



“Fostering Equitable and Inclusive Rule of Law”



Event Recap

INTERACTIVE DIALOGUE: HUMAN RIGHTS FRAMEWORK IN PAKISTAN



People, Development & Policy Initiatives

Office # 2, Block 12-C, FGEHF, G-11/3, Islamabad
www.pdpinitiatives.org | contact@pdpinitiatives.org | +92-51-222 9112

OVERVIEW:

Rule of law is integral to the establishment of a civilized society. It is a cross-cutting issue that perpetuates peace and security, signifies human rights and fosters sustainable development. One of the very basic principles of rule of law is "Access to Justice" whereby ordinary people get a chance to have their voices heard, in case of any rights based grievance registration and redress.

It has also been observed that many under developing countries of the world face grave problems with regards to an equitable and inclusive rule of law and this discrepancy forms the gateway for all sorts of rights based violations to invade into the system and society affecting millions leaving them marginalized and vulnerable to the perils of exploitation and abuse, particularly the women, children, elderly, minorities and displaced persons.

There are also instances where the legislation is existent, but, without effective implementation, either due to the lack of translation of the law into actionable rules, or the ambiguities in the laws that pave way for the prime essence of law to be lost in translation. In addition, the insufficient resources and insufficient capacity of the relevant stakeholders of legal system further aggravates the adversary being faced by the common man in accessing justice that

leaves the society beleaguered and fragmented.

Another critical factor undermining rule of law is the dearth of legal awareness among general masses that leave them not only vulnerable to exploitation and abuse but also deteriorates law and order situation within the society due to increased frustration among members of society that might lead to conflict.

Pakistan is a resource rich developing country and holds an important position in the world's geo-political landscape. With its population nearing 220 million individuals, the supply side is overwhelmed by the ever increasing demand for services that adversely affects the social fabric. Such a situation gives rise to an environment of discrimination, exploitation and even abuse in extreme cases and creates vulnerabilities. Among others, two population groups in Pakistan require immediate attention at policy and systemic level. The first group is the children and the other group comprises of the refugee population.

Pakistan is a parliamentary democracy and signatory to a number of international human rights instruments. The Government of Pakistan signed and ratified the UN Convention on the Rights of the Child (UNCRC) in 1990 and since then a lot of measures have been taken in terms of legislation for children but, unfortunately, the translation of those

laws into action is still a distant goal. Pakistan still needs to do a lot in terms of infrastructure, inclusive legislation and effective implementation of the laws to ensure that our children are safe, protected and find enabling environment to grow and transform a prosperous future for our country.

Pakistan is hosting refugees since its creation in 1947. The first massive influx was received at the time of partition when millions of Muslim refugees arrived from India with a hope for a better and peaceful future in Pakistan who are well integrated now and contributing their efforts towards the socio-economic and politico-legal development and prosperity of Pakistan. The second wave of mass migration was observed amid war in Afghanistan in 1979, and since then millions of Afghan refugees sought shelter in Pakistan, who were warmly welcomed at that time. Even today an estimated 2.7 million Afghans are residing in Pakistan. But, unfortunately, Pakistan does not have a National Refugee Law to administer, manage and regulate the refugees on its land. Neither has the Government of Pakistan signed the 1951 UN Convention on Refugees and its 1967 Protocol. The lack of a concrete national legal instrument jeopardizes the security of refugees, particularly Afghans living in Pakistan, who are consistently managed through ad hoc arrangements which result in aggravated vulnerability of this

population group and increases the probability of exploitation and abuse of this population.

ORGANIZATION:

People, Development & Policy Initiatives (PDP Initiatives) is a budding social welfare organization and envisions a “Socially Just” and “Progressive” society where people understand and fulfill their collective responsibility and enjoy their rights. Since its inception in 2013, PDP Initiatives is working for the well-being of vulnerable segments of the society through various means, be it advocacy, community services, capacity building, lobbying and networking and emergency response. PDPI aspires to support various population groups indiscriminative of cast, color, ethnicity, nationality, religion and/or sex in different thematic areas including Protection/Child Protection, Democratic Governance, Women and Youth Empowerment, Emergency Response, Education and Climate Change throughout the country.

Keeping in view the dire situation of human rights in Pakistan, particularly concerning access to justice for poor, marginalized and vulnerable segments of our society, PDP Initiatives has forged a private partnership with a law firm, Legal Researchers (LR), to facilitate the aforementioned population groups in meeting their legal needs with a Low-Bono approach. Legal Researchers is a

credible professional entity headed by a learned lawyer, Ex-Judicial Officer and experienced development practitioner with acclaimed expertise in the areas of Protection (IDPs & Refugees), rule of law and Gender.

Together with LR, PDP Initiatives has started a project, “**Strengthening Social Justice Program**” whereby low cost legal assistance is provided to the marginalized, vulnerable and low-income strata within our society. The program is being implemented in Rawalpindi, Islamabad and Peshawar during its pilot phase. Currently, the project is focusing on two components; Service Delivery and Advocacy. The service delivery component is about providing legal assistance (legal counseling, alternate dispute resolution (ADR) and court representation), and the advocacy component mobilizes support for legal reforms concerning Child Protection and Refugee Protection Framework in Pakistan. This component includes dialogues with relevant stakeholders (Government departments, national and international civil society, academia, legal fraternity and media) to pave way for improving the existing legal instruments and, where necessary, establishment of new and inclusive legislation.

EVENT:

PDP Initiatives in collaboration with LR has initiated a series of “Interactive Dialogue”

with the legal fraternity in Islamabad. The theme of the series is Human Rights Framework in Pakistan with specific focus on Juvenile Justice, Fair Trial and Refugee Protection Framework. The first two dialogues were held during November 2017 in District and High Courts Islamabad with generous support from the Islamabad Bar Associations at Islamabad district and High Courts.

The events had seen participation from eminent, renowned, learned and senior law practitioners of High Courts and Supreme Court.

The event was opened by **Shahid Ehsan** – Executive Director, PDP Initiatives, who welcomed the participants and offered his gratitude for sparing time to grace this session. With a brief introduction about the organizers (PDP Initiatives and Legal Researchers), Mr. Ehsan elaborated the objective of Strengthening Social Justice Program and highlighted the need for holding Interactive Dialogue on Human Rights Framework in Pakistan and its intended outcome. He emphasized the significance of this event with legal fraternity to extract practical and workable solutions from the legal practitioners who are well versed with the strengths and shortcomings within the judicial system and at the same time have the authority to provide recommendations that could prove beneficial in strengthening legal protection framework in Pakistan and

ultimately establishing an effective and inclusive rule of law within our society.

The floor was shared with eminent speakers who shared their views and expert opinions with the audience concerning their relevant subjects under the umbrella of Human Rights Framework in Pakistan.

REFUGEE PROTECTION FRAMEWORK IN PAKISTAN

Sheraz Khan, Director LR highlighted the predicament of refugees in Pakistan and also went on to elaborate that how the lack of refugee specific national legislation has undermined the relentless contribution made by the Government of Pakistan in the regulation and management of refugees in Pakistan, particularly since the onset of Afghan refugee influx in late 70s.



The absence of National Refugee Legal Framework in Pakistan is amplifying Vulnerability of already distressed Afghan refugee population and promotes discrimination.

Such absence of legal framework also jeopardizes the safety and security of the distressed population (in millions) thereby amplifying their vulnerability and increased violation of basic and fundamental rights of this population group. Mr. Khan shared with the audience

the ad hoc arrangements put in place by the Government of Pakistan in the form of Proof of Registration (PoR) cards that further created a discriminatory divide among the vulnerable Afghan refugees and affected the access to services by millions of non-PoR card holders.

Mr. Khan urged the legal fraternity to welcome the vulnerable and distressed refugee community in meeting their legal needs under international human rights framework.

JUVENILE JUSTICE SYSTEM IN PAKISTAN

Sharafat Ali Chaudhary, a prominent and learned lawyer, legal expert on Child Rights and author of multiple Bills and Laws concerning Child Rights and Minorities and an esteemed member of Technical Advisory Board – PDP Initiatives. Mr. Chaudhary detailed the current situation about Child Rights in Pakistan and the international obligation of the Government of Pakistan under United Nations Convention on the Rights of Child (UNCRC). He specifically focused on the



Anti-Terrorism Act, 1997 or any other law would become redundant to the extent of awarding death to a juvenile against any crime.

juvenile justice system in Pakistan and frequently referred to the "Juvenile Justice

System Bill 2017” which he proudly authored on behalf of Ministry of Human Rights Pakistan.

Mr. Chaudhary shared the recent developments undertaken by the GoP in lieu with Rights, but at the same time augmented that there was a lot of action needed to be done in terms of implementation of the laws in true spirit to realize the essence of laws concerning Child Protection. He explained how enactment of JJS Bill would create enabling environment for reformatory justice system, support social reintegration of juveniles and prohibit execution of a juvenile offender under any law.

Mr. Chaudhary emphasized that enactment of the Juvenile Justice System Bill, 2017 would be the most important step as the Bill proposes ‘over riding effect on any other law for the time being in force’. Once, this Bill is enacted the provisions of Anti-Terrorism Act, 1997 or any other law would become redundant to the extent of awarding death to a juvenile against any crime.

RIGHT TO FAIR TRIAL IN PAKISTAN

Tariq Mahmood Jahangiri, senior advocate Supreme Court and former president Islamabad High Court Bar graced the occasion with his insightful and valuable views about the procedures concerning the Right to Fair



Trial in Pakistan. He appreciated the “Strengthening Social Justice Program” of PDP Initiatives and LR and applauded the concept of engaging practicing lawyers through Law firms. He said that this combination bears the potential to surpass the existing free legal aid model exercised by NGOs in Pakistan where non-practicing lawyers are engaged to deliver free legal aid, who are not well versed with the technicalities of legal practice.

He commented that being the citizen of a sovereign Pakistan, it is a rightful entitlement of every citizen who comes in conflict with the law to be dealt with in due accordance with the law and not be prejudiced, discriminated and victimized at the hands of the law enforcement and judiciary.

He commended the constitutional provision in the form of Article 10-A, of the constitution of Islamic Republic of Pakistan that categorically states that “*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***”, but, at the same time he highlighted multiple factors that adversely affect the realization of this constitutional provision which include unnecessary delay, expensive litigation, lack of resources and overall effectiveness of the legal system in dispensing justice to the ones involved. He further commented that these factors sabotages the trust of common man on the formal justice

system and challenges rule of law within our society.

Mr. Jahangiri further expanded the scope of the Due process by encompassing the Service Tribunals deciding the cases of Government and Semi-Government employees and accentuated the need for adherence of due process and fair trial on such proceedings and articulated the engagement with prosecution department for capacity building initiatives.

He reiterated that the legal fraternity, being the prime stakeholder in formal justice system, must play its due role in ensuring that the elements of fair trial are respected and adhered to and due process is followed and easily accessible for all without any discrimination.

He also emphasized the need to institutionalize the professional capacity building of the young lawyers to improve the quality and effectiveness of formal legal system in Pakistan.

KEY NOTE SPEECHES:

This section contains keynote speeches by the dignitaries of Islamabad Bar Association who appreciated this humble but significant effort by PDP Initiatives and LR.

Arbab Alam, General Secretary Islamabad High Court Bar Association (IHBA) appreciated the organizers (PDP Initiatives



and LR) for initiating the series of interactive dialogue on Human Rights Framework in Pakistan by involving the legal practitioners, who are well versed with the technicalities, strengths and weaknesses of the legal system in Pakistan and were in a better position to provide meaningful, feasible and effective recommendations to improve the overall rule of law within our society. In his address, he highlighted the need for building the capacity of young lawyers in multiple facets of the legal practice in the light of human rights to ensure that the litigants are adequately represented before the court of law and due justice is dispensed in an efficient manner. Mr. Alam also assured his earnest support for such initiatives that contributed in upholding an environment of effective rule of law in Pakistan.

Naveed Malik, President – Islamabad Bar Association admired the PDP Initiatives for organizing this event and forging a sustainable



collaboration with the LR that could revolutionize the idea of facilitating access to justice for the vulnerable and marginalized segments of our society. He reiterated that there was definitely a dire need to implement Juvenile Justice System in Pakistan to ensure our children are dealt with in accordance with the internationally accepted legal protocols concerning juveniles and urged the legal

fraternity, particularly the young lawyers, to equip them well for representing juveniles in the court of law and ensure that the spirit of Juvenile Justice System is respectfully enacted. He assured his full cooperation, on behalf of Islamabad Bar Association, to support such initiatives that correspond with a functional rule of law in Pakistan.

Sardar Arshad Mahmood, senior lawyer of Supreme Court, opined that it was a critical responsibility of the legal fraternity to uphold sanctity of rule of law and at the same time sincerely contribute in facilitating access to justice for the poor and the needy. He highlighted the values such as professional integrity and compassion and argued that these must go side by side to ensure that justice is dispensed efficiently and effectively. He offered full support in advocacy efforts concerning the enactment of national refugee legislation as it was a critical instrument necessary to address the misery and vulnerability of distressed refugee population in Pakistan.



CONCLUDING REMARKS:

The Executive Director – PDP Initiatives, Mr. Shahid Ehsan, while concluding the event, offered his gratitude to the participants, his team and especially the

Islamabad Bar Associations for providing an opportunity to share such valuable information and meaningfully contributing towards creating a JUST and SAFE environment for children to grow and explore their potential, and upholding rule of law in Pakistan that would ensure peace and prosperity in our homeland. He also iterated the philosophy of collective responsibility as critical factor leading towards the greater social well-being. He said that children everywhere are equally vulnerable if due attention is not paid to their needs. It becomes the utmost responsibility of us adults to ensure protection of our children from harm and in case where they come in conflict with the law, the system must offer them opportunity to correct their behavior and support them in rehabilitation and reintegration within the society.

Mr. Ehsan also requested Mr. Naveed Malik, President Islamabad Bar Association to inaugurate the “**Legal Information Desk**” at United Law Chamber run by a seasoned and experienced lawyer, Mr. Abdul Rauf Chaudhary, advocate High Court. The legal information desk would provide low-cost to free of charge legal counseling to the under-served and marginalized litigants at district courts Islamabad.

RECOMMENDATIONS:

The session was concluded with very positive feedback from the participants who acknowledged the significance of these issues and also appreciated the efforts made by the PDP Initiatives and LR for promoting meaningful participation in a consultative process that could potentially shape a better and rule abiding society.

The set of concrete recommendations offered by the legal fraternity is given below.

- Dire and immediate need for enactment of National Refugee Legislation in Pakistan.
- Enactment of Juvenile Justice System Bill, 2017.
- Building the capacity of legal fraternity on legal framework concerning refugee protection framework, Juvenile Justice in Pakistan and tenets of Fair Trial.
- Institutionalize the capacity building initiative for young lawyers with full support from Islamabad Bar Associations to ensure a steady and sustainable improvement in quality of legal redress.
- Continuation of such dialogue with legal fraternity in bars across the country on a regular basis.
- Introduction of a Fair Trial Monitor (desk) at the Bars to ensure respect and implementation of article 10-A of the constitution of Pakistan.

The Islamabad Bar Associations assured their full cooperation in support of any and all the advocacy efforts concerning the subjected recommendations.

