Quarterly Case Law Update

Online Edition

Volume-II, Issue-III
(September to December-2021)

Published by: Legal Research Cell, High Court of Sindh, Karachi

Table of Contents

1. Muhammad Rizwan Dalia & others. v. Ombudsman (The Protection Against Harassment of Women at the Workplace) Sindh and others 1

1. Whether compliant under the Protection against Harassment of Women at the Workplace Act, 2010, can only be filed during employment of the complainant?

2. Whether pending show cause notice issued under section 8(2) of the Protection against Harassment of Women at the Workplace Act, 2010 can be challenged under writ petition?

2. Mst. Rani Khaskheli v. Province of Sindh & Ors. 1

1. Whether Sindh Shaheed Recognition and Compensation Act, 2014 is repugnant to the injunction of Islam, the Holy Qur'an, and Hadith?

2. Whether Section 2 subsection (f) Sindh Shaheed Recognition and Compensation Act, 2014 is liable to be amended by the insertion of words "any person who sacrifices his life by serving the nation and performing his legitimate duties and dies as an unnatural death such as accidents, assaults by wrongdoers, muggers, thieves, dacoits, criminals or is killed by security duties by soldiers at borders, etc. are also "Shaheeds"?

3. Haleem Adil Shaikh v. Election Commission of Pakistan and Others. 2

Whether declaration from a Court of Law is required for declaring a candidate disqualified from being elected or chosen as a Member of the Parliament or the Provincial Assembly?

4. Umar Rasheed Malik and Others v. Federation of Pakistan and Others 2

1. A third-party contractual employee's claim may lie, if at all, with respect to parties privy thereto and not with respect to others.

2. Contracts could not be revived, amended, or altered under constitutional jurisdiction because contractual staff are governed by the master-servant relationship and have an adequate remedy under the provided law. Employees engaged on a contractual basis have no vested right to seek regularization unless there is a legal and legislative basis for doing so.

3. By no means can contractual tenures be equated with a probationary period, as the two terms have completely different implications. A contractual assignment could not become permanent just because of the passage of time.

5. Bakhmina v. The Govt. of Sindh through Home Secretary & others 3

Declining claim on the mere excuse that the deceased police personnel was absent from duty at the time as per entries; does not absolve the authority that the deceased did not embrace Shahadat or that his case did not meet the criteria set forth in The Sindh Shaheed Recognition and Compensation Act-2014 to declare the death as "Shaheed" and provide the emoluments and benefits available to a Shaheed's family.

6. M/s. M. Mubbashir Traders and two others v. Sindh Revenue Board 4

What is the doctrine of "Exhaustion of rights after the first sale"?

7. Dewan Cement Ltd and Ors v. Federation of Pakistan and Others. 4

Whether determination by the National Electric Power Regulatory Authority ("NEPRA") of awarding monthly Fuel Charge Adjustment ("FCA") for three (3) years in one go violates the law and the same can be challenged in writ petition?

8. Mst. Naz Bibi, deceased through her legal heirs v. Wahid Bux, deceased through his legal heirs and others. 5

Can a brother claim a share in National Saving Certificates and service benefits of a deceased brother leaving behind a widow?

9. Sharafat Ali v. Mst. Shahjahan Begum & Another 6

1. Whether the suit is liable to be dismissed in case of non-compliance of order to deposit the balance sale consideration?

2. Whether a suit is liable to be dismissed in the absence of the plaintiff and his counsel on the date of examination of parties and settlement of issues?

10. Chief Revenue Authority/Member (RS & EP) Board of Revenue Sindh, Karachi 7

1. What will be the basis for the calculation of stamp duty, where a property is sold out on the basis of a decree of court?

2. Whether Sub-Registrar and Inspector of Stamp will question the valuation of property on the basis of the court decree or sale consideration mentioned in the instrument?

11. Imad Samad and 04 others v. Federation of Pakistan & others 7

Whether the SRO No. 833(1)/2018 issued in terms of section 19 of Customs Act, 1969 can also be treated as SRO issued by the Ministry of Commerce in terms of Section 3 of the Import & Export Control Act, 1950, permitting the import of vintage cars which are otherwise not importable as being and used in terms of the Import Policy Order of both 2016 and 2020?

12. Govind Ram v. Federation of Pakistan and Others 8

1. Whether an undisclosed amount to be considered as laundered money?

2. Whether non-declaration of an asset by an assessor is a scheduled offence under the ordinance?

3. How to determine the true purpose of a document?

4. Whether the officer concerned has the jurisdiction to issue notices/ summons under section 176(1)(b) of the Income Tax Ordinance, for unexplained amounts which came in and went out of the account?

13. Iqbal Hussain Channa v. National Accountability Bureau & others 9

Without passing of an interim order on a pre-arrest bail application and fixing it for hearing, issuing notice to special prosecutor NAB amounts to the cancellation of the application.

14. Employers Federation of Pakistan & others v. Govt. of Sindh & others 9

Fixing of minimum wages is a legislative act lying with its competence, not with the Wages Board. The government is alone that can agree or disagree with the Wages Board's recommendation. Even after declaration or notification, even can refer back to the Wages Board for reconsideration of an inequitable rate, but such a referral does not operate as a suspension of declared or notified minimum wages.

15. Hassan Alias Ali Hassan v. The State 10
Acquittal in the case of the recovery of a pistol means the prosecution could not prove the mode of recovery as asserted. But it does not have any effect on the connected case of murder, which has been proved from evidence with a matching profile aligning the empties recovered from the spot with the pistol.
16. Muhammad Zulfiqar through LRs v. Pakistan Railway Employees Cooperative Society and another. 10
Whether a boundary wall around a plot having not more than eight feet height amounts to building and requires approval from the cantonment Board?
17. Danish Ilahi & others v. Mariam Kamran & others. 11
1. Whether the relationship between Principal Debtor and Surety is governed by the principles of the Contract of Guarantee?
2. How to distinguish a 'Surety' from a 'Guarantee?
3. What is the doctrine of "beneficium ordinis seu excussionis"?
4. What is the legal value of agreements signed During Iddat Period of Muslim Women"?
18. Nandomal through his Legal Heirs and others v. The P.O. Sindh through the Secretary Rehabilitation Sindh and others and Haji Doulat Khan through his Legal Heirs and others 12
1. Whether merely on the basis of possession, a person does have locus standi to challenge the allotment/transfer?
2. Whether Civil Courts had jurisdiction to question the validity of the orders passed by the Settlement Authorities?
19. Selected Articles 13
Is Magistrate under s. 30 of the Cr. P.C competent to try cases under Sindh Arms Act?
Mr. Haleem Ahmed, Additional District & Sessions Judge, Karachi East 13
"INQUEST REPORT"
Mr. Naeem Akhtar, Civil Judge & Judicial Magistrate / Research Officer, Legal Research Cell (LRC) High Court of Sindh. 13
Investment Climate Statement- Just a fallacy
Mr.Asghar Ali Mahar, Civil Judge & Judicial Magistrate / Research Officer, Legal Research Cell (LRC) High Court of Sindh 14
DNA Evidence in Pakistani Courts: An Analysis
Dr. Shahbaz Ahmad Cheema, Assistant Professor, Punjab University Law College, University of the Punjab, Lahore. 14
Software Estimation's Risk in Pakistan Software industry?
Suresh Kumar, Qaisar Imtiaz, and ***Sarmad Mahar*** (Software Developer) High Court of Sindh, Karachi. 15

1. Muhammad Rizwan Dalia & others. v. Ombudsman (The Protection Against Harassment of Women at the Workplace) Sindh and others

CP No. D-6107 of 2020

MTU1ODkxY2Ztcy1kYzgz (shc.gov.pk)

Chief Justice Mr. Justice Ahmed Ali M. Shaikh,

Mr. Justice Yousuf Ali Sayeed.

1. Whether compliant under the Protection against Harassment of Women at the Workplace Act, 2010, can only be filed during employment of the complainant?
2. Whether pending show cause notice issued under section 8(2) of the Protection against Harassment of Women at the Workplace Act, 2010 can be challenged under writ petition?

Honorable Court held that:

11. ---the intent of the legislature in promulgating the 2010 Act is to provide a safe and secure working atmosphere to women and to protect them against harassment of having sexual nature. The object behind this legislation is to recognize the fundamental rights of citizens to dignity of person.

12. The conjunctive reading of the Section 8(1) and the three quoted subsections with preamble/title of the 2010 Act clearly provides that a woman, employed on contractual, daily, hourly or monthly basis including an intern/apprentice, being aggrieved by an act of harassment at the workplace either in the shape of sexual advance or request for sexual favour or verbal or written communication or physical conduct of a sexual nature etc., may prefer a complaint to the Ombudsman or the Inquiry Committee. The 2010 Act provides no bar that a woman only during her employment can file a complaint regarding alleged sexual harassment at the workplace. It is pertinent to mention here that the acts of harassment as claimed by the complainant had allegedly taken place in the office of the K-Electric during the period that the Respondent No.3 was working there.

17. Lastly, as to the prayer that the underlying Complaint and the show cause notice issued by the Respondent No.2 be quashed is concerned, we, in view of the foregoing, are of the opinion that it would be premature to pass such orders as evidence in the matter is yet to be recorded and soon after issuance of the impugned show cause notice the Petitioners/accused have approached this Court and since then no progress has been made in the proceedings pending before the Respondent No.2. The Petitioners are directed to file their reply to the show cause notice, which will be considered on its own merits.

Upshot of the above discussion is that instant petition merits no consideration and is accordingly dismissed.

2. Mst. Rani Khaskheli v. Province of Sindh & Ors.

CP No. D-1501 of 2020

https://caselaw.shc.gov.pk/caselaw/view-file/MTU0NjYxY2Ztcy1kYzgz

Chief Justice Mr. Justice Ahmed Ali M. Shaikh,

Mr. Justice Yousuf Ali Sayeed.

1. Whether Sindh Shaheed Recognition and Compensation Act, 2014 is repugnant to the injunction of Islam, the Holy Qur'an, and Hadith?
2. Whether Section 2 subsection (f) Sindh Shaheed Recognition and Compensation Act, 2014 is liable to be amended by the insertion of words "any person who sacrifices his life by serving the nation and performing his legitimate duties and dies as an unnatural death such as accidents, assaults by wrongdoers, muggers, thieves, dacoits, criminals or is killed by security duties by soldiers at borders, etc. are also "Shaheeds"?

Honorable Court held that:

10. Consequently, as far as prayer clause (1) of the Petition that the Act of 2014 be declared

repugnant to the Holy Qur'an and Hadith is concerned we are clear in our mind that the same does not fall within the parameters of this Court under Article 199 of the Constitution in view of the bar contained under Article 203-G of the Constitution and the Judgment in the case of Dossani Travels (Pvt.) Ltd. (supra). The Petition is not maintainable on this score alone.

11. So far as the prayer that alternatively direction be issued to the Government to make necessary amendments in the Act, more specifically in Section 2(f) is concerned the same too cannot be entertained. Under the doctrine of "trichotomy of powers" between the Legislature, the Executive and the Judicature, it is well settled that the legislative function does not fall within the domain of this Court and is the sole function of the Parliament/Assemblies. Following the said doctrine and the enunciations of the Honourable Supreme Court of Pakistan this Court cannot step into the shoes of the Legislature.---

3. Haleem Adil Shaikh v. Election Commission of Pakistan and Others.

CP No.D-4164 of 2021

https://caselaw.shc.gov.pk/caselaw/view-file/MTUzNzQ4Y2Ztcy1kYzgz

Chief Justice Mr. Justice Ahmed Ali M. Shaikh.

Mr. Justice Yousuf Ali Sayeed.

Whether declaration from a Court of Law is required for declaring a candidate disqualified from being elected or chosen as a Member of the Parliament or the Provincial Assembly?

Honorable Court held that:

10. Bare reading of the above provisions of Article 62(1)(f) reveals that for declaring a candidate disqualified from being elected or chosen as a Member of the Parliament or the Provincial Assembly there must be a declaration from a Court of Law. The Honourable Supreme Court in the case of Samiullah Baloch versus Abdul Karim Nausherwani (PLD 2018 SC 405) observed that disqualification of an election candidate or a holder of elected office under sub-clause (f) to Article 62(1) of the Constitution comes into existence when he is declared by a Court of law to lack any of the qualities mentioned therein.

4. Umar Rasheed Malik and Others v. Federation of Pakistan and Others

C. P.No. 3081/2019

https://caselaw.shc.gov.pk/caselaw/view-file/ MTU1NzM2Y2Ztcy1kYzgz

Mr. Justice Irfan Saadat Khan.
Mr. Justice Agha Faisal.

1. A third-party contractual employee's claim may lie, if at all, with respect to parties privy thereto and not with respect to others.
2. Contracts could not be revived, amended, or altered under constitutional jurisdiction because contractual staff are governed by the master-servant relationship and have an adequate remedy under the provided law. Employees engaged on a contractual basis have no vested right to seek regularization unless there is a legal and legislative basis for doing so.
3. By no means can contractual tenures be equated with a probationary period, as the two terms have completely different implications. A contractual assignment could not become permanent just because of the passage of time.

Honorable Court ruled that;

4. --- Admittedly, the petitioners had been contractual employees of Aquatech and their contracts had come to an end. ---The assertions seeking to demonstrate the petitioners' indispensability to KPT are disputed questions of fact, adjudication whereof is not amenable in the exercise of writ jurisdiction. Therefore, the question for determination before us is whether the petitioners have set forth a case for exercise of writ jurisdiction of this Court.---the High Court lacked jurisdiction to revive, amend or alter contracts; there was no vested right to seek regularization for employees hired on contractual basis unless there was legal and

statutory basis for the same; contractual employees had no automatic right to be regularized unless the same has specifically been provided for in a law; and that the relationship of contractual employees is governed by principles of master and servant.

6. --- in the memorandum of petition it was pleaded that the period of contractual service may be considered as a probationary period; with the necessary consequences and corollaries. ---that contractual tenures cannot be equated with a probationary period by any stretch of the imagination as the two phrases had distinct connotations altogether. It was observed that a contractual assignment could not become permanent merely by efflux of time. --- contractual employees had no vested right for regular appointment or to seek regularization of their services, hence, were debarred from invoking the constitutional jurisdiction of this Court.

8. It is trite law that contractual employees could not be considered to have a generic entitlement for regularization. In the present case the petitioners did not claim to be contractual employees of KPT but that of Aquatech, being a third party entirely.

---Petitioners' contracts, albeit third party, have admittedly lapsed and any claim in pursuance thereof may lie, if at all, with respect to parties privy thereto and not with respect to others. It is, thus,-- dismissed.

5. Bakhmina v. The Govt. of Sindh through Home Secretary & others

C. P. No.1893 of 2021

https://caselaw.shc.gov.pk/caselaw/view-file/MTU1NjI0Y2Ztcy1kYzgz

Mr. Justice Irfan Saadat Khan,
Mr. Justice Agha Faisal

Declining claim on the mere excuse that the deceased police personnel was absent from duty at the time as per entries; does not absolve the authority that the deceased did not embrace Shahadat or that his case did not meet the criteria set forth in The Sindh Shaheed Recognition and Compensation Act-2014 to declare the death as "Shaheed" and provide the emoluments and benefits available to a Shaheed's family.

Honorable Court ruled that;

4.----- the deceased has not died on the place he was posted for duty but his body was recovered some 4.2 km away from the place he was deputed for duty. ---the Roznamcha entries were duly made in this regard clearly mentioning that the deceased was found absent on the said date from his duty and subsequently his body was recovered from Raxer Lane, Lyari. ---it has remained a mystery as to what the deceased was doing there as his duty was some 4.2 km away from the place where his body was found. ---a full-fledged enquiry in this regard was conducted and thereafter it was found that the deceased had not lost his life in the line of duty, therefore, according to the learned AAG, he could not be considered as Shaheed and the emoluments /benefits as available to a Shaheed"s family could not be given to the petitioner---

6. --- that "Merely saying that at the relevant point in time he was absent from duty does not absolve them to look into the claim of his widow". The record further shows that on one hand the impugned order has opined that the deceased unlawfully left his duty point with official weapon and went to the area which was prominent in drug dealings, whereas on the other hand have opined that the possibility of the deceased being killed by drug dealers could not be ruled out. It is also noted that though the deceased was found dead at some distance from the place of his duty, there is no denial to the fact that he was in uniform and was found missing from his place of duty. Though the FIR registered in this regard subsequently was disposed of under „A" Class but the I.O. of the case had clearly indicated that it was likely that he was targeted by Lyari gang war criminals upon which an inference could be drawn that he was killed by criminals while he was in uniform. In our view, these aspects /facts had skipped the

attention of the AIGP Welfare while considering the case of the deceased.

6. M/s. M. Mubbashir Traders and two others v. Sindh Revenue Board

Special Sales Tax Reference Appln. No.06 ..2019

https://caselaw.shc.gov.pk/caselaw/view-file/MTUzODU5Y2Ztcy1kYzgz

Mr. Justice Aqeel Ahmed Abbasi
Mr. Justice Zulfiqar Ahmad Khan

What is the doctrine of "Exhaustion of rights after the first sale"?

Honorable Court ruled that;

10.---------- The said doctrine means that an owner of a particular good ceases to have control over further sale of his goods once he has made a valid transaction of sale. It is usually considered as a litmus test in the cases of intellectual property rights. However, the same ratio could also be used in all such cases where a court has to examine residual effect of a sale agreement. In a typical sale of goods agreement, upon receipt of considerations, the seller assures delivery of goods in the hands of the buyer, however at certain times the seller is also made responsible to provide for warranties. Other than that, usually such agreement is a close-end arrangement where the buyer is free to use, sell, lend or even abandon or destroy the goods if found unfit for the purpose. If, however, there appears that even after the first sale, the seller retained power to exercise control over the goods, the doctrine of exhaustion of rights becomes an instrument to microscopically analyze such relationship

13. ----- We are also cognizant of the legal position that while construing a document, the whole document is to be read and be considered to ascertain the scope and object of the document. In other words, for determining the true purpose of a document, one must look into its substance and not the form. --- "a statute/instrument/document is to be read as whole, and an attempt has to be made to reconcile various clauses for a rationale meaning, while avoiding redundancy to any part thereof". --...in Revenue cases one must look at the substance of thing and not at the manner in which the account is stated".

7. Dewan Cement Ltd and others v. Federation of Pakistan and Others.

C.P. No.D-476 of 2020

https://caselaw.shc.gov.pk/caselaw/view-file/MTUyNzg0Y2Ztcy1kYzgz

Mr. Justice Syed Hassan Azhar Rizvi.
Mr. Justice Zulfiqar Ahmad Khan

Whether determination by the National Electric Power Regulatory Authority ("NEPRA") of awarding monthly Fuel Charge Adjustment ("FCA") for three (3) years in one go violates the law and the same can be challenged in writ petition?

Honorable Court held that:

28. It is noted from the record that the Decision for FCA for December 2016 was issued after public hearing and Public Notice whereby NEPRA directed that FCA going forward will only be determined after Notification determining KE"s new MYT. Thus, the Petitioners were aware that FCAs pertaining to such months will be charged subsequent to determination and notification of KE"s new MYT, hence in our view such FCA remained as a debt on the petitioners and at this belated stage the petitioner's cannot sustain their plea of not paying it. It is also important to note that the petitioner never impugned NEPRA"s decision dated 12.04.2017 passed on KE"s FCA application for the month of December 2016 hence the same attained finality and the question of applicability of FCA for the months of July 2016 to June 2019 did not turn into a past and closed transaction either.

38. With regards maintainability of these petitions, we could seek guidance from the Apex Court's judgment rendered in the case of Collectors of Customs Valuation Vs. Karachi Bulk Storage & Terminal Ltd (reported as 2007

SCMR 1357) where the Apex court ruled that in connection with fixation and enhancement of values, Court must consider as to whether the enhanced value was without disclosing adequate material or reasons therefor, or it was arbitrary, whimsical, capricious. None of these ingredients are present in the claim of the petitioners.

39. With regards Petitioners' counsel argument that the impugned determination purported to impair an existing or vested right, hence cannot be applied or given retrospective effect, we beg to differ from such an assertion. Not paying FCA component of a consumer's electricity bill could never be held as a vested or existing right. To us, it remains a debt and unless satisfied, there would be no release. 40. In light of the foregoing, we reach to an irresistible conclusion that the exercise of passing monthly FCA on to the petitioners on the basis of NEPRA"s determination dated 27.12.2019 is in accordance with law and the timeline provided under Section 31(7) of the Act, 1997 be adhered to, unless any party is restricted for a reason beyond its control, which is a case at hand. The Petitioners clearly failed to avail statutory remedies under the law while the impugned determination was being made and even thereafter, nonetheless there is no cavil that the petitioners owe FCA component to K-Electric and liable to satisfy this debt. These instant Petitions being devoid of merit are accordingly dismissed.

8. Mst. Naz Bibi, deceased through her legal heirs v. Wahid Bux, deceased through his legal heirs and others.

Second Appeal No. 85 of 2019

https://caselaw.shc.gov.pk/caselaw/view-file/MTUyNDQ3Y2Ztcy1kYzgz

Mr. Justice Nadeem Akhtar

Can a brother claim a share in National Saving Certificates and service benefits of a deceased brother leaving behind a widow?

Honorable Court held that:

7. ----In view of the above principle laid down by the Shariat Appellate Bench of the Hon'ble Supreme Court in Wafaqi Hakumut Pakistan (supra), the said certificates shall form part of his estate / tarkah and are thus inheritable. Despite the fact that it is not disputed that the appellant was nominated in respect of the said certificates to the extent of 100% by the deceased himself during his lifetime, such nomination shall not affect the right of inheritance of other legal heir(s), who is respondent No.1 in the present case. It is well-settled that a nominee is not entitled to exclusively claim or receive any property or benefit falling in the category of tarkah of the deceased; nomination does not confer any title in favour of the nominee; and, a nominee is merely a trustee and does not become the owner. The above view is supported by Mst. Ameeran Khatoon (supra) and Lt. Muhammad Sohail Anjum Khan (supra) relied upon by learned counsel for respondent No.1. In view of the above, respondent No.1 was entitled to inherit, according to his share, the amount of the National Saving Certificates left by the deceased as well as the profit accrued thereon, and thus the finding of the learned appellate Court is correct to this extent.

11. Coming back to the instant case, the claim of respondent No.1 in respect of the severance grant, gratuity and benevolent fund was not justified in view of the law enunciated by the Shariat Appellate Bench of the Hon'ble Supreme Court in Wafaqi Hakumut Pakistan (supra) as the deceased did not acquire any absolute right in respect thereof in his lifetime nor had any of the above fallen due in his lifetime. Thus, the above benefits, not being heritable, could not be treated as part of the estate / tarkah of the deceased, and the amount thereof payable after the death of the deceased shall be distributed only to such member(s) of his family who is/are entitled for the same as per the prevailing rules and regulations of service of the respondent No.2-bank. Learned counsel for the respondent No.2-

bank relied upon Rule 23 of the Agricultural Development Bank Employees Pension and Gratuity Regulations, 1981, and submitted that the said Rule is followed by the respondent No.2-bank for payment of gratuity as well as all other grants, donations, concessions and compensations after the death of their employees. This Rule provides payment of death-cum-retirement gratuity to the "family" of the deceased employee. Under this Rule, "family" of a deceased employee shall include his / her wife / wives or husband, as the case may be, children, and widow(s) and children of deceased son(s). As siblings of the deceased employee are not included in the above definition of "family", the appellant / widow alone is entitled to receive the entire amount of the above benefits, and respondent No.1 has no right to claim any of the above.

9. Sharafat Ali v. Mst. Shahjahan Begum & Another

Suit No. 1784 of 2010

https://caselaw.shc.gov.pk/caselaw/view-file/MTUxODE3Y2Ztcy1kYzgz

Mr. Justice Nadeem Akhtar.

1. Whether the suit is liable to be dismissed in case of non-compliance of order to deposit the balance sale consideration?
2. Whether a suit is liable to be dismissed in the absence of the plaintiff and his counsel on the date of examination of parties and settlement of issues?

Honorable Court held that:

5.---In this context, I may refer to Hamood Mehmood V/S Shabana Ishaque and others 2017 SCMR 2022, wherein the Hon'ble Supreme Court was pleased to hold that it is mandatory for the person, whether plaintiff or defendant, who seeks enforcement of an agreement under the Specific Relief Act, 1877, that on the first appearance before the Court or on the date of institution of the Suit, they shall apply to the Court for permission to deposit the balance amount, and any contumacious / omission in this regard would entail in dismissal of the Suit or decretal of the Suit, if it is filed by the other side. The above view is further fortified by a recent pronouncement viz. Messrs Kuwait National Real Estate Company (Pvt.) Ltd. and others V/S Messrs Educational Excellence Ltd. and another, 2020 SCMR 171, wherein it was held by the Hon'ble Supreme Court that it is now well-settled that a party seeking specific performance of an agreement to sell is essentially required to deposit the sale consideration in Court; in fact, by making such deposit the plaintiff demonstrates its capability, readiness and willingness to perform its agreed part of the contract, which is an essential pre-requisite to seek specific performance of a contract; and, failure of a plaintiff to meet the said essential requirement disentitles him to the relief of specific performance, which undoubtedly is a discretionary relief. I may also refer to Allah Ditta V/S Bashir Ahmad, 1997 SCMR 181, and Haji Abdul Hameed Khan V/S Ghulam Rabbani, 2003 SCMR 953, wherein the order of dismissal of the Suit for specific performance passed by the trial Court due to the plaintiff's failure in depositing the balance sale consideration in Court, was upheld the Hon'ble Supreme Court. Thus, in view of the well-settled position as discussed above, the Suit was rightly dismissed vide order dated 21.05.2018 as the plaintiff did not deposit the balance sale consideration in Court despite this Court's order dated 12.11.2014.

10.---It is well-settled that when a Suit is fixed for examination of parties and settlement of issues, a plaintiff is required to be present along with his evidence and witnesses; and, in case of his failure, the Suit is liable to be dismissed. Therefore, no exception can be taken to the dismissal of the present Suit due to the continuous and unexplained absence of the plaintiff and his counsel on the above mentioned four dates, particularly the relevant date, when the Suit was fixed especially for examination of parties and settlement of issues.

11. Regarding the contention of learned counsel

for the plaintiff that the objections filed by the defendants are not supported by their affidavit and they have not filed any counter affidavit, it may be noted that the counter affidavit of the defendants would have been relevant if any factual controversy had been raised in this application by the plaintiff which would have required specific denial by the defendants. The non-deposit of the balance sale consideration by the plaintiff despite this Court's order and the continuous and unexplained absence on his behalf on the above mentioned dates, particularly the relevant date, is a matter of record. Therefore, filing of counter affidavit by the defendants was immaterial.

10. Chief Revenue Authority/Member (RS & EP) Board of Revenue Sindh, Karachi

Civil Reference No.02 of 2018

https://caselaw.shc.gov.pk/caselaw/view-file/MTU1MzIyY2Ztcy1kYzgz

Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Omar Siyal

1. What will be the basis for the calculation of stamp duty, where a property is sold out on the basis of a decree of court?
2. Whether Sub-Registrar and Inspector of Stamp will question the valuation of property on the basis of court decree or sale consideration mentioned in the instrument?

Honorable Court ruled that;

13. ---------- "Had it been in performance of decree, an instrument is being registered, it ought to be on the basis of value determined in the decree and/or agreement entered into for which performance is to be made in terms of Court decree. In such situation there was no occasion for altering/undervaluing the property to avoid stamp duty as the value is already determined by Court of law or decree. It is only in case when the property has changed its status lawfully i.e. from a built-up property to an open plot or from a semi-constructed property to a fully constructed property, the value of the property may be altered in instrument sought to be registered. Thus, **when the property sold out on the basis of a decree, which decree has valued the property in question, then the right of valuing the property does not rest with the vendor and vendee and/or the concerned authority**"

11. Imad Samad and 04 others v. Federation of Pakistan & others

C.P. Nos.D-5430... 2020/21

https://caselaw.shc.gov.pk/caselaw/view-file/ MTUzMTQ4Y2Ztcy1kYzgz

Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Adnan Iqbal Chaudhry.

Whether the SRO No. 833(1)/2018 issued in terms of section 19 of Customs Act, 1969 can also be treated as SRO issued by the Ministry of Commerce in terms of Section 3 of the Import & Export Control Act, 1950, permitting the import of vintage cars which are otherwise not importable as being and used in terms of the Import Policy Order of both 2016 and 2020?

Honorable Court ruled that;

"Section 19 of the Customs Act, 1969 primarily deals with a situation for immediate action for the purpose of national security, natural disaster, national food security in an emergency. Subject to such conditions, limitations or restrictions, as it thinks fit to impose, by notification in the official gazette, exempt any of the goods, imported into or exported from Pakistan or into or from any specific port or station or area therein, from whole or any part of the customs duties chargeable thereon and may remit fine, penalty, charge or any other amount recoverable under this Act. This provision of Customs Act or any notification/SRO issued thereunder could not withstand the requirement or restriction of importability. Importability is a business which originates from commerce division/Ministry of Commerce. It even could not be conceived as lack of coordination between two divisions or precisely by commerce division under Rule 8 of Rules of Business 1973 as it could have been an

initiative of Commerce Ministry, had it so desire, as far as importability is concerned, which then only could have ended up in consultation with Finance Ministry. **It could not have been an issue of finance division unless the importability is finalized and thus a cart is invented first before birth of a horse. If the Ministry of commerce/Commerce Division has not carved out policy of importability or if the summary of importability of such vehicles is declined by Cabinet/ECC, then SRO 833(I)/2018 is a wasted effort.** The legitimacy of import and export of vehicles is required to be steered in terms of Section 3 of Act 1950. Customs officials thus have lawfully objected to the importability of vehicles on the touchstone that SRO 833(I)/2018 could only be read to the extent of levy of duties and taxes including customs duties, excise and sales tax etc. but cannot be construed as a notification under Section 3 of ibid Act 1950 relaxing the prohibition and restrictions".

12. Govind Ram v. Federation of Pakistan and Others

CP No.D-8642 of 2017

https://caselaw.shc.gov.pk/caselaw/view-fi le/MTUzNDIwY2Ztcy1kYzgz

Mr. Justice Muhammad Shafi Siddiqui

1. Whether an undisclosed amount to be considered as laundered money?
2. Whether non-declaration of an asset by an assessor is a scheduled offence under the ordinance?
3. How to determine the true purpose of a document?
4. Whether the officer concerned has the jurisdiction to issue notices/ summons under section 176(1)(b) of the Income Tax Ordinance, for unexplained amounts which came in and went out of the account?

Honorable Court ruled that;

The moot question, however, remains that the department by taking advantage of the provision went on to travel beyond the aforesaid provision primarily required for evidence and explanation, by conceiving the undisclosed amount as laundered money. No one could deny powers and jurisdiction of the concerned officer requiring explanation of an amount which is not taken into consideration for taxation purposes, however, it is a pre-conceived idea that such amount is considered as laundered money. Some of the proceeds/amounts which may at a given time formed part of the account, as it came in and gone out of the account and was not taken into account for taxation purposes and the assessee may have reason to explain, however, it may require explanation from an assessee first. We are clear in our minds that **unless and until such explanation is forwarded and an opportunity is given to the petitioners to explain the un-accounted amounts, not made part of the taxable income, it would be premature to consider the amount as laundered money. Non-declaration of an asset by an assessee under the Ordinance is not a scheduled offense, unless proved otherwise** as required under the relevant law which in this case is Anti-Money Laundering Act, 2010 [AMLA-2010] which requires an independent exercise.

However, we are not in agreement with the petitioner's counsel that the officers concerned had no jurisdiction to issue notices/summons under Section 176(1)(b) of Income Tax Ordinance, for calling an explanation. We are therefore, of the view that unexplained amount which came in and went out of the account, could be inquired about and an explanation could be sought but until and unless an explanation is forwarded by the assessee to the dissatisfaction of the officer concerned, it is inconceivable at the said premature stage that it was laundered money which is defined under Anti-Money Laundering Act, 2010. Any amount which is not accounted or not considered as taxable amount not necessarily be

the laundered money having meaning under AMLA-2010.

13. Iqbal Hussain Channa v. National Accountability Bureau & others

C.P. No.D-6306 of 2021

https://caselaw.shc.gov.pk/caselaw/view-file/MTU0Nzc4Y2Ztcy1kYzgz

Mr. Justice Naimatullah Phulpoto
Mr. Justice Abdul Mobeen Lakho

Without passing of an interim order on a pre-arrest bail application and fixing it for hearing, issuing notice to special prosecutor NAB amounts to the cancellation of the application.

Honourable Court held that:-

08. In the present case, learned Administrative Judge, Accountability Courts Sindh, Karachi, admitted the pre-arrest bail application on 20.10.2021 and only issued notice to the Special Prosecutor NAB; he was required to pass orders regarding interim pre-arrest bail on pre-arrest bail application or its dismissal on the same day, in accordance with law. Issuance of notice to the Special Prosecutor NAB, by learned Administrative Judge, in such a way and fixing the hearing of the pre-arrest bail on 26.10.2021, without passing interim orders, *ex facie* amounts to dismissal of the bail before arrest application.

9. Consequently, this constitution petition is converted to an application for protective bail. Office is directed to assign its number accordingly.

14. Employers Federation of Pakistan & others v. Govt. of Sindh & others

C.P. Nos. D -4596 of 2021

https://caselaw.shc.gov.pk/caselaw/view-file/MTU0NTc4Y2Ztcy1kYzgz

Mr. Justice Salahuddin Panhwer
Mr. Justice Adnan-ul-Karim Memon

Fixing of minimum wages is a legislative act lying with its competence, not with the Wages Board. The government is alone that can agree or disagree with the Wages Board's recommendation. Even after declaration or notification, even can refer back to the Wages Board for reconsideration of an inequitable rate, but such a referral does not operate as a suspension of declared or notified minimum wages.

Honourable Court held that:-

39. The section 5 of the Act provides that the Board after resorting to detailed criterion may "recommend" minimum rates of wages. Here, it is worth hammering that deliberate use of word 'recommend' needs to be given its due meaning which is ordinarily defined as:-

> "to suggest that someone or something would be good or suitable for a particular job or purpose, or to suggest that a particular action should be done."

40. Such recommendation, we shall add, cannot be given the status of 'binding decision' or an 'award', so is passed by an authority within competence to pass such an "award".

The "award", per Black"s Law Dictionary means:-

> "A final judgment or decision, esp. one by an arbitrator or by a jury assessing damages..."

42. The Act provides procedure for the Board in recommending the minimum wages rate while it is only the Government to declare the same or even was! is competent to take exceptions (see Section 6(1)(a) of the Act) which, even, includes returning the same back to the Board for re-examination (see Section 6(b) of the Act), therefore, we are of the view that the 'recommendation' of the Board, cannot be termed as binding upon the competent authority which, per law, is competent to make such declaration. In view of the above legal position, we would take no exception to the legal position that 'fixing of minimum wages' is a legislative act and will reiterate that the competence thereof was ! is lying with the Government and not with the Board.

43. The above provision and subsection (s) thereof, prima facie, makes it clear that it shall be the Government alone to agree and disagree

with such 'recommendation' and even after such declaration notification, if the government finds that "any such rate is inequitable to the employers or the workers" the government can competently refer the matter back to the Board for re-examination of the 'question of inequitable of such fixed amount not only for workers but also for employer(s) too'. This, prima facie, shows that the question of any grievance, even after publication of notification, can well be redressed by approaching the Government within the meaning of said subsection. Here, it is worth to add that such referral back to the Board shall, ipso facto, would not operate as suspension of the declared! notified minimum wages rate.

15. Hassan Alias Ali Hassan v. The State

Criminal Appeal No.D-123 of 2019
Confirmation Case No.23 of 2019

https:!!caselaw.shc.gov.pk!caselaw!view-fil e!MTU1NzIyY2Ztcy1kYzgz

Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Adnan-ul-Karim Memon

Acquittal in the case of the recovery of a pistol means the prosecution could not prove the mode of recovery as asserted. However, it does not have any effect on the connected case of murder, which has been proved from evidence with a matching profile aligning the empties recovered from the spot with the pistol.

Honourable Court held that:-

9. Their unshaken account, despite lengthy but unfruitful cross examination, is further supported by medical evidence that gives an exact account of the locale of injuries sustained by the victims as narrated by them. The circumstantial evidence i.e. recovery of crime weapon from the appellant and positive forensic report qua its matching with empties recovered from places of the incident further seals the frame around narration of incident given by the witnesses about role played by the appellant. There is no delay in sending the crime weapon and the empties, recovered on the same day i.e.24.06.2007, to forensic experts to induce any idea of contrivance in setting up such evidence against the appellant. All such pieces of evidence tend to reflect a complete mosaic the incident is made of in which the appellant's involvement in the offense is indelibly noticeable. There could be assumed no other hypothesis in presence of such evidence except guiltiness of the appellant. The acquittal of the appellant in the case of recovery of the pistol from him will not have any adverse bearing on merits of this case. For the reason, such acquittal at the maximum would mean the prosecution was not able to establish its possession by the appellant at the time of its recovery from him, or that manner and mode of recovery of the pistol from the appellant, as asserted by the prosecution, has not been established. Its use by the appellant to murder the deceased is altogether a different fact which has been proved not only from the evidence of eye witnesses but from matching profile aligning the empties recovered from the spot with the pistol.

16. Muhammad Zulfiqar through LRs v. Pakistan Railway Employees Cooperative Society and another.

Suit No.1911 of 2010

https://caselaw.shc.gov.pk/caselaw/view-file/MTU1NTI2Y2Ztcy1kYzgz

Mr. Justice Zulfiqar Ahmad Khan.

Whether a boundary wall around a plot having not more than eight feet height amounts to building, and requires approval from the cantonment Board?

Honorable Court held that:

14. It appears that the defendant No.2 has asserted that it has the competency to regularize the construction of the boundary wall, which could not have been erected without the permission of the said defendant. Perusal of section 185 of the Cantonment Act, 1924 stipulates that admittedly the defendant No.2 is

empowered to regularize buildings and to stop erection or re-erection thereof, and to demolish, if such erection or re-erection is offensive of section 184 of the Act and it can also be seen that 184 is a penal section that imposes penalty if one raises illegal construction, however per learned counsel, the word "building", as used in section 185 is defined by section 2(iv) as under:- "2. Definitions:- In this Act, unless there is anything repugnant in the subject or context,- (iv) "building" means a house, outhouse, stable, latrine, shed, hut or other roofed structure whether of masonry, brick, wood, mud, metal or other material, and any part thereof, and includes a well and a wall (other than a boundary wall not exceeding eight feet in height and not abutting on a street) but does not include a tent or other portable and temporary shelter". (Emphasis supplied)

15. Perusal of the said definition clearly shows that a "building" is held to means a house, outhouse, latrine, shed, hut or other roof structure whether of masonry, brick and includes a well and wall other than the boundary wall not exceeding eight feet in height and not abutting on a street. The judicial wisdom contained in the said provision loudly speaks that erection of a boundary wall around a plot having not more than eight feet height, and not abutting on the street, does not amount to a building requiring approval from the Cantonment Board.

16. In the circumstances, this being pure a question of law, where perusal of section 185 read with section 2(iv) of the Cantonment Act, 1924 leave no doubt in my mind that raising of boundary wall of less than eight 8 feet in height as long as it does not abutt a street, does not require approval by the defendant No.2.

17. Danish Ilahi & others v. Mariam Kamran & others.

(Suit No.758 of 2020) (CMA No. 5467/20)

https://caselaw.shc.gov.pk/caselaw/view-file/MTU2MDM5Y2Ztcy1kYzgz

Mr. Justice Zulfiqar Ahmad Khan

1. Whether the relationship between Principal Debtor and Surety is governed by the principles of the Contract of Guarantee?
2. How to distinguish a 'Surety' from a 'Guarantee?
3. What is the doctrine of "beneficium ordinis seu excussionis"?
4. What is the legal value of agreements signed During the Iddat Period of Muslim Women"?

Honorable Court held that:

19. As drawn from the forgoing analysis, relationship between Principal Debtor and Surety seems to be governed by the principles of the Contract of Guarantee which is one of a specific performance contract. It is so because it calls for an equitable relief as it is not the usual legal remedy where compensation for damages could be adequate as the law prescribes that in an event where the actual damage for not performing the contract cannot be measured or monetary compensation is not adequate, one party can ask the court to direct the other party to fulfill the requirements of the contract, which is a discretionary relief, i.e., left to the court to decide whether specific performance should be given to a party asking for it or not--- The primary difference between these is "the time at which a creditor can collect from each." With the concern of suretyship, the creditor can look to the surety for an immediate payment upon the occurrence of a default payment by a debtor. However, whereas a guarantor is an individual, the creditor first asks to collect the debt from the principal debtor before demanding the performance from the guarantor---

23. In the case at hand, even if contents of the agreement dated 30 May 2016 are admitted, it

clearly does not provide that the grieving family consented to their subrogation by the Plaintiffs. In above discussion one must also keep sight on the principle of beneficial "beneficium ordinis seu excussionis" which means that the benefit protects the surety by compelling the creditor to first proceed against the principal debtor. This legal principle ensures that a creditor must first of all should obtain all that's possible from a debtor's estate before proceeding against the surety.

25. Last but not least, a few words about 'presumed undue influence' principle. As the nomenclature suggests, this form of undue influence arises out of a relationship between two persons where one has acquired over another a measure of influence or ascendancy, of which the ascendent person then takes advantage without any specific overt acts of persuasion. Typically, this occurs when one person places trust in another to look after his affairs and interests, and the latter betrays this trust by preferring his own interests--- While the research conducted on the question of "Legal Value of Agreements signed During Iddat Period of Muslim Women" did not show that any agreement signed in these days would be invalid, however sanctity to such agreements in my humble view could not be given flawlessly. Application of presumed undue influence principle cannot be ruled out as both the ingredients for presumption of undue influence being (a) a relationship of trust and confidence in relation to the management of a subservient party's affairs; and (b) a transaction which by its nature called for an explanation3 existed in the case at hand and application of the principles set up by Royal Bank of Scotland v. Etridge (Supra) cannot be ruled out.

18. Nandomal through his Legal Heirs and others v. The P.O. Sindh through the Secretary Rehabilitation Sindh and others and Haji Doulat Khan through his Legal Heirs and others

R. A. No. S – 34 of 2003

https://caselaw.shc.gov.pk/caselaw/view-file /MTU0MTM4Y2Ztcy1kYzgz

Mr. Justice Muhammad Faisal Kamal Alam

1. Whether merely on the basis of possession, a person does have locus standi to challenge the allotment/transfer?
2. Whether Civil Courts had jurisdiction to question the validity of the orders passed by the Settlement Authorities?

Honorable Court held that:

9....when a property is in litigation, it cannot be a subject matter of auction by the Settlement Authorities. --- since appellants (of the reported case) were neither the allottees nor they were considered to be entitled to the transfer of the plot in dispute, therefore, they had no locus standi to file the suit and challenge the transfer of the plot in dispute in the names of the respondents---a person merely on the basis of

long period of possession cannot challenge the transfer of property in favor of some other person

10 ..... To corroborate his testimony regarding being in possession since 1949, at least the Applicants' witness should and could have produced the rent receipts, particularly, when they claim that they were paying rentals to the government; but no documentary evidence in this regard was produced. It is also a settled principle of evidence law that documentary evidence excludes the oral evidence. The claim of Applicants is based on oral assertion, whereas, admittedly, the rebuttal / stance of Respondent No.4 is corroborated by official documentary evidence, in particular, the PTO (Provisional Transfer Order) dated 11.11.1959 and PTD dated 25.10.1967, which is a title

document, authenticity whereof was not challenged but procedure adopted for its issuance to said late Doulat Khan, was questioned as discussed above, which too the Applicants have failed to prove.

15--- since the Applicants who were never allotted/transferred the Subject Property, merely on the basis of their possession, did not have local standi to challenge the allotment/transfer in favor of the above named predecessor-in-interest of Respondent No.4. If at all there was a case of allotment in violation of the Relevant Law, the official Respondent's are the concerned authorities in this regard to take appropriate action, that too through due process of law and not otherwise.

Whether Civil Courts had jurisdiction to question the validity of the orders passed by the Settlement Authorities?

--------while holding that in terms of the Sections 22 and 25 of the afore-referred Relevant Law, civil Courts had no jurisdiction to question the validity of the orders passed by the Settlement Authorities. If a person / applicant did not apply for transfer of a house in his possession, but allows another person to have it, it can be safely inferred that he had no desire to get that house; to such facts, principle of estoppel can also be pressed into service and a challenger is estopped from claiming the same property later on after being unsuccessful under the Earmarking Scheme (under the relevant law and rules) and if a house is already disposed of, then the matter cannot be reopened.

****

19. SELECTED ARTICLES

1. IS MAGISTRATE UNDER S. 30 OF THE CR. P.C COMPETENT TO TRY CASES UNDER THE SINDH ARMS ACT?

Authored by:

Mr. Haleem Ahmed, Additional District & Sessions Judge, Karachi East

The Code of Criminal Procedure ("Code") envisages two tiers of Courts i.e. Court of Sessions & Court of Magistrate, besides the High Court, which is the Constitutional Court and not established by the Code. Unlike Sessions Court, the Court of Magistrate is vested with ordinary, special and additional powers under the Code at different levels of criminal proceedings. Ordinarily, a Magistrate cannot pass a sentence exceeding three years imprisonment. However, s. 30 of the Code vests in the Magistrate power to try as a Magistrate all offences not punishable with death. The Provincial Assembly of Sindh has enacted the Sindh Arms Act, 2013 ("Act") in recent times, which provides for offences pertaining to arms & ammunition, where the maximum punishment for the offence is extendable to fourteen years imprisonment. The debate has sparked within the legal fraternity in general and district judiciary in particular whether Magistrate vested with special jurisdiction s. 30 of the Code is competent to try offences under the Act, notwithstanding anything contained in the Act-----.

Available at:

2021 S B L R, Article-17, Page No. 17

2. "INQUEST REPORT"

Authored by:

Mr. Naeem Akhtar, Civil Judge & Judicial Magistrate / Research Officer, Legal Research Cell (LRC) High Court of Sindh.

This article explains the provisions of the inquest report, its main ingredients, and Implications along with the relevant provisions

of the law and landmark judgments of the honourable apex courts. The expression 'inquest' has not been categorically defined in the Code of Criminal Procedure, 1898. The meaning of Inquest is to pursue legal or judicial inquiry to ascertain the facts. The literal meaning of the expression of 'inquest' is "a judicial inquiry to ascertain the facts relating to an incident". According to the Black's Law Dictionary, the term 'inquest' means an inquiry conducted by the medical officers or sometimes with the help of a jury into the manner of death of a person, who has died under suspicious circumstances or has died in prison. The provisions relating to the inquest report are covered under Part V, Chapter XIV of the Code. An inquest is a judicial inquiry in common law; mainly one held to determine the cause of a person's death, conducted by a judge, jury, or government official; an inquest may or may not require an autopsy carried out by a coroner or medical examiner. Generally, inquests are only conducted when deaths are sudden or unexplained.

Available at:
https://www.academia.edu/63512115/An_Article_Research_Paper_on_INQUEST_REPORT_by_Mr_Naeem_Akhtar_Serving_as_Research_Officer_Civil_Judge_and_Judicial_Magistrate_Legal Research Cell L R C Sindh High Co urt at Karachi

3. INVESTMENT CLIMATE STATEMENT- JUST A FALLACY

Authored by:

Mr. Asghar Ali Mahar, Civil Judge & Judicial Magistrate / Research Officer, Legal Research Cell (LRC) High Court of Sindh

This article aims to dispel a common misconception introduced by the 2021 Investment Climate Statement, which was supposed to be based on the 2020 World Justice Project (WJP) Rule of Law Index and has been contradicted by its articulator's retreating statements when some countries have countered them with proof that the whole data of the WJP was surmises-oriented and wrong, and, similarly, the Pakistan government. The Legal Research Cell has contributed to exposing the prejudicially introduced fallacy in order to safeguard the judiciary's reputation.

Available at:
https://www.academia.edu/64702101/Investment_Climate_Statement_Just_a_fallacy

4. DNA EVIDENCE IN PAKISTANI COURTS: AN ANALYSIS

Authored by:

Dr. Shahbaz Ahmad Cheema, Assistant Professor, Punjab University Law College, University of the Punjab, Lahore.

This article examines the approach of Pakistani courts with respect to the admissibility and evaluation of DNA evidence. The case law analysis brings to the fore two distinct streams of cases in which parties attempt to rely on DNA evidence: paternity/legitimacy of children and sexual offences. In the first category of cases, courts are reluctant to question paternity/legitimacy on the basis of DNA evidence due to a legislatively enforced conclusive presumption under the Qanun-e-Shahadat Order 1984 in favour of paternity/legitimacy. DNA evidence is admissible in the second category of cases and its value is determined on a case-by-case basis. Under the prevalent legal framework, DNA evidence is regarded as equivalent to an expert opinion and is thus treated as corroboratory or secondary evidence. This laxity on the part of the judiciary is further compounded by the ill-trained investigating agencies and the lack of scientific resources needed for the careful collection and preservation of DNA evidence. Against this background, this article underscores the re-examination and re-formulation of the present legal framework around the assessment of DNA evidence by the courts so as to maximize its benefits for the investigation of crimes.

Available at:
LUMS LAW JOURNAL
https://sahsol.lums.edu.pk/law-journal/dna-evidence-pakistani-courts-analysis

5. SOFTWARE ESTIMATION'S RISK IN PAKISTAN SOFTWARE INDUSTRY?

Authored by:

Suresh Kumar, Qaisar Imtiaz, and ***Sarmad Mahar*** (Software Developer) High Court of Sindh, Karachi.

The software and I.T. Industry in Pakistan has seen dramatic growth and success in the past few years and is expected to double by 2020; according to research, the software development life cycle comprises multiple phases, activities, and techniques that can lead to successful projects. Software evaluation is one of the vital parts of that software estimation can alone be the reason for a product's success factor or the product's failure factor. To estimate the correct cost, effort, and resources is an art. But it is also crucial to include the risks that may arise in a software project which can affect your estimates. In this paper, the authors had highlighted how the risks in the Pakistan Software Industry can affect the estimates and how to mitigate them.

Available at:
https://www.academia.edu/62935664/Software_Estimations_Risk_in_Pakistan_Software_Industry

****