



SECOND
EDITION
2017

Revised Manual
for
Pre-Service Probationers Training of
Additional District & Sessions
Juges / *Izafi Zilla Qazis*



Last Edited & Printed November, 2017

By the Khyber Pakhtunkhwa Judicial Academy

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INTRODUCTION

Judicial training is a universally accepted notion in most of common law jurisdictions. It is now increasingly considered as part of continuing judicial education. Judicial education, a kind of adult education, may be defined as a set of organized activities for enhancement of personal and professional competence of judges and other justice sector actors, reflecting on learning skills, improving knowledge, bringing about a positive attitudinal change, and setting values. Judicial education is necessary for continuing professional development of judges (intrinsic role) and sensitization of judiciary to community needs and expectations (instrumental role). In a conflict-ridden society like ours, judicial education may help build professional capacity of judiciary and thereby further help to contribute to the peace, order and the rule of law.

Goals and objectives

Pre-service training of probationer judicial officers is a legal requirement under Rule 9 (4) of the Khyber Pakhtunkhwa (KP) Judicial Service Rules, 2001. Under its statute, the Academy has a mandate to impart

[T]raining to the judicial officers and personnel concerned with the system of administration of justice with a view to develop their capacity, professional competence and ethical standard for efficient dispensation of justice [.]

The mandate sets out three goals for judicial training: capacity building, professional competence, and ethical standard. Additional District & Sessions Judges/*Izafi Zilla Qazis* appointed on initial recruitment have at least eight years of legal practice at the bar. It is presumed that they have a good deal of knowledge of the application of legal concepts, substantive and procedural laws, and strong communication skills. While pursuing the statutory goals noted above, the Academy focused on transforming their role from persuaders (legal practitioners) to evaluators (judicial officers).

Efficient and effective performance of judicial duties requires certain judicial skills in the areas of case and court management, financial management, judicial decision making, and judicial opinion writing.

Following are the specific teaching objectives:

- To deepen the trainees' knowledge of jurisprudence and universal principles of natural justice
- To help the trainees develop judicial temperament reflecting judicial ethical values
- To enable the trainees apply substantive and procedural laws properly
- To inculcate in the trainees judicial decision making and opinion writing skills
- To impart to the trainees skills for efficient and effective communication

How to use this manual?

This manual may be read as a basic course material for pre-service training of AD&SJs/*Izafi Zilla Qazis*. Both the trainers and the trainees may use this manual. The relevant modules carry basic and necessary contents. This will not preclude the trainers to include any remaining material in their lectures/presentations if they consider it appropriate. To maintain sequence of the topics and subtopics of a module is directory in nature, it may be changed during delivery of lectures as per demand of the situation and circumstances.

Approach of the manual

The approach of this manual is academic and practical as well as, exploring, analytical and critical. While newly recruited AD&SJs/*Izafi Zilla Qazis* have good theoretical and practical knowledge of the science of law, substantive and procedural laws, the manual aims at preparing them for efficient and effective performance of their duties. The manual contains research activities, case studies, critical study of case law and group discussion in order to inculcate in them a spirit of analytical and critical approach. Of course, the Academy will not teach them the statutes and legal philosophy. It may be done as a secondary requirement; its prime job is, nonetheless, to equip them with the practical knowledge of skills required for judicial performance.

Overview of the manual

The manual presently contains 41 modules, which are to be taught along with other manuals on case & court management, substantive & procedural laws, human rights in the administration of justice and Arabic and English language courses. Special Modules have been included on the said languages, for English language is necessary for module on judgment writing and official correspondence whereas, interpreting and construing the provisions of significant number of our statutes. This will also help the judges working in their capacity of *Izafi Zilla Qazis* in one third of the districts in KP. To actualize the recent decision of august SCP on Article 251 of the Constitution 1973 (implementation of Urdu language), the Academy intends to include a separate comprehensive module on Urdu language with specific focus on its legal glossary. Besides, Key modules on research, jurisprudence, evidence, interpretation of statutes, penal laws, revenue laws, personal law and judicial ethics also form part of the manual.

TRAINING METHODOLOGY

The training methodology is comprised of four areas:

1. DELIVERY

- a) **Lectures:** Lectures are the principle mode of a training program. They are designed to be highly informative, communicative, well-calculated and interactive in the sense to ensure greater participation of the trainees.
- b) **Extension Lectures:** In order to broaden the intellectual level of the trainees, the Academy arranges special lectures. These lectures are delivered by persons of high profile, invited from across the country.

- c) **Research Skills:** The trainees are imparted research skills, on which a separate module has been prepared. The research is in the nature of group work (syndicate). Each member of a group is required to conduct research on an assigned topic. Small exercises on comparatively smaller topics are also arranged. Each module contains separate syndicate research topics. The Academy shall arrange an advisor/ expert to help the trainees write research papers and learn how to publish it.
- d) **Language and Linguistic Skills:** Problems are often created due to communication gap. To meet the need, experts on the subject are invited to deliver lectures. Practical exercises are conducted. Modern techniques and gadgets are used. The area of official correspondence is also focused. Keeping in view the needs of *Qazi Courts* in PATA and Kohistan District of Hazara Division, special classes of understanding and communication of Arabic language are arranged. Proficiency in Arabic and English languages would also help the trainees properly interpret and construe the legal provisions of Islamic Law and Jurisprudence.

2. PARTICIPATION

- a) **Presentations:** Trainees are divided into various groups. Each member of the group is required to make an analytical and critical presentation of the lectures delivered or talk shared on each passed day. They are also required to prepare presentations on the assigned topics. To enhance their capability of addressing gatherings and to eliminate the element of hesitancy, all presentations must on power point and in English language. Presentational performance plays an important role in evaluation of trainees.
- b) **Study Circles and Panel Discussions:** Study circles are arranged to develop the habit of text reading and to make the trainees aware of significance of collective study. In panel discussions, the trainees are provided with an opportunity to academically interact with a group of experts through a Q&A sessions. These activities would help trainees to understand the causes of diversity in opinions, the significance of concurrence, the valuation of an argument and proper method of drawing an inference.

3. CONDUCT

- a) **Attendance and Punctuality:** Presence in all lectures, classes and participation in each activity is compulsory. Leave is allowed in unavoidable circumstances. Residence in the specified hostel/hotel is necessary. Attendance must be in-time. Biometric devices have been installed for this purpose. Trainees are required to be present in classroom before commencing of time, nevertheless, a concession of 05 minutes is granted whereafter they are marked absent despite confirmation of their participation by CCTV footage. In case of non-obedience, penalties will be in shape of negative marking, deduction of leave account, and others as may be deem fit by a disciplinary committee.
- b) **Code of Conduct:** Trainees are to follow all policies, instructions and rules of the Academy. In case of non-adherence, the Academy may refer the matter to the

competent of Authority. The Academy, as a compulsory subject of its training, arranges classes for ethics and integrity.

- c) **Dress Code:** Both male and female trainees shall follow the relevant instructions and rules of the Peshawar High Court.

4. CO-CURRICULAR

- a) **Mock Trials:** During the training, mock trials are conducted, for which case-files of various natures are requisitioned from Record Room/ *muhafizkhana*. This exercise would help trainees write order-sheets, short orders, summonses, warrants, full judgments, evidence, presenting a case, fixing date of proceedings and the like.
- b) **Attachments:** Probationers are to undergo attachments with related sectors such as District Judiciary, Revenue, Police, and Prosecution.
- c) **Recreation:** Sports in and outdoor, literary gatherings and entertainment.
- d) **Tours and visits:** Purpose-based inland tours and visits are essential part of the training program. Such tours are arranged, so that trainees should be able to develop an orientation with key public institutions, for example, higher courts, legislative bodies, and judicial and other training academies. Tours for recreation are also arranged. Probationers are divided into groups. Each group is required to write a report followed by a presentation.

TRAINING EVALUATIONS

1. The Academy shall employ Dr. C.A. Edwin¹ Quantitative Model of Training Evaluation. The methodology assess both trainees and the training. This Model constitutes of 04 level of Evaluations as shown in the Table below:

Levels of Evaluation	Variables or Factors That Counts The Concepts Quantitatively
<u>I</u> Reaction to Process Training	VR1: Expectations from the training courses (Pre-test)
	VR2: Attributes of training course (Post-test)
	VR3: Training course content (Post-test)
	VR4: Environmental/Technical Conditions (Post-test)
	VR5: Trainer's Reaction (Post-training)
<u>II</u> Learning (Outcome Based Learning)	VR6: Knowledge (Post and Pre Test)
<u>III</u> Job Behaviour (After every 6 months) 360 Degree Feedback	VR7: Job Involvement
	VR8: Organizational Commitment
	VR9: Job Satisfaction
<u>IV</u> Results Job Performance (Annually) 360 Degree Feedback	VR10: Integrity
	VR11: Knowledge
	VR12: Communication
	VR13: Preparation, attentiveness and control over proceedings
	VR14: Management Skills
	VR15: Service to the profession and public
	VR16: Collegiality

¹ Dr. C.A. Edwin is PhD from University of Liverpool UK. He is Assistant Professor Department of Management Sciences, at Ghulam Ishaq Khan Institute of Management Sciences & Technology, KPK, Pakistan.

2. A computer program² has been developed on this training evaluation model. Thus the activity is automated and conscious effort is made to ensure objective assessment.
3. Pre-service Probationer Additional District & Sessions Judges shall further be assessed objectively in presentations, mannerism & etiquettes, class participation, dress code, mock trial participation, punctuality and judgment writing skills. The breakup of the maximum score (100) is as under:

S#	Activity	Max Score
1.	AMS Evaluation of Learning	10
2.	Official Dinner	03
3.	General Observation	04
4.	Punctuality	04
5.	Public Speaking	05
6.	Creative Writing	24
7.	Judgment writing, (Points for determination, Decision and reasons therefore, Language, and appreciation of evidence)	25
8.	Presentation	05
9.	Mannerism & Etiquettes	10
10.	Dress Code	05
11.	Class Participation	05
Total		100

All the team members have made efforts to the best of their abilities to make this manual a high standard training toolkit. Several drafts were prepared and critically discussed by all of us in various plenary sessions. Nonetheless, as long as trainings are delivered under it, the need for further improvement would keep surfacing. The Academy ensures that the curriculum development is an ongoing process. It shall therefore keep the curriculum on the cutting edge of judicial training needs. This may be possible through significant revision, as

² The prototype of the software called, 'Activity Management System' has been designed at KPJA.

and when deemed appropriate after its use. Delivery of training under the manual should be supported by: first, a monitoring mechanism to see that the modules are relevant and contain up to date knowledge in their contents, and secondly, a well designed feedback system for suggestions and comments of the trainers and trainees.

May Allah Al-Mighty help and guide us.

Director General,

Khyber Pakhtunkhwa Judicial Academy, Peshawar

Module-1

JUDICIAL CONDUCT & ETHICAL ISSUES

INTRODUCTION

The module focuses on normative as well as practical significance of judicial ethics, as an essential component of the conduct of a judge. It covers diverse perspectives, ranging from the need and significance of judicial ethics and codes of conduct available at the international level. Discussion on the various codes, particularly the rules and directions of the Peshawar High Court on judicial conduct also form part of this module.

OBJECTIVES

- To have a normative as well practical understanding of judicial ethics, its need and significance
- To know national and international standards of judicial conduct & ethics
- To create sensitization to ethical problems and discover solutions to such problems
- To create awareness about best practices in other jurisdictions

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Realize that judicial ethics is a *sine qua none* for judicial office
- Practice canons of judicial ethic while in court
- Abstain from judicial vices
- Abide by Islamic judicial ethics
- Quickly and adequately respond to ethical problems in court

CONTENTS

Topic	Break up	Description
Topic 1: Preliminaries	1.1	1. Ethics in general 2. Ethics, law and morality 3. Definition of judicial ethics; 4. Why judicial ethics necessary? 5. Importance of judicial ethics
Topic 2: The normative basis of judicial ethics	1.2	6. Virtue-Centered theory of judging
Topic 3: The Islamic concept of judicial ethics	1.3	7. The sanctity of the office of judgeship as reflected in the <i>Qur'an</i> , <i>Sunnah</i> , <i>Ijma</i> , and the work of classical and contemporary jurists particularly those who themselves have performed as Qaziz

Topic 4: The International Standards for judicial ethics	1.4	8. Relevant parts of the Universal Declaration of Human Rights, 9. The International Covenant on Civil and Political Rights, 10. The UN Basic Principles on Independence of Judiciary, 1985, 11. The Bangalore Principles of Judicial Conduct, 2000, 12. The Commonwealth (Latimer House) Principles on the Three Branches of Government, 2003.
Topic 5: National Standards: Code of Conduct for District Judiciary	1.5	13. The KP Government Servants (Conduct) Rules, 1987; 14. Code of Conduct for Judicial Officers of the Khyber Pakhtunkhwa District Judiciary and Notifications of the Peshawar High Court issued from time to time.
Topic 6: Cross cultural best practices	1.6	15. Codes of conduct for judges in at least two developed and two developing countries.

GROUP ACTIVITY

- Comparison of national and international Judicial Ethics and Code of Conduct.

PRACTICAL EXERCISE

- A was charged with the murder of his wife W and another person X. Charge could not be proved. A was acquitted. On the application of the complainant, the high court conducted an inquiry against the trial court's judge. Allegations of bribery proved. What should be the fate of his decision of acquittal?
- Senior Civil Judge/ Alla Ilaqa Qazi decreed the case of the plaintiff on the basis of sufficient evidence. The defendant filed an application to the Chief Justice against the judge for his receiving of valuable gifts from the plaintiff during the pendency of the case. The probe confirmed the allegations. It was also confirmed that the case was decreed on merit. Discuss as to what should be the proper order by the high court?

SYNDICATE RESEARCH

- Requirements of a judge/qadhi under law and Shari'ah

CASE LAW

1. *Ardeshir Cowasjee and others v. K.B.C.A and others*, 2000 CLC 606 Karachi
2. *Federation of Pakistan v. Muhammad Akram Shaikh*, 1989 PLD SC 689
3. *Islamic Republic Of Pakistan through Secretary, Ministry of Interior and Kashmir Affairs, Islamabad v. Abdul Wali Khan*, M.N.A. 1976 PLD SC 57

4. *M.H Khondkar v. The State*, 1966 PLD SC 140

REFERENCE MATERIAL

- Lawrence B. Solum, 'Virtue Jurisprudence: A Virtue-Centered Theory of Judging', available at http://ssrn.com/abstract_id=369940
- Judicial EstaCode, 2011, Section -356-376
- W. Bradley Wendel, 'Jurisprudence and Judicial Ethics', available at <http://ssrn.com/abstract=1024316>
- Dr. Mehmood Ahmad Ghazi, *Adab-ul-Qazi*, IRI, Islamabad, 1998

Module – 2

ACCOUNTS & FINANCIAL MANAGEMENT

INTRODUCTION

This module has two parts. The main core covers accounts and financial matters related to judicial business. It is of great significance for a judicial officer particularly the new entrants. Lack of proper knowledge of accounts and financial matters in courts often results in mal management. The module, therefore, aims at introducing the new entrants to all the necessary financial rules on judicial side. The complementary part will cover public financial management, focusing on budget and accounts, functions and powers of the DDOs and delegation of powers.

OBJECTIVES

- To introduce different financial procedures in courts in general
- To discuss two main deposits in civil court and the difference between them
- To know how and by whom civil court deposits are maintained
- To understand the financial relationship of courts with litigants and the treasury
- To realize the role of ministerial staff in financial management
- To impart basic information of public financial management

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Supervise properly financial management of court
- Differentiate between various modes of financial transactions
- Realize the scope of different deposits maintained in courts
- Safeguard the financial interest of litigants
- Realize the sensitive nature of the financial matters
- To apply financial rules and codal formalities properly

CONTENTS

Topics	Break up	Description
Topic 1: Judicial Deposits	2.1	<ol style="list-style-type: none"> 1. Nature 2. Scope 3. Procedure 4. Authorization 5. Withdrawal 6. Deposits
Topic 2: Sheriff's petty Account	2.2	<ol style="list-style-type: none"> 1. Purpose 2. Procedure of deposit and withdrawal 3. Documentation 4. Authority 5. PLA

		6. Role of Treasury 7. Cash system 8. Voucher system 9. Audit
Topic :3 Civil courts' Deposits Accounts	2.3	1. Class of deposit 2. Voucher system 3. Cash system 4. Treasury 5. Procedure of deposit and withdrawal 6. Documentation 7. Authorization

GROUP ACTIVITY

- The trainees have to make entries in the relevant registers of sheriff petty accounts and revenue deposits. They shall also practically reconcile the statement of accounts.

PRACTICAL EXERCISE

- In a civil suit brought by Mr. A, there are 03 official witnesses.
 - District Controller of accounts
 - Patwari Halqa.
 - Postman.
 Mr. A then applies for the deposit of diet and travel money for these witnesses. How would you compute the diet and travel road money for these witnesses and where it shall be deposited. Similarly what is the procedure for its withdrawal and what deductions shall be made?
- In a suit for possession through exercise of the right of preemption, the preemptor seeks to deposit 1/3rd of the sale consideration. Where this amount shall be deposited and what is the procedure for its withdrawal?

SYNDICATE RESEARCH

- The concept of transparency in accounts under Islamic Jurisprudence
- Causes of embezzlement and the ways of its eradication

REFERENCE MATERIAL

- High Court Rules and Orders.
- Judicial Estacode 2011.
- Treasury Rules.
- GFR and Civil Accounts Code.

Module - 3

RESEARCH SKILLS

INTRODUCTION

This module aims at sensitizing the trainees to the significance of research so that they should be able to sharpen their analytical and critical skills. The trainees shall be required to conduct syndicate research on topics related to law and justice. The module covers introduction to research, research methodology, research proposal and report writing, and research ethics. It also covers Islamic perspective of research.

OBJECTIVES

- To learn the theoretical and practical aspects of research and its significance in intellectual development
- To enhance their critical thinking and analytical writing in such a way as to develop a thesis on their own
- To enable them for effective communication in terms of judicial writings such as judgments, orders, inquiries, probes, and reports
- To enable the trainees to write and publish research papers

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to;

- think independently
- develop a thesis supported by primary and secondary sources
- read critically for evaluating arguments
- conduct data-analysis both from quantitative and qualitative perspectives
- know and apply different research techniques and critical paradigms
- conduct syndicate research for learning teamwork and organizational behavior
- know the importance of research ethics

CONTENTS

Topic	Break up	Description
Topic 1: Preliminary	3.1	1. Definition of research 2. Types of research 3. Paradigms of research
Topic 2: Research methodology	3.2	1. Documentation of sources 2. Formats of documentation 3. Documentation in legal research
Topic 3: Proposal writing (Research)	3.3	1. Designing research proposal i) Choosing a topic ii) Significance of the topic

		iii) Thesis statement and formulating of research questions iv) Literature review v) Tentative chapterisation vi) Referencing and biblio-weblio-graphy
Topic 4: Proposal and Report writing	3.4	1. Introduction and explanation 2. Compilation and analysis of data 3. Conclusion 4. Recommendation
Topic 5: Research Ethics	3.5	1. Confidentiality issues in data collection 2. Acknowledgment 3. Avoidance of plagiarism

GROUP ACTIVITY

- The role of libraries and other relevant facilities in research.
- Essentials of a good researcher.
- The correct use of the IT: need and significance.

PRACTICAL EXERCISE

- The Peshawar High Court wishes to dig out the reasons of ‘decreasing public confidence’ on courts. Write the outlines of a research proposal.

SYNDICATE RESEARCH

- Research: Meaning and kinds.
- Research: Its role in development.
- The role of language in conducting a research.
- Needs and implementation of outcomes of a research by state authorities.

REFERENCE MATERIAL

1. Alan Bryman, *Social Research Methods*, OUP, 4 Edition, 2012
2. Amy E. Sloan, *Basic Legal Research: Tools and Strategies*, Aspen Publishers, 4th edition, 2009
3. Mark Van Hoecke, *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?*, Hart Publishing, 2011
4. J. Paul Lomio, *Legal Research Methods in a Modern World: A Coursebook*, Djoef Publishing; 3rd Revised edition, 2011
5. Mohammad Hashim Kamali, *Sharīah And Civil Law: Towards A Methodology Of Harmonization*, Islamic Law and Society, Volume 14, Number, 2007 , pp. 391-420(30)

Module - 4

CONSTITUTIONAL LAW

INTRODUCTION

Constitutional law is organically connected to the administration of justice. Its proper understanding is, therefore, essential for judges, especially the new entrants. The module would enlighten the trainees on the technicalities of the constitution as well as the statutes and by-laws stemming from it in Pakistan. Topic 1 in the module is introductory, followed by a topic on the constitutional history of Pakistan. Emphasizing on the judicature in the Constitution of Pakistan, 1973, the module also covers ancillary topics such as the fundamental rights, the principles of policy, the Islamic provision, the amendment procedure and the constitutional bodies.

OBJECTIVES

- To make the trainees internalize the patterns, standards and principles governing constitution making process
- To familiarize the trainees with constitution and its content from a judicial perspective
- To enable the trainees to understand the structures and functions of core constitutional institutions
- To sensitize the trainees to the significance of constitutional amendments

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Read the Constitution from a judicial perspective
- Know the organizational structure and functions of key institutions under constitution
- Learn the differences between structuring constitution and framing ordinary laws
- Understand the constitutional limits and boundaries of each institution with special focus on the role of judiciary.
- Keep their knowledge updated in respect of amendments introduced to the Constitution of Pakistan, 1973.
- Know the significance of independent judiciary in modern nation states for ensuring rule of law in society
- Internalize the principle that adherence to the rule of law is the only key to development, progress and prosperity

CONTENTS

Subject	Break up	Description
Topic 1: The Constitution	4.1	1. Meaning, definition and types 2. History 3. Significance

		4. Interpretation of Constitution
Topic 2: Pakistan's Constitutional History	4.2	1. Government of India Act 1935 and its cursors 2. Independence Act 1947 3. The role of Constituent Assembly 4. Constitution of Pakistan 1956[salient features] 5. Constitution of Pakistan 1962[salient features] 6. Constitution of Pakistan 1973[salient features]
Topic 3: Judicature	4.3	1. Judicial hierarchy 2. Jurisdiction of high courts. 3. Jurisdiction of the Supreme Court. 4. Leading Cases
Topic 4: Fundamental Rights	4.4	1. Right in general 2. Human Rights and Fundamental Rights; difference of. 3. Courts as custodians of fundamental rights
Topic 5: Principles of Policy	4.5	1. Opportunities for women 2. Islamic way of life 3. Promotion of Local Government Institutions 4. Policy regarding social justice and social evils 5. Minorities Protection 6. Relations with the Muslim World.
Topic 6: Islamic Provisions	4.6	1. The role of Islamic Council 2. The supremacy of <i>Quran</i> and <i>Sunnah</i> 3. Forums of Shari'ah Courts in Constitution 4. Leading Shari'ah judgments
Topic 7: Amendments	4.7	1. Procedure for amendments 2. Constitutional amendments
Topic 8: Other institutions	4.8	1. <i>Majlis-e-Shoora</i> , 2. Election Commission, 3. Auditor general's office etc.

GROUP ACTIVITY

- Age of retirement: why should not be the same for all judges

PRACTICAL EXERCISE

1. Rana Atique is a candidate for NA seat. He has been acquitted in a triple murder case on the basis of compromise just an year before. His name has also been enlisted in the 4th schedule under Section 11-EE of Anti-Terrorism Act 1997. Discuss his eligibility to contest the forthcoming election.
2. A, an accused was facing trial before ATC judge. On stating of charge, the accused replied, "I don't believe in the constitution 1973. Now;

- 1- Whether his statement amounts to denial?
- 2- Whether his statement amounts to an admission?
- 3- Whether the ATC will carry on the trial?

Whether the accused is still entitled to the privilege of fair trial as enshrined u/a 10-A of the constitution?

SYNDICATE RESEARCH

1. Eighteenth Amendment: its effect on the procedure of appointment of judges to the apex courts
2. Federal Shariat Court: The issue of its jurisdiction
3. Article 2A: Judicial effect
4. Dar-ul-Qadha or High Court Mingora Bench: the need for clarity
5. Human Rights and Fundamental Rights: conceptual differences and procedure for implementation

CASE LAW

1. *Federation of Pakistan v Maulvi Tamizuddin Khan*, PLD 1955 Federal Court 240
2. *State v. Dosso*, PLD 1958 SC 533
3. *Asma Jilani v. Government of Punjab*, PLD 1972 SC 13
4. *Begum Nusrat Bhutto v. Chief of the Army Staff*, PLD 1977 SC 657
5. *Ansar Burney v. Federation of Pakistan*, PLD 1983FSC 73
6. *Benazir Bhutto and another v. Federation of Pakistan and another*, PLD 1989 SC 66
7. *Shirin Munir v. Government of Punjab*, PLD 1990 SC 295
8. *Muhammad Nawaz Sharif v. President of Pakistan*, PLD 1993 SC 473
9. *Shehla Zia v. WPADA*, PLD 1994 SC 693
10. *Merham Ali v. Federation of Pakistan*, PLD 1998 SC 1445
11. Al-Jehad Trust, 1999 SCMR 1379
12. *Syed Zafar Ali Shah and others v. General Pervez Musharraf, Chief Executive of Pakistan*, PLD 2000 SC 869
13. *Watan Party v. Federation of Pakistan*, PLD 2006 SC 697
14. *Tika Iqbal Muhammad Khan v. General Pervez*, PLD 2008 SC 615
15. *Sindh High Court Bar Association v. Federation of Pakistan*, PLD 2010 SC 1151
16. *Supreme Court Bar Association v Federation of Pakistan*, PLD 2011 SC 269

REFERENCE MATERIAL

- 1- The Constitution of Islamic Republic of Pakistan 1973.
- 2- Hamid Khan, *Constitutional and Political History of Pakistan*, Karachi, OUP, 2009 2nd Edition.
- 3- G.W. Choudhry, *Constitutional Development of Pakistan*, London, Longman, 1971.

Module - 5

JUSTICE THROUGH SCIENCES

INTRODUCTION

Forensic science (often shortened to forensics) is the practical application of science to matters of the law. In criminal law, forensics science can help prove the guilt or innocence of the defendant. In civil actions, forensics can help resolve a broad spectrum of legal issues through the identification, analysis and evaluation of physical evidence. Forensic science laboratories commonly referred to as “criminalistics.” is the profession and scientific discipline directed toward the recognition, identification, individualization, and evaluation of physical evidence in legal proceedings by the application of the natural sciences.

OBJECTIVES

- Sensitizing the participants about the significance of forensics in process of law including judicial decision making.
- Gathering and analysing verifiable and demonstrable evidence.
- To secure, collect and preserve evidence from the crime scene.
- The use of Forensics Science reports in light of Qanoon-e-Shahadat Order, 1984.
- Identify which form of forensic evidence contribute most frequently to a successful outcome.
- The use and attribution of forensic evidence in criminal justice system.

LEARNING OUTCOMES

Participants will be able to:-

- Undersdand and disseminate forensic science knowledge through the use of multimedia and internet.
- Personal clues like fingerprints, footprints, blood drops etc. regarding the accused identity. Object left by accused at the scene and with victim or carried from the scene and from the victim.
- Appreciate forensic reports in its true perspective.
- Practical use of Article 164 of Qanoon-e-Shahdat order and forensic reports.
- And shall become proficient in modern techniques of forensics.

Focus:

- **Professional Trackers.**
- **Handwriting, Chemical examinations.**
- **Footprint and tracking.**
- **Reading of reports.**
- **BALLISTICS**
 - Kinds of Fire Arms.
 - Parts of fire arms.
 - Different types of explosive.
 - Types of ammunition including fired ammunition.
 - Location of fire arm evidence.
 - Reading of reports.
- **FORENSICS MEDICINES**
 - Objectives of PM report.
 - Identification of the deceased.
 - Cause of death.
 - Manner of death.
 - Fatal period.
 - Post mortem interval.
- **DNA AND BIOLOGICAL INFORMATIO**
 - Introduction to DNA, inheritance, types of DNA
 - Source of DNA.
 - Methodologies/technologies involved in processing the DNA at Lab.
 - Application of DNA in Forensics e.g. matching crime scene samples with suspect, disputed paternity, Disaster victim identification and Dead body identification (BDI), bomb blast, cross border terrorism, missing person investigation, DNA database etc.
 - Reading of reports.
- **FINGERPRINTS**
 - Collect, classify, store, the record.
 - Search and locate the fingerprint record.
 - Capture the fingerprints.
 - Evidence in court.
 - How to obtain, analyse thumb impression.

- Reading of reports.

Suggested Readings

- The KP Police Ordinance (XI of 2016)
- Police Order 2002.
- Criminal Procedural Code.
- Pakistan Penal Code.
- Qanoone-e-Shahadat 1984.
- Forensic Science in criminal investigation and trial by B.R Sharma.
- Crime Scene Investigation and Forensic Science Training Programmes, <http://www.pgitraining.com/>
- The KP Police Ordinance (XI of 2016)
- Police Order 2002.
- Criminal Procedural Code.
- Pakistan Penal Code.
- Qanoone-e-Shahadat 1984.
- Forensic Science in criminal investigation and trial by B.R Sharma.
- Netherland Forensic Institute website <http://academy.forensicinstitute.nl/>
- Crime Scene Investigation and Forensic Science Training Programmes, <http://www.pgitraining.com/>
- National Clearinghouse for Science, Technology and the Law (NCSTL) at Stetson University College of Law <http://www.ncstl.org/education>
- Gaur's Fire Arms Forensic Ballistics (2nd Edition).
- The Identification of firearms and Forensic Ballistics by Major Sir Gerald Burrard, Bt.
- Forensic Science in Crime Investigation with Latest Case Law by Pir S.A. Chaudhry.
- Law of firearms & Explosives with Principles of Forensic Ballistics (with all amendment and upto-date law) by Syed Iqbal Hussain Gillani.
- Forensic Medicine, <http://www.forensicmed.co.uk/>
- Forensic Science in criminal investigation and trial by B.R Sharma.
- PLD 2010 FSC 215.
- Pawan Kumar v. State of Haryana 2001 (3) SCC 628.
- State of U/P v. Ashok Kumar, AIR 1992 SC 840.
- Modi's Textbook of medical jurisprudence and toxicology

Module – 6

GENDER MAINSTREAMING & WOMEN EMPOWERMENT

Introduction

The notions “Gender justice” and “Gender Equality” are not alien to our society. In justice system, it refers to equal treatment based on equitable [not equal] value of sexes. In this defined meaning, Gender equality is a fundamental human right that has been guaranteed in international and regional treaties, conventions, constitutions and national legislations. Carrying out her obligation as a member of international community, the Islamic Republic of Pakistan has also ensured gender justice in its Constitution.³ By-legislations have also been made, having regard to ideology, national requirements and prevailing circumstances.

The phrase “Gender mainstreaming” refers to all efforts that are aimed to promote equal opportunities for women and men in institutions, organizations and politics. “Women Empowerment” is a further specified sub-concept and thus concentrates only on the equal participation of women in all walks of life. So, neither of these phrases is the objective itself. They are rather strategies towards the actual goal: “Gender Equality”. But what equality means (and does not mean) is still a hot topic for discussion and research.

Objectives

The objectives are to

- Sensitize the members of District Judiciary about gender justice and gender mainstreaming
- Enable judges/magistrates/*qazis* to differentiate between equitable and non-equitable differences in connection with rights and duties.
- Consider the prevailing social status of marginalized classes while applying laws to the facts of a case.
- Familiarize the judges/*qazis* with international as well as national instruments/enactments on the subject
- Ensure equal treatment to all before them irrespective of language, culture, color, creed, caste, religion, sect and most importantly gender.

³ See Article 25 of the Constitution (Equality of citizens)

- Enable the Judges to identify potentials steps, precedents, tools and techniques they have at their disposal.

Learning Outcomes

On completion of the training, the participants concepts would enhance in respect of :

- Proper understanding of the basic concepts and its legal framework.
- Elimination of violence and discrimination against women.
- Curbing of wanton dominancy on the basis of gender.
- Improved delivery of service to socially oppressed classes.
- National and international Legislation.
- Clarify misconceptions regarding woman as a witness and their right to inheritance in Pakistan.

The Program shall cover the following thematic areas.

Focus:

- CONCEPTUAL FRAMEWORK OF GENDER
 - Concept, Meaning and definition
 - Historical background
 - Need, scope and significance
 - Challenges to the legal scholarship
 - Identification of the oppressed classes
 - Women Empowerment
- GENDER MAINSTREAMING
 - Introduction
 - Gender Vis-à-vis sex
 - Gender Discrimination
 - Gender equality Vis-à-vis Gender equity
 - Women Empowerment
 - Role of society and elimination of discrimination against women
- VIOLENCE AGAINST WOMEN AND LEGAL PROTECTION
 - Meaning and definition of violence
 - Classification of Violence
 - Domestic Violence
 - Sexual Violence

- Trafficking
- Mental, Emotional and Psychological Violence
- Other Evils such as sexual harassment, Acid crimes, Honor Killings, Forced Marriages and Deprivation of Inheritance.
- Judicial verdicts.
- INTERNATIONAL INSTRUMENTS
 - Liabilities of members state in respect of their International obligations.
 - Scopes and Limits of such obligations
 - Universal Declaration of Human Rights (1948)
 - Convention on the Political Rights of Women (1952)
 - International Covenant on Civil and Political Rights (1966)
 - International Covenant on Economic, Social and Cultural Rights (1966)
 - Declaration on the Elimination of All Forms of Discrimination against Women (1967)
 - Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974)
 - Convention on the Elimination of All Forms of Discrimination against Women (1979)
 - Declaration on the Elimination of Violence against Women (1993)
 - Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999)
- NATIONAL LEGISLATION
 - Legal framework relating to gender
 - Legislation regarding Gender based violence
 - Amendments in Family Courts Act for khula etc. in 2002.
 - The Criminal Law (Amendment) Act, 2004 (on 'honour' crimes)
 - Protection of Women (Criminal Laws Amendment) Act, 2006
 - Criminal Law (Amendment) Act, 2010 (on sexual harassment)
 - The Protection against Harassment of Women at the Workplace Act, 2010
 - Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011
 - The Acid Control and Acid Crime Prevention Act, 2010
- The Women in Distress and Detention Fund (Amendment) Act, 2011
- RELIGIOUS ASPECT

- Legal, Social and religious angles
- Women as a witness in Qanoon-e-Shahdat Order, 1984
- Rights of women in Islam
- Legal aspects of women-related issues under Islamic Law and Jurisprudence
- Women and Public Service with specific focus on Judicial Service
- WOMEN RIGHTS TO INHERITANCE AND ITS IMPLEMENTATION
 - Clarification of misconception
 - Religious aspects
 - Legal
 - Social
 - National and International Ramifications

Suggested Readings

(A) Books, Statutes, Instruments and Articles

- 1) Gender and Law, A Criminal Justice System Handbook, *Aurat* Foundation, MR Printers, 2015.
- 2) Women's Rights in Islam, National Research and Development Foundation (NRDF), Peshawar, 2004.
- 3) Women and the Related Laws, Zeeshan Manzoor, Mega Publications, Karachi, 2014.
- 4) The Protection of Women from Domestic Violence, a Anil Sachdev, Delight Law Publishers, India, 2009.
- 5) Language and Woman's Place, Robin Tolmitch Lakoff, available at https://books.google.com.pk/books?hl=en&lr=&id=d-xMEDpNhzAC&oi=fnd&pg=PP2&dq=articles+on+gender+and+law&ots=m-9RF_Y3LP&sig=udD5B5S8WPr6B2cto3gO76t_F1I#v=onepage&q=articles%20on%20gender%20and%20law&f=false
- 6) Human Rights and Gender Violence, Sally Angel Merry, available at <https://books.google.com.pk/books?hl=en&lr=&id=eRYbjp-fOiYC&oi=fnd&pg=PA1938&dq=articles+on+gender+and+law&ots=TF04CWhp-b&sig=pQ5DK32VGilqWFE1ABba3FTOyRw#v=onepage&q=articles%20on%20gender%20and%20law&f=false>
- 7) Universal Declaration of Human Rights (1948)
- 8) Convention on the Political Rights of Women (1952)
- 9) International Covenant on Civil and Political Rights (1966)
- 10) International Covenant on Economic, Social and Cultural Rights (1966)

- 11) Declaration on the Elimination of All Forms of Discrimination against Women (1967)
- 12) Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974)
- 13) Convention on the Elimination of All Forms of Discrimination against Women (1979)
- 14) Declaration on the Elimination of Violence against Women (1993)
- 15) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999)
- 16) The Constitution of Islamic Republic of Pakistan 1973
- 17) Amendments in Family Courts Act for khula etc. in 2002.
- 18) The Criminal Law (Amendment) Act, 2004 (on 'honour' crimes)
- 19) Protection of Women (Criminal Laws Amendment) Act, 2006
- 20) Criminal Law (Amendment) Act, 2010 (on sexual harassment)
- 21) The Protection against Harassment of Women at the Workplace Act, 2010
- 22) Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011
- 23) The Acid Control and Acid Crime Prevention Act, 2010
- 24) The Women in Distress and Detention Fund (Amendment) Act, 2011
- 25) Qanoon-a shahadat order, 1984

(B) Case Law

1. *Syed Farman Ali vs. The state*, PLD 1995 Lahore 364.
2. *Mst. Saima Irum vs Tariq Javed*, 2006 MLD 83.
3. *Saifullah vs. Maimoona Almas*, 2013 CLC 897.
4. *Aziz-ur-Rehman alias chand vs. State*, 2010 YLR 1428.
5. *Muhammad Ajmal vs. State*, 2010 YLR 1207.
6. *Allah Bachayao alias Riaz vs. State*, 2013 YLR 899.
7. *Rashid vs. State*, 2011 MLD 797.
8. *Zulfiqar Ali vs. State*, 2012 YLR 847.

Sabir Hussain alias Pehlwan vs. state, 2007 PCrL

Module-7

EVIDENCE TO SUBSTANTIATE CASE

INTRODUCTION

The topic is aimed at discussing those aspects of law of evidence which are of practical help both for the bench and the bar. It discusses both practical and hypothetical cases, in which the already recorded evidence is placed before the participants for their opinion as to the sufficiency, relevancy and admissibility of evidence to substantiate a case. The emphasis is on what is to be proved and what should be the quantum of proof. The module covers main topics of the subject, such as relevancy admissibility, and burden of proof.

OBJECTIVES

- To understand the difference between standard of proof in civil and criminal cases
- To learn what is to be proved in civil and criminal cases
- To know the quantum of proof in civil and criminal cases
- To understand the difference between probative and provisional burden of proof

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Differentiate between the standard of proof required in civil and criminal cases
- Distinguish persuasive burden of proof from evidential burden of proof
- Fix the burden of proof properly and accurately

CONTENTS

Topics	Break up	Description
Topic 1: Relevancy, admissibility and cogency	7.1	1. Concept 2. Practice 3. Difference between
Topic 2: Burden of proof in civil cases	7.2	1. Scheme of proof in civil cases 2. Appreciation of facts 3. Shifting of burdens
Topic 3: Burden of proof in criminal cases	7.3	1. Scheme of proof in criminal cases 2. Appreciation of facts 3. Shifting of burdens
Topic 4: Legal and tactical burden of proof	7.4	1. What is legal burden? 2. What is tactical burden? 3. Who is burdened with what? 4. How burden is discharged?

GROUP ACTIVITY

1. IT: its effect on law of evidence
2. Burden of proof: On whom lies and when shifts

SYNDICATE RESEARCH

1. Shari'ah: A touch stone for competence and number of witnesses under Qanoon-e-Shahadat Order, 1984.
2. The complementary status of S.540 of the CrPC

REFERENCE MATERIAL

- J D Heydon, *Cross on Evidence*, 10th Edition, LexisNexus Australia, 2010.
- The Qanun-e Shahadat Order 1984.
- The Oath Act, 1873.
- The Civil Procedure Code, 1908.
- The Pakistan Penal Code, 1908.
- The Code of Criminal Procedure, 1898.

Module – 8

MUSLIM PERSONAL LAW-1: MARRIAGE & DIVORCE

INTRODUCTION

The module helps the trainees understand the norms governing family matters. Almost all the topics would reflect that the spouses should themselves abide by these rules to avoid publicity of private life. The module also conveys, though impliedly, that the State shall refrain from interference in private lives unless there is breach of public policy. It also apprises the trainees of the views of the schools of jurisprudence other than the four Sunni schools. To avoid lengthiness and monotony, the module has been divided into two parts, which cover almost all topics of the subject. Part 1 covers connubium⁴ and Part 2 covers separations. The module specifically focuses on such family disputes which necessarily require a decree of court.

OBJECTIVES

- To understand the salient features of family life under Islamic Law
- To learn basic rules regulating family Law
- To know the fragile nature and sensitivity of family disputes
- To realize the significance of Alternative Dispute Resolution (ADR) in resolution of family disputes
- To enhance the knowledge of the trainees regarding rights and liabilities of the spouses
- To explore that *mah'r* is the sole peculiarity of *Shari'ah*⁵

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to;

- Decide family disputes in accordance with *Shari'ah*
- Utilize ADR techniques in resolution of family disputes
- Be sensitive to the significance of difference between the trial of a family suit and other suits of civil nature
- Consult mother references and to prioritize therefrom the opinion most agreeable to justice
- Conduct research on any newly born issue on the subject

PART 1 [Connubium]

CONTENTS

⁴ Means state of being legally married. See Tanzil-ur-Rahman, *Qanuni Lughat*, Lahore, WP Urdu Academy, 198, p 149.

⁵ See the details of dower and the non-recognition of “dowry” as a word by Oxford dictionaries and other reliable thesauri. To them, dower means property that a woman gives to a man as a requirement of marriage.

Topic	Break up	Description
Topic:1 Preliminaries	8.1	<ol style="list-style-type: none"> 1. <i>Nikah</i>; literal and technical meaning. 2. Philosophy and legality. 3. <i>Khitbah</i>/expression of intention to marry; Meaning. <ol style="list-style-type: none"> a. Lawful and unlawful <i>khitba</i>. b. Meeting before <i>nikah</i>; extent of legality. 4. <i>Nikah</i> and <i>Shariah</i>'s Ruling.
Topic: 2 Kinds of <i>Nikah</i>	8.2	<ol style="list-style-type: none"> 1. <i>Nikah Sahih</i>[valid] , meaning,examples, effects. 2. <i>Nikah Fasid</i> [irregular]; meaning, examples, effects. 3. <i>Nikah Batil</i> [void]; meaning, examples, effects.
Topic: 3 Conditions	8.3	<ol style="list-style-type: none"> 1. Conditions as to establishment/<i>inaiqad</i> of <i>nikah</i>. 2. Conditions as to validity/<i>sihhat</i> of <i>nikah</i>. 3. Conditions as to enforceability/<i>nifaz</i> of <i>nikah</i>. 4. Conditions as to option of repudiation/ conclusion/ <i>luzum</i> of <i>nikah</i>.
Topic:4 Dower/ <i>mah'r</i>	8.4	<ol style="list-style-type: none"> 1. Definition, <i>Shariah</i>'s ruling. 2. Quantum, subject matter, mentioning during <i>Aq'd</i>. 3. Kinds of <i>meh'r</i>, occasions for each kind. 4. Persons liable for payment/<i>dhaman</i> and effects of non-payment. 5. Issues relating to consumption/destruction of <i>mah'r</i>. 6. <i>Mata'a</i>/Fair provision and cases of no payment at all. 7. Issues related to goods, households and <i>jahaiz</i>.
Topic: 5 Maintenance/ <i>Naf aqa</i>	8.5	<ol style="list-style-type: none"> 1. Meaning, contents, quantum. 2. On whom and for whom?[factors obligating <i>nafaqa</i>]. 3. Causes and conditions for entitlement of <i>nafaqa</i>. 4. Effects of non-payment and cases of non-entitlement.
Topic: 6 Retirement/ <i>Khil wat</i>	8.6	<ol style="list-style-type: none"> 1. Meaning and kinds. 2. <i>Khilwat sahiha</i>/valid retirement and its effects. 3. <i>Khilwat Fasidah</i>/invalid retirement and its effects.
Topic: 7 Rights of Spouses, inter se	8.7	<ol style="list-style-type: none"> 1. Rights and duties of husband. 2. Rights and duties of wife. 3. Inter-Common rights.
Topic: 8 Guardianship/ <i>wilayat</i> and Agency/ <i>wakalat</i>	8.8	<ol style="list-style-type: none"> 1. Meaning, philosophy, kinds. 2. Causes of <i>wilayat</i>. 3. Compulsory guardianship and its effects. 4. Post puberty options. 5. Recommended guardianship. 6. Conditions for guardian.

		<ol style="list-style-type: none"> 7. Order of <i>walis</i>. 8. Absence of <i>wali</i> and cases where a person ceases to be <i>wali</i>. 9. Laws; fixing age of marriage and view of <i>Shariah</i> 10. <i>Wakalah</i> and its details.
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PART II: SEPARATIONS [Divorce & Dissolution]

Topic:9 Divorce	8.9	<ol style="list-style-type: none"> 1. Meaning, number, kinds. 2. Divorce and Dissolution: distinction of. 3. Conditions [by whom? On whom? Through what]. 4. <i>Talaq Rajae</i> and related rulings. 5. <i>Talaq Baain</i>, kinds and related rulings. 6. Comparison between various kinds of <i>Talaq</i>. 7. Circumstances warranting separation/<i>tafreeq</i> by court/<i>qazi</i>. 8. Circumstances warranting divorce through order of court/<i>tatlqa-ul-qazi</i>. 9. <i>Talaq-i-tafweez</i> and its details 10. Effectiveness of <i>talaq?</i> as to persons and circumstances. 11. Conditional and contingent <i>talaq</i>. 12. <i>Talaq</i> in writing.
Topic: 10 <i>Khula</i>	8.10	<ol style="list-style-type: none"> 1. Meaning and definition, legality, essentials and significance. 2. Consideration of <i>kula</i>, effects/<i>aathar</i> of <i>khula</i>. 3. <i>Talaq ala almal</i> and <i>khula</i>: distinction of. 4. <i>Mubaraat</i> and its effects.
Topic: 11 <i>Iddat</i> /waiting period	8.11	<ol style="list-style-type: none"> 1. Meaning, legality and philosophy. 2. Kinds and conversion of one kind in to other. 3. <i>Iddat</i>; who will observe and who will not. 4. Rights and duties during <i>iddat</i>. 5. <i>Iddat</i>; when commences, when ends?

GROUP ACTIVITY

- The impact of modern bio-research [Surrogacy, birth control in its different modes, determination of non fertility of one of the spouses and the like] on family laws
- The arbitrariness of family disputes
- Study of family legislations in Muslim/Islamic states

PRACTICAL EXERCISE

- Jamila, a resident of Interior Sindh, has obtained *Khula* through a judgment of Family Court chaired by Lalu Pershad CJ, on March 30, 2014. On June 1, 2014, she entered in to contract of marriage with Saleem. No witness attended the ceremony. On June 10, she brought a suit against Saleem, in FC chaired by Sriram CJ, for dissolution of marriage on the basis of cruelty which was proved.

- 1- Whether the court will dismiss the suit for concluding a marriage contract during Idat?
- 2- Whether the court will reject the plaint?
- 3- Whether the court will return the plaint?
- 4- Whether the court will decree the suit on the basis of proved cruelty?

SYNDICATE RESEARCH

1. The right to obtain *khula*: The outcome of the judgments of the apex courts
2. *Wali*: Extent of his powers
3. A fair say about triple Talaq
4. A critical review of S.7 of the MFLO, 1961 in the light of Islamic jurisprudence

CASE LAW

1. *Shahzad Begum v. Abdul Hameed*, PLD 1950, Lahore 54.
2. *Muhammad Yusuf v. Ahmad Nawaz Gardizi*, PLD1961 SC 465.
3. *Zarina Tasadduq Hussain v. Tasadduq Hussain*, PLD 1953 Lahore 112.
4. *Saeeda Khanum v. Muhammad Sami*, PLD 1952 Lahore 113.
5. *Bilqees Fathima v. Najm-ul-Akram*, PLD 1959 Lahore 566.
6. *Raishman v. Shair*, PLD 1953, AJK 10.
7. *Fazal Bibi v. Muhammad Azam*, PLD 1952 Lahore 227.
8. *Farzana Rasool v. Dr Muhammad Bashir*, PLJ 2012 SC 1.

REFERENCE MATERIAL

1. J. Tanzeel-ur-Rahman, *Majmua Qawanin-i-Islam* (Islamabad: IRI Press, 2004) vol., 1, 2.
2. Mufti Abdul Jalil Qasmi, *Mukamal Masail-e-Talaq*, Multan, Idarah Talifat Ashrafiya, 1426 A.H.
3. Habib-ur-Rahman, *Ahkam-e-Talaq*, Islamabad, IRI Press, 2004.
4. Tahanvi Ashraf Ali, *Heela Najizah*, Karachi, Darul Ishaat, 1987.
5. Hafiz Abdul Hafeez, *Badaia-al-Sania* [Urdu Translation], Lahore, Diyal Singh Trust Library, 1997, vol. 2& 3.
6. Maudoodi Abul Aala, *The Laws of Marriage And Divorce in Islam*, Kuwait, Islamic Publisher, 1983.

Module – 9

FAMILY COURT PROCEDURES

INTRODUCTION

The module covers the procedural dimension of the Family Court. While, the Civil Procedure Code, 1908 & the Qanon-e-Shahdat Order, 1984 are largely not applicable to the family courts proceedings, the jurisprudence of the higher courts appear to have carved out a room for the applicability of general principles of these two enactments. There shall be a detailed discussion on the general principles of the CPC and Qanon-e-Shahdat Order. Rules of pleading & decree sheet formulation shall be explained.

OBJECTIVES

- To comprehend the relevant applicable provisions of the CPC & the Qanon-e-Shahdet Order vis-à-vis the family court procedure
- To grasp the necessary procedural requirement of a family case
- To realize the sensitive nature of the trial of a family case

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to;

- Interpret accurately different provisions of the family laws
- Apply the law properly while conducting trials

CONTENTS

Topic	Break up	Description
Topic 1: Preliminaries	9.1	<ol style="list-style-type: none"> 1. Family Court and the significance of its establishment 2. Jurisdiction of family court 3. Meaning of a family case
Topic 2: The West Pakistan Family Court Act, 1964 & Rules, 1965	9.2	<ol style="list-style-type: none"> 1. Legal requirements of pleadings 2. Pre- and post-reconciliation 3. Mode of recording evidence 4. Framing of issues & fixation of onus of proof 5. Writing orders & judgments 6. Formulation of decree sheets 7. Arbitration Council

GROUP ACTIVITY

1. Pre & Post-trial reconciliation

2. Khateeb Nikah: His role in a family suit

PRACTICAL EXERCISE

- Awal Dad killed his father-in law, mother-in law and brother-law. His wife Nagina filed a suit against him for dissolution of marriage on the plea of developed hatred after the tragic incident. The Family Court did not provide opportunity of reconciliation, neither pre-trial nor post trial. After completion of trial, the court decreed the suit on the basis of incapability of spouses to cohabit within the limits of Allah. Discuss the soundness/invalidity of the decree.

SYNDICATE RESEARCH

1. Effect of Talaq decree
2. Custody of child: (a) Requirements, (b) Gradation of relatives

CASE LAW

1. *Dr. Asma Ali v. Masood Sajjad and others*, PLD 2011 SC 221
2. *Tayyaba Yunus v. Muhammad Ehsan and others*, 2010 SCMR 1403
3. *Dr. Fakhr-ud-din v. Mst. Kausar Takreem and others*, PLD 2009 Peshawar 92
4. *Tauqeer Ahmad Qureshi v. Additional District Judge, Lahore and 2 others*, PLD 2009 SC 760
5. *Muhammad Arif v. Uzma Afzal and others*, 2011 SCMR 374
6. *Wing Commander Tipu Sultan Khan v. Rubina Saira Zaffer and another*, 2009 YLR 1021 Lah.
7. *Tayyaba Yunus v. Muhammad Ehsan and others*, 2010 SCMR 1403
8. *Sayed Abbas Taqi Mehdi v. Mst. Sayeda Sabahat Batool and others*, 2010 SCMR 1840

REFERENCE MATERIAL

1. West Pakistan Family Court Act, 1964.
2. West Pakistan Family Court Rules, 1965.
3. Dissolution of Muslim Marriage Act, 1939.
4. The Qanun-e-Shahadat Order, 1984.
5. The Civil Procedure Code, 1908.

Module – 10

LOCAL AND SPECIAL LAWS

INTRODUCTION

The module focuses on explaining the meaning and scope of General Law and Local & Special Laws. The topic shall also cover the concordance and discordance amongst these different kinds of laws. It will also discuss their respective schemes qua interpretation, procedures and applicability of allied laws. The module also addresses the need of local and special laws in relation to ordinary laws (such as the Code Civil Procedure, 1908).

OBJECTIVES

- To understand the meanings and scope of General, Local and Special Laws
- To explore the difference between General, Local and Special Laws
- To understand the procedural schemes employed in different local & special laws
- To discover the effect of general, local and special laws through comparative study

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Have juristic understanding of the terms local, special and general laws
- Understand the overall scheme of local and special laws
- Differentiate between general, local and special laws
- Apply the local and special laws effectively and efficiently
- Know the jurisdictional overlapping
- Wriggle out of competing imbrolios between different forms of laws

CONTENTS

Topic	Break up	Description
Topic 1: General law	11.1	1. Meanings 2. Scope 3. Elements 4. Scheme 5. Jurisdiction
Topic 2: Special Law	11.2	1. Meaning 2. Scope 3. Elements 4. Scheme 5. Jurisdiction

Topic 3: Local law	11.3	<ol style="list-style-type: none"> 1. Meaning 2. Scope 3. Elements 4. Scheme 5. Jurisdiction
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GROUP ACTIVITY

1. The need and significance of local and special laws
2. The role of the departments concerned

PRACTICAL EXERCISE:

- Mr. A serves in Pakistan army. He is posted in forward area where the Army is actively engaged in a military operation. He was informed that his landed property falling in your jurisdiction was illegally possessed by Mr. B. Mr. A applied for leave and on getting the leave, he returned to his home town. He consulted his lawyer and then brought a suit under Section 9 of the Specific Relief Act. What is your assessment of the prescribed limitation for such suit keeping in view the Soldiers Litigation Act, Specific Relief Act and the Limitation Act.

SYNDICATE RESEARCH

- Non-inclination of trial courts towards custodial punishments and its adverse effects

CASE LAW

1. *State v. Nasim Amin Butt*, 2001 SCMR 1083
2. *Qamar Hussain Shah v. State*, PLD 2006 Karachi 331
3. *Gunepally Thammayya & others v. Sri Rajah Tyadapusapatia Khandendu Doru & and other*, AIR 1930 Mad 963

REFERENCE MATERIAL

- 1- Minor Acts.
- 2- Civil Major Acts.
- 3- Criminal Major Acts.
- 4- S.M. Zafar, *Understanding Statutes: Cannons of Construction*, Lahore: PLD Publishers, 3rd Edition, 2008.

Module – 11

JURISPRUDENCE & LEGAL THEORY

INTRODUCTION

The main purpose of this module is to acquaint trainees with the basic and practical knowledge of jurisprudence and main legal theories. The module covers the importance of jurisprudence, and the contributions of modern legal theorists: Austin, Hart, Dworkin, Kelsen, Raz, Fuller and Marx. It highlights the role of jurisprudence in the legal system, especially adjudication, difficulties in defining law; clarity about the concept of law. It also discusses the background of different legal theories that have shaped various pieces of legislation. Besides, the module also focuses on theories that have been shaping the outcome of hard cases in different legal systems. Discussion on proposition ‘whether judges create law or discover it’ forms part of this module.

OBJECTIVES

- To know the practical knowledge of different legal theories
- To understand the role of jurisprudence in the legal system, including Pakistani legal system
- To learn the role of jurisprudence in adjudication
- To understand whether judges discover law or make it while they decide hard cases
- To know how and why different legal theories shaped legislation or legislation emerged as the outcome of hard cases
- To learn the reasons that led the diversity of opinion while defining law

LEARNING OUTCOMES

On completion of this course, the trainees will be able to-

- Realize the practical significance of jurisprudence in judicial decision making
- Form his/her own juristic opinion in hard cases
- Prioritize a juristic opinion from others
- Explore updated knowledge of contemporary jurisprudence

CONTENTS

Topic	Break up	Description
Topic 1: Preliminary	12.1	<ol style="list-style-type: none"> 1. Why study jurisprudence? 2. What is meant by a theory of law? 3. Natural law and positive law 4. What is the role of jurisprudence in the legal system, including Pakistani legal system? 5. Classical and modern natural law theories
Topic 2: Austin	12.2	<ol style="list-style-type: none"> 1. Austinian definition of law and his command theory

		<ol style="list-style-type: none"> 2. Hart's attack on command theory; 3. Defence of command theory
Topic 3: Hart	12.3	<ol style="list-style-type: none"> 1. Hart on the concept of law 2. Hart's existence theory of law and rule of recognition; different features of the rule of recognition 3. Hart's minimum content of natural law 4. Criticism of the rule of recognition (to be discussed in Dworkin below)
Topic 4: Dworkin	12.4	<ol style="list-style-type: none"> 1. Dworkin's theory of adjudication 2. Dworkin's theory of law as 'integrity and interpretation' 3. Dworkin's criticism of Hart's rule of recognition
Topic 5: Kelsen	12.5	<ol style="list-style-type: none"> 1. Kelsen's pure theory of law 2. Kelsen's theory of the validity of legal system 3. Kelsen's <i>Grundnorm</i>, and its features 4. Raz's criticism of Kelsen's theory of law and <i>Grundnorm</i>
Topic 6: Nazi's and Marxian theories of law	12.6	<ol style="list-style-type: none"> 1. A look at Nazi theory of law 2. Nazi Informer Case; Fuller's criticism of Hart's natural law view 3. Fuller's eight conditions of inner morality of law and Hart's response to it 4. A look at Marxian theory of law 5. Society and class struggle 6. Law in the context of economics
Topic 7: Virtue jurisprudence	12.7	<ol style="list-style-type: none"> 1. What is virtue jurisprudence? 2. Law and modern moral philosophy 3. A virtue-centred theory of judging 4. Judicial vices and judicial virtues

GROUP ACTIVITY

- Jurisprudential approach of judges: How can be obtained, improved and utilized

PRACTICAL EXERCISE

- In some areas of our country, guests are served with liquor. This tradition is in practice since time immemorial. Whether separate legislation under the head of special and local laws could be made for these areas on the basis of this custom, considering it as a source of law?
- Since time immemorial, no maintenance is paid to the women/wives in some of the western societies. Despite this, the contract of marriage is concluded with consent of the parties. Whether this custom would bear the force of law? Whether legislation could be based on the basis of this custom?

SYNDICATE RESEARCH

1. Legal theories: origin, evolution and role
2. Theories that shaped legislation and adjudication in Pakistan

CASE LAW

1. *Montage Design Build v.. The Republic of Tajikistan*, 2015 CLD 8 Islamabad
2. *Abdullah v.. CNAN Group SPA through Chief Executive/Managing Director*, 2014 PLD SC 349
3. *Ravi Kapur v.. State of Rajasthan* 2013 SCMR 480
4. *Suo Motu Case # 3 of 2010*, 2012 PLD 553; *Muhammad Saeed v.. Executive District Officer (Agriculture), Khanewal*, 2010 PLC(CS) 261
5. *Muhammad Saleem v.. Regional Commissioner, Income Tax*, 2000 PLC(CS) 696

REFERENCE MATERIAL

- J.W. Harris, *Legal Philosophies*, Oxford, Oxford University Press, 2nd Edition, 1997, (chapter on Command theory).
- H.L.A. Hart, *The Concept of Law*, Clarendon Law Series, 3rd Edition, 2012 (chapter 2 – 6 and 9).
- Ronald Dworkin, *Taking Rights Seriously*, Harvard, Harvard University Press, 1978, (chapter 2).
- Lon F. Fuller, *The Morality of Law*, Yale University Press, 1977, (chapter on the inner morality of law).
- Joseph Raz, *The Concept of a Legal System: An Introduction to the Theory of a Legal System*, Oxford, Oxford University Press, 2nd Edition, 1980 (chapter 5).
- M. Munir, 'Hart's Rule of Recognition: The Foundations of a Legal System or a Form of Judicial Customary Law?', 29(1) *Islamabad Law Review*, 2004, pp 16-35.
- M. Munir, 'How Right is Dworkin's Right Answer Thesis and his Law as Integrity', 2 (2006) *Journal of Social Sciences*, pp 1-25.

Module – 12

CREATIVE WRITING

INTRODUCTION

The module discusses the law relating to judgment writing, elements of court judgment, appreciation of evidence and interpretation of laws in judgment, judgment writing in Islamic law, contemporary trends in judgment writing and the state of mind in the process of judging. The module is not exhaustive as it does not cover communication skills in judgment writing, which has been separately dealt with in the module on English Language.

OBJECTIVES

- To learn provisions of procedure relevant to judgment writing
- To understand the concept and methodology of judgment writing
- To know how to appreciate evidence and how to interpret law in judgment
- To explore and follow judicial opinion writing skills under Islamic law
- To understand the psychology of judging

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to—

- Apply the procedural rules of judgment writing properly
- Utilize necessary skills for appreciation of evidence and application of substantive and procedural laws and precedents
- Write judgment in light of relevant principles of Islamic law
- To explore the current global trends in judgment writing
- To properly follow the rules of effective communication

CONTENTS

Topic	Break up	Description
Topic:1 Preliminary	13.1	1. Meaning of judgment 2. Concept, need and significance of judicial decision making 3. Court judgment as a human endeavour 4. Mental process as a necessary tool of judging
Topic 2: Elements of judgment	13.2	1. Procedural and substantive elements of judgment 2. Procedural rules related to judgment 3. The dos and don'ts of judgment writing
Topic 3: Appreciation of evidence	13.3	4. How to appreciate evidence in judgment 5. Understanding of the rules of evidence: selecting the cogent and avoiding the irrelevant
Topic 4:	13.4	1. Understanding of the text of law

Interpretation of law		2. Application of understanding of the law in judgment
Topic 5: Judgment in Islamic law	13.5	1. Significance of judicial decision making in Islamic law 2. Judgment writing in Islamic law: principles and its application
Topic 6: Contemporary trends	13.6	1. A review of judgment writing literature 2. Best practices in judgment writing

GROUP DISCUSSION

- The essentials of a judicial judgment

PRACTICAL EXERCISE

- Correct the following portion of a court judgment:
“My this judgement is directed to dispose off the suit referred above. The claimant prayed in his petition for recovery of his loan from the accused. Another case of the same nature between the parties is also pending appeal in the court of session. For excessively weak evidence, this court is unable to order any compensation. Parties are directed to bring another suit for costs”.

SYNDICATE RESEARCH

1. The role of language and literature in judgment writing
2. Judgment writing skills: How can be obtained and improved

CASE LAW

Criminal

1. *Muhammad Yasin v. State*, PLD 2011 Lahore 583
2. *Mst. Karam Bibi v. Mir Muhammad Hassan*, PLD 1962 SC 67
3. *The State v. Ch. Miruddin*, PLD 1964 Karachi 231
4. *Dilsher v. State*, PLD 2012 Sindh 307
5. *Abdur Rashid v. State*, PLD 1967 SC 498
6. *Ashiq Hussain v. The State*, 2003 SCMR 698
7. *Shahid v. State*, 1996 SCMR 1368
8. *Masho Khan v. The State*, 2002 PCrLJ 1478 FSC
9. *Abdus Sattar Molla and others v. The State*, PLD 1963 Dacca 251
10. *Babar v. State*, 2006 PCrLJ 387
11. *Muhammad Iqbal v. The State*, 1986 PCrLJ 244
12. *Bashir Ahmad v. The State*, 1982 PCrLJ 21
13. *Mst. Bachho v. Abdul Qayyum Khan*, CLC 2015 Peshawar 805
14. *The State v. Khaliq Dad*, PLD 1985 Karachi 4
15. *State v. Anwar Begum*, 1994 PCrLJ 441
16. *Ameer Ali Shah v. Azhar Haider Ali Shah Alias Tonni*, 1984 PCrLJ 1923

Civil

1. *Muhammad Hassan v. Said Muhammad*, 1986 CLC 1241

2. *Muhammad Saddiq v. Syed Ali Shah*, PLD 1976 Lah. 293
3. *Muhammad Amin v. Muhammad Ramzan*, PLD 1988 Lah. 331
4. *Muhammad Akbar v. Nazir Ahmad*, 2007 CLC 762
5. *Ghulam Samdani v. Faqir Khan*, PLD 2007 P 14
6. *Muhammad Hayay v. Ali Muhammad*, 1982 CLC 2380
7. *Mst. Zohra Begum v. Muhammad Ismail*, 2008 SCMR 143
8. *Muhammad Ovais and another v. Federation of Pakistan through Ministry of Works and Housing, Pakistan Islamabad*, 2007 SCMR 1587
9. *Al-Waqar Corporation v. Rice Export Corporation*, 2011 MLD 266

REFERENCE MATERIAL

1. Chief Justice Beverly McLachlin, 'Legal Writing: Some Tools', 2001 *Alberta Law Review*, 695.
2. Justice Michael Kirby, 'On the Writing of Judgment Writing' 64 *Australian Law Journal*, 1990, 691.
3. Sir Henry Gibbs, 'Judgment Writing', 67 *Australian Law Journal*, 1993, 494.
4. Sir Frank Kitto, 'Why Write Judgment?' 66 *Australian Law Journal*, 1993, 787.
5. Judge Gerald Lebovits, Alfiya Vasi, and Lisa Solomon, 'Ethical Judicial Opinion Writing', 21 *Georgia Journal of Legal Ethics*, 2008, 237.
6. Justice Roslyn Atkinson, 'Judgment Writing', speech available at www.archive.sclqld.org.au/judgepub/2002/atkin210302.pdf
7. Justice Linda Dessau and Judge Tom Wodak, 'A Matter of Judgment, Seven Steps to Clearer Judgment Writing', available at www.highcourt.sabah.sarawak.gov.my/apps/highcourt/sabah/modules/highcourt_cap/components/publishing/index_judgment_showfile.php?id=415.
8. Lord Roger of Earlsferry, 'The Form and Language of Judicial Opinion', 118 *Law Quarterly Review*, 2002, 226.
9. Richard A Posner, Judges' Writing Style (And do they Matter?), 62 *Chicago Law Review*, 1992, 1421.

PAKISTAN/INDIA

1. Justice Shafiur Rahman, 'Decision and Judgment', available at www.fja.gov.pk
2. Justice Mohammad Bashir Jehangiri, 'Judgment Writing', available at www.fja.gov.pk/judgment.htm
3. Justice Mohammad Rafiq, 'Judgment Writing and Communicating Effectively Through Judgments', available at www.hcraj.nic.in/rafiq-judgment-effective.pdf.

Module - 13

ENGLISH LANGUAGE (LANGUAGE SKILLS ENHANCEMENT FOR EFFECTIVE LEGAL/JUDICIAL WRITING)

“Law is a profession of words” (Mellincoff).

Introduction: The course has been designed for delivery at two major stages: theoretical and practical. The theoretical part includes orientation to the evolution of English language, vocabulary building, syntactical structures, idiomatic shades of meaning, and intellectual empowerment. The last component comes from reading materials chosen from masters of prose. Therefore, the theoretical part also includes reading materials for analytical evaluation during oral presentations. The practical part includes intensive writing practices for internalizing the theoretical dimension. Participants will be engaged in practicing each part of the structural element of a judgment for sharpening their verbal skills.

In addition to the above, samples from Shakespeare’s plays, *Merchant of Venice*, *A Midsummer Night’s Dream* and *Measure for Measure* (whose contents are legal in nature), have also been included in the course. Their exposure to the above literary texts will play a vibrant role in breaking the monotony they are used to and will open new windows of meaning for critical appreciation.

Teaching Objectives

The teaching objectives of the course are to

- Familiarize the participants with the mechanics of English
- Introduce them to the evolution of Legal English
- Make them internalize the mechanics of professional writing
- Develop their skills for research and effective writing

Learning Outcomes

On successful completion of the course, the participants will be able

- to know, understand, and apply the mechanics of English as a language
- to learn the mechanics of professional writing
 - to write and make presentations
 - concisely
 - clearly
 - correctly
 - consistently
 - completely
 - concretely

- considerably

Course Contents

Topic	Break-up	Description
1. Orientation to English	14.1	<ol style="list-style-type: none"> 1. as a system 2. Sounds 3. Symbols 4. Etymology 5. Syntax 6. Semantics 7. Pragmatics
2. Mechanics of English	14.2	<ol style="list-style-type: none"> 1. Spelling 2. Words Formation 3. Singular and Plural 4. Pronouns 5. Modifiers
3. Mechanics (continued)	14.3	<ol style="list-style-type: none"> 1. Connectors –A 2. Connectors-B
4. Mechanics (continued)	14.4	<ol style="list-style-type: none"> 4.2 Punctuation 4.3 Capitalization 4.4 Period 4.5 Colon 4.6 Semi-colon
5. Mechanics (Continued)	14.5	<ol style="list-style-type: none"> 5.1 Comma
6. Mechanics (continued)	14.6	<ol style="list-style-type: none"> 1. Parenthesis 2. Dash 3. Ellipsis 4. Brackets 5. Slash 6. Quotes 7. Apostrophe
7. History of English- An Overview	14.7	<ol style="list-style-type: none"> 1. Old English 2. Medieval English 3. Modern English
8. History of Legal English Part-I	14.8	<ol style="list-style-type: none"> 1. Sample Contracts
9. History of Legal English – Part II	14.9	<ol style="list-style-type: none"> 1. Magna Carte
10. History of Legal English Part -III	14.10	<ol style="list-style-type: none"> 1. 17 century 2. 18 Century
11. History of Legal English – Part IV	14.11	<ol style="list-style-type: none"> 1. 19 Century 2. 20 Century
12. Legal English:	14.12	<ol style="list-style-type: none"> 1. Redundancy 2. Repetition

Criticism		<ol style="list-style-type: none"> 3. Sentence Length 4. Latinized Structure 5. Mysterious Vocabulary
13. Effective Communication	14.13	<ol style="list-style-type: none"> 1. Process 2. Flow 3. Principles 4. Barriers
14. Mechanics of Professional Writing	14.14	<ol style="list-style-type: none"> 1. Pre-Planning 2. Planning 3. Outlining 4. Drafting 5. Revising 6. Editing/Proofreading 7. Publishing
15. Drafting a Judgment	14.15	<ol style="list-style-type: none"> 1. Caption 2. Facts 3. Issues 4. Evidence 5. Analysis 6. Decision 7. Consignment
16. Writing a Judgment	14.16	<ol style="list-style-type: none"> 1. Making A Plan 2. Writing The First Draft 3. Revising 4. Check List For Editing
17. Reading Samples-1	14.17	<ol style="list-style-type: none"> 1. Lord Denning's Judgments
18. Reading Samples	14.18	<ol style="list-style-type: none"> 1. Denning's Judgments
19. Reading Literature for learning effective communication	14.19	<ol style="list-style-type: none"> 1. Selections Shakespeare 's <u>Measure for Measure, A Merchant of Venice,</u>
20. Plain Legal English	14.20	<ol style="list-style-type: none"> 1. Definition 2. Explanations 3. Examples
21. Mechanics of Research	14.21	<ol style="list-style-type: none"> 1. Generation of a Thesis Statement 2. Intro 3. Lit review 4. Research Questions (s) 5. Objectives 6. Methodology 7. Limitations 8. Cautionization
22. Application of Research Skills	14.22	<ol style="list-style-type: none"> 1. Group Discussions for selecting a topic 2. Articulating a thesis statement 3. Making the outline
23. Submission	14.23	<ol style="list-style-type: none"> 1. Peer reviewing

of First Drafts		
24. Submission of Final Draft for Research	14.24	1. Individual Presentations
25. 3 weeks for submission of final draft of the research work	14.25	1. Evaluation

Module – 14

COURT FEE ACT & SUIT VALUATION ACT

INTRODUCTION

The module focuses on understanding the law of court fee and suit valuation. This includes the conceptual understanding of difference between court fee and stamps laws. The topic also covers laws pertaining to remission, abolition and refund of court fee. The most important part of the topic is the techniques to know first, how to evaluate the suits for the purpose of affixing court fee, and secondly, how to evaluate it for the purpose of jurisdiction. The inter-relation of law of court fee and suit evaluation is explained. Those areas where these two laws differ with each other are also highlighted. The rules on refund of court fee are discussed. The situations where insufficient court fee is affixed are dealt with.

OBJECTIVES

- To highlight the difference between stamp law & court fee law
- To discuss that how suits are valued for the purpose of court fee
- To understand the importance of evaluating the suits correctly for the purpose of jurisdiction
- To dilate upon the method of refund of court fee
- To know that when and how documents are impounded during judicial proceedings and how these documents are dealt with

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to:

- Have a correct approach to the relevant laws
- Full knowledge as to overlapping and discordant areas of both the laws
- Determine the various fee accurately
- Correctly evaluate suits for the purpose of jurisdiction
- Distinguish between advalorem and fixed fee

CONTENTS

Topic	Break up	Description
Topic 1: Court Fee	15.1	<ol style="list-style-type: none"> 1. Purpose 2. Form 3. Meanings 4. Advalorem Fee 5. Fixed Fee 6. Method of Evaluation 7. Refund

Topic 2: Pecuniary Jurisdiction	15.2	1. Limits 2. Procedure 3. Hierarchical limit 4. Challenges
Topic 3: Suit Valuation	15.3	1. Importance 2. Linkage with Court Fee Act 3. Areas of dissimilarities with Court Fee. 4. Procedure 5. Rules

GROUP ACTIVITY

- To practically determine court fee in a suit for rendition of accounts

PRACTICAL EXERCISE

- Mr. A brought a suit in respect of a five storey plaza situated at Qissa Khawani bazar. He has sought declaration of its title, possession and recovery of mesne profit. The Market value of the shopping plaza is 05 core. The claimed mesne profit is 3.6 million. How would you assess its valuation keeping in view Section 7 of the Court Fee Act. What court fee (if so) is required to be appended with the plaint at the time of institution of the suit?

SYNDICATE RESEARCH

- The Islamicity of the court fee in the light of the judgment of the FSC
- The concept of free of cost justice vis-à-vis inexpensive justice
- Why is court fee alien to criminal justice?

CASE LAW

- Raj-Ud-Din v. Muhammad Shoiab and 2 others*, 2012 MLD 1371 Peshawar
- Mst. Parveen Akhtar and another v. Syed Wasey Agha and 2 others*, 2011 YLR 1999 Quetta
- Khan Muhammad v. Muhammad Bilal and another*, 2010 YLR 3114 Lahore

REFERENCE MATERIAL

- Court Fee Act, 1870
- Abolition of Court Fee Ordinance 1978.
- KPK Finance Act 2011.
- Suit Valuation Act, 1887.

Module – 15

INTERPRETATION OF STATUTES

INTRODUCTION

The module is aimed at making the participants understand the basics of statutory interpretation. It shall cover different approaches, rules and tools of interpretation of statutes, their origin and evolution. The trainees will also be apprised of the role of different maxims in the process of interpretation. The module also discusses the modes of statutory interpretation under Islamic jurisprudence, followed by a comparison with the Anglo-American system.

OBJECTIVES

- To probe the history and development of statutory laws
- To know the role and importance of statutes in legal development
- To understand the evolution of different approaches towards interpretation
- To familiarize the participants about the advantages and disadvantages of different ways of interpretation
- To compare the detail contours of all these systems and rules
- To make participants appreciate the use of appropriate mechanism for interpretation
- To have a holistic view of all competing and complementary rules in vogue in interpretation
- To enhance the knowledge of participants about rules of interpretation prescribed by the jurists of Islamic jurisprudence
- To know the various aids/ tools of interpretation

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Differentiate between different ways of statutory interpretation
- Understand the basis of different approaches to interpretation
- Apply different rules of interpretation, their relevance, import and usage
- Use legal maxims properly while making interpretation
- Appreciate the correct use of competing rules of interpretation
- Select and prioritize the most appropriate tool of interpretation
- Opt the most appropriate opinion from amongst the different opinions advanced by jurists on a particular issue

CONTENTS

Topic	Break up	Description
Topic 1: Statute	16.1	1. Origin 2. Evolution 3. Importance

Topic 2: Legislation	16.2	<ol style="list-style-type: none"> 1. Types 2. Drafting 3. Purpose 4. Possibilities and probabilities.
Topic 3: Legislature	16.3	<ol style="list-style-type: none"> 1. Types 2. Pith and substance 3. Wisdom 4. Representation 5. Relevancy with interpretation 6. Role in interpretation.
Topic 4: Ways of Interpretation	16.4	<ol style="list-style-type: none"> 1. Types 2. History 3. Importance 4. Relevancy with system
Topic 5: Principles of Interpretation	16.5	<ol style="list-style-type: none"> 1. Kinds 2. Competing principles 3. Complementary principles 4. Relevancy with different approaches
Topic 6: Sources of Interpretation	16.6	<ol style="list-style-type: none"> 1. Types 2. Scope 3. Application 4. Exclusion
Topic 7: Legal Maxims	16.7	<ol style="list-style-type: none"> 1. Relevancy 2. History 3. Equitable maxims
Topic 8: Repeal	16.8	<ol style="list-style-type: none"> 1. Definition 2. Need and significance 3. Kinds 4. Effect of repeal
Topic 9: Islamic Interpretation of Laws	16.9	<ol style="list-style-type: none"> 1. Place 2. Scope 3. Statutes in Islam 4. Usul-ul-Fiqh and Interpretation

GROUP ACTIVITY

- The interpretation of S.115 CPC (What is meant by the words ‘decided by any Court’?)
- Selected readings from S.M. Zafar, *Understanding Statutes: Canons of Construction*, Lahore: PLD Publishers, 3rd Edition, 2008.

PRACTICAL EXERCISE

- Mr. Altaf Meman has been charged with impersonation in election on the ground that he has impersonated Yahya Meman, a deceased inhabitant of Maleer. The relevant provision says that impersonation means the casting of vote in place of a person, who is able to cast his own vote. Discuss whether the incident attracts the provision? Give reasons for your opinion, which may be either affirmative or negative.

SYNDICATE RESEARCH

1. Interpretation and Construction: Various approaches.
2. The role of legal maxims in the process of interpretation.

CASE LAW

1. *Dossani Travels Pvt. Ltd v. Messrs Travels Shop Pvt. Ltd & others*. 2014 PLD SC 01
2. *Federation Of Pakistan through secretary M/O Petroleum and Natural Resources and another v. Durrani Ceramics and others*. 2014 SCMR 1630
3. *Commissioner Inland Revenue Zone-II, Regional Tax Office, Multan v. Mrs. Ambreen Fawad C/O Pak Arab Fertilizers Ltd, Multan*. 2014 CLD 272 Lahore
4. *Inspector General of Police, Punjab v. Mushtaq Ahmad Warraich*, PLD 1985 SC 159
5. *Neimat Ali Goraya v. Jaffer Abbas, Inspector/ Sergeant Traffic*, 1996 SCMR 826
6. *Gul Hassan & Co. v. Allied Bank of Pakistan*, 1996 SCMR 237
7. *Mubarik Shah v. State*, 1990 PCrLJ 1796 Peshawar

REFERENCE MATERIAL

1. Maxwell, On Interpretation of Statutes, London, Sweet and Maxwell, 12 Edition 1969
2. The General Clauses Act, 1897
3. S.M. Zafar, *Understanding Statutes: Cannons of Construction*, Lahore: PLD Publishers, 3rd Edition, 2008
4. M. Farani, *The Interpretation of Statute*, Lahore, Law Time Publications, 1977.
5. Imran Ahsan Khan Nyazee, *Islamic Legal Maxims*. Islamabad: Federal Law House, 2014
6. Imran Ahsan Khan Nyazee, *Theories of Islamic Law: The Methodology of Ijtihad*. Islamabad: Islamic Research Institute, 1994
7. Allama Muhammad Khalid Atashi, Trans by Mufti Amjad Ali, *Sharh Majallah*, IRI, Islamabad, 1986

Module – 16

MEDICAL JURISPRUDENCE & FORENSICS

INTRODUCTION

The module is aimed to equip the trainees with sufficient knowledge of Forensic Medicine/Forensic Sciences. It will help the trainees perform judiciously in cases involving modern scientific medical advancement. The module specifically focuses on the role of such advancement in the process of investigation.

OBJECTIVES

- To know the preliminaries of the medico-legal investigations
- To understand the various phrases used in medico-legal practice
- To appreciate the difference between clinical Forensic Medicine, autopsy and exhumations

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to:

- Ascertain the mode, manner and cause of death from the autopsy and laboratory reports
- interpret the findings and laboratory reports in sexual assaults
- find out the medical negligence and infamous conduct of doctors

CONTENTS

Topic	Break up	Description
Topic 1: Introduction to Forensic Medicine	17.1	1. Introduction to forensic medicine & Forensic Sciences 2. The medico-legal systems 3. The authorized medical officer
Topic 2: Clinical Forensic Medicine	17.2	1. Assaults – Physical 2. Weapon 3. Time of infliction / age of wound 4. Legal nature of injury as per Qisas & Diyyat Act
Topic 3: Poisoning	17.3	1. Poisoned – Living 2. Diagnosis 3. Manner of poisoning – suicidal / homicidal / accidental / exhibitional interpretation of laboratory reports 4. Poisoned – dead 5. Legal & Ethical Duties 6. Alcoholic 7. Diagnosis

		8. Collection of specimens under direct supervision of MLO
Topic 4: Sexual Assaults	17.4	1. Rape Sodomy / Pedophilia 2. Indecent assaults 3. Sexual perversions 4. Collection of trace evidence maintaining chain of custody
Topic 5: Age Certification	17.5	1. Age determination 2. Important Medico-legal ages 3. Intra uterine 4. Extra uterine
Topic 6: Interpersonal Matters	17.6	1. Impotence 2. Sterility 3. Consummation of marriage 4. Nullity of marriage 5. Virginity 6. Pregnancy 7. Legitimacy – duration of pregnancy 8. Blood grouping 9. DNA analysis
Topic 7: Toxicology	17.7	1. Diagnosis / collection of samples/ legal duties
Topic 8: Medical Negligence	17.8	2. Definition 3. Civil / Criminal 4. 3 rd Party Negligence 5. Contributory negligence 6. Who to hear / punish 7. Courts 8. PM&DC – Disciplinary committee headed by nominee of supreme court 9. Professional Death Sentence 10. Temporary suspension of registration 11. Warning 12. Disposed of if not proved

GROUP ACTIVITY

- The nomenclature of wounds in the PPC.

PRACTICAL EXERCISE

- Mr. A is accused of inflicting injuries to the person of Mr. B. The nature of wounds shown in the medico legal report is:-
 - i. Bruise on the face near the cheek, yellowish black in complexion.
 - ii. Canine tooth broken.
 - iii. Firearm wound to the left biceps.

- iv. Left shoulder dislocated.
- v. Punctured wound to the abdomen skin deep.
- vi. Incised wound to the right thigh exposing the bone.

Please assess the nature of wound and name them. Similarly cite the laws relevant to these wounds?

SYNDICATE RESEARCH

1. The enforcement of *Qisas* in bodily wounds
2. Evidentiary value of facts generated by forensic sciences
3. Medical opinions based on forensic sciences: need and significance

CASE LAW

1. *Mrs. Alam Ara v. Dr. Shaista Tariq*. 2013 MLD 743 Peshawar
2. *Rozi Khan v. Muhammad Asif and others*. 2015 PCr.LJ 465 Quetta
3. *Shahabuddin v. Muhammad Hashim Khan and another*. 2015 PCr.LJ 81 Peshawar
4. *Muhammad Arshid and another v. The State*. 2014 YLR 1060 Lahore
5. *Nazeer alias Wazeer v. The State*, 2007 PLD SC 202
6. *Abdul Majeed v. Mulazim Hussain and other*. 2007 PLD SC 637

REFERENCE MATERIAL

- Justice S.A. Bobde, *Medical Jurisprudence & Toxicology*, Allahabad, Premier Publishing Co., 2012.
- Jaising P Modi, *A Textbook of Medical Jurisprudence and Toxicology*, LexisNexis Butterworths Wadhwa, Nagpur, 2011.
- Bernard Knight, *Lawyer's Guide To Forensic Medicine*, Lawman (India) Private Limited, 1998.
- Parekh & Parmar's, *Principle and Practice of Medical Jurisprudence & Toxicology*, Allahabad, Dwivedi & Company, 2001.

Module – 17

PENAL LAWS-1

INTRODUCTION

This module covers the exhaustive substantive law defining offences and prescribing punishments. As the trainees in their professional career would frequently come across the Pakistan Penal Code (PPC), therefore quite a number of topics have been formulated. The definitions and general exceptions have been illustratively explained. Emphasis has been placed on the offences relating to public servants, false evidence, human body and religion.

OBJECTIVES

- To comprehend the correct definitions provided by the PPC
- To understand the necessary ingredients that constitute an offence(s)
- To be proficient in citing the correct sections of the PPC
- To understand when, where and under what circumstances the general exceptions are attracted
- To know the nature, kinds and quantum of punishments

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to:

- Know the scheme of the PPC
- Properly apply different provision of the PPC
- Apply the law correctly while conducting trials

CONTENTS

Topic	Break up	Description
Topic 1: Scheme of Pakistan Penal Code, 1860	18.1	<ol style="list-style-type: none"> 1. Historical background 2. Definitions 3. Scheme of law 4. General Exceptions 5. Punishments
Topic 2: Offences: Public Servants	18.2	<ol style="list-style-type: none"> 1. Illegal gratifications 2. Violating law 3. Forging documents 4. Impersonating 5. Avoiding service 6. Non attendance 7. Obstructing
Topic 3: Offences against Public Justice & State	18.3	<ol style="list-style-type: none"> 1. Violating oath 2. Fabricating false evidence 3. Resisting arrest

		<ol style="list-style-type: none"> 4. Making false declarations 5. Harboring offenders 6. Offences relating to Oil & Gas 7. Waging War 8. Defiling National Flag
Topic 4: Religious freedom & Safeguards	18.4	<ol style="list-style-type: none"> 1. Sanctity of places of worships 2. Blasphemy 3. Desecration of places of worship
Topic 5: Offences relating to Human body	18.5	<ol style="list-style-type: none"> 1. Kinds of hurt 2. Punishments 3. Requirements of punishment as regard to fasād fī al-ardh 4. <i>Qatl</i> & kinds 5. When <i>qisas</i> cannot be inflicted 6. Waiver & Compounding Qisas 7. Rape & punishment 8. Unnatural Offences
Topic 6: Ensuring Public Tranquillity	18.6	<ol style="list-style-type: none"> 1. Unlawful assembly 2. Rioting 3. Assaulting or obstructing public servants 4. Wantonly provoking for rioting 5. Affray
Topic 7: Abduction & Kidnapping	18.7	<ol style="list-style-type: none"> 1. Wrongful restraint & confinement 2. Force & Criminal force 3. Assault 4. Outraging modesty 5. Kidnapping 6. Kidnapping for extortion & ransom 7. Selling minors for prostitution
Topic 8: Offences against Property	18.8	<ol style="list-style-type: none"> 1. Theft 2. Extortion 3. Robbery & Dacoity 4. Criminal misappropriation of property 5. Breach of trust 6. Cheating 7. Receiving stolen property 8. Mischief 9. Criminal Trespass
Topic 9: Intimidation, Insult & Defamation	18.9	<ol style="list-style-type: none"> 1. Criminal intimidation 2. Word, gesture or act to insult modesty of woman 3. Defamation 4. Sale of printed or engraved

		defamatory matter
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GROUP ACTIVITY

- The incorporation of Sections 299 to 338 PPC: History and Purpose

PRACTICAL EXERCISES

1. There was a brawl. Several persons were hurt. Some of them claimed that they were bystanders while the others plead that they had exercised their right of self defense and therefore had committed no wrong. There were few who claimed that they were minors and thus could not be implicated. Please assess the liability in view of the claims so raised?
2. There was a gang of 05 criminals. They were armed with lethal firearm weapons. They had aimed to block the road through show of force. What sections of Pakistan Penal Code shall be attracted to this situation?

SYNDICATE RESEARCH

1. Evidence required for a Taziri punishment
2. Right of self defence: Scope and extent

CASE LAW

1. *Muhammad Raheel alias Shafique v. The State*, 2015 PLD SC 145
2. *Muhammad Yar v. The State*, 2012 SCMR 1014
3. *Shamshad Iqbal and another v. Shehzad Khan and another*, 2008 PLD 57 Peshawar
4. *Javaid Ali v. The State*, 2009 PCr.LJ 1003 F.S.C

REFERENCE MATERIAL

- The Pakistan Penal Code, 1860.
- The Qanun-e-Shahadat Order, 1984.
- The Code of Criminal Procedure, 1898.

Module – 18

PENAL LAWS-2 (*Hudūd*)

INTRODUCTION

This module covers the *Hudood* laws promulgated in 1979 as a part of the "Islamization" process. It has introduced new offences such as *Zina*, *Qazf*, theft, *harabah*, drinking and the like. Separate lessons have, therefore, been allocated to each of them. The module mainly focuses on *Hudood* punishments. Nonetheless, *Ta'azir* being an alternative punishment, has also been dealt with.

OBJECTIVES

- To sensitize the trainees about the fragile nature of *Hudood*
- To appraise the trainees of the history of islamization of Pakistan criminal justice system
- To enable the trainees to comprehend the relevant legal provisions of *Quran*, *Sunnah* and *Ijma*
- To enlighten the trainee of the philosophy for the required quantum of proof in *Hudood*

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Apply the rules and principles to the facts of a case properly
- Interpret the relevant legal provisions accurately
- Weigh the value of *shubha*/doubt courageously and meticulously
- Conduct research on emerging issues

CONTENTS

Topic	Beak UP	Description
Topic 1: Preliminaries	19.1	1. Administration of criminal justice in Islam 2. <i>Hadd</i> , <i>Qisas</i> , and <i>Ta'azir</i> ; distinction of. 3. Touchstone for criminal liability.
Topic 2: (a) Theft	19.2	1. Meaning and definition 2. Kinds 3. Mode of proof 4. Sentence; kinds & enforcement
Topic 3: (b) <i>Harabah</i>	19.3	1. Meaning and definition 2. Mode of proof 3. Punishment; variety of.
Topic 4: (a) <i>Zina</i>	19.4	1. Meaning and definition 2. Constituting elements

		<ol style="list-style-type: none"> 3. Kinds as regard to sentence 4. Kinds as regard to offender 5. Modes of proof 6. Sentence; kinds and execution
Topic 5: (b) <i>Lia'an</i>	19.5	<ol style="list-style-type: none"> 1. Accusation of <i>Zina</i> by husband 2. <i>Lia'an</i> proceedings as prescribed by the holy <i>Quran</i>. 3. Completion of <i>lia'an</i>; its effects on spouses, previous children and the disputed offspring.
Topic 6: <i>Qazf</i>	19.6	<ol style="list-style-type: none"> 1. Meaning and definition 2. Protection of honor as one of the five objectives of <i>Sharia</i> 3. Constituents of the offence 4. Mode of proof 5. <i>Qazf</i> and defamation; compatibility of Punishment 6. Post punishment effects
Topic 7: Intoxicants	19.7	<ol style="list-style-type: none"> 1. Meaning and definitions 2. <i>Khamr</i> / Liquor and other intoxicants; difference of 3. Mode of proof 4. Punishments

GROUP ACTIVITY

- A group of participants may be assigned the task to trace the judgments of Federal Shariat Court in appeal arising out of conviction and sentenced made as "*Hadd*"

PRACTICAL EXERCISES

- Before your Court, Mr. A is charged with the possession of 95g of heroin. This is the second time he is found with narcotic substances. While framing of charge what sections of law would be attracted, in particular can the sections of Prohibition (enforcement of *Hadd*) Order, 1979 and the Control of Narcotics substances Act, 1997 lie parallel in the charge sheet, if so why?

SYNDICATE RESEARCH

- a) The effect of effective-cause / *illah* in intoxicants other than *khamr* / liquor
- b) Scope and legality of intoxicants for medicinal purposes under *sharia*

CASE LAW

1. *Sana ullah v. The State*, 1997 PCrLJ FSC 1666
2. *Mst. Zahida Parveen v. Muhammad Afzal ASI and another*, 2014 PCrLJ 819
3. *Jamshed alias Javed v. The State*, 2001 PCrLJ 1493 Peshawar
4. *Lal Bux v. The State*, PLD 1981 FSC 132.
5. *Mst. Shash Begum and others v. Bashir ullah and others*, 2013 PCrLJ 1737 FSC

6. *Muhammad Islamail Queshy and others v. Federal Government of Pakistan through Secretary, Law and Parliamentary Affairs, Islamabad and others*, PLD 1992 FSc 445
7. *Dr. Muhammad Aslam Khahki v. Federation of Pakistan through Ministry of Justice and Parliamentary Affairs Islamabad*, PLD 2010 FSC 191
8. *Muhammad Ayoob Thebo and another v. The State*, PLD 2015 Sindh 173

REFERENCE MATERIAL

- Offences Against Property (Enforcement of *Hudood*) Ordinance, 1979.
- Offences of *Zina* (Enforcement of *Hudood*) Ordinance, 1979.
- Offence of *Qazf* (Enforcement of *Hudood*) Ordinance, 1979.
- Prohibition (Enforcement of *Hudood*) Order, 1979.

Module – 19

PRECEDENTS

INTRODUCTION

Whether judges make or interpret law? Besides answering this question, the module discusses the origin and evolution of precedents in various jurisdictions and legal systems. It, nonetheless, focuses on how to select and apply a precedent to the facts of a particular case. It also discusses the legal force of the precedents of the different ranks of courts.

OBJECTIVES

- To explore the origin and evolution of precedent
- To understand the difference in approach as to precedents of different legal systems
- To know the jurisdictions where precedents are more honoured
- To realize the difference between binding and persuasive precedents
- To comprehend the force of precedent as a tool of interpretation
- To understand *sub-silentio* and *per incurium* judgments

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- To realize the importance of the subject
- To follow persuasive and binding precedents in its due places
- To prioritize the required precedent from the bulk
- To apply the techniques for ascertaining the similarity of a precedent to the facts of a case in hand
- To distinguish between *sub-silentio* and *per incurium* judgments

CONTENTS

Topic	Break up	Description
Topic 1: Preliminaries	20.1	1. Meaning of precedent 2. Origin 3. Development 4. Importance
Topic 2: Civil Law System	20.2	1. Origin 2. Development 3. Place of precedents
Topic 3: Common Law system	20.3	1. Origin 2. Development 3. Place of precedents
Topic 4:	20.4	1. Origin

Plural System of Law		<ol style="list-style-type: none"> 2. Development 3. Place of precedents 4. Relevancy with system
Topic 5: Pakistani law	20.5	<ol style="list-style-type: none"> 1. Meaning and kinds of precedent 2. Evolution and development 3. Precedent in the Constitution of Pakistan, 1973 4. Precedent in the judgments of Pakistani courts 5. Rules governing the selection of precedent to be followed in case of conflict

PRACTICAL EXERCISE

- A has brought a pre-emption suit against B. While giving arguments on the case, A's counsel presented a judgment delivered by a six members bench of the Supreme Court, and said that specification of watch time is not necessary for proving of Talab-e-Muathibat. The defendant's counsel presented another judgment of the Division bench of the Supreme Court, later in time, and claimed that such specification is mandatory to prove Talab-e-Muathibat. Which precedent is to be followed?

CASE LAW

1. *Raja Muhammad Niaz Khan, Ex-Chairman, Azad Kashmir Mineral And Industrial Development Corporation v. Azad Government Of The State Of Jammu & Kashmir, Muzaffar Abad, 1988 PLD 53 AJ&K*
2. *Muhammad Sohail and 2 others v. Government of N.W.F.P and others, 1996 SCMR 218*
3. *Irshad Ahmad Shaikh v. The State, 2000 SCMR 814*

REFERENCE MATERIAL

- Muhammad Munir, *Precedent in Pakistani Law*, Karachi, Oxford University Press, 2014
- Rupert Cross, Harris, J.W., *Precedent in English Law*, Oxford, Clarendon Press, 1991, reprinted 2004
- Michael Zander, *The Law – Making Process*, London, Butterworths, 2005
- A. Lakshminath, *Precedent in Indian Law*, Lucknow, Eastern Book Company, 2005
- S.M. Zafar, *Understanding Statutes: Cannons of Construction*, Lahore: PLD Publishers, 3rd Edition, 2008

Module – 20

RENT LAWS

INTRODUCTION

The module mainly covers all matters pertaining to tenancy. It discusses the meaning, concept and need of rent laws. It focuses on landlord and tenant relationship, tentative rent order, ejection and the concept of *Persona designata*.

OBJECTIVES

- To know the basic concepts, need and significance of rent laws
- To understand peculiar trial procedures under the rent laws
- To comprehend fair rent and the procedure of its determination

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Have clarity about basic concepts of the Rent Laws
- Adopt properly the trial procedure in rent cases
- Apply correctly the relevant provisions of the Rent Laws
- Properly determine fair rent

CONTENTS

Topic	Break up	Description
Topic 1: Historical development & conceptual bases of Rent Laws in Pakistan	21.1	1. Development of Rents Laws of Pakistan 2. Rent Controller as <i>Persona Designata</i> 3. Scope
Topic 2: Urban Rent Restriction Ordinance, 1959	21.2	1. Scope & Jurisdiction 2. Landlord & Tenant's relationship 3. Fair Rent 4. Ejectment petition 5. Tentative Rent Order 6. Execution

GROUP ACTIVITY

- Tenant and landlord relationship

PRACTICAL EXERCISE

- On Bank Road Mardan, there is a market. Mr. A is the owner of the market. He intends to demolish it and build a plaza there. He issues notices to his tenets and thereafter has brought the ejectment petitions. Mr. B, C and D are his tenets. Mr. B

claims that as he is the tenet therefore on reconstruction he may be given the same area on the ground floor on rent. Mr. C denies the relationship of the landlord and the tenet while Mr. D claims that Mr. A has no right to construct plaza there. The rent controller finds the claim of Mr. A genuine. What order would he pass in respect of each individual tenants B, C & D?

SYNDICATE RESEARCH

1. Tentative orders: when and how can be made
2. The compatibility of rent laws with the concept of lease contract under Islamic Jurisprudence

CASE LAW

1. *Malik Sami Ullah Azeemi v. Khayam and 2 others*, 2014 CLC 1595 Peshawar
2. *Muhammad Farooq v. Abdul Waheed Siddiqui and others*, 2014 SCMR 630
3. *Ittehad Chemicals Limited v. VII Additional District Judge, Karachi (South) and 2 others*, 2010 SCMR 1582
4. *Syed Maqsood Shah Bukhari v. Federal Government through Secretary M/O Law and Justice, Islamabad*, 2013 MLD 1808 F.S.C
5. PLD 1965 SC 459
6. *Muhammad Ashraf Khan v. Fahmid Khanum*, PLD 1982 SC 398
7. *Rehmatullah v. Ali Muhammad*, 1983 SCMR 1064
8. *Razia Begum v. Senior Civil Judge (Rent Controller) Charsadda*, PLD 1996 Pesh 8
9. *Hanif V Ahmed Shah*, 2001 SCMR 577
10. *Muhammad Azeem Qureshi v. Hakim Syed Akhtar Irshad*, 1990 CLC 122
11. *Pakistan Institute of International Affairs v. Naveed Merchant*, 2012 SCMR 1498

REFERENCE MATERIAL

- The Urban Rent Restriction Ordinance, 1959.
- The Qanun-e-Shahadat Order, 1984.
- The Civil Procedure Code, 1908.

Module-22

REVENUE LAW

INTRODUCTION

The module focuses on the theoretical and practical understanding of the land record. It involves classroom learning through lectures for proper understanding of land record, land settlement, the nature and kinds of land record, the land revenue law and administration. It also contains classroom and field-based practical work.⁶ Of great significance is the imparting of skills for determination of evidentiary value of land record and its judicial interpretation according to statutes and case law.

OBJECTIVES

- To have a proper understanding of the significance of land revenue law in relation to civil justice system
- To learn the vast range of land record documents and their importance in civil cases
- To learn how to weigh the evidentiary value and interpretation of the land record
- To know and understand the importance of case law regarding the land record in civil cases
- To equip the participants about the field work in the preparation of land record

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Properly apply the law relating to land revenue record
- Realize importance of land record
- Efficiently apply the relevant provisions properly
- Weigh accurately the evidentiary value of land record
- Skilful interpretation of the land record

CONTENTS

Topic	Break up	Description
Topic 1: Preliminaries	22.1	1. An introduction to the Land Revenue Act, 1967 2. Other relevant laws, rules and regulations
Topic 2: The Revenue Courts and their link to Civil Courts	22.2	1. The composition, power and importance of Revenue Courts 2. Revenue Courts vis-à-vis Civil Courts
Topic 3: Key concepts used in the	22.3	1. Understanding concepts such as: Settlement, Measurement (Paimaish), Consolidation

⁶ Field work means measurement, partition and ascertainment of boundaries.

revenue administration		(Ishtemal), Pedigree table (Shajra-e-Nasb), Field map (Aks Shajara-e-kishtwar), mutation, Patwari record, Periodical Record (Register Haqdarar-e-Zameen), Crop Inspection (Girdawari), Partition, Acquisition, Agriculture Income Return (Jahar Pedawar), Administration, Inheritance, Demarcation (Hadbararee), Computerization of land record
Topic 4: The application of land revenue law	22.4	1. Application of the above noted concepts
Topic 5: The land record officials and their duties	22.5	1. How the land record official (Patwari, Qanungo and Tehsildar) perform their duties 2. Problems of Revenue Officials in relation to civil courts and how to resolve them.
Topic 5: Case law	22.6	1. Study of landmark judgments pertaining to land record

GROUP ACTIVITY

- Physical inspection of various registers and discussion thereon

PRACTICAL EXERCISE

- In District Torghar the process of settlement has initiated. A settlement commission has been appointed. Devise the scheme of settlement

SYNDICATE RESEARCH

- Evidentiary value of various documents of revenue record

CASE LAW

1. *Sajawal Shah and another v. Syed Rahim Shah and others*, 1975 PLD SC 325
2. *Ahmad Khan v. Rasul Shah and others*, 1975 PLD SC 311
3. *Mst. Baswara v. Hafizullah Khan and others*, 2015 PLD 30 Peshawar
4. *Habib Khan and another v. Mst. Bibi Zohra and 2 others*, 2012 PLD 80 Peshawar
5. *Atta Muhammad v. Manzoor Ahmad*, 1992 SCMR 138
6. *Shah Hussain v. Abdul Qayum*, 1984 SCMR 427
7. *Feroz v. Sher*, PLD 1985 SC 254
8. *Muhammad Sabir Khan v. Rahim Baksh*, PLD 2002 SC 303
9. *Mst. Amro v. Mst. Atlas*, PLD 1987 Peshawar 6
10. *Muhammad Younus v. Shahid Naveed*, 1989 CLC 837
11. *Shad Muhammad v. Khan Poor*, PLD 1986 SC 91

REFERENCE MATERIAL

- The West Pakistan Land Revenue Act, 1967.

- Douie Settlement Manual.
- The Land Record Manual.
- The Land Administration Manual.

Module-23

PROBATION & PAROLE

INTRODUCTION

This module shall discuss the significance of Probation and Parole laws as alternatives to incarcerations. It explains the difference between the two laws. The main focus, however, remains on Probation which is more relevant to judicial functions. The module also covers the proper application of procedures under the Probation laws at pre, during and at the conclusion of the trial. The structure and functioning of Pakistani Probation and Parole system is also discussed. The module also apprises the trainees about international framework supporting non-custodial measures.

OBJECTIVES

- To sensitize the trainees to the importance of probation & parole
- To understand the difference between parole & probation
- To know the procedure prescribed for probation

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Confidently implement relevant provisions of probation and parole laws
- Apply the law correctly
- Differentiate between probation & parole
- Study international framework on the subject

CONTENTS

Topic	Break up	Description
Topic 1: Preliminaries	23.1	1. Meaning and definition 2. Origin and evolution 3. Need and significance
Topic 2: Structure & functioning of probation & parole system	23.2	1. Definition 2. Difference 3. Procedures
Topic 3: Probation	23.3	1. Scope of Probation of Offenders Ordinance,1960 2. Supervision of a Probation Officer 3. Grave offences not entitled to probation 4. Breach of conditions 5. Juvenile Justice System Ordinance,2000

Topic 4: Parole	23.4	<ol style="list-style-type: none"> 1. Meaning 2. Scope of parole system 3. Misuse of parole 4. Refusal of parole
Topic 5: International framework	23.5	<ol style="list-style-type: none"> 1. Tokyo Rules 2. Beijing Rules 3. Bangkok Rules 4. ICCPR

GROUP ACTIVITY

- Causes of less application of Probation Law
- Probation law in Pakistan & India—a comparative study

PRACTICAL EXERCISE

- Police produces a 16 years old accused before a court. He is charged for attempted murder and is in handcuffs. In the application for his custody, police has mentioned that due to his previous criminal record, he has been produced in handcuffs. The defence counsel takes the plea that his client is mentally ill and produces certificate to this effect. The defence further alleges violation of section 10 (1) (b) and 12(b) of JJSO, 2000. Discuss!

SYNDICATE RESEARCH

- The need of a new probation law in Pakistan

CASE LAW

- a) *Naseeb Ullah v. The State*, 2014 PLD 69 Peshawar
- b) *Mian Khan v. The State*, 2014 PLD 127 Peshawar
- c) *Ghulam Dastagir v. The State*, 2014 PLD 100 Quetta
- d) *Nidoo alias Nizamuddin v. The State*, 2007 PLD 123 Karachi
- e) *Wazir v. The state*, 2007 PLD 113 Karachi

REFERENCE MATERIAL

- 1) Probation of Offenders Ordinance (XLV of 1960)
- 2) West Pakistan Probation of Offenders Rules, 1961
- 3) The Good Conduct Prisoners Probational Release Act, 1926
- 4) The Good Conduct Prisoners Probational Rules, 1927
- 5) Juvenile Justice System Ordinance, 2000
- 6) The International Covenant on Civil and Political Rights, 1966
- 7) United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) Tokyo Rules, 1990 [G.A. res. 45/110, annex, 45 U.N. GAOR Supp. (No. 49A) at 197, U.N. Doc. A/45/49 (1990)]

- 8) United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 1985
- 9) The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules'), 2010

Module-24

INHERITANCE

INTRODUCTION

This module contains the rules governing devolution of heritable. These rules require pre-comprehension of some basics. Lesson no 1 covers it under ‘Preliminaries’. To make the course more practical, an item of ‘Exercises’ has been added to the relevant lessons. The course description focuses on main topics of the subject. The ancillary topics such as issues pertaining to missing persons, execution of will, share of fetus, share of eunuch, entitlement of the public exchequer/*bait-ul mal* and the like have been dealt with in ‘group activity’.

OBJECTIVES

- To understand the principles of ‘Science of heritable
- To interpret the relevant legal provisions properly
- To learn the philosophy of divine devolution of wealth
- To know the significance of private ownership as recognized by *Shari’ah*
- To sensitize the trainees about the fragile nature of the subject

LEARNING OUTCOMES

On completion of the course, the trainees shall be able to-

- Apply the rules and principles to the facts of a case properly
- Interpret the relevant legal provisions accurately
- Determine the shares easily
- Conduct research on emerging issues⁷

CONTENTS

Topic	Beak UP	Description
Topic 1: Preliminaries	24.1	<ol style="list-style-type: none"> 1. Introduction as ‘Discipline’. 2. Definition & ingredients. 3. History [Arab and non Arab societies]. 4. Phraseology.
Topic 2: Inheritance mandating provisions	24.2	<ol style="list-style-type: none"> 1. Quranic Provisions. 2. <i>Sunnah</i>. 3. <i>Ijma ‘a</i> /consensus of opinion.
Topic 3: A. Factor entitling to heritable.	24.3	(A) <ol style="list-style-type: none"> 1. <i>Sabab</i>/causation. 2. <i>Nasab</i>/lineage.

⁷ Issue of pension, benevolent fund, insurance policies, certificates, and any other benefit, profit or right gained or accrued after the death of the deceased.

B. Factor disentitling to heritable		<p>3. <i>Al-wila'a</i>/ heritable of freed slave.</p> <p>(B)</p> <ol style="list-style-type: none"> 1. <i>Riqq</i> /Slavery. 2. <i>Qat'l</i>/Murdering. 3. Religion. 4. <i>Dar</i>/State.
Topic 4: Sharers (<i>Zavil Furudh</i>)	24.4	<ol style="list-style-type: none"> 1. Persons with pre-stated shares. <ol style="list-style-type: none"> (a) <i>Nasabi</i> (a) <i>Sababi</i> 2. List of <i>Nasabi</i> sharers: <ol style="list-style-type: none"> a) Father b) Grandfather c) Uterine brother d) Daughter & two or more daughters e) son's daughter sometime f) full sister g) consanguine sister h) uterine sister i) mother j) Grandmother 3. List of <i>sababi</i> sharers <ol style="list-style-type: none"> a) husband b) wife
Topic 5: Residuary/ <i>Asabah</i>	24.5	<ol style="list-style-type: none"> 1. Definition 2. Kinds <ol style="list-style-type: none"> a. <i>Asabah binnafs</i>/Original & paternal male relatives. b. <i>Asabah bil-ghair</i>/ residuary (female) due to external factor (male). c. <i>Asabah Ma Alghair</i>/ residuary (female) due to external factor (female). 3. Exercises.
Topic 6: Gender - based- division of heirs	24.6	<ol style="list-style-type: none"> 1. All male heirs & shares. 2. All female heirs & shares. 3. Exercises.
Topic 7: Concept of <i>Aw'l</i> (increase)	24.7	<ol style="list-style-type: none"> 1. Meaning. 2. Original denominators. 3. Procedures of determining of a denominator. 4. Kinds of fixed shares. 5. Exercises.
Topic 8: Concept of <i>Radd</i> (Return)	24.8	<ol style="list-style-type: none"> 1. Meaning. 2. Conditions. 3. Exercises

Topic 9: Concept of <i>Haj'b</i> /Exclusion	24.9	1. Meaning. 2. Kinds. 3. Depriver and the deprived. 4. Exercises.
Topic 10: <i>Zawel Arham</i> /Distant Kindred	24.10	1. Meaning. 2. Kinds. 3. Distribution methodology. 4. Exercises.

GROUP ACTIVITY

Find share of each of the legal heirs listed below:

❖ **Total heritable =600 Dinars**

No.	Heirs	Share	quantity
1	Wife		
2	Grandmother		
3	02 daughters		
4	12 consanguine brothers		
5	Consanguine sister		

SYNDICATE RESEARCH

- 1- Missing persons
- 2- Prisoners
- 3- Collective death [air crash, explosions, road accidents.....]
- 4- Fetus
- 5- Eunuch
- 6- The cases of offspring after *Lia'an*, offspring as result of Zina, the thrown-lifted child/*laqit*
- 7- Entitlement of a *shia* widow
- 8- The effect of divorce in *maraz-ul-mouth* on devolution
- 9- Execution of will, funeral expenses and payment of loans

CASE LAW

1. *Saadullah and others v. Mst. Gulbanda and others*, 2014 SCMR 1205
2. *Dawlat Khatoon v. Amina Bibi*, PLD 1958 W.P.(Rev) 67
3. *Mst. Aqsa Sabir v. Dr. Sajjad Hussain*, 2015 MLD 652 PHC
4. *Ghulam Shabbir v. Mst. Bakhat Khatoon*, 2009 SCMR 644
5. *Javed Ishaque v. Muhammad Ishaque*, 2006 CLC 1093 Karachi
6. *Riaz Hussain Shah v. Chief Land Commissioner, Punjab Lahore*, 2000 YLR 633 LHC

REFERENCE MATERIAL

- 1- *Mufid-ul-Warisin* (Urdu) by Moulana sayyed Mian Asghar hussain, Maktabat-ul-Ilm, Lahore, n.d.

- 2- *Al-Kulasatu fi Ilm Al-faraidh* (Arabic) by Nasir bin Muhammad, Maktabah Rashidiah Peshawar, n.d.
- 3- *Majmuah Qawanin-e-Islam* (Urdu) vol: 5, by justice Tanzil-ur-Rahman, IRI, Islamabad, 2010.
- 4- Mulla Dinshah Fardunji, *Principles of Muhammadan Law*, Popular Law Book House, Lahore, 2013

Module-25

CONTEMPT OF COURT LAWS

INTRODUCTION

This module covers the laws meant to deal with those who commit contempt of court and to deter intended disparagement of courts. It encompasses the meaning, definition and purpose of the contempt of court. The evolution of contempt of court law since the colonial time is also covered. The main focus, however, remains on the law relating to contempt of court in Pakistan, covering the relevant constitutional provisions, legislation and its salient features, and defences, jurisdiction and procedure.

OBJECTIVES

- To know the origin and evolution of the contempt of court law
- To understand the specific contempt of court law and those laws which contain provisions for contempt of court
- To learn the procedure for contempt of court proceedings
- To remove the reluctance of trainees in initiating action on appropriate occasions
- To sensitize them to the avoidance of situation amounting to contempt of court
- To apprise the trainees on recent case law on the subject

LEARNING OUTCOMES

On completion of the course, the trainees would be able to-

- Apply correctly the provisions of contempt of court laws
- Take prompt and courageous action on appropriate occasions
- Maintain the decorum of the court first by shunning factors amounting to contempt, secondly, by handling skilfully the unavoidable situations

CONTENTS

Topic	Beak up	Description
Topic 1: Preliminaries	25.1	<ol style="list-style-type: none"> 1. Meaning of court 2. Meaning of contempt 3. Origin and evolution of contempt of court 4. Contempt of court: Pakistan and other jurisdictions 5. Need and significance 6. Contempt of court vis-a-vis the right to fair trial under article 10-A of the Constitution of Pakistan, 1973
Topic 2: Conceptual basis of contempt	25.2	<ol style="list-style-type: none"> 1. Legal definition of contempt of court 2. Purpose of contempt laws

laws		<ol style="list-style-type: none"> 3. Parameters of contempt of court as set out by higher courts 4. Legal defences
Topic 3: Substantive and procedural enactments in Pakistan	25.3	<ol style="list-style-type: none"> 1. Constitutional provisions on contempt of court 2. Salient features of Contempt of Court Act, 1976 3. Salient features of Contempt of Court Act, 2012 4. Other enactments: The PPC (Section 228) r/w the CrPC (Sections 195, 476)
Topic 4: Trial	25.4	<ol style="list-style-type: none"> 1. Nature of the trial 2. Procedure prescribed by Chapter XXII of the CrPC

GROUP ACTIVITY

- The Contempt of Court Act, 2012 in light of a Supreme Court Judgment
- The dire need for simplifying the contempt procedure in the CrPC

SYNDICATE RESEARCH

- The contempt of court law in Pakistan and common law countries: A Comparative Analysis of the UK and India

PRACTICAL EXERCISE

- While your court was in session, Mr. G entered in an obnoxious manner and started abusing the court. He also disrupted the court proceedings. His act was deliberate and intentional. He wanted to disparage the court and hamper its proceedings. You are determined to initiate contempt of court proceedings against him. How would you proceed and what options you have to prosecute him? Please document the whole proceedings of this hypothetical event.

CASE LAW

1. *Criminal Misc. Application no. 296 of 2008 in/and Criminal original petition no. 38 of 2008*, 2009 SCMR 780
2. *The State v. Muhammad Akbar Cheema, Advocate*, PLD 2006 Lah. 193
3. *Muhammad Gulzar v. Muhammad Habib & 05 others*, 2004 PCrLJ 1890 Lah.
4. *Zulfiqar Ali v. The State*, 1999 SCMR 2810
5. *Naushaba Kazi, XII Civil Judge Karachi (South) v. Mehjabeen Farzana*, Adv [2003 PCrLJ 227 Kar]
6. *Azam Jan Zarkoon v. The State*, 2000 PCrLJ 1621 Quetta

REFERENCE MATERIAL

- Provisions of contempt of court in the Constitution of Pakistan, 1973

- The contempt of Court Ordinance 2003
- The Contempt of Court Act, 2012
- The Contempt of Court Act, 1976
- Provision relating to contempt of court in the constitutions of 1956 and 1962

Module-26

INFORMATION & COMMUNICATION TECHNOLOGY

INTRODUCTION

The Information and Communication Technology (ICT) has a spectacular impact on each and every discipline. The judiciary and judicial work is no exception to it. The module is therefore aimed to orientate the trainees with use of the ICT and to enrich their literacy on the subject for the purpose. To achieve the purpose, the module covers basics of the ICT and the skills of computer for Microsoft Office and the internet. The module also covers the use of computer and related devices.

OBJECTIVES

- To have basic orientation with the ICT
- To enrich the literacy of the trainees on the subject
- To learn the operation of the computer-related devices
- To comprehend key concepts of the ICT
- To realize the importance of the use of the ICT in judicial work and legal research

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Operate skilfully computer related devices
- Use software for official work
- Utilize the ICT for improving judicial performance

CONTENTS

Topic	Break up	Description
Topic 1: Introduction to ICT, Computer, Networks	26.1	1. Introduction & Evolution of ICT 2. Computer & Hardware 3. Software & Operating Systems 4. Network and Internet
Topic 2: Windows	26.2	1. Understanding Windows 2. Basic Operations 3. Settings (control panel) 4. Network settings 5. files types, extensions 6. Installing applications (office, multimedia, utility)
Topic 3: Microsoft Office (Word)	26.3	1. Basics of interface 2. Setting page, printing options 3. Formatting, designing & Editing document, spell check

		<ol style="list-style-type: none"> 4. Inserting tables, charts, images, clipart, shapes, smart arts, header, footer, symbols etc 5. Using References, contents, footnote, end notes 6. Labels and Mail merge
Topic 4: Microsoft Excel	26.4	<ol style="list-style-type: none"> 1. Basic Interface 2. Working with Cells, sheets 3. Headers, footers, Print area 4. Calculations using formula 5. Formatting, Sorting, Printing etc 6. Charts, Filters 7. Working with Courts Forms and Data
Topic 5: Microsoft PowerPoint	26.5	<ol style="list-style-type: none"> 1. Basic Interface, Slides, notes page 2. Layouts, Design, Color schemes 3. Inserting slides, Photos, clip arts, charts 4. Animation, Slide Transitions 5. Slide show setting 6. Printing slides, Handouts
Topic 6: Microsoft Access	26.6	<ol style="list-style-type: none"> 1. Basic concepts of database (Data, Information, Database, DMBS etc) 2. Tables 3. Queries 4. Forms 5. Reports
Topic 7: Internet & Email	26.7	<ol style="list-style-type: none"> 1. Introduction to Internet 2. Networks, LAN/WAN, Intranet/Internet 3. Getting connected (Broadband, Wireless) 4. Websites 5. Email 6. Social Networking 7. Searching
Topic 8: Legal Research on Internet	26.8	<ol style="list-style-type: none"> 1. General Law Sites 2. Law Journals 3. Case Law

GROUP ACTIVITY

- Understanding judicial statistical statements: preparation of the Peshawar High Court's DPEP statistical program

PRACTICAL EXERCISES

1. Drafting letters, Judgment, Orders using MS Word with all necessary formatting.
2. Using Excel, prepare a worksheet whereby you can maintain a list of cases. The system should be able to give you list of cases in pendency order.
3. Prepare an animated PowerPoint presentation.

REFERENCE MATERIAL

- Basic IT training manual

Module-28

ALTERNATIVE DISPUTE RESOLUTION (ADR)

INTRODUCTION

This module introduces ADR as a mechanism of dispute resolution. It discusses its main modes: Arbitration, Mediation, Conciliation, and Negotiation. Shari‘ah’s view on ADR has also been highlighted. The focus, nonetheless, remains on functioning of ADR in the Pakistani Legal System.

OBJECTIVES

- To understand the informal modes of dispute resolution
- To know the need and significance of ADR techniques
- To sensitize the trainees to the ADR-mandating provisions in various Pakistani statutes
- To learn the various required skills for conducting ADR, particularly mediation
- To study the subject under Islamic Jurisprudence

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Utilize ADR techniques properly
- Refer appropriate cases to ADR experts courageously
- Determine the feasibility of a case for ADR easily

CONTENTS

Topic	Break up	Description
Topic 1: Preliminaries	27.1	<ol style="list-style-type: none"> 1. ADR as a term & phrase 2. ADR and related terms 3. ADR as a concept 4. Need and significance [ADR v. Litigation] 5. Kinds/modes of ADR 6. <i>Shariah’s</i> view on ADR 7. <i>Shariah’s</i> alternative for the term ADR
Topic 2: History	27.2	<ol style="list-style-type: none"> 1. ADR in the ancient societies 2. Role of China 3. Greek’s role 4. ADR after the fall of Roman Empire 5. Indian <i>Panchayat</i> 6. <i>Jargha</i> of Pathans 7. Arab’s <i>Tahkim</i> 8. ADR in Abrahamic Religions 9. ADR in Pakistani Legal System

Topic 3: (A) Arbitration	27.3	<ol style="list-style-type: none"> 1. Meaning and definition 2. Kinds 3. History 4. Subject matter 5. Legal frame work 6. Major topics of Arbitration Act, 1940
Topic 4: (B) <i>Tahkim</i>	27.4	<ol style="list-style-type: none"> 1. Meaning and definition 2. History & legality 3. Subject matter 4. Other details
Topic 5: Mediation	27.5	<ol style="list-style-type: none"> 1. Meaning and definition 2. History 3. Kinds 4. Subject matter 5. Mediation skills 6. Mid-arb & Arb-mid
Topic 6: (A) Conciliation	27.6	<ol style="list-style-type: none"> 1. Meaning and definition 2. Conciliation; national & international use of 3. Kinds 4. Conciliation and Mediation; difference of 5. Conciliation as a Pre-trial Process 6. Conciliation in Pakistani Legal System
Topic 7: (B) <i>Sulh</i>	27.7	<ol style="list-style-type: none"> 1. Meaning and significance 2. Kinds 3. Subject matter 4. Effects
Topic 8: (A) Negotiation	27.8	<ol style="list-style-type: none"> 1. Meaning and definition 2. Kinds 3. Negotiation Skills 4. Strategies of negotiation 5. Negotiation in Pakistani Legal System
Topic 9: (B) <i>Mufawadhat</i>	27.9	<ol style="list-style-type: none"> 1. <i>Mufawadhat</i> in <i>Shariah</i> 2. <i>Mufawadhat</i> in <i>Quran</i> 3. <i>Mufawadhat</i> in <i>Sunnah</i>

GROUP ACTIVITY

- Extent of powers of *Hakam*/arbitrator in family cases

SYNDICATE RESEARCH

- 1- The authority of *Hakam* in a family case
- 2- Touchstone for arbitrability and non-arbitrability of a case
- 3- Gaps between formal and informal justice systems
- 4- The concept of *Musalihat* in Shar' ai Nizam-e-Ad'l Regulation 2009.

- 5- Compromise under Order 23 of CPC.
- 6- ADR in Pakistani Legal System.
- 7- Juvenile Justice System and ADR

PRACTICAL EXERCISE

- A, on June 8, 2015, said to his wife B, “You are my sister”. On November 3, B brought a suit for dissolution of marriage. A, denied the facts. Pre-trial reconciliation failed. During the trial, the wife presented a petition for withdrawal along with a conciliation-oriented compromise, requesting the court to direct them leave as spouses.

Write the operative part of your judgment.

CASE LAW

1. *Razzaq Hussain Shah v. Qazi with powers of Family Court*, 1986 CLC 1691
2. *Mir Dost Muhammad v. Government of Baluchistan and 3 others*, PLD 1980 Quetta
3. *Junaid Quraishi v. Family Court*, 2003 CLC 1001
4. *Muhammad Akram and others v. Ch. Muhammad Salim*, PLD 1964(W.P.) Lah. 490
5. *Messrs Nizari Co-operative Housing Society Ltd. v. Qamruddin M. Khimani and 4 others*, PLD 1982 Karachi 774
6. *Adamjee Construction Co. Ltd. v. Islamic Republic of Pakistan and 2 others*, PLD 2003 Karachi 180(b)
7. *Federation of Pakistan, Chambers of Commerce and Industry v. Messrs Al-Farooq Builders, Builders and Constructors*, 2001 SCMR 1243
8. *Ismail Brothers Ltd. v. S.M. Fazal ana Co.*, PLD 1958 Karachi 158
9. *Messrs U.I.G. (pvt) Limited through Director and 3 others v. Muhammad Imran Quraishi*, CLC, 2011, Karachi, 758
10. *Dr. MrCs. Yasmin Abbas v. Rana Muhammad Hanif and others*, PLD Lahore, 2005, 742
11. *Mukhtar Ahmad and 3 others v. The State*, 1999 PCrLJ 1107 Lah.
12. *Muhammad Akbar and another v. The State*, PLD 1996 Quetta 56
13. *The State v. Irfanullah Qazi*, 2007 MLD 1269 Karachi

REFERENCE MATERIAL

1. Jerome T. Barrett & Joseph P. Barrette, *A History of Alternative Dispute Resolution* Jossey-Bass, US, 2004
2. Howard Raiffa, *The art and Science of Negotiation*, Belknap Press US, 1998
3. Herb Cohen, *You Can Negotiate Anything*, Bantam Reissue edition US , 1982
4. Sriram Panchu, *Mediation, Practice and Law*, LexisNexis, Butterworths Wadhwa, Nagpur 2011
5. Madabhushi Sridhar, *Alternate Dispute Resolution*, LexisNexis, New Delhi, 2005

Module-29

CRIMINAL APPEAL/ REVISION

INTRODUCTION

The module covers the procedural and substantive aspects of criminal appeal and revision. The procedural aspect includes filing, maintainability, and hearing. The substantive aspect deals with the substantive rights involved. The module also discusses the requirements of a fair trial at the stage of appeal and revision. Differences between revisional and appellate jurisdiction have also been discussed. The module also seeks to create awareness about ethical values required in hearing and commenting on the findings of trial courts.

OBJECTIVES

- To understand the scope of criminal appeals and revision
- To know the difference between revisional and appellate jurisdictions
- To know how to exercise revisional and appellate jurisdictions
- To learn the fair trial perspective in appeal and revision
- To appreciate the appellate and revisional jurisdiction of higher courts under the Constitution & Letters Patent constituting the courts

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Exercise the appellate/revisional jurisdictions properly
- Exercise their appellate and revisional jurisdictions according to the overall scheme of CrPC
- Appreciate correctly the technical provisions of knock out vis-à-vis substantive justice.
- Abide by the principles of ethics while commenting on appreciation of law and facts made by the trial courts

CONTENTS

Topics	Break up	Description
Topic 1: Preliminaries	28.1	<ol style="list-style-type: none"> 1. Appeal & Revision: Meaning of 2. History and evolution of judicial review 3. The need and significance of judicial review 4. Difference between appeal and revision 5. The role of judicial review in ensuring fair trial
Topic 2: Criminal Appeals	28.2	<ol style="list-style-type: none"> 1. Scope of criminal appeals 2. Scheme of laws as to appeals 3. Basic principles of fair trial 4. Style and manner of appellate judgment 5. Constitutional jurisdiction of criminal appeals

		6. Letters Patent jurisdiction of criminal appeals
Topic 3: Criminal Revision	28.3	1. Scope of criminal revision 2. Scheme of laws as to revision 3. Basic principles of fair trial 4. Style and manner of appellate judgment 5. Difference between criminal appeals and revision
Topic 4: Ethical Aspects	28.4	1. Ethical values: Meaning of 2. The significance of ethical values in appellate and revisional hearings 3. Effects 4. The principles of critique

GROUP ACTIVITY

- The use of right of appeal and revision as a tool of delaying tactics

SYNDICATE RESEARCH

- The importance of principles of critique in relation to appellate/ revisional jurisdictions.
- Evidence at appellate stage: Recording and appreciation

PRACTICAL EXERCISE

- Mr. A brought a complaint against Mr. B accusing him of committing offences within the meaning of Ss. 427, 447 PPC. The Magistrate/Illaqa Qazi conducted an inquiry. On finding a prima facie case against Mr. B, the Magistrate/IQ issued process. Responding to it, B appeared before the court on 12/05/2013 and submitted bail bonds as directed. He was provided with Copies of the complaint. On the next hearing dated 17/05/2013 charge was formally framed. Later on evidence was recorded and arguments heard. Resultantly, B was convicted.
 - (a) Write the grounds of appeal/ revision.
 - (b) Write a judgment as an appellate/revisional court thereafter.

CASE LAW

1. *Shorilal v. The State*, AIR 1952 All 193
2. *Manzoor Ali and 39 others v. United Bank Ltd.*, 2005 SCMR 1785
3. *Government of Pakistan v. Federal Government through Deputy Attorney General of Pakistan*, 2012 PCRLJ Pesh 1765
4. *Muhammad Sarwar v. Sanaullah*, 1996 MLD 786
5. *Billu Alias Inayatullah v. The State*, PLD1979 SC 956
6. *Muhammad Siddiq v. The State*, 1993 PCrLJ 75
7. *Bakht Baidar v. The State*, 1982 SCMR 420
8. *Talib Hussain v. Pehlwan Khan*, 1982 SCMR 780

REFERENCE MATERIAL

1. Constitution of Islamic Republic of Pakistan.
2. High Court Rules & Orders Criminal.
3. High Court Rues & Orders Volume V.
4. Relevant instructions issued by high court time to time.

Module-30

JUSTICE OF PEACE

INTRODUCTION

The module covers discussion on the concept of 'Justice of Peace'. Focus, therefore, remains on S.22 to 25 CrPC. The module lays greater emphasis on S.22 (A) (6): Orders for registration of case and orders for transfer of investigation of a case. In preliminary part, it discusses the meaning, evolution and objectives of the concept. The other topics focus on appointment, jurisdiction and powers of the justice of peace. Discussion on the nature of the functions of the justice of peace has also been included.

OBJECTIVES

- To know the jurisdiction of the justice of peace
- To know the powers and duties of the justice of peace
- To realize the need and significance of the justice of peace
- To enhance the administrative capacity of the trainees while performing as justice of peace

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Exercise the powers of the justice of peace properly
- Determine and exercise the jurisdiction of the justice of peace accurately
- Provide appropriate remedy at the right time

CONTENTS

Topic	Break up	Description
Topic 1: Preliminary	29.1	1. Meaning 2. Evolution 3. History in Pakistani legal system 4. Need, purpose and significance
Topic 2: Qualification and Functions	29.2	1. Appointment 2. Powers 3. Duties
Topic 3: Remedies against non compliance of directions	29.3	1. Police order 2002 2. Pakistan Penal Code 3. Other

GROUP ACTIVITY

- Impact of the conferring of powers of the Justice of Peace on judicial authorities
- Competency of the judge to hear the case registered under his order as the Justice of Peace

SYNDICATE RESEARCH

- A critical study of the jurisprudence developed by the Supreme Court of Pakistan since 2006, on the Justice of Peace
- Comparison between powers of Zilla Qazis under Nizam-e-Adl Regulation, 2009 and the Justice of Peace regarding registration of case and investigation

PRACTICAL EXERCISE

- A filed a petition under S. 22(A) the CrPC alleging that B has defiled his rick by night. On the same night the rain further spoiled the hay. The local police has refused to register a case against B, being an influential of the locality.
Write an appropriate order as the Justice of Peace.

CASE LAW

- 1) *Mst. Nazeeran v. SHO Police Station, Daharki*, 2013 YLR 268
- 2) *Syed Zafar Ali Shah v. Falak Sher Farooka*, ADSJ Multan, 2005 MLD 1593
- 3) *Gul Waiz v. Zuhra Bibi*, 2010 P.Cr.L.J 45
- 4) *Ghulam Fareed v. SHO Police Station, Sanji*, 2013 P.Cr.L.J 117
- 5) *Mst Anwar Begum v. SHO Police Station, Kalri West, Karachi & 12 others*, PLD 2005 S.C. 297

REFERENCE MATERIAL

- The Code of Criminal Procedure, 1898.
- Constitution of Islamic Republic of Pakistan 1973.

Module-31

CIVIL APPEAL

INTRODUCTION

The module discusses the meaning, rationale, and significance of civil appeal, its relevance to fair trial and proper understanding and application of the relevant procedure. It also focuses on the essential ingredients of appeal. Other focus areas include appeal as a continuation of trial, powers of the appellate court, and recording and appreciation of evidence at the appellate stage.

OBJECTIVES

- To understand the meaning, rationale and significance of civil appeal
- To know the relevance of civil appeal to fair trial
- To know the powers of appellate court
- To know the conceptual basis of the appellate courts
- To know the differences between remand and remit
- To understand the relevant provisions of appeal

LEARNING OUTCOMES

On completion of the course, the trainees would be able to-

- Apply correctly the principles applicable to appellate courts
- Differentiate between remand and remit
- Apply correctly the appellate jurisdiction
- Invoke judiciously the provisions relating to remand, remit and examination of additional witnesses

CONTENTS

Topic	Beak UP	Description
Topic 1: Preliminaries	30.1	<ol style="list-style-type: none"> 1. Meaning of Appeal 2. History and evolution of judicial review 3. The need and significance of judicial review 4. The role of judicial review in ensuring fair trial
Topic 2: Jurisdiction; Court of appeal in civil matters	30.2	<ol style="list-style-type: none"> 1. Conceptual basis & purpose of the tiers of judicial scrutiny 2. Memo of appeal and cross objections; it's necessary ingredients 3. Appeals/ cross objections how brought by minors, insane, paupers and insolvent 4. Nonjoinder and misjoinder of parties; how to remedy 5. Requirement of notice prior to filing appeal and its

		effect in case of non compliance
Topic 3: Hearings in appeal	30.3	<ol style="list-style-type: none"> 1. Scope & purpose of preliminary hearing 2. Pecuniary, territorial and subject matter jurisdiction of appellate court 3. Application of the provisions for return & rejection of plaints by the appellate courts 4. Requirement of notice 5. Dismissal in default, restoration, and <i>ex parte</i> orders in appeal
Topic 4: Additional evidence	30.4	<ol style="list-style-type: none"> 1. Requirements for additional evidence 2. When appellate court may call for additional evidence 3. Issuance of commissions 4. Appellate court's powers and S. 12(2) CPC
Topic 5: Remand & Remit	30.5	<ol style="list-style-type: none"> 1. Distinction between remand & remit 2. Its scope and purpose 3. Impact of remand on expeditious disposal 4. Remand with specific focus on Nizam e Adl Regulation, 2009

GROUP ACTIVITY

- Limiting the right of appeal in terms of forum

SYNDICATE RESEARCH

- A critical analysis of civil appeals with focus on remand and remit: a case study of District Peshawar (2014)

PRACTICAL EXERCISES

1. A suit for rendition of accounts to the tune of Rs. 1.2 million was decreed to the extent of Rs. 0.99 million. The suit was valued for the purpose of jurisdiction on the basis of Rs. 1.2 million. Where shall the appeal lie?
2. In a preemption suit, the trial court framed 07 issues but recorded opinion on only 04 issues. On appeal, a plea was raised for remand of the case. What course of action the court may adopt?

CASE LAW

1. *Muhammad Irfan Khan v. Nasreen Anwar*, 2001 CLC 1256
2. *Habib Bank v. State*, 1993 SCMR 1853
3. *Rahim Shah v. Chief Election Commissioner*, PLD 1973 SC 24
4. *Muhammad Aslam v. Member BOR*, PLD 1980 SC 45
5. *S.M. Saya & Co. v. Vazir Ali Industries*, PLD 1969 SC 65
6. *Jamal Shah v. Election Commissioner*, PLD 1966 SC 1
7. *Abdul Majeed v. Federation*, PLD 1962 SC 69

8. *Kanwal Nain v. Fateh Khan*, PLD 1983 SC 53
9. *Government v. Muhammad Zaman*, 1996 SCMR 1864
10. *Nargis Lafif v. Feroz Afaq Ahmad Khan*, 2001 SCMR 99

REFERENCE MATERIAL

- Civil Procedure Code, 1908; Sections 96 to 99, 104 to 106, Order XLI and Order XLIII of CPC.

Module-32

CIVIL REVISION, REVIEW, REFERENCE

INTRODUCTION

This module encompasses Revision, Review and Reference. It covers both their conceptual and procedural aspects. It places greater emphasis on Revision, for the court may exercise its power of revision suo moto. The module also discusses the substantive and procedural requirements of Review and Reference. The module explores the fine line of demarcation between Revision and Appeal. It finally discusses the issues relating to jurisdiction and limitation.

OBJECTIVES

- To understand the conceptual bases of Revision, Review and Reference
- To understand the scope of Revision, Review and Reference
- To know the proper application of relevant provisions
- To know the role and significance of these powers in curtailing delays

LEARNING OUTCOMES

On completion of the course, the trainees shall be to-

- Properly follow procedural rules to rectify errors found in the decision of the trial courts
- Properly apply the law relating to jurisdiction and limitation
- Proficiently ascertain the pecuniary, subject-matter, and territorial jurisdictions

CONTENTS

Topic	Beak UP	Description
Topic 1: Revision	31.1	<ol style="list-style-type: none"> 1. Conceptual basis. 2. Scope and purpose. 3. Pecuniary, subject matter and territorial jurisdiction of the court of revision. 4. Format of memo of revision; principles of pleadings. 5. Preliminary hearing. 6. Shortcomings of the court of revision. 7. Limitation; section 12 (2) Limitation Act, 1908 8. Orders in revision 9. Applicability of 12 (2) CPC. 10. Conversion of appeal into revision and <i>vice versa</i>
Topic 2: Review and reference	31.2	<ol style="list-style-type: none"> 1. Conceptual basis. 2. Scope and purpose. 3. Basic ingredients. 4. Limitation 5. Format of review application

GROUP ACTIVITY

- Similarities and dissimilarities among revision, review and reference
- Landmark judgment(s) of the Privy Council on revision, review and reference

SYNDICATE RESEARCH

- References sent to the Peshawar High Court since its establishment: the gist of questions of law involved

PRACTICAL EXERCISES

1. In a dispute over an orchard, the plaintiff had sought repossession under section 9 of the Specific Relief Act, 1877. His claim was non-suited. What remedy can the plaintiff avail?
2. The Trial court has not explicitly given a finding on a matter in issue before it. In absence thereof can the court of revision give its independent findings on that issue?

CASE LAW

1. *Allah Ditta v. Lahore Development Authority and 5 others*, 2012 C L CL 271
2. *Muhammad Suleman v. Rasheeda Bibi*, 2012 CLC 79 (Lah.)
3. *Muhammad Musa v. Hamid Ali*, 2012 CLC 254 (Baluchistan)
4. *SS Naeem ul Hamid v. Tahira Sultana*, 1991 CLC 853
5. *Shams ul Haq v. Ghoti*, 1991 SCMR 1135

REFERENCE MATERIAL

- The Civil Procedure Code, 1908.

Module-33

THE ILLEGAL DISPOSSESSION LAW

INTRODUCTION

This module focuses on the procedure for deciding complaints filed under the Illegal Dispossession Act, 2005 (Act), and interim orders therein. It also discusses analogous remedies available under other enactments. The preliminary part contains discussion on the concept of the right of possession, its kinds and other related concepts. Matters pertaining to investigation, jurisdiction, conviction, sentencing and compensation of the victim have also been included.

OBJECTIVES

- To have a proper understanding of the provisions of the Act
- To know the scope, need and significance of the Act
- To know the compatibility between the Act and Section 145 CrPC

LEARNING OUTCOMES

On the completion of this module, the trainees shall be able to-

- Apply the provisions of the Act properly
- Issue interim orders at right time and appropriate occasions
- Decide the complaints competently and courageously

CONTENTS

Topic	Break up	Description
Topic 1: Preliminaries: Possession	32.1	<ol style="list-style-type: none"> 1. The concept of right of possession 2. Kinds of possession 3. The role and significance of possession in legal matters 4. Causes that led to separate legislation on the subject
Topic 2: Relevant provision of Illegal Dispossession Act, 2005	32.2	<ol style="list-style-type: none"> 1. Definition clause 2. Jurisdiction 3. Interim relief: Attachment, eviction, delivery of possession 4. Complaint: procedure of investigation 5. Delivery of Possession on conclusion of the trial 6. Conviction and sentencing 7. Compensation of the victim 8. Application of CrPC: Need and extent.

GROUP ACTIVITY

- Parameters of compensation to the victim of illegal dispossession

SYNDICATE RESEARCH

- A comparative study of proceedings under S.145 CrPC and the Illegal Dispossession Act, 2005

PRACTICAL EXERCISE

- There is a dispute of A and B over the ownership of a container truck (a long vehicle). The vehicle has been parked at an off road ground (jointly owned by A & B), for the last 10 years without being moved. It has remained unattended during this period and has, therefore, completely rusted and ruined. This condition has rendered it immovable. A group of grabbers: C, D, E, F, and G have dispossessed A and B from the vehicle. A & B's complaint was under trial in your court, where final arguments have been heard by you. Write an appropriate order.

CASE LAW

- 1) *Shahabuddin v. The State*, 2010 P.Cr.L.J 422 Karachi
- 2) *Mrs. Fatima v. Imam Zada*, 2010 P.Cr.L.J 1265
- 3) *Hassan v. Ghulam Hussain*, 2014 YLR 1791
- 4) *Waheed Ahmad Siddiqui v. Additional Sessions Judge*, 2014 MLD 1513 Lahore
- 5) *Mrs. Mehmooda Aftab v. Marghoob Hussain*, 2010 MLD 503

REFERENCE MATERIAL

- The Illegal Dispossession Act, 2005.
- The Code of Criminal Procedure Code, 1898.

Module-34

DIRECTIONS OF THE NATURE OF HABEAS CORPUS

INTRODUCTION

This module focuses on sub clauses (a) & (b) of subsection 1 of S.491 CrPC, which set out powers to issue directions of the nature of habeas corpus. These powers have been conferred on Sessions Judges and Additional Sessions Judges. The module also discusses the meaning and significance, history and evolution, nature and scope, and proper understanding and exercise of the powers under sub clauses (a) & (b) referred to above.

OBJECTIVES

- To know the meaning and significance of the powers u/s 491 CrPC
- To explore the history and trace the evolution of the powers
- To realize the nature and scope of these powers
- To understand the procedural scheme employed in Section 491 of Cr.P.C.

LEARNING OUTCOMES

After the study of this module, the trainees will be able to-

- Utilize the relevant provisions properly
- Provide appropriate and immediate remedy
- Exercise the powers efficiently and effectively

CONTENTS

Topics	Break up	Description
Topic 1: Preliminary	33.1	1. Meaning and Significance 2. History and Evolution 3. History in Pakistani legal system 4. Relevance of S.491 CrPC to the Fundamental Rights
Topic 2: Scope & Application	33.2	1. Nature and Scope 2. Application 3. Relevance of S.491 CrPC to Ss.340-342 PPC

GROUP ACTIVITY

- Discuss the grade-wise preference of guardians of minors vis-à-vis unlawful confinement

SYNDICATE RESEARCH

- The freedom of movement: Its scope and limits

- Unlawful confinement: Post-production obligations of court

PRACTICAL EXERCISE

- A, the paternal grandmother of a minor produced the minor before the Court on its direction u/s 491 CrPC. A alleged that the mother of the minor has been divorced by her son for leading immoral life.
 - a) How will you decide the matter?
 - b) Write an appropriate order.

CASE LAW

- a) *Shaukat Ali v. D.P.O*, 2005 YLR 1040
- b) *Hina Jilani v. Sohail Butt*, PLD 1995 Lah 151
- c) *Nasim Fatima v. Government of West Pakistan*, PLD 1967 S.C. 103
- d) *Mst. Nadia Perveen v. Mst. Almas Noreen*, PLD 2012 S.C.758
- e) *Government of Sindh v. Raeesa Farooq*, 1994 SCMR 12833

REFERENCE MATERIAL

- The Code of Criminal Procedure, 1898.

Module-35

SUBSTANTIVE LAWS (CIVIL)

INTRODUCTION

The topic covers: some main civil substantive laws, their meaning, and scope. The focus is on explaining the difference between substantive and procedural civil laws. This includes the difference in approach in interpretation of both the laws. The module discusses how a law may be determined as a substantive law. Other focussed areas include difference between statutory and non-statutory substantive laws, and statutes which may be both substantive and procedural.

OBJECTIVES

- To discuss the meanings and scope of substantive laws
- To explore the difference between substantive and procedural laws
- To know the substantive common law regime
- To learn the statutory scheme of substantive laws
- To study different approaches of Civil Law & Common Law systems in understanding substantive laws

LEARNING OUTCOMES

On the completion of this course, the trainees shall be able to-

- Know the meaning and scope of substantive laws
- Differentiate between Substantive and Procedural laws.
- Understand the overall scheme of statutory and non statutory Substantive Laws.
- Apply the Substantive laws efficiently and effectively

CONTENTS

Topics	Break up	Description
Topic 1: Preliminaries	34.1	<ol style="list-style-type: none"> 1. Meaning and scope 2. Difference between substantive and procedural laws 3. Difference between statutory and non statutory substantive laws 4. The general scheme of substantive and procedural laws 5. The general scheme of statutory and non statutory substantive laws 6. How a law may be determined as substantive? 7. Laws
Topic 2: Specific Relief Act,1877	34.2	<ol style="list-style-type: none"> 1. Origin 2. Scope 3. Substantive & Procedural portions of the Act

		4. Scheme
Topic 3: Limitation Act,1908	34.3	1. Scope 2. Scheme 3. Substantive & Procedural portions of the Act 4. How and why substantive right is diminished.
Topic 4: Transfer of Property Act,1882	34.4	1. Scope 2. Scheme 3. Substantive & Procedural portions of the Act
Topic 5: Khyber Pakhtunkhwa Pre-emption Act ,1987	34.5	1. Scope 2. Scheme 3. Substantive & Procedural portions of the Act 4. Legal-historical perspective
Topic 6: Law of Torts	34.6	1. Scope 2. Scheme 3. Substantive & Procedural portions of the Law 4. A Common Law remedy

GROUP ACTIVITY

- Explore substantive and procedural provisions in the Specific Relief Act, 1877, the Limitation Act, 1908, and the KP Preemption Act, 1987.

SYNDICATE RESEARCH

- Explore the causes of low number of tort cases in Pakistan.

PRACTICAL EXERCISE

- A filed pre-emption suit against B. A failed to deposit preemption money in compliance with the direction of the court. On the last date of period fixed for deposit of pre-emption money, A filed an application for extension of time. B submitted a reply contesting the application. Decide the application, citing reasons.

REFERENCE MATERIAL & CASE LAW

1. Specific Relief Act, 1877

➤ Case Law

- *Ghulam Sardar Khan & 5 others v. Mst. Gohar Sultan & 14 others*, PLD 1992 SC 225).
- *Muhammad Ashraf v. District Judge*, PLD 1993 L 566
- *Abdur Rehman Mobashar v. Amir Ali Shah Bokhari*, PLD 1978 L 113
- *Alavi Sons Ltd v. The Govt of East Pakistan & others*, PLD 1968 K 222
- *Malik Khizar Hayat Khan Tiwana v. Punjab Province*, PLD 1955 L 88

2. Limitation Act, 1908

➤ Case Law

- *Maqbool Ahmad v. Hakoomat e Pakistan*, 1991 SCMR 2063
- *Mst. Sardar Begum v. Mst. Sherin Taja*, PLD 1970 P 194
- *Mir Afzal v. Ali Asghar*, PLD 1987 P 3
- *Masroor Afzal Pasha v. DHA Karachi*, 2008 SCMR 877

3. Transfer of Property Act, 1882

➤ Case Law

- *Sadiq ur Rahman Chowdhry v. Maulvi Abdul Bari*, PLD 1971 D 120

4. Khyber Pakhtunkhwa Pre-emption Act ,1987

➤ Case Law

- *Rozi Khan v. Karim Shah*, 1992 SCMR 445
- *Mubarak Khan v. Ali Rahman*, 1991 SCMR 479
- *Ali Bahadur v. Muhammad Sarwar*, PLD 1993 P 157
- *Suo Motu Shariat Review Petition of 1989*, PLD 1990 SC 865
- *Sarfaraz v. Muhammad Aslam Khan*, 2001 SCMR 1062
- *Muhammad Ismail Qureshi v. Govt of Punjab*, PLD 1991 FSC 80
- *Muhammad Shabbir Ahmad Khan v. Govt of Punjab*, PLD 1994 SC 1
- *Noor Khan v. Mumtaz Khan*, 1994 CLC 1730
- *Abdul Karim v. Fazal Muhammad Shah*, PLD 1967 SC 411
- *Akbar Nawaz Khan v. Sher Dil Khan*, 1994 MLD 2325

5. Law of Torts by Ratanlal & Dhirajlal.

➤ Case Law

- *Muhammad Akram v. Mst, Farman Bibi*, PLD 1990 SC 28
- *MerCantile Co-opration Bank Ltd, v Messrs Habib & others*, PLD 1967 K 755
- *Ashby v White*
- *Abrath v North Eastern Railway*
- *Mayor of Bradford v Pickles*
- *Rylands v Fletcher*
- *Sharp v Powell*

Module-36

SESSIONS TRIAL

INTRODUCTION

This module seeks to discuss the procedure of criminal trial conducted by court of sessions. The focus, therefore, remains on S.265 CrPC. It also includes discussion on other ancillary provisions of the CrPC. such as those pertaining to charge, summoning of material witnesses, and examination of accused. The preliminary part contains principles of fair trial as guaranteed by the Constitution of Pakistan, 1973 and as required by the international human rights law. Other necessary subjects: plea of defence under general exceptions, plea of *alibi*, decision making and the like, have also been highlighted. The module is not exhaustive as certain other key areas, such as relevancy and admissibility of evidence and appreciation of expert evidence, have been dealt with in a separate module.

OBJECTIVES

- To have a normative as well practical understanding of the relevant provisions of a Sessions trial
- To know the need and significance of fair trial
- To know and understand how to frame charge correctly
- To learn the skills required in a decision making process
- To understand the post trial duties of the court
- To know how to make, maintain and compile record of a Sessions case

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Understand the normative basis as well as practical significance of a Sessions trial
- Take due regard for international human rights standards of a fair trial
- Frame charge correctly
- Write quality judgment
- Prepare a reference for the High Court in case of conviction in a murder case
- Prepare, maintain and compile judicial record in a Sessions case

CONTENTS

Topic	Break up	Description
Topic 1: Fair trial in criminal and human rights law	35.1	1. Definition of criminal trial and its theories 2. Fair trial in Pakistan's Constitution and international human rights
Topic 2: Framing of charge	35.2	1. The criminal procedural rules of framing of charge

Topic 3: Plea of insanity/alibi	35.3	2. Definitions of pleas of insanity and alibi; how such pleas could be set up and proved?
Topic 4: Judgment in a Sessions case	35.4	1. Importance of judgment in a Session case; how to write a quality judgment in a Session case
Topic 5: Preparation of reference to the High Court in a murder conviction	35.5	1. Importance of reference, how to prepare it and submit to the High Court; make, maintain and compile the record of reference?
Topic 6: Common mistakes	35.6	1. What mistakes are commonly committed by Courts during a Sessions trial and how to avoid them

GROUP ACTIVITY

- To frame charge in given cases

SYNDICATE RESEARCH

- Jurisprudence of the Supreme Court on framing of charge in criminal cases: focus on Supreme Court's landmark judgments
- Key challenges to the realization of the constitutionally guaranteed right to a fair trial

PRACTICAL EXERCISE

- A, a man 50 found the dead body of a newly born baby wrapped in a white cloth lying near around his field. On A's report, the local police registered a case against an unknown person. Later on, B, a divorced woman aged 27, was involved in the case on the basis of informant's information. On medical examination, it was found that milk was coming out of B's breast, for which B could not provide any explanation, such as, a second *nikah*. The investigator also did not collect any such evidence. B faced a trial under section 302, 329 and 201 PPC. B denied the charge. B produced no evidence in her defence. At the trial, the prosecution's case mainly stood on the medico-legal report. However, while going through the police file, the judge found a case diary, which showed that the former husband has informed the police that B was leading an immoral life.

What may be the fate of the case? Discuss all relevant issues.

- A, a man aged 28 years, is the brother-in-law of B and C (both are real sisters). In the upper storey of their house where B and C were present in a room, A entered an altercation with B, telling her that she is a woman of bad character. Infuriated at the accusation, B slapped him. They entangled with each other in a quarrel. A opened fire at B with a pistol. A fired two shots: one hit B, the other hit C. B died on the spot. C was rushed to hospital, but survived.

A faced a trial under sections 302 and 324 PPC. C tendered direct evidence as injured complainant. In defence, A produced his mother, who was present at the time of the incident in lower portion of the house and his brother, the husband of B, deceased. His mother deposed that she has not seen the occurrence as she was in the lower portion of the house. Husband of the deceased deposed that he has forgiven A, as one the legal heirs of B.

Discuss the possible fate of the case

CASE LAW

- **On framing of charge**

Anwar Ali v. the State, 2002 PCrLJ 186

- **On human rights/fundamental right**

1. *Suo Motu Case NO.4 OF 2010, PLD 2012 SC 553;*
2. *Aftab Alam v. State, PLD 2013 Lahore655;*
3. *New Jubilee Insurance Co. Ltd. v. National Bank of Pakistan, PLD 1999 SC 1126;*
4. *State v. Jagmal Singh, 1970 PCrLJ 649;*
5. *Khadim Hussain v. State, 2012 PCrLJ 1847;*
6. *Muhammad Azim v. State, 2009 PCrLJ 1314;*
7. *Mehram Ali v. Federation of Pakistan, PLD 1998 SC 1445;*
8. *State v. Tariq Mahmood, 1987 PCrLJ 2173*

- **On plea of alibi**

- 1) *Muhammad Arshad v. The State, 2015 SCMR 258*
- 2) *Habibullah v. State, 2014 YLR 1833 (Quetta)*
- 3) *Ghulam Ahmed Chishti v. State, 2013 SCMR 385*
- 4) *Abdul Rashid Khan v. State, 2012 PLD 39*
- 5) *Mushtaq Hussain v. State, 2011 SCMR 45*
- 6) *Shoukat Ilahi v. Javed Iqbal, 2010 SCMR 966*
- 7) *Talib Hussain v. State, 2009 MLD 1439 (Lahore)*
- 8) *Pervaiz Akhtar v. Altaf Hussain, 2008 SCMR 1184*
- 9) *Faisal v. State, 2007 SCMR 58*
- 10) *Muhammad Mubeen-Us-Salam and others v. Federation of Pakistan through Secretary, Ministry of Defence, 2006 PLD 602*

- **On plea of insanity**

- a) *Noor Uddin v. State, 2014 PCrLJ 113 (Quetta);*
- b) *Haq Nawaz v. Mirza Waseem Baig, 2013 SCMR 59*
- c) *Muhammad Idrees v. State, 2011 PCrLJ 925 Peshawar*
- d) *Nawab Khan v. State, 2009 PCrLJ 1062 Peshawar*
- e) *Bao Saleem v. State, 2008 MLD 847 Lah.*
- f) *Jeewan Shah v. Muhammad Shah, 2006 PLD SC 202*
- g) *Iftikhar Ahmad V The State, 2005 SCMR 272*

REFERENCE MATERIAL

- Antony Duff, et al (Ed.), *The Trial on Trial*, volume three, Hart Publishing, 2007
- R. Burns, *A Theory of Trial*, Princeton: NJ Princeton University Press, 1999
- Gary Goodpaster, 'On the Theory of American Adversary Criminal Trial', 78(1) *Journal of Criminal Law and Criminology*, 1978, pp 118-154
- Ho Hock Lai, 'Liberalism and the Criminal Trial', 32 *Sydney Law Review*, 2010, pp 243-256.
- Partick Grim, 'The "Right" to a Fair Trial', 2(2) *Journals of Libertarian Studies*, 1978, pp 115-120, at 115.

Module - 37

SUMMARY SUITS, REFERENCE & TRIALS AS TRIBUNAL

INTRODUCTION

One of the primary functions of an Additional District Judge (ADJ) is to decide appeals and revisions. In addition, an ADJs has to hold trials of summary suits, hear references and decide peculiar classes of cases as Tribunal. This module covers the areas pertaining to these additional duties of ADJs. It discusses the main topics of the subject: trials pertaining to negotiable instruments, issues relating to acquisition of land and difference between court, tribunal and a referee. Discussion on jurisdictional and other procedural requirements also forms part of this module.

OBJECTIVES

- To know the conceptual basis of summary suits
- To understand the function of a referee court
- To appreciate the purpose & function of a Tribunal
- To learn the prescribed trial procedure

LEARNING OUTCOMES

On the completion of this course, the trainees shall be able to:

- Apply the law properly
- Determine jurisdiction accurately
- Provide prompt and efficacious remedy

CONTENTS

Topic	Break up	Description
Topic 1: Conceptual basis & purpose	36.1	<ol style="list-style-type: none"> 1. Summary suits in negotiable instruments 2. Role of a referee 3. Tribunal vis-a-vis Civil Court
Topic 2: Jurisdiction	36.2	<ol style="list-style-type: none"> 1. Determination of jurisdiction 2. Points of similarities between references, summary suits and working of tribunals 3. Blanket & simple ouster in laws and its effect
Topic 3: Procedure summary suits	36.3	<ol style="list-style-type: none"> 1. Pleadings 2. Leave to appear & defend 3. Grounds 4. Settlement of issues and onus probandi 5. Recording of evidence

		6. Evidentiary value of negotiable instruments 7. Order/ Judgments 8. Procedure in execution.
Topic 4: Referee Court	36.4	1. Basic ingredient of reference under Land Acquisition Act, 1894. 2. Jurisdiction of referee court in deciding question of laches 3. Rejoinder & better statements 4. Settlement of issues and placing of onus 5. Examination of expert 6. Deputation of local commission 7. Appreciation of evidence in line with the guiding principles of the Superior Courts 8. Order/ Judgments 9. Computation of compensation, compulsory acquisition charges etc
Topic 5: Tribunal	36.5	1. Rules of pleadings 2. Challenge of jurisdiction 3. Settlement of issues 4. Legal presumptions 5. Do & Don'ts 6. Orders/judgments

GROUP ACTIVITY

- Discuss the different stages of acquisition of land
- Sale of trade mark: Legal or otherwise. comment

SYNDICATE RESEARCH

1. The Principle of, 'Potential value' of acquired land and its parallel (if any) in other common law jurisdictions.
2. Impact of the findings of a civil court in a dispute over the same subject matter as tried by the District court in a summary suit
3. Effectivity of the anti encroachment laws of Pakistan; a quantitative study.
4. Title confers absolute rights of alienation; how it reconcile with the compulsory acquisition.

PRACTICAL EXERCISE

1. A barren land near a town was acquired by WAPDA for construction of their employee residential colony. The landowners are dissatisfied of the adequacy of the compensation besides the ratio of compulsory acquisition charges. Reference was sent to your court. Decide the reference through an exhaustive judgment.

2. A has brought suit claiming that B should be directed to desist from copying his trade mark. B can contest the suit on the ground that the trade mark is not yet registered duly with the Registrar. Write an appropriate judgment.

CASE LAW

1. *Tehsil Municipal Administration D.I. Khan through T.M.O v. District Judge D.I.Khan*, 2010 CLC 333
2. *Main Hakimullah and 2 others v. Additional District Judge/ Tribunal Nowshera & 4 others*, 1993 SCMR 907
3. *Land Acquisition collector, G.S.C., N.T.D.C., Wapda, Lahore and another v. Mst. Surraya Mehmood Jan*, 2015 SCMR 28
4. *Ajab khan & others v. Government of N.W.F.P and others*, 2007 SCMR 860
5. *Qazi Abdul Ali & others v. Khawja Aftab Ahmad*, 2015 SCMR 284
6. *Messrs. EFU General Insurance Limited, Karachi v. Messrs Nina Industries Limited Karachi*, 2015 CLC 1104 Kar
7. *Saeed Abbas v. Agar International (Pvt) Ltd through Director*, 2011 CLD 1757 Kar

REFERENCE MATERIAL

1. The KP Removal of Encroachment Act, 1977
2. The Trade Mark Ordinance, 2001
3. The Copy Right Ordinance, 1962
4. The Land Acquisition Act, 1894
5. The Insolvency Act, 1920

Module - 38

PRE-EMPTION

Introduction:

The module discusses the law of Pre-emption/ *shuf'ah*. Its content is twofold. First, it contemplates the subject on conceptual basis and secondly, it explains the subject as it is treated on judicial chairs and tables. Focus remains on the Khyber Pakhtunkhwa Pre-emption Act 1987. As per meaning of Sections 29 and 33 of the Act, the module also contains sufficient material of Islamic Jurisprudence on the subject.

OBJECTIVES

The objectives are to:

- Familiarize the trainees with relevant work on the subject including statutes and judgments of the higher courts.
- Teach the trainees how proceedings are to be conducted in a pre-emption suit
- Sensitize the trainees to the complicated and fragile nature of a pre-emption suit.
- Apprise the trainees about the work of classic and contemporary jurists of Islamic Jurisprudence

OUTCOMES

On completion of course, the trainees would be able to:

- Have full command on the intricacies of law of pre-emption.
- conduct *shuf'ah* proceedings effectively and efficiently
- Decide *Shuf'ah* cases properly.
- Be conversant with updated developments on the subject
- Decide a case under principles of *Sharia'ah* (see sec.33) if he reaches to impasse.

COURSE OUTLINE

Topics	Break up	Description
Lesson Preliminaries	1 37.1	1. Meaning and history of <i>shuf'ah</i> laws in the Indian Sub-continent 2. Legality 3. Need& significance 4. Bar on right of alienation 5. The issue of repugnancy to public interest 6. Difference between <i>Sunni</i> and <i>Shi'ah shuf'ah</i> laws 7. <i>Shuf'ah</i> under <i>Riwaj</i> 8. inheritability, 9. transferability and indivisibility of right of pre-emption

		10. Religion matters not 11. Doctrine of Partial pre-emption
Lesson 2 Creating factors	37.2	1. Alienation through sale (valid, void and irregular/ <i>fasid</i>) 2. Immovability & divisibility of subject matter 3. <i>Shuf'ah</i> in <i>Waqf</i> Property 4. <i>Shuf'ah</i> and property alienated under will, gift (simple, <i>bil- 'waz</i> and <i>bishartil- 'waz</i> or devolved under inheritance 5. <i>Shuf'ah</i> after compromise 6. <i>Shuf'ah</i> in property sold/auctioned by court 7. Exceptions under SS 2(d) and 23 of the Khyber Pakhtunkhwa Pre-emption Act 1987
Lesson 3 <i>Shaf</i> /Pre-emptor	37.3	1. Meaning 2. Kinds 3. Order of priority 4. Ratio of distribution amongst persons equally entitled. 5. Waiver & estoppel
Lesson 4 <i>Talabs</i> /Demand	37.4	1. Meaning 2. Kinds (a) <i>Talab-i-Muwathibat</i> : when and how made? (b) <i>Talab-i-Ishhad</i> : when and how made? (c) <i>Talab-i- Khusumat</i> : when and how made? 3. Effect of non-compliance 4. Diversity of opinions regarding place, date and time. 5. <i>Talabs</i> by guardian and agent
Lesson 5 Miscellaneous	37.5	1. Notice of intention to sell 2. Improvements by vendee 3. Applicability of CPC 4. Sale Price: Fixing, depositing, time and its extension, refunding 5. Determination of market value 6. Limitation 7. The role of <i>Ulema</i> and complementary status of <i>Sharia'ah</i>

GROUP ACTIVITY

1. 1-Discussion on, the significance of SS. 30 &33 KP Pre-emption Act, 1987.
- 1- Fabrications (invented statements) in *shuf'ah* proceedings: How to be discouraged?
- 2- Diversity in the judgments of the higher courts: what should be the way out?

SYNDICATE RESEARCH

- 1- Right of *shuf'ah* in case of revocation of sale/*Iqlah*
- 2- The powers of the ruler/government to exempt areas from pre-emption
- 3- "Sale absolute" : A sine qua non for exercise of right of preemption
- 4- Whether a *Shafi'i*/pre-emptor can refuse purchase of the property after decision of the court?

CASE LAW

- 1- *Government of NWFP v Malik Sayyed Kamal Hussai Shah*, PLD 1986 SC 360
- 2- *Pir Muhammad v Faqir Muhammad*, PLD 2007 SC 302
- 3- *Muhammad v Abdul Ghani*, 2000 SCMR 329
- 4- *Muhammad Hanif v Muhammad Iftikhar Ahmad* 2013 MLD Lahore 579,
- 5- *Mushtaq Hussain v Muhammad Inayat*, 2012 PLD Lahore 234
- 6- *Hayat Muhammad and others v Mazhar Hussain* 2006 SCMR 1410
- 7- *Altaf Hussain v Abdul Hameed* 2000 SCMR 314
- 8- *Haji Muhammad Saleem v Khuda Bakhsh* 2003 PLD SC 315

READING MATERIAL

- 1- Mahmood M, *The Manual of Pre-emption Laws* (Lahore: al.Qanun Publishers, 2013)
- 2- Ur- Rahman, Tanzil, *Majmu'ah Qawanin-i- Islam*, Vol:5 (Islamabad: IRI Press,2008)
- 3- Usmani, Muhammad Taqi, *Adalati Faisalai*, vol:1 (Lahore: Idara Islamiyat, 2000)
- 4- Al-Kasani, Alauddin Abu Bakar b. Masaud, *Badaia Al-Sanaia fi Tartib Al-Shara'ia* ,urdu Trans. By Dr Mufti Abdul Wahid (Lahore: Diyal Singh trust Library, 2013).
- 5- Ameer Ali, Sayyed, *Ain Al-hidayah* (Lahore: Maktabah Rahmania, 1992).
- 6- Ameer, Ali Sayyed, *Fatawa Alamgiriiah* [Urdu translation] (Lahore: Ali Ijaz Printers, n.d.).

Module - 39

CYBER CRIMES

1. KP Judicial Academy has designed this course specifically for a non-technical audience who wish to gain an understanding of Cyber Crime. The course will provide an understanding of Cyber Crime, how it occurs, the effects it has on society and how it is investigated and tried.
2. There is a growing tendency of criminal & civil cases in one way or the other related to information and communication technologies. Thus judges are confronted with cyber-crime and electronic evidence matters. It necessitates a continual education of cyber-crime and electronic evidence. As a start the Judicial Magistrates needs to obtain at least basic training in matters related to cyber-crime and electronic evidence. At the same time, these are highly technical and constantly evolving issues and it cannot be expected that judges in general are able to keep up with technological developments at all times. It is therefore necessary to provide advanced knowledge to a sufficient number of judges who become specialized in cyber-crime and electronic evidence.
3. *A fortiori*, in 2011, at least 2.3 billion people, the equivalent of more than one third of the world's total population, had access to the internet. Over 60 per cent of all internet users are in developing countries, with 45 per cent of all internet users below the age of 25 years. By the year 2017, it is estimated that mobile broadband subscriptions will approach 70 per cent of the world's total population. By the year 2020, the number of networked devices will outnumber people by six to one, transforming current conceptions of the internet. In the hyper connected world of tomorrow, it will become hard to imagine a 'computer crime', and perhaps any crime, that does not involve electronic evidence linked with internet protocol (IP) connectivity⁸. Thus this formulation of the crashed course is the need of the hour.

The **objectives** of this training course are:

- ❖ Computer and Networks: How do they work, basic notions of the functioning of the internet, role of Service providers, particular challenges to Judges.
- ❖ Cybercrime: How information and communication technologies are used to commit crime.
- ❖ Cybercrime legislation: Domestic legislation (including case law) and international standards.

⁸ UNITED NATIONS OFFICE ON DRUGS AND CRIME, Vienna. Comprehensive Study on Cybercrime Draft February 2013

- ❖ Jurisdiction and territorial competencies.
- ❖ Electronic evidence: Technical procedures and legal consideration.

Outcomes:

As a result of the basic training judges should be in a position to:

- ✓ Relate criminal conduct to provisions in domestic legislation.
- ✓ Approve investigative techniques.
- ✓ Order the search and seizure of computer systems and the production of electronic evidence.
- ✓ Expedite international cooperation
- ✓ Question witnesses and experts
- ✓ Present/ Validate electronic evidence.

This specialized course on consumer law constitutes of four modules. As this is a 02 day short course thus an endeavor is made to cover it in three lectures with each of 90 minutes duration.

Focus

- BASIC ORIENTATION -- HARDWARE, NETWORKING & WORLD WIDE WEB
 - Introduction to the Personal Computer
 - Identify and describe the various components that make up a personal computer and define information technology
 - Computer Assembly Step-by-Step
 - Fundamental Operating Systems
 - Describe operating system capabilities, the installation process, navigation, basic preventive maintenance, and troubleshooting
 - Fundamental Laptops and Portable Devices
 - Identify and describe the main components of laptops and portable devices, basic preventive maintenance, and troubleshooting
 - Fundamental Printers and Scanners and other related devices
 - Fundamental of Networks
 - Identify and describe basic network components, technologies, basic preventive maintenance, and troubleshooting
 - Fundamental of Information / Data Security
 - Introduction to WWW and History
 - Internet features
 - Connecting to the Internet

- Internet etiquette
- Internet protocols
- Web browsers, Search engines, Searching the Web
- E-mail, Effective use, Sending e-mail, Receiving e-mail
- Web Services
- Blogs, Micro Blogs
- Portal/CMS
- Forums
- Image Galleries
- Wikis
- Social Networking
- Ad Management
- Calendars
- Gaming
- Mails, mailing lists
- Polls and Surveys
- Project Management
- E-Commerce
- ERP
- Guest books
- Customer Support
- Development Frameworks
- Educational Systems
- Music and Video Sharing
- File Management
- Online Libraries
- Online communication (Email, IM, Video Call, Webcast)
- **WHAT IS CYBER CRIME AND HOW IT IS COMMITTED**
 - What is Cyber crime, History & how committed
 - Legal Challenges
 - Cyber Crime v/s Conventional Crime
 - Types of Cyber Crimes
 - Financial crimes, Cyber pornography, Sale of illegal articles, Online gambling, Intellectual Property crimes, Email spoofing, Forgery, Cyber

Defamations, Cyber stalking, Unauthorized access to computer systems or networks, Theft of information contained in electronic form, Email bombing, Data diddling, Salami attacks, Denial of Service attack, Virus / worm attacks, Logic bombs, Trojan attacks, Internet time theft, Web jacking, Theft /damaging of computer system, Unauthorized Access,

- Targets of Cyber Crimes (Individual property, Organization and Society at large)
- What is Hacking, Cyber Attacks, Vulnerabilities, Malware, Spying, Cyber War, Surveillance etc.
- HISTORY & DEVELOPMENT OF CYBER LAW IN PAKISTAN
 - Pre-partition legislations in respect of electronic communication devices.
 - Post independence legislations
 - The proposed laws on cyber crime prevention
- ELECTRONIC EVIDENCE
 - Meaning & definition of Electronic Evidence.
 - Status of Electronic Evidence under the Quanon-e-Shahdit Order, 1984
 - Modes of Electronic evidence
- Evidentiary value of the electronic evidence
- National and International Case laws on Cyber crime
 - Salient international pronouncements on cyber laws
 - Pakistani case laws

Suggested Readings

- Fundamentals of Computers, https://en.wikibooks.org/wiki/A-level_Computing/AQA/Computer_Components,_The_Stored_Program_Concept_and_the_Internet/Fundamentals_of_Computer_Systems
- Computer Fundamentals, <https://www.cl.cam.ac.uk/teaching/1011/CompFunds/CompFunds.pdf>
- Information Security, Wikipedia, https://en.wikipedia.org/wiki/Information_security
- Internet Basics, <http://www.gcflearnfree.org/internet101>
- Internet Basics, <http://www.internetbasics.gov.au/>
- Internet, Webopedia, <http://www.webopedia.com/TERM/I/Internet.html>
- How Stuff Works, <http://computer.howstuffworks.com/internet/basics>
- Internet World Stats, <http://www.internetworldstats.com/>
- NR3C, FIA, <http://www.nr3c.gov.pk/>
- Federal Investigation Agency, <http://www.fia.gov.pk/>

- <http://www.ncfta.net/>
- <https://www.cybercrimeinvestigators.com/>
- The Hackers News, <https://thehackernews.com/>
- The Electronic Transaction (Re-organization) Act, 1996,
- The Wireless Telegraph Act, 1933,
- The Telegraph Act, 1885,
- Electronic Transaction Ordinance 2002,
- The Payment Systems and Electronic Fund Transfers Act, 2007,
- Prevention of Electronic Crimes Ordinance, Pakistan 2007,
- Prevention of Electronic Crimes Ordinance, Pakistan 2008
- United States of America vs David Nosal case.
<http://cdn.ca9.uscourts.gov/datastore/opinions/2012/04/10/10-10038.pdf>
- ii. United States of America vs SUIBIN ZHANG,
<http://www.insideprivacy.com/United%20States%20v.%20Zhang.pdf>
- iii. REGINA v.BOW STREET MAGISTRATES COURT AND ALLISON (A.P.).
<http://www.publications.parliament.uk/pa/ld199899/ldjudgmt/jd990805/bow.htm>
- Electronic Evidence, 2nd Edition 2012 by Joshi
- Evidence Law, Edition 2012 by Sohoni

Module - 40

BAIL

Introduction: The module discusses the provisions/matters relating to all kinds of bail. Keeping in view the practical significance of the subject, emphasis has been placed on ‘practical Activity’. For direct nexus with the module, details of *supurdari* (interim custody) have also been included. In order to keep the trainees updated about latest views on the subject, judgments of the higher courts delivered in the past two decades have been mostly selected. The module also contains a contrast Study of law of bail with the concept of *Kafalah* of Islamic Law.

OBJECTIVES

The objectives are to enable the trainees to;

- Understand the provisions pertaining to bail
- Know various kinds of bail and the relevant forums
- Comprehend the rules governing grant and rejection of bail petitions
- Learn the principles of *supardari* orders
- Learn the procedure of forfeiture of bonds, imposition of penalty and recovery of amount.
- Study the concept of *kafalah* in Islamic Law and compare it with law of bail and *supurdari*.

OUTCOMES

On completion of the course, the participants would be able to:

- Have a full command on the relevant provisions
- Dispose bail and *supurdari* petitions effectively and efficiently
- Realize the need, significance and sensitivity of bail and *supurdari* matters

COURSE OUTLINE

Lessons	Break up	Description
Lesson 1 Preliminaries	39.1	<ol style="list-style-type: none"> 1. A brief introduction to Criminal Justice System of Pakistan (<i>focus on Statutes and Institutes</i>) 2. Freedom of movement vis-à-vis ‘Detention’ 3. Constitution 1973 on fundamental rights and detention 4. The concept of custodial Punishment 5. Bail vis-à-vis concept of <i>Kafalah</i> of Islamic law & jurisprudence
Lesson 2 Bail in general	39.2	<ol style="list-style-type: none"> 1. Literal & technical meanings 2. History, need and significance 3. Whether any touchstone for bailability and non-

		<p>bailability?</p> <ol style="list-style-type: none"> 4. Meaning ofailable and non-ailable offences 5. Conflict between a section and schedule regarding bail. 6. Bail after commencement of trial 7. The notion ‘court competent to try may release on bail’
Lesson 3 Kinds of bail	39.3	<ol style="list-style-type: none"> 1. Pre-arrest bail (BBA)/Ad interim or Anticipatory bail 2. Post- arrest bail (Regular Bail) 3. Protective bail 4. Post- conviction bail
Lesson 4 Conditions & grounds	39.4	<ol style="list-style-type: none"> 1. Pre-arrest bail <ol style="list-style-type: none"> a. Registration of FIR b. Physical surrender to the court c. <i>Malafide</i> and ulterior motives on the part of prosecution d. Other grounds mentioned in the orders of higher courts 2. Post-arrest bail: Grant of: <ol style="list-style-type: none"> a. Further scope of inquiry (delay and other elements) b. Infirmary & sickness c. Plea of <i>alibi</i> d. Juvenile/Child e. women/ladies f. less serious nature of the offence/ falling out of prohibitory clause g. Bail on statutory grounds h. Fresh ground i. Other grounds mentioned in the orders of higher courts 2. Post-arrest bail: Refusal of: <ol style="list-style-type: none"> a. <i>Prima facie</i> case b. Prohibitory clause hitting c. Not falling within the exceptions/privileges of S.497 CrPC. d. Deliberate abscondence e. Moral turpitude f. Other grounds mentioned in the judgments of the higher courts 3. Protective bail <ol style="list-style-type: none"> a. Registration of case b. Apprehension of arrest while marching/ approaching to the relevant court 4. Bail after conviction

		a. The requirements of S. 426 CrPC
Lesson 5 Recalling/cancellation of bail	39.5	<ol style="list-style-type: none"> 1. Meaning & Scope 2. Who is competent to seek? 3. Grounds: <ol style="list-style-type: none"> a. (a)Recommitting of the offence b. (b)Tampering with the evidence c. Bail order is patently incorrect d. Gross and open miscarriage of justice e. (e)The discovery of fact that points to the guilt of accused f. (d)Interference with investigation g. Any act amounting to abuse/misuse of concession of liberty 4. Remedy against cancellation
Lesson 6 Sureties & Bonds	39.6	<ol style="list-style-type: none"> 1. Consideration of financial status of the accused 2. Consideration of the circumstances of the case 3. Enhancement and reduction of the amount 4. Satisfaction of the court 5. Cash security 6. Bond: when and how forfeited? 7. Notice to the sureties: When and how given? 8. Requirement of imposition of penalty 9. Procedure for recovery of penalty
Lesson 7 <i>Supudari</i> (interim custody)	39.7	<ol style="list-style-type: none"> 1. Meaning 2. Need and scope 3. Who is entitled to custody/interim possession 4. The nature of property and its connection with the case/offence 5. Case property and other properties 6. <i>Supurdari</i> until a better claimant

CASE LAW

- a) *Muhammad Safdar v The State*, 1993 SCMR 645.
- b) *Zia-ul-Haq v The State*, PLD 1984 SC 192
- c) *Miran Bax v The State*, PLD 1989 SC 347
- d) *Ghulam Hussain v The State* 1998 PCRLJ Lahore 40
- e) *Muhammad Anwar Naz v The State*, 2011 MLD Lahore 759.
- f) *Muhammad Suleman vs State*, 2013 PCrLJ Karachi 1051.
- g) *Anonymous Police Employees Of Balochistan (Service Matter) : In Re v Anonymous Police Employees Of Balochistan (Service Matter)*1995 SCMR 34.
- h) *Sultan Ahmed Siddiqui v The State*, PLD 2010 karachi 110 .
- i) *Jehan Khan v State*, PLD 2006 Lahore 302. 1980.

- j) *Muhammad Sadik v The State*, SCMR 1980 203.
- k) *Abdul Rehman v Ali Sher*, 2000 PCrLJ Lahore 33.
- l) *Lal Zada v The State*, 2011 YLR Peshawar 377 .
- m) *Zulfiqar v The State* 1981 SCMR 893. *Muhammad Sarfraz Alias Saffa v State*, 2006 MLD Lahore 1546.

SYNDICATE RESEARCH

- 1) *Kafalah* of Islamic Law vis-à-vis Law of bail and *Supurdari*
- 2) Principles governing grant of bail
- 3) The significance of Provisos to Sec.497 CrPC.
- 4) Whether admittance to bail is rule and rejection is exception?

GROUP ACTIVITY

- 1) Why all offences should not be declared bailable?
- 2) The determination of the meaning of the phrase ‘appear’ in Sec.497 CrPC.
- 3) Bail Petition: Whether Prevailing tradition should be discouraged.
- 4) Wanton carelessness in *Supurdari* orders and its adverse effects on the judge/qazi and on Institution.
- 5) Bail at the time of war and in peace.

PRACTICAL ACTIVITY

The Resource person is supposed to bring actual cases of bail petitions heard to the level of august SCP (allowed by one forum and refused by other). Only the names should be changed. Mock hearings will be conducted. Mock proceedings should also be conducted in *supurdari* petitions.

REFERENCE & READING MATERIAL

- 1. *Code of Criminal Procedure, 1898*.
- 2. Halim, Abdul, *Code of Criminal Procedure, 1898* (Lahore: Law Publishing Company, 1977)
- 3. Mahmood, M., *Code of Criminal Procedure, 1898* (Lahore: Al-Qanoon Publishers, 2013)
- 4. Ashraf, Mian Muhyuddin, *Rahbar-i-Zamanat* (Lahore: Popular Law Book House, 2013-2014)
- 5. Khan, Noor Alam, *Bail Referencer 2007-2011* (Lahore: Al-Shams Law Book House, n.d.)
- 6. Mansuri, Muhammad Tahir, *Law of Contracts and Business Transactions* (Islamabad: Shariah Academy IRI Press, 2009)
- 7. Sabri, saud-ul-Hassan, *The Law of Superdari* (Lahore: Amjad Law Bookseller, n.d.)
- 8. Hussain, mian Ghulam, *Law of Superdari* (Lahore: Manzoor Law Book house, 2012)

Module - 41

PREVENTIVE JURISDICTION

Introduction: The module covers the legal provisions conferring preventive jurisdiction on magistrates. Lesson 1 discusses preliminaries. The rest deals with the preventive measures in regard to persons and properties. In the last lesson, role and preventive powers of police have been discussed.

OBJECTIVES

The module aims enabling the trainees to:

- Comprehend the relevant provisions of Preventive Jurisdiction.
- Realize the need and significance of preventive measures.
- Know semi-trial summary proceedings.
- Understand the role of magistrate in prevention of offences.
- Learn about the concept and functioning of jury in cases of public nuisance.

OUTCOMES

On completion of study, the trainees would be able to:

- Take action promptly and appropriately.
- Show response not reaction to urgent situations.
- Invoke the relevant provision.

COURSE OUTLINE

Subject	Break up	Description
Lesson 1 Preliminaries	40.1	<ol style="list-style-type: none"> 1. Preventive measures: meaning 2. Need and significance 3. Preventive measures vis-à-vis concept of '<i>Sad al-dhrai</i>' of Islamic Jurisprudence as appears in <i>Sharai Nizam-e-Adl Regulation 2009</i> 4. Section 144 of CrPC: The role of <i>Zillah Nazim</i>
Lesson 2 Behaviour	40.2	<ol style="list-style-type: none"> 1. Security for keeping peace 2. Security for good behavior 3. Orders u/s 112 of CrPC and modes of its communication 4. Inquiry as to the truth of information 5. Findings of inquiry and the following actions 6. Remedies
Lesson 3 Maintenance of public peace	40.3	<ol style="list-style-type: none"> 1. Unlawful assembly: meaning of 2. Modes of dispersal

		3. Protections against prosecution
Lesson 4 Public nuisance (conditional orders)	40.4	<ol style="list-style-type: none"> 1. Meaning 2. Conditional order and modes of its service 3. Jury and inquiry 4. Injunctions pending inquiry 5. When and how the conditional order gets absolute? 6. Post-absolution obligations 7. Nature of proceedings 8. Remedies
Lesson 5 Public nuisance (absolute orders)	40.5	<ol style="list-style-type: none"> 1. Meaning of urgency & quantum of apprehended danger 2. Orders and modes of its service 3. Property under orders: nature & location 4. Proper and improper orders 5. Remedies
Lesson 6 Disputes as to possession and rights of use of immovable property	40.6	<ol style="list-style-type: none"> 1. Nature of proceedings U/s 145 of the CrPC. 2. Preliminary order: requirements and omission of publication of notice 3. Attachment and Receiver 4. Written statements 5. The affect of a pending civil suit 6. Inquiry: procedure, determination and non-determination of possession 7. Cancellation and finality of the order 8. Dispute regarding rights of use of immovable property 9. Remedies
Lesson 7 Police role	40.7	<ol style="list-style-type: none"> 1. Scope of police report in proceedings u/s 145 2. Preventive powers of police: limits of

EXERCISE

A , a convict for offence of *Qazaf* informed you via a message on cell phone about unlawful obstruction by B in the way leading to mosque where only Eid prayers are performed. Eid is to come after 09 months.

Whether conditional order should be issued? In case of negative, write reasons. In case of affirmative, go ahead and right a conditional order.

GROUP ACTIVITY

Discussion on police-magistracy relations

RESEARCH SYNDICATE

1. Preventive Jurisdiction between Executive magistracy and Judicial magistracy.
2. Significance of police reports in preventive measures

REFERENCE MATERIAL:

1. Chapters VIII to XIII of the Code of Criminal Procedure 1898.
2. For the concept of '*Sad al- dhrai*', please read: Imran Hassan Khan Niazi, *Islamic Jurisprudence* (Islamabad: Islamic Research Institute Press, 5th reprint, 2010), pp 248-250.

Module- 42

JUVENILE JUSTICE SYSTEM ORDER

Juvenile justice system is a key component of criminal justice system. Notwithstanding of the fact that states have international human rights obligation to protect, respect and fulfil the internationally recognized human rights of children. The obligations of the state assume greater significance, when it happens to be in regard to those children who come in conflict with law. As a disadvantaged group, children have a right to be treated and protected in special and differential manner. It is the primary responsibility of the state to protect and promote the rights of the child.

Focus

- Juvenile Justice System Ordinance and related laws: challenges & prospects
- Multiplicity of laws
- Non compatibility of laws
- Lack of Understanding of relevant laws
- Scarcity of Resources
- Non Implementation of relevant law
- Probation Laws: International Obligations & Standards
- Greater community involvement in management of criminal justice system
- Enforcement may ensure balancing individual rights, rights of victim and concern of society
- Non-custodial measures at any stage of criminal justice
- Rules shall apply to all indiscriminately
- There shall be law for non-custodial measures
- Judicial authorities to exercise discretion any time
- Non-custodial measure with offender's consent
- Probation order subject to judicial review
- Protection of dignity of offender, including confidentiality of personal record

Suggested readings

- Child rights in Constituion of Pakistan's 1973

- Universal Declaration of Human Rights, 1948
- International Covenant on Civil and Political Rights, 1966
- UN Conventions on the Rights of the Child, 1989
- The Constitutional provisions included article 11(3) (prohibition of slavery and forced labour),
- article 25 (equality of citizens) and article 35 (protection of family).
- Juvenile Justice System Ordinance 2000,
- NWFP Juvenile Justice Rules 2002,
- Khyber Pakhtunkhwa Child Protection & Welfare Act 2010
- Khyber Pakhtunkhwa Borstal Institutions Act 2011
- UN Standards for probation services (Tokyo Rules, 1990)

- UN Interregional Crime and Justice Research Institute/Commonwealth Secretariat, *Handbook on Probation Services*, Rome/London, Publication # 60, 1998, Prepared by Jon F. Klaus

- Ioan Durnescu, 'The future of probation in Europe: Common in the middle and diverse at the edge', *Probation Journal* 2013 60: 316

- Emma Cluley, 'The role of probation service—Justice Select Committee report', *Probation Journal* 2012 59:76

- Rymond Gard, 'The creation of a 'fully public service' : Probation in England and Wales between the wars', *Probation Journal* 2012 59:323

- Emma Cluley, 'Re-offending and Intensive Alternatives to Custody', *Probation Journal* 2012 59:418

MODULE 43

CASE FLOW MANAGEMENT: CIVIL (PRE-TRIAL)

INTRODUCTION

This module discusses the provisions governing & significance of the pre trial civil proceedings: starting from accrual of cause of action or filing of a plaint to the commencement of trial. It inter alia focuses on the role of judge in supervising and scrutinizing the pleadings, and judge based investigations. It also highlights common mistakes often committed during pre-trial proceedings, the importance of settlement conference, managing and scheduling petitions, referral of disputes to ADR and significance of the summary adjudication.

OBJECTIVES

- To know the need and significance of pre trial proceedings
- To learn skills for effective management of the pre-trial work
- To know about common mistakes resulting into delay
- To revive neglected provisions of CPC pertaining to judge based investigation
- To learn techniques for curbing the delay

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Apply the relevant provisions properly
- Invoke inquisitorial provisions of the CPC
- Manage and schedule the proceedings effectively
- Have recourse to ADR modes
- Decide appropriate cases summarily
- Pass orders promptly and appropriately
- Scrutinize cases worth trial

CONTENTS

1) Scheme of adjudication

- i) Pleadings- order 1-9 (adversarial)
- ii) Court's power to investigate and summary adjudication Order 10-15
(Inquisitorial)
- iii) Trials (order 16-29 (adversarial)
- iv) Executions Order 21

- v) Miscellaneous
- 2) Pre-drafting Evaluation
 - a) Laws to be seen
 - i) The Limitation Act, 1908
 - ii) The Suits Valuation Act, 1977
 - iii) The Courts Fee Act, 1870
 - iv) The Code Of Civil Procedure, 1908
 - v) The Specific Relief Act, 1877
 - vi) The Substantive Law Concerned
 - vii) The MFLO, 1961 & The Family Courts ACT 1964 (FAMILY LAWS)
 - viii) Relief To Be Claimed
- 3) Determination of Jurisdiction
- 4) Scrutiny of plaint
 - a) Disclosure of cause of action
 - b) relief claimed
 - c) valuation
 - d) legal bar
 - e) amendment
 - f) remedy
 - g) suits by or against government
- 5) Common Problems in process serving
 - a) Process fee
 - b) Cost of service
 - c) Modes of service - delay
 - d) Effect
- 6) Identification of issues in written statements
 - a) legal objections
 - b) factual objections
 - c) specific denial
 - d) set off
 - e) admissions
 - f) striking of defense
 - g) amendment

- 7) Pre-trial conferencing
 - a) Examination of parties
 - b) Exchange of Interrogatories
 - c) ADR/Plea settlement
- 8) Production of documents
 - a) Admissibility
 - b) Objections and exhibitions
 - c) Affidavits
 - d) Certified/ public documents
- 9) Summary adjudication
- 10) Petition Management
 - a) Injunctions
 - b) Amendments
 - c) Adding/ striking parties
 - d) Jurisdiction and Rejection
 - e) Res-Judicata
 - f) Commissions
 - g) Consolidation of suits
 - h) Withdrawals
 - i) Other interlocutory orders

REFERENCE MATERIAL

- Code of Civil Procedure, 1908
- Qanun-e-Shahdat Order, 1984
- Report and Recommendations on National One Day Seminar on Case Management & Summary Judgment Rules (Amendment in CPC), available at www.kpja.edu.pk
- USA's Federal Rules of Civil Procedure, 1938
- UK's Civil Procedure Rules in 1999

MODULE 44

CASE FLOW MANAGEMENT: CIVIL (TRIAL)

INTRODUCTION

The module focuses on timely disposal of a civil trial through effective and efficacious management. A judge besides having command on the procedural law must know the techniques how to be in control of the proceedings. Without compromising on due process of law, he has to curb the delay, ensure fairness, quality and timely adjudication of a case.

OBJECTIVES

- To realize the effects of irregularities and illegalities during trial
- To be mindful of the rights of the parties in general and to the rights of the accused in particular
- To learn curing of irregularities
- Effective management for ensuring delay reduction
- To manage workload
- To conduct pre-trial conference & trial scheduling
- To procure attendance of witnesses
- To manage execution proceedings
- to sensitize the trainees about importance of trial
- Transparency and fairness
- highlighting common mistakes committed during the course of trial

Scheme of activity will be to highlight practical problems, make the trainees learn skills and techniques for coping with scenarios and situations.

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Conduct the trial properly
- Avoid irregularities and illegalities
- Cure irregularities
- Apply the relevant provisions accurately

- Learn trial scheduling
- Learn techniques of effective management
- Exercise discretion judiciously
- Timely satisfy the decrees

The CPC does not provide a clear time frame for overall disposal of a civil case. However, it provides time frames for certain kinds of proceedings during the trial. The fact remains that comprehensive formal case management techniques, not confined to mere speedy disposal, are yet to be formulated so as to ensure timely adjudication of disputes. The creation of training opportunities in this core area was also felt with concern. This manual seeks to address that concern.

CONTENTS

- 1) Scheduling Trial
 - a) Time frame
 - b) Consultation process with advocates
 - c) Consequences of trial
 - d) Adjournment plan / counter strategy
- 2) Settlement of issues
 - a) Onus placing
 - b) Legal issues
 - c) Material to be considered
 - d) Common mistakes
- 3) List of witnesses
 - a) Description of role of witness
 - b) common mistakes
 - c) Certified copies of public documents
- 4) Evidence
 - a) Right to begin and duty to begin
 - b) Order of examination
 - c) handling objections
 - d) supervising examination

- e) Court witnesses
 - f) Expert evidence
 - g) Exhibition procedure
- 5) Arguments
- a) Notes
 - b) Issue wise
 - c) Handling case law
- 6) Judgment
- a) Summary of facts
 - b) Appreciation of evidence
 - c) Incorporate arguments
 - d) Distinguishing case law
 - e) Recording findings on issues
 - f) Clarity in relief
- 7) Decree sheets
- a) Contents and significance
 - b) Common mistakes

REFERENCE MATERIAL

- Code of Civil Procedure, 1908
- Qanun-e-Shahdat Order, 1984
- Report and Recommendations on National One Day Seminar on Case Management & Summary Judgment Rules (Amendment in CPC), available at www.kpja.edu.pk
- USA's Federal Rules of Civil Procedure, 1938
- UK's Civil Procedure Rules in 1999

MODULE 45

CASE FLOW MANAGEMENT-CRIMINAL (PRE-TRIAL)

This module discusses the provisions governing and significance of the pre trial proceedings: starting with registration of a case or filing of a complaint to the commencement of trial. It inter alia focuses on the role of magistrate in supervising the investigation. It also highlights the difference between administrative and judicial work of a magistrate. Besides, discussion on impact of pre trial proceedings on fundamental rights also makes part of the module.

1. The target areas of Pre-Trial proceedings mainly include the following:- FIR	2. Arrest & Seizure
3. Custody & Remand	4. Discharge
5. Recovery of Case Property	7. Interim Order in respect of case property
6. Proceedings u/s 156(3) CrPC	
8. Post arrest transitory bail	9. Re-arrest of a bailed out accused
10. Identification parade	11. Statement u/s 161 & 164 CrPC
12. Post arrest bail	13. Bounding down witnesses
14. Confessions (mistakes)	15. Court Marriage
16. Dar-ul-Aman	17. Case Cancellation

18.	Report u/s 173 CrPC	19.	Sending up case to Court of Sessions
20.	Cognizance	21.	Plead Guilty & Nolo contendere
22.	Absentia Proceedings	23.	Forfeiture & Recovery of Bonds
24.	Recalling & Cancellation of Bail Order	25.	Framing of Charge
26.	Statutory Bail	27.	Trial Scheduling

OBJECTIVES

- To know the need and significance of pre trial proceedings
- To understand the difference between administrative and judicial duties of a magistrate
- To realize the importance of the supervisory role of a magistrate during investigation
- To understand pre trial proceedings in the context of fundamental rights
- to learn skills for effective management of the pre-trial work
- to learn techniques for curbing the delay

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- apply the relevant provisions properly
- supervise the investigation efficiently and effectively
- pass orders promptly and appropriately
- scrutinize cases worth trial

CONTENTS

- 1) Preliminaries
 - a) FIR - social context
 - b) Petition u/s 22-A CrPC
 - c) Complaints
- 2) Role and powers of Magistrate
 - a) Supervisory / Executive
 - b) Judicial
- 3) Investigation and Inquiry - difference
- 4) Target areas of PTP
- 5) Dealing with non-cognizable offenses
- 6) Handling Complaints
- 7) Common Mistakes
 - a) Invoking Sec 204 CrPC during investigation
 - b) Mechanical custody orders
 - c) Defective Confessions
 - d) Non-determination of status of seized property
 - e) Bail bonds
 - f) Juvenile age determination
 - g) Delayed and defective identification proceedings
 - h) Post-mortem exemption & Medical examination of a woman
 - i) Dar ul aman custody - law & practice

FURTHER READINGS

- Code of Criminal Procedure, 1898
- Police Rules, 1934
- KP Police Act, 2016
- Police Order, 2002

- KP Prosecution Services Act, 2005
- UK's Criminal Procedure Rules, 2005
- 2008 SCMR 181
- 2009 PLD 382 LHR
- Sec 95 of the West Pakistan Motor Vehicle Ordinance, 1965
- 1992 PCRLJ 250
- PLD 1991 Kar 200
- PLD 1975 Kar 509
- 1998 PCRLJ 1089
- 2012 YLR 472 LAH
- 2006 PLD 316 SC
- 2005 MLD 1883 PESH
- PLD 2006 PSH 1
- PLD 1995 PSH 118
- 1990 PCrLJ 1147
- Ch 26, Rule 32, Police Rules, 1934
- Art. 22 Identification parade, YLR 1412 LAH
- 2007 PLD 202 SC
- 2007 PLD 202 SC
- 2014 PCrLJ 323 PESH
- 2014 MLD 942 PSH
- 2014 MLD 476
- PLD 2009 LHR 312 (Nolo Contendere)
- 2003 YLR 2749
- 1995 PCrLJ 1257

MODULE 46

CASE FLOW MANAGEMENT-CRIMINAL (TRIAL)

INTRODUCTION

The module focuses on timely disposal of a criminal trial through effective and efficacious management. A judge besides having command on the procedural law must know the techniques how to be in control of the proceedings. Without compromising on due process of law, he has to curb the delay, ensure fairness, quality and timely adjudication of a case.

OBJECTIVES

- To realize the effects of irregularities and illegalities during trial
- To be mindful of the rights of the parties in general and to the rights of the accused in particular
- To learn curing of irregularities
- To curb delay
- To manage workload
- To conduct pre-trial conference & trial scheduling
- To procure attendance of witnesses
- To learn sentencing standards

LEARNING OUTCOMES

On completion of this course, the trainees shall be able to-

- Conduct the trial properly
- Avoid irregularities and illegalities
- Cure irregularities
- Apply the relevant provisions accurately
- Learn trial scheduling
- Learn techniques of effective management
- **Exercise discretion judiciously**

CONTENTS

- Problems in procuring attendance of accused & multiple accused trial
- Pre-Trial conference
 - Assessment of pleas,
 - production of documents,
 - charge framing and negotiations,
 - case property,
 - use of probation
- Common mistakes in framing charge
- Trial Scheduling
 - Fixation of dates (tentative time frame)
 - Diary management
 - Sorting & abandoning un-necessary witnesses
 - Experts witnesses
 - Order of examination of witnesses
 - Adjournments plan and counter strategy
- Inquiries during trial
 - Postponement of trial
 - Resumption of trial
- Evidence
 - Supervision of examination
 - Handling vexations cross examination
 - Objections on documents
 - Hostile witnesses
- Arguments
 - Charge
 - Sentencing
- Sentencing parameters

- General principles of sentencing
- Trends and initiatives in sentences
- Mandatory sentencing
- Victim impact
- Sentencing options
- Public opinion / media and sentencing
- Reflection on judicial methods and appellate courts
- Mitigating circumstances
- Judicious Exercise of discretion
- Probation order
- Judgment writing
 - Common mistakes
 - Distinguishing features of case law
 - Determination of compensation
 - Summary of facts
 - Points for determination
 - Admissible and irrelevant evidence
 - Appreciation of relied upon evidence
 - case property disposal
 - Absconding accused

CASE LAW

- *Hakam Deen v. State*, 2005 YLR 2032 SC AJ&K
- *Abdur Rashid v. State*, 1984 PCrLJ 402 Quetta
- *Arshad Ali Shah v. Saeed Ahmad Ashraf*, 1996 PCrLJ 1673 Lah
- *Naveed Asif v. The State*, 1988 PLD SC 99
- *Jehanzeb v. The State*, 2002 PCrLJ 1929 Pesh
- *Ghulam Muhammad v. State*, 1985 SCMR 1442
- *State v. Muhammad Rasheed*, 2008 PCrLJ 247 Shariat-Court AJ&K

- *Naseebullah Khan v. The State*, 1986 PLD 417 Kar
- *Abdul Jabbar v. The State*, 1993 PLD 459 Lahore
- *State v. Abrar Hussain Shah*, 1986 PCrLJ 2941 SC (AJ&K)
- *Muhammad Sadiq v. State*, 1998 MLD 243 FSC
- *Maqsud Ahmad alias Sudi v. The State*, 2012 YLR 1954 FSC
- *Abdul Aziz v. The State*, 2014 YLR 584 KAR
- *Haseeba Taimur Afridi v. The State*, 2013 SCMR 1326
- *Bashir Ahmad v. The State*, 2012 PLD 260 Lah
- *Javed Iqbal v. Crescent Commercial Bank Ltd. Islamabad through Manager and 3 others*, 2009 PLD 382 Lah
- *Akhter Hussain v. Station House Officer and others*, 2007 PCrLJ 1552 Lah
- *Muhammad Babar Khan Ghumman v. Station House Officers and 4 others*, 2012 YLR 472 Lah
- *Mst. Maqsood Mai v. Abdul Rashid and 4 others*, 2006 PLD 306 SC
- *State v. Ubaidullah and another*, 2005 MLD 1883 Pesh
- *Abdi Hussain v. The State and another*, 2014 YLR 61 Lah

REFERENCE MATERIAL

- The Code of Criminal Procedure, 1908
- The Qanun-e-Shahadat Order, 1984
- The Nizam-e-Adl Regulation, 2009
- Police Rules 1934