

Why lawyers wear black coat in courts?

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Introduction

In most countries of the world lawyers wear black, or at the very least garments with some black trim or lining. This tradition is said to have begun in 17th Century England. In 1694 all of the nation's judges attended the funeral of Queen Mary dressed in black robes as a sign of mourning. It was believed that gowns and wigs gave a degree of anonymity to judges and lawyers. The official period of mourning lasted many years, and overlapped with much of Britain's colonial adventures in other countries. The black robe tradition spread around the world and thus still persists today. Red is the second-most popular color for judicial robes, which likely reflects the fact that red has historically been a color associated with royalty, and judges were originally appointed as servants of the monarch.

The dress code is not merely a status symbol, but brings out discipline among lawyers and gives them the confidence to fight for justice. The dress code also differentiates the lawyers from other professionals.

Lawyers wear black coat so that they have to defend the case of each of the side and black is the colour of defence. To say that law is blind. To say that law is only based on weight of evidence and not on colours of people.

After independence, in Pakistan, the courts have continued to uphold the pre-independence (British-Raj traditions) of lawyers wearing white shirt and black coat, trouser and tie. However, in the 1980s, judges modified their dress to do away with wig and allowed (optional) the usage of a Black Sherwani, a long traditional Pakistani coat worn over white Shalwar and Qamiz (trouser and shirt).

In Pakistan, the dress code for lawyers or legal practitioners varies with the season. During the winter months, a formal black suit and tie are worn. During the hot summer months, white shirt and trousers and a black tie may be worn. In addition, judges wear a black robe over their other garments. Wigs are no longer worn. Dress codes are rigorously enforced within the Superior Courts of the country.

Back Ground

The popular character of Barney Stinson in the TV show "How I met your mother" religiously wears only suits due to his personal belief (which is actually a widely prevalent belief in the modern world) that suits are symbolic of professionalism, power and class. That is why in countries such as the US, the term 'suits' is a commonly used metonym for lawyers or officers of the law.

From a perspective of a common citizen, a visit to the local court can indeed be a petrifying experience, even after several changes have been introduced. And the irony is that the court was established with the aim to facilitate and aid the layperson in seeking justice! The hustling-bustling stretches of the corridors of power emanate an air of supremacy, establishing a rich contrast between the anxious visitors and the haughty lawyers adorned in black coats- the robe imparting to them an unbeatable confidence. Hence, the omniscient lawyers establish their authority over powerless citizens on account of their knowledge of complicated laws, devious processes and a complex system which is incomprehensible to the so-called non cogent minds of ordinary citizens! However, in the sweltering heat in Lahore recently,

when monsoon has also failed to enchant with its aquatic bliss and has cut across to neighboring area surrounding Lahore while leaving it parched and dry, the visit to the temple of justice becomes more enigmatic as being surrounded by the professionals in the Black blazers makes one feel the heat to be more scorching. Firstly, the color black, scientists claim, absorbs more heat, and secondly, the blazer with full sleeves in the humid weather doesn't let the sweat dry exacerbating the effects of the clammy climate. This article therefore is about my quest as a lawyer and a researcher to demystify the black coat anomaly as to why one would wear such dress when climate wise it is unsuitable. Is it an illusion of power or a symbol of oppression? Nevertheless, when I reflect years back on my personal experience as an advocate entering the court as a novice, wearing the black coat gave me a feeling of liberation, autonomy and a sense of independence, but when I sweat profusely in killing summers of Lahore, I realized that it is a tool for oppression and torture.

Voyage of an Enquiring Mind

Wearing black coat during the summer season aggravates summer ailments like dehydration, skin ailments, rashes, nose bleeds, sunstrokes, migraines and other medical ailments as advised by medical experts because firstly, black colour absorb more heat as compared to any other color and secondly, the full sleeve coat even if made of thinner material will not allow the skin to cool off. Yet, this practice of wearing black coat during summers continues by the lawyers almost all over Pakistan.

I enquired from a lawyer, an acquaintance of mine, "Don't you feeling uncomfortable in this black coat in this muggy monsoon when the temperature is above 40 degrees Celsius and humidity is killing you?" "What about my professional integrity? It is an integral part of my identity as a lawyer", pat came the reply. "Yes, it may be a universal symbol of the profession, and impart a sense of achievement to a wearer, but at the same time, it is also a remnant of the colonial rule" I retorted. "It's a long-standing tradition which eventually becomes a habit once you start wearing it and now lawyers are recognized by this black coat", he argued. "The dress code is not merely a status symbol, but brings out discipline among lawyers and gives them the confidence to fight for justice. The dress code also differentiates the lawyers from other professionals", he explained further. "Sure, it is true to all professions, the doctors do wear white or surgeons wear green or blue coat, the judges do wear black robes, and even academicians do associate with the robes and caps when they are awarded with the degrees, however, the superior courts do have a temperature regulation system inside the building and most of the hospitals in Lahore do take care to install equipment to keep hospitals cool, however, this is not the case here. Many of the lawyers are working outside, sitting or running around in sizzling heat wearing those black coats. Are they doing it for the purpose to maintain tradition, to uphold the identity of the profession or carrying out seriousness associated with it?" I asked. "But you have to maintain the professional decorum in any case and another feature of it is to be on time before the judge" he replied and walked away. Dissatisfied with his line of argument, I decided to probe further on this issue as being an advocate myself I cannot believe in this half baked reply about maintaining professional integrity and decorum.

Exploring Legal Provisions

While a little search in the Library among the stacks of Halsbury, Austin, Maine and loads of other English law books besides Law Journals, I found that the The dress

code for the bar and the bench in Pakistan is prescribed in the High Court Rules and Orders, General Chapter, under the head Dress of Advocates appearing in High Courts; and Supreme Court Rules 1980 in Part 1 under Order IV Rule 8 and Supreme Court (Court Dress and Mode of Dress) Order 1980, prescribe the same dress for all the advocates irrespective of the designation. It says:

Advocates, appearing in the Supreme Court, High Court, subordinate courts, tribunals or authorities shall wear the following as part of their dress which shall be sober and dignified;

Advocates other than lady advocates:

1. (a) a black buttoned-up coat, black sherwani and white bands or a black tie with advocate's gown, or

(b) a black open breast coat, white collar, stiff or soft, and white bands or a black tie with advocates' gowns.

In either case long trousers (white, black, striped or grey).

Lady advocates:

2. black and full or half-sleeve jacket, white collar, stiff or soft, and white bands with advocates' gowns;

In either case long shalwar or trousers (white, black, striped or grey).

Provided that the wearing of advocate's gown shall be optional except when appearing in the Supreme Court or in a High Court.

Provided further that in court other than the Supreme Court, High Court, District Court, Sessions Court or City Civil Court, a black tie may be worn instead of bands."¹

A Historical Background

Further probing reveals that the history of the black coat dates back to 1327 when Edward III formulated the costumes for judges based on the dress code for attending the Royal court. At the end of the 13th century the structure of the legal profession in Britain was strictly divided between judges; sergeants who wore a white coiffure wig on their heads and practiced from St Paul's Cathedral; and the four Inns of Court, divided into students, pleaders, benchers (the ruling body of the Inn) and barristers, who were mostly hail from royal and wealthy families. The attire of these men kept up with the fashion of those times. Vibrant reds and maroons gowns were fashionable in the 15th century, spruced with golden fabric and warmed with fur. Appearance wise there was a little difference between lawyers and the rest of wealthy society. This changed during the 1600s when the glorious displays were repealed. In 1637, the Privy Council ruled that lawyers need to dress according to their "place" in society. Lawyers therefore were decked in full length gowns or "noble robe" modeled on ecclesiastical sensibilities worn both in court and in general public. It was made from a rough fabric blend of silk, mohair and wool stiffened with gum. Predictably, personal modifications soon followed by those who liked to display their "superior" status. Their robes were fanciful adorned with silk tufts. Those in the higher ranks sported hanging sleeves as an additional adornment².

The robes adopted in 1685 were the symbolic of mourning for King Charles II. While there are theories that the passing of Queen Mary II (1694) or Queen Anne (1714)

¹ High Court Rules and Orders, General Chapter, under the head Dress of Advocates appearing in High Courts; and Supreme Court Rules 1980 in Part 1 under Order IV Rule 8 and Supreme Court (Court Dress and Mode of Dress) Order 1980

² Haque Emdadul (2012) The Tradition of Lawyer's Dress Code, July 1, The Daily Star issue 277 <http://archive.thedailystar.net/law/2012/07/01/depth.htm>

was the trigger, historian J.H. Baker attributes it to the death of King Charles II (1685). These “mourning robe” were designed to have pleated shoulders and bell-shaped sleeves. Again, the higher ranking lawyers’ robes set them apart with flap collars and different sleeves. Similar such robes are worn today. The wigs also follow the fashion of that era. It was believed that gowns and wigs gave a degree of anonymity to judges and lawyers. Different styles of wig were used depending on the hierarchy³. Bands, the official neckwear, also originated in UK, where these were used for legal, official, clerical, priestly and academic use³.

But that is the custom started by British. They did so, because it was the fashion of that particular era or they probably used it because of the local climatic conditions. As the rulers, they imposed the same culture and customs on the ‘colonies’ they acquired without taking into consideration the local climatic requirements or general socio-economic conditions. However, many of these ‘colonies’ continued with the legacy and adopted the same system, the same culture, the same laws and even the same dress without any changes even after they freed themselves from the imperial rule. For example, in Pakistan as well as in its neighboring countries like India, Sri Lanka and Bangladesh situation remains same after decades of independence. Though certain amendments were made in laws and the Constitutions, however, the issue of dress code has been overlooked.

The origins of the modern-day suit can be traced to the 19th century Regency Britain, an era, characterized by inter alia distinctive trends in British fashion. One of the trends in fashion was the simplification of the elaborately embroidered and jeweled formal clothing of the nobility into a much more comfortable formal wear. This led to the conception of the modern day suit, which eventually became a strictly followed formality in the subsequent Victorian era. A lot of factors can be taken into account for this change in fashion such as the decreasing power of the nobility and the need for a new up and coming industrial elite to be accommodated in the corridors of power.

Coming back to Pakistan, we find ourselves dutifully following the British tradition left behind. Pakistan is a country, which has a blazingly hot and prolonged summer and a brief and mild winter. Lawyers are forced to face the onslaught of soaring temperatures and suffocating humidity during the summer season at the courts, the conditions of which are exacerbated by the poor infrastructure and the constant load-shedding. On top of this, lawyers are forced to wear a black suit (black being the best absorber of heat). Needless to say, a person of average strength or perseverance does not last long in these courts.⁴

³ Haque Emdadul (2012) History of Costumes for Lawyers: Magnificence vs Ridicule <http://www.banglanews24.com/Law/English/detailsnews.php?nssl=093f65e080a295f8076b1c5722a46aa2&nntl=2012071259>

⁴ <http://www.legal-advice-library.info>

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Situation in Other Countries

Dress code is a part of dignity and professionalism with little exception. The outfit of Judges and Advocates with judicial robes seems a mark of dignity and loyalty towards court and justice. Americans refused to adopt the judicial attire of the British after independence. Almost all countries in the Indian subcontinent are in debt to the British for the development of their jurisprudence including dress code. Even, the British has relaxed wearing judicial costumes but these countries including Pakistan have slight headache to suit the dress code for lawyers as per climatic conformity and culture even after the departure of the British. India has modified dress code for lawyers to a tiny extent but the practice is still like colonized India reminding silent domination of the British. This article is a venture to explore the historical chronicles of the judicial attire across the world and their recent changing trends and practices with a view to seek a meaningful transformation in Pakistan.

Undeniably, the role of the British for the legal development in their former colonies is much acclaimed except in the USA and there is less scope to criticize their role in the subcontinent. But the wind of change is blowing all across the globe including the United Kingdom relating to the dress code. The English judiciary has long been regarded as a bastion of conservative mores and sartorial continuity (Independent, 2009). Nonetheless, it has revised its judicial costumes. In November 21, 2011 the President of the UK Supreme Court (UKSC) in a press notice revised the dress code at the UKSC. According to the new guidance lawyers appearing at the UK's highest court set up in October, 2009 will no longer have to wear the traditional wigs and gowns⁵. The purpose of the new costume in line with the court's goal is to make the court as accessible as possible extending the court's commitment to providing an appropriate environment for considered discussion of legal issues. Even if all advocates in a case agree, they may dispense with part or all of court dresses. Supreme Court justices wear no legal costume. The relaxed dress code would also apply to advocates appearing before the Judicial Committee of the Privy Council (JCPC). Judges and lawyers appearing in criminal courts still wear traditional wigs and gowns but they can be dispensed in cases involving children. The Supreme Court move followed a request by the UKSC/JCPC User Group, which represents professional users of the court, for an extension of the practice already adopted in family cases where advocates customarily appear unrobed. The official notice anticipated that some advocates will not wish to take advantage of this dispensation while others may prefer to reduce their legal dress to a simple gown, or to appear without legal dress at all. In 2008, Britain's Lord Chief Justice created a simpler style of court dress in which judges in civil and family cases in England and Wales were stopped wearing wigs (Guardian,2008).

During the early history of the United States, the court dress of judges and practicing lawyers closely mirrored British dress code of the 18th century. After the revolution many of the founders including Thomas Jefferson wanted to purge their nation of any symbols of the old English aristocratic order terming it as a rejected system (Glenn W. 1956). In the then time the judicial wigs were banned but the robes were retained as part of compromise. The practice fell out of favour and died out by the mid-

⁵ Gordon Cathy (2011) Supreme Court Lawyers Allowed to Dress Down, The Independent November 21 <http://www.independent.co.uk/news/uk/home-news/supreme-court-lawyers-allowed-to-dress-down-6265567.html>

nineteenth century when the states and feds began to increasingly harmonize and from then on almost every judge in America has started to wear a standardized black robe over a formal business suit. Today, generally judges of both state and federal courts are free to select their own courtroom attire. The most common choice is a plain black robe which covers the torso and legs, with sleeves. Female judges will sometimes add to the robe a plain white collar similar to that used in academic dress. Beneath the robes business attire is standard coupled with a shirt as well as tie for men and a woman's suit and stockings for women. The USA as a federal country further left regulation of judicial costume to the jurisdiction of the individual states. Many states especially in the South shared Jefferson's original mentality and had their judges wear no official costume for quite a long period of time. Despite the standardization there are still some quaint exceptions to the black robe hegemony.

Despite no fixed dress code in the court premises for Attorneys in USA, there are some peculiar dress codes in some states in the Federal country. In New Mexico, USA general public are not allowed in the court rooms dressed with shorts, tank or halter-tops, muscle shirts and T-shirts with indecent words or graphics. Lenore Nesbitt, the first female judge appointed to the U.S. Southern District of Florida, used to send women out of her courtroom for wearing open-toed shoes. Allegheny County Common Pleas Judge David R. Cashman orders attorneys out of his courtroom if he feels they're underdressed. Usually when an attorney who wore casual clothes to the office that day is summoned to court unexpectedly. All witnesses appearing in United States District Court in the Eastern District of Washington are asked to dress appropriately avoiding wearing shorts, tank tops and sandals. An Alabama judge held a defendant in contempt of court for wearing saggy pants showing butt before the court. The judge also jailed the person for three days and instructed him to buy pants that fit or at least get a belt to hold up pants so that underwear doesn't show.

Like America, Canadian judges do not wear wigs and long robes. Canada used to wear British styled robes before 2008. Despite its British heritage Canadians have reconstructed a society based on their own aesthetics rather than copy blindly from the British. Similarly, justices of the Canadian province of Ontario's Superior Court of Justice are no longer addressed as "My Lord," or "My Lady," but are now addressed as "Your Honour."⁶

In Australia court dress varies according to jurisdictions of courts from federal to state levels. Plain black robes have been worn over normal attire since 1988, when the High Court abandoned the previous court dress of black silk robes, bar jackets, jabots or bands and full-bottomed wigs and lace cuffs on formal occasions and bench wigs for ordinary business. Wigs were abolished in Western Australia for both judges and lawyers in all courts in 2010. Stipendiary Magistrates and justices of the peace do not robe, other than in New South Wells where they have worn a black robe over normal business attire since 2005. Prior to 2010, Barristers did not robe before the Federal Magistrates Court. Barristers are now expected to robe for most hearings, but not for interlocutory or interim matters. Wigs full-bottomed or otherwise are not worn on any occasion. Aside from these countries one or two countries have

⁶ Ontario Justice Education Network (undated) Handout: Traditions of the Courts <http://www.ojen.ca/sites/ojen.ca/files/sites/default/files/resources/Traditions%20of%20the%20Courts.pdf>

eliminated the tradition of wearing elaborate judicial robes altogether. In Greece and Scandinavia, for example, a suit is fine to wear during any legal proceeding.

In South Africa judges wear British-style robes, although Dutch influences can also be seen as a legacy of Dutch colonialism. High Court judges of South Africa wear black robes to hear civil cases and appeals but red and black robes are used during criminal cases. In the post apartheid South Africa special blue robes are designed for constitutional court judges. At the end of 2004, the Council of the Law Society of South Africa (LSSA) decided court attire for advocates with effect from April 1, 2005. As per the new dress code, an advocate whether appearing in the constitutional court, High court, Magistrate court or in other courts s/he will be dressed with a white shirt or a blouse with a bib, a black jacket, an attorney's gown and a dark trouser or skirt. Now in many African court dresses are lightweight simply because the full outfit would be too hot for most people to wear in that climate. In Kenya, a country of the East Africa in a judge's colloquium in 2011, it is decided that judges will no longer be referred to as "my Lord" rather to be referred as "Your Honour" and wigs will be discarded with immediate effect (Nation, 2011). Terming the current dress code uncomfortable owing to unbearable heat the colloquium decided to a lighter robe for the judicial officers sensing the necessity of robes as a mark of dignity and respect to courts.

Like much of the former colonial countries the black outfit has stayed with the lawyers in India, although under section 49 of the Advocates Act of 1961, the judicial dress should be prescribed in keeping pace with the climatic conditions. But the practice is quite different showing the colonial hangover. But, in the wake of movement from lawyers' community, the Bar Council of India, in a circular in 2001, dispense with the coat from March 15 to June 15 to lower court lawyers. In spite of such relaxation, most lawyers still adhere to the dress code throughout the year, although subordinate courts are almost never air-conditioned. In another move the Bar Council of India by a resolution in 2006, threw out the phrase "My Lordship" or "My Lord" addressing the judges of the High Courts and Supreme Court in favour of "Your Honour", "Honourable Court" or just "Sir or Madam". This change followed the acceptance of the more socialistic political ideology prevalent in modern Indian society, which has dedicated itself to ending the hierarchies that the legal system reflects and reinforces. But still the new changes are not widely accepted and practiced because of embedded habit and partly out of fear of falling in disfavour with judges. Two writ petitions were filed with Delhi High Court in 2001 seeking change in the dress code of advocates and seeking restraint of senior advocates in India from wearing the Queens Council's gown of England but both of them dismissed by the court terming meritless and misconceived.

Most of the Muslim countries in the Middle East tend to follow anti-western dress code for lawyers. Judges in these countries wear very simplistic costumes denouncing fancy court room dress as western practice. In Afghanistan and in Iran chief justice wear white and black turbans apart from traditional robes. Judges in Libya and Egypt simply wear green sashes over the business suits terming green as the colour of justice in Islam.

Not only in South Asia, even in the United States, the judges wear Black robe and the origin of that can be traced to British aristocracy, a system that ensured that the most privileged have the highest positions of power. Thomas Jefferson, the third US President, and the principal author of the Declaration of Independence (1776) was of the view that judges should wear suits which he thought was formal enough to show that judges were serious about their role. Jefferson, being an equalitarian, did not

wish to overemphasize majesty of the law. He abhorred aristocracy and wanted judges to dress the way everyone else did, and to be distinguished only by their role. However, John Adams, a lawyer, wanted to keep the distinction of special judicial attire, including the striking red robes and white wigs favored in the British courts. Finally, Adam got the robes, but not the wigs.

Today, in United Kingdom, the lawyers who have to appear before the highest court are allowed to appear in formal dress, traditional dress has been discarded. The advocates in cases to be heard at the Supreme Court in London are able to "dispense with any or all of the elements of traditional court dress". The reasons given for this transformation are "to underline the court's commitment to providing an appropriate environment and it is in line with the court's goal to make this process as accessible as possible." The lawyers in the family court customarily appeared unrobed in the traditional attire; they wear formal suits to make it less intimidating.

In many Middle Eastern countries, judges prefer to wear a simplistic costume while denouncing fancy Western robes. Africa and Australia have changed their dress code. In Canada, court dress is identical to the one previously worn in England except the wig. The Federal Court of Appeal, the Supreme Court of Canada and the Tax Court require barristers to appear in gown⁵. The donning of business attire is acceptable by barristers appearing in chambers and in the provincial and territorial courts. The Court dress in Malaysia is based on English court dress, with some modifications. In China, business suits or black gowns (with red stripe on the front) are replacing the military look of the Chinese court system. In Sweden, there is no official court dress for judges and they do not wear gowns. Judges usually wear an ordinary suit. In India, a more digging reveals that petitions have been filed by individual lawyers before the respective High courts of Delhi, Tamil Nadu, Kerala, Maharashtra, Madhya Pradesh and Gujarat High Court, after which certain relaxations have been made. For example, a circular was issued by the Bar Council of India in 2001 that allows lower court lawyers to dispense with the coat from March 15 to June 15 except for the ones appearing before the High Courts and the Supreme Court and recently this has been reaffirmed by the Bar Council¹¹. The Punjab and Haryana High Court recently issued an order directing lawyers to dress appropriately. Yet, most lawyers religiously adhere to the dress code throughout the year, although subordinate courts are almost never air-conditioned. A petition has also been filed in the court regarding distinction between the gowns worn by the senior counsels and other advocates

Further, a Pune-based organization Human Rights and Law Defenders (HRLD) in 2002 carried out a survey of 120 lawyers at Pune's district session court to determine the reaction around this 'sartorial protocol' of wearing black coats in peak summer season. It observed that nearly half of the respondents agreed that the current dress code was not suited to the Indian climate, around two-thirds failed to appreciate the health ramifications of the black coat. Only 20 percent of the lawyers made use of the exemption; 30 percent were aware of the fact that it is a health hazard, but still continued to wear it. 10 percent wear it because they think that it sets them apart from the common man, while 30 percent was unaware of such exemption. Peculiarly, while more than 86 percent said a dress code was necessary, 65 per cent also claimed that the current one had become more of a status symbol

and served no real purpose. Recently, a few of the senior advocates did raise their voice against black coats, but no further action has been taken on the same⁷.ⁱⁱ

Probing Further

Nevertheless, to further analyse the mystery behind the black coat, I decided to discuss the same with a few of lawyers and their clients within the court premises. My interest and curiosity to dig deeper made me to conduct interviews with 54 lawyers and 52 clients, and almost 20 researchers, professors and other people associated with the profession; both men and women from different age groups. Some of the interesting observations are made on both the sides – in favour and against the use of black coats. Many of the lawyers (almost 40 percent), especially stalwarts one, prefer wearing black blazers even during killing heat of summer, however, a few of younger ones (45 percent) do agree that wearing the black coat in summers do cause rashes and is making a major impact on their health.

⁷ Narayanan Vivek (2014) Lower Court Lawyers May Avoid Black Coats in Summer, The Hindu July 26, Chennai <http://www.thehindu.com/todays-paper/tp-national/tp-tamilnadu/lower-court-lawyers-may-avoid-black-coats-in-summer/article6251080.ece>

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¹¹ Legal Era (2014) Black Coats not Compulsory for Lower Court Lawyers July 28 <http://www.legalera.in/news-deals/atn/others/item/14014-black-coats-not-compulsory-for-lower-court-lawyers-bci.html>

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¹⁸ Yamini P (2014) Senior Male Advocates in HC chases a Skirt Controversy, DNA Syndication March 23 <http://dnasyndication.com/showarticlerss.aspx?nid=LFvxfOP6g93dPulsPXSkakNt6Xiq8Q0sfdQkfEZxovLLv4iM=>

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The Lawyers' Opinion

Black coat or the black robe, as per 56 percent of the lawyers lends seriousness to their identity and provides a unique visual character to their professional image. It helps to build credibility and command respect from the clients and society, held three-fourth of the respondents. Wearing a dress creates a sense of discipline among lawyers and gives them the confidence to fight for justice opined 44 percent lawyers. "I get a feeling of being an upholder of rights and justice once I put on the coat. It gives me a sense of power. Also it reflects on my status as a qualified person who is capable of handling a complicated legal issue", suggests a young lawyer who has been practicing for last two years. "It is a uniform that conveys the message of authority, knowledge, meticulousness and steadiness", added another lawyer who has been practicing for six years. "Black colour is a symbol of the dignity, honour, wisdom and justice and these are the values which any lawyer or the judge has to keep up with. One cannot wear a tee shirt and a jean and come to this temple of justice. You need to maintain the grace and the dignity of the profession. The Black robe or coat has a symbolic value, and today, corporate sector is also promoting the concept of power dressing for its employee so why not you maintain the same trend in the courts too". His colleague remarked, "Appearance plays an important role in gaining success in today's world. It is not just about looking good; it's about looking the part of this great system". Around half of the respondents were of the opinion that the black coat is now the universal symbol of legal profession. "Law is associated with nobility, justice and peace, and to maintain that one has to take all steps", says a senior advocate.

About 20 percent of the lawyers interviewed felt that the uniform helps to mitigate hierarchical status within the profession. "It acts as a leveler or an equalizer. A junior lawyer as well as a senior lawyer both need to dress in a similar manner. Also, the lawyers in these courts come from different backgrounds, in such situations, a junior with little earnings and no background should not feel threatened by the one who is experienced and may afford to dress well", opined a senior lawyer. While responding in favour of the Black coat, a senior woman lawyer argued, "Wearing nearly identical black robes is a way of showing that all the judges are bound equally in their duty to uphold the law and justice. The simplicity of their attire also symbolizes that the judges' and lawyers' are neutral and humble people and need to work as servants of the people".

About sixty-five percent lawyers were of the view that black represents neutrality. A senior lawyer was of view that, "Now, you cannot call it as a symbol of slavery because, the black coat has become a part of Indian practice and tradition after its prolonged use. Even otherwise we all have been dressing in a foreign style – wearing suits and boots that are foreign to Pakistani soil, so why are you now raising the question? Will wearing Shalwar Kamiz makes me more Pakistani? No. It's a bigoted outlook. This dress code has become a solid identity of the legal professional in Pakistan. It is meaningless to change this now". While arguing further he added, "You young lawyers are representative of pampered and spoiled generation. Look at our time, we all have been wearing this for generations and now you think that it is impractical. You people cannot do without ACs but we have survived and managed our whole lives without these fancy items". Another senior lawyer while agreeing to him pondered, "Have you ever seen any lawyer falling sick in summer because he is wearing the black coat, I haven't, though people sometimes whine about heat?"

Another argument in favour of black coat put forward intelligently by a bright young lawyer is that, "Lawyers wear black coat because they need to defend the case and

black is the colour of defence. It suggests that law is blind, and is only based on weight of evidence and not on the background of the parties". On a lighter tone, a young lawyer adds, "It needs not to be washed every day, when you travel around in the dusty climate of Lahore, the black colour hides it all". However, a female lawyer differs in opinion and argued that wearing such dress leads to hygiene issue as it cannot be washed daily.

Around 30 percent respondents opined that the practice of wearing black coat in hot summers is unfeasible and impractical in Pakistan. "It is uncomfortable and makes me feel sick and dizzy in scorching heat, but one needs to wear it because it is a professional compulsion". "It feels like you are baking and roasting yourself in the oven. And many a times, we have to work in situation where there is no electricity. I get rid of it immediately as I came out of the court room" shares a woman lawyer. "But why then the system has not been changed?" I asked. She countered that the "people who have been following the system for ages or have grown up with the system do not want to think of any other alternative because they feel insecure and are not adaptable to new situations". A senior lawyer who was in favour of changing the system clarified that, "this denial to think out of the box and adapt to new realities stems from the psychological over-dependence of lawyers on the black coat". Around one fourth respondents opine that this kind of uniform smother practice because the hierarchy is maintained through the choice of fabric, the cut and tailoring besides the knowledge of English language. "Black is a colour of oppression and an artifact of past that symbolizes nothing", argued a lawyer.

Enforcing Dress Code Promotes Elitist, Hierarchical Patriarchal Culture

The dress code may lead to creation of an elitist, hierarchical and patriarchal culture in the courts, hold 15 percent of the respondents. A female lawyer added that, "Women lawyers in particular have to adhere to conservative rules when it comes to dressing style, primarily because they rarely want to argue with a judge on the issue of dress and secondly the environment within the court is not women friendly. You may not want that a judge or the senior hates you or condemn you because of your dress, because your clothing conveyed a lack of respect, or offended them in some other manner. And after recent rape and sexual harassment cases, the environment has become more hostile". This has been highlighted in a controversy in High court too. Failure to adhere to the dress code carries a greater threat than merely being embarrassed in court. A female lawyer's very existence may not be recognized if the precise observances are not adhered to as highlighted in a recent debate created in a subordinate court in Lahore where a lawyer nun wearing a black coat and a white band over her habit appeared before the court. A woman lawyer explained that "It's hard to practice in the court, which is very much a boys' club. Female lawyers struggled hard to adhere to a careful balance of masculine and feminine values". A young female lawyer who has been practicing for three years elaborated that, "Outside, the courts if I walk with this coat I sensed an authority, however, inside the court premises, when I walk wearing this dress, that feeling is lost because I may be doing trivial jobs for a senior. I abhor the compulsion of this incarceration". Another young lawyer Said "Two things come to my mind, one is Pakistan is a dusty place and to cover their dresses, they are wearing the black coat, so even if it is dirty, nobody will know, the second is when the lawyer loses a case and if his client is going to be hanged, he can always wear the black coat to the funeral". One lawyer remarked". In astrology and in the occult texts, wearing a black garment is supposed to reduce personal bias, and to improve impartiality and concentration. Some

religious rituals also require wearing of black garments for this purpose". A lawyer from Kasur stated "The cities are supposed to be a way away from nature. Hence, only those judicial who work in cities wear black garments. There are courts in rural areas of Pakistan. They never wear black garments". A senior lawyer remarked "Lawyers wear black coats in courts because it is their dress code, which also indicates to human beings that law is blind so be vigilant in life always. Never commit a crime; because you shall get nothing but darkness".

Another lawyer said "Black indicates darkness may be in life or history. The lawyers are agents to find out light / brightness (i.e. truth), So they wear black coat for identification of agency. Let's take it like this the black colour absorbs solar radiations more than any other colour. The solar radiations in the court signifies heated arguments. Various lawyers and judges should be so patient enough to listen all the arguments going inside the court and to act in the correct direction. Well it is not only the lawyers and judges but it is also the law goddess who wears a black strip across the eyes. It is I think like asking why police wear khaki, doctors white coat, etc". A lawyer said "Recognition that's what it is to immediately recognize the profession that he/she follows. it is just like having your school symbol attached to your uniform to help people recognize to which school you belong to". Another lawyer said "There is I think no logic and only selection. Black is a solemn color, sometimes signifying mourning, death, for widows, and submission to priests. Black is also a noble color as used by graduates and lawyers. After a while all this gets lost and we are just left with a tradition. Because they obey to the judge finally. And the judge wear black because he wants to send to prison instead of loving the people".

Client's Views relating to Black Coat of Lawyers

Interestingly, clients and those in academics, research and civil society have different versions to share. For most of the clients, black robes or the black coats is an icon of prestige, power, authority and intimidation. "As black ink writes the destiny of people, so black coats and robes worn by the lawyers and judges can shape the future of the clients whether as culprits or in providing relief depending on which side one is standing", sharply observed a woman client. "It is being said that 'law is blind' and cannot see anything without proofs and evidence, hence, the black coats symbolize blindness" explained a client. The client's perspective was vast ranging from occult and astrology to their opinion about rights, authority, law and justice. "In the courts, everything has to be laid out in black and white, therefore, lawyers and judges wear black to give the message that no one can lie in the courts", prudently suggested a client. From the client's perspectives, black coat is a tool to maintain professional distance. "Black and white represents the two opposite ends. Black is associated with dark, evil and corrupt while white is for purity and goodness. That is why doctors wear white as they do the pious work of saving lives whereas black coats for advocates as it is believed that they manipulate and mould the case in their favour" revealed a client. "Black symbolizes despair, pain and death. A lawyer leads to or prevent any of those depending on the case" stated a male client aged 38 years.

Around three fourth of the client respondents feel that are intimidated by the manner in which lawyers dress and hold themselves. "Black is a colour on which nothing works, a judge or a lawyer should not listen to anything else except truth", says a woman client. "In astrology and in the occult texts, wearing a black garment implies curse and bad luck. Therefore, they say that the kachcharis (courts) are a curse you get it because of your past bad karmas. Black coat is therefore a warning to improve

your karma in this birth” argued a male client. “Saturn is associated with black colour and that represents an evil and lawyers and judges deal with evil all the day therefore they wear black” explained another. “These professionals have to be very dedicated to be able to withstand uncomfortable conditions for hours. They are tough and capable of seemingly enormous tolerance for the intolerable”, admired a senior old man.

Other Professionals’ Views

Most of the other professionals were of the view that the black coat tends to breed an exaggerated sense of power, intimidation, mystification, alienation, exclusion and coercion. “The dress instills fear in the minds of people and creates a distance between the people from the lawyers. It hinders the concept of making judiciary people-oriented or people friendly”, says a professor. “The lawyers are the first contact for citizens who need to access justice, and creating such uniform codes alienates them from the common people”. Former President of Lahore High Court Bar, Syed Kaleem Khurshid opined that such symbolism in the courts should be discarded. He justifies that “It is legacy of British and serves no purpose. If we must indeed wear something formal, let it be short coats.” “It is a kind of social suicide”, shared an expert. Justice Jawad S.Khawja , a retired chief justice of Pakistan in his speeches often says that the language of the courts in Pakistan is foreign, the laws are imported, and the dress is not ours. “Not having a dress code can jeopardize the court’s dignity,” he observed. “But it should be in tune with our circumstances and psyche”, he added. While addressing the convocation in Lahore, the former environment Minister called the practice of wearing a traditional gown as barbaric and colonial. A division bench of Lahore High Court recently dismissed an intra-court appeal requesting the court to bar waiters at restaurants from wearing black suits. Justice Ayesha A Malik dismissed the petition saying that the court could not issue directions on what citizens could or could not wear. The dress code for the bar and the bench is prescribed in the High Court Rules and Orders, General Chapter, under the head Dress of Advocates appearing in High Courts; and Supreme Court Rules 1980 in Part 1 under Order IV Rule 8 and Supreme Court (Court Dress and Mode of Dress) Order 1980, was the contention of Ahmed / the petitioner who is a lawyer himself. He submitted to the court that the uniform worn by professionals including doctors and lawyers had an independent and distinct identity in society. Other examples of uniforms include ones worn by the armed forces, the police, Rescue-1122 staff and traffic wardens among others. He said there was no overlap of uniform for any other profession. The dress code represents the profession, he said. The idea is to allow people to connect a person with his profession by just looking at them, he said. Similarly, the dress code for lawyers was exclusive. “We are always supposed to wear it in courts. We are not allowed to plead or argue cases before the court if we are not attired according to the dress code.”

Ahmed asked the court to set aside the single bench’s order and ban workers in the hospitality industry from wearing lawyers’ uniform. The statutory uniform was exclusively for the bench and the bar, he said. While dismissing the previous petition, Chief Justice Ijazul Ahsan had observed that the garb worn by lawyers and judges was neither a trade dress nor like the uniforms of the police or the armed forces. He said it was clear that uniforms were protected by statutes, laws, rules or regulation. The dress code for lawyers and judges was common apparel and without distinctive features and therefore could not be termed a uniform. He observed that it wasn’t protected by a statute either. Citizens are not and cannot be prohibited from wearing

black suits, regardless of whether they work at an office or a hotel, or participate in a seminar or attend a dinner party, the judge had said. Justice Ahsan had said that such a prohibition would not only be unenforceable but would also defeat common sense. He said the counsel for the petitioner had failed to convince the court that his rights were being infringed upon.

The Journey Continues....

This brings me to a question that has been rarely, if at all, asked amongst the legal community: why do we still wear this uniform? There are only two arguments that I have heard so far in support of this policy, which are:

- 1) it's a universal symbol of the legal profession; and
- 2) it's a long-standing tradition and the uniform has become recognisable in society as that of the lawyer's.

It will not be uncommon to come across aged, stalwart lawyers who will consider it absurd to even think of changing the uniform. They stringently believe that if they, along with several generations of lawyers, could make it through such conditions then why can't the young lawyers of today make it through as well? They will be quick to point out the weak nature of today's 'kids' and how spoilt they have become. The problem with this argument is that if we extend this logic to other aspects of the legal field, then lawyers should not be making use of computers for drafting court documents, researching or storing data because our ancestors were able to practice law without such innovations. If we were to expand on this logic even further, then we should not be driving cars to court because our ancestors used to brave the sun's heat and commute on bicycles. The argument is simple: if we can make things easier for ourselves, then why don't we?

We need to overcome our misguided belief regarding the universality of the Western legal system (and in this particular case, the British one). Tradition, in most cases — not just with the lawyers' uniform — is oppression masked under the grand narrative of necessity and inevitability — a facade that prevents the victim from recognising the ultimate 'truth' of his oppression. In simpler words: we do not NEED to follow the British or the 'universal' example when it comes to the dress code of the courts.

There is precedent for changing uniforms of a profession. Take the Pakistani police for example. The government has overhauled the traditional khaki uniform, which dated back to pre-independence times. The rationale behind this change was that the former get-up, along with the khaki fabric, made the uniform uncomfortable for the police, especially during the summer. The government introduced a new weather-friendly and comfortable uniform.

What I propose is not even that drastic a change that will shake up the country's legal framework. The legal community needs to shed the current uniform and adopt a new weather-appropriate style of formal wear. As explained, the suit's origins can be traced to the need for clothing to be more comfortable in a formal environment. We cannot simply wait for changes to occur in the outside world and then accept them. We need to start innovating ourselves. I am no designer and to be honest I have limited sense of fashion; however, I do not believe that coming up with a new uniform will be a problem. We can come up with something that is tethered to our cultural heritage. For that, we will also need to overcome our deeply ingrained dichotomy of western clothing representing progress and our traditional dress (such as the Shalwar Kameez) representing backwardness. We need to overcome this national inferiority complex that we suffer at a subconscious level, of not being capable of innovating or setting a new precedent.

In my opinion, if we are able to achieve that (at least with our lawyers' uniform) then we can be at the threshold of reconstructing a new, more culturally connected and logically sound society. This change can lead to a domino effect that results in the recapturing of other areas of society and public discourse that are being dominated by the colonial mindset. But for now, the suit does not suit us⁸.

Rationales of Change of Dress Code with Climatic Compatibility in Pakistan

Many Lawyers and academicians debate whether the sanctity of the dress code should give way to practicality. The cumbersome compulsion, combined with the scorching heat is uncomfortable and unbearable during summer. They demand a pattern of change with climatic adjustability to restructure our colonial institutions to reflect our oriental culture and needs. Most lawyers in Pakistan are short in size, brown or dark brown in skin and so with long robes they look ridiculous and aliens to common people. Again the history, tradition, heritage, culture and social values of people do not match with the existing dress code for lawyers. Moreover, elite lawyers import judicial costume from Britain which is very expensive while average lawyers use second hand ones for years. Pakistan is a country in which from March 15 to October 15 a very hot and humid weather persists. Lawyers are to wear the dress code for professional compulsion despite their disinterest. Load shedding in Pakistan is more acute than even India. Weather condition in summer and in rainy season is almost like India and sometimes hotter comparatively. So, in line with many countries as said above Pakistan needs to change the dress code for lawyers or a relaxation during the summer and rainy season. Government in Bangladesh in 2009 had ordered male government employees to stop wearing suits, jackets and ties to save electricity during hot months between March and November. In an Order the government told the Ministers and employees not to turn their air-conditions below 24C. The order was reiterated in 2012 as a directory to save power but there is no punishment for breach of such order. Like India there is no movement in Pakistan by any lawyer's body to change the dress code here as lawyers are busy with practice, politics and position. Bar councils are the regulatory bodies of the advocates in Pakistan, Supreme Court and High Courts are the guardian of the judiciary but no initiatives are visible by any of the bodies to make the dress code comfortable and suitable for all seasons. The fact is that 69 years of independence is a reasonable length of time for us to restructure our colonial institutions in order to give us a true sense of nationhood and to signal to our contemporary youth towards change we need. I am very optimistic that we have the capacity to design a judicial costume based on Pakistani aesthetics. What we need at the moment is a transformative leadership to lead a cultural revolution. Pakistan has no cultural ties with Britain save through colonization. Commonsense suggests that we have a strong justification to cast away that cultural heritage compared to Canada, the US, Australia, India and other Muslim countries.

Pakistan can take lesson from the British regarding relaxation of dress code. Prior to change of the dress code in the UK, the Lord Chancellor's consultation paper opines that there is no justification for retaining working court dress on the grounds of tradition alone. The paper said that courts are not a tourist attraction. Lord Chief Justice Taylor of England opined that their judges' formal attire made them look

⁸ On the matter of lawyers' suits <http://tribune.com.pk/story/422397/on-the-matter-of-lawyers-suits/>
By Minaam Karim

"antique and slightly ridiculous" – in 1990. As a result, progressive change is felt to be initiated or encouraged. Change is yet to take place in Pakistan because of colonial mind set and attitude of policy-makers, bureaucrats, politicians and even judges and Advocates. As regard change as a sociological issue requires absolute commitment, honesty, perseverance, and modeling from the top-echelon of society like political leaders as well as members of the civil society.

The change of dress code has taken places in many countries and the pattern of change is not revolutionary rather evolutionary. Keeping in touch with UK and Indian judiciary as these two have resemblances with Pakistan let's dig out the possible reasons for the change of the dress code. In India the evolutionary movement of change for dress code started in the 1990s and still continuing creating debate on dignity vs. discomfort for the existing dress code of lawyers. In India those who favour the colonial dress code believed that the dress code gave a degree of anonymity to judges and lawyers. The dress code is not merely believed to be a status symbol but an integral part of the profession bringing out distinction, discipline, decorum and dignity among lawyers and give them confidence to fight for justice. It is also termed as a mark of dignity, legal fraternity and respect towards courts differentiating the lawyers from other professionals (Menezes, 1996).

On the other hand, the opponent of the British- style costume finds valid grounds to change the dress code or a relaxation of the dress code in summer and rainy seasons for removing physical discomfort and the subsequent health hazards. Probably, change of dress code and redesign of the same according to suitability of climate will not hinder administration of justice. The creation of a new dress code staying away from the legacy of the British attire may boost sub continental cultural entity and heritage in the legal arena. As moral values and legal ethics have already been well added into the legal profession the change in costume will not deteriorate the standard of this profession. Sometimes, neckties get touch with curry and tea stains, gowns are not dry-cleaned for long days, coats are not dry- cleaned and ironed detracting the dignity that befits the profession. In the rainy season the long robes get soaked with dirty water. Frequent power cuts and lack of power back ups in the courts demand change of such dress code which stipulates five layers for male lawyers and with a slightly dressed down version for female lawyers. In the subordinate judiciary the situation is even worse for the lawyers and judges owing to dearth of facilities but superior courts are spacious with more facilities comparably. Medical opinion too finds the dress code for lawyers in India unreasonable. It increases in body heat beyond a point lowers the appetite, slows down digestion as well as stimulates dehydration risk. Dr. Rajon TD, a Mumbai based consultant specialist in skin and sexually transmitted diseases says even low temperatures clubbed with high humidity levels cause severe discomfort. Nalini Karunakaran, an ayurvedic physician in India points black is a very unhealthy colour and being speedy absorber of heat could lead to a breakdown of health in the long run and also may results skin problems and orthopedic complications. Pakistan should share experience from India for the modification of dress code in the country. It is notable that, in a survey in the UK in 1992, 85% of the public felt that robes lent dignity to court proceedings, 71% felt the emphasized the witness to tell the truth and ultimately 79% were in favour of retaining robes. In another study was initiated in 2003 to measure how court dress impacts public confidence. The study stressed negative effects of formal attire for victims and witnesses recommending change with the demand of time. Eventually, the UK changed the judicial dress code in an evolutionary way. Similarly, in a study in India in 1990s, around 55.6% felt the black

coat was completely unsuitable for the tropical Indian climate while 86% said dress code for lawyers was necessary and around 65.2 percent felt their dress code had merely become a status symbol. The result of the study reflected when Indian Bar Council relaxed dress code for lawyers, although to a little extent.

Conclusion

Like law, the black coat is full of fascination and admiration and somehow there is also an enormous compassion for this mystical object. Yet, considering different views shared by different category of people several questions have been raised. Is there is a need to change the official dress code? Is black coat a tool of oppression or liberation? Do we need to really overcome our belief regarding the universality, supremacy and continuity of the imperial legacy in the manner as it has been continued for the past few decades? Is it mute and unquestioning blind obedience for rules and traditions imposed by colonial rulers? Is black coat of the lawyers' uniform a form of oppression masked under the grand narrative of necessity and inevitability? Are the lawyers treating themselves with cruelty while knowing and accepting the situation which is harmful when they dress up in a costume that is not suitable for the climate and weather of our country? Is it because of false prestige attached to the black coat that we want to continue with it? Is it a sign of the servile colonial mentality of our legal system? Is this dress creating a hurdle in formulating a people's friendly judiciary and the legal system? Can by not wearing the black coat will one be able to experience new ideas and practice as vociferously? All these questions are still boggling my mind. Do you have answers or will you like to give your creative, out of box suggestions to resolve this mystery!

In modern-day Pakistan, the black and white suit is the well-recognised uniform of the lawyer. The British Raj introduced this court dress in South Asia and this tradition has been upheld by the Pakistani legal fraternity, albeit with some minor variations (such as the doing away with the wig).

The origins of the modern-day suit can be traced to the 19th century Regency Britain, an era, characterised by inter alia distinctive trends in British fashion. One of the trends in fashion was the simplification of the elaborately embroidered and jeweled formal clothing of the nobility into a much more comfortable formal wear. This led to the conception of the modern day suit, which eventually became a strictly followed formality in the subsequent Victorian era. A lot of factors can be taken into account for this change in fashion such as the decreasing power of the nobility and the need for a new up and coming industrial elite to be accommodated in the corridors of power.

There is precedent for changing uniforms of a profession. Take the Pakistani police for example. The government has done overhauling the traditional khaki uniform, which dated back to pre-independence times. The rationale behind this change was that the current get-up, along with the khaki fabric, made the existing uniform uncomfortable for the police, especially during the summer. The government introduced a new weather-friendly and comfortable uniform.

What I propose is not even that drastic a change that will shake up the country's legal framework. The legal community needs to shed the current uniform and adopt a new weather-appropriate style of formal wear. As explained, the suit's origins can be traced to the need for clothing to be more comfortable in a formal environment. We cannot simply wait for changes to occur in the outside world and then accept them. We need to start innovating ourselves. I am no designer and to be honest I have no sense of fashion; however, I do not believe that coming up with a new

uniform will be a problem. We can come up with something that is tethered to our cultural heritage. For that, we will also need to overcome our deeply ingrained dichotomy of Western clothing representing progress and our traditional dress (such as the Shalwar Kameez) representing backwardness. We need to overcome this national inferiority complex that we suffer at a subconscious level, of not being capable of innovating or setting a new precedent.

In my opinion, if we are able to achieve that (at least with our lawyers' uniform) then we can be at the threshold of reconstructing a new, more culturally connected and logically sound society. This change can lead to a domino effect that results in the recapturing of other areas of society and public discourse that are being dominated by the colonial mindset. But for now, the suit does not suit us.

Dress code expresses sanctity and commitment of the lawyers toward judicial institutions and enhances their responsibility for the profession. But if the dress code is compatible with season, customs and cultural spirit and principles then the commitment, integrity and respect concerning the noble profession may be expedited. Trend of change of the costume jurisprudence both in the western and oriental countries is a beckon of hope in the direction of liberalism shifting from conservatism. Interestingly, in recent years, English reforms sought to project modernization and simplicity, to ensure that their own citizens maintained respect for their legal system. It is also important to not overlook simple logistical reasons for changing attire. Perhaps most importantly, the distinctive black robes can serve as a reminder to judges of the importance of their responsibility to administer justice and not perpetuate bias. On the other hand, judges who become less formal by removing robes or simplifying them might appear less pompous and more human. The negative consequences of wearing formal attire seem to weigh heavier today. In Europe or in America power cuts is not a problem and climate is not hot whereas frequent power cuts is an acute problem in India and Pakistan. Most of the lawyers in Bangladesh have adapted with the dress code against their intention while some of them feel embarrassed terming it unsuitable and disgusting but yet to raise any concern. Most of the colonial countries have changed their dress code but Pakistan is the glaring exception to this. Even UK, Canada, Australia, South Africa, India have shown the pattern as well as way towards change of the judicial costume recently and USA changed it long ago. So, the change of dress code is inevitable in Pakistan keeping pace with its climate, heritage and cultural, social and moral values.

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