

**District & Sessions Judge
Malir Karachi.**

It is the inalienable right of every citizen of Pakistan to enjoy the protection of law and to be treated in accordance with law as envisaged under Article 4 of the Constitution of the Islamic Republic of Pakistan. This commands every statutory or public body to function in good faith, honestly and within the precincts of its powers and departure from that ground norm would render the actions of public functionary as illegal and without lawful authority. The dispensation of justice is the cardinal principle providing relief to the sufferer, who is aggrieved in safeguarding the rights and interests recognized by the law and also enforceable at law which includes right in persona and right in rem. The legal right is one which is enforceable before courts of Law and is based upon statute and is invoked for securing Rights & interests. The right of access to justice to all is equally found in the doctrine of equality before law & the doctrine of due process of law; i.e. the right to be treated according to law, by providing of fair and proper trial with reasonable opportunity to defend the allegation made against a person. By virtue of Article 4 not only the citizen of Pakistan enjoy inalienable right wherever he may be but even aliens who are for the time being living in Pakistan are entitled to such protection. The Constitution of Pakistan guarantees under the fundamental rights Article 37(d); that the State shall ensure in-expensive and expeditious justice. The forum for providing inexpensive and expeditious justice is the Judicature in Pakistan which is an independent organ of sovereign power entrusted with the administration of justice according to constitution and the law. Our Courts are the creature of the constitution and the law and they are to apply law in the settlement of disputes and controversies that are brought before them or being taken up by the Superior courts under Suo moto powers. The superior Courts of Pakistan in its original appellate and constitutional jurisdiction(s) have delivered Land Mark judgments to safe guard the rights and liberties of citizens. Our judicial history witnessed many turmoil and turbulences in the dispensation of justice pro bono publico. In the recent past the superior judiciary was shackled by acts of unconstitutional removal of Judges of superior Courts who have passed through the agony of incarceration of House Arrest, yet time has proved that superior judiciary of Pakistan stood fast to its independence.

one of a body of persons, which body of persons is empowered by law to give such a judgment. For the purpose of dispensation of justice the court of justice is defined u/s 20 of Pakistan Penal Code 1860 denote a judge who is empowered by law to act judicially alone or a body of judges which is empowered by law to act judicially as a body when such judge or body of judges is acting judicially. The Judge while acting judicially is protected under the Judicial Officer Protection Act 1850.

The responsibility of a judge is to advance interest of justice, the attributes of a Judge in the words of Lord Chief Justice of England is "a judge should be a gentleman first, and a gentleman last, if he also knows the law so much the better". The responsibility of a Judge is manifold; a judge should have legal accumen to comprehend Law while applying to the facts having fairness in though a mind with God fearing clean conscience. The concept of justice varies from person to person, from time to time and also from situation to situation but if the courts allow such fluidity the result would be choas; therefore, the dictum justice according to law is the only just way of dispensation of justice, which the courts follow and the judge has to stay within the boundaries of law. The credibility of a judge matters in the public confidence of the court of law where the stakeholders are contesting their rights and claims, it is to be seen through the role of a judge which would give confidence to the public in getting their relief(s) justly and fairly. The responsibility of a judge ought to embodies in himself the fair conduct and a fair decision. The personal traits of honesty and endeavour to dig out truth will add to the credibility of a judge in the dispensation of justice as there are many occasions during the course of trial where an unbiased composed treatment is required to be meted out at a situation when the parties are in conflict on an issue in the court of law and by restraining his remarks and sometimes against his own wishes the judge has to maintain a balance between the two sides.

The responsibility of a judge while taking down the evidence in a case before him ought to be impartial. The personality of a judge should be composed to the extent that he should not jump to the decision without comprehending the

not only require the court to be vigilant in its duties on the back log of the cases pending in his court and should also concentrate on the case flow scheme of arranging the cases on short intervals so as to achieve the target of disposal in time.

LAWYER

The court is the chariot of bench and bar; the responsibilities of bar is equally important in the dispensation of justice. This elite segment of society has played its role in the independence of the country and the independence of judiciary in Pakistan their sacrifices for rule of law and their historical struggle for restoration of judiciary has brought the day that independent judiciary in Pakistan is imparting justice to all without fear or favour. The responsibility falling on the shoulders of lawyers is to curb the tendency of frivolous litigations and unnecessary adjournments in order to accomplish the target of National Judicial Policy. The role of advocates in criminal law is primarily sine quanon with the right of person against whom proceedings are instituted to be defended by pleader under section 340 Cr.P.C. This right is also enshrined under Fundamental Rights of Constitution of Pakistan as safeguard to arrest and detention under article 10 of the Constitution of Pakistan 1973, the person arrested shall not be denied the right to consult and be defended by a legal practitioner of his choice. The role of advocate who appears on behalf of a person in the court of law is designated as officer of the court and thus has to perform the duties of assisting the court by safeguarding the rights of his clients in accordance with law. The responsibility of advocate is governed by the canons and ethics of profession in accordance with the Bar Counsel Act which covers the duties owed to lawyer by his client, to the court, to other member of legal profession and to the public at the large. An advocate has to discharge his responsibilities with integrity and confidentiality towards his clients and is required to uphold the integrity and dignity of his profession and to promote the reputation of his profession with fairness, justice and honesty, thereby he not only gain public reputation but also gain public confidence in the judicial system. The responsibility of lawyer in the dispensation of justice is of immense importance as case proceeds in his presence and with his assistance and the person he represents owes faith in him. An advocate is a buffer between the court and litigants; his professional communication is safeguarded by virtue of

expertise on law helps in assistance to the court with the result of early disposal of the case however, sometimes it has been observed that lawyers avoid to discharge their responsibility by seeking adjournments, sometime to linger on the case on the ground of being busy before other Courts and sometime till the witnesses are won-over by accused or the witness loses interest in the case, this practice leads to delay in dispensation of justice wherein the ultimate sufferer of the undue adjournment is the public litigant who being not aware of the intricacies of the law relies on his advocate. Sometimes during the proceedings of trial the unethical conduct on the part of the advocate even touches the boundaries of professional misconduct but this is very rare and the senior lawyers from the bar usually intervenes in such situations to safeguard the dignity of profession. The responsibility of lawyer also comes under dispute when the advocate having own interest in a matter appears for another person, this situation also affects the course of trial. A lawyer ought not to indulge himself in the litigation and should avoid multiplying the litigation. The role of a lawyer as has been ascertained in the Indo-Pak judicial system with success and dignity is that; that on completion of his career as lawyer it is to be seen whether he had ever been inside the dock of a court, if not, than he is a successful lawyer. A serious responsibility falls on the shoulders of lawyer to curb the trend of false and frivolous litigation which is increasing in shape of Ex-Officio jurisdiction of Sessions Judge U/S 22-A Cr.P.C and U/S 491 Cr.P.C. A large number of petitions under section 22-A Cr.P.C are being filed to seek directions for registration of FIR. In this way, on one hand neglect of duty by Police in registration of FIR got remedy, but at some time it is the police which divert a petitioner to the courts for getting directions of registration of FIR. This trend requires to be checked by the lawyers and it is their professional responsibility to curb increasing trend of frivolous litigation, which at some time instituted as substitute of civil litigations through 22-A Cr.P.C. The other check required from lawyers is that as a substitute of filing of Guardian & Wards case for the custody of detinue petitions U/S 491-A Cr.P.C are instituted. The way left to the Court is to impose fine on the false and frivolous petitions. The responsibility with regard to frivolous civil matters is required to be checked by all stake holders so as to curb this tendency.

POLICE

for release of the accused ensues resulting in breaking of discipline and tampering of witnesses to mould them to fit into the desired investigation and this practice at the hands of the police although being checked by the remanding Magistrates by giving reasons and justifications for remands u/s 167 Cr.P.C the copy of which u/s 167 sub-clause 4 also comes before the Sessions Judge but out of many aggrieved accused persons may broken down few withstand the improper treatment meted out to them in police custody remand and very few complains. It is incumbent upon the remanding Magistrate and also the Sessions Judge to whom copy of remand is forwarded to keep vigil eye on police custody remands and to curb the tendency of undue remand to police custody as it leads to corruption and favouritism so long the custody of the accused remains in the hands of police without any reasonable cause or justification the public confidence is shaken. It is incumbents upon investigating police before submission of challan to collect admissible evidence which could be produced in the court of law for dispensation of justice.

PROSECUTION AGENCY

The judicial remand and filing of challan in the court of law brings the prosecution agency in picture who are responsible with the proceedings of the matter, however, it has been seen that challans bearing incomplete addresses of the witnesses non mention of recoveries, Forensic Expert, Chemical Examiner, Medical and Post mortem reports delays the course of trial of an accused person as the choice remains in the hands of the police to bring or not to bring a witness. It is high time that prosecution agency must realize its responsibilities else non performance would cause delay in the dispensation of justice. It is the duty of the Prosecution to produce witnesses on the date of hearing. This function is presently performed by Courts. The court issue process, examines process server on the reports and initiates coercive actions to ensure presence of witnesses. Here it would not be out of place to mention that pursuing the recent Judgment of Honourable Supreme Court in Cr. Petition 100-K the absconding accused are directed to be separated from the case of accused in custody so that early proceeding of case of accused in custody may take place.

The role of prosecution is to conduct the prosecutions on behalf of

litigants who have to bear the brunt of protracted trial on the criminal side and in the matter of civil cases have to pass through the ordeal of delayed justice. The public litigants in the civil cases are offered commission at evidence stage for which the Bar Associations have provided the list of lawyers willing to act as commissioner for taking evidence in civil matters these step would contribute in the early disposal of justice.

With the advent of new judicial policy a sigh of relief has been felt by the public litigant in the early dispensation of justice with the time frame formulated in the matters of bail and disposal of cases. This public litigant is mostly from down trodden segment of society whose near and dear relation is enchained in a criminal case and he attends the proceeding of Court where UTP is being tried. These public litigants are quiet large in number. The actual public litigants is the under trial prisoner either in custody or on bail who has to pass through the trial and faces many hardships from jail to court and back to Jail. The UTP on bail is also exposed to danger either from the adversaries or while going back form Court of law to his house sometime they fell in the hands of Police and again being roped in any other cases. The public litigant in civil matters also faces difficulties of time spent by leaving his place of job. There is a significant change in the miseries of public litigant with the gear-up of their matters and dispensation of justice within the time frame as envisaged under the National Judicial Policy. The under trial prisoners confined in jails are also to an extent under Prison Rules getting relief in the Prison. During the regular visit of the Judges at the jails as per directions of the Honourable Supreme Court a sense of relief amongst the UTPs prevails as their well being is enquired and looked after by the Judges and they freely express about their problems in jail and of cases and many of them are not represented by lawyers; who could not engage advocate are being provided legal assistance in the Courts by the lawyers free of cost. The poor convicts who could not engage services of counsel against their convictions their applications received from Jail are converted into criminal Jail appeals and are disposal accordingly. The UTPs and convicts from jail usually make applications for early disposal of their cases. The efforts of all stake holders in this sphere of their responsibilities would help serve in dispensation of justice.

plight and we can hear their plight and redress it according to law. May God Almighty give us courage to fulfill our responsibilities in dispensation of justice.

HASAN FEROZ
DISTRICT & SESSIONS JUDGE
MALIR KARACHI.