

**Speech of Hon'ble Mr. Justice Gulzar Ahmed, Senior Puisne Judge,
Supreme Court of the Islamic Republic of Pakistan**
(to the course participants of National Security and War Course-2020)

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Assalam-o-Alaikum!

It gives me great pleasure to welcome all of you to the Supreme Court of Pakistan. I am informed that the main purpose of your visit to the Supreme Court of Pakistan is to get orientation regarding the "Judicial System of Pakistan" in order to have basic knowledge as to how the Judicial System in Pakistan operates. I may point out that this country is an Islamic Republic and has a written Constitution, made by its Parliament, which is known as the Constitution of the Islamic Republic of Pakistan, 1973.

The preamble to the Constitution provides that sovereignty over the entire Universe belongs to Almighty Allah alone, and the Authority to be exercised by the people of Pakistan within the limits prescribed by Him is a sacred trust. The will of the people of Pakistan is to establish an order; and the State shall exercise its powers and authority through the chosen representatives of the people. The principles of democracy, freedom, equality, tolerance and social justice, as enshrined by Islam, shall be fully observed; and Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and

requirements of Islam, as set out in the Holy Quran and Sunnah; and adequate provision shall be made for the minorities freely to profess and practise their religion and develop their cultures. The Constitution lays down that Pakistan shall be a Federal Republic comprising of territories-mentioned therein.

Article 4 of the Constitution provides for right of individuals to be dealt with in accordance with law and further Article 5 of the Constitution mandates loyalty to State and obedience to the Constitution and law. Chapter 1 of Part-II of the Constitution enumerates Fundamental Rights and Chapter 2 lays down the Principles of Policy. Then follows the Articles regarding the Federation and the Federal Government formation and working and the Provincial Governments. The Constitution is basically based upon the trichotomy of powers, which is popularly known as three pillars of the State that are the Executive, the Legislature and the Judiciary. We are concerned here with the Pillar of Judiciary. In Pakistan, we have a four-tier Judicial System in Civil and Criminal cases that is at the lowest level there is a Court of Civil Judge and on the Criminal side Judicial Magistrate. The second-tier is the Court of District Judge on the civil side and Sessions Court on the criminal side. The third-tier is the High Court and the fourth-tier is the Supreme Court of Pakistan, which is the apex Court of the Country. In the High Court, the appeals and revisions from the District Courts are heard and decided while in the Supreme Court, appeals and petitions arising from the judgments and orders of the High Courts are heard and decided. Besides, this four-tier system, under special laws Special Courts and Tribunals have been created like Banking Courts, Income Tax Tribunals, Anti-Terrorism Courts, etc. The judgments and orders of the Special Courts and Tribunals are challengeable before the High Court, except in cases where a specific provision is made in the Special Law that the judgments and orders of such Special Tribunals are directly challengeable before the

Supreme Court, which normally happens in election and service matters and in these cases, the judicial system operates as two-tier.

The High Court is the administrative authority in dealing with matters relating to the affairs of lower judiciary and its establishment; while the Supreme Court acts as an appellate Court over the judgments and orders of the High Court. The Supreme Court also has Original Jurisdiction where it has been given power, to the exclusion of every other Court, to decide disputes between two or more governments that is the disputes between the Federal Government and the Provincial Governments. Further, it has the jurisdiction to directly entertain a petition, to the exclusion of all other Courts, in which question of public importance with reference to enforcement of Fundamental Rights is involved. The Supreme Court also has Advisory Jurisdiction where the President of Pakistan can obtain an opinion from the Supreme Court on a question of law, which the President considers to be that of public importance.

I am aware and fully cognizant that the participants of the National Security and War Course 2020, during their term of service in the Armed Forces and Civil Service, will often come across matters and dealings, which will have direct connection with the functioning of Judicial System in Pakistan and the Constitutional mandate in this regard. Thus, the process of learning about the Judicial System of Pakistan is of imperative nature.

An overview of such subject has been given to you in the preceding narration, but I believe that it is a subject which needs a very in-depth study in order to fairly understand the same, and this nature of understanding could only be evolved by the persons and experts, who are directly connected with the Judicial System of Pakistan. Mostly, the lawyers perform this function and it is from the legal fraternity, the

Judges are appointed in all the Courts and Tribunals, except some Members of – the Tribunals are appointed as Technocrats and they are mostly picked up from the civil service.

The subject of Services and Armed Forces are dealt within Chapters 1 and 2 of Part-XII of the Constitution respectively. Article 240 of the Constitution provides for appointments to service of Pakistan and conditions of service while Article 243 provides for Command of Armed Forces in that the Supreme Command of the Armed Forces shall vest in the President, and the President on the advice of Prime Minister shall appoint the Chairman, Joint Chiefs of Staff Committee, The Chief of Army Staff, The Chief of Naval Staff and the Chief of the Air Staff. Article 244 of the Constitution provides that every member of the Armed Forces shall make an Oath in the form set-out in the Third Schedule of the Constitution and Article 245 provides that the Armed Forces shall, under the direction of the Federal Government, defend Pakistan against external aggression or threat of war, and, subject to law, act in aid of civil power when called upon to do so.

To my estimation, this is the brief outline of the Judicial System of Pakistan and the provisions of the Constitution of the Islamic Republic of Pakistan. I believe that some manner of understanding regarding the Judicial System of Pakistan and Constitutional provisions may have been developed by these outlines.

Thank you.
Pakistan Zindabad