

NATIONAL JUDICIAL CONFERENCE

16-18 April 2010

Group 1: Ways To Improve Implementation Of National Judicial Policy.

Chaired by : Mr. Justice Ejaz Afzal Khan.

The National Judicial Policy enunciates principles and policies for the attainment of certain national aspirations and objectives, in particular:

- i. The Rule of Law;
- ii. Independent Judiciary; and
- iii. Efficient Administration of Justice.

The Policy seeks to achieve these objectives through an evolving modular structure, which at this stage comprises of the following four core issues:

- i. An Independent Judiciary;
- ii. Enforcement of the Code of Conduct for Senior Judiciary;
- iii. Elimination of Corruption from the Subordinate Judiciary; and
- iv. Expeditious Disposal of Cases.

During Group 1's working session, participants heard five speakers who presented papers on various aspects of how to improve the implementation of the Policy.

A synopsis of the papers presented is set out below. The copies of the papers are attached as Annex A.

At the end of the presentations, the participants were invited to deliberate on the issues emerging out of the working papers and generally out of the implementation of the Policy. Based on these deliberations the working group proposed the following recommendations:

1. Policy Awareness:

It was observed that whilst core principles enunciated in the Policy were well articulated by most judicial sector stakeholders, knowledge and understanding of the Policy and its potential to achieve those core principles was neither universally adequate nor satisfactory. This has an immediate adverse effect upon the Policy's effective implementation, in particular the perception of alienation and lack of ownership among stakeholders.

Therefore it was recommended by the working group that:

- a. The Policy and Codes of Conduct be made part of the formal curricula of stakeholder educational and training institutions;
- b. That the Policy be made available to the greatest possible number of people in the vernacular/local dialect;
- c. Special steps be taken to make the most vulnerable litigants aware of the Policy, including women, children, illiterate and otherwise the handicapped and under-trial prisoners;
- d. Special efforts may be made for the continuing education and training of the Bar and the Bench with special reference to the Policy;
- e. Committees comprising of the Bar and the Bench be established at the district levels to oversee Policy implementation;

- f. Efforts be made to disseminate the Policy through the media and other institutional arrangements.

2. Resource Allocation:

It was observed that existing resource allocations for Policy implementation was inadequate. In order to address this problem it was recommended that existing resource allocations be identified and shortcomings highlighted with a view to meeting the deficit. Some participants suggested that a minimum percentage of the GDP be allocated for the administration of justice. Other participants suggested that courtroom facilities, access to information technology, libraries and other facilities also be provided.

Many participants expressed grievance that strict performance standards have been laid down in the Policy with respect to disposal of old cases (i.e. those instituted before Dec 31st 2008) without making adequate resource allocation. The participants felt that the performance standards were not likely to be met. Therefore it was recommended that that the deadline in the Policy presently set at 31st May 2010 for disposal of old cases be extended to December 31st 2010 and that the definition of “old cases” be revisited.

3. Incentive Policy:

In order to incentivise and encourage Policy implementation it was proposed that incentives be considered for the Bench and the Bar for achieving or exceeding set performance standards.

4. Monitoring:

It was proposed that Policy implementation should include not only the number of cases disposed of but also other matters, including the quality of decision-making. It was, therefore, recommended that the decision making of the District Judiciary be appraised also by appellate/revisonal courts.

5. The Future Evolution of the Policy:

The Policy established core principles are intended to be and in fact are intrinsically dynamic. Therefore, efforts will need to be made to ensure that these principles are continuously evolved to meet changing circumstances.

6. Miscellaneous Recommendations:

The following miscellaneous recommendations were also made:

- Courts be established to provide justice at the doorstep;
- Recording of evidence through local commission be stream lined;
- Information technology should be exploited to the maximum for case management, including service of process;
- Forensic Laboratories should be established at district levels;
- The Bar Councils should revisit the reluctance to take disciplinary action against lawyers;
- The distribution of cases loads be properly managed;
- To establish an independent judiciary one needs to first define what an independent judiciary includes;
- Independence of the judiciary must include the assumption that a judge will be able to decide cases without any pressure or fear of another body or institution of the public or private sector;

- The judiciary must also have financial independence;
- The Judiciary should have administrative independence;
- It was mentioned that there should be an increase in the pecuniary jurisdiction of the District Courts. This serves the purpose of reducing the workload on the High Courts by shifting the workload from the High Court to the District Court;
- There ought to be monthly workshops at the District levels pertaining to Policy implementation;
- Litigants as judicial sector stakeholders should be given the opportunity to give their input on Policy implementation;
- There should be periodic courses/workshop/vocational training for the Bench and Bar;
- Subordinate courts should be fully equipped. Many District Court judges did not have stenographers and are forced to write decisions themselves. This hinders efficient administration of justice, in particular the target of expeditious disposal of cases;
- The six month training period for trainee lawyers be increased to one year; and
- Course on professional ethics to be introduced into the curriculum of law schools.

7. Summary of Working Papers:

a. Tariq Iftikhar Ahmed high-lighted the following:

- Judicial Officers and Members of the Bar should collaborate, cooperate and aid one another in the disposal of cases;
- There should be a permanent committee in the district courts comprising of District and Sessions judges, Judicial Officers, Administrators of the Bar Association and senior advocates who are able, through vested authority, to address and resolve the problems of the District Courts;
- Cumbersome civil procedures are a hurdle to speedy expeditious disposal of cases. Therefore civil and criminal procedures themselves be simplified;
- Advocates should be discouraged from and where possible penalized for filing frivolous cases;
- Legal education should include profession ethics; and
- Criminal cases in which parties reach a compromise should not have to go through section 173 of the Criminal Procedure Code. Instead they should directly be sent for dismissal.

b. Syed Saghar Hussain Zaidi high-lighted the following:

- The Bar and the Bench must collaborate, cooperate and aid one another in the disposal of cases;
- Advocates should understand that it is in the interest of both the courts and the litigants that the case be decided as early as possible therefore they should not seek adjournments of cases as a matter of course. Seeking adjournments frequently frustrates justice and adds to the backlog of cases;
- Adverse orders should not be passed by the judge in the 'early hours' as this would avoid multiplicity of litigation;
- Witnesses should be examined in places other than the court rooms. This will save time and speed up the process; and

- Disciplinary action should be taken against corrupt judicial officers and their subordinates and such action should take place in secrecy from the public and the prying eye of the media so as to protect the prestige and honor of the judiciary.
- c. S. Naz Muhammad Zai high-lighted the following:**
- Justice delayed is justice denied;
 - Obstacles to effective Policy implementation continue to exist;
 - The public should be educated on the benefits of efficient administration of justice;
 - Pay structure of judicial officers be made attractive;
 - Information technology be introduced in the courts to reduce paperwork and increase efficiency.
 - The Bar should be incentivized to facilitate the Bench in the expeditious disposal of cases and avoidance of unnecessary adjournment;
 - Session Judge be given authority and power to have oversight on the performance of the subordinate judiciary;
 - Investigation agencies must be encouraged to investigate cases honestly and impartially and put up cases up for trial within 14 days under section 173 of the Criminal Procedure Code;
 - Court facilities should be improved, including alternate sources of power generation during the load-shedding;
- d. Dr. M. Salah-ud-Din Mengal high-lighted the following:**
- The Bench and the Bar should collaborate, cooperate and aid one another in the disposal off of cases;
 - Modern methods of crime investigation should be introduced; and
- e. Mr. Mehr Iftikhar Abbas Jatiana high-lighted the following:**
- That in order to meet the performance standards laid down by the Policy, a representative judge would need to clear 150 cases on a daily basis. If an eight hour day is assumed he/she will have to dispose one case every 3 minutes;
 - “Justice delayed is justice denied but justice rushed is justice crushed”;
 - Rushing the disposal of cases leaves very little room for there to be a compromise between parties. Therefore the performance standards especially the May 31, 2010 deadline be revised.

8. Conclusion:

Notwithstanding the great challenges thrown up by the Policy, no participant disagreed with the Policy objectives set out above. Participant in general, however, agreed that effective Policy implementation required certain steps to be taken for success. Those steps were deliberated upon by the participants and have been set out above. They include strengthening Policy ownership, increasing awareness of Policy among stakeholders, reforming and streamlining institutions and procedures for achieving Policy objectives

Group 2: Alternate Dispute Resolution.

Chaired by : Mr. Justice Tassaduq Hussain Jilani.

1. There should be an ADR Centre on the pattern of Karachi Centre for Dispute Resolution in every Provincial Headquarter working under the auspices of the respective High Courts.
2. Training of trial court judges in ADR should be done by trained and accredited trainers.
3. ADR committee in tax laws should be independent and any decision given by it should be given effect to by FBR and relevant laws may be amended accordingly.
4. A National Arbitration and Mediation Council should be created with rules in the manner provided by UNCITRAL.
5. Government and semi Government contracts should have a mandatory mediation and arbitration clause.
6. Mediation should include court assisted mediation where needed.
7. There is a need for an exclusive workshop on the subject of ADR.
8. In family matters judges should act as conciliators and should behave like family elders keeping both families' interest in view.
9. A high profile committee be constituted for revisiting the ADR provisions in the taxing statutes with the purpose to make it more effective and more vibrant.
10. The requisite rules, where ever required, be framed for giving effect to the provisions regarding ADR in the Law.
11. A mechanism for pre-trial conferences needs to be evolved so that the means of ADR are explored at the initial stage of a case.
12. Fresh suits and cases need to be examined at the institution stage with a view to determine eligibility for an ADR program including mediation, conciliation and arbitration.
13. There is need to create an awareness about the law relating to 'Anjuman-e-Masalihah Council' at grass root level.
14. Technical disputes should be arbitrated by at least one expert in the panel.
15. Rules under Small Claims and Minor Offences Courts Ordinance should be framed by the High Courts of each Province to enable these courts to invoke the provisions of ADR properly.

Group 3: Legal Education.

Chaired by: Mr. Justice Mian Shakirullah Jan.

Legal education must be delivered and inculcated at the grassroots level. This means that there must be such education at the primary, intermediate, collegiate and professional level, using appropriate means for each level to spread awareness of fundamental rights of people and their corresponding obligations.

1. There should be a greater emphasis on clinical legal education, including but not limited to the use of case method, Mock trial, Moots, and other similar methods, to ensure that a fresh graduate is equipped with the right tools to enter the legal profession.
2. There must be adequate pre-service and in-service training for paralegal and court staff, as a lawyer or a judge cannot perform efficiently without adequate support from their respective staffs.
3. Although police officials receive some legal training during their training, it is observed that the WHC's and the IO's are often ignorant of the correct legal procedures, resulting in acquittals. It is therefore recommended that better legal training should be imparted to them to enable them to better assist the court. Other relevant agencies should also take similar care for legal training of their staff.
4. In accordance with the provisions of the Constitution, the laws should be speedily translated into Urdu, and steps should be taken to ensure that legal education could be imparted to the students in the national language. For now both options of education in English and Urdu as mediums of instruction should be available.
5. The pre-license training that a fresh graduate currently receives as an apprentice is generally viewed as unsatisfactory. Steps needs to be taken to effectively monitor and enforce provisions to ensure that seniors allow the juniors to participate in litigation, so that they may gain practical knowledge of law. The system of apprenticeship needs to be effectively utilized and all the provisions in relation therein should be diligently followed. The senior counsel must also perform their duty in relation to their apprentices.
6. At least the public sector Universities should make an effort to start law reviews and journals and proper steps should be taken in funding and supervising these projects to ensure that they gain the HEC Y Category as soon as possible.
7. There must be continuing legal education for judges at the District judiciary level. For this purpose all the available in service training programs in various provinces and the federal area should be utilized.
8. The judgment of the Supreme Court of Pakistan, in the Pakistan Bar Council v. Federation of Pakistan, must be followed, and if the judgment is not being implemented, then the stakeholders must approach the Supreme Court for implementation and further instructions. The role of the HEC may be taken into consideration in any review process.
9. There should be minimum entry requirements for law school, a set number of law school seats, and some minimum campus requirements for private law schools. Private and public law schools that do not fulfill the requirements set out in the Pakistan Legal Education Rules 1978 should be stripped of their affiliation or degree recognition status until they fulfill the requirements set out by the Pakistan Legal Education Rules 1978. There should also be a review of the Pakistan Legal Education Rules 1978 to ensure that

quality of institutions is improved, impractical and defunct rules are removed, and thereafter, the rules should be strictly followed.

10. The distance learning law programs currently being offered must be monitored more effectively to ensure the quality and relevance of such education to the Pakistani legal system. There may be an accreditation system put in place to ensure that such graduates are conversant in Pakistani laws.
11. The process for grant of charter of the National University of Law & Social Sciences should be expedited with appropriate lessons of the past years taken in account and to ensure that the benefit of such an exercise are proportional to the costs.
12. The present regulatory structure of the HEC and Pakistan Bar Council overlap, with there being confusion at times of their respective areas of competence. It may be suggested that either the HEC should be entirely responsible for the graduate level legal education, or a separate regulatory body at the national level, National Council of Legal Education, should be formed, and represented by all the appropriate stakeholders to govern legal education on its own.
13. There must be greater supervision of colleges and faculties to ensure proper numbers of fulltime and part time staff are given. Fulltime staff must go through periodic review and engage in research activities. There should also be monitoring by HEC of the output of fulltime law staff.
14. Persons who have experience of procedural laws, such as retired judges, should teach those laws to ensure that competent people teach these subjects.
15. The National Judicial Policy should also reflect the concerns regarding the status of legal education in Pakistan, and should monitor progress of any steps taken in furtherance of the recommendations of this group.

Group 4: Use of Information Technology in Courts.

Chaired by: Mr. Justice Sarmad Jalal Osmany.

This house met today to deliberate on Use of Information Technology in Courts. As a result of deliberations, it resolved that use of Information Technology in Courts will make judicial process more transparent and delivery of justice speedier. Hence it should be implemented in the judicial system of Pakistan under the supervision of the Superior Courts of Pakistan.

This house hereby approves and makes the following recommendations to be made part of the final declaration of National Judicial Conference held on 16-18th held at Supreme Court Building, Islamabad, Pakistan;

1. In principle it was resolved that Court procedures and records need to be automated and made user friendly for the benefit of the public as well as improvement of Courts.
2. Fundamental areas to be automated are as under:-
 - a. Case Management i.e. Cause Lists, Fixation of Cases in Courts, Development of Court Calendar etc.
 - b. Process of Service to be made electronically to Parties/ Advocates /other Courts via E-mail, SMS on mobile phones.
 - c. Issuance of certified copies of Court Orders/Judgments i.e. when these are signed to be transmitted electronically to the copying branch which would issue certified copies.
 - d. Computerization of Court Record and Inventory Control Systems of Record Room.
 - e. Record of pending cases to be maintained on a Central Database Server for each High Court and District Court.
 - f. Electronic Filing (e-filing) of Cases. Verification of antecedents of parties through NADRA.
 - g. Online Complaint Registration on main website of each Court.
 - h. Video Conferencing for hearing of cases initially in respect of Supreme Court and High Courts only. Thereafter, it could be explored whether Criminal Trials could be conducted through this facility.
 - i. Research facility through Information Technology e.g. e-Library
 - j. Online availability of judgments approved for reporting.
 - k. Performance evaluation of District Courts through I.T.
3. To achieve the above objectives it was further resolved as under:-
 - a. That a Judge in each High Court be nominated as a Reform Judge to improve automation through I.T.
 - b. Sufficient funds be allocated for developing hardware/software, hiring I.T. professionals etc and training of judges/court staff etc.
 - c. Amendments to be made in relevant laws in order to facilitate the above as well as any new possible legislation to be considered.
 - d. Model e-Court to be established in each High Court and one District Court.

Group 5: Expeditious Disposal of Cases: Obstacles and Remedial Measures.

Chaired by: Mr. Justice Khawaja Muhammad Sharif.

1. Infrastructure particularly for the subordinate courts needs to be improved:
 - a. Proper court buildings need to be established;
 - b. Appropriate facilities for staff need to be provided;
 - c. Adequate furniture, stationery, libraries (at least all essential acts) and computers with duly licensed software needs to be made available;
 - d. All courts throughout Pakistan need to be provided with at least two skilled stenographers;
 - e. The Process Serving Agency should be improved. Process Servers need to be provided adequate transportation and all other steps should be taken to ensure their efficiency;
 - f. All courts, from civil to session judge level, should be equipped with air-conditioners, generators, UPS and other necessary equipment to ensure that the excessive load-shedding does not impact court work. Adequate funds should also be provided to maintain and operate these machines;
 - g. Proper facilities for the litigant public including water coolers, toilets and sheds should be provided; and
 - h. Forensic Science Laboratories including DNA testing facility should be set up at divisional level. The Government should also notify proper staff for these laboratories
2. The number of Judges and skilled Judicial Staff needs to be increased, however it is equally important to devise a mechanism to immediately fill any judicial posts that fall vacant.
3. Penalties should be imposed for frivolous claims and defenses. Although there are adequate provisions in the Civil and Criminal Codes (Section 35-A of the Civil Procedure Code 1908 and section 250 of the Criminal Procedure Code 1898) in this regard, judges should be directed to implement these provisions in letter and spirit.
4. Courts should compulsorily refer cases for resolution through Alternative Dispute Resolution mechanism. The following measures may be taken in this regard:
 - a. Conciliation Committees should be revived;
 - b. The model for Karachi Centre for Dispute Resolution (KCDR) should be considered for adoption throughout Pakistan; and
 - c. There are already provisions in the law regarding referral of cases to ADR (Order X Rule 1(A) and Section 89-A of the Code of Civil Procedure 1908). Judges should be directed to follow these provisions.

5. The Courts should allow limited number of adjournments and only when imperative. In this regard the following are recommended:
 - a. Lawyer should minimize the number of strikes;
 - b. Courts should fix the roster for cases at least 4 weeks in advance so that lawyers may plan ahead appropriately. These dates should be fixed with the consent of the counsel for either side and subsequently adjournments should only be granted on exceptional grounds. In any event, cases (whether civil or criminal) may only be adjourned twice; and
 - c. The number of cases on the Cause List should be made manageable for both the judge and the lawyer.
6. Budgetary allocations for courts throughout Pakistan should be made uniform. Salaries and allowances of district judicial officers and staff of High Courts and lower courts in all the other provinces should be made commensurate with the Lahore High Court and District Judiciary in Punjab.
7. Senior lawyers should give opportunities to their junior associates to appear in court in all cases where the presence of seniors is not necessary.
8. The Provincial Government should be requested to set up an Endowment Fund with the help of philanthropists for payment of counsels engaged in “arsh-daman” and “diyat”. This fund should be used for those convicts who have already undergone substantial sentence and do not have the sources to pay.
9. Time for disposal of old cases as given in National Judicial Policy 2009 may be enhanced by at least 6 months. The time for the disposal of new cases may be extended to 1 year from the current 6 months. For the expeditious disposal of criminal cases, public prosecutors should be appointed in accordance with the recent judgment of the Hon’ble Supreme Court of Pakistan.

Group 6: Elimination of Corruption in Judiciary: Measures for Effective Supervision and Accountability.

Chaired by: Mr. Justice Ch. Ijaz Ahmed .

The proceedings of the conference started in the name of Allah Subahana Talla - the most beneficent and merciful - with a prayer, strong hope, desire, commitment and confidence that Allah will help us achieve the success. The proceedings continued till late hours of evening with participants taking deep interest. Obviously, the participants coming from every nook and cranny of the country seemed highly attracted by the solemn objective of the conference. They gracefully took part in the proceedings, shared their valued views and in that made the following suggestions to help eradicate the corruption in the judiciary.

- **Elevation of judges** of superior courts be made on merits completely avoiding nepotism, party interest and such like things. in this, it was stressed that, right ratio be prescribed for appointments of judges from interior of the provinces.
- **Appointment of Judges** to be fair and purely on merits. In this the committees for selection of judicial officers be carefully constituted from amongst the honest, strong willed judicial officers to withstand the pressures whatsoever and in whatever manner coming from outside.
- **The period of probation** of the judicial officers be kept under strict watch, their performance be carefully assessed at the time of making decision as to their confirmation or otherwise.
- **Training be imparted** to the judicial officers in accord with the tenets of Islam; so also they be made familiar with the rules of case flow, case management and judgment writing, more particularly to enable them to make the decision immediately on conclusion of the submissions made before them. During the course of training the judges be taught the methods of applying the law and the case law to a particular case to grant appropriate and deserved relief. Also to avoid making decisions on the face value of representatives of litigants and avoid meetings with unconcerned persons in their chambers.

Refresher courses be introduced to update the judicial officers of advanced knowledge and the methods of deciding the cases without loss of time.

- **ACR's of the Judicial** officers be prepared with great care and caution and the same should not be undone by the high court without verification of report submitted by the reporting officer.
- **Competent judicial** officers be provided opportunities to avail the improvement of qualifications on merit.
- **Salaries of the judicial** officers and support staff be increased and in that it was asserted that the federal as well as provincial governments of Sindh, NWFP, and Balochistan be advised with vehemence be raised to the level of their counterparts in the province of the Punjab; so also the salaries of the support staff be brought up to the level of their counterparts in the supreme court of Pakistan on the principle of equal work and equal pay and to avoid discrimination which is directly in conflict with law laid down by this court in various pronouncements including I. A. Sherwani case **1991 SCMR 1041**.
- **Disciplinary action** be quickly taken and concluded against the delinquent judicial officers and the support staff. More particularly against those connected with drug mafia who be awarded stern punishment to serve as a deterrence to set an example.
- **Judges** be not posted at places where their relatives practice as lawyers.
- **Transfers of Judges** be made by posting proportionally to hard areas by rotation.

- **There should be effective** supervision upon lower judiciary and its support staff. in this, quarterly meetings be held in order to monitor the performance of the judges.
- **Apart from above;**
 - (i) District and session judges be advised to make periodical visits of the jails/sub jails in order to redress the grievances of the prisoners, more so to collect the data needed for early decision of their cases.
 - (ii) The district judges be advised to be careful in allocating cases to their subordinate judges particularly when it is advised by the support staff and when insisted by a litigant.
 - (iii) Judges be required to declare their assets and that of their dependents at the time of their induction.
 - (iv) Judicial officers be required to keep an eye on the touts in collaboration with the office bearers of the Bar Associations.
 - (v) Frivolous litigation be discouraged/nipped in the bud with heavy cost.
- **In collaboration with members** of the bar/office bearers of the associations the loop holes be plugged to bring an end completely to the corruption in the judiciary.
- **Standards of legal education** be raised higher by introducing pertinent policy/strategy at college/university level.

The members of the Bar, more particularly office bearers of the Bar Associations and Bar Councils to take upon themselves the responsibility to see that all elements spreading the tentacles of the corruption are chopped off.

Group 7: Simplification of Exhaustive And Cumbersome Procedures.

Chaired by: Mr. Justice, Jawwad S. Khawaja.

The House met today dated 17.04.2010 to deliberate on SIMPLIFICATION OF EXHAUSTIVE AND CUMBERSOME PROCEDURES.

As the result of deliberation it was resolved that civil procedure should be simplified, made cost effective and less formal. However, criminal procedure could not be analyzed due to shortage of time and therefore the house recommended that there should be a separate and independent session in this regard.

This house hereby approves and makes the following recommendation to be made part of Final declaration of National Judicial Conference, held on 17-18 April, 2010, at Supreme Building, Islamabad, Pakistan:-

1. That a review Committee may be constituted by the Hon'ble Law & Justice Commission to undertake the task to review exhaustively and to amend or rewrite the enactments like Civil Procedure Code, Criminal Procedure Code, Pakistan Penal Code and Qanoon-e-Shahadat Order to suit to the changing time to suggest:-
 - a) new procedural laws
 - b) amendment and simplification of procedural laws, and
 - c) to repeal redundant procedural rules.
2. The government must take on board all the stakeholders before drafting or amending rules of procedure.
3. All the relevant rules of procedure relating to a single aspect if they are found to be scattered in various places must be brought together.
4. Inherent powers are to be conferred on the subordinate criminal courts also to reduce making frequent appeals to the High Court, Section 151 of Code of Civil Procedure, 1908 already provides such powers to lower civil courts.
5. Frequent conversations shall take place between the Bench and Bar to review the working of procedural laws.
6. The amendments in the substantive laws shall also be carried out by amending the relevant procedural law.
7. Certified Copies of the Decree Percha should be handed over to the litigant parties. The decree should specify that the time limit to file an appeal and guide the litigant with others specification as to how to proceed next. Execution should also come parallel and date should be given for the execution proceedings like for example in financial institution ordinance. There should be no need to file a separate case for execution.
8. Execution procedure itself has to be simplified. Order 21 C.P.C has to be revisited specially for executing Proceedings.
9. When cases are transferred from one Court to another under various judicial policies, date should be given.
10. Concerning non filing of written statement, even if defendant fails to appear the cases should proceed on merits and plaintiff be entitled to bring all possible evidence in favour of his claim.

11. There is no time use of section 35-A C.P.C title costs. Cost will be effective only if actually made recoverable. A licensed company, Licenses to be issued by the High Court, may be officially hired to recover money form the losing side in the case.
12. The Nature of Pleading:- The pleadings should come in two phases. The first part should form the executive summary of the claim of the plaintiff amounting to page and half. Second phase should be accompanied by the detailed statement of the claim including names of witness etc and documents to be referred. Denial and expectance of documents and facts will be covered in this stage.
13. We have extreme litigious nation. In C.P.C they should be one added procedure for perjury. Any witness that knowingly gives false evidence should be prosecuted against and tried under punishment for Perjury.
14. Use of Web-based application like for example "Court-Insite" should be undertaken. These website are accessible from any where. Such applications have the ability to locate the hook-ups of where and why is delay caused in litigation.
15. Biometric process should be adopted by the Courts for executing documents like for example sales deeds, agreement to sell, Power of Attorney etc.
16. Change of Service Process. All the three modes of service in a Civil case should be exhausted at first instance as happens in the case of banking Ordinances and financial institutions Ordnances. "Under postal certificate" should be sent to the defended and any other person required to attend the Court.
17. Alternative Dispute resolutions has become part of C.P.C in a very confusing way. There is enough time between framing of issues and recording of evidence. The parties during this time should be referred by the sitting Judge to alternative dispute resolution and have parties settle the dispute amicably if possible.
18. Recoding of evidence. Affidavits should be taken as Examination in Chief should be taken in the written form as in affidavits in order to consume less time. However cross examination could take place before a Judge.
19. Suggestions regarding particularly to Swat District. Amended of Section 9 Nazam-e-Adal regulation 2009 is suggested. According to the resolution plaintiff has to send the plaint and the documents to all the defendants before his suit is admitted. When there are more than one defendants the process becomes very tiring and abnormally expensive. This has to be done independently from the summons process issued by the Courts to the defendants.
20. Written statement according to the regulation above mentioned has to be submitted by the first date of hearing and that also within 7 days from appearance of defendant. Such strict producer denies Justice and should therefore be amended.
21. Plaintiff is under the responsibility to identify and locate the whereabouts of defendant for service of process purposes.

The complete text of the papers presented by the difference on this topic is given on the next pages.

Group 8: Responsibility of Judges, Lawyers, Police, Prosecution and Litigants Public in Dispensation of Justice.

Chaired by: Mr. Justice Qazi Faez Isa.

There were made exhaustive and thread-bearing discussions by the participants on the subject matter while taking the subject on point by point basis and following recommendations were arrived at unanimously.

Recommendations Of Working Group

Judges:

- Judicial offices should not remain vacant and the appointments must be made expeditiously;
- Issue of frivolous cases need to be addressed at all levels;
- In conformity with clause 14 of National Judicial Policy the actions should be taken in civil cases, wherever appropriate (section 35 of CPC). Section 22-A and Section 491-A of Cr.P.C. should not be misused;
- Strict adherence to be made with regard to sections 242, 265-D, 342 Cr.P.C. respectively with reference of charges, and recording of statement of accused, and under no circumstances this task be assigned to the prosecution;
- The salary structure of district judiciary in all provinces should be the same as prevalent in the Punjab Province.
- Office of the Registrar/Chief Ministerial office at district court level should be established to enhance the administrative capacity of the district courts;
- Courts should record admission or denial pursuant to Order X of CPC. Judges should be imparted training with regard to the proper application of this Order.

Lawyers:

- Disciplinary action should be taken by respective bar councils against those lawyer who are involved in professional mis-conduct;
- Lawyers should ensure that they have adequate number of cases with them;
- Lawyers should be encouraged to form firms/partnerships so that the litigants can be properly served and resources can be utilized to the maximum;
- The provisions with respect to appointment of legal advisors in accordance with the provisions of the Companies Ordinance 1984 must be strictly enforced.

Police:

- The State should ensure that the police and investigation agencies perform an important function or adequate remunerated and provided requisite facilities;
- Frequent transfer and political transfers should be avoided;
- Police personnel who are armed with visible weapons must be in uniform;
- Police personnel in police escort vehicles should point their weapons skywards or towards the ground;
- Public prosecutors should be adequately enumerated;

- Investigation to be separated from prosecution;
- Police officers should maintain case diaries of investigation particularly with regard to date and time as prescribed in police rules;
- At the time of remand, the police diaries should be submitted to the magistrate in accordance with section 176 of Cr.P.C;
- Investigation: Police Order 18 clauses 6 i.e. change of investigation: The investigating Officer should not be arbitrarily changed or transferred;
- Investigators and prosecutors should receive necessary trainings to enable them to discharge their duties;
- State should also ensure adequate number of female probation and parole officers.

Prosecution:

- ✓ Public prosecution should be adequately enumerated;
- ✓ In Sindh, the Criminal Prosecution Service Ordinance 2003 has lapsed and the same should be passed by the concerned provincial assembly as soon as possible to ensure an independent prosecution agency;
- ✓ Training of prosecutors is essential.

Court Procedure

- The SHOs should interact with their respective magistrates under the police rules before filing a case;
- The magistrates should pass a Speaking Order under section 173 clause 3 of Cr.P.C. after examining the material placed before him in respect of the accused who has been released under section 169 of Cr.P.C; or whose bonds have been obtained to appear before the magistrate;
- Process Serving Agencies in the district courts should be strengthened;
- A separate process serving agency in respect of criminal cases should be established as prescribed in the Criminal Prosecution Enactment.
- Civil court rules and criminal court rules should be enacted wherever they have not been enacted, and where these rules are in existence, the same should be amended/modified in the light of prevalent laws;

Witnesses:

- The State must ensure the adequate security to the witnesses in criminal cases.

Court premises:

- The court premises should have comfortable separate waiting area for male and female litigants and witnesses including provision of drinking water and access to toilets.
- The State should ensure that under trial prisoners are properly housed and are provided with sufficient facilities both in the court premises as well as in the judicial lock-ups including at the Tehsil/Taluka level.