

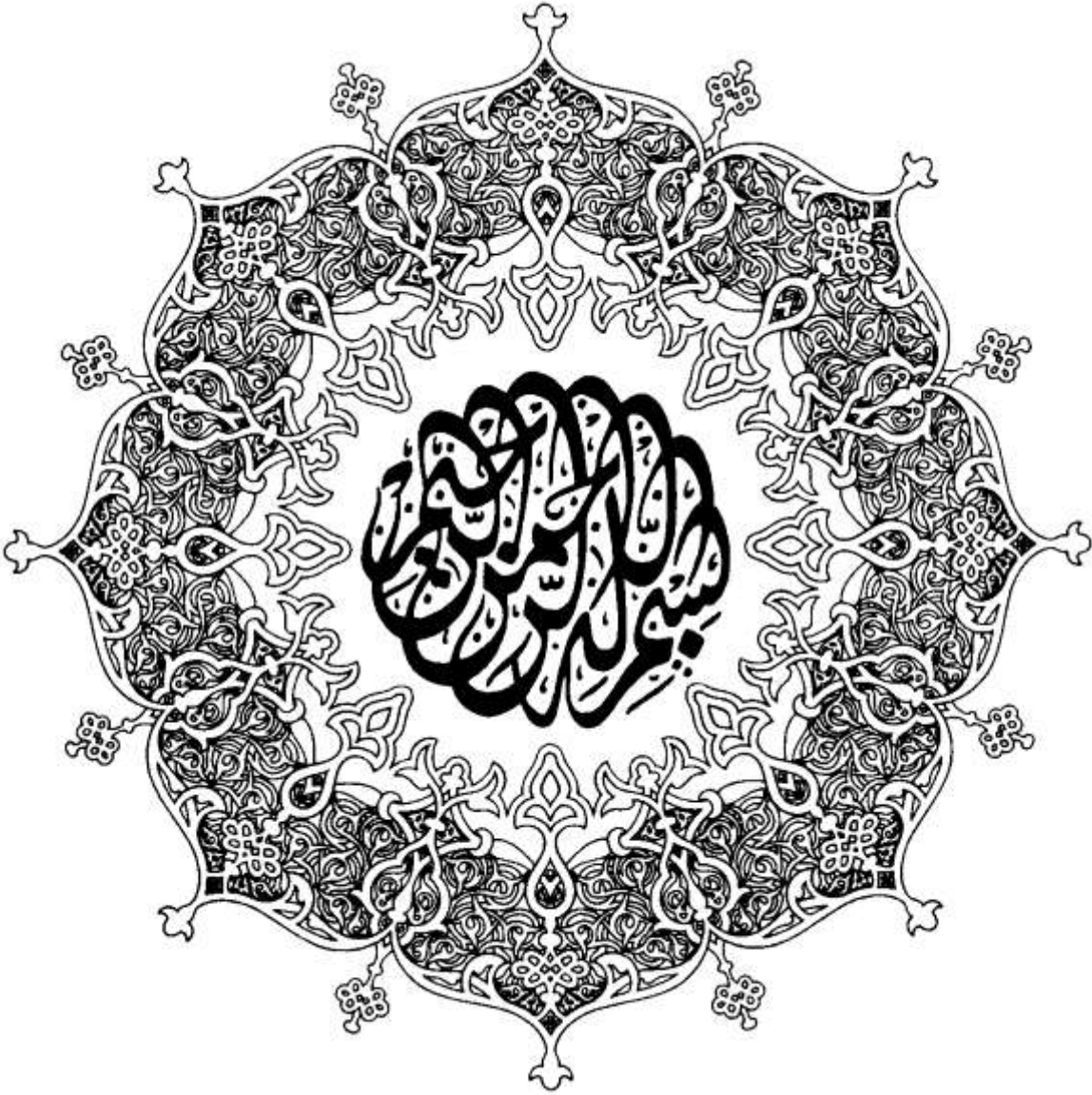


22- 27 July 2013

First Mobile Courts – ADR Training For Judges and Lawyers of District Peshawar

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Contents

Foreword	4
Dean's Note	5
Preface.....	7
Course Description.....	9
Synopses of Lectures	15
Lecture-1: Human Behaviors.....	16
Lecture-2: Conflict	17
Lecture-3: Alternative Dispute Resolution (ADR)	18
Lecture-4: Restorative Justice System (RJS)	19
Search for ADR in Abrahamic [Monotheistic] Religions.....	21
Focus: ADR as Integral Part of trial Procedure in Islamic Jurisprudence	21
Alternate Dispute Resolution, Technique, its importance, difficulties and effects on the system	23
THE ESTABLISHMENT OF CIVIL MOBILE COURT ACT, 2012.....	25
Topic: Bill to have law on Mobile Courts.....	25
Lecture-I: Conflict Understanding and Management	27
Lecture II: ADR Advocacy With focus on Professional Dimension	27
Evaluation	29
Consolidated Individual Resource Person Evaluation Responses	29
Pre-Training Assessment Responses	30
Trainee Classification	38
Post- Training Assessment Responses.....	39
Over-all Training Evaluation Responses	47
Annexure – A	52
Addresses of Justice Dost Muhammad Khan, Chairman/ Hon'ble Chief Justice	52
Annexure –B	54
DG Welcome Address	54
Annexure- C	55

CR's Remarks	55
Annexure- E.	57
List Of Participants.....	57
Annexure-F	58
Schedule of Activities.....	58
(22-27July, 2013)	58
Annexure- G.....	60
Group Photo	60
Class in Progress	61

Foreword

Hon'ble the Chief Justice directed the Academy to design a course on mobile courts with focus on ADR. A total 20 days space was given. The Dean of Faculty and his team accepted the challenge, not only designing a course, which can be said to be one the best, but also searched and hired competent resource persons. It was another milestone the Academy moved past. I have gone through the report that is self-explanatory and the feedback of the participants can give an idea that how much the course was successful. Their valuable suggestions are to be considered for any future planning. I wish best of luck to all who prepared the course, imparted the training and those participated in it.

Hayat Ali Shah,
Director General

Dean's Note

Underpinned by the idea that justice may be delivered, not only expeditiously and cheaply, but also at the door step of the citizens, the establishment of mobile court is going to break new grounds in the contemporary judicial history of Pakistan. Riding on wheels, the most important aspect of mobile court will be providing justice with a real touch of involvement of the local alternate dispute resolution (ADR) mechanisms, thereby guaranteeing ownership. The mobile court will allow more space for a meaningful participation of the parties in resolving their dispute. Thus the proposed system will steer the rather blunt adversarial judicial system in new directions. Ahead of launching the new system, the Academy conducted this one-week basic orientation training on mobile courts with focus on ADR. A very significant role has been carved out for the bar to play in the new system. It was for this reason that the course included a good number of bar members, with due regard to representation of women. Lawyers will perform the role of 'friends of the court'. Judicial Officer included 02 Additional District & Sessions Judge, 02 Judicial Magistrates, 03 Civil Judges and 01 Judge (female) Family Court. The number of participants was 24. As the mobile court will be pilot tested in Peshawar, therefore, the participants were drawn from Peshawar.

Serious efforts were made to make the training course of great practical importance. Each day, considerable time was devoted to practical exercises—role plays and case studies—to enable the participants to learn the skills of various modes of ADR, ranging from conflict management to arbitration, mediation, conciliation and restorative justice. The course also encompassed ADR advocacy with focus on professional dimension of judges and lawyers. Of

great significance was searching ADR in Abrahamic religions through the lens of Islamic jurisprudence. Qazi Attaullah, Director Instructions, who is writing a doctoral dissertation on ADR in Islam, delivered the lecture and won great applause. Two internationally recognized ADR experts—Barrister Asfandyar Ali Khan and Mr. Ali Gohar—delivered lectures and conducted mock proceedings. Asfandyar is a master trainer and an accredited mediator of the Center for Effective Dispute Resolution, London, and has also worked closely and actively on ADR with the World Bank/International Finance Corporation (IFC) advisory services. Ali is an ADR professional, having vast ADR practice. He holds a master's in Conflict Transformation, as a full bright scholar, from Eastern Mennonite University Harrisonburg, Virginia, USA. Ali was awarded a grant by the US Institute for Peace (USIP) to explore the

principles of Jirga (a community based conflict transformation institution in the Pakhtun belt of Pakistan).

In order to fully strengthen the practical aspect of the course, a full day was devoted to mock proceedings in which the participant resolved different disputes through role plays, applying diverse ADR skills. The report of the mock proceedings will be annexed to this report. Our evaluation of the training as a whole (level 2) shows that it was a successful event. The practical aspect of the training was greatly appreciated by the participants. The attitude of the trainers got the same highest ranking, followed by relevancy, effectiveness of delivery and level of learning. I may mention that our evaluation system has also recorded visible improvement. As compared to previous trainings, inconsistency between pre-training and pos-training evaluation was seen to have been minimized. The reason was that the IT and faculty staff provided more support to participants by helping them understand the evaluation forms. Another success was that all participants expressed that they were keen learners, a position that remained intact. The comments and suggestion of the participants are very worth reading. One participant observed:

During the 13 years of my career, I was able to understand that besides my duty as a Judge, ADR should be resorted to in every case and that this is the suitable way of resolving a controversy.

Another said,

Now I have knowledge of the history of ADR and its links in the history in the religion of Islam.

I hope the report gives you an interesting reading.

Dr Khurshid Iqbal,
Dean Faculty

Preface

Qazi Ataullah

To promote the noble cause of providing justice at the doorsteps, Peshawar High Court has lead the way by opening a new enterprise; the establishing of Mobile Courts. Marching a step ahead towards substantial justice in all courts in general and in Mobile Courts in particular, Honorable the Chief Justice/Chairman of the Academy expressed his desire of imparting training to judges and lawyers on Alternative Dispute Resolution (ADR) techniques. The Faculty, in a very short span, and with the valuable assistance of ADR experts, succeeded to prepare a comprehensive course description. The course description may be observed in part I of this report.

The Academy conducted its first ever training on the subject under the title of, “Mobile Courts: Focus on ADR”. Judges and lawyers of District Peshawar were targeted as first batch. A total number of 24 members including female judges and lawyers participated. The Faculty conducted the training on experimental basis, nevertheless, with the grace of Allah (SWT), the experience proved quite successful. The report in your hands reveals the proceedings of the training in detail.

The significance of the amicable settlement is evident. Regular litigation suffers from a great deal of troubles such as cumbersome hearings, dreadful expenses, uncertain finality, lifetime busyness and apprehensions of executions. The maximum outcome of regular adjudication, if

fortunately happens to be final, is the creation of *res judicata*; a bar to further litigation. Thus the enmity is strengthened and the situation turns more intensified. On the other hand, ADR techniques are quicker, cheaper, simple and answering. They uproot the enmity and convert the environment of antipathy to a state of cooperation and sympathy. It is for this reason that ADR is getting global acceptance day by day. Training on ADR has thus become the need of the hour.

Modern techniques of quantitative and empirical research were utilized during the training. Graphical scales, which form part III of this report, will help the readers understand and evaluate the effectiveness of the course, efficiency of the resource persons and receptive

capabilities of the trainees. These scalar quantities have also enriched our statistical data which will be used for improving the quality of training and other research purposes. Besides, to make the training more effective, practical aspect of the subject was prioritized. Mock proceedings on each mode of ADR were conducted. The participation of the trainees was up to the mark. Practical orientation of participants with the Mobile Court Bus is another amusing peculiarity of this training.

To give a nice end to this preface, I am quoting the sayings of the Holy Prophet Muhammad (SAW), which would clarify rather glorify the significance of travelling of a court to the spot for resolution [not adjudication] of disputes.

Sahl bin sa'ad narrated: There was a dispute amongst the people of the tribe of Bani Amr bin Auf. The Prophet went to them in order to make peace (*sulh*) between them.¹

Sahl bin sa'ad narrated: Once the people of Quba fought with each other till they begin throwing stones at the opponents. When the Prophet (SAW) was informed about it, he said: Let us go to bring about reconciliation between them.²

¹ Sahih Al-bukhari, vol. 3, pp. 533, 534, Eng. Tr. By Muhammad Muhsin Khan, Dar ul Arabiyyah Beirut, n.d.

Course Description

<i>Reference</i>			
<i>T-1/2013/Mobile Court-ADR/06 days</i>			
<i>Title</i>	<i>Mobile Courts focused on ADR</i>	<i>Duration</i>	<i>06 days</i>
<i>Participants</i>	<i>Judicial Officers & Lawyers</i>	<i>No. of participants</i>	<i>Total 24</i>
<i>Method</i>	<i>Participatory, practical</i>		

Aims and Objectives

Peshawar High Court is marching towards a new enterprise—the establishment of Mobile Courts to provide equitable justice at the doorsteps. Equitability requires dispute resolution, not mere adjudication. In case of conflict between a legal rule and principle of justice, the later would prevail. Fairness and justice should go together, but fairness short of justness is futility. The significance and connectivity of ADR [Alternative Dispute Resolution] with Mobile Courts is, thus, evident. The objective of the idea of Mobile Courts is divine; for the justice system would be itself in search of oppressed class.

Dispute is natural. What is wise is that it should not be left unattended. An unattended dispute leads to quarrels, battles and finally to wars. The productivity of the nation is adversely affected. Tranquility flees. Chaos, ignorance, havoc, poverty and anarchy reign society. Law

² Ibid

becomes handmaid of the mighty and resultantly, prosperity turns a term that could only be found in lexicon; the dictionary of a dead language. So dispute, howsoever pity it maybe, requires in time, proper and selfless attention.

Decision of a case and resolving of a dispute are two distinct phenomena. The former means a compulsory ruling and the later refers to uprooting of the differences. To decide a case is the ordinary job of a judge but being a special person, S/he should deliver extra-ordinarily. What is extraordinary? It is the resolution of a dispute, not a decision thereof. The same should be the objective of the other members of legal fraternity. Judges and lawyers ought to be reformers more and deciders less. Worthy to mention is the fact that removal of the stimulant cause of a dispute has never been the basic objective of formal hearings and regular

adjudications. The maximum outcome of a formal decision, if happens to be final, is putting an end to further litigation. Owing to this fact, one of the parties shall have to lose. Sometime each of the litigants loses though one of them wins on a piece of paper.

Alternative Dispute Resolution (ADR) was previously and historically known as “Conflict Resolution”; an amicable settlement of disputes. The phrase was not in use up to 1970s. Nonetheless, the history of conflict resolution is as old as the history of mankind. It is for this reason that some are of the view that ADR is not the alternative to regular courts, rather courts are modified shapes of ADR. An anthropological study of human civilizations suggests concurrence on the point that each and every cause needs not to be heard via formal proceedings. Strict adherence to the procedures may, in a considerable number of cases, prove fatal. One should believe that “a dispute is a problem to be solved, together, rather than a combat to be won”. Fixation of liability and establishing of guilt is not always necessary. Approximately, 70 percent cases fall within the category that needs not regular process. Peaceful solution of an issue is like medication whereas regular trails are surgical operations to which recourse ought to be made only in the event of failure of all other options. It would be unwise to administer poison where honey would serve. An unwise act cannot be expected from a wise person—the judge.

Not justice only, rather, in time and free dispensation of justice is the key to progress of a nation. Delayed and purchased justice lead to downfall. Owing to its, adversarial nature, despite all sincere efforts for expeditious disposal, cannot be rescued from inordinate delays, countless uncertainties and sky-rocketing expenses. Within judicial hierarchy, the higher one may go, the more trouble he would face. The seeker of justice dies and the finality has yet to come. In situation like this, the masses are rightly shouting that the justice system is outdated,

complicated, unable to answer, unwelcoming, snail paced and above all deadly expensive. On the other hand, ADR is quicker, cheaper, simpler and above all self-selected. Usually each of the disputants wins and none of them apprehends a whole lose. Both are victorious and none is vanquished. Decision gets finality at the earliest. Time and wealth are saved and the burden of the courts is shared. Besides, a state of antipathy is successfully diverted to sympathy, cooperation and mutual understanding.

In order to introduce ADR, as complementary [not as substitute] to our formal justice system, the Academy has, on the ambitious directions of Honorable Chairman, designed the following training course for judges and lawyers. Training on the subject becomes more

significant when it is connected to the Mobile Court System, for which almost all necessary arrangements have been made by august High Court Peshawar. These courts will operate

soon. The Faculty intends to impart training to judges and other members of the justice sector, particularly the lawyers on what the mobile court system is all about, how would it work and what significant role ADR will play in their functioning and success. Driven by the motto— Justice at the Doorstep—the proposed training seeks to enhance the capabilities of ADR skills, implant the spirit of alleviating the miseries of the poor litigants. We expect an active rather enthusiastic participation of the Judicial Officers and lawyers.

Key learning outcomes

The participants should be able to—

- Understand the basic concept, significance and skills of ADR techniques.

Evaluation

- Feedback for each resource person (level 1).
- Feedback about the course on the last day (level 2).
- On job application of skills in due course of time (level 3).

MODULES

ADR, History and Concept

Conflict Understanding and Management.

ADR Advocacy with focus on Professional Dimension.

Resource Person: Barrister Asfandyar Ali Khan

ADR, Modes and Classification

<i>Known Modes</i>	<i>Less Known Modes</i>
<i>Arbitration.</i>	<i>Collaborative divorce or Collaborative Law, also known as</i>
<i>Mediation.</i>	<i>Family Dispute Resolution (FDR).</i>
<i>Conciliation.</i>	<i>Early Neutral Evaluation.</i>
<i>Negotiation</i>	<i>Moderate Settlement conference.</i>
<i>Restorative</i>	<i>Summary Jury Trial.</i>
<i>justice</i>	<i>Mini-Trial.</i>
	<i>Family Group Conference.</i>
	<i>Natural Fact Finding.</i>
	<i>Ombudsman.</i>

Resource Person: Ali Gohar, ADR Expert.

Religious Aspect

Search for ADR in Abrahamic Religions: Focus on Islamic Jurisprudence.

Resource Person: Qazi Ataulah Director (Instructions) KP Judicial Academy *Peshawar*.

ADR, Philosophy and Significance

Why Mobile Court and ADR?

Resource Person: Mr. Hayat Ali Shah DG KP Judicial Academy *Peshawar*.

Mock Proceedings

Selected Cases.[Collective activity], on daily basis. Real cases from courts will be used as case studies for role plays.

Synopses of Lectures

Lecture-1: Human Behaviors

By Mr. Gohar Ali³

1.1 Introduction:

In this lecture the focus will be on self reflection to realize the participants regarding the importance of internal peace that ultimately leads to external peace. The lecture will cover human needs; human soul and human rights followed explaining the violation human rights that leads to internal guilt and ultimately external conflict.

1.2 Objectives of the session

- Enhance the participants' potential to know about the human needs related to peace & security.
- To enhance the participants understanding regarding the human soul that leads to conflict, to abide by the laws of nature to overcome negative situations and build up on the positives.
- To clarify the factors affecting human behavior.

1.3 Process/Methodology:

STEPS/Topics

- ✓ Human Needs (Peace & security).
- ✓ Human Soul.
- ✓ Human Rights.

Proceedings

- Conduct brainstorming on human needs and then correlate responses with the human needs specifically to peace & security.
- Conduct brainstorming on human soul followed by facilitator's briefing on human soul referring to the injunctions of tradition and religion.

1.4 Key learning outcomes:

- Enhanced understanding of the participants regarding human needs related to peace and security.
- Enhanced self-awareness among the participants to focus on their internal peace instinct that will ultimately lead to external peace.

³ADR Expert, Master's in Conflict Transformation as a full bright Scholar from Eastern Mennonite University Harrisonburg, Virginia, USA, 2002.

Lecture-2: Conflict

2.1 Introduction:

In this interactive lecture the focus will be on conflict, its reasons of escalation, containment, resolution, reconciliation and rehabilitation of the parties along with follow up.

2.2 Objectives of the session

- To improve the participants' know how regarding conflict and its dynamics and different aspects.

2.3 Process/methodology:

STEPS/Topics

- What is conflict?
- Stakeholders in the conflict
- Power & Resources
- Mismatching of words
- Conflict triangle.

Proceedings

- Ask the participants regarding their view point about conflict, write down their responses on the flip chart and then the facilitator relates their responses with the presentation slides.
- Get the participants' views and asked them who or which parties are involved in the conflict. Then share your own perspective by relating it to the participants' responses.
- Ask the participants why conflicts arise? Write down their responses on the flip chart and then relate their responses with your presentation slides.
- Divide the participants in to two groups and assign them the task to design role plays on the theme i.e. "A stranger sits in front of your house: 1-how to deal with him in a positive manner. 2-How to deal with him negatively". G-1 will work on Positive aspect while G-2 on Negative aspect. The two volunteers will make their presentation (one from each group). The facilitator will then follow with his/her briefing.
- Facilitator will brief the participants on conflict triangle.

- Facilitator conducts brainstorming session on types of conflicts followed by his briefing through presentation slides.

2.3 Key learning outcomes:

- Participants' understanding enhanced regarding different aspects and dimensions of conflicts and its occurrence.
- Relate conflict to the participants own environment, what type of conflict they face, reason, resolution and methods of resolution.

Lecture-3: Alternative Dispute Resolution (ADR)

3.1 Introduction:

In this lecture the focus will be on existing ADR mechanism and its comparison with the modern ADR approaches in our own setting. The session shall also highlight the gaps between formal and informal justice system and find ways and means to fulfill these gaps for effective and efficient dispute resolution at the community level.

3.2 Objectives of the session

- ▶ To judge the knowledge of participants regarding the existing alternative dispute resolution systems.
- ▶ To introduce the participants modern system of alternative dispute resolution system i.e mediation, facilitation and arbitration etc.

3.3 Process/methodology:

STEPS/Topics

- Introduction to Alternative Dispute Resolution
- Dispute resolution vs. ADR
- Mediation concept and process
- Arbitration
- Conciliation
- Reconciliation
- ADR in existing legislation

Proceedings

- Conduct brainstorming on ADR and the facilitator then correlates responses to the presentation on existing legal system and other alternative dispute resolution mechanism.
- Ask the participants the difference between dispute resolution and alternative dispute resolution and write down their responses on the flip chart and then facilitator relates their responses with his presentation slides.
- Ask the participants regarding the concept of mediation and its due process and then facilitator relates their responses with his presentation slides.
- Case studies on ADR will be shared to find its solution.
- Evaluate the knowhow of the participants regarding ADR and then present your own presentation
- Judge the awareness of participants regarding ADR in Pakistan and then show them your presentation.

3.4 Key learning outcomes:

- Participants understanding enhanced regarding the modern system of alternate dispute resolution system i.e. mediation, facilitation and arbitration etc.

Lecture-4: Restorative Justice System (RJS)

4.1 Introduction:

In this lecture the focus will be on the concepts of RJS to update the indigenous dispute resolution by inclusion of modern restorative justice system components to overcome the prevailing gaps in the tradition dispute resolution mechanism and make it supportive to the legal systems.

4.2 Objectives of the session

- ▶ To make the participants aware of the concept of the restorative justice system, compare it with other dispute resolution system and provide its advantages.
- ▶ To introduce to the participants existing restorative justice systems in different areas and to encourage them for implementation of the system.
- ▶ Challenges to ADR/RJ in Pakistan and input from the participants.

4.3 Process/methodology:

STEPS/Topics

- Definition of restorative justice

- History
- Global system & practices
- Comparison of criminal & restorative justice system.

Proceedings

- The facilitator after introduction will link the restorative justice system with the indigenous systems of dispute resolution.
- The facilitator will give some historical background of restorative justice system.
- The facilitator will then show the global system and practices in the world.
- The facilitator will highlight the comparison between criminal justice system and restorative justice system through presentation and briefing.
- The facilitator will show to the participants the restorative elements in our Jirga through briefing.
- Then the facilitator will give some tips on improvements in our indigenous methods through inclusion of restorative elements in it.

The facilitator will also take feedback and inputs from the participants on RJ

4.4 Key learning outcomes:

- ▶ Participants' knowhow improved regarding the concept of the restorative justice system its comparison with other dispute resolution system and its advantages.
- ▶ Participants' come up with the Challenges to ADR/RJ in Pakistan and input from the participants.

Search for ADR in Abrahamic [Monotheistic] Religions

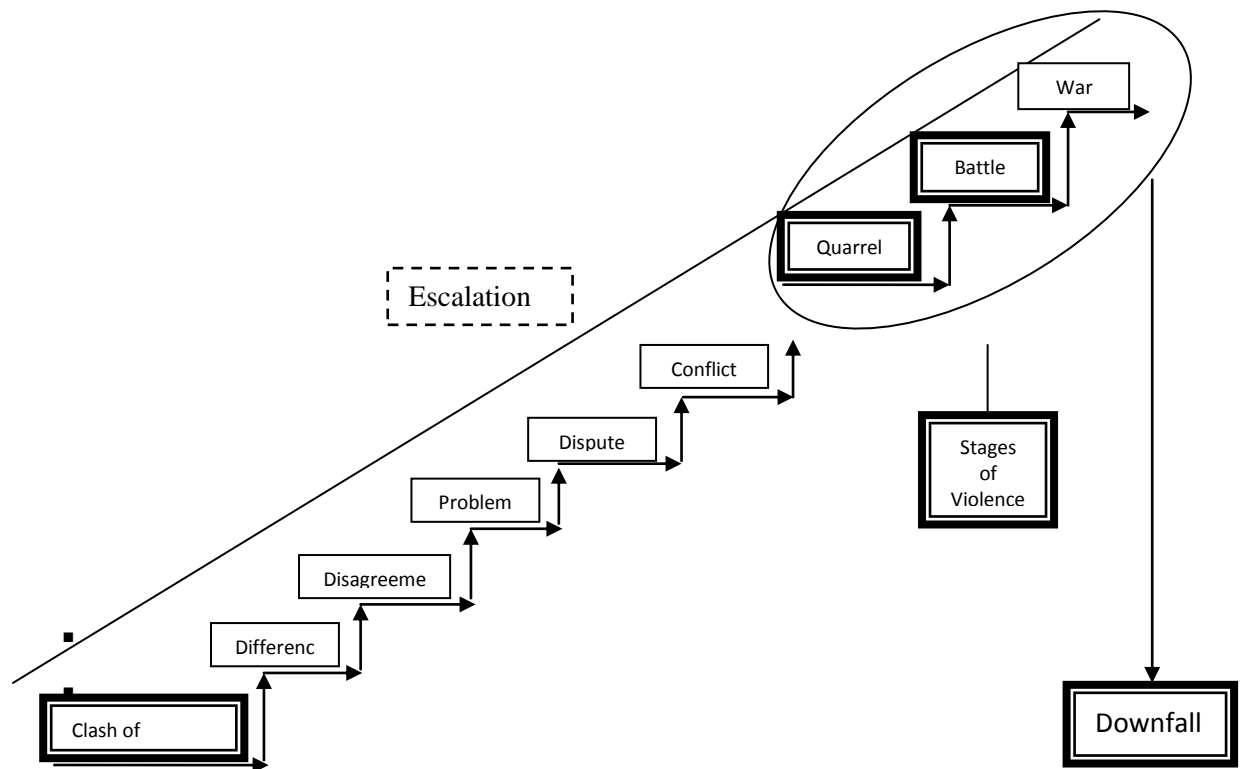
Focus: ADR as Integral Part of trial Procedure in Islamic Jurisprudence

By Qazi Ataullah⁴

Topic Analysis

- Religion as a set of beliefs primarily refers to mental actions. Physical practices are the outer expressions of such hidden faiths. Divinity is claimed by all religions. The theory of Oneness of the Creator and the concept of Revelation is the standard of demarcation between them.
- Religion and Shariah; inter se relation and distinction of.
- ADR as a phrase and abbreviation; its evolution and invention after 1970s. Other related collocations are EDR, CDR and DRT.
- Dispute; meaning of, various stages and related terms such as conflict, clash, quarrel, battle, war, *niza*, *khilaf* and *khusumah*. The use of dispute is itself disputed. Dispute is natural. Its total elimination is impossible. What is required is its earliest resolution.

⁴ Director Instructions, KP Judicial Academy; Civil Judge; LLB (Distinction); LLM (Gold Medallist); PhD Scholar, International Islamic University, Islamabad.



- Resolution and Adjudication; Distinction of.

Details of the topic

- ADR [*negotiations*] in acts of Ibrahim (AS).
- Examples of ADR in Moses (AS) teachings.
- The Arbitrations of David (AS) and Salmon (AS).
- Amicability in Christianity.

Classification of ADR in Shariah

- Islam; the concept of *Sulh* and *Tahkim*.
- *Sulh* and *Tahkim* carried out by Prophet Muhammad (SAW) himself.
- *Sulh* and *Tahkim* as integral stages of trial procedure.
- The offices of *Muhtasib* (ombuds) and *Mufti* (expert determination).
- The institution of *Wilayat ul Mazalim* [a forum for complaints against officials].
- The concept of *Islah* [efforts for restoration of peace] in *Shariah* corresponds to ADR. Distinction between *sulh* and *islah* must be drawn. The former is contract whereas the later is modus operandi.

Extensions

- The status of Mobile Court in Shariah.
- Whether mosque may be utilized as court room?
- Whether a Qazi can play the role of mediator?

Alternate Dispute Resolution, Technique, its importance, difficulties and effects on the system

By Hayat Ali Shah⁵

- **What is ADR?**

Alternate Dispute Resolution refers to any of the various methods settling disputes without going to court.

- **Why ADR?**

Many disputes do not have to end in court. Most issues with your landlord, your neighbor, your employer, you can resolve without going to court. Instead of going to court, you can use alternate dispute resolution centre for amicable settlement of all your disputes.

- **Who can use ADR?**

Anybody can use ADR whether individual citizen, corporate body, community or organization who feels offended.

- **When can you use ADR?**

When you want to formally address any injustice done to you; but do not want to go to the court.

- **Why should you adopt ADR?**

Individuals ---if you adopt ADR:-

1. You save cost
2. You save time
3. You are likely to be happier with the outcome, because you will be part of the process.
4. You can influence the proceedings to your favor.
5. It maintains relationship (amicable), thus promotes forgiveness.
6. You can decide those who will be part of the process.
7. You may not need a lawyer.
8. ADR does not require a formal setting.
9. It is voluntary and private.

- **Types of ADR**

The most common types of ADR are:-

1. Arbitration

⁵ Director General, KP Judicial Academy; District & Sessions Judge; LLB (Peshawar)

2. Mediation
3. Negotiation

The type of ADR you should use depends on the nature of dispute you want to resolve

- **Where can you access ADR?**

Your disputes can be resolved by:

1. Family heads
2. Traditional rulers
3. Village council
4. Opinion leaders
5. Religious leaders
6. Multidoor court houses
7. Mediator's offices
8. Lawyers chambers
9. NGOs
10. Justices of peace

THE ESTABLISHMENT OF CIVIL MOBILE COURT ACT, 2012

Topic: Bill to have law on Mobile Courts

By Jehanzeb Shinwari⁶

- Concept and purpose of establishment of Mobile Courts was discussed.
- Concept and purpose of the law was discussed.
- All sections of the proposed law were presented and discussed.
- Schedule appended to the proposed law was highlighted
- Participants put questions, which were satisfied.

The participants advanced the following suggestions.

1. The law on Mobile Courts may be amended for disposal of matters on the basis of ADR, alone and contested cases may be sent to normal courts. Logic behind this suggestion as given by the participants was that in case of a contested case, the parties would choose lawyers of their choices, which would prolong the litigation in the Mobile Courts.

2. Since, the law has conferred jurisdiction on the Mobile Courts to assume jurisdiction by themselves, and initiate proceedings, therefore, cases against the Governments may also be brought under the domain of the Mobile Courts.

3. The Mobile Courts would travel, mostly to rural areas rather far flung rural areas, where there would be no facility of normal courts, and keeping in view the security hazards, seasoned and experienced **Male Judicial Officers**, as presiding officers, and **local Mediators, Arbitrators and Advocates** may be deputed as friends of the court. In this perspective, the provision of sitting area for the friends of the court and availability of other facilities, in the Mobile Court were discussed.

⁶ Director Administration, KP Judicial Academy, Additional District & Sessions Judge.

4. Provision of sending the cases to normal courts having jurisdiction, with the consent of parties may be introduced.
5. Adequate remuneration/honoraria for the friends of the court may be kept, at the time of formulation of rules.

Lecture-I: Conflict Understanding and Management

By Barrister Isfandyar Ali Khan⁷

The learning objective of the session was to help the audience understand the basic concepts of conflict and conflict management, understand approaches to conflict situations and apply approaches to more effectively assess and manage conflicts.

Participants were informed that Conflict is a normal, inescapable part of life and a periodic occurrence in any relationship. Conflict is also an opportunity to understand opposing preferences and values as conflict takes place due to disagreement about ideas and approaches and it has also been said that conflict is characteristic of high performing groups. Some perspectives on conflict were also highlighted such as the premise that conflict can be desirable. Types of conflicts, i.e. conflict of ideas and personality conflict were explained. Need for conflict avoidance was stressed upon and its adverse impact discussed. A detailed set of approaches to avoiding conflict was shared with the audience. Levels of conflict such as discomfort, incident, misunderstanding, tension and crisis were discussed. Fisher, Ury and Patton's "Principled negotiation" for conflict management was also brought for discussion and which was followed by conflict management tools.

The session served as introduction to understanding of ADR and provided insight into theoretical field of conflict and conflict management.

Lecture II: ADR Advocacy With focus on Professional Dimension

The learning objective of the session was to introduce and sensitize audience to benefits of ADR and importance of lawyers in promoting and joining ADR processes for the benefit of their clients and

⁷ Barrister-At-Law (Of Lincoln's Inn, London); Vice President (KPK); Pakistan Mediators Association MCI Arb; (London, U.K); Accredited Mediator (& Master Trainer CEDR, U.K) Post-Graduate Diploma in Professional Legal Skills (City, U.K) M.A (International Relations) (University of Malakand, Pakistan) LL.B (Hons.) (Hull, U.K); B.A (AIOU, Pakistan).

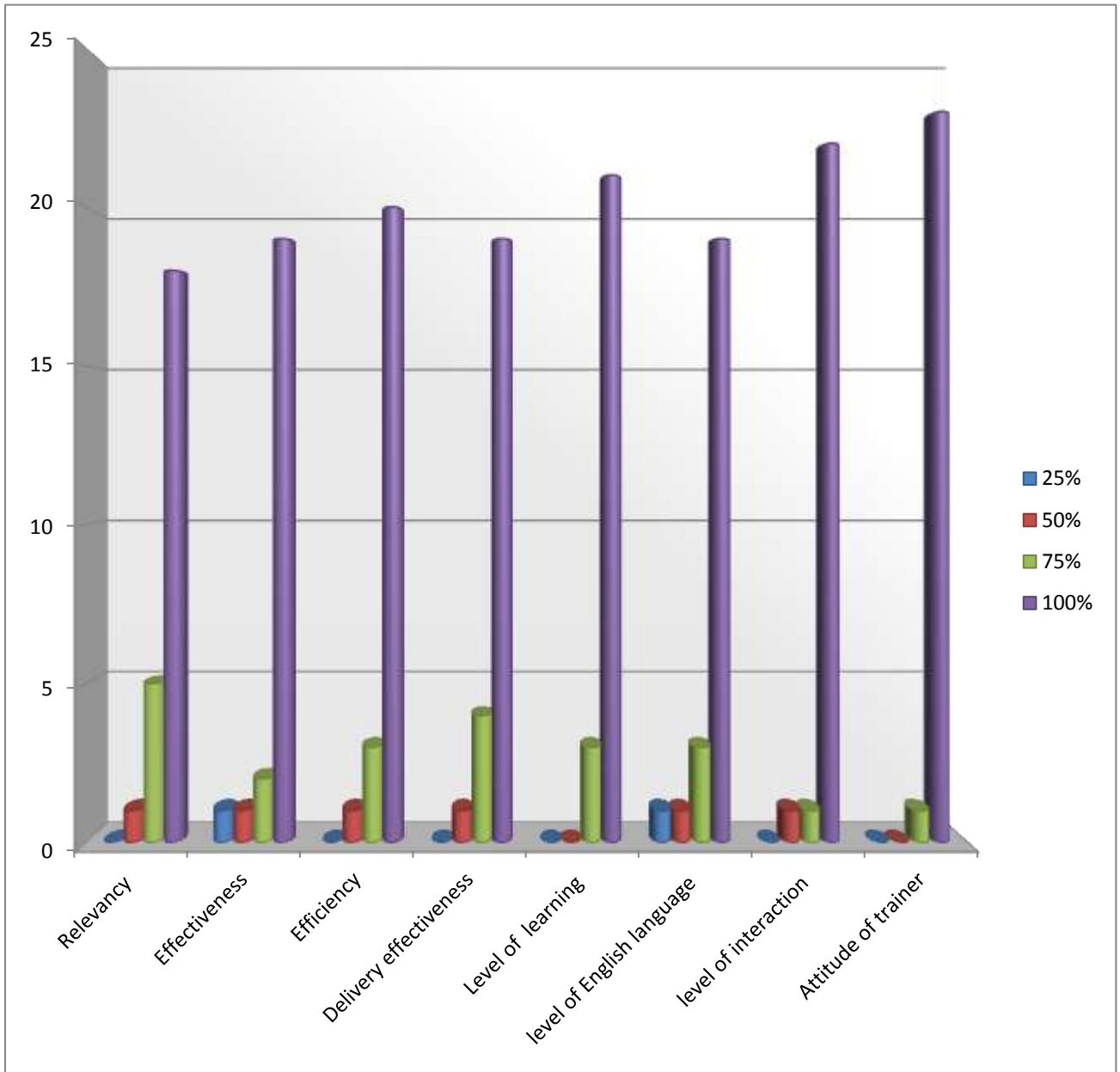
also developing an ADR practice. The resource person commenced the session by sharing quotation from Mahatama Gandhi's Autobiography in which he had penned down his experience of ADR while as a lawyer and the fact that he did not lose anything by using ADR. In Western jurisdictions, introduction of ADR was opposed by the legal profession who feared loss of professional earnings as ADR is quick and cost effective way of settling disputes. However, with the passage of time lawyers saw benefits of resorting to ADR practices for their clients' benefits as clients were keen to participate in confidential proceedings away from public eye and mediation process was without prejudice and helped parties to continue with future relationship. Mediation as professional ADR was highlighted and its benefits explained such as confidentiality of the process and cost and time saving involved. Example of Singapore was given where PDRC is serving as a dispute resolution centre and audience was guided on choosing suitable form of dispute resolution (litigation, arbitration, neutral evaluation and mediation).

During the session, resource person provided insight into opposition of Italian lawyers who in 2011 went to the streets and opposed introduction of a mediation law. Lawyers opposing the development of ADR have started to call it Alarming Drop in Revenues. The resource person guided audience to obligations of lawyers in facilitating clients to use mediation or any other ADR so that clients are able to make informed judgment in deciding suitable mode of dispute resolution. Mediation process was explained in which misunderstanding of legal fraternity in role of lawyers was removed. Generally lawyers have inaccurate understanding of legal profession and do not see their role in mediation process. It was clarified that lawyers are part and parcel of mediation process and assist their clients in arriving at an amicable settlement.

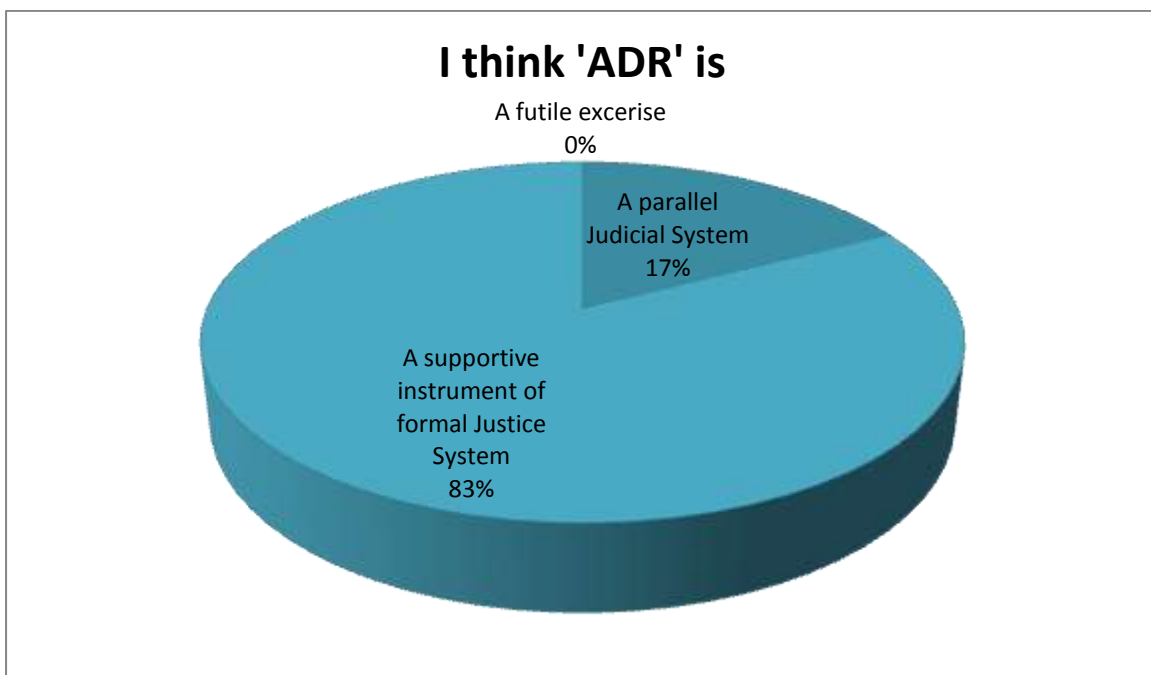
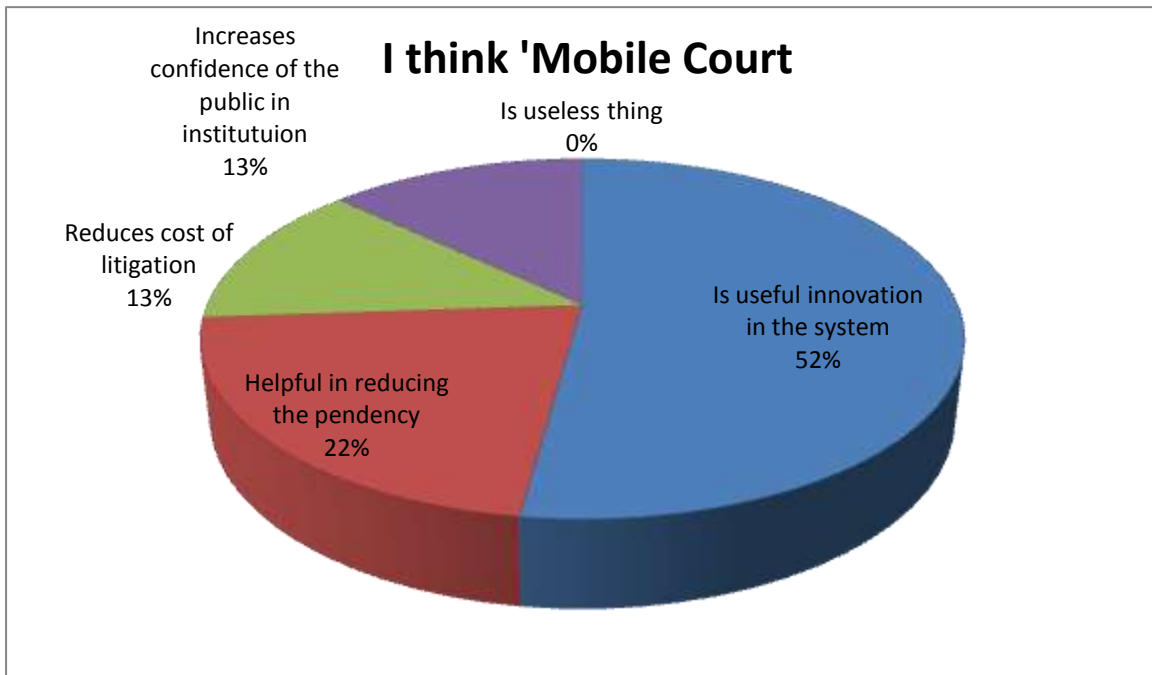
Legal framework of ADR and ADR Programs run in Pakistan were also shared with participants. Practical knowledge about Karachi Centre for Dispute Resolution and Lahore Chamber of Commerce and Industry's mediation centre was given. Towards the end, judges and lawyers were asked frank and candid questions on their perception of ADR and whether they feared ADR may compromise their professional interest. For example, lawyers were asked whether they will be losing on their professional fee if they preferred guide for their clients dispute settlement and judges were asked whether they will see counsel's opposition to a case being encouraged for ADR/mediation. In general, it seemed that lawyer's opposition to ADR will exist unless there are confidence building measures and ADR rules are introduced which elaborates on procedural aspects of ADR and the role of mediator, lawyers and parties.

Evaluation

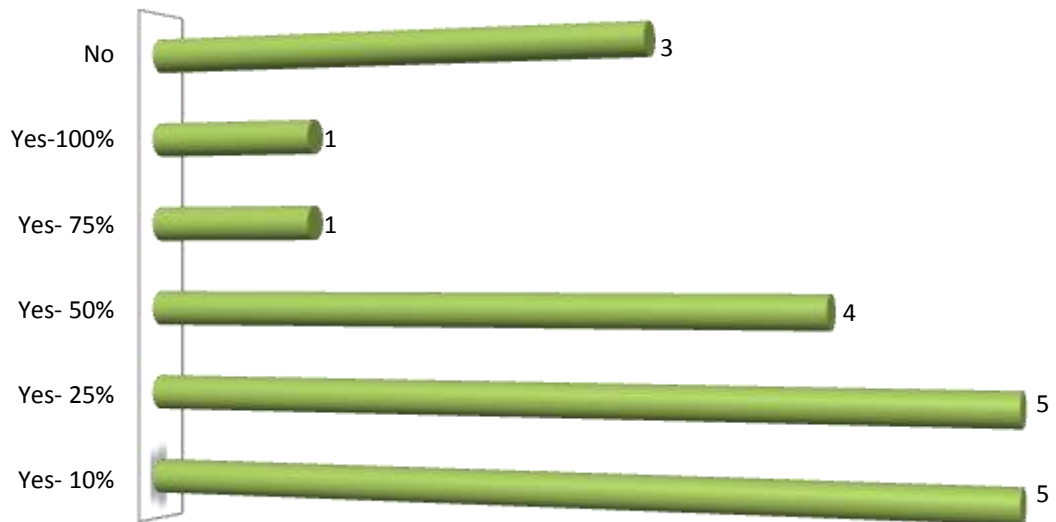
Consolidated Individual Resource Person Evaluation Responses



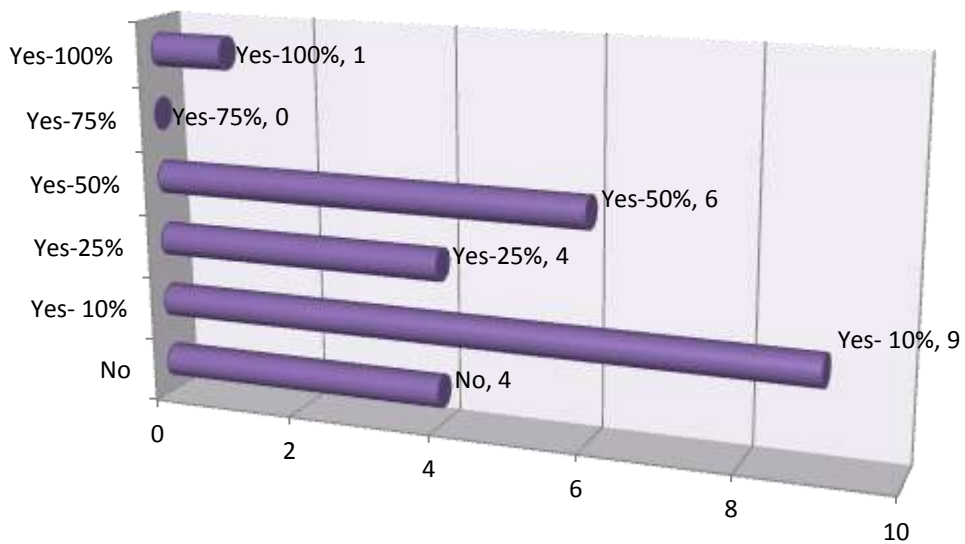
Pre-Training Assessment Responses



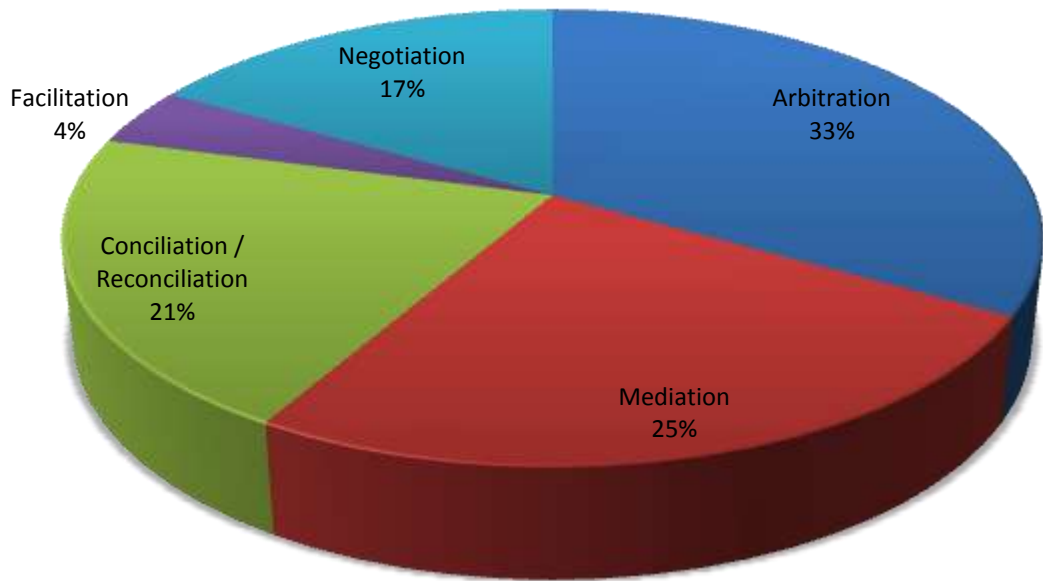
Q.3. I have basic knowledge of ADR techniques



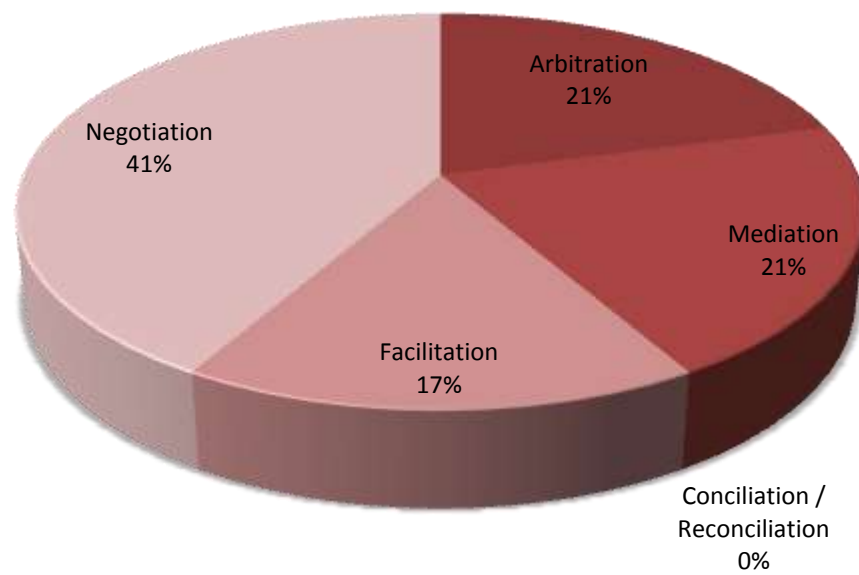
Q.4. I have knowledge of Islamic ADR



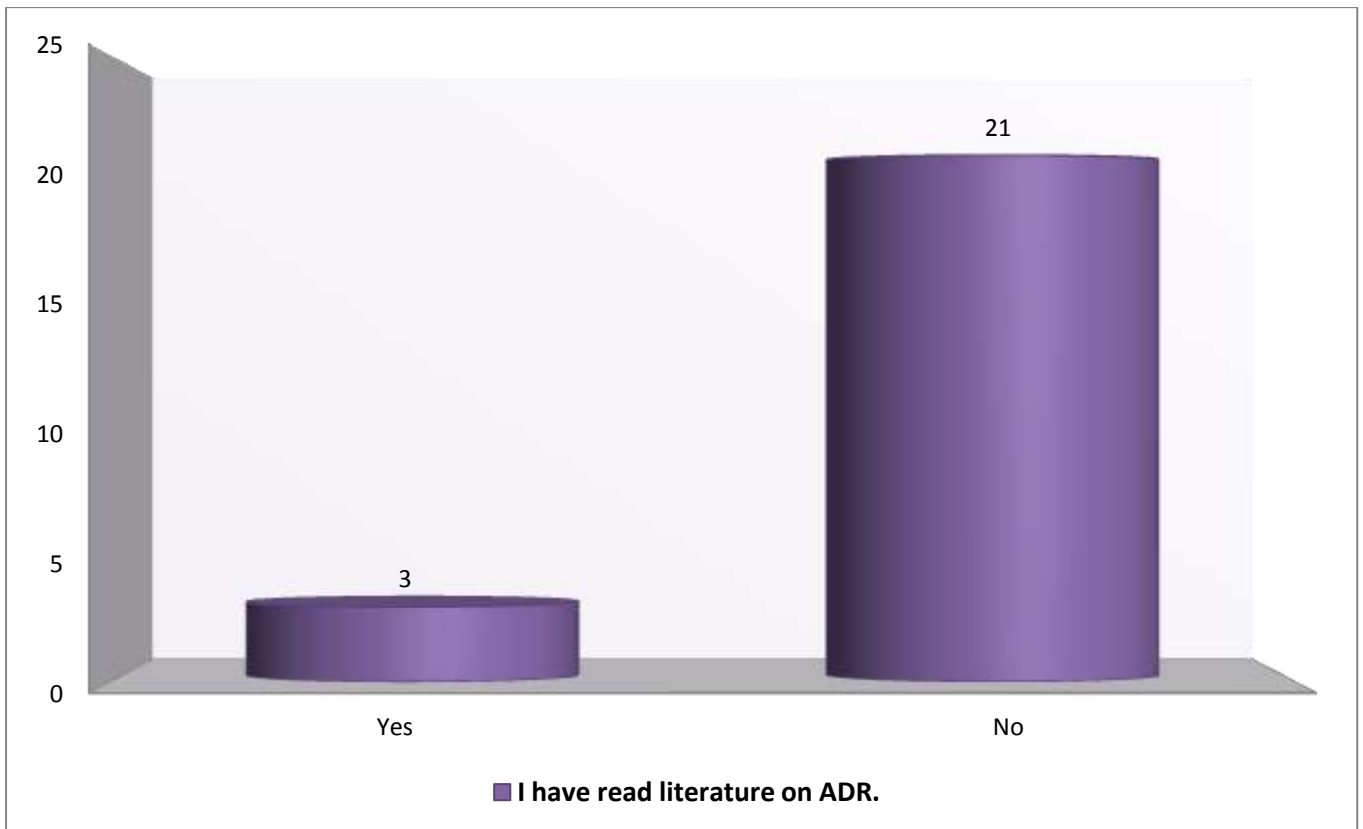
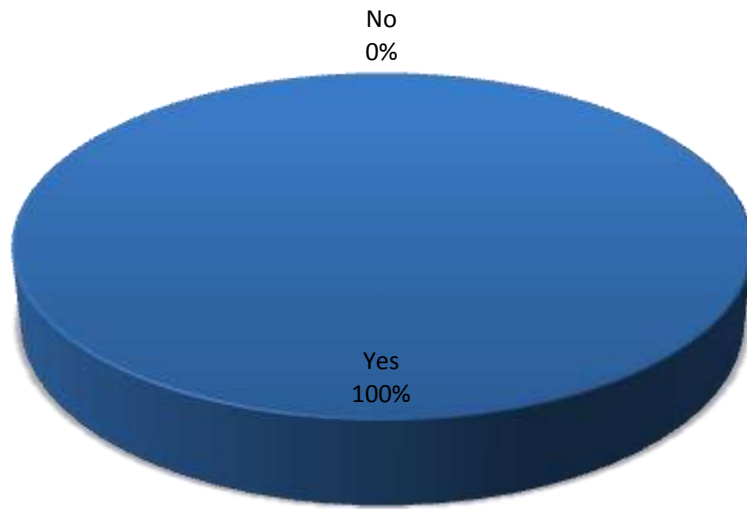
In my view, the most effective ADR technique is



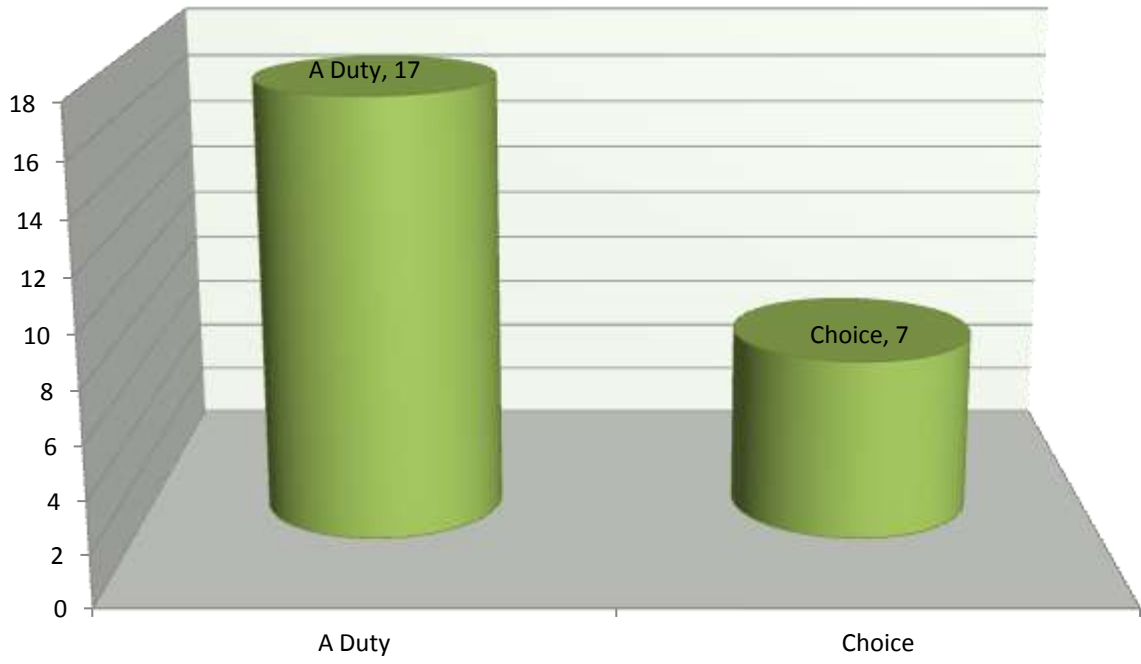
In my view, the most ineffective ADR technique is



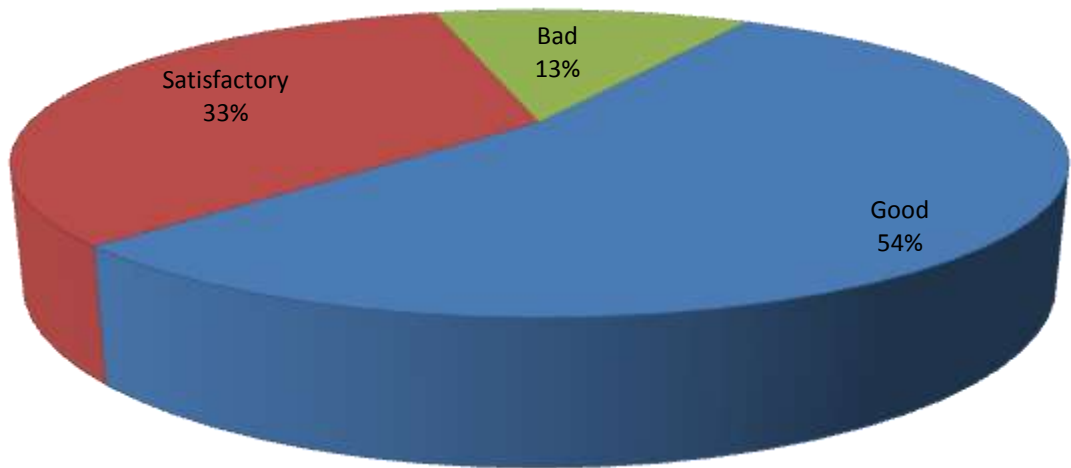
As a lawyer I wish to become an ADR expert



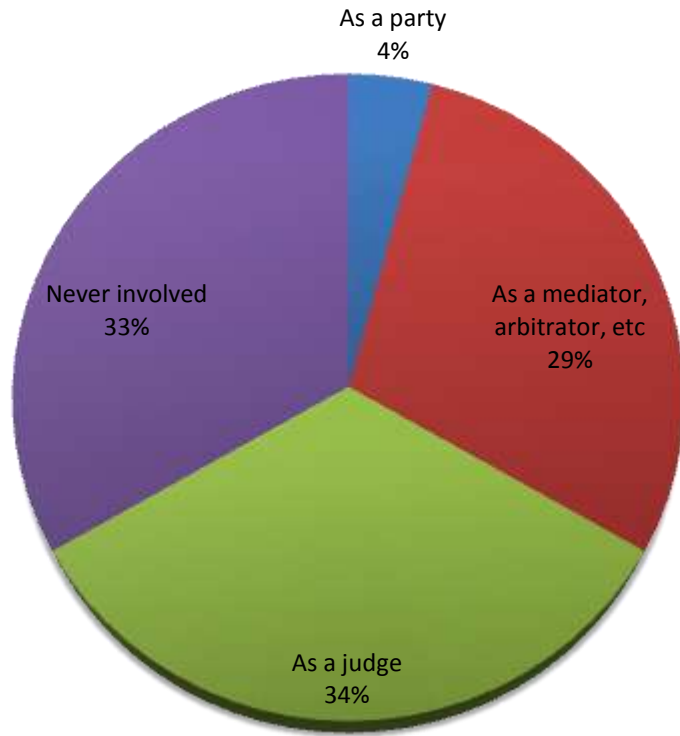
I consider 'ADR' as



My experience in 'ADR' was



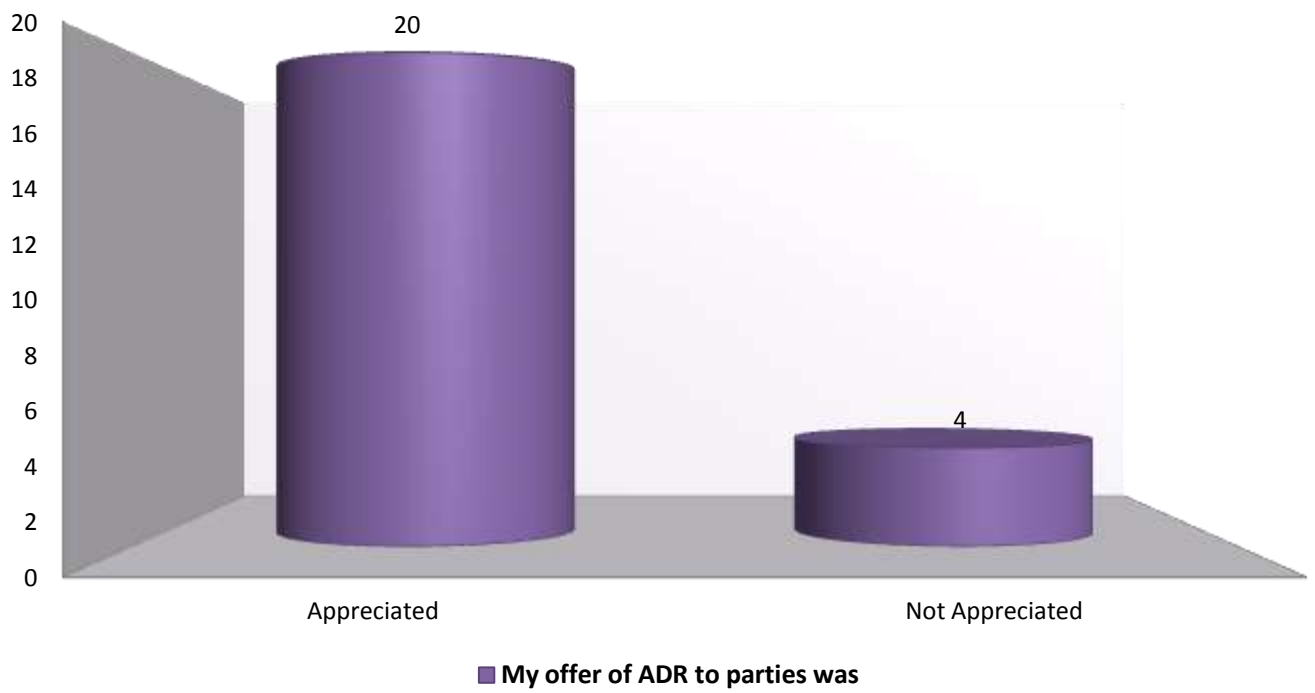
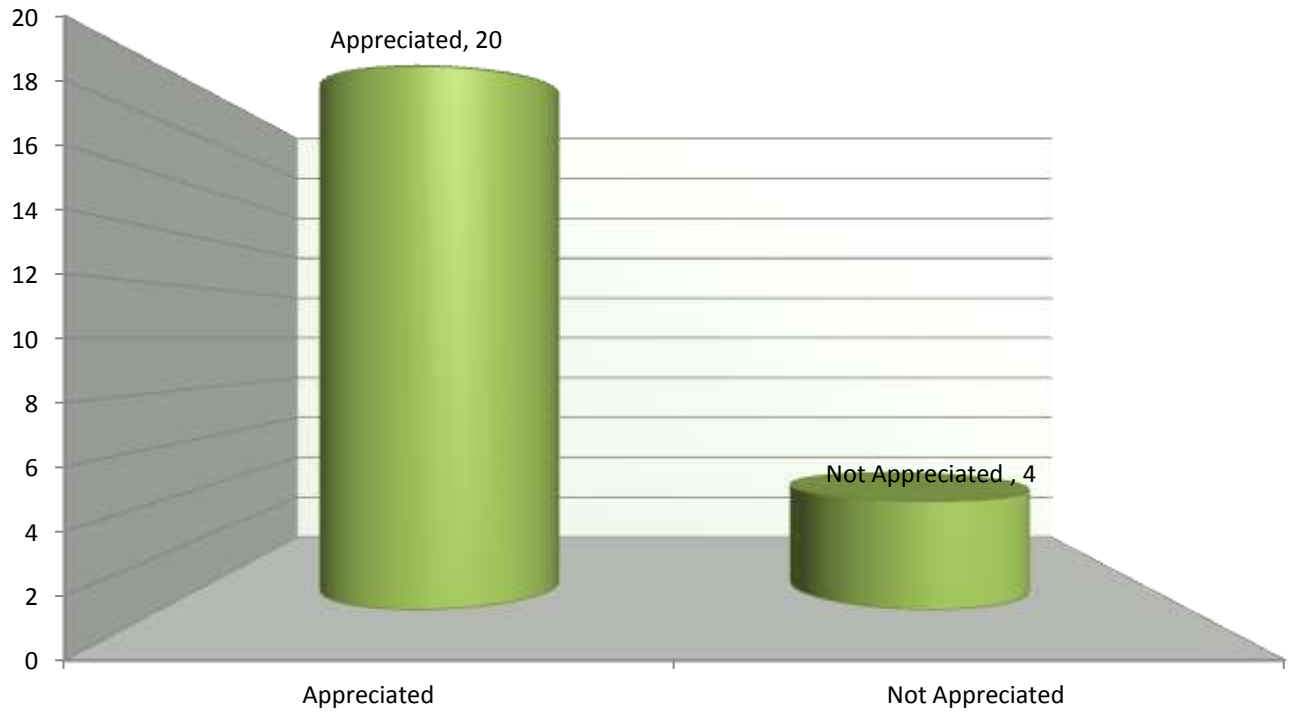
I remained involved in 'ADR' process

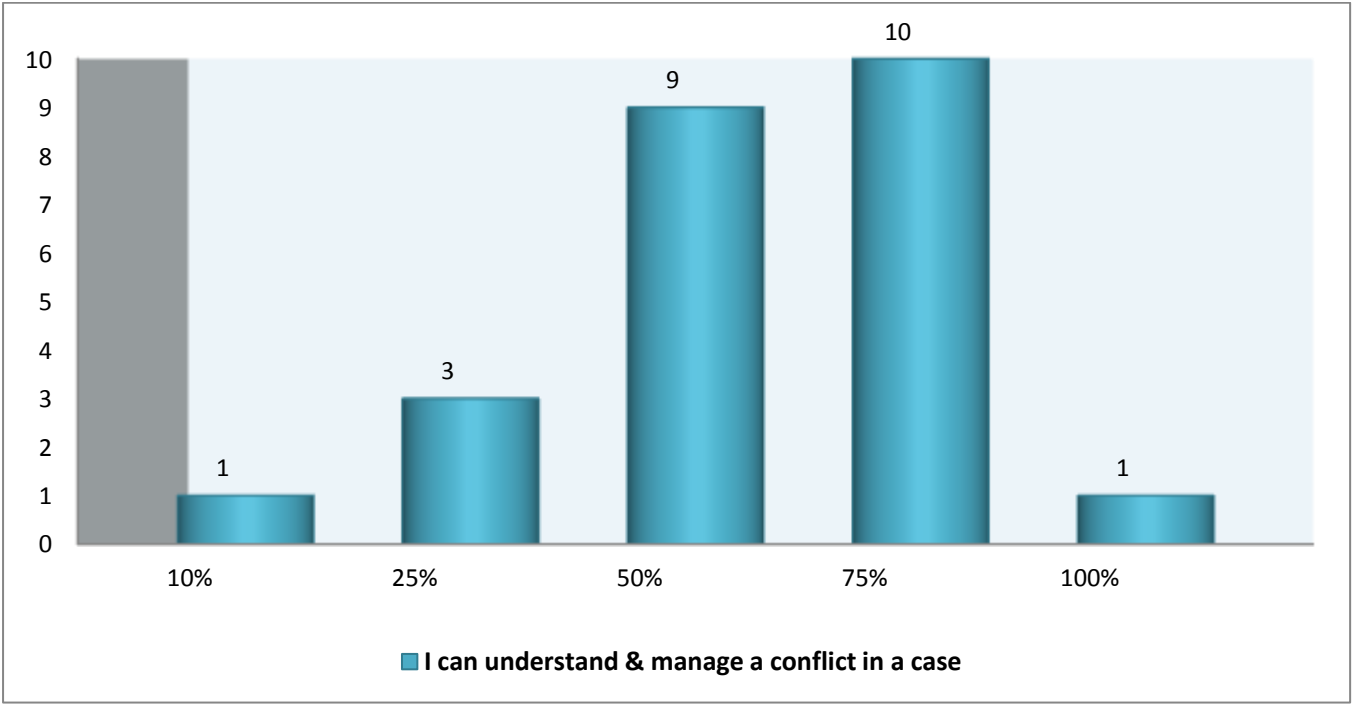
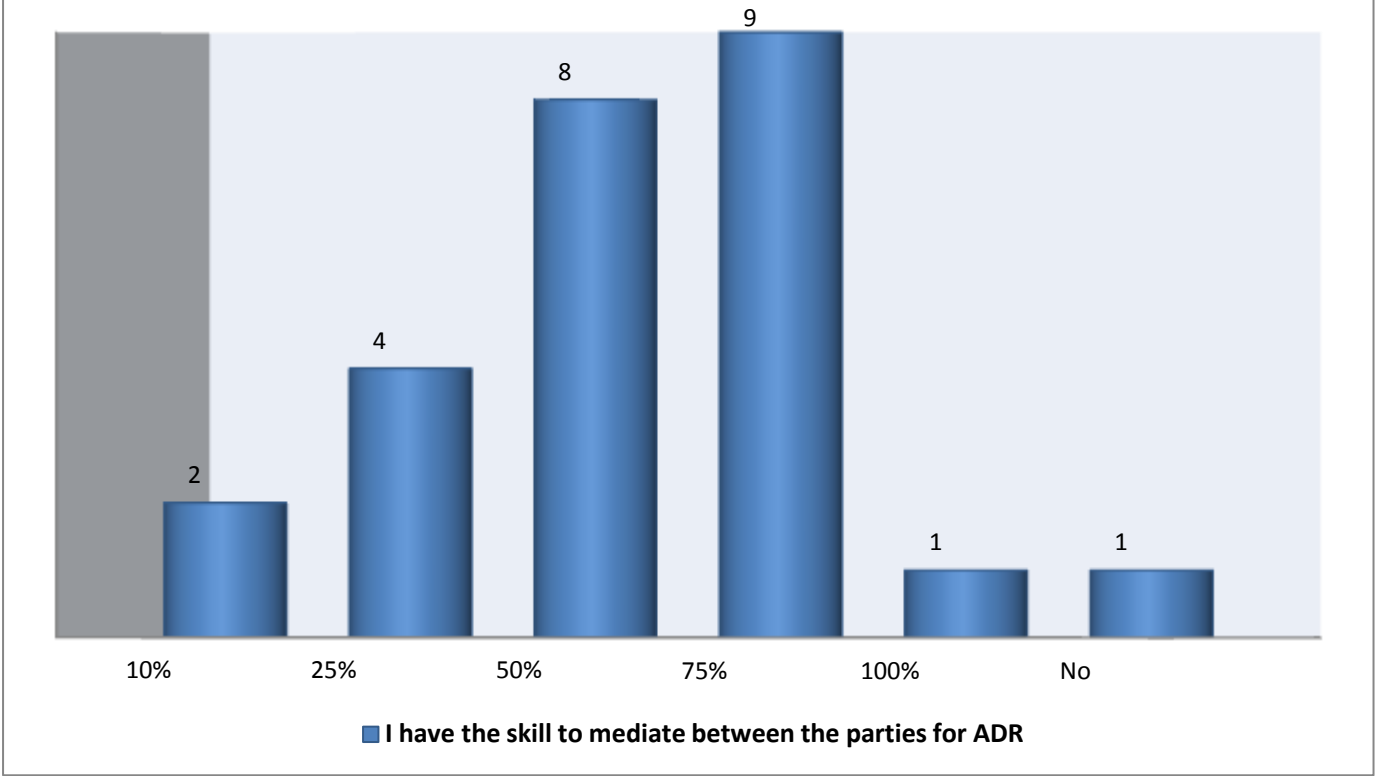


I found ADR

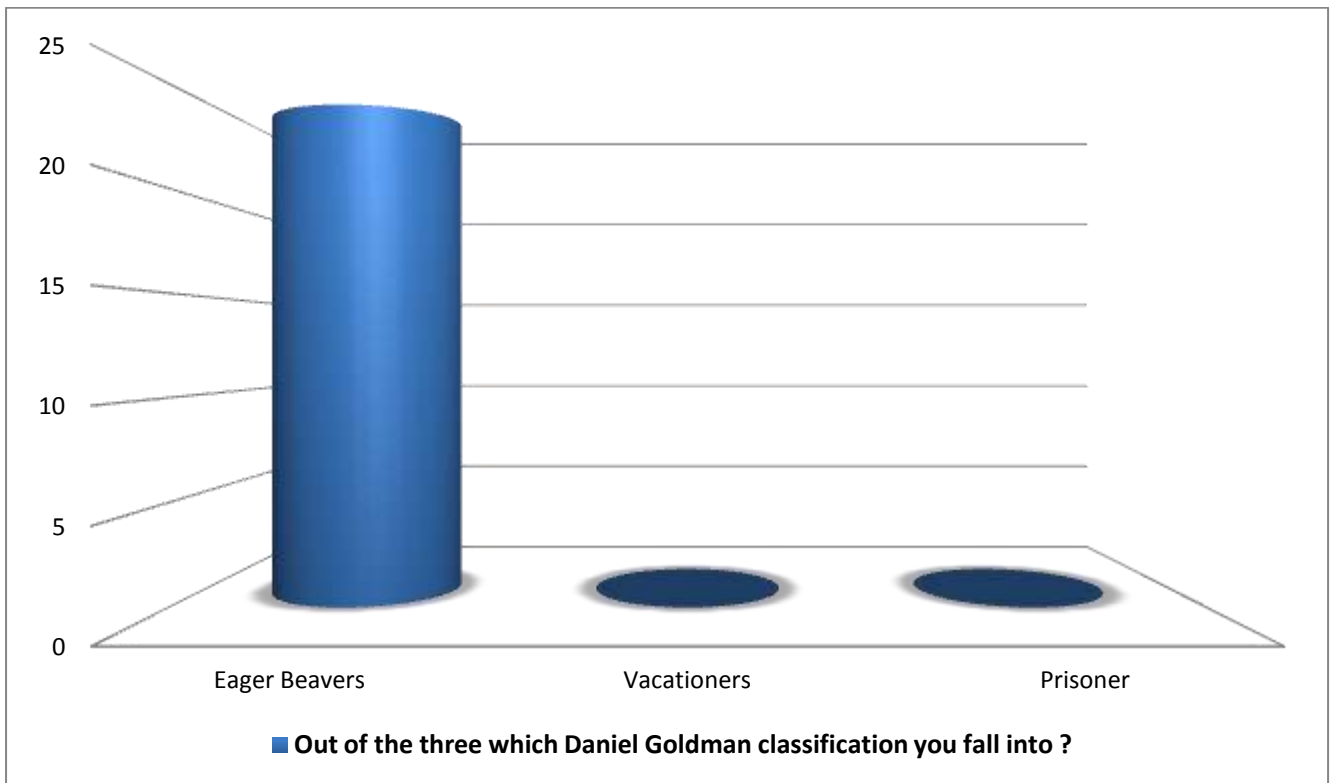


My efforts for ADR is

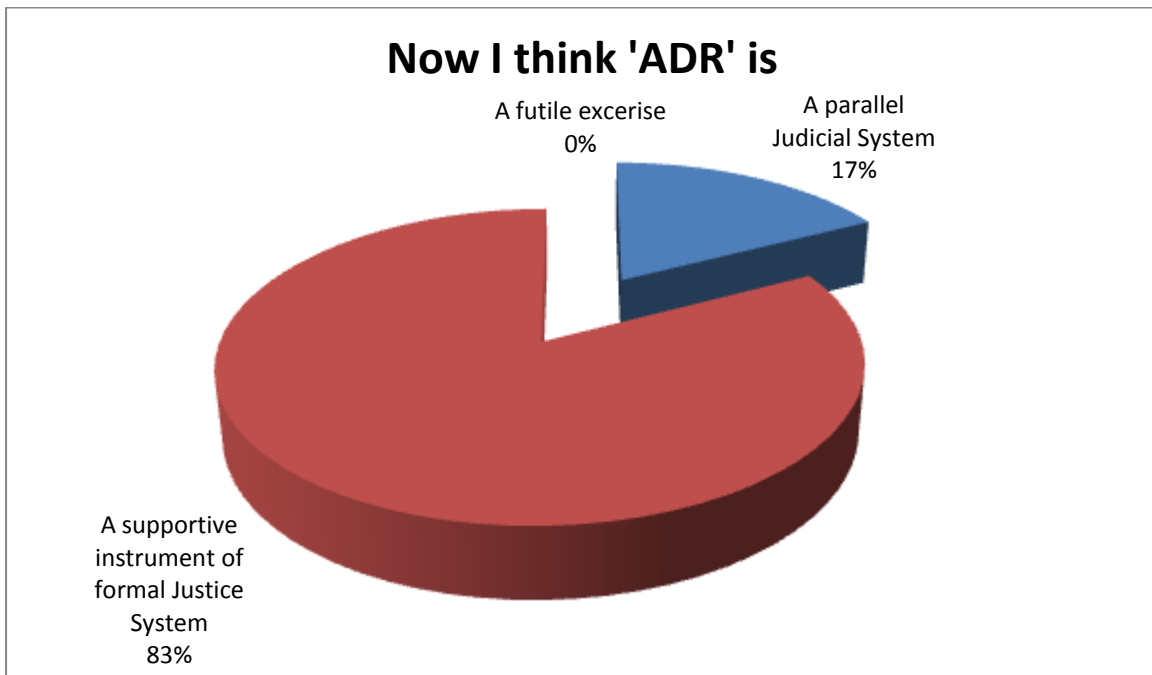
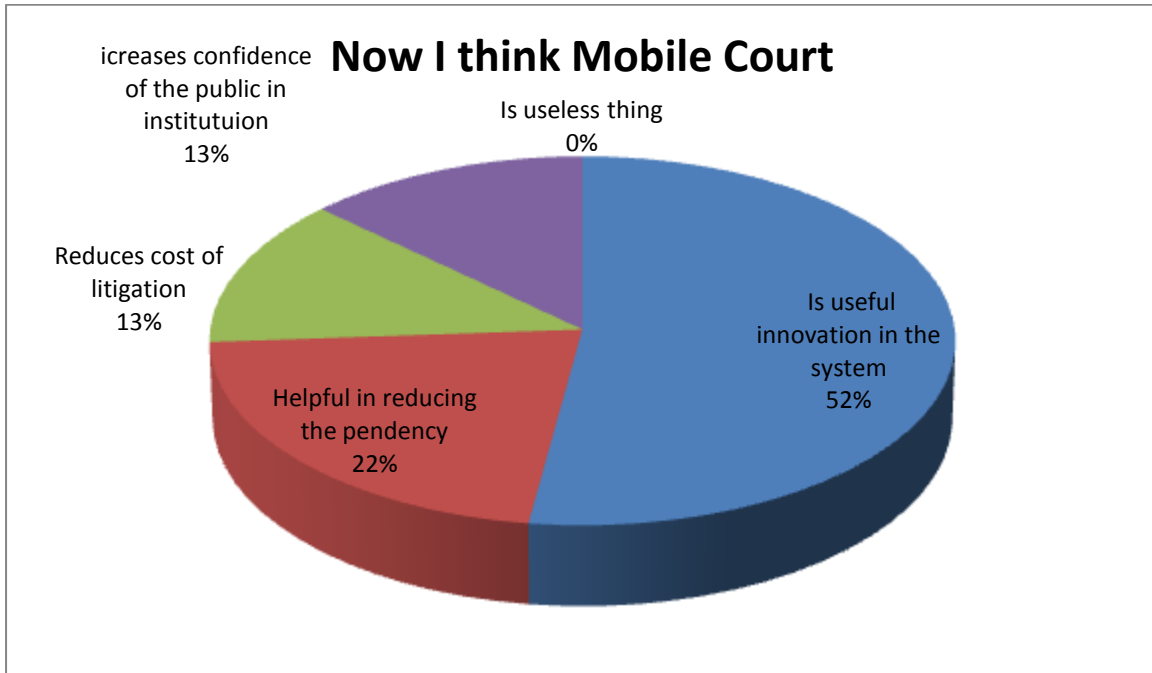


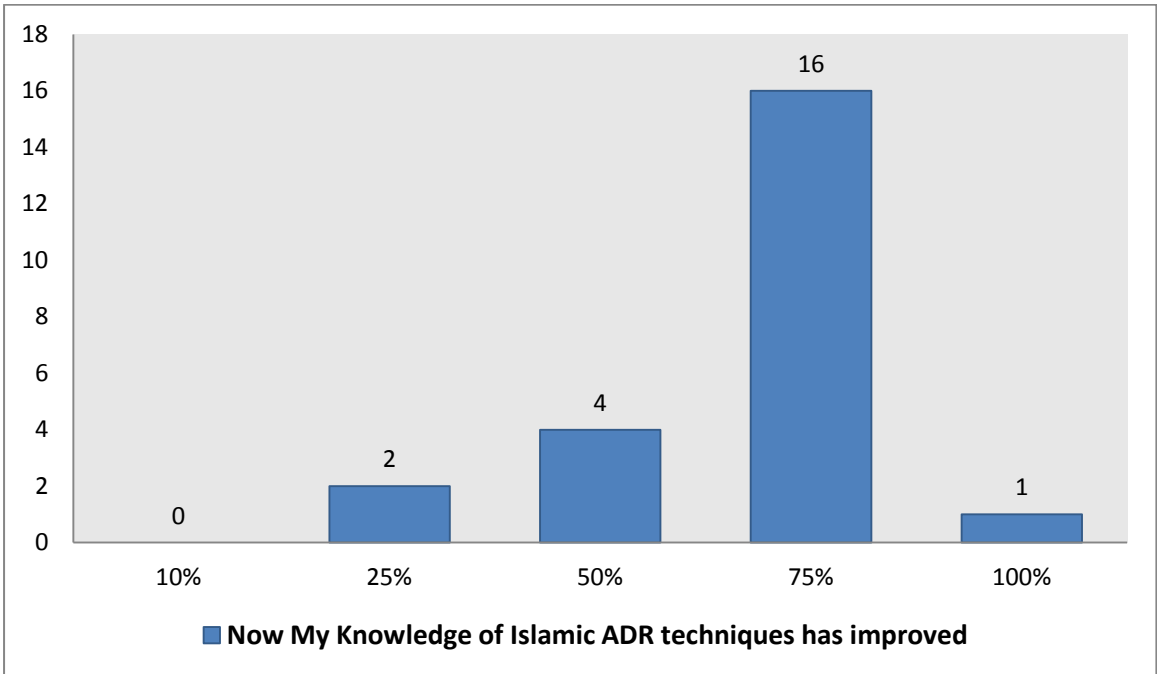
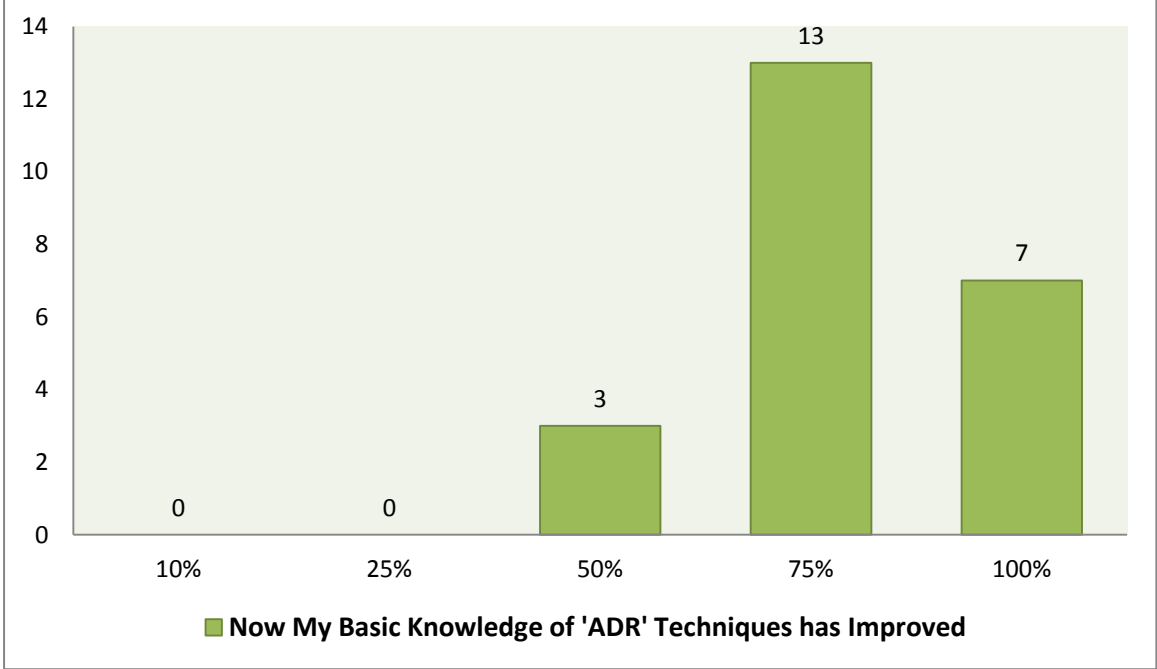


Trainee Classification

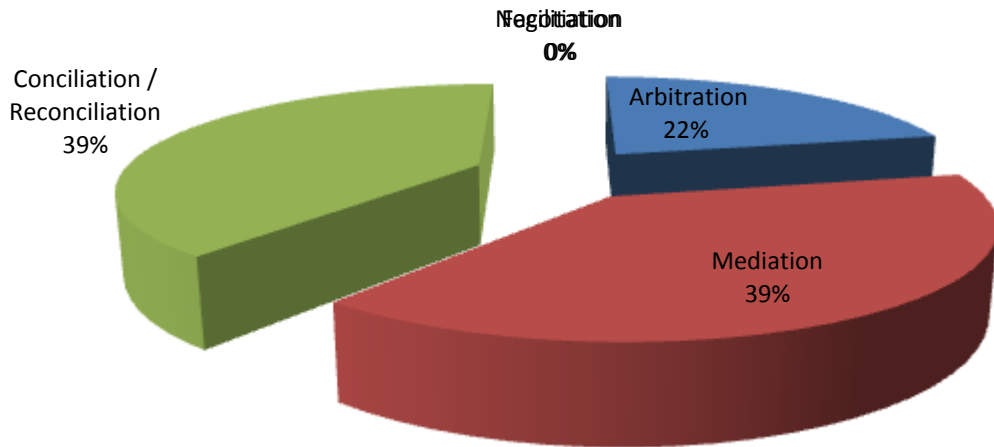


Post- Training Assessment Responses

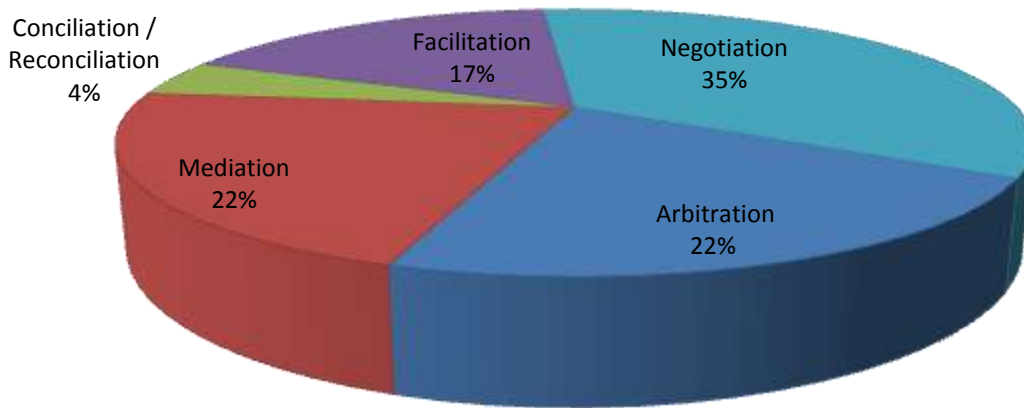


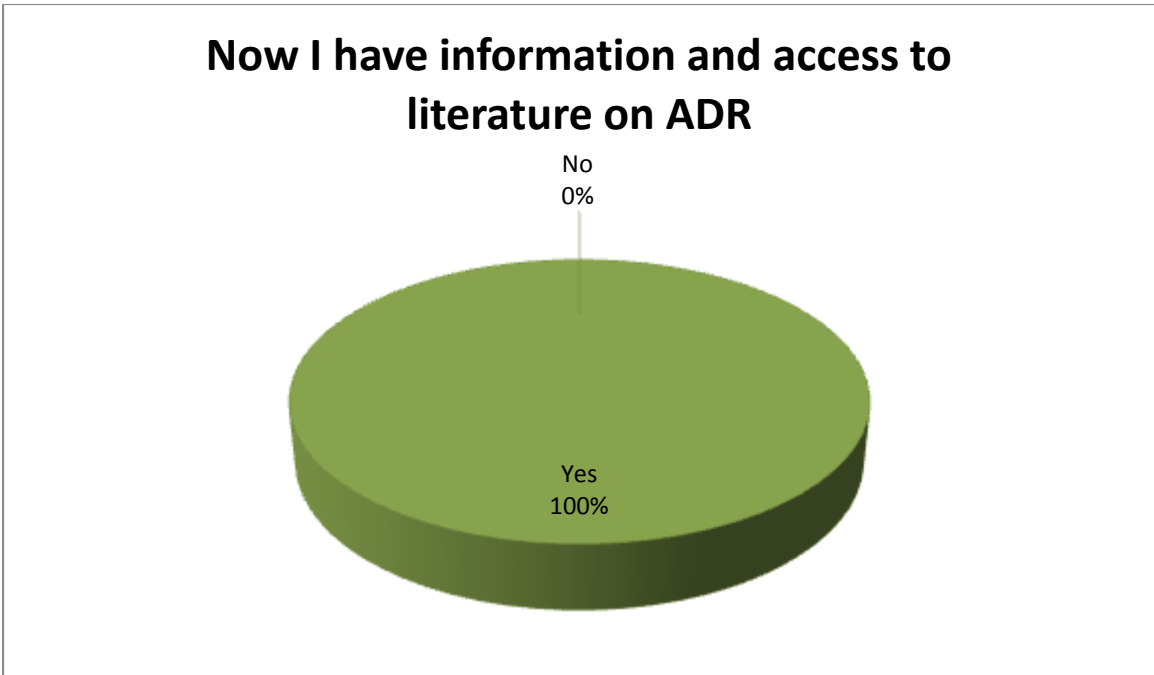
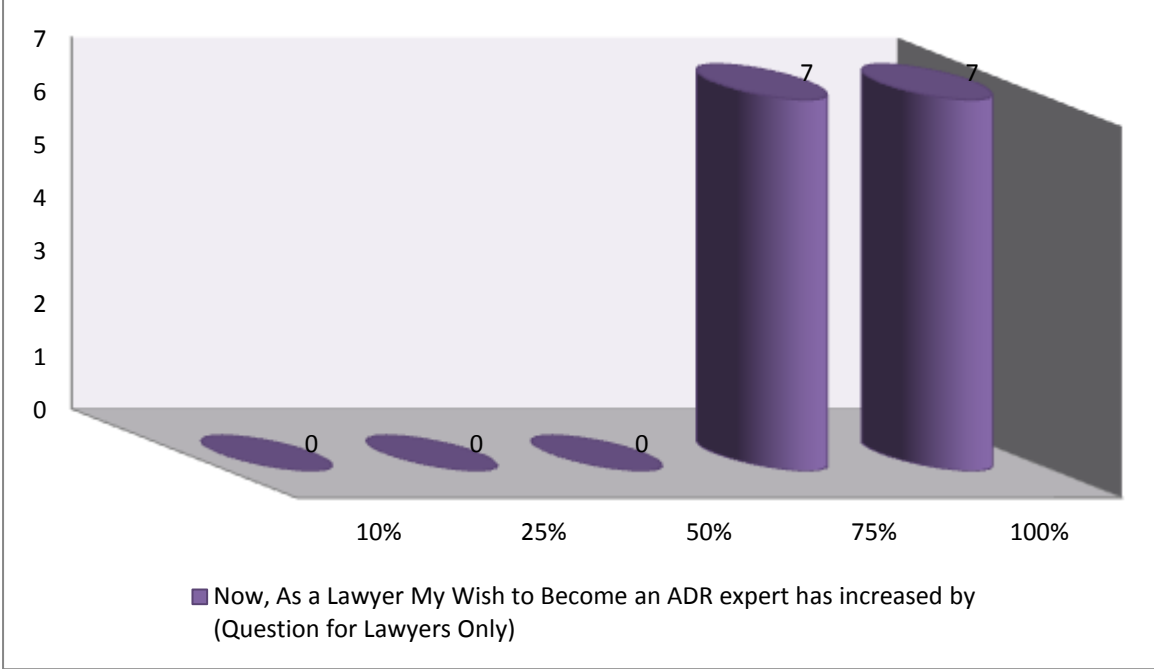


Now, In my view, the most effective ADR technique is

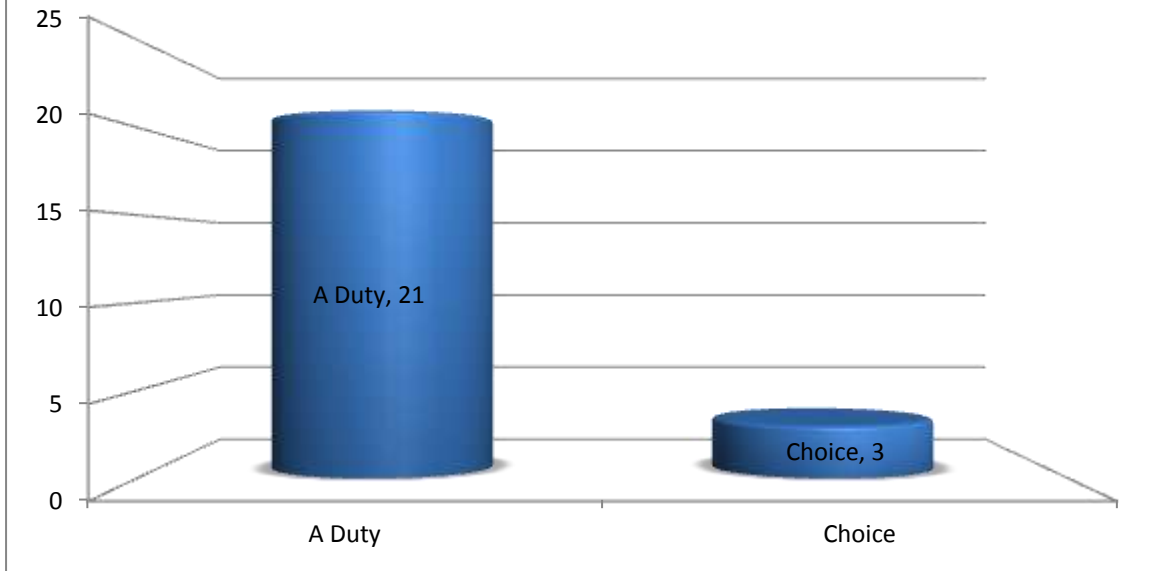


Now, In my view, the most ineffective ADR technique is

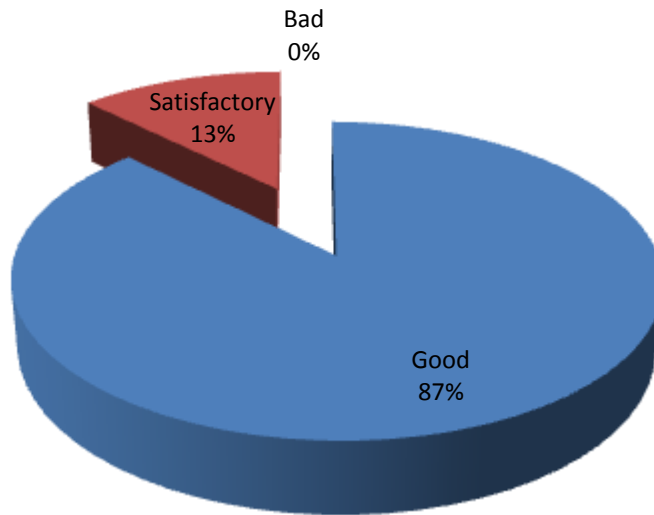




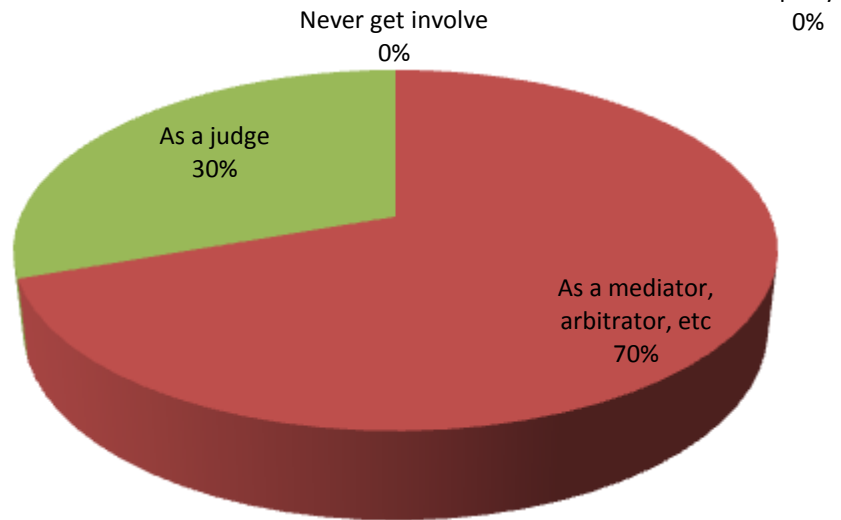
Now, I consider 'ADR' as



Now, my experience of ADR will be

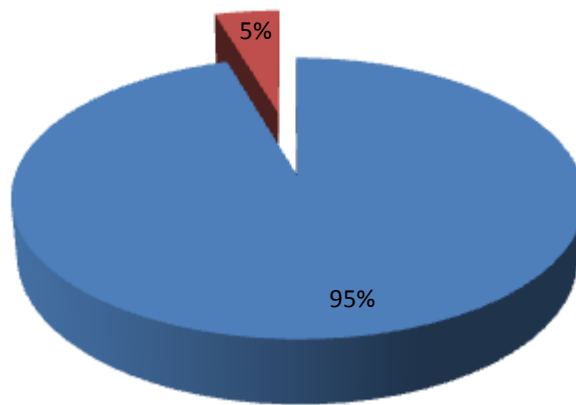


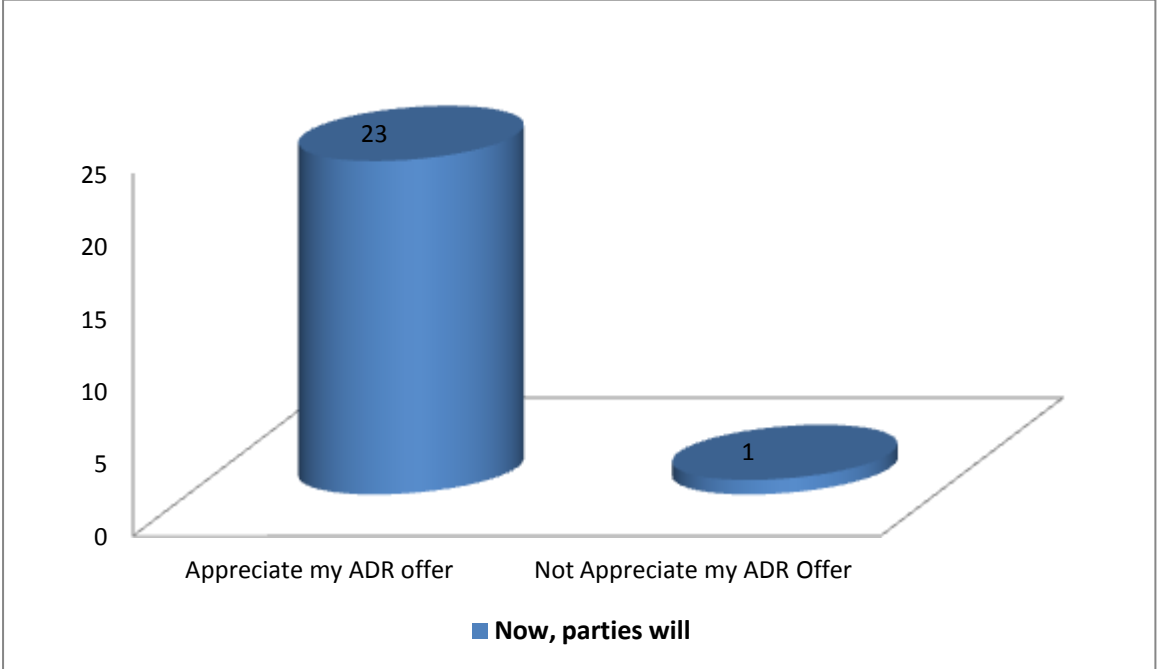
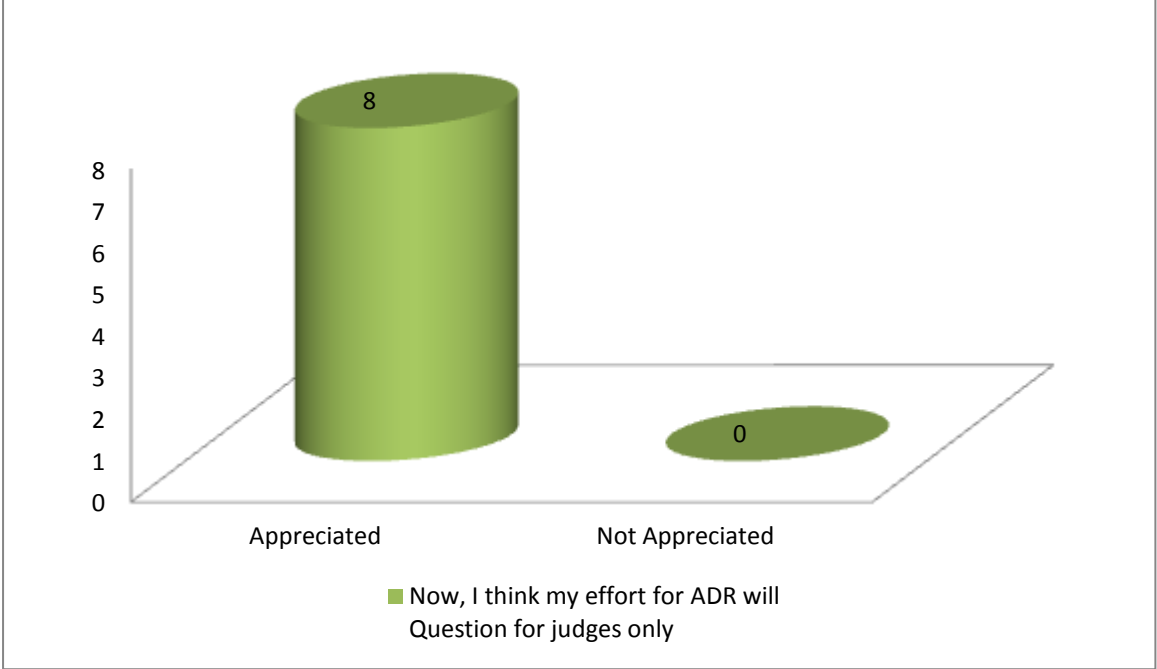
Now I will involve in ADR process

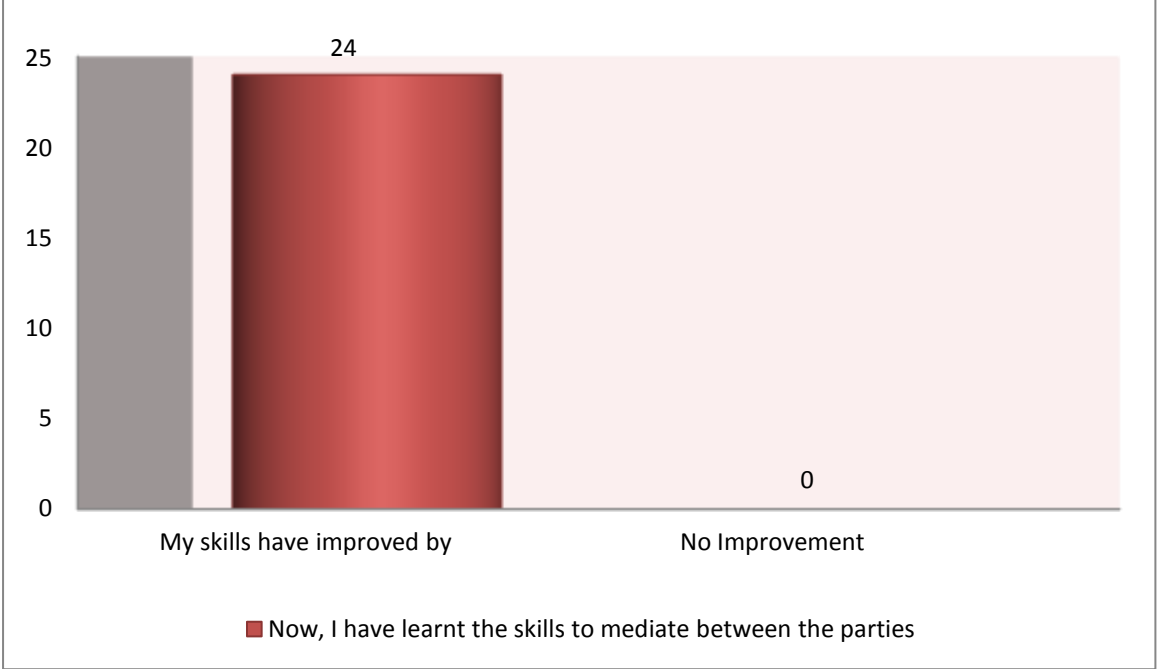


Now, I found ADR

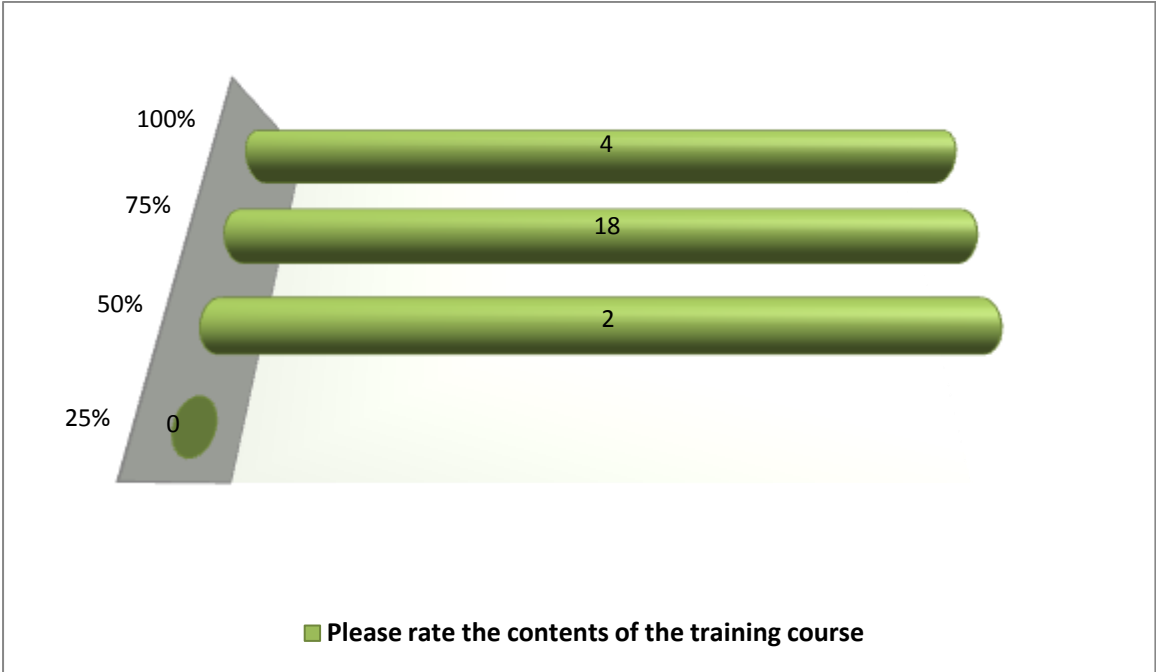
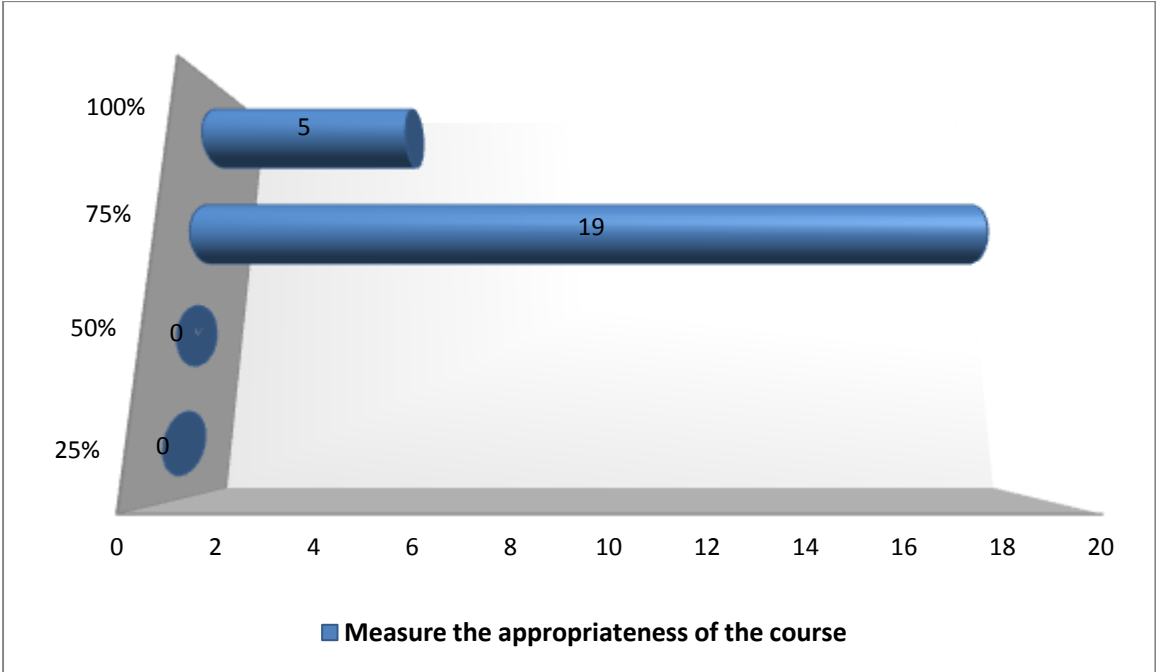
■ Supportive to my profession/job ■ Damaging to my profession/job

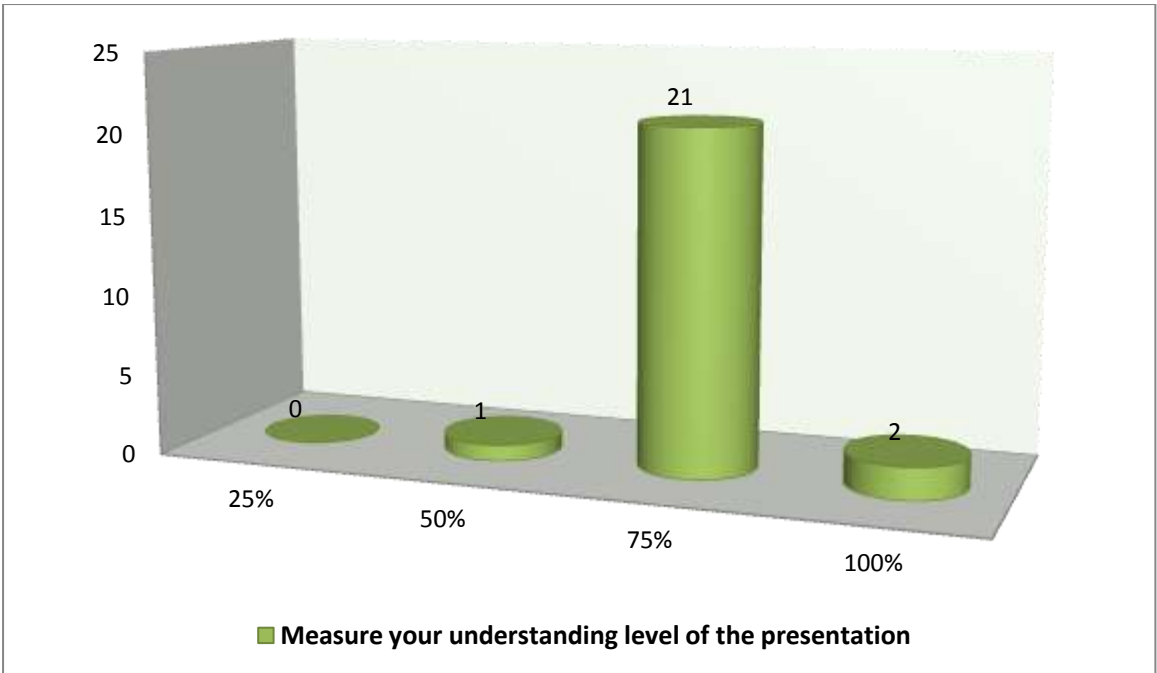
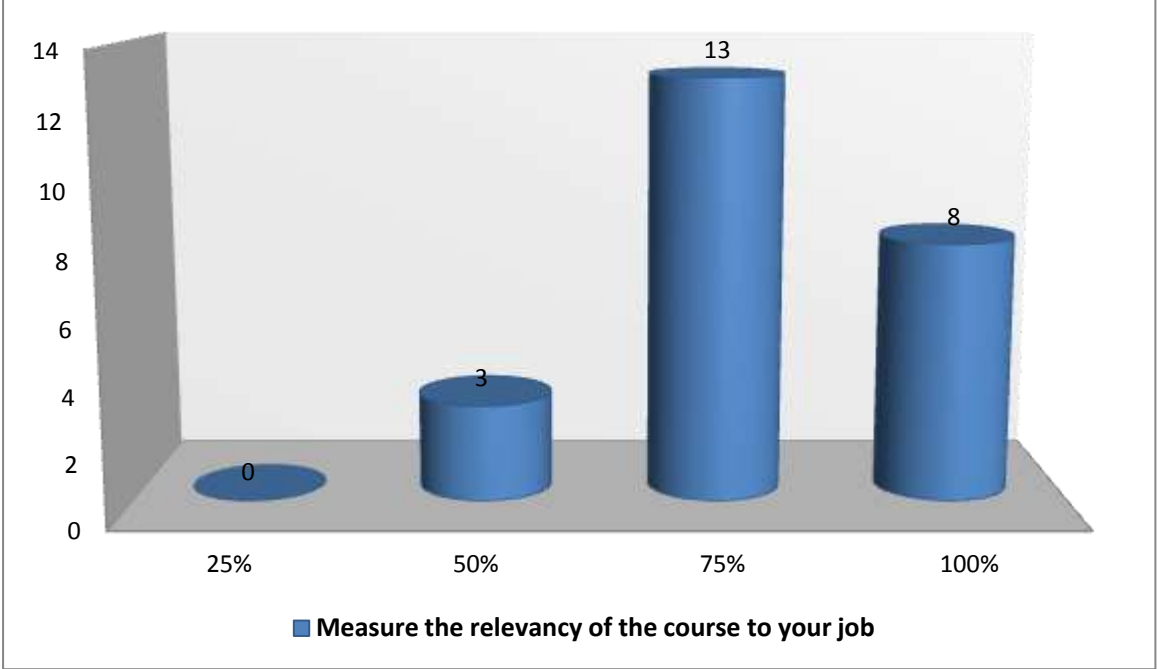


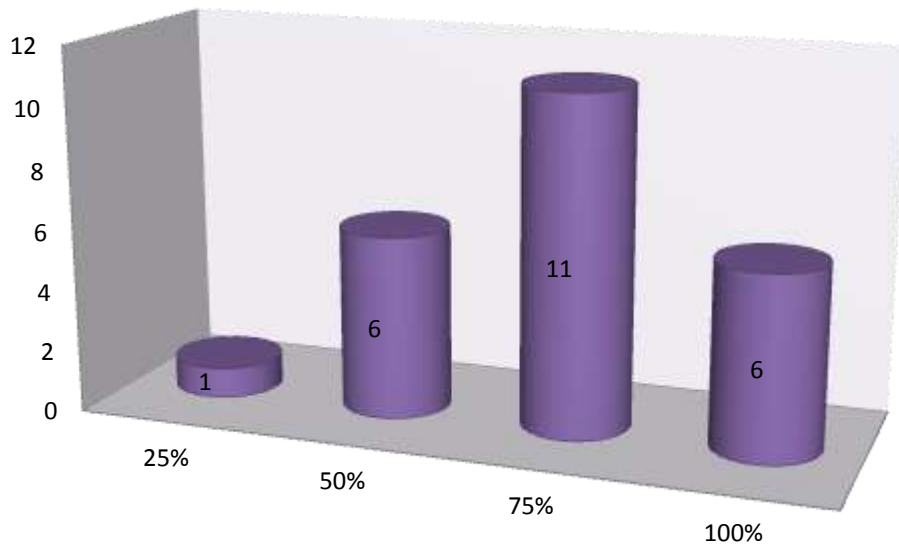




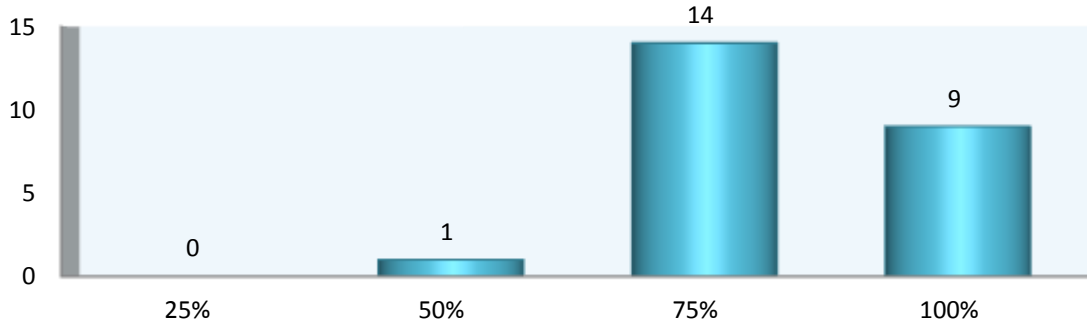
Over-all Training Evaluation Responses



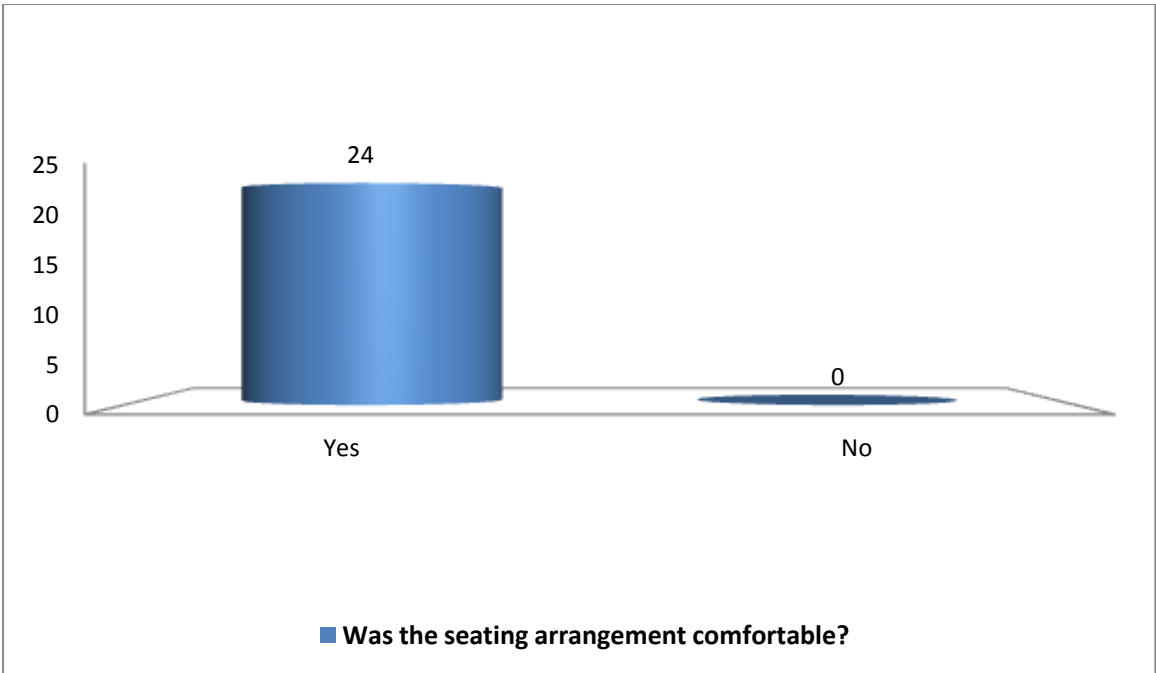
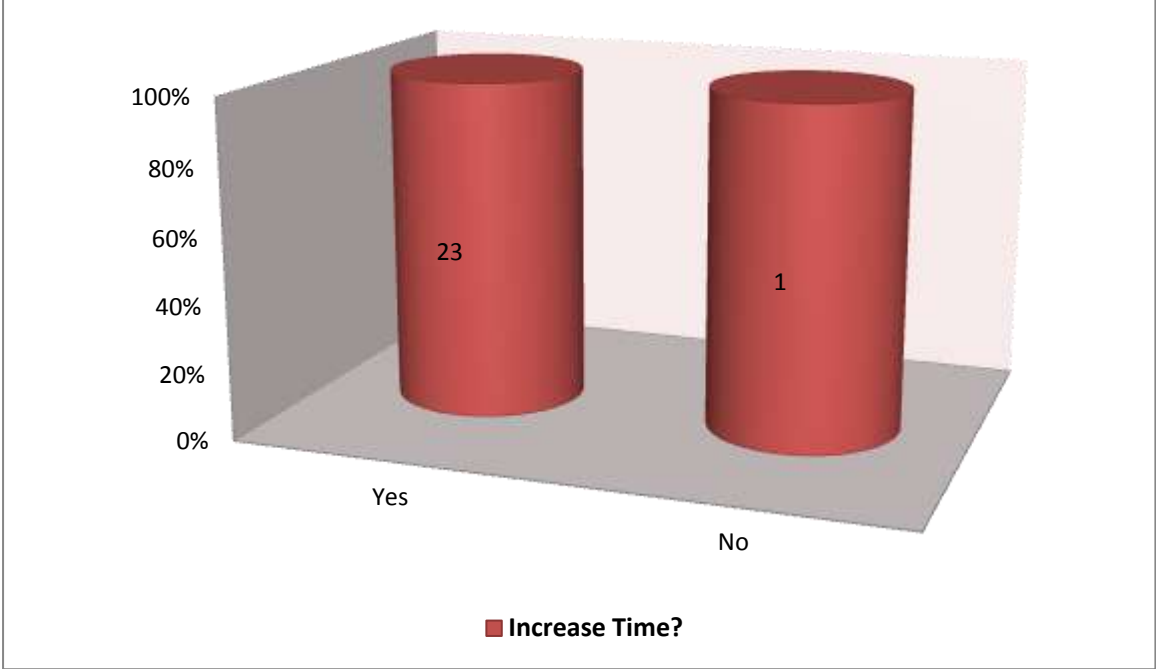


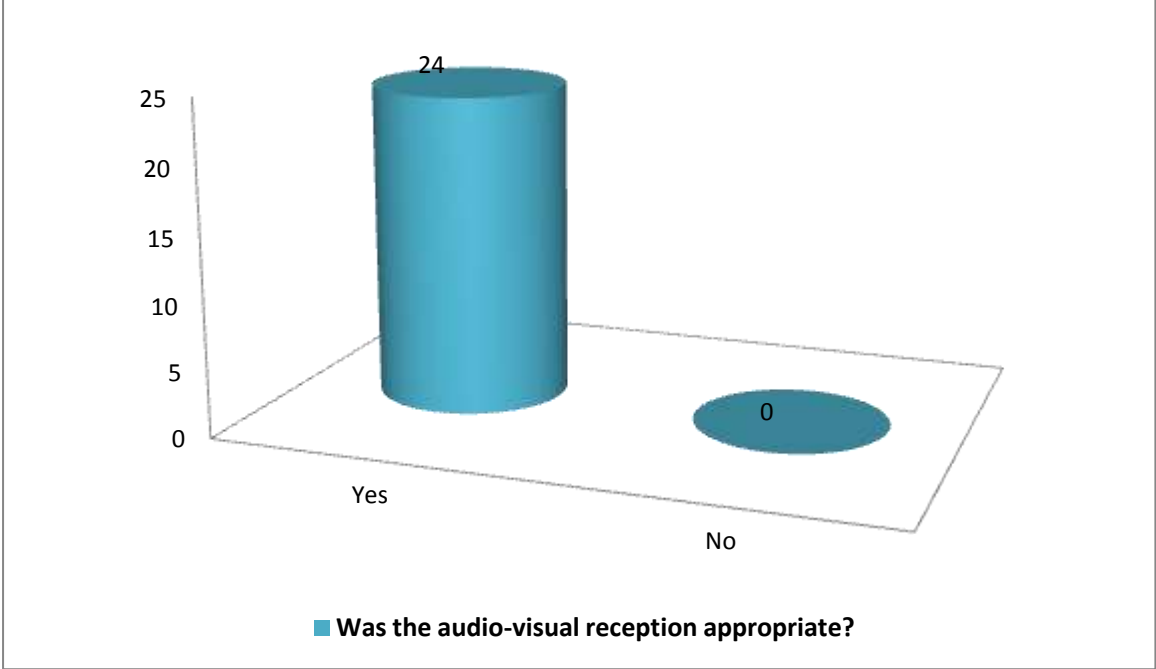


■ Measure the level of Questions and Answers session



■ Measure the effectiveness of the course as a whole





Annexure – A

Addresses of Justice Dost Muhammad Khan, Chairman/ Hon'ble Chief Justice

Ladies & Gentlemen Asalam-0-alakum

It is indeed one of the happiest day in my life. It is another day, when my dream becomes reality. The massive injustices in the society always eroded my heart and the pain I take while coming across these injustices has been indeed unmatched. The lack of resources, the rampant violation of the rights of the vulnerable people and their inability to knock at the doors of justice has always remain my prime concern. Our constitution makes it mandatory upon the state to provide speedy and inexpensive justice to the citizens. Regrettably, the state institutions have never paid serious attention to this constitutional responsibility and paying lip service to provide justice at the door steps. By the grace of Allah Almighty, today I proudly announce that now we will be providing justice at the door steps to the masses.

The idea of the establishment of the Mobile courts is sacred; for the justice system would be itself in search of the oppressed class. The inability of the masses to bring their disputes to the courts, due to a number of reasons, including, the cost of litigation, lack of resources and cumbersome legal procedure has prompted us to establish mobile courts and provide quick and inexpensive justice to the poor people. Like before, the KP Judicial Academy has once again served as my right hand by providing training on these newly emerging concepts.

To introduce ADR (Alternate Dispute Resolution), as complementary [not as substitute] to our formal justice system, this course was designed for the judges and lawyers of the mobile courts initially to be started in Peshawar. Connecting ADR to the mobile courts was the prime significance of the training course.

As all of you know that disputes are natural. Therefore, the wise course is not to leave it unattended as the same may lead to an endless series of quarrels, battles and wars, which bring to a standstill to our national life. Thus to avoid chaos, disorder and turmoil in the society, utmost attention should be paid to the disputes. The establishment of mobile court is an effort in that direction.

Ladies & Gentlemen! The concept of the mobile courts reads that decision of a case and resolving of a dispute are two distinct phenomena. The former means a compulsory ruling and the latter refers to uprooting the differences. A society can only prosper when differences are uprooted as formal rulings may result into an endless chain of legal battles causing mental anxiety, physical discomfort and financial worries. To avoid this, it was highly desirable to bring a revolutionary change in the scheme of law. I am proud that the whistle blower is once again the Peshawar High Court. I drafted the mobile courts Laws and sent the same to the concerned department for its presentation in the Provincial Assembly but unfortunately the previous government, for reasons best known to them, paid no heed and the draft is still waiting to be presented to the Provincial Legislature. I hope that common sense will prevail on the new government. I am sure the present government will assist the High Court in the process.

Ladies & Gentlemen!

Timely, free, fair, and inexpensive justice is the constellation of stars in an ideal system of justice. The present adversarial system of justice, in spite of the best suited system, has its own drawbacks. Delay, expensiveness, uncertainties, technicalities, the element of loosing and wining, are some of them. In such like situation, one must read the writing on the wall that the justice system is still colonial and outdated. In the circumstances, it is high time to adopt measure, leading in to simplicity of the procedure, boosting the pace of litigation, humanity friendly process and a self contained and self selected process of settlement of disputes.

Ladies & Gentlemen!

As you know that the focus of the present course was on alternate dispute resolution. I hope that all of you would have learnt the amicable tools of resolution of disputes. I expect that all of you will put extra efforts to strengthen this noble cause and play a vital role in the expeditious and amicable settlement of disputes. I congratulate you on the completion of the course and pray that your efforts to save humanity from the agonies of disputes may lead success in this life and hereinafter.....

Ameen.... Thank you

Annexure -B

DG Welcome Address

Let us pray—may Allah Almighty guide us to the right path. We are highly pleased to commence first mobile courts-ADR training for judges and lawyers of the District Peshawar. With this we are going to start a new enterprise- the establishment of mobile courts to provide equitable justice at the door steps. The idea of mobile courts is divine; for the justice system would be itself in search of oppressed class.

In order to introduce ADR as supportive not as substitute for our formal justice system, the Academy has designed this training course for lawyers and judges of the District Peshawar. Training on the subject becomes more significant when it is connected to the mobile court system. These courts will start their operations soon. The Peshawar high court has completed almost all the necessary arrangements. This training will help you understand what the mobile court system is all about, how it would work and what significant role ADR will play in their functioning and success. Driven by the motto-Justice at the Doorsteps- the training seek to enhance the capabilities of ADR skills, impart the spirit of alleviating the miseries of the poor litigants.

I hope this training on ADR with focus on the mobile courts will equip you with skills and capabilities that will help the administration of justice in future.

Annexure- C

CR's Remarks

Hon'ble the Chief Justice and Judges of the High Court, Administration of the High Court, The Worthy Director General of the KP Judicial Academy and his team, friends from the UNDP, participants of the training course, ladies and gentlemen..... Asalam-o-alakum

It is indeed a privilege for me to speak on behalf of my fellow participants of the first ever training on mobile courts with focus on ADR. I congratulate Hon'ble the chief justice for bringing such a positive change in the administration of justice.

Sir! in the 6 days training at the Academy, we have learnt a number of new things. For the first time, we came across the practical process of mediation, conciliation and arbitration and for the first time we learnt the slight differences between these concepts. The Resource persons very intelligently explained these concepts and were later on practically implemented through mock proceedings.

Sir! at the start, Barrister Asfandiyar Ali Khan, sensitized us to the basic concepts of conflict and its management. He, very successfully, highlights the different nature of conflicts and differentiates the same with example. Later at the time, Mr. Hayat Ali Shah, deliver a talk on Why ADR? This was a new experience for majority of us to know that ADR or *Sulaha* is an Islamic obligation. His lecture has indeed opened new areas of thoughts for most of us. His style and content of the lecture were found very useful.

Ali Gohar, an ADR professional has practically conducted mock proceedings and talk in detail on Mediation, reconciliation and arbitration. His style was very effective. He involved almost all the participants in an interactive discussion. He implanted a new spirit for the solution of disputes in an amicable way.

Qaiz Ata Ullah, from Islamic point of view, explained in detail, the concept of alternate dispute resolution. He establishes his arguments from Bible, Holy Quran and Hadith of the holy prophet (SAW) by saying that all the Ibrahimic religions encourages alternate dispute resolution. Through his lecture, we for the first time came to know that under what circumstances and cases, ADR can't be made under the Sharia especially in cases of talaq and taazir. . The fixation of the *Hijir Aswad* through ADR, by the prophet (SAW), as arbitrator, was quoted as an example of the ADR in era of the Prophet(SAW).

Sir! Overall, the training was very effective. The entire administration of the Academy was found highly cooperative. The facilities at the Academy are unmatched.

Sir! I on behalf of the participants, salute you and your team of the Judicial Academy, for conducting such a beneficial training course on ADR. All the participants highly appreciate your this effort and hope that the same will continue in future. Thank you all

List Of Participants

S.No	Name of Participants	Designation
1	Mr.Kashif Nadem	Additional District & Sessions Judge
2	Mr.Ajmal Wazir	Additional District & Sessions Judge
3	Mr.Muhammad Ilyas Khan	Civil Judge/Judicial Magistrate
4	Mr.Shaukat Ahmaed Khan	Civil Judge/Judicial Magistrate
5	Mr.Mohsin Abbas	Civil Judge/Judicial Magistrate
6	Mr.Amin Said	Civil Judge/Judicial Magistrate
7	Mr.Ataullah Jan	Civil Judge/Judicial Magistrate
8	Ms.Saira Bano	Civil Judge/Family Judge
9	Mr.Abid Zahid	Advocate
10	Mr.Muhammad Bashir Naveed	Advocate
11	Mr.Farhad Ali Khalil	Advocate
12	Mr.Naseer Khan	Advocate
13	Qazi Ashfaq Ahmad	Advocate
14	Mr.Ashfaq Ahmad Daudzai	Advocate
15	Qazi Adnan	Advocate
16	Mr. Saghir Iqbal	Advocate
17	Mr. Jehanzeb Khan Khalil	Advocate
18	Mr.Izharullah	Advocate
19	Mr.Maqsood Ali	Advocate
20	Mr.Muhammad Shoaib	Advocate
21	Ms.Sophia Noreen	Advocate
22	Ms.Sabiha Iqbal	Advocate
23	Mr.Haji Muhammad	Advocate
24	Ms.Affaf Ur Rehman	Advocate

Annexure-F

Schedule of Activities

(22-27 July, 2013)

Time	Activity	Resource Person
Day-1 Monday		
8:00 -9:00 am	<i>Registration & Pre-Training Assessment</i>	
9:00-9:30 am	<i>Inaugural Session</i>	
9:30-11:00am	<i>Why Mobile Court and ADR?</i>	<i>Mr. Hayat Ali Shah</i>
11:00-12:30pm	<i>Conflict: Understanding and Management</i>	<i>Barrister Asfandiyar Ali Khan</i>
12:30-01:00pm	<i>Orientation with Mobile Court</i>	
Day -2 Tuesday		
8:20-8:30 am	<i>Recitation from the Holy Qur'an & Dua'a</i>	
8:30-10:00am	<i>Search for ADR in Abrahamic Religions: Focus on Islamic Jurisprudence</i>	<i>Qazi Ataullah</i>
10:00-11:30am	<i>Arbitration</i>	<i>Mr. Ali Gohar</i>
11:30-01:00pm	<i>Practical: Mock Proceedings</i>	
Day- 3 Wednesday		
8:20-8:30 am	<i>Recitation from the Holy Qur'an & Dua'a</i>	
8:30-10:00am	<i>ADR Advocacy with focus on Professional Dimension</i>	<i>Barrister Asfandiyar Ali Khan</i>
10:00-11:30am	<i>Mediation</i>	<i>Mr. Ali Gohar</i>
11:30-12:30pm	<i>Practical: Mock Proceedings</i>	
Day-4 Thursday		
8:20-8:30 am	<i>Recitation from the Holy Qur'an & Dua'a</i>	
8:30-10:00am	<i>Conciliation</i>	<i>Mr. Ali Gohar</i>
10:00-11:30am	<i>Restorative Justice</i>	<i>Mr. Ali Gohar</i>
11:30-12:30pm	<i>Practical: Mock Proceedings</i>	
Day- 5 Friday		
8:20-8:30 am	<i>Recitation from the Holy Qur'an & Dua'a</i>	
8:30- 11:30am	<i>Practical: Mock Proceedings</i>	
11:30-12:00pm	<i>Post-Training Assessment & Over- all</i>	

Day- 6 Saturday

9:00-10:00am

Concluding Ceremony

Group Photo



KHYBER PAKHTUNKHWA JUDICIAL ACADEMY

1st One-Week Training Course on Mobile Courts - ADR for 24 Judges and Lawyers
(22-27 July, 2013)



Class in Progress



Group Discussion amongst the participants during MOCK proceedings



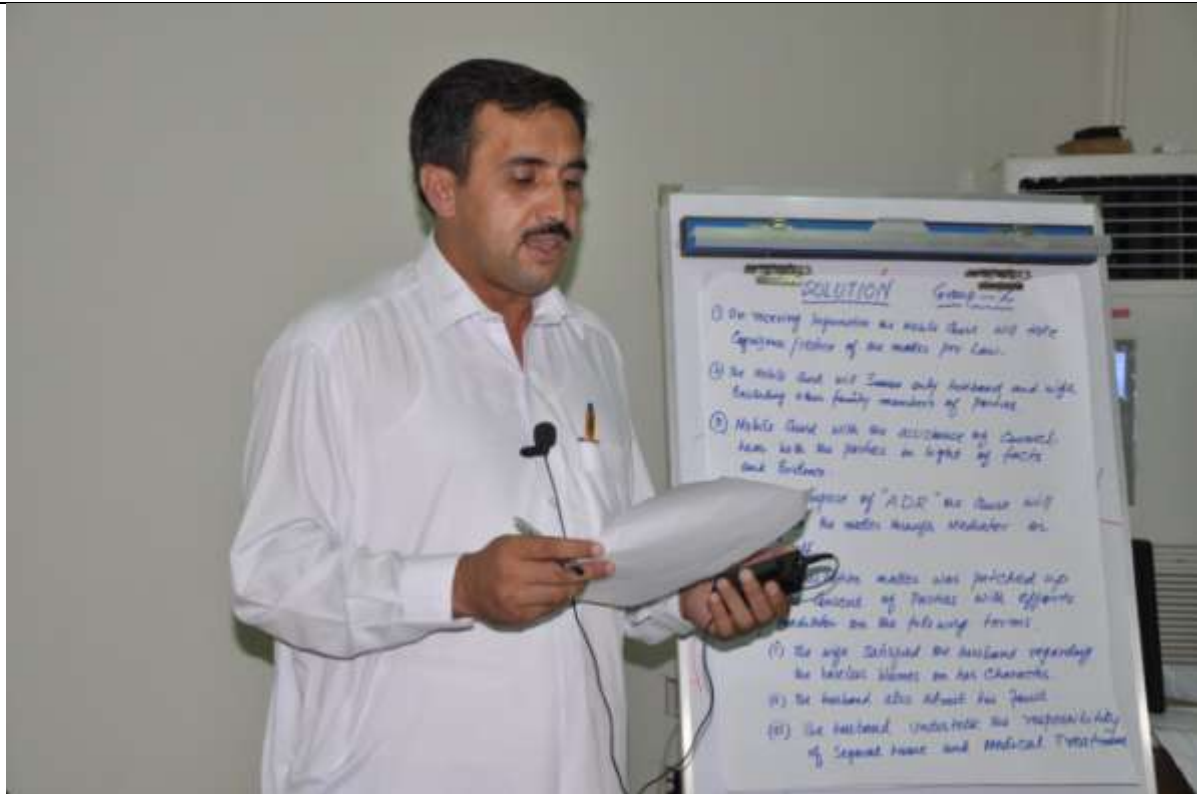
Group Discussion amongst the participants during MOCK proceedings



Group Discussion amongst the participants during MOCK proceedings



Group(B) presentation



Group (A) presentation



Group (C) presentation