

DIRECTORATE OF PROSECUTION

Article – 37(d) of the Constitution of Islamic Republic of Pakistan, 1973, enjoins upon the State to ensure ‘inexpensive’ and ‘expeditious justice’. This visualized, speedy resolution criminal cases, is an important constitutional goal, as envisaged by the principles of policy enshrined in the Constitution.

Prosecution is the main link in the chain of Criminal & Justice System. Effective prosecution links up investigation by the Police with justice delivery by the judiciary and it is prosecution that is involved with the Criminal Justice System from the time a crime is committed to the moment final verdict is delivered.

With a vibrant prosecution service, the government has another channel to counter check all the information pertaining to crimes and crime trends provided by the police. Effective prosecution not only improves quality of investigation by supervising the process as per the Khyber Pakhtunkhwa Prosecution Service (Constitution, Functions and Powers) Act, 2005, but also acts as a filter to weed out weak cases at an early stage which on one side reduces burden on the courts and improves conviction rate on the other.

PROSECUTION HISTORY

Prior to 2004 Prosecution of criminal cases was conducted by the two Departments of the Provincial Government i.e. Law Department and Police Department. Law Department used to conduct Prosecution of Criminal cases and Sessions Courts as well as Special Courts through Public Prosecutor, Additional Public Prosecutor under the Punjab Law Department Manual, 1938. While the Police Department used to conduct prosecution of criminal cases in Magisterial Court under Chapter-27 of the Punjab Police Rules, 1934 through PDSP/Prosecuting Inspector and Prosecuting Sub-Inspector.

After the enforcement of devolution of Power Plan of 2001 and Police Order, 2002 the Federal Government (Ministry of Interior)

directed vide DO letter addressed to the Chief Secretaries of all the Provincial Governments notified a cabinet committee to put in place a uniform Prosecution Service and Law and Police Department be relieved from the responsibility of conducting of criminal cases. Consequently, the Provincial Government of Khyber Pakhtunkhwa (M.M.A) notified a special committee, comprising of four (04) ministers of the Provincial Government, Chief Secretary, Law Secretary & Home Secretary vide Notification No.SOC(E&AD) 27-149/ 2003 dated 25-03-2003, for the said purpose. The said committee examined each and every aspect of the issue, took input from the lawyers, general public & civil society. Even the Law Department vide letter No.E&A(LD) 6-387/ 2001/ 3223 dated 13-05-2002 sought the opinion of solicitor who used to be the head of attached department for the Public Prosecutor/ Government Pleader, who categorically staged at para-4 of the opinion that the subject of prosecution be handed over to Home Department. The recommendations of the cabinet committee were approved by the Chief Minister and Governor Khyber Pakhtunkhwa and the subject of Prosecution was taken away from both the Departments. Civil litigation was entrusted to Law Department while criminal litigation to Home Department vide Notification No.SO(O&M) E&A/ 2/ 11/ 2002 dated 17-03-2004. Accordingly amendments in the Government of Khyber Pakhtunkhwa Rules of Business, 1985 were made.

ESTABLISHMENT OF DIRECTORATE OF PROSECUTION

Prosecution Service established in Khyber Pakhtunkhwa in the year 2004 through an Ordinance, later on the same was made as an Act of the Provincial Assembly known as Khyber Pakhtunkhwa Prosecution Service (Constitution, Functions & Powers) Act, 2005.

HIERARCHY AT PROVINCIAL AND DISTRICT LEVEL ARE AS UNDER:-

Provincial Level

- Director General Prosecution (BS-20)
- Director Administration/Finance (BS-19)
- Director Legal (BS-19)
- Deputy Director Legal (BS-18)
- Deputy Director Admn/ Finance (BS-18)
- Deputy Director Monitoring (BS-18)
- Assistant Director Legal (BS-17)
- Assistant Director Monitoring (BS-17)
- Incharge Reference & Research Cell (BS-17)

District Level

- District Public Prosecutor (BS-19)
- Senior Public Prosecutor (BS-19)
- Public Prosecutor (BS-18)
- Deputy Public Prosecutor (BS-17)
- Assistant Public Prosecutor (BS-16)
- Special Public Prosecutor hired on daily wages from amongst the competent lawyers

WORKING OF DIFFERENT SECTIONS OF DIRECTORATE OF PROSECUTION

Administration and Finance

S.NO	DUTIES & FUNCTIONS
1.	Matters Pertaining to Prosecutors/Supporting Staff
2.	To Process Promotion Cases
3.	Posting/ Transfer of the Prosecutors/ Supporting Staff
4.	Trainings of the Prosecutors/ Proposals/Summaries for creation of posts, etc.
5.	TA/DA, Medical claims, Law charges & others pecuniary matters.
6.	Purchases/ Book Keeping/ Record Keeping/ Filing

Legal Section

S.NO	DUTIES & FUNCTIONS
1.	Processing appeals, revisions, bail cancellation petitions etc to Superior Courts.
2.	Appearance in courts on behalf of Prosecution.
3.	Proposing amendments in the existing Laws/ rules and framing fresh laws/rules.

4.	To Monitor Legal opinion tendered in various cases by district prosecution formations.
5.	Liaison with Advocate General Office and Law Department.

Monitoring Section

S.NO	DUTIES & FUNCTIONS
1.	Collection of Information regarding Criminal Cases.
2.	Sorting / Scrutinizing/ Compiling Criminal cases Data.
3.	Critically analyzing the working of prosecution in the districts.
4.	Working out the conviction / Acquittal etc ratio.
5.	Preparation of reports of the criminal cases on weekly, fortnightly & monthly basis.

Reference & Research Cell

S.NO	DUTIES & FUNCTIONS
1.	To trace out prosecution favored judgments of superior courts functioning in the Federating units and to circulate the same to district formation for producing the same before the trial court at the time of arguments. Till date 800 judgments have been circulated on various legal prepositions. This mechanism is having positive impact on the conviction ratio.

DUTIES AND FUNCTIONS UNDER KP PROSECUTION ACT, 2005 **(Annexure-A) AND Cr.P.C**

- Prosecution of criminal cases on behalf of State.
- Issuance of guidelines to Investigation Agency
- Tendering of opinion to the Investigating Agency
- Scrutiny of cases
- Discharge of weak and mala fide registered cases
- Conducting of trial before Sessions Courts, Special Courts and Magisterial Courts
- Submission of challan to competent court for trial
- Filing of Appeals
- Filing of Revisions
- Filing of Bail Cancellation Applications
- Filing of Quashment petitions
- Supervision of investigation
- Issuance of guidelines to the Investigating Agency

HUMAN RESOURCES
NUMBER OF PROSECUTORS

Nomenclature	Sanctioned	Working	Vacant	Remarks
Regional Director (BS-20)	7	-	7	When amendment in the Services Rules is made then promotion case of the eligible officers will be processed to the PSB
District Public Prosecutor/ Senior Public Prosecutor (BS-19)	42	39	3	Case of two officers (BS-18) submitted to PSB for consideration
Public Prosecutor (BS-18)	45	21	24	Case of eligible officers (BS-17) submitted to PSB for consideration
Deputy Public Prosecutor (BS-17)	64	46	18	Case for recruitment is under process in KPPSC
Assistant Public Prosecutor (BS-16)	219	125	94	Case for recruitment is under process in KPPSC

➤ **CRIMINAL COURTS IN KHYBER PAKHTUNKHWA:**

Courts	Number
District & Sessions Judges	25
Anti-Corruption	2
Anti-Terrorism	13
Special Court at Peshawar established by the Federal Govt. under Protection of Pakistan Act, 2014	1
Additional Sessions Judges	107
Judicial Magistrates	160
Executive Magistrates (PATA)	59
Total	367

➤ **CONVICTION RATIO:**

Year	Sessions court	Magistrate Courts	ATC
2011	25.4%	71.6%	3%
2012	31%	74.48%	5%
2013	29.6%	77.9%	15%
2014	28%	80%	17%

➤ **APPEALS / BCAS / REVISIONS:**

Year	Appeals	BCAs	Revisions
2011	242	62	19
2012	286	65	48
2013	477	252	58
2014	454	193	42

SCRUTINY COMMITTEE

At the Directorate level a scrutiny committee comprising of Director Legal, Deputy Director Legal and Assistant Director Legal has been constituted with a clear cut mandate to thread bear examine the judgment of acquittal as well as bail granting orders. In case if the acquittal or bail granting order is due to the negligence of the prosecutor concerned then he has taken into task by initiating disciplinary proceeding under the Khyber Pakhtunkhwa (Efficiency and Disciplinary) Rules, 2011

SHORTCOMING IN INVESTIGATION

- ✓ No identification parade
- ✓ No confession/ recovery,
- ✓ Medical evidence,
- ✓ Missing of medico legal evidence,
- ✓ Private settlement,
- ✓ Low quality of investigation
- ✓ Scientific mode of investigation.
- ✓ Refusal to grant custody
- ✓ Prosecution witnesses.
- ✓ Joint investigation team in terrorism cases
- ✓ Lack of cooperation from general public.
- ✓ No concrete evidence
- ✓ Delayed registration in FIR
- ✓ Inefficiency of police investigators

INFRASTRUCTURE:

I.N.L. (UNODC), a Donor Agency, is constructing well-furnished office accommodation for the District Public Prosecutor, Government Pleaders

and Probation and Payroll officers across the Province. In some districts land for the construction for the District Offices have been acquired while in some districts the acquisition process is under way. In district Swabi the civil work of the building has 90% completed. Construction work in the Districts Swat, Malakand, Buner and D.I.Khan has also been started.

CAPACITY BUILDING:

1. Three (03) Pre-service trainings of one month duration to the newly inducted prosecutors with the intervention of AITEBAAR.
2. Two (02) in-service trainings of fifteen days duration to the prosecutors with the intervention of AITEBAAR.
3. Five (05) Management courses of five-day duration for senior officers of Prosecution Service with the intervention of AITEBAAR.
4. Three (03) Trial Advocacy Trainings Program of five-day duration for newly inducted prosecutors at Bangkok with intervention of the US Department of Justice.
5. Two (02) Counter Terrorism Trainings of three-month duration for prosecutors of Anti-Terrorism Courts arranged by the CAPPRI (British High Commission). And one (01) session of the same training is in progress at Lahore.
6. Women exchange program for seven (07) female prosecutors of fifteen-day duration at America with the intervention of the US Department of Justice.
7. Trial Advocacy Training Program for two outstanding prosecutors of fifteen-day duration at America with the intervention of the US Department of Justice.

PROVISION OF LAW BOOKS & LAW SITE:

1. The UNDP, a development partner, has provided a large number of law books, Computers systems, Photocopiers, Generators, Furniture and law site i.e. www.pakistanlawsite.com for the offices of DPPs in Malakand Division under the Strengthening of Rules of Law in Malakand Division (SRLM).
2. The AITEBAAR program, a development partner, has provided law / reference books for the Reference & Research Cell of this Directorate.

ACHIEVEMENTS

- Seven (07) posts of Regional Directors (BS-20) created
- Twelve (12) posts of Deputy Public Prosecutors (BS-17) created
- Eighty Nine (89) posts of Assistant Public Prosecutors created
- 128 posts of Assistant Public Prosecutors upgraded
- Construction of Directorate of Prosecution included in ADP 2014-15
- Capacity building coordinated with donors
- Forensic Science and Specialized Trainings emphasized upon
- Accountability processes embarked upon and 9 prosecutors charge-sheeted for inefficiency
- Monitoring and audit mechanisms strengthened
- Guidance and SOPs being develop
- Annual report for 2014 under process in line with statutory requirement Section – 8 (7) of the Khyber Pakhtunkhwa Prosecution Act, 2005
- Specialized Trainings on counter terrorism imparted to 12 senior prosecutors
- 66 prosecutors imparted foreigner trainings and 219 prosecutors attended inland trainings

AMENDMENTS

The Directorate of Prosecution has proposed amendments in the Cr.P.C. Khyber Pakhtunkhwa Prosecution Act, 2005 and Khyber Pakhtunkhwa Prosecution Services Rules, 2005 as amended in 2010 vide **(Annexures-B, C & D)** to the Home Department and shortly these amendments will be placed before the competent forum for approval. Relevant to mention here that previously the criteria of training for promotion was not available in the Services Rules, therefore, the same was included in the proposed amendment with the basic objectives that only the shining officers will be promoted to the next higher pay scale and average officer will not be promoted. If the said mechanism is followed only the competent officers will be promoted on higher posts and thus the efficiency level of the department will be enhanced which will be having good impact on the working of the department.

WAY FORWARD

- Digitalization of Prosecution Services and Monitoring process through the intervention of any of the developmental partner
- Establishment of Training Institution / Resource Centers for prosecutors of Khyber Pakhtunkhwa
- Provision of official Vehicles for offices of District formations (DPPs)
- Installation of law web site in all DPPs offices except in Malakand Division where the said facility has already been installed through the intervention of UNDP
- Up-gradation cases from BS-17 to BS-18 and from BS-18 to BS-19
- Provision of laptops to the DPPs and Sr.PPs ATC