

MANUAL
FOR
LOCAL/REGIONAL TRAININGS

KHYBER PAKHTUNKHWA JUDICIAL ACADEMY

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Introduction

Para # 16 of the District Judiciary Performance, Monitoring, and Evaluation Policy 2020-2025 of Hon'ble the Peshawar High Court, Peshawar, refers to local/regional training programs of Judicial Officers, Lawyers, and Ministerial Staff. Such programs are also mentioned in the High Court's strategy for eradication of corruption. Training areas identified in the policies include skill development, uniformity in judicial discretion, expeditious adjudication tools, soft skills, leadership, smart management, scheduling mechanisms, maintenance of record, ethical standards motivation, observance of code of conduct rules and directives of Peshawar High Court, inquiries and disciplinary proceedings etc.

Hon'ble the Peshawar High Court, Peshawar, vide letter No. 19889 dated 09-11-2020 followed by letter No. 3017 dated 26-02-2021, instructed the Academy to bring uniformity in the local training plans. This Manual has been formulated with the stated objective. Training sessions may be rolled out, as per local requirements, according to the Manual. It is envisaged that sound and systematic methodology will be followed in designing training plans and evaluation mechanisms to make training sessions effective. The Academy can be consulted for further assistance, if any.

Module 1

Uniformity in Discretionary Matters

Judicial discretion is commonplace in the administration of justice. It manifests itself in the traditional "may" dilemma of the statutory interpretations. Yet, the doctrinally-recognized areas of discretion, sentencing, bail, probation and parole in the criminal law and equitable remedies in civil law, are the prominent areas to focus on. The legal literature abounds in the discussion of dimensions and contours of judicial discretion, such as the primary and secondary discretion, the strong and weak discretion, and discretion in hard cases. However, allowing even for judicial creativity, judicial discretion is neither judicial intuition nor judicial freedom. The judge, even when he is free, is still not wholly free. He is to exercise discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to the primordial necessity of order in the social life. He decides on principle, not precedent. Uniformity, an essential characteristic of legal rules, can only be achieved when the judge uses his or her authority while adhering to the whole philosophy of law and justice and principles of jurisprudence.

Learning Objectives

- To understand the philosophy of law and fundamental issues of jurisprudence
- To understand, the nature, purpose, principles and history of equitable reliefs
- To understand bail jurisprudence and its principles
- To understand sentencing jurisdiction
- To understand probation and parole regime

Target Audience

- Judges and Lawyers

Structured Learning

- Part A. Jurisprudence
 - *Purposive Approach, Fuller*
 - *Hart's Concept of Open Texture, Hard Case and Judicial Discretion, Hart*
 - *Concept of difference between principles and rule, Dworkin*
 - *Institutional Thesis*

- *The Rights Thesis*
- *Terms of Strong and Weak Discretion, Dworkin*
- *Judges Do not Make Policy Decisions, Dworkin*
- Part-B: Equitable Reliefs
 - *Historical Overview*
 - *Interlocutory Injunctions: General Principles*
 - *Interlocutory Injunctions: Specific Areas*
 - *Mareva Injunctions*
 - *Anton Piller Injunctions*
 - *Perpetual Injunctions: General Principles*
 - *Injunctions to Protect Property*
 - *Injunctions to Enforce Public Rights*
 - *Specific Performance: General Principles*
 - *Specific Performance: Discretionary Defences*
 - *Specific Performance: Specific Areas*
 - *Enforcement of Contracts by Injunctions*
 - *Enforcement of Equitable Court Orders*
 - *Equitable Damages*
 - *Equitable Compensation*
 - *Rectification*
- Part-C: Bail
 - *Bail-General: Meaning, Scope, Basic Rule and Concept*
 - *Bail for purposes of Evidence*
 - *Bail for Appearance*
 - *Remand and Law of Detention*
 - *Statutory Bail*
 - *Bail in Bailable Offence*
 - *Bail in Non-Bailable Offence*
 - *Anticipatory Bail*
 - *Transit Bail*
 - *Cancellation of Bail*
 - *Bail in contemplation of and pending Appeals*
 - *Bonds, Sureties and Forfeiture*

- Part-D: Sentencing
 - *Sentence Defined*
 - *Sentencing Guidelines and Purpose*
 - *American Experience*
 - *English Sentencing System*
 - *Theories of Sentencing*
 - *Key principles of Sentencing: Consistency, Uniformity, Proportionality and Totality*
 - *Extant Sentencing Regime*
- Part-E: Probation and Parole
 - *Alternatives to Imprisonment*
 - *Probation Defined: Conviction and Sentence*
 - *Objectives of Probation*
 - *Legal Instruments*
 - *Applicability of Section 4: The Probation of Offenders Ordinance, 1960*
 - *Section 4 and Section 6: The Probation of Offenders Ordinance, 1960*
 - *Social investigation report*
 - *The scope of Section 5 (Juvenile Justice System Act-life or death sentence)*
 - *Community Service order*

Learning Outcomes

On completion of the training, we expect to have:-

- Enhanced knowledge of the trainees about exercise of judicial discretion as an issue of jurisprudence
- Improved sensitivity of the trainees to proper exercise of judicial discretion
- Better understanding of the trainees to the principles of grant or refusal of equitable reliefs
- Better understanding of the trainees of bail jurisprudence
- Better understanding of the trainees of sentencing jurisdiction
- Better understanding of the trainees of probation and parole legal regime
- Trainee's recognition of the importance of uniformity in exercise of judicial discretion
- Court's exercise of judicial discretion based on adherence to the philosophy of law and principles of jurisprudence

- Improvement in quality and efficiency of judicial system

Required Reading

- The Constitution of Islamic Republic of Pakistan, 1973
- High Court Rules and Orders
- The Probation of Offenders Ordinance, 1960 and the Rules
- Good Conduct Prisoners, Probationer Release Act & Rules
- Juvenile Justice System Act, 2018
- Jurisprudence: The Philosophy of Law: Textbook, *Michael Doherty*
- Learning Legal Rules, *James Holland and Julian Webb*
- Islamic Jurisprudence, *Imran Nyazee*
- *Islami-Qanun-e-Faujdari*, Abdul Qadir Auda
- Law of Injunctions, *Nelson*
- The Specific Relief Act, *M. Mehmood*
- Law of Bail, *Shaukat Mehmood*
- How Judges Sentence, *Geraldine*
- Sentencing and Criminal Justice, *Ashworth Andrew*
- Punishment, Prison and the Public, *Cross Rupert*
- Judges Attitudes in Sentencing: A Study of the Factors Underlying the Sentencing Practise of the Criminal Courts of Philadelphia, *Green Edward*

Recommended Reading

- Law in the Making, *Austin*
- Legal Philosophies, *Harris*
- Introduction to Jurisprudence, *Lloyd*
- The Concept of Law, *H.L.A Hart*
- Taking Rights Seriously, *Ronal Dworkin*
- The Morality of Law, *Lon. F. Fuller*
- The Concept of a Legal System, *Joseph Raz*
- Specific Relief Act, *Justice A.K Nandi*
- Effecting Change in Khyber Pakhtunkhwa Probation Regime by Research Society of International Law Pakistan

Module 2

Tools of Expeditious Adjudication

The Constitution of the Islamic Republic of Pakistan guarantees inexpensive and expeditious justice. Regrettably, however, the justice system suffers from the vices of cost, complexity, and delay and is in a state of crisis. The root causes may be many, yet judicial case management has gained worldwide acceptance as a time-tested panacea. Case Management Rules are now a feature of the Procedural Codes of all the Common Law countries. No wonder early identification of issues, pre-cognizance scrutiny, summary judgments, and scheduled trials contribute to swift and timely adjudication of disputes.

Learning Objectives

- Clear understanding of the role of judge in understanding the matter-in-controversy through the use of examination of the parties and discovery etc.
- Pre-Cognizance Scrutiny and judging appropriateness of trial
- Summary Judgement and its significance
- Trial scheduling and its significance

Target Audience

- Judges and Lawyers

Structured Learning

- Part-A Civil
 - Historical Perspective
 - Rationale of the Rules
 - Summons for final disposal
 - Identifying and Narrowing the Issues: Examination of Parties, Discovery, Affidavits
 - Alternative Dispute Resolution: Various Modes & Procedures with special focus on Mediation Skills
 - Summary Judgment
 - Trial Scheduling
 - Conduct of Summary Trials: Focus on cases under O. 37 CPC & SCMO Cases

- Part-B Criminal
 - Pre-Cognizance Scrutiny
 - Discharge
 - Charge Framing
 - Trial Management
 - Dealing with SCMO Cases

Learning Outcomes

On completion of the training, we expect to have:-

- Enhanced knowledge of the trainees about summary judgments
- Increase in ratio of summary judgments
- Enhanced knowledge of the trainees about trial scheduling
- Improved sensitivity of the trainees to pre-cognizance scrutiny and appropriateness of charge
- Trial scheduled and concluded in an agreed and definite time framework
- Improvement in quality and efficiency of justice system

Required Reading

- Civil Procedure Code, *Amer Raza*
- Criminal Procedure Code, *Shaukat Mehmood*
- High Court Rules and Orders
- KP Civil Case Management Rules
- Case Management Handbook, Law Council Australia
- Case Management Rules of Common Law Countries

Recommended Reading

- Criminal Procedure, *Sheikh Abdul Haleem*
- Civil Procedure Code, *Justice Thakker*
- Hryniak v. Mauldin. 2014 SCC
- Trilogy, *Celotex*

Module 3

Judgment Writing Skills

A judge must consider a variety of factors when making decisions, including knowledge of human behavior, social norms, rules of interpretation, and case law. Besides, he must be well versed in both substantive and procedural laws. But all of this would be for naught if the judge is unable to present his thoughts in a clear, coherent, and concise manner.

Learning Objectives

- To understand the statutory requirements of judgment writing
- To understand the elements of judgments writing and their sequence
- To understand principles of appreciation of evidence
- To understand interpretation of law
- To understand the applicability of case law
- To understand principles of effective communication

Target Audience

Judicial Officers

Structured Learning

Judgment Writing: General

- Essential Requirements
- Language
- Title, Heading
- Sketchy
- Use of Couplets
- Quoting Extracts
- Long or Laboured
- Use of abbreviations or Codes
- Emotion or Sentiments
- Reference to documents, commentaries, thoughts of creative writers, law reports, online databases
- Criticism of witnesses

- Demeanour of witnesses
- Remarks
- Conclusion

Judgments in Civil cases

- Opening Sentence
- Narration of Facts
- Issues
- Discussion of Evidence
- Applying law
- Findings with reasons
- Summing up
- Relief
- Costs

Judgments in Criminal Cases

- Essential Matters
- How begins
- Statement of Facts
- Points to determine
- Discussion of Evidence
- Applying law
- Findings with reasons
- Operative Portion
- Punishments

Judgments in Appeals

- Essentials
- Beginning
- Facts
- Points to determine
- Reasons for finding
- Discussion and Analysis of Evidence
- Relief

- Costs

Learning Outcomes

On completion of the training, we expect to have:-

- Enhanced knowledge of the trainees about the basic principles of good judgment writing
- Improved sensitivity of the trainees to the proper exercise of judicial discretion
- Better understanding of the trainees of principles of appreciation of evidence
- Better understanding of the trainees of applying law to the facts
- Better understanding of the trainees of operation of precedents
- Better understanding of the trainees of principles of effective communication and its importance in judgment writing
- Improvement in standard of judgment writing
- Improvement in quality and efficiency of justice system

Required Reading

- Judgments and How to Write them, *S.D Singh*
- Criminal Procedure Code, *M. Mehmood*
- Civil Procedure Code, *Amer Raza*
- Law of Evidence, *Justice Muneer*
- Understanding Statutes, *S.M Zafar*
- Learning Legal Rules: *James Holland and Julian Webb*
- Handbook of Technical and Scientific Writing, *Mayfield*

Recommended Reading

- Legal Writing, *Chief Justice Beverly McLachlin*
- On the Writing of Judgment Writing, *Justice Michael Kirby*
- Judgment Writing, *Sir Henry Gibbs*
- Why Write Judgment?, *Sir Frank Kitto*
- Judicial Opinion Writing, *Judge Gerald L. A. Vasi and Lisa Solomon Ethical*
- Judgment Writing, *Justice Roslyn Atkinson*
- A Matter of Judgement, *Justice Linda Dessau and Judge Tom Wodak*

- The Form and Language of Judicial Opinion, *Lord Roger of Earlferry*
- Judges Writing Style, *Richard A. Posner*

Module 4

Legal Writing

The importance of pleadings in the administration of justice needs no emphasis. Properly drafted pleadings bring the controversy to clarity, enabling the court to decide the cases justly and expeditiously. It is trite that the party is expected to prove the case as alleged by him. Thus every practicing lawyer appreciates that the art of pleadings is the skill he must necessarily possess. For the pleadings to be free from the vices of abusive, irrelevant, reckless statements, unfounded charges of fraud, baseless justification, and intentional misstatements, a lawyer needs to grasp fundamental principles of pleadings and principles of effective communication.

Learning Objectives

- To understand the importance of pleadings
- To impress upon the necessity of proper client interview and scrutiny of relevant records
- To understand the basics of pleadings
- To understand principles of effective writing

Target Audience

- Lawyers

Structured Learning

- Importance of pleadings
- What is pleading
- Object and Purpose of Pleadings
- Functions of Pleadings
- Language of Pleadings
- Particulars in Pleadings
- Pleadings and proof
- Inconsistent pleadings
- Pleadings vary from evidence
- Doctrine of relation back

- Legal Pleas
- Alternative pleas
- Relief to be founded on pleadings
- Amendments of pleadings
- Striking out pleadings
- Classes of parties
- Cause of action and jurisdiction
- Presumptions
- Onus of Proof
- Interest and cost

Learning Outcomes

On completion of the training, we expect to have:-

- Enhanced knowledge of the trainees about importance of pleadings
- Improved sensitivity of the trainees to the proper interview of the clients and assessment of record
- Better understanding of the trainees of principles of effective communication
- Expedious adjudication resulting in summary judgments
- Increased Use of ADR
- Properly formulated issues
- Improvement in service delivery by justice sector

Required Reading

- Civil Procedure Code, *Amer Raza*
- High Court Rules and Orders
- Law of Pleadings, *Mogha*
- Pleadings Without Tears: A Guide to Legal Drafting under the Civil Procedure Rules, *William Rose*,
- Pleadings and Practise, *NS Bindra*
- Handbook of Technical and Scientific Writing, *Mayfield*

Recommended Reading

- Civil Procedure Code, *M. Mehmood*
- Civil Procedure Code, *Justice Thakker*
- Pleadings in Indian Courts, *Pundit Sheo Narain*

Module 5

Advocacy Skills

Advocacy skills involve two distinct roles, the presentation of evidence and forensic persuasion. A lawyer presenting evidence has the opportunity to dissect human character and motives, to distinguish between sincerity and sham, the genuine and the spurious, truth and false. More than that, he has the opportunity to serve the noble cause of justice by bringing before the court nothing but the whole truth. Moreover, evidence alone fails to attain full significance without forensic persuasion. All the more the two skills do not come by grace but must be assiduously cultivated.

Learning Objectives

- To understand the principles of examination-in-chief, cross and re-examination
- To understand skills of forensic persuasion

Target Audience

Lawyers

Structure Learning

- Relevancy, Admissibility, Weight and Proof: The Principles and Distinctions
- Hearsay and Exceptions
- Burden of Proof and Presumptions
- Direct Examination - The Fundamentals
- Form of the Question, Inflection, Body Language
- Cross Examination - The Fundamentals
- Examination of Witness - Direct and Cross (Exercise)
- Impeachment: Bias, Prejudice and Motive, Prior Untruthful Acts, Prior Conviction, Prior Inconsistent Statements
- Refreshing Memory and Past Recollection
- Forensic Persuasion

Learning Outcomes

On completion of the training, we expect to have:-

- Enhanced knowledge of the trainees about the law of evidence
- Improved sensitivity of the trainees to the proper conduct of witness examination
- Better understanding of the trainees of difference in examination of various kinds of witnesses
- Improved Court decorum during examination proceedings
- Availability of better evidence before the court
- Effective communication before the courts
- Improvement in quality and efficiency of justice system

Required Reading

- Effective Advocacy (Legal Skills), Shaw Noel
- Law of Evidence, *Justice Muneer*
- Qanoon-e-Shahdat Order, *Shaukat Mehmood*
- High Court Rules and Orders
- Law of Evidence, *Cross and Tapper*
- The Advocacy Trainer: A Manual for Supervisors

Recommended Reading

- Law of Evidence, Field
- *Islami-Qanoon-e-Shahdat, Justice Tanzeel-ur-Rehman*

Module 6

Information Technology Skills

Information technology in its varied manifestations has completely changed the dynamics of the justice sector. Word processors and spreadsheets, to an unimaginable extent, have increased the accuracy and speed of office tasks. Network I.T has revolutionized communication mechanisms. Enterprise I.T has helped redesigning business processes and standardizing workflows, bringing phenomenal changes in case management, record management and evidence management. Advent of Artificial Intelligence (AI) has increased the possibilities for online conflict resolution. Thus quite significantly I.T has enabled the justice sector to realize its core values of fairness, timeliness, impartiality, and independence. Every judicial system hence is obligated to take full advantage of the benefits information technology has to offer.

Learning Objectives

- To gain an understanding of fundamentals of computing
- To Gain an understanding and use of word processors and spreadsheets
- To gain an understanding of AI

Target Audience

- Judicial officers,
- Court Staff, and
- Lawyers

Structured Learning

- Introduction to Computer
- Evolution of Computing
- The World Wide Web
- Computer Systems. Building a Personal Computer.
- Developing and Hosting a Web Page.
- Microprocessor. Binary Numbers & Logic Operations. Lists and Tables.
- Computer Software. Operating Systems. Interactive Forms. Application Software. Word Processing. Algorithms, Objects, Properties and Methods. Programming

languages. Software Development Methodologies. Data Types and Operators. Spreadsheets. Flow Control and Loops. Design Heuristics. Web Design for Usability. Arrays.

- Computer Networks. Introduction to the Internet. Function and Variable Scope. Internet Services. Developing Presentations. Event Handling. Graphics and Animations. Intelligent Systems. Mathematical Methods. Data Management. Database Software. String Manipulations. Cyber Crime. Social Implications of Computing. Images and Animations.
- Use of word processors and spreadsheets
- What is AI and how it is used?
- Case-Flow Management and Information System (CFMIS): Orientation of the Dedicated Software developed by Peshawar High Court
- Evidence through video-link
- Digitization and Record Management

Learning Outcomes

On completion of the training, we expect to have:-

- Enhanced knowledge of the trainees about the uses of ICT
- Increased quality and efficiency of court work including court and case management, record management, evidence management and office work
- Trainee's realization of the importance of ICT in justice sector
- Improvement in quality and efficiency of justice system

Required Reading

- Understanding Computers: Today & Tomorrow, *Deborah Morley etc (Lated Edn.)*
- Microsoft Office 365 & Office 2019: Introductory, *Sandra Cable, Steven M. Freund, Ellen Monk, Susan L. Sebok, Joy L. Starks, and Misty E. Vermaat*
- Artificial Intelligence – A Modern Approach (3rd Edition), *Stuart Russell et al.*
Technology for justice: How IT can support Judicial Reform, *Dory Reiling*

Recommended Reading

- Computer Science: An Overview, *Global Edition, Glenn Brookshear, Dennis Brylow*
- MS-Office 2010 Training Guide, *Prof. Satish Jain, M. Geetha*

Module 7

Maintenance of Judicial Records

Maintenance of record is considered as the most neglected area and non-observance of the prescribed rules has lead to irremediable consequences in shape of piling of unorganized and improper bulk in the Record Room. Hon'ble the Peshawar High Court, Peshawar, has time and again ordered proper compliance of the relevant rules and directives pertaining to maintenance etc of the judicial records. Considering the importance of the subject, Judicial Officers and Court Staff need to be sensitized about and trained to maintain and preserve the records in accordance with the prescribed procedures. Additionally, the stakeholders are also required sensitization about digitization of judicial record under the directives of Peshawar High Court, Peshawar. This training module describes the rules and procedure, addresses the important but neglected areas with common mistakes and identifies officials responsible for maintenance of judicial records.

Learning objectives

This module intends to train the stakeholders regarding:

- Purpose of maintenance and compilation of judicial record
- The relevant rules pertaining to the maintenance & destruction of the judicial record
- The standards, relevant to use of paper and writing in judicial proceedings
- Preparation of the prescribed index on judicial record
- Arrangement of judicial file in Part-A and Part-B
- Modes of transmission of record between the Courts/offices and Record Room
- The procedure for inspection of records, pending trial and consigned
- Procedural mandate of consignment of the record in Record Room
- The periods prescribed under the Rules for preservation of the judicial record and registers.
- Mode and manner of destruction of the judicial record and registers
- Procedure of digitization/scanning of judicial record per directive of Peshawar High Court

Target Audience

- Judicial Officers,
- Court Staff, and
- Paralegal Staff

Structured Learning

Sequence of the discourse shall be following:-

- Objectives of maintenance of Judicial Record
- Preparation of Index and arrangement of Part-A & Part-B of judicial record.
 - Anomalies Currently in practice and ensuing implications
 - Contents of Part-A & Part-B of various judicial records
 - Relevant Rules
- Size and Quality of the paper
 - Common mistakes made in writing and paging
- Digitization of Record
 - Directive of Peshawar High Court for digitization of the judicial record
 - SOPs for maintaining the digitized judicial record.
- Consignment of Judicial Record
 - Erroneous practices employed in consignment
 - Use of Prescribed Challan and importance of relevant entries
 - Relevant Rules and procedure
- Inspection of Record
 - Inspection in practice
 - Relevant rules of appropriate procedure and prohibitions.
- Transmission of Record
- Preservation & Destruction of Records & Registers
 - Record to be maintained in Perpetuity
 - Periods prescribed for destruction of records & registers
 - Procedures of Destruction
- Maintenance & Consignment of Registers of Paralegal Staff
 - Rules & Procedures for Maintaining the Records
 - Surveillance of the relevant record/registers

Learning Outcomes

On completion of the training, the trainees shall be able to:-

- Improve creation, maintenance, preservation, and destruction of record
- Enumerate the periods prescribed under the Rules for maintenance of the judicial record and registers
- Describe the mode and manner of destruction of the judicial record and registers
- Gain better understanding about the procedure of digitization of judicial record
- Demonstrate the requisite skill for better management of records
- Ensure proper maintenance & preservation of the record of paralegal staff
- Improve court records management system and preservation through digitization
- Improvement in quality and efficiency of justice system

Required Reading

- High Court Rules & Order (Civil) Vol. IV Chapter-5, Part-C
- High Court Rules & Order (Civil) Vol. IV Chapter-16
- High Court Rules & Order (Civil) Vol. IV Chapter-24
- The Destruction of Record Act, 1917
- Judicial Estacode: Directives of the Peshawar High Court
- Rules and Instructions relevant to Petition Writers, Oath Commissioners and Notary Public

Recommended Reading

- Trial Court Record Manual California Courts

Module 8

Process Serving Agency: Skills of Proper & Timely Execution of Processes

The Process Serving Agency plays a crucial role in the justice sector. A strengthened process serving agency contributes to expeditious, inexpensive and impartial justice. Considering the importance of the process serving agency, it is essential to enhance its capacity to execute processes with promptitude and in accordance with the Rules. With the incorporation of modern devices as means of process serving, advanced training of the members of the Agency is also a need of hour.

Learning Objective

- To understand the statutory provisions of CPC and directives of the High Court pertaining to the process serving
- To understand the utilization of modern devices for speedy service of processes
- To impress upon the consequences of improper service

Target Audience

- Judicial Officers,
- Civil Nazir,
- Naib Nazirs,
- Bailiffs, and
- Process Servers

Structured Learning

- Duties of Civil Nazir, Naib Nazir, Bailiff and Process Server: High Court Rules And Orders
- Types of Processes
- Registers
- Affidavit of Process Server
- Different modes of service
- How to conduct effective service of processes
- Scale of process fee
- Police assistance in execution of warrants

- Processes in criminal cases
- Financial duties: Sheriff Petty Account

Learning Outcomes

The discourse will enable the trainee to:

- Improvement in the knowhow of effective service of process
- Resort to the new mode of services.
- Avoid mistakes which become the causes of delay, remand and other legal consequences resulting from the improper service of process.

Required Reading

- Code of Civil Procedure, 1908.
- Code of Criminal Procedure, 1898.
- High Court Rules and Orders.
- Judicial Esta Code

Recommended Reading

- *Urdu Hidayaat baraye amla zile Adliya Khyber Pakhtunkhwa*, compiled by Mr. Yahya Zahid Gillani, Former District and Sessions Judge, Published by Access to Justice Program
- *Rehnomaye Usool Barye Paida Gaan, Bali Fan waa Naziraan Wagiaraa*, Published by Peshawar High Court, Peshawar
- *Amomee Qanoon-e-Zawabit Tamil Qunandagan or Bailiff Sahiban Ki Liye*, published by Punjab Judicial Academy.

Module 9

Diary Management Skills

The Case Management Rules envisage novel and distinct conferences and trial scheduling mechanisms. Trial preparation is scientifically planned with the active participation and consent of parties and lawyers. Diary Management Database and the Revenue Record Cell are used as facilitation tools. The actual dates are a timetable with a daily hearing feature. All of this necessitates dexterity and foresight not only on the part of the presiding officer but the reader of the court to be well aware of the niceties of the new legal regime in addition to his core duties.

Learning Objectives

- To understand the duties of the reader mentioned in the High Court Rules and Orders
- To understand the duties of the reader vis-a-vis diary management under the case management rules and Five Years Policy of the High Court

Target Audience

- Readers

Structured Learning

- Handling of Files
- Preparation of Daily Cause list
- Display of Cause List
- Giving *Parcha Yadasht*
- Arrangement of the files per Cause list
- Checking of the pleadings and court fee
- Signing of summons, if so authorized
- Reader' Note about service of process
- Timely intimation to the parties and witnesses of the next date in case of absence of presiding officer of unexpected holiday
- Noting the number of the case on an application involving deposit in sheriff petty account
- Certificate of subsistence allowance

- Communication and dealing with the public, litigants, other staff members, and lawyers
- Managing Conferences
- Diary Management
- Maintenance of Registers
- Keep the list of approved commissioners
- List of approved newspapers for publication
- Maintenance of Attendance Register and casual leave record
- Issuance of Fine Receipt, entries in the fine register and monthly reconciliation
- Conciliation of the registers and overall supervision of the staff
- Maintenance of Stock, library and relevant Registers

Learning Outcomes

On completion of the training, we expect:

- Improved knowledge about the trainee's about their duties in the High Court Rules and Orders
- Improved knowledge of the trainee's about scheduling conferences and trial management under the case management rules
- Personal grooming of the readers to work efficaciously with successful output
- Progression in teamwork and collaboration
- Improvement in the quality of the justice system

Required Reading

- High Court Rules and Orders
- Judicial Estacode
- Five Years Policy of the Peshawar High Court

Recommended Reading

- *Urdu Hidayaat baraye amla zile Adliya Khyber Pakhtunkhwa*, compiled by Mr. Yahya Zahid Gillani, Former District and Sessions Judge, Published by Access to Justice Program

- *Rehnomaye Usool Barye Paida Gaan, Bali Fan waa Naziraan Wagiaraa*, Published by Peshawar High Court, Peshawar
- *Amomee Qanoon-e-Zawabit Tamil Qunandagan or Bailiff Sahiban Ki Liye*, published by Punjab Judicial Academy.

Module 10

Disciplinary Proceedings

Civil service is considered the backbone in delivery of services to the nation. To have an efficient human resource and to maintain the discipline therein is the hallmark for achieving the above objective. Efficiency and discipline are a correlative concept in the civil service, therefore to have internal accountability thereof, a foolproof, transparent process of investigation into the allegations of inefficiency and misconduct, and other ancillary issues are important. Unfortunately, such objectives are not met when the officials conducting the disciplinary proceedings do not have first-hand knowledge of the statutory mandate of disciplinary proceedings including fact-finding, regular and discreet inquiries, charge-sheet, statement of allegations, role of departmental representative etc. This module aims to provide knowledge of the rules and procedures of the disciplinary proceedings and to highlight the patent common errors occurring mainly due to incompetence issues affecting the objective culmination of the proceedings.

Learning Objectives

- To understand misconduct and inefficiency parameters
- To understand the repercussion of delayed or improperly conducted disciplinary proceedings
- To appreciate the domain of Competent and Appellate authority, Inquiry Officer, inquiry committee and their respective role in departmental proceedings.
- To comprehend different kinds of inquiries i.e. discrete, fact finding and regular inquires and their domain, scope, and procedure
- To appreciate the circumstances in which regular inquiry dispensed with and where it is essential.
- To gain conceptual clarity of charge sheet, statement of allegations and show cause notice, differences therein and their mode of services upon the accused officer/official.

Target Audience

- Judicial Officers

Structured Learning

- Laws governing disciplinary proceedings
- Definition of delinquent official/accused, competent authority, inquiry committee and inquiry officer
- Concepts of Misconduct and Inefficiency
- Grounds of action
- Distinction between fact-finding, regular and discreet inquiry
- Show-cause notice, reply and findings
- Charge sheet and statement of allegations
- Enquiry proceedings: necessary legal prerequisites
- Powers of Inquiry officer, Competent Authority
- Major and Minor Penalties
- Departmental Appeals and remedies

Learning Outcomes

On the completion of training, the trainees shall be able to: -

- Demonstrate knowledge of the inquiry proceedings as per the law and rules
- Effect play their respective role as Competent Authority, Member of Inquiry Committee, and Inquiry Officer
- Contribute to improved service discipline
- Improvement in efficacious outcomes of the disciplinary procedures

Required Reading

- The Constitution of Islamic Republic of Pakistan, 1973
- The Khyber Pakhtunkhwa Civil Servant Act, 1973
- The Khyber Pakhtunkhwa Judicial Service Rules, 2001
- The Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.
- Instructions by Peshawar High Court, Peshawar. Judicial Esta-Code: Section-02 (Judicial Officers Conduct and Discipline)
- Establishment Code 2011 of Government of Khyber Pakhtunkhwa

- A Compendium of Laws and Rules containing Efficiency and Discipline Rules, Pakistan Public Administration Research Centre, Establishment Division, Cabinet Secretariat Islamabad, 2012

Recommended Reading

- Fundamental law of Pakistan, *A.K. Brohi*
- Civil Services in Pakistan, *Dr. Agha Iftikhar Hussain*
- Manual of ACRs Instructions of Government of Khyber Pakhtunkhwa

Module 11

Supervisory Role of Magistrate in Pre-trial Proceedings: Skill Sets

Crimes are investigated by the police and during the investigation the police interact with the Judicial Magistrates. The scheme of the Code of Criminal Procedure, 1890 (hereinafter referred as the Code) is designed to observe protection of rights of the accused during pre-trial proceedings. The Code provides for independence of the police officers in the investigation process and non interference of the judiciary therein, albeit close supervision through Judicial Magistrate to ensure fairness in the investigation. In order to perform such duties, judicial Magistrates are vested with certain powers and functions such as recording of statements, grant or otherwise of the police/physical remand, sending the seized objects for forensic laboratories, procuring of the specimen signatures and hand writing of the suspects for sending them to the experts for analysis, identification parades etc. The object behind entrusting this kind of functions of Judicial Magistrate is to enhance credibility of the evidences collected during investigation. Judicial Magistrate has the power to order the investigation and in certain circumstances he can order stopping of investigation as well.

This module provides an overview of supervisory function of Judicial Magistrate. It intends to address to all the pre-trial tasks which a Judicial Magistrate undertakes and also pin-points the common mistakes made and omissions occurred leading to ineffectiveness of the role.

Learning Objective

- Sensitizing the trainees to play the desired supervisory role and & persuading them to improve the way they perform
- Enhancing skills & building capacity of the trainees in conduct of pre-trial proceedings
- Identifying common decision-making points during pre-trial proceedings where an understanding of domain might affect how to make decide and what to decide
- Streamlining investigation proceedings through active & effective magisterial supervision within legal mandate
- Ensuring expeditious & timely submission of final/interim reports
- Restoring public confidence in Courts

Target Audience

- Judicial Officers

Structured Learning

- Scheme of the Code in transmission of information to Magistrate
- Recording of FIR and its dispatch to the Magistrate
- Complaint Case: Initial Proceedings
- Statement u/s 200 Cr.P.C
- Sending of complaint to police/others u/s 202 Cr.P.C
- Investigation by police/others
- Submission of report
- Issuance of process
- Indefinite, unwarranted & offending delay in conclusion of investigations
- Safeguarding the Rights of the Accused on Arrest
 - Production of accused within 24 hours from the time of his arrest
 - Whether arrestee is harassed during the period during the detention
 - Disclosure of information of the grounds and reasons for arrest to accused
 - Disclosure of informed of arrest to the relatives of the accused
 - Need of any medical examination etc to person arrested
- Searching for persons wrongfully confined
- Grant of Police or Judicial Custody
 - Criteria to be observed to exercise discretions: Whether police custody is required or not?
 - Mandate to be followed
 - Whether Judicial Magistrate has jurisdiction?
 - Medical examination of the accused
 - Case of female accused
 - Duration of the Police Custody
 - Copy of the order to Sessions Judge
 - Transit Custody
 - Writing of the Orders
- Power to order Investigation
 - Non-cognizable Cases

- Section 156 (3) of Cr.P.C.
- Recording of statements
 - Statement u/s 164 CrPC
 - Judicial Confession u/s 164/364 Cr.P.C, etc.
 - Recording of Dying Declaration
- Determination of age of victim and accused
- Medical Examination of the accused, in case of alleged lunacy
- Exhumation Proceedings
- Identification Parade
- Cases based on suspicion
 - Inquest u/s 174 CrPC
 - Application for permission for conducting enquiry u/s 523/550 Cr.P.C
 - Unqualified Permission by Magistrate
 - Enquiry/investigation Report
 - Arrest on suspicion
 - Seizure of property
 - Report to Magistrate
 - Custody & production
 - Disposal of property
- Discharge of Accused
 - Section 63, 169 and 173 (3) of Cr.P.C.
- Completion of investigations within the time specified by law
 - Final Report within statutory period
 - Mandatory Interim Report
- Cognizance of offence (S.190 Cr.P.C)
- Sending up/Forwarding of the Challan in Sessions Trial Cases
- Taking Cognizance and proceeding with the case

Learning Outcomes

- Improvement of trainees' skill to effectively supervise the investigation process
- Able to identify and appropriately address factual, legal, procedural, and resource issues that arise frequently during pre-trial proceedings

- Erroneous proceedings shall be curtailed, leading to efficacious investigation proceedings
- Assessment of importance of role of Judicial Magistrate
- Ensuring safeguard to rights of persons arrested
- Improvement in quality of justice delivery system

Required Reading

- Code of Criminal Procedure, 1890, *Shaukat Mehmood*
- High Court Rules and Orders (Criminal)
- Khyber Pakhtunkhwa Police Act, 2017
- Investigation for Fair Trial Act, 2013
- Constitution of Pakistan, 1973 (Fundamental Rights)
- Directives of Peshawar High Court (Judicial Esta Code)

Recommended Reading

- Code of Criminal Procedure, 1890, *Sheikh Abdul Haleem*
- Criminal Practice, *Sheikh Abdul Haleem*

Module 12

Code of Conduct of Government Servants

Human resource is critical for the efficiency of the department. Government officials have a responsibility to the State and its citizens to display unconditional loyalty to the laws and public interest above personal interest. They must possess unblemished character. They need to know what are the Codes regulating their conduct and what constitutes its violation. Ignorance about and violation of such norms may bring a bad name to the officer's integrity on the one hand and repute of the institution on the other. Awareness of the prescribed norms has become exceptionally important with recent technological advancements in our daily life. The module aims at creating awareness of the officers about the laws and rules pertaining to their conduct and inculcating sensitization of strict observance.

Learning Objectives

This module is design to train the personnel of justice sector regarding:

- Observance of relevant law, rules, regulations and instructions on the subject
- To bring into their knowledge those acts and omissions which amounts to misconduct.
- To avoid the misuse of technology by interacting with irrelevant quarters.

Target Audience

Judicial Officers, Court Staff

Structured Learning

- Law governing Code of Conduct of Government Servants
- Gifts and Gratifications
- Funds Raising
- Declaration of Property
- Private trade
- Involvement in criminal cases
- Communication and use of technology
- Approach of foreign missions
- Instructions of Peshawar High Court

Learning Outcomes

At the conclusion of the session, the trainees will be able to:

- To maintain service discipline.
- Create better working environment.
- To make district judiciary a better service delivery institution

Required Reading

- The Constitution of Islamic Republic of Pakistan, 1973.
- The Khyber Pakhtunkhwa Civil Servant Act 1973.
- The Khyber Pakhtunkhwa Government Servant (conduct) Rules, 1987.
- Instructions by the Hon'ble Peshawar High Court, Peshawar. Judicial Esta Code Section 02 (Judicial Officers Conduct and Discipline).
- Establishment Code 2011 of Government of Khyber Pakhtunkhwa

Recommended Reading

- Fundamental law of Pakistan, *A.K. Brohi*
- Civil Services in Pakistan, *Dr. Agha Iftikhar Hussain*
- Manual of ACRs Instructions of Government of Khyber Pakhtunkhwa

Module 13

Ethical Standards: Motivation

“A judicial officer should be God fearing, law abiding, abstemious, truthful of tongue, wise in opinion, cautious and forbearing, patient and calm, blameless, untouched by greed, completely detached and balanced, faithful to his words and meticulous in his functions.”
(Code of Conduct)

Public service is a public trust. All the public servant must be God-fearing in dealing with their official as well as private matters. They are also expected to exhibit unconditional loyalty to the State and public interest above personal interest in a dignified manner. Laws based on ethical principles identify the ethical principles to which public officials should be committed and aspire to attain and envisage their character building. Ethical behaviour of officials directly or indirectly influences performance and reputation of the institution. Recognizing the problems regarding integrity and corruption in the institution, ethics training is always considered as useful tool for character building and improving ethical culture in earning *rizq-e-halal*, which ultimately works for preventing corrupt practices and uplifts the quality and performance of the institution.

The foremost aim of ethics training for stakeholders of justice system is to maintain the ethical standards, which would upgrade the public service. Furthermore, ethical capacity is increased by identifying and working to remove obstacles to ethical conduct within the institution and motivating the stakeholders to align their demeanour with the ethical standards. This approach will broaden the consideration of personal integrity in public service to advance the public interest, uphold and strengthen the rule of law, advance social equity, and promote professional excellence. Additionally, the module targets the attitude and emotional intelligence of the stakeholders which include self-motivation, empathy and social skills. This module also addresses utilization of appropriate working environment/equipment and highlights the legitimate expectations of the stakeholders. Another important area is to provide practical guidance on ethical behaviour in situations the rules do not provide clear answers on how to deal with certain risk situations. Finally the module also addresses the professional services of the Bar and the ethical considerations involved in the administration of justice. The nature of judicial process is not “slot machine operation”. It hinges on the hunch of the bench which itself depends on the way facts are presented, precedents are

applied and the statutes constructed. None of it is possible unless the members of the Bar are courageous, intellectually honest and morally sound and independent.

Learning objectives

This value-added module intends to deliberate on:

- Self-development with emphasis on God-fearing trait
- Personality development and character building
- Significance of earning *Rizq-e-Halal*
- Maintenance of the highest standards of integrity and morality postulated by the injunctions of Islam by the trainees in dealings with the stakeholders, and to maintain the same standards in their personal lives
- Advancement of ethical behaviour and character building; and sensitizing the trainees about values, standards, and practices to reinforce ethics in the institution
- Relation between the ethical standards to the objectives and general outlook of the institution in the society and its performance
- Examination of common ethical issues and identification of specific behaviour that fall short of the standard, on the one hand, and that advance the standard, on the other
- Demonstration of integrity and professional excellence as a trustee for the public
- Developing administrative practices and processes which promote ethical values

Target Audience

- Judicial officers,
- Court Staff,
- Lawyer, and
- Paralegal Staff

Structured Learning

- Prescribed Rules and Regulations: Code of Conduct
- Religious, Ethical and Ideological Implications of our Constitution
- Principles of professional ethics and public values
- Significance of ethics in professional life, importance of
- Objective of maintaining ethical behaviour

- Description of various approaches towards Ethical Standards
- Examination of the ethical issues: Differentiate between the ethically good and bad behaviour
- Reasons, why disciplinary proceedings are initiated
 - Corruption & Malpractices
 - Incompetence
 - Violation of Code of Conduct
- Explanation of working culture and environment: What is happening and Why happening?
- Impartiality & due diligence
- Trust and honesty
- Social Obligation and contributions (time, ability, competence)
- Stakeholder' interest and good governance
- Accountability
- Impacts and incentives/appreciation of upholding professional ethics

Learning Outcomes

On completion of the training, trainees are expected to:-

- Have knowledge about standard ethical behaviour, values, and practices to reinforce those standards
- Exhibit improved sensitivity about relationship of the ethical standards to the objective and societal outlook of the institution
- Imbibe character building through self-development
- Acquire better recognition of impacts of earning *rizq-e-halal* and non-observance of ethical standards, individually and collectively
- Display standard ethical behaviour with God-fearing traits
- Have improved beneficence in a professional, litigant conducive environment
- Have improved the quality and efficiency of justice system

Required Reading

- Judicial Estacode: Directives of Peshawar High Court
- Rules, Instructions & Guidelines pertaining to Paralegal Staff

- The Government Servants (Conduct) Rules, 1987
- United Nations Convention against Corruption.
- Bangalore Principles of Judicial Conduct
- The Legal Practitioners and Bar Council Act, 1973 and the Rules, 1976 (For Lawyers)

Recommended Reading

- Fundamental Law of Pakistan, *Brohi*
- Be A Competent Lawyer, *S. M. Zafar*
- *Mery Mashoor Muqaddamy, S. M. Zafar*
- Ethics Codes and Codes of Conduct as Tools for Promoting an Ethical and Professional Public Service, *Stuart C. Gilamn (oecd.org)*
- ‘A Study on the Civil Service Structure, Civil Servants Training and an Overview of National Commission of Government Reforms in Pakistan’ (*lgkp.gov.pk*)
- Raising the Bar: The Emerging Legal Profession in East Asia, *Henry L. Stimson, Harvard Law School*
- The Tools of Argument: How the Best Lawyers Think, Argue, and Win”, *Joel Trenchmen*

Module 14

Soft Skills

Introduction of formalized judicial education, as internationally recognized norm, addresses the needs to improve professional competence of judges and the institutional needs for performance enhancement. Core job of judiciary is to impart justice. The institution has its own working environment regulating administrative set up. Additionally, judicial officers have to deal with the public litigants, legal fraternity and liaison with other governmental and non-governmental institutions. Trainings of stakeholders therefore require the components which are people-focused. Being ‘people focused’ needs not only legal expertise but necessitates developing interpersonal skills, also known as soft skills. These include leadership, team work, communication, understanding oneself, empathy, innovative thinking, conflict management and stress management. These are experience based and tend to be more personality-focused, as opposed to being based on qualifications, technical skills, or vocational experience (hard skills). These intangible skills, considered as the life skills, create a positive environment which enables a person to secure the desired results efficaciously.

Importance of soft skills, often underestimated, is undeniable and constitutes important place in trainings world-wide. A judge with able expertise in legal knowledge, but without the right interpersonal skills may be insufficient to assure a true success. Soft skills, on the one hand, are essential for building and maintaining interpersonal relations and effective communications; and on the other, these influence the professional development.

This module aims to identify the essential soft skills for judicial officers and to practically train them in these skills. Expansion of the scope of soft skills will deepen the understanding of and commitment to these areas and it will further enhance the likelihood that judicial officers will act more effectively. This training will pave the way for professional excellence and ultimately achieve the goal of institutional accomplishment.

Learning Objectives

This module intends to fulfill the demand of the judiciary by capacity building of the judicial officers, who possess the soft skills and the ability to achieve performance targets through practical team work.

The participants shall be able to achieve the following objectives at the end of this module

- Understanding and proper utilization of the Soft Skills in the day to day life
- The ability to confront the everyday challenges of life confidently & successfully
- The ability to tackle conflict situations and adversaries with ease
- The ability to showcase ones skills in a creative manner
- The ability to identify and showcase ones leadership skills via effective human resource management
- The ability to become an outstanding personality in the social and work environment by skilfully manoeuvring individual emotions

Target Audience

- Judicial Officers, and
- Court Staff

Structured Learning

The trainees will be sensitized in the following:

- Leadership and Management
 - Development of strategic plans
 - Change Management
 - Talent development
 - Quality standards
 - Teamwork facilitation
- Teamwork
 - Understanding the benefits of efficient teamwork
 - Identifying capabilities
 - Interaction between the team members
 - Formation of team and assigning roles to members
 - Constitution of team strategies and goals
 - Developmental changes to increase efficiency
- Communication Skills
 - Modes of Communication
 - Identifying the ways of Communication

- Practical, effective communication skills—listening, speaking, writing and interpretation.
- Challenges facing effective communication
- Challenges of developing a consensus
- Deficiencies of transparent communications: Openness & Honesty
- Deficiencies in authority, clarity & understanding
- Deficiencies presentation skills
- Environmental influences
- Body Language
- Development of the communication skills
- Emotional Skills
 - Self-awareness: identifying and managing feelings for appropriate expression
 - Self-confidence: Confidence building tactics
 - Social Awareness & Empathy: ability to recognize other' emotions and needs
 - Relationship management and building trust
 - Stress Management
 - Adaptability/Flexibility: Ability to learn
- Inter-personal Skills
 - Conflict Management
 - Resolution of the interpersonal and intergroup conflicts
 - Best techniques for conflict resolution
 - Problem-solving ability
 - Skills in arriving at decision through deliberation
- Time Management
 - The Art of Scheduling
 - Prioritizing & implementation
 - Managing Distractions
 - Multitasking
- Critical Thinking
 - Logical Reasoning
 - Creative thinking for improvement & problem solving
 - Collaboration & Brainstorming
 - Professionalism and integrity

- Developing administrative practices and upholding professional standards and integrity
- Maintains personal independence and authority
- Promotes highest standards of behaviour in court

Learning Outcomes

On completion of the training, we expect:

- Improved knowledge about the soft skills and their proper utilization
- Upholding personal independence and authority of the officials
- Promotion of the highest ethical standards in the institution
- Personal grooming of the officials to work efficaciously with successful output
- Progression in teamwork and collaboration amongst the members of judiciary
- Improvement in quality of the justice system

Required Reading

- Human Resource Management, *Decenzo and Robbins (9th Edition), 2007*
- Human Resource Management, *Dessler (11th Edition)*

Recommended Reading

- Soft Skill Development, *Jamal Mohammed*
- Social Intelligence: The New Science of Human Relationships, *Daniel Goleman*
- Five Levels of Leadership, *John Maxwell*
- Presence: Bringing Your Boldest Self to Your Biggest Challenges, *Amy Cuddy*
- Influencer: The New Science of Leading Change, *Joseph Grenny etc*
- Never Split the Difference, *Chris Voss*
- Getting Things Done: The Art of Stress-free Productivity, *David Allen*