

# Jurist

voice of premiers



# Jurist

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**PREMIER  
LAW COLLEGE**

أَمْرُ رَبِّي بِالْقِسْطِ

میرے رب نے انصاف کا حکم دیا ہے

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My Lord has Ordered Justice



# *Dedication*

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To The Greatest Jurist  
of the Universe



# Message



I am extremely excited that the first edition of college magazine is in our hands and consider myself fortunate to be a part of such a professional and hardworking team "JURIST". Our thoughts are the result of conversation of the soul with ourselves. This editorial is nothing but an inner voice of such thoughts.

Law shapes politics, economics and society in numerous ways and serves as the social mediator among the people. Therefore demand for law has increased vastly. Ever since the beginning of Premier Law College, we are determined for brilliance in imparting knowledge for the development of the all-round personality of students pursuing a career in Law, I believe that PLC is a place where academic excellence is celebrated, nurtured and allowed to flourish.

All our knowledge and motivations depend on our perceptions. I believe that one can attain success if, followed by passion and devotion. I am confident that PLC will be able to make every effort for imparting quality education and training with a mission of intellectual growth of students.

I would like to pay my regards to the Principal Premier Law College, Mian M.I. Shamim who has been an inspiration for me. His able supervision and contribution has been admirable and precious. I am also thankful to the Chairman Advisory Council Rao Sultan Ali Tahir District & Session Judge (R), Members Boards of Governors Mr. Nawazish Ali Khan & Malik Abdul Basit, for being mentors and for sharing their thoughts and expertise which has made this rewarding and successful experience. I am also grateful to the whole Team PLC for their services rendered in publishing the magazine and overall in running the college smoothly. I hope you will enjoy this wonderful edition of the "JURIST"

**M. Saleem Shaheen**  
**(Attorney at Law)**



## Editorial



A magazine is not projection and collection of ideas and thoughts of single person, rather it is result of combine efforts of various people. Similarly the "Jurist" magazine is also a product of students of Premier Magazine society.

It is a matter of great proud for us that we have designed the magazine of college. We have to face a lot of hurdles at every step but the encouragement of teachers, seniors and fellows motivate us to achieve our goal.

The magazine in your hands having interesting articles, legislative theses, poetry, knowledgeable pearls and different selections which reflects the intellectual activities of both students and teachers. The speciality of this magazine is, it is fully composed and edited by its own members during academic session.

The honorable teachers to whom we are very thankful Mr. Saleem Shaheen (Director Premier Law College), Mian Shamim Ismail (Principal Premier Law College), Mr. Muhammad Ali Malik (Head of Literary Society), and Mr. Mian Tanveer Faisal (Team leader and President of Literary Society). Without their co-operation we might not be able to make this effort successful. A very special thanks to all members of magazine society

We hope that you must admire our efforts. We are waiting for good response and suggestion. May Allah Almighty make us able to do more better than it for next time

**Student's Editors**  
Pakeeza Mashirqi  
Khadija Amjad

# Content List

Sr.#	Artical Name	Writer Name	
•	Praise	Dr. Abdul Majid Mashriqi	
•	Naat	Dr. Abdul Majid Mashriqi	
•	What is Madina	Dr. Abdul Majid Mashriqi	
•	How can we follow the Holy Prophet SAW	Pakiza Majid Mashriqi	
•	Hazrat Abubakar Siddique R.A	Haseeb Siddiqi	
•	Importance of Legal Education	By Rao Sultan Ali Tahir	
•	Build Dams or to be Damned	Khadija Amjad	
•	Napoleon and Hitler	Hamid Bin Nasir	
•	Who Am I	Rashid Javed Virk	
•	Internet in my View	Sehrish Javed	
•	Diplomatic Communication	Usman Khaliq	
•	Zero Some Game	Umer Khaliq	
•	Strenght of Pen	Sehrish Riaz	
•	Abbreviation	Saba Naz	
•	Golden Sayings		
•	Copyright	Saqib Zaheer Cheema	
•	O Lonely Soul	Tanzeel Zubair	
•	Spring	Selected Poem (William Blake)	
•	I Wandered lonely.....	Selected Poem (William Wordsworth)	
•	She is Art	Khadija Amjad	
•	National Anthem	Ayesha Butt	
•	Smile	Tanzeel Zubair	
•	Utopian Girl	Khadija Amjad	
•	Memories	Pakiza Mashriqi	

## **PRAISE**

The world is charged with the light of God,

Enlightened every thing,  
Big and Small,  
Mounts, Oceans, Tress  
Short and Tall

The world is charged with the light of God,

All are flourishing by,  
The decree of lord,  
The world is charged,  
With the light of God,

The world is charged with the light of God,

Some breathow now,  
Some in part,  
Future be present  
Present with last,

The world is charged with the light of God,

His glory shines like,  
Ooz of oil,  
And it brightens,  
Like shook foil,

All bow to Him, He is Lord,  
The world is charged with the light of God,

**Selection from  
"The Fragrance of Madina"  
Dr Abdul Majid Mashriqi**



Selection from "The Fragrance of Madina" Dr Abdul Majid Mashriqi

## NAAT

Muhammad Muhammad a beautiful name,  
All his actions, have good fame,

This name is, the peace of mind,  
My sweet Muhammad is very kind,

Muhammad Muhammad a beautiful name,  
All his actions, have good fame,

I think, it is a matter of sigh,  
He is very fine, He is high,

Muhammad Muhammad a beautiful name,  
All his actions, have good fame,

See his actions, in the Quran,  
Yasin, Ta'ha, Ar-Rehman,

Muhammad Muhammad a beautiful name,  
All his actions, have good fame,

He is very very, near to me,  
More than my life, dear to me

Muhammad Muhammad a beautiful name,  
All his actions, have good fame,

For this word, this name is boon,  
This is lightful, just like moon,

Muhammad Muhammad a beautiful name,  
All his actions, have good fame,

All and Sundry, loves this name,  
Almighty Allah, loves this name

Muhammad Muhammad a beautiful name,  
All his actions, have good fame,

## **WHAT A FINE MADINA, WHAT A SHINE MADINA,**

Selection of Literary Society from ( The Fragrance of Madina)

What a fine Madina, What a shine Madina  
What a heice Madina, What a piece Madina,

My heart Madina, My mart Madina,  
My health Madina, My wealth Madina,

What a fine Madina, What a shine Madina  
What a heice Madina, What a peace Madina,

Siddique (R.A) loved Madina, Umar (R.A) loved Madina,  
Usman (R.A) loved Madina, Ali (R.A) loved Madina,

What a fine Madina, What a shine Madina  
What a heice Madina, What a piece Madina,

I love Madina, You love Madina,  
We love Madina, They love Madina,

What a fine Madina, What a shine Madina  
What a heice Madina, What a piece Madina,

He loves Madina, She loves Madina,  
It loves Madina, Allah loves Madina,

What a fine Madina, What a shine Madina  
What a heice Madina, What a piece Madina,

I top Madina, I mop Madna,  
I lope Madina, I hope Madina,

What a fine Madina, What a shine Madina  
What a heice Madina, What a piece Madina,

My folk Madina, My hawk Madina,  
My walk Madina, My talk Madina,



## **How can we follow the Holy Prophet S.A.W**

**Pakeeza Mashriqi LLB -III (2014 to 2017)**

The subject of Discussion is How can we follow the Prophet S.A.W “Today”. By adding the word “today”, I want to indicate the thinking and confusions of present people. Generally people think that following the Prophet SAW was easy in past and there is some difference between past and present? In Present, it is difficult to follow but to me it is not, so the values and the ways of life given by Prophet SAW are for all times.

What we have to realize is that Allah who created the nature, has change in it? Has the Sun? The moon, the stars, the Galaxies, the rain, the clouds, the oceans, the river, the minerals, changed? What has changed in us? Man is being born in same way. He is dying in same ways? Relationships are same? Over eating habits are the same? “What has changed”? The economic system is same trade was done in Past, Agriculture and Gardening used to be done in the past, Ships and Boats used to drift in the past as well. “What has changed”? The creator of the world knew that nothing would change? That is because the Holy Quran has not changed, not will it ever changed. The sayings of Prophet SAW have not changed and nor they will the Holy Quran is forever, the teachings of Prophet SAW is forever. So we have a false and an unknown fear that there is some difference between in past and present. We simply have to follow the Holy Prophet SAW, there is no issue past or present. If any change has come, it is just that speed of time has increased scientific development has only given speed to the world, the pace of things have increased. Other than that there has been no

**Kindness is a mark of faith, and whoever is not kind has no faith" [Prophet PBUH (Muslim)]**

change. So it must be kept in mind that we can follow the Holy Prophet's certain things, it is no possible for us to follow him (SAW) as the (SAW) went to "MIRAJ" but ours won't.... Now this is question How we follow Prophet (SAW) in this sense we have some fears about following the life of our Prophet (SAW), that is an un achievable task. We just follow the normal behaviors Holy Prophet (SAW). It is very easy to understand it. If someone is unhealthy and wants to improve the level of fitness. He should follow the "MASNOON" way of (Approved by Holy Prophet PBUH) meal. As take meal on hunger, not drink water after meal etc.

Try to understand what the message of Prophet (SAW) is? Is message is of normal life, of comfort, of glad tiding of love. Hence, we need to acquire knowledge of all kinds. When you will adopt this attitude, you will be following the Holy Prophet (SAW). There are simple things, you don't have to do any struggle, and you do not need to ask anyone about these things. At last I want to say, if you determined to adopt the Islamic teachings today than two things you must have, one is purification of your heart and second is trust on Allah. Than you will see Allah will open the doors of guidance upon you and make this way easy for you. May Allah be over supporter and helper. Ameen.



### **Narrated: Abu Malik Ashari**

that the Messenger of Allah (saw) said: "Performing ablution properly"\* is half of faith, saying Al-Hamdu Lillah fills the Scale (of good deeds), saying Subhan-Allah and Allahu Akbar fills the heavens and the earth, prayer is light, Zakat is proof, patience is brightness and the Quran is proof for you or against you. Every person goes out in the morning to sell his soul, so he either frees it or destroys it." (Sahih)

Sunan Ibn Majah Chapter No: 2,  
The Chapters of Purification and its Sunnah  
Hadith no: 280





## **Hazrat Abubakar Siddique (R.A)** **(The Noblest Companion of Prophet PBUH)**

**Haseeb Siddiqi LLB-II (2015 to 2018)**

- He was the first male adult who have accepted Allah Message.
- Prophet S.A.W said: “Follow the examples of those after me, Abubakar and Umar” (Tirmidhi)
- Endured hardships and stood from during Dawat to Islam.
- He was amongst the choosen companions of Prophet PBUH as: “I were take a Khalil (from mankind), I would certainly have taken Abubakar” (Bukhari)
- Earliest Person to invite others towards after Prophet PBUH.
- He was only one who accompanied Prophet Muhammad S.A.W during Hijrah to Madina.
- Earned the title of Siddique (A Truthful ones)
- He was the first person start preaching of the Holy Quran.
- He was the first Caliph of Muslims after death of Holy Prophet S.A.W.
- If the Emaan of Abu Bakar was put on one side of the scale and the Emaan of this Ummah on the other, Abu Bakar emaan would be outweighed.

**"One of the worst sins is a person taking his sin lightly" (Hazrat Abubakar Siddique RA)**



## **“Life Is A Tale Told By An Idiot”**

Iqra Ansar LLB-III (2014-2017)

“Life is a tale told by an idiot, full of sound and furies, signifying nothing.”  
(Shakespeare)

The web of life is of mixed yarn, smiles and tears, joys and sorrows meet and mingle at every step. But to see only gloom and pathos in life and call it a tale told by an idiot can only be the approach of pessimist. Despite living in the modern age and enjoying all its facilities its condemnation to cutting the branch of the tree on which you are sitting or biting the hand that feeds you. This is nothing else, but the height of in gratitude even foolishness. Calling life by any other name is most odd ridiculous and fallacious. In the words of a great philosopher, one hour crowded life is worth and age without a name.

The story of man's march from the caves to the present day palaces, from superstition to reason, from darkness to light, from ignorance to knowledge, from fear to confidence, from poverty to affluence, Is the story of greater power knowledge and wisdom that has been acquire at every phase or stage of his evolution.

In the past, man was so helpless that he lived in constant danger violent fear of death. Natural climates like floods, earthquakes, wind storms and diseases took a heavy toll of human life as he could neither avert nor control them with the help of knowledge and scientific inventions, man has conquered space and time. Does not this position of man from weakness to strength negate the preposition before the house.

Modern age is an age of knowledge and enlightenment, progress and prosperity. Resources have been multiplied distances shrunk and disease and controlled journeys that once took much time and were fraught with dangers have not only become fast but also extremely safe pleasant and enjoyable. It is an acknowledge fact that life in the past was dull, difficult and hard. Men lived, worked, ate and slept like animals. Life in the modern age is extremely easy and enjoyable. Radio, television, internet, telephone, ships, fax machines, and aeroplanes have changed the world into a Global Village and brought the man closer to man. Every day is a day of joy and every moment of list.

As there are two sides of every picture life to has its pitfalls and short comings along with its good points and merits. Lust, greed, selfishness, ignorance disease and injustice are black spots on the fair face of Humanity. But there are a greater number of examples of love, kindness, generosity, cooperation, selfless service and sacrifice, demonstrated by persons like Mother Teresa, Abdul Sattar Edhi, Quaid-e-Azam Muhammad Ali Jinnah, Kamal Atta Turk, Mao Ze Tung and others which make life meaningful and worth living. It is these men of character who sustain our faith in life and will continue inspiring and guiding humanity till eternity.

No one can refuse that the western countries under the leadership of United States have united in their war against Islam and the Muslim Countries. So long there are voices raised against aggression and cruelties perpetrated on the civilians on the forces of occupations, the faith of the people democracy and human rights, in goodness and nobility, in religion and human values will not be shaken and life will not become a tale told by Idiot. Every picture has two rights. The dark and the bright, whereas a pessimist will always look at the darker side. The optimist will be looking at the brighter side. God is the creator of this universe in the Holy Quran. He says that he created life not for fun and enjoyment but He has sent the man on earth to test him rather he choose the right path as desire by him or went a stray by following the satan. He has given the man freedom to choose between the right and the wrong and on his choice will depend his salvation and condemnation. Therefore, in the light of God! Word life cannot be considered as a tale by an idiot, it is a blessing of God and must be laid according to His wish and Command.



## **IMPORTANCE OF LEGAL EDUCATION**

**Rao Sultan Ali Tahir [Chairman Advisory Council] (PLC)**

Law is supreme. Legal literacy is a necessary pre-condition for a healthy democratic Society and social justice. Legal education, apart from improving skills should also be social justice oriented. The modern day society is experiencing fundamental intuitional changes due to ever changing global trends and transformation compelling the governance machinery to change its outdated practices, procedures and approaches. No doubt the system of legal education has assumed a critical significance in ensuring a stable and social order. To improve standard of legal education substantial improvements are required for quality education.

Innovation methods and activities will indeed help law students not only in enriching their knowledge but also enhance their learning capacity and to participate effectively and willingly in the judicial system.

The ultimate mission of legal education is to transform law students into legal experts to help and lead the profession a fair effective competent and assessable legal system. In future, they will be eminent lawyers, attestable prosecutors, judges and They should be ready to occupy the distinguish position in the country and abroad.

I myself as District & Session judge Khushab par participated in National judicial Conference Under the Auspices of National judicial Policy Making



judicial Conference Under the Auspices of National judicial Policy Making Committee which was organized by Law and justice Commission of Pakistan Islamabad in the year 2007 The legal education was subject for discussion by the participants who were eminent judges, lawyers and other law knowing persons form National and International level. The chairperson was Mr Justice Muhammad Nawaz Abbasi, Honorable judge Supreme court of the Pakistan.

The learned participation read velour papers in the conference. At the end suggestion/recommendations and resolutions were framed. Some are as under

- The syllabus and curriculum needs overhauling.
- The teaching methodology should be upgrading including practical trashing.
- The standard of legal education may be made at par to that of advanced countries.
- The semester system should be introduced to improve students skill gradually.
- Legal intuition should teach clinical legal education and also provide the student research facilities .

Bureau of Translation should be set up for translation of all laws enactments and other legal instrument in national Language (Urdu)

A regular body consisting upon the representatives of Legal Institutions, Universities, Bar Counsels and law and justice Intuitions commission of Pakistan may be set up under the central of National judicial (Policy Making ) Committee to supervise the affairs of legal education and institutions.

There were also recommendation about supervision and monitoring English language, the mutual cooperation and coordination of Executive Judiciary and legislature which is essential to achieve the object of meaningful education.

Consider your situation before you speak, and be discreet. Always take stock of your situation and social setting before uttering any remark about someone.

Avoid starting remarks with “you”. For instance, saying, “You need to get better grades next time. “will put the other person on defensive. Instead, use softer, more indirect language, like your grades are astonishing and if you put an extra effort into mathematics, it ll make a star of you.

I statements during a conflict or constrictive criticism can dampen resentment and circumvent the possibility of sparking blame game. When you do this you

take ownership of your feelings instead of blaming it on others. For example, say, I had to go over this section several times before I could make sense of your message.

Taking these little but useful cautions will improve our ability to handle our relationship tactfully and effectively, arousing minimal conflict in the process. Besides, communicating tactfully strengthens your reputation and build your credibility. It allows you to preserve existing relationships and build new ones. A tactful approach shows character, maturity, professionalism, and integrity. Tact also demonstrate good manners. If you can communicate with grace and consideration, you'll stand out from the crowd, and you'll noticed, for the right reasons.



“Tell you heart that the fear of suffering is worse than the suffering itself. and that no heart has ever suffered when it goes in search of its dreams, because every second of the search is a second’s encounter with GOD. and with Eternity”...

“Why don’t people’s heart tell them to continue to follow their Dreams”. The boy asked the al-chemist.

"Because that’s what makes a heart suffer most, and hearts do not like to suffer.”

“The Al-Chemist”

Paulo Coelho





## **“Build Dams or to be Damned”**

**Khadija Amjad Ali LLB-II (2015-2018)**

“Now we need is a great big dam, to throw a lot of water out across the, People could work and stuff would grow and you could wave good bye to the old skid row...”(Woody Gutheic)

Pakistan is the developing country. Now a days energy crisis in Pakistan is a burning issue.

There is no electricity in Pakistan. God has blessed Pakistan with abundant water resources with rivers water flowing down the Hamalayas and karakaram heights, from the world largest glaciers, a free and unique bounty of nature for this land of alluvial plains.

Water is one of most important natural resource and the major divining force for the economy of Pakistan. Pakistan is now towards a serious shortage of water. Hydropower is the main source of energy in our country but again shortage of new calms and unwillingness of governments to create new dams to preserve water and besides that there is other reasons are also involve of like incompetents of government machinery, lack of fund and corruption and negluting old dams is escalating the energy crisis in Pakistan. Dams are the main and cheapest source of generating electricity but on almost every year a huge amount of water wasted in the sea because of non-availability of dams in our country and political parties and landlords level agreed to create more dams

our country and political parties and landlords level agree to create more dams for water preservation. Nations cannot survive if they forget building roof before rains, If they forget producing resources before their consumption, they cannot create power, if they lose their track to progress, they cannot grow up, if they forget substituting their resources with the passage of time because nations are dependant on their resources.

**Dr Samar Mubarak Mand** has rightly said:

"If today more dams were available, all the flood water could have been restored and ultimately used for irrigation"

In 2003, Sindh province was badly effected when above normal Moon Soon rain fall caused flood in the Province. Atleast 484 people died and some 4,476 villages in the province were effected.

In 2007, KPK, Sindh, Coastal Balochistan were badly effected due to Moon Soon rain fall, atleast 130 people were died and 2000 were displaced in KPK.

In 2010, almost all of Pakistan was effected when massive flooding caused by record breaking rains in KPK and Punjab causing the 2000 people died in the flood. In September 2011, atleast 361 people were died and some 53 million people and 1.2 million homes here effected. In September 2012, more than 100 people died and thousands of homes destroyed. In August 2013, more than 80 people died.

After these devastating floods, the need for building new dams is being stressed once again. chenab is in flood, Jehlum is in flood, Swat is in flood, all these surplus flood water would flew down to the sea but we would not build dams. Whole villages getting drowned, people dying, cattle dying, nothing affects us resolve not to build dams. After the floods would come drought but we would not build dams to fight it.

It is said by Gneral Pervaiz Musharaf in 2005:

"Water and energy are matters of life and death for us. We have to build all dams, we have lacked for behind and have to work at a fast space to catch a with a rest of the world"

The functions of dams is to store water to compensate for fluctuations in river flow or in a demand for water and energy, to supply water for agriculture industries and house holds to control flooding and to assist river navigation by providing regular flows. Dams provide valuable water storage for agriculture. Importance of new dams is confirmed with all aspects of discussions and theories. We know that dams fill not only our energy needs but also they fulfill agriculture needs.

Dams are always pride of a nation, need of a nation. Dams are almost basic

building blocks of state power. Dams are atleast national strenght of a state. Dams are importanat for the economic development. The construction of dams will boost economic activity and lots of people will get employment. In short, dams help produce electrcy, avoid pollution and help adverse effects of climate change, rrigating lands.

Ric Gale Said:

"Iam good water years, we can create more power through the dams"

Presntly out of total cultivable land of 77.5 million acre, we are only cultivating 54.5 million acres because of shortage of water.

With the ncrease of population, Pakistan will have a short fall 116 million tons of major flood grains by 2020. Pakistan electricity demand and increasing by 7 % per anum.

We need to built Kaatzara Dam, Diameer Basha Dam, Kala Bagh Dam, Gomal Zam Dam. The construction of large and new water revsarvoirs would help to cultivate more than 22.5 million acres of land. The report said Pakistan would need to build a new dam every 10 to 15 years for cultivation and power generation purposes to complete the construction of small dams like Satpara Dam, Kalam Dam, Darawat Dam and Khori Dam as soon as possible. Jinnah Dam Projected with 96 Mega Watt of power generaton in the Punjab. In March 2010 Government planed to construct 32 small and medium dams with and estimated cost of 250 billion to bridge the gap between supply, and demand of electricity without large and several small dams. We will face accute water shortage in the near future. So if the dams need to be build, we should built dam and be damned. Dams are the only solution to our energy needs and the sustainability of agriculture. There is a dire need to built storage for arguementing agriculture protection.

The problems faced by the water sector in the country are many accute and serious therefore building new dams and an effective management strategy are the needs of time at the same it will enable us to utilize every drop for our bright future.

"Build new dams, don't train more fams

Beat those scams, that break or crams

Dams are crams we need more rams

Lams cook hams, want not our dams"



## **Who Am I???**

**Rashid Javaid Virk LLB-III (2014-2017)**

My question is same like a new born infant who cries and asks from the world “Who am I”. It was the shining morning of July. I saw some people in my surroundings with complex faces and mingled thoughts. I think they don't know who they are. Then I started my journey towards myself.

I was a person who carried a lot of expectations from society without any particular reason. A man who cannot decide his future according to his own will. My existence in this world is like a tiny grain of sand on the sea shore. Who Am I today, I am like a clay in the hands of my family, siblings, friends, religion, customs and traditions to be moulded in any form they want. These believes were strongly integrated in to me what I have become today. I born, started my life and I made mistakes, laughed, cried, hurt, pain, bitter realities, glee, smile. This is my biography. Someone tried to pull me up and someone tried to get me down.

After spending a decade, on this planet, I learnt many great things and few or not but this make me strong like a rock. These experiences made me a man of dignity.

I want to fly like a bird that has wings but my life is not a bed of roses. It has its ups and downs. Then my father who was my everything left me alone in this cruel world. Some people say that the world is heaven but I don't think so, my life is full of darkness. My father was like a candle who gives light to me.

I am the silent majority

In the end, it's not going to matter how many breaths you took, but  
how many moments took your breath away

## And I am a loud Minority

Sometimes I feel my bones straining under the weight of all lives which I am not living.

Memories from past haunt me like a ghost and they also warm me up from inside like a blanket. I feel like a lunatic person who lives in a lunatic asylum. I forget what I want to remember and remember what I want to forget. I am living my life like a robot, just obey order. In a free land of people I am searching for freedom. I always carry a un-forbidden partner with myself and that is fear. However, throughout my life I learnt some fundamental principles that would advocate in order to establish a stable, strong and more effective in present era. Now a days people know the price of everything in value of thing.

William Shakespeare said:

“Journey end in lover meeting”. One day this journey will end, and we will die but hope will never die. My soul will leave my body and will sit beside my grave and ask Who Am I.



**William Shakespeare** was an English poet, playwright, and actor. He was born on 26 April 1564 in Stratford-upon-Avon. His father was a successful local businessman and his mother was the daughter of a landowner. Shakespeare is widely regarded as the greatest writer in the English language and the world's pre-eminent dramatist. He is often called England's national poet and nicknamed the Bard of Avon. He wrote about 38 plays, 154 sonnets, two long narrative poems, and a few other verses, of which the authorship of some is uncertain. Shakespeare married Anne Hathaway at the age of 18. She was eight years older than him. They had three children: Susanna, and twins Hamnet and Judith. Between 1585 and 1592, he began a successful career in London as an actor, writer, and part-owner of a playing company called the Lord Chamberlain's Men, later known as the King's Men. He died on 23 April 1616, at the age of 52.





## **Internet in My View**

Sehrish Javaid LLB-II (2015-2018)

### **Advantages:**

- Information on almost every subject imaginable.
  - Powerful search engine.
  - Ability to research from your home verses research libraries.
  - Information at various levels of study. Every thing from scholarly articles to ones directed at children.
  - Message boards where people can discuss on any topic. Ability to get wide range of opinions.
  - People can fund others that have a similar interest in whatever they are interested in.
  - The internet provides the ability of emails, Free mail service to anyone in country.
  - Platform for products like Skype, which allow holding a video conference with anyone in the world who also has access.
  - Friendships and love connections have been made over the internet by people involved in love, passion over similar interest.
  - Things such as yahoo answers and others sites where kids can have readily available help for home work.
  - Use of all kinds is available almost instantaneously. Commentary on that news from every conceivable view point is also available.

### **Disadvantages:**

- There are a lot of wrong functions on the internet anyone can post anything and much of it is garbage.
- There are predators that hang out on the internet waiting to get unsuspecting



People in dangerous situation.

- Some people are getting addicted to the internet and thus causing problems with their interactions of friends and loved ones.
- Photography that can get in the hands of children too easily.
- Easy to waste a lot of time on the internet. You can start surfing and then realize for more time has passed then you realized.
- Internet and Television to get together of added to the more sedentary lifestyles of people which further exacerbates the obesity problem.
- Internet has a lot of cheating sites. People can buy essay and pass them off as their on for more easy than they used to be able to do.
- There are a lot of unscrupulous business that have sprung up on the internet to take advantage of people.
- Hackers can create viruses that can get into your personal device, such as mobile or computer and ruin valuable data.
- Hackers can use the internet for identify theft.

It can be quite depressing to be on the internet and realize just how uneducated. So many people have become in today's society.



The Internet in Pakistan has been available since the early 1990s. Information and communications technology (ICT) is one of the fastest growing industries in the country. In 2001 just 1.3% of the population used the Internet. By 2006 this figure had grown to 6.5% and in 2012 to 10.0%. The percentage on broad band internet users in Pakistan is now 18.8% which means now more than 35 Million people surf internet. The percentage of total internet users may be significant higher



# Diplomatic Communication

Usman Khaliq LLB-III (2014-2017)



Hey! I didn't mean it; you took me totally wrong; I was

just trying to be

honest. Every now and then we

hear this kind of statement at many

points in our lives. This happen when we dash

straight into someone's ego, often unintentionally or

unknowingly; when we communicate sensitive or painful information in

a direct, unsympathetic way, injuring an individual's self-respect and self-esteem

in the process. Wouldn't it be the best course then to avoid giving honest feedback

to our near and dear ones? No. process of self-improvement requires honest

feedback on our daily actions. And it can be accomplished by employing diplomatic

communication.

Because lack of practical life exposure and formal communications skills training,

college students particularly struggle in this respect. When a classmate asks for

feedback, countess on you for applause after a presentation , or suffers from bad

performance in exams, they are looking at us for sincere appreciation, as well as

encouragement. And believe me, most of us are not very got at it.

This can be achieved by rephrasing the feedback in a manner which state the things

in albeit an indirect/soft way: like if someone seeks an opinion for his new outfit,

instead of saying that you don't look good in it, we may offer something like: you

look more handsome in other/different kind of suiting. Likewise, if we had a

difference of opinion with someone else in the class, we may voice it as, " I respect

your opinion but I will differ with it on these grounds." Another way showing slight disagreement can be: you raised a very good point though I'll add a little into it. Likewise, timing is of great importance in determining your choice of words. Your colleague has just lost a case and you received the news of your promotion at the same time. Is now the best time to talk about your good news? Definitely not. Tact means saying the right things at the right time.

consider your situation before you speak, and be discreet. Always take stock of your situation and social setting before uttering any remark about someone. Avoid starting remarks with "you". for instance, saying, "you need to get better grades next time" will put the other person on defensive. instead, use softer, more indirect language, like, your grades are astonishing and if you put an extra effort into mathematics, it'll make a star of you. I statements during a conflict or constrictive criticism can dampen resentment and circumvent the possibility of sparking blame game. when you do this you take ownership of your feelings instead of blaming it on others. For example, say, I had to go over this section several times before I could make sense of your message. taking these little but useful cautions will improve our ability to handle our relationship tactfully and effectively, arousing minimal conflict in

the process. Besides, communicating tactfully strengthens your reputation and build your credibility. It allows you to preserve existing relationships and build new ones. A tactful approach shows character, maturity, professionalism, and integrity. Tact also demonstrates good manners. If you can communicate with grace and consideration, you'll stand out from the crowd, and you'll be noticed, for the right reasons.





## Zero Some Game

Umer Khaliq LLB-III (2012-2015)

Education in Pakistan-particularly in schools of public concern- is a zero sum game, we all contest this game since inception of our childhood; in fact, we strive hard to get through but without realizing that we are going round and round in circles and in the end, end up getting back to square one. And here lies the problem: we take it not as a natural, gradual mental development process, but rather a contest that has to be won at all costs in order to get reward in life. Having heard this in my school days and occasionally happened to go over it in newspapers that our education system is churning out dumps at best, I was unable to figure out meaning of this phrase back then. But now I am pretty sure that it was and is true to its meaning.

Probably, this recent anecdote would drive this point home. Yesterday, a younger sibling of mine, who is enrolled in a relatively high standard English medium school, came up to me to have his homework checked. When I sifted his brain compartments for meaning and concept of what she had just learned, I was utterly disgusted by what followed, "I am not asked to get into core of what I read; they ask me to just memorize it so that I may get good grades in the end, she retorted."

Spellbound for a moment, it raised a lot of questions in my mind as to what has become of our education system? What does it intend to achieve? Is it meant to equip a person with the means to become a responsible and productive member of society? Does it bring out of oneself one's true abilities and potentials?

Don't stop when you are "tired". stop when you are "Done".

And offcourse, does it make one understand the true purpose and meaning of life after these whole hectic years and colleges? To my utmost concern, the answer was a big "NO."

This is so because Pakistan's education system has built-in flaws: it stifles creativity and hammers down innovation by confining a students within parameters of their syllabi and examination. Such an environment has an inhibitory effect on their freedom of imagination, necessary to bring out genius out of them. Because of intense competition, it puts a student in survival mode, where a student thinks of nothing but good grades and marks. Consequently, they somehow manage to cross the finishing line but fail in the real exam that is called "life." Besides old methods of evaluating a student's progress, it has other reasons as well.

Prevailing societal attitude towards value of education has also contributed towards commercialization of education. Today's parents see education as an investment that is meant to be realized in future with handsome profit, and private franchises are cashing on this consumerist attitude of public towards education. These alma meters charge exorbitant fees in return for a quality education. No surprise as parents are willing to pay as much, even if it takes squeezing other expenses. Withdrawal of state from this sector has caused sprawling business of private schools and franchises of renowned schools to emerge.

Furthermore, this problem is compounded by our decades old examination system which only tests a student on his memorization skills and recalling capacity, instead of measuring his progress holistically; in terms of conceptual knowledge acquired; capacity to perform these progress holistically; in terms of conceptual knowledge acquired; capacity to perform these practically, ability to put these in use in day to day life. As a result, no long term learning takes place and as soon as examinations are over, this knowledge evaporates out of student's mind as it was learned by rote. Students here fail to see the real value of education which lies in magnifying his world view and opening up new avenues of imagination.

This situation also manifests itself in the form of increasing complaint, resonating with distributing frequency in job market, that new entering labour possess degrees but not the skills valued in professional circles. These people are well justified as how come a skill that is long forgotten be put to practice later in life? How can a student whose worldview is limited to the exams hall can really make a difference in practical domain? He is definitely and surely doomed to failure.

Now, the question arises is how to arrest this trend that is responsible for withholding our nation's progress and development. Surely, the way out lies in overhauling the system which is responsible for current state of affairs. Concrete and meaningful steps would be required on the part of all stakeholders; Government, Civil Society, and Public. Media can also put in its lot by running campaigns which explore the real difference and benefits education brings to one life. Civil society and public need to realize the gravity of this issue and should step up pressure on state to devote more resources for putting in place an alternate mechanism for students evaluation in real terms. Academic and scholars should sit together to brainstorm means and ways to reform this rotting system, as they are best positioned to do this. Government, on its part, should come up with a result oriented long-term educational policy which should have exams system overhauling as its major component. It should be so designed to measure a student's educational progress from all perspectives; theoretical, practical and his ability to build upon that acquired knowledge.

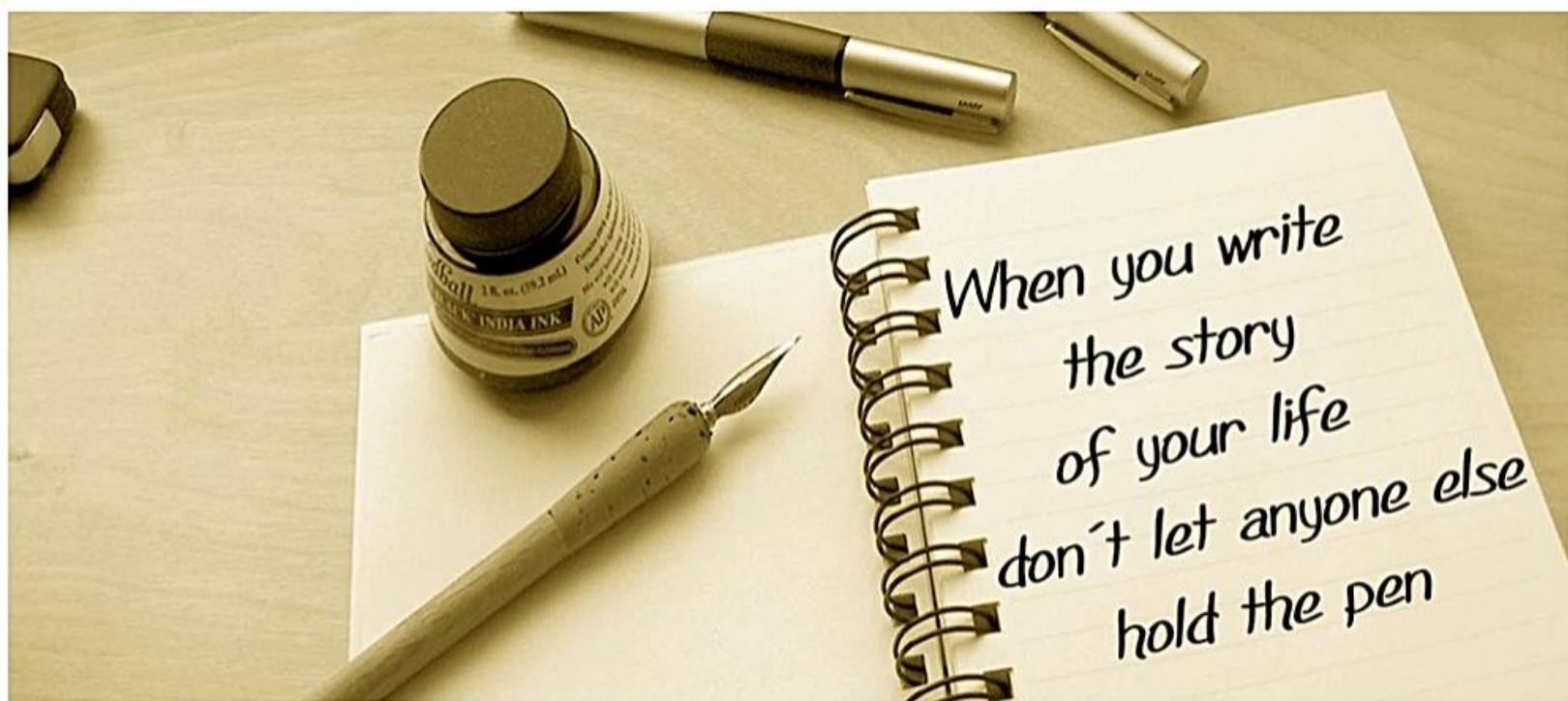
Future of Pakistan is contingent on education. We are imparting to our children today, we have to decide which way this should translate, in exam papers or in fields of real world. If necessary steps are not taken and meaningful intervention not launched, the future would well not be had to imagine.



**Education in Pakistan** is overseen by the Federal Ministry of Education and the provincial governments, whereas the federal government mostly assists in curriculum development, accreditation and in the financing of research and development. Article 25-A of Constitution of Pakistan obligates the state to provide free and compulsory quality education to children of the age group 3 to 16 years. "The State shall provide free and compulsory education to all children of the age of five to sixteen years in such a manner as may be determined by law"

The education system in Pakistan is generally divided into six levels: Preschool (for the age from 3 to 5 years); primary (grades one through five); middle (grades six through eight); high (grades nine and ten, leading to the Secondary School Certificate or SSC); intermediate (grades eleven and twelve, leading to a Higher Secondary (School) Certificate or HSC); and university programs leading to undergraduate and graduate degrees.





## **Strength of Pen**

**Sehrish Riaz LLB-II (2015-2018)**

Pen is a strength of any nation, a nation who wants to rise in the world. But with the help of pen we can change future of the nations....

Pen is the first thing comes in your mind if you think that you don't have the strength to fight with your hands, or you don't have the ability to go in war field; you can fight with the help of pen.

By looking on a pen it has seen so ordinary thing but by the proper use of pen we can see that the history of many nations has changed. Here is a pen which belongs in the streets, on the battlefield, or in the boardroom... Here is the pen worthy of lofty thoughts and life preserving directives. Here is pen for common men and celebrated leaders...

In past we saw that our poets and writers use the pen to awake the nation and to give them the mental strength...

But today people stop writing because they don't have the proper response from the readers. Life is so busy now a days that people have no time to sit and read.

So in the end I want to say that all the people of the nation that no matter what happened always spare some time to read and write.

Pen is your first tool to spread your thoughts to all over the world, because nobody stops you from writing...

Write Write and Write...

# ABBREVIATION



**Why is the word "Abbreviation", so long?**

## **Abbreviation**

**Saba Naaz LLB-III (2012-2015)**

### **Mobile & Relevant**

SIM = Subscriber Identification Module.

SOS = Save Our Souls.

MMS = Multi Media Service

SMS = Short Message Service

PIN = Personal Identification Number

### **Computer & Related**

CD = Compact Disc.

DVD = Dynamic Versatile Disc.

Auto CAD = Computer Aided Design

FAX = Facsimile

www = World Wide Web

E-mail = electronic mail

LCD = Liquid Crystal Display

RAM = Random Access Memory

GB / MB = Giga Bytes / Mega Bytes

SCNY = Sound of New York

Google = Global Organization of Oriented Group Language of Earth



### **Date & Time**

GMT = Greenwich Mean Time  
A.D = Anne Domini  
B.C = Before Christ  
CPD = Out Patient Department  
ICU = Intensive Care Unit  
DNA = De-Oxyribo Nucleic Acid  
AIDS = Acquired Immune Deficiency of Syndrome  
EEG = Electro Geophy  
HIV = Hired Immune virus

### **Army & Police**

Cd = Colonel  
ISI = Inter Service Intelligence  
Cor Commander = Corps Commander  
Lt = Lieutenant  
FIR = First Information Report  
IG = Inspector General  
SHO = Station House Officer  
ASP = Additional Superintendents of Police  
RPO = Regional Police Officer

### **Television**

BBC = British Broad Casting Corporation  
CNN = Cable New Netivovle  
CT-Scan = Computerized axial Tomography  
CCTV = Closed Circuit Television Cameras

### **Tests**

NTS = National Testing Services  
PCS = Provincial Civil Services  
CSS = Central Superior Services  
LLB = Legum Buccalareus  
LLM = Legum Mgister

### **Extras**

TCS = Tranzam Courier Survice  
G.T Road = Grand Trunk  
CVT = Capital Value Tax

HTV = Heavy Transport Valucle  
Radar = Radio setecting and Ranging  
RAW = Research & Analysis wing (INDIA)  
ATM = Automated Teller Machine (Banking)  
LBW = Leg Before Wicket  
IQ = Intelligence Quotient  
C/O = Care of

### **Worth Sharing**

I.Q = Intelligent Quatent  
A.M = Anti-Meridian (Before Midday)  
P.M = Post Meridian, Post Morton  
LL.B = Latin Legum Baccalaouerus (Bachelor of Laws)  
LL.M = Legum Megister (Master of Laws)  
LL.D = Legum Doctor (Doctor of Laws)  
PhD = Doctor of Philosophy  
M. Phil = Master of Philosophy  
e.g. = Example Gratia (For Example)  
i.e. = Idest (That is to say)  
etc = Et ceteri (and others)  
NEWS = North East West South  
H of L = House of Lord  
H of C = House of Common  
F.S.C = Federal Shariat Court  
C.I.D = Crime Investigation Department  
ATM = Auto Mated Taller Machine  
PLC = Pakistan Law Commission



## **“Liability of Online Service Providers and the Impact of Rapid Growth of Internet the Online Infringement Issues”**

**Saqib Zaheer Cheema**  
(Faculty) LLM Northampton Northamptonshire

**Abstract-** The paper examines the rapid growth of technology in present scenario and infringement of copyrights in the cyber world. It would not be erroneous to say that the technological development is much faster than law. The main focus of paper is to analyze the role of intermediaries, the impact of fast growing internet technology and to determine the liabilities of ISPs and end-users; who is the real infringer. It is very hard to watch the user's activities on the internet and novel changes in technology makes it challenging to even trace a primary infringer. The online issues that are going on will get complicated in future. The universal mechanism of intellectual property rights are still baffling with the definition of various rights that is provided to the copyright owners and ironically saying the answer would be available for these complexities when the massive infringements of protected work take place. Current scenario is very complex as on the one hand it deals with the question of freedom of expression whereas on the other hand issues of law of torts and IPR are also at stake. Although, the developed states are trying to capture the monster but still need to improve the legislation procedure.

**Index Terms- ISPs (Internet Service Providers), Infringement, Intermediary, Liabilities, internet, computer, Network, USA, UK, Rapid Growth.**

## INTRODUCTION

In 1991, Senator Al Gore in his book *"Infrastructure for the Global Village"* suggested that in the coming years new technology would rephrase all the legal ideas of originality, ownership, property, intellectual freedom and privacy. He pointed out that officials would have to take these upcoming issues into account and one would have to take appropriate steps that enabled the economic and intellectual opportunities of the latest technologies to be realized. Currently, the involvement of internet is increasing rapidly in our life. The internet has revolutionized the whole system of communication, in particular reading, selling and advertising. Companies prefer to advertise and sell their products online rather than any other method and web-sites are set up for this purpose e.g. EBay.co.uk, Amazon.com, and Auto-traders.com etc.

It is impossible to deny the success of British band 'Arctic Monkeys'. They achieved their overwhelming success due to the use of the internet. They have focused on the idea of using online file sharing and this made them a global phenomenon. They have released their music world wide and therefore they became successful in capturing the attention of audiences from various parts of the world. A positive aspect of reaching to such a global audience is that it brings together the people of different cultures through music. Another important development is the introduction of virtual universities e.g. American International University-Bangladesh, Canadian Virtual University, Intercultural Open University, Virtual University of Pakistan, Virtual Global University (VGU), International Virtual University UK etc. The students can attend the lectures without their physical presence in that place through video conferencing. Despite such a transformational change of the world and making such positive impact on the lives of people it brings some negative points along with the positive ones.

The critics of information technology argue about the legality of sharing online information suggesting that there is a need to put limits on the process as it is anticipated that legal problems will be caused and privacy issues will arise.

The misuse of the internet has caused some serious legal issues which seem to overshadow the positives it brings to the society. On one hand it can promote a band to the whole world but on the other hand it has opened the doors for illegal downloading of music. This has caused severe problems in the field of copyrights and patent. This situation has become so serious that in 2008 the music band U2 had to issue a personal statement to prevent their fans illegally downloading music. Secondly there is a problem of criminal people hacking the financial information of others carrying out online transactions. This is causing huge losses to the people as their information is misused. Now there is urgency among the jurists to design the law in order to protect the people from cyber-crimes.

The whole debate revolves around the subject of liabilities of ISPs in the, especially, UK and USA, with a comparative study of both systems the US approach seems to be less rigid as compared to the UK. Both USA and UK have a similar legal approach with some slight differences.

The liabilities of Online Service Providers in respect of online infringement are the chief focus of this paper.

### \ COPYRIGHT LAW

Starting from the sixteenth century, copyright has developed safeguards to cover a wide range of works from printing to digital material. Copyright extends to all sorts of works irrespective of quality, subject to some fundamental requirements. Tables, compilations and code-books came within copyright during the nineteenth century. The twentieth century is regarded as a flourishing period for copyright law as its ambit extended to cover literary works (works generated by computers as well), musical, dramatic, photograph, films, broadcast, recording, sounds, cable programmes, computer programmes and all programmes created or stored or produced with the help of computer. The idea of copyright is supported by the judges who acknowledge and sympathise with the principle of rewarding a “person's labour, skill and effort”.

. As Peterson J commented in *University of London Press Ltd V University Tutorial Press Ltd* [1916]:

“...*What is worth copying is prima facie worth protecting*”

As the title indicates copyright protects works from being copied without the approval of the original creator. Moreover, copyright not only deals with copying of material but also it deals with question of making an adaption of work; such as displaying work in public, broadcasting and copying of work. The Copyright Act sets out some restricted acts which only the owner of the copyright can do or authorise with regard to his work. In fact, the owner is usually the person who creates the work except when he is in course of employment; the employer will be considered the owner of that work unless or otherwise agreed.

“*The Copyright, Design & Patent Act 1988 usually talks in terms of the creator of a work being the 'author' of the work*”.

Therefore, an individual who creates a piece of music is the author of the music and in the same way a photographer is the author of his work. According to section 9 of Copyright, Design & Patent Act 1988, in the case of sound recordings, films and digital works, the author would be the person who formulates the essential arrangements for creation of the work, so an owner of a piece of work generated automatically by a digital device would usually be the individual who supervises or arranges the computer which generates it.

## COMPUTER AND COPYRIGHT

Digital technology has modernized human life from the last quarter of this century, directly or indirectly, but copyright law has only just come to terms with technology. The previous source of copyright law, Copyright Act 1956, said nothing about the development of computer technology as it was at an early stage when this act came into force. With the passage of time, the digital technology developed rapidly, and a need was felt to include computer programmes within copyright protection, resulting in an amending piece of legislation introduced as the Copyright (Computer software) Amendment Act 1985. The Act ensured that programmes and work generated with the aid of computer, by computer or stored in a computer

Were protected by copyright. Moreover, the Copyright, Design & Patent Act 1988 strengthened the law related to computer programmes and consolidated the work formulated with the help of computer or generated by computer, by every means. Works created by or with the assistance of computer were protected in the earlier law but there were some complexities in identifying the author of the work for the purpose of copyright. For instance, for a newspaper competition known as 'Millionaire of the Month', random numbers chosen by

computer were decided to be protected by copyright in *Express Newspaper plc. V Liverpool Daily Post & Echo plc. [1985]*. It was claimed that there was no human author and, resultantly, the numbers selected by the computer were not entitled to claim for copyright protection. However, these arguments were rejected and announced childish by Whitford J., who declared:

*“This claim is as silly as saying that a pen could be the author of literary work”*  
The human effort can be found either in the form of a person who puts data into the computer to generate output or in the work engaged in writing the programme used or a combination of both. Section 9(3) of Copyright, Design & Patent Act 1988 deals particularly with computer produced dramatic, musical, literary or artistic works and states that the author is the person by whom the essential arrangements were made for producing the work. Simply, the individual who has control over the computer is the author of any sort of 'computer-generated' work. Section 178 of CDPA explains as:

*“A work as 'computer-generated' when it is generated by a computer in circumstances such that there is no human author of the work”.*

However, this concept makes the situation complex because, in several incidents of works generated *with the aid of computer*, it will be difficult to state with any assurance whether the work has a human author.

#### **INTERNET AND INTERMEDIARIES**

The internet has extended rapidly from the APRANET (Advance Research Project Agency Network) into an advanced network system that can be accessed with a computer by everyone. Thus the APRANET provided a way of

Creating a network system. The main reason behind the invention of this innovation is to create numerous networks of multiple designs starting with the pioneering packet switching network, and later on, packet radio networks, packet satellite networks and other networks. Academia and governmental bodies have also been influential and contributed significantly in the development of internet based communication.

*"The Internet's pace of adoption eclipses all other technologies that preceded it. Radio was in existence 38 years before 50 million people tuned in; TV took 13 years to reach that benchmark. Sixteen years after the first PC kit came out; 50 million people were using one. Once it was opened to the general public, the Internet crossed that line in four years."quote from U.S. Department report "The Emerging Digital Economy".*

It is important to note that the cyber network systems are established without any human intervention. The link of one consumer to another consumer through the internet is made possible by the packet of data sent to each. Therefore, an automatically generated network extends and bonds all together. However, this modern communication system has entirely revolutionized the world of information technology. It is noteworthy that all of this information goes through intermediary systems following different ways and at different times without any specific sequence.

Several intermediaries are involved in the transforming of data through digital devices. These stakeholders can be divided into two sections for the purposes of this research.

- The parties to the exchange: those who at the end of the transmission are either senders or recipients.
- Online service providers (Intermediaries): all the computers which pass the information on the packets to the parties.

Online service providers can further be categorized into two sections; websites and internet service providers (ISPs). Websites can be defined as a set of images, web pages, videos or different other electronic means that can be



Accessed by using the internet. Internet service providers (ISPs) give access to the internet by using dial up or other source of communication. Internet Service Providers and websites perform a significant role in the course of modern communication. Internet service providers establish connection between sender and receiver to maintain the communication and the websites provide access to the data. Currently, the intermediaries have become significant actors in the communication process and legal issues against service providers have increased. There have been a number of cases against ISPs recently such as the sale of pirated movies, music, images and other related issues.

## **INTERMEDIARY LIABILITY AND COPYRIGHT INFRINGEMENT**

The birth and expansion of the internet has developed a new way of business and services e.g. social networking websites (Facebook, Twitter, LinkedIn, Badoo, Bebo, hi5 etc.), search engines and online market places (EBay, Amazon, Auto-trade etc.). Sometimes end-users of these online services could infringe copyright. Practically speaking, these infringing acts may be hard to trace as to do so requires substantial financial resources and may have occurred in different jurisdictions. Therefore, the protection of intellectual property rights against infringers can be complicated and costly. That is why, the attention of copyright owners has shifted from taking action against end-users to online service providers who allow and facilitate the infringements.

One of the issues that have remained debateable for a long time is the conflict between right holders and online service providers about the unlawful downloading and uploading of music. The industry remained remarkably successful against the likes of Napster and Pirate Bay who served as a vehicle to infringe copyrights. Currently, ISPs are considered responsible for infringements, as they provide access to the internet.

Reasons and counter reasons put forward for holding ISPs liable are as follows:

1. A reason to hold ISPs responsible for the misconduct of their users is, their 'Authority' to suspend the users' websites and e-mail in case of violation. They have also got the power to report such abuse to the help lines, such as those of right holders and concerned authorities. However, in the UK, under Data Protection Act, ISPs are not allowed to disclose the identity of their subscribers except in a few cases, which are firstly, by the order of the court and secondly, where the subscribers themselves allowed them to do so. Keeping in

Secondly, where the subscribers themselves allowed them to do so. Keeping in view the above circumstances it is assumed that a copyright owner cannot sue the infringer directly without the support of the ISP, as the identity of infringer cannot be located without their help. So only if the owner can force the ISPs to disclose the names of an infringer will the ISP be able to divest itself of liability. When ISPs monitor the transaction of subscriber to check the copyright infringement, it is not only a violation of subscriber's rights but it affects ISP's business model.

2. Another reason for holding ISPs responsible is their capacity to reproduce the material on their own server when the subscriber uploads it. This view never seems to be strong as it has been decided that 'temporary electronic copies' are excluded from the ambit of 'copies'. The reaction of ISPs was vigorous in response to the views, in which they are regarded liable for the acts of their subscribers. They put the defence that their position is more like a postman, who delivered letters unaware of the fact that a particular letter is having a defamatory statement. Their role can be further compared with Telephone Company which cannot be held responsible for the obscene calls of the users. Moreover, by imposing liability on ISPs the probable growth of internet would be restricted.

3. A further reason for holding ISPs responsible for infringements is that they are better able to pay.

4. Some reasons for holding an ISP liable are dependent on their 'knowledge of the activities of the subscribers'. For example, if ISPs are aware of the infringements done by the users then they would be considered liable by the courts for such an activity of the users. However, they are under an obligation to remove such material soon after the action came in their notice. Practically speaking, there are various reasons for which ISPs cannot take the responsibility of their users' infringements. As there are countless transactions that are completed with the help of ISPs, it is not possible in practice for ISPs to check the content that passes through their networks. Again it is expensive and difficult for ISPs to regulate the content that is used by countless users. Then again it becomes difficult for ISPs, just because of the instant nature of the content, to verify, amend and scrutinize it. As stated by William Foster,

*ISPs are similar to common carriers in that they have no control over which members of the public use their facilities, or the content, members of the public choose to transmit.'*

5. A further example of whether to hold an ISP liable is dependent on circumstances relating to the two processes in internet communication, the process of 'providing the contents' and that of 'transferring the contents'. It is considered justified to hold ISPs responsible in the former situation, but not the latter when done by the subscribers. They are considered to be liable if they directly copy the 'protected material' as evidence, if ISPs make it possible for the subscribers to get the latest songs from their website, they are responsible for infringements. But they would not be responsible for the acts of subscribers when they share such unlawfully downloaded copies of the material with one another.

6. One of the latest viewpoints is that ISPs should be considered responsible for direct copyright infringement where they deal with 'automatic data flow and conduct a human screening process of objects posted to the websites they host. But inspire of human screening, it is difficult to control copyright infringement absolutely. But this fact makes the position of ISPs more strong that ISPs involved a person to scrutinize for violation. To gather with above mentioned efforts, the very terms and conditions of ISPs for subscribers is regarded as a compact proof of their efforts to stop the copyrights infringement. Keeping in view all the efforts, it would be unjustified to hold ISPs liable for the acts of their users. But still this matter is debatable.

Internet Service Providers are liable for primary infringement where they directly violate the rights of real owners. For instance, if an Internet Service Provider gives access to infringing material kept and preserved on its own server without valid permission. The United States approach has been to find Internet Service Providers (ISPs) strictly liable for primary infringement although this has been a controversial. Before the existence of the Digital Millennium Copyright Act 1998, in order to determine the liability of ISPs, the courts only depended on copyright law but some courts viewed ISPs as being strictly liability. In 1996, immunity was provided to online service providers under Communication Decency Act 1996.

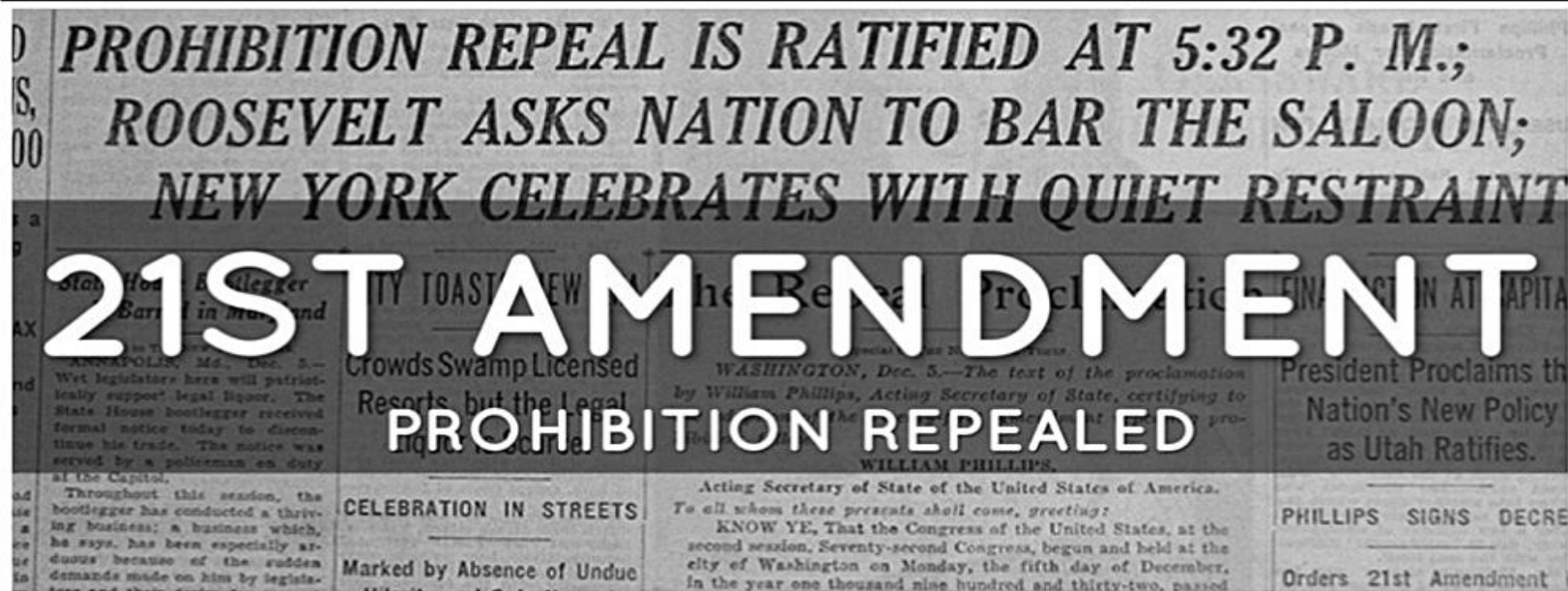
The United States has also developed a secondary liability for Internet Service Providers making them contributory or vicariously liable for infringements. The contributory and vicarious liability theories have developed by the US courts through different cases (*Napster, Sony Corp. etc*) especially when

Courts through different cases (*Napster, Sony Corp. etc*) especially when 'Internet Service Providers' were held liable a **CONCLUSION**

There is still a considerable distance between law makers and technology in this area. The swift growth of digital world has not only made it simple to access the internet, but has also given rise to numerous problems. There appears to be no doubt that copyright owners should receive protection for their work and this protection is clear in certain areas. What seems to be unjustified is holding ISPs liable for the misconduct of their users. It is really difficult for them to keep a record of the activities of the subscribers. Then there should be a harmonising balance system to check the rights and liabilities of ISPs in relation to the matters of copyright on the internet.

It is time to adopt at least three primary steps to protect the users on internet. Firstly, the law makers will have to pay attention on territorial issues and need to revise territory. The previous approach regarding territorial application is now not applicable in present complex and continuous developing world. So, there is need to redefine the territory. Second thing which need to do is harmonization between legislatures and IT experts, it will be the basic source to bring masses close to each other through internet. The harmonization means not only the harmonization between different laws makers but also need to minimize the differences between traditional thinkers and technology specialists. Thirdly and finally, various campaigns of mass awareness will be helpful to bring society in conformity with laws. One important fact that needs to keep in mind that future prospective of human civilization completely depends on controlled internet growth.

I will discuss the comparative role of USA and UK in strengthening the digital copyrights in my next Article.



## 21<sup>st</sup> Amendment

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The concept of Liaise faire theory of state has been transformed into welfare state. Laski stated that the task of modern state is not to rule but to serve the people. The inhabitant of the land purse often in plunges into dream land of saying of The founder of 943666 Km<sup>2</sup> area. The inspection germinated abundance of impurities, doctrine of necessity one of those ; intellectual corruption I would like to say it. We learnt a lot from the fabulous stories for kids and amused a immense from the Gulliver's travels utopia and surprised a lot from the tricky and whimsical wordiest of adjusting organs of Pakistan and name of doctrine of necessity. It is a good step to tackle the terrorism. This is to bridle the battened activities of law barkers. It is an extra ordinary measure to deal the extra ordinary circumstances. The harden criminals could have only be handled by this amendment in corporate in article 175(3) of constitution of Pakistan 1973. The arguments were opened by the stanch supporters of military courts. The preachers of massacre are the subject of the military courts.

A long ago the great criminalist Cessare De Baccarae and Jeremy Bentham gives views that the criminals looked into the less torments and more joys before committing crime hence the free will of the individuals in embedding in the motion pre classical era where king could do no wrong was prevailing and more than six hundred misdemeanor were sentence with death of which cutting of tree was offense. We can only hear this through the stories writing in the old torn papers from very good public's libraries or we could see now on the global system of interconnected computer networks in the form of display of unreasonable, whimsical unfair application of judicial mind beyond the following of due process of law known as 21th amendment act.

In the end everyone will hurt you... it's up to you to decide who is worth the pain.

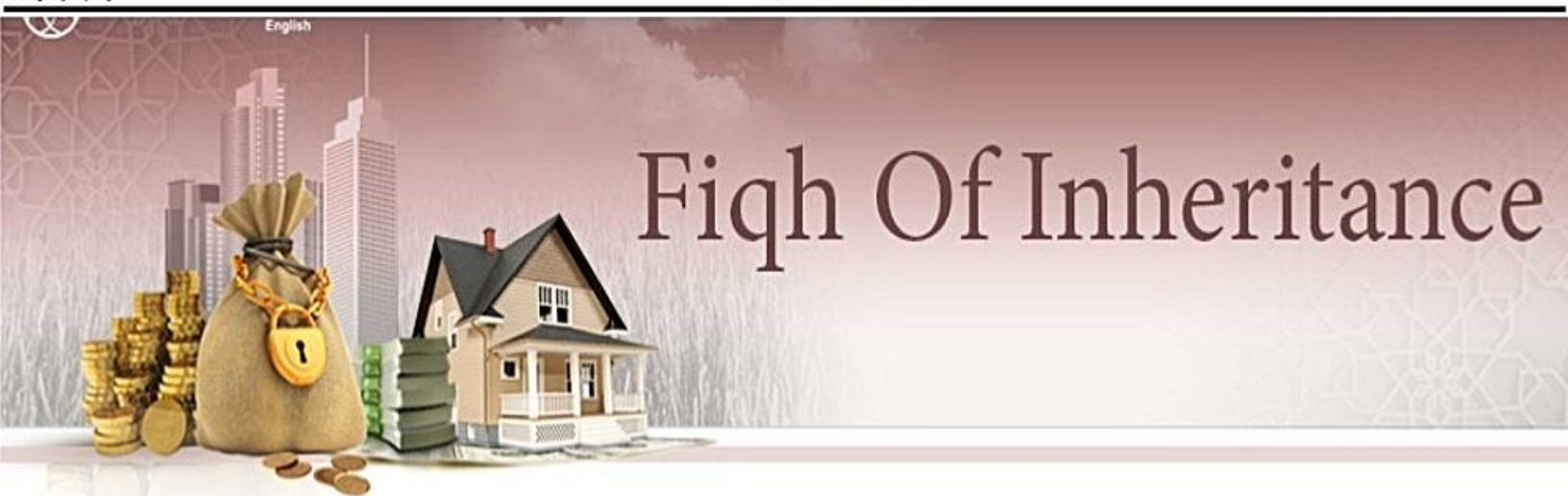
process of law known as 21th amendment act.

How can one dare to proclaimed that black is black, white is white in this regime of might is right. Maximum he can vesper with the benched teeth that our basic structure theory in article 8 is our inalienable in the loss in consistence electable right so such acts are ultra vire both substantive and procedural. The police state era has passed away. Rule of tyranny has grown into extinct. The tribal state system has met to its demise. The one man show has come to an end. It is not the time of **Christopher Marlowe's Doctor Faustus**. But one can see all these previous rules in present era very clearly even without spending a penne, what that gentle man has to come Pakistan to watch all these activities running with the clear enmity rule of law. The deed rule of law is still to be buried, but it has been galvanized with the golden robe as sunset clause has been inserted in the 21th amendment act.

Once I stated that the theorist of criminological theories are the worst criminals as they used those theories to procures their vested interest but now I am unable to state that the legislators of 21th amendment act are the killers of the constitution as they have slaughtered the fundamental rights of the citizen of Pakistan. But I hope everyone would cry with the slogan that 21th amendment act is not the symbol of rule of law but a picture of pre-classic era, if he reads the following basic structure theory between the line "Laws inconsistent with or in derogation of fundamental rights to be void.- (1) Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void. (2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void. (3) The provisions of this Article shall not apply to- (a) any law relating to members of the Armed Forces, or of the police or of such other forces as are charged with the maintenance of public order, for the purpose of ensuring the proper discharge of their duties or the maintenance of discipline among them; or (b) any of the- (i) laws specified in the First Schedule as in force immediately before the commencing day or as amended by any of the laws specified in that Schedule; (ii) other laws specified in Part I of the First Schedule; and no such law nor any provision thereof shall be void on the ground that such law or provision is inconsistent with, or repugnant to, any provision of this Chapter. (4) Notwithstanding anything contained in paragraph (b) of clause (3), within a period of two years from the commencing day, the appropriate Legislature shall bring the laws specified in Part II of the First Schedule into conformity with the rights conferred by this Chapter: Provided that the appropriate Legislature may by resolution extend the said period of two years by a period not exceeding six months. Explanation:- If in respect of any law Majlis-e-Shoora (Parliament) is the appropriate Legislature, such resolution shall be a resolution of the National Assembly. (5) The rights conferred by this Chapter shall not be suspended except as expressly provided by the Constitution."

Purpose fully I would end my thought provoking article for many readers with many themes to extract their own theme. While ending it with an Urdu verse.

"In three words I can sum up everything I've learned about life: it goes on."



# Fiqh Of Inheritance

## **The Rule of Inheritance in Islam**

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Section 4 of the Pakistan Muslim Family Laws Ordinance, 1961, dramatically altered the law of succession applicable to Muslims by granting to the orphaned grandchild(ren) the share that their deceased parent would have taken had s/he survived the propositus. The principle of representation incorporated in the Pakistani solution contrasts with the compulsory bequest relied upon by several Middle Eastern countries to deal with the same problem, although arguably representation more closely reflects the experience and expectations of the people of Pakistan. Nearly two decades later, the Federal Shariat Court was established and endowed with jurisdiction to declare a law contrary to "the Injunctions of Islam" and thus void. Some laws, however, were specifically exempted from the Court's jurisdiction; falling within this category is "Muslim Personal Law."

A 1981 decision of the appellate Court (the Shariat Bench of the Supreme Court) held that the provisions of the Muslim Family Laws Ordinance were included within the phrase "Muslim Personal Law," and were thus outside the jurisdiction of the Federal Shariat Court. This position was reversed by another decision of the appellate Court in 1993, and the provisions of the Ordinance were immediately challenged on the basis of their alleged divergence from the "Injunctions of Islam." This essay reviews the provisions of section 4 of the Ordinance and examines the decision of the Shariat Court as regards this particular provision.

At the end of this essay I shall give some suggestions with respect to the human rights law in order to get the solution of the problem. As the section 4 is

quite controversial so I tried to resolve the problem by giving different approaches of the scholars who are authority on the subject. I am not against the reforms in the Islamic law but these reforms must not be such that which is against the great spirit of Islam.

### **Introduction**

Inheritance rights are crucial for Muslim because distribution and control of property and assets significantly affect their ability to enjoy stable and fulfilling lives and to exercise other rights. Without assets derived from inheritance, heirs are disadvantaged, cannot lead independent lives, and cannot even ensure that they and their families can support themselves. Inheritance distribution is closely tied up with provisions in many Muslim family laws, and must be conceived from a just and equitable perspective in order to ensure there is fairness and justice in other aspects of family life. Although very vocal defenses of the traditional inheritance laws have been argued, these are problematic both in terms of justice and in the context of the modern era. There are a number of compelling justifications for reform that have been proposed by Islamic scholars.

This essay includes a brief overview of the major Qur'anic verses on inheritance, traditional rules of inheritance derived from those verses and hadith by the major schools of law, some examples of how those rules affect child(grandson), a sample of standard defenses of those traditional rules and explanations of why the defenses are problematic, potential prospects for reform, and examples of reform efforts from various Muslim countries around the world. There is also a list of resources that can provide more information on inheritance rules, examples of how people defend the traditional inheritance rules, and ideas for reform.

### **The rule of inheritance**

This verse lays down the rule relating to the law of inheritance as a corollary to some of its injunctions, which is: (... in what the and the nearest of kin have left.) The two words, '*al-walidan*' (the parents) and '*al-aqrabun*' (the nearest of kin) spell out two basic principles of inheritance. The first one is the bond of birth which exists between children and their father and mother and which has been described through '*al-walidan*.' The second one is the general kinship which is the sense of the word, '*al-aqrabun*'. According to the correct interpretation, the word, '*al-aqrabun*' covers all kinds of family relationships. This may be the mutual bond of birth as in children and their parents; or, it may be of the other kind as in general family relationships; or, these may be relations established through marital connection. The word, '*al-aqrabun*' covers all, but



parents were set apart specially because of their importance. Then, this word has also established another principle of inheritance, that is, the mere fact of kinship is not enough for a claim on inheritance. Rather, it is necessary that the heir is nearest in kinship, for - if the degree of nearness or closeness were not made the standard condition - the inheritance of every deceased person would have to be, of necessity, distributed over the entire human population of this wide world. The reason is simple to understand because everyone is the offspring of one father and mother, Adam and Eve, peace be on them. Be it close or not so close, there does exist some sort of mutual relationship in everyone. When it comes to distribution of inheritance, it is, to begin with, beyond the realm of possibility.

However, speaking academically, if such an arrangement was somehow made, the resulting distribution of property would be something like one insignificant particle for each which will be no good for anyone. So, it was necessary that, given the pivotal position of kinship in the matter of inheritance, the principle should be: If choice has to be made from a collection of different relatives, then, the nearest of kin should be preferred over the farther ones and, in the presence of the nearest, the farthest should not be given a share. However, if there are relatives who are all declared to be the nearest at the same time, even if the nature of nearness in them be different, then, all of them will deserve a share in the inheritance as the father and mother alongwith children, or wife etc., for they all are the nearest, though the nature of nearness differs.

In addition to that, this very word, '*al-aqrabun*' establishes that the way men are sharers in inheritance, so are women and children, who too cannot be deprived of this right, for kinship of children, parents or any others, is the same in a boy and girl as far as the fact of being related is concerned. A boy is born to his parents and so is a girl, who is born to them. When the right to inherit depends on being related, there is no sense in depriving a small child or a girl.

Another point about the style of the Holy Qur'an is worth noticing here. Instead of mentioning the entitlement of women in a separate sentence, the Holy Qur'an could have easily merged it with the entitlement of men in a single sentence, by saying, "For men and women both there is a share...." But the Holy Qur'an has elected to mention the entitlement of both sexes in two separate independent sentences, even though it seems to be a repetition. This is to emphasize the fact that the right of women in inheritance is quite independent and is as important as the right of men.

Furthermore, this very word, '*al-aqrabun*' also tells us that the distribution of property left behind is not based on the criterion of need; it is,

rather, based on the criterion of nearness in kinship. Therefore, it is not necessary that the one more needy among the relatives should be the one more deserving of a share in inheritance. On the contrary, the one nearest in kinship to the deceased will be the one more deserving of a share in the inheritance as compared to the farther - even though, the farther may be poorer and more needy. If we set aside the principle of nearness in kinship and use the need or the beneficial effects for some relatives as the criterion, it can neither turn into a rule nor can it take the form of a settled and solid law, because any criterion, other than nearness in kinship, will inevitably be temporary as based on opinion because poverty and need or usefulness are not permanent. Conditions change. Levels change. Under such conditions, there will appear a host of claimants and those responsible for settlement would have a hard time in arriving at decision.

### **Section 4 of Muslim Family Law Ordinance 1961**

Section 4 of Muslim Family Law Ordinance 1961 is about the succession of the grandson. It states that the grandson is entitled to the share in the grandfather's property. The wording of the section is as;

*"In the event of the death of any son or daughter of the propositus before the opening of succession, the children of such son or daughter, if any, living at the time the succession opens, shall per stirpes receive a share equivalent to the share which such son or daughter, as the case may be, would have received if alive".*

### **The problem of an orphaned grandson's inheritance**

If this Qur'anic principle is understood clearly, the problem of an orphaned grandson's inheritance - which has been made to look like a disputed issue for no sound reason - resolves itself automatically on the basis of a categorical decision. In other words, if an orphaned grandson is more needy as compared to the son, but, in accordance with the law of '*al-aqrabun*' (the nearest in kinship), he cannot claim a share in the inheritance because he is not 'the nearest' in the presence of the son, other arrangements have been made to take care of his needs. One such arrangement appears in the next verse.

This religious position has been opposed by none but some of the contemporary, westernized modernists. Other than these, the entire Muslim *Ummah* has been holding the belief, as clarified by the Qur'an and the Hadith, that the grandson will not inherit in the presence of a son of the deceased, irrespective of whether his father is dead or alive.

### **Classical position in Islam**

The grandchildren may be the children of a son or of a daughter. The children of a daughter do not inherit from their grandfather, whether their

mother is alive or dead. The children of a son inherit from their grandfather so long as none of the grandfather's children are alive, regardless of whether the son's father or any of his paternal uncles are alive. If any of the grandfather's own sons are alive, then the grandsons do not inherit, regardless of whether their father is alive or dead. It is unknown in sharee'ah for a grandson to take the share of his deceased father, who would have taken it if he were alive. Rather the estate is to be shared out among the heirs who are alive at the time of their benefactor's death. How can we give a share to this father who died before the grandfather, then take this share and give it to (the deceased father's) children?. These grandchildren who do not inherit from their grandfather because their grandfather's own sons are still alive may get something from his estate in two ways: 1 – If the grandfather left something to them in his will before he died, one-third or less of the estate. This applies if he has a great deal of wealth. Some scholars regarded such a will as . The evidence for that is the verse in which Allaah says (interpretation of the meaning): *"It is prescribed for you, when death approaches any of you, if he leaves wealth, that he makes a bequest to parents and next of kin, according to reasonable manners. (This is) a duty upon Al-Muttaqoon (the pious)"*

Shaykh Ibn 'Uthaymeen (may Allaah have mercy on him) said: Among the things we learn from this verse are:

Bequests to parents and relatives of a man who leaves behind a lot of wealth must be fulfilled, because Allaah says (interpretation of the meaning): *"And it is prescribed for you"*. The scholars differed as to whether this is abrogated by the verses on inheritance or is it is general and the verses on inheritance are specific? There are two views. The majority of scholars are of the view that it is abrogated, but the more correct view is that it is not abrogated, because it is possible to understand it as speaking in specific terms and say that the words "to parents and next of kin" apply if they are heirs, i.e., if they are heirs then no bequest can be made to them, and the shares of inheritance decreed by Allaah are sufficient. So the general meaning of the verse still applies to those who are not heirs Another lesson we learn is that it is permissible for a person to bequeath whatever he wants of his wealth, but this restricted by the hadeeth of Sa'd ibn Abi Waqqaas (may Allaah be pleased with him) who said to the Prophet (peace and blessings of Allaah be upon him): *"Shall I give two-thirds of my wealth in charity?"* He said, "No." He said: *"Then one half?"* He said, "No." He said: *"Then one third?"* He said: *"One third, and one-third is too much."* Agreed upon. Based on this, the bequest should not amount to more than one third of the wealth, so the meaning of the verse is restricted by the hadeeth. The obligatory bequest is that which is left by one who has left behind a great deal of wealth, because Allaah says: *"if he leaves*

*wealth*" As for the one who leaves only a little wealth behind, it is better for him not to make any bequest if he has heirs, because the Prophet (peace and blessings of Allaah be upon him) said to Sa'd ibn Abi Waqqaas (may Allaah be pleased with him): *"For you to leave your heirs independent of means is better than leaving them dependent and holding out their hands to people."* Agreed upon. 2 – If their uncles give them some of their shares and distribute that among them. Calculating what would have been their father's share and giving it to them when he is no longer alive is something for which there is no known basis in sharee'ah. In some states this is called the *"binding bequest"* and they give the children of the son who died during the lifetime of his father – i.e., their grandfather – the share that would have been their father's, so long as it does not exceed one-third of the estate, and they give the children of a daughter the share that would have been their mother's, so long as it does not exceed one-third, even if the grandfather did not bequeath anything to them. This is contrary to sharee'ah and does not have to be obeyed, because it is an attempt to share the role of Lawgiver with Allaah and a transgression against the rights of the heirs. They attributed this idea to Ibn Hazm (may Allaah have mercy on him), but it is a fabrication against him, because Ibn Hazm regarded it as obligatory to make bequests to relatives who do not inherit, which include the paternal uncle, maternal uncle and all other relatives, but they do not allocate a share of the estate to these relatives. Moreover, Ibn Hazm did not stipulate a specific amount or share, but they are doing that by giving the share of the father or mother. And Ibn Hazm said that they should be given something in cases where the grandfather has made a bequest, whereas they give these grandchildren a share even if the grandfather did not make any bequest. So what Ibn Hazm said is different from what they attributed to him. Judges should not issue such rulings, and they should realize that by issuing such rulings they are going against the law of Allaah, may He be exalted, and taking wealth from those to whom Allaah has given a right to it, and giving it to those who are not entitled to it. This is going against the ruling and laws of Allaah. Many scholars of al-Azhar have objected to the *"obligatory bequest law"* and issued fatwas speaking against it. Papers have been published in the journal of al-Azhar refuting this law, and explaining how it goes against sharee'ah. Shaykh 'Abd-Allaah ibn Jibreel (may Allaah have mercy on him) was asked: *Can grandchildren inherit from their grandfather if their father died before their grandfather? If the answer is no, then why?* He replied: Grandchildren refers to the sons of the son, not the sons of the daughter. If their

father dies before his own father, they do not inherit from their grandfather if he has a son or sons of his own, because a son is a closer than a son's son. If the grandfather does not have any other son but he has daughters, then the grandchildren inherit whatever is left after the daughters have been given their inheritance. Similarly, they inherit from their grandfather if he does not have any sons or daughters, so they take the place of his children, and each male is given the share of two females.

### **The Questions**

At this point two questions arise in our mind that are:

1- The Quranic law states that if the deceased person leaves behind a son, the orphaned grandson cannot be a heir. Is this not unlawful and an injustice shown to orphans?

2- By disallowing the right to inheritance to the orphaned grandson, does Islam mean to leave him to his fate? What is the solution prescribed by Islam for this problem?

Now I shall try to give the answer of the above said questions one by one .

**The Quranic law states that if the deceased person leaves behind a son, the orphaned grandson cannot be a heir. Is this not unlawful and an injustice shown to orphans?**

This doubt has been due to the lack approach towards the wealth of inheritance. In fact, the law which the Quran propound in this regard is seen to be the most scientific and just of all. The issue of inheritance has been addressed in the verses 11 and 12 of Surah Nisaa. The right of inheritance of the person who has neither father nor offsprings has also been dealt with in the last verse (176) of this same chapter. The Islamic approach to the wealth of inheritance is derived from these verses and from the practices of the prophet in this regard. The basic postulates of this approach are as follows. One : None has the right to a person's wealth as long as he is alive. Two : Those of his successors who died during his own life time will not be entitled to inheritance from his wealth (The wealth of inheritance itself comes into being with the death of the person. Prior to that it is but his own wealth, never the wealth of inheritance as such). Three : It will be only those of his successors who are alive at the time of his death who will be entitled to a share of his wealth of inheritance. Four : Inheritance is basically allocated to close relatives. Marriage and blood relations will naturally fall into this category. Five : Close relatives of the deceased will obstruct the right to inheritance of the more distant ones in the same line of succession. By close relation is meant parents, husbands, wives, sons and daughters. Nobody else can claim any right in the presence of these closest of relatives. Six : The accepted standard for allocating the wealth of inheritance is the nature of one's relationship with the deceased person; never

the financial condition or the requirements of the claimant himself. Seven : In the absence of the closest relatives, or links of the deceased, the right of inheritance is then conferred upon the next link in the line of succession. It is for this reason that if there is no father, it would go to the father's brother and if there is no son then to the grandson. In the light of these basic postulates, the offsprings of the children who had died while their father was still alive can have no legal share in his inheritance if there are others of his children who are alive at the time of his own death. The reason for this is that the right of inheritance those of the cannot reach successors in the second generation of the family tree while those of the successors of the first generation are still alive. The question here is : will this not be an injustice ? The first reply to this question will be the counter-question : will it be possible to allocate the wealth of inheritance in a completely just manner with the help of mere legislation alone? Factually, of course, no system of law - not even Islam, for that matter - can successfully implement full justice in this regard. Look at a few of the models that can serve to successfully demonstrate these facts:

1. The deceased person leaves behind two children. One is handicapped. The other is fully fit. The first cannot earn his living. The second can work and earn wealth. How will the wealth of the deceased be allocated in this case? In the interest of justice, the one who is able to earn his own living must be given a lesser share while the one who is unable to do so must be allocated a larger portion. However, can any system render this justice a law?
2. The deceased leaves behind three children. The eldest is aged forty. He is a businessman. He started off as a co-worker in his father's business and his own enterprize has now come of age. The second is a physician. He had studied using the wealth of his father. Today he virtually mints money. The third is a lad of eighteen. A student His father died before he could attain to any position. How is the wealth to be allocated in this case? Both the elder sons earn their own income; indeed, they had started their earnings with the wealth of their father. As for the younger son he never had much from the earning of his father even when he was alive. Here, too, it will be just that the younger son should, at least, get a larger portion in the share of his father's inheritance. Is it possible to make a law that would facilitate the allocation of the inheritance wealth in this manner?
3. The deceased leaves behind three children. One is highly successful. He is able to make piles of money. The second is a man for social service. The last one is a miser. He would save all the acquired wealth and would find his expenses to stay within stated limits. If all three were given ten rupees, the first one would convert it into twenty, the second one would prepare

death, the wealth of inheritance to which he was entitled would then have to be given to his close relatives.<sup>4</sup> This is also the case with the share to which mothers are entitled in the wealth of their children. If the mother passes away before her son, her close relatives will then be entitled to the wealth of her son if we are to go by the preferential theory of inheritance. The acceptance of the preferential theory will thus become the cause of imbalance in the order of allocation. A person has two children. Both died. One has one son and the other has two sons. According to the Islamic order of allocating the wealth of the grandfather, all three grand children are entitled to an equal share. However, if the preferential theory is accepted, as far as the brotherless grandson is concerned, the two sons of his uncle will each receive only one half of that to which he is himself entitled. Here, it need not be said that to allocate the right of the individuals who are similarly related to the same person in different proportions will only serve to create a gross imbalance in the order of allocation. In the foregoing section, a description of the problems that arise out of accepting the preferential theory of inheritance as a law, has been provided. It was for this reason that the Quran stopped short of prescribing a law to the effect that the grandchildren are entitled to a share in the wealth of a person even while his own children are still alive. For it is necessary that all its practical difficulties must first be addressed. If the right to inheritance was provided to the grandson by way of bringing a new law to the effect, the very foundation of the Islamic law of inheritance would then come apart and would prove impracticable as well. It, thus, becomes clear to us, here, that the Quran was, indeed, revealed by Him who is well-conversant with all the possible faults and shortcomings in law.

**By disallowing the right to inheritance to the orphaned grandson, does Islam mean to leave him to his fate? What is the solution prescribed by Islam for this problem ?**

Islam's is never a collection of inheritance laws alone; it prescribes a set of social security measures too. Indeed, these two sets of laws are delicately interwoven one with the other. In fact, the very basis of inheritance itself lies in that sense of duty towards mutual security and cooperation. Ordinarily, therefore, the right of inheritance belongs to the person who is duty bound to help out the one afflicted with misery and privations. The son is duty-bound to protect the father even as the father is so towards the son. The grandson is, however, not obliged to protect the grandfather if he has a son; if not, he will be duty-bound to do so. (This is also the reason why the orphaned grandson will have no legal share in the wealth of inheritance). It is, furthermore, the duty of the grandfather to protect the children who have lost their father. Indeed, the Quran views the

meal for himself and his poor neighbor, the third would have two meals with it. Should the wealth of inheritance be divided equally between the three? That would not be justice. But here it is not practicable to implement justice through the normal process of law. Here, it becomes clear that it is not possible for mere laws and regulations to implement justice in all respects in the case of inheritance and other economic problems. In all such problems Islam does not prescribe solutions depending solely on laws alone. Indeed, it seeks to create a situation wherein justice can be established in such matters by heightening the moral consciousness of man and by encouraging the showing of mercy and kindness to those undergoing tribulations. Why cannot a law be made which would then enable the orphaned grandson to have the right to inheritance as well? In fact, the creation of such a law would then destroy all the foundational premises which Islam puts forward in the matter of inheritance. There is only one way in which the orphaned grandson can be allowed the right to inheritance. Imagine that the deceased son to be still alive. Project his children as the representatives of the deceased person. Then allocate the wealth that was to be given to the dead son amongst his children. A person has two children. The elder one has three and the younger one has two children. The elder one died while the father was still alive. When the father himself passed away, only the younger son remained alive. There is one thousand rupees as the wealth of inheritance. The younger son takes five hundred. The remaining five hundred is divided amongst the three children of the deceased elder son. This, in general, is the usual order of allocation. How practicable is this order of preference in the Islamic system of inheritance? It should not be forgotten that if the preferential theory is applied anywhere within the system of inheritance, it will become imperative to apply it throughout the whole as well. How correct will be this procedure? Examine the matter. Observe a few of the issues involved:

1. The husband has a right in the inheritance of the wife. If they have children his right will be one fourth, and, if not, his will be one half. Assume now that the husband passed away before his wife. Here, if the preferential theory was to be accepted, the father, mother, the children through other wives, of the husband all will be entitled to share in the inheritance of his wife.
2. This is also the case with the rights of the wife in the inheritance wealth of her husband. If the death of the wife precedes that of the husband, her share will then have to be given to her mother, father and other relatives as well.
3. Fathers are also entitled to a share in the wealth of their children. Assume that the father passed away before his son. The father, however, has other children as well. Even if the son himself has children, if the father is alive even after his



indifference shown to orphans as being tantamount to the very denial of religion itself." "Seest thou one who denies the Judgement (to come)? Then such is the (man) who repulses the orphan (with harshness)." "Therefore treat not the orphan with harshness.." "Treat with kindness your parents and kindred, and orphans ....." "The Quran teaches that it a grievous sin to usurp the wealth of the orphans." "To orphans restore their property (when they reach their age), nor substitute (your) worthless things for (their) good ones; and devour not their substance (by mixing it up) with your own. For this is indeed a great sin." "And come not nigh to the orphan's property, except to improve it, until he attains the age of full strength."

The prophet had taught never to do anything that would in any way infringe upon the respect that is due unto the orphans. Muhammad (pbuh), who had given the glad tidings that the one who protects the orphans will enter into Paradise in his company, had also forewarned that one of the greatest of sins is the misappropriation of the wealth of the orphan. It is, in itself, the duty of every Muslim to protect the orphans who have no family ties, whatsoever. Then does the duty of the Muslim in protecting those of the orphans who are actually related to him need any further recommendation? The responsibility of protecting them mainly rests with the grandfather. In the event of the grandfather's demise, it is the paternal uncle who must then assume the responsibility of guardianship. It is the grandfather who protects the orphaned grandson. He is provided with all his requirements by the grandfather. He is well-aware of all his problems and difficulties. He is also alive to the knowledge that his grandson is not entitled to any share in his wealth. He has the right, however, to keep aside a good portion of his wealth for the protection of his grandson. It is for such reasons that the Quran has made wassiyat compulsory. Wassiyat is the wealth bequeathed which becomes the property of the person in whose name it is made with the death of the person who actually makes it. The Holy Quran has given great importance to the institution of Wassiyat. "It is prescribed, when death approaches any if you, it he leave any goods, that he make a bequest to parent and next of kin, according to reasonable usage; this is due from the God-fearing." It can be seen that the prophet recommended the making of the bequest in view of the expectancy of, and preparedness for, the arrival of one's own death which can happen at any time. (Bukhari, Muslim). Indeed, the messenger of God had greatly encouraged the practice of Wassiyat. He had also discouraged the avoidance of it. (Ahmed, Tirmidhi, Abu Dawood); From this, it may be inferred that Islam gave prime

"After climbing a great hill, one only finds that there are many more hills to climb." Nelson Mandela

importance to the system of Wassiyyat. A person has the right to allocate upto one-third of his total wealth as Wassiyyat. For whom, then, is Wassiyyat meant? The prophet had taught that Wassiyyat is not meant for one's immediate successors. "There is no Wassiyyat for the successors (Ahmed, Thirmidhi)

For whom, then, is the Wassiyyat meant to be? That has to be of course decided by the person who intends to make it himself. The verse of the Quran (2:180) quoted above makes it clear that it must be made to those closest of relatives who come next to the immediate successors. This will, very importantly, include the orphaned grandson. The grandfather has the right to allocate any amount of his wealth to his grandsons. He can give away any amount of his wealth for the purpose while he lives. He can even give one-third of his total wealth as Wassiyyat. The condition that is to be fulfilled is that charity and Wassiyyat must not be so allocated that the rightful owners and other dependents, who are rendered poor and helpless, are not denied their rights. This is what Islam has done in the case of the orphaned grandson. The responsibility for his protection was entrusted to his grandfather; and after the death of his grandfather to his paternal uncle. The grandfather was thus given the complete freedom to allocate as much of his wealth as was necessary for assessing, and fulfilling, the needs of his grandson. For it is the grandfather who, more than any one else, knows best all concerning him. The grandfather was thus given the right to make a Wassiyyat of up to one third of his wealth for him as well as for others stricken with poverty and privations. It was also particularly prescribed that it was only after this wealth of the Wassiyyat was allocated that the remaining portion could be used by the successors as the wealth that was to go as inheritance. (4:11). It was further prescribed that if, when orphans become entitled to possess wealth, they are yet to come of age, the close relatives are to be entrusted with its safe keeping and when they do attain to maturity, it is to be handed over to them. (4:6). The Quran has also made the instruction to the effect that if the grandfather makes no Wassiyyat, the relatives of the orphan, or orphans, including the paternal uncle, should allocate a lawful share as bequest for them at the time of distributing the wealth of inheritance. (4:8,9). Law has its own methodology. Islam seeks to abide by that methodology. However, it also handles the problems associated with the orphaned grandson without the strangulating confines of the law. Islam accomplishes this by heightening the moral consciousness of man. Indeed, in such matters that would be the most practicable way as well.

## FSC orders changes in 4 sections of Muslim Family Laws Ordinance

The Federal Shariat Court, on Jan 5, 2000, declared some articles of the Muslim Family Laws Ordinance 1961 as un-Islamic and directed the President of Pakistan to take steps to amend the Family Laws on share of orphan in grandfather's property, registration of Nikah, polygamy and divorce to bring provisions in conformity with the injunctions of Islam.

The court delivered its judgment in 38 petitions challenging Sections 4 (share of orphan in the heritage of grandfather), 5 (registration of nikah), 6 (polygamy) and 7 (divorce) of the Muslim Family Laws Ordinance. The hearing of petitions regarding controversial sections of the Muslim Family Laws Ordinance was continuing since 1993.

The Section 4 of the Muslim Family Laws Ordinance was declared repugnant to the injunctions of Islam as direct inheritance out of grandfather's heritage is not provided for the orphan in Islam. The existing provision in the law held repugnant to the injunctions of Islam shall cease to have effect from the 21st of March 2000. Section-4 had redressed this manifest unfairness by giving them their deceased parent's share. In striking it down, the court has taken the orthodox view that grandchildren are not among the prescribed hierarchy of legal heirs of their grandparents and, consequently, cannot inherit from them by right.

But the court, too, could not ignore the traumatic situation which had necessitated section-4 in the first place. Islam lays great stress on the protection of orphans by society. This being the injunction for any orphan, it is a travesty of justice to inflict deprivation on those within the family. To prevent that, the Federal Shariat Court has devised a twofold recipe. It has counseled grandparents to leave behind a will in favour of orphaned grandchildren (not exceeding the entitlement of their deceased parent). Realising that there may not be a will by the grandparents, the court has advised the government to enact a law to the effect that such a will "shall be deemed to have been created".

### Conclusion

To conclude I would like to say that section 4 of the Pakistan Muslim Family Laws Ordinance, 1961, dramatically altered the law of succession applicable to Muslims by granting to the orphaned grandchild(ren) the share that their deceased parent would have taken had s/he survived the propositus. The principle of representation incorporated in the Pakistani solution contrasts with the compulsory bequest relied upon by several Middle Eastern countries to deal with the same problem, although arguably representation more closely reflects the experience and expectations of the people of Pakistan. Nearly two decades later, the Federal Shariat Court was established and endowed with jurisdiction to declare a law contrary to "the Injunctions of Islam" and thus

void. Some laws, however, were specifically exempted from the Court's jurisdiction; falling within this category is "Muslim Personal Law."

A 1981 decision of the appellate Court (the Shariat Bench of the Supreme Court) held that the provisions of the Muslim Family Laws Ordinance were included within the phrase "Muslim Personal Law," and were thus outside the jurisdiction of the Federal Shariat Court. This position was reversed by another decision of the appellate Court in 1993, and the provisions of the Ordinance were immediately challenged on the basis of their alleged divergence from the "Injunctions of Islam." This essay reviews the provisions of section 4 of the Ordinance and examines the decision of the Shariat Court as regards this particular provision.



Did you know 11% of people are left handed

Did you know August has the highest percentage of births

Did you know unless food is mixed with saliva you can't taste it

Did you know the average person falls asleep in 7 minutes

Did you know a bear has 42 teeth

Did you know an ostrich's eye is bigger than its brain

Did you know lemons contain more sugar than strawberries

Did you know 8% of people have an extra rib

Did you know 85% of plant life is found in the ocean

Did you know Ralph Lauren's original name was Ralph Lifshitz

Did you know rabbits like licorice

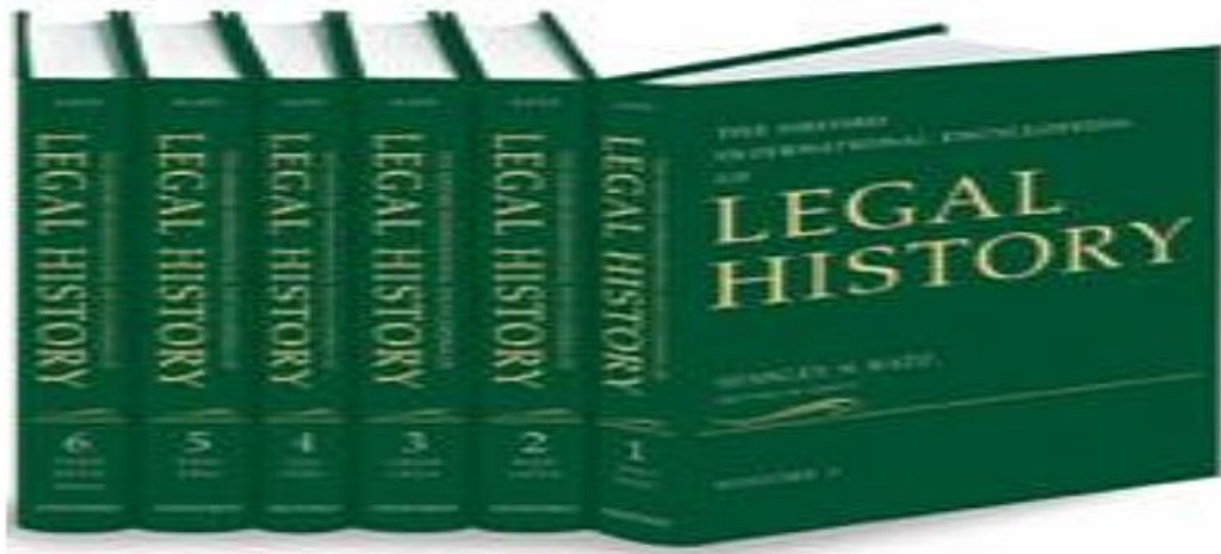
Did you know the Hawaiian alphabet has 13 letters

Did you know 'Topolino' is the name for Mickey Mouse Italy

Did you know a lobsters blood is colorless but when exposed to oxygen it turns blue

Did you know armadillos have 4 babies at a time and are all the same sex





## **History of Legal Education**

**Mian Tanveer Faisal LLB Part-III ( 2014-2017)**

In order to understand the modern legal education in world we have to glance at past legal education method of different nations. Hammurabi (1810 BC - 1750 BC) was first The King who introduced the codified law known as code of Hummurabi or Babylonian law, after that many nations codified their laws specially Greek. Greeks did a lot of work at constitutional law and democracy, but there was no symptom of any school which was specially established for legal education.

The ancient Romans had schools of rhetoric that provided training which was useful to someone planning a career as an advocate, but there was no systematic study of the law as such. During the 3rd century bce, Tiberius Coruncanius, the first plebeian pontifex maximus (chief of the priestly officials), gave public legal instruction, and a class of jurisprudentes (non priestly legal consultants) emerged. A student, in addition to reading the few law books that were available, might attach himself to a particular jurisprudentes and learn the law by attending consultations and by discussing points with his master. Over the ensuing centuries a body of legal literature developed, and some jurisprudentes established themselves as regular law teachers.

When we take a sketchy view of Divine laws and it's education the old book which is exist in modern era is Torah (Torah is Hebrew word which means Law). The Jewish School have been teaching the law of Torah since it's revealing time.

In 611 Quran was revealed to Hazrat Muhammad (SAW) and He (SAW)

begun to preaching the Islam. The knowledge of Islamic law is called Shariah. There are two main school of thoughts in Islam (Sunni& Shia). Sunni school of law consists of Hanafi, Shafi'ite, Malikite and Hanbalite School of law and Shia School of law consists on Ithnâ'ashariyyah', Zaidi and Ismaili school of law. The Education of Islamic law has been given in the same way as formal education is given. In medieval universities of Europe, including those in England, it was possible to study canon-law"anon law and Roman law but not the local or customary legal system, since the latter was understood as parochial and so unworthy of university treatment. In most European countries the study of national laws at universities began in the 18th century, though the study of Swedish law at Uppsala dates from the early 17th century. In the continent of Europe the transition to the study of national law was facilitated by the fact that modern legal systems grew mostly from Roman law. In England, on the other hand, the national law, known as the common law, was indigenous. In medieval times education in the common law was provided for legal practitioners by the Inns of Court through reading and practical exercises. These methods fell into decline in the late 16th century, mainly because students came to rely on printed books, and after the middle of the 17th century there was virtually no organized education in English law until the introduction of apprenticeship for solicitors in 1729. The famous jurist Sir William Blackstone delevered lectures on English law at Oxford in the 1750s, but university teaching of the common law did not develop significantly until the 19th century. In England, as on the Continent and throughout most of the rest of the world (though not in the United States), university-based legal education became an undergraduate program and remained so until quite recently. Since the late 20th and early 21st century, a number of nations have adopted the so-called U.S. model of legal education, providing university-based instruction in law as a profession rather than only as an academic discipline.

In the early years of the United States, persons hoping to enter the law sought apprenticeships in the offices of leading lawyers, a method of training that provided an acceptable avenue to the bar well into the 20th century. The Litchfield Law School, founded in Litchfield, Connecticut, in 1784 by Tapping Reeve, was the first institution of its kind in the United States. Such independent schools later gave way to university-based law schools, the first of which was established at Harvard University in 1817. By the late 19th century, Harvard had put in place a number of practices that eventually came to define American legal education, including the use of the "case method" of instruction (*see below* Teaching), the requirement that students complete three years of training, and the use of a full-time faculty of scholars, rather

three years of training, and the use of a full-time faculty of scholars, rather than a part-time faculty of practicing lawyers as had previously been the case. As the number of law schools grew, so too did the proportion of the bar who were law school graduates. By the early 21st century the United States had more than 200 accredited law schools and the world's largest bar, numbering more than one million members.

Law as long time a subject of serious study in some non-Western countries, the inclusion of law on examinations for the civil service in China during the Song dynasty (960–1279). Modern university-based legal education, however, is generally regarded as a foreign institution, having been introduced by European colonial powers in the 19th century. Today the top ten School of law in the whole world is as under:-Top 10 Law Schools in the World

Based on the QS World University Rankings by Subject 2016 Rank

Name of Institution	Location
1Harvard University	United States
2University of Oxford	United Kingdom
3University of Cambridge	United Kingdom
4Yale University	United States
5New York University (NYU)	United States
6Stanford University	United States
7London School of Economics and Political Science (LSE)	United Kingdom
8University of Melbourne	Australia
9University of California, Berkeley	United States
10Columbia University	United States

**Sources :**  
**Encyclopedia of Bertanica**  
**Khutbaat-e-Bahawalpur**  
**Code of Humurabi**



## **Stock Market Efficiency**

**Tamoor Mughal ( faculty )  
LLM International Islamic University**

The Stock market movements are often influenced by the availability of information on the various securities that is being dealt with in the market. Depending on the information flow, the stock's price moves up and down reflecting the mood of the market. Under an efficient market, since the stock prices already represent the available information, they will move only when new, unexpected information becomes available. The movement of the stock prices is largely determined by the relative merits and demerits of the information and how it is going to affect the performance of the company which the stocks represent. Just the same way the predictability of the information is impossible as to whether it is good or bad, it is equally impossible to predict the direction in which the stock prices will move in the future based on such information.

"Generally it is assumed that it is not necessary for everyone in a financial market to be well informed about a security and also that all the participants should have the ability to perceive, analyse and use the information to their advantage. All the efficient market requires is that a few people have the information and based on the information of the few people, the entire market will be well informed. Thus the efficiency of the market is determined purely on the basis of the availability of the information. With this background this paper brings out the determinants of the stock market efficiency and its relative effects on the trading of the securities being undertaken in the market.



An efficient capital market is an arena in which many participants, with similar investment objectives and access to the same information, actively compete. The stock market with numerous profit-motivated professional and private investors continually searching for misvalued securities—certainly provides such a setting. Profit-motivated investors do have strikingly similar objectives. Each prefers a high rate of return to a low one, certainty to uncertainty, low risk to high risk, and so forth. Furthermore, securities law provides that both parties to a transaction must have access to the same material facts.

The efficient market hypothesis asserts that it would be impossible consistently to outperform the market—which reflects the composite judgment of millions of participants—in an environment characterized by many competing investors, each with similar objectives and equal access to the same information. In the context of this hypothesis, "efficient" means that the market is capable of quickly digesting new information on the economy, an industry, or the value of an enterprise and accurately impounding it into securities prices. In such markets participants can expect to earn no more, nor less, than a fair return for the risks undertaken. In an efficient market, for example, news of an earnings increase would be quickly and accurately assessed by the combined actions of literally millions of investors and immediately reflected in the price of the stock. The purported result of this efficiency is that whether you buy.

The stock before, during, or after the earnings news, or whether another stock is purchased, only a fair market rate of return can be expected commensurate with the risk of owning whatever security is bought.



The State Bank of Pakistan is the central bank of Pakistan. While its constitution, as originally laid down in the State Bank of Pakistan Order 1948, remained basically unchanged until January 1, 1974, when the bank was nationalized, the scope of its functions was considerably enlarged. The State Bank of Pakistan Act 1956 with subsequent amendments, forms the basis of its operations today. The headquarters are located in the financial capital of Pakistan, Karachi with branch offices in 15 cities across Pakistan, including the capital city, Islamabad and the four provincial capitals.



## O Lonely Soul

Tanzeel Zubair LLB part-II (2015-2018)

O Lonely Soul, where will you go?  
Are you in the world?  
Where people are fake,  
Where hearts are dead,  
Where people wear masks,  
Where flowers are frightened to bloom,  
Where sun is frightened to glitter,

O Lonely Soul, where will you go?  
In the false and treacherous world,  
Where your shadow will betray you,  
Where love is like a sweetish intoxicant killing softly,  
Where hate will always cheat,

O Lonely Soul, where will you go?  
Where the skin entangled with invisible scars,  
Where the tears of blood are falling from shattered heart,  
And you are searching for solace and comfort,  
And then you will find at last,  
The road of peace goes to graveyard

Yet do not, I would not go,  
Though at next door we might meet;  
Though she were true, when you met her,  
And last, till you write your letter,  
Yet she  
Will be  
False, ere I come, to two, or three.



## Memories

Pakeeza Mashriqi LLB part-III (2014-2017)

Once walking memorie lane  
Throatling the throat of pain

Slowly walking on beach  
Everywhere smiles and no hitch

Remembering pleasure's rain  
Forgetting fray's pain

Remembering joys and jokes  
Forgetting tears and shocks

Time reminding me past  
Passing Good but fast



# SPRING

William Blake

( Selected by Literary Society )

Sound the flute!

Now it's mute!

Birds delight,

Day and night,

Nightingale,

In the dale,

Lark in sky,

Merrily,

Merrily, merrily to welcome in the year.

Little boy,

Full of joy;

Little girl,

Sweet and small;

Cock does crow,

So do you;

Merry voice,

Infant noise;

Merrily, merrily to welcome in the year.

p. 24 Little lamb,

Here I am;

Come and lick

My white neck;

Let me pull

Your soft wool;

Let me kiss

Your soft face;

Merrily, merrily we welcome in the year.

## **I Wandered Lonely As A Cloud**

**William Wordsworth**  
(Selection by Literary Society)

I wandered lonely as a cloud  
That floats on high o'er vales and hills,  
When all at once I saw a crowd,  
A host, of golden daffodils;  
Beside the lake, beneath the trees,  
Fluttering and dancing in the breeze.

Continuous as the stars that shine  
And twinkle on the milky way,  
They stretched in never-ending line  
Along the margin of a bay:  
Ten thousand saw I at a glance,  
Tossing their heads in sprightly dance.

The waves beside them danced, but they  
Out-did the sparkling leaves in glee;  
A poet could not be but gay,  
In such a jocund company!  
I gazed and gazed but little thought  
What wealth the show to me had brought:

For oft, when on my couch I lie  
In vacant or in pensive mood,  
They flash upon that inward eye  
Which is the bliss of solitude;  
And then my heart with pleasure fills,  
And dances with the daffodils.



## **She is Art**

**Khadija Amjad Ali LLB-part-II (2015-2018)**

She pigmented an enchanting fable  
Brush was a razor,  
On the tarpaulin of her wrist, with the tint of blood,  
Locked in the chains of insanity  
Erupting from the chasm  
Voices fulminate inside her head  
All bottled up in the cage  
She was swindled under a stint  
Bumped into her own hell  
She didn't spruce up herself in deception  
And the Enigmas in her dark mind, invisible in euphoric mania  
She craved for her art, the real her  
Felicitations society!!  
She is dead

## Utopian Girl

Khadija Amjad Ali LLB-part-II (2015-2018)

In the strange world of melancholy  
I am a light of rosiness  
spreading the fragrance

The world when seems like hot summer  
I am a exhilarating rain drop  
soothing the aching soul

In the scorching dessert of callousness  
I am a alluring oases  
Quenching the thirst

In the boorish forest of thorns  
I am aroma of flowers  
Elasting the senses


In the time of affliction  
I am a flowing river  
washing away all wounds

In the dark night of cynicism  
I am a rising sun  
enlightening the mind

In the gresome reality of life  
I am a fantasy  
building utopian world


In the city of insensitive people  
I am a nightingale  
singing song of festivity

When pessimism prevails all around  
I am a starry night sky  
filling the heart with felicity



We are afraid of losing what  
we have, whether it's our life  
or ourr possessions and  
property. But this fear  
evaporates when we  
understand that our life  
stories and history of the  
world were written by the  
same hand

**Al-chemist**  
by **Paulo coelho**







## **Napoleon and Hitler were separated by 129 years**

**Hamid Bin Nasir LLB-part-II (2015-2018)**

- That is Napoleon was born in 1760 and Hitler in 1889.  
(The difference is 129 years)
- That Napoleon come in to power in 1804, Hitler in 1933.  
(The difference is 129 years)
- That Napoleon occupied Vienna in 1809, Hitler in 1938.  
(The difference is 129 years)
- That Napoleon attacked Russia in 1812, Hitler in 1941.  
(The difference is 129 years)
- That Napoleon defeated in 1816, Hitler in 1945.  
(The difference is 129 years)

# National Anthem

Soniya Farooq LLB-part-III (2014-2017)

Blessed be the sacred land,  
Happy be the bounteous realm,  
Symbol of high resolve.

Land of Pakistan.

Blessed be though citadel of faith.

The order of this Sacred land,  
Is the might of the brotherhood of the people.

May the nation, the country and the state  
Shine n glory over lasting.

Blessed be the goal of our ambition.

The flag of the Crescent and the Star  
Leads the way to progress and Perfection  
Interpreter of our past, glory of our present

Inspiration of our future  
Symbol of Almighty Protection.



## **Smile**

**Tanzeel Zubair LLB-part-II (2015-2018)**

- Smile is the second name of life.
- Smile is the first language of Love.
- Smile is the key of friendship.
- Smile s a ray of hope in the dark clouds of disappointment.
- Smile is the food of soul.
- Smile
- Smile is a precious gift that even a poor man can present.
- Smile is the expression of Sincerity.
- Smile is such a force which can melt a stone heart into a delegate flower.
- Smile is a power who makes a man strong.