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This issue contains:

- **ARTICLE**

Legal system in the eyes of modern analytical jurisprudence

- **TAX NEWS**

Commission VP Talks EU-US Free Trade

Azerbaijan Outlines Tax Policy Priorities

Jamaica Falls in Doing Business Rankings

FBR failing despite strict taxation measures

Black marketing, tax evading cause Rs 80bn losses in 5 years

SC directs to curb arms, drugs smuggling in Karachi

Exporters urge FBR to pay refunds

The rigmarole:

Filing income tax returns...but how?

Karachi law and order:

FBR chief grilled over Nato containers

Notices to undocumented persons:

services of Pakistan Post hired for quick delivery

Provincial surplus helps MoF contain fiscal deficit

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Legal system in the eyes of modern analytical jurisprudence

by
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According to the analytical jurists, a legal system consists of a combination of rules. These rules have important functions like laying down the obligations and creating rights. There are other set of rules which recognise these rules, authorise the required change and empower legal officials to adjudicate.

Rules, creating rights and obligations, are known as primary rules and the other set of rules authorising recognition, change and adjudication are known as secondary rules. Why these rules gain importance because state is an assemblage of different institutions and these institutions are bound through a cohesive legal system. The legal system gains its authority from authorised sources and it becomes operative by imposing itself on the citizens.¹

The system rejects any tacit co-operation between law-giver and citizen and the same is seen as simply acting on the citizen, morally or immorally justly or unjustly, as the case may be. This character of system makes it a union of rules of obligation, change and adjudication. The union of primary and secondary rules may be regarded as the essence of law,² for a modern municipal legal system will combine both kinds of rules, and the secondary rule of recognition will unite all the rules of the system in that all genuine laws will satisfy the criteria of validity specified by the rule of recognition.

The secondary rule of recognition, which provides the criteria of legal validity by which the (valid) primary rules may be identified, and the same is a complex practice constituted by the actual acceptance of the rule of recognition by the legal officials.³ Compare the idea of a group habit, such as watching television late at night, with that of a social rule, such as driving on the right side of the street. Although both involve behaviour that converges or occurs “as a rule,” they differ in three respects. First, when there is a social rule, deviations generally are regarded as faults open to criticism, and threatened deviations are met with pressure for conformity. Secondly, for a social rule to exist; criticism is not only in fact made but deviation generally is accepted as a good reason for the criticism. Thirdly, a social rule exhibits an internal aspect.⁴

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¹ See H.L.A. Hart, *The Concept of Law*, Oxford University Press, (1961).

² 1d.

³ 1d.

⁴ What is necessary is that there should be a critical reflective attitude to certain patterns of
Tax Review International 2013

Those who adopt the “internal point of view” of social rules regard the rules as reasons or justifications for behaviour and for the criticism of behaviour; social rules are therefore normative, whereas group habits are not. To assert that a rule of recognition is the rule of recognition of a legal system is to say that it is accepted by the legal officials of that system. The question whether a legal system exists is a question of fact. Whether citizens generally obey the primary rules, and whether the legal officials effectively accept the secondary rules as critical common standards of official behaviour are also matters of fact.¹

Characteristics that distinguish social rules that impose obligations from those that do not are as follows: (1) rules imposing obligations are those for which the demand for conformity is insistent and the pressure against those who deviate or threaten to deviate is great; (2) these rules are thought to be important because they are believed necessary to the maintenance of social life; (3) the obligations and duties required by these rules are thought of as involving sacrifice or renunciation.²

The union of primary and secondary rules is at the centre of a legal system; but it is not the whole, and as we move away from the centre we accommodate elements of a different character. These truths about important aspects of law can, however, only be clearly presented, and their importance rightly assessed, in terms of more complex social situation where a secondary rule of recognition is accepted and used for the identification of primary rules of obligation.³

The primary rules in a given legal system are ‘duty imposing’ and can be termed as basic rules. They state that what a citizen can and cannot do within the framework of law.⁴ For example, the traffic laws prescribing the speed limits, laws prohibiting trespassing or laws prohibiting corporations from requiring their employees to make contributions to political parties. The secondary rules are power conferring rules. They state the manner in which primary rules are recognised changed and adjudicated.

Rules of recognition provide a mechanism for discovering just what is or is not a legitimate primary rule.⁵ Rules of change are necessary to

behaviour as a common standard, and that this should display itself in criticism (including self criticism), demands for conformity, and in acknowledgements that such criticism and demands are justified, all of which find their characteristic expression in the normative terminology of ‘ought’, ‘must’, and ‘should’, ‘right’ and ‘wrong’.

¹ 1d.

² 1d.

³ 1d.

⁴ Defenders of natural law such as Cicero, Aquinas, Grotius, Locke, Blackstone, Kant, and Fuller have major disagreements as to which version of natural law is preferable. Defenders of legal positivism such as Bentham, Austin, Mill, Gray, Kelsen, Hart, and Raz also have major differences with each other.

⁵ In a semi-developed legal system, the rules of recognition may be simply a reference to an authoritative text or standard for properly identifying the primary rules that have thus far been established.

efficiently allow primary rules to be amended. They specify how primary rules may be changed. For example, a constitution may provide for the mechanism through which the rules of obligation are to be amended. Rules of adjudication are intended to remedy the inefficiency of a legal system of a complex society and are intended to remedy its inefficiency. These rules set criteria for determining when a primary rule has been broken and the same provided procedure to be followed where penalty is to be imposed for the violation of the rule. These situations deserve, if anything does, to be called the foundations of a legal system. In the words of John Austin, it is the key to the science of jurisprudence given the setting of natural facts and aims, which make sanctions both possible and necessary in a municipal system. That this is a natural necessity; and some such phrase is needed also to convey the status of the minimum forms of protection for persons, property and promises which are similarly indispensable features of municipal law. It is in this form that we should reply to the positivist thesis that 'law may have any content'. For it is a truth of some importance that for the adequate description not only of law but of many other social institutions, a place must be reserved, besides definitions and ordinary statements of fact, for a third category of statements: the truth of these statements is contingent on human beings and the world in which they live in order to retain the salient characteristics which can be distinguish between morality and law.¹

Analytical jurisprudence elucidates a few cardinal features that collectively serve to distinguish morality from legal rules and from other forms of social rule.² (1) A legal rule remains important until it is repealed whereas a moral rule is believed to be important throughout, (2) although a legal rule may be introduced or eliminated by deliberate concept of law, therefore, it includes on the one hand sets of primary rules alone, such as primitive law and international law, and on the other hand, systems of primary and secondary rules united by secondary rules of recognition.³ The rule of recognition is the ultimate rule of a legal system. The criterion of valid rules include the internal questions about the validity of the rule of recognition which otherwise cannot be raised since only external questions about the existence of the rule of recognition may be asked. The secondary rules thus seem to have two different characterisations, that is secondary rules as rules which confer powers, on public or private, authorities enabling citizens to create or vary their legal relations (private powers) and enabling legal officials to legislate and adjudicate (public powers). Thus the secondary rules may all be said to be on a different level from the primary rules, for they are all about such rules; in the sense that while primary rules are concerned with the actions that individuals must or must not do, these secondary rules are

¹ John Austin, *Providence of Jurisprudence revisited*.

² 1d.

³ 1d.

all concerned with the primary rules themselves. They specify the ways in which the primary rules may be conclusively ascertained, introduced, eliminated, varied, and the fact of their violation conclusively determined.¹

The explication of the rationale for the two minimum conditions for the existence of a legal system may be divided into two parts: the first condition requires general obedience of the primary rules by private citizens and the second condition requires acceptance of the secondary rules by the legal officials. General obedience of the primary rules by private citizens is an important condition of a legal system.² It all should begin by noting difficulties which the conditions specify for general obedience of the primary rules by citizens. The second minimum condition requires officials to accept the secondary rules generally. If they do, a particular rule will be valid; if the rule is valid, it imposes a legal obligation on those subject to it because they are committed to the acceptance of valid rules in advance.

A necessary condition of the legal system is the existence of coercive power in order to force citizens to voluntarily cooperate in the system and accept its rules. In this sense, it is true that the coercive power of law presupposes its accepted authority. Therefore, the primary rules are legally obligatory because of the voluntary acceptance of the authority of the legal system. Analytical jurists argue that those who do accept voluntarily the authority of the legal system need not think of themselves as morally bound to do so as not all social rules of obligation are moral rules. The acceptance of a legally obligatory rule does not imply a moral obligation; on the contrary, there may be moral reasons to disobey a valid legal rule. There can be no internal questions of validity concerning the rule of recognition, there can be no de jure questions about the authority of the legal system. A legal system or government has legitimate power if and only if those who exercise it have the de jure right or title to perform certain actions as well as the de facto authority to elicit a certain kind of obedience involving respect or trust. Authority of a legal system presupposes its voluntary acceptance by legal officials, and that their voluntary acceptance of, or allegiance to, the legal system which rests on prudential grounds. Any government or legal system, nevertheless, will attempt to justify the imposition of legal obligation on its subjects by appeal to authority. Whether any government or legal system possesses authority is, however, another controversial issue of jurisprudence.

¹ 1d.

² 1d.

European Union – United States

Commission VP Talks EU-US Free Trade

A successful Transatlantic Trade and Investment Partnership agreement will “not only break down cumbersome barriers but help prevent new ones being built in the future,” Viviane Reding has said.

Reding, the Vice-President of the European Commission, made the claim during a speech at Yale University. She set out three main reasons why a TTIP deal is being sought. In the first instance, new growth is needed in the US and European Union (EU) economies. In addition, unnecessary barriers must be removed, and, finally, standards should be set for global trade.

Reding explained that the TTIP “is not about a single EU-US market, but our experience can help us on designing the agreement.”

As well as boosting the economies of both the US and the EU, the TTIP should result in cheaper goods and services. According to Reding, a family of four in the US could take home an additional USD900 in disposable income each year. A comparable family in the EU could save nearly USD750.

Reding concluded by stressing that the TTIP must “be correctly handled and built on trust,” hinting that this trust has been “shaken” by recent revelations concerning the activities of the US National Security Agency. – *Courtesy tax-news.com*

Azerbaijan

Azerbaijan Outlines Tax Policy Priorities

Azerbaijan has announced its tax policy priorities for the next three years, which are currently being considered by parliament.

The announcement revealed that the country plans to establish a Tax Ombudsman Institute in the near future, following in the footsteps of Georgia, Australia, Canada and Britain, as well as institutions for private tax consultation.

Azerbaijan also plans to improve the training of tax personnel by updating education methods, in addition to increasing international cooperation and aligning its tax legislation with global standards, improving electronic services, and improving the fiscal and regulatory functions of its tax policy.

It intends to introduce seven new types of taxes, including a real estate tax.

According to the announcement, net taxes on products and imports are forecasted to account for 7.6 percent of Azerbaijan's gross domestic product in 2017, up from 6.1 percent in 2012. Real growth in net taxes is predicted to be 7.9 percent in 2013, 9.6 percent in 2014, 8.4 percent in 2015, 8.8 percent in 2016, and 8.4 percent in 2017. – *Courtesy tax-news.com*

Jamaica

Jamaica Falls in Doing Business Rankings

Jamaica has fallen three places in the World Bank's 2014 Doing Business rankings, despite progress made in improving tax legislation.

The Caribbean country now ranks 94 in the list, having declined for seven consecutive years from 43rd place in 2006.

In one of the key sub-rankings, ease of paying taxes, Jamaica retained its position from the previous year, although it was still one of the worst performers at 168 out of 189 countries.

Despite Jamaica's overall weak performance in the Doing Business rankings, the World Bank found that it led the Caribbean area in terms of reforms. The country made improvements to its business regulatory environment in the past year, including lowering the corporate income tax rate.

On the other hand Jamaica increased vehicle and asset taxes and made the transfer of property more difficult by increasing the transfer tax and stamp duty.

St Lucia is the highest ranking Caribbean Community member in the list at 64, and Haiti is the lowest ranking member at 177. – *Courtesy tax-news.com*

FBR failing despite strict taxation measures

Despite imposing billions of rupees taxes on helpless masses, the Federal Board of Revenue (FBR) is struggling to achieve its revenue collection target as shortfall has touched Rs 20 billion in first four months (July-October) of the current financial year 2013-2014.

Officials have informed *The Nation* that FBR has provisionally collected Rs 155b in the month of October against the target of Rs 160b, leaving shortfall at Rs 5b. Meanwhile, the FBR's shortfall in first four months (July-October) of the ongoing financial year has reached Rs 20b, as it collected Rs 635 billion against the target of Rs 655 billion in the period under review. Taxes are expected to increase by at least Rs 5 billion after figures are finalized in next couple of days, say FBR officials.

“FBR has provisionally accumulated Rs 155 billion in the month of October, which may enhance to Rs 160 billion when the figures will finalize”, said Shahid Hussain Asad, member Inland Revenue-Policy and official spokesperson of the FBR while talking to the *Nation* on Thursday.

The PML-N govt had introduced heavy taxation measures worth of Rs 207b in the annual budget 2013-2014 with an aim to reach the unrealistic target of Rs 2475b in the present financial year. However, the tax department is struggling to achieve its targets despite heavy taxation measures.

On the other hand, the FBR's drive to broaden the extremely low tax base of the country also hit snags after facing major setback of bouncing back of 22,000 notices sent out by the tax department to influential and wealthy tax dodgers due to wrong mailing addresses. The response of the issuing notices to tax evaders was very poor, as only 500 new taxpayers have paid taxes out of 10,000 in first four months (July-Oct) of the ongoing financial year. FBR is committed to issue notices to 100,000 to influential and wealthy tax dodgers during ongoing fiscal year 2013-2014 as agreed with the IMF. Independent economists say that desired results of broadening of tax base could not be achieved keeping in view the current situation.

“FBR needs to improve their governance in remaining eight months (November-June) of the current fiscal year in order to reach the tax collection target”, said eminent economist Dr Ashfaqe Hasan Khan, who is also dean of the business school of the National University of Science and Technology.

Talking about broadening of tax base, Dr Ashfaque said that previous government of Pakistan Peoples Party (PPP) also claimed to had data of 5,00,000 non-taxpayers but they did not bring them into the tax net and same is happening during the incumbent government's tenure. – *Courtesy The Nation*

Black marketing, tax evading cause Rs 80bn losses in 5 years

The lucrative black market and unstoppable transformation of tax-evaded products in the country witnessed the revenue loss of more than Rs 80 billion during last five years.

This awful revelation was made by an international organisation EuroMonitor in its recent report on current economic situation in Pakistan, adding illicit trade is rampant in Pakistan and the tobacco sector is no exception.

While the government is trying hard to reduce the fiscal deficit, it seems it is going to be an uphill task requiring some major transformational steps to control revenue leakages.

The International Monetary Fund (IMF) condition of reducing the budget deficit to 5.7 percent as opposed to government's own target of 6.3 percent may not achievable at all unless the government focuses on some of the key areas of the black economy.

According to the report, one out of every four cigarettes in Pakistan is being sold illegally without paying the due taxes and duties. This lucrative black market is expected to continue to grow by 15 percent over the next 5 years due to the lack of enforcement measures by relevant government agencies.

Report further said that the cigarettes are either smuggled or local duties and taxes have not been paid on it. The growth of this sector has been exponential and in the last five years there has been more than 60 percent increase in sale of such cigarettes.

According to estimates around 1.5 billion duty-evaded cigarettes are sold each month. This means that more than Rs 1.5 billion is also being lost in revenue every month. In the last five years the government has lost Rs 100 billion in duties and taxes due to illicit trade. In 2011 alone, illicit trade cost the government Rs 18.5 billion in lost tax revenues. It is estimated in the next five years, loss to national tax revenues shall more than Rs 100 billion.

While the legal industry is expected to contribute an estimated Rs 87 billion in excise and sales tax in the current fiscal year, contributing almost 3 percent of the total national revenue base, illegal industry on the other hand is expected to further erode the revenue base, undermining all efforts to increase tax collection.

If illicit cigarette trade, which at the moment has one-fourth share of the total market, is eliminated, more than \$250 million can be added to the national exchequer every year.

Tax experts believed tactical raids against few big wholesalers and transported, high visibility outlets and prominent duty evading manufacturers could easily send a message to the small retailers and wholesalers that dealing in duty evaded and smuggled cigarettes was not worth the risk and the government this time around means serious business.

Federal Board of Revenue constituted a special commission to assess the quantum of black economy with a special focus on smuggling. According to the Commission's report, the value of smuggled items sold in Pakistan by conservative estimates exceeds \$5 billion per annum, the total tax evasion in the country much more than that and stated to be above \$10 billion per annum.

Although these goods primarily come from a number of countries including Afghanistan, Iran, China, UAE and India, according to the report, but Afghanistan alone acts a major source of smuggled goods to Pakistan.

Over 60 percent of merchandise imported by Afghanistan is meant for smuggling into Pakistan. One of the sectors that is plagued with tax evasion in Pakistan, fueled by smuggling from Afghanistan, is the cigarette sector, which alone costs the government a loss of more than Rs 20 billion a year. – *Courtesy Daily Times*

SC directs to curb arms, drugs smuggling in Karachi

The Supreme Court Thursday directed Federal Board of Revenue (FBR) to deal smuggling of weapons and drugs, custom duty evasion and black money with zero tolerance and ensure that all necessary steps are taken to stop menace of duty evasion within seven days.

Three-member bench of apex court, headed by Chief Justice Iftikhar Muhammad Chaudhry and comprising Justice Jawad S. Khawaja and Justice Gulzar Ahmed, ordered the FBR chairman to

present a report containing details of arms and weapons imported through the dealers during the past three years via Karachi ports.

At the outset of hearing, the bench expressed their dissatisfaction over the report submitted by Attorney General Munir A. Malik regarding a joint plan devised by Maritime Security Agency (MSA), Pakistan Coast Guards, Anti Narcotics Force (ANF), Customs and other agencies to block smuggling of illegal arms and drugs in the port city.

The chief justice said it was important to provide protection to all citizens as per the constitutional provisions so they could feel secure in earning their livelihood and participate in socio-economic activities.

He said for good governance and financial development, existence of complete peace was necessary.

The bench observed that serious efforts made by provincial government, police and rangers supported the observations made by the court during the hearing of law and order case.

However, it added that it was too early to record complete satisfaction in favour of police and rangers that they have achieved maximum result to ensure peace in the city.

The court said that efforts made by the law enforcement agencies were commendable, which showed that culprits were not above the law. It was of the opinion that extraordinary measures were required to be made by law enforcement agencies to restore writ of the government without extending any leniency towards culprits.

The chief justice said the campaign for recovery of illicit arms in the city launched by the provincial government had turned out to be fruitless as only few people voluntarily came forward to surrender the weapons. – *Courtesy Dawn*

Exporters urge FBR to pay refunds

Exporters have not been getting refunds for two years against sales tax on services in the absence of electronic link between the provincial sales tax departments and the Federal Board of Revenue (FBR), it is learnt on Thursday.

Under the 18th Amendment the sales tax on services became a provincial subject from 2010 and for this Sindh took a lead by setting up a separate body – Sindh Revenue Board. Punjab also

formed Punjab Revenue Authority (PRA) the next year to collect sales tax on services.

Towel Manufacturers' Association of Pakistan (TMA) chairman Iftikhar Ahmed Malik said sales tax on services was being collected by SRB and PRA, whereas exporters filed their tax returns with FBR.

However, with no link between FBR and provincial bodies collecting sales tax, the refund payment or adjustment was not possible and this was depriving exporters from much-needed funds.

He urged FBR and provincial sales tax bodies to immediately remove the ambiguity so that exporters start receiving their huge outstanding refunds with SBR and PRA.

Meanwhile, chairman Pakistan Readymade Garments Manufacturers and Exporters Association (Prgmea) Amir Amin Kothawala urged Finance Minister Ishaq Dar to make early payment of outstanding refunds.

In a statement, he said that for the last several years the finance ministry had not released funds to pay outstanding refund claims of around Rs40 billion.

Mr Kothawala said exporters were facing liquidity crunch because of the huge backlog of refunds and were finding it difficult to meet their future export contracts.

Most of the outstanding refund claims were related to duty drawback on Local Taxes and Levies (DLTL), sales tax and refunds from customs, he added. – *Courtesy Dawn*

The rigmarole: Filing income tax returns...but how?

In its drive to widen the tax net, the cash-strapped government is pushing more and more people to file income tax returns, but it completely overlooked the difficulty first-time tax depositors face in navigating through the complicated process.

Even though the taxpayer facilitation portal – the Federal Board of Revenue's (FBR) website– offers details in a step-by-step manner, it is only after trial and error that most people realise what they are supposed to do.

Getting the pass and activation codes and a user login to access the portal is not the issue. The problems start once a taxpayer somehow reaches the electronic IT-2 form for individual filers.

Normally an employee would get a certificate of collection and deduction of income tax from the employer that has basic details like total annual salary, deducted tax, name of bank involved, addresses and phone numbers.

The IT-2 form has 52 sections, which require information ranging from opening stock, salary income, share from AOP, worker welfare fund, zakat, taxable income, exempt income and questions like “do you fall under PTR regime”?

Asked to explain how a layman was supposed to understand all this, an FBR spokesperson, Shahid Hussain Asad, said: “Try and see the return forms in the United States and India. They are more complicated.”

Tens of thousands of salaried employees who draw more than Rs400,000 a year work in factories and services companies like architectural firms. According to some estimates, the number of these people exceeds five million. But just 1.5 million actually file returns.

This doesn't mean they don't pay income tax, which is duly deducted from their salaries by their employers and passed on to the FBR.

Without filing the returns, they actually forgo the opportunity to earn refunds against withholding tax deducted from utility and phone bills, school tuition fees, cash withdrawal from banks and other expenses.

In any case, why is the government interested in returns when the employer has already deducted it from the employee's pay and deposited it with the tax collector?

“The employer doesn't know about other sources of your income. Maybe you have a flat that has been rented out. We want people to tell us about that as well,” said Asad.

From 2013 onwards, return filers are also supposed to submit a wealth statement, unlike previous years when just an undertaking from employer on tax deductions was enough.

“Enforcement has been weak. But this doesn't mean we should stop. We have decided to confront all those who are not filing the returns,” said Asad. And apparently the FBR has done its homework.

“We have already collected real estate data and frequent flier details (from airlines) to identify the people who are supposed to file returns,” he said.

Asrar Rauf, CEO of a tax services company, said in many cases employers were collecting income tax from their employees but not passing it on to FBR.

“All the unrest that we are seeing among manufacturers is because now the FBR will go after employees, questioning why returns haven’t been filed. In turn this will add pressure on the employer when worker raises hue and cry,” he said.

Rauf, who held senior positions in the FBR before opening his own consultancy, said filing returns was part of a self-assessment scheme, which allowed people to calculate their earning and tax themselves.

“Unfortunately that didn’t work really well because tax officials haven’t been able to carry out audits for some years now.”

He said that tax collection in Pakistan hasn’t been a problem. “As a matter of fact we almost doubled revenues to Rs1,946 billion in 12 years.” The issue, he says, is the low tax to GDP ratio, which remains at a miserable 9.1%. – *Courtesy The Express Tribune*

Karachi law and order: FBR chief grilled over Nato containers

Chief Justice Iftikhar Muhammad Chaudhry on Wednesday grilled the chief of the Federal Board of Revenue for not clarifying facts pertaining to the allegedly missing 19,000 Nato containers before the US ambassador to Pakistan.

During a hearing of the Karachi law and order case at the Supreme Court’s Karachi registry, the bench led by the chief justice himself directed FBR Chairman Tariq Bajwa to submit the details of the letter sent to his office by the American envoy, who had denied reports that any containers carrying supplies for Nato and US forces in Afghanistan had gone missing in Pakistan.

While giving the directions, the bench members noted that the inquiry of the commission led by Shoaib Suddle had determined 19,000 containers did go missing and asked the FBR chief as to why this information was not shared with the US envoy.

“You should have taken him (to US ambassador) to Peshawar’s Karkhano market and shown him how large quantities of

smuggled weapons are being sold openly. The whole country has many such markets now,” Justice Chaudhry observed.

He said the government should have acted in a manner befitting a sovereign state. “We must give a clear impression that our institutions are clear and the judiciary is independent.”

The chief justice also noted that black money was circulating openly in Karachi and, along with smuggled weapons and contraband, was fuelling violence in the metropolis. He said violence in the city was not ethnically motivated and was instead a turf-war between various mafias.

“It is quite surprising for us that while all law enforcement agencies are fully aware that the mafias are responsible for the law and order situation [in Karachi], but instead of taking any preventive measures, they all try to justify why no action has been taken so far,” Justice Chaudhry observed.

His statement came after Anti-Narcotics Force (ANF) Director General Maj Gen Malik Zafar Iqbal, Brigadier Shehzad Akhtar of the Pakistan Coast Guards (PCG) and Afzal Ahmed of the Maritime Security Agency (MSA) told the bench that their respective agencies were handicapped in dealing with the smuggling of arms and drugs ever since the interior ministry curbed their powers.

The bench ordered the heads of the Customs, ANF, MSA, PCG, police and Rangers to assist the provincial government in restoring peace in Karachi. It directed Attorney General Munir A Malik to hold a meeting with the heads of the provincial and federal agencies and the interior secretary today (Thursday) to come up with a plan in this regard.

Meanwhile, the bench questioned the FBR chairman over why the net of taxes and duties on imports had not been widened. It also asked what action had been taken against FBR officers responsible for the failure of the World Bank-funded tax reforms project. The court asked the FBR chief to recruit 1,500 retired SSG commandos to enhance the tax recovery ratio, as proposed by the Ramzan Bhatti Commission.

Tariq Bajwa said FBR had already requested the government and the prime minister to allow recruitments and provide necessary equipment to the Customs Department, but the ban on fresh hiring was a hindrance. – *Courtesy The Express Tribune*

Notices to undocumented persons: services of Pakistan Post hired for quick delivery

In a new move to expedite issuance of notices to un-documented persons, the Federal Board of Revenue (FBR) has issued 3,000 notices through Pakistan Post, ensuring that 6000 notices to be served by end October 31, 2013.

Sources told here on Thursday that the FBR has taken a new step to hire Express Post - urgent mail courier service - for delivery of notices to far-flung areas where private courier companies are delaying the delivery. Pakistan Post is delivering notices at the declared addresses of the un-registered persons in out of service areas. The services of Pakistan Post have been hired to ensure speedy delivery of notices to the un-documented persons in view of poor performance of the existing courier company.

The step has been taken to hire Pakistan Post after review of policy to expedite the process of serving notices to un-documented persons.

The FBR has seen the performance of the courier company previously engaged in issuance of the notices to the potential persons. Keeping in view the performance of the courier company, the FBR can review its contract or hire more courier companies in this regard.

Out of 3,000 notices issued through Pakistan Post, so far it has confirmed delivery of over 1300 notices whereas 530 notices remained undelivered. The delivery confirmation of rest of the notices need to be done by the company.

So far the FBR has sent 32,000 notices to potential non-filers during first quarter of 2013-14 whereas issuance of 6000 notices by end of current month has been ensured. The FBR is also taking stock of the situation and 100,000 notices would be sent till June 2014. It was an on-going exercise against potential non-filers which would not be halted at any cost.

Sources said that the FBR has decided to start provisional assessment of potential persons under Income Tax Ordinance 2001 to whom notices have been served by Commissioner broadening the tax-base under the recent exercise of documentation. The provisional assessment would be started after 30 days of the receipt of notices to the potential persons under Income Tax Ordinance 2001. After issuance of over 32,000 notices to the

potential persons, the board is in a position to start the process of provisional assessment. – *Courtesy Business Recorder*

Provincial surplus helps MoF contain fiscal deficit

Provincial surplus has helped the Finance Ministry to limit the fiscal deficit below the agreed target with the International Monetary Fund (IMF) for the first quarter of the current fiscal year, it was learnt. Sources said the provincial surplus of Rs92 billion has helped contain the consolidated fiscal deficit at 1.1 percent (286 billion) during the first quarter of the current fiscal year against Rs419 billion agreed with the IMF.

Advisor Finance Ministry Rana Asad Amin had told earlier that fiscal deficit of Rs419 billion has been agreed with the IMF for the first quarter of the current fiscal year and Finance Ministry would be able to limit it below Rs 400 billion.

The total revenue collection stood at Rs832 billion during the first three months of the current fiscal year with Federal Board of Revenue (FBR) collection at Rs464 billion and non-tax revenue collection at Rs271 billion.

The revenue collection on account of Petroleum Levy was Rs25 billion and Gas Development Surcharge around Rs20 billion during the first quarter of the current fiscal year.

The provinces were transferred Rs322 billion from the total revenue collection. Sources said that total expenditure was Rs1.116 trillion during the first quarter of the current fiscal year with interest payment of Rs300 billion. Subsidy stood at Rs64 billion during the first quarter with Rs57 billion for power sector and seven billion to others.

The IMF delegation led by Jeffery Frank is in Pakistan to conduct first quarterly review of the reforms under the Extended Fund Facility (EFF) and reportedly held technical level meetings with representatives of Finance Ministry, State Bank of Pakistan, Economic Affairs Division (EAD) and other Ministries ahead of policy level talks with Pakistan delegation led by Finance Minister Ishaq Dar from November 3, 2013 upon his arrival from longest trip abroad.

During technical level talks, sources said that the representatives of Finance Ministry and SBP and other ministries have briefed the IMF delegation about the reforms budget statistics for first quarter of the current fiscal year.

According to Finance Ministry, the meeting with the IMF was attended by the officials of Ministries of Finance, Commerce, Water and Power, Petroleum and Natural Resources, Privatisation, Securities and Exchange Commission of Pakistan and the Federal Board of Revenue (FBR). The IMF staff level mission would remain in Pakistan till November 7, to hold technical level and policy level talks with Pakistani authorities under EFF. – *Courtesy Business Recorder*