



Second Training on Judgment Writing

Report Prepared By:
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Dean Faculty

2012

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1-6 October
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Foreword

All praises to Almighty Allah, Who bestowed upon us the duty to change the attitude and improve service delivery through capacity building.

It gives me immense pleasure to issue report of the second training on Judgment Writing held in K.P Judicial Academy (1 to 6 October 2012). Second Course is replication of the first training held on (27 August to 1 September, 2012) except that due to non availability of Professor Dr. Johar Ali a presentation on Judgment Writing from the prospective of Islamic Law by Professor Muhammad Mustaq Ahmad from International Islamic University, Islamabad was included. Some new experiments were done for instance proficiency test of English language was held on the first day of training and on the last day another test was conducted to check the improvement made during the training similarly more importance was given to practical issues by Mr. Niaz Muhammad Khan during his presentations. Participants took great interest in the presentation of Professor Mushtaq and his presentation which was of two hours extended for complete four hours and many questions regarding Sharia faced by Judicial Officers in Malakand were put to him at the end it was demand of the participants that a complete course on Sharia may be designed to enable Judicial Officers in Malakand Division to discharge their duties according to the demand of the peoples.

There were some lapses for instance time management remained a problem and presentation of Dr. Khurshid Iqbal on (Contemporary trends in Judgment Writing) had to be sacrificed. Resource persons were advised to be conscious of time.

Hon'ble the Chief Justice / Chairman Dost Muhammad Khan—provided us dynamic leadership his interest in the trainings has enabled us to organize such a high quality training, he visited the Academy on the first day of the training shared his views, spent some time with participants on Academy Night and in the conclusion ceremony two Hon'ble Judges Justice Miftah Ud Din Khan Senior Puisne Judge and Justice Mian Fasih Ul Mulk graced the occasions.

Despite limited resources a successful completion of this course is a commendable job done by Dr. Khurshid Iqbal and Asghar Ali Salarzai where as for logistic support Muhammad Saleem Khan had to remain on toes round the clock. Mr. Muhammd Aamir Nazir remained busy in arranging the media. The Academy staff worked day and Night to make the program a success.

I must mention that such a successful training would have not been possible had UNDP not provided the financial support. Our partnership with UNDP is flourishing due to the efficient team of the UNDP running SRLM.

A Review of the Second Training Course

This report documents the proceedings of the second one-week training course (01-06 Oct., 2012), on Judgment Writing, in which 25 Civil Judges/Judicial Magistrates participated. A detailed report of the first course has been issued. The course content and the method of delivery, used for the first course, mostly remained the same. This report contains a critical analysis of addressing the shortcomings noted in the previous course and significant changes introduced in this course.

Three major shortcomings were noted in the previous course: time management that led to the dropping of one key lecture on “Interpretation of Laws in Judgment Writing” (resource person: Mr. Niaz Muhammad Khan) and a study circle on Order 20 of the Civil Procedure Code, 1908, pertaining to Judgment Writing). The other shortcoming was the inability of the Academy to complete an exercise on re-writing of judgment which the participants had to do at the end of the course. This was due to lack of coordination between the participants themselves as well as with the Academy. The inability of the Academy was attributed to the dearth of human resources—a weakness that still exists. The last one was that the feedback of the individual resource persons was not sought on a daily basis.

Despite serious efforts, the time management could not be overcome successfully. While Mr. Niaz Muhammad Khan was able to deliver his lecture on “Interpretation of Laws in Judgment Writing”, another lecture (“Contemporary Trends in Judgment Writing: A literature Review”) was to be dropped. The study circle also remained a problem. Perhaps more serious and sound efforts are needed to attend to this challenge.

The re-writing-of-judgment-exercise was replaced by a pre-and post-training evaluation, that is still going on. When received, the findings of that evaluation shall be made part of this report.

The evaluation mechanism was a significant area in which major changes were introduced. A number of new feedback methods were applied. First, feedback on each resource person was sought from individual participant. Second, a group of five participants was to provide feedback on the activities of the day, prepare a one-page evaluation report and present it in the plenary, the next day morning. Third, the Class Representative (CR) was advised to compile all such group feedback, into one single report and present it in the concluding ceremony. Guidelines were also issued to the groups. The group exercise, however, could not prove successful. The guidelines were not followed seriously. Resultantly, the report of the CR was also not up to the expectations.

Efficient time management and specific evaluation are two big challenges. Time management could be addressed by-

- capacity building, but will engender critical thinking about sound judicial decision making in wider and diverse perspectives. We attempted to lay a foundation in the key

area of judgment Advising the concerned resource persons to devise certain mechanisms. Possible ways could be effective control over the class room and efficient delivery of content without compromising involvement of participants.

- Enhancing training duration or reducing modules.

Evaluation may be strengthened by-

- Making all the participants understand the aims and objectives of the course and the skills it intends to create and/or enhance.
- Attuning the groups to the guidelines more effectively.
- Steering of the group by the Academy staff to help understand the expectations.

Last, but not the least, the lecture on “Judgment Writing: A sociological perspective” was not arranged because of the non-availability of the concerned resource person. Instead, a lecture on “Judgment Writing: an Islamic perspective” was arranged, which was delivered by Mr. Muhammad Mushtaq Ahmad, Assistant Professor, International Islamic University, Islamabad.

Dr Khurshid Iqbal

Dean Faculty

Concept Paper

Training Course on Judgment Writing

‘Judgment writing is the hardest of the legal arts to master’. While there is a significant body of literature on judgment writing skills, there is a near consensus among judicial pundits that good judgment writing depends more on practice than theory. Caseloads have a telling negative impact on a sustainable good judicial style in judgment writing.

Pakistan’s 2009 National Judicial Policy and its rigorous monitoring by the judicial leadership, has generated tremendous pressure on the judges of the District Judiciary. There is a growing perception in the legal fraternity that fighting delay on war footing has led to the delivery of hasty judgments. While the avalanche of the caseload has been visibly melting down, it is now time to divert attention to improvement in the quality of judgment writing.

A quality judgment, as commonly understood, requires that it should speak for itself, be concise, reflect good writing skills, appreciate the readers’ needs and litigants’ wants. Appreciating the fact that the essence of judgeship is the delivery of judgments, the Khyber Pakhtunkhwa Judicial Academy plans to conduct its first training course on judgment writing. The underlying objective of this course is the development of one word vocabulary linked with the writing skills of judges.

The guiding principle is an Arabic idiom: **قل ودل ولميمل خير الكلام** *Tr. Best speech is one which is précis, speaking and free from boring length.*

The training curriculum and module will be designed on the basis of the needs of the judges. The Academy, however, intends to follow a participatory approach by seeking the in-put of the targeted trainees. To this end, the Academy has prepared a questionnaire, which is sent herewith for your valuable responses and views. The prime objective being training needs assessment, the Academy intends to ensure anonymity of respondents. Please do not write your name, nor put your signature on the questionnaire, which may be sent on the address given in the attached letter, as soon as possible.

Course Description

Reference	<i>T-1/2012/judgment writing/01week</i>
Training	<i>Judgment Writing</i>
Duration	<i>One week: 6 days</i>
Participants	<i>Civil Judges/Judicial Magistrates</i>
No. of participants	<i>25</i>
Lectures per day	<i>02</i>
Other activity	<i>Case study</i>
Method	<i>Participatory, practical</i>
Assessment	<i>Gradation by the Academy, High Court, for example, Inspection Team</i>
Designed by	<i>Dr Khurshid Iqbal, Dean Faculty</i>

Aims and Objectives

While quality in judicial opinion writing has always been a top priority of the judiciary in all countries, in recent years there has been a growing concern about it in Pakistan. Arguably, one glaring reason is the mechanism of time bound disposal of cases proposed by the 2009 National Judicial Policy (Policy). The concern is that the mere disposal is and should not be enough. Another reason is a general need of capacity building as part of continuing judicial education. The main aim of this training is to build capacity of all judges of the District Judiciary, in the key area of judgment writing, both in regard to expression or language (effective communication) and substance or content (judicial aspects, such as appreciation of evidence). The principal duty of a judge is to deliver judgment after announcement of the decision in a case. Judgment writing is thus a vital part of judging or ‘judge craft’. There is no worth while training on the linguistic mechanics of judgment writing. Hence, judgment contains lapses which potentially harm judges’ credibility and efficiency as communicators of facts and legal analysis of law and evidence. It is for this reason that judgment writing has been selected as the first training at the Academy. The training has been designed in the backdrop of a questionnaire survey—an indigenous training needs assessment—of all judicial officers, including those working in the special courts and tribunals. The training will generate and encourage critical thinking about judicial opinion writing. A pluralist and diverse approach will be adopted to build professional capacity of the target participants. The participants are strongly advised to actively participate in the training, which will be firstly, graded at the Academy, and secondly, subjected to post-training impact assessment.

Key outcomes

The participants should be able to

- Understand the basic concept and procedure of judgment/order writing
- Learn necessary skills for appreciation of evidence and application of substantive and procedural laws and precedents
- Explore and understand current global trends
- Know and follow judicial opinion writing in the perspective of Islamic law
- Strengthen theoretical foundations to know and understand the process, flow, models, mediums, types, barriers to and principles of effective communication
- Be sensitized to the problem areas of English, and sharpen their skills for writing effective and self-contained judgments

Requirements

- The participants are advised to critically read the training material prepared for them.
- Send to the Director General (DG) a copy of two judgments: one civil, one criminal, which they rank as the best. The judgments will be assessed before the training. At the close of the training, the participants will be asked to rewrite their judgments, applying the skills they learnt in the training. The participants will be asked to assess their work themselves as well as by the Academy.
- Post training impact assessment: an inventory of skills will be prepared, which will be sent to the concerned District & Sessions Judge, who will be asked to make assessment and report to the Registrar of the Peshawar High Court and the DG of the Academy.

Modules

On the basis of a two-pronged strategy: language and substance, the training course offers the following modules:

L A N G U A G E	
Conveners: Prof. Dr Ismail Wali, PhD in English, Professor Institute of Management Sciences, Peshawar	
01	Style and structure of Judgment: Basics, Lecture=01
Focus: Structural aspects and style of a judgment.	
Skills: Structuring and writing a judgment.	
02	Judgment writing: Principles of effectiveness, Lecture=01
Focus: Four Cs of effective communication.	

Skills: Concise, clear, correct and complete.	
03	Judgment writing: Modern strategies, Lecture=01
Focus: Avoidance of verbal pitfalls.	
Skills: Words to avoid.	
04	Judgment writing: One word vocabulary, Lecture=01
Focus: Consistency.	
Skills: To develop consistency.	
05	Judgment writing: Practical-I
Focus: Evaluation of a judgment.	
Skill: To evaluate a judgment.	
06	Judgment writing: Practical-II
Focus: Writing a judgment.	
Skill: To write a judgment (To re-write your own judgment, applying the skills learnt).	
<p>S U B S T A N C E</p> <p>Resource Persons:</p> <p><i>Mr. Zia Hassan, Senior Instructor (retired), NIPA, Peshawar</i></p> <p><i>Prof Dr Johar Ali,</i> <i>Chairman, Department of Sociology,</i> <i>University of Peshawar</i></p> <p><i>Mr. Niaz Muhammad Khan,</i> <i>Additional Registrar (Admn), Peshawar High Court, Peshawar</i></p> <p><i>Dr Khurshid Iqbal,</i> <i>Dean Faculty, the KP Judicial Academy, Peshawar</i></p>	
01	Judgment writing: a sociological perspective
Focus: Sociological importance of judgment writing	
Skill: To understand the social importance and impact of judgment	
02	Contemporary trends in judgment writing
Focus: Critical analysis of a range of research articles on the art of judgment writing.	
Skills: Modern techniques of judgment writing.	

03	Elements of a court judgment
Focus: Procedural and substantive elements of judgment.	
Skill: The Dos and donts.	
04	Appreciation of evidence in judgment writing
Focus: Conscious understanding and application of rules of evidence.	
Skill: Avoiding irrelevant and selecting cogent.	
05	Interpretation of laws in judgment writing
Focus: Juristic understanding of text of laws.	
Skill: Translation into judgment writing.	

One-Week Training Course
Judgment Writing for 25 Civil Judges / Judicial Magistrates
(27th August to 1st September 2012)

Schedule of Activities

<u>Monday 27th August 2012</u>		
8:00 AM	Registration of the Participants	
8:15 AM	Recitation from the Holy Quran	
8:20 AM	Dua	
8:25 AM	Welcome address by the Director General	
8:35 AM	Instruction regarding house keeping	
09:00 -- 11:00	Perception locks, impact on Judgment Writing	(By Mr. Zia Ahmad Khan)
11:00 -- 11:30	Tea break	
11:30 -- 01:30	Perception locks, impact on Leadership	(By Mr. Zia Ahmad Khan)
	Dua	
5:00 -- 7:00	Study Circle "Humaneeing"	
<u>Tuesday 28th August 2012</u>		
08:00 -- 09:30	Judgment Writing: Modern Strategies	
09:30 -- 11:00	Judgment Writing: One Word Vocabulary	(By Dr. Ismail)
11:00 -- 11:30	Tea Break	
11:30 -- 01:30	Judgment Writing Practical 1	(By Dr. Ismail)
	Dua	
5:00 -- 7:00	Study circle group discussion on one word vocabulary (The coordinator shall avoid giving input to the participants)	
<u>Wednesday 29th August 2012</u>		
08:00 -- 10:00	Judgment Writing: Principles of Effectiveness	(By Dr. Ismail)
10:00 -- 10:30	Tea Break	
10:30 -- 12:00	Style and Structure of Judgment Writing	(By Dr. Ismail)
12:30-- 01:30	Judgment Writing Practical 2	(By Dr. Ismail)
	Dua	


5:00 -- 7:00	Study circle review of an old judgment, writing of short order	
<u>Thursday 30th August 2012</u>		
08:00 -- 10:00	Appreciation of evidence in judgment writing	(By Niaz Muhammad Khan)
10:00 -- 10:30	Tea Break	
10:30 -- 12:00	Elements of a court judgment	(By Niaz Muhammad Khan)
12:30 -- 01:30	Interpretation of laws in judgment writing	(By Niaz Muhammad Khan)
	Dua	
05:00 -- 7:00	Study circle Order 20 CPC	
<u>Friday 31st August 2012</u>		
08:00 -- 10:00	Judgment Writing: an Islamic Perspective	(By Prof. Muhammad Mushtaq Ahmad)
10:00 -- 10:30	Tea Break	
10:30 -- 12:30	Contemporary trends in Judgments Writing	(By Dr. Khurshid Iqbal)
	Dua	
	Leisure day (an excursion on the choice of the participants) Academy Night to be organized by the participants which shall include a dinner with a dignitary	
	Re-writing of the Judgments already provided by the participants after applying the skills learnt.	
<u>Saturday 1st September 2012</u>		
08:00 -- 10:00	Five minutes presentation by each participant about what they learnt during the week.	
10:00 -- 10:30	break	
10:30 -- 12:00	Arrival of the Hon'ble the Chairman	
	Concluding ceremony	
	Certificate distribution	
	Concluding address by the DG	
	Concluding address by the Chairman	
	Dua	
	Photography	

Zia Ahmad Khan

Profile

Addl Directing Staff, NIM, Pakistan Academy for Rural Development, University Town, Peshawar

Office: 091-9216003 **Mob: 0315-9067939** Res: 091-9216281

Education	1968 School Certificate O' Level 1972 Graduation in Arts 1975 Master in Public Admn-MPA	Cambridge University UK Karachi University Punjab University	
In Country Training	1983 Local Planning & Mgt. UNICEF & UNCRD 1986 Case Method Seminar: PASC Lahore 1986 Foreign Travel Integration: Islamabad 2004 Human Rights FD Training Institute	Japan World Bank USAID Islamabad	
Training Abroad	1985 Designing Training Programs: ITI 1986 Leadership & O.D: ITOD Pittsburgh 1986 Recognition Certificate on Leadership 2004 Self Employment: Eastham London	Australia USA USAID UK	
Experience	Working at PARD & NIPA/NIM, Peshawar since 1977		
Clientele	Trained Thousands of Professionals such as Senior Government Officials, College Principals, University Professors, Staff of NGOs, Doctors, Bankers, Engineers, Local Councilors, Community Leaders, Teachers, Foreign Diplomats including groups from: Africa, Palestine, Central Asia and Afghanistan		
Subjects	Management Stress Management Crisis Management Good Governance Restructuring Orgs	Humaneering - HRD Poverty Reduction Gender Mainstreaming Community Development Reprogramming Behavior	Leadership Presentation Skills Health & Education Environmental Mgt. Reporting Writing
	In addition to PARD, NIPA/NIM & PSA, also worked for the following:		
National Orgs	PESHAWAR Institute of Management Sc. Agriculture Training Institute Inst. Of Computers & Mgt. Sc. Peshawar Dev. Authority Coord. For Humanitarian Asstt. Sarhad Rural Support Corp. Institute of Edu. & Research Dev. Alternative Incorporation College of Home Economics Habib Bank Ltd. National Bank of Pakistan State Bank of Pakistan	N.W.F.P. KIDP Kalam FVDB Mingora DDDP Dir SRSC Charsadda SRSC Abbottabad SRSC Kohat PTC Hangu TSC Haripur ISSB Kohat SIAP Swabi ADC Mardan LPAP Lachi	ISLAMABAD NIBAF NCRD Academy for Edu. Plg. & Mgt. Foreign Service Academy WAPDA Staff College Trust for Voluntary Orgs. Women's Division, GOP QUETTA BCIAP World Bank KARACHI Karachi Metropolitan Corp. K. Water & Sewerage Board
Global Orgs			
	<p>Member, Provincial Trainers Team, Local Planning & Management, Chitral, 1983, UNICEF Author, Manual on Local Planning & Management, 1984, UNICEF Coordinator, Training Programs at NIPA FHP Health Deptt. 1984 World Bank Author, Training Manual on Health Planning & Management FHP, 1997 World Bank Author, Training Manual on TOT FHP Health Department, 1997 World Bank Author, Evaluation of SRSC, NGO Dev. in South Asia, Managing for Change, AKF Oxford Coordinator, Training Task Force, BCIAP, Balochistan, 1999 World Bank Author, Training Manual BCIAP, Irrigation Department, Balochistan, 1999 World Bank Leader, Core Group (Nucleus) Training Programs Local Govt. (Devolution) 2000 NRB Trainer, Mine Action Program for Afghanistan, Cranfield University, UK UNDP Moderator, NWFP Education Policy and Strategy, Education Deptt. 2003 GTZ & DFID Author, NWFP Education Policy and Strategy, Education Deptt. 2003 GTZ & DFID Coordinator, Training Programs, Gender Mainstreaming, 2006, P&D NWFP, UNDP</p>		
Resource Person	Seminar for Vice Chancellors of all Universities in Pakistan, Islamabad, 1989		
Publications	Scores of Internationally acclaimed Research Studies and Publications		

Job Opportunity, **Leeds Metropolitan University, 2004, UK**
 Selected as Resource Person **London Corporate College, 2004, UK**
 Selected as **HRD Specialist EIROP Peshawar, 2005, UNDP**
 Work Permit Holder, **Highly Skilled Migrant Program, UK**

Schooling: **Lawrence College, Murree Hills**

www.humaneeringzia.com

Zia Ahmad Khan : ADS, NIM-Pak Academy for Rural Dev. Peshawar
Mob. 0315-9067939

International Credentials

United Kingdom

- | | | |
|-----|---|---------------|
| 01. | Work Permit , Highly Skilled Migrant Programme Home Office | UK |
| 02. | School Certificate O'Level Cambridge University | UK |
| 03. | Oxford Word and Language Service: Humaneering | UK |
| 04. | Resource Person Mine Action Prog. Cranfield University | UK |
| 05. | Employment Opportunity, Leeds Metropolitan University | UK |
| 06. | Job Offer as Consultant London Corporate College | UK |
| 07. | National Insurance Number Card for Life Glasgow | UK |
| 08. | Training on Self Employment , Satsuma Consultancy, London | UK |
| 09. | Check List of British High Commission for Award of Visa | UK |
| 10. | Contribution of Case Study to Book Managing for Change | Oxford |

USA and USAID

- | | | |
|-----|--|--------------|
| 01. | Certificate of Recognition on Leadership & Org. Development | USA |
| 02. | Leadership and Organizational Development Pittsburgh | USA |
| 03. | Scholarship for Higher Studies in Dev. Admin (2 years) | USA |
| 04. | Letter of Tom Rogers Academy for Education Development | USAID |
| 05. | Assessment of International Training Programmes by AED | USAID |
| 06. | Workshop on Foreign Travel Integration Academy for Edu.Dev. | USAID |

Australia & Austria

- | | | |
|-----|---|------------------|
| 01. | Design & Development of Training Programmes ITI Sydney | Australia |
| 02. | Internship Program at Sydney Trainer Training Centre | Australia |
| 03. | Pak. Community Development Programme , Austrian Relief Com | Austria |

UN and Others

- | | | |
|-----|---|----------------|
| 01. | Master Trainer Planning Through Community Participation | UNICEF |
| 02. | Job offer as Human Resource Development Specialist EIROP | UNDP |
| 03. | Training Course on MIS – Cabinet Secretariat Mgt.Services Div. | UNDP |
| 04. | Case Study Seminar , PASC, Lahore, Ec. Dev. Institute | W/ Bank |
| 05. | Coordinator & Author NWFP Education Policy & Strategy | GTZ |

Designed & Conducted Special Courses for Participants of
Central Asia, Africa, Palestine & Afghanistan

Zia Ahmad Khan : Research Studies & Publications

Rural Development

- Impact of Daudzai Pilot Project IRDP Study of (86) Village Organizations** PARD, Peshawar 1977 (Unpublished)
- Report of Conference and Workshop on Non-Formal Education and the Rural Poor** Journal of Rural Dev. and Administration Vol XIII, No.2, PARD, Peshawar (1978) Book Review
- Rural Development – View from a Farmer’s Hamlet (A Case Study)** Basic Needs and Rural Development Part-I, International Seminar Papers, PARD, Peshawar (1980) p.436
- Conflict in Management Patterns as an Impediments to Rural Dev. in Pakistan**, Management for Rural Dev. in Pak (Report of an International Seminar) PARD, Peshawar, UNICEF – Pak UNCRD Nagoya, Japan (1983) p.77
- Possibilities and Prospects of Agro-Based Industries for Rural Women in NWFP**, Women’s Division, Government of Pakistan, Islamabad (1983)
- Drift and Dissipation in Rural Development – An SOS for Survival** papers of an International Conference on Challenge of Rural Development in the Eighties, PARD, Peshawar (1985)
- Problems and Prospects of Rainfed Agriculture in NWFP (An Overview) Evaluation of Phase-II** and Future Requirements, PARD, Peshawar (1988)
- Poverty Reduction Strategy** (Manual on Integrated and Participatory Approaches), PARD, Peshawar 2001
- Storey of PARD Part-II Golden Jubilee**, Pakistan Academy for Rural Development, Peshawar, 2010

Planning and Management

- **Decision Making in a Tribal Social System** Journal of Rural Development and Administration, Vol. XV, No.1, PARD, Peshawar (1978)
- **Five Year Plan of District Chitral, (Based on House to House Survey with Community Participation)** PARD, Peshawar, UNICEF Pakistan & UNCRD Nagoya Japan (1983-84)
- **Manual for Local Level Planning and Management through Community Participation** UNICEF Pakistan, Islamabad (1984)
- **Organizational Aspects of Kalam Farmers**, KIDP (A Pak Swiss Joint Venture), PARD, Peshawar (1986-87)
- **Wafaqi Mohtasib (Ombudsman)’s Annual Report 1986 – A Critical Appreciation**, Journal of Rural Development and Administration Volume XX, No.3, PARD, Peshawar (1988) p.107
- **Interview – A Form of Human Engineering** Paper presented at the General Seminar Inter-Services Selection Board (ISSB) Kohat (1989)
- **Humaneering – A process for Preventing Crime**, International Seminar on Criminal Justice: Asia Crime Prevention Foundation and National Police Academy, Islamabad, 1992
- **Manual on Health Planning and Management** (World Bank) for Trainers of FHP, (1997) (unpublished)
- **Evaluation of Khyber Medical College and Postgraduate Medical Institute**, Peshawar by PARD, Peshawar (FHP/World Bank) 1988 unpublished
- **NWFP Education Policy and Strategy** Education Department, GTZ and DFID, Peshawar, 2003 (unpublished)
- **PRA Techniques for Agriculture Officers and Field Assistants** of FATA, ATI, Peshawar 2003 (unpublished)
- **Cruising in Turbulence, Case Study of SRSC** Peshawar **Managing for Change, Asian NGOs AKF Oxford**

Training

- **First Advanced Course** in Public Administration and Dev. Economics, NIPA Peshawar (1986)
- **Towards Andragogy – Second Advanced Course** NIPA, Peshawar (1987)
- **Thought of the Day – A Serendipitous Sojourn in Andragogy**, NIPA Peshawar (1988)
- **Experiential Learning – Third Advanced Course**, NIPA Peshawar (1989)
- **Career Awareness and Career Dev.** Workshop Papers on Vocational Guidance and Employment Awareness, Ministry of Manpower & Overseas Pakistanis, Government of Pakistan (1990)
- **Internal Assessment of Training Programs** PARD, NIPA, Peshawar (1990)
- **Semantic Equivalents of Learning “PRISMIRROR” Advanced Course** NIPA Peshawar (1992)
- **Milking Memories, First Re-Union** of NIPA, Peshawar (1994)
- **Manual on (TOT Course) Design and Dev. of Training Programs** NIPA & FHP (World Bank) for Trainers of FHP Peshawar (1997) (unpublished)
- **Training Manual on Community Irrigation Services**, Irrigation Department and BCIAP Quetta, Balochistan (World Bank) 1999 (unpublished).
- **Training Need Assessment Report for MCMC Courses** National Institute of Management, (2006) NSPP

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RELEASE YOUR EXCELLENCE THROUGH "HUMANEEERING"

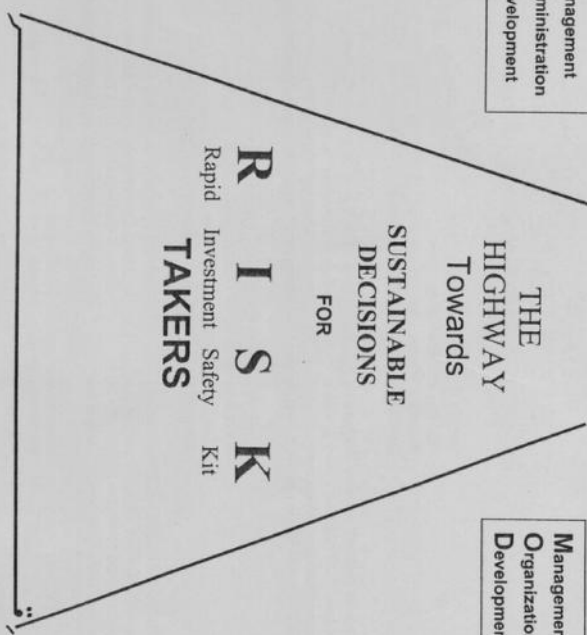
The author holds Certificates & Credentials from Cambridge University, OWLS: Oxford, Cranfield University, ITI Sydney, ITOD Pittsburgh, Pennsylvania University, USC California, World Bank, UNICEF, GTZ and **The Highly Skilled Migrant Program Work Permits UK**
e-mail: ziaahmad 2003@hotmail.com

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Furture Self Discipline and
Treat Defence Mechanism Syndromes

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Expand Comfort Zones Willingly,
Foster Team Building and
Manage Stress Situations Confidently

Synthesize East West Knowledge,
Embrace Innovative Dimensions
Accelerate Creative Decisions and
Strengthen all Strategic Options:

Redefine motivational Techniques,
Understand Non-Verbal Languages,
Analyze Time Wasters Regularly and
Practice, Free Process Consultancy

Promote Problem Sensing Approaches
Upgrade Communication Abilities,
Improve Decision Making Skills and
Regulate Leadership Styles Effectively

Avoid
Learning
And
Development

Elevate Managerial Excellence,
Synchronize Group Energies,
Achieve "SYNERGY" and
Extend Organizational Image:

Focus
De-Learning
And
Development

TRAVEL

From
Problem Sensing



To
Problem Solving

Move Towards
PROFESSIONAL MANAGEMENT
(Just 36 Hours of Group Learning)

"HUMANEEERING"

The Science and Art
Of
MICRO-SKILLS

Adopt

Stress Management Techniques

Release

Extra Sensory Perception

CATCH THE CRUX OF

- Perception Lock
- Motivation
- Communication
- Decision Making
- Stress Management
- Group Dynamics
- Leadership and
- Team Building

IN THE CONTEXT OF

MBO, Harsh Management, MBR,
Good Governance, Gender Issues, Poverty Reduction
Time Management, IT, Managerial Excellence
EXISTENTIALISM, TRANSACCIONAL ANALYSIS, ERGONOMICS
PSYCHO-KINESIS AND SYNECTICS

THROUGH THE LATEST LEARNING TECHNIQUES

DIS-EASES CAUSED BY (SCAN)?

Let's	Let's
<ul style="list-style-type: none"> ❖ Blindness ❖ Narcissism ❖ Sadism ❖ Masochism ❖ Sado-Masochism ❖ Hysteria ❖ Phobia ❖ Paranoia ❖ Epilepsy ❖ Euphoria ❖ Narcolepsy 	<ul style="list-style-type: none"> ❖ Hypnosis ❖ Hypertension ❖ Insomnia ❖ Psywar ❖ Aggression ❖ Regression ❖ Depression ❖ Withdrawal ❖ Conflict ❖ Corruption ❖ Deadlock

P E A C E

Professional Excellence for Attitudinal Change and Effectiveness

Muhammad Ismail Wali

Ph D (English)

Mission Statement for Personal Growth: “Live so beautifully that your death may put divinity to shame” (Iqbal)

Domicile: Chitral, NWFP

Permanent Address: PO & Village Mastuj, Tehsil Mastuj, District Chitral, NWFP

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Authorship: PhD dissertation, *A Midsummer Night's Dream: Shakespeare's Syzygy of Meaning*, has been published by Dorrance Publishing Company, Pittsburg, USA

Professional Activities:

- n Supervised the TNA survey (SRLM) for Dir (U) and Chitral districts (April 2012)
- n Delivered a two-day workshop on communication skills at University of Malakand (November 2011)
- n Delivered as six-day workshop on Research Skills at Kohat University of Engineering and Technology, sponsored by HEC. (May 2011)
- n Designed and delivered one-month course on Applied Communication to PMS officers at IM Sciences (July 2010)
- n Designed tailored courses on Business Communication for delivering to MBA students
- n Planned and developed courses for Proficiency in English and Applied Communication
- n Monitored IELTS programme at I/M Sciences under Australian Aid (January 2011)
- n Worked as a supervisor in Third Party Validation Project under HRDC/IM Sciences
- n Revised/edited a high profile document of HEC, Pakistan
- n Taught language skills (oral and written) to college students (public sector), as Assistant Professor, 2003-2009
- n Taught language skills to college students (public sector), 1986-2001

Academics:

	Year	School/College/University	Subject (s)	M O	Div/Gr
Matric	1976	GHS Mastuj, Chitral	English, Math General Science Pak studies Persian I studies	541	1st
F A	1978	GDC, Chitral	English Urdu Economics	548	2nd

			Islamic History Persian		
B A	1980	Private Capacity	English English Elective Islamic Ideology Islamic History Urdu	311	2nd
MA	1984	PG Jahanzeb College, UoP of Peshawar	English	2nd	
M Phil	1998	Department of English, UoP of Pesh	English		3.3 GPA
PhD	2009	Department of English, UoP of Peshawar	English		3.7 GPA

Research Details:

1. Awarded M Phil for research on Matthew Arnold's Poetry, *A Journey through Night: An Interpretative Study*. The study focuses on the symbolic aspects of the image of "night" in Arnold's poetry, backed by an extensive statistical analysis applied to a literary text for the first time in Pakistan. This research work was supervised by Dr. Qabil Khan, the then Chair of the Department of English, University of Peshawar.

2. Awarded PhD in English for research on a Shakespeare's comedy from a Jungian perspective: *A Midsummer Night's Dream: Shakespeare's Syzygy of Meaning*. The then research work was supervised by Professor Nasir Jamal Khattak, PhD (Amherst), the Chair, Department of English and Applied Language, University of Peshawar. This is the first foreign-evaluated degree awarded to a scholar of the above department.

In this study Jungian Psychology has been used as a tool to analyze the contents, characters, and imagery in the play from a symbolic point of view. The study proves that the play is full of complementary opposites/syzygial patterns on different levels of meaning. The details of the analyses have further been supported by graphical figures to visualize the symbolic energy of meanings found in them. The conclusion reflects how a light comedy of Shakespeare's can be read even today for soul-making, the term used by Jungians for psychological growth and development during adolescence and middle age. The conclusion further shows that there should be a continuous interaction between the conscious and the unconscious sides of the human psyche for proper and productive adjustment to one's environment.

Published and Prospective Papers

S No	Title of Paper	Year	Journal			
1	Poetical Appeal in Charles Lamb's Essay "The Child Angel"	1993	Journal of English Literary Club			
2	Bottom's Bottom's Dream	2003	Journal of Humanities and Social Sciences, Vol. IV, 1 & 2, 2003			
3	Shakespeare's A Midsummer Night's Dream: Syzygy in Action	2005	Do Vol. XIII, 1 & 2, 2005			
4	Seeing Through Shakespeare's a Midsummer Night's Dream, co-authored by Prof. Nasir Jamal Khattak, PhD	2008	Do Vol. XVI, 1, 2008			
5	"Brave Night and Hideous Night:" A Jungian Reading of Shakespeare's Sonnets	Under process				
6	Shakespeare's Synergizing Potential: A Study of <i>A Midsummer Night's Dream</i> from Management Perspective	Under process				

Track History: Joined Education Department, NWFP, as lecturer in English in March 1986 on ad hoc basis, and worked in that capacity till regularization through NWFP Public Service Commission in 1987. I have been teaching English at FA and BA levels till my deputation to the Institute of Management Sciences, Peshawar, in November, 2009. Teaching at college level involved:

- n Vocabulary building
- n Word formation and sentence structures
- n Polysemy
- n Connotation
- n Denotative and connotative meanings
- n Idiomatic translation
- n Speaking and writing skills
- n Meaningful transitions
- n Composition, paraphrasing and comprehension skills

Vision: to work for creating an academic environment and intellectual growth in such a way as to produce not "living copying machines" to follow a "cut and paste method" for promotion, but "creative individuals" for proactive activities in every field of human activity. After 9/11, our identity has become negatively debatable, and now the first and foremost responsibility of every sensible person is to redefine and re-establish our identity as torchbearers of positive and productive approach to human life. And an

important aspect of the above vision is to promote productively creative activities and ideas with the core objective of one day these ideas and activities will be followed by others as models of progress and development.

Judicial Academy of Khyber Pakhtunkhwa
Judgment Writing

Prepared by Dr. Muhammad Ismail Wali

Synopses of Lectures

Judgment Writing

Conceptual Background: Besides legal knowledge and judicial wisdom, writing a judgment is a skill involving orthography (how thoughts are turned into symbolic patterns on paper/computer, grammar and punctuation (mechanics of English), idiomatic structures (which are governed by conventions) and semantics (study of meaning). The core objective of these lectures is to sensitize the participants to verbal strategies for writing legally effective and stylistically persuasive judgments.

Synopses of Lectures

Lecture-1: Judgment Writing: Structure, Style and Mechanics

Brainstorming Question: what psychic component governs all our activities as humans?

All human activities are governed by the ego, the regulator of our waking life. The process of judgment writing is no exception to it. If the ego malfunctions, semantic distortions occur in a judgment. Therefore a judge should empty his/her mind of all those contents which may negatively affect his/her judgment. The presence of such contents may impair their objectivity, impartiality, fairness and sense of justice. And without these values both the structure and style of a judgment lose their effectiveness.

This lecture focuses on the basics of structure and style of judgment before familiarizing the participants with the strategies of professional writing. Usually, the structure of a judgment comprises of 1) information on court, judge and his/her station; 2) case and its file No; 3) title of case; 4) introduction; 5) facts; 6) evidence analysis; 7) reasoning; 8) application of law; 9) order; 10) signature/seal/date. The style of a judgment depends upon diction, structure of sentences and paragraphing to organize ideas for an effective management of language. Words are the building blocks of a judgment; hence knowledge of words and their denotative aspect is essential for judgment writing. Collocations are fraught with difficulties for non-native users, and through this lecture participants will be sensitized to the usage of words in English. Words, phrases and clauses are combined to make sentences for generating extended units of meaning. Sentences may be simple, compound or complex, depending upon the ideas on the mind of a user. Sentences are combined to form paragraphs. A good writer organizes his/her ideas into easily graspable paragraphs, each having a thesis statement.

Writing is a difficult process, and all professional writers follow certain formal steps for producing an effective piece of writing. These steps are: 1) planning, 2) drafting/writing, 3) revising, 4) editing, and 5) making a fair copy. Like all other organized activities, judgment writing needs strategic planning for effective communication. Planning includes making an outline of paragraphing a judgment. The outline should be based on the notes of a judge which he/she has been taking for the final version. Keeping in view the contents of the outline, the writer should proceed to commit it to writing on paper/computer in detail. After writing/dictating the first draft, the writer should let it “cool off” for some time. After the “cooling” process, comes the stage of revising. Revising is usually a process of searching for gaps in meaning and organization of ideas till the end. The third step is that of editing, which is conducted for grammatical and punctuation lapses. After editing, the writer makes a fair copy of the write-up. The fair copy should finally be read for complete satisfaction.

The outcome is that both attitude and aptitude are required for producing a legally effective and stylistically persuasive document.

Lecture-2 Judgment Writing (Principles of Effectiveness)

Brainstorming: what is language? Come up with a working definition.

Judgment is a micro medium of communication, and communication is a process of sharing ideas with sender/writer at one end and reader/receiver at the other. The essential elements of communication are: 1) sender, 2) content, 3) medium, 4) audience, 5) context, 6) feedback. This chain completes the process of communication. The sender should have both knowledge and skill for framing his/her content according to the needs, knowledge level and cultural dynamics of the audience/receiver in the proper context. In a judicial context, the structure and style of a judgment, besides its legal and constitutional aspects, should also function as a public instrument of communication for knowledge management and research purposes. Experts in communication usually refer to certain principles for making a piece of communication effective. In this regard, conciseness, correctness, clarity, completeness, coherence, consistency and courtesy are thought to be essential for delivering a message effectively.

Conciseness refers to the economy words to make one's meaning easily understandable. Conciseness saves both our time and energy. Conciseness is attained by confining to the words for the intended meaning. Removal of redundant material and avoidance of repetitions makes a judgment concise. However, conciseness loses its value without correctness: grammar and punctuation. Conciseness and correctness refer to the verbal skills of a writer; however, clarity comes from analytical and critical thinking. Clear ideas turn into clear sentences. Completeness refers to the inclusion of all relevant facts and figures in the relevant portion of a judgment. Consistency involves both structure and style. Inconsistency in structure or in style breeds confusion, making our meaning blurred. Coherence refers to the organization of ideas in a judgment. Courtesy means that the wording of a judgment should not be discriminatory based on race, ethnicity, sex, colour or creed.

This lecture also contains examples and exercises to clarify each principle. The theoretical framework as outlined above prepares the participants for peer-reviewing each other's judgments for practical purposes to internalize the principles of effective communication. After doing this session, the participants will learn skills how to apply the principles of conciseness, correctness, clarity, completeness, consistency, coherence and courtesy.

Practical: the participants will re-read rewrite their judgments to search for lapses (if any) keeping in view the principles of effective communication.

Lecture-3 Judgment Writing (Avoidance of Pitfalls)

Brainstorming

Guess the meaning of "judicial Heroism."

This session is complementary to the previous session on principles of effective communication. The core objective of this session is to familiarize with the concept of avoiding verbosity, unnecessary repetitions, ambiguity, overuse of legalese, and judicial heroism. The term "judicial

heroism” has been coined here to epitomize the intellectual environment of a judge to impose his/her legal knowledge on the reader, which breeds verbosity, unnecessary repetitions, ambiguity, overuse of legal jargons, unwise use of modifiers with the result that the reader is impressed by the big and difficult words without being clear on what the judgment says.

This session contains sample judgments and relevant portions from world constitutions how “judicial heroism” is practiced, which makes a legal writing open to different interpretations. Through this session, participants will be sensitized to the concept of clear thought and clear language, so that common readers should understand their rights and duties, which will prepare the way for good governance, development of civic sense leading to legal empowerment.

After doing this session, participants will be able to know the problem of “judicial heroism” and make their judgments reader-friendly as far as possible.

Practical: Participants will be engaged in re-writing the samples for learning how to avoid verbosity, unnecessary repetitions, ambiguity, and overuse of legalese.

Lecture-4: Judgment Writing: Plain English

Brainstorming

What do we mean by Plain English?

The seminal objective of this session is to introduce the concept of Plain English Movement in the world, especially in legal/judicial contexts. It is pertinent to mention here that billions of dollars are spent on drafting legal documents, and the followers of PEM have succeeded in entering into the judicial culture for working for making legal documents easily understandable. The followers of PEM recommend to 1) use words of Anglo-Saxon origin, 2) to avoid nominalization, 3) to prefer active voice, 4) to minimize legalese and Latin terminology. The followers of PEM argue that simple words are more effective than difficult words; simple sentences (one idea one sentence) are more easily graspable than compound and complex sentences.

Plain English Movement is active in Australia, Canada, England and America. PEM focuses on easily understandable language in legal contexts including judgments. To support their view, PEM activists usually refer the judgments of Lord Denning. In this session, judgments written by Lord Denning will be used as resource to introduce participants to the concept of Plain English as reference guide for learning simple verbal strategies, avoidance of nominalization, legalese, Latin terminology, and use of active voice.

The session will enable participants to learn how to apply the strategies propounded by the followers of PEM.

Lecture-5 Judgment Writing: One-Word Dictionary

Brainstorming Question: what do we mean by One Word Dictionary?

Language is a very complex medium of communication. Language is an ever-evolving phenomenon. Language is the product of the environment in which it evolves. As non-native users of English, we have to learn its mechanics, which is a lifelong process. English has been evolving for the last fifteen centuries with three major shifts (Old English, Middle English, and Modern English) in its history. During its evolutionary history, English has absorbed words from Latin, Greek and French including Arabic, Persian, and many other languages of the world. An introduction to the basics of etymology will help participants understand how to guess the meaning of a word.

The term “One Word Dictionary” has been coined to conceptualize all those words which compresses many shades of meaning into one word, and this word makes our meaning concisely precise, saving both our time and space given the constraints of judicial officers. For example, an animal which feeds only on grass and grains is called herbivore; 10 words compressed into one word. An animal which lives both in water and on land is called (12 words) is called amphibian. The word for a person who pleads cases at courts on behalf of others is (15 words) a lawyer. In legal contexts, the term “murder” covers all shades of killing in an unlawful manner. The sentence “evidence is clear that he/she has committed murder” is enough to clarify other shades of meaning associated with the details of an individual case whose mechanics may be different from any other act of murder.

The participants will be motivated to think of and make a list of such words so that a database of “One Word Dictionary” will evolve with the passage of time for future references. This exercise will sharpen the verbal skills of the participants for saving their time and space.

READING MATERIAL

Style and Structure of Judgment: BASICS

A: Conceptual Background

1. Legal experts agree that judgment writing is an art, not a science; and can be learned, practiced, and improved. Learning an art is a process of bringing changes in our thought process which is governed by the king within called ego. The ego filters every piece of information before accepting or rejecting it. It is not easy to control the way our egos twists and distorts the given piece of information. In your case, the ego functions under the persona of a judge whose authorial presence commands silence and dignity in the courtroom, and here sitting in a classroom environment may be a boring experience for you.
2. Judgment Writing is not one word but two—judgment and writing. Judgment is the outcome of a civil/criminal case which follows the process of decision- making. And writing it on paper or dictating it to a clerk is different which needs your verbal skills to transform your legal knowledge and judicial wisdom into a written form. The written form should not only be readable and understandable but also comprehensible to an average reader. If you succeed in achieving this objective, your judgment be will called effective from communication perspective. If only a few lawyers can read, know, understand and comprehend it, it means neither your judicial wisdom, nor your legal knowledge and nor your verbal skills have worked well. It means you are in need of improvement.
3. Because a legal judgment is not a private but a public document and as such requires wrestling with many myths before making it a public document. What are these myths?
 - a. I know and understand what I have written; or at least the lawyers know and can explain it to their clients.
 - b. Being a judge I know each and everything about laws and their application, and know how to write them.
 - c. Others are either ignorant or they need not know the contents of the judgment.
 - d. I am an expert, and there is no need of planning, revising, and editing a judgment.
 - e. The judgment contains nothing for future reference.

The following module addresses the myths that may spoil your reputation and damage your credibility and destroy your professionalism.

What is a judgment? Barring its technical definition found in codified terms, a judgment is the outcome of a civil or criminal case usually involving two parties represented by their lawyers. A judge makes the third party, an impartial observer and evaluator of what the parties claim, and his/her judgment follows the legal formalities required in a given system of law. It is the logical conclusion of the process of submission of a case, its hearing, pleading, evidence recording, cross-examining and arguing. It requires the active listening skill of a judge to differentiate what is fact and what is fiction from the very beginning.

Therefore it is a tough job to impartially monitor, examine and finally evaluate the claims in the light of law or laws applicable to them. Here the legal knowledge and judicial wisdom of a judge come to his/her aid. However, without skills of verbal communication, which involves 1) generation, 2) organization, 3) production of your evaluation of a case in the form of a judgment, legal knowledge and judicial wisdom just remain conceptual constructs.

Functions of a judgment:

1. **A Public Instrument:** it means that rights are created and obligations imposed through a judgment. These rights and obligations refer to people in society. Therefore, it is a public instrument. And any technical error in a judgment may wrongly affect these rights and obligations. Who is responsible for this error? You.
2. **An act of communication:** A judge communicates with the parties through a judgment. Thus a judgment is a medium through which legal communication flows. A basic objective of communication is to inform. To inform the parties what to be done and why. If you do not get this objective, you fail to perform your professional duty.

Structure of a judgment:

1. **Statement of the problem:** what is the issue the parties have decided to contest? This section refers to who/what/when/why of a judgment. Or who sought what when and why. A selective strategy should be used while making this background to your judgment. This section arouses your readers' curiosity to know more about the problem or dispute under judicial consideration.
 - a. Typical opening sentences:
 - i. Appellant moved the court on for....
 - ii. The case refers to
 - iii. The case came to the court for hearing on
2. **Facts):** this section refers to the facts agreed upon by the parties and the facts disagreed. The disagreed facts are said to be difficult to handle, and may create complications for a judge to articulate. The facts should be written in a systematic order. A brief analysis of facts enhances the legal merit of a judgment. For example

Facts agreed upon by both parties: Plaintiff A is the owner of House Nr. ... in Defendant B has rent this house based on a rent contract with A dated The house was given to B on Both parties agree that it was in good shape at that date. The contract expired on B returned the house to A.

A's Claim: A claims, a court judgment ordering B to pay 500 \$ to A within 10 days after receipt of the judgment including 10 % interest rate since date....and ordering B to bear all the costs of the court proceeding including the costs of A's lawyer.

B's Counter Claim:

B claims, that the court fully rejects A's claim and orders A to bear all court proceedings costs including the costs of B's lawyer. Position of Party B: a) Allegations of facts by B: B concedes that the house is damaged. But B says that he is not responsible for this damage because on the said day he was absent and did not use the bath tub but a heavy rainfall flooded the whole house. Furthermore he says that the damage at the house can be easily repaired for only 150 \$. b) Legal point of view of B: B thinks that A has no right to claim 500 \$ from him because the law does not allow A to hold him responsible for damage caused by superior force, in this case by a rainfall flooding.

The defendant has to pay damages to the plaintiff. According to Article ... of the Civil Code someone who negligently violates the property of some other person in an unlawful way and thus causes damage is obliged to pay for the compensation of this damage. In the given case the defendant B has rented A's house in good shape but returned it to A with water damages. These damages were caused by B negligently letting overflow the bathtub. The water damages were neither caused by heavy rainfall nor flooding but were caused by the action of B who is obliged to use A's property respectfully. As a result of B's negligent treatment A's house had to be repaired for 150 \$."

Findings of Facts:

This part of the judgment must show the facts the judge bases his/her decision upon. It also must give a short reason why disputed facts are regarded to be proved by the judge due to his/her weighing of the relevant evidence. Example

The water damage at the house was caused by B but the repair only costs 150 \$. The court gathers this from questioning the neighbours of B who testified as witnesses that during the rent period there were no heavy rain falls at that place at all. There is no reason not to believe these neighbours. They testified the same facts independently of each other and did neither show sympathy nor a negative attitude towards B. The Khmer Institute of Democracy - 76 - Furthermore the public meteorological report **corroborates these** testimonies. Additionally, the court inspected the house of A and of his neighbours finding that the neighbours' houses did not show any signs of heavy rainfall. As the house did not have any damages at the time of renting it to B but had damages when he moved out all this indicates clearly that the damage was caused by B letting the bathtub overflow. But the questioning of a plumbing expert and two different repair offers presented by B show that it costs only 150 \$ to repair the damage.

Application of Law: Law remains a cherished ideal without application. And it is the application of law to a claim that makes it false or true.

Reason for the Decision:

Every party has a right to receive a judgment which shows the reasons. A judgment without a reason would make it impossible to file a well founded appeal against the judgment. So the right to appeal includes the right to know the reasons of a judgment. The duty to give a reason for the judgment also makes it more difficult for a judge to hide his/her true motivation for making the judgment which may have been not so much influenced by the law and the facts but more by payments of one party or by the sheer lack of the judge's legal knowledge.

The reasoning of a judgment must convince the parties that their position has been fully considered. It must show why some facts given by the party are regarded to be important and others are regarded not to be important. Furthermore the reasoning of a judgment must show the application of the relevant law provisions step by step, article by article and law term by law term.

Bad Reasoning: It is not a sufficient reasoning just to use the phrase

“having seen all facts and the law the court decides...”.

The defendant has to pay damages to the plaintiff. According to Article ... of the Civil Code someone who negligently violates the property of some other person in an unlawful way and thus causes damage is obliged to pay for the compensation of this damage. In the given case the defendant B has rented A's house in good shape but returned it to A with water damages. These damages were caused by B negligently letting overflow the bathtub. The water damages were neither caused by heavy rainfall nor flooding but were caused by the action of B who is obliged to use A's property respectfully. As a result of B's negligent treatment A's house had to be repaired for 150 \$.”

Note the following in the above:

1. Plain English
 - a. Simple words and simple sentences. Only **corroborate** /support
 - b. No modifiers even to point to some bias.
 - c. No inter alia or other such terms.
 - d. Facts are clear to grasp. No ambiguity
3. **The law applicable:** the next section briefly refers to the principles of law applicable in a given case. Without this section, your judgment loses its merit.
4. **The Reasons** (see section E below): Without reasons the conclusion loses its value and meaning. This section refers to the question “why.” And it is reasons which make your conclusions and inferences legally rich and strong.
5. **Conclusion:** this section refers to the result of your findings. B damaged A's house.
6. **Order:** the actual wording of what is the outcome of the whole exercise. Relief is granted.

7. Right of Appeal

Note: the body of a judgment varies from judgment to judgment depending upon its nature, scope, facts and figures as evidence, aspects of claims, and so on. In an ideal situation, the body of a judgment contains 1) relevant facts and figures regarding claim, 2) evidence and, 3) a brief statement or reference to the law applicable; 4). A judge may interpret a law for clarification. An essential part of the body is the portion of 5) giving reasons for a judgment, which make it legally persuasive

B: Mechanics of Judgment Writing:

1. **Taking Notes:** Experts suggest that a judge should keep a diary (not a sheet of paper which may be misplaced) to note figures, points, and references for future use.

Warning 1: never rely on your memory which often malfunctions so pathetically that a structure turns upside down.

2. **The Writing Process:** Any professional writing usually passes through the following steps:

- a. **Planning:**

- i. Making up your mind and managing time and space constraints
- ii. Outlining/Sketching the judgment on paper (notes)
- iii. Breaking up the whole into parts
- iv. Each main idea should contain enough potential to make a para.

- b. **Drafting/Writing:** Using your pen or fingers in such a way as the thought process should turn into words according to the sequence outlined.

- i. While writing, focus more on the flow of thought process than on language.
- ii. Write a judgment (if not long) in one sitting.
- iii. Keep it “cool” for ten to one hour depending upon the nature and gravity of the judgment.

- c. **Revising:** Then read it again

- i. To organize your ideas more logically
- ii. To fix transmissions properly, making them more meaningful
- iii. To rephrase if the verbal structures do not suggest the meaning that you want to provide
- iv. Read it again as if written by someone else.
- v. Editing: read it for lapses of grammar and punctuation

1. Grammar lapses may turn your meanings upside down:

- a. Example, witness A said that he had seen her cross the road/crossing the road.
- b. Mr. B stopped to smoke a cigarette/ Mr. B stopped smoking.

2. Punctuation lapses: wrong of use punctuation marks cause semantic confusions :

- a. The judge said the lawyer was a fool. (read it without punctuation).
- b. Mr. A failed to convince her however he tried.

It is commonly said that there is no such thing as good writing, there is only good rewriting. Preparing a draft judgment is hard work. But the hardest work begins when the draft Judgment is finished. Good editing ensures that a judgment is lucid, thorough, coherent, concise and has transparent reasoning. It identifies flaws, such as the use of discriminatory language. Justice Mukharje

C: Style of a judgment: In our age, all legal experts agree that simplicity is the soul of its style.

Formula: simple words make simple sentences, and simple sentences generate easy meanings to know, understand and comprehend.

Simple Vocabulary: your inventory of skills should contain a shelf for simple vocabulary, or you can keep an authentic source for easy access to a store to simple words.

Simple sentences: technically, a sentence containing an actor (subject) an action (predicate).

Note: the term subject is explainable here: look at the following sentences:

- A judge may laugh. (a judge/subject, may laugh, predicate).
- A good old judge is laughing.
- A good old but intelligent judge is laughing.
- The judge being young gave a romantic colour to his judgment.
- The good old but intelligent judge wrote a clear, concise and legally persuasive judgment.

Or sentences may be compound or Complex. But simple sentences are easy to punctuate. Punctuation becomes problematic if a sentence runs a long and tortuous course.

Points to ponder:

Remember!

1. You write your judgments for others to read. Any negligence or inefficiency (verbal or technical) on your part will render a judgment ineffective.
2. Writing is more difficult than speaking, as in writing we use only symbols without being strengthened by postures, gestures, facial expressions and paralanguage strategies. A reader sees our words, not our face and body. Hence every word should be written with intellectual clarity.
3. Reading samples of modern judgments may enrich your verbal skills.
4. Write in one move but to rewrite again with your focus on organizational development and verbal structures to make it effectively communicative.
5. Check your language for discrimination on ethnic/racial/sex factors.

Judgment Writing- Principles of Effectiveness

There are external and internal factors that may affect the substance of a judgment. External factors may come in the forms of recommendations or threats. Internal factors may come from the thought process of a judge as a human being; because our thought process is affected by personal problems, memories, any mishap in one's immediate surroundings. Sometimes it so happens that a judge may develop a particular mindset, and observers note it to designate the judge as "pro-poor," "pro-rich," "pro-woman," "pro-business" and so on. There is no formula to fix these problems. What we expect is that a judge should behave like oxygen after putting on his robes. He should follow the easy to preach but hard to practice principles of **Independence, Fairness, Impartiality** and **Competency**. These are, I think, ideals which a judge should ever try to pursue for maintaining promoting justice in society. I leave the topic for your conscience and judicial wisdom to consider after quoting the following:

There are many instances in our judicial history which serve as land marks and torch bearers for our guidance. I may relate an instance in the day of President Ayub Khan when Justice Abdul Aziz Khan was sworn in as the Chief Justice of the High Court of West Pakistan a move was made that President would address the Judges of the High Court of West Pakistan Late Mr. Justice A.S. Faruqui objected to this move and ultimately it was decided that the President would have with the judges. During this meeting the President started a sort of discourse and when he said that some of the judgments of the court are obstructing his newly introduced reforms, a frail but firm, dignified and sober, calm and self composed judge stood up and objected to such remarks and observed that the judges perform their duties in faithful discharge of their oath and according to law without fear or favour, affection or ill will and the moment they feel that they are unable to fulfil their oath they would not hesitate to lay down their robes. He was late Justice A.S. Faruqui the embodiment of courage, character, honesty, integrity, dignity and learning. His viewpoint was vociferously supported by late Justice Wahiduddin Ahmad another model judge known for learning, uprightness, firmness, caliber and courage. These are the judges who are living monuments for our guidance.

Structural Elements:

1. Organizing your ideas
 - a. It is a cognitive skill to arrange your ideas in systematic way.
 - b. Clear your mind of other constraints/noises which may affect the flow of your ideas.
 - c. Break up the whole into its parts, with one topic for each part.
 - d. Each paragraph should revolve around one main idea.
 - e. Your ideas should flow in such a way as to guide the reader to their logical end.
2. Development of Argument: in philosophy, the term syllogism is used for developing an argument based on logic.

A killed B (claim/specific premise)

Evidence proved that A killed B.

A is convicted.
A did not kill B.
Evidence did not prove that A killed B.
A is acquitted.

Claimed damages to his car caused by B.
Evidence proved the damage.
B failed to defend his/position.
Relief is granted to A.
OPP (Opposing Part's Position)
FLOPP (Flaw in Opposing Party's Position).

How to manage your writing for effectiveness?

Principle 1 **Conciseness**

Consider your meaning first. Meaning determines your words and sentences:
A killed B on May 25, 2012.
A willfully killed B on May 25, 2012.
A brutally killed B on May 25, 2012.
A killed B with a knife.

If your meaning is clear on your mind, words and sentences will follow it.

Conciseness means economy in the use of words. Don't be generous in using words; sometimes generosity lands you in poverty.

For example, here's a common sentence found in prospectuses:

"To err is human, to forgive, divine."

Parody Version:

To err, whether willfully or through negligence, is human, whereas, to forgive is divine

Examples:

In the year 1980 (in 1980)

By means of/by (three words can be replaced with one word)

By reason of/because of

by virtue of/by/ under

for the purpose of to

for the reason that/ because

in accordance with by/ under

inasmuch as/ since

in connection with with/ about, concerning

in favour of/ for

in order to/ to

in relation to/ about, concerning

in the event that/ if

in the nature of/ like

prior to/ before

subsequent to/ after

with a view to/ to

with reference to/ about, concerning

Pruning Sentences:

Due to the fact that the death of the previous captain had to do with a quarrel over a black hen, the effect is that of providing a preview of what Marlow himself will face in the future.

Because the previous captain died after a quarrel over a black hen, Marlow understands what he will face.

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR MAKE ANY REPRESENTATION OTHER THAN THOSE CONTAINED OR INCORPORATED BY REFERENCE IN THIS JOINT PROXY STATEMENT/PROSPECTUS, AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED.

The foregoing Fee Table is intended to assist investors in understanding the costs and expenses that a shareholder in the Fund will bear directly or indirectly.

Analysis:

Clarity: it is not clear who intends.

Style: the sentence is too long to give us the information intended.

Revised:

This table contains the fees and expenses that you may pay if you buy and hold shares of the fund.

Here's another example:

The proxies solicited hereby for the Heartland Meeting may be revoked, subject to the procedures described herein, at any time up to and including the date of the Heartland Meeting.

Revised:

You may revoke your proxy and reclaim your right to vote up to and including the day of the meeting by following the directions on page 10.

before

We will provide appropriate information to shareholders concerning...

after

We will inform shareholders about...

before

We will have no stock ownership of the company.

after

We will not own the company's stock.

before

There is the possibility of prior Board approval of these investments.

after

The Board might approve these investments in advance.

before

This Summary does not purport to be complete and is qualified in its entirety by the more detailed information contained in the

Proxy Statement and the Appendices hereto, all of which should be carefully reviewed.

after

Because this is a summary, it does not contain all the information that may be important to you. You should read the entire proxy statement and its appendices carefully before you decide how to vote.

Omit superfluous words

Words are superfluous when they can be replaced with fewer words that mean the same thing. Sometimes you can use a simpler word for these phrases:

superfluous simpler

in order to to

in the event that if

subsequent to after

prior to before

despite the fact that although

because of the fact that because, since

in light of because, since

owing to the fact that because, since

Also, your sentences will be shorter and easier to understand if you replace a negative phrase with a single word that means the same thing.

For example:

negative compound single word

not able unable

not accept reject

not certain uncertain

not unlike similar, alike

does not have lacks

does not include excludes, omits

not many few

not often rarely

not the same different

not ... unless only if

not ... except only if

not ... until only when

"In this situation, I am of the opinion that the evidence that Mr Harris has given is somewhat inconclusive."

Alternative: "Mr Harris' evidence is inconclusive."

The following description encompasses all the material terms and provisions of the Notes offered hereby and supplements, and to the extent inconsistent therewith replaces, the description of the general terms and provisions of the Debt Securities (as defined in the accompanying Prospectus) set forth under the heading "Description of Debt Securities" in the Prospectus, to which description reference is hereby made. The following description will apply to each Note unless otherwise specified in the applicable Pricing Supplement.

after

We provide information to you about our notes in three separate documents that progressively provide more detail: 1) the prospectus, 2) the prospectus supplement, and 3) the pricing supplement. Since the terms of specific notes may differ from the general information we have provided, in all cases rely on information in the pricing supplement over different information in the prospectus and the prospectus supplement; and rely on this prospectus supplement over different information in the prospectus.

Due to the fact that the death of the previous captain had to do with a quarrel over a black hen, the effect is that of providing a preview of what Marlow himself will face in the future.

Because the previous captain died after a quarrel over a black hen, Marlow understands what he will face.

Correctness: In communication, correctness usually refers to the mechanics of language and punctuation.

A language is the product of its culture. And culture is a very complex phenomenon. The idiomatic part of a language from the cultural side, though the grammatical part may be covered under rules. In other words, grammar partly covers a language; for the idiomatic part we have to keep our reference books handy. Look at the following sentences:

The judge enjoys to read the judgment written by his/her predecessor.

The judge is understanding my point.

The lawyer asked a tough question from me.

The accused entered into A's garden.

The accused was in the grass/on the grass.

The judge is at home/in the house.

The picture was in/on the book.

The accused then went to the bank.

The wire is alive.

Write it with a black pen.

This shoe is not of my size.

The concerned parent is here.

This is a nice old judge.

The judge came at 10 am to the court.

Misplaced modifiers:

Being an excellent lawyer, I do not doubt your competency.

Being an excellent lawyer, your competency is beyond doubt.

Waving his tail, the lawyer came towards the dog.

Waving his tail, the dog came towards the lawyer.

Use modifiers judiciously:

This matter came before this court for argument on the 6 day of September 2000. Plaintiffs, Maru and Koa are alleged that the National Housing Commission **forcibly** and **unlawfully** removed them from their house at Tokarara, thus violating their rights under the Summary Ejection Act. The Housing Commission denies these claims and seeks to dismiss the action **summarily**.

Punctuation:

Use simple sentences to avoid complexities of punctuation.

Sample Judgment

It happened on April 19, 1964. It was bluebell time in Kent. Mr and Mrs Hinz had been married some 10 years, and they had four children, all aged nine and under. The youngest was one. Mrs Hinz was a remarkable woman. In addition to her own four, she was foster-mother to four other children. To add to it, she was two months pregnant with her fifth child. On this day they drove out in a Bedford Dormobile van from Tonbridge to Canvey Island. They took all eight children with them. As they were coming back they turned into a lay-by at Thumham to have a picnic tea. The husband,

Mr Hinz, was at the back of the Dormobile making the tea. Mrs Hinz had taken Stephanie, her third child, aged three, across the road to pick bluebells on the opposite side. There came along a Jaguar car driven by Mr. Berry, out of control. A tyre had burst. The Jaguar rushed into this lay-by and crashed into Mr Hinz and the children. Mr Hinz was frightfully injured and died a little later. Nearly all the children were hurt. Blood was streaming from their heads. Mrs Hinz, hearing the crash, turning round and saw this disaster. She ran across the road and did all she could. Her husband was beyond recall. But the children recovered.

An action has been brought on her behalf and on behalf of the children for damages against Mr Berry, the defendant. The injuries to the children have been settled by various sums being paid. The pecuniary loss to Mrs Hinz by reason of the loss of her husband has been found by the judge to be some £115,000; but there remains the question of the damages payable to her for nervous shock – the shock which, she suffered by seeing her husband lying in the road dying, and the children strewn about.

Use of Active Voice: Use of active voice makes your style vibrant:

B was killed by A.

The accused was assisted by his two sons, three brothers and five friends.

His two sons, three brothers and five friends assisted the accused in entering the house.

He was acquitted by the jury.

The jury acquitted him.

The event was seen by the witness.

The witness saw the event.

The case was decided by my predecessor.

My predecessor decided the case.

It was reported by the engineer that the bridge was structurally sound and safe.

The engineer said that the bridge was structurally sound and safe.

It is hereby recommended that...

I recommend that...

Consistent with the aim of using plain language, expressions such as “hereinabove mentioned” or “it is therefore ordered, adjudged and decreed” should not be used. There are suitable substitutes for such words and phrases. By writing clearly and concisely, the subject matter being discussed should be apparent, without resort to these expressions.

There is no purpose in saying, for example:

"After reviewing all of the evidence, and weighing carefully the competing arguments advanced by the parties, I have decided that..."

Completeness: If conciseness is exclusive in the sense that we make our statement concise by excluding redundant material, we make our statement complete by being inclusive of all relevant material.

Three witnesses appeared for A to affirm that the gun alleged to be used in the killing was with C, one of A’s friends. Witness 1 said this, 2 that. You leave out the third. It is not complete.

To be short, a complete judgment is one who each section is complete in all relevant respects.

Clarity: If several laws sit together to get at the meaning of a judgment, it means the judgment is not clear. In many cases (where laws do not provide us enough guidance to proceed), their nature is so complicated that a clear judgments may not be possible. A judge may recommend many options in such situations:

Scenarios:

A and B are husband and wife respectively. Their contention is over the custody of their children. They have two children: a son (seven years) and a daughter (5 years). A claims that his wife is a drunkard and comes home late at night. The children suffer because of her drinking habit. Therefore, the children should be given in his custody.

His wife claims that her husband watches pornographic films in presence of the children which is potentially dangerous for their psychological health.

What should be the solution?

And clarity may be affected by the use of ambiguous structures:

The evidence is partially consistent in supporting A’s claim.

Witness B was not mature enough to state his/her version properly.

The law may also be interpreted as

Witness C’s words were ambiguous.

For details, see Clarity Number 51 May 2004

Editor in chief: Michèle Asprey

Journal of the international movement to simplify legal language <<http://www.clarity-international.net>>

Judicial Academy of Khyberpakhtoonkhwa

Judgment Writing - M 3 Modern Strategies

Reading and Writing Practice-1

Prepared by Dr. M. Ismail Wali as guided by and in Consultation with Dr. Khurshid Iqbal,
Director Academics-Judicial Academy.

This module has been designed to sensitize our judges to the way judicial culture has undergone a change in the world.

Many a Judge whose honesty and integrity are not doubted, give room for being branded as Judges with recognized disposition or ideology. Depending on his ideology or leaning, he ends up earning the sobriquet: a "landlord Judge" or a "tenant Judge"; or as a "convicting Judge" or an "acquitting Judge"; or as a "pro-government Judge", or an "anti-establishment Judge"; or as a "pro-rich Judge" or "pro-poor Judge"; or as a "pro-labour Judge" or a "pro-management Judge"; or as a "relief-oriented Judge" or a "technical Judge"; or as a "liberal Judge" or a "negative Judge". Of course each Judge, as a human being, is bound to have convictions, prejudices, notions, philosophies and views which may unconsciously influence and mould his decision and reflect upon the manner in which he administers justice (net).

There are some things that a judge should not do. I shall, with deference, take three examples. First, he should not use language open to misunderstanding. "On this evidence I believe it important that the judge indicate whether he has been influenced by such matters and, sometimes, how. otherwise an appeal court may be prevented from doing justice by a misunderstanding of what the trial judge has done. I cannot find that the plaintiff did ...", when what is meant is: "On this evidence I am not satisfied that the plaintiff did ...". "Can" suggests that "it is not possible to find" and that, of course, may, be a mistake of law. If you say "can" where you mean "should" you invited reversal. This applies also to the use of metaphors. They are dangerous. Say what you wish not circuitously but directly (<http://www.pngjudiciary.gov.pg>).

Remember! Words behave like a naughty child. In a judgment every word speaks; all sentences have precise meanings.

Collateral damage (we hit the wrong building); friendly fire/an inadvertent attack on one's own troops; executive action/a CIA term meaning getting rid of people, especially the leaders of foreign countries; equity retreat/stock market crash; previously enjoyed/secondhand; rightsizing/firing a significant number of staff; substandard housing unit/slum; tax base broadening/tax increase.

Note: Words which were codes during World Wars have entered common vocabulary. It means words, like snakes, keep are changing their meanings.

Your message falls into disrepute, if people cannot understand you. In the mid-1990s the Australian government regulated the superannuation industry. The drafters wrote a monstrous piece of legislation. Arthur Andersen, the large accounting firm, pointed out in one of its newsletters that 599 pages of laws and explanatory memoranda were needed to do this: “multiple sledgehammers are being used to crack the odd peanut?” Few of the people with superannuation understand this legislation. The lawyers and accountants also struggle. This law is in disrepute.

Australia now passes over 10 times as much federal legislation each year than it did in 1960. The Income Tax Assessment Act is almost 50 times longer than it was when first introduced in 1936. The former 120 page document now bulges at an unwanted world record of 5,000 pages. It has an unfriendly numbering system. Puzzle over the ponderous s 159ZZZZH. Many of its terms defy understanding. [4] Try weighing the Corporations Act. It comes in at over 3 kgs. It fattens away in Canberra. Compare that to the mere 300 gms of the Canadian statute. The Tax Law Improvement Project is trying to clarify and shorten the tax law. Much can be done. The Goods and Services Tax legislation of 1999 [5] is hard labour. It is laced with jargon like “creditable acquisitions” and “input tax credits”. It is a young monster, with over 1,000 pages of legislation and explanatory memoranda, so far. In short time there have been hundreds of amendments to it. The legislatures are treating too lightly their great power and duty of drafting laws for the people. The power should be used sparingly. And the drafting should be of the highest quality (<http://www.scribblerspublishing.com>).

The above quotes refer to the difficulties faced by legislators, lawyers, and judges while writing legal documents. Today the judicial norm while writing is to be simple as much as possible. Because it is simplicity that makes a judgment readable and understandable.

Sample:

I have told you of my years as Master of the Rolls. I have heard many cases and delivered many judgments. Those of interest to the profession are included in the *Law Reports*. But those of no interest to them are not. On Monday mornings ordinary folk come to my Court - without lawyers - to make their applications. From time to time they conduct their own cases. Or rather, shall I say, I conduct them for them. No one should be at a disadvantage by not having a lawyer. I know that litigants in person can be very trying. They can be very wrong-headed. They will not take "No" for an answer. They would exhaust the patience of Job. Often I tell them: "I am afraid we cannot help you." They go away disappointed. They may try my patience but, as I have already said, I try never to lose my temper.

If we analyze the above passage, each sentence carries one idea. Each sentence is simple—having one subject and one predicate—neither compound nor complex. No clichés and no legalese. No redundancy.

It happened on 19 April 1964. It was bluebell-time in Kent. Mr. and Mrs. Hinz had been married some ten years, and they had four children, all aged nine and under. The youngest was one. Mrs. Hinz was a remarkable woman. ...”. His short sentences, easily understood, speak to the litigants. He is not speaking only to experts, the lawyers. Lord Denning called his judgments “short stories”: “I state the facts, I give the merits, and then show the way to a just result.

Legalese is not recommended today; avoid to use phrases of Latin/French origin, or indirect way of saying things, circumlocution. Say it directly!

1. Legalese is an overformal writing style that uses legal jargon, archaic legal language, and French or Latin phrases (such as *res ipsa*, *voir dire*, *mens rea*, and *locus standi*) in briefs, motions, agreements and other legal documents. Legal professionals, both new and experienced, sometimes believe that using legalese commands respect and elevates their writing. In truth, legalese hinders comprehension, promotes ambiguity and can make your writing stiff and archaic. Archaic vocabulary: legal writing employs many old words and phrases that were formerly quotidian language, but today exist mostly or only in law, dating from the 16th century; English examples are *herein*, *hereto*, *hereby*, *heretofore*, *herewith*, *whereby*, and *wherefore* (pronominal adverbs); *said* and *such* (as adjectives).
2. Loan words and phrases from other languages: In English, this includes terms derived from French (*estoppel*, *laches*, and *voir dire*) and Latin (*certiorari*, *habeas corpus*, *prima facie*, *inter alia*, *mens rea*, *sub judice*) and are not italicised as English legal language, as would be foreign words in mainstream English writing.

Avoid to use clichés, words/expressions which are too old to give any fresh meaning; a cock and bull story; his better half;

Examples of circumlocution

No vehicle shall be turned so as to proceed in the opposite direction within an intersection, or upon any street in a business district, or upon a freeway, expressway or controlled-access highway, or where authorized signs are erected to prohibit such movement, or at any other location unless such movement can be made with reasonable safety to other users of the street and without interfering with the safe operation of any traffic that may be affected by such movement.

Accident Report

The party of the first part hereinafter known as Jack and ... The party of the second part hereinafter known as Jill ... Ascended or caused to be ascended an elevation of undetermined height and degree of slope, hereinafter referred to as “hill”.

Whose purpose it was to obtain, attain, procure, secure, or otherwise, gain acquisition to, by any and/or all means available to them a receptacle or container, hereinafter known as “pail”, suitable for the transport of a liquid whose chemical properties shall be limited to hydrogen and oxygen, the proportions of which shall not be less than or exceed two parts for the first mentioned element and one part for the latter. Such combination will hereinafter be called “water”. On the

occasion stated above, it has been established beyond reasonable doubt that Jack did plunge, tumble, topple, or otherwise was caused to lose his footing in a manner that caused his body to be thrust into a downward direction. As a direct result of these combined circumstances, Jack suffered fractures and contusions of his cranial regions. Jill, whether due to Jack's misfortune or not, was known to also tumble in similar fashion after Jack. (Whether the term, "after", shall be interpreted in a spatial or time passage sense, has not been determined).

Verbosity and unnecessary complexity have crept into our statutes. Using a computer measurement technique, the Victorian Law Reform Commission reckoned that you need over 22 years of formal education before you could understand the Australian Income Tax Assessment Act. In other words, you would need to have a couple of university doctoral degrees. Sir Harry Gibbs condemned the same statute: [2] "Such a law [as the ITAA] reflects no credit on the society which tolerates it." Gibbs quoted Professor Ross Parsons , who has likened the expanding tax statute to a super nova.

Points to ponder and remember!

1. Make a list of words for use while writing a judgment. Keep a standard dictionary always handy, and a standard book on style and writing.
2. Revision is essential. Read your judgment twice and thrice to note any ambiguity or obscurity created by 1) uncommon words/expressions and legalese.
3. Read your sentences to make them simple rather complex/compound.

Exercise:

The prisoner has been indicted for that he, on the twentieth day of January, 1843, at the parish of St Martin in the Fields, in the county of Middlesex, and within the jurisdiction of the Central Criminal Court, in and upon one Edward Drummond, the said Daniel McNaghten, a certain pistol of the value of 20s, loaded and charged with gunpowder and a leaden bullet (which pistol be in his right hand had and held), to, against and upon the said Edward Drummond, feloniously, wilfully, and of his malice aforethought, did shoot and discharge; and the said Daniel McNaghten, with the leaden bullet aforesaid, out of the pistol aforesaid, by force of the gunpowder, etc, the said Edward Drummond, in and upon the back of him the said Edward Drummond, feloniously, etc, did strike, penetrate and wound, giving to the said Edward Drummond, one mortal wound, etc, of which mortal wound the said Edward Drummond languished until the 25th of April and then died; and that by the means aforesaid, he the prisoner did kill and murder the said Edward Drummond.

What did we learn?

1. Writing is difficult but writing a judgment is more difficult.
2. Writing is a heroic task which can never be performed without hard work, patience, constant practice and commitment to one's profession.
3. Keep a standard dictionary handy!

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States.

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States. A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens :

J U S T I C E, social, economic and political;

L I B E R T Y of thought, expression, belief, faith and worship;

E Q U A L I T Y of status and of opportunity;

and to promote among them all

F R A T E R N I T Y assuring the dignity of the individual and the unity

and integrity of the Nation;

I N O U R C O N S T I T U E N T A S S E M B L Y this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

The principles of absolute trust and faith in the Almighty Allah, nationalism, democracy and socialism meaning economic and social justice, together with the principles derived from them as set out in this Part, shall constitute the fundamental principles of state policy.

Judgment Writing: Practical – I

Focus: Evaluation of a Judgment

Skill: To Evaluate Judgment

- **The Participants are asked to evaluate each other Judgments.**
 - **They provided useful feedback to each other**
-

Judgment Writing: Practical – II

Focus: Writing a Judgment

Skill: To Write a Judgment (To re-write your own Judgment, applying the skills learnt

- **The Participants were asked to re-write their own Judgments, applying the skills they learnt.**

CURRICULUM VITAE OF NIAZ MUHAMMAD KHAN

Personal Information

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Educational Qualification

- Matric/SSC in First Division obtaining 65.1% marks
- Intermediate/HSSC in 2nd Division obtaining 55.8 % marks
- B.A/Graduation in 2nd Division obtaining 58.6 % marks

Professional Qualification

- FEL (First Examination in Law) in 1st Division obtaining 74 % marks
- LLB (Bachelor of Laws) in 1st Division obtaining 60.7 % marks
- 1 year Post Graduate Diploma in Islamic Laws from Sharia Academy
International Islamic University, Islamabad, Pakistan obtaining 62.37 % marks
- 3 months course from Pakistan Provincial Services Academy
- One week course of Financial Management from National Institute of
Public Administration

Academic Achievement

- Got merit scholarship in Intermediate.
- Got merit scholarship in LLB.

Professional and Service Career

- Remained as practicing lawyer of District Courts from 1983 to 1988.
- Remained as practicing lawyer of High Court in 1988.
- Joined Judicial Service as Civil Judge in 1988 by securing 1st position in the
exam of Provincial Civil Services (Judicial).
- Promoted to as Senior Civil Judge in 1994.
- Promoted to as Additional District & Sessions Judge in 2002.

- Promoted to as District and Sessions Judge on first of July 2010.
- Remained as Additional Member Inspection Team, Peshawar High Court for a period of 06 years.
- Remained as Additional Registrar (Admin), Peshawar High Court in 2010&2011..

Achievements in Service

- Awarded certificate of merit by the Chief Justice of Peshawar High Court Peshawar High Court in 1993 for outstanding performance as Civil Judge
- Awarded cash prize and certificate of merit for obtaining the first position in first Incentive & Reward Policy by the Peshawar High Court
- Received appreciation certificate from the Chief Election Commission of Pakistan in 1988 for conducting fair, and impartial General Election in 1988 as Returning Officer.
- Awarded Certificate of Commendation by the Chief Justice of Peshawar High Court in 2006 for rendering Services in the compilation of first ever Judicial Estacode 2006 in Pakistan and probably in the world.
- Awarded Certificate of Commendation by the Chief Justice of Peshawar High Court in 2011 for rendering Services in the compilation of second revised, and enlarged edition of Judicial Estacode 2011.

Capacity Building

- As a resources person delivered many lectures on various topics in Federal Judicial Academy Islamabad, Khyber Pakhtunkhawa Judicial Academy, Peshawar, and in other foras in connection with pre-service Orientation Training Programmes of newly appointed judges and also in service judges.

Conferences, Workshops, Seminars etc.

- Attended many conferences, workshops and seminars on legal subjects as resource person.
- Attended many conferences, workshops and seminars as facilitator, coordinator or research associate.
- Attended 2 days seminar on 24th and 25th of November 2004 at Peshawar as Research Associate on “Commercial Dispute Resolution (CDR)” in which Justice Branson of Federal Court Australia was the guest speaker.

- Attended 2 days UK Pakistan Judicial Conference as research Associate on a Protocol on “Children and Family Laws” on 22 and 23rd September 2003 at Islamabad.
- Attended seminar on “Protocol on Child Protection” jointly organized by UK Judges of Family Division, Lawyer of UK and Pakistani Judges in Jan 2005 at Peshawar as Research Associate.
- Three days training of trainers from British Council in 2004.
- One day training of trainers from British Council in 2007.

In the High Court besides Administration, the following special assignments have been given:

- Rule Making
- Litigation
- Resource person in capacity building of the Judges of District Judiciary
- Opinion
- Establishment

In the field of monitoring of District Judiciary has contributed a lot in pinpointing the deficiencies in the fields of Court & Case Management, Quick Disposal etc. and suggested some concrete proposals for improvement in Court & Case Management and Expeditious Disposal of cases. These deficiencies and proposals have been compiled in a booklet form to be known as “Consolidated Inspection Note of Inspections of Subordinate Courts, 2003”.

Computer skill- can operate computer as per requirement.

Books / Compilations

- Consolidated Inspection Note for 2003 (a book consisting of 63 pages)
- Judicial Estacode 2006 (A book consisting of 554 pages)
- Judicial Estacode 2011 (A book consisting of 679 pages)

Elements of Court Judgment

<p style="text-align: center;">ELEMENTS OF JUDGMENT</p> <p style="text-align: right;"><i>By</i> Niaz Muhammad Khan</p> <p style="text-align: center;">1</p>	<p style="text-align: center;">ELEMENTS</p> <table border="1" style="width: 100%; border-collapse: collapse; background-color: #4a7ebb; color: white;"> <tr><td>Good</td><td>Bad</td></tr> <tr><td>Objective</td><td>Subjective</td></tr> <tr><td>Clarity</td><td>Ambiguity</td></tr> <tr><td>Direct</td><td>Long winded</td></tr> <tr><td>Distinct</td><td>Mixed</td></tr> <tr><td>Coherent</td><td>Broken</td></tr> <tr><td>Straight</td><td>Pretentious</td></tr> <tr><td>Logical</td><td>Confused</td></tr> <tr><td>Easeful</td><td>Boring</td></tr> <tr><td>Speaking</td><td>Silentium</td></tr> <tr><td>Plain</td><td>Laboured</td></tr> <tr><td>Concise</td><td>Prolix</td></tr> <tr><td>Balanced</td><td>Lopsided</td></tr> <tr><td>Egalitarian</td><td>Biased</td></tr> </table> <p style="text-align: center;">5</p>	Good	Bad	Objective	Subjective	Clarity	Ambiguity	Direct	Long winded	Distinct	Mixed	Coherent	Broken	Straight	Pretentious	Logical	Confused	Easeful	Boring	Speaking	Silentium	Plain	Laboured	Concise	Prolix	Balanced	Lopsided	Egalitarian	Biased
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<p style="text-align: center;">JUDGMENT</p> <ul style="list-style-type: none"> • Public Instrument • Act of Communication • Exercise of Professional Skills <p style="text-align: center;">2</p>	<p style="text-align: center;">TOUCHSTONE</p> <ul style="list-style-type: none"> • Valid, persuasive, strong, cogent arguments. • Defective measuring tool. • Identification of errors. • Bias as a virus. • Efficiency. <p style="text-align: center;">6</p>																												
<p style="text-align: center;">WHY JUDGMENT?</p> <ul style="list-style-type: none"> • For Judge <ul style="list-style-type: none"> – Guide – Oversight – Mistake • For Litigants <ul style="list-style-type: none"> – Transparency – Predictability • For Public at large <ul style="list-style-type: none"> – Rule of Law – Audit – Accountability <p style="text-align: center;">3</p>	<p style="text-align: center;">Objectivity and Subjectivity</p> <ul style="list-style-type: none"> • Three witnesses deposed about truthfulness of Mr. A; but I had the occasion of interaction with Mr. A three time – each time he defrauded me. <p style="text-align: center;">7</p>																												
<p style="text-align: center;">JUDGMENT Vs CODE OF CONDUCT</p> <table border="1" style="width: 100%; border-collapse: collapse; background-color: #4a7ebb; color: white;"> <thead> <tr> <th>IDEAL JUDGMENT</th> <th>CODE OF CONDUCT</th> </tr> </thead> <tbody> <tr><td>According to law</td><td>Learned in law, law abiding, wise in opinion</td></tr> <tr><td>Objective</td><td>Detached and balanced</td></tr> <tr><td>Consistent</td><td>Consistent</td></tr> <tr><td>Avoid disparaging remarks</td><td>Cautious, polite and courteous</td></tr> <tr><td>Avoid decision in indignation</td><td>Forbearing, patient and calm</td></tr> <tr><td>Devoid of mistakes</td><td>Meticulous</td></tr> <tr><td>No consideration other than legal</td><td>Abstemious, untouched by greed</td></tr> <tr><td>Devoid of favouritism</td><td>No fear or favour</td></tr> <tr><td>Unbiased</td><td>Not influenced</td></tr> </tbody> </table> <p style="text-align: center;">4</p>	IDEAL JUDGMENT	CODE OF CONDUCT	According to law	Learned in law, law abiding, wise in opinion	Objective	Detached and balanced	Consistent	Consistent	Avoid disparaging remarks	Cautious, polite and courteous	Avoid decision in indignation	Forbearing, patient and calm	Devoid of mistakes	Meticulous	No consideration other than legal	Abstemious, untouched by greed	Devoid of favouritism	No fear or favour	Unbiased	Not influenced	<p style="text-align: center;">SUGGESTIONS ON HOW TO BE OBJECTIVE</p> <ul style="list-style-type: none"> • LISTEN. EVERY TIME WE LISTEN TO SOMEONE ELSE'S VIEWPOINT, WE GIVE OURSELVES THE OPPORTUNITY TO BECOME UN-DECEIVED. • EVALUATE OUR ASSUMPTIONS. IT IS IMPORTANT TO RECOGNIZE THAT EVERYONE HAS A BIAS, AND THAT WE NEED TO UNDERSTAND AND TO MANAGE OUR OWN BIASES. WE NEED TO BE AWARE OF THE ASSUMPTIONS WHICH WE ARE MAKING. KEEP ASKING, "WHY DO I THINK THIS IS TRUE?" THERE IS NOTHING WRONG WITH HAVING ASSUMPTIONS, JUST AS LONG AS WE HAVE THE CORRECT ASSUMPTIONS. <p style="text-align: center;">8</p>								
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<p style="text-align: center;">Cont..</p> <ul style="list-style-type: none"> • <u>EVALUATE OTHER PEOPLE'S ASSUMPTIONS</u>. WE SHOULD BE ALERT TO CLUES IN WHAT PEOPLE SAY WHICH MAY INDICATE THEIR ASSUMPTIONS. THIS WILL GIVE US INSIGHT INTO WHY THEY BELIEVE WHAT THEY BELIEVE. <p style="text-align: right;">9</p>	<p style="text-align: center;">LOGICAL</p> <ul style="list-style-type: none"> • Avoid Non Sequiturs <ul style="list-style-type: none"> – "Non sequitur" is Latin for "it does not follow." When an argument is a non sequitur, its conclusion does not follow from its premise(s). This term is often used to refer to particular types of arguments that clearly do not follow from their premises and never could. • For example, any argument that takes the following form is a non sequitur: • Step 1: If I am a goat, I am a hoofed creature. Step 2: I am a hoofed creature. Step 3: Therefore, I am a goat <p style="text-align: right;">13</p>
<p style="text-align: center;">Clarity Vs Ambiguity</p> <ul style="list-style-type: none"> • Subjunctive thinking makes the process more complex. • Clarity of thought means explicit accountability for your thinking, it does not mean that you will get the right answer. • Challenges <ul style="list-style-type: none"> – Emotions continually attempt to overrun our intelligence. The by products are revenge, lust, greed etc rather than rational thought. – Idiosyncratic bias – specific to individual. – Cognitive (bias) or inappropriate thought process. – Implicit bias. – Flood of irrelevant information. <p style="text-align: right;">10</p>	<p style="text-align: center;">Cont..</p> <ul style="list-style-type: none"> • It is clear that this argument does not follow. Even if the premises and conclusion were all true, the conclusion is not a necessary consequence of the premises. This sort of non sequitur is also called "affirming the consequent." • Another common non sequitur is this: • Step 1: If I am in Rome, I am in Italy. Step 2: I am not in Rome. Step 3: Therefore, I am not in Italy. • The speaker could be in many other places in Italy. This sort of non sequitur is called "denying the antecedent." <p style="text-align: right;">14</p>
<p style="text-align: center;">TOOLS FOR IMPROVING CLARITY OF THOUGHT</p> <ul style="list-style-type: none"> • Recognition of prejudices • Sifting of relevant facts • Verification of data • Externalize thinking by using pictures, maps and writings • Ask for criticism at initial stage • Write points in tabular form • Draw diagram to chart out your flows • Focus on one thing at a time • Self belief • Holistic approach <p style="text-align: right;">11</p>	<p style="text-align: center;">BIASES</p> <ul style="list-style-type: none"> • Cognitive bias is a pattern of deviation in judgment that occurs in particular situations, leading to perceptual distortion, inaccurate judgment, illogical interpretation <ul style="list-style-type: none"> – Evolved mental behaviour (emotions, motivations social influence) – Adaptive (heuristics) – Bounded rationality – limits on optimization and rationality (lack of appropriate mental mechanisms) – mental noise and distortions <p style="text-align: right;">15</p>

<p style="text-align: center;">COHERENCE</p> <ul style="list-style-type: none"> • It provides continuity in thought process and reader does not lose interest. • Divide writing into sections. • Separation between sections can be implied or explicit. • Put headers before a section start to explicitly let readers know of the separation. • Start with an introduction and end with a conclusion. • Edit your section independently first before working on them as part of the whole. <p style="text-align: right;">12</p>	<p style="text-align: center;">Cont..</p> <ul style="list-style-type: none"> • Cognitive dissonance – discomfort by conflicting cognitions • Implied bias – hidden or unconscious – arises conceptually as to why discrimination persists – Implicit social cognition, attitudes, self-esteem and stereotypes <p style="text-align: right;">16</p>
<p style="text-align: center;">IMPLICIT BIAS</p> <ul style="list-style-type: none"> • Over confidence bias. • Anchoring bias. • Confirmation bias. • Hint bias. • Availability bias. • Commitment bias. • Hurdle in reasonableness, classification. • Avowed beliefs and associations. <p style="text-align: right;">17</p>	<p style="text-align: center;">Cont..</p> <ul style="list-style-type: none"> • Identify distractions and sources of stress in decision making environment and remove or reduced them • Identify sources of ambiguity in the decision making context and establish more concrete standards before engaging in the decision making process • Institute feedback mechanism • Increase exposure to stigmatized group members and counter – stereotypes and reduced exposure to stereotypes <p style="text-align: right;">21</p>
<p style="text-align: center;">STARING AND BLINKING DECISIONS (Deliberative & Intuitive)</p> <p>(1) A BAT AND A BALL COST \$1.10 IN TOTAL. THE BAT COSTS \$1.00 MORE THAN THE BALL. HOW MUCH DOES THE BALL COST?</p> <p>(2) IF IT TAKES 5 MACHINES 5 MINUTES TO MAKE 5 WIDGETS, HOW LONG WOULD IT TAKE 100 MACHINES TO MAKE 100 WIDGETS?</p> <p>(3) IN A LAKE, THERE IS A PATCH OF LILY PADS. EVERY DAY, THE PATCH DOUBLES IN SIZE. IF IT TAKES 48 DAYS FOR THE PATCH TO COVER THE ENTIRE LAKE, HOW LONG WOULD IT TAKE FOR THE PATCH TO COVER HALF OF THE LAKE?</p> <p style="text-align: right;">18</p>	<p style="text-align: center;">CONTENT AND LANGUAGE</p> <ul style="list-style-type: none"> • Substance is primary • Language is secondary <p style="text-align: right;">22</p>
<p style="text-align: center;">HEURISTICS</p> <ul style="list-style-type: none"> • Stereo status quo. • Stereo charge sheet. • Stereo framing of issues. • By passing procedures (legal issues, discovery and inspection, proformas, execution, service, ADR, judgment). <p style="text-align: right;">19</p>	<p style="text-align: center;">SCHEME</p> <ul style="list-style-type: none"> • Grasp of facts and law • Structure <p style="text-align: right;">23</p>

<h3 style="text-align: center;">TOOLS FOR REMOVING BIASES</h3> <ul style="list-style-type: none"> • “everything that irritates us about others can lead us to an understanding of ourselves” - Carl Gustav Jung • “Stereotypes are devices for saving a biased person the trouble of learning” • Raise awareness • Colour blind approach • Check thought process <p style="text-align: right;">20</p>	<h3 style="text-align: center;">GRASP OF FACTS AND LAW</h3> <ul style="list-style-type: none"> • Grasp of facts is determined from issues • Application of law is determined from decisions on issues <p style="text-align: right;">24</p>									
<h3 style="text-align: center;">TEST OF FRAMING ISSUES</h3> <ol style="list-style-type: none"> 1. Attack – Plaintiff is owner of property to the exclusion of other legal heirs Defence – Incorrect 2. Attack – Plaintiff is entitled for the enjoyment of usufruct of property Defence – The claim is denied as the defendant purchased the property some ten years ago. <p style="text-align: right;">25</p>	<h3 style="text-align: center;">CASE STUDY</h3> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #4a7ebb; color: white;">FACTS</th> <th style="background-color: #4a7ebb; color: white;">LAW</th> <th style="background-color: #4a7ebb; color: white;">HEURISTIC CONCLUSIONS (OPTIONS)</th> </tr> </thead> <tbody> <tr> <td>1. A is owner of property worth millions – proof by 05 oral witnesses. – no deed.</td> <td>Proof of 05 witnesses is sufficient in law.</td> <td>A is to succeed. • Cogency = Proved fact x admissible fact 10 x 10 = 100</td> </tr> <tr> <td>2. B is owner of property worth millions purchased from C – unregistered deed proved through marginal witnesses.</td> <td>Inadmissible evidence.</td> <td>B is to fail. • Cogency = Proved fact x admissible fact 10 x 0 = 0</td> </tr> </tbody> </table> <p style="text-align: right;">28</p>	FACTS	LAW	HEURISTIC CONCLUSIONS (OPTIONS)	1. A is owner of property worth millions – proof by 05 oral witnesses. – no deed.	Proof of 05 witnesses is sufficient in law.	A is to succeed. • Cogency = Proved fact x admissible fact 10 x 10 = 100	2. B is owner of property worth millions purchased from C – unregistered deed proved through marginal witnesses.	Inadmissible evidence.	B is to fail. • Cogency = Proved fact x admissible fact 10 x 0 = 0
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<h3 style="text-align: center;">GRASP OF LAW</h3> <ul style="list-style-type: none"> • When the defendant is absent, the court <u>shall</u> pass a decree against him. • In case of a lis brought by plaintiff and not decided in limine, the court <u>may</u> summon the defendant. • In case of proof of respondent to be contumacious, the court <u>shall</u> convict him. <p style="text-align: right;">26</p>	<h3 style="text-align: center;">Cont..</h3> <ul style="list-style-type: none"> • What is title of A? } Corner fact • What is title of C? } • Cogency = proved corner fact x admissible fact 10 x 10 = 100 <p style="text-align: right;">29</p>									

STRUCTURE

- Pre case facts
- First page
- Facts of case
- Propositions
- Appreciation of Evidence
- Explanation of parties
- Law
- Conclusion
- Decree/Order
- Editing

Admissibility of Evidence

<p style="text-align: center;">Admissibility of Evidence</p> <p style="text-align: center;">By</p> <p style="text-align: center;">NIAZ MUHAMMAD KHAN</p> <p style="text-align: center;">1</p>	<p style="text-align: center;">Exceptions to Rule of Admissibility & Relevancy</p> <p>i. Hearsay; Which is highly relevant on account of context and circumstance. e.g., an attesting witness' death bed confession of having altered a deed was rejected in an action on the document.</p> <p>ii. Opinion; Opinion of witness is not allowed except expert opinion.</p> <p style="text-align: center;">5</p>
<p style="text-align: center;">Why Admissibility is Important?</p> <ul style="list-style-type: none"> • Only that evidence can be looked into by the courts which is admissible. <p style="text-align: center;">2</p>	<p style="text-align: center;">Cont....</p> <p>iii. Character; Character/reputation of accused is in admissible evidence of his guilt.</p> <p>iv. Conduct on other occasions; Past behaviors of accused in similar situations in admissible.</p> <p style="text-align: center;">6</p>
<p style="text-align: center;">Admissibility & Weightage of Evidence</p> <ul style="list-style-type: none"> • Parameters for both are different. • Admissibility itself does not always provide sufficient proof of a fact • Matter of law. (Admissibility) • Weightage of evidence is to appreciate the evidence which is admitted. (Degree of relevancy) • Matter of fact. (Weight) <p style="text-align: center;">3</p>	<p style="text-align: center;">Relevance</p> <p>Stephen's definition of the term "any two facts to which it is applied are so related to each other that according to the common course of events one either taken by itself or in connection with other facts proves or renders probable the present, past, or future existence or non existence of the other"</p> <p style="text-align: center;">7</p>
<p style="text-align: center;">What is Admissibility?</p> <ul style="list-style-type: none"> • What is <u>sufficiently</u> relevant to an issue is admissible. • All that is irrelevant or insufficiently relevant is not admissible. <p style="text-align: center;">4</p>	<p style="text-align: center;">How to Determine Relevance and Admissibility?</p> <p>By Syllogism =</p> <ul style="list-style-type: none"> • Major Premise = Accepted proposition. • Minor Premise = Reported fact. • Middle Term = Conclusion. <p style="text-align: center;">8</p>

Substantive issue and Factual issue

● Issue of substantive law

- Case of duty towards passenger in accident.

Issue of Fact

- Whether accident was the result of negligence?

9

Relevancy and Admissibility A Sharp Distinction

- Relevancy is a concept arrived at inductively from experience, and its applicability can be tested deductively by the construction of a syllogism. It is not primarily dependent on rules of law.
- Admissibility of evidence depends first on the concept of relevancy of a sufficiently high degree and secondly, on the fact that the evidence tendered does not infringe any of the exclusionary rules.

13

Instance of Syllogism

- Men found in possession of goods which have recently been missed are frequently guilty of stealing them if they do not give an adequate explanation of their possession (Major premise); the accused was found in possession of the goods in question shortly after they were missed, and he gave no adequate explanation of this fact (minor premise); therefore the accused may have been guilty of stealing the goods (conclusion).

10

Multiple Relevance and Admissibility

- With the change in major premise of syllogism an item of evidence changes its relevancy.

Case I.

- A is charged with stealing a shirt from B's house, that shortly before the alleged theft a shirt was stolen from C's house and then C's shirt was found in B's house in circumstances suggesting that it had been inadvertently left there by the person who stole B's shirt.

14

How to Establish Possession?

Relevant, Irrelevant and Insufficiently Relevant Evidence.

- Recovery of item from accused.
- Item was seen with accused by witness.
- Item was seen with accused by a person who told the witness.
- Item was seen with accused by complainant.
- Item was recovered from a house visited by accused.

11

Cont..

Evidence tendered to show that A stole C's shirt might be regarded as relevant on either of the following grounds.

- People who steal one thing frequently steal another, A stole C's shirt, therefore A probably stole B's shirt. (General).
- The man who stole B's shirt probably had C's shirt in his possession, A stole C's shirt, therefore, A probably stole B's shirt (Specific).

15

Degree of Relevancy

Degree of relevancy diminishes in proportion to the likelihood of its being.

- Manufactured (Case (d) of previous slide)
- Remote (Case (e) of previous slide)
- Multiple in issues (case c of previous slide)

12

Cont..

Conclusion

Evidence admissible for one purpose cannot be rejected on the ground that it is inadmissible for some other purpose.

Case II.

Evidence of previous conviction is admissible in evidence for the purpose of

- Impugning his credibility as a witness.
- But not for proof of his guilt.

16

Varying Degree of cogency of Evidence

- The fact that evidence may be of varying degrees of cogency gives rise to terminological difficulties which is yet to be solved.

17

Cont..

IV. Conclusive Evidence

When the court must find that fact to be proved.

21

Cont..

I. Insufficient Evidence

It is the Lowest degree of cogency on the basis of which no reasonable man could decide the issue in his favor.

Case:-

Harkins V Powells Tillery Steam Coal Co, in which court of Appeal Reversed the county Court Judge's finding that a fatal attack of angina pectoris arose out of a workman's employment. The workman had been pulling trucks shortly before the attack occurred.

18

Cont..

V. Presumptions

Used in variety of senses.

- Presumption of fact (Stolen goods in possession)
- Rebuttable presumption of law (Birth of child during marriage)
- Irrebuttable presumption of law (Child under 7 years of age)

22

Cont..

II. Prima Facie Evidence: First Sense

Secured degree of cogency, where a party evidence is sufficiently weighty for a reasonable man.

Case:

Smithwick v The National Coal Board, in which the workman's death was caused by the defendant's breach of statutory duty to guard dangerous machinery on proof. (Connection closer).

19

Doctrine of Res gestae

It is an exception to "Hearsay Rule"

Four Exceptions.

- Statements accompanying and explaining Relevant Facts.**
 - Three conditions of admissibility.
 - Statement must relate to the act it accompanies.
 - Contemporaneity.
 - By the actor.

23

Cont..

III. Prima Facie Evidence: second Sense (Presumptive Evidence)

Cogency of evidence is so weighty that a presumption is drawn in favor.

Case:-

Foundering of ship immediately after its departure (unseaworthiness).

20

Con..

b) Spontaneous Statements Relating to an event in issue made by participants or observers.

Two conditions of admissibility

- Directness (Gibson-Stone Case).
- Other Evidence (Exclaim and Scuffle).

24

<p>Con..</p> <p>c) Statements concerning the Maker's contemporaneous state of Mind or Emotions.</p> <ul style="list-style-type: none"> Contemporaneity (Case of insolvency) <p>25</p>	<p>Means of Proof</p> <ul style="list-style-type: none"> Testimony Hearsay Documents. Things or Real Evidence <ul style="list-style-type: none"> Material objects. Appearance of persons. Demeanor of witnesses. View. Automatic recording. <p>29</p>
<p>Con..</p> <p>d) Statement of contemporaneous physical sensation.</p> <ul style="list-style-type: none"> Contemporaneity (Workman statement to his wife) <p>26</p>	<p>CASE A (Hart v Lanashire and Yorkshire Rail Co)</p> <p>The defendant a changer of lines was accused of negligence in a railway accident. The evidence was produced that the defendant changed his method of changing the points after the accident which is a proof of his guilt.</p> <p>TASK: Is this proof admissible, if so how, if not, why?</p> <p>30</p>
<p>Proper Time to object to Admissibility</p> <ul style="list-style-type: none"> Objection to Admissibility By court suo moto or by any party at any stage. Mere consent or omission to object cannot make it relevant. Even interlocutory order of admission can be reversed. Objection to Mode of Proof Such objection should be taken at the time the act is sought to be proved in unauthorized manner. <p>27</p>	<p>CASE B (Hollingham V Head)</p> <p>The defence to an action for the price of guano was that an express condition in the contract of sale provided that the goods should be equal to Peruvian guano. The defendant wished to call a witness to swear that the plaintiff had entered into contracts with other customers containing a term similar to that for which he contended.</p> <p>TASK: Should the Court allow the request. Give reasons.</p> <p>31</p>
<p>Improper admission or rejection of Evidence</p> <p>It shall not be ground of itself for new trial or reversal of any decision. If independent of such evidence there is other sufficient evidence to justify the decision.</p> <p>28</p>	<p>CASE C (Halles V Kerr)</p> <p>The plaintiff claimed that he had contracted barber's itch from the implement used by the defendant, hairdresser.</p> <p>TASK: Would he be allowed to prove that two other customers of defendant had also contracted the same disease in the previous months after he had cut their hair.</p> <p>32</p>

Interpretation of laws in judgment writing

Focus: Juristic understanding of text of law.

Skill: Translation into Judgment Writing.

(Lecture Missed) Reason: Time Constraints

DR KHURSHID IQBAL

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Email: zwnakh@hotmail.comAlternate: gulalaikhattk@yahoo.comOfficial: Khurshid@kpkjudicialacademy.gov.pk**Education**

- Sep 2004—Nov 2007: University of Ulster, UK. PhD: International Human Rights Law
- Sep 2001—Sep 2002: University of Hull, UK. LLM: International Business Law
- Oct 1993—Oct 1995: University of Peshawar, Pakistan. M.A.: Political Science
- Mar 1988—Mar 1990: University of Peshawar, Pakistan. L.L.B.

Professional Qualification

- Feb 1991—Dec 1992: Advocate, District Courts (non-practising)

Employment

- Dec 1992—Present: Judge, District Judiciary, Government of Pakistan
- Jan 2008—Present: Visiting Lecturer, Law College, University of Peshawar, Pakistan
- June 2009—Present: Visiting Lecture, International Islamic University, Islamabad, Pakistan

Career progression

I joined Provincial Judicial Service of Pakistan's Khyber Pakhtunkhwa province, as a Civil Judge, in 1992, promoted as Senior Civil Judge (1997), Additional District & Sessions Judge (2003) and the current position of District & Sessions Judge (2011).

Job description**Dean**

As Dean of the Khyber Pakhtunkhwa Judicial Academy, Peshawar, I am responsible for teaching various training courses for judges, lawyers, prosecutors and other personnel of the justice system. I also design training modules, organize seminars and workshops on legal and judicial topics and produce their detailed reports for publication. As Dean I am the editor of the Academy's quarterly newsletter. I have designed the Academy's brochure. I also head the Research Wing of the Academy. Currently, I am leading two research studies of the Academy, funded by the UNDP.

Judge

I am a trial Judge for offences carrying capital punishment and first appellate Judge for private disputes, such as, contracts, torts, family, guardianship, rent, mortgage, compensation. I also perform administrative duties such as recruitment and promotion of court staff, evaluation of performance of subordinate judges and court staff, budget and accounts.

Special tasks (as a Judge)

1. Jan 2008—March 2008: Course Coordinator for a pre-service training of newly recruited Civil Judges/Judicial Magistrates at the Federal Judicial Academy, Islamabad.
2. March 2008—August 2008: Founding Director of the Judicial Training Centre at the Peshawar High Court, Peshawar.
3. April 2008: A key member of the organizing team of the 5th Provincial Judicial Conference held at Peshawar on 7 & 8 April 2008; produced detail report of the Conference.
4. August 2009: Organised, conducted a District Judicial Conference at Dera Ismail Khan (Khyber Pakhtunkhwa, Pakistan); produced its detail report.
5. Jan 2010—June 2010: Additional Special Judge Anti-Corruption.
6. Oct 2010—May 2011: Additional Member Inspection Team; Acting Director General of the Khyber Pakhtunkhwa Judicial Academy.
7. Sep 2011—May 2012: Director Human Rights Cell, Peshawar High Court, Peshawar.
8. Sep 2011—Feb 2012: Director Human Rights Cell, Peshawar High Court, Peshawar.
9. Feb 2012—Present: Dean Faculty, the Khyber Pakhtunkhwa Judicial Academy, Peshawar

Supervision & administration (as a visiting Lecturer)

- Currently, I am supervisor for three LLM and one PhD student
- I acted as an External Examiner for five LLM students.
- Member the Board of Studies of the Faculty of Law and Shari'ah at the International Islamic University, Islamabad.
- I am also a member of the admission committee of PhD students.

Consultancy

1. June 2012—I worked as Principal Facilitator at a one-day consultative of the UNDP, Islamabad and produced its detail report.
2. Dec 2009—Present. I am one of the trainers for the Society for the Protection of the Rights of the Child (SPARC), Peshawar (an Islamabad-based well known NGO). I conduct training sessions to an audience from Judges and Police Personnel.
3. Jan 2008—Present. I am one of the resource persons at the Federal Judicial Academy, Islamabad.
4. Oct 2011—Present. I am one of the resource persons at the Pakistan Provincial Services Academy, Islamabad.

Expertise by region: Pakistan

I am a recognised expert on the legal system of and human rights conditions in Pakistan. I am regularly invited by the Society for the Protection for Rights of the Child (SPARC) and the Pakistan Provincial Services Academy (PPSA), Peshawar.

Research interests

- Public International Law: human rights law, child rights, women's rights, security and development
- Application of Islamic law in Muslim states especially in Pakistan.
- Judicial education

Current research project

- Currently, I am working as a Subject Specialist with a UNDP support project: Strengthening the Khyber Pakhtunkhwa (Pakistan) Judicial Academy. Part of that project is writing a research article for a peer reviewed journal of international repute.
- My other current long term research projects are:
 - Countering Terrorism in a Post Colonial Society: the Case of Pakistan;
 - The Right to Development of the Vulnerable Poor: the Case of Pakistan's Forced Labourers.

Publications: monograph

1. K. Iqbal, (2009) *The Right to Development in International Law: the Case of Pakistan*, London: Routledge.

Peer reviewed articles

2. Iqbal, K. (2011), 'The Right to Development at the National Level: the Case of Pakistan's Judiciary', *The Asia-Pacific Journal on Human Rights and the Law*, pp 1-26.
3. Iqbal, K. (2010) 'Re-conceptualizing the Right to Development in Islamic Law', *International Journal of Human Rights*, Vol. 14, Issue 7, pp 1013-1041 (2010).
4. Iqbal, K. (2009) 'Judging Juvenility: Determination of Age of Juvenile Offenders under Pakistan's Juvenile Justice System', *Pakistan Journal of Criminology*, Vol. 1(3) October 2009, pp 105-118.
5. Iqbal, K. (2007) 'The Declaration on the Right to Development and its Implementation', *Political Perspective*. Vol. 1(1), pp 1-39.
6. Iqbal, K. (2005) 'The "War on Terror" and the Rights-Based Approach to Development', *Journal of Islamic States Practices in International Law (JISPIL)* Vol. 1(1), pp 23-36.
7. Iqbal, K. (2003) 'The Role of NGOs in the Dispute Settlement of the World Trade Organisation', *Journal of Law and Society* (Faculty of Law, University of Peshawar), pp 11-28. Vol. XXVIII (41), pp 11-28.
8. Iqbal, K. (2004) 'Environment as a Human Right', *International Human Right Perspective*, Vol. III (1), pp 139-167. (Human Rights Centre, Faculty of Law, University of Peshawar).

Book review

Iqbal, K (2007) 'Women, the Koran and International Human Rights Law' (by Niaz A Shah, 2006, Martinus Nijhoff Publishers), *Religion & Human Rights*. Vol. 2. pp 189-193.

Expert papers (unpublished)

1. K. Iqbal (Jan 2011), 'Comments' on Research Project-I ("Streamlining the Overlapping Mandates of Judicial Academies in Pakistan") and Research Project-II ("Some Observations on the Problems Facing Judicial Education in Pakistan") by Sultan Babar Mirza and Syed Ehsanullah Shah, submitted on the instruction of the Peshawar High Court, for onward discussion in Pakistan's National Judicial Policy Making Committee.
2. K. Iqbal (June 2011), 'Report on implementation of the Principles of Policy', produced on the instruction of the Peshawar High Court, for onward submission to the Khyber Pakhtunkhwa Provincial Assembly.

3. K. Iqbal (Sep 2009), 'A Review of the Juvenile Justice System Ordinance (JJSO), 2000 in Pakistan: Problems, Issues and Recommendations', commissioned by Pakistan Society of Criminology as a background paper for reviewing the JJSO.

Presentations/Conference Papers since 2009

1. 'Judicial Education in Pakistan: Challenges to and Prospects of the Khyber Pakhtunkhwa Judicial Academy', International Judicial Conference, Islamabad, 13—15 April 2012, organized by the Law and Justice Commission of Pakistan.
2. 'Consultation on the draft Borstal Law and Borstal Institution', as part of law making for the protection of the rights of the child, Peshawar, 31 December 2011, arranged by Regional Directorate of the Ministry of Human Rights, Peshawar.
3. 'Judiciary and Judicial System in PATA', as a Thematic Expert at a two-day workshop on the implementation of Strengthening the Rule of Law in Malakand (SRLM), Peshawar, 15-16 December 2011, arranged by UNDP, European Union and USAID.
4. 'Determination of age of Juvenile Offenders' at one-day Consultation on the Juvenile Justice System Ordinance, 2000, for Judicial Magistrates of Malakand Division, Swat, 3 December 2011, arranged by Society for the Protection of the Rights of the Child (SPARC) in collaboration with the Khyber Pakhtunkhwa Judicial Academy.
5. 'The Concept, Evolution and Ideology of Human Rights', Guest Lecture, the University of Peshawar, 20 May 2011, arranged by the Departments of Gender Studies, Sociology and Social Work at the University of Peshawar.
6. 'The Women's Protection Act, 2006', Guest Lecture, the University of Peshawar, 9 April 2010, arranged by the Departments of Gender Studies, Sociology and Social Work at the University of Peshawar.
7. 'The Right to Development in International Law', Guest Lecture arranged by the Faculty of Law and Shari'ah, the International Islamic University, Islamabad, 10 May 2010.
8. 'Protection of Child Rights by the Police Personnel', two-day training of Police Investigators, District Battagram, 17-18 December, 2009.
9. 'Protection of Child Rights by the Police Personnel', one-day training of Police Investigators, District Peshawar, 5 April, 2010, arranged by an NGO Shehri Best Citizen for Environment.

General Editor

I am acting as one of the general editors of the Pakistan Journal of Criminology.

I acted as a sub editor of the Journal of Islamic States Practices in International Law, UK

Funding

1. In 2008, I won an Australian Endeavour Research Fellowship for my postdoctoral research project at the University of Melbourne, but could not avail because of refusal of leave by my employer.
2. In 2009, I won an Erasmus Mundus Research Fellowship for my postdoctoral studies at the University of Brussels, Belgium, but could not avail because of personal reasons.
3. In 2004, I won a Vice Chancellor Research studentship for my PhD at the University of Ulster, UK.
4. In 2001, I won a prestigious Britannia Chevening award for my LLM at the University of Hull, UK.

Membership of societies

1. I am a member of the Pakistan Society of Criminology (2009).
2. I am a member of the Society of Legal Scholars, UK (2011).

Teaching and developing new courses Jan 2008—present

Since joining the Law College, the University of Peshawar and International Islamic University, Islamabad in June 2009, I have designed and developed courses on international and national protection of human rights. I have developed two new postgraduate courses on Islamic law and human rights, development and human rights and international humanitarian law.

Postgraduate

International Human Rights Law: Convenor
Islamic Law and Human Rights: Convenor
Human Rights and International Humanitarian: Convenor
Dispute Settlement in the WTO: Convenor

Undergraduate

International Human Rights Law: Convenor
Islamic Law and Human Rights: Convenor
Human Rights and International Humanitarian: Convenor
Dispute Settlement in the WTO: Convenor

Contemporary trends in Judgment Writing

Focus: Critical analysis of a range of research articles on the art of Judgment Writing

Skill: Modern techniques of judgment writing.

Contemporary trends in Judgment Writing

<p style="text-align: center;">CONTEMPORARY TRENDS IN JUDGMENT WRITING: A LITERATURE REVIEW</p> <p style="text-align: center;">DR KHURSHID IQBAL, DEAN FACULTY</p>	<h2 style="text-align: center;">Introduction</h2> <ul style="list-style-type: none"> 5 <input type="checkbox"/> Art, not a science <ul style="list-style-type: none"> <input type="checkbox"/> Could not be easily taught <input type="checkbox"/> Traditional differences in common/civil law countries <ul style="list-style-type: none"> <input type="checkbox"/> Traditionally, in common law countries, judgment writing was not a statutory requirement; Judgments were judges' oral speeches in court; No formal training; excellent legal practitioners <input type="checkbox"/> Common law: judgment seen a social process <input type="checkbox"/> Civil law countries: formal regulation and officialdom <input type="checkbox"/> Learning now universally recognized <ul style="list-style-type: none"> <input type="checkbox"/> Written judgment common across the world <input type="checkbox"/> Training now every where, including England
<h2 style="text-align: center;">Justification</h2> <ul style="list-style-type: none"> 2 <input type="checkbox"/> Inherent importance <ul style="list-style-type: none"> <input type="checkbox"/> Net product of judicial proceedings <input type="checkbox"/> Awareness <ul style="list-style-type: none"> <input type="checkbox"/> To know about existing legal scholarship <input type="checkbox"/> Best practices <ul style="list-style-type: none"> <input type="checkbox"/> Despite differences in legal systems, similarities exist in judgment writing—structure & organization <input type="checkbox"/> Universal significance <ul style="list-style-type: none"> <input type="checkbox"/> Growing subject of learning and research 	<h2 style="text-align: center;">Definition</h2> <ul style="list-style-type: none"> 6 <input type="checkbox"/> A publicly stated, reasoned elaboration that justifies a conclusion or decision. Its purpose is to set forth an explanation for a decision that adjudicates a live case or controversy presented before a court. A quality opinion will predict how similar factual scenarios will be treated. The explanatory function of opinion is paramount [Aldister, et al, 2009]; a public act of State and reason for it [Mahoney, 1994] <input type="checkbox"/> A formal, law-based decision [Lebovits, 2008] <input type="checkbox"/> Opinion of judge after due consideration of evidence and arguments in a case (Rafique, 2008) <input type="checkbox"/> Verdict of a judge setting at rest according to law a controversy...(Shafiqur Rahman, n.d, fja-website)
<h2 style="text-align: center;">Justification</h2> <ul style="list-style-type: none"> 3 <input type="checkbox"/> Arousal for research-based reading <ul style="list-style-type: none"> <input type="checkbox"/> To help participants read best available literature <input type="checkbox"/> Argument: Is Judgment writing now developing as a science? <ul style="list-style-type: none"> <input type="checkbox"/> Growing literature on teaching and research shows that though an art, Judgment Writing is growing like a science. <input type="checkbox"/> Reasons: Systematization of skills; predictability, transparency, accountability 	<h2 style="text-align: center;">Why write a Judgment?</h2> <ul style="list-style-type: none"> 7 <input type="checkbox"/> Key reasons <ul style="list-style-type: none"> <input type="checkbox"/> Parties to understand the result and reasons <input type="checkbox"/> Correction on appeal, if wrong <input type="checkbox"/> record keeping <input type="checkbox"/> Development of jurisprudence & case law <input type="checkbox"/> Identification of an error to be avoided in future <input type="checkbox"/> Communication with public that justice is served <input type="checkbox"/> Assumptions <ul style="list-style-type: none"> <input type="checkbox"/> Being a skill, must be taught <input type="checkbox"/> Quality improvement
<h2 style="text-align: center;">Introduction</h2> <ul style="list-style-type: none"> 4 <input type="checkbox"/> Judges: professional writers <ul style="list-style-type: none"> <input type="checkbox"/> Writing for publication <input type="checkbox"/> Writing not less important than deciding <input type="checkbox"/> Judge armed with only figurative pen <input type="checkbox"/> Potential readers in mind, a must <input type="checkbox"/> Must be serviceable/cogent product; create respect <input type="checkbox"/> Written judgment—a statutory requirement 	<h2 style="text-align: center;">General guidelines</h2> <ul style="list-style-type: none"> 8 <input type="checkbox"/> Honest, respectful, persuasive, clear <ul style="list-style-type: none"> <input type="checkbox"/> Neutral, without fear or favour, serious consideration to losing party contention <input type="checkbox"/> Address merits professionally; never insulting; properly consider both parties' arguments <input type="checkbox"/> Dos—Informed and guided by law, including case law, relevant to facts, contain compelling logic; Don'ts—dull, fanciful, irrelevant, tricky (like a lawyer's argument), incoherent <input type="checkbox"/> Well organized, precise, simple, succinct

Guidelines...

- Reaching the decision: two processes
 - Decision making process (DMP)—“Hot/Cold Courts”
 - Decision justifying process (DJP)—Judgment writing

Hot Court	Cold Court
Prior preparation; reading of the record in or well in advance; making a detailed analysis of case leads to greater understanding of case and more formalized and ordered decision making. DMP is critically important. (US Judge Aldister's & Canadian Judge Dickson practice). Judge must know everything by the time the case is concluded. Issues must be identified early and with parties' agreement; applicable law also be found promptly.	No opportunity to read the material in advance. Professionally, this was Judge Franfurter's practice, which did not attract many disciples. Critics call it one-arm-tied-behind-the-back approach. However, contemporary caseload has compelled judges to follow this practice. This is also due to "crushing calendars" and "antiquated" practice of bar and bench.

Style: 2 Kinds

Language	Judge
Rhetorical—use of metaphorical language, superb command over language Literary—plain language, give extensive factual details, quote from precedents Conversational—write in the language of common reader, as if to speak directly to the reader, avoid unnecessary details, prefer to say something fresh and new; an enjoyable writing. 'Low' or Exploratory—to persuade the reader by debate. 'High' or declaratory—normally by appeal court in criminal cases, regard to the needs of the audience. Examples: Lord Wilberforce, Lord Reid, Lord Steyn and Lord Hoffmann	Philosophers (Justice V Krishna Ayer: India) Social Scientist (Justices P.N. Bhagwati, D.A. Desai and Kuldeep Singh) Advocates Ref. Justice Ambwani, India N.B. On a deeper study, the participants may read judgments of Pakistani Superior Courts' Judges and explore examples of style of both kinds. Resources/material: UK Judicial Studies Board's book <i>Equal Treatment Bench Book</i> issues some guidelines about language in judgment writing A 2007 booklet has compiled notes and material on judgment writing for use of

Ref. Lord Hona, HK

Know thy Readers

- Leflar's research (1961): 25 US Supreme Court and US Court of Appeal Judges
- Responses: Posterity, bar, future judges, legislature, law students, media, self-satisfaction, losing lawyer, brother judges—virtually every kind of reader
- Such over-expansive judgment is not required
- Broadly, two categories of readers: primary and secondary readers
- Primary: parties to litigation (their lawyers), though lay—they must be enabled to understand judgment
- Attributes: clear, logical, unambiguous, free of lingua franca—Jabberwocky of legal profession

Reasoning...

- Inferential: Reliance on evidence to reach conclusion
- Intuitive: psychological process rather than reasoning; for example, believing in a witness in part or whole and the drawing the conclusion by justifying it from the reasoning supplied by him either by belief or experience.
- Neutrality: non-aligned to the parties during and at the conclusion of trial
- Impartiality: uncontaminated thinking; without being influenced by personal commitment (psychological perspective)

Readers...

- Secondary readers: Other judges & Lawyers, law teachers & students, political scientists, sociologists, historians, media, etc
- Though secondary readers must not be ignored, judgment is written for primary readers

Reasoning...

- Key tools
 - Systematic discussion of the issues in the case
 - Thoughtful and disinterested weighing of conflict inherent in controversy/litigation
 - Analysis of the nature of the dispute
 - Know the applicable law in the given facts
 - Seek guidance from relevant case law
 - Examine: 1. whether the law and its application are plain? 2. whether the rule of law is certain, but its application alone is uncertain? 3. whether neither the rule of law nor the its application is clear? (N.B. These questions are for superior courts, but may guide subordinate courts.)

Style: 2 Kinds

Language	Judge
Rhetorical—use of metaphorical language, superb command over language Literary—plain language, give extensive factual details, quote from precedents Conversational—write in the language of common reader, as if to speak directly to the reader, avoid unnecessary details, prefer to say something fresh and new; an enjoyable writing. 'Low' or Exploratory—to persuade the reader by debate. 'High' or declaratory—normally by appeal court in criminal cases, regard to the needs of the audience. Examples: Lord Wilberforce, Lord Reid, Lord Steyn and Lord Hoffmann	Philosophers (Justice V Krishna Ayer: India) Social Scientist (Justices P.N. Bhagwati, D.A. Desai and Kuldeep Singh) Advocates Ref. Justice Ambwani, India N.B. On a deeper study, the participants may read judgments of Pakistani Superior Courts' Judges and explore examples of style of both kinds. Resources/material: UK Judicial Studies Board's book <i>Equal Treatment Bench Book</i> issues some guidelines about language in judgment writing A 2007 booklet has compiled notes and material on judgment writing for use of

Ref. Lord Hona, HK

Reasoning...

- Key tools
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<p>17</p> <p>The Hon'ble Gerald Lebovits, "Judgment Writing in Kenya and the Common-Law World", Vol. 1 Kenya Law Review, 2008.</p> <p>Author: Judge, New York City Civil Court, Housing Part, in Manhattan and Adjunct Professor of Law at St. John's University School of Law and Columbia Law School. The lecture is based on an address the author gave at the 2009 Kenyan Judicial Colloquium in the Kenyan Judicial Training Institute, Nairobi. (Copy Provided to Participants)</p> <p>Justice Sunil Ambwani, Judge Allahabad High Court, "Writing Judgment: Comparative Models" Delivered at the Advance Course on Court Management and Court Administration, July 2006 at the National Judicial Academy of India, Bhopal (Copy Provided to Participants)</p>	<p>21</p> <h2 style="text-align: center;">Other suggest Readings</h2>
<p>18</p> <p>Lord Hope of Craighead, "Writing Judgment" UK's Judicial Studies Board's Annual Lecture 2005 (Copy Provided to Participants)</p> <p>The Hon'ble Justice Gary Downes, "Writing Reasonss for Judgment or Decisions" Speech to the Administrative Courts of Thailand, at the Thailand-Australia Mature Administrative Law Program, Bangkok, May 2007. (Copy Provided to Participants)</p>	<p>22</p> <h2 style="text-align: center;">Books/Journals</h2> <ul style="list-style-type: none"> □ Judge Aldister, Opinion Writing (2nd ed. 2009), available through www.authorhouse.com/bookstore. □ Henry Weihofen, Legal Writing Style, 1961. □ Joyce J George, Judicial Opinion Writing Handbook, (2nd ed. 1986) □ Robert A. Leflar, Some Observations Concerning Judicial Opinion, 61 Columbia Law Review, 1961, p 810. □ Aldister, Opinion Writers and Law Review Writers: A Commentary and Continuity of Approach, 16 DUQ. Law Review, 1977-78, p139. □ George Rose Smith, A Primer of Opinion Writing for New Judges, 21 Arkansas Law Review, 1967, p197. □ Dwight W. Stevenson, Writing Effective Opinions, 59 Judicature, 1975, p134. □ Elizabeth A Francis, A Faster Better Way to Write Opinions, 27 Judges Journal, 1988, p26. □ James D Hopkins, Notes on Style in Judicial Opinions, 8 Judges Journal, 1969, p49.
<p>19</p> <p>Hon'ble Ruggero J. Aldister, Meehan Rasch, Mathew. P Bartles, "Opinion Writing and Opinion Readers", 31 (1) Cardozo Law Review, 2009, 1-43.</p> <p>Judge Alister is Senior US Circuit Judge, Chief Judge Emeritus, US Court of Appeal for the Third Circuit</p> <p>Meehan, Law Clerk to Judge Aldister, J.D. UCLA School of Law, MA Indiana University</p> <p>Mathew, Law Clerk to Judge Aldister, J.D. UC Hastings College of Law, M.Sc University of Edinburgh</p>	<p>23</p> <ul style="list-style-type: none"> □ Sir Harry Gibbs, "Judgment Writing, 67 Australian Law Journal (ALJ), 1993, p494. □ Justice Kirby, "On the Writing of Judgment", 64 ALJ, 1990, 691. □ The Rt Hon Sir Kitto, "Why Write Judgment", 66 ALJ, 1992, 787. □ Justice Mahoney, "The Writing of a Judgment" 6(1) Judicial Officers Bulletin, 1994., p61. □ Justice Sheller, "Good Judgment Writing", 8(1) Judicial Officers Bulletin, p3. □ Chief Justice Beverly McLachlin, "Legal Writing: Some Tools", 2001 Alberta Law Review, 695. □ Justice Shafiur Rahman, Decision and Judgment: www.fja.gov.pk □ Justice Mohammad Bashir Jehangiri, Judgment Writing: www.fja.gov.pk □ Justice Mohammad Rafiq, Judgment Writing and Communicating Effectively Through Judgments, available at www.hcraj.nic.in/rafiq-judgment-effective.pdf.
<p>20</p> <ul style="list-style-type: none"> □ Papua New Guinea Supreme Court, National Court & District Court Notes & Materials on Judgment Writing, Judgment Writing Workshop, 2001, Compiled by Injia, DCJ, March 2007. 	<p>24</p> <h2 style="text-align: center; color: red;">Thank You</h2>

MUHAMMAD MUSHTAQ AHMAD

Assistant Professor of Law, International Islamic University, Islamabad
mushtaqahmad@iiu.edu.pk

EDUCATION

PhD in Islamic Law and Jurisprudence

Presently writing dissertation on issues relating to Islamization of criminal law in Pakistan.

LLM Shariah and Law

Wrote dissertation on legitimacy of armed liberation struggle in Islamic law and international law.

LLB (Honors) Shariah and Law

MA in Political Science

EXPERIENCE

- Worked as Civil Judge for a short while in 2002.
- June 2002-December 2005: Lecturer in the Faculty of Islamic and Oriental Studies, University of Peshawar.
- December 2005-December 2007: Lecturer in the Department of Law, International Islamic University, Islamabad.
- December 2007 onwards: Assistant Professor in the Department of Law, International Islamic University, Islamabad.

WORK WITH PROFESSIONAL ORGANIZATIONS

- **Islamic Research Institute, Islamabad**

Member, Editorial Committee of *Islamic Studies* (March 2006 onwards).

Member, Working Group on Islamic International Law (August 2009 onwards).

Member, Board of Research (January 2010 onwards).

Series Editor: "Basic Texts on Islamic International Law" (August 2010 onwards).

- **Institute of Policy Studies, Islamabad**

Member, Working Group on Gender Issues (April-December 2009).

Head, Special Group on Gender and Legislation in Pakistan (June-December 2009).

- **International Committee of the Red Cross**

Consultant for dissemination of international humanitarian law to religious circles in Pakistan (August 2010 onwards).

RESEARCH WORK

➤ Books

Jihad, Resistance and Rebellion in Islamic and Modern International Law (Urdu), First edition 2008. Second edition June 2012.

Hudood Laws: Critical Review of the Report of the Council of Islamic Ideology (Urdu), 2006.

Islamization of Criminal Law in Pakistan: Issues in Comparative Jurisprudence. Forthcoming.

International Humanitarian Law and Islam: Selected Papers. Translation from Arabic into Urdu. To be published in December 2012 by the ICRC.

➤ Articles

Wrote more than twenty research papers including:

“The Notions of *Dar al-Harb* and *Dar al-Islam* in Islamic Law with Special Reference to the Hanafi Jurisprudence”, *Islamic Studies*, 47:1 (2008), 5-37.

“The Scope of Self-defence: A Comparative Study of Islamic and Modern International Law”, *Islamic Studies*, 49:2 (2010), 155-194.

“International Humanitarian Law and Islamic Law”, *Journal of Law and Society*, 36:49 (2007), 43-62.

“The Conduct of Jihad and Peace Treaties” in Anwar H. Siddiqi and Nedzad Basic (eds.), *Rethinking Global Terrorism* (Islamabad: International Islamic University, 2008), 133-58.

“Alliances and Treaties”. Forthcoming in *The Integrated Encyclopedia of the Qur’an*, vol. 1.

Judicial Academy of Khyber Pakhtunkhwa
Judgment Writing

Prepared by Dr. Muhammad Muhammad Mushtaq Ahmad

Judgment Writing:
An Islamic Prospective

Muhammad Mushtaq Ahmad
 Assistant Professor of Law
 International Islamic University, Islamabad
 Peshawar, October 6, 2012

- Judgment Writing and the Doctrine of *Stare Decisis*
- Some Lessons from Islamic Legal History
- The Doctrine of Precedent in Islamic Legal System
- *Takhrij* as the Methodology for the Judges
- The Example of Imam Sarakhsi
- The Principles of Islamic Law in the Pakistani Legal System
- Islamic Law and Our Judges Today

- Why is judgment writing so important?
- Separation of Powers
- Control Over the Judicial Process
- Legislation and Precedent
- Hierarchy of Courts
- *Ratio Decidendi* and *Obiter Dicta*
 - The Example of *Ali Nawaz Gardezi Case*
- Record and Reporting of Judgments

- We do not see appellate hierarchical structure in Islamic Law.
- Islamic Law has never been codified.
- No legislation and no precedents?
- What about the problem of control?
- The Role of the Schools of Islamic Law
- The Domain of *Siyasah* – Administration of Justice by the Ruler
- The Role of the Schools in the Pakistani Legal System?

- The Grades of Jurists
 - Absolute *Mujtahid*, expounding the legal theory and the general principles of law and settling a lot many legal issues;
 - *Mujtahid* within the Confines of the School
 - *Mujtahid* for New Cases
- The Methodology of *Takhrij*
- The Grades of the Law Manuals
- Comparison with Precedent in English Legal System

- *Takhrij* and the General Principles of Law
- How is a general principle of law derived?
 - Ronald Dworkin and *The Law's Empire*
- The Principle of Territorial Jurisdiction
 - The View of Imam al-Shafi'i
 - The Position of Imam Abu Yusuf
 - The Doctrine of Territoriality as Expounded by Imam Abu Hanifah

<ul style="list-style-type: none"> ■ How does Sarakhsi analyze and settle a case? <ul style="list-style-type: none"> ▪ Statement of the Problem ▪ How does one party interpret the relevant provisions and principles of law? ▪ What is the position of the other party on this issue? ▪ Analysis – sorting the legal material, relating the principles, resolving the conflicts, imagining the possible objections ▪ Conclusions ■ Can <i>manfa'ah</i> be deemed <i>mal</i>? 	<ul style="list-style-type: none"> ■ Constitutional Provisions <ul style="list-style-type: none"> ▪ The Objectives Resolution and Our Judiciary ▪ The Role of the Council of Islamic Ideology ▪ The Jurisdiction of the Federal Shariat Court ■ Some Important Judgments of the Superior Courts ■ The Position of Islamic Law in Our Legal System?
<ul style="list-style-type: none"> ■ Combining the Principles of Two Different Legal Systems <ul style="list-style-type: none"> ▪ Sovereignty of God or State? Supreme Court in the <i>Hakim Khan Case</i> ■ We are not bound by the opinions of the jurists! <ul style="list-style-type: none"> ▪ Judicial <i>Khul'</i> – Supreme Court in the <i>Khurshid Bibi Case</i> ■ The simplistic approach <ul style="list-style-type: none"> ▪ Can a woman become a judge? The Federal Shariat Court in the <i>Arsar Burney Case</i> ■ Reinventing the Wheel <ul style="list-style-type: none"> ▪ Can rape be deemed <i>hirabah</i>? The Federal Shariat Court in the <i>Rashida Patel Case</i> 	<h2 style="text-align: center;">Questions and Comments</h2> <p style="text-align: center;">mushtaqahmad@iiu.edu.pk</p>

One Word Vocabulary

Focus: Consistency

Skill: To develop Consistency.

Judicial Academy of Khyber Pakhtunkhwa Judgment writing One Word Dictionary

Prepared by DR. Muhammad Ismail Wali guided and in collaboration with Dr. Khurshid Iqbal,
Director, Academics

Background: English is an Indo-European language with a history of 15 centuries. During its evolution it has under Greek, Roman and French influences. As the spiritual and intellectual sources were available mostly in Greek and Latin, most formal words in English come from the same sources. It has also assimilated thousands of words from other languages and cultures as well. This is why there are so many synonyms, antonyms, homonyms and homographs in it, which are fraught with difficulties both for the native and non-native speakers. Keeping in view the same difficulties, the movement for plain English has affected every sphere of human activity both in England and America.

Law is an essential sphere of human life; hence legal experts focus on making the language of law as plain as possible. Here the question arises, what plain English is. By plain English the experts mean easily readable and understandable words and simple verbal structures. Before doing the whole exercise, a few examples are given here to clarify the concept.

Murder : kill, assassinate, slaughter, and so many other words with the same meaning:

Establish/set up

Venal/corruptible/bribable

Venereal/sexual

Committed to writing/write

Persistently /tirelessly

Null and void /invalid

Each and every/every

Legally important/ legal

It is hereby said on oath/I say it on oath

Technical words may create a problem:

Pedagogue: teacher/educator

Pedophile: child-abuser

Pediatrician: child doctor

Ophthalmologist: eye doctor/specialist

Oncologist: cancer specialist

Sometimes the shortened form is commonly known:

TB (Tuberculosis)

Malapropism (use of one word for another in an erroneous way)

Incentive / intensive

Dependant/ dependent

There/ their

Than / then

The/they

Perspicuity/perspicacity (perspicuity of style/perspicacity of mind)

Acronyms and Initialism/Abbreviation

Acronyms are pronounced as one word (radar, radio detection and ranging)

In abbreviations , each letter is pronounced (ADR)

Solid /compound/ hyphenated/unhyphenated/ words:

Words written as one block are solid (judge, lawyer, court, judgment).

Compounds may contain two or more than two words:

Civil Judge ,Sessions Judge, Chief Justice (two)

Advocate on record, alternate dispute resolution (three)

Hyphenated Compounds are always written with the hyphen:

Commander-in-chief, brother-in-law, lady-in-waiting

Some rules:

- Use a hyphen after the prefixes *all-*, *ex-*, *quasi-*, and *self-*. Don't use a hyphen when *self* is the root word.

Yes: All-inclusive, ex-husband, self-esteem

No: selfishness, selfless

- Use a hyphen before the suffixes *-elect*, *-odd*, and *-free*.
the president-elect, thirty-odd students, sugar-free

- Use a hyphen when the root word is a numeral.
pre-1900s, under-18s

- Use a hyphen when the root word is capitalized.
pre-Columbian, pre-Reformation, Buddha-like
- Use a hyphen to avoid an awkward looking string of letters.
No: antiintellectual, shellike, multititled, intraarterial
Yes: anti-intellectual, shell-like, multi-titled, intra-arterial
- Use a hyphen if the word would have a different meaning without the hyphen.
The star football player has resigned. (quit)
The star football player has re-signed. (will continue working)
- Use a hyphen if the word would be difficult to read if it weren't hyphenated.
Coinventor may be read as coin vmentor, so write co-inventor
Doubale may be read as doub le, so write do-able
- Use a hyphen when the parts of the compounds are not commonly used together.
Common compounds: worldwide, clockwise
Unusual compounds: community-wide, nutrition-wise

3. Linking words that represent numbers

- Use a hyphen with any two-word number (21-99) or fraction.
thirty-two, two hundred fifty-six, one-quarter, 2 and two-thirds
- If the fraction includes a two-word number, hyphenate only that two-word number, as more hyphens may make the fraction unclear
No: forty-five-hundredths
Yes: forty-five hundredths

Do not hyphenate phrases originating from foreign languages, particularly Latin.
a priori, post hoc, vice versa

Sometimes words are hyphenated if used as modifiers before nouns, but not after:

Our Judicial Academy has state-of-the-art technology. (before)

Our system is state of the art technology.

Certain idiomatic expressions:

Three miles is a long distance to walk.

Fifty thousand dollars is a big amount.

80 years is a long time to live.

Words used before and after but with different meanings:

Concerned parent (anxious): the concerned parents wandered here and there.

Parents concerned (parents referred to): the parents concerned are required to produce the birth certificate.

Involved discussion (debated): ours was a highly involved discussion.

The person involved (doing the act): the person involved is missing.

Conditionals:

Zero Conditional (both parts in the same tense used for showing certainty/usual habits.

Water boils if the temperature is raised to 100.

A person is arrested if he/she commits a murder.

I stay with my friend if go to Chitral.

First Conditional (probability)

If I go to Chitral, I will stay with my friend.

If you do not obey, the judge will punish you.

We will not go if it rains.

Second Conditional: Unreal present/least probability)

I would buy you a car if I won the lottery.

I would win if the judge forgot to ask the question.

Fourth Conditional: unreal past

You would have passed if had worked hard.

I would not have been in prison if I had not killed the man.

I would have been in prison if I had murdered the man.

(Use of Comma)

Parallelism

Parallelism is a stylistic device for maintaining clarity in writing. It refers to parallel verbal structures in a sentence:

1. If one part is in the active, the other part should also be in the active:

Incorrect: A judgment writes a judgment, and a case is argued by a lawyer. .

Correct: A judgment writes a judgment, and a argues a case.

2. If a phrase/clause has a modifier in it, other phrases in the same sentence should follow the same pattern:

Incorrect: O judges! Listen carefully and write your judgments in a judicious and honest way.

Correct: O judges! Listen carefully and write your judgments judiciously and honestly.

Or

Incorrect: The lawyer spoke vehemently; the judge listened actively; and the plaintiff observed with great patience.

Correct: The law spoke vehemently; the judge listened actively; and the plaintiff observed highly patiently.

Incorrect: The judge called for the lawyer, litigants, and for the Registrar of the court.

Correct: The judge called for the lawyer, litigant, and the Registrar of the court.

Incorrect: I am here to teach you and for sharpening you your verbal skills.

Correct: I am here to teach you and to sharpen your verbal skills.

Incorrect: The lawyer was neither on time not prepared.

Correct: The lawyer was neither on time nor prepared.

Some difficult plural formations:

Proof/proofs

Belief/beliefs

Crisis/crises

Analysis/analyses

Boy-friend/Boy-friends

Man driver/men drivers

Woman doctor/women doctors/but lady doctors

Travel agent/ travel agents

Memorandum/memoranda

Agenda now used as singular as well

Phenomenon/phenomena

Index/indices (used in mathematics/science)

Index/indexes/ an index of subjects/ articles

Hanger-on/hangers-on

Runner-up/runners-up

MNA/MNAs

A/ "A's"

Break-in/break-ins

Plain English

What are the guiding principles? Prefer to use

1. familiar word (nonpareil/peerless)
 2. Concrete word (someone/a person)
 3. Short word (parsimonious/thrifty)
 4. Single word (each and every/every)
 5. Saxon word (Old English)
 - a. Unfavorable climatic conditions/bad weather
-

Warning! Here the important point to remember is collocations are very difficult to learn and use for a non-native speaker. The only solution is to keep a standard Collocations Dictionary before using a word in the way native speakers use it.

assign rights; authorised representative; binding contract; binding obligation; cancel an order cast aspersions; contractual breach; copyright protection; derisory offer detrimental effect enter into a contract estimated costs; exercise discretion; flagrant breach fulfil criteria; fulfil obligations, hold a discussion; irrevocably appoint; legally valid; managerial position; public domain; reasonable control; reasonable costs; relevant issue; rescind a contract; terminate a contract; wholly fraudulent; written notice; written request.

Collocations are often associated with prepositions:

A lawyer may sit before the desk (or in front of the desk). The professor can sit on the desk (when he's being informal) or behind the desk, and then his feet are under the desk or beneath the desk. He can stand beside the desk (meaning next to the desk), before the desk, between the desk and you, or even on the desk (if he's really strange). If he's clumsy, he can bump into the desk or try to walk through the desk (and stuff would fall off the desk). Passing his hands over the desk or resting his elbows upon the desk, he often looks across the desk and speaks of the desk or concerning the desk as if there were nothing else like the desk. Because he thinks of nothing except the desk, sometimes you wonder about the desk, what's in the desk, what he paid for the desk, and if he could live without the desk. You can walk toward the desk, to the desk, around the desk, by the desk, and even past the desk while he sits at the desk or leans against the desk.

An event may occur during the session, before the session, until the session, throughout the session, after the session.

For: fondness for, need for, reason for (but cause of), respect for, concern for, desire for, sorry for, apologize for, prepare for,

Of: awareness of, approval of, grasp of, mastery of. Hatred of, understanding of, afraid of, fond, proud of, capable of, jealous of, sure of, tired of, made of,

About: Confusion about, careless about, happy about, worried about,

In: participation in, success in, belief in, interested in, in my size (not of), in contrast to/contrast with (different from)

To: married to, similar to, compare to (liken), compare with (contrast), peculiar to,

words	meaning	usage
<i>confirm</i>	To remove doubts	I just want to get the date confirmed.
<i>corroborate</i>	To support with evidence (legalistic)	The witness could not corroborate the plaintiff's testimony.
<i>substantiate</i>	To provide a tangible evidence	This is one of the most fully substantiated historical facts.
<i>authenticate</i>	Implies testimony of an expert/authority	Never purchase an antique before it has been authenticated
<i>validate</i>	Refers to the validity of a theory, claim, judgment	The document validates his claim to the property.
<i>verify</i>	Implies comparison with the original	My degree has been sent to the university for verification.

contrary to (on the contrary)

At: angry at (thing), with (person, good or bad at writing, at work, at home (in the house), at lunch, at play, at table,

In the beginning, the accused seemed to be innocent, but now we have evidence to the contrary.

Some other examples:

WE have to raise our standard.

Our little chat has raised my spirits.

Her answer raised doubts/fears/suspicious in my mind.

This discussion has raised many important issues.

The announcement raised a laugh.

I want to raise two problems/questions with you.

I want to start my own business if I can raise the money/ cash/ capital/ funds.

We raised a tower as a memorial to our leader.

This lamb has been raised by hand.

She was raised by her grandparents.

A farmer raises chickens/sheep.

I have been trying to raise Jack/Islamabad.

The siege was raised after three weeks.

Common Mistakes:

Some words have no plural forms in English, but we use them in plural forms: software, advice, information, accommodation, furniture, baggage, luggage, health, shopping/parking/transport music, research. We may use phrase like a piece of/ a lot of/ some/ with some of them: a piece of information; a lot of information, method of transport. These are examples of uncountable nouns.

Warning! Here we should note that by concept of the count and uncount noun is peculiar to English: we cannot use our intelligence to know and use them. For example, our logic says fire may be uncount. However, they use it as a count noun: he made a fire. But the police opened fire on the crowd.

A good map would be a help.

It was relief to sit down.

He had a dislike/dread/hatred/horror/love of violence.

It would be a pity to cut down the trees.

It is a shame you could not come to the party.

Her hair is black/ there is a hair in your soup.

I prefer tea to coffee/bring me a coffee/tea.

Work (occupation/uncountable): I go to city for work.

Works (factory/literary works).

We think bread is a countable noun, but not. Loaves of bread. Slice/slices of bread.

We apply our logic to language:

We say take decision (nonstandard)/make decision

... make research/do research

... belong from/belong to

... made the same experience/had the same experience

Find friends/make frends

Abduct kidnap	aberration straying/oddity/oversight	abject/ hopeless	worthless
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Do mistake/make mistake

A big amount of money/information/food; a large amount...

Make a survey/do or carry out a survey

It is worth doing an effort/it is worth making an effort.

Make shopping/go/do shopping/do washing/do cooking/go hunting

A little choice/a limited or narrow choice

Big range/wide range

Big variety/wide variety

Big importance/great importance

Make business/do/conduct business

Under high pressure/under a great or a lot of pressure

High building/tall building

A little decrease/a slight decrease

I suggest changes/ I suggest that

With a view to do/with a view to doing (always followed by gerund)

Look forward to see/ look forward to seeing.

Used to do/ used to doing (same as above)

Remember!

Consistency is an essential element of effective communication. Without verbal consistency, meaning becomes blurred in such a way as to confuse the reader. Simple le example may suffice here:

The witness said, "I saw the child crying ." But you use the word "kid" while paraphrasing his statement. In another para you use "offspring" to replace the same word. Semantically, there is no much difference in the meaning of the three words. However, the same discrepancy provides a chance to a lawyer to prove them three different figures, which will adversely affect the validity of your judgment. Be consistent in use of such lexical structures. The following dictionary has been designed to maintain consistency.

The following gives you a list of words containing three variants each. The word in bold is the common word. Use the common word if your context is not affected. The list provides you basic information on the subject. No doubt, some of these words may not serve your legal purposes. In that case, use the word which is common in our culture.

	abrogate /stop, do away with	
abscond /run off	abundant /more than enough	accentuate /stress
accommodating/ helpful	accost/ waylay	acumen cleverness
affable friendly	affluent rich	aggrandize increase
aggregate (n) group, mass, sum aggregate (v) group	alacrity quickly and willingly	algid cold
alleviate to ease, lessen	altercation argument	amalgamation union, blob
ambivalent having mixed feelings	ameliorate to ease, to improve	amiable friendly
amorphous shapeless	anomaly freak, oddity, rarity	apparitional ghostly
arbitrator judge	assuage ease	audacious forward, rash
augment add	austere stern, grim, plain	baleful harmful
belligerent War-like	benevolent kind	berate tell off
bereft without	blandish coax, entice	bloated swollen
boisterous loud	brumal wintry	brusque blunt, gruff
burgeon bloom, grow	cacophony noise cajole urge, coax	caliginous misty, dark
callous unfeeling	calumny slander, back-biting	camaraderie fellowship
capricious changeable	cavort frolic	circumspect wary credulity gullibility
cursory hasty careless	daunting scary, off putting	dearth a lack
defunct dead, gone away	deleterious harmful	desolate barren, heartbroken
despondent downcast	destitute in poverty	differentiate contrast, tell apart
dilapidated run down	diligent hard-working, painstaking	diminish reduce
diminutive miniature	discreet careful discrete/distinct individual	disparage criticize
dissonance clash	divergent different, moving apart	diverse varied
divisive causing opposition, troublemaking	enervate weaken, tire	ethereal airy, fairy, heavenly
euphoric overjoyed	exacerbate worsen	excursion trip
exemplary excellent, good	exigent necessary, urgent	exorbitant excessive
fabricate invent	facile easy	fallacious mistaken
fatuous silly	fecund fertile	formidable mighty, fearful
fortuitous lucky		hiatus break
hiemal wintry	hierarchy ruling body, pecking order	impecunious destitute
incisive direct	inextricable entangled	ingenious original
inimical hostile	iniquity wickedness	innocuous harmless
invective tongue-lashing	inveterate die-hard	irascible bad-tempered,

		touchy
inspissated thick	juxtapose place together	lachrymose tearful
loquacious talkative	malleable easily shaped	mandatory necessary, required
mendacious dishonest	munificent generous, open handed	mutability changeable
nefarious evil	noisome foul	obdurate unyielding
obfuscate obscure	obsequious creep, grovelling	ostracize banish
paragon model	pedagogue schoolteacher	pellucid clear
peregrinate wander	pertinacious dogged/stubborn	Petulant sulky, bad-tempered
portentous sinister, amazing	prestidigitation sleight of hand	presumptuous oversure, cheeky
propensity tendency	propriety decency	protean changing
pulchritude beauty	punctilious precise, fussy	putrid rotten
quotidian daily	ratiocinate think	recalcitrant defiant
recapitulate repeat	redoubtable mighty, fearful	repudiate reject
restitution repayment	scurrilous foul, vulgar	seminal original
serendipity luck	strenuous demanding, energetic	supplant oust, unseat
surfeit glut	surreptitious secret, sly	surrogate stand in, stopgap, deputy
sycophant flatterer	taciturn reserved, aloof	tenuous weak
toothsome tasty	torpid lazy	torrid hot
tortuous winding	truculent violent	umbrage offence
usurp oust	variegate diversify	veracious honest
vicarious /vivid	vicissitudes twists and turns/changes	

If there words seem to confuse the reader, choose the familiar:

Confusion created by homophony:

Homonymy refers to those words which have the same sound (or prone to be such) but different meaning:

Complement/Compliment

In a dialectical method, opposites complement (say supplement) each other.

Or, instead of saying “I compliment you,” say “I commend you.”

A list of such examples:

		Explanation
Confusing	Familiar	
Allusion	hint/clue	may be confused with illusion
Complement	supplement	may be confused with compliment
Continuous	nonstop	a siren wails continuously
Continual	frequent	a ticking sound occurs continually
Credible	likely	a credible story/event
Creditable	good/ worthy	a person's behavior is creditable
Discreet	tactful	a discreet person
Discrete	separate/individual	a discrete event
Diffuse	spread throughout/scatter	
Defuse (obvious)		
Exceptionable	bad in some way/hostile	
Exceptional	extraordinary	
Exhaustive	complete	
Militate	affect	
Mitigate	to lessen severity	

prescribe advise/recommend

Proscribe ban/forbid/exclude

Shear cut wool from sheep

Sheer pure/absolute

Stationary not moving/at rest

Stationery /writing materials

Titivate/smarten up/dress up/do up

Titillate /to excite

Tortuous/ twisting/turning

Torturous / painful

Turbid/opaque/cloudy turbid writing is vague and unclear

Turgid/unsociable

Unsocial/ lacking civic sense

Venal/corruptible /briable

Venereal/ sexual

Replace doublets and triplets with single words:

As a consequence of/ because/for

Commensurate with/consistent with

Despite the fact that/although/despite

For the purpose of /to

If this is not the case/if not

If this is the case/if so

In accordance with/following
 In conjunction with/with
 In order to/to
 In the eventuality of/ if
 In view of the fact that/because
 On the assumption that/if
 On the subject of/about
 Prior to/before
 In the light of/according to
 relating to /about
 under any other circumstances than/ unless, except
 with reference to/ about, concerning

Delete all those words which do not add any meaning to your sentence:

There are such items as water, food and clothing, etc.
 The amount of disagreement between the two parties is excessive.
 In the case of Jack, we are undecided.
 They are studying the characteristics of the crime.
 The definition of mind is that which is nonphysical.
 Dealing with the issue of corruption ...,
 The level of pollution in this area is very high.
 The nature of the misuse of ...
 The occurrence of high level of radiation

Hiding the subject

The accident was caused by the negligence of the staff.
 The staff's negligence caused the accident.

Say it directly!

They performed a test of it.	They tested it.
I had a sleep.	I slept.
She had an extraordinary experience	She experienced something extraordinary.
She took the opportunity to escape	She escaped.
We shall take the risk of travelling by sea	We risked travelling by sea.
They did a thing that surprised us	They surprised us.
He did an essay which was brilliant.	He wrote a brilliant essay.
He made an attempt to correct the problem.	He attempted to correct the problem.

He gave a speech to the group.	He spoke to the group.
It gave a hoot.	It hooted.
It gave us a shock.	It shocked us.
It gave a lurch.	It lurched.

This is dependent on status. ✘

This depends on status. ✔

An abstract idea is produced by the exclusion of details. ✘

By excluding details, you produce an abstract idea. ✔

Success is the result of hard work. ✘

Success results from hard work. ✔

There is significant opposition among the voters. ✘

The voters oppose it strongly. ✔

There was a high incidence of recurrence. ✘

It recurred frequently. ✔

This is not correct.

"No win, no fee.

The following examples contain the word *not*, which can sometimes be eliminated. For instance, we can eliminate *not* from *not possible*, by writing the opposite of possible, impossible.

Expression using Not	Better	Expression using Not	Better
not possible	impossible	not finished	ongoing
not happy	sad	not the same	different
not stop	continue	not include	omit
not notice	overlook	not agree	refuse

Absolute Adjectives: modifiers which do not have comparative and superlative degrees in English:

ideal, absolute, dead, freezing, unique alive, awful, black, boiling, certain, correct, dead, domestic, enormous, environmental, excellent, furious, gigantic, huge, mortal, overjoyed, perfect, pregnant, principal, ridiculous, superb, terrible, terrified, unique, unknown, whole, 'married', 'retired', wooden, musical, medical, earthen', absolute, supreme.

Managing Adjectives:

Adjectives appear either in attributive or predicative position:

A clever judge is here. An intelligent lawyer is there.

Our judge is clever. Your lawyer is intelligent.

Difficulties arise while using more than one adjective:

Rule of DOSAS Comp

A clever judge is here (a determiner, clever, opinion, determiner precedes opinion).

The good big chair (determiner followed by opinion, then size)

His good big new round chair (determiner, opinion, size, age, shape).

In principle, not more than four adjectives are used.

Our good big new round black iron Pakistani chair. (determiner, opinion, size, age, shape, colour, material, origin)

My friend's beautiful thick new blue woolen Japanese sleeping bag.

Forms of words as Nouns and adjectives

Affect (verb): The tone of a witness should not affect a judge.

Effect (noun): The effect of terrorism on society is insurmountable.

Advise (verb): The lawyer advised me to produce a certificate.

Advice (noun): The son did not follow his father's advice.

Dependent (adjective): He was dependent upon his mother for his monthly expenses.

Dependant (noun): Thanks, I am not dependant.

Past (adjective): He recalled a past event. The car whizzed past by me.

Passed (verb): I passed (not in) my law examination. I failed my law examination.

Friendly, ugly, lovely are not used as adverbs.

He is a friendly person. This is a lovely flower. An ugly insect.

Healthful (use with things)

Healthy (use with persons)

Some anomalies!

We'll begin with a box, and the plural is boxes; but the plural of ox became oxen not oxes.

One fowl is a goose, but two are called geese, yet the plural of moose should never be meese.

You may find a lone mouse or a nest full of mice; yet the plural of house is houses, not hice.

If the plural of man is always called men, why shouldn't the plural of pan be called pen?

If I spoke of my foot and show you my feet, and I give you a boot, would a pair be called beet?

If one is a tooth and a whole set are teeth, why shouldn't the plural of booth be called beeth?

We speak of a brother and also of brethren, but though we say mother, we never say methren.

Then the masculine pronouns are he, his and him, but imagine the feminine, she, shis and shim.

ab ovo	from the beginning
ad astra per aspera	to the stars through difficulties
addendum	something to be added, usually in writing, which qualifies a foregoing thesis or statement
ad infinitum	to infinity, endlessly
ad nauseam	to the point of disgust
animus	will or intention
carpe diem	'seize the day'; live for the present
casus belli	justification for war, grounds for a dispute
caveat emptor	'let the buyer beware'; dictum that professes the buyer is responsible for checking that the goods or services they purchase are satisfactory
cave canem	beware of the dog
cogito, ergo sum	'I think, therefore I am'; quotation from French philosopher René Descartes
cognomen	surname or family name; nickname
compos mentis	of sound mind
corrigendum	something to be corrected
curriculum vitae	(CV) 'the course of life'; account of a person's education and previous employment, attached to a job application
de facto	in fact
de gustibus non est disputandum	there is no accounting for taste
de jure	according to law; legally
deus ex machina	'a god from the machinery'; far-fetched or unlikely event that resolves an intractable difficulty
dramatis personae	the characters in a play
emeritus	someone who has retired from an official position but retains their title on an honorary basis, for example, a professor emeritus
ergo	therefore; hence
erratum	an error
et alia or et al.	and other things

ex cathedra	'from the throne'; term describing a statement by the pope, taken to be indisputably true, and which must be accepted by Catholics
ex libris	'from among the books of'; used on bookplates to identify the owner
factotum	'do everything'; someone employed to do all types of work
fiat	'let it be done'; authoritative decree or order, especially one given by a person or group holding absolute power
in loco parentis	'in place of a parent'; in a parental capacity
ipse dixit	'(he) himself said (it)'; the master has spoken
in situ	in place, on the spot, without moving from position
inter alia	among other things
in vino veritas	in wine (there is) the truth
ipso facto	by that very fact
literati	educated or cultured people; literary persons
magnum opus	a great work of art or literature
mea culpa	'my fault'; an admission of guilt
modus operandi	a method of operating
modus vivendi	'way of living'; a compromise between opposing points of view
mores	the customs and manners of a society
mutatis mutandis	with changes being made; with alterations to fit a new set of circumstances
ne plus ultra	no further; the furthest point possible; limit
nil desperandum	never despair
nolo contendere	plea of no defense; no contest; equivalent to plea of guilty
non sequitur	'it does not follow'; statement that has little or no relevance to the one that preceded it
obiter dictum	incidental remark; remark made by a judge on a matter not within their jurisdiction
passim	'in many places'; indicates that a reference occurs repeatedly throughout the work
per se	in itself
postmortem	'after death'; autopsy
post scriptum	(PS) something written below the signature on a letter
prima facie	at first sight
pro rata	in proportion
pro tem (pore)	for the time being
quantum	'as much, how much'; an indivisible physical quantity
quidnunc	'what now?'; gossip; busybody
quid pro quo	'something for something'; an exchange of one thing in return for another

quod erat demonstrandum (QED)	'which was to be proved'; added at the end of a geometry proof
quo vadis?	where are you going?
q.v. abbreviation for quod vide	('which see'), indicating a cross-reference
sic	'thus,' 'so'; sometimes found in brackets within a printed quotation to show that the original has been quoted accurately even though it contains an apparent error
sine die	'without a day being appointed'; indefinitely
sine qua non	'without which not'; absolutely essential
status quo	'the state in which'; the current situation, without change
sub judice	'under a judge'; of judicial proceedings, not yet decided by a court of law or judge: as long as a matter is sub judice all discussion is prohibited elsewhere
tabula rasa	'scraped tablet' (from the Romans' use of wax-covered tablets which could be written on with a pointed stick and cleared by smoothing over the surface); a mind without any preconceived ideas
tempus fugit	time flies
terra firma	dry land; solid ground
vade mecum	'go with me'; a useful handbook carried about for reference
versus (abbreviation v. or vs.)	against
vice versa	the other way around
viva voce	'with living voice'; by word of mouth; an oral examination

Annexure (A)

Address of the Hon'ble Mr. Justice Miftahuddin



Mr. Justice Miftahuddin,

Senior Puisne Judge, Peshawar High Court/Chief Guest at the concluding ceremony of One-Week Training on Judgment Writing

My brother Judge, Mian Fasih- ul- Mulk Sahib, the Director General of the Academy and his team, Mr. Ashraf Khan project manager strengthening rule of law project, Dr. Mohsin, Director IM Sciences, Managing Director Frontier Education Foundation, Principal Law College University of Peshawar and participants of the course AOA.

It gives me immense pleasure to be a guest of honour and distribute certificates among the participants of the second training course on judgment writing. Judgment Writing is an art which can be learnt and excelled by continuous exercise. I hope that the present training would have increased your skills in the art of judgment writing.

Ladies and gentlemen! keeping in view the vital role of the courts as custodian of the rights of public, we must come up to their expectations. A good judgment not only decides the matter once for all but minimizes the agonies of the litigants by putting an end to further litigation. Thus it is high time of writing good judgments and reducing the extra burden on the courts.

Every controversy brought before a court needs to be adjudicated and the net product of a lengthy litigation is a judgment. Good Judgment not only ensure a proper adjudication but

also depicts the personality of a Judge and that is why it is said and very rightly said that judges speak through their judgments.

Dear participants you are noble people because you have been bestowed upon a sacred duty of providing justice to the citizens. It is not an easy job. Your job is not a bed of roses rather it is a thorny track which you have to cross barefooted. You are answerable to Al mighty Allah, to your conscious to your superior and to the society as a whole. Peace and prosperity in the society depends on your role. You have to restore the confidence of the people on the institution. In fact you are the face of judicature being courts of original jurisdiction. You can make your job easy if you consciously try to improve your knowledge and skills, if you consciously built your character.

Ladies and gentlemen my advice to you is to be fair and impartial in your conduct and dealing. Always fear Allah Al mighty and I guarantee that your future and career will be safe. Life of a Judge is full of stresses. No other person can better know than me as I have travelled a long journey from civil judge to a Judge of the High Court. The only support which a Judge gets in combating the stresses and the satisfaction which he gets after giving justice to the party which needed it.

You may have enjoyed your stay at the academy and I hope that you will be carrying some sweet memories from here. John W. Garner, a philosopher, said that, " Much Education today is monumentally ineffective. All too often we are giving young people cut flowers, when we should be teaching them to grow their own plants." I hope that instead of giving you a flower, the academy may have taught you how to grow your own flower plants.

The academy has made investment on you. Let's hope that the efforts bring fruits and the skills which you have learnt benefit the citizens. It is also hoped that the skills you learnt should practically be implemented. such practical implementation would add colors and wisdom to your judgments and you would be ranked as good opinion writers.

At the end I thank you all for giving me this honor. God bless you wish you all a prosperous life and booming career and safe journey to your destinations.

Annexure (B)

Address of the Director General

Hon'ble the Chief Justice, learned Registrar, Peshawar High Court, Resource Persons, Distinguished guests from the UNDP, the IMSciences, participants of the course, ladies and gentlemen!

It's a great honor for us that we have concluded the first ever training at this Academy. I would like to give you a brief background of this course. In February this year, I was posted as the DG and two other Judicial Officers—Saleem Khan and Dr Khurshid Iqbal were deputed with the Academy, who were later, posted as Senior Director Administration and Dean of Faculty, respectively. In our first meeting with hon'ble the Chairman, it was decided with consensus that Judgment Writing was the main area, requiring improvement. Judgment Writing is the prime responsibility of the judges. HCJ is of the view that the excellently Judges write their judgments, the higher would be the quality of justice. It was observed that Judgment Writing may be a significant cause for delay in dispensation of Justices. Incompetency and negligence of the Judges could be glaring reasons for deteriorating quality of Judgments. Thus, we sit to design a course on Judgment Writing. Dr Khurshid Iqbal, the Dean of the Faculty was assigned the task. He conducted an indigenous training need assessment. For this purpose, in consultation with me and other Judges, he developed a questionnaire, which was circulated amongst the Judges of the District Judiciary. He also carried out a review of the current literature on the art of judgment writing. In light of the findings of the TNA and literature review, the course was designed.

The training course focused on effective communication and proper application of rules for appreciation of evidence. Due consideration was also given to other aspects of judicial decision making. They include social importance and impact, the psychology of judge-craft and a critical study of contemporary trends in the area of judgment writing. The course is meant for all Judges of District Judiciary. As many as 17 such trainings will be organized in due course of time, replicating this one, though with certain modifications, as may be required.

Annexure (C)

Address of the Class Representative (Feedback)

Speech of CR

Hon'ble Chief Guest MR Justice Miftah Ud Khan

Worthy Register, Mr Subhan Sher

Mr. Zafar Iqbal Khan learned MIT

Ms Sofia Waqar PSO

Ms Riffat Aamir AMIT

Hon'ble Director General, Mr. Hayat Ali Shah

Senior Director Administration, Mr. Muhammad Saleem Khan

Mr. Khurshid Iqbal Dean Faculty

Mr. Muhammad Aamir Nazir, Senior Director Research & Publication

My friend Asghar Ali admin Officer

and my dear colleagues.

Asalam O Alikum.

I feel immense pleasure to have an opportunity of addressing this august gathering on behalf of my colleagues. We pay rich tribute and homage to the Hon'ble Chief Justice, Hon'ble Judges of PHC and management of Academy by establishing this judicial academy in the province.

The Academy will be of great help in training and equipping the judicial Officers with legal knowledge and wisdom. Thus, we will be able to dispense with and administer even handed justice according to the expectations of the people.

To be very specific, we had one week training at the academy. We learnt a lot of and the lectures in the academy instilled in us a spirit to raise our legal knowledge. There was proper selection of

topics i.e Judgment Writing. we were taught in conducive and friendly atmosphere and it can be termed as a delightful teaching. The resource persons were well equipped with the knowledge of their respective fields. This training provided us an opportunity to have an interaction with other judicial officers.

We are extremely thankful to the management of the Academy for providing us the best possible facilities such as comfortable seating, best audio visual systems, conveyance, delicious food and luxurious lodging.

We request his lordship to arrange for the Judicial Officers courses / trainings which may enhance their professional qualities, more over a special attention may be given to develop a judicial temperament of the Judicial Officers which is the only way in attaining the real goal of excellence.

Let us make this institution strong not only for ourselves but for our children's. It reminds me the beautiful lines of John Keats, the great English poet that "first in beauty must be first in might" let us make this institution beautiful and mighty / strong.

If this Academy is going with such a great pace one day Insh Allah it will be a great institution of Asia.

If others can do we can also do.

In the end I will quote Allam Iqbal (**Ye faizan e nazar tha ya kay maktab ke kiramati thi --- Sikhai kis nay Ismail ko adab e farzandi**)

Here in this academy we have both faizane nazar and training as well thanks.

Aurang Zeb Khan
CR / Civil Judge Bannu



KHYBER PAKHTUNKHWA JUDICIAL ACADEMY
2nd One-Week Training Course on Judgement Writing for 25 Civil Judges / Judicial Magistrates
(1-6th October 2012)



Sitting L to R:
Mrs. Riffat Azeem, Mr. Muhammad Aamir Nazir, Mr. Aurangzeb, Mr. Asghar Ali Salazar, Dr. Khurshid Iqbal, Mr. Hayat Ali Shah (Director General),
Mr. Justice Dost Muhammad Khan (Chairman), Mr. Muhammad Saleem Khan, Mr. Niaz Muhammad Khan, Ms. Faiza Gul, Miss Farahana Voheem, Ms. Rabia Akbar,
Ms. Sabina Munawwar Afridi.

Standing Row#1 L to R
Mr. Muhammad Sohail, Mr. Mr. Fahad Ahmad, Mr. Shah Faizel, Mr. Saleem Ur Rehman, Mr. Fazaal Nasser Shah, Mr. Ishfaq Ahmad, Mr. Muhammad Hanif,
Mr. Hassam Ali, Mr. Akbar Ali, Mr. Muhammad Javed Khan, Mr. Muhammad Asghar, Mr. Akbar Ali.

Standing Row#2 L to R
Mr. Rehanullah, Mr. Ashraf Khan, Mr. Omar Zameer Khan, Mr. Muhammad Muehsaq, Mr. Muhammad Sher Ali Khan, Mr. Badar Muneer, Mr. Aurangzeb Khan,
Mr. Mirza Muhammad Kashif.