

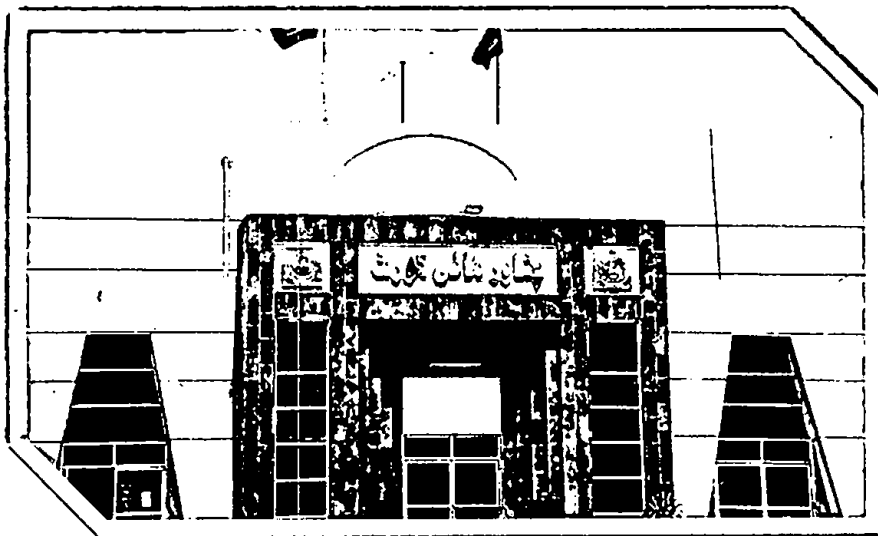


REPORT

District & Sessions Judges Conference

**Tackling Issues Hampering The Dispensation Of
Justice And Improving Services Delivery**

28th April, 2017



KHYBER PAKHTUNKHWA JUDICIAL ACADEMY, PESHAWAR

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LAYOUT OF REPORT

Details suggestions on each area of deliberation have been made part of the report. Synopsis of suggestion in the area have been shortlisted and made part of the conclusions. Comments on the efficacy of the suggestions have also been made. It includes their practicability, implications and a general critique.

VISION

Peshawar High Courts held the first ever District and Sessions Judges conference on tackling issues hampering the dispensation of justice and improving services delivery, Important and effective recommendations were explained for overcoming the problems and improving the justice system delivery. As part of structural reforms and in a quest to scale up services delivery, Hon'ble the Chief Justice Peshawar High Court, Mr. Justice Yahya Afridi chaired first ever District and Sessions Judges Conference of all districts. The Conference considered 7 thematic areas and firmed up policy recommendations. These thematic areas included issues like Capacity enhancement, improving coordination, using technology as a tool for improving services delivery and formation of Secretariat for District Judiciary.

The Chief Justice in his keynote speech highlighted major initiatives being implemented. He said the Secretariat of the District Judiciary is currently in the design phase which shall be rolled out in September, 2017. This will facilitate working as well as improve response time of District Judiciary requirements. He said Overseas exposure/foreign training is built as permanent feature. 11 Judicial Officers are going on 30th April while 6 female Judicial Officers are likely to visit UK in Sep-Oct, 2017.

Posting at far flung stations and higher rate of disposal will be the criteria in selecting officers for overseas training. His lordship also added that UN agencies and multilateral donor institutions appreciate and are willing to support, technically and financially, the High Court's vision of structural reforms, which are in the interest of public. Projects like Litigant Shed, Solorization and installation of Water Filtration Plants are suggested to Donors, as short term measures. He added that a mega computerization and digitization project is being rolled out to improve the usage of IT as a tool for decision making which will improve case flow Management. He said Public Service Commission has been requested to recruit 32 Civil Judges/Judicial Magistrates so as to ease workload in districts with high pendency. He informed the participants that in order to improve mobility the supply order for 5 SUVs for mountainous districts has been placed which will facilitate internal visit and inspections by

Judicial Officers. He said the procurement order for 25 Suzuki Swift Vehicles for senior civil Judges has also been placed.

Hon'ble the Chief Justice, in his address stated that that against a total portfolios of 36 Projects, 06 Projects are due for completion but efforts are on to complete 9/10 Projects so as to create more space for new projects next year. He added that the Provincial Government has agreed to provide an additional allocation of Rs. 650 Million which will enable us to fast track the projects. He informed that High Court is considering constructing 5 Judicial Complexes on different locations in the Province. Priority is given to areas which are far-flung and lacking reasonable infrastructure.

It was added that the human resource evaluation in district is not done on merit by the District Judges which has forced us to task High Court judges for the purpose. He urged the District Judges to be more focused and fair in evaluating officers within their jurisdiction. He also directed that the District and Session should be equitable and fair in determining work load amongst their subordinate Judges. The District Judges were directed to take driving seat in the development of infrastructure. Their lead would facilitate timely completion of projects as well as ensure better quality. The Hon'ble Chief Justice urged them to ensure complete transparency and merit in appointment of support staff at the district. He directed the District Judges to ensure daily round of their courts premises and ensure cleanliness. The litigants who come after long travel should feel comfortable. This was followed by interactive sessions where the Districts Judges talked about challenges faced by them in their respective districts. The Chief listened to them and ordered immediate actions to redress some of their grievances on distribution of business of the transferred out judges, he directed the district judges to ensure immediate action in this regard. He also directed the DSJs to vacate accommodation occupied by them in their previous stations. The DSJs demanded filling up vacancies of judges transferred to other stations. He directed the DSJs to avoid participation in functions where political elites are invited by the Bar. He assured to consider empathically the issue of conferring judicial powers to offices who are currently having lesser powers. He relaxed period for vacation of house by officers posted out of Peshawar till end of Ramadan.

PROCEEDINGS

The First District & Sessions Judges Conference was held in the Peshawar High Court, Peshawar.

A. Plenary Session

The proceedings started at **09:10 am** with the recitation from the Holy Quran. Hon`ble the Chief Justice Peshawar High Court, Peshawar, Mr. Justice Yahya Afridi and Hon`ble Senior Puisne Judge Peshawar High Court, Mr. Justice Waqar Ahmad Seth chaired the session. The Hon`ble Chief Justice held an interactive *discourse with the District & Sessions Judges which lasted for 40 minutes.*

- **Introduction of the Event (10:00AM)**

The participants were introduced to the event. They were divided into 07 groups and each group was assigned a topic for deliberation and later on presentation. The breakdown of the participants into groups and their topics are listed below.

The participants deliberated upon their assigned topic/thematic area in detail. They identified the problems faced by them in each area, suggested solutions and recommendation in the form of presentation.

Group work/Break away Session

Thematic Area	Capacity Building	Causes of Delay	Shortage of staff/Vacant post	Improving Coordination	Use of technology in Justice System	Service of Summons & execution of warrants	District Judiciary Secretariat
	1	2	3	4	5	6	7
Participants	Mrs. Zaraqish Sani Mr. Nasrullah Khan Gandapur Mr. Muhammad Rauf Khan Mr. Aurangzeb Khattak Mr. Ihtesham ul Haq Danishmand	Mr. Ishtiaq Ahmad Mr. M. Tariq Yousafzai Mr. Muhammad Adil Khan Mr. Ikhtiar Khan Mr. Salahuddin Mrs. Muneera Abbasi	Mr. Azhar Khan Syed Asghar Ali Shah Mr. Muhammad Zubair Khan Mrs. Sofia Waqar Mr. Aamer Nazir Bhatti Mr. Inamullah Wazir	Mr. Muhammad Younas Mr. Shafiq Ahmad Tanoli Mr. Abdul Ghafoor Qureshi Mr. Muhammad Zafar Mr. Muhammad Aamir Nazir	Mr. Muhammad Azim Khan Afridi Mr. Naveed Ahmad Khan Mr. Gohar Rehman Mr. Muhammad Zeb Khan Mr. Haq Nawaz	Mr. Anwar Ali Khan Mr. Zafar Iqbal Khan Mr. Shoaib Khan Mr. Ahmad Sultan Tareen Mr. Muzzamill Shah Khattak Mr. Muhammad Asif-II	Mr. Hayat Ali Shah Mr. Subhan Sher Mr. Niaz Muhammad Khan Mr. Ashfaque Taj Mr. Kashif Nadeem
Facilitators	Mr. Muhammad Masood Khan	Mr. Pir Baksh Shah	Mr. Zakaullah Khattak	Mr. Khurshid Iqbal	Mr. Lal Shad	Mr. Roohul Amin	Syed Anees Badshah Bukhari
IT Support	Mr. Wisal Muhammad	Mr. Kamran Bashir	Mr. Inamullah Jan	Mr. Zaheerullah	Mr. Maqbool Khan	Mr. Waqas Mehfooz	Syed Ali Shah

B. Working Sessions (Post- Lunch Session)

This Session was co-chaired by Hon`ble the Chief Justice Mr. Justice Yahya Afridi and Hon`ble Mr. Justice Ikramullah Khan.

Each of the Seven Groups presented their recommendations which were followed by 10 minutes Questions & Answer Session. Hon`ble the Chief Justice directed each group that they should give specific suggestions/recommendations which could be implemented practically. Vague suggestions would not be entertained.

Further each group was directed to present their concrete recommendations in at least 03 pages within a week.

C. Summary of the recommendations that followed the Group Presentations and Question & Answer Session

- ✓ Stress Management Techniques should be included in the training curricula of judicial officers.
- ✓ Pre-service Training period of judicial officers is very short. This period should be increased.
- ✓ The promotion of judicial officers should be linked with graded training.
- ✓ On the pattern of criminal justice coordination committee, a civil justice coordination committee should be established.

- ✓ Presently the promotion of the court staff is on seniority-cum-fitness basis. This should be based only on fitness which will be determined through test.
- ✓ All the District & Sessions Judges should coordinate with the Bar and all the other stakeholders in order to facilitate the speedy disposal of cases.
- ✓ "Eradication of Corruption Cell" should be renamed as "Transparency Cell".

D. Concluding Remarks

In the end Hon`ble the Chief Justice Peshawar High Court, Peshawar, delivered his concluding remarks. He expressed his pleasure and satisfaction on the discussions & suggestions that came through this conference.

Hon`ble the Chief Justice apprised the participants that the basic concept of the District Judiciary Secretariat is to empower the District Judiciary so that they can judge their own performance themselves. This secretariat is for the welfare of the judicial officers and their families. He said that foreign trips have been made a constant feature and it will also be performance based. Those judicial officers will be selected who are performing well in the field so as to give them international exposure. There will be no discrimination in this respect. Hon`ble the Chief Justice informed the participants that Senior Civil Judges will also be provided with official vehicles which have recently been requisitioned from the Government. As far as the shortage of judges is concerned he said that the PHC has requisitioned a further 32 civil judges from the Government.

In the end Hon`ble the Chief Justice thanked the participants for their active participation and informed that the next meeting with the sessions judges will take place after six months

hopefully in some other place outside Peshawar. He also said that these meeting will be a constant feature in order to increase coordination and better service delivery.

OUTLINES OF GROUP PRESENTATIONS

The Registrar Peshawar high court Peshawar vide letter NO.5047-5071/Admin: Dated Peshawar the 20/3/2017, asked all the District and Session judges KP to intimate issues hampering dispensation of justice and also suggest proposal which in their view can improve performance and service delivery. For this purpose a conference was held.

- The date of the conference was fixed as Friday 28 April 2017 vide intimation letter No.7293-7317/Admin: Dated Peshawar the 19/4/2017
- The participants were divided into seven groups assigned with following thematic questions:-

1: Capacity Building

2: Causes of Delay

3: Shortage of Staff/Vacant post

4: Improving Coordination

5: Use of technology in Justice System

6: Service of summons & execution of warrants

7: District judiciary secretariat

GROUP # 1: CAPACITY BUILDING & STRESS MANAGEMENT

The group deliberated upon the following questions:

- 1: Stress Management?
- 2: Pre-service training (Both officers and Officials)?
- 3: Every promotion must be linked with proper training?
- 4: Training capacity building must be highlighted?

RESPONSE OF GROUP# 1

No. 1540 / D & S J

Dated Lakki Marwat the 03 /05/2017.

From

Mrs. Zarqaish Sani,
District & Sessions Judge,
Lakki Marwat.

To

The Registrar,
Peshawar High Court,
Peshawar.

Subject: **GROUP ONE CAPACITY BUILDING,
STRESS MANAGEMENT, ETC.**

Respectable Sir,

Kindly find enclosed herewith reply to the queries raised at the time of presentation on the topic of Group One Capacity Building, in the conference of District & Sessions Judges, held on 28th April, 2017.

“Thanking you”

Sincerely yours,


(Mrs. Zarqaish Sani)
District & Sessions Judge,
Lakki Marwat.

GROUP ONE.**CAPICITY BUILDING.**

On 28th April, 2017, in the first meeting of the District & Sessions Judge, Hon'ble the Chief Justice, Peshawar High Court, Peshawar had asked me to submit reply to the following questions.

- 1- Stress management.
- 2- Pre Service Training.
- 3- Every Promotion must be linked with proper training.
- 4- Training capacity building must be high-lighted.

STRESS MANAGEMENT.

No doubt, hectic and continuous work routine leads one to stress. Judicial Officers, now-a-days have comparatively much better facilities and opportunities than the Judicial Officers of the yesterday. Now Civil Judge initially enters the judiciary in Grade-18. He has better salary package, training academies for enhancing his knowledge and mental capacity. For his residence

furnished houses in Judicial Complexes, new Court building and conveyance facilities are available. These Judicial Officers are expected to focus on their work and must feel alighted. Some people have different nature. They are in the habit of making a mountain out of the molehill. Instead of flying in the air, Judicial Officer must ask himself to prepare for his work and deliver more.

However, there are still variety of causes leading to mental stress due to peculiar nature of judicial work. Some special methods are required to finish this stress. It is only possible if an Officer has self confidence to focus on his work. He knows how to prioritize his work. How Judicial Officer can work in stress free atmosphere. How he deals with his staff tactfully and keep the equipments and machinery in proper order, sharpens his mental capacity, knowledge to pick. He has no worries in his relations with his boss, colleagues, subordinate staff and lawyers. So far as the physical ailment or health related problems connected with stress are concerned, these need proper treatment at the very initial stage after getting properly diagnosed.

When the stress is the result of environmental causes, the problems are common to all the Districts of the Province. The common set of Rules already exists to tackle such problems. Unless one has full command over what is controlled by him, it is not possible to get maximum benefit from the facilities. Judicial Officers must be taught to study the problems, devise a method of solving the same. He must be taught the art of shortening the lengthy proceedings, conducting a fair trial, having full command over the application of different laws, curbing the delay, finishing his work in time, regularly checking his daily work, besides checking the miscellaneous work of his Court and staff. It is only possible when he is given proper Pre Service Training, which I am going to discuss in the next topic.

CAPICITY BUILDING.

Training.

PRE SERVICE TRAINING OF ONE YEAR

DURATION FOR OFFICIERS.

- (I) Scholarship opportunities /Local Training.
- (i) Grading system.
- (ii) Incentives.
- (iii) Exposure. Workshops, etc.
- (iv) Equal opportunities to all the Officers.
- (v) Favourable timings for all.

Every promotion must be linked with proper training:-

- A- Equal opportunities.
- B- Personal likes/ dislikes made departure from.
- C- Job related/ subject related training.
- D- Personal times.
- E- No bribes.
- F- Seniority-cum-fitness.

PRE SERVICE TRAINING FOR STAFF.

- (i) Keeping record in proper order, in accordance with the procedure given in High Court Rules and orders.
- (ii) Obedience of the Presiding Officer.
- (iii) Relationship with other colleagues/ staff members, lawyers.
- (iv) Keeping full record of rules, applied in daily work, in written form before him.
- (v) Awareness of disciplinary proceedings.
- (vi) Knowledge about their promotion, rank, salary decrease, removal from service and what likely punishment, they were going to face in case of violation of given rules.
- (vii) Punctuality.
- (viii) Sense of responsibility.
- (ix) Secrecy.
- (x) Incentives and rewards.

Once proper Pre Service Training has been given to the Judicial Officers and they have learnt their work practically,

they should be given training for promotion. Promotion be based on seniority-cum-fitness Syllabus of different subjects in which they were going to take departmental exam for promotion, must be circulated earlier. On promotion, an officer gets enhanced salary and higher grade, therefore, he must be taught to work more, perform his duties in much better way in proportion to his fringe benefits. For promotion he must be taught how to develop the habit of continuous learning process.

- (1) Refresher courses.
- (2) Orientation on new laws.
- (3) Training on Administrative functions, conducting official meetings, preparation of summaries, improve communication skill, Training on financial matters, training of constitutional laws and awareness about the constitutional Courts, training on fundamental rights of citizen, presentation skill, proper application of law, training on I.T skill.

(4) For staff of the Courts, similar training linked with their promotion be arranged on regular basis.

When the Judicial Officer has learnt his job description, his duties and his skills of maintaining relations with his Superior Officers, colleagues and subordinate and his staff is properly trained and he has good equipments, there is no doubt that he will be free of stress, able to provide quick justice to the people and quite fit to get promotion in time.


(Mrs. Zarqatish Sani)
District & Sessions Judge,
Lakki Marwat.

Proposal outlines:

1. Special focus on stress management techniques, office management, situational handling, mannerism etc
2. Comprehensive pre service training of one year and in-service training.
3. Scholarships for judicial officers.
4. Promotion be linked with proper training.
5. Proper working environment.
6. Pre and in-service training for staff.

CONCLUSION

The Group 1 contemplated upon the question of Capacity Building. It may be pointed out that the High Court is already in the process of establishing a secretariat of the District Judiciary which envisages an efficiency index. The index shall link trainings and evaluation to the promotion of officers. Stress management techniques are already a part of judicial training and shall be further strengthened. The question of capacity building was further divided into four thematic areas i.e. stress management, pre-service training, every promotion must be linked with proper training and training capacity building must be highlighted. On each of the question, the group formulated detailed suggestions after threadbare discussion. The group stipulated that judicial officers must be taught to study the problems and devise a mechanism for solving the same. On the area of stress management, the group linked the stress management both in the domain of individual and institutional capacity. On institutional side, the group opined that judicial officers should adopt stress management techniques through specialized training. The core areas for the capacity building, identified by the group were the Art of shortening the lengthy proceedings, conducting a fair trial, command over the application of different laws, curbing the delay etc. Stress management according to the group should be made a compulsory part of the pre-service training. On the question of pre-service training of the judicial officer the group unanimously agreed that career opportunities such as promotions, scholarships should be linked with proper training. Pre-service trainings should not

only encompass the judicial officers but personnel of court staff. The group emphasized same criteria of career opportunities should be applied to the court staff as well. Mid-career training courses should also be made part and parcel of the strategy.

The comments of the High Court on each proposal are as follows:

1. **Special focus on stress management techniques, office management, situational handling, mannerism etc**

Although stress management has not been defined specifically in the proposals, it is pointed out that the judicial academy has already included the subject in its curricula both for pre service training and the in service training. It has already been mentioned by the group that quite a number of factors of stress related to the conditions of service have been addressed and are continuously being addressed by the High Court. This action shall continue and be guiding principle of the proposed secretariat being established for the District Judiciary in the High Court. As far as the stress related to the nature of the job is concerned, this could only be met through continuous trainings and the Judicial Academy shall be given directions to revamp their curriculum to include practical aspects of stress management and situation handling.

2. **Comprehensive pre service training of one year and in-service training:**

The pre-service training for the civil judges has recently been launched. The High Court is fully conscious of the fact that the duration of the course was very short, however this was due to a lack of capacity and resources of the academy. One must also be mindful of the fact that the persons recruited for civil judges are mostly

practicing lawyers and law graduates not totally fresh recruits as in the civil service of the province or country, and therefore do not, perhaps, need an extensive training on a similar pattern. The training designed for the civil judges was highly intensive and practical. The initial response from the trainees was also highly encouraging. It would be extremely helpful for the High Court and the Academy if in future the forum of this conference comes up with a longer curriculum design which could then be adopted by the academy.

3. Scholarships for judicial officers.

The High Court is cognizant of the fact that the grant of scholarships for higher education for the judicial officer is essential for enlarging his vision and approach. Their capacity building is the top priority of the High Court. In line with this policy the High Court has started sending its Judicial Officers for orientation and giving them a peep at the methods being used by other countries. Many judicial officers have availed this opportunity. The said policy shall continue for the ultimate benefits of the judicial officers. Some Judicial Officers have availed the opportunity to enhance their educational qualification in their personal capacity. The High Court shall encourage this approach as a policy. We would welcome any concrete proposals in this regard from the same forum to institutionalize this approach.

4. Promotion be linked with proper training.

The KP Judicial Academy under the directions of this court, has been working in the matter in consultation with all the stakeholders. Many regular sessions have been held in in the Academy to develop a set of rules that would make the career

enhancement of a judicial officer merit based. The present exercise of holding this conference in the High Court was also a link for the same. The proposed secretariat to be established in the High Court is also to enhance this approach. The High court would encourage thought sharing in the matter.

5. Proper working environment.

The working environment of the courts have considerably improved since the last decade or so. The judicial complexes constructed in many districts can safely be quoted as an example. It can also be safely stated that most of the courts are equipped with all necessary modern tools including computers, fax machines, motor cars etc. needless to mention that pay packages of judicial officer have undergone tremendous increase. Continuous efforts are been made in this regard details of which are clear from the vision available on the record.

6. Pre and in-service training for staff.

The KP Judicial Academy regularly conducts in-service training for staff of the courts all across the KP. In this connection the Academy has already prepared various manuals and modules. In its annual calendar for 2017, the Academy intends to arrange several in-service training programs in this regard. The Judicial Academy is also working on grey areas, on the basis of the feedback of the District Judiciary, in which the staff of the district requires in-service training. This program would also be put into practice as soon as practicable. The High Court would take up the matter of pre service training of the staff of district judiciary with the Academy, when a concrete proposal in this regard is suggested by this forum for ultimate adoption by the Academy.

**GROUP # 2: ISSUES HAMPERING
DISPENSATION OF JUSTICE (FOCUS ON
DELAY IN JUDICIAL PROCEEDINGS)**

RESPONSE GROUP #2

Joint Communique of working group No. 2

REPORT ON CAUSES OF DELAY

April, 2017

GROUP NO. 2

Participants

1. Mr. Ishtiaq Ahmad
2. Mr. Tariq Yousafzai
3. Mr. Muhammad Adil Khan
4. Mr. Ikhtiar Khan
5. Mr. Salahuddin
6. Mrs. Muneera Abbasi

**REPORT ON CAUSES OF DELAY FORMULATED BY GROUP
NO. 2 OF WORKING SESSIONS OF CONFERENCE HELD IN
APRIL, 2017**

The area assigned to this working group is: Checking out a strategy on issues hampering dispensation of justice. The focus is on causes of delay in judicial proceedings. Expeditious dispensation of justice is a dream while delay in disposal of cases is a cancer. The object of this study is to diagnose causes of delay with a view to finding out ways and means to curtail the same for an atmosphere conducive to speedy-n- inexpensive justice for all.

We have identified causes of delay at three different levels:

1. During the functioning of the court.
2. Want of procedural reforms.
3. Extraneous matters.

We have seen these causes in three perspectives: -

1. Criminal trials.
2. Civil trials.
3. Common causes.

COMMON CAUSES OF DELAY

These things happen commonly. The debate has reached a consensus on these points:-

- a. Monopoly of lawyers.
- b. Poor infrastructure.
- c. Capacity vacuum.
- d. Shortage of Judges.
- e. Poor case management.
- f. Failure of Process Service System.
- g. Manipulation of lawyers.
- h. Inferior quality of Legal Education.
- i. Lack of utilization of modern tools and gadgets.
- j. Legal complexities.
- k. Un-necessary formalism.
- l. Lack of ADR protocols.
- m. Lack of integrated communication of stake-holders.
- n. Easy adjournments.

- o. Untrained para-legal staff

CAUSES OF DELAY IN CRIMINAL TRIALS.

Besides common causes, a criminal trial gets unnecessarily delayed for these reasons: -

- a. Non-completion of investigation within statutory period.
- b. Conflicting laws regarding period, available for submission of *challan*.
- c. Casual approach of Prosecution branch during scrutiny.
- d. Un-checked flow of file from I.O to commencement of trial.
- e. Over-burdening of courts resulting fixation of long dates.
- f. Sequence of accurate evidence recording: informal evidence, supportive evidence and corroborative evidence. The sequence is not followed.
- g. Non-service of process by DFCs.
- h. Non-attendance of witnesses.

CAUSES OF DELAY IN CIVIL TRIALS.

Common causes besides, other matters contributing to delay in Civil matters include:-

- a. Procuring the attendance of defendants.
- b. Non-attendance of official witnesses.
- c. Non-categorization of members of legal fraternity for a specified forum.
- d. Some important provisions of CPC 1908 are neglected.
- e. Un-necessary Miscellaneous applications.
- f. Non-specification of required record in the list of witnesses and requisitioning unnecessary official records.
- g. Culture of marking attendance by clerks of counsel.

Identification of defined and specifically classified causes of delay demand the formulation of a suitable strategy to address the issues. The conceptual framework of solution is as under:-

1. Short term measures.
2. Long term measures.

SHORT TERM MEASURES

This group suggests the following short term plan to address the issue:

- a. Capacity building of Judges by way of effective training.
- b. Personality and psychological grooming through proper training and courses.
- c. Training courses for lawyers to sensitize them on adherence to rules.
- d. Professional legal course for lawyers.
- e. Bar council be made more active and effective body.
- f. Training of para-legal staff.
- g. Training of I. Os and Police witnesses.
- h. Increasing the number of Judges.
- i. Integral communication mechanism.
- j. Strengthening CJCC.
- k. Creation of Civil Justice Coordination Committee.
- l. Instructions to DPOs/RPOs.
- m. Strict adherence to neglected provisions of Cr.P.C & CPC.
- n. Imposition of heavy costs.
- o. Holding conference of court with parties.
- p. Saturday should be off so that Judicial Officers may spare time for personal grooming and study etc.
- q. Certified copies of revenue papers and other official records be obtained instead of summoning revenue and other officials.
- r. Enhancement of amount of cost powers as well as imposition of cost as fine may be allowed.

LONG TERM MEASURES

Reforms are needed in certain areas to tackle the menace in the long run. These matters require policy decision. The same are: -

- a. Creation of Law School Board to conduct all-encompassing entry test for law graduation.
- b. Introduction of Vocational Courses for Bar before entry into legal profession.
- c. Formulation of ADR protocols through legislation in CPC.
- d. Creation of more courts.

- e. Imposition of costs on two counts i.e. for wasting court time and time of opponent.
- f. Designing special Effective Training for Judicial Officers, paralegal staff and lawyers.
- g. Water-tight vertical hierarchal structure of judiciary has caused stagnation owing to too much subordination and unnecessary submissiveness. The system needs to be revamped in order to bridge communication gap for effective liaison so that KP Judiciary may have a say in the policy making in relation to disposal of judicial matters.
- h. Curtailment and/or management of Pressure Groups.
- i. Establishing a Separate Civil Armed Force of Judiciary responsible for execution and implementation of court orders and processes.
- j. Development of Infra-structure and other structural improvements.
- k. Welfare of persons working in the institution.
- l. Installation, use and training for use of Information Technology and I.T Equipments in relation to judicial matters.

This is Joint Communique of working group No. 2. The same is submitted for kind perusal and appropriate action.

MUHAMMAD ADIL KHAN
District & Sessions Judge, Swabi
Representative of Group No. 2

OUTLINES

The group identified the causes of delay at following three levels:

1. During the functioning of the court.
2. Want of procedural reforms.
3. Extraneous matters.

Common causes of delay identified as follows:

- 1: Monopoly of lawyers.
- 2: Poor infrastructure of courts.
- 3: Shortage of judges.
- 3: Failure of process service system
- 4: Legal complexities
- 5: Lack of ADR Protocols
- 6: Easy adjournments
7. Untrained paralegal staff

CONCLUSION

Justice is a divine concept. There is a general paradox governing the adage of justice delayed is justice denied, i.e. justice hurried may be justice buried. Therefore Group 2, was tasked to identify the issues that hampered the dispensation of justice. The group opined that a harmonious balance was required for delivering speedy justice. The group identified certain impediments in way of speedy justice that is curtailment of delay, lack of basic infrastructure, insufficient number of judges etc. The mechanism for rectifying the same was divided into two areas, that is short-term and long-term measures. The short-term remedial measures includes increasing the number of judges, training for lawyers, capacity building of judges and ministerial staff etc. The long-term measures includes vocational courses for bar and law schools, formulation of ADR protocols etc.

However, it may be stated that there is an optimum number of judges beyond which further recruitment of judges becomes counterproductive and may have a negative impact if any on the disposal of cases and delay reduction. The judicial Academy has already launched a study to determine the criteria for the recruitment of judges which may be linked to the per annum institution of cases.

As per international practices delay reduction has already been linked to case management procedures and the High Court is in the process of institutionalizing these processes and train the judges in these techniques.

The group identified causes of delay in Criminal as well as civil trials and suggested short and long-term measures.

Views of the High court are added as under:

1. **short term measures:** the KP Judicial Academy has been specifically established for the purpose of capacity building, grooming and training on professional lines of all the

stakeholders. Recently the Academy has been assigned the task of training the lawyers community. Judges, IOs, and para-legal staff are undergoing continuous in-service trainings. specific areas of training felt at respective stations maybe considered by the forum and suggested accordingly for finalization by the KP Judicial Academy.

The number of judges have been increased recently, more than 100 newly appointed Civil Judges have undergone training in the KP Judicial Academy and are working in the field. The High court is in the process of recruiting more judges through the Public Service Commission in near future. The phenomenon of Civil Justice Coordination Committee is perhaps meant to develop coordination between all the stakeholders. However, the proposal is to be considered with its minute details and its likely benefits. It should also be considered whether there are benefits of such a committee as Judicial Officers are already overburdened. Regarding instructions to the DPOs and RPOs, clarification is needed about its contents and its relevance. The forum may enumerate such instructions for detail discussion on the same level.

Imposition of heavy costs and restrict adherence to neglected provisions of CRPC and CPC fall in the domain of the courts concerned. The courts are required to dispense justice within the parameters of law in the interest of justice and fair play. The KP Judicial Academy has been conducting training on the neglected provisions and would continue so in the future.

The KP Judicial Academy has come up with a proposal regarding case management and summary judgment rules. The concepts of Differential Management, Case Management, Discovery Management, Motions Management, Summary Judgment and ADR are still alien to our Civil Justice System. Our efforts to include the concepts of ADR in Civil Procedure Code by insertion of Sec 89-A and O. X A (iii) failed to yield any result because these section of CPC were not complimented by any ADR rules from any High Court. We failed to understand that the concept of ADR does not depend upon the personal initiatives of the judges; rather it depends on a structural-programmatic character of this concept. Without disturbing the main scheme of Civil Procedure code, or bringing any procedural novation, the amendment in Order IX CPC aspires to employ and graft the techniques of case management derived from FRCP USA and CPR of England & Wales in our Civil Procedure code. These case management

techniques will result in shifting the control of civil litigation from the litigants to the courts, extending a pro active managerial role of the presiding Officers. This amendment aspires to create a "Procedural Work Station" wherein all the proceedings are regulated by the presiding Office in a consultative discourse designed to curb delay and defeat adversarial tactics of the parties, Similarly, the amendment in Order XV CPC shall introduce the concept of Summary Judgment in our Civil Procedure, and shall be helpful in the expeditious disposal of those cases, which could be decided without subjecting the parties to the rigors of trial.

Effectiveness of the Bar Councils have been pointed out in the proposals as a short-term measure, perhaps it is linked with common cause of delay, as mentioned in the proposal. These are: **Monopoly and manipulation by lawyers:** Such topics can be discussed properly when a proper representation of the Bar is made in a forum. In any case the KP Judicial Academy has been conduct training of the justice sector stakeholders to promote professional competency and ethics. It would be in fitness of things that a concrete proposal in this regard is forwarded for a more comprehensive discussion on the role of all the stakeholders in the justice sector.

The working days of the courts are in accordance with the ground realities of the area and the number of cases pending in the courts. The High Court is exploring the avenues to improve the timing for ultimate benefits of the Judicial officers.

The courts can adopt all legal measures for quick dispensation of justice within the parameter of Law. Same is the case with suggestions Q & R as mentioned in the short term measures.

Long-term measures: The KP Judicial Academy has initiated a MOU with Khyber Law College, University of Peshawar. The plan is to mutually help each other in the area of planning and development; and to facilitate and cooperate with each other in the area of students internship programmes with compulsory one week training in KPJA for law graduates.

The KP Judicial Academy has also approached the Bar Council with following recommendations:-

1. The newly enrolled lawyers should be imparted training programs by the Judicial Academy during the first six months of their practice.
2. All the Bar Associations should initiate such trainings at their respective Bars.
3. During the initial days of their practice the young lawyers face financial difficulties; therefore, they should be supported financially for the first two years.
4. Separate lectures should be arranged regarding Revenue Laws and Art of Advocacy.
5. Practical exercises should be arranged regarding Civil and Criminal Trials.
6. During the trainings, visits should be arranged to the police stations and Central Jail.
7. These training programs for the young lawyers should be continued in future.

Creation of more courts has already been discussed in the short term measures, however, creation of more courts involves detail justification and homework. If the conditions exist for the creation for more courts, it will be systemically done. The KPJA has already conducted national conferences on ADR protocols. After conferences in the concluding months of this years, some final shape is expected on the protocols in question. The topics at serial number(s) I, J,K and L are vague, however, it can be deliberated upon in detail by the same forum for specific recommendations. Needless to add that improvement is been constantly made in not only in bridging the communication gap but also in the welfare of the institutions.

3: SHORTAGE OF STAFF/VACANT POSTS

RESPONSE OF GROUP # 3

521

OFFICE OF THE DISTRICT & SESSIONS JUDGE, HANGU

No. 439/DSJ/HGU

Dated: 04th May, 2017

From

**The District & Sessions Judge,
Hangu.**

To

**The Worthy Registrar,
Peshawar High Court, Peshawar.**

Subject:

FIRST DISTRICT & SESSIONS JUDGES CONFERENCE

PESHAWAR HIGH COURT PESHAWAR	
Receipt No.	<u>7560</u>
Date	<u>6/5/17</u>
For	<u>93</u>
By	

Respected Sir,

Reference your letter No. 7595-7619/Admn, Dated; 26th April, 2017, on the subject conference, the undersigned has the honour to enclose herewith views of 3rd thematic group on topic "Shortage of Staff/Vacant Post" for further action. It is clarified that the presentation was made by Mrs. Sofia Waqar, on behalf of the group but the task of submission of detail views on the topic was entrusted to undersigned for preparation and onward submission to your goodself which are hereby accordingly submitted, please.

Enclosure; As Above

Yours faithfully,


(SYED ASGHAR ALI SHAH)
District & Sessions Judge,
Hangu.

1
8/5

SHORTAGE OF STAFF/VACANT POST

VIEWS OF 3RD THEMATIC GROUP ON THE SUBJECT TOPIC IN THE 1ST EVER DISTRICT & SESSIONS JUDGES CONFERENCE OF KPK HELD UNDER THE AUSPICES OF PESHAWAR HIGH COURT PESHAWAR ON 28TH APRIL, 2017.

We, the 3rd thematic group, consisting of following members;

i.	Mr. Azhar Khan	Participants
ii.	Syed Asghar Ali Shah	Participants
iii.	Mr. Muhammad Zubair Khan	Participants
iv.	Mrs. Sofia Waqar	Participants
v.	Mr. Aamer Nazir Bhatti	Participants
vi.	Mr. Inamullah Wazir	Participants
vii.	Mr. Zakaullah Kattak	Facilitator
viii.	Mr. Inamullah Jan	IT Support

are of the considered view that leaving a negligible number of stations, there are sufficient or over-staffing in majority of the Districts reason being that Courts are increased/decreased in a Districts on cases-need-basis but the staff recruited remains there being permanent District Cadre staff with no transfer out of District. Judicial Officers being temporarily posted for an unspecified period in maximum ordinarily for two years cannot keep continuous supervision of staff resulting in service indiscipline and malpractices. Another reason is split administration at District level i.e. District Sessions Judge and Senior Civil Judge. They both are authorities for their respective administration and financial matters which damage uniformity of command, approach, discipline and action. It is quite natural that casual supervision never remains constant and object-oriented and usually fails to achieve the high standard of performance through employees. Moreover, this very reason contributes to sub-standard and non-meritorious recruitment which in itself breeds a lot of problems for transparent, fair, clear and smooth working environment. In over view, it is not "Shortage of Staff" but "Mismanagement of Staff" which is the main cause or mother cause of all wrongs witnessed or perceived, whether in District Judiciary Staff/employees or whole Judiciary_ thus, not limited to District level but encompasses the whole Judiciary. We consider following are main causes of aforesaid glory picture.

1. Absence of a whole-time Central Authority to manage Human Resource at District level.
2. Recruitment flaws.
3. Non-meritorious Promotion Policy.
4. District Cadre Employment.
5. Split Administration in a District between District Sessions Judge and Senior Civil Judge.
6. Weak Supervision / Casual Administration.
7. Shortage of Capable Staff.

To overcome the aforesaid causes and to set in motion a capable confidence inspiring public friendly staff in District Judiciary, we consider necessary paradigm shift in our thinking and views. We should be firm in belief that the objectives of Judicial System in a country are not the ones perceived by well-entrenched common notion i.e. punishment of accused or deciding civil disputes of public rather its main objective is establishment of a peaceful progressive civilized society. With wideness of objectives, our vision about importance of Judicial institution will expand and we will certainly understand importance of the role of Judicial Officers and Judicial staff in this perspective. Once this lofty aim is set for Judiciary, certainly our thinking will surpass District or Divisional limits and will focus only on merit and merit only. It is clarified that in a civilized progressive society, things are judged, assessed and determined on nation-wide contribution/delivery and not at local or regional basis. We are, therefore, of the firm belief that no system can deliver unless its runners follow the spirit and share the views of objectives of that system as is maximized "*It is not the gun that matters but man behind the gun that matters*". Similarly, if employees of an organization are not devoted, meritorious, hardworking and

objectives specific in performance, the organization will never achieve its goals, respect and honour in public view. So, we reaffirm this universal principle rather "the whole truth:" and stressed upon the point that this aspect is the most important to be not only addressed but jealously guarded in the whole Judiciary of Pakistan in specific and in all state organizations in General. We, therefore, demand earlier establishment of "Judicial Secretariat" as per vision of Hon'ble the Chief Justice, Peshawar High Court, with further request that it be headed by renowned competent, honest, upright and visionary retired Sessions Judges to avoid creation of heart-burning, partisan approach and favoritism in administrative matter of District Judiciary which has remained our sore experience till recent past. This will also ease financial burden on exchequer that is a trust with us. Moreover, we suggest this on a very logical ground besides the aforesaid that Judicial work is a technical/practical work which enhance and gain effectiveness by continuous practice like no doctor will become reputed surgeon if he leave practicing surgery. Our own experience confirms the aforesaid result and practice in past is witness of these results.

There should be "Human Resource Wing" in Judicial Secretariat having a section called "Recruitment Section" or "Lower Judicial Service Commission" tasked with recruitment of staff for District Judiciary which will ensure uniform standard of merit plus capable staff relieving the District Sessions Judges/Senior Civil Judges of recruitment job_a non-specific job always suffers from in-experience.

It is also our desire that number of cases be fixed for each court so that permanent recruitment is determined in advance and the case of temporary work load at a station may be met out through contract daily wages employment to avoid over-staffing.

We, therefore, make following recommendations.

1. Position of HR Manager at District Level should be introduced better would be to arm superintendent with this authority instead of creating a special post.
2. There should be uniform recruitment policy i.e. KPO and Stenographer being in BPS-16, shall be recruited through Provincial Public Service Commission while lower staff other than class-IV be recruited at Divisional level to make possible transfer of employees from one District to other to avoid over-staffing caused due to abolishment of court or non-posting of Judicial Officers.
3. Revisit of recruitment rules allowing direct recruitment in case of non-availability of suitable candidate for promotion post.
4. Causal writings of ACRs (backbone of service structure and service man) should be avoided at all levels.
5. Job description requires rewriting in light of altered dynamics.
6. Uniform promotion policy with focus on fitness.
7. Exposure to on the job training.
8. Administration and financial authority be pooled up at District level in the office of District and Sessions Judge to ensure smooth, uniform and transparent administration reviewing the present day divided authority in the posts of Senior Civil Judge and District and Sessions Judge. If total merger is not possible, at least financial discipline requires centralization in the district.

Submitted please as directed.


(SYED ASGHAR ALI SHAH)
District & Sessions Judge,
Hangu.

CONCLUSION

The group 3, contemplated upon the question of shortage of staff / vacant posts. The main causes as penned down by the group was the absence of the dedicated HR at the district level.

The establishment of the District Judiciary Secretariat shall remove the establishment of an additional office at the District level for human resource management. Such a position could also come in conflict with administrative duties of the district & session judge as well as the senior civil judge. The district judiciary secretariat shall provide the external authority required. The recommendations are being looked into by the High Court.

The problem magnifies due to recruitment policy flaws. Further promotion is stagnated and sometime on personal preferential basis bypassing merit based policy. The group proposed that a dedicated HR Manager should be introduced. Uniform recruitment (through Public Service Commission) and promotion policy based on fitness rather than seniority be made part and parcel of the system.

Main causes were pin pointed as follows:

- 1: Absence of a whole time Central Authority to manage Human Resource at District level
- 2: Recruitment flaws
- 3: Non meritorious promotion policy
- 4: District Cadre Employment
- 5: Split Administration in a district between District Sessions Judges and senior civil Judge
- 6: Weak supervision/ Casual administration
- 7: Shortage of Capable Staff

The group proposed the following recommendation with views of the High Court are as follows:

- 1: Position of HR Manager at district level**

The concept of court administrator was initiated a few years ago at the district level. This practice could not continue as it would not produce the desired results plus the superintendent of sessions court with his staff is available at the district. The superintendent is already been assigned respective duties in this regard. The High court in the Estacode has already published job description of the district judiciary including the superintendent. The matter in hand is covered.

2. Recruitment flaws and revisit of recruitment rules:

The high Court has taken this initiative in reforming Judicial service recruitment system. Certain proposals have been circulated in this regard which will be given a final shape after receipt of purposes from all judicial officers. The proposals have already been discussed threadbare by judicial officers in the KP Judicial Academy. The matter is expected to be finalized soon.

3. Casual Writing of ACR and promotion policy: the High Court in active consultation with district judiciary is working upon district secretariat which could not only cover casual writing of ACR and its consequences but also matters therein like promotion policy.

4. On Job Training and Job description:

On the job training an old concept based on trial and error method. Now that we have an professional institute. We should use the services of the KPJA for service purpose however if attachments are required they will considered if and when forwarded with complete justification on case to case basis. Job description for each post has already been detailed in

the Judicial Estacode from page number 272 to 285. It be discussed by the forum as to what rewriting of the job description is required.

4: IMPROVING COORDINATION

GROUP # 4

Questions

- 1: Importance of coordination?
- 2: Legal forums of coordination?
- 3: Suggestions and recommendations?

Outlines

a: Importance of coordination

i. No system/body can attain success without full support of all parts functioning in harmony and towards common goal. The District Judiciary with all the above mentioned limitations has to seek the support of other organs for its successful functioning and desired output. This coordination shall be ensured by District Judiciary living within the domain of its mandate given by law and code of conduct.

ii. The main objective of District Judiciary is interpretation and implementation of laws which if used effectively can give desired results. The coordination in the context of District Judiciary means to achieve the above mentioned objective.

b: Legal forums of coordination

- i. Criminal justice coordination committee
- ii. Bench bar liaison committee
- iii. District legal empowerment committee
- iv. Citizen court liaison committee

c: Suggestions and recommendations

- i. Implementation of laws
- ii. Quality of laws
- iii. Establishment of training institutes
- iv. Reforms commission for introducing new amendments in laws

CONFERENCE OF DISTRICT & SESSIONS JUDGES

DATED 28TH APRIL 2017

REPORT ON THEMATIC AREA "IMPROVING COORDINATION" BY GROUP 4.

VENUE: PESHAWAR HIGH COURT PESHAWAR

1. INTRODUCTION OF THEMATIC AREA "IMPROVING COORDINATION":

- i. The word "Coordination" as used here surely means coordination in the context of District Judiciary. The limitations of District Judiciary must be kept in mind while talking about improving Coordination by District Judiciary as District Judiciary has to move in an allotted sphere by law and code of conduct. Any violation of law or code of conduct at the cost of Coordination is not allowed. Some of the participants were of the view that in order to have good working relations amongst different line departments in the District the Judiciary has to sacrifice the strict adherence to law and code of conduct. But majority was of the view that it cannot be allowed because Judiciary being custodian of law cannot afford to bypass any code or law. Judiciary being a check on executive cannot have such relationship with executive which creates distrust amongst public about its independence.
- ii. The "Coordination" within the department surely includes both vertical and horizontal. Again on both these crossing lines the independence cannot be compromised. Excessive coordination on vertical side can create doubts as to independent working of subordinate courts. Horizontal coordination also involves element of interference at some level.
- iii. Having these limitations the Coordination for District Judiciary means Coordination as allowed by law and code of conduct creating trust amongst public as to independent working of District Judiciary which is a hallmark of this institution.

2. IMPORTANCE OF COORDINATION.

- i. No system/body can attain success without full support of all parts functioning in harmony and towards common goal. The District Judiciary with all the above mentioned limitations has to seek the support of other organs for its successful functioning and desired output. This coordination shall be ensured by District Judiciary living within the domain of its mandate given by law and code of conduct.
- ii. The main objective of District Judiciary is interpretation and implementation of laws which if used effectively can give desired results. The Coordination in the context of District Judiciary means to achieve the above mentioned objective.

3. LEGAL FORUMS OF COORDINATION AT DISTRICT LEVEL.

- i. The District Judiciary has legal forums like Criminal Justice Coordination Committee, Bench Bar Liaison Committee, District Legal Empowerment Committee and Citizen Court Liaison Committee. Working with these forums would not invite any aspersion on the part of District Judiciary being authorized

creations. These forums if utilized effectively can produce wonderful results. There are instances worldwide where such forums have given tremendous output to be emulated. In our own District Judiciary Abbottabad has started coordination with these forums by developing three SOPs with their consultations. These SOPs can be studied in detail after three months when their result would start coming. The basic idea is how to implement laws effectively within the domain of given law by binding all functionaries and stakeholders of system to follow the law. This would revive all those important provisions which all justice sector actors have been neglecting since long. The revival of such provisions is highly likely to improve quantitative and qualitative decisions by court. Why such provisions are being neglected is an issue worth probing, particularly through an empirical study. One thing, however, is quite clear that the non-observance of those provisions have led to the failure of the existing procedural law system. The think tanks are in wonder that how system can be improved and they are searching, in good faith, for new reforms in the shape of amendments in laws and rules. But this report would be a harbinger for think tanks to ponder over this issue that how amendments in laws are being defeated by those responsible for implementation of laws despite penal provisions and added penal provisions for not implementing laws.

- ii. This on job training and coordination with other organs would result in understanding and then implementing the desired strategies and initiatives. More laws, trainings and conventional approach are utter failures. The areas common to more than one department can be cured at district level through these coordination committees where lacunas are discussed and then a common approach is adopted by all departments. For instance defective investigation is much talked about phrase and individual effort of police has failed to meet this challenge. The defective investigation results in bad results not for only police but for Judiciary and prosecution as well. The same can be cured by collective approach of Judiciary, Police and Prosecution together in coordinate way by using forum of Criminal Justice Coordination Committee. No amendment in laws or added resources can cure this problem.

4. GROUP METHODOLOGY, PRESENTATION & QUESTION/ANSWER SESSION:

The group formation is Annexure A. The group discussed the thematic area and the synopsis of discussions is Annexure B. The group then reached a consensus that the best practice of coordination amongst different justice sectors like Bench Bar Liaison Committee & Criminal Justice Coordination Committee as unfolded by group leader may be made basis of the presentation. The key points of power presentation by the presenter were the SOPs developed by District Judiciary Abbottabad with other justice

sectors' actors. The bottom line was that how coordinated effort can revive the important and neglected provisions of laws in aid of expeditious and quality justice. The changed first Order Sheet and Certificate of Readiness now used by courts were displayed to show a glimpse of the change brought about by these SOPs in implementing neglected provisions of laws. Both these documents are Annexure C & D. The questions answer session was highly charged as change and new strategy always invite such reaction. The questions were mainly focused on how SOPs in one district can bring change; what is the need of SOPs in presence of laws already existing. The presenter successfully met the questions by answering that one best model always bring change in the whole system and that SOPs are meant only to implement what is already there.

5. SUGGESTIONS AND RECOMMENDATIONS.

The crux is that the whole issue is of implementation and not laws. The problem of laws delays and quality can be ensured by Coordination as mentioned above. This would need no resources but coordination and coordination. There is no need of further tools in the form of amendments in laws and no further training in any formal institute. More laws and amendments have multiplied the burden and have resulted in increased incompetence. The training institutes as working in this country can serve the purpose of basic orientation and no more. Every new Political and Institutional manifesto/program adopts the same old conventional way of forming some Law Reforms Commission/Committee for introducing new amendments in laws with penal provisions and increased trainings in formal institutes. Repeating the same strategy of following the treaded path would be nothing but selling of old wine in new bottles. This approach has failed time and again and now it is high time to have some out of box thinking.

Prepared by

Niaz Muhammad Khan

Approved by all members of Group 4

(No signatures as approval is sought via email)

Annexure A

GROUP # 4 (FORMATION)

- Mr Niaz Muhammad Khan D&SJ—Group Leader & Presenter
- Mr Shafiq Ahmed Tanoli D&SJ.
- Mr Abdul Ghafoor Qureshi D&SJ
- Mr MUhammad Younis D&SJ.
- Mr Muhammad Zaffar D&SJ.
- Dr Khursheed Iqbal D&SJ---Facilitator.

Annexure B

Synopsis of Group Discussion

- Coordination amongst Judicial Officers.
- Coordination with Staff.
- Coordination with High Court.
- Coordination with Bar
- Coordination with Litigants.
- Administrative coordination
- HR coordination
- Coordination means using existing forums for the purpose of quick dispensation of justice.
- Research for exchanging best practices.
- Interaction by such events like conference also enhances coordination.
- Team work is also coordination.
- Coordination with whom ,to what extent and how?

Annexure C

FIRST ORDER SHEET (CIVIL COURTS)

Counsel/Plaintiff present. Verifies the content of plaint. The plaint is checked with the checklist. The case is one of civil jurisdiction and not of small claims jurisdiction, be registered in the register of civil suits. The following deficiencies have been noticed and the plaintiff is directed to make good the deficiencies on next date.

- --
- ---
- ---

From the contents of plaint the court prima facie has territorial, subject and personal jurisdiction .The suit prima facie appears to be properly valued for the purpose of Court Fee and Jurisdiction, proper court fee is affixed and this court has pecuniary jurisdiction.(Or the suit is properly valued for the purpose of court fee but proper court fee is not affixed. The plaintiff is directed to affix proper court fee on next date) (OR the suit is not properly valued for the purpose of court fee and or jurisdiction for the reason that under section----of Court Fee Act and section ---of Suit Valuation Act the value should have been ----. The plaintiff is directed to correct the valuation of suit for the purpose of court fee/jurisdiction till date fixed and to affix requisite court fee on next date. The defendant (s) be summoned for settlement of issues or final disposal for---*subject to deposit of process fee* (ONLY WHEN PROCESS FEE IS ATTRACTED). Copy(s) of plaint be accompanied with summons.

Annexure D

CERTIFICATE OF READINESS (Order 16, r 1 CPC)

The Plaintiff(s)/ Petitioners(s)/ Defendant(s)/ Respondent(s) do hereby undertake to produce evidence within---- days excluding time spent in summoning of witnesses or other proceedings in courts. Failing which the court may award costs in addition to any other step authorized by law.

The following witnesses are to be summoned by court.

- 1.----
- 2.----
- 3.

Plaintiff(s) / Petitioner(s) / Defendant(s) / Respondent(s)

Through Counsel

**ACHIEVEMENTS SHARE WITH THE PARTICIPANTS IN 1ST
DISTRICT & SESSIONS JUDGES CONFERENCE HELD ON
28TH APRIL 2017**

I am thankful to the hon'ble Chief Justice for giving ^{Pl.} sometime from his own schedule. Again, me and my worthy colleagues are ^{an} thankful for your lordships confidence reposed on us.

For the first time in the history of the judiciary, honble. the Chief Justice sheded his powers to the District & Sessions Judges which will certainly bear fruits in the long run. Now, a District & Sessions Judge, being Head of District Judiciary in the District, can address almost all the problems, relating ^{Ps} to Judicial or Administrative matters well in time. Certainly, after the entrustment of the powers to the District & Sessions Judges, not only precious time of the District and High Court will be saved but it will help resolved the issues locally there & then. The District Judiciary appreciales and supports the steps and measures taken by your lordship for the enhancement of capacity building of the Judicial Officers which will certainly help in the effective administration of justice.

On assumption of charge on 06.02.2017, multiple problems were pending for resolution and amongst them, serious one was the delay in the disposal of cases. Two learned District & Sessions Judges elevated, third one was relieved from the duties and forth one was transferred out, meaning thereby, for a long period and frequent intervals, court proceedings remained suspended. So was the position of administrative matters. Exiguously, the moment I assumed the charge, all the pending matters surfaced, however, by the gmce of ALLAH, we, as a team, overpowered the same one by one. A brief account, not for claiming commendation but just for information, is given below:-

1. Scheduled Jail visit of ASJs i.e. First Friday of first fortnight of each month enhanced and it was made double by visiting jail on all the Fridays of the month, except the last one which is already scheduled for Sessions Judges visit.
2. All the vacant posts are filled up.
3. Court staff re-shuffled according to need of the Courts and allied offices.
4. Delayed project of Construction work of Lavatories for litigants in Kachetry premises Mardan was expedited, successfully made functional and handed over to the concerned person for future maintenance.
5. Started repair and maintenance work in Courts, offices and residences of judicial officers.
6. Provided Water Dispensers to all the Courts of AD&SJs at Mardan, Takht Bhui and Katlang.
7. Deputed two electricians to check all Court premises and refreshed all the wiring as well as replaced all the defective electrical items, and appliances.
8. Provided U.P.S to the Court wherever needed.
9. All the Computer Systems and printers were checked and replaced wherever required.
10. Intercom system was out of order and the same restored by replacing the old system.
11. Process of Selection of Independent Candidates for District Public Safety Commission, Mardan was completed within a short possible time.
12. All inquiries disposed of.
13. Established and furnished a store to meet the Court requirements on the spot time.
14. Created a team work environment. Promoted co-operation and coordination among the Judicial Officers as well as staff members. Duties in writing were assigned to the supporting staff dealing with administration like Superintendent, English Branch and Accounts Section and were invited to share their views and suggestions regarding official work or other area of concerns, which obviously resulted in accomplishment of multiple tasks simultaneously and quickly.

Besides, I would like to share my experience gain during this short period of posting.

✓ 1. Snare Delay in Bud (SDB) Policy.

The main purpose of this policy is to curtail the delay at the very initial stage. So a meeting of all the stakeholders like Judicial Officers, SP Investigation, Public Prosecutors and Presidents of the Bar was convened and discussed the same in detail. Thanks to all of them that they not only approved the same but promised to extend full support for all practical purposes.

According to the modus-operandi, suggested for the implementation of this policy, the cases registered under compoundable sections of PPC, when an accused applied for Bail Before Arrest or Bail After Arrest on the strength of compromise and the later is complete in all respect, then the case will be decided by acquitting/discharging him from the charges. Similarly, cases registered under Narcotics/Prohibition Order and 15 AA etc. when the accused is produced in custody, the Court will give option to the accused for disposal of the case on the strength of plea guilty. If he/she agrees, then on the next date, the case will be decided/disposed of. To achieve the object of the subject policy, record whenever is required, the Court will directly ask the SP Investigation to produce the same before the Court on the date fixed who will do it positively. Similarly, if a question of jurisdiction arises, the case will be submitted to the Sessions Judge for entrustment to competent Court and the same will be done on the same day. At this stage, I may bring in your kind notice that under the subject policy, the Courts are

deciding the cases and we have noticed multiple benefits of it. For instance, production of sureties almost finished, scrutiny of the case file in the PSs and then by the Prosecution Branch also came to an end. Summoning of the accused and witnesses at the trial, naturally ceased. In short, besides the saving of precious time of the Court and giving space to the contesting trial particularly in murder cases, it also saved time and money of the public litigants. On successful execution of the subject policy, a similar nature policy is also under consideration for the disposal of civil cases in future.

✓ 2. AUTOMATION OF RECORD.

During the visit of record room, registers as well as some files were found in dilapidated condition, which was of great concern, as in case of loss or damage to the registers or record, there was no arrangement for its substitute or reconstruction. So, from the existence staff, two Computer Operators were deputed and they were provided all facilities, like new computers, furnitures and staff. So much so, Air Water Cooler was provided for the effective function of computers. Now by the grace of ALLAH, the entries from the registers in the computers will be completed soon and thereafter, scanning of the relevant and important record will start. Here, once again we are thankful to the Hon'ble Chief Justice for the provision of the scanners to entire Districts in province. We assure your lordship that the time is not far away when on pressing a button you will find the copies of entire record within no time.

Similarly, a photocopier available in the office also placed in record room with the direction to the official deputed for its operation, and copying the judicial record not to take the files out from the court premises and do the needful inside the record room against usual market charges. It will not only make case file safe being in safe hands but in a way, it will also generate a source of income which may help the repair etc of

✓ 3. ELECTRIC WATER COOLERS

Electric Water Cooler though installed but most of them were non-functional. The same position may be in other Districts as well. So from the available funds, we purchased water coolers having a capacity of 60 liters and provided not only to the entire Courts but to the Judicial Lock ups (males & females), security staff deployed on 4 main entrance gates of the Court premises, plus the staff where public have usual business like record room etc. Similar contract for the supply of ice on regular basis, has been given and without fail, the same is provided to all, in the morning by the Contractor.

Sir. Once again, thank you very much for hearing me so attentively and

issuing orders on the spot


(SUBHAN SHER)
District & Sessions Judge,
Mardan

CONCLUSION

Work in improving and streamlining of the criminal justice coordination committee has already begun under the aegis of donor agencies. Specific suggestions have not been made by the group to improve upon the various committees formed for the improvement of coordination and the high court would welcome such suggestions that would enhance and make the enumerated committees more effective.

No institution or system can work without the full support of its various organs which are required to function in harmony towards the attainment of a common goal. The district judiciary with all its limitation has to seek the support of all its organs for its successful outcomes and desired output. The main objective the district judiciary is interpretation and implementation of laws. These processes require effective coordination on the part of the stakeholders. However, coordination in judiciary means coordination allowed by law without harming the concept of independence of judiciary. Importance of coordination cannot be ruled out.

Suggestions and recommendations with views from High Court:

i. Implementation of laws

The group have interpreted the question of coordination in the interpretation and implementation area of law. The mechanism of coordination is defined in this respect. The courts primarily is concerned with interpretation of law and its implementation falls in the domain of the government. It is necessary that the all the stakeholders including the judiciary and the executive should strike for better service delivery and improve the process of

dispensation of justice. In this regard the prime interest should be the ordinary citizen of Pakistan. This precisely is the policy of this court.

ii. Quality of laws

The KP Judicial Academy is emphasizing on training of all the stakeholders. For this purpose the training manuals are updated continuously. Besides trainings, seminars and workshops are held to deliberate on the identification of gaps in the current regime. On the directives of this Court seminars and workshops on CrPC and CPC have been successfully concluded. The positive outcome in shape of suggestions have been communicated to all stakeholders.

iii. Establishment of training institutes

The KPJA has entered into MOUs with all judicial academies of the country. The emphasis is on more coordination and joint efforts to enhance coordination in field of judicial education. The high court is also taking active interest in this regard. The invitation has been extended to various notable resource persons known nationally and internationally. Mr. Qasim Ayub is one of the example. The Academy has also entered into MOUs with Police Dept and universities to encourage more coordination and interaction. Improving the working of CJCC has been the focus of KPJA. Already suggestion were made in form of report, shared with all stakeholders. A similar activity is currently going on in the academy.

iv. Reforms commission for introducing new amendments in laws

In the history of this country, various commission have been formed in this regard. These commission have submitted their reports. Some of which have been acted upon. The KP Judicial Academy has recently conducted a 02 day seminar on the proposed amendments in

CrPC and CPC. These amendments were proposed by Ministry of Law, Government of Pakistan. The recommendations of the seminar will play crucial role in bringing relevant provisions of law in consonance with modern day needs of the criminal justice system. The competent authority may consider various proposals introducing new amendments in law including forming of commission. Specific proposals in this regard be formulated by the forum with compete justification for the consideration of the competent authority.

Group #5: USE OF TECHNOLOGY IN JUSTICE SYSTEM

The group pointed out the aims and objectives as follow

- i. Center of Reform activities should be the litigant first, the other stake holders, the Bar and the Bench.
- ii. All the stake holders only expect to honor their time and money
- iii. The intervention of ICT ought in such circumstances be continuous and modular as it is most likely, that frequently alteration as per aspiration of the key stakeholder is to be brought in the system, to achieve the ibid goal.

Use of Technology in Justice Sector

By

Mohammad Zeb Khan
District & Sessions Judge,
Shangla, KPK

Introduction

This topic was assigned to our group. Our moderator was Mr. Lal Shad, Director IT PHC. Mr. Mohammad Zeb Khan, District & Sessions Judge Shangla was selected as our team leader. We had detailed deliberations as a result the following recommendations were made: -

Focus

The phrase 'Technology' encompasses a vast area. That includes forensics, DNA profiling, digital forensics etc. However, as illustrated by the Moderator our focus was on the application of Information and Communication Technology [ICT] in Justice Sector.

The Group applauded the work already carried out at the High Court and at different Districts. We believe that at the High Court the Oracle based software designed by the IT Wing of the High Court of Sindh is working.

Work already done

At the District level some attempts have been made. Nevertheless, the Group believes that these solo attempts are more in the nature of report generation than coming up to the expectation of the litigants, the Bar and the Bench. Through this mode of automation we seriously undermine the role of ICT in strengthening the Justice Sector. An example would elucidate this point. Although from some District Judiciary Websites one can get the impression that it would lead to a paperless E-Court age, yet the very basic requirement that a litigant can while sitting at his home, know as to what order was passed in his case on a date of hearing is not available. This dilemma ends in disinterest of the key stakeholders in such websites. Thus practically they are of no value to those for whom we are striving to make this system of administration of justice more vibrant and efficient in service delivery.

The Group was unanimous in agreeing that the best way forward is to ponder on the aims and objectives for applying ICT to the Justice Sector.

We believe that centre of our reform activities should be the litigant first, the other stake holders, the Bar and the Bench.

What does a litigant, Bar and other stake holder expects from us?

They only expect to honor their time and money.

In the present system, we are indifferent to these. We make litigants stand in the burning heat waiting for their date of hearing, the all day. Frequently, at the end of the day for one reason or the other their cases are deleted. Similar, is the treatment that we accord to the witnesses. This tends to develop an impression and rightly so in the minds of the litigants that it indeed is an ordeal.

Likewise, before giving our solutions we have to realize that Justice Sector is not stagnating but an ongoing process. Thus any intervention should keep stock of this pragmatic nature of this Sector. The intervention of ICT ought in such circumstances be continuous and modular as it is most likely, that frequently alteration as per aspiration of the key stakeholder is to be brought in the system, to achieve the *ibid* goal.

As an immediate intervention we need formulate the following modules:

Automation of Courts is a global phenomenon. From the Developed Countries to the Developing the IT industry is striving hard to achieve this goal. A Smart Program can take viable decision from amongst a set of options, which best suits the requirement of its users. By such Smart programs the performance and working of Courts can be enhanced. CLGS would fall in such a category of Computer Programs.

What is the need of CLGS:

Cause List Generation System (CLGS)

The pendency figures of Courts are ever increasing. It is in turn costing considerable burden on Judges, Lawyers and other stake holders. The strength of the key actors of the System of Administration of Justice does not commensurate with this increase in the number of cases. In these circumstances, the intervention of IT in Courts would excel the efficiency and improve the service delivery. Nonetheless, by restricting the scope of automation to mere report generation, would led us to an imbroglio, where we would be driving a horse driven cart on a motorway, where the speed limit is 120 km per hour. Thus, we need to have Smart computer programs, which shall facilitate all the key actors of the Justice System to optimize their time and potential.

Globally, the efforts are on Delay Reduction of the Court processes. One of the primary causes of the delay is the poor management of time of the Bar & the Bench. Similarly, it also causes undue inconvenience to the litigants and other Stake holders such as Police & Revenue Officials. The litigants have to suffer the most. They have to wait all day long in the burning summer sun and the chilling winter. The basic cause of such hardships and inconveniences is the fact that our present day Cause-lists do not bear the time assigned to a matter. If the litigants, lawyers and other stake holders of a case have knowledge of the time when their matter shall come up before the Court they would be put in an advantageous position.

A first glance at this preposition appears quite simple in its application. To the contrary, it would require considerable efforts. An average Lawyer practicing at the District Court has on daily basis at least 10 cases fixed before different Courts. The Courts may not be adjacent. The stages of his cases would most likely be dissimilar, thus requiring different time allocations. Similarly, the reconciliation of his time before different Courts vis-a-vis other lawyers would require a complicated algorithm. In a charged environment, where time is a precious

Commodity manual calculations though computer based would not serve the purpose. It would require a Smart Court program, which would with a click of a key, ensure effective time management. Similarly, the notification of the Date & Time to the litigants, lawyers and other stake holders would also be swiftly ensured through instantaneous SMS. The Bar would also have the facility to alter the allotted time by accessing the system through their Smart phones while sitting in the Offices. Similarly, in case the Presiding Officer is on leave or for any reason the Court proceedings could not be conducted, the parties would be promptly communicated through an SMS and would be relieved of the ordeal. It would also lead to considerable savings. The incarcerated prisoners would not be required to be produced the litigants would not be required to take unnecessary day off from their jobs and businesses. Similarly, the Bar would also benefit as they could focus on preparing matters fixed before other Courts.

How to proceed:

Cause List Generation System (CLGS)

The launching of CLGS would not require a huge budget. At present in most of the District Courts local area network (LAN) is laid, or if not so, can be laid down with minimum funds. The next thing required would be uninterrupted power supply (UPS). The High Court has provided Generators to all District Courts. The UPSs would serve to maintain power supply till the time the Generator is switched on. The CLGS would be installed in the main Server besides all the Computers of Courts. The Readers or the Key punch Operators of the Court shall enter the title of the case, the names of the parties, their Cell numbers, and the lawyers with tentative date of hearing and then shall send the Data to the Server. CLGS main component installed at the Server shall at the end of the Court working hours smartly assign time for each case while preparing the final cause lists and shall SMS it to all concerned. The sample message shall be in the following pattern:-

**CASE # 10/1 of 2014 Ali Khan etc vs Janbaz etc
fixed for hearing
before Civil Judge-IX, Peshawar
at 8.30 am on 2nd Feb 2018**

Similarly, in case the Court proceedings for any reason cannot be conducted, then CLGS shall instantaneously pass on the SMS to the parties, lawyers and the Prosecution witnesses (if so summoned earlier).

**SC # 120/Sc of 2013 State vs KhanBaz
Deleted. Next date 12th Feb 2018 at 12 pm before ADJ-V, Peshawar**

The most important adjudication of the Court of Sessions is a murder trial. It involves life or death of an accused. Quality of evidence is a prerequisite for reaching to the truth, thus, needs no further convincing arguments. During the erstwhile committal proceedings the Court of Sessions used to record simultaneously an Urdu version of the evidence which was a handy reference in case an ambiguity arises while appraising the evidence. Unfortunately the murder trial has assumed the shape of a civil trial. Even if the element of promptness is present the statement cannot at the split of a second be accurately translated in Urdu or English as the native language is predominately Pushto. The mode of recording of evidence on the other hand is inexpedient for the defense counsel as the pause on account of its translation and subsequent typing prompts the witness and the truth cannot be procured in a flow.

In order to arrest this tendency it is suggested that the Court of Sessions should have an **EVIDENCE RECORDING BOOTH**. Audio video gadgetry be installed there having the least possible distortion. The evidence so recorded should then be placed before a panel of Advocates who have successfully qualified **Evidence Transcript Recording Course** from the Judicial Academy and have been authorization by the Hon'ble High Court on the same line as are the Notary Public. This panel should within 07 days of the recording of evidence produce the transcript which under the certification of the Court of Sessions be made part and parcel of the Sessions' Court trial file.

CONCLUSION

The experimental district sites working have the facility of auto SMS and email generation and form a part of the whole gamut of automation exercise. Automation once launched shall encompass e-filing, data management, automatic report generation, auto issuance of processes, record digitization and downloading and perhaps live trial transmission amongst other things. The aim is to, in a phased performance, move towards a completely paperless environment.

Technology has revolutionized the human civilization. The effective use of modern technology has changed the way organizations work and service delivery to the masses by saving time, space and money. Center of reform in the ICT for the courts should be the litigant first, the other stakeholders, the bar and the bench. Delivering of information to the litigants and Bar through SMS and email. Paperless environment shall be highly encouraged to improve throughput and make the slogan of Speedy justice a reality.

The group proposed to formulate the following modules as part of their suggestions. The comments of the High court are added.

i. Automation of courts

The High court is in active consultation with different donors agencies. Some Anti Terrorism Courts have been automated on experimental basis. This exercise will be continued till the attainment of the object of automation of all the courts subject to availability of human and financial resources.

ii. Introduction of CLGS (Cause list generation system)

For details see annexure Z and point iv.

iii. Information to the parties through SMS

On the High Court level, we have been trying to introduce the concept of information to the parties through SMS of cases fixed. This experimental exercise would be progressed further once we have received feedback from the ground. In this regard the future vision would be that the district courts should be equipped enough to the same exercise in the districts. The vision is obviously subject to the availability of resources, for which efforts have been made.

iv. Introduction of evidence recording boot

Most importantly, the Peshawar High Court is already in process of outsourcing the project of Court Automation which caters all standard services and features including the above mentioned. Completed list of services is under.

- Case flow Management System (Case Institution, Case fixation, Case progress, Copies of Case detail etc.)
- Process serving Agency management system and mobile application
- Record Room management/digitization system, Content Management and document management system,
- Library management system,
- File tracking system,
- Financial and asset management system,
- Human resource management system,
- Inventory/stock and procuring management system
- Dashboard and MIS Reporting system for administrative purpose
- MIS integrated Web-Portal for District Judiciary
- Online Recruitment system
- Complaint Registration/ Redressal system
- MSM System for public interaction and service delivery
- Integration with other entities (NADRA , Police etc)

- Court calendaring
- Online judgment availability
- Online tendering, bidding system
- Cause list publishing
- Information dissemination and public voice over web and social media
- Profile management for lawyers
- Software based video conferencing
- Software for call center at PHC
- Capacity building of technical staff of PHC on project management, Operations and maintenance, data migration and data entry (cases/old cases, HR and other important data)
- It is highly expected the above mentioned project will cover all aspects of Court Automation with international standard practices and will surely maximize throughput of the service delivery to the masses.

Group #6: SERVICE OF SUMMONS AND EXECUTION OF WARRANTS

The group after detailed discussion in the group, the following issues have been identified

- i. Defective service of summons/warrants
- ii. Ineffective service of summons/warrants
- iii. Shortage of process serving agency
- iv. Lack of modern needs and facilities

Outlines of proposals:

- i. Modernization of process serving agency to link its operation and working technological based work stations at district level.
- ii. Provision of modern devises including GPRS, mobile camera, biometric system for identification proofs etc
- iii. increase of number of process servers and bailiffs
- iv. contract with courier service for effecting alternative service of summons as provided under Order 5 Rule 10 CPC

- v. provision of motorbikes with POL for process servicing agency.
- vi. TA/DA for process serving agency
- vii. establishing of Execution Agency at the district judiciary, district level.
- viii. security of courts - establishment of security committee for district judiciary, increase in security personnel etc
- ix. Number of DFC must be increased
- x. administrative linkage to the court over the existing Criminal Process Serving Agency
- xi. court specific deployment of DFCs instead of of working under Police Stations.



DISTRICT JUDICIARY KHYBER PAKHTUNKHWA, PESHAWAR

Ph:091-9210099 Fax:091-9212419
eMail:scPeshawar@yahoo.com
web:SessionsCourtPeshawar.gov.pk

No. 3877
Dated Peshawar 06/05/2017

To
↓
The worthy Registrar,
Peshawar High Court,
Peshawar.

PESHAWAR HIGH COURT PESHAWAR	
Receipt No.	<u>7468</u>
Date	<u>6/5/17</u>
For action	<u>98</u>
By	

Subject: District & Sessions Judges Conference.

Respected Sir,

Reference letter No.5047-5071/Admn dated 20/03/2017 of your good self on the subject noted above. After detailed discussion with the learned Senior Judicial Officers, the following issues have been identified which are hampering in services of summons and warrants: -

➤ SERVICE OF SUMMONS/WARRANTS (CIVIL)

○ Present Condition of Service: -

- i. The parties are not served personally or if shown served personally, questions usually arise due to ambiguous reports.
- ii. The substituted service in the shape of affixation, publication etc is not effective.
- iii. Shortage of human resource in Process Serving Agency.
- iv. The obsolete pattern of supervision and operations of Process Serving Agency.
- v. Incapacity of Process Serving Agency in terms of modern needs and facilities.

➤ PROPOSALS/SOLUTIONS: -

- i. Modernization of Process Serving Agency to link its operation and working with technological based works station at District level.
- ii. Provision of Modern Devices to Process Serving Agency including GPRS System, Mobile Camera

examine
D
SR
22/6

and Biometric System for identification proofs etc.

- iii. Number of Process Servers and Bailiffs needs to be increased having regard to the pendency, population and terrain of the District.
- iv. Contract with a reputed courier service for effecting alternative service of summons as provided under Order-5 Rule-10 CPC.
- v. Means of transports i.e. Motorbikes etc with POL should be provided to Process Serving Agency.
- vi. Budgetary allocation should be made for provision of TA/DA as per rules to the Process Serving Agency.
- vii. Service of summons upon official parties/witnesses through focal person from the concerned Departments.

➤ SERVICE OF SUMMONS/WARRANTS (CRIMINAL): -

○ Present Condition of Service:-

- i. Incapacity of Criminal Process Serving Agency in terms of modern needs and facilities.
- ii. Administrative gap between the Courts and the Criminal Process Serving Agency.
- iii. Absence of Specialized Criminal Process Serving Agency answerable to the Court.
- iv. Shortage of Human Resource in Criminal Process Serving Agency.
- v. The obsolete pattern of Supervision and Operations of Criminal Process Serving Agency.

➤ PROPOSAL/SOLUTIONS (CRIMINAL):-

- i. Establishment of Execution Agency at the District Judiciary, District Level:

In almost majority of cases when the issue pertains to arrest and detention of a party (defendant/judgment debtor, compelling of a witness or production of some property) orders of

the court are not complied with. It is always noted that fake reports are submitted that a judgment debtor/a witness is not available at the given address or the process was sent and dispatched on the available address of the judgment debtor or the witness concerned. Such type of report embarrasses a court and no fruitful progress is achieved until a warrant etc is executed promptly in due course of law. Since time factor play a pivotal role in each and every case of the category, the same in turn necessitates establishment of an Execution Agency at the District Judiciary in each District. The agency may be constituted as under: -

- i. For Big Districts 40 to 50 personnel.
- ii. For ordinary Districts 25 to 30 personnel.

The Agency should be headed by a Police Officer not below the rank of BPS-17. Each and every member of the agency must be a Graduate with at least six months training in the art of services of process and duly skilled in the application of relevant law on the subject. Special salary package for each and every member of the agency may be approved so that they may get rid of financial worries. The agency should be under the direct control of District Judge or a person authorized by him.

Members of the Agency may be hired from the Police Department on deputation and their tenure of deputation must be for a fix period which should neither be curtailed nor extended.

- ii. Security of Courts:
 - a. Establishment of Security Committee for District Judiciary.
 - b. There must be a Security Force consisting of Police Personnel which should be 50 to 60 in number for Big Districts and 25 to 30 for Ordinary Districts. They should be

requisitioned on deputation from the Elite Force under the direct control of District & Sessions Judge concerned.

- c. Relevant training, proper know how and education in the relevant field be the prime consideration in selection of the force. The force should comprise of at least two experts from the Bomb Disposal Squad.
- iii. Number of DFCs must be increased.
- iv. Provision of modern devices to Criminal Process Serving Agency including GPRS System, Mobile Camera and Biometric System for identification proofs etc.
- v. To provide administrative linkage to the Court over the existing Criminal Process Serving Agency.
- vi. Courts Specific Deployment of DFCs instead of working under the Police Stations.

Submitted as directed, please.

Sincerely yours



(ANWAR ALI KHAN)

**District & Sessions Judge
Peshawar**

CONCLUSION

The Group 6 pondered over the question of Service of Summons and execution of Warrants. The group analyzed and deliberated on each aspect of the weakness of the system. The core areas identified by the group to name few were defective and ineffective service of summons/warrants, shortage of process serving agency, lack of modern needs and facilities. The proposed solution to rectify the same was the modernization coupled with increase in personnel of the process serving agency.

Comments of the High Court on the proposals are as follows:

i.. Modernization of process serving agency to link its operation and working technological based work stations at district level &

ii. Provision of modern devises including GPRS, mobile camera, biometric system for identification proofs etc

The High Court has in recent years emphasized and continues to lay importance on the technological modernization of its courts. This court with its available resource will try to bridge the technological gap. It will keenly take new measures suggested by the forum. A detail proposal will be encouraged in this regard.

iii. increase of number of Process servers and bailiffs

Any increase in number of process servers and bailiffs as suggested will be taken into consideration vis a vis pendency and population of the specific area in question. In this regard any increase should be justified by the district concerned.

iv. contract with courier service for effecting alternative service of summons as provided under Order 5 Rule 10 CPC

A standardized method is being evolved. It is in the knowledge of this court that some courts are already following the method in question for summons. The High court in the past few years made an attempt in this regard. But the proposal was not economically feasible for the concerned courier service. It is also in the knowledge of this court that the consumer court in Lahore/Punjab also follow this procedure by handing over the process to the complainant for sending it through any courier service. However it would be better if a consolidated approach is followed by all the district in the province. For this purpose a study can be launched by the respective district judges on the following lines

- a. How many summons are issued every day including the summons issued by the hon'able high court and august Supreme court?
- b. Which Courier service has accessibility and area coverage?
- c. What would be the economic implication of the proposal?
- d. Would it be feasible if the Pakistan postal service is made more responsive, competent and responsible to deliver the process in time and ensure the delivery of the receipt to the concerned court and its methodology.

v. provision of motorbikes with POL, TA/DA for process servicing agency.

This court has a firmly believed in facilitating the court personnel in their duty for the dispensation of justice. Already quite a few process servers have been using motorcycles for official duties. Banks are also providing soft loans. It would be proper if a consolidated data is provided by each district mentioning its number of process servers and bailiff without official motorcycle, and its financial implication. The suggestion will be taken into consideration and all efforts will be made in this regard subject to availability of resources.

vi. establishing of Execution Agency at the district judiciary, district level.

**vii. security of courts - establishment of security committee for district judiciary,
increase in security personnel etc**

The security matter of the courts are being taken up in CJCC of the district concerned under the supervision of the high court. Some courts have prepared security plans including emergency policy. It seems proper that if all the courts prepare such a plan and depute an security and emergency officer for constant monitoring through CCTV cameras already available in the district. The security plan so prepared should be coordinated with the concern agencies for quick response and taking care of untoward incident. Regarding execution agency, self explanatory proposal after discussion with all the stakeholders in the respective district be made in all the districts. Another factor in the consideration would be legal, economic implications and likely hurdles and benefits. In addition to that, the district judges may like to study as to why execution agency is being proposed despite execution machinery already available.

viii. Number of DFC must be increased

x. administrative linkage to the court over the existing Criminal Process Serving Agency

xi. court specific deployment of DFCs instead of working under Police Stations.

The working of the DFCs is managed and controlled by the police department. These can be validly taken up in the CJCC by each and every district. Each district would have different ground reality and as such it can be sorted out at that level. If the matters cannot be solved at

the level of CJCC then proper justification is required to this court for onward transmission to the competent authority.

GROUP # 7: DISTRICT JUDICIARY SECRETARIAT

The group considered the following questions:

1. Justification of District Secretariat
2. Policy and strategic management team
3. Rules for House/General Assembly
4. Its structure and working.

PERFORMANCE MANAGEMENT SECRETARIAT-FOR THE DISTRICT JUDICIARY

Presentation/recommendation by thematic group No-7 consisting upon following members:-

1. Mr. Hayat Ali Shah, District & Sessions Judge.
2. Mr. Subhan Shcr, District & Sessions Judge.
3. Mr. Amir Nazir, District & Sessions Judge.
4. Mr. Ashfaque Taj, District & Sessions Judge.
5. Mr. Kashif Nadeem, Additional District & Sessions Judge.

Justification

- District Judiciary is the arm and hands of the High Court.
- Stronger the arms will be able to shoulder more weight.
- Judicial Secretariat is a step forward towards the achievement of this goal; vision of the Hon'ble the Chief Justice.

Concept

- The vision of Hon'ble the Chief Justice is that an independent secretariat be brought about, where all deficiencies and shortcomings preceding in term and order faced by judicial officers of District Judiciary with regard to their grievances from the office be removed as personal likes and dislikes remained the main factors in deciding the fate of Judicial Officers. Hon'ble the Chief Justice has also expressed a desire that a secretariat should be the place where the only principle of equivalence and merit would prevail.
- The thematic group No. 7 have made deliberations on the secretariat and all were in utter consonance with proposals floated in part IV of the Khyber Pakhtunkhwa Judicial Services Rules 2001 (substituted).
- In addition to above It is also proposed that in section 12, of the substituted Rules, 2001 above composition of District Judiciary at serial No-6 the house/general assembly need to be added.

Definition

- As per definition derived from Wikipedia "Wiktionary dictionary" Secretariat means secretariat of an organization is the department that fulfils its central administrative or general/secretary duties. The team is especially associated with governments and inter-governmental organizations. The building or office complex that houses such a department may also be referred to as its secretariat or secretariat building.
- In some cases, the secretariat is not a bureaucratic organ, but one which includes a certain organization run by all its members who collectively help to organize the larger group.

OVERSIGHT

Policy and strategic Management team:

Team sets policy and strategic direction and could include;

- ❖ Honorable Chief Justice,
- ❖ The Administration Committee,
- ❖ Senior Puisne Judge,
- ❖ Registrar,
- ❖ Prothonotary.
- ❖ House/General Assembly

House/General Assembly

- Since a secretariat is an organization run by all so it is suggested that all the District & Sessions Judges by virtue of their posts be made members of the general assembly. Twice in a year the meeting of the house be conducted in which all the issues reflected in section 13 of proposed Judicial rules 2001 (substituted) of secretariat with regard to policy decisions will be placed before the House and after approval with simple majority be placed before Board of Management and finally before Hon'ble the Chief Justice and Hon'ble Administration Committee.
(Rules are appendix No-1)

Appendix No-1

Rule for house/General assembly

- All the District and Sessions Judges by virtue of their post would be member of the house/general assembly.
- All policies decisions should be made by way of simple majority.
- In case it is not convenient to call all the District and Sessions Judges then the minimum quorum for passing any policy decision should be ten District and Sessions Judges.
- Twice in a year the meeting of the house would be called. Hon'ble the Chief Justice and administration committee could call a meeting of the General assembly at any time. The house/general assembly will provide support to chief justice and administration committee in the following matters:
- Recruitment of judicial officers;
- Capacity development of Judicial Officers by specifying different compulsory and optional trainings;
- Promotion, Transfers, Postings and all matters relating to terms & conditions of service of judicial officers;
- Disciplinary proceedings against Judicial officers;
- Litigation of all matters concerning District Judiciary;
- Evaluating the performance of all judicial officers and their career planning;
- Developing criteria for evaluation of judicial officers.
- Setting performance standards for judicial officers.
- All complaints regarding District Judiciary.
- Maintaining all record of the secretariat pertaining to District Judiciary.
- Maintaining an efficiency index of performance of judicial officers.
- Inspection of District Judiciary;
- All budgetary and fiscal matters of District Judiciary through prothonotary who shall be principal accounting officer for voted budget of district Judiciary under the overall control of the Chief Justice and Administration committee;
- All supervision & control of District Judiciary by the High Court.
- All infrastructural development of District Judiciary.
- Forwarding of all policy proposals regarding District Judiciary to the chief Justice or Administration Committee.
- The decision passed with simply majority by the general assembly would be placed before board of management and finally before the hon'ble chief justice and honorable committee for approval.

STRUCTURE AND WORKING

S#	Department	Head	Wings	Head of Wings
I	Establishment	Establishment Officer (EO)	Administration	Administration Officer (AO)
			HR	HR Officer (HRO)
			Legal Drafting & Litigation	Legal Drafting & Litigation Officer (LD&LO)
II	Monitoring and Evaluation Department (MED)	Monitoring and Evaluation Officer (MEO)	Monitoring	Monitoring Officer (MO)
			Evaluation	Evaluation Officer (EO)
			Transparency (Eradication of Corruption)	Transparency Officer (TO)
III.	Finance and Welfare Department	Finance and Welfare Officer (FWO)	ICT	ICT Officer (ICTO)
			Finance	Finance Officer (FO)
			Welfare	Welfare Officer (WO)
IV.	Planning and Developmental Department (PDD)	Planning and Developmental Officer (PDO)	Planning	Planning Officer (PO)
			Development	Development Officer (DO)

Presentation by: Mr. Ashfaque Taj, District & Sessions Judge, Torghar at Oghi.

CONCLUSION

The idea of proposed secretariat has discussed at each level in KP Judiciary. All the stakeholders are been involved in the matter. Threadbare sessions and intellectual discourse is regularly taking place with one objective that is to make future of district judiciary bright and encourage merit at all the levels. The group no 7 touched upon part of the proposal in question. The group has also proposed rules for the General Assembly and likely structure and working. All the proposals will be taken up for consideration by the competent authority if consensus is developed by all the stakeholders by it.

Proposal Outlines

- 1. Judicial Secretariat is a step forward.**
- 2. In section 12 of the substituted rules, 2001 at serial number 6 the house/general assembly needs to be added.**
- 3. Strategic Management team.**
- 4. Structure and Working**

Views of the High Court

The only consideration before this court is the improvement of the institution and enhance the capacity of its members. Needless to add, that it is the vision of this court that only on merit, continuous hard work, dedication, competence and honest judicial officers should be encouraged. For these specific purpose strategy is been chalked out with active consultation with all stakeholders. The establishment of the proposed secretariat is part of such strategy. All the details mentioned in the proposal in question will be taken into consideration by the competent authority if unanimously approved by all stakeholder.

ANNEXURES

LIST OF PARTICIPANTS.

1. Mrs. Zarkaish Sani, DSJ
2. Mr. Nasrullah Khan Gandapur, DSJ
3. Mr. Muhammad Rauf Khan, DSJ
4. Mr. Aurangzeb Khattak, DSJ
5. Mr. Ihteshamul Haq Danishmand, ADSJ (A.R Bannu Bench)
6. Mr. Ishtiaq Ahmad, DSJ
7. Mr. M. Tariq Yousafzai, DSJ
8. Mr. Muhammad Adil Khan, DSJ
9. Mr. Ikhtiar Khan, DSJ
10. Mr. Salahuddin, DSJ
11. Mrs. Muneera Abbasi, DSJ
12. Mr. Azhar Khan, DSJ
13. Syed Asghar Ali Shah, DSJ
14. Mr. Muhammad Zubair Khan, DSJ
15. Mrs. Sofia Waqar, DSJ
16. Mr. Aamer Nazir Bhatti, DSJ
17. Mr. Inamullah Wazir, ADSJ (AR DI KHAN Bench)
18. Mr. Muhammad Younas, DSJ
19. Mr. Shafiq Ahmad Tanoli, DSJ
20. Mr. Abdul Ghafoor Qureshi, DSJ
21. Mr. Muhammad Zafar, DSJ
22. Mr. Muhammad Aamir Nazir , DSJ
23. Mr. Muhammad Azim Khan Afridi, DSJ
24. Mr. Naveed Ahmad Khan, DSJ
25. Mr. Gohar Rehman, DSJ
26. Mr. Muhammad Zeb Khan, DSJ
27. Mr. Haq Nawaz, ADSJ (AR Abbottabad Bench)

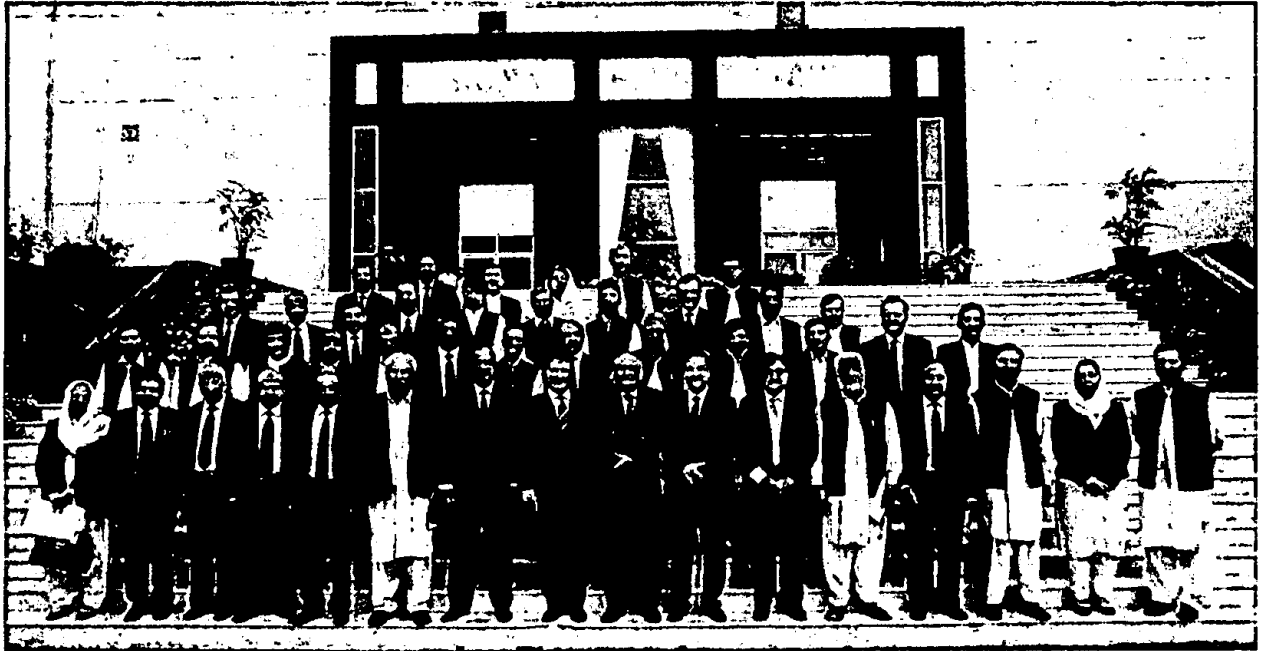
28. Mr. Anwar Ali Khan, DSJ
29. Mr. Zafar Iqbal Khan, DSJ
30. Mr. Shoaib Khan, DSJ
31. Mr. Ahmad Sultan Tareen, DSJ
32. Mr. Muzzamil Shah Khattak, DSJ
33. Mr. Muhammad Asif-II, DSJ
34. Mr. Hayat Ali Shah, DSJ
35. Mr. Subhan Sher, DSJ
36. Mr. Niaz Muhammad Khan, DSJ
37. Mr. Ashfaque Taj, DSJ
38. Mr. Kashif Nadeem, ADSJ(AR Mingora Bench)

Facilitators

1. Mr. Muhamad Masood Khan, DG KPJA
2. Mr. Pir Baksh Shah, Incharge NJPIC, PHC
3. Mr. Zakaullah Khattak, AR (Admn.), PHC
4. Mr. Khurshid Iqbal, Legal Draftsman
5. Mr. Lal Shad, Director IT, PHC
6. Mr. Roohul Amin, AR (Judicial), PHC
7. Syed Anees Badshah Bukhari, Officer on Special Assignment, PHC

GROUP PHOTO

**FIRST EVER DISTRICT & SESSIONS JUDGES CONFERENCE HELD
ON 28TH APRIL, 2017 AT PESHAWAR HIGH COURT, PESHAWAR**



Group Photo of Hon'ble the Chief Justice with members of District Judiciary Khyber Pakhtunkhwa & Administration of High Court

GROUP FORMATION

SCHEDULE OF ACTIVITIES



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

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No. _____ /Admn

Dated Peshawar the _____

All the District & Sessions Judges/Zila Qujis,
In Khyber Pakhtunkhwa

Sub: - **FIRST DISTRICT & SESSIONS JUDGES CONFERENCE**

Dear Sir,

In continuation of letter No.7293-7317/Admn dated 19.04.2017, on the subject Detailed agenda and formation of breakaway groups is attached for information and necessary preparation. Revised schedule is also enclosed.

Sincerely yours,

(Muhammad Salim Khan)
PAS

Registrar

Encl: No. 7620-41 /Admn

Dated Peshawar the 26-4-17

Copy alongwith enclosure is forwarded to the following District & Sessions Judges on Ex-Cadre posts for similar action as referred to above:-

1. Mr. Hayat Ali Shah, Judge, Special Eminent Court, Peshawar
2. Mr. Iftikhar Ahmad, Judge, Accountability Court, Peshawar
3. Mr. Pir Bakhtab Shah, Incharge, NUPIC, Peshawar High Court, Peshawar.
4. Mr. Za'ar Iqbal Khan, Judge, Anti-Terrorism Court, Swat
5. Mr. Zakirullah Khattak, Additional Registrar (Admn), Peshawar High Court, Peshawar
6. Mr. Muhammad Masood Khan, Director General, KP Judicial Academy, Peshawar
7. Mr. Tariq Younsafzal, Judge, Anti-Terrorism Court, Peshawar
8. Mr. Khurshid Iqbal, Legal Draftsman, Peshawar High Court, Peshawar.
9. Syed Anous Badshah Bakhari, Officer on Special Assignment, Peshawar High Court, Peshawar
10. Mr. Abdul Ghaffoor Qureshi, Judge, Consumer Court, Mardan
11. Mr. Muhammad Asim Nazzir, Judge, Consumer Court, D.I.Khan
12. Mr. Muhammad Azim Khan, Chairman, Khyber Pakhtunkhwa Service Tribunal, Peshawar
13. Mr. Azhar Khan, Presiding Officer, Labour Court, Haripur
14. Mr. Shoaib Khan, Judge, Customs, Taxation and Anti-Smuggling Court, Peshawar
15. Mr. Roshid Amin, Additional Registrar (Jud), Peshawar High Court, Peshawar.
16. Mr. Haq Nawaz Khan, Additional Registrar, Abbottabad Bench
17. Mr. Isma'illah Wazir, Additional Registrar, D.I.Khan Bench
18. Mr. Kasim Nadeem, Additional Registrar, Mingora Bench
19. Mr. Umeraiz Haq Danishmand Khan, Additional Registrar, Bannu Bench.
20. The PSO to Hon'ble Chief Justice for placing the same before Hon'ble the Chief Justice for information.
21. Mr. Lal Shad, Director, IT, Peshawar High Court, Peshawar, to make available the IT officials on the date/time.
22. The Private Secretaries to Hon'ble Judges-I, III and IV for placing the same before Hon'ble Judges for information.

(Muhammad Salim Khan)
PAS

Registrar

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DISTRICT & SESSIONS JUDGES CONFERENCE APRIL 28TH 2017**BREAKAWAY SESSION**

Thematic area	Capacity Building	Causes of Delay	Shortage of Staff/vacant post	Improving Coordination	Use of technology in Justice System	Service of Summons & execution of warrants	District Judiciary Secretariat
	1	2	3	4	5	6	7
Participants	i. M.s. Zarqash Sani ii. Mr. Nasrullah Khan Gandapur iii. Mr. Muhammad Rauf Khan iv. Mr. Aurangzeb Khattak v. Mr. Ftishamul Haq Danishmand	i. Mr. Ishfaq Ahmad ii. Mr. M. Tariq Yousafzai iii. Mr. Muhammad Adil Khan iv. Mr. Ikhtiar Khan v. Mr. Salahuddin vi. Mrs. Muneera Abbasi	i. Mr. Azhar Khan ii. Syed Asghar Af Shah iii. Mr. Muhammad Zubair Khan iv. Mrs. Sofia Waqar v. Mr. Aamer Nazir Bhatti vi. Mr. Inamullah Wazir	i. Mr. Muhammad Younas ii. Mr. Shafiq Ahmad Tanoli iii. Mr. Abdul Ghafoor Qureshi iv. Mr. Muhammad Zafar v. Mr. Muhammad Aamir Nazir	i. Mr. Muhammad Azim Khan Afridi ii. Mr. Naveed Ahmad Khan iii. Mr. Gohar Rehman iv. Mr. Muhammad Zeb Khan v. Mr. Haq Nawaz	i. Mr. Anwar Ali Khan ii. Mr. Zafar Iqbal Khan iii. Mr. Shoab Khan iv. Mr. Ahmad Sultan Tareen v. Mr. Muzzamil Shah Khattak vi. Mr. Muhammad Asif-II	i. Mr. Hayat Ali Shah ii. Mr. Subhan Sher iii. Mr. Niaz Muhammad Khan iv. Mr. Ashfaq Taj v. Mr. Kashif Nadeem
Facilitators	Mr. Muhammad Masood Khan	Mr. Pir Bakhs Shah	Mr. Zakauilah Khattak	Mr. Khurshid Iqbal	Mr. Lal Shah	Mr. Rookul Amin	Syed Anees Badshah Bukhari
IT Support	Mr. Wisal Muhammad	Mr. Kamran Bashir	Mr. Inamullah Jan	Mr. Zaheenullah	Mr. Maqbool Khan	Mr. Waqas Mehfooz	Syed Ali Shah

DISTRICT & SESSIONS JUDGES CONFERENCE
FRIDAY 28TH APRIL, 2017

A. <u>Plenary Session</u>			
i.	Registration & Settling down	10 minutes	09:00 a.m.
ii.	Recitation from the Holy Quran	10 minutes	09:10 a.m.
iii.	Discourse by the Hon'ble Chief Justice/Interactive Session	40 minutes	09:20 a.m.
iv.	Event's Introduction by Registrar Chaired by (Justice Waqar Ahmad Seth) Hon'ble Senior Puisne Judge	30 minutes	10.00 a.m.
Tea Break			10:30 -11:00
v.	Group work/breakaway Session	90 minutes	11:00 a.m.
vi.	Lunch/Prayer break	90 minutes	12:30 p.m.
B. <u>Working Sessions (Post-Lunch Session)</u>			
	Co-Chair a) Justice Roohul Amin Khan b) Justice Syed Afsar Shah		
vii.	Group Presentations (Six Groups) (15 minutes Presentation followed by 10 minutes Questions & Answers)	150 minutes	1405 hrs
viii.	Concluding remarks by the Chief Justice		1635 hrs
ix.	Conclusion		1645 hrs



The
PESHAWAR HIGH COURT
Peshawar

K.P.J.A. Academy, Pesh
Dist. No. 13.8 K.P.J.A.
Dated 20/04/2017

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phcph@gmail.com

No. _____ /Admn

Dated Peshawar the _____

All the District & Sessions Judges/Zilla Qazis,
In Khyber Pakhtunkhwa

Sub: -

FIRST DISTRICT & SESSIONS JUDGES CONFERENCE

Dear Sir,

In continuation of this office's letter No. 5047-5071/Admn dated 20.03.2017, on the subject. The Competent Authority has been pleased to convene the Conference on Friday 28th April, 2017 at Peshawar High Court. Attached herewith is the detail of the event. Other details will follow.

You are requested to attend the Conference.

Sincerely yours,

(Muhammad Salim Khan)
PAS

Registrar

Endst: No. 731842 /Admn

Dated Peshawar the 19-4-17

Copy alongwith enclosur is forwarded to the following District & Sessions Judges on Ex-Cadre posts with the request to attend the subject Conference from Session beginning at 10.00 a.m.:-

1. Mr. Hayat Ali Shah, Judge, Special Ehtesab Court, Peshawar
2. Mr. Zafar Iqbal Khan, Judge, Anti-Terrorism Court, Swat
3. Mr. Tariq Yousafzai, Judge, Anti-Terrorism Court, Peshawar
4. Mr. Ishtiaq Ahmad, Judge, Accountability Court, Peshawar
5. Mr. Abdul Ghafoor Qureshi, Judge, Consumer Court, Mardan
6. Mr. Muhammad Aamir Nazir, Judge, Consumer Court, D.I.Khan
7. Mr. Muhammad Azim Khan, Chairman, Khyber Pakhtunkhwa Service Tribunal, Peshawar
8. Mr. Azhar Khan, Presiding Officer, Labour Court, Haripur
9. Mr. Shoaib Khan, Judge, Customs, Taxation and Anti-Smuggling Court, Peshawar
10. Mr. Haq Navaz Khan, Additional Registrar, Abbottabad Bench
11. Mr. Inamullah Wazir, Additional Registrar, D.I.Khan Bench
12. Mr. Kashif Nadeem, Additional Registrar, Mingora Bench
13. Mr. Ihteshamul Haq Danishmand Khan, Additional Registrar, Bannu Bench.

(Muhammad Salim Khan)
PAS

Registrar

The following are requested to attend the entire Conference:-

14. Mr. Muhammad Masood Khan, Director General, KP Judicial Academy, Peshawar.
15. Mr. Sharif Ahmad, Member Inspection Team, Peshawar High Court, Peshawar.
16. Mr. Khurshid Iqbal, Legal Draftsman, Peshawar High Court, Peshawar.
17. Syed Anees Badshah Bukhari, Officer on Special Assignment, Peshawar High Court, Peshawar.
18. Mr. Roshni Amin, Additional Registrar (Judl), Peshawar High Court, Peshawar.
19. The PSO to Hon'ble Chief Justice for placing the same before Hon'ble the Chief Justice for information.
20. The Private Secretaries to Hon'ble Judges-I, III and IV for placing the same before Hon'ble Judges for information.

(Muhammad Salim Khan)