

Excellency, Mr. Justice Umer Atta Bandial, the Honourable Chief Justice of Pakistan,

The Honourable Judges of the Supreme Court of Pakistan,

Honourable Chief Judge Supreme Appellate Court Gilgit Baltistan.

Honourable Chief Justices,

Honourable Members of the District Judiciary,

The learned Additional Attorney General of Pakistan,

Learned Members of Bar,

Dignitaries,

Asslam o Alaikum,

1. First of all I would like to congratulate the Honourable Chief Justice Supreme Court of Pakistan (Chairman Law and Justice Commission) for organizing this very important historical event on 75th Anniversary of the Independence. It is absolutely a great honour for me and I am also thankful for invitation to participate in the Conference.

2. Being Chief Justice of Azad Jammu and Kashmir I deem it necessary to first of all have a brief survey of the Constitutional and Judicial history of Azad Jammu and Kashmir. The territory of Azad Jammu and Kashmir is a distinct entity administered in accordance with the resolutions of the United Nation's Commission on India and Pakistan (UNCIP) having its own Constitutional and Administrative setup including President, Prime Minister, Legislative Assembly and Supreme Court as the Apex Court of judicial hierarchy vested with the appellate, review, revisionary and advisory jurisdiction. The Supreme Court of AJ&K has emerged in the State with unique background. Prior to liberation of the State of Azad Jammu & Kashmir in 1947, a Judicial Board was established during Dogra Regime

vide an Act known as Jammu and Kashmir Constitution Act for hearing of appeals etc. against the judgments and orders of the High Court. After the war of liberation in 1947, the legal system in the liberated territory including the High Court was established by virtue of the Courts and the Laws Code, 1948 which was subsequently substituted by the Courts and Laws code, 1949. However, there was no forum for filing appeals etc. against the judgment and orders of the High Court as was present in the Dogra Regime. Thus, the necessity of establishing such a forum was keenly felt by the legal fraternity in particular and people of the liberated territory in general. The Azad Jammu and Kashmir Interim Constitution, 1974 was promulgated on 24th August, 1974 wherein a provision was introduced for the establishment of a Judicial Board. Later on, the relevant provision of the Interim Constitution 1974, was amended by renaming and reconstituting the Supreme Court of Azad Jammu and Kashmir which consisted of Chief Justice and two Judge. The Terms and Conditions of the service of the judges is identical to one laid down in the Constitution of the Islamic Republic of Pakistan, 1973. The Supreme Court of Azad Jammu and Kashmir does not enjoy the powers of original jurisdiction as vested in the Supreme Court of Pakistan under Article 184 of the Constitution of Islamic Republic of Pakistan.

3. The Rule of Law and Judiciary are juxtapose pillars of the judicial structure having its back bone in the Constitution which is the supreme law of the land governing Legal Framework for smooth functioning of a State. The establishment of Judicial system is meant for protection and interpretation of the guarantees and the guidance provided by the Constitution. No one including the most highly placed

official is above the law even the government is also subject to existing laws. The philosophy and very purpose of the legal rules is equality before law which conveys that no person shall enjoy privileges that are not extended to all and that no person is above the legal sanctions. It is necessary that the laws should be open and clear, general in form, universal in application, and knowable to all. As the law is certain, citizens can shape their conduct accordingly. Thus it can be observed that the Rule of law has very close nexus with the survival of universe.

4. As for the Role of Judiciary in maintaining the rule of law is concerned in my view when a Court decides a matter, in some cases the parties accept the judgment of the court or the Court orders a party to cease a particular activity. The implementation, enforcement and execution of the judgments and orders depend upon the legal persons and the executive institutions. The rule of law cannot be achieved or maintained without the presence of an independent, impartial and effective judiciary. This means that courts, judges and judicial staff must be able to do their work without pressure, influence, interference or restriction of any kind or from any source; any impediment to the exercise of their functions would obstruct the application of law and the maintenance of a peaceful and just society. judiciary must be able to apply the law to all cases arising in society, whether these cases are between individuals, companies, or in connection with the state, the executive and legislature. It is the role of the judiciary to guarantee legal certainty, determine disputes and protect the rights and the liberties of all. It also protects vulnerable groups and individuals that cannot protect themselves. The judiciary often ensures that

the enacted laws are in accordance with the constitution or other higher laws of the country. The accessibility of the services of the judiciary must apply to everyone including those who are disadvantaged or who have special needs. For truly upholding the rule of law, besides the Courts of law, the role of Law enforcing agencies cannot be ruled out. Their capacity building, equipment and infrastructure are the factors of pivotal importance, moreover legal Education and awareness of general public is also required. We have a vibrant media in Pakistan which can play marvelous role in doing the needful even social media can also be better utilized for the purpose.

5. In the Azad Jammu and Kashmir the Superior judiciary has set at naught all the acts which were found ultravires to the Constitution. I am fully of the opinion that the judiciary stands guard against all the illegal acts done either in relation to the affairs of the State or by any person in private capacity. Alhamdulillah the Supreme Court of Azad Jammu and Kashmir has continuously maintained the current disposal of appeals. We have no backlog. The cases instituted in 2020 are being heard and the pendency of these cases is only due to SOP's of Covid-19 otherwise the hearing of currently instituted cases had been continuously observed for many years. The Supreme Court of Azad Jammu and Kashmir has also delivered a host of land mark judgments in relation to the Constitutional and other matters which have been reported in different Law Journals, however, keeping in view the time limits detail of the judgments is avoided. The disposal of cases by the High Court and subordinate Courts in Azad Jammu and Kashmir is also highly remarkable. Facts and figures require a plenty of time however, I can safely

mention that we have successfully achieved the mark of maintaining the progressive judicial system in Azad Jammu and Kashmir.

6. The Total area of the State of Jammu and Kashmir in 1947 was 84,471 square miles out of which the Azad Jammu and Kashmir is consisting of 5,000 square miles whereas Gilgit Baltistan is almost 28000 square miles. The people of Azad Jammu and Kashmir and Gilgit Baltistan are having historical and natural relationships with Pakistan. Gilgit Baltistan is the Gateway of CPEC which is the game changer project. The natural resources of income in Azad Jammu and Kashmir and Gilgit Baltistan are the forests, rivers, tourism and different kinds of minerals and stones etc. Total Potential and capacity of Hydral Generation in Azad Jammu and Kashmir is almost more than 20000 Megawatt whereas presently almost more than 3000 Megawatt electricity is going in the National Grid from Mangla Dam, Neelum Jhelum, Patreend, Krote, Gulpur, Kathayi, Baitar and Jagran Hydral Power Projects whereas one of the major Kohala Hydral Project is in process. Similarly in Gilgit Baltistan Hanzel, Shagharthang and other Hydral Projects are producing hundreds of Megawatt electricity and some projects are under construction. The Hydral Power resources of Azad Jammu and Kashmir and Gilgit Baltistan are definitely providing power and energy in Major parts of Pakistan. Tourism in Azad Jammu and Kashmir is also of pivotal importance. The beautiful rippling waters and forests with lush green landscapes are the major sources of attraction. Thousands of tourists visit Azad Jammu and Kashmir every year to enjoy the natural beauty. The economy of Pakistan is agrarian based, needing constant

supply of water which comes from Jammu and Kashmir. For centuries, water flows down to irrigate the agricultural lands of Punjab, Sindh and other parts of the Indus Valley. That is why that six decades earlier, on the eve of independence of Pakistan, the father of the nation, Quaid-i-Azam Muhammad Ali Jinnah through his visionary statement declared Kashmir as the "jugular vein of Pakistan."

7. I want to mention here that the Mangla Dam was constructed in Mirpur District of Azad Jammu and Kashmir almost 5 decades back which is a multipurpose dam situated on the Jhelum River. At the time of construction, a big population was displaced even the people sacrificed the graves of their forefathers because of their love for Pakistan. This project is producing more than 1100 Megawatt Electricity and also is a major water reservoir. Its water channels are the main source of irrigation for Agricultural production in Pakistan. Here I want to bring into notice of the Honourable Chief Justice of Pakistan that after almost 55 years of the construction of this mega project and thereafter due to its extension, the affectees and displaced families have not been properly compensated by WAPDA. The displaced families are facing agony of litigation for adequate compensation from WAPDA. They are also struggling for proper compensation and settlement as per agreement but the WAPDA authorities who are out of the territorial jurisdiction of Azad Jammu and Kashmir have neither discharged their legal obligations nor fulfilled the responsibilities according to the agreement. The displaced and affected people of Mirpur Azad Jammu and Kashmir seek very kind attention of the Honourable Chief Justice and Judges of the Supreme Court of Pakistan.

8. While taking advantage of this historical event, I want to draw attention of this supreme forum of eminent jurists towards the UN Charter wherein the Right of Self Determination has been guaranteed to the People of Jammu and Kashmir by the UN Security Council under resolution No. 47 of 1948 which provides independent plebiscite. After 74 years of this resolution still the people are awaiting for its implementation. Almost 800,000 Indian military troops are deployed in occupied valley who have martyred thousands of Kashmiri People, raped the hundreds of innocent women, Children have been made blind by use of pallet guns, extra judicial and Custodial killings are matter of routine. The Kashmiri Political Leadership is behind the bars for decades facing the false, fabricated and concocted cases. Despite the worst situations the people have not surrendered their legitimate right of self determination. The Human Rights Organizations have time and again reported violations of Human Rights by the Occupied Indian Forces. When the India failed to change the minds of the Kashmiri people by use of force, attempted to change the status and demography of Jammu and Kashmir to convert the Muslim majority into minority. The non implementation of U.N Resolutions, Extra judicial Killings, rap of Kashmiri women by Indian forces and all other Human Right's violations are legal issues requiring a concrete message by this conference to the jurists of the world to play their role in resolving the issue of Kashmir according to the U.N resolutions.

At the end I once again pay special thanks to the Honourable Chief Justice, judges, organizing committee and officers of the Supreme Court of Pakistan and Law

Commission who have warmly welcomed me to this historical
Conference. پاکستان پائندہ باد۔ آزاد کشمیر زندہ باد۔

Raja Saeed Akram Khan,
Chief Justice of Azad Jammu and Kashmir

Speech of the honourable Chief justice of Azad Jammu and Kashmir in the 9th International Judicial Conference at Supreme Court of Pakistan Islamabad.

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