FEDERAL OMBUDSMAN OF PAKISTAN

PROPOSAL FOR FREE AND SPEEDY RESOLUTION

OF CITIZEN COMPLAINTS
AGAINST MAL-ADMINISTRATION
OF
FEDERAL, PROVINCIAL AND LOCAL GOVERNMENT AGENCIES
UNDER ONE ROOF AT THE GRASSROOTS

Wafaqi Mohtasib (Ombudsman)'s Secretariat, 36-Constituion Avenue, Islamabad.
Phone: 92-51-9217206-10, Fax: 92-51-9217224

FEDERAL OMBUDSMAN OF PAKISTAN

PROPOSAL FOR FREE AND SPEEDY RESOLUTION

OF CITIZEN COMPLAINTS

AGAINST MAL-ADMINISTRATION

OF

FEDERAL, PROVINCIAL AND LOCAL GOVERNMENT AGENCIES

UNDER ONE ROOF AT THE GRASSROOTS

Wafaqi Mohtasib (Ombudsman)'s Secretariat, 36-Constituion Avenue, Islamabad.
Phone: 92-51-9217206-10, Fax: 92-51-9217224

FEDERAL OMBUDSMAN

FOREWORD

Lack of timely justice for the common man has become a huge challenge for our society and government. We may recall the golden saying of Hazrat Ali R.A that the rule of 'Kufr' may last but the rule of injustice cannot. In Pakistan, with over 100 million living under crushing poverty, denied education and skills for a decent livelihood, access to justice becomes all the more important. We are therefore fortunate to have the benefit of advice of the eminent members of our Advisory Committee on Reforms and Speedy Complaint Resolution.

The Office of the Federal Ombudsman, setup in 1983, has provided relief to over a million complainants and families. In the last two years, 150,000 complaints against federal agencies were resolved and the implementation rate of its decisions has remained above 95%. Alhamdulillah there is zero backlog.

It is imperative that we devise a more speedy system to provide justice to the common man at the proverbial doorstep free of cost. The Office of Federal Ombudsman is seeking advice and professional input from the luminaries of our society for the purpose. I have a dream that through the combined efforts of Federal and Provincial Ombudsmen, we can provide improved access to justice to the common man. It would require ingenuity and creativity to find 'out of box' solutions.

M. Salman Faruqui, Nishan-i-Imtiaz
Federal Ombudsman of Pakistan

CONTENTS

PROPOSAL FOR FREE AND SPEEDY RESOLUTION OF CITIZEN COMPLAINTS AGAINST MAL-ADMINISTRATION BY FEDERAL AND PROVINCIAL GOVERNMENTS /LOCAL AGENCIES UNDER ONE ROOF AT THE GRASSROOTS

1. The Concept

The institution of Ombudsman (Mohtasib), referred to in vernacular as 'poor man's court' has been serving the people of Pakistan in a significant measure from more than three decades now. The success of this particular notion of addressing ills of maladministration is reflected in the fact that not only have Ombudsman's Offices created in the provincial governments but also a range of such offices has been created in different specific sectors of federal governance like tax and insurance etc. That is the conceptual extension of the system of administrative justice. Nonetheless, now is the time to take the delivery of this service closer to people in a physical sense. The benefits of low cost, encumbrance free, simplified and swift delivery of relief can be further enhanced by taking the system as close to the door step of the citizen as possible. In addition, there is a need to 'bundle up' the whole range of extended functions of both Wafaqi and Provincial Mohtasib Offices in such a manner that the citizen clients may approach them with the ease of one window delivery of services, without sacrificing the autonomy of any of these offices.

It is proposed that joint teams of Wafaqi Mohtasib and Provincial Mohtasib should move to district headquarters initially, and later to sub-district level on pre-planned and pre-advertised dates to conduct hearings and announce on the spot decisions.

2. Rationale

The complexities as well as costs and time involved under formal justice system in delivery of justice, besides formidable load of cases on courts makes it but logical to think of quicker and simpler ways of achieving the same goal. The idea of speedy justice is successfully applied in a number of developed countries in various forms. A large percentage of the cases lodged in British and Australian Courts are being settled through alternative processes thereby saving cost of the parties and sparing time of the court. The courts, the lawyers and the litigant parties have now accepted that this process is helpful not only in speedy redress of complaints and reducing the workload of the courts.

Prolonged experience of Wafaqi Mohatasib's office shows that a substantial quantum of litigation arises out of the maladministration of the government agencies. If the flood of bad administrative practice is checked and filtered at adequately empowered forums like Ombudsman Offices, an appreciable reduction in long and cumbersome litigation is almost certain.

Despite all the efforts at the highest level the existing justice system is faced with many challenges and has not been able to provide speedy and affordable remedy to the common man in Pakistan. It is common knowledge that an average criminal case takes years while a civil suit takes decades to finalize.

3. Legal Context

The office of Wafaqi Mohtasib (Ombudsman) Pakistan was established in 1983 through a Presidential Order (P.O.1 of 1983). Federal Ombudsman's office is mentioned at Serial No.13 of Federal Legislative List Part-I of Fourth Schedule of 1973 Constitution. The objective being to redress and rectify the injustice done to a person through maladministration of the federal government agencies. The Mohtasib has powers to summon and enforce attendance of any person and examine him on oath, and to compel him for the production of any document. Moreover, the Mohtasib has the powers to award compensation to any complainant who has suffered unduly on account of acts of omission and commission.

Article 33 of P.O. No 1 of 1983 provides; "The Mohtasib shall have the authority to informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without written memorandum and without the docketing any complaint or issuing any official notice. (2) The Mohtasib may appoint for purpose liaison counsellors, whether honorary or otherwise, at local levels on such terms and conditions as Mohtasib may deem proper."

The model of Federal Ombudsman was initially reproduced by the establishment of the Ombudsman for Azad Jammu and Kashmir followed by the Provincial Ombudsman of Government of Sindh. Subsequently its tremendous growth indicates that today, after 30 years of its coming into being the offices of provincial Ombudsmen were established in Punjab, Balochistan and Khyber Pukhtunkhawa on the pattern of Federal Ombudsman with the same mandate. Since then there has been constant demand for its extension to the areas which were not henceforth considered to be subject to the accountability. Responding to the overwhelming demand, the Federal Government had established the Federal Tax Ombudsman, the Federal Insurance Ombudsman, the Banking Mohtasib and the Ombudsman for Protraction of Women against Harassment at workplace. All the Provincial Governments have established the Provincial Ombudsman. The Government of Sindh and Punjab have also established the Offices of Provincial Ombudsman for Protection of Women against Harassment at Workplace.

Despite a difference in detail and the sector, the common objective of all of these Ombudsman's offices is to provide administrative justice against the mal practice of the government agencies, in their respective spheres.

4. Wafaqi Mohtasib at Work

The Office of Federal Ombudsman has been providing relief to about 30,000 complaints annually. A solid one million families have benefited over the past decade. By the end of year 2014, a total of 1, 80,000 complaints were disposed of. The implementation rate is above 90% and ratio of appeal/review is less than 3%. This has been possible because of a credible working of this institution. Important achievement during 2013 and 2014 has been that the backlog of several years has been cleared and the office is now in a position to issue findings within 60 days of the filing of the complaints. Only 555 representations were made to the President of Pakistan against the findings of the Federal Ombudsman which is 0.36 % of total Findings. Out of which 91% decisions of the Federal Ombudsman were upheld whereas only 9% representations were accepted. Under the Federal Ombudsmen Institutional Reforms Act, 2013, the Mohtasib has to dispose of the complaints within 60 days. At present Federal Ombudsman Office has no pending case more than 60 days.

The Office of Ombudsman is not only providing the free justice but also in an expeditious way. The average cost at Federal Ombudsman Office comes to Rs.400/- per complaint, which is borne by the Government.

5. Salient Features of the Proposal

i. Extending the outreach of current system of administrative justice to the district and sub district level.
ii. Provision of speedy and free of cost redress of the grievance to the citizens.
iii. Provision of the above service almost at the door steps of the citizens.
iv. Provide one-window service to the citizens across the governmental and jurisdictional divide.
v. Promote harmony and functional integration in the operations of various tiers of Ombudsman's offices for the disposal of the cases relating to the Federal, Provincial and Local Administration with joint efforts of Ombudsmen Offices all over the country.
vi. Reducing burden on courts.

6. Proposed Arrangement

The proposal entails the following arrangements:-

i. Composing Joint Teams: One member from each Ombudsman's office would be deputed to be a part of a joint team meant for one particular district.
ii. Hearing at common venue: These teams will conduct hearings at the assigned district headquarter

iii. Prior Information and Publicity: The program of the teams will be planned and advertised in advance in the press and the Web Sites of the Ombudsmen Offices.

iv. Venue: These hearings will be held at the District Headquarters or in the Offices of Ombudsmen wherever the Offices exist, otherwise the hearing will be held in the Office of the DCO/Deputy Commissioner .

v. Method: Each member of the team will adopt the procedure provided in law/regulations of the respective organization. In general, the method of mediation and reconciliation will be adopted.

7. Logistics

i. Coordination will be the responsibility of the Regional Office of the Wafaqi Mohtasib.

ii. Provision of the venue for joint hearings will be the responsibility of the Provincial Mohtasib/ Provincial Government.

iii. Every member of the team will use his/her own staff to facilitate the hearings.

iv. Transport will be arranged by Wafaqi Mohtasib.

v. TA/DA will be the responsibility of the respective Mohtasib's offices.

8. Essential Requirements to Implement the Proposal

i. Political will and blessing.

ii. Ownership of the initiative by the participating Mohtasibs, particularly the Provincial Mohtasibs.

9. Proposed Steps

i. In order to create a political buy in of this very useful initiative it is proposed that the scheme may be discussed in a high level meeting to be attended by the Provincial Chief Ministers, Federal and Provincial Ombudsmen under the chairmanship of the Prime Minister or the President.

ii. Further details can be worked out in Mohtasib level meetings.

DELAYED JUSTICE & THE ROLE OF A.D.R

By

Mr. Justice Tassaduq Hussain Jillani

The growth of A.D.R in the last few decades on the one hand reflects disenchantment with the formal justice system characterized by delays and on the other an effort to promote a less formal dispute resolution mechanism. This development is not the outcome of any juristic philosophy. Rather it was necessitated by the growth of commercial litigation needing speedy resolution, by the ever increasing volume of court work, by court dockets becoming heavier and by the judge/case ratio becoming imbalanced on account of limited resources.

In this paper, I have attempted to respond to some of the commonly asked questions about the A.D.R. These are as under:-

(i) Why A.D.R?

(ii) What are its various techniques and how have other jurisdictions put them to use?

(iii) What measures should be taken to promote these techniques in Pakistan?

In any system of administration of justice, procedural law plays a pivotal role. Speaking broadly, a fair procedural law has three main objectives: (i) finding out the truth (ii) resolving the issue/dispute without unnecessary delay (iii) making the process cost effective. The attainment of these objectives has of late become difficult because of the phenomenal rise in the number of court cases on account of population explosion, greater public awareness of rights and the dynamics of a new market economy. Since judiciaries all over the world have a common set of roles and responsibilities, their issues of concern in this context are also similar. Not surprisingly there has been a global effort to face the challenge of delayed justice and to ensure speedy relief. However, these attempts have faced tough resistance in common law countries such as those in the sub-continent. In these countries, the most prevalent mode of resolving dispute continues to be adversarial: a judge is an impartial arbiter between two rival claimants and they are allowed a free hand to file their written statements, to adduce evidence, to file miscellaneous applications without effective control from the judge. This has led to an adversarial culture which affects the behavioural patterns of the parties to such an extent that, they, at times, become

combatants in social and criminal domains. It has also eroded people's confidence in the system itself. Even in the U.K which laid the foundations of the common law jurisdiction, there has been widespread dismay over court delays. Lord Woolf, the Chief Justice of England and Wales, in his report on "Judicial Reforms in U.K." voiced his concern in this regard and said:

> "2. Without effective judicial control, however, the adversarial process is likely to encourage an adversarial culture and to generate an environment in which the litigation process is too often seen as a battlefield where no rules apply. In this environment, questions of expense, delay, compromise and fairness may have only low priority. The consequence is that expense is often excessive, disproportionate and unpredictable; and delay is frequently unreasonable.
>
> 3. This situation arises precisely because the conduct, pace and extent of litigation are left almost completely to the parties. There is no effective control of their worst excesses. Indeed, the complexity of the present rules facilitates the use of adversarial tactics and is considered by many to require it. As Lord Williams, a former Chairman of the Bar Council, said in responding to the announcement of this inquiry, the process of law has moved from being 'servant to master' due to cost, length and uncertainty"

He made valuable suggestions which, inter alia, included reference to alternative dispute resolution (A.D.R). The relevant paragraph, in Chapter 4, is as under:-

> "The parties should:-
>
> (i) Whenever it is reasonable for them to do so settle their disputes (either the whole dispute or individual issues comprised in dispute) before resorting to the courts
>
> (ii) Where it is not possible to resolve a dispute or an issue prior to proceedings, then they should do so as early a stage in the proceedings as is possible."
>
> Where there exists an appropriate alternative dispute resolution mechanism which is capable of resolving a dispute more economically and efficiently than court proceedings, then the parties should be encouraged not to commence or pursue proceeding in court until after they have made use of that mechanism." (F.N.1)

The Woolf report proved to be a catalyst in the U.K and led to drastic amendments in the civil procedure rules to make room for A.D.R.. Now the courts not only encourage but exhort the parties to adopt A.D.R. In Dunnett's case, the Court did not grant costs to the party, which won in appeal merely because it had refused mediation at the trial stage. The Court observed:

"It is hoped that publicity will draw the attention of lawyers to their duties to further the overriding objective....and to the possibility that, if they turn down out of hand the chance of alternative dispute resolution when suggested by the court, as happened on this occasion, they may have to face uncomfortable costs consequences."(F.N.2)

However, subsequently in three cases, the Court of Appeal has held that refusal to mediate will not automatically lead to cost penalties. These cases are:

(i) **Co-renso (U.K) Ltd. V the Brunden Group (plc LTL 21 August 2003):-** (A dispute between a seller of goods filing a claim and buyer of goods filing a counter claim. The seller refused the offer of mediation and won the case. The Court held that mediation was a form of A.D.R and so was negotiation. Since the seller was prepared for the latter, he need not be penalized).

(ii) **Hurst v. Leeming (2002) EWHC 1051:** (This was a case in which a barrister was defending an action for professional negligence. The court held that he was justified in refusing to agree to mediation as the attitude and character of the claimant made it unlikely that mediation would succeed.)

(iii) **Halsey v. Milton Keynes General NHS Trust (2004 EWCA (Civil) 576:** In this case, it was observed that a party could not be compelled to go for mediation as it might be violative of Article 6 of the European Convention on Human Rights.

An analysis of the above-referred cases indicates that the refusal to mediate will not automatically be a ground for cost sanctions but that it will instead depend on the nature of the each case. However, if a party unreasonably refuses mediation, it may incur the risk of sanctions.

The above-noted precedents are illustrative of the judiciary's endorsement of A.D.R. The response of the litigant public, the industry and the Bar has not been negative either. In U.K this has led to the establishment of the Civil Mediation Council (CMC) under Sir Brian Neill's Chair. This body comprises of elected representatives of providers and independent mediators together with professionals and academics. It works actively to promote, foster and focus interest in civil litigation and commercial mediation. In 2001, the Government and the former Lord Chancellor played a leading role in promotion of ADR in the U.K. In commercial cases, the U.K. Government agreed to provide appropriate clauses in their standard procurement contracts for the use of ADR techniques to settle disputes up to March 2002. Government departments had

previously attempted or used ADR in just 49 cases. This number rose to 617 in the year 2002/2003. Thus there was an increase of 1200% from the previous year. According to an estimate the U.K. Government saved a sum of over six million Pounds on account of the use of ADR.(FN.3)

In Australia, mediation has recently been introduced to resolve commercial disputes. Until then, it was used chiefly to resolve family matters or minor disputes between neighbours. The courts have been given powers to order that disputes before them be resolved through mediation. Recently at an International Conference in U.S.A, I met an eminent corporate lawyer from Australia, Mr. Neville Rochow, who has been associated with more than 1000 mediations. I asked him about the working of A.D.R in Australia and he informed me that the vast majority of cases get settled through mediation and that mediation and negotiation are the most successful forms of A.D.R. He said that "arbitration has fallen out of fashion except in building and engineering cases because the expense is unwarranted, given that there is another layer of appeal. There can be no appeal from mediation because no decision is imposed. . . . . Mediation is usually by agreement. However, the Court will in some cases impose an order. There is power to do so both in our State Supreme Court and in the Federal Court. Most Federal Court Judges will not force parties to mediation because a forced mediation seldom produces a result." To my query as to whether any special training is imparted to judges on ADR, his reply is as under:

> "Training for Supreme Court judges is voluntary. Some have undertaken training and do an excellent job. Other mediators have done specialist courses (such as that which I did many years ago to become a graded arbitrator) run by the Australian institute of Arbitrators and Mediators."

In China, mediation is rooted in history and culture:

> "The Confucian view was that optimum resolution of a disagreement would be achieved by persuasion and compromise rather than by coercion so that it was the duty of every citizen to avoid court proceedings, which are seen as harmful to the natural social order. For this reason the Chinese, and indeed other Asian cultures, have considered litigation as the last resort, which involves a loss of face. Discussion and compromise are preferred as part of a philosophy which emphasis harmony, peace and compromise."(F.N.4)

In China today:

> "Disputes are resolved almost exclusively through negotiation... ..[C]onciliation is the preferred way and as a matter of fact, is almost compulsory as a first step. It even happens that judges will direct the parties to negotiate and try to arrive at a settlement at such an advanced stage as one the evidence has been fully presented."(F.N.5)

Conciliation and concord through mediation is the preferred mode of resolution of disputes in Islam as well. In the Holy Quran, in *Sura "Hujrat"*, *Sura "Nisa"* and *Sura*

"Namal", there are many injunctions indicating such a preference. Stephen York makes a special mention of this in his book on ADR and says that "Mediation and Conciliation are the methods preferred by the Prophet (Peace Be upon Him) and thus are favoured in the Arab world."(F.N.6).

In Japan, the homogeneity of society results in an innate aversion to litigation. People generally prefer conciliation and compromise rather than bringing their causes to the court.

The Indian experience should be of special interest to all of us because of the similarities between our systems. In October 1994, the former Chief Justice of India, Judge Ahmadi, initiated dramatic reforms in the handling of all matters pending before the Supreme Court of India. A comprehensive computerization programme was instituted; a uniform classification system, according to subject matter of cases field, was created; and filing, listing, classification and allocation tasks in the Indian Supreme Court Registry were computerized. These initiatives dramatically reduced the Supreme Court caseload from approximately 1,20,000 cases in October 1994 to 28,000 cases in September 1996. Encouraged by the success, he duplicated these efforts in the High Court and subordinate courts.(F.N.7)

At the trial court level, India also introduced ADR mechanisms through the promulgation of the Legal services Authorities Act 1987, which came into effect in 1995. Through this enactment, "Lok Adalats" (Courts) have been set up which operate mostly on a consensual basis the awards passed by these courts are executable like the decree of civil courts. According to Dr. Adarsh Sein Anand, former Chief Justice of India, "Lok Adalats have so far settled over 97 lakh legal matters throughout the country. In 1999, along 9,67,990 cases were settled by Lok Adalats through the country". (F.N.8).

India, like Pakistan and Bangladesh has amended its Civil Procedure Code by introducing the concept of ADR (Section 89). An informal mediation centre has been established in the Judicial Academy at New Delhi and Judicial Officers are being exposed to seminars on mediation.

Singapore is the classic example amongst the smaller countries where ADR has been introduced along with other judicial reforms with tremendous success. Commenting on this development in their judicial system, the Chief of Singapore said:-

> "We introduced mediation primarily because of the understanding that adjudication is not always the most appropriate, as disputes differ widely in nature. The courts must be able to offer the most effective, responsive and appropriate methods for resolving disputes. They must be able to offer alternatives to the traditional resolution path. With a variety of dispute resolution mechanisms available, disputants can then match the forum to their particular dispute rather than being required to fit their dispute to the adversarial forum. The subordinate courts have taken the lead and set the pace for the use of mediation as a dispute resolution process. Unlike some other court jurisdictions where it had its genesis as a diversionary measure to deal with backlogs and delays, our motivation was different as the problem was absent. Rather we saw an opportunity to reintroduce into our culture a process to which it was not a stranger. In fact, our own mediation roots can be traced back to the early 19th century."(F.N.9)

Egypt and Jordan, among the Muslim countries' have introduced ADR and are experimenting with these new modes of dispensation of justice. In Sri Lanka, also, a person cannot file a suit unless he has obtained a certificate from the Mediation Board to the effect that mediation has failed.

In Bangladesh, the experiment with A.D.R has been a great success. Under the energetic leadership of Mr. Justice Kamal Mustafa former Chief Justice of Bangladesh, ADR has been introduced in all Family and Commercial Courts of the country.

The most progress in the promotion of ADR was made in U.S.A. This country also inherited an adversarial system. It had acute problems of backlog and court delays. This led to the promulgation of the Justice Reforms Act, 1990 through which amendments were made in the procedural law to introduce ADR techniques and case management. The ADR Act 1998 was also promulgated to further promote these techniques. According to an estimate, 90% of the cases filed in the U.S.A are decided without regular trial and through ADR.

VARIOUS MODES OF ADR.

(i) Case Management;

(ii) Judicial Settlement;

(iii) Early Neutral Evaluation;

(iv) Mediation;

(v) Arbitration; and

(vi) Summary Judgment.

Case Management

Case Management is primarily the supervision of management of the time and events involved in the life of a case. In this mechanism, a court's role has the following dimensions:-

(i) Acting as a manager, i.e to supervise the case from filing till disposition and it has to monitor progress in each case.

(ii) Identifying issues over which the parties are in disagreement.

(iii) Exploring the possibility of resorting to ADR.

(iv) Fixing dates in the case in consultation with the main actors in case, i.e. the lawyers and the parties.

(v) Setting down a schedule for various procedural steps towards the final resolution of case.

The case management process enjoins the parties, i.e. both the plaintiff and the defendant, to file a written statement and a Case Management Statement, in which under a specific questionnaire they are obliged to point out the issues involved, the evidence proposed to be adduced, and the choice of ADR that they wish to undertake. After the submission of the respective Case Management Statements, a joint conference of the parties is held and the parties are compelled to exchange additional information of key issues as early as possible. By structuring the case in this manner, the process facilitates and promotes early resolution of disputes. In those cases where there is no settlement, the case is set down for trial with a defined trial schedule.

Judicial Settlement

One of the major objectives of ADR is to apprise the parties of the merits of their respective claims. The mode of judicial settlement is a technique which helps the parties to have their case settled by referring the same to a Judge who is not seized of the case for trial. The benefit of this mode is that the referee evaluates the case confidentially and gives his opinion. When the case is referred for judicial settlement, the Referee Judge convenes a settlement conference. The Settlement Judge while handling the case acts as a mediator and facilitates both the parties to reach a settlement. He convenes conferences jointly or separately and gives his assessment of the case objectively but the same time offers them various options. When he convenes a meeting separately with a party he is mandated to maintain complete confidentiality. If finally the case is settled, both the parties sign an agreement and the matter is settled and the trial court is informed about it. However, if the parties fail to reach a settlement the case is sent back to the trial court for a trial on merit. This technique is mostly used in commercial cases where parties value time and they want to maintain a business relationship as well.

Early Neutral Evaluation

Early Neutral Evaluation is a method whereby in commercial cases the parties solicit the help of a neutral party to have their case evaluated before going to trial. According to Robert A Goodin:

> "The central goal of early neutral evaluation is to get the central participants in litigation---that is the decision-makers, on behalf of the clients and their principal trial lawyers---intensively involved in the legal and factual merits of the case in the very beginning of the litigation as opposed to the traditional American litigation pattern which has such intense involvement only after a length period of very expensive fact finding called discovery."

In the U.S.A, this technique is mostly used in the Federal Courts in commercial cases. Normally, an experienced lawyer with expertise in the field concerned agrees to be the evaluator, to call meetings and to convene evaluation sessions where both the parties and counsel are present. The parties tender written arguments and the documents they wish to rely on for the perusal and examination of the evaluator who examines them and gives his opinion or fixes some other date for his opinion. For the evaluation and assessment, the evaluator may ask questions of the respective lawyers or the parties. The evaluator also calculates the cost of litigation. The evaluator also indulges in private caucuses which are separate sessions with each party for detailed discussion. At times the evaluator has to shuttle between caucus not only to undertake evaluation but also to explore mediation.

Like judicial settlement, the evaluator has to keep meetings of each session confidential and if the parties fail to reach a settlement, the case is sent back to trial. The advantage during this phase of pre-trial proceedings is that both the parties are in a better position to formulate their case and identify issues for an ultimate trial.

Mediation

Mediation, as the term indicates, is a procedure by which the dispute is settled by a mediator through the mutual agreement of the parties. It is different from arbitration because in arbitration the Arbitrator decides the matter in the light of the evidence adduced by the parties, whereas in mediation the Mediator promotes and encourages negotiations between the contesting parties with a view to resolve the matter. Mediation is consensual whereas arbitration is not. In mediation, parties are given more than one options. The role of the Mediator, therefore, is very creative. Mediation allows the neutral party to examine the parties with respect to aspects of a dispute that most litigation systems ignore. These include:

(i) the relative strengths and weaknesses of each legal claim and defense;

(ii) the impact of these issues on the present value of the claim;

(iii) settlement proposals that more accurately reflect the probabilities of success on the merits; and

(iv) creative solutions, including new business or contractual arrangements between the parties that maximize their ongoing interests.

Three essentials of a good mediation are as follows:

(i) Persistence;

(ii) Neutrality; and

(iii) Creativity.

Following are the advantages of mediation:-

(i) it promotes conciliation and concord.

(ii) It is speedy.

(iii) It is informal and flexible.

(iv) It is confidential.

(v) Creative.

(vi) The mediation could be statutory, court ordered, contractual or voluntary.

Arbitration

Arbitration is a mode of ADR which is quite well known in the Anglo-Saxon system of administration of justice. Reference to arbitration is a form of contract and is thus consensual. However, arbitration can be directed by the Court as well. The Arbitrator can be Court appointed or selected through mutual agreement. Our experience of this mode of ADR is that in most cases the Arbitration award does not end the dispute and the award is challenged on allegations of misconduct on the part of the Arbitrator.

Summary Judgment.

Summary judgment is a process through which the Court on the motion of either of the parties decides the case summarily. In American terminology there is a procedure called "demurrer". It means a motion to dismiss an action for failure to state a cause of action. In appropriate cases, either a plaintiff or a defendant may obtain a final and complete resolution of a law suit without incurring the often considerable delay and expense of a full trial.

In our Civil Procedure Code, Order 7 Rule 11 is more or less a motion in the nature of "demurrer" as in the American Legal System. There are other provisions in our Civil Procedure Code through which the matter can be summarily decided. For instance, under Order 12(6) CPC, where admissions of fact have been made, the Court may pronounce judgment. Similarly, under Order XV Rule 3, the Court may proceed to decide the case where it is of the view that no further evidence or argument is called for.

Community Mediation:

The Community Mediation agencies represent a network through which there are greater chances of participation of the disadvantaged groups in the process of resolution of dispute.

"The first community mediation centers were set up in the early 1980s and there has been a significant increase in their number since then. Many of the early centers which were established were largely dependent on the vision of particular people or groups including professionals from the fields of probation work and psychology, and religious groups such as the Anglican Clergy and Quakers. In the United States of America, community mediation has become the most pervasive form of mediation and the number of centers has also grown rapidly there. In the United Kingdom the majority of schemes are concerned with neighbourhood conflict although many direct their attention to victim/offender work and to working with schools. Community mediation centers are particularly prevalent within the inner cities where rates of conflict may be higher because of the high density living and general stresses in the urban environment".(F.N.9-A)

A.D.R. and Equity Legislation.

One of the remarkable features of A.D.R is that in parting with the conventional and formal modes of dispute resolution it offers a wide range of options wherein the only limit is human creativity. It provides relief where victims are dead, where the law of limitation blocks the way for substantive justice, where rules of evidence raise barriers, and where the "wretched of the earth" shy away in the face of prohibitive costs. Legislation is yet another avenue of public policy where A.D.R has been used with success to surmount the afore-referred impediments.

The classic example in this regard is the case of the Rosewood survivors. Rosewood was a small town in Florida, consisting of a few hundred black residents, three churches, a store and a school. In 1923, the New Year morning was marred when the white men of nearby locality, enraged by the alleged attack on one of their woman, lynched a black resident to death, burnt the houses of others and killed many in the days which followed. The story goes that the "tiny children of Rosewood were forced to escape the massacre by fleeing their homes on a cold January night and hiding for days in the Florida swamps." They never returned and died in the wilderness. The justice system did not offer any solution. The issue of substantive justice, of compensation and of retribution got drowned in a sea of racism and for lack of someone to espouse their cause. The victims were forgotten and their claims remained unattended till 1990 when the matter was taken up by a public spirited law firm (Holland & Knight Community Service Team Florida). Their case was taken to the state legislature as a claim bill to provide justice for the survivors of Rosewood. The bill was initially debated before a special master of the state legislature who too was a lawyer. The Government was represented through the State Attorney General. Witnesses and experts appeared, the hearing contained for days and eventually the Special Master found the claims to be equitable. The Claims Bill was presented before the legislature, which passed it and eventually the Florida Government signed it. The bill "included compensation for survivors, who had actually been present at the time of massacre. It also provided for funds to be set aside to compensate the survivors or their descendants for the loss of their property. A perpetual scholarship fund was established for descendants and other minorities. This range of options would not have been possible through court litigation." (F.N.10).

The passage of the Bhopal Leak Disaster (Processing of Claims) Act 1985 is yet another example of equity legislation where ADR was invoked. In 1984, Bhopal witnessed one of the worst industrial disasters in history. The escape of highly tonic gases from the facility of the iron carbide corporation in Bhopal left more than 2,000 dead in a single night and more than 300,000 persons were exposed to different degrees of injury. It would have been impossible for each victim to have filed an individual suit against the company in India or in the U.S.A. The Indian Parliament passed an Act authorizing the Government to bring an action against the company in USA and then India to recover the damages on their behalf. Finally in 1991 a sum of $ 470 million was deposited in the fund created under the Act. The amount was subsequently disbursed to the individual claimants after verification. (F.N.11).

A.D.R. in Pakistan

Although, some laws in Pakistan do contain provisions for initiating settlement of disputes through ADR these provisions have till recently not been put to use due to our pre-dominant adversarial culture. For instance, in family laws there is a specific provision for pre-trial and post-trial conciliation/mediation effort by the court. In 1998, the Chief Justice of Lahore High Court, on my report and suggestion, launched a pilot project on ADR comprising of two courts in Lahore and it was confined to family cases only. The nine months working of these courts indicated that 80% of the cases filed were decided within days, i.e. 30% ended in compromise and the remaining by mutual settlement. Pakistan Law College, Lahore conducted a survey to gauge public perception of ADR in the light of the pilot project. Its finding were that 70% of the lawyers, 60% of the litigants and 100% of the judges were of the view that ADR reduces litigation and that ADR should be introduced in the country. It was in July, 2002 that the Civil Procedure Code was amended and Section 89 was introduced to make room for ADR. It would be pertinent to mention that within a year of this amendment in Pakistan, India and Bangladesh also amended their C.P.C to introduce ADR. A comparative chart of the amendments made in CPC in these three countries is appended as Annex-A.

Legislative, Executive support for ADR

Legislative and executive support for introducing ADR has not been lacking. Unlike the slow response that these institutions traditionally may have to change and reform, the steps taken, the laws enacted and the decisions made reflect that both these institutions have acted with the desired interest to bring about the requisite changes. After amendments in the CPC, the following laws have been amended with the same object in view:-

(i) **Customs Act, 1969:**

Section 195-C has been added with the specific title of ADR which reads as under:-

"195-C. Alternate Dispute Resolution.----(1)

Notwithstanding any other provision of this Act, or the rules made thereunder, any aggrieved person in connection with any matter of Customs pertaining to liability of customs duty, admissibility of refund or rebate, waiver or fixation of penalty or fine, confiscation of goods, relaxation of any time period or procedural and technical condition may apply to the Central Board of Revenue for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application.

(2) The Central Board of Revenue, after examination of the application of an aggrieved person shall appoint a committee consisting of an officer of customs and two persons from a notified panel of Chartered or Cost Accountants, Advocates or reputable taxpayers for the resolution of the hardship or dispute.

(3) The committee constituted under sub-section (2) shall examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of customs or any other person to conduct an audit and make recommendations in respect of the resolution of dispute as it my deem fit.

(4) The Board may, on the recommendation of the committee, pass such order, as it may deem appropriate.

(5) The aggrieved person may make the payment of customs duty and other taxes as determined by the Board in its order under sub-section (4) and all decisions, orders and judgments made or passed shall stand modified to that extent and all proceedings under this Act or the rules made thereunder by any authority shall abate:

Provided that, in case the matter is already sub-judice before any authority or tribunal or the court, an agreement made between the aggrieved person and the Board in the light of recommendations of the committee shall be submitted before that authority tribunal or the court for consideration and order as deemed appropriate.

(6) In case the aggrieved person is not satisfied with the order of the Board, he may file an appeal with the appropriate authority, tribunal or court under the relevant provision of this Act within a period of sixty days of the orders passed by the Board under this section has been communicated to the aggrieved person.

(7) The Board may, be notification in the official Gazette make rules for carrying out the purposes of this section."

(ii) **Custom Rules, 2001**:

A new chapter XVII has been added on ADR laying down elaborate procedure to facilitate ADR.

(iii) **Income Tax Ordinance, 2001:**

Section 134-A has been added for ADR.

(iv) **Federal Excise Act, 2005:**

Section 38 specifically caters for ADR

(iv) **Sales Tax Act, 1990:**

Section 47-a has been inserted on ADR and Chapter X has been added laying the procedure for resorting to ADR techniques.

The above-noted amendments, though comprehensive in nature, have raised many issues of concern. For instance, if the matter is referred for A.D.R. under the Customs Act, the role of the Alternate Dispute Resolution Committee is merely recommendatory and the ultimate decision is taken by the Central Board of Revenue. Parties involved cannot mutually resolve a dispute and the Committee constituted under section 195-c of the Customs Act after interacting with the parties sends the recommendations to the C.B.R. which in any case was the administrative and adjudicating authority even prior to the introduction of A.D.R. If the matters ultimately land up in the same bureaucratic rigmarole, innovative and speedier resolution of disputes cannot be achieved. Moreover, the officials of the C.B.R being government servants are not in a position to decide confidently for fear of being accused of a collusive deal for ulterior motives. These issues have to be attended to if the newly added provisions in law are not reduced to a mere symbolic reflection of the new modes of dispute resolution, lacking in substance and effectiveness.

Courts and A.D.R

Notwithstanding the legislative and executive measures taken, the Courts have not made use of section 89 of the CPC very frequently. There is more than one reason for this. Firstly, for any new scheme to succeed, institutional support is a *sine qua non* which has been mostly lacking. Secondly, not much has been done for training and capacity building of the judges. And thirdly, the amendments in the CPC were not followed by amendments in the rules for procedural details to invoke ADR techniques. In this backdrop, however, the steps taken by the Honourable Chief Justice of Pakistan have not only been dynamic but a breath of fresh air. The National Judicial (Policy Making) Committee (of which the Honourable Chief Justice is the Chairman) in its meeting held in August, 2005 has decided that ADR should be promoted in all the four provinces and that programmes be organized for training of judicial officers on ADR techniques. To achieve this objective, the Committee decided to constitute a Sub-Committee headed by a Judge of the Supreme Court and comprising of a Judge from each High Court. I have the honour to head this Committee. Five months back, the Honourable Chief Justice presided over an international Seminar on A.D.R in Karachi and conveyed his message loud and clear. It struck a responsive chord and only last week the Sindh High Court has set up the first Mediation Centre in Pakistan with the assistance of the World Bank. The Honourable Chief Justice has also taken steps to revamp the working of the Federal Judicial Academy so that this important institution responds effectively to the changing needs of the justice system and functions to promote the professional competence of judges and thereby bring about a qualitative change in the administration of justice in the country.

The committee has submitted its report to the Honourable Chief Justice. Some of the suggestions made by the committee for promoting a culture of dispute settlement through negotiation, conciliation, mediation, arbitration or any other mode the parties may adopt, are as under:

(i) A comprehensive instructional code be prepared for the judges at the district level as to how to make use of the amended provisions in the CPC and how to facilitate adoption of ADR techniques.

(ii) Each High Court be asked to amend the rules to give effect to Section 89-A of the CPC. The amendment in the Bangladesh CPC in this regard is much more comprehensive as it has laid down a procedure as to how the parties may appoint a mediator. In the event of their failure to do so the Court may appoint a mediator. The rules should also be amended to provide as to how a panel of mediators is to be maintained by the District Judge and the qualifications of a mediator in the panel. Furthermore, a time period of 10 days has been specified within which parties may decide whether they would like to settle the dispute through mediation failing which the Court may proceed with the trial. Finally, a period of 60 days is given for a mediator to decide the case entrusted to him with the provision that if mediation fails then the court seized of the matter should not try the suit.

(iii) ADR should be introduced as an optional or compulsory subject in the final year of the LL.B course. The London School of Economics offers an LLM course in ADR. As a judge of the High Court, I was also a member of the Syndicate of the Bahauddin Zikrya University and I got in touch with the convenor of the ADR course in London School of Economics, Mr. Simon Roberts, and discussed with him this idea. He was fully supportive of the same and his view was ADR is a most appropriate subject for an LL.B course. My own preference would be to divide the course into three sections: The ADR Movement in General; The Primary Forms of Decision-Negotiation, Mediation, Arbitration, Adjudication; the ADR Scene in your own jurisdiction (which I know to be very well developed). My strong sense is that a very substantial section on Negotiations should be included in any course of this kind."

It would be pertinent to mention that a private university (Lahore University of Management Sciences) has introduced A.D.R. as a subject in its L.L.B course

(iv) Short courses on ADR for in-service members of the subordinate judiciary should be organized.

(v) The National Judicial (Policy Making) Committee may examine the desirability of establishing an institute of Arbitrators and Mediators in the Federal Judicial Academy, Islamabad.

I am of the firm belief that no effort for judicial reform can succeed without the positive cooperation of Bar. The Bar has played a crucial role in promoting ADR in many countries.

In the UK, lawyers and clients were initially suspicious. Lawyers in particular felt threatened or discomforted by a process they did not understand. Some felt they may not be able to extract due rewards---or that reasonable expectations of profit costs would be thwarted. But now this has changed. Mediation providers in Canada and the UK, notably CeDr, the ADR Group and the Academy of Experts in the 1990s, addressed the common interests of defendants and claimants and their lawyers. Parties on both sides began to welcome the opportunity to minimize risk, leakage, delay, cost and stress in a procedurally fair setting".(F.N.12) In the U.S.A lawyers have played a dynamic role in promoting ADR. In North Carolina, the members of the Bar contribute 3% of their income to promote ADR in the State. In California, the State Bar has published "A Guide to Early Dispute Resolution Making ADR Work for You" and a mini guide. The mini guide explains the concept of ADR, its rules, various facets of ADR, the kinds of disputes which are most appropriate for resolution through these techniques, their advantages and disadvantages, how to approach the client or the opposite party in this regard and what considerations should be weighed while formulating an agreement to use ADR. The American Bar Association publishes a monthly magazine containing empirical data, research work and guidelines on various aspects of the working of ADR.

As most people are now aware, negotiation, mediation or arbitration, are today the preferred modes of dispute resolution in the corporate world. Multi-national companies, in the Third World are wary of jurisdictions where ADR has not been made part of the justice system. That is why governments across the globe are making suitable amendments in the rules of the game. Lawyers too may not want to miss out on this large clientele. This explains the growing interest of the Bar in these modes of dispute resolution. All the stakeholders in the judicial process are coming on board. This will go a long way in promoting a more conciliatory culture of dispute resolution, in reducing the court work and in providing speedier justice.

BIBLIOGRAPHY

(1) The Right Honourable the Lord Woolf, Access to Justice.

(2) Dunnet v. Railtrack plc(in administration) [2002] EWCA Civ 303; [2002' 2 All ER 850, New Law Journal, Arbitration and ADR Supplement, September 27,2002.Page 1431.

(3) Mediation, How to Win Clients and Influence People. New Law Journal September, 2003, Page 1419.

(4) Stephen D York, Practical ADR, Chapter I, "The Practical Alternatives", Growth of ADR

(5) Presentation at Lex mundi College of Mediators, http.www.hg.org/1354.txt.

(6) Saleh, "The Settlement of Disputes in the Arab World: Arbitration and other Methods". 4 International Tax & Business Law280.

(7) Hiram E. Chodosh, Stephen A. Mayo, A.M Ahmadi & Abhishek M. Singhvi, " Indian Civil Justice System Reform: Limitation and Preservation of the Adversarial Process", New York university Journal of International Law and Politics, Volume 30, Fall 1997-Winter 1998.

(8) "Naya Deep" Issue No.1 January-March 2000, published by the National Legal Services Authority, 12/11, Jamnagar House, New Delhi-110011.

(9) Singapore Subordinate Courts, Page 27 of leading justice @ subordinate courts. Annual Report 1999.

(9-A) "The Devil and the Deep Blue Sea? A critique of the Ability of Community Mediation to Suppress and Facilitate Participation in Civil Life, Journal of Law & Society, Volume 27, Number 1, March 2000, at page 137.

(10)"Story of Justice" by Martha Barnett "Dispute Resolution Magazine" Winter 2000 Page 17.

(11)"Public Interest Litigation" : The Lessons from India by Indira Jaising.

(12) "Mediation—How to Win Clients and Influence People "by Jonathan Dingle, New Law Journal Friday 26September, 2003.

Development of Alternative Dispute Resolution (ADR) in Indonesia

Mas Achmad Santosa[1]
ASEAN Law Association (ALA)- Indonesia

Introduction

Alternative Dispute Resolution (ADR) can be interpreted as alternative to adjudication or alternative to litigation. If we use the first interpretation, arbitration cannot be part of ADR as arbitration is an adjudication in nature. The second interpretation can include arbitration as a part of ADR as it is not a litigation or court process. However, ADR has been developed rapidly in all part of the worlds as it has a flexibility and its ability to respond to merely substantive interest (tangible/ proprietary related interest) but also psychological and procedural interests as three of them are basic human interests.

In Indonesia based on the Law No. 30/1999 concerning Alternative Dispute Resolution and Arbitration, ADR is interpreted as alternative to adjudication as it is reflected in the title of the Law No. 30/1999 which separates ADR and arbitration. Therefore ADR includes negotiation, mediation, conciliation, early neutral evaluation and other hybrid type of ADR. As it happens in other Asian countries, Indonesia has been practicing ADR in traditional community long time ago. In traditional community *Pasemah*, South Sumatera for example, customary dispute resolution uses *Jurai Tue* or *Sungut Jurai* as third party conciliator. In West Sumatera, it is known *Kerapatan Adat Nagari* or *Kerapatan Ninik Mamak* which functions to settle disputes based on their customary rules. Although, traditional type of ADR has been widely practiced throughout the islands archipelago, institutionalization of ADR to resolve contemporary/modern problems has been left behind compare to some Asian countries such as Japan with *Chotei* (conciliation by Commissioners) and *Wakai* (conciliation by presiding judge), Philippines with *Barangay Justice*, and Singapore with Court Annexed ADR in Subordinate Courts.

Typology of ADR In Indonesia

To understand the law and practice of ADR in Indonesia, it is easier to categorize type of ADR which is practiced in Indonesia as follows:

1. Judicial Type ADR (Court Connected ADR)
2. Administrative Type ADR

[1] Vice Secretary General and member of the Indonesia National Standing Committee of ASEAN Law Association (ALA). Senior lecturer of ADR in the Law Faculty of University of Indonesia and founder of *Indonesian Center for Environmental Law (ICEL)* and *Indonesian Institute for Conflict Transformation (IICT)*. Presently, the author is a legal reform specialist under *the Partnership for Governance Reform in Indonesia*, working with the Supreme Court, Coordinating Ministry for Political Affairs, Attorney General Office, National Police, National Development Planning Agency, Ministry of Justice and Human Rights, and National Law Commission.

3. Private Sector Type ADR
4. Traditional Type ADR

Judicial type ADR or Court Connected ADR (CC-ADR) starts to develop as September 11, 2003, Supreme Court (SC) issued the Supreme Court Regulation No. 2 / 2003 concerning Mediation Procedures Within the Court. The SC Regulation functions as a guidance for settlement judges or non judges mediator to implement article 130 Civil Law Procedure which obliges the judges to try the amicable settlement before the civil proceeding starts. The article 130 Civil Law Procedure has not been effective yet as judges have little motivation to mediate and they have a limited knowledge and skill on how to mediate the case. The SC Regulation No. 2 /2003 introduces important provisions as follows:

- Mediation is mandatory for parties in dispute and handling judges;
- Parties in disputes can select listed mediator(s) or outside mediator [2]
- Code of Conduct developed by the Supreme Court is a basis for mediator to conduct his/her tasks;
- The separation of function between settlement judges and handling/trial judges;
- Duration of mediation
- Agreement can be formulated into decision of court which has an executorial power;
- The introduction of combined approaches of interest based mediation and early neutral evaluation;
- Prohibition of using minutes of mediation (if it fails to reach agreement) as evidence in litigation process;
- Mediators (judges and non judges) must be certified which will be administered by the Supreme Court;
- CC-ADR is a closed session but there is an exception for public interest cases such as environmental and consumer protection cases ;
- In addition to district court, Regulation No. 2/2003 also applies to other court jurisdiction (such as Administrative Court)

As the SC Regulation No. 2/2003 needs further concrete steps, the Supreme Court in cooperation with ADR private institutions is currently undertaking programs to develop code of ethics, accreditation policy, curriculum and syllabus, CC-ADR recruitment policy, mediation guidelines, and pilot areas in four district courts. By developing pilot areas means that we prepare four courts to be models that are subject to evaluation after one year implementation. Recruitment for trainees (potential mediators), training on mediation skill, infrastructure development, and mentoring will be carried out in four district courts. The socialization of CC-ADR is also now conducted by Bar Associations.

Administrative type of ADR is the type of ADR which provides procedures and services which are organized, facilitated and held by the administration (relevant government

[2] Outside mediator can be from Indonesian National Arbitration Body (BANI), National Mediation Center (PMN), Indonesian Institute for Conflict Transformation (IICT), Capital Market Arbitration Body (BAPMI), Universities, Bar Associations, or individuals agreed by parties.

instances). Administrative type of ADR in Indonesia includes: ADR in labor, environment, forestry, human rights and consumer protection.

The old and the first administrative type ADR is under labor dispute settlement scheme under the Law No. 22/1957 Labor Dispute Settlement and Law No. 12/1964 concerning Labor Dismissal Process in Private Companies. The scheme introduces Government Officers Mediator *(Pegawai Perantara)* to mediate the labor dispute, and The Committee for Labor Conflict Settlements (Labor Tribunal) to arbitrate the dispute. Under the proposed new Law (Bill concerning Industrial Relation Conflict Settlement), there are four types of dispute resolution that can be chosen by parties: (1) negotiation by parties; (2) mediation service performed and provided by Ministry for Manpower based on parties request ; (3) neutral conciliator (non government officers) appointed from list of conciliators provided by government; (3) arbitration by registered arbitrator; (4) Specialized Court on Industrial Relation Disputes attached in District Court and in the Supreme Court which introduces ad hoc judges/justices (non carrier) in addition to carrier judges/justices. The Bill also obliges the mediator or conciliator to provide suggested rulings when the mediation and conciliation fail to reach agreement. The parties are given certain period of time to comment (agree or disagree) on suggested rulings made by mediator/conciliator. If the parties do not make comment on the suggested rulings it has to be perceived as the disagreement to the suggested rulings.

In the issue of environment, ADR has also been recognized as an important element of environmental dispute resolution. Article 30-33 of Environmental Management Act (EMA) No. 23/1997 introduces mediation and arbitration as means to settle environmental disputes. Government Regulation No. 54/2000 as implementing regulation of article 30-33 of EMA No. 23/1997 establishes Environmental Dispute Settlement Service Provider in national as well as provincial/district levels facilitated by Ministry of Environment (MOE) in the national level, and Local Environmental Protection Office in the province and district levels. This service provider provides mediation and arbitration services which are carried out by mediators/arbitrators from government and private/community members. To date the MOE has established the National Environmental Dispute Settlement Service Provider in 2002 although to date they have not had cases to be mediated/arbitrated. The dysfunctional of this service provider established by MOE is because of some factors among others: (1) the public do not know about the existence and function of the environmental dispute settlement service provider; (2) the parties which are powerful do not have enough motivation to settle their disputes to mediation as they are not threatened by strong enforcement action (it does not create a sense of urgency); (3) the public complaint procedures and mechanisms as an entry point for mediation or arbitration have not been established yet. In other words no window or gate which the environmental cases can enter into ADR.

Although the Law on Forestry No. 41/1999 recognizes the ADR as a means to settle dispute related to forestry, to date the Ministry of Forestry has not been interested to develop special procedures, mechanisms or institution to implement the ADR provisions.

The Law on Consumer Protection (Law No. 8/1999) introduces Consumer Dispute Settlement Body (*Badan Penyelesaian Sengketa Konsumen*-BPSK) which is established by government in each district level for the purpose to serve out court settlement through mediation. The members of BPSK consists of representatives of government, consumer and business which functions among others: (1) provide mediation, conciliation and arbitration services; (2) supervision of the compliance level; (3) to issue subpoena; (4) to receive complaint; (5) regulatory function. It is not easy to find the members of BPSK who are able to carry out the various jobs as stated above. It is also interesting to see whether the function of ADR service provider can effectively be implemented as they also function as regulator who can impose sanctions. The Ministry of Trade & Industry with respected local government is responsible to establish BPSK. To date, no one district has established BPSK.

Private sector type ADR has two sub types: (1) business association type; (2) independent type. Business association type is ADR service provider which is established, attached or facilitated by business association such as Indonesian National Arbitration Body (BANI) which was established by the Indonesian Chamber of Commerce & Industry (KADIN) .The Indonesian Capital Market Arbitration Body (BAPMI) which was established by Self Regulatory Organizations (SROs) of Stock Exchange (JSX and Surabaya Stock Exchange) and capital market related professional associations. Both institutions provide arbitration and other ADR services. The independent type ADR is a service provider run by independent organization such as the Indonesian Institute Conflict Transformation which was established in 2001 (NGO based organization which is interested in public interest case settlement, dispute system design and capacity building works). In this category, The National Mediation Centre (PMN) which was established in September 2003 provides the mediation service of private and commercial cases as PMN is a continuation of Jakarta Initiative Task Force (JITF) [3] which serves whenever needed as mediator and facilitator of specific debt restructuring cases, particularly those involving foreign lenders following the economic crisis experienced by Indonesia.

On a case by case basis, the JITF applies a set of international "best practice" guidelines for debt restructuring. In applying the guidelines, JITF establishes and enforces a schedule, specifying the timing and expected result of meetings between the parties. If, during the course of the negotiations, specific issues arise that are appropriate for mediation, JITF personnel can intervene and act as mediators [4]. Until November 2003, debt restructuring cases handled by JITF is 117 which involves the total debt of 29.288.338.178 US dollar. 70 % cases are considered settled thru mediation[5] . As the

---

[3] The establishment of *The Jakarta Initiative Task Force* (JITF) together with *the Indonesia Bank Restructuring Agency (IBRA)* which tasks is to restructure the debts of banks which were collapse during the crisis was one requirement of *the International Monetary Fund* (IMF) to expedite the accomplishment of debt restructuring programs for banks and companies which were collapsed during the crisis.

[4] See M. Husseyn Umar, *The Application of ADR in Indonesia* in " ADR in Asian and Pacific Countries: Now and in the Future". Proceeding of International Symposium on Civil and Commercial Law, February 15, 2002, ICD-RTI, Japan Ministry of Justice, March 2003

[5] *Kompas* Daily Newspaper, November 28, 2003

JITF will be ended in December 2003, PMN will then be operated as independent and professional ADR service provider using their experiences primarily for trade and investment related disputes.

Traditional Type ADR has been used in various traditional/"*Adat*" community such as in West Sumatera with *Kerapatan Adat Nagari* , North Sumatera with *Runggun Adat* and South Sumatera with *Jurai Tue*. This type is used only for disputes among the members of *adat* community. The existence of the traditional type ADR was under a threat when the old order government issued the (former) Law on Village Government in 1979 which abolished the existence of self governing body of *Adat* community and turned it into a part government institution. In the period of reform, under the Law No. 22/1999 on Local Government, the village is given an autonomy to be a self governing body. One of the tasks of the head of village is to mediate disputes among members of the village (article 101). The role of the Head of Village to mediate village disputes can be used as a start to institutionalize/revitalize traditional type ADR in Indonesia.

Law No. 30/1999 on ADR & Arbitration

This Law which was promulgated in 1999 provides the rules for ADR (consensually based dispute settlement) and arbitration. The article 2 mentions about the scope of application of this Law that applies for disputes settlement that are predetermined by parties in the agreement/contract. However, the use of arbitration in the administrative type ADR such as in the labor, environment and consumer protection dispute settlement refers also to the rules provided in the Law No. 30/1999.

The Law No. 30/1999 only provides one article (article 6) about ADR (consensually based dispute settlement). The major provisions included in the Law relates to arbitration. The spirit reflected in this Law is the encouragement to use negotiation, mediation, conciliation as consensual based settlement prior to arbitration as an adjudication. In other words, the ADR provision included in this Law is not the main part of the Law. Regarding ADR, Law No. 30/1999 introduces ADR into three layers: (1) direct negotiation within 14 days; (2) ad hoc mediation/expert (14 days); and (3) institutional mediation (30 days). If the parties fail to reach agreement then the parties can utilize ad hoc as well as institutionalized arbitration. If they reach agreement, the parties submit and register the agreement to the respected district court.

Regarding arbitration, the article 2 mentions that the Law only applies for dispute that the settlement through ADR and arbitration is predetermined by parties in the agreement/contract. However, If it is not predetermined, the parties can still settle the disputes through arbitration under this Law after the parties make a written agreement to settle thru arbitration after the disputes arises. The article 9 of this Law sets the rules how the written agreement looks like.

The other provisions in this Law include the requirement of arbiter, right of the parties to dismiss the arbiter under certain circumstances; procedural matters, arbiter's binding

opinions and award; the execution of arbitral award, including the recognition and execution of international arbitration award.

Conclusion

- In every type of ADR in Indonesia requires concrete steps to be publicly accepted and effectively implemented. Judicial type, administrative, private sector and traditional type of ADR has its own strengths and problems. The special appointment within the government agencies must be made to functions as a reform's concept designer, coordinator, facilitator of the development of ADR in Indonesia. The Ministry of Justice and National Law Commission are both appropriate institutions to be a focal point of institutionalizing ADR in Indonesia.

- Effective implementation of ADR in Indonesia requires the presence of strong law enforcement (non discriminative, swift & sure law enforcement). The presence of strong law enforcement creates the motivation of the parties (especially the more powerful parties that can uses the absence of strong enforcement to disregard ADR which is voluntary in nature). This factor is more relevant for the development of the administrative type of ADR which is a means to settle most public interest related cases.

- The presence of private (non government) ADR institutions to provide ADR services and to conduct dispute system design and capacity building (training) works is a start to develop more comprehensive programs to prepare professional mediators, arbiters, and to develop other supporting systems such as the establishment of strong and independent professional associations to oversee the quality and integrity of its members in conducting their jobs;.

- The national and local government must provide genuine support for the development of the traditional type of ADR by preventing them to intervene too much to their affairs, providing legal recognition, providing and opening the opportunity for them to broaden their knowledge and skill by bringing relevant other countries experiences , and providing facilities for the operation of traditional type of ADR.

Singapore, December 1, 2003

Alternative Dispute Resolution Mechanism In India

In Article 21 of the constitution of India, it is been stated in the mandatory tone that no person should be deprived with his life and personal freedom except according to the method established by law. Further, the method mentioned in the Article is not some form of a procedure but it should be "reasonable, fair and just". [1] Thus, the right to speedy trial has been rightly held to be a part of right to life or personal liberty by the Supreme Court of India. [2] The supreme court of India has allowed Article 21 to stretch its arms of scope as much as possible legitimately. [3] The reason for doing all this is very simple, this interpretation done of Article 21 is to redress mental agony, expenses and strain against which the person is proceeded in criminal law has to undergo and which if coupled with delay, may result in putting the accused at disadvantage of impairing his capability to defend himself effectively. Thus the Supreme Court has held the right to speedy trial as the clear appearance of the just, fair and reasonable procedure as enshrined in Article 21. A speedy trial includes within its sweep all its stages including inquiry, trial, revision, appeal etc. Section 89 of CPC is the form of statutory recognition it has received and was prevalent in many parts of the country. Our country can never forget the contribution made by Mr. Justice Thakkar. This system was voluntary and litigants were not forced, hence the system did not carry criticism.

The greatest challenge that the judiciary is facing today is the delay in the disposal of cases and prohibitive cost of litigation for the poor as well as middle class of people. The average waiting time, both in the civil as well as criminal subordinate courts, can extend to several years. So there seems the contradiction about fair justice delivered to people after waiting so long. The judiciary in India is already suffering from huge backlogs of cases. In fact as on 31st October 2005, the number of cases pending to be decided before the Supreme Court was 253587003, which makes justice less accessible. It is now universally accredited that 'Justice delayed is Justice denied'. The existing justice system is not able to cope up with the ever-increasing burden of civil and criminal litigation. The delay in the judicial system result in loss of public confidence on the concept of justice.

We experienced that litigation merely in the courts are not going to resolve the disputes. Congestion in the courts rooms, lack of manpower and resources in addition with delay, cost and methodology speaks out the need for extra options, approaches and avenues.

To quote, Mr. Justice V.R Krishna Iyer "Interminable, time consuming, complex and expensive court procedure impelled jurists to search for an alternate forum less formal, more effective and speedy for resolution of dispute avoiding procedural clap trap led to the Arbitration act." [4]

Alternative Dispute Resolution mechanism is a click to that option. The techniques of ADR mechanism have been developed on scientific lines in America, Britain, France, Canada, China, Japan, South Africa, Australia and Singapore. ADR has emerged as a significant movement in these countries, as well as not only helped reduce cost and time taken for resolution of disputes out side court, but also in providing a friendly and voluntarily atmosphere and a less formal and complicated forum for various types of disputes.

When the system was tested on small scale prior to introducing it at a large it was been tried in the further described manner. Once the cases were fed in the computer, they were tried to be classified, initially into forty five classifications and later on in sixty classifications. This helped grouping the similar cases according to the date of filing which were otherwise scattered. There were three tracks created as normal, medium and fast track. The case load for fast and medium tracks were fixed and hence the cases kept moving automatically from normal to these medium and fast tracks as the case load was shrinking. Thereafter the cases were allocated to the different benches concerning to their respective subjects and these benches used to worked stretched without much changes for about three to four months. The members of the Bar knew that they had to take their chance. There after the loop of cases tumbled like the house of playing cards as they were heard in large groups. The result was satisfactory as Dr. Abhishek Singhvi wrote in Indian Express in January 1996:

"These initiatives dramatically reduced the Supreme Court caseload from approximately 120,000 cases in October 1994 to 28,000 cases in September 1996".

The government of India enacted the Legal Services Authority Act, 1987(39 of 1987), Section 20(1), where government empowered the courts to refer a dispute of Lok-Adalat. The Indian Arbitration Act, 1940 was repealed and also the new Arbitration and Conciliation Act, 1996 was brought into force based on the UNCITRAL model with lessened court intervention in the cases. Again the parliament under the Amendment Act of 1999 made the provision available for the resolution of the disputes outside the courts through any of the ADR mechanism under the amended section 89, Criminal Procedure Court. This provision require the Judge to determine the mechanism to which the elements of the cases belongs to. Corresponding changes were also made by adding the ruling of 1A, 1B, and 1C in order X, Criminal Procedure Court and made some required alteration in other provisions also.

The primary purpose of the ADR to operate is to avoid anger produced by some annoying irritation, increased cost and delay, an be benchmark of promotion of the ideal of "access of justice" for all. ADR is a process different from normal judiciary system. Under this the dispute are resolved by the assistance of third party. Where proceeding are with simple expenditure of time, money with the decision making process towards the substantial justice, maintaining the privacy of the case. So in precisely it is feasible to say that ADR aims provide justice that also harmonizes the relation of the parties with resolving the disputes.

The mechanisms of ADR are as follows:

Arbitration, Mediation, Negotiation, Conciliation/Reconciliation, Negotiation, Lokadalat.

In India there are varied mechanisms of ADR which exists to resolve the disputes outside the court but the choice of the ADR mechanism largely depends upon the nature of dispute and relation of the parties involved. Arbitration and the Lokadalat are the most commonly used mechanism to resolve the disputes. The arbitration and conciliation act 1996, governs the arbitration procedures in India and the only requirement is there application in letter. Sec 16 of the Act is important and it states that arbitral tribunal can rule on its own jurisdiction, including decisions on objections with respect to the authority of the agreement of arbitration. Arbitration can either be voluntary or mandatory and can either be non binding or binding. Non binding Arbitration becomes closer to mediation.

The following is a brief overview of the Arbitration and conciliation Act,1996:
Section Overview

Section 7 Relates to arbitration agreement.

Section 8 When parties should move to court.

Section 9 Interim measures.

Section 10 No. of arbitrators to be appointed.

Section 12 Procedure of appointment of arbitrators.

Section 13-14 Challenge of Arbitrator.

Section 16-17 Jurisdiction of Arbitrator.

Section 18-30 Conduct of Proceedings

Section 31 Awards

Section 32-33 Correction of Award.

Section 34 Recourse Against Reward.

Negotiation is intended to resolve the disputes, to produce an agreement upon action plan, to negotiate for the individual or collective advantage, or to bring something positive out of it.

Negotiation occurs in government branches, in business, non profit organization and in personal situation like divorce, marriage, fostering and everyday life. The subject is been studied as Negotiation Theory. Those who work in negotiation professionally are called as Negotiators.

In the expression of a inner contradiction, the data suggest that the many of the lawyers and judges working in the lower criminal and civil courts, as well as the extra courts like lok adalats' (mediations of ADR)–who resolved large numbers of cases involving serious violence against women, which sometimes also concluded by food deprivation as a means of punishment, physical and mental tortures were also a part, and rape–utilize international human rights principles to a less limit, if required, while dealing with these cases, could also do some informal justice / quasi-legal mechanisms were prevalent for the same types of cases. In the contrast, the non-lawyer agents of ADR in the informal justice mechanisms studied that those who were not even formally trained for legal decisions, but many of whom had poor literacy skills—were far more ignited towards resolving the cases utilizing principles of ADR, International human rights law and CEDAW in particular.

The Sociological dimensions of ADR mechanisms present in India..

The emergence of ADR has been one of the most important steps as a part of managing disputes and reforms in judiciary, and it has also become essence of the time. Advocates, law

students, law-concerned and law interpretors, all have started looking disputes resolution in a different and distinguished light and also have come up with many more alternates to the mechanism of litigation. While ADR is, holding the vision in the control of the Bench and the Bar and is an internal sector of today's litigation. The need for ADR obviously led to a search for an alternative complementary and supplementary mechanism to the process of the formal functional courts, which can result in for cheaper, expeditious and less complex and, also, less stressful dispute resolutions.

As its clear, alternative dispute resolution has been, a vital and vibrant part of our historic past and not a new concept in our country. With no doubt, Lok Adalat (Peoples' Court) concept and philosophy was an innovative and dynamic step in resolving the disputes outside the court and it also recognized Indian contribution to the world's jurisprudence. It has very old, strong and long roots not only in the history which was been recorded but even before the historical era, which actually does not have any proper records. It has been proved to be a very effective alternative to litigation in managing the conflicts. Lok Adalat is the fine, familiar and acceptable forum which has been occupying the important function in settlement of issues. The system has achieved success from the parties involved in specific, distinguished, the public and the legal functionaries, in general. It also helps in evolution of jurisprudence of peace in the larger and broad array of interest of justice and on wider sections of society on the voluntary basis.

The National legal services authority constituted under the Legal Services Authorities Act, 1987, acts as the apex and controlling agency for framing down principles and policies for making these legal substitutes available for general crowd under the concerned Act. The ground level operations of Lok adalats are looked after by State, district and taluka level agencies, which are formed in the respective States by the legitimate process. Lok adalat settlement is binding on the the parties approached like an order, judgment or award of a "court". The decisions are executable and cannot be appealed further from other courts because these courts are taking the decisions after getting both the parties agreed on it. It comes up with only in one form or stage and final desire is achieved. It is proven cheap, fast, expeditious and simple ADR mechanism, particularly, for illiterate and neglected sections of society.

A common man has started looking at legal system as a foe and not as a friend. For him, law is always taking away something, and believes it be a huge wheel, which will never let the person get rid of it, once fenced in it. If we are going to a court, we can predict that we are going to win all or lose all. Whereas, when we opt for any of a ADR's mechanisms with different expectations, we know that we may not get all that we want, but we are not going to loose anything unreasonably. In our country, Arbitration and other mechanisms of ADR are alternatives of formal court for resolving the disputes. However, span time of justice has not yet, successfully, able to prove its true metal. Number of times, experience has proved that the tribunals often get concluded with dead cycles of legislative voyage in the courts, which results in lengthening of the time span of dispute resolution process.

People find similarity between Lok adalat and conciliation or mediation; some find it with negotiations and arbitration. And many who find it distinguished from all these, calls it "people's court". It involves people who are directly or indirectly affected by dispute resolution. It is, rightly, said participating, accommodating, fairness, expectation, voluntary,

transparency, efficiency and lack of absurdness are undoubtedly, all important specifications of this unique Indian System rooted in India's cultural history and environment.

Indian socio-economic conditions asks for highly effective, efficient and sensitized legal system, as there are large numbers of consumers of justice (main point of the judicial anatomy) who are either poor or ignorant or illiterate or backward, and, as such, at a great disadvantage. The State, therefore, has a duty to ensure that the practice of legal system promotes access to justice on the basis of equal opportunities provided. Alternative dispute resolution is, a neat, system working out as the concept of Lok adalat. It has provided a significant juristic advancement and also serves as vital tool for easy and quick settlement of conflicts. It has again been proved to be a successful and feasible national imperative, and most suited for the larger and higher sections of the society as well as in Indian system.

Law and system of Indian judiciary are not like antiques pieces to be brought down, dusted, admired and put back on the shelf from where it was lifted, but it is rather like a vigorous tree which has its long roots in history and takes on new graft, puts out new sprouts and occasionally drops dead wood. It is a dynamic instrument fashioned for the purpose of achieving ameliorative and harmonious adjustment, and settlement of disputes arising out of human relations by eliminating social tensions and conflicts and it must, therefore, change with changing socio-economic conditions.

The system of Lok adalat is no longer an experiment in India our society has been informally practicing it from long back, but it is an effective, pioneering and appealing alternative mode of settling disputes which is accepted widely as a viable, budgetary, efficient, informal and speedy form of resolution of conflicts. It is a hybrid or mixture of other mechanism of ADR like mediation, negotiation, arbitration and participation. The true basis of settlement of disputes by the Lok adalat is the principle of mutual consent for approaching Lok adalat, voluntary acceptance of conciliation with the help of councilors and mediators. It is a participative, promising and potential mechanism of ADR. It focuses on the principle of creating awareness amongst the disputants to the effect that their welfare and interest, really, lies in arriving, at amicable, immediate, consensual and peaceful settlement of the disputes.

Let me conclude with a sound but an imperative caveat that we must be ever mindful that "Yesterday is not ours to recover, but tomorrow is ours to win or lose", and, therefore, let us get together, stand united, and strengthen our Bench and Bar irrevocable unique partnership and make collaborative, concerted, cooperative, creative, collective and cohesive endeavours in popularising, proliferating and pioneering, concept and philosophy of important institution - alternative dispute resolution mechanism - so as to strengthen our pluralistic democratic values, rule of law and thereby invigorate the commandment, "Justice shall never be rationed". Let us therefore make all efforts to advance and strengthen "equal access to justice", the heart of the Constitution of India, a reality.

TO BE PUBLISHED IN THE NEXT ISSUE
OF THE GAZETTE OF PAKISTAN PART-III

**WAFAQI MOHTASIB (OMBUDSMAN)'S SECRETARIAT,
ISLAMABAD.**

Islamabad the May 12, 2015

NOTIFICATION

No.3(230)A-II/2014. In exercise of the powers vested under Section 18 of the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 (President Order No.1 of 1983), a Federal Advisory Committee on Reforms and Speedy Complaint Resolution, comprising the following members (listed in alphabetical order), is hereby re-constituted by the competent authority:-

1. Mr. Abdullah,
Member of Council of Islamic Ideology, ex-Chief Secretary KPK,
H.No.9, Tatara Street, Palosy Wing, Rahatabad, Peshawar.
Telephone No.091-9216911

2. Dr. Ms. Asma Jahangir, S.I,
Advocate, Supreme Court of Pakistan;
former President, Supreme Court Bar Association;
and Chairperson, Human Rights Commission of Pakistan.
H.No.131-E-I, Gulberg-III, Lahore.
Telephone No.042-35763234-5
Email: asmalaw@hotmail.com

3. Mr. Aziz Memon, Pride of Performance,
Former District Governor Rotary International (Pakistan and Afghanistan), President Karachi Boat Club, President Pakistan Japan Business Forum and currently National Chairman International PolioPlus Committee Rotary International.
91, Shahrah-e-Iran, Clifton, Karachi
Telephone No. 021-35872368/35867771-6
Cell No. 0300-8259595
Website: www.azizmemon.net

4. Senator Farooq H. Naik, N.I,
Advocate, Supreme Court of Pakistan;
former Chairman, Senate of Pakistan;
and former Federal Minister for Law, Justice and Human Rights.
Suit No.5, Block A, 3rd Floor, Shafiq Plaza,
Sarwar Shaheed Road, Karachi.
Telephone No.021-35687931-2,
Email: naek_law786@hotmail.com

5. Mr. Hameed Haroon, H.I,
Chief Executive Officer,
Pakistan Herald Publications (Pvt) Limited
(Publisher of the Dawn, Herald and Spider). President of All Pakistan Newspapers Society; and Member Executive Committee of Mohatta Palace Gallery; and Committee for Preservation of Cultural Heritage Monuments.
Haroon House, Dr. Ziauddin Ahmed Road, Karachi.
Telephone No. 021-35670001
Email: ceo@dawn.com

6. Prof. Dr. Ijaz Nabi,
Country Director, International Growth Centre of the Consortium of the London School of Economics and Oxford University; Advisor Economic Affairs to the Chief Minister of Punjab; and former Manager Economic Policy for South Asia at the World Bank.
H. No.19, FCC Scheme, Maratab Ali Road, Gulberg, Lahore.
Telephone No. 042-3560800.
Email:inabi@gmail.com

7. Dr. Ishrat Hussain H.I,
Dean, Institute of Business Administration.
Former Governor, State Bank of Pakistan; and
Chairman, National Commission for Government Reforms; and former Senior Executive, World Bank.
Cell No.0302-8221972.
Email: Ihussain@ibs.edu.pk.

8. Malik Asif Hayat, H.I,
Former Chairman, Federal Public Service Commission; former Secretary to the President of Pakistan; former Chairman, Pakistan Railways; former Inspector General of Police, Province of Punjab and Azad Jammu & Kashmir; and former D.G, FIA.
H.No. 175 G, St.No.11, Sector G, Phase 5, DHA, Lahore Cantt.
Cell No.0300-5005652.
Email:asifhayat605@gmail.com

9. Prof. Dr. Masoom Yasinzai,
Rector, International Islamic University;
and former Vice Chancellor, Quaid-e-Azam University and the University of Baluchistan.
Sector H.10, Islamabad.
Telephone No.051-9258067.
Email: rector@iiu.edu.pk

10. Mr. Mueen Afzal, H.I,
Former Secretary General, Ministry of Finance;
and former Secretary, Finance Division.
H.No. 37, Gulberg V, off Zafar Ali Road, Lahore.
Telephone No. 042-35710009.
Email:mueen_afzal@yahoo.com

11. Justice (R) Muhammad Raza Khan,
Secretary, Ministry of Law, Justice and Human Rights;
and former Chief Justice, Peshawar High Court;
and former Member, Federal Service Tribunal.
Block S, Pak Secretariat, Islamabad.
Telephone No.051-9202712.
Email: mrazakhan46@gmail.com

12. Mr. Muhammad Saeed Mehdi,
Chairman, Sui Northern Gas Pipelines Limited,
President Admore Gas Ltd.; and former Principal Secretary
to the Prime Minister of Pakistan; and former Advisor to
the Chief Minister of Punjab; and former Chief Secretary, Government of Sindh.
H. No.576, St.No.73, G-6/4, Islamabad.
Cell No.0300501331,
Telephone No. 042-99201398, 99083601.
Email: msaeedmehdi@hotmail.com

13. Mr. S.M. Muneer, S.I,
CEO, Trade Development Authority of Pakistan;
and former President of Federation of Pakistan Chambers of Commerce
and Industry; and President of India-Pakistan Chambers of Commerce and Industry.
FTC Building, 5th Floor, Block-A, P.O. Box No. 1293,
Shahra-e-Faisal, Karachi.
Telephone No. 021-99202719, Cell No. 0333-2403000,
Email: dintextile@dingroup.com

14. Mr. Shakil Durrani,
Former Chairman, Water and Power Development Authority;
former Chairman, Pakistan Railways; and former Chief Secretary,
Provinces of Sindh, KPK and Azad Jammu and Kashmir.
H. No.4, Nazimuddin Road, F-10/4, Islamabad.
Cell No. 0300-8562613.
Email: shakildurrani@ymail.com

15. Senator (R) Mrs. Shama Parveen Magsi,
Former Minister for Social Welfare, Woman Development,
Special Education, Information Technology, Law and Parliamentary Affairs,
Government of Baluchistan; and Honorary Counsel of Republic of Korea at Quetta.
20 Sariab Road, Magsi House, Quetta.
Cell No.0300-3905934.
Email: pmagsi@yahoo.com

16. Mr. Shamsul Mulk, Ph.D. (Hon), D.Sc(Hon), H.I
Former Chairman, Water and Power Development Authority (WAPDA);
24th Chief Minister (Care-taker) of KPK; 3rd Chairperson of Board of Governors of Sustainable Development Policy Institute; former Consultant to the World Bank and Member of the Technical Committee on Water Resources, Government of Pakistan; Founding Chairman of Pakistan Water Partnership, the country chapter of the Global Water Partnership Stockholm, Sweden; former President of the Society for the Promotion of Engineering Sciences and Technology in Pakistan (SOPREST) and Board of Governors of the Ghulam Ishaq Khan (GIK) Institute of Engineering Sciences and Technology.
H. No. 4, Nazimuddin Road, Sector F.10/4, Islamabad.
Telephone No. 051-2114062, 051-2114064.
Email: shamsulmulk@hotmail.co.uk

17. Mr. Shoaib Sultan Khan, H.I,
Chairman, Board of Directors of Rural Support Programme and AKRSP; and former Senior Advisor UNDP South Asia Poverty Alleviation Programme Network.
House No.7, St. No.49, F-6/4, Islamabad.
Telephone No.051-2825479, Cell No. 0300-5804900,
Email: ssk@rspn.org.pk

18. Dr. U.A.G. Isani,
President, Iqra University; former Chairman, University Grants Commission; and former Secretary General to the Government of Pakistan; former Principal Secretary to the Prime Minister; and former Chief Secretary, KPK.
Defence View, Shaheed-e-Millat Road Extension, Karachi.
Telephone No. 021-35310802. Email: vc@iqra.edu.pk

19. Barrister Mr. Waseem Sajjad, N.I,
Senior Advocate, Supreme Court of Pakistan;
President, Foundation for Advancement of Science & Technology (FAST);Chancellor, National University of Computer and Engineering Sciences, Islamabad; and former Caretaker President of Pakistan; Ex-Chairman, Senate of Pakistan, Leader of the House in the Senate of Pakistan and Ex-Federal Minister for Interior, Law, Justice and Parliamentary Affairs.
H.No.15, St.No.49, F-7/4, Islamabad.
Telephone No. 051-2611395- 9100146.
Email: pso2wasimsajjad@ymail.com

2. This supersedes Wafaqi Mohtasib Secretariat's Notification of even number, dated 27.04.2015.

(Hafiz M. Ziauddin)
Additional Secretary (Admn)

The Manager,
Printing Corporation of Pakistan Press,
Stadium Road, Karachi.

Copy to:

1. The Secretary to the President of Pakistan, President's Secretariat, Islamabad.
2. The Secretary to the Prime Minister, Prime Minister's Office, Islamabad.
3. All Wafaqi Mohtasibs.
4. All Provincial Mohtasibs.
5. The Mohtasib, Azad Jammu and Kashmir.
6. The Secretary, Ministry of Law, Justice and Human Rights, Government of Pakistan, Islamabad.
7. All Senior Advisors, Advisors and Associates Advisors Consultant, WMS. Head Office, Islamabad.
8. All Regional Heads, Wafaqi Mohtasib Secretariat, Regional Office, Lahore, Karachi, Peshawar, Quetta, Sukkur, Multan, Faisalabad, D.I. Khan and Hyderabad.
9. Director General (Coord), WMS, Head Office, Islamabad.
10. P.S. to HWM.WMS, Head Office, Islamabad.
11. P.S. to Secretary, WMS, Head Office, Islamabad.
12. S.P.S. to A.S (Admn), WMS, Head Office, Islamabad.
13. P.S. to D.G (Admn), WMS, Head Office, Islamabad.
14. Notification file.