# LAHORE HIGH COURT

# BULLETIN

Fortnightly Case Law Update ***Online Edition***

Volume - V, Issue - XIV

16 - 07 - 2024 to 31 - 07 - 2024

**Published By: Research Centre, Lahore High Court, Lahore**

**Online Available at: https://researchcenter.lhc.gov.pk/Home/CaseLawBulletin**

## *Disclaimer*

*Due care and caution has been taken in preparing and publishing this bulletin. Where required, text has been moderated, edited and re-arranged. The contents available in this Bulletin are just for Information. Users are advised to explore and consult original text before applying or referring to it. Research Centre shall not be responsible for any loss or damage in any manner arising out of applying or referring the contents of Bulletin.*

FORTNIGHTLY CASE LAW BULLETIN

(16-07-2024 to 31-07-2024)

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

JUDGMENTS OF INTEREST

| | | | | |
|---|---|---|---|---|
| | Supreme Court of Pakistan | Presumption of correctness for unregistered documents; Transfer of immovable property valuing one hundred rupees or upwards through unregistered power of attorney. | | |
| 7. | | Results of a criminal case impact issues related to departmental responsibilities and discipline | | 13 |
| 8. | Lahore High Court | Computing the ten-days limit under section 22(2) of the Punjab Rented Premises Act, 2009; Authority of Mutwalli to file ejectment petition; Unregistered lease agreement for 99 years and its default to a month-to-month lease terminable with 15 days' notice | Rent Law | 14 |
| 9. | | Taking of cognizance by Sessions Court directly; Principle underlying the rule "the law requires an act to be done in a specific manner; it has to be done in that manner alone". | Criminal Law | 15 |
| 10. | | Applicability of section 103 CrPC; Nature and object of recovery memo; Requirements of charge; Entitlement of accused to the benefit of doubt as a matter of right | | 16 |
| 11. | | Jurisdiction of court while making an award rule of court; Power of the court to remit award | Civil Law | 18 |
| 12. | | Authority / power of Vice Chancellor to constitute a Fact-Finding Committee | Service Law | 19 |
| 13. | | Scope of section 5 of the Illegal Dispossession Act 2005 for inquiry and investigation; Conducting of an inquiry u/s 202 Cr.P.C. | Criminal Law | 20 |
| 14. | | Implementation of the Juvenile Justice System Act, 2018 | | 21 |
| 15. | | Landlord includes a person for the time being entitled or authorized to receive rent; Stretching the words 'any place of religious worship' to a premise or building that is being used for a commercial purpose | Rent Law | 23 |
| 16. | | Liability of surety is co-extensive with that of the principal debtor; Requirement to proceed against the principal-debtor before institution of the suit against surety | Civil Law | 24 |
| 17. | | Power of Court of Appeal to make an order which ought to have been passed by the Court of first instance but not passed; Arising of question to exercise of any unilateral power by one member of worth Division Bench ; Reference to legislative entries in the fourth schedule to the Constitution is of consequence when body/provisions of the Constitution identify any particular power to legislate; Limits and extent of powers of parliament and provincial assemblies to make law specially with reference to tax matters | | 26 |

## LATEST LEGISLATION/AMENDMENTS



## SELECTED ARTICLES

**1.** **Supreme Court of Pakistan**
**Shahtaj Sugar Mills Ltd. and others (in CA-749/2013)**
**Commissioner Inland Revenue (in CAs 750 to 758 of 2013, 900 of 2014, 918, 943, 944, 946 of 2018 & 1022 of 2019)**
**The Additional Collector (Adjudication) (in CA-945/18)**
**V.**
**Govt. of Pakistan thr. Secretary Finance, etc. (in CA-749/2013)**
**Sakrand Sugar Mills Ltd. (in CA-750/2013)**
**Habib Sugar Mills Ltd. (in CA-751/2013)**
**Al-Noor Sugar Mills Ltd. (in CA-752/2013)**
**Faran Sugar Mills Ltd. (in CA-753/2013)**
**Mirpur Khas Sugar Mills Ltd. (in CA-754/2013)**
**Sindh Abadgar's Sugar Mills Ltd. (in CA-755/2013)**
**Shahmurad Sugar Mills Ltd. (in CA-756/2013)**
**Mehran Sugar Mills Ltd. (in CA-757/2013)**
**Al-Abbas Sugar Mills Ltd. (in CA-758/2013)**
**M/s Dewan Cement Ltd. and others (in CA-900/2014)**
**M/s Pakistan Beverages Ltd. (in CA-918/2018)**
**M/s Bawani Sugar Mills Ltd. (in CA-943/2018)**
**M/s Baba Farid Sugar Mills Ltd. (in CA-944/2018)**
**M/s Shabbir Tiles & Ceramics Ltd. etc. (in CA-945/2018)**
**M/s Dewan Sugar Mills Ltd. (in CA-946//2018)**
**M/s Hamza Sugar Mills Ltd. and another (in CA-1022/2019) Criminal Petition No.201-K of 2023**
**Mr. Justice Qazi Faez Isa, CJ, Mr. Justice Amin-ud-Din Khan, Mr. Justice Athar Minallah**
https://www.supremecourt.gov.pk/downloads_judgements/c.a._749_2013.pdf

**Facts:** All the appeals, except one, have arisen from the judgment of the High Court of Sindh, while the latter assails the consolidated judgment passed by the Lahore High Court. The constitutional petitions filed before the High Court of Sindh were allowed and the department has challenged the consolidated judgment, while the petitions filed before the Lahore High Court were dismissed.

**Issues:** i) Is the Federal Government authorized to impose and collect an additional duty of two percent on the value of goods, over and above the specified rate, by issuing a notification in the official gazette?
ii) Does the delegation of legislative power to the Federal Government for the levy and collection of duties of excise align with Article 77 of the Constitution?
iii) Upon whom is the burden to prove that the promulgated law is invalid?
iv) Can the courts rewrite laws and the Constitution if they believe it necessary?
v) Can courts strike down laws based on ethical notions or philosophical concepts?
vi) Grounds for striking down a law?
vii) Can the legislature delegate its essential legislative functions beyond reasonable limits?
viii) When is the delegation of legislative authority considered impermissible and excessive?

ix) Whether the doctrine of impermissible excessive legislative authority attract to strike down section 3A of the Federal Excise Act 2005?
x) When a claimant is entitled to a refund under the Act of 2005?
xi) Are High Court decisions binding on other High Courts according to Article 201?
xii) What is an indispensable component of dispensing justice?

**Analysis:** i) The Federal Government has been vested with power and jurisdiction to charge, levy and collect a further duty at the rate of two percent of the value in addition to the specified rate. This power may be exercised by notification in the official gazette.

ii) The legislature has manifestly expressed its intention to levy and collect duties of excise and has empowered the Board or the Federal Government to give effect to the levy and charge by fulfilling certain conditions. Such delegation of power by the legislature is not an unusual phenomenon. The legislature merely delegates the power to the Federal Government so as to enable it to work out certain details and exercise its discretion in order to achieve the object of the statute. The legislature, by no stretch of the imagination, abdicates its power and authority expressly provided under Article 77 of the Constitution.

iii) … The judicial branch has no jurisdiction to promulgate laws and, therefore, stringent rules and principles have been laid down in the context of the exercise of the power of judicial review, relating to examining the vires of a law promulgated by the legislature. The foundational rule of interpretation is a presumption in favour of constitutionality. The burden to prove that the promulgated law is invalid is on the person who challenges its vires. Based on the said rule, this Court has enunciated the principle that law should be saved rather than be destroyed and that courts must lean in favour of upholding the constitutionality of legislation.

iv) … The wisdom of the legislature to promulgate a law and to achieve a particular object and purpose cannot be questioned and, therefore, it is presumed that laws have been legally, validly and constitutionally promulgated on the basis of its competence. The courts have no jurisdiction or power to rewrite the laws and the Constitution. The promulgated laws or its provisions cannot be struck down lightly and it is the duty of the courts to make every possible effort to reconcile the statute to the Constitution and to strike it down when it becomes impossible to do so.

v) … The courts are not empowered to strike down a law or its provision on higher ethical notions or on the basis of philosophical concepts and no mala fide can be attributed to the legislature. It is the duty of the courts to give effect to the scheme of representative governance of the State which is the foundation and the edifice of the Constitution is built on it. This Court has, therefore, laid down stringent and narrow grounds in the context of striking down a law or a provision while exercising the power of judicial review.

vi) In Ms. Imrana Tiwana's case this Court, after surveying its jurisprudence, has summarised the grounds for striking down a law and they are as follows;

(i) There is a presumption in favour of constitutionality and a law must not be declared unconstitutional unless the statute is placed next to the Constitution and no way can be found in reconciling the two;

(ii) Where more than one interpretation is possible, one of which would make the law valid and the other void, the Court must prefer the interpretation which favours validity;

(iii) A statute must never be declared unconstitutional unless its invalidity is beyond reasonable doubt. A reasonable doubt must be resolved in favour of the
statute being valid;

(iv) If a case can be decided on other or narrower grounds, the Court will abstain from deciding the constitutional question;

(v) The Court will not decide a larger constitutional question than is necessary for the determination of the case;

(vi) The Court will not declare a statute unconstitutional on the ground that it violates the spirit of the Constitution unless it also violates the letter of the Constitution;

(vii) The Court is not concerned with the wisdom or prudence of the legislation but only with its constitutionality;

(viii) The Court will not strike down statutes on principles of republican or democratic government unless those principles are placed beyond legislative encroachment by the Constitution.

(ix) Mala fides will not be attributed to the Legislature

… The courts should lean in favour of upholding the constitutionality of the legislature and it is therefore incumbent upon the courts to be extremely reluctant to strike down laws as being unconstitutional. It was emphasized that this power should be exercised only when absolutely necessary, for injudicious exercise of this power was likely to result in grave and serious consequences.

vii) It is settled law that the essential legislative functions cannot be delegated beyond reasonable limits because doing so would be in violation of the Constitution. The legislature, being the creation of the Constitution, does not inherently possess absolute legislative power but the same can only be exercised in conformity with the powers granted by the Constitution. The legislature, therefore, determines the legislative policies and sets out the principles and standards for guidance of the delegated authority. The fundamental legislative responsibility, undoubtedly, cannot be delegated. The delegation must adhere to certain constraints. The general principles set out for exercising the power of legislation are met by the Majlis-e-Shoora (Parliament) and once that has been done, the delegation of the authority is confined to making subordinate legislation or to attend to other matters of administration and details. The primary functions expressly stated in the Constitution have to be fulfilled by the legislature itself while the latter may delegate ancillary and incidental functions to an outside agency or authority.

viii) The delegation of legislative authority will be impermissible and excessive

when the legislature has not laid down the policy of law, has failed to provide standards for guidance or when the essential legislative functions have been delegated to an outside entity in violation of the limits set out in the Constitution. As long the legislature has set out procedural safeguards and has prescribed the standards, the delegation cannot be construed as impermissible or excessive.

ix) We have already discussed the nature and extent of delegation under section 3A of the Act of 2005. We have also carefully perused the reasoning of the High Court in support of striking down section 3A of the Act of 2005. The reasoning is based on presumptions, rather on the apprehension, that the power vested in the Federal Government could be abused. This ground is definitely in violation of the principles enunciated in the context of striking down a law promulgated by the legislature as highlighted above. The legislature had not abdicated its essential legislative functions, rather, incidental and ancillary functions were delegated to the Federal Government. The doctrine of impermissible excessive legislative authority was not attracted and, therefore, section 3A could not have been struck down in the circumstances.

x) But assuming that a claim of refund was made out, even then the High Court was not competent to order the refund in violation of the provisions of the Act of 2005. Section 44 of the Act of 2005 sets out the conditions and procedure for claiming refund. It is noted that duty of excise or special excise duty fall within the ambit of indirect taxes. The burden is transferred to the consumer. In the case of refund, a competent authority has to be satisfied that the burden has not been transferred to the consumer before allowing the claim. This becomes crucial in order to ensure that the claimant is not unjustly enriched. The claimant will not be entitled to refund if the latter fails to discharge the onus that the burden of duty was not transferred to the consumer. The High Court was, therefore, not justified nor competent to order the refund of the special excise duty collected under section 3A of the Act of 2005 despite having struck down the said provision. Even in such an eventuality the only remedy available to a claimant would have been to file an application for refund under the Act of 2005.

xi) Article 201 does not state that a High Court's decision is binding on other High Courts too. On the other hand Article 189 of the Constitution, reproduced hereunder, stipulates that the decisions of the Supreme Court are binding on all other courts, which would include all High Courts, but not the Supreme Court itself since the word other is used in Article 189.

xii) An indispensable component of dispensing justice is to deliver judgments within a reasonable time. 'To no one will we refuse or delay, right or justice'3 may be the first articulation of the oft quoted legal maxim – 'justice delayed is justice denied.' This maxim has for hundreds of years been used in various forms, all of which signify the same thing. 'Swift justice is the sweetest.' 'To delay Justice is Injustice'. 'If we be just men, we should go forward in the name of truth and right, and bear this in mind, that when the case is ripe and the hour has come – justice delayed is justice denied. Delay will drain even a just judgment of its value. Justice too long delayed is justice denied.

**Conclusion:** i) This power may be exercised by notification in the official gazette.
ii) The legislature, by no stretch of the imagination, abdicates its power and authority expressly provided under Article 77 of the Constitution.
iii) The burden to prove that the promulgated law is invalid is on the person who challenges its vires.
iv) No, courts cannot rewrite laws and the Constitution; they can only strike down laws if reconciliation with the Constitution is impossible.
v) See above analysis no. v.
vi) See above analysis no. vi.
vii) See above analysis no. vii.
viii) The delegation of legislative authority is considered impermissible and excessive when the legislature has not laid down the policy of law, failed to provide standards for guidance, or delegated essential legislative functions to an outside entity in violation of constitutional limits.
ix) No, the doctrine of impermissible excessive legislative authority does not attract to strike down section 3A of the Federal Excise Act 2005.
x) See above analysis no. x.
xi) No, Article 201 does not state that a High Court's decision is binding on other High Courts.
xii) See above analysis no. xii.

---

**2.** **Supreme Court of Pakistan**
**Aamir Afzal and another v. S. Akmal (deceased) through LRs and two others**
**Civil Appeal No.648 OF 2022 AND CMA 5213 OF 2022**
**Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Jamal Khan Mandokhail, Mr Justice Athar Minallah**
https://www.supremecourt.gov.pk/downloads_judgements/c.a._648_2022.pdf

**Facts:** The appellants have assailed the judgment of the High Court whereby concurrent findings recorded by two competent courts were set aside while exercising revisional jurisdiction under section 115 of the Code of Civil Procedure Code, 1908.

**Issues:** i) Requirement of Rule 4 of Order VI of the CPC**.**
ii) Grounds for exercising jurisdiction under section 115 of the CPC.
iii) Scope of jurisdiction under section 115 of CPC in relation to concurrent findings.

**Analysis:** i) Rule 4 of order VI of the CPC explicitly provides that in all cases in which the party pleading relies, inter alia, on fraud, shall state in the pleadings particulars with dates and items if necessary. It is settled law that the parties are required to plead all facts that may constitute a cause of action for any relief or in defence, as the case may be. A party which alleges a fact has to prove the same and the ingredients of fraud have to be narrated and stated by giving particulars thereof. It is settled law that fraud must be specifically alleged and its particulars

unequivocally stated. This Court has consistently held that general allegations, however strong the words may be, are insufficient to constitute an assertion of fraud and that vague allegations in a plaint are not enough.

ii) It is settled law that while exercising jurisdiction under Article 115 of the CPC the High Court has to first satisfy itself: (i) that the order of the subordinate court is within its jurisdiction, (ii) that the case is one in which the court ought to exercise jurisdiction; and that in exercising jurisdiction that court has not acted illegally, that is, in breach of some provisions of law, or with material irregularity by committing some error of procedure in the course of the trial which is material in that it may have affected the ultimate decision. Section 115 applies only to cases in which no appeal lies, and where the legislature has provided no right of appeal. The manifest intention of the legislature is that the order of the trial court, right or wrong, shall be final, except in specific circumstances.

iii) The scope of jurisdiction of the High Court under Section 115 of the CPC is limited in relation to concurrent findings of the competent courts. The exceptions to this rule are when the findings are based on insufficient evidence, misreading of evidence, non consideration of material evidence, patent errors of law, consideration of inadmissible evidence, abuse of jurisdiction, when the conclusions drawn are perverse and based on conjectural presumptions. The erroneous decisions of fact are ordinarily not revisable and the mere fact that the High Court may differ on a question of fact or mixed question of law and fact is not a valid ground for interfering with concurrent findings. Moreover, the concurrent findings recorded on the basis of evidence is not susceptible to further review to justify interference by the High Court in revisional jurisdiction. The interference by a High Court in such jurisdiction would not be justified on the ground that reappraisal of evidence might suggest another view of the matter unless there has been a gross misreading of evidence and material evidence was ignored.

**Conclusion:** i) It is settled law that fraud must be specifically alleged and its particulars unequivocally stated.

ii) See above analysis no. ii.

iii) The scope of jurisdiction of the High Court under Section 115 of the CPC is limited in relation to concurrent findings of the competent courts. The exceptions to this rule are when the findings are based on insufficient evidence, misreading of evidence, non consideration of material evidence, patent errors of law, consideration of inadmissible evidence, abuse of jurisdiction, when the conclusions drawn are perverse and based on conjectural presumptions.

---

**3.** **Supreme Court of Pakistan**
**Azhar Pervaiz Bukhar v. The State & another**
**Crl.P.L.A No.619-L of 2024**
**Mr. Justice Yahya Afridi, Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Irfan Saadat Khan**
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._619_l_2024.pdf

**Facts:** The petitioner sought leave to appeal against an order passed by High Court whereby his pre-arrest bail was declined in case FIR under Section 489-F PPC.

**Issue:** Where the relief of pre-arrest bail can be granted to an accused if he fails to establish the mala fide on the part of complainant or the police?

**Analysis:** Bail before arrest is an extraordinary relief which cannot be granted unless person seeking it satisfies conditions specified under section 497(2) Cr.P.C. and establishes existence of reasonable grounds leading to believe that there are in fact sufficient grounds warranting further inquiry…It is a settled principle of law that relief of pre-arrest bail can only be granted to the accused if he establishes the mala fide on the part of complainant or the police.

**Conclusion:** The relief of pre-arrest bail cannot be granted to an accused if he fails to establish the mala fide on the part of complainant or the police.

---

**4.** **Supreme Court of Pakistan**
**Muhammad Shamim Ali v. Mst. Asma Begum & others**
**Civil Petition No.263-K of 2024**
**Mr. Justice Muhammad Ali Mazhar, Mr. Justice Irfan Saadat Khan**
https://www.supremecourt.gov.pk/downloads_judgements/c.p._263_k_2024.pdf

**Facts:** The respondent filed a family suit for dissolution of the marriage, recovery of dowry articles and monthly maintenance before the Family Judge against the petitioner which was decreed and the appeal as well Writ Petition filed by the petitioner against decree were also dismissed by Appellate court and High Court as well, hence this Petition.

**Issues:** i) Can the Supreme Court's jurisdiction under Article 185(3) of the Constitution extend beyond concurrent findings of fact?
ii) What is the object of enforcing the West Pakistan Family Courts Act, 1964, in the perspective of exclusively adjudicating family cases by Family Courts?

**Analysis:** i) At the outset, it is stated that firstly this Court is not a fact-finding Court and secondly in its jurisdiction under Article 185 (3) of the Constitution, this Court cannot go behind concurrent findings of fact unless it can be shown that the findings on the face of it were against the evidence or so patently improbable, or perverse that to accept it would amount to perpetuating a grave miscarriage of justice or if there has been any misapplication of the principle relating to appreciation of evidence or the finding could be demonstrated to be physically impossible.
ii) Having said, we do not wish to delve upon the factual controversies involved in the present matter and therefore confine ourselves to the exclusive jurisdiction vested in the Family Courts, as identified in the impugned judgment. It is clear from the preamble of the Family Act that the law was enforced with a vivid object to take out the matters falling within the ambit thereof from the ordinary regime

qua dispensation of justice, and for the expeditious disposal of such matters, a special forum was created in which the rigors of procedural implications and the requirements of the Evidence Law (Qanoon-e-Shahadat Order, 1984) were either dispensed with or were simplified; with an addition of a statutory mechanism, enabling the parties for an amicable settlement of their disputes.

**Conclusions:** i) The Supreme Court's jurisdiction under Article 185(3) of the Constitution cannot extend beyond concurrent findings of fact unless it can be shown that the findings on the face of it against the evidence or principle relating to appreciation of evidence or a grave miscarriage of justice.
ii) See above analysis no. ii.

---

**5.** **Supreme Court of Pakistan**
**Niaz Ahmed & another v. Aijaz Ahmed & Others**
**Criminal Petition No.66-K & 67-K of 2024**
**Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Aqeel Ahmed Abbasi**
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._66_k_2024_n.pdf

**Facts:** The trial court accepted the application of the respondent no.1 filed under section 7 of Illegal Dispossession Act, 2005 wherein possession of property was restored and dismissed the petitioners application submitted under section 265 K of Cr.PC. The High Court dismissed the two Criminal Revisions filed by the petitioners hence, this leave to appeal.

**Issues:** i) Whether Illegal Dispossession Act, 2005 is a unique legislation aimed to safeguarding legitimate owners and occupants of immovable properties?
ii) What is the settled principle of law for complainant in order to make out a case under sections 3 and 4 of the Illegal Dispossession Act, 2005?
iii) Whether the Illegal Dispossession Act, 2005 imposes any precondition on the basis of which a particular class of offenders could only be prosecuted?
iv) Whether a person can be tried under an Act which entails civil liability under civil law and criminal penalty under criminal law, for both kinds of proceedings?
v) What are the conditions for invocation and application of section 7 of Illegal Dispossession Act, 2005?
vi) What is the scope and applicability of sections 265 –K and 249 –A of Cr.PC?
vii) Whether section 265-K of the Cr.P.C is designed to prevent unnecessary trials when a conviction is unlikely?
viii) Whether the provisions of section 249-A, section 265-K and section 561-A of the Cr.P.C, should normally be pressed into action for decision of fate of a criminal cases?
ix) Whether departure can be made from the settled principle of law that in normal circumstances, full-fledged trial has to be conducted providing fair opportunities to the prosecution to prove evidence?
x) What are the extraordinary cricumstances to prove that there is no probability

of conviction?

**Analysis:** i) The IDA, 2005 is a unique legislation aimed to safeguarding legitimate owners and occupants of immovable properties from being unlawfully or forcefully deprived of their possessions by Illegal occupants or grabbers. This legislation specifies the category of persons who can approach the court of competent jurisdiction for seeking relief i.e. the owner or occupier.

ii) It is settled principle of law that in order to make out a case under sections 3 and 4 of the IDA, 2005, complainant has to prima facie establish before the court that he is the lawful owner or was the occupier of the subject property; that accused had entered into or upon the said property without having any lawful authority; that the accused had done so with the intention to dispossess or to grab or to control or to occupy the said property.

iii) No provision of the Illegal Dispossession Act, 2005 imposes any precondition on the basis of which a particular class of offenders could only be prosecuted. The Act aims at granting efficacious relief to lawful owners and occupiers in case they are dispossessed by anyone without lawful authority. Section 3(1) of the said Act by using the terms 'anyone' and 'whoever' for the offenders clearly warns all persons from committing the offence described therein and when found guilty by the court are to be punished without attaching any condition whatsoever as to the maintainability of the complaint. So all that the court has to see is whether the accused nominated in the complaint has entered into or upon the property in dispute in order to dispossess, grab, control, or occupy it without any lawful authority. Nothing else is required to be established by the complainant as no precondition has been attached under any provision of the said Act, which conveys the command of the legislature that only such accused would be prosecuted who holds the credentials and antecedents of 'land grabbers' or 'Qabza Group'. It does not appeal to reason that for commission of an offence reported in the complaint filed under the Illegal Dispossession Act, 2005 the Legislature would intend to punish only those who hold history of committing a particular kind of offence but would let go an accused who though has committed the offence reported in the complaint but does not hold the record of committing a particular kind of offence. The trial of a case is to be relatable to the property which is subject matter of the complaint, pure and simple. Any past history of the accused with regard to his act of dispossession having no nexus with the complaint cannot be taken into consideration in order to decide whether the accused stands qualified to be awarded a sentence under the Act or not. Once the offence reported in the complaint stands proved against the accused then he cannot escape punishment under the Illegal Dispossession Act, 2005.

iv) Any act which entails civil liability under civil law as well as criminal penalty under criminal law, such as the Illegal Dispossession Act, 2005 then a person can be tried under both kinds of proceedings, which are independent of each other. Once the offence reported in the complaint stands proved against the accused within the confines of the provisions of the Illegal Dispossession Act, 2005 then

he cannot escape punishment on the ground that some civil litigation on the same issue is pending adjudication between the parties. No one can be allowed to take law in his own hands and unlawfully dispossess an owner or lawful occupier of an immovable property and then seek to thwart the criminal proceedings initiated against him under the Illegal Dispossession Act, 2005 on the pretext that civil litigation on the issue is pending adjudication between the parties in a court of law. Therefore, irrespective of any civil litigation that may be pending in any court, where an offence, as described in the Illegal Dispossession Act, 2005, has been committed, the proceedings under the said Act can be initiated as the same would be maintainable in law.

v) The bare perusal of section 7(1) of IDA, 2005 reveals three principal considerations/conditions; Firstly, the jurisdiction conferred thereby is exercisable during the trial only. Thus, interim relief can be granted by the court when trial is still in progress even when the guilt of accused has not been established; Secondly, the use of expression prima facie indicates that court has to only form a prima facie opinion and must be satisfied that accused is not in lawful possession of the property. This requirement is less onerous and distinct from reaching a conclusive finding or determination that the accused has entered the property without lawful authority with intent to dispossess, grab, or control the immovable property as specified in the third and fourth elements of section 3 of IDA, 2005. The use of the expression not in lawful possession by the Legislature appears to be a deliberate choice reflecting a less stringent criterion to enable interim relief during the trial this is because the offence under section 3 can only be proved/otherwise at the conclusion of the trial; and Finally, if the court finds that section 7 is applicable then it is duty bound to provide interim relief specified therein. Thus, interim order under section 7 of IDA, 2005 can be passed when prima facie it is established to the satisfaction of the court that the accused is in unlawful possession of the immoveable property and complainant is either owner or was in a lawful possession of the immoveable property before dispossession.

vi) The Cr.P.C has granted an inherent jurisdiction by virtue of sections 249-A and 265-K to the trial courts to acquit any or all accused at any stage of the judicial proceedings for reasons to be recorded, after providing an opportunity of hearing to the parties. The bare perusal of the section 265-K of Cr.PC, reveals that law permits the exercise of powers at any stage of the case without specifying a particular stage. The words at any stage used in both the sections include the stages before or after framing of the charge or after recording of some evidence. The only condition required to be fulfilled is the adherence to the principle of audi alteram partem, ensuring both parties are heard and afterwards if the court considers that there is no probability of the conviction of the accused, it may take appropriate action.

vii) Section 265-K of the Cr.P.C is designed to prevent unnecessary trials when a conviction is unlikely. Thus, available evidence, whether presented or pending, must be carefully evaluated to assess the possibility of conviction. Evidence must

be thoroughly examined rather than just briefly reviewed hence conscious application of judicial mind is mandatory for assessment of incriminating material collected during the course of investigation in order to test the same on the touchstone of probability.

viii) The Supreme Court did not approve decision of criminal cases on an application under section 249- A, Cr.P.C. or such allied or similar provisions of law, namely, section 265-K, Cr.P.C, and observed that usually a criminal case should be allowed to be disposed of on merits after recording of the prosecution evidence, after recording statement of the accused under section 342, Cr.P.C. If so desired by the accused persons and hearing the arguments of the counsel of the parties and that the provisions of section 249-A, section 265-K and section 561-A of the Cr.P.C. should not normally be pressed into action for decision of fate of a criminal cases.

ix) It is a settled principle of law that in normal circumstances, full- fledged trial has to be conducted providing fair opportunities to the prosecution to prove evidence. However, departure can be made from the settled practice when extraordinary circumstances are shown. The extraordinary circumstances means and includes inability of prosecution to collect incriminating evidence during the course of investigation sufficient to record conviction.

x) In order to establish extraordinary circumstances and to prove that there is no probability of conviction, accused mainly relies on any of the following grounds:- (i) that even if the facts alleged by the prosecution are taken to be true on their face value, they do not make out/constitute the commission of any offence by the accused; (ii) that there is no evidence or incriminating material supporting the alleged offence; (iii) the evidence gathered is insufficient for a conviction, even if presented at trial; and (iv) the existing prosecution evidence does not support a conviction, and any additional evidence is unlikely to strengthen the case against the accused.

**Conclusion:** i) Yes, Illegal Dispossession Act, 2005 is a unique legislation aimed to safeguarding legitimate owners and occupants of immovable properties from being unlawfully or forcefully deprived of their possessions by Illegal occupants or grabbers.

ii) It is settled principle of law that in order to make out a case under sections 3 and 4 of the IDA, 2005, complainant has to prima facie establish before the court that he is the lawful owner or was the occupier of the subject property.

iii) No provision of the Illegal Dispossession Act, 2005 imposes any precondition on the basis of which a particular class of offenders could only be prosecuted.

iv) Yes, any act which entails civil liability under civil law as well as criminal penalty under criminal law, such as the Illegal Dispossession Act, 2005 then a person can be tried under both kinds of proceedings, which are independent of each other.

v) Interim order under section 7 of IDA, 2005 can be passed when prima facie it is established to the satisfaction of the court that the accused is in unlawful

possession of the immoveable property and complainant is either owner or was in a lawful possession of the immoveable property before dispossession.

vi) The Cr.P.C has granted an inherent jurisdiction by virtue of sections 249-A and 265-K to the trial courts to acquit any or all accused at any stage of the judicial proceedings for reasons to be recorded, after providing an opportunity of hearing to the parties.

vii) Yes, section 265-K of the Cr.P.C is designed to prevent unnecessary trials when a conviction is unlikely.

viii) No, the provisions of section 249-A, section 265-K and section 561-A of the Cr.P.C. should not normally be pressed into action for decision of fate of a criminal cases.

ix) Yes, departure can be made from the settled practice when extraordinary circumstances are shown.

x) See above under analysis no. x.

---

**6.** **Supreme Court of Pakistan**
**Syed Pervaiz Hussain and another v. Zikr-ur-Rehman and others**
**Civil Petition No. 520-K of 2024**
**Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Aqeel Ahmed Abbasi.**
https://www.supremecourt.gov.pk/downloads_judgements/c.p._520_k_2024.pdf

**Facts:** The instant Civil Petition for leave to appeal has been filed against the impugned judgment and decree passed by the learned Single Judge of the High Court of Sindh in IInd Appeal whereby the learned Single Judge has been pleased to dismiss the said appeal filed against the judgment passed by the trial Court and the order in Civil Appeal passed by the learned District Judge vide judgment and Decree has been duly affirmed.

**Issues:** i) Whether the non-production of the Notary Public and attesting witnesses, precludes the application of the presumption of authenticity under Article 95 of the Qanun-e-Shahdat Order, 1984?

ii) Whether the presumption of correctness can be attached to an unregistered document registration of which is compulsory?

iii) Whether an immovable property valuing one hundred rupees and upwards, can be transferred based on unregistered power-of-attorney which otherwise has not been proved in terms of Article 79 of the Qanun-e-Shahadat Order, 1984?

**Analysis:** i) The petitioners could not produce the Notary Public or the attesting witnesses of the alleged power-of-attorney, the execution of which has been expressly denied by the predecessor-in-interest of respondents No.1 to 10 nor even examined the respondents No. 12 and 13 (alleged attorney and sub-attorney), therefore, presumption as to authenticity of the same in terms of Article 95 of the Qanun-e-Shahdat Order, 1984 as argued by the learned counsel for the petitioners is not attracted in the instant case.

ii) whereas as per Registration Act, 1908 the documents of which registration is

compulsory include (a) instrument of gift of immovable property: and (b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent of the value of one hundred rupees and upwards, to or in immovable property. In the case in hand, there is no registered power-of-attorney, therefore, presumption of correctness can not be attached in terms of Section 49 of the Registration Act, 1908.

iii) It is pertinent to note that admittedly, the basic document i.e. general power-of-attorney dated 19.02.1977 allegedly executed by predecessor-in-interest of respondents No.1 to 10, namely, Fazal-ur-Rehman in favour of Muhammad Shafi has neither been registered nor the said document could be proved in terms of Article 79 of the Qanun-e-Shahadat Order, 1984 which provides that if a document is required by law to be attested, it shall not be used as evidence until two attesting witnesses at least, have been called for the purpose of proving its execution, if there be two attesting witnesses alive and subject to the process of the Court and capable of giving evidence.(…) It is also pertinent to observe that any tangible immovable property of the value of one hundred rupees and upwards, cannot be transferred except through a registered document in terms of Section 54 of the Transfer of Property Act, 1882.(…) The learned counsel for the petitioners was confronted to assist the Court as to whether in the absence of any registered document, whose registration was compulsory, any immovable property can be transferred on the basis of purported unregistered general power-of-attorney, which otherwise has not been produced or exhibited in terms of Article 79 of the Qanun-e-Shahadat Order, 1984, as neither the alleged attorney/sub attorney or the Notary Public and the attesting witnesses of such alleged general power-of-attorney were produced by the predecessor-in-interest of the petitioners, the learned counsel for the petitioner could not submit any response nor could deny the factual and legal position as discussed hereinabove.

**Conclusions:** i) The non-production of the Notary Public and attesting witnesses, precludes the application of the presumption of authenticity under Article 95 of the Qanun-e-Shahdat Order, 1984.

ii) The presumption of correctness cannot be attached to an unregistered document, the registration of which is compulsory.

iii) An immovable property valuing one hundred rupees and upwards, cannot be transferred through unregistered power-of-attorney which otherwise has not been proved in terms of Article 79 of the Qanun-e-Shahadat Order, 1984.

---

**7.** **Supreme Court of Pakistan**
**Mumtaz Uddin Shaikh v. Chief Post Master GPO Hyderabad & Others**
**Civil Petition No.516-K of 2022**
**Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Aqeel Ahmed Abbasi**
https://www.supremecourt.gov.pk/downloads_judgements/c.p._516_k_2022.pdf

**Facts:** Through this petition, the petitioner has assailed the Judgment passed by Federal Service Tribunal Islamabad whereby Appeal filed by him has been dismissed.

**Issue:** Whether the results of a criminal case impact issues related to departmental responsibilities and discipline?

**Analysis:** Criminal proceedings address allegations of criminal conduct and determine legal culpability, while departmental proceedings are connected with matters of service discipline and conduct. Thus, the results of a criminal case do not necessarily impact issues related to departmental responsibilities and discipline. …The decision of disciplinary proceedings would have no bearing to the decision of criminal case or vice versa. … Thus, there is no cavil to the preposition that departmental proceedings and criminal proceedings operate independently and are not mutually exclusive. Departmental proceedings are governed by distinct laws, procedures, and evidentiary standards, which differ from those in criminal cases. Because of these differences, a criminal acquittal does not automatically influence the results of departmental proceedings provided that all legal and procedural requirements have been duly complied with.

**Conclusions:** The results of a criminal case do not necessarily impact issues related to departmental responsibilities and discipline.

---

**8.** **Lahore High Court Lahore**
**M/S Phipsons Company (Pvt.) Limited v. Zahid Moyeen etc.**
**W.P No. 1913 of 2020**
**Mr. Justice Abid Aziz Sheikh**
https://sys.lhc.gov.pk/appjudgments/2024LHC3422.pdf

**Facts:** Instant constitutional petition is directed against the final order and judgment passed by learned Special Judge (Rent) and Appellate Court respectively, whereby the ejectment petition filed by respondent No.1 against the petitioner was allowed.

**Issue:** (i) Whether the first day of appearance is to be excluded or not for computing the ten days limitation under section 22(2) of the Punjab Rented Premises Act, 2009?
(ii) Can the Mutwalli, authorized to lease out Trust property and receive rent, be considered a landlord and therefore have the legal standing to file an ejectment petition?
(iii) If an unregistered lease agreement extends a lease for 99 years, does it deem to be a month-to-month lease terminable with 15 days' notice?

**Analysis:** (i) …held that in view of section 8 of the Act of 1956, the first day of appearance will be excluded for computing the period of ten days. In the aforesaid case, the first appearance before the Court was 05.9.2008 and the leave to contest application was filed on 15.9.2008. However, this Court held that in view of section 8 of the Act of 1956, the first day shall be excluded, hence leave to contest application was within ten days.

(ii) Beside above, the present Mutwalli (Zahid Moyeen) is not only receiving the rent from the petitioner on behalf of Trust (as evident from the petitioner letter dated 25.9.2008) but he is also authorized by the Trust to operate bank account of the Trust where the said rent is being deposited. Under section 15 of the Act, the "landlord" may seek eviction of the tenant on various grounds mentioned therein. The term "landlord" is defined under section 2(d) of the Act which means owner of premises and includes a person entitled or authorized to receive rent in respect of the premises. In view of the above factual and legal positon, notwithstanding the fact that property is vested in the Trust, the Mutwalli being authorized to lease out the property and also receiving rent fall within the definition of landlord and could file ejectment petition.

(iii) ...however, even for the sake of argument if it is accepted that lease period was extended for period of 99 years, the said lease agreement being admittedly not a registered instrument as required under section 17(d) and 49 of the Registration Act, 1908 (Registration Act) read with section 107 of the Transfer of Property Act, 1882 (Transfer of Property Act), shall deem to be a lease from month to month basis terminable on part of lessor or lessee by 15 days notice.

**Conclusion:** (i) In view of section 8 of the Act of 1956, the first day of appearance will be excluded for computing the period of ten days under section 22(2) of the Punjab Rented Premises Act, 2009.

(ii) Yes, the Mutwalli, being authorized to lease out the property and receive rent, falls within the definition of a landlord and could file an ejectment petition.

(iii) See above analysis no. iii.

---

**9.** **Lahore High Court**
**Umar Hasnain and others v. The State and another**
**Crl. Revision No. 148/2023**
**Mr. Justice Tariq Saleem Sheikh**
https://sys.lhc.gov.pk/appjudgments/2023LHC7767.pdf

**Facts:** The Additional Sessions Judge directly admitted the private complaint without it being forwarded by the magistrate, violating sections 190 and 193 of the Code of Criminal Procedure and summoned the Petitioners to face trial by the impugned order. This revision petition under sections 439/435 Cr.P.C. is directed against that order.

**Issues:** i) Whether the Session Court was competent to take cognizance of an offence directly without the medium of the Magistrate?

ii) What is the principle underlying the rule "the law requires an act to be done in a specific manner; it has to be done in that manner alone"?

**Analysis:** i) In Muhammad Aslam and others v. Mst. Natho Bibi (PLD 1977 Lahore 535), this Court held that the Magistrate retains the power of taking cognizance in all cases whether triable by him or by the Court of Session, with the only difference

that before the amendment he could try cases which fell within his jurisdiction and would commit only those cases for trial which would fall in the exclusive jurisdiction of the Court of Session. …The principle that may be deduced from the above discussion is that a private complaint must be filed with the Magistrate unless the law permits otherwise. The Session Court cannot take cognizance of any offence as a court of original jurisdiction unless the Magistrate sends it the case under section 190(2) Cr.P.C.

ii) The rule is well established that where the law requires an act to be done in a specific manner, it has to be done in that manner alone, and such dictate of law cannot be considered a mere technicality… As a result, if a statute confers a power to do an act and specifies how that authority must be exercised, it necessarily prohibits doing the act in any other manner than that which has been prescribed. The principle underlying the rule is that if this were not so, the statutory provision might not have been enacted…

**Conclusion:** i) The Session Court cannot take cognizance of any offence as a court of original jurisdiction unless the Magistrate sends it the case under section 190(2) Cr.P.C.

ii) The principle underlying the rule is that if this were not so, the statutory provision might not have been enacted.

---

**10.** **Lahore High Court**
**Nayyar Abbas v. The State etc.**
**Criminal Appeal No.549 of 2023**
**Mr. Justice Ch. Abdul Aziz, Mr. Justice Anwaarul Haq Pannun**
https://sys.lhc.gov.pk/appjudgments/2024LHC3449.pdf

**Facts:** The appellant was convicted by the trial court under section 9(c) of the Control of Narcotic Substances Act, 1997 and sentenced him to five years and six months R.I. along with fine of Rs.25, 000/-. The appellant has assailed his conviction and sentence by filing the instant appeal.

**Issues:** i) Whether section 103 Cr.P.C is not stricto senso applicable where accused in pursuance of making of his disclosure, during investigation leads to some recovery?

ii) Whether the recovery memo is deemed to be a foundational document particularly in case of theft and the cases under CNSA?

iii) What is the object behind preparing the recovery memo at the spot with its due attestation by the witnesses?

iv) Whether the charge must contain all material particulars as to time, place, specific name of the alleged offence, the manner in which the offence was committed and the particulars of the accused?

v) Whether the reasonable doubt in the mind of the court entitles the accused to the benefit of doubt not as a matter of grace but as a matter of right?

**Analysis:** i) A judicial consensus has however emerged to the effect that Section 103 Cr.P.C

is not stricto senso applicable where accused in pursuance of making of his disclosure, during investigation leads to some recovery. Similarly, in case, the recovery is effected from personal search of an accused or otherwise, by the police officer, the requirement provided for showing a reason for not doing so, association of two respectable persons of the locality may be dispensed with. Unless it is shown by the prosecution that in the circumstances of the case it was not possible to have two musheer from the public, the requirement of two members of the public of the locality in recovery proceedings is mandatory. The police officials, in absence of any malice or grudge against the accused, on their part, had also been held to be as good witnesses of recovery as the respectable of the locality.

ii) It is important to point out that as a result of arrest of a suspect or search of a place, committing or disclosing the commission of an offence under this CNSA, as a mandatory legal requirement, a document has to be prepared, showing the recovery made either from the possession or on pointing out of an accused. Such document also known as recovery memo, is deemed to be a foundational document particularly in case of theft and the cases under CNSA, to undertake further investigation after registration of a formal FIR.

iii) One of the object behind preparing the recovery memo at the spot with its due attestation by the witnesses is to ensure the fairness of the process of recovery so as to exclude the possibility of fabrication, misappropriation or damage to the seized articles either to favour an accused or for his false implication. The recovery memo must contain all relevant particulars of the things seized or taken into possession to establish its identity beyond any doubt. The requirement behind attestation of a recovery memo by the marginal witnesses at the spot is a part of an attempt to ensure that the recovery has transparently been effected as fulfillment of such requirements is necessary to exclude the possibility of false implication or any manipulation prompted by the human weaknesses and to prevent the abuse of process of law and misuse of authority. The attestation of the recovery memo by two witnesses acting as musheer also ensures that a single person at his whims may not abuse the process of law and misuse his authority. The preparation of such recovery memo is also necessary to prove the case by the prosecution at trial against the accused.

iv) The charge must contain all material particulars as to time, place as well as specific name of the alleged offence, the manner in which the offence was committed and the particulars of the accused so as to afford the opportunity to explain the matter with which he is charged. The purpose behind giving such particulars is that the accused should prepare his case accordingly and may not be mislead in preparing his defence. A defective charge seriously prejudice the cause of the accused. The fulfilment of above said requirement is also relevant to achieve the objects deeply ingrained in the provision of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 as a one of the fundamental right.

v) It is cardinal principle of criminal jurisprudence that a single instance causing a

reasonable doubt in the mind of the court entitles the accused to the benefit of doubt not as a matter of grace but as a matter of right. Moreover, once a single loophole/lacuna is observed in a case presented by the prosecution, the benefit whereof in the prosecution case automatically goes in favour of an accused.

**Conclusion:** i) Yes, section 103 Cr.P.C is not stricto senso applicable where accused in pursuance of making of his disclosure, during investigation leads to some recovery.
ii) Yes, such document also known as recovery memo, is deemed to be a foundational document particularly in case of theft and the cases under CNSA, to undertake further investigation after registration of a formal FIR.
iii) One of the object behind preparing the recovery memo at the spot with its due attestation by the witnesses is to ensure the fairness of the process of recovery so as to exclude the possibility of fabrication, misappropriation or damage to the seized articles either to favour an accused or for his false implication.
iv) Yes, the charge must contain all material particulars as to time, place as well as specific name of the alleged offence, the manner in which the offence was committed and the particulars of the accused so as to afford the opportunity to explain the matter with which he is charged.
v) Yes, it is cardinal principle of criminal jurisprudence that a single instance causing a reasonable doubt in the mind of the court entitles the accused to the benefit of doubt not as a matter of grace but as a matter of right.

---

**11.** **Lahore High Court**
**The Punjab Highway Department and others v. Sh. Abdur Razzaq & Company (Pvt) Ltd.**
**F.A.O. No.524 of 2013**
**Mr. Justice Rasaal Hasan Syed**
https://sys.lhc.gov.pk/appjudgments/2024LHC3436.pdf

**Facts:** This order will dispose of the instant appeal as well as F.A.O. as both appeals stem from the same order of learned Civil Judge, whereby the objections to the award of arbitrators were disposed of and award was made rule of court.

**Issues:** i) Whether the court has any jurisdiction to look into the award in the cases where the objections are not filed or are time-barred?
ii) Whether the court can remit the award which does not record reasons as contemplated by law for consideration of the court to determine the legal questions involved in the matter?

**Analysis:** i) Under section 30 of the Act, the award can be set aside on the ground that the arbitrator(s) or umpire had misconducted themselves or the proceedings; that the award was made after the issue of an order by the court superseding the arbitration or after the arbitration proceedings had become invalid under section 35. Section 17 of the Act mandates that where the court sees no cause to remit the award or any of the matters referred to arbitration for consideration or to set aside

the award the court, after the time for making an application to set aside the award has expired or such application having been made, after refusing it, shall proceed to pronounce judgment according to the award and upon the judgment so pronounced a decree shall follow. The provision of section 17 ibid. and the scope of jurisdiction thereunder has remained subject- matter of consideration in number of cases by the superior courts and the consistent rule is that the provision of section 17 imposes the duty upon the court to see that there is no cause to remit the award or any other matter referred to arbitration for consideration or to set aside the award and such power can be exercised suo motu by the court and even in the cases where the objections were not filed or were time- barred. (…) It is manifest from the rule in the cases supra that while making an award rule of court, in a case where the parties did not file objections, the court is not supposed to act in a mechanical manner like the proverbial post office and place its seal on it but it is obligated to look into the award and if it finds patent illegality on the face of award it is empowered to set aside, modify or remit the award for reconsideration.

ii) It is legal commonplace the court while deciding the objections does not act as a court of appeal nor could substitute the findings of the arbitrators, but it does not mean that it will endorse an award that had no evidentiary basis or if reasons given by the arbitrators were legally untenable. Section 26-A of Act will be relevant in this regard which empowers the court to remit the award which does not record reasons as contemplated by law for consideration of the court to determine the legal questions involved in the matter. Section 26-A as incorporated in the Act itself by the Law Reforms Ordinance (XII) of 1972.(…) the arbitrator having ignored an important piece of evidence on record before him, it was patent that he misconducted the proceedings pending before him and that in view of section 26-A whereby an arbitrator is required to give reasons for the award, a heavier responsibility lay on such domestic forums to deal with all matters going to the root of the dispute and failure to do so would constituted misconduct, for the required, to give reasons, is not a meaningless exercise.

**Conclusions:** i) While making an award rule of court, in a case where the parties did not file objections, the court is obligated to look into the award and if it finds patent illegality on the face of award it is empowered to set aside, modify or remit the award for reconsideration.

ii) Section 26-A of Arbitration Act, 1940 empowers the court to remit the award which does not record reasons as contemplated by law for consideration of the court to determine the legal questions involved in the matter.

---

**12.** **Lahore High Court**
**Millat Law College and others v. The Islamia University of Bahawalpur etc.**
**W.P No.4160/2024**
**Mr. Justice Asim Hafeez.**
https://sys.lhc.gov.pk/appjudgments/2024LHC3476.pdf

**Facts:** These constitutional petitions traced their origin from the order whereby learned Division Bench of this Court, while allowing the appeal preferred against the decision of learned Single Judge, remitted the matter for determination of the question of jurisdiction of the Vice Chancellor of Islamia University of Bahawalpur, regarding constituting Fact-Finding Committee, to the Syndicate of the said University. As this and connected constitutional petition raise and seek determination of common question of law, hence, decided through instant order.

**Issue:** Whether the Vice Chancellor of Islamia University of Bahawalpur possesses the authority / power to constitute a Fact-Finding Committee?

**Analysis:** The powers and duties of the Vice Chancellor are defined under section 15 of the Islamia University of Bahawalpur Act, 1975.Therefore, the assignment / power extended upon each of the Authority, in terms of section 29 of the Act ibid, to constitute committee(s) (standing, special or advisory) has to be read and construed in the company of the powers extended and duties assigned to each of the Authority and the Officers of the University supra. Textual reading of section 29 of the Act ibid extends an impression that powers extended thereunder, exercisable by each of the Authority(ies), are discretionary and exercisable 'as they may deem fit'. Hence, an act of formation of the Fact-Finding Committee, in wake of discrepancies in the registration returns record of LLB 03year program, is substantially a matter coming within the domain of administrative functions of the Vice Chancellor of the University supra, who is assigned with the duty of ensuring compliance with laws / statutes / regulations. In wake of the affirmation by the Syndicate, that exercise of power / authority by Vice Chancellor is lawful and permissible.

**Conclusion:** The Vice Chancellor of the Islamia University of Bahawalpur possesses the authority / power to constitute a Fact-Finding Committee regarding matter coming within the domain of his administrative functions.

---

**13.** **Lahore High Court**
**Noor Khan v. The State, etc.**
**Crl. Rev. No.2454 of 2022**
**Mr. Justice Muhammad Amjad Rafiq**
https://sys.lhc.gov.pk/appjudgments/2024LHC3500.pdf

**Facts:** Solicitation is made through this petition for revising the order passed by the learned Additional Sessions Judge, whereby, complaint of the petitioner filed under section 3 of the Illegal Dispossession Act, 2005 (the Act) was dismissed.

**Issues:** i) Scope of section 5 of Illegal Dispossession Act, 2005 for inquiry and investigation.
ii) Conducting of an inquiry under section 202 Cr.P.C

**Analysis:** i) Offences under the Act are non-cognizable, no FIR can be registered, and filing of a direct complaint is the remedy, therefore, if the offence seems not committed,

Court is not bound to order for investigation but if the commission of offence is apparent from the record, Courts must conduct an exhaustive inquiry or order for an investigation to get the relevant material collected for and against the commission of alleged offence, and should not go for trial mere on the basis of cursory statements or documents uncertified.

Spirit of above section requires that on examining the complaint and attached documents, Court may direct officer incharge of police station to investigate and complete the investigation within given or extended period; which means that on receiving such direction by officer incharge of police station, chapter 25 of Police Rules, 1934 relating to power of police officers to investigate becomes operative and it shall be followed to observe all the processes given therein including recording of statements under section 161 Cr.P.C. of witnesses other than those whose cursory statements have already been recorded, if any, plea of accused, inspection of disputed site with spot recoveries if any, preparation of site plan or seeking technical assistance by any expert (revenue, settlement or consolidation officer) after obtaining revenue record and preventing overt act from any side or further dispute except power to arrest the accused without permission by the Court because offence under section 3 of the Act is non-cognizable and Court is equipped with power to direct arrest of offenders as enunciated under sub-sections (2) & (3) of Section-4 of the Act.

Legislator through section 5 of the Act has also taken care of this situation by introducing a concept of local inquiry which further empowers the Court that whenever a local inquiry is necessary for the purpose of this Act, the Court may direct a Magistrate or a revenue officer in the district to make inquiry and submit report within a period specified by the Court….Court can also go for local inspection as well at the stage of preliminary inquiry or during the trial…..On receiving complaint, Court is bound to ascertain the truth and falsehood of the allegation, through inquiry and/or investigation. Inquiry and investigation are not mutually exclusive, Court can resort to both proceedings one after another.

ii) Court jurisprudence sometimes requires conducting of an inquiry under section 202 Cr.P.C. with certain parameters including perusal of police record in connected state case.

**Conclusion:** i) On receiving complaint, Court is bound to ascertain the truth and falsehood of the allegation, through inquiry and/or investigation. Inquiry and investigation are not mutually exclusive, Court can resort to both proceedings one after another.

ii) See analysis no. ii.

---

**14.** **Lahore High Court**
**Rehana Nazir v. District Police Officer, etc.**
**Writ Petition No. 40169/2024**
**Mr. Justice Ali Zia Bajwa**
https://sys.lhc.gov.pk/appjudgments/2024LHC3460.pdf

**Facts:** The petitioner filed Constitutional petition, under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, read with Section 491 of the Criminal

Procedure Code, 1898, and sought the indulgence of High Court for the recovery of her grandson, aged eleven years from the alleged illegal custody of respondent No. 3.

**Issue:** Non-implementation of the Juvenile Justice System Act, 2018 in its true letter and spirit.

**Analysis:** Both executive agencies and Courts in Pakistan are constitutionally and legally bound to uphold the rule of law within their respective domains. This obligation is critical to maintaining justice, ensuring fairness, and protecting the rights of individuals. When a law is not implemented, the duty of the Constitutional Court encompasses several key actions. It undertakes judicial scrutiny, issues enforcement orders, protects Constitutional rights, holds government officials accountable, and prescribes remedial measures. Through these actions, the Court ensures that laws are not merely words on paper but are actively upheld and enforced, preserving the integrity of the legal system. In the above-discussed circumstances, this Court is compelled to issue the following directions to ensure the prompt implementation of The Juvenile Act:-

(I) The respective Government must take immediate and decisive steps to implement The Juvenile Act to the fullest extent and meaning without further delay. It is imperative that no further time is wasted in bringing the protections and reforms of this vital legislation to fruition. For the greater good of our youth, we must ensure that the commitments of this law are swiftly and fully realized.

(II) The Provincial Police Officer shall ensure that a juvenile offender shall be interrogated only by a police officer of a rank not below that of a Sub-Inspector. Such interrogation shall be out under the supervision of a Superintendent of Police (SP) or a Sub-Divisional Police Officer (SDPO). The investigating officer shall be assisted by a probation officer or a social welfare officer notified by the Government.

(III) The Prosecutor General Punjab, as a principal stakeholder in the criminal justice system, must also ensure the strict compliance of The Juvenile Act. It is incumbent upon the concerned prosecutors to promptly identify and address any investigation conducted in violation of this law at the earliest possible stage. By doing so, they safeguard the integrity of the legal process and uphold the rights and protections afforded to juveniles under this beneficial legislation.

(IV) To achieve the true purpose of The Juvenile Act, it is essential to always opt for the disposal of cases through diversion following Section 9 of this Act. Diversion focuses on rehabilitation over punishment, reducing recidivism, minimizing stigma, improving efficiency in the justice system, and prioritizing the best interests and well-being of the juvenile offenders. During the investigation, the investigating agency, and during the trial, the prosecution and trial courts shall refer cases to the Juvenile Justice Committees for disposal through diversion in the prescribed manner.

(V) To ensure strict compliance with The Juvenile Act during investigations, the prosecution and investigating agency must maintain a close and effective liaison. This cooperation is essential to guarantee that juvenile offenders are treated in full accordance with the provisions of the Act, upholding both the spirit and letter of the law.

(VI) The Law and Justice Division, in consultation with the Sessions Judge, shall bring forth the Juvenile Justice Committee in each Sessions Division without slightest delay to ensure effective and meaningful implementation of The Juvenile Act. Without these committees being operational, the true spirit of this law cannot be fully realized.

(VII) To meet the requirements of The Juvenile Act, arrested juveniles shall be kept in observation homes. The Government shall establish these observation homes to provide safe shelter for them in every District. The physical separation of juveniles from adult offenders in detention facilities is non-negotiable, with separate lockups and detention centers dedicated to young offenders.

(VIII) Prosecutors and investigating officers must be thoroughly versed in the provisions and their applications within The Juvenile Act. It is advisable to hold training sessions for them in collaboration with the Prosecution and Police Departments. This proactive approach will ensure that all involved parties are fully equipped to uphold the law and administer justice following the mandates of the law.

**Conclusion:** Directions issued by the court to ensure prompt implementation of the Juvenile Justice System Act, 2018.

---

**15.** **Lahore High Court**
**Waheed Younas v. Addl. District Judge & 3 others**
**Writ Petition No.47196 of 2022**
**Mr. Justice Sultan Tanvir Ahmad**
https://sys.lhc.gov.pk/appjudgments/2024LHC3510.pdf

**Facts:** Through this petition, filed under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, final order passed by the learned Special Judge Rent as well as judgment passed by the learned Additional District Judge, have been challenged.

**Issues:** i) Whether the term ‘landlord’ also includes a person for the time being entitled or authorized to receive rent in respect of the premises?
ii) Can the words ‘any place of religious worship’ be stretched to a premise or building that is being used for a commercial purpose?

**Analysis:** i) Section 2(d) of the Act reads as follows:- "(d)...."landlord" means the owner of a premises and includes a person for the time being entitled or authorized to receive rent in respect of the premises;" The above reflects that the Act admits two categories for the present purposes; (i) the actual owner and (ii) a person for

the time being entitled or authorized to receive the rent… Evidence on record reflect that ejectment-petitioner was authorized to collect rent of the premises and the petitioner defaulted in the payment of rent that he had undertaken in the tenancy agreement. The dispute of ownership, between ejectment-petitioner / Jamia Masjid Insar-ul-Islam and respondent No. 4, is being determined by the forum having authority to record evidence. Hardly any doubt is left that ejectment-petitioner is the one who for the time being was receiving rent with respect to the premises.

ii) The Act provides that application in respect of rented premises shall be filed in the Rent Tribunal for the settlement of the disputes in an expeditious manner. Section 2(f) of the Act defines "premises" as a "building" or rented land not being an agriculture land or subservient to agriculture. The word "building" is defined in section 2(a) of the Act as building or part thereof, together with all fixtures and fittings therein, if any, and includes any garage, garden, godown, out house and open space attached or appurtenant thereto, let out for residential or non-residential purpose, whether actually being used for that purpose or not. However, room in a hotel, hostel, boarding house, guest house or any place of religious worship are excluded. The words 'any place of religious worship' by no means can be stretched to a premises or building that is being used for a commercial purpose. Admittedly, the premises in question are shops, being used for commercial purpose. Reading of the reproduced provisions of law, relied by the learned counsel for the petitioner as well as other provisions of the Act, clearly reveal that any property, space or premises let out for the purpose of business or trade are not intended to be excluded from the definition of building or for that matter premises, thus, the objection of the learned counsel for the petitioner as to maintainability of the ejectment-petition, is rejected.

**Conclusion:** i) The term 'landlord' also includes a person for the time being entitled or authorized to receive rent in respect of the premises.

ii) The words 'any place of religious worship' by no means can be stretched to a premises or building that is being used for a commercial purpose.

---

**16.** **Lahore High Court**
**Muhammad Altaf v. Rana Shakeel Ahmad**
**R. F. A. No. 676 of 2021**
**Mr. Justice Sultan Tanvir Ahmad**
https://sys.lhc.gov.pk/appjudgments/2024LHC3518.pdf

**Facts:** Through this Appeal, and the connected appeal, the appellant and respondent assailed the judgment and decree passed by Trial Court, whereby, suit for recovery under Order XXXVII of CPC filed by respondent was decreed.

**Issues:** i) Whether under section 128 of the Contract Act 1872, the liability of the surety is co-extensive with that of the principal debtor?

ii) Whether the principal-debtor is required to be proceeded against before institution of the suit against surety?

**Analysis:** i) Section 128 of the Contract Act, 1872 (the 'Contract Act') provides that the

liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract. The Note reflects that the Appellant undertook to pay Rs.15,00,000/-, apparently without requirement of any reference to the principal-debtor. There is nothing on record suggesting that anything contrary was settled between the parties. In case titled "Sukur Pradhan and others v. Orissa State Financial Corporation and others" (AIR 1992 ORISSA 281) the Court after referring the entire case law from 1917 to 1992, reached to the conclusion that surety can be held liable to creditor irrespective of remedy which the creditor may have against principal-debtor and the creditor can proceed against the surety without exhausting his remedy against the principal-debtor. The general law as also stated in section 128 of the Contract Act is subject to the stipulations of the contract and if anything different is provided in the contract then the same is to be given effect.

ii) In cases titled "Pakistan Industrial Credit and Investment Corporation Ltd., Karachi versus Fazal Vanaspati Limited, Karachi" (PLD 1993 Karachi 90) and "National Bank of Pakistan versus F. S. Aitzazuddin and 2 others" (PLD 1982 Karachi 577), the Sindh High Court, facing the situation as in present case, made reference to section 137 of the Contract Act, which provides that mere forbearance on the part of the creditor to sue the principal debtor or to enforce any other remedy against him does not, in the absence of any provision in the guarantee to the contrary, discharge the surety. It has been gathered by the learned Sindh High Court that a creditor cannot be compelled to first exhaust his remedy against a principal-debtor, when the contract does not provide anything contrary and mere forbearance to assert claim or pursue remedy against principal debtor, cannot discharge the surety…. In case titled "Suresh Narain Sinha v. Akhauri Balbhadra Prasad and others" (AIR 1957 PATNA 256), the arguments of learned advocate for surety that the suit cannot succeed unless the plaintiff has exhausted his remedies against the principal debtor, were repelled while concluding that failure to sue the principal debtor, until recovery was barred by the statutes of limitation, did not operate as discharge of the surety….. In view of the above discussed provisions of the Contract Act and referred decisions, the argument of Malik Shahid Iqbal Babbar (learned ASC) that the principal-debtor was required to be proceeded against before institution of the suit against surety is found incorrect, therefore, the said argument stands rejected.

**Conclusion:** i) Under section 128 of the Contract Act 1872, the liability of the surety is co-extensive with that of the principal debtor unless it is otherwise provided by the contract.

ii) The principal-debtor is not required to be proceeded against before institution of the suit against surety.

---

**17.** **Lahore High Court**
**Mrs. Shehla Tariq Saigol v. Federation of Pakistan and 03 Others**
**Reference in ICA No. 13108 of 2023**
**Mr Justice Sultan Tanvir Ahmad**
https://sys.lhc.gov.pk/appjudgments/2024LHC3528.pdf

**Facts:** The intra court appeal under section 3 of the Law Reforms Ordinance, 1972 as well as other appeals have been filed against the judgment passed by learned judge in chamber. Upon hearing the appeals the learned Judges of the Division Bench reached to different conclusions on certain issues. As a result thereof, now the cases have been referred with certain terms of reference.

**Issues:** i) Whether Order XLI Rule 33 permits the Court of Appeal to make an order which ought to have been passed by the Court of first instance but not passed and to make such further order as the case may require?
ii) Whether question to exercise of any unilateral power by one member of worthy Division Bench arises when the defense set-up by the respondents as well as their arguments on the particular issue are duly documented by the learned Judges?
iii) Whether reference to legislative entries in the fourth schedule to the Constitution is of any consequence when body / provisions of the Constitution identify any particular power to legislate?
iv) What are the limits and extent of powers of parliament and provincial assemblies to make laws specifically with reference to tax matters?

**Analysis:** i) Prior to amendment which was introduced in the Code by Amendment Act IX of 1922, under Rule 22 of Order XLI of the Code, it was incumbent for the non-appealing party to file cross-objection in manners prescribed therein. Order XLI, Rule 33 permits the Court of Appeal to make an order which ought to have been passed by the Court of first instance but not passed and to make such further order as the case may require. The words used “the appeal is as to part only of the decree and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection" start with "notwithstanding". The legislature has also used affirmative wording enabling the Courts of Appeal to pass order that should have been passed and also vitalized it by using non-obstante clause. The language used is indicative of the intention of legislature to confer extensive power upon Court of Appeal to make order as the case may require, irrespective of filing appeal by a respondent or cross objection. Reading of Order XLI Rule 33 of the Code itself is convincing enough as to wide powers of Court of Appeal permitting to make orders that may be necessary for doing complete justice in a particular case.
ii) When the defense set-up by the respondents as well as their arguments on the particular issue are duly documented by the learned Judges, no question to exercise of any unilateral power by one member of worthy Division Bench arises.
iii) It is already a settled field by the Supreme Court of Pakistan that when body / provisions of the Constitution identify any particular power to legislate, as if it vests with the Parliament or Provincial Assemblies, then reference to legislative

entries in the fourth schedule to the Constitution is hardly of any consequence. In case titled "Province of Sindh through Chief Secretary and Others Versus M.Q.M. through Deputy Convener and Others" 5 the Court repelled contentions made at the bar that Parliament can make laws only as mandated under the Federal Legislative List given in the fourth schedule to the Constitution, in view of the fact that those powers, on the relevant area in the said case, are given in the body of the Constitution. It is ruled that Constitutional intent has to be gathered from the body of the Constitution as well and not merely the Legislative List.

iv) The categories or fields falling in the Federal Legislative List, in terms of Article 142(a) of the Constitution, are within the exclusive domain of Parliament. The Provincial Assemblies have power to make laws with respect to any matter not enumerated in the Federal Legislative List. Then Article 142(d) of the Constitution again gives exclusive powers to Parliament with respect to all matters pertaining to such areas in the Federation as are not included in territorial limits of any of the Province. Meaning thereby, the Parliament has power to make laws given in Federal Legislative List as well as the matters pertaining to such areas which are not included in any Province. Article 141 of the Constitution embodies that Parliament has power to make laws having extra-territorial operation for whole or any part of Pakistan and the Provinces can make laws within their territorial limits. The above leaves no ambiguity with regard to intent of the Constitution makers that when it is not within the competence of any of the Province to impose tax in connection with a subject-matter, on account of its restriction of territorial limits, then the Parliament has competence in this regard. The Provincial Legislature can tax immovable property which is located within its territories. Suitable laws exist or have been made by the relevant Provincial Legislative authorities in this regard. However, the tax in question is to be paid by resident individual(s) on their foreign assets, as already defined in sub-section 13(c) of the Act of 2022, when such assets have aggregate value exceeding rupees one hundred million. Undisputedly, section 8(2)(b) of the Act of 2022 refers to assets, which do fall within the territorial limits of the Provinces.

**Conclusion:** i) Order XLI Rule 33 permits the Court of Appeal to make an order which ought to have been passed by the Court of first instance but not passed and to make such further order as the case may require.

ii) See analysis no. ii.

iii) When body / provisions of the Constitution identify any particular power to legislate, as if it vests with the Parliament or Provincial Assemblies, then reference to legislative entries in the fourth schedule to the Constitution is hardly of any consequence.

iv) See analysis no. iv.

---

**18.** **Lahore High Court**
**Afzaal Ahmed v. Sadia Safdar and another**
**R.F.A. No. 52942 of 2022**
**Mr Justice Muhammad Raza Qureshi**

https://sys.lhc.gov.pk/appjudgments/2024LHC3547.pdf

**Facts:** Through instant Regular First Appeal, the appellant has challenged the judgment and decree vide which suit for recovery of damages for malicious prosecution filed by the appellant was dismissed by the learned Trial Court.

**Issues:** i) What are ingredients which plaintiff needs to prove in order to succeed in an action for malicious prosecution?
ii) Whether Court has to strike a balance between two parties as the initiator of a criminal proceeding and the rights and protection of an innocent party who is being victimized by misuse of the process of law?
iii) Whether mere initiation of criminal proceedings by a party is sufficient to expose such party to effect the malicious prosecution?
iv) What are two facets in case of claim of malicious prosecution?

**Analysis:** i) In order to succeed in an action for malicious prosecution, the plaintiff must in the first instance prove (i) that the action was actuated by malice (ii) that the initiator acted without reasonable and probable cause (iii) that the plaintiff was prosecuted by the defendant on a criminal charge (iv) that the prosecution terminated in favour of the plaintiff (v) that the proceedings had interfered with plaintiff's liberty and had also affected his/her reputation, and (vi) that the plaintiff had suffered damages. To succeed in a case for malicious prosecution all these ingredients must coexist.
ii) The Court has to strike a balance between two parties as the initiator of a criminal proceedings has freedom of action against a wrong and to set law in motion to bring criminal to justice without a fear of being prosecuted in case of being unsuccessful. In contrast the rights and protection of an innocent party who is being victimized by misuse of the process of law and possibly that is why, in the wisdom of Raja Braja Sunder Deb's case supra, the fundamental ingredient considered by Privy Council was a malicious defendant and an action without reasonable and probable cause as according to Privy Council the malice has been set to mean any wrong or indirect motive, but a prosecution is not malicious merely because it is inspired by anger. However, wrongheaded prosecutor may be if he honestly thinks that the accused has been guilty of a criminal offence he cannot be initiator of malicious prosecution. But malice alone is not enough, there must also be shown to be absence of reasonable and probable cause. It is to be proved by the plaintiff that the prosecution was initiated without any justifiable reason and it was due to malicious intention of the defendant and not with the mere intention to carry law into effect.
iii) Mere fact that prosecution instituted by respondent/defendant against the plaintiff ultimately failed, cannot expose the former to effect the malicious prosecution, unless it is proved by the plaintiff that the prosecution was initiated without any reasonable and probable cause and it was due to malicious intention of the defendant and not with a mere intention of carrying the law into effect.
iv) The claim for damages in the case of malicious prosecution carries two facets

relating to (i) general damages and (ii) special damages. The general damages refers to special character, condition or circumstances which accrue from immediate, direct and approximate result of wrong complained of. Special damages follow as a natural and approximate consequence in a particular case by reason of special circumstances or condition.

**Conclusion:** i) See analysis no. i.
ii) The Court has to strike a balance between two parties as the initiator of a criminal proceedings has freedom of action against a wrong and to set law in motion to bring criminal to justice without a fear of being prosecuted in case of being unsuccessful. In contrast the rights and protection of an innocent party who is being victimized by misuse of the process of law.
iii) Mere initiation of criminal proceedings by a party is sufficient to expose such party to effect the malicious prosecution rather it has to be proved that the prosecution was initiated without any reasonable and probable cause and it was due to malicious intention.
iv) See analysis no. iv.

---

## LATEST LEGISLATION/AMENDMENTS

1. Vide Act XI of 2024 dated 08-07-2024, sub-sections 2 and 3 of section 140 of the Elections Act, 2017 are amended.
2. Vide Notification of the Government of Punjab, Law and Parliamentary Affairs Department No. 109 of 2024 dated 15.07.2024, amendment is made in rule 3 of The Punjab Electronic Invoice Monitoring System Rules 2019.
3. Vide Notification of the Government of Punjab, Law and Parliamentary Affairs Department No. 110 of 2024 dated 15.07.2024, rule 19 (1)(f) of The Punjab Drug Rules 2007 is amended.

---

## SELECTED ARTICLES

1. **MANUPATRA**
https://articles.manupatra.com/article-details/EMERGENCE-OF-CYBERCRIME-IN-DIGITAL-SOCIETIES-CHALLENGES-REGULATIONS-AND-ETHICAL-CONSIDERATIONS

**Emergence of Cybercrime in Digital Societies Challenges, Regulations and Ethical Considerations by Dipanshu Raj**

*The arrival of the digital age has provided human beings with a much more efficient and easier way of living. With such features, the progress of the number of illegal activities also rises and the most common criminal activity associated with this field is cybercrime. Under the name of cybercrime, people try to obtain sensitive data, disrupt services,*

*frauds, forgeries, and many more things that provide them either personal benefit or financial gain. As concluded from most scenarios, the motive is inclined more towards financial gain; this is achieved when sensitive information is obtained, financial data is gathered, or even intellectual property is stolen, which, in turn, is sold in the dark market to earn profit. Since digital world has ruled all sectors and all information about any individual, all private entities as well as all government entities are available online, the threat of cyberattack is very high. Therefore, in the current scenario, cybercrime has become a serious risk to every country's national security. According to NCRB data, the incidence of cybercrimes has increased from 52,974 in 2021 to 65,893 in 2022, an uprise of 24.4 percent over the corresponding period of the previous year4. In Telangana, the maximum number of cybercrime cases were reported in the country - 15,297 cases in 2022, which constitutes about 23% of total cases. Recent statistics from NCRB show a sharp rise in cybercrimes in urban cities. Experts attribute the same to fast-growing internet and mobile usage. Knowing the nature of the cyber threat in its entirety is becoming essential for modern governments, along with practical ways to safeguard information and data. This essay hopes to bring out the untold story of cybercrime, its various forms, legislation preventing it, and ethics in the digital age.*

2. **MANUPATRA**
https://articles.manupatra.com/article-details/The-Intersection-of-Law-and-Neuroscience-Implications-On-Law-of-Evidence

**The Intersection of Law and Neuroscience: Implications on Law of Evidence by Aayushi Bhargava**

*Neuroscience is increasingly used in the courtroom, in a variety of circumstances. In recent years, there has been an ongoing discussion about the applicability of neuroscience in the field of education and specifically law. What sets this modern discourse apart from earlier discussions is the wealth of information we have acquired about the human brain and its operations, thanks to advancements in computerized brain imaging technologies over the last few decades which led to more improvised and detailed understanding of this branch. As advancements in neuroscience continue to shed light on the human brain's inner workings, questions arise about how this knowledge should be integrated into legal practices. This article will provide a detailed analysis surrounding neuroscience and law with special emphasis on law of evidence. Further, This article delves into the discussions and arguments surrounding admissibility and application of neuroscientific evidences and an in-depth analysis of contemporary research focusing on the impact of such evidences on decision-making in a broader context, with a specific emphasis on its legal decision making.*

3. **MANUPATRA**
https://articles.manupatra.com/article-details/NAVIGATING-LEGAL-PLURALISM-PERSONAL-LAWS-AND-THE-UNIFORM-CIVIL-CODE

**Navigating Legal Pluralism: Personal Laws and The Uniform Civil Code by Mayuri**

*Legal pluralism refers to the jurisprudential framework recognising the co-existence of multiple legal systems. India being the 'torchbearer' of unity in diversity has always upheld the concept of legal pluralism by recognising the personal laws of every religion. The Constitution of India serves as 'grundnorm' 1and all the personal laws must conform to the touchstone of constitutional morality. However, many personal laws are discriminatory and violative of the Right to Equality under article 15. Our constitution under Article 443 envisages the Uniform Civil Code (hereinafter, 'UCC') as a Directive Principle which is a positive obligation on the state. During the Constitutional Assembly Debate, objections from the Muslim community were raised against UCC being tyrannical and obstructing fundamental rights. K.M. Munshi countered it by stating that a uniform and secular law would ensure equality. He highlighted the discriminatory aspects of Personal Laws, particularly towards women and emphasized that religion can be limited to certain facets of life where it is not contrary to the public policy. The existence of various schools of Hindu Law like 'Mitakshara' and 'Dayabhaga' and Muslim schools like 'Hanafi', 'Shaifi', 'Maliki', etc. leads to discrimination and contradictions which a Uniform Civil Code could resolve by promoting homogeneity.*

**4. OXFORD JOURNAL OF LEGAL STUDIES**
*https://academic.oup.com/ojls/advance-article-abstract/doi/10.1093/ojls/gqae024/7716418?redirectedFrom=fulltext*

**Ecology, Jurisprudence, and Private International Law by Nina Guilherme Vasconcelos Vilaça**

*In her new book, The Law's Ultimate Frontier: Towards an Ecological Jurisprudence—A Global Horizon in Private International Law, Horatia Muir Watt proclaims a new vision of legality: an ecological jurisprudence. Its originality lies in the role played by private international law as a tool for legal and political imagination in the Anthropocene. I first present carefully the whole argument as Muir Watt offers it. Then I turn to a critical examination of the work and show how the book fits a much broader intellectual landscape that aims to do justice to the natural and cultural 'Other' and how, despite all its sophistication and erudition, the Levinasian grounds, conflict of law's genealogy, planetary ontology and amateur bricolage she builds upon to establish a novel jurisprudence raise as many complications as achievements. Ultimately, and as a general lesson for holistic and multidisciplinary theorising about law, this article identifies some crucial choices any future model of legality combining both a theory of justice and a vision of law as a linking device needs to overcome in order to ensure we can deal simultaneously with the divergent local and planetary dimensions summoned by the threat of extinction without hastily replacing morality for law and politics.*

**5. OXFORD JOURNAL OF LEGAL STUDIES**
https://academic.oup.com/ojls/advance-article/doi/10.1093/ojls/gqa e018/7666677

**'Hard AI Crime': The Deterrence Turn by Elina Nerantzi & Giovanni Sartor**

*Machines powered by artificial intelligence (AI) are increasingly taking over tasks previously performed by humans alone. In accomplishing such tasks, they may intentionally commit 'AI crimes', ie engage in behaviour which would be considered a crime if it were accomplished by humans. For instance, an advanced AI trading agent may—despite its designer's best efforts—autonomously manipulate markets while lacking the properties for being held criminally responsible. In such cases (hard AI crimes) a criminal responsibility gap emerges since no agent (human or artificial) can be legitimately punished for this outcome. We aim to shift the 'hard AI crime' discussion from blame to deterrence and design an 'AI deterrence paradigm', separate from criminal law and inspired by the economic theory of crime. The homo economicus has come to life as a machina economica, which, even if cannot be meaningfully blamed, can nevertheless be effectively deterred since it internalises criminal sanctions as costs.*

**6. MODERN LAW REVIEW**
https://onlinelibrary.wiley.com/doi/10.1111/1468-2230.12861

**Judging Under Authoritarianism by Julius Yam**

*Legal pluralism refers to the jurisprudential framework recognising the co-existence of multiple legal systems. India being the 'torchbearer' of unity in diversity has always upheld the concept of legal pluralism by recognising the personal laws of every religion. The Constitution of India serves as 'grundnorm' 1and all the personal laws must conform to the touchstone of constitutional morality. However, many personal laws are discriminatory and violative of the Right to Equality under article 15. Our constitution under Article 443 envisages the Uniform Civil Code (hereinafter, 'UCC') as a Directive Principle which is a positive obligation on the state. During the Constitutional Assembly Debate, objections from the Muslim community were raised against UCC being tyrannical and obstructing fundamental rights. K.M. Munshi countered it by stating that a uniform and secular law would ensure equality. He highlighted the discriminatory aspects of Personal Laws, particularly towards women and emphasized that religion can be limited to certain facets of life where it is not contrary to the public policy. The existence of various schools of Hindu Law like 'Mitakshara' and 'Dayabhaga' and Muslim schools like 'Hanafi', 'Shaifi', 'Maliki', etc. leads to discrimination and contradictions which a Uniform Civil Code could resolve by promoting homogeneity.*