

9. Bridging the Gap-Conceptualizing Professional Development Strategy for District Judiciary of Pakistan

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ABSTRACT

Of all the tiers of judicial hierarchy, district judiciary is burdened the most due to its interaction with maximum percentage of litigant population. Being placed at the grassroots level, it is expected by vulnerable segments of our society to deliver in terms of deliverance. It has been observed that a limited number of disputes are taken before superior courts. An exceptionally higher percentage of litigants either end up resolving their disputes at district level or their accessibility to superior judiciary is restricted for host of reasons. Based on my personal observations as a field officer, once a team member of the high court administration and of course, a former civil servant, this paper accentuates the role of district judiciary and conceptualizes professional development strategy for it. It provides for a comprehensive transformation strategy and necessary tools there for. Focussing capacity building, it proposes a road map for securing total reformation and behavioural change in district judiciary.

1. INTRODUCTION:

Being main facet of the system, district judiciary² is burdened with enhanced responsibilities. The perception of judges as problem solver for a variety of personal,

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² The phrase was unconsciously coined for subordinate judiciary during reform interventions under Asian Development Bank funded Access to Justice Programme (2002+).

economic, educational and political disputes, has put an enormous amount of pressure over district judiciary in particular. Moreover, with separation of judiciary and executive in the recent past, a perceivable vacuum was noticed in the justice system of Pakistan. The responsibility of district judiciary, having succeeded the erstwhile executive magistracy, therefore, got multiplied manifold. The exposure of a civil judge, at the lowest rung of the institution, became more diverse and versatile. His output, now, was gauged against a totally distinct and multi-pronged benchmark. He was expected to be perfect professionally and sensitized to the frame of reference he is working in. He was to remould his perception and to rehash his approach to ideals. He was expected to see beyond the window and to be committed to deliver more effectively as compared to his predecessor.

In the above backdrop, it was considerate for the district judiciary to have netted adequate refurbishment both in terms of assets and human recourses. But unfortunately, it was burdened even more, with enhanced responsibilities, without strengthening its capacity. Of late, a comprehensive reform agenda was implemented under Access to Justice Programme (AJP)³ during 2002+. The long-term objective of the AJP was to reduce poverty and promote good governance through improved rule of law⁴. Material development in terms of paraphernalia was made and capacity of district judiciary was strengthened considerably. The efficiency of the system, though, underwent a paradigm change but it was not that much radical as could signify service delivery. Neither the attitudes allowed any change nor were the key players sensitized to the qualified scenario. The ultimate goals of substantial justice, reduced vulnerability, transparency and predictability thus remained unachieved.

The obvious reason for partial success of reform agenda was portrayed to be lack of sustainability in the reform process. This malaise was taken care of by creation of an endowment fund

³ Pakistan-Access to Justice completion Report at <https://www.adb.org/sites/default/files/project-document/63951/32023-01-pak-pcr.pdf> accessed 31/08/2022

⁴ Ibid

so as to provide for support to recurring expenses. Feeling the need for continuing judicial education, a dedicated window was created for judicial academies⁵. It was noticed at the policy making level that professional capacity of the district judiciary is having a visible gap which held it back with its old mind set. Reform agenda seemed to be a temporary and stopgap arrangement as perception blocks remained intact. The traits stuck to the same stagnant frame of reference and the contemporary dynamics went un-noticed. A general perception got developed in rank and file that members of the district judiciary are least sensitized to the concepts of gender, vulnerability, accessibility, transparency, predictability and capability deprivation. This was at times dubbed to be the main reason for failure and counter productivity of the reforms⁶.

Based on my personal observations as a field officer, once a team member of the high court administration and, of course, a former civil servant, this paper is an attempt to outline a blue print of what the district judiciary is in need of? It provides for a comprehensive transformation strategy and necessary tools there for. This paper tries to provide a drips and drabs roadmap for total reform through capacity building, judicial education and behavioural change in district judiciary.

2. PROFESSIONAL DEVELOPMENT STRATEGY

The proposition that ‘independence of judiciary makes it accountable for its professional competence’ is now accepted beyond debate. It patently hints at accountability of judiciary besides its capacity enhancement and professionalization. While emphasis on academics is important in achieving professionalism, development of personal skills is also an established phenomenon. For years, the most efficacious prescription for meeting with challenge of professionalism was considered to be ‘continuing judicial education (CJE)’. It was restricted to the knowledge of law and court related activities

⁵ Access to Justice Development Fund at <http://ljcp.gov.pk/nljcp/ajdf/pages/2> accessed 31/08/2022

⁶ Armytage L, Pakistan’s Law & Justice Sector Reform Experience - Some useful Lessons

only. In the backdrop of globalization, however, the scope of professional competence of judges got enhanced. It is now considered to include personality development beside acumen and was acknowledged to have direct bearing on service delivery. With this conceptual background, professional development strategy has been envisioned with Federal Judicial Academy⁷ (FJA) providing secretarial support for its execution. It broadly outlines four level graded career courses for members of district judiciary, to be linked with career progression. The courses are to be designed on the pattern of civil service of Pakistan career development courses and it would be a continuous process. The levels indicate different target groups and the modules would be upgraded for every upper level. The strategy is expected to further national integration, encourage peer learning and inculcate collegiality in the district judiciary so as to develop it as an institution with shared responsibility.

3. THE ROLE OF FEDERAL JUDICIAL ACADEMY

FJA was established in 1997 with the prime objective of providing continuing legal education to judicial officers in order to improve their professional competence and the quality of justice administered in the courts⁸. In its strategic plan 2018-2021⁹, FJA envisioned itself as an institution of excellence, aimed at continued professional development of an independent and accountable judiciary for expeditious and inexpensive justice that upholds the values in line with the aspirations of the people of Pakistan. Though, FJA has been striving for capacity development of key players of justice sector since its inception, but it could not bring a perceivable improvement in its service delivery. After concerted introspection, the obvious reasons for such a frailty were found to be the following;

⁷ Premier judicial education institution of the government of Pakistan created working under Federal Judicial Academy Act, 1997 at <https://www.fja.gov.pk/overview> accessed (31/08/2022).

⁸Ibid

⁹ http://www.fja.gov.pk/uploaded_files/strategic_plan_fja_web.pdf accessed 12/08/2022

Firstly, the core objective of continuing judicial education is to improve service delivery. Ideally, every capacity building activity should have been designed and executed in a manner that serve the core objective. Very little serious effort has ever been made at FJA till date. Secondly, there has been lack of coherence in capacity building activities undertaken at FJA. Every activity has been designed and executed in isolation, without its being complemented by other. In this way, the cumulative effect of the whole some was minimized resulting in minimum end product even after utilizing maximum of resources. Thirdly, at FJA, neither curriculum development nor training needs assessment has been based on proper empirical research. Similarly, there has been no mechanism for evaluation or impact study which could provide guideline for forward planning.

In order to address the above shortcomings and to revamp the entire regimen driving the judicial education, the way forward was envisioned by the Board of Governors of FJA outlined in its 41st meeting.¹⁰ Transforming FJA into a centre of excellence in judicial education has been translated in this professional development strategy. Primary focus has been kept on addressing the above highlighted issues so as to make all capacity building activities coherent, directed to further the core objective with research back up.

4. APPROVAL PROCESS

Professional development strategy require intervention by the Islamabad High Court, the Lahore High Court, the High Court of Sindh, the Peshawar High Court and the High Court of Baluchistan. All the High Courts are to implement it as policy guideline approved by the National Judicial (Policy Making) Committee (NJPMC)¹¹. Thus, the proposal document prepared by the FJA is contemplated to be submitted to the NJPMC for consideration and approval. Once the strategy is approved, it

¹⁰ Held at the conference room of Supreme Court of Pakistan on 12.12.2017.

¹¹ National Judicial (Policy Making) Committee is the judicial policy coordination body constituted under an Ordinance (LXXI) of 2002 with Chief Justice of Pakistan as its chairman. <http://www.ljcp.gov.pk/NJPMC.html> accessed 15/08/2022.

shall be the mandate of FJA to execute it as per timeline and standard operating procedures to be developed in consultation with the high courts. At a later stage, it may be provided for, in the service rules following Islamabad Judicial Service Rules, 2011¹².

5. LINKAGE TO CAREER PROGRESSION

The career courses under professional development strategy would be mandatory and linked to career progression of judicial officers and even elevation to the High Courts. No officer shall be considered for promotion without having successfully completed the prescribed level course. Nomination to such courses would be by respective High Courts on seniority basis. The courses would be graded with stipulated passing criteria. It would be quantified and would add up in the performance evaluation reports. The issue of nominations would be resolved once for all and the participation would be made more productive.

6. TRAINING LEVELS AND DURATION

Professional development strategy proposes the following four level career courses for members of district judiciary;

Course	Duration	Target Audience
Judicial Management-I	08 Weeks	Civil Judges
Judicial Management-II	08 Weeks	Senior Civil Judges
Judicial Management-II	08 Weeks	Addl: Sessions Judges
Judicial Leadership Course	08 Weeks	Distt: & Sessions Judges

The courses would run concurrently throughout the year in a manner that two courses of each level (total of eight courses) would be conducted in a calendar year.

¹² The Islamabad Judicial Service Rules, 2011
https://mis.ihc.gov.pk/attachments/news/Islamabad_Judicial_Service_Rules_2_011637901985134199029.pdf accessed 15/07/2022

7. TRAINING NEED ASSESSMENT

We need to educate the judges, not only in law but in various coexistent theories and political orthodoxies, streaming among social reformers, deconstructionists, legal academia, judicial educators, researchers and the like. Education, without having assessed its need, hardly yield any result. With this perspective, a comprehensive exercise for training need assessment (TNA) of the district judiciary would be required before designing modules for career courses. Focussed group discussions and structured surveys would be conducted for comprehensive TNA. The competence level of each target group, previously undergone trainings and the capacity vacuum would make part of TNA profile of every judicial officer. Currently, FJA is offering legal internship to law students of four public sector universities. These law interns would be engaged in the process of TNA as investigators.

8. TRAINING METHODOLOGY

Since target audience of these courses would be senior judicial officers with sufficient work experience in different environments and positions, multi-pronged methodology has, therefore, been proposed. Three learning axis illustrate the overall learning process encompassed in this program:

1. Self-learning axis - each of the participants will be asked to define his personal learning objectives and proactively pursue their fulfilment.
2. Court level axis - each of the participants will work, with assistance from facilitator, to implement training insights into his own district/court.
3. Organizational axis - all the participants will work together in groups to forge systemic insights and to develop policies and implementation plans.
4. Component on research methodology and tools has been included for inculcating analytical and critical thinking.

5. Peers learning through command tasks performed in hypothetical work environment would be distinctive feature of these course.

6. Within these broad parameters, the training would be imparted through knowledge-based learning sessions, skills-based learning sessions, awareness generating sessions, participatory training methods, planning for self-development and application of what has been learnt. The training methodology spreads over the following areas:

- I. Lectures: Lectures are the principal mode of a training program, to be designed as highly informative, communicative, well-calculated and interactive in the sense to ensure greater participation of the trainees.
- II. Extension Lectures: In order to broaden the intellectual level of the trainees, the courses would include special lectures. These lectures are delivered by high profile academicians and professionals and thematic areas of prime importance.
- III. Research Skills: It would be in the nature of group work (syndicate). Each member of a group would be required to conduct research on an assigned topic. Small exercises on comparatively smaller topics would also be arranged. Each module would contain separate syndicate research topics. An advisor/ expert would be there to help the trainees in write research papers and learn how to publish it.
- IV. Office and linguistic skills: Problems are often created due to communication gap. To meet the need, experts on the subject would be invited to deliver lectures and conduct practical exercises. Modern techniques and gadgets would be used and area of official correspondence would be focused.
- V. Book Review: It would be one of the distinctive features of these courses. It will enable the participants to enhance their reading and review skills for self-knowledge.

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- VI. Research paper: A research paper of 5000 words on an approved research proposal would be a mandatory component of each course.
 - VII. Presentations: Trainees would be divided into various groups. Each member of the group would be required to make an analytical and critical presentation of the lectures delivered or talk shared on daily basis. They would also be required to prepare presentations on the assigned topics.
 - VIII. Study circles and panel discussions: These would be arranged to develop the habit of text reading and to make the trainees aware of significance of collective study. In panel discussions, the trainees are provided with an opportunity to academically interact with a group of experts through a question answer session. These activities would help trainees to understand the causes of diversity in opinion, the significance of concurrence, the valuation of an argument and proper method of drawing an inference.
 - IX. Mock Trials: During the training, mock trials would be conducted for helping the trainees write order-sheets, short orders, summonses, warrants, judgments, evidence, presenting a case, fixing date of proceedings and the like.
 - X. Command tasks: In this part of training, the participants shall undertake specific individual as well as group command tasks so as to exhibit their leadership and managerial skills. The participants shall be asked to preside over a meeting, represent your district at a development forum, prepare annual work plan, dictate record notes, draft official communications and launch a strategic plan in a hypothetical work environment. Some visuals would also be screened so as to acquaint the participants with management communication skills.

9. EVALUATION AND GRADING

All the career courses would be graded with a minimum criterion for passing. The evaluation would be made by third party so as to ensure transparency. The participant who fails to satisfy the minimum criteria would be required to re-take the course after one year bar. Besides, at the end of the training course, the participants would be engaged in self-assessment check list of the International Consortium for Court Excellence (ICCE)¹³ for evaluation of their skills. The participants shall be questioned in some areas of courts' excellence, embodying accepted court values, so as to find out the extent of their urge for achievement of goals. The exercise would in itself be a learning activity for measurement of performance. The actions/activities indicated in the check list would not be exhaustive but would be indicative, providing initial guidance. Participants will be able to identify their own actions once they get familiar with the framework¹⁴ approach.

10. REPORTING AND IMPACT STUDIES

Impact study is an integral part of evaluation process. The impact study of the courses would be quantitative research which would determine impact of the initiative on service delivery by the justice system. The research would be based on empirical data of defined variables transformed into useable statistics. Structured surveys on a large sample would be used for data collection. The research wing of the FJA would undertake the study six months after successful execution of at least one course of each level.

II. FORWARD PLANNING

FJA shall circulate its annual training calendar well before commencement of calendar year. The nominating bodies shall plan nominations accordingly. Once the strategy is successfully

¹³ Provided by International Consortium for Court Excellence, Singapore, <https://www.courtexcellence.com/resources/self-assessment> accessed 01/09/2022

¹⁴ The Framework of International Consortium for Court Excellence, Singapore <https://www.courtexcellence.com/resources/the-framework> accessed 01/09/2022

implemented and rolled out, FJA will take up the case for necessary amendment in its Act¹⁵ so as to give it degree/diploma awarding status. Successful completion of all four level courses would be made equivalent to degree in judicial studies while single level course would be graded as a diploma in judicial management. The National Judicial Education Coordination Committee (NJECC)¹⁶ would be activated for oversight and policy assistance.

12. FACULTY DEVELOPMENT

Development of faculty has always been a cumbersome job. Being part of professionalization plan, the training activities could not be solely undertaken either by academia or professionals. It would require a blend of various mind sets so as to get diversity and versatility. FJA may evaluate the professionals and training experts in this regard. Creation of a permanent judicial education cadre is proposed, which may include both professionals and academicians.

13. LINKAGES WITH ACADEMIA

FJA would be required to link up with scholars and institutions of higher education as well as sister professional training academies. The professional exchange programmes of the FJA with National Police Academy, the FIA Training Academy, the provincial Judicial Academies, the Shariah Academy Islamabad, the Justice Academy Turkiye, the Department of Judicial Administration, Maldives are directed to this objective. Opportunities for training courses for FJA faculty and funding there for, may be explored using various fora. Linkages with academia would also include on-line collaboration with digital libraries and recourse centres. Legal internship programme of the FJA is a step in this direction.

¹⁵ Federal Judicial Academy Act, 1997 (ACT No. XXVIII of 1997)

¹⁶Constituted for oversight of judicial education in 39th meeting of the Board of Governors of FJA, held on 17.01.2015.

14. SECURING FOREIGN SCHOLARSHIPS

Arrangement may be made with world's most prestigious scholarship awarding bodies for securing scholarships for district judiciary to study abroad. This would not only provide opportunities of international exposure to the district judiciary but would also contribute towards its professional development. The British Council, Pakistan, managing The Chevening scholarships, the AusAID, managing Australian development scholarships and the United States Educational Foundation in Pakistan, managing the Fulbright scholarships, may be persuaded to award at least 10 scholarships to district judiciary each year. Nomination for such scholarships may be made by the Chairman of Board of Governors FJA on recommendations from respective high courts, based on the performance of officer in level courses, the service record and judicial performance.