

June 2025

THE LEGAL

INTERNATIONAL



**NATIONAL POLICY
FOR AI GOVERNANCE**

**THE DEAL
LONDON WASHINGTON
SECURE DIEGO GARCIA**

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**IS
SIMLA AGREEMENT
VOID?**

TL Exclusive

**A CONVERSATION WITH:
MR JUSTICE
SYED MANSOOR ALI SHAH**



Anniversary



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HASSAN KAUNAIN NAFEES

Legal Practitioners & Advisers

CONGRATULATIONS



on the

anniversary! In just a year, you have established yourselves as a vital voice in legal discourse, fostering insightful discussions and advocating for a more informed, equitable legal landscape. Your commitment to analysis, reform, and intellectual rigor has made a meaningful impact.

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Balancing Originator's Rights

Copyright law plays a crucial role in protecting the rights of original creators by granting them exclusive rights and control over their creations. **Page 28**

Contents

12

The Deal

London & Washington
Secure Continued
Strategic Access to
Diego Garcia

26

Case Law

Supreme Court Upholds
Military Court
Jurisdiction in Civilian
Trials

32

Law & Words

How semantics shape
legal system and
justice, a report from
Saudi Arabia

14

Jammu & Kashmir

Simla Agreement: Pakistan has been
asking for international mediation as
India continues to breach the bilateral
commitments

18

Judicial Integrity

A conversation with Mr Justice Syed
Mansoor Ali Shah, Senior Puisne Judge,
Supreme Court of Pakistan

24

National Policy

Students propose a national policy for
ethically integrating AI into Pakistan's
policing and judiciary.

28

Copyright

Balancing originators'
rights and creative
freedom in a global
legal tapestry

34

Research

Land acquisition: A legal
and social reckoning -
by an advocate high
court

38

Gender Justice

Katchehri Culture:
How cultural Norms
Engineer inequality

Editor's Note



Anniversary

One Year On: Reimagining Law and Legacy

As we mark our first anniversary, The Legal International reflects on a year of engagement with the legal fraternity, both nationally and globally. This milestone is not just a celebration but a testament to the support of our dedicated readers and contributors. Without their engagement, this journey would not have been possible. We are grateful for the well-wishers who have extended their congratulations, and we look forward to continuing our dialogue in the years ahead.

Yet, as we celebrate, the past month has been a stark reminder of the unresolved tensions that persist in South Asia. The recent Indo-Pak crisis was a disturbing episode that underscores the enduring impact of historical disputes and political ideologies. A quarter into the 21st century, the spectre of militarism and ideological extremism still threatens peace. The prospect of full-scale war between nuclear-armed nations remains an untenable and catastrophic scenario—one that the global community cannot afford to ignore.

The Kashmir dispute remains central to the discord, a legacy of the British Partition Plan that cannot be resolved through bilateral manoeuvres alone. The Simla Agreement, long invoked as a mechanism for resolution, is increasingly inadequate in addressing the realities of the modern geopolitical landscape. This issue features a detailed discussion on its limitations and the broader implications of territorial disputes in international law.

We also present an exclusive conversation with Mr Justice Syed Mansoor Ali Shah, Senior Puisne Judge of the Supreme Court of Pakistan. His insights offer a compelling vision of jurisprudence—one that moves beyond rigid legal formalism to embrace constitutional dynamism and moral responsibility. Justice Shah advocates for a judiciary that engages with comparative law, empirical evidence, literature, and history, transforming legal discourse into a reflection of the human condition. His call for the expunging of the doctrine of state necessity reinforces the principle that judicial fidelity must remain uncompromised.

This issue features a wealth of thought-provoking articles alongside key events in the legal community. We hope you find it both engaging and intellectually stimulating.

Enjoy!

Aftab Kazmi
Editor in Chief

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NEWS BRIEFING

Judicial Independence

Islamabad – Five Islamabad High Court (IHC) judges contested the transfer of judges to the IHC and alterations to its seniority list, asserting their commitment to constitutional principles, judicial independence, and public accountability. Justices Mohsin Akhtar Kayani, Tariq Mehmood Jahangiri, Sardar Ejaz Ishaq Khan, Babar Sattar, and Saman Riffat Imtiaz filed a Supreme Court petition after three provincial judges were transferred to the IHC in February, disrupting seniority rankings. Their counsel, Munir A Malik, submitted a statement to a five-member constitutional bench led by Justice Muhammad Ali Mazhar, though the court barred its public reading.

The judges emphasised their oath to uphold justice “without fear or favour”, framing their petition as a duty to protect institutional integrity, not personal gain. They argued that transfers and seniority changes undermined the IHC’s independence, reducing judicial authority to “paper” without moral legitimacy. The petition, they clarified, was a last resort after failed administrative efforts to halt perceived erosion of judicial autonomy.

During hearings, Malik linked seniority rules to constitutional separation of powers, while justices debated historical precedents for judge transfers and oaths. The bench cautioned against referencing a separate letter by six IHC judges (currently under judicial review) and stressed rulings based on law, not “facts”. Lawyers like Hamid Khan alleged mala fide intent behind transfers, citing constitutional oath obligations.

The judges’ statement concluded with a plea for history to recognise their defence of constitutionalism, asserting that judicial independence demands both institutional safeguards and personal resolve. Their stance reflects tensions between judicial accountability and executive influence, spotlighting broader struggles over rule of law in judiciary.

**Birthright Citizenship Clash**

Washington – The US Supreme Court heard heated arguments on 15 May over the Trump administration’s bid to block nationwide injunctions against its executive order ending birthright citizenship for children of non-citizens, with a judgement anticipated by late June. Solicitor General John Sauer urged justices to curb lower courts’ power to halt policies broadly, citing 40 injunctions imposed during Trump’s second term’s first four months. The administration faces multiple rulings deeming the order – denying citizenship to children born in the US unless one parent is a citizen or permanent resident – likely unconstitutional. Justices Amy Coney Barrett and Elena Kagan challenged Sauer’s focus on injunctions rather than defending the policy’s legality. “If I were in your shoes, there’s no way I’d bring this case,” Kagan remarked, noting repeated lower-court losses. Sauer insisted the administration’s constitutional arguments were “compelling” but required further litigation. States opposing the order warned of “unprecedented chaos”, with New Jersey’s Jeremy Feigenbaum stressing citizenship cannot “turn on or off” at state borders, jeopardising benefits like Medicaid.

Justices also probed alternatives to nationwide injunctions, such as class actions, though Sauer admitted the administration might contest these. Brett Kavanaugh pressed Sauer on practical implementation, asking how states could adjust “the day after” the policy takes effect. Sauer deferred to federal agencies, claiming Trump’s order provided guidance.

The administration faced scrutiny over its reluctance to commit to respecting circuit court rulings, with Barrett noting Sauer’s “resistance” to guaranteeing compliance. Meanwhile, Justice Ketanji Brown Jackson argued injunctions speed up appeals, but Sauer advocated letting issues “percolate” through lower courts.

With the decision pending, the case underscores tensions between executive power, judicial oversight, and legacy of birthright citizenship – rooted in a landmark 1898 ruling.

Bail Rights Upheld

Mumbai – Bombay High Court has reaffirmed that bail should be the rule and refusal the exception, warning that prolonged detention without trial amounts to “pre-trial punishment.” On May 9, Justice Milind Jadhav underscored the troubling reality of overcrowded prisons while granting bail to Vikas Patil, accused of fratricide in 2018.

The court cited a December 2024 report revealing that Arthur Road Jail operates at more than six times its sanctioned capacity, with barracks meant for 50 inmates housing up to 250. Justice Jadhav questioned how courts should strike a balance between safeguarding public interest and ensuring justice for undertrial prisoners.

Referring to an article written by two detainees, he noted that excessive incarceration compromises constitutional rights. He criticised the prosecution’s rigid stance against bail, stressing that the presumption of innocence must remain paramount in criminal jurisprudence. The principle rule is bail, and refusal is the exception, it said.

NEWS BRIEFING



Apartheid Accusation Against Israel

London - In a bold op-ed published in daily *The Guardian*, a group of prominent human rights scholars and lawyers has accused Israel of perpetrating apartheid against Palestinians, citing systematic oppression, mass killings, and a discriminatory legal regime. The authors – Sandra L Babcock, Susan M Akram, Thomas Becker, and James Cavallaro – draw on a new report co-authored by them, which asserts that Israel's policies meet the legal definition of apartheid under international law.

The report, released on May 15, follows their earlier 2024 study concluding Israel's actions in Gaza constituted genocide. It details “mass killing, arbitrary detention, torture, and a dual legal system” disadvantaging Palestinians, contravening the 1973 UN Apartheid Convention. The scholars, affiliated with institutions including Cornell, Boston University, and Yale, stress that apartheid – a crime against humanity – extends beyond South Africa, encompassing any state-sanctioned racial domination.

Citing findings by Amnesty International, Human Rights Watch, and Israel's B'Tselem, the authors argue a global consensus exists on Israel's apartheid practices. They also reference a 2023 International Court of Justice ruling against Israeli racial segregation.

The op-ed condemns the Trump administration for conflating criticism of Israel with antisemitism, alleging this has stifled academic freedom and dissent in US universities. Over 52,000 Palestinian deaths in Gaza – including 15,000 children – are highlighted as part of a “genocidal assault” fuelled, they argue, by the same racial hatred underlying apartheid. Quotes from Israeli leaders, including Prime Minister Benjamin Netanyahu's reference to a “struggle between the children of light and darkness,” are cited as evidence of dehumanising rhetoric.

Acknowledging professional risks, the scholars urge international accountability and academic solidarity, stating: “If we silence ourselves on Palestine, how can we call ourselves human rights defenders?”

The *Guardian*'s publication of the op-ed underscores escalating debates over Israel's conduct and free speech challenges in Western academia.

Judicial Rebuke Issued

Washington - A US district judge has overturned Donald Trump's executive order targeting law firm Jenner & Block, ruling it unconstitutional.

Trump's directive, titled *Addressing Risks from Jenner & Block*, suspended security clearances and restricted government access for its lawyers, citing alleged politically motivated legal action. The firm, which once employed Andrew Weissmann – a lawyer involved in Robert Mueller's Russia investigation – challenged the order, arguing it violated the First and Fifth Amendments. Judge John D Bates ruled that Trump's move sought to suppress legal representation critical of his administration, undermining constitutional protections. He likened the order to a similar, previously invalidated directive.

Bates stated that penalising law firms for their clients and legal advocacy fundamentally breaches the separation of powers. The Justice Department and the White House have yet to respond, but the administration may appeal the ruling to the US Court of Appeals.

Family Law Overhaul

Rawalpindi - The Rawalpindi Bench of Lahore High Court's has directed the federal government to undertake a comprehensive consultative process on a proposed amendment to the Muslim Family Laws Ordinance, 1961. This marks a pivotal step in the evolution of Pakistan's family law framework.

The directive was issued during a hearing on a constitutional petition filed by Saima Shafi concerning family matters. Justice Jawad Hassan, presiding over the case, underscored the necessity of engaging legal experts and the public before finalising the Muslim Family Law (Amendment) Act, 2024 – a private member's bill tabled by Senator Barrister Ali Zafar.

The bill introduces key legal concepts such as “husband's asset,” “matrimonial asset,” and “wife's asset” into Pakistan's legal framework governing family law. Barrister Zafar, acting as an amicus curiae, was joined by legal experts Huma Ejaz Zaman and Barrister Faiza Asad in assisting the court.

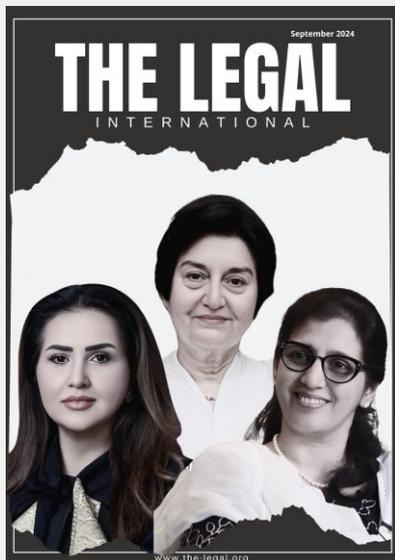
The proceedings incorporated references to global matrimonial property laws from Egypt, Malaysia, Turkey, and the UAE, along with notable rulings from India, Ghana, and Singapore. The case has garnered nationwide attention, particularly due to its implications for women's property rights following marital dissolution. Justice Hassan highlighted past judicial interventions that have spurred legislative reforms.

He referenced the landmark 2022 ruling in *Mst Sana Khurshed v. Government of Punjab* (PLD 2022 Lahore 346), which contributed to the passage of laws such as the Punjab Domestic Workers Act, 2019, and the Punjab Empowerment of Persons with Disabilities Act, 2021. Citing Rule 3(3) and Rule 4(2) of the Federal Rules of Business, 1973, the court reaffirmed the constitutional responsibility of the Ministry of Law and Justice in drafting and scrutinising legislation.



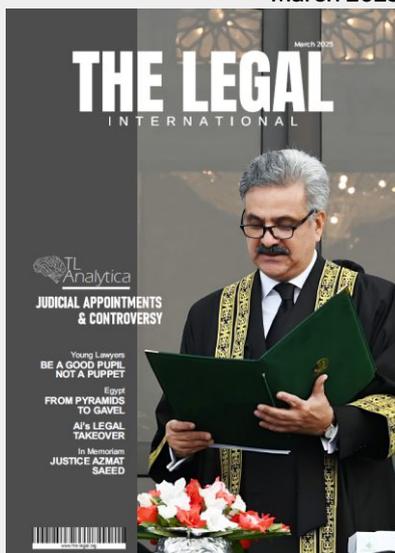
Anniversary

September 2024



“The graduates ... foreign programmes are not only proving themselves in Pakistan, but also in the international market as well. This would translate into a more robust presence of Pakistani lawyers in international arena, enhanced lobbying for legal changes, and a more vibrant profession.” – Late **Khadija Mushtaq**

March 2025



February 14, 2025: The newly appointed judges, under the 26th Constitutional Amendment, took oath at the Supreme Court in a swearing-in ceremony headed by Chief Justice of Pakistan Justice Yahya Afridi.

TL ARCHIEVES

Last year in June, The Legal International started its journey and carried the interview of **Syed Ahmad Hassan Shah**, a renowned senior lawyer based in Islamabad and Honourary Patron of TL. In the interview, advising the young men and women entering the law profession, he said:

“This is a long-distance race. It requires consistency and a sustained effort to progress. There is no substitute for hard work. Most importantly, law operates in a social setting, hence, to better apply it, one must develop faculties capable of appreciating the multi-layered complexities that confront us. Befriend literature or philosophy or another hobby that helps broaden personal perspectives. And, never consider that you have become 'Mr Know All'. Every day is a new lesson. Remember, knowledge increases when you share it!”

THE LEGAL

JUNE 2024

THE LAW RESEARCH AND ANALYSIS JOURNAL

“So, who is a complete lawyer?”

ARTIFICIAL INTELLIGENCE
The only hope for legal system

THE ROLE OF ARBITRATION IN COMMERCIAL DISPUTES

NIKAHNAMA
A vital civil contract

Justice **Sir Abdul Rashid**
THE LEGAL LEGEND

Marking the Anniversary

Syed Ahmad Hassan Shah ASC - HONORARY PATRON



Together, we shall secure for The Legal its rightful place, regionally as well as internationally, as a driver of thought-provoking legal discourse.

// One Year, and Going Strong!
Having completed 25 years of active practice in 2020, I set out to mentor our young - hoping that my sharing experiences could assist them in carving a more considered way forward in their career of choice. This is when I got a meeting request from a fresh graduate, Syed Muhammad Ali. Ever since, Muhammad Ali has been on a trajectory to achieve the rare. His idea of launching the first digital legal magazine committed to issues of law was commendable. He is utterly to blame for asking me to become the Honorary Patron of The Legal, but I am happy that he did and that I can be of assistance to him in expanding and diversifying The Legal. His energy, drive and commitment to excellence continues. With every issue of The Legal, one can see it addressing penetrating issues and broadening our horizon.

This Anniversary Issue is indeed a commendable milestone, and I am confident, it is just one of many anniversaries we will celebrate. As the readership expands, contributors increase, we all at The Legal shall become more enthusiastic, and be inspired to do better. A special thanks to the Editor, who has demonstrated exceptional leadership and creativity, which has been instrumental in gaining the unique identity of this publication.

Our commitment to curate content will surely be catapulted by the continuing support of our readers. We can't do it without you. Thank you. Keep reading and please keep sharing. And, don't shy away from contributing. Together, we shall secure for The Legal its rightful place, regionally as well as internationally, as a driver of thought-provoking legal discourse.

With all that we see in disarray around us in these times of crisis, The Legal sincerely suggests to all its readers, particularly the young, to continue to keep faith in the system, and bring about lasting change from within.

A career in law is a path to achieving great things, personally as well as collectively - in a society, in a country and internationally. Let's do it!



Anniversary

Achieving the Milestone

// The Legal International Magazine stands as the most readable, informative, and enlightening publication of its kind. One hopes its publication endures, for it serves not only as an invaluable resource for fledgling attorneys but also offers incisive insights for seasoned lawyers who — erroneously — believe their years in practice render them omniscient in matters of law. A careful perusal of this magazine will swiftly illuminate such misconceptions. Judges may already be convinced of their competence, but true wisdom lies in recognising one's limitations. Read, reflect, and refine your understanding. The pursuit of knowledge is never complete. Best of luck.

Naeem Bokhari,
ADVOCATE SUPREME COURT



True wisdom lies in recognising one's limitations. Read, reflect, and refine your understanding.

Dr Jo D Chitlik, LL.M., esq. USA



My warmest congratulations to the creator, editor, and staff of The Legal International, as you celebrate your first anniversary! In just one year, your hard work has successfully established a significant presence within Pakistan's legal community. Your commitment to providing insightful analysis, a variety of viewpoints, and current legal discussions is truly commendable. You have not only kept readers informed but have also inspired a deeper understanding of legal matters for both professionals and the wider public. Thank you for creating greater awareness, I appreciate your dedication to excellence, the ongoing publication of my work, and your valuable contributions to the legal field. Insha Allah, I wish you many more years of impactful research and unlimited success!



**Emory Law, CSLR
Senior Fellow
U.S. Department of State
Fulbright Specialist Alumni
ADR Expert**

Barrister Taimur Malik



Warmest congratulations to The Legal International on reaching this distinguished milestone — your first anniversary! In just a year, you have forged a legacy of intellectual depth and journalistic excellence, uniting legal minds across continents in pursuit of insightful discourse and innovation. Your unwavering commitment to elevating the standards of jurisprudential dialogue has set an inspiring precedent, fostering a community dedicated to knowledge and progress. As you embark upon the next chapter of this remarkable journey, may your influence, ingenuity, and impact continue to shape the future of legal jurisprudence. This is but the dawn of what promises to be an extraordinary and enduring legacy.



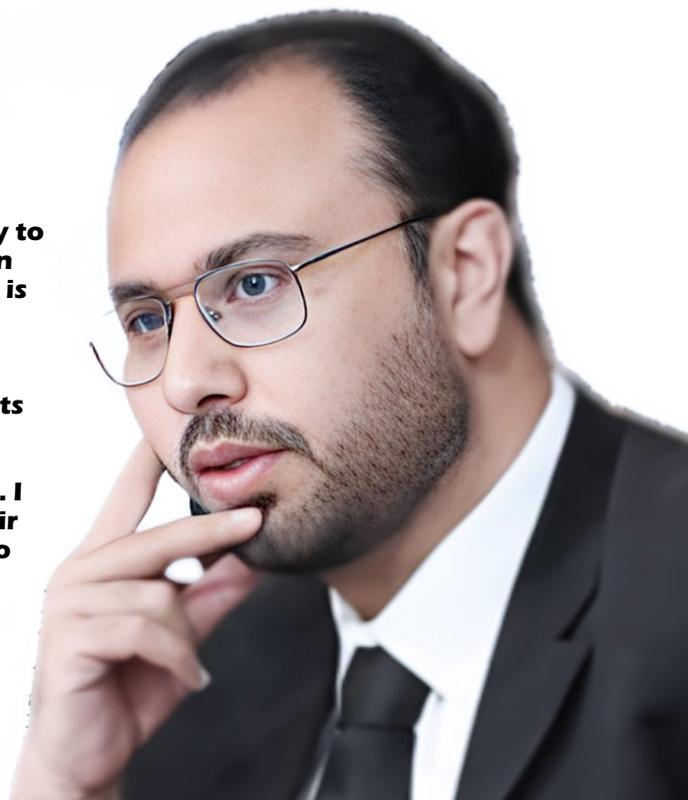
**Senior Partner Kilam
Law (Barristers &
Legal Consultants)**

Javaid Iqbal Bandey, ASC



// The Legal International is Pakistan's sole legal magazine that offers insightful content, covering contemporary legal issues, analysis of landmark judgments, and contemporary legislative developments. The interviews with eminent legal professionals provide valuable perspectives and practical wisdom for legal practitioners and law students alike. There are contributions from seasoned professionals, academics, and young lawyers, play a significant role in enriching legal literature. The magazine effectively bridges theory and practice, fostering legal scholarship and professional growth. I appreciate and congratulate the magazine team Syed Muhammad Ali Advocate and his entire editorial and review team for publishing a marvellous monthly legal magazine having ever growing readership.

Syed Sabeel ul Hassan, AHC, Former Judge



// I would like to take this opportunity to congratulate the Legal R&D team on their 1-year anniversary. Legal R&D is making significant strides in transforming the legal industry by providing a platform where legal professionals can share their insights on industry changes. Additionally, their commitment to fostering a culture of research is commendable. I wish them continued success in their important work and look forward to seeing their future contributions.

THE DEAL

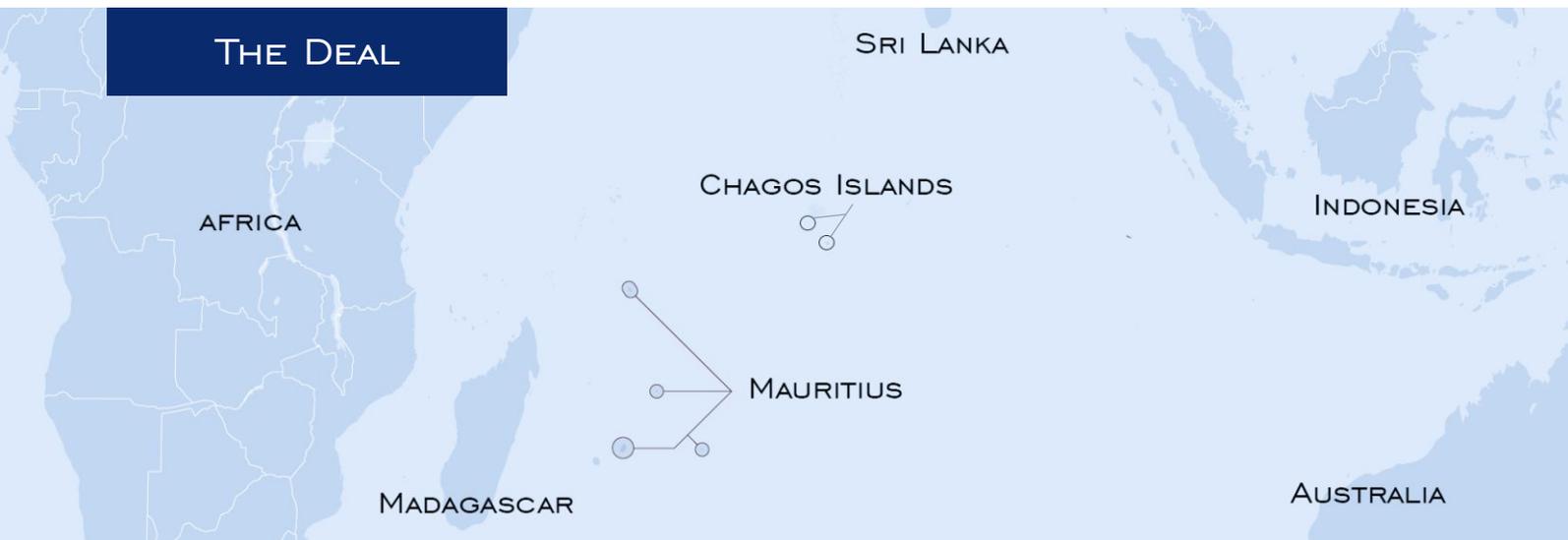


IMAGE: © The Legal

London and Washington Secure Continued Strategic Access to Diego Garcia

by **Mark Adgar**
London - UK

After years of legal wrangling and diplomatic manoeuvring, Mauritius and the United Kingdom have formally concluded an agreement on May 22, 2025, marking the transfer – or restitution – of sovereignty over the Chagos Archipelago to Mauritius. The accord, while contentious in some quarters, is hailed as a milestone in the broader movement for decolonisation and international law.

The treaty, officially designated CS Mauritius No.1/2025, establishes a 99-year framework, extendable by a further 40 years, under which the UK will provide Mauritius with an annual payment of approximately £101 million at present rates.

Under the treaty, Mauritius has granted the UK and the United States continued, unfettered access to the strategically vital military installation on Diego Garcia. The agreement secures British and American rights to maintain operations, conduct military exercises, and execute defence and security missions in the region.

Though critics, particularly among right-leaning political figures and media outlets, decry the arrangement as a capitulation, proponents emphasise its significance for diplomatic progress, the rule of law, and the broader trajectory of post-colonial reconciliation.

Here are the sealant features of the [Agreement](#):

1. Sovereignty Transfer

The UK formally recognises Mauritian sovereignty over the entire Chagos Archipelago, ending its administration of the British Indian Ocean Territory (BIOT). This marks the first reduction in UK Overseas Territories since Hong Kong's 1997 handover.

2. Military Access

The UK and US retain unrestricted, long-term access to the strategic Diego Garcia military base. The 99-year agreement—extendable by 40 years—grants both nations rights to:

- Operate and maintain the existing base.
- Conduct defence exercises and security operations.
- Exercise overflight rights for military aircraft without prior notification.
- Navigate vessels and submarines freely, including undersea transit.

3. Security Safeguards

- A 24-nautical-mile buffer zone around Diego Garcia prohibits construction or installations without UK approval.

- Development on the outer Chagos islands requires joint UK-Mauritian consent.
- Foreign military or civilian security forces are barred from the outer islands.

4. Environmental and Resettlement Commitments

- Mauritius may implement a resettlement programme for Chagossians on islands excluding Diego Garcia, subject to environmental and security assessments.

- Both parties commit to preserving the archipelago's Marine Protected Area to safeguard biodiversity.

5. Financial and Community Support

- The UK will pay Mauritius £101 million annually (adjusted for inflation) under the agreement.
- A £40 million Chagossian Trust Fund is established to support community resettlement and cultural initiatives.
- The UK pledges £45 million annually for 25 years to fund development projects in Mauritius.

6. Legal and Dispute Resolution

- The treaty is framed as a full and final settlement of all disputes, with mechanisms for peaceful resolution.
- It includes provisions for long-term bilateral cooperation on

implementation.

Excluded Elements

The summary omits political commentary, US endorsements, domestic UK criticism, and broader implications for other territories, focusing solely on the treaty's stipulations.

Conclusion

The agreement balances Mauritian sovereignty with sustained UK-US military access, addressing legal and humanitarian concerns while embedding environmental safeguards. Its success hinges on adherence to the outlined framework, particularly joint governance and support for Chagossians.

It was long standing issue and UK was not ready to relinquish its control over military base in Diego Garcia, a part of the islands that UK leased to the US. Through this agreement, the UK and the US had found the way to maintain control over parts of the islands.

The issue was in the limelight since the International Court of Justice, in its Advisory Opinion delivered on 25 February 2019, concluded that "the process of decolonisation of Mauritius was not lawfully completed when that country acceded to independence" and that "the United Kingdom is under an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible". ■

Colonial Reckoning

The Chagos Islands, the last British colony in the Indian Ocean, consist of over 60 atolls spanning 23,000 km. In 1965, Britain detached them from Mauritius, creating the British Indian Ocean Territory.

Today, Britain retains control, citing the strategic importance of the US military base on Diego Garcia, established in 1971. In 2019, the International Court of Justice ruled that Britain must cede sovereignty to Mauritius, but enforcement remains elusive.

The UK extended its lease to the US until 2036, disregarding Chagossian appeals for repatriation. As of 2023, around 4,000 exiled Chagossians remain stateless or face legal hurdles in gaining citizenship.

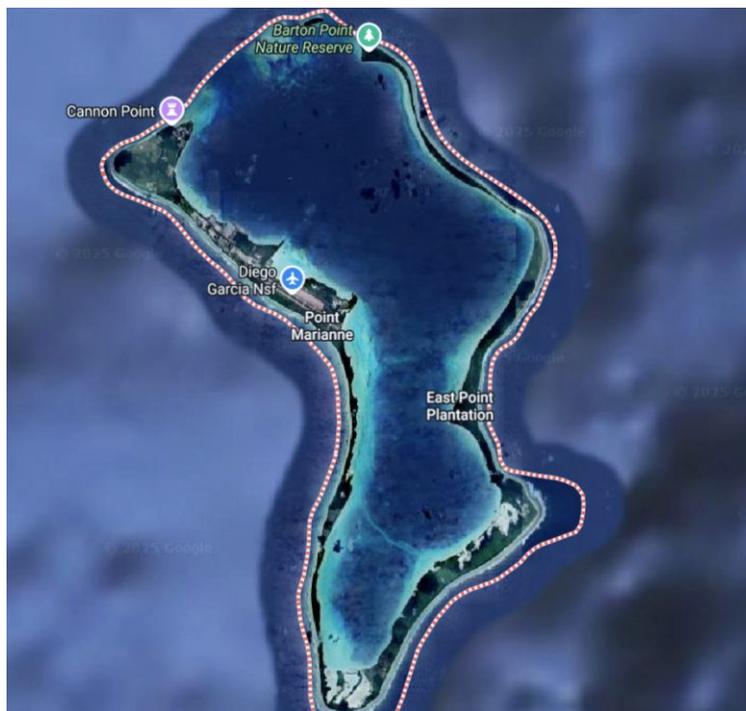


IMAGE: Courtesy Google Map

High Court Clears Way for Chagos Sovereignty Deal

London's High Court's ruling allowed the UK government to proceed with signing the Chagos Island agreement, following a late-night injunction that sought to halt the process.

In the early hours of May 22, 2025, an emergency order had momentarily blocked the government from finalising the agreement to transfer sovereignty of the archipelago to Mauritius. The injunction, granted at 2:25am by Justice Goose, provided "interim relief" to Bertrice Pompe, a Chagossian woman who views the deal as a betrayal of her people's rights. Pompe had previously initiated legal proceedings against the Foreign Office over the matter.

The order stipulated that no legally binding steps should be taken to conclude negotiations concerning the transfer of the British Indian Ocean Territory, also known as the Chagos Archipelago, to a foreign government. However, following a High Court hearing later that same day, Mr Justice Martin Chamberlain ruled that the injunction should be lifted, allowing the UK to proceed with signing the agreement.

Justice Chamberlain asserted that "the public interest and the interests of the United Kingdom would be substantially prejudiced by the grant or continuance of interim relief," concluding that the stay issued by Justice Goose should be discharged without further obstruction.

During the proceedings, Philip Rule KC, representing Pompe, argued that blocking the deal's conclusion was necessary to prevent "significant prejudice to the claimant." However, Justice Chamberlain, referring to a government-submitted document, confirmed that the agreement could still be concluded within the day.

Sir James Eadie KC, representing the Foreign Office, affirmed that the signing could proceed if a ruling was made in time, noting that "My instructions from Number 10 are that we need a decision by 1pm today if we are to sign today, and everybody is standing by." The court ruling was issued just before the deadline.

Pompe maintains that the British government is disregarding the human rights of the Chagossian people, contending that finalising the deal would constitute a breach of the Human Rights Act and the Equality Act. ■



Is Simla Agreement Void?

The Simla Agreement was signed on July 2, 1972 in Simla, India, between Indian Prime Minister Indira Gandhi and Pakistani President Zulfikar Ali Bhutto.

With Pakistan asking for international mediation, India's continues breach of the bilateral commitments, and shifting geopolitical realities, the agreement is now obsolete.



IMAGE: © The Legal



by **Aftab Kazmi**
 Editor-in-Chief
 Islamabad

Pakistan has held the Simla Agreement in abeyance, following the recent war and India's suspension of Indus Water Treaty (IWT) and also arguing that India's repeated violations have rendered the accord obsolete. India's unilateral actions, including the revocation of Jammu and Kashmir's autonomy, breach international commitments and threaten regional stability. With diplomatic channels broken, Pakistan is pushing for global intervention, warning that unresolved disputes could escalate into a nuclear crisis with far-reaching consequences.

Pray, and pray earnestly – for the gravest peril lies not merely in an adversary, but in one devoid of reason, restraint, or wisdom. Alas, Pakistan finds itself burdened with such a foe: Modi-led India. The recent Indo-Pak crisis has laid bare the chilling reality of how a government, swayed by religious extremism, can imperil humanity itself for the fleeting allure of political expedience.

The simmering Kashmir dispute, coupled with the spectre of Hindu extremism – a manifestation akin to Neo-Nazism – stands as a grave threat to global peace and prosperity, imperilling the very existence of billions. India, while persistently levelling false allegations of terrorism against Pakistan, has deftly concealed its aspirations for *Akhand Bharat* (Greater India). It continues to invoke the long-defunct Simla Agreement to assert Kashmir as a mere bilateral issue, despite its evident obsolescence and inefficacy in addressing the region's enduring turmoil.

The Simla Agreement, recently suspended by Pakistan, has long been rendered obsolete by the altered geopolitical landscape, particularly with both India and Pakistan now nuclear-armed states. India itself flagrantly breached the accord, systematically reshaping the status of the disputed territory since the early 1980s – first with the occupation of Siachen Glacier, then repeated violations of the Line of Control, culminating in the revocation of Articles 370 and 35A of its Constitution to forcibly annex occupied Jammu and Kashmir.

Despite its own blatant transgressions, India has paradoxically coerced Pakistan into compliance while deftly misleading the international community into believing in its adherence. Its approach to international obligations is evident in its unilateral suspension of the Indus Waters Treaty – an accord facilitated by the United States and mediated under the auspices of the World Bank.

Regarding the Simla Agreement, any accord that jeopardises lives and property is inherently untenable. Those subjected to such risk possess the unequivocal right to contest the agreement and intervene at any moment in pursuit of their own protection.

While the Simla Agreement held relevance upon its inception, its efficacy has waned amid shifting military and geopolitical realities. India and Pakistan, now both nuclear-armed states, stand at a precarious juncture where any confrontation constitutes a nuclear flashpoint with far-reaching regional and global consequences. Indeed, such a scenario verges upon the realm of crimes against humanity and pushes Jammu and Kashmir dispute out of the so-called bilateral to the international realm.

Background of the Simla Agreement

Jammu and Kashmir is an unsettled fragment of the British Partition Plan for the Indian subcontinent, a lingering fault line between two nuclear-armed states. Of the four outstanding territorial disputes, it is undoubtedly the most volatile.

The others include the militarily occupied State of Hyderabad, which had formally acceded to Pakistan, mirroring the fate of Junagarh – now absorbed into Gujarat – and Munabao, now

within Rajasthan. These unresolved matters have long occupied a place on the agenda of the United Nations Security Council, yet remain unaddressed, their significance undiminished by time.

The Simla Agreement was signed between India and Pakistan on July 2, 1972 in the aftermath of the 1971 Indo-Pakistani War. The agreement was intended to establish a framework for peaceful resolution of disputes between the two countries, particularly concerning Jammu and Kashmir. A key provision of the agreement states that "neither side shall seek to alter [the Line of Control] unilaterally, irrespective of mutual differences and legal interpretations". This clause underscores the commitment of both nations to maintain the status quo and resolve disputes through peaceful negotiations.

India's Violations of International Commitments

India, which is currently governed by a Hindu extremist ideology, itself brushed aside Simla Agreement and unilaterally altered the status of the disputed territory of J&K by revoking the special status or autonomy on August 5, 2019. Article 370 of the Indian Constitution had granted Jammu and Kashmir a special autonomous status, allowing it to have its own constitution, flag, and internal governance. Article 35A further reinforced this autonomy by restricting non-Kashmiris from acquiring property or settling in the region. The revocation of these provisions integrated Jammu and Kashmir into the Indian Union, stripping it of its previous special status agreed under the agreement. This unilateral action by India has been widely criticised for violating international commitments, including the Simla Agreement.

By altering the status of Jammu and Kashmir without bilateral negotiations, India has arguably breached the fundamental principles of the agreement, which emphasises peaceful resolution and mutual consent. This attitude raises concerns about India's adherence to its international commitments.

Furthermore, the United Nations' Security Council (UNSC) Resolution 47, adopted on April 21, 1948, explicitly states that the "question of accession of Jammu and Kashmir should be decided through the democratic method of a free and impartial plebiscite". By unilaterally revoking Kashmir's autonomy, India has disregarded this resolution, undermining the right of self-determination for the Kashmiri people.

Has the Simla Agreement Lost Its Validity?

The whole world is bewildered with the India's transition from a democratic civilised state to a religious fanatic state. PM Modi's speeches after the ceasefire, further impounded the terror image of India. Pakistan has officially suspended the Simla Agreement following India's actions and suspension of IWT.

While suspension does not necessarily mean complete invalidation, it does indicate that Pakistan no longer considers itself bound by its provisions. In the current situation, the agreement had already lost much of its relevance over time, given repeated violations and changing geopolitical dynamics. However, India who itself made flagrant violations of the agreement has still been deceitfully insisting on its validity to prevent international involvement in the Kashmir dispute.

The agreement had established a framework for bilateral negotiations, but India has consistently been denying bilateral talks since 2016. It means that there is complete breakdown in diplomatic engagement, making conflict resolution more difficult. Due to Indian arrogance people of Jammu and Kashmir have long been suffering from the Indian tyranny and occupation, maintained via 700,000 troops.

With the agreement no longer binding, Pakistan should push for international mediation, particularly through the United Nations or other global bodies. This could bring the UK, the US, China, or Russia into the equation, altering the balance of power in the region. World powers must note that with the agreement no longer in effect, the situation could lead to heightened military posturing along the Line of Control (LoC) which has now become the Line of Actual Control (LAC). This could result in more frequent border skirmishes and an increased risk of escalation into full-scale nuclear conflict. ■

The Terror State

India's alleged role in international terrorism has come under increased scrutiny in global diplomatic circles. New Delhi has long fashioned itself as a beleaguered sentinel against cross-border terrorism, yet time and again, shadows of subterfuge have unfurled, revealing its entanglement in clandestine operations far beyond its own frontiers.

One of the most significant cases highlighting India's involvement is the arrest of Kulbhushan Jadhav, an Indian naval officer detained in Pakistan's Balochistan province in 2016. Islamabad held responsible Jadhav of espionage and subversive activities, asserting that he was an operative for India's Research and Analysis Wing (RAW).

In November 2020, Pakistan's Foreign Minister and the Director General of Inter-Services Public Relations (ISPR) unveiled a dossier purportedly containing evidence of India's financial and logistical support for banned terrorist groups, including Tehreek-e-Taliban Pakistan (TTP) and the Balochistan Liberation Army (BLA). The document reportedly linked Indian consulates in Afghanistan to these organisations, implying a broader regional strategy.

Beyond South Asia, allegations against India have surfaced in Canada. In September 2023, Canadian Prime Minister Justin Trudeau claimed Indian agents were involved in the assassination of Sikh separatist leader Hardeep Singh Nijjar outside a Gurdwara in Surrey, British Columbia. Trudeau cited "credible allegations" connecting Indian operatives to the killing, exacerbating diplomatic tensions.

Similarly, investigative reports suggest RAW's involvement in a foiled assassination plot targeting Gurpatwant Singh Pannun, a Khalistan separatist, on the US soil. The Washington Post reported that RAW official Vikram Yadav had allegedly orchestrated the plan, with approval from former RAW chief Samant Goel. The US authorities intercepted the plot, prompting an inquiry by the CIA and FBI.



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TL EXCLUSIVE

Let future jurists not be defined by fear or fatigue, but by purpose. Let them carry forward a judiciary that is not complicit in silence, but committed to struggle.

A Conversation with:
Hon'ble Mr Justice Syed Mansoor Ali Shah
 Senior Puisne Judge, Supreme Court of Pakistan

TL Exclusive

Judicial Integrity Over Convenience

TL Report by **Umer A Ranjha**

Islamabad

in this conversation Pakistan's senior-most jurist hopes his legacy inspires future jurists to utilise the law fearlessly as a transformative tool for justice, grounding decisions in constitutional values and human dignity. He envisions Pakistan's jurisprudence – advancing gender equality, technological ethics, minority rights, and arbitration reform – influencing global legal discourse, offering distinct Global South insights.

Supreme Court judges must act as constitutional guardians, speaking truth to power with moral courage, while fostering robust dialogue between the judiciary, academia, and civil society through engagement and transparency to strengthen constitutional governance. Their fidelity must be solely to the Constitution's spirit.

Q: Your rulings on environmental jurisprudence have gained global recognition, shaping climate justice discourse. How do you view the Pakistani judiciary's role in guiding the Global South on environmental constitutionalism, and what legacy do you hope to leave for future judges?

Ans: I believe the judiciary in Pakistan and more broadly, in the Global South carries a profound constitutional and ethical responsibility to respond to the climate crisis with clarity, courage, and creativity.

Our jurisprudence in recent years has sought to reorient environmental adjudication through the lens of climate justice, as we did in [Asghar Leghari](#) where we declared climate inaction a breach of the right to life, embedding international principles such as intergenerational equity, *dubio pro natura* and public trust into our constitutional framework. This was not merely a declaratory exercise; we institutionalised judicial oversight through a Climate Change Commission to ensure accountability and policy continuity.

Pakistan has taken a lead in grounding environmental adjudication in a dynamic, nature-centered framework. The courts have emphasised the concept of “naturehood” recognising that elements of nature can possess legal personhood and intrinsic rights independent of human utility. This evolution of the law reflects our commitment to environmental stewardship in both substance and spirit.

We've tried to ensure that climate concerns are not siloed but integrated across urban planning ([Raja Zahoor Ahmed v. Capital Development Authority](#)), infrastructure ([Syed Ali Hussain v. Senior Member, Board of Revenue](#)), and economic justice through climate finance. In doing so, we are trying to build not just a body of law, but a culture of climate consciousness within our judicial system.

The legacy I hope these decisions leave behind is twofold: First, that courts in the Global South recognise they have the legitimacy and the constitutional duty to shape environmental futures not just respond to environmental harm. And second, that judicial imagination, grounded in constitutional values and contextual sensitivity, can be a powerful force in building resilient, rights-based, and inclusive climate governance. Ultimately, climate justice must not be seen as a luxury of wealthy nations, it is a survival imperative for countries like ours. If our jurisprudence can empower other judiciaries across the Global South to act boldly

and justly in the face of climate collapse, then we will have honoured our constitutional role.

Q2 As the senior-most Justice of Pakistan, what enduring legacy do you hope to leave for the next generation of jurists including law students, practitioners, and judges?

Ans: As the senior-most Justice of Pakistan, I do not see my legacy in the number of cases decided or the seniority of office held, but in whether I helped unlock the transformative potential of the Constitution and inspired a generation of jurists to carry that vision forward with clarity, courage, and conscience.

My hope is that the next generation including students, lawyers, and judges alike will recognise that law is not a static profession, but a living force for justice. I want them to be intellectually fearless: to challenge outdated doctrines, to question inherited assumptions, and to think constitutionally in every brief they draft, every argument they make, and every judgment they write. Let them know that the court is not merely a forum of procedure, but a forum of principle. That behind every technical issue is a human story, and behind every statute lies a promise of dignity. They must learn to ground even the smallest service matter in the language of rights to see not just rules, but people.

I urge them to bring the world into the courtroom through comparative law, international conventions, empirical evidence, literature, history, and even poetry. Let them use not only law reports but data, not only precedents but stories. Our legal tradition must evolve into a richer discourse that reflects the complexity of the human condition.

To students, I say: read relentlessly, speak courageously, and dissent honorably. Be robust, dynamic, and resilient. Be the voice for the voiceless, the defender of the vulnerable, the lawyer who turns advocacy into precedent. And above all, be moral in your everyday choices for justice begins with small acts of fairness.

Let future jurists not be defined by fear or fatigue, but by purpose. Let them carry forward a judiciary that is not complicit in silence, but committed to struggle. The Constitution doesn't just need protection it needs protectors. If we've stumbled in the past, may the next generation walk taller. You do not need to be a judge to uphold justice. You need only to refuse injustice today, in your classroom, your internship, your community. That is the legacy I hope to leave: a jurisprudence that listens, a judiciary that transforms, and a legal culture that dares to imagine better. The judiciary must never yield its conscience to convenience. The culture of compromise and the doctrine of state necessity, long used to justify judicial surrender, must be decisively expunged from our constitutional literature. A judge's fidelity must be to the Constitution, not to expediency.

Q3: How do you envision Pakistan's jurisprudence shaping regional and global legal thought in the years ahead?

Ans: Pakistan's jurisprudence must speak not only to our national concerns but also contribute to the global legal imagination. We in the Global South have unique insights on climate justice, dignity in times of crisis, and constitutionalism in fragile democracies. I believe Pakistan can lead, not follow, in these conversations.

In the years ahead, I believe Pakistan's jurisprudence will increasingly offer constitutional and human rights-based frameworks that resonate not just regionally but globally particularly in emerging areas of gender equality, technological integration in law, and inclusive justice. Our courts are consciously evolving a rights-sensitive, dignity-driven jurisprudence that reflects both our constitutional vision and international human rights standards.

Take, for instance, our recent rulings on gender equality. In cases like [Atif Zareef](#) and [Zahida Parveen](#), we have not only invalidated discriminatory practices like virginity testing and exclusion of married daughters from compassionate employment but have also exposed the deeper patriarchal structures that sustain such norms. These decisions go beyond surface-level relief, they are part of a deliberate effort to rewrite the grammar of constitutional equality in Pakistan. This kind of structural analysis of gendered power, rooted in dignity and autonomy, can contribute meaningfully to global conversations on feminist jurisprudence in

You do not need to be a judge to uphold justice. You need only to refuse injustice today, in your classroom, your internship, your community.



IMAGE: © The Legal

Justice Shah

Honourable Mr Justice Syed Mansoor Ali Shah currently serves as the Senior Puisne Judge of the Supreme Court of Pakistan. Justice Shah was elevated to the bench of the Lahore High Court in 2009 and, after serving as its Chief Justice for nearly two years, was elevated to the Supreme Court of Pakistan in 2018. Since his elevation, his lordship has authored numerous landmark judgments in areas ranging from constitutional and commercial law to criminal law, climate change, alternative dispute resolution, disability rights, and gender equality.

Justice Shah emphasises the need to integrate Information Technology, Artificial Intelligence, video-linking, Alternative Dispute Resolution, Human Resource Development, and the restructuring of the District Judiciary as critical engines of change for the future. He advocates mainstreaming these tools and reforms to achieve state-of-the-art judicial governance. His lordship places significant importance on empowering the District Judiciary by enhancing their capacity through performance-based domestic and international training and ensuring a secure and conducive working environment, particularly for women judges.

Justice Shah has also chaired the Arbitration Law Review Committee, which reviewed the Arbitration Act of 1940 and proposed modernised legislation aligned with the UNCITRAL Model Law on International Commercial Arbitration. Under his leadership, the proposed Arbitration Bill, 2024, was submitted to the Federal Government in May 2024 and is awaiting presentation in Parliament.

He is an accredited mediator from the Centre for Effective Dispute Resolution (CEDR), an Honorary Bencher of Lincoln's Inn (United Kingdom), a judicial member of the Global Judicial Institute on the Environment (Brazil), a member of the Global Constitutionalism Project at Yale University, and a member of the Rhodes Scholarship Committee for Pakistan. ■



IMAGE: © The Legal



IMAGE: © The Legal

the Global South.

In the technology and artificial intelligence domain, the Court has started mapping the boundaries of judicial reform in a digital age. We have acknowledged AI's promise in enhancing judicial efficiency ([Ishfaq Ahmed](#)), while cautioning against its uncritical use where empathy, discretion, or cultural nuance is indispensable. Such jurisprudence can serve as a model for balancing innovation with constitutional safeguards in comparable jurisdictions facing technological transitions.

Our commitment to minority rights, disability justice, and transgender inclusion as reflected in cases like [Mubarik Ali Babar](#), [Malik Ubaidullah](#), and [Muhammad Aslam Khaki](#) articulates a vision of substantive equality that rejects tokenism in favour of structural remedies. This approach aligns with and can inform the evolving international jurisprudence on intersectionality and anti-discrimination.

Regionally, Pakistan's courts are also leading in recognising electoral integrity as a constitutional imperative, not merely a procedural ideal. Our decisions in [Gohar Ali Khan](#) and [Tahir Sadiq](#) affirm that representative governance must be underwritten by fairness, transparency, and equal political opportunity principles that resonate across developing democracies grappling with electoral legitimacy.

Across multiple landmark decisions, the Supreme Court of Pakistan has progressively established Alternative Dispute Resolution (ADR) as a cornerstone of judicial efficiency, constitutional justice, and institutional reform. In [Taisei](#), the Court adopted a pro-enforcement bias consistent with the New York Convention, emphasising that judicial interference in foreign arbitral awards must be minimal. This approach reinforces predictability and bolsters international confidence in Pakistan's arbitration regime. Similarly, in [Mughals Pakistan](#), the Court advanced the view of ADR as a constitutional guarantee affirming that the promotion of mediation and negotiated settlements not only reduces the burden on courts but also ensures fairness, respects party autonomy, and facilitates timely justice. Together, this pro-enforcement and pro-mediation posture offers a compelling regional model for aligning dispute resolution mechanisms with constitutional principles.

Finally, our jurisprudence on mental illness, academic freedom, [privacy](#), and judicial overreach seen in cases like [Safia Bano](#), [Aimal Khan](#), and [PEMRA](#) is establishing principled boundaries of state power and expanding the domain of individual freedoms. In [Irfan Bashir](#), the Court cautioned against judicial overreach, holding

that when judges exceed their constitutional authority, it not only disrupts the separation of powers but also threatens the institutional integrity of democratic governance. In [PEMRA](#) case, the Supreme Court held that appointments to public bodies like the Council of Complaints must follow an open, transparent, and merit-based process, even if not expressly required by statute. Public advertisement and proactive headhunting are both necessary to ensure fairness, inclusion, and institutional integrity. These decisions reflect a maturing constitutional discourse with global resonance, particularly at a time when concerns around democratic backsliding, majoritarian excess, and state surveillance are intensifying across jurisdictions.

In sum, Pakistan's Supreme Court is crafting a distinct constitutional identity rooted in dignity, fairness, and

Judges must balance respect for legislative intent with a commitment to constitutional principles

inclusion that offers both Global South perspectives and globally relevant innovations. Our jurisprudence is not just catching up with the world; in many ways, it is helping lead it.

Q4: Amidst the shifting currents of contemporary jurisprudence, in what manner ought the role of Supreme Court justices to be comprehended and judiciously enacted?

Ans: In today's evolving legal landscape, the role of Supreme Court judges must be understood as that of guardians of the Constitution and protectors of fundamental rights, tasked with interpreting and applying the law in a manner that upholds justice, fairness, and democratic values. Judges must balance respect for legislative intent with a commitment to constitutional principles, ensuring that the judiciary acts as an impartial arbiter rather than a policymaker. Their role demands not only legal expertise but also wisdom, courage, and humility, as their decisions profoundly impact individuals and society at large.

At the heart of this role lies a deeper philosophical imperative: judges must speak truth to power, guided by the Constitution as their unwavering normative anchor. This responsibility requires not compromise but courage to defy political pressures, resist majoritarian impulses, and stand firm in the face of injustice. In moments of constitutional crisis or moral reckoning, judges are called upon to exercise principled defiance and moral clarity. They are not merely interpreters of law, but custodians of conscience reminding the state of its limits and history of its lessons. For history, as we know, repeats itself and it never forgets.

Developing robust jurisprudence is fundamental to ensuring that the law remains responsive to the evolving needs of society. Supreme Court judges must engage deeply with academic scholarship and informed legal opinions, recognising that law is a living discipline shaped by critical analysis and interdisciplinary insights. The appointment of *amicus curiae*, trusted experts or

organisations invited to provide impartial, specialised knowledge plays a crucial role in this process. By offering independent perspectives and clarifying complex legal, technical, or social issues, *amici* assist the Court in navigating difficult questions that extend beyond traditional advocacy. This collaboration enriches judicial deliberations, promotes transparency, and ensures decisions are both principled and pragmatic. In doing so, it reinforces the legitimacy of the judiciary as a thoughtful and inclusive arbiter of justice and constitutional governance.

Ultimately, Supreme Court judges must exercise their role with a profound sense of responsibility toward safeguarding the rule of law, protecting rights, and nurturing public confidence in the justice system as a cornerstone of democratic society. Their oath is not just to the text of the Constitution, but to its spirit, its promise of justice, dignity, and equality for all.

Q5: By what means might the Supreme Court cultivate a more profound and constructive discourse between the judiciary, academia, and civil society, thereby fortifying the principles of constitutional governance?

Ans: The Supreme Court plays a pivotal role in nurturing a vibrant constitutional democracy by fostering meaningful dialogue among the judiciary, academia, and civil society. This engagement enriches judicial reasoning, broadens perspectives, and enhances public trust in the rule of law. To achieve this, the Court can encourage academic scholarship through initiatives like appointing *amicus curiae* in complex cases, which allows expert opinions to inform judicial deliberations. Additionally, hosting seminars, conferences, and public lectures that bring together judges, scholars, and civil society actors can create collaborative spaces for exchanging ideas on emerging legal challenges. Transparency and open communication about judicial processes also empower civil society to participate constructively in constitutional discourse.

Importantly, judges including judges of the District Judiciary must be encouraged to attend conferences, exchange programmes, and educational courses abroad and without such engagement, they risk professional isolation that could hinder their development and the judiciary's overall progress. Ultimately, this dynamic exchange strengthens constitutional governance by ensuring that the judiciary remains responsive, informed, and connected to the society it serves. A policy of openness and engagement with global actors is essential, while isolation and restrictions preventing judges from going abroad are regressive and detrimental. ■



IMAGE: © The Legal



National Policy *for* AI Governance

Authors of the Policy

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Student-Drafted Framework Balances Tech Innovation with Rights Protections, Targets Corruption and Delays

The full policy paper can be reached at www.the-legal.org

Kahuta Law College scholars propose a national policy for ethically integrating AI into Pakistan's policing and judiciary. Advocating facial recognition and predictive policing, the framework establishes a National AI Commission and Ethics Oversight Board to ensure constitutional adherence. Pilots precede nationwide rollout, supported by legislative reforms prioritising data privacy and judicial scrutiny. Addressing infrastructural deficits and institutional resistance, the policy envisions AI bolstering efficiency while safeguarding civil liberties, positioning Pakistan as a regional exemplar in responsible AI governance.

TL Report

Rawalpindi



The Authors

IMAGE: © The Legal

A pioneering national policy to govern artificial intelligence (AI) in Pakistan's law enforcement and criminal justice sectors has been proposed by law students from Kahuta Law College, Rawalpindi. The comprehensive framework, designed to harness AI's potential while addressing ethical risks, advocates for technologies such as facial recognition, predictive policing, and automated forensics to combat systemic inefficiencies, corruption, and case backlogs.

Central to the policy is the creation of a National AI Commission and provincial committees to oversee ethical compliance, algorithmic transparency, and public accountability. An AI Ethics Oversight Board would audit systems for bias, ensuring adherence to constitutional rights and international human rights standards. The draft emphasises phased AI deployment, beginning with pilot schemes in select police stations – featuring AI reception desks, smart FIR counters, and digitised registers – before scaling nationally.

“Public trust is fragile... Transparency in AI decision-making is non-negotiable.”

The policy highlights AI's role in streamlining investigations, such as reducing delays in First Information Report (FIR) registration through automated systems. It also proposes AI-driven forensic scheduling to address Pakistan's chronic backlog of millions of pending court cases. “AI can process evidence faster, minimise human error, and curb tampering,” explained a member of the drafting team. “But its success hinges on robust safeguards against misuse.”

Legislative Framework: Safeguards, Reforms and Oversight

To anchor AI use in legal safeguards, the policy demands amendments to existing laws, prioritising data privacy, strict regulation of surveillance tools, and mandatory human oversight of AI-driven decisions. Proposed legislation would criminalise misuse of biometric databases, impose penalties for algorithmic discrimination, and require judicial approval for predictive policing algorithms.

The framework mandates updates to the Pakistan Penal Code, Evidence Act, and Police Order 2002 to define legal boundaries for AI tools. For instance, facial recognition data would require court-sanctioned warrants for use in investigations, while citizens would gain rights to challenge AI-generated evidence. The draft also calls for a new Personal Data Protection Act aligned with EU standards to prevent unauthorised surveillance.

To address infrastructure gaps, the policy urges cybersecurity upgrades, AI training programmes for officers, and five-year budget allocations for tech integration. Notably, it links AI systems to real-time court interfaces to fast-track trials and reduce detention delays. A proposed National Forensic AI Lab would standardise digital evidence handling across provinces.

Challenges and Vision

While the plan tackles chronic issues – manual record-keeping, FIR delays, and under-resourced forensics – it acknowledges hurdles such as institutional resistance, funding constraints, and evolving cyberthreats. The policy warns that without sustained political will, AI systems risk becoming “tools of oppression,” particularly in the hands of powerful agencies like the Federal Investigation Agency (FIA).

Monitoring mechanisms, including public feedback portals and annual parliamentary reviews, are proposed to ensure accountability. The draft further recommends collaboration with tech firms and civil society to audit AI performance. “Public trust is fragile,” noted law-tech specialist Advocate Syed Mohammad Ali. “Transparency in AI decision-making is non-negotiable.”

By aligning with global best practices and Pakistan's constitutional ethos, the draft envisions a future where AI bolsters public trust in policing and courts. If adopted, proponents argue, Pakistan could emerge as a regional model for responsible AI governance – where innovation and civil liberties coexist. The policy unit now urges parliamentary scrutiny, with hopes for implementation ahead of the 2025–30 national AI strategy. ■

Supreme Court Upholds Military Court Jurisdiction in Civilian Trials

Civilian Trials Under the Army Act Revived as Court Sets Aside Prior Judgment

TL Report

Islamabad

Case Law Summary: *Shuhada Forum Balochistan v. Justice (R) Jawwad S. Khawaja & Others and Connected Appeals* Supreme Court of Pakistan, Constitutional Bench, Short Order dated May 7, 2025

Citations: I.C.A. 5/2023 in C.P. 24/2023 & connected appeals

Introduction

The case involves a series of Intra-Court Appeals (ICAs) filed under Section 5 of the Supreme Court (Practice and Procedure) Act, 2023, challenging the majority judgment dated 23 October 2023. That judgment, delivered by a five-member bench of the Supreme Court under Article 184(3) of the Constitution of Pakistan, had declared specific provisions of the Pakistan Army Act, 1952 as unconstitutional and of no legal effect.

Background

The controversy arose from incidents on 9–10 May 2023, during which civilians allegedly launched coordinated attacks on military installations across Pakistan, including sensitive sites such as the GHQ, Corps Commander House in Lahore, and ISI offices. Approximately 103 accused persons were to be tried in military courts under the Army Act. The prior judgment had ruled that the relevant provisions of the Army Act used to try civilians were unconstitutional, mandating that such accused be tried only in ordinary criminal courts.

Constitutional Issues

The central legal issues involved were:

1. Whether clause (d) of subsection (1) of Section 2 (in both sub-clauses (i) & (ii)) and subsection (4) of Section 59 of the Pakistan Army Act, 1952, were ultra vires the Constitution.
2. Whether the trial of civilians in military courts violates the right to a fair trial under Article 10-A and the separation of powers under Article 175(3) of the Constitution.
3. Whether these provisions could stand in light of Article 8, especially its sub-articles (3) and (5).

Supreme Court Decision

By a majority of 5-2, the Supreme Court allowed the ICAs and set



Military Courts Restored

In a consequential judgment with far-reaching implications, the Supreme Court of Pakistan has overturned its earlier ruling, on May 7, that had declared certain provisions of the Pakistan Army Act, 1952 unconstitutional, thereby restoring the military's power to try civilians involved in the violent protests and attacks on army installations on 9–10 May 2023.

By a 5-2 majority, a full Constitutional Bench allowed multiple Intra-Court Appeals (ICAs), reversing a previous decision that held the trial of civilians in military courts violated the right to a fair trial under the Constitution. The Court's short order, released on Tuesday, reinstates clause (d) of subsection (1) of Section 2 and subsection (4) of Section 59 of the Army Act – key provisions that grant jurisdiction to military courts over civilians in cases involving espionage and attacks on military property.

While restoring the military court provisions, the bench stressed the need for legislative reform, urging the federal government and Parliament to enact amendments within 45 days to allow an independent right of appeal in the High Courts for those convicted by military courts.

The Court held that although military trials for civilians were constitutionally valid in certain security-sensitive cases, due process and appellate safeguards must be strengthened. The right of appeal, the Court noted, is a “basic limb of the doctrine of due process” and consistent with both the Constitution and international obligations under the International Covenant on Civil and Political Rights (ICCPR). ■

Justices
Jamal Khan
Mandokhail
and Naeem
Akhtar
Afghan's
[dissenting
opinion](#) –
released on
May 30,
2025

aside the judgment of 23 October 2023. The majority, comprising Justices Amin-ud-Din Khan, Muhammad Ali Mazhar, Syed Hasan Azhar Rizvi, Musarrat Hilali, and Shahid Bilal Hassan, restored the impugned provisions of the Army Act. Justices Jamal Khan Mandokhail and Naeem Akhter Afghan dissented.

Key Holdings

1. Restoration of Army Act Provisions

The Court held that the struck-down provisions did not infringe fundamental rights to the extent of being unconstitutional.

The majority emphasised that Article 8(5) does not control Article 8(3), and the Army Act provisions do not involve the suspension of any fundamental rights under Article 233.

2. Legality of Military Trials

The Court acknowledged that while peaceful protest is protected, the violent and destructive events of 9 May were organised, widespread, and deliberate. Military courts were deemed appropriate for such offences under the Army Act. Importantly, the Court cited prior precedents including *Shahida Zahir Abbasi* (PLD 1996 SC 632), *District Bar Rawalpindi* (PLD 2015 SC 401), and *Brig (R) F.B. Ali* (PLD 1975 SC 506), which upheld the procedural validity of military courts.

3. Right to Fair Trial and Appeal

While upholding the military court jurisdiction, the Court underscored the necessity of ensuring due process, including the right to appeal. The majority referred the matter to Parliament, recommending legislative amendments within 45 days to provide an independent right of appeal to the High Courts



IMAGE: Courtesy SCP

for civilians tried under military law.

4. Retrospective Application of Appeal Rights

It was held that the limitation period for filing appeals in the High Courts shall commence from the date of notification of such legislative amendments, ensuring the fairness of retrospective application.

5. Pending Writs and Civil Miscellaneous Applications

The Court clarified that any pending writs or constitutional petitions challenging transfers to military courts should be decided on their own merits by the respective High Courts. All Civil Miscellaneous Applications connected to the appeals were disposed of accordingly.

6. Instruction for Compliance

Copies of the short order were directed to be sent to key government bodies, including the Attorney General, Ministry of Law, Ministry of Defence, and Law & Justice Commission, for compliance and initiation of the recommended legislative process.

Dissenting Opinion

Justice Yahya Afridi, in the original judgment, had dissented from the declaration of unconstitutionality but agreed that trials must take place before ordinary criminal courts. In contrast, Justices Mandokhail and Afghan, in the ICA judgment, dismissed the appeals and upheld the previous ruling, maintaining that military courts trying civilians undermines the civilian supremacy and judicial independence embedded in the Constitution.

Analysis

This decision marks a significant turn in Pakistan's constitutional jurisprudence relating to the interface between national security and fundamental rights. While affirming the legitimacy of military trials in exceptional circumstances, the Court recognised the importance of procedural safeguards, particularly the right to appeal. The decision walks a tightrope, seeking to balance state security imperatives with individual rights and judicial oversight.

Notably, the judgment references the Defence Services Laws (Amendment) Ordinance, 1967, whose provisions were shielded under Article 268 of the Constitution. By doing so, the Court reaffirms the entrenched legal framework that grants special jurisdiction to military courts over civilians in narrowly defined instances, particularly those relating to offences against military installations and espionage.

Conclusion

The Supreme Court of Pakistan's decision in ICA No. 5/2023 and connected appeals has reinstated the military's authority to try civilians in specific security-related offences under the Army Act. However, by directing the legislature to provide an independent appellate remedy, the Court has attempted to align the military justice system with the constitutional guarantee of fair trial. This nuanced judgment preserves the state's prerogative in safeguarding national security while mandating essential procedural reforms to maintain constitutional legitimacy and compliance with international human rights standards.

While restoring military court jurisdiction, the Court has directed Parliament to legislate an independent right of appeal, ensuring due process for the accused.

Copyright Conundrum

Balancing Originators' Rights and Creative Freedom in a Global Legal Tapestry

Copyright law balances creators' rights with creativity via parody exceptions, protecting originators. Jurisdictions like the US and UK vary, as an Austrian case highlights; some allow adaptations, others restrict them over economic harms. Balancing IP protection with creative freedom remains a legal challenge.

In some countries, the original creators need to register their creative works, while in countries like the USA and France, registration is unnecessary for protection. Under the legislation of these states, the requirement for copyright protection is that the work must be original and creative.

In the well-known Supreme Court case *Feist Publications Inc. vs. Rural Telephone Co. Inc.*, the scope of copyright protection was clarified. The Supreme Court ruled that for a work to be protected under copyright law, it must be the result of creativity. Additionally, the Court stated that factual information is not eligible for copyright protection.

There are, however, a few exceptions when it comes to the protection under copyright law. These exceptions include the Parody and fair use exception and the free adaptation exception. Parodies go far back in history and have had their impact on societies. Parody refers to a humorous comment or criticism of the original work. A parody is essentially mimicking the original work without causing harm to the author or their work.

Parody under copyright law is considered to fall under the fair use doctrine which allows the original work to be used without infringing the original creator's rights. The interpretation of parody as fair use under copyright law may vary from case to case and depends on the purpose and character of the use. Parody is an exception to copyright as it is a way to criticise and review the original work.

There are four factors under which the court decides if a parody falls under fair use, these factors include the purpose of the unauthorised use, whether the original work is factual or creative, the amount of original work used in the parody, and whether the parody impacts the demand and market of the original work. It is important to note that there is not a strict rule for the fair use doctrine under any legislation, it may be interpreted over time through case laws.

Parody and fair use exceptions strike a balance between freedom of speech and expression and the respect and reputation of the

Copyright law plays a crucial role in protecting the rights of original creators by granting them exclusive rights and control over their creations. While countries have their domestic legislations on copyright, international copyright law is governed by treaties such as the Berne Convention (1886) and the TRIPS Agreement (1994), which provide member states with a framework for copyright law and outline exceptions to the strict protections afforded to original creators under this law.

Copyright protection and its interpretation in courts are narrow, and it strictly protects the rights and control of the original owner. However, a few exceptions to this protection provided by law may allow the use of copyrighted work without infringing the copyright. These exceptions include the 'parody exception' and the 'free adaptation exception'.



by **Fatima Mazhar**

President of Law Students' Council Pakistan - Islamabad

original creator. Parodies are an essential part of the creative economy, and they might in some cases be beneficial to the original creator as well. On the other hand, the free adaptation doctrine allows the use of authorised work for exclusive personal use only. This use can also be allowed for educational and research purposes, but this exception is not applied in cases where the adaptation affects the market for the original creator's works. It is important that even in the adaptation, the original creator is given the due credit for their work.

Comparative Analysis between the UK, USA, and France:

The interpretation of copyright exceptions varies across different legal systems and legislations. In the United States, copyright protection is very strict, but there are exceptions. The unauthorised use of an author's copyrighted work may be permitted under the fair use doctrine, provided that the use meets specific criteria. This evaluation involves a four-factor test to determine whether the use is fair.

In the US, it is not necessary to register creative works for them to be protected; the act of creation itself, along with the effort and labour involved, is considered sufficient for granting intellectual property rights. Paul Szynol, a media attorney, commented on fair use, arguing that exceptions in copyright are minimal. He believes that if individuals are required to pay fees to criticise or review someone else's work, this will essentially mean that only the wealthy will enjoy true freedom of speech. If permission is always required, original authors may only permit flattering remarks about their work.

In the UK, the concept is known as the fair dealing doctrine. The use of

unauthorised work falls in the ambit of fair dealing in cases of parody where the original author is credited for his work and the new work does not damage the reputation or demand of the original. A use may be considered as an exception of copyright in three cases, if the use is for educational purposes and the owner is being credited, if the use is in the form of quotation, criticism, or review of the original, and in case of parody where new work is transformative.

The fair dealing doctrine protects the right to freedom of expression while maintaining the right and control of the author over the original work. In the UK, the concept known as the fair dealing doctrine allows the use of unauthorised works under certain

circumstances, particularly in cases of parody. When creating a parody, it is important that the original author is credited and that the new work does not harm the reputation or market demand for the original.

Fair dealing can be considered an exception to copyright in three main instances, when the use is for educational purposes and the original owner is credited, when the use involves quoting, criticising, or reviewing the original work, and when the new work is transformative, as in the case of parody. The fair dealing doctrine protects freedom of expression while also preserving the rights and control of the original author over their work.

In France, intellectual property is highly protected to the extent that there is no need for

Austrian Supreme Court Rejects Political Parody Defence in Copyright Clash Over 'The Robber Hotzenplotz'



IMAGE: © The Legal

In the US, it is not necessary to register creative works for them to be protected.

The publisher of "The Robber Hotzenplotz" sued for copyright infringement

registration, the copyright is created when creative work is made. There is no specific legislation in France related to copyright exceptions but the specific exceptions under Article L122-5 of the Intellectual Property Code apply. These exceptional cases include the case of private copy, where the original work is used for personal use and not commercial.

The second case in which copyright does not apply is when the original work is being quoted for criticism, review, or educational purposes, and due credit is given to the original creator. Parody is also an exception to the copyright law which allows new creative work based on the original work, without harming the reputation or market for the original. Other exceptions to copyright protection include the press review where the source is properly credited and incidental inclusion where the new work coincidentally infringes the copyright of the original.

Räuber Hotzenplotz Case:

In August 2024, The Supreme Court in Austria rendered a ruling on an issue of copyright infringement over the use of images from the children's

book series "Der Räuber Hotzenplotz" ("The Robber Hotzenplotz") by Otfried Preußler. A political party had utilised a manipulated image appearing to resemble the cover of the book in their pre-election campaign titled "Räuber Rathausplatz" ("Town Hall Robber"), depicting a caricature of a city mayor wearing a particular robber's hat.

The publisher of "The Robber Hotzenplotz" sued for copyright infringement on which the first instance court (Landesgericht für Zivilrechtssachen Wien) rejected the claimant's request for an injunction. However, this decision was overruled by the Oberlandesgericht Wien (Vienna Court of Appeal) which granted an injunction finding a copyright infringement in the use. The Supreme Court upheld the decision of the lower court, concluding that the illustration of the political party did not meet the requirements of a permissible parody and free adaptation under Section 5 (2) UrhG and that the new work was not a transformative parody of the original author's work.

The court was anxious to emphasise that for a work to be a parody, it must suggest the original while having distinguishable uniqueness, and it must be a work of satire or humour. Here, the court held that the defendant's ideas were not simply copied from the original, but had utilised central features of the original, particularly, the depiction of

the robber looking over the fence while wearing a distinctive hat. Furthermore, the court concluded that the defendant's use of the illustration was not an exception to copyright because it was a political parody.

It emphasised the requirement to weigh the interests of the copyright owner against the user's freedom of expression. The court determined that the author of the original work had a legitimate interest in not being associated with a political campaign without consent, and the political message could have been communicated without infringing the copyright. This ruling highlights the strict application of copyright exceptions in the context of parody and reinforces the need for upholding original works even in political debate.

The application of such rules, parody exception and the doctrine of free adaptation, differs from one country to the next. Some jurisdictions provide a wide degree of freedom, while others have more restrictive rules. The ruling of the Austrian Supreme Court is additional proof of how courts are managing these difficult legal concepts. It is, therefore, a challenge to find the right balance between protecting intellectual property rights and promoting creativity. Copyright laws must be well-positioned to work for creators and society at large. ■



IMAGE: Courtesy Austrian Supreme Court

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The Power of Words

How Semantics Shape Legal Systems and Justice



by **Nabihah Nasir**
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Semantics underpin law's legitimacy, from H.L.A. Hart's "semantic sting" to statutory interpretation rules. Precise wording defines obligation, justice, and reform, as seen in France's rape law loophole, where absent "consent" enabled systemic impunity until public outcry demanded lexical clarity.

From Courtroom Battles to Legislative Reform, the Weight of Language in Law

In the labyrinth of legal systems, words are not merely tools – they are the bedrock of justice, the architects of societal order, and, at times, the catalysts for profound reform. The interplay between semantics and law, a subject once confined to academic debate, has surged into prominence through landmark cases and jurisprudential shifts.

Central to this nexus is the legacy of H.L.A. Hart, the 20th-century legal philosopher whose work exposed the fragility and force of language in codifying authority. Now, as courts worldwide grapple with the real-world consequences of statutory interpretation, the stakes of linguistic precision have never been clearer.

Legal positivism, a school of thought distinguishing law as a human construct rather than a moral imperative, owes much to Hart's rigorous interrogation of language. Building on the foundations laid by Jeremy Bentham and John Austin, Hart sought to disentangle the nuances of obligation – arguing that being "obliged" (by threat) diverges fundamentally from being "obligated" (by rule). His seminal *The Concept of Law* (1961) posited that law derives authority from a "rule of recognition," a social agreement on what constitutes valid legislation. Yet, Hart's fixation on semantics – famously dubbed the "semantic sting" by Tony Honore – revealed a deeper truth: the law's efficacy hinges on meticulous wording.

For Hart, the sovereign's will, once enshrined in statute, demanded scrupulous drafting to prevent ambiguity. This ethos, he argued, imposed a duty on legal professionals to prioritise semantic clarity in advocacy and adjudication. His ideas not only

France's legal definition of rape — omitting 'consent' — exposed systemic failures: perpetrators exploited lexical gaps to evade accountability, igniting calls for reform to align statutory language with societal demands for justice and survivor protection."



H.L.A. Hart's 'semantic sting' underscores law's reliance on linguistic precision: obligation hinges not on force but clarity of wording, demanding meticulous drafting to legitimise authority and avert ambiguity in jurisprudence.

reshaped legal positivism but also underscored a universal truth: in law, words wield the power to legitimise or undermine authority.

The Judge's Dilemma

When statutes reach the courtroom, judges confront the formidable task of interpretation. Three principal doctrines guide this process:

1. The Literal Rule: Words are given their plain, ordinary meaning, irrespective of potential absurdities.
2. The Mischief Rule: Judges probe the legislative intent—the “mischief” a law aimed to remedy—to align interpretation with purpose.
3. The Golden Rule: Courts may deviate from literal meanings to avoid absurd or unjust outcomes.

These tools, honed through centuries of common law, exemplify semantics in action. Consider the 1985 Australian case *Kioa v. West*, where Justice Mason emphasised that procedural fairness must prevail unless statutes explicitly negate it. Such precedents illustrate how judicial discretion, tempered by semantic rigour, adapts rigid texts to evolving societal norms.

Semantics in Practice

For lawyers, semantics are a battlefield. A misplaced term or misapplied clause can sway verdicts, alter lives, and erode professional credibility. As noted by legal scholar Adrian Künzler (2022), “Lawyers can't afford to be poor communicators.” Whether arguing property rights or criminal intent, linguistic precision bridges the gap between abstract law and tangible justice.

This extends to jurisprudence itself. Legal positivism's assertion that law is socially constructed — divorced from divine or moral imperatives — elevates the importance of wording. Conversely, proponents of divine law view sacred texts as immutable, leaving little room for semantic reinterpretation. The tension between these schools underscores a broader truth: how laws are framed reflects who holds power to define them.

Case Study: France's Legal Reckoning with Consent

The harrowing case of Gisèle Pelicot, a French woman subjected to serial rape by her ex-husband and 50 accomplices between 2011 and 2020, has laid bare the perils of semantic omission. French law defines rape as non-consensual penetration achieved through “violence, coercion, threat, or surprise” — a formulation conspicuously absent of consent. This loophole, critics argue, has enabled systemic impunity: between 2012 and 2021, 86% of sexual abuse complaints and 94% of rapes reported in France went unprosecuted, according to the Institute of Public Policies of France.

At the Avignon trial, defendants exploited this ambiguity, claiming ignorance of Pelicot's unconsciousness or asserting that her husband's “consent” sufficed. Such defences, though morally indefensible, highlight the law's failure to codify lack of consent as a definitive element of rape. The verdict — a 20-year sentence for Dominique Pelicot, contrasted with three-year terms for accomplices — sparked national outrage and demands for reform.

Lawmakers like Sarah Legrain of France's left-wing France Unbowed party have tabled proposals to redefine rape altogether, urging the inclusion of consent as a central pillar. Activists argue this shift is not merely semantic but existential: without it, survivors remain voiceless, and perpetrators shielded by lexical gaps.

Conclusion: Words as Instruments of Progress

The Pelicot case epitomises a universal truth: semantics are not academic abstractions but lifelines to justice. As Hart foresaw, the law's legitimacy rests on clarity of intent and expression. When statutes neglect critical terms — be it “consent” in France or “fairness” in administrative law — the repercussions cascade through courtrooms and communities.

Yet, this very malleability offers hope. Judicial interpretation, guided by semantic rigour, allows laws to evolve alongside societal values. For Gisèle Pelicot and countless others, such evolution is not just theoretical — it is the difference between impunity and accountability, between silence and vindication. In the end, the law's words must not merely reflect power; they must protect the powerless.

Land Acquisition

A Legal and Social Reckoning

Pakistan's land acquisition framework, rooted in its colonial past, continues to prioritise state and corporate interests over the rights of ordinary citizens. Major development projects such as the Ravi Urban Development Authority (RUDA) and Bahria Town highlight the social and environmental toll of unregulated land acquisition, where eminent domain is wielded with little regard for displaced communities.

Although judicial interventions have occasionally mitigated excesses, inconsistent enforcement and legal loopholes allow injustices to persist, disproportionately affecting vulnerable populations. By embracing a more just and inclusive framework, policymakers can forge a path where progress does not come at the expense of the marginalised.

IMAGE: © The Legal



by **Tajwer Khan, AHC**
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The Land Acquisition Act, 1894—a relic of British colonial rule—remains the cornerstone of Pakistan's land acquisition framework, despite mounting criticism over its failure to align with modern constitutional, socio-economic, and environmental norms. Designed to empower the state in exercising eminent domain, the law has become a lightning rod for controversy, with critics alleging systemic abuse, opaque processes, and the displacement of marginalised communities. While land acquisition for public infrastructure is a legitimate state function, Pakistan's implementation often sidesteps due process, fair compensation, and ecological considerations, triggering widespread legal and ethical disputes.

Constitutional Safeguards and Legal Challenges

Article 24 of Pakistan's Constitution guarantees the right to property but permits acquisitions for “public purpose” with fair compensation. However,

judicial interpretations of “public purpose” have been expansively applied, enabling state and private entities to exploit loopholes. Landmark cases such as *Malir Development Authority v. Bahria Town* (2018) exposed the misuse of acquisition powers for private gain, with the Supreme Court imposing a staggering PKR 460 billion fine. Conversely, in *Federal Government Employees Housing Foundation v. Malik Ghulam Mustafa*, the court upheld acquisitions for residential projects as serving public interest, underscoring judicial inconsistency.

The 2021 Lahore High Court ruling against the Ravi Urban Development Authority (RUDA) highlighted constitutional breaches, including the absence of environmental assessments and stakeholder consultations. Justice Shahid Karim condemned the project's ecological and social fallout, linking unregulated urbanisation to food insecurity and the marginalisation of agrarian communities. Despite this, the Supreme Court later allowed RUDA to proceed in compensated areas in 2022, leaving affected farmers and NGOs battling forced evictions and inadequate redress.

Case Studies: RUDA and Beyond

The RUDA project, launched in 2020 to construct a “new city” along Lahore's Ravi River, epitomises the clash between development ambitions and grassroots resistance. The Punjab Government's failure to conduct mandatory environmental studies or consult local stakeholders led to a 2021 court ruling deeming sections of the RUDA Act unconstitutional. Yet, the project continues amid contempt petitions and legislative efforts to introduce independent oversight—a move likely influenced by domestic unrest and international scrutiny.

Parallel disputes, such as the Gulberg–M2 Expressway case, reveal systemic flaws. As of February 2025, 600 families have challenged the government over evictions and compensation based on outdated District Collector (DC) rates. Similarly, Karachi's Gujjar Nullah anti-encroachment drive and Lahore's Orange Line Metro Train project—a Belt and Road Initiative (BRI) venture—have displaced thousands with minimal compensation, flouting

Recent judicial rulings on some controversial projects highlight the **tension between development goals and constitutional protections, sparking calls for urgent legislative reform.**



international resettlement guidelines.

Procedural Weaknesses and the Role of the Collector
The acquisition process, governed by Sections 4, 6, and 11 of the 1894 Act, grants the Collector significant administrative power to determine compensation. However, reliance on DC rates—often divorced from market values—routinely undervalues land. The Dadhocha Dam case (2023) starkly illustrated this: compensation was set at PKR 606,400 per acre against a market value exceeding PKR 1 million.

Section 17, permitting “urgency acquisitions,” has been particularly abused. In the Dadhocha case, authorities invoked emergency provisions after a decade-long delay, bypassing hearings. While courts have occasionally intervened, protracted litigation remains the only recourse for aggrieved landowners.

Comparative Legal Reforms: India, UK, and Australia

Global precedents offer pathways for reform. India's 2013 Land Acquisition Act mandates consent from 70–80% of landowners, social impact assessments, and compensation up to four times market rates. In the UK, the European Court of Human Rights' *James v. United Kingdom* (1986) affirmed that eminent domain must serve social justice, not just economic growth. Australia's *Minister for Public Works v. Duggan* (1994) invalidated acquisitions lacking clear public benefit, prioritising individual rights over state overreach.

Pakistan's reliance on a 19th-century law continues to provoke legal battles and human rights concerns, as state-backed projects displace thousands without fair compensation or environmental safeguards.

Recommendations for Legal Reform

To align Pakistan's framework with global standards, experts urge:

1. **Legislative Overhaul:** Redefine “public purpose” to prevent arbitrary interpretations.
2. **Environmental and Social Safeguards:** Mandate impact assessments and stakeholder consultations.
3. **Fair Compensation:** Replace DC rates with independent, market-driven valuations.
4. **Landowner Consent:** Require majority approval for projects involving private entities.
5. **Oversight Mechanisms:** Establish a Land Acquisition Authority to monitor compliance.
6. **Resettlement Policies:** Enforce statutory rehabilitation schemes, including housing and livelihood support.

Conclusion

Pakistan's land acquisition regime, steeped in colonial legacy, disproportionately favours state and corporate interests over citizens' rights. Projects like RUDA and Bahria Town underscore the human and ecological costs of unchecked eminent domain. While judicial rulings have occasionally curbed abuses, inconsistent enforcement and procedural gaps perpetuate inequality. Legislative reform, guided by constitutional principles and international best practices, is imperative to balance development with justice, ensuring progress does not come at the expense of the vulnerable. Through transparency, accountability, and inclusive planning, Pakistan can reclaim its land laws from the shadows of colonialism. ■





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Katchehri Kulture: A GBD Factory?

How Cultural Norms Engineer Inequality



by **Amna Khan, AHC**
Islamabad

The article critiques Pakistan's patriarchal legal culture in KPK, where systemic barriers – such as Munshi (clerk) monopolies, client distrust, and exclusion from meaningful roles – marginalise female lawyers. It advocates reforms like paid apprenticeships, inclusive bar participation, and gender sensitivity training, citing landmark Supreme Court rulings condemning gender bias. The piece underscores the urgency of dismantling entrenched norms to achieve equality in the profession.



IMAGE: © The Legal

Between the mazes full of corridors and courtyards that look more like parking lots, there's a lot at stake for a young woman lawyer who dares to step out to practise law in the smaller or remote districts of KPK/Pakistan. While the ratio of female law students and lawyers has surged in the past few years, the centuries-old system designed by men for men might need to make a few amends for their fellow female counterparts. These amends require more than allotting a nominal fund for the female bar members or obliging them with a bar room they can be thankful for. This article exposes how patriarchal norms – from Munshi monopolies to client distrust – in KPK's legal profession exclude women from meaningful practice and calls for accountability in Pakistan's legal 'Katchehri Kulture' (court area culture).

Imagine you join a senior lawyer's chamber, only to discover the real practitioners are the Munshis (clerks). You try to offer your support in drafting to the chamber, but no one bothers because the 'Munshi' or clerk has that covered, so you resort to research – but no, that's also not needed. You try to engage with clients, predominantly male, who only feel comfortable entrusting or discussing their matters with your senior or male associates. It wouldn't be wrong to suggest how law practice has been hegemonised by these Munshis; the only people your seniors will rely on, the only people who get to practise in actuality by dealing with clients, drafting, filing, or cosplaying as the seniors by signing their Vakalatnamas here and there like it's no joke. So, why not be grateful for all the learning you get to have by 'observation'? But hey, when you finally secure a hearing, the stenographer smirks,

**Judicial Mandates:
Supreme Court
rulings and
institutional
reforms are pivotal
to countering
discriminatory
norms.**

'Beti, advocate sahib ko bulao' (Call the real lawyer). Days go by, punctuated with strikes and elections, and the most dreadful realisation knocks at your door, telling you you are no more than a shadow accompanying your senior – all for zero compensation. It is in that moment all your dreams crash, burning to the ground of practising law you've given so many years to – an experience that is not alien to many young female lawyers entering their bars in Pakistan.

Leading a parade of female associates as their “Senior”, “Sir”, and “Saib” (Mr.) as an entourage—neither giving them the chance to lead nor providing them with any exposure for learning as a young lawyer – because, well, maybe women are too emotional to lead, or our male clients don't trust them. This is a system deeply rooted in a patriarchal design that refuses to welcome women, like any patriarchal institution in the world where women must

fight tooth and nail and twice as hard as men to accomplish anything in the field.

To all the men who are a well-meshed part of this system: You discriminate against us every time one of you walks into a chamber and greets every man in the room except a woman. You discriminate every time you don't trust us with a job you're comfortable assigning to a male. You discriminate every time you address us as anything but an advocate.

When you don't provide women counterparts and associates with equal opportunities, exposure, or any compensation at all; when you look down at them and doubt their abilities—all under the garb of being pro-women in your election campaigns—your sheer discrimination comes into play. They can boast all

they want about gender-inclusive policies, but this is the kind of indirect gender-based discrimination they seem to excel in. This has tainted many lives, crushing the dreams of countless and demotivating them to eventually give in once and for all. This is what is at stake here, and this will continue to crumple dreams like rough drafts tossed into a bin if we are not consciously monitoring our behavioural and patriarchal biases, which are so deep-rooted in our subconscious that they have become part of our brain chemistry.

In the landmark case of *Zahida Parveen v. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and others* [[CPLA No. 566-P/2024\(2025\)](#)], the Supreme Court of Pakistan overturned a Khyber Pakhtunkhwa Service Tribunal judgment that had excluded married daughters from compassionate government appointments, on the basis that “a married daughter becomes a liability of her husband.” The Court, in a bench led by Justices Mansoor Ali Shah and Athar Minallah, condemned this reasoning as “factually and legally erroneous” and “deeply patriarchal,” holding that it reinforced “outdated stereotypes fundamentally incompatible with constitutional values.” The judgment emphasised that a woman's legal rights, personhood, and autonomy do not vanish upon marriage and declared the tribunal's language and the related executive clarification “discriminatory, ultra vires, and without lawful authority.” This ruling, grounded in Articles 14, 25, and 27 of the Constitution, mandates gender-sensitive and neutral language in judicial and administrative decisions, directly challenging the systemic biases within Pakistan's legal culture. It starkly reflects how gender biases permeate every level of society—from grassroots judiciary to the higher courts—underscoring the urgent need for cultural and institutional reform.

Furthermore, it is essential to recognise that gender-based discrimination at the workplace is legally considered a form of

harassment under Pakistani law. In a 2023 Supreme Court judgment [*Nadia Naz v. President of Pakistan (Civil Review Petitions No. 255 and 570 of 2021)*] authored by Justice Ayesha Malik, the Court ruled that harassment laws are not limited to sexual behaviour but broadly address gender-based discrimination and hostile work environments. The judgment clarified that such discrimination violates the dignity of employees and creates unequal power dynamics, amounting to harassment under the Protection Against Harassment of Women at the Workplace Act, 2010 (PAHWWA). Justice Malik emphasised that the law's purpose is to ensure equal opportunity and treatment, and that gender bias itself constitutes harassment, reinforcing the urgent need to confront systemic discrimination as highlighted in this article.

Reform requires more than quotas. It demands:

- i. Bar-funded paid apprenticeship models pairing seniors with junior women lawyers,
- ii. Mandating female associates' inclusion in bar meetings and politics,
- iii. Gender sensitivity and anti-harassment training.

All of which is to suggest: this system doesn't require how sharp a legal mind you have, how brilliantly you can research, or how eloquently you can argue before a judge – if you are a woman. For men, however, these rules – or any rules for that matter – never apply. But as women, from Lidia Poet to Ruth Bader Ginsburg to Asma Jehangir to Justice Ayesha Malik—women have shattered glass ceilings by turning courtrooms into battlegrounds. KPK's female lawyers are no exception. They draft applications in the shadows today – but tomorrow, they'll author judgments. The Katchehri Culture's days are numbered, and its architects should tremble.

Let this be their warning: the women drafting your adjournments today are documenting your biases – and tomorrow, they'll be the judges ruling on them. ■

Judiciary Pivots to AI and Digital Tools to Transform Court Performance



IMAGE: SCP

The Law and Justice Commission of Pakistan marked a pivotal step in judicial modernisation with its symposium, “Use of Technology in Judicial System in Pakistan: Prospects and Promises,” held on May 26, 2025. The event gathered Supreme Court judges, global experts, and policymakers to chart a tech-driven roadmap for the nation's courts.

Chief Justice Yahya Afridi declared the adoption of digital solutions “non-negotiable” for achieving accessible, transparent, and efficient justice. He cited advancements such as e-filing platforms, QR codes on legal rulings, and AI-powered case management systems. However, he cautioned against complacency, stressing the urgency of bridging the digital divide, fortifying cybersecurity, and updating legislation to match technological strides.

International insights featured prominently, with China's Supreme People's Court expert Ms. Li Xiaohui outlining her country's digitisation successes. Turkish scholars Prof. Dr. Hasan Mandal and Professor Dr Çetin Elmas highlighted global AI trends and ethical considerations. Federal IT Secretary Zarrar Hasham Khan reiterated plans to bolster infrastructure through cross-sector collaboration.

The Chief Justice praised judicial committees and foreign allies, including China's Chief Justice Zhang Jun and Türkiye's Chief Justice Kadir Ozkaya, for fostering cooperation. He urged stakeholders to prioritise ethical AI frameworks and systemic resilience to safeguard public trust.

The symposium concluded with a pledge to accelerate reforms under the National Judicial Policy Making Committee, aiming to position Pakistan's judiciary as a regional benchmark for innovation. Deputy Secretary Muhammad Tanveer termed the event a “catalyst” for equitable, tech-enabled justice. ■

Supreme Court Clears 238 Death Penalty Appeals in Efficiency Drive

In an unprecedented push to address judicial backlogs, Pakistan's Supreme Court has disposed of 238 death sentence appeals in just seven months under Chief Justice Yahya Afridi's leadership, marking a dramatic acceleration in capital case resolutions.

Since his tenure began on 28 October 2024, the court has resolved over 52% of the 454 pending appeals, slashing the backlog from 410 to 216 as of May 21, 2025. This contrasts starkly with the same period last year, when only 26 such cases were concluded.

The surge in efficiency stems from Chief Justice Afridi's strategic reforms, including the formation of three dedicated benches that worked extended hours to tackle the caseload. Bench I, led by Justice Athar Minallah alongside Justices Irfan Saadat Khan and Malik Shahzad Ahmad Khan; Bench II, chaired by Justice Muhammad Hashim Kakar with Justices Ishtiaq Ibrahim and Ali Baqar Najafi; and Bench III, headed by Justice Naeem Afghan with Justices Salahuddin Panhwar and Aamer Farooq, conducted prolonged sittings, often exceeding standard court hours. Their efforts cleared all death penalty appeals filed up to 2024, a milestone hailed as a “transformative achievement” by court officials.

With the death sentence backlog now significantly reduced, the court has shifted focus to life-imprisonment appeals, prioritising cases where convicts have already served two-thirds of their sentences. This approach aims to deliver “prompt relief to deserving appellants” while reinforcing public trust in criminal justice administration, the Supreme Court stated.

The court acknowledged the collaborative efforts of legal counsel, prosecutors, prison authorities, and families of appellants, whose cooperation enabled the rapid disposals. Public

TL Report
Islamabad

Relations Officer Dr Shahid Hussain Kamboyo praised the “unwavering commitment” of judges and stakeholders, emphasising that “focused resolve and institutional synergy” can yield tangible judicial outcomes.

The breakthrough reflects Chief Justice Afridi's broader agenda to overhaul Pakistan's justice system, aligning with earlier pledges to reduce delays and enhance transparency. Analysts suggest the move could set a precedent for tackling systemic inefficiencies in other case categories, though challenges such as resource constraints and procedural complexities remain.

As the Supreme Court transitions to life-imprisonment appeals, the progress in death penalty cases underscores a pivotal shift toward expeditious justice — a critical step in restoring faith in Pakistan's legal framework. ■

Punjab Courts Embrace Mediation to Tackle Over 1.4 Million Pending Cases

TL Report

Rawalpindi

Justice Mirza Viqas Rauf, Judge of Lahore High Court (LHC), said in his keynote address that Punjab has a progressive shift towards alternative dispute resolution (ADR) mechanisms to address its overwhelming backlog of 1.4 million pending cases in district courts. With an average of 950 cases per judicial officer, he stressed that court-annexed mediation has emerged as a critical tool to alleviate systemic strain.

Justice Rauf highlighted the success of Punjab's mediation framework, introduced in 2017 under Section 89-A of the Code of Civil Procedure. Designated "Mediator Judges" facilitated pre-trial or mid-trial discussions, leveraging their societal stature to guide parties towards amicable settlements. Between June 2017 and February 2019, 30,688 cases were referred to mediation, with 14,239 resolved successfully – a 46.39% success rate. The process, he noted, preserved judicial impartiality, as trial judges remained unaware of confidential mediation discussions.

The Punjab Alternate Dispute Resolution Act, 2019, initially repealed court-annexed mediation but was amended in 2025 to reinstate Mediator Judges nominated by the Lahore High Court. This hybrid model now blends Singapore's mediation framework with Malaysia's court-linked approach. Under the Act, Schedule I cases – such as family and property disputes – must be referred to ADR within 30 days of filing a defence, while Schedule II cases may be referred at any stage. Parties may opt for a Mediator Judge

or private ADR providers, though the latter await government accreditation.

Justice Rauf acknowledged challenges, including delays in accrediting private mediators and fee structures that may deter some litigants. However, he emphasised the Act's potential to institutionalise faster, cost-effective resolutions without undermining conventional courts. "Fair resolution is more important than fast resolution," he asserted, urging robust oversight to ensure transparency and adherence to natural justice.

While championing ADR's role in reducing litigation timelines, Justice Rauf reaffirmed the judiciary's irreplaceability, advocating a balanced approach to uphold Pakistan's legal integrity. His address concluded with a call to simplify ADR processes, ensuring they remain accessible and equitable, while safeguarding the formal judicial system as the cornerstone of societal trust. ■



TL EVENT



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TL Report

Rawalpindi

'Symposium on Alternative Dispute Resolution'

Court-Annexed Mediation Centre in the offing

Rawalpindi High Court Bar Association (RHCBA) has taken a step toward modernising Pakistan's justice system with the announcement of a dedicated Court-Annexed Mediation Centre, designed to expand access to Alternative Dispute Resolution (ADR) services.

The initiative was unveiled during an event titled the 'Symposium on Alternative Dispute Resolution' and aims at offering structured and impartial mediation services. Hosted by the RHCBA, the symposium seeks to ensure such services are cost-effective for citizens and legal practitioners, easing pressure on overburdened courts.

Rawalpindi High Court Bar Association (RHCBA) has launched a pioneering initiative to modernise Pakistan's justice system by expanding access to Alternative Dispute Resolution (ADR). Unveiled during its ADR Symposium, which convened national and international legal experts, the scheme promotes structured, impartial mediation to alleviate court pressures. Judicial leaders emphasised ADR's necessity for equitable, efficient justice, urging scalable frameworks tailored to local needs.





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Organised by ADR specialist Barrister Talha Ilyas Sheikh, the symposium convened a distinguished assembly of national and international legal experts, including Justice Mirza Viqas Rauf, Senior Member of the Lahore High Court's (LHC) ADR Committee, as Chief Guest, and Justice (R) Mushir Alam, former Supreme Court judge, as Guest of Honour.

In his keynote address, Justice Rauf emphasised ADR's growing relevance, stating, "Institutionalising mediation is not optional – it is imperative for equitable and efficient justice." He praised the LHC's ongoing efforts to integrate ADR mechanisms province-wide, citing reduced case backlogs and improved public trust. Justice Alam reinforced this, stressing that "mediation empowers marginalised communities by offering a less intimidating avenue for redress."

The event featured insights from the delegates of the judiciary of England and Wales, District Judges Ghazan Mahmood and Sufyan Rana, who outlined transformative mediation frameworks in their jurisdictions. Judge Mahmood highlighted the UK's success in diverting considerable civil disputes to ADR, urging Pakistan to adopt similar scalable models. Judge Rana added, "Cultural sensitivity is key—global practices must adapt to local realities without compromising efficiency."

Barrister Sheikh, who spearheaded the symposium, opened discussions by detailing Rawalpindi Bench's ADR journey. "Pakistan's justice system must evolve by learning

from global benchmarks while addressing socio-legal nuances," he asserted. The RHCBA President Ahsan Hameed Lilla and Secretary General Khalil Ahmed Awan pledged full institutional support, announcing partnerships with legal aid organisations to ensure the centre's services remain accessible to low-income litigants.

Panellists explored diverse dimensions of ADR, with Zahid Latif, former Rawalpindi Chamber of Commerce head, advocating for mediation in commercial disputes to "boost investor confidence and economic growth." Syed Bulent of the International Bar Association (IBA) presented case studies on cross-border mediation, while Beaconhouse Group's Nassir Mahmood Kasuri underscored private-sector potential, revealing corporate plans to train in-house mediators. Barrister Sarah Kazmi and Ch Imran Hassan Ali (ASC) addressed procedural reforms, calling for standardised mediator accreditation and tech-driven case management systems.

The symposium attracted a large number of attendees, including judges, lawyers, business leaders, academics, and law students, reflecting a multi-sectoral push to overhaul Pakistan's dispute-resolution framework. Discussions highlighted ADR's role in reducing delays – currently, Pakistan's courts face a backlog of over two million cases – while fostering collaborative solutions. ■



TL EVENT



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Kinnaird College for Women

TL Report
Lahore

Master Class Boosts Legal Training

The Nadira Hassan Law Department at Kinnaird College for Women, Lahore, hosted a two-day “Master Class on Advocacy Skills” on April 24 and 25, 2025, equipping students with practical legal expertise under the guidance of seasoned barristers.

Renowned legal professionals Layla Dean-Verity and Reza AB Choudhury, co-founders of Advocacy Advisory International, led the immersive workshop aimed at refining courtroom capabilities in civil and criminal law.

Dean-Verity, a barrister with three decades of experience in commercial mediation and arbitration, conducted sessions in person, while Choudhury, specialising in civil litigation, joined virtually. Participants engaged in hands-on exercises, including case analysis, argument formulation, and simulated bail and injunction applications within a mock courtroom. The dynamic format allowed students to practise persuasive advocacy techniques under direct mentorship, bridging theoretical knowledge with real-world scenarios.

College officials praised the workshop’s “practice-oriented approach” for bolstering students’ confidence and professional readiness. Attendees lauded the opportunity to interact with international experts, calling the experience “invaluable” for aspiring lawyers navigating competitive legal landscapes. ■



Workshop at Lahore High Court

Legal Tech Ready to Reshapes Pakistan's Judiciary

TL Report

Lahore

The Lahore High Court last month hosted the DigiLawyer: AI in Law Workshop – the first artificial intelligence-focused legal training within the premises of one of Pakistan's highest judicial institutions. The event attracted a large number of lawyers, advocates, and law students, showing a rising interest in technology-driven legal practice.

Designed to demonstrate AI's practical applications in legal research, drafting, and case preparation, the workshop featured a live showcase of DigiLawyer's core tools. Participants explored Ark AI, a legal research assistant; Judgment Search, which facilitates precedent retrieval; Drafting, for automated legal document creation; and Briefcase, an organisational tool for case files.

A standout moment was the real-time AI demonstration, where attendees witnessed live interactions with legal documents and judgments, illustrating how automation enhances efficiency and accuracy. Engagement peaked during the interactive Q&A segment, with participants expressing enthusiasm about integrating AI into daily legal work. Several raised pertinent questions about ethical concerns, data security, and the evolving role of legal professionals in an AI-driven environment.

Feedback was positive, with 94% of attendees rating the session as "Very Useful." Certificates were awarded to all participants, and the event's success has prompted discussions with bar councils and law schools for wider collaboration. Organisers have also hinted at future sessions addressing AI ethics and regulatory frameworks.

The initiative, said the organisers, has sparked interest across Pakistan, leading to requests for similar workshops from legal institutions nationwide. Plans are now underway to introduce AI training to bar associations, universities, and judicial academies. A



structured onboarding programme is also in development to assist lawyers keen on incorporating AI into their practice.

The DigiLawyer workshop marks a pivotal shift in Pakistan's legal framework, where AI integration is no longer theoretical but increasingly practical. As legal professionals embrace digital transformation, initiatives like this may well shape the future of law in the region, ushering in a new era of efficiency, accessibility, and innovation. ■



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