



Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it's the only thing that ever has.

-Margaret Mead

SHEHRI

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Defining the standards for urban growth

In two landmark judgements (*Glass Towers & Costa Lavina cases*) the Supreme Court of Pakistan has emphasized the importance of planned urban growth, with a view to protecting the living environment. Qazi Faez Isa analysis these judgements in the back drop of the urban development process in the city

What does the Costa Lavina Case decide?

Ardeshir Cowasjee and others versus Karachi Building Control Authority
Civil Appeal No. 1888 OF 1996

Brief Facts:

A building known as *Costa Lavina* was being constructed on Baghe-Ibn Qasim, Clifton, facing Arabian Sea, on a site which was earmarked for a revolving restaurant but which was got converted for a flat site for a 15 story building. This conversion of land use was assailed by public spirited citizens

who filed a constitutional petition in the High Court. The matter went up in appeal to the Supreme Court and it was decided by a bench comprising five Honourable Judges. The Judgment was authored by the

Chief Justice of Pakistan.

Conversion of designated land use can only be done by following the prescribed procedure:

This can only be done by inviting public objections, considering the same, hearing necessary persons and in the light of the same submitting recommendations to the Government. The Supreme Court stated that:

Clause 4 of Article 40 of the Order (Karachi Development Authority Order, 1957) provides that if any person desires to use any land for any purpose other than that laid down in the Zonal Plan Scheme notified under clause (3), he may apply to

the Authority (Karachi Development Authority) for permission to do so and the Authority may order a public hearing and give notice to all persons it deems affected.

On receipt of an application under..



Balancing the scales

This Special Shehri Publication highlights mostly the issue of illegal and unplanned urban development and discusses the role various sectors of the society can play to ensure the observance of building laws and protection of the living environment

Judgements of the Superior Courts

The Superior Courts of Pakistan have interpreted various laws pertaining to building matters and given judgments wherein such laws have been examined and interpreted in details. Some of the more relevant and recent ones are mentioned below:

- (1) Mst. Feroza Hajiani Versus Abdul Razzak
1992 MLD 527
- (2) Abdul Razzak Versus KBCA
PLD 1994 Supreme Court 512
- (3) Begum Saida Qazi Isa Vs. Quetta Municipal Corporation
PLD 1997 Quetta 1



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EDITORIAL

Friends Forever

Within the space of a few weeks, two childhood friends departed one after another for their heavenly abodes, leaving behind, countless mourning admirers and



followers whose lives were forever changed by the tireless efforts of these departed souls in their chosen fields of work. One refers to Dr. Akhter Hameed Khan and Prof. Karar Hussain.

These two deaths have dealt the nation a cruel blow in its hour of need. When a nation is beset with powerful forces of oppression, tyranny, decadence and institutional bankruptcy, individuals bestowed with the courage, foresight and determination brought about by the righteousness of their cause become a nation's most valuable asset. Dr. Sahib and Prof. Hussain were just such individuals.

They endeavoured to bring a silent revolution of the minds. They taught the virtues of self help, honesty, hard work and human dignity. They were critical of our paronia of waiting for messiahs of change and

stressed the importance of self improvement and community development.

They were unique in the sense that they chose to invest their awesome resources of mind and intellect into areas of work which receive little priority and importance in our land of the pure i.e. education and social welfare. They could easily have opted for filling their pockets with the objects of shameless loot, which come so easy in this land. They instead chose to lead austere lives, filled only with the passion and zeal of their lofty aims. Their only legacy, the enormous and lasting changes they brought in the minds and lives of those that were lucky enough to benefit from their work.

So, we bid farewell to these giants of our time. Given our fast vanishing supply of such catalysts of positive change, are we even aware of our terrible loss?



the Commissioner shall invite objections from the general public through a notice published in English and one in vernacular leading daily newspaper and the objections, if any, shall be submitted to the Commissioner within 30 days from the date of the publication of the notice. Thereafter, the Commissioner is required to forward his recommendation along with the application and other connected papers to Government for Orders.

The Supreme Court held that change of land use is prohibited unless the prescribed procedure is followed.

One notes that the public objections for conversion are being placed by the owner which is not in accordance with law and this Judgment of the Supreme Court.

Moreover, it is noted that no justification, let alone the prescribed full justification are provided seeking the conversion. Clause 4-B of Schedule-D of the Karachi Building and Town Regulations Part-II mentions that among the other things which need examination include "the planning of the area, commercial facilities in the vicinity, road width, traffic flow and other relevant factors." In addition, the stipulated concerned authority and the Master Plan Environmental Control Department has to be consulted by the Commissioner before submitting its recommendations. The approval of the concerned authority and the Master Plan Environmental Control are mandatory (Clause 4-A).

Private parties can approach the court for enforcing building laws:

The appeal was filed by the private parties. The question arose whether they had locus standi (standing) to file the appeal? The Supreme Court held:

In our view, because of the location of the Park as highlighted hereinabove

even a resident of a distant area like Layari Quarters could have filed the above Constitution Petition. In this regard, reference may be made to para 15 of the Judgment in the case of Mst. Sardar Begum Farouqi and 6 others Vs. Rashid Khatoon and 2 others (1990 C.L.C. 83 relevant at page 91) rendered by a Division Bench of the High Court of Sindh to which one of us (Ajmal Mian, CJ) was a party and the author of the Judgment, which reads as follows:

Apparently the instant case falls within the category of public litigation as the public-at-large is interested to ensure that the constructions are not raised in violation of the building bye-laws and the Ordinance by misusing a status quo Order of a Court. The intervention by this Court will discourage the aforesaid illegal practice obtaining in Karachi.

If any persons is deprived from using any amenity plot (in this case a park) it could be construed to be deprivation of a Constitution Fundamental Right:

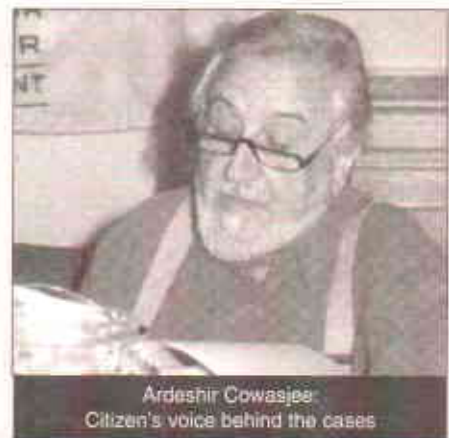
In our view, the appellants have the right to use the Park with all amenities as was envisaged under the approved KDA Scheme No. 5. The use of the Park involves enjoyment of life which is covered by the work 'life' employed in Article 9 of the Constitution as interpreted by this Court in the above-quoted extract from the judgment in the case of Ms. Shehla Zia Versus WAPDA (PLD 1994) Supreme Court 693). The appellants, therefore, have the right to ensure that the official respondents do not grant approval of plan in respect of the Plot which may be violative of the provision of the Order and the Regulations and which may impinge on their right of enjoyment of life.

Legal pleas, by way of defence, can not be raised by one who has not acted honestly:

However, it managed and maneu-

C-Pg. 1 (Judgements)

- (4) Afzal Khan Versus KDA
PLD 1998 Karachi 283
- (5) Sardar Begum Faruqi
Versus Rashida Khatoon
1990 CLC 83
- (6) Suleman Mala Versus
KBCA
1990 CLC 448
- (7) KBCA Versus Hashwani Sales & Services Ltd.
PLD 1993 Supreme Court 210
- (8) Muhammad Aslam Gatta Versus KBCA
1998 MLD 544
- (9) Excell Builders Versus Ardeshir Cowasjee
Ardeshir Cowasjee Versus Government of Sindh
Civil Appeal Nos. 756 and 757 of 1998
- (10) Ardeshir Cowasjee Versus Karachi Building Control Authority
Civil Appeal No. 1888 of 1996 □



Ardeshir Cowasjee
Citizen's voice behind the cases



vered approval of the plan not through the proper channel but because of the influence of the then Chief Minister. In the above factual background, it is not open to respondent No. 5 to raise the plea of laches or acquiescence. The above plea is only available to a respondent who acts bona fide under the belief that what he is doing is legal and proper and the same cannot be invoked in aid by a respondent who knew from the very inception that he was doing was on account of his own manipulation contrary to law.

Third party rights can not be created if the law is being broken:

In the present case the proposed building has not been completed but some construction work has been carried out despite protest of the public. Thirdly, the major part of the above portion of the proposed building has been constructed after the filing of the above Constitution Petition and, therefore, the doctrine of "lis pendent" is applicable to the case in hand i.e. that the third party will be bound by the result of the litigation. In this regard reference may be made to the following cases:

(i) **Karam Elahi versus The Settlement & Rehabilitation /Commissioner (Lands) (1976 SCMR 143)**

In which during the pendency of the litigation in respect of evacuee land the same was transferred to another person. Eventually, the transferred land was cancelled and it was held that the petition in that case having purchased the land during pendency of the writ by the respondent was hit by the doctrine of lis pendent and was bound by ultimate outcome of decision.

(ii) **Aman Enterprises versus Rahim Industries Pakistan Ltd. (PLD 1993 SC 292)**

In the above case, this Court while setting aside the High Court Judg-

ment declining the relief of specific performance on the ground that the suit property was sold to a third party, held that rule of lis pendent was fully applicable to the subsequent vendee as, if he had made inquiries from the establishment to which property in question originally belonged and with whose approval it could have been sold he would have come to know that agreement of sale existed between appellant/first-vendee and the respondent-vendor and thus the appellant/first-vendee was entitled to a decree for specific performance of the agreement to sale.

The above reports are fully applicable to the present case. The third parties may have cause of action against respondent No. 5, but they cannot defeat the right of the public-at-large."

Regularisation cannot be done contrary to the Regulations:

In the case of Abdul Razzak, this Court has held that the power to regularize... is intended and designed to be exercised when irregularity of the nature which does not change the complexion or character of the original proposed construction nor it adversely affects third parties" rights/interests. It has been further held that the paramount object of modern city planning seems to be to ensure maximum comforts for the residents of the city by providing maximum facilities and that a public functionary entrusted with the work to achieve the above objective cannot act in a manner, which may defeat the above objective. It has been further held that deviation from the planned scheme will naturally result in discomfort and inconvenience to others. It has also been held that framing of a housing scheme does not mean simpliciter, levelling of land and carving out of plots, but it also involves



Glass Towers: Triumph of the rule of law

working out approximate requirement of water, electricity, gas, sewerage lines, streets and roads etc. and if a housing scheme is framed on the assumption that it will have residential units 1 + 1 but factually the allottees of the plots are allowed to raise multi-storied building having flats, the above public utility services will fall short of requirements, with the result that everyone living in the aforesaid scheme will suffer. It has also been held that to reduce the miseries of most of the Karachities, it is imperative on the public functionaries like the Authority to ensure adherence to the Regulations.

A housing or other scheme cannot be altered:

Once a scheme is framed, no alterations can be made. Alterations in a scheme can be made for the good of the people at large, but not for the benefit of an individual for favouring him at the cost of other people.

The power to regularize... is intended and designed to be exercised when irregularity is of the nature which does not change the complexion or character of the originally proposed construction. The Government or the Authority under the Ordinance does not enjoy unbridled or unfettered power to compound each and every breach of the Regulations. The Regulations should be applied for the benefit of the public and not for favouring an individual. Simpliciter the factum, that on account of tremendous increase in the population in Karachi the situation demands raising of high-rise building ground-plus-one and allowing the raising of high-rise

buildings thereon without providing for required water, electricity, gas, sewerage lines, streets and roads etc.

Multiline Associates case overruled to the following extent:

We, thereof, hold that the Judgment in the case of Multiline Associates versus Ardsher Cowasjee and others (PLD 1995 SC 423) (supra) to the extent of inconsistency to the Judgment in the case of Abdul Razak versus Karachi Building Control Authority and others (PLD 1994 SC 512) (supra) does not reflect the correct legal position and thus the same is overruled to that extent.

What does the Glass Towers Case Decide?

M/s. Excel Builders & Others Versus Ardeshir Cowasjee & others CIVIL APPEAL NO. 756 OF 1998

Ardeshir Cowasjee and others Versus Government of Sindh and others CIVIL APPEAL NO. 757 OF 1998

Brief facts: On the Clifton Road in Karachi, a building known as the Glass Towers was being constructed in violation of building laws. One such violation was the fact that it was being built beyond the stipulated cut-line. The cut-line is a line shown on the map of the plot beyond which no construction can take place. The object of marking the maps in this manner is to retain the possibility of widening major roads. The Karachi Building and Town Planning Regulations state that: *The purpose of the road widening of major roads is to relieve traffic congestion on the existing roads, promote traffic safety on streets, convenience of pedestrians, general convenience and welfare of residential, commercial industrial developments and to widen the roads in order to cater to the increased vehicular traffic.*

The Supreme Court directed that

the portion of the Glass Towers building which was constructed beyond the cut-line should be demolished, despite the fact that the builders during the pendency of the litigation had completed the building.

The judgment in this was delivered by the Supreme Court together with the judgment in the Costa Lavina case. The main legal principles are laid down in the Costa Lavina case which is referred to in this judgment. However, this case is nonetheless important and lays down certain important legal principles. The most important of which is that the stipulated cut-line must be strictly enforced.

KBCA's statutory duty and the building line (cut-line):

KBCA, which is the authority competent under the Ordinance to grant approval of a building plan and, therefore, KBCA is under statutory obligation to provide setback or outline or building line of a proposed building as per Regulations while according approval to its plan.

KBCA has the power to provide setback or building line while approving a building plan.

Building Regulations cannot be violated even though not enforced earlier:

The factum that earlier the above Regulation was overlooked or breached would not justify the repetition of the violation of the same.

Despite conversion of designated land use, from residential to commercial, certain important factors

have been to be taken account of:

The fact that the conversion of a residential plot on a main road into a commercial plot is warranted on account of the change in the situation would not justify the violation of any provision of any law or building by-laws regulations, nor it would warrant grant of permission for a high-rise building having 17/18 floors. The Government, or the Authority concerned is under obligation to decide the question of number of floors keeping in view the extent of availability of utility services like water, electricity, gas, sewerage lines, streets and roads in the locality involved and the permission for construction of a proposed building should be of minimum floors, which may cause minimum inconvenience and discomfort to the residents of the locality.

Accordingly, even in respect of commercial plots, building plans have to be approved after due consideration of:

- adequate availability of water
- adequate availability of electricity
- adequate availability of gas
- adequate availability of sewerage lines
- adequate streets and roads in the locality involved
- keeping in view the locality, the number of floors that should be permitted to be raised should be prescribed
- the proposed building cause minimum inconvenience and discomfort to the residents of the locality. □

(Qazi Faez Isa is a Barrister-at-Law and Chairman Shehri-CBE)



SHEHRI ACTIVITIES

Shehri Seminar on Youth & Civil Society

(Sunday, 19th September, 1999, Hotel Marriott, Karachi)

Shehri-CBE in collaboration with the Friedrich Naumann Foundation held a seminar in which important social and political issues and challenges facing the country were discussed. Particular impetus was given to discussing the role and function of youth in striving for a better civil society and the avenues for interaction



Mr. Kaiser Bengali acted as Seminar Co-ordinator

open for them.

As the focus was on the youth, the participants belonged mostly to various prestigious higher level educational institutions of the city (see box). Representatives of the local media and noted citizen groups, NGO's/CBO's were also invited on the occasion. The speakers were selected on the basis of their proven commitment and

work in the field of social and political reforms in the country.

Mr. Kaiser Bengali, a senior economist and Central Coordinator of the Social Democratic Movement (SDM) acted as seminar moderator and resource person, while the list of speakers included Mr. Nazim F. Haji, General Secretary of the Reformers and Mr. Abrar Kazi, President of the Sindh Democratic Party (SDP). Ms. Amber Ali Bhai, General Secretary of Shehri-CBE and Mr. Khatib Ahmed, Executive Member, Shehri-CBE, acted as facilitators.

Mr. Kaiser Bengali introduced the subject of the day and the guest speakers. Mr. Bengali said that in view of the serious challenges being faced by the civil society in Pakistan, which included political and administrative breakdown, it was imperative that the educated youth of the country rose to the occasion, made themselves aware of the issues at hand and contributed positively to the process of reforms.

Ms. Amber Ali Bhai informed the participants about the work of Shehri-CBE and said that Shehri is working towards better civic gov-



(L-R) Mr. Nazim Haji, Mr. Abrar Qazi

WHY THE SEMINAR?

The time was December 1971. A war was on. A handful of residents gathered each evening at a neighborhood paan shop to listen to BBC's 8:15 pm Urdu news. Among them was a high school student, who was deeply perturbed by what was happening in the country and in the region. Ironically, the paanwala himself never listened to the news. The student once asked him why did he put on the radio and collected a crowd, but himself showed no interest in the news of the momentous events unfolding everyday. He replied that he was just a paanwala trying to make a living and could not understand how politics and wars effected him. In another few days, the war ended. What was East Pakistan – a part of the country – became Bangladesh – a foreign land. Paan, which was a domestic import and sold for 25 paisa each, became a foreign product and was now priced at Rs. 2 each. Naturally, his sales dropped drastically. A few days later, the student returned to the paan shop and the paanwala said: "I still do not know how politics or wars matter to me, but my livelihood has been taken away."

Cont. Pg. # 9



ernance through greater citizen involvement. She stressed the importance of removing the prevailing apathy in the society and said that the feeling that citizens cannot make a difference was wrong. She criticized the practice of migration to other countries and said that Pakistan, good or bad was our home and nothing can replace the comforts of your own home.

Mr. Abrar Kazi said that the notion that our society has been depoliticized is erroneous. This fact, he mentioned, was indicated by the presence of extremely active and productive citizen groups and NGO's all over the country. Mr. Kazi said that our main challenge is that we are facing a crisis of governance. He said that social work and political work are both part of the overall system of governance and cannot be categorized in entirely separate brackets.

Mr. Kazi said that his motivation for getting involved in active politics can be attributed to the need for what he termed as getting out of the practice of tending to just your *animal needs*, like food, shelter and clothing and looking at broader issues of community development and national growth. He said that the more privileged sections of the society are more obliged to actively strive for societal reforms. Mr. Kazi felt that only a sustained political process can solve our problems.

He termed economic revival, education, health and observance of human rights as cornerstones for national development.

Mr. Nazim F. Haji said that he first got motivated towards activism, when after returning to Pakistan in 1969, and starting a business, he found that he was not making any profits despite adopting good business practices. He felt that there was some thing wrong in our governance system.

Mr. Haji was of the opinion that most Pakistani's are honest and hardworking individuals, but the environment in which they function is oppressive and corrupt and therefore effects them adversely. He said that we need to get angry without getting violent.

Mr. Haji was of the view that his experience in active politics had taught him that our electoral system was such that no honest, right person could get elected. This was the reason why he had now turned to social development and reforms. He urged the educated youth of the society to become more aware and involved in social work.

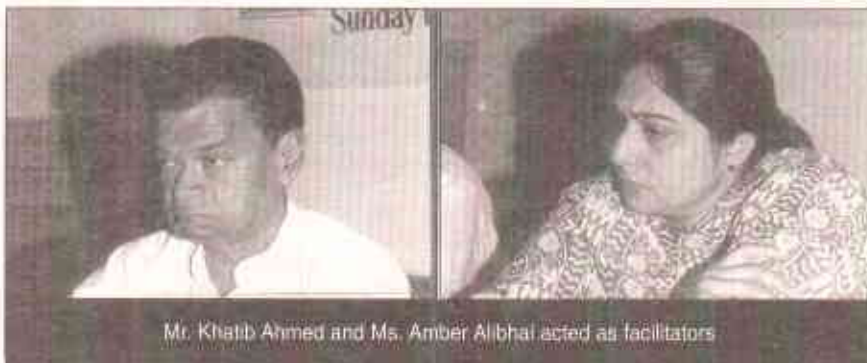
Mr. Khatib Ahmed said that as citizens of the state, it is our right to demand better governance from our managers. This he said, could only be done if we educated ourselves on how our civil governance system works and what are our rights and responsibilities as citizens.

Mr. Khatib Ahmed said that as citizens of the state, it is our right to demand better governance from our managers. This he said, could only be done if we educated ourselves on how our civil governance system works and what are our rights and responsibilities as citizens. He also said that we must only elect those people to the assemblies who we feel can make a positive difference.

The speeches were followed by an extremely lively interactive session in which the speakers and general participants exchanged frank views, concerns and suggestions on a wide range of social, political, and administrative issues.

The young participants agreed with the speakers that they needed to educate themselves on the existing power structures in the country and need to know as to who are making our policies and why.

There was general dissatisfaction and disenchantment expressed with the politicians and the ongoing political process in the country. The students expressed their



Mr. Khatib Ahmed and Ms. Amber Alibhai acted as facilitators



Qazi Faez Ishaq



reserve at getting involved in political work. They cited violence in the campuses and in general within our political system as a negative factor which turned them away from political causes.

It was however stressed by Kaiser and other speakers that the word politics, which only signified the art and science of governance has been given a bad name in our country.

Kaiser cited his personal experience when he had formed a non-politics party based on liberal values during his university days and despite facing hardships had actually gone on to win student elections over highly politicized and well funded student groups.

However, all generally agreed that everyone needed to be aware of the functioning of our political and administrative systems.

Some students expressed concern that 80% of our population was not even being provided with basic needs. They felt that we cannot mobilize them into positive action since they were so involved in just making both ends meet. A student said that we as a nation should define our



Seminar Participants

What the participants had to say about the seminar

The seminar was a nice effort to arouse the youth to become interactive in social activities. More such programs must be organized for the youth who are responsible for the future betterment of Pakistan.

Humaira Dawda
Institute of Business Administration

The topic of the seminar is one that should be fundamental to all of us, whether we consider ourselves to be a part of the youth of Pakistan or otherwise, hence efforts made in this direction will always be significant. Proper guidance and a forum for an exchange of views is needed and I believe this seminar is the first step in that direction.

Saaima Enver
IBA Graduate

It has been a fair exchange of views but I feel that both the audience and the speakers have tended to focus only on ideological ideas or moralistic views rather than concentrating on relevant questions like what the first steps should be taken towards establishing the morals that are being preached. We all want to make a difference but we need to be told more specifically how to do it.

Zehra Fatima Haider
IBA Graduate

It was interesting in the sense that I came to know how other people feel about the existing situation, but next time we the children should also be told what we can do, rather than just being told that we need to do something.

Ayesha Enver
Karachi Grammar School

I think the discussion got too political. Politics is just one of our concerns. If you want to target the youth, you need to go to the schools, colleges, and universities yourselves. The youth cannot be forced into feeling for a cause, they have to be convinced.

Syed Mohammad Ali Alam
Indus Valley School of Arts
& Architecture

The issues discussed were valid enough, however, we also need to concentrate more on the issues which effect the masses directly.

Tehseen Nisar
Karachi University

The seminar was good, but seemed a little too bureaucratic and formal.



Discussing such issues over lunch in five star hotels seems a little out of tune.

Mohsina Zaheer
Karachi University

We need to have more tolerance in society and we must defy fundamentalist elements in society. The youth have to work for a better future.

Mohammad Asim Tufail
Dawood College of Engineering & Technology

It was a good experience and gave me a feeling of confidence. Your organization needs to be congratulated.

Rajesh Manohar
Dawood College of Engineering & Technology

The seminar offered a guideline to the spirited youth who are eager to know, help and contribute.

Sehar Mansoor Alam
Dawood College of Engineering & Technology

Seminar was fine. We must try to bring positive changes within our system.

Sumaira Mansoor Alam
Sindh Medical College. □



own value systems and have a clear vision for ourselves, instead of all the time talking about other development models like the Malaysian or the South Korean models, and blindly trying to replicate them. She referred to these country's present economic plight as being due to their efforts to replicate western economic models within an alien social, cultural environment.

In this connection, concern was expressed over the imposition of foreign multinational culture and the *McDonaldisation* of the country.

Kaiser lamented the fact that Pakistan, despite being a resource rich country was lagging behind many resource poor countries in terms of national growth. He said that above everything else we have to enforce economic justice in society.

One student said that to begin with, one should start by reforming his or her own self and their neighbourhoods and then go on to broader levels of development.

The participants were critical of the fact that while every body was able to identify the issues and problems there was an extreme dearth of practical solutions and guidelines for action.

Kaiser lauded the role of the media

and said that despite severe hardships, our press has never bowed to pressure and today our press is vibrant and free, which is a sign of societal maturity. He also said that there is also no shortage of role models, when it comes to social work and human rights activism.

In the end, Mr. Qazi Faez Isa, Chairperson of Shehri-CBE shared his views with the participants. He said that students could take up important national issues without being directly involved in political work. He referred to the students concerns over the issue of campus violence and said that they could start a *Say no to Guns*, campaign in their campuses. In this connection, Mr. Isa mentioned Shehri-CBE's own campaign on the issue and said that our religion Islam also stands for peace and against all kinds of violence. Islam, he said stresses the importance of dialogue and free debate in society and the life and work of the Holy Prophet Hazrat Mohammad (PBUH) should act as our guiding light.

Mr. Isa urged upon the youth to acquire knowledge and develop the habit of asking questions. He said that the fight between good and evil has been going on since day one and will continue. It should be our endeavor to remain on the right side of the divide.

Later, Mr. Kaiser Bengali thanked the participants and speakers. Ms. Amber Ali bhai said that from now on Shehri-CBE's interaction with youth would be an ongoing process. □

Cont.

WHY THE SEMINAR?

The lesson the above story tells us is that we do not live in isolation. What happens around us affects us. As such, it is our responsibility to ensure that we control and influence what happens around us, so as not to be adversely affected by it. Just as an unhygienic neighborhood environment – standing sewage water, garbage dumps, etc. – breed germs and bacteria and can cause ill-health even among those living in posh bungalows, similarly, adverse socio-political environment cannot keep the well-to-do citizens immune from socio-political ills, like dacoities, car snatching, purse snatching, kidnapping for ransom, and ethnic and sectarian violence.

If the state of the country is to be improved, then such indifference has to be shed. And the prime responsibility in this respect lies on the shoulders of the youth. The youth will have to develop a sense of public spirit, to generate the motivation to make personal sacrifices and take up public causes despite obstacles, and to ensure that the socio-political environment in which we live, is in accordance with basic human values. □

– Kaiser Bengali

Students from the following educational institutes of Karachi participated in the seminar.

- University of Karachi
- Institute of Business Administration
- Dow Medical College
- Sindh Medical College
- NED University of Engineering & Technology
- Dawood College of Engineering & Technology
- Indus Valley School of Arts & Architecture
- Karachi Grammar School



KBCA Overseas Committee Workshop

(Saturday, 9th October, 1999, Hotel Marriott, Karachi)

The Full Bench of the Supreme Court of Pakistan recently delivered judgements, Civil Appeal No. 1888 of 1996 and Civil Appeal No. 756 and 757 of 1998, wherein the Sindh Buildings Control Ordinance, 1979, the Karachi Building and Town Planning Regulations and the Karachi Development Order, 1957 have been interpreted.

Previously, a certain amount of confusion had resulted because of apparently different viewpoints having been expressed in certain judgements. The latest pronouncements provided an opportunity to address this issue in its proper perspective.

The workshop was therefore arranged so that the said judgements and other related judgements of the Supreme Court be disseminated and discussed.

In her introduction, Ms. Amber Alibhai, General Secretary, Shehri CBE, said that the two landmark judgements i.e. Costa Livina and Glass Towers

cases need to be understood and assessed by the lawyers, the relevant government officials and the general public, so that the role, scope and function of the judiciary on the issue of land use and zoning violations in the city is properly identified for future reference.

Qazi Faez Isa, Chairman, Shehri-CBE, presented his research paper *Building Laws and Regulations and other related Matters*, and dealt in great detail on a variety of issues related with the legal aspects of urban land use and zoning

regulations and considerations.

Mr. Isa discussed topics such as what constitutes a violation of the Sindh Building Control Ordinance 1979 (SBCO '79), what is the legal way of sanctioning land use change and what city planning principles need to be followed while going for urban construction projects. In each case, he cited the relevant judgements of the superior courts on the matter.

Mr. Isa than touched upon the judgements of the Supreme Court on the Costa Living and



(L-R) Mr. Qazi Faez Isa, Ms. Amber Alibhai, Barrister Naimur Rahman, Ardeshir Cowasjee, M. M. I. Hussain



Mr. Isa presenting his paper



Seminar Participants



Glass Towers cases.

He discussed the implications of the cases in view of the working parameters that have been identified as a result of these judgements for the various concerned actors such as the KBCA, the builders, the buyers and the civil society at large (for details see cover story).

Mr. Isa's paper was followed by an interactive session, in which all the participants took part. Various questions were posed to the guest par-

ticipants, which included the noted citizen activist Mr. Ardeshir Cowasjee, Barrister Naim-ur-Rahman and Mr. Mohammad Hus-sain (Chief Controller of Buildings, KBCA).

Mr. Qazi Faez Isa and Ms. Amber Alibhai also responded to a number of queries and also acted as facilitators to the discussion.

In the end, Mr. Isa concluded the session with a vote of thanks to the special guests and the participants. □

CAN BUILDINGS BE CONSTRUCTED IN VIOLATION OF SINDH BUILDING CONTROL ORDINANCE, 1979?

- **Preamble of the law:**

Law to regulate the planning, quality of construction and building control, prices charged and publicity made for disposal of buildings and plots by builders and societies and demolition of dangerous and dilapidated buildings in the province of Sindh.

- **Necessary to have plan approved:**

Section 6(1)

No building shall be constructed before the Authority has, in the prescribed manner approved the plan of such building and granted no objection certificate for the construction thereof.

- **If construction without any approved plan or in violation thereof building has to be demolished:**

Section 7-A

Where the provision of sub-section

(1) of Section 6 are violated the building may without prejudice to any other action including sealing of the building or ejection of the occupants be ordered by the Authority or any officer of the Authority authorized in this behalf to be demolished, at the cost of the builder in the case of public buildings and the owner in other cases.

- **If sub-standard or un-approved material used or building not in accordance with the approved plan or specification directions can be issued, construction can be suspended and or building can be demolished:**

Section 11(2)

If... the construction of any building is not in accordance with the plan or the specifications approved by the Authority or any material used in the construction is of sub-standard or is not of the quality or type mentioned in the advertisement ... may ... issue



any direction ... or ... may require that the construction be suspended ... or that the construction ... be demolished at the cost of the builder.

- **No alteration in structures, design and specification can be made unless prior approval obtained:**

Section 12(6)

No builder shall without approval of the Authority, make any alterations in the structures described in the plans, design and specification approved by the Authority.

- **Dangerous buildings may be demolished and occupiers can be made to vacate the same:**

Section 14

(1) If a building ... is likely to collapse, the Authority may, after such enquiry as it deems fit order for carrying out the specific repairs or demolition of the whole or part of the building.

(2) Where the specific repairs are to be carried out ... and if the repairs are not carried out within the specified period, the Authority may, ... proceed to have the building demolished and the cost of demolition shall be recovered from the owner as arrears of land revenue.

(3) Where the whole or a part of the building is to be demolished, the Authority may, by notice, require the occupier

or occupies thereof to vacate the building within the period specified in the notice and if the building has not been vacated within such period, the Authority may, not with standing any other law for the time being in force order that occupier or occupiers of the building be ejected, if necessary, by force.

- **Offences can not be compounded in respect of building works:**

**Section 19(1-A)
Proviso**

No offense relating to building works commenced or carried out in violation of the regulations framed or deemed to be framed under section 21-A, shall be compounded.

CORRECTION

In the issue of April - June 1999, it was erroneously reported that the *Late Haji Haroon Isa Agaria School*, is managed by Haji Abdus Sattar (Well Done Shehri, Page # 20). In actual fact, the school is managed by Mr. Liaquat Beg and his sister Rehmat Bibi.

The error is regretted - Ed.