



The LEGACY of **Justice Mansoor Ali Shah** Prisoner of Conscience

Last November proved as a sombre moment: the country not only witnessed a troubling amendment that gravely undermined judicial independence, but also the resignation of two steadfast guardians of justice from the Supreme court of Pakistan.

As an avid reader of Justice Mansoor Ali Shah's jurisprudence, the moment felt disheartening. That day reminded me of one of the finest moments of my early career. It was in January 2025, during my initial days of practice at the District Court Karachi, when he attended the oath-taking ceremony of the newly elected Cabinet of Karachi Bar.

He arrived exactly on time, simple in demeanour, without protocol, without guards. He began his address by reflecting on the sanctity of an oath, invoking a powerful passage from the historic play *A Man for All Seasons*, where Sir Thomas More tells his daughter: 'What is an oath then, but words we say to God? When a man takes an oath, he's holding his own self in his own hands like water.' I vividly recall a compelling line from his speech: that, to stand against injustice, one needs not only knowledge, but courage. He concluded his speech with lines of Allama Iqbal:

پرندے کی ایک فن میں
کرس کاہل کے شان کا جساد

(Both soar in the same sky, yet the vulture's world is different, and the falcon's world is different)

Though Justice Shah has left a profound legacy through his judgments, each reflects his unwavering commitment to constitutionality and expeditious justice, and have secured a lasting place in the judicial history of this country. Some of his notable judgments, highlighted through the compelling wording from his resignation note:

"I leave behind my judgements for the students of law to read, reflect upon, and, I hope, to improve."

"Whatever I wrote, I wrote with conviction, with passion, and with heart- a labour of love dedicated to the Constitution and to the People of Pakistan"

Judgments That Stand the Test of Time

In *Mubarik Ali Babar*, his lordship articulated a robust constitutional vision for the protection of minorities and persons with disabilities, and vehemently discouraged the continued use usage of term 'disabled person'.

Likewise, in *Hafiz Junaid*, he struck down Punjab's services rules that barred a blind candidate, despite superior qualifications from appointment as a government teacher, holding such exclusion an affront to human dignity guaranteed by the Constitution. Similarly, in *Zahida Parveen*, he struck down the KPK service rules that disqualified a married daughter from the son-/daughter-quota and reinstated her appointment, condemning such exclusion as a misogynistic and unconstitutional approach.



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In an age of shrinking judicial space, Justice Mansoor Ali Shah chose conscience over comfort. His resignation was not an exit but an intervention, an unspoken verdict on a system under strain.

For the legal community, it serves as a pointed reminder that the rule of law ultimately survives not on benches or buildings, but in the courage of those unwilling to compromise their oath.



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In *Tahir Kazmi*, he introduced the doctrine of constructive continuity in service matters, holding that once a dismissal is declared unlawful, it is treated as if it never occurred, entitling the employee to all consequential benefits. The Court grounded this doctrine in the constitutional guarantees of dignity, fair trial, and security of livelihood under Articles 9, 10-A, and 14.

In *Asghar Laghari v. D.G. Khan Cement Company*, he urged the adoption of climate protection measures and, by introducing the concepts of "climate justice" and "water justice," declared climate inaction as a breach of the fundamental right to life.

In the landmark case of *Atif Zareef*, he declared virginity tests as a reprehensible practice and an affront to the dignity guaranteed under the Constitution. In the same judgment, the Court held that although rape cases often occur in private and may lack eyewitnesses, therefore, the testimony of the prosecutrix alone is sufficient to sustain a conviction if it is corroborated by medical evidence etc. In PLD 2021 SC 362 he emphasised the importance of modern forensic science, holding DNA evidence as "golden evidence." Moreover, in this case, while maintaining the conviction of the accused who raped and murdered a minor girl, he declared extra-judicial confession to be relevant evidence.

In PLD 2022 SC 764, while granting bail to a woman booked under the charge of dacoity, he interpreted the first proviso to Section 497(1) CrPC, holding that irrespective of the category of the offence, bail is to be granted as a rule and refused as an exception in cases involving women, the infirm, etc. In *Abdul Salam Khan*, while highlighting the staggering backlog of cases in Pakistan, Justice Shah castigated delays in adjudication, holding that the crisis is not merely administrative but constitutional. He reiterated that justice, to be real, must be both just and timely, and urged the adoption of artificial intelligence and a modern, responsive, and intelligent case-management framework to ensure the delivery of timely justice.

A Beacon of Courage

The resignation of Justice Shah is, without doubt, a monumental loss, depriving the people of a jurist of rare distinction, one who consistently upheld the Constitution. Yet, his resignation stands as a beacon of resistance against a compromised judicial system.

By stepping down, he expressed audacity to part ways with a system increasingly dominated by the executive, where judicial independence has faced deliberate sabotage. In this context, his remark in an interview with *The Legal International* is profoundly relevant: "You do not need to be a judge to uphold justice. You need only to refuse injustice today." Through their resignations, Justice Shah and Justice Ather Minallah have affirmed their pride in remaining prisoners of their conscience, and vigilant guardians of the Constitution, as in the lines of Faiz Ahmed Faiz:

نہ رہ جوں زندگی رکن ہے دار کر دے کیا
جنہیں جنم میش پہنچتا ہو گناہ کار پہنچے

(The passion of a devoted heart is no more; what will you achieve by grieving over it?

Those who once took pride in the crime of love have departed as sinners.) ■



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