ISLAMABAD: Chief Justice Tassaduq Hussain Jillani on Friday stressed the judiciary’s role in promoting a culture of tolerance in Pakistan.

“The judiciary has a role to play by effective enforcement of law because we believe that it is the law that liberates an individual, a society or a nation. The judiciary through its verdicts can also promote the values of trust, of tolerance, of protecting minorities and the weaker sections of the society,” he said while addressing the inaugural session of International Judicial Conference 2014.

The chief justice said Pakistan like other transitional democracies had had its share of societal conflicts, reflecting the sectarian, racial, ethnic and political divides. He added that these conflicts had led to violence.

“Protection of minorities is not only amongst the Principles of Policy expressed in our Constitution – and, therefore a legal duty for us as Pakistanis – but is also a universal value and, more importantly, an integral pillar of Islam,” he said, adding that Pakistan had also adopted in 1995 Unesco principles on tolerance.

He said the Supreme Court had taken suo moto notice of a bomb attack on a church in Peshawar and other issues of minorities’ rights.

“These matters are highly sensitive, not only because these speak of our commitment to protecting minorities residing within the country but also because these are likely to define the parameters of the future of Pakistan as a tolerant and inclusive State,” he added.

The chief justice said the SC needed to define appropriate limits for the exercise of its jurisdiction under Article 184(3), which allowed it to directly take notice of matters of public importance emanating from a violation of any of the fundamental rights guaranteed under the Constitution.

“The Supreme Court needs to ensure that in its zeal to do good, it does not neglect to define appropriate limits for the exercise of its jurisdiction under Article 184(3).

“Anything short of that would be tantamount to encouraging frivolous and motivated petitions and subverting the purpose of Article 199, which would in turn negate the underlying intention and rationale of Article 184(3),” he added.

He said the top court should respect jurisdiction of high courts, while entertaining petition under Article 184(3) of the Constitution.

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2014 declared as ‘year of religious harmony, tolerance’ in Pakistan

CJ says judiciary has crucial role in protecting human rights, minorities

LAHORE – Chief Justice of Pakistan Justice Tassaduq Hussain Jillani chaired a high-level meeting of the National Judicial Policymaking Committee on Saturday and said that it is the need of time to improvise the laws pertaining to the protection of minorities.

Addressing the session, Justice Jillani welcomed the newly-inducted members of the committee and reviewed the recommendations made during the last judicial conference. He emphasised on the importance of introducing and implementing the laws to protect the religious minorities.

Justice Jillani shared the key issues with the policymaking committee members that were considered during the judicial conference. On this occasion, he also told the committee about the introduction of information technology in the judicial system with the help of which the record pertaining to the court proceedings will be archived along with the digital library.

The chief justice urged that the year 2014 should be declared as the year of religious harmony and tolerance which has been approved by the committee. He said that Pakistan was passing through crucial stage of history and confronting with various problems including extremism and intolerance in the society. By promoting tolerance and enforcing rights of the citizens, a harmonious society can be established, he said.

During discussion, the chief justice took serious note of delay in construction of district courts and model jail for Islamabad and observed that the recent suicide attack on district court,
The Supreme Court has learnt to bolster democracy, says chief justice

Nasir Iqbal Updated Apr 19, 2014 06:47am – Dawn National Daily Newspaper, Islamabad

ISLAMABAD: Chief Justice Tassaduq Hussain Jillani said on Friday that the Supreme Court had learned in the post-2007 era how to exert its constitutional authority to bolster and sustain democracy.

This helped not only in guarding against subversion of constitutional values but also prevented a breakdown and unseemly clashes between institutions, he said in his address to a two-day international judicial conference at the Supreme Court.

“The authority of the Supreme Court, especially under its judicial review jurisdiction, may be usefully extended to a number of areas from which it had historically maintained a distance.”
The conference is being attended by the chief justice of Sri Lanka and judges of the superior courts of the United Kingdom, United States, India, Turkey, Afghanistan, Nigeria, Libya and Nepal.

Although the chief justice did not elaborate on the “friction between institutions” and “preventing constitutional breakdowns”, he pointed out that Pakistan, like other transitional democracies, had had its share of societal conflicts which reflect sectarian, racial, ethnic and political differences.

Citing a number of cases which the court had taken up in exercise of its suo motu jurisdiction, like the law and order situation in Karachi and Quetta, the Peshawar church blast and Taliban threats to Kalash people, he said the judiciary had a role to play through effective enforcement of law because only the law liberated an individual, a society or a nation. The judiciary through its verdicts can also promote trust and tolerance. It can also protect minorities and the weaker sections of society, he added.

The chief justice said lack of governance on part of the executive burdened the judiciary and threw up new challenges like ‘judicialisation’ of political issues. And because of erosion or malfunction of other institutions, the courts increasingly have been called upon to decide issues which do not fall in their domain.

Besides, there had been a tendency for a parliamentary majority to bring in legislation which might violate fundamental rights guaranteed under the constitution, the chief justice emphasised, also highlighting gaps between the law and socio-economic demands as well as perception of role of courts in the advancement of constitutional goals. “The law may not keep pace with social dynamics. As a result the courts fill the gap,” he said.

Justice Jillani also touched upon the emotive issue of missing persons, but said that although the judiciary was fully cognisant of, and sympathetic to, the plight of families of the missing persons, it must resist the urge to step beyond its constitutional limits.

“I commend this restraint because it is my conviction that even in the direst of human rights cases, the Supreme Court must remain conscious that its actions are not limited to a single time and space but become a source of jurisprudence for years to come.

“Even a seemingly small move outside the bounds of law has the potential of opening up wide cracks in the edifice of certainty and reliability of justice, which in turn may be detrimental to the very foundations of rule of law in coming years,” he said.

The chief justice said that although it was imperative that the Supreme Court exercised suo motu power to reach out to those who might feel handicapped in reaching out to it, “we are also cognisant that this power has to be exercised fairly, equitably and judiciously so that the integrity of the mainstream system is not compromised”.

Justice Jillani also shed light on the role of judiciary in promoting a culture of tolerance and said the protection of minorities was not only amongst the principles of policy expressed in the constitution but also an integral pillar of Islam.

Besides judges of superior courts, US Ambassador Richard Olson, rights activist Asma Jehangir, Amina Masood Janjua, who is campaigning for the cause of missing persons, and a representative of transvestites, Almas Boby, attended the function.
A gentle but firm face of the judiciary
Chief Justice Jillani might appear different from his predecessor but holds the same values

April 13, 2014 – The Nation Editorial

ISLAMABAD - Salman Masood - Chief Justice Tassaduq Hussain Jillani appears to be an antithesis of his predecessor Iftikhar Muhammad Chaudhry. Justice Jillani has a gentle and mild demeanour compared with the steely facade of the former chief justice. It has been almost four months that Justice Jillani has assumed the mantle at the white marbled building of the Supreme Court, which post-2007 has emerged as a major power player in the country’s body politic. Justice Jillani has restrained from the excessive use of suo motu, a practice so excessively used by Chaudhry that it eventually become controversial. Justice Jillani has also shied away from media spotlight, a stark contrast to the display (and want) of pomp and show that was the hallmark of Chaudhry’s tenure. There has been no attempt by the chief justice to emulate the style of his predecessor, no confrontational outbursts against the executive. But scratch beneath the delicate surface and one finds the same resolve to uphold the independence of judiciary and supremacy of constitution that came to define the lawyers’ movement and subsequent Chaudhry tenure as CJ.

In what can be seen as the first major public address, Justice Jillani earlier on Friday laid out his vision when he spoke at a function marking the retirement of Justice Khilji Arif Hussian in Islamabad.

In essence, it was no different than Chaudhry’s.

Justice Jillani vowed to protect democracy and enumerated on the number of challenges that the country faces — terrorism, violence against minorities and abysmal human rights conditions — and stressed that the Supreme Court, which he described as a pillar of the state, will stand tall and firm to address these daunting problems. Justice Jillani reiterated that the constitutional
demarcations, as enshrined in the constitution, must be respected and any overstepping will not be tolerated. More importantly, Justice Jillani warned against curbing of civil liberties in the name of national security. At a time when most of the opposition political parties are clamouring against the Protection of Pakistan Bill, the statement by Justice Jillani is indeed important. Opposition politicians have termed PPB a ‘gross violation of fundamental human rights’ and vowed to block its passage through the Senate. The Chaudhry court gained its initial fame — and some would say invited friction with the military — when it took up the case of enforced disappearances. The security forces, on their part, have long rued the weak prosecution system and lacunas in the legal framework as factors that let militants off the hook easily and escape accountability. Such holes must be plugged but any such legislation must not trample over basic civil liberties — and Justice Jillani rightly pointed out that there is need to strike a proper balance between individual rights and security of the state.

This urge for balance seems to be the driving force behind Justice Jillani’s tenure, which is subtly reorienting the court from being ‘individual-specific’ to ‘institution-specific’.

Each chief justice endeavours to leave a mark and ensure a lasting legacy. Justice Chaudhry gave the court a populist appeal and resolutely defended its independence and autonomy. Justice Jillani, as was evident from his speech, plans to carry the same legacy forward, in his own style and subtle tenor, but he would also do well if he ensures that justice is properly dispensed at the country’s overburdened and under-performing lower courts, which are rife with corruption and inefficiency. Till that time, the story of judicial independence and achievement would remain unfulfilled and incomplete.

_The writer is Resident Editor, The Nation in Islamabad._

This protective role, the chief justice said, was the most sacred duty of all courts, particularly of the Supreme Court. “We have to protect the constitutional values of democracy, of religious tolerance, of human dignity and providing inexpensive and expeditious justice.”

Justice Jillani said the enforcement of rule of law was an unending struggle as the constitutional pledge of independence of the judiciary. He said the country was passing through difficult times, facing the menace of terrorism and an existential crisis. “As our country faces a multitude of battles; against terrorism; against sectarian violence and ethnic cleansing of minorities and on weakened rights for women and children, it is our duty, as a pillar of this state, to hold fast to belief in the seminal values of the rule of law, of human dignity, of tolerance and of compassion,” he said.

"We have to protect the constitutional values of democracy, of religious tolerance, of human dignity and providing inexpensive and expeditious justice.

Chief Justice of Pakistan Tassaduq Hussain Jillani

The chief justice said that the judiciary needed to strike a proper balance between the conflicting values of national security and individual rights. “Such [individual] rights cannot justify undermining the national security. There is an element of nihilism in the violence that we see. Fundamental rights exist only in a state where the rule of law under the Constitution reigns supreme.”

He said the apex court in its endeavour to strike a balance between the conflicting values often attracts criticism from both sides. “Those standing for human rights may contend that the court gives too much protection to security and ignores human rights; [while] those who speak of security concerns may allege that the court is tilted towards human rights rather than security. These comments should not deter us to uphold the rule of law and the canons of democracy,” he added.

LAHORE- Chief Justice Tasadduq Hussain Jillani said education is the best weapon to protect sovereignty and freedom. Addressing a function at Lahore University of Management Sciences today, he stressed the need for qualitative law education to make the legal system more vibrant.

He urged the government to focus on the education of law in consultation with the circles concerned. Justice Jillani said that education was one of the fundamental factors in socio-economic development of the society. Even today only 1.9 percent of GDP is being spent on education in Pakistan whereas UN’s minimum benchmark is 4.5 percent.

The CJ said the absence of rule of law gives rise to a collective sense of despair and injustice which leaves a negative impact on the development of the society. A society plagued by inner fissures, lawlessness, uncertainty and corruption is bound to decay. The rule of law, which is one of the most vital characteristics of an effective judicial system, finds its place in the eight essential components of good governance as defined by the United Nations. Later, Chief Justice inaugurated the Sheikh Ahmad Hassan School of Law.