

VISIT TO TURKEY

It was in the month of May, 2016 that Justice Academy of Turkey extended an invitation to the Judges of the Federal Shariat Court to visit Justice Academy, Turkey as well as the other Courts in Ankara. Similar invitations were also extended to other Hon'ble Judges and high dignitaries. On accepting the invitation, I alongwith ten other Hon'ble members on 15th of May, 2016 reached Istanbul Ataturk and after about two hours got a connected flight to Ankara. On 16th of May, 2016 we visited the Justice Academy of Ankara. It was a wonderful experience. The academy is extended over a huge area of many acres. All the Judges who were appointed directly and those who were taken from the lawyers community got training in this academy. There was complete co-education, beautiful classrooms, all the judges were in neat dresses and a complete atmosphere of mutual respect and friendship prevailed in the Academy. The Justice Academy of Turkey is meeting the training needs of judicial profession and it has a scientific, administrative and financial autonomy. Yilmaz Akcil, a marvelous person, was President of the Academy. He gave us a brief lecture about working of the academy, the building and the atmosphere prevailing in the Academy. He was also kind enough to give us a round of the Academy. In the Academy beautiful dummy courtrooms were established in order to train the trainees as to how a court is to be conducted. We visited different classrooms. We were introduced to the students and the students were asked to put questions. On coming to know that we were Judges from the Federal Shariat Court, the first question was as to whether we were deciding cases in accordance with the book known as '*Mujallid*', which is similar book as '*Fatawa-e-Alamgiri*'. They were also anxious to know about the working of the Federal Shariat Court. When the real situation was explained to them as to how the Federal Shariat Court works, they were amazed because they earlier had a lot of misconception. In the Academy, there was a restaurant where we were served with a sumptuous lunch.

2. Turkish Judicial System is totally different from the one prevailing in Pakistan. In this respect Turkish Government is quite innovative and the Government is trying to go along with the time and face the new challenges in modern ways. In the Turkish Judicial System, Courts have been divided into Courts of Civil Law, Courts of Criminal Law, Administrative Courts, Tax Court and Military Courts. Civil cases are tried in the Courts of Civil Law and criminal cases are tried in the Courts of Criminal Law. Appeals against the decisions of these Courts are filed before the District Courts of Appeals and the final appeal lies before the Court of Cassation. Similarly in the case of administrative jurisdiction, cases are originally instituted in the Administrative Courts and Tax Courts. Appeals are heard by District Administrative Courts and the final appeal lies before the Council of State. Probably the same is the case with the Military Courts but we could not visit any such Court. If a dispute arises between the Court of Cassation and Council of State, the same is decided by the Court of jurisdiction disputes and Constitutional Courts.

3. After completing the visit of Justice Academy, we visited Constitutional Court. The head of Constitutional, Cassation and other Courts are known as Presidents which is basically a substitute word for the words Judge or Justice. As such in Turkey there are three Supreme Courts. Constitutional Court of Turkey is presently headed by the Hon'ble Mr. Zuhtu Arslan. The Court is established in a huge and beautiful building. This constitutional Court is established to carry out the constitutional jurisdiction, however, recently Turkish Constitution has been amended and now Constitutional Court also entertains individual applications against human rights violation. An appeal against the judgment of Constitutional Court also lies before European Union Court. This new jurisdiction is almost similar to our Writ Jurisdiction but we were told that the decisions on the applications does not take much time. The Hon'ble Mr. Zuhtu Arslan was kind enough to spare time to meet our delegation, exchanged views and apprised the

delegation regarding the working jurisdiction and building of the Constitutional Court. We were taken to different parts of the building. The Constitutional Courts have got other duties as well, as it can scrutinize a law prevailing in Turkey as to whether it is in accordance with the Constitution or not. Senior public officers are also tried by the Constitutional Court in case, any of them commits crime while on duty.

4. On 17th May, 2016 in the morning we visited the Ministry of Justice. We had a useful discussion with the Government Officials. It seems that probably the judicial budget remains under the control of Ministry of Justice and probably the appointment/promotion of Judges is also carried out by the Ministry of Justice. However, we were informed that Ministry of Justice has got no role in the judicial workings in any Court in Turkey. All the Courts are quite independent in making decisions. The meeting ended on an exchange of good wishes.

5. On the same day in the afternoon we visited the Court of Cassation. The Court of Cassation is also Supreme Court and, as stated earlier, it is a Court of last resort to conduct the appeals/reviews for the decision finalized by the civilian ordinary Courts. The President of Court of Cassation was Hon'ble Mr. Ismail Rustu Cirit. He was a nice person and perfect gentleman. He was quite anxious to know about the Judicial System of Pakistan, particularly, the jurisdiction of the Federal Shariat Court. When his doubts were cleared and he was informed that the Federal Shariat Court is like any other modern court in the world, he was quite pleased and clearly stated that his misconception has been removed. We had a useful discussion and exchange of thoughts.

6. Thereafter we visited the Council of State. The President of the Council of State was Hon'ble Lady Zerrin Gungor. She had a calm, composed and marvelous personality. She was kind enough to welcome the delegation and apprised us of the working of Council of State. This Council of State is situated in a marvelous

building. Since I have already stated about the jurisdiction of the Council of State, so there is no need to reproduce the same here. It is, however, important to note that even the President of the Council of State had doubts about the jurisdiction of Federal Shariat Court in Pakistan. She was quite anxious to know as to how the cases are decided in the Federal Shariat Court and as to what is the jurisdiction of the Federal Shariat Court. All these dignitaries were told that Pakistan is a Federal Republic where we have got parliamentary system and like any other democratic country of the world Pakistan also works as a parliamentary democracy. There is, however, one difference that Parliament cannot pass any law which is against the Injunctions of Quran and Sunnah. If any person feels that a particular law is against the Injunctions of Quran and Sunnah then the same can be challenged before the Federal Shariat Court. The Court, after hearing the parties as well as Ulema, can give a decision as to whether the challenged law is in accordance with the Injunctions of Quran and Sunnah or not. With the exception of this, there is no other difference in Pakistan and any other democratic country of the world. In such a way the misconceptions of all the dignitaries in Turkey were removed.

7. On the same day i.e. 17th May, 2016 we were invited by his Excellency the Ambassador of Pakistan in Turkey Mr. Sohail Mehmood for dinner. The informal gathering followed by sumptuous dinner would cherish in our memories for a long time.

8. On 18th May, 2016 we visited the Court House in Ankara. It was a huge building and on the upper storey there were offices of the Prosecutors. We were told that in Turkey if any crime is committed, the police reaches the spot and immediately informs the Prosecutor, the Prosecutor then informs the police as to what are the things required to be collected as evidence. Mostly the evidence is conducted through video-conference. The whole system is connected through net-working and even the President of Supreme Court can see as to what is happening in any court in Turkey. In every Court there are three Judges and in front of each Judge a lap-

top lies and almost the whole case is on the lap-top. In such a way, the cases are conducted in the minimum possible time and there is also reduced expenditures. The Courts were neat, clean and spacious. Since the Courts were on vacation so we could not see any trial. However, the visit was quite informative and it was a delight to see a different Judicial System. This was the end of our touring in Ankara and the same day we left for Istanbul.

9. It is always good to compare our system with the systems prevailing in other countries as the same provide us opportunities to search out new ways for the solution of our problems. It also provides us opportunity to take steps forward and get out of the state of stagnancy. Looking at the visit in this way I feel that it would not be possible for us to adopt the whole Turkish System and implement the same in Pakistan, nevertheless, we can take benefit from their net-working/computerization programme. The study programs of their Justice Academy can also be of great benefit to our Academies. In this respect some joint ventures may also prove to be useful in many ways. I also invited all the Hon'ble Presidents including the President of the Academy of Justice to visit Pakistan so that they may also see the system prevailing in our country and, particularly, see themselves as to what is the jurisdiction of Federal Shariat Court and how it works.

Dated, Islamabad the

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Islamabad