



Khyber Pakhtunkhwa Judicial Academy

REPORT

One Week Post Promotion Statutory Training including Two Day Special Focus on “Child Protection/Juvenile Justice System Laws” for Additional District & Sessions Judges/Izafi Zilla Qazis 08-13 February 2021



KHYBER PAKHTUNKHWA JUDICIAL ACADEMY
*One Week Post-Promotion Statutory Training including Two Day Special Focus on
“Child Protection/Juvenile Justice System Laws” for Additional District & Sessions
Judges/Izafi Zilla Qazis from 08-13 February, 2021*





Sitting L to R Mr. Tilla Mohammad, Mr. Ikram Ullah, Mr. Zafar Ullah, Mr. Muhammad Asghar Ali, Mr. Assad Ullah, Mr. Ejaz ur Rehman Qazi, Mr. Zia ud Din Khattak (Director General), Ms. Valerie Khan Yousufzai, Mr. Ashfaq Taj (SDA), Mr. Sharafat Ali Chaudhry, Mr. Ghulam Abbass (SDR&P), Ms. Aqsa Saeed, Ms. Mahjabeen Shabbir,

Standing L to R Mr. Muhammad Farooq (R&PO), Mr. Muhammad Iqbal, Mr. Nasir Khan, Mr. Shahid Mehmood, Mr. Muhammad Faisal, Mr. Umer Sajjad Chaven, Mr. Fazal Gul, Mr. Ahad Ahmad, Mr. Ahmad Iftikhar - (D.I-I), Mr. Tariq Abbas,

Prepared by:

Ahmed Iftikhar (Director Instructions)

Finalized by:

Syed kamal Hussain Shah (Dean Faculty)

1.0 Introduction

1.1 KPJA is statutorily mandated to provide training to all justice sector stakeholders, to hold conferences, seminars, lectures, workshops and symposia in matters relating to court management, administration of justice, law and development of skills in legislative drafting and to establish liaison with research institutions, universities and other bodies including the Federal Judicial Academy, towards the cause of administration of justice. (Section 4 of the Academy Act)

1.2 Capacity building in every field of judicial activity is a *sine qua non* for streamlining the system in its entirety. With this end in view, KPJA arranged one-week post-promotion training for Additional District and Sessions Judges.

2.0 Purpose of the report

2.1 This report aims to assess the quality and impact of the training delivered from 8th to 13th February 2021.

2.2 The report begins with a general layout of the training session including, information about the participants, the resource person details, schedule of activities, proceedings, followed by recommendations for future improvements.

3.0 Participants

3.1 Participants of the training were the Additional District & Sessions Judge. Table below, describes in detail, the names of participants.

S#	NAME	DESIGNATION	DISTRICT
1	Mr. Nasir Khan	Additional District & Sessions Judge	Bannu
2	Mr. Muhammad Faisal	Additional District & Sessions Judge	Peshawar

3	Mr. Zafar ullah	Additional District & Sessions Judge	D.I.Khan
4	Mr. Tilla Muhammad	Additional District & Sessions Judge	Hangu
5	Mr. Fazal Gul	Additional District & Sessions Judge	Lakki Marwat
6	Mr. Ikramullah	Additional District & Sessions Judge	Upper Chitral
7	Ms. Aqsa Saeed	Additional District & Sessions Judge	Charsadda
8	Mr. Tariq Abbas	Additional District & Sessions Judge	Abbottabad
9	Mr. Muhammad Iqbal	Additional District & Sessions Judge	Tank
10	Mr. Muhammad Asghar Ali	Additional District & Sessions Judge	Haripur
11	Mr. Assad Ullah	Additional District & Sessions Judge	Swabi
12	Mr. Shahid Mehmood	Additional District & Sessions Judge	Peshawar
13	Mr.Ejaz ur Rehman Qazi	Additional District & Sessions Judge	Banda Daud Shah (Karak)
14	Ms. Mah Jabeen	Additional District & Sessions Judge	Upper Dir

4.0 Resource Persons

4.1 Syed Kamal Hussain Shah, Dean Faculty, Mr. Ashfaq Taj, Senior Director Administration, Mr. Ghulam Abas, Senior Director Research & Publications, and Mr. Ahmed Iftikhar, Director Instruction, KPJA, gave their insight on different subjects. Besides Mr Muhammad Zubair ,Former D&SJ, Zia-ur-Rehman Legal Draftsman, and Dr Qazi Ataullah Additional District and Sessions Judge shared their valuable experience.

4.2 It would be necessary to make mention of each resource person along with topic dilated upon by him. The following table contains these details:-

S#	Topic	Resource Person
1	Civil Appeal & Revision	Mr. Ashfaq Taj, SDA KPJA

2	Criminal Appeal & Revision	Syed Kamal Hussain Shah, Dean, KPJA
3	Management of Sessions Trial <ul style="list-style-type: none"> • Framing of Charge • Examination of Witnesses • Examination of Accused • Murder Reference 	Mr. Muhammad Zubair, Former D&SJ
4	Maintenance of Record (Theory) <ul style="list-style-type: none"> • Classification of Record as per PHC Rules & Orders • Inspection of Record as per PHC Rules & Orders • Consignment & Disposal of Record per PHC Rules & Orders • Scanning & Digitization of Record per PHC Rules & Orders 	Mr. Ghulam Abbas, SDR&P, KPJA
5	Maintenance of Record (Practice) <ul style="list-style-type: none"> • Classification of Record as per PHC Rules & Orders • Inspection of Record as per PHC Rules & Orders • Consignment & Disposal of Record per PHC Rules & Orders • Scanning & Digitization of Record per PHC Rules & Orders 	Mr. Ghulam Abbas, SDR&P, KPJA
6	Sentencing Guidelines	Mst. Nusrat Yasmeen Intekhab, D&SJ
7	Appreciation of Evidence - Session Trial	Mr. Ahmed Iftikhar, DI, KPJA
8	Audio-Video Recording of Evidence and Maintenance of its records	Mr. Ahmed Iftikhar, DI, KPJA
9	Trial Need Assessment / Trial Scheduling	Mr. Zia ur Rehman, D&SJ
10	<i>Qisas, Diyat & Ta'azir</i>	Dr. Qazi Attaullah, AD&SJ
11	Hudood Offenses <ul style="list-style-type: none"> • Shariah Perspective 	Dr. Qazi Attaullah, AD&SJ
12	Expeditious disposal of stagnant category of cases under the Policy of PHC	Syed Kamal Hussain Shah, Dean, KPJA

13	Management and Disposal of cases under the Juvenile Justice System Act, 2018 -1 <ul style="list-style-type: none"> • Definition of Child under National Laws • Four guiding principles of child justice 	Nominated by GDP
14	Management and Disposal of cases under the Juvenile Justice System Act, 2018 -2 <ul style="list-style-type: none"> • Definition of Child under International Laws • International framework pertaining to child rights, juvenile justice and child protection 	Nominated by GDP
15	Management and Disposal of cases under the Juvenile Justice System Act, 2018 -3 <ul style="list-style-type: none"> • Investigation and trial under JJSA • Concept of Diversion 	Nominated by GDP
16	Management and Disposal of cases under the Juvenile Justice System Act, 2018 -4 <ul style="list-style-type: none"> • Investigation and trial under JJSA • Concept of Diversion • Child forensic communication, DOs & DON'T 	Nominated by GDP
17	KP Child Protection & Welfare Act <ul style="list-style-type: none"> • Class Representative remarks • Concluding address of Director General • Certificate distributions • Group Photo 	Nominated by GDP

5.0 Proceedings

5.1 Day 1

5.1.1 The session started with the Holy Quran recitation, followed by the welcome Address of Mr. Zia-ud-Din, the Director-General, and the lectures.

5.1.2 Mr Ashfaq Taj delivered the lecture on Civil Appeal and Revision, Syed Kamal Hussain Shah on Criminal Appeal and Revision, and Mr. Muhammad Zubair on Management of Sessions Trial.

5.1.3 The first speaker discussed the following:

- The scope of Section 104 and Order 43 Rule 1 CPC;

- The determination of cross-objections, partial appeal in the light of Section 107 and Order 41 CPC ;
- Appeal as horizontal and revision as vertical adjudication;
- The preliminary hearing of appeal (Order 41 Rule 11 CPC) ;
- The Memo of Appeal; and
- The effect of amendment in section 96 CPC and deletion of section 100 CPC.

5.1.4 The second speaker shared his experiences to explain:

- The right of appeal against acquittal (Section 417 Cr.P.C);
- The absence of right of appeal against order passed by the magistrate and its effects;
- Abatement of appeal and abatement of case;
- Revision against conviction arising from plead guilty order; and
- The short term parole.

5.1.5 The last speaker explained the following:

- Trial to be in open court as a rule;
- Day to day hearing as a legal requirement;
- Sine-die adjournment after the decision in PLD 1978 SC 38;
- Adjournment on costs;
- Object of framing charge;
- Separate and joint charge;
- Errors in charge that lead to re-trial;
- Order of examination of witnesses;
- Statement of accused under section 342 CrPC;
- Burden of proof in criminal case;
- Difference between conviction and sentence; and
- Murder reference procedure (Sections 374-379 CrPC).

5.2 Day 2

5.2.1 The session began with the Holy Quran's recitation and the trainee feedback followed by the lectures.

5.2.2 Mr. Ghulam Abbas delivered two lectures on Maintenance of Record and Mst Nusrat Yasmeen on Sentencing Guidelines.

5.2.3 The first speaker focused on:

- Object of maintenance of judicial record;
- Size, quality of papers;
- Preparation of index: classification of record into Files A and B;
- Contents of Part A and B in Civil Suits;
- Contents of Part A and B in Appeals;
- Contents of Part A and B in Session Cases;
- Digitization of record as per Peshawar High Court directives;
- SOPs of scanning record;
- Inspection of pending and consigned record;
- Dispatch of record to record room;
- Examination of record by record keeper;
- Entries after consignment;
- Handing over record to successor;
- Preservation and destruction of record: records to be kept in perpetuity and for periods prescribed under the rules; and
- Maintenance of relevant registers.

5.2.4 The second speaker focused on:

- Difference between conviction and sentence;
- Sentencing guidelines in foreign countries;
- The need for sentencing guidelines in Pakistan; and
- Probation and Parole vis-à-vis the sentencing.

5.3 Day 3

5.3.1 The session began with the Holy Quran's recitation and the trainee feedback followed by the lectures.

5.3.2 Mr. Ahmed Iftikhar delivered the lectures on Appreciation of Evidence-Session Trial, Audio-Video Recording of Evidence and Maintenance of its record, and Mr. Zia-ur-Rehman on Trial Need Assessment /Trial Scheduling.

5.3.3 The first speaker discussed the following in his lecture on Appreciation of Evidence-Session Trial:

- The concepts of relevancy, admissibility, weight and proof;
- The relevancy as a matter of logic and admissibility as a matter of policy;
- The principles of admissibility in circumstantial, direct and real evidence;
- Weighing evidence with reference to phenomenon of observation, recollection, and narration;
- Distinction between minor and major inconsistencies;
- The principle of falsus in uno falsus in omnibus and its applicability; and
- The principles of inconsistencies in Islamic Law of Evidence.

5.3.4 In his second lecture the speaker explained:

- The principles of admissibility of electronic evidence;
- The legal regime set out by Salman Akram Raja Case, Israr Vs State, Cr. A. No.1143-P/2019, and Civil Court Amendment Act 2020;
- The SOPs laid down in , Israr Vs State, Cr. A. No.1143-P/2019; and
- The methods for transcripts and exhibit management in electronic evidence.

5.3.5 The last speaker discussed the following:

- Objectives of trial need assessment;
- The challenges of delay, cost of litigation, complex procedures, and conventional trial centric Approach;

- Our Justice system quality as measured by the Rule of Law Index;
- The wrong practices in mechanical summons, shifting control, material for framing of issues & charge, admission of documentary evidence without evaluating its Relevance & Admissibility;
- The comparative overview of legal systems;
- Evolution of case management in common law countries;
- Taking cognizance: Order 7 Rule 11 CPC and Order 5 Rule 5 CPC;
- Taking cognizance: 204 CrPC;
- Discovery management;
- Criminal pre-trial assessment: Dealing with multiple F.I.R and Challans;
- When charge needs to be framed(Section 265 CrPC); and
- Trial management in civil and criminal cases.

5.4 Day 4

5.4.1 The session began with the Holy Quran's recitation and the trainee feedback followed by the lectures.

5.4.2 Dr Qazi Attaullah delivered lectures on Qisas, Diyat and Tazir and Hudood Offences. Syed Kamal Hussain Shah delivered the lecture on Expeditious Disposal of Stagnant category of cases under the Policy of PHC. In his lectures Dr Qazi Attaullah discussed:

- History of Islamization and Role of Judiciary;
- Definition of Offence and its various divisions;
- Objectives of Shariah;
- Literal meaning of Qisas and its Kinds;
- Conditions for the imposition of Qisas;
- Qisas in hurts: Conditions of;
- Hadd literal meaning and examples;
- Legal framework of Hudood laws in Pakistan;
- Tazir literal meaning;

- Who may inflict Tazir;
- Difference between Tazir and Tadeeb;
- Difference between Tazir, Hadd and Qisas;
- Division of Qisas on the basis of Shariah Rulings; and
- Kinds of Qatal and Punishments.

5.4.3 The second speaker elaborated his discourse with special emphasis on Court Fee and Suit Valuation Act, different mechanisms to work out proper court fee, the impact of wrong assessment of court fee and the effect of deficient know-how of such principles on the expeditious disposal of cases.

5.5 Day 5 and Day 6

5.5.1 The sessions began with the Holy Quran's recitation and the trainee feedback followed by orientation and the lectures

5.5.2 The two days were dedicated to a specialized training on child rights in the perspective of establishment of Juvenile Courts in KP. The training focused on varied aspects of child centric litigation, the definition of child in national and international legal framework, the Juvenile Justice System Act, the concept of diversion under the Juvenile Justice System Act, KP Child Protection and Welfare Act and child forensic communication.

5.5.3 Ms. Valerie began with an orientation session. She asked the participants first to recollect and narrate one bad experience of childhood and one good experience. She then explained the objectives of the training session.

5.5.4 She emphasized the four guiding principles on the rights of the child, according to the UNCRC:

- Non-Discrimination
- Best Interests of the Child
- Right to Dignity
- Right to participation

5.5.5 Mr. Sharafat Ali looked into various definitions of the word child both under the international and the national legal framework. He referred to CRC, Majority Act, Guardian and Wards Act, Child Marriage Restraint Act, National Commission on Rights of Child Act 2017, Juvenile Justice System Act 2018, K.P Child Protection and Welfare Act 2010, and several other domestic laws. He also referred to the minimum age of criminal responsibility under the Pakistan Penal Code and some provisions in the Constitution of Pakistan on child rights, such as the prohibition of child labor and free and compulsory education for the children.

5.5.6 Mr. Sharafat Ali gave a comprehensive overview of the international legal framework on child rights. He first referred to the four guiding principles in International law;

- Non-Discrimination
- Best Interests of the Child
- Right to Dignity
- Right to Participation

5.5.7 He dilated on the distinction between hard and soft law, and explained sources of the two. He referred to the following international instruments dealing with child rights;

- UDHR and the International Covenants on Civil and Political Rights (ICCPR)
- Social and Cultural Rights (ICESCR) collectively known as the International Bill of Human Rights
- United Nations Convention of the Rights of the Child (UNCRC)
- International Labour Organization Conventions
- Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of Persons with Disabilities (CRDP)
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) Protocol to Prevent, Suppress and Punish
- Trafficking in Persons, especially Women and Children
- South Asian Association for Regional Cooperation (SAARC) Conventions

5.5.8 The speaker referred to the United Nations minimum standard for the administration of Juvenile justice and the prominent aspects of the Beijing rules. He also discussed the Superior Court rulings in which International law was referred. Finally, he conducted different group activities, one of its manifestations being:

- Activity 1
 - Divide the participants into five groups and ask them to discuss the following questions for 10 minutes. In the full class, ask each group to answer one of the questions. Whichever group volunteers first get to choose the question they wish to answer. Continue around the room until all questions have been answered.
 - Compare the definition of a child under Pakistan's domestic laws to the definition used in the international conventions that Pakistan has ratified. Is Pakistan's domestic legislation consistent with its international obligations? If not, where are the gaps?
 - Do any of the international treaties that Pakistan has ratified directly address child sexual abuse?
 - Which treaties? Is "sexual exploitation" defined in international law? In Pakistani domestic law? Can you nevertheless name at least one example of a practice that constitutes "sexual exploitation"? Are there practices we haven't discussed that you think might constitute "sexual exploitation"?
 - What are the four Guiding Principles under the UN Convention on the Rights of the Child? Can you suggest something you might do to promote the "Participation" of a child victim in criminal justice proceedings in their case?
 - What are the particular safeguards that the ICCPR sets for juvenile accused? Then kindly quote at least two of those? Is the Pakistani legislation consistent with those safeguarding obligations?

5.5.9 In the last day focus was on a comprehensive discussion of the domestic legal framework about the child Rights..

5.5.10 Mr. Sharafat Ali explained the national legal framework as follows;

- Constitutional Provisions
- National Laws
- Local/Provincial Laws

5.5.11 The speaker referred to Article 25(1) Article 25(3) Article 25-A Article 35 Article 37(g) of the Constitution of Pakistan. He referred also to sections 292 A, 292B , 292C, 354, 354A, 365B, 366A, 366B, 377, 377A, 377B, 498B, 376 of the Pakistan Penal Code. Finally, he referred to section 19 A of the Prevention of Electronic Crimes Act 2016. Other national laws he said were the JJSA, National Commission on the Rights of Child Act, 2017, and The Prevention of Trafficking in Persons Act, 2018.

5.5.12 In his second lecture, the speaker gave an overview of Provincial Laws. These included;

- Punjab Destitute & Neglected Children Act, 2004:
- Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010
- Sindh Children Act, 1955:
- Sindh Child Protection Authority Act, 2011
- The Balochistan Child Protection Act, 2016
- Sindh Child Marriages Restraint Act, 2013

5.5.13 The speaker discussed different provisions and concepts under the JJSA. He gave the background of the JJSA, explained what was meant as the best interest of the child, the role of the Juvenile Justice System Committee, the concept of diversion, and the significance of the report of the probation officer. The speaker also dealt with the provisions about arrest under the JJSA, provision of video-link trial, and release of a juvenile under section 6 of the Act.

5.5.14 Participants were apprised about assumptions about the child witness perception with reference to the Clown Study (1991) and The Physical Exam Study (1991).

5.5.15 Finally the participants were apprised about the SOPS that could be followed:

- Pre-Trial Proceedings

- Providing pre-trial advice to investigators
 - Initial meeting of the prosecutor with the victim/witness
 - Preparing child victims/witnesses for court proceedings
 - Right to be informed
 - Establish a cooperative relationship with the child victim/witness
 - Review trial proceedings for the victim or witness
 - Go over the child's testimony, the procedure of giving testimony and the likely questions to be asked to the child, and rights of victim/witness under Pakistani law
 - Privacy/Confidentiality
 - Measures to protect the privacy, dignity and wellbeing of a child
 - Prohibition of publication of names, etc. of child involved in any proceeding
 - Privacy/Confidentiality (Continued)
 - International and Pakistani laws regarding privacy of child victim/witness
 - Specific articles and practices for courtrooms and trial proceedings
- Trial
 - Trials in cases of child sexual abuse must be concluded within 3 months
 - CSA trials should be held in camera and limited to those persons necessary for the proceedings
 - Measures should be taken to protect the identity of the child victim/witness when he/she gives testimony, such as:
 - Use technology that changes victim/witnesses voice and his/her image, if he/she is testifying through a video linkage;
 - Hide the child victim/witness from people's view using a screen, shield or a glass through which one can only see on one side;
 - Use another room to give the testimony and then present the testimony in the courtroom through a video linkage/conference, or putting the accused and the child in two different rooms connected via video linkage.

- Arranging and Presenting Child Victim/Witness Testimony in Court
- Measures/Steps Prosecution should take to make child feel relaxed/comfortable before and during the trial (Familiarization Processes, Support etc..)
- Protective Measures for Child's Safety and Health
- Special assistance protocols for language, interpreter and disabilities
- Support Person
- Child Friendly and Conducive Environment in Courtroom
- Waiting Area at Courtroom
- Courtroom Facilities
- Pakistani Laws pertaining to child's participation, competence and ability to give testimony/appear in court
- Additional Methods to Consider in Arranging/Presenting Child Testimony
- Alternatives to Oral Testimony
- Questioning and Cross-Examination
- Responsibilities of Judges and Prosecution during cross-examination
- Method/Procedure of Questioning and Guarding Against Inappropriate Line of Questions
 - Acknowledge the Child's experience and trauma
- Fair Trial and Due Process/Just Trial
- Judge and Prosecution should make sure that:
 - The child understands the reason they are in court/trial and why it is important to give testimony
 - The consequences and procedures of the trial
- **Post trial**
 - Sentencing
 - Keeping the child victim informed about the progress of their case
 - Providing ongoing support to victims/witnesses
 - Appeal

- Process of Appeal in Pakistani courts for child abuse cases
- Appeals in CSA cases must be decided within six months
- Closure
- Reparations and Restitution Processes
- Available Provisions for Reparation and Restitution through Pakistani institutions and laws.

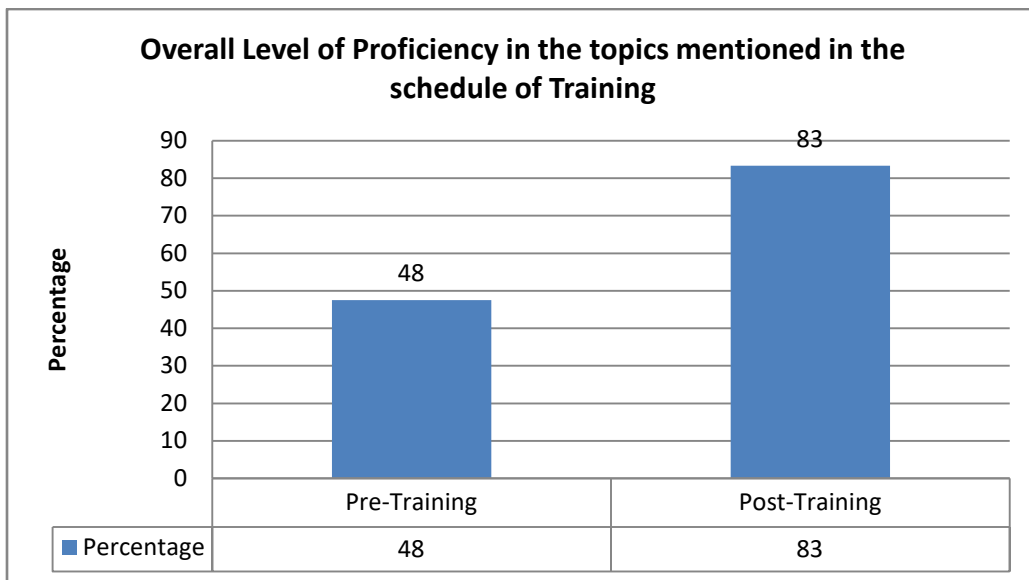
6.0 Impact of the training

6.1 Significant indicators of the training impact are:

6.1.1 Whether the training contributed to an increase in the knowledge of the participants?

6.1.2 Whether that will translate itself into a practical utility?

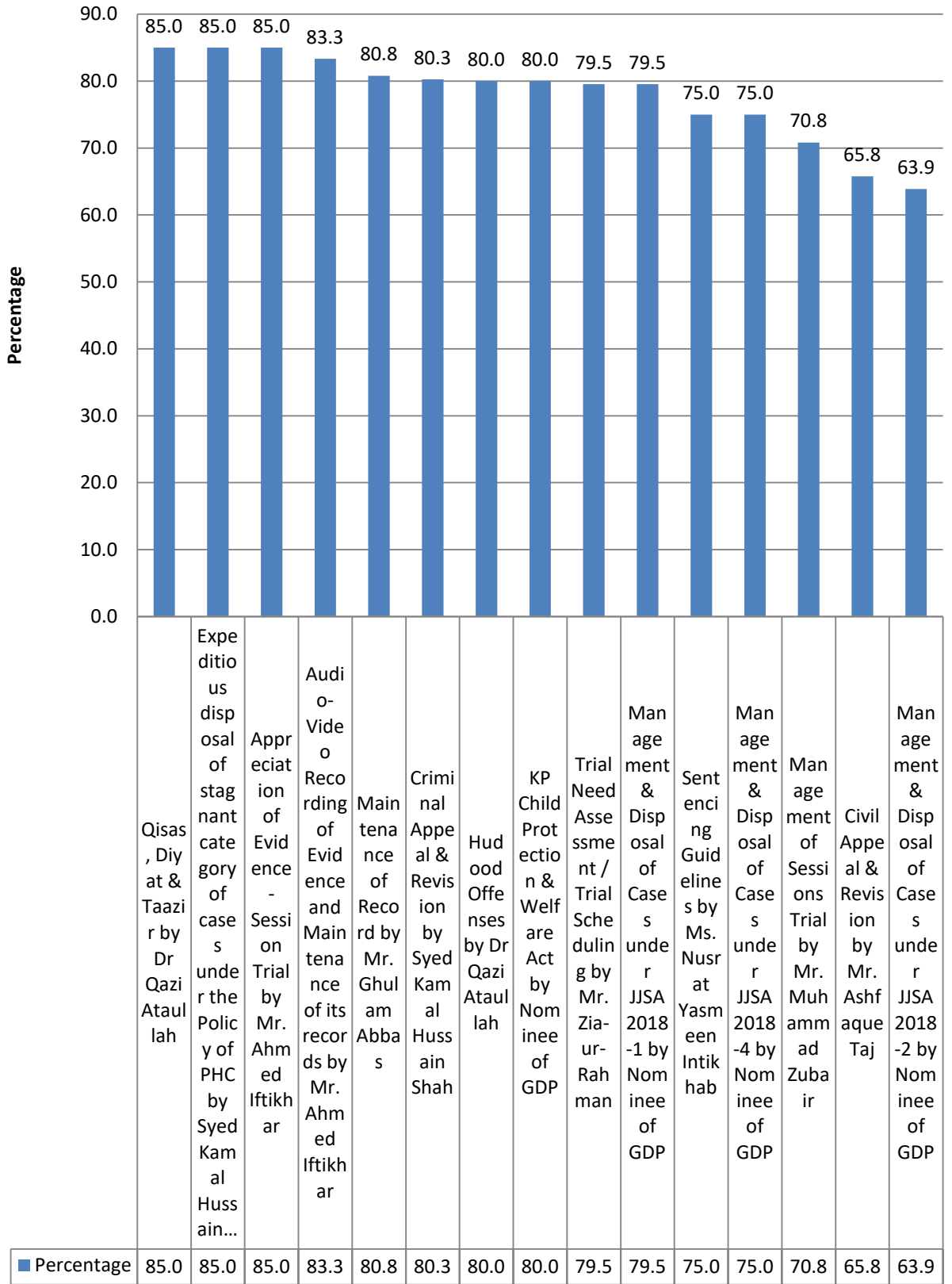
The evaluation questionnaire was designed to deal with this aspect. And the relevant feedback obtained from the participants is reflected below:



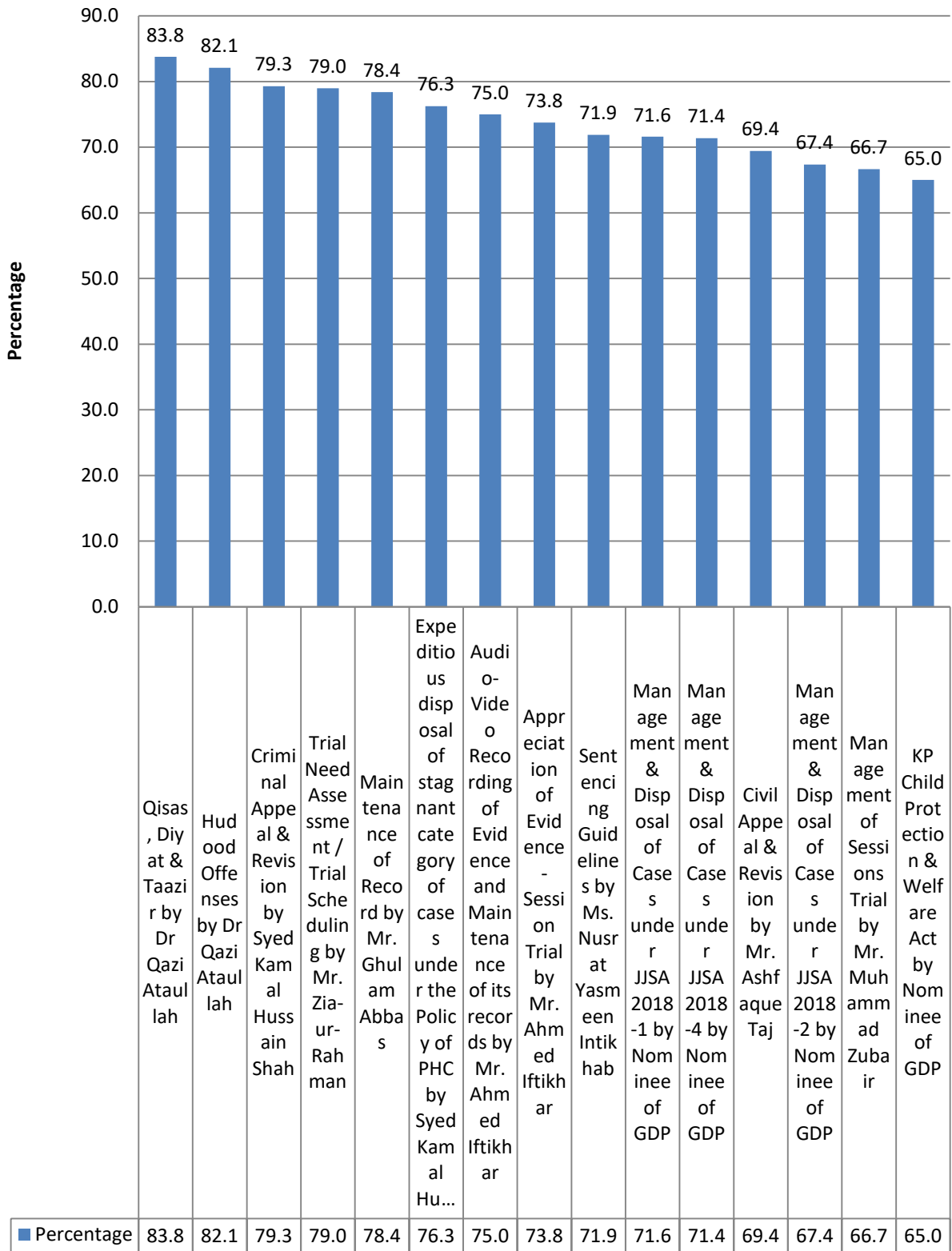
7.0 Quality of the training

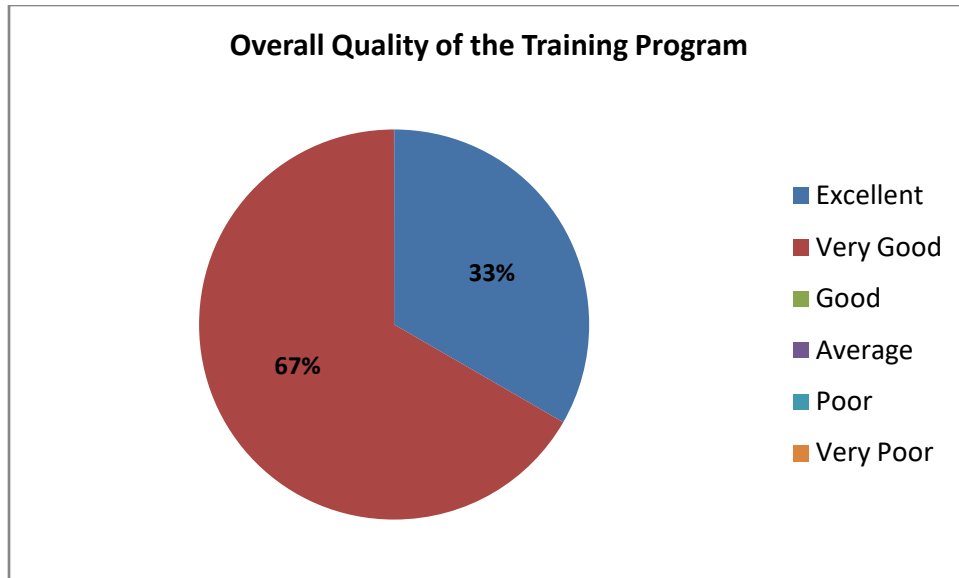
7.1 As regards the quality of the training, it can be easily gleaned from the resource person's evaluation by the participants. Moreover, the participants were asked to comment on the overall quality of the training program. Their response and the feedback, both on the assessment of the resource persons and the overall quality of the training program are shown in graphic form below:

Practical use of training



Resource Person Evaluation





7.2 Participants also furnished their general comments on the training. The same are reproduced verbatim:

1. Duration of training may be enhanced.
2. Topics on official correspondence and other administrative matters may be included.
3. A very useful and practical training.
4. Academy working in a very friendly and conducive environment that's why results are fantastic.
5. Really useful.

8.0 Conclusion

8.1 Participants' graphic feedback indicates that the training's performance and effect have been rated very good.

8.2 Based on the participants' feedback, training modules can be further improved.

8.3 According to trainees' reviews, it was the achievement of the objectives for which the training was designed and conducted.