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LAW OFFICE OF SHAHZAD ABID BAIG

SHAHZAD ABID BAIG

A LAWYER AND HIS LEGAL RESEARCH

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2023
1st Edition

SHAHZAD ABID BAIG

**A LAWYER
AND HIS
LEGAL
RESEARCH**

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SHAHZAD ABID BAIG

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//

If you can fill the unforgiving minute
With sixty seconds worth of distance run,
Yours is the earth and everything that is in it,
And- which is more-you will be a man my son!

//

This is a Poem written by Rudyard Kipling on a winter's day in 1910 for his 12-year-old son John Kipling. Suzanne Chazin mentions it in an article entitled 'You'll be a Man My Son!' published in Readers Digest of September 1993. The writer of the article writes: "within a four short years, the four stanza poem became a classic the world over, translated into 27 languages, including Indonesian, Japanese and Hindi. School children memorized it. Young men marching off to battle recited it. Its simple inspirational code of conduct defined for millions of people a set of values to live by"

Dedication

This work is dedicated to my beloved father Mirza Abdul Ghafoor Baig, Advocate Supreme Court of Pakistan who was a history maker in all walks of life and symbol of pride for us and the District Bar Association Jhelum.

TABLE OF CONTENTS

INTRODUCTION -----	i
Chapter 1: A Lawyer and his Legal Research	
1- A Lawyer and his Legal Research-----	1
1.1- The LR-Method-----	2
1.1.1- Arrange the facts -----	3
1.1.2- Keep in mind the wishes of your Client -----	4
1.1.3- Read and re-read the problem-----	4
1.1.4- Sift the relevant from irrelevant facts and determine the initial factual issues-----	4
1.1.5- Determine Initial Legal Issues-----	5
1.1.6- Table of Initial Factual and Legal Issues -----	5
1.1.7- Drafting of Pleadings -----	6
1.1.8- Sources of Legal Research-----	6
1.1.8.1- The Constitution of Pakistan, 1973 - -----	7
1.1.8.2- Legislations -----	13
1.1.8.2.1- Provisions regarding distribution of Legislative Powers---	13
1.1.8.2.2- Provisions with respect to Legislations by the Parliament	14
1.1.8.2.3- Provisions with respect to Legislations by the Provincial Assemblies -----	17
1.1.8.2.4- Prior sanction of President required to Bills affecting taxation in which Provinces are interested -----	19
1.1.8.2.5- The Legislative Business -----	19
1.1.8.2.5.1- Pre-Drafting Requirements of a Bill -----	21
1.1.8.2.5.2- Types of Bills -----	22
1.1.8.2.6- The basic principles of Legislative Drafting -----	23
1.1.8.2.7- Statutes -----	24
1.1.8.2.7.1- Determining Legislative Intent -----	26
1.1.8.2.7.2- Doctrine of Ultra Vires -----	26
1.1.8.2.7.3- Doctrine of reading down and preservation of water down version -----	27
1.1.8.2.7.4- Doctrine of Severability -----	28
1.1.8.2.7.5- Doctrine of Pari Materia -----	28
1.1.8.2.7.6- Rule of last antecedent and the Doctrine of Ejusdem Generis -	29
1.1.8.2.7.7- Doctrine of Casus Ommisus -----	30
1.1.8.2.7.8- Doctrine of Penumbra -----	31
1.1.8.2.7.9- Ut Res Magis Valeat Quam Perat -----	32
1.1.8.2.8- Rules and Regulations -----	32
1.1.8.3- The Precedents and the Law Reports -----	34
1.1.8.3.1- The Legal Citations -----	36
1.1.8.3.2- Pakistan Standard Style of Legal Citations-----	38
1.1.8.3.2.1- Citing the decisions of apex Courts of Pakistan -----	38
1.1.8.3.2.1.1- Citing the decisions of apex Courts of Pakistan in a continuous paragraph -----	39
1.1.8.3.2.1.2- Citing the decision of High Courts of Pakistan approved but not yet reported and published in Law Journal ----	39

1.1.8.3.2.1.3	Citing the decision of High Courts of Pakistan approved but not yet reported and published in Law Report/Law Journal -----	40
1.1.8.3.2.1.4	If a Citation is repeatedly referred in later sentences ---	40
1.1.8.3.2.2-	Citing the Constitution of Pakistan, Legislation, Rules, Regulations Presidential Orders, Ordinances and proposed Bills	41
1.1.8.3.2.2.1	Citing the Constitution of Pakistan -----	41
1.1.8.3.2.2.2	Citing the Acts of Parliament and Provincial Assemblies	42
1.1.8.3.2.2.3	Citing the Procedural Law containing Order and Rules	42
1.1.8.3.2.2.4	Citing the Ordinances -----	43
1.1.8.3.2.2.5	Citing the Regulations -----	43
1.1.8.3.2.2.6	Citing the Orders -----	44
1.1.8.3.2.2.7	Citing the Bill -----	45
1.1.8.3.2.2.8	If above-mentioned Citation is repeatedly referred ----	46
1.1.8.3.2.3	Citing the references of books and e-books -----	46
1.1.8.3.2.3.1	Citing the references of books and e-books -----	46
1.1.8.3.2.3.2	If above-mentioned Citation is repeatedly referred ----	46
1.1.8.3.2.4	Citing Articles from Journals, Newspapers and Website	48
1.1.8.3.2.4.1	Citing Journal Articles -----	48
1.1.8.3.2.4.2	Citing Newspaper Articles -----	48
1.1.8.3.2.4.3	If above-mentioned Citation is repeatedly referred ----	49
1.1.8.3.2.5	Arranging the Footnotes and Bibliography -----	50
1.1.8.3.2.5.1	Arranging the Footnotes -----	50
1.1.8.3.2.5.2	Arranging the Bibliography -----	50
1.1.8.4-	Customary Law -----	50
1.1.8.5-	Law Lexicons, Dictionaries, Legal Maxims -----	53
1.1.8.6-	How to use the Legal Maxims in Written and Oral Arguments -----	54
1.1.8.7-	Law Journals, Law Reviews and Impact Factor -----	54
1.1.8.8-	Treatises -----	60
1.1.8.9-	Jurisprudential Theories -----	61
1.1.8.10-	Technological Sources of legal research -----	62
1.1.8.10.1-	Research through Search Engines -----	62
1.1.8.10.2-	Research through Research Websites -----	62
1.1.8.10.3-	Research through Court's Websites -----	63
1.1.8.10.3.1-	Case Management System, District Judiciary, Punjab --	70
1.1.8.10.3.2-	District Court's Website -----	71
1.1.8.10.4-	Research through Digital Libraries -----	71
1.1.8.10.5-	What is Digital Object Identifier and its use in research?	75
1.1.8.10.6-	Research through ChatGPT -----	75

Chapter No.2: How to reflect your legal research in your arguments?

2.1-	How to reflect your Legal Research in your arguments?	82
2.1.1-	The Right to Begin -----	83
2.1.2-	The 'First Hearing' by a Civil Court -----	84
2.1.3-	The Final Hearing -----	72

2.1.4-	The Opening Statement -----	73
2.1.5-	Clarity of Thought -----	73
2.1.6-	Create a picture in the mind of the Judge -----	74
2.1.7-	Analytical Mind -----	75
2.1.8-	Command Over Language -----	76
2.1.9-	Effectiveness of expression, a method of persuasion and a reasonable approach -----	76
2.1.10-	Having studied the Court -----	77
2.1.11-	Having studied the facts -----	78
2.1.12-	Having studied the law -----	78
2.1.13-	Professional Robes of Advocates -----	78
2.1.14-	Mode of addressing the Judges of Superior Courts -----	79
2.1.15-	Placing correct law before the Court/Authority -----	81
2.1.15.1.	How to check that a certain Precedent is Reversed, Overruled, Dissented or not? -----	83
2.1.16-	High Court Rules and Orders regarding Arguments -----	84
2.1.17-	How to conclude the Arguments -----	85
2.1.18-	The Written Arguments -----	85
2.1.19-	The Concise Statement -----	88
2.2-	Research by Law Librarians -----	89
2.2.1-	Personal Law Office's libraries -----	90
2.2.2-	Law Firm's Libraries -----	90
2.2.3-	Bar Association's Libraries -----	90
2.2.4-	Judges Libraries in High Courts and Supreme Court -----	91
2.3-	Research by Paralegals -----	91
2.3.1.	American Bar Association (ABA) Guidelines for Utilization of Paralegal Services -----	92
2.3.2-	Training of Paralegals -----	94
2.3.3-	Client Reception and Initial Interview -----	94
2.3.4-	Documents preparation through Paralegals -----	98
2.3.5-	Preparation of a Case file through Paralegal -----	98
2.3.6-	Perform administrative duties in a Law Office or a Law Firm -----	98
2.3.7-	Legal Research through Paralegals -----	98
Bibliography -----		99

Introduction:

This handbook is prepared for the law students and the young lawyers who wish to conquer the legal profession by grooming themselves. This book is prepared in a format, which is a little different from the traditional books on the similar topic. More so, it is made available as an e-book, which is short and more convenient to read and grasp.

This book is divided into two Chapters. The first Chapter deals with and highlight the importance of 'the method of legal research termed as LR-Method adopted by a young lawyer for conducting a legal research for a Court case. There are also certain topics, which are useful in all types of research. The second Chapter discusses about the ways to implement the legal research practically.

A further reading of this book will reveal some new avenues of thought and research for young lawyers. I hope this book serves beneficial for both the law students and young lawyers equally.





CHAPTER 1

A Lawyer And His Legal Research

Chapter 1

A Lawyer and His Legal Research

1- A Lawyer and his Legal Research:

After you are done with factual determination, knowing your client, knowing the facts of dispute, negotiating the fees, assessing the facts and possible courses of action, and if you are done with formal engagement and in case of your Law Moot arranged the facts accordingly, then the next most important step comes to "know thy law" meaning 'know your law'. You cannot know the law without a thorough legal research.

The legal research can be academic and traditional. The academic legal research is different from traditional legal research. Academic research pertains to the factors that contribute towards the law, whereas, traditional legal research is the one, which is applied by lawyers and Judges in the interpretation of the statutes and case law.

Legal research is the process of finding an answer to a legal question. In other words it is a careful study of the subject in order to discover new facts or information about it.¹

Research methodology has been expounded and defined in multiple ways in different dictionaries. However, encyclopedia.com defines the term in following manner:

"(1) a body of rules and postulates that are employed by researchers in a discipline of study;

(2) a particular procedure or set of procedures; and

*(3) the analysis of the principles of procedures of inquiry that are followed by researchers in a discipline of study."*²

As per Mariam-Webster Dictionary, the term methodology means:

1. A body of methods, rules, and postulates employed by a discipline: a particular procedure or set of procedures.

*2. the analysis of the principles or procedures of inquiry in a particular field."*³

Different types of research and research methodologies are followed throughout the world. The type and methodology that one has to follow depends upon the topic and the purpose of research. Research methodology for an academic and scholarly work is different from research methodology adopted by a lawyer or a Judge to arrive at the discovery of new information about a particular legal question involved or a particular

¹"Research", Oxford Learner's Dictionary, accessed 28.03.2020, https://www.oxfordlearnersdictionaries.com/definition/english/research_1?q=research

²"Methodology", Encyclopedi.com, accessed 27.05.2020, <https://www.encyclopedia.com/science-and-technology/computers-and-electrical-engineering/computers-and-computing/methodology>

³ "Methodology", Mariam-Webster, accessed 27.05.2020, <https://www.merriam-webster.com/dictionary/methodology>

Chapter 1

A Lawyer and His Legal Research

proposition of fact. The focus of a Judge or a lawyer in such type of legal research is the Court and his client, for whom he has to apply his legal research in a relevant and proper way.

Legal research for the purpose of preparation of a case is different from conducting a thorough legal research on a particular proposition of law as an academic writer. Both are different in their focus, scope and application.

A haphazard effort for conducting a legal research leads nowhere and often results in stress, strain and just wastage of time. The best way to conduct the legal research is through adopting a specific methodology whether it is for the purpose of a case, a problem or for the purpose of an academic research oriented writing. Legal research should not be misunderstood with an effort for studying the text of the law and blindly following the case law. It is something much more than that, it is in fact an '*in depth knowledge*'.

In this chapter some basic information about legal research is given for giving an appetizer to the law students and young lawyers to increase their appetite for legal research. The author has introduced a 'Legal Research Method' called "**LR-Method**" for a case or problem oriented legal research.

1.1- The LR-Method:

As a lawyer, the legal research for a Court case is done in two phases. Firstly after factual scrutiny, before drafting of pleadings or any other legal draft to be presented before a Court. Secondly, before the final hearing. The in-house lawyers, while giving legal opinions and while preparing other legal drafts also adopt the legal research methodologies of their own choice. Normally, no hard and fast rule is applied. In routine practice, different types of methodologies are intermixed to arrive at a conclusion in a short span of time. The lawyers and Judges have a race against time, which compels them to adopt their own research methodologies. However, this practice may not be appropriate for a legal academic research writer.

Different books are available in the world on the topic of Research Methodology in Law. For instance, Mike McConville, Wing Hong Chui, '*Research Methods for Law*', Edn 2017, published by Edinburgh University Press⁴, and Marck Van Hecke, '*Methodologies of Legal Research, which kind of method for what kind of discipline?*', Edn 2011, published by Hart Publishing⁵

Legal research can be performed by lawyers, law librarians and paralegals. The process of legal research varies from country to country and

⁴ Mike McConville, Wing Hong Chui, '*Research Methods for Law*', published by Edinburgh University Press Edn 2017, available at JSTOR, accessed 28.03.2020, <https://www.jstor.org/stable/10.3366/j.ctt1g0b16n>

⁵ Marck Van Hecke, '*Methodologies of Legal Research, Which kind of method for what kind of discipline?*', published by Hart Publishing Edn 2011, available at Hart Publishing, accessed 28.03.2020, <https://www.bloomsburyprofessional.com/uk/methodologies-of-legal-research-9781847317803/>

Chapter 1

A Lawyer and His Legal Research

the legal system involved. My main focus in this Chapter would be on the legal research conducted by Lawyers. However, I will also briefly mention about the legal research conducted by law librarians and the paralegals.

The aim of legal research is to know the facts and the law and to present your presentation before the Judge/Presiding Officer of the Court in such a manner that when you apply your legal research on the facts of your case, you are able to convince the Judge and the result comes in your favor. Thus a legal research is restrained to the facts of your case.

In order to conduct the legal research on a particular legal problem, I propose the following "Legal Research Method" ("**LR Method**"). The **LR Method** of legal research adopts the following steps, which can be followed:

1.1.1- Arrange the facts:

The first step in **LR-Method** is to determine the facts. As we have previously mentioned that you should assess the facts, note down necessary facts, and leave unnecessary details and while thinking about possible courses of action sift the relevant facts from irrelevant facts. Therefore, before you go towards the sources of law for your legal research, you must arrange the relevant facts in a chronological manner and in such other manner, which is relevant according to your case. Write down the facts on which you need the backing or support of the law and legal research. A good and thorough reading gives you a good arrangement of relevant facts.

Following is the table in which you can mention the facts in a chronological i.e., date wise manner, i.e., in such a manner that the facts are arranged one after the other. In the last column you should mention the word "Relevant" if the fact is relevant for your case or "irrelevant" if the fact is not relevant for your case. You can customize the table in any other format of your choice.

[Your Office Logo]			
Matter: _____ Client Name with address and Contact Number: _____ _____			
Sr. No.	Date	Narration of Facts	Whether this fact is relevant or irrelevant?

Table No.1: Table of chronological facts.

Chapter 1

A Lawyer and His Legal Research

1.1.2- Keep in mind the wishes of your Client:

A Client may wish that his lawyer should bring the sun or the moon down to earth. However, a lawyer has to think multiple times whether the wish of his Client is practicable or not? During legal research, the wish and practicability of the solution of his wish is the core consideration. *Inter alia*, a Client may wish that:

- a. He is given a sound legal advice;
- b. He is correctly and properly advised the solution of his problem and the way to approach towards that solution;
- c. He may wish to withhold certain facts. So all the facts should be carefully extracted from him;
- d. He may expect that his lawyer is fearless, able, competent and available at all times;
- e. He expects a cost effective and affordable solution;
- f. He expects that the facts are presented in such a way that the Judge while adjudicating upon those particular facts finds no other option than to adjudicate in his favor;
- g. And that he may wish that such an adjudication be done in a short span of time.

1.1.3- Read and re-read the problem:

The third step in **LR-Method** is to read and re-read the problem that you are faced with. Do not hesitate to again and again read the same problem. It is natural that whenever one reads the same writing or goes through the same situation again and again different venues of thought open in front of him and he gets different ideas. This process of reading and re-reading will give you enough time to organize your thoughts and arrange your research methodology. This exercise will enable you to know the parties in dispute and their role in particular situation of facts. Remember that it is not the law on which you have to apply the facts; rather, it is the fact on which you have to apply the law. This reading will give you an initial idea about what type of controversy is involved in the problem, whether it relates to determination of civil rights, criminal wrongs, family affairs, corporate or commercial law, contractual dispute, claim for damages, etc.

1.1.4- Sift the relevant from irrelevant facts and determine the initial factual issues:

The fourth step in **LR-Method** is to sift the relevant facts. It is, in fact the duty of a lawyer to 'sift the grain from the chaff' i.e., to separate the relevant from the irrelevant facts. If this is not done initially, then the Judge exercises his duty. And if a Judge, does so in a Criminal Case, then the benefit may go to the accused and he may be acquitted. So, sifting of relevant facts from irrelevant facts is necessary for understanding and resolution of your case or problem. Please keep in mind that you have already mentioned above certain facts as "Relevant" in a 'Chronological Table of Facts'. Therefore, just write down all the "Relevant" facts and again arrange them in a

Chapter 1

A Lawyer and His Legal Research

chronological manner in another table. These are the Initial Factual Issues. They may or may not be written in the form and style of issues as a Court normally frames under Order 14 of the C.P.C., 1908.

1.1.5- Determine the Initial Legal Issues:

The fifth step in **LR-Method** is to determine the Initial Legal Issues (before the drafting of pleadings) coming out of the problem of your Client. For determination of legal issues you must have a sound grip on the law subjects that you have studied during your legal education. An understanding of important concepts involved in the law is *sine qua non* for determination of legal issues involved in a problem. For further knowledge about issues and their framing refer to later chapters in this book.

These initial legal issues may vary from problem to problem and from case to case. However, *inter alia* you can have the following initial points for framing Initial Legal Issues:

1. Jurisdiction of the Court;
2. Powers of the Court;
3. Limitation for case;
4. A bar imposed by the law;
5. Estoppel by the law;
6. Cause of action;
7. And many others coming out of the facts of the problem/case.

Your time is precious, which will be saved when you have properly understood the law at your law colleges or universities. Otherwise, you will be gone astray even at this initial stage.

1.1.6- Table of Initial Factual and Legal Issues:

The sixth step in **LR-Method** is to draw the table of initial factual and legal issues. Now keeping in view the above-mentioned initial factual and legal issues, you can draw the following table:

[Name of Your Law Office]		
Matter: _____ Client Name with address and Contact Number: _____ _____		
INITIAL FACTUAL AND LEGAL ISSUES		
Sr. No.	Narration of Relevant Facts	The Legal Issue involved on this fact

Table No.2: Table of initial factual and legal issues.

Chapter 1

A Lawyer and His Legal Research

1.1.7- The Drafting of Pleadings:

The seventh step in **LR-Method** is to draft the Pleadings. After you have determined the initial factual and legal issues involved in problem of your Client, you are required to draft the pleadings to be presented before the Court or the legal draft in any other case.⁶ The relevant Rules of Pleadings are mentioned in Order 6, 7, and 8 of the CPC, 1908. Something in addition to your basic knowledge of Code of Civil Procedure of Pakistan, 1908 and Code of Criminal Procedure of Pakistan, 1898 is contained in the Lahore High Court Rules and Orders Civil and Criminal. There are no Pleadings, in strict sense of the term in Criminal Proceedings. However, there are Petitions.

However, before you move towards the procedural details, you are required to be mindful of the law which applies to your legal proposition. Then be mindful of the basic legal principles and the facts on which you have to prepare a legal draft.

A deeper and further study of your problem/case as narrated in your Pleadings or any other legal draft, would bring further legal issues. Many other legal issues pop up later on with the passage of time during the proceedings of your case before a Court and after the evidence of the parties, for which you can make separate notes. And it is always better to arrange such notes in the form of a table. Any how you can also customize this arrangement as per your convenience.

1.1.8- Sources of Legal Research:

The eighth step in **LR-Method** is to search the sources of legal research for finding answers to the issues arising out of the problem.

The 'Sources of Legal Research' that I have written in this Chapter should not be confused with the concept of 'Sources of Law'. Hereunder, I have become more practical than theoretical.

Following are the selected important sources of legal research:

1. Constitution of Pakistan, 1973,
2. Legislation including the sub-ordinate legislation,
3. The Precedents and the Law Reports.
5. Law Lexicons, Dictionaries, Legal Maxims, Law Terms and Phrases,
6. Law Journals/Law Reviews,
7. Treatises.
8. Jurisprudential Theories.
9. Customary Law and Usage,
10. Technological Sources of legal research.

⁶ An Application, Reply, Memorandum of Appeal, Grounds of Revision in case of Appellate or Revisional Court or in any other case, a Writ, Regular First Appeal (RFA), Intra Court Appeal (ICA), Civil Appeal (CA) or Civil Petition Leave to Appeal (CPLA), as the case may be.

Chapter 1

A Lawyer and His Legal Research

The libraries of lawyers and Bar Associations are mostly filled with hard books in printed forms. Whereas, now-a-days, the books, statutes, law journals, scholarly articles, case laws i.e., Precedents are also available in digital form. For instance, pakistanlawsite.com⁷, pljlawsite.com, lawvisionpk.com and many others. Even the law sites of certain law firms also provide the digital libraries for the benefit of lawyers and law students. For comparative references the worldwide web ("the internet") is available. So, the libraries of Bar Associations and Law Offices are being digitalized and we get digital solutions for almost every problem.

1.1.8.1- The Constitution of Pakistan, 1973:

The Constitution of Pakistan 1973 is the Supreme Law of Pakistan. Every law and every action of any individual or State is judged on the parameters prescribed by the Constitution. And if it is found to be in violation of the rights prescribed therein, it is set aside or declared void. Its supremacy can be judged by a basic principle of law that '*where there exists no equally efficacious remedy, the Constitutional Petition can be filed.*'

The first and the foremost source of research should be the Constitution. As it describes the protection of every fundamental right. It defines the parameters of every institution. This Supreme Law is brought to focus daily in all the Courts in Pakistan and is interpreted thousands of times by the Superior Courts of Pakistan in thousands of cases. And new precedents are set by the Superior Courts almost daily.

The Constitution of Pakistan, in fact, deals with three arms of a State, i.e., the Judiciary, Legislature and Executive and it also provides the fundamental rights, whose protection is the foremost duty of these arms of State. The Case Laws/Precedents are produced by the Judiciary and the sub-ordinate Courts are bound to follow these Case Laws/Precedents. The Legislature produces the Statutes, which should not be against the Constitution and should not be against the Injunctions of Islam, and if they are found so, the Constitution is so powerful that it provides that such a Statute should be declared un-Constitutional and null and void. The Executive produces Regulations, which should again be in conformity with the Constitution and if found against the same, are liable to be declared un-Constitutional and null and void.

Initially the Legislature (Majlis-e-Shura/Parliament) had created its own Supreme law to govern its own functions and every conduct of a State. Therefore, after its creation this Constitution is superior to the Parliament.

⁷ Pakistan Law Site is the law site developed and maintained by Pakistan Legal Decisions (PLD) Publishers, Nabha Road, Lahore. "This is one stop resource site for Statutes, Rules and Cases relating to Pakistan. This site is one of its kind and houses all the federal and provincial statutes and cases related to these statutes. Taxation, Service, Copyright, State planning, Labour and all kinds of Fiscal statutes are covered in this site. Moreover there are more than 1200 Essays and writing and other legal documents available here. It also houses all the Journals of PLD Publishers that are PLD, SCMR, CLC, PCrLJ, PTD, MLD, PLC, CLD, YLR & GBLR.", accessed 28.03.2020, <https://www.pakistanlawsite.com/Login/MainPage>

Chapter 1

A Lawyer and His Legal Research

The Constitution provides guiding principles for the legislations. It prescribes the legislative lists. And no law can be passed, which is not prescribed in the legislative lists. The Fourth Schedule prescribes the following Federal Legislative Lists:

Federal Legislative Lists Part I

- 1 *The defence of the Federation or any part thereof in peace or war; the military, naval and air forces of the Federation and any other armed forces raised or maintained by the Federation; any armed forces which are not forces of the Federation but are attached to or operating with any of the Armed Forces of the Federation including civil armed forces; Federal Intelligence Bureau; preventive detention for reasons of State connected with defence, external affairs, or the security of Pakistan or any part thereof; person subjected to such detention; industries declared by Federal law to be necessary for the purpose of defence or for the prosecution of war.*
- 2 *Military, naval and air force works; local self- government in cantonment areas, the constitution and powers within such areas of cantonment authorities, the regulation of house accommodation in such areas, and the delimitation of such areas.*
- 3 *External affairs; the implementing of treaties and agreements, including educational and cultural pacts and agreements, with other countries; extradition, including the surrender of criminals and accused persons to Governments outside Pakistan.*
- 4 *Nationality, citizenship and naturalization.*
- 5 *Migration from or into, or settlement in, a Province or the Federal Capital.*
- 6 *Admission into, and emigration and expulsion from, Pakistan including in relation thereto the regulation of the movements in Pakistan of persons not domiciled in Pakistan; pilgrimages to places beyond Pakistan.*
- 7 *Posts and telegraphs, including telephones, wireless, broadcasting and other like forms of communications; Post Office Saving Bank.*
- 8 *Currency, coinage and legal tender.*
- 9 *Foreign exchange; cheques, bills of exchange, promissory notes and other like instruments.*
- 10 *Public debt of the Federation, including the borrowing of money on the security of the Federal Consolidated Fund; foreign loans and foreign aid.*
- 11 *Federal Public Services and Federal Public Service Commission.*

Chapter 1

A Lawyer and His Legal Research

- 12 *Federal Pensions, that is to say, pensions payable by the Federation or out of the Federal Consolidated Fund.*
- 13 *Federal Ombudsmen.*
- 14 *Administrative Courts and Tribunals for Federal subjects.*
- 15 *Libraries, museums, and similar institutions controlled or financed by the Federation.*
- 16 *Federal agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.*
- 17 *Education as respects Pakistani students in foreign countries and foreign students in Pakistan.*
- 18 *Nuclear energy, including:-*
 - (a) *mineral resources necessary for the generation of nuclear energy;*
 - (b) *the production of nuclear fuels and the generation and use of nuclear energy, and*
 - (c) *ionizing radiations;*
- 19 *Port quarantine, seamen's and marine hospitals and hospitals connected with port quarantine.*
- 20 *Maritime shipping and navigation, including shipping and navigation on tidal waters; Admiralty jurisdiction.*
- 21 *[omitted by Constitution (Eighteenth Amendment) Act, 2010, Section 101(1)(iii) (with effect from April 19, 2010)*
- 22 *Aircraft and air navigation; the provision of aerodromes; regulation and organization of air traffic and of aerodromes.*
- 23 *Lighthouses, including lightships, beacons and other provisions for the safety of shipping and aircraft.*
- 24 *Carriage of passengers and goods by sea or by air.*
- 25 *Copyright, inventions, designs, trademarks and merchandise marks.*
- 26 *Opium so far as regards sale for export.*
- 27 *Import and export across customs frontiers as deemed by the Federal Government, inter-provincial trade and commerce, trade and commerce with foreign countries; standard of quality of goods to be exported out of Pakistan.*
- 28 *State Bank of Pakistan; banking, that is to say, the conduct of banking business by corporations other than corporations owned or controlled by a Province and carrying on business only within that Province.*

Chapter 1

A Lawyer and His Legal Research

- 29 *The law of insurance, except as respects insurance undertaken by a Province, and the regulation of the conduct of insurance business, except as respects business undertaken by a Province, Government insurance, except so far as undertaken by a Province by virtue of any matter within the legislative competence of the Provincial Assembly.*
- 30 *Stock exchanges and future markets with objects and business not confined to one Province.*
- 31 *Corporations, that is to say, the incorporation, regulation and winding- up of trading corporations, including banking, insurance and financial corporations, but not including corporations owned or controlled by a Province and carrying on business only within that Province, or cooperative societies, and of corporations, whether trading or not, with objects not confined to a Province, but not including universities.*
- 32 *International treaties, conventions and agreements and International arbitration.*
- 33 [Omitted by Constitution (Eighteenth Amendment) Act 2010. Section 101(1)(iii) (with effect from April 19, 2010)]
- 34 *National highways and strategic roads.*
- 35 *Federal surveys including geological surveys and Federal meteorological organizations.*
- 36 *Fishing and fisheries beyond territorial waters.*
- 37 *Works, lands and buildings vested in, or in the possession of Government for the purposes of the Federation (not being military, naval or air force works), but, as regards property situate in a Province, subject always to Provincial legislation, save in so far as Federal law otherwise provides.*
- 38 [Omitted by Constitution (Eighteenth Amendment) Act 2010. Section 101(1)(iii) (with effect from April 19, 2010)]
- 39 *Establishment of standards of weights and measures.*
- 40 [Omitted by Constitution (Eighteenth Amendment) Act 2010. Section 101(1)(iii) (with effect from April 19, 2010)]
- 41 *Elections to the office of President, to the National Assembly, the Senate and the Provincial Assemblies; Chief Election Commissioner and Election Commissions.*
- 42 *The salaries, allowances and privileges of the President, Speaker and Deputy Speaker of the National Assembly, Chairman and Deputy Chairman of the Senate, Prime Minister, Federal Minister, Ministers of State, the salaries, allowances and privileges of the members of the Senate and the National Assembly, and the punishment of persons who refuse to give evidence or produce documents before committees thereof.*

Chapter 1

A Lawyer and His Legal Research

- 43 *Duties of customs, including export duties.*
- 44 *Duties of exercise, including duties on salt, but not including duties on alcoholic liquors, opium and other narcotics.*
- 45 *[Omitted by Constitution (Eighteenth Amendment) Act 2010. Section 101(1)(iv)(with effect from April 19, 2010)]*
- 46 *[Omitted by Constitution (Eighteenth Amendment) Act 2010. Section 101(1)(iv)(with effect from April 19, 2010)]*
- 47 *Taxes on income other than agricultural income;*
- 48 *Taxes on corporations.*
- 49 *Taxes on the sales and purchases of goods imported, exported, produced, manufactured or consumed, except sales tax on services*
- 50 *Taxes on the capital value of the assets, not including taxes on immovable property.*
- 51 *Taxes on mineral oil, natural gas and minerals for use in generation of nuclear energy.*
- 52 *Taxes and duties on the production capacity of any plant, machinery, undertaking, establishment or installation in lieu of any one or more of them.*
- 53 *Terminal taxes on goods or passengers carried by railway, sea or air; taxes on their fares and freights.*
- 54 *Fees in respect of any of the matters in this Part, but not including fees taken in any court.*
- 55 *Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this list and, to such extent as is expressly authorized by or under the Constitution, the enlargement of the jurisdiction of the Supreme Court, and the conferring thereon of supplemental powers.*
- 56 *Offences against laws with respect to any of the matters in this Part.*
- 57 *Inquiries and statistics for the purposes of any of the matters in this Part.*
- 58 *Matters which under the Constitution are within the legislative competence of Majlis- e-Shoora (Parliament) or relate to the Federation.*
- 59 *Matters incidental or ancillary to any matter enumerated in this Part.*

Chapter 1

A Lawyer and His Legal Research

Part II

1. Railways
2. Mineral oil and natural gas; liquids and substances declared by Federal law to be dangerously inflammable.
3. *Development of industries, where development under Federal control is declared by Federal law to be expedient in the public interest; institutions, establishments, bodies and corporations administered or managed by the Federal Government immediately before the commencing day, including the [Pakistan Water and Power Development Authority and the Pakistan Industrial Development Corporation]; all undertakings, projects and schemes of such institutions, establishments, bodies and corporations, industries, projects and undertakings owned wholly or partially by the Federation or by a corporation set up by the Federation.*
4. Electricity.
5. *Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of port authorities therein.*
6. *All regulatory authorities established under a Federal law.*
7. *National planning and national economic coordination including planning and coordination of scientific and technological research.*
8. *Supervision and management of public debt.*
9. Census.
10. *Extension of the powers and jurisdiction of members of a police force belonging to any Province to any area in another Province, but not so as to enable the police of one Province to exercise powers and jurisdiction in another Province without the consent of the Government of that Province; extension of the powers and jurisdiction of a police force belonging to any Province to railway areas outside that Province.*
11. *Legal, medical and other professions.*
12. *Standards in institutions for higher education and research, scientific and technical institutions.*
13. *Inter-provincial matters and co-ordination.*
13. *Fees in respect of any of the matters in this Part but not including fees taken in any court.*
14. *Council of Common Interests.*
15. *Offences against laws with respect to any of the matters in this Parts.*
16. *Inquiries and statistics for the purposes of any of the matters in this Part.*

Chapter 1

A Lawyer and His Legal Research

17. *Matters incidental or ancillary to any matter enumerated in this Part.*

1.1.8.2- Legislations:

The Constitution of Pakistan, 1973 has provided the key provision as Article 8 in the Chapter of Fundamental Rights, which prescribes the following:

"8. Laws inconsistent with or in derogation of Fundamental Rights to be void:

(1) Any law or any Custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void.

(3) The Provisions of this Article shall not apply to—

(a) any law relating to members of the Armed Forces, or of the police or of such other forces as are charged with the maintenance of public order, for the purpose of ensuring the proper discharge of their duties or the maintenance of discipline among them; or

(b) any of the —

(i) laws specified in the First Schedule as in force immediately before the commencing day or as amended by any of the laws specified in that Schedule;

(ii) other laws specified in Part I of the First Schedule;

and no such law nor any provision thereof shall be void on the ground that such law or provision is inconsistent with, or repugnant to, any provision of this Chapter.

(4) Notwithstanding anything contained in paragraph (b) of clause (3), within a period of two years from the commencing day, the appropriate Legislature shall bring the laws specified in Part II of the First Schedule into conformity with the rights conferred by this Chapter:

Provided that the appropriate Legislature may by resolution extend the said period of two years by a period not exceeding six months.

Explanation.— If in respect of any law Majlis-e-Shoora (Parliament) is the appropriate Legislature, such resolution shall be a resolution of the National Assembly.

(5) The rights conferred by this Chapter shall not be suspended except as expressly provided by the Constitution."

1.1.8.2.1- Provisions regarding distribution of Legislative Powers:

The Constitution provides specific provisions with respect to the distribution of Legislative Powers in Part V, Chapter 1, which are as follows:

Chapter 1

A Lawyer and His Legal Research

“141. Extent of Federal and Provincial laws. Subject to the Constitution, Majlis-e-Shoora (Parliament) may make laws (including laws having extra-territorial operation) for the whole or any part of Pakistan, and a Provincial Assembly may make laws for the Province or any part thereof.

142. Subject matter of Federal and Provincial Laws. Subject to the Constitution—

(a) Majlis-e-Shoora (Parliament) shall have exclusive power to make laws with respect to any matter in the Federal Legislative List;

(b) Majlis-e-Shoora (Parliament) and a Provincial Assembly shall have power to make laws with respect to criminal law, criminal procedure and evidence;

(c) Subject to paragraph (b), a Provincial Assembly shall, and Majlis-e-Shoora (Parliament) shall not, have power to make laws with respect to any matter not enumerated in the Federal Legislative List;

(d) Majlis-e-Shoora (Parliament) shall have exclusive power to make laws with respect to all matters pertaining to such areas in the Federation as are not included in any Province.

143. Inconsistency between Federal and Provincial Law. If any provision of an Act of a Provincial Assembly is repugnant to any provision of an Act of Majlis-e-Shoora (Parliament) which Majlis-e-Shoora (Parliament) is competent to enact, then the Act of Majlis-e-Shoora (Parliament), whether passed before or after the Act of the Provincial Assembly, shall prevail and the Act of the Provincial Assembly shall, to the extent of the repugnancy, be void.

144. Power of Majlis-e-Shura to legislate for one or more provinces by consent. (1) If one or more Provincial Assemblies pass resolutions to the effect that Majlis-e-Shoora (Parliament) may by law regulate any matter not enumerated in the Federal Legislation List in the Fourth Schedule, it shall be lawful for Majlis-e-Shoora (Parliament) to pass an Act for regulating that matter accordingly, but any act so passed may, as respects any Province to which it applies, be amended or repealed by Act of the Assembly of that Province.”

1.1.8.2.2- Provisions with respect to Legislations by the Parliament:

Article 70 to 77 of the Constitution provides the provisions for 'Legislative Procedures' wherein Article 71 with respect to 'Mediation Committee' has been omitted. These provisions are reproduced below:

“70. Introduction and passing of Bills - (1) A Bill with respect to any matter in the Federal Legislative List may originate in either House and shall, if it is passed by the House in which it originated, be transmitted to the other House; and, if the Bill is passed without amendment by the other House also, it shall be presented to the President for assent.

(2) If a Bill transmitted to a House under clause (1) is passed with amendments it shall be sent back to the House in which it originated and if

Chapter 1

A Lawyer and His Legal Research

that House passes the Bill with those amendments it shall be presented to the President for assent.

(3) If a Bill transmitted to a House under clause (1) is rejected or is not passed within ninety days of its laying in the House or a Bill sent to a House under clause (2) with amendments is not passed by that House with such amendments, the Bill, at the request of the House in which it originated, shall be considered in a joint sitting and if passed by the votes of the majority of the members present and voting in the joint sitting it shall be presented to the President for assent.

(4) In this Article and the succeeding provisions of the Constitution, "Federal Legislative List" means the Federal Legislative List in the Fourth Schedule.

72. Procedure at Joint Sittings. (1) The President, after consultation with the Speaker of the National Assembly and the Chairman, may make rules as to the procedure with respect to the joint sittings of, and communications between, the two Houses.

(2) At a joint sitting, the Speaker of the National Assembly or, in his absence, such person as may be determined by the rules made under clause (1), shall preside.

(3) The rules made under clause (1) shall be laid before a joint sitting and may be added to, varied, amended or replaced at a joint sitting.

(4) Subject to the Constitution, all decisions at a joint sitting shall be taken by the votes of the majority of the members present and voting.

73. Procedure with respect to Money Bills. (1) Notwithstanding anything contained in Article 70, a Money Bill shall originate in the National Assembly:

Provided that simultaneously when a Money Bill, including the Finance Bill containing the Annual Budget Statement, is presented in the National Assembly, a copy thereof shall be transmitted to the Senate which may, within fourteen days, make recommendations thereon to the National Assembly.

(1A) The National Assembly shall, consider the recommendations of the Senate and after the Bill has been passed by the Assembly with or without incorporating the recommendations of the Senate, it shall be presented to the President for assent.

(2) For the purposes of this Chapter, a Bill or amendment shall be deemed to be a Money Bill if it contains provisions dealing with all or any of the following matters, namely: —

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the borrowing of money, or the giving of any guarantee, by the Federal Government, or the amendment of the law relating to the financial obligations of that Government;

(c) the custody of the Federal Consolidated Fund, the payment of moneys into, or the issue of moneys from, that Fund;

Chapter 1

A Lawyer and His Legal Research

(d) the imposition of a charge upon the Federal Consolidated Fund, or the abolition or alteration of any such charge;

(e) the receipt of moneys on account of the Public Account of the Federation, the custody or issue of such moneys;

(f) the audit of the accounts of the Federal Government or a Provincial Government; and

(g) any matter incidental to any of the matters specified in the preceding paragraphs.

(3) A Bill shall not be deemed to be a Money Bill by reason only that it provides—

(a) for the imposition or alteration of any fine or other pecuniary penalty, or for the demand or payment of a licence fee or a fee or charge for any service rendered; or

(b) for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(4) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the National Assembly thereon shall be final.

(5) Every Money Bill presented to the President for assent shall bear a certificate under the hand of the Speaker of the National Assembly that it is a Money Bill, and such certificate shall be conclusive for all purposes and shall not be called in question.

74. Federal Government's Consent required for financial measures. A Money Bill, or a Bill or amendment which if enacted and brought into operation would involve expenditure from the Federal Consolidated Fund or withdrawal from the Public Account of the Federation or affect the coinage or currency of Pakistan or the constitution or functions of the State Bank of Pakistan shall not be introduced or moved in Majlis-e-Shoora (Parliament) except by or with the consent of the Federal Government.

75. President's assent to Bills. (1) When a Bill is presented to the President for assent, the President shall, within ten days,—

(a) assent to the Bill; or

(b) in the case of a Bill other than a Money Bill, return the Bill to the Majlis-e-Shoora (Parliament) with a message requesting that the Bill or any specified provision thereof, be reconsidered and that any amendment specified in the message be considered.

(2) When the President has returned a Bill to the Majlis-e-Shoora (Parliament), it shall be reconsidered by the Majlis-e-Shoora (Parliament) in joint sitting and, if it is again passed, with or without amendment, by the Majlis-e-Shoora (Parliament), by the votes of the majority of the members of both Houses present and voting, it shall be deemed for the purposes of the Constitution to have been passed by both Houses and shall be presented to the President, and the President shall give his assent within ten days, failing which such assent shall be deemed to have been given.

Chapter 1

A Lawyer and His Legal Research

(3) When the President has assented or is deemed to have assented to a Bill, it shall become law and be called an Act of Majlis-e-Shoora (Parliament).

(4) No Act of Majlis-e-Shoora (Parliament), and no provision in any such Act, shall be invalid by reason only that some recommendation, previous sanction or consent required by the Constitution was not given if that Act was assented to in accordance with the Constitution.

76. Bill not to lapse on prorogation, etc. (1) A Bill pending in either House shall not lapse by reason of the prorogation of the House.

(2) A Bill pending in the Senate which has not been passed by the National Assembly shall not lapse on the dissolution of the National Assembly.

(3) A Bill pending in the National Assembly, or a Bill which having been passed by the National Assembly is pending in the Senate, shall lapse on the dissolution of the National Assembly.

77. Tax to be levied by law only. No tax shall be levied for the purposes of the Federation except by or under the authority of Act of Majlis-e-Shoora (Parliament)."

1.1.8.2.3- Provisions with respect to Legislations by the Provincial Assemblies:

As far as the Legislation by the Provincial Assemblies is concerned, the Constitution provides following provisions:

"115. Provincial Government's consent required for financial measures. (1) A Money Bill, or a Bill or amendment which if enacted and brought into operation would involve expenditure from the Provincial Consolidated Fund or withdrawal from the Public Account of the Province shall not be introduced or moved in the Provincial Assembly except by or with the consent of the Provincial Government.

(2) For the purposes of this Article, a Bill or amendment shall be deemed to be a Money Bill if it contains provisions dealing with all or any of the following matters, namely:

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the borrowing of money, or the giving of any guarantee, by the Provincial Government or the amendment of the law relating to the financial obligations of that Government;
- (c) the custody of the Provincial Consolidated Fund, the payment of moneys into, or issue of moneys from, that fund;
- (d) the imposition of a charge upon the Provincial Consolidated Fund, or the abolition or alteration of any such charge;
- (e) the receipt of moneys on account of the Public Account of the Province, the custody or issue of such moneys; and

Chapter 1

A Lawyer and His Legal Research

(f) any matter incidental to any of the matters specified in the preceding paragraphs.

(3) A Bill shall not be deemed to be a Money Bill by reason only that it provides—

(a) for the imposition or alteration of any fine or other pecuniary penalty or for the demand or payment of a licence fee or a fee or charge for any service rendered; or

(b) for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(4) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the Provincial Assembly thereon shall be final.

(5) Every Money Bill presented to the Governor for assent shall bear a certificate under the hand of the Speaker of the Provincial Assembly that it is a Money Bill and such certificate shall be conclusive for all purposes and shall not be called in question.

116. Governor's assent to Bills. (1) When a Bill has been passed by the Provincial Assembly, it shall be presented to the Governor for assent.

(2) When a Bill is presented to the Governor for assent, the Governor shall, within [ten days,—

(a) assent to the Bill; or

(b) in the case of a Bill other than a Money Bill, return the Bill to the Provincial Assembly with a message requesting that the Bill, or any specified provision thereof, be reconsidered and that any amendment specified in the message be considered.

(3) When the Governor has returned a Bill to the Provincial Assembly, it shall be reconsidered by the Provincial Assembly and, if it is again passed, with or without amendment, by the Provincial Assembly, by the votes of the majority of the members of the Provincial Assembly present and voting, it shall be again presented to the Governor and the Governor shall give his assent within ten days, failing which such assent shall be deemed to have been given.

(4) When the Governor has assented or is deemed to have assented] to a Bill, it shall become law and be called an Act of Provincial Assembly.

(5) No Act of a Provincial Assembly, and no provision in any such Act, shall be invalid by reason only that some recommendation, previous sanction or consent required by the Constitution was not given if that Act was assented to in accordance with the Constitution.

117. Bills not to lapse on prorogation. (1) A Bill pending in a Provincial Assembly shall not lapse by reason of the prorogation of the Assembly.

(2) A Bill pending in a Provincial Assembly shall lapse on the dissolution of the Assembly."

Chapter 1

A Lawyer and His Legal Research

1.1.8.2.4- Prior sanction of President required to Bills affecting taxation in which Provinces are interested:

When it comes to legislating on Taxation, the Constitution provides the following provision:

“162. Prior sanction of President required to Bills affecting taxation in which Provinces are interested. No Bill or amendment which imposes or varies a tax or duty the whole or part of the net proceeds whereof is assigned to any Province, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to income-tax, as defined for the purposes of the enactments relating to income-tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to Provinces, shall be introduced or moved in the National Assembly except with the previous sanction of the President.”

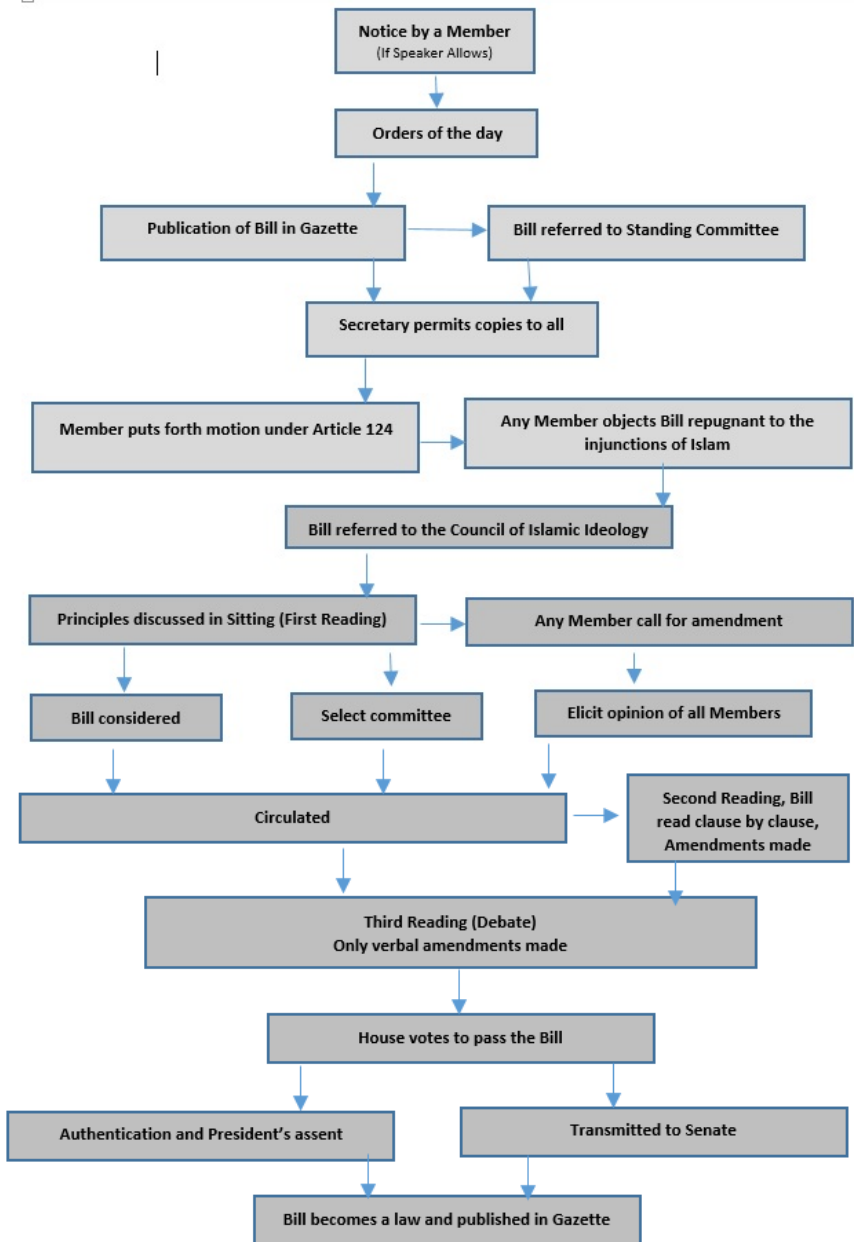
1.1.8.2.5- The Legislative Business:

In order to understand the Legislative Business, follow the diagram on the next page. This diagram is mentioned in the 'Parliamentarian's Pocket Guide' prepared by Pakistan Institute for Parliamentary Services-PIPS for National Assembly of Pakistan.⁸

⁸ Ibid., p.19

Chapter 1

A Lawyer and His Legal Research



Normally, in routine after studying the topic of 'Statute' as a source of law many people skip the topic of 'Legislative Drafting' and resultantly, unfortunately majority of them remain ignorant about the actual 'Legislative Business' conducted by the Parliament and the Provincial Assemblies. They also become ignorant of the fact, that as a law student and as a lawyer, they can participate in this 'Legislative Business' by giving their opinions on the

Chapter 1

A Lawyer and His Legal Research

proposed law. Recently the Ministry of Information Technology and Telecommunication (MOITT), Pakistan has sought public opinion and public consultancy on draft Personal Data Protection Bill, 2020.⁹ And the Ministry of Information Technology has also sought public opinion on the Pakistan's National Policy on Artificial Intelligence (AI). And now any person can initiate the 'legislative Business by filing a 'Public Petition'¹⁰ directly in the Senate of Pakistan.

We have previously discussed the relevant provisions of the Constitution with respect to the 'powers to legislate', 'Federal Legislative Lists' and how far the Parliament and the Province can legislate. Now we proceed from the basics of Bill drafting to the passing of an Act.

'Bill' as per Merriam-Webster is:

*"a draft of a law presented to a legislature for enactment."*¹¹

A Bill is in fact the reflection of the thoughts of a legislator. Whatever, he thinks about the need, purpose, scope, application and its enforcement should be reflected in a proper way through his Bill. A difference should be felt while choosing the words showing the legislator's intent and between the routine expression of thoughts. The Bill drafted by a Government's experienced draftsman is always different from the one drafted by an ordinary person.

1.1.8.2.5.1- Pre-Drafting Requirements of a Bill:

The 'Legislative Drafting Manual' prepared by Pakistan Institute for Parliamentary Studies (PIPS) provides the following pre-drafting requisites of a Bill:

1. The Bill should conform to the Constitution of Pakistan, 1973. It should not be ultra vires the provisions of the Constitution. A drafter should keep in mind the Fundamental Rights, Article 8, and articles including Article 74 regarding Federal Government's consent for financial measures. A legislator "*need to have mastery over the legislative subjects provided in the Legislative List.--- The determining factor is the Legislative List.*"¹²

⁹ Draft Personal Data Protection Bill, 2020, Ministry of Information Technology and Telecommunication, Government of Pakistan, accessed 26th July, 2020, <https://moitt.gov.pk>.

See also Ramsha Jahangir, "Govt. seeks consultation on Data Protection Bill", DAWN, updated 11th April, 2020, accessed 26th July, 2020, <https://www.dawn.com/news/1548214>

¹⁰ "Public Petition to the Senate is an opportunity for you to have access to the Senate and participate in the democratic parliamentary process. You can raise issues of public importance relating to the Federal Government for consideration of the Parliament-----", 'Public Petition', accessed August 23rd, 2020, <https://www.senate.gov.pk/en/petition.php>

¹¹ Merriam-Webster.com Dictionary, s.v. "bill," accessed July 3, 2020, <https://www.merriam-webster.com/dictionary/bill>.

¹² Pakistan Institute for Parliamentary Services, 'Legislative Drafting Manual, A Handbook for Parliamentary Legislative Drafters', Edition 2019, published by PIPS, p.4, accessed July 4th, 2020, https://www.pips.gov.pk/sites/default/files/Legislative_Drafting_Manual_2019.pdf

Chapter 1

A Lawyer and His Legal Research

2. "A Legislator has to have knowledge of the Pakistan Code which contains all Pakistan Laws enacted by Parliament. The purpose of knowing Pakistan Code is to avoid preparing a Bill on the laws which already exist in Pakistan...."¹³
3. Command over General Clauses Act, 1897 is also required.¹⁴
4. "Updated knowledge of case law or judicial legislation is very important for a legislative drafter who always has to keep in mind how his drafted provisions will be interpreted by Courts on the touchstone of judicial interpretations already given by them to various expressions and provisions."¹⁵
5. "Rules of Business 1973 are Constitutional Rules and have to be adhered to for uniform, smooth and efficient working of the Government."¹⁶
6. "A legislative drafter has to have knowledge of international Conventions, Treaties, Protocols, Memorandum of Understanding, etc. to which Pakistan is a signatory so that while drafting a provision nothing goes against the covenant which Pakistan has signed or ratified at the International Level."¹⁷
7. Principles of statutory interpretation.¹⁸

1.1.8.2.5.2- Types of Bills:

In Pakistan, generally there are following types of Bills:

1. Government Bills are introduced by a Minister and are passed by a simple majority;¹⁹
2. Private Members Bill are "introduced by any Member of the House and passed by a simple majority";²⁰

¹³ Ibid., p.5

¹⁴ Ibid., p.6

¹⁵ Pakistan Institute for Parliamentary Services, 'Legislative Drafting Manual, A Handbook for Parliamentary Legislative Drafters', Edition 2019, published by PIPS, p.7, accessed July 4th, 2020, https://www.pips.gov.pk/sites/default/files/Legislative_Drafting_Manual_2019.pdf

¹⁶ Ibid., p.8

¹⁷ Ibid.

¹⁸ Ibid., p.9

¹⁹ Pakistan Institute for Parliamentary Services-PIPS, 'Parliament in Brief-Parliamentarian's Pocket Guide-National Assembly of Pakistan', published by Pakistan Institute for Parliamentary Services-PIPS, p.16, accessed July 4th, 2020, <https://pips.gov.pk/sites/default/files/010.NA%20Parliament%20in%20Brief%20English.pdf>

²⁰ Pakistan Institute for Parliamentary Services-PIPS, 'Parliament in Brief-Parliamentarian's Pocket Guide-National Assembly of Pakistan', published by Pakistan Institute for Parliamentary Services-PIPS, p.16, accessed July 4th, 2020, <https://pips.gov.pk/sites/default/files/010.NA%20Parliament%20in%20Brief%20English.pdf>

Chapter 1

A Lawyer and His Legal Research

3. Constitution Amendment Bills are for amendments in the Constitution *"and require two-third majority of both Houses to pass it and also that of other Houses (in some cases). It can originate in either House."*²¹
4. Money Bills is *"a Government Bill dealing with matters of revenue and expenditure in the National Assembly. It is sent to the Senate within seven days. It is the prerogative of the National Assembly to pass the Bill with or without incorporating recommendations of the Senate."*²²

1.1.8.2.6- The basic principles of Legislative Drafting:

A lawyer has the ability and a duty to judge that a particular draft of a legislation is well drafted or not and whether it follows the basic principles of legislative drafting or not?

The Senate of Pakistan has a Legislative Drafting Unit (LDU), which was established in 2017 to help the members in drafting the Private Member's Bills. The Rule 94 of the Rules of Procedure and Conduct of Business, 2012 provides that *"the senate Secretariat shall render possible assistance to the Member so that Bill is not rejected on technical grounds."* The Senate of Pakistan provides the following functions of LDU:

- *"LDU designs, facilitates and follows up the legislative instruments.*
- *The main function of the unit is to translate the ideas of the Senators into legislative proposal by drafting new laws or by suggesting appropriate amendments in the laws on the statute book.*
- *The Unit also examines whether the will of legislature has been implemented by the executive authorities through the delegated legislation within the parameters laid down in the statutes as provided in Rule-172-C and 172-D, of the Rules of Procedure and Conduct of Business, 2012 and support all other Senate Standing/ Functional / Special Committees in general legislative issues.*
- *The Unit assists and provides support services, even, during the deliberations at the Committee stage of the legislative process.*
- *LDU is also available for drafting the motions, questions, calling attention notices and resolutions as per member's desire."*²³

While drafting a Bill, *inter alia*, following basic principles should also be kept in mind. And, similarly the Legal Professionals can also judge a particular draft of a Bill on the following basic principles:

1. Plain Language.

²¹ Ibid.

²² Ibid.

²³ Legislative Drafting Unit, Senate of Pakistan, <https://senate.gov.pk/en/messence.php?id=1166> (accessed 12.05.2023)

Chapter 1

A Lawyer and His Legal Research

2. Object and purpose of legislation should be clear.
3. Different types of legislations, require different types of parameters.
4. How the terms used in the legislation have been defined in the definition clause.
5. Whether the terms defined in the definition clause are consistently used in the legislation or not.
6. The clauses in the legislation should not conflict with each other.
7. The overlapping clauses should be identified and properly dealt with. Preference should be given not to include the overlapping clauses.
8. The legislation should not be in *pari materia* with other legislation.
9. The Legislation should be easy to comprehend.
10. If a particular legislation contains both substantive and procedural clauses, then they should be clearly defined.

1.1.8.2.7- Statutes:

As discussed earlier, in Pakistan, the Constitution of the State is of 1973. It provides the fundamental principles in the form of Articles to be followed by the State and its subjects. Where, this Constitution has provided the fundamental rights and the fundamental provisions to be followed in every legislation, at the same time it has provided the provisions for establishment and functioning of different Courts in Pakistan. This Constitution also provides federal legislative lists under which the government adopts the legislations. And when the assembly is not in session, it provides the provision for issuance of Ordinances.

After going through a detailed and exhaustive 'Legislative Business' in the Parliament and Provincial Assemblies the laws/statutes are passed. These statutes are the most important primary sources of law, wherefrom substantive and procedural laws flow. The state and its subjects are bound to follow these laws. Constitution of Pakistan is the supreme law of the state. The substantive law as per Merriam-Webster Dictionary is the law '*that creates, defines rights, duties, obligations, and causes of action that can be enforced by law.*'²⁴ A procedural law on the other hand is the law '*that*

²⁴ Merriam-Webster.com Legal Dictionary, s.v. "substantive law," accessed July 2, 2020, <https://www.merriam-webster.com/legal/substantive%20law>.

Chapter 1

A Lawyer and His Legal Research

*prescribes the procedures and methods for enforcing rights and duties and for obtaining redress (as in a suit) and that is distinguished from law that creates, defines, or regulates rights.*²⁵

These laws are published in the official gazettes and therefrom, they are printed through different books called the Bare Acts. They are also made available online on the web sites of National Assembly, Provincial Assemblies and the Senate of Pakistan. You can also find these laws on the government, Court's and other websites. The Pakistan Code²⁶ is published in hard and soft form i.e., on website by the Ministry of Law and Justice, Pakistan ("MoLaw") regularly, wherein the legislations are regularly updated by the MoLaw.

The subordinate Courts are bound to follow these laws. The High Courts and Supreme Courts are bound to thoroughly discuss and interpret these laws. They have the authority to even declare certain law or certain provision to be un-constitutional or null and void. The Federal Shariat Court and the Shariat Appellate Bench of Supreme Court of Pakistan can even declare certain law or certain provision to be un-Islamic and void and can also bind the government to amend, alter or delete. And when these laws are discussed by different Courts on different facts and in different cases, the Judgments of superior Courts become 'Precedents' for the subordinate courts. These 'Precedents' are called the case laws. These 'Precedents' are reported in the Law Reports. And the Law Reports are read by the Judges, lawyers and law students.

Sometimes, the Judges also make the law. For instance a situation may arise, in which a Judge is encountered with a situation of fact or law, where he cannot find the relevant or proper law to be applied on the facts of those particular cases. In such like cases, a just and proper adjudication by a Judge becomes a Judge made law and is often followed as a Precedent till the time it is not over ruled by any other Precedent differing from the previous view.

While reading a Federal or Provincial Statute, the rules of interpretation of statutes are followed worldwide. One of the good books on Interpretation of Statutes is written by S.M. Zafar, Senior Advocate Supreme Court of Pakistan.

And while doing the legal research through reading a statute, the following should also be kept in mind:

²⁵ Merriam-Webster.com Legal Dictionary, s.v. "procedural law," accessed July 2, 2020, <https://www.merriam-webster.com/legal/procedural%20law>.

²⁶ "The Pakistan Code", last accessed 31.01.2023, <https://pakistancode.gov.pk/english/index.php>

Chapter 1

A Lawyer and His Legal Research

1.1.8.2.7.1-Determining Legislative Intent:

Mr. J. Qazi Faez Isa and Syed Mansoor Ali Shah in *Meera Shafi Vs. Ali Zafar*, PLD 2023 Supreme Court 211 at page 220(A) in Para 7 have observed the following:

"7.----- The role of a Judge is to understand the purpose of law in the society and to help the law achieve its purpose. **Law is a living organism and must respond to the changing social realities of the time.** Indeed when social reality changes, the law must change too. Just as the change in social reality is the law of life, responsiveness to change in the social reality is the life of the law. **Legislative intent must be viewed in its changing environment by treating the statute as a living organism.** The court cannot be insensitive to the system in which the statute operates. If the statute or the legislative intent is to be viewed as at the time of its origin, it freezes the meaning of the statute at the historical moment of its legislation, which may no longer be relevant to the meaning of the statute in modern times. To limit the meaning of the statute to its original legislative intent only reduces the judge into a historian and an archaeologist whereby he looks backward instead of forward. **Sterility and stagnation defeat the purpose of law and defy its organic character. The best way forward to assess the legislative intent of a law is to examine its purpose today by considering its objectives, the goals, the interests, the values, the policy, and the function that the statute is designed to actualize.** Change in social reality today also depends on the rapid development of technology to which the law cannot shut its eyes. While law develops gradually and technology is often far ahead of the legislature and the judiciary, both these institutions must move forward and acknowledge the technological advances in developing the law which cannot stand still and must adapt to the changes in society. **In the process of interpreting laws, judges must endeavor to bridge the gap between law and society. The intersection of law and technology not only requires the law to regulate technology but also to employ technology to make laws more at home with the technology-savvy society.**" [Emphasis added.]

1.1.8.2.7.2- Doctrine of Ultra Vires:

It must be seen before reading and following any provision in a Statute that whether that Statute or that particular provision in a Statute is declared ultra vires the Constitution or not? A blind following of a provision which had been declared ultra vires could lead to disastrous consequences. The doctrine of ultra vires has been interpreted in a lot of ways in different jurisdictions. However, our focus should be on the Judgments of the Supreme Court and High Courts of Pakistan to see the ultra vires provisions in a Statute.

In another case "*Lahore Development Authority and others vs. Ms. Imrana Tiwana and others*", 2015 SCMR 1739 following principles are laid down for striking down or declaring a legislative enactment as void or unconstitutional:

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

Chapter 1

A Lawyer and His Legal Research

- (ii) *Where more than one interpretation was possible, one of which would make the law valid and the other void, the Court must prefer the interpretation which favoured validity;*
- (iii) *A statute must never be declared unconstitutional unless its invalidity was beyond reasonable doubt. A reasonable doubt must be resolved in favour of the statute being valid;*
- (iv) *Court should abstain from deciding a Constitutional question, if a case could be decided on other or narrower grounds;*
- (v) *Court should not decide a larger Constitutional question than was necessary for the determination of the case;*
- (vi) *Court should not declare a statute unconstitutional on the ground that it violated the spirit of the Constitution unless it also violated the letter of the Constitution;*
- (vii) *Court was not concerned with the wisdom or prudence of the legislation but only with its Constitutionality;*
- (viii) *Court should not strike down statutes on principles of republican or democratic government unless those principles were placed beyond legislative encroachment by the Constitution; and*
- (ix) *Mala fides should not be attributed to the Legislature.*

1.1.8.2.7.3- Doctrine of reading down and preservation of water down version:

This doctrine comes in aid of a Statute and it saves it from being declared as totally un-constitutional. This doctrine is further expounded by Mr. J. Muhammad Ali Mazhar of Sindh High Court in "*Peoples University of Medical and Health Sciences for Women & Others Vs. Pakistan & Others*" SBLR 2021 Sindh 522. The Court held that

"[W]hile reading down of a statute two principles had to be kept in view;

First that the object of 'reading down' was primarily to save the statute and in doing so the paramount question would be whether in the event of reading down, could the statute remain functional;

Second, would the legislature have enacted the law, if that issue had been brought to its notice which was being agitated before the court.

The doctrine of reading down or of recasting the statute can be applied in limited situations. It is an extension of the principle that when two interpretations are possible, one rendering it constitutional and the other making it [un] constitutional the former should be preferred. The doctrine can never be called into play where the statute requires extensive additions and deletions. The Doctrine of Reading Down is therefore an internal aid to construe the word or phrase in a statute to give reasonable meaning but not to detract, distort or emasculate the language so as to give the supposed purpose to avoid unconstitutionality. It is the duty of the court to endeavor as far as possible to construe a statute in such a manner

Chapter 1

A Lawyer and His Legal Research

that the construction results in validity rather than its invalidity and gives effect to the manifest intention of the legislature enacting that statute. In line with the dictum laid down by the apex court in the case of Rana Aamer Raza Ashfaq and another vs. Dr. Minhaj Ahmad Khan and another, (2012 SCMR 6) while construing any piece of legislation, the court has to examine and keep in mind three things: (i) the statement of reasons and objects given therein; (ii) the statement of objects given in other laws in pari materia to the one under consideration; and (iii) mandate of Constitutional provision which stands adopted by way of reference.

The term “Watered Down” has been defined by Collins Dictionary in the following words:

“If you describe something such as a proposal, speech, or statement as watered-down, you mean that it is weaker or less forceful than its original form.”²⁷

1.1.8.2.7.4- Doctrine of Severability:

As per Mr. J. Muhammad Ali Mazhar of Sindh High Court in *M.Q.M and Others Vs. Province of Sindh and Others*, 2014 CLC 335, the doctrine of severability permitted the Court to sever the unconstitutional portion of a partially unconstitutional Statute in order to preserve the operation of any uncontested or valid remainder but if the valid portion was so closely mixed up with the invalid portion that it could not be separated without leaving an incomplete or more less mixed remainder, the Court would declare the entire act void.

1.1.8.2.7.5- Doctrine of Pari Materia:

Pari Materia has been defined by Lexis Nexis as “*dealing with the same subject matter. Where two and more Statues are in Pari Materia, each may be interpreted by reference to the others. The proposition operates by way of being an exception to the general principle that the meaning of a word for the purposes of one Statute cannot be binding in relation to its meaning in another.*”²⁸

If there are two Statutes on the same subject matter, the Legislature can define in those Statute that the terms will have the same meaning as defined in the other Act. In the case of “*Zain Packaging Industries Limited, Karachi vs. Abdul Rashid and 2 others*”, 1994 SCMR 2222, the Supreme Court while examining the term “wages” appearing in the Standing Order 12(6) of the Schedule to the Ordinance of 1968, has held that: “*From the preceding discussion, it follows that 'wages' have been defined differently in various statutes relating to labour matters keeping in view the object of each legislation. Therefore, the definition of 'wages' given in one statute cannot be called in aid to interpret the provisions of another statute unless the two*

²⁷ “watered-down”, <https://www.collinsdictionary.com/dictionary/english/watered-down> (accessed 16.05.2023)

²⁸ “In pari materia”, <https://www.lexisnexis.co.uk/legal/glossary/in-pari-materia> (accessed 16.05.2023)

Chapter 1

A Lawyer and His Legal Research

statutes are in pari materia or the legislature has expressly provided that the words and expressions defined in one statute shall have the same meaning in the other statute."

The Supreme Court of Pakistan in "*Rana Aamer Raza Vs. Doctor Minhaj Ahmad Khan*", 2102 SCMR 6 has considered other Statutes in *pari materia* with Punjab Employees Efficiency, Discipline and Accountability Act, 2006 and has further given the following findings:

"Here we are seized of giving effect to a Statute which incorporates a Constitutional provision by reference, In construing such a piece of legislation, the Court has to examine and keep in mind three things:

(i) the Statement of Reasons and Objects given therein;

(ii) the statement of objects given in other laws in pari materia to the one under consideration; and

(iii) the mandate of the Constitutional provision which stands adopted by way of reference."

While determining the *pari materia* legislations, the following should also be kept in mind:

Statutes passed on the same day by the same legislature and dealing with the same subject may be referred to each other to ascertain the meaning of any particular word in any of them.²⁹

Statutes which relate to the same subject, the same person or thing, or the same class of persons or things, are deemed to constitute one system of law, they are considered as one Statute, subsequent laws are regarded as supplementary or complimentary to the earlier enactments. When enacting as new law the legislature is presumed to have had in contemplation the existing statute on the same subject, and to have framed its enactment with reference thereto, this is the real basis for rule in *pari materia*; and it is two Acts which are in *pari materia*, in a similar manner.³⁰

1.1.8.2.7.6- Rule of last antecedent and the Doctrine of Ejusdem Generis:

According to Mariam Webster, an antecedent is "*a preceding event, condition or cause*"³¹ And the "Rule of Last Antecedent" is another doctrine of Interpretation of Statute. Through this doctrine a Court while interpreting a particular Clause of a Statute, firstly finds out Qualifying Words or phrases in that Clause and then links its meaning to the immediately preceding words

²⁹ 7 Ind Cas 196 (PC)

³⁰ Harcharan Singh Vs. Smt. Shivrani 1981 All WC 273 (SC); See also Bindra's Interpretation of Statutes 7th Ed. Pg. 400; PLD 1983 Lah 522; 1970 DLC 54. See also S.M.Zafar, Understanding Statutes- Canons of Construction, Second Edition, PLD Publishers Lahore, Page 697

³¹ Meriam-Webster.com Dictionary, s.v. "antecedent," accessed June 1, 2023, <https://www.merriam-webster.com/dictionary/antecedent>.

Chapter 1

A Lawyer and His Legal Research

i.e., the “last antecedent”. For instance let us follow this example, which is given by NOLO³²:

“[T]he commercial vehicular license shall not apply to boats, tractors, and trucks under three tons”

Here, as per NOLO, the qualifier term, *““under three tons” “applies only to trucks and not to boats or tractors”*³³

According to Grammarly, *“a Qualifier is a word that limits or enhances another word’s meaning.”*³⁴

So, the Court firstly finds out the Qualifiers in a Clause and then interprets it with reference to the last words and this is called the Doctrine of the Rule of Last Antecedent.

Courts in the world have divergent views about this doctrine and it is always used with great caution. Majority of the Courts prefer to use the doctrine of “Ejusdem Generis” i.e., the Court finds out the actual intention of the legislature in promulgating a particular Statute or a particular provision in a Statute. It has further been simply explained by Merriam-Webster that *“general words (as in a statute) that follow specific words in a list must be construed as referring only to the types of things identified by the specific words”*³⁵

1.1.8.2.7.7- The Doctrine of Casus Ommisus:

Sometimes, while reading a certain Statute you find that your proposition or a situation of facts is not dealt with by that Statute. This is a situation, which in terms of Interpretation of Statute is known as “Casus Ommisus” meaning “a case omitted”. Let us explore it further.

In my view, a legislation is a careful drafting of provisions mentioning a law on a particular subject and it cannot be believed that the legislature inadvertently omitted certain situation of fact from the application of a law as mentioned in that Statute. Similarly, a Court cannot include the omitted case by supplying the omission.

Mr. Jj. Maqbool Baqar, Sajjad Ali Shah and Munib Akhtar of the Supreme Court of Pakistan, in C.P. No.479-K of 2020, *Aam Loag Itehad and another Vs. The Election Commission of Pakistan and Others* decided on 05.05.2021 have held that

³² Nolo.com Dictionary, “Last Antecedent Rule Definition”, accessed June 2, 2023, <https://www.nolo.com/dictionary/last-antecedent-rule-term.html>

³³ Ibid.

³⁴ Grammarly.com, “Qualifiers: Rules and Examples”, accessed June 2, 2023, <https://www.grammarly.com/blog/qualifiers/>

³⁵ Merriam-Webster.com Legal Dictionary, s.v. “ejusdem generis rule,” accessed June 1, 2023, <https://www.merriam-webster.com/legal/ejusdem%20generis%20rule>.

Chapter 1

A Lawyer and His Legal Research

"27. Before proceeding further, one other point may also be made. The constitutional principle of "reading in" is different from the curing of a *casus omissus* (and the (in general) reluctance of the Court to undertake such an exercise). When a *casus omissus* is mooted, it is not a constitutional defect but rather a legislative deficiency that is contended. That is, it is not claimed that the omission in the statutory provision renders it liable to be struck down on the constitutional plane. Rather, the submission is that C.P. 479-K/2020 29 there exists an omission within the four corners of the statute that, had the legislature put its mind to it, would have undoubtedly been included by the lawmaker and ought therefore to be inserted by the Court. Not surprisingly, the Court is reluctant to do so (however well founded the submission may appear to be) as that could result in an intrusion in the legislative field. (A word of caution again: there are nuances involved that have not been set out here.) On the other hand, the doctrine of "reading in" becomes available once a constitutional violation or defect is found to exist. It is a constitutional remedy to correct the defect without striking down the offending provision. The focus of attention is the Constitution and not just the statute in and of itself. Even then, there are concerns about intruding into the legislative field. Thus, the Canadian Supreme Court has held, in the cited case, that this particular constitutional remedy should be used in the "clearest of cases" and only when, *inter alia*, "the legislative intent is obvious" (see at pg. 718). The distinction between the constitutional remedy on the one hand and the supplying of a *casus omissus* in a statute on the other is clear and principled, and must be kept in mind."

The Court, however, did not apply the doctrine of *Casus Ommissus*, rather, it applied the doctrine of 'Reading In' in reading and interpreting Clause 2 of the Article 270 of the Constitution of Pakistan, 1973.

1.1.8.2.7.8- Doctrine of Penumbra:

According to the Cambridge Dictionary, Penumbra is "*a part of a shadow in which only some of the light is blocked, used specially about a shadow made during an eclipse: in a lunar eclipse, the outer shadow or penumbra is a zone where Earth blocks a portion of the sun's rays.*"³⁶

Mr. J. Jawad Hassan of Lahore High Court in Pakistan Tehreek-e-Insaf through General Secretary and Others Vs. Government of Punjab and Others reported as PLD 2023 Lahore 179 has emphasized upon the doctrine of Penumbra in the following words:

"---Doctrine of penumbra --- Scope --- Doctrine of penumbra refers to a legal principle that recognizes certain unenumerated rights and obligations as implicit in the guarantees of the Constitution which can also be termed as constitutional penumbras --- **Under this doctrine, a specific provision of a Constitution or a statute should not be read in isolation and it must be considered in the context of other relevant and connecting provisions of a constitution or a statute with underlying values and principles of the constitution as a whole** --- Doctrine of penumbra enables the Courts in interpreting various provisions of the constitution **in order to enforce those**

³⁶ Dictionary.cambridge.org, "penumbra:, accessed June 4, 2023, <https://dictionary.cambridge.org/dictionary/english/penumbra>

Chapter 1

A Lawyer and His Legal Research

rights or obligations which are explicitly mentioned in the text of a particular provision of the constitution or a law. [Emphasis Added]

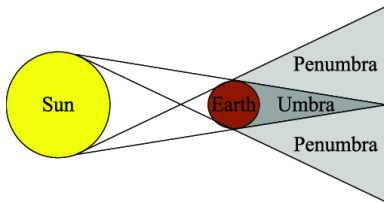


Image No.1: Jia, Xianghua & Ming, Xu & Pan, Xiao & Mao, Xintao. (2017). Eclipse Prediction Algorithms for Low-Earth-Orbiting Satellites. IEEE Transactions on Aerospace and Electronic Systems. PP. 1-1. 10.1109/TAES.2017.2722518.



Image No.2: Photo by [Scott Szarapka](#) on [Unsplash](#), published on August 27, 2017, <https://unsplash.com/photos/y07ClgzVmc>

1.1.8.2.7.9- Ut Res Magis Valeat Quam Perat:

A per Mr. Justice Muhammad Ali Mazhar of the Supreme Court of Pakistan in Federation of Paksian Vs. Shuja Sharif reported as 2023 SCMR 129(b), "A statute or any enacting provision therein must be construed as to make it effective and operative. The Latin legal maxim "ut res magis valeat quam pereat" denotes that it is better for a thing to have effect than to be made void or it is better to validate a thing than to invalidate it. The Court should, in so far as possible, avoid that construction which may ascribe or attribute unreasonableness to the will of legislature and while moving into the task of interpretation of any law or provision, the predominant objective should be that the law survives and the presumption, if any, must be in favor of its constitutionality. The Court should not adopt such interpretation which renders the statute or any of its provisions inoperative or unworkable. No doubt, the Court can strike down a law if it is found to be unconstitutional, but it cannot introduce any inexactitude or absurdity or restrict or constrict a provision by espousing or presuming an anomalous elucidation in a peculiar manner to make it meaningless or inconsequential in the reading down concept."

1.1.8.2.8- Rules and Regulations:

Statute is the creation of some legislative business of Federal or Provincial Assembly. Certain Statutes create certain statutory bodies. Such statutory bodies are empowered through these Statutes to make their own Rules and Regulations. Such Rules and Regulations are in the form of subordinate or delegated legislation. The underlying principal is that the rules framed under the Statute must not be inconsistent or in contravention of the basic provisions of the Statute.

In the case of *Zarai Taraqiyati Bank Ltd. and others Vs. Said Rehman and others* reported as 2013 PLC (CS) 1223, it has been held that:-

Chapter 1

A Lawyer and His Legal Research

"16. The "rules" and "regulations" framed under any Act are meant to regulate and limit the statutory authority. All statutory authorities or bodies derive their powers from statutes which create them and from the rules or regulations framed thereunder. Any order passed or action taken which is in derogation or in excess of their powers can be assailed as ultra vires. Rules and regulations being forms of subordinate legislation do not have substantial difference as power to frame them is rooted in the statute. Statutory bodies are invariably authorized under the Act to make or adopt rules and regulations not inconsistent with the Act, with respect to such matters which fall within their lawful domain to carry out the purposes of the Act. This rule making power of such bodies, called 'delegated legislation' has assumed importance in the contemporary age. The justification for delegated legislation is threefold. First, there is pressure on parliamentary time. Second, the technicality of subject matter necessitates prior consultation and expert advice on interests concerned. Third, the need for flexibility is established because it is not possible to foresee every administrative difficulty that may arise to make adjustment that may be called for after the statute has begun to operate. Delegated legislation fills those needs.

17. Broadly the salient characteristics of statutory rules are threefold:--

- (i) Rules or Regulations are framed by statutory or public body;
- (ii) Those are framed under the authority or powers conferred in the statute;
- (iii) Those have statutory Governmental approval or statutory sanction."

It was held by honorable Supreme Court of Pakistan in *Khawaja Ahmad Hassan Vs. Government of Punjab and Others* reported as 2005 SCMR 186 that :

"29. It is a well recognized principle of interpretation of statutes that if the rules framed under the statute are in excess of the provisions of the statute or are in contravention of or inconsistent with such provisions then those provisions must be regarded as ultra vires of the statute and cannot be given effect to.

31. A rule-making body cannot frame rules in conflict with or derogating from the substantive provisions of the law or statute, under which the rules are framed. No doubt that the rules-making authority has been conferred upon the Government but "a rule, which the rule-making authority has power to make will normally be declared invalid only on the following, grounds:-

(1) Bad faith, that is to say that powers entrusted for one purpose are deliberately used with the design of achieving another, itself unauthorized or actually forbidden;

(2) that it shows on its face a misconstruction of the enabling Act or a failure to comply with the conditions prescribed under the Act for the exercise of the powers; and

(3) that it is not capable of being related to any of the purposes mentioned in the Act. (*Shankar Lal Laxmi Narayan Rathi v. Authority under Minimum*

Chapter 1

A Lawyer and His Legal Research

Wages Act, 1979 MPLJ 15 (DB). Rules cannot go beyond the scope of the Act (M.P. Kumaraswami Raja AIR 1955 Mad. 326) nor can they, by themselves, enlarge the scope of statutory provisions. (K. Mathuvadivelu v. RT Officer, AIR 1956 Mad. 143.) They cannot also militate against the provision under which they were made. (Kashi Prasad Saksena v. State of U. P. AIR 1967 All. 173.)

32. There is no cavil with the proposition that "the power of rule making is an incidental power that must follow and not run parallel to the present Act. These are meant to deal with details and can neither be a substitute for the fundamentals of the Act nor can add to them. PLD 1975 Azad J&K 81 = PLJ 1975 Azad J&K 89. There are two main checks in this country on the power of the Legislature to delegate, these being its good sense and the principle that it should not cross the line beyond which delegation amounts to abdication and self-effacement. The only requirement of law in such situations is to insist that the subordinate body charged with the duty of making rules must strictly confine itself within the sphere of its authority for the exercise of its subordinate legislative power and in each case it is the duty of the Courts in appropriate proceedings to be satisfied that the rules and regulations so made are:--

(a) by the authority mentioned in the Act, and
(b) that they are within the scope of the power delegated therein. (PLD 1966 Lah. 287)."

Recently the honorable Supreme Court of Pakistan in *Jurists Foundation Vs. Federal Government* PLD 2020 SC 1 (j) has held that:

"—Delegated Legislation---Rules and Regulations---Delegatee must have legislative guidelines to formulate Rules and Regulations, and such guidelines, contours or boundaries must come from the Legislature (Parliament) itself---Legislature could confer upon any person or body the power to make subordinate/delegated legislation (Rules Regulations or byelaws etc.) in order to give effect to the law enacted by it yet it must perform itself the essential legislative function, i.e., to exercise its own judgment on vital matters of policy and enact the general principles providing guidance for making the delegated legislation."

1.1.8.3- The Precedents and the Law Reports:

The Precedent according to Black's Law Dictionary, dictionary.com and en.wikipedia.org is:

"[P]rinciple or rule established in a previous legal case that is either binding on or persuasive for a Court or other Tribunal when deciding subsequent cases with similar issues or facts."³⁷

The Precedent is to be applied. However, in certain circumstances, it is distinguished and overruled. The Judgment by which the previous Precedent

³⁷ "Precedent", Wikipedia, The Free Encyclopedia, accessed 29.03.2020, <https://en.wikipedia.org/wiki/Precedent>. See also "Precedent", Dictionary.com, accessed 29.03.2020, <https://www.dictionary.com/browse/precedent?s=t>
See also Black's Law Dictionary, p. 1059 (5th ed. 1979).

Chapter 1

A Lawyer and His Legal Research

is distinguished or over ruled also becomes a new Precedent. The binding Precedents are those Precedents which the lower courts are bound to follow and the persuasive Precedents are those Precedents which are not binding upon the lower courts. However, the lower courts can draw analogies from them.

The Constitution of Pakistan, 1973 has provided three very comprehensive Articles providing the binding effect of the Precedents of Supreme Court of Pakistan, the High Courts and the Federal Shariat Court of Pakistan on all the subordinate courts of Pakistan.

“189. Decisions of Supreme Court binding on other Courts: Any decision of the Supreme Court, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan.” [Emphasis added]

“201. Decisions of High Courts binding on subordinate Court: Subject to Article 189, any decision of a High Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all courts subordinate to it.” [Emphasis added]

“203 GG. Decision of Court binding on High: Subject to Articles 203D and 203F, any decision of the Court in the exercise of its jurisdiction under this Chapter **shall be binding on a High Court and on all courts subordinate to a High Court.**” [Emphasis added]

Under Article 203 D the Federal Shariat Court exercise its jurisdiction, either of its own motion or upon a petition to examine any law or any provision of law on the basis of Injunctions of Islam and prescribes a procedure of its proceedings. And Article 203 F prescribes a forum and limitation for filing an appeal to the Supreme Court.

With the passage of time different Precedents on legislations emerge from superior courts of Pakistan. In order to acquaint the Judiciary, lawyers, law students and the public at large about these Precedents or case laws different Bar Councils and other private organizations have set up huge offices for their regular compilation and publication. The judgments of superior courts which are either reported for publication or even otherwise are published in these law reports. There is also magazine section in these law reports in which the lawyers, Judges and other academics can publish their writings. These law reports also publish different legislations. Sometimes we also see the foreign judgments in these law reports.

In Pakistan we have a number of law reports wherein the cases of superior courts are reported monthly and annually including:

1. Pakistan Annual Law Digest (“ALD”),
2. The All Pakistan Legal Decisions (“PLD”),
3. Civil Law Cases (“CLC”),
4. Monthly Law Digest (“MLD”),

Chapter 1

A Lawyer and His Legal Research

5. Pakistan Criminal Law Journal ("PCrLJ")
6. Supreme Court Monthly Review ("SCMR"),
7. Pakistan Law Journal ("PLJ")
8. Pakistan Tax Decisions ("PTD"),
9. Pakistan Labor Cases ("PLC"),
10. Corporate Law Decisions ("CLD"),
11. Yearly Law Reporter ("YLR"),
12. Gilgit Baltistan Law Reports ("GBLR").
13. Key Law Reports ("KLR").
14. Pakistan Tax and Corporate Laws ("PTCL")
15. Pakistan Company and Tax Law Reports ("PCTLR")
16. Sindh Balochistan Law Reports ("SBLR")

The ALD is published on yearly basis and is the basic source book. A young lawyer and a law student, if he chooses to search the law judgments manually should start his search by going through the ALD. The decisions are arranged subject wise under different headings in alphabetical order. From ALD you will get a head note and reference to another Law Report, where the detailed Judgment is printed. Without reading ALD, a lot of time is consumed in physically searching all the Law Journals. It is a speedy manual way of searching the case laws. Apart from contents, it provides the 'Table of Cases, Reversed, Overruled, Dissented From' and 'Comparative Tables'.

The other speedy but limited option is searching the case law on the internet such as through pakistanlawsite.com, pljlawsite.com or through any other law site. It is limited in the sense that you do not get access to certain law reports.

1.1.8.3.1- The legal Citations:

The above-mentioned Law Reports mention the following modes/styles of sample legal citations:

- 2020 SCMR 12
- PLD 2020 SC 1
- 2020 MLD 178
- 2020 CLC 157
- 2020 YLR 118

Whereas, the style of legal citation adopted by the Superior Courts of Pakistan is as follows e.g.:

Khawaja Ahmad Hassan Vs. Government of Punjab and Others,
2005 SCMR 186

Following are some of the international styles of Legal Citations,³⁸ which are used internationally for referring or citing the decisions of superior Courts:

³⁸ "Legal Citation Guides and Abbreviations", Harvard law School Library, accessed 29.05.2020, <https://guides.library.harvard.edu/legal-citation>

Chapter 1

A Lawyer and His Legal Research

1. *Blue Book: A Uniform System of Citation, 20th Edition.*
2. *ALWD Guide to Legal Citation.*
3. *The Maroon Book: The University of Chicago Manual of Legal Citation.*
4. *The Red Book: A Manual on Legal Style by Bryan Garner 4th Edition.*
5. *University Citation Guide (Harvard login)*
6. *The Indigo Book: An Open and Compatible Implementation of a Uniform System of Citation.*
7. *California Style Manual (Westlaw login)*
8. *Uniform Maine Citations*
9. *Massachusetts SJC Official Reports Style Manual.*
10. *New York Law Reports Style Manual*
11. *New York Rules of Citation*
12. *A Guide to South Carolina Legal Research and Citation*
13. *Texas Manual on Usage and Style*
14. *Wisconsin Guide to Citation*
15. *Citation and Style Manual U.S Department of Justice Tax Division*
16. *The Canadian Tax Foundation Style Guide*
17. *TaxCite: A Federal Tax Citation and Reference Manual*
18. *The Supreme Court's Style Guide*
19. *7th Circuit's Requirements and Suggestions for Typography*
20. *Federal Rules of Appellate Procedure Rule 32, Form of Briefs, Appendices, and Other Papers (Lexis login)*
21. *U.S GPO Style Manual: An Official Guide to the Form and Style of Federal Government (Harvard login)*
22. *Guide to Foreign and Legal Citations, 2nd Edition*
23. *HOLLIS Search for Legal Citation Manuals*
24. *International Citation and Research Guide: The Green Book*
25. *Australian Guide to Legal Citation*
26. *Canadian Guide to Uniform Legal Citation (McGill Guide)*
27. *Germany: Abkürzungsverzeichnis der Rechtssprache*
28. *Great Britain: Index to Legal Citations and Abbreviations*
29. *Great Britain: OSCOLA: Oxford University Standard for the Citation of Legal Authorities*
30. *India: Standard Indian Legal Citation Working Draft.*
31. *New Zealand Style Guide*
32. *Quebec References Legislatives, Jurisprudentielles et Doctrinales: Guide Pour le Droit Quebecois.*

Pakistan has not yet developed its own style of legal citation. Whereas, the lawyers and academicians of India have developed a working draft of their own style of legal citation called 'Standard Indian Legal Citation (SILC)', which can be consulted.³⁹

³⁹ "Standard Indian Legal Citation", Working Draft, accessed 29.05.2020, <http://www.cnlul.ac.in/2016/Notices/MOOTS/SILC%20Format.pdf>

Chapter 1

A Lawyer and His Legal Research

1.1.8.3.2. Pakistan Standard Style of Legal Citations:

It has been felt that for citing different references in research articles and publications our universities and colleges rely upon foreign styles of citations, which are mostly developed and updated by different foreign universities. Whereas, I have also observed that there is no legal compulsion in adopting a specific foreign style of citation in Pakistan, it totally depends upon the decision of your university or college that has required you to do the research.

Similarly, it has been observed that majority of lawyers and judges in Pakistan are unconcerned about adopting any specific style of citation. Different Law Reports/Law Journals in Pakistan use their own styles of citation.

In author's views there is a dire need to adopt our own standard style of citation to be used by the academia, the judiciary and the legal professionals.

Therefore, keeping in view the lack of standard legal citations of Pakistan, the author has proposed the following style of citation, which may be called the '**Pakistan Standard Style of Legal Citations**' ("**PSSLC**"). This **PSSLC** can be further updated from time to time.

This proposed **PSSLC** has been proposed to the Pakistan Bar Council, the Ministry of Law and Justice, the Directorate of Legal Education, the apex Courts of Pakistan, the Judicial Academies and the Higher Education Commission of Pakistan. And if **PSSLC** is adopted, it can be proposed as a new citation tool to the Microsoft to be made compatible with the current version of Microsoft Word.

1.1.8.3.2.1- Citing the decisions of apex Courts of Pakistan:

The Pakistani cases should be cited in the following manner in the footnote and the endnote:

"[Party "A" Vs. Party "B"], [the style of citation as provided in particular Law Journal]

For example:

Khawaja Ahmad Hassan Vs. Government of Punjab and Others, 2005 SCMR 186

Chapter 1

A Lawyer and His Legal Research

1.1.8.3.2.1.1- Citing the decisions of apex Courts of Pakistan in a continuous paragraph:

If the decision of apex Court is being cited in a continuous paragraph in a specific writing, i.e., *in-text*, then, it should be cited as follows:

"As per Mr. Justice [Name of honorable Judge] in [*Party "A" Vs. Party "B"*], [*the style of Citation as provided in particular Law Journal*]"

For example:

As per Mr. Jj. Javed Iqbal and Abdul Hameed Dogar in *Khawaja Ahmad Hassan Vs. Government of Punjab and Others*, 2005 SCMR 186

Or, in the following way (as the need may be):

"[*First Appellant/Petitioner's Name Vs. First Respondent's Name*], [*Year of Decision*]"

Or

"[*First Appellant's Name's Case*], [*Year of Decision*]"

For example:

"*Ahmad Hassan Vs. Government of Punjab, 2005*"

Or

"*Ahmad Hassan's Case, 2005*"

1.1.8.3.2.1.2- Citing the decision of High Courts of Pakistan approved but not yet reported and published in Law Journal:

If the Judgment of High Court is approved for reporting but not yet reported and published in the Law Report/Law Journal and if it is, at the moment of referencing, available on website of High Court, then adopt the following style of citation:

[*Type of Proceeding with Case Number*]. [*Party "A" Vs. Party "B"*], [*Date of decision*], [*Year of decision, Lahore High Court ("LHC") and Page Number*], [*Authored by Mr. Justice----*], [*available at website of the Court*], [*Date when the Judgment on the website is accessed*]

For example:

Chapter 1

A Lawyer and His Legal Research

"C.R. (Against Decree u/s 115 C.P.C.) No.212-8, *Fazal Karim Etc. Vs. Mehboob Khan*, d.15.03.2023, 2023 LHC 1297, authored by Mr. Justice Mirza Viqas Rauf, available at www.lhc.gov.pk, accessed 12.04.2023"

1.1.8.3.2.1.3- Citing the decision of High Courts of Pakistan approved but not yet reported and published in Law Report/Law Journal:

If the Judgment of Supreme Court is approved for reporting but not yet reported and published in the Law Journal/Law Report, and if it is, at the moment of referencing, available on website of Supreme Court, then adopt the following style of citation:

[Case Number], [Title of Parties], [Date of decision],[Authored by Mr. Justice----], [available at website of the Court], [Date when the Judgment on the website is accessed]

For example:

"C.P.3506/2020, *Pakistan Electronic Media Regulatory Authority (PEMRA) through its Chairman, Islamabad and another Vs. M/s ARY Communication Private Limited (ARY Digital) through its Chief Executive Officer, Karachi and another*, d.12.04.2023, authored by Mr. Justice Syed Mansoor Ali Shah, available at www.supremecourt.gov.pk, accessed 13.04.2023"

1.1.8.3.2.1.4- If a Citation is repeatedly referred in later sentences:

If a citation is repeatedly referred in later sentences in your writing then, there is no need to use the old Latin term "ibid", which is derived from "ibidem", in the footnote or endnote, instead use the following simple English words:

"As above,"

And

"As above, p.[Enter Page Number]"

For example:

"As above,p.1"

Chapter 1

A Lawyer and His Legal Research

And if a citation is repeatedly referred in later sentences in your writing and you want to use it in your continuous paragraph then, there is no need to use the old Latin term “*Supra*”, which means “above”, instead use the following simple English words:

“as earlier” or “as mentioned earlier”

And if you want to refer any other decision of apex Court, which closely relates to your referred point, then use the following words:

“See also:”

1.1.8.3.2.2- Citing the Constitution of Pakistan, Legislation, Rules, Regulations Presidential Orders, Ordinances and proposed Bills:

1.1.8.3.2.2.1- Citing the Constitution of Pakistan:

And while citing the Constitution of Pakistan, use the following style:

“[Enter Article Number], *The Constitution of Pakistan, 1973*, last amended/inserted/substituted [Enter date]”

For example:

““Article 10A, *The Constitution of Pakistan, 1973*, inserted on April 19, 2010”

And if you are citing the Constitution from internet source, then use the following style:

“[Enter Article Number], *The Constitution of Pakistan, 1973*, amended/inserted/substituted [Enter date]”, available at: [URL], [Enter dated when website is accessed]

For example:

“Article 10A, *The Constitution of Pakistan, 1973*, inserted on April 19, 2010, available at: [https://www.pakistani.org/pakistan/constitution/part2.ch1.html], accessed August 14, 2023

Chapter 1

A Lawyer and His Legal Research

1.1.8.3.2.2- Citing the Acts of Parliament and Provincial Assemblies:

While citing a particular provision of any legislation, follow the following style:

"[Section Number], [Name of Legislation], [Year of Legislation]"

Note: For quoting a single Section, use "S." and for quoting multiple Sections, use "Ss."

For example;

"S.302, Pakistan Penal Code, 1908"

and

"Ss.300, 302, Pakistan Penal Code, 1908"

1.1.8.3.2.3- Citing the Procedural Law containing Order and Rules:

Similarly for quoting the Order and Rules, use following Style:

"[Order Number], [Rule Number], [The title of procedural law with year]"

For example:

"O.1, R.10, The Code of Civil Procedure of Pakistan, 1908"

And while quoting the Rules, use the following style:

"[Rule Number], [Complete title of the Rules with year]"

For example:

"Rule 10, West Pakistan Family Court Rules, 1965"

And if you are citing the Rules from internet source, then use the following style:

Chapter 1

A Lawyer and His Legal Research

"[Rule Number], [Complete title of the Rules with year]" available at: [URL], [Enter dated when website is accessed]

For example:

"Rule 10, West Pakistan Family Court Rules, 1965 available at: [http://kpcode.kp.gov.pk/uploads/Family_Courts_Rules,_19653.pdf], accessed August 14, 2023

1.1.8.3.2.2.4- Citing the Ordinances:

While citing the Ordinances, use the following style of citation:

[Section Number], [*Title and Ordinance Number in Italics*], Promulgation on [Date of Promulgation]

For example:

S.1, *Diplomatic and Consular Officers (Oath and Fees) (Amendment) Ordinance No.XXIV of 2021*, Promulgated on October 12, 2021

And if you are citing the Ordinance from internet source, then use the following style:

"[Section Number], [*Title and Ordinance Number in Italics*], Promulgation on [Date of Promulgation], available at: [URL], [Enter dated when website is accessed]

For example:

"S.1, *Diplomatic and Consular Officers (Oath and Fees) (Amendment) Ordinance No.XXIV of 2021*, Promulgated on October 12, 2021, available at: <https://senate.gov.pk/en/ordinance.php?id=1&catid=186&subcatid=304&cattitle=Ordinances>, accessed August 14, 2023"

1.1.8.3.2.2.5- Citing the Regulations:

And while citing the Regulations, use the following style:

Chapter 1

A Lawyer and His Legal Research

"[Clause Number], [*Title of Regulation with Number and year*], notified/issued on [Date of Notification] by [Name of Organization which issued the Regulation]"

For example:

"Clause 1, *Access Promotion Regulations (S.R.O. 1006(I)/2005)*, 2005, notified on August 16th, 2005 by Pakistan Telecommunication Authority"

And if you are citing the Ordinance from internet source, then use the following style:

"[Clause Number], [*Title of Regulation with Number and year*], notified/issued on [Date of Notification] by [Name of Organization which issued the Regulation], available at: [URL], [Enter dated when website is accessed]"

For example:

"Clause 1, *Access Promotion Regulations (S.R.O. 1006(I)/2005)*, 2005, notified on August 16th, 2005 by Pakistan Telecommunication Authority, available at: <https://www.pta.gov.pk/assets/media/apc-reg-200611.pdf>, accessed August 14, 2023"

1.1.8.3.2.2.6- Citing the Orders:

While citing the Presidential Orders, use the following style:

"[Section Number], [*Title of Order with number and year in italics*], [Date of promulgation], [Date when last amended] for [Name of department for which it is issued]"

For example:

"S.1, *Distribution of Revenues and Grants-in-Aid Order (President's Order No.2)*, 1975, promulgated on June 9th, 1975, the Finance Division, Government of Pakistan."

And for example:

Chapter 1

A Lawyer and His Legal Research

"Article 129(g), *Qanun-e-Shahadat Order (No.X), 1984*," promulgated on October 28th, 1984, amended February 16th, 2017, Ministry of Law and Justice."

And if you are citing the Order from internet source, then use the following style:

"[Section Number], [*Title of Order with number and year in italics*], [Date of promulgation], [Date when last amended] for [Name of department for which it is issued], available at: [URL], [Enter dated when website is accessed]"

For example:

"Article 129(g), *Qanun-e-Shahadat Order (No.X), 1984*," promulgated on October 28th, 1984, amended February 16th, 2017, Ministry of Law and Justice, available at: <https://pakistancode.gov.pk/english/sHyuRxF?title=qanun-e-shahadat&cat=&year=1984&type=title&search=1>, accessed August 14, 2023"

1.1.8.3.2.2.7- Citing the Bills:

If a Bill is passed by Parliament, it becomes an Act and if it is still in the process, it remains a Bill. If a Bill is being cited, then use the following style:

"[Type and Title of Bill proposed with year] in [Name of Assembly], on [Date when proposed]"

For example:

"Private Members Bill, *The Wapda University, Islamabad Bill, 2023*, proposed in National Assembly of Pakistan, on August 8th, 2023."

And if you are citing the Order from internet source, then use the following style:

"[Type and Title of Bill proposed with year] in [Name of Assembly], on [Date when proposed]" available at: [URL], [Enter dated when website is accessed]"

For example:

Chapter 1

A Lawyer and His Legal Research

"Private Members Bill, *The Wapda University, Islamabad Bill, 2023*, proposed in National Assembly of Pakistan, on August 8th, 2023, available at: https://na.gov.pk/uploads/documents/64d319eb5f56e_836.pdf, accessed August 14, 2023"

1.1.8.3.2.8- If above-mentioned Citation is repeatedly referred:

If the above-mentioned Citation is repeatedly referred in your writing then, there is no need to use the old Latin term "ibidem", which is derived from "ibidem", instead use the following simple English words:

"As above,"

And

"As above, p.[Enter Page Number]"

For example:

"As above,p.1"

And if a citation is repeatedly referred in later sentences in your writing and you want to use it in your continuous paragraph then, there is no need to use the old Latin term "*Supra*", which means "above", instead use the following simple English words:

"as earlier" or "as mentioned earlier"

And if you want to refer any other decision of apex Court, which closely relates to your referred point, then use the following words:

"See also:"

1.1.8.3.2.3- Citing the references of books and e-books:

1.1.8.3.2.3.1- Citing the references of books and e-books:

While citing the reference from a book, use the following style:

Chapter 1

A Lawyer and His Legal Research

"[Name of Author], [*Title of Book in Italics*], [Edition Number], [Year of Publication], [Name of Publisher with City and Country], [Page Number.]"

For example:

"Shahzad Abid Baig, *Strengthen Your Legal Skills*, 1st Edn., 2023, [Name of Publisher with City and Country], p.134"

And if an e-book has to be cited, then use the following style:

"[Name of Author], [*Title of Book in Italics*], [Edition Number], [Year of Publication], [Name of Publisher with City and Country], [Page Number], available at [URL], [Digital Object identifier ("doi"), if any], [Date when accessed]"

For example:

"Shahzad Abid Baig, *Strengthen Your Legal Skills*, 1st Edn., 2023, [Name of Publisher with City and Country], p.134, available at <https://----->, doi -----, accessed on [Date when accessed]"

1.1.8.3.2.3.2- If above-mentioned Citation is repeatedly referred:

If the above-mentioned citation is repeatedly referred in your writing then, there is no need to use the old Latin term "ibid", which is derived from "ibidem", instead use the following simple English words:

"As above,"

And

"As above, p.[Enter Page Number]"

For example:

"As above,p.1"

Chapter 1

A Lawyer and His Legal Research

And if a citation is repeatedly referred in later sentences in your writing and you want to use it in your continuous paragraph then, there is no need to use the old Latin term “*Supra*”, which means “above”, instead use the following simple English words:

“as earlier” or “as mentioned earlier”

And if you want to refer any other decision of apex Court, which closely relates to your referred point, then use the following words:

“See also:”

1.1.8.3.2.4-Citing Articles from Journals, Newspapers and Website

1.1.8.3.2.4.1- Citing Journal Articles:

The Journal Articles may be cited in the following style:

[Author's Name], [*Title of Article*], [Title of Journal], [Volume Number], [Issue Number], [Name, address with City and Country of Publisher], [Year when Published], [Page Number]

For example

Shahzad Abid Baig, “*History of Family Laws*”, Voice of Shariah, Vol.3, Issue No.1, Students of Sharia and Law, International Islamic University, Islamabad, Pakistan, 2001, p.9

1.1.8.3.2.4.2- Citing Newspaper Articles:

The Newspaper Articles may be cited in the following style:

[Author Name], [Article Title], [*Name of Newspaper*], [Section], [Date of Publication]

For example:

Noor Ahmed, Aaliyah Tyyebi, Awais Malik, Heritage: Archiving National Memory, “*DAWN*”, Magazines, August 13, 2023,

If you are citing Newspaper Article from Internet, then use the following style:

Chapter 1

A Lawyer and His Legal Research

[Author Name], [Article Title], [“Name of Newspaper”], [Section], [Date of Publication], [Time of Publication], [URL], [date when accessed]

For example:

Noor Ahmed, Aaliyah Tyyebi, Awais Malik, Heritage: Archiving National Memory, “DAWN”, Magazines, August 13, 2023, 08:10 am, <https://www.dawn.com/news/1769912/heritage-archiving-national-memory> , accessed August 13, 2023

For example:

Noor Ahmed, Aaliyah Tyyebi, Awais Malik, Heritage: Archiving National Memory, “DAWN”, Magazines, August 13, 2023, 08:10 am

1.1.8.3.2.4.3- If above-mentioned Citation is repeatedly referred:

If the above-mentioned citation is repeatedly referred in your writing then, there is no need to use the old Latin term “ibid”, which is derived from “ibidem”, instead use the following simple English words:

“As above,”

And

“As above, p.[Enter Page Number]”

For example:

“As above,p.1”

And if a citation is repeatedly referred in later sentences in your writing and you want to use it in your continuous paragraph then, there is no need to use the old Latin term “*Supra*”, which means “above”, instead use the following simple English words:

“as earlier” or “as mentioned earlier”

Chapter 1

A Lawyer and His Legal Research

And if you want to refer any other decision of apex Court, which closely relates to your referred point, then use the following words:

"See also:"

1.1.8.3.2.5- Arranging the Footnotes and Bibliography:

1.1.8.3.2.5.1- Arranging the Footnotes:

The Footnotes are to be arranged in the following style:

1. *Khawaja Ahmad Hassan Vs. Government of Punjab and Others*, 2005 SCMR 186
2. As above.
3. As above. P.187
4. C.R. (Against Decree u/s 115 C.P.C.) No.212-8, *Fazal Karim Etc. Vs. Mehboob Khan*, d.15.03.2023, 2023 LHC 1297, authored by Mr. Justice Mirza Viqas Rauf, available at www.lhc.gov.pk, accessed 12.04.2023
5. Noor Ahmed, Aaliyah Tyyebi, Awais Malik, Heritage: Archiving National Memory, "DAWN", Magazines, August 13, 2023, 08:10 am, <https://www.dawn.com/news/1769912/heritage-archiving-national-memory>, accessed August 13, 2023

1.1.8.3.2.5.2- Arranging the Bibliography:

The Bibliography to be arranged in the following style:

Khawaja Ahmad Hassan Vs. Government of Punjab and Others,
2005 SCMR 186

C.R. (Against Decree u/s 115 C.P.C.) No.212-8, *Fazal Karim Etc. Vs. Mehboob Khan*, d.15.03.2023, 2023 LHC 1297, authored by Mr. Justice Mirza Viqas Rauf, available at www.lhc.gov.pk,

Noor Ahmed, Aaliyah Tyyebi, Awais Malik, Heritage: Archiving National Memory, "DAWN", Magazines, August 13, 2023, 08:10 am, <https://www.dawn.com/news/1769912/heritage-archiving-national-memory>,

1.1.8.4- Customary Law:

Before the emergence of legislation in Indo-Pakistan, the adjudication of disputes was done under the Customary Laws. Every region, every tribe, every village had its own custom to deal with different affairs. Sir William Henry Rattigan, K.C., LL.D. was a British Judge and later a Liberal Unionist MP for North East Lanarkshire. He was born in Delhi, India. He received his early

Chapter 1

A Lawyer and His Legal Research

education from High School, Agra, Kings College London and from Lincoln's Inn and later Doctorate of Laws (LL.D) from University of Göttingen. He served as a Judge of Chief Court of Punjab. He was Vice Chancellor of Punjab University. He was also additional member of Supreme Legislative Council of India from 1898-99.⁴⁰ In 1900's he moved back to United Kingdom.

He was author of a number of famous research based books. And one of his marvelous book was the "*Digest of Customary Law for Punjab*" firstly published on 05.09.1880 and later revised by Om Parkash Aggarwala with a forward by Dr. Bakshi Tek Chand, Former Judge of Lahore High Court. Rattigan's vast exposure of India, Indian tribes and his vast experience as a Judge lead to this marvelous book, which is guiding the generations to come. This book is considered as a "*book of unquestioned authority in the Punjab*" by the Privy Council. It is an authentic source of Customary Law of the region. We often resort to this book to know the Customs of our own region.

Every agricultural tribe in particular and every tribe in general in Indo-Pakistan has رواج علم "*Riwaj-e-Aam*" i.e., the Custom for the performance of different acts and deeds and their day to day affairs in the village. According to AIR 1951 Simla 239, where a Custom has been repeatedly brought to the notice of the Court and has been recognized by it regularly in a series of judicial decisions, extending over a very long period of time, such Custom attains the force of law and it is no longer necessary to prove it in each individual case. That is why, few decades ago, such judicially recognized Custom was considered as a best source of law where even judicial discretion could not be exercised. However, with the passage of time, this best source of law is no more of such status.

The book has following 15 Chapters:

- Ch.I.- The essentials and proof of a valid Custom.
- Ch.II.- Succession and Maintenance.
- Ch.III.- Appointment of an Heir.
- Ch.IV.- Alienation.
- Ch.V.- Marriage, Divorce and Dower.
- Ch.VI.- Religious Institutions and Waqf Property.
- Ch.VII.- Pre-Emption.
- Ch.VIII.- Land Law and Tenures.
- Ch.IX.- Tenant Right.
- Ch.X.- Village Common Land.
- Ch.XI.- Absentees.
- Ch.XII.- Village Cesses.
- Ch.XIII.- Alluvion and Diluvion.
- Ch.XIV.- Mercantile Usages.
- Ch.XV.- Special Property of Females.

⁴⁰ https://en.wikipedia.org/w/index.php?title=William_Henry_Rattigan&oldid=1128107103, (accessed on 26.03.2023)

Chapter 1

A Lawyer and His Legal Research

Different Settlement Officers appointed by the British in Indo-Pakistan have also written different Codes of Tribal Customs of different districts of Indo-Pakistan. One of such Codes is the "*General Code of Tribal Custom in the Jhelum District*" written by F.N. Thapar, Esquire, C.I.E., I.C.S., Settlement Officer, published by Superintendent Government Printing, Lahore, Punjab in 1916.

This "General Code" has following 8 Sections:

- Section I Family and Tribal Connections.
- Section II- Betrothal.
- Section III- Marriage, Divorce and Dower.
- Section IV- Guardianship and Minority.
- Section V- Succession.
- Section VI- Adoption or appointment of an heir.
- Section VII- Wills and Legacies.
- Section VIII- Gifts.

We observe that majority of subjects mentioned above have, now a days, a special legislation prevailing upon the Customary Law. After the promulgation of such legislation, a customary practice, in order to become a binding source of law, requires a tough examination and adjudication by the Courts. A Custom, in order to become a law, must pass through the hard tests of antiquity, continuity, reasonableness and that it is in conformity with a statute law.

Since, the origin of Customary Laws in the sub-continent was based upon the inherited traditions of different communities and their usages in their specific areas, therefore, such continuous practices became their unwritten traditional laws better known as Customary Laws. The British, initially studied them, followed them, and developed Courts to administer such disputes based upon the Customary Laws of different communities. Later Article 13(3)(a) of the Indian Constitution started treating the Custom and Usage as a source of law along with others and under Section 57 of the Indian Evidence Act 1872, its judicial notice can be taken by Courts in India. Similarly, Article 8(1) in Chapter No.1 of Fundamental Rights in the Constitution of Pakistan, 1973, it has been mentioned that "*any law, or any usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void*". And Article 203B(c) in Chapter No.3A with respect to the Federal Shariat Court has included the Custom in the definition of law.

And one of the most important law, which is almost daily quoted in Civil Courts of Pakistan as a separate independent source of Customary Law, and sometimes, in order to supplement different Statutes, is the marvelous work of Sir. Dinshah Fardunji Mulla, ("D.F. Mullah"), i.e., the '*Principles of Mahomedan Law*'. Its Fourteenth Edition is by Sir Syed Sultan Ahmed, K.C.S.I., D.L, Barrister-at-Law of Gray's Inn, Judge of High Court of Patna, published by Eastern Law House, Calcutta, Ltd., in 1955. This law is not a codified law. It is a compilation

Chapter 1

A Lawyer and His Legal Research

of Islamic Law derived from different sources. It is *inter alia* divided in to nineteen Chapters. Following is its Table of Contents:

- Preface,
- Introduction,
- Imams of the Shias,
- Table of Cases,
- List of Books referred to,
- Chapter I. - Introduction of Mahomedan Law into India,
- Chapter II. – Conversion to Mahomedanism,
- Chapter III. – Mahomedan Sects and Sub-sects,
- Chapter IV. – Sources and Interpretation of Mahomedan Law,
- Chapter V. – Succession and Administraion,
- Chapter VI. – Inheritance – General Rules,
- Chapter VII. – Hanafi Law of Inheritance,
- Chapter VIII. – Shia Law of Inheritance,
- Chapter IX. – Wills,
- Chapter X. – Death-bed Gifts and Acknowledgments,
- Chapter XI. – Gifts,
- Chapter XII. – Wakfs,
- Chapter XIII. – Pre-emption,
- Chapter XIV. – A – Marriage,
B. – Maintenance of Wives,
C. – Judicial Proceedings,
- Chapter XV.- Dower,
- Chapter XVI. – Divorce,
- Chapter XVII. – Parentage, Legitimacy and Acknowledgment,
- Chapter XVIII. – Guardianship of Persons and Property,
- Chapter XIX. – Maintenance of Relatives,
- Appendix,
- General Index

In past, the Customary Law was taken the aid of, in majority cases, in inheritance disputes. However, by the promulgation of Muslim Personal Laws, the Customary Laws, slowly and gradually lost their importance. And finally by the promulgation of Muslim Personal Law (Shariat Application) Act, 1962 the Customary Law was no longer regarded as a separate source of law, as all the legal disputes had to be resolved under the Islamic Laws. However, the other side of the coin is that, it still exists as a law under Article 8(1) and Article 203B(c) in our Constitution.

1.1.8.5- Law Lexicons, Dictionaries, Legal Maxims:

When I graduated in law from International Islamic University Islamabad (IIUI), my father once took me to his library and pointed out towards an old weathered book in the book shelf and asked me to bring it to him, I did that so. He took that weathered book in his hand and with a smile on his face and a shine in his watery eyes, he told me:

Chapter 1

A Lawyer and His Legal Research

"Son, this is an English Dictionary of ----- . It was gifted to me by my maternal uncle as back as 1945. He had told me to keep it and read it. I have kept this book throughout my life and this book has helped me throughout my education and my professional career. I have kept it for the last ---- years in book shelf closest to my seat, and I give you this Dictionary, as it will help you and will guide you throughout your career."

He told me further:

"This [dictionary] was my teacher, and it will be your teacher."

And later, he gifted me certain more dictionaries of English, Urdu, Persian and Arabic. And I am highly thankful to him that these dictionaries boosted me both academically, professionally and increased my confidence in myself.

It is advised that whenever one comes across a novel term, one should open the dictionary or law lexicons first and try to find out its meaning. It is the primary source of information. Different dictionaries and law lexicons are available worldwide e.g., Osborn's Concise Law Dictionary, Oxford English Dictionary, Mariam Webster's Dictionary, Macmillan English Dictionary, Macquarie Dictionary, Cambridge English Dictionary, Wikipedia's Wiktionary, and many others. The law lexicon means legal dictionaries, which are not only available in printed forms but are also available online.

Legal Maxims are the maxims which have originated in different cases and different adjudications throughout the history and have gradually become the accepted legal principles and accepted legal doctrines. These legal principles or legal doctrines with the passage of time became the law themselves. Hence, an understanding of the same is *sine qua non* for becoming a good lawyer. These Legal Maxims are mostly the Roman Legal Maxims and later Islamic Legal Maxims called *Qawaid-ul-Fiqhi*. And for *Qawaid-ul-Fiqhi*, I recommend that lawyers should read the book "*Majjala Ahkam al Adaliya*." It was basically an Ottoman's Court's Manual

1.1.8.6- How to use the Legal Maxims in Written and Oral Arguments:

Both Roman and Islamic Legal Maxims are in languages which are considered foreign languages and for most of the subjects are difficult to comprehend. Most of the subjects resort to dictionaries or Law Lexicons to understand their meanings. Even when you quote their original text before the subordinate judiciary, in most of the situations, it is also difficult for them to comprehend their meanings immediately, unless you let them know their translation and the jurisprudence of that maxim.

Such legal maxims can be used as supportive argument, just to add some more flavor to your argument. During the course of oral arguments, you can take the aid of such maxims at the opening statement of your arguments. And if you are presenting the written arguments, you should mention these maxims with their translations at the relevant places to support your argument. However, you should give preference to those legal maxims,

Chapter 1

A Lawyer and His Legal Research

which are used, discussed and elaborated by the apex Courts of Pakistan in different Judgments.

1.1.8.7- Law Journals, Law Reviews and Impact Factor:

These Law Journals and Law Reviews should not be confused with the Law Reports covering the Precedents. They are the best secondary source of legal research. In the **LR-Method** they should also be considered an important source as they contain up to date theoretical and practical aspects of the law, latest academic legal research articles and they open the new venues in the universe of law.

In Pakistan, *inter alia*, we have the following well known Law Reviews and Law Journals:

1. Islamabad Law Review, A Journal of Faculty of Shariah and Law, published by International Islamic University, Islamabad,⁴¹
2. Pakistan Law Review published by Pakistan Centre for Legal Research and Publication (PCLRP), Pakistan College of Law,⁴²
3. Themis Law Journal published by Themis School of Law,⁴³
4. Journal of Law and Society, published by University of Peshawar,⁴⁴
5. RSIL Law Review, published by Research Society of International Law,⁴⁵

Academic researchers generally prefer their publications in those Reviews and Journals which have a good 'Impact Factor'.

An 'Impact Factor' is:

*"a measure of the frequency with which the average article in a journal has been cited in a particular year. It is used to measure the importance or rank of a journal by calculating the times its' articles are cited."*⁴⁶

⁴¹ 'Islamabad Law Review', International Islamic University, Islamabad, accessed 03.07.2020, https://www.iiu.edu.pk/?page_id=15832

⁴² 'Pakistan Law Review', Pakistan Centre for Legal Research and Publication (PCLRP), Pakistan College of Law, accessed 03.07.2020, <https://pakistanlawreview.com/>

⁴³ 'Themis Law Journal', Themis School of Law, accessed 03.07.2020, <https://www.themis.com.pk/lawjournal.php>

⁴⁴ 'Journal of Law and Society', University of Peshawar, accessed 03.07.2020, http://journals.uop.edu.pk/journal_detail.php?journal_id=19

⁴⁵ 'RSIL Law Review', Research Society of International Law, accessed 03.07.2020, <https://rsilpak.org/lawreview/>

⁴⁶ "Measuring Your Impact: Impact Factor, Citation Analysis, and other Metrics: Journal Impact Factor (IF)", University of Illinois at Chicago, accessed 28.05.2020, <https://researchguides.uic.edu/if/impact>

Chapter 1

A Lawyer and His Legal Research

"The calculation is based on a two year period and involves dividing the number of times articles were cited by the number of articles that are citable."⁴⁷

Citation has been defined and expressed in the following words in an article published on 18th, May, 2017 on the website of 'plagiarism.org':

"A "citation is the way you tell your readers that certain material in your work came from another source. It also gives your readers the information necessary to find that source again, including:

- *the information about the author*
- *the title of the work*
- *the name and location of the company that published your copy of the source*
- *the date your copy was published*
- *the page numbers of the material you are borrowing."⁴⁸*

In routine practice in Pakistan, we often hear lawyers use the word 'citation' for reported judgments of superior courts, which, actually means the mode of referring certain reported judgment of certain superior court from certain Law Reports as mentioned above.

And for research writers the term 'Citation' is not a simple term but actually it is a most important set of rules for citing the references of the sources of their information, which is used in their research writings in order to make their research writings more genuine and in order to give credit to those who firstly originated that particular source.

The following are the popular styles of Citations:

- American Psychological Association ("APA") Referencing Style.⁴⁹
- Chicago Manual of Style (CMOS).⁵⁰
- Modern Language Association (MLA) Style.⁵¹
- Institute of Electrical and Electronics Engineers (IEEE) Style.⁵²
- Counsel of Science Editors (CSE) Style.⁵³

⁴⁷ Ibid.

⁴⁸ Article "What is Citation?", p.org, accessed 28.05.2020, <https://www.plagiarism.org/article/what-is-citation>

⁴⁹ "APA Style", American Psychological Association, accessed 26.05.2020, <https://apastyle.apa.org/>

⁵⁰ "The Chicago Manual of Style Online", The University of Chicago, accessed 01.06.2020, <https://www.chicagomanualofstyle.org/home.html>

⁵¹ "MLA In-Text Citations: Basics", Purdue Online Writing Lab, College of Liberal Arts, Purdue University, accessed 02.06.2020, https://owl.purdue.edu/owl/research_and_citation/mla_style/mla_formatting_and_style_guide/mla_in_text_citations_the_basics.html#:~:text=In%2Dtext%20citations%3A%20Author%2D,on%20your%20Works%20Cited%20page.

⁵² "IEEE Reference Guide", published by IEEE Periodicals, Transactions/Journals Department 445 House Lane, Piscataway, NJ, 08854 USA, V 11.12.2018, available at IEEE Author Center, accessed 02.06.2020, <https://ieeauthorcenter.ieee.org/wp-content/uploads/IEEE-Reference-Guide.pdf>

⁵³ "CSE (Council of science Editors) Style Guide: Home", Hickman-Johnson-Furrow Learning Center, Morningside College, accessed 02.06.2020, <https://morningside.libguides.com/CSE>

Chapter 1

A Lawyer and His Legal Research

The Journal Citations Report (JCR) is published annually, which provides the list of Journals with Impact Factors. It is important for young lawyers and law students to note down the list of such Law Journals which have a higher Impact Factor as their research publication in Impact Factor Law Journals will matter a lot for their bright career. The current list may be searched from JCR Source. However, from JCR 2018 the Law Journals with their Impact Factors were mentioned by University of Management and Technology (UMT), which list is given below:⁵⁴

Rank	Full Journal Title	Journal Impact Factor
1	<i>University of Pennsylvania Law Review</i>	5.231
2	<i>Yale Law Journal</i>	5.000
3	<i>Harvard Law Review</i>	4.680
4	<i>Common Market Law Review</i>	3.918
5	<i>Stanford Law Review</i>	3.825
6	<i>European Journal of Psychology Applied To The Legal Context</i>	3.682
7	<i>Georgetown Law Journal</i>	3.472
8	<i>California Law Review</i>	3.329
9	<i>Michigan Law Review</i>	3.167
10	<i>Regulation & Governance</i>	2.792
11	<i>Law and Human Behavior</i>	2.780
12	<i>Virginia Law Review</i>	2.578
13	<i>Texas Law Review</i>	2.528
14	<i>Journal of Law and the Biosciences</i>	2.431
15	<i>University of Chicago Law Review</i>	2.426
16	<i>Annual Review of Law and Social Science</i>	2.360
17	<i>Journal of Environmental Law</i>	2.313
18	<i>International Environmental Agreements, Politics Law and Economics</i>	2.312
19	<i>Duke Law Journal</i>	2.301
20	<i>UCLA Law Review</i>	2.245
21	<i>Columbia Law Review</i>	2.224
22	<i>Psychology Public Policy and Law</i>	2.219
23	<i>Harvard International Law Journal</i>	2.190
24	<i>Review of European Comparative & International Environmental Law</i>	2.125
25	<i>Journal of Legal Analysis</i>	1.941
26	<i>New York University Law Review</i>	1.900
27	<i>Journal of the American Academy of Psychiatry and the law</i>	1.885
28	<i>European Constitutional Law Review</i>	1.836
28	<i>Southern California Law Review</i>	1.836
30	<i>International & comparative Law Quarterly</i>	1.815
31	<i>European Journal of International Law</i>	1.810
32	<i>Yale Journal on Regulation</i>	1.767
33	<i>Legal and Criminal Psychology</i>	1.764
34	<i>Journal of Legal Studies</i>	1.763

⁵⁴ "Impact Factor Journals (Law and Policy) JCR 2018, Learning Resource Center, University of Management and Technology, accessed 02.06.2020, [https://library.umt.edu.pk/Law-and-Policy/Journals-\(LP\)/Impact-Factor-Journals.aspx](https://library.umt.edu.pk/Law-and-Policy/Journals-(LP)/Impact-Factor-Journals.aspx)

Chapter 1

A Lawyer and His Legal Research

35	<i>Administrative Law Review</i>	1.758
35	<i>Transnational Environmental Law</i>	1.758
37	<i>European Law Journal</i>	1.739
38	<i>Vanderbilt Law Review</i>	1.735
39	<i>Cornell Law Review</i>	1.729
40	<i>American Journal of International Law</i>	1.696
41	<i>Harvard Civil Rights-Civil Liberties Law Review</i>	1.679
42	<i>Journal of International Dispute Settlement</i>	1.638
43	<i>Journal of International Economic Law</i>	1.617
44	<i>Minnesota Law Review</i>	1.611
45	<i>Law & Society Review</i>	1.604
46	<i>Medical Law Review</i>	1.577
47	<i>Cambridge Law Journal</i>	1.568
48	<i>Computer Law & Security Review</i>	1.552
49	<i>Law and Social Inquiry-Journal of the American Bar Foundation</i>	1.507
50	<i>Northwestern University Law Review</i>	1.494
51	<i>International Journal of Transitional Justice</i>	1.482
52	<i>Psychology Crime & Law</i>	1.460
53	<i>Law & Policy</i>	1.457
54	<i>Boston University Law Review</i>	1.436
55	<i>Journal of Empirical Legal Studies</i>	1.389
56	<i>Modern Law Review</i>	1.361
57	<i>George Washington Law Review</i>	1.356
58	<i>Journal of Law Economics & Organization</i>	1.304
59	<i>ICSID Review-Foreign Investment Law Journal</i>	1.297
60	<i>Chinese Journal of International Law</i>	1.267
61	<i>Feminist Legal Studies</i>	1.214
62	<i>Melbourne University Law Review</i>	1.207
63	<i>Revista Espanola de derecho Constitucional</i>	1.200
64	<i>Journal of Criminal Law & Criminology</i>	1.194
65	<i>International Journal of Law and Psychiatry</i>	1.191
66	<i>Social & Legal Studies</i>	1.190
67	<i>Journal of Law & Economics</i>	1.185
68	<i>Human Rights Law Review</i>	1.175
69	<i>Leiden Journal of International Law</i>	1.159
70	<i>Neitherlands Quarterly of Human Rights</i>	1.120
71	<i>Iowa Law Review</i>	1.108
72	<i>American Bankruptcy Law Journal</i>	1.088
72	<i>World Trade Review</i>	1.088
74	<i>Journal of Law & Society</i>	1.086
75	<i>Oxford Journal of Legal Studies</i>	1.083
75	<i>Wisconsin Law Review</i>	1.083
77	<i>European Journal of Migration & Law</i>	1.057
78	<i>Notre Dam Law Review</i>	1.027
79	<i>Ocean Development and International Law</i>	1.026
80	<i>Stanford Journal of International Law</i>	1.000
80	<i>Washington Quarterly</i>	1.000
82	<i>Journal of International Criminal Justice</i>	0.990
83	<i>Icon-International Journal of Constitutional Law</i>	0.978
84	<i>Legal Studies</i>	0.935
85	<i>Current Legal Problems</i>	0.917
86	<i>European Law Review</i>	0.914

Chapter 1

A Lawyer and His Legal Research

86	<i>Hague Journal on the Rule of Law</i>	0.914
88	<i>Northwestern Journal of International Law & Business</i>	0.897
90	<i>International Journal of Law & Crime</i>	0.846
	<i>Indiana Law Journal</i>	0.835
91	<i>Journal of World Trade</i>	0.835
93	<i>American Law and Economics Review</i>	0.828
94	<i>Law Probability & Risk</i>	0.821
95	<i>Columbia Journal of Transnational Law</i>	0.793
96	<i>American Journal of Comparative Law</i>	0.792
97	<i>American Business Law Journal</i>	0.786
98	<i>Supreme Court Review</i>	0.778
99	<i>Journal of Legal Medicine</i>	0.769
100	<i>International Journal of Law Police and the Family</i>	0.765
101	<i>American Journal of Law & Medicine</i>	0.762
102	<i>Psychiatry Psychology and Law</i>	0.744
103	<i>Journal of Law Medicine & Ethics</i>	0.734
104	<i>Fordham Law Review</i>	0.685
105	<i>Behavioural Sciences & the Law</i>	0.682
106	<i>European Business Organization Law Review</i>	0.673
107	<i>International review of Law and Economics</i>	0.627
108	<i>Journal of Legal Education</i>	0.651
109	<i>Harvard Journal of Law and Public Policy</i>	0.646
110	<i>European Journal of Law and Economics</i>	0.645
111	<i>Ecology Law Quarterly</i>	0.636
112	<i>Journal of Competition Law & Economics</i>	0.627
113	<i>Food and Drug Law Journal</i>	0.619
114	<i>Natural Resources Journal</i>	0.615
115	<i>Law and History Review</i>	0.614
116	<i>International Journal of Marine and Coastal Law</i>	0.600
116	<i>University of Illinois Law Review</i>	0.600
118	<i>University of Pennsylvania Journal of International Law</i>	0.590
119	<i>Law and Philosophy</i>	0.542
119	<i>Review of Central and East European Law</i>	0.542
119	<i>South African Journal on Human Rights</i>	0.542
122	<i>Medicine Science and the Law</i>	0.532
123	<i>Hastings Law Journal</i>	0.531
124	<i>Danver Law Review</i>	0.525
125	<i>Journal of World Energy Law & Business</i>	0.516
126	<i>American Criminal Law Review</i>	0.512
127	<i>Juvenile and Family Court Journal</i>	0.467
128	<i>Asian Journal of WTO & International Health Law and Policy</i>	0.433
129	<i>Anuario de Psicologia Juridica</i>	0.429
129	<i>Justice System Journal</i>	0.429
131	<i>Asia Pacific Law Review</i>	0.400
132	<i>International Review of the Red Cross</i>	0.366
133	<i>Buffalo Law Review</i>	0.356
134	<i>Catholic University Law Review</i>	0.324
135	<i>Columbia Journal of Law and Social Problems</i>	0.323
136	<i>Queen Mary Journal of Intellectual Property</i>	0.314
137	<i>University of Cincinnati Law Review</i>	0.241

Chapter 1

A Lawyer and His Legal Research

138	<i>Hong Kong Law Journal</i>	0.211
139	<i>International Insolvency Review</i>	0.208
139	<i>Rutgers University Law Review</i>	0.208
141	<i>Tijdschrift Voor Rechtsgeschieddenis-Revue d histoire du droit-the legal history review</i>	0.171
142	<i>Revista Chilena de derecho</i>	0.167
143	<i>Law Library Journal</i>	0.151
144	<i>University of Pittsburgh Law Review</i>	0.208
145	<i>Journal of African Law</i>	0.146
146	<i>Journal of Copyright Society of the USA</i>	0.133
147	<i>Issues in Law & Medicine</i>	0.104
148	<i>Securities Regulation Law Journal</i>	0.000

1.1.8.8- Treatises:

Another most important secondary source of legal research in **LR-Method** is the 'Treatises.' Treatises means:

1. "A formal piece of writing that deals with a particular subject."⁵⁵
2. "A long and serious piece of writing on a particular subject."⁵⁶

A law is codified and is made available through publications in the official gazettes, websites Pakistan Code and is also made available through Law Reports and in the form of Bare Acts. This publication of laws is without their commentaries.

As soon as the law is discussed, applied and interpreted by the Superior Courts of Pakistan, the case laws and Precedents are developed. These case laws shape the style of interpretation of that particular law. The academic lawyers and even the active lawyers start writing their commentaries on these laws. These commentaries are also very good source of legal research and are often traded in the market in the name of different authors. They actually expound the particular provisions of law through the case law and are helpful for lawyers and judges to easily interpret and apply the law to their particular situation of facts. The case laws mentioned therein should not be blindly relied. They must be counterchecked from their original publications in the Law Reports.

Research oriented articles and research papers are also important secondary sources. Legal research has no limit. Academic researchers are the creators of different new venues of laws through their research writings. These help in the reformation of legal knowledge.

⁵⁵ "Treatise", Cambridge Dictionary, accessed 02.06.2020, <https://dictionary.cambridge.org/dictionary/english/treatise>

⁵⁶ "Treatise", Oxford Learner's Dictionary, accessed 29.05.2020, <https://www.oxfordlearnersdictionaries.com/definition/english/treatise>

Chapter 1

A Lawyer and His Legal Research

Comparative study is always good for better understanding of the law. In certain jurisdictions, the Comparative Law is studied as a regular subject. Study of Comparative Law is important when you come across a situation where laws are conflicting with each other. This topic is also taught as a subject of Conflict of Laws.

Through comparative study you study the differences and similarities between different legal systems of different countries.

No specific methodology can be adopted for comparative research and knowledge. However, one has to be specific in comparing only those things which are vaguely answered in the Statutes and the case laws. Comparative knowledge is also good in situations where the law in action is different from law in the books.

1.1.8.9- Jurisprudential Theories:

During the litigation, sometimes, stretching upon too much philosophy of law does not work, unless you are before a High Court or before Supreme Court and the *ratio decidendi* involves a philosophical and jurisprudential approach. In my view, in a country, whose law is codified through different legislations, the Jurisprudence is important before or at the time of legislative drafting, and once the legislature, after due deliberations enacts a legislation, then the provisions of such legislation have precedence over the philosophy or jurisprudence of law, because, in fact, it is the jurisprudence, that has given birth to a legislation and 'a legislation cannot give birth to a Jurisprudence.'

Jurisprudence means the knowledge of the law. Jurisprudence is in fact the basis of the law. But after the codification of laws, the theories of Jurisprudence are practically given lesser importance in courts than the above-mentioned sources of law.

In fact, in reality, Jurisprudence is a factory of law where not only the new philosophy is converted into a latest theory of law but this theoretical aspect of the law is polished by the commentaries made by different jurists with the passage of time. This theoretical source of law cannot be ignored altogether because sometimes these philosophical debates on law are helpful for the state to draft and codify a new law.

We have often seen that when a law is interpreted by courts, it is analyzed, discussed and expounded by different judgments, which gives rise to different debates among the jurists and may result in the amendment or even annulment of the law.

With the passage of time these Jurisprudential debates have given birth to different kinds of theories of law. And it can be easily said that the Jurisprudence is still evolving.

Chapter 1

A Lawyer and His Legal Research

As per Mr. Justice Babar Sattar in “*Shahab Saqib through attorney Vs Sadaf Rasheed and 2 others*” reported as PLD 2023 Islamabad 34:

“Jurisprudence and principle of law can be used as a tool for interpretation of statutes where text of statute in view of its plain meaning can be accorded more than one interpretation—if language of statute unequivocally conveys intent of law, no external source of law can be employed to read into that statute—jurisprudence and principle of law do not trump the principle of casus omissus—court cannot supply to a statute language that is not provided therein.” [Emphasis added]

1.1.8.10- Technological Sources of legal research:

There are following main sources of research by using technology:

- 1- Simple search through search engines,
- 2- Search through research websites,
- 3- Search through law sites and court's websites,
- 4- Search through digital libraries,
- 5- 'Digital Object Identifier' (DOI), its use in research and impact of 'International Standards Organization' (ISO) Standard 26324 on research,
- 6- ChatGPT.

1.1.8.10.1- Research through Search Engines:

Search Engines use the 'Web Crawlers' and whenever you enter a specific word to search on the Search Engine, its 'Web Crawlers' crawl upon hundreds and billions of pages and navigate around to group together the most relevant search results. The 'Web Crawlers' are computer programs that are also known as 'Bots' or 'Web Spiders'.

There are many Search Engines available on the Internet including the following:

- a. Google,
- b. Bing,
- c. Yahoo,
- d. Yandex,
- e. DuckDuckGo,
- f. Baidu,
- g. Ask.com,
- h. Naver.

Whatever you search on these Search Engines is preserved on the Internet and is used by the advertisers and other third parties for different purposes. Your every input leaves behind a data containing your trace. And that data is used in multiple ways.

1.1.8.10.2- Research through Research Websites:

Chapter 1

A Lawyer and His Legal Research

Most of the digital research oriented content is available on the Research Websites. The academic researchers also search for the resources for their research on these Research Websites. There are, *inter alia*, following main Research Websites:

1. Zesty – Academic Research Site,⁵⁷
2. Research Square – Scholarly article's Website,⁵⁸
3. Google Scholar,⁵⁹
4. Research Gate,⁶⁰
5. JSTOR,⁶¹
6. Wikipedia, The Free Encyclopedia,⁶²
7. Library of Congress,⁶³
8. Pubmed Search,⁶⁴
9. Microsoft Academic,⁶⁵
10. Core,⁶⁶
11. Wolfram Alpha,⁶⁷
12. CiteSeerX,⁶⁸
13. Science Daily,⁶⁹
14. Project Gutenberg,⁷⁰
15. Ref Seek,⁷¹
16. Google Books,⁷²
17. Encyclopedia of Life,⁷³
18. ERIC – Education Research Information Centre,⁷⁴

⁵⁷ "Your Online Library", Zesty – Academic Research Site, <https://zesty.io/> (accessed July 3, 2023)

⁵⁸ "Share early. Improve your manuscript. Make an Impact", research Square, <https://www.researchsquare.com/> (accessed July 03, 2023)

⁵⁹ "Google Scholar", Google, <https://scholar.google.com/> (accessed July 03, 2023)

⁶⁰ "Gates Open Research", Bill & Melinda Gates Foundation, <https://gatesopenresearch.org/> (accessed July 03, 2023)

⁶¹ "Explore the world's knowledge, cultures, and ideas", JSTOR, <https://www.jstor.org/> (accessed July 03, 2023)

⁶² "Wikipedia The Free Encyclopedia", Wikimedia Foundation, <https://www.wikipedia.org/> (accessed July 03, 2023)

⁶³ "Library of Congress", Congress.gov, <https://www.loc.gov/> (accessed July 03, 2023)

⁶⁴ "National Library of Medicine", National Centre for Biotechnology Information, USA.gov, <https://pubmed.ncbi.nlm.nih.gov/> (accessed July 03, 2023)

⁶⁵ "Microsoft Academic", Microsoft Inc., <https://www.microsoft.com/en-us/research/project/academic/> (accessed July 03, 2023)

⁶⁶ "The world's largest access of open access research papers", The Open University and Jisco, <https://core.ac.uk/> (accessed July 03, 2023)

⁶⁷ "WolframAlpha Computational intelligence", Wolfram Alpha LLC, <https://www.wolframalpha.com/> (accessed July 03, 2023)

⁶⁸ "CiteSeerX", PennState College of Information Sciences and Technology, <https://citeseerx.ist.psu.edu/> (accessed July 03, 2023)

⁶⁹ "ScienceDaily – Your source for the latest research news", Science Daily, <https://www.sciencedaily.com/> (accessed July 03, 2023)

⁷⁰ "Project Gutenberg", Project Gutenberg Literary Archive Foundation, <https://www.gutenberg.org/> (accessed July 03, 2023)

⁷¹ "refseek", RefSeek, <https://www.refseek.com/> (accessed July 03, 2023)

⁷² "Google Books", Google, <https://books.google.com/> (accessed July 03, 2023)

⁷³ "eol – Encyclopedia of Life", National Museum of Natural History, <https://eol.org/> (accessed July 03, 2023)

⁷⁴ "ERIC – Education Resources Information Centre", Institute of Education Sciences, <https://eric.ed.gov/> (accessed July 03, 2023)

Chapter 1

A Lawyer and His Legal Research

19. Coursera,⁷⁵
20. BioMED Central,⁷⁶
21. National Bureau of Economic Research,⁷⁷
22. ELSEVIER,⁷⁸
23. edX,⁷⁹
24. Academic Earth,⁸⁰

Following are few important legal research websites of rest of the world:

1. Westlaw,⁸¹
2. Bloomberg Law,⁸²
3. Fastcase,⁸³
4. JUSTIA⁸⁴
5. Legal information Institute,⁸⁵
6. Casetext,⁸⁶
7. Citorator,⁸⁷
8. United States Code,⁸⁸

Following are some important legal research websites of Pakistan:

1. RSIL Law Review,⁸⁹
2. Pakistan Law Site,⁹⁰
3. Legal Search,⁹¹

⁷⁵ "Learn without limits", Coursera Inc., <https://www.coursera.org/> (accessed July 03, 2023)

⁷⁶ "BMC, research in progress", BioMed Central Ltd, <https://www.biomedcentral.com/> (accessed July 03, 2023)

⁷⁷ "NBER National Bureau of Economic Research – Conducting and disseminating nonpartisan economic research", National Bureau of Economic Research, <https://www.nber.org/> (accessed July 03, 2023)

⁷⁸ "Open access information for journal authors", Elsevier, <https://www.elsevier.com/> (accessed July 03, 2023)

⁷⁹ "Fuel your ambition", edX 2U Company, <https://www.edx.org/> (accessed July 03, 2023)

⁸⁰ "Rethink Education", Academic Earth, <https://academicearth.org/> (accessed July 03, 2023)

⁸¹ "Westlaw – Legal research Tools", Thomson Reuters, <https://legal.thomsonreuters.com/en/westlaw> (accessed July 03, 2023)

⁸² "Bloomberg Law", Bloomberg Industry Group Inc., <https://www.bloomberglaw.com/login> (accessed July 03, 2023)

⁸³ "Evolve with smart legal software", Fastcase Inc., <https://www.fastcase.com/> (accessed July 03, 2023)

⁸⁴ "Justia", <https://www.justia.com/> (accessed July 03, 2023)

⁸⁵ "LII – Legal Information Institute", Cornell law School, <https://www.law.cornell.edu/> (accessed July 03, 2023)

⁸⁶ "Meet your new AI legal assistant", Casetext Inc., <https://casetext.com/> (accessed July 03, 2023)

⁸⁷ "Finding Case Law- Sources and strategies for finding case law about a topic", The University of Chicago Library, <https://guides.lib.uchicago.edu/c.php?q=620002&p=4435034> (accessed July 03, 2023)

⁸⁸ "United States Code", U.S. Government Publishing Office, <https://www.govinfo.gov/app/collection/uscode> (accessed July 03, 2023)

⁸⁹ "RSIL Law Review", Research Society of International Law, <https://rsilpak.org/lawreview/> (accessed July 03, 2023)

⁹⁰ "Pakistan Law Site", PLD Publishers, <https://www.pakistanlawsite.com/Login/MainPage> (accessed July 03, 2023)

⁹¹ "Legal Search", <https://legalsearch.pk/> (accessed July 03, 2023)

Chapter 1

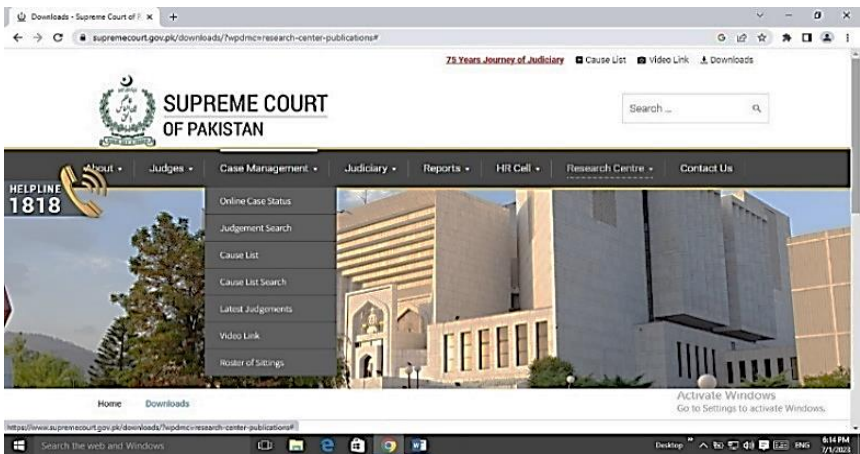
A Lawyer and His Legal Research

4. Access to law,⁹²
5. PLJ Law Site,⁹³
6. Pakistan Law Review,⁹⁴
7. East Law,⁹⁵
8. Law and Justice Commission of Pakistan,⁹⁶
9. LUMS – Gad & Birgit Rausing Library,⁹⁷

1.1.8.10.3- Research through Court's Websites:

The apex courts in Pakistan i.e., the Supreme Court, the High Courts and the Federal Shariat Court have provided their databases on their respective websites. And following are those websites:

1. **Supreme Court of Pakistan.**⁹⁸ It provides comprehensive database for knowing "Online Case Status", "Judgment Search", "Cause List", "Cause List Search", "latest judgments", "Video Link", and "Roaster of Sittings" through its "Case Management" database. It also provides its publications of "Quarterly Case Law Updates" through its "Research Centre".



⁹² "Access to Law – legal resources selected & annotated by Inner Temple Library", Inner Temple Library, <https://www.accesstolaw.com/commonwealth/pakistan/> (accessed July 03, 2023)

⁹³ "PLJ Law Site", Punjab Bar Council, Lahore, <https://www.pljlawsite.com/> (accessed July 03, 2023)

⁹⁴ "Pakistan Law Review", Pakistan Center of Legal Research and Publication (PCLRP), Pakistan College of Law, Lahore, <https://pakistanlawreview.com/> (accessed July 03, 2023)

⁹⁵ "Pakistan's Largest Digital Legal Library", Eastlaw, <https://eastlaw.pk/> (accessed July 03, 2023)

⁹⁶ "Law and Justice Commission of Pakistan", <http://ljcp.gov.pk/nljcp/home#1> (accessed July 03, 2023)

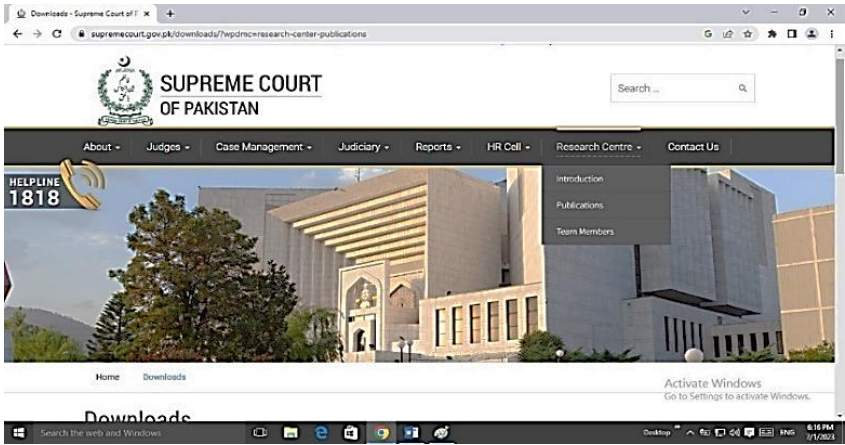
⁹⁷ "GAD & BIRGIT RAUSING LIBRARY – Introduction to Pakistani Legal System: e-Databases", Lahore University of Management Sciences, <https://libguides.lums.edu.pk/c.php?g=554192&p=3845675> (accessed July 03, 2023)

⁹⁸ "Supreme Court of Pakistan", <https://www.supremecourt.gov.pk/> (accessed July 03, 2023)

Chapter 1

A Lawyer and His Legal Research

Screen Shot No.1: Supreme Court of Pakistan", <https://www.supremecourt.gov.pk/> (accessed July 03, 2023)



Screen Shot No.2: Supreme Court of Pakistan", <https://www.supremecourt.gov.pk/> (accessed July 03, 2023)

2. **Islamabad High Court.**⁹⁹ It also provides for an extensive database concerning "Management Info System", "Cause List", "Case Status/Case Search", "Diary/Objection/Cancellation", "Judgments", "Case Law Management System", "Roster", "lawyer's Cases/Calendar", "SMS History", "Copy Petition Status", "Digital Library", "Online Court Proceedings", "Statutory and Non-Statutory Rules", "E-Court Service", "Judicial Forms", and "Demo – How to use cims". And through the "Resources" database, it provides: "IHC Rules", "Downloads (Judicial Forms)", "Photo gallery", "Video Gallery", "Library Catalog", "National Judicial Policy", "NJPMC Ordinance", "NJPMC/LJCP Reports", "Relevant Links (Useful Links)", "Website Map (Sitemap)", and "Search Website Data".



⁹⁹ "Islamabad High Court", <https://www.ihc.gov.pk/> (accessed July 03, 2023)

Chapter 1

A Lawyer and His Legal Research

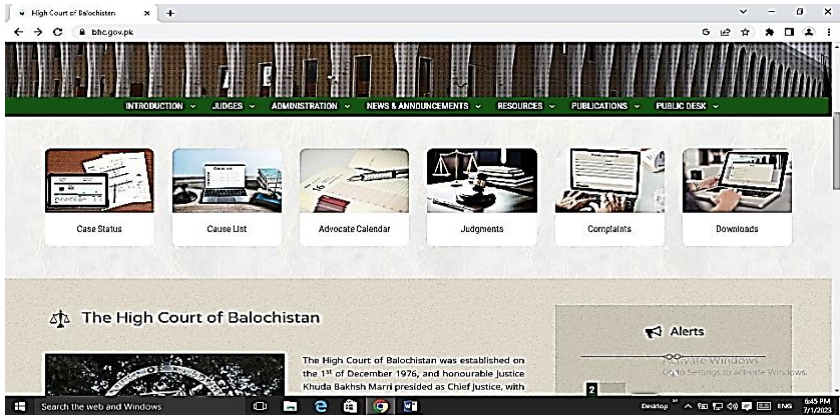
Screen Shot No.3: "Islamabad High Court", <https://www.ihc.gov.pk/>
(accessed July 03, 2023)

3. **Gilgit Baltistan Chief Court.**¹⁰⁰ It also provides its extensive database about "Cause List", "Case Search", "Judgments", and "lawyer's Cause Lists" on its "Case Management System".



Screen Shot No.4: "Gilgit Baltistan Chief Court", <https://www.gbcc.gov.pk/index.aspx> (accessed July 03, 2023)

4. **Baluchistan High Court.**¹⁰¹ It also provides for "Case Status", "Cause List", "Advocate Calendar", "Judgments", "Complaints", "Downloads".



Screen Shot No.5: "Baluchistan High Court", <https://bhc.gov.pk/>
(accessed July 03, 2023)

¹⁰⁰ "Gilgit Baltistan Chief Court", <https://www.gbcc.gov.pk/index.aspx> (accessed July 03, 2023)

¹⁰¹ "Baluchistan High Court", <https://bhc.gov.pk/> (accessed July 03, 2023)

Chapter 1

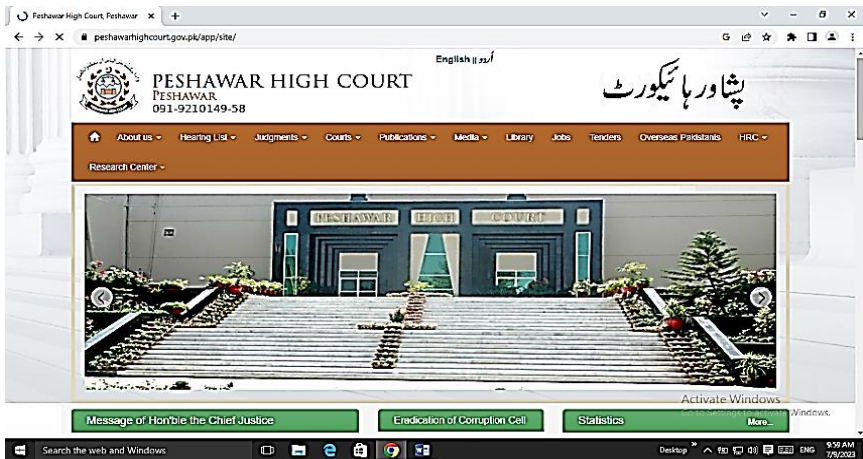
A Lawyer and His Legal Research

5. **Sindh High Court.**¹⁰² Since it is also a Court of Original Jurisdiction, therefore its database is much detailed and comprehensive.



Screen Shot No.6: "High Court of Sindh",
<https://www.sindhhighcourt.gov.pk/> (accessed July 03, 2023)

6. **Peshawar High Court.**¹⁰³ It also provides extensive database with different links.



Screen Shot No.7: "High Court of Sindh",
<https://www.sindhhighcourt.gov.pk/> (accessed July 03, 2023)

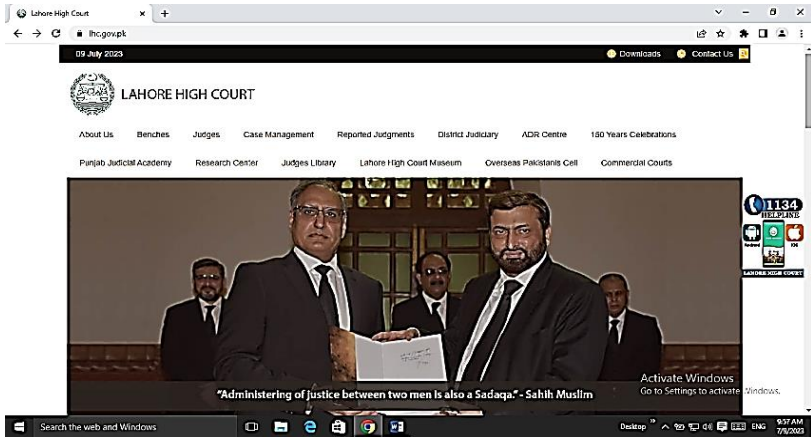
¹⁰² "High Court of Sindh", <https://www.sindhhighcourt.gov.pk/> (accessed July 03, 2023)

¹⁰³ "Peshawar High Court", <https://www.peshawarhighcourt.gov.pk/app/site/> (accessed July 28, 2023)

Chapter 1

A Lawyer and His Legal Research

7. **Lahore High Court.**¹⁰⁴ The website of Lahore High Court provides extensive database for lawyers, judiciary and general public. Its "case management" section provides for 'Urgent Cause Lists', regular Cause Lists', Regular Cause List (Red List)', 'Supplementary Cause List', 'Joint Cause List', 'Certified Copy Status', 'Diary Objection Cases', Roster of Sittings', 'last Hearing Status', Court Map'. It also provides extensive database of its Reported Judgments. And there are many other useful links on this website.



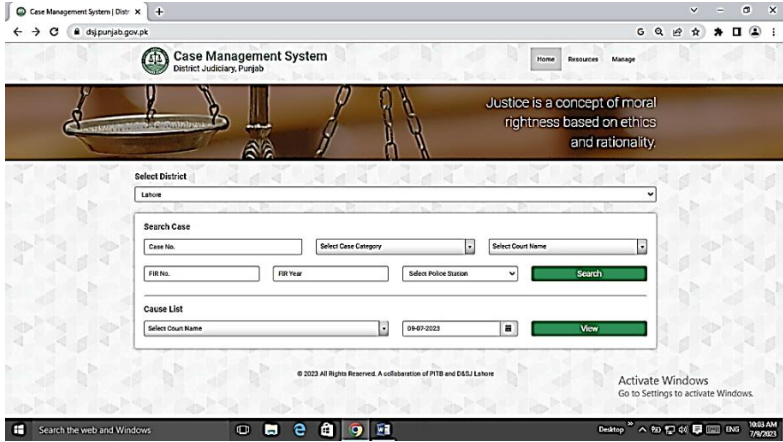
Screen Shot No.8: "High Court of Sindh", <https://www.sindhhighcourt.gov.pk/> (accessed July 03, 2023)

¹⁰⁴ "Lahore High Court", <https://lhc.gov.pk/> (accessed July 28, 2023)

Chapter 1 A Lawyer and His Legal Research

1.1.8.10.3.1- Case Management System, District Judiciary, Punjab:

Following is the website, which provides extensive database of cause lists of every subordinate Court of the Province of Punjab:¹⁰⁵



Screen Shot No.9: "Case Management System", District Judiciary, Punjab, <https://dsj.punjab.gov.pk/> (accessed July 28, 2023)

When you select the name of your district and the name of your relevant Court and relevant date, you get the Daily Cause List in the following manner:

قلمرو	کیمبر	مورخہ	حوالہ	نامہ	اورینٹل	اورینٹل	اورینٹل	اورینٹل	اورینٹل
لاہور	سول	22-07-2023	11479503	1	لاہور	سول	22-07-2023	11479503	1
لاہور	سول	22-07-2023	11479503	2	لاہور	سول	22-07-2023	11479503	2
لاہور	سول	22-07-2023	11479503	3	لاہور	سول	22-07-2023	11479503	3
لاہور	سول	22-07-2023	11479503	4	لاہور	سول	22-07-2023	11479503	4
لاہور	سول	22-07-2023	11479503	5	لاہور	سول	22-07-2023	11479503	5
لاہور	سول	22-07-2023	11479503	6	لاہور	سول	22-07-2023	11479503	6
لاہور	سول	22-07-2023	11479503	7	لاہور	سول	22-07-2023	11479503	7
لاہور	سول	22-07-2023	11479503	8	لاہور	سول	22-07-2023	11479503	8
لاہور	سول	22-07-2023	11479503	9	لاہور	سول	22-07-2023	11479503	9
لاہور	سول	22-07-2023	11479503	10	لاہور	سول	22-07-2023	11479503	10

Screen Shot No.10: "Case Management System", District Judiciary, Punjab, <https://dsj.punjab.gov.pk/> (accessed July 28, 2023)

¹⁰⁵ "Case Management System", District Judiciary, Punjab, <https://dsj.punjab.gov.pk/> (accessed July 28, 2023)

Chapter 1 A Lawyer and His Legal Research

1.1.8.10.3.2- District Court's Website:

There is another extensive database of District Courts in Punjab¹⁰⁶, which, *inter alia* provide Judgments and Decrees passed by the Trial Courts and the District Court of that district. On its Judgments and Orders section, when you type the required details you get your required Judgment.

The screenshot shows the 'Judgement & Orders' section of the District Court of Jhelum website. The page features a search interface with the following elements:

- Select Options:** Radio buttons for 'Posted' (selected) and 'Transferred'.
- Select Judge:** A dropdown menu showing 'Za Ullah Khan,DSJ'.
- Select Category:** A dropdown menu labeled 'Select Category'.
- Select Date:** A date input field.
- Enter Tagline:** A text input field.
- Party One:** A text input field.
- Party Two:** A text input field.
- Search:** A button to execute the search.

The search results are displayed in a table with the following columns: SN, Party One, Party Two, Category, Date, and Download. The table contains five entries, all categorized as 'Narcotics cases'.

SN	Party One	Party Two	Category	Date	Download
1	The State	Taimoor Ali Barkat	Narcotics cases	03 Mar 23	Download
2	The State	Nasir Mehmood	Narcotics cases	24 Feb 23	Download
3	The State	Bilal Ahmed	Narcotics cases	18 Feb 23	Download
4	The State	Irfan Ghafoor	Narcotics cases	16 Feb 23	Download
5	The State	Muhammad Hassan	Narcotics cases	15 Feb 23	Download

Screen Shot No.11: "Case Management System", District Judiciary, Punjab, <https://dsj.punjab.gov.pk/> (accessed July 28, 2023)

1.1.8.10.4- Research through Digital Libraries:

Higher Education System (HEC) has provided a HEC National Digital Library on www.digitallibrary.edu.pk. It provides high quality peer reviewed journals, databases, articles and e-books across a wide range of disciplines.¹⁰⁷

There are, *inter alia*, following main digital libraries.¹⁰⁸ Some of the internet links were not opening, therefore their correct links are searched and given in the footnotes.

1. Project Muse,¹⁰⁹
2. Springer Ebooks,¹¹⁰

¹⁰⁶ "Judgments & Orders", District Courts Jhelum, <https://jhelum.dc.jhc.gov.pk/PublicPages/JudgementOrder.aspx> (accessed July 28, 2023)

¹⁰⁷ "Digital Library", Higher Education Commission, <http://www.digitallibrary.edu.pk/> (accessed July 2, 2023)

¹⁰⁸ "Open Access E-Books", Higher Education Commission, <http://www.digitallibrary.edu.pk/OABooks.html> (accessed July 2, 2023)

¹⁰⁹ "Project Muse", Project MUSE, Johns Hopkins University Press in collaboration with The Sheridan Libraries, <http://muse.jhu.edu> (accessed July 03, 2023)

¹¹⁰ www.springerlink.com/books

Chapter 1

A Lawyer and His Legal Research

3. Ebrary. Now E book Central,¹¹¹
4. Adelaide University Electronic Texts Collection,¹¹²
5. Anu E-Print Repository,¹¹³
6. Australian e-Humanities Gateway,¹¹⁴
7. Curtin University of Technology,¹¹⁵
8. Eprints Queensland University of Technology,¹¹⁶
9. Eprints University of Melbourne,¹¹⁷
10. Monash University ePrint repository,¹¹⁸
11. Project Gutenberg of Australia,¹¹⁹
12. SETIS,¹²⁰
13. UTasER,¹²¹
14. Alex Catalogue of Electronic Texts,¹²²
15. arXive e-prints,¹²³
16. Athena,¹²⁴
17. Bartleby,¹²⁵
18. Bibliomania,¹²⁶
19. CELT (Corpus of Electronic Texts),¹²⁷
20. CogPrints,¹²⁸
21. The Digital Library of the Commons (DLC),¹²⁹
22. Digital Library for Earth System Education (DLESE),¹³⁰

¹¹¹ "ProQuest-Ebook Central", Higher Education Commission, <https://ebookcentral.proquest.com/lib/hec-ebooks/home.action> (accessed July 03, 2023)

¹¹² "University Library – Online Collections", The University of Adelaide, <https://www.adelaide.edu.au/library/collections/online-collections> (accessed July 03, 2023)

¹¹³ "ANU Print Repository", Australian National University, <https://anulib.anu.edu.au/using-library/branches/anu-print-repository> (accessed July 03, 2023)

¹¹⁴ "Australian e-Humanities Gateway", <https://www.craigbellamy.net/2004/11/15/australian-e-humanities-gateway/> (accessed July 03, 2023)

¹¹⁵ "Curtin University", <https://www.curtin.edu.au/> (accessed July 03, 2023)

¹¹⁶ "QUT ePrints", Queensland University of Technology, <http://eprints.qut.edu.au/> (accessed July 03, 2023)

¹¹⁷ "Minerva Access", The University of Melbourne, <https://minerva-access.unimelb.edu.au/> (accessed July 03, 2023)

¹¹⁸ "Printing", Monash University, <https://www.monash.edu/esolutions/print> (accessed July 03, 2023)

¹¹⁹ "Project Gutenberg Australia", <http://gutenberg.net.au/index.html> (accessed July 03, 2023)

¹²⁰ "Sydney Electronic Text and Image Service (SETIS)", The University of Sydney, <https://digital.library.sydney.edu.au/pages/setis> (accessed July 03, 2023)

¹²¹ "Open Access Repository", University of Tasmania, <https://eprints.utas.edu.au/13/> (accessed July 03, 2023)

¹²² "Alex Catalogue of Electronic Texts", Informations, LLC, <http://www.infomotions.com/alex/> (accessed July 03, 2023)

¹²³ "arxiv", Cornell University, <https://arxiv.org/> (accessed July 09, 2023)

¹²⁴ "Athena", <https://athena.unige.ch/athena/> (accessed July 09, 2023)

¹²⁵ "bartleby", <https://www.bartleby.com/lit-hub/authors/> (accessed July 09, 2023)

¹²⁶ "bibliomania", <http://www.bibliomania.com/> (accessed July 09, 2023)

¹²⁷ "CELT – Corpus of Electronic Texts", The Free Digital Humanities Resource for Irish history, literature and politics, <https://celt.ucc.ie/> (accessed July 09, 2023)

¹²⁸ "Cogprints", School of Electronics and Computer Science, University of Southampton, <https://web.archive.southampton.ac.uk/cogprints.org/> (accessed July 09, 2023)

¹²⁹ "Digital Library of the Commons", Indiana University, <https://dlc.dlib.indiana.edu/dlc/> (accessed July 09, 2023)

¹³⁰ "Digital Library of Earth System Education (DLESE)", National Science Foundation, Alexandria, <https://www.dlese.org/> (accessed July 09, 2023)

Chapter 1

A Lawyer and His Legal Research

23. Digital Library of Information Science and Technology (dLIST),¹³¹
24. Electronic Texts on the Internet,¹³²
25. EuroDocs,¹³³
26. Great Books Index,¹³⁴
27. Great Books and Classics,¹³⁵
28. Internet Classic Archive,¹³⁶
29. Internet Public Library,¹³⁷
30. MIT OpenCourseWare,¹³⁸
31. National Academy Press,¹³⁹
32. Networked Digital Library of Theses and Dissertations (NDLTD),¹⁴⁰
33. New Zealand Digital Library,¹⁴¹
34. Online Books Page,¹⁴²
35. Online Medieval and Classical Library,¹⁴³
36. Oxford Text Archive,¹⁴⁴
37. Pennsylvania State University Electronic Classics Site,¹⁴⁵
38. Preseus Project,¹⁴⁶
39. Project Libellus,¹⁴⁷
40. Project Madurai,¹⁴⁸
41. Project Runeberg,¹⁴⁹

¹³¹ "dLIST", The University of Arizona, <https://repository.arizona.edu/handle/10150/105067> (accessed July 09, 2023)

¹³² "Electronic Texts on the Internet", <https://www.refdesk.com/factelec.html> (accessed July 09, 2023)

¹³³ "Euro Docs: Online Sources for European History", Richard Hacken, European Studies Librarian, Harold B. Library, Brigham Young University, Provo, Utah, USA, https://eudocs.lib.byu.edu/index.php/Main_Page (accessed July 09, 2023)

¹³⁴ "Great Books Index List of Authors and Titles", Ken Roberts Computer Consultants Inc., http://books.mirror.org/gb_home.html%20/ (accessed July 09, 2023)

¹³⁵ "Great Books and Classics, The Gateway to the great Books Online", <http://www.garbbooks.com%20/> (accessed July 09, 2023)

¹³⁶ "Open Access e-Books", e-Resources, HEC National Digital Library, <http://www.digitallibrary.edu.pk/OAEBooks.html> (accessed July 09, 2023)

¹³⁷ "JPL – Books and Culture: A Christian Review", <https://www.jpl.org/books-and-culture-a-christian-review/> (accessed July 09, 2023)

¹³⁸ "MIT OpenCourseWare", Massachusetts Institute of Technology, <https://ocw.mit.edu/index.html%20/> (accessed July 09, 2023)

¹³⁹ "National Academies Press", National Academies Sciences, Engineering, Medicine", National Academies Press, Washington DC, <https://nap.nationalacademies.org/> (accessed July 09, 2023)

¹⁴⁰ "Networked Digital Library of Theses and Dissertations (NDLTD)", <https://ndltld.org/> (accessed July 09, 2023)

¹⁴¹ "The New Zealand Digital Library", University of Waikato, <http://www.sadl.ukeith.ca/nz/cqj-bin/library> (accessed July 09, 2023)

¹⁴² "The Online Books Page", <http://digital.library.upenn.edu/books/> (accessed July 09, 2023)

¹⁴³ "Berkeley Library", University of California, <https://www.lib.berkeley.edu/> (accessed July 09, 2023)

¹⁴⁴ "Oxford Text Archive", Bodleian Libraries, University of Oxford, <http://ota.ahds.ac.uk/> (accessed July 09, 2023)

¹⁴⁵ "PennState University Libraries", <https://guides.libraries.psu.edu/c.php?g=350787&p=2441341> (accessed July 09, 2023)

¹⁴⁶ "Perseus Digital Library", Gregory R. Crane, Editor-in-Chief, Tufts University, <http://www.perseus.tufts.edu/hopper/> (accessed July 09, 2023)

¹⁴⁷ "Welcome to Libellus de patientia Project", Chris L. Nighman, History Department, Wilfrid Laurier University, <https://libellus-project.wlu.ca/> (accessed July 09, 2023)

¹⁴⁸ "Project Madurai", <https://www.projectmadurai.org/> (accessed July 09, 2023)

¹⁴⁹ "Welcome to Project Runeberg", <http://runeberg.org/> (accessed July 09, 2023)

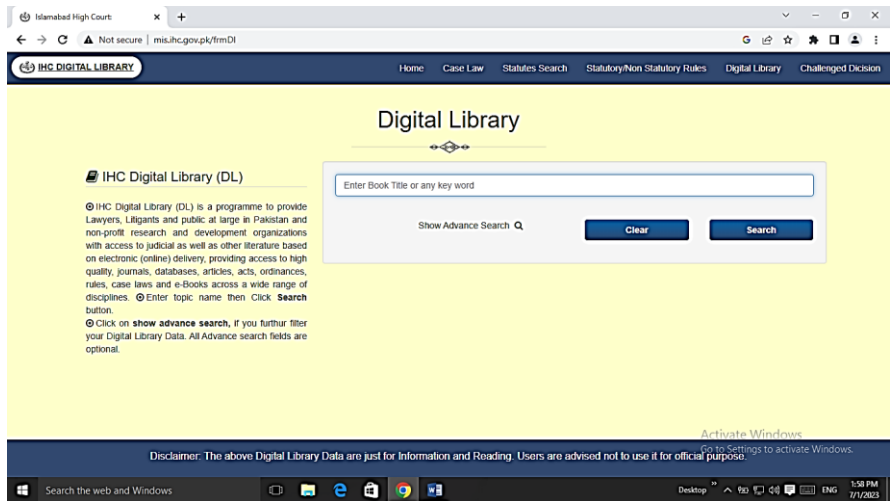
Chapter 1

A Lawyer and His Legal Research

42. SAIL – eprints,¹⁵⁰
43. Soil and Health Library,¹⁵¹
44. Universal Library,
45. University of Virginia Electronic Text Centre,¹⁵²
46. Virtual Library,¹⁵³

And many other links are available on the HEC's website.

The Islamabad High Court has provided the IHC Digital Library on <http://mis.ihc.gov.pk/firmDI>. It provides access to different journals, databases, articles, acts, ordinances, rules, case laws, and e-books across a wide range of disciplines.¹⁵⁴



Screen Shot No.12: "Case Management System", District Judiciary, Punjab, <https://dsj.punjab.gov.pk/> (accessed July 28, 2023)

Similarly there are many other digital law libraries in the world, including following:

1. Digital Law Library of South Africa,¹⁵⁵

¹⁵⁰ "University of Southampton Institutional Repository", University of Southampton, <http://eprints.bo.cnr.it> (accessed July 09, 2023)

¹⁵¹ "Welcome to the Soil and Health Library", Soil and Health Library, <https://soilandhealth.org/> (accessed July 09, 2023)

¹⁵² "University of Virginia Library Digital Production Group", University of Virginia, <https://dcs.library.virginia.edu/digital-stewardship-services/etext/> (accessed July 09, 2023)

¹⁵³ "The WWW Virtual Library", The WWW Virtual Library, Republic and Canton of Geneva, <http://www.vlib.org/> (accessed July 09, 2023)

¹⁵⁴ "Digital Library", Islamabad High Court, <http://mis.ihc.gov.pk/firmDI> (accessed July 2, 2023)

¹⁵⁵ "Welcome to the Digital Law Library of South Africa", African Legal Information Institute (AfricanLII) at the Democratic Governance and Rights Unit, Faculty of Law, University of Cape Town (UCT) and in partnership with UCT's Judicial Institute for Africa (JIFA) and Laws.Africa NPO, <https://lawlibrary.org.za/> (accessed July 09, 2023)

Chapter 1

A Lawyer and His Legal Research

2. Open Law Library,¹⁵⁶
3. Advocatetanmoy Law Library,¹⁵⁷
4. LLMC Digital,¹⁵⁸
5. Online Law Library, infotoask.com
6. Digital Law Library of Qaid-e-Azam Law College,¹⁵⁹
7. The Digital Legal Library of International Centre for Not-for-Profit Law,¹⁶⁰
8. Laws, University of London,¹⁶¹
9. Law Libraries, OverDrive,¹⁶²
10. Digital Collections, Library of Congress,¹⁶³
11. Law Library, U.S. Department of Interior,¹⁶⁴
12. The Digital Collection, law Library Victoria,¹⁶⁵

1.1.8.10.5- What is Digital Object Identifier (DOI) and its use in research?

A Digital Object Identifier (DOI) is the digital identifier of any object, whether it is in physical, digital or abstract form. It is a string of letter, numbers and symbols. These DOIs keep track of things including matter, material, content or activities. These DOIs can be identified by both human beings and machines. Following is an example of DOI: ¹⁶⁶ <https://doi.org/10.1000/182> This DOI name identifies the currently available latest version of the DOI Handbook. There is also an International Standards Organization's (ISO) specific standard attributed to the DOI. It is ISO 26324. You can cite and link your research articles or contents, etc using the DOI. Whenever someone will click on this DOI, it will link him directly to that article or content etc. wherever it is stored. For further reading and understanding of the concept follow www.doi.org and the DOI Handbook.

1.1.8.10.6- Research through ChatGPT:

It begins by using the combination of hardware, software and the internet. If you have a good high performance hardware and a high speed internet,

¹⁵⁶ "An Open-Source Digital Law Library", Open Law Library, Washington D.C, <https://openlawlib.org/whitepapers/an-open-source-digital-law-library/> (accessed July 09, 2023)

¹⁵⁷ "Digital Library", Adocatetonmoy Law Library Legal Database, <https://advocatetanmoy.com/e-library/> (accessed July 09, 2023)

¹⁵⁸ "LLMC Digital", <https://llmc.com/> (accessed July 09, 2023)

¹⁵⁹ "Qaid-e-Azam Law College, Lahore", <https://www.qlc.edu.pk/digital-law-library> (accessed July 09, 2023)

¹⁶⁰ "The Digital Legal Library", ICNL International Centre for Not-For Profit Law, <https://www.icnl.org/resources/library> (accessed July 09, 2023)

¹⁶¹ "Laws (UG)", University of London, <https://onlineilibrary.london.ac.uk/programme/laws-ug> (accessed July 09, 2023)

¹⁶² "Law Libraries", OverDrive, Inc., <https://company.overdrive.com/law-libraries/> (accessed July 09, 2023)

¹⁶³ "Digital Collections", Research Center law Library of Congress, <https://www.loc.gov/research-centers/law-library-of-congress/collections/digital-collections/> (accessed July 09, 2023)

¹⁶⁴ "Law Library", U.S. Department of the Interior, <https://www.doi.gov/library/collections/law> (accessed July 09, 2023)

¹⁶⁵ "The Digital Collection", The Law Library of Victoria, <https://www.lawlibrary.vic.gov.au/collection/digital-collection> (accessed July 09, 2023)

Chapter 1

A Lawyer and His Legal Research

you can venture around the universe of resources to find your topic of interest within microseconds. Thousands of books are available at your desktop in just micro seconds. Whenever, you are on your computer and on internet, you exchange your data, and shred the traces of data on the open network, most of the time unwillingly and unknowingly. Most of the time you yourself input your data and it is accessible by all, again whether knowingly or unknowingly. Your data, when it is converted into a digital data, and is made available on the World Wide Web (hereinafter referred as the "Internet"), is searched by the "Web Crawlers" also known as "Spider Bots". These Web Crawlers or Spider Bots are infact software applications known as "Internet Bots" that crawl on the web pages through the universe or web of internet and bring the results on your screen through your Search Engines. We will not discuss the technical details, as that would deviate from our main focus.

Generally the words "Open Source" mean the source that is "*available and accessible by all*". However, in terms of computers and internet, it means an "Open Source Software" ("OSS"). An OSS is a computer software, whose developer gives its open access to the general public to use, study, change and distribute the software and its source code to anyone and for any purpose. In my view, it is infact a "honey trap" to attract the public at large to openly collaborate and participate in online activities, share their data and improve the performance of that software by using the data that could otherwise be not available to that software.

Different search engines, started attracting the public at large towards its "Speech to Text" and "Text to Speech" functions. And the concept of "Natural Language Processing" ("NLP") by using Machine Learning originated to analyze the text or speech data. The IBM has defined the NLP in following words:

"Natural language processing (NLP) refers to the branch of computer science - and more specifically, the branch of artificial intelligence or AI - concerned with giving computers the ability to understand text and spoken words in much the same way human beings can."¹⁶⁷

A technological revolution known as "Artificial Intelligence" (AI) has revolutionized the world. This technological revolution is encompassing and gripping the whole world very quickly. However, the world composed of human being is studying its pros and cons and still trying to regulate it through different laws and regulations and are also trying to find out the universal definition of the term "AI".

Since, there is no universally acceptable definition of AI, therefore, we can have a look at the following definitions:

John McCarthy had defined the AI as¹⁶⁸:

¹⁶⁷ "What is Natural Language Processing", IBM, accessed July 1, 2023, <https://www.ibm.com/topics/natural-language-processing>

¹⁶⁸ "AI definition", <https://hai.stanford.edu/sites/default/files/2020-09/AI-Definitions-HAI.pdf> (accessed July 9, 2023)

Chapter 1

A Lawyer and His Legal Research

"the science and engineering of making intelligent machines."

The Oxford Learner's Dictionary has defined the term as follows:

*"the study and development of computer systems that can copy intelligent human behaviour"*¹⁶⁹

It's another definition is as follows:

*"Any device that perceives its environment and takes actions that maximize its chance of success at some goal."*¹⁷⁰

Encyclopedia Britannica has defined the term AI in the following words:

*"artificial intelligence (AI), the ability of a digital computer or computer-controlled robot to perform tasks commonly associated with intelligent beings. The term is frequently applied to the project of developing systems endowed with the intellectual processes characteristic of humans, such as the ability to reason, discover meaning, generalize, or learn from past experience. Since the development of the digital computer in the 1940s, it has been demonstrated that computers can be programmed to carry out very complex tasks - as, for example, discovering proofs for mathematical theorems or playing chess - with great proficiency. Still, despite continuing advances in computer processing speed and memory capacity, there are as yet no programs that can match human flexibility over wider domains or in tasks requiring much everyday knowledge. On the other hand, some programs have attained the performance levels of human experts and professionals in performing certain specific tasks, so that artificial intelligence in this limited sense is found in applications as diverse as medical diagnosis, computer search engines, and voice or handwriting recognition."*¹⁷¹

Computer is a machine. However, the concept of "Machine Learning" is defined by the Oxford Dictionary as follows:

"the use and development of computer systems that are able to learn and adapt without following explicit instructions, by using algorithms and statistical models to analyze and draw inferences from patterns in data."

The IBM has also defined the Machine Learning in following words:

¹⁶⁹ "Artificial Intelligence", Oxford Learner's Dictionary, Oxford University Press, accessed July 01, 2023, <https://www.oxfordlearnersdictionaries.com/definition/english/artificial-intelligence>

¹⁷⁰ "Artificial Intelligence", SIYATON (2018), <https://siyaton.com/hanaservices/artificial-intelligence> [<https://perma.cc/5UZB-K3R4>]

¹⁷¹ Copeland, B.. "artificial intelligence." Encyclopedia Britannica, June 30, 2023. <https://www.britannica.com/technology/artificial-intelligence>. (accessed July 2, 2023)

Chapter 1

A Lawyer and His Legal Research

*"Machine learning is a branch of artificial intelligence (AI) and computer science which focuses on the use of data and algorithms to imitate the way that humans learn, gradually improving its accuracy."*¹⁷²

We cannot proceed further without knowing something about how the Machine Learning works. There are two general categories of Machine Learning: Supervised and Unsupervised. Supervised technique of Machine Learning means when there is a piece of data that can be predicted or explained. On the other hand, unsupervised technique of Machine Learning means when the data is unpredictable or unexplainable. It uses the *"traits to form cluster of items that are similar to one another."*¹⁷³ So, it relates different data points and groups them together.

Different methods of Machine Learning are prescribed. However, Jorge Castanon has provided following ten methods:

1. Regression,
2. Classification,
3. Clustering,
4. Dimensionality Reduction,
5. Ensemble Methods,
6. Neural Nets and Deep Learning,
7. Transfer Learning,
8. Reinforcement Learning,
9. Natural Language Processing,
10. Word Embedding."¹⁷⁴

Out of the above, we will mention "Neural Nets and Deep Learning" and "Natural Language Processing".

'Neural Networks' are the networks that are at the foundations of machine learning. They are developed on the structure of biological neurons that work in a human brain. They are composed of different 'Node layers' containing 'Input layers', 'multiple hidden layers' and 'Output layer'. And like a human brain, this 'Neural Network requires training through data. And the moment, this Neural Network is accurately tuned, it becomes a powerful tool to be used in Artificial Intelligence. Deep learning is a tool of machine learning that is used to simulate the functioning of a human brain through the use of different applications and processes which function by using the Neural Networks. So, Neural Networks and Deep Learning are at the core of Artificial Intelligence, which are developed to think, work, differentiate and perform like a human brain.

¹⁷² "What is machine learning?, IBM, <https://www.ibm.com/topics/machine-learning> accessed July 2, 2023

¹⁷³ Jorge Castanon, "10 Machine Learning Methods that Every Data Scientist Should Know", Towards Data Science, May 2, 2019, <https://towardsdatascience.com/10-machine-learning-methods-that-every-data-scientist-should-know-3cc96e0e0eee9>, (accessed July 2, 2023)

¹⁷⁴ Jorge Castanon, "10 Machine Learning Methods that Every Data Scientist Should Know", Towards Data Science, May 2, 2019, <https://towardsdatascience.com/10-machine-learning-methods-that-every-data-scientist-should-know-3cc96e0e0eee9>, (accessed July 2, 2023)

Chapter 1

A Lawyer and His Legal Research

Natural Language Processing is “the ability of a computer program to understand human language as it is spoken and written – referred to as natural language. It is a component of artificial intelligence (AI)”¹⁷⁵. An example of Natural Language Processing (NLP) is the “Text to Speech” function on a Computer Software like MS Word, etc.;, Smart Assistants; Search Results [through Voice Search etc.]; Predictive Texts; Language Translation; Digital Phone Calls; Data Analysis; Text Analysis.¹⁷⁶ There are many other examples of NLP like different functions of a computer and software that require the use of microphone and camera. So whenever you input through your Natural Language on a computer software, it is evaluated, decoded and processed through different specific procedures to understand, solve and process that data through a process called ‘algorithm’, which is used to perform a specific task. For better performance of these algorithms, a specific computer architecture called ‘transformer’ is used. These ‘transformers’ have been used to build Large Language Models (LLM), which have further revolutionized the concept of NLP, by “providing models that generate coherent and fluent text”¹⁷⁷.

The ‘Generative Pre-Trained Transformer’ (GPT) are type of LLM.¹⁷⁸ These GPT have generated the concept of “Generative Artificial Intelligence”.

OpenAI is an American Artificial Intelligence research laboratory. It was founded in 2015. And from 2015 onwards, it has been doing research on Artificial Intelligence. In 2020, it announced the concept of GPT-3. In 2021 it introduced Deep Learning Model called DALL-E. In 2022, it introduced a Chatbot based on GPT-3.5 called ChatGPT. And in 2023, it introduced GPT-4, a much advanced version of GPT and Chatbot. The website of OpenAI¹⁷⁹ says:

“We’ve trained a model called ChatGPT which interacts in a conversational way. The dialogue format makes it possible for ChatGPT to answer follow-up questions, admit its mistakes, challenge incorrect premises, and reject inappropriate requests.”

And this ChatGPT has influenced and revolutionized the whole world and is gripping the entire world of humans and machines quite swiftly. This process is so fast that the world has started thinking about its pros and cons and every

¹⁷⁵ “Tech Accelerator – A Guide to artificial intelligence in the enterprise”, TechTarget, <https://www.techtarget.com/searchenterpriseai/definition/natural-language-processing-NLP> (accessed July 09, 2023)

¹⁷⁶ “Natural Language Processing Examples”, tableau, <https://www.tableau.com/learn/articles/natural-language-processing-examples> (accessed July 09, 2023)

¹⁷⁷ Pradeep Menon, “Introduction to Large Language Models and Transformer Architecture”, March 9, 2023, [https://pradeepmenon.medium.com/introduction-to-large-language-models-and-the-transformer-architecture-534408ed7e61#:~:text=Large%20Language%20Models%20\(LLMs\)%20have,building%20block%20of%20all%20LLMs.](https://pradeepmenon.medium.com/introduction-to-large-language-models-and-the-transformer-architecture-534408ed7e61#:~:text=Large%20Language%20Models%20(LLMs)%20have,building%20block%20of%20all%20LLMs.) (accessed July 09, 2023)

¹⁷⁸ Anitakivindyo, “What are Generative Pre-trained Transformers (GPTs)?”, February 16, 2023, <https://medium.com/@anitakivindyo/what-are-generative-pre-trained-transformers-gpts-b37a8ad94400> (accessed July 09, 2023)

¹⁷⁹ “ChatGPT”, <https://openai.com/> (Last visited 15.04.2023)

Chapter 1

A Lawyer and His Legal Research

country is now in a rush to regularize it through different laws, regulations and national policies.

This form of AI has in fact posed a challenge to humanity and for data privacy concerns. It has the ability to use large sets of open data, whether it is obtained from the data traces left by the use of internet or otherwise. The machines are also incapable of differentiating between the historical bias and misinformation. If the machine picks the data from historical bias and from a wrong source, it will be biased as well. The law requires the machines and the processing of the unbiased data.

Now a days, almost all of the statutes are available on the Internet. Similarly, and particularly in Pakistan, almost every reported judgment of High Court and Supreme Court is uploaded on the relevant websites. Meaning thereby that this data of Statutes and Judgments is already available on the Internet, which can be easily accessed by the current AI technologies. These AI technologies and the software can be trained to categories different types of facts, laws and relief and automatically update itself instantly and use the result on a certain type of fact or proposition brought for solution. However, the basic source data in the form of facts, judgments, documents and law is always created, managed, altered, amended and controlled by a human being, which, in our perspective, is the parties, the staff of Court, the lawyers, the Judges and other related persons. Meaning thereby that, it cannot auto generate the source data, the source data has always to be input by a human being.

However, in short, it can replace the legal research conducted by a human lawyer whose accuracy cannot be predicted. By the introduction of ChatGPT Bot by Open AI, an effort has been made to let the whole world train and help the AI auto-correct itself. Soon, there would be a product that would serve as a human mind, which would be near to perfection. And that would be a day of a challenge to humanity and the survivor of role of legal practitioners.

AI is being used to predict the possible outcome of a litigation. AI technologies have the ability to predict the style and behavior of judgment writing of any particular judge by using the common data from all the previous judgments of that particular judge. And if this is so, then, the clients and the lawyers appearing before that particular Judge will feel outcome and some of them may predict the prejudice and biasness of the Judge and may pose lack of confidence on him. And in that case, the predictive AI will create a threat to the entire administration of justice and fair-play.

Although the people are arguing about the use of AI technologies for dispute resolution, but, it is not useful for the people who do neither understand the importance of ADR including arbitration, mediation, etc., nor have any knowledge about Online Dispute Resolution (ODR). How they can understand the seriousness of the dispute resolution performed by a Chat Bot or a Robot on the other end. They will just consider a joke and will increase their hype. In Pakistan, the ADR is opted by only less than 1 percent of the

Chapter 1

A Lawyer and His Legal Research

business community. So, for Pakistan, AI for dispute resolution is a totally alien concept till the time the use of ADR and that too by using technology is made a compulsion for the business community.

However, AI can be used for the following:

1. Document Review,
2. Court Administration,
3. Case and Court Management, and
4. Legal Bots to assist litigants in filing cases in Courts, or to check the relevancy of documents filed in Court in the pre-trial stage. At trial stage, it is the responsibility of the Judge.

In my view, unless and until, the Generative AI and ChatGPT is fully researched on and unless and until it is properly regulated by the Government through different laws, rules, regulations and policy directives in Pakistan, and unless and until the Court Staff, the Judges, the lawyers and the general public are properly trained and fully informed, it should not be used by the Courts in anything other than the above-mentioned. Since ChatGPT references are in majority of the cases not correct, therefore, it should not be used even in legal research. However, AI can be used very effectively in the corporate sector, especially to check the regulatory compliances and contract management.



A stack of several books is shown, with a pen resting on top of the top book. The books are slightly out of focus, and the pen is also out of focus. The background is dark and moody.

CHAPTER 2

How To Reflect Your Legal Research In Your Arguments

Chapter 2

How to reflect your Legal Research in your arguments?

2.1- How to reflect your Legal Research in your arguments?

The final and most crucial stage of a case at any stage and before any forum is the stage of arguments, where the facts and law on those facts are weighed and judged on the balance of Justice.

The dictionary meanings of 'Argument' is as follows:

1. *"1. An oral disagreement; verbal opposition; contention; altercation*
2. a discussion involving differing points of view; debate
3. a process of reasoning; series of reasons
4. a statement, reason or fact for a thought or against a point
5. an address or composition intended to convince or persuade; persuasive discourse
*6. subject matter; theme."*¹
2. *"The process by which inferences are drawn; the discussion by a Counsel of the evidence in a suit and the placing of various authorities in a suit and the placing of various authorities for legal position; a statement of reasons based on such, offered as proof; a summary of the subject-matter of a book."*²

Arguments may be in the oral or in written form. The whole fate of the client is in the hands of a lawyer who has decided to help him resolve his dispute and to take the case to such a position that the Judge before adjudicating upon the matter in contention does not find anything other than deciding the case in favor of that particular client. You must know when to argue and when not to argue. Sometimes, the lawyers often win their cases by not arguing. I have often observed during superior Court's hearings that the honorable Judge keeps on putting very hard questions of facts and law to the Counsel for the Petitioner or Appellant and during this questioning the Respondent's lawyer keeps lip locked and stands poker faced and expressionless. He speaks when he is asked to speak. Often the honorable Judge, if does not get satisfactory answers from Petitioner or Appellants' side straightaway dismisses the Petition or the Appeal. So the Respondent's lawyer won the case without speaking even a single word. The moral of the story is 'wait for the Judge.' And when you are asked to speak, speak in such a way that your ears must listen what you are saying. Words uttered are like arrows. Once they are fired from your bow, they cannot be taken back. Think well before you speak. At the same time, you must be a good and patient listener. During the course of opponent's arguments, control your words, your

¹ "argument", Dictionary.com, accessed 03.06.2020, <https://www.dictionary.com/browse/arguments>

² "Argument", Sardar Muhammad Iqbal Khan Mokul, *'Law Terms and Phrases, Judicially Interpreted with Legal maxims & Foreign Legal Words and Phrases in ordinary usage* , 1978 Edn, Law Publishing Company, Kutchchery Road, Lahore, 'p.109

Chapter 2

How to reflect your Legal Research in your arguments?

reactions, your body language and emotions. Just write down what your opponent is saying. And to do so, in my view, you can have the following table:

Sr.No.	Opponent's Arguments	Your Point of View

Table No.3: The Opponent's Arguments and your view.

The success can only be achieved if the lawyer is equipped with the following qualities, which in my view stand as the most important requisites. These are: clarity of thought, analytical mind; command over language, effectiveness of expression; a method of persuasion (having studied the court) and a reasonable approach. These qualities will be discussed below.

I, as a litigation lawyer have always considered that a case, right from the first stage of fact finding till the last stage of its final arguments is like a game of chess. You open the chess board when you chronologically arrange your facts and then sift the relevant from irrelevant facts. In this way, actually you have arranged your 'army of facts' against the 'army of facts' of your opponent on the chess board. Never underestimate the power, competence and ability of your opponents. I have often seen senior and experienced lawyers being flattened by young, hardworking and competent lawyers.

2.1.1- The right to begin:

Order XVIII, Rule 1 of CPC, 1908 speaks as follows:

"1. Right to begin,-- The plaintiff has the right to begin unless the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin."

Order XVIII of CPC, 1908 is about 'Hearing of Suit and Examination of Witnesses'. This provision is applicable to both the stages of evidence and the arguments. Our focus, here is on 'the right to begin the arguments'.

The general rule of arguments is that the person on whom the burden of proof lies has the right to begin. However, an exception to this rule is that the Defendant has the right to begin if maintainability of the suit is in question; if the burden proof of proving all the issues lies on the Defendant and if the defendant admits the facts alleged by the Plaintiff, but concedes that either

Chapter 2

How to reflect your Legal Research in your arguments?

in point of law or on the basis of some additional facts alleged by the defendant, the plaintiff is not entitled to the relief prayed for.³

Order XX, Rule 1(1) speaks as follows:

"On completion of the evidence, the Court shall fix a date, not exceeding fifteen days, for hearing the arguments of parties."

Order XLI, Rule 16 is about Right to begin before an appellate Court. It reads as follows:

"16. Right to begin. (1) *On the day fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal.*

(2) *The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply."*

Mr. Justice Syed Zahid Hussain in *Muhammad Latif Vs. Member Board of Revenue/Chief Settlement Commissioner, Punjab, Lahore and 9 Others*, reported as 2003 CLC 1064 considered the order passed after a lengthy period of time after the date of hearing as violative of the principles of natural justice, not sustainable in law and was declared to be of no legal effect.

The Cr.P.C. 1898 has not mentioned the term final arguments. Rather under Section 265-G a term 'summing up' has been used instead of 'arguments' or 'final arguments'.

Section 265-G of Cr.P.C. 1898 speaks as follows:

"265-G. Summing up by Prosecutor and Defence: (1) *In cases where the accused, or any one of several accused, does not adduce evidence in his defence, the Court shall, on the close of the prosecution case and examination (if any) of the accused, call upon the Prosecutor to sum up his case whereafter the accused shall make a reply.*

(2) *In cases where the accused, or any of the several accused, examines evidence, in his defence, the Court shall, on the close of the defence case, call upon the accused to sum up the case whereafter the Prosecutor shall make a reply."*

2.1.2- The 'First Hearing' by a Civil Court:

The 'First Hearing' comes when a suit is instituted alongwith the Plaintiff, and when defendant files his Written Statement before the Court.

³ Aamir Raza, "Code of Civil Procedure", Ninth Edition, 2005, published by Aamir Raza A. Khan, p.666

Chapter 2

How to reflect your Legal Research in your arguments?

The term 'First Hearing' is not defined by the CPC, 1908. In fact it is the stage of framing of Issues by the Court under Order XIV of CPC, 1908. According to an Indian Judgment *Arujun Khaimal Makhijani V. Jamnadas C. Tuliani*, (1989) 4 SCC 612:

"First Hearing is the day on which the Court applies its mind to the case either for framing Issues or for taking evidence."

2.1.3- The Final Hearing:

Vide 'The Code of Civil Procedure (Amendment) Act, 2020 the following Section has been added:

"26-D. Hearing of final arguments.—(1) *The Court after submission or closing of evidence, as the case may be shall fix a date not later than fifteen days, for hearing of final arguments by parties.*

(2) The Court may require the parties to file their written arguments in addition to oral arguments."

Final Hearing is dealt by Lahore High Court Rules and Orders as follows:

*"On completion of evidence, the Court shall fix a date, not exceeding fifteen days, for hearing of arguments of parties, and the trial shall be over after such hearing."*⁴

*"When the party having the right to begin has stated his case and the witnesses adduced by him have been examined, cross-examined and re-examined, and all the documents tendered by him have been either received in evidence or refused, it then devolves upon each of the opposing parties, who have distinct cases, to state their respective cases in succession, should they desire to do so. After all of them have done so, or have declined to exercise the right, the evidence, whether oral or documentary, adduced by each in order, should be dealt with precisely as in the case of the first party; and on its termination and after they have, if they so desire, addressed the court generally on the whole case the first party should be allowed to comment in reply upon his opponents evidence."*⁵

2.1.4- The Opening Statement:

Once upon a time there was an apex Court being the Court of last resort, headed by an honorable Judge. The practice of the Court was that it used to hear very short arguments even in very lengthy and critical cases. The Court even used to forthwith decide the fate of the case. Most of the cases used to get disposed off in a matter of 5 to 10 minutes. A learned senior advocate was much concerned about his case. His case was the most critical cases of all times, which required deep explanation of facts. On the day of arguments, before his turn, all the cases met the same fate. When his turn came, he with a confident smile on his face, calmly started walking

⁴ Lahore High Court Rules and Orders, Vol.-I, Chapter 11, Part A, Rule 1

⁵ Ibid., Chapter 1, Part H, Rule 10

Chapter 2

How to reflect your Legal Research in your arguments?

towards the rostrum and while walking, when he approached near the rostrum, he smilingly and confidently said: "*Sir, I have charged forty lac Rupees from my client. My client wants me to argue before this honorable Court. I request this honorable Court should hear me for a while.*" The Court became surprised by this 'opening statement' and said "Ok, Mr. Pirzada please proceed." The learned Counsel then argued for a sufficient hour and explained all his important points.

An argument begins by an opening statement. There is no law on earth, which can prescribe how to open a case. Whenever an advocate, without any other pressure on his mind, calmly sits for preparing his case, the facts of the case automatically give birth to an opening statement. The most important factor, which shapes and grooms this opening statement is the behavior, conduct and personality of the Judge and his style of conducting the proceedings in cases before him. In other words, the opening statement is born when you completely know *thy* facts, know *thy* law and last when you know *thy* Judge. It is something that comes out of your mind and expressed through your heart.

After you have opened the case, note the expressions of the Judge. These expressions will help you streamline your further course of action. Sometimes the Judge will require you to simplify the whole case in few words and sometimes you will be required to go through each and every word of your file. It depends from case to case.

During the whole course of your arguments, you should be equipped with following qualities. I had also mentioned these qualities in my previous book. However, as the topic is capable of further expounding, therefore, I, will further expand these points here as well for my target readers, i.e., the law students and young lawyers.

2.1.5- Clarity of Thought:

You have a plethora of documents, the haphazard facts, the leading and misleading evidence, and a universe of law and case law in front. If you have not clearly defined your line of action, you may create a worst picture in the mind of the Judge. Therefore, clarify your thoughts and streamline your set of arguments. Present them in a crystal clear way, so that no shadow or no ambiguity remains in the narration of facts during the course of arguments.

While studying your case or your brief you must be focused on it and revisit the whole file again and again. This process will help you in formulating your final arguments. When you are done with formulating and streamlining your thoughts, write them.⁶

⁶ Shahzad Abid Baig, '*Wakil-e-Sharai and the Legal Practitioners in Pakistan*', 2004, Federal Law House, Rawalpindi

Chapter 2

How to reflect your Legal Research in your arguments?

2.1.6- Create a picture in the mind of the Judge:

During the course of arguments, both lawyers present the facts and the law on those facts in such a way that two different pictures are created before the eyes of a Judge. The picture, which is clearly drawn wins the case. Have you seen the following statue of Roman Goddess of Equity, which is also commonly known as 'blind folded lady of Justice'? Have you ever wondered about the underlying meanings of this statue and why its eyes are blind folded? Let us discuss it hereunder:

Blindfold: This statue is shown outside different Courts at different places as blindfolded to represent that the administration of justice should not be prejudiced and it should be unbiased. Meaning thereby, that the eyes of a Judge are closed and they will open when you will draw a clear picture of your facts and your relief in his mind through your representation before him, which picture is much better, much clearer, and much sharper than the picture of facts and relief drawn by your opponent lawyer.

The hanging Balance: And during the whole proceeding of a trial before a Judge, the balance of Justice that the statue is holding in her right hand is equally balanced. It will tilt only in that party's favour who will draw a clear picture of facts and relief in the mind of that Judge through his representation before him, which picture is much better, much clearer, much sharper than the picture of facts and relief drawn by the opponent lawyer. And that would be the moment of 'Justice done' through the dictum of a Judge.

The sword pointing downwards: We cannot escape the authority that is behind that Judge to administer the Justice and the judicial strength and the power that can be sparingly used. And that is the 'Sword', which is held in the left hand of the statue to show to the parties that a Judge is not without authority, strength and power and he can use it, whenever he thinks fit and



Image No.1: It is not the exact image of statue of Lady Justice. It's different variants exist.

Chapter 2

How to reflect your Legal Research in your arguments?

proper. So, never challenge his authority, strength and power during the proceedings of whole trial and believe in him.

Now let us discuss a well-known example of how to draw a picture of facts in the mind of a Judge by using the example of an 'Ugly Car'. A party to the proceedings wants to show to the Judge that the Car is ugly. How will he do so? He can do so in the following manner. During the hearing, following are their arguments, with each other. Please remember, these are the imaginary arguments.



Image 2 (Free Image): Credit: Alexey Borodin, Stock Photo ID: 884151438, uploaded December 02, 2017, <https://www.istockphoto.com/photo/burnt-red-car-after-fire-accident-gm884151438-245851459?phrase=ugly+car> (accessed 01.05.2023)

“Lawyer: Sir, the Plaintiff through his Counsel has filed a suit for seeking the recovery of a much higher amount of damages of a Car, which is an ugliest car.

Judge: Respected lawyer, the Plaintiff has filed a Suit and mentioned in his evidence that the Car is of a very good condition, how can you convince me that the Car is ugly?

Lawyer: Sir, the Plaintiff was bound to tender the pictures of the Car in his evidence and also mention the condition of his Car in his examination in chief, but he has neither shown the pictures of his Car before this honorable Court, nor has ever tendered them in his documentary evidence.

Judge: The record is in front of me. However, I am still unable to understand that the Car is ugly.

Lawyer: Sir, although the Plaintiff has not mentioned in detail about the condition of his Car, however, during the cross examination, when he was confronted with the picture of his Car, he admitted it as the picture of his own Car and it is available in the Case File before this honorable Court as “**Ex.--**”, which may kindly be seen. The Plaintiff has further admitted at page No.---, line No.--- in his cross examination that his Car bears the Registration No.---, which is the same as has been narrated by the Defendant and whose picture

Chapter 2

How to reflect your Legal Research in your arguments?

is also available in Case File before this honorable Court as “**Ex.--**”. During cross examination, the Plaintiff has also admitted that the ‘Car was burnt in fire at the backyard of his house’, ‘the Car had lot of dents’, ‘the paint of his car was burnt and withered off’, ‘the Car had a lot of rust on it’, ‘the main screens and window glass was broken’, ‘the entire plastic in the Car is burnt’ and ‘the Car is extremely dented’. And Sir, all of this can be clearly seen in the “**Ex...**” and “**Ex.---**”. Furthermore, the honorable Court can either require the Car to be brought before it for inspection or visit the location where the Car is placed under Order 18, Rule 18 of the CPC, 1908.

Judge: Thanks, please wait for the decision.

Judgment and Decree: The Car is found to be ugly and the Suit of the Plaintiff is dismissed with compensatory costs under Section 35-A of CPC, 1908 for frivolous litigation.”

2.1.7- Analytical Mind:

An analytical mind is the one which can rationalize and differentiate between the good and the bad and which can pick the right point from a zig-zag factual or a legal situation and proceed towards that point in order to bring justice to the door step. An analytical thinker sees everything with a doubt, he questions everything. He looks for the evidence of truthfulness. He is thoughtful about different solutions of the problem. What else can be said other than to say that it is the most important requisite. Be an analytical thinker.⁷ It is said that a child who questions too much in his early child hood can be a future lawyer. The lawyers are genetically of critical mind.

Analytical mind is full of analytical skills, and the analytical skills are those which collect, organize, visualize and assimilate the data. It is in fact the logic that derives you towards different sets of conclusions. According to Collins COBUILD Advanced learners’ dictionary:⁸ “*An analytical way of doing something involves the use of logical reasoning.*” So in short the mind of analytical thinker works like a computer processor. An analytical process requires a fresh and healthy mind because, often inside the Court room a lawyer has to utilize all of his analytical skills to face different odd situations. In free hours, many lawyers play the mind games like Chess, etc. to further sharpen their analytical skills. Similarly rich businessmen play Golf to not only make networks but also to sharpen their business skills with fresh mind and fresh energy. So, a fresh mind is the best analytical mind.

And finally, in my view, an analytical lawyer is the one who can receive the data, process the data, generate different ideas, put them on hypothetical situations within his mind, then sort out the best solutions of the problems and that too in a blink of an eye.

⁷ Ibid.

⁸ “Analytical Skills”, <https://www.collinsdictionary.com/dictionary/english/analytical-skills> (accessed 01.05.2023)

Chapter 2

How to reflect your Legal Research in your arguments?

2.1.8- Command over language:

People often argue about the role of language in advocacy. Few say that it is not important among other requisites. However, it is still an important requisite as it has direct influence with the reflex action of a person who is hearing the words being uttered. Every part of the world has its own language, its own varying accent and pronunciation. Urdu and English are the most common languages in Pakistan. However, other local languages are also quite frequently used in the subordinate Courts in Pakistan but local languages are not used in Superior Courts. The language must be the language of the Court i.e. which is well known by the speaker and the listeners, which is not rough and rude, which is polite, which is well understood and lastly which is the language of law.⁹

Many lawyers do not care about the grammatical and spelling mistakes in English language. The Judges also do not mind whether you are good at speaking the language of the law or not. They only care about how effectively you have communicated your point of view to the Judge. Not everyone can have an authority over the foreign language but you should have a confidence to communicate.

2.1.9- Effectiveness of expression, a method of persuasion and a reasonable approach:

It is well accepted that every person has his own way of expression, his own approach towards the matter concerned and his own way of persuasion. It is wise to say that 'relationship is the name of change in attitude.' By this change in attitude you can make friends and you can lose friends; it all depends upon you and your attitude towards others. In the legal profession lawyers often win their cases by just changing their attitude.

Way of expression, approach and persuasion are the subsidiaries of the attitude which makes the man perfect. These are the arms of an advocate with which he is gifted.

An advocacy or *Wakalah* is a widely used concept. An Advocacy is an attempt to change the attitude and action of a group or individual or to deepen or strengthen the attitude already present.¹⁰

Whenever someone speaks, he applies some degree of influence to the audience or his listener because it is impossible to speak without exercising some degree of influence on other person. It is the quality of a best speaker or an advocate to exercise his power of persuading on the other and to drive him to accept that whatever he is saying is worth listening. An advocacy is the best form of persuasion as it persuades the listener to change his attitude

⁹ Ibid.

¹⁰ Hance, Kenneth G, Ralph, David C, And Wiksell, Milton J. '*Principles of Speaking*' Published by Wadsworth Publishing Company, Inc. Belmont, California Page 234.

Chapter 2

How to reflect your Legal Research in your arguments?

and opinion and to take an action in accordance with this new view or opinion.

According to different writers and experts an advocate can exercise different types of persuasive speeches for example: logical persuasive talk; non-logical persuasive talk; the debate; the argument; the mixed-informative persuasive speech; the good-will talk¹¹; and there are so many other types of speeches which are often used by the advocates in Pakistan.¹² The examples of such persuasive speeches cannot be explained through writing, they can only be explained and understood through a live experience, through a video and through a Moot Court.

2.1.10- Having studied the Court:

Before arguing a case a lawyer must study the personality of the Judge. Some Judges have an appearance, which easily reflects their personality, and some Judges have a deceiving appearance i.e. it is difficult to guess their personality by their appearances. It is important to guess the personality of the Presiding Officer of the Court because a lawyer has to argue the case before him and has to get justice from him for his client. An advocate has to guess what impression the Judge has after hearing the words uttered by him and listened by the Judge. It is a very important exercise. It requires sharpness of mind, deep penetrating eyes, and a quick reflex action. Sometimes the Presiding Officer of the Court starts getting frustrated by the arguments of the lawyer. At that moment, whenever an advocate perceives even a slight sign of that change in attitude, he should instantly change his style of persuasion and speech but not the point of argument if it is necessary and important.

In every day practice, the lawyers come across different Presiding Officers of the Court with different personalities and different set of mind. Every time in a Court the lawyers have to change their attitude with respect to the personality and approach of the Presiding Officer of the Court. It is quite natural that different persons may have different approaches towards the same matter [as we have explained in Chapter No.1 by giving the example of 'Necker Cube'].

Thus, in my view, if a new Judge is posted or transferred in your area, prefer not to immediately argue before him on the very first day. Even new Judges also wish to settle first, both physically and mentally and acclimatize in any new area for few days and in the meantime few of them may wish to understand the conduct, behavior and psychology of lawyers of that area. So, whenever a new Judge is posted or transferred in your area, on the first day and on some subsequent days, the young lawyers should sit quietly in the courtroom and study the personality, conduct and behavior of Presiding Officer of the Court before uttering any word before him. This will help you understand, whether he comes in time and leaves in time; how he behaves

¹¹ Ibid., 235.

¹² Shahzad Abid Baig, '*Wakil-e-Sharai and the Legal Practitioners in Pakistan*', 2004, Federal Law House, Rawalpindi

Chapter 2

How to reflect your Legal Research in your arguments?

with the Ministerial Establishment of his Court; how he behaves with the lawyers; how he looks at the case file and how he writes down the interim order; how far his management of the case file and his conduct, behavior and psychology is different from his predecessor Judge; how he behaves with lawyers, whether he is too soft, too arrogant, too inquisitive, too rash or a balanced one; whether he respects and treats the lawyers equally, without he behaves like a teacher with young lawyers and with un-biased, un-prejudiced respect to the lawyers by giving them an equal treatment; how he acts and behaves with the parties to the litigation; how he writes and delivers his judgment. So, whenever a new Judge arrives, just relax yourself for a while and study the Court and the Judge. Such Judges should also bear in mind that they are being studied by the lawyers, the Bar Association and the Clients as well.

2.1.11- Having studied the facts:

Another most important thing is the bundle of facts, which on one hand give rise to the cause of action against a person and on the other hand negate that particular person's cause of action. A lawyer should have a full grip upon the facts of his case. He should know about his version and the version of the opponent. Having a full grip upon the facts would mean a full grip upon the arguments before the Presiding Officer of the Court. If you have full group upon the facts, you will be able to withstand and answer the hard questions of the Court.¹³

I have mentioned this concept in detail in previous Chapter of this book, please follow it carefully. Majority of lawyers, study the facts in their case file time and again. I have seen many senior most lawyers having the complete facts of their case on their fingertips. I have often seen such lawyers narrating the minute details of facts orally, and without opening their files.

2.1.12- Having studied the law:

Some law and legal procedure govern each act. There is an English Legal Maxim '*Ubi Jus Ibi Remedium*' i.e. wherever there is a right there is a remedy. It also means a remedy provided by the law. You must thoroughly study the law.

2.1.13-Professional Robes of Advocates:

As has been repeatedly mentioned, that first impression matters a lot. The Judge sits at a high place, where everyone is clearly visible to him. When you enter the Court room, you cannot escape from his eyes. Wear the best professional robe that you have. I have often seen the Judges of superior Courts becoming annoyed when they see the lawyers not being properly dressed up.

¹³ Ibid.

Chapter 2

How to reflect your Legal Research in your arguments?

The Pakistan Bar Council in its 29th meeting held on 11-1-1979 at Karachi considered a resolution of the Punjab Bar Council wherein it was proposed that uniform for the members of the Bar be changed. To adopt the '*Qaumi Libas*' for the legal fraternity the Pakistan Bar Council had proposed that the present robes of Advocates be changed. It was proposed that the use of bands on collars be done away with and instead the Advocates should wear black *Achkan/Sherwani* or black coat with black tie and black gowns. The idea behind was that by and by the Advocates will start wearing black *Achkan/Sherwani* instead of black coat. However, in spite of the best efforts this Bar Council did not receive any encouragement from the Supreme Court and the High Courts. However, in view of the changing circumstances and introduction of Islamic order in the country the Council felt the need for the change in the professional robes. To start with the Council reiterated its earlier resolution which provides that the use of bands be done away with and instead the Advocates should wear black *Achkan/Sherwani* or black coat with black tie and black gowns. The Council decided that this change may take place with effect from 12th of Rabi-ul-Awwal. ¹⁴

Thereafter, certain decisions took place regarding Court dress and the mode of address in a meeting, which was attended by Chief Justices of the Superior Courts in June 1979. On 6th of November 1980 President's Order No.15 of 1980, Superior Courts (Court Dress and Mode of Address) Order, 1980 was issued by the President. The Supreme Court Rules 1980 also provide a rule about the dress of Advocates and Advocates on Record. It says that the dress for senior Advocates, Advocates and Advocates on Record shall be short coat or sherwani of black material. The senior advocates shall wear gowns throughout the year. ¹⁵

Recently the President's Order No.15 of 1980 has been repealed by Superior Court's (Court Dress and Mode of Address) Order (Repeal) Act, 2020.

Chapter III of Sindh Criminal Court Rules, 2012 deals with 'Establishment'. Its Rules 3.2 deals with 'Court Dress for Judicial Officers and Advocates. This provision is as follows:

"3.2. Court Dress for Judicial Officers and Advocates –

(1) All the Judicial Officers including the Judicial Magistrates shall wear black coat, white shirt, black tie, white trousers and gown, whenever notified.

(2) Lady Judicial Officer shall wear black coat, white shirt, white shalwar or saree and gown, whenever notified

(3) Advocates when appearing in the Court shall wear black coat/black sherwani, white shirt, black tie, white trouser and gown. Provided that wearing gown shall be optional.

¹⁴ 'Pakistan Bar Council Journal' Chief Editor: Iqbal Ahmad Khan Advocate.

¹⁵ Shahzad Abid Baig, '*Wakil-e-Sharai and the Legal Practitioners in Pakistan*', 2004, Federal Law House, Rawalpindi

Chapter 2

How to reflect your Legal Research in your arguments?

(4) Lady Advocate shall wear Black coat, white shirt, white colour shalwar or saree and gown. Provided that wearing of gown shall be optional."

2.1.14- Mode of addressing the Judges of Superior Courts:

Section 4 of Superior Courts (Court Dress and Mode of Address) Order, 1980 speaks about the Mode of Address of Advocates. However, this President's Order No.15 of 1980 has been repealed by Superior Court's (Court Dress and Mode of Address) Order (Repeal) Act, 2020.

It was pointed out that the words 'My Lord' or 'Your Lordship' are reminiscent of the monarchical institution which was the integral part of the constitutional setup with which this country had been affiliated before partition. But after the establishment of independent Pakistan the continuance of this mode seems out of date and a part of history. In all republican polities the Judges of the Superior Courts are not addressed as 'My Lord' or 'Your Lordship' and the practice in the United States is in line with mode of address which has been suggested by the Bar Council.¹⁶

The Pakistan Bar Council also reiterated its resolution of 1974 whereby it was decided that the mode of address as 'My Lord' be done away with and instead the Judges of the Superior Courts be addressed as 'Sir' or 'Jannab'.¹⁷

Quite recently Mr. Justice Qazi Faez Isa of the Supreme Court of Pakistan, in *Shaukat Ali Vs. State Life Insurance of Pakistan through its Chairman and another* [approved for reporting but not yet reported] while passing an Order on 02.03.2023 in Civil Petition No.1743 of 2020 has observed that:

"4. During the hearing the learned counsel for the petitioner repeatedly referred to the Supreme Court as the 'Honourable Supreme Court' and in his petition referred to this Court as the 'Honourable Court'. We enquired from him whether the Supreme Court or the High Court can be honourable and he drew our attention to the cited judgment of the Lahore High Court wherein the learned Judge used the honorific Hon'ble. It transpired that the learned Judge used the honorific Hon'ble as a prefix twelve times when referring to the Supreme Court and four times when referring to a Division Bench of the High Court, that is, a total of sixteen times.

5. A practice seems to have developed among lawyers and judges of using the honorific honourable/hon'ble and learned when referring to the Supreme Court and the High Courts. At times. The Supreme court is also referred to as 'August Court' or 'Apex Court'. However, such honorifics or prefixes are not used with other institutions such as Parliament, Senate, National Assembly or the provincial assemblies, which naturally leads one to question the distinction.

*6. The Constitution of the Islamic Republic of Pakistan ("**the Constitution**") refers to this Court as the Supreme Court and to the High Courts as High Courts. The Constitution as does not use any prefix or honorific before these courts nor uses the terms August or Apex for the Supreme Court. it serves us*

¹⁶ Ibid.

¹⁷ Pakistan Bar Council Journal' Chief Editor: Iqbal Ahmad Khan Advocate.

Chapter 2

How to reflect your Legal Research in your arguments?

best when we use the language of the Constitution with regard to institutions mentioned therein. Those whose vocation requires proper use of language should strive for accuracy, and for advocates and judges the preference should be to use the language of the Constitution.

7. In the birthplace of the English language, the Supreme Court and High Courts are neither referred to as honourable or learned. The British parliament, which is referred to as the mother of parliaments, is also not referred to as honourable. However, members of the British Parliaments are referred to as Right honourable. Usage of the honorific 'honourable' with inanimate institutions, like courts, is linguistically inappropriate.

8. The reason for the learned counsel to add the honorific honourable before mentioning this Court was probably to show deference. The former Chief Justice of an Indian High Court [Yatindra Singh, C.J.] has this to say about such use:

"To some extent, judges are responsible for this incorrect usage. I cannot say when or by whom this practice was started but it appears that at some point in time someone mistakenly used it and then blindly followed, and judgments began using it. Lawyers, the media, and other Indian writings followed suit and adopted it as a fashion – perhaps they sought to unnecessarily glorify or feared offending the judges."
[<https://theleaflet.in/is-it-a-judge-who-is-honble-or-a-court/>](accessed on 2 March 2023)]

9. That English is not the mother tongue of most Pakistanis, including ours. Therefore, mistakes do occur in its usage. Accordingly, we consulted dictionaries to ascertain when the honorific honourable (in American English the letter 'u' is dropped) is used, and the following are some of the definitions:

'honourable (U.S. honorable).

1. Bringing or worthy of honour.

2. (**Honourable**) a title given to certain high officials, the children of some ranks of the nobility, and MPs. [Oxford English Dictionary (Eleventh Edition), p.684.

'Honorable. A title of respect given to judges, members of the U.S. Congress, ambassadors, and the like' [Black's Law Dictionary (Seventh Edition), p.741.]

'Honorable. Primarily, commendable, estimable, illustrious, meritorious, noble, respectable in quality, up to the standard of respectability, worthy of honor. Derivatively, it is used in this country as a title of courtesy for various classes of officials, but without any clear line of distinction; [Corpus Juris Secundum 41, Volume XLI, p.41.]

Honourable or (US) honorable.

1. Deserving or worthy of honour.

2. Having high moral principles.

3. (**Honourable**) a prefix to the names of certain people as a courtesy title. [Chambers 21st Century Dictionary, p.646.]

'Honorable Adjective

Hon'or'able

1: deserving of respect or high regard: deserving of honor

An honorable profession

2a: of great renown:

The colleg's long and honourable history

Chapter 2

How to reflect your Legal Research in your arguments?

B: entitled to honor or respect – used as a title for the children of certain British noblemen and for various government officials

The Honorable Judge Smith

The Honorable Senator from California

3: performed or accompanied with marks of honor or respect

4a: attesting to creditable conduct

Honorable wounds

B: consistent with a reputation that is not tarnished or sullied

An honorable withdrawal

Received an honorable discharge from the army

5: characterized by integrity; guided by a keen sense of duty and ethical conduct

Brutus is an honorable man – Williame Shakespeare

Assured her that his intentions were honourable.' [<https://www.merriam-webster.com/dictionary/honorable>] (accessed on 2 March 2023)]

Therefore, our understanding that honourable (or honorable) is not to be used as an honorific or prefix with inanimate objects and institutions, including all courts, stands confirmed.

10. Judges may be referred to as honourable (or the abbreviated hon'ble) or learned. Any use of language that is respectful and concise is sufficient. However, it is irksome when these honorifics and Sir are used profusely; which we have invariably found to serve as a substitute for meaningful arguments.

11. We expect litigants, counsel and judges to adhere to the aforesaid observations to ensure clarity, brevity and to avoid the perception of being obsequious."

2.1.15- Placing correct law before the Court/Authority:

I refer to a part of the judgment given by Mr. Justice S, Ahmed Sarwana of Karachi High Court.¹⁸ This decision is almost verbatim reproduced below:

"Let us now examine what the Islamic Law say about placing the correct law before the adjudicator to enable him to decide the issue in accordance with the law and how different cultures and societies monitor the conduct of the legal profession. In this context Maududi in his Tafseer relating to Surah Al-Maidah, Ayat 42-43, has referred to the following historical event from the life of the Holy Prophet (PBUH)¹⁹:

It refers to a case of illicit relation between a man and a woman who belonged to respectable families of Jews of Khaiber. According to the Torah²⁰ their punishment was that both of them should be stoned to death. As the Jews did not want to inflict this punishment, they decided that the case be taken to the Holy Prophet and that they would accept his decision only if it was brought before him. The Holy Prophet (PBUH) decreed that they should be stoned to death, but the Jews rejected it. Then the Holy Prophet asked them what the punishment was according to Torah. They replied that it was to flog the culprits, to blacken their faces, and to mount them on donkey. The Holy Prophet asked them to declare on oath whether that was the punishment for adultery committed by a married couple. They,

¹⁸ Muhammad Saddiq vs Ruqaya Khanum reported as PLD KAR 81

¹⁹ Abdullah Yousaf Ali, *The Meaning Of Quran*, VollII, page 45

²⁰ Deuteronomy. 22:23-24.

Chapter 2

How to reflect your Legal Research in your arguments?

all but one answered that it was so. The one who had kept quite was Ibn-e-Surya, who was considered to be the greatest scholar of Torah by Jews themselves. The Holy Prophet pointedly addressed him and asked. 'I want you to swear by that God who saved you from the Pharoah and gave your Law on Tur, and answer whether it is the same punishment for adultery in Torah that these people tell.' He said that 'the punishment for adultery is stoning to death. The fact is that when adultery became common among us, the judges would let the offenders go, if they happened to be big people. But as this differentiation caused a great discontent among the people, we made a change in the law that instead of stoning to death the culprit should be flogged and mounted on the donkey with blackened face'. After this, the culprits were stoned to death."

Thus, it is apparent that it is the duty of a person not to conceal but to place the correct law before the authority.

According to another judgment of Justice S. Ahmad Sarwana, an advocate is concerned in proper administration of justice and owes an overriding duty to the court, to the standards of his profession and to the public to ensure that these are achieved. Counsel must not mislead the court. Any attempt of counsel to argue a point of law which was already been rejected by the Supreme Court, would amount to the concealment of facts and law and by so doing he would allow himself to be "used as an advocate by those who betray their trust" which was also prohibited by the injunctions of Islam.²¹

American Bar Association in Rule 3.3 of '*ABA Model rules of professional conduct*' says that if a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.

Fundamental to a lawyer's role as an officer of the court is the duty to disclose adverse authority or to describe that duty more precisely to the legal authority and not to be disclosed by opposing counsel.

Rule 3.3 of *ABA Model Rules* says, 'A Lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities.' ²²

The English law relating to the conduct of counsel in court is similar. *Halsbury's Laws of England* states that: "Counsel is concerned in the proper administration of justice and owes an overriding duty to the court, to the standards of his profession, and to the public, to ensure that it is achieved. Thus counsel must not mislead the court."²³

Rule 161 from the Ethics and Canons of Advocacy mentioned in the Legal Practitioners and Bar Councils Rules 1976 speaks as follows:

²¹ 2001 YLR 1843 (b)

²² Joanne Pitulla, *Playing Ostrich*, *Aba Journal* (August, 1993)

²³ *Halsbury's Laws Of England*, 4th Edn, Vol 3(1), Para 415

Chapter 2

How to reflect your Legal Research in your arguments?

"161-An Advocate shall not intentionally misquote to a judge, judicial officer or jury the testimony of a witness, the argument of the opposing advocate or the contents of a document; nor shall he intentionally misquote to a judge or judicial officer the language of a book, state or decision; nor shall he, with knowledge of its invalidity and without disclosing such knowledge, cite as authority a decision that has been overruled or a statute that has been repealed or declared unconstitutional."

2.1.15.1. How to check that a certain Precedent is Reversed, Overruled, Dissented or not?

It is the most important aspect in a legal research. It is always considered as a bad omen if you place a Judgment as Precedent before a Court, which has already been overruled, varied or set aside and the Court knowing this fact prompts you immediately.

Once, I was arguing before a Court when the opponent lawyer presented a judgment of Jj.Ch. Ijaz Ahmed and Hamid Ali Mirza, *Rehmatullah and Others Vs. Saleh Khan and Others*, 2007 SCMR 729 as Precedent in the Court. When I saw that judgment, I immediately objected and informed the Court that this Judgment can no longer be considered as a Precedent, because, it had been set aside in a Review Petition No.19 of 2007 (in C.P. No.1081 of 2006) titled '*Rehmatullah son of late Sarwar Khan etc. Vs. Saleh Khan son of Manzar Khan and Others*', decided on 02.12.2008 by Jj.Sardar Muhammad Raza Khan and Mian Hamid Farooq of the Supreme Court of Pakistan. The actual catch here was that the Judgment of Supreme Court whereby the previously reported Judgment was reviewed was not reported in the Law Reports. As I had myself assisted my seniors at Islamabad Mr. Justice (R) Abdul Karim Khan Kundi Advocate Supreme Court in that Civil Petition (C.P), which was reported as 2007 SCMR 729 and had also drafted the Review Petition No.19 of 2007 (in C.P. No.1081 of 2006), therefore, I had the knowledge about these Judgments. Therefore, I correctly assisted the Court. However, majority of the lawyers do not have enough time to do extensive research about the judgments, which had overruled, reversed and dissented from the original judgment.

The Annual Law Digest (ALD) provides a table of cases, which are either overruled, reversed or dissented from in the following manner:²⁴

²⁴ "Part-1, Table of Cases, Reversed, Overruled and dissented from", Annual Law Digest, 2013, Part 1, PLD, Publishers, Lahore.

Chapter 2

How to reflect your Legal Research in your arguments?

Part – I Table of Cases Reversed, Overruled And Dissented From	
Bashir Ahmad Khan v. Custodian Evacuee Property Azad Jammu and Kashmir, Muzafarabad and 2 others, PLD 1987 (AJ&K) 118	Overruled in 2013 CLC 910(a)
2008 SCR 277	Overruled in 2013 MLD 305
Altaf Hussain v. Abdul Hameed alias Abdul Majeed through Legal Heirs and another, 2000 SCMR 314	Dissented from in 2013 SCMR 23

Table No.4: Table of Cases Reversed, Overrules and Dissented from.

Therefore, every lawyer before placing any judgment as Precedent before the Court should also search from that list provided by the ALD.

2.1.16- High Court Rules and Orders regarding Arguments:

:WORKING OF A JUDGE

1. *On completion of evidence, the Court shall fix a date, not exceeding fifteen days, for hearing of arguments of parties, and the trial shall be over after such hearing.*²⁵

2. *When the party having the right to begin has stated his case and the witnesses adduced by him have been examined, cross-examined and re-examined, and all the documents tendered by him have been either received in evidence or refused, it then devolves upon each of the opposing parties, who have distinct cases, to state their respective cases in succession, should they desire to do so. After all of them have done so, or have declined to exercise the right, the evidence, whether oral or documentary, adduced by each in order, should be dealt with precisely as in the case of the first party; and on its termination and after they have, if they so desire, addressed the court*

WORKING OF MINISTERIAL ESTABLISHMENT

- 1- During arguments it is the responsibility of the Ministerial Establishment, most particularly of the Reader and Qasid/Naib-Qasid of the Court to check and observe the activities of the litigating parties, so that they could not interfere in the official responsibilities of the Presiding Officer of the Court (Judge).

- 2- It is the responsibility of Reader of the Court to assist the Judge during Arguments.

²⁵ Lahore High Court Rules and Orders, Vol.-I, Chapter 11, Part A, Rule 1

Chapter 2

How to reflect your Legal Research in your arguments?

generally on the whole case the first party should be allowed to comment in reply upon his opponents evidence.²⁶

3. *The provisions of Order 18, Rule 2 and 3 should be strictly followed. The practice prevailing in some courts of hearing three speeches in every case after the close of evidence of both the parties, first by Plaintiff, then by Defendant and then a reply by Plaintiff is irregular.²⁷*
4. *The practice of adjourning of a case for arguments after all the evidence has been given should, as a rule, not to be followed except in long and complicated cases. But this observation does not extend to an adjournment, when reasonably necessary, for a reply on the whole case by the party who is entitled to such reply nor to an adjournment for argument on a question of law which may have arisen during the trial and may have been, for convenience sake, reserved for argument until after the taking of the evidence. Whenever a case has to be adjourned for arguments it should be adjourned to the next day, or, if this is not possible, to a very near date.²⁸*
5. *All orders made by the Court relative to change of parties, or adjournments, or bearing upon the course of the hearing of the suit other than depositions, orders deciding any issue and the final judgment, and notes of all material facts and occurrences which may have happened during the hearing of the suit, such as the presence of witnesses, etc., must be carefully recorded from time to time, by the Presiding Officer in his own handwriting and be dated and appended to the record. Each "order", or "note" should be clearly marked as such.²⁹*

²⁶ Ibid., Chapter 1, Part H, Rule 10

²⁷ Lahore High Court Rules and Orders, Vol-I, Chapter 1, Part H, Rule 10

²⁸ Ibid., Part H, Rule 16

²⁹ Lahore High Court, Rules and Orders, Volume I, Chapter 1, Part H, Rule 18

Chapter 2

How to reflect your Legal Research in your arguments?

2.1.17- How to conclude the Arguments:

A Court always waits for your conclusive remarks. It is generally observed that during lengthy arguments, the Presiding Officer of the Court is more attentive at the beginning and end of your arguments. Therefore, while beginning one should strike with his strongest point of argument and at the end one must finish with the same strongest argument. Your opening statement must tally with your conclusive remarks.

Your confidence in words and yourself, softness of attitude, your body language and your behavior towards the Judge are always counted at the conclusion of your arguments. Sometimes, a lawyer wins his case just by his conclusive statements.

Sandra Day O'Connor said:

*"The power I exert on Court depends on my arguments, not on my gender."*³⁰

And Lyndon B. Johnson said:

*"What convinces is conviction. Believe in the argument you are advancing. If you do not, you are as good as dead. The other person will sense that something is not there, and no chain of reasoning, no matter how logical or elegant or brilliant, will win your case for you."*³¹

2.1.18- The Written Arguments:

I use the following style of Written Arguments, however, you are free to choose your own style:

IN THE COURT OF -----, CIVIL JUDGE, JHELUM		
In Re.:		
"A" AND OTHERS	Vs	"B" AND OTHERS
<u>SUIT FOR SEPCIFIC PERFORMANCE OF CONTRACT</u>		
<u>WRITTEN ARGUMENTS ON BEHALF OF PLAINTIFF</u>		
The Plaintiff respectfully submits his arguments, which are as below:		
<u>OPENING STATEMENT:</u>		

³⁰ https://www.brainyquote.com/quotes/sandra_day_oconnor_372203?src=t_argument (last visited on 30.03.2020 at 5:41 pm)

³¹ https://www.brainyquote.com/quotes/lyndon_b_johnson_130656?src=t_argument (last visited on 30.03.2020 at 5:41 pm)

Chapter 2

How to reflect your Legal Research in your arguments?

1. THE DEFENDANTS:

[In this section, write the status of contesting, proforma, un-contesting, defendants who are proceeded ex-parte and as per your case file.]

2. BRIEF DESCRIPTION OF SUIT PROPERTY/AGREEMENT:

3. JUST OF PLEADINGS:

AVERMENTS IN PLAINT	DENIAL IN WRITTEN STATEMENT
1.-----	1.-----
2.-----	2.-----,
3.-----	3.-----
	4.-----

4. ISSUES:

1. Whether -----? OPP
2. Whether -----? OPP
3. Whether -----? OPD.
4. Relief.

5. EVIDENCE OF PLAINTIFF:

PLAINTIFF'S ORAL EVIDENCE	DEFENDANT'S ORAL EVIDENCE
PW-1: [ABC] Manager [----] Bank.	DW-1: [PQR]
PW-2: [DEF] Stamp Vendor,	DW-2: [STU]
PW-3: [father]	DW-3: [VW],
PW-4: [JKL]	
PW-5: [MNO]	
PW-6: [Plaintiff]	

6. DOCUMENTARY EVIDENCE:

PLAINTIFF'S DOCUMENTARY EVIDENCE	DEFENDANT'S DOCUMENTARY EVIDENCE
Ex.P-1: -----	Ex.D-1: -----
Ex.P-2: -----	Ex.D-2: -----
Ex.P-3: -----	Ex.D-3: -----
Ex.P-4: -----	Ex.D-4: -----
Ex.P-5: -----	Ex.D-5: -----

7. BRIEF ARGUMENTS:

1. [Write down the strongest argument first and then arrange the arguments accordingly. Give reference and mention the relevant case law wherever required to further support your arguments.]
2. -----.
3. -----.

Chapter 2

How to reflect your Legal Research in your arguments?

8. CITATIONS PRESENTED BY THE PLAINTIFF:

(A)- ALLEGATION ON BEHALF OF DEFENDANT ABOUT AGREEMENT AND SIGNATURES THEREON BEING

Per Mr. Jj Mazhar Alam Khan Miankhel & Munib Akhtar, Sajjad Ahmad Khan Vs. Muhammad Saleem Alvi, 2021 SCMR 415

"S.54—Agreement to Sell immovable Property --- Allegation of agreement and signatures on them being fake – Proof—Defendant – Vendor had alleged that agreement and his signatures over the same were fake and fictitious but had not specifically challenged the agreement in question either by way of criminal proceedings or through a Civil Suit – Simple denial of a document being fake and fictitious was not legally sufficient unless the same facts were proved and established on the record.--"

(B)- TIME IS THE ESSENCE OF THE CONTRACT:

Per Mr. Jj. Mushir Alam, Mazhar Alam Miankhel and Yahya Afridi, Mst. Samina Rifat and Others Vs. Rohail Asqahr and Others, 2021 SCMR 7

"—S.55—Transfer of Property Act (IV of 1882), S.54 – Agreement to sell immovable property --- Time essence of the contract --- Scope --- Generally, in respect of sale of immovable property, time was not considered as of the essence of the contract --- However, parties may consciously strike a deal to make time essence of the contract by providing certain consequences for breach of reciprocal obligation casted upon them, and in such cases, time was treated as essence of the contract."

(C)- MATERIAL POINT OF STATEMENT OF A WITNESS NOT CROSS EXAMINED:

Per Mr. Jj Ijaz ul Hassan, Qazi Muhammad Amin, and Amin ud Din Khan, (Muhammad, Rafiq and another Vs. Abdul Aziz, 2021 SCMR 1805

"---Art.133 --- Material point of statement of a witness not cross examined --- Effect --- Such point would be deemed to have been admitted by the other side."

(D)- RIVAL VENDEES:

Per Mr. Jj Mushir Alam and Qazi Muhammad Amin Ahmad Mst. Rehmat and Others Vs. Mst. Zubaida and Others, 2021 SCMR 1534(b)

"---Rival Vendees – Superior right – Right of a person having established that they were equipped with unregistered instrument, which was prior in time, and were in possession of property in part performance of such instrument, would rank superior even against the subsequent registered instrument --- Therefore, in the present case the position of respondent-vendee being in possession of the suit house, and having paid 80% of the vendor, was much stronger than that of the rival vendee; more particularly the possession of respondent-vendee was specifically admitted "

Chapter 2

How to reflect your Legal Research in your arguments?

(E)- ADMITTED FACTS NEED NOT BE PROVED:

Per Mr. J. Mushir Alam and Qazi Muhammad Amin Ahmad, Mst. Rehmat and Others Vs. Mst. Zubaida and Others, 2021 SCMR 1534(a)

"—Art. 30 --- Admitted facts --- Such facts need not be proved."

8- CONCLUSION:

[Conclude your arguments, in the best possible way and as I had advised you in the above pages.]

Plaintiff

-----,

Through Counsel,

[Name of Advocate]

Advocate [-----]

2.1.19- The Concise Statement:

The following style of Concise Statement is used in the Supreme Court of Pakistan:

<p>IN THE SUPREME COURT OF PAKISTAN (Appellate Jurisdiction) C.P.L.A. No. _____ / _____</p> <p>----- Vs. -----</p> <p><u>CONCISE STATEMENT</u></p>			
I.	Subject Matter	Civil Petition for Leave to Appeal against the impugned judgment dated [-----] passed by the hon'ble [-----] High Court, [----] in [-----].	
II.	Law	The Constitution of the Islamic Republic of Pakistan, 1973 as well as land laws and CPC are applicable.	
III.	Who filed this Petition?	[--Name of Petitioners--] before Honourable High Court.	
IV	Court	a) Date of Filing b) Date of Decision	Who filed it and with what result?
	Civil Judge, [-----]	a).[Date of filing Suit] b).[Date of decision of Civil Judge]	[Write very concise jist of Pleadings] [Write what the Civil Judge decided in a very short manner.]

Chapter 2

How to reflect your Legal Research in your arguments?

	District Judge, [----]	a) [Date of filing Appeal/Revision] b) [Date of decision]	[Write that jst of your Appeal and the jst of Appellate decision]
	[---] High Court, [---] Bench	a). [Date of filing] b). [Date of decision]	[Write that jst of your Appeal and the jst of decision of High Court]
V.	Points noted in the Impugned Judgment		Treatment of the points in the Impugned Judgment
i.	Whether the impugned judgment of the hon'ble High Court is against the facts on record and law on the subject		[Write in very short words how this point should have been treated by the High court]
ii.	and, hence, liable to be set aside?		[Write in very short words how this point should have been treated by the High court]
iii.	Whether the impugned judgment --? Whether -----?		[Write in very short words how this point should have been treated by the High court]
iv.	Whether -----?		[Write in very short words how this point should have been treated by the High court]
VI	Case Law to be cited at the bar.		
	<u>For</u>		<u>Against</u>
Certified that I myself prepared this concise statement which is correct Name and Signs of Advocate On Rec			

2.2- Research by Law Librarians:

Most of the time the lawyers have no time to do the legal research or search the Citations themselves. In such a situation, they seek the help of their librarian, whether, he is of their Bar Association's library or of their own law firm. Let us explore further how a librarian can support your research?

The Pepperdine Libraries of the Pepperdine University has provided the following seven steps of the research life cycle:

1. Research Planning,
2. Finding Resources,
3. Evaluating and Citing Resources,
4. Developing a Publishing Strategy,
5. Promoting Published Works,
6. Measuring your impact,
7. Showing your impact."³²

Our focus here is not on the role of librarians in academic research, rather it is on the legal research. The librarians, whether they are in a law firm or in any other library have always been very helpful in conducting the legal research. Even many Judges rely on the research conducted by these librarians. These librarians also provide legal research trainings. Steve Mishkin

³² Pepperdine University, Pepperdine Libraries, "The Seven Steps of the Research Life Cycle", accessed June 29, 2023, <https://library.pepperdine.edu/help-with/research/research-life-cycle.ht>

Chapter 2

How to reflect your Legal Research in your arguments?

has also examined this topic in depth and has also suggested that “*the quality of legal research training will be improved if law librarians themselves are provided with training, on how to deliver it most effectively.*”³³

In my observation, there are mainly following types of libraries available to the lawyers in Pakistan:

1. Personal Law Office's libraries,
2. Law Firm's Libraries,
3. Bar Association's Libraries,
4. Judges Libraries in High Courts and Supreme Court,
5. Other Libraries including Local, National, Law College and University's Libraries.
6. Online and Digital Libraries.

2.2.1- Personal Law Office's libraries:

Every lawyer is supposed to have his own Law Reports/Law Journals. The focus of a Civil Lawyer is always on those Law Reports/Law Journals, which provide a lot of Citations on Civil Laws and you will find a few books on Criminal Law and Other topics. Similarly, it is vice-versa. Very few lawyers get all types of monthly Law Reports/Law Journals per month. They have their own choices. Off course, it involves a lot of expense per month. However, the more books you have in your personal library, the more comfort you will feel in finding the suitable Citations and the law on the topic. However, it is your own option whether you start searching the Citations through Annual Law Digest (ALD) or through Pakistan Law Site or any other digital platform. Very few lawyers can afford their own personal librarian for such a job. In majority of the situations, they are doing it themselves, through their Munshi/Clerks or through their Associates. The scope of such a research is limited.

2.2.2- Law Firm's Libraries:

Many law firms have diversified libraries. Most of the law firms are designed in such a way that their libraries are also their meeting rooms. Therefore, the more and diversified books and Law Reports/Law Journals you have in your law firm's library, the more will be its impact on the Clients and the lawyers in that law firm. Since their clientage may be diversified, therefore they have to upgrade their libraries on regular basis. Most of the law firms have employed a librarian for such a job, whose job, *inter alia*, includes the management of such libraries. The seniors and their associates usually take the help of such librarians in finding out the relevant books and Citations. And such librarians do it speedily and at ease. The digital cataloguing system also helps them in such a process. If you are too tired to find the sources for your legal research yourself, you can leave it to your law firm's librarian who can facilitate you in

³³ Mishkin, Steve. "How Can Law Librarians Most Effectively Provide Legal Research Training?" *Legal Information Management* 17, no. 1 (2017): 34–68. doi:10.1017/S1472669617000111.

Chapter 2

How to reflect your Legal Research in your arguments?

finding and bringing the resources to you. He is not supposed to do the rest of the legal research. However, he can facilitate you.

2.2.3- Bar Association's Libraries:

The libraries operated and managed by Bar Associations are supposed to equip all types of law books, Law Reports and Law Journals. However, I have observed that most of such libraries are not equipped with all the law books, Law Reports and Law Journals. And in most of the cases, it is because the Bar Association lacks financial sources and in some cases, the interests of cabinet and lawyers as well. Most of the times they are dependent upon the donations, whether in cash, or in kind of some respectable.

However, these libraries are diversified. Most of the Bar Associations have allocated a separate room for library. Lawyers can, read and draw the books. Since, they are copied multiple times, therefore they need regular binding and proper management. In most of such libraries the computers, printers and digital solutions are also provided. Sometimes, free, sometimes on cash. Usually the librarian of the Bar Association's library is well versed and well equipped. You command him and he will bring the books for you instantly. However, the use of such libraries is confined to a short span of time. And in majority of the situations, and due to heavy workload and huge strength of lawyers, there is a race against time. And if the books are already drawn and if you are unable to find the relevant resource or Citation through internet, you have to revert to your own personal library. And if, that is also not possible, then you are helpless during your court hours.

2.2.4- Judges Libraries in High Courts and Supreme Court:

The Supreme Court of Pakistan has provided a specific library to the Judges known as the "Judge's Library". This library is usually not for lawyers or anybody else. It is used for reference and research by the Judges. It provides extensive research material for the Judges. It provides extensive material of research both on primary and secondary sources of legal research. It has subscribed to many digital databases across the world. It is situated in Judge's Block. It consists of three halls including staff offices and study rooms for the honorable Judges. The foreign law reports and research journals are placed in hall number one. The local law reports are placed in hall number two and the text and reference books are placed in hall number three. It has huge number of books including All India Reports (AIR), England Law Reports, Halsbury's Laws of England, Encyclopedias, Maps, Dictionaries and much more. It has huge number of Staff including Librarians, Assistant Librarians and other Officials who assist the Judges by providing the reference services in Court and in Judge's Chambers.³⁴

³⁴ "The Judge's Library", Supreme Court of Pakistan, Annual Report April, 2010 - December 2011, accessed June 29, 2023, http://www.scp.gov.pk/files/Misc/Annual_Rpt/Judges%20Library.pdf

Chapter 2

How to reflect your Legal Research in your arguments?



Image No.5: Judge's Library of Supreme Court of Pakistan. "The Judge's Library", Supreme Court of Pakistan, Annual Report April, 2010 - December 2011, accessed June 29, 2023, http://www.scp.gov.pk/files/Misc/Annual_Rpt/Judges%20Library.pdf



Image No.6: Judge's Library of Supreme Court of Pakistan. "The Judge's Library", Supreme Court of Pakistan, Annual Report April, 2010 - December 2011, accessed June 29, 2023, http://www.scp.gov.pk/files/Misc/Annual_Rpt/Judges%20Library.pdf

Similarly, the High Courts also provide separate libraries for honorable Judges of the High Courts for same purposes. They are also well equipped. However, not accessible to lawyers in general.

2.3- Research by Paralegals:

As I have mentioned before in Chapter 1 at section 1.8, the Paralegals should not be confused with Clerks or the term *munshi*. Rather, they are actually well trained and well versed persons who are hired to work as Legal Secretaries, Legal Associates or Paralegals of lawyers and law firms.

American Bar Association (ABA) defines 'Paralegal' as:³⁵

*"A person qualified by education, training or work experience who is employed or trained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible."*³⁶

The term Paralegal should not be confused with the term 'Community Paralegals'. The function of Paralegals working under the supervision of a lawyer or an attorney is different from that of 'Community Paralegals'. The 'Community Paralegals' directly work and serve for their community at grass root level. That is why they are also known as 'grassroots legal advocates'.³⁷

According to Haya Emaan Zahid and Shahzaman Panhwar:³⁸

³⁵ "Paralegals and Legal Assistants", accessed June 07th, 2020, <https://www.paralegaledu.org/>

³⁶ "Current ABA Definition of Paralegal", American Bar Association (ABA), accessed 09.06.2020, https://www.americanbar.org/groups/paralegals/profession-information/current_aba_definition_of_legal_assistant_paralegal/

³⁷ "What is Community Paralegal?", NAMATI, Innovations in Legal Empowerment, accessed 07.06.2020, <https://namati.org/wp-content/uploads/2015/02/What-is-a-Community-Paralegal.pdf>

³⁸ Haya Emaan Zahid and Shahzaman Panhwar, "Pakistan's Prison Paralegal Program", Human Rights Education in Asia-Pacific, Volume 9, 2019, p.98

Chapter 2

How to reflect your Legal Research in your arguments?

"[A] Paralegal is a person who is trained on substantive knowledge of legal matters but is not qualified as a lawyer."

There is another kind of Paralegal known as "Prison Paralegals":

"[P]rison" paralegal is a prison inmate who is trained on knowledge of basic laws including criminal law, prison rules, fundamental rights, criminal trial process, as well as other relevant civil laws such as property law and family law. What this paralegal can do is provide information instead of rendering legal advice. All Prison Paralegals are volunteers who take up the role because of various motivations most of which stem from an internal need to find satisfaction. Prison Paralegals are convicts and have experienced the frustration of being a new arrival in prison with little knowledge of laws and procedures and limited options of navigating through the system effectively."³⁹

A Paralegal can do the following tasks:

- a. Prepare the legal documents;
- b. Receive and conduct initial Client Interviews;
- c. Perform administrative duties in a Law Office or a Law Firm;
- d. Do the required research;
- e. Assist a Lawyer doing Court proceedings;
- f. Manage the office record.
- g. And many other jobs to support a Lawyer.

2.3.1. American Bar Association (ABA) Guidelines for Utilization of Paralegal Services:

ABA has a Standing Committee on Paralegals and Approval Commission. Many prominent lawyers are the members of this Committee and the Approval Commission.⁴⁰ ABA has issued guidelines for utilization of Paralegal services for attorneys ("ABA Guidelines on Paralegals"), which provide guidelines mentioning 'do' and 'don'ts' with respect to Paralegals. They are the ethical considerations that a lawyer has to follow while dealing with a Paralegal.⁴¹ The main focus of these guidelines is to define the limits of relationship of a lawyer and his Paralegal.

The ABA Guidelines on Paralegals provide the following ten guiding principles for lawyers/attorneys to follow while dealing with their Paralegals:

https://www.hurights.or.jp/archives/asia-pacific/section1/hreap_v9_sectoral_education5.pdf (accessed 18.03.2023)

³⁹ *ibid.*

⁴⁰ "Leadership and Staff", Standing Committee on Paralegals and Approval Commission", American Bar Association, https://www.americanbar.org/groups/paralegals/about_us/ (accessed July 29, 2023)

⁴¹ "ABA Model Guidelines for the Utilization of Paralegal Services", American Bar Association Standing Committee on Paralegals, accessed 07.06.2020, https://www.americanbar.org/content/dam/aba/administrative/paralegals/lis_prigs_modelguidelines.pdf

Chapter 2

How to reflect your Legal Research in your arguments?

1. **“Guideline 1:** A lawyer is responsible for all of the professional actions of a paralegal performing services at the lawyer’s direction and should take reasonable measures to ensure that the paralegal’s conduct is consistent with the lawyer’s obligations under the rules of professional conduct of the jurisdiction in which the lawyer practices.”⁴²
2. **“Guideline 2:** Provided the lawyer maintains responsibility for the work product, a lawyer may delegate to a paralegal any task normally performed by the lawyer except those tasks proscribed to a nonlawyer by statute, court rule, administrative rule or regulation, controlling authority, the applicable rule of professional conduct of the jurisdiction in which the lawyer practices, or these Guidelines.”⁴³
3. **“Guideline 3:** A lawyer may not delegate to a paralegal: (a) Responsibility for establishing an attorney-client relationship. (b) Responsibility for establishing the amount of a fee to be charged for a legal service. (c) Responsibility for a legal opinion rendered to a client.”⁴⁴
4. **“Guideline 4:** A lawyer is responsible for taking reasonable measures to ensure that clients, courts, and other lawyers are aware that a paralegal, whose services are utilized by the lawyer in performing legal services, is not licensed to practice law.”⁴⁵
5. **“Guideline 5:** A lawyer may identify paralegals by name and title on the lawyer’s letterhead and on business cards identifying the lawyer’s firm.”⁴⁶
6. **“Guideline 6:** A lawyer is responsible for taking reasonable measures to ensure that all client confidences are preserved by a paralegal.”⁴⁷
7. **“Guideline 7:** A lawyer should take reasonable measures to prevent conflicts of interest resulting from a paralegal’s other employment or interests.”⁴⁸
8. **“Guideline 8:** A lawyer may include a charge for the work performed by a paralegal in setting a charge and/or billing for legal services.”⁴⁹
9. **“Guideline 9:** A lawyer may not split legal fees with a paralegal nor pay a paralegal for the referral of legal business. A lawyer may compensate a paralegal based on the quantity and quality of the paralegal’s work and the value of that work to a law practice, but the paralegal’s compensation may not be contingent, by advance agreement, upon the outcome of a particular case or class of cases.”⁵⁰

⁴² Ibid., p.4

⁴³ Ibid., p.5

⁴⁴ Ibid., p.9

⁴⁵ Ibid., p.10

⁴⁶ Ibid., p.11

⁴⁷ Ibid., p.12

⁴⁸ Ibid., p.14

⁴⁹ Ibid., p.17

⁵⁰ Ibid., p.18

Chapter 2

How to reflect your Legal Research in your arguments?

10. **"Guideline 10:** A lawyer who employs a paralegal should facilitate the paralegal's participation in appropriate continuing education and pro bono publico activities."⁵¹

2.3.2- Training of Paralegals:

Paralegals are trained worldwide. The PITMAN training provides training courses including Paralegal Diploma, Paralegal Award and eight individual Paralegal courses.⁵² The ABA's Standing Committee on Paralegals and Approval Commission also approves a number of institutions which provide training for Paralegals and provides directory of approved Paralegal education programs.⁵³

2.3.3. Client Reception and Initial Interview:

In addition to receptionist and clerk, an educated Paralegal is also helpful in 'Client Reception' and 'Initial Client Interviews'. The reception of prospective client through some receptionist, through your clerk or through your Paralegal is very important. During this receiving session, his personal details should be asked by the receptionist and should be entered in an initial database. It is the duty of the receptionist or data entry operator to follow the due diligence procedures that you devise for your law office. He should also check the conflict of interest. The lawyers, who do not have an organized data base or system of identification of their past and present clients often fall in extreme embarrassing situation when they engage in professional relationship with a person who is or had been his client's opponent. This sudden embarrassing encounter may result in frustration of their relationship. It is proper that every lawyer should develop an organized and sophisticated system or data base, wherefrom he could easily, during his first meeting, and before exchanging the privileged communication, make an identity check. And if he finds a conflict of interest, the lawyer must inform about the same to the person visiting his office and politely refuse the engagement as his lawyer or consultant. Rule 146 of the Legal Practitioners and Bar Councils Rules, 1976 should be strictly followed and the lawyers in Pakistan should develop sophisticated systems to avoid the conflict of interests and also to comply with this rule.

In many organized countries, we find much sophisticated developed systems, laws, policies and ethical codes of conduct for 'Client Identification and Verification'. The Law Society of British Columbia has provided client identification and verification procedure and has also provided the 'Practice Checklist Manual.' This Manual, *inter alia*, provides the references to rules

⁵¹ Ibid., p.20

⁵² "New Paralegal Training Course Range Released 01/07/16", PITMAN Training, accessed 07.06.2020. <https://www.pitman-training.com/advice-hub/news/new-paralegal-training-course-range-released/>

⁵³ "Directory of Approved Paralegal Education Programs", American Bar Association, <https://www.americanbar.org/groups/paralegals/paralegal-resource-directory/> (accessed July 29, 2023)

Chapter 2

How to reflect your Legal Research in your arguments?

about client identification and verification, and risk assessment case studies.⁵⁴

The receptionist, clerk or your Paralegal should note down your prospective client's full name, parentage, telephone number, e-mail, complete present and permanent address and another person's contact details in case you are unable to contact him. Although it is a bit difficult, however (depending upon the availability of time), a short inquiry about his background, especially if he has a criminal background should also be conducted. Rule 153 of the Punjab Legal Practitioners and Bar Councils Rules, 1976 does not bar from undertaking "*the defense of a person accused of crime, regardless of his personal opinion, as distinguished from knowledge as to the guilt of the accused.*" The supreme law of the country i.e., the Constitution of 1973 also provide the fundamental right.

In Pakistan there are different web based and physical solutions for performing these checks⁵⁵ e.g., 'Real Time KYC and AML Solutions for Pakistan', which provides:

- a- Know Your Customer i.e., KYC-Identity Verification for 'face verification', 'document verification', 'address verification', '2 factor authentication', 'face bio authentication', 'video KYC';⁵⁶
- b- Know Your Business i.e., KYB about Corporate Verification to identify the businesses across the world and to know the supplier, creditor and partner;⁵⁷
- c- Know Your Investors i.e., KYI to verify the "*investor while deterring the risk of onboarding blacklisted entities---*"⁵⁸
- d- Risk Assessment "*through custom questionnaires and fraud prevention data points*";⁵⁹
- e- Anti Money Laundering Screening AML – Anti Money Laundering Solutions to "*remove the risk of dirty money*" and "*to comply with global regulations*";⁶⁰

⁵⁴ 'Client Identification and Verification Procedure', Law Society of British Columbia Checklists Manual, accessed 22.09.2020, <https://www.lawsociety.bc.ca/Website/media/Shared/docs/practice/checklists/A-1.pdf>

⁵⁵ For instance, *inter alia*, "Real Time KYC & AML Solutions For Pakistan", ShuftiPro, accessed 08.05.2020, <https://shuftipro.com/pakistan> There are many other organizations, which provide verification for different banks and organizations.

⁵⁶ "Know Your Customer", <https://shuftipro.com/identity-verification/> (accessed 20.04.2023)

⁵⁷ "KYB – Know Your Business", <https://shuftipro.com/know-your-business/> (accessed 20.04.2023)

⁵⁸ "KYI – Know Your Investors", <https://shuftipro.com/know-your-investors/> (accessed 20.04.2023)

⁵⁹ "Risk Assessment", <https://shuftipro.com/risk-assessment/> (accessed 20.04.2023)

⁶⁰ "AML – Anti Money Laundering Solutions", <https://shuftipro.com/aml/> (accessed 20.04.2023)

Chapter 2

How to reflect your Legal Research in your arguments?

- f- Optical Character Recognition i.e., OCR for business for data extraction from documents i.e., 'handwritten documents', 'paper invoices', 'old business records (especially paper based)', 'official paper based letters', and 'receipts';⁶¹
- g- Hosting Verifications i.e., "customized Hosted Verification Page (HVP);⁶² and
- h- Near Field Communication i.e., NFC based verification.⁶³

Recently the Punjab Police has also introduced a 'Pehchan' application, where you can enter the CNIC of an individual and know about his Criminal Record, if it is maintained by the Police against his CNIC. However, this application says that:⁶⁴

"[t]he results provided in Pehchan app are based initially on CNIC of Punjab Province. However the background records being provided are only to the extent of CNIC. It is possible that record of a particular individual may exist without CNIC for which Punjab Safe Cities Authority and Punjab Police takes no responsibility or legal obligation what's so ever. It is further recommended that counter verification should be done from the concerned Police station. This facility is only to the extent of initial information regarding criminal record of an individual which could not be claimed or consider any legal value for any purpose."

The banks,⁶⁵ certain organizations and Security Exchanges are already performing different types of checks under different national and international regulations.⁶⁶ Certain laws of the land are also relevant.⁶⁷ Similarly, certain laws, and certain recommendations like FATF Recommendations and its guidance⁶⁸, as applied in certain jurisdictions are also relevant. But these recommendations have no binding effect upon the Bar Councils and Bar Associations, which are governed by the Legal Practitioners and Bar Councils Act, 1973 and its own subordinate legislations.

⁶¹ "Unstructured data OCR", <https://shuftipro.com/ocr-for-business/> (accessed 20.04.2023)

⁶² "Only for your business", <https://shuftipro.com/hosting-verification/> (accessed 20.04.2023)

⁶³ "NFC Verification", <https://shuftipro.com/nfc-verification/> (accessed 20.04.2023)

⁶⁴ "Pehchan Criminal Record Check", Punjab Safe Cities Authority, <https://play.google.com/store/apps/details?id=org.pscsa.pechaanusers&hl=en&gl=US> (accessed 20.04.2023)

⁶⁵ "Anti Money Laundering and Combating the Financing of Terrorism (AML/CFT) Regulations for Banks & DFIs", https://www.sbp.org.pk/L_frame/Revised-AML-CFT-Regulations.pdf

⁶⁶ For instance: "Customer Due Diligence/Know Your Customer (CDD/KYC) Policy", MRA Securities Ltd, accessed 08.05.2020, <https://mra.com.pk/downloads/KYC.pdf>

⁶⁷ For example Anti-Terrorism Laws; Laws and Rules about Proscribed Persons and Organizations; Anti Money Laundering Laws.

⁶⁸ "Financial Action Task Force (FATF) is an independent inter-governmental body, which develops and promotes policies to protect global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction." FATF has issued 'guidance for a risk based approach for Legal Professionals on June 2019 for the implementation of FATF Recommendations, which can be downloaded from the website of FATF (see www.fatf-gafi.org/publications/fatfrecommendations/documents/rba-legal-professionals.html) and FATF (2019), *Guidance for a Risk-Based Approach for Legal Professionals*, FATF, Paris, <http://www.fatf-gafi.org/publications/documents/Guidance-RBA-legal-professionals.html>

Chapter 2

How to reflect your Legal Research in your arguments?

This Act and its subordinate legislations prescribe the obligations of lawyers and *inter alia*, defines the conduct which amounts to violations of statutory and ethical requirements and prescribes special procedures with respect to disciplinary proceedings, etc. Needless to mention that an Act passed by a National Assembly is always superior to any Recommendation or Regulation. A Regulation may be in the form of a subordinate legislation and has no overriding effect on an Act of Parliament, whereas, a Recommendation is not a legislation. Recommendation, as the name suggests may be in the form of a suggestion for the legislators to legislate. But, by its own effect, it cannot bind the legislators to consider such Recommendation binding upon them. Simply, they can opt other way out as well.

So you can devise your own set of CDD/KYC procedures for your law office or firm. Chapter XII on Ethics and Cannons of Advocacy as provided in the Punjab Legal Practitioners and Bar Councils, Rules, 1976 provides the following ethical provisions to follow in such like situations:

"146-*An Advocate shall not accept employment adverse to a client or former client, relating to a matter in reference to which he has obtained confidential information by reason of or in the course of his employment by such client or former client provided that an Advocate, who has not been formally engaged by a person and accepted a retainer nor received any fees for such engagement is not precluded from accepting employment adverse to the interest of such person."*

"147-*An Advocate shall not accept professional employment without first disclosing his relation, if any, with the adverse party, and his interest, if any, in the subject matter of such employment."*

"148-*An Advocate shall not represent conflicting interests."*

"153-*It is the right of an Advocate to undertake the defense of a person accused of crime, regardless of his personal opinion, as distinguished from knowledge as to the guilt of the accused; otherwise innocent persons and victims merely of suspicious circumstances might be denied proper defense. Having undertaken such defense, an Advocate is bound by all fair and honorable means, to present every defense that the law of land permits, to the end that no person be deprived of life or liberty, except by the process of law."*

Sometimes too much oral questioning on above-mentioned points to a prospective client creates a suspicion on prospective client's mind and he becomes over conscious and disturbed. And there exists a possibility that if you ask any further question, he may leave your office. In order to do it nicely, smoothly, irritation free and elegantly, your receptionist or clerk should wait for a while till your prospective client is relaxed and then give him a printed questionnaire and wait for his understanding and completion at his own. And if your receptionist or clerk has a good, pleasant, patient and charming personality, a beautiful, calm and clear voice and if the prospective client

Chapter 2

How to reflect your Legal Research in your arguments?

has been served a tea or drink in a pleasant office environment, he will not hesitate in filling the questionnaire.

Different organizations require their members to fill a questionnaire every year in the form of 'Annual Declaration' before renewal of membership. And they also double check these 'Annual Declarations' through certain 'background checks' through different means in order to know about the truthfulness of such declaration.

I, hereby, on the next page provide the following form of questionnaire:

LAW OFFICE OF _____/LAW FIRM
DUE DILIGENCE/KYC CHECKS
<p>Name: _____ s/o, d/o w/o _____</p> <p>Address: _____</p> <p>Phone No.: _____ Mobile: _____ E-mail: _____</p> <p>Profession: _____</p> <p>Have you ever been convicted by any Court of Law? _____</p> <p>If Yes, then provide detail: _____</p> <p>Have you ever been declared insolvent or bankrupt? _____</p> <p>If Yes, then provide detail: _____</p> <p>Have you ever filed any previous case with respect to the subject matter about which you want to hire the services of our Law Office/Law Firm? _____</p> <p>If Yes, then please provide the details and the copies of previous Suit/Proceedings and their Complete Judgments and Orders: _____</p>
<p>Declaration: I, hereby declare that the above-mentioned information is absolutely correct and complete and nothing therein has been left or concealed. And if, I had left any information or if I had deliberately concealed, I will be held liable for the same.</p> <p style="text-align: right;">Sign/Thumb Impression of Declarant with CNIC:</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">Date: _____</p>

Form No.1: Law Office's KYC – Questionnaire.

2.3.4. Documents preparation through Paralegals:

A lawyer can delegate the work of preparation of documents to his Paralegal. However, that has to be done under his strict supervision and final vetting. A Paralegal is not supposed to finalize the draft of a document without the vetting of his senior lawyer.

Chapter 2

How to reflect your Legal Research in your arguments?

A Paralegal can prepare the draft of agreements, contracts, deeds, and other legal drafts. Some Paralegals also assist their senior lawyers in the preparation of Pleadings as well. In various jurisdictions, worldwide, the Paralegals are authorized to draft such documents. However, there is no such provision in Pakistan with respect to such role of Paralegals in Pakistan. If a person wants to start his independent business of Deed Writing, he is required to have a Deed Writing License from relevant quarters in Pakistan. No one can write a deed if he is not a lawyer, licensed Deed Writer or a Paralegal under the supervision of a lawyer in Pakistan.

2.3.5. Preparation of a Case file through Paralegal:

A Paralegal can assist his senior lawyer in arrangement and preparation of Case files to be presented in Courts. Since, they are educated, they can provide better and effective assistance than a Clerk. Many law firms, worldwide, have sophisticated Case/File Management Systems. And the Paralegals do assist them in Case/File Management.

2.3.6. Perform administrative duties in a Law Office or a Law Firm:

An educated Paralegal can very effectively manage your Law Office. The Law Office management through Paralegals is such an interesting topic that many authors have authored books on this topic. Professor Laurel A. Vietzen who has been a coordinator of the ABA approved paralegal program at Elgin Community College has authored a book 'Law Office Management for Paralegals' published in 2019 by Wolters Kluwer.⁶⁹

2.3.7. Legal Research through Paralegals:

When a Paralegal is assigned a duty to do the legal research, then he can do so in the same way as a lawyer does by using and utilizing all the above-mentioned resources for completion of his legal research. However, his every action is to be supervised by the lawyer who had commanded him to do the legal research. A Paralegal can arrange the result of his legal research in his own way or in the specific way, he is trained to do so and should present it to his lawyer and should complete organize and complete the legal research in the way his lawyer commands him to do. Different persons and different institutes have advised different ways for Paralegals to perform the legal research. However, the best way and the best modus operandi for a Paralegal is the one which is adopted and commanded to him by his lawyer, Law Office and Law Firm.



⁶⁹ Vietzen, Laurel A.. Law Office Management for Paralegals. United States: Wolters Kluwer, 2019. (accessed July 29, 2023)

A photograph of a library interior. On the left, there are several rows of wooden bookshelves filled with books. In the center-right, a dark green desk lamp is positioned on a desk. To the right of the lamp is a window with a view of bare trees outside. The floor is made of light-colored wood with a herringbone pattern. The word "Bibiliography" is written in white text across the middle of the image.

Bibiliography

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