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JUDGES & POLITICS IN 2012-13 [II]

KAMRAN FAISAL [OF NAB] DEAD:

On 31st March 2012, the **Supreme Court of Pakistan** directed the National Accountability Bureau [NAB] to proceed against all government functionaries involved, including the ministers for water and power during whose tenure the RPP were approved or set up, and the minister and finance secretary holding charge when down payment for RPP was increased from 7% to 14%.

Liaquat Jatoi and PM Raja Pervaiz Ashraf were water and power ministers in 2006 and 2008, respectively while Shaukat Tareen was the finance minister in 2008, when down payment was increased.

"On 31st March 2012, all rental power project (RPP) deals were declared 'non-transparent, illegal and void ab initio' by the Supreme Court of Pakistan.

A two-member bench comprising Chief Justice Iftikhar M Chaudhry and J Khilji Arif Hussain heard the case on various dates. Authored by the chief justice, the 90-page verdict recommended initiation of legal proceedings against all those involved in these projects.

Federal Minister Faisal Saleh Hayat and PML[N]'s MNA Kh Asif had challenged the RPP projects, contending that these plants were producing a meagre amount of electricity, despite billions of rupees having been spent on them.

The government's attorney was unable to rebut the contention raised by the petitioners. The SC's verdict said that public-sector power companies and authorities, the federal government and the finance ministry were responsible for losses worth billions.

The court observed that the RPP policy was not defined on the basis of transparency and that the money should be recovered with

outstanding mark-up. Similarly, all functionaries of Pepco, Gencos and Nepra, along with sponsors who derived financial benefits from RPP contracts are, prima facie, involved in corruption and corrupt practices, the court said in its ruling. They were, therefore, liable both for civil and criminal action, it added.

Of the 19 RPP deals signed initially, only nine were allowed to function after a damning Asian Development Bank [ADB] evaluation report. Subsequently, six of those nine RPPs were discontinued. They had returned the advance payments in pursuance of orders passed by the apex said.

The three remaining were producing a meagre amount of electricity, despite being paid billions: Karkey was generating 48.33 MW against a capacity of 231 MW, Naudero-I was generating 9.16 MW against a capacity of 51 MW and Gulf was generating 50.1 MW against a capacity of 62 MW. Neither of those three had returned their advances. All RPPs were collectively generating 120 MW of electricity, the judgment said.

Citing an example of the excesses in the RPPs scandal, the verdict said that Pakistan Power Resources (Piranghaib, Multan) did not generate electricity at all although \$14.58 million was given in down payment, which has not been returned."

The NAB's team, including Faisal Kamran, was investigating that case.

On 15th January 2013, the Supreme Court directed NAB to arrest all accused in the infamous RPPs case **including PM Raja Pervaiz Ashraf**. The court had also issued a contempt notice to Admiral Bokhari for non-compliance of its orders.

NAB's Chairman Admiral Bokhari, in a letter addressed to President Zardari, had referred the issue of high-profile cases, including the case of late NAB investigator Kamran Faisal, stating that this phenomenon was observable in the investigation of very senior politicians of the government where orders to even arrest them were issued on investigation reports of regional investigators that had yet to reach the executive board meeting.

NAB spokesperson Zaffar Iqbal Khan said: *"Concerns of the NAB chairman may be taken seriously in the light of pressure the bureau's staff is facing due to undue pressure."*

On 18th January 2013, an Assistant Director of National Accountability Bureau [NAB]'s investigative team inspecting the Rental Power Plants [RPP] cases was found dead in his room; he was residing in room no. 1 of Federal Lodges in Islamabad. He had allegedly committed suicide by hanging himself to the ceiling fan.

Immediately after the NAB Chairman Fasih Bokhari, IG Islamabad Police Bani Amin and other officials of NAB and police reached the Federal Lodges and declared it to be a case of suicide, based on initial investigations. To reach the final conclusion, however, they had to wait for the results of medico-legal examination and the post-mortem report.

Initial investigation and autopsy reports of Kamran Faisal ruled it as "suicide" – a conclusion that Faisal's family had refused to accept. Though the investigation was still under way, the Supreme Court took *suo motu* notice of Faisal's mysterious death and formed a 2-judge bench to hear the case.

Faisal was under pressure for some weeks because he and his Deputy Director Asghar Khan had been suspended by the NAB chairman when they forwarded their investigation report on RPPs to their higher ups. The NAB had also suspended Director General Lahore M Sadiq and attached him with NAB HQ in Islamabad – he was replaced by DG NAB Lahore Khursheed Anwar Bhinder.

The report was sent for approval to Chairman Bokhari for filing references against Prime Minister Raja Pervaiz Ashraf and 15 others named in the investigation before the Accountability Court in Rawalpindi.

The officials had been removed from the investigation of the RPP cases by Chairman Bokhari, saying that the Supreme Court was not happy with their performance in the case.

More than 20 officials of NAB from Punjab alleged that it was murder which was being framed as suicide, because the roof window of Faisal's room was partly open when the police went there for investigation.

On 28th January 2013; while hearing that case of unnatural death of NAB's investigator Kamran Faisal, the Supreme Court was told that NAB Chairman Fasih Bokhari had written a letter to President Asif Ali Zardari, stating his reservations over the Supreme Court's tight deadlines; stating more that the SC did not give sufficient time to NAB for implementation of the court's orders.

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When the hearing started, NAB's prosecutor KK Agha conveyed NAB's concerns to the judicial bench headed by Justice Jawad S Khwaja. Agha told the Court that NAB was not satisfied with how the bench was proceeding with the case. Justice Khwaja observed that such concerns should be submitted to the court in writing. Justice Arif said that each member of the bench wants to unearth the facts in the case.

The NAB Chief did say in that letter to President that he would resign if the Supreme Court's alleged interference in NAB affairs was not stopped. The NAB Chairman had expressed serious concerns at the Supreme Court's position on the bureau's mandate defined in the National Accountability Ordinance (NAO) 1999; saying that:

"I'm constrained to observe and bring to your [the president's] notice that the position of the honourable Supreme Court, on this issue, remains clouded by action that are bearing heavily on my mandate to strictly abide by the NAO in both letter and spirit."

The government announced a one-man Commission comprising of Justice [Rtd] Javed Iqbal to probe into Kamran Faisal's mysterious death which was out rightly rejected by NAB investigators and Kamran Faisal's family as well as their demand for independent and transparent investigation carried justification. Could any Commission set up by the prime minister who himself was chief accused in Rental Power Projects [RPPs] scam be expected to remain impartial or deliver justice? Why Justice [R] Javed Iqbal was the only hot favourite to head any government sponsored Commission?

[It is on record that Justice Javed Iqbal had taken 18 months to complete Abbottabad Operation inquiry and his 'missing persons' Commission continued [till ending 2012 at least] joyously since a half decade, there was little hope for a speedy and conclusive investigation in Kamran Faisal's case.

One could easily smell a rat in government's quick announcement of Justice Javed Iqbal Commission as well as Chairman NAB's decision to suspend further RPPs probe until conclusion of investigation into Kamran Faisal's death.]

The indifferent attitude of NAB's top leadership in the immediate aftermath of the tragedy gave the impression of a planned cover-up, till NAB's internal 'revolt' and media's 'breaking' reports caused panic in NAB's hierarchy.

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The general populace had expected that as Chairman NAB, Adml Bokhari, with his reputation of impeccable integrity, would rise against corruption mafia and bring accountability in country back on track; but he surfaced as a **'scrawny, weedy & compromising'** Chairman. Instead of implementing the SC's directive to arrest the RPPs high-profile accused, the retired Admiral obstructed rule of law by laying down flat before invisible RPPs stakeholders. In displaying such weakness, he not only earned Supreme Court's wrath but failed to live up to the trust that goes with this sacred public position.

Adml Bokhari could have resigned after accepting responsibility for the **'rebellion' by his investigators in NAB?** Junior NAB officers were inclined to make certain arrests on Supreme Court's directives but the retired Admiral stood in their way; utter weakness on the part of Chairman.

Referring to **'the News of 28th January 2013'** it was on media's files that under the provisions of UN Convention Against Corruption [UNCAC], both Adml [R] Mansurul Haq of Augusta submarines kickbacks fame and ex-Bank of Punjab President Hamesh Khan were successfully extradited by NAB from US in recent past.

Adml Bokhari was labelled for committing 'wilful criminal negligence' to nab ex-OGRA Chief Tauqir Sadiq within country and later calling him from UAE, whereas the Dubai government had handed him over to the Pakistani Embassy after cancelling his stay there. The NAB Chairman never questioned those PPP high-ups who helped OGRA chief flee abroad?

NAB's collusion with ruling PPP was felt within Pakistan and equally in the world circles as well. Adml Bokhari was also responsible for numerous politically motivated inductions in NAB during his 16 months coalition with the PPP government.

A former PCO judge and controversial ex-DG Punjab NAB, whose extension period was declared illegal by the Lahore High Court in 2011 on petition lodged by NAB Punjab officers, was also inducted as NAB's Additional Prosecutor General.

DG Financial Crimes Investigation Wing [DG FCIW] in NAB HQ, a fast rising banker with suspected credentials applied pressure tactics on Kamran to change RPPs report in favour of RPP's named accused elite. Whether suicide or murder; the finger of suspicion in Kamran's death had pointed towards the evil nexus between the powerful RPPs influential and their cronies in NAB's higher echelons.

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NAB's Director, Kausar Malik was also named in Kamran Faisal's Case because a few mobile messages of the deceased NAB investigator in the RPP case, had shown his [Kausar Malik's] pressure on Kamran to sign a backdated affidavit with regard to the corruption case involving PM Raja Pervaiz Ashraf and many others.

Following Kamran Faisal's mysterious death, the NAB's young officers observed an unprecedented pen-down strike and demanded the sacking of some of their superiors including Kausar Malik; who surfaced as a proven protector of the corrupt political elite.

The NAB chairman, who was already facing quite a few contempt cases, had already been charged by the apex court of protecting the corrupt.

K Faisal's Post-Mortem Again: A few days later, Kamran Faisal's body was exhumed in Khanewal, his home town, to check for torture marks as calls emerged to reinvestigate the forensic evidence from the alleged suicide of the anti-corruption official.

During the first week of February 2013, the Islamabad administration gave the Punjab Forensic Science Agency the go-ahead to exhume the remains of the former NAB officer. The forensic agency sent its request to the Islamabad police chief amid doubts about the veracity of the initial post-mortem report written by five doctors, who had declared Faisal's death a suicide. The doctors said they did not find any torture marks on the body.

A police officer familiar with the development said that the forensic agency had also requested the police to hand over the clothes Faisal was wearing when he was found hanging from a ceiling fan in his hostel room on 18th January. The police officer from Punjab held that:

"They will conduct DNA tests on any traces of hair or foreign objects to ascertain the possibility of the presence of a second person with Faisal at the time of his death,"

Any findings would help investigators decide if it was a murder and if Faisal was first killed and then hanged to make it look like a suicide. If so, any suspects would have left traces like hair, mucus or blood on Faisal's clothes. Police and doctors said that it was difficult to tell if Faisal hanged himself or someone killed him before hanging him through a post mortem report alone.

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The exhumation was conducted by a surgeon, physician, forensic expert, investigating police officer, duty magistrate and medical officer. Meanwhile, the family had refused to accept condolence flowers from NAB Chairman Fasih Bokhari, saying that he had been rubbing salt into their wounds.

During the same week, the top court resumed hearing the case of Kamran Faisal's mysterious death. While hearing the case, Justice Jawwad said that till then no written reservations had been received from NAB authorities.

On the other side, manipulation and manoeuvring of whole system to hide facts about the death of Faisal Kamran and to prove him 'a psycho' remained at peak in media those days.

The Islamabad police, allegedly under immense pressure from the NAB and the PM House, sent fabricated pictures and evidence to the Punjab Forensic Science Agency. The agency was probing whether Kamran was murdered or he committed suicide but it appeared as if no one was cooperating with agencies performing re-investigation into the said case .

Connivance of authorities in the government, NAB, and police besides powerful people who mattered in RPPs was proved through many instances - evidences were blocked. The Punjab Forensic Science Agency, a subsidiary of Punjab's Home Department, had documented the fraud of Islamabad police in Kamran's death by writing on 30th January that the Islamabad police sent nine pictures of the dead body of the deceased which were fabricated as they were cut from the bottom.

The SHO in-charge of Secretariat Police Islamabad, was requested by PFSA to ensure that evidence including the clothing of the deceased should be sent to the agency. Earlier the Islamabad police were asked to provide the ligature [knot] rope sealed in a clean paper bag, without touching it with bare hands; photographs of the deceased in the hanging position, before the ligature was cut; photographs of the neck after the ligature was cut; photographs from all four sides i.e. front, back, right and left sides.

The Medico Legal Officer of the Polyclinic was asked by the PFSA to provide general photographs; close-up photographs of the deceased before and after undressing and all the photographs / videos before, after and during post-mortem. Serious doubts had arisen over the fairness and authenticity of the post-mortem report and police investigations under the federal authorities in Kamran's death case. Contrarily, Islamabad police expressed no confidence in PFSA.

Referring to **'the News' of 14th February 2013**; Punjab Forensic Science Agency [PFSA] told the media that:

'The forensic report on the death of Kamran Faisal establishes unambiguously that the NAB investigating officer, who was probing the high profile RPP corruption case, was tortured before death.

Even the analysis of ligature mark (rope knot mark) on the neck of the deceased showed signs of pre-death and pre-hanging torture.

All these conclusions are inconsistent with a typical case of suicide by hanging. It appeared that before his death, Kamran Faisal was struggling to defend himself from torture and there was a possibility that he was hanged either after death or while he was unconscious.'

The report also raised serious doubts about the veracity of the Islamabad Police claim that the deceased was a psychiatric patient and was taking anti depressants as it concluded that no sign of drug or poison was found in his body during the examination.

Contrary to what the Islamabad medical board had concluded, ***the forensic report revealed that the Hyoid bone of the deceased was intact whereas in cases of suicide by hanging, it invariably gets fractured.*** It also confirmed the ante mortem [pre-death] fracture of right superior cornu of thyroid cartilage. Although, it was for the federal authorities to declare whether he was tortured, murdered / fainted and then hanged; the forensic report of the PFSA created serious doubts over the Islamabad Police and doctors' initial conclusions that it was a case of suicide.

The report also found the crime scene was totally compromised instead of having been protected and secured by the police authorities. ***The analysis of the rope [azaar band] had shown that it was not handled by one person.***

The report found partial DNA of some unknown source on the rope. The samples collected by the PFSA after 2nd February's exhumation of Kamran Faisal's body had shown multiple signs of torture on his body before death.

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The report narrated signs of pre-death tortures on the left side of his neck right underneath the rope knot, right upper arm, lower part [just above wrist] of right forearm post-erolate side, right wrist anterior side, right wrist posterior side, forehead and left side of neck.

The report said when the PFSA experts approached the Islamabad Police to get the scene-related details; they were shown, among other documents, a letter addressed to the Chairman NAB in which a request was made by Kamran Faisal to change his wing.

A medical prescription was mentioned written by Dr Azra of Polyclinic Hospital, Islamabad Dated 18.10.2012 but not given to PFSA team saying: ***"it is secret and cannot be given."***

However, against Islamabad Police's claim that Kamran Faisal was taking anti-depressants, the forensic report revealed that blood, liver, spleen, kidney and stomach contain no drug / poison. A total of 51 drugs were tested but it was found by the forensic experts that Kamran Faisal was not taking any anti-depressant.

The Punjab Forensic Science Agency [PFSA] had told that the ligatures mark found on the wrist of Kamran Faisal was ***ante-mortem (before death) indicating that the hands of Kamran Faisal were tied first then his neck was strangulated – a clear-cut case of murder not of suicide.***

On 22nd November 2013; Kamran Faisal, the NAB investigator's **death was declared as 'murder' in the Supreme Court in the light of forensic report.**

Forensic report, which was placed before the apex court the same day, declared the NAB official's death as a murder despite the alleged suicide. Justice Jawwad S Khawaja was hearing the said case. SC issued notice to Inspector General Police [IGP] Islamabad Sikandar Hayat for consulting Attorney General in order to commence thorough investigation.

A media report of **18th March 2015, appeared on pakinside.com** commented:

'..... Earlier police reports claimed that he committed suicide, but later probes proved it was a murder. Faisal was an honest officer who challenged the strong political mafia of Pakistan and refused to bend down. He was investigating the RPP Scam.'

.....that then NAB Chief had called Faisal in his office, asked him to leave this case and handover it to another officer, but Faisal refused to do as he smelt something fishy.'

Kamran Faisal had got certain important evidences regarding this scam and he was about to submit it in the Supreme Court in next hearing of RPP Case, but he could not live enough to expose the evil nexus of Mafias and Politicians. His friends and relatives told that he was a very lively, energetic and optimistic officer and there was no chance of his committing suicide.

Later, forensic reports proved that he was strangled. [True verdict in Urdu: *Gala Daba Kar Mara Gaya*]. No further progress heard after November 2013's SC verdict.

He was a poor guy, selected in NAB on merit; he had no political connections; he was not related to some big gun of Army or General or civil bureaucrat – the FIR originally registered with Islamabad Police on 25th January 2013, then closed after the death was declared 'suicide' – might be opened again on 22nd November 2013 after SC's orders – but again closed declaring it as 'untraced'.

In Pakistan, it is not the state responsibility to provide justice to the poor or 'connectionless' – law is definitely differently applied for poor and rich.

ATTACKS ON MINORITY COMMUNITIES:

Ahmadi's Graveyard Ransacked:

On 3rd December 2012; a dozen masked gunmen said to be affiliated with the Taliban [TTP] and *Lashkar e Taiba* [LeT] broke into Ahmadi's graveyard in an elite neighbourhood of Lahore. They tied up the guard, a caretaker and about 20 visitors, and then vandalized 120 gravestones.

It was a graveyard for Ahmadis, a minority sect that identifies itself as Muslim but they are not under the Constitutional provisions in Pakistan. The vandals destroyed gravestones inscribed with Qura'nic verses; they frown on Ahmadis' using Muslim prayers. Height of intolerance prevailed in Pakistan those days.

In 2008, within 48 hours of a television broadcast featuring a popular televangelist and cleric who argued that Ahmadis should be killed, two

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members of the community were shot dead in separate incidents. In the most egregious attack to date, Pakistani Taliban simultaneously attacked two Ahmadi mosques in Lahore in 2010, killing 93 of their community.

Taking a signal from those violent incidents, many other Pakistanis were seen sidelining the minority. Earlier that year of 2012, the Lahore Bar Association banned the consumption of fruit juices produced by a so-called Ahmadi's owned company. Ahmadi in Rawalpindi were prevented from congregating during Eid.

Anti-Ahmadi sentiment has been so pervasive among Pakistanis that even members of the community who should be hailed as their national heroes were vilified. Extremists deleted the word "Muslim" from the gravestone of Abdus Salam, an Ahmadi and theoretical physicist whose work provided evidence of the Higgs boson's existence; his family had had it inscribed with "***the first Muslim Nobel laureate.***"

Dr Salam had been systematically shunned and eventually banned from lecturing at public universities in Pakistan because of his religious beliefs.

[In 1974, the then Prime Minister Zulfikar Ali Bhutto managed an amendment to the Pakistani Constitution that declared Ahmadi to be non-Muslims; he was hoping to secure the support of religious political parties in the then upcoming elections. As the Pakistani state formally became more Islamic in the 1980s, it further curtailed the minority community's rights.

Ahmadi are now prohibited by law from proselytizing, making the call to prayer, describing their houses of worship as mosques or even identifying as Muslims. In fact, in order to obtain a passport, all Pakistani citizens have to sign an oath declaring that Ahmadi are not Muslims.]

After 3rd December 2012's graveyard attack in Lahore, local police filed a case against the unknown gunmen for trespassing, intimidation and wrongful restraint.

*[Earlier on **18th August 2012**; local police had to whitewash religious inscriptions from an Ahmadi graveyard in Hafizabad, a district of Punjab — all in the name of averting bloodshed: members of an extremist organization had threatened to attack Ahmadi if the gravestones were not razed.*

On 5th September 2012; *police officials cracked 23 gravestones in an Ahmadi graveyard in Faisalabad, 2nd most populous city of Punjab, at the direct instigation of local clerics.*

As they were gearing up for general elections in early 2013, Pakistani politicians refrained from speaking out against mounting discrimination against the Ahmadi community for fear of alienating conservative voters.

Joseph Colony Lahore Burnt:

On 10th March 2013; the Chief Justice of Pakistan Iftikhar M Chaudhry took *suo motu* notice of the Joseph Colony attack and summoned the Inspector General [IGP] Police of Punjab and Advocate General [AG] Punjab to come with a comprehensive report on the incident.

Shahid Imran, complainant in the FIR registered against one Sawan Masih, told media that Sawan used to utter blasphemous remarks against the Holy Prophet [pbuh] from time to time. When it happened again on that fateful day, he told his friend Shafiq, who took out a knife and went straight to Sawan's house. This visit bore no fruit. Then, next day, he incited other men to join him in punishing Sawan.

As per complainant, the situation went out of control when people reached the spot after offering prayers under Qari Saifullah. Countless people had joined the mob, chanting slogans and throwing stones at the houses. Qari Saifullah said that ***'if they find Sawan, they must cut him into pieces.'***

The background of that *suo moto* was that **on 9th March 2013;** about 178 homes of the Christian community were ransacked and set on fire in Joseph Colony, a residential region of Lahore, by an angry mob over alleged blasphemy committed by one Sawan Masih. Soon after, over 3000 people allegedly involved in the incident were arrested from different areas of Lahore. Meanwhile, protests were held across all Pakistan against that ransacking and burning homes belonging to the Christian community.

Ordering a judicial inquiry, Punjab Chief Minister Shahbaz Sharif said the arsonists would be tried in anti-terrorism courts for their 'barbaric' acts - SSP Sohail Sukhera and SP Multan Khan were immediately made OSDs, whereas the DSP and SHO of the area were suspended. Protests broke out, following the incident, in major cities like Lahore and Karachi.

In protest to the ransacking and burning of homes in Joseph Colony, ***the minority MPA Pervaiz Rafiq resigned*** from his seat in Punjab Assembly

saying that the government had failed in providing security to minorities. Business tycoon, Malik Raiz, the former Bahria Town Chairman asked the Punjab government to give necessary approvals and permission to rebuild the homes of the Joseph Colony tragedy. The new homes were to be rebuilt free of cost and the reconstruction process was aimed to be completed within 45 days.

The protesting community had refused to accept food offered by the provincial government and barred rescue workers from carrying out their activities, demanding the administration that the perpetrators be pushed behind the bars. The residents had not heard the Provincial Minister Rana Sanaullah and Hamza Shahbaz when the two visited them. The federal government announced Rs:500,000 as compensation for each affectee of Joseph Colony whose home was burnt.

As per detailed report, 178 houses were plundered and burnt in that particular incident [*police put the number of houses set aflame at 25*]. The inhabitants fled for their lives, their children in tow; windows were smashed and burnt, valuables were looted – not a single house in the colony was spared. The mob destroyed everything. ***'They [the mob] were laughing as they destroyed everything'***, one woman cried.

A few days after the tragic incident, the colony's rehabilitation work started. The houses were being re-built from scratch. The entire colony smelt of garbage, filth and burning wood and plastic. Tents were set up throughout the neighbourhood – a majority of which temporarily housed four to five family members, cramped in, sitting on broken furniture, humbly accepting whatever food and supplies were being distributed by individuals, aid organizations and members of the civil society.

However, Aftab Sultan, the Punjab Police Chief, had assured action against those officers for complete negligence and failure to protect Joseph Colony's residents. While the traumatized families of the colony struggled to get their lives back together following the harrowing incident, in a bizarre and unfortunate turn of events, ***many cheques issued to the victims by the Punjab government bounced*** as soon as they were issued; [***the Pulse dated 5th April 2013*** is referred].

More than 200 lives were lost during the past five years in Lahore alone during attacks on minority communities including the Ahmadis, Christians and Shias. Seven members of a Christian family were burnt alive in the Gojra incident in 2009 after violence erupted in the town over the alleged desecration of the Holy Quran.

[Later; the desecration allegation did turn out to be false eventually but the provincial government took no concrete steps then to root out the problem. Some militants were apprehended but the cases were later dropped after the counter FIR's were filed naming members of the affected community for rioting.]

Ten months later, the attackers targeted an Ahmadi mosque in Garhi Shahu area of Lahore killing around 80 people belonging to that minority community. In December 2012 unknown gunmen desecrated Ahmadi graves in Lahore in an act of intimidation and hatred against the fraught community.

Later reports divulged that the local police had told the Christian residents of that small neighbourhood in Badami Bagh to evacuate because they feared an attack — the night before it actually occurred. However, the investigation officers of Police could not un-earth the real culprits behind that heinous crime though their fellow-men knew it.

A more important fact here: as also highlighted by the media in the wake of the Badami Bagh attack, no one could be held to account for the devastation wrought on another Christian community in Punjab several years ago, in *Shantinagar*.

Shanti-nagar, Gojra and then Joseph Town incidents; for mob violence to break out in Lahore in such modern age, when the provincial government was touting metro buses and laptop schemes and 'futuristic' solutions to the province's myriad problems, was a measure of just how misplaced the PML[N]'s priorities were.

The PML[N] termed it as a national malaise because in Dadu district of Sindh, ***a man was burnt to death by a mob after he was accused of blasphemy***; how unfortunate it was.

During the same days, another situation in Lahore could be seen where a group of right-wing activists was seen celebrating the conversion of a Hindu boy; the Punjab government had to use local political influence to defuse the situation to end the provocative demonstrations.

The fact remains that rioting, carnage and arson did not happen overnight. There was a build-up to it over several days during which an incitement campaign was in progress. The story of alleged blasphemy committed by Sawan Masih was doing the rounds for a few days. The matter reached the local police station, Sawan was apprehended and an FIR was registered.

That should have been the end of the matter, leaving it to the law to take its course.

[GOJRA INCIDENT: *A similar blasphemy incident of alleged desecration of the Holy Quran was triggered in 2009 in Gojra, which later proved to be false. These resulted in the deaths of eight Christians including four women and a child and many houses were burnt down by charged mobs that could not be controlled by the ill-equipped, ill-trained and out-numbered police personnel.*

*The Gojra attacks came just three weeks after **a mob had attacked 100 houses belonging to Christians in Kasur District**, destroying many of them after a blasphemy charge. Nadeem Anthony, a member of the Human Rights Commission of Pakistan, believed that there had been a link between violence against Christians and the US-led war in Afghanistan; the Muslim mob in Gojra called Christians "America's dogs".*

According to Minority Rights Group International, Pakistan was ranked the sixth most dangerous country for minorities in 2008; it was ranked after Somalia, Sudan, Afghanistan, Iraq and Burma.

Reportedly Mukhtar Maseeh, Talib Maseeh and his son Imran Maseeh had desecrated the papers inscribed with Qur'an verses at a wedding ceremony. A case was registered under section 295-B of the PPC against the three without any arrest.

On 1st August 2009; *forty houses and a Church were set ablaze by a mob of youths who had their faces covered with veils. **The eight victims were all burnt alive** and 18 others were injured while the police stood aside when the mob went on the rampage.]*

Since then, around 14 other incidents of religious incitement of various magnitudes had been reported in several parts of the country till that Joseph Colony incident.

The hate campaign in Joseph Colony kept simmering and then exploded. The culprit was already behind bars and under investigation. Here again, like at Gojra, the police had stood aside helplessly as silent spectators.

Joseph Colony is situated on land owned by the Lahore Municipal Corporation' comprised of unplanned shanty houses constructed by homeless and poor people of the Christian community and living there over

decades. It is located in the heart of an industrial area where the land is very valuable. Reportedly, the incident originated from a personal altercation between two people, one Muslim and the other Christian, which was transformed into blasphemy allegedly with ulterior motives.

The Punjab government established a field camp immediately; food and shelter were provided with a minimum of delay. Dozens of arrests were made of rioters, out of which **54 were identified from the video footings** awaiting further legal action. The focus stayed with the miseries of the displaced persons and the injustice meted out to the poor minority. The peaceful protests staged by the Christian community in several cities in sympathy with the victims raised voices for equal rights as citizens of Pakistan. The media played its part in creating the awareness.

On 11th March 2013; the Supreme Court of Pakistan rejected the Punjab government's report on Joseph Colony incident in Lahore's Badami Bagh.

A 3-member bench, headed by the CJ Iftikhar M Chaudhry, hearing the **suo moto case** rejected the report because it did not mention the reasons behind the incident or what action had been taken against the perpetrators. Justice Sh Azmat Saeed and Justice Gulzar Ahmed were the other two members. The initial report of the incident was presented by the Advocate General [AG] Punjab.

The question remained that why precautionary measures were not taken if there was information pertaining to the attack. The AG informed the court that it was not a land grabbing case; the mob attacked due to an alleged blasphemy.

The said matter, however, could not proceed further because allegedly the Punjab government was going to be the ultimate responsible for negligence. **As the CJP Chaudhry had special soft considerations for Sharifs so the issue was kept buried in the SC files.**

DISCRETIONARY FUNDS CASE IN SC:

On 28th June 2013; the Supreme Court of Pakistan [SC] summoned former Prime Minister Raja Pervaiz Ashraf on 16th of next month to explain his position in the alleged misuse of development funds in discretionary way. CJP Chaudhry headed a 3-member bench of the SC. During the course of hearing CJP remarked:

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".....as if the destiny of the country would never change and we would continue to pursue status quo. Those pleading truth should block all the ways of corruption. Law does not favour any one and it makes no distinction between rich and poor. Nothing is known about the schemes and money was distributed lavishly.

Former PM [Raja Ashraf] included passers by in his charity. Had it been known to us we would have sent some persons in jail. Releasing funds on the basis of acquaintance is discriminatory treatment.

Persons who were favoured in several programs were favoured again. Senators and public representatives reaped their share generously. Wherever we touch, springs of corruption sprout. As if fate of this country will never change and we continue to pursue rut. "

[While passing those remarks on corruption, CJP Chaudhry had not peeped into his own home where Dr Arsalan Iftikhar was collecting a fortune of Rs:900 million by selling his father's name.

The CJP had also lost sight of undue favours he had extended to PML[N]'s politicians through his own person and via Kh Sharif, CJ of the Lahore High Court; **'Judges & Generals in Pakistan' Vol-I & Vol-II** are referred]

Justice Ejaz Chaudhry had remarked:

".... Election Commission was sleeping that government continued spending and providing billion of rupees to its candidates. This is deceit with democracy.

Only one party was given benefit and loss was caused to all others. Money was provided to those who were to contest election and they even devoured the pension funds of the poor people".

The concerned officers appeared before the court in the meantime. The CJP observed Khan Nawazish spent the money in his respective constituency; Javed Malik Islamabad and Ghulam Murtaza Satti spent Rs:30 million.

Justice Ejaz remarked this all was done **on 13th March 2013**. CJP remarked; "tell us some standard; we will see its legal position. Law is

enacted for such works. What course they are treading. Prime Minister orders should not come."

Justice Ejaz remarked:

"...two XENs defied court's orders. Case be sent to FIA. All wrong is done on one telephone call. If government does not want to save national wealth then you people should separate from it."

CJP remarked that the bench would send the case to FIA and if it was proved then action would be initiated against all. The bench observed:

"Corruption amounting to Rs:43 billion was committed in EOBI. They devoured the pension funds of the poor people. Notice is issued to former PM Raja Pervez Ashraf. As far as other persons are concerned they will be seen on next hearing. Notices be issued to all these people and copy of the decision be sent to them. Notice be also issued to Auditor General Pakistan office.

Court will issue orders in respect of those members of assembly who took advantage of prime minister discretionary funds, obtained money and spent it. Prior to it they and notables will be heard.

No amount will be released under Peoples Works Program No 2 in the meantime. Attorney General should make complete review of the whole matter in terms of its back ground and file reply with court within two weeks."

On 16th July 2013, the 3-member bench of the SC, under the chair of CJP Chaudhry, again heard the above said case pertaining to use of discretionary funds and development schemes in Raja Pervez Ashraf's tenure as prime minister.

The court ordered action to be taken against those who approved the non-transparent development schemes after reviewing all the projects. The order also stated that all the development schemes be reviewed to ascertain whether rules were followed or not. The court ordered an evaluation of all the incomplete schemes to ascertain whether they were in public interest.

Despite all the pump and show from the apex court, no progress was ever heard in that that case – perhaps it also ended in ***tain...tain...phish.***

SC ON LOCAL GOVT ELECTIONS:

On 24th September 2013; the Supreme Court warned that if the provincial governments and the Islamabad Capital Territory [ICT] did not hold local government elections, it would pass an order for the implementation of its directives.

A three-judge bench, headed by the CJP Iftikhar M Chaudhry [Justice Jawad S Khawaja and Justice Azmat Saeed were other members] hearing local bodies' elections case, directed the provincial governments and the ICT to submit reply for not holding LB polls so far despite clear orders of the apex court. The bench held:

"When the provincial and ICT authorities can't implement the Constitution, no justification is left for them to remain in power. It is the obligation of the court to protect, preserve and defend the Constitution.

Article 5 (2) of the Constitution says that obedience to the Constitution and law is the inviolable obligation of every citizen wherever he may be and of every other person for the time being within Pakistan."

The court posed a question as to whether the elected provincial governments and the ICT were not bound by the constitutional provisions, particularly articles 5, 32, 38 (a & b) and 140-A. The bench sought reply from the authorities of the provinces and the ICT regarding holding the local government elections, before the apex court passed a final order.

The court issued notice to the Election Commission of Pakistan [ECP] to explain its responsibility regarding holding of the LG polls under 140-A (2) of the Constitution. The attorneys appeared on behalf of the ICT and the provinces categorically admitted before the bench that non-implementation of Article 32 and 140-A was violation of the Constitution.

When the hearing resumed in that morning, the CJP remarked that the provincial governments would not get a date of their choice to hold local bodies' elections. The bench was surprised to know that the Punjab government had desired for the date of 14th December but no reason was being assigned to this proposal. During the proceedings, Justice Iftikhar Chaudhry, addressing Punjab AAG Mr Hanif Khatana, said that:

'...even the military dictators, Ziaul Haq and Pervez Musharraf, also held local bodies' elections, adding if the government was not interested in holding the polls, the court would pass an order.'

The SC bench expressed dismay over the KPK government for not giving a clear date about holding the local government elections. Justice Jawwad S Khawaja also observed there was an impression that the KPK government would be the first to hold the local bodies' elections in its province, but now there was no sign of such polls was coming up in KPK. The court had appreciated the Sindh government's efforts to hold the LB polls earliest but the actual plans could not be brought forward **even after two years** – the delay was explained on one pretext or the other.

Justice Jawad S Khawaja said the court would like to hear the names of those who were obstructing the elections. While Justice Khawaja reprimanded the Khyber PK government for not delivering on its promise to conduct elections within 100 days, the CJP Ifitikhar M Chaudhry said that Sindh government was ahead among all the provinces for holding the LG elections; the on ground situation was, however, reverse.

Balochistan remained at the top where local bodies' elections were held on 7th December 2014 under the judgement of the Supreme Court; whereas the same elections in Punjab and Sindh could not be held till ending September 2015.

On 1st October 2013; a 3-member bench of the SC headed by the CJP Iftikhar M Chaudhry directed the provincial governments, Islamabad Capital Territory [ICT] and the Election Commission of Pakistan [ECP] to hold Local Government elections at the earliest in compliance with the Article 140A of the Constitution of Pakistan which says:

"Each Province shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments."

The apex court was told that the ECP had to give the dates for holding polls for each province while the provinces were on the way of completing the 'Delimitation Process' in their respective jurisdictions. ***Despite the SC orders the local elections in Punjab and Sindh were not held till ending 2015 at least.***

On 10th October 2013; the Supreme Court issued a contempt notice to Pakistan's Defense Secretary Asif Yasin Malik for not holding the local

government elections in the cantonment boards despite repeated instructions from the court; the 3-member bench of the SC, headed by the CJP Iftikhar M Chaudhry, was unusually blunt that day. The respective Advocates Generals of all the four provinces were asked to present their stance on 14th October whereas Attorney General for Pakistan [AGP] Munir A Malik was directed to act as prosecutor general in Yasin's contempt case.

[The general populace was laughing at the CJP Chaudhry's partisan approach. He had not emphasized over the general local body elections in the country since his stint in the chair in March 2009 because his most beloved party PML[N] had desired status quo – going without local body elections in Punjab.]

The show cause notice was issued under Article 204 of the Constitution read with Contempt of Court Ordinance 2003. The fact remained that on 12th December 2012, the Local Government Act 1924 was replaced by the Local Government Ordinance 2002 but could not be implemented in the cantonment areas under the PM's directives. Secretary Defence had twice given undertaking to the apex court on affidavits for holding the said local elections but could not fulfill the same.

Earlier, the apex court was informed that the committee, constituted by the PM had approved the **Cantonment (Amendment) Ordinance 2013**, but was waiting for a response from GHQ though holding of LG elections in the Cantonment areas was never a security issue.

Already controversial, the local government election issue took another turn when lawmakers in the National Assembly unanimously passed a resolution seeking delay in the polls in Sindh, Punjab and Balochistan.

[The two big parties PPP & PML[N] were making fool of the general populace by hands in glove – a clear violation of the constitutional provisions – astonishingly the resolution was moved by PTI's Shah Mahmood Qureshi.]

The Supreme Court had earlier directed the ECP to conduct the elections by 27th November in Sindh and by 7th December in Punjab and Balochistan while rejecting the ECP's appeal for more time.

According to that Parliamentary resolution, the printing of ballot papers as defined by the law could only be carried out by the Printing Press of Pakistan, a state owned press, which had shown its inability to print the ballots within the election schedule given. Whereas the printing of ballot

papers by any private printing press was not acceptable to the PPP as it would make the transparency of election process questionable.

The said resolution was signed by PM Awami Party's Mehmood Khan Achakzai, PML[N]'s Sheikh Aftab, Leader of Opposition in the NA Khursheed Shah of the PPP and MQM's Farooq Sattar.

To drive home its point, the resolution concluded on a strong note:

"The sovereign political will of this House must prevail in a democratic process of elections which has to be transparent, free and fair.

*We will not accept the polls if they are held using ballot papers printed by a private printing press - **insisting the court should refrain from interfering in such affairs.** There should be a limit for them [the courts]."*

PPP's Makhdoom Amin Fahim proposed amending the Constitution to make sure no body could interfere with the powers and authority of the Parliament and ECP. **"We [the political parties] stand united today in our stance that local body elections are not possible unless we forego required formalities."**

PTI's Shah Mehmood Qureshi held that:

"Polls should not be held in haste... PTI will not accept any rigging in the local government elections. His party would hold protests if the process was not carried out in a transparent manner."

Independent MNA Jamshed Ahmed Dasti urged that:

"The polls are not possible without proper delimitation."

MQM's Farooq Sattar said that:

"We seek a bit more time to make the process fairer—LG polls are in the true spirit of basic democracy."

Meanwhile, Railways Minister Kh Saad Rafique informed the House that the amended laws pertaining to local government elections in cantonments had been sent to the Prime Minister's Office for approval. The said laws also

included that the elections must not be held under the supervision of station commanders.

On 12th November 2013, the ECP filed a review petition in the Supreme Court against its decision to reject the ECP's request seeking delay in the conduct of local government elections in Sindh and Punjab provinces. The petition was filed after the SC's Registrar declared the concise statement of the ECP not tenable on the grounds that the matter to the extent of LG elections in Constitutional Petition 77 / 2010 had already been disposed of on 5th November 2013.

A day before, the ECP through advocate Akram Sheikh had filed the concise statement seeking more time from the SC to hold LG elections in Punjab and Sindh provinces as the necessary arrangements were not complete for the polls in the given schedule. Thus the Sindh government's request for holding polls on 7th December 2013, instead of 27th November, would go impossible as the procurement of paper and printing of ballot papers were difficult even during the extended period.

In Punjab, in pursuance of the Lahore High Court's orders, elections were to be held on party basis, while the ECP had issued election schedule for that province on non-party basis, therefore, the nomination forms which were scheduled to be received by the ROs from 11th November 2013, needed amendment. Sindh province had also approached the SC for some days extension saying that:

"No one will trust the process and results of polls if local government elections held in haste in the province; Muharram-ul-Haram was also ahead. The Sindh Assembly had passed a unanimous resolution to delay the LG elections which must be honoured as provincial legislature was the collective voice of 50 million people of the province."

Though, the ECP was strictly conducting the LG elections on 7th December but the election activities were dull all around because the political parties were not in a mood to go in the polls in protest against the hastily process as well as *Muharram-ul-Haram*.