

# Strategic plan for Judicial Department of Pakistan 2024-2026

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Pakistan's legal system is not ranked at better place internationally. It would have many reasons however this paper is not aims to identify an individual or institution caused for the failure. Attempt is made to identify areas which may be responded immediately to improve working of judicial department of Pakistan. The recommendations made hereunder are not required much financial implication. A few policy decisions are needed to implement the proposals. Further available resources may be utilized effectively to execute the proposals.

**Research Associate with all District & Sessions Judges:** Sometimes working of District and Sessions Courts is criticized in terms of administration of justice and expeditious disposal of cases. Out of 27 districts, 10 districts have too much pendency. Judges due to much pendency face difficulties to dispose of a case within timeline as provided in a legislation and if it is decided timely, quality is compromised. Most of the time the procedure provided in the Code of Criminal and Civil Procedure is followed religiously. After 2010 number of legislatives initiatives were introduced whereby novel trial and investigation procedures have been advised. These are not used and applied by the justice sector stakeholders. Office of the District & Sessions Court needs technical assistance to respond challenges.

**Recommendation:** A young law graduate in BPS 17 as research associate, preferably foreign qualified and acquaintance with technology, may be associated with each District & Sessions judge who may assist him in conducting research on legal issues. The research officer after serving few years would be having better idea of the system and working of judicial department. They will be prospective candidates for the upcoming position of Civil Judges & Judicial Magistrates or Additional District & Sessions Judge. A policy decision may be taken by the Administrative Committee of the High Court and accordingly District & Sessions Judge may move SNE for creation of

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<sup>11</sup> Author of this document is District & Sessions Judge and currently working for Sindh Judicial Academy.

Research Associate's post by articulating detailed job description against proposed position. SJA may articulate Job descriptions of the proposed position.

**Establishing office of District Registrar at district level having expertise of Finance & Administration:** District & Sessions Judges do not have expertise to deal with finance and administrative issues as they are neither trained for it nor possess specialized education and therefore this area remained neglected in past. They hardly understand 'Budget Call Circular' and procedure to fill out relevant forms. They rely on an unqualified accountant who prepare budget as per past practices. Many of the accountants are not even commerce graduate. There is dire need of finance and administrative officer to deal with financial and administrative issues. Here it is pertinent to mention that in past this proposal was come up under consideration but could not be forwarded to the authority for consideration as District & Sessions Judges are of the view that the person would interfere in their decisions making powers. They are reluctant to share powers of any type.

**Recommendation:** It is proposed that an officer of BPS 19, having qualification in Finance and Administration, may be appointed as 'District Registrar'<sup>2</sup> at district level. In any circumstances he should not be a judicial officer. SJA may articulate Job descriptions of the proposed position.

**Job descriptions of each staff and officer:** Paralegal staff are not well aware with their role and responsibility. The administrative head of the organization (Registrar in case of High Court establishment and District & Sessions Judge in case of District Court establishment should specifically articulate job descriptions of every official and accordingly circulate among the staff to observe. Similarly, Job descriptions of Registrar/s and District & Sessions Judges may also be articulated which may reflect their policy making, leadership and managerial roles.

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<sup>2</sup> Job descriptions of district registrar may be well defined and the SJA may conduct a desk study and arrange a consultative meeting by inviting a few District & Sessions Judges so that meaningful job descriptions may be developed.

**Recommendation:** Administrative Committee may direct to the learned Registrar and District Judges to articulate job descriptions of each staff such as Nazir, Record Keeper, Reader, Accountant etc. Further job description of learned Registrar, Members Inspection Teams and District & Sessions Judges may be finalized and approved by the Administrative Committee of the High Court. An effective Monitoring and Evaluation (M & E) would also be needed to introduce which may assess working of an officer as per set standards and defined job descriptions. SJA may articulate Job descriptions of the Registrar and MIT offices.

**Coordination & Cooperation among stakeholders by District & Sessions Judges and proactive role of Criminal Justice Coordination Committee:** Criminal Justice Coordination Committee exists in all districts and in few districts, it is working effectively. To improve criminal justice system, progressive and leadership role of Sessions Judges may be vital. The committee's meaningful meeting may reduce institution, and trial would be commenced and completed timely. Stakeholders would also able to understand each other difficulties and limitation.

**Recommendation:** M.I.T. office may coordinate with District and Sessions Judges and minutes of the meeting receive from them may be perused and placed before the Hon'ble Monitoring Judge of the District for further guidance.

**Role of trial court for implementing the Witness Protection Program as introduced under the United Nations Conventions rectified by Pakistan:** Pakistan is member of United Nations Organization and therefore it has many obligations, in particular, to respect the United Nations Conventions and Covenants to which Pakistan has become signatory and thereafter ratified it. There are about 7 Human Rights Conventions which have been ratified by Pakistan and in line of the Conventions Pakistan introduced a few legislations at provincial and federal level. The Sindh Witness Protection Act, 2013 is one of the provincial legislations introduced about 10 years back and subsequently promulgated in rest of the provinces. The courts do not have environment to implement witness protection program. Further the judges are not familiar with this legislative framework. There are many new laws which talk about witness protection, however the courts, in particular, sessions courts

could not play effective role by setting up witness protection environment though the legislative framework exist since many years. They connect and treat video recorded trial as witness protection. Provincial legislation explains numerous modes of protection and that are hardly applied by the trial courts.

**Recommendation:** Sessions Judges may be asked to take steps for implementing the law and initiate process of I.T. equipment's procurement if so needed. Guidance may be sought from the Anti-Rape (Investigation & Trial) Act, 2021 and the rules made thereunder. The rules explain process of protection and identify I.T. related equipment required to protect the witness. The Prevention of Trafficking in Person Act, 2018 and rules framed thereunder also discuss protection mechanism in detail.

**Recording evidence through Commission at district level:** In big cities civil litigation has been increasing day-by-day. Witnesses are hardly referred to the Commissioner for recording evidence at district level. There is need to encourage civil court judges to refer cases for recording of evidence through Commission<sup>3</sup>, particularly where pendency is high.

**Recommendation:** District and Sessions Judge may play an active role. They may discuss it in monthly meeting with Civil Court Judges. M.I.T. office may monitor and coordinate with District Judges as to ensure judges have started to refer cases to the Commissioners where possibility exist.

**Imposition of cost as provided under sections 35 and 35-A C.P.C:** Civil litigation has been increasing day-by-day. Civil Court Judges while issuing final verdicts do not impose cost and sometime in judgment states “with no order as to cost” and no reason is articulated for not awarding cost. Sections 35 and 35-A of the Code of Civil Procedure, 1908 have become redundant. Law states that where the court directs that any costs shall not follow the event, the Court shall state its reasons in writing.

**Recommendation:** MIT Office may monitor this aspect and, in this regard, general instructions may be issued from MIT Office. This would ultimately effect institution rate as

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<sup>3</sup> SJA may develop guidelines for the Commissioners and also provide them basic training.

wrong doer will avoid from filling unnecessary litigation. Some directives may also be issued for observing the scheme of law relating to cost.

### **Effective use of Mediation, Conciliation and Arbitration in Civil and Criminal justice**

**system:** ADR System has been introduced in civil litigation in Sindh (Section 89-A & B, CPC) whereas in other provinces concept of ADR has been provided in special legislation to respond to compoundable offences. Legislative framework covering civil and criminal disputes may be introduced in a manner as available in other provinces. In Sindh after amending section 89-A CPC in 2018; it is mandatory for the court to assess a case and refer for mediation even if the parties do not agree for referral. Currently civil cases are not referred to in the manner as provided in Section 89-A CPC. Case diaries do not reflect that the court attempted to assess and suggested to the parties to opt for mediation.

**Recommendation:** Similar practice may be adopted in Sindh province and ADR law may be amended/introduced<sup>4</sup> in the same line. By the time law is amended or new legislative framework is introduced, the MIT branch may develop monitoring mechanism as to assess whether the trial courts make meaningful efforts to refer cases for mediation or not and such reports may be placed before the monitoring judge of the district. Further on referral 'One Unit' may be fixed.

**Use of technology in legal system:** Courts are using technology during trial and judicial administration however; more attention is needed. Concept of e-payment, e-filing, e-certification/attestation and e-recording of evidence may also be introduced to save the time. All developed countries record the evidence through audio recording system and thereafter an expert converts audio into script. This type of tested practices needs to be adopted. The Anti-Rape (Investigation & Trial) Act, 2021 requires to record evidence through video recorded system. Since 2021 the courts working at district level are neither observing spirit of law nor monitoring body playing its meaningful role. In appeal if these issues are agitated, the trial court decision would set aside on procedural defects.

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<sup>4</sup> SJA has drafted law and it may be forwarded to the Law Department to table it before the house.

**Recommendation:** District & Sessions Judges may be asked through MIT Office to work out and initiate process of procurement the I.T. equipment required for audio video recording and in case of non-availability of funds submit request for sanction of new expenditure. Once process of procurement is completed, the staff and the judges may be trained. The Sindh Judicial Academy may set up in one court from its own funds and thereafter it may be replicated in other judicial districts.

**Annual inspection of district courts by District & Sessions Judges and Hon'ble High Court:** Annual inspections are conducted by the District & Sessions Judges as well as by the Hon'ble Inspecting Judges of the High Court. MIT Office maintains that data. Sometimes formal inspections are not conducted and if conducted its follow up is not recorded.

**Recommendation:** MIT Office may prepare a comprehensive consolidated report of a particular district and thereafter starts follow-up so that the directions and observations of the Inspecting Judge may be complied with.

**Judicial Appointment:** Judicial appointment process needs to revisit. Most of the times a man of good vocabulary is selected as Judge. A wisdom having smart and progressive approach is need of the time. Today's civil judge would be future judge of superior court and he might have administrative position in High Court and therefore while selecting him; appointing authority needs to assess his ability of leadership as well. Province of Punjab (judicial & prosecution department) initiate appointment process by conducting 5 papers. At the time of judicial appointment, many prosecutors qualify (about 40%) and this is because of their exhaustive selection mechanism.

**Recommendation:** A grand national level consultation is needed by inviting progressive approaches and accordingly to formulate policy. MIT office and SJA may take lead for organizing consultative workshop. SJA conducted a desk study and made a few recommendations for judicial appointment<sup>5</sup> which may be base line document and it

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<sup>5</sup>Existing practices in Pakistan and neighboring countries were examined by SJA and made a few recommendations for judicial appointment.

may further be improved after national level consultation or alternatively Sindh province may adopt appointment policy as followed in Punjab province.

**Posting as per workload:** MIT office maintains judicial statistics at provincial level. Judges' posting proposal should be prepared after considering quantum of work pending in a court. There are many courts of civil judges and judicial magistrates where less than 50 cases are pending and there are many courts where more than 300 cases are pending. There is need to use available human resources are to be used effectually.

**Recommendation:** A judge may be assigned two courts in a district where pendency is low and judge's working days may be divided for each place. This would keep a judge busy and on the other hand available human resource would be utilized cost effectively. This would also curb malpractices.

**Creation of new posts:** In big cities courts are heavily burdened. MIT office has court-wise and case-wise pendency data of all courts working in the province. To reduce pendency, professional competence of judges needs to be improved and at the same time requirement of new courts of different types may be assessed which may be demanded from Government in next financial year Budget. It is right time viz. November to prepare 'Schedule of New Expenditure'<sup>6</sup> (SNE).

**Recommendation:** MIT office may play active role by evaluating future need of resources which includes number of judges and court staff. The need so identified may be communicated to the account branch for generating SNE.

### **Mid-term budgetary frame work**

**Posting should be as per qualification and past working experience:** An officer having qualification of commerce/financial accounting would be more useful to post in commercial courts and white color crimes courts such as Accountability Court, Custom Court, Tax Tribunal etc. A judge having no understanding of 'Debit/Credit' would feel

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<sup>6</sup> SNE is part of 'Budget Call Circular' and is available on the website of Finance Department, Government of Sindh. It is prepared and submitted in the month of November of the year.

difficulty to interpret audited balance sheet, profit and loss statement, functions of regulators such as SECP documentation, tax and custom duty issues etc.

**Recommendation:** A Human Resource professional should maintain HR management application/database to know expertise of judges available in the system and accordingly they should be posted as per their qualification and aptitude. Sometimes judges are sent for short-term or long-term training programs during their mid-career and those who have undergone training on specific subject, may be posted in the special courts.

**Pre-posting training for Special Courts Judges:** Training is an important factor. A District & Sessions judge having rich experience of presiding district/sessions courts, get an opportunity to become presiding officer of special court and before posting he needs to know updates of that law. Sometime special legislation has its own procedure of investigation and trial and due to unawareness, the presiding officer either continue proceeding under the scheme of the Code of Criminal Procedure, 1898 or do not proceed cases for sometimes which cause delay in disposal, resultantly pendency is increased.

**Recommendation:** To cater these issues judges should have pre-posting training or alternatively a bench-book<sup>7</sup> should be provided to the presiding officer so that he may have idea about new laws and case law on the subject. The bench-book may also explain procedure of investigation and trial if it is different from the ordinary court's trial.

**Mandatory successful training of judicial officers before considering them for promotion in next cadre:** There is dire need to improve professional competence of judges and for this mandatory training should be part of service. This would be compelling circumstances for the judges to update their knowledge and skill. A progressive and courageous approach can only upgrade the system. All leading institutions of public sector follow this policy.

**Recommendation:** A judicial officer at the time of initial appointment should be communicated with clarity the process and requirement set for promotion from one cadre to another.

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<sup>7</sup> Bench book on Anti-Money Laundering laws was developed by the Sindh Judicial Academy.

**Training on Budget preparation, Management/Administration and Leadership for District & Sessions Judges:** District & Sessions Judges being administrative head judicial district needs to have some basic knowledge of budget preparation and human resources management. Judges give importance to the judicial work in particular disposal of cases by following set procedures. Effective administrative decisions may control institution.

**Recommendation:** It is recommended that an Additional District & Sessions Judge after 5 years of service in that cadre should undergo 7 days training<sup>8</sup> on administrative and budgeting issues and thereafter, he may be considered for promotion as District and Sessions Judge.

**Online mandatory Training Courses about new laws for all judges:** There are many new laws which are to be in the knowledge of each judge but these are not applied during trial. Sometimes it becomes difficult to call every judge in academy and impart training by explaining application of new laws such as the Sindh Witness Protection Act 2013, Prevention of Trafficking in Person Act 2018, Mutual Legal Assistance (Criminal Matter) Act 2020, Anti-Rape (Investigation & Trial) Act 2021.

**Recommendation:** Online mandatory training followed by post-assessment to be arranged for all judges at least once in a year. SJA may be given direction for designing training plan.

**Preparation of Bench-books for Family Court, Magisterial Court, Session Court, Special Courts, GBV Court, Juvenile Court etc.** There is dire need to prepare bench-books on different subjects for each cadre of judges so that they get benefit from them. The bench-book may have updated law and case law on the subject and it should explain the trial procedure if different from general procedure.

**Recommendation:** Sindh Judicial Academy may be asked to develop bench-books on different subjects.

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<sup>8</sup> SJA may be directed to design 7 days training program for all district & Sessions Judge having at least 5 years' experience of presiding Court Additional District & Sessions Judge.

**Publication of Annual Report by each District Court and next year plan showing short-term, mid-term & long-term plans:** District & Sessions Judges are working hard however, a structured short-term, mid-term and long-term planning is required. A District & Sessions Judge may publish annual report reflecting therein performance of the year and he may undertake next year plan. The report shall reflect efficiency of the institution and public perception will be changed.

**Recommendation:** MIT Office may direct and collect annual report of each judicial district and thereafter the report may be placed before the Monitoring Judge for seeking advice. The MIT Office would check whether previous commitment and undertaking have been complied with or not.

**Annual Report of High Court showing court wise/bench wise, case category wise, and judge wise disposal:** Annual Report of High Court may be published where court wise, bench wise and case category wise disposal may be highlighted.

**Recommendation:** MIT Office may consolidate the record and prepare the report and the statistic may be used for designing provincial judicial policy.

**Effective role of M.I.T office to analyze data for formulating data driven policies and publication of annual reports of each District and Special courts:** Prime function of MIT Office is to monitor working of the district judiciary. By analysing data, MIT office may suggest data driven policies to the Hon'ble Chief Justice for implementation.

**Recommendation:** MIT Office may be directed to start analyzing data and incorporate in annual report. MIT Office may also suggest policies based on statistic.

**Establishment of Research & Development branch in High Court:** Research branch exists in High Court and it serves individual judges and at the same time may work in coordination with M.I.T office for suggesting institutional reforms.

**Recommendation:** The senior judicial officer may be head of the branch who may supervise 3 to 5 other judicial officers for achieving the objectives of the branch. Drafting rules should also be assigned to the branch and the draft may be reviewed by the Rules Committee, High Court of Sindh.

**Rules Committees' role to review procedural laws:** There are two Rules Committees notified in High Court of Sindh. Rules making powers is with the High Court and therefore the meetings may be held on quarterly basis. The Secretary of the Committee is assigned to make arrangement and conduct basic research on a particular topic. Active role of the Secretary would facilitate the Chairperson and its members.

**Recommendation:** An officer having ability to conduct qualitative and quantitative research may be designated as secretary Rules Committee. Legislative proposals may also be invited from the thinktanks, researches, academies, judges working at district level. The Secretary may, after examination, place before the Committee for consideration.

**Proactive role of Provincial Justice Committee for formulating policies for justice sector stakeholders:** Provincial Justice Committee may meet on quarterly basis for reviewing existing policies and may suggest new ideas for up grading civil and criminal judicial system.

**Recommendation:** The officials of Research Branch and SJA may be associated for developing working paper and conducting initial research on the issue to be discussed in the meeting.

**Internship program for junior advocates:** Junior advocates are to be offered short-term and long-term internship in district courts and in Sindh Judicial Academy so that they may understand trial procedure. This internship would result encouragement among young advocates and this would be an opportunity for them to learn about the legal system and have idea how legal research is conducted and pleading are drafted. This would also facilitate High Courts and Prosecution Department to have better resource for appointment as Magistrate or Prosecutor.

**Recommendation:** It is recommended that the High Court may introduce an internship program<sup>9</sup> on yearly basis by associating at least 50 junior advocates. SJA may manage and organize the internship program from its available funds.

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<sup>9</sup> SJA may develop a working paper whereby complete process of internship will be defined. Further SJA may supervise the program. During internship the internees may be paid some stipend.

**Bench formation- One Judge for one year:**

Roster sitting may be for some longer period so that a judge after developing better understanding on a subject may benefit to the system for longer period.

**Fixing criteria for elevation in superior courts:**

System needs efficient and progressive judges having capacity to decide cases expeditiously and effectively. Selection and appointment process needs to be developed in consultation with stakeholders. SJA proposal is available on its website.