Address to the Azad Jammu & Kashmir Supreme Court Bar Association on 3rd April, 2014

Justice Mohammad Azam Khan

Chief Justice Azad Jammu & Kashmir

My brother Judges of Supreme Court of Azad Jammu & Kashmir,

Learned Chief Justice and the Judges of the AJK High Court,

Learned Judges of the lower judiciary,

Respected President, Raja Ibrar Hussain,

Office bearers and the members of the Supreme Court Bar Association

Learned Office Bearers of the Bar Associations

Ladies and Gentlemen

Aslaam o Alaikum!

It is indeed an honour for me to address this august gathering of the supreme body of the legal fraternity of Azad Jammu & Kashmir. I am extremely grateful to all of you and particularly the president of AJK Supreme Court Bar Association for providing me an opportunity to be here with the lawyers' community.

First of all, I would like to congratulate the present elected members of the AJK Supreme Court Bar Association and pray for the successful completion of their tenure.

The bench and the bar are two wheels of the vehicle of the system of justice. This vehicle may run smoothly and achieve its objective milestones only if both

of its wheels work in equilibrium. Inverse to this, is not only bad for both but also fatal for the society overall. The bench and the bar are the only trustees of the judicial system of this tiny state. The state subjects of the state are the true beneficiaries of this system who have unalienable right enshrined in the constitution for provision of efficient and impartial judicial system. It is the duty of the bench to dispense justice in accordance with the Constitution and the law while it is the duty of the bar to assist the bench in the attainment of said objective.

Administration of Justice is a universally recognized basic obligation of a state. It is the duty of the state to ensure inexpensive and expeditious provision of justice to its citizens. Before independence of this state, in Dogra regime, a High Court was established in the State of J&K in 1877, which was called as Adalat-ul-Alia.The High Court was the highest court of appeal and revision subject to the control of Maharaja. It also had general superintendence and control over the lower courts. The Judicial Member exercise the powers vested in the High Court functions of the High Court. A full fledged High Court Judicature consisting of a Chief Justice and two or more Judges was established on 26th March, 1928. On 7th September , 1939 under the Jammu & Kashmir Constitution Act, 1996 B.K, an apex court, namely the Board of the Judicial Advisers like the Privy Council was established. There was a High in the state of Jammu & Kashmir. After the establishment of the Azad Government a High Court was established under the Courts and Laws Code 1949 and after the promulgation of the AJK Interim Constitution Act, 1974, initially AJK Judicial Board was established as appellate court of the High Court. Later on, through an amendment in the Interim Constitution Act, 1974, AJK Supreme Court was constituted.

The Constitution is such document which consists of the social contract of a state with its citizens. Conflict between a state and man exist, since later started living collectively within a specified territory, rather it can safely be said, since human history. To ease the conflict and to bridge the relations between the state and man and to create the balance between the conflicting claims, most of the states have incorporated a list of certain fundamental rights in their constitutions. Further, the state guarantees its citizens from violation of the fundamental rights by executive and other organs of the state. Following the footsteps of the other states and the semi-states, the framers of the AJK Interim Constitution Act, 1974 also felt it vital to incorporate a list of fundamental rights in it. Section -4 of the Act, 1974 deals with the fundamental rights, wherein 19 fundamental rights have been pledged by the state to the state subjects of Azad Jammu & Kashmir.

It is the duty of the elected representatives of the bar to look after the collective interests of the members of the bar as well as the legal profession as a whole. They are required to act in aid of the law and put energies for bringing improvements in the system of administration of justice. Bar Associations are powers of the judiciary, without a strong bar there is no concept of independent and powerful judiciary. The historic lawyers movement for restoration of judiciary in 2007, is a prime example of the power of the bar associations. Bar Associations of Pakistan with the help of civil society, political parties, the Bar associations of Azad Jammu & Kashmir and media successfully concluded the lawyers' movement. This victorious movement has not only created a sense of confidence to the legal fraternity but also provided energy for independent judiciary. Further it enhanced the confidence of the civil society in the courts of Pakistan and AJK. The confidence and expectations of the masses can only be achieved if the lawyers and the judiciary have cordial

relations and endure together for dispensation of justice, enforcement of laws and the supremacy of the constitution.

Let me make it clear and reiterate that the courts respect and support the democratic institutions, elected representatives and public functionaries in performance of their functions. We believe in the concept that in our society rule of law rests upon tri-pillars: the sovereignty of the legislature in promulgating the laws; the sovereignty of the executive in enforcing the laws; and the sovereignty of the courts interpreting and applying the laws. Transgression in the domains of other organs of the state has never been followed by our courts. It is the responsibility of the apex judiciary to reaffirm the principle that no organ of the state has unbridled power to exercise. This is fundamental to achieve the rule of law and the supremacy of the constitution. The rule of law is not a concept refined and owned by lawyers or the legal or social scientists rather it is part of our social infrastructure, which is a legitimate interest of all the members of our society.

There cannot be a concept of good governance without supremacy of the constitution, impartial enforcement of laws and the administration of justice. It is universally recognized that an independent and vibrant judiciary plays a key role in good governance. Without sustainable support of the Bar to the judiciary a true independence may not be achieved by the judiciary. To achieve this high standard professional requisites are always needed to be acquired by the legal fraternity, both on individual and collective levels. The young or the senior lawyers of today are the judges of the apex courts in remote and in near future. The everyday practices turn into eternal attributes and deeds which not only affect the individual practitioner's independence but collectively mars or enhances the independence of the judiciary.

Delay in disposal of cases shatters the confidence of people in judicial system. We have taken the measures with mutual consultations and cooperation of the Bar Associations for early disposal of the cases. We have been successful, so far, in disposing off the old cases, not only in the Supreme Court but also in the High Court and the lower courts. The backlog is being cleared on the basis of the age of the cases. The backlog was due to shortage of the judges in the High Court , Shariat Court and the lower judiciary. After the increase in number of the judges in the High Court and the Shariat Court , the backlog is being cleared expeditiously and old cases are being disposed off on the preferential basis. Though, there is still shortage of judges in the lower judiciary. Despite that our lower judiciary is performing well in expeditious disposal of the cases. By the early disposal of the cases the people have reposed confidence in judicial system, which is evident from growing number of the cases in the courts.

I am confident that the lawyers will endure to meet the challenges and demands of the society at present and in the future also, for efficient and inexpensive provision of justice. To achieve the objects, the mutual cooperation between the bench and the bar is one essential requisite. The hard work should be hallmark of both the integral segments of the system of administration of justice. Self-regulation of both the segments is essential to avoid enviable external intrusions. The esteemed profession of lawyers requires its practitioners to hold its dignity at all times. The responsibilities of the lawyers are manifold. As the judges only speak through their judgments, the lawyers are the ears and the mouth of the judiciary. The get together like

this event are opportunities for all of us to share mutual considerations and also remind us all our responsibilities.

With these words, I once again thank the president, other officer bearers and the members of the Supreme Court Bar Association of AJK, for providing me opportunity to attend this event and address the esteemed legal fraternity of AJK.

Thanks all of you.