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FORTNIGHTLY CASE LAW BULLETIN

(16-01-2025 to 31-01-2025)

A Summary of Latest Judgments Delivered by the Supreme Court of Pakistan & Lahore High Court, Legislation/Amendment in Legislation and important Articles

Prepared & Published by the Research Centre Lahore High Court

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1. **Supreme Court of Pakistan.**
Matter regarding non fixation of case as per court-order 16.01.2025
Crl. O. P.1/2025 in CPLA 836-K of 2020, etc.
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/crl.o.p._1_2025_2712025.pdf

Facts: A three-member Bench of Supreme Court adjourned a case for further arguments upon objection to jurisdiction. On date fixed the Bench stood reconstituted and case was fixed before the new Bench. However, the reconstituted Bench directed the office, to fix these cases before the earlier Bench. But the cases were not so fixed and reallocated to a 08-member Constitutional Bench through the two committees constituted under Section 2 of the Supreme Court (Practice and Procedure) Act, 2023 and the Article 191A of the Constitution. Hence, the instant proceedings initiated.

Issues: i) Whether the Committees constituted under Section 2 of the Act and Article 191A of the Constitution have the authority to withdraw a case [from a Bench], in which cognisance has already been taken by a regular Bench and serious questions of constitutional law relating to the jurisdiction of the regular Bench have been framed?
ii) Whether the powers of committee established under the Section 2 of the Supreme Court (Practice and Procedure) Act, 2023 are similar to that of the Chief Justice or otherwise?
iii) Whether the said Committees can, by an administrative order, undo the effect of a judicial order, whereby next date of hearing a specific case has been fixed before a regular Bench to hear arguments on the jurisdiction of the regular Bench?
iv) Whether every court has inherent power to decide its own jurisdictional question?

Analysis: i) If any of the parties to the cases in which the said orders were passed, or any other person, was aggrieved by the same, he could have availed of the legal remedy of seeking a review of the order through the judicial process provided under the Constitution and the law. But, no one is entitled to disobey or decline compliance with the court order merely because he believes it to be inconsistent with the Constitution and the law…The practice of hearing part-heard cases by the same Bench is so well-established in our jurisdiction that neither the learned counsel assisting this Court on the above question nor our research assistants could find and cite any case from our jurisdiction in which a dispute arose and was adjudicated regarding the withdrawal of a part-heard case from one Bench and its reassignment to another, without a request being made by the original Bench hearing the case in its judicial order…once a case is assigned to a Bench and that Bench has taken seisin (assumed jurisdiction) of the matter and partly heard it, the Chief Justice cannot unilaterally withdraw it and reassign it to another Bench except under specific, judicially recognised circumstances. This practice is

firmly rooted in the high constitutional value of judicial independence whereby a Bench enjoys the freedom and independence to adjudicate upon a lis it has taken cognisance of. When a Bench is seized of a case and has partly heard it, the matter becomes part of judicial proceedings, and the Bench hearing the case assumes exclusive jurisdiction over it. Any interference—whether through withdrawal or reassignment—without judicial justification undermines the principle of judicial independence...The said practice imposes a significant limitation on the administrative powers of the Chief Justice. While the Chief Justice has the authority to regulate the formation of Benches and allocate cases as an administrative function, these powers do not extend to withdrawing or transferring a part-heard case from a Bench that has already assumed jurisdiction. Such withdrawal or reassignment is not merely an administrative act but a judicial one. Consequently, any such action must either stem from a judicial order passed by the Bench seized of the matter or be supported by express statutory authority if carried out by another court or authority.

ii) We may mention here that it was argued before us that the cases concerning the powers of the Chief Justice, decided prior to the promulgation of the Act, have become irrelevant following the establishment of the Bench Constitution Committee under Section 2 of the Act, which has been endorsed by the Full Court of the Supreme Court on the judicial side in the case of Raja Amer. We, however, are not persuaded by this argument for the simple reason that it was categorically held in Raja Amer that the powers of the Committee under Section 2 of the Act are the same as those previously exercised by the Chief Justice. The relevant observation is as follows:

> Both the powers of suo motu invoking original jurisdiction and constituting benches were earlier being exercised by one person, the Chief Justice; it is these administrative powers that have now been conferred on the Committee comprising three persons, i.e., the Chief Justice and the two most senior Judges - nothing more nothing less.

Therefore, whatever was stated in the referred cases regarding the powers of the Chief Justice to assign or withdraw cases from Benches fully applies to the Committees as well.

iii) This question need not detain us long, as a similar issue was addressed and decided by a Full Court of this Court in the case of Malik Asad Ali. It was held in the said case that an administrative order passed by the Hon'ble Chief Justice (acting under restraint) passed in derogation of a judicial order would be without lawful authority and of no legal effect. In that case, the Chief Justice's administrative declaration, which sought to invalidate the convening of a Full Court under a judicial order of a Bench for hearing cases listed in Supplementary Cause List No. 405 of 1997, was declared illegal…The above cited observations of a seven-member Bench of this Court in the contempt case against Syed Yousaf Raza Gillani are equally relevant. It was observed therein that "the executive authority may question a Court's decision through the judicial process provided

for in the Constitution and the law but is not entitled to flout it because it believes it to be inconsistent with the law or the Constitution." This principle applies with equal force to the executive authority of the Chief Justice or the Committees, as the case may be...Therefore, it can be held unequivocally that no administrative authority, including the Committees constituted under Section 2 of the Act and 191A of the Constitution, can, by an administrative order, undo the effect of a judicial order.

iv) Every court inherently has the power to adjudicate. The Bench, which had previously referred such cases to the Constitutional Bench, was confronted with the principles governing a court's inherent power to decide jurisdictional questions. When the argument was prima facie supported by the referred precedents of the cases of Pir Sabir Shah, Fazlul Quader Chowdhry and Marbury, the Bench decided to adjudicate the jurisdictional matter after obtaining full assistance from the learned counsel for the parties, and the cases were adjourned to allow for further preparation and assistance on the jurisdictional issue.

Conclusion: i) The Committees constituted under Section 2 of the Act and Article 191A of the Constitution have no authority to withdraw a case from a Bench, in which cognisance has already been taken by a regular Bench and serious questions of constitutional law relating to the jurisdiction of the regular Bench have been framed.

ii) Powers of the Chief Justice to assign or withdraw cases from Benches fully applies to the Committees as well.

iii) The Committees cannot, by an administrative order, undo the effect of a judicial order, whereby next date of hearing a specific case has been fixed before a regular Bench to hear arguments on the jurisdiction of the regular Bench

iv) Every court inherently has the power to adjudicate upon its jurisdictional question

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2. **Supreme Court of Pakistan**
Adil Khan Bazai. v. Election Commission of Pakistan and another.
Civil Appeal No. 1507 of 2024
Civil Appeal No. 1508 of 2024
Mr. Justice Syed Mansoor Ali Shah, Mrs. Justice Ayesha A. Malik, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.a._1507_2024_20012025.pdf

Facts: The two appeals have been filed under clause (5) of Article 63A of the Constitution of the Islamic Republic of Pakistan to challenge the orders passed by the Election Commission of Pakistan regarding the declarations made by the Party Head, which were referred to the Commission by the Speaker of the National Assembly under clause (3) of Article 63A of the Constitution. In the declarations, the Party Head declared that the appellant had intentionally defected from the Parliamentary Party, on the grounds of his sitting on the opposition benches in the

National Assembly with another Parliamentary Party and his abstaining from voting on the Finance Bill 2024 and the Constitution (26th Amendment) Bill, in contravention of the directions issued by the Parliamentary Party. By the impugned orders, the Commission confirmed these declarations under clause (4) of Article 63A of the Constitution. Consequently, the appellant was de-seated from his membership in the National Assembly, and his seat was declared vacant.

Issues: i) Does a Civil Court or the Commission have the jurisdiction to determine whether the member concerned is a member of the Parliamentary Party of a political party in proceedings under clauses (3) and (4) of Article 63A of the Constitution, for the purpose of determining his alleged defection from that political party?

ii) How the doctrine of jurisdictional fact has been expounded in various judicial pronouncements?

iii) What would be the effect if a tribunal or authority with jurisdiction limited to a particular matter assumes jurisdiction over a matter not conferred upon it by erroneously deciding the jurisdictional fact?

iv) What is the constitutional role of the Election Commission of Pakistan while hearing the matter of defection under Article 63A of the Constitution of the Islamic Republic of Pakistan, 1973?

Analysis: i) The original jurisdiction conferred upon the Commission, as well as the appellate jurisdiction of this Court, to confirm or otherwise the declaration made by the Party Head, extends to examining whether the Party Head has exercised this power justly, fairly and reasonably. Article 63A of the Constitution does not explicitly entrust the Commission with the power to determine the preliminary state of facts— jurisdictional facts—on which its jurisdiction to confirm the declaration depends. Its finding on a jurisdictional fact, such as whether the member concerned belongs to the Parliamentary Party of a political party, is not conclusive; rather, it is subject to correction by this Court, as its appellate forum, and ultimately to final determination by a Civil Court of plenary jurisdiction.

ii) The doctrine of jurisdictional fact connotes that if a certain state of facts must exist before a tribunal or authority can exercise the jurisdiction vested in it, such tribunal or authority may inquire into those facts to determine whether it has jurisdiction but cannot confer jurisdiction upon itself by making an erroneous decision regarding them. As per this doctrine, when a tribunal or authority is vested with jurisdiction limited to decide on a particular matter, it generally has the ancillary power to inquire into and ascertain the existence of facts collateral to that matter when their existence is disputed before it. This power to ascertain collateral facts—referred to as jurisdictional facts— forms the foundation for the exercise of its jurisdiction. A jurisdictional fact is, thus, one upon whose existence the assumption and exercise of jurisdiction by a tribunal or authority depend. It is a prerequisite fact whose existence must be ascertained before jurisdiction over a particular matter can be properly assumed and exercised. Its existence is a sine

qua non or condition precedent to the assumption and exercise of jurisdiction.

iii) When a tribunal or authority is established by law to exercise jurisdiction over a particular matter, the legislature defines the scope of its powers. It may, either expressly or by necessary implication, stipulate that jurisdiction can only be assumed and exercised if a particular state of facts exists or is shown to exist. In such cases, though the tribunal or authority is obligated to objectively ascertain, in the event of a dispute, whether that state of facts exists before exercising jurisdiction over the matter, its decision on the existence of that state of facts—the jurisdictional fact—is not conclusive. Instead, the decision is subject to challenge before and final determination by the civil courts of plenary jurisdiction or is subject to correction by the constitutional courts through judicial review.

iv) The constitutional duty of the ECP was discussed in the *Muhammad Sibtain Khan* case wherein this Court differentiated between the legal concept of power and duty and concluded that a constitutional duty is not the same as a constitutional power and that the ECP had failed to maintain the distinction between these two distinct legal concepts. The Court explained that Article 218 (3) of the Constitution imposed a constitutional duty on the ECP and that Articles 220 and 224 were in furtherance of that duty and cannot be read as a constitutional power which would make the ECP the master of all electoral matters. The reason given was simple, that on a constitutional plane, the ECP is not the master rather the forum or organ that must perform the task which lies at the heart of the constitutional democracy.

Conclusion: i) See Analysis i above.

ii) Decision on jurisdictional facts stands on the same footing as a decision on the fact in issue or the adjudicatory fact regarding the substantive matter, and is likewise final, subject to any right of appeal to a higher forum; it cannot be challenged before a Civil Court of plenary jurisdiction.

iii) An error in determining a jurisdictional fact constitutes a jurisdictional error, rendering the order passed without jurisdiction.

iv) The constitutional duty of the ECP cannot be considered as an overarching constitutional power vis-à-vis other constitutional provisions and institutions. The ECP is, as per the constitutional mandate, an independent body, duty bound to conduct free and fair elections and duty bound to ensure that those elected by the people remain in government.

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3. **Supreme Court of Pakistan**

Federation of Pakistan through Revenue Division & others etc v. Dewan Motors (Pvt) Ltd.etc.

Civil Petitions No.836-k to 887-k, 951-k,1056-k,1296-k of 2020 and Civil Petitions No.741-k to 743-k, of 2021 and Civil Petition No.165-k of 2022 and Civil Petitions No.1143-k to 1173-k of 2024.

Mr. Justice Amin-ud-Din Khan, Senior Judge, Mr. Justice Jamal Khan Mandokhail, Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi, Justice Musarrat Hilali, Justice Naeem Akhter Afghan, Mr. Justice Shahid Bilal Hassan.

https://www.supremecourt.gov.pk/downloads_judgements/c.p._836_k_2020_2812025.pdf

Facts: The appellants have challenged orders of Regular Bench with contention that CPLAs were mistakenly/inadvertently fixed before the regular Bench and the regular Bench had assumed the jurisdiction without lawful authority.

Issues: i) Which fora has jurisdiction to determine the fixation of matters before Benches?

ii) Whether functions performed by Committees impinge upon the judicial functions of any Bench?

Analysis: i) The Committees constituted under Article 191A(4) of the Constitution and under Section 2(1) of the Supreme Court (Practice and Procedure) Act, 2023 are the legal and Constitutional *fora* to determine which Bench shall hear what matters.

ii) The exercise of powers and performance of legal and Constitutional functions by both the Committees do not impinge upon the judicial functions of any Bench.

Conclusions: i) See above analysis No.i).

ii) See above analysis No.ii).

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4. **Supreme Court of Pakistan**

Secretary to the Government of Pakistan, Establishment Division, Islamabad and another v. Muhammad Ahmed Khan and others.

Civil Appeal No. 1671 of 2021

Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi

https://www.supremecourt.gov.pk/downloads_judgements/c.a._1671_2021.pdf

Facts: Case of the respondents was forwarded to their department for up-gradation/re-designation of their posts, which was accorded with vide Office Memorandum and the respondents were upgraded from BS-12 to BS-14 and BS-14 to BS-15 respectively. However, the Employer Department requested the concerned Wing to re-examine the case of posts of BS-12 and BS-14 as BS-16. Respondents impugned the said administrative decision by way of Constitutional Petition, which was allowed and the said order was challenged in shape of leave to appeal which was granted to consider the plea of Additional Attorney General that grant

of upgradation and re-designation of the posts is a matter of policy, and unless there exists a policy, the relief regarding grant of upgradation and re-designation of the posts cannot be allowed by the High Court.

Issues:

i) What is the essence of up-gradation policy?
ii) In what circumstances, up-gradation of posts come into play?
iii) Whether up-gradation of a post is a vested right?
iv) What are the consequences of up-gradation of the posts?
v) What is the responsibility of Govt. on announcement of a policy?
vi) To what extent, the Court can interfere in the matter of policy?
vii) What is the connotation of the word "discrimination" and when does it occur?
viii) What is the significance of equal treatment in an egalitarian society?
ix) What is the benchmark of Article 25 of the Constitution of Islamic Republic of Pakistan?
x) Which role of the state is articulated in the above said Article?
xi) Which sort of interpretation of Article 25 is required to be made?

Analysis:

i) The essence of the upgradation policy is to upgrade certain posts to rationalize the administrative structure of a Ministry/Division or a Department, making it more effective or bringing uniformity to the pay scales of similar posts across different organizations.

ii) This applies where the duties and responsibilities attached to a post have considerably increased, and the pay scale of a post is considered grossly incommensurate.

iii) The upgradation of a post is not a vested right, rather it stems from a policy decision intended to benefit a particular set of employees under the scheme embedded in the policy.

iv) In the case of upgradation, the employee continues to hold the same post without any change in his duties, but he is accorded a higher pay scale in order to mitigate the distress associated with stagnation due to a lack of progression or promotional avenues.

v) Once the Government announces a policy, it is also responsible for enforcing such policy across the board to accord the benefit of the policy to all those who are eligible under it and may be benefited because of it.

vi) No doubt, the Court cannot interfere in the policymaking domain of the Government, but when a widespread and comprehensive policy is announced to benefit employees, it should be implemented bigheartedly and generously, without adding any ifs and buts or discrimination that can stifle the main objective of the policy.

vii) The literal connotation of the word "discrimination" essentially refers to different treatment of the same kind or class of persons or behaving less favourably towards them. During the course of employment, discrimination occurs when an employer treats an employee less favourably or disadvantageously than others without any intelligible differentia.

viii) Equal treatment with equal opportunity is a cornerstone for an egalitarian society, while acts of discrimination in the workplace seriously undermine a harmonious working environment and create unrest among employees discriminated who are deprived of perks and privileges..

ix) Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973, establishes a tremendous benchmark for maintaining equality amongst the citizens, stating that all citizens are equal before the law, and are entitled to equal protection of the law, and there shall be no discrimination on the basis of sex.

x) However, the same article also provides a further clause which articulates that nothing in this Article shall prevent the State from making any special provision for the protection of women and children.

xi) This article cannot be interpreted with a narrow-minded, pedantic, or lexicographic approach to restrict or diminish its wideranging scope. Therefore, similar laws, rules, and policies should apply uniformly to all in similar situations, without any discrimination or distinction between one employee and another, within the sphere of legislation or policy, provided that their status is substantially equivalent and indistinguishable.

Conclusion: i) See above analysis No. i

ii) See above analysis No. ii

iii) The upgradation of a post is not a vested right rather a matter of policy.

iv)The employee, on up-gradation of a post, holds the post without any change in his duties, but he obtains higher pay scale.

v) Government is responsible for implementing the policy to accord the benefit of to all eligible.

vi) See above analysis No. vi

vii) The word “discrimination” refers to different treatment of the same kind or class of persons or behaving less favorably towards them.

viii) Equal treatment is the foundational principle for promoting harmony in the society, while discrimination brings about undermining a harmonious working environment.

ix) Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973, postulates the fundamental right of equality amongst the citizens.

x) See above analysis No. x

xi) Article 25 cannot be interpreted in a restricted sense. Application of the similar laws, rules, and policies should apply uniformly to all in similar situations, without any discrimination or distinction between one employee and another,

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5. **Supreme Court of Pakistan**

Syed Masood Ali (both cases) v. Mst. Feroza Begum and another, Jamal Uddin Siyal, IIIrd Senior Civil Judge Karachi and another

Civil Petition No.552-K of 2021 & 1108-K of 2023

Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi

https://www.supremecourt.gov.pk/downloads_judgements/c.p._552_k_2021.pdf

Facts: Through this petition, the validity of a gift of immovable property made through an oral declaration later confirmed by a registered deed has been questioned. The petitioner challenged the gift, alleging non-fulfilment of essential legal requirements, including delivery of possession and the validity of signatures due to the donor's alleged illness. The courts upheld the validity of the gift, finding no infirmity in its execution.

Issues: i) What are the essential conditions for the validity of a gift (Hiba) under Muslim law?
ii) What is required for delivery of possession under Muslim law?
iii) Is physical departure by the donor required if both donor and donee reside in the gifted property?
iv) What constitutes a valid overt act for delivery of possession in a gift?
v) Is formal delivery of possession required when a husband gifts property to his wife and they reside together?
vi) Does a husband living in a gifted house or collecting rent invalidate the gift to his wife?
vii) Is the concept of *spes successionis* recognised under Mohammedan Law?
viii) Is writing or registration mandatory for a valid gift under the law?
ix) Can constitutional jurisdiction override existing legal remedies?
x) Does questioning a trial judge's decision undermine judicial independence?

Analysis: i) A gift, or Hiba, is defined in Hedaya as the donation of a thing from which the donee may derive a benefit. In legal terms, it refers to the immediate and unconditional transfer of property without any consideration or exchange(…)The Principles of Mohammedan Law by D.F Mulla outlines three essential conditions for the validity of a gift under Section 149 thereof which reads as under:- (i) A clear and unequivocal declaration of the gift by the donor, (ii) Acceptance of the gift, either express or implied, by or on behalf of the donee, and (iii) Delivery of possession of the subject matter of the gift by the donor to the donee, as further explained in Section 150.
ii) As far as delivery of possession is concerned, Section 150 of Principles of Mohammadan Law stipulates that the donor must deliver such possession as the subject matter of the gift is capable of being possessed.
iii) ection (3) of Section 152 specifically addresses situations where both the donor and the donee are residing in the subject property at the time the gift is made. It clarifies that in such circumstances, physical departure by the donor or formal entry by the donee is not required. Instead, the gift is considered complete upon an overt act by the donor indicating an intention to transfer possession and divest control over the property.
iv) A relevant example of such an overt act is found in the Indian case titled Syed Md. Saleem Hashmi vs. Syed Abdul Fateh and ors [AIR 1972 Patna 279] where the donor and donee resided together in a house, the court held that the donor's act of handing over the property papers to the donee was a valid overt act,

satisfying the requisite condition for delivery of possession, thereby fulfilling the necessary requirement for completing the gift.

v) A conjoint reading of Sections 152(3) and 153 clearly establishes that formal delivery of possession is not required when the donor is the husband and the donee is his wife, and both were residing together in the property at the time of the gift's declaration and creation. In such instances, the existing shared possession satisfies the requirement of delivery of possession, provided the donor has clearly divested himself of ownership and control over the property.

vi) It is also well settled that in the case of a gift of immovable property by the husband to the wife, the fact that the husband continues to live in the house gifted or to receive the rents after the date of gift, will not invalidate the gift, the presumption being that the rents are collected by the husband as a rent collector on behalf of the wife and not on his own accord.

vii) Furthermore, under Mohammadan Law, the concept of spes successionis (the mere hope or expectation of inheriting) is not recognized, meaning a presumptive heir has no rights in the property of the deceased until his death occurs.

viii) suffice is to state that neither the writing nor the registration of a Deed of Declaration and Confirmation of Oral Gift is an essential requirement for the validity of a lawful gift under the law

ix) It is a well-settled principle of law that where an alternative and efficacious remedy is available under the ordinary legal framework, constitutional jurisdiction cannot be invoked to bypass the statutory mechanisms in place. Constitutional jurisdiction is not intended to substitute the ordinary remedies provided under the law.

x) The independence of the judiciary is a cornerstone of the legal system, ensuring that judicial officers are safeguarded by law for decisions made in the exercise of their judicial functions. Furthermore, the issue of whether a decision in the said suit may or may not have been rendered during the pendency of a similar matter before the Supreme Court is a legal question that can be adequately addressed by the appellate court. Therefore, directly raising allegations against the learned presiding Judge of the trial court is entirely unwarranted. Allowing constitutional petitions of this nature would undermine the autonomy of the judiciary and erode public confidence in the judicial process.

Conclusion: i) A valid gift requires declaration, acceptance and delivery of possession.

ii) See analysis No.ii.

iii) Shared residence needs no transfer of physical possession.

iv) Handing over property papers is a valid overt act for delivering possession in a gift.

v) Shared possession between spouses satisfies gift requirements.

vi) A husband’s residence or rent collection doesn’t invalidate a gift.

vii) *Spes successionis* is not recognised in Muslim law and gives no right to heirs until the donor’s death.

viii) Writing or registering a deed is not mandatory for a valid gift.

ix) Constitutional jurisdiction can't replace statutory remedies.

x) Judicial independence is vital, and allegations against judges undermine confidence in the judiciary; legal questions should be addressed through appellate mechanisms.

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6. **Supreme Court of Pakistan**
Mr. Abdul Aziz & others v. All Pakistan Clerks Association through its Zilai President Manzoor Ahmad and others -
CPLA NO.251-Q of 2024
Mr. Justice Irfan Saadat Khan, Mr. Justice Shahid Bilal Hassan.
https://www.supremecourt.gov.pk/downloads_judgements/c.p._251_q_2024.pdf

Facts: An application for impleading the respondent No.1 as a proper and necessary party under order I Rule 10 CPC was accepted by the trial court, against which an appeal was allowed by the Appellate Court. Thereafter a petition was filed before the High Court, the court up held the order of the trial Court and set aside the order of the appellate court by observing that "admittedly both the Mouza Tegh and Sunni are lying adjacent to each other and the description mentioned in the suit is admittedly of the petitioner/intervener allotted land"; after finding the respondent No.1 to be a proper and necessary party to be impleaded in the said suit.

Issue: i) whether allottee of an adjacent land/Mouza can be impleaded as a proper and necessary party?
ii) What is settled position of law to decide application under Order I Rule 10?

Analysis: i) The present respondent No.1 is a proper and necessary party as their land is lying adjacent to the land of the petitioner and the outcome of the suit, if decided in favour of the present petitioner without hearing them, could adversely effect their rights in respect of the properties claimed by them.
ii) It is a settled preposition of law that while dealing with the applications under order I Rule 10 the Court has to exercise its discretion in a liberal manner rather than adopting a narrow or pedantic approach, especially when any party is likely to be affected by any judgment in a proceeding and whose presence would enable the Court to effectively adjudicate the matter in accordance with the law.

Conclusion: i) See above analysis No. i
ii) See above analysis No. ii.

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7. **Supreme Court of Pakistan**
Mst. Sidra Hameed etc. v. Syed Abdul Mateen
Mr Justice Yahya Afridi, Mr Justice Irfan Saadat Khan
Civil Miscellaneous Application No. 100 of 2024
https://www.supremecourt.gov.pk/downloads_judgements/c.m.a._100_2024.pdf

Facts: Respondent filed a guardianship petition in the Family Court, Islamabad (East), which was dismissed in 2023. His appeal against the dismissal was pending before the District Court, Islamabad (East). Meanwhile, the applicant also filed a guardianship petition before the same court. The petitioner seeks transfer of both her guardianship petition and the respondent's pending appeal to the Family Court and District Court in Karachi (East).

Issues: i) Can the Apex Supreme Court transfer family cases to a court of another Province?
ii) Whether custody and guardianship matters fall under the jurisdiction of family courts and whether Hon'ble Higher courts can exercise transfer powers despite any restrictions?
iii) What constitutes "proceedings" in the context of judicial business before a court?
iv) Are guardianship and custody cases considered proceedings under family law and eligible for transfer between provinces?
v) Can the Supreme Court transfer guardianship and custody cases from the Islamabad Capital Territory to another province under Section 25A(2-B) of the Family Courts Act, 1964?

Analysis: i) The application has been filed under subsection (2b) of section 25A of the Family Courts Act, 1964… Under the foregoing subsection (2b), any party before a Court in proceedings under the Family Court Act can apply to the Supreme Court for transfer of such proceedings to a Court of another Province.
ii) It would be clear that the matters of custody and guardianship both would also be governed under the FCA. Though section 25 of the FCA binds only the Family Court to follow the procedure of the GWA during the trial of guardian and custody matters; however, in our view the High Court's and this Court's power could not be curtailed via section 4A of the GWA.
iii) This court has carried out a similar exercise in Naeemullah Khan (2001 SCMR 1461) wherein the word "proceedings", not having been defined in the relevant act, was considered to have its ordinary dictionary meaning. The Court concluded with respect to the import of the term "proceedings", "we are of the opinion that the word 'proceedings' is a comprehensive expression which includes every step taken towards further progress of a cause in Court or Tribunal, from its commencement till its disposal. In legal terminology the word 'proceedings' means the instituting or carrying on of an action of law. Generally, a 'proceeding' is the form and manner of conducting judicial business before a Court or judicial officer, including all possible steps in an action from its commencement to the execution of a judgment and in a more particular sense it is any application to a Court of justice for aid in enforcement of rights, for relief: for redress of injuries, or damages or for any remedial object. It in its general use comprehends every step taken or measure adopted in prosecution or defence of an action."

iv) Guardianship and custody cases, which are instituted in the Family Courts, would be treated as proceedings under the FCA. Hence, in the absence of any specific provision in GWA regarding transfer of matters from one Province to another, guardianship and custody cases could be transferred according to subsection (2b) of section 25 of the FCA.

v) This aspect too has been comprehensively dealt with by this Court in Rabia Ahmad (2022 SCMR 733) …Thus, for the convenience of the parties, particularly females and minors, as in the present case, this Court has the power and authority to transfer GWA cases to other Provinces of the Country or to the Islamabad Capital Territory ("ICT") or vice versa in deserving cases.

Conclusion: i) Any party before a Court in proceedings under the Family Court Act can apply to the Supreme Court for transfer of such proceedings to a Court of another Province.

ii) It would be clear that the matters of custody and guardianship both would also be governed under the FCA.

iii) See above analysis No iii.

iv) Guardianship and custody cases, which are instituted in the Family Courts, would be treated as proceedings under the FCA. Hence, in the absence of any specific provision in GWA guardianship and custody cases could be transferred according to subsection (2b) of section 25 of the FCA.

v) Apex Supreme Court has the power to transfer GWA cases to other Provinces of the Country or to the Islamabad Capital Territory or vice versa.

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8. **Supreme Court of Pakistan**
Umar Gul v. Dr. Hafiza Akhtar and others
Mr. Justice Irfan Saadat Khan, Mr. Justice Shahid Bilal Hassan
https://www.supremecourt.gov.pk/downloads_judgements/c.p.4389_2023.pdf

Facts: Petitioner through the petition had challenged order of Peshawar High Court through which findings of first appellate court regarding setting aside of order of Rent Controller was upheld. The first appellate court had set aside order of Rent Controller regarding dismissal of eviction petition**.**

Issues: i) Whether utility bills in the name of a person regarding some property are proof of his ownership?

ii) What is the recourse available when tenant disputes ownership of landlord?

Analysis: i) Apropos the aspect of utility bills is concerned, suffice it to say that the utility bills in the name of a person only denote possession of the property, but they do not prove ownership of the same.

ii) It is also a settled proposition of law that when a tenant disputes the very ownership of the landlord, the only recourse available with him is to file a civil suit. In the instant matter both the appellate Court and the High Court have

correctly opined that the contention with regards to the ownership of the property, if any, could only be resolved through a Civil Court.

Conclusion: i) Utility bills denote possession of the property not the ownership
ii) The remedy available is to file civil suit.

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9. **Supreme Court of Pakistan**
Sikandar Ali alias Bhola v. The State
Jail Petition No.29 of 2021
Mr. Justice Yahya Afridi, CJ, Mr. Justice Malik Shahzad Ahmad khan
www.supremecourt.gov.pk/downloads_judgements/j.p._29_2021.pdf

Facts: The petitioner was convicted under Section 302(b) PPC and sentenced to life imprisonment by the Trial Court, which was upheld by the High Court. On appeal, the Supreme Court reviewed the case and acquitted the petitioner, granting the benefit of the doubt.

Issues: i) Whether circumstantial evidence must form an unbroken chain to sustain a conviction.
ii) Whether an unexplained delay in lodging the FIR affects the prosecution's case.
iii) Whether the prosecution must establish a motive beyond a reasonable doubt for conviction.
iv) Whether a judicial confession by a co-accused, if exculpatory, can be used against the petitioner.
v) Whether forensic evidence is necessary to corroborate recovery of alleged crime tools.
vi) Whether the benefit of the doubt should be extended to the accused in case of inconsistencies in the prosecution's case.

Analysis: i) It is settled by now that in such like cases every circumstance should be linked with each other and it should form such a continuous chain that its one end touches the dead body and other to the neck of the accused. But if any link in the chain is missing then its benefit must go to the accused.
ii) We have noted that the occurrence in this case took place on 12.10.2012 but the FIR was lodged on 16.10.2012 and as such there is delay of about four (04) days in lodging the FIR."
iii) The motive of illicit relationship of the petitioner with the Wife of the deceased namely Mst. Shazia Kausar (co-accused since died), was not mentioned in the FIR, which was lodged with the abovementioned motive… The prosecution story *qua* the motive is result of an afterthought and the same has not been proved in this case.
iv). The judicial confession of Mst. Shazia Kausar (co-accused since died), is exculpatory in nature... She had not stated that she also committed the murder of her husband or she participated in the occurrence... therefore, the above-

mentioned judicial confession of Mst. Shazia Kausar (co-accused since died), which is exculpatory in nature, cannot be used against the petitioner.

v) Although a pillow was also recovered in this case from the room of the deceased on the pointing out of Mst. Shazia Kausar (co-accused since died)... however, according to the postmortem report, blood was coming out from the nostrils and ears of Muhammad Asif (deceased) but there is no report of PFSA, qua the presence of blood on the abovementioned pillow. We are, therefore, of the view that the abovementioned recovery of rope and pillow are inconsequential for the prosecution case.

vi) Keeping in view all the aforementioned facts, we have come to this irresistible conclusion that the prosecution has failed to prove its case against the petitioner beyond the shadow of doubt... If there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused, whereas the instant case is replete with a number of circumstances, which have created serious doubts in the prosecution story.

Conclusion: i) If any link in circumstantial evidence is missing, the accused must be given the benefit of the doubt.

ii) A significant delay in lodging the FIR without justification creates doubts about the prosecution's case.

iii) If motive is introduced later without evidence, it cannot be relied upon for conviction.

iv) An exculpatory confession by a co-accused cannot be used as evidence against the petitioner.

v) Absence of forensic evidence on recovered crime tools weakens the prosecution’s case.

vi) If the prosecution's case has inconsistencies, the benefit of the doubt must be given to the accused.

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10. **Supreme Court of Pakistan**
Muhammad Ejaz v. Judge Family Court, Hafizabad and others
C.P.L.A.No.2759-L of 2023
Mr. Justice Irfan Saadat Khan, Mr. Justice Shahid Bilal Hassan
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2759_l_2023.pdf

Facts: The petitioner withdrew an application to set aside an ex parte decree but later sought to recall this withdrawal, on the plea that no instructions for withdrawal of the application were conveyed to the counsel, which was dismissed. The petitioner then appealed and filed a suit regarding the Nikahnama (said suit was instituted by same counsel who withdrew the application), which is still pending. After the appellate Court's consolidated judgment, the petitioner filed a writ petition with the High Court, which was dismissed, leading to the current petition challenging that order.

Issues: i) Whether withdrawal of the application to set aside the ex parte decree constitutes acquiescence to the decree, thereby waiving his right to further challenge it?
ii) Whether a party is bound by the statements made by their counsel in court?

Analysis: i) Though the petitioner sought setting aside of ex parte decree by filing an application under sub-section (6) of Section 9, Family Courts Act, 1964 but later on, he withdrew the same 02.04.2022, meaning thereby he acquiesced of the decree and waived off his right to further agitate it.
ii) A party is always bound by the statement of his counsel unless there is anything contrary in the power of attorney placing restriction(s) on the authority, delegated upon the counsel, to compromise or abandon the claim on behalf of his client(s).

Conclusion: i) Withdrawal of application to set aside the ex parte decree construed that party acquiesced of the decree and waived off his right to further agitate it.
ii) See above analysis No.ii.

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11. **Supreme Court of Pakistan**
Matloob and others v.Taj din(deceased) through legal heirs and others
Mr. Justice Irfan Saadat Khan, Mr. Justice Shahid Bilal Hassan
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2095_l_2016.pdf

Facts: Petitioner through the petition under article 185(3) of the constitution of Islamic Republic of Pakistan had challenged judgment of High Court and first appellate court through which suit for declaration filed by the respondents was decreed and judgment of trial court was set aside**.**

Issues: Can a nominee appointed under the Cooperative Socities Act, 1925 substitute legal heir(s) after death of member of society?

Analysis: The said question has been answered by the Act in section 27, which reads ... Bare perusal of the above provision of law makes it vivid that share or interest of the deceased member is to be transferred to a person or persons who has/have been nominated in accordance with the byelaws of the society ... it is a settled principle of law that nomination is merely made to confer a right to collect the money or to receive the money and it does not operate either as a gift or as a will; therefore, it cannot deprive the other heirs of the nominator who may be entitled thereto under the law of succession applicable to the deceased. The said ratio was further adopted and reiterated in judgment by this Court, wherein it was held that nomination by a member of a cooperative society does not operate as a gift or will and it was further held that membership of the Society is a matter altogether different from succeeding to the estate of the deceased. Further, the said view was continuously upheld by this Court in judgments.

Conclusion: Nominee cannot substitute legal heir(s) of the deceased.

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12. **Lahore High Court, Lahore**
Ali Haider & another v. Muhammad Boota & another
Civil Revision No.77789 of 2023
Mr. Justice Shujaat Ali Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC75.pdf

Facts: The petitioners filed suit seeking cancellation of Sale Deed and permanent injunction against the respondents, the trial court dismissed suit of petitioners and they filed an appeal, which was also dismissed by the learned Additional District Judge vide the impugned judgment and decree. The concurrent findings have been assailed through Civil Revision before the High Court.

Issues
i) Whether the attorney is bound to get permission of principle to transfer the property in his name or to his kin?
ii) Whether a plea having not been taken in written statement can be introduced during evidence?
iii) What are the consequences of withholding of best available evidence?
iv) Whether cancellation of criminal case precludes to file civil suit and dismissal of application for initiation of proceedings under section 476 Cr.P.C operate as estoppel or res-judicata?
v) What is status of concurrent findings of facts?

Analysis: i) It is well established by now that when an attorney opts to transfer land on the basis of General Power of Attorney in favour of his kith and kin, he is bound to get written permission from the principal simply for the reason that no prejudice is caused to the principal due to *inter-se* relation between the attorney and prospective vendee. The Apex Court of the country in the case of *Mst. Naila Kausar and another* (supra) while dilating upon a question relating to the powers of an attorney to transfer the property, subject matter of General Power of Attorney, in his own name or to his kith and kin without written permission of the principal has *inter-alia* held under: -

> *"7. It is an admitted fact that Mst. Fatima Jan was the original owner of the property, who was an aged woman. It appears from the record that she executed a power of attorney in favour of Appellant No.2 Sardar Muhammad Aslam, who was an official in the Revenue Department and not related to Mst. Fatima Jan. It is settled law that an attorney cannot utilize the powers conferred upon him to transfer the property to himself or to his kith and kin without special and specific consent and permission of the principal……"*

ii)...during evidence, with a view to improve their case, respondent No.1 (DW-1) for the first time introduced a novel story by stating that as a matter of fact he purchased the land from father of the petitioners through an Agreement to Sell and due to said fact father of the petitioners executed General Power of Attorney in his favour. The said plea having not been taken in the Written Statement could not be allowed to be introduced during evidence and said portion from the

statement of respondent No.1(DW-1) could not be read to decide the fate of the suit filed by the petitioners….
iii)… it is crystal clear that he failed to produce the most crucial document. It is trite law that when a party withholds the best available evidence, it is bound to face its consequences. The Apex Court of the country in the cases of *Muhammad Boota through L.Rs. v. Mst. Bano Begum and others* (**2005 SCMR 1885**) has held that when a party withholds best available evidence he is bound to face its consequences…. there leaves no doubt that the said document had important bearing upon the outcome of the *lis* between the parties and there was no valid justification to withhold the same….
iv) even if the criminal case, registered against the respondents, was cancelled, the said fact did not preclude the petitioners to bring civil suit against the respondents. Similarly, dismissal of the application of the petitioners for initiation of proceedings under section 476 Cr.P.C. against the respondents on account of filing unauthorized suit on behalf of their father did not operate as estoppel or *res-judicata* as prior to the year 2019 the petitioners did not seek cancellation of sale deed executed in favour of respondent No.2.
v) There is no cavil with the preposition that ordinarily concurrent findings of facts recorded by the courts below cannot be interfered, however, the same cannot be considered as sacrosanct especially when they are found arbitrary or perverse. Reliance in this regard is placed on the case reported as *Hajid Wajdad v. Provincial Government through Secretary, Board of Revenue Government of Balochistan, Quetta and others* (**2020 SCMR 2046**) and *Subedar (Retd.) Jamil Khan (deceased) through legal heirs v. Salim Khan (deceased) through legal heirs and 06 others* (**2017 SCMR 860**).

Conclusion: i) The attorney is bound to get permission of principle to transfer the property in his name or to his kin.
ii) The plea having not been taken in the Written Statement could not be allowed to be introduced during evidence.
iii) when a party withholds the best available evidence, it is bound to face its consequences.
iv) See above analysis No.iv
v) See above analysis No.v

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13. **Lahore High Court**
Amir Khan etc. v. Addl. Collector of Customs etc.
Writ Petition No.44573/2024
Mr. Justice Abid Aziz Sheikh
https://sys.lhc.gov.pk/appjudgments/2024LHC6286.pdf

Facts: The petitioner challenged a corrigendum issued by the respondent, which modified an earlier adjudicatory order by substantially increasing the imposed personal penalties. The petitioner contended that the respondent lacked jurisdiction to unilaterally amend the order without following the prescribed appellate procedure.

Issues: i) Whether an adjudicating authority has the power to modify its final order without following the statutory appellate process?

ii) Whether the doctrine of functus officio applies to quasi-judicial authorities after passing a final order?
iii) Whether the corrigendum issued by the respondent was legally valid under the Customs Act, 1969?

Analysis: i) The foregoing facts incontrovertibly demonstrate that the order-in-original was passed by the respondent acting as an Adjudicating Authority under Section 179 of the Act and the sole and exclusive remedy available to any party aggrieved by said order was an Appeal under Section 193 of the Act before the Collector Customs (Appeal). Critically, the respondent had no Suo-moto power to modify the order-in-original, enhancing the personal penalties from Rs.10,000/- each to an aggregate amount of Rs.7,922,048/-, particularly in absence of any application from the aggrieved party requesting such modification.
ii) It is settled law that 'judicial' or 'quasi-judicial authorities' cannot change its determination in an adjudication after signing 'judgment', 'order' and 'decree' as then the doctrine of 'functus officio' comes in the way. The expression 'functus officio' means that having fulfilled the functions, discharged the duties, discharged the office, or the purpose got accomplished, there remains no further force or authority with the 'judicial' or 'quasi-judicial Authorities.
iii) A plain reading of Section 179 of the Act reveals no provision for conferring upon the respondent even the power to rectify order-in-original, rather such power vests exclusively in the Customs Appellate Tribunal under Section 194-B (2) of the Act and same is also exercisable only upon a mistake apparent on record being duly brought before the Tribunal by a party to an appeal. Consequently, the impugned Corrigendum is manifestly ultra vires the relevant provision of the Act.

Conclusion: i) An adjudicating authority cannot unilaterally modify its final order once passed.
ii) The doctrine of functus officio applies to quasi-judicial authorities, preventing post-adjudication modifications.
iii) The corrigendum issued by the respondent was ultra vires and lacked legal effect.

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14. **Lahore High Court**
Allah Ditta v. Noor Ahmad
Regular First Appeal No. 25617 of 2023
Mr. Justice Masud Abid Naqvi
https://sys.lhc.gov.pk/appjudgments/2024LHC6368.pdf

Facts: The plaintiff filed a suit for the recovery of amount based on a promissory note. The defendant contested the claim, arguing that no valid consideration was given for the execution of the document. The trial court dismissed the suit with costs. Hence; this appeal.

Issues: i) What is the legal effect of the statutory presumption under Section 118 of the Negotiable Instruments Act, 1881, regarding consideration in negotiable instruments?
ii) What is the effect of lack of valid consideration on a negotiable instrument under Section 43 of the Negotiable Instruments Act, 1881?
iii) What is the legal effect of an agreement that involves consideration for compounding a non-compoundable criminal offence?
iv) Why is a private settlement in cases involving non-compoundable criminal offences contrary to public policy?
v) What is the consequence of a pronote executed under coercion or blackmail related to criminal charges?

Analysis: i) It is well settled law that under section 118 of the Negotiable Instruments Act, 1881, there is an initial statutory presumption that the negotiable instrument is made, drawn, accepted or endorsed for consideration and in a case to contrary, the onus is on the person who is denying the consideration to prove the same. However, if the plaintiff presents facts contrary to the stated consideration in the pronote or which militate against the presumption then the presumption is lost/destroyed and the burden of proving the validity shifts to the plaintiff to prove that the pronote was executed by the defendant for consideration.
ii) Hence, the alleged negotiable instrument is made or transferred without valid consideration and the negotiable instrument without consideration creates no obligation for the payment between the parties, according to Section 43 of the Negotiable Instruments Act 1881.
iii) Section 23 of the Contract Act, 1872 also invalidates agreements if their considerations, objects or purposes are illegal, including those that violate public policy. Non-compoundable offenses are regarded as matters of public concern and permitting private agreements to settle such offences would compromise public interest and proper administration of justice. No court of law can countenance or give effect to an agreement which attempts to take administration of law out of hands of the judges and put it in the hands of private individuals.
iv) This policy is based on the principle that criminal prosecution in non-compounding offenses cannot be compounded at the free will and choice of the parties which is not a private dispute between them but is one in which society at large is interested and any private agreement by the person ostensibly aggrieved, in return for a reward, to forbear from or withdraw or abandon the prosecution knocks at the root of criminal justice. If such agreements are allowed to be enforced by the courts, the doors will be opened to blackmailing on large scale.
v) For instance, a man who loses or believes that he has lost something may frighten another by starting or threatening to start a case for theft against him or somebody in whom he is interested, then the later will often come around and in his anxiety to safe himself from harassment of trial, make an offer or execute a pronote or actually pay money. Therefore, the agreement to pay consideration for the pronote in the present case being the compounding of non-compoundable

criminal charges is void in law.

Conclusion: i) The statutory presumption of consideration in negotiable instruments stands unless contradicted by the plaintiff, shifting the burden of proof onto the plaintiff.
ii) A negotiable instrument without valid consideration is unenforceable.
iii) Agreements with unlawful consideration violating public policy are void.
iv) Private settlements of non-compoundable offences violate public policy.
v) Coercive agreements based on criminal threats are legally void.

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15. **Lahore High Court, Lahore,**
M/s Mumtaz Ghani Textile (Pvt.) Ltd. & others v. Federation of Pakistan & others
Writ Petition No.79375 of 2023
Mr. Justice Shahid Karim.
https://sys.lhc.gov.pk/appjudgments/2025LHC115.pdf

Facts: This petition is among multiple writ petitions addressing similar issues related to the show cause notices issued by the State Bank of Pakistan, alleging a failure to fully realize export proceeds in violation of S.12(1) of the Foreign Exchange Regulations Act, 1947 (the Act). The petitioner was required to respond within 21 days; failure to do so may result in legal action being initiated under Section 23B of the Act.

Issues: i) What authority does Sub-section (3) of Section 20 of the Act give to the State Bank of Pakistan regarding directions to authorized dealers**?**
ii) What does the Act provide for when export proceeds are not realized within 120 days?
iii) What does Sub-section (4) of Section 23B of the Act allow the Adjudicating Officer to do in cases of contravention, including violations of Section 12(1) and Section 20(3)?

Analysis: i). Sub-section (3) of Section 20 of the Act grants the State Bank of Pakistan (SBP) the authority to issue directions concerning payments and actions by authorized dealers, aimed at ensuring compliance with the Act's provisions.
ii) The provisions of the Act merely state that in case the export proceeds are not realized within 120 days, which is an admitted position, then the matter shall be referred to the Adjudicating Officers under Section 23B.
iii) Sub-section (4) of section 23B provides that in case of any contravention including that of sub-section (1) of section 12 of the Act or sub-section (3) of section 20 of the Act, cognizance shall be taken by the Adjudicating Officer of such contravention who may impose a penalty at the conclusion of that adjudication.

Conclusion: i) See above analysis No.i).
ii) The Act stipulates that if export proceeds are not realized within 120 days, the matter must be referred to the Adjudicating Officers under Section 23B.
iii) See above analysis No.iii)

16. **Lahore High Court**
Ameer Abdullah v. Member, Federal Land Commission, Islamabad etc
Writ Petition Nos.12078 of 2014 & 32541 of 2013
Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Safdar Saleem Shahid.
https://sys.lhc.gov.pk/appjudgments/2022LHC9808.pdf

Facts: The legal heirs of Respondent No. 2, whose excess land was resumed under the Land Reforms Regulation, 1972 (MLR 115), filed a revision petition in 2011 before the Federal Land Commission, challenging orders passed in 1972 and 1973. The Federal Land Commission accepted the revision, setting aside previous orders and restoring the resumed land to the legal heirs of the declarant. The petitioners, landless tenants who were allotted the resumed land, challenged this decision through these writ petitions.

Issues: i) What was the purpose of promulgating the Land Reforms Regulation 1972 (MLR 115), and how did it aim to address the economic well-being of peasantry?
ii) What is the remedy available under the Land Reforms Regulation 1972 for an aggrieved person, and what is the time limit for filing a revision before the Federal Government?
iii) Does the Land Reforms Act, 1977 has a prospective or retrospective application?
iv) Does the proviso to Section 27 of the Land Reforms Act, 1977 impose any conditions on the exercise of revisional jurisdiction?

Analysis: i) The Government of Pakistan in order to improve the economic well-being of peasantry and making agriculture a profitable vocation, promulgated the Land Reforms Regulation 1972 (MLR 115) on 11.03.1972 (to be referred hereafter as 'Regulation') whereby maximum ceiling of the own land was fixed for the declarants and the excess land was made allotable to the landless tenants as per policy/law.
ii) As per structured scheme of law, any person if aggrieved of any order passed by the authority established under the Regulation has a remedy of Revision before the Federal Government to be filed within a period of 60 days.
iii) Furthermore, Section 3 of the Land Reforms Act, 1977 describes that the said enactment shall have prospective effect only.
iv) Even otherwise, Proviso to Section 27 lays an embargo on the unbridled exercise of Revisional jurisdiction that it shall not affect the right of the adverse party unless a fair reasonable hearing is afforded to it but in the case in hand no document has been produced to show that any hearing was granted to the petitioners, which flaw is fatal that dismantled the legality of the impugned order.

Conclusion: i) See above analysis No.i.

ii) An aggrieved person has a remedy to file a revision within 60 days of the order being passed.
iii) The Land Reforms Act, 1977 has a prospective application.
iv) Proviso of Section 27 ensures no adverse order without a fair hearing.

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17. **Punjab Subordinate Judiciary Service Tribunal Lahore**
Muhammad Afzal Zahid, Ex-Additional District & Sessions Judge v. Lahore High Court, Lahore through its Registrar.
Service Appeal No.26 of 2013
Mr. Justice Muhammad Sajid Mehmood Sethi Chairman, Mr. Justice Rasaal Hasan Syed, Mr. Justice Abid Husain Chattha.
https://sys.lhc.gov.pk/appjudgments/2024LHC6286.pdf

Facts: The appellant, a former judicial officer, was dismissed from service following allegations of misconduct and corruption. He challenged the dismissal, arguing procedural irregularities and lack of substantial evidence The Punjab Subordinate Judiciary Service Tribunal partially allowed the appeal, modifying the penalty to compulsory retirement.

Issues: i) What are the legal principles governing the exercise of compulsory retirement in service matters?
ii) How should the proportionality of a penalty be determined in disciplinary proceedings?

Analysis: i) The exercise of power of compulsory retirement must not be a haunt on public servant but must act as a check and reasonable measure to ensure efficiency of service and free from corruption arid incompetence. The officer would live by reputation built around him and where his conduct and reputation is such that his continuance in service would be a menace in public service and injurious to public interest, he should be compulsorily retired from service.
ii) It is evidently clear that the Courts have consistently emphasized the importance of considering the employee's length of service, the nature of the offense, and the context surrounding the misconduct. The precedents illustrate that a fair and just approach to disciplinary actions is essential in maintaining morale and ensuring that penalties are proportionate to the offenses committed. In these circumstances, we are of the considered view that the impugned penalty of removal from service is not proportionate to the gravity of the misconduct proved against the appellant. Therefore, we are inclined to convert the major penalty of removal from service into compulsory retirement.

Conclusion: i) Compulsory retirement ensures service integrity by removing officials harmful to public interest.
ii) Disciplinary penalties must be fair and proportionate to the misconduct.

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18. **Lahore High Court**
Dr. Nakshab Chaudhry Vs. Province of the Punjab and others
Writ Petition No. 46054/2024
Mr. Justice Tariq Saleem Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC54.pdf

Facts: The petitioner, a senior academic at a medical university established under King Edward Medical University Lahore Act,2005 (the "KEMU Act"), challenges the government's interference in appointing teaching faculty. It is alleged that such appointments, made by the government without the approval of the university's Syndicate, contravene the statutory autonomy granted to the King Edward Medical University under the KEMU Act. Whereas the government defends its actions based on transitional provisions in the statute and the necessity of fulfilling accreditation standards.

Issues: i) Does the Syndicate hold exclusive authority under the King Edward Medical University Act to create teaching posts and appoint individuals to positions equivalent to BPS-19 or above?
ii) Does the proviso to Section 20(2) of the KEMU Act grant the government authority to make ongoing appointments or transfers of teaching staff beyond the transitional period?
iii) Does Section 5 of the KEMU Act limit the government's administrative control over attached hospitals while granting the university exclusive teaching jurisdiction?
iv) What is the distinction between an "aggrieved party" and an "aggrieved person" under Article 199 of the Constitution, and how does this affect the High Court's jurisdiction?
v) Who are the key members and authorities responsible for the governance and administration of the university?
vi) What is the legal status and capacity of the university as a corporate entity?
vii) What authority does the university has to create and fill academic posts?
viii) What are the responsibilities and appointment powers of the Vice-Chancellor?
ix) What is the role of the Senate in the university's administration?
x) What are the powers of the Syndicate regarding appointments and the creation or abolition of posts?
xi) How should a proviso in a statute be interpreted?
xii) When does the High Court exercise its discretionary jurisdiction under Article 199 of the Constitution?

Analysis: i) Direct transfers or appointments by the Government to teaching posts in KEMU, without requisition or approval by the Syndicate, contravene section 25(xv) of the KEMU Act. Such actions constitute unlawful interference in the University's affairs, compromise its autonomy, and violate the objective and structure of the Act.

ii) By its plain language of proviso to section 20(2) of the KEMU Act, the proviso allows the Government to transfer employees who opted to remain with the Government back to the University, subject to terms determined by the Government. This mechanism was intended to address transitional exigencies and does not grant the Government perpetual or unrestricted power to make appointments or transfers beyond the scope of the initial transition.

iii) Section 5 further grants KEMU exclusive jurisdiction over teaching in its attached hospitals. However, the administrative control of these hospitals remains with the Government.

iv) The High Court must be moved by an aggrieved party in respect of the matters mentioned in clauses (i) & (ii) of Article 199(1)(a), while any person may approach it for an order under clauses (i) & (ii) of Article 199(1)(b). As for the matters falling within the ambit of Article 199(1)(c), it can exercise jurisdiction only on the application of an aggrieved person. It is important to note that Article 199 has used two expressions: "aggrieved party" and "aggrieved person".

v) Section 3(2) of the KEMU Act stipulates that KEMU shall consist of the Chancellor, the Pro-Chancellor, the Vice Chancellor, the Pro-Vice Chancellor and members of the Senate, the Syndicate, the Academic Council, and other authorities.

vi) Section 3(3) of the Act states that the University shall be a body corporate and shall have perpetual succession and a common seal. It may sue and be sued by the said name.

vii) Section 4 of the Act outlines the University's functions. Clause (j) of section 4 empowers it to create jobs of Professors, Associate Professors, Assistant Professors, and Demonstrators and other posts for research, publication, extension, administration, and other related purposes and to appoint persons thereto.

viii) Section 14(1) of the KEMU Act designates the Vice-Chancellor as the chief executive of KEMU, responsible for controlling all offices, teachers, and employees and enforcing the provisions of the Act, Rules, and Regulations. Clause ix) of section 14(4) grants the Vice-Chancellor the authority to make appointments to posts in BPS-1 to BPS-18.

ix) Section 23 declares the Senate as the highest administrative and executive body of the University and describes its functions.

x) Section 25 defines the Syndicate's powers, including appointing honorary visiting faculty (clause xiv), creating or abolishing posts for teaching, administrative, and research positions (clauses xv and xvi), and appointing teachers and officers for posts equivalent to BPS-19 or above (on the recommendations of the Selection Board), determining their terms and conditions, including pay (clause xvii). Clause (xviii) empowers the Syndicate to appoint a Professor Emeritus under prescribed terms.

xi) Craies on Statute Law has enumerated the following principles: "The effect of an excepting or qualifying proviso, according to the ordinary rules of construction, is to except out of the preceding portion of the enactment, or to qualify something enacted therein, which but for the proviso would be within it; and such a proviso

cannot be construed as enlarging the scope of an enactment when it can be fairly and properly construed without attributing it to that effect."

xii) It is well settled that the jurisdiction of the High Court under Article 199 of the Constitution, except in habeas corpus cases, is discretionary. In exercising this discretion, the court must consider a range of factors, including the facts of the case, the urgency for exercising its discretion, the potential consequences of granting the writ, and the nature and extent of the wrong or injury resulting from a refusal of the writ.

Conclusion: i) Such actions constitute unlawful interference in the University's affairs, compromise its autonomy, and violate the objective and structure of the Act.

ii) This mechanism does not grant the Government perpetual or unrestricted power to make appointments or transfers beyond the scope of the initial transition.

iii) See above analysis no iii.

iv) See above analysis no iv.

v) See above analysis no v.

vi) University shall be a body corporate and shall have perpetual succession and a common seal.

vii) See above analysis no vii.

viii) See above analysis no viii.

ix) Senate is the highest administrative and executive body of the University

x) See above analysis no x.

xi) See above analysis no xi.

xii) See above analysis no xii.

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19. **Lahore High Court**

Sadiq Hussain and another v. Deputy Director, Federal Investigation Agency, and others

Writ Petition No.12935/2024

Mr. Justice Tariq Saleem Sheikh

https://sys.lhc.gov.pk/appjudgments/2024LHC6351.pdf

Facts: The petitioners challenged the registration of an FIR under the Prevention of Trafficking in Persons Act, 2018, the Emigration Ordinance, 1979, and the Pakistan Penal Code, alleging that the charges were misapplied and violated their constitutional rights to travel and practice religion. The petitioners filed a writ petition under Article 199 of the Constitution seeking quashing of the FIR.

Issues: i) Whether sections 3 and 4 of the Prevention of Trafficking in Persons Act, 2018, apply in cases of suspected organized begging?

ii) Whether an immigration authority can restrict travel under domestic and international legal obligations?

iii) Whether the High Court can interfere in the investigative process under its constitutional jurisdiction?

Analysis: i) Under the PTPA, beggary does not inherently constitute trafficking unless it involves elements meeting the legal threshold of trafficking as stipulated in section 3(1), i.e., coercion, fraud, manipulation, or other forms of exploitation by a third party. Even when beggary is limited in duration – such as cases bound by visa restrictions – it can still be classified as trafficking under the PTPA if exploitative elements are present.

ii) Pakistan has a comprehensive legal framework to regulate the entry and exit of individuals, including both citizens and foreigners, at its borders. Standing Order No. 31/2005 empowers the Special Checking Officer to scrutinize passengers whose profiles appear inconsistent with their stated purpose of travel. In the context of human trafficking, the FIA must adhere to the PTP Rules. Recently, the FIA Risk Analysis Unit developed a standardized set of interview questions to assist immigration staff in identifying individuals suspected of travelling abroad for organized beggary.

iii) The Supreme Court has consistently held that the High Court should not interrupt or divert the ordinary course of criminal procedure as prescribed by the procedural statute by invoking Article 199 of the Constitution or section 561-A Cr.P.C. The grounds ordinarily considered for quashing an FIR are: (a) a jurisdictional defect evident on record, (b) a patent violation of some provision of law, or (c) the allegations contained in the FIR do not constitute an offence… The Supreme Court has underscored that determining the guilt or innocence of an accused person is a rigorous judicial process… The Court cautioned against invoking section 561-A Cr.P.C. to prematurely decide criminal cases, as such a deviation risks undermining the purpose of a fair trial. It held that extraordinary circumstances must exist to justify departing from the prescribed procedural path.

Conclusion: i) The determination of trafficking requires a factual inquiry into coercion, fraud, or economic exploitation.

ii) Immigration authorities have the legal authority to impose travel restrictions to prevent exploitation and uphold international commitments.

iii) The High Court should not interfere in ongoing investigations unless there is clear abuse of legal authority.

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20. **Lahore High Court**
Criminal Appeal No.180 of 2021
Sadaqat & another v. The State & another
Criminal Appeal No.247 of 2021
Habib Ullah v. The State & 2 others
Murder Reference No.07 of 2021
The State v. Sadaqat & another
Mr. Justice Ch. Abdul Aziz, Mr. Justice Sadiq Mahmud Khurram
https://sys.lhc.gov.pk/appjudgments/2024LHC6372.pdf

Facts: The appellants were sentenced to death by the trial court for murder; whereas, acquitted one co-accused.

Issues: i) How the promptness of FIR is to be evaluated in murder cases?
ii) What information must be given in 'Inquest Report'; and why to submit before Medical Officer prior to postmortem?
iii) When one accused acquitted, then how the conviction of co-accused could sustain on the same?
iv) What is worth of evidence of a witness, who makes dishonest improvements?
v) What is the importance of medical evidence?
vi) How the site plan attains evidentiary value and when it could be contradicted?
vii) What is the effect of non-mentioning of crime empties in column no. 22 and 23 of the Inquest Report?
viii) How and under what circumstances a party is allowed to re-examine its witness?
ix) What is 'Hostile Witness'; how to declare a witness hostile and what is the extent of cross-examination by the party calling him?
x) What is difference between hostile witness and cross-examination?

Analysis: i) Being cognizant of the fact that the purity of criminal administration of justice including the police working has plummeted to a noticeable extent due to which the police station record is always prone to tampering, thus we pondered upon the acclaimed prompt registration of FIR with utmost circumspection. Unfortunately, it has become trend of police investigation to facilitate the complainant of a murder case by putting at halt Registers No.1 & 2 more commonly known as First Information Report Register and Station Diary respectively, so as to show a crime report though lodged with delay as having been promptly registered…It is further noticed that the complaint (Exh.PA) was drafted at the crime scene and was dispatched to police station through Muhammad Nadeem 1443/C for the registration of formal FIR but neither he was cited as witness in the prosecution case nor was produced during trial as such. The claim of registration of FIR without delay is a factor which is not to be projected through rhetoric but is to be substantiated through impeccable evidence.
ii) According to Chapter-XXV Rule 35 of the Police Rules, 1934 the inquest report is drafted by the Investigating Officer after recording the statement of complainant and collection of relevant material from the crime scene. The inquest report comprises upon four pages and contains twenty four columns, besides that its last page is meant for mentioning the brief facts of the case emerging from the accusation set out by the complainant. Twenty four columns of the inquest report provide information about the place of occurrence, the time of incident, the names of witnesses, particulars of the deceased along with condition of the corpse, the nature as well as locales of injuries, the description of weapon used in the crime and above all the articles recovered from the spot. It is equally important to mention here that since the statement of at least the complainant is to be recorded before drafting of inquest report, thus the police officer gains knowledge about the identity of the culprits and the weapons used by them. The inquest report is to

be prepared in duplicate by the carbon copying process in a prescribed format and is essentially required to be provided to the Medical Officer before the autopsy as is evident from the provisions of **Chapter-XXV of the Police Rules, 1934** and the **Instructions Regarding The Conduct Of Medco Legal And Postmortem Examination 2015** issued by the Surgeon Medico Legal Punjab, Lahore. As token of acknowledgement upon receipt of inquest report before the autopsy with all the columns filled properly, the medical officer is required to sign its each and every page. If the needful towards drafting of inquest report is done in accordance with afore-mentioned requirements, it excludes the possibility of tampering with record.

iii) Reverting back to the query that when the eyewitnesses have been disbelieved to the extent of Mewa and that too for cogent reasons, then what will be the fate of their depositions with regard to the appellants. Unambiguously, the acquittal of Mewa has polluted the purity of the evidence given by both the eyewitnesses, thus conviction of the appellants can only be sustained on the same ocular account if it receives independent strong corroboration from some other source of irreproachable nature.

iv) We are constrained to hold that through such dishonest improvement he compromised his integrity which left a question mark upon the intrinsic worth of his deposition. The approach of the Supreme Court of Pakistan regarding material dishonest improvement is consistently against the maker of such statement, whereby the fresh facts introduced during trial are discarded from consideration.

v) The acceptance of the depositions of eyewitnesses even in the presence of a noticeable glitch between medical and ocular evidence amounts to discarding the statement of a medical expert without assigning any reasoning which perhaps will be nothing more than an injustice and besides that it will give leverage to false witnesses for securing conviction against innocent even after being contradicted by the medical evidence. Beyond everything, such practice on the part of the courts will give vent to frustrating the very purpose of collecting medical evidence in a charge pertaining to offences against human body. The medical evidence, needless to mention, is furnished by an expert and is aimed at enabling the court to adjudge the veracity of the accusations set out by the eyewitnesses in murder or hurt cases. This will not be an overstatement that medical evidence sheds light upon the depositions of eyewitnesses and draws a distinguishing line between the truthful and false narration about the incident. The deposition of an honest medical practitioner abridges the gap between the accusations of the witnesses and the flawless administration of justice by the court. For the same reason, on account of a noticeable variation between medical and ocular evidence a consistent judicial view is formed to acquit the accused.

vi) We are not oblivious of the fact that unless it is proved that the site plan was prepared on the pointation of eyewitnesses it cannot be used to contradict them or for any other legal purpose. On the contrary, if the site plan is duly proved to have been drafted on the pointing out of the eyewitnesses, it provides an insight about the nature of crime scene, the location of witnesses, the distance between victim

and assailants, besides that it enables the Court to draw a vision about the actual genesis of the occurrence. Habib Ullah (PW.4) unequivocally admitted that the site plan was prepared on the pointation provided by him and the other eyewitnesses. In these circumstances the site plan (Exh.PH) does not remain a simple piece of paper rather gains evidentiary value so as to be legally and legitimately used by this Court.

vii) The afore-mentioned positive report (Exh.PR) lost its significance when seen in the context of column No.22 & 23 of inquest report (Exh.PG) according to which no crime empty was recovered from the place of occurrence. Possibly, the crime empties were planted by the police so as to knit an evidence for corroborating the statements of eyewitnesses.

viii) During examination-in-chief, the party calling the witness is restrained from putting leading questions, if objected by the other side as is evident from Article 137 (1). On the contrary, in accordance with Article 133 (2) the scope of cross-examination is wide in nature and besides queries relating to the point in issue a witness can be questioned beyond it. So far as re-examination under Article 132(3) of QSO is concerned, it can be carried out by the party who had called the witness, almost as a matter of right but its scope is limited to the extent of providing an opportunity to the prosecution for reconciling the discrepancies, if any, between examination-in-chief and cross-examination or for removing some ambiguity in any statement inadvertently made by a witness during cross-examination. The re-examination under Article 132(3) of QSO must be restricted for explaining inadvertent omissions or out of context issues arising in cross-examination. In the absence of some ambiguity or a fact needing explanation, re-examination under 132(3) of QSO cannot be carried out to counter the effect of some benefit having been accrued to the defence during cross-examination. We have to keep in mind that through cross-examination a defence lawyer endeavours to structure the case of his client by establishing some facts contradicting the witness with his previous statement, exposing the credibility of a witness by confronting him with other attending circumstances and thereby knits a defence. The very purpose of cross-examination would be frustrated if a witness is permitted to overcome the effect of shortcomings through the tool of re-examination. According to Article 133(3) of QSO the re-examination must be directed to the explanation of the matters referred to in cross-examination and the foregoing provision places a restriction that a new fact can only be introduced with the permission of the Court which for obvious reason is to be granted in writing.

ix) The language of Article 150 is free from any ambiguity and leaves no room for discussion that cross-examination of a witness by a party calling him in the dock is entirely dependent upon the discretion of the Court which can only be accorded if there exists a compelling circumstance. For demonstrating that the discretion was lawfully exercised by the Court in terms of Article 150 of QSO, there must be an order backed by the reasoning and that too upon the application moved by the party mentioning therein attending circumstances. If such

permission is granted by the Court, then in consonance with Article 141 of QSO a witness can be asked any question which tend to test his veracity, to discover who he is and what is his position in life or to shake his credit by injuring his character although answer to such question may tend directly or indirectly to criminate him or even may expose him to a penalty or forfeiture. The power under Article 150 of QSO is exercised by the Court in reference to a witness who becomes antagonist to the party on whose behalf he appears before the Court. Such witness ordinarily is labelled as hostile, a term which though is not used in the Qanoon-e-Shahdat Order, 1984 as well as erstwhile Evidence Act, 1872 but is developed through common law.

x) Through re-examination an ambiguity stemming out of cross-examination can be removed whereas Article 150 is a provision which enables the prosecution to extract truth from a witness who turns hostile during his examination-in-chief or even during cross-examination and takes a stance different from his version earlier put forth. It is essentially required for the Court to have a look upon the previous statement/stance of the witness before declaring him hostile. If such witness is a police officer who had given an opinion favourable to accused during investigative phase of the case and he reiterates the same in his examination-in-chief, declaring him hostile will be a fallacious approach.

Conclusion: i) The claim of registration of FIR without delay is a factor which is not to be projected through rhetoric but is to be substantiated through impeccable evidence.

ii) See above analysis (ii).

iii) Conviction of co-accused can only be sustained on the same evidence if it receives independent strong corroboration from some other source of irreproachable nature.

iv) The fresh facts introduced during trial are discarded from consideration.

v) The medical evidence, needless to mention, is furnished by an expert and is aimed at enabling the court to adjudge the veracity of the accusations set out by the eyewitnesses in murder or hurt cases.

vi) When it is proved that site plan is prepared at the pointation of eye witnesses, it could be contradicted only if so established and attains evidentiary value.

vii) Failure to mention crime empties in Inquest Report would amount that recover of empties, if any is planted.

viii) See above analysis (viii).

ix) See above analysis (ix).

x) See above analysis (x).

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21. **Lahore High Court**
Maqbool Ahmad v. The State etc.
Crl. Misc. No.8741-B of 2022
Mr. Justice Anwaarul Haq Pannun
https://sys.lhc.gov.pk/appjudgments/2023LHC7781.pdf

Facts: The case involves the alleged sale of substandard fertilizer, where a sample taken from a shop was found unfit upon chemical analysis. The petitioner, a sales officer, was booked along with the shop and factory owners, despite no allegation of tampering or adulteration against him. The court also noted the department' failure to take action against the manufacturer and to seal the godown.

Issues: i) What are the fundamental legal and ethical principles that police must follow to maintain public confidence and legitimacy?

Analysis i) It may be observed that good policing is the policing which is both effective and fair as well as with legitimacy on the basis of public consensus rather than repression. If the policing is ineffective, illegitimate or unfair in protecting the public against crime, it will lose the public's confidence. Therefore, it is expected that the police should have a high degree of professionalism and independence from any influences and should act in conformity with the law and established policies as well as on the basis of public consent (within the framework of the law) as evidenced by levels of public confidence. With this model in mind, an analysis of the current police investigation system can be made, identifying gaps and weaknesses and developing suggestions for its improvement.

Conclusion: i) Policing must be fair, effective, and legitimate to maintain public confidence.

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22. **Lahore High Court, Multan Bench, Multan,**
Nasim Hakim, etc. v. Province of Punjab, etc.
Writ Petition No.1987/ 2022
Mr. Justice Asim Hafeez.
https://sys.lhc.gov.pk/appjudgments/2025LHC38.pdf

Facts: Petitioners through instant constitutional petition have disputed the acquisition of their lands under Land Acquisition Act, 1894 ("the Act") alleging that they were stripped of their constitutionally protected rights i.e. right to own, enjoy and unitize the property, in arbitrary manner and without adhering to the statutory safeguards provided under the Constitution of Islamic republic of Pakistan 1973.

Issues: i) Whether question of adequacy of compensation can be determined under constitutional jurisdiction?
ii) How the objections regarding inadequacy of quantum of compensation and nature can be raised and remedied?
iii) What is purpose of notice under S.9 of the Act?
iv) Whether the constitutionality of the acquisition or legality of notifications under section 4 and section 17 of the Act can be challenged under Section 9 of the Act?
v) Whether non-appearance of interested persons, pursuant to notice under S.9 of the Act would render the Award ineffective or void?

Analysis: i) Question of adequacy of compensation was neither raised and nor such determination would likely be carried out under constitutional jurisdiction.

ii) Objections regarding inadequacy of quantum of compensation and nature / extent of the interest of the petitioners – context being the ownership claims – could be raised upon invoking the remedies provided under the Act, subject to the conditionalities prescribed.
iii) Purpose of section 9 notice, appearing from textual reading of said provision, is to categorically convey the intent of taking possession and to invite claims to compensation against acquisition.
iv) Section 9 of the Act is not an all-encompassing provision, and certainly not extending the option of filing objections to challenge the constitutionality of the acquisition or legality of notifications under section 4 and section 17 of the Act.
v) Simplicitor non-appearance of the interested persons, pursuant to notice under section 9 of the Act would not render the Award ineffective or void.

Conclusion: i) Adequacy of compensation cannot be determined under constitutional jurisdiction.
ii) See above analysis No.ii).
iii) Purpose of notice under S.9 of the Act is to convey the intent of taking possession and to invite claims to compensation against acquisition.
iv) See above analysis No.iv).
v) Non-appearance of interested person would not render the Award ineffective or void.

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23. **Lahore High Court**
Sahib Bibi & another. v. Khushi Muhammad (deceased) through LRs.
Civil Revision No.2116 of 2011
Mr. Justice Ahmad Nadeem Arshad
https://sys.lhc.gov.pk/appjudgments/2025LHC104.pdf

Facts: The case involves a dispute over the inheritance of a deceased individual, where the petitioners claimed succession based on a particular religious sect. The respondents contested the inheritance mutation, asserting that the deceased belonged to a different sect, which would alter the distribution of the estate. The courts determined the sect of the deceased based on the preponderance of evidence and upheld the respondents' claim. Hence; this Revision.

Issues: i) What is the legal standard for determining the religious sect of a deceased individual in inheritance matters?
ii) What is the evidentiary burden in proving the religious sect of a deceased individual in inheritance disputes?
iii) Is there a presumption regarding the sect of a Muslim individual in the Indo-Pak Subcontinent?
iv) How does the burden of proof apply in cases where a party claims a different religious sect for inheritance purposes?
v) What is the difference between Ushar and Khums in Islamic financial obligations?
vi) What is the role of Revenue Officers in inheritance disputes involving religious sect determination?

vii) Can concurrent findings of fact be disturbed in revisional jurisdiction under Section 115 of the CPC?

Analysis: i) No strict criteria can be set to determine the faith of a person, and thus, to pass any finding thereon, the Courts are to consider the surrounding circumstances; way of life, parental faith and faith of other close relatives.

ii) In civil dispensation of justice, Courts are to adjudge the lis on the standard of preponderance of probability of evidence produced by the parties and the decision of the court would tilt in favour of the party having preponderance of evidence. As for the burden of proving a fact is concerned, it gains importance and relevance, only when no evidence is led by the concerned party or the Court is unable to take a decision, one way or the other, on the basis of evidence available on record of the case.

iii) In a case titled "Pathana V. Mst. Wasai and another." (PLD 1965 SC 134), a five-member Bench of the Hon‟ble Supreme Court of Pakistan, held that every Muslim in the Sub-continent is presumed to belong to Sunni sect, unless "good evidence" to the contrary is produced by the party contesting the same. The Court ruled that: "In the Indo Pak Sub-continent there is the initial presumption that a Muslim is governed by Hanafi Law, unless the contrary is established by good evidence (vide Mulla's Muhammadan Law, section 28)"

iv) In the case titled "Abdul Rehman and others V. Mst. Allah Wasai and others" (2022 SCMR 399), Hon‟ble Supreme Court of Pakistan observed as under: "As per Article 117 of the Qanun-e-Shahadat 1984, the burden of proof lies on a person, who desires a Court to give judgment, as to a legal right or liability dependent on the existence of facts, which he asserts; while under Article 118 (supra), burden of proof in any suit or proceeding lies on a person, who would fail, if no evidence at all were given on either side. Hence, when a plaintiff comes to a Court, and seeks relief on the basis of certain facts, asserted by him in his plaint, the burden of proving those facts is on him; for the relief prayed for cannot be granted, unless the Court holds the existence of those facts proved.

v) In the Shia sect, the practice of paying Ushar (or Ushur) is not observed. Ushar refers to a tithe, typically a 10% tax on agricultural produce, which is more commonly associated with traditional Islamic practices and laws in some Sunni communities. However, in the context of Shia Islam, the concept that closely resembles this kind of financial obligation is Khums. Khums is an important obligation for Shia Muslims and is a religious tax that is paid annually, amounting to 1/5 of one's surplus income, which is divided into two parts. 50% goes to the descendants of the Prophet Muhammad (اسدات(, particularly to those who are eligible for this portion. Remaining 50% is used for religious leaders/scholars and for the upkeep of religious institutions.

vi) Undoubtedly, the proceedings before the Revenue Officer are "summary" in nature, this does not absolve the officer from ensuring that the proper procedure is followed when faced with a legal dispute. Sanctioning an inheritance mutation based solely on oral testimonies, especially when there is a clear sectarian dispute,

is problematic.(…) In cases where the sect of the deceased is in dispute, the appropriate course of action would be for the Revenue Officer to refer the matter to a court of competent jurisdiction. This referral would ensure that the dispute is adjudicated by a judicial authority with the expertise and authority to examine the evidence, including testimonies, documents, and make a determination regarding the deceased‟s sect.

vi) Even otherwise, concurrent findings on facts cannot be disturbed when the same do not suffer from misreading and non-reading of evidence, howsoever erroneous in exercise of revisional jurisdiction under section 115, Code of Civil Procedure, 1908.

Conclusion: i) Faith is determined by surrounding circumstances, way of life, and family beliefs.

ii) Decisions rely on preponderance of evidence; burden arises when no clear proof exists.

iii) Muslims in Indo-Pak Sub-continent are presumed Sunni unless proven otherwise with good evidence.

iv) The party asserting a fact must prove it to obtain relief.

v) Ushar is a Sunni tithe on crops; Khums is a Shia tax on surplus income.

vi) Revenue Officers must refer sectarian inheritance disputes to courts of competent jurisdiction

vii) Concurrent findings stand unless based on misreading or non-reading of evidence.

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24. **Lahore High Court, Lahore**
Asif Atta vs. The State, etc.
Criminal Appeal No.40068/2020
Mr. Justice Muhammad Amjad Rafiq
https://sys.lhc.gov.pk/appjudgments/2025LHC33.pdf

Facts: Appellant assailed the order whereby he was convicted under section 174 of Pakistan Penal Code 1860 (PPC) and sentenced to undergo seven days' imprisonment by learned Additional Sessions Judge.

Issues: i) What is the special procedure to regulate the proceedings of offences of contempt of lawful authority, false evidence and public justice?

ii) What is the procedure for trial of offences mentioned U/S 195, sub section 1, clause (a) of Cr.P.C?

iii) Whether complaint is necessary to be forwarded to authorize magistrate when offences U/S 172-188 PPC are committed before a judge or in contempt of his lawful authority, or is brought under his notice but other than High court?

iv) Whether Learned Additional Sessions Judge was authorized to pass sentence U/S 174 PPC?

Analysis: i) Contempt of lawful authority of a public servant & false evidence and offences

against public justice are regulated under Chapters X & XI of PPC which consist of sections 172 to 190 & 191 to 229. In order to initiate proceedings in certain offences mentioned in above chapters, section 195 Cr.P.C prescribes special procedure.

ii) Offences mentioned under section 195, subsection (1), clause (a) of Cr.P.C., (Sections 172 to 188 PPC) are variously regulated for trial. Procedure for offences under sections 175, 178, 179, 180, as well as section 228 PPC (though section 228 PPC can also be dealt with under section 476 Cr.P.C) has been given in section 480 of Cr.P.C.

iii) All offences in bracket of section 172-188 PPC shall ordinarily be tried under chapter XX of Cr.P.C., on a complaint, if the Judge or Magistrate does not attend offences under sections 175, 178, 179 & 180 of PPC within the purview of procedure prescribed under section 480 of Cr.P.C; but when such offences are committed before himself or in contempt of his lawful authority, or is brought under his notice, as such Judge or Magistrate (except Judge of High Court) in the course of a judicial proceeding, he shall not try it himself. This command of law is incorporated in section 487 of Cr.P.C.

iv) Learned Additional Sessions Judge has sentenced the appellant under section 174 of PPC for his failure to produce the accused against whom notice was issued on petition for cancellation of his bail. Section 174 falls in category of offences mentioned in section 195, sub-section (1), clause (a), therefore, learned Additional Sessions Judge was not authorized to sentence the appellant by himself, rather complaint should have been forwarded to the Magistrate having jurisdiction in the matter, and on receiving such complaint concerned Magistrate is not required to record statement of Judge as mentioned in section 200 of Cr.P.C., rather follow the process contained in section 200 to 204 Cr.P.C., and provisions relating to trial as the case may be.

Conclusion: i) See above analysis No.i.

ii) See above analysis No.ii.

iii) Complaint is necessary to be forwarded to authorize magistrate when offences U/S 172-188 PPC are committed before a judge other than High court or in contempt of his lawful authority, or is brought under his notice

iv) see above analysis No iv.

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25. **Lahore High Court, Lahore**
Cargo United Goods Transport Company, etc. v. Province of Punjab, etc.
Writ Petitions No. 51697of 2023 and 66220 of 2024
Mr. Justice Abid Hussain Chatha
https://sys.lhc.gov.pk/appjudgments/2025LHC69.pdf

Facts: The vehicles of the petitioners loaded with goods were confiscated by police to block roads against the protests. The vehicles were put fire which caused huge loss to the petitioners. Through two writ petitions the Petitioners claim compensation of losses suffered by them and seek declaration to the effect that the

arbitrary act of impounding, confiscating and detaining vehicles is unlawful and unconstitutional.

Issues: i) Whether power of judicial review can be exercised in the last resort?

Analysis: i) This Court is mindful of the fact that in the last resort in terms of constitutional dispensation, it may have to answer the foresaid questions itself in exercise of its powers of judicial review.

Conclusion: i) In the last resort the court has power of judicial review.

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26. **Lahore High Court.**
Mansoor Ali vs. Mst. Anam Hussain, etc.
Writ Petition No.819 of 2020
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2024LHC6335.pdf

Facts: A dispute arose regarding the maintenance claims for a minor, the depreciation of dowry articles, and related issues following the dissolution of a marriage. The trial court awarded maintenance to the minor and alternate compensation for dowry articles while dismissing some claims. Both parties appealed; the appellate court dismissed the appeals, leading to the present writ petitions before the Lahore High Court.

Issues: i) Can depreciation in the value of dowry articles during litigation be imposed on the female plaintiff?
ii) Can a father be obligated to pay child maintenance beyond his financial means?
iii) Can child maintenance, once fixed, be reduced if the father's financial circumstances adversely change?

Analysis: i) If depreciation of the dowry articles for such a period is forced upon a female while calculating the alternate value of dowry articles, this would amount to putting a premium on the conduct of the husband who withheld the dowry articles, depriving the female of her belongings for the period during which the suit remained pending, on account of not admitting the claim of the female straightaway.
ii) The father's responsibility to maintain his children is a religious, moral, and legal obligation, while at the same time, the right of the children to be maintained by their father is a legal, religious, and natural right… The object of the law, no doubt, is to provide financial security to children and to ensure that a father does not avoid his legal, moral and religious obligation to maintain his children, however, the purpose is certainly not to penalize the father or to place a burden on him, greater than he can actually bear.
iii) Maintenance, as also the financial resources, is not a static rather changing phenomenon. The financial means of father as well as financial needs of the minor may undergo change positively, adversely and/or inversely as well. The Court, in determining the quantum of maintenance, cannot act in an arbitrary manner but should in fact carry out an evidence-based exercise to determine the

needs of the minor and the financial capacity of the father in terms of his earnings and assets etc. It is equally clear that fixation of an oppressive or over burdensome quantum of maintenance, without regard to the father's sources of income, is also improper and cannot be allowed. In this regard, the Supreme Court of Pakistan held as under:

> '... the Family Court is under an obligation while granting the maintenance allowance, to keep in mind the financial condition and status of the father. It has to make an inquiry in this regard. It cannot act arbitrarily or whimsically. Furthermore, at the same time, the unjust enrichment of the minors cannot be permitted at the cost of the father.'

In application of the principles emanating out of the above discussion, it may be stated that while the maintenance can be enhanced and is enhanced statutorily and/or by decree of the Court, the same can be reduced as well with the changed financial circumstances of the father.

Conclusion: i) Depreciation during litigation cannot be imposed on the female plaintiff if it results from the husband's non-admission of claims.
ii) A father cannot be burdened with maintenance obligations beyond his financial means.
iii) Child maintenance can be reduced if the father's financial circumstances change adversely.

LATEST LEGISLATION/AMENDMENTS

1. Vide Income Tax (Amendment) Ordinance, 2024 dated 29-12-2024, amendments in first and seventh schedule are made in the Income Tax Ordinance, 2001.
2. Vide Notification No.AD-E-II/4536/VI dated 11-11-2024, amendments in rule 7 & 8 are made in Sub-Inspectors and Inspectors (Appointment and Conditions of Service) Rules 2013.
3. Vide Notification No.SOT(M&M)1-5/2001(Part File) dated 25-11-2024, Terms & Conditions of competitive bidding for prospecting licenses under Small Scale Mining are published.
4. Vide notification No. No.SOT(M&M)1-5/2001(Part File) dated 25-11-2024, Terms & Conditions of competitive bidding for mining lease under Small Scale Mining are published.
5. Vide notification No. No.SOR(LG)38-3/2017 dated 16-12-2024, amendments are made in Punjab Local Government (Works) Rules 2017.
6. Vide notification No. No.SO(TRG)1-35/2024 dated 13-01-2025, Foundational Learning Policy Punjab (FLPP), 2024 are notified.
7. Vide notification No. NO.SO(A-I)3-1/2024 dated 20-01-2025, Punjab School Management Councils Policy, 2024 is published.
8. Vide notification No.SO(DIS)1-3/2022(P-I) dated 21-01-2025, Punjab Empowerment of Persons with Disabilities Rules, 2024 are published.
9. Vide notification No.SOT(M&M)3-1/2015(VOL-II)/89 dated 03-01-2025, amendments are made in Punjab Mining Concession Rules, 2002.

10. Vide notification No.SOR-III(S&GAD)1-13/2024 dated 03-01-2025, Higher Education Department (Planning, Information and Reform Unit) Service Rules 2024 are published.
11. Vide notification No.HP-II/9-11/2018(P) dated 06-01-2025, amendments are made in Punjab Border Military Police and Baluch Levy Service Rules, 2009.
12. Vide notification No.SO(CAB-I)2-28/2012(P) dated 08-01-2025, amendments are made in first & second schedule of Punjab Government Rules of Business 2011.
13. Vide notification No.SOR-III(S&GAD)1-14/2022 dated 08-01-2025, amendments at serial No.7B of schedule are made in Punjab Directorate General of Archaeology Rules, 1988.

SELECTED ARTICLES

1. **MANUPATRA**
   https://articles.manupatra.com/article-details/INTERNATIONAL-TRADE-LAW-UNDER-TRUMP-20

   INTERNATIONAL TRADE LAW UNDER TRUMP by Alaknanda Mishra, Vikash Kumar

   After The US's 2024 historical presidential contest is won by Donald Trump will take the oath and start his second term from the 20 Jan. This victory of Trump gives hints for his upcoming trade policies, glimpses of which can be seen throughout his election campaign. This article analyzes Donald J. Trump's ideas on his upcoming trade policies. Many economists comment that Trump's statement on foreign trade policy is based on two main objectives. The first is based On the principle of 'fair trade' and the second on stopping delocalization of productive activities from the USA and creating jobs to boost the US economy. In order to increase tariffs which aimed to reshape US Foreign trade policy? According to sec 201, 301 of trade act, 1974, IEEPA, Sec 232 of Trade expansion act, 1962, Trump increased tariffs on China, Mexico and universal tariff respectively. In his second term as president post, they tried to repeat his previous economic policies. Author analysis the Trump statements in different election campaigns on different types of tariff policy and section agenda.

2. **MANUPATRA**
   https://articles.manupatra.com/article-details/Reconciliation-Realised-A-Dive-into-Restorative-Justice-Paradigm

   RESTORATIVE JUSTICE: A VIABLE ALTERNATIVE IN CRIMINAL LAW? by Hemant Singh

   Restorative justice is a concept that predates modern legal systems, finding its roots in traditional and community-based justice mechanisms. Indigenous cultures, including several tribal communities in India, historically used methods of reconciliation and

community involvement to address crimes and disputes. For instance, in many tribal societies in Northeast India, restorative principles are embedded in customary practices that prioritize collective wellbeing over punitive action.2 The Gandhian philosophy of Sarvodaya (universal upliftment) and Ahimsa (non-violence) also reflects restorative values, emphasizing forgiveness, dialogue, and reconciliation. These principles resonate with restorative justice's goal to repair harm and restore social harmony rather than focusing solely on punishment.3

3. **MANUPATRA**
https://articles.manupatra.com/article-details/BEYOND-THE-VISIBLE-MENTAL-CRUELTY-AND-THE-LAW-OF-DIVORCE

BEYOND THE VISIBLE: MENTAL CRUELTY AND THE LAW OF DIVORCE by Dhyey Jani and Zarana Acharya

Cruelty, a significant issue in matrimonial law, extends beyond physical violence to include emotional and psychological abuse. Its definition has evolved in Indian divorce law, acknowledging that mental harm can make marriage unbearable. Black's Law Dictionary defines mental cruelty as conduct causing anguish that endangers a spouse's physical or mental health. However, mental cruelty cannot be confined to a fixed definition, as it varies with changing societal norms. Indian law, particularly through the Hindu Marriage Act Amendment Act 1976, recognizes mental cruelty as a valid ground for divorce under Section 13(1)(ia). The Special Marriage Act, 1954, similarly emphasizes mental health in marriage. Mental cruelty encompasses more than mere quarrels or frustrations, including emotional assault, demeaning behaviour, abandonment, and degradation. Unlike physical abuse, it is often subtle and embedded in daily interactions, making it challenging to prove. Judges must carefully analyze behavioural patterns and psychological trauma to deliver justice in such cases.

4. **Lawyers Club India**
https://www.lawyersclubindia.com/articles/usa-exits-who-what-is-the-process-and-implication-for-the-usa--17356.asp

USA Exits WHO: What is the process and implication for the USA? By Sankalp Tiwari

The WHO is the global health flagship agency coordinating collaborative responses to public health emergencies, guiding health policies, and working towards universal healthcare for all. The WHO was established in the aftermath of World War II, which was a significant step toward global cooperation that emphasized the principle that health transcends national boundaries and is a fundamental human right. The operations of WHO are based on a solid universal membership and cooperation. However, the framework through which countries affiliate with WHO does not seem entirely immune to trouble. While many member states enjoy cooperative relations, tensions have on occasion resulted in withdrawal threats and funding rows, as demonstrated by the

attempt by the United States to pull out of WHO in 2020. The occurrence of these events raises urgent questions about the stability and the governance of the WHO in the increasingly politicized global landscape.

5. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/how-to-add-auto-captions-to-instagram-reels-17329.asp

   How to Add Auto-Captions to Instagram Reels by Yaksh Sharma

   Imagine scrolling through Instagram and stumbling upon a video that grabs your attention, but you're in a noisy environment or don't have your headphones handy. What keeps you engaged? Captions. They not only attract viewers but also enhance the accessibility of your content for a broader audience, including those who prefer or need to watch videos without sound. Incorporating captions into your Instagram Reels can increase engagement, retention, and reach, ensuring your message is communicated effectively to everyone. In this guide, we'll walk you through one of the free video editing software to add captions to your videos. CapCut desktop video editor is a more flexible tool that offers greater control over style, accuracy, and customization.