HIGHCOURTOFSINDH

CaseLawReview

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FORTNIGHTLYBENCHUPDATE

(01-01-2026 to 15-01-2026)

AnOverviewofRecentJudgmentsoftheFederalConstitutionalCourtofPakistan,SupremeCourtof Pakistan,SindhHighCourt,andLahoreHighCourt,LatestLegislativeAmendmentsandImportant Articles, Compiled and Published by the Legal Research Cell, High Court of Sindh, Karachi

NOTABLEJUDGMENTS

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1. **FEDERAL CONSTITUTION COURT OF PAKISTAN**
Civil Petition No. 315 of 2024

Parties: Attock Cement Pakistan Ltd Vs. Province of Baluchistan & another

Present: **Mr. Justice AAMER FAROOQ**
Mr. Justice ROZI KHAN BARRECH

Facts: Attock Cement Pakistan Ltd is engaged in the manufacture of cement and operates a mining and manufacturing facility at Hub, Lasbela, Balochistan, where it extracts minerals such as limestone, shale, and sand required for cement production. In January 2021, the Mines Labour Welfare Department, Government of Balochistan, issued notices to the petitioner demanding payment of excise duty on minerals at enhanced rates introduced through Section 7 of the Balochistan Finance Act, 2020, which amended Section 3 of the Excise Duty on Minerals (Labour Welfare) Act, 1967. The petitioner submitted representations seeking revision of the enhanced rates, all of which were rejected. The petitioner thereafter challenged the levy before the Balochistan High Court, which dismissed the constitutional petition. The matter was brought before the Supreme Court under Article 185(3) of the Constitution and subsequently stood transferred to the Federal Constitutional Court of Pakistan pursuant to the Constitution (Twenty-Seventh Amendment) Act, 2025

Issues: Whether the Provincial Assembly of Balochistan had the legislative competence to amend the Excise Duty on Minerals (Labour Welfare) Act, 1967 by enhancing the rate of excise duty through Section 7 of the Balochistan Finance Act, 2020, despite duties of excise being a subject enumerated in the Federal Legislative List.?

Rules: Under Articles 142(a) and 142(c) of the Constitution of Pakistan, 1973, Parliament has exclusive authority over subjects enumerated in the Federal Legislative List, including duties of excise under Entry 44, while all residual matters vest in the Provinces. The doctrine of pith and substance requires courts to ascertain the true nature and character of legislation, and the doctrine of double aspect recognizes that a single subject may legitimately fall within both federal and provincial competence. Following the Eighteenth Constitutional Amendment, the constitutional scheme emphasizes cooperative federalism, allowing incidental overlap between federal and provincial legislative domains.

Application: The Court examined the preamble, scheme, and object of the Excise Duty on Minerals (Labour Welfare) Act, 1967 and held that its dominant purpose was the promotion of labour welfare in the mining industry, which is a provincial subject. The levy of excise duty was found to be merely a means to finance labour welfare measures and not an end in itself. Even if excise duty, viewed in isolation, falls within federal competence, the Court held that the impugned amendment reflected a permissible overlap between federal taxing powers and provincial responsibility for labour welfare. Applying the doctrines of pith and substance and double aspect legislation, the Court concluded that the provincial amendment did not encroach upon federal authority in a manner that would render it unconstitutional. The Court further stressed judicial restraint and the constitutional preference for harmonizing legislative powers rather than striking down democratically enacted laws

Conclusion: The Court dismissed the petition and refused leave to appeal, holding that Section 7 of the Balochistan Finance Act, 2020 was constitutionally valid and within the legislative competence of the Provincial Assembly of Balochistan.

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2. **FEDERAL CONSTITUTION COURT OF PAKISTAN**
C.P.L.As. Nos. 2199-L & 2211-L of 2024 and 1567 to 1569 of 2025

Parties: Employees' Old-Age Benefits Institution v Muhammad Rafique and others

Present: **Mr. JusticeAmin-ud-DinKhan, Chief Justice**
Justice Syed Hasan Azhar Rizvi
Justice Arshad Hussain Shah

Facts: The Employees' Old-Age Benefits Institution (EOBI) challenged a series of judgments passed by the Lahore High Court whereby several insured employees were declared entitled to monthly old-age pension under the Employees' Old-Age Benefits Act, 1976. In each case, the respondents had completed insurable employment ranging between fourteen years and six months to fourteen years and eleven months. Upon attaining the age of superannuation, their pension claims were rejected by EOBI on the ground that they had not completed the mandatory qualifying period of fifteen years under section 22(1)(b) of the Act. The respondents' claims were also dismissed by the Adjudicating and Appellate Authorities. However, the Lahore High Court allowed their writ petitions by applying the rounding-off provision contained in the Schedule to the Act, which treats a period of six months or more as one full year, and directed EOBI to grant old-age pension. Aggrieved, EOBI filed civil petitions for leave to appeal before the Federal Constitutional Court.

Issues: Whether insured persons who have completed more than fourteen years and six months of insurable employment but less than fifteen full years are entitled to monthly old-age pension under section 22(1) of the Employees' Old-Age Benefits Act, 1976 by applying the rounding-off provision contained in the Schedule to the Act?

Rule: Section 22(1)(b) of the Employees' Old-Age Benefits Act, 1976 requires completion of not less than fifteen years of insurable employment for entitlement to monthly old-age pension. The Schedule appended to the Act provides that a period of six months or more of insurable employment shall be treated as one full year. Being a social welfare statute, the Act must be interpreted purposively and harmoniously, giving effect to all its provisions and avoiding interpretations that lead to hardship or defeat the object of the law.

Application: The Court held that although the requirement of fifteen years under section 22(1)(b) is mandatory, it cannot be interpreted in isolation from the Schedule, which forms an integral part of the statutory scheme. The legislature deliberately incorporated the rounding-off mechanism to address marginal shortfalls in insurable employment and to prevent denial of pensionary benefits on technical grounds. A rigid and literal interpretation would undermine the remedial purpose of the Act, which is to ensure social security and dignity in old age. The Court further held that executive circulars issued by EOBI could not override statutory provisions or retrospectively defeat accrued rights. By applying the rounding-off rule provided in the Schedule, the respondents were deemed to have completed the qualifying period of fifteen years and thus satisfied the conditions for entitlement to monthly old-age pension.

Conclusion: The Court refused leave to appeal and dismissed the petitions, holding that insured

employees who have completed more than fourteen years and six months of insurable employment are entitled to monthly old-age pension upon application of the rounding-off provision contained in the Schedule to the Employees' Old-Age Benefits Act, 1976.

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3. **Supreme Court of Pakistan**
Civil Petition No. 1242-K of 2024
Ayaz Ali and another v. Federation of Pakistan and others

Present: **Mr. Justice Muhammad Ali Mazhar**
Mr.Justice Syed Hasan Azhar Rizvi
Mr.Justice Aqeel Ahmed Abbasi

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p._1242_k_2024.pdf

Facts: The fathers of both petitioners were serving in officer grade in the National Bank of Pakistan and died during service. Petitioner Ayaz Ali applied for appointment under the deceased son quota on 27.11.2019 following the death of his father on 11.11.2019, while petitioner Asadullah applied on 14.02.2022 after his father's death on 28.12.2021. Both applications were submitted promptly in accordance with the policy then in force, but neither was processed nor decided by the bank. Due to departmental inaction, the petitioners approached the High Court of Sindh seeking directions for their appointment. The High Court dismissed the constitutional petition relying on the Supreme Court judgment in General Post Office v. Muhammad Jalal* (PLD 2024 SC 1276), holding that compassionate appointments were no longer permissible. This dismissal was challenged before the Supreme Court.

Issue: The issue before the Supreme Court was whether the High Court erred in dismissing the petitioners' constitutional petition by applying the judgment in General Post Office v. Muhammad Jalal retrospectively, despite the fact that the petitioners' applications were submitted when an earlier employment policy was valid and operative.

Rule: The governing rule of law is that judgments of the Supreme Court operate prospectively unless expressly declared otherwise. A later judicial pronouncement striking down a policy cannot retrospectively nullify rights or claims that accrued under a valid policy in force at the relevant time. The doctrine of prospective overruling protects past and pending matters from being unsettled and preserves the finality and stability of legal transactions. Furthermore, where a public institution has promulgated a beneficial employment policy, it is under a legal obligation to consider applications made under that policy fairly and without discrimination.

Application: Applying these principles, the Supreme Court observed that the petitioners' applications were filed when the 2011 employment policy of the National Bank of Pakistan, as amended up to 2016, was still in force. The bank neither accepted nor rejected their applications, leaving them undecided for years. The High Court failed to appreciate that the judgment in *General Post Office v. Muhammad Jalal*, delivered in September 2024, could not be applied retrospectively to invalidate applications made earlier under a lawful policy. The Supreme Court further noted that even the respondents conceded that a new policy was introduced in 2022, which itself indicated that earlier policies governed earlier applications. The failure of the bank to consider the petitioners' cases under the prevailing policy amounted to unfair treatment and arbitrary exercise of authority.

Conclusion: The Supreme Court concluded that the High Court's order suffered from a misapplication of

law and ignored the doctrine of prospectivity of judgments. Consequently, the civil petition was converted into an appeal and allowed. The impugned order of the High Court was set aside, and the matter was remanded to the President of the National Bank of Pakistan with directions to consider and decide the petitioners' applications in accordance with the policy prevailing at the time of their submission and to communicate the decision within three months.

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4. **Supreme Court of Pakistan**
Criminal Appeals Nos. 503 and 504 of 2022
Shahzad Liaqat v. The State & another

Present: **Mr.Justice Muhammad Hashim Khan Kakar**
Mr.Justice Salahuddin Panhwar
Mr.Justice Ishtiaq Ibrahim

Source: **https://www.supremecourt.gov.pk/downloads_judgements/crl.a._503_2022.pdf**

Facts: The appellant Shahzad Liaqat was tried for the murder of Muzamil Hafeez, a boy aged about 15 to 16 years, under section 302 PPC. The prosecution case was that on 07.04.2012, the deceased went to the appellant's shop for an easy-load, where an altercation ensued. During the quarrel, the appellant fired a single shot from a 30-bore pistol, hitting the deceased on the chest, resulting in his death. The Trial Court convicted the appellant under section 302(b) PPC and sentenced him to death along with compensation. The Lahore High Court maintained the conviction but commuted the death sentence to life imprisonment. The appellant challenged his conviction, while the complainant sought enhancement of sentence. Leave to appeal was granted by the Supreme Court to determine whether the case fell under section 302(b) or section 302(c) PPC.

Issue: Whether, in light of the facts and evidence on record, the offence committed by the appellant constituted murder punishable under section 302(b) PPC or culpable homicide falling within the ambit of section 302(c) PPC?

Rule: The settled rule of law is that section 302(c) PPC covers cases of culpable homicide not amounting to murder, particularly those which fall within the exceptions to the erstwhile section 300 PPC, including acts committed without premeditation in a sudden fight or heat of passion. The determination of whether a case falls under section 302(b) or 302(c) PPC depends upon judicial assessment of intention, premeditation, manner of occurrence, and surrounding circumstances. Where death is caused in the heat of passion upon a sudden quarrel, without prior planning and without the offender acting in a cruel or unusual manner, the case may fall under section 302(c) PPC.

Application: Applying these principles, the Supreme Court reappraised the entire evidence and found the ocular account furnished by the father and uncle of the deceased to be trustworthy and fully corroborated by medical evidence. The Court rejected the defence plea of accidental firing as an afterthought and inconsistent with the site plan and surrounding circumstances. However, while affirming the prosecution case regarding the appellant's role, the Court noted that there was no prior planning or intention to commit murder. The incident occurred suddenly when the deceased approached the appellant's shop, an altercation took place, and in the heat of passion the appellant fired a single shot. The absence of premeditation, the spur-of-the-moment nature of the occurrence, and lack of repeated acts persuaded the Court that the ingredients of section 302(c) PPC were attracted rather than section 302(b) PPC.

Conclusion: The Supreme Court concluded that although the appellant was responsible for causing the death of the deceased, the offence did not amount to murder within the meaning of section 302(b) PPC. Consequently, Criminal Appeal No. 503 of 2022 was partly allowed, the conviction under section 302(b) PPC was converted to one under section 302(c) PPC, and the appellant was sentenced to twenty years rigorous imprisonment, while maintaining compensation and benefit of section 382-B Cr.P.C. Criminal Appeal No. 504 of 2022 filed for enhancement of sentence was dismissed as infructuous.

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5. **Supreme Court of Pakistan**
Criminal Petition No. 46 of 2025
Sajid Khan v. The State through Special Prosecutor ANF

Present: **Mr.Justice Muhammad Hashim Khan Kakar**
Mr.Justice Ali Baqar Najafi

Source: https://www.supremecourt.gov.pk/downloads_judgements/crl.p._46_2025.pdf

Facts: The petitioner Sajid Khan was apprehended by officials of the Anti-Narcotics Force on spy information alleging his involvement in narcotics business. At the time of arrest, he was found holding a shopping bag in his right hand containing one packet of methamphetamine (ice) weighing one kilogram. After conclusion of trial, the petitioner was convicted under section 11(b) of the Khyber Pakhtunkhwa Control of Narcotic Substances Act, 2019 and sentenced to ten years rigorous imprisonment along with fine. His appeal was dismissed by the Peshawar High Court, though the default sentence for non-payment of fine was reduced. Aggrieved, the petitioner approached the Supreme Court, primarily seeking reduction of sentence rather than challenging conviction on merits.

Issue: Whether, in view of Article 143 of the Constitution, the petitioner could lawfully be convicted and sentenced under the provincial Control of Narcotic Substances Act, 2019 when the FIR was registered under the federal Control of Narcotic Substances Act, 1997, and whether the more stringent provincial law could prevail over the federal statute?

Rule: The applicable rule of law is that under Article 143 of the Constitution of the Islamic Republic of Pakistan, if any provision of a provincial law is repugnant to a provision of a federal law on the same subject, the federal law shall prevail and the provincial law shall be void to the extent of repugnancy. The Control of Narcotic Substances Act, 1997 being a federal enactment occupies the field of narcotics control, and its provisions override inconsistent provincial legislation. Furthermore, a person can only be convicted and sentenced under the law that is constitutionally valid and applicable at the time of registration of the case and trial.

Application: Applying these principles, the Supreme Court observed that although possession of narcotic drugs is an offence under both the federal and provincial statutes, the provincial law prescribed a harsher mandatory minimum sentence for the same quantity of narcotics than the federal law. Since the FIR was registered under section 9 of the Control of Narcotic Substances Act, 1997 and the trial was conducted by a Special Court established under the federal law, the petitioner could not lawfully be convicted under the provincial Act of 2019. The Court held that the trial and appellate courts committed an error of law by applying the provincial statute in disregard of Article 143 of the Constitution. The supremacy of federal legislation in matters of repugnancy required that the petitioner's case be governed by the

federal law alone.

Conclusion: The Supreme Court concluded that while the conviction of the petitioner for possession of narcotic substance was justified, the application of section 11 of the Khyber Pakhtunkhwa Control of Narcotic Substances Act, 2019 was unconstitutional. Consequently, the conviction under the provincial law was set aside and converted into a conviction under section 9 of the Control of Narcotic Substances Act, 1997. The sentence was accordingly reduced to five years rigorous imprisonment with fine.

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6. **Supreme Court of Pakistan**
Criminal Petition No. 99-P of 2019 and Jail Petition No. 614 of 2019
Riaz (deceased) through Abdur Rauf v. Gulzar and another / Gulzar v. The State

Present: **Mr. Justice Jamal Khan Mandokhail**
Mr. Justice Musarrat Hilali
Mr. Justice Shakeel Ahmad

Source: https://www.supremecourt.gov.pk/downloads_judgements/crl.p._99_p_2019.pdf

Facts: The accused-petitioner Gulzar was tried for the murder of Riaz in Crime No. 570 dated 07.09.2007, registered under section 302 PPC at Police Station Saddar, Mardan. The occurrence took place in the morning near a railway track, where the deceased sustained firearm injuries. He was shifted to DHQ Hospital, Mardan, where his dying declaration was recorded in the form of a murasila shortly after the incident. Later the same day, the injured succumbed to his injuries, and the offence was converted to section 302 PPC. The Trial Court convicted the accused under section 302(b) PPC and awarded the death sentence with compensation. On appeal, the Peshawar High Court maintained the conviction but commuted the death sentence to life imprisonment. The accused filed a jail petition seeking acquittal, while the complainant's side sought restoration of the death sentence.

Issue: The principal issues before the Supreme Court were whether the conviction of the accused could safely be maintained on the basis of the dying declaration and ocular evidence, and whether the High Court was justified in commuting the death sentence to life imprisonment.

Rule: The settled rule of law is that a dying declaration is admissible evidence under Article 46 of the Qanun-e-Shahadat Order, 1984 and can form the sole basis of conviction if it inspires confidence and is free from doubt. There is no legal requirement that a dying declaration must be recorded in expectation of imminent death or attested by a medical officer, provided the maker was conscious and fit to make the statement. With regard to sentence, although death is the normal penalty for murder, the court retains discretion to award life imprisonment where mitigating or extenuating circumstances exist.

Application: Applying these principles, the Supreme Court found that the dying declaration of the deceased was recorded promptly within a short time of the occurrence, when he was medically certified to be conscious and oriented. The declaration was consistent with the ocular testimony of Abdur Rauf, the eyewitness, and was further corroborated by medical evidence. The Court noted that the accused absconded for nearly eight years after the incident, which strongly pointed towards his guilt. No material contradiction or legal infirmity was found in the prosecution evidence. However, on the question of sentence, the Court observed that the prosecution failed to establish the alleged motive of prior enmity. The absence of proved motive constituted a mitigating circumstance, justifying the

conversion of the death sentence into life imprisonment.

Conclusion: The Supreme Court concluded that the conviction of the accused under section 302(b) PPC was based on reliable and confidence-inspiring evidence and did not warrant interference. Both the jail petition filed by the accused and the criminal petition seeking restoration of the death sentence were dismissed.

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7. **Supreme Court of Pakistan**
Criminal Petitions Nos. 346 and 417 of 2020
Muhammad Siddique v. The State / Sikandar Din v. Muhammad Siddique

Present: **Mr.Justice Muhammad Hashim Khan Kakar**
Mr. Justice Salahuddin Panhwar
Mr.Justice Ishtiaq Ibrahim

Source: https://www.supremecourt.gov.pk/downloads_judgements/crl.p._346_2020.pdf

Facts: The petitioner Muhammad Siddique was charged with the murder of Ghulam Fareed in FIR No. 312 dated 14.09.2015 registered at Police Station Pindigheb, District Attock, under section 302 PPC. The prosecution alleged that the complainant Sikandar Din and two others were grazing cattle in the fields in the evening when the deceased arrived and was ambushed by the petitioner, who fired at him with a Kalashnikov, resulting in his death on the spot. The alleged motive was family discord arising out of matrimonial issues between the families. The Trial Court convicted the petitioner under section 302(b) PPC and sentenced him to death. The Lahore High Court maintained the conviction but commuted the death sentence to life imprisonment. The accused filed a petition seeking acquittal, while the complainant filed a cross-petition seeking restoration of the death sentence.

Issue: The principal issue before the Supreme Court was whether the prosecution had proved its case beyond reasonable doubt through reliable ocular and circumstantial evidence, and whether the conviction of the petitioner could be sustained despite contradictions, improbabilities, and unexplained delays in the prosecution case.

Rule: The settled rule of criminal jurisprudence is that the prosecution must prove its case beyond reasonable doubt. Ocular testimony must be natural, confidence-inspiring, and free from material contradictions. The testimony of chance witnesses requires strict scrutiny and must be supported by convincing circumstances explaining their presence at the scene. Unexplained delay in lodging the FIR or conducting postmortem examination creates serious doubt and entitles the accused to benefit of doubt. Circumstantial evidence, such as recoveries or forensic reports, cannot independently sustain a conviction unless supported by trustworthy direct evidence. Even a single circumstance creating reasonable doubt is sufficient to acquit the accused as a matter of legal right.

Application: Applying these principles, the Supreme Court found the prosecution story to be riddled with improbabilities. The alleged presence of eyewitnesses at sunset time for grazing cattle was found inconsistent with common rural practice. The complainant's own cross-examination revealed that he was informed of the incident by others, undermining his claim of witnessing the occurrence. The purported eyewitness Abdul Ghani was held to be a chance witness who failed to satisfactorily explain his presence at the scene, particularly when suitable grazing land existed near his residence. The unexplained delay of more than five hours in lodging the FIR and the delayed postmortem examination further weakened the prosecution case. The

alleged motive was also found unconvincing in light of cordial family relations. Since the ocular evidence was disbelieved, the recoveries and forensic evidence could not independently justify conviction.

Conclusion: The Supreme Court concluded that the prosecution failed to establish the guilt of the petitioner beyond reasonable doubt and that the courts below had misappreciated the evidence. Consequently, Criminal Petition No. 346 of 2020 was converted into an appeal and allowed, the conviction and sentence of the petitioner were set aside, and he was acquitted of the charge. The petition filed for enhancement of sentence consequently became infructuous and was dismissed.

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8. **Supreme Court of Pakistan**
Jail Petition No. 6 of 2018
Abdul Jabbar v. The State

Present: **Mr. Justice Irfan Saadat Khan and Mr. Justice Malik Shahzad Ahmad Khan**
Source: https://www.supremecourt.gov.pk/downloads_judgements/j.p._6_2018.pdf

Facts: The petitioner Abdul Jabbar was tried in Sessions Case No. 31 of 2009 arising out of FIR No. 369/2009 dated 31.05.2009 registered at Police Station Saddar, Kasur, under sections 302, 324, 148, 149, and 109 PPC. The prosecution alleged that in the morning hours, the petitioner along with co-accused arrived armed at the dera of the complainant, where Abdul Jabbar fired a single shot from a 30-bore pistol at Mustafa, hitting him on the abdomen, as a result of which Mustafa died. Co-accused caused injuries to Sikandar and Allah Wasaya. The Trial Court convicted Abdul Jabbar under section 302(b) PPC and awarded death sentence with compensation. On appeal, the Lahore High Court maintained the conviction but converted the death sentence into life imprisonment on the grounds that motive and recovery of weapon were not proved. Aggrieved, the petitioner filed a jail petition before the Supreme Court.

Issue: Whether, despite failure of the prosecution to prove motive and recovery of the weapon, the conviction of the petitioner could be maintained and whether the High Court was justified in converting the death sentence into life imprisonment rather than acquitting the petitioner?

Rule: The settled rule of law is that where ocular evidence is confidence-inspiring and fully corroborated by medical evidence, conviction can be sustained even if motive is not proved. However, non-proof of motive is a relevant mitigating circumstance for determining the quantum of sentence. It is also well established that doubtful recovery of weapon, particularly after a long delay, does not strengthen the prosecution case. In cases where motive is not proved, the normal rule is to award life imprisonment rather than capital punishment.

Application: Applying these principles, the Supreme Court observed that the incident occurred in broad daylight and there was no issue of misidentification as the parties were known to each other. The ocular evidence was found consistent and duly corroborated by medical evidence, and no material contradiction or inconsistency was pointed out in the testimony of prosecution witnesses. However, the Court agreed with the High Court that the prosecution failed to prove the alleged motive and that the recovery of the 30-bore pistol was doubtful as it was effected after a substantial delay while the petitioner remained a proclaimed offender. The

forensic report only established the mechanical condition of the weapon and did not connect it with the crime empties. In such circumstances, the High Court rightly treated the absence of motive as a mitigating factor while maintaining the conviction.

Conclusion: The Supreme Court concluded that the conviction of the petitioner under section 302(b) PPC was based on reliable ocular and medical evidence and did not warrant interference. However, the conversion of death sentence into life imprisonment by the High Court was justified due to non-proof of motive and doubtful recovery. Consequently, the jail petition was dismissed and leave to appeal was refused.

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9. High Court of Sindh

First Appeal No.38 of 2025 & First Appeal No.108 of 2025

Dubai Islamic Bank v. Muhammad Bux Shaikh and Dubai Islamic Bank v. Najamul Hassan

Present: **Mr. Muhammad Faisal Kamal Alam, J & Miss. Justice Sana Akram Minhas**

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzAxNDYxY2Ztcy1kYzgz**

2026 SHC KHI 18, 2026 SHC KHI 24, 2026 SHC KHI 26

Facts: The Appellant, Dubai Islamic Bank, extended personal finance facilities to the Respondents under separate Musawamah Agreements executed in 2018. Each facility was structured for repayment through sixty monthly instalments over a period of five years, with maturity dates falling in March and April 2023. Both Respondents defaulted in making consecutive instalment payments during the year 2019. The Bank, instead of immediately invoking the acceleration clause, waited until the expiry of the contractual period and thereafter instituted recovery suits before the Banking Court on 6 December 2024. The learned Banking Judge dismissed both suits as barred by limitation, holding that the limitation period under Article 57 of the Limitation Act, 1908 commenced from the date of second consecutive default rather than from the date of contractual maturity. Aggrieved by these findings, the Bank preferred the present appeals before the High Court of Sindh.

Issue: The principal question before the Court was whether, in a loan transaction structured for repayment through monthly instalments, the limitation period begins from the date of second consecutive default triggering the acceleration clause, or from the date when the last instalment becomes due and payable at the end of the contractual term.

Rule: Article 57 of the Limitation Act, 1908 prescribes a period of three years for instituting a suit for recovery, to be computed from the date when the right to sue accrues. Where an agreement contains an acceleration clause enabling the creditor to demand immediate payment of the entire outstanding amount upon default, such a clause is construed as a discretionary right vested in the creditor and does not, by itself, mandatorily determine the starting point of limitation unless the creditor elects to enforce it.

Application: The Bench examined Clauses 4.1 and 7.3 of both Musawamah Agreements and noted that these provisions entitled the Bank to demand the entire outstanding amount upon default of two consecutive instalments and to initiate recovery proceedings. The Court held that these clauses did not impose a mandatory obligation upon the Bank to immediately sue, but merely conferred a right which could be exercised at the Bank's discretion. The judges observed that the purpose of an acceleration clause is to protect the creditor and provide flexibility, rather than to curtail the contractual repayment structure or automatically trigger limitation. Reliance was placed on the Division Bench judgment in House Building Finance Corporation v. Muhammad Mohsin Ali, wherein it was held that where a finance facility is

repayable in instalments over a defined contractual period, the cause of action for limitation purposes does not necessarily arise upon early default if the creditor does not choose to enforce the accelerated recovery option. Applying this reasoning, the Court concluded that the Bank's cause of action matured upon the expiry of the respective agreements in March and April 2023. Since the recovery suits were filed in December 2024, they were found to be within the prescribed three-year limitation period.

Conclusion: The High Court allowed both appeals, set aside the judgments and decrees of the Banking Court, and restored the suits for decision on merits.

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10. **SINDHHIGHCOURT**
Amir v. Province of Sindh and others
Constitutional Petition No.D-6291 of 2025

Present: **Mr. Justice Muhammad SaleemJessar**
Mr. Justice Nisar Ahmed Bhanbhro

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzAwNzQ1Y2Ztcy1kYzgz**
2026 SHC KHI 8

Facts: The Constitutional Petition No. S-6291 of 2025 was filed before the High Court of Sindh, Karachi, by the petitioner Amir, appearing in person, seeking issuance of a writ of quo warranto against respondents No. 5 to 11, who were appointed as Assistant Engineers (Civil) (BS-17) in the Education Works Wing of the School Education & Literacy Department, Government of Sindh. The petitioner contended that these appointments were illegal and void ab initio as the appointees were not registered as Professional Engineers with the Pakistan Engineering Council (PEC) on the closing date of applications, as allegedly required by the advertisement issued by the Sindh Public Service Commission (SPSC). The petitioner relied upon the Pakistan Engineering Council Act, 1976, and the advertised eligibility criteria to argue that registration merely as Registered Engineers was insufficient. The respondents defended the appointments on the basis of the applicable Recruitment Rules notified on 16-02-2021 and statutory interpretation of the PEC Act.

Issue: Whether the appointment of respondents No. 5 to 11 as Assistant Engineers (Civil) could be declared unlawful through a writ of quo warranto on the ground that they were registered only as Registered Engineers and not as Professional Engineers with PEC at the relevant time, thereby allegedly lacking the prescribed qualification?

Rule: The Court examined the statutory framework governing the matter, particularly the Pakistan Engineering Council Act, 1976, which distinguishes between Registered Engineers and Professional Engineers under Sections 2(xxvii) and 2(xxiii) respectively. The Act permits both categories to perform "professional engineering work" as defined under Section 2(xxv), with the only substantive distinction being that Registered Engineers cannot independently sign engineering designs. The Court further relied upon the Sindh Civil

Servants Act, 1973 and the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, particularly Rule 3, which vests authority in the Government to prescribe qualifications, methods, and criteria for appointments. Judicial precedent, notably MaulaBux Shaikh v. Chief Minister Sindh, established that determination of qualifications for civil service appointments lies within the exclusive domain of the Government and is not controlled by PEC. The principles governing writs of quo warranto were reaffirmed through Jawad Ahmad Mir v. Prof. Dr. Imtiaz Ali Khan, requiring proof that the office is public, the holder lacks lawful authority, and that the relator acts bona fide.

Application: Applying these principles, the Court held that although the SPSC advertisement mentioned registration as a Professional Engineer, the governing Recruitment Rules dated 16-02-2021 did not impose such a requirement; rather, they required possession of a recognized engineering degree registered with PEC. The respondents were duly registered as Registered Engineers and were legally competent to perform professional engineering work under the PEC Act. The Court observed that SPSC had no authority to alter statutory recruitment rules through an advertisement. Furthermore, the petitioner failed to demonstrate any illegality in the appointment process, as the appointments were made through SPSC by the competent authority and in accordance with the applicable service rules. The Court also noted lack of bona fides on the part of the petitioner, highlighting his repeated filing of similar petitions against different departments and observing that such conduct appeared to be vexatious and aimed at harassing newly appointed civil servants rather than advancing public interest.

Conclusion: The Court concluded that the petitioner failed to establish that the respondents were usurpers of public office or lacked the prescribed qualifications. Since Registered Engineers are legally entitled to perform professional engineering work and the appointments were made in accordance with statutory recruitment rules by a competent authority, no case for issuance of a writ of quo warranto was made out. Consequently, the Constitutional Petition was dismissed in limine, and the appointments of respondents No. 5 to 11 were upheld as lawful.

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11. SINDH HIGH COURT

Constitutional Petition No.D-6329 of 2025

Mumtaz Khan Tanoli v. Sindh Bar Council and others

Present: **Mr. Justice Adnan-ul-Karim Memon**
Mr. Justice Yousuf Ali Sayeed

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzAxMzQ3Y2Ztcy1kYzgz**
2026 SHC KHI 13, 2026 SHC KHI 14

Facts: The petitioner, a practicing advocate and candidate for the office of General Secretary of the Karachi Bar Association (KBA), challenged the postponement and alleged mismanagement of the KBA elections scheduled for December 2025. The elections, initially fixed for

13.12.2025 and later deferred to 18.12.2025, could not be held due to the illness of the Election Commissioner. Subsequently, another Election Commissioner was appointed without formally de-notifying the first, and new election dates were announced and later abandoned. The petitioner alleged violations of the Bar Association (Recognition) Rules, 2017, and KBA Bye-Laws, including improper preparation of voters' lists, conflict of interest due to Sindh Bar Council (SBC) members contesting elections, and unlawful continuation of the KBA Cabinet beyond its tenure ending on 31.12.2025. He sought multiple declaratory and injunctive reliefs under Article 199 of the Constitution, including suspension of the Cabinet and directions for fresh elections. The respondents objected to the maintainability of the petition.

Issue: Whether a constitutional petition under Article 199 of the Constitution is maintainable to challenge alleged irregularities, delays, and violations of rules and bye-laws relating to elections and internal governance of autonomous bar associations such as the Karachi Bar Association and the Sindh Bar Council?

Rule: Article 199 of the Constitution may be invoked only where a body performs governmental, sovereign, or executive functions in connection with the affairs of the Federation, Province, or a local authority, or where enforceable fundamental rights are violated. Autonomous bar councils and bar associations, though created under statute, are self-governing professional bodies managing internal affairs, including elections and membership. Election disputes and procedural irregularities within such bodies are to be resolved through remedies provided in the relevant statutory framework. As laid down by the Supreme Court in Mirza Muhammad NazakatBaig v. Federation of Pakistan (2020 SCMR 631) and Syed Iqbal Hussain Shah Gillani v. Pakistan Bar Council (2021 SCMR 425), bar councils and bar associations do not perform functions in connection with the affairs of the State, and their internal disputes are generally not amenable to constitutional jurisdiction.

Application: Applying the above principles, the Court held that the petitioner's grievances related to election scheduling, appointment of election officials, voters' lists, and continuation of office bearers are essentially intra-association matters. Even if violations of Rule 7 of the 2017 Recognition Rules or Bye-Law 17 were assumed, such breaches pertain to internal election procedures and private rights of members, not public law rights of the community at large. The Court found that the petitioner failed to demonstrate any concrete violation of enforceable fundamental rights under Articles 17 or 25, beyond generalized assertions. The availability of alternative remedies under the Legal Practitioners and Bar Councils Act, 1973, and the existence of internal mechanisms indicated legislative intent that such disputes be resolved within the statutory scheme rather than through writ jurisdiction. Moreover, contested factual issues requiring evidence further rendered the matter unsuitable for constitutional adjudication.

Conclusion: The Court concluded that the constitutional petition was not maintainable under Article 199 of the Constitution, as the Karachi Bar Association and Sindh Bar Council are autonomous,

self-governing bodies not performing functions in connection with the affairs of the State. Alleged irregularities in bar association elections do not, by themselves, give rise to constitutional jurisdiction. Accordingly, without examining the merits, the petition was dismissed, while leaving the petitioner at liberty to seek appropriate relief before the competent forum under the relevant statutory framework.

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12. **SINDH HIGH COURT**
Constitutional Petition No.D-4024 of 2025
Abrar Hussain v.SBP Banking Services Corporation and others

Present: **Mr. Justice Adnan-ul-Karim Memon**
Mr. Justice Yousuf Ali Sayeed

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzAxMzMzY2Ztcy1kYzgz**
2026 SHC KHI 11

Facts: The petitioner, Abrar Hussain, was appointed as Assistant Director in 2010 with SBP Banking Services Corporation (SBP-BSC) and later promoted to senior positions. His employment was governed by the SBP-BSC Staff Regulations, 2005, particularly Regulation 18(A)(ii), which provided severance and post-retirement benefits upon early retirement. In late 2024, the petitioner applied for leave without salary due to personal reasons, which was rejected by the Human Resources Management Department. To avoid disciplinary consequences, he applied for early retirement on 10 April 2025, which was approved. Subsequently, SBP-BSC treated his early retirement as resignation and, relying on a circular dated 21 April 2025 introducing Regulation 18-A(2), denied him full severance and medical benefits, raising substantial financial recoveries against him. Aggrieved, the petitioner filed a constitutional petition before the High Court of Sindh under Article 199 of the Constitution, challenging the retrospective application of the amended regulation and seeking enforcement of vested service benefits.

Issue: Whether a constitutional petition under Article 199 of the Constitution is maintainable for enforcement of contractual and service-related rights, including severance and retirement benefits, arising out of the SBP-BSC Staff Regulations, 2005, against SBP-BSC?

Rule: It is a settled principle laid down by the Supreme Court of Pakistan that disputes concerning terms and conditions of service, interpretation of service regulations, computation of retirement or severance benefits, and enforcement of contractual obligations—particularly against the State Bank of Pakistan or its subsidiaries—do not ordinarily fall within the constitutional jurisdiction of the High Courts under Article 199. Such matters are considered private law disputes involving contractual rights, for which adequate alternate remedies before competent forums are available. Constitutional jurisdiction is not to be invoked where disputed questions of fact and contractual interpretations are involved.

Application: Applying the above rule, the Court observed that the petitioner's grievance essentially revolved around interpretation and enforcement of SBP-BSC Staff Regulations, computation of severance benefits, and the legality of financial recoveries imposed upon him. These matters were found to be contractual and service-related in nature, involving disputed questions of fact. The Court held that even though SBP-BSC functions under the supervisory framework of the State Bank of Pakistan, this alone does not convert a contractual employment dispute into a constitutional matter. Since the petitioner had alternate remedies available under law for redressal of such grievances, the invocation of Article 199 was held to be inappropriate.

Conclusion: The High Court concluded that the constitutional petition was not maintainable under Article 199 of the Constitution. Consequently, without examining the merits of the petitioner's claims regarding retrospective application of Regulation 18-A(2) or alleged violation of vested rights, the petition was dismissed along with all pending applications, without prejudice to any other remedy available to the petitioner under the law.

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13. **SINDH HIGH COURT**
Crl. Appeal No.351 of 2025
Sajjan Shoro Vs. Mahboob Ali & others

Present: **Mr. Justice Dr. Syed Fiaz ul Hassan Shah**

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzAwNjc1Y2Ztcy1kYzgz**
2026 SHC KHI 6

Facts: The appellant, Sajjan Shoro, claimed to be the lawful owner and possessor of agricultural land situated in Survey Nos. 228, 229 and 230, Deh Shorki, Taluka Ghorabari, District Thatta, measuring about 48 acres. His claim was based on a registered sale deed dated 05.10.1994 and Mutation Entry No. 211 dated 11.12.1994. He alleged that the respondents forcibly dispossessed him from the land about one month prior to filing the complaint. After reporting the matter to local authorities without success, he filed a private complaint under Section 3 of the Illegal Dispossession Act, 2005. The trial court dismissed the complaint on the ground that the title was disputed and civil suits were already pending between the parties. The appellant challenged this order before the High Court.

Issue: Whether the appellant qualified as a lawful owner or lawful occupant under Section 2 of the Illegal Dispossession Act, 2005, and whether his alleged dispossession attracted the criminal jurisdiction of the Court under Section 3 of the Act despite the pendency of civil proceedings.

Rule: The Court reaffirmed that civil and criminal proceedings can run simultaneously and that the pendency of a civil suit does not bar proceedings under the Illegal Dispossession Act, 2005. It held that Section 3 of the Act protects both lawful owners and lawful occupants against unlawful dispossession, grabbing, control, or occupation. The Court relied on precedents including Mst. Gulshan Bibi v. Muhammad Sadiq (PLD 2016 SC 769), which clarified that the Act is not limited to professional land grabbers and applies to any unlawful interference with property. The doctrine that possession follows title was recognized as applicable in criminal proceedings under the Act, subject to proof of lawful ownership or lawful possession.

Application: The Court examined the appellant's claim of ownership and found that he failed to produce the original sale deed or any certified copy from the Sub-Registrar or Mukhtiarkar to substantiate Mutation Entry No. 211. No explanation was provided for the absence or loss of the sale deed, nor was any police report or evidence of payment of sale consideration produced. Applying Article 129(g) of the Qanun-e-Shahadat Order, 1984, the Court presumed that the withheld evidence would have been unfavorable to the appellant. In contrast, the respondents produced a digital certified copy of revenue records showing the land in the name of a third party, and the last recorded owner appeared before the Court and supported the respondents' claim that the land had been sold to them. On this basis, the Court held that the appellant failed to establish himself as a lawful owner or lawful occupant, which is a prerequisite for invoking protection under Section 3 of the Illegal Dispossession Act, 2005.

Conclusion: The High Court held that the appellant did not meet the statutory definition of a lawful owner or lawful occupant due to lack of credible documentary proof of title or possession. As a result, the criminal remedy under the Illegal Dispossession Act, 2005, was not available to him. The appeal was dismissed, and the order of the trial court was maintained.

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14. **SINDH HIGH COURT**
Criminal Revision Application No. 42 of 2024
Bilal @ Abbas v. The State & another

Present: **Mr. Justice Dr. Syed Fiaz ul Hassan Shah**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzAwNjc3Y2Ztcy1kYzgz**
2026 SHC KHI 7

Facts: The case arose from FIR No. 122 of 2021 registered at Police Station Sharifabad under Sections 302, 392, 397 and 34 PPC, relating to the murder and robbery of Osama Saeed. The complainant, Muhammad Hanif Bandhani, reported that his grandson was sitting in his vehicle at Al-Reheem Autos, Sharifabad, when an unknown armed person demanded valuables at gunpoint, took wallets and mobile phones from the deceased and a mechanic, left briefly, returned, and fired at Osama, who later died at Aga Khan Hospital. The applicant, Bilal @ Abbas, along with co-accused, was arrested and initially convicted by the trial court. However, the High Court earlier set aside the conviction and remanded the matter for re-recording of evidence of four prosecution witnesses due to their examination in the absence of defence counsel. During the remanded proceedings, the prosecution sought to examine two police officials, Muhammad Ibrahim and Muhammad Akhtar, who were mashirs of arrest and recovery and were already named in the charge sheet. The trial court allowed this request under Section 540 Cr.P.C. through an order dated 02.02.2024, which was challenged by the applicant through the present criminal revision.

Issue: Whether the trial court acted unlawfully or in excess of jurisdiction by allowing the prosecution, under Section 540 Cr.P.C., to examine two official witnesses who were previously given up by the prosecution, and whether such permission amounted to filling a lacuna in the prosecution case or causing prejudice to the accused.

Rule: The Court reiterated that Section 540 Cr.P.C. grants wide discretionary powers to the trial court to summon, examine, recall, or re-examine any person as a witness at any stage of the proceedings if such evidence appears essential for a just decision of the case. The provision is not restricted by the stage of trial or by the fact that a witness was earlier given up. The Court also relied on the principle laid down in Ansar Mehmood v. Abdul Khaliq (2011 SCMR 713), where the Supreme Court held that a complainant should not suffer due to negligence or oversight on the part of the prosecution. The Court emphasized that the purpose of Section 540 Cr.P.C. is to advance the cause of justice and ensure that material evidence is not excluded merely due to procedural lapses.

Application: Applying these principles, the Court observed that the two police officials were already named in the charge sheet and were not eyewitnesses to the occurrence but mashirs of arrest and recovery. Their examination was confined to procedural aspects of the case that were already part of the prosecution narrative. The Court held that allowing their testimony did not introduce a new version of events nor did it attempt to cure any inherent defect in the prosecution case. Since the applicant retained the full right of cross-examination, no legal prejudice was caused. The Court further applied the principle that serious criminal cases, particularly involving murder, should not be decided on technical omissions arising from prosecutorial oversight when relevant and material evidence can still be lawfully brought on record. The trial court’s exercise of discretion was therefore found to be consistent with the

statutory purpose of Section 540 Cr.P.C. and aimed at ensuring a just and fair determination of the case.

Conclusion: The High Court held that the trial court had validly exercised its discretionary powers under Section 540 Cr.P.C. in allowing the examination of the two official witnesses, as their evidence was relevant and necessary for the just determination of the case and did not prejudice the accused. The criminal revision was dismissed, and the trial court was directed to proceed expeditiously.

SLECTED ARTICLES

A Rights-Centered Reset: Reframing Guardianship and Child Custody in Pakistan Through Canadian and Australian Guidance

Naeem Akhtar, Civil Judge and Judicial Magistrate

Abstract

Pakistan's current guardianship and custody practices still rely on adversarial language that positions parents as opponents rather than partners in nurturing a child's wellbeing. A modern, rights-based lens treats the child as the rights holder and the parent as the duty bearer. This article explores how Pakistan can evolve toward a child-centered model without waiting for legislative reform, simply by adopting refined judicial methods already used in Canada and Australia. It highlights the value of updated terminology, structured best-interests assessments, child-inclusive hearings and clear parenting orders. A comparative analysis shows how both jurisdictions operationalize the welfare principle in transparent, practical ways that Pakistan can adopt today. The article concludes that aligning our language and reasoning with child-rights norms will lead to decisions that better protect and promote children's welfare.

Keywords

- Child rights, parenting time, decision-making responsibility, best interests, Pakistan, Canada, Australia, guardianship, custody reform, family courts

Introduction

Pakistan's guardianship and custody jurisprudence is rooted in the Guardians and Wards Act of 1890, a law drafted long before the development of modern child-rights frameworks. While our courts consistently affirm that the child's welfare is paramount, the vocabulary and processes used in practice still reflect an adversarial structure. Parents are often portrayed as competing claimants, and outcomes can unintentionally revolve around their grievances rather than the child's independent rights.Across the world, however,

family law has shifted. Canada and Australia have fully embraced the idea that a child is a rights holder whose best interests sit at the center of every decision. These countries have updated their legal terminology, adopted structured best-interests matrices, established clear child-participation models and prioritized safety without relying on presumptions like equal time. Their experiences demonstrate that language shapes outcomes. When courts reason in child-rights terms, they decide in child-rights terms.This article explains how Pakistan can incorporate these modern practices without waiting for amendments to domestic statutes. The welfare principle already allows for a rights-focused approach. What is needed now is refinement in how courts speak, assess and issue orders.

Moving from Custody Language to Child-Rights Vocabulary

One of the clearest lessons from Canada's 2021 family law reforms is the power of vocabulary. Canadian legislation replaced words like "custody" and "access" with "parenting time" and "decision-making responsibility." This change shifted the focus from ownership to responsibility. Parents no longer appear as adversaries fighting for control, but as duty-bearers accountable for meeting the child's needs.Australia reached the same destination through its Family Law Act 1975, which uses the term "parenting orders" instead of custody. These orders allocate responsibilities and outline how the child's time will be structured.Pakistan's courts can adopt the same approach judicially. Even without statutory reform, judges can frame their orders in terms of parenting time and parental responsibilities. Doing this helps reshape how parents understand their roles and reduces the emotional temperature of disputes.

Publishing a Structured Best-Interests Matrix

Canada and Australia require judges to demonstrate how they evaluated each factor relevant to the child's best interests. This includes safety, stability, caregiving history, the parents' capacity to cooperate, cultural identity, the child's views and logistics. Such transparency makes judgments clearer, fairer and more predictable.Pakistani courts already rely on the welfare principle, which aligns with these elements, but the analysis is often scattered or implied. Introducing a structured matrix into every judgment would make the reasoning transparent and help parents understand how decisions were reached. It also promotes consistency across cases, reducing the perception of unpredictability that often fuels further litigation.

Listening to the Child in an Appropriate Way

The right of a child to express their views is central to modern family law. Canada uses Voice of the Child Reports, judicial interviews and child-impact assessments. Australia employs child-inclusive practices supported by family consultants who prepare detailed reports.

Pakistan's courts do hear children in some cases, but the process varies widely. The experience can be intimidating, and reasons showing how the court considered the child's views are often brief. A more consistent approach would involve welfare notes or child-impact memos prepared in a sensitive manner,

followed by clear judicial reasoning that explains how the child's opinions were weighed. This respects the child's dignity while ensuring their perspective informs the outcome.

Issuing Clear and Enforceable Parenting Orders

A persistent challenge in Pakistan is the enforcement of custody and visitation orders. Many orders use broad language like "reasonable visitation," which leaves room for conflict. By contrast, Canadian and Australian courts issue highly specific orders that include calendars, handover protocols, communication rules and even tie-breaker provisions for urgent decisions.

These details reduce misunderstandings and limit opportunities for non-compliance. Pakistani courts can adopt similar clarity. Plain-language orders that set out exact timings and responsibilities help both parents stay accountable and make enforcement simpler if disputes arise.

Prioritizing Safety Without Presumptions

Australia once relied on a presumption of equal shared parental responsibility, but reforms in 2023 significantly limited this approach. Today, both Australian and Canadian courts start with safety. They assess risks related to family violence, neglect, instability and emotional harm before considering time-sharing.

Pakistan also places a premium on safety, but this principle does not always appear at the beginning of the judgment. A structured approach that starts with risk and need ensures that vulnerable children receive the protection they deserve. It also avoids assumptions that equal time or shared decision-making is always appropriate.

Encouraging Parenting Plans Early

Parenting plans are widely used in Canada and Australia as a tool for reducing conflict. They allow parents to jointly outline roles, communication expectations and schedules. When both sides commit to a plan early, hearings become smoother and more focused on the child's needs rather than parental disputes.

Pakistani courts can encourage this practice by requiring parenting plans before final hearings. This helps parents understand their responsibilities, clarifies expectations and provides a roadmap that supports cooperation rather than confrontation.

Comparative Reflections: Lessons for Pakistan

Canada and Australia provide practical examples of how a rights-centred approach can be implemented:

- **Language** evolves the courtroom mindset. Shifting terms from custody to parenting responsibilities promotes healthier parental behaviour.
- **Structure** ensures fairness. Best-interests matrices make judgments transparent and consistent.
- **Child participation** strengthens legitimacy. When children are heard responsibly, outcomes feel grounded in their lived reality.

- **Clarity** reduces conflict. Detailed parenting orders and early parenting plans minimize confusion and improve compliance.
- **Safety-first reasoning** protects the vulnerable. Prioritizing risks safeguards children from harm.

These lessons align naturally with Pakistan's welfare standard. They simply give it a modern shape rooted in child rights.

Conclusion

Pakistan stands at an important moment in the evolution of its family law jurisprudence. The welfare principle in the Guardians and Wards Act already gives courts wide discretion to protect children's best interests. What is needed now is a shift in mindset. By adopting contemporary child-rights vocabulary, publishing structured best-interests matrices, ensuring child-inclusive hearings, issuing clear and enforceable parenting orders and prioritizing safety, courts can reshape outcomes long before legislation is updated.

This approach reflects the ratio decidendi of emerging global family law norms: that children are rights holders and parents are duty bearers. The discussion about long-term legislative reform remains helpful as obiter, but immediate judicial action can bring lasting positive change. When we write and reason in child-rights terms, we inevitably decide in child-rights terms.

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