



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:

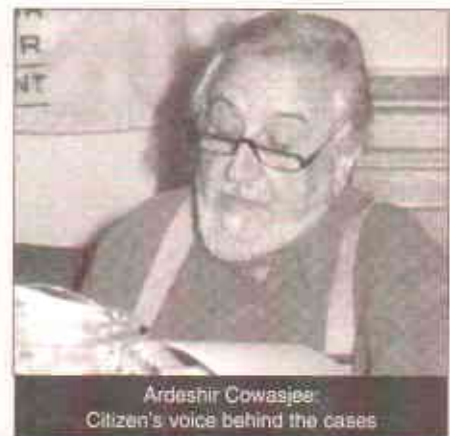
In our view, the appellants have the right to use the Park with all amenities as was envisaged under the approved KDA Scheme No. 5. The use of the Park involves enjoyment of life which is covered by the work 'life' employed in Article 9 of the Constitution as interpreted by this Court in the above-quoted 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 paise 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.

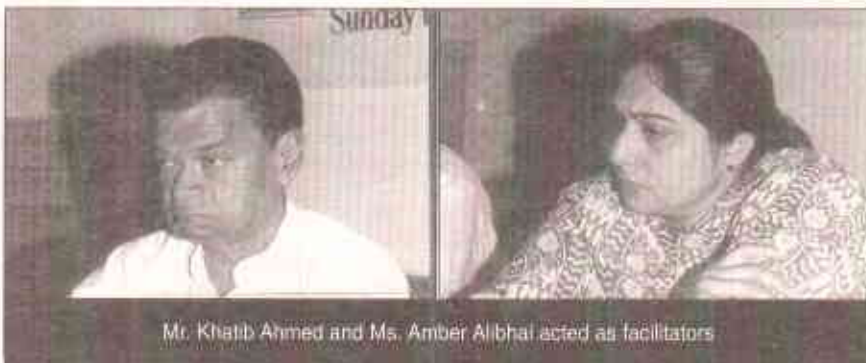
Mr. Khatib Ahmed said that as citizens of the state, it is our right to demand better governance from our managers. This he said, could only be done if we educated ourselves on how our civil governance system works and what are our rights and responsibilities as citizens.

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.



Seminar on Protection of the Built Environment: Role of the Courts

(Saturday, 30th October, 1999, Hotel Marriott, Karachi)

A seminar was held by Shehri in collaboration with the Friedrich Naumann Foundation, to assess the role of the courts in ensuring planned urban growth. Justice (Retd.) Saleem Akhtar presided over the seminar.

Mr. Qazi Faez Isa emphasized the importance of the seminar in view of the recent earthquakes in Turkey and Taiwan and the resultant devastation caused mainly due to poor construction of high rise structures.

He said that the danger of such a catastrophe taking place in Pakistan was quite possible. He cited the devastating earthquake in Quetta in this regard. Mr. Isa stressed the importance of being prepared for such an event.

He welcomed the presence of the Chief Guest, Mr. Justice Saleem Akhtar, and said that Mr. Akhtar was the first Supreme Court Judge in Pakistan to pass a major judgement (*Shehla Zia Case*) in which environmental concerns were given due consideration and the protection of the quality of life

was stressed.

Mr. Isa also introduced the working of Shehri and its partner the Friedrich Naumann Foundation on the occasion.

Barrister Naim-ur-Rehman discussed

the judgements in the Costa Lavina and Glass Towers Cases. He said that it was absolutely necessary to follow strictly the relevant rules, regulations and standards of city planning, while going for major urban development projects.

In this respect he laid particular importance on the issue of land use conversion and said that illegal land use conversion was a major cause of urban degradation in Karachi.

He lamented the fact that corrupt government officials were responsible for allowing the rules to be breached. Barrister Rehman praised the role of concerned citizens like Mr. Ardeshir Cowasjee



(L-R) Mr. Qazi Faez Isa, Justice (Retd.) Saleem Akhtar, Barrister Naimur Rahman, Zain Sheikh, Roland de'Souza, Nooruddin

and Mr. Roland de'Souza and also lauded the contribution of the Supreme Court in ensuring that land use and zoning laws are not violated.

He also urged the common citizen, the buyers, to be fully aware of the status of the buildings in which they were booking their houses or shops, otherwise they would only have themselves to blame if the buildings are later found to be illegally constructed.

Mr. Roland de'Souza said that initially, Karachi was a well planned and well built city.

However, over the years, the urban environment has degraded and the people who have stood silent over the years and have not



(L-R) Mr. Qazi Faez Isa, Barrister Naimur Rahman, Mr. Roland de'Souza, Mr. Zain Sheikh



spoken out against the destruction of the city's environment share equal blame with those who broke the law to degrade the city. However, he said that over the last three years the situation has improved a lot. He cited the formation of Citizen Committees in KBCA/KDA, the Public Information Counter and landmark judgements of the Superior Courts, as examples of position change.

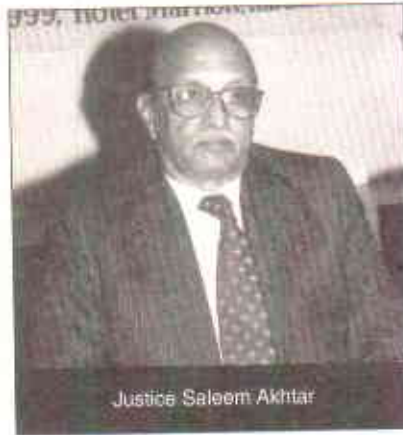
Mr. de'Souza cautioned that despite these achievements, a lot still needed to be done. He said that lawyers and judges need to be educated in environmental and city planning laws.

Existing laws also need to be amended, and the urban infrastructure like roads, water supply, sewerage, electricity needs to be extended to far flung areas of the city to ease the population pressures in the inner city.

With regards the earthquake preparedness issue, Mr. de'Souza said that the Siesmic Code of 1984 is not being followed.

In Garden East, as against the requirement of Ground+1 structures, Ground+8 structure are being constructed.

He said that the silent majority should now stand up and be counted.



Justice Saleem Akhtar

Mr. Zain Sheikh discussed in great detail about the growth of *Public Interest Litigation* in Pakistan and the related issues (see box).

Mr. Razzaque Loya talked about the danger of earthquake induced destruction in Karachi and said that Karachi lies in an active siesmic zone.

Mr. Nooruddin Ahmed gave a detailed presentation on the history of the housing sector in Karachi and the role various concerned actors had played in this process.

Mr. Justice (Retd.) Saleem Akhtar concluded the proceedings with his presidential address in which he highlighted the scope and limitations of the judicial process in ensuring planned urban growth in the city. □

THE DEVELOPMENT OF PUBLIC INTEREST LITIGATION

1. **Public Interest Litigation:** is the vehicle used by social action groups to bring legal action on behalf of disadvantaged segments of society.
2. **Forum Shopping:** There are two routes for enforcing citizens rights. One can petition the Supreme Court directly under its limited original jurisdiction under Art. 184(3) of the Constitution or approach one of the High Courts in exercise of their writ jurisdiction under Article 199 of the Constitution.
3. **Standing:** Although the issue of whether the petitioner is an aggrieved party is still a relevant factor in actions brought before the High court, the lack of standing, *Stictu*



(L-R) Mr. Razzaq Loya, Mr. Nooruddin Ahmed



Sensu, as required by Article 199 of the Constitution will not bar persons from bringing Public Interest cases before the Supreme Court.

4. **Fundamental rights:** have been given an expansive definition to cover to a fundamental right to an unpolluted environment and the right to life has been held to include all such amenities an facilities which a person in a free country is entitled to enjoy with dignity.

5. **The Supreme Court has relaxed procedures:** to enable the citizens to address to the Chief Justice of the Supreme Court regarding alleged violations of their fundamental rights. The *Letters* are later converted into constitutional petition to safeguard the fundamental rights of the citizens concerned.

6. **Suo moto jurisdiction:** The Supreme Court has assumed *Suo Moto Jurisdiction*

over reported violations of fundamental rights reported in newspapers and news items expressing concern over the degradation of environment.

7. **Remedies:** The Supreme Court can fashion any remedy which is just and appropriate in order to effectively enforce fundamental right of citizens under Article 184(3) of the Constitution. □

– Zain Sheikh

Realization

When the deceased look down at us,
And see the world more clearly,
They realize that they wasted their lives
And made others' lives dreary.

Of what use were those times?
When hate and spite were trends?
Malice wasted peoples' lives,
And then they met their ends.

When the deceased look down at us,
And see the present world,
They realize its still the same,
But with more abuses heard.

Kiran Bashir Ahmad



JUDICIAL ACTIVISM

Ensuring the implementation of city planning laws: Role of the courts

Barrister M. Naim-ur-Rahman and Roland de'Souza emphasize the importance of upholding and enforcing the laws and regulations of city development and discuss the significance of timely judicial action in this regard.

The judiciary plays its role

The cases of Costa Livina and Glass Towers (refer cover story) can best be appreciated if it is accepted that cities have to be planned in a proper manner to ensure that buildings are not constructed so that they form ghettos and the residential and commercial areas are not mixed up and that there are adequate parks; above all they are adequate amenities necessary for the designated areas.

The development schemes have as a prime object to ensure that the people live comfortably with adequate peace and quiet for the residential areas and necessary amenities to go with it. There are designated low density areas and commercial areas, requiring greater amenities and more concentrations of building, i.e., designated as high density areas.

If an area is planned as a low density area and, without the provisions of extra facilities and amenities and an attempt is made to convert it into a high density area by constructing high rise buildings, close together, all sorts of adverse consequences follow.

The high concentrations of buildings results in shortages of water, overflowing sewerage, breakdown in power supply and municipality services, and road congestion results in smoky atmosphere and

environmental pollution with the consequent serious adverse impact on to the health of the people of the area.

The KDA Order No. 5 of 1957, the Sindh Building Control Ordinance 1979 and Karachi Town Planning and Building Regulations 1979, which are good laws designed to ensure that development and improvement of areas are in accordance to planned development schemes.

Unfortunately, due to corruption in Karachi Development Authority and Karachi Building Control Authority, and outside political pressures existing development schemes have suffered greatly and all the adverse consequences mentioned above have materialised.

The Supreme Court has now passed two very important judgements referred to as the Costa Livina and Glass Towers cases; the latter is reported in 1999 SCMR at p.2089.

These two judgements hold that development regulations must be strictly enforced and no deviations can be allowed, save according to

the strict provisions of law. If a plot is legally converted, provisions of adequate amenities must be ensured before this is done and adequate notice has to be given before any change of land use can be implemented. In any event, amenities can now never be changed.

These two judgements hold that development regulations must be strictly enforced and no deviations can be allowed, save according to the strict provisions of law.

If any purchaser of a unit in a building is unwise enough to purchase the same without checking that the building has been constructed

according to law, he does so at his own risk; that is to say that if the building is declared illegal he will not get the unit which he has purchased. His remedy for recovery of the price paid can only lie against the builder.

The good news is that the Courts are now becoming more conscious of the fact that they have to act in the larger interest of the public, even if an unwise and albeit innocent purchaser must suffer, because of the dishonesty on the part of the builder and the corruption on the part of the authorities concerned. □

*M. Naimur Rahman
Barrister-at-Law*



Setting landmarks for future citizen action

Recent trends in judicial action and the government's response gives the citizens much reason for optimism:

- landmark decisions by the Supreme Court in the *Costa Livina* and *Glass Towers* cases
- increased awareness of built-environment issues in the High Court of Sindh, and the setting up of *Green Benches*
- establishment of environment-friendly citizen's representation on the KDA Governings Body and KBCA Oversee Committee
- establishment of some degree of transparency with KBCA, *Public Information Counter*, access to plans/documents, public education through press, regular dissemination of information, etc
- better implementation of existing laws, e.g. change of land use procedures, tackling of unauthorised construction, reduction in discretionary powers, etc.

Numerous issues remain to be effectively addressed:

- misuse and deliberate misinterpretation of Court orders and procedures.
- education of the judiciary on environmental matters and public interest litigation
- involvement of *silent majority* citizens in the protection of the environment for future generations
- upgrading and development of laws and regulations dealing with land and buildings
- greater freedom of access to information in all fields
- development and implementation of a proper Master Plan, with strengthening of amenities and infrastructure, to improve the environment of the city.

Heightened awareness of earthquake damage in urban areas, in view of:

- recent experiences in Turkey and Taiwan
- extremely poor seismic building-code compliance in Karachi
- the 1935 Quetta experience and its consequences
- policy for existing dangerous buildings, and future construction

Being the owners and legal heirs of the built environment, the citizens have a responsibility to protect and nurture it

- share-holders are primarily the citizens and residents of the city
- public servants are retained to care for the environment and citizen's rights
- the courts must be active to ensure that fundamental rights to *life* of citizens is not violated. □

Roland de'Souza
Shehri-CBE

EARTHQUAKE ALERT

A divisional Bench of the Balochistan High Court, (3) on page 14, took judicial notice of the possibility of the occurrence of earthquakes:

"The population of Quetta, if construction of such buildings are allowed, shall be put to the threshold of horrible destruction in case, God forbid, any earthquake of high grade jolts the Town."

The Supreme Court dismissed the appeal filed against this judgement.



HOUSING

The housing sector in Karachi: Assessing the past and planning for the future

While the development process of the housing sector in Karachi has been riddled with mismanagement and corruption, future growth patterns can be controlled with effective planning. Nooruddin Ahmed sets some guidelines for future action.

A policy to accelerate and to the housing stock of Karachi was put into effect in the early 70's. KDA charter was to plan, develop and dispose of residential, commercial and amenity plots on a no - profit - no loss basis. Construction companies were registered by the KDA and flat site, and residential plots were allotted as a package deal in Gulshan-e-Iqbal, Korangi and North Karachi Schemes.

Clifton was dealt on a VIP basis because of Zulfiqar Ali Bhutto having his residence in Clifton. In comparison, North Nazimabad, Nazimabad, Federal B. Area and Societies area was where plots had been allotted to individuals, the speed of construction doubled in the 80's.

The cost of land charged by the KDA was Rs. 20 per sq. yds. for flat sites and Rs. 12 per sq.yds. for plots. There was no SBCO nor did you pay more than 10% at the time of allotment. This change of allotment policy revolutionized the Housing Sector in Karachi. Unfortunately the KDA could not keep pace with the supply of developed plots with the accelerated demand.

The political government of PPP, in mid 70's decided to use KDA land for political patongae and increased the allotment price to Rs. 100 per sq.yds. These official and political actions of the govt. has

brought ruination to the built environment of this city. Professional Builders have been replaced in this process by politically active builders who obtain plots at exorbitant price after it has changed many hands and multiplied in value.

The additional political and other burdens on the cost of the plots cannot be realized by staying within the SBSO 79 or the Building Regulations I & II. Therefore gross violations are the result. The builder pays for the extra burden of

the extra payments to the politician KDA, lawyers, KBCA, utility agencies etc. all of which ultimately adds to the cost of the unit and is paid for by the end - user.

The KDA and KBCA are the main cause of hardship to the consumer as they no longer develop or provide land for housing at an affordable price which is the sole purpose for their very existence. They sustain themselves by imposing and increasing *non utilisation fee (NUF)* and conversion charges and selling the little land available with them at market value.

KDA and every one else identifies

the Builder as the cause of all this city's miseries. Whereas this is partially true he is only the visible cause, the other causes are as stated before.

The greatest damage done to the built environment of the city is due to the systematic and deliberate violation of all financial norms by

the govt. itself, when billions of rupees were misappropriated which were realized as conversion charges on the declared pretext of improving

the water supply, sewerage, roads, electricity etc. of areas where residential plots were allowed to be converted to commercial use to cater for the increase in the density by almost 100 times.

We now must assess the existing situation and try and improve our conditions based on the ground realities, which are as follows:-

- First reality is that if we start today it will take a long time to improve the present corroded, rusty machinery of the govt.
- We are however very fortunate in having 80% of this countries





highly educated and professionally qualified people living in this city, most of whom realize that unless they come forward and actually participate in cleaning the existing mess, our future will become blacker and blacker. The need is to identify and organize these capable people. We need lawyers, engineers, social scientist, architects, town planners, financial experts, ex-bureaucrats etc.

- The areas which need monitoring and improvement are water supply, sewerage, electricity, roads, parks, gardens, stadiums etc.
- KWSB is mismanaged and is not willing to improve it's working. Nor is the government doing any thing in this regard.
- Properly developed parks and gardens are non existent whereas there are still over 1000 designated plots available in the Master Plan of Karachi, which have not been encroached so far.
- In view of the recent earthquakes in Turkey, Cyprus and

Taiwan, we must request the Association of Consulting Engineer to review the situation and recommend specific measures required for the future as well as how to strengthen the already built houses an multi storied structures.

- In some parts of Karachi, more than 50% of the residential plots have been converted into multi storied structures. What relief is their for the 50% other plots where people are finding it difficult to live in their houses because of the surrounding deterioration of amenities.
- All construction over 6000 sq. ft. anywhere in Karachi should only be allowed to be constructed by a contractor registered with the Pakistan Engineering Council (PEC) under it's regulations.
- A Hydrogeological survey needs to be done of Karachi on determine the quantum of water and it's quality available below the surface. This could be used for fire fighting as well as domestic purposes.
- Mini Sewerage Treatment

Plants should be designed for use in parks and gardens of Karachi.

- For the purpose of funding, the government should be requested to offer tax rebate to all, citizens of Karachi and multinational and local businesses which contribute financially to the improvement of the environment.
- A *Citizens Action Forum* should be formed to liaze with the Commissioner of Karachi and pressurize him to make all departments under him work for the betterment of this city. This forum would also provide the continuity required when the Commissioner is changed.
- The print media should be actively involved at every stage and with every decision made in the interest of this city.
- The city should be divided in to 50 Divisions as proposed by the KDA for easy and effective management of the above. □

Nooruddin Ahmed
Member, Pakistan Engineering
Council/Association of Builders
& Developers

Sindh Katchi Abadi Authority (SKAA)

SKAA was established by the government of Sindh in 1987 to expedite the process of regularization and up-gradation of squatter settlements in Sindh. SKAA has so far taken up the process of regularization in over 200 settlements. Simultaneously, it has improved water and sanitation systems in 33 settlements by incurring expenditure of rupees 44.5 million.

The basic approach of SKAA is based on principles of participation and full cost recovery. □



CITIZEN ACTIVISM

Transparency in local governance: Modes of citizen interaction

Drawing on the experience of Shehri's interaction with the Town Planning & Building Control departments, Khatib Ahmed outlines a plan for citizen involvement on a broader level for ensuring transparency and effective management of city affairs

Since Independence day, 14th August 1947 and according to the constitution of the Islamic Republic Pakistan, the responsibility and privilege of being the vicegerent (Khalifa) of Allah and being entrusted temporal authority in the affairs of Pakistan, as a sacred trust, *Amanat* rests with the people of this country (For details, see "Awareness" in *Shehri newsletter*, April - June, 1999).

The immediate concern of the People/owner (Ameen) is how to fulfil this *Amanat* (Trust). How to direct and guide their *managers*, both the Representatives and the Civil Servants, to serve for the general good of the people/owners, instead of the present situation of managers serving themselves most of the time.

The people have no political authority (save to cast a vote whenever an election is held). They have been conditioned for centuries to expect abuse, sometimes charity, from the ruling class, who were traditionally the Kings, Rajas and Nawabs, Sardars, etc. and their relatives and hench-men. The people were never expected to question or think independently. In the same way, the rulers of today (who are the *managers* and are paid by the owners) still think themselves to be the lord and master and at worst the VVIP's, who are destined to lord it over the illiterate, poor masses (in reality their paymasters).

Under this scenario what are the people supposed to do to control their headstrong managers to serve for the general good of the people. This is truly an awesome task.

Discuss below, are some of the ways the people can try. They will have to get on their feet, go to the field, get their hands dirty and interact with the managers for good results (how ever fearsome it may seem).

First step is to keep the obligation of owner/trusteeship ever present in ones conscious. To constantly remind the managers of their true status. To monitor, be vigilant, ensure transparency, watch over the workings of the managers in the affairs of local, provincial & federal governments. Learn the nuts and bolts of the machinery of the state, its pressure points, its strengths and its weaknesses. Be aware of the *Discretionary Powers* of the concerned authorities.

Next is to help assist, enable, coach, encourage, reward for good work, and give the managers the "tools to do the job. Have compassion for the managers.

Finally, to discipline, reprimand the managers (with a heavy heart) if they persist in in-efficiency, corruption and all such actions which may harm the interest/assets of the people of Pakistan (see "How to Complain" Shehri newsletter: July -

September, 1998).

Given below is the real life example of how Shehri made these ways work for them with the Town Planning and Karachi Building Control Authority. These same ways and means can be applied to any other institution/department of the Government, utilities etc. with appropriate adjustments.

Shehri's Activism

After having observed blatant disregard for the welfare of the citizens, widespread contravention of urban laws and master plan parameters, as demonstrated by unabated illegal constructions, and misuse of amenity/residential plots all over the city, resulting in the breakdown of supportive infrastructure, Shehri undertook the following steps to redress the situation:

To Know

Prior to taking up any problem, Shehri acquired information and knowledge about:-

- Laws, rules and regulations under which the KDA (Karachi Development Authority) and KBCA (Karachi Building Control Authority), are required to act and regulate/control construction activities.
- Requirements for obtaining NOC's for connection of utili-



ties (water, electric power, gas)

- Conditions under which residential plots could be converted to commercial use after giving public notices. (Shehri kept a watch for these notices and got the residents to file objections).



- How amenity plots could not be allowed to be misused (converted to commercial residential or other uses) under any circumstances.
- Inconvenience to residents due to over loading and breakdown of utility supplies and civic infrastructure (parks, playgrounds, schools, roads, parking, law and order, etc), owing to unplanned expansion of built-up areas (by making surveys in the neighbourhoods), making residents aware of this fact.
- Uncovering behind-the-scenes involvement of powerful people who had direct interests in this *money making game* of illegal construction and land-use change.
- Mobilizing the support of members of the civil society and lawyers, endowed with civic concern and honesty, who would be willing to conduct court cases at nominal fees.
- Locate and arrange resources,

for litigation and awareness campaigns, both in human and material resources.

To Help

- Shehri members lobbied with officials/individuals who could open windows for taking corrective action and accountability and interact with the officials of the Karachi Building Control Authority. (KBCA)

They began visiting KBCA offices and established close acquaintance with concerned officials in order to establish working relationship and personal contacts.

- They managed to schedule regular meetings with the KBCA officers, to monitor progress in two localities (Garden East and PECHS) and,



later on, in other areas of the city.

- They prepared minutes of such meetings for circulation to concerned officials and monitored actions taken thereon by the KBCA
- Made computer charts showing movements of various court cases, and their follow up and present position. This helped the KBCA to perform better on the legal front.
- On repeated complaints by

KBCA officials that they were *helpless* to enforce the court decisions/verdict, as the police department would not con-ordinate and give protection from the builders who used violence at the time of demolition, Shehri members promoted co-ordination between KBCA, District Administration, (Deputy Commissioners, SDM) and police, to help implement the court orders for demolition etc.

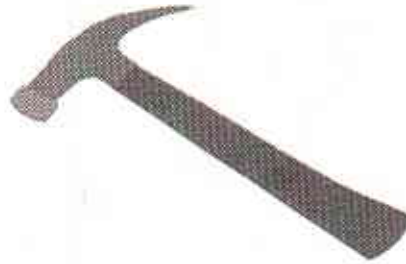
- Became intervenors in court cases on the side of Karachi Building Control Authority and also instituted writ petitions themselves. Members who were not lawyers started to appear in person before the High Court and Supreme Court.
- Made presentations to judges, explaining how builders engaged in illegal construction were misusing court orders to carry on illegal construction and involving third-party interests.
- Conducted site inspections. At times these could be very dangerous to members due to threats of violence.
- Advocated resource mobilization for the legal department of KBCA.
- Shehri members, who were barristers/lawyers co-ordinated with KBCA lawyers in order to assist them to prepare stronger cases.
- Members organised workshops and seminars to pinpoint problems and find solutions so that the working of KBCA could improve.



- Shehri acquired representation on the KBCA Overseer Committee. They were instrumental in activating the Committee, after remaining dormant for many years. Its need was recognised as per the Sindh Building Control Ordinance 1979. Shehri managed to provide staff-members to strengthen the Secretariat of the Committee.
- Shehri practiced the principle of *Consumer Protection*, by having KBCA provide information and publish advertisements which advised citizens against booking of flats/shops, offices in illegal buildings. Also helped consumers, who are not being dealt fairly by the builders, by advocating their cases.
- Raised awareness amongst general public and officials through the means of workshops and press conferences, newsletters and other media organs as to the necessity of the built environment of the city to be preserved and kept within the principles of sustainability of localities.

To Discipline

After first trying its best to help and assist, and only after failing to get a positive response in many instances Shehri moved to the next step, that is to discipline errant managers-officials who



persisted in being inefficient or corrupt.

- By reporting officials to their superior officers and by reporting to officials higher-up in the hierarchy, if the above action failed (see "How to Complain", Shehri newsletter, July-September, 1998).
- Going to court of law in cases of sheer neglect, corruption and connivance on the part of the dealing officers and builders.

- Reporting to the Anti-Corruption Establishment and provincial Ombudsman against habitual offenders and mal-administrators.
- Publicizing the problems through the newsletter to let the people/officials know about illegal construction and to restrain corrupt officials.
- Put pressure to have illegal buildings sealed and demolished in accordance with the law (through court orders).
- The purpose behind the above actions is to teach daring offenders to respect the law, and the rights of the citizens. □

Note: Once again it is emphasized that all action by the owners have to be done in the practical way, out in the field.

Khatib Ahmed thanks Roland deSouza for his input

*(Khatib Ahmed,
Member Managing Committee -
Shehri-CBE)*

KABARIS IN KARACHI

Kabaris are large-scale waste dealers who operate from shops and godowns. There are approximately 1,000 in Karachi, and most specialize in just one type of waste which they buy at auctions or from middle dealers or import, and resell to recycling plants, locally or elsewhere in Pakistan. There are also some that do the recycling themselves. □



SPOTLIGHT ON THE PRESS

KESC cancels load approval for Kawish Crown Plaza

The Star Oct. 9, '99

The KESC has cancelled the load approval for unauthorised construction of the Kawish Crown Plaza, Sharah-e-Faisal. After The STAR published a story, the utility thoroughly inspected the project and found numerous violation of rules in granting of load.

At the same time, the Ministry of Water and Power has also asked the reasons that on what ground KESC officials recommended the load for an unauthorised construction and the MD KESC approved it. The KESC, However, has initiated no inquiry against any of the officials who approved this load.

Moin for metropolitan police system

Daily DAWN, Nov. 6, '99

Moinuddin Haider, who has been named as the Federal Minister for Interior and Narcotics, hinted at the possibility of a metropolitan police system being introduced in Karachi and other major cities.

"The metropolitan police system is not a bad idea," the former governor of Sindh told newsmen. "I would like to introduce it in Karachi first, and then in other major cities."

"The police have direct interaction with the people, but the people are not satisfied with the present set-up," he remarked.

NEQS to be mandatory from Jan 1

Daily DAWN, Nov. 11, '99

All the industrial units would have to follow the National Environment Quality Standards (NEQS) from January 1, 2000, said the Sindh Environmental Protection Agency (SEPA) Director General, Brig (retd.), Akhtar Zamin, on Wednesday.

Speaking at the inauguration of a two-day workshop on Self-Monitoring and Reporting by Industry, he said industrial units would start monitoring their emissions, effluent with the start of the new year and submit these reports to SEPA.



NEIGHBOURHOOD WATCH

SHEHRI invites the residents of the city to share with us, their concerns, on issues which are adversely affecting their neighbourhood's environment. Please write to us, preferably with a supporting photograph, so that efforts are made and solutions sought - Ed.

Where there is a will, there is a way

Local residents of Allama Iqbal Colony, Mehmoodabad # 1, prove that if common citizens are willing to make sincere and knowledgeable efforts to tackle their civic problems, the task is not insurmountable.

The old and rusted water supply lives in Allama Iqbal Colony, Mehmoodabad # 1 were leaking and sewage was mixing with the potable water supply.

In response to this crisis, the residents of the area collected water samples and had them tested at the KMC lab. The sample water was found unfit for human consumption. The lab results were later submitted to the Supreme Court of Pakistan. Mohammad Madar, a resident of Allama Iqbal Colony, submitted a petition under Public Interest litigation along with Karachi Administration Women Welfare Society (KAWWS). Case # 9k of 92.



The case was pursued in the Supreme Court and the Karach Water and Sewerage Board (KW&SB) officials were forced to replace the damaged water supply lines. The work was completed in Sep. 99.

Encouraged by this action, residents of the neighboring areas have begun to approach Mohammed Madar for guidance in solution to their own civic problems. □

Weekday Bazzars: To be or not to be

There is a growing debate over the utility or otherwise of the weekday bazaar facility being provided to the residents by the government. Do they serve a convenience or become a public nuisance

Members of the Karachi Administration Women Welfare Society (KAWWS) approached the relevant authorities to have the weekday bazaar activity halted in their locality, as it was the cause of substantial amounts of garbage generation, polluting the surrounding environment and also caused disruption in normal life even on days other than when the bazaar was held. In this case, there was also some confusion about the land ownership of the bazaar site with the administrative and municipal boundaries not matching. However views about the utility or otherwise of weekday bazzars remain divided.



In this case, the Weekday Bazar became an inconvenience

For any person or organisation wishing to know more about the process of setting up of weekday bazzars and the authorities involved, who can be approached if there is any grievance or complaint, provided below is the procedure for applying for NOC/Permission for a Weekday Bazaar.

- Sellers apply to Bureau of Supplies and Prices (GOS).
- The Bureau seeks permission/NOC's from following.
 - Land Owning Agency/Municipality
 - District Commissioner - For Law and Order Control
 - SSP of the District □



JUNIOR SHEHRI

Mind Pollution

Saba Jawed puts the issue of pollution in its proper perspective, when she says that only the purity of mind can ensure the purity of the natural environment.

The word *Pollution* brings visions of smoke, trash, noise etc, to our mind. But this is just one aspect of the pollution problem. What about the pollution in people's minds? If minds become clean, the environment itself will become clean. A common example of mind pollution that can be observed everyday is throwing of one's own garbage in front of other's doors. We think that we just have to get rid of the trash but never think what difficulties other people will face.

What we really have to clean, are *People's Minds*, and their thoughts. This is one of the most important cause of pollution that we usually ignore. People talk about pollution and say that we have to clean our environment to leave a better

world for the coming generations. Yes, that's what we really have to do, but not by cleaning houses, roads or cities but by doing away with the harmful feelings of hatred, revenge, jealousy etc.



In short, my thinking about the increasing pollution is that it happens because of the polluted thoughts in our minds. So if we want to clean our world and make it a better place for the coming generations, we have to make our thoughts positive, having pure and true feelings of love, care and affection for others around us. Gradually, we'll transform the world into a clean and peaceful place for everyone to live and enjoy. □

– Saba Jawed is a student



In unity is strength

Feels So Good

When you feel there's
no one around

When you feel
you're bound,

When the days feel so
dark and

You feel lonesome
and depressed

There's one thing you need,
Yes, that's a true friend indeed

Who can make you feel good,

Who can change your mood

When the stars are
shining bright

and you want to reach
their height

of course, that can't be
done but,

A true friend can outshine
their glow

So there's one thing you need,

And that is your true
friend indeed

Everything seems to be fine

Every word seems to
have a rhyme
And Then

Everything Feels so good

–Saba Jawed



ASK SHEHRI

Most residents when faced with any civic problem do not know which person or organization to contact in order to solve their problem. In this column we invite the readers to share their worries with us and seek our help, which is always forthcoming - Ed.

Q. Does the Karachi Metropolitan Corporation operate any "Compost Plant"?

Ayesha Bukhari, D.H.A., Karachi

A. No it does not. Infact, KMC does not undertake any kind of garbage recycling/reuse program

Q. Under the new political setup, who has been awarded the portfolio of the Ministry of Environment Govt. of Sindh?

Saleem Shah, Latifabad, Hyderabad.

A. Mr. Iftikhar Ahmed Soomro.

Q. When will the National Environmental Quality Standards be fully implemented?

*Dr. Shaista Ahmed,
Nazimabad, Karachi.*

A. The NEQS will become mandatory from January 1st, 2000.

Shehri needs volunteers

Any person who wishes to help out in Shehri's ongoing and planned projects (cash / kind) should visit the Shehri Office for further information or contact the Shehri Secretariat through phone, fax or e-mail)

JOIN SHEHRI TO CREATE A BETTER ENVIRONMENT

If you wish to join shehri please send this card to

SHEHRI Citizens for a Better Environment.
206-G, Block 2, P.E.C.H.S.,
Karachi-75400, Pakistan.
Tel / Fax : 453-0646

With a cross cheque of Rs. 300/- (Annual Membership Fee) in the name of Shehri-CBE with passport size photograph

Name : _____

Tel. (Off) : _____ Tel. (Res) : _____

Address : _____

Occupation _____

SHEHRI MEMBERSHIP

Don't forget to renew your membership for 1999! Join Shehri and do your bit as a good citizen to make this city a clean, healthy and environmentally friendly place to live in!



POLLUTION

Death of a great lake

Engr. Aziz Ranjhani discusses in detail, the variety of pollution threats faced by the beautiful **Manchar Lake** which are destroying the precious eco-system of the lake and the economy and life style of the people it sustains.

Manchar Lake in Dadu District is the largest natural fresh water lake in Asia. It is a mere alluvial depression, which acquires a wide expanse, at the time of inundation. The lake was once the bed of the mighty Indus River. It has played an important role in ancient civilizations and inhabits a unique culture known as *Batelo* (boat culture), which does not exist in any other part of the world.

The lake is famous for floating human inhabitants, fisheries and a large variety of migratory birds. This large and beautiful wetland, provides a refuge for wintering water fowls and ducks from Central Asia. The lake unfortunately has not been declared as yet as a wildlife sanctuary.

The natural beauty of the lake is rapidly disappearing due to the pollution problem. The huge quantities of agricultural effluents, chemical pesticides, insecticides, solid municipal waste, industrial waste and other highly toxic materials are being dumped in this lake through the Main Nara Valley Drain (MNVD). Due to the disposal of these pollutants in the lake, the fresh water has turned saline. This badly affects the marine life in the lake and thousands of acres of fertile land around the lake in Sehwan and Johi Taluka's has also been badly affected and has turned barren.

The experts and environmentalists have opposed the idea of emptying ((Dumping) these contaminants in to Manchar and have

warned about the consequences. M/s. Hunting Technical Services and Ian Macdonalds & Association, in their screening and scoping report of

Right Bank Master Plan (RBMP), in 1980, forecasted the adverse physical impacts on this huge water reservoir. In respect of the quality and quantity of the drainage effluent, about 8000 cusecs of drainage is disposed by MNVD in the peak Kharif season with a salinity of over 1900 PPM, while in Rabi season, discharge would be 500-1000 cusecs but the salinity concentration would be up to 2500 - 5000 PPM.

The increasing saline water of Indus Right Bank Command Area is not only causing a great loss of biodiversity but resulting in large scale displacement of ancient inhabitants of this land.

The salinity has had a negative impact on the fish production which would eventually lead to reduction in food for birds. In 1950, the fish production was 3000 metric tones per annum which has drastically reduced now to less than 200 metric tones, forcing the Mohana's to leave their ancient abode.

The decrease in the fish catch has



Sunset at Manchar Lake

led to a threat of exodus by about 80000 peoples who live on the banks of the lake and on its water in their boat cum-houses and earn their livelihood by fishing. If this exodus continues, it would be the biggest exodus in the countries history due to an environmental disaster.

The water of the Manchar Lake was potable a few years back and was used for drinking and cultivation purposes. Now it has become so poisonous that the fisherman who use its water for their daily needs ranging from washing clothes and drinking, suffer from diarrhea, nausea, TB, eye diseases and various abdominal and water borne diseases. According to Singh Bombay Historical Survey report, there were 400 types of fishes in this water reservoir but due to the high level of pollution in the lake caused by saline water, many of the species have been eliminated from the lake in a couple of decades. Likewise, there were 726 types of birds found in the lake in the past. But now, less than 200 species of birds come to the lake during the winter season.



Manchar is also a source of irrigation and drinking water for agricultural purposes. For Johi and Sehwan Taluka's around the lake, water from the lake is being drawn by Danister Canal for irrigation purpose in the area which is actually spreading the salinity further and making the command area saline at a rapid rate.

The Society for the Conservation and Protection of Environment ((SCOPE) has warned that the water of the lake which is being supplied through Danister to the lands for cultivation is not only dangerous for that land but also poses threat to other agricultural lands in the vicinity.

Another factor which is effecting the ecological balance in the lake is the tussle between fisherman and the farming communities. Large land tracks in the periphery of the lake are being temporarily cultivated by the people living in the vicinity of the lake. Their interest lies in the empty lake. Less water means large cultivable area, so the irrigation authorities are reducing the water inflow of the lake from the Aral Canal which causes a fall in the water level due to the silt deposition, Manchar has developed a flat bed and its water reservoir capacity has been considerably reduced. So the Manchar requires large scale dredging so as to retain its original position.

The salinity of Hairuddin Drainage Unit increases upto 6000 PPM in the months of August and remains up to 4000 PPM during the month of January and February. The same position is with Balam and other areas of the

Balochistan province.. Their effluent are considered to be connected with RBOD Stage II project, which is also planned to be disposed in the lake.

We know that the death of this lake would not only mean the economic loss of the inhabitants (Mohana's) living there since the centuries, but it would be the death of culture, history civilization and the society.

in the lake due to saline water and hazardous wastes, the WAPDA and other authorities have planned to dispose of this poison in to the mighty Indus River instead of Manchar to save this historical natural reservoir.

In this regard, work has been started on Indus link, the alternate disposal link for diverting the poison in River Indus.

There are serious objections to disposing off this saline drainage effluent into the mighty River Indus. Especially during the season of low flow. This will adversely effect not only the agricultural lands of Lower Dadu District and of entire command area of Kotri Barrage but also the drinking water supply of Karachi , Hyderabad, Kotri, Sajjawal and Thatta and also on the marine life of this great river.

The experts have suggested that the standard of 640 PPM of dissolved solids may be adopted for the suitability of river water for agricultural purpose and the mixing of saline effluent with river. Water should not increase the salinity beyond 640 PPM.

SCOPE has also warned that if the drainage of saline water is not stopped immediately, then the high level salinity may gobble up all life at Manchar and the lake would be dead by year A.D. 2000.

After the large scale degradation and destruction

It has been observed that during the year '91 to '96, the the discharge down stream at Sukkur Barrage during the month of January to March was almost negligible (400-2000) cusecs, while the drainage of the saline water disposed by Indus link in the river would be more than 4000 PPM. What would be the condition of this river then? Will it not be turned into an *Effluent Nullah*.

As the Hamal lake in Larkana district has been facing the same situation due to continuous disposal of saline water of the Indus Right Bank Command Area by RBOD project of WAPDA's SCARP. This lake also wants proper attention.

If the Manchar and Hamal is saved from pollution, silt deposition and toxicity, then they have a great potential for tourism, fish production, recreation and preservation of ancient civilization.

We know that the death of this lake would not only mean the economic loss of the inhabitants (Mohana's) living there since the centuries, but it would be the death of culture, history civilization and the society.

The destruction of Manchar Lake is due to unwise and un-sustainable planning on the part of government and donors. Unfortunately, we never take environmental considerations in our project planning. Local people are never taken in to confidence about the projects.

Finally, it is suggested that an authority/committee like the Indus River System Authority be established for the betterment and improvement of this reservoir. □

(Engr. Aziz Ranjhani is a Petroleum Engineer, working with the Oil & Gas Development Corporation. He is also a freelance journalist and member of Shehri-CBE).