



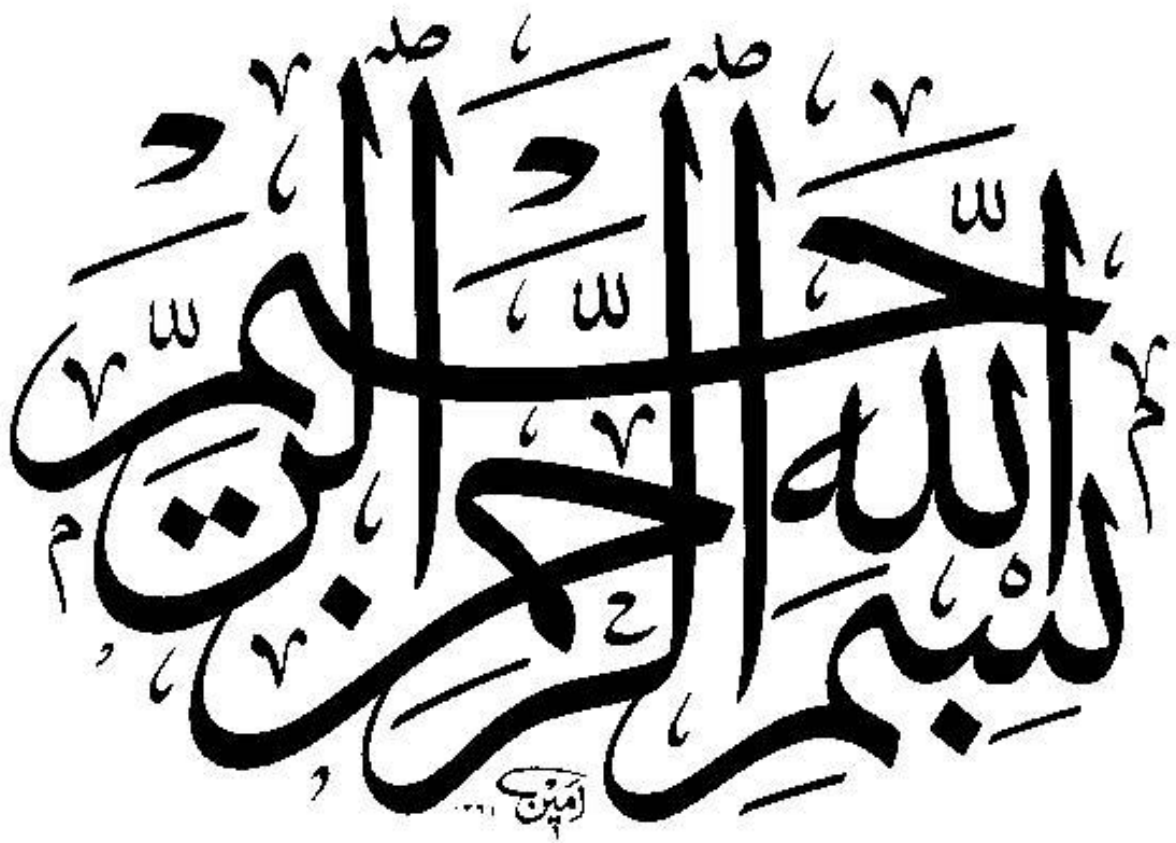
2014

*Report on Third Training Program on  
“Substantive & Procedural Law”- Judges*

21-15 January, 2014

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## **Foreword**

Our academia has successfully completed third training program on “Substantive and Procedural Laws”. By now, we have imparted training, on the subject, to 69 judicial officers across the province. Apart from Civil Judges/Illaqa Qazis, a considerable number of senior Additional District & Sessions Judges/Izafi Zilla Qazis have also participated in the course. Not only this, the Academic Wing has compiled this report quite well in time. I, therefore, feel highly honored to pen down a few lines about this report and the activities that it would reveal.

The significance of the subject is evident. Substantive Laws determine the rights of the citizens whereas Adjective laws provide the procedure for remedies if such rights are violated. To be mindful of the significance of the rights and duties, a judge should be well versed in all enactments; substantive and procedural. Incompetency in either of the laws would render the judge lame and would adversely affect his judicial gait. If a person is incapable to keep his own balance, the balance [Meezan] of justice could not be entrusted to him. So to safeguard our judges from such situations and to arm them with the required skills and knowledge, the Academy has the privilege to arrange training programs with the generous support of UNDP. The present series of trainings is one of such enterprises.

The report reveals all the activities carried out during the training. It is not only comprehensive but readable as well. The topics of the resource persons are quite relevant. The feedback of the participants, as appearing in graphic scales attached to this report, is not only a source of zeal for us but a strong evidence of achievements of our team.

***Hayat Ali Shah***

*Director General*

## Dean's Note

These five courses held were rolled out in light of a Manual on Procedural and Substantive Laws. The manual was one of three which the Academy has developed in the background of a Training Needs Assessment (TNA). Two other manual were on Case and Court Management; one meant for Judicial Officers and the other for court staff. As many as 125 Judicial Officers and 150 court staff were imparted training under those manuals.

While developing the manuals, the Academy kept in view the training needs of the judiciary in a broad and diverse perspective with due attention to contemporary challenges. For example, case and court management were not seen within the narrow remit of the judicial institution. Rather, it was seen through a comprehensive lens of management as a science, firstly, to bring about broader institutional efficiency in the areas of leadership, human resources and financial efficiency, and secondly, to leverage judiciary as an increasingly inextricable part of good governance. The Academy, however, appreciates that the vigor must come from the judiciary alone to sustain independence. Imparting diverse management skills to judges and their support staff, such as, case management on the judicial side and court management on the administration side, would serve the purpose of institutional efficiency as well as judicial independence. This in-ward looking approach was further characterized by creating a pool of master trainers from amongst the judges. Thus about 45 Judges were trained as trainers (ToT). The trainers for both Judicial Officers and Court Staff were mainly drawn from amongst those master trainers. This is a significant achievement, indicating sustainability in faculty development. While the level of their assessment is generally encouraging, it is hoped it will further improve with the passage of time.

Keeping in view the duration of the training, the course content was selected from the relevant manuals. In fact, training on a manual as whole could not be delivered because of the limited duration of 05 days. However, it could be taught as a whole in an intensive 06 month basic orientation training of new entrants. A practical approach was followed in the training. In some lectures, for example, the one on the framing of criminal charge, case studies approach was followed. Participants were allowed to participate actively while working on case studies. In the second course, a partial book review was also introduced. Selected chapters from a recently published book: *Precedent in Pakistani Law*, by Prof. Dr Muhammad Munir (Karachi: Oxford, 2013) were assigned to two groups: one of Additional District & Sessions Judge and other of Senior Civil Judges. In order to ensure that the

practical methodology is followed, guidelines were issued to the Resource Persons. The guidelines are part of this report.

The Academy maintained its excellent quality of online pre-and post-evaluation method for Judges. As you will read this report the initial statistical data shows that both courses were successful, so far the learning level and overall assessment on the concluding day were concerned. I believe that we may extend our evaluation system to adopt more scientific methods, such as, on job application of skills survey, we have recently launched in regard to our Judgment Writing trainings. Perhaps, we also need to review some recent literature and technical support on evaluation of trainings for making our evaluation system more up to date and objective.

***Dr Khurshid Iqbal,***

*Dean Faculty*

# *Synopses*

## **Criminal Trial: Focus on Framing of Charge**

*By: Dr Khurshid Iqbal\**

### ***Introduction***

Framing of charge is a significant component of a fair trial—a recognized human right under international human rights law. The right to a fair trial has also been recognized as a fundamental right in Pakistan's 1973 Constitution through a recent Constitutional Amendment. The Criminal Procedure Code, 1898 (Code) is the main criminal procedural law that governs trial in criminal cases. While the Code appears to ensure fair trial to a considerable extent, one may argue that the law as whole being more than a century old, needs a revisit in light of the contemporary international standards.

The lecture was designed in light of the Procedural & Substantive Laws Manual the Academy has designed in the backdrop of a training needs assessment (TNA) exercise, followed by a training of the trainer (ToT) course. Its main focus is on first, removal of common mistakes; second, sensitization to neglected procedural provisions related to framing of charge; and third, generating critical academic thinking about the importance, law and practice of criminal charge.

### ***Methodology***

Keeping in view the fact that serving judicial officers will participate in the course, it was deemed appropriate to make this lecture of great practical importance. The lecture was tailored in to the shape of a study circle. The aim was not to teach the participants the law of criminal charge, but to involve them in a participatory session to have a focus group discussion on the theory and practice of the law and common mistakes which occur in the framing of charge. Real criminal cases were presented to the participants. In some cases, copies of charges already framed by Judicial Officers were provided and the participants were asked to pinpoint mistakes of facts and law therein. In others, copies of crime reports (first information report) were provided and participants were asked to frame charges.

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\* *Dean Faculty, KP Judicial Academy, District & Sessions Judge; PhD (UK); LLM (UK); LLB, MA Political Science, UOP.*

Moreover, senior Judicial Officers were requested to comment on the charges already framed as well as on those framed by their juniors. The idea was to utilize the presence of senior officers by offering them an opportunity to share their knowledge and experience, on the one side and help juniors work in a team environment, on the other.

### ***Learning outcomes***

- The participants may be able to develop a more academic insight into the law and practice of framing of charge.
- To help the participants identify common mistakes of facts and law in the framing of charge.

## Concordance & Discordance

By: Mr. Naiz Muhammad Khan<sup>†</sup>

### *Introduction*

The discourse is focused on highlighting the common errors committed by the judicial officers in interpreting divergent provisions of laws. The confusion often results in a legal mess misdirecting the officers in enforcing the laws and thereby the objectives of the laws and amendments are not achieved. At the same time different approaches of different individuals result in the lack of institutional consistency and coherence which are not healthy signs for institutionalization and good judicial governance. In order to bring all the judicial officers of the province at one page an extensive debate on the topic is the need of the hour. The concordance is focused on how to take the repetition of similar provisions of a law with special focus on doctrine of ‘Pith & Substance’

. In this perspective, the main objectives of the lecture are—

- Highlighting some important divergences in the laws.
- Developing the understanding of overriding and subordinating provisions in laws.
- How the holistic approach to laws changes the meanings from fragmentary approach.
- How concordance of provisions of laws to be dealt with as a duplicate phenomenon.

### *Methodology*

The lecture is participative and input based. It would open as a brain storming prelude followed by input from participants. The divide amongst the participants is a source of healthy debate which help us reach a meaningful conclusion

### *Learning outcomes*

At the end of the session, the participant shall be able-

- To know the importance of the topic.
- To know the wisdom of tackling complex issue of concordance & discordance.
- To know how to apply the wisdom efficiently and effectively.

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<sup>†</sup> *Special Customs & Anti smuggling Judge; LLB (Gomal University, DIK)*

### ***Reading list***

- Article 142 of the Constitution of Pakistan.
- General Exceptions of Pakistan Penal Code, 1908
- Code of Criminal Procedure ,1898
- Anti –terrorism Act, 1997.
- Control of Narcotics Substance Act,1997
- PLD 2006 Karachi 331.

# Dissolution of Marriage Contract

By Qazi Ataullah<sup>‡</sup>

## Introduction

A mistake in all other civil laws would, at the maximum, vitiate the trial. In Family Laws, it would also cause damage to third parties such as children, sharers in inheritance, strangers whose interests begin with the completion of *Iddat* and much more. Besides, these matters are deeply connected with religion. So any judicial determination must necessarily be in consonance with the related provisions of Quran and Sunnah. In case of repugnancy, issues like validity of marriage contract, legitimacy of children, legality of judicial separation, entitlement to maintenance and dower, inheritance between the spouses etc will emerge.

To avoid the above situations and to equip the judges with the required competency of the family branch of Islamic Jurisprudence, this lecture was arranged by Faculty of KPJA. So it focuses on various modes of judicial separations, its occasions, origins and consequences.

## Methodology

The participants were advised to use the terminologies of this course with due care and caution. The thoughtless expressions may prove fatal to one own self. An analytical participative study of the situations usually occur in the courts was carried out. Supposed situations were also kept before the participants and they were asked to give their opinions and the grounds for such opinions. They were appraised about the serious consequences of a wrong determination. The real and practical implementation of ADR techniques was also highlighted.

The lecture was delivered with the help of a chart that form part of this synopsis.

## Outcomes

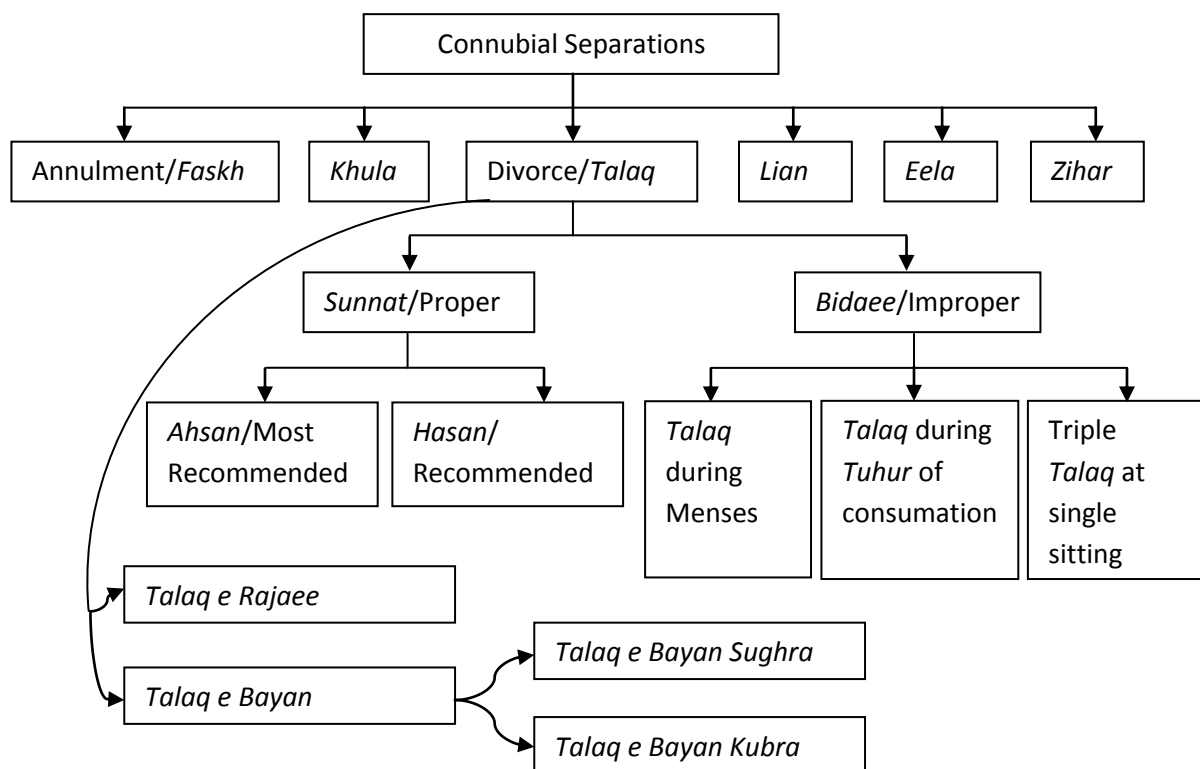
The participants would be able:

- i. To know the basic terminologies of family laws of Islamic jurisprudence.

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<sup>‡</sup> Director Instructions, KP Judicial Academy; Civil Judge; PhD scholar, International Islamic university, Islamabad

- ii. To understand the various modes of Connubial Separations, particularly the separations formed by judicial decrees.
- iii. To apply ADR techniques effectively in determination of family issues.
- iv. To deal family cases comparatively with more care and caution.
- v. To search and quote references from the Holy Quran and Sunnah.



Talaq: To give an end to a valid contract of marriage be husband or his attorney, expressly or impliedly, with immediate or future effect.

Kinds: Division 1: Talaq Sunnat and Talaq Bidat, Talaq Hassan and Talaq Ahsan

Division 2: Talaq Rajae and Talaq Bayen, Talaq Bayen Sughra and Talaq Bayen Kubra.

Faskh/Annulment: Discontinuation of marriage contract due to defect.

Kinds: Division 1: Defects before conclusion of marriage contract.

Division 2: Defects after conclusion of marriage contract.

Division 3: Defects that require the decree of the court.

Division 4: Defects that do not require the decree of the court.

Khula: Separation for some consideration.

Issue 1: Whether judicially enforceable?

Issue 2: Whether Khula is Talaq or Faskh?

Issue 3: Effect of Khula?

Issue 4: Legal status of Consideration?

Case Study:

Case 1: khurshid Bibi Vs Muhammad Amin, PLD 1967, SC 97.

Case 2: Bilqis Fatima Vs Najm-ul-Ikram, PLD 1959, SC, 566.

Case 3: Umar Bibi Vs Muhammad Din, AIR 1945, Lahore 51.

Case 4: Saeeda Khanum Vs Muhammad Sami, PLD 1952, Lahore 1913.

Separation on account of Judicial decrees.

- 1- Effect [Every decree operates as Talaq Bayen Sughra except decree in case of *mafqud ul khabar* where it operates as *Talaq-i-Rajae*].
- 2- Situation where *mafqud ul khabar* returns.
- 3- Fate of missing persons.
- 4- Comments of Justice Taqi Usmani on judgment of Justice S A Rahman.

Lian and Pakistani Courts

Zihar: definition, history, legal effects.

Eela: definition, history, legal effects.

## Modes of Proof with Focus on Oath

*By. Qazi Ataullah*

### **Introduction**

All authorities take decisions in one shape or the other. What makes the judicial decision distinct from the others is its being based on solid and valid grounds. These grounds are technically known as modes of proof. Proof is the amount of facts that is sufficient to convince the mind of the judge to believe the existence of fact in issue.

We see that judgment is main outcome of judicial proceedings. Through judgment, the issues are determined. But no judgment could be passed without required proof. Such proof could only be obtained by one or more of its modes.

This lecture is aimed to explore various modes of proof with special focus on oath; oath as a mode of proof under Qanun-i-Shahadat Order 1984, Islamic Jurisprudence and Special Oath Act. The evidentiary value of each mode is also discussed. The lecture bring out only three modes of proof in English Jurisprudence; Evidence, Admission and oath. It explores nine modes of proof in Islamic Jurisprudence. The effect of denial to take oath, both in English and Islamic Jurisprudences has been particularly explored.

### **Methodology**

Practical aspect of the subject was given preference. The prevailing procedure of receiving evidence was brought under discussion. The participants were involved to express their reviews regarding statements of the parties as piece of evidence. Order XVIII & X of Civil Procedure Code were revisited. Article 44 of the Qanun –i- Shahadat Order 1984 and section 340(2) of the Criminal Procedure Code were fully discussed. A comparison between evidence laws of English and Islamic Jurisprudences was conducted. So our methodology was comparative as well as participative.

Outcomes:

On the completion of lecture, the participants became capable

- i. To know various modes of proof in English Jurisprudence.
- ii. To understand various modes of proof in Islamic Jurisprudence.

- iii. To ascertain the evidentiary value of each mode.
- iv. To apply section 163 of the Qanun –i-Shahadat properly.
- v. To distinguish between the provisions of Qanun-i- Shahadat and Special Oath Act.
- vi. To know the status of the statements of the parties.

***Mode:*** Particular form of something, manner or method.

**Proof:** Sufficient evidence for the truth of a proposition, the quantity and quality of evidence that could convince a court regarding existence or non-existence of some fact.

### ***Evidence***

**Evidence:** All legal means, exclusive of mere argument, which tend to prove or disprove any fact in issue, the truth of which is submitted to judicial investigation.

**Evidence as defined by Qanun-i-shahadat:** Non-comprehensive nature of.

**Evidence and Proof:** Distinction of. Means and product relationship.

**Kinds:** Oral, documentary, conclusive, direct, circumstantial, primary, secondary, real, hearsay, extrinsic, indirect, original, derivative.

**Statements of Parties:** 1- legal status of.

2- Parties to civil suit in perspective of

- a- Sections 118 &120 if Evidence Act [Repealed] 1872.
- b- Non- reproduction of section 120 in Qanun-i-Shahadat Order 1984.
- c- The philosophy behind the phrase “other than the victim” in required evidence of Hudud Cases.
- d- Examination of the parties, its meaning in Order X of CPC.
- e- Stating of case, its meaning under rule 2 of Order XVIII CPC.

f- Hearing of complainant & hearing of accused in sections 244 and 265F CrPC.

Statement of Parties: 1-Shaiah's view

2- Judicial impact of insertion of Article 2A in Constitution.

3- Why Evidence Act 1872 was repealed?

5- Competency as witness, significance of the last proviso attached to

6- Article 3 of the Qanun-i-Shahadat Order 1984.

### ***Admission***

- 1- Meaning & definition [Law]
- 2- Meaning & definition [Shariah]
- 3- Comparison
- 4- Evidentiary value [Law]
- 5- Evidentiary value [Shariah]
- 6- Confessions: How viewed by Shariah and Law?

### ***Oath***

- 1- Meaning
- 2- Kinds.
- 3- As a mode of proof
- 4- Oath under Oath Act 1873.
- 5- Oath in Shariah.
- 6- Correct construction of Article 163 of the Order.
- 7- Oath in Qasamah proceeding.
- 8- Oath in Lian proceedings.
- 9- Procedure of taking oath in Shariah.
- 10- Why oath before depositions?
- 11- Oath cannot operate as Res judicata.

## Land Revenue Laws

By: Mr. Hayat Ali Shah<sup>§</sup>

1. Land Revenue Act 1967: History and Purpose of.
2. Revenue terminologies
  - (a) Estate & Village , Mauza, Mahal, Pind and Gaon.
  - (b) Land: Definition of
  - (c) Agricultural Land.
  - (d) Land Owner and Owner of the land: Distinction of
  - (e) Meaning of Land Lord
  - (f) Land Revenue: Meaning
  - (g) Revenue officers Vs Revenue Courts (Sec 7 of the Revenue Act)
  - (h) Civil Courts Vs Revenue Courts
  - (i) Shajra Nasab
  - (j) Field map
3. Significance of Board of Revenue
4. Process under Land Revenue Act
  - (a) Procedure for taking out summonses
  - (b) Meaning of “ due service “
  - (c) Application of rules of CPC
  - (d) Service by registered post and substituted service
5. Lambardar: Powers and duties
6. Khasra Girdawari: purpose of
7. Evidentiary Value of Khasra Girdawari and Wajib- Ul-Arz
  - (a) Khasra Girdawari: How prepared and maintained?
  - (b) Wajib ul Arz: how prepared?
8. Issue of Shamilat
9. Mutation
  - (a) Mutation of exchange
  - (b) Mutation of Inheritance.
  - (c) Mutation of Gift and Will.
  - (d) Adoption in Islam
  - (e) The issue of Inheritance of grandson

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<sup>§</sup> Director General, KP Judicial Academy; District & Sessions Judge; LLB (Peshawar)

- (f) Significance of Sura Nisa for Revenue Officers and Revenue Courts
- (g) Attestation of Mutation
- 10. The preparation and significance of Record of Rights
- 11. Significance of Registered Haqdaran –i-Zameen.
- 12. Assessment and its procedure
- 13. Various modes of Recovery and collection of land Revenue.
  - (a) Notice of Demand/ Dastak.
  - (b) Arrest and Detention
  - (c) Transfer
  - (d) Attachment
  - (e) Annulment
  - (f) Sale
- 14. Arbitration under the Act: Informal Resolution of Land Revenue Disputes.
- 15. The Concept of Appeal, Review and Revision under the Act

## **Nuisance & Dispute as to Immovable Property**

### ***Focus: Public & Private; Attachment Immovable Property***

*By Dr. Adnan Khan\*\**

#### **Introduction**

This lecture has three parts: nuisance as an offence under Pakistan Penal Code, Provisions relating to the removal of nuisance under the Criminal Procedure Code and nuisance under the Civil Procedure Code.

Nuisance is one of the most neglected areas of the legal system. Though a tortuous concept, it has been incorporated in various criminal and civil statutes. These, inter alia include:

- Pakistan Penal Code Sections 268, 290 and 291
- Criminal Procedure Code Sections 133 to 144
- Civil Procedure Code Section 91

The term nuisance would literally mean injury, hurt, or harm, in context, it would mean an act or omission which unwarrantably affects the rights of the others, endangers life or health gives offence to the sense, violates the laws of decency or obstructs the comfortable and reasonable use of property can amount to nuisance (1991 MLD 1340).

The notion is bifurcated into two: private nuisance and public nuisance. A private nuisance is anything done to the annoyance of some particular individual or individual. For the public, we have to rely on the definition given by the Penal Code:” An illegal act or omission causing any common injury, danger of annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right” (268 PPC).

Private nuisance has been kept outside the domain of criminal law. A law suit can be brought in the cases of private nuisance, the suit is treated is an ordinary civil suit and there is not special procedure for the same. For public nuisance, there are more than a single remedies available under various laws:

1. Nuisance may be punished as an offence under the Penal Code. Under Section 290, a person found guilty of the offence shall be punished with fine which may

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\*\* Director Research & Publication, KP Judicial Academy, PhD (UK); LLM (UK); LLB (Hons) International Islamic University, Islamabad, Barrister/Solicitor; Ex-Civil Judge.

extend to six hundred rupees. Trial is conducted summarily, and proceedings may be initiated on a police report or a private complaint, just like the other offences. For the repetition or continuation of nuisance having been enjoined by a public servant to be removed, there is enhanced punishment provided by section 291, which may be simple imprisonment up to six months, or fine, or both.

2. Sections 133-139 of the Criminal Procedure Code deal with removal of nuisance and have nothing to do with trial of the offence of nuisance. A magistrate is empowered to remove public nuisances by way of conditional or absolute orders. Under the provision, a respondent may apply for appointment of jury. Verdict of jury under these provisions is final. In case of denial of public rights, the magistrate may require the respondent to approach a civil court for determination of his rights at issue. Jurisdiction of magistrate under this chapter a magistrate is not empowered to impose penalty on the respondent or award damages to the aggrieved party.

3. Civil Procedure Code also deals with public nuisances. Section 91 provides a special procedure for the same. Only the Advocate General or two or more persons having obtained in writing the consent of Advocate General to that effect can bring suit in case of public nuisance. Once these requirements are met, the suit is treated as a normal civil suit. Jurisdiction of a civil court under this law is far wider than that of a magistrate under section 133 CrPC. Here, the court beside removing the nuisance can issue declarations, permanent injunction to avoid repetition of nuisance and award damages to the aggrieved party.

It must be kept in mind that availing of one remedy does not automatically bars the other. Thus, punishing someone under Section 290 PPC does not mean that a magistrate is not empowered under Section 133 CrPC to remove the nuisance. Similarly, initiation of proceedings by a magistrate under Section 133 CrPC does not bar the jurisdiction of a civil available under Section 91 CPC. All the remedies can be availed of concurrently, however, as a general rule, criminal proceedings are always subservient to that of a civil court, as it is the latter, which is the court of ultimate jurisdiction to determine civil rights of the citizens.

## **Methodology**

Keeping in view the fact that nuisance is one of the most ignored areas of the legal system, this lecture is a key to basic orientation about the concept of nuisance, its importance in the dispensation of justice, multiplicity of remedies available in nuisances and procedural intricacies involved in the process under the relevant laws. The lecture will be delivered as a power point presentation followed by a question answer session.

## **Learning outcomes**

At the end of the session, the participants shall:

- Be acquainted with the philosophical back ground of the concept of nuisance and other torts.
- Have orientation with relevant constitutional rights of protection from nuisances.
- Have the knowledge of basic ingredients of nuisance.
- Learn how to apply the relevant statutes relating to nuisances.
- Be Sensitised about on the importance of the notion.

### Reading list

- The Constitution of Pakistan (Article 9, 14, 15)
- Pakistan Penal Code 1860 (Section 268,190,291)
- Criminal Procedure Code 1898 (Section 133-143)
- Civil Procedure Code 1908 (Section 91)
- PLD 2010 SC 61

## Bail: Theory & Practice

### *Focus: Bail in General; Procedure of Cancellation; Forfeiture*

*By: Dr. Adnan Khan*

#### **Introduction**

This study circle has five parts:

1. The concept of bail in general and its distinction from discharge on personal bond
2. Bail in bailable offences
3. Bail in non-bailable offences
4. Anticipatory bail
5. Cancellation of bail

Though commonly applied in the course of litigation, many areas of the concept of bail still needs through understanding. Though a discretionary remedy, particularly in non-bailable offences, there are many guidelines for ensuring judicious exercise of this discretion. Many principles of natural justice and competing human values are to be considered and balanced while exercising the jurisdiction of bail. These inter alia, include the right to liberty, of presumption of innocence, of inviolability of dignity of man, of blocking repetition of the offence, of securing and protecting victims of the offence, of ensuring the accused may not temper with the evidence and so on.

The study circle will start with the introductory part in form of a presentation by the resource person. In this part, the concept of bail will be highlighted briefly. Here a distinction will also be drawn between bail and discharge on personal bond. For the circle, the participants will be divided into four groups. Each group will be assigned a topic under the law of bail.

- |    |         |                               |
|----|---------|-------------------------------|
| 1. | Group A | Bail in Bailable Offences     |
| 2. | Group B | Bail in non-Bailable offences |
| 3. | Group C | Anticipatory Bail             |
| 4. | Group D | Cancellation of Bail          |

Each group will read the relevant provision of law and highlight issues within the same. It will be followed by an open house discussion and a question answer session. At the end, the resource people will summarise the whole proceedings.

### **Methodology**

A study circle in groups encouraging all the participants to contribute. Four groups consisting of 5-6 persons will be constituted. One person will be reading the relevant provision of law. The same will also be displayed on the multimedia screen. The others will be assisting him/her noting down the relevant points in the legal provision. Then each member will be presenting these points turn by turn.

### **Learning outcomes**

At the end of the session, the participants shall:

- Be acquainted with the philosophical understanding of the concept of bail.
- Understand the relevant principles of law of bail.
- Be able to get an in-depth understanding of laws relating to bail.
- Learn how to apply the relevant laws.
- Be sensitised about on the importance of the notion.

### **Reading List**

- The international Covenant on Civil & Political Rights 1966 (Article 14)
- The Constitution of Pakistan (Article 9, 10, 10A)
- Criminal Procedure Code 1898 (Section 496, 497, 498, 498A)

## Execution of Decree

*By: Mr. Muhammad Azim Khan Afridi<sup>††</sup>*

Execution of decree is a cumbersome duty imposed over the courts executing the decree. Unprofessional or irresponsible conduct of execution of decrees or executable orders not only prolongs the agonies of the decree holders but also shatters the confidence of masses over the judicial system. Additionally inordinate delays in executing the decrees emerge when the law courts do not pay desired attention and apply correct propositions at the relevant times.

The discourse on the theme is mainly focused to sensitize the participants to pay due attention to prompt disposal of the execution proceedings and, while conducting execution proceedings, pay due attention to the provisions of law and rules governing and streamlining the execution proceedings.

Execution of money decree, realization of amount payable under the decree with costs or interest thereof ordinarily endow over the court duty to realize the proceeds of the decree by arrest and detention of judgment-debtor or/and attachment and sale of movable and immovable properties. Similarly decree for possession, resistance thereto by the judgment-debtor or any other person casts duty over the court to grant forcible possession to the decree holder and remove any person occupying the land without any just cause.

Precept is an instrument of court fashioned for attachment of property situated within territorial limits of courts other than passing the decree. Similarly transfer of decree to a court in another District or even province has by now become a routine affair.

The discourse is aimed to sensitize and educate the participant to proceed with the execution of decree in accordance with mandates of laws laid down for execution. The discourse is also aimed at facilitating the execution of decree minus harassing or humiliating the judgment-debtor.

The discourse is participatory in nature and shaped as a presentation followed by discussion and question answer session.

### **Initial Adjudication of suit**

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<sup>††</sup> Judge, Accountability Court –II, Peshawar.

Increase in pendency in courts may sometimes prove fatal to the justice system. Prompt and efficient disposal of cases and timely justice is always considered a prerequisite and hallmark for good judicial system.

Civil Courts are always considered backbone of the structure and skeleton of judicature. Civil courts, while adjudicating civil disputes, are required to be more attentive so far as dispositions are concerned.

Casual procedural approach in courts towards civil cases not only delays the disposal of cases but also overburdens the courts and mechanism meant for timely and expeditious of civil suits.

The discourse is aimed at discovering and sharing views with the participants so as to ensure disposal of civil suit requiring early disposal appropriately and at the earliest stages. The presentation is not only aimed at restoring confidence of public over the judicial system of the country but also aimed at enhancing the image and strengthening the command of the presiding judges over case management.

Apart from presentation the discourse also contains illustration for simplifying the complexities of the procedures.

## Confession: Theory & Practical/Common Mistakes

*By: Mr. Muhammad Adil Khan<sup>##</sup>*

### Confession (Blacks' Law)

- Contents
- Legality
- 164 Cr.P.C
- 364 Cr.P.C
- High Court Rules and Orders

### (Chapter# 13 Vol-III Clause-4)

- Form (Printed)

### (High Court Rules & Orders)

- Formalities (to be observed)
- Common Mistakes

### Confession

- An admission of certain facts which constitutes an offence. It is the total acknowledgment of one's guilt to admit or to concede to admit the truth of a charge or accusation.
- A voluntary statement made by a person charged with the commission of a crime or misdemeanor, communicated to another person, wherein he acknowledges himself to be guilty of the offence charged and discloses the circumstances of the act or the share and participation which he had in it.
- Confession is a statement by a suspect in crime, which is adverse to that person.

Confession in criminal law is an admission of guilt by accused party

### Contents

Actual words used by the maker of a confession have to be reproduced to prove the confessional statement

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<sup>##</sup> District & Sessions Judge, Charsadda.

## Legality

Statement of accused becomes confession only when recorded in compliance with the provisions of Ss.164 read with 364, Cr.P.C after observing certain pre-requisites.

### 164 Cr.P.C

- Any Magistrate 1<sup>st</sup> and 2<sup>nd</sup> Class record confession.
- During Investigation
- In the prescribed manner for recording evidence
- Best fitted for the Circumstances of the case.
- Signed & certified u/s 364 Cr.P.C

(Non-compliance of Section-364(2),(3) Cr.P.C is incurable illegality)

- Explanation, not bound to make confession.
- Used against the person making it.
- Memorandum of Inquiry

(As provided in Chapter# 13 Vol-III of High Court Rules and Orders)

### 364 Cr.P.C

- Question put and answer given be recorded in full;
- in the language of accused or in English
- Read over to accused
- If not conversant with language, be interpreted
- Any explanation given be added to his answers
- Statement, confirmed to be true shall be signed by accused and Magistrate
- Certify in his own hand writing

(In his presence and hearing, contains full and true account of statement of accused)

- Memorandum, if statement not recorded by Magistrate himself
- Memorandum shall be written and signed by Magistrate

High Court Rules and Orders (Chapter# 13 Vol-III Clause- 4)

- Statements or confessions made in the course of an investigation can be recorded only by a Magistrate of the 1st Class or a Magistrate of the second class, who has been specially empowered by the Provincial Government.
- Confession must be recorded and signed in the manner provided in S. 364.
- Before recording any such confession the Magistrate shall explain to the person making it that he is not bound to make a confession and that if he does so it may be used in evidence against him. Fear of the accused must be removed.
- The memorandum set forth in S. 164(3) must be appended at the foot of the record of the confession.
- No Magistrate shall record any such confession unless upon questioning the person making it he has reason to believe that it was made voluntarily, failure to question has been held to vitiate the confession.
- It is not necessary that the Magistrate receiving or recording confessional statement should be a Magistrate having jurisdiction in the case.
- It should not be exculpatory, should be voluntary and true.

Form (Printed)  
(High Court Rules & Orders)

- Do you understand that you are not bound to make a confession?
- Do you understand that your statement is being recorded by Magistrate, and that if you make a confession, it may be used as evidence against you?
- How long have you been in police custody?
- Do you understand that after making a statement before me voluntarily, you will not be remanded to Police Custody?
- Understanding these facts, are you making a statement before me voluntarily?
- What are your reasons for wishing to make a statement?

## **Common Mistakes**

- On Oath
- Identification of Accused
- Age of Accused
- Time for reflection
- Meeting with relatives/lawyer
- Body Examination
- Actual Timing of Recording Statement
- Doctor's Fitness Report
- Non-mentioning on Jail Warrant Regarding Confession
- Confession in cases under the control of Narcotics Substances Act,  
and Hudood Law
- Memorandum, if not recorded in the hand writing of the Magistrate.
- Transmission of Original Confessional Statement alongwith complete Challan  
to the Court of Sessions (PHC Letter No.3282-3307/Admn dated  
03/11/2010)

## **Criminal Investigation**

### ***Focus: Supervision by Magistrate, Role of Investigation & Prosecution***

*By: Mr. Tariq Yousafzai<sup>§§</sup>*

#### ***Introduction***

- Criminal Investigation/inquiry.
- Supervision by Magistrate.
- Role of prosecution.

#### **Types of Criminal Proceedings under Cr.P.C.**

- Preventive.
- Punitive.

#### **Preventive Criminal Proceedings under Cr.P.C**

- Proceedings u/s 107 Cr.P.C
- Proceedings u/s 151 Cr.P.C

#### **Whether preventive proceedings are complaints?**

#### **A misnomer**

#### **Complaint defined – Ingredients {Section 4 (h) Cr.P.C}**

- Oral/written.
- Must be submitted before Magistrate

#### **Complaint defined – Ingredients {Section 4 (h) Cr.P.C}**

- Magistrate to take action under Cr.P.C.
- Some known or unknown person must have committed an offence.
- It excludes report of police officer.

#### **Offence Defined**

- Any act which is punishable under any law for the time being in force

(Section 4(o) Cr.P.C)

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<sup>§§</sup> District & Sessions Judge, Haripur.

### **Which Court to take cognizance of the complaint (Section 190 Cr.P.C)**

### **Whether a Magistrate can record statement on oath in all cases exclusively triable by the Court of Sessions?**

- Inquiry u/s 202 Cr.P.C
- Dismissal of complaint  
(Section 203/247 Cr.P.C)
- Issuance of proclamation  
(Section 204/87 Cr.P.C)
- Whether bail can be granted to an accused as a matter of right in complaint cases u/s 91 Cr.P.C?

### **Proceedings in FIR Cases**

- FIR in cognizable offences (Section 154 Cr.P.C)
- FIR in non-cognizable offences  
(Section 155 Cr.P.C)
- Investigation (Section 156 Cr.P.C)
- Examination of witnesses  
(Section 161/164 Cr.P.C)

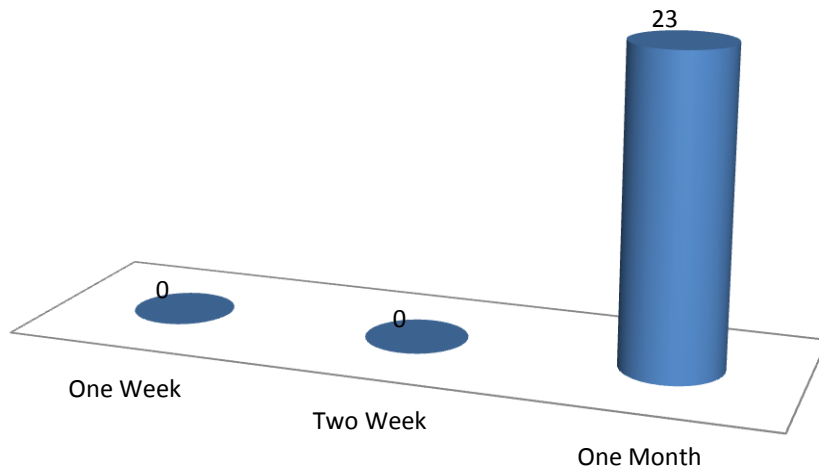
### **Proceedings in FIR Cases**

- Deficient evidence (Section 169 Cr.P.C)
- Discharge of accused (Section 63 Cr.P.C)
- Cancellation of FIR (Section 173 (3) Cr.P.C)
- Inquest by the Magistrate  
(Section 174/176 Cr.P.C)

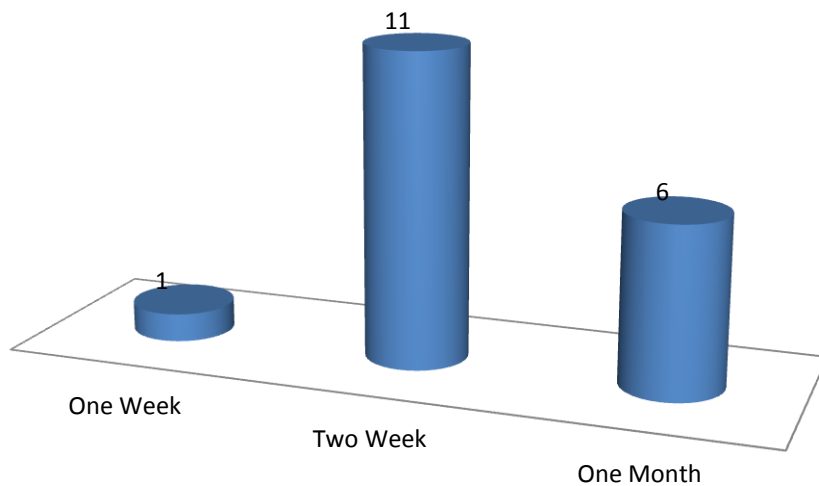
# ***Evaluation***

## Pre Evaluation

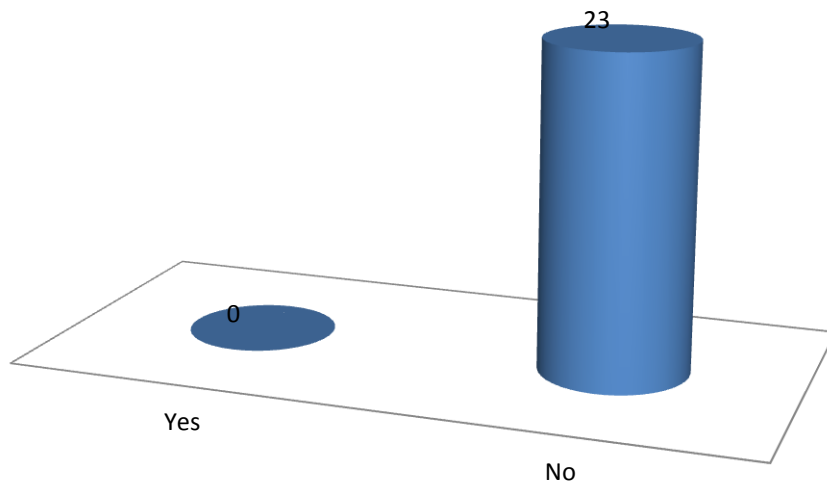
Please suggest minimum duration of training in Procedural and Substantive Law for Pre - Service



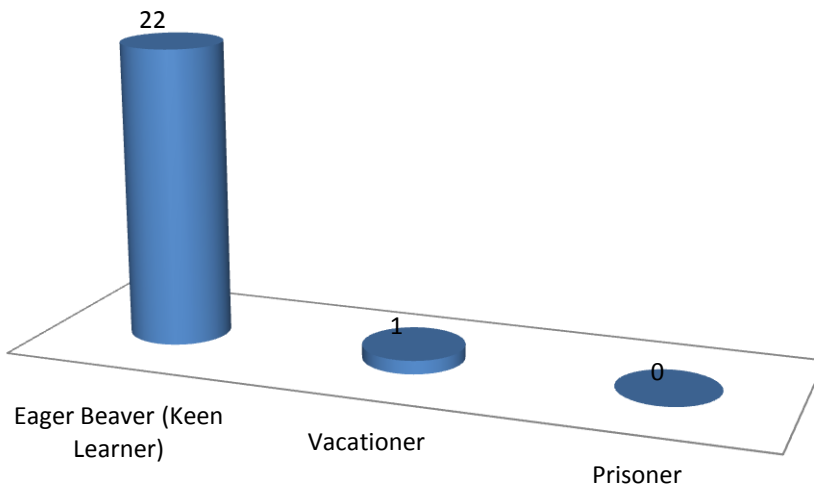
Please suggest minimum duration of training in Procedural and Substantive Law for In - Service



Have you undergone any training on Substantive & Procedural Law before?

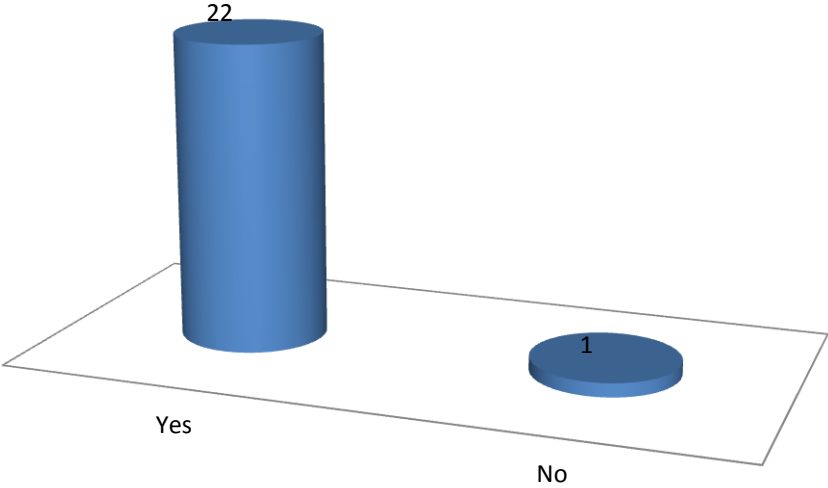


In which category do you fall?

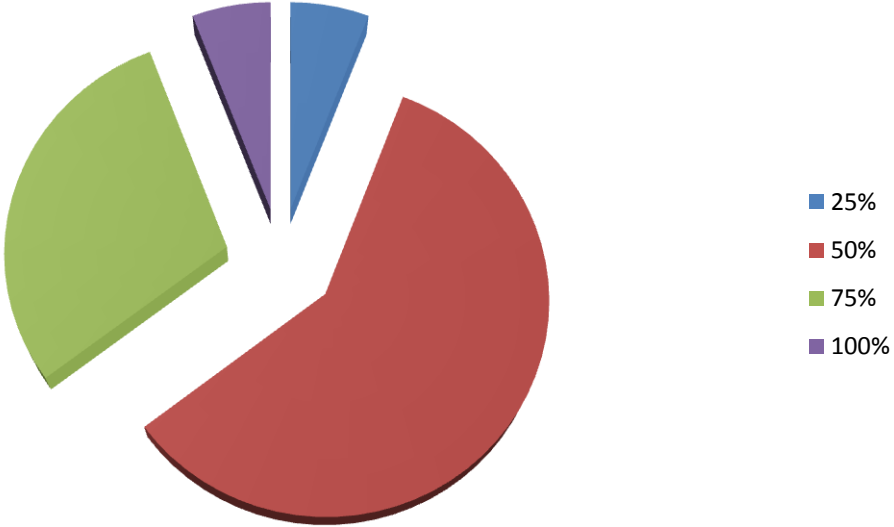


### Post Evaluation

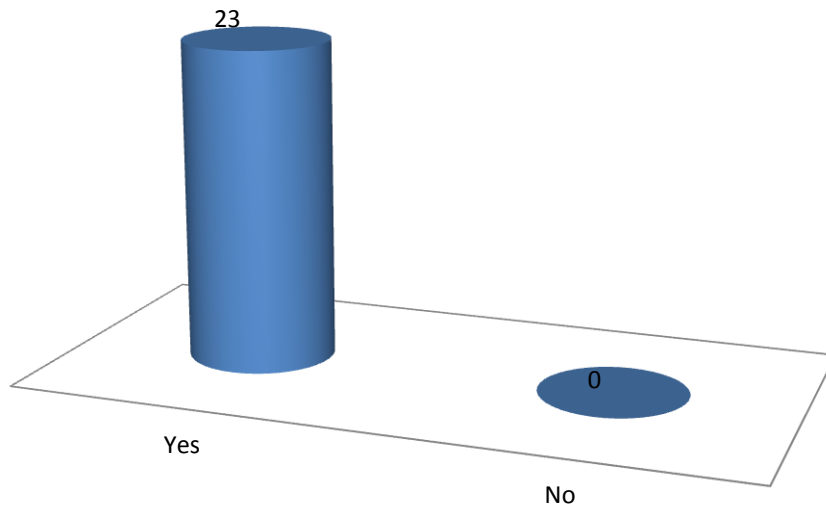
Is, after training, there any improvement in your legal knowledge?



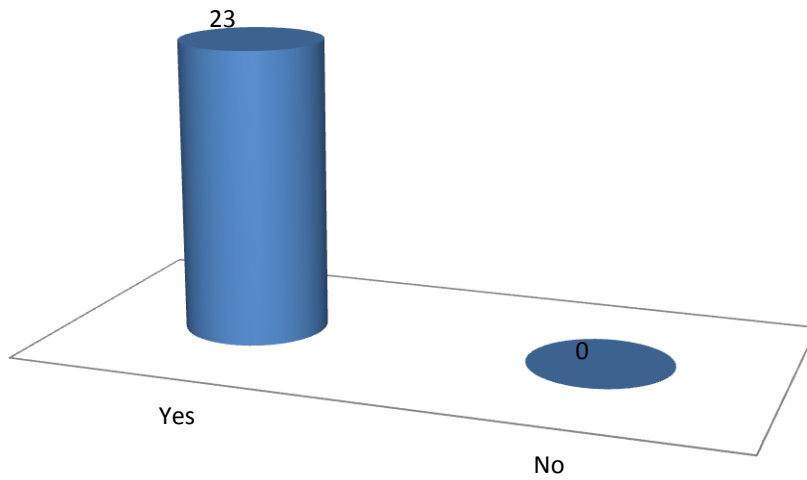
In case of Yes, please rate

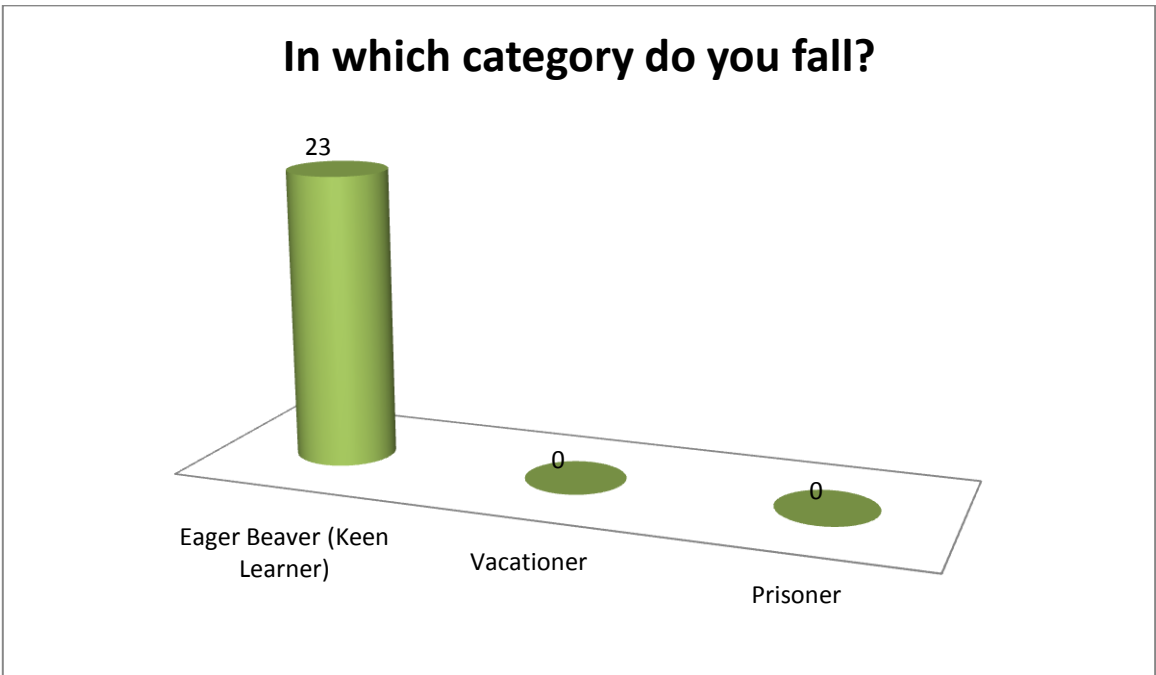
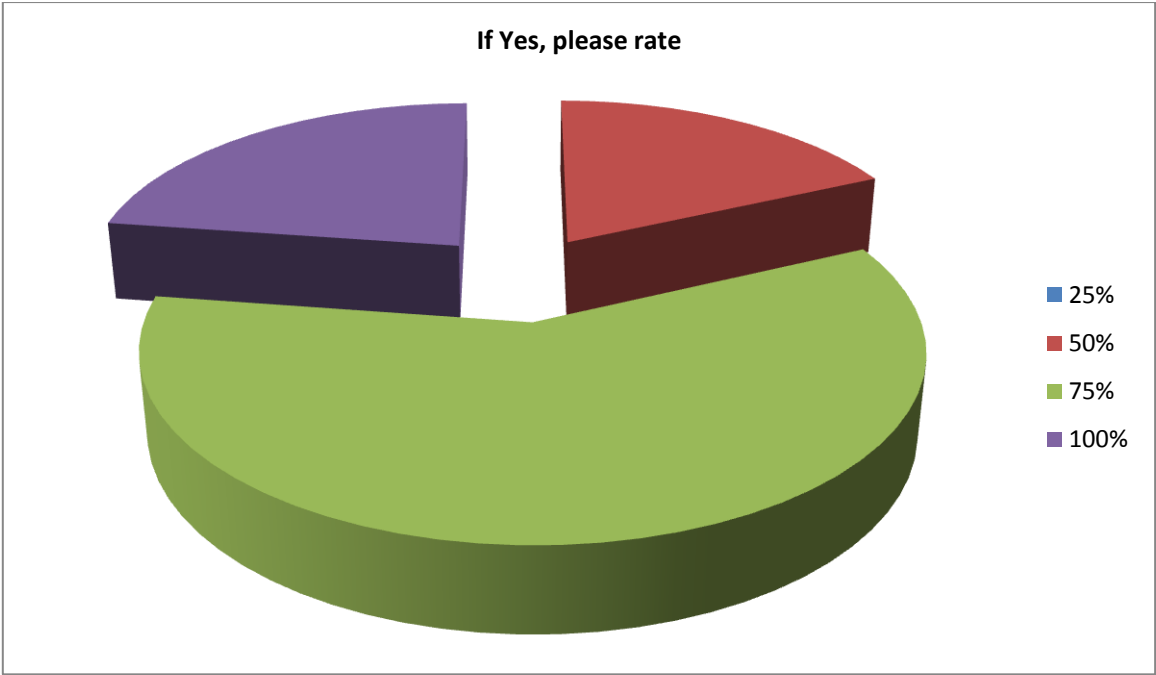


**Do you feel that judges across the province need this training?**

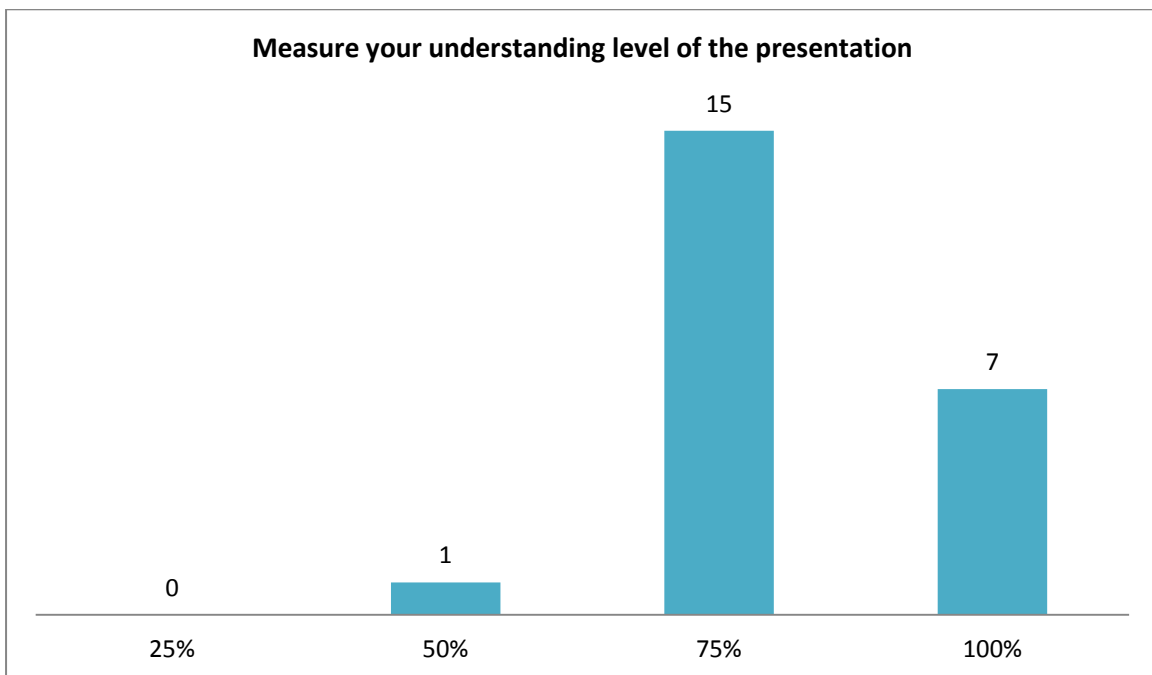
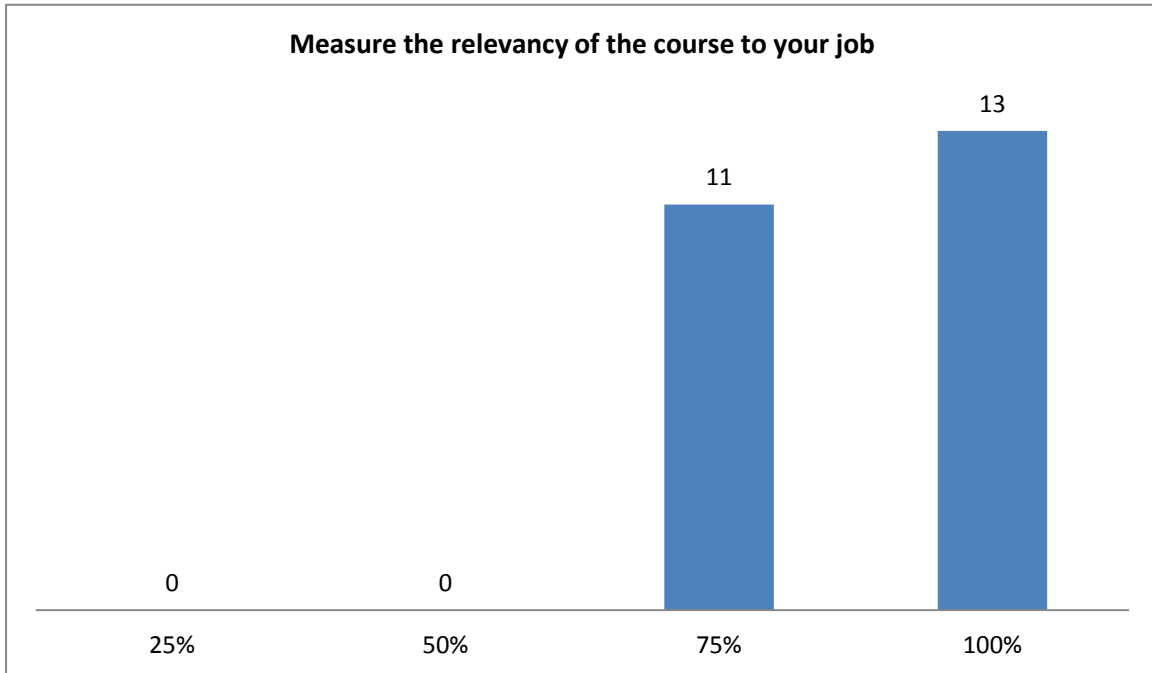


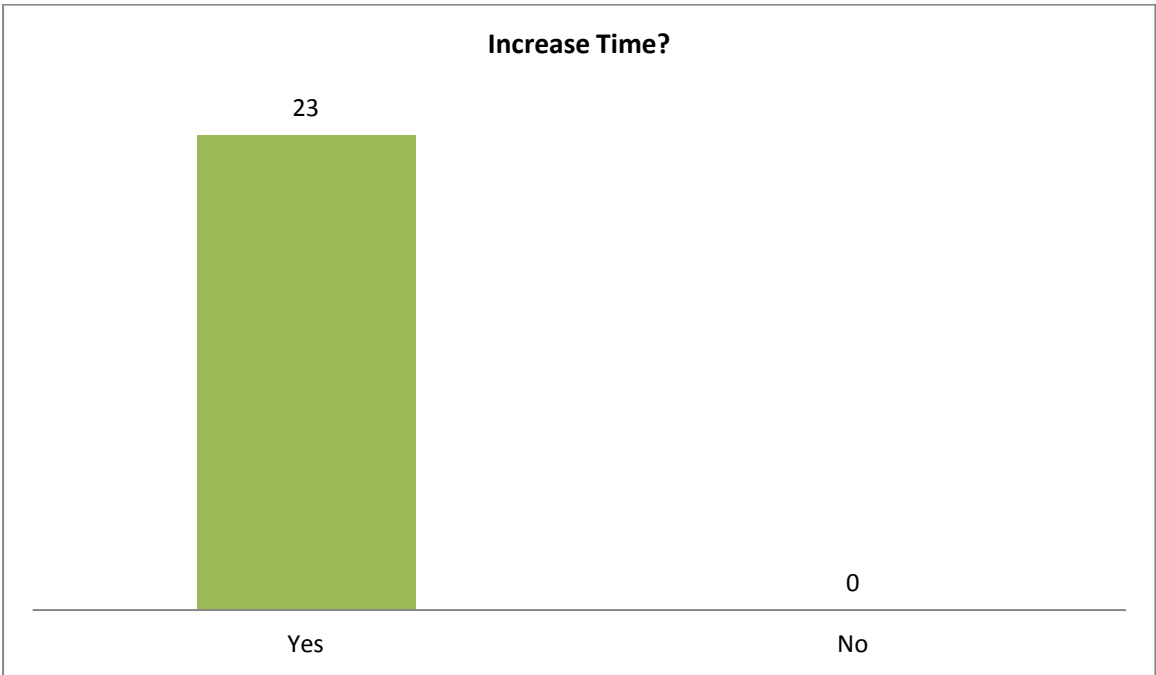
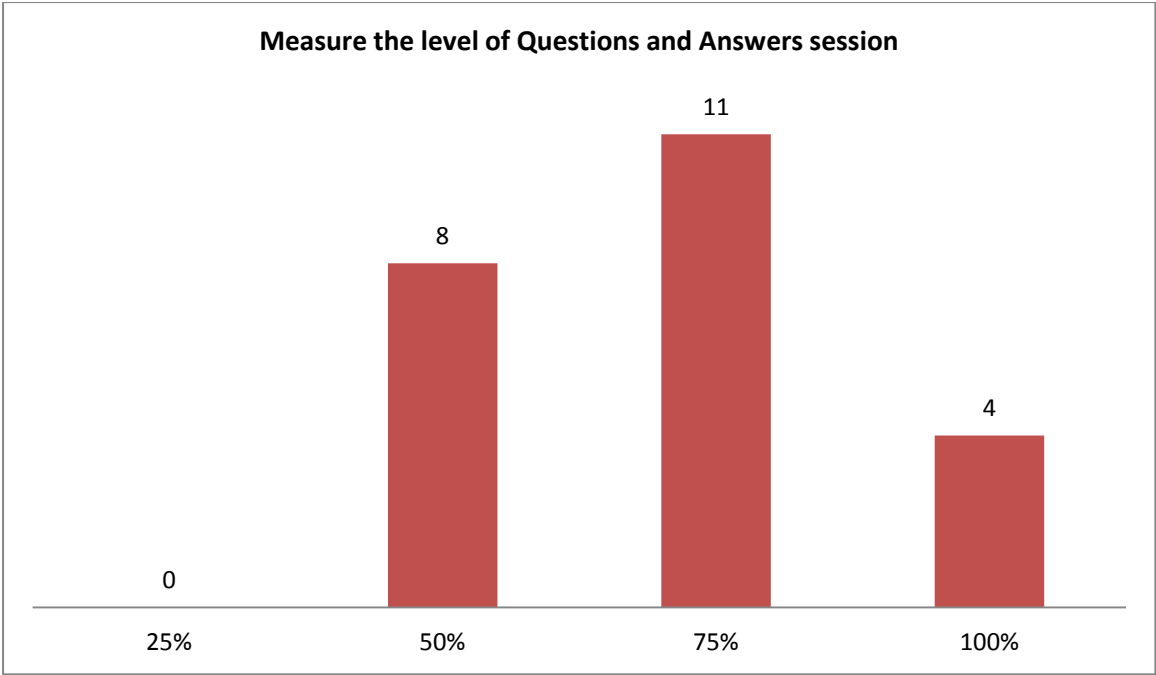
**Do you feel any improvement in your knowledge & comprehension of Substantive & Procedural Law?**

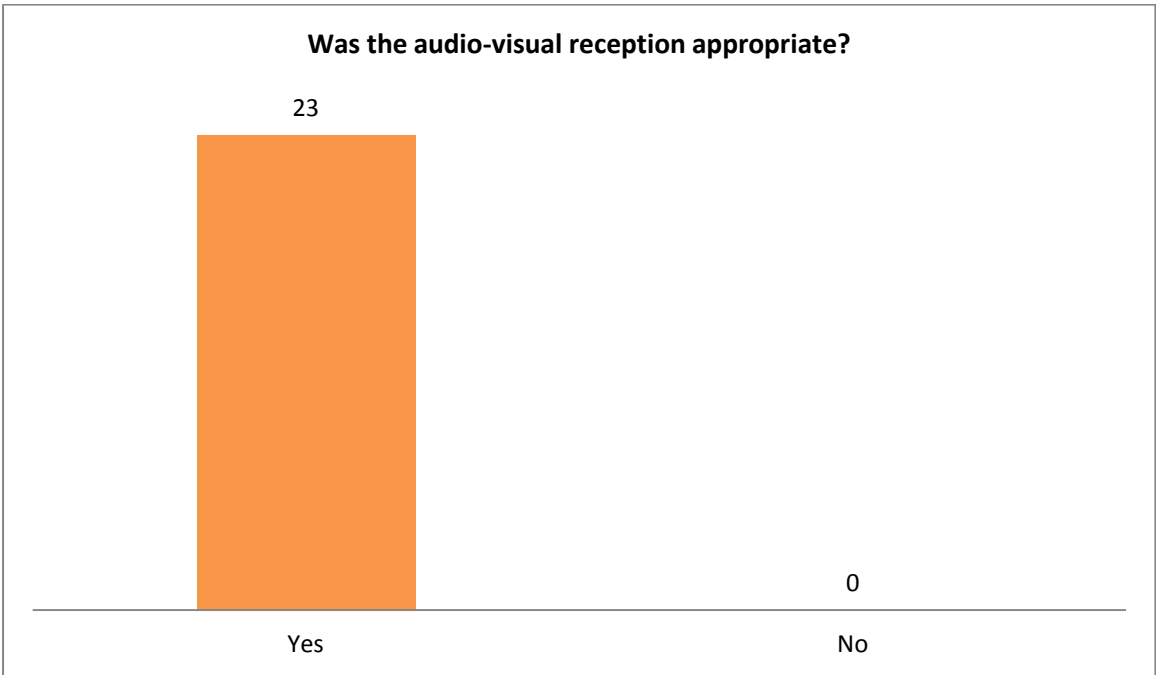
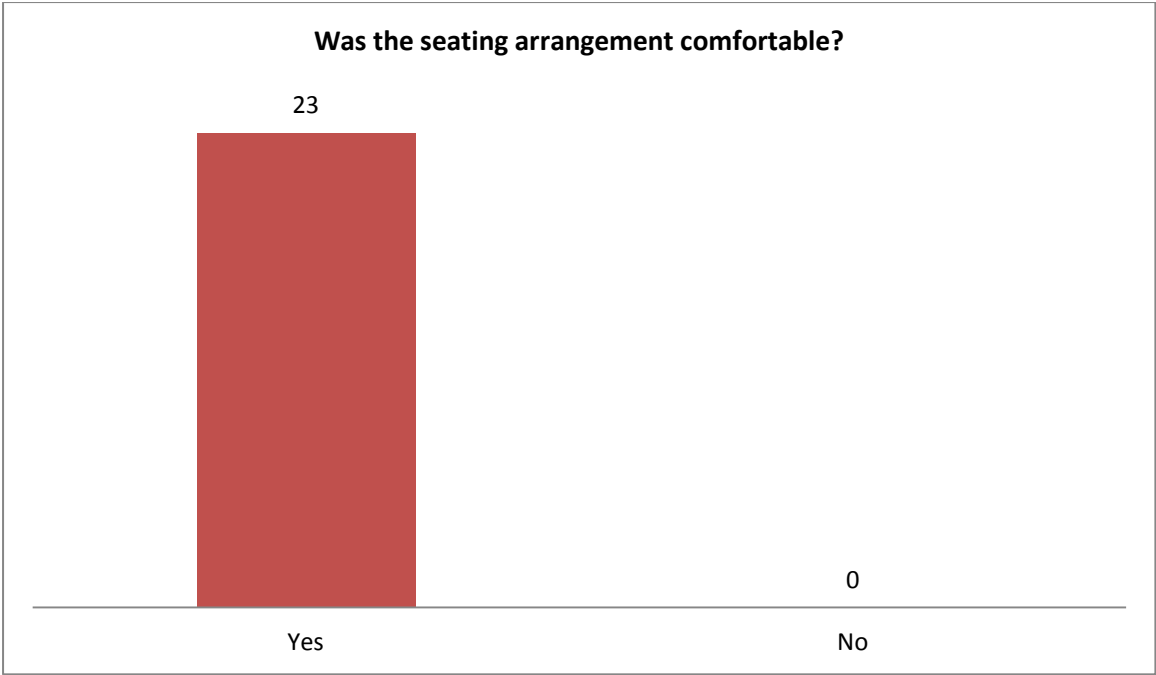


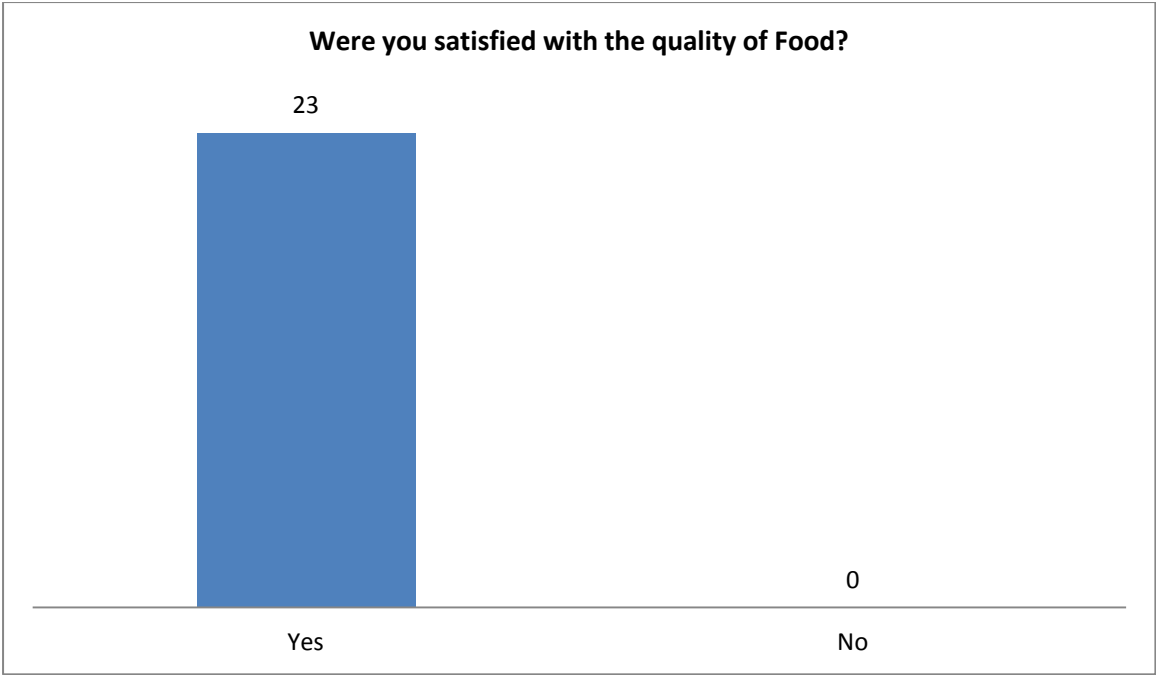


## Over - All Training Evaluation









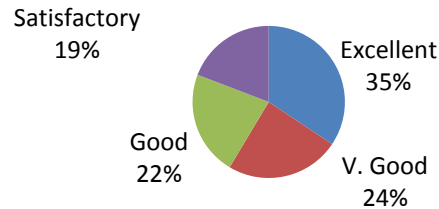
## Comparative Statistical Statement of Pre & Post Training Evaluation

### *Pre & Post Training Open Ended Questions*

- I. Define Adjective Law
- II. Give a proper definition to Substantive Law?
- III. Give example of a Law that is partially Procedural & partially Substantive.
- IV. Does Procedural Law play a role in the administration of Justice? Give at least 02 reasons for Yes & No
- V. How would you relate procedural law with the concept of fair trial?
- VI. What do you feel bad in trial by fire?
- VII. Give proper definition to Charge
- VIII. What is the implication of framing of charge under an improper provision of law
- IX. Is framing of charge mandatory in every criminal proceeding? Give at least 02 reasons for Yes & No
- X. How Talaq differs from Faskh?
- XI. What is the affect of refusal to take Oath under QANUN-E-SHAHADAT ORDER, 1984

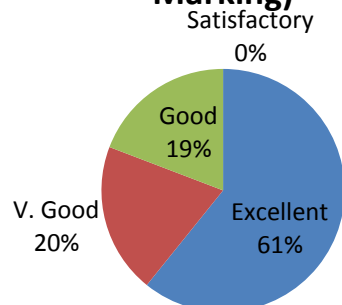
### *Pre Evaluation*

#### Pre Evaluation (Open Ended Questions Marking)



### *Post Evaluation*

#### Post Evaluation (Open Ended Questions Marking)

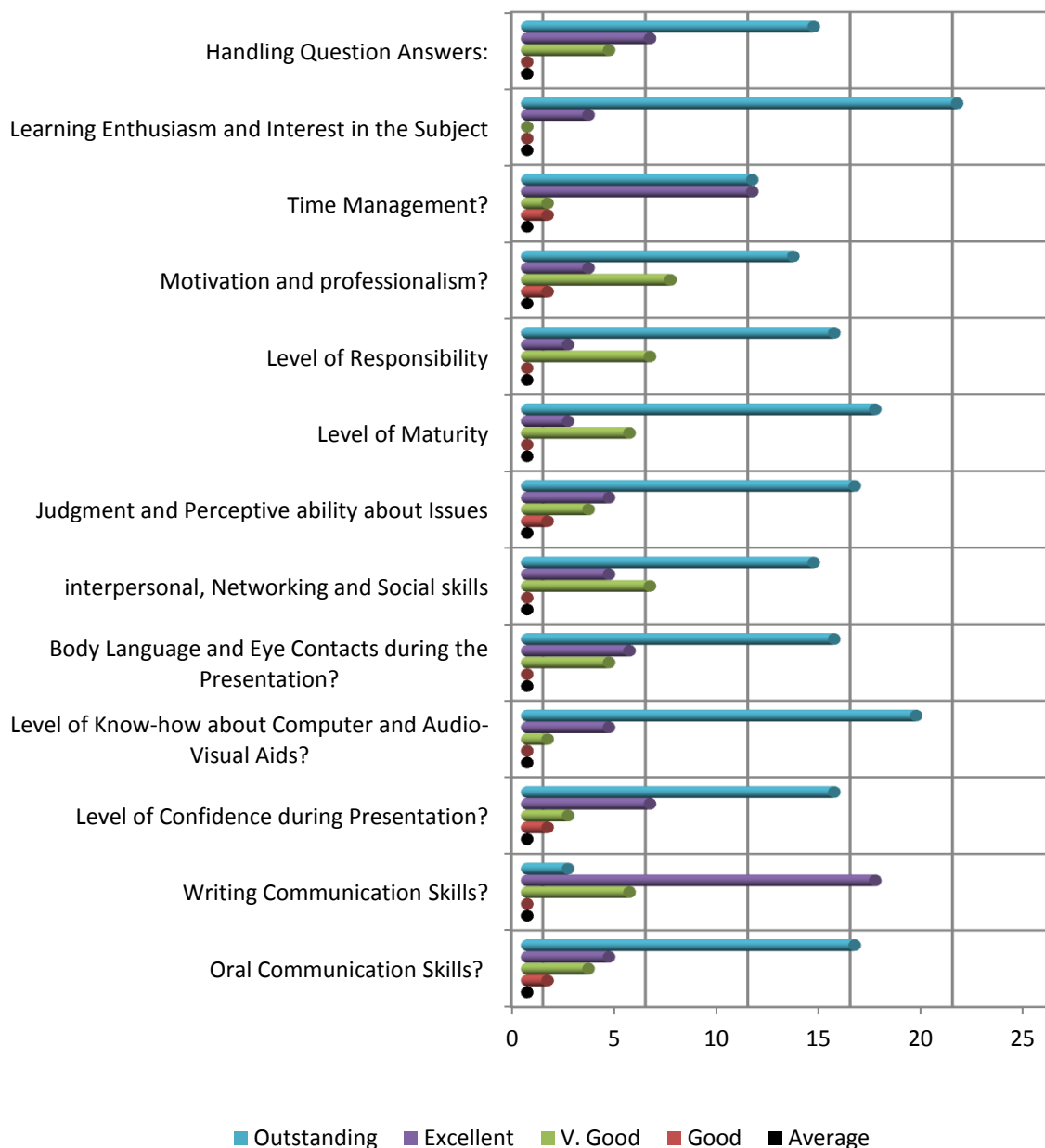




The scales show the capacity level of the participants before and after training. Figure 1 indicates pre – training intellectual level of the trainees at their arrival in the academy.

Figure 2 reveals their level after training. Figure 3 points at the difference between the two stages.

## Consolidated Resource Person Evaluation



### Resource Persons:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>i. Mr. Tariq Yousafzai</li> <li>ii. Mr. Adil Khan</li> <li>iii. Mr. Naiz Muhammad Khan</li> <li>iv. Mr. Hayat Ali Shah</li> <li>v. Qazi Ataullah</li> </ul> | <ul style="list-style-type: none"> <li>vi. Dr Adnan Khan</li> <li>vii. Mr. Shaber Khan</li> <li>viii. Muhammad Azim Khan Afridi</li> <li>ix. Mr. Farhat Ullah Khan</li> </ul> |
|--|---|

# *Annexure*

## ***Annexure – A***

### **Address of the Hon'ble The Chief Justice of Pakistan, Mr. Justice Tassaduq Hussain Jilani.**

Hon'ble Chief Justice, Peshawar High Court;

Hon'ble Judges;

Mr. Hayat Ali Shah,

Director General Khyber Pakhtunkhwa Judicial Academy;

Faculty members

Members of the Bar; Assalam-o-Alaikum

It is indeed a matter of great privilege and honour for me to participate in the concluding session of the judicial Officers, Training Program. I am deeply indebted to the Hon'ble Chief Justice, Peshawar High Court for inviting me.

Let me first of all congratulate you, the Hon'ble Chief justice, for establishing this judicial academy and making it a success in a short span of time, I am glad to know that this Academy caters for the training of all the officers of the judicial hierarchy and its related departments i-e, prosecutors, lawyers, prison officers, probation officers, court staff and court reporters. It is heartening to know that in this Academy, the designing of courses is preceded by training heed Assessment (TNA); that there is a research wing, a mediation centre, an FM radio station and linkages with foreign judicial training institutions.

#### **Ladies and Gentlemen:**

Every country seeks to establish a society where the principles of natural justice, the inalienable rights of people and the rule of law are fully observed. The principles of policy and the Fundamental Right provisions in the Constitution of Islamic Republic of Pakistan are reflective of this national aspiration. The enjoyment of these fundamental rights is essential for the development of a healthy and educated citizen and a well balanced human being, it is only such humans who promote a culture of Co-existence which is essential in this world of globalized interdependence.

As all of you are aware, we live in an age of information technology, an age where people are much better informed than the previous generations. They have become increasingly demanding and restive about their rights and the enforcement of the rule of law. No wonder, there has been marked increase in the number of cases brought to the courts because to dispense justice through law is primarily the responsibility of the court. Expedition justice is one of the important obligations of the state. The quality of justice depends on the quality and character of those who arbitrate, who decide and who judge the cases. To train and produce judges who are well tuned and socially responsible requires a well designed legal and judicial education. As such a good education system is not only sine qua non for the intellectual development of students but also strengthens the legal system. It ensures qualitative improvement in the enforcement of the rule of law.

Courses in legal education are given in law schools whereas judicial education is imparted by the judicial academies dedicated for this purpose. Judicial education puts emphasis on practical aspect of the application of law by judges in the administration of justice while legal education aims at producing lawyers. There are commonalities in both forms at the theoretical level but their practical application, both have vastly distinct goals. A good lawyer may not necessarily be a good judge, as aptly pointed out by Denis W. Calin, the head of the Michigan Judicial Institute:

“Lawyers don’t become good judges by the wave of magic wand. Not even the best lawyers. To reappear behind the Bench as a skilled Jurist is a tricky manoeuvre. Going from adversary to adjudicator means changing one’s attitude, learning and using new skills, and in some cases severing old ties.”

The court room is a place where societal conflicts frequently surface and human nature is at its best and at times at its worst. In order to train judges, to resolve conflicts and decide cases, one has to keep in mind the nature of disputes brought before it, social values and the mandate of the law. Therefore, while carrying out need assessment to design courses in judicial education, amongst other things, the social context also has to be kept in view. In a society afflicted with ethnic prejudices, sectarian tensions and a stereotyped image of gender roles, Judges being humans may also be vulnerable. They need to remind themselves that they are under oath to dispense justice without fear or favour and are not to be influenced by such prejudices and social aberrations. We should always keep in mind that Prophet

Muhammad (PBUH) invited them to Masjid-i-nabvi to offer their prayers. This kind of tolerance that he believed in and this is religions are concerned.

Pakistan is a developing country and in our march towards development, we are confronted with a host of issues and problems-----poverty, mass unemployment , weak infrastructure, lack or erosion of institutions, rural-urban migration, absence of adequate social amenities, issues of sustainable development, corruption and poor governance, to meet these challenges, each organ of the state has to play its role but the key factor in this struggle is good governance, According to Kofi Anan, the former UN Secretary General, “Good governance is perhaps the single most important factor in eradication poverty and promoting development.” The two concepts of good governance and rule of law are interrelated. Without a fair and effective judiciary based on the rule of law, good governance would remain an elusive goal. Lawrence Solum in his instructive article ‘Equity and the Rule of Law’ has identified seven factors that constitute good governance and those are:-

- Arbitrary decisions by government officials must not serve as the basis for legal verdicts;
- Government officials must not perceive themselves as being above the law;
- The law must be known to the public through clear methods of promulgation;
- Legal rules must be stated in general terms and not aimed at particular individual or groups;
- Similar cases must be treated in an equivalent manner;
- Procedures for determining must be fair and orderly; and
- Action required and forbidden by the Rule of Law must be easy for citizens to identify<sup>1</sup>.

There is a consensus among the jurists that broadly there are five indicators<sup>2</sup> of the rule of law and those are:-

- (1) Access to justice
- (2) Due process
- (3) Automy of judges and judicial independence.
- (4) Incorporation of international Human Rights Norms.
- (5) Non-judicial Mechanisms for settling Disputes.

In a system of representative democracy and in the wake of a revolution or rising expectations, the judiciary is no longer a mere dispute resolution institution but is also a socio-constitutional catalyst wherein it along with other institution plays a pivotal role in shaping the life of community and its citizens through enforcement of rule of law. The dimension of judiciary's role has assumed greater importance in contemporary age and requires special attention of judicial educators and judges.

Judiciary neo role underpins the social dynamics and the socio- economic objectives of the nation. The judicial system needs reforms. Some of the fundamental elements of an effective judicial system would

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1 Lawrence Solum, "Equity and the Rule of Law," in Lan Shapiro (ed) *The Rule of Law*, New York University Press, 1994, pp 120-48.

2' *The Judiciary and Governance in 16 Developing countries*' by Julius Court, Goran Hyden and Ken Mease.

Be equipping the judges with knowledge of law, procedure, judicial skills, integrity and professionalism. To ensure that dispensation of justice is not delayed, special courses have to be designed for case management so that besides inexpensive justice, there is a qualitative improvement and public confidence is restored in the institution.

Judicial education is not confined to Academies; is not time specific either, it is a continuing process in which every day brings a new lesson to be learnt. The technological developments like internet and court automation have provided new tools for speedier justice.

The Constitution of the Islamic Republic of Pakistan is based on the principal of trichotomy of powers. The functions of legislature, Executive and Judiciary are well defined and delineated. While the function of judiciary is basically to adjudicate, it is for the legislature to enact laws. The judiciary has yet another role as well i.e of suggesting judicial reforms in procedure and at times in substantive laws. The provisions of Research Wing in the Academy are reflective of that role. I am sanguine the Research Wing would suggest reforms to address the issues of delayed justice, cumbersome procedure and perception of corruption.

The establishment of provincial judicial academies in Sindh, Punjab, Baluchistan and Khyber Pakhtoonkhawa is way forward. However, there is a perception that the functions of the provincial Judicial Academies are overlapping with that of the federal Judicial Academy, there are certain commonalities in the courses being offered. But I think a strategy can be

devised whereby the Provisional Judicial Academies could run the initial Pre -Service training courses for long term duration and the Federal Judicial Academy could arrange short term in-service training courses on constitutional law for District and Sessions Judges. This issue was once discussed in one of the meetings of the National Judicial (Policy Making) committee and we may take up this issue in the next meeting of the committee.

I once again thank the Hon'ble Chief Justice and the Director General of the Academy for inviting me today and I assure them full support in their efforts to further improve the Academy.

With this hope and wish, I take you leave.

Thank you very much.

## ***Annexure - B***

### **Director General Welcome Address**

It always gives me immense pleasure to welcome every new batch. Most of you have come to this Academy at least more than one time and have participated in different training courses. Some new faces are coming for the first time, so they are especially welcomed. This course on substantive and procedural law may sound a bit odd to you because for the last many years all of us are involved with substantive and procedural law and that is part of our profession and practice. But as the case was that of judgment writing that when the course started many of our friends were of the opinion that we are writing judgments since tens of years, some of them ; and many years, many of them, and it did not sound good to them that they were participating in training on judgment writing. But when the training concluded most of them were of the opinion that the time for judgment writing training was too short and it should be extended. I hope the same will be the feeling when you complete this training. This training will be more interactive. You will not be taught as in the classroom but, you will have to put your input during the training and you will have to work yourself. Your batch is a mixed one. It consists of civil judges, senior civil judges and additional session judges. This has been done purposely because mixed batch has its own benefits. You will learn from the experience of your seniors and seniors will learn from the mistakes of juniors. So it is a kind of experience that we are doing on training front. I don't think I am to say anything else but one thing that I want to communicate to you is that this is your own Academy. I repeat it time and again that respect and dignity of this Academy depends totally on your behaviour. We expect a very high degree of discipline from you. We want that the time which you spend here must be properly utilized. Do ladies and gentlemen I formally welcome you to this course. I hope you will enjoy your time here.

Thank you.

## *Annexure – C*

### **Remarks**

#### **Of Class Representatives<sup>\*\*\*</sup>**

My lord the Chief Justice, honourable director general academy, faculty and administration members learned colleagues.

Aoa my course mates have assigned me the responsibility to present an overview of their collective impression of the course.

First of all we are very grateful to his lordship, the Chief Justice, who spared some time out of his busy schedule. It shows how much he values this intellectual activity and affection for the members of district judiciary. So thanks my lord once again.

I have come to know that KPK Judicial Academy has achieved another milestone. HEC has granted it degree awarding status, a rare distinction. So we the participants of this course congratulate his lordship, the director general, and his team members. Where this by no means is a small achievement. Behind this success are the unstinted no means is a small achievement. Behind this success are the unstinted and tremendous efforts of each and every learned member of the team headed by the Director General and consistent support of PHC. So, hats off to them. I have come to know that his lordship is keen to see the launch of the first ever academic session and we may very soon see an inauguration of LLM classes.

The importance and significance of continuous legal education can hardly be over emphasized. Institution thrives only when they keep up with changing times. Establishment of Judicial Academy and an institute with changing times. Establishment of Judicial Academy and an institute of Legal and Judicial learning is one such step towards this direction. Since the basic aim of this learning centre is to facilitate KPK Judiciary and equip it with legal know how and skills, so as to improve the quality of justice delivery. Therefore it is expected that priority in the admissions shall always be the members of district judiciary.

Honourable Sir

Coming to the present course, we are highly impressed with the overall environment created in the academy; I will not be exaggerating if I say that KPK Judicial Academy in terms of its state of the art facilities can be compared with any of its sister academies in developed countries. Classrooms are equipped with highly sophisticated gadgetry. The computer lab,

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<sup>\*\*\*</sup> The remarks represent the inter- common theme of all CR's of the five programs

library, a highly disciplined support staff, sumptuous culinary service and comforts of hostel are commendable.

The faculty member's permanent or visiting all exercise complete command over their respective subjects and have tremendous drive in them to deliver and impart legal knowledge. That is what we expected from a learning centre.

If the primary purpose of this training session was to rekindle the desire and urge for learning then it is well achieved, I am sure every one of us will return to our respective place of posting equipped with more legal knowledge, and carrying with us an urge to learn more.

My lord

It is said that "good is not good because better is better". There is always room for improvement and betterment. We are therefore making some suggestions which may help further improve the quality of legal education by the academy.

1. Duration of training course should be at least two weeks. We have observed that the present duration was too small to even enable us to acclimatize and left the thirst of knowledge unquenched.
2. Time allotted to each lecture was also found too little. The resource person were found unable to adjust and cover the assigned topic within the stipulated time. It is therefore suggested to reduce the number of lectures to two lectures a day so justice could be done with the subject.
3. Course participants were a mixture of judicial officers of different tiers of district Judiciary. We should also try and invite judicial officer dealing with the same kind of cases. This will keep uniformity of interest enlivened in the participants.
4. While designing the course contents emphasis be placed more on practical side than theoretical. Judges being practitioners of law would be more helped this way.
5. We have also a research section in the Academy. It can carry out research in the kind and nature of litigation in different regions of the province. It may in the long run help us know which kind of laws governed those litigations civil and criminal both. Thus the academy will be able to focus on developing special course contents for the judges of different regions of the province.
6. We also propose to include the following subjects in the course calendar of the academy if not already included;
  - a. Courses on cyber crimes.
  - b. Communication and linguistic skills.

- c. Performance evaluation report writing. Management courses for the judicial officers holding administrative position in the districts.
- d. Train the members of the CJCC, BBLC and CCLC.
- e. Training courses be designed on laws of inheritance, pre-emption, police rule, jurisprudence and interpretation of statutes.
- f. Planning and budget preparation.
- g. In order to make these training efforts more meaningful and purposeful there should be some sort of arrangement in PHC to monitor and per sue practical implementation of legal skills imparted by the academy from time to time, only then the ultimate goal of timely and easy access to justice be achieved.

## Annexure - D

### Schedule of Activity for Judges

<b>Day -1 Tuesday</b>			
SNo	Topic	Resource Person	Duration
1	Registration & Pre Evaluation		8:30 – 9:30
2	Recitation from the Holy Qur'an & Duaa		9:30 – 9:35
3	Introductory Remarks - DG, KPJA		9: 35 – 9: 45
4	Nuisance & Dispute as to Immovable Property Focus: Public & Private; Attachment Immovable Property	Dr. Adnan Khan	9:45 – 11:15
Tea Break 11:15 – 11: 30			
5	Criminal Trial: Focus on Charge Focus: Practical Exercise of Framing Charge – A Circle Study	Dr. Khurshid Iqbal	11:30- 1:00
Lunch & Prayer Break 1:00-01:45			
6	Modes of Proof with Focus on Oath Focus: Qanun-e- Shahadat Order, 1984, Relevant Provisions of Criminal Procedure Code & Oath Act.	Qazi Ataullah	1:45 – 3:45
<b>Day -2 Wednesday</b>			
SNo	Topic	Resource Person	Duration
1	Recitation from the Holy Qur'an & Duaa		9:00 – 9:05
2	Law: Concordance & Discordance Focus: Consequences of divergent provisions of the same Law as well as different Laws	Mr. Niaz Muhammad Khan	9: 45- 11:00
Tea Break 11:00-11:30			
3	Dissolution of Marriage Focus: General Rules of Islamic law with Focus on Latest Research	Qazi Ataullah	11:30- 1:00
Lunch & Prayer Break 1:00-01:45			
4	Criminal Investigation Focus: Supervision By Magistrate, Role of Investigation & Prosecution	Mr. Tariq Yousafzai	1:45 – 3:15
<b>Day – 3 Thursday</b>			
SNo	Topic	Resource Person	Duration
1	Recitation from the Holy Qur'an & Duaa		9:00 – 9:05
2	Execution of Decree Focus: Possession and Money Decrees; Transfer and Precept	Mr. Farhat Ullah Khan	9:45 – 11:00
Tea Break 11:00 – 11: 30			
3	Bail: Theory & Practice Focus: Bail in General; Procedure of Cancellation; Forfeiture – A Circle Study	Mr. Hayat Ali Shah	11:30- 1:00

<b>Lunch &amp; Prayer Break 1:00-01:45</b>			
4	Confession: Theory & Practice Focus: Common Mistakes	Mr. Adil Khan	1:45 – 3:15
<b>Day – 4 Friday</b>			
SNo	Topic	Resource Person	Duration
1	Recitation from the Holy Qur'an & Duaa		9:00 – 9:05
2	Land Record Focus on Kinds of Land Records and its use in Land Disputes	Mr. Hayat Ali Shah & An Experienced Patwari	9:45 – 11:00
<b>Tea Break 11:00 – 11: 30</b>			
3	Initial Adjudication of Civil Suits Focus: Stay of Suit; Res Judicata and Abandonment of Relief (Ss. 10, 11 & ) 2 r. 2 CPC	Mr. Shaibar Khan	11:30- 1:00
<b>Lunch &amp; Prayer Break 1:00-01:45</b>			
4	Expert Lecture	Mr. Abdullah	1:45 – 3:45
<b>Day – 5 Saturday</b>			
SNo	Topic	Resource Person	Duration
1.1	Recitation from the Holy Qur'an & Duaa		9:00 – 9:05
1.3	Post Evaluation		9:05-10:45
<b>Tea Break 10:45 – 11: 30</b>			
2.2	Concluding Address – DG KPJA		11:30- 11:50
2.3	Address of Hon'able The Chairman, Chief Justice Dost Muhammad Khan		11:50 – 12:30
2.4	Certificate Distribution		12:30
<b>Lunch &amp; Prayer Break 1:00-01:45</b>			

## ***Annexure- E***

### **List of Participants**

<b>3rd Training on Substantive &amp; Procedural Law</b>			
<b>Dated 21st - 25th January, 2014</b>			
<b>S.No</b>	<b>Judicial Officers</b>	<b>Designation</b>	<b>Place of Posting</b>
1	Ms. Phool Bibi	Additional District & Sessions Judge	Peshawar
2	Mr. Sardar Jawad Ahmad	Civil Judge	Peshawar
3	Ms. Wadeeya Musthtaq Malik	Civil Judge	Peshawar
4	Ms. Farah Attaullah Khan	Additional District & Sessions Judge	Nowshera
5	Ms. Sumbal Naseer	Senior Civil Judge	Charsadda
6	Mr. Mamrez Khan Khalil	Additional District Sessions Judge	Swat
7	Mr. Muhammad Ilyas	Civil Judge	Shabqadar Charsadda
8	Syed Mudassir Shah Termizi	Civil Judge	Mardan
9	Mr. Mohammad Sabir	Additional District & Sessions Judge	Takht Bahi Mardan
10	Mr. Ajmal Tahir	Civil Judge	Swabi
11	Mr. Rafiullah	Additional District & Sessions Judge	PaharPur DI Khan
12	Mr. Usman Bashir Khan	Senior Civil Judge	Bannu
13	Mr. Naeem Ullah Khan Jadoon	Civil Judge	Bannu
14	Mr. Gohar Rehman	Additional District & Sessions Judge	Kohat
15	Mr. Asif Rashid	Senior Civil Judge	Kohat
16	Mr. Mazhar Hussain	Civil Judge	Tangi Charsadda
17	Ms. Maliha Allauddin	Civil Judge	swabi
18	Mr. Shehzad Ali Khan	Civil Judge	Nathiagali Abbottabad
19	Mr. Arbab Sohail Hameed	Civil Judge	Mansehra
20	Mr. Afzal Ahmad	Civil Judge	Oghi Mansehra
21	Mr. Basharat Rauf	Civil Judge	Pahttan Kohistan
22	Mr. Adil Zeb Khan	Civil Judge	Haripur
23	Mr. Tahir Mahmood	Additional District & Sessions Judge	Swabi
24	Mr. Abdul Jabbar	Senior Civil Judge	Nowshehra
25	Mr. Ijaz Younis	Civil Judge	Kohat

## ***Annexure –F***

### **Guidelines for the Resource Persons**

**The Academy has developed the following guidelines for the Resource persons:**

1. Introduction of the topic.
2. Relevant law, rules, etc
3. Key issues /problems faced by court with regard to theoretical understanding & efficient application of legal rules.
4. One practical activity: case study, role play etc
5. Update on latest Case Law.
6. Question & Answer session.
7. Efficient time management.
8. Clear information about methodology.
9. Observance of proper dress code & punctuality.
10. Equal participation of all participants.
11. No bar on the language as proper understanding is the key objective.

***Director General***

# *Group Photos*



**KHYBER PAKHTUNKHWA JUDICIAL ACADEMY**  
**3rd 5-Day Training Course on Substantive and Procedural Law**  
**21-25 January, 2014**



**Group Photo**