

Consequential Amendments in Laws

There are various laws which are repealed or their effect has ceased or names of certain organizations or offices have changed but their reference still exists in the existing laws. The Secretariat has after conducting a study on the same proposed consequential amendments therein. These consequential amendments were examined by three members Committee which approved and submitted a report recommending these consequential amendments. The Commission has further made deliberations on the proposed amendments in its meeting on 5th December, 2009 and observed that such amendments were necessitated by changes introduced to several laws or provisions thereof. The names of certain laws, organizations and offices had been changed after the repeal of said laws but their references still exist in the existing statutes. The Commission had an in-depth discussion thereon and agreed to some of the proposed amendments. Certain other proposals were dropped as these were found to have far-reaching implications and were not well-considered/thought of by the Secretariat. The Commission observed that laws should remain under constant review to update and modernize the legal system. The Commission therefore, approved the proposal that some of the proposed draft amendments be forwarded to the Ministry of Law & Justice for further processing. The Hon'able Chairman stated that the Secretariat of LJCP may conduct research on current issues and particularly laws having beneficial effects on the society. In this regard, the Commission constituted a Committee comprising its members viz Mr. Justice (Ret) Rana Bhagwandas, Mr. Justice (Ret) Amir-ul-Mulk Mengal, Barrister Aitzaz Ahsan and Mr. Sardar Khan with the mandate to scrutinize the drafts prepared by the Secretariat before submitting to the Commission. The Committee will further give advice/recommend law reform proposals for research by the Secretariat.

The Commission advised that the draft amendments of the following laws along with working papers as mentioned hereinafter be forwarded to the Ministry of Law and Justice for further consideration:

Consequential amendments in the following laws:

S. No	Works Paper	Existing provisions	Proposed Amendment	Remarks/Repeal
(i)	Amendment in sections 5 and 6 of the Sugar-Cane Act, 1934	<p>5. Penalty for purchase of sugar-cane in contravention of notification under section 3:- Whoever in any controlled area purchases any sugar-cane intended for use in a factory at a price less than the minimum price fixed therefor by notification under sub-section (2) of section 3 or in contravention of any prohibition made under sub-section (3) of section 3 shall be punishable with fine which may extend to two thousand rupees.</p> <p>6. Sanction of Prosecution under this Act. - No Court shall take cognizance of any offence punishable under section 5 except upon complaint made by order of,</p>	<p>5. Penalty for purchase of sugar-cane in contravention of notification under section 3:Whoever in any controlled area purchases any sugar-cane intended for use in a factory at a price less than the minimum price fixed therefor by notification under sub-section (2) of section 3 or in contravention of any prohibition made under subsection (3) of section 3 shall be punishable with fine which may extend to fourteen thousand rupees.</p> <p>6. Sanction of Prosecution under this Act. - -No Court shall take cognizance of any offence punishable under section 5 except upon complaint made</p>	District Magistrate in sec 6 is replaced by DCO and fine is enhanced as having lost value

		or under authority from, the district Magistrate.	by order of, or under authority from, the District Coordination Officer.	
(ii)	Amendment in the Prisoners Act, 1900 for deletion / substitution of obsolete provisions thereof	<p>Section 30. Lunatic Prisoners how to be dealt with. - (1). Where it appears to the provincial Government that any person detained or imprisoned under any order, or sentence of any court is of unsound mind, the Provincial Government may, by a warrant setting forth the grounds of belief his removal to a lunatic asylum or other place of safe custody within the Province, there to be kept and treated as the Provincial Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or if on the expiration</p>	<p>Section 30. Lunatic Prisoners how to be dealt with. - (1). Where it appears to the provincial Government that any person detained or imprisoned under any order, or sentence of any court is of unsound mind, the Provincial Government may, by a warrant setting forth the grounds of belief his removal to a Psychiatric facility or other place of safe custody within the Province, there to be kept and treated as the Provincial Government directs during the remainder of the term for</p>	On repeal of lunatic Act 1912 by Mental Health Ordinance 2001 the reference of former is substituted by the later.

		<p>of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.</p> <p>(2)</p> <p>(3). The provisions of section 21 of the Lunacy Act, 1912 shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the court to undergo.</p> <p>(4). In any case in which the Provincial government is</p>	<p>which he has been ordered or sentenced to be detained or imprisoned, or if on the expiration of that term it is certified by a medical officer that it is necessary</p> <p>(2)</p> <p>(3). The provisions of section 31 of the Mental Health Ordinance, 2001 shall apply to every person confined in a psychiatric facility under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a psychiatric facility under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the court to undergo.</p> <p>(4). In any case in which the Provincial</p>	
--	--	--	--	--

		<p>competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the province, the Provincial Government may order his removal to any such asylum or place within the other Province.</p> <p>Section 36. Judge in certain cases to countersign orders made under section 35. - (1). Where an order under section 35 is made in any civil matter pending- (a). in a Court subordinate to the District Judge, or (b). in a Court of Small Causes.</p> <p>It shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by,</p> <p>(i) the District Judge to which the</p>	<p>government is competent under sub-section (1) to order the removal of a prisoner to a psychiatric facility or other place of safe custody within the province, the Provincial Government may order his removal to any such psychiatric facility or place within the other Province.</p> <p>Section 36. Judge in certain cases to countersign orders made under section 35. - (1). Where an order under section 35 is made in any civil matter pending- (a). in a Court subordinate to the District Judge, or (b). in a Court of Small Claims and Minor offence</p> <p>It shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by,</p> <p>(i)the District Judge to which the Court is</p>	
--	--	---	--	--

		<p>Court is subordinate, or (ii). The District Judge within the local limits of whose Jurisdiction the Court of Small Causes is situate.</p> <p>(2). Every order submitted to the District Judge under sub-section (1), shall be accompanied by a statement, under the hand of the Judge of the subordinate, Court or Court of Small Causes, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.</p>	<p>subordinate, or (ii). the District Judge within the local limits of whose Jurisdiction the Court of Small and Minor Offences is situate.</p> <p>(2). Every order submitted to the District Judge under sub-section (1), shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or Court of Small Claims and Minor Offences, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may,</p>	
(iii)	Amendment in the representation of the People Act, 1976.	<p>62.---- Subject to the provisions of this Act and the rules, every election petition shall be tried in accordance with the procedure laid down by the Election Commission.</p> <p>(2) Subject to the provisions of this Act, the <u>Evidence Act, 1872</u> shall apply for the trial of an election petition.</p>	<p>No Change</p> <p>2) Subject to the provisions of this Act, the Qanun-e-Shahadat Order, 1984, shall apply for the trial of an election petition.</p>	Reference of repealed evidence Act 1872 is replaced by Qanoon-e-Shahadat Ordinance 1984.

		<p>3) The Tribunal may, at any time, upon such terms and on payment of such fee as it may direct, allow a petition to be amended in such manner as may, in its opinion, be necessary for ensuring a fair and effective trial and for determining the real questions at issue, so however that no new ground of challenge to the election is permitted to be raised.</p> <p>(4) At any time during the trial of an election petition, the Tribunal may call upon the petitioner to deposit such further sum by way of security, in addition to the sum deposited under section 52, as it may think fit.</p>	<p>No Change</p> <p>No Change</p>	
(iv)	Amendment in the National Book Foundation Act, 1972	<p>Sub-section (5) of section 4. Constitution of the Foundation. A representative of the University Grants Commission;</p>	<p>Sub-section (5) of section 4. Constitution of the Foundation. A representative of the Higher Education Commission;</p>	Reference of organization substituted change of name
(v)	Amendments in the Pakistan Study Centers Act, 1976	<p>2. Definitions. "Commission" means the University Grants Commission; (e) "Institute" means the National Institute of Pakistan Studies, University Islamabad.</p>	<p>2. Definitions. "Commission" means the Higher Education Commission; (e) "Institute" means the National Institute of Pakistan</p>	Do

		<p>3. Establishment of Centre and the Institute. As soon as may be after the commencement of this Act, the Federal Government may by notification in the official Gazette, establish a Pakistan Studies Centre in the University of <u>Islamabad.</u></p>	<p>Studies, Quaid-e-Azam University.</p> <p>3.Establishment of Centre and the Institute. As soon as may be after the commencement of this Act, the Federal Government may ,by notification in the official Gazette, establish a Pakistan Studies Centre in the Quaid-e-Azam University.</p>	
(vi)	Amendment in sections 203 and 212 of the Pakistan Penal Code	<p>Section-203. Giving false information respecting an offence committed: Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.</p> <p>Explanation: in section 201 and 202 in this section the word "offence" includes any act committed at any</p>	<p>No Change</p> <p>Explanation: in section 201 and 202 in this section the word "offence" includes</p>	

		<p>place out of Pakistan, which, if committed in Pakistan, would be punishable under any of the following sections, namely, 302, 304, 382, 393, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460</p> <p>Section 212.---- Harbouring offender: Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of to be the offender, screening him from legal punishment,</p> <p>If a capital offence: shall, if the offence is punishable with the death, be punished with imprisonment of either description for term which may extend to five years, and shall also be liable to fine,</p> <p>If punishable with imprisonment for life, or with imprisonment: and if the offence is punishable with</p>	<p>any act committed at any place out of Pakistan, which, if committed in Pakistan, would be punishable under any of the following sections, namely, 302, 308 382, 393, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 46.</p> <p>No Change</p> <p>No Change</p> <p>No Change</p>	<p>Substitution of section referring corresponding provisions of Qisas Diyat Laws.</p>
--	--	--	---	--

		<p>imprisonment for life or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.</p> <p>"Offence" in this section includes any act committed at any place out of Pakistan, which, if committed in Pakistan, would be punishable under any of the following sections, namely, 302, 304, 382, 393, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460: and every such act shall, for the purposes of this section, be deemed</p>	<p>"Offence" in this section includes any act committed at any place out of Pakistan, which, if committed in Pakistan, would be punishable under any of the following sections, namely, 302, 308, 382, 393, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460: and</p>	
--	--	--	---	--

		<p>to be punishable as if the accused person had been guilty of it in Pakistan.</p> <p>Explanation: This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.</p>	<p>every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in Pakistan.</p> <p>No Change</p>	
(vii)	Amendment in the Commercial documents Evidence Act, 1939	<p>Section 2. Statements of relevant facts in scheduled documents to be themselves relevant facts. – Notwithstanding anything contained in the Evidence act, 1872, statements of facts in issue or of relevant facts made in any documents included in the scheduled as to matters usually states in such document shall be themselves relevant facts within the meaning of that Act.</p>	<p>Section 2. Statements of relevant facts in scheduled documents to be themselves relevant facts. – Notwithstanding anything contained in the Qanun-e-Shahadat Order, 1984, statements of facts in issue or of relevant facts made in any documents included in the Scheduled as to matters usually states in such document shall be themselves relevant facts within the meaning of that Order.</p>	Reference of repealed law is substituted by existing law.

	<p>Section 3. Presumption as to genuineness of documents. For the purposes of the Evidence Act, 1872, and notwithstanding anything contained therein, a Court-</p> <p>(a) shall presume, within the meaning of that Act, in relation to documents included in Part-I of the Schedule, and</p> <p>(b) may presume, within the meaning of that Act, in relation to documents included in Part-II of the schedule,-</p> <p>That any document purporting to be a document included in part-I or part-II of the schedule, as the case may be, and to have been duly made by or under the appropriate authority, was so made and that the statements schedule (Part-I)</p> <p>(1) - (7) 8. Certificates A</p>	<p>Section 3. Presumption as to genuineness of documents. For the purposes of the Qanun-e-Shahadat Order, 1984,and notwithstanding anything contained therein, a Court-</p> <p>(a) shall presume, within the meaning of that Order, in relation to documents included in Part-I of the Schedule, and</p> <p>(b) may presume, within the meaning of that Act, in relation to documents included in Part-II of the Schedule,-</p> <p>That any document purporting to be a document included in part-I or part-II of the schedule, as the case may be, and to have been duly made by or under the appropriate authority, was so made and that the statements schedule (Part-I)</p> <p>(1) - (7)..... 8. Certificates A and</p>	
--	--	--	--

		<p>and B, issued under the Merchant Shipping 1923.</p> <p>(9) - (22) 23. Copy, certificate by the Registrar of Companies, of the memorandum or the articles of association of a company, filled under the Companies Act, 1913.</p> <p>Part-II (1) - (20) , 21. Copy, certificate by the Registrar of companies of the Balance Sheet, Profit and Loss Account, and audit report of a company, filed with the said Registrar under the Companies Act, 1913, and the rules made thereunder.</p>	<p>B, issued under the Merchant Shipping Ordinance, 2001.</p> <p>(9) - (22) 23. Copy, certificate by the Registrar of Companies, of the memorandum or the articles of association of a company, filled under the Companies Ordinance, 1984</p> <p>Part-II (1) - (20) . . . 21. Copy, certificate by the Registrar of companies of the Balance Sheet, Profit and Loss Account, and audit report of a company, filed with the said Registrar under the</p>	
(viii)	Amendment in the Civil Court Ordinance 1962	<p>3. Classes of Courts. Besides the Court of small Causes established under the Provincial Small Causes Courts Act, 1887 (IX of 1887) and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil courts, namely:-</p> <p>(a) the Court of the District Judge;</p>	<p>3. Classes of Courts. Besides the courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely:-</p> <p>(a) the Court of the District Judge;</p>	Reference omitted on repeal of laws

		<p>(b) the Court of the Additional District Judge; and</p> <p>(c) the Court of the Civil Judge;</p> <p>11. Power to invest Civil Judges Small Cause Courts jurisdiction. The High Court may, by notification within such local limits as it thinks fit, confer upon any Civil Judge the jurisdiction of a Judge of a Court of Small Causes under the Provincial small Cause Courts Act, 1887 (IX of 1887), for the trial of suits, cognizable, by such courts, up to such value not exceeding one thousand rupees as it thinks fit.</p> <p>24. Civil Courts having unlimited jurisdiction regarding value to try suits against the State and its servants in their official capacity. (1) No Civil Court, not having Jurisdiction in original suits without limit as regards value, and no court of the Small Causes shall receive, entertain or register any suit in which Pakistan or any of its</p>	<p>(b) the Court of the Additional District" Judge; and</p> <p>(c) the Court of the Civil Judge;</p> <p>Omitted</p> <p>24. Civil Courts having unlimited jurisdiction regarding value to try suits against the State and its servants in their official capacity. (1) No Civil Court, not having jurisdiction in original suits without limit as regards value, and no court of the Small Causes, shall receive, entertain or register any suit in which</p>	
--	--	--	--	--

		<p>Provinces or any public officers as defined in clause (17) of sec. 2 of the Code of Civil Procedure, 1908 (V of 1908) in his official capacity is a party.</p> <p>Provided that in the Karachi District any such suit, if the value thereof does not exceed twenty-five thousand rupees, may be instituted in the Court of the District Judge, the Additional District Judge or a Civil Judge of the First Class, and in the High Court where the value of the suit exceeds twenty-five thousand rupees.</p> <p>(2)</p> <p>(2 A)</p> <p>(2 B)</p> <p>(3)</p> <p>(a)</p> <p>(b)</p> <p>(i)</p> <p>(ii)</p> <p>(iii) Section 69 or 71 or the Lunacy Act, 1912 (IV of 1912);</p> <p>(iv) Section 7, 18 or 42 of the Guardians and Wards act, 1890 (VII of 1890);</p> <p>or (v) Any</p>	<p>Pakistan or any of its Provinces or any public officers as defined in clause (17) of sec. 2 of the Code of Civil Procedure, 1908 (V of 1908) in his official capacity is a party,</p> <p>No Change</p> <p>Section 33 of the Mental Health Ordinance 2001.</p> <p>No Change</p>	<p>Reference of repealed laws is substituted by new laws</p>
--	--	--	---	--

	<p>provision of any (Punjab) enactment relating to Court of Wards.</p> <p>(Sindh Amendment): In section 23, for the words "five lacs of rupees" wherever occurring, the words "thirty lacs of rupees" shall be substituted.</p> <p>Sindh Amendment: For sub-sections (1), (2) and (2-A), the following sub-section shall be substituted;-- [(1) (a) No civil court not having jurisdiction in original suits without limits as regards value. (b) No court of small Causes; (c) no civil Court lower than the court of the District Judge, or the Additional District Judge, in a suit ought to be filed by a government servant relating to his service or matters pertaining thereto; shall receive, entertain, or register, any suit in which Pakistan, or any of its provinces, or any public office as defined in clause (17) of section 2 of the Code of Civil Procedure, 1908 (V</p>	<p>No Change</p> <p>No Change</p> <p>omitted</p> <p>No Change</p>	<p>Law repealed</p>
--	---	---	---------------------

		<p>of 1908) in his official capacity is a party:</p> <p>Provided that in the Karachi District;-</p> <p>(a) any such suit not being a suit specified in clause (c) if the value thereof does not exceed [Five lacs rupees], may be instituted in the Court of the District Judge, the Additional district Judge, or a Civil Judge of the first Class and in the High Court where the value of the suit exceeds [five lacs rupees];</p>	No Change	
(ix)	Omission of Section 7 of the Code of Civil Procedure 1908.	<p>Section 7. Provincial small Cause Courts-</p> <p>The following provisions shall not extend to courts constituted under the Provincial Small Cause Courts Act, 1987, or to Courts exercising the jurisdiction of a Court of Small Causes under the said Act, that is to say;</p> <p>a) so much of the body of the Code as relates to;</p> <p>i) Suits</p> <p>Excepted from the cognizance of a</p>	Omitted	Provincial Small Cause Court Act repealed

		<p>Court of Small Causes, ii) the execution of decrees in such suits, iii) the execution of decrees against immovable property; and section 9. section 91 and 92. So far they authorize or relate to - i) orders for the attachment of immovable property, ii) injunctions, iii) the appointment of a receiver of immovable property, or iv) the interlocutory orders referred to in clause (e) of section 94 and sections 96 to 112 and 115.</p>		
(x)	Amendment in Section 486 of the Code of Criminal Procedure 1898	<p>486.----- (1) Any person sentenced by any court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the court to which decrees or orders made in such Court are ordinarily appealable</p> <p>(2) the provisions of Chapter XXXI</p>	No Change	
			No Change	

		<p>shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.</p> <p>(3) ***** an appeal from such conviction by a Court of Small Causes shall lie to the Court of Session for the sessions division within which such court is situate.</p> <p>(4) An appeal from such conviction by any officer as Registrar or Sub Registrar appointed as aforesaid may, when such officer is also Judge of Civil Court, be made to the Court which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge.</p>	<p>3) ***** an appeal from such conviction by a Court of Small Claims and Minor Offence Court shall lie to the Court of Session for the sessions division within which such court is situate</p> <p>No Change</p>	<p>Reference of repealed laws substituted by existing law.</p>
--	--	--	--	--

(xi)	Amendment in Specific Relief Act, 1877	<p>3. In this Act, unless there be something repugnant in the subject or context.</p> <p>"obligation" ----- "trust" ----- "trustee" -----</p> <p>"settlement" means any instrument (other than a will or codicil as defined by the Indian Succession Act) whereby the destination or devolution of successive interests moveable or immoveable property is disposed of or is agreed to be disposed of :</p> <p>4. Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed--</p> <p>a. to give any right to relief in respect of any agreement which is not a contract;</p> <p>b. to deprive any person of any right to relief, other than specific performance, which he may have under any contract; of</p> <p>c. to affect the</p>	<p>No Chance No Chance No Chance</p> <p>"settlement" means any instrument (other than a will or codicil as defined by the Succession Act 1925) whereby the destination or devolution of successive interests moveable or immoveable property is disposed of or is agreed to be disposed of :</p> <p>No change</p> <p>No change</p> <p>c. to affect the</p>	Omission of word "Indian"
------	--	--	---	---------------------------

		<p>operation of the Indian Registration Act on documents.</p> <p>39. When cancellation may be ordered. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable; and the Court may, in its discretion, so adjudge it to be delivered up and cancelled.</p> <p>If the instrument has been registered under the Indian Registration Act, the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such office shall note on the copy of the instrument contained in his books the fact of its cancellation.</p>	<p>operation of the Registration Act on documents.</p> <p>39. When cancellation may be ordered. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable; and the Court may, in its discretion, so adjudge it to be delivered up and cancelled.</p> <p>If the instrument has been registered under the Registration Act, 1908 the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such office shall note on the copy of the instrument contained in his books the fact of its cancellation.</p>	
--	--	---	--	--

(xii)	Omission of obsolete provisions in the Code of Civil Procedure 1908	<p>Section 114 (1) (c) by a decision on a reference from Court of small causes.</p> <p>Order 20 Rules 4 (1) Judgment of a Court of Small Causes need not contain more than the points for determination and the decision thereon.</p> <p>Order 38 Rule 13- Nothing in this order shall be deemed to empower any Court of Small Causes to make an order for the attachment of Immoveable property.</p> <p>Order 46 Rule 6 (1) where at any time before judgment a court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the High Court with the statement of its reasons for the doubt as to the nature of the suit.</p> <p>Rule 7 (1) where it appears to a</p>	<p>Omitted</p> <p>Omitted</p> <p>Omitted</p> <p>Omitted</p>	Omission of reference of Small Cause Court on repeal of law.
-------	---	---	---	--

		<p>District Court that a court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by Court of Small Causes or not to be so cognizable failed to exercise a jurisdiction vested in it by Law, or exercised a jurisdiction not so vested, the District Court may, and if required by a party shall, submit the record to the High Court with a statement of its reason for considering the opinion for the subordinate court with respect to the nature of the suit to be erroneous.</p> <p>Order 50 1 The provisions hereinafter specified shall not extend to courts constituted under the provincial Small Cause Courts Act-1887, or to Courts exercising the jurisdiction of a court of Small Causes under the said Act, that is to say.</p> <p>(a) So much of this schedule as relates to (1) Suits excepted from the</p>	<p>Omitted</p> <p>Omitted</p>	
--	--	--	---	--

		<p>cognizance of a Court of Small Causes or the execution of decrees in such suits.</p> <p>(b) The execution of decrees against Immovable property or the interest of a partner in partnership property.</p> <p>(c) The settlement of issues and</p> <p>(d) The following rules and orders, order II rule 1 (frame of suit) Order X, rule 3 (record of Examination of parties) Order XV, except so much of rule 4 as provides for the pronouncement at once of judgment. Order XVIII, rules Order X VIII, rules 5 to 12 (evidence). Order XLI to XLV (appeals). Order XLVII, rules 2, 3, 5, 6, 7, (review) Order LI</p>		
(xiii)	Amendment in sections 44 and 45 of the Code of Criminal Procedure 1898	<p>44. Public to give information of certain offences. (1) Every person aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the</p>	<p>44. Public to give information of certain offences.- (1) Every person aware of the commission of, or of the intention of any other person to commit, any</p>	Consequential amendment on change of Law

		<p>following sections of the Pakistan Penal Code, namely, 121, 121A, 122, 123, 123A, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 153A, 161, 162, 163, 164, 165, 168, ,170, 231, 232, 255, 302, 303, 304, 304A, 364A, 382, 392, 393, 394, 395, 396, 397, 398, '399, 402, 435, 436, 449, 450,' 456, 457, 458, 459, 460 and 489A, shall in the absence of reasonable, excuse, the burden of probing which shall lie upon the person so aware, forthwith give information to the nearest Magistrate Justice of the peace or police-officer of such commission or intention.</p> <p>45. Village headman, accountants, landholders and other bound to report certain matters.-</p>	<p>offence punishable under any of the following sections of the Pakistan Penal Code, namely, 121, 121A, 122, 123, 123A, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 153A, 161, 162, 163, 164, 165, 168, ,170, 231, 232, 255, 302, 303, 364A, 382, 392, 393, 394, 395, 396, 397, 398, '399, 402, 435, 436, 449, 450,' 456, 457, 458, 459, 460 and 489A, shall in the absence of reasonable excuse, the burden of probing which shall lie upon the person so aware, forthwith give information to the nearest Magistrate Justice of the peace or police-officer of such commission or intention.</p> <p>45. Village headman, accountants, landholders and other bound to report certain matters.-</p>	
--	--	---	--	--

		<p>(1) Every village-headman, village accountants, village watchman, village police-officer, owner or Occupier of land, and the agent of any such owner or occupier incharge of the management of the land and every officer employed in the collection of revenue or rent of land on the part of the Government or the court of Wards, shall forthwith communicate to the nearest Magistrate or Justice of the Peace or to the officer incharge of the nearest police station whichever is the nearer, any the commission of, or intention to commit, at any information which he may possess respecting.</p> <p>(e) the commission of, or intention to commit, at any place out of Pakistan near such village any act which, if committed in</p>	<p>(1) Every village-headman, village accountants, village watchman, village police-officer, owner or occupier of land, and the agent of any such owner or occupier incharge of the management of the and every officer employed in the collection of revenue or rent of land on the part of the Government or the court of Wards, shall forthwith communicate to the nearest Magistrate or Justice of the Peace or to the officer incharge of the nearest police station whichever is the nearer, any information which he may possess respecting.</p> <p>(e) the commission of, or intention to commit, at any place out of Pakistan near such village any act which, if committed in</p>	
--	--	--	---	--

		<p>Pakistan would be an offence punishable under any of the following sections of the Pakistan Penal Code, namely, 231, 232, 233, 234, 235, 236, 237; 238, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, 460, 489A, 489B, 489C and 489D;</p> <p>(2) In this section-</p> <p>(i) "village" includes village-lands; and (ii) expression "proclaimed offender" includes person proclaimed as an offender by any Court or authority established or continued by the Federal Government in any part of Pakistan, in respect of any act which committed in Pakistan, would be punishable under any of the following sections of the Pakistan Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397,</p>	<p>Pakistan would be an offence punishable under any of the following sections of the Pakistan Penal Code, namely, 231, 232, 233, 234, 235, 236, 237; 238, 302, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, 460, 489A, 489B, 489C and 489D;</p> <p>(2) In this section-</p> <p>(i) "village" includes village-lands; and (ii) expression "proclaimed offender" includes person proclaimed as an offender by any Court or authority established or continued by the Federal Government in any part of Pakistan, in respect of any act which committed in Pakistan, would be punishable under any of the following sections of the Pakistan Penal</p>	
--	--	--	--	--

		398, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460.	Code, namely, 302, 304 , 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460.	
(xiv)	Amendment in the payment of wages Act, 1936.	Section 7 (1) deductions for subscription to, and for repayment of advances from , any provident fund to which the Provident Fund Act, 1925 applies or any recognized provident fund as defined in clause (7) of section 2 of the Income Tax Ordinance, 1979, or any provident fund approved in this behalf by the Provincial Government, during the continuance of such approval; section 8 (4) the total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to half an anna in the rupee of the wages payable	Section 7 (1) deductions for subscription to, and for repayment of advances from , any provident fund to the Provident Fund Act, 1925 applies or any recognized provident fund as defined in clause (48) of section 2 of the Income Tax Ordinance, 2001 , or any provident fund approved in this behalf by the Provincial Government, during the continuance of such approval; Section 8 (4) the total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal	Change of reference on change of law

		<p>to him in respect of that wage-period.</p> <p>Section 15 sub-section (3) when any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person or, if the applicant, of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the</p>	<p>to 2% or the wages payable to him in respect of that wage-period.</p> <p>Section 15 sub-section (3) when any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person or, if the applicant, of the amount deducted, or the payment of the delayed wages, together with the payment of such</p>	<p>Because of devolution of currency</p>
--	--	--	---	--

		<p>former case and not exceeding ten rupees in the latter.</p> <p>Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to (a) a bonafide error bonafide dispute as to the amount payable to the employed person or</p> <p>(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or</p> <p>(c) the failure of the employed</p>	<p>compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding twenty five thousand rupees in the latter.</p> <p>No Change</p>	
--	--	--	--	--

		<p>person to apply for or accept payment.</p> <p>Section 16-(1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.</p> <p>(2) A single application may be presented under section 15 on behalf or in respect of any number or employed persons belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head.</p>	<p>No Change</p> <p>(2) A single application may be presented under section 15 on behalf or in respect of any number or employed persons belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be twenty five thousand rupees per head.</p>	
--	--	--	---	--

		Section 17- (1) An appeal against a direction made under sub-section (3) or sub-section (4) of section 15 may be preferred, within thirty days of the date on which the direction was made, before the Labor Court constituted under the Industrial Relations Ordinance, 1969, within whose jurisdiction the cause of action to which the appeal relates to arose.	Section 17- (1) An appeal against a direction made under sub-section (3) or sub-section (4) of section 15 may be preferred, within thirty days of the date on which the direction was made, before the Labor Court constituted under the Industrial Relations Act, 2008 , within whose jurisdiction the cause of action to which the appeal relates to arose.	Change of reference on change of law
(xv)	Amendment of section 97 of the Code of Civil Procedure, 1908.	97. Appeal from final decree where no appeal from preliminary decree. - Where any party aggrieved by a preliminary decree passed after the commencement of this Code does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal	97. Appeal from final decree where no appeal from preliminary decree. - Where any party aggrieved by a preliminary decree does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal	The following words "passed after the commencement of this Code" shall be omitted.

		which may be preferred from the final decree.	which may be preferred from the final decree.	
(xvi)	Amendment in the Section 17 of National Highway Authority Act, 1991.	17. Industrial Relation Ordinance, 1969 (XXIII of 1969), not to apply:- Nothing contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall apply to, or in relation to, the Authority.	17. Industrial Relation Act, 2008 (IV of 2008), not to apply:- Nothing contained in the Industrial Relations Act, 2008 (IV of 2008), shall apply to, or in relation to, the Authority.	

The detailed working papers of each consequential amendments are reproduced hereafter.

**(i) Amendment in Sections 5 and 6
of the Sugar- Cane Act, 1934**

Amendment in Sections 5 and 6 of the Sugar-Cane Act, 1934

The Sugar-cane Act, 1934 (XV of 1934), was made on the 1st May, 1934 for the purpose of assuring sugar-cane growers a fair price for their products, and to regulate the price at which sugar-cane intended to be used in the manufacture of sugar-cane may be purchased by or for factories.

2. Under sub-section (1) of section 3 of the Sugar-cane Act, 1934, hereinafter referred to as the said Act, the Provincial Government may, by notification in the official Gazette, declare any area specified in the notification to be a controlled area for the purposes of the said Act.

3. Under sub-section (2) of section 3 of the said act, the Provincial Government may, by notification in the official Gazette, fix a minimum price or minimum prices for the purchase in any controlled area of sugar-cane intended for use in any factory.

4. Under sub-section (3) of section 3 of the said Act, the Provincial Government may, by notification in the official Gazette, prohibit in any controlled area the purchase of sugar-cane intended for use in any factory otherwise than from the grower of sugar-cane or from a person licensed by the Provincial Government to act as a purchasing agent.

5. Section 5 of the said Act provides for the penalty for purchase of sugar-cane in contravention of the notification issued under section 3 *ibid*. Section 5 *ibid* is reproduced hereunder for reference:-

Section 5: Penalty for purchase of sugar-cane in contravention of notification under section 3.-

Whoever in any controlled area purchases any sugar-cane intended for use in a factory at a price less than the minimum price fixed therefor by notification under sub-section (2) of section 3 or in contravention of any prohibition made under sub-section (3) of section 3 shall be punishable with fine which may extend to two thousand rupees."

6. It is pointed out that under section 5 *ibid* the fine which was prescribed in the year 1934 has become ineffective

because of devaluation of money. Also the said fine has never been enhanced so far. However, the Law and Justice Commission of Pakistan vide its Report No.70 had proposed four fold increase in the amount of fine as provided in section 5 ibid. Resultantly, the said amount of fine would have been eight thousand rupees and the offence triable by a Magistrate of the second class.

7. Keeping in view the amount of fine prescribed in the year 1934, it appears that the legislature had taken a serious view of the offence punishable under section 5 ibid. Therefore, it would be in the fitness of the things that the amount of fine under section 5 ibid may be enhanced at least seven fold. Resultantly, the said amount of fine would be fourteen thousand rupees, and the offence triable by a Magistrate of the second class.

Recommendation:

Therefore, for the aforesaid reasons, it is suggested that the Commission may make recommendation to the Federal Government that in section 5 ibid the amount of the fine may be raised to fourteen thousand rupees.

8. Furthermore, section 6 of the said Act provides for the sanction for prosecution under the said Act as under:-

Section 6:

"6. Sanction for prosecution under this Act.- No Court shall take cognizance of any offence punishable under section 5 except upon complaint made by order of, or under authority from, the District Magistrate."

9. From perusal of section 6 ibid it transpires that in order to take cognizance of any offence punishable under section 5 ibid a complaint shall be made by order of, or under authority from, the District Magistrate.

10. In this connection, it is pertinent to mention that formally the District Magistrates were appointed by the Provincial Government under section 10 of the Code of Criminal Procedures, 1898. However, section 10 ibid was omitted with effect from 13.8.2001 vide the Code of Criminal Procedure (Amendment) Ordinance, 2001. Thereafter, the courts of District Magistrates have ceased to exist. Accordingly the reference in

section 6 ibid to the defunct court of the District Magistrate is obsolete.

11. Subsequent to the abolition of the courts of the District Magistrates, the local government system was introduced to devolve political power and decentralize administrative and financial authority to accountable Local Governments for good governance, effective delivery of services and transparent decision making through institutionalized participation, and for that purpose the Punjab Local Government Ordinance, 2001; the Sindh Local Government Ordinance, 2001; the North-West Frontier Province Local Government Ordinance, 2001; and the Balochistan Local Government Ordinance, 2001 are in force in the Provinces of the Punjab, Sindh, NWFP and Balochistan, respectively.

12. For smooth and efficient disposal of work, each of the Provincial Government has been empowered under the concerned Local Government Ordinance to make District Government Rules of Business of the respective Province. Accordingly, each of the provincial Government has made the District Government Rules of Business for the respective Province. It is pertinent to point out that under each of the District Government Rules of Business, the District Coordination Officer (DCO) has been made the official head of the District Administration; and the implementation of Agricultural laws has been assigned to the District Coordination Group of District Offices.

Recommendation:

It is one of the functions of the Law and Justice Commission of Pakistan under clause (v) of section 6 of the Law and Justice Commission of Pakistan Ordinance, 1970 (XIV of 1979), to make recommendation for repealing obsolete or unnecessary provisions in the laws. It is, therefore, suggested that the Commission may make recommendation to the Federal Government that in section 6 ibid, the expression "District Magistrate" has become obsolete. Moreover, the powers may be conferred upon the District Coordination Officer instead of the District Magistrate under section 6 ibid.

Legislative Proposal:

In view of the foregoing, it is suggested that in the Sugar-cane Act, 1934,-

- (i) In section 5, for the word "two" the word "fourteen" shall be substituted; and
- (ii) In section 6, for the words "District Magistrate" the words "District Coordination Officer" shall be substituted.

Comparative Table

Existing Provision.	Proposed Provision.
<p>5. Penalty for purchase of sugar-cane in contravention of notification under section 3.- Whoever in any controlled area purchases any sugar-cane intended for use in a factory at a price less than the minimum price fixed therefor by notification under subsection (2) of section 3 or in contravention of any prohibition made under subsection(3) of section 3 shall be punishable with fine which may extend to two thousand rupees.</p>	<p>5. Penalty for purchase of sugar-cane in contravention of notification under section 3.- Whoever in any controlled area purchases any sugar-cane intended for use in a factory at a price less than the minimum price fixed therefor by notification under subsection (2) of section 3 or in contravention of any prohibition made under subsection(3) of section 3 shall be punishable with fine which may extend to fourteen thousand rupees.</p>
<p>6. Sanction for prosecution under this Act.- No Court shall take cognizance of any offence punishable under section 5 except upon complaint made by order of, or under authority from the District Magistrate.</p>	<p>6. Sanction for prosecution under this Act.- No Court shall take cognizance of any offence punishable under section 5 except upon complaint made by order of, or under authority from the District Coordination Officer.</p>

**(ii) Amendment in the Prisoners
Act, 1900
for Deletion/Substitution of
Obsolete
Provisions Thereof**

Amendment in the Prisoners Act, 1900 for Deletion/ Substitution of Obsolete Provisions Thereof

The Prisoners Act, 1900 has remained constantly under consideration/revision for making it upto date according to the changing needs of the society. However, some resultant amendments are still required to be made in the said Act after amendments in some other relevant laws referred in the said Act.

In sub-section (1), (3) and (4) of section 30 reference has been made to "the Lunacy Act 1912" and to "lunatic asylum" established under the Lunacy Act, 1912 with reference also in subsection (3) to section 21 of the Lunacy Act, 1912. The said Act has been repealed after the promulgation of the Mental Health Ordinance, 2002, vide section 61 of the said Ordinance and the provision of section 21 of the Lunacy Act, 1912 are now contained in section 31 of the said Ordinance. The words "lunatic asylum" also finds no place in the newly promulgated Ordinance wherein instead such like institutions have been named as "Psychiatric facility". Therefore, the words "lunatic asylum" in sub-section (1), (3) and (4) of section 30 of the said Act may be substituted with the words "psychiatric facility" and the words "section 21 of the Lunacy Act, 1912" in sub-section 3 of section 30 may be substituted with the words "section 31 of Mental Health Ordinance, 2001".

Similarly, sub-section (1) and (2) of section 36 of the said Act contain the words "the Court of Small Causes". Now such courts are not in existence after the repeal of the Small Causes Courts Act 1887, vide section 42 of the Small Claims and Minor Offences Courts Ordinance, 2002 and the establishment of the Courts of Small Claims and Minor Offences instead of the Court of Small Causes under section 4 of the said Ordinance. So the words "Court of Small Causes" may be substituted with the words "the Court of Small Claims and Minor Offences".

Comparative Table follows:

Existing Provisions	Proposed Provisions
<p>Section 30. Lunatic prisoners how to be dealt with. - (1). Where it appears to the Provincial Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the Provincial Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the Province, there to be kept and treated as the Provincial Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.</p> <p>(2)</p> <p>.....</p> <p>(3). The provisions of section 21 of the Lunacy Act, 1912 shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that</p>	<p>Section 30. Lunatic prisoners how to be dealt with. - (1). Where it appears to the Provincial Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the Provincial Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a psychiatric facility or other place of safe custody within the Province, there to be kept and treated as the Provincial Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.</p> <p>(2)</p> <p>.....</p> <p>(3). The provisions of section 21 of the Mental Health Ordinance, 2001 shall apply to every person confined in a psychiatric facility under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a</p>

<p>sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the court to undergo.</p> <p>(4). In any case in which the Provincial Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the Province, the Provincial Government may order his removal to any such asylum or place within the other Province.</p>	<p>psychiatric facility under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the court to undergo.</p> <p>(4). In any case in which the Provincial Government is competent under sub-section (1) to order the removal of a prisoner to a psychiatric facility or other place of safe custody within the Province, the Provincial Government may order his removal to any such psychiatric facility or place within the other Province.</p>
<p>Section 36. District Judge in certain cases to countersign orders made under section 35.</p> <p>- (1). Where an order under section 35 is made in any civil matter pending –</p> <p>(a). in a Court subordinate to the District Judge, or</p> <p>(b). in a Court of Small Causes.</p> <p>It shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by, -</p> <p>(i). the District Judge to which the Court is subordinate, or</p> <p>(ii). The District Judge within the local limits of whose jurisdiction the Court of Small Causes is situate.</p>	<p>Section 36. District Judge in certain cases to countersign orders made under section 35.</p> <p>- (1). Where an order under section 35 is made in any civil matter pending –</p> <p>(a). in a Court subordinate to the District Judge, or</p> <p>(b). in a Court of Small Claims and Minor Offences.</p> <p>It shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by, -</p> <p>(i). the District Judge to which the Court is subordinate, or</p> <p>(ii). The District Judge within the local limits of whose jurisdiction the Court of Small Claims and Minor Offences is situate.</p>

(2). Every order submitted to the District Judge under subsection (1), shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or **Court of Small Causes**, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

(2). Every order submitted to the District Judge under subsection (1), shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or **Court of Small Claims and Minor Offences**, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

**(iii) Amendments in the
Representation
of the People Act, 1976.**

Amendments in the Representation of the People Act, 1976.

The Representation of the People Act, 1976, hereinafter referred to as the said Act, was enacted with the objects to provide for the conduct of elections to the National Assembly and the Provincial Assemblies and to safeguard against corrupt and illegal practices and other offences at or in connection with such elections and for the determination of doubts and disputes arising out of or in connection with such elections and other matters arising out of or connected therewith.

1. Sections 62 of the said Act provides the procedure before Election Tribunal for applicability of the prevailing laws, for the trial and disposal of the election petition. Sub-section 2 of section 62 of the said Act provides that the Evidence Act, 1872, shall apply for the trial of an election petition, though, the Evidence Act, 1872 is not holding the field and has been repealed and replaced by the Qanun-e-Shahadat Order, 1984. Section 62 of the said Act and Article 166 of the Qanun-e-Shahadat Order, 1984, are reproduced below:-

62.—(1) Subject to the provisions of this Act and the rules, every election petition shall be tried in accordance with the procedure laid down by the Election Commission.

(2) Subject to the provisions of this Act, the Evidence Act, 1872, shall apply for the trial of an election petition.

(3) The Tribunal may, at any time, upon such terms and on payment of such fee as it may direct, allow a petition to be amended in such manner as may, in its opinion, be necessary for ensuring a fair and effective trial and for determining the real questions at issue, so however that no new ground of challenge to the election is permitted to be raised.

(4) At any time during the trial of an election petition, the Tribunal may call upon the petitioner to deposit such further sum by way of security, in addition to the sum deposited under section 52, as it may think fit.

2 Article 166 of Qanun-e-Shahadat Order, 1984, reproduced hereunder:-

166. Repeal. The Evidence Act, 1872 (I of 1872) is hereby repealed.

3. After repeal of the Evidence Act, 1872, by Article 166 of the Qanun-e-Shahadat Order 1984, reference of the Evidence Act, 1872, is still mentioned in sub-section 2 of section 62 of the said Act, which is required to be amended.

Legislative proposal:

In view of the above, it is, therefore proposed that Law and Justice Commission of Pakistan may recommend for amendment in sub-section 2 of section 62 of the Representation of the People Act, 1976.

Comparative Table.

Existing Provision.	Proposed Provision.
<p>62.—(1) Subject to the provisions of this Act and the rules, every election petition shall be tried in accordance with the procedure laid down by the Election Commission.</p> <p>(2) Subject to the provisions of this Act, the <u>Evidence Act, 1872</u>, shall apply for the trial of an election petition.</p> <p>(3) The Tribunal may, at any time, upon such terms and on payment of such fee as it may direct, allow a petition to be amended in such manner as may, in its opinion, be necessary for ensuring a fair and effective trial and for determining the real questions at issue, so however that no new ground</p>	<p>62.—(1).. No change</p> <p>(2) Subject to the provisions of this Act, the Qanun-e-Shahadat Order, 1984, shall apply for the trial of an election petition.</p> <p>(3) . No change</p>

<p>of challenge to the election is permitted to be raised.</p> <p>(4) At any time during the trial of an election petition, the Tribunal may call upon the petitioner to deposit such further sum by way of security, in addition to the sum deposited under section 52, as it may think fit.</p>	<p>(4) No change</p>
---	----------------------------

**(iv) Amendment in the National
Book Foundation
Act, 1972**

Amendment in the National Book Foundation Act, 1972

This Act was made to provide for the establishment of a foundation for making books and reading material on different subjects available at moderate prices for students and general public in order to promote the education atmosphere throughout Pakistan.

There are certain provisions in the National Book Foundation Act, 1972 which refer the institutions like the University Grants Commission in sub-section (5) of section 4 of the Act which read as follows:-

Sub-section (5) of section 4. Constitution of the Foundation.

A representative of the University Grants Commission.

It is to be mentioned that the University Grants Commission under the University Grants Commission Act, 1974 has been replaced with the Higher Education Commission by an Ordinance called the Higher Education Commission Ordinance 2002 repealing the University Grants Commission Act, 1974 vide section 22 of the Higher Education Commission Ordinance which read as follows:-

22. Repeal. The University Grants Commission Act, 1974 (XXIII of 1974), is hereby repealed.

In view of above changed position of law as amended/substituted and renaming of the Institution, the old reference of University Grants Commission in the National Book Foundation Act, 1972 requires to be changed by amending the said Act.

A comparative statement of the existing and amended provision of the National Book Foundation Act, 1972 is as under for consideration of the Commission.

Legislative Proposal

Existing provision of the National Book Foundation Act, 1972	Proposed Amendment
Sub-section (5) of section 4. Constitution of the Foundation. A representative of the University Grants Commission;	Sub-section (5) of section 4. Constitution of the Foundation. A representative of the Higher Education Commission.

**(v) Amendment in the Pakistan
Study Centers Act, 1976**

Amendment in the Pakistan Study Centers Act, 1976

The Pakistan Study Centers Act was made for the establishment of Pakistan Study Centers in the universities for the study of languages, literature, social structure, customs, attitudes and motivation, of the people of various regions of Pakistan.

There are certain provisions in the Pakistan Study Centers Act, 1976 which refer institutions like the University of Islamabad and the University Grants Commission in section 2 and 3 of the Act which read as follows:-

2. Definitions. (c) "Commission" means the University Grants Commission;

(e) "Institute" means the National Institute of Pakistan Studies, University of Islamabad.

3. Establishment of Centre and the Institute. As soon as may be after the commencement of this Act, the Federal Government may by notification in the official Gazette, establish a Pakistan Study Centre in a University specified in the notification and the National Institute of Pakistan Studies in the University of Islamabad.

In the Quaid-e-Azam University Act, 1973, as amended vide the University of Islamabad (Amendment) Act, 1976, the University of Islamabad has been renamed as Quaid-e-Azam University whereas the University Grants Commission established under the University Grants Commission Act, 1974 has been replaced by the Higher Education Commission by a new Ordinance called the Higher Education Commission Ordinance 2002 repealing the University Grants Commission Act, 1974 vide section 22 of the Ordinance.

The relevant provisions of the repealed University of Islamabad Act renamed as Quaid-e-Azam University Act, 1973 and section 22(1) of the Higher Education Commission Ordinance 2002 read as follows:-

Sub-Section (1) of section 3 of the University of Islamabad (Amendment) Act, 1976

Incorporation. The University of Islamabad as reconstituted in accordance with the provisions of this Act and having its principal seat at Islamabad shall, on and from the commencement of the University of Islamabad (Amendment) Act, 1976 be renamed as the Quaid-e-Azam University.

Sub-section (1) of section 22 of the Higher Education Commission Ordinance, 2002

Repeal. The University Grants Commission Act, 1974 (XXIII of 1974), is hereby repealed.

In view of above changed position of law as amended / substituted, renaming of the Institutions, the old reference of University of Islamabad and of the University Grants Commission in the Pakistan Study Centers Act, 1976 requires to be changed with their new names of Quaid-e-Azam University and the Higher Education Commission by amending the said Act.

A comparative statement of the existing and amended provision of the Pakistan Study Centers Act, 1976 is as under for consideration of the Commission

Legislative Proposal

Existing provisions of the Pakistan Study Centers Act, 1976	Proposed amendment
<p>2. Definitions. (c) "Commission" means the University Grants Commission;</p> <p>(e) "Institute" means the National Institute of Pakistan Studies, University of Islamabad.</p>	<p>2. Definitions. (c) "Commission" means the Higher Education Commission;</p> <p>(e) "Institute" means the National Institute of Pakistan Studies, Quaid-e-Azam University.</p>
<p>3. Establishment of Centre and the Institute. As soon as may be after the commencement of this Act, the Federal Government may by</p>	<p>3. Establishment of Centre and the Institute. As soon as may be after the commencement of this Act, the Federal Government may by</p>

notification in the official Gazette, establish a Pakistan Study Centre in a University specified in the notification and the National Institute of Pakistan Studies in the University of Islamabad.	notification in the official Gazette, establish a Pakistan Study Centre in a University specified in the notification and the National Institute of Pakistan Studies in the Quaid-e-Azam University .
--	--

**(vi) Amendment in Sections 203
and 212 of the Pakistan Penal
Code, 1860**

Amendment in Sections 203 and 212 of the Pakistan Penal Code

The Pakistan Penal Code, 1860 has remained constantly under consideration for making it upto date according to the changing needs to the society. However, section 203 and section 212 of the said Code still contain some obsolete provisions, which need to be properly amended. Sections 203 and 212 read as under: -

Section 203. – Giving false information respecting an offence committed: -
Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation: - In section 201 and 202 in this section the word “offence” includes any act committed at any place out of Pakistan, which, if committed in Pakistan, would be punishable under any of the following sections, namely, 302, 304, 382, 393, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

Section 212. – Harboursing offender: -
Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

If a capital offence: shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine,

If punishable with imprisonment for life, or with imprisonment: and if the offence is punishable with imprisonment for life or with imprisonment which may extend to ten

years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine,

And if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

“Offence” in this section includes any act committed at any place out of Pakistan, which, if committed in Pakistan, would be punishable under any of the following sections, namely, 302, 304, 382, 393, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460: and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in Pakistan.

Exception: - This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Section 203 and 212 of the Pakistan Penal Code, 1860 find place in Chapter XI which deals with false evidence against public justice. Section 203 provides punishment for a person who gives false information respecting an offence which he knows to have been committed. The word “offence” punishable under this section includes as per “Explanation” to the said section any act punishable under certain sections of the Pakistan Penal Code mentioned therein which include section 304. Similarly section 212 provides punishment for a person who harbours or conceals an offender with the intention of screening him from legal punishment. The word “offence” in this section includes any act punishable under certain sections of the Pakistan Penal Code mentioned therein which also include section 304.

Sections 299 to 338 of Chapter XVI of the Pakistan Penal Code, 1860 relating to offences affecting the human body were substituted with new sections 299 to 338-H in 1997 vide the Criminal Law (Amendment) Act No. II of 1997. After the enactment of the said Act the previous sections, which have been substituted, have lost not only their validity but they were also totally different from the existing provisions. The then section 304 before substitution was about punishment for culpable homicide not amounting to murder, whereas the existing section 304 now relates to proof of Qatl-i-Amd liable to Qisas and is no more related to punishment so that the false information of its commission or the Harboring of the committer of such offence may be made punishable under section 203 and 212 of the Pakistan Penal Code, 1860. However, the existing section 308 of the Pakistan Penal Code, which relates to punishment in Qatl-i-Amd not liable to Qisas, now serves the purpose of the then section 304. It is therefore proposed that the figure "304" in "Explanation" to section 203 and in the definition of "offence" in section 212 may be substituted with the figure "308"

Comparative Table follows: -

Comparative Table

Existing Provisions of P.P.C	Amended Provisions
<p>Section 203. - Giving false information respecting an offence committed: Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.</p> <p>Explanation: In section 201 and 202 in this section the</p>	<p>No Change</p> <p>Explanation: In section 201 and 202 in this</p>

<p>word "offence" includes any act committed at any place out of Pakistan, which, if committed in Pakistan, would be punishable under any of the following sections, namely, 302, 304, 382, 393, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.</p>	<p>section the word "offence" includes any act committed at any place out of Pakistan, which, if committed in Pakistan, would be punishable under any of the following sections, namely, 302, 308, 382, 393, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.</p>
<p>Section 212. – Harboursing offender: Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,</p> <p>If a capital offence: shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine,</p> <p>If punishable with imprisonment for life, or with imprisonment: and if the offence is punishable with imprisonment for life or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, And if the offence is punishable with imprisonment</p>	<p>No Change</p> <p>No Change</p> <p>No Change</p>

which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

“Offence” in this section includes any act committed at any place out of Pakistan, which, if committed in Pakistan, would be punishable under any of the following sections, namely, 302, **304**, 382, 393, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460: and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in Pakistan.

Explanation: This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

“Offence” in this section includes any act committed at any place out of Pakistan, which, if committed in Pakistan, would be punishable under any of the following sections, namely, 302, **308**, 382, 393, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460: and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in Pakistan.

No Change

A
Bill

further to amend the Pakistan Penal Code 1860

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860, for the purposes hereinafter appearing.
It is hereby enacted as follows.

1. **Short title and commencement.**-(1) The Act may be called the Pakistan Penal Code (Amendment) Act, 2008.

(2) It shall come into force at once.

2. **Amendment of Section 203, Act XLV of 1860.** – In the Pakistan Penal Code, 1860 (Act XLV of 1860), hereinafter referred to as the said Act, in section 203, in Explanation, for the figure “304” the figure “308” shall be substituted.

3. **Amendment of Section 212, Act XLV of 1860.** – In the said Act, for the figure “304” the figure “308” shall be substituted.

**(vii) Amendment in the Commercial
Documents Evidence
Act, 1939**

Amendment in the Commercial Documents Evidence Act, 1939

The Commercial Documents Evidence Act, 1939, was enacted to amend the Law of Evidence with respect to certain commercial documents as enumerated in part-I and part-II of the schedule to the said Act. Amendments have been made in the said Act, especially in 1949 after the creation of Pakistan for making it compatible with the changing needs of the society. However, amendments are still required to be made in the said Act after the repeal of some other laws which have been referred in the said Act, such as the Evidence Act, 1872 and the Merchant Shipping Act, 1923.

In sections 2 and 3 of the said Act reference has been made to the Evidence Act, 1872, which has been repealed after the promulgation of the Qanoon-e-Shahadat Order, 1984 vide Article 166 of the said Order, so the words "Evidence Act, 1872" in the said sections may be substituted with the words "Qanoon-e-Shahadat Order, 1984" and the words "that Act" occurring in the said sections may be substituted with the words "that Order". Furthermore, in the documents provided in part-I and part-II of the Schedule to the said Act, which a court is required under section 3 to presume as accurate, reference has been made to some repealed laws. In part-I at serial number 8 reference has been made to the Merchant Shipping Act, 1923 which has now been repealed vide section 610 of the Merchant Shipping Ordinance 2001. So the words "Merchant Shipping Act, 1923 in serial No.8 may be substituted with the words "Merchant Shipping Ordinance, 2001". Likewise in serial No. 23 of part-I and serial No. 21 of part-II reference has been made to the Companies Act, 1913 which has been repealed vide section 508 of the Companies Ordinance, 1984. So the words "Companies Act, 1923" may be substituted with the words "Companies Ordinance, 1984". Similarly, similar consequential amendments will also be made to the Schedule of the said Act.

Comparative table for amendment in the law follows: -

Existing Provisions	Amended Provisions
Section 2. Statements of relevant facts in scheduled documents to be themselves relevant facts. -	Section 2. Statements of relevant facts in scheduled documents to be themselves relevant facts. -

<p>Notwithstanding anything contained in the Evidence Act, 1872, statements of facts in issue or of relevant facts made in any document included in the schedule as to matters usually states in such document shall be themselves relevant facts within the meaning of that Act.</p> <p>Section 3. Presumption as to genuineness of documents. For the purposes of the Evidence Act, 1872, and notwithstanding anything contained therein, a Court –</p> <p style="padding-left: 40px;">(a) shall presume, within the meaning of that Act, in relation to documents included in Part-I of the schedule, and</p> <p style="padding-left: 40px;">(b) may presume, within the meaning of that Act, in relation to documents included in Part-II of the schedule, -</p> <p>That any document purporting to be a document included in Part-I or Part-II of the schedule, as the case may be, and to have been duly made by or under the appropriate authority, was so made and that the statements contained therein are accurate.</p>	<p>Notwithstanding anything contained in the Qanoon-e-Shahadat Order, 1984, statements of facts in issue or of relevant facts made in any document included in the Schedule as to matters usually states in such document shall be themselves relevant facts within the meaning of that Order.</p> <p>Section 3. Presumption as to genuineness of documents. For the purposes of the Qanoon-e-Shahadat Order 1984, and notwithstanding anything contained therein, a Court –</p> <p style="padding-left: 40px;">(a) shall presume, within the meaning of that Order, in relation to documents included in Part-I of the Schedule, and</p> <p style="padding-left: 40px;">(b) may presume, within the meaning of that Order, in relation to documents included in Part-II of the Schedule,</p> <p>That any document purporting to be a document included in Part-I or Part-II of the Schedule, as the case may be, and to have been duly made by or under the appropriate authority, was so made and that the statements contained therein are accurate.</p>
<p>Schedule (Part-I)</p> <p>(1) – (7)</p> <p>.....</p> <p>8. Certificates A and B, issued under the Merchant Shipping Act, 1923.</p>	<p>Schedule (Part-I)</p> <p>(1) – (7)</p> <p>.....</p> <p>8. Certificates A and B, issued under the Merchant Shipping Ordinance, 2001.</p>

(9)	-	(22)	(9)	-	(22)
<p>.....</p> <p>23. Copy, certificate by the Registrar of Companies, of the memorandum or the articles of association of a company, filled under the Companies Act, 1913.</p> <p>Part-II</p>			<p>.....</p> <p>23. Copy, certificate by the Registrar of Companies, of the memorandum or the articles of association of a company, filled under the Companies Ordinance, 1984.</p> <p>Part-II</p>		
(1)	-	(20)	(1)	-	(20)
<p>.....</p> <p>21. Copy, certificate by the Registrar of Companies of the Balance Sheet, Profit and Loss Account, and audit report of a company, filed with the said Registrar under the Companies Act, 1913, and the rules made thereunder.</p>			<p>.....</p> <p>21. Copy, certificate by the Registrar of Companies of the Balance Sheet, Profit and Loss Account, and audit report of a company, filed with the said Registrar under the Companies Ordinance, 1984, and the rules made thereunder.</p>		

**(viii) Amendments in the Civil
Courts Ordinance, 1962**

Amendments in the Civil Court Ordinance 1962

The Civil Court Ordinance 1962 was promulgated to amend and consolidate the law relating to Civil Courts in the provinces. The basic object of this enactment was to secure a uniform system of courts and procedure throughout the country and remove anomalies existed in the previous enactments. The Civil Court Ordinance 1962 is continuously under review to make it compatible with the changes/needs of the society and for safe administration of justice. Section 11 of the Ordinance empowers the High Court to confer jurisdiction of a judge of the Courts of Small Causes upon any Civil Judge. For convenience, the relevant section is reproduced herein below:-

11. Power to invest Civil Judges with Small Cause Courts jurisdiction.

The High Court may, by notification within such local limits as it thinks fit, confer upon any Civil Judge the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Causes Courts Act, 1887 (IX of 1887), for the trial of suits, cognizable by such Courts, up to such value not exceeding one thousand rupees as it thinks fit.

The subject section deals with the powers to confer jurisdiction of Small Causes established under the Provincial Small Causes Courts Act 1887 but the said Act has been repealed vide section 42 of the Small Claims and Minor Offence Courts Ordinance 2002.

As per section 4 of the Small Claims and Minor Offence Courts Ordinance 2002, the Government in consultation with the High Court may establish one or more Small Claims and Minor Offences Courts in each district or such other place or places as it may deem necessary to be presided over by a Civil Judge-cum-Judicial Magistrate. Section 5 of the Ordinance defines the Jurisdiction of the Small Claims and Minor Offences Courts whereas section 6 to 38 deals in detail with the procedure to be followed in dealing with civil cases/suits, its conclusion, execution and appeals.

It is pertinent to mention here that the provisions of the Small Claims and Minor Offence Courts Ordinance 2002 have given

overriding effect on other laws on the subject for the time being in force. For reference, the same is reproduced herein below:-

3. Ordinance to override other laws.- *The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.*

It is submitted that despite repeal of the Provincial Small Causes Courts Act, 1887 its reference still exists in the following provisions of the Civil Court Ordinance 1962 which needs to be deleted.

3. Classes of Courts. Besides the Court of Small Causes established under the Provincial Small Causes Courts Act, 1887 (IX of 1887) and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely:-

- (a) the Court of the District Judge;
- (b) the Court of the Additional District Judge; and
- (c) the Court of the Civil Judge;

11. Power to invest Civil Judges with Small Cause Courts jurisdiction. *The High Court may, by notification within such local limits as it thinks fit, confer upon any Civil Judge the jurisdiction of a Judge of Court of Small Causes under the Provincial Small Cause Courts Act, 1887 (IX of 1887), for the trial of suits, cognizable by such Courts, up to such value not exceeding one thousand rupees as it thinks fit.*

24. Civil Courts having unlimited jurisdiction regarding value to try suits against the State and its servants in their official capacity. (1) No Civil Court, not having jurisdiction in original suits without limit as regards value, and no Court of the Small Causes, shall receive, entertain or register any suit in which Pakistan or any of its Provinces or any public officers as defined in clause (17) of sec. 2 of the Code of Civil Procedure, 1908 (V of 1908) in his official capacity is a party.

[Sindh Amendment in Section 24: For sub-sections (1), (2) and (2-A), the following sub-section shall be substituted:-

- (1) (a) No Civil Court not having jurisdiction in original suits without limits as regards value.
 (b) no Court of Small Causes;
 (c) no Civil court lower than the Court of the District Judge, or the Additional District Judge, in a suit ought to be filed by a government servant relating to his service or matters pertaining thereto; shall receive, entertain, or register, any suit in which Pakistan, or any of its Provinces, or any public officer as defined in clause (17) of section 2 of the Code of Civil Procedure, 1908 (V of 1908) in his official capacity is a party:

As per clause (v) of section 6 of the Law and Justice Commission Ordinance 1979, it is one of the functions of the Commission to make recommendations for repeal of obsolete and redundant provisions in the Law. Since the Small Causes Courts Act 1887 has been replaced and the Small Causes Court established under the said Act also stand abolished, therefore, it is suggested that the Commission may make recommendations to the Federal Government for deletion of provisions containing references of Small Causes Courts. Accordingly, the matter is submitted for deliberations.

Legislative proposal

Existing	Proposed
<p>3. Classes of Courts. Besides the Court of Small Causes established under the Provincial Small Causes Courts Act, 1887 (IX of 1887) and the Court established under any other enactment for the time being in force, there shall be following classes of Civil Courts, namely;-</p> <p>(a) the Court of the District Judge;</p> <p>(b) the Court of the Additional District Judge; and</p>	<p>3. Classes of Courts. Besides the Courts established under other enactment for the time being in force, there shall be following classes of Civil Courts, namely;-</p> <p>(a) the Court of the District Judge;</p> <p>(b) the Court of the Additional District Judge; and</p>

<p>(c) the Court of the Civil Judge;</p> <p>11. Power to invest Civil Judges with Small Cause Courts jurisdiction. The High Court may, by notification within such local limits as it thinks fit, confer upon any Civil Judge the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887 (IX of 1887), for the trial of suits, cognizable by such Courts, up to such value not exceeding one thousand rupees as it thinks fit.</p> <p>24. Civil Courts having unlimited Jurisdiction regarding value to try suits against the State and its servants in their official capacity. (1) No Civil Court, not having jurisdiction in original suits without limit as regards value, and no Court of the Small Causes, shall receive, entertain or register any suit in which Pakistan or any of its Provinces or any public officers as defined in clause (17) of sec. 2 of the code of Civil Procedure, 1908 (V of 1908) in his official capacity is a party.</p> <p>Provided that in the Karachi District any such suit, if the value thereof does not exceed twenty-five thousand rupees, may be instituted in the Court of the District Judge, the Additional District Judge or a</p>	<p>(c) the Court of the Civil Judge;</p> <p>Omitted</p> <p>24. Civil Courts having unlimited Jurisdiction regarding value to try suits against the State and its servants in their official capacity. (1) No Civil Court, not having jurisdiction in original suits without limit as regards value, and no Court of the Small Causes, shall receive, entertain or register any suit in Pakistan or any of its Provinces or any public officers as defined in clause (17) of sec.2 of the code of Civil Procedure, 1908 (V of 1908) in his official capacity is a party.</p> <p>No change</p>
---	--

Civil Judge of the First Class, and in the High Court where the value of the suit exceeds twenty-five thousand rupees.

(2) In every such case the plaintiff shall be referred to the Court of the Civil Judge having jurisdiction in original suits without limit as regard value and such suit shall be instituted only in the Court of such civil Judge and shall be heard at the headquarters of the district.

No change

(2A) Notwithstanding any thing contained in sub-sections (1) and (2) in Karachi District, any such suit, if the value thereof does not exceed [five lac rupees] may be instituted in and be tried by the Court of the District Judge, the Additional District Judge or Civil Judge of the First Class and where the value of the suit exceeds (five lac rupees) it shall be instituted in and be tried by the High Court.

No change

(2B) The High Court may transfer any civil suit, whether instituted before or after the coming into force of the Civil Courts (Amendment) Act, 1963, and whether pending before it or in any other Court, which under the provisions of sub-section (2-A) may be tried by a Civil Court constituted under this Ordinance, to such Civil Court, and such suit shall thereupon be tried by such Civil Court.

No Change

<p>(3) Nothing in this section shall be deemed to apply to a suit relating to the affairs of a Government Railway or to any suit merely because a public officer is a party thereto, in his capacity as--</p>	<p>No Change</p>
<p>(a) a member of a local authority; or</p>	<p>No Change</p>
<p>(b) curator, guardian, manager or representative of a private person or estate in virtue of an appointment, delegation, declaration or exercise of powers under;-</p>	<p>No Change</p>
<p>(i) Order XXXII, rule 4 (4) of the Code of Civil Procedure, 1908 (V of 1908),</p>	<p>No Change</p>
<p>(ii) Section 195 of the Succession Act, 1925 (XXXIX of 1925)</p>	<p>No Change</p>
<p>(iii) Section 69 or 71 of the Lunacy Act, 1912 (IV of 1912)</p>	<p>Section 33 of the Mental Health Ordinance 2001.</p>
<p>(iv) Section 7, 18 or 42 of the Guardians and Wards Act, 1890 (VII of 1890); or</p>	<p>No change</p>
<p>(v) Any provision or any (Punjab) enactment relating to Court of Wards.</p>	<p>No change</p>
<p>Sindh Amendment: In section 23, for the words "five lacs of rupees" wherever occurring, the words "thirty lacs of rupees" shall be substituted.</p>	<p>No change</p>
<p>Sindh Amendment: For sub-sections (1), (2) and (2-A), the following sub-sections shall be substituted:-</p>	<p>No Change</p>
<p>(1), (a) No Civil Court not having jurisdiction in original suits without limits as regards value.</p>	<p>No change</p>

<p>(b) No court of Small Causes; (c) No Civil Court lower than the Court of the District Judge, or the Additional District Judge, in a suit ought to be filed by a government servant relating to his service or matters pertaining thereto; shall receive, entertain, or register, any suit in which Pakistan, or any of its Provinces, or any public officer as defined in clause (17) of Section 2 of the Code of Civil Procedure, 1908 (V of 1908) in his official capacity is a party:</p>	<p>omitted No change</p>
<p>Provided that in the Karachi District:-</p>	<p>No change</p>
<p>(a) any such suit not being a suit specified in clause (c) if the value thereof does not exceed (five lacs rupees), may be instituted in the Court of the District Judge, the Additional District Judge, or a Civil Judge of the First Class and in the High court where the value of the suit exceeds (five lacs rupees)'</p>	<p>No change</p>
<p>(b) a suit as specified in clause (c) may be instituted in the Court of the District Judge or the Additional District Judge, if the value thereof does not exceed (five lacs rupees) and in the High Court where the value exceeds (five lacs rupees),</p>	<p>No change</p>
<p>(2) (a) In every such case except a suit as specified in clause (c) of sub-section (10),</p>	<p>No change</p>

the plaintiff shall be referred to Court of the Civil Judge having jurisdiction in original suits without limits as regards value and such suit shall be instituted only in the Court of such Civil Judge.

(b) In every such case as specified in clause (c) of sub-section (1), the plaintiff shall be referred to the Court of the District Judge having jurisdiction and such suit shall be instituted only in Court of such District Judge.

(2A) Notwithstanding anything contained in sub-sections (1) and (2) in the Karachi District:-

(a) Any such suit not being a suit specified in clause (c) of sub-section (1), the value whereof does not exceed (five lacs rupees) may be instituted in and tried by the Court of the District Judge, the Additional District Judge or the Civil Judge of the First Class, and where the value of the suit exceeds (five lacs rupees), it shall be instituted in and be tried by the High Court;

(b) A suit as specified in clause (c) of sub-section (1) the value whereof does not exceed (five lacs rupees) may be institute an tried by the Court of the District Judge or the Additional District Judge and where the value of the suit exceeds (five lacs rupees), shall be instituted in and be tried by the High Court.”

No change

No change

No change

No change

**(ix) Omission of Section 7 of the
Code of Civil Procedure, 1908**

Omission of Section 7 of the Code of Civil Procedure 1908

The Code of Civil Procedure has remained constantly under revision and amendments have been made in the said Code from time to time for making it compatible with the changing needs of the society for the dispensation of civil justice. It is one of the function of the Law and Justice Commission of Pakistan to make recommendations to the Government for reforming the laws and for repealing obsolete Laws/ Provisions. However, section 7 of the said Code still contains obsolete law provision, which needs to be omitted.

In the Section 7 of the Code of Civil Procedure 1908, reference has been made to the Provincial Small Causes Courts Act 1887. The said Act has been repealed and replaced with the Small Claims and Minor Offences Courts Ordinance, 2002.

Section 7 CPC is reproduced hereunder for reference:-

Section 7. Provincial Small Cause Courts- The following provision shall not extend to courts constituted under the Provincial Small Cause Courts Act 1887, or to Courts exercising the jurisdiction of a Court of Small Causes under the said Act, that is to say;

- a) so much of the body of the Code as relates to;;
 - i) Suits excepted from the cognizance of a Court of Small Causes,
 - ii) the execution of decrees in such suits,
 - iii) the execution of decrees against immovable property; and
- b) the following sections, that is to say;
 - section 9, sections 91 and 92.
 - Sections 94 and 95 so far as they authorize or relate to—
 - i) order for the attachment of immovable property,
 - ii) injunctions,
 - iii) the appointment of receiver of immovable property, or
 - iv) the interlocutory orders referred to in clause (e) of section 94 and sections 96 to 112 and 115.

The Small Claims and Minor Offences Courts Ordinance 2002 provides its own Procedure of trial with regards to civil matters overriding the procedure prescribed in the Civil Procedure Code

except as contains under section 37 of the Ordinance reading as follow.

Section 37

Power of the Court- Subject to this ordinance, the Court shall for the purpose of any case under this Ordinance have powers of a Civil Court under the Code of Civil Procedure 1908 (Act of 1908), in respect of the matters, namely.

- (a) Summoning and enforcing the attendance of any person and examination him on oath.
- (b) Compelling Production or discovery of documents.
- (c) Local inspection, and
- (d) Issuing Commission for examination of witnesses or documents.

As the Small Claims and Minor Offences Courts Ordinance 2002, excludes the application of Civil Procedure Code to the Courts established under the said Ordinance, therefore, section 7 of Civil Procedure Code which goes without application of any Court, may be repealed. The provision of section 37 of Small Claims and Minor Offences Court Ordinance, 2002 empowers the Courts under the Ordinance itself to exercise the powers of civil courts with respect to the matter enumerated in the said section. The Commission may consider the proposed repeal of section 7 of the Code of Civil Procedure 1908.

Comparative Table

Existing provision	Proposed Provision
<p>Section 7. Provincial Small Cause Courts- The following provision shall not extend to courts constituted under the Provincial Small Cause Courts Act 1887, or to Courts exercising the jurisdiction of a Court of Small Causes under the said Act, that is to say;;</p> <p style="padding-left: 40px;">a) so much of the body of the Code as relates to;;</p>	<p>Omitted</p>

<p>i) Suits excepted from the cognizance of a Court of Small Causes, ii) the execution of decrees in such suits, iii) the execution of decrees against immovable property; and b) the following sections, that is to say;' Section 9. Sections 91 and 92. Section 94 and 95 so far as they authorize or relate to— i) order for the attachment of immovable property, ii) injunctions, iii) the appointment of receiver of immovable property, or iv) the interlocutory orders referred to in clause (e) of section 94 and sections 96 to 112 and 115.</p>	
--	--

**(x) Amendment in Section 486 of
the
Code of Criminal Procedure, 1898**

Amendment in Section 486 of the Code of Criminal Procedure, 1898

The Code of Criminal Procedure 1898 was enacted to provide procedure for punishment and prevention of crimes. The Code lays down the procedure to be followed in investigation, inquiry and trial of an offence whether under Pakistan Penal Code or for any other law for the time being in force. The Code of Criminal Procedure is continuously under review to make it compatible with the changing needs of the society for safe administration of justice. Sections 480 to 485 deal with the contempt of court and empower all courts whether civil, criminal or revenue to punish the offender summarily. Besides, enlisting offences for which action under these sections could be initiated, these sections also prescribes procedure for trial.

Section 485 is the particular provision regarding a witness refusing to answer questions as required under section 179 of Penal Code. An appeal against the conviction and sentence under section 480 and 485 lies under section 486 (1) even where the fine is imposed. For Convenience and reference section 486 is reproduced herein below which reads as under:-

486.---(1) Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appeal able.

(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity

as such Judge, and in other cases may be made to the District Judge.

Sub section 3 ibid provides appellate forum against conviction orders of the Small Causes Courts established under Small Causes Court Act 1887. The said Act has been repealed by section 42 of the Small Claims and Minor Offence Courts Ordinance 2002, which reads as under:-

42. Repeal and savings. --- (1) On coming into force of this Ordinance, the Provincial Small Causes Courts Act, 1887 (IX or 1887), shall stand repealed.

3. The repeal under sub-section (1) shall not-
- (a) affect the previous operation of the law or anything duly done or suffered under the law.
 - (b) Affect any right, privilege, obligation or liability acquired, accrued or incurred under the law;
 - (c) Affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the law;
 - (d) Affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment;

And any such investigation, legal proceedings or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the law had not been repealed; and

- (e) Affect any proceedings pending before any Court instituted before the commencement of this Ordinance and all suits, applications and proceedings connected with those proceedings or arising therefrom shall continue to be heard and disposed of by the Court, including the appellate Court, where they are pending immediately before the commencement of this Ordinance as if the law had not been repealed.

As per section 34 of the aforesaid ordinance in criminal proceedings the court with the powers of Judicial Magistrate 1st class shall follow the procedure as prescribed in the Code of Criminal Procedure 1898 and Qunan-e-Shahdat Order 1984. It is also pertinent to mention here that as per section 39, an appeal against the proceeding before the Small Claims and Minor Offence Courts shall lie to the Court of Sessions. For convenience the relevant section is reproduced herein below:-

39. Appeal in criminal proceedings.-- An appeal in criminal proceedings shall lie to the Court of Sessions within thirty days of conviction;

Provided that an appeal against acquittal shall lie in accordance with the procedure prescribed under the Code of Criminal Procedure, 1898 (Act V of 1898).

Since the Small Causes Court Act 1887 has been repealed and the Small Causes Courts established under the said Act stands abolished, therefore, it is suggested that the Commission may make recommendations to Federal Government for amendment in sub-section 3 of section 486 to replace Small Causes Court with Small Claims and Minor Offences Courts.

Legislative Proposal

Existing	Proposed
<p>486.---- (1) Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appeal able.</p>	<p>No Change</p>
<p>(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may later or reverse the finding, or reduce or reverse the sentence appealed against.</p>	<p>No change</p>

(3) An appeal from such conviction by a Court of Small Causes shall lie to the Court of Sessions for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge.

(3) An appeal from such conviction by a Court of **Small Claims and Minor Offence Court** shall lie to the Court of session for the sessions division within which such Court is situate.

No change

**(xi) Amendment in Specific
Relief Act, 1877**

Amendment in Specific Relief Act, 1877

The Specific Relief Act, 1877 was enacted in 1877 to define and amend the law relating to certain kinds of Specific Relief. The Act is based upon the principles of equity, reason and good conscience; it lays down procedures for specific performance, rectification and rescission of contracts. Besides, providing mechanism for cancellations of instruments it also empowers courts to grant preventive relief through declaratory decrees, injunctions and appointment of Receivers. After partition this Act was adopted vide the Adoption of Central Acts and Ordinances Order 1949 by omitting the expressions like British India, Secretary to State, Crown Representative, Presidency Magistrate and High Court of East Bengal; however, few provisions still contains references of Indian Acts which needs to be amended.

Section 3 defines Settlement as under:-

“Settlement” means any instrument (other than a will or codicil as defined by the (Indian Succession Act) whereby the destination or devolution of successive interests in moveable or immoveable property is disposed of or is agreed to be disposed of:

In clause c of section 4 Indian Succession Act which has been referred as under:

4. Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed—

- a. _____
- b. _____
- c. to affect the operation of the **Indian Registration Act** on documents.

In the subject clauses references haven been made to Indian Succession Act which has been renamed as “The Succession Act” vide Adoption of Central Acts and Ordinances Order 1949. Moreover, in section 39 a reference has been made to Indian Registration Act. For convenience the relevant section is reproduced herein below:-

39. When cancellation may be ordered. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable; and the Court may, in its discretion, so adjudge it to be delivered up and cancelled.

If the instrument has been registered under the Indian Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall not on the copy of the instrument contained in his books the fact of its cancellation.

As per clause (v) of section 6 of the Law and Justice Commission Ordinance 1979, it is one of the functions of the Commission to make recommendations for repeal of obsolete and redundant provisions in the law. Therefore, it is suggested that the Commission may make recommendations to Federal Government for deletion of word Indian from the aforementioned provisions.

Legislative Proposal

Existing	Proposed
<p>3. In this Act, Unless there be something repugnant in the subject or context. "obligation"----- "trust"----- "trustee"----- "settlement" means any instrument (other than a will or codicil as defined by the Indian Succession Act) whereby the destination or devolution of successive interests in moveable or immoveable property is disposed of or is agreed to be disposed of:</p>	<p>No change No change No change "settlement" means any instrument (other than a will or codicil as defined by the Succession Act 1925 whereby the destination or devolution of successive interests in moveable or immoveable property is disposed of or is agreed to be disposed of:</p>

<p>4. Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed--</p> <p>a. to give any right to relief in respect of any agreement which is not a contract;</p> <p>b. to deprive any person of any right to relief, other than specific performance, which he may have under any contract; of</p> <p>c. to affect the operation of the Indian Registration Act on documents.</p>	<p>No Change</p> <p>No Change</p> <p>c. to affect the operation of the Registration Act 1908 on documents.</p>
<p>39. When cancellation may be ordered. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable; and the Court may, in its discretion, so adjudge it to be delivered up and cancelled.</p> <p>If the instrument has been registered under the Indian Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall not on the copy of the instrument contained in his books the fact of its cancellation.</p>	<p>39. When cancellation may be ordered. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable; and the Court may, in its discretion, so adjudge it to be delivered up and cancelled.</p> <p>If the instrument has been registered under the Registration Act 1908, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.</p>

**(xii) Omission of Obsolete
Provisions in the
Code of Civil Procedure, 1908**

Omission of Obsolete Provisions in the Code of Civil Procedure, 1908

The Code of Civil Procedure 1908 has remained constantly under revision and amendments have been made in the said Code from time to time for making it compatible with the changing needs of the society for the dispensation of civil justice. However, it still contains some obsolete provisions which have not been properly amended so far. Such provisions are section 114, order 20, rule 4 order 38, rule 13, order 46, rule 6, 7 and order 50 of the Code of Civil Procedure 1908 wherein reference has been made to the courts established under the Provincial Small Causes Courts Act 1887. The said Act has been repealed and replaced with the Small Claims and Minor Offences Courts Ordinance 2002. The above mentioned provisions of the Code of Civil Procedure 1908 are reproduced hereunder for reference.

Section 114.

Sub-section (1)-(c) by a decision on a reference from a court of small causes.

Order 20.

Rule 4- (1) Judgment of a court of Small Causes need not contain more than the points for determination and the decision thereon.

Order 38.

Rule 13- Nothing in this order shall be deemed to empower any Court of Small Causes to make an order for the attachment of immoveable property.

Order 46.

Rule 6 (1) Where at any time before judgment a court in which a suit has been instituted doubts whether the suit is cognizable by a court of small causes or is not so cognizable, it may submit the record to the High Court with the statement of its reasons for the doubt as to the nature of the suit.

Rule 7(1) Where it appears to a district court that a court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes or not to be so cognizable failed to exercise a jurisdiction vested in it by Law, or exercise a jurisdiction not so vested, the

District court may, and if required by a party shall, submit the record to the High Court with a statement of its reason for considering the opinion for the subordinate court with respect to the nature of the suit to be erroneous.

Order 50.

1. The provisions hereinafter specified shall not extend to courts constituted under the Provincial Small Cause Courts Act-1887, or to Court exercising the jurisdiction of a Court of Small Causes under the said Act, that is to say.

- (a) So much of this schedule as relates to
 - (i) Suits excepted from the cognizance of a court of Small Causes or the execution of decrees in such suits.
 - (ii) The execution of decrees against immovable property or the interest of a partner in partnership property.
- (b) The settlement of issues and
- (c) The following rules and orders,
 - Order II rule 1 (frame of suit)
 - Order x, rule 3 (record of Examination of parties)
 - Order XV, except so much of rule 4 as provides for the pronouncement at once of judgment.
 - Order X VIII, rules
 - Order X VIII, rules 5 to 12 (evidence).
 - Order XLI to XLV (appeals).
 - Order XLVII, rules 2, 3, 5, 6, 7, (review)
 - Order LI
 - Section 114 clause (c) of subsection (1) of the Code of Civil Procedure 1908 Provide a right of review jurisdiction to the Small Causes Courts but the Small Claims and Minor Offences Courts Ordinance 2002 has not provided the right of review, hence it may be repealed.
 - Order 20 rule 4(1) may also be repealed because the said Ordinance has also provided the powers to pronounce the judgment to the Small Claims and Minor Offences Courts and similarly order 38 rule 13 and order 46 rules 6(1) and 7(1) may also be repealed. Furthermore, under order 50 the Provisions specified therein are not extendable to

Courts of Small Causes. It is, therefore, proposed that order 50 of the Code of Civil Procedure may also be repealed.

Comparative table follows

Existing provisions	Proposed provisions
<p>Section 114 (1) (c) by a decision on a reference from a Court of Small Causes.</p>	<p>Omitted</p>
<p>Order 20 Rule 4 (1) Judgment of a Court of Small Causes need not contain more than the points for determination and the decision thereon.</p>	<p>Omitted</p>
<p>Order 38 Rule 13- Nothing in this order shall be deemed to empower any Court of Small Causes to make an order for the attachment of immoveable property.</p>	<p>Omitted</p>
<p>Order 46 Rule 6 (1) Where at any time before judgment a court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the High Court with the statement of its reasons for the doubt as to the nature of the suit.</p>	<p>Omitted</p>
<p>Rule 7 (1) Where it appears to a district court that a court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by a Court</p>	<p>Omitted</p>

of Small Causes or not to be so cognizable failed to exercise a jurisdiction vested in it by Law, or exercise a jurisdiction not so vested, the district court may, and if required by a party shall, submit the record to the High Court with a statement of its reason for considering the opinion for the subordinate court with respect to the nature of the suit to be erroneous.

Order 50

1. The provisions hereinafter specified shall not extend to courts constituted under the Provincial Small Cause Courts Act-1887, or to Court exercising the jurisdiction of a Court of Small Causes under the said Act, that is to say.

- (a) So much of this schedule as relates to
- (ii) Suits excepted from the cognizance of a Court of Small Causes or the execution of decrees in such suits.
- (iii) The execution of decrees against immovable property or the interest of a partner in partnership property.
- (b) The settlement of Issues and
- (c) The following rules and orders,
Order II rule 1 (frame

Omitted

<p>of suit) Order x, rule 3 (record of examination of parties) Order XV, except so much of rule 4 as provides for the pronouncement at once of judgment. Order X VIII, rules Order X VIII, rules 5 to 12 (evidence). Order XLI to XLV (appeals). Order XLVII, rules 2, 3, 5, 6, 7, (review) Order LI</p>	
--	--

**(xiii) Amendment in Sections 44 and
45 of the
Code of Criminal Procedure, 1898**

Amendment in Sections 44 and 45 of the Code of Criminal Procedure, 1898

Sections 44 and 45 of the Code of Criminal Procedure 1898 find place in chapter IV of the Code which deals with information of certain offences to the Magistrate, the police officer and persons making arrests. Under section 44 every person aware of the commission or of the intention of any person to commit any offence punishable under any of the provision of Pakistan Penal Code mentioned in the said section, is liable to give information to the nearest Magistrate, Justice of the Peace or Police Officer. Similarly under section 45 every village headman, village accountant, village watchman, village police officer, owner or occupier of land or his agent and every officer collecting revenue etc are liable to communicate to the nearest Magistrate, Justice of the Peace or to the police officer incharge of the nearest police station, information about the permanent or temporary residence of notorious persons, thugs, robbers, escaped convicts or proclaimed offenders or information about certain offences punishable under the Pakistan Penal Code Section 44 and 45 read as under:-

44. Public to give information of certain offences :- (1)

Every person aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following section of the Pakistan Penal Code, namely, 121, 121A, 122, 123, 123A, 124, 124A, 125, 126, 13, 143, 144, 145, 147, 148, 153A, 161, 162, 163, 164, 165, 168, 170, 231, 232, 255, 302, 303, 304, 304A, 364A, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, 460 and 489A, shall in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate justice of the Peace or police officer of such commission or intention.

(2) -----

45. Village headman, Accountants, landholders and other bound to report certain matters:- (1) Every Village-headman village-accounts, village-watchman, village police officer, owner or occupier of land, and the agent of any such owner or occupier incharge of the management of the land and every officer employed in the collection of revenue or rent of land of the part of the Government of the Court of Wards, shall forthwith

communicate to the nearest Magistrate or Justice of the Peace or to the officer incharge of the nearest police station whichever is the nearer, any information which he may possess respecting:-

(a)----- (d)

(e) the commission of, or intention to commit, at any place out of Pakistan near such village any Act which, if committed in Pakistan would be an offence punishable under any of the following section of the Pakistan Penal Code namely , 231, 232, 233, 234, 235, 236, 237, 238, 320, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 420, 435, 436, 449, 450, 457, 458, 459, 460, 489A, 489B, 489C and 489D;

(f) -----

(2) In this section –

(i) "Village" including village-lands; and

(ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Federal Government in any part of Pakistan, in respect of any act which if committed in Pakistan, would be punishable under any of the following section of Pakistan Penal Code, namely, 302, 304, 382, 392, 393, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

(2) -----

Sub-section (1) of section 44 make liable every person aware of the commission or the intention of any person to commit any offence punishable under the provisions of Pakistan Penal Code mentioned in the said sub-section to inform the nearest Magistrate, Justice of the peace or the police officer of such commission or intention. Such offences include offence against the state (sections 121, 122, 123, 124, 125, 126, and 130) offences against the public tranquility (section 143, 144, 145, 147, 148, 153A) offences by or against public servants (sections 161, 162, 163, 164, 165, 168 and 170) offence relating to coins and Government stamps (section 231, 232 and 255) offences against the human body (sections 302, 303, 304 and 304A) offences of kidnapping, abduction, slavery and forced labour

(section 364A) offences against the property (section 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, and 436, 449, 450, 456, 457, 458, 459, 460) and offences relating to documents and to trade or property marks (section 489A).

These provisions i.e. sub-section (1) of section 44 was substituted in 172 under the Law Reforms Ordinance 1972. In Chapter VI of the Pakistan Penal Code, relating to offences against the state, after section 123A a new section 123B, which is about punishment of defiling or unauthorisedly removing the National Flag of Pakistan from Government building etc, has been inserted vide ordinance XLIII of 1984, so figure 123B also need to be inserted in sub-section (1) of section 44 of the Code of Criminal Procedure after figure 123A. Similarly, sections 299 to 338 of chapter XVI relating to offences affecting the human body have been substituted with new sections 299 to 338H vide the Criminal Law (Amendment) Qisas and Diyat Ordinance XXXIX of 1993. So the previous sections which have been substituted have lost their validity. After this substitution resultant amendment was required in sub-section (1) of section 44 as some of the substituted sections of Pakistan Penal Code are totally different from the previous one like section 304 which is now relating to proof of Qati-e-Ahmd liable to Qisas and is no more related to punishment so that the information of its commission may be given to Magistrate or police officer. Similarly, section 304A was about causing death by negligence which section no more exists in the law after the substitution of the concerned provisions vide the Criminal law (Amendment) Qisas and Diyat Ordinance 1993. So the said figures i.e. 304 and 304A need to be deleted from the said sub-section 1 of section 44 Cr.P.C.

The same amendment/deletion of figure 304 is required to be made also in clause (e) of sub-section (1) and clause (ii) of sub-section (2) of section 46 on the same grounds.

It is therefore, proposed that;

- a. In sub-section (1) of section 44 of the Code of Criminal Procedure 1898, after figure 123A, figure 123B may be inserted.
- b. In clause (e) of sub-section (1) of section 45 of the said Code, figure **304 and 304A** may be deleted.

- c. In clause (ii) of sub-section 45 of the said Code, figure 304 may be deleted.

Comparative table is enclosed.

Comparative Table

Existing	Amended
<p>44. Public to give information of certain offences.- (1) Every person aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Pakistan penal Code, namely, 121, 121A, 122, 123, 123A, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 153A, 161, 162, 163, 164, 165, 168, 170, 231, 232, 255, 302, 303, 304, 304A, 364A, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, 460 and 489A, shall in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate, Justice of the Peace or Police Officer of such commission or intention.</p>	<p>44. Public to give information of certain offences.- (1) Every person aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Pakistan penal Code, namely, 121, 121A, 122, 123, 123A, 123B 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 153A, 161, 162, 163, 164, 165, 168, 170, 231, 232, 255, 302, 303, 364A, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, 460 and 489A, shall in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate, Justice of the Peace or Police-officer of such commission or intention.</p>
<p>45. Village headman, accountants, landholders and other bound to report certain matters.- (1) Every village-headman, village-accountants, village-watchman, village police-officer, owner or occupier of land, and the agent of any such owner or occupier</p>	<p>45. Village headman, accountants, landholders and other bound to report certain matters.- (1) Every village-headman, village-accountants, village-watchman, village police-officer, owner or occupier of land, and the agent of any such owner or occupier</p>

incharge of the management of the land and every officer employed in the collection of revenue or rent of land on the part of the Government of the Court of Wards, shall forthwith communicate to the nearest Magistrate or Justice of the Peace or to the officer incharge of the nearest police station whichever is the nearer, any information which he may possess respecting.-

(e) the Commission of, or intention to commit, at any place out of Pakistan near such village any act which, if committed in Pakistan would be an offence punishable under any of the following sections of the Pakistan Penal Code, namely, 231, 232, 233, 234, 235, 236, 237, 238, 302, **304**, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, 460, 489A, 489B, 489C and 489D ;

(2) In this section -

- (i) "village" includes village-lands; and
- (ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Federal Government in any part of Pakistan, in respect of any act which if committed in Pakistan,

incharge of the management of the land and every officer employed in the collection of revenue or rent of land on the part of the Government of the Court of Wards, shall forthwith communicate to the nearest Magistrate or Justice of the Peace or to the officer incharge of the nearest police station whichever is the nearer, any information which he may possess respecting.-

(e) the Commission of, or intention to commit, at any place out of Pakistan near such village any act which, if committed in Pakistan would be an offence punishable under any of the following sections of the Pakistan Penal Code, namely, 231, 232, 233, 234, 235, 236, 237, 238, 302, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, 460, 489A, 489B, 489C and 489D ;

(2) In this section -

- (i) "village" includes village-lands; and
- (ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Federal Government in any part of Pakistan, in respect of any act which if committed in Pakistan, would be punishable

<p>would be punishable under any of the following sections of the Pakistan Penal Code, namely, 302, 304, 308, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.</p>	<p>under any of the following sections of the Pakistan Penal Code, namely, 302, 308, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.</p>
--	--

**(xiv) Amendment in the Payment of
Wages Act, 1936**

Amendment in the Payment of Wages Act, 1936

The payment of wages Act, 1936 was enacted to regulate the payment of wages to certain classes of persons employed in Industry, Factory and Commercial Establishment. The said Act has been amended time to time for making the law compatible with the changing needs of the society but it still contains some redundant and obsolete references which need to be replaced and some other changes are also required in the law which is the need of the time. In section 7 clause (I) reference has been made to the Income Tax Ordinance, 1979. The said Ordinance has been repealed vide section 238 of the Income Tax Ordinance, 2001, and section 2 clause (37) of Income Tax Ordinance, 1979 is now replaced with clause (48) of section 2 of Income Tax Ordinance, 2001. Section 7 clause (I) is reproduced hereunder for reference.

Section 7 (I) deductions for subscriptions to, and for repayment of advances from, any provident funds to which the Provident Fund Act, 1925 applies or any recognized provident fund as defined in clause (37) of section 2 of the Income Tax Ordinance, 1979, or any provident fund approved in this behalf by the Provincial Government, during the continuance of such approval;

In section 8 sub-section (4) the total amount of fine which may be imposed on any employed person shall not exceed an amount equal to half an anna in the rupee of the wages payable to him. But in the current scenario currency in anna form do not exist. It is only in the form of coin of rupee so the amount of fine may be changed into rupee rather than annas. Relevant section is reproduced hereunder for reference.

Section 8 (4) the total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to half an anna in the rupee of the wages payable to him in respect of that wage-period.

In section 15 sub-section (3) if the applicant is one of the heirs of an employed person then the payment of the deducted amount,

or the payment of the delayed wages, together with the payment of compensation which is not exceeding ten rupees. The amount of compensation is not sufficient and it needs to be enhanced up to twenty five thousand rupees. Relevant section is reproduced hereunder for reference.

Section 15 sub-section (3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person or, if the applicant is one of the heirs of an employed person, the payment to such applicant, of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter.

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to-

- (a) a bonafide error or bonafide dispute as to the amount payable to the employed person, or
- (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or
- (c) the failure of the employed person to apply for or accept payment.

Similarly in section 16 sub-section (2) the maximum compensation is ten rupees per head payable to a number of employed persons belonging to the same unpaid group but in the prevailing situation ten rupees is not a sufficient amount. So it may be increased up to twenty five thousand rupees per head. Section 16 is reproduced hereunder for reference.

Section 16-(1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head.

In section 17 sub-section (1) reference has been made to the Industrial Relations Ordinance, 1969. The said ordinance has been repealed after the promulgation of the Industrial Relation Act, 2008. Relevant section is reproduced hereunder for reference.

Section 17- (1) An appeal against a direction made under sub-section (3) or sub-section (4) of section 15 may be preferred, within thirty days of the date on which the direction was made, before the Labor Court constituted under the Industrial Relations Ordinance, 1969, within whose jurisdiction the cause of action to which the appeal relates to arose.

Existing Provisions	Proposed Provisions
Section 7 (l) deductions for subscriptions to, and for repayment of advances from, any provident funds to which the Provident Fund Act, 1925 applies or any recognized provident fund as defined in	Section 7 (l) deductions for subscriptions to, and for repayment of advances from, any provident funds to which the Provident Fund Act, 1925 applies or any recognized provident fund as defined in

clause (37) of section 2 of the Income Tax Ordinance, 1979, or any provident fund approved in this behalf by the Provincial Government, during the continuance of such approval;

Section 8 (4) the total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to half an anna in the rupee of the wages payable to him in respect of that wage-period.

Section 15 sub-section (3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person or, if the applicant is one of the heirs of an employed person, the payment to such applicant, of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter.

clause **(48) of section 2 of the Income Tax Ordinance, 2001**, or any provident fund approved in this behalf by the Provincial Government, during the continuance of such approval;

Section 8 (4) the total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to **2%** of the wages payable to him in respect of that wage-period.

Section 15 sub-section (3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person or, if the applicant is one of the heirs of an employed person, the payment to such applicant, of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding **twenty five**

<p>Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to-</p> <ul style="list-style-type: none"> (a) a bonafide error or bonafide dispute as to the amount payable to the employed person or (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or (c) the failure of the employed person to apply for or accept payment. <p>Section 16-(1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.</p> <p>(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case the</p>	<p>thousand rupees in the latter.</p> <p>No change</p> <p>No change</p> <p>(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid</p>
--	---

<p>maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head.</p>	<p>group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be twenty five thousand rupees per head.</p>
<p>Section 17- (1) An appeal against a direction made under sub-section (3) or sub-section (4) of section 15 may be preferred, within thirty days of the date on which the direction was made, before the Labour Court constituted under the Industrial Relations Ordinance, 1969, within whose jurisdiction the cause of action to which the appeal relates to arose.</p>	<p>Section 17- (1) An appeal against a direction made under sub-section (3) or sub-section (4) of section 15 may be preferred, within thirty days of the date on which the direction was made, before the Labour Court constituted under the Industrial Relations Act, 2008, within whose jurisdiction the cause of action to which the appeal relates to arose.</p>

**(xv) Amendment of Section 97 of
the Code of Civil Procedure, 1908**

Amendment of Section 97 of the Code of Civil Procedure, 1908

Section 97 of the Code of Civil Procedure, 1908, provides for the law in respect of appeal from final decree where no appeal from preliminary decree is preferred, section 97 ibid is reproduced hereunder for reference;-

Section 97:

97. Appeal from final decree where no appeal from preliminary decree.-Where any party aggrieved by a preliminary decree passed after the commencement of this Code does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal which may be preferred from the final decree."

From plain reading of the provisions of section 97 ibid it transpires that the phrase "passed after the commencement of this Code" reflects that the law laid down in the said section was introduced at that time in the Code of Civil Procedure, 1908, hereinafter referral to as the said Code. Thereafter, in section 97 of the said Code, the phrase "passed after commencement of this Code" may have been relevant at the time when the said Code was made. However, after the passage of almost one hundred years the retention of the above referral phrase in the said section 97 does not appear necessary.

Moreover, in case the phrase " passed after the commencement of this Code" is omitted in section 97 of the said Code, there shall not occur any change in the meaning and interpretation of the text of the said section, rather the text of the said section shall become more clear and simplified.

In addition, from legislative drafting point of view, in section 97 of the said Code, the phrase "passed after the commencement of this Code" is unnecessary and the same no longer serves any useful purpose.

It is one of the functions of the Law and Justice Commission of Pakistan under clause (v) of the Law and Justice Commission of Pakistan Ordinance, 1979 (XIV of 179), to make recommendation for repealing obsolete or unnecessary provisions in the laws. Accordingly, it is suggested that the Commission may make recommendation to the Federal

Government that in the Code of Civil procedure, 1908, in section 97, the words "passed after commencement of this Code" may be omitted.

Comparative table as regards the existing provisions and the proposed provisions is as under:-

Comparative Table

Existing Provisions	Amended Provisions
<p>97. Appeal from final decree where no appeal from preliminary decree.- Where any party aggrieved by a preliminary decree <u>passed after the commencement of this Code</u> does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal which may be preferred from the final decree.</p>	<p>97. Appeal from final decree where no appeal from preliminary decree.- Where any party aggrieved by a preliminary decree does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal which may be preferred from the final decree.</p>

**(xvi) Amendment in section 17
of the National Highway Authority,
Act, 1991.**

Amendment in the Section 17 of National Highway Authority, Act, 1991.

National Highway Authority Act, 1991, was enforced to establish National Highway Authority, hereinafter referred as the said Act. The said Act extends to the whole of Pakistan. National Highway Authority was established for planning, development, operation and maintenance of National Highways and strategic roads.

1. Section 17 of the said Act provides exemption to the Authority regarding application of the Industrial Relations Ordinance, 1969. Section 17 of the said Act, is reproduced below:-

17. Industrial Relations Ordinance, 1969 (XXIII of 1969), not to apply. Nothing contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall apply to, or in relation to, the Authority.

1. The Industrial Relations Ordinance, 1969, was repealed and substituted by industrial Relations Ordinance, 2002, vide section 80 of Industrial Relations Ordinance, 2002. The Industrial Relations Ordinance, 2002, was also then repealed after the promulgation of the Industrial Relation Ordinance 2008 (No. XCI of 2008).

It is therefore proposed that section 17 of National Highway Authority Act, 1991, may be amended by substituting the repealed law with the existing legislation i.e. Industrial Relations Ordinance, 2008, and proposal be placed before the Law & Justice Commission of Pakistan for approval of same. The Comparative table below:-

Comparative table.

Existing Provision	Proposed Provision
17. Industrial Relations Ordinance, 1969 (XXIII of 1969), not to apply:- Nothing contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall apply to, or in relation to, the Authority.	17. <u>Industrial Relations Ordinance, 2002 (Ordinance No. XCI of 2002)</u> not to apply:- Nothing contained in the Industrial Relations Ordinance, 2008, (No. XCI of 2002), shall apply to, or in relation to, the Authority.