

Judicial training in Pakistan: methodology and evaluation

Muhammad Shahid Shafiq*

Introduction

Pakistan is experiencing institutional changes due to ever evolving changes in global trends and transformation processes. Realisation has dawned in Pakistan that its outdated practices, procedures and approaches need to be changed to meet future challenges. The legal education sector is no exception. There are a number of law universities, colleges¹ and judicial academies² in Pakistan where much is required to be done and an emphasis is placed on the sharing of knowledge, with little weight given to the skills component. To substantiate the need for reforms in legal education, the Law and Justice Commission of Pakistan has conducted many studies and prepared reports from time to time for improving the quality of legal education. Mr Justice Zaheer Jamali, former Chief Justice of Pakistan, has emphasised the adoption of methodologies such as competency-based frameworks that focus on improving both knowledge as well as skills and attitudes.³

It appears most of the lawyers, judges, legal scholars, government legal officials and other legally trained personnel have not received sufficient training to perform their jobs professionally. They can become a hindrance rather than a support for the delivery of justice, as most of the time they focus on, and cover only, the knowledge component.⁴ The Supreme Court of Pakistan took notice of the quality of legal education imparted by the public and private law colleges and issued directions for proper planning of syllabi and teaching of law subjects in order to raise the standard of legal education.

The law students of today are the judges and lawyers of tomorrow. The performance of the justice sector is dependent on the quality of the students' professionalism, skills and knowledge. Therefore, there is a strong link between the quality of human resources available to the judiciary, and the functionality, integrity and legitimacy of the courts system. The progress of the development and implementation of professional standards in the legal education system is slow. Pakistan has realised that there is a need to adopt the good practices of other jurisdictions. The formulation of a uniform legal education policy is considered necessary. Innovative

* Senior Faculty Member, Sindh Judicial Academy, Karachi, Pakistan.

¹ There are 16 colleges/law schools and universities Karachi City where law degree is awarded: see <http://www.eduvision.edu.pk/institutions-offering-law-with-field-social-sciences-at-bachelor-level-in-karachi-page-1>, accessed 29 October 2018.

² An academy to cater training need of justice sector institutions, in particular, judges working at district level, has been operating since 1993.

³ A Jamali, "Improving the quality of legal education", address by the Hon Chief Justice of Pakistan, All-Pakistan Educational Conference, Karachi, 4 December 2015 at <http://ljcp.gov.pk/nljcp/assets/dist/Publication/72771-3.pdf>, accessed 29 October 2018.

⁴ The Law and Justice Commission expressed its point of view on legal education: see www.ljcp.gov.pk/njc/legal_education.htm.

methods and activities will assist law students and professionals not only to enrich their knowledge, but also to enhance the skill required to act more effectively as lawyers or judges of the future.

Legal education at law universities and college level

Only a student who has a bachelors degree in another discipline spanning over 14 years of education is admitted to law college to study an LLB degree. In 2015, a number of law colleges and universities in Pakistan introduced a five-year consolidated law degree programme called BA/LLB degree program. The students in this program are admitted after completing 12 years of education. Legal education is generally provided through public sector universities and also by private institutions which adhere to the curriculum and the standards prescribed by the Higher Education Commission in consultation with the Pakistan Bar Council (PBC), a statutory body which regulates the legal profession and to some extent, legal education. In addition, there are a number of institutions which award law degrees, which run external degree programs in collaboration with foreign universities. The PBC has promulgated the Pakistan Bar Council Legal Education Rules 2015 which introduced the 5 year LLB program.⁵ The concept of law clinics, as it is understood in other jurisdictions of the world, does not exist in Pakistan. Mock/moot trial competitions are held at provincial and national level, however, there is no set procedure for participating in these. The Sindh Judicial Academy has previously invited students of law colleges and universities to their mock trials to help prepare them to face the real challenges which await them in their professional lives by equipping them with the required skill to help them discharge their duties effectively.⁶

Legislative status of judicial academies

Pakistan has four provinces and each province has set up a judicial academy of its own.⁷ Islamabad is the capital of the country and the Federal Judicial Academy serves Islamabad district judiciary, as well as the judges of the provinces. The Sindh Judicial Academy works within the scope of a provincial legislation known as the *Sindh Judicial Academy Act 1993*. The academy is governed by a Board of Governors, headed by the Chief Justice of High Court of Sindh, and its members.⁸ The Director General is the administrative head of the academy and runs its' day to day affairs. Every judicial academy in Pakistan has a similar structure and scope of work, however, the Khyber Pakhtunkhwa Judicial Academy has enhanced its scope by converting the academy into a Centre of Excellence. In addition to training judicial officers, they have been authorised to conduct short courses, and award certificates, degrees, diplomas and other distinctions to students and trainees.⁹ The Judicial Academy Assam¹⁰ in India is a successful example of a centre of excellence. The Sindh Judicial Academy is also in the process of amending its law. A proposal to amend the law has been placed before the Board to make a decision to this effect.

⁵ Pakistan Bar Council Legal Education Rules 2015, s 4, "Admission to LLB class: (i) A person having passed the examination of Higher Secondary Education ie, Intermediate [or equivalent], shall be eligible for admission to 1st year of (5 years) LLB program."

⁶ See <https://sja.gos.pk/wp-content/uploads/2017/09/concept-note.pdf>, accessed 29 October 2018.

⁷ Sindh, Punjab, Khyber Pakhtunkhwa and Baluchistan are the provinces of Pakistan and each has its own judicial academy.

⁸ *Sindh Judicial Academy Act 1993*, s 5, refers to the constitution of the Board of Governors.

⁹ *The Khyber Pakhtunkhwa Judicial Academy Act 2012*, s 4(b).

¹⁰ *The National Law University and Judicial Academy, Assam Act 2009* (India).

Recent activities

In May 2017, the Sindh Judicial Academy arranged a consultative workshop with the objective of identifying actions required in the next 10 years to upgrade the judicial system of the country. The workshop was attended by justice sector stakeholders including legal educators and retired and serving judges of district and apex courts. The following five areas were considered:

1. rethinking procedural framework
2. reforming substantive laws
3. transforming service delivery
4. strengthening performance and excellence management, and
5. improving coordination with other justice sector actors.

Included in the many recommendations, the following were made in relation to legal education:

1. To enhance the quality of judicial education by strengthening monitoring and evaluation systems, and to develop a pool of national-level master trainers and agreements signed between academies for the exchange of all resources.
2. To develop bench books and other publications to serve as a guidance tool for judges and relevant staff; to prepare bar books for advocates; and, create quality research on various issues by the academy to facilitate all stakeholders in building their capacity.

The Punjab Judicial Academy in Lahore arranged an “*International Roundtable Conference on Judicial Education*” on 14 May 2017. Attendees included the Director General of the Punjab Judicial Academy, Lahore; a member of the academy’s Board of Management; judges; members of the International Association of Women Judges; judges from the UK, USA, Ireland and the High Court of Nepal; the Registrar of the High Court of Nepal; the Managing Director of the Capacity Development Head of the Judicial Institution of South Africa; a member of the Justice Academy of Turkey; a Public Prosecutor from Turkey; the Director General of the Federal Judicial Academy, Pakistan; the Senior Director of Research and Publication, Kyber Pakhtunkhwa Judicial Academy; and senior faculty members of the Sindh Judicial Academy.

The attendees underlined the importance of adopting ways and means to enhance the capability of judicial educational institutes by learning best practices from each other through exchange programs which would lead to mutual understanding and the development of links and networks. It was unanimously declared:

- to design and develop the curricula, keeping in mind structured needs-assessment exercises, including judicial skills and ethics, and to adopt a highly interactive methodology in the training programmes
- to include information technology-based tools in the programs without making it the sole mode of learning
- to consider that a web based portal can serve as a resource center for judges and further, a Code of Conduct and guidelines on the use of social media should be developed
- to enhance the quality of judicial education by strengthening monitoring and evaluation systems
- to develop a pool of master trainers at national level and agreements to be signed between academies for exchange of all resources (human as well as financial)

- to establish links and networks amongst national, regional and international judicial education institutes
- to develop bench books and other publications to serve as guidance tools for judges and relevant staff, along with quality research on various issues, and
- to adopt a structured approach with regard to resource mobilisation and management in order to address the issues such as lack of autonomy and complexity of administrative systems of the academies.

The Sindh Judicial Academy had earlier organised a “*National Roundtable Conference on Judicial Education*” on 7 and 8 May 2016 in Karachi, in collaboration with the Legal Aid Society.¹¹ The conference was honoured by the presence of the Chief Justice of Pakistan and Chief Justices of the Provinces. The conference was attended by the Head of the Federal Judicial Academy; the Sindh Judicial Academy; the Punjab Judicial Academy; the Balochistan Judicial Academy; and the Khyber Pakhtunkhwa Judicial Academy. Stakeholders from civil society organisations, human rights commissions, the Human Rights Commission of Pakistan and human rights activists and defenders were also invited to attend the conference. The following recommendations were formulated:

1. It has been emphasised that policy making should be data driven. The need for assessing the demand for judicial training has been emphasised so that what is delivered matches the actual day-to-day requirements from the target audience. Attitudinal studies and training needs analysis studies may be commissioned in provinces.
2. It has been suggested that aphorism be removed from the area of judicial training and a move made towards standardising a criterion for recruitment of permanent faculty members.
3. It has been suggested that synergies and closer coordination be developed between provincial academies with the (FJA) at the center in order to avoid duplication and to maximize resource, expertise and content development.
4. As far as curriculum content is concerned, the over emphasis on substantive and procedural learning has been highlighted and it has been recommended that realignment is needed with more equal emphasis on soft skills, ethics, values, interpersonal skills.
5. State mechanisms such as the Law Justice Commission of Pakistan and the National Committee on Judicial Policy Making be used to push for further reform.
6. It is necessary to tie in training needs analysis with evaluation techniques so that visible results can be ascertained and gauged to further inform this area.
7. Judicial academies are to be made autonomous from the judiciary so that desired changes and results can be achieved swiftly.

This conference objective was to take a practical approach towards creating a sustainable and improved judicial education in Pakistan. Dr Livingston Armytage, an expert on international judicial education, attended as the special guest speaker. He emphasised the need for structured training programs through the use of skills-based teaching methodologies which are missing in most judicial academies.

¹¹ The Legal Aid Society is a non-governmental and non-profit organisation headed by the ex-Chief Justice, High Court of Sindh and former judge of Supreme Court of Pakistan.

In November 2015, Dr Armytage conducted a Training of Trainers at the FJA, by bringing together judicial trainers from each academy of Pakistan. At the end of the training, Dr Armytage prepared a strategy paper for the improvement of judicial education in Pakistan. The training quality has been improved, however, there is still much to be done. There is still no concept of lesson plans for training. Trainers mostly share and discuss their personal experiences or share apex court decisions.

The National Judicial Education Coordination Committee was formed on 11 February 2015. The first meeting was convened on 29 October 2016 with the following agenda:

- annual and periodic review of training syllabi and teaching methods with a view to reform and improve the quality of judicial education
- preparing and implementing a judicial education strategy for the future growth and development of judicial education
- preparing plans and strategies for maximum utilization of logistic and academic facilities in the academies
- resolving the issues of overlapping and duplication of training programs, if any
- conducting research on legal and judicial issues for publication in a research journal, dissertations, treatise and in books etc
- holding seminars, conferences and workshops for improvement of the legal and judicial system
- systematising the process of nomination of judicial officers, court staff and other professionals for pre and in-service training
- suggesting requirements for judicial training or for confirmation/promotion of judicial officers and court staff, with suitable incentives for the trainee officers/officials, and
- improving the format of **annual confidential reports/performance evaluation** reports for judicial officers/court staff, in line with their stipulated functions.

As a result of the formation of the committee and its first meeting, each academy formally started interaction with the others. Upon the Punjab Judicial Academy's request, Sindh Judicial Academy shared the format of their performance evaluation report and their District Court Bench Book.

The object of referring to and discussing the above activities is to demonstrate how Pakistan is cognizant of the need to design an effective policy for the improvement of judicial education. Judicial educators have also raised points which were covered as sub-themes of the IOJT 8th International Conference on the training of the judiciary in 2017.

A number of conferences at national and international level have been arranged in different jurisdictions over the past three years and, on most occasions, it has been stated that besides knowledge, emphasis is to be placed on skills and attitude. In most countries, judges and senior advocates are invited to impart training. While addressing the trainees, they use the lecture method and by this method only knowledge is shared. Sometimes discussion is initiated and the speaker feels that he/she could conduct an interactive session. Discussions clarify concepts on the subject, and the skill that newly appointed judges need cannot be fully inculcated by using the lecture method alone. Judges are appointed after undergoing extensive selection steps whereby their knowledge component is sufficiently assessed. Only a candidate who satisfies the

selection authorities is appointed as a judge. Therefore, during training at the judicial academy, an adequate knowledge component should not be the only object of the training. Keeping in mind the judicial officers' new role and responsibility, some skills need to be developed to meet future challenges.

As many academies do not have enough members to form a permanent faculty, they are dependent on visiting faculty. Many academies are hesitant to ask a senior retired or serving judge of an apex court to prepare exercises and case studies for enhancing the capacity of trainee judges. A solution needs to be found and perhaps an institution like IOJT could set some minimum teaching standards. To this end, a few lesson plans may be prepared and shared with member organisations. Lesson plans should include PowerPoint presentations, handouts and reading materials which may cater to the knowledge component. Similarly, exercises, case studies and mock/moot trial practices would prove beneficial in developing skills and improving attitudes.

The judicial academies' main function is to arrange training programs for judges. In Pakistan, justice sector stakeholders such as prosecutors, investigators, members of the Bar and parole and probation officers are rarely associated with matters relating to policy making. Although they, no doubt, receive training by their respective departments, they receive criticism from the judicial department through court verdicts. To avoid this unpleasant situation, the judicial academy should play an effective role by arranging training programs for them, including what is expected from them by the courts. Relevant laws, rules and apex court judgments may also be shared with them in developing their understanding of what is required of them. The Sindh Judicial Academy has taken a step towards this. The head of Sindh police and the academy's Director General have agreed to arrange training for investigators at the academy. During this training, courts verdicts on effective and defective investigation are shared with them. To date, two groups have been trained and this practice shall continue throughout the year.

The academies may also play a key and leading role in facilitating law students to become part of law clinics and mock/moot trials. The Sindh Judicial Academy has initially invited students of State-funded law colleges and universities located in Interior Sindh to practice mock trial sessions to enable them to participate in provincial and national level competitions. The process of setting up law clinics is also in process, and in this regard necessary rules have been drafted and will be shared with the PBC for consideration.

The academies working at national and international level find difficulty conducting their business due to a lack of administrative and financial independence. As the scope of the academies vary, it would be appropriate if universal legislation is passed to cover all academies. This initiative may be taken up by the IOJT.

A monitoring and evaluation policy is another effective tool for an organisation to improve its effectiveness and avoid external criticism. Training, trainers and trainees' assessment is to be made mandatory as a matter of policy and the authority should provide exemplary assessment at the end of the training programs so that necessary decisions may be taken in light of such an assessment.

Conclusion with recommendations

Too much time and resource is consumed in discussion, and not enough in execution. Consultative meetings often generate very useful recommendations but most of the time these are not implemented. The academies, working at national and international levels, should

develop close working relationships and continue exchanging activities undertaken by them, and where legislative environments are similar, share research studies. The following joint initiatives are suggested to improve Pakistan judicial academies' working/operations:

1. **Drafting a universal legislation to run the affairs of judicial academies** — a committee consisting of three members of IOJT may be constituted to work jointly to draft the universal legislation. The draft may be shared with all members for comments and may be finalised at the annual meeting of the IOJT.
2. **Preparing (subject and cadre wise) model training manuals containing lesson plans** — each academy has its own training manual and follows different teaching methodologies. Sometimes training manuals contain subjects and topics only. These documents lack the necessary information that may be helpful for speakers and trainees. The IOJT may play an effective role in designing training manuals, following the format suggested by Dr Armytage. The Sindh Judicial Academy would like to be made part of such activities.
3. **Minimum standards may be fixed to monitor training programs, trainers and trainees** — in Pakistan, a committee has been set up at national level to improve judicial education. The committee needs to work more effectively and regular meetings should be held so that co-operation within the academies may be developed. At present each academy has its own method of training assessment. Trainers' assessment needs to be given greater weight as they are the key person in the training process. The IOJT may, in consultation with its member organisations, fix minimum standards of monitoring and evaluation.
4. **Bench books for trainees** — bench books have been designed by many academies. These books need to be reviewed from time to time. Bench books may be prepared subject and cadre wise. While reviewing the books, relevant stakeholders may be consulted and their comments should be incorporated in the bench book.
5. **Administrative set up in the academies** — each academy is too dependent upon an authority which is not directly part of the academy. In Sindh, the Board of Governors, headed by Chief Justice of High Court of Sindh, makes all the decisions for the Sindh Judicial Academy's affairs and limited powers are assigned to the Director General of the academy. The situation is similar in the other three provinces. To improve the working of the academies in Pakistan, the Director General should have more financial and administrative control in running their affairs.
6. **Collaboration with national and international academies** — study tours for regular faculty members are to be planned by the academies so that they may adopt good practices from each other. The faculty members may also be assigned to teach during their visits and to participate in common interest research studies. Technological aids, such as video conferencing, may be used to develop cooperation and the exchange of legal information and juristic views.

