

Performance of Bar Council Disciplinary Committees and Tribunals

A. Introduction

1. This report is based on and informed by a review of the **Legal Practitioners and Bar Council Act 1973** and **The Pakistan Legal Practitioners and Bar Councils Rules 1976**. The figures cited herein were directly obtained by the Pakistan and respective provincial Bar Councils and are current till end April 2015 (**Annex A**).

B. Professional Standards & Obligations

2. The **Legal Practitioners and Bar Councils Act 1973** regulates the admission, conduct and legal services of advocates. Chapter XII: Canons of Professional Conduct and Etiquette of Advocates, Rule 134 sets out the general duty:

It is the duty of every Advocate to uphold at all times the dignity and the high standing of his profession, as well as his own dignity and high standing as a member thereof.

Detailed rules provide for how advocates are to conduct themselves in relation to (i) other advocates – rr. 134-144, (ii) clients – rr. 145 -158, (iii) duty to the Court – rr. 159-167 and (iv) public generally – rr. 168-175 attached at **Annex B**.

C. Legislative Framework – “Misconduct”

3. Failure to observe the professional standards may result in the charge of “misconduct” defined as below:

Professional misconduct: Non-observance or violation of the canons of professional conduct and etiquette (mentioned in Chapter XII) by an advocate shall be deemed to be a professional misconduct making him liable for disciplinary action (Rule 175-A).

Gross misconduct: Non-observance or defiance of decisions/instructions of the Pakistan Bar Council by any Bar Council or Bar Association or any Member of the Bar/Advocate shall be deemed to be a gross professional misconduct.

D. Legislative Framework – Disciplinary Proceedings

4. Chapter X: Disciplinary Proceedings, rr 117-126, provides for a three (3) tier process to examine complaints of misconduct.

Stage 1: Complaints received by the relevant **Chairman of the Bar Council**.

Stage 2: Complaints are referred to the Bar Councils’ **Disciplinary Committee**, which conducts a fact-finding inquiry and may either summarily reject the complaint or forward it to the Complaints Tribunal.

Stage 3: Complaints that are submitted to the **Disciplinary Tribunal** are scrutinized and tested resulting in either a dismissal of the charge or confirmed for misconduct.

E. Bar Council & Chairman Mandates

5. Bar Council

- Lay down standards of professional conducts and etiquettes for advocates [S.13(1)(d)]
- Constitute disciplinary committee [Provincial Bar Councils S.10(1)] [PBC S.15 (1)(a)]
- Prescribe procedure to be followed by the committees [S.13(1)(e)]

Chairman

- Refer cases of professional or other misconduct to disciplinary committee (r. 118)

Pakistan Bar Council

- Hear appeals against orders of the provincial disciplinary tribunal (Pakistan Bar Council) [S.47]

F. Stage 1: Complaint Received by the Chairman

6. Complaints received by the Chairman of the Bar Council, s/he "shall refer" the complaints to the Disciplinary Committee for the initial scrutiny (rr. 117-118(a)).

G. Stage 2: Disciplinary Committee

7. As a **peer review system**, the Disciplinary Committee is largely constituted by members of the same Bar Council as indicated below but it is not clear whether members of the same Bar Association may be involved, which may give rise to more serious conflict of interest concerns. The composition is as below:

- (i) Pakistan Bar Council: A Judge of the Supreme Court and four (4) elected Bar Council members. [section15 (1) (a)]
- (ii) Provincial Bar Councils: Five (5) elected Bar Council members. [section10 (1) (aa)]

Pursuant to rule 118(a), the Disciplinary Committee may summarily reject the complaint or call upon the Advocate concerned to reply to the allegations made against him.

(b) After the perusal of the complaint and the reply, the Disciplinary Committee shall make such enquiries as it thinks fit.

(c) After hearing the complainant and the Advocate concerned, the Disciplinary Committee shall make its report to the Tribunal set up by the Bar Council in this behalf...

(e) Before the Tribunal the proceeding against an Advocate shall be conducted by the Advocate General of the Province concerned or by an Advocate appearing on his behalf. The parties shall also appear in person and be entitled to engage a counsel, but the Advocate General shall have a prior right to conduct the proceedings against the Advocate subject to any directions by the Tribunal.

8. **Performance:** The table below presents the performance of the respective Bar Council disciplinary committees, showing pendency in 2009, a "snap-shot" of disposal over the last five years (2009-2015) and the pendency on 30 April 2015. Out of a total of 7075 complaints pending in 2009, the vast majority of the complaints have been "filed" by the Disciplinary Committee, **only 2.5% of the total complaints received by the Bar Council were referred to the Disciplinary Tribunal for final adjudication.**

Bar Council	Total No. of Complaints Pending in 2009	Disposal during 2009-2015		Number of complaints pending for decision on 30-4-2015
		Filed	Referred to Disciplinary Tribunal	
PBC	381	219 (58 %)	6 (1.5 %)	156
BBC	-	0 (0%)	-	3
KPBC	182	126 (69 %)	29 (16 %)	20
PBC	5897	3838 (64.5 %)	117 (1.9 %)	2002
SBC	615	543 (95%)	24 (4%)	60
IBC	-	-	-	-
Totals	7075	4726	176	2241

H.Stage 3: Disciplinary Tribunals

9. The composition of the respective Disciplinary Tribunals is shown below.

Pakistan Bar Council: A Supreme Court Judge and two (2) elected Bar Council members. [Section 42(1)]

Provincial Bar councils: Two (2) elected Bar Council members and a High Court Judge. [Section 42(2)]

As noted from the composition, the peer review system is “moderated” by the presence of senior members of the judiciary providing more “independent” examination and input but, as noted above, over the last five (5) years, the Disciplinary Tribunal has only referred 2.5% of the complaints received by the Bar Council.

Rule 119: On receipt of a reference from the Disciplinary Committee, the Chairman of the Tribunal shall fix a date for the hearing of the case not earlier than 21 days from such receipt and notice of the date fixed shall be served on the Advocate concerned as well as the Advocate General ... Notice of the date shall also be served on the complainant ... Notices of the date should also be put up on the Notice Board of the Pakistan Bar Council.

Rule 120: The Advocate concerned shall be entitled to file a reply to the allegations against him ...

Rule 121: The Tribunal shall determine the matter before it on oral evidence and on the documents in accordance with the provisions of the Evidence Act and the Tribunal shall follow generally and to the extent practicable, the procedure provided for suits in the Civil Procedure Code 1908.

The Tribunal’s **powers** include the following:

- Rule 126: The tribunal shall have power to suspend or debar the advocate from practice in any Court till finalization of proceedings
- Section 44: the tribunal may make such order as to the cost of proceeding as it deem fit and if it arrives to the conclusion that the complaint is false and vexatious it can impose compensatory cost upon complainant as may be considered reasonable. Vide sub section 2 of section 44 the tribunal may on application or of its own motion review and revise order of the disciplinary committee with regard to the cost of the proceeding
- Section 43(7): the tribunal on application or at its own review its own order (dismissal of complaints or imposition of penalty) and maintain, vary or rescind the same

10. **Performance:** Out of a total number of 378 complaints that have been referred to the disciplinary tribunals, over the last five years, only 6 have met with a penalty, which is 1.6% of the total received by the Tribunal. Twenty six (26) have been “filed” and 345 complaints are still pending.

Bar Council	Number of complaints pending for decision on 31-12-2008	Total number of complaints received from Disciplinary Committee during 2009-2015	Disposal during 2009-2015			Number of complaints pending for decision on 30-4-2015
			Filed	Number of cases where penalty imposed	Total disposal	
PBC	9	6	11 (100%)	-	11	4
BBC					-	
KPBC	-	29	-	1 (3.4%)	1	28
PBC	165	117	16 (76%)	05 (1.7%)	21	282
SBC	25	27	-	-	-	71
IBC					-	
Total	378	26	6	33	33	345

On the basis of the aforementioned figures, over the last five (5) years only six (6) complaints have met with any sort of penalty, which comes to 0.08% of the total complaints instituted.

H. Additional Powers of the Disciplinary Committee of Pakistan Bar Council

11. Section 46 of the Act empowers the Disciplinary Committee of the Pakistan Bar Council to withdraw at its own for inquiry any proceeding for disciplinary action pending before provincial Bar councils or their respective disciplinary committee for disposal. Subject to approval of Pakistan Bar Council, the committee while deciding any case may make any order that a disciplinary tribunal can make under section 43. The Disciplinary Committee of the Pakistan enjoys all powers vested in the tribunal under section 45 regarding scrutiny and disposal of the reference.

12. Under section 47, the Disciplinary Committee of the Pakistan Bar Council is also an appellate forum to hear appeal against the orders of the provincial disciplinary tribunals.

I. Recommendations

13. Administrative Actions

1. **Bar Council Chairmen's mandate:** In view of the Pakistan and provincial Bar Council chairmen's mandate, they may be required to submit recommendations to strengthen Bar Councils' regulatory functions in particular public grievance redress and disciplinary system/s.

14. Law Reform

- a. **Simplification of complaint processing mechanism:** the three tier complaint system may be reduced so that the Disciplinary Tribunal is directly receiving complaints and is support by the Bar Council administration.
- b. **Amendments in the composition of committees:** To reduce conflict of interest concerns, members of the legal profession may be reduced to a single member on the Disciplinary Committee and/or Tribunal with a third member being an independent official such as a member from the Ombudsman office who has a statutory responsibility in

matters of public grievance redress for “agencies” – the Bar Council falls within their definition of “agency”.
[Section 10(1)(aa) and 15 (1) (a)]

- c. **Limiting discretionary powers of the committees to hold/file complaints:** Complaints that are rejected and/or filed by a Disciplinary Committee [Section 41 (4)], which is a sub-committee of a statutory body – the Bar Council, should, as per s. 24A General Clauses Act 1897, provide written reasons to be confirmed by the Tribunal.
- d. **Administration/processing fee:** To enable access, the requirement to deposit PKR 1000 as a processing fee may be waived. [Section 41(3)]

15. Changes in Rules & Procedures

- a. **Timelines:** Timelines may be prescribed for processing and disposal of complaints. In particular, where the Disciplinary Committee does not examine a matter within a prescribed timeframe, the complaint should automatically stand transferred/ referred to the Disciplinary Tribunal. It may also be noted that originally the relevant rules provided a timeframethat was subsequently removed through an amendment to the rules (**Annex-C**).

Proposal

Timelines previously prescribed for disposal of complaints by the disciplinary committees and tribunal may be revived with modifications as under:

- b. **Timeline for disposal of disciplinary matters by disciplinary committees.**—The disciplinary committee shall dispose of a complaint against an advocate within 30 days of its receipt, and, if the complaint is not disposed of within that period the complaint shall deemed to have been referred to the tribunal.

Timeline for disposal of disciplinary matters by tribunal. --- The tribunal shall dispose of complaint against an advocate within a period of 60 days of its receipt, and if it fails to do so a report shall be submitted to the Supreme Court in case of Tribunal for the Pakistan Bar Council and to the respective High Court in case of tribunal of the provincial Bar councils explaining reasons for delay.

- c. **Minimum meeting requirements:** Disciplinary Committees and Tribunals may meet on monthly basis or any other prescribed frequency to ensure the effective and expeditious disposal of cases.

Proposal

As per rule 88, it is the prerogative of the chairmen of committees to convene meetings of their respective committees. A proviso as under may be added to said rule making it mandatory for disciplinary committees to regularly meet every month for deciding disciplinary matters pending before it:

“Provided that the disciplinary committee of the Bar Council shall hold its meeting regularly in the first week of every month to consider complaints of misconduct.”

16. Other Suggestions

- a. The respective Bar councils may be asked to upload the code of conduct for lawyer on their official websites in English and Urdu languages.
- b. The official websites of the respective Bar Councils should have a facility for lodging complaints against lawyers for professional and other misconduct with status tracker facility.
- c. The Bar council complaint management systems may be automated with a tracking facility
- d. The list of all those advocates who have been penalized for professional misconduct may be uploaded on the official website for general information.
- e. The respective Bar councils should regularly hold seminars, workshops to sensitize their members about upholding the canons of professional conduct and etiquettes of advocates.



Pakistan Bar Council

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(13) Annexure A/I
No. 707/PBC/SEC/2015
May 26, 2015

The Secretary,
Law & Justice Commission of Pakistan,
Supreme Court Building,
Islamabad.

SUB: INFORMATION REGARDING DISCIPLINARY COMPLAINTS.

Dear Sir,

Please refer to your letter No. 3/2015/JS-I/Meeting/NJPMC dated 22-05-2015.

The information regarding disciplinary Complaints against Advocates of the Supreme Court filed with the Pakistan Bar Council and dealt with by the Disciplinary Committee and Tribunal of the Council, is enclosed, as desired in your letter, under reference.

Regards,

Sincerely yours

ue. Arshed
(Muhammad Arshed)
Secretary

Encl: As above.

(14)

DETAIL OF COMPLAINTS AGAINST ADVOCATES OF SUPREME COURT RECEIVED AND DEALT WITH BY DISCIPLINARY COMMITTEE AND TRIBUNAL OF PAKISTAN BAR COUNCIL.

Disciplinary Complaints received by Disciplinary Committee:

Number of Complaints pending for decision as on 31-12-2008	Number of Complaints filed during 2009-2015			Disposal during 2009-2015	Referred to Tribunal during 2009-2015	Number of complaints pending for decision as on 30-04-2015
	Filed	Disposed	Pending			
113	268	75	193	144	6	231

Complaints referred to Tribunal:

Number of Complaints pending with Tribunal for decision as on 31-12-2008	Complaints received from Disciplinary Committee during 2009-2015	Disposal during 2009-2015	Number of cases where penalty imposed during 2009-2015	Number of Complaints pending for decision as on 30-04-2015

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Paul
Javed Iqbal
Clerk

Zulfigar Ali
Zulfigar Ali
Assistant

JS(NJPMC)

To,

Mr. Muhammad Sarwar Khan
Secretary

Subject:-

PERFORMANCE OF THE DISCIPLINARY TRIBUNALS AND COMMITTEES.

Dear Sir,

it is stated that the detail of complaints which are pending in Balochistan Bar Council office given as below:-

a. Status of complaints referred to and received by the disciplinary committee.

Number of complaints pending for decision on 31-december 2008	Total number of complaints received during 2009-2015 Total strength of complaints are three (03) till 2009 to May 2015				Disposal during 2009-2015 One complaint is disposed due to compromise		Number of complaints pending for decision on 30-04-2015
	Received from Bar Council	Entertained directly	Initiated Suo Moto	Total	Filed	Referred to disciplinary tribunal	
No complaints are pending for decision		17-04-2015		03			03
		25-05-2015					
		23-05-2015					

b. Status of complaints referred to the disciplinary tribunal

Number of complaints pending for decision on 31-12-2008	Total number of complaints received from disciplinary committee during 2009-2015	Disposal during 2009-2015		Number of complaints pending for decision on 30-04-2015
		Filed	Number of cases where penalty imposed	

Note:- No complaints are referred to the disciplinary committee.

[Signature]
Vice Chairman
Balochistan Bar Council

26/5/15

[Signature]
Secretary
Balochistan Bar Council

(9)



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 PESHAWAR.

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Ref No 145 /KP.BC

DATE: 21-5-2015

Mr. Muhammad Sarwar Khan
 Secretary
 Government of Pakistan
 Supreme Court of building Constitution Avenue Islamabad.

Subject:- Performance of the Disciplinary Tribunal and Committee

Dear Sir,

Reference your letter No. 3/2015/JS-1/Meting/NJPMC dated 22-5-2015 the required detailed are below:-

A. Status of complaints referred to and received by the Disciplinary Committee

Number of Complaints pending for decision on 31-December-2008	Total Number of complaints received during 2009-2015				Disposal during 2009-2015		Number of complaints pending for decision 30-4-2015 Before Disciplinary Committee
	Received from Bar Council	Entertained Directly by D/Committee	Initiated Suo Moto	Total	Filed	Referred to Disciplinary Tribunal+ Appeal to tribunal	
	02	180	Nil	180	122+04 (2015) =126	20+ 9(old cases) = 29	20

b. Status of complaints referred to and received by the Disciplinary Committee (Tribunal)

Number of Complaints pending for decision on 31-December-2008	Total Number of complaints received from Disciplinary Committee to Tribunal during 2009-2015	Disposal during 2009-2015		Number of complaints pending for decision on 30-4-2015 before Tribunal
		Filed	Number of cases where Penalty Imposed by Tribunal	
	29	Nil	01	28

Sincerely yours,

(NAEEM PRVAIZ)
 SECRETARY

(21)

Punjab Bar Council

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No. 15267 Pb.B.C.M.C/2015Dated 26-5-15

To

Mr. Muhammad Sarwar Khan
Secretary
Government of Pakistan
Supreme Court of Pakistan Building
Constitution Avenue
Islamabad, Pakistan.

Subject: PERFORMANCE OF THE DISCIPLINARY TRIBUNALS AND COMMITTEES

Dear Sir,

Reference your letter No.3/2015/JS-I/Meeting/NJPMC Dated: 22-05-2015 on the above cited subject.

The report required in the letter under reference is as under for your kind persual:-

A. Status of Complaints referred to and received by the Disciplinary Committee.

Number of complaints pending decision On 31 December 2008	Total number of complaints received during 2009-2015				Disposal during 2009-2015		Number of complaints pending for decision on 30-04-2015
	Received from Bar Council	Entertained directly	Initiated Suo Moto	Total	Filed	Referred to Disciplinary Tribunal	
N.A	5897	N.A	60	5957	3638	117	2002

B. Status of Complaints referred to the Disciplinary Tribunal.

Number of complaints pending for decision On 31 December 2008	Total number of complaints received from Disciplinary Committee during 2009-2015	Disposal during 2009-2015		Number of complaints pending for decision on 30-04-2015
		Filed	Number of cases where penalty imposed	
185	117	18	05	282


SECRETARY
PUNJAB BAR COUNCIL



Sindh Bar Council

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To,
Mr. Mohammad Sarwar Khan
Secretary
Government of Pakistan
Supreme Court of Pakistan Building
Constitution Avenue
Islamabad, Pakistan

Reference No. 197/SEC/SBC/15

Dated: 25-05-2015

SUBJECT: PERFORMANCE OF THE DISCIPLINARY TRIBUNALS AND COMMITTEES

Dear Sir,

Please refer to your letter no. 3/2015/Js-I/Meeting/NJPMC Dated: 22 May 2015. I am sending here with the performance of the Disciplinary tribunals and Committee constituted under the Legal Practitioners and Bar Council Act 1973 and rules framed there under as desired by you.

Status of complaints referred to and received by the Disciplinary Committee

Number of complaints pending for decision on 31 December 2008	Total number of complaints received during 2009-2015				Disposal during 2009-2015		Number of complaints pending for decision on 30-04-2015
	Received to Bar Council	Entertained directly	Initiated Sou Moto	Total	Filed	Referred to Disciplinary Tribunal	
45 ✓	68	501 ✓	1	570	543	24	60

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Sindh Bar Council

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Status of complaints referred to the Disciplinary Tribunal

Number of Complaints Pending for decision on 31 st December 2008	Total number of complaints received from Disciplinary committee during 2009-2015	Disposal during 2009-2015		Number of complaints /Appeal pending for decision on 30-04-2015
		Filed	Number of Cases where Penalty imposed	
25	27	Nil	Nil	71

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Yours Sincerely,

ZAIN-UL-ABDIN

Secretary

CHAPTER XII

CANONS OF PROFESSIONAL CONDUCT AND ETIQUETTE OF ADVOCATES

(i)– Conduct with regard to other Advocates:

134. It is the duty of every Advocate to uphold at all times the dignity and high standing of his profession, as well as his own dignity and high standing as a member thereof.

135. An advocate shall not solicit professional employment by advertisement or by any other means. This clause shall not be construed as prohibiting the publication or use of ordinary professional cards, name plates or conventional listing in directories, so long as the information contained therein is limited to professional and academic qualifications, and public offices currently held, and does not contain any matter which savours of personal advertisement.

136. An advocate shall not employ any other person to solicit or obtain professional employment nor remunerate another person for soliciting or obtaining professional employment for him; nor shall he share with an unlicensed person any compensation arising out of or incidental to professional employment, nor shall he aid or abet an unlicensed person to practise law or to receive compensation therefor; nor shall he knowingly accept professional employment offered to him as a result of or as incidental to the activities of an unlicensed person.

137. An advocate shall not communicate about a subject of controversy with a party represented by an advocate in the absence and without the consent of such advocate.

138. An advocate shall not, in the absence of the opposing counsel, communicate with or argue before a judge or judicial officer except in open Court and upon the merits of a contested matter pending before such judge or judicial officer; nor shall he, without furnishing the opposing advocate with a copy thereof, address a written communication to a judge or judicial officer concerning the merits of a contested matter pending before such judge or judicial officer. The rule shall not apply to *ex parte* matters or in respect of matters not *sub-judice* before the judge or judicial officer concerned.

139. A client's proffer of assistance of additional advocates should not be regarded as evidence of want of confidence but the matter should be left to the determination of the client. An advocate should decline association as a colleague unless the dues of the advocate first retained are paid.

140. Clients, not advocates, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence advocates in their conduct and demeanour towards each other or toward the parties in the case. All personal clashes between advocates should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of advocates appearing on the other side. Personal colloquies between advocates which cause delay and promote unseemly wrangling should be carefully avoided.

141. No division of fees with any person for legal services is proper except with another advocate based upon the principle of division of work as expressed in the agreement between the advocates.

142. Subject to the precedence of the Attorney-General and the Advocate-General, as established by constitutional usage and practice, it is the duty of advocate to maintain and uphold the order of precedence in accordance with the roll of advocates maintained by the Bar Council.

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143. Junior and younger members should always be respectful to senior and elder members. The latter are expected to be not only courteous but also helpful to their junior and younger brethren at the Bar.

144. Where more than one advocate is engaged on any side it is the right of the senior member to lead the case and the junior members should assist him, unless the senior so wants.

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(ii) - Conduct with regard to Clients:

145. An Advocate shall not acquire an interest adverse to a client in the property or interest involved in the case.

146. An Advocate shall not accept employment adverse to a client or former client, relating to a matter in reference to which he has obtained confidential information by reason of or in the course of his employment by such client or former client provided that an advocate, who has not been formally engaged by a person and accepted a retainer nor received any fees for such engagement is not precluded from accepting employment adverse to the interest of such person.

147. An advocate shall not accept professional employment without first disclosing his relation, if any, with the adverse party, and his interest, if any, in the subject matter of such employment.

148. An advocate shall not represent conflicting interests.

149. An advocate shall not himself or in *benami* purchase any property at a probate, foreclosure or judicial sale in an auction or proceeding in which such advocate appears for a party, nor shall he accept the whole or part of the property, in respect of which he had been engaged to conduct the case, in lieu of his remuneration, or as a reward or bounty.

150. An advocate shall not commingle the property of client with his own, and shall promptly report to the client the receipt by him of any money or other property belonging to such client.

151. An advocate shall not advise the commencement of prosecution or defence of case, unless he has been consulted in reference thereto, except when his relation to a party or to the subject matter is such as to make proper for him to do so.

152. An advocate in his professional capacity shall not advise the violation of any law. This rule shall not apply to advice given in good faith, that a law is invalid.

153. It is the right of an advocate to undertake the defence of a person accused of crime, regardless of his personal opinion, as distinguished from knowledge as to the guilt of the accused; otherwise innocent persons and victims merely of suspicious circumstances might be denied proper defence. Having undertaken such defence, an advocate is bound by all fair and honourable means, to present every defence that the law of the land permits, to the end that no person may be deprived of life or liberty, except by the process of law.

154. In fixing fees, advocates should avoid charges which over-estimate their advice and services as well as those which undervalue them. A client's ability to pay cannot justify charge in excess of the value of the service, though his property may justify a lesser charge, or even none at all. The reasonable requests of a brother advocate, should also receive special and kind consideration. In respect of widows and orphans of an advocate, all advocates shall assist them free of charge.

In determining the amount of fee it is proper to consider; (i) the time and labour required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the case; (ii) whether the acceptance of employment in a particular case will preclude the Advocate's appearance for others in cases likely to arise out of the transaction, about which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of their business while employed in a particular case; (iii) the customary charges of the Bar for similar service; (iv) the amount involved in the controversy and the benefits resulting to the client from the service; (v) the contingency of the certainty of the compensation, and (vi)

the character of the employment, whether casual or for an established and constant client. Of these considerations, none in itself is the controlling factor. These are mere guidelines in ascertaining the real value of the service.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money making trade.

155. Controversies with clients concerning compensation are to be avoided by the advocate so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services. Any law suits with clients should be resorted to only to prevent injustice, imposition or fraud.

156. Nothing operates, more certainly to create or foster popular prejudice against advocates as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties than does the false claim, often set up by the unscrupulous in defence or questionable transactions, that it is the duty of the advocate to do whatever may enable him to succeed in winning his client's cause.

It is improper for an advocate to assert in argument his personal belief in the client's innocence or in the justice of his cause. His professional duty is strictly limited to making submissions at the Bar consistently with the interest of his client.

An advocate owes entire devotion to the interests of the client, warm zeal in the maintenance and defence of his rights and the exertion of his utmost learning and ability to the end that nothing be taken or be withheld from him save by rules of law legally applied. No fear of judicial disfavour or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defence that is authorised by the law of the land, and he may expect his advocate to assert every such remedy or defence. But it is steadfastly to be borne in mind that the great trust of the advocate is to be discharged within and not without the bounds of the law. The office of an advocate does not permit, much less does it demand of him for any client, the violation of any law or any manner of fraud or chicanery. In doing his professional duty to his client he must obey the voice of his own conscience and not that of his client.

157. When an advocate is a witness for his client except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other advocates. Except when essential to the ends of justice, an advocate should avoid testifying in Court on behalf of his client.

158. In incidental matters, not effecting the merits of the cause in a trial, nor working substantial prejudice to the rights of the client, such as forcing the opposite advocate to trial when he is under affliction or bereavement, forcing the trial on a particular day to the injury of the opposite advocate when no harm will result from a trial at a different time, agreeing to an extension of time for filing written statements, cross interrogatories and the like, the advocate must be allowed to judge himself. In such matters no client has a right to demand that his advocate shall be ungenerous or that he does any thing therein repugnant to his own sense of honour and property.

(iii) - Duty to the Court:

159. It is the duty of an advocate to maintain towards the Court a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Judges, not being wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against unjust criticism and clamour. At the same time whenever there is proper ground for complaint against a judicial officer, it is the right and duty of an advocate to ventilate such grievances and seek redress thereof legally and to protect the complainant and person affected.

160. An advocate shall not advise a person, whose testimony could establish or tend to establish a material fact, to avoid service of process, or conceal himself or otherwise to make his testimony unavailable.

161. An advocate shall not intentionally misquote to a judge, judicial officer or jury the testimony of a witness, the argument of the opposing advocate or the contents of a document; nor shall he intentionally misquote to a judge or judicial officer the language of a book, statute or decision; nor shall he, with knowledge of its invalidity and without disclosing such knowledge, cite as authority a decision that has been over-ruled or a statute that has been repealed or declared unconstitutional.

162. Marked attention and unusual hospitality on the part of an advocate to a judge or judicial officer not called for by the personal relations of the parties, subject both the judge and the advocate to misconstructions of motive and should be avoided. An advocate should not communicate or argue privately with the judge as to the merits of a pending cause and he deserves rebuke and denunciation for any advice or attempt to gain from a judge special consideration or favour. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due to the judge's station, is the only proper foundation for cordial, personal and official relations between the Bench and the Bar.

163. The primary duty of an advocate engaged in public prosecution is not to convict, but to see that justice is done. The suppression of facts or the concealing of witnesses capable of establishing the innocence of the accused is highly reprehensible.

164. Publications in newspaper by an advocate as to pending or anticipated litigation may interfere with a fair trial in the courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement or reference to the facts should not reach the public, it is unprofessional to make them anonymously. An ex-parte reference to the facts should not go beyond quotation from the records and papers on file in the Court but even in extreme cases it is better to avoid any ex-parte statement.

165. It is the duty of advocates to endeavour to prevent political considerations from outweighing judicial fitness in the appointment and selection of judges. They should protest earnestly and actively against the appointment or selection of persons who are unsuitable for the Bench and thus should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of the questions before them for the decision. The aspiration of advocates for judicial positions should be governed by an impartial estimate of their ability to add honour to the office and not by a desire for the distinction the position may bring to themselves.

166. It is the duty of advocates to appear in Court when a matter is called and if it is so possible to make satisfactory alternative arrangements.

167. An advocate should in general refrain from volunteering his legal opinion or addressing any arguments in cases in which such advocate is not engaged unless called upon to do so in open Court by a judge or judicial officer. In advancing any such opinion he must do so with a sense of responsibility and impartiality without any regard to the interest of any party.

(18)

(iv) - Conduct with regard to the public generally:

168. An advocate shall not accept employment to prosecute or defend a case out of spite or for the purpose of harassing anyone or delaying any matter; nor shall he take or prosecute an appeal wilfully motivated to harass any one or delay any matter.

169. An advocate should always treat adverse witnesses and parties with fairness and due consideration, and he should never minister to the malevolence of prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the advocate's conscience in professional matters. He has no right to demand that his advocate shall abuse the opposite party or indulge in offensive arguments. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

170. An advocate must decline to conduct a civil cause or to make a defence when convinced that it is intended merely to harass or to injure the opposite party or to work any oppression or wrong. But otherwise it is his right, and having accepted a retainer, it becomes his duty to insist upon the judgement of the Court as to the legal merits of his client's claim. His appearance in Court should be deemed equivalent to an assertion on his honour that in his opinion his client's case is one proper for judicial determination.

171. No advocate is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline professional employment. Every advocate upon his own responsibility must decide what business he will accept as an advocate, what cause he will bring into Court for plaintiffs, and what cases he will contest in Court for the defendants.

172. No client, corporate or individual, however powerful, nor any cause civil or political, however important, is entitled to receive, nor should any advocate render, any service or advice involving disloyalty to the law whose ministers advocates are, or disrespect the judicial office, which they are bound to uphold, or corruption of any person or persons exercising a public office or private trust, nor indulge in deception or betrayal of the public. When rendering any such improper service or advice the advocate invites and merits stern and just condemnation. Correspondingly, he advances the honour of his profession and the best interest of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law; though until a statute shall have been finally construed and interpreted by competent adjudication, he is free and indeed is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all, an advocate will find his highest honour in a deserved reputation for fidelity to private trust and to public duty as an honest man and of a patriotic and loyal citizen.

173. An advocate shall not communicate with, nor appear before a public officer, board, committee or body, in his professional capacity, without first disclosing that he is an advocate representing interests that may be affected by the action of such officer, board, committee or body.

174. An advocate should not accept employment as an advocate in any matter upon the merits of which he has previously acted in a judicial capacity.

An advocate having once held public office or having been in the public employment, should not, after his retirement accept employment in connection with any matter which he has investigated or dealt with while in such office, nor employment except in support thereof.

[174-A. No Advocate will use his previous designation or post such as "Retired Justice", "Ex Judge", "Retired General", "Ex Attorney-General", "Ex Advocate-General" or use any ex- designation, post or calling in any manner whatsoever, as prefix or suffix, either on letters-heads, name plates, sign boards, visiting cards or in any form during the period of his practice as an Advocate at any time.]

[174-B. No Advocate shall display outside his office or anywhere else his name on the name plate or Board of the size of more than 1½' x 2'.]

[175. (1) An Advocate shall not join or carry on any other profession, business, service or vocation or shall not be an active partner or a salaried official or servant in or be subject to the terms and conditions of service of the Government, semi-Government or autonomous body or any other organization or institution, public or private.

(2) Any violation of sub-rule (1) by an Advocate shall entail consequences as provided in Rule 108-O.]

[175-A. Non observance or violation of the canons of professional conduct and etiquette mentioned in this chapter by an advocate shall be deemed to be professional misconduct making him liable for disciplinary action.]

[175-B. Non observance or defiance of decisions/instructions of the Pakistan Bar Council by any Bar Council or Bar Association or any Member of the Bar/Advocate shall be deemed to be a gross professional misconduct.]

"54A.—Time for disposal of disciplinary matters.— The Disciplinary Committee and a Tribunal shall dispose of a complaint against an advocate within three months of the day on which the complaint is received by it; and, if the complaint is not disposed of within that period the order under sub-section (1) or sub-section (2) of Section 54 for the suspension of the advocate from practice, if any, shall stand vacated on the expiration of that period, unless on review the Court making order, for reasons to be recorded, vacates it earlier."

-----The aforesaid Sections was omitted through the Legal Practitioners and Bar Councils (Amendment) Ordinance, 1985 (Ordinance XVI of 1985), Section 13, with effect from 2.3.1985:-