

**Report on Female Judges Study Tour to England and Wales,
2nd – 7th July 2017**



**Prepared & Submitted by:
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*In the name of Almighty Allah
The Beneficent, The Merciful*

Women Judges Delegation's Study Visit to the UK

A delegation of six women judges from Khyber Pakhtunkhwa (KP) and Punjab was selected for a six-day study visit to London, Oxford and St. Albans. The study visit provides a learning opportunity for the judges to gain exposure to, and understand first-hand, the processes and systems that are used to deal with sexual and gender based violence in the UK justice system. It also helped develop an understanding of how women have advanced in the UK Judiciary and to what extent this has changed and benefited the institution.

The study tour comprised a series of workshops, meetings and court visits. The delegation met with senior judges from the UK and attended meetings and presentations at the Royal Court of Justice, observe court proceedings at the Crown Harrow Court and Westminster Magistrates Court, visit St. Albans Crown Court, meeting with the Judicial Appointments Commission and Executive Director of the Judicial College.

Learning from the visit has empowered the judges to better deal with and suggest improvements in handling cases linked to sexual and gender based violence in the local context. Upon return the judges intend to serve as role models and leaders by actively sharing their knowledge with other women judges and supporting reforms and improvements in the judicial system.

The judges participating in the study visit included Ms. Muneera Abbasi, Ms. Afshan Ijaz, Ms. Rabia Abbasi, Ms. Syeda Tehreema Sabaht, Ms. Saima Asim and Ms. Saima Irfan.

The study visit is an initiative of Justice Yahya Afridi, Chief Justice Peshawar High Court, supported by the Aitemad – Justice System Support Programme.

ACKNOWLEDGEMENT

We extend our special thanks to Hon'ble Chief Justice Mr. Yahya Afridi for affording us an opportunity to visit UK and study the Judicial System of UK by visiting different Courts and important Judicial Offices.

We also are thankful for kind support of British High Commission at Pakistan for collaboration with Peshawar High Court to arrange the visit.

We extend our gratitude to Adam Smith International for providing logistics and funds for the tour.

We are grateful to Mr. Qaiser Raza (JSSP) and Sammina Shah for their support in facilitation of visit for delegation.

We extend our special gratitude to Ms. Lotta Leale who remained associated with the delegation members throughout the stay at UK.

MUNEERA ABBASI
District & Sessions Judge,
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This report sets out the purpose, observations and action plan of the study visit of six female Judges from KP and Punjab to London and surrounding areas in July 2017.

Background, Rationale and Aim

Justice Systems Support Programme is a four year programme funded by the UK government to support Government of Pakistan leadership of reforms and improved performance in the criminal justice system thus increasing public trust in Rule of Law in Pakistan. The programme works exclusively in KP and Punjab. Given that women and children combined form such a large and marginalized section of the population in Pakistan, and yet face particular hurdles in accessing justice, they form an important focus of the programme.

Judges play an influential role in bringing about change in the justice sector, and yet they seldom get the opportunity to see how changes can be brought about: visiting other jurisdictions can be particularly useful in inspiring those leading changes to adapt their own system. The Judiciary also faces threats from terrorism across the country, and several of the Judges on the study tour have shown themselves to be exceptionally brave in this regard in the course of their service. While increasing, there are few female Judges in the Pakistani legal system, and they face particular challenges in their career development. While both male and female Judges take cases relating to women and children, many female Judges are particularly interested in how access to justice can be improved for such groups. The aim of this study tour was to provide an opportunity for a number of female Judges to see for themselves how cases involving vulnerable women and children are handled in the English legal system with a view to thinking about what changes could be introduced in Pakistan, to learn about how career prospects have changed for English Judges over the last 20 years and why, and to reflect on case management changes and other adjustments that could be made to the Pakistani justice system to make it speedier and fairer.

The legal system of England and Wales was chosen because of its historical similarities and ties with the Pakistani system, allowing for an easier comparison of approaches that have been used to adapt the English legal system to contemporary challenges and opportunities. HMRC was kind enough to assist with organizing the study visit, and many Judges and Court staff took considerable time out of their busy schedules to discuss comparative experiences with the judicial study tour members. The study visit took place alongside a separate study visit for senior Pakistani Judges led by the FCO, with the opportunity for a few joint sessions and informal interaction. Please see itinerary at Annex 1. Due to visa related problems, some participants were only able to join part way through the study tour.

The intention was to take back lessons to colleagues back home, and to develop an action plan for the participants, through which adjustments could be made to the Judicial system in Pakistan. This report was prepared by the delegates of the trip.

The delegation

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Lotta Teale	Senior Programme Manager JSSP	Lotta.teale@adamsmithinternational.com

Visit observations



Royal Courts of Justice

Case Management

Lord Justice Gross & Mrs Justice McGowan gave a presentation on Case management, followed by a roundtable discussion, jointly with the Senior Judiciary study visit. Justice Gross spoke about how Judges had changed from being the umpire in cases to leading them, taking a proactive role. The first step is or judges at the outset to identify the main issues in the



case, as a basis for providing tight leadership on what is necessary and what is not. Lawyers are under pressure to 'get it right first time' and will not be granted adjournments easily. There was resistance from the Bar at first, but the judges used diplomacy to bring the leaders of the Bar round, and they brought the rest over. He noted that trust between bar and judiciary is very important, and at this can be encouraged through constant interaction, inviting the Bar onto committees to review practice directions, inviting open submissions, and holding Q&A sessions about reforms. While technology has developed rapidly, it is only a tool, and stringent control is paramount. Listing and directions hearings should be collaborative processes with lawyers, so that they have agreed to it and cannot then justifiably submit late. If lawyers don't abide by the Judges' directions, in civil cases their client is required to pay costs of the other side, or their case can be struck out altogether; sometimes lawyers are ordered to pay wasted costs themselves. In criminal cases, sometimes the case is struck out if it is the prosecution's fault; if not, they can be told they are not allowed to rely on this issue at trial because it is raised so late. Primarily it is enforced by moral pressure from the lawyers themselves.

Another element raised to assist case management is increasing the chance of guilty pleas to reduce the number of cases going through the system. Defendants are given an automatic 1/3 off sentencing if they plead guilty at the first opportunity; this decreases over time, and on the first day of trial they receive 10% off if they plead guilty at the

outset.

It was also suggested by Lord Justice Gross that pre-trial appeals should be severely restricted to complex financial cases, as in the UK, and frivolous costs orders given to lawyers to bring them.

Lady Justice Macur

- Spoke about her work on a high profile child abuse enquiry, which gave guidance on the pros and cons of investigating historic child abuse cases, and how to go about them. She is sending information on this.
- She also spoke about special measures for children and adults with mental capacity problems giving evidence: young children are asked informal questions while drawing or playing, in a private room. For cross examination of such witnesses, the defence must put questions first to the Judge who allow only those which are appropriate to the child and simple, and then these are put to the child at a later date.
- She also spoke about the reduction in government funding for legal aid, and how non-lawyers, or, 'Mackenzie friends' (mostly volunteers with considerable experience in courts) help litigants in person in the presentation of their cases. Law students also help those who can't afford legal aid, particularly in simple cases such as employment: there is a 'Free Representation Unit' which law students work at one day each week helping on cases. This helps them gain experience to be ready for work after law school. Increasingly, pro bono lawyers are stepping in to help on cases, including very senior barristers, who come once a week. Some courts dedicate a special area to this, and they provide help filling in forms etc. One coordinator (an administrator) oversees the work, and is paid.



Harrow Crown court

Discussion with all the Court's Judges led by Her Honour Judge Rosa Dean, and key court staff, followed by observation of court proceedings. Crown Courts handle serious criminal cases, using jury trial; directions hearings dealt with by a Judge alone.

Case Management:

- There is a fully independent court management system, parallel to the judiciary, who are civil service staff and have no reporting obligations to the Judiciary. This allows for consistency and professionalization. There is no such system as this in Pakistan: while many more court staff are present than in the UK (where there is only an usher and a clerk), in Pakistan there is a listing officer, reader, clerk, and stenographers. All of these answer to the judges, which allows for wide variation in the operation of court staff, depending on the relationship with the Judge and individual personalities. The centralised listing system in the UK also appears to allow for greater transparency, though more research is needed on this.
- In Pakistan, there is less trust in the police: there must be a special hearing with the magistrate to hear pleas because the Judiciary distrust confessions made to the police; there are also monthly hearings to check on the status of defendants. Neither of these happens in the UK. It adds to the Court burden. Efforts could be made to reduce these hearings by eg. videoing of confessions; and checking in by video link to reduce logistical burdens and overcrowding in the court room; alternatively, hearings could just be monthly if there is reason to be concerned about the nature of prison conditions.

Career advancement:

- There is no formal evaluation system for Judges, which helps them to maintain independence. Instead they are evaluated on their work, the extent to which their judgments are overturned on appeal. As a Court, they also have certain targets they are expected to achieve. By contrast, in Pakistan, Judges have supervisors, who are responsible for formal evaluations and have important sway in judicial promotions. The downside of Judges being promoted in the UK way, is that Judges must apply to be promoted, and often capable female Judges are reluctant to apply for promotions.
- All female judges have mentors and mentees to provide support and advice.

Vulnerable victims:

- The group was shown around the special witness areas. Witnesses can apply to come to court through a special back door so they need never meet the defendant. Testimony can also be taken by video from back rooms, which is the norm for children. The defendant can see the witness, but the witness can only see the lawyers and the judge, to prevent intimidation when giving evidence.

Other:

- There is little use of sureties in the UK when bail is granted, because people can be tracked easily, unlike in Pakistan.
- Use of video link. These are common now for directions hearings, with the lawyer having private consultations with their clients in separate rooms. Interest in extension in Pakistan: this is being piloted in Punjab. Proposal by KP judges it would be useful to see an assessment of that pilot.

Temple Women's Forum

This was a garden party of about 400 female lawyers and Judges, with short speeches, but primarily an informal networking opportunity. Many guests approached our group with great interest in women in the legal profession in Pakistan. All in all it was an inspiring occasion and encouraged all both to maintain contact with this forum, which is international, but also to set up something equivalent in Pakistan.

Westminster Magistrates Court

Magistrates Courts hear low level criminal cases, and first hearings for serious offences. Westminster is the main Magistrates Court in the country, dealing with many high profile cases. We met with Chief Magistrate Emma Arbuthnot and Tan Ikram to discuss diversity in the Judiciary, the use of Lay Magistrates and Case Management. We also observed a plea hearing in a high profile electoral fraud case, and a full one-day trial of assault between neighbours.

Infrastructure:

- The Security and buildings were very impressive.
- Unlike in Pakistan, there is space for the public gallery.



- The Courts are calm and quiet, not least because there are not multiple cases listed. As such, full attention was given by and to judges.
- Unlike in Pakistan, the Accused sat in a dock, behind glass. They were not handcuffed, although in some instances prison staff would sit with them to stop them fighting with each other.

Case Management

- The group observed a trial concluded from start to finish in one day.
- There is no written judgment in Magistrates courts, because they are minor offences and if appealed to the Crown court will be tried on the facts again anyway.
- Case management allows full cases to be heard rather than spending undue time on directions for lots of cases. In Pakistan, the challenge with one directions hearing is that lawyers don't abide by the court's directions. Continuous trials are being tried in Punjab, which involve meetings with the lawyers to agree directions. There was a consensus that data is needed to see whether such trials are working effectively.

Access to justice for vulnerable groups

- A curtain was placed between the victim and the court in one case, so she could testify without being seen. This was a simple but effective measure.
- The group also met the witness service volunteers, who volunteer one day a week, and are either retired or have other jobs. They provide support to victims, taking them round the court in advance, explaining the process. They have a year's training period, with four days' class room training every six months, interspersed with mentoring on the job. They are organized by the Citizens Advice Bureau.
- Telephonic evidence was used – the victim had recorded the assault on her telephone, which evidence was crucial to the case. In theory this is possible in Pakistan, but is not used much. One challenge faced is that such evidence has to be verified through the forensics lab, they cannot just rely on submission by the prosecution. There was agreement that Judges need to take the initiative to start admitting this type of evidence, and tackle the lawyers who deny its submission

(currently it is felt that lawyers object to such evidence because they want longer trials). It was suggested the judges can hold meetings about this with session judges, they can discuss with the lawyers, and tell them the benefits of it. If electronic evidence can be relied upon, it will help cases of domestic and sexual violence particularly as victims are under such pressure to retract their statements.

Career advancement

- Tan Ikram, a Pakistani origin District Judge who specializes in diversity in the judiciary, noted that the new administration is preferring judges who are female and from different backgrounds. Judges as doing research work (eg. guidance on how to handle witnesses wearing hijab). As part of Tan's job, he spends time visiting groups and encouraging women to join the judiciary. While judges are appointed on merit, a 'tipping point' policy has been introduced, whereby between two equal candidates, the one coming from an underrepresented group is chosen. They have a three year plan.

Other

- First time experience lay magistrate. These are ordinary members of the public with no legal training who work up to 40 days a year as a magistrate. They sit in panels of three, and take a small stipend for food and transport (re. £50/ day). It is highly competitive. They are supported by a legal assistant who explains the law to them, and they decide the facts. In some ways it is like a Jirga, but formal law is applied.
- It was noted what decorum there is in the court, and the respect given to the judges by the lawyers. Also that lawyers' arguments were brief and to the point.
- It was observed that there are innovations in the criminal procedure rules every year.

St Albans Crown Court

We met with HHJ Marie Catterson and all the Court's judges, over lunch, supper, and extensive discussion throughout. Focused on: dealing with domestic and sexual violence cases; experiences and practice of managing workload in busy courts; Judgecraft. Also attended sessions: the group split and diverse people saw a rape case and a murder case, both with juries.



Case management:

- Some delegates saw the new online system for criminal cases, without paper. This is very impressive, but has been a huge effort to install.
- In one case, delegates took copies of the case management form with a view to discussing it with the sessions judge and others, for consideration when thinking about revising case management in Punjab.

Sexual and domestic violence:

- There has been a drive in the UK recently to prosecute historical sexual offences, which are particularly challenging because of lack of forensic evidence. Because of this, SV and DV combined form almost half of all cases prosecuted in the Crown Courts currently.
- The UK faces similar challenges to Pakistan in terms of women retracting statements on domestic violence. Forensic evidence is key to this, allowing the prosecution to stand without her testimony. Another useful development is that police now have video cameras going to domestic violence cases, which can provide wonderful evidence when they arrive at the home after an assault.

Other:

- We saw a case using googlemaps to explain the layout of incidents. This would be useful and simple to introduce in Pakistan, rather than having to hire an expert to draft a site plan, who has to come to court in person to testify before it can be submitted in evidence. This would be far quicker and cheaper.
- Shape of room makes things less chaotic and possibly less liable to corruption, because, for example, list officers can be corrupted to set a particular date whereas in the UK there's a more transparent system.

- Delegates observed that issuing written summons and cause delay and other means should be explored such as calling or emailing. Unclear whether this too has gone without paper in the UK.

Career advancement

- We met one Judge who started off as a court usher and made her way up.

Judicial Appointments Commission

All appointments are on the basis of application, and made through the JAC website, and there is considerable effort on bringing in different types of people to the Bench, in a transparent manner. There is a very clear competency framework for all Judicial appointments now, which emphasise the importance of judgecraft, such as communicating with others, assimilating and clarifying information, and managing work effectively. This is quite different from traditional skills expected of Judges, and reflects their changed role in leading the court room.



Judicial training college

Met with Rafferty and Sheridan. Particular aspects of note included:

- Trainings are provided for an extremely short period – some are online courses of 20 minutes. This is less stressful for Judges with many competing responsibilities. Sessions are a maximum of two days. In KP and Punjab, Judges' annual general training programme of 10-15 days is too long, with many topics gathered together and quite lecture based. It would be good to break them out as they do in the UK, with more interaction. This would have less of an effect on courts, and be less stressful for judges.
- Preparation is done in great detail. Judges are trained by Judges because they've found they don't listen to outsiders. Judges are allowed time off to prepare such courses. By way of example, a two day course might take 3-4 Judges 15-20 days to prepare, if done for the first time. It would then be repeated

several times.

- There are a range of online courses, providing short specialist information. This points towards more resources, which can be referenced by Judges subsequently and be comforting. The training college has offered to provide us with a temporary link so we can explore whether such training could be useful in and adapted for Pakistan.
- They too are faced with resistant judges, particularly when teaching about social context and changing judicial behavior. Their approach has been to get the most resistant, highest profile judge possible to attend the course, willingly – in their experience, there is no point in forcing people to do training. It must be tried and tested as an excellent course. When people don't sign up to courses, they are first sent a reminder, and then the Chief Judge in the local court sends an email to the Judge asking if there is something wrong preventing them from signing up. As such, the training college is not responsible for chasing up with people.
- There is an international conference on judicial training every other year, this year in the Philippines in November, which might be worth sending a trainer to attend. See www.iojt.com

Recommendations:

The concept of lay Magistrates on the pattern of legal system of England and Wales may be introduced in Pakistan for hearing of petty nature cases such as small claims and minor offences.

The exchange of delegations for imparting judicial knowledge and sharing of experiences in justice sector may be materialized through signing of MOU between the Khyber Pakhtunkhwa Judicial Academy and the Judicial College in England, which is meant for the training of judicial office holder in England and Wales and some tribunal around the UK. Such practice may contribute to inculcate keen interest in judicial decision writing skills and may provide world class judicial training. This idea was also appreciated by the Chairman of the board of Judicial College and offered training in areas like Assessing Evidence, Litigants in person, Victims and other valuable witnesses in court, Case management, Making a structured decision, Decision writing, Giving an

oral decision, Judicial ethics besides international subjects like counter terrorism, international Human Rights Law, Refugee Law etc.

The Magistrates in England deals only one or two cases on daily basis and the cases are normally decided in 2 or 3 days while the maximum time frame for disposal is 2 to 3 months. It is suggested and desired that number of judges may be increased to such an ideal level where the judges in Pakistan would be able to hear the minimum number of cases on daily basis for disposal in shortest possible time.

To include thoughts on a forum/ network, to work as a support mechanism for women in the justice sector, helping each other in professional development, seeking to improve working conditions for women, to attract more women to advance in the profession.

Annex 1: Itinerary

Sunday 2 nd July			
1	Travel to Oxford to join CJ's group for walking tour of Oxford and lunch (with CJ's Delegation)	0830 – leave hotel 1015 – Walking tour of Blackwells which ends at 51 Broad St, Oxford, OX1 3BQ. 1240 – travel to Wheatley Manor 1300 – lunch at Wheatley Manor – opportunity to converse with a number of English Judges and lawyers 1600 Depart for Crowne Plaza – The City London Hotel	Accompanying : Mo Uddin & Roger Coventry
2	Dinner	1925 depart for Restaurant 2115 Return to hotel	Mo Uddin & Roger Coventry
Monday 3 rd July			
1	Royal Courts of Justice (Joint Session with CJ's Delegation)	0900 – depart hotel 0915 – received, RCJ 0930-1030 - Presentation on Case management with Lord Justice Gross & Mrs Justice McGowan	Lotta Teale

		1030-1100 – short tour of RCJ	
2	Early lunch & travel to Harrow Crown Court	1100 - Depart Royal Courts of Justice Light lunch at Pret a Manger en-route	Lotta Teale
3	Harrow Crown Court	1330 - Discussion with all the Court's Judges led by Her Honour Judge Rosa Dean, and key court staff, led by Harpreet Dale (HMRC). Focus on case management and witness services. 1415 – 1600 – Observe Proceedings and visit witness facilities. 1600 – 1700 – travel to hotel	Lotta Teale
4	Return to Hotel	1700 – 1730 – freshen up	Lotta Teale
5	Temple Women's Forum – Garden Party (Arranged by RCJ)	1730 - Temple Women's Forum, a network of female lawyers and Judges hosting regular events, learning and networking opportunities.	Lotta Teale
Tuesday 4 th July			
1	Westminster Magistrates Court Meet with Chief Magistrate Emma Arbuthnot – observe proceedings in court	Depart at 0830 Received at 0915 0930 -1000 – Meet with Chief Magistrate Emma Arbuthnot and District Judge Tan Ikram to discuss diversity in the Judiciary, the use of Lay Magistrates and Case Management 1000 – 1300 – Observe court proceedings 1300 – 1400 – lunch with Chief Magistrate Emma Arbuthnot and District Judge Tan Ikram 1400-1630 – observe court proceedings 1630 – return to hotel	Lotta Teale
2	Hotel	1700-1900 – rest and freshen up	
3	Dinner at Honourable Society of Gray's Inn	1830 – depart hotel 1900 – arrive greeted by Lord Justice Gross 1930 – dinner begins	Lotta Teale

		2200- depart for Crowne Plaza Hotel	
Wednesday 5 th July			
1	St Albans Crown Court	1045 – depart Crowne Plaza Hotel for St Albans	Lotta Teale
2	Lunch	1245 – 1400 arrive & lunch with all the Judges, led by HHJ Marie Catterson. To focus on dealing with domestic and sexual violence cases; victim and witness support provision; experiences and practice of managing workload in busy courts; Judgecraft; Jury trials.	Lotta Teale
3	Court Sessions	1400-1630 – attend court sessions with St Albans team	Lotta Teale
4	Dinner	1700-2000 – visit St Albans Abbey; early dinner with St Albans Court team; informal discussions.	Lotta Teale
5	Return to hotel	2000 – 2100 - return to London	Lotta Teale
Thursday 6 th July			
1	Judicial Appointments Commission	0900 – depart hotel 0945 – arrive and received 1000-1100 – meeting with Lori Frecker	Lotta Teale
2	Early lunch, walk in Green Park & travel to RCJ	1100 – 1245 – lunch at Benugos in St James' Park	Lotta Teale
3	Royal Courts of Justice	1245 – arrive 1300-1430 - Meet with Sheridan Greenland OBE, Exec Director of the Judicial College	Lotta Teale
4	Workshop at ASI HQ	1445 – arrive at 240 Blackfriars Road 1645 – depart for hotel	Lotta Teale
	Legal Walking Tour Starting from Hotel	1800 – walk begins 19:30 – collected at St Mary Bow, Cheapside, EC2V 6AU	Lotta Teale /Roger Coventry
5	Dinner at Zayna	2000 – arrive at restaurant	Lotta Teale

	Restaurant	2200 – cars return.	/Roger Coventry
Friday 7 th July			
1	Lady Justice Macur, RCJ	0900 depart hotel 0915 – meet at RCJ 0930 – 1030 – Meet with Lady Justice Macur to discuss child abuse cases, legal aid reforms and women advancing in the judiciary 1100 – RCJ tour for remaining Judges	Lotta Teale
2	Free time/ sight seeing/ shopping	1100 - onwards	Katya Lvova
Saturday 8 th July			
1	Check out of hotel		Katya Lvova
2	Return to Pakistan	Flight out	