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### VIEW: Getting what you pay for —Feisal Hussain Naqvi



*Till date, we have chosen to live in a fool's paradise and have consequently suffered the universal fate of fools. Paying judges not just a reasonable amount, but extravagantly well, would be a good first step towards avoiding that fate in the future*

Chief Justice John Roberts of the United State Supreme Court is a man who inspires near-universal admiration. His nomination in 2005 by President George W Bush is remembered by many as one of the few moments in his life that Bush actually got something right.

These days, however, the halo seems to be slipping from Chief Justice Robert's forehead. The reason for this decline in popularity is simple: Justice Roberts has asked for a pay raise.

In his 2006 Year-End Report on the Federal Judiciary, Justice Roberts has laid out a simple and compelling case for the argument that the members of the federal judiciary are underpaid. He shows how in 1969, federal judges made substantially more than senior professors and law school deans but now make considerably less. As a consequence, he notes that judges in the US are now drawn more from the public sector than from the ranks of the bar.

The simple point made by Justice Roberts is that "inadequate compensation directly threatens . . . the strength and independence judges need to uphold the rule of law". And as once noted by Alexander Hamilton, "the independence of the judges once destroyed, the constitution is gone, it is a dead letter; it is a vapour which the breath of faction, in a moment, may dissipate."



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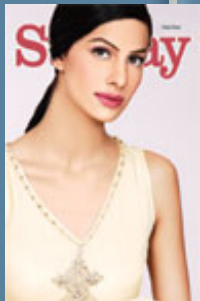
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Notwithstanding the simple logic of Justice Roberts' argument, the response to his plea for more pay has been anything but sympathetic. Instead, commentators from both the right and the left have responded by telling the judges to resign if they do not like the job.

I mention the reaction in the United States to Justice Roberts because similar efforts in Pakistan have fallen on equally deaf ears. Governments come and go — even generals come and go — but one thing always remains constant in Pakistan: judges get paid ludicrously low amounts.

The low level of judicial salaries is particularly striking when viewed in historical context. In 1899, the Chief Justice of the Lahore High Court was paid a salary of Rs4,000 per month at a time when gold was Rs10 per tola. Today, gold is about Rs14,000 per tola, so the equivalent salary for a judge should be Rs5.6 million per month. That may seem like an exorbitant figure but it is roughly what you would have to pay to a good English barrister to come to Pakistan and spend the rest of his life here as a judge.

There are standard responses to the demand for higher judicial pay. We are too poor, say some; the honour itself is enough, say others. Humbug, I say. We are poor in part because we do not recognise and reward merit.

The most potent argument against higher remuneration for judges is that Pakistan continues to be graced with honest judges of brilliance and competence notwithstanding the low levels of pay. In response, I would certainly not disagree with the fact that there are numerous individual judges, particularly in the superior judiciary, who are indeed honest, brilliant and extremely competent. However, my point is that there are a very limited number of honest, brilliant and extremely competent lawyers who are willing to give up their (lucrative) practices in exchange for a judge's robes, particularly when a judge's salary is minimal.

Pakistan has been extremely lucky in having had a number of such heroes in the past, and I use the word 'hero' deliberately. But the point here is that the number of heroes in any country is generally always finite. No country can progress if its judicial recruitment policy is based upon an infinite supply of talented, selfless and highly altruistic lawyers willing to sacrifice their professional career for little reward.

It is also very important to note that the total number of judges is very little. In the case of the judiciary, all high courts and supreme court judges put together are approximately 100 in number. Those 100 individuals get to decide every single important issue in this country. It is of the absolute and vital interest to this country's future that those 100 positions are filled by men and women of the highest professional calibre. And the best way of getting such men and women to join the judiciary is to pay them well.

Till date, we have chosen to live in a fool's paradise and have consequently suffered the universal fate of fools. Paying judges not just a

reasonable amount, but extravagantly well, would be a good first step towards avoiding that fate in the future.

*The writer is an advocate*

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