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FORTNIGHTLY CASE LAW BULLETIN

(16-08-2025 to 31-08-2025)

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

JUDGMENTS OF INTEREST

Sr. No.	Court	Subject	Area of Law	Page
1.	Supreme Court of Pakistan	Scope and extent of Jurisdiction of High Court under Article 199 of the Constitution; Bar to entertain disputed question of fact under Constitutional Jurisdiction; Alternate remedy must be efficacious also	Constitutional Law	1
2.		Purpose of the Evacuee Trust Properties Act is to regulate and manage properties attached to charitable, religious, or educational trusts; Definitions of "Act" and "evacuee trust property" under the ETP Act; Right of appeal provided under Section 16 of the ETP Act; Revisional powers of the Federal Government under Section 17 of the ETP Act; Time limitation of fifteen days for filing revision under Section 17; Section 21 confers civil court-like powers on ETPB authorities; Section 21(2) deems ETPB officers as courts under CrPC and judicial proceedings under PPC; Powers of Assistant/Deputy Administrator and Chairman to cancel leases under Clauses 19 and 23 of the Scheme; Right to reasonable opportunity of hearing reinforced by Section 27 of the ETP Act; Procedure for appearance and adjournment under the Evacuee Trust Properties (Appeal and Revision) Rules, 1980; Essential elements of lease under Section 105 of the Transfer of Property Act, 1882; Requirement of registered instrument for leases exceeding one year under Section 107; Persons appointed under ETP Act deemed public servants under PPC Section 21; Section 14 bars civil court jurisdiction and injunctive relief in ETPB matters; Section 15 grants protection from legal proceedings for acts done in good faith; Jurisdictional bar under Section 14 imposes duty of rational and diligent decision-making; Section 21 complements Section 14 by conferring	Civil Law	2

		procedural powers on ETPB authorities; Judicial and quasi-judicial bodies must comply with legal principles and procedural rules; Article 4 guarantees due process and prohibits actions detrimental to life and liberty without lawful procedure; Article 10-A and principles of natural justice require a right of audience before any prejudicial action.		
3.		High Court, in exercise of writ jurisdiction, cannot adjudicate a matter involving disputed questions of fact; the jurisdiction of the High Court under Article 199 is barred when the alternative remedy is equally efficacious, convenient, and effective; principle of mutatis mutandis permits application of law with necessary modifications to avoid repetition.	Service Law	8
4.		No special treatment to Government departments in condonation of delay; Law favours the vigilant not the indolent.	Civil Law	9
5.	Supreme Court of Pakistan	Falling of offence under Section 489-F of the Pakistan Penal Code, 1860 (PPC) in non-prohibitory clause of Section 497 Cr.P.C: Considered View of the Supreme Court Regarding Offences Falling in the Non-Prohibitory Clause; Extraordinary and Exceptional Circumstances Justifying Rejection of Bail; Irrelevance of the Quantum of Amount Involved in Cases Registered under Section 489-F PPC for Bail Consideration: Statutory Mechanism Prescribed for Recovery in Cases of Dishonored Cheques.		10
6.		Mismatch between crime empties and recovered weapon renders recovery doubtful; Evidentiary value of recovered weapon cannot be determined without evidence in light of forensic report; Absence of specific attribution by sole eyewitness makes case fit for further inquiry.	Criminal Law	11
7.		Misuse of authority, mens rea and actus reus, corruption and corrupt practices, procedural improprieties are not misuse of authority, mistake of civil law i.e. ignorance of rules negates mens rea.		12
8.		In the absence of marks of violence makes the case one of consent or coercion, to be determined at trial; unexplained delay in recording prosecution evidence after submission of challan makes the case of accused of further inquiry; bail can be withheld as punishment.		14
9.		Seniority cannot be altered after induction and subsequent promotion in service; the benefit of a judgment in rem can be extended	Service Law	14

		to similarly placed parties; Supreme Court cannot interfere within the contemplation of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973 in the absence of a substantial question of law of public importance.		
10.	Supreme Court of Pakistan	Condition precedent for adoption of substitutive service of summons; distinction between the scope and application of Section 12(2) CPC and Order IX Rule 13 CPC; invoking of jurisdiction of Section 12(2) CPC by a third party; maxim actus curiae neminem gravabit; raising of objections under Section 47 CPC, alongside or instead of a separate application under section 12(2) CPC; ancillary provisions of Order XXI CPC (e.g., Rules 26, 90) Section 144 and Section 151 CPC; provisions of CPC that ensure procedural fairness in the process of execution, stay or restitution.	Civil law	15
11.		Conviction vitiated due to lack of evidence regarding safe custody or transmission of narcotic substance; Investigation by complainant in CNS cases undermines fair trial under Article 10-A; Justice must appear to be served in laws with severe penalties and reverse burden of proof; Complainant-police officer not barred from investigating CNS cases but investigation may be challenged on ground of bias; Investigation under Control of Narcotic Substances Act, 1997 must be free from objectionable features; Complainant acting as investigating and raiding officer conflicts with principle against being judge in one's own cause; Absence of independent corroboration creates clear risk of false implication when all witnesses are from same police unit.	Criminal Law	18
12.		Time bound proceeding in terms of sections 179(3) and 179(4) of the Custom Act, 1969 is mandatory	Tax Law	20
13.		Value of testimony of minor victim without certification of court; Rationality test of child witness; higher standard of proof by the credible witness is required in serious offences.	Criminal Law	21
14.		Legal value of an agreement executed by one of the parties under police custody; elements of a legally binding agreement; difference between undue influence and coercion in contract law, and how are these two elements connected or related to each other; duress in contract law; legal provisions which define free consent under law of contract.	Civil Law	22

15.	Supreme Court of Pakistan	Obligations of Judicial System under the International Law pertaining to child rights; Importance of Mediation in preserving child wellbeing.	Family Law	24
16.		Remedial scope of Illegal Dispossession Act, Mere pendency of civil litigation does not render a criminal complaint under the 2005 Act non-maintainable.		24
17.	Lahore High Court	Recognition of "right to information" in international human rights jurisprudence; Provision of "right to information" in Universal Declaration of Human Rights (UDHR) 1948 and International Covenant on Civil and Political Rights (ICCPR) ; Role of United Nations (UN) in promoting the right to information; Constitution of Pakistan, 1973 and introduction of Article 19A as an independent fundamental; Interpretation of Article 19A by Supreme Court of Pakistan; Restriction on right to information; Meanings of expression 'public importance' and 'reasonable restriction' as used in Article 19A; Legislative extensions of the Punjab Transparency and Right to Information Act 2013 and the Right of Access to Information Act 2017; Establishment of the Punjab Safe Cities Authority and its legal backing; Framing of Electronic Data Regulations 2016 Standard Operating Procedures (SOPs) ; 'Investigative process' and the concept of 'fair and proper investigation' : Role of Investigating Officer under Rule 25.2(3) of the Police Rules, 1934; Remedies are available to a person who is dissatisfied with the investigation of a criminal; Power of a Magistrate to intervene in an investigation; Scope of Section 156(3) of the Code of Criminal Procedure, 1973, which mirrors Section 156(3) of the Cr.P.C; Nature, scope, and accessibility of the redressal mechanisms, as provided under the Police Order 2002 and Sections 22-A(6), 551, 155(2), 156(3), and 94 of the Cr.P.C; Enforcement of fundamental rights by High Court: Determining factors for exercise of jurisdiction of High Court.	Criminal Law	26
18.		Definition of honour killing; Sudden Provocation under colonial Penal Code; Shift in legal framework by Federal Shariat court; Fasad-fil-Arz or Honour killing and compounding of offence of Qatl; Comparison of section 305 CrPC & 305 PPC; Waiver or compromise no automatic acquittal; Power of court to decline acquittal despite complete compromise; Embargo of section 311 PPC upon		40

		compounding of honour killing; Entitlement o acquitted legal heir/Wali to compound.		
19.	Lahore High Court	Role of Competition Commission of Pakistan in privatisation process; Importance & instances of Public Interest Litigation and its restrictions; Remedy for non-existence of a statutory forum; Legislative scheme governing Privatisation; Role of courts and judicial restraint; Effects of judicial overreach upon economy; Importance of Preamble in interpretation of a statue; Powers and functions of Privatisation Commission under S.5 and the requirements of S.23 of the Privatisation Commission Ordinance, 2000; Global judicial approach towards government executive action; Wisdom behind restricted disclosure of information under the the Privatisation Commission (Confidentiality and Secrecy of Documents) Regulations 2003.	Constitutional Law	44
20.		Purpose and importance of statement of an accused under section 342 of Cr.PC; audi alteram partem; forms and stages of statement of an accused under section 342 of Cr.PC; conviction of accused without putting him the incriminating evidence is not warranted, chain of custody.	Criminal Law	49
21.		Further investigation after a cancellation report is prepared by the investigating officer and approved by the Magistrate;transfer of an investigation of a criminal case from one investigating officer to another is absolute and final or merely a provisional measure; requiring the case to revert to the original investigating officer after a certain stage of investigation or investigating the specific accused;directions issued to investigating agency to ensure due process of law.		51
22.		Res judicata, dismissal of suit for want of evidence amounts to decision on merit;Impleadment of additional parties in the later round does not constitute a fresh cause of action, non filing of appeal amounts to finality of a decree.	Civil Law	53
23.		Mutation was sanctioned subsequent to the promulgation of the Shariat Act and rights of inheritance were 'formally acquired; subsequent to March 15, 1948, therefore, inheritance had to be governed under the Shariat Act and not under the Custom or Usage; the civil court's jurisdiction was barred under the Settlement Laws, given that the mutation was sanctioned by the		54

		Rehabilitation authorities; the suit, under inheritance claim, was barred by limitation if it was filed after the heir's death; an inheritance claim cannot succeed without overcoming limitation, waiver, and acquiescence.		
24.	Lahore High Court	Meaning of entrustment as encompassed in section 405 PPC; Express or implied entrustment; Grant of bail for the offences not falling under prohibitory clause, not a rule of universal application.	Criminal Law	55
25.		Entitlement of female accused to be released on bail as a matter of right on the ground of statutory delay accrued in the conclusion of trial or her case may hit by exception provided in 4th proviso to Sub-Section (1) of Section 497 of Cr.P.C; Meanings and scope of the phrase "hardened, desperate or dangerous criminal...circumstances where a court can show restraint in exercising of discretion to decide a petition for grant of post arrest bail, filed by a female petitioner.		56
26.		Cheque is a valuable security, putting different style signature amounts to forgery.		58
27.		Summoning of any person u/s 160 of Cr.P.C acquainted with the circumstances of the case; No challenge to notice u/s 160 of Cr.P.C under article 199 of the constitution.		58

LATEST LEGISLATION/AMENDMENTS

1.	Official Gazette of Pakistan dated August 1, 2025: Act No. XXI of 2025; The Extradition (Amendment) Act, 2025.	59
2.	Official Gazette of Pakistan dated August 1, 2025: Act No. XXII of 2025; The Federal Board of Intermediate and Secondary Education (Amendment) Act, 2025.	59
3.	Official Gazette of Pakistan dated August 9, 2025: S.R.O.1480(I)/2025; The Supreme Court Rules, 2025.	59
4.	Official Gazette of Punjab dated 31st July 2025: Act No. LXII of 2025; The Punjab Letters of Administration and Succession Certificate (Amendment) Act, 2025.	59
5.	Official Gazette of Punjab dated August 05, 2025: Act No. LXIII of 2025; The Universities and Institutes Laws (Amendment) Act, 2025.	59
6.	Official Gazette of Punjab dated August 05, 2025: Act LXIV of 2025; The Punjab Control of Narcotic Substances Act, 2025.	60
7.	Official Gazette of Punjab dated August 05, 2025: Act LXV of 2025; The Punjab Autism School and Resource Centre Act, 2025.	60
8.	Official Gazette of Punjab dated August 05, 2025: Act LXVI of 2025; The Punjab Urban Immovable Property Tax (Amendment) Act, 2025.	60
9.	Official Gazette of Punjab dated August 05, 2025: Act LXVII of 2025; The Punjab Agricultural Income Tax (Amendment) Act, 2025.	60
10.	Official Gazette of Punjab dated August 05, 2025: Act LXVIII of 2025; The Punjab Education Foundation (Amendment) Act, 2025.	60

11.	Official Gazette of Punjab dated August 05, 2025: Act LXIX of 2025; The Punjab Price Control of Essential Commodities (Amendment) Act, 2025.	60
12.	Official Gazette of Punjab dated August 05, 2025: Act LXX of 2025; The Punjab Horticulture Authority Act, 2025.	60
13.	Official Gazette of Punjab dated August 11, 2025: Act LXXI of 2025; The Abdul Ghafoor Niazi University Act, 2025.	60
14.	Official Gazette of Punjab dated August 11, 2025: Act LXXII of 2025; The Asian University for Research and Advancement Act, 2025.	60
15.	Notification No.SOR-III(S&GAD)2-29/2025 dated 13.08.2025; The Punjab Provincial Management Service Rules, 2004. Substitution in Schedule-II in note, Serial No. i.	60
16.	Notification No.1327-2025/1350 ST(I) dated 01.08.2025; The Court fee Act, 1870 (VII of 1870): reduction in fee was made in Schedule I, sr. No. 5, 6 and 8.	60
17.	Notification No.SOR-III(S&GAD)1-2/2023 dated 19.08.2025; Home Department (Legal Cell) Employees Service Rules, 2025.	60
18.	Notification No.SOR-III(S&GAD)1-23/2023 dated 15.08.2025; Amendments in The Punjab Forestry and Wildlife (Wildlife Executive) Service Rules, 1978.	60

SELECTED ARTICLES

1.	The Dissolution of Dualism By Roger Masterman And Matthew Nicholson	61
2.	(Ir)rationality in AI: state of the art, research challenges and open questions By Olivia Macmillan-Scott and Mirco Musolesi.	61
3.	Fault-tolerant control strategies for industrial robots: state of the art and future perspective on AI-based fault management By Zeashan Khan, Ali Nasir and Samir Mekid	61
4.	Disability human rights standards before the European Court of Human Rights—false convergence and methodologically-driven divergence? By János Fiala-Butora, Michael Ashley Stein, Matthew S Smith	62
5.	Child Rights, Legal Theory and Social Advocacy By Maria Grahn-Farley	62

- 1. Supreme Court of Pakistan.**
Arab & another v. Province of Sindh through Secretary Health Department and others
Civil Petitions No. 933-K to 935-K of 2023
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._933_k_2023.pdf

Facts: The petitions have approached the court for release of their salaries but their appointment orders were withdrawn by the competent authority despite their appointment after due codal formalities and procedure. They performed duties for certain time but salaries not issued.

Issues:

- i) Whether the High Court can entertain questions of fact in jurisdiction under Article 199 of the Constitution?
- ii) Under what situation jurisdiction under Article 199 of the Constitution could be invoked and what is its object?
- iii) What should be the nature of alternate remedy to bar the jurisdiction under Article 199 of the Constitution?

Analysis:

- i) No doubt, it is a well-settled exposition of law that disputed questions of fact cannot be entertained and adjudicated in the writ jurisdiction, and in the constitutional jurisdiction, the High Court cannot go into miniature and diminutive details.
- ii) The extraordinary jurisdiction granted under Article 199 of the Constitution is envisioned predominantly for affording an express remedy where the unlawfulness and impropriety of the action of an executive or other governmental authority could be substantiated without any convoluted inquiry. The object of proceedings under Article 199 of the Constitution is the enforcement of a right and not the establishment of a right and, therefore, the right of the concerned incumbent, which he seeks to enforce, must not only be clear and complete but there must also be an actual infringement of the right.
- iii) While dismissing the writ petition on the ground that the disputed question of fact could not resolved, it must also be considered that to effectively bar the jurisdiction of the High Court under this Article, the alternate remedy, if any available, is not only to be adequate but also equally efficacious under the law and commensurate to the same purpose which is sought to be achieved through a Constitution Petition under Article 199.

Conclusion:

- i) The disputed questions of fact cannot be entertained and adjudicated in the writ jurisdiction.
- ii) The extra-ordinary jurisdiction under Article 199 of the Constitution could be invoked where the unlawfulness and impropriety of the action of an executive or other governmental authority could be substantiated without any convoluted inquiry.
- iii) In order to effectively bar the jurisdiction of the High Court under this Article,

the alternate remedy, if any available, is not only to be adequate but also equally efficacious under the law and commensurate to the same purpose which is sought to be achieved through a Constitution Petition under Article 199.

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- 2. Supreme Court of Pakistan**
Mst. Tahira Begum and others v. Federation of Pakistan, etc.
CPLA No. 03-K of 2023
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi,
Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3_k_2023.pdf

Facts: The Petitioners acquired a leased evacuee trust property in 1974, formalised by a registered 99-year lease deed in 1992. After the lease was cancelled on allegations of forgery without proper hearing and their constitutional petition was dismissed, they filed the present civil petition for leave to appeal.

Issues:

- i) What is the primary objective behind the enactment of the Evacuee Trust Property Act?
- ii) How are the terms “Act” and “evacuee trust property” defined under the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- iii) What is the appellate mechanism under Section 16 of the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- iv) What revisional powers are provided to the Federal Government under Section 17 of the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- v) What time limitation is imposed on an aggrieved person for seeking revision under Section 17 of the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- vi) What is the purpose and scope of the powers conferred under Section 21 of the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- vii) Whether Section 21(2) expounds that the Chairman and officers appointed under the Evacuee Trust Properties (Management and Disposal) Act, 1975 shall be deemed to be a Court under the Code of Criminal Procedure, 1898, and their proceedings deemed judicial under the Pakistan Penal Code?
- viii) Whether under the Scheme for the lease of Evacuee Trust Agricultural Land, 1975, the Assistant/Deputy Administrator and the Chairman have the power to cancel leases, and on what grounds?
- ix) Whether the right to a “reasonable opportunity of being heard” under Clause 23 of the Scheme is supported by the procedural entitlement under Section 27 of the Evacuee Trust Properties (Management and Disposal) Act, 1975?
- x) Whether the Evacuee Trust Properties (Appeal and Revision) Rules, 1980 provide a procedure for appearance and adjournment in appeal or revision proceedings?
- xi) What are the essential elements of a lease of immovable property under Section 105 of the Transfer of Property Act, 1882?

- xii) What is the prescribed manner for creating leases under Section 107 of the Transfer of Property Act, 1882?
- xiii) Whether Section 13 of the Evacuee Trust Properties (Management and Disposal) Act, 1975 deems all persons appointed under the Act to be public servants within the meaning of Section 21 of the Pakistan Penal Code?
- xiv) Whether Section 14 of the Evacuee Trust Properties (Management and Disposal) Act, 1975 expounds that no civil Court shall have jurisdiction in respect of any matter determined under the Act?
- xv) Whether Section 15 of the Evacuee Trust Properties (Management and Disposal) Act, 1975 shields and protects the Federal Government, the Board, or any appointed person from legal proceedings for actions done in good faith?
- xvi) Whether the bar of jurisdiction imposed under Section 14 of the ETP Act entails a corresponding duty on authorities to exercise their powers with greater diligence and rationality?
- xvii) Whether Section 21 of the ETP Act confers civil court-like powers on authorities despite the jurisdictional bar created by Section 14?
- xviii) Whether adherence to legal principles and procedural rules is essential in judicial or quasi-judicial proceedings for ensuring fair and just decisions?
- xix) What is due process of law and how does Article 4 of the Constitution ensure that no action detrimental to life and liberty is taken without it?
- xx) Whether the principles of natural justice and the right to fair trial under Article 10-A require affording a right of audience before any detrimental or prejudicial action is taken?

Analysis:

- i) The conscientious survey of ETP Act accentuates that the foremost purpose of legislating this law was to provide for the management and disposal of evacuee properties attached to charitable, religious or educational trusts or institutions.
- ii) Under Section 2 (a) (Definition Clause), “Act” means the Displaced Persons (Compensation and Rehabilitation) Act, 1958 (XXVIII of 1958), or the Displaced Persons (Land Settlement) Act, 1958 (XLVII of 1958), as the case may be. While clause (d) defines “evacuee trust property” which means the evacuee trust properties attached to charitable, religious or educational trusts or institutions or any other properties which form part of the Trust Pool constituted under this Act.
- iii) The right to appeal is provided under Section 16 of ETP Act, wherein any person aggrieved by an order passed under this Act may, within fifteen days of the passing of such order, prefer an appeal: (a) in the case of an order passed by an Assistant Administrator or a Deputy Administrator, to the Administrator; and (b) in the case of an order passed by an Administrator, not being an order passed in appeal by the Administrator confirming an order of an, Assistant Administrator or a Deputy Administrator, to the Chairman.
- iv) Whereas Section 17 of the same act, ordains a provision for Revision which elucidates that the Federal Government may at any time, of its own, motion or otherwise, call for the record of any case or proceedings under this Act, which is pending or in which the Chairman, an Administrator, a Deputy Administrator or

an Assistant Administrator has passed an order, for the purpose of satisfying itself as to the correctness, legality or propriety of such an order, and may pass such order in relation thereto as the Federal Government thinks fit.

v) The proviso appended with this section, reads aloud that the record of any case or proceedings in which the Chairman, an Administrator, a Deputy Administrator or an Assistant Administrator has passed an order shall not be called for under this section on the application of any aggrieved person made after the expiration of fifteen days from the date of such order.

vi) According to Section 21 of the ETP Act, the Federal Government or any person authorised by it, the Chairman and every officer appointed under this Act shall, for the purposes of making any enquiry or hearing any appeal or revision under this Act, have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908, (CPC) when trying a suit in respect of the following matters, namely (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of any document; (c) requisitioning any public record from any Court or office; (d) issuing commissions for the examination of witnesses; (e) appointing guardians or next friends of persons who are minors or of unsound mind; (f) adding legal representatives of deceased applicants or claimants, as parties; (g) restoration of cases dismissed for default; (h) substituting the names of the rightful claimants; (i) consolidation of cases; (j) any other matter which may be prescribed by rules made under this Act.(...) At this moment, we recapitulate that under Section 21 of the ETP Act, the Federal Government or any person authorised by it, the Chairman and every officer appointed under this Act shall, for the purposes of making any enquiry or hearing any appeal or revision under this Act, have the same powers as are vested in a Civil Court under CPC, and under this section, various procedural powers have been conferred to ensure and protect the cause of justice and right to fair trial.

vii) While sub-section (2) expounds that the Chairman and every officer appointed under this Act shall be deemed to be a Court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898, and any proceedings before the Chairman or any such officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code and for the purposes of sections 196, 199 and 200 thereof.

viii) Without a doubt, Clause 19 of the “Scheme for the lease of Evacuee Trust Agricultural Land, 1975” provides that the Assistant/Deputy Administrator shall be competent to cancel a lease if the lessee thereof has violated any of the terms and conditions of the lease or if the land is required for any public purpose provided the lessee has been provided a reasonable opportunity of being heard. Whereas under Clause 23, of the Scheme, the Chairman is competent to cancel the lease of any land if he is satisfied that the auction was not conducted properly or that the lease was acquired by fraud or deceitful means.

ix) If we dwell on the watchword “reasonable opportunity of being heard” broached in Clause 23 of the Scheme for the lease of Evacuee Trust Agricultural

Land, 1975, it simultaneously implores our attention to Section 27 of ETP Act, wherein any person who is entitled or required to attend before the Chairman or any other authority in connection with any proceeding under this Act, otherwise than when called upon to attend personally for examination on oath or affirmation, may attend or be represented by his duly authorised agent, and any application, appeal or revision may be presented by counsel or such agent.

x) According to the Evacuee Trust Properties (Appeal and Revision) Rules, 1980, the procedure for causing appearance on the date fixed for hearing appeal or revision is jotted down in Rule (7), while Rule (8) germane to the “Adjournments” wherein, the authorities hearing appeals and revisions may, on sufficient cause shown by either of the parties, adjourn the hearing of an appeal or revision, as the case may be; provided that where a case is adjourned the authority hearing the appeal or revision shall fix the next date of hearing.

xi) Under Section 105 of the Transfer of Property Act, 1882 (Chapter V), a lease of immovable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered, periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.

xii) The mannerism of how the leases are made is provided under Section 107, which set forth that a lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument. It is further provided that all other leases of immovable property may be made either by a registered instrument or by an oral agreement accompanied by delivery of possession and where a lease of immovable property is made by a registered instrument, such instrument or, where there are more instruments than one, each such instrument shall be executed by both the lessor and the lessee.

xiii) It is somewhat significant to spotlight the niceties of Section 13 of the ETP Act, wherein all persons appointed under this Act, are deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

xiv) While Section 14, expounds that save as otherwise provided in this Act, no civil Court shall have jurisdiction in respect of any matter which the Federal Government or an officer appointed under this Act is empowered under this Act to determine, and no injunction, process or order shall be granted or issued by any Court or other authority in respect of any action taken or to be taken in exercise of any power conferred by or under this Act.

xv) In the same context, the indemnity of actions is shielded and protected under Section 15 with the diction that no suit, prosecution or other legal proceeding shall lie against then Federal Government, the Board or any person appointed under this Act in respect of anything which is done in good faith or intended to be done in pursuance of this Act or any rules, scheme or order made thereunder.

xvi) In view of the rigors and exactitudes of Section 14 of the ETP Act, wherein explicit bar has been imposed that neither civil Court has jurisdiction to try any

matter covered or regulated under ETP Act nor can grant any injunction in respect of any action taken or to be taken in exercise of any power conferred by or under the said Act, therefore, in our view, if such bars are imposed through legislative instruments in any law/statute, then in such manifestations, more responsibilities and conscientiousness is attached to such authorities/offices to perform their functions with due diligence. It also commands an onerous responsibility to exercise special jurisdiction and powers under the special law with rationality and the existence of mental persuasion much higher than mere opinion. (...) The bar of jurisdiction of civil Court under Section 14 of the ETP Act, neither, bestowed unbridled or unchecked jurisdiction, nor does it authorize the authority to decide the matters in cursory or slipshod manner. On the contrary, it is their obligation under law to decide matters with proper application of mind and pass judicious orders.

xvii) While Section 14 has created a specific bar but concomitantly, Section 21 of the ETP Act, conferred wide ranging powers vested in a civil Court under CPC, inter alia, summoning and enforcing the attendance of any person; examining him on oath and issuing commissions for the examination of witnesses.

xviii) In judicial or quasi-judicial proceedings, not only adherence to the law but legal principles including relevant rules of procedure and evidence is ought to be considered for fair and just decisions.

xix) Due process is prerequisite that needs to be respected at all strata. The right to fair hearing and fair trial necessitates that no one should be penalized by the decision upsetting and afflicting his right or legitimate expectations unless he is given a fair chance to answer it and a fair opportunity to explicate/present the case. To enjoy the protection of law and to be treated in accordance with the law is an inalienable right of every citizen. The purposefulness of Article 4 of the Constitution is to ascribe and integrate the doctrine of equality before law or equal protection of law, and no action detrimental to the life and liberty of any person can be taken without due process of law.

xx) The principles of natural justice require that the delinquent should be afforded a fair opportunity to converge, explain and contest before he is found guilty and condemned. The principles of natural justice and fair-mindedness are grounded in the philosophy of affording a right of audience before any detrimental action is taken. In our Constitution, right to fair trial has also become a fundamental right under Article 10-A. The principle of natural justice is grounded on the astuteness and clear-sightedness of affording a right of audience before any prejudicial action is taken, therefore it is an inescapable obligation of all judicial, quasi-judicial and administrative authorities to ensure justice according to the sagacity of the law.

- Conclusion:**
- i) The primary objective of the ETP Act is to regulate and manage evacuee properties linked to charitable, religious or educational trusts.
 - ii) See above analysis. ii

- iii) Section 16 provides a right of appeal to the Administrator or Chairman based on the authority passing the original order.
- iv) Section 17 empowers the Federal Government to revise any order passed under the Act to ensure its legality and propriety.
- v) An aggrieved person must apply for revision within fifteen days of the order under Section 17.
- vi) Section 21 confers civil court-like powers on authorities to ensure procedural fairness and safeguard the right to a fair trial.
- vii) Section 21(2) expounds that the Chairman and officers are deemed courts under the *CrPC, 1898*, and their proceedings are deemed judicial under the *PPC* for specified penal consequences.
- viii) Under the Scheme, the Assistant/Deputy Administrator may cancel a lease for breach of terms or public purpose, while the Chairman may do so for improper auction or fraud.
- ix) Clause 23's guarantee of a reasonable opportunity of being heard is reinforced by Section 27 of the ETP Act, which allows representation through counsel or authorised agents.
- x) Rules 7 and 8 provide for appearance and adjournment procedures during appeal and revision proceedings under the 1980 Rules.
- xi) A lease under Section 105 is a transfer of the right to enjoy immovable property for consideration over a specified duration.
- xii) Section 107 requires leases exceeding one year or reserving yearly rent to be made through a registered instrument executed by both lessor and lessee.
- xiii) Section 13 of the ETP Act deems all persons appointed under the Act to be public servants within the meaning of Section 21 of the *Pakistan Penal Code*.
- xiv) Section 14 expounds that no civil Court shall have jurisdiction over matters determined under the Act, nor issue any injunction or order regarding actions taken under it.
- xv) Section 15 shields and protects the Federal Government, the Board, or any appointed person from legal proceedings for actions done in good faith under the Act.
- xvi) The imposition of a jurisdictional bar under Section 14 requires the authorities to exercise their powers with enhanced responsibility, diligence, and rational judgment.
- xvii) Despite the jurisdictional bar under Section 14, Section 21 empowers authorities with civil court powers for ensuring effective adjudication.
- xviii) In judicial or quasi-judicial proceedings, compliance with legal principles and procedural rules is essential to ensure fairness and justice.
- xix) Due process is prerequisite to be respected at all strata, and Article 4 ensures that no action detrimental to life and liberty can be taken without it.
- xx) The principles of natural justice and Article 10-A mandate affording a right of audience before any prejudicial or detrimental action is taken.

3. **Supreme Court of Pakistan**
Province of Sindh & others v. Amanullah & others
C.P.L.A.4-K/2025
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi,
Mr. Justice Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 4 k 2025.pdf

- Facts:** Respondents filed separate petitions under Article 199 seeking directions for appointment and salary against non-technical posts on the basis of DRC recommendations and offer letters in pursuant to walk-in interviews conducted under advertised vacancies; High Court allowed the petitions without affording opportunity of hearing or considering variations in advertisements and recruitment processes hence these petitions.
- Issues:**
- i) Whether the High Court, in exercise of writ jurisdiction, can adjudicate a matter involving disputed questions of fact?
 - ii) Whether the jurisdiction of the High Court under Article 199 is barred when the alternative remedy is equally efficacious, convenient, and effective?
 - iii) Whether the principle of *mutatis mutandis* permits application of law with necessary modifications to avoid repetition?
- Analysis:**
- i) The High Court, in the writ jurisdiction, cannot record evidence and cannot be involved deeply in the factual controversy, which cannot be thrashed out without leading evidence by the parties. However, at the same time, the available record and the comments filed by the concerned department can be vetted and scanned in order to arrive at a just conclusion on whether the matter can be adjudicated upon based on the available and admitted documents without dilating upon the factual controversy.
 - ii) It is well settled by now that the words "adequate remedy" connote an efficacious, convenient, beneficial, effective, and speedy remedy. It should be equally inexpensive and expeditious. To effectively bar the jurisdiction of the High Court under this Article the remedy available under the law must be able to accomplish the purpose which is sought to be achieved through a petition under Article 199. The other remedy in order to be adequate, must be equally convenient, beneficial, and effective, and the relief afforded by ordinary law must not be less efficacious, more expensive, and cumbersome to achieve as compared to that provided under the Article.
 - iii) The expression "mutatis mutandis" is a medieval Latin phrase which denotes "with things changed that should be changed" or "once the necessary changes have been made", which cannot be muddled or intertwined with the phrase "ceteris paribus", which prohibits and bars the changes other than those that are perceptibly articulated. In legal parlance, the expression *mutatis mutandis* generally applies for making certain adjustments of features in a new situation or framework, as a shortcut (an alternative route that is shorter than the one usually taken) in order to avoid reiterating or retelling the same provisions with minor variations. It applies from one case to another with required alterations or

modifications within the different set of circumstances of the cases to avoid repetition, by signifying that the primary criteria shall apply with certain vicissitudes.

- Conclusion:**
- i) High Court, in exercise of writ jurisdiction, cannot adjudicate a matter involving disputed questions of fact.
 - ii) The jurisdiction of the High Court under Article 199 is barred when the alternative remedy is equally efficacious, convenient, and effective.
 - iii) The principle of *mutatis mutandis* permits application of law with necessary modifications to avoid repetition

**4. Supreme Court of Pakistan
Province of Sindh through Land Acquisition Officer v. Abdul Tawab & others
Civil Appeal No. 101-K of 2022
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi,
Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 101 k 2022.pdf**

Facts: The Province of Sindh through Land Acquisition Officer challenged the judgment passed by the Referee Court/Additional District Judge in Land Acquisition Reference/Suit, whereby the Reference was allowed in favour of the private respondents and the quantum of compensation was enhanced.

Issues:

- i) Whether any relaxation or compassionate treatment could be given to Government department for delay in filing appeal before the Superior Courts?
- ii) Whether the reckless, sluggish or slumbering attitude of a party could extinguish its remedy?

Analysis:

- i) The question of limitation cannot be taken casually or unconscientiously. If any person or party wants to file an appeal in the higher court, he should be vigilant and diligent in pursuing his available remedy within the stipulated timeframe. If the department was negligent or reckless and approached the A.A.G. Office with delay, then no premium of such delay can be accorded with the benefit of condonation in the lapse of time...In the case of Regional Police Officer, Dera Ghazi Khan Region versus Riaz Hussain Bukhari (2024 SCMR 1021 = 2023 SCP 323), one of us, speaking for the bench, held that while considering the grounds for condonation of delay, whether rational or irrational, no extraordinary clemency or compassion and/or preferential treatment may be accorded to the Government department, autonomous bodies, or private sector/organizations; rather, their cases should be dealt with uniformly and in the same manner as cases of ordinary litigants and citizens.
- ii) No doubt, the law favours adjudication on merits, but simultaneously one should not close their eyes or oversee another aspect of great consequence, namely that the law helps the vigilant and not the indolent. At this juncture, it is quite relevant to quote a Latin maxim “Leges vigilantibus non dormientibus

subserviunt” or “Vigilantibus Non Dormientibus Jura Subveniunt” which articulates that the law aids and assists those who are vigilant but not those who are sleeping or slumbering. Delay in invoking a lawful remedy by a person or entity who was sleeping over their rights may be denied. The doctrine of equality before law demands that all litigants, including the State, are accorded the same treatment and the law is administered in an even-handed manner.

- Conclusion:** i) While considering the grounds for condonation of delay, whether rational or irrational, no extraordinary clemency or compassion and/or preferential treatment may be accorded to the Government department, autonomous bodies, or private sector/organizations; rather, their cases should be dealt with uniformly and in the same manner as cases of ordinary litigants and citizens. The plea that time was spent in fulfilling inter-departmental procedures and seeking final instructions from the competent authority is not a sufficient cause.
- ii) The law helps the vigilant and not the indolent. Delay in invoking a lawful remedy by a person or entity who was sleeping over their rights may be denied.

5. Supreme Court of Pakistan
Aqeel Ahmed Khan v. The State through Federal Prosecutor General,
Islamabad and another
Criminal Petition No.960 of 2025
Mr. Justice Athar Minallah, Mr. Justice Ali Baqar Najafi
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 960 2025.pdf

Facts: By means of this Petition for Leave to Appeal, the petitioner seeks post-arrest bail in a case registered against him for the alleged commission of an offence under Section 489-F of the Pakistan Penal Code, 1860 (PPC), which was previously denied by the High Court through the impugned order now under challenge.

- Issues:**
- i) Under which category of offences, as defined in Section 497 of the Code of Criminal Procedure, 1898 (Cr.P.C.), does the offence under Section 489-F PPC fall?
 - ii) What is the consistent view of the august Supreme Court regarding the grant of bail in offences that fall within the non-prohibitory clause of Section 497 Cr.P.C.?
 - iii) What are the extraordinary and exceptional circumstances under which bail may be denied in offences falling within the non-prohibitory clause of Section 497 Cr.P.C.?
 - iv) Can the quantum of the amount involved in a case registered under Section 489-F of the Pakistan Penal Code be treated as an exception to the general rule?
 - v) Whether the offence under Section 489-F of the Pakistan Penal Code is intended to serve as a mechanism for recovery of the amount?
 - vi) Which statutory mechanism has been prescribed by the legislature for the recovery of money in instances of cheque dishonour?

- Analysis:**
- i) The said offence is, admittedly, of the category which falls within the non-prohibitory clause of section 497 of the Code of the Criminal Procedure, 1898 ('Cr.P.C.).
 - ii) This Court has consistently held that while considering the grant of bail, where offences fall within the non-prohibitory clause, the granting of bail has to be considered favourably as a rule, but may be declined in exceptional cases.
 - iii) The extra ordinary and exceptional cases, inter alia, includes likelihood of abscondence of the accused; apprehension of the accused tempering with the prosecution evidence; and the danger of the offence being repeated.
 - iv) The quantum of amount involved in a case registered under section 489-F cannot be treated as an exception to the general rule that in cases falling under the category of non-prohibitory clause.
 - v) The offence under section 489-F of PPC is not a provision which is intended by the legislature to be used for recovery of the alleged amount.
 - vi) The legislature has set out the framework for recovery of an alleged amount in case of a dishonoured cheque under Order XXXVII of the Civil Procedure Code, 1908.

- Conclusion:**
- i) Non-prohibitory clause.
 - ii) The grant of bail is ordinarily to be favored, subject to denial only in exceptional cases.
 - iii) See above analysis No. iii
 - iv) No
 - v) No
 - vi) As provided under Order XXXVII of the Civil Procedure Code, 1908

6. Supreme Court of Pakistan
Sahad v. Mst. Afsheen and another
Criminal Petition No. 1033 of 2025
Mr. Justice Amin-ud-Din Khan, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 1033_2025.pdf

Facts: Petitioner was charged under sections 302/34 PPC along with co-accused on the allegation of collectively firing upon the deceased, resulting in his death. After dismissal of bail by the High Court and two courts of Sessions, the petitioner filed the present petition before this Court seeking post-arrest bail.

- Issues:**
- i) Whether a mismatch between crime empties and the weapon allegedly recovered from the accused renders the recovery doubtful?
 - ii) Whether the evidentiary value of the recovered weapon, in light of the forensic report, can be determined without recording evidence at trial?
 - iii) Whether the absence of specific attribution of individual role by the sole eyewitness makes the case fit for further inquiry?

Analysis: i) It appears that the crime empties recovered from the place of occurrence do not

match with the weapon allegedly recovered from the present Petitioner. The inconsistency between the recovered crime empties and the weapon attributed to the Petitioner renders the recovery doubtful.

ii) All the more so as the said report, when produced by the learned Law Officer, was neither objected to nor denied by the learned counsel for the Complainant. Any opinion regarding the evidentiary value of such recovery, therefore, cannot be formed without recording evidence at the trial

iii) It is also pertinent to observe that the Complainant, who is the sole eyewitness, did not specify in her statement the distinct role played by each of the accused. Her narration was general in nature, attributing no specific or individual role to the Petitioner which makes the case fit for further inquiry.

- Conclusion:**
- i) The mismatch between crime empties and the recovered weapon renders the recovery doubtful.
 - ii) The evidentiary value of the recovered weapon, in light of the forensic report, cannot be determined without recording evidence at trial.
 - iii) The absence of specific attribution of individual role by the sole eyewitness makes the case fit for further inquiry.

7. Supreme Court of Pakistan
Sardar Hussain v. The State and another.
Criminal Petition No. 966 of 2018 and Crl. M.A No. 1586 of 2018.
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan & Mr. Justice Malik Shahzad Ahmad Khan.
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 966 2018.pdf

Facts: The appellant was tried and convicted under section 9(a)(iii), (vi) (xii) of National Accountability Ordinance, 1999 ('NAO,1999') by the Ehtasab Court (trial court) and sentenced for imprisonment of 03 years along with payment of fine. His conviction was maintained from the High Court. Then he filed this petition before the Supreme Court of Pakistan.

Issues:

- i) What qualifies the misuse of authority?
- ii) Whether mistake of civil law constitutes the mens rea?
- iii) Whether mere misuse of authority, without proof of mens rea, has any penal consequences?
- iv) What is corruption and corrupt practices?
- v) In which cases the misuse of authority is attracted?
- vi) Whether procedural improprieties can be per se categorized as 'misuse of authority'?

Analysis:

- i) To establish the charge of misuse of authority, the prosecution has to establish the two essential ingredients of the alleged crime i.e, "mens rea" and "actus reus". If either of these is missing no offence is made out, Mens rea or guilty mind, in context of misuse of authority, would require that the accused had the knowledge that he had no authority to act in the manner he acted or that it was against law or

practice in vogue but despite that he issued the instruction or passed the order.

ii) He merely approved the proposal and sent the matter to the competent authority. At worst he could be accused of mistake of civil law. i.e. ignorance of rules, But a mistake of civil law negates mens rea.

iii) The mens rea for an offence under section 9 (a)(vi) of the Ordinance, is found in two elements i.e. conscious misuse of authority and illegal gain or undue benefit and in absence of anyone of these basic components of crime, the misuse of authority is not Culpable, therefore, the prosecution must establish mens rea and actus reus of the crime to establish the charge, as without proof of these elements of crime, mere misuse of authority, has no penal consequence.

iv) The offence of corruption and corrupt practices has not been as such defined in the Ordinance but in general terms, the corruption is an act which is done with intent to give some advantage inconsistent with law and wrongful or unlawful use of official position to procure some benefit or personal gain, whereas the expression corrupt practices is series of depraved/ debased/ morally degenerate acts.

v) A charge of misuse of authority under that law may be attracted where there is a wrong and improper exercise of authority for a purpose not intended by the law, where a person in authority acts in disregard of the law with the conscious knowledge that his act is without the authority of law, where there is a conscious misuse of authority for an illegal gain or an undue benefit and where the act is done with intent to obtain or give some advantage inconsistent with the law. The said precedent cases also show that misuse of authority means the use of authority or power in a manner contrary to law or reflecting an unreasonable departure from known precedents or custom and also that mens rea or guilty mind, in the context of misuse of authority, would require that the accused person had the knowledge that he had no authority to act in the manner he acted or that it was against the law or practice in vogue but despite that he issued the relevant instruction or passed the offending order.

vi) In this context, the petitioner's actions/omissions can at most be described as procedural improprieties which would not per se be categorized as a "misuse of authority" attracting the offence under section 9(a) (vi) of the NAO, 1999.

- Conclusion:**
- i) The two essential ingredients i.e, "mens rea" and "actus reus" qualifies the misuse of authority.
 - ii) A mistake of civil law negates mens rea.
 - iii) The misuse of authority, without proof of mens rea, has no penal consequence.
 - iv) See above analysis No.iv.
 - v) See above analysis No.v.
 - vi) Procedural improprieties cannot per se be categorized as a "misuse of authority".
-

- 8. Supreme Court of Pakistan**
Muhammad Shakeel v. The State thr. P.G. Punjab and another
Crl.P.L.A.1144/2025
Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Naeem Akhter Afghan,
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 1144 2025.pdf

Facts: The petitioner sought post-arrest bail in the criminal case where he is under the allegation of committing Zina with the complainant's daughter.

Issues:

- i) Whether absence of marks of violence makes the case one of consent or coercion, to be determined at trial?
- ii) Whether unexplained delay in recording prosecution evidence after submission of challan makes the case of accused of further inquiry?
- iii) Whether bail can be withheld as punishment?

Analysis:

- i) Though MLC of the victim and DNA Analysis Report of PFSA reveal of sexual intercourse by the petitioner with the victim but the MLC of the victim does not reveal of any marks of violence on the body of victim. It is yet to be determined at the trial as to whether the sexual intercourse was with consent of the victim or it was forcible.
- ii) Despite submission of challan in December 2024, till date the statement of victim and the prosecution witnesses have not been recorded and in this regard no plausible explanation has been offered by the prosecution.
- iii) According to settled principles of law, bail cannot be withheld as mere punishment.

Conclusion:

- i) In the absence of marks of violence makes the case one of consent or coercion, to be determined at trial
- ii) See above analysis No.ii.
- iii) See above analysis No.iii

- 9. Supreme Court of Pakistan**
Federal Board of Revenue through its Secretary (Legal HR), FBR, Islamabad
v. Naureen Ahmad Tarar and others
C.P.L.A.1002/2025
Ms. Justice Musarrat Hilali, Mr. Justice Justice Ageel Ahmed Abbasi, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 1002 2025.pdf

Facts: Respondent, a Pakistan Custom Services officer, challenged the seniority list issued by the petitioner department (FBR), which relegated her position; the Federal Service Tribunal (FST) restored her seniority, ruling that the 1990 Rules were inapplicable post-promotion; the petitioner department's appeals against FST judgments were dismissed by the Supreme Court, affirming Respondent's seniority restoration; Respondent's writ petition for implementation was allowed by the Islamabad High Court, remitting the matter to FST, whose execution order is now challenged by the petitioner department via CPLA.

- Issues:**
- i) Whether seniority can be altered after induction and subsequent promotion in service?
 - ii) Whether the benefit of a judgment in rem can be extended to similarly placed parties?
 - iii) Whether interference by the Supreme Court is justified under Article 212(3) in the absence of a substantial question of law of public importance?
- Analysis:**
- i) The issue of seniority shall be determined at the time of induction in service and cannot be changed subsequently, especially when the officers have been promoted to the next higher grade.
 - ii) In view of the large number of judgments of this Court, the benefit of the judgment in rem can be extended to similarly placed parties.
 - iii) This petition does not raise a substantial question of law of public importance and warrant no interference by this court within the contemplation of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973.
- Conclusion:**
- i) See above analysis No.i.
 - ii) See above analysis No.ii
 - iii) Supreme Court cannot interfere within the contemplation of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973 in the absence of a substantial question of law of public importance.

10. Supreme Court of Pakistan

M/s Mobiserve Pakistan (Pvt.) Limited v. M/s V-Tech & others
CPLA No. 3824 of 2023 & C.M.A No. 8489 of 2023

Mr. Justice Amin-Ud-Din Khan, Mr. Justice Shahid Bilal Hassan.

https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3824_2023.pdf

Facts: The petitioner has approached the Supreme Court of Pakistan under Article 185(3) of the Constitution, seeking leave to appeal against a decision of the Islamabad High Court dated 18.09.2023. The High Court had dismissed the petitioner's writ petition challenging the trial court's dismissal of an application under Section 12(2) of the Civil Procedure Code (CPC), 1908. The background involves a recovery suit filed by the respondents. The petitioner was proceeded against ex parte due to non-appearance, and an ex parte decree was passed on 18.09.2013. The petitioner later filed a Section 12(2) application alleging irregularities, which was dismissed by the trial court on 14.07.2022. That dismissal was upheld by the High Court.

- Issue:**
- i) What is the condition precedent for adoption of substitutive service of summons?
 - ii) What is the distinction between the scope and application of Section 12(2) CPC and Order IX Rule 13 CPC?
 - iii) Whether a third party can invoke jurisdiction of Section 12(2) CPC?
 - iv) Whether the act of the court in allowing substituted service without

following mandatory procedures can be corrected under the maxim *actus curiae neminem gravabit*?

v) Whether a party may raise objections under Section 47 CPC, alongside or instead of a separate application under section 12(2) CPC?

vi) Whether the ancillary provisions of Order XXI CPC (e.g., Rules 26, 90) Section 144 and Section 151 CPC apply when an ex-parte decree is set aside?

vii) What are the provisions of CPC that ensure procedural fairness in the process of execution, stay or restitution?

Analysis:

i) It is observed that substituted service can only be effected when ordinary summons cannot be served or defendant deliberately avoids to receive summons of the Court and the Court is satisfied that service could not be effected through ordinary modes of service and that satisfaction can be achieved by recording statement of the process server but as stated above nothing as such was undergone by the learned trial Court.

ii) The scope of application under Section 12(2) CPC is broader than Order IX Rule 13, CPC, as it is not limited to ex-parte decrees and can be invoked by non-parties...(…) section 12(2) law provides a remedy to challenge a judgment, decree, or order obtained by: i) fraud, ii) misrepresentation, or iii) want of jurisdiction. However, mere used of these terms is no sufficient, rather specific particulars must be provided as required by Rule 4 of Order VI, CPC⁵. It allows any person⁶ affected by such a decree or order to apply to the court that passed it, seeking to set it aside. This provision is not limited to parties to the suit but extends to any person aggrieved by the decree or order. It means an application under Section 12(2) CPC is maintainable when the decree or order was obtained by deliberate deception or suppression of material facts from the Court. (...) An application under Order IX Rule 13 CPC is maintainable when: the defendant(s) was not duly served with the summons, or the service was defective, preventing their appearance; the defendant(s) was prevented from appearing due to sufficient cause, such as illness, accident, or other unavoidable circumstances; the decree was passed ex-parte, i.e., in the absence of the defendant, without hearing their defense. The application must be filed by the defendant in the court that passed the ex-parte decree. The defendant must demonstrate that they were not served or had sufficient cause for non-appearance. The court may set aside the decree in terms (e.g., costs) and allow the defendant to contest the suit. Unlike Section 12(2) CPC, this provision-Order IX, Rule 13, CPC is limited to ex-parte decrees and does not cover fraud or jurisdiction issues unless they relate to service or non-appearance. Key Distinctions between the applications under section 12(2) and IX(13), CPC are that Section 12(2), CPC addresses fraud, misrepresentation or lack of jurisdiction and applies to any decree or order, while Order IX Rule 13, CPC is restricted to ex-parte decrees; Section 12(2), CPC can be invoked by any aggrieved person, including non-parties, while Order IX Rule 13, CPC is available only to defendants; Section 12(2) CPC

focuses on substantive defects (fraud, misrepresentation, jurisdiction), while Order IX Rule 13 CPC addresses procedural issues (non-service, sufficient cause); Section 12(2) CPC seeks to set aside the decree or order entirely, while Order IX Rule 13 CPC seeks to restore the suit for hearing on merits. In light of the above, an application under Section 12(2) CPC lies when a decree or order is tainted by fraud, misrepresentation, or lack of jurisdiction, as seen in cases like fabrication of documents or jurisdictional overreach. Conversely, an application under Order IX Rule 13 CPC lies when an ex-parte decree is passed due to non-service of summons or sufficient cause for the defendant's non-appearance, such as illness or defective service

iii) An application under Section 12(2) can be filed. Additionally, a person not a party to the suit but affected by the decree e.g., a third party whose property is wrongly included in a decree, may apply under this section.

iv) it is also a well settled elucidation of law that an inadvertent error or lapse on the part of Court may be reviewed in view of the renowned legal maxim "*actus curiae neminem gravabit*" recognized by both local and foreign jurisdictions which articulates that no man should suffer because of the fault of the Court or that an act of the Court shall prejudice no one. This maxim is rooted in the notion of justice and is a benchmark for the administration of law and justice to ensure that justice has been done with strict adherence to the law and for undoing the wrong so that no injury should be caused by any act or omission of the Court. The proper

place of procedure in any system of administration of justice is to help and not to thwart the grant to the people of their rights. All technicalities have to be avoided unless it is essential to comply with them on grounds of public policy [Ref: *Imtiaz Ahmad v. Ghulam Ali and others* (PLD 1963 SC 382)].

v) If a decree is challenged under Section 12(2) CPC on the basis of fraud or lack of jurisdiction, issues related to its execution (e.g., whether the decree is enforceable) may be addressed under Section 47 CPC during execution proceedings. For instance, if a decree obtained by fraud is sought to be executed, the aggrieved party may raise objections under Section 47 CPC, alongside or instead of a separate application under Section 12(2) CPC, depending on the stage of proceedings; Section 151 CPC empowers courts to pass orders necessary to meet the ends of justice or prevent abuse of the process of the court. It is notable fact that if an application under Section 12(2) CPC does not fully address procedural gaps (e.g. interim relief to stay execution of a fraudulent decree), the court may invoke its inherent powers under Section 151 CPC.

vi) The provisions under Order XXI (e.g. Rules 2612, 2913, 9014, 99–101) govern the execution of decrees. If a decree is challenged under Section 12(2) CPC for fraud or lack of jurisdiction, ancillary issues like staying execution (Order XXI Rule 26, CPC) or setting aside a sale in execution due to fraud (Order XXI Rule 90, CPC) may arise if a property is sold in execution of a decree obtained by misrepresentation, the affected party may seek to set aside

the sale under Order XXI Rule 90 CPC, in conjunction with an application under Section 12(2) CPC.

vii) The ancillary provisions ensure procedural fairness, provide mechanisms for execution or stay, and allow appeals or restitution, complementing the primary remedies under Section 12(2) and Order IX Rule 13, CPC. Provisions like Section 151 and Order XXI, CPC grant courts flexibility to address case-specific issues, ensuring justice is not defeated by procedural technicalities. Both Section 12(2) and Order IX Rule 13, CPC applications require compliance with procedural rules [e.g., notice under Order IX Rule 14 CPC or evidence of fraud under Section 12(2) CPC], and ancillary provisions like Order V or Section 47, CPC guide these requirements.

- Conclusion:**
- i) substituted service can only be effected when ordinary summons cannot be served or defendant deliberately avoids to receive summons of the Court and the Court is satisfied that service could not be effected through ordinary modes of service.
 - ii) See above analysis No. ii.
 - iii) See above analysis No. iii.
 - iv) An inadvertent error or lapse on the part of Court may be reviewed in view of the renowned legal maxim "actus curiae neminem gravabit"
 - v) See above analysis No.v.
 - vi) See above analysis No.vi.
 - vii) See above analysis No.vii

11. Supreme Court of Pakistan
Zahid Nawaz v. The State, etc.
Criminal Petition No. 433/2025
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim,
Mr. Justice Ali Baqar Najafi
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 433 2025.pdf

Facts: The appellant was apprehended with a narcotic substance and convicted by the courts below. He challenged the conviction on the grounds of delayed transmission of the sample for analysis and the entire investigation having been conducted by the complainant himself.

- Issues:**
- i) Whether the absence of evidence regarding safe custody or transmission of recovered substance vitiates the conviction?
 - ii) Whether investigation by the complainant himself in a case under the Control of Narcotic Substances Act, 1997 violates the accused's right to a fair trial under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973?
 - iii) Whether justice can be considered served without eliminating potential bias or predetermined conclusion in laws with severe penalties and reverse burden of proof?
 - iv) Whether a complainant-police officer is legally prohibited from investigating a case under the Control of Narcotic Substances Act, 1997?

- v) Whether investigation in criminal cases under the Control of Narcotic Substances Act, 1997 must be free from objectionable features to avoid grievance of unfairness?
- vi) Whether the complainant acting as investigating and raiding officer raises concerns under the principle that no one can be a judge in their own cause?
- vii) Whether the absence of independent corroboration creates a clear risk of false implication when all prosecution witnesses belong to the same police unit?

Analysis:

- i) This Court has consistently maintained that a conviction cannot be recorded in the absence of any evidence regarding the safe custody or safe transmission of the recovered substance or the samples thereof.
- ii) The importance of a fair investigation is a guaranteed constitutional right under Article 10 A of the Constitution of the Islamic Republic of Pakistan 1973. This right is the foundation of a fair trial and necessitates that the complainant and the investigating officer are not the same person, particularly in criminal cases registered under the provisions of the CNS Act, 1997, which carries stringent punishments.(...) in order to protect the accused's fundamental right to a fair trial under Article 10-A of the Constitution, we are of the considered view that a complainant should avoid acting as the Investigating Officer in a criminal case as far as it is practical, in such circumstances where he has acted as the complainant, the reasons shall be made part of the record if prejudice is pleaded by the defense.
- iii) Not only must justice be served, but it must also be appearing to be served. It was necessary to eliminate any potential bias or predetermined conclusion. This requirement is particularly critical in laws that impose severe penalties and reverse the burden of proof.
- iv) We acknowledge that the complainant-police officer is not legally prohibited from conducting an investigation of a case registered under CNSA, 1997. Nevertheless, the investigation may be challenged on the basis of bias or a genuine likelihood of bias on the part of the investigating officer.
- v) The investigation in a criminal offense, particularly under the provisions of the CNS Act, 1997, which carries a reverse burden of proof under section 29, must be free from objectionable features or infirmities that may legitimately lead to a grievance on the part of the accused that the investigation was unfair and carried out with an ulterior motive. In this regard, guidance can also be sought from Chapter 25 of the Police Rules, 1934.
- vi) This raises significant concerns, as it violates the fundamental principle of natural justice that no one can serve as a judge in their own cause. The accused is frequently deprived of a fundamental safeguard, which is the cross-examination of an independent investigator, when the Investigating Officer simultaneously serves as the complainant and raiding officer. This officer is frequently a primary witness for the defense. In *Ashiq alias Kaloo v. The State* (1989 P Cr.LJ 601), the Federal Shariat Court categorically observed that such investigations are inherently prejudiced.

vii) Although police officials may be competent witnesses in their own right, there is a clear risk of false implication when the complainant, investigating officer, and marginal witnesses are all members of the same police unit and are accountable to each other, without independent corroboration, and the accused is already known to them.

- Conclusion:**
- i) Conviction cannot be sustained without proof of safe custody or transmission.
 - ii) Investigation by the complainant in a case under the Control of Narcotic Substances Act, 1997 compromises the right to a fair trial.
 - iii) Justice is not served without eliminating potential bias or predetermined conclusion.
 - iv) A complainant-police officer is not legally barred from investigating a CNS case, but such investigation is open to challenge on grounds of bias.
 - v) Investigation under the Control of Narcotic Substances Act, 1997 must be free from objectionable features to ensure fairness.
 - vi) The complainant acting as investigating and raiding officer raises significant concerns under the principle that no one can be a judge in their own cause.
 - vii) There is a clear risk of false implication when all witnesses belong to the same police unit without independent corroboration.

12. Supreme Court of Pakistan
M/s Commander Agro (Private) Limited v. Customs Appellate Tribunal Bench-I, Lahore etc.
Civil Petition No.110 of 2023
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 110_2023.pdf

Facts: The primary question involved in this petition is the one as to whether after issuance of show cause notice, the order-in-original was passed within the time contoured by section 179(3) of the Customs Act, 1969.

Issues:

- i) Whether time bound proceeding in terms of sections 179(3) and 179(4) of the Custom Act, 1969 is mandatory?
- ii) Whether after issuance of show cause notice, the order-in-original was passed within the time contoured by section 179(3) of the Customs Act, 1969?

Analysis: i) This time bound proceeding in terms of sections 179(3) and 179(4) is mandatory. The like provisions were adjudged as mandatory in the case of Collector of Sales Tax, Gujranwala and others Vs. Super Asia Mohammad Din and others (2017 SCMR 1427). Judgment then came for its application in another matter that is Wak Limited Vs. Collector Central Excise and Sales Tax reported as 2018 SCMR 1474 which expressed their concern over finding of Super Asia. The matter was then set at rest by larger bench of this Court in the case of Messers Wak Limited Multan Road, Lahore and others Vs. Collector Central Excise and Sales Tax, Lahore and others reported as 2025 SCMR 1280 which confirmed and

upheld the findings of Super Asia case *ibid*, confirming the time bound proceedings as mandatory....

ii) Since, in terms of the above calculation the order was passed much beyond the time limits and even the alleged extension was much beyond the limit prescribed, (as it ought to have been extended, if at all, within the time frame), leaving the decision that is order-in-original as time barred and consequently the proceedings under the aforesaid show cause notice could not continue any more.

Conclusion: i) Time bound proceeding in terms of sections 179(3) and 179(4) is mandatory.
ii) See analysis Para No.ii

13. Supreme Court of Pakistan
Rehmat Ali v. The State
Jail Petition No. 252 of 2020.
Mr. Justice Ali Baqar Najafi, Mr. Justice Muhammad Hashim Khan Kakar
& Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p. 252_2020.pdf

Facts: The allegation in the FIR was that the appellant committed rape with his minor daughter. The appellant was tried and convicted under section 376(1) PPC by the trial court. He filed an appeal before the High Court but his conviction was maintained. Then he filed this jail petition before the Supreme Court of Pakistan.

Issues: i) What is authenticity of statement of a minor victim without certification of court as to test of her capacity to testify?
 ii) What is the effect if the time and date of occurrence is not narrated by the star witness in serious offences?
 iii) What is the value of testimony of child witness when the Rationality test is not conducted by the court?

Analysis: i) The statement of victim recorded without certification of the Presiding Officer about the capacity of the child creates doubt about her credibility and, therefore, requires strong corroboration.
 ii) According to the complainant (PW-1) no time and date of occurrence was narrated by the victim. Whenever a serious allegation of being an incestuous father is levelled higher standard of proof by the credible prosecution witnesses is required. A rare allegation of one of the most serious offences committed in the presence of other children and old father of the convict in the house had been levelled.
 iii) We have also noticed that the trial court had also not put the Rationality Test to the child witness (PW-3) prior to recording of her statement. Under Article 3 of the Qanun-e-Shahadat Order, 1984, a child is a competent witness if he/she passes a standard of the sufficient maturity of understanding about the facts which were to be narrated by her. A note/observation by the court, based on the relevant questions and their answers would make such statement credible. In the given situation the statement of victim (pw-3) needs strong corroboration. In the present

case the complainant (PW-1) and her brother (PW-2) are not the eye witnesses but are the hearsay witnesses, thus it was unseen occurrence.

- Conclusion:**
- i) Statement of a minor victim without certification of court creates doubt.
 - ii) See above analysis No.ii.
 - iii) See above analysis No.iii

14. Supreme Court of Pakistan
Muhammad Zaffar Khan and another v. Syed Shumaila Zaidi and others
Civil Appeal No. 209 of 2025 & CMA No.2936 of 2025
Mr. Justice Shahid Waheed, Ms. Justice Musarrat Hilali, Mr. Justice Ali Baqar Najafi.
https://www.supremecourt.gov.pk/downloads_judgements/c.a._209_2025.pdf

Facts: Brief facts are that a civil suit was also filed by the petitioners seeking enforcement of the alleged sale agreement and related reliefs. The legality of the transaction was contested, particularly in light of the termination of the GPA upon Salma Sultana's death and the alleged coercion in executing the mutation. Altaf Hussain, predecessor of Respondents No.1 to 6, was allegedly tortured while in police custody and coerced into executing a contract/mutation in favor of the petitioners concerning a property. An FIR was registered at Police Station Industrial Area, Quetta under Sections 406, 417, 419, 420, 424, 109, 465, 468, 471, 34, 504, 506 PPC, alleging fraud, forgery, and criminal breach of trust against Talib Hussain and Respondents No.4 and 5. Altaf Hussain was arrested on 02.12.2015 in Islamabad and brought to Quetta, where he was granted bail on 07.12.2015, and was acquitted under Section 249-A Cr.P.C. by the Magistrate, Quetta on 16.05.2015. Further, it was alleged that during police pressure, female family members were forced to produce the expired power of attorney, which was used to validate transactions before the Assistant Collector Grade-I, Quetta and authenticated by a Notary Public. Through this appeal under Article 185(2)(d) of the Constitution of Islamic Republic of Pakistan, 1973, the impugned judgment has been challenged whereby the learned Single Judge had reversed the findings given by both Civil Court/trial court as well as Additional District Judge/Appellate.

- Issue:**
- i) What is the legal value of an agreement executed by one of the parties under police custody?
 - ii) What are the elements of a legally binding agreement?
 - iii) What is the difference between undue influence and coercion in contract law, and how are these two elements connected or related to each other?"
 - iv) "What is duress in contract law, and why does its presence render an agreement unenforceable or voidable?"
 - v) Under contract law, what legal provisions define free consent, and in what circumstances does the absence of free consent render an agreement void or voidable?"

- Analysis:**
- i) Under the law a transaction or an agreement executed under custody or detention could potentially be considered as having been made under coercion, duress or undue influence, if the free consent is not given or the expressed will was the outcome of such circumstances. A person in custody or detention may be particularly vulnerable to coercion or duress as his freedom or liability to resist is severely limited. A person under the custody of the law enforcement agencies having control over the situation if enters into an agreement against best interest has an option to avoid it hence can be challenged in the court as voidable.
 - ii) A legally binding contract requires several elements i.e. an offer, acceptance of that offer, consideration, the parties having legal capacity to contract but not for an unlawful purpose, surely with a free consent (meeting of the minds or consensus ad idem). If the consent is procured by coercion, undue influence, fraud, misrepresentation or mistake, the consent is not free.
 - iii) An undue influence is a demonstration of controlling the will of the other party because of the prevailing situation of the main party. While coercion is an act of enforcing a will but the undue influence or duress is the consequence of coercion. A contract procured under duress by one party over the other is void and any benefit received therefrom must be restored and the loss be made good to such party.
 - iv) Duress in its more extended sense means that the degree of constraint or danger either actually inflicted or threatened which creates sufficient insecurity or an apprehension to overcome the mind and will of a person of ordinary fairness. It does not necessarily imply that the means used should be in themselves unlawful, but includes the use of lawful means in an unlawful manner or for an improper purpose. A duress by imprisonment, both lawful or unlawful, to force the party into executing a contract is illegal.
 - v) The contract would be deemed void under section 2(g) of the Contract Act, 1872 since it lacked consent as defined under section 13 of the Act and free consent under section 14 of the Act *ibid*.

- Conclusion:**
- i) A person under the custody of the law enforcement agencies having control over the situation if enters into an agreement against best interest has an option to avoid it hence can be challenged in the court as voidable.
 - ii) See above analysis No. ii.
 - iii) See above analysis No. iii.
 - iv) Duress in its more extended sense means that the degree of constraint or danger either actually inflicted or threatened which creates sufficient insecurity or an apprehension to overcome the mind and will of a person of ordinary fairness.
 - v) See above analysis No. v.
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- 15. Supreme Court of Pakistan**
Khurram Javed and another v. Ahmed Bilal and others
CPLA No.2788 of 2022
The Hon'ble Chief Justice Mr. Justice Yahya Afridi, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2788 2022.pdf

Facts: The Guardian Court dismissed the application u/s 25 of the Guardian and Wards At, 1890 of the respondent, resulting in the minor's custody to remain with her maternal grandmother/petitioner. The appeal also remained unsuccessful but the High Court allowed the writ petition by setting aside the judgments of courts below.

Issues: i) What obligation is cast upon the local judicial authorities, by the International Laws?
 ii) What is the importance of 'Mediation' in justice system?

Analysis: i) Article 3 of the United Nations Convention on the Rights of the Child (ratified by Pakistan on 12.11.1990) which obliges courts to act in the best interests of children. The General Comment No. 14 (2013) adopted by the Committee on The Rights of the Children at its 62nd session, stresses that this principle is not passive - it demands that judicial authorities facilitate participatory, child-sensitive mechanism including mediation.
 ii) The mediation in this case was a compassionate effort to shift the narrative from adversarial contestation to mutual understanding. The outcome of the mediation process in this case stands as a re-affirmation that this form of an alternative dispute resolution mechanism is a pathway to substantive justice. It is also a testament to the fact that the emotional wellbeing of a minor cannot be preserved through litigation alone.

Conclusion: i) Article 3 of the United Nations Convention on the Rights of the Child obliges courts to act in the best interests of children. It demands that judicial authorities facilitate participatory, child-sensitive mechanism including mediation.
 ii) The mediation is a compassionate effort to shift the narrative from adversarial contestation to mutual understanding; it's a pathway to substantive justice. The emotional wellbeing of a minor cannot be preserved through litigation alone.

- 16. Supreme Court of Pakistan**
Qaiser Jabbar v. Syed Mati Ullah Shah and others
Crl.P.L.A. No. 1121 of 2021
Mr. Justice Jamal Khan Mandokhail, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 1121 2021 020 62025.pdf

Facts: Through the instant petition, the petitioner, assails judgment passed by the Islamabad High Court, whereby criminal revision filed by the petitioner under

sections 435 and 439 of the Code of Criminal Procedure, 1898 against the order passed by the court of the Additional Sessions dismissed. The court of the Additional Sessions Judge had dismissed the petitioner's complaint filed under sections 3 and 4 of the Illegal Dispossession Act, 2005. The said complaint was dismissed as not maintainable.

- Issues:**
- i) What is remedial scope of Illegal Dispossession Act, 2005?
 - ii) What are the conditions required to be fulfilled to attract the provisions of section 3 of the Illegal Dispossession Act, 2005?
 - iii) Whether mere pendency of civil litigation does not per se oust the jurisdiction of the criminal court nor does it render a criminal complaint under the 2005 Act non-maintainable?

- Analysis:**
- i) The 2005 Act is a remedial statute enacted for safeguarding lawful owners and occupiers against unlawful and often violent encroachments. The jurisdiction of the sessions court under the 2005 Act is not to be exercised for adjudicating complex questions of civil title but rather to assess, on the basis of available material. Whether a case of illegal dispossession is made out. The broad remedial scope of the 2005 Act, as judicially interpreted, ensures that the victims of such encroachments are provided with a swift, independent, and substantial legal remedy distinct from ordinary civil processes.
 - ii) The High Court appears to have been cognizant of the manner in which a complaint under the provisions of the 2005 Act is to be dealt with by the trial court. We say so because reference in the impugned judgment is also made to the case of *Mumtaz Hussain vs. Dr. Nasir Khan* (2010 SCMR 1254), wherein the following four conditions have been required to be fulfilled in order to attract the provisions of section 3 of the 2005 Act.

Firstly, the court is required to examine as to whether the property was an immovable property;

Secondly, that the person was the owner of the property or the property was in his lawful possession;

Thirdly, that the accused entered into or upon the property unlawfully; and

Fourthly, that such entry was with the intention to dispossess i.e. oust, evict or drive out of possession against the will of the person in actual possession of the property.

- iii) As regards the ground of the contesting parties being in litigation with each other, this by itself cannot be a valid ground for the trial court not to determine as to whether in fact the act of dispossession had taken place. In the case of *Muhammad Naseem vs. Fareeda Gul* (2016 SCMR 1931) this court has held *inter alia* that where an act constitutes both a civil wrong under civil law and an offence punishable under the 2005 Act, the perpetrator may be subjected to both sets of proceedings concurrently as each operates within its distinct legal domain. The said judgment further underscores that no person can be permitted to take the law into his own hands by unlawfully dispossessing the lawful owner or occupier of

an immovable property, and thereafter seek to defeat or frustrate criminal prosecution under the 2005 Act on the sole pretext that civil litigation pertaining to the same subject matter is pending adjudication before a competent forum...This principle was further reinforced in the case of Abdul Maheed vs. The State (2017 SCMR 390), wherein this court clarified that mere pendency of civil litigation does not per se oust the jurisdiction of the criminal court nor does it render a criminal complaint under the 2005 Act non-maintainable. The court reaffirmed that criminal liability must be adjudged on its own merits, and civil proceedings cannot be used as a shield to defeat criminal accountability in cases of illegal dispossession...A complaint filed under the provisions of the 2005 Act is maintainable even where civil proceedings between the parties are ongoing. The dual-trace nature of civil and criminal liabilities permits both to proceed independently and simultaneously. Any summary dismissal of a criminal complaint solely on the ground of the existence of a pending civil dispute is legally untenable and contrary to the settled jurisdiction, unless the trial court comes to the conclusion that the complainant is abusing the process of the law or the filing of the complaint is a nefarious design to convert a civil dispute into a criminal one.

- Conclusion:**
- i) See analysis Para No.i.
 - ii) See analysis Para No.
 - iii) Mere pendency of civil litigation does not per se oust the jurisdiction of the criminal court nor does it render a criminal complaint under the 2005 Act non-maintainable.

17. Lahore High Court
Nasira Ashfaq v. Director General Safe Cities Authority and others
Writ Petition No.78006/2023
Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2024LHC6602.pdf>

- Facts:**
- Respondent No.6 lodged a criminal case against the petitioner's husband under Section 9(c) of the Control of Narcotic Substances Act, 1997 (CNSA). Acting on source information, he arrested him and seized 1,460 grams of charas from his possession. The investigation was assigned to Respondent No.7, who produced the arrestee before the Area Magistrate the following afternoon, who remanded him to judicial custody. The Petitioner lodged a cross-version alleging that her husband was abducted by unknown persons, including two in police uniforms, from her parents' house. Despite calling the police emergency helpline '15', no assistance arrived. She later received threatening calls from her husband's cell phone, including a ransom demand allegedly made by Respondent No.6. Unable to pay, her husband was framed in a narcotics case. The Petitioner claims to have recordings of these calls and filed applications with senior police officers and Respondents No.1 & 2 for CCTV footage and call data records, but her requests were declined. She then filed an application under sections 22-A & 22-B Cr.P.C.

before the Ex-officio Justice of Peace, seeking directions for Respondents No.1 & 2 to provide the evidence and for Respondent No.7 to incorporate it into the investigation. The application was dismissed on the ground that it would amount to interference in the investigation of criminal case. Hence, the instant petition repeats the same prayer.

Issues:

- i) Is the right to information recognized and protected under international human rights jurisprudence?
- ii) How is the right to information vital to the effective functioning of democratic societies?
- iii) What is the purpose of the right to information in empowering individuals to access information held by public authorities?
- iv) Is the right to information addressed in any provision of the Universal Declaration of Human Rights (UDHR), adopted in 1948?
- v) Article 19 of UDHR serves as the foundation for which fundamental right?
- vi) Is there another international human rights law that reinforces the right to information and emphasizes the significance of freedom of expression?
- vii) Apart from the UDHR and the International Covenant on Civil and Political Rights (ICCPR), which regional human rights instruments contain provisions related to the right to information?
- viii) In what ways is the United Nations (UN) actively promoting the right to information?
- ix) Is the right to information absolute? If not, why?
- x) Does the Constitution of the Islamic Republic of Pakistan, 1973, recognize the right to freedom of speech and expression?
- xi) Which constitutional amendment introduced Article 19A, granting the independent fundamental right of access to information?
- xii) What are the landmark judgments of the Supreme Court of Pakistan in which Article 19A of the Constitution was interpreted regarding its enforceability for citizens and the imposition of restrictions on state functionaries in matters of public importance?
- xiii) Which two factors limit the absoluteness of the right to information granted under Article 19A of the Constitution?
- xiv) In the absence of a definition, what is the meaning of the expression 'public importance' as used in Article 19A?
- xv) "What is the meaning of 'reasonable restriction' as specified in Article 19A?
- xvi) What are the legislative extensions of the Punjab Transparency and Right to Information Act 2013 and the Right of Access to Information Act 2017?
- xvii) Under which enactment, the Punjab Safe Cities Authority was established, and what was the purpose of its establishment?
- xviii) What is the legal basis for the Punjab Safe Cities Authority to frame the PSCA Electronic Data Regulations 2016 (EDR-16)?
- xix) What does Regulation 3(2) of EDR-16 state?
- xx) What does Regulation 2(1)(d) of EDR-16 explain?
- xxi) To whom can date can be provides in light of Regulation 9(1) of EDR-16?

- xxii) What are the officially assigned purposes for the use of PSCA's data?
- xxiii) What is the period of data preservation according to Regulation 3(3)?
- xxiv) What is the purpose served by the PSCA Act of 2016, EDR-16, and the SOPs?
- xxv) Are the PSCA Act of 2016, EDR-16, and the SOPs restrictive in allowing the PSCA to share data with either the accused or the complainant in a criminal proceeding?
- xxvi) Which entities are permitted to collect data, and what are the intended purposes for its collection?
- xxvii) "What are the respective scopes of the Information Act of 2013 and the PSCA Act of 2016, and which statute holds precedence over the other?"
- xxviii) Are provincial bodies subject to legal restrictions regarding the disclosure of information?
- xxix) "How do Paul B. Weston et al. characterize criminal investigation in *"Criminal Investigation: Basic Perspectives"*?"
- xxx) Which constitutional provisions safeguard the right to equal legal treatment, protection under the law, and a fair trial?
- xxxi) What is the statutory definition of 'investigation' under Section 4(1) of the Criminal Procedure Code, and what aspects does it encompass?
- xxxii) In what manner have the 'investigative process' and the concept of 'fair and proper investigation' been propounded by the Supreme Court of India in its judgments?
- xxxiii) What obligation is placed upon the Investigating Officer under Rule 25.2(3) of the Police Rules, 1934?
- xxxiv) What principles regarding the conduct of investigation were laid down by the Supreme Court in the case of Mst. Sughran Bibi v. The State (PLD 2018 SC 595)?
- xxxv) What remedies are available to a person who is dissatisfied with the investigation of a case under the Police Order, 2002?
- xxxvi) What is the redressal mechanism available to an aggrieved of investigation under the Criminal Procedure Code?
- xxxvii) What is the role of an Ex-officio Justice of Peace in helping an individual aggrieved by police conduct?
- xxxviii) What are the fundamental principles embodied in Sections 36 and 37 of the Code of Criminal Procedure?
- xxxix) What insights does the review of the Third Schedule provide?
- xl) Whether the doctrine—that when an authority is granted the power to do something, it also includes all incidental or implied powers necessary to ensure its proper execution—extends to the power to investigate non-cognizable offences under Section 155(2) of the Cr.P.C., and encompasses all ancillary powers required for a proper investigation?
- xli) Under what circumstances may a Magistrate intervene in an investigation, and what responsibilities must he fulfil in doing so?

- xlii) In what context has the Supreme Court of India highlighted the scope of Section 156(3) of the Code of Criminal Procedure, 1973, which mirrors Section 156(3) of the Code of Criminal Procedure applicable in Pakistan?
- xliii) What do the words 'whenever' and 'thing' used in Section 94 of the Code of Criminal Procedure indicate?
- xliv) Whether an accused can request the court, prior to the commencement of trial, to order the production of documents not covered under Section 265-C of the Code of Criminal Procedure and whether such a request can be made before presenting a defence, notwithstanding the provisions of Section 265-F(7) of the Code of Criminal Procedure?
- xlvi) In what way do both provisions i.e. Sections 156(3) and 94(1) of the Code of Criminal Procedure play crucial roles within the legal framework?
- xlvi) What is the nature, scope, and accessibility of the redressal mechanisms for complaints regarding unsatisfactory police investigations, as provided under the Police Order 2002 and Sections 22-A(6), 551, 155(2), 156(3), and 94 of the Code of Criminal Procedure?
- xlvi) How does the Supreme Court of India view human rights and due process in criminal trials?
- xlvi) How does the High Court enforce fundamental rights?
- xlix) Does the High Court have jurisdiction to supervise the investigation of a criminal case or to control the agency conducting it? If so, under what circumstances?
- l) What are the determining factors for exercise of jurisdiction of High Court?

Analysis:

- i) The “right to information” is a fundamental human right recognized and protected by international human rights jurisprudence.
- ii) This right is often considered essential for the functioning of democratic societies and is closely linked to the principles of transparency, accountability, and the right to freedom of expression.
- iii) The right to information empowers individuals to access information held by public authorities, fostering informed decision-making and civic engagement and preventing corruption.
- iv) The Universal Declaration of Human Rights (UDHR), adopted in 1948, enshrines the right to information in Article 19, which states: “Everyone has the right to freedom of opinion and expression; this right includes freedom to seek, receive and impart information and ideas through any media and regardless of frontiers.”
- v) This provision lays the foundation for the right to information as an integral component of freedom of expression.
- vi) The International Covenant on Civil and Political Rights (ICCPR), another cornerstone of international human rights law, reinforces the right to information in Article 19. It echoes the sentiments expressed in the UDHR, emphasizing the significance of freedom of expression and recognizing the pivotal role of access to information.

- vii) Additionally, regional human rights instruments, such as the European Convention on Human Rights (ECHR) and the American Convention on Human Rights, incorporate provisions related to the right to information. For example, Article 10.1 of the ECHR states: “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.”
- viii) On a global scale, the United Nations (U.N.) has been actively promoting the right to information. The U.N. General Assembly, in its Resolution 59/1, recognized that “freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the United Nations is consecrated.” The U.N. also designated September 28 as the International Day for Universal Access to Information to emphasize the importance of this right.
- ix) The right to information is, however, not absolute. Legal provisions often allow for restrictions, particularly in national security, public order and safety, personal privacy, commercial interests, law enforcement, State secrets, intellectual property rights, and the prevention of hate speech and defamation. The challenge lies in balancing the right to access information and other societal interests. International human rights instruments stress that any restrictions should be prescribed by law, necessary, proportionate, and serve legitimate objectives.
- x) In Pakistan, Article 19 of the Constitution of 1973 guarantees every citizen the “freedom of speech and expression”.
- xi) In 2010, Article 19A was introduced into Part-II Chapter-I of the Constitution through the Constitution (Eighteenth Amendment) Act 2010. This Amendment established the right to access information as an independent fundamental right in matters of public importance.
- xii) In Watan Party and others v. Federation of Pakistan and others (PLD 2012 SC 292), the Supreme Court of Pakistan underscored the transformative impact of Article 19A in empowering citizens. It stated that this constitutional provision elevates access to information from a discretionary grant by the State to an enforceable right for the people. Article 19 has enabled every citizen to break free from the dominance of power centres that previously controlled information on matters of public importance. Additionally, the Supreme Court highlighted that this constitutional provision shields citizens from dependence on external sources or leaks for vital information, thus reinforcing the pillars of responsible and accountable governance as envisaged in the constitutional framework (...) In Justice Qazi Faez Isa and others v. President of Pakistan and others (PLD 2023 SC 661), the Supreme Court highlighted that Article 19A of the Constitution is framed in “positive” terms, which signifies that it grants citizens the proactive right to access information. It restricts the State from withholding information on matters of public importance and mandates it to take active measures to ensure citizens’ access to such information. The Supreme Court recognized that the State functions through its various organs – the Legislature, the Executive, and the

Judiciary – and stressed that the responsibility to uphold the fundamental right outlined in Article 19A rests on all these branches.

xiii) The right to information granted under Article 19A of the Constitution is not absolute. It is subject to two things: (a) it is restricted to matters of public importance, and (b) it is subject to regulation and reasonable restrictions imposed by law.

xiv) In the *Province of Punjab v. Qaisar Iqbal and others* (PLD 2018 Lahore 198), a Full Bench of this Court noted that Article 19A of the Constitution does not define the expression “public importance”. Therefore, it adopted its dictionary meaning according to which it means “question which affects and has its repercussions on the public-at-large, and it also includes the purpose and aim in which the general interest of the community, particularly the interest of individual, is directly or widely concerned.” In *Justice Qazi Faez Isa and others v. President of Pakistan and others* (PLD 2023 SC 661), the Supreme Court elucidated the phrase “matters of public importance” occurring in Article 19A in light of the jurisprudence developed in respect of Articles 184(3), 186(1) and 212(3) of the Constitution, which employ similar terminology. The Supreme Court stated:

“Therefore, as per the judicial definition, the expression ‘matters of public importance’ used in Article 19A means the matters that pertain to and affect the public at large, a whole community, and not an individual or a small group of individuals. In other words, it includes the matters in which the general interest of a whole community, as opposed to the particular interest of individuals, is directly and vitally concerned. The adjective ‘public’ necessarily implies a matter relating to the people at large, the nation, the State or a community as a whole. If a matter in which only a particular individual or group of individuals is interested, and the people at large or an entire community have no interest, that cannot be treated as a matter of public importance.”

xv) The second vital condition specified in Article 19A of the Constitution is that the right to information is subject to regulation and reasonable restrictions imposed by law. In *Pakistan Broadcasters Association and others v. Pakistan Electronic Media Regulatory Authority and others* (PLD 2016 SC 692), the Supreme Court defined the expression “reasonable restriction” as follows:

“It is certainly not easy to define ‘reasonableness’ with precision. It is neither possible nor advisable to prescribe any abstract standard of universal application of reasonableness. However, factors such as the nature of the right infringed, the duration and extent of the restriction, the causes and circumstances prompting the restriction, and the manner as well as the purpose for which the restrictions are imposed, are to be considered. The extent of the malice sought to be prevented and/or remedied, and the disproportion of the restriction may also be examined in the context of reasonableness or otherwise of the imposition. It needs to be kept in mind that ‘reasonable’ implies intelligent care and deliberation,

that is, the choice of course that reason dictates. For an action to be qualified as reasonable, it must also be just right and fair, and should neither be arbitrary nor fanciful or oppressive.”

xvi) The Punjab Transparency and Right to Information Act 2013 (the “Information Act”) seeks to actualize the right to information guaranteed by Article 19A of the Constitution to the extent of the provincial bodies mentioned in clause (h) of section 2 of the Act. This legislation extends to the whole of the Punjab. On the other hand, Parliament has enacted the Right to Access to Information Act, 2017, which applies to all public bodies of the Federal Government.

xvii) The Punjab Assembly has also enacted Act I of 2016. The Punjab Safe Cities Authority was established under Act I of 2016 (the “PSCA Act”) for the construction, development and maintenance of an integrated command, control and communication (IC3) system for police in major cities of the province for public safety through the use of modern technology, infrastructure and processes.

xviii) In exercise of the powers conferred on it under section 19 of the PSCA Act of 2016, the Authority has framed PSCA Electronic Data Regulations 2016 (“EDR-16”), which cover the whole process of collection, analysis, storage, presentation and use of the electronic data. These are supplemented by the Standard Operating Procedures (SOPs) for PPIC 3 Centre, Lahore

xix) Regulation 3(2) of EDR-16 states that, through the IC3 Project, a quantum of electronic data within the range of ancillary facility is generated (a) to help the prosecution in criminal cases, crime detection, investigating, inquiry or trial; and (b) to be used as an authentic piece of evidence in any investigation, inquiry, or trial; and (c) to maintain law and order.

xx) Regulation 2(1)(d) explains that “ ‘electronic data’ means any probative data or information in the form of videos/audio/picture, stored or transmitted in electronic format or on electronic media duly collected, recorded, generated or extracted through the ancillary facilities/equipment installed under the [PSCA] Act.”

xxi) Regulation 9(1) stipulates that the PSCA shall only provide the data it collects to the Investigating Officers, law enforcement agencies (LEAs), courts, tribunals or any other authorized person for investigation, inquiry or trial as evidence.

xxii) It follows that the PSCA’s data can be used for certain specific purposes only, i.e. for matters under inquiry, investigation or trial. Most importantly, under EDR-16, no person, institution or office other than those mentioned above can apply for and obtain any data from the Authority. EDR-16 prescribes a special form for electronic data requests (EDR Form), which means that a request to provide electronic data in any other mode is not entertainable.³

xxiii) According to Regulation 3(3) the electronic data generated through the IC3 facility shall be preserved and made available: (a) in the PSCA’s Data Centre for 30 days except otherwise required by the PSCA; (b) for two months after it is

stored in electronic data storage device [(defined in Regulation 2(1)(h)]; (c) upto seven years on instructions of the PSCA.

xxiv) The PSCA Act of 2016, EDR-16, and the SOPs serve as regulatory framework for the PSCA to share the information it gathers.

xxv) Notably, they do not prohibit the PSCA from sharing with the accused or the complainant party in a criminal case. Instead, they only establish procedural protocols and streamline the process to ensure that access is granted in a manner that prevents misuse and does not impede ongoing investigations.

xxvi) Only investigating officers, LEAs, courts, tribunals, or other authorized persons may collect specific data for a particular purpose in matters under inquiry or investigation or cases pending adjudication.

xxvii) The Information Act of 2013 is not a general law and both it and the PSCA Act of 2016 are special laws, the latter would take precedence as it was enacted subsequently. There is no clause in either statute giving it an overriding effect.

xxviii) It is noteworthy that section 13(1) of the Information Act of 2013 places certain restrictions on the disclosure of information by the provincial bodies. According to clause (f) of section 13(1), information required by an individual may be refused if deemed necessary for the administration of justice.

xxix) According to Paul B. Weston *et al.*, “criminal investigation is a lawful search for people and things useful in reconstructing the circumstances of an illegal act or omission and the mental state accompanying it. It is probing from the known to the unknown, backward in time, and its goal is to determine the truth as far as it can be discovered in any post-factum inquiry.”

xxx) Article 4 of the Constitution states that enjoying the protection of the law and being treated in accordance with the law is the inalienable right of every citizen, wherever he may be, and of every other person currently within Pakistan. Article 10A guarantees the right to a fair trial. Fair investigation is concomitant with this right. It is also recognized as essential to the right to life and personal liberty. It is a minimum requirement of the rule of law and necessary to ensure the integrity of the criminal justice system.

xxxi) Section 4(l) Cr.P.C. gives a statutory definition of the term “investigation”, stating that it encompasses all the proceedings under the Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) whom a Magistrate authorizes for this purpose.

xxxii) In Kailash Vijayvargiya v. Rajlakshmi Chaudhuri (2023), the Supreme Court of India noted the investigative process under the Code generally consists of the following steps: (a) proceeding to the scene of the incident; (b) establishing the facts and circumstances surrounding the case; (c) identifying and apprehending the suspected offender; (d) collecting evidence relevant to the alleged offence, which may involve examination of various persons, including the accused, and documenting their statements if deemed necessary by the investigating officer; (e) conducting searches at relevant locations and seizing items deemed necessary for the investigation and potential trial; and (f) forming an opinion based on the collected evidence as to whether there are sufficient

grounds to bring the accused before the Magistrate for trial, and if so, taking the necessary steps such as filing a report under section 173 Cr.P.C (...) In *Vinay Tyagi v. Irshad Ali alias Deepak and others* [(2013) 5 SCC 762], the Supreme Court of India explained that in criminal jurisprudence, the expression “fair and proper investigation” connotes two things: firstly, the investigation should be honest, unbiased and in accordance with law, and secondly, the entire emphasis should be to dig out the truth and bring it before the court of justice.

xxxiii) Rule 25.2(3) of the Police Rules, 1934, embodies this principle. It states that it is the duty of an investigating officer to find out the truth of the matter under investigation. His objective shall be to discover the actual facts of the case and arrest the real offender or offenders. He must not prematurely commit to any view of the facts for or against anyone.

xxxiv) In *Mst. Sughran Bibi v. The State (PLD 2018 SC 595)*, the Supreme Court of Pakistan emphasized that investigations must not be confined solely to the narrative presented in the FIR or the allegations contained therein. The Investigating Officer should not feel obligated to validate the accuracy of the incident as described in the FIR and should not allow the contents of the FIR to influence his judgment or control his actions. If the information received by the local police about the commission of a cognizable offence also contained a version as to how the relevant offence was committed, by whom it was committed, and in which background it was committed, then that version of the incident was only the version of the informant and nothing more. The Investigating Officer should not unreservedly accept such a version as the truth or the whole truth. Instead, following the registration of the FIR, he should conduct an impartial inquiry to ascertain the facts of the matter, gathering information from various sources and arriving at their own conclusions. The final report submitted under section 173 Cr.P.C. should reflect the Investigating Officer’s independent opinion, uninfluenced by the statements or allegations made in the FIR.

xxxv) The Police Order 2002 provides various remedies for the individual dissatisfied with the investigation of a case. Firstly, under Article 18(9), he can approach the supervisory officer charged with the duty to ensure timely completion and verification of the investigation. The said officer may summon the investigation officer, review the case file, evaluate the evidence, and issue instructions to the investigation officer in the form of a case diary. Article 18(10) provides that a supervisory officer not below the rank of a Deputy Superintendent of Police may verify the correctness of the investigation and the accuracy of the conclusions of the investigation by writing a case diary before submitting a report to the court. Secondly, the aggrieved person can seek the transfer of the investigation for which Article 18-A provides a complete mechanism. Thirdly, he can file a complaint to the Provincial Police Complaints Authority under Article 106. The PPCA is an independent body that oversees the performance and accountability of the police. It can inquire into the complaint and direct the

investigating officer to take appropriate action or refer the matter to the competent authority for disciplinary or criminal action against him.

xxxvi) An individual dissatisfied with the investigation may also invoke section 551 Cr.P.C., which reads as follows:

551. Powers of superior officers of police. – Police officers superior in rank to an officer in-charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

xxxvii) An Ex-officio Justice of Peace can also be helpful to an individual aggrieved by police conduct. Clause (iii) of section 22-A (6) Cr.P.C. empowers him to issue appropriate directions to the concerned police authorities on a complaint regarding neglect, failure, or excess committed by a police officer concerning his functions and duties. However, it is crucial to note that this provision is limited in scope. In *Khizer Hayat and others v. Inspector General of Police (Punjab), Lahore and others* (PLD 2005 Lahore 470), a Full Bench of this Court ruled that the directives of the Ex-officio Justice of Peace under section 22-A Cr.P.C. must conform strictly to the relevant legal framework. He must not usurp the powers of other authorities and address grievances directly. Nevertheless, there is an exception to this principle in cases where a clear legal obligation mandates a specific action by a police officer. In such instances, the Ex-officio Justice of the Peace may issue directives to ensure compliance with legal obligations. The Court further stated that the role of an Ex-officio Justice of Peace under section 22-A(6) Cr.P.C. is primarily that of a facilitator and mediator between complainants and the relevant police authorities. Effective communication and cooperation are essential for addressing grievances under this jurisdiction.

xxxviii) Section 36 Cr.P.C. stipulates that all Magistrates have the powers specified in the Third Schedule. Such powers are called the “ordinary powers”. Section 37 further provides that, upon the High Court’s recommendation, the Provincial Government may empower any Magistrate with additional powers listed in the Fourth Schedule alongside their ordinary powers.

xxxix) A review of the Third Schedule reveals that Magistrates of the First and Second Classes have the ordinary power under section 155(2) Cr.P.C. to direct the police to investigate cases involving non-cognizable offences where they have the jurisdiction to try or send to the Court of Session or the High Court for trial.

xl) It is well-settled that when a power is given to an authority to do something, it includes such incidental or implied powers that would ensure the proper doing of that thing. In other words, when the statute expressly grants any power, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Therefore, the aforementioned power to order the police to investigate cases involving non-cognizable offences under section 155(2) Cr.P.C. includes all such incidental powers essential to ensure a proper investigation.

xli) Section 156 Cr.P.C. deals with the investigation of cognizable offences, and its sub-section (3) plays a vital role in maintaining the rule of law. It empowers Magistrates to intervene when the police fail to address complaints or information concerning cognizable offences and ensures that they are investigated fairly, impartially, and thoroughly.

xlii) In Mohd. Yousuf v. Smt. Afaq Jahan & another (AIR 2006 SC 705), the Supreme Court of India analyzed the scope of section 156(3) of India's Code of Criminal Procedure of 1973, which mirrors section 156(3) of our Code. It stated that while section 156(1) allows an officer in charge of a police station to investigate any cognizable offence without a Magistrate's order, section 156(3) empowers a Magistrate to intervene if needed. The Supreme Court highlighted that although the investigations under section 156(3) also end up with a report under section 173 – the same outcome as police-initiated investigations – the significant point is that investigations under section 156(3) occur before the Magistrate takes cognizance of the offence. Thus, it offers a pre-cognizance check on the police. The Supreme Court further stated that the investigation under section 156(3) is distinguishable from the one under section 202 of the Indian Code.¹¹ The latter is limited in scope and is only to help the Magistrate decide whether to proceed further with the complaint.⁴⁰ In Sakiri Vasu vs State of U.P. and others (AIR 2008 SC 907), the Indian Supreme Court ruled that section 156(3) provides for a check by a Magistrate on the police. If he finds that they have not done their duty of investigating the case at all, or have not done it satisfactorily, he can issue necessary directives to ensure its thoroughness. The Supreme Court said: "Section 156(3) Cr.P.C., though briefly worded, is very wide and will include all such incidental powers as necessary for ensuring a proper investigation." It further stated that the Magistrate can also monitor the investigation under this provision. ⁴¹ In M. Subramaniam v. Janki (AIR Online 2020 SC 387), the Indian Supreme Court reaffirmed the above view, clarifying that although the Magistrate is empowered to monitor the progress of the investigation, he is not authorized to conduct the investigation himself because this responsibility lies with the police. Citing State of Bihar and another v. J.A.C. Saldanha and others (AIR 1980 SC 326), it stated:

"17. In our opinion section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an FIR and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C., though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.

"18. It is well settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant,

even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus, where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary for its execution.”

xliii) Here, I must also refer to section 94(1) Cr.P.C. It stipulates that whenever any court, or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for any investigation, inquiry, trial or other proceeding under the Code before it, such court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order. The words “whenever” and “thing” in section 94 Cr.P.C. are significant. “Whenever” indicates that a court can exercise the power to require the production of any document or other thing at any stage during an inquiry or trial. The only condition is that it must be necessary or desirable for the proceedings (...) In *Shakeel Akhtar v. The State etc.* (2023 LHC 7704), this Court determined that the word “thing” in section 94 Cr.P.C. should be broadly construed to encompass anything relevant to the offence, the production of which would promote the cause of justice

xliv) In *The State v. Chaudhry Muhammad Usman* (2023 SCMR 1676), the Supreme Court of Pakistan addressed two questions: (i) whether an accused can request the court, before the commencement of trial, to order the production of documents not covered under section 265-C Cr.P.C., and (ii) whether an accused can make such a request before presenting a defence, despite the existence of section 265-F(7) Cr.P.C., which provides that, after entering on his defence, an accused can apply to the trial court to issue any process for compelling the production of any document. The Supreme Court answered both questions in the affirmative. It ruled that any party may apply to the court for an order under section 94 Cr.P.C. and the court would allow its request if the condition mentioned above is satisfied. It clarified that section 265-F(7) does not control or limit the power of a court under section 94(1). “The provisions of these two sections differ from each other in their extent and scope. They are not opposed to each other. Section 94(1) affords both the parties to an inquiry or trial (not to the accused alone) the opportunity of causing the production of any document at any stage of such inquiry or trial, with the condition that the party applying for it must satisfy the court that the production of the required document is necessary or desirable for the purposes of the inquiry or trial. Section 265-F(7), on the other hand, only gives the accused another similar opportunity at the stage of his defence subject to a lesser condition, which is that his application should not be for the purpose of vexation or delay or defeating the ends of justice.”

xlv) Sections 156(3) and 94(1) of the Code play crucial roles within the legal framework, contributing to the fair and effective administration of justice. Nevertheless, they serve different purposes. Section 156(3) empowers Magistrates to intervene when the police do not adequately address complaints or information

regarding cognizable offences. It allows Magistrates to direct the police to investigate the alleged offence properly. In contrast, section 94(1) deals with the production of documents and evidence during legal proceedings (including investigation, inquiry, trial or other proceedings under the Code).

xlvi) In summary, the Police Order 2002 and sections 22-A(6), 551, 155(2), 156(3), and 94 of the Code effectively address complaints regarding an unsatisfactory police investigation. These remedies are not mutually exclusive. However, an individual must be vigilant and resort to the most effective one in a given situation (...) In this view of the matter, the remedies available against flawed or dishonest investigations are equally accessible to both the complainant/victim party and the accused.

xlvi) The right to a fair trial is as much to the accused as the complainant/victim party. *In Zahira Habibullah Sheikh and another v. State of Gujarat and others* (AIR 2004 SC 3114), the Indian Supreme Court stated that crimes are public wrongs that affect the entire community and emphasized the need to balance the interests of the accused, the victim, and society. The principles of the rule of law and due process are closely linked to human rights protection, and all parties involved in a criminal trial have the right to be treated fairly.

xlvi) The High Court is the guardian of the people's fundamental rights. Article 199 of the Constitution empowers it to enforce fundamental rights through the constitutional remedy of writs. These writs include habeas corpus, mandamus, prohibition, quo warranto, and certiorari.

xlix) In the seminal case of *Shahnaz Begum v. The Hon'ble Judges of the High Court of Sindh and Baluchistan and another* (PLD 1971 SC 677), the Supreme Court of Pakistan held that the general rule is that the High Court has no jurisdiction under the Constitution or any other law, including the Code, to supervise the investigation of a criminal case or to control the agency conducting it. The constitutional jurisdiction of the High Court may be invoked if the investigation is mala fide or without jurisdiction. In such a situation, the High Court may even exercise power under section 491 Cr.P.C. – though not under section 561-A Cr.P.C. – to release a person if he is in detention (...) the High Court retains the authority to intervene if the investigation appears to be conducted in bad faith or without jurisdiction. In specific situations where it is evident that an Investigating Officer is deliberately neglecting to secure crucial evidence, potentially motivated by ulterior motives, and the affected individual can demonstrate that he has no alternative adequate and efficacious remedy, which is a pre-requisite for invoking jurisdiction under Article 199 of the Constitution, the High Court may issue a writ of mandamus.

l) Factors such as the involvement of police officers in the dispute or their direct or indirect interest in the investigation's outcome, as well as the risk of evidence destruction if timely action is not taken (as exemplified by the PSCA's practice of destroying records after a specified period), are crucial in determining whether the alternative remedy is adequate and effective and whether the High Court should exercise its constitutional jurisdiction.

Conclusion: i) Yes

ii) Because it is closely linked to the principles of transparency, accountability, and the right to freedom of expression.

iii) Fostering informed decision-making, civic engagement and preventing corruption.

iv) Yes. Article 19 is relating to the right to information.

v) Freedom of expression

vi) Yes. The International Covenant on Civil and Political Rights (ICCPR)

vii) European Convention on Human Rights (ECHR) and the American Convention on Human Rights.

viii) The U.N. General Assembly recognised freedom of information in its Resolution 59/1... The U.N. also designated September 28 as the International Day for Universal Access to Information.

ix) See above analysis No. ix

x) Yes. Article 19 of the Constitution of 1973

xi) Eighteenth Amendment Act 2010

xii) 1) *Watan Party and others v. Federation of Pakistan and others* (PLD 2012 SC 292) and 2) Justice *Qazi Faez Isa and others v. President of Pakistan and others* (PLD 2023 SC 661)

xiii) Matters of public importance, and regulation and reasonable restrictions imposed by law.

xiv) See above analysis No. xiv

xv) See above analysis No.xv

xvi) The former legislation extends the right to information to provincial bodies as mentioned in section 2(h) while the later applies to all public bodies of the Federal Government.

xvii) It was established through Act I of 2016 and the purpose of establishment was the construction, development and maintenance of an integrated command, control and communication system for police for public safety through the use of modern technology, infrastructure and processes.

xviii) See above analysis No. xviii

xix) See above analysis No. xix

xx) See above analysis No. xx

xxi) It may be provided to the Investigating Officers, law enforcement agencies, courts, tribunals or any other authorized person for investigation, inquiry or trial.

xxii) Matters under inquiry, investigation or trial.

xxiii) See above analysis No. xxiii

xxiv) They serve as regulatory framework for the PSCA to share the information.

xxv) They do not prohibit the PSCA from sharing the data with the accused or the complainant party in a criminal case. Rather, they only establish procedural protocols.

xxvi) Investigating officers, LEAs, courts, tribunals, or other authorized persons.

xxvii) See above analysis No. xvii

xxviii) Yes

- xxix) See above analysis No. xxix
- xxx) Article 4 and 10A
- xxxi) See above analysis No. xxxi
- xxxii) See above analysis No. xxxii
- xxxiii) To find out the truth of the matter under investigation.
- xxxiv) See above analysis No. xxxiv
- xxxv) See above analysis No. xxxv
- xxxvi) He may invoke section 551 Cr.P.C.
- xxxvii) He may to issue appropriate directions to the concerned police authorities under section 22-A (6) (iii) Cr.P.C.
- xxxviii) See above analysis No. xxxviii
- xxxix) See above analysis No. xxxix
- xl) Yes
- xli) When the police fail to address complaints or information concerning cognizable offences and he has to ensure that police is conducting investigation fairly, impartially, and thoroughly.
- xlvi) See above analysis No. xlii
- xliii) See above analysis No. xliii
- xliv) See above analysis No. xliv
- xlvi) See above analysis No. xlvi
- xlvi) See above analysis No. xlv
- xlvi) See above analysis No. xlvii
- xlvi) Through the constitutional remedy of writs.
- xlix) As a general rule, the High Court has no jurisdiction under the Constitution or any other law to supervise the investigation of a criminal case; however, its jurisdiction may be invoked where the investigation is conducted mala fide or without lawful authority.
- l) i) direct or indirect involvement of police officers in the outcome of investigation, and 2) destruction of evidence if timely action is not taken

18. Lahore High Court
Jamshed and another v. The State and another
Criminal Appeal No. 36924/J/2022
Mr. Justice Tariq Saleem Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC5436.pdf>

Facts: The petitioner challenged their convictions in a trial of case FIR for murder, during the pendency of the instant appeal they also made a miscellaneous application for permission to compound the offence. The High Court finds that the charge of section 311 PPC remained unattended by the trial court.

Issues:

- i) What is honour killing and reasons behind the commission of this offence?
- ii) How the plea of sudden provocation operated in PPC inherited from colonial rule?
- iii) How the Federal Shariat Court made a shift from colonial legal framework to

Islamic philosophy?

- iv) What is the scheme of law under sections 305 & 311 of the PPC; and how affects '*fasad-fil-arz*' or *honour killing* upon the compounding of Qatl?
- v) Whether court can impose any term and condition upon compounding of Qatl committed as honour killing or the principle of '*fasad-fil-arz*'?
- vi) Whether any offence outside the section 345 CrPC could be compounded?
- vii) Whether the waiver or compounding of offence results in automatic acquittal of the convict/accused or section 311 PPC places any embargo?
- viii) Whether the court may decline to acquit the accused despite a complete compromise?
- ix) How the Criminal Law (Amendment) (Offences in the Name OR Pretext of Honour) Act, 2016 changed the law set up by august Supreme Court in PLD 2015 SC 77?
- x) Whether the provisions of Section 345(2A) CrPC & 311 PPC are contrary to each other or otherwise?
- xi) Whether the acquittal of an accused legal heir of a deceased affects his disqualification to waive or compound?

Analysis:

- i) Honour killing refers to the murder of a family member, usually a woman, by her relatives on the belief that she has brought shame or dishonour upon the family. This perceived dishonour typically relates to conduct deemed immoral, such as choosing a spouse independently, refusing an arranged marriage, or engaging in a relationship outside societal norms. Such killings are generally driven by entrenched patriarchal and tribal notions of family honour, where control over female autonomy is viewed as essential for preserving social standing.
- ii) Pakistan Penal Code 1860, inherited from British colonial rule, criminalized murder under section 302, and honour killings fell within its scope. However, the law recognized grave and sudden provocation as a valid defence to murder, codified in section 300 Exception 1 of the PPC. This defence allowed individuals to argue that they had acted in the heat of passion, deprived of self-control, due to provocation that was both grave and sudden. If successfully invoked, this defence could result in an outright acquittal or a reduction in the charge from murder to culpable homicide, not amounting to murder.
- iii) In 1990, the Federal Shariat Court (FSC) revisited the validity of the provocation defence to align Pakistan's Penal Code with Islamic principles. The FSC ruled that provocation – no matter how grave or sudden – does not absolve an individual of the crime of murder under Islamic law... This ruling marked a significant departure from the colonial legal framework, categorically rejecting provocation as a complete defence to murder. The same year, through the Criminal Law (Second Amendment) Ordinance No. XXI of 1990, the original Chapter XVI of the Pakistan Penal Code was omitted and substituted with new provisions. The newly inserted section 302 PPC created a distinction in the punishments awardable for qatl-e-amd (intentional murder), namely, qisas and

ta'zir. The re-enacted section 309 PPC permitted the waiver of the right of qisas where a Wali granted afw to the qatil (the murderer), while section 310 allowed compounding of that right through acceptance of Badal-e-sulh (compensation money). However, these provisions were frequently misused in honour killing cases, where the perpetrators and legal heirs often belonged to the same family, resulting in impunity. This led to further legislative reform. Parliament enacted the Criminal Law (Amendment) Act 2004, and then the Criminal Law (Amendment) (Offences in the Name or Pretext of Honour) Act 2016.

iv) Section 305 PPC stipulates that in cases of qatl, the Wali means the legal heirs of the victim determined according to the victim's personal law. However, in cases of qatl-e-amd committed in the name or on the pretext of honour, the Wali shall not include the accused or convict. If there is no heir, the Government shall be the Wali. Section 311 PPC addresses the imposition of ta'zir where the right of qisas has been waived or compounded in qatl-e-amd. It provides that, notwithstanding anything contained in sections 309 or 310 PPC, where all the Walis do not waive or compound the right of qisas, or if the principle of fasad-fil-arz is attracted, the court may, considering the facts and circumstances of the case, punish the offender with death, imprisonment for life, or imprisonment of either description for a term which may extend to fourteen years as ta'zir. The proviso to this section further states that if the offence has been committed in the name or on the pretext of honour, the punishment shall be imprisonment for life.

v) Section 345(2A) Cr.P.C. added by Criminal Law (Amendment) Act 2004 (I of 2005) states: "Where an offence under Chapter XVI of the Pakistan Penal Code, 1860 (Act XLV of 1860) has been committed in the name or on the pretext of karo kari, siyah kari or similar other customs or practices, such offence may be waived or compounded subject to such conditions as the court may deem fit to impose with the consent of the parties having regard to the facts and circumstances of the case."

vi) Section 345(7) categorically states that no offence shall be waived or compounded except as provided under section 345 Cr.P.C. and section 311 PPC...In *Muhammad Rawab v. The State* (2004 SCMR 1170), the Supreme Court emphasized that section 345 Cr.P.C. is exhaustive and courts cannot expand its scope on equitable or humanitarian grounds.

vii) In *Azmat and another v. The State* (PLD 2009 SC 768), the Supreme Court held that sections 309 and 310 PPC permit only the waiver or compounding of the right of qisas through afw or badal-e-sulh, but do not by themselves result in the acquittal of the accused. Such waiver remains subject to section 311 PPC, under which the offender may still be punished by ta'zir where the principle of fasad-fil-arz is attracted or where all the legal heirs have not joined the compromise. The Supreme Court clarified that acquittal in murder cases based on compromise is envisaged and regulated by sub-sections (2) and (6) of section 345 Cr.P.C., but such acquittal is not automatic.

viii) Even if all the Walis agree, it is contingent upon the court's permission, which may be withheld for valid reasons. In other words, the court may decline to

acquit the accused despite a complete compromise after judicial scrutiny. The Supreme Court further observed that laying down rigid categories for when permission should be granted or refused would be neither possible nor desirable. Each case must be assessed individually by the trial court, applying its judicial mind to all relevant facts and circumstances, such as the past conduct and character of the accused, the motive behind the act, the manner and brutality of its commission, and whether the offence amounts to fasad-fil-arz.

ix) It is noteworthy that the Supreme Court in *Zahid Rehman* interpreted section 311 PPC as applying only where the offence was otherwise punishable with qisas under section 302(a) PPC. However, the 2016 amendment introduced a clear statutory mandate that where the court finds that a murder has been committed in the name or on the pretext of honour, it must impose life imprisonment, irrespective of any waiver or compromise by the legal heirs. The object of this legislative change was to treat honour killings as public wrongs and to eliminate impunity in such cases, particularly where offenders seek to escape serious punishment through intra-family settlements. This statutory reform reflects a legislative departure from the earlier interpretation adopted in *Zahid Rehman*.

x) Section 345(2A) Cr.P.C. governs the procedural question of whether the court may accept a compromise. It enables the court to examine the voluntariness, legitimacy, and contextual fairness of the compromise. In contrast, section 311 PPC regulates the penal consequence of such compounding. Even if a compromise is accepted under section 345(2A), the court remains bound to impose life imprisonment under section 311 PPC if the offence is found to have been committed in the name or on the pretext of honour. The waiver affects only qisas and does not preclude the imposition of ta'zir, which becomes compulsory in such case.

xi) The disqualification under section 305(a) PPC applies only to a person who is an accused or a convict at the time the question of waiver or compounding is considered. Once acquitted and in the absence of any pending appeal, the disqualification ceases to apply, and such a person is restored to their status as a Wali under the law.

- Conclusion:**
- i) Honour killing refers to the murder of a family member, usually a woman, by her relatives on the belief that she has brought shame or dishonour upon the family.
 - ii) The Pakistan Penal Code inherited from the colonial era recognized grave and sudden provocation as a valid defence to murder.
 - iii) In 1990 the FSC ruled that provocation – no matter how grave or sudden – does not absolve an individual of the crime of murder under Islamic law. The same year, through the Criminal Law (Second Amendment) Ordinance No. XXI of 1990, the original Chapter XVI of the Pakistan Penal Code was omitted and substituted with new provisions. Further legislation was made as the Criminal Law (Amendment) Act 2004, and then the Criminal Law (Amendment) (Offences in the Name or Pretext of Honour) Act 2016.

- iv) See above analysis (iv).
- v) As per section 345 (2A) CrPC, honour killing may be waived or compounded subject to such conditions as the court may deem fit to impose with the consent of the parties having regard to the facts and circumstances of the case.
- vi) Section 345 Cr.P.C. is exhaustive, and courts cannot expand its scope on equitable or humanitarian grounds.
- vii) In *Azmat and another v. The State* (PLD 2009 SC 768), The Supreme Court clarified that acquittal in murder cases based on compromise is envisaged and regulated by sub-sections (2) and (6) of section 345 Cr.P.C., but such acquittal is not automatic.
- viii) Even if all the Walis agree, it is contingent upon the court's permission, which may be withheld for valid reasons. In other words, the court may decline to acquit the accused despite a complete compromise after judicial scrutiny.
- ix) See above analysis (ix).
- x) The two statutory regimes, section 345(2A) Cr.P.C. and section 311 PPC, are not in conflict but operate sequentially.
- xi) Once an accused legal heir of deceased, acquitted and in the absence of any pending appeal, the disqualification u/s 305 PPC ceases to apply, and such a person is restored to their status as a Wali under the law.

19. Lahore High Court

Sardar Amber Maqood v. Federation of Pakistan, Privatisation Commission, PIACL etc.

Writ Petition No.2010 of 2024

Mr. Justice Jawad Hassan

<https://sys.lhc.gov.pk/appjudgments/2025LHC5392.pdf>

Facts: The petitioner, pro bono publico, filed the instant petition challenging the privatisation process of Pakistan International Airlines on the ground of violation of Sections 23 & 24 of the Privatisation Commission Ordinance, 2000.

Issues:

- i) What is the role of Competition Commission of Pakistan in privatisation process?
- ii) What is the importance of jurisdiction under Article 199 of the Constitution by the High Court under Public Interest Litigation and what are its restrictions?
- iii) What remedy is available to a person, when a statutory forum is non-existent or not constituted?
- iv) What is the legislative scheme governing privatisation of the "PIACL" in Pakistan?
- v) What is the role of court in privatisation process?
- vi) What is the importance of 'Preamble' in a statute?
- vii) What sort of powers and functions are entrusted upon the Privatization Commission under the section 5 of the Privatization Commission Ordinance, 2000?
- viii) What procedural requirements are to be followed by the Privatisation

Commission under Section 23 of the Privatization Commission Ordinance, 2000 and what are the consequences of its non-compliance?

ix) What are the basic requirements to initiate the Public Interest Litigation?

x) What is the globally recognized approach of judicial review of administrative actions by the government; and principles of interference under Article 199 of the Constitution of Pakistan?

xi) How the judicial overreach in economic and contractual matters, affects the economic progression of the country?

xii) What is the object behind restricted disclosure of documents by the Privatization Commission under the Regulation 3 of the Privatisation Commission (Confidentiality and Secrecy of Documents) Regulations 2003?

Analysis:

i) The role of the Competition Commission of Pakistan (the “CCP”) in the privatisation of the “PIACL” is both pivotal and exemplary, reflecting its statutory mandate as an independent, quasi-judicial regulatory authority established under Section 3 of the “Act of 2010”. The CCP’s involvement in the acquisition of 100% shareholding of the “PIACL” by PIA Holding Company Limited (Holdco) underscores its critical function in scrutinizing mergers and acquisitions to prevent any appreciable adverse effect on competition within relevant markets... This decision not only facilitated the government’s privatisation agenda by enabling a streamlined, legally compliant restructuring but also demonstrated the Privatisation Commission’s commitment to preserving competitive integrity, protecting consumer welfare, and fostering an environment conducive to investment and economic efficiency, all while upholding its broader responsibilities to educate market participants and enforce compliance with competition principles in alignment with the legislative framework.

ii) Public Interest Litigation is an extraordinary jurisdiction enabling this Court under Article 199 of the Constitution to address questions of public importance involving the enforcement of fundamental rights of the public at large, particularly where disadvantaged or unorganized segments of society are unable to approach the Court themselves. Such jurisdiction has been exercised in matters of environment, human rights, detention, labour, prisoners, health, education, and transparency in governance. However, it is settled by now that Public Interest Litigation cannot be misused for private motives or publicity and the Petitioner must establish bona fide intent supported by credible material to justify judicial intervention.

iii) It is a settled principle of law that ordinarily when a statute provides for an alternate forum, a party must first exhaust such remedy before invoking constitutional jurisdiction. However, where the statutory forum is non-existent or has not been constituted, the litigant cannot be left remediless. The extraordinary jurisdiction of this Court under Article 199 is therefore available in such exceptional circumstances to ensure that justice is not defeated merely on account of the failure of the executive to establish the requisite forum.

iv) The legislative scheme governing privatisation of the “PIACL” in Pakistan has

evolved progressively over the years. Its genesis may be traced to the Economic Reforms Order, 1972, which was later substituted by the Transfer of Managed Establishments Order, 1978. In order to strengthen investor confidence and to provide for a liberalized economic regime, the legislature thereafter enacted the Protection of Economic Reforms Act, 1992. These enactments collectively provided the foundation, policy framework, and objectives relating to privatisation, which ultimately culminated in a comprehensive statutory regime through the promulgation of the “Ordinance”. Section 3 of the Ordinance formally established the Privatisation Commission as a statutory body, while Section 5 thereof delineates its powers and functions.

v) The role of the Court, in this context, is not to interfere in matters of economic policy per se, but to ensure that the process of privatization, as mandated by law, is carried out in strict conformity with statutory requirements, principles of transparency, and constitutional guarantees, so that public assets are disposed of in a manner that safeguards both public interest and investor confidence.

vi) It is well-settled principle of interpretation that the preamble to a statute is though not an operational part of the enactment but it is a gateway, which opens before us the purpose and intent of the legislature, which necessitated the legislation on the subject and also sheds clear light on the goals which the legislator aimed to secure through the introduction of such law. The preamble of a statute, therefore holds a pivotal role for the purposes of interpretation in order to dissect the true purpose and intent of the law.

vii) A careful and joint reading of Section 5 of the Ordinance makes it abundantly clear that the Privatization Commission has been entrusted with a broad spectrum of functions. Its role is twofold: firstly, to act as an advisory body to the Federal Cabinet by recommending policy guidelines, preparing comprehensive programmes, and suggesting necessary legislative or regulatory measures; and secondly, to serve as an implementing agency to plan, manage and control the privatization process once it has been duly approved by the Cabinet. This provision further ensures transparency, accountability and fairness by requiring the Commission to submit reports, invite public participation, evaluate bids on predetermined criteria, and prevent the creation of monopolies. Equally important is the Commission’s responsibility to safeguard labour interests through rehabilitation and severance schemes, while also advising on the efficient functioning of public sector units pending privatization. Thus, the legislative scheme strikes a balance between operational autonomy of the Commission and supervisory control of the Cabinet, ensuring that privatization is conducted not only in accordance with law but also in line with constitutional principles of transparency, competition, and protection of public interest.

viii) The Section *ibid* mandates two essential procedural requirements for the Privatisation Commission before proceeding with privatisation. First is with regard to consultation which the Commission is legally bound to consult both the Federal Government and the concerned enterprise, (whether fully or partially owned/controlled by the Government), prior to issuing any privatisation notice.

Second requirement is regarding public notice, which the Privatisation Commission must advertise its intention to privatise in at least two English and two Urdu newspapers having national circulation and such advertisements must appear on separate occasions with a minimum interval of seven days. For the said purpose, the advertisement must also be placed in international newspapers to attract foreign investors. The purpose of this section is to ensure transparency, competitive bidding, and wide public participation in the privatisation process. It protects against secretive or discriminatory deals and ensures that all stakeholders, including the general public and potential investors (domestic and international), are adequately informed and given a fair opportunity to participate. Failure to comply with these procedural requirements would render the privatisation process legally defective and open to judicial review.

ix) Public interest litigation, though entertained with a liberal approach, must be founded upon some credible material demonstrating violation of law or infringement of fundamental rights. Mere bald assertions, unaccompanied by documents or evidence, cannot constitute a valid cause for invoking the extraordinary jurisdiction of this Court under Article 199 of the Constitution.

x) A position that has been recognized by the judiciary over the globe upholding the government's right to disinvest from public sector undertakings, stating that economic policy decisions fall within the exclusive domain of the executive, and courts should not interfere unless the process violates constitutional or legal provisions... As earlier mentioned, the preamble of the "Ordinance" clearly states to provide for an expeditious mechanism to resolve all disputes relating to privatisation. It is a well-established constitutional principle that this Court is empowered under Article 199 of the Constitution to review executive actions for illegality, mala fides, or infringement of fundamental rights, unwarranted judicial interference in complex economic and foreign investment matters may disturb the balance between the judiciary, executive, and market economy.

xi) Excessive judicial intervention in contractual and investment affairs has historically contributed to regulatory uncertainty, impairing investor confidence and hindering foreign investment. Therefore, constitutional courts must exercise judicial restraint in economic and commercial matters, particularly in relation to the ongoing privatisation policy, to prevent disruption of national economic objectives and divestment from lossmaking State-Owned Enterprises. This Court cannot ignore the instances of judicial overreach wherein extensive interference by courts in contractual and investment matters has, over time, contributed to uncertainty in the regulatory landscape, adversely affecting Pakistan's ability to attract and retain foreign investment... The judicial review of economic decisions is confined to assessing whether the policy is arbitrary, irrational, discriminatory, or violative of constitutional mandates.

xii) The scheme of the Regulations thus reflects a deliberate legislative intent to create a regime of restricted disclosure, under which sensitive documents containing financial evaluations, due diligence assessments, and negotiation details are insulated from public domain in order to protect the integrity of the

privatisation process, preserve the confidentiality of commercial information, and safeguard national interests. Transparency, though a fundamental principle of governance, must operate within the statutory boundaries laid down by the legislature.

- Conclusion:**
- i) The role of Competition Commission of Pakistan in privatisation process is to facilitate the government's privatisation agenda by enabling a streamlined, legally compliant restructuring but also to demonstrate the Privatisation Commission's commitment to preserving competitive integrity, protecting consumer welfare, and fostering an environment conducive to investment and economic efficiency, all while upholding its broader responsibilities to educate market participants and enforce compliance with competition principles in alignment with the legislative framework.
 - ii) The extra-ordinary jurisdiction under Article 199 of the Constitution is to be used for the enforcement of fundamental rights of the public at large, particularly where disadvantaged or unorganized segments of society are unable to approach the Court themselves. The Public Interest Litigation cannot be misused for private motives or publicity.
 - iii) Where the statutory forum is non-existent or has not been constituted, the litigant cannot be left remediless. The extraordinary jurisdiction of this Court under Article 199 is available in such exceptional circumstances.
 - iv) See above analysis (iv).
 - v) The role of the Court is not to interfere in matters of economic policy per se, but to ensure that the process of privatization, as mandated by law.
 - vi) The preamble of a statute holds a pivotal role for the purposes of interpretation in order to dissect the true purpose and intent of the law as a gateway to the legislation.
 - vii) Section 5 of the Privatisation Commission Ordinance, 2000 bestows two folded powers upon the commission. Firstly, to act as an advisory body to the Federal Cabinet by recommending policy guidelines, preparing comprehensive programmes, and suggesting necessary legislative or regulatory measures; and secondly, to serve as an implementing agency to plan, manage and control the privatization process once it has been duly approved by the Cabinet.
 - viii) The Section 23 of the Ordinance mandates two essential procedural requirements, first is to consult both the Federal Government and the concerned enterprise prior to issuing any privatisation notice. Second is to advertise its intention to privatise in at least two English and two Urdu newspapers having national circulation and such advertisements must appear on separate occasions with a minimum interval of seven days.
 - ix) PIL must be founded upon some credible material demonstrating violation of law or infringement of fundamental rights.
 - x) See above analysis (x).
 - xi) The extensive interference by courts in contractual and investment matters contributes to uncertainty in the regulatory landscape, adversely affecting

Pakistan's ability to attract and retain foreign investment.

xii) In order to protect the integrity of the privatisation process, preserve the confidentiality of commercial information, and safeguard national interests, the Regulation 3 of the Privatisation Commission (Confidentiality and Secrecy of Documents) Regulations 2003 allows the restricted disclosure of information.

20. Lahore High Court
Qaiser alias Aun v. The State & another.
Crl. Appeal No. 24404/2019.
Mr. Justice Ali Zia Bajwa & Mr. Justice Farooq Haider
<https://sys.lhc.gov.pk/appjudgments/2024LHC6623.pdf>

Facts: The appellant was tried and convicted by the trial court under Section 9(c) of CNSA for four years and six months with fine. The appellant preferred an appeal before the High Court against his conviction and sentence.

Issues:

- i) What is the purpose of statement of an accused under section 342 of CrPC?
- ii) What is meant by “*audi alteram partem*”, a principle of natural justice?
- iii) What are the forms of examination of an accused under section 342 Cr.P.C and what are its stages?
- iv) Whether an accused can be convicted without the accused being fully aware of the evidence against him?
- v) What is the duty of a court in recording the statement of an accused under section 342 Cr.P.C?
- vi) How and in which manner the questions under section 342 Cr.P.C can be put to the accused?
- vii) Whether a piece of incriminating evidence not brought to the attention of the accused can be the basis of his conviction?
- viii) What is the effect of non-confronting the chain of safe custody while examining the accused under section 342 Cr.P.C?

Analysis:

- i) The purpose of examining an accused under Section 342 of the Code is clearly articulated within the provision itself. It lays down the purpose as to “enable the accused to explain any circumstances appearing in the evidence against him.” It offers an accused a vital opportunity to present his defense, ensuring that no adverse conclusions are drawn without first considering his perspective. This reflects the very essence of justice and fairness, safeguarding the rights of the accused and upholding the integrity of the judicial process.
- ii) The term “*audi alteram partem*” translates to “hear the other side” or “let no person be condemned unheard”. This principle safeguards the fundamental right that no individual shall face punishment or adverse judgment without being afforded a fair opportunity to present his case and challenge the evidence laid against him.
- iii) Under Section 342 of the Code, there are two distinct forms of examination. The first may occur at any stage during the inquiry or trial and is discretionary in

nature. To allow the accused to explain any incriminating circumstances arising from the evidence, the court may, at any stage of an inquiry or trial and without prior notice, pose questions it deems necessary. In contrast, the second form of examination is conducted after the prosecution witnesses have been examined but before the accused is called upon to present his defense. This examination is general and mandatory, requiring the trial court to give the accused a formal opportunity to explain the entirety of the incriminating evidence presented against him. It ensures that the accused is fully aware of the case he must meet and provides a critical opportunity for him to offer any explanations or rebuttals before the defense is presented.

iv) Recording the statement of the accused under this provision is far from a mere formality. It is a critical safeguard ensuring that no conviction is handed down without the accused being fully aware of, and responding to, every aspect of the evidence against him.

v) Section 342 of the Code imposes a solemn and unyielding duty upon the trial court, in the course of a trial, to pose direct and precise questions to the accused, ensuring he is given every opportunity to explain all circumstances arising from the evidence against him. (---) And equally crucial was the obligation of the trial court to confront the appellant with the same during his examination under Section 342 of the Code.

vi) It follows as an unassailable principle that every material circumstance presented in the prosecution evidence must be put to the accused with clarity, precision, and distinctly. The inability to do so undermines the core principles of judicial fairness and integrity. Such a lapse is not merely a procedural defect, rather, it is a fatal flaw that leaves the prosecution's case hollow, with no outcome but the acquittal of the accused.

vii) The law is now firmly settled that if a piece of incriminating evidence or a circumstance is not brought to the attention of the accused during his examination under Section 342 of the Code, such evidence or circumstance cannot be relied upon to secure his conviction. It's a core principle of criminal jurisprudence that no one should be condemned based on evidence he has not had the chance to confront or challenge. To act otherwise would be turning a fair trial into a hollow process.

viii) Without confronting the appellant with this crucial piece of incriminating evidence, i.e. the chain of safe custody, the foundation of the case collapses, leaving no choice but to acquit him.

- Conclusion:**
- i) See above analysis No.i
 - ii) The term "*audi alteram partem*" means to "hear the other side" or "let no person be condemned unheard".
 - iii) See above analysis No.iii
 - iv) An accused cannot be convicted without the accused being fully aware of the evidence against him.
 - v) See above analysis No.v

vi) See above analysis No.vi

vii) A piece of incriminating evidence not brought to the attention of the accused cannot be the basis of his conviction.

viii) Non-confronting the accused with incriminating evidence, results in his acquittal.

21. Lahore High Court
Muhammad Sarfraz v. The State
Crl. Misc.No764-B/2025
Mr. Justice Ali Zia Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC5342.pdf>

Facts: The petitioner filed pre-arrest bail under Section 498 Cr.P.C. in FIR No. 1795/2023, registered under Section 392 PPC. Despite the criminal case having been cancelled by the order of the Magistrate pursuant to a case cancellation report prepared by the investigating officer, the police remain resolute in their attempt to arrest the petitioner. The cancellation report was duly endorsed by the Magistrate in the spirit of Rule 24.7 of The Punjab Police Rules, 1934, which remained unchallenged thereafter. Rather than challenging the order of the Magistrate, an astonishing course was taken and an application was filed before the District Standing Board under Article 18-A of the Police Order, 2002, seeking the first change of investigation. However, the Board declined the request, deeming it inappropriate to transfer the investigation. Subsequently, an application was submitted to the Regional Standing Board seeking a transfer of investigation. As a result, on 06.03.2024, the case was handed over to the Regional Investigation Branch for further investigation, blatantly disregarding the fact that the cancellation report had already been endorsed by the Magistrate and that no criminal case was legally in the field at the time. The Regional Standing Board transferred the investigation to the Regional Investigation Branch; it was subsequently reverted to the local police station. During this process, one of the accused was arrested and following his physical remand.

Issue:

- i) Whether, after a cancellation report is prepared by the investigating officer and approved by the Magistrate, any further investigation can lawfully be carried out?
- ii) Whether the transfer of an investigation of a criminal case from one investigating officer to another is absolute and final or merely a provisional measure, requiring the case to revert to the original investigating officer after a certain stage of investigation or investigating the specific accused?
- iii) What are the directions issued to investigating agency to ensure due process of law?

Analysis: i) Once a cancellation report has been prepared and duly endorsed by the Magistrate, the case effectively reaches its logical conclusion, leaving no

room for further investigation. It is now a firmly entrenched legal proposition that once a cancellation report has been prepared by the investigating agency and duly endorsed by the competent Magistrate, the matter stands extinguished in the eyes of the law. With the legal substratum of the criminal case no longer in existence, the prospect of further investigation becomes unwarranted. The acceptance of the cancellation report marks the terminus of the investigative process, bringing the case to its logical conclusion and leaving no lawful room for the investigating agency to further investigate the case

ii) The legal response is clear and unequivocal that the transfer of investigation is not a mere temporary procedural formality but a definitive and permanent measure, undertaken to ensure the comprehensive conduct of the entire investigation. It is not intended as a provisional deviation or a partial reassignment for a limited purpose, rather, it signifies a complete shift in investigative authority, entrusting the new officer with the exclusive responsibility of carrying the investigation to its logical conclusion. Any notion that the investigation must revert to the original or previous officer after a certain stage is misconceived and contrary to the very essence of such a transfer. Once an investigation is transferred, it shall be conducted exclusively by the entrusted officer and cannot revert to the previous investigating officer/officers.

iii)

- I. Once a cancellation report is prepared and approved by the Magistrate, no further investigation shall be conducted by the investigating agency unless the Magistrate's order is set aside.
- II. As soon as the cancellation report prepared by the investigating agency is concurred with by the concerned Magistrate, this fact must be promptly entered into the relevant police register. The investigating officer should likewise record this development in the case file, duly noting it in the police diary.
- III. Before ordering the transfer of investigation, the relevant Board, as envisioned under Article 18-A of the Police Order, 2002, must meticulously examine the entire record to ascertain whether the criminal case remains legally in existence and has not been cancelled or quashed.
- IV. When the investigation of a criminal case is transferred, it shall be conducted exclusively by the entrusted officer and shall not revert to the previous investigating officer under any circumstances.
- V. The Magistrates handling remand or pretrial matters must exercise strict vigilance and closely examine the record, lest their orders inadvertently legitimize an illegality.

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

22. Lahore High Court
Farid Bakhsh (deceased) v. Kiran Naz etc.
C.R.No.285-D of 2020.
Mr. Justice Syed Ahsan Raza Kazmi
<https://sys.lhc.gov.pk/appjudgments/2025LHC5430.pdf>

Facts: The revision petitioner (plaintiff) filed earlier suit which was dismissed by the trial court due to want of evidence. Without challenging the said dismissal through an appeal, a fresh suit was filed by adding more parties. The trial court dismissed the subsequent suit under section 11 of CPC by applying principle of res judicata. Appeal against the order was filed before ASJ but of not avail. Hence, the revision petition was filed before the High Court.

Issues: i) Whether a dismissal under Order XVII Rule 3 CPC for want of evidence amounts to a decision on merits?
 ii) Whether the subsequent suit, involving the same mutation and property, is barred by res judicata under Section 11 CPC ?
 iii) Whether impleadment of additional parties in the later round constitutes a fresh cause of action?
 iv) Whether failure to file an appeal against a decree amounts to finality and what is its effect on the subsequent suit?

Analysis: i) Once issues have been settled and opportunities to lead evidence afforded, a dismissal under Order XVII Rule 3 for want of evidence is dismissal on merit and after lapse of limitation same attained finality.
 ii) Section 11 CPC prohibits re-litigation of matters directly and substantially in issue in a former suit between the same parties, litigating under the same title, once decided by a competent court. In the present matter, the subject matter of both suits was identical: the same mutation and the same immovable property arising out of the same cause of action. The decree dated 05.11.2015 having attained finality, the subsequent suit was barred by res judicata.
 iii) The addition of official respondents or witnesses in the second suit neither altered the nature of the lis nor generated a new cause of action. The relief remained the same and the controversy unchanged in substance; multiplication of parties or re-phrasing of pleadings cannot be employed to circumvent Section 11.
 iv) It is of significance that the decree dated 05.11.2015 was never challenged by way of appeal. The finality of that decree is beyond cavil. To allow the petitioner to reopen the controversy in a subsequent suit would be to undermine the principle of finality of litigation, which is the very foundation of Section 11 C.P.C.

- Conclusion:**
- i) A dismissal under Order XVII Rule 3 for want of evidence is a dismissal on merit.
 - ii) The subsequent suit, involving the same mutation and property, is barred by res-judicata under Section 11 CPC
 - iii) Impleadment of additional parties in the later round does not constitute a fresh cause of action.
 - iv) See above analysis No.iv

23. Lahore High Court
Jamshed Khan & 05 others v. Akbar Khan & 15 others
Regular Second Appeal No. 17025 of 2020
Mr. Justice Khalid Ishaq
<https://sys.lhc.gov.pk/appjudgments/2025LHC5297.pdf>

Facts: This is a Regular Second Appeal against the judgment of the Addl. District Judge, which partially reversed the Trial Court's judgment and decreed the suit filed by the Respondents/Plaintiffs for the cancellation of a mutation and subsequent mutations, along with possession and permanent injunction as their mother was name was excluded from mutation of inheritance.

Issues:

- i) Whether the property devolved under Customary Law, if death occurred before the Shariat Act, 1948?
- ii) Whether the civil court's jurisdiction was barred under the Settlement Laws, given that the mutation was sanctioned by the Rehabilitation authorities?
- iii) Whether the suit, though framed as an inheritance claim, was barred by limitation if it was filed after the heir's death?
- iv) Whether an inheritance claim can succeed without overcoming limitation, waiver, and acquiescence?

Analysis:

- i) Impugned Mutation in this case was sanctioned subsequent to the promulgation of the Shariat Act and rights of inheritance were 'formally acquired' by Majeed and Mst. Sifta, subsequent to March 15, 1948, therefore, inheritance had to be governed under the Shariat Act and not under the Custom or Usage existing prior thereto. There is another important aspect of the case, which has also rightly been noted by the Trial Court, that if it was an inheritance under the customary law, whereby females were deprived of inheritance, there was no question of devolving of land upon Mst. Sifta (widow of Abdul Ghafoor).
- ii) This question has also been authoritatively settled by the Supreme Court of Pakistan to the effect that jurisdiction of the Civil Court is barred viz the matters arising out of the claims under settlement laws, however, this settled position of law escaped the attention of both the Courts below and thus, the findings in this respect are not sustainable. As per the law settled by the Supreme Court of Pakistan, the Respondents/Plaintiffs had to exhaust the remedies available to them, if any, before the Settlement Authorities under the dispensation of Settlement Laws.

iii) Lack of challenge by the donor within her lifetime was declared fatal by the Supreme Court and bar of limitation was accordingly applied. The principle is also followed in plethora of other judgments, whereby it is held that any heir, who was directly affected by wrongful record of mutation of inheritance, failed to challenge such mutation for a considerable length of time until his death, deprives his own heirs of the locus standi to dispute such mutation on the ground of estoppel, abandonment of claim/cause of action.

iv) The above judgments authoritatively settle the law on the subject that a claim of inheritance must cross the bridge of limitation, waiver and acquiescence. An unchecked tendency of encouraging a relief in the guise of inheritance is not warranted under the law. The encouragement of such claims and long drawn trials in statute barred suits is counterproductive for genuine and bona fide claims of female heirs.

- Conclusion:**
- i) See above analysis No.1
 - ii) Jurisdiction of the Civil Court is barred viz the matters arising out of the claims under settlement laws.
 - iii) The suit, under inheritance claim, was barred by limitation if it was filed after the heir's death.
 - iv) It is settled law that a claim of inheritance must cross the bridge of limitation, waiver and acquiescence.

24. Lahore High Court
Tariq Rehman Chohan v. The State and another
CrI. Misc. No. 43725-B of 2025
Mr. Justice Tanveer Ahmad Sheikh
<https://sys.lhc.gov.pk/appjudgments/2025LHC5337.pdf>

Facts: The petitioner/accused approached the High Court for post-arrest bail in a case FIR for the offence u/s 489F of the PPC.

Issues:

- i) What is an 'entrustment' to attract the offence as defined in section 405 of the PPC?
- ii) What is the extent of the expression 'in any manner' as used in section 405 PPC?
- iii) Whether the grant of bail in offences not falling under the prohibitory clause has any exceptions?

Analysis:

- i) Entrustment requires a deliberate act of placing confidence in another person to hold or use property for a specific purpose, which then must be followed by misappropriation or conversion by that person. Normally such like episode shall not fulfill the essential ingredients of Section 405 of PPC because the amount is not given by a person for safe keeping and specific fiduciary purpose, unless there is further evidence of dishonest intention to misappropriate the funds received by mistake.

ii) The words “in any manner” used in Section 405 of PPC is of wider import. It extends to and covers all kinds of entrustment. It may be expressed or implied..

iii) Honourable Superior Courts were pleased to hold in plethora of the judgments that it is not a rule of universal application that bail should be allowed in each and every case not falling within prohibitory clause. Each case has to be seen in the light of its own peculiar circumstances. The Court may refuse the bail to an accused even in the cases not falling within the embargo, if exceptional circumstances of the case so require.

Conclusion: i) Entrustment requires a deliberate act of placing confidence in another person to hold or use property for a specific purpose, which then must be followed by misappropriation or conversion by that person.

ii) The words “in any manner” used in Section 405 of PPC is of wider import. It extends to and covers all kinds of entrustment. It may be expressed or implied.

iii) The grant of bail in offences not falling under the prohibitory clause is not a rule of universal application. The Court may refuse the bail to an accused even in the cases not falling within the embargo, if exceptional circumstances of the case so require.

25.

Lahore High Court

Aqsa Noreen alias Asima Bibi v. The State and another

CrI. Misc.No.34187-B of 2025

Mr. Justice Tanveer Ahmad Sheikh.

<https://sys.lhc.gov.pk/appjudgments/2025LHC5332.pdf>

Facts:

Aqsa Noreen, accused in a cross-version of FIR No. 1152/2024 (under Sections 336-B, 382, 302, 411 PPC), sought post-arrest bail. The complainant alleged she, along with two unknown men, burned Shoukat Ali after attempting to rob him. Petitioner claimed Shoukat had trespassed and assaulted her, and the case involved cross-versions, raising factual disputes. She sought bail on statutory grounds—being a female and in custody since 02.04.2024—with trial not concluded within a year and delay not attributable to her. When both the parties come forward with their respective cross-version, which of the version was true and correct, was a question of further inquiry.

Issue:

i) Whether a female accused is always entitled to be released on bail as a matter of right on the ground of statutory delay accrued in the conclusion of trial or her case may hit by exception provided in 4th proviso to Sub-Section (1) of Section 497 of Cr.P.C.?

ii) What are the Meanings and scope of the phrase “hardened, desperate or dangerous criminal”?

iii) In what circumstances a court can show restraint in exercising of discretion to decide a petition for grant of post arrest bail, filed by a female petitioner?

Analysis: i) Normally a female accused of an offence punishable with death, has to be released on bail if she has passed a continuous period of one year behind the bar and her trial has not yet been concluded, but she shall not be so released, if she happened to be a person convicted for an offence punishable with death or imprisonment for life, or she, in the opinion of the Court is found to be a hardened, desperate or dangerous criminal, or is accused of an act of terrorism punishable with death or imprisonment for life, vide the proviso to Sub-Section (1) of Section 497 of Cr.P.C, which is being produced below for the facility of reference:-

“Provided further that the provisions of the foregoing proviso shall not apply to a previously convicted offender for an offence punishable with death or imprisonment for life or to a person who, in the opinion of the Court, is a hardened, desperate or dangerous criminal or is accused of an act of terrorism punishable with death or imprisonment for life”.

ii) Meaning and scope of the phrase “hardened, desperate or dangerous criminal “ has been explained by August Supreme Court in Shakeel Shah’s case, holding that the above words denotes a person, who is likely to seriously injure and hurt others without caring for the consequences for his violent act and can pose a serious threat to the society if set free on bail, such tentative opinion as to the character of the accused is to be formed by the Court upon careful examination of the facts and circumstances of the case. The Court may also refer to the previous criminal record of accused, if available for forming such opinion. The very gravity and severity of the offence alleged against the accused and mode and manner adopted by the accused for the commission of same may also be taken into consideration for that purpose.

iii) Mode and manner of the occurrence adopted by petitioner and her companions was horrible and atrocious, which was suggestive of the fact that she was a hardened, desperate or dangerous criminal. I am of the confirmed view that case of the petitioner was squarely covered by the exception, set out in 4th proviso to Sub-Section (1) of Section 497 of Cr.P.C. I, therefore, restrained myself from exercising my discretion in favour of the petitioner despite of the fact that she was a female and behind the bar for a continuous period of more than one year and her trial has not yet been concluded.

Conclusion: i) See above analysis No. i
 ii) “hardened, desperate or dangerous criminal “ has been explained by August Supreme Court in Shakeel Shah’s case, holding that the above words denotes a person, who is likely to seriously injure and hurt others without caring for the consequences for his violent act and can pose a serious threat to the society if set free on bail,
 iii) See above analysis No.ii

26.	Lahore High Court Muhammad Uzair Bin Rafi v. The State and other Crl. Misc.32072-B/2025 Mr. Justice Tanveer Ahmad Sheikh https://sys.lhc.gov.pk/appjudgments/2025LHC5326.pdf
Facts:	The petitioner has sought his post-arrest bail in criminal case, for the offences under Section 420, 468, 471, 406 of PPC, registered with Police Station, under the authorship of complainant, after the same was declined to the petitioner by the learned Addl. Sessions Judge. complainant has also sought the cancellation of order, passed by learned Addl. Sessions Judge, whereby respondents/accused were allowed pre-arrest bails.
Issues	i) Whether Cheque is a valuable security? ii) Whether putting signature in a different style amounts of forgery and provisions of section 467 PPC are attracted?
Analysis:	i) Since, cheque is a document which purports to give authority to a person to receive or deliver any money, as such it shall fall within the preview of “valuable security” as defined in Section 30 of PPC. ii) Putting of signatures by the petitioner in different style was amount to forgery... If any reference in this regard is required that can be had from a precedent judgment “Sachidanand Prasad Vs. Emperor” (AIR 1993 Patna 488), wherein a cheque was treated to be a valuable security and penal provision of Section 467 of PPC was applied upon the forgery of the same.
Conclusion:	i) cheque is a valuable security. ii) the provisions of section 467 are applicable upon such a forgery.
27.	Lahore High Court Kainat. v. Director General ACE and 03 others Writ Petition No. 45714 of 2025 Mr. Justice Tanveer Ahmad Sheikh https://sys.lhc.gov.pk/appjudgments/2025LHC5385.pdf
Facts:	The petitioner challenged a call up notice u/s 160 Cr.P.C, being an accused person, by the Anti-Corruption Establishment.
Issues:	i) Whether investigating agency can summon any person u/s 160 of Cr.P.C during the course of an investigation? ii) Whether an accused person on prearrest bail could be summoned u/s 160 of Cr.P.C, by the investigating officer ? iii) Whether a notice issued u/s 160 of Cr.P.C could be challenged under article 199 of the Constitution of Pakistan?
Analysis:	i) The word “any person” used in Section 160 of Cr.P.C. is of wider import. It

covers all the persons who are acquainted with the circumstances of the case. It may include a witness, complainant, accused or even a suspect or any other person familiar with the facts of the case. Said persons can be summoned by the Investigating Officer in order to unearth the true facts, but the said power of the Investigating Officer is not unfettered and he cannot act arbitrarily or capriciously.

ii) It was further held by this Court in another case ‘Maqbool Ahmad v. Station House Officer, etc’ (1999 P.Cr.LJ 1198) that an accused can be summoned by the Investigating Officer under Section 160 Cr.P.C. even if he was enjoying the concession of pre-arrest bail, because he was bound to do so under Rule 25.2 of Police Rules, 1934 (Volume III).

iii) I have placed my reliance mainly on a recent judgment of this Court rendered by full Bench in case titled ‘Ch. Fawad Ahmad and others v. Government of the Punjab through Chief Secretary and others’ (2024 P.Cr.LJ 1903), wherein it was ruled in clear terms that notice issued under Section 160 of Cr.P.C. cannot be challenged under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, before High Court, unless it is patently illegal, malafide, without jurisdiction, or coram non judice.

- Conclusion:**
- i) The expression” any person” used in section 160 of Cr.P.C covers all the persons who are acquainted with the circumstances of the case. It may include a witness, complainant, accused or even a suspect or any other person familiar with the facts of the case.
 - ii) an accused can be summoned by the Investigating Officer under Section 160 Cr.P.C. even if he was enjoying the concession of pre-arrest bail, because he was bound to do so under Rule 25.2 of Police Rules, 1934 (Volume III).
 - iii) Notice issued under Section 160 of Cr.P.C. cannot be challenged under Article 199 of the Constitution

LATEST LEGISLATION/AMENDMENTS

1. Vide The Extradition (Amendment) Act, 2025 dated 01.08.2025; Section 7 of the Extradition Act, 1972 (Act XXI of 1972) is amended.
2. Vide the Federal Board of Intermediate and Secondary Education (Amendment) Act, 2025 dated 01.08.2025; amendments are made in sections 5, 8, 11, 12 and 13 of the Federal Board of Intermediate and Secondary Education Act 1975.
3. Vide notification No. S.R.O.1480(I)/2025; The Supreme Court Rules, 2025 are promulgated.
4. Vide The Punjab Letters of Administration and Succession Certificate (Amendment) Act, 2025; Section 3 of the Punjab Letters of Administration and Succession Certificates Act 2021 (IX of 2021) is amended and Section 10 of the same act is omitted.
5. Vide the Universities and Institutes Laws (Amendment) Act, 2025; the laws specified in the second column of the schedule appended to the Act are

amended to the extent and manner mentioned in the third column of the schedule.

6. Vide Official Gazette of Punjab dated August 05, 2025; The Punjab Control of Narcotic Substances Act, 2025 (Act LXIV of 2025) is enacted to provide for control, production, processing, trafficking and transportation of narcotic substances and for prevention of such illicit activities.
7. Vide Official Gazette of Punjab dated August 05, 2025; The Punjab Autism School and Resource Centre Act, 2025 is enacted to provide for establishment of the Autism School and Resource Centre in Punjab.
8. Vide The Punjab Urban Immovable Property Tax (Amendment) Act, 2025 (Act LXVI of 2025) amendments are made in section 2 of the Punjab Urban Immovable Property Tax Act, 1958 (V of 1958) and Sections 15 A and 15 B are inserted.
9. Vide the Punjab Agricultural Income Tax (Amendment) Act, 2025, amendments are made in sections 2 of The Punjab Agricultural Income Tax Act, 1997 and Section 4-A clause (h) of the same Act is omitted.
10. Vide The Punjab Education Foundation (Amendment) Act, 2025, amendments are made in sections 5 of The Punjab Education Foundation Act, 2004.
11. Vide the Punjab Price Control of Essential Commodities (Amendment) Act, 2025 amendments are made in sections 3 and 5 of The Punjab Price Control of Essential Commodities 2024.
12. Vide Official Gazette of Punjab dated August 05, 2025; The Punjab Horticulture Authority Act, 2025 is enacted to provide for establishment of Punjab Horticulture Authority.
13. Vide Official Gazette of Punjab dated August 11, 2025; The Abdul Ghafoor Niazi University Act, 2025 is enacted to provide for establishment of Abdul Ghafoor Niazi University.
14. Vide Official Gazette of Punjab dated August 11, 2025; The Asian University for Research and Advancement Act, 2025 is enacted to provide for establishment of Asian University for Research and Advancement.
15. Vide Notification No.SOR-III(S&GAD)2-29/2025 dated 13.08.2025; Substitution is made in Schedule-II in note, serial No. i. of the Punjab Provincial Management Service Rules, 2004.
16. Vide Notification No.1327-2025/1350 ST(I) dated 01.08.2025; reduction in fee was made in Schedule I, sr. No. 5, 6 and 8 in the Court fee Act, 1870 (VII of 1870).
17. Vide Notification No.SOR-III(S&GAD)1-2/2023 dated 19.08.2025; Home Department (Legal Cell) Employees Service Rules, 2025 were promulgated.
18. Vide Notification No.SOR-III(S&GAD)1-23/2023 dated 15.08.2025; Amendments are made, after rule (3) of The Punjab Forestry and Wildlife (Wildlife Executive) Service Rules, 1978, rule (4) is inserted. Amendments are also made in the Schedule at Sr. No 1, 2, 3, 5, 14-A, 19-A, 23-A of The Punjab Forestry and Wildlife (Wildlife Executive) Service Rules, 1978.

SELECTED ARTICLES

1. THE CAMBRIDGE LAW JOURNAL

[THE DISSOLUTION OF DUALISM | The Cambridge Law Journal | Cambridge Core](#)

The Dissolution Of Dualism By Roger Masterman And Matthew Nicholson

This article argues that the concept of dualism has ceased to operate as a reliable indicator of, or guide to, the relationships between domestic and international laws in the UK's constitutional order. Dualism, it is argued, provides only a partial account of the complex interactions between domestic and international laws, cannot accommodate the hybrid products of interactions with European legal orders and ignores the post-“incorporation” processes of domestication through which international and domestic norms are reconciled. The connections between domestic and international laws are – in contrast to dualism's binary simplicity – multi-dimensional and interconnected with the UK's (recently turbulent) constitutional politics.

2. SPRINGER LINK

<https://link.springer.com/article/10.1007/s10462-025-11341-4>

(Ir)rationality in AI: state of the art, research challenges and open questions By Olivia Macmillan-Scott and Mirco Musolesi.

The concept of rationality is central to the field of artificial intelligence (AI). Whether we are seeking to simulate human reasoning, or trying to achieve bounded optimality, our goal is generally to make artificial agents as rational as possible. Despite the centrality of the concept within AI, there is no unified definition of what constitutes a rational agent. This article provides a survey of rationality and irrationality in AI, and sets out the open questions in this area. We consider how the understanding of rationality in other fields has influenced its conception within AI, in particular work in economics, philosophy and psychology. Focusing on the behaviour of artificial agents, we examine irrational behaviours that can prove to be optimal in certain scenarios. Some methods have been developed to deal with irrational agents, both in terms of identification and interaction, however work in this area remains limited. Methods that have up to now been developed for other purposes, namely adversarial scenarios, may be adapted to suit interactions with artificial agents. We further discuss the interplay between human and artificial agents, and the role that rationality plays within this interaction; many questions remain in this area, relating to potentially irrational behaviour of both humans and artificial agents.

3. SPRINGER LINK

<https://link.springer.com/article/10.1007/s10462-025-11327-2>

Fault-tolerant control strategies for industrial robots: state of the art and future perspective on AI-based fault management By Zeashan Khan, Ali Nasir and Samir Mekid

Fault-tolerant control schemes are essential for affirming the safe and dependable operation of industrial robots. In this detailed review, we discuss the current developments in fault-tolerant control strategies for industrial robots. The main focus is given to highlight some major contributions in fault-tolerant control systems used in robotic manipulators with single or multiple joints, incorporating any linear or non-linear robust approach for industrial robots, design, and implementation. The paper also discusses adaptive fault-tolerant control of robots with sensor and/or actuator faults and unknown parameters, and fault-tolerant cooperative control of multiple robot teams for collaborative tasks. The present work provides a comprehensive overview of the recent advancements in fault-tolerant control strategies for industrial robots using both classical nonlinear methods as well as intelligent approaches using AI and machine learning, which will be useful for researchers and engineers working in this field.

4. HUMAN RIGHTS LAW REVIEW

<https://academic.oup.com/hrlr/article/25/3/ngaf027/8240173?searchresult=1>

Disability human rights standards before the European Court of Human Rights—false convergence and methodologically-driven divergence? By János Fiala-Butora, Michael Ashley Stein, Matthew S Smith

The UN Convention on the Rights of Persons with Disabilities (CRPD) has positively impacted the European Court of Human Rights (ECtHR). Overall, the ECtHR has delivered significant judgments in favour of persons with disabilities and is moving towards a disability-sensitive interpretation of facts. However, in specific areas such as legal capacity, inclusive education, voting, and involuntary treatment, the ECtHR has sharply distanced itself from the CRPD following some initial attempts at harmonizing its norms with that of the treaty. This emerging divergence does not arise from differences in underlying substantive norms, but rather from the ECtHR's different jurisprudential methods and views on its role relative to the CRPD's treaty body, as well as the polycentric nature of their respective decisions. Explaining the nature of the disagreement is key to understanding what role adjudicative bodies can play in promoting disability rights, and whether their norms can be harmonized.

5. HUMAN RIGHTS LAW REVIEW

<https://academic.oup.com/hrlr/article-abstract/25/3/ngaf025/8212023?redirectedFrom=fulltext>

Child Rights, Legal Theory and Social Advocacy By Maria Grahn-Farley

In the monograph Child Rights, Legal Theory and Social Advocacy, Prof. Maria Grahn-Farley offers a comprehensive, well-written and novel legal critique of child rights. The book's ambition is to 'open up the taboos of the child rights discourse' (p 4) through internal critique. This ambition is in line with a new wave of 'critical child rights studies'¹ which, for over a decade now, has called for internal critique in the child rights field.² Grahn-Farley's original contribution is the application of critical race theory's narrative method to critique child rights, and through that, a thorough unpacking of what she calls the 'monist child-rights identity' and its theoretical and practical consequences.

The monist child-rights identity refers to a very simple fact, namely that the United Nations Convention on the Rights of the Child (CRC) defines children as those under eighteen years old. In other words, a rights-identity is constructed based on a single data point: age. Grahn-Farley analyses this seemingly uncontroversial fact in fascinating detail throughout the book. For instance, she highlights how the monist child-rights identity 'lacks the interplay between the social and the legal to be found in other forms of identity constructions' (p 25). As such, it is the only rights identity which is not socially constructed³ (p 91), making it in itself 'a radical theoretical suggestion, considering it is being made out of time and not matter' (p 106). Furthermore, it is a rights-identity which excludes self-identification, but is externally imposed. Because of all this, 'the child identity cannot be examined with the same methods analysts use to critique the essentialization of raced and gendered identities' (p 22). This, in turn, means that child rights have not been able 'to serve as a critique of society and provide an alternative imaginary', but rather 'get stuck in the static question of compliance and violation' (p 25).
