

September 2025

THE LEGAL

INTERNATIONAL

MISOGYNISTIC LITIGATION

An Affront to Dignity

Indus Water Treaty
**SWEEPING
REBUKE**

US Sanctions on ICC
**Brazen Assault on
Global Justice**

A DIALOGUE **With**
THE ARCHITECT
OF REFORMS IN PAKISTAN
**MR. JUSTICE
ZULFIQAR AHMAD KHAN**

“ It is... a
reminder to
all litigants
and counsels
that the
dignity... of
women,
must be
respected in
all judicial
proceedings.
— CJP



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BENEFITS OF HYGIENIC WATER

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2. Strengthen Digestive System
3. Refreshes Your Taste Bud
4. Boost Skin's Health.
5. Delivers Oxygen Throughout the Body.
6. Regulates Body Temperature

NUTRITIONAL FACTS

Magnesium	7-50 ppm
Sodium	7-50 ppm
Sulphate	5-150 ppm
Calcium	30-100 ppm
Potassium	0.01-5 ppm
Chloride	5-200 ppm
Fluoride	0.1-0.7 ppm
TDS	100-200 ppm
PH	6.5-8.5



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Misogynistic Litigation

In a recent judgement, the Supreme Court of Pakistan condemned the weaponisation of gender and infertility, affirming a woman's dignity and juridical standing. It declared that no courtroom ought ever to serve as a theatre for cruelty or humiliation.

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Editor's Note

Justice Denied: When Power Shields the Guilty

The genocide in Gaza continues, while the world's human rights institutions and so-called civilised nations not only aid and abet it, but also shield humanity's gravest wrongdoers from justice. This issue demands our readers' full attention. The United States has imposed sanctions on four senior officials of the International Criminal Court, judges and prosecutors tasked with investigating alleged war crimes committed by Israeli Prime Minister Benjamin Netanyahu and US nationals.

The move has been condemned globally as a direct assault on judicial independence and a dangerous precedent for international justice. We highlight this issue not merely because it is newsworthy, but because it strikes at the heart of what *The Legal International* stands for: accountability, transparency, and the rule of law.

We also bring you analysis of the Permanent Court of Arbitration's Award on the Indus Waters Treaty. Once again, this concerns Israel's partner in impunity, India. The PCA has curtailed India's unilateral hydroelectric ventures and reaffirmed Pakistan's downstream rights. This is not just a legal victory; it is a reminder that treaty obligations matter, and that international law still has force.

Closer to home, the Supreme Court of Pakistan has delivered a truly landmark ruling on gender and infertility in matrimonial disputes. In rejecting misogynistic defences and affirming a woman's dignity, the Court has laid the foundation for a feminist jurisprudence rooted in constitutional principle. It is a judgment that deserves to be read, debated, appreciated, and remembered.

The Supreme Court has also ruled out curative reviews, in another instance, drawing a clear line under successive petitions and reinforcing the principle of judicial finality. In doing so, it distances itself from Indian precedent and reasserts procedural discipline.

The November issue is not merely a roundup of judgments, it is a call to engage. We examine appellate restraint, procedural reform, and the ethics of judicial discretion. We explore the aesthetics of legal writing and the evolving role of international tribunals in the global rule of law.

Our editorial stance remains unchanged: clarity over commentary, fidelity over flourish. We publish with respect for institutional nuance and a commitment to truth. Thank you for reading, and for thinking critically with us. ■

Aftab Kazmi

Editor in Chief

(aftab.kazmi@gmail.com)

THE LEGAL INTERNATIONAL

FOUNDER & CEO

Syed Mohammad Ali, LL.M, AHC
The Legal R&D Pvt. Limited,
Islamabad

HONOURARY PATRON

Syed Ahmad Hassan Shah, ASC
Hassan Kaunain Nafees (HKN)
Legal Practitioners & Advisers,
Islamabad

EDITORIAL

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Editor Reporting **Syed Waqar Hussain**

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Sub-Editor **Bashir Mughal**

SEO / Analytics **Shehzad Khan**

Proof Reader **Ahmed Kareem**

Marketing & Promotions **Bilawal Ali**

Editorial Secretary **Naseem Bano**

CONTRIBUTORS

Julie Ismail, Adv.

Laura Jennifer (USA)

Faryal Fatima

Irum Naqvi

Muhammad Zaman Butt, AHC

Arshia Mah Gul

Tazmeen Imran (UAE)

Atika Ibrahim

Kamran Ali Channa, Adv.

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THE LEGAL

RESEARCH
AND DEVELOPMENT

Contacts

mag@the-legal.org
+92 311 3555 503

Office 2, Building 40,
Paradise Commercial, Bahria Town Phase-4,
Islamabad (Pakistan)

NEWS BRIEFING

Justice Timelines Approved

Islamabad – In a move to streamline justice delivery, Pakistan's judiciary has approved binding timelines for the disposal of civil, criminal, and family cases, marking a major shift towards performance-based judicial accountability.

These timelines will now serve as key indicators in judges' evaluations and be integrated into digital dashboards across the courts.

The reforms were announced, on August 18, 2025, following the 54th meeting of the National Judicial (Policy Making) Committee (NJPMC), held at the Supreme Court of Pakistan under the chairmanship of the Chief Justice. The meeting was attended by Chief Justices of all High Courts and the Attorney General for Pakistan.

Under the new framework, land-related declaratory suits must conclude within 24 months, while inheritance cases are capped at 12 months. Family suits, including dissolution, dower, maintenance, and guardianship, are to be resolved within six months.

Criminal trials have been categorised by severity: juvenile cases must be completed within six months, trials involving punishments up to seven years within 12 months, and murder trials within 24 months. Execution petitions and rent matters have also been assigned strict deadlines ranging from three to twelve months.

The Committee also reviewed progress on model trial courts, court-annexed mediation, and commercial litigation reforms. It endorsed SOPs to safeguard judicial independence and called for swift redressal of complaints against judges. Additional measures included jail reform deliberations, the development of a National Prison Policy, and the institutionalisation of a Professional Excellence Index. The next NJPMC meeting is scheduled for 17 October 2025.

TL IMAGE: Courtesy Nebraska Family Alliance

**Free Speech Standoff**

Washington DC – In a closely watched procedural ruling, the U.S. Supreme Court has declined to lift a stay on the enforcement of a lower court injunction against Mississippi's controversial social media law. The decision, issued on 14 August 2025, represents a temporary setback for tech industry giants including Facebook, X, and YouTube, which argue that the law infringes upon privacy and free expression rights.

Justice Brett Kavanaugh, concurring with the Court's denial of NetChoice's application for interim relief, acknowledged that the Mississippi statute is likely unconstitutional under existing First Amendment precedents. He cited prior rulings such as *Moody v. NetChoice* and *Brown v. Entertainment Merchants Assn.*, noting that multiple federal courts have already blocked similar laws in states including California, Texas, Ohio, and Florida.

Despite recognising NetChoice's strong likelihood of success on the merits, Kavanaugh concluded that the group had not sufficiently demonstrated that the balance of harms and equities warranted emergency relief at this stage.

Paul Taske, co-director of the NetChoice Litigation Center, described the ruling as “an unfortunate procedural delay,” but expressed confidence in the broader legal trajectory. “Although we're disappointed with the Court's decision, Justice Kavanaugh's concurrence makes clear that NetChoice will ultimately succeed in defending the First Amendment – not just in this case but across all NetChoice's ID-for-Speech lawsuits,” Taske said.

The Mississippi law is part of a growing wave of state-level efforts to regulate children's access to social media platforms. Proponents argue such measures are necessary to protect minors from harmful online content, while critics warn of sweeping constitutional violations and unintended consequences for digital speech.

Legal experts suggest that the Supreme Court's eventual review of these laws could set a defining precedent for online expression and age-based regulation. Meanwhile, researchers continue to highlight the complex relationship between social media use and adolescent mental health, with studies linking increased screen time to rising levels of depression and anxiety among young people.

As the legal battles unfold, the tension between child protection and free speech remains at the heart of a national debate.

Electoral Officials Cleared

Islamabad – The Supreme Judicial Council has dismissed multiple complaints filed against the Chief Election Commissioner and two senior members of the Election Commission of Pakistan.

According to an official press release, issued on August 14, Complaint Nos. 532/2021/SJC, 557/2022/SJC, and 563/2022/SJC, lodged against Chief Election Commissioner Sikandar Sultan Raja, and Members Nisar Ahmed Durrani and Shah Muhammad Jatoi, were reviewed in Council meetings held on November 8 and December 13, 2024.

The Council concluded that the complaints did not warrant further action, and the decision has now been made public via the Supreme Court's official website.

NEWS BRIEFING



Gender Law Controversy

Berlin - A German neo-Nazi, Sven Liebich, has sparked national controversy after legally changing his gender under new self-identification laws and securing a transfer to a women's prison. Now officially known as Marla-Svenja, Liebich will serve an 18-month sentence in Chemnitz women's prison, following convictions for slander and incitement to hatred. His gender change was made possible by reforms introduced by Chancellor Olaf Scholz's coalition, which allow individuals to alter their legal gender through a simple declaration, bypassing previous medical or legal scrutiny.

The move has ignited fierce debate over the integrity and potential misuse of Germany's progressive gender legislation. Critics argue that the law, designed to support transgender, intersex, and non-binary individuals, is being exploited by a known far-right extremist to avoid incarceration among male inmates. Liebich, who has been photographed in Nazi-style attire and is classified by domestic intelligence as a right-wing extremist, claims the transfer is to avoid "discrimination" in male prisons.

The case has raised broader questions about the balance between civil rights and public safety, and whether legal reforms can be safeguarded against manipulation. Scholz defended the policy as a step towards modernisation and respect for minorities, though its application in this instance has prompted calls for review.

Dogs, Disputes, Discretion

New Delhi - A directive of Indian Supreme Court by Justice J.B. Pardiwala to relocate all stray dogs in Delhi-NCR (National Capital Region) drew backlash from animal welfare groups, prompting Chief Justice Gavai to reassign the case. The new bench, led by Justice Vikram Nath, eased the order, allowing sterilised, vaccinated dogs to return to the streets. Meanwhile, Pardiwala's rebuke of an Allahabad High Court judge over procedural conduct stirred unease within the judiciary, prompting a formal retraction. The twin controversies have spotlighted judicial discretion and institutional restraint at the apex court.

Freedom on Trial

Hong Kong - In the famous national security case, Jimmy Lai's defence lawyer Robert Pang argued that supporting freedom of expression and human rights is not criminal.

Lai, 77, faces life imprisonment for allegedly colluding with foreign forces and publishing seditious material through his pro-democracy newspaper, Apple Daily. Pang contended that dissent and criticism of government policy are legitimate, not nefarious.

Lai was first arrested in August 2020 under Beijing's sweeping National Security Law, imposed after the 2019 pro-democracy protests. He has remained in custody since, and is one of the most prominent figures prosecuted under the law. The prosecution alleges Lai used his media platform and foreign contacts to lobby for sanctions against Chinese and Hong Kong officials.

Judges questioned whether critical journalism alone constitutes sedition, noting that some articles offered policy critiques and solutions. The trial, spanning over 140 days, is expected to conclude with a verdict before November.

Bench Formation Dispute

Islamabad - Two senior Supreme Court judges, Justice Mansoor Ali Shah and Justice Munib Akhtar, have questioned Chief Justice Yahya Afridi's handling of the 26th Constitutional Amendment. In a detailed letter, surfaced on August 20, they said that a binding decision made on October 31, 2024 to constitute a full court was disregarded, and subsequent reminders were met with silence and inaction. The judges recount that the committee formed under the Supreme Court (Practice and Procedure) Act had voted in favour of a full court hearing. However, the petitions were never scheduled, and instead, the Chief Justice sought individual opinions from judges, an act the letter describes as "contrary to law and judicial practice," lacking transparency and institutional legitimacy.

They further object to the matter being moved to the Judicial Commission of Pakistan, which they argue had no jurisdiction. The Commission's approval of a seven-member bench, they claim, undermined the committee's majority decision and eroded institutional credibility and procedural integrity.

The letter also criticises the sudden release of meeting minutes that had previously been restricted, questioning the timing and motive behind their publication. The judges insist that their explanatory note be published alongside the minutes to ensure the record is complete and historically accurate.

They noted that the refusal to convene a full court has left the judiciary without a collective institutional response, and that only transparent adjudication can restore public confidence. "If at all it is now for history to judge," they write, "then, at least, let the record be complete."



IMAGE: © THE LEGAL

Decoding Non-Obstante Clauses:

Court Upholds GATT Valuation Standards

Sindh High Court clarifies statutory hierarchy in customs law, limiting discretionary powers of valuation committees

by **Julie Ismail**

Partner Khurshid Khan &
Associates - Karachi

The dearth of literature on non-obstante clauses, those starting with the words “Notwithstanding therewith...,” is glaring. This is particularly striking given that such provisions have been in use since medieval times, when Kings held the prerogative to perform acts and issue orders contrary to the prevailing laws.

One of the recent judgments of the High Court of Sindh at Karachi has added authoritative material on the subject. This came while answering a Customs Reference, in which the Department posed a question to the Court under Section 196 of the Customs Act, 1969. The question was whether, in the

presence of a non-obstante clause in Section 25A, the valuation method set forth through GATT (the General Agreement on Tariffs Trade) Article VII titled *Valuation for Customs Purposes*, and incorporated into domestic law through Section 25, would still be enforceable.

[The judgment](#) answered this question in the affirmative, i.e., against the Department and in favour of the importers. At the same time, it discussed at length the scope of non-obstante clauses as incorporated into legislation and agreements.

By way of background, the judgment states that it is common knowledge that a non-obstante clause is added to position its enforceability vis-à-vis another provision which it aims to surround. This is done in order to clarify the intention of the legislature in cases where two provisions are to be given eclipsed interpretation.

However, the Honourable Supreme Court in the case titled *Syed Mushahid Shah v. Federal Investigation Agency* (2017 SCMR 1218) has held that one of the objects of such a non-obstante clause is to indicate that the latter would prevail over the other clause. But it does not necessarily mean that there must be repugnancy between the two provisions in all such cases.

The principle underlying a non-obstante clause may be invoked only in the case of “irreconcilable conflict”. If the words of the enactment are clear and capable of a plain and grammatical interpretation, the non-obstante clause cannot cut down the construction or restrict the scope of its operation.

Thus, the judgment, taking inspiration from the *Syed Mushahid Shah* case, interprets the non-obstante clause to mean “in spite of” or “regardless of something”. This raises questions as to the amplitudes of non-obstanteness.

Categorising various forms of non-obstante clauses as *Notwithstanding Mechanisms*, commonly known as “NM”, the judgment quotes the example of Section 33 of the Canadian Charter of Rights and Freedoms. In 1982, this provision gave parliaments the power to override certain portions of the Charter, dealing with fundamental freedoms, legal rights, and equality rights, for five-year terms when passing legislation.

This is described as a [nuclear option](#). By placing reliance on Ronald Dworkin’s “fit” test, detailed in his book *Law’s Empire*, the judgment holds that NM is to be used only if the legislature or courts have no other choice. Moreover, the less it is used, the more it is conceived as exceptional. This ensures that no irreparable damage is inflicted by its use, which it is inherently designed to prevent. Hence, the judgment recommends that NM must be used by way of abundant caution.

To gauge how minimalistically NM is to be used, the judgment takes inspiration from the case of *Pronschinske Trust v. Kaw Valley Co.* [899 F.2d 470 (7th Cir. 2018)]. In that case, the dispute boiled down to a sentence that began with the NM: “notwithstanding anything to the contrary contained herein”. This clause was dropped into the middle of a paragraph on production royalties.

When the question was raised as to what “herein” meant, whether it referred to the entire agreement or only to the paragraph on production royalties, the implications were significant. If “herein” referred to the entire agreement, then the mining company owed the minimum royalty each year, no matter what. But if “herein” referred only to the paragraph on production royalties, then in the absence of mining, no liability for production royalties ever arose. Thus, the mining company had no obligation to pay the minimum production royalty.

The judgment draws strength from the conclusion that “herein”, as used in the notwithstanding clause, was only to be applied to the paragraph on production royalties and not to the entire agreement.

To conclude, the judgment held that whilst it is admitted that Section 25A begins with a non-obstante clause, the application of Ronald Dworkin’s “fit” test suggests that, in the presence of Section 25, this non-obstante clause should be used minimalistically. That is, only in exceptional circumstances, and even then, ensuring that no irreparable damage is inflicted by its use. The said non-obstante override to GATT Article VII must not become a custom for customs valuations. ■



IMAGE: © THE LEGAL

US Sanctions on ICC Officials

Brazen Assault on Global Justice

The US has sanctioned four ICC officials for pursuing war crimes investigations against Americans and Israelis, prompting global condemnation. Critics call it a dangerous precedent undermining international justice and accountability.

by **Laura Jennifer**
Washington DC

In a move widely denounced as a grave affront to the rule of law, the United States imposed fresh sanctions on four senior officials of the International Criminal Court (ICC), escalating its campaign against the world's foremost tribunal for war crimes and crimes against humanity.

The decision, announced by Secretary of State Marco Rubio, on August 20, 2025, has drawn fierce criticism from legal experts, human rights advocates, and international bodies, who have characterised it as a flagrant attack on judicial independence and a dangerous precedent for global accountability.

The sanctions target two ICC judges, Kimberly Prost of Canada and Nicolas Guillou of France, and two prosecutors, Nazhat Shameem Khan of Fiji and Mame Mandiaye Niang of Senegal. All four have been involved in investigations or rulings concerning alleged war crimes committed by Israeli Prime Minister Benjamin Netanyahu and other nationals of the Israel and United States. Under the sanctions, any assets held by these individuals within US jurisdictions are to be frozen, and they are barred from entering the country.

Rubio justified the measures by accusing the ICC of pursuing “illegitimate and baseless actions” against US and Israeli nationals, declaring that the administration would “take whatever actions we deem necessary to protect our troops, our sovereignty and our allies.” His remarks were met with alarm and indignation across the

international legal community.

The ICC responded with a sharply worded statement, condemning the sanctions as “a flagrant attack against the independence of an impartial judicial institution” and “an affront to the Court’s states parties, the rules-based international order, and, above all, millions of innocent victims across the world.” The Court underscored that its mandate is to uphold justice for the gravest crimes, irrespective of political pressure or national interests.

The United Nations also expressed deep concern. Stéphane Dujarric, spokesperson for the UN Secretary General, reaffirmed the organisation’s full support for the ICC, stating, “We firmly

believe that the ICC is a key pillar of international criminal justice, and we respect their work.”

The latest sanctions follow a pattern of hostility towards the ICC by the Trump administration, which has previously sanctioned former chief prosecutor Karim Khan and several tribunal judges. Khan stepped aside in May amid an internal investigation into allegations of misconduct, but the Court has continued its work under his successors. The current sanctions penalise Khan and Niang for continuing investigations into Israel's genocide in Gaza, including upholding arrest warrants for Netanyahu and his former Defence Minister Yoav Gallant.

Danya Chaikel, the International Federation for Human Rights's representative to the ICC, warned that the escalation represented “a defining test” for the ICC's 125 member states: “Will they defend the Court's independence and the rights of victims of international crimes, or allow intimidation by powerful states to dictate who deserves justice?”

Legal scholars from around the world have echoed these concerns, noting that the targeting of judges and prosecutors for carrying out their legal duties is as direct violation of the principles of judicial immunity and independence enshrined in international law.

The sanctions not only undermine the ICC's credibility but also embolden perpetrators of war crimes by signalling that powerful nations can shield their nationals from accountability. The move is viewed as part of a broader trend of politicising international justice, where legal institutions are pressured to serve geopolitical interests rather than uphold universal norms.

As the international community grapples with the implications of this unprecedented assault on judicial integrity, calls are growing for member states to rally in defence of the ICC. The stakes, observers warn, are not merely institutional, they concern the very possibility of justice for victims of the world's most heinous crimes. ■

A Court for Humanity's Gravest Wrongs

The International Criminal Court (ICC) stands as the world's first permanent tribunal dedicated to prosecuting individuals, not states, for the most serious violations of international law: genocide, crimes against humanity, war crimes, and the crime of aggression. Unlike its predecessor tribunals, which were ad hoc and time-bound, the ICC was designed to endure, offering a standing mechanism for accountability beyond political expediency.

The Long Road to Rome

- The idea of a permanent criminal court dates back to the 19th century, with early proposals surfacing after the Franco-Prussian War and again following World War I.
- The Nuremberg and Tokyo Trials after World War II gave the concept new urgency, but Cold War politics stalled progress.
- In 1998, after decades of negotiation, 120 states adopted the Rome Statute, formally establishing the ICC.
- The Court became operational on 1 July 2002, following the required 60 ratifications.

Structure and Jurisdiction

- Headquartered in The Hague, the ICC operates independently of the United Nations, though it may receive referrals from the UN Security Council.
- It has 125 member states as of 2024, though notable absentees include China, Russia, India, and the United States, which have declined to ratify the Rome Statute.

The Court may act when:

- The accused is a national of a member state
- The alleged crime occurred on member state territory
- A situation is referred by the UN Security Council

Cases and Controversies

The ICC has investigated over a dozen situations, including in Sudan, Uganda, Libya, and Ukraine. Its first conviction came in 2012, when Congolese militia leader Thomas Lubanga Dyilo was found guilty of recruiting child soldiers. More recently, the Court issued arrest warrants for Vladimir Putin, Benjamin Netanyahu, and leaders of Hamas, sparking intense geopolitical debate.

A Court of Principle, Not Power

Though its reach is limited by jurisdictional consent and enforcement challenges, the ICC remains a symbol of the international community's commitment to justice. It does not replace national courts but intervenes when they fail or refuse to act. In doing so, it affirms a simple but radical principle: that no one, however powerful, is above the law. ■

AGENDA

Trump's Second-Term Blitz Reshapes U.S. Legal and Political Arena

From sweeping tax cuts and travel bans to redefining citizenship and language policy, President Trump's 2025 agenda triggers fierce domestic and global backlash

by **Faryal Fatima**
Law Student
Karachi

Barely two months after regaining the White House in January 2025, President Donald Trump wasted no time in advancing a second-term agenda that has shaken the legal and political foundations of the United States. His administration has introduced a raft of controversial policies, from sweeping tax reforms and expanded travel bans to redefining birthright citizenship and declaring English the official language.

These moves reflect Trump's effort to leave a lasting ideological legacy, bolstering nationalism and clamping down on immigration. However, the response both domestically and internationally has been swift and critical. Many accuse the administration of weakening constitutional rights, targeting minority groups, and undoing progress in areas such as climate change, civil rights, and international relations.

One Big Beautiful Bill Act (OBBBA)

Enacted on 4 July 2025, the One Big Beautiful Bill Act (OBBBA)

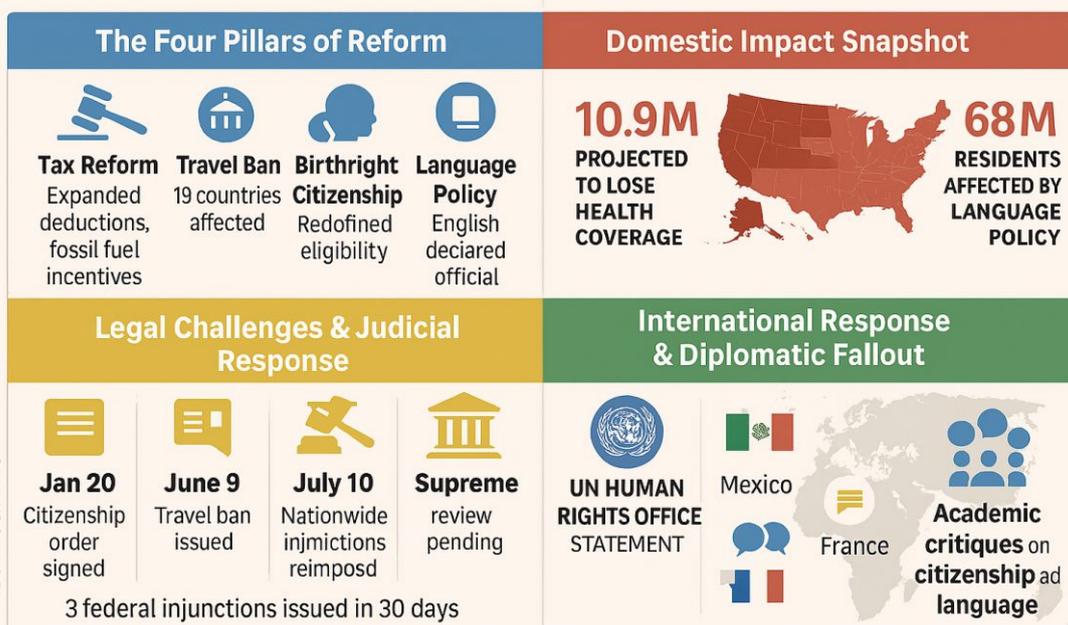
encapsulates Trump's second-term domestic policy agenda. By extending the tax cuts introduced under the 2017 Tax Cuts and Jobs Act beyond their original expiry date, and even increasing them, the bill builds upon that precedent.

Individual standard deductions have been raised by \$1,000, and married joint deductions by \$2,000 until 2028. The state and local tax (SALT) deduction cap has been increased to \$40,000 for those earning under \$500,000 annually, although this provision expires in 2026.

The bill introduces new temporary deductions on tips, overtime payments, and auto loans. Simultaneously, it increases taxes on investment income earned by college endowments and eliminates several clean energy tax credits previously established under President Biden's Inflation Reduction Act, while boosting interest in fossil fuel industries.

It also expands a tax credit for advanced semiconductor production and repeals a tax on firearm silencers. Nevertheless, the bill has faced criticism from economists and legal experts. Forecasts by the Congressional Budget Office suggest it will raise the federal deficit by \$2.8 trillion over the next decade and leave 10.9 million Americans without health insurance. Critics have described it as a retrogressive measure, favouring wealthy

Trump's 2025 Agenda: Legal Shifts and Global Shockwaves



citizens and undermining clean energy development.

Travel Ban Expansion

On June 9, 2025, President Trump issued a sweeping travel ban targeting nineteen countries, a dramatic revival and extension of his earlier immigration policy. The executive order prohibits entry from twelve nations and imposes severe restrictions on seven others. Trump justified the move as necessary in a turbulent international climate, citing national security concerns.

Many of the targeted countries are either experiencing civil unrest or have strained relations with the United States. Trump indicated that nations could be removed from the list upon demonstrating material improvement in domestic and foreign conduct. The announcement sparked chaos at airports and widespread protests by civil rights organisations, echoing the disruption caused by his previous travel ban.

Declaring English, the Official Language

In a provocative move, Trump issued an executive order declaring English the official language of the United States, the first such declaration at the federal level in the nation's history. The order rescinds a Clinton-era policy requiring federally funded agencies to provide services and documentation in multiple languages.

Under the new rule, agencies may now decide independently whether to offer non-English language assistance. The administration framed the order as a means of streamlining communication and fostering national cohesion. However, immigrant communities and critics warn that it will marginalise the nearly 68 million U.S. residents who do not speak English at home, most notably Spanish speakers, Chinese dialects, Arabic speakers, and users of over 160 Indigenous languages.

Birthright Citizenship Executive Order

Signed mere hours after his second inauguration on January 20, 2025, Trump's executive order Protecting the Meaning and Value of American Citizenship directs the federal government to deny

citizenship to children born on U.S. soil if their parents are undocumented or only temporarily present, challenging the traditional interpretation of the 14th Amendment.

The policy faced immediate legal backlash, despite being scheduled to take effect after 30 days. Federal courts issued universal injunctions, prompting the administration to appeal. In *Trump v. CASA*, the Supreme Court ruled 6–3 that lower courts had overstepped by issuing blanket injunctions, permitting only class-based relief.

On July 10, Judge Joseph Laplante certified affected new-borns as a legal class and reinstated a nationwide block. While the administration has secured procedural victories, the core constitutional issue remains unresolved and is expected to reach the Supreme Court.

Final Reflections and International Criticism

Trump's second-term reforms

have provoked global outcry. His expanded travel ban drew condemnation from several African and Middle Eastern nations, while the UN Human Rights Office urged the U.S. to reconsider its immigration policies on human rights grounds.

The remittance tax under the OBBBA angered countries such as Mexico and El Salvador, threatening families and bilateral relations. Restrictions on birthright citizenship and the official language order were denounced by academics as antithetical to America's inclusive ideals.

Taken together, these measures reflect Trump's intensified "America First" approach, characterised by assertive executive action and divisive outcomes. While supporters view them as necessary reforms, critics warn of constitutional strain and global isolation. The legal and diplomatic repercussions of these decisions are likely to shape America long after Trump's presidency concludes. ■



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Never Miss an Issue

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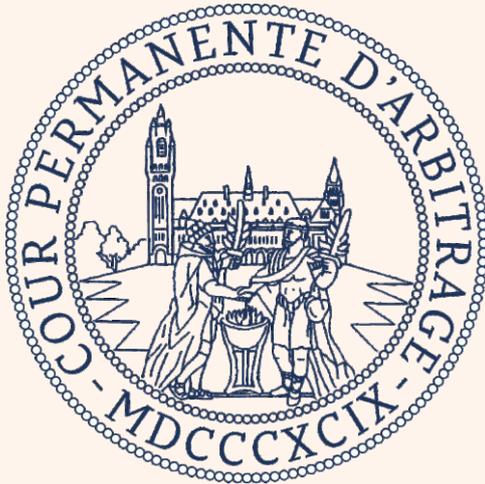
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For editorial enquires please contact
mag@the-legal.org

AQUA WAR

by
IRUM NAQVI
Political Scientist

MURREE



INDUS WATER TREATY
SWEEPING
REBUKE
TO INDIA'S
HYDROELECTRIC AMBITIONS

The PCA's Award decisively curtails India's unilateral hydroelectric designs on the Indus system, affirming Pakistan's downstream rights and enforcing strict Treaty limits.

Rejecting India's objections and non-participation, the Court upheld cooperative obligations, imposed design constraints, and reaffirmed the binding nature of dispute resolution under international law.

In a resounding legal rebuke, the Permanent Court of Arbitration (PCA) has dismantled India's hegemonic ambitions over the Indus system, upholding Pakistan's rights and imposing strict curbs on New Delhi's hydroelectric encroachments.

Delivered on August 8, 2025, the Award marks a decisive defeat for India's unilateralism, rejecting its objections to the Court's competence and its attempt to suspend Treaty obligations. The ruling affirms Pakistan's downstream entitlements and interprets the Indus Waters Treaty with rigorous fidelity to its cooperative spirit and protective safeguards.

India's preferred engineering practices were subordinated to Treaty-mandated constraints, with the Court imposing strict limits on low-level outlets, gated spillways, turbine intakes, pondage, and freeboard. The Award further establishes that India must engage Pakistan from the earliest design stages and bears the burden of proving compliance. Though the Kishenganga and Ratle projects await specific adjudication, the Court's findings deliver a systemic blow to India's designs and reaffirm the primacy of international law in governing shared resources.

The arbitration was initiated by Pakistan in 2016 under Article IX and Annexure G of the Indus Waters Treaty 1960. Following years of procedural delay, the Court was empanelled in 2022 after the World Bank lifted its pause on appointments. India declined to participate throughout, maintaining objections to the Court's jurisdiction and later declaring the Treaty "in abeyance". These manoeuvres were unanimously rejected in the Court's Award on Competence (July 6, 2023) and reaffirmed in a Supplemental Award (June 27, 2025), which held that India's non-participation and unilateral declarations did not affect the Court's authority or the binding nature of its decisions.

The First Phase on the Merits addressed general interpretative questions under Article III and Annexure D of the Treaty, excluding specific determinations on the Kishenganga and Ratle Hydro-Electric Plants. The Court's interpretative framework was grounded in the Vienna

Arbitral and neutral expert decisions under the Treaty are final and legally controlling.

Convention on the Law of Treaties (1969), applying principles of textual meaning, context, object and purpose, subsequent practice, and preparatory works.

A central pillar of the Award was the affirmation that decisions rendered under the Treaty's dispute resolution mechanisms, whether by courts of arbitration or neutral experts, are final and binding on the Parties. The Court held that such decisions also exert a controlling legal effect on subsequent dispute resolution bodies, including future arbitrations and neutral expert proceedings. Neutral expert decisions, however, were deemed binding only within their strictly defined scope: question-specific, plant-specific, and difference-specific. Any decision rendered beyond this scope was held to be legally void.

The Court's interpretation of the Treaty was deeply informed by Pakistan's downstream vulnerability and the historical context of water disputes in the region. It rejected any reading of the Treaty that would allow India to prioritise engineering efficiency or unilateral development over Treaty compliance. The Award clarified that the Treaty was not designed to maximise resource exploitation by either Party, nor to adjudicate territorial sovereignty over Jammu and Kashmir. Rather, its purpose is to equitably delimit rights and obligations over a shared and sensitive natural resource, with robust mechanisms for cooperation and dispute resolution.

In its interpretation of Paragraphs 8(d), 8(e), and 8(f) of Annexure D, the Court imposed strict limitations on India's dam design. Paragraph 8(d), concerning low-level outlets, was interpreted to prohibit such outlets unless strictly necessary for sediment control or other technical purposes. Even then, the outlet must be of minimum size and located at the highest feasible level. The

Court rejected India's reliance on engineering best practices, holding that Treaty compliance must override technical preferences.

Paragraph 8(e), addressing gated spillways, was similarly construed to favour ungated designs unless site-specific conditions make a gated spillway unavoidable. Where used, the bottom level of the gates must be at the highest level consistent with sound and economical design. The Court clarified that cost considerations or operational convenience do not justify deviation from this standard.

Paragraph 8(f), concerning turbine intakes, was interpreted to require placement at the highest feasible level, with shallow intakes preferred unless demonstrably unsuitable. The Court acknowledged that turbine intakes must extend below Dead Storage Level to access active storage, but held that design features such as skimming walls should be incorporated to minimise depth. Customary engineering practices must be employed with the aim of achieving the highest possible intake level.

The Court's interpretation of Paragraph 8(c) on maximum pondage was particularly consequential. Pondage, defined as live storage sufficient to meet daily and weekly load fluctuations, is limited to twice the amount required for firm power. Firm power is calculated using the minimum mean discharge (MMD), a historically low flow rate. Pakistan advocated a formulaic approach based solely on hydrology, while India's position, reconstructed from prior practice, included installed capacity and anticipated load in the calculation.

The Court adopted a balanced interpretation, holding that pondage must be calculated based on water accumulated over a seven-day period at the MMD, while also factoring in the plant's installed capacity and anticipated load. This approach was supported by the Treaty's text, operational constraints in Paragraph 15, notification requirements, and the Parties' subsequent practice. The Court rejected Pakistan's formulaic model, noting that the Treaty does not prescribe unique formulas but rather sets standards to be implemented in good faith.

On Paragraph 8(a), the Court examined the issue of freeboard, the vertical distance between the Full Pondage Level and the top of the dam. The Treaty prohibits any artificial raising of the water level above the Full Pondage Level. The Court found that some freeboard is permissible to ensure dam safety and accommodate surcharge storage, but any additional freeboard intended to artificially raise water levels is prohibited. Internationally recognised standards, rather than unilateral national standards, must determine what is necessary for dam safety. The prohibition applies to the design capability of the works, not merely their intended operation.

Throughout its analysis, the Court underscored the centrality of cooperation and early-stage information sharing. India bears the burden of demonstrating Treaty compliance, and notification must not be a post hoc formality but part of a substantive dialogue. The Court held that cooperation cannot be limited to mechanical exchanges but must involve genuine engagement from the outset of the design process. This includes the Permanent Indus Commission's role in facilitating information sharing and resolving objections prior to third-party adjudication.

The Award was unanimous in all respects except for the interpretation of Paragraph 8(c) on pondage, where a 4-1 majority prevailed. Professor Jeffrey P. Minear issued a concurring opinion, while Judge Awn Shawkat Al-Khasawneh appended a partial dissent. The Court was chaired by Professor Sean D. Murphy (United States), with members Professor Wouter Buytaert (Belgium), Professor Minear (United States), Judge Al-Khasawneh (Jordan), and Dr Donald Blackmore (Australia). The PCA acted as the secretariat for the proceedings.

While the Kishenganga and Ratle Hydro-Electric Plants remain under review, the Award of August 8, 2025 lays a comprehensive interpretative foundation for future adjudications. It affirms that the Treaty's provisions must be interpreted in light of their text, context, and purpose, with due regard to the vulnerability of downstream riparians and the need for effective dispute resolution. The Court's findings deliver a systemic blow to India's expansive designs and reaffirm the primacy of international law in governing shared resources. ■

Misogynistic Litigation

An Affront to Dignity

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

In a searing judgment, Pakistan's Supreme Court denounced the weaponisation of gender and infertility, affirming a woman's dignity and legal personhood. The ruling castigates misogynistic defences, upholds bodily autonomy, and imposes exemplary costs to deter vexatious litigation. Rooted in constitutional principle and moral clarity, it redefines matrimonial justice and advances a compelling framework for feminist jurisprudence.



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It is hoped that this order serves as a reminder to all litigants and counsel that the dignity of every individual, particularly of women, must be respected in all judicial proceedings. Frivolous allegations attacking the personal identity and dignity of a woman will not be countenanced in any court of law.

Justices

Yahya Afridi (CJP)

Miangul Hassan Aurangzeb

(Supreme Court of Pakistan)



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In a searing defence of dignity and judicial integrity, Pakistan's Supreme Court has shattered a decade-long assault on womanhood, delivering a precedent that confronts misogyny with constitutional clarity and moral force.

In a [judgment](#) that echoes far beyond the confines of matrimonial law, the Court has delivered a powerful rebuke to the weaponisation of gender and infertility in litigation. The case of *Saleh Muhammad v. Mst. Mehnaz Begum* (Civil Petition No. 354-P of 2025) is not merely a legal resolution, it is a moral reckoning.

The petition was filed against the judgment (dated March 3, 2025) of Peshawar High Court passed in W.P.No.1263-P/2022. It was heard and decided by a two-member bench of the Supreme Court, comprising Chief Justice of Pakistan Mr Justice Yahya Afridi and Mr Justice Miangul Hassan Aurangzeb.

At the heart of this case lies a woman abandoned, humiliated, and subjected to years of invasive scrutiny, all under the guise of legal process. The Court's response is both legally sound and ethically resonant, offering a rare moment of judicial clarity in an environment often clouded by patriarchal presumptions.

The facts are stark. Married in 2006, Mehnaz Begum was left at her parental home within a year, following alleged physical abuse.

Her husband, Saleh Muhammad, moved abroad, severed contact, and remarried. When Mehnaz sought recovery of her dower, dowry articles, and maintenance in 2015, the petitioner responded not with legal argument but with a deeply troubling defence: that she was medically unfit to bear children and, more egregiously, that she did not qualify as a “female” under the law. This line of attack was pressed relentlessly through three tiers of litigation, resulting in two separate medical examinations, both invasive, both humiliating, and both ultimately conclusive in affirming her identity.

What makes this judgment exceptional is not just its legal correctness but its tone. Chief Justice Yahya Afridi does not merely dismiss the petition; he dismantles the very logic that underpins it. The Court refuses to disturb the concurrent findings of the lower courts, which had already ruled in Mehnaz's favour based on consummation of marriage and medical evidence. But it goes further, condemning the petitioner's conduct in the strongest possible terms. The judgment describes the defence as “frivolous and cruel,” and the litigation as an “affront to human dignity.” In doing so, it elevates the discourse from procedural adjudication to principled jurisprudence.

The Court's invocation of the Quranic metaphor of spouses as *libaas* (garments) is particularly striking. It reframes the marital bond not as a transactional arrangement but

as a covenant of mutual respect and protection. This theological reference is not ornamental; it anchors the judgment in cultural and moral terms that resonate deeply within Pakistani society. It also serves as a reminder that religious values, when properly interpreted, can be allies in the pursuit of gender justice.

Equally commendable is the Court's refusal to rehearse the contents of the second medical report. In an era where litigation often becomes a theatre for voyeurism, this restraint is both rare and necessary. The Court recognises that Mehnaz has already endured more than enough scrutiny, and that dignity must not be sacrificed at the altar of evidentiary thoroughness. Her decision to decline further testing is described as "lawful and eminently reasonable," a phrase that should become standard in any discussion of bodily autonomy within legal proceedings.

Perhaps the most consequential aspect of the judgment is the imposition of exemplary costs: Rs. 500,000, payable to the respondent, recoverable as arrears of land revenue if unpaid. This is not a token gesture. It is a judicial sanction designed to deter malicious litigation and to signal that the courts will no longer be passive venues for the perpetuation of misogyny. In a legal culture where frivolous petitions often go unpunished, this move sets a precedent that could reshape the ethics of family law.

The judgment also carries implications for legal practice. It sends a clear message to counsel: arguments that demean or dehumanise women will not be countenanced. It encourages trial courts to be more vigilant in protecting litigants from unnecessary

medical scrutiny. And it offers a framework for feminist jurisprudence that centres the lived experience of women, acknowledges the trauma of litigation, and affirms their dignity in unequivocal terms.

In sum, *Saleh Muhammad v. Mst. Mehnaz Begum* is a landmark not because it breaks new legal ground, but because it reasserts foundational principles with moral clarity. It reminds us that the courtroom must never become a site of cruelty, and that justice, at its core, is a humane enterprise. For the readers of *The Legal International* attuned to global currents in gender and law, this judgment offers an example of how constitutional morality can be wielded to protect the vulnerable, challenge prejudice, and restore dignity. It is a case that deserves not just citation, but reflection. ■



It is a sorrowful truth of our society that infertility, or even the suspicion of it, is often weaponized against women. This social prejudice routinely results in courts of law becoming venues for humiliating a woman under the guise of litigation. However, it must be acknowledged without equivocation that infertility, even if present, is no ground to deny a woman her dower or maintenance. It is certainly no ground to challenge her womanhood. To convert such personal pain into a legal weapon is not only an abuse of the process, but an affront to human dignity that should not be enabled.



This Court cannot but record in the strongest possible terms its disapproval of the manner in which the respondent – a woman already abandoned, denied maintenance, and left to the mercy of litigation – was subjected to repeated, invasive, and demeaning scrutiny of her very personhood at the behest of a frivolous and cruel defence.

The relationship between a husband and wife is likened to that of libaas in our religion (garments for one another) symbolising protection, mutual respect, and dignity.



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No Second Chances

**Apex Court Draws
the Line on Review Jurisdiction**



by **Muhammad Zaman Butt**
Advocate High Court
Islamabad

*The Supreme Court of Pakistan has slammed the door on curative reviews, declaring them alien to its legal framework. In a sharp rebuke to Indian precedent, the Court upheld Rule 9's bar on successive petitions, reinforcing judicial finality. The ruling draws a bold line – **review ends where justice is duly served.***



The maintainability of a second review or so-called curative review before the Supreme Court of Pakistan has recently been scrutinised in light of the appellant's withdrawal of curative review petitions in *President of Pakistan v. Justice Qazi Faez Isa* (PLD 2023 SC 621). The judgment decisively affirms that, under Pakistan's constitutional and legal framework, a second review petition is impermissible, and the concept of curative review lacks any legal recognition within the country's jurisprudence.

A curative review, as recognised in certain jurisdictions, most notably India, is intended to rectify a miscarriage of justice following the dismissal of a regular review petition. The Indian Supreme Court's landmark decision in *Rupa Ashok Hurra v. Ashok Hurra* (AIR 2002 SC 1771) established the doctrine within Indian jurisprudence. However, the Supreme Court of Pakistan has explicitly rejected the importation of this concept, stating that curative review has never been acknowledged within its legal framework.

The Supreme Court Rules, 1980, specifically Order XXVI, Rule 9, impose a categorical bar on the filing of a second review petition following the final disposal of the first. The Rule provides: "After the final disposal of the first application for review, no subsequent application for review shall lie to the Court and consequently shall not be entertained by the Registry." This provision reflects

 **“No subsequent application for review shall lie to the Court and consequently shall not be entertained by the Registry.”**

Order XXVI, Rule 9, Supreme Court Rules 1980



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a foundational principle of judicial finality, aimed at preserving certainty and stability within the legal system.

The Supreme Court's position has been consistently reaffirmed in a series of decisions, including: PLD 2015 SC 50, 2023 SCMR 1843, 2020 SCMR 497, PLD 2015 SC 354, and 2001 SCMR 1135.

In each instance, curative review petitions were deemed non-maintainable and summarily dismissed. Despite this well-established jurisprudence, the appellants in Justice Qazi Faez Isa sought to invoke the doctrine of curative review to justify a second petition, an attempt the Court firmly rejected.

While the Court reiterated that a second review is not permissible, it acknowledged its *suo motu* jurisdiction to revisit judgments in extraordinary circumstances. Crucially, this authority is

exercised solely at the Court's discretion and cannot be invoked by a litigant. The Court emphasised that such jurisdiction is reserved for instances where a judgment is rendered *per incuriam*, i.e., in ignorance of binding law or constitutional provisions.

By dismissing the curative review petitions as withdrawn, the Supreme Court reaffirmed that review jurisdiction is not a mechanism for re-litigation. Once a review is decided, its judgment attains finality, and any attempt to challenge it through a second review is impermissible. This ruling enhances judicial efficiency and guards against the misuse of legal remedies. Were litigants permitted to seek repeated reviews under the guise of curative justice, the judicial system would be exposed to abuse and undue delay.

The judgment also serves to distinguish Pakistan's jurisprudence from that of India, where curative review is judicially recognised. The decision not to adopt such legal innovations reflects Pakistan's commitment to constitutional integrity and procedural independence. While Indian jurisprudence may offer comparative insight, its wholesale adoption would not align with Pakistan's distinct legal framework.

In sum, the Supreme Court of Pakistan has reaffirmed that neither a second review nor a curative review is maintainable under Pakistani law. By reinforcing the prohibition against successive review petitions, the judgment promotes finality in judicial decisions and fosters legal certainty. Moreover, it underscores judicial independence by rejecting the transplantation of foreign doctrines into Pakistan's legal system. This precedent will serve as a guiding authority, ensuring that final judgments are respected and not subjected to successive challenges disguised as corrective measures. ■



THE ARCHITECT

OF REFORMS IN PAKISTAN'S LEGAL FUTURE

**Justice
Zulfiqar Ahmad Khan**

Justice Zulfiqar Ahmad Khan's multidisciplinary expertise informs his judicial philosophy, legislative drafting, and reform advocacy. His work spans intellectual property, digital law, and child welfare, promoting a legal system that is principled, adaptive, and responsive to the evolving socio-economic landscape of Pakistan.

*TL Report
Karachi*



“ A judge must sometimes bridge the gap between law and life.

IMAGE © THE LEGAL

THE DIALOGUE

Q: You have a diverse background, how has this shaped your judicial philosophy and legal work?

A: My journey, from engineering to intellectual property law and the judiciary, has deeply shaped my legal outlook. Engineering taught me to value structure and analytical rigour, which proved essential in navigating IP's intersection with innovation and commerce. I contributed to Pakistan's evolving legal framework, notably drafting the Trade Marks Ordinance 2001 and supporting legislation on patents, design rights, and geographical indications.

On the bench, this technical foundation enhanced my approach to adjudication, allowing me to interpret law with an understanding of regulatory and global standards. Whether resolving commercial disputes or shaping legal reform, I aim to balance certainty with adaptability, always guided by the constitutional promise of justice.

Q: As lead author of key IP laws, what challenges did you face, and how do you view their impact today?

A: Drafting the Trade Marks Ordinance 2001 and contributing to wider IP reforms was both demanding and rewarding. Pakistan was transitioning to meet TRIPS (Trade-Related Aspects of Intellectual Property Rights) obligations, requiring a complete overhaul of outdated laws.

The challenge lay in crafting legislation that balanced global standards with local realities, amid limited institutional familiarity with modern IP concepts. We built new legal architecture, definitions, procedures, enforcement, through extensive consultation and comparative research.

The Ordinance introduced specialised tribunals and opposition mechanisms, bringing IP into mainstream legal discourse. While implementation gaps remain, the foundation is strong and reform continues. Beyond trademarks, I helped shape the Geographical Indications (Registration and Protection) Act, patents, copyright, data

**Child-Centric
Jurisprudence: Advocates
psychological assessments
and trauma-informed
practices in family law to
protect vulnerable
litigants.**

protection, e-commerce, and digital signatures, drawing on my engineering background to bridge technical and legal domains. I also developed frameworks for commercial courts and drafted Pakistan's first law on Access to Genetic Resources and Benefit Sharing.

Q: After three decades in IP law, what key reforms are still needed in Pakistan's IP system?

A: Pakistan has made notable strides in developing its IP legislation, but the supporting infrastructure for enforcement, adjudication, and public engagement remains weak. Over three decades, I've seen legal reforms progress, yet institutional and operational capacity lag behind.

First, Pakistan needs a fully autonomous, well-resourced Intellectual Property Organisation (IPO), not just a registry, but a proactive body driving enforcement and policy. This means trained examiners, digital systems, and regional outreach to improve access and efficiency.

Second, judicial expertise in IP must deepen. IP Tribunals were a welcome start, but judges need ongoing training in global best practices, emerging technologies, and cross-border enforcement. A centralised appellate structure could also ensure consistency in jurisprudence.

Third, public awareness is lacking. Many creators, SMEs (Small and Medium Enterprises), and entrepreneurs don't know how to protect or monetise their IP. Nationwide education campaigns, especially via universities, incubators, and creative sectors, are essential.

Finally, enforcement is the weakest link. Despite laws, counterfeiting and piracy remain rampant. A coordinated framework involving customs, police, and courts, backed by deterrent penalties and swift



IMAGE: © THE LEGAL

action, is urgently needed.

Pakistan must shift from a registration-focused model to a rights-based, innovation-driven IP ecosystem, one that protects creators and fosters invention, cultural expression, and economic growth. The legal foundation exists; the challenge now is institutional reform and a cultural reevaluation of IP.

Q: Given your background in IT and law, how is AI and digital tech reshaping IP rights in Pakistan?

A: The convergence of artificial intelligence, digital technologies, and intellectual property represents a defining legal frontier, one Pakistan must not ignore. My background in engineering and law enables me to grasp both the innovation and legal complexity this evolution entails.

AI and emerging technologies offer powerful tools for IP enforcement, data management, and predictive analytics, streamlining registration and litigation. Yet they also raise pressing legal questions: Who owns AI-generated content? Can a machine be an inventor? How do we protect data and trade secrets in algorithm-driven systems?

Pakistan's IP laws, largely drafted in a pre-digital era, lack the flexibility to address these challenges. While the Trade Marks and Copyright Ordinances offer basic protections, they do not account for blockchain authentication, digital rights management, or AI-generated works. A comprehensive revision of our IP statutes is urgently needed, one that reflects current technological realities

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and anticipates future developments.

Equally vital is digital capacity-building. Regulators, judges, and enforcement bodies require technical training to engage meaningfully with digital IP issues. Creators and startups must also be educated on safeguarding digital assets, from source code and algorithms to user interfaces and datasets.

Pakistan must now participate actively in global forums such as WIPO (World Intellectual Property Organization) and WTO to help shape international norms around digital IP, rather than merely respond to them.

In short, Pakistan stands at a pivotal moment. The digital age demands forward-looking legislation, digitally literate institutions, and a national vision centred on innovation. If embraced with foresight, the integration of AI and IP could become a powerful driver of economic and creative growth.

Q: As a judge, how do you balance IP rights with public interest, especially in cases involving access to technology or essential medicines?

A: Balancing intellectual property enforcement with public welfare has been a central concern in my judicial work. In a landmark ruling (Writ Petition No. 2159 of 2018), I held that access to essential medicines at affordable prices is a constitutionally protected right under Articles 9 and 14 of the Constitution of Pakistan, which guarantee life and dignity.

While IP rights incentivise innovation, they must be reconciled with public interest, particularly where exclusivity may hinder access to life-saving treatments or vital technologies. My approach has been to interpret IP law through the lens of human rights and public policy, ensuring legal evolution aligns with both innovation and equity. This position reflects international commitments, including the Doha Declaration on TRIPS and Public Health, which affirms states' right to prioritise public health over commercial interests.

Q: You've pioneered maritime and construction law as well, founding the Pakistan Maritime Law Association. How vital is specialised legal expertise in these niche fields for Pakistani advocates and aspiring lawyers?

A: When I founded the Pakistan Maritime Law Association, my goal was to address a critical gap in legal expertise. Pakistan, with over 1,000 km of coastline and strategic maritime relevance, relies heavily on seaborne trade, yet few lawyers are well-versed in admiralty law, port regulations, shipping finance, or international conventions.

Construction law presents similar challenges. Large-scale public-private partnerships and international arbitration demand fluency in FIDIC (International Federation of Consulting Engineers) contracts, risk allocation, delay claims, and dispute resolution, areas that generalist legal training cannot adequately cover.

Pakistan's legal profession must now embrace domain-specific expertise. We need to move beyond the traditional generalist model and encourage lawyers, especially emerging professionals, to pursue advanced education, interdisciplinary learning, and membership in specialised legal bodies.

Specialisation also strengthens the judiciary, equipping it to adjudicate complex technical disputes and enhancing institutional credibility with foreign stakeholders and investors.

Ultimately, the future of legal practice, both in Pakistan and globally, lies in precision, specialisation, and adaptability. As our economy diversifies, so too must our legal capabilities.

Q: Your rulings have strengthened protections for women and children. How do you approach such cases, particularly with regard to international conventions

and child mental wellbeing during trials?

A: Throughout my judicial career, I've prioritised a compassionate and rights-based approach to cases involving women and children. In family law, especially custody disputes and cross-border child abduction under the Hague Convention, I've consistently adopted a child-centric lens, moving beyond procedural formalism to consider emotional and psychological wellbeing.

I've strongly advocated for psychological assessments in prolonged litigation, recognising that courts often overlook the emotional toll on children exposed to conflict, displacement, or confusion. In several cases, I directed expert evaluations to ensure decisions reflect not only legal best interests but also developmental and emotional needs. The child's voice must be heard through informed psychological input, not merely filtered through parental narratives. This enables courts to detect trauma, alienation, or coercion, often invisible without expert insight.

In cases involving women, particularly vulnerable mothers, I've worked to uphold constitutional guarantees of dignity, equality, and non-discrimination. Where women flee abuse or face institutional disadvantage in international litigation, I've held that constitutional rights must prevail over rigid applications of international comity. Beyond the bench, I've proposed reforms including trauma-informed judicial

training, child welfare officers, and integrated mental health services in family courts. These measures are vital to building a justice system that is not only procedurally sound but empathetic and responsive to lived experience, especially for the most vulnerable.

Q: You've trained judges and students and contributed to international journals; education has clearly been central to your work. What role does legal education play in national development and judicial reform?

A: Legal education is foundational to a just and functional society. It does more than prepare individuals for practice, it shapes the ethical compass, analytical rigour, and civic responsibility of future judges, lawyers, and policymakers. My work in judicial training, student lectures, and academic publishing reflects a belief that education is both preventive and transformative: preventive in anticipating systemic flaws, transformative in enabling principled reform.

In Pakistan, judicial reform is hindered by a disconnect between legal education and the realities of justice delivery. Outdated curricula, limited interdisciplinary exposure, and insufficient training in technology, international law, and legal ethics have led to inefficiencies in advocacy and adjudication. Legal education must evolve, from rote learning to critical thinking, contextual understanding, and specialisation. Subjects like cyber law, intellectual property, environmental



TL IMAGE: © Provided

regulation, and comparative jurisprudence must be integrated into mainstream legal training.

Equally, the judiciary requires ongoing professional development, akin to the continuous learning expected in medicine or engineering. Staying abreast of legal innovation is essential to informed adjudication.

Importantly, legal education is not just about knowledge, it is about values. Independence, impartiality, integrity, and a commitment to justice must be embedded in legal training. Without these, reform remains superficial.

National development depends on strong institutions, and no institution can thrive without the intellectual and ethical foundation that robust legal education provides. It is an investment not only in human capital, but in the rule of law itself.

Q: Judges seldom share personal reflections. Could you recall a case that deeply tested your judicial philosophy or left a lasting impact?

A: Well. A judge's life is deliberately distanced from personal narrative; we speak through judgments, not reflections. Yet certain cases quietly shape one's philosophy. I recall a matter that lay beyond clear precedent or statute, a legal vacuum where the law was outdated or silent, yet the dispute was urgent and far-reaching. The challenge was not merely doctrinal, but to ensure justice wasn't lost in legislative gaps. It demanded intellectual rigour, constitutional sensitivity, and judicial courage.

What made it profound was the realisation that a judge must sometimes bridge the gap between law and life. Where the legislature is silent and precedent absent, the judiciary becomes the final forum for conscience. Such moments remind us that judicial philosophy must be rooted in integrity, humility, and a steadfast commitment to justice. They also underscore the need for lifelong learning, especially where law intersects with technology, economics, and shifting social norms. These experiences stay with you, not as trophies, but as quiet reminders of the oath we uphold. ■

Safeguarding the Vulnerable

The reported abuse cases prompt fresh scrutiny of Pakistan's human rights institutions to protect women and children



by **Arshia Mah Gul**

Law Graduate
Islamabad



IMAGE: © THE LEGAL

Amid a concerning rise in reported crimes against women and children, renewed attention is being drawn to their vulnerability and the pressing need for institutional reform. Recent incidents have sparked public debate over the adequacy of existing protective frameworks and highlight the importance of a coordinated response from relevant authorities.

Efforts to tackle gender-based violence and improve child protection are undoubtedly underway, yet significant challenges remain. Pakistan's position at 148th on the Global Gender Gap Index highlights the considerable work still required. This ranking reflects deeper societal concerns around safety and representation, and has reignited discussion on how institutions might be better equipped to support those most at risk.

Recent events underscore the gravity of the situation. The horrific honour killing of a couple in Balochistan, a woman allegedly set ablaze by her husband and father-in-law, the death of a 19-year-old woman in Karachi following alleged torture, marital rape, and sexual violence, and the physical abuse of a 14-year-old boy at an unregistered madrassah in Swat have exposed glaring gaps in the institutional frameworks. Bodies established to protect the rights of women and children, such as the Human Rights Commission of Pakistan (HRCP) and the National Commission on the Rights of the Child (NCRC), appear to be faltering in their roles.

A key factor behind this inefficiency is the chronic lack of financial support. Many of these institutions receive either no substantial budget or such minimal allocations that they struggle to function. In the federal budget for 2025–26, the HRCP received no direct funding, while the NCRC was granted only a token allocation under the Ministry of Human Rights. This persistent underfunding reflects a troubling reality: human rights protection remains low on the government's list of priorities.

These commissions are severely hindered by financial constraints, limiting their ability to perform essential functions such as staffing, investigations, legal assistance, awareness campaigns, and the implementation of protection programmes. Without adequate resources, they cannot conduct fieldwork, provide legal

aid, raise public awareness, or engage meaningfully with national and international partners. This shortfall directly impacts their effectiveness in addressing gender-based violence, child abuse, and the marginalisation of vulnerable communities.

In an age where social media magnifies injustices in real time, the government can no longer afford to turn a blind eye. Each incident that gains public attention chips away at Pakistan's credibility and reinforces the perception that the state is either unwilling or unable to protect its most vulnerable citizens. This inaction is not merely a domestic failing, it is an international embarrassment. As a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the United Nations Convention on the Rights of the Child (UNCRC), Pakistan is legally and morally bound to uphold the rights of women and children.

Ignoring these obligations not only tarnishes the country's global image but also undermines its diplomatic relations. For instance,

VIOLENCE AGAINST CHILDREN IN ISLAMABAD - 2024

A damning new report has revealed a complete failure to secure convictions for crimes against children in Pakistan's capital, with not a single conviction recorded from 142 registered cases during 2024.

The [study](#), released by the Sustainable Social Development Organisation (SSDO), lays bare alarming inefficiencies within Islamabad's criminal justice system in addressing violence towards minors. The data, obtained through Right to Information (RTI) requests filed with the Islamabad Police, categorises offences into eight areas: child trafficking, child marriage, child labour, physical abuse, sexual abuse, kidnapping, murder, and child pornography.

According to the findings, child kidnapping was the most prevalent crime, with 68 cases registered. This was closely followed by 48 reports of sexual abuse. Despite the high number of these serious offences, the report highlights that the conviction rate for both categories, and indeed for all categories, stood at zero, pointing to a profound systemic breakdown.

Of the 68 kidnapping cases, 38 were withdrawn, 19 remain under investigation, and only 10 have proceeded to trial. In sexual abuse cases, 42 are currently under trial, with four still under investigation. No case in either category has reached a judicial conclusion. Similarly, 14 cases of physical abuse were registered, with 11 under trial and one withdrawn. Only one case reached acquittal, and none resulted in conviction.

Other categories fared no better. Six cases of child marriage were registered, all of which are under trial. Two cases each of child trafficking, child pornography, and child murder were recorded, with most still under investigation or pending trial. Child labour was conspicuously absent from the data, raising concerns about underreporting or institutional blind spots.

The report identifies systemic failures at multiple levels. The high number of withdrawn cases, particularly in kidnapping, suggests that victims and their families may be facing intimidation, social stigma, or procedural fatigue. The absence of convictions despite the submission of



challans points to deficiencies in investigative rigour, prosecutorial capacity, and judicial responsiveness.

SSDO recommends a suite of reforms, including the establishment of specialised investigation units for crimes against children, fast-track courts, and comprehensive victim and witness protection programmes. These measures aim to improve evidence collection, reduce case attrition, and ensure timely adjudication.

The findings underscore a broader crisis of accountability. Without institutional reform and procedural safeguards, children in Islamabad remain acutely vulnerable to abuse, with little recourse to justice. The report calls for urgent action from policymakers, law enforcement agencies, and civil society to address these gaps and restore public confidence in the justice system. — TL

Pakistan's 2020 report to the UN Committee on the Elimination of Discrimination Against Women drew serious concern from international experts over gender-based violence, forced marriages, and honour killings. The Committee regretted the absence of a unified national policy on women's rights and noted that devolution to the provinces had led to scattered and uneven implementation of the

Convention's provisions. This scrutiny placed international pressure on Pakistan to improve its human rights record, influencing its diplomatic engagement at the UN and related forums. Yet, even after drafting the necessary policies, the government has failed to provide sufficient financial resources to the relevant departments, severely hindering effective

implementation.

It is high time Pakistan should move beyond rhetoric. Protecting women and children is not merely a matter of international compliance, it is a question of national honour and moral responsibility. If we are to call ourselves a civilised society, we must ensure that our institutions are empowered, our laws enforced, and our commitment to human rights unwavering. ■

SPOTLIGHT

Systemic Inadequacies

Juvenile Law Fails Children

systemic neglect and procedural lapses continue to expose minors to adult trials, abuse, and wrongful convictions



by **Atika Ibrahim**

Law Student
Multan

Pakistan's juvenile justice system, though legally sound, suffers from systemic failures and poor enforcement. Vulnerable children face criminalisation over rehabilitation, violating international norms. Urgent reform is needed to uphold dignity through restorative, child-centred justice.

Despite a legislatively sound framework, Pakistan's juvenile justice system continues to falter in practice, undermining the rights and rehabilitation of children entangled in the criminal justice process.

The journey towards juvenile justice in Pakistan began with the [Juvenile Justice System Ordinance \(JJSO\), 2000](#), which sought to establish separate juvenile courts, prohibit capital punishment for minors, and prioritise rehabilitation over punishment. However, the ordinance was nullified by the Lahore High Court in 2004 due to inconsistencies.

To address these gaps, the [Juvenile Justice System Act \(JJSA\), 2018](#), was enacted, mandating the creation of juvenile courts in every district, rehabilitation centres, and justice committees. Despite being a signatory to the [UN Convention on the Rights of the Child](#), Pakistan has struggled to implement these protections effectively, particularly in areas such as age verification and diversion schemes.

Psychosocial Contributors to Juvenile Delinquency

Juvenile delinquency in Pakistan is deeply influenced by psychosocial and economic factors:

- **Family Dysfunction:** Parental neglect, domestic violence, and abuse often push minors into criminal behaviour. A case study by [the Mediterranean Journal of Social Sciences](#) highlights how media exposure and lack of

It's a summary of a detailed study. [Click here to access full-length paper.](#)



IMAGE: © The Legal

supervision contributed to an 18-year-old's involvement in armed robbery. The Society for [the Protection of the Rights of the Child](#) (SPARC) corroborates that many child offenders come from unstable households.

- **Low Self-Esteem:** A study in Faisalabad's Borstal Jail revealed that 56% of juveniles had low self-esteem, correlating with revenge-driven crimes. Research by [Donnellan et al. \(2005\)](#) in Psychological Science confirms that low self-esteem is linked to aggression and antisocial behaviour across cultures.
- **Socioeconomic Hardship:** Poverty and lack of education often lead children into criminal networks or petty crimes. Reports by [Shelter Pakistan](#) and the [Human Rights Commission of Pakistan](#) (HRCP) document cases where children were falsely accused or exploited due to their socioeconomic vulnerability.

Systemic Inadequacies in Implementation

Despite the JJSA's progressive framework, its implementation remains inconsistent and inadequate:



IMAGE: © The Legal

- **Incomplete Juvenile Court Formation:** Only 14 juvenile courts exist nationwide, with [Khyber Pakhtunkhwa](#) having the highest number (9), while populous provinces like Punjab have only one in Lahore. This leads to juveniles being tried in adult courts, violating the protective intent of the JJSA.
- **Falsely Framed Offenders:** Cases like that of Bilal, a minor framed for drug possession, highlight the misuse of power by law enforcement. The [Khyber Pakhtunkhwa Child Protection and Welfare Commission](#) reports frequent instances of coerced confessions and denial of legal aid.
- **Minors Tried as Adults:** The case of [Shafqat Hussain](#), executed at 23 for a crime committed at 14, underscores the failure to verify age and provide legal representation. Similarly, [Ahsan Iqbal](#) was executed despite evidence of his minority being ignored by the court.
- **Violations of JJSA 2018:** In Sindh, juveniles are often detained in adult prisons, facing abuse and neglect. According to [Saira Ahmed of MRDO](#), over 400 juveniles are incarcerated in Sindh alone, with many under the age of 16. A 2022 investigation by [the National Commission for Human Rights](#) (NCHR) into Adiala Jail revealed that juveniles were denied state counsel, violating Section 3 of the JJSA.

Nationwide, over 2,000 juveniles are incarcerated, with [Justice Project Pakistan](#) reporting that only a fraction is housed in reformatory centres. Many lack legal representation and are denied Social Inquiry Reports under Section 7 due to a shortage of trained probation officers.

Reform Proposals

To address these systemic and psychosocial failures, the following reforms are proposed:

Psychosocial and Rehabilitative Reforms

- **Integrated Psychosocial Assessments:** Inspired by South Africa's Child Justice Act 2008, Pakistan should mandate assessments by registered psychologists to determine the suitability of rehabilitation over prosecution.
- **Post-Release Support:** Vocational training, education, and mental health services should be integrated with provincial schemes like the Punjab Youth Development Programme to reduce recidivism.
- **De-Stigmatisation Campaigns:** Public awareness campaigns, particularly in high-risk areas like South Punjab and interior Sindh, should focus on empathy and trauma-informed approaches. Models from [Norway](#) demonstrate the effectiveness of community-based reintegration.

Legislative and Structural Reforms

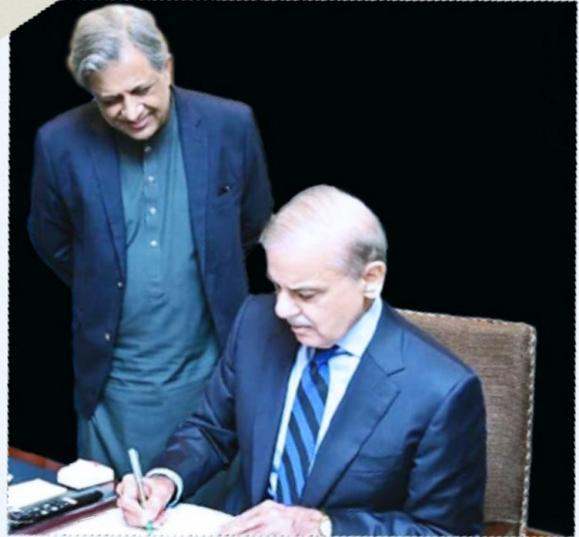
- **Mandatory Age Verification:** NADRA records and school certificates must be standardised and admissible to prevent misidentification based on appearance or police assumptions.
- **Independent Monitoring Cells:** Provincial oversight bodies under the Ministry of Human Rights should monitor JJSA implementation and assign specialised probation officers. Kenya's [National Council for the Administration of Justice](#) (NCAJ) offers a viable model.
- **Prohibition of Coerced Confessions:** Amendments to the CrPC should criminalise forced confessions and mandate video-recorded interviews with the presence of guardians and child rights officers. The UK's [Police and Criminal Evidence Act 1984](#) (PACE) provides a precedent.
- **Diversion Schemes:** Sections 9 and 10 of the JJSA should be enforced through district-level diversion boards to offer alternatives like community service and counselling for non-violent first-time offenders. This approach mirrors restorative justice models in [Norway](#) and South Africa.

Conclusion

While the JJSA 2018 reflects a commendable legislative intent, its implementation remains largely symbolic. The systemic failures, ranging from misidentification and coerced confessions to denial of legal aid, reveal a justice system more inclined to punish than to understand. True justice for juveniles requires not only legal reform but a societal shift towards compassion, rehabilitation, and dignity. Only then can Pakistan fulfil its constitutional and moral obligation to protect its most vulnerable citizens. ■

The 26th Amendment and Judicial Independence

Critics warn of deepening political influence in judiciary as new constitutional reforms alter appointment processes and curtail Supreme Court powers



Prime Minister Shehbaz Sharif signs the advice for presidential assent on the Amendment Bill, on October 21, 2024.

IMAGE: © THE LEGAL

The 26th Constitutional Amendment, enacted in Pakistan in October 2024, represents a pivotal shift in the country's judicial framework. This study critically examines the amendment's implications for judicial independence, situating the analysis within both domestic historical context and international comparative frameworks, particularly that of the United States. The paper argues that while the amendment purports to enhance transparency and accountability, it risks undermining the judiciary's autonomy by introducing political influence into judicial appointments and limiting the Supreme Court's powers.

Judicial Independence: A Foundational Principle

Judicial independence is a cornerstone of democratic governance, ensuring that courts can adjudicate impartially, free from external pressures. International standards, such as the United Nations Basic Principles on the Independence of the Judiciary and the Bangalore Principles of Judicial Conduct, underscore the importance of autonomy, impartiality, and integrity in judicial systems. These principles serve as benchmarks for evaluating reforms like Pakistan's 26th Amendment.

Key Provisions of the 26th Amendment

The amendment introduces several significant changes:

- The Chief Justice of Pakistan (CJP) is no longer appointed solely based on seniority. Instead, a Special Parliamentary Committee selects the CJP from among the three most senior Supreme Court judges.
- The CJP's term is fixed at three years, after which mandatory retirement follows.
- The Judicial Commission of Pakistan (JCP), responsible for judicial appointments, is reconstituted to include members of parliament, thereby introducing a political element.
- Constitutional Benches are established within the Supreme Court, comprising judges from all provinces, to handle constitutional and fundamental rights cases.
- The Supreme Court's suo motu powers are curtailed, restricting it from initiating cases independently.

Supporters argue that these reforms promote democratic oversight and transparency. Critics, however, contend that they politicise the judiciary, compromise its independence, and erode public trust.

Historical Context of Judicial Independence in Pakistan

Pakistan's judiciary has long grappled with political interference.

This is a summary of a detailed study. Click [here](#) to access full-length paper.



by **Kamran Ali Channa**

Advocate
Karachi

The 26th Constitutional Amendment has ignited a debate over the future of judicial independence. By reshaping the appointment of judges and curbing the Supreme Court's powers, the amendment introduces political oversight into previously autonomous processes. While framed as a move toward transparency, legal experts and civil society warn it risks eroding the judiciary's impartiality and undermining democratic checks and balances.

International standards underscore the importance of autonomy, impartiality, and integrity in judicial systems.

Rooted in the British colonial legal system, the judiciary initially inherited principles of common law and due process. However, successive political and military interventions have undermined its autonomy.

Notable episodes include:

- The 1954 Doctrine of Necessity, where the judiciary validated the dissolution of the Constituent Assembly.
- The 2000 Zafar Ali Shah case, where the Supreme Court legitimised General Musharraf's military coup.
- The 2007 judicial crisis, where Chief Justice Iftikhar Muhammad Chaudhry was suspended, sparking the Lawyers' Movement and highlighting the judiciary's vulnerability to executive pressure.
- Allegations of interference by military and intelligence agencies in judicial appointments and decisions in recent years.

These events have significantly eroded public confidence in the judiciary and underscored the need for reforms that genuinely strengthen, rather than compromise, judicial independence.

Comparative Analysis: The United States Judiciary

The U.S. judiciary provides a useful comparative framework. Key safeguards include:

- Life tenure for federal judges, ensuring they are insulated from political pressures.
- Protection against salary reduction, preserving financial independence.
- A rigorous appointment process involving both the executive (presidential nomination) and the legislature (Senate confirmation), ensuring checks and balances.

Despite historical challenges—such as Roosevelt's failed court-packing plan in 1937 and the impeachment of Justice Samuel Chase in 1804—the U.S. judiciary has largely maintained its independence through institutional design and constitutional protections.

Lessons from the U.S. experience suggest that judicial independence can be preserved through structural safeguards, ethical oversight, and a political culture that respects the judiciary's role.

Implications of the 26th Amendment

The amendment's long-term consequences could be profound:

- By involving parliamentarians in judicial appointments, the amendment risks politicising the judiciary and undermining the separation of powers.
- The fixed term for the CJP may reduce continuity and institutional memory.
- Curtailing suo motu powers could weaken the judiciary's ability to act as a guardian of fundamental rights.
- The reconstitution of the JCP may lead to appointments based on political loyalty rather than merit.

These changes could diminish the judiciary's capacity to check executive and legislative overreach, thereby weakening the rule of law and human rights protections.

Reform Recommendations

To safeguard judicial independence, the study proposes several reforms:

1. **Transparent, Merit-Based Appointments:** Establish an independent commission free from political influence, with clear criteria for judicial selection.
2. **Fixed Terms with Accountability:** While life tenure may not suit Pakistan's context, fixed terms combined with performance evaluations can balance independence and accountability.
3. **Financial Autonomy:** Granting the judiciary control over its budget would reduce financial dependence on the executive.
4. **Independent Oversight Bodies:** Create impartial institutions to monitor judicial conduct and address complaints, involving retired judges, legal scholars, and civil society representatives.
5. **Public Engagement and Education:** Raise awareness about the importance of judicial independence through civic education, media campaigns, and school curricula.
6. **Training for Judges and Lawmakers:** Promote understanding of judicial ethics, separation of powers, and resistance to external pressures.
7. **International Collaboration:** Align domestic reforms with international standards and engage with global judicial bodies for technical assistance and best practices.

Cultural and Structural Considerations

While the U.S. model offers valuable insights, its direct transplantation into Pakistan's parliamentary system may not be feasible. Pakistan's judiciary operates within a unique political culture marked by military influence, executive dominance, and public scepticism. Reforms must therefore be context-specific, culturally sensitive, and institutionally grounded.

The 26th Constitutional Amendment marks a watershed moment in Pakistan's constitutional history. While it aims to enhance transparency and accountability, it risks compromising judicial independence by introducing political influence into judicial appointments and limiting the Supreme Court's powers. Historical precedents and comparative analysis with the United States underscore the dangers of politicising the judiciary and the importance of structural safeguards.

To preserve the rule of law and democratic governance, Pakistan must commit to reforms that strengthen judicial autonomy. This includes transparent appointment processes, independent oversight, public engagement, and alignment with international legal standards. Judicial independence is not merely a legal ideal, it is a democratic imperative. The future of Pakistan's democracy depends on its ability to uphold this principle in both letter and spirit. ■

Digital Justice Begins

Supreme Court Launches 2025 Rules with Call for Feedback



TL Report

Islamabad



The Supreme Court of Pakistan has issued the Supreme Court Rules, 2025, replacing the 1980 framework. The overhaul introduces digital filing, video-link hearings, revised court fees, and procedural reforms aimed at enhancing access, efficiency, and inclusivity in judicial processes.

The Supreme Court of Pakistan has formally promulgated the Supreme Court Rules, 2025, marking a major shift towards digitalisation, procedural clarity, and inclusive justice. Framed under Article 191 of the Constitution, the new Rules supersede the Supreme Court Rules, 1980, and come into immediate effect.

The revision was steered by a committee constituted by Chief Justice of Pakistan, Mr Justice Yahya Afridi, comprising Mr Justice Shahid Waheed, Mr Justice Irfan Saadat Khan, Mr Justice Naeem Akhter Afghan, and Mr Justice Aqeel Ahmed Abbasi. The committee consulted extensively with Judges, Pakistan Bar Council, Supreme Court Bar Association, and other Bar Associations. The final draft was approved by the Full Court after detailed deliberation.

The Supreme Court Rules, 2025, are structured into seven Parts, thirty-eight Orders, and six Schedules. Approximately 280 provisions have been amended (including 160 from the Schedules), 60 new provisions added, and 5 outdated provisions deleted.

Digital Transition & Technological Enablement

All petitions and paper books must now be filed electronically, with scanned copies mandatory. Notices, orders, certified copies, and pleadings will be issued digitally. Hearings via video-link are permitted, and affidavits may be authenticated by Apostille. Parties and Advocates must provide updated contact details, including digital app information. Judicial documents sent via post will no longer be entertained.

Access to Records & Efficiency

Records may be inspected or obtained online or in person. Urgent applications or those seeking interim relief must be listed within 14 days or at the earliest practicable date. The Registrar is authorised to enforce compliance with formats prescribed in the Sixth Schedule.

Court Fee & Legal Aid

Court fees have been revised after decades, alongside updates to Advocate and official expenses. Criminal petitions are exempt from fees, except for certified copies, which are free for jail-submitted petitions. *Habeas corpus* and Article 184(3) criminal petitions remain fee-exempt. The Registrar may appoint Advocates at State expense in death sentence cases, with enhanced counsel fees.

Feedback

Ensuring transparency and inclusivity, the Supreme Court has declared the Rules a “living document,” adaptable to emerging legal and technological developments. A Committee, under Rule 1(4) of Order I, has been constituted to recommend solutions to any difficulties in implementation. The Court invites written suggestions from Judges, members of the Bar, litigants, and the general public. Submissions will be reviewed by the Committee and placed before the Full Court at the commencement of the new Judicial Year.

The Rules are now also available on the Supreme Court [website](#) for public access.



IMAGE: © THE LEGAL

Appeals, Reviews & Constitutional Matters

Intra-Court Appeals are now permitted for orders under Article 184(3) and contempt proceedings. One review petition is allowed per judgment, which may be filed personally or via alternate counsel. Frivolous reviews may incur penalties, and the security deposit has been increased. Parties may revoke a Power of Attorney and appoint new Advocates-on-Record. Transfer applications under Article 186A and Section 25A of the Family Courts Act, 1964, are now recognised. Constitutional Benches are formalised through a newly added chapter.

Adjudication & Procedural Safeguards

Appeals from interlocutory orders will be heard by a bench of at least two Judges; other appeals, including those against acquittal, by not fewer than three Judges. Paper books must be delivered in advance to relevant legal officers and respondents, with certification of service. The Registrar may recall *ex-parte* orders upon sufficient cause. Compromise in compoundable offences is formally accommodated. In acquittal appeals, the Court may require surety or take coercive action if a respondent avoids appearance. Procedures for summoning records from lower courts have been streamlined.

Administrative & Structural Reforms

The Registrar is empowered to supervise staff and exercise procedural powers under the Rules. Branch Registries remain operational in all provincial capitals, with filings permitted at Islamabad or the relevant Registry. All fees, costs, security deposits, and allowances will be reviewed every three years. Written tests for Advocate-on-Record registration have been abolished; Advocates with five years' standing may apply directly.

Courtroom Conduct & Simplified Filing

Advocates may wear either a *sherwani* or a short black coat; gowns are now optional. No concise statement is required in criminal appeals. In civil matters, failure to deposit security for costs within 30 days will rescind leave to appeal unless otherwise ordered. Respondents may seek summary dismissal of frivolous or delay-motivated appeals. Procedural failures will be treated as irregularities and will not nullify proceedings. The Court's inherent powers to ensure justice remain unaffected.

The new Rules, according to Dr Shahid Hussain Kamboyo, Public Relations Officer of the Supreme Court of Pakistan, embody a transformative vision, integrating digital tools, promoting timely justice, and eliminating procedural rigidity. With inclusive provisions and simplified processes, the Rules herald a new era of judicial efficiency and responsiveness in Pakistan. ■

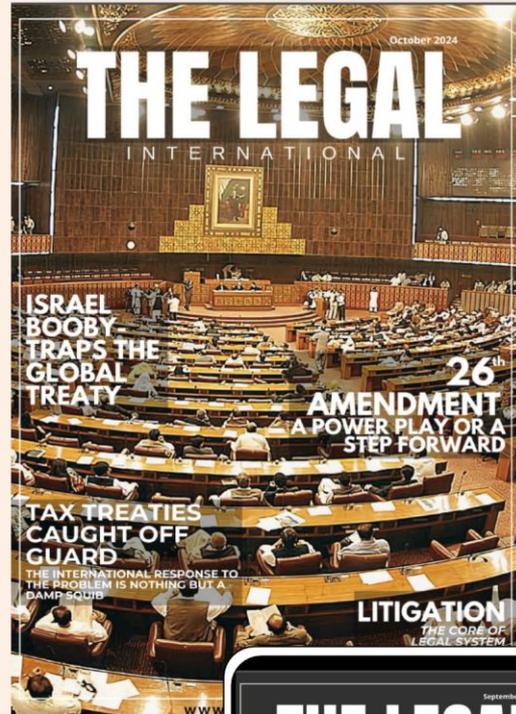


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Judicial Clearance

Justice Jawad Hassan rules Privatisation Commission followed due process under the 2000 Ordinance, shielding executive policy from judicial overreach



IMAGE: © THE LEGAL

TL Report

Rawalpindi

Lahore High Court dismissed a public interest petition against privatisation of Pakistan International Airlines Corporation Limited (PIACL), holding that statutory requirements under Sections 23 and 24 of the Privatisation Commission Ordinance, 2000 were fully met. The judgment reinforces judicial restraint in economic policy and safeguards investor confidence in Pakistan's regulatory framework.

In a judgment of considerable institutional consequence, Lahore High Court has dismissed a public interest petition challenging the privatisation of Pakistan International Airlines Corporation Limited (PIACL), affirming that the process adhered to statutory requirements and constitutional safeguards. The decision, authored by Justice Jawad Hassan, reinforces judicial restraint in economic policy and underscores the judiciary's role in preserving investor confidence.

The petitioner, Advocate Sardar Amber Magood, alleged procedural impropriety under Sections 23 and 24 of the Privatisation Commission Ordinance, 2000, claiming that the Commission failed to publish adequate notice of intent and did not transparently evaluate PIACL's assets. However, the court found that advertisements were duly published in four national newspapers, *Daily Express*, *Daily Jang*, *Dawn*, and *Business Recorder*, and three international dailies, *Financial Times*, *China Daily*, and *Wall Street Journal*, on multiple dates, satisfying the dual-publication requirement under Section 23.

Further, Ernst & Young Consulting LLC was appointed as Financial Advisor in accordance with Regulation 3 of the Privatisation Commission (Hiring of Financial Advisers) Regulations, 2018, and Rule 4 of the Privatisation Commission (Valuation and Property) Rules, 2007. The Court held that the valuation process was conducted "in the prescribed manner" by independent experts, as mandated by Section 24 of the Ordinance.

Justice Hassan cited the constitutional mandate under Article 173, which empowers the executive to dispose of government property, including state-owned enterprises. He referenced the Pakistan International Airlines Corporation (Conversion) Act, 2016, which transformed PIACL into a public limited company, thereby enabling its divestment. The Competition Commission of Pakistan had also cleared the merger under Section 31(1)(d)(i) of the Competition Act, 2010, confirming that the transaction posed no threat to market competition.

The petitioner's application for summoning valuation records under Article 19A of the Constitution was rejected, with the Court invoking Regulation 3 of the Privatisation Commission (Confidentiality and Secrecy of Documents) Regulations, 2003. Valuation reports and due diligence documents were deemed confidential, and the petitioner failed to demonstrate any exception under Regulation 3(2).

In support of judicial restraint, the Court relied on *Dr Akhtar Hassan Khan v Federation of Pakistan* (2012 SCMR 455), *Premier Battery Industries v Karachi Water and Sewerage Board* (2018 SCMR 365), and *Mekotex Pvt Ltd v Commissioner Inland Revenue* (PLD 2024 SC 1168). It also referenced *Kakakhail Traders v Province of Punjab* (PLD 2025 Lahore 630), reiterating that vague prayers unsupported by credible evidence do not warrant constitutional relief.

Justice Hassan cautioned against excessive judicial interference in commercial restructuring, noting its potential to destabilise foreign investment and frustrate national economic objectives. "Judicial review must not substitute policy wisdom with judicial preference," he wrote, "particularly when the executive has acted within its constitutional and statutory mandate."

For the legal community, this ruling reaffirms the judiciary's deference to executive discretion in economic policy, provided statutory compliance is demonstrably upheld. It clarifies the evidentiary threshold required for public interest litigation and signals a jurisprudential commitment to procedural fidelity, regulatory clarity, and institutional restraint. ■

From Matrimony to Misery:

Pakistani Brides in the US Face Legal and Cultural Hurdles

As spousal migration from Pakistan to the U.S. increases, immigrant brides encounter layers of vulnerability, where patriarchal conditioning collides with legal ambiguity.

by **Tazmeen Imran**

Law Graduate
Dubai - UAE

Each year, many of Pakistani women leave behind familiar lives in Lahore, Karachi or Faisalabad to begin anew in the United States, arriving as immigrant brides through spousal visa schemes. For many, these transnational unions symbolise more than romance, they carry the weight of hope. A marriage abroad is often imagined as an escape from patriarchal constraint, a chance for mobility, dignity and reinvention. Yet behind the ceremonial glamour lies a troubling reality: one shaped by immigration bureaucracy, cultural conditioning and an enduring silence around domestic abuse.

The migration of Pakistani women to the United States via marriage is no longer rare, it's a quiet but steady trend. Visa categories such as spousal sponsorship, fiancé(e) arrangements, and dependent visas (H4, O3) dominate the legal entries for women. While the broader Pakistani-American diaspora now exceeds half a million, women arriving as brides often tread a different, less celebrated path.

Unlike male migrants who pursue education or employment, brides frequently enter domestic environments with limited autonomy. They are expected to adapt quickly, manage households, and assimilate into the emotional rhythms of extended families, often without the tools or networks to navigate their new reality.

These expectations are rarely voiced but widely understood: to endure, to keep the family intact, and to never shame one's community.

Marriage as Transition

To grasp the shape of this vulnerability, one must first understand the cultural architecture of marriage in Pakistan. From childhood, many girls are subtly raised to believe their permanence lies not in their father's home, but in their husband's. The idea of daughter as "paraya dhan" (someone who will eventually belong elsewhere) guides decisions on education, mobility and self-expression.

This framework shapes early marriages, often into tightly-knit extended families ruled by senior men or matriarchs. Independence becomes a threat; compliance a virtue. Within such structures, emotional assertion, economic ambition or even opinions are often discouraged.



Migration is expected to soften these norms, but in reality, they often calcify. A husband displaced from familiar terrain may turn inwards, enforcing stricter control at home to compensate for professional frustrations or cultural alienation. The wife, meanwhile, becomes the sole space where power, pride and punishment converge.

The Legal Bind

Upon arrival in the U.S., many brides find themselves legally bound to their spouse. Immigration rules tie their status to the husband's sponsorship. This dependency creates a system where financial control, emotional manipulation and social isolation can thrive unchecked. Key risk factors include:

- **Immigration Status:** Women cannot renew or adjust their visa independently unless they meet specific legal criteria.
- **Language and Education Gaps:** Many are unfamiliar with English language, limiting job prospects or access to support services.
- **Social Isolation:** Far from

This is a summary of a detailed study. Click [here](#) to access full-length paper.

IMAGE: © THE LEGAL

family and community, they may have no one to confide in, especially in cases of abuse.

- **Cultural Shame:** Divorce remains taboo, especially for women returning to Pakistan. Staying becomes an act of survival, even when staying means suffering.

These structures form a trap. One where silence is mistaken for consent and endurance is romanticised as strength.

Legal Lifelines

Over the past three decades, U.S. immigration policy has introduced measures to protect immigrant spouses from abuse. Among these:

- Residency waivers that allow women to apply for a green card without their sponsor's help.
- Special visa pathways for victims of domestic violence, including self-petitioning under federal law.
- Work authorisation for dependent spouses on certain visas, offering some financial autonomy.
- Multilingual informational material distributed at entry points, explaining rights, shelters and legal remedies.

These are critical steps forward, but they depend heavily on knowledge, support and timing. Many women are unaware of these lifelines. Others discover them too late, after years of psychological trauma or legal complications.

Moreover, the burden of proof remains high. To qualify for relief, women often need to provide documentation of abuse, something difficult when control is exercised through fear, silence and isolation.

The Grey Areas of Law

In legal proceedings, definitions matter. Physical violence is easier to document. Bruises, police reports and medical records can form compelling evidence. But what of psychological abuse? Of a husband who controls every bank transaction, threatens deportation, forbids phone use, or withholds affection as punishment?

Such patterns rarely qualify as



LEGAL PROTECTIONS AND REMEDIES IN U.S. IMMIGRATION LAW

INFORMATION DISSEMINATION

Immigrant brides receive pamphlets about their legal rights

VIOLENCE AGAINST WOMEN ACT (VAWA)

Allows victims of domestic violence to self-petition for immigration status

CONCLUSION AND RECOMMENDATIONS

- The risks of migration in contest of marriage should not be understated
- Women and families must be educated about legal rights

U-VISA PROVISIONS

Provides temporary status and a pathway to green card for certain crime victims

“extreme cruelty” under strict immigration interpretations. Yet their impact is profound.

Many immigrant women also live under the shadow of “conditional residency” (a probationary status tied to marriage). Reporting abuse during this period could jeopardise their entire immigration process. Some are told, wrongly, that speaking out will result in deportation. Others simply don't know whom to trust.

In these gaps between legal theory and lived experience, abuse festers.

Support or Surveillance?

Pakistani diaspora communities in America are vibrant and diverse, but they can also become echo chambers of traditional expectations. Within close-knit circles, news travels fast. Divorce or complaints against a spouse may lead to social ostracisation, rumour or even collective pressure to “resolve matters privately.”

This makes public help difficult to access. Shelters and legal aid might exist, but women hesitate to approach them, fearing community backlash or family dishonour. Trusted spaces become surveillance zones; freedom becomes frightening.

The need for culturally competent advocacy services, places where women can speak without shame, is urgent. These must be not only linguistically accessible but emotionally safe and socially informed.

Reimagining Pathways to Autonomy

If structural reform is to take root, it must begin at both ends of the migration journey.

In Pakistan, families must stop viewing foreign marriages as trophies or tickets. The “*rishta abroad*” should not be accepted merely on the basis of geography or passport. Instead, criteria should include mutual respect, transparency and understanding of what life abroad truly entails.

In the U.S., immigration law should go further. Decoupling spousal dependency, expanding definitions of abuse, and funding outreach for immigrant brides are essential reforms. Legal protection cannot depend on bravery alone, it must be embedded in systems, supported by policy and shaped by lived realities.

Women must also be taught legal literacy. From school curricula to marriage counselling, knowing one's rights should not be optional, it should be elemental.

Conclusion

Cross-border marriage may offer opportunity, growth and love, but these should not be conditional. Legal safety and emotional dignity must travel with the bride, not lag behind her.

It is time to rethink both law and culture, refusing to let geography disguise gender inequality. Marriage should be a partnership, not a passage into silence. ■

UBT Law Students Shine at Durham's Global Arbitration Summer School

TL Report

Durham (UK)

Sixteen law students from the University for Business and Technology (UBT), Jeddah, Saudi Arabia, recently returned from a transformative week at Durham University's prestigious Arbitration Summer School, held from 20–25 July 2025. The programme brought together aspiring legal minds from across the globe for an intensive immersion in international arbitration.

Hosted in the historic city of Durham, the Summer School featured a dynamic blend of academic rigour and professional networking. The UBT's delegation joined peers from Latin America, the United States, Canada, the United Kingdom, China, India, South Korea, Austria, Greece, and beyond, fostering a truly global exchange of legal perspectives.

During the camp, students engaged with leading scholars and practitioners, refining their advocacy skills and deepening their understanding of cross-border dispute resolution. Notable highlights included sessions led by distinguished judges Sir Robin Knowles CBE and Justice Jawad Hassan of Pakistan, whose insights into judicial approaches to arbitration were met with keen interest.

The programme's success was made possible through the support of UBT's leadership. Special appreciation was extended to Dr Abdullah Bin Sadiq Dahlan, Chairman of the Board of Trustees, and Dr Weam Tunsi, UBT President, for championing international academic engagement. Their commitment to enriching legal education was instrumental in facilitating the students' participation.

Course Director Dr Can Eken was also lauded for his meticulous organisation and dedication to fostering meaningful dialogue between academics, judges, and students. His efforts ensured a well-structured and intellectually stimulating experience for all involved.

As UBT continues to expand its global footprint, the Law School's participation in Durham's Arbitration Summer School marks a significant step in preparing its students for the complexities of international legal practice. ■





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