture and Religion www.iiste.org ISSN 2422-8443 An International Peer-reviewed Journal Vol.15, 2016

mismanagement. It is demand of time and situation to address the issues by promoting awareness among the people and increase judiciary capacity by strengthen the legal frame work.

To increase Budget:

It is significant to reduce un-necessary expenditure and facilities of higher judiciary authority. The Ministry of Legal affairs should focus on increase a budget of court in area of constructive purpose, by opening news courts and necessary staff with modern facilities of IT to manage the cases and save the record.

Strategies for Lawyer contribution in achievement of justice:

It is historically proved that lawyers can work for change in system. Lawyers should adopt the policy to deliver the justice by acting participating in policy discussion for legal reform and to help the parties for compromise. Unfortunately in Tehsile Texila the attitude of lawyers and other legal staff is not professionsl .It becomes a skill of earning.

To enhance the Performance and efficiency of Court System:

Huge burden of cases in court of Pakistan is due limited judiciary capacity that further effect on slow disposal of cases because of manual system or paper working. It can be address by use of modern tools of technology. To increase digital literacy, various IT program can be launched for the judges, lawyers and other staff. Proper Internet accessibility and security of sensitive legal data can be granted by improving the IT infrastructure. Old cases record and transparency of judgment van also be improved by digitization.

Need of collective or one unit of Judiciary:

Fragmentation of judiciary in to low, high and Supreme Court are one the big reason in transfer of cases and judges. This issue must be address by Ministry of Law by calling legal expert of Islamic law.

To enhance the Performance and efficiency of Court System:

Work load of the judges can be distributed to minimize the delay in justice and injustice in case of speediness to ,show performance of court as well .Corruption and performance of judiciary can be monitor by higher judiciary authority that ,are also answerable by Ministry of Law. Lack of inter-court coordination is one of the reasons and hurdle in delivery of Justice. Limited public awareness regarding their legal rights and obligation are also challenge and urgently should be address by introducing various legal apps in various languages.

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