

THE INSTITUTION OF JUSTICE OF PEACE (A CRITICAL STUDY)



Modified/Corrected Thesis

All the corrections, as were suggested,
have been made accordingly.

A handwritten signature in black ink, appearing to be 'Justice M. Shafi Muhammadi', is written over a horizontal line.

Research Supervisor
Justice @ M. Shafi Muhammadi
9C, Sunset Lane-5, Phase II,
Ext, DHA, Karachi

A handwritten signature in black ink, appearing to be 'Prof. Qazi Khalid Ali', is written above the printed name.
Prof: Qazi Khalid Ali P/6/13
Dean Faculty Law
Karachi University

BY
MOHAMMAD SALEEM

A thesis submitted to the Board of Advanced Studies & Research, University of Karachi,
Karachi for the degree of Ph.D.

**Faculty of Law,
Karachi University, Karachi
2011**

DEDICATED

To

My beloved Mother And Gracious Father,

Though Illiterate, But Educated me.

CONTENTS

S. NO.	TITLES	PAGE NO.
1	TABLE OF CONTENTS	I
2	ACKNOWLEDGEMENTS	VIII
3	STATEMENT	XI
4	INTRODUCTION	X
5	SECTIONS	1
6	CONCLUSION	199
7	PROPOSALS	201
8	APPENDIXES	204
9	TABLE OF CASES	212
10	STATUTE	225
11	BIBLIOGRAPHY	229
12	PAPER AND PUBLICATIONS	232
13	ENDNOTES	233
14	INDEX	250

Tables of Contents

1	THE JUSTICE OF PEACE ORIGIN AND MEANING.....	1
1.1	HISTORICAL GENESIS	1
1.2	THE PREMATURE SOCIAL ERA.....	2
1.3	THE WESTERN CONCEPT	7
1.3.1	THE KINGS' HIERARCHY.....	7
1.3.2	THE RICHARD I'S DOMINION	8
1.3.3	OF THE ROYAL OFFICERS.....	10
1.3.4	THE CONSERVATORS UNDER EDWARD I.....	11
1.3.5	THE CRAVE FOR GOOD GOVERNANCE	12
1.3.6	THE EXPANSION IN POLICE SYSTEM.....	12
1.3.7	THE ADVANCEMENT UNDER EDWARD II.....	13
1.3.8	THE POWERS OF CONSERVATORS	14
1.3.9	THE DRASTIC POLICE MEASURES	15
1.3.10	THE ORGANIZATION OF THE OFFICE OF JUSTICE OF PEACE	16
1.3.11	THE PRELIMINARY SOCIAL PEACE	16
1.3.12	THE REIGN OF EDWARD III.....	17
1.3.13	THE SPECIAL AND GENERAL WRITS.....	19
1.3.14	THE KEEPERS OF THE PEACE.....	20
1.3.15	THE DEMONSTRATION OF EXPERIMENT FOR LOCAL GENTRY	21
1.3.16	THE CONCEPT OF JUSTICE OF PEACE.....	23
1.3.17	THE AGE OF WESTERN PHILOSOPHERS.....	25
1.4	THE ISLAMIC ERA	26
1.4.1	THE AGE OF MUSLIM PHILOSOPHER	30

1.5	THE JUSTICE OF PEACE IN INDO PAK SUB CONTINENT	33
1.5.1	OF THE INDO PAK	33
1.5.2	OF THE HINDU EPOCH	33
1.5.3	THE MUSLIM PHASE.....	33
1.5.4	THE EAST INDIA COMPANY'S CHARTER	34
1.5.5	THE LEGISLATION ON INDEPENDENCE	37
1.6	THE WORLD HISTORICAL PICTURE	39
2	THE APPOINTMENT OF JUSTICE OF PEACE	44
2.1	QUALIFICATION FOR OFFICE/CRITERIA	44
2.2	DISQUALIFICATIONS FROM OFFICE	57
3	INSTITUTION OF JUSTICE OF PEACE IN PAKISTAN.....	64
3.1	THE CUSTODIAN OF THE RIGHTS OF THE SOCIETY	64
3.2	THE NATURE OF GRIEVANCES	67
3.3	THE CATEGORIS OF GRIEVANCES:.....	69
3.4	THE SCOPE OF GRIEVANCES.....	70
3.5	THE CAUSES OF GRIEVANCES AGAINST POLICE	70
3.6	THE VIOLATION OF RULES.....	71
3.7	THE FAVORITISM AND NEPOTISM	71
3.8	THE MISUSE OF POWER.....	71
3.9	THE IRRELEVANT OBJECTIONS	72
3.10	THE ILLEGAL GRATIFICATION.....	72
3.11	THE NEGLECT OF DUTY	73
3.12	THE FAILURE.....	73
3.13	THE GRIEVANCES REGARDING DISCRETION OF POLICE.....	74
3.14	THE DOCTRINE OF ULTRA VIRES	75
3.15	THE GRIEVANCES WITHOUT CAUSING INJUSTICE	75
3.16	THE SIGNIFICANT STRUCTURES OF JUSTICE OF PEACE	76

3.16.1	THE ESTABLISHMENT OF THE OFFICES.....	76
3.16.2	THE CONSTITUTIONAL ATTRIBUTES	77
3.16.3	THE AMENDMENT IN SECTION 22-A, ACT V OF 1898	78
3.17	THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.....	78
3.18	THE TENURE.....	78
3.19	THE PERSONNEL STRENGTH OF JUSTICE OF PEACE	79
3.20	THE TEAM WORK	79
3.21	THE ADMINISTRATION.....	80
3.22	INDEPENDENCE FROM JUDICIAL FUNCTION	80
3.23	THE PUBLIC SERVANT	80
3.24	BASIC OBJECTIVE	81
3.25	THE POWERS OF JUSTICE OF PEACE.....	81
3.26	THE DUTIES OF JUSTICE OF PEACE.....	83
3.27	THE FILING PROCEDURE.....	86
3.28	THE FORCE OF RECOMMENDATIONS	87
3.29	THE DEFIANCE OF ORDERS.....	88
3.30	THE CODE OF CRIMINAL PROCEDURE AT THE CALL OF JUSTICE OF PEACE	89
3.31	PROTECTION TO POLICE FUNCTIONARIES AGAINST FALSE ALLEGATIONS.....	90
3.32	THE CRIMINAL OR DISCIPLINARY ACTION AGAINST ERRANT POLICE FUNCTIONARIES.....	91
3.33	THE POWER OF REVIEW	91
3.34	THE POWER TO PUNISH FOR CONTEMPT	91
3.35	THE BAR OF JURISDICTION IS OUSTED.....	92
3.36	THE CONSTITUTIONAL WRIT PETITIONS	92
4	DIMENSIONS OF THE PRESENT ROLE OF JUSTICE OF PEACE....	97