



Khyber Pakhtunkhwa Judicial Academy

REPORT

Online Training for newly promoted Senior Civil Judges

5th October – 2nd November, 2020



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1.0 Introduction

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

1.2 Hon'ble the Peshawar High Court Peshawar by the Notification No. P(a)31-A/94-J dated 24th April, 2020 promoted 26 Civil Judges to the post of Senior Civil Judge. Notification of the Hon'ble Peshawar High Court, Peshawar No.5-J dated 20th December, 2003 prescribes 03 week mandatory training for Senior Civil Judges. Further Hon'ble Peshawar High Court, Peshawar directed the Academy vide Letter No. 21815/SDJ/PHC/HRW/06-V.I-2019 dated 11.11.2019 to devise training module for Senior Civil Judges. Similarly the Audit Report was shared with the Academy in pressing upon the necessity of holding training for Senior Civil Judges. With this end in view, the Academy arranged one month online training for newly promoted Senior Civil Judges.

2.0 Purpose of the report

2.1 This report aims to assess the quality and impact of the training delivered from 5th October to 2nd November, 2020.

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

3.0 Concept Paper

3.1 Introduction:

3.1.1 The idea that the judiciary is to rely solely on a culture of personal development is out-dated. Training is now considered imperative in all jurisdictions (both common and civil law countries). Again the emphasis on it has increased with people's expectations of quality in service delivery, media attention, and the dynamic new issues of the modern era.

3.1.2 Mandatory training has its own significance for enhancing professionalism. For senior civil judges, the need for such training is even more profound. Judicial officers face new human resource and financial management challenges. Their liaison skills are tried in seeking synthesis between the bench and the bar, the judiciary and the district administration, and between the judges themselves. Their vigilance and monitoring of the process serving agency guarantee that problems in service of summons, described as one of the most important causes of delay in the due progress of cases, are checked.

3.1.3 It is necessary to mention that recent experiences have shown that serious consequences are bound to arise if training is not imparted. Directions and the contents of the letter # 2/815/SDJ/PHC/HRW/06-V.1-2019 dated 11-11-2019 from Hon'ble the High Court are its clear manifestations. Further, an audit report was shared with the Academy which contains besides others the following observations (reproduced verbatim);

- a) Non-compliance of High Court rules and orders (HCR &OS relating to Part A_C of Chapter 8 of Volume 11
- b) Non-compliance of HCR &Os regarding sheriff petty account (Part-D of chapter 8 of volume 11),is increasing agonies of the litigants, resulting into lack of trust in the formal justice system
- c) Non-compliance of certain rules and orders under Civil Court deposit Accounts(Part E of chapter 8 of volume 11)
- d) The budgetary process of district court which is an important element of strategic planning needs proper oversight and revamping
- e) Manual mode of recording accounting transactions and lack of automation is an area which needs management attention and consideration
- f) Payroll and related allowances which is more than 80 percent of the annual budget of the district court lacks complete record for the sake of analysis and decision making purposes
- g) Proper and regular maintenance of bank statements and bank reconciliation is not followed by district courts
- h) Lack of training and capacity building particularly of newly hired and promoted staff is leading to inefficiencies and ineffectiveness.

3.2 Legal Mandate:

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

3.2.2 Specific to mandatory training, Rule 9(4) of Khyber Pakhtunkhwa Judicial service, provides;

"No person shall be confirmed in the service unless he/she successfully completes such training and passes such departmental examination as may be prescribed by the High Court from time to time. Further, the notification of Peshawar high court dated... prescribes three-week mandatory training for senior civil judges.

3.3 Content:

3.3.1 Training curriculum, it is said, "should ideally respond to concrete problems, be based on need assessment, have specific objectives, and be subject to periodic evaluation".

3.3.2 A series of training sessions for senior civil judges were held in 2015. Their input as participants was the basis for the preparation of modules. These modules have been considered for the current training. In addition, the audit report recently shared with the Academy has been taken into account. Another addition to the modules is awareness-raising of recruitment procedures. It is necessary on the one hand to equip the senior civil judges with the ability to make suitable choices for the different posts and on the other hand to avoid technical pitfalls. Last but not the least webinar is arranged on the subject of crisis management skills in the wake of recent pandemic.

3.3.3 Detailed representation of the modules is as under;

Module	Focus on	Suggested Readings
Module # 01: Financial Management-01	<ul style="list-style-type: none">• General Financial Rules (F.R and S.R)• General responsibilities of DDO	<ul style="list-style-type: none">• General Financial Rules• Fundamental Rules• Supplementary Rules• High Court Rules &

Module	Focus on	Suggested Readings
	<ul style="list-style-type: none"> • Receipts & Payment of public money • Sanctioning of expenditure • Service Books • Computerized Payroll (SAP) • Preparation and submission of claims • Procurements • TA • Pay • Leave rules • Bookkeeping • Audit 	<p>Orders</p> <ul style="list-style-type: none"> • Account Code • Civil Account Code • Judicial EstaCode • Audit Manual • DDO Handbook
<p><u>Module # 01:</u> Financial Management-02</p>	<ul style="list-style-type: none"> • Functions of DDO relating to Budget • Budget Classification • Budgetary process • Estimates of Receipts • Estimates of current expenditure • Statement of New Expenditure • Expenditure Management • Receipts Management • Recording of Disbursements by DDO • Reconciliation of Expenditures • Expenditure Statement • Re-appropriation of funds • Revised Estimates and Supplementary Grants 	<ul style="list-style-type: none"> • General Financial Rules • Fundamental Rules • Supplementary Rules • High Court Rules & Orders • Account Code • Civil Account Code • Judicial EstaCode • Audit Manual • DDO Handbook
<p><u>Module # 03:</u> Financial Management-03</p>	<ul style="list-style-type: none"> • The Public Procurement Framework • Public Procurement Guiding Principles and Objectives • The Tenders Committee • Procurement Planning • Procurement of Goods, 	<ul style="list-style-type: none"> • Handbook of Public Procurement Law • Pakistan Procurement code • Practical Guide to Public Procurement: Abby Semple • Public Procurement and

Module	Focus on	Suggested Readings
	Works, and Services <ul style="list-style-type: none"> • Contract Administration and Monitoring • Understanding the Tendering Process • Preparing and Submitting tenders • Contract Award and Beyond 	Contract Administration: A brief introduction: Jorge A. Lynch <ul style="list-style-type: none"> • Excellence in Public Sector Procurement: Stuart Emmette
Module # 04: Financial Management-04	<ul style="list-style-type: none"> • Civil Court Deposits • Sheriff Petty Account 	<ul style="list-style-type: none"> • High Court Rules and Orders • GFR • Judicial Estacode • Accounting for non-Accountants: Wayne A. Label
Module # 05: Study of Office Procedures	<ul style="list-style-type: none"> • Maintenance and Destruction of the administrative record 	<ul style="list-style-type: none"> • High Court Rules and Orders • Judicial Estacode • Secretariat Instructions • Punjab District Manual • KP Estacode
Module # 06: Supervision of Investigation: Role of Magistrates	<ul style="list-style-type: none"> • Confessional Statements • Inquiry into suicidal/custodial deaths • Identification Parades • Exhumations • Case property • Post arrest transitory bail • The criminal justice coordination committee • Juvenile Justice Committee • Suggested Readings • Criminal Procedure code • Police Rules • Police order 	<ul style="list-style-type: none"> • Criminal Procedre Code by ShoukatMehmood • Criminal procedure Code by M.Mehmood • Criminal Practise by Sheikh Abdul Haleem • Police Diaries,Statements and Investigation by V.Mitter • High Court Rules and Orders • Law of Evidence by Justice Muneer • Treatise on the law of Evidence: Henry Wigmore • Law of evidence by Justice Tanzeelurehman
Module # 07: Succession Certificates:	<ul style="list-style-type: none"> • Procedure &Scope of succession certificates 	<ul style="list-style-type: none"> • Indian Law commission report on the Succession

Module	Focus on	Suggested Readings
Practise and Procedure	<ul style="list-style-type: none"> • Procedure & Scope of letter of administration 	<ul style="list-style-type: none"> • Act • Sucession Act by M.Mehmood • Islamic law of inheritance by Hamid Khan • Hidaya • Muhammadan law by Ameer Ali • High Court Rules And Orders
<u>Module # 08:</u> Guardian and Wards Act	<ul style="list-style-type: none"> • Requirements of a legal guardian • procedure • Guardian of person and property • Utilization of property for benefit of wards 	<ul style="list-style-type: none"> • Hidaya • Muhammadan law by Ameer Ali • Muhammadan Law by Ameer Ali • High Court Rules and Orders • Guradian and wards Act by M. Mehmood
<u>Module # 09:</u> General Management	<ul style="list-style-type: none"> • Effective communication • Correspondence • Meetings • Report writing • Liaison • Accounts 	<ul style="list-style-type: none"> • Managing By Henry Mintzberg • The Effective Executive by Peter Drucker • Out of the Crisis by Edward Demming • How to Say It: Choice Words, Phrases, Sentences, and Paragraphs for Every Situation by Rosalie Maggio • High Court rules and Orders
<u>Module # 10:</u> Service Laws	<ul style="list-style-type: none"> • Maintenance of PERS • Inquiry Procedures 	<ul style="list-style-type: none"> •
<u>Module # 11:</u> Court Staff Recruitments Rules	<ul style="list-style-type: none"> • Common mistakes in the recruitment process • Overcoming challenges in the recruitment process 	<ul style="list-style-type: none"> • Judicial EstaCode • KP Estacode • APT Rules

Module	Focus on	Suggested Readings
Module # 12: Management of Process serving Agency	<ul style="list-style-type: none"> Controlling officers 	<ul style="list-style-type: none"> Types of processes Different modes of service Effective and proper service Duties of civil nazir/naibnazir/bailiff/process servers Surveillance of process servers Appointment of process servers Working Strength of process serving Agency The scale of process fee Police assistance in the execution of warrants Processes in criminal cases modern modes of processes Registers

3.4 Resource Persons

3.4.1 In selection of resource persons care has been taken not to engage trial court judges as resource persons so that the performance year observed by hon'ble the high court is not affected. However this is not at the altar of expertise. All the resource persons are experts of their respective subjects on which they have been giving discourses ever since the establishment of the Academy. Again all officers of the Academy as resource persons will be striving their best to make it a meaningful training session.

3.5 Methodology

3.5.1 The methodology of training shall be essentially lecture-cum-participatory. Particular focus will be on experiential learning. Participants will be encouraged to give short presentations and some assignments will be given to improve their conceptual clarity. The training evaluation will be duly recorded and will provide the basis for improvement of the modules and lectures effectiveness.

3.6 Objectives

3.6.1 Specific training targets are;

1. Clear understanding of the financial rules that apply both GFR and judicial accounts.
2. Good understanding of the principles of recruitment.
3. Improving understanding of disciplinary procedures and PER for better management of human resources.
4. Impressing the importance of maintaining proper administrative records.
5. Refining the Liaison skills for effective interpersonal managerial role.

4.0 Participants

4.1 Participants of the training were the newly promoted Senior Civil Judges. Table below, describes in detail, the names of participants.

S. #	Name	Designation	Place of Posting
1	Mr. Muhammad Jamshed	Senior Civil Judge	Haripur
2	Mr. Abdul Salam Khan	Senior Civil Judge	Swat
3	Mr. Bakhtzada	Senior Civil Judge	Bannu
4	Syeda Tehreema Sabahat	Senior Civil Judge	PHC
5	Mr. Muhammad Jamil Khan	Senior Civil Judge	Bannu
6	Mr. Nadeem Akhtar	Senior Civil Judge	Upper Chitral
7	Mr. Asif Kamal	Senior Civil Judge	Chitral
8	Mr. Sheraz Tariq	Senior Civil Judge	Shangla
9	Mr. Khalid Anwar	Senior Civil Judge	Mansehra
10	Mr. Ishfaq Ahmad	Senior Civil Judge	Haripur
11	Mr. Muhammad Rehan Samad	Senior Civil Judge	Mansehra
12	Miss Tania Hashmi	Senior Civil Judge	Swabi
13	Mr. Shakeel Arshad	Senior Civil Judge	Mohmand
14	Mr. Hamid Kamal	Senior Civil Judge	Swat

15	Syed Mansoor Shah Bukhari	Senior Civil Judge	Tor Ghar
16	Mr. Shahzad Ali Khan	Senior Civil Judge	Battagram
17	Ms Beenish Ismail Syed	Senior Civil Judge	Kohat
18	Miss Nighat Bibi	Senior Civil Judge	Lakki
19	Mr. Seemab Waheed Siddiqui	Senior Civil Judge	Buner
20	Mr. Farman Ullah	Senior Civil Judge	Orakzai
21	Mr. Muhammad Shoaib	Senior Civil Judge	Mardan
22	Mr. Attaullah	Senior Civil Judge	Upper Dir
23	Miss Marya Wajahat	Senior Civil Judge	PHC
24	Mr. Mohsin Abbas	Senior Civil Judge	Lower Kohistan
25	Miss Nadia Gul Wazir	Senior Civil Judge	Buner
26	Mr. Imran Ullah	Senior Civil Judge	S.Waziristan

5.0 Resource Persons

5.1 Mr. Abdullah, Former Chief Secretary, Kyber Pakhtunkhwa, shared his knowledge and experience. Besides, Mr. Muhammad Zeb Khan, PSO to Hon;ble the Chief Justice, Peshawar High Court, Peshawar, Mr. Ahmed Sultan Tareen, Member Inspection Team (MIT), Peshawar High Court, Peshawar, Mr. Zia-ur-Rehman, Legal Draftsman, Peshawar High Court, Peshawar, Mr. Zaeem Ahmed, Director Human Resource & Welfare, Secretariat of District Judiciary, Peshawar High Court, Peshawar, gave an intensive discourse on different subjects. The officers of the Academy also shared their valuable experience.

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

S.#	Activities	Resource Person	Date & Duration
1	Human Resource Mobilization in the Public Sector	Mr. Abdullah, Former Chief Secretary, KP	October 05, 2020 01:45 - 03:15 PM
2	Senior Civil Judge: Incharge Process Serving Agency	Mr. Ahmed Sultan Tareen, MIT, PHC	October 06, 2020 01:30 - 03:00 PM
3	Planning and Development	Mr. Ashfaque Taj, (D&SJ)/ Senior Director Admin, KPJA	October 07, 2020 01:30 - 03:00 PM
4	Service Laws: Disciplinary Proceedings	Mr. Ahmed Sultan Tareen, MIT, PHC	October 10, 2020 01:30 - 03:00 PM
5	Procurement: Conceptual Framework	Mr. Waqar, Ahmed Manager P&D IM Sciences	October 12, 2020 01:30 - 03:00 PM
6	Procurement: Practical Exercises	Mr. Waqar, Ahmed Manager P&D IM Sciences	October 13, 2020 01:30 - 03:00 PM
7	Islamic Law of Inheritance	Mr. Hafiz Waqas, Research Officer IIU, Islamabad	October 14, 2020 01:30 - 03:00 PM
8	Succession Law: Practice & Procedure	Mr. Ghulam Abbas, SDR&P, KPJA	October 15, 2020 01:30 - 03:00 PM
9	The role of Senior Civil Judge in Committees (Session-1) <ol style="list-style-type: none"> Criminal Justice Coordination Committee Juvenile Justice Committee <p style="text-align: center;">&</p> The role of Senior Civil Judge in Committees (Session-2) <ol style="list-style-type: none"> Bench-Bar Liaison Committee District Legal Empowerment Committee Committee for Digitization & Scanning of Record 	Mr. Muhammad Zeb Khan, PSO to HCJ, PHC	October 19, 2020 01:30 - 02:30 PM 02:30-03:30 PM
10	General Financial Rules-I <ul style="list-style-type: none"> General responsibilities of DDO Receipts & Payment of public money Supervising expenditure Service Books 	Mr. Abdus Siddique, Advisor Financial Management, KP Revenue Authority	October 20, 2020 01:30 - 03:00 PM

	<ul style="list-style-type: none"> • Computerized Payroll (SAP) • Submission of Claims 		
11	General Financial Rules-II <ul style="list-style-type: none"> • TA • Pay • Leave rules • Book keeping • Audit 	Mr. Abdus Siddique, Advisor Financial Management, KP Revenue Authority	October 21, 2020 01:30 - 03:00 PM
12	Internal Audit	Mr. Muhammad Fahim, Former Accountant General KP	October 22, 2020 01:30 - 03:00 PM
13	Office Procedure	Mr. Zaeem Ahmed, Director HRW, PHC	October 23, 2020 01:30 - 03:00 PM
14	Budget Management	Mr. Sadiq Shah, Budget Officer, PHC	October 24, 2020 01:30 - 03:00 PM
15	Senior Civil Judge as Manager: Experience Sharing	Syed Kamal Hussain Shah, Dean Faculty, KPJA	October 26, 2020 01:30 - 03:00 PM
16	Service Laws: Appointment by Initial Service Laws: Appointment by Promotion Recruitment	Mr. Zia-ur-Rehman, (D&SJ)/ Legal Draftsman, PHC	October 27, 2020 01:30 - 03:00 PM 03:00 – 04:30 PM
17	Guardian & Ward Act	Mr. Ghulam Abbas, SDR&P, KPJA	October 28, 2020 01:30 - 03:00 PM
18	Judicial Accounts	Mr. Ahmed Iftikhar, Director Instructions, KPJA	October 29, 2020 01:30 - 03:00 PM

6.0 Proceedings

6.1 Mr. Abdullah delivered the lecture on Human Resource Mobilization in the Public Sector. He introduced the participants in the beginning to some important books bearing on the subject, Emotional Intelligence by Daniel Goleman, Social Intelligence by Daniel Goleman, Ecological Intelligence by Daniel Goleman, Working with Emotional Intelligence by Daniel Goleman And Ideas by Peter Watson. He then conducted an exercise in introspection

by asking the participants to classify themselves as trainees into Eager Beavers, Vacationers, and Prisoners.

6.2 The speaker formally began his lecture with an emphasis on the error in the statement that, "Honesty is the Best Policy", and opined that honesty should not be a matter of policy. Further, he described the life values emanating from Socrates views as follows;

- To Hear Courteously,
- To Answer Wisely,
- To Consider Soberly, and
- To Decide Impartially.

6.3 The speaker explained different kinds of resources and said that human capital is a new concept. He referred to the essentials of good governance from the World Bank Study and the seven principles of public life from the Nolan committee on standards in public life (CSPL, 1994).

6.4 The resource person believed that most strategic development is Human Resource Development and that its essential components are knowledge, skills, and attitude. He discussed the distinctions between the administrator and the leader, the courts of law and the courts of justice, the notion of justice and he finally emphasized the participants to have a clear vision for the future.

6.5 Mr. Ahmed Sultan Tareen delivered the lecture on Service Laws: disciplinary proceedings. He held an interactive session in the questions and answers format. Following are the details:

Question	Answer
What are the different stages from the filing of the complaint to the inquiry?	First, the competent authority passes an order whether the allegations in the complaint constitute a prima facie case or not. If allegations so constitute a case against the accused, competent authority frames the charge, the statement of the

	allegations, and appoints an inquiry officer and departmental representative.
Can a composite order of charge-sheet, statement of allegations, appointment of inquiry officer, and departmental representative be passed?	Yes.
What is the difference between the charge-sheet and the statement of allegations?	Charge-sheet is a definite or specific allegation, and the statement of the allegations provide the details of the allegations very much like the details contained in the F.I.R and the investigation reports in criminal cases.
What is the difference between formal inquiry and fact-finding inquiry?	Fact-finding inquiry precedes the formal inquiry, and its objective is to clarify the ambiguities relating to the allegations leveled in the complaint.
What is a discreet inquiry? Can it be made the basis of a formal inquiry?	Discreet inquiry can be the basis of formal inquiry if it is converted into a fact-finding inquiry, and the accused is also informed of the facts constituting the allegations.
What is the nature of inquiry proceedings? Are they inquisitorial or adversarial?	As evident from its word, the inquiry proceedings are inquisitorial.
If an inquiry is on the subjective assessment and penalty is imposed, would it not violate due process?	Inquiry proceedings are objective and not subjective.
If the Presiding Officer conducting inquiry gets transferred what is the proper procedure to be observed?	The inquiry officer should send the file to the competent authority for the appointment of another officer.
Can the departmental representative cross-examine the accused witness?	Yes, he can. His role is that of the prosecutor.

Can the competent authority convert the findings of the inquiry officer without making an order of remand or another trial?	No. He is not competent do so as per the E&D Rules.
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6.6 Mr. Waqar delivered the lectures on Public Procurement. The first lecture focused on conceptual clarification and the second on the practical exercises.

6.7 The speaker began his first lecture by explaining the definition of procurement, the difference between public procurement and private procurement, and the basic principles of public procurement. He then clarified the meanings of different terms used in the KPPRA Act and the Rules. He went into the details of methods of procurement, the form of bidding documents, the functions of the procurement committee, and the pre-qualification of bidders.

6.8 In his second lecture, the speaker explained the management of the bidding process, the general evaluation procedure, negotiations, the contract award, and its management. In a practical exercise, the resource person asked the participants to prepare the procurement plan, and he also shared one exercise on technical and financial bids evaluation.

6.9 Mr. Zia-ur-Rehman delivered the lectures on service laws. His first lecture related to the appointment by initial recruitment, and the second to the appointment by promotion.

6.10 The speaker emphasized in the beginning that the objectives of the training session are proper understanding and application of the prescribed procedures and sensitization about the significance of Human Resource Management. He believed the training session outcomes as follows:

- Participant's observance of the legal procedure in letter and spirit
- Open, fair, transparent, and flawless appointments
- Timely working of HR forecasting.

6.11 The resource person explained the overall legal framework as follows;

- Constitution of Islamic Republic of Pakistan, 1973;
- Civil Servants Act, 1973;

- KPK civil servants (appointment promotion and transfer) rules 1989;
- Peshawar High Court (Subordinate Courts Staff) Recruitment Rules, 2003;
- Directives issued by Peshawar High Court from time to time;
- KPK (Relaxation of Upper Age Limit) Rules, 2008;
- West Pakistan Civil Services (Applications for Posts) Rules 1957;
- KPK Civil Servants Promotion Policy 2009;
- Subordinate Court Staff Recruitment Policy 2003.

6.12 The speaker divided his discourse of the initial recruitment into four different processes, pre-advertisement, post-advertisement, test/interview (recruitment day), and appointment order.

6.13 In explaining the first process of initial recruitment, the speaker focused on:

- The determination of vacant positions;
- Prioritization of cases within the ambit of APT rules;
- Quota workout (anomalies & mistakes);
- Maintenance of waiting list of retired/invalidated/deceased employee; advertisements and their essentials (number of positions, quota specifications, deadlines, timeframe, employment exchange); and
- Hiring services of testing agencies.

6.14 As for the second process, the speaker focused on the scrutiny of the following areas:

- Domicile;
- Age determination parameters;
- Experience;
- NOC / through proper channel
- Qualification; and
- Special Skills.

6.15 In the second process, the speaker also focused on the legal requirements to be followed in the finalization of the working paper (Marks Allocation) and scheduling DSC, and request for the nominee.

6.16 Explaining the third process of the initial recruitment, the speaker focused on the following areas:

- Arrangements (Logistics & HR);
- Skill Assessment (Impact);
- Screening Test (Need & Impact);
- Subject Tests (Significance);
- Interview, purpose & weightage;
- Age relaxation recommendation (Automatic & General);
- Bowl Policy (Scope & Procedure);
- Waiting List & its order of merit; and
- Recording of minutes & preservation of the record.

6.17 Finally, as to the requirements of the appointment order, the speaker emphasized on:

- Order of merit;
- Terms and Conditions; and
- Verification of antecedents.

6.18 In his second lecture, the speaker divided his discourse into, pre-DPC Working, scheduling of DPC, Appointment Orders, and certain miscellaneous matters. The details of his discussion on different points are as follows:

- **Pre-DPC Working:**
 - Determination of vacant positions with specifications of nature of the post;
 - Seniority (circulation, objections, and decisions);
 - Current Charge and Acting Charge; and
 - Working Paper (Seniority list & PER).
- **Scheduling of DPC:**
 - Request for the nominee;
 - Seniority cum fitness criteria;
 - The waiver by official concerned;
 - Common seniority cases;
 - Impact of disciplinary action on promotion (Para viii); and

- Recording minutes and preservation of the record.
- **Appointment Orders:**
 - Probation; and
 - TORs.
- **Miscellaneous:**
 - Reversion;
 - Confirmation; and
 - Confirmation / abolition of post.

6.19 Mr. Abdus Sidique delivered lectures on General Financial Rules, Fundamental Rules and Supplementary Rules. He began his discourse by referring to the rules and regulations of financial management. He then explained the purpose of financial management as follows:

- To prevent and detect errors and irregularities;
- To guard against loss and wastage of public money and stores; and
- To apply prescribed systemic checks effectively.
- Having explained the overall financial management framework as above, the resource person mentioned the following duties of the Drawing and Disbursing Officer:
 - High standards of financial propriety;
 - Financial Economy;
 - Observance of Financial Rules and Regulations; and
 - Expenditure to be within limits of authorized grants.

6.20 The resource person referred to the oxford dictionary definition of the budget. He said that budgeting involves the preparation of the estimates, collection and custody of funds, disbursement, and control of expenditure, and recording of all the transactions whose legality and regularity are duly verified by the independent offices. He explained in detail:

- The principles of budgeting;
- The financial procedure under the constitution;
- The provincial consolidated fund;

- Public account;
- Custody of consolidated fund and Public Account;
- Charged expenditure;
- Voted expenditure;
- Demand for a grant;
- Authentication of budget;
- The supplementary budget statement;
- The excess budget statement;
- Budget calendar;
- Revised estimates;
- Surrender; and
- Re-appropriations.

6.21 The resource person described the components of the Annual Financial Statement, the broad features of the departmental accounting system, the types of cheques, the mode and procedure of payments, and the maintenance of the provident fund account. He referred to the following rules on control of expenditure:

- Bill Passing –cum-Expenditure Control Register: Bill-wise and Head-wise in Form GFR 9 [Rule 66(2)(i)];
- Monthly Statement –to be maintained by the DDOs;
- Broadsheet in GFR 10 – to be maintained by the Controlling Officer;
- Statement in GFR 11- by the Controlling Officer;
- Complete Expenditure in GFR 12 – to be shown by Head of the Department;
- Quarterly returns;
- Liability Register; and
- Appropriation Audit Register (CAM 62).

6.22 The resource person explained the procedure of reconciliation as follows:

- PAO to send figures of expenditure/ receipts booked for a month and progressive figure up to that month, from the DDO-wise Expenditure Control Register or Compilation Sheet to the DDOs;

- DDO will send a monthly statement (containing departmental figures, PAO's figures, differences, and details of adjustments pending with DDO/PAO) showing the progress of reconciliation to the Head of Department; and
- Head of Department to furnish a Quarterly Certificate to the PAO certifying the correctness of the figures.

6.23 Finally, the resource person referred to some important financial rules contained in the GFR on the financial powers.

6.24 Mr. Muhammad Faheem delivered the lecture on the internal audit. He first defined the word audit, explained different approaches to audit, and then specified twelve different types of audit, one of which is the internal audit.

6.25 As to what constitutes the internal audit the resource person mentioned the following:

- Audit conducted by the entity's internal staff;
- An important internal control ;
- Normally a continued, system based examination of the financial transactions and relevant accounting records;
- Includes evaluation of internal controls;
- A great help to the management;
- Ideally, like an external auditor, the internal auditor should also be independent;
- There is a difference in emphasis and reporting;
- Appointed by and reports directly to the chief executive of the organization;
- Internal Auditors, keeping in view their mandate and scope of work, develop their Standard Operating Procedures (SOPs) but normally they adopt or follow the same audit procedures and standards practiced by the external auditors.

6.26 As to the functions of internal auditors, the resource person said that it included the following:

- Points out the weaknesses and inadequacies of internal controls and proposes measures for improving the internal control system;

- Design performance indicators for objective evaluation of various activities.

6.27 The resource person elaborately looked into the internal audit from the national, provincial, international, and the Peshawar High Court perspective. He believed that PHC internal audit is more related to the quality of the justice system rather than the financial matters and this is more akin to IIA standards. The resource person at the end held interactive discourse with the participants on the dislike of being audited versus the organizational need for continuous improvement.

6.28 Mr. Zaeem Ahmed delivered the lecture on office procedures. He began his discourse with the reasons for adherence to office procedures. He specified them as follows:

- Uniformity;
- Fixing responsibility;
- Recording and documentation; and
- Maintenance of a record.

6.29 The resource person mentioned the sources of the office procedures, Conduct of business of the Provincial Government (Article 139 Constitution of Pakistan), and the Secretariat Instructions. He explained the instructions on the maintenance of a record in detail. Some of the important instructions that he shared are as follows:

- The name of the department/Wing to which the file belongs should be printed in bold letters or should be written clearly in the space provided for it on the file cover. (Rule 52, Secretariat Instructions);
- Every Section /Branch shall maintain an approved list of main subject heading, serially numbered, in respect of all matters dealt with by section/branch. (Rule 52, Secretariat Instructions);
- The main subject heading shall be split into appropriate sub-headings, and such sub-headings shall be serially numbered. (Rule 57, Secretariat Instructions);
- A new file may not be opened unnecessarily and the opening of the part file should be avoided as far as possible;
- A part file may be opened when the main file is not likely to be available for some time;

- Where more than one part file is opened, each of them should be given a distinct number to indicate its relation with the main file. (Rule 61, Secretariat Instructions);
- The Part file, or files, should be merged with the main file as soon as the latter becomes available. (Rule 52, Secretariat Instructions);
- Every file shall consist of two distinct parts viz;
 - the correspondence part;
 - the notes part;
- The thick cardboard covers bearing two punched holes shall be used for the correspondence part of the file, and the thin folded file covers shall be used for the note part. (Rule 158);
- All pages of the correspondence part of the file should be serially numbered;
- The latest communication on which action is taken shall be placed on the correspondence portion of the file at the end and page numbered. It may be flagged with a “PUC” (Paper Under Consideration) label and referred to in the Note portion of the file as “PUC” at page_____/C”;
- The note-sheet in the note-part of the file should be tagged inside the file cover at the left-hand top corner so that it becomes possible to fold them backward and bring the last portion of the note on the top;
- One or two blank sheets shall be added to the note portion of the file;
- The note portion of the file should not be page numbered but shall be serially paragraph numbered continuously. References to notes shall always be made paragraph-wise as “Para_____/N”; and
- The use of priority labels shall be restricted to cases where they are necessary.
- The speaker citing an example of the recruitment of court staff conducted a practical exercise of office procedures. Finally, he explained the distinctions between the following different forms of office communications:
 - Official letter;
 - Memorandum;
 - Demi-Official letter;
 - Un-Official reference;
 - Endorsement;

- Notification;
- Press Communiqué/Notes;
- Telegrams, Telex and Teleprinter Message; and
- Office Order.

6.30 Syed Kamal Hussain Shah, Dean Faculty, delivered the lecture on the topic Senior Civil Judge as Manager: Experience Sharing. He began his discourse by referring to the history of the Indian Subcontinent. Babar laid the foundation of the Mughal dynasty in 1526. The Mughal rule lasted until 1748. Then Marhatta ruled for 101 years. In 1849 the East India Company established its rule, and the British began working on lawmaking. They promulgated laws dealing with the court hierarchy in 1874, 1875 and 1884. In 1901 the government passed North-West Frontier Province Law and Justice Regulation as it established a separate Province. It was during this time that the title of subordinate judiciary's judge was modified from Munsif to sub-judge, and this title was retained until 1962 when it was changed to civil judge by the West Pakistan Civil Courts Ordinance.

6.31 The resource person enlightened the participants on the instructions contained in the High Court Rules and Orders, the number of volumes contained in it, and their sequence in terms of subjects. He said that Lahore High Court Rules and Orders continued to be applicable in K.P.K without noticing the fact of separation of NWFP from Punjab in 1901. It was only in 2015 that a committee constituted by Peshawar High Court looked into it, and the Peshawar High Court Rules and Orders were later published.

6.32 The resource person referred to the work done by Lord Macaulay Commission in drafting important legal enactments, the Indian Penal Code, Criminal Procedure Code, and the Police Act. This task, he said, was accomplished in a long span of 68 years.

6.33 The resource person in the end elaborately explained the significance and history of C.S.R (Civil Service Regulation), F.R and S.R(Fundamental Rules and Supplementary Rules), G.F.R(General Financial Rules), and Land Record Manual. He also referred to the revenue circular number 42 dealing with the establishment of the District Record Room, and he also shared his experience of District Nowshera relating to the reconstruction of 48642 files damaged by the floods.

6.34 Muhammad Zeb Khan delivered the lectures on the role of the Senior Civil Judge in various committees. He discussed the functions and challenges relating to the working of the following committees:

- Criminal Justice Coordination Committee
- Bench-Bar Liaison Committee
- Juvenile Justice Committee
- Committee for the Scanning of Record, and
- District Legal Empowerment Committee.

6.35 The resource person first held an interactive discourse with the participants on the limits of the judicial intervention in spheres of investigation and the scope of the word liaison. He then explained in detail the establishment, composition, and functions of the Criminal Justice Coordination Committee and the Bench-Bar Liaison Committee in the light of provisions of the Police Order and Criminal Procedure Code, Case Law, and the relevant instructions of Peshawar High Court.

6.36 The resource person emphasized that effective working of the committees require the formulation of the meeting agenda, minutes of the meeting, communication of decisions, and follow-up.

6.37 The resource person explaining the establishment, composition, and functions of the Juvenile Justice System Committee held an interactive discussion with the participants on the concepts of rehabilitation and re-integration. He referred to the District Legal Empowerment Committee (Constitution & Functions) Rules, 2011 for explaining the establishment, composition, and functions of the Legal Empowerment Committee.

6.38 Finally, the resource person discussed different segments of the Case Flow Management Information System, case marking, case registration, party management, case proceedings, fixation diary, record room, uploading scanned page, email, and SMS.

6.39 Mr. Sadiq Shah delivered the lectures on Budget Management. His discussion focused on the following areas:

- Sources of revenue for the government
- Budget Outlay 2020/2021
- Budget of Judiciary for financial year 2020/2021
- Accountability Process
- Budget Cycle
- Federal Consolidated Fund
- Public Accounts
- Annual Budget Statement
- Charged Expenditure
- Voted Expenditure
- Demand for Grant
- Budget Calendar
- Procedure for Authorization of Budget
- Supplementary Budget Statement
- Principal Accounting Officer, and
- Auditor-General of Pakistan.

6.40 The resource person explained in detail the budget cycle involving preparation, implementation, monitoring, and reporting (maintenance of accounts), monitoring and reporting (audit and accounts), review, and policy setting. He also explained all the constituent elements of Federal Consolidated Fund, Public Accounts, Annual Budget Statement, Charged Expenditure, Voted Expenditure, and Demand for Grant. Finally, he went into a threadbare discussion on the role of principal accounting officers, the Auditor-General of Pakistan, and the Public Accounts Committees.

6.41 Mr. Ahmed Sultan Tareen also delivered the lecture on the Senior Civil Judge as Incharge of the Process-Serving Agency. He began his discussion with the instructions contained in Volume IV Chapter 6 Part A, B, and C of the High Court Rules and Orders. He emphasized that lack of attention mainly to following instructions has contributed to the inefficiency of the Process-Serving Agency:

- The names of the process-servers should be entered according to the date of their appointment in a register containing the above particulars, and a column of remarks should be added for the entry of such notice respecting the conduct of each process-server as the presiding Judge may from time to time deem it necessary to record (Rule 5, Part A);
- The High Court shall fix, and shall from time to time, as may be necessary, alter the maximum number of process-servers to be retained for the Court of each District and Session Judge, and for each district in the Province(Rule 1, Part C); and
- The process-servers entertained under these rules shall be employed exclusively in the work of serving and executing processes (Rule 4, Part C).

6.42 The speaker believed that the following measures are needed to improve the situation:

- The pay scale and up-gradation process should be revised. There is a need to restructure the process serving establishment and to bring the posts of Process servers, Bailiffs, and Naib Nazir at par in terms of BPS with those of Junior Clerks, Senior Clerks, and Assistants respectively.
- Process-Servers should be employed exclusively in the work of serving processes.
- Process servers should be provided bikes for remote areas and bicycles for cities.
- Refresher courses and training may be periodically arranged.
- Corruption, dishonesty should be necessarily focused.
- Local language should be given preference and improvement in linguistic skills should be the focus.

6.43 The resource person shared his experience of Kohat when he as District and Session Judge, deployed technology for reforms. He believed that technology in this area is a game-changer.

6.44 Mr. Ahmed Iftikhar delivered the lecture on Judicial Accounts. His discussion focused on the following areas:

- Kinds of Judicial Deposits

- Limits of Cash in Hand
- Procedures for Receipt and Payment, and
- Accounts and their reconciliation.

6.45 The resource person first held an interactive discourse with the participants on the existing practices of different judicial accounts, the procedures for the receipt, and payment. He then explained the basis for the classification of the two accounting systems; Civil Court Deposit Account and the Sheriff Petty Accounts. He specified in the light of the High Court Rules and Orders the items falling under each head.

6.46 The resource person explained the method of receipts and payments under the two accounting systems, the procedure for entry in different registers, and the reconciliation of accounts. He explained in detail the daily and monthly reconciliation procedures in Sheriff Petty Accounts, the varied aspects of PLA, and the precautions to ensure that Nazir does not embezzle with the public money.

6.47 The resource person discussed the procedure of depositing the minor's money under the High Court Rules and Orders. He emphasized the safeguards to be observed by the Judge for the minor's welfare. Finally, the speaker described the procedure for the calculation of the diet money of the witnesses.

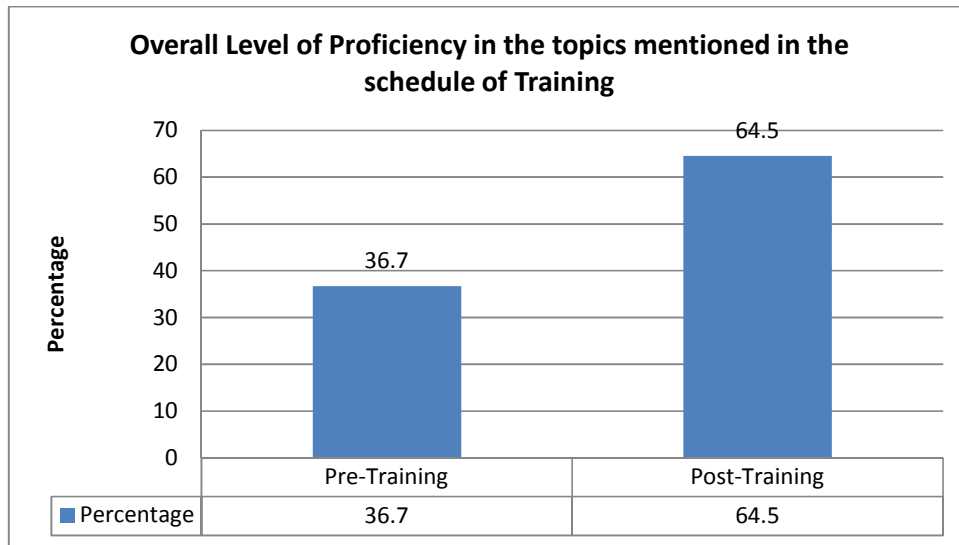
7.0 Impact of the training

7.1 Significant indicators of the training impact are:

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

7.1.2 Whether that will translate itself into a practical utility?

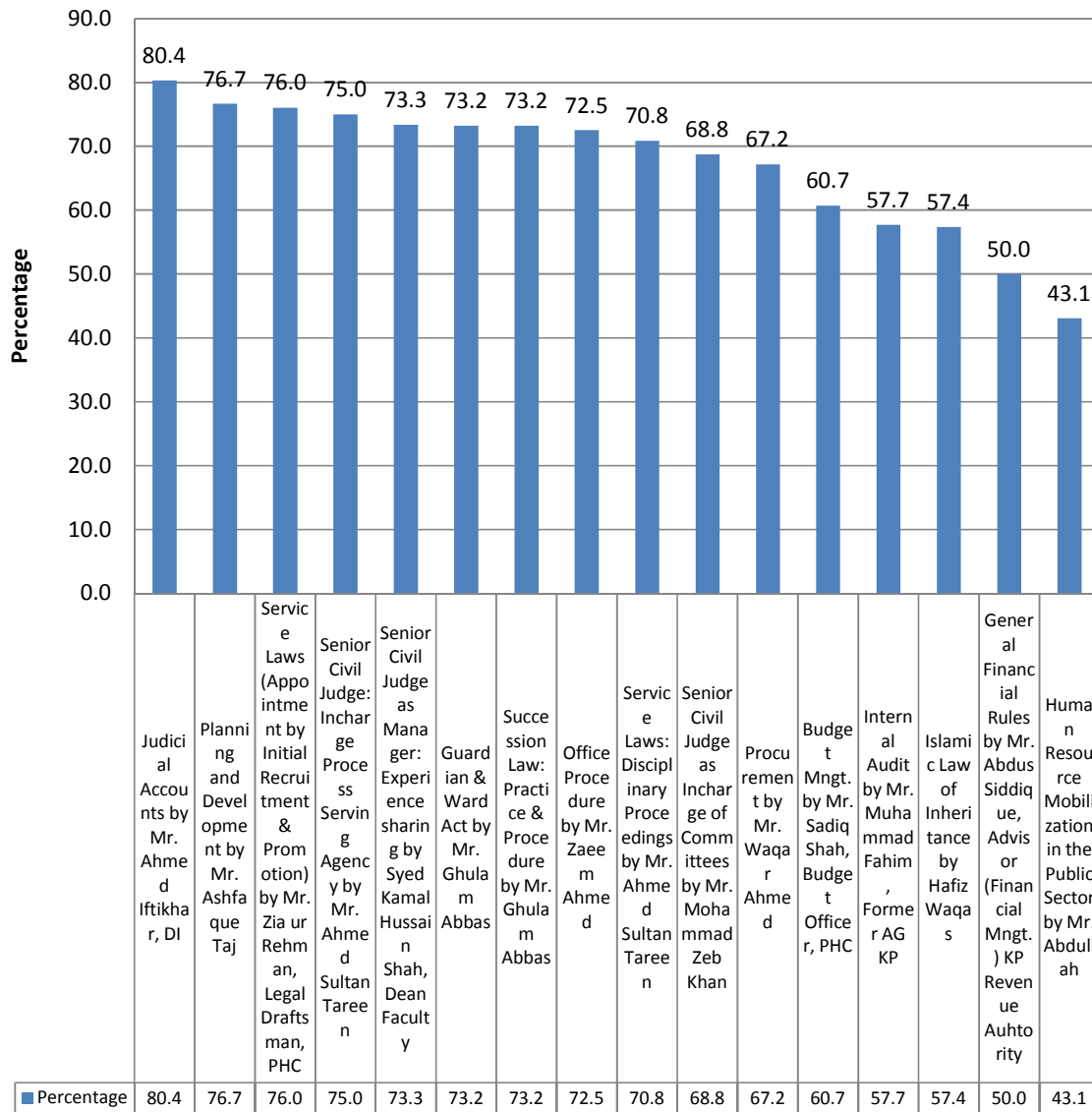
The evaluation questionnaire was designed to deal with this aspect. And the relevant feedback obtained from the participants is reflected below:



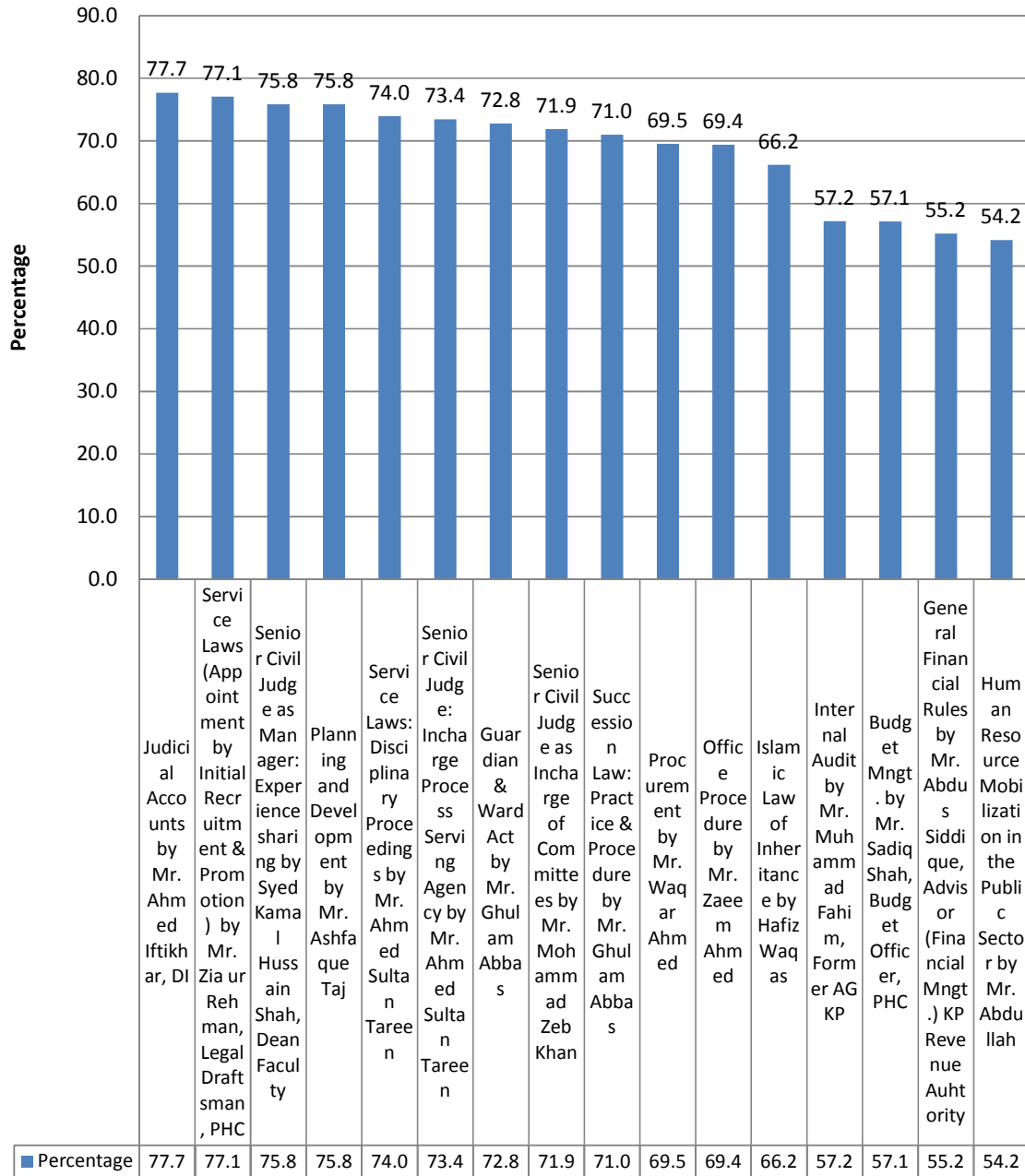
8.0 Quality of the training

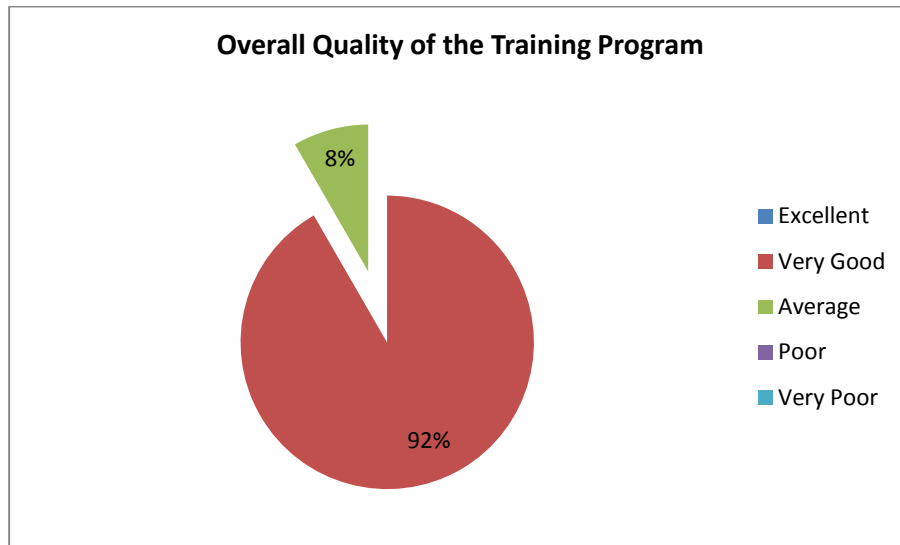
8.1 As regards the quality of the training, it can be easily gleaned from the resource person's evaluation by the participants. The training session also included the activity of a research paper to be written by the trainees. The topic was, 'Working of the Process Serving agency: Strengths, weaknesses, and the Suggestions' for improvement. A committee comprising the Dean Faculty and the Senior Director Research evaluated the papers. The top three papers are annexed with the report. Moreover, the participants were asked to comment on the overall quality of the training program. Their response and the feedback, both on the assessment of the resource persons and the overall quality of the training program are shown in graphic form below:

Practical use of training



Resource Person Evaluation





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

1. Training must be in academy
2. It should be face to face training for a week
3. physical training is more effective.
4. Arrange such training in academy to avoid problems of net diconnectivity, and to have face to face contacts making the process of communication more easy and understandable.
5. Budget and audit be taught on level of SCJ tasks and challenges
6. Well it shall b in academy and shall b one week at least. Sharing of experiences would b more useful in academy instead of online training
7. All the resource person delivered good lectures and v learnt alot,however missed some important segments due to net problem at mohmand
8. Online training was a novel idea for us all. As a whole it was a wonderful and fruitful experience. The modules and content of the courses were according to our need and new assignments. Refresher courses on the modules in the academy would be highly beneficial.
9. course contents designed by the Academy was good and cover all related aspects. such like trainings should be conducted in future to increase capabilities.
10. The training was exhaustive and complete in all its respect.

9.0 Conclusion & Recommendations

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

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

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

9.4 Interaction with judicial officers suggested the following notable deficiencies in the maintenance of judicial accounts:

1. Little comprehension of the distinction between sheriff petty account and the civil court deposit accounts;
2. Nazir retaining cash in violation of the rules on sheriff petty account.
3. No reconciliation of the sheriff petty account: cash book, treasury passbook, and PLA checkbook either non-existent or having no semblance to the High Court Rules and Orders;
4. Safeguards to protect the ward's money deficient; the process of transfer of money from deceased account to minor account vulnerable, and no yearly audit of the minor account;
5. Old accounting practices have not been brought in line with the new accounting standards, the computerization of record, matching PLA with assignment account, and revision of rates as to diet money.

9.5 Considering the above, the need for post-promotion training for Senior Civil Judges is highly imperative. The physical training mode is most appropriate unless the exigencies otherwise require it. However, online training for a short period at regular intervals on the management in general and financial management in specific will be highly productive.

9.6 High Court Rules & Orders require revision to bring accounting practices in line with the modern standards, in a particular revision of rates of diet money.

9.7 Learning Management System (LMS) may be made a permanent feature of the training activity. IT infrastructure needs to be upgraded, to avoid as far as possible the technical hitches.

10.0 Training in pictorial





PROCESS SERVING ESTABLISHMENT- STRENGTHS,
WEAKNESSES AND SUGGESTIONS FOR
IMPROVEMENT

25TH OCTOBER, 2020

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1. INTRODUCTION

1.1 The subject of this article, “Process-Serving Establishment -- Strengths, Weaknesses and Suggestions for Improvement” bears special relevance to our judicial system. As a primary requirement of the judicial proceedings and a critical first step to the dispensation of justice, its significance cannot be overemphasized.

While pondering the subject, I am reminded of the famous, insightful saying of Hazrat Ali that a society can survive with faithlessness, but not so with injustice. In other words, the soul of a society and its potential to survive are epitomized in its system of justice. The more equitable, effective, efficient and inexpensive the system of justice, the stronger and brighter are correspondingly the chances of not only its survival but stability and prosperity. It is, therefore, all the more important to make a judicial system responsive to the needs, hopes and aspirations of the masses.

Filing of a plaint, petition or application in a court attracts its intervention through the issuance of notice/summons to the rival party to assert jurisdiction over the parties and the controversy and to enable the party respond to the judicial proceedings. In legal parlance, this act is called process serving. The existence of an efficient process serving agency, inter alia, is therefore an imperative for a robust judicial system able to live up to the expectations of the populace for efficient adjudication to provide justice.

1.2 PROBLEM STATEMENT

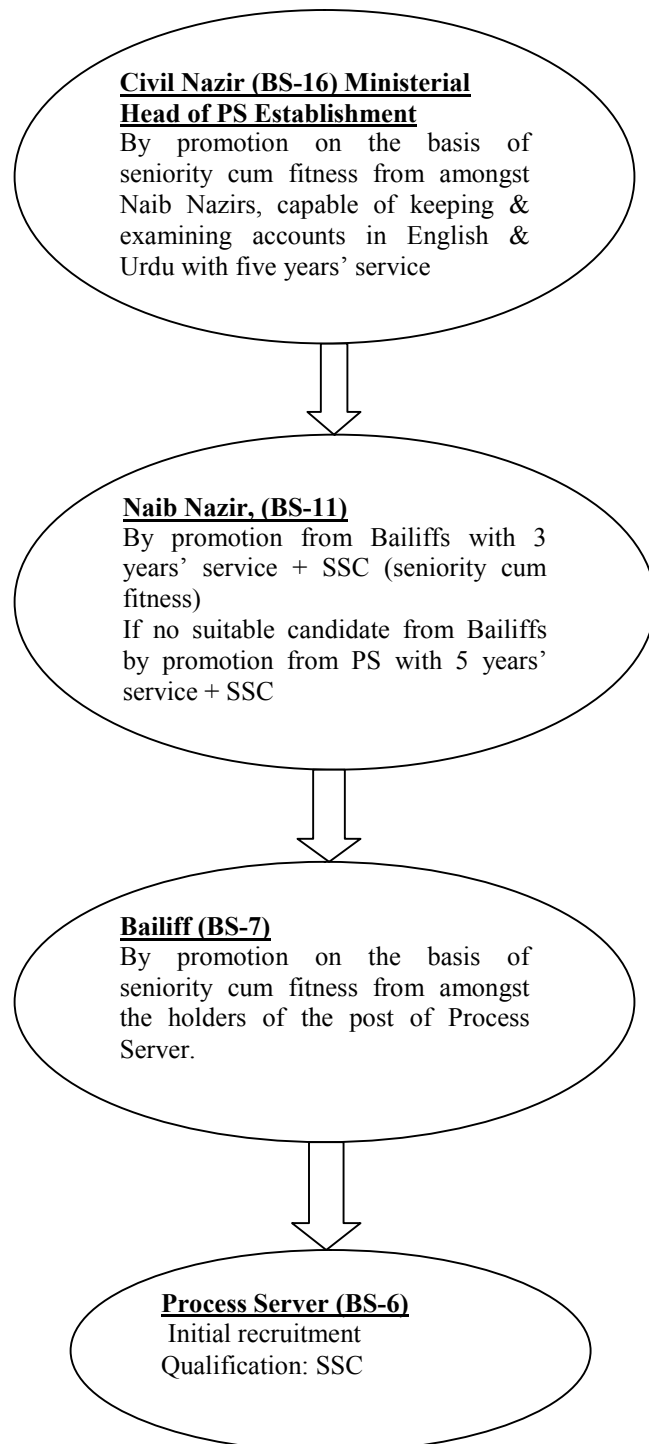
Dispensation of justice is a long and tedious process involving multiple factors. Judicial proceedings are usually anything but smooth sailing as several obstacles are encountered in the process resulting in delays. Undeniably, delays in the judicial proceedings are not a peculiarly Pakistani phenomenon, as numerous developed countries struggle to provide prompt, efficient and high-quality justice to their citizens. But in our country, the challenge is massive. Some of the major contributing factors to delay are inefficient service, spurious reporting and deficiencies of Process Serving Establishment. The process of service in civil litigation commences with the institution of the plaint/application/petition and continues till the stage of evidence. The lackadaisical and dubious conduct of the officials, their capacity issues owing to want of trainings, non-adherence to the relevant rules and procedures, non-utilization of technology as well as unfair practices, resulting from a number of factors to be discussed ahead, are some of the causes of this menace. In the absence of any empirical data, it is not possible to say with accuracy as to how much time is actually consumed due to flawed reporting. However, it would be safe to conclude that a sizeable chunk of delay is imputable to this issue. The matter was even emphasized by the apex Court while endorsing a report of the Law Commission in terms. “...it was found that the system of process serving in respect of criminal/civil cases was defective. ‘Abnormal delays’ occur in the process serving because of which the trial is delayed”, which required serious consideration of the Govt.

2. **ANALYSIS OF THE PROBLEM IN THE CONTEXT OF KHYBER PAKHTUNKHWA DISTRICT JUDICIARY**

In order to fully comprehend the deficiencies and challenges posed by the existing system and to suggest a way forward, it seems appropriate to give a fair view of the prevailing process serving scheme/organization.

2.1 **THE PROCESS SERVING AGENCY**

As per Vol. I, Chapter 18-A of the High Court Rules and Orders (HRO), the Process Service Establishment comprises Civil Nazirs, Naib Nazirs, Madad Nazirs, Execution Bailiffs and Process Servers. The Senior Civil Judge, in view of Rule 3 of Chapter 6-A (Vol IV) happens to be the controlling authority of the said establishment.



2.2 **JOB DESCRIPTION**

To understand the nature of responsibilities in general and specific duties of each member of the Establishment, in particular, it would be worthwhile to cast a glance at their respective job descriptions.

2.2.1 **CIVIL NAZIR**

Civil Nazir, being head of the Process Serving Establishment, is duty bound to:

- Maintain its efficiency and make suggestions to the Senior Civil Judge from time to time for that purpose.¹
- Keep up the Civil Deposit and Repayment Accounts².
- Manage the execution of decrees³.
- Distribute business amongst the PS officials, transmit processes to agencies located at tehsils for service⁴.
- Manage the accounts and correspondence regarding the payment of diet money to witnesses and other ancillary matters connected therewith⁵.
- Make sure that the process correctly contains the name and stamp of the Court along with signature of the Judicial Officer concerned and particulars are duly noted on the process issued⁶.
- Ensure that the process duly carries the names and addresses of the parties/witnesses to be served, along with the copy of the plaint and other documents mentioned in the process.
- Check that the warrant of possession bears full description of the property in question and annexed thereto is the site plan of the same.
- Return the flawed/defective process to the Court for making up the deficiencies. In case of assigning a faulty/incomplete process, he is liable to disciplinary proceedings.
- Make sure that the Register of PS with remarks column is maintained⁷.
- No person shall be appointed Civil Nazir who is not able to keep and examine accounts both in English and Urdu.⁸

2.2.2 **NAIB NAZIR**

A Naib Nazir has to perform the following duties:

¹ Vol IV, Ch. 6-A, R 4, HRO

² Vol IV, Ch. 6-A, R 9, HRO

³ Vol IV, Ch. 6-A, R 9, HRO

⁴ Vol IV, Ch. 6-A, R 9, HRO

⁵ Vol IV, Ch. 6-A, R 9, HRO

⁶ Vol IV, Ch. 5-A, R 7, HRO

⁷ Vol IV, Ch. 6-A, R 5, HRO

⁸ Vol I Ch 18-A Rule III (5), HRO

- To record particulars on the process issued i.e. name of the PS assigned the task of serving or executing the process, the period required for the same, the amount of fee paid and the date of payment and date of return after doing the needful⁹.
- Safe custody of Registers¹⁰.

2.2.3 **BAILIFF**

The Bailiffs are required to:

- Execute warrants of arrest as well as attachment and hand over possession of the decretal property¹¹.
- Maintain Note Book in the Form prescribed in Schedule B to the High Court Rules and Orders¹².
- Note particulars and sign endorsements¹³.

2.2.4 **PROCESS SERVER**

The responsibilities of a Process Server include:

- Service of processes such as summons and notices.
- Annexing to the return process affidavit, duly filled in, as prescribed by the High Court and available in High Court Rules and orders as Form II of appendix B, Annexure “IV”.
- Appearance before Court for recording statement to prove the report of service of summons.
- Payment of diet money to the witnesses¹⁴
- Non-employment for any work other than the above¹⁵.
- The Process Servers, with the permission of Officer-in-the-Charge of the Process Serving Agency can be assigned the task of Bailiffs¹⁶.

2.3 **REGISTERS**

Volume 6, Part A-IV of the High Court Rules and Orders mandates maintenance of registers by various tiers of the Process Serving Establishment. The same are available at Annexure “I to III”

⁹ Vol IV Ch 5-A Rule 7, HRO

¹⁰ Vol IV Ch 24 Rule 8, HRO

¹¹ Vol IV Ch 7-A Rule 11, HRO

¹² Vol II Ch 8-E Rule 3, HRO

¹³ Vol IV Ch 5-A Rule 7, HRO

¹⁴ Vol II Ch 8-D Rule 21, HRO

¹⁵ Vol IV Ch 6-C 4, HRO

¹⁶ Vol IV Ch 7-A R 11, HRO

2.4 LEGAL PROVISIONS GOVERNING MODES OF SERVICE

Provisions of Civil and Criminal Procedures Codes determine the proper form of the legal process and how it should be served. Sec 27 to 29, 143, O III (3,5,6), O V (Rules 9 to 30), O XXVII (R 4), OXXVIII (R 3), O XXIX (R 1,2,2), O XXX (R 3), O XLVIII (R 3), XLI (R 14) of CPC envisage modes and mechanism of service regarding civil disputes. Sec 61 to 90 and 105 of Cr.P.C and Vol VI, Ch 8-A, B & C deal with the subject of different processes in criminal cases.

3. A CRITIQUE OF THE SYSTEM

- The Process Serving Establishment is undeniably a significant part of procedural mechanism/system in that the movement of legal proceedings to a great extent is dependent on it. The current system of process serving, despite being decades old and not having been adapted to the changing circumstances, could have been more productive in preventing procrastination of proceedings, had it been implemented in letter and spirit.
- It would not be an exaggeration to say that even today a large chunk of summons/notices and warrants are returned with false reporting such as “despite efforts addressee not traced., the plaintiff be directed to make pointation’, “unserved due to incomplete particulars”, “visited the party’s abode but found locked”, “difficult to trace the party in a sprawling locality ”, “upon information learnt that the person had left the abode.” Besides, belated return of processes, a frequent exercise, further tentalisises the already suffering litigants.
- Absence of accountability and ineffective system of performance evaluation result in undeserved promotions of the officials which adds up to their laxity.
- Likewise, want of attention of Presiding Officers as well as the controlling officer, Senior Civil Judge, is another deteriorating factor resulting in frequent resort to substituted mode of service, which in turn has its own deleterious effects in that such proceedings end in ex-parte decrees which trigger further litigation leading to more delays in deciding the actual controversy.
- Ignorance of job description on the part of the officials concerned, non-observance of the procedural law and relevant rules and lack of trainings further aggravate the situation.
- Contrary to the Rules requiring deposit of TALBANA (process fee), the parties fail to deposit the amount, though nominal, and Moharrirs, as soon as they receive

the file, start making handwritten processes, which eats up most of their time, adversely affecting their performance.

- Shortage of work force, lack of conveyance facility, uneven distribution of work, want of avenues for career progression, assignment of tasks in addition to or other than the required duty are some other factors that have contributed to the failure of Process Serving Agency.
- Reluctance to make use of Information & Communication Technology is another frailty of the system, whereas the world is fast moving towards adopting new techniques and devices for the purpose of serving processes.

4. CHANGING FACE OF PROCESS SERVING AROUND THE GLOBE

Process serving has been revolutionized across the globe as service through email and fax has become a norm and some of the countries have even modified their procedural laws to include these as substituted modes of service. With the evolution of technology, the international community, both developed and developing nations, has moved a step ahead by sailing in the uncharted waters of service via social media through broadening the pail of substituted mode to include Facebook, Twitter, etc. Some of the instances are discussed hereunder:

4.1 USA

In a divorce case in Minnesota,¹⁷ Judge Burke held “The traditional way to get service by publication is antiquated and is prohibitively expensive.... It shall be considered sufficient service for Petitioner to serve Respondent by publication on the internet. All information and timing requirements that would go into a newspaper shall be posted online. Petitioners may choose the format in which they believe it is more likely that Respondent will receive notice. This may include but not limited to the following: Contact via any facebook, myspace, or other social networking site...”

4.1.2 The New York County Supreme Court in a divorce case,¹⁸ determining that the defendant’s address was unknown ruled that plaintiff wife could serve her husband with a divorce summons via Facebook, through a private message.

¹⁷ Mpafe v. Mpfe, Hennepin County, MN No. 27-FA-II-3453

¹⁸ Baidoo V. Blood-Dzraku (N.Y. Mar.27,2015)

4.2 CANADA

The Alberta Court of Queen's Bench in a medical negligence action¹⁹ allowed service of the defendant, a resident of the University of Alberta hospital, through Facebook profile in addition to publication in a journal and providing a copy to the hospital.

4.2.1 Similarly, in a *lis*²⁰ before Court of Quebec, the plaintiff was able to substitutionally serve the defendant over Facebook after multiple futile attempts using conventional modes.

4.3 IRELAND

Irish legal system has also recognized that an acceptable form of substituted service can be through social media. In the case of *Daly v Lynch* in June 12, Peart Judge permitted plaintiff to serve proceedings on a non-resident defendant, who had left jurisdiction, by serving them by Way of private message on the defendant's Facebook page. The plaintiff satisfied the Court that both exhaustive efforts were made to locate the defendant and that the Facebook page in question was both genuine and also used regularly by him.

4.4 INDIA

Recognizing the value of electronic service, India amended Civil Procedure Code 1908, in 2002 to include electronic means of serving a summons²¹. The judiciary of neighboring country continued in the direction and added WhatsApp²² to email and fax as alternate method of service.

5. WAY FORWARD- WHAT NEEDS TO BE DONE

It goes without saying that human lives are in a continuous process of evolution and so are the organizations and their systems. The only thing constant in this world is change and history bears out that resistance to change is destined to doom. Judiciary, with a crucial and constitutional objective of providing inexpensive justice, has to adapt its procedures, to cater for the changing environment. A three-pronged strategy involving the following measures is expected to turn around the system to enable it meet the needs of the hour.

5.1.1 LEGAL FRAME WORK

Substituted or alternate mode of service can never equal the gold standard of personal service. But where personal service is impracticable, other appropriate means are to be

¹⁹ (Knott Estate vs Sutherland (2009) AJNo. 1539(Alta QB))

²⁰ *Boivin & Associates v Scott*, 2011 QCCQ 10324

²¹ O V R 9 (3) Code of Civil Procedure, 1908

²² *Tata Sons Limited v. John Doe(s)* (Delhi)

employed to effect service. Globally, new and effective modes of substituted service such as use of social media have evolved.

In our system, personal service has been the dominant mode with substituted mode limited to affixation and publication. However, in 2018 O V R 20 CPC was modified to include short “message service, electronic mail etc.” for effecting service. This was the first step towards employing communication technology for advancement of process serving which need to be frequently resorted to for expediting judicial proceedings.

Undeniably, the enhanced mobility of individuals and the attempts to evade service with a view to stretching the proceedings have complicated the issue of process serving. It is high time that we turned to more effective and inexpensive substituted/alternate service methods by adopting international best practices to minimize delays and pave the way for speedy justice.

5.2 HUMAN RESOURCE MANAGEMENT

- Inarguably, the work has increased manifold over the years with unparalleled institution and increasing backlog of the cases while the number of the officials across the Province is more or less the same. More seats must be created, on the criteria of number of processes to be served, area and population, for even distribution of workload and reducing the burden to ensure expeditious service of the process.
- It is imperative to rethink our thinking and instead of considering them a cost of the organization they should be treated as an asset. Their service structure and pay scales need to be improved for career advancement with a view to bringing them at par with their colleagues.
- Again, frequent on-the-job trainings in accordance with their professional needs will not only enhance their capacity and equip them with the requisite skills but also make them a thriving and productive force. KPJA can impart these trainings virtually in case their presence from duty cannot be dispensed with.
- In accordance with their job description, the officials of PS Establishment must not be given any other duty in order to utilize their services exclusively for process serving.
- The ACR forms of these officials happen to be stereotypical carrying the performance indicators out of sync with their job descriptions. It is essential to redesign their ACR forms to bring them in line with the job requirement to evaluate their performance in a more useful manner. There is also a need to develop key performance indicators in relation to their respective job descriptions

to measure their performance, such as percentage of services effected, observance of procedural formalities, average time consumed in effecting service etc.

- The areas of their respective duties should be allocated on rotational basis to ascertain the problem areas and causes for the same so as to address the problems to alleviate complaints and ameliorate the system.
- In order to ensure fairness, transparency and to avoid malpractices, warrants of possession and processes in respect of stay matters be assigned to the officials strictly with reference to their specified areas and to the chosen ones. The Senior Civil Judges must keep a close eye on Civil Nazirs for doing the needful.
- Since there are specialized employees to deal with matters related to budget & accounts, the PS Establishment be freed from such responsibilities to enhance their efficiency.

5.3 EXERCISE OF VIGILANCE

- The requirements of Rules on the subject need to be complied with strictly in order to achieve the objectives of efficient process serving. The prescribed procedure has been consistently deviated from, leading to problems and difficulties for the litigants. It would not be a stretch to say that the existing mechanism provides a triple-layered surveillance system to measure the performance of the PSs, Bailiffs and Nazirs objectively and in entirety. The contents of the three registers bearing No. XXI, XXIII and XXIX contained in Vol VI, Part A-IV, carry important gauges for evaluating the performance of the said officials. There is strong need to not only get them filled in properly but checked by the controlling authority i.e. Senior Civil Judge during quarterly inspections as well as at the time of writing ACRs to ensure accountability and reward.
- The presiding officers should exercise maximum vigilance right from the issuance of process till the date of hearing, and they must personally satisfy themselves that the process is served effectively rather than wait for the date of hearing to look into the matter. Besides, the date of return of the process be clearly indicated in the summons and the Nazir directed to return the same before the said date, otherwise disciplinary proceedings should be initiated against the official defaulting without sufficient cause. In case the interval between the dates of return and date of hearing is sufficient and the process returns unserved, a second date for return should be fixed.
- Short dates should be given by the Court for payment of process fee, diet money and submission of details of the persons to be served and on the date fixed, the Presiding Officer must satisfy himself that needful has been done.

- There is a strong need to plug the loophole by making available uniform printed summons along with the affidavits in accordance with the High Court Rules and Orders and CPC to be submitted by the plaintiff in the Court in duplicate at the time of institution of the suit.
- There should be a complaint redressal mechanism in place so that complaints do not go unheeded. However, the complaint in order to necessitate any action must be accompanied by an affidavit and verifiable material to substantiate the allegation mentioned therein.
- NADRA database can be utilized for tracing the addresses of the parties/witnesses as the same is being utilized by different High Courts of the Country for biometric verification of the parties.

6. **AUTOMATION OF PROCESS SERVING MECHANISM**

Resistance to technology and efforts to keep it at a bay proved non-productive in the past. It has already made easy inroads even in the most conservative areas of human life, the reason being its irresistible advantages as compared with nominal disadvantages, if any. To make the entire mechanism of process serving transparent, effective and efficient, e-Process Serving can be introduced. A sketchy plan for the purpose is given on the following lines.

For that matter every official of the PS Agency be provided with:

- Android phone with e- Process Serving application supported by 3G/4G and Global Positioning System (GPS) collecting precise GPS coordinates. Mobile phones of the officials be provided with GPS.
- As soon as the process issued by the Court is received in the PS Agency, the details regarding the same such as the name of the issuing Court, case title, the PS to whom it has been marked, dates of return and hearing, diary number, particulars of the person to be served etc. be entered in the computer and the same be handed over to the PS concerned.
- He will log into the application and receive summons/notices/warrants etc. assigned by the PS Agency and will actively respond with regard to information transmitted.
- In order to confirm his visit to the respective addressees, the official concerned shall additionally share image of location or person along with GPS coordinates from the said location.
- A main web-based server in PS Agency will serve as database software which will collect and retrieve data submitted by the officials. The database will be quite sophisticated and sensitive module for its information and data keeping strength.
- The report retrieval should provide multiple search operations such as the Court, official, date, name, contact number and electronic ID number.

- Documented summons shall be coupled with authentic printed report available Online.
- This data can be helpful in evaluating performance of the officials without putting in extra effort.

CONCLUSION

Hopefully, the employment of communication technology, updating the system by suitable interventions, motivation and incentivization of the staff concerned and vigilant oversight by the Judicial Officers will go a long way in improving the process serving tremendously to pave the way for efficient dispensation of justice in the best public interest.

ANNEXURE-I

REGISTER No. XXII – REGISTER OF WARRANTS EXECUTED BY BAILIFFS

MONTH	WARRANTS OF ARREST	WARRANTS OF ATTACHMENT	WARRANTS OF SALE	REMARKS
	Served unserved	Executed Non-executed	Executed Non-executed	

ANNEXURE-II

Register No. XXIII is the Register of Processes served by Process Servers.

Month	Number of processes entrusted for service	Number of processes served according to law and returned within time	Number of processes Served personally	Percentage of personal Service	REMARKS

ANNEXURE-III

Register No.XXIX is the Register of Diaries of Process Servers.

1	2	3	4	5	6	7	8
Serial No	TO BE FILLED AT THE TIME OF DEPARTURE						Date on which the process server visited the village
	Date of Departure	The number of process servers to be served in each village or area	The name Of the village Or area In which To be served	The serial No. of register No.6 in Ch.8-D, H.C.R.O.Vo l.II, at which entered	Date fixed for service of processes in the village	Date Of return fixed by the Nazir	

9	10	11	12	13	14	15	16
TO BE FILLED AT THE VILLAGE VISITED						Signature of	REMARKS
Travelling	Distance	Number	Man	The number	Signature or thumb-		

From Which Village To Which Village	travelled	processes served and time of service, i.e., morning or evening etc.	of service	of process unserved	impression Of the Lambardar Or Chowkidar Or any Other respectable Person of the village	Nazir	

ANNEXURE-IV

AFFIDAVITS OF PROCESS SERVER

Affidavit of Process server to accompany Return of a Summons or Notice

(O.5, R. 18)(Appendix-B Form-11).

(Title)

The Affidavit of _____ son of _____

I ----- make oath/affirm and say as follows :-

(1) I am a process server of this Court.

(2) On the _____ day of _____ 20 I received a summons/notice -----
----- issued by the Court of _____ in Suit No. ----- of 20 , in the
said Court, dated the -----day of 20 _____ for service on-----

(3) The said----- was at the time personally known to me and I served
summons/notice on him/her the said ----- on the----- day of
20 at about _____ o'clock on the----- noon at----- by tendering a copy
thereof to him/her his summons ----- and requiring his/her signature
to the original summons/notice

(a) (b)

(a) Here state whether the persons served signed or refused to
sign the process and in whose presence.

(b) Signature of process server. Or

(3) The said----- not being personally known to me accompanied me
to----- and pointed out to me a person whom he stated to be
the said----- and I served the summons/notice upon him/her
on the day of----- 20 notice her at about----- o'clock in the-----
noon at----- by tendering a copy thereof to him/her ----- and
requiring his/her signature to the original summons/notice.

(a) (b)

(a) Here state whether the person served signed or refused to
sign the process and in whose presence.

(b) Signature of process server. or

(3) The said----- and his house in which he ordinarily resides being
personally known to me/pointed out to me by -----
---- I went to said house in----- and there on the----- day of
20 _____ at o'clock in the fore/ afternoon I did not find the said _____

I enquired from neighbours (a) -----and (b)----- I was told that-----
had gone to----- and would not be back till -----

Signature of process server,

or

If substituted service has been ordered, state fully and exactly the manner
in which the summons was served with special reference to the terms of
order for substituted service.

Sworn/ Affirmed by the said before me----- this----- day of 20.

Empowered under section 139 of the
Code of Civil Procedure to administer the
oath to deponents

Abstract.

The slogan of ensuring expeditious and inexpensive justice seems farce in the wake of obsolete process serving establishment. The conduct and efficiency of the process-serving agency of the District Courts is the talk of the town, which has discredited the entire system of administration of justice that poses existential threats to the judicial system itself. During proceedings in a lawsuit, attendance of the parties is of immense importance when it comes to timely conclusion of cases. Procuring attendance of parties is the exclusive domain of process serving establishment. Service of summons, notices and execution of different warrants is the core responsibility of the process-serving agency staffed by process servers, bailiffs and Civil Nazir. The process-serving agency helps disposal of cases through procuring attendance of parties, official witnesses and court witnesses. Over the years, it has grown corrupt, inefficient and ineffective which is responsible for almost 60% delays and backlog. This obsolete institution is in dire need of reorganization, overhauling and restructuring so as to meet the challenges posed to the very existence of our judicial system. As a matter of fact, human beings learn from one another and share experiences. The United States model of process serving agency better known as the County Sheriff's Department and US Martial Services captures the attention of legal scientists at a very initial

glance. The twin US institutions are self contained and self reliant entities that are neither subservient nor dependent on other organs for their operational activities. They are multipurpose and multidimensional entities who have rendered remarkable contributions towards rule of law and autonomy of the judicature. In our country, the state must come out of the security syndrome, change its priorities and invest in institution building of the judicial organ including its operational wing i.e. the process serving establishment. The need of the hour is to diversify its functions, making it a multidimensional and multipurpose organization that is self reliant and self contained.

Key words: summon, warrant, attendance, bailiff, process servers, civil nazir.

INTRODUCTION:

Simultaneously with the institution of a civil suit one comes across the process serving agency mandated with service of process upon the defendant and other processes intended for enforcement of orders and decrees of the court. The establishment is manned by Civil Nazir/Naib Nazir as a ministerial head¹ while as many process servers and bailiffs as the High Court may sanction for a particular District². The foremost duty of the Civil Nazir/Naib Nazir is to maintain the efficiency of the process serving establishment and for this purposes he is required to submit reports and make suggestions from time to time to the Senior Sub Judge or the Administrative Sub Judge being controlling authority³. The Senior Sub Judge at the District Head Quarter is the Controlling authority and responsible for the efficiency of the Process Serving Establishment⁴. The various processes include:

- i) Summons to defendants/respondents.
- ii) Summons to the witnesses.
- iii) Warrants of arrest of witnesses in civil cases.
- iv) Warrants of attachment of moveable/immoveable property and salary etc.
- v) Warrants of delivery of moveable/immoveable property in execution proceedings.

The role assigned to the process serving establishment is multipurpose as not only it serves the parties and witnesses but is also responsible for enforcement of the court decrees. It is an

indispensable organ of the judiciary meant primarily for execution of its orders. Proceedings in a court of law get a start with the service of process upon the defendant. Inefficiency and indolence of the process serving wing can bring the system of administration of justice to a grinding halt.

BACKGROUND:

Ensuring the expeditious justice is the constitutional obligation almost in all contemporary democratic systems⁵. Good governance demands that a state must make available to its citizens appropriate means for just redress of grievances and disputes in the shape of a viable legal system and predictable judicial administration. Procedures are means to an end and the state must ensure that the legal system should not leave scope for practices and processes likely to hinder and defeat justice. Procedures, therefore, must always be open to reform in the light of experiences. “The ship is well designed, fundamentally sound, and is for most of time on a correct course; what is wanted is an overhaul and modernization of the navigational instruments so that she is more easily kept on that course”⁶.

The efficiency and performance of the process serving wing is being debated in the judicial and legal circles of the country⁷. It remained the subject of discussion in various law conferences, seminars and meetings organized by the law and justice commission of Pakistan⁸. Time and again, the apex courts have lamented upon the poor performance of the agency in its

verdicts⁹. From academicians to jurists, social scientists to legal practitioners and from students to litigant public, questions are raised regarding working of the Process Serving Establishment. Frequent complaints are made that the process servers due to indolence, lack of knowledge of the procedure and connivance with the interested party avoid efforts for service of summons. The system of administration of justice falls prey to the vicious designs of its own agents making it hostage to vested interests. This causes delay in the disposal of cases which accumulates in the shape of backlog and high pendency difficult to shoulder by the courts. Almost 60% delay in the disposal of cases occurs due to delay in service of opposite parties and witnesses.

Expeditious justice is the imperative requirement and mandate of every civilized law because it determines the rights of the parties and save them from unnecessary inconvenience¹⁰. Undeniably, active involvement of the parties in a lawsuit is a sine quo non to quick disposal of cases. Timely attendance of parties as well as of witnesses can be ensured through well-trained, skillful and diligent process servers, which would improve the overall performance of judiciary. Pakistan inherited a judicial system from the colonial era which is faced with existential threats due to outdated process serving procedures. Pakistan ranks at 118 amongst 128 countries in the category of civil justice system¹¹. This paints an utterly bleak picture of the entire system of administration of justice. Amongst various

causes for this miserable scenario, one major factor is delay due to complexities in service of process.

The process-serving establishment is an important pillar of the judiciary. Processes in shape of summons, warrants and notices are executed by the process-serving establishment, which is staffed by Civil Nazir, Bailiff and process servers. In the shape of process serving agency, judiciary has an independent work force and manpower at its disposal. An established agency in the shape of process serving establishment is in existence which requires sensitization, proper direction and overhauling. The situation would have been quite difficult in case no such establishment was available. The need of the hour is reforms and restructuring.

The Civil Procedure Code, 1908 is the principle law, which governs the proceedings of the civil nature in Pakistan, but over the years the population has increased manifold. Since the early 1900s, cities have evolved from small, tiny towns to huge metropolis. Thus, the old way of serving notices and summons is not viable anymore. The litigant public encounters the laziness and unethical practices of process servers on a daily basis. Normally, they do not budge from their offices and report the other day that 'the address was wrong' 'the name was not proper' and other similar excuses. If someone provides transportation to serve the process, then they do it gladly. It is high time that

legislation is done and the whole process service agency is revamped.

Under the existing law, the process server is an important figure without being responsible for his failure to serve summons timely. Summons is frequently returned with endorsement of 'party not found' and 'address not known, etc'. Summons is also returned for technical reasons e.g. 'initials of the defendants father does not tally', 'the house number' or 'the road numbers' differ etc. The work of the process servers is also not properly monitored and no system of accountability is in place for the court staff for delay in service. These delays ultimately result in the delay in conclusion of trial.

Civil litigation can be a nightmare for a citizen approaching the court. Delays in court procedures are tiresome and irritating. There may be enumerable problems in the system of administration of justice; however, the process gets hamstrung at the very inception. It is a common observation that in a court of law even the initial stage of issuance of summons to the defendants can take months to complete. "Nowhere in the world is the summons or the notices served the way we do in Pakistan¹². The British introduced the process service back in the early 19th century. At that time the cities were small and few in numbers while the population was small. The service of process was practicable and simple to accomplish, however, it is highly impractical in the present scenario when the cities have grown

like monoliths and the population has increased manifold while the social conditions have also changed. The process serving establishment has failed to evolve its procedures to cope with new realities in the shape of population explosion and creation of metropolis cities.

INITIATIVES OF THE GOVERNMENT OF KHYBER PAKHTUNKHWA AND PESHAWAR HIGH COURT:

Realizing the loopholes in the service of process the Government of Khyber Pakhtunkhwa and Peshawar High Court introduced drastic amendments in the Civil Procedure Code, 1908. With the introduction of new amendments, the process serving agency has entered into a new era. Under the amended legislation, summons are required to be dispatched simultaneously to the defendant, by registered post acknowledgment due and another copy of the summons by courier service signed and sealed in the prescribed manner, or by urgent mail service of Pakistan Post, at the cost of the plaintiff. Simultaneously, the court is required to effect service by (a) affixing a copy of the summons at some conspicuous part of the house, if any, in which the defendant is known to have last resided or carried on business or personally worked for gain; (b) any modern device including electronic device of communication which may include mobile, telephone, telegram phonogram, telex, fax, radio, television etc. in a prescribed manner; (c) urgent mail service or public courier services; (d)

beat of drum in the locality where the defendant resides; (e) announcement through, mosque, temple, community centre etc.; (f) publication in the press in the prescribed manner; or (g) any other manner or mode as it may think fit: with the discretion available to the court to use either all or any of the aforesaid manners and modes of service simultaneously. The location of bailiff or process-server serving the summons is to be monitored by modern devices and a photograph shall be taken of the defendant or the premises or the person accepting summons on behalf of the defendant and be made part of the record as a proof of delivery¹³.” Under the newly inserted rules in Civil Procedure Code substituted service through “Television”, “short message service, and electronic mail” and publication on the official website of the court is provided¹⁴.

ESTABLISHED INTERNATIONAL PRACTICES AND NORMS.

Globally, new modes of effecting service have also evolved and the courts are increasingly adapting to modern norms. They are increasingly willing to accept service through Facebook and other social media platforms when other methods fail. Courts in Canada allowed process service through Facebook apart from other methods¹⁵. Facebook is routinely used to serve claims in Australia¹⁶ and New Zealand¹⁷ and has been used a handful of times in British¹⁸. Way back in 2009, British courts allowed an injunction to be served via Twitter in a case where the defendant was only known by his Twitter-handle and could not easily be

identified another way. In the United States, in appropriate cases service of defendant is affected through Social Media¹⁹. Recently a case in U.S.A, involved a group of individuals based in India who allegedly “tricked American consumers into spending money to fix non-existent problems with their computers.²⁰”. After problems with more conventional methods of international service, the court exercised its authority under the federal rules to devise its own means of service. In this case, service by Facebook was not specifically prohibited by relevant international agreement, including the Hague Service Convention, to which India and the United States are signatories. Further, the circumstances in which the Facebook accounts would be served ensured service was constitutionally proper. In particular, the order ensured due process by using a two pronged approach: email as the primary method of service and service through a Facebook message (similar to email but within Facebook) only as a secondary method. The order took care to point out that service on a known email address has been held to, and would here; satisfy constitutional norms of due process. Email, therefore, served as a constitutional “backstop” should service by Facebook fail.

The United States Marshals Service (USMS)²¹ and County Sheriff’s Department²² are some of the oldest process serving agencies that have rendered remarkable services in service of process and rule of law. The USMS serves as the enforcement

arm of the United States federal courts and ensures effective operation of the judiciary throughout federal districts. In the United States a sheriff is an official in a county or independent city responsible for keeping the peace and enforcing the law. The constitution of the sheriffs and their functions vary from state to state who serve as the enforcement wing of the judiciary in the states.

WEAKNESSES OF PROCESS-SERVING AGENCY.

Reformation, restructuring and overhauling of an organization becomes only a myth if the fault lines are not correctly identified. The major structural, operational and organizational drawbacks of the process serving establishment are summarized as below:

i. Deficiency of Human Resource.

The number and strength of the staffers of an organ directly affects its performance in terms of outcome and service delivery. In other words, the greater the number and strength of staff, the greater the outcome. On the touchstone of the above principal, the number and strength of the staff employed at a particular district in the process serving establishment affects its performance and service delivery. The process serving establishment in almost all the districts is under staffed and there is a dearth of man power. The situation can be well gauged from the strength of process servers deputed at district Torghar, Khyber Pakhtunkhwa, which is stretched over an area of 497

km² with a population of 171,395²³ where only two (02) process servers²⁴ have been employed who are responsible for service of process throughout the width and breadth of the mountainous district. This means that one process server has to cover about 85697 persons in the area which on no scale is rational. The number of process servers is incompatible with population, topography and area of the District. Service of process with scanty staff is impossibility that adversely affects the performance and efficiency of the process serving establishment.

ii. Poor Educational background of Employees:

The importance of education and educated staff cannot be denied. The members of the process serving establishment are poorly educated which is another hindrance in the performance of the entire establishment. The judiciary pays for the poor performance of the establishment in terms of low-estimation in the eyes of general public. A well-educated employee can effectively run official functions, maintain records/registers and execute orders amicably. As a matter of fact, the education level of the functionaries of the process-serving agency is deplorable. The minimum qualification for a candidate is matriculation²⁵. Execution of judicial process requires acquaintance with law, rules and regulation. A holder of a matriculation certificate cannot grasp the technicalities involved. As a consequence, reports compiled by them are dubious and doubtful which gives rise to multiplicity of proceedings. A large number of process

servers and bailiffs make stereotyped reports in office without visiting spot. The education level of the process servers badly affects their performance.

iii. Insufficient Transportation Facilities.

Rapid communication and transportation is of paramount importance for the process serving establishment. The process servers have to remain in field most of the time and travel from one village to another and from street to street in search of parties and witnesses. Due to the nature of their task, effective mobility is essential. Effective, timely and swift service upon the parties is possible if the process serving agency is well equipped in terms of conveyance. However, conveyance and transportation is abjectly lacking in the process serving establishment. In the recent past, motorbikes have been made available to the individual process servers; however, no funds have been allocated for fuel consumption. From meager resources of the process servers, fuel expenses by no means are affordable. Lack of transportation adversely affects its performance which in turn affects administration of justice.

iv. Outdated Modes of Service.

The current process serving establishment is based on the modes of process serving as devised by the British in the 19th century. In the prevailing times, technology ranging from computer to finger scanners, have made explosions; however,

process servers are still required to personally affect service. The latest technologies have not been allowed to make inroads in the working of the process serving agency.

v. Dependency of the Process Serving Agency.

At present, the process-serving establishment consists of the Civil Nazir, Naib Nazir, Bailiff and Process Server. The task assigned is two pronged i.e. service of summons, notices and execution of the orders and decrees of the court. In almost all the cases relating to execution of orders and decrees, the process serving agency is toothless for it has no force of its own to execute orders and decrees independently. The agency is largely dependent on police force for enforcement operations.

vi. Non availability of Proper Service Structure.

The staffers of the process serving agency have no proper service structure and their upward movement in service is only up to Civil Nazir in BPS 16²⁶. This would show that the agency does not have a proper service structure for upward movement of its members who are the backbone the judiciary.

vii. Lack of Sensitization.

There is a lack of sensitization amongst civil nazirs/naib nazir as well as process servers about the important role played by the nazarat branch in the overall system of administration of justice.

viii. **Absence Of Control And Over Sight.**

The entries in the registers are not properly maintained in as much as no track is kept of the processes which are not received back even upto the date of hearing fixed in the court.

ix. **Lack of Organizational Connectivity.**

Proper system is not in place as regards the outstation processes and few such processes are received back. No head office at the provincial level and at divisional headquarters is available.

x. **Nonexistence of Accountability**

The accountability for the Civil Nazirs/Naib Nazirs and also the process servers does not exist.

CAUSES OF WEAKNESSES OF THE ESTABLISHMENT

Not a single cause has contributed to the organizational downfall of the process serving establishment. The various factors for organizational weaknesses of the agency may be summed up as below.

i. **Absence of Prioritization.**

Ours is an entirely security state and the justice sector has never been state's priority. Since inception, meager resources were allocated for justice sector which at present account for 01 % of the budget²⁷. The process serving agency as it stands today represents the state's constant neglect of the justice sector as a whole. For all practical purposes, the agency is dependent on

other state's institutions and is lacking in men, means and force at its back to perform its mandate independently and to assert judiciary throughout the width and breadth of the state. Neglect on the part of the government and existence of an environment of animosity towards judiciary and its institutions is the main cause for the degradation of process serving agency.

ii. Low Budgetary Allocation.

Organizational development largely depends on budget allocation in line with demands. As of now, meager resources are allocated in the annual budget for the justice sector. The same is the case with the process serving establishment which is scarce of resources in the shape of budget to meet its dire needs.

iii. Absence of Inter-departmental Cooperation

A well netted departmental network is necessary for coordination and better outcome. The process serving agency of the district courts has no connectivity with rest of the government departments including NADRA and police force which results in low outcome. Due to lack of connectivity with other departments, it is easy for the government departments to evade working in coordination with the process serving agency.

iv. Non Availability of Departmental Network.

The process serving establishment of the district courts is stationed centrally at District and Tehsil headquarters. There is a dearth of process serving network throughout the district where

they are employed and the agency does not have personnel in each and every village as focal points. Due to non availability of personnel locally the outcome of the agency is low.

v. **Non Provision of Training:**

No training is imparted to the process servers regarding their duties and responsibilities. They only learn from the experiences of the senior process servers. There are no guidelines for the process servers related to effective service. They do not know about their job description.

SUMMARY OF SUGGESTIONS FOR IMPROVEMENT:

Having discussed the fault lines and their causes, it can very well be gauged that the faults are due to human neglect and state's apathy which are curable provided willingness is available on the part of the stakeholders. Some suggestions for improvement which are not exhaustive are listed as under.

i. **Induction of Modern Technology and Availing Alternate Modes:**

Information technology has become part of human life. Introduction of information technology in the process-serving establishment for service of various processes can work wonders. A network of inter-related database operating on the thumb impression of citizens could be installed for effective work. For official witnesses, a mere internet / computer generated message in shape of summon could replace the existing time consuming

manual work of process servers. A registered cell number and email on the CNIC of a person may be used as a medium of service. There should be increased use of additional modes of service such as e-mail/SMS/fax/courier, which will result in speedy delivery of process. Provisions of e-mail ID and mobile telephone numbers of parties and advocates be mandated by the rules to enable courts to deliver the processes through electronic mode. Alternately, service of process can be affected through Facebook and via Social Media. To make the entire process of serving of summons transparent, hand-held devices or mobile phones with GPS could be provided to the process servers. They also must electronically log their attempts to serve papers using this device. Though these measures involve huge financial outlay, however, it would greatly ease the work and enhance the efficiency as well as productivity of process serving agency. Introduction of technology would give a new life to process serving establishment.

ii. Inter-departmental Coordination.

Coordination amongst various Government departments is of immense importance. Strong links between institutions undoubtedly accelerate service delivery. A link of NADRA, Revenue Department, cellular companies, etc with the process serving establishment is imperative so that service is made effective. Moreover, common inter departmental software could be launched for effective service without wastage of the valuable

time. In case of private citizens, cellular companies may be associated with the process-serving agency in coordination with NADRA department, and a single message may be served as personal service. Though it would require huge financial resources, however, inter departmental coordination could work towards revamping the existing Process Serving Establishment.

iii. Recruitment of Well-educated, Skilled and Trained Manpower:

Professionalism is the main component of organizational development. Sound educational and skilled background of an employee provides a sustainable base for uplift and competitiveness of an organization. In order to make the process serving establishment more productive and purpose oriented, recruitment of well educated, trained and skilled candidates is imperative. A prospective candidate for the post of process server should be well acquainted with advanced technical knowledge and skills besides knowledge of procedure. Possession of a Diploma in Information Technology, Linguistics preferably Urdu and English and Internship with Pakistan Post may be made compulsory. Alongside this, Diplomas in Legal Education be introduced for the paralegal staff and only such specialized personnel be recruited which is the demand of professionalism. For this purpose, amendments may be introduced in the relevant laws governing the recruitment of the process serving agency. Refresher courses may be conducted from time to time for

enhancement of the skills of the process servers. In this way, structural changes would be introduced in the process serving agency and it can be revamped.

iv. Constant Surveillance, Accountability and Oversight.

Periodic assessment and evaluation is key to organizational development. An organization is required to identify the existing Achilles heels, its causes and remedial measures. The Process-Serving Establishment is in need of reforms in the light of experiences gained since its establishment in the 19th century. By putting in place a dynamic and vigorous system aimed at regular assessment and evaluation, the performance could be enhanced manifold. A system of checks and balances can be introduced within the agency which would oversee the working of process servers. The Senior Civil Judge (Administration) being controlling authority²⁸ and the Civil Nazir/Naib Nazir being ministerial incharge are required to discharge their respective responsibilities of control and oversight effectively which would enhance the outcome of the Agency.

v. Service Reforms in Process Serving Establishment.

The present system needs elaborate service reforms. The idea that the Nazarat branch be merged with the general branch of the District Judiciary for the purpose of promotion to the post of Superintendent is not viable. Instead a new post of Senior Civil Nazir be introduced at divisional level and the two

branches be kept distinct and separate which would enhance efficiency.

vi. Introduction of Community-based Process Serving.

Identification and location of parties is one of the major hurdles in effecting proper service. Community based process serving may be introduced which would solve the pressing problem of shortage of manpower on the one hand but would also extend judicial existence to all the communities. This would also serve as a focal point for distribution of process and its service at the end level. In order to achieve the objective of community based process serving, focal persons to be known as Lambardars may be appointed at village level which would be distinct from revenue Lambardars. The modalities for community based process serving may be debated upon in the judicial academies.

vii. Creation of Independent Force on the Pattern of US County Sheriff's Department and US Marshals service.

The existing Process Serving Agency is toothless and it is dependent upon other government entities for its operational responsibilities. The agency caters to the needs of district courts, High Courts as well as the Supreme Court of Pakistan. The agency is already deficient in manpower and resources as far as the work load of district courts is concerned. With meager workforce and resources, it also works as a workforce for the

superior courts of the country. The Agency is thus under suffocation due to overload. For effective process serving and implementation of court decrees, it is suggested that two types of process serving agency be established: one at federal level which would be responsible for process serving of the federal courts including the Supreme Court of Pakistan and another at provincial level which would be responsible for process serving of the High Courts and District courts. Similarly, at the provincial and divisional levels head offices of the process serving establishment may be setup which would result in better coordination and outcome. The grades, nomenclature and ranks of the employees of the provincial head office and divisional head office may be determined through proper legislation and rules. The process serving establishment may be converted into an independent force and its functions may also be diversified. The protection of judges, court's premises, etc may be included in the responsibilities of the force. In this way, the judiciary being the third pillar of the state would have an independent force for service of its process and enforcement of its decrees and orders. This is an essential step for independence and autonomy of the judicial organ and if materialized it would liberate the judiciary from subservience to other law enforcement agencies.

viii. Initiation of Incentives and Reward Policy.

Introduction of an elaborate system of incentives and rewards policy is the need of the hour. For every effective service

of process a bonus amount be paid to every process server. This would enhance their performance manifold.

ix. Establishment of National Paralegal College:

Specialization is the norm of the present age and judiciary is no exception. Specialized and technical people are required for special, technical tasks. The job of a process server is essentially technical and specialized in nature. He is required to be aware of the relevant law and procedures related to his domain. The general qualification is not sufficient to enable the process server to grasp the technicalities of his job. Specialized diplomas in law for induction of paralegal staff be introduced and national paralegal colleges be established for imparting specialized legal education. In this way, not only specialized process servers would be inducted, but it would also cater to the needs of other organs of the judiciary.

x. Examination/Assessment of Newly Recruited Process Servers:

Legal understanding of the process servers is a sine quo non for their efficiency. For this purpose, recruitment must be conducted where a candidate's understanding of the relevant laws and procedures is tested. This practice is in vogue in the United States where process servers are required to pass an examination showing their ability to understand law.

xi. Modernization of the Establishment.

A visit to the office of process serving establishment would depict a picture of an obsolete organization where the modern

technologies in the shape of computer and internet has not made inroads. Computer and its use is something novel for the process serving establishment and the efficiency of the staffers is still gauged manually on the basis of manual registers. The offices need to be digitized so as to cope with emerging trends.

xii. Creation of Judicial Disc in Government Departments and Focal Points at Provincial Level.

Service of process upon various functionaries of the Government is an uphill task. Creation of judicial disc at departmental level will ease the job of the process servers. In the same tune it is high time to establish Special Cells at provincial level so that interprovincial processes may be effectively served to the defendant or witness residing in that province. Simultaneously, a dedicated cell in the local police stations be linked to the local courts to ensure timely service of summons within the district/province.

xiii. Hiring Services of Pakistan Post:

Services of postal department could be used more often and Pakistan Post Office could be made a nodal point for delivery of summons and making payments.

xiv. Experience Sharing:

The innovations being brought about by the High Courts in the process service agency should be indicated on their websites so that best practices in this regard could be replicated by other Courts.

CONCLUSION:

As a matter of fact, Process Serving Establishment is an important organ of the judiciary being its enforcement arm, therefore, strengthening of the same through structural reforms would add to the independence and autonomy of judiciary which will reduce the miseries of both the litigants and judiciary itself. The challenges posed are not insurmountable and are curable through legislative intervention. We must pursue out of the box solutions in the light of established international norms and practices. The enforcement arm must not be toothless and helpless and it must be empowered to assert presence of judiciary in the country and to help establish rule of law which is the mandate of the constitution of Islamic Republic of Pakistan. The high echelons in the superior courts must put their brains together and sort out the problem once and for all through drastic measures. Justice delayed is justice denied, therefore, in order to make available justice at door steps to all and sundry, issues prevailing in the process serving agency must be addressed timely.

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PROCESS SERVING AGENCY

INTRODUCTION

It is a matter of experience that in a law suit, in the life of a trial, about 25% to 40% time is consumed in completion of attendance of the parties to a suit. The exercise of ensuring attendance of parties to a suit and progression of a trial is directly related with the Process Serving Agency. It would not be wrong to hold that a trial in litigation process take off ground when the attendance is procured. Considering the time consuming exercise of attendance of parties to a suit and others miscellaneous functions i.e. spot inspections, arrest of judgment debtors in execution and procuring the attendance of witnesses, it is safe to hold that the role of Process Serving Agency is of pivotal importance.

Two factors i.e. Industrialization and Urbanization have been the source of social integration. That social integration further enhanced the interdependence of human beings. It is also the source of conflict of interest and resultant litigation. Before the industrialization and urbanization, form of litigation remained conventional and traditional and accordingly disposed of vide informal adjudication. With the passage of time and with the growing concepts of modern and welfare states, the old fashioned and informal litigation and its adjudication swing-to formal litigation and state owned system of adjudication. Since ancient times, the attendance of parties has been procured by messengers in informal manner, which ultimately led to establishment of Process Serving Agency.

ESTABLISHMENT OF PROCESS SERVING AGENCY

Process Serving Agency is integral part of judicial system and it is recognized internationally. Restricting to assigned research article, let me highlight the establishment of Process Serving Agency in ours' judicial system. Instructions and guidelines in respect of Process Serving Agency are given in the High Court Rules and Orders. Volume-I, Chapter 18-A & Volume-4 Chapter 6 Part A & B. Similarly, rules framed under section 35(3) of Punjab Courts Act also deals with the Process Serving Agency. Guiding principles in respect of number of employees of Process Serving Agency are described in rules framed U/S 22 of the Court Fees Act, 1877.

STRENGTHS OF PROCESS SERVING AGENCY

Since long despite all the odds and challenges, the Process Serving Agency has been working without sound and complete and compact structure and proper unified statutory backing. Process Serving Agency has been the backbone of ours' judicial system and has been the central pillar in maintaining the superstructure of our adjudication system. From procuring the attendance of the parties and witnesses during trial to maintaining the accounts of different kinds, it has worked miraculously.

The Process Serving Agency is an arm of judiciary and keeping in mind its function it is more administrative and financial managerial agency which under the judicial system and

judicial norms has performed excellently. The Agency has rarely been utilized on its real strength and true potential.

The non-specific employment of its employees by the District Judiciary though goes bad in principles and in morality but has blessed the judiciary manifolds. On many occasions it has bridged the human resource gap and worked splendidly to overcome hard times. Here are some occasions;

General Elections: In elections whether it is general national elections or it is local bodies Election, employees of Process Serving Agency had always offered their priceless services in the national cause and has worked along with judicial officers (Returning Officers) with zeal and zest. They have never shown back and with all their energies have worked day and night without additional emoluments.

Shifting of Complexes: It is a matter of my personal experience on two occasions i.e. at Bannu in 2012 and at Charsadda in 2017, where paralegal staff in general and Process Serving Agency in particular, acted with military spirit in shifting from old judicial premises to new judicial complexes. They worked day and night and remained steadfast till the end in lifting of all equipment's, court assets, record rooms and libraries etc. On one side they skillfully with all care and cautions helped out in smooth shifting and on other hand, they saved money for District Judiciary and state exchequer otherwise to be incurred on procuring services of private persons from outside the institution.

Local Functions: The District Judiciary has always been short of human and financial resources but to compete with the challenges it has to work within the available resources. The available human resources are already short but for all its local functions the District Judiciary has always looked towards the Process Serving Agency. As internal arrangements for fulfilling the different vacant seats, employees of Process Serving Agency are deputed. Likewise, on different occasions i.e. Openings, cleanliness drives, tree plantation etc., the Process Serving Agency has always been on front line.

For the last many years the Agency has been facing many problems which now has become challenges indeed. These challenges have affected the functional abilities and performance of Agency and the District Judiciary as well.

WEAKNESSES AND CHALLENGES

“To improve is to change; to be perfect is to change often.” Winston Churchill.

From genesis till now, the Process Serving Agency has been bothered very little. From its structure to its functions it has been left to work with outdated and its conventional structure and style. It would not be wrong rather fair to comment that this arm of judiciary has been used in very negligent and casual manner. The employees of Process Serving Agency have been used for granted. Members of Process Serving Agency and their services have been employed improperly. From courts to residences of Judicial Officers, they have been used as Naib Qasid,

lifters, watchmen, cook and drivers. These are the duties which have always been below of their jobs description. They have also been working in the courts as Muharrir, Madad Muharrir, Junior Clerks and COs as well but in their own pay scale. Initially such types of practices have not been bothered by the employees of Process Serving Agency and at sometimes it has been the strength of District Judiciary and the Agency but when the practices become rampant, it has left bad taste and impression. It is neither going good with the employees of Process Serving Agency nor it is good for reputation of the District Judiciary. The challenges are of two types i.e. legal/ statutory in connection with the structure of Agency and secondly in respect of their functions.

Locked Service Structure: The service structure of Process Serving Agency is very restricted and locked in its entirety. Scope for career is almost obsolete. From recruitment as Process Server there is three stages of promotion till the post of Nazir (only one in the District). The pace of promotion that too without difference of job descriptions and difference in shape of pays and benefits is very slow and less charming. Particularly in the present day situation when the educated and skilled even graduates and post graduates due to unemployment are turning to the posts of Process Servers and bailiffs, the service structure seems very poor.

Since the formation of Agency, the service structure including cadres of its employees is very smothered and locked. From BPS to promotion in next cadre is very scope-less. Likewise, the requisite education of its employees is also not at par with the functions of Process Serving Agency. Rules of regulations are same which are in dire need of review.

Training and Development: In any organization whether public or private, the skilled, trained and efficient workers play an important role in the growth and in achieving the requisite goals and objectives. It is a matter of grave concerns that in the service structure of Process Serving Agency, the training and development of its employees is missing. All the employees are recruited on fixed and specific educational qualification and then employed without any proper training. They are rarely involved in formal orientation in the department. This fact has effected the performance of Process Serving Agency and the desired results of development and progress are not achieved. All the remaining stake holders of adjudication system have suffered a lot. The main sufferers remain the litigants and the litigation process get protracted. The cost of litigation also increased and got doubled.

Conventional Performance Management: Keeping in mind, the strength of employees the Process Serving Agency is the large and long arm of District Judiciary. There is no particular and defined performance management policy and defined tools of evaluating the performance of its employees. In any organization the performance of its employees/ workers are constantly checked, monitored and evaluated. This process goes long in the development and growth of departments and agencies. In our system for the management of performance of Process Serving Agency, the conventional mode is in vogue. This old fashioned style of management has left space for personal liking and disliking. Since all the employees of the Agency belong to district and Nazirs and Naib Nazirs too hails from locality. Resultantly, the local politics and liking and disliking developed. Sometimes it is very difficult for Senior Civil

Judges and District & Sessions Judges who belongs to different districts to dig out and dealt with the local politics. Unless and until the performance management indicators for qualitative and quantitative evaluation are set out under the uniform policy, the performance of Agency could not be improved.

Meaningful Managerial Relations: As pointed out above that the Process Serving Agency consists of human resources and the consolidated efforts of the Agency could give better results. In modern system of administration, the inter relations between the staff in an organization plays significant role in effectiveness. Similarly, the relations between the employees and the Manager/ Administrator works wonders if they are on good terms. The work flow management in the Process Serving Agency is not streamlined. This mismanagement of workflow is the source of agonies amongst employees and resultantly give birth to power politics, grouping and corruption to some extent.

Human Resource Gap/ Skills Gap: It is hard reality that the Process Serving Agency has never worked on its original strength. Due to lack of human resource gap analysis, the Process Serving Agency real strength has been determined without any standard. The Agency has never been strengthened in number of his employees in view of the population and increase in ratio of litigation. With the passage of time not only the ratio of litigation has increased but its variety has also multiplied. The strength of Process Serving Agency and creation of new different posts with different job description are needed. Less number of employees, with minimum skills and conventional techniques the Agency has become sick.

Talent Prospective: In the modern administration techniques talent prospective is considered as the best tool of organizational development. Promotion criteria like most of public sector organization is the qualified service and fitness. As a matter of experience in the Process Serving Agency the promotion criteria is dull. Those who are not able to write simple reports are even recruited and promoted without considering their actual talents. Evaluation of talent of Process Serving Agency is not in practice. The qualitative and quantitative assessment of Agency's employees is old fashioned and mainly based on ACR. In most cases, the ACRs not reflects the true and reliable pictures. Well settled clear criteria for promotion which can define explicitly the behaviors, achievements of set targets and personal qualifications is not available. If the talent is not identified, encouraged and motivated, it will die and the ultimate loss would be caused to the Agency.

Ineffective and Less Productive: Since the Process Serving Agency is involved in many assignments and this aspect has mutilated its real face and the effectiveness of the Agency has curtailed. All the above pointed out weaknesses, challenges and loop holes have affected the productivity. The weak administration, poor management and human resource and its skills gap has made the Agency almost feeble to cope with the requirements of District Judiciary.

Less Use of Technology: With the introduction of technology the private sector has brought revolution in their organizations. On the other hand, in the Process Serving Agency, we still have to introduce the technology.

Maintenance of manual record of accounts, stock registers and process registers etc. is arduous task and time consuming. Maintaining the record in Manual form is prone to mistakes and corruption as well. It also gives births to complications in administration, audit and supervision. Threat of tempering in record and its destruction also remains at high risks.

Personal Weaknesses in Discharge of Duties: Process Servers are recruited on the qualification of education till middle. While Process Servers and Bailiffs have to work in legal institution and have to function accordingly i.e. writing of reports which are more legal in its character within legal and statutory requirements. It is very much essential to comprehend all the relevant sections of law. But a matter of practice and experience shows that very few of the available strength of the Process Serving Agencies knows the relevant legal provisions and art of writing reports in accordance with law. This lack of legal acumen and experience is also constant and potent threat to the performance of Process Serving Agency.

Geographical and Weather Threats: Despite the fact that the employees of Agency have been given motorcycles and POL but still their agonies exist. In the hilly areas of Hazara and Malakand Division they are having many problems in serving in far flung forests and deserted areas. They have to face the weather problems as well. In the Hazara and Malakand Division they have to work even in the snowfall and to ensure the process serving.

Terrorism, Ethnic and Sectarian Violence: Employees of the Process Serving Agency in many districts of the province since the war against terrorism are prone to the threat of terrorism and ethnic and sectarian violence. Employees of Agency are field workers and have to visits frequently to the public. Our society is not much progressive, therefore, sometimes the employees of judiciary and Process Serving Agency are dragged into the enmity between the litigants/ parties.

Chronic Litigants: Precedents exist on large scale where the chronic litigants have avoided the service of process. When the parties to a law suit are ducking and diving to avoid the process of the law then the Process Serving Agency has to fact many problems. Parties sometimes went to the depths of frequently changing their addresses and used their alias names to avoid process of law. Sometimes process servers are deterred and extended dire threats of life. In such situations a job of process servers and bailiffs become very tedious and tiresome.

Faith by the Court: Due to poor performance and lack of legal knowledge and incomplete reports on the part of Process Serving Agency, faith of the courts fading away. This is also very delicate issue and often the process is repeated in the law suits which is also the source of agonies for Process Serving Agency.

Transfer of Cases: Transfer of cases from one court to another is common phenomena. The wisdom conveyed by the Superior Courts in their judgments, that on transfer of cases, the transferee court shall summons the parties afresh, has also proved one of the source of heaping the burden on Process Serving Agency.

SUGGESTIONS

- 1. Regulations:** The poor, weak, dispersed and indifferent structure of Process Serving Agency requires to be regulated in single statute/ rules and regulations. The structure needs to be defined in all respects. Its structure needs to be open, having scope of promotions and with more cadres.

PRESENT SERVICE STRUCTURE

Designation	BPS	Qualification	Promotion Criteria
Process Server (Feeder Post for promotion to next post)	05	Middle	After 05 years of service eligible for promotion to the post of Bailiff.
Bailiff (Feeder Post for promotion to next post)	06	Middle	After 05 years of service eligible for promotion to the post of Naib Nazir if having matric certificate.
Naib Nazir (Feeder Post for promotion to next post)	11	Matric	After 05 years of service eligible for promotion to the post of Nazir.
Civil Nazir (no further promotion)	16	Matric	Stopped.

Keeping in mind the above structure, if an employee enters into service and by the age of forty he becomes Naib Nazir in BPS-11, he has to serve till retirement in the BPS-11. That structure is not justified because comparatively in the another cadre i.e. a Junior Clerk of same qualifications has more options of promotion i.e. to the posts of Senior Clerk, Assistant and Superintendent. It is suggested that the service structure of Process Serving Agency may be revised. The requisite qualification at the time of recruitment, their BPS and promotion chances be reviewed. To obviate the congestion and suffocation in the service structure and ladder of promotion from Process Server to Nazir some other posts be created in different pay scales. The proposed service structure may be as follows:

PROPOSED SERVICE STRUCTURE

Designation	BPS	Qualification	Promotion Criteria
Process Server (Feeder Post for promotion to next post)	07	Matric (Minimum)	After 05 years of service eligible for promotion to the post of Bailiff.
Bailiff (Feeder Post for promotion to next post)	09	Matric (Minimum)	After 05 years of service eligible for promotion to the post of Naib Nazir if having Higher Secondary School Certificate.
Naib Nazir (Feeder Post for promotion to next post)	14	F.A (Minimum)	After 05 years of service eligible for promotion to the post of Senior Nazir if having qualification of Bachlor degree.
Senior Naib Nazir (Feeder Post for promotion to the post of Nazir)	16	B.A (Minimum)	After 03 years of service eligible for promotion to the post of Nazir if having qualification of Bachlor degree.
CO (One or two posts of CO at least for computerization)	16	B.Com/BCS	Promotion of CO shall remain on the basis of joint seniority list.

of record and maintaining record digitally)			
Budget & Account Assistant	16	BBA/B.Com/ B.A	Eligible to the promotion of Nazir after completion of 15 years of service along with Senior Naib Nazir.
Civil Nazir	16	B.A (Minimum)	Be considered for the post of Superintendent after 03 years of service as Civil Nazir.
Superintendent	17	B.A/B.Com/B.Sc	To work with SCJ (Admn:) as Superintendent like one works with District & Sessions Judge.

Promotion to the next cadre shall not only be based on qualifying service and fitness, rather compulsory training and professional exam shall be conducted for promotion to the next cadre.

- 2. Human Resource Gap Analysis:** Ed Gordon, author of Future Jobs: solving the employment and skill crisis, said, “you can have all the latest technology you want, but if you don’t have the talent behind it, your business is not sustainable.” It is universally admitted that people are a key part of an organization’s growth. Therefore, incorporating the human resources into the organization is inevitable. A Human Resource Gap Analysis is a breakdown of current work force of an organization and the skills they possess compare to the work force actually required and needed to reach the required business goals. It will reflect and identifies the potential, personal and skill deficiencies within an organization.

The Process Serving Agency in each and every district needs human resource gap analysis. To ascertain the exact number of required employees in proportion to the current quantum of work, the human resource gap analysis is foremost requirement. Otherwise there is very likelihood of failure in attaining the sustainable growth.

- 3. Training and Development:** To improve the performance of Process Serving Agency and the judiciary, employees of Process Serving Agency shall undergo the stage-wise training under the supervision of August Peshawar High Court, KP Judicial Academy or the District Judiciary. The training manual extended over all aspects i.e. legal material, functional specialization and behavior development etc shall be prepared for that purpose. Such trainings by a systematic set up where employees are trained and taught matters of relevant professional knowledge in accordance with job description, would definitely be fruitful in the long run. Similarly, development of employees by focusing on the overall holistic and educational growth including insights, attitudes, adoptability, managerial relations and character building will boost the organization. That will be helpful in reducing the mistrust, distrust and issues of faith on the Process Serving Agency from the public and the employers/ courts. Similarly, it will have long lasting effects and the employees of Process Serving Agency will serve in the society with more courage, having public confidence and without potent threats.
- 4. Performance Management:** The new trends are that the jobs are offered to those who are more skilled and effective without taking into consideration the religion, the caste,

creed and colour etc. When discussing subject of performance management, people usually think of the annual performance review process. But it is only one component of what is considered to the performance management. So far the best definition of performance management is given by Micheal Armstrong in his [Handbook of Performance Management](#), which carefully and plainly lays out the Armstrong performance management cycle:

“Performance Management is the continuous process of improving performance by setting individual and team goals which are aligned to the strategic goals of the organization, planning performance to achieve the goals, reviewing and assessing progress, and developing the knowledge, skills and abilities of people.” Micheal Armstrong.

In view of the above definition to cope with different issues of administration and to shift from conventional performance management to modern trends of performance management, there shall be proper subjective preparations. There shall be defined goals and objectives of the Agency, defined job description along with personal development plan, review of the performance and profile making of individuals. Everything shall be in writing in accordance with overall planning.

- 5. Meaningful Managerial Relations:** To overcome the managerial issues, complaints against employees of the Agency and within the employees of Agency, there must be meaningful managerial relationship in the work place. In fact, the employment is a source of earning livelihood with self-respect. If the employees are happy, satisfied and respected, they work happily and with more energies and zeal and zest. One of the major factor contributing to employees happiness is working relationship between co-workers and between the employee and manager. There are many tools which contributes a lot to the healthy working relationship and managerial relations. These include friendly atmosphere but without favoritism, appreciation by recognition of good work, awards, rewards and choice postings etc. By these means and manners, the working of Process Serving Agency can be made more efficient and effective.
- 6. Introduction of Technology:** Presently issuance of process from the court by the Muharrirs, its distribution by Naib Nazir and service by Process Servers and bailiffs in the field and its receiving back to the court is manual. Similarly, other registers are maintained manually. As pointed out in the weaknesses and challenges, this state of affair is faulty and inviting many complications and opens doors for corruptions. Many issues related with all these stages of issuance of process, its service and receiving back to the courts can be settled by digital/ electronic system. Compact software may be devised for controlling the issuance and service of process from the court. On one hand it will save time and on the other hand, it will be more effective and efficient.
- 7. Facilitation of Agency:** The growth of employees of Agency and the process of Agency can be improved by its facilitation. Bikes, android mobile sets/tabs, cameras and other required facilities shall be given to the Agency. Dress including shoes, umbrellas and driving helmets and gloves etc be given to field workers like personals of forces.

Conclusion

Institutions and organizations are not created every day. They are established, maintained and reformed wherever felt and needed. If required changes are not made on time, there is apprehension of failure. A golden principle in a phrase i.e. ‘A stitch in time saves nine’ shall be ours’ motto.

“Progress is impossible without change, and those who cannot change their minds cannot change anything.” George Bernard Shaw.

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