WHITE PAPER ON THE PROCESS OF JUDICIAL APPOINTMENTS TO THE SUPERIOR COURTS AND PROPOSALS FOR REFORM[1]

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[1] This Paper has been released as part of a continuing dialogue towards a better system of judicial appointments and, as such, the proposals therein are neither meant to be exhaustive nor definitive but seek to spark a long-needed discussion inside and outside the legal fraternity. Moreover, insofar as it represents a collaborative and negotiated exercise between all the co-authors, the proposals may not fully reflect the views of any one of them.

PART 1: PROPOSALS

A) Bringing transparency and objectivity to the process of filling judicial vacancies

1. The Constitution only sets minimum eligibility standards for appointing HC and SC judges and leaves far too vast a discretion with the JCP. Guidelines to structure that discretion are necessary. The JCP Rules should, therefore, be amended to provide as follows.

2. Save for reasons to be recorded, at least 15% of all future appointments to the High Courts ['HCs'] should be women and at least 5% should be minorities. Consideration may also be made to ensuring that ethnic diversity within a province is reflected, as far as reasonable, within its judiciary.

NB: Alternatively, it can be specified that in proposing names for appointment to the HCs, all JC members shall have regard to the desirability of ensuring gender, religious and ethnic diversity is reflected in appointments and in the event two candidates for High Court appointments are of roughly equal strength, the candidate that enhances diversity shall be preferred.

3. Lawyers proposed for judicial appointment must possess at least 20 independently argued reported judgments in leading law journals to their credit.

NB: Surely, candidates for HC appointment can be expected to exceed standards currently required for enrolment as an SC advocate? As a condition for judicial accreditation, all law journals should be directed to maintain an editorial board nominated by the JCP comprising at least one retired judge and one leading academic and one senior advocate to ensure only report-worthy judgments are published. Better gate-keeping will ensure the number of reported judgments is a meaningful marker of quality for both judges and advocates.

4. Rule 3 of the JCP Rules permits only the concerned Chief Justice to propose candidates for appointment to a HC. Instead, every JCP member should be allowed to nominate one candidate for each available HC vacancy. Any candidate who receives at least 3 nominations should be placed before the entire JCP for consideration.

NB: Nothing in the Constitution restricts the right to nominate candidates for judicial vacancies to Chief Justices alone. The JCP can only properly assess merit if <u>all</u> suitable candidates can be compared side by side. If Chief Justices do not nominate (whether willfully or due to oversight) otherwise suitable candidates capable of winning the confidence of a majority of the JCP; the constitutional intent of reposing trust in the <u>collective</u> wisdom of the JCP shall be defeated.

5. The SC is a federal court and its federal character should be reflected in its composition. More importantly, there should be roughly equal advancement prospects in the career path of provincial HC judges. This necessarily involves reserving quotas.

Presently, the sanctioned strength of the various HCs is:

LHC = 60; SHC = 40; PHC = 20; BHC=11; IHC=10[2]

[2] As per this ratio, LHC should have 7.23 seats in the SC; SHC should have 4.82 seats; PHC should have 2.41 seats; BHC should have 1.32 seats and IHC should have 1.20 seats. Since, it is possible for the strength of HCs to be changed through provincial legislation, the JCP Rules should clarify that any such amendment shall not affect the quota being maintained in the SC unless the JCP considers appropriate to amend the same.

After rounding off, the proportionate ratio in SC would be 7 seats to be filled from the LHC; 5 from the SHC; 2 from the PHC and 1 each from the BHC and the IHC. This leaves 1 seat which can be filled as set out in paragraph 8 below.

NB: In theory, there are no provincial quotas in the SC. In practice, quotas are mostly respected (with minor deviations). Even in the most recent case, who decided Justice (R) Faisal Arab's seat should only be filled from the SHC and why was Mazhar J. only compared with other SHC judges? Similarly, why is Ayesha Malik J. only being compared with other LHC judges? If the criteria was merit alone, why not assess the comparative merit of all High Court judges throughout Pakistan? In actual fact, the JCP only starts its deliberations after an unwritten decision to reserve the vacancy to candidates from a particular HC. Instead of maintaining unspoken quotas (which are liable of arbitrary variation and abuse); far better to be transparent.

6. Candidates for SC elevations should be drawn only from the most senior HC judges (i.e. the top 20% of every HC). This would invariably mean the top-12 judges of the LHC, the top-8 of the SHC, the top-4 from the PHC and the top-2 from the BHC and IHC.

NB: In theory, any HC judge with five years judicial experience can be appointed to the SC. In practice, the comparative merit of all eligible judges is never assessed by the JCP. Rather, a fairly arbitrary decision to reserve consideration to only the top two, three, four or five judges of a HC (depending on the seniority of the judge nominated by the Chief Justice) is taken. There needs to be greater clarity in defining the pool of eligible candidates.

7. Whenever it is proposed to fill a SC vacancy from a particular HC, all eligible judges in that HC (as per paragraph 6 above) should be nominated and their record and judgments placed before JCP for side by side comparison.

8. The one extra SC seat mentioned in paragraph 5 above can be filled by direct appointment of a lawyer of outstanding merit on a Pakistan-wide basis.

NB: Despite constitutional provision for direct appointment of lawyers – only judges (serving or retired) have been appointed to the SC. Some outstanding lawyers, unwilling to join at the HC level, would be keen to join the SC. Their appointments would add a fresh perspective and jurisprudential diversity to the bench. Since it is impossible to compare the like-to-like merit of lawyers against judges, it makes sense to have at least one seat in the SC reserved for lawyers.

All JC members should be permitted to nominate one lawyer for such seat. The record of any lawyer who receives the nomination of at least 2 JC members should then be placed before the entire JCP for consideration.

10. JC should meet at least once a month to ensure vacancies are rapidly filled. Not only do large numbers of vacancies kept over a long period impact the rate of judicial work but also give rise to lobbying, trade-offs and quid pro quos.

11. All candidates must be interviewed by the JC and the interview should be recorded and be publicly available.

NB: Presently, JC members rely far too much on hearsay. Weak candidates are selected because they are strongly favoured by one JC member who successfully convinces the others. This would be harder if candidates were interviewed before the entire JC. There is no "loss of dignity" for anyone involved especially since the JC comprises people at the apex of the legal profession. These interviews should be publicly available. Transparency breeds trust and one can expect JC members to maintain the dignity and decorum of the process whilst simultaneously respecting the people's right to witness the capabilities of candidates. It would also act as check on the discretion of JC members.

B) Bringing transparency and objectivity to the assessment of merit

1. These proposals are primarily focused towards the comparative assessment of HC judges being considered for appointment to the apex Court. There are three separate interests to be safeguarded here.

a) Firstly, the process should allow, as far as possible, an objective assessment of merit and performance. Even in areas necessarily involving a subjective assessment of the candidate, the assessments must nonetheless be reduced to a quantitative score by the JCP member so as to allow meaningful comparisons with other candidates.

b) Secondly, candidates (especially those being considered for the apex Court) should be aware what areas of judicial performance they shall be assessed in so they can work towards improving their performance accordingly.

c) Thirdly, the areas of assessment and the methodology of assessment should be as transparent as possible so as to promote public confidence in the process and reduce the likelihood of rancor or resentment among persons passed over.

With this in mind, the JCP Rules should be amended to provide as under.

2. Eligible candidates for the SC should be ranked by awarding a composite candidate score (CCS) to each candidate. The CCS shall be determined by combining the following scores:

a) Seniority: (Total points to be awarded: 25)

The most-senior judge would get 25 points. The second would get 20 and the third 15 and so on.

b) Merit: (Total points to be awarded: 70)

The methodology for deriving the merit score for each candidate is explained below.

c) Diversity: (Total points to be awarded: 5)

Women and religious minorities to be awarded an additional 5 points.[3]

3. The overall merit score of each candidate should be derived by aggregating their *objective* merit score and their *subjective* merit score awarded on various aspects of judicial performance.

4. The assessment of a judge's merit should aim to measure the following ten qualities:

a) **Legal ability**; encompassing:

[3] There are presently only two senior HC judges in Pakistan. As such, it makes no sense to have a women's quota in the SC as yet. Better to reserve a quota and induct them in greater numbers in the HCs.

i) A deep understanding of constitutional jurisprudence and at least one of the practice areas of law most commonly encountered in our Supreme Court i.e. Judicial Review; Civil Law; Criminal Law; Tax/Revenue and Service Law).

ii) A broad familiarity with diverse areas of law.

iii) The ability to articulate the law clearly in judgments.

b) **Professionalism**; encompassing:

i) Efficiency in the hearing of cases and delivery of judgments.

ii) Ability to conduct the court with respect and courtesy to litigants, lawyers and other judges whilst maintaining a neutral, objective and detached demeanour.

iii) Understanding the proper role of a judge in our constitutional scheme and both the duties and the constraints thereof.

iv) Efficiency in performance of the various administrative duties required of Chief Justices and senior judges.

c) **Integrity & Independence**; encompassing:

i) Financial rectitude.

ii) Ability to decide cases as per one's own conscience/understanding of law without being influenced by extraneous considerations such as the status of parties or counsel or the recommendations/opinions of one's colleagues, friends, family or media or public.

iii) Willingness to proceed with and decide difficult and sensitive cases and enforce fundamental rights even in cases involving governments or other state institutions/agencies or involving strong public reactions.

5. There should be a maximum total of 30 points available for the ***objective merit score*** of a candidate. The objective merit score of each candidate is to be derived by awarding him/her a score between 0 to 10 in each one of the following three categories:

a) Total number of detailed judgments/orders passed in last 3-years.

10 points to be awarded to the judge with the most judgments. All other candidate judges to be awarded points on a proportionate scale.[4] *For Chief Justices, however, the relevant assessment period would be the last 3-years before becoming CJ (to account for their enhanced administrative responsibilities and corresponding reduction in judicial work).*

b) Overall ratio of judgments/orders upheld versus judgments/orders reversed.

10 points to be awarded to the judge with the best ratio. Any judge with an equal number of upheld and reversed judgments (or worse) would receive 0 points. All others to be awarded points on a proportionate scale.

c) Total reported judgments (5-marks) + Number of times their judgments were followed/cited with approval by other judges (5-marks)

[4] For example, if the judge with the most judgments has 100 judgments and the next one has 80 judgments, the latter would be awarded 8 points.

5 points to be awarded to the judge with most reported judgments and all others to be awarded points on a proportionate scale.

5 points to be awarded to the judge whose judgments were most frequently followed or cited with approval by other judges. All others to be awarded points on a proportionate scale.

6. A total of 40 points should be reserved for the ***subjective merit score*** of a candidate. Out of those, a maximum of 30 points shall be awarded by the JCP after aggregating and averaging the points awarded to the candidate by each JCP member in accordance with the formula below. A further 10 points may be awarded by the JCP in accordance with feedback received from the relevant Bar/s as per the formula below.

a) Instead of merely observing whether a particular candidate is suitable for appointment to the apex Court or not; every JCP member shall award a score between 0 to 10 to each candidate on each of the ten judicial qualities mentioned in paragraph 4 above. Such an exercise shall compel JCP members to consider <u>all</u> of the different qualities that make a good judge and also make the process of assessment and evaluation more objective and comparable inter-se. These shall then be aggregated and averaged to give each candidate a score out of 30.

b) The final 10 points shall be awarded by appropriately aggregating and averaging the (0-10) score awarded to the candidate <u>anonymously</u> by fifty to hundred regularly practicing advocates (depending on the size of the HC concerned) in respect of each of the ten judicial qualities mentioned in paragraph 4 above.

NB: While JCP members do have access to a judge's written record in the shape of his judgments, disposal statistics and reversal rates; they lack direct knowledge of his court-room demeanour or case management or his general reputation for integrity and independence. Indeed, these aspects of a judge's conduct are far better-known to lawyers who appear before him regularly than JCP members. The latter are forced to rely, consequently, on second or third hand information shared in informal briefings by lawyers or bar representatives or others. Such lawyers/representatives/parties may, however, carry their own prejudices or biases.

A more objective method of obtaining feedback from legal practitioners is necessary. It is proposed the Administrative Committee of each HC (in collaboration with the HC Bars) should prepare a list of 50 to 100 regularly practicing HC lawyers in that province/ICT (depending on the size of the HC there). These lawyers would annually score all judges of that province on the ten judicial qualities mentioned in paragraph 4 and the resultant score would be used to award the final 10 points to candidates.

C) Reforming the composition of the Judicial Commission

1. Despite the formal existence of the Parliamentary Committee, it is the JCP that effectively controls the appointment of constitutional judges. There is a need for greater diversity of voices in the JCP.

2. Currently, the JCP comprises solely of men and unless there is reform in its composition, it is unlikely that women will become part of the Commission in the near future. This is because of the larger exclusion of women from top echelons of the legal profession in the country: all judges of the Supreme Court are men; all Chief Justices and senior most judges of the High Courts are men; the federal and provincial law ministers are men; the Attorney General is a man; and leadership of bar councils is predominantly of men. This absence – or exclusion - has an adverse impact on the credibility of the Judicial Commission and is not sustainable. It is therefore necessary to amend Article 175A of the Constitution to include more members in the Judicial Commission to allow for the participation and inclusion of women.

3. Another challenge with the composition of the Judicial Commission is the complete control of the legal profession and the effective dominance of judges. For the judiciary or the legal profession to be solely responsible for the judicial appointments process undermines the promotion of diversity and, ultimately, public confidence and transparency in the judiciary. The judicial/legal fraternity must not exist in a bubble. Furthermore, involving laypersons (such as academics and civil society representatives can bring a different perspective to the assessment of candidates' abilities) which can enhance the appointments process.

4. Article 175-A should be amended to ensure the inclusion of the following persons in the JCP:

a) Chairperson of the National Commission for Status of Women.

b) An eminent academic in the field of law and an eminent academic outside the field of law nominated by the Parliamentary Committee for a period of two years.

c) A female Advocate of the Supreme Court nominated by the Supreme Court Bar Association for a period of two years.

d) For appointment of High Court judges, a female Advocate having not less than fifteen years practice in the High Court to be nominated by the concerned High Court Bar Association at its principal seat for a period of two years.

e) An eminent journalist, businessperson, labour representative and *kissan* representative to be nominated by the Parliamentary Committee for a period of two years

PART II: BACKGROUND & RATIONALE

"*Principle 13: Promotion of judges, wherever such a system exists, should be based on objective factors, in particular ability, integrity and experience.*"

- Basic Principles on the Independence of the Judiciary: Adopted by the UN General Assembly in 1985

"*A self-perpetuating judiciary can protect judicial independence and professionalism, but it can also concentrate power within the senior judiciary, undermining the independence of individual judges and making the bench conservative, unrepresentative, unaccountable and unresponsive to the public.*"

- Elliot Bulmer (2017): International IDEA (Institute for Democracy & Electoral Assistance) Judicial Appointments

1. In England, by convention, judges to the High Court and above were appointed by the monarch on advice of the Prime Minister. Appointments were by invitation only (the posts were not advertised nor applications considered). However, in advising judicial appointments, the Prime Minister customarily followed the opinion of the Lord Chancellor (a member of cabinet and a political appointee). In turn, the Lord Chancellor would solicit the views of senior judges and law practitioners on potential candidates through off-the-record consultations known as "secret soundings" before forwarding his opinion. The system allowed almost complete discretion in appointments, kept no division between the role of the executive and judiciary and was entirely non-transparent. It could only work in a highly homogenous society where a tightly-knit elite shared and had reliably internalised certain values.

2. Unsurprisingly, the UK, along with nearly all Commonwealth nations that inherited this system of appointments, has moved onwards. To a greater or lesser degree, nearly all Commonwealth nations have introduced constitutional or statutory reforms that aim to ensure transparency, merit and diversity in judicial appointments. Pakistan is no exception and Article 175-A to the Constitution has been a significant step forward in this regard. The journey is far from complete, however; and it would be useful to take continued guidance from international experience and best practices.

3. In 2003, the heads of the Commonwealth nations agreed to the Latimer House Principles defining the respective roles and responsibilities of the three branches of government.[5] Principle IV states, inter alia, that:

> "*(a) Judicial appointments should be made on the basis of clearly defined criteria and by a publicly declared process. The process should ensure:*
>
> *equality of opportunity for all who are eligible for judicial office;*
>
> *appointment on merit; and*
>
> *that appropriate consideration is given to the need for the progressive attainment of gender equity and the removal of other historic factors of discrimination;*"

4. In 2015, after various consultations with Chief Justices and Law Ministers of the Commonwealth nations, a draft model Act for judicial appointments was framed.[6] Section 3 of this Model Act provides for establishment of a Judicial Service Commission for appointing judges. Crucially, the composition of such a Commission was not confined to judges or even legal practitioners alone since a broader range of knowledge and experience was considered desirable. Ensuring diversity among the selectors is just as important as ensuring diversity in the selected.

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[5] Annexure B
[6] Annexure C

5. The Commission proposed by the Model Act, therefore, comprises a total of five judges/judicial officers, two practicing lawyers, one legal academic and five laypersons representing various civil society bodies. Moreover, in relation to the non-judicial members of the Commission, the Model Act provided they should be nominated by the appropriate professional bodies/civil society organizations for their knowledge, expertise and independence and to broadly reflect the diversity of the community in terms of gender, ethnicity, religion and regional or social groupings.

6. Section 9 of the Model Act further elaborated criteria for the appointment of judges and required the Commission to have regard to:

a) professional qualifications and experience
b) intellectual capacity
c) integrity
d) independence
e) objectivity
f) authority
g) communication skills
h) efficiency
i) ability to understand and deal fairly with all persons and communities

Obviously, in order to ensure that potential candidates for judicial office are assessed and compared fairly, it is necessary for all assesses and assessors to be clear on what qualities they are being assessed on. The Commission was also required to consider the desirability of ensuring that judicial officers should broadly reflect the diversity of the community in terms of gender, ethnicity, religion and regional or social groupings.

7. Schedule 3 to the Model Act further prescribed that vacancies in judicial posts should be publicly advertised along with the concerned constitution/statutory eligibility requirements for the same and applications for the same should be invited. The Commission would then short list applicants and interview all shortlisted candidates before a final vote on appointment.

8. The Constitution of South Africa also envisages the establishment of a Judicial Service Commission. As per Article 178, this Commission comprises three or four judicial officers (depending on the vacancy to be filled), the Justice Minister, two practicing advocates and two practicing attorneys[7], one legal academic, six persons nominated by the National Assembly (at least half of whom must be from opposition parties), four delegates nominated by the provinces and four delegates nominated by the President. As is obvious, judicial officers do not enjoy a majority in the Commission.

9. Judicial vacancies are advertised in South Africa and the Commission invites detailed applications in a prescribed format and after examining them, draws up a short list of candidates. It also invites comments on shortlisted candidates from various different lawyers' associations. Once a unanimous shortlist is agreed by the Commission, all shortlisted candidates are interviewed by the Commission (whether they are seeking first judicial appointment or are seeking a promotion to a higher court). During the interviews (which are open to the public) all candidates are presented with the same questions to allow transparency and standardization in assessment.[8]

10. In the United Kingdom too, the Constitution Reform Act 2005 dramatically reformed the previous system of judicial appointments with a view to introducing greater transparency, merit and diversity. This Act introduced a Selection Commission for making appointments to the Supreme Court and a Judicial Appointments Commission ['JAC'] responsible for selecting candidates for other judicial offices. Vacancies are now advertised and written applications from qualified candidates

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[7] South Africa has a split legal profession and these terms are equivalent to those of barristers and solicitors in England.

[8] Annexure D-1 and D-2; See *The South African Judicial Appointments Process – Penelope Andrews, Pgs. 568, 569* and the *South African Judicial Service Commission Questionnaire*

(either High Court or Court of Appeals judges or practitioners with more than 15-years practice) are invited. The system of secret soundings has long ended. Instead, candidates for the Supreme Court are provided with an Information Pack setting out the responsibilities of the office and the specific skills that are required and being assessed. Candidates are invited to submit the Curriculum Vitae along with a written statement of 1500 words explaining how they meet the said requirements and three significant pieces of their own writing (judgments, opinions or articles) along with an explanation why those particular pieces were selected. They are also asked to provide the name of two referees. The Selection Commission invites all shortlisted candidates for interview and also asks them to make a short presentation on a legal topic (common for all candidates). The Commission also consults with other judicial and non-judicial consultees before recommending appointment to the Lord Chancellor. Gender and ethnic diversity in judicial appointments are treated as being an essential part of merit.[9]

11. Alongside this international trend towards a more transparent and objective process of appointing judges, there has also been a trend towards the continuous monitoring of judicial performance using clearly defined and objective criteria and a fair evaluation methodology. Judicial accountability, in this context, is just as important as judicial independence. Moreover, the absence of fair and objective criteria for judicial appointments (especially in appointments to the Supreme Court) are a threat to judicial independence too. As Elliot Bullmer points out (page 9, *ibid*), self-perpetuating judiciaries may actually end up undermining the independence of individual judges. Judges must be enabled to decide cases independently as per their own conscience without worrying whether their decisions shall please JCP members. As Asif Saeed Khosa J. points out, "*the real threats to independence of judiciary are from within*" and that the "*desire to seek further elevation in his status… may also weaken a judge's resolve to take a principled stance on issues… [and] the judiciary cannot become truly independent unless individual judges are able to shun and rise above such desires, fears or apprehensions*." Moreover, any degree of "*independence of judiciary painstakingly achieved can effectively be neutralized through machinations from within the judiciary itself.*"[10]

12. In 2012, the European Union commissioned a Report by the European Network of Councils for the Judiciary in relation to the Development of Minimal Judicial Standards. The Report concludes that gauging the professional performance of judges requires both quantitative and qualitative assessments and may utilize both statistical and evaluatory methods. Quantitative statistical criteria used to assess judges may include statistics such as decided cases, pending cases, average number of hearings or other procedural actions required to conclude a case, cancelled/adjourned hearings, length of proceedings, number of successful appeals against their decisions *etcetera*. This may be supplemented by qualitative statistical criteria where the decisions of a judge are appropriately ranked or weighted according to their type, subject and complexity. Evaluation of the professional performance of judges should be conducted by a permanent independent body which keeps proper records in relation to each judge so as to ensure a verifiably independent, open, fair and transparent process and allow an evaluated judge an opportunity to challenge his evaluation if he considers he has been treated unfairly.[11]

13. Similarly, the American Bar Association has recommended Black Letter Guidelines for the Evaluation of Judicial Performance which outline five basic criteria (with elaborate sub-criteria) including legal ability, integrity and impartiality, communication skills, professionalism/temperament and administrative/court/docket management capacity on the basis of which the performance of all judges should be assessed. The American Bar Association further recommends periodic review of all judges involving data collection and analysis as well as evaluations by other judges, attorneys, court staff and litigants/law enforcement/government officers *etcetera* who

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[9] Annexure E-1 to E-4; See Information Pack sent to potential candidates to fill the most recent vacancy in the UK Supreme Court following retirement of Lady Black of Derwent, two printouts from the UK Supreme Court website in this regard and the earlier Supreme Court Review of the Selection Process .

[10] See his paper "*Independence of Judiciary: The Final Frontier*" published in *Law in a World of Change; Pakistan Law House (2012)*;

[11] Annexure F; *Development of Minimal Judicial Standards-III; ENCJ*

may have has exposure to the judge. Specific questionnaires should be designed for the different types of respondents.[12]

14. It may be noted that the various High Courts in Pakistan have already developed a points-based system (albeit rudimentary) for assessing the performance of judges working in the district courts. There seems to be no reason why the same cannot be built upon with necessary modification for High Court judges especially when their advancement to the Supreme Court is to be not as a matter of seniority but primarily on the basis of "merit".

15. Judicial appointments in Pakistan have long been plagued with accusations of non-transparency, arbitrariness and nepotism. While Article 175-A was a significant step forward – it is now essential to build upon that for greater transparency and objectivity for judicial appointments at all levels.

16. This entails, inter alia:

a) clarifying who exactly is to be considered for any particular judicial office and the pool within which they shall be compared;

b) broadening the list of potential candidates;

c) clarifying the standards expected of candidates and the methodology that shall be employed to assess such standards;

d) bringing greater objectivity to the evaluation process and allowing easier comparison between candidates inter-se;

e) making the process of feedback from the bar more objective;

f) ensuring that vacancies are expeditiously filled;

g) allowing public scrutiny of at least some parts of the selection process;

h) ensuring greater gender, religious and/or provincial diversity both in those being appointed and those making the appointments.

17. As far as the last of these is concerned, it must be borne in mind that "merit", ultimately, is a construct of what we – as a collective society – believe is desirable for these positions."[13] A number of constitutions recognise the importance of diversity in the judiciary, specifically greater inclusion of women judges (but also religious, ethnic, geographical, racial and other factors depending on the context). It is now widely recognized that diversity is not an optional "extra" but a basic component of the judiciary's ability to do its job in modern society. For Pakistan, there is a need for a constitutional provision affirming the importance of a diverse judiciary and the principle of ensuring gender parity in public life, as well as the recognition by the JC in its rules of gender and other diversity as part of the criteria on which candidates as assessed.

18. In this regard, the UN Convention on the Elimination of Discrimination against Women (CEDAW), which Pakistan acceded to in 1996, obligates States to take measures to ensure women's full participation in public life. Beyond CEDAW, the Beijing Declaration and Programme of Action, adopted in 1995 at the Fourth World Conference on Women and endorsed by Pakistan, outlines that States must "*ensure that women have the same right as men to be judges, advocates or other officers of the court*" and "*commit themselves to establishing the goal of gender balance… in the judiciary, including, inter alia, setting specific targets and implementing measures to substantially increase the number of women with a view to achieving equal representation of women and men, if necessary through positive action.*"

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[12] Annexure G

[13] https://www.theguardian.com/law/2012/mar/26/rethink-merit-supreme-court-appointments

19. The accompanying proposals in Part I of this White Paper have been prepared, therefore, with the above background and rationale and in light of international best practices and standards.
