



**Curriculum Outline of**

# **ADR and Mediation**

**For**

**Labour Administrators of NILAT**

**Designed by**

**Fahim Ahmed Siddiqui**  
**Curriculum Development Expert (Legal Expert)**  
**Sindh Judicial Academy**

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## **Training Methodology**

The training method shall include all the tools mentioned at the start of this curriculum. These teaching tools are required to be incorporated in the class rooms by the teachers and facilitators; therefore, the same are being described below:

**Brainstorming:** Brainstorming is used extensively to allow the wealth of life and work experience to be shared. Brainstorming is a highly effective and engaging way for adults to learn, allow many ideas to be shared in short period of time. In this way, the teacher or facilitator will be able to have an idea of the present level of knowledge of the participants. Note taking on flipchart paper is important in brainstorming session, both to acknowledge participants' contributions and to record key points.

**Metaplan:** Metaplan is a technique for organizing a variety of ideas or definitions in a participatory way. Individually, in response to a specific question, participants are asked to jot down ideas, words, or phrases on individual cards or pieces of paper. They then work in small groups and select the best ideas to present on cards to the whole group. The teacher organizes the cards in front of the group, until all the ideas are displayed. This is a quick way of focusing a brainstorming session. It is useful in cases where there may be greater diversity of responses.

**Mini Lecture:** Instead of lengthy inductive lecture, a mini-lecture mainly focusing on grey areas of the knowledge of participants is delivered by the facilitator. It provides a fruit for thought for the next activity i.e. Guided Group Discussion or Case Study. It is very useful for conventional teaching but it is equally workable for adult training.

**Guided Group Discussion:** Group Discussion usually trigger by putting a question before the participants or focusing on a case study. The facilitator or teacher encourages the participants to bring forth their ideas and then guided a course for discussion without forcing them to reach a set conclusion. In this way, the participants will be able to learn effectively and able to retain their knowledge.

**Case Study:** It is actually a Guided Group Discussion based on some case study. The case study used in this manual is adopted from actual situations. Before starting case study session, the teacher should give instruction to the participants that they should based on the information provided in Case Study and avoid "what if" and "but if" sidetracking.

**Tasks/Assignments:** Tasks or assignments are the techniques useful for the whole group or segregated smaller groups. The teacher may either write the task on a transparency or on a flipchart and post it on the wall, or, if the task involves many steps or answer numerous questions, then it will be useful to write out the task on paper and give a separate copy to each group. Multimedia computer presentation may also be used for the same purpose.

**Mock Trials:** Mock trials or court moots are actually a powerful tool of judicial and legal education. Importance of practical work has been admitted all over the world for any sort of learning activity. In mock trial, the practical situation of a court room is created in the simulation room. It is tried to involve as many of the participants in the activity as possible. In this way the participants will be better able to understand a particular situation by performing it practically.

S.No	Course Contents	Days	Periods	Assignments or Practical Work
1.	<p><b>A.D.R.</b></p> <p><b>Introduction to Dispute Resolution/ADR</b></p> <ul style="list-style-type: none"> <li>i) Definition of ADR</li> <li>ii) Historical Development of ADR.</li> <li>iii) Comparative examination of different dispute resolution process including the relative advantages and disadvantages of each of the following. <ul style="list-style-type: none"> <li>▪ Negotiation</li> <li>▪ Mediation</li> <li>▪ Arbitration</li> <li>▪ Litigation</li> <li>▪ Early Neutral Evaluation.</li> <li>▪ Expert Determinations</li> </ul> </li> <li>iv) Factors to be considered in choosing a process.</li> <li>v) Legal framework for ADR in Pakistan.</li> </ul>		10	2
2.	<p><b>Negotiation Theory and Practice</b></p> <ul style="list-style-type: none"> <li>i) Theory of negotiation.</li> <li>ii) Negotiation Strategies/Styles.</li> <li>iii) Outcomes vs. relationship.</li> <li>iv) Claiming vs. creating values.</li> <li>v) Comparative analysis of competitive and collaborative negotiation.</li> <li>vi) Preparing a negotiation plan.</li> <li>vii) Negotiation Role-play.</li> <li>viii) Cultural context of negotiation.</li> </ul>			
3.	<p><b>Mediation Theory and Practice</b></p> <ul style="list-style-type: none"> <li>i) Theory of mediation</li> <li>ii) Core principles of the process i.e. <ul style="list-style-type: none"> <li>▪ Voluntary</li> <li>▪ Confidentiality</li> <li>▪ Neutrality and Impartiality</li> </ul> </li> </ul>			

	<ul style="list-style-type: none"> <li>▪ Without prejudice</li> <li>▪ Party control of outcome.</li> </ul> <ul style="list-style-type: none"> <li>iii) Legal framework of mediation.</li> <li>iv) Practical application in Pakistan.</li> <li>v) Role of the mediator.</li> <li>vi) Role of the lawyers in mediation.</li> <li>vii) Role of the Representative in mediation.</li> <li>viii) Stages of mediation process.</li> <li>ix) Ethics of mediation.</li> </ul>			
4.	<p><b>Role of ADR and Mediation in Labor Laws</b></p> <ul style="list-style-type: none"> <li>i) Industrial Relation Ordinance (Collective Bargaining Agent and concept of joint management) {Sec 22, 23-B &amp; 23-C of IRO}</li> <li>ii) The role of negotiation for redressing of individual and collective grievances {Section 24 to 31 of IRO}</li> <li>iii) Negotiation between company management and CBA {Section 29 of IRO}.</li> <li>iv) Calling for mediation in case of dispute {Section 26 of IRO}.</li> <li>v) How mediation play part in case of dispute between management and CBA.</li> <li>vi) Use of mediation technique to avoid strike etc.</li> <li>vii) Mediation to resolve other labor disputes {Workmen's Compensation Act, 1923 and The Payment of Wages Act, 1936}.</li> <li>viii) Use of mediation in labor courts.</li> <li>ix) Mediation Role-play.</li> </ul>			



## A Sample Lesson Plan<sup>1</sup>

<b>Title of Lesson:</b>		<b>Date:</b>	<b>Time:</b> 60 Minutes												
<b>Facilitator/Teacher:</b>		<b>Topics Covered:</b>													
<b>Sub-topics Covered:</b>		<b>Sections/Articles Covered:</b>													
<b>Subject Specified</b> (Name of Statutes):															
<b>Teaching Methods Used:</b>	<input type="checkbox"/> Full Length Lecture <input type="checkbox"/> Mini-Lecture <input type="checkbox"/> Brainstorming <input type="checkbox"/> Plenary Discussion <input type="checkbox"/> Group Discussion <input type="checkbox"/> G/G Discussion <input type="checkbox"/> Black Board <input type="checkbox"/> White Board <input type="checkbox"/> Flipchart <input type="checkbox"/> Q & A <input type="checkbox"/> Home Assignment <input type="checkbox"/> Mock Trial <input type="checkbox"/> _____														
<b>Technology Integration</b>	<input type="checkbox"/> PowerPoint <input type="checkbox"/> Overhead Projector <input type="checkbox"/> Episcopes <input type="checkbox"/> Computer with Multimedia <input type="checkbox"/> Movies														
<b>Aims and Object:</b>  Use of Technology Integration <input type="checkbox"/> Yes <input type="checkbox"/> No	At the end of lesson, the trainee officers will be able to learn  1. 2. 3.														
<b>Anticipatory Set</b>  Use of Technology Integration <input type="checkbox"/> Yes <input type="checkbox"/> No	(Upon what do your focus during teaching?)  1. 2. 3.														
<b>Explanation</b>  Use of Technology Integration <input type="checkbox"/> Yes <input type="checkbox"/> No	(What are you going to tell the trainees and how?)  <table border="1"> <thead> <tr> <th>Time</th> <th>Steps</th> </tr> </thead> <tbody> <tr> <td>05 Min</td> <td><b>Step-1</b> Start a session of brainstorming to judge the present knowledge of the students.</td> </tr> <tr> <td>20 Min</td> <td><b>Step-2</b> Deliver a mini-lecture covering some important aspect of the topic especially gray area of the knowledge of trainees as revealed through brainstorming. 1.</td> </tr> <tr> <td>10 Min</td> <td><b>Step-3</b> Prepare a PowerPoint Presentation or use Flip Chart or give some example for lasting retention of the knowledge in the minds of students/trainees.</td> </tr> <tr> <td>20 Min</td> <td><b>Step-4</b> Initiate a Guided Group discussion to enrich the knowledge of the students/trainees.</td> </tr> <tr> <td>05 Min</td> <td><b>Step-5</b></td> </tr> </tbody> </table>			Time	Steps	05 Min	<b>Step-1</b> Start a session of brainstorming to judge the present knowledge of the students.	20 Min	<b>Step-2</b> Deliver a mini-lecture covering some important aspect of the topic especially gray area of the knowledge of trainees as revealed through brainstorming. 1.	10 Min	<b>Step-3</b> Prepare a PowerPoint Presentation or use Flip Chart or give some example for lasting retention of the knowledge in the minds of students/trainees.	20 Min	<b>Step-4</b> Initiate a Guided Group discussion to enrich the knowledge of the students/trainees.	05 Min	<b>Step-5</b>
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<sup>1</sup> It is a Sample Lesson Plan which is prepared to help out the teachers and facilitators to modify the same according to their needs. The plan is prepared for those teachers or facilitators who have less or no experience in preparing a Lesson Plan. If they follow the practice of preparing a Lesson Plan before going to class, they feel that their quality of as teacher/facilitator will be improved and they will be more beneficial for the students.

	Conclusion.
<b>Modeling</b> (Use of examples)	(For better understanding use the following modeling)
Use of Technology Integration <input type="checkbox"/> Yes <input type="checkbox"/> No	Check for Understanding:
<b>Guided Practice</b> (Presentation by trainees, guided group discussion)	(For better understanding)
Use of Technology Integration <input type="checkbox"/> Yes <input type="checkbox"/> No	Check for Understanding:
<b>Independent Practice</b> (Assignments, Mock Trial)	
Use of Technology Integration <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Assessment or Evaluation</b> (Marking, Grading)	
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<b>Enrichment</b> (Brainstorming, Revision)	
Use of Technology Integration <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Closure</b>	
Use of Technology Integration <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Materials Used</b> (Also mentioned case laws as material)	

\_\_\_\_\_  
Facilitator/Teacher Signature/Date<sup>2</sup>

**Note:**

1. The practice of preparing a lesson plan should be encouraged. It will assist the teacher/facilitator and the academy both.
2. The above format with sufficient space in each box may be supplied to the teachers/facilitators.
3. The teachers/facilitators may be requested to prepare their own lesson plans according to the above format. However they may use some other suitable format for lesson plan.

<sup>2</sup> Prepared By: Fahim Ahmed Siddiqui, Curriculum Development Expert (Legal Expert), Sindh Judicial Academy—Email : Fahim\_law@hotmail.com



## A Model Lesson Plan

<b>Title of Lesson:</b> Doctrine of complicity		<b>Date:</b>	<b>Time:</b> 60 Minutes										
<b>Facilitator/Teacher:</b> Fahim Ahmed Siddiqui		<b>Topics Covered:</b> 1. Abetment in an offence. 2. Criminal Responsibility. 3. Offence of Strict Liability											
<b>Sub-topics Covered:</b> 1. Mens Rea 2. Actus Reus 3. Malum Transferred.		<b>Sections/Articles Covered:</b> 34, 107 to 120 PPC											
<b>Subject Specified:</b> (Name of Statutes)	Criminal Law (Pakistan Penal Code)												
<b>Teaching Methods Used:</b>	<input type="checkbox"/> Full Length Lecture <input type="checkbox"/> Mini-Lecture <input checked="" type="checkbox"/> Brainstorming <input type="checkbox"/> Plenary Discussion <input type="checkbox"/> Group Discussion <input checked="" type="checkbox"/> G/G Discussion <input type="checkbox"/> Black Board <input checked="" type="checkbox"/> White Board <input type="checkbox"/> Flipchart <input type="checkbox"/> Q & A <input checked="" type="checkbox"/> Home Assignment <input type="checkbox"/> Mock Trial <input type="checkbox"/> _____												
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<b>Aims and Object:</b>  Use of Technology Integration <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	At the end of lesson, the trainee officers will be able to learn 1. Better understanding of doctrine of complicity. 2. Know the term criminal responsibility and its association with the doctrine of complicity. 3. Gain some rudimentary experience in respect of parties to crime especially abettor.												
<b>Anticipatory Set</b>  Use of Technology Integration <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	(Upon what do your focus during teaching?) <table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 50%;">Knowledge Objective</th> <th style="width: 50%;">Skill Objective</th> </tr> </thead> <tbody> <tr> <td>1. Know about the general principle of criminal responsibility.</td> <td>1. Distinguish the situations of availability and non-availability of mens rea.</td> </tr> <tr> <td>2. Get knowledge about the situations when more than one person involved in crime (doctrine of complicity)</td> <td>2. Get idea about strict liability.</td> </tr> <tr> <td>3. Develop an opinion about legal and moral responsibilities upon Court in respect of parties to crime.</td> <td>3. Know about the role played by doctrine of complicity.</td> </tr> <tr> <td></td> <td>4. Distinguish different situations in respect of parties to crime.</td> </tr> </tbody> </table>			Knowledge Objective	Skill Objective	1. Know about the general principle of criminal responsibility.	1. Distinguish the situations of availability and non-availability of mens rea.	2. Get knowledge about the situations when more than one person involved in crime (doctrine of complicity)	2. Get idea about strict liability.	3. Develop an opinion about legal and moral responsibilities upon Court in respect of parties to crime.	3. Know about the role played by doctrine of complicity.		4. Distinguish different situations in respect of parties to crime.
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	<p>2. The criteria for criminal act are {a. Act must be voluntary—b. Must be stem from actor free will}</p> <p>3. Involuntary acts do not give rise to criminal responsibility.</p> <p>4. Some times accused do not do any act but trap in the net of criminal law because of Omission of doing something legally bound to do. {Example of Shahnwaz Bhutto's death and case of his wife}</p> <p>5. Verbal acts may also cause criminal responsibility.</p> <p>Now you are able to guide the trainees towards the doctrine of complicity on the following points.</p> <p>A. Doctrine of complicity deals with condition under which more than one person incurs responsibility before, during and after committing crime.</p> <ul style="list-style-type: none"> <li>➤ For doctrine of complicity, it is no matter that the conduct of accused, or conduct of other or others or conduct of all or both (accused and others) establish the elements of crime.</li> </ul> <p>B. Three questions are important.</p> <ol style="list-style-type: none"> <li>1. What conduct does the doctrine cover?</li> <li>2. Whose conduct does it include?</li> <li>3. What mens rea bring about the conduct of others?</li> </ol> <p>C. Parties to crime</p> <p>The common law recognize four parties:</p> <ol style="list-style-type: none"> <li>2. Principle in the first degree—actual perpetrators.</li> <li>3. Principle in the second degree—aiders, abettors and conspirators</li> <li>4. Accessories before the fact—aiders and abettors not present when the crimes are committed, such as one who supplies the weapon etc.</li> <li>5. Accessories after the fact—individuals who give aid and assistance to criminals who are fugitive.</li> </ol>
10 Min	<p><b>Step-3</b></p> <p>Prepare a PowerPoint Presentation based on the above notes to revise these information so that it may be retained by the trainees in their minds.</p>
20 Min	<p><b>Step-4</b></p> <p>Guided Group discussion to enrich the knowledge of the trainees. For discussion, following questions may be asked and then continued the discussion and guide the trainees to reach the conclusion given in the notes below each question.</p> <ul style="list-style-type: none"> <li>➤ What is mens rea or intention?</li> </ul> <p><b>Notes:</b></p> <ol style="list-style-type: none"> <li>1. General intent {i.e. intent to commit an act 'actus reus'}</li> <li>2. Specific intent {it requires to do something in addition to the actus reus—for example in house breaking the specific intention is to commit stealing while general intention is house breaking}</li> <li>3. Intention but malum transferred. {e.g. attack with intention to cause harm to A but cause injury to B}</li> <li>4. Constructive intention {Where actor does not intent to cause harm to anyone but he knows that his act is of high risk}</li> </ol> <ul style="list-style-type: none"> <li>➤ What is meant by the offence of strict liability or strict responsibility?</li> </ul> <p><b>Notes:</b></p> <ol style="list-style-type: none"> <li>1. Offence of strict liability is an exception.</li> <li>2. These crimes do not require mens rea.</li> <li>3. They impose responsibility without fault.</li> </ol> <ul style="list-style-type: none"> <li>➤ What is mean by causation in criminal responsibility?</li> </ul> <p><b>Notes:</b></p> <ol style="list-style-type: none"> <li>1. The principle of causation applies to crimes that require the conduct in question cause a particular result.</li> <li>2. Law analyzes the relationship between conduct and the resulting harm in terms of factual and legal causation.</li> <li>3. For 'factual causation' the requirement is that there should be an unbroken chain of events from conduct and resulting harm. The defence of accused should be the harm is not because of my conduct.</li> <li>4. Proximate cause is one recognized by law and it is legal causation.</li> </ol>
05 Min	<p><b>Step-5</b></p> <p>Conclude the lesson by indicating the trainees towards the statutory provision of law regarding abettor and also tell them about some case laws.</p>
<b>Modeling</b> (Use of examples)	<p>(For better understanding use the following modeling)</p> <p>Example of Shah Nawaz Bhutto's death was used to describe the omission of an act which creates criminal responsibility.</p>

Use of Technology Integration <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Check for Understanding: The understanding may be checked at the time of guided group discussion.
<b>Guided Practice</b> (Presentation by trainees, guided group discussion)  Use of Technology Integration <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	(For better understanding) Following Techniques will be used 1. Guided Group Discussion 2. Examples 3. PowerPoint Presentation.
	Check for Understanding: The understanding will be checked through assignment.
<b>Independent Practice</b> (Assignments, Mock Trial)  Use of Technology Integration <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Give an assignment to whole class to write a comprehensive paper on the doctrine of complicity.
<b>Assessment or Evaluation</b> (Marking, Grading)  Use of Technology Integration <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	No formal assessment is needed at the end of the lesson. The content of assignment may be used as a source of assessment to judge that what has been retained by the trainees. However, in test paper of criminal law, this topic may be given sufficient weight.
<b>Enrichment</b> (Brainstorming, Revision)  Use of Technology Integration <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	No time left for this exercise.
<b>Closure</b>  Use of Technology Integration <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	No special activity at the time of closure.
<b>Materials Used</b> (Also mentioned case laws as material)	PowerPoint Presentation

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Facilitator/Teacher Signature/Date

<sup>3</sup> Prepared By: Fahim Ahmed Siddiqui, Curriculum Development Expert (Legal Expert), Sindh Judicial Academy—Email : Fahim\_law@hotmail.com



## Another Simple Model Lesson Plan<sup>4</sup>

### (Bail after Arrest)

I. **Time:** 60 Minutes

II. **Goals:** Discussing the justifications for granting bail in bailable and non-bailable offences helps students:

- A. Better understand the difference between bailable and non-bailable offences.
- B. Think about the principles underlay in releasing accused on bail.
- C. Gain some rudimentary experience with granting bail in non-bailable offences and skills of writing bail orders.

III. **Objectives:**

- A. Knowledge Objectives – As a result of this class, students will be better able to:
  - 1. Understand the goals of dividing offences in two major types.
    - a. The bailable offences
    - b. The non-bailable offences
  - 2. Develop their own opinions about the ethics of dividing the offences in these two major classes.
  - 3. Define the legal duties of public prosecutor and defence counsel and understand their respective duties at the time of arguing bail application.
  - 4. Discuss about the term ‘discretion’ and their proper use by the court.
- B. Skills Objectives – As a result of this class, students will be better able to:
  - 1. Deal with bail applications presented before them effectively by:
    - a. Prioritizing in their disposal.
    - b. Considering and weighing the nature of offence.
    - c. Appreciating the nature of evidence adduce by the prosecution in support of the accusation.
    - d. Anticipating the quantum of punishment which conviction will entail.
    - e. Looking at the character, behavior, means and standing of the accused.
  - 3. Evaluate discretion of court at the time of granting or refusing a bail application.
- C. Attitude Objectives – As a result of this class, students will be better able to feel:
  - 2. In criminal law, legal duties and moral duties do not always coincide. It is sometimes necessary for both public prosecutors and defence counsel to make tough choices in order to meet all of their obligations and “do their jobs.”
  - 3. This fact has to be recognized by the judicial officers and they must be polite with the state and defence advocates at the time of dealing bail applications.
  - 4. Listening is the most important part of hearing and disposing bail application.

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<sup>4</sup> This Model Lesson Plan is simply designed. In this plan all the steps has been mentioned according to the order or steps proposed to be followed during the delivery of lesson to the class. In fact, a beforehand planning is very helpful and improves the quality of teaching for which the above Model is a good example. In this Lesson Plan, Handouts are also included to guide the teachers/facilitators regarding effective use of Handouts during teaching.

#### IV. Classroom Methods:

##### A. Brainstorming session:

- ✓ "What is bail?"
- ✓ What purpose is served by establishing a system of bail for those who commit crimes?"

Write down students answers on the board and go back to them during part "B". (5 minutes)

##### B. Explain through a mini-lecture both sorts of offences (bailable and non-bailable offences: (15 minutes)

1. Bailable Offence – Focuses on bail as right:
  - a. In general, bailable offences are considered petty offences. The maximum punishment provided is not so severe as to non-bailable offences.
  - b. There is no discretion of court to refuse bail.
  - c. Bail should be granted if the accused is ready to furnish surety.
  - d. In bailable offences, the court can discharge an accused.
  
2. Non-bailable offence – Focus on bail is not a right but a grace.
  - a. In general non-bailable offences are considered serious and grave offences. Maximum punishment is death or life imprisonment.
  - b. The court enjoys ample discretion in rejection or grant of bail.
  - c. The court may grant bail but refuse to grant bail if there exist reasonable ground to believe that the accused has committed an offence punishable with death or imprisonment for life or ten years.
  - d. It means two categories of non-bailable offences –
    - i. Offences in punishable with death or life or 10 years or more.
    - ii. Offence is punishable with less than 10 years.
  - e. For first category refusing bail is a rule and granting bail is an exception.
  - f. For second category granting bail is a rule and refusal is an exception.
  - g. For first category bail can be granted to accused if court believes that there exist reasonable ground of further inquiry as to his guilt.
  - h. Ordinarily bail to a child up to 16 years, a woman and a sick or infirm person shall be released on bail. (first proviso)
  - i. Without notice to prosecution no bail can be granted in a non-bailable offence. (second proviso)
  - j. For first category, If there is no reasonable ground that the accused has committed a non-bailable offence and there are sufficient grounds of further inquiry bail shall be granted. (ss.2)
  - k. Before announcing judgment, if court thinks that the accused is not guilty of a non-bailable offence, it can release him on execution of bond without surety. (ss.4)
  - l. High Court, Sessions Court or the Court that has released the accused on bail, can recall the order of bail. (ss. 5)

##### C. Ask if there are any questions before moving on (2 minutes).

##### D. Now again start brainstorming by asking a simple question "What is discretion and how it should be used? Write students answers on a piece of paper or the board and go back to them during part "E". (3 minutes)

##### E. Distribute Handout "B" to the student and ask them to go through it for 5 minutes

##### F. Now ask them, what idea they have got about using discretion at the time of granting bail? and engage the class in a guided discussion during which the following points should be communicated to the students. (10 minutes)

1. Discretion be used in favor of accused if:
  - a. His case falls within first proviso.
  - b. He is not involved in a case of serious nature.
  - c. There is less probability of conviction in his case.
  - d. If the punishment (would be) fallen to accused is not severe.
  - e. If he is not a habitual offender.
  - f. If there are strong chances that his trial will be delayed.
  - g. If there are less chances that he will become absconder.
  - h. If there are less chances that he will repeat the offence.
  - i. If there are less chances that he will temper with prosecution evidence.
  
2. Discretion will be used against the accused if.

- a. His case does not fall within first proviso.
- b. He is involved in a case of serious nature.
- c. There is great probability of conviction in his case.
- d. If the punishment (would be) fallen to accused is severe.
- e. If he is a habitual offender.
- f. If there are less chances that his trial will be delayed.
- g. If there are strong chances that he will become absconder.
- h. If there are strong chances that he will repeat the offence.
- i. If there are strong chances that he will temper with prosecution evidence.

- G. Now distribute Handout “**B**” amongst the students/trainees and tell them to go through it for 3 minutes.
- H. Now divide the class into three groups. Group-A, Group-B and Group-C with their respective group leaders. (2 minutes)
- I. Ask each group to form an opinion about granting or refusing the bail in the situation of Handout “**B**”. and write down a short concluding paragraph of their bail order. (5 minutes)

Note: Only concluding paragraph and not the whole order is required to be written by each group.

- J. Invite the group leader for reading the opinion of their group regarding the accused involved in the Handout “**B**”. (10 minutes)

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Facilitator/Teacher Signature/Date

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## Handout—A

### POINTS TO BE CONSIDERED FOR USING DISCRETION BY COURTS IN BAIL MATTER

CONSIDERATION	IN FAVOUR OF BAIL	AGAINST BAIL
Whether fall under first proviso?	Fall	Not fall
Nature and gravity of offence	Not serious	Serious
Probability of conviction on the strength of conviction (e.g. confession, eye-witnesses, recoveries etc.)	Not strong	Strong
If probability of conviction exist then severity of likely punishment	e.g. Fine	Imprisonment
	e.g. Simple Imp	Rigorous Imp etc.
Character and past conduct of the accused.	No previous convictions	Previous convictions
	No previous record	Previous record
Likelihood of becoming absconder	No	Yes
Will accused get an immediate or delayed trial?	Immediate	Delayed
Risk of accused tempering with prosecution evidence.	Little risk	Great risk
Risk of repetition of offence by the accused	Little risk	Great risk
Possibility of prejudice of defence in preparation of defence	Yes	No

## **Handout—B**

### **Case Study**

#### **Facts of the Case**

The FIR was lodged on the basis of a Non-cognizable report lodged on 10-08-2006 at 1910 hours at the PS A-Section by complainant Sikandar Ali Janwari, who is an ASI at the same PS. In the NC, he stated that he had a house in Gopang Mohalla. He had given a portion of 2000 feet from his house to cousin of his father namely Serwer Gopang for the purpose of temporary residence. On 22-07-2006, he requested him (Serwer) to vacate the said portion to which he annoyed. On the same day, his father was standing at the threshold of his house while he and his brother Ali Akber were standing at some distance. Meanwhile, accused Ghulam Serwer, Dhani Bux, Asghar, and Ashique armed with sticks came there. They caused stick blows to his father on right buttock and on both legs; he raised cries and fell down. On the cries, the complainant and his brother ran towards them but seeing them the accused persons escaped towards their home. The complainant then took his father to a private hospital for treatment. He also tried to contact nekmard Raees Ghulam Hyder Janwari but he was not available and went out somewhere-else. On his returning, the complainant apprised the whole facts to him, who told the complainant to report the matter to PS. Thus he came to PS and lodged NC. The father of the complainant was sent to hospital and after receiving Medical Certificate, the NC incorporated in the FIR so lodged.

#### **Note:**

1. MC shows an operated wound, and in x-ray a compound fracture of femur near the upper joint was seen which was fixed with steel rod tied with screws.
2. At the time of arguments, the injured was available in the court and court has taken judicial notice that the injured has really received injuries and unable to walk.