DISENTANGLING LEGALESE: A LINGUISTIC STUDY OF SELECTED LEGISLATIONS AND JUDGMENTS

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ABSTRACT

Title: Disentangling Legalese: A linguistic Study of Selected Legislations and Judgments

The language used in legal documents is far from the natural language of communication. It is loaded with formal structures, archaic terms, foreign words and lengthy complex syntactic choices. Non-professionals usually face problems understanding these texts. The present study is an attempt to study the legal documents at lexical and syntactic levels. Previously, a lot of researches have been conducted to study the two, however probing linguistic features from the point of view of disentangling the language has never been done before in Pakistan. Using an integrated model by Stanojevic (2011) and Čėsnienė & Daračienė (2014), ten sample legislations and judgements were analysed from textualist perspective (Scalia, 1997). A number of linguistic features were identified and discussed. These features assisted in understanding the construct of Pakistani legalese. Not only that, possible substitutions for these linguistic choices that caused the complexity of the documents under study were also suggested. Using these substitutions the legal texts could be made more comprehensible and lucid to a common citizen. Hence, both the state and its citizens can come at the same level by improving the access of information and justice to a common citizen.

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This thesis is dedicated to my parents who made me who I am today and my best friend who has always been there.

CHAPTER 1

INTRODUCTION

1.1 Introduction

> And give kinsmen their right and to the needy and the traveller and spend not extravagantly (Quran, 17:26).
>
> Fathers, do not exasperate your children; instead, bring them up in the training and instruction of the Lord (Bible Ephesians 6:4 | NIV).
>
> For every reaction, there is an equal but opposite reaction (Newton's third law of motion).
>
> Leges provinciae (146 BC) – a set of laws designed to regulate and organize the administration of Roman provinces.

The aforementioned excerpts advocate that whether it's divine, scientific, social or civilizational laws, all are transcended to human beings through language. Be it Arabic, Hebrew, English, or Latin, language holds rudimentary importance to communicate with the subjects of law.

The mechanism of regularizing a social setup is centuries old and largely depends upon the formulation of laws. These laws are exercised through language. Gibbons (2013, p. 3) writes that the rights and responsibilities of members of society are rooted in language and like every other system, all the concepts used in legal systems are available to us through the medium of language. Language brings the abstract of law into reality. It defines boundaries of do(s) and don't(s) by codifying right and wrong. Building upon the same, Maley (2013, p.11) writes that a larger part of all legal systems is being realized through language. Language is the medium, process, and product for the generation of legal texts whether spoken or written and when in a specific culture, norms are codified standardized and institutionalized, a special kind of legal language develops. This improvised kind of legal language is also called the legalese.

Forensic Linguistics is a discipline that co-relates language and law. Olsson and Luchjenbroers (2013, p.1) define forensic linguistics as "analysis of language that

relates to law, either as evidence or as legal discourse". Here, the language in evidence refers to the attribution of authorship, and the ways meanings are interpreted. The study of language in legal discourse means the linguistic analysis of laws, statutes, judicial proceedings, various legal documents, or even the spoken discourse inside the courtroom. It also includes a range of interactions that are part of the system such as in prisons or police service etc.

Law is said to be a contract between a state and its citizens. This is not limited to civil or criminal laws but also encompasses the common law. Common law refers to the body of law that is based on the precedents set in judicial and tribunal proceedings. Therefore, the term law not only includes bills, statutes, contracts, acts, and ordinances but the judicial decisions as well and consequently, the language used in any such document is labelled as legal language.

Legal language is the style or language used by legal professionals for pursuing their work (Ĉulic-Viskota & Kalebota, May 2012). A lot of research has been done on the language used in any legal discourse and legalese has been analysed for numerous purposes. Throughout the years, legal language also known as legalese is branded for its unique nature. Boleszczuk (2011) states that Legal English is known for its "great formality, wordiness and complexity". It has some unusual features relating to its terminology and sentence structure. For instance, legal English contains difficult words and phrases, including words that are derived from French and Latin. The obscure vocabulary, verbosity, and redundancy further complicate sentence structures. Also, frequent use of passive voices, unusual nominalisations, rare prepositional phrases, lack of punctuations, all add up to undermine clarity. Williams (2017) states that legalese still has structures from "Elizabethian times" and has undergone little change. Due to this complicated nature and orthodox style of writing, movements for use of plain language for legal purposes first emerged in the UK and the US, and later spread to other parts of the globe as well.

Since its inception, the idea of replacing the use of complicated language with plain language in legal documents was welcomed in several parts of the world. Countries have now started adopting the use of plain language in official and legal domains to make it easier for their citizens. People in these countries can now access information first-hand which, seems the need of the hour these days. In the present-day world, the concept of self-reliance is becoming a norm thus leading to the revision of the definition of independence and self-sufficiency. People now prefer

first-hand access to information. For instance, in Washington State, around 65% of family law petitioners come to court without any lawyer (Dyer, et al. 2013) and hence it was suggested that there is a dire need of introducing plain language in legal systems so that judicial procedure is more operative and cost-effective for such litigants. In Pakistan, with the promulgation of The Right of Access to Information Act, in federal as well as provincial territories, the concept of self-reliance is reinforced. Any development regarding the plain language of legal texts can be a significant change here. Making them less dependent on the lawyers will save both their time and money.

The call for simplifying "anachronistic and cluttered style" of writing (Williams, 2017) is not a recent phenomenon and has been debated for decades. Among the initiators of this discussion was Mellinkof (1963). He argued that the language of the law was pompous and wordy. His analysis paved the way for many others to come and its significance led to the emergence of the Plain Language Movement. This school of thought not only criticized traditional legalese but also gave concrete proposals for Plain Language writing style.

Plain English doesn't mean a vernacular variety of languages. It refers to clear, unambiguous use of language that can be understood by people other than lawyers as well. It should be reader-friendly and intelligible to the greatest possible number of readers. As every single citizen is a law entity, legal language should be comprehensible to all. Equal access to justice is one of the basic rights in a fair society where equal access means that not only everyone who is subjected to the law must be aware of the rights and obligations he is entitled to, but also he should be able to understand them well (Dyer, et al. 2013).

Haigh (2018) presents a list of a total of 70 countries where the English language and English common law was somehow relevant. These included countries where English was/is a native language for example in the case of UK, USA, Australia, etc., the countries which were previously colonized states such as Pakistan, India, Bangladesh, developing countries such as Thailand, Malaysia, Singapore, etc., and countries in Africa such as Ghana, Nigeria, etc.

The call for clarification of written legal discourse also made then US President Barrack Obama signed the Plain Writing Act of 2010 which made it obligatory for federal institutions of the US to adopt a more intelligible language for clear communication among the state and citizens where the public can easily

understand (Ballestros-Lintao, et al., 2016). Williams (2017) writes that the Plain Language movement's influence had grown after the 1970s and by the early 1990s countries like New Zealand and Australia had started accepting precepts of the Plain Language Movement. Australia now uses plain English for laws on income tax and road safety (NALA, 2015). In Canada, the plain language movement was initiated back in the 1970s. Since then, the Canadian Bar Association is changing legal documents into plain English. The Canadian government has also launched four model plain language loan discourse papers in March 2001 (Asprey, 2003). Other countries such as Finland and Mexico are also moving towards the Plain English movement (NALA, 2015). The Finnish government is promoting plain English in administration, legislation, and communication with citizens since 2011. Similarly, the Mexican government launched a Citizens' Language Project aiming at making the regulations by the government more comprehensible to its citizens. The project intends to make business for citizens and public servants more easy, secure, and quick.

Putting the above discussion into context, although these above-mentioned countries have native English speakers yet they try to make it more convenient for their people. Contrary to that, in a country like Pakistan, where a vast majority of people are unable to read simple plain English, understanding the complex legalese is no less than an impossibility. The drafters of legal texts do not take the question of the intelligibility of legalese into account while formulating new policies or laws. Consequently, in such an environment, people often are unaware of their rights. A vast majority of people do not understand and the small proportion of people that may understand by putting in a little effort often do not bother because of the effort it requires for understanding.

Sometimes there may arise a need for a non-professional to consult various legal documents such as for gaining knowledge of his rights and duties through legislations, understanding judgments, or in cases where he has to fight for his rights but because of the inability to understand the language, a professional lawyer is being hired, whom one has to pay for one's "entitled rights", even in petty cases. Moreover, in a country where the majority of people are living a hand to mouth life, it is difficult for people to spend hefty amounts of money on hiring lawyers. Therefore, using plain language (English and Urdu both) can be very helpful in improving the easy provision of justice by making communication simpler between rulers and the ruled.

The change that the world now wants from legal language is its movement from a verbose and convoluted language to a more lucid and easy to understand language. Since this change from traditional legalese to plain and simple language can never be done overnight, thus such documents need to be studied from several perspectives. The present study intends to explore the linguistic causes of this inherent complexity of legal texts. It probes the legal texts linguistically to explain how the language used in legal documents is different from the natural one, used for day-to-day communication.

1.2. Statement of Problem

There is a worldwide shift in the trend of the language of legal writings. The world is now adopting plain English for legal and other official documentation for better communication, understanding, and awareness of rights. Hence, a simplified version of legal documents in Pakistan is the need of time. The present study in this regard not only highlights the complex features that characterize legalese but also suggest possible replacements for such lexical and syntactic choices so that difference between the language of legal texts and the English language used in regular conversations is reduced.

1.3. Research Objectives

The research objectives for the present study are:

- To identify the lexical features which make legalese convoluted
- To study the syntactic choices which are responsible for the complexity of legalese

1.4. Research Questions

The present study aims at addressing the following questions:

- What are the lexical features of legal language that contribute towards its convoluted style?
- What syntactic features are responsible for adding complexity to legal documents?

1.5 Significance and Rationale of the Study

The study can serve as a cornerstone for the plain language movement in Pakistan. It can contribute towards the field of linguistics as it may compel linguists to

reconsider characteristics of legal English which might ultimately help to reshape genres by the adoption of plain English in legal as well as other official domains. The study can benefit the public at large as laws are agreements between the state and its citizens and a clearer agreement would result in better communication. Consequently, the chances for misunderstanding and manipulation might reduce.

1.6. Delimitation

Out of all legal documents, only bills, ordinances, and acts that have a direct influence on individual lives or are related to the basic rights of Pakistani citizens are analysed. Other than that, only the judgments of civil cases and human rights cases are studied for a detailed analysis of legalese.

CHAPTER 2

LITERATURE REVIEW

In this chapter, a review of the literature concerning legalese, its complicated structures, and the emergence of the plain language movement are discussed. The known complicated features that give the legal language its characteristic shape are highlighted. It briefly covers the evolution of the movement and how different countries were and are still influenced by it. Finally, previous researches in the area are touched upon and how they are different from the present study is also being explained.

2.1 Legalese

Legal writing is an easily identifiable genre because of its distinctive appearance. The choice and frequency of specific terms and grammatical features make them stand out from the rest. Legal writings have highly specific functions. The word choice matters a lot in the case of legal documents because it can have severe consequences as these lexical choices are a direct result of communicative activity and its purpose (Coulthard & Johnson, 2007, p. 41). This makes the understanding of legal documents even more vital. It is being known for its convoluted nature for a long time and is characterized by its obsolete choice of words, unnecessary wordiness, and cluttered grammatical structures. Other typical features are also used to characterize legalese. These are foreign words, technical terms, nominalisations, redundancy, and verbosity. The complex structuring makes a legal text difficult to grasp for a non-professional. Schane (2006) writes that legal writings get their peculiarity from the specialized terminology and infrequent sentence structure; the two being the fundamental building blocks of every human language. Therefore, to have control over legalese, like every other language, one should have sound command over the legal lexicon and grammar. Schane (2006) also mentions the problem of variance in the meanings of words used in legal language. It is ubiquitous in the case of legal language to have constructions that are vague or uncertain. These words can be misinterpreted in some instances. He also mentions a “syntactic ambiguity” which is caused either by the arrangement of words or grammatical properties. For example, the relationship between a pronoun and the objects it refers to.

Not only the choice of words but several other features such as different meanings, ambiguity, and vagueness are also common. Legal writings appear more complex because legal meanings of various terms may be very different from their general meaning in everyday use. Boleszczuk (2011) expresses the same idea when he states that Legal English is known for its "great formality, wordiness and complexity". It has several unusual features such as relating to its terminology, sentence structure, punctuations. For instance, legal English contains difficult words and phrases that include words from French and Latin languages. The obscure vocabulary, verbosity, and redundancy further complicate the sentence structures. Also, the frequent use of passive voices, unusual nominalisations, rare prepositional phrases, lack of punctuations, all add up to undermine the clarity.

Vagueness is another common issue that is associated with the language used in legal writings. It is one of the significant characteristics of legal texts. Christie (1964) justifies this vagueness in law by saying that this feature of the writing helps law perform the social functions that they need to and that it may not always be a hurdle in precision and effective communication. This vague nature of legalese is responsible for giving laws their required flexibility. It is a crucial tool for achieving much-needed accuracy, flexibility, and precision.

The frequency of occurrence of these features also matters a lot. Coulthard & Johnson (2007, p. 37) write that these formulaic expressions are observed in different legal settings such as the reading of precautions, beginning of an interview, or reading indictment before a court hearing; all signal the formal initiation of a legal process.

Haigh (2018) mentions a few factors that are responsible for making the legalese complex and presents some functional and historical reasons for them. According to him, unlike the everyday practice of language, the purpose of legal language is not to communicate but to regulate behaviours; be it of the state and its under-control people or different parties that intend to have a legal bond. Therefore, it contains obligations and provisions in case of not abidance by the agreed dealings. The "old habits" of writing also contribute to giving the legal language its present form. For instance, as Haigh (2018) writes, sentences of legal language have a particular syntax, they lack punctuation, make use of alien or foreign phrases, and use pronouns other than their usual use, set phrases, and semi-archaic formulations.

The tussle between the comprehension of legalese and plain language is an old phenomenon. There has been a never-ending debate on legal English versus plain English, and there exist prominent figures supporting a particular stance. For instance, Joseph Kimble (2013) proposes the use of plain English and believes that lawyers greatly exaggerate the extent to which legal documents require such complex language. Whereas, Bhatia (2010) justifies this complexity by saying that the language of the law is the way it is because it has to be clear, unambiguous, precise, and all-inclusive.

2.2 Call for Plain Language

Williams (2004) in his work first mentions the characteristics of legal English such as sentence length and complexity of structure and then elaborates how these features have widely been seen for centuries as having an exclusionary function, embedding privileges for legal professionals. Then, since the emergence of the plain language movement, according to Williams (2004), there have been calls for radical changes in legal English. He not only discusses features but also analyses the proposals of plain English and how without downplaying meaning it can be used in legal domains. This cluttered writing style has been criticized for a long time now. It is due to this anachronistic style of writing that according to Williams (2017), has led to the emergence and expansion of movements like the Plain English Movement. These movements aim at introducing a writing style that is more comprehensible to non-professionals or laypersons.

The goal behind the call for plain language originally was to provide access to information and justice to the groups of people who lacked any resources. The use of plain language can help them understand the complicated legalese (Jensen, 2009). The discussion, as mentioned earlier, highlights the structuring and the problems related to the present state of legal language. In short, it causes a feeling of unfamiliarity in the minds of readers, which often leads to communication breakdown among the parties involved. Until and unless, the world adopts a more straightforward writing style, the ambiguities and complexities will continue to contribute towards the manipulation of the weaker party by the powerful one. Therefore, there is a dire need for linguistic reforms in legal texts.

The notion of simplifying legal language is not a new one. There have been people like Hager (1959), Mellinkoff (1963), and Charrow & Charrow (1979) who

had proposed the idea several decades ago. Other proponents include Schane (2006), Maley (2013), Čėsnienė (2014), Haigh (2018), Williams (2004; 2011; 2017), and many others. Hager (1959) had raised linguistic concerns on legal language more than half a century ago, yet the steps being taken to simplify it are negligible. He relates legal documents to a service profession and therefore thinks that they must be simple. According to him, if the attorneys fail to make legal texts reader-friendly their services will become obsolete. The need for using plain language for official and legal documentation becomes even more important in the case of Pakistan, where the judicial system is not strong enough and even the petty cases remain pending for years, decades, or even generations sometimes. The delays that people often have to face are for multiple reasons, weak legislation which does not communicate effectively is one of them.

2.3 Defining Plain Language

Plain language does not mean a vernacular variety of languages. It rather means to use the language that is simple and easily understood by non-professionals. Legal texts are highly specific, and people from a profession other than law have a hard time understanding them. Collins dictionary (2019) defines it as an explicit language without any ambiguity and unnecessary words, which is easy to understand. Stephens (2008) labels it as an understandable and unambiguous language that is the most simple according to the situation. A legal language that gets rid of unnecessary complexity will surely improve the relationship with clients as it fulfils its purpose and is comprehensible for the intended reader. Not only legal language but also any communication which makes use of a more straightforward structure, wording, and design that can be understood by the intended audience in a manner that they can use that information is called plain language (International Plain Language Federation, 2019). Plain language communication is what can be understood by an average person (Jensen, 2009). Gibbons (2004, p. 10) explains this notion of plain language by saying that the purpose of using plain language is to make the legal language look natural and lucid while ensuring that it achieves the same purpose as it does in its complicated form, for which it has to be as unambiguous and as irrefutable as possible. Therefore, to realize this goal, legal language should be clear, consistent, and concise. Using plain language is a type of intra-lingual translation, where a complicated text is simplified for some target audience to reduce the readers'

cognitive processing difficulties (Cornelius, 2010). Thus, it is high time that the masses be told what pacts they are getting into without being aware of them. Information and education are an individual's democratic rights and for the progression of democracy, the participation of an informed and well-educated public about the laws and system is very much meaningful (Stephens, 2010, p. 5). Therefore, plain language provides the public with the necessary information in clear-cut and understandable terms so that they can contribute to the well-being of the system.

2.4 Gift from the Past

After looking at the structure of legal writings over time, it is clear that since the Norman quest, there has been no time in history to date when the language of the English law is per language used commonly by masses of time (Maley, 2013). Latin and English were the languages of written law initially. However, after the Norman invasion of 1066, the French language took over (Haigh, 2018). For the next few centuries, the three languages co-existed at the same time in society. French and Latin occupied the official and legal domains, whereas English was used by the people in their day to day communication. Haigh (2018) then writes about the Statute of Pleading that was enacted in 1356 and stated that the language used during the legal proceeding would be English, but the proceedings still had to be documented in Latin. Gradually, various legal documents adopted the English language at different points in time. For instance, during the early 15th century, wills adopted the English language while statutes had not discarded Latin and French and adopted English alone up until 1498. In 1650, *an Act for Turning the Books of the Law and all Processes and Proceedings in Courts of Justice into English* was enforced, making English officially the language of law (Maley, 2013).

Williams (2017) claims that legalese still has forms retained from "Elizabethian times" and has undergone little change. Maley (2013) also states that there is a misconception that the legal language has become somewhat as it exists today in a rather distinctive form by the Middle Ages and has remained so until date. Legalese has changed, and there had been striking differences in its transition from one period to another in history. Maley (2013) cites Mellinkoff (1963) and states that by the early eighteenth century legal documents had become extremely verbose and prolix. It was so because the more extensive a legal draft would be, the more the drafting fee the lawyer could get. But then the trends of writing evolved and there had

been efforts for simplifying and clarifying the legal writings. Yet despite these efforts of simplification and clarification, even at present-day, there exists a wide gap between English used in a regular, daily conversation and legal discourse.

The second half of the 20th century saw an uprising against the long-prevalent complicated structure of legal languages in contracts; be that between the state and its citizens, consumer and producer, or any other two such relevant parties. Williams (2004) gives an overview of the history of plain language. He goes back to the time of Jonathan Swift, Thomas Jefferson, and Charles Dickens, who in their works had hinted at the not-so-user-friendly use of legal language. Since then till the first half of the 20th century, isolated attempts had been made to simplify legal English. The most significant event in this regard was the publication of Mellinkoff's work, "*The Language and the Law*". He aimed at highlighting the flaws of legal language. There was another such development during the 1960s when movements for consumer rights proliferated. The idea of safeguarding consumer rights utilizing the flow of information emerged in the 20th century. The plain English movement in the second half of the 1970s seemed to be more of an extension or evolution of consumer rights protection. There were laws such as the Truth in Lending Act of 1969 (Felsenfeld, 1981).

Schane (2006, p. 6) called the consumer movement as the start or stimulus to what is now called the movement for simplifying the language of the law so that the masses can understand what terms and conditions they agree to when signing a contract, such as insurance policies, rental leases or promissory notes. William (2004) writes that the first practical implication in this regard came from Citibank that drafted a promissory note. It made use of simple language and was so effective that the media and public started demanding the governmental bodies for more direct drafting of legislation.

Outside America, he writes that the plain English campaign was initiated in Liverpool, in 1979 where realms of government documents were shredded outside Westminster. The movement soon became the Plain Language Movement instead of the plain English movement by the mid-1980s. He writes that the Plain Language movement's influence had grown after the 1970s and by the early 1990s countries like New Zealand and Australia had started accepting precepts of the Plain Language Movement (William, 2017). By the early 1990s, the campaign got so much

momentum that there was a “Fight the Fog” movement as well that was undertaken by Translators services in the European Union. Tiersma (n.d) too, explains the history of the Plain Language movement. According to him, the modern Plain Language movement was triggered after the release of certain documents in different parts of the world at that time. These included promissory notes by Citibank. Australian Sentry Life Insurance Company’s responded to its customers’ survey by publishing an insurance policy that used the language of everyday communication. Her Majesty’s government in the UK also systematically revised some forms after a woman tore up government documents in front of official buildings in Liverpool.

Another major development in this regard was that in 1999 the English court system came up with a new civil procedure in which many time-honoured terms were replaced by their modern-day equivalents. According to Tiersma (n.d), there is a particular category of legal writings that should use the most straightforward possible language. On the whole, legalese has improved a lot from what it looked like two or three decades ago; however, there still remains a long way to go.

2.5 Plain Language in Present-day World

The discussion about the dynamics and evolution of the plain language movement did not stop at the end of the 20th century. According to Williams (2011), the movement had by then, affected the law drafters globally. New Zealand and Australia had already taken measures to modernize or in other words simplify the drafting style, the official websites of governments even endorsed the use of plain language by then. In 1996, South Africa had written its constitution while taking the plain language principles into account to some extent. In recent years there has been a great deal of progress specifically in the US and the UK, for plain language. Moreover, international bodies such as the UN and EU are also adopting plain language principles by changing the long-standing traditional ways of drafting legal documents. Other countries, such as Finland, Mexico, and Canada, etc. are also reforming their drafting styles.

The world is now abandoning the conventional ways of writing down legal documents. There is an increasing worldwide trend of using language that is nearer to what is used most often in normal conversation by people. Surprisingly, this movement is proliferating more in countries where English is already a native language or in countries where there are two national languages, with English being

one of them. However, in a country like Pakistan, not much research is being done or serious efforts are being made for the discussion about the evolution of the plain language movement in the country. Hardly anyone pays any attention to how the habits of the legal drafters have changed over the years or need to change.

2.6 Situation in Pakistan

Emerging in the west, the Plain Language Movement is now spreading rapidly. However, it cannot affect all the countries equally. Specifically, in the third world or developing nations, where other issues such as poverty, etc. get all the limelight and access to justice, is cornered. In Pakistan too, apparently, there are more grave problems to solve than this one hence is often overlooked. The truth, however, remains that if people are aware of their fundamental rights and can access justice equally a lot of the problems will automatically disappear once injustices are ruled out.

Little work has been done on Pakistani legalese from this aspect. Illahi, (2014) explained how the plain language movement could be taken up in Pakistan. According to him, in parts of the world where multilingualism is shared as in Pakistan and India even though English is not the native language, yet their legislative documents are in the English language. There may be several ethnolinguistic and socio-political reasons for that, but Illahi (2014) focused on the prospects of employing plain Urdu language as the legislative language for Pakistan. In his work, he discussed the possibility of reproducing legislative documents in a plain Urdu version, and the step can potentially benefit the masses in terms of making them aware of the statutes. His findings indicated that by then, it was not even possible nor desired by people to use plain Urdu for statutes. The public had shown little interest in availing any advantage from the suggested initiative; therefore, according to Illahi (2014), to continue with the colonial legacy was more appropriate.

Last year, the Pakistan Institute of Parliamentary Studies issued a manual for legislative drafting methods and techniques. Despite being published in this era where the world is embracing the plain language movement, the manual lacked any discussion on the issue under discussion. Ahmed, (2019) in that manual admits that since the English language is the official but not the native language of Pakistan, much energy by the drafters is wasted on choosing the right words or giving a strong impression of the language. He believes that legislative drafting is the “finest piece of

composition". For this purpose one must have strong command over the English language or else the drafter would take so many English lessons during the procedure, that by the time it is finalized it may seem to be an excellent English essay but not a good bill. His words indicate that there still exists the concept of using the "sophisticated" language for writing a bill. The world today is ready to adopt plain language yet in Pakistan, maybe because of the colonial legacy, it using complicated English for legislative drafting is still preferred over the use of plain native language at most or plain English at least for the intelligibility of masses.

2.7 Previous Works

A great number of researches have been conducted in the area under discussion. Ever since the use of plain language became the talk of town initially, Charrow & Charrow (1979) conducted the first empirical, objective linguistic study of understanding the legal language. The study focused on only one type of legal language that is jury instructions. They isolated linguistic features such as aspects of legal lexis, grammar, semantics, and discourse structures which give legalese its shape and form. They devised an empirical psycholinguistic method that could also be used in legislatures, courts, regulatory agencies, and private sector contracts. The work attempted at checking the validity of various hypotheses related to the comprehension of legal documents in general and jury instruction in particular. For this purpose, a linguistic breakdown was done and the performance of the jury was measured. They also focused on ordering effects, conceptual complexity, sentence length, demographic analysis, and linguistic analysis by different constructions. The results indicated that jury instructions were not comprehensible to the primary intended audience, i.e. jurors. It also provided the necessary evidence that it is not only the technical vocabulary but also the grammatical structuring that leads to the complexity of legal language. Besides that, they also concluded that complexity was not limited to the jury instructions only but also other forms of legal writings. The present study thus aims at building upon the same that complexity is not restricted to jury instructions and attempts at a linguistic breakdown of legislations and judgments in the Islamic Republic of Pakistan.

Some works such as Giglio (1997), Matulewska (2018), and Scneiderova (2018) looked at legalese diachronically. They aimed at highlighting different lexical, generic, and functional features of legalese. For example, Giglio (1997) studied the

characteristics of the legal language by randomly selecting three documents depending upon the year, type of complaint, and type of case. He then studied documents from three different points in time to study change over time and to see how a legal language, like all other living languages, was changing. He finally concluded that there may be lawyers who are not very fond of verbosity but still a significant amount of legal professionals oppose simplification. His work was diachronic and did not suggest the changes that could simplify the language. Matulewska (2018) intended at studying the diachronic changes in legal languages, and to present the communication problems resulting from intra- and inter-lingual perspectives in the EU's context. She had discussed how these changes were important for translators specifically. However, the present research focused on what features the legalese in Pakistan possess without taking the translation aspect into account. Similarly, Schneiderova (2018) attempted to explain the complicated nature of legal language and why is it so difficult to understand it. She maintained that legal English at a particular point in time is a result of the socio-political processes going on in a given historical period. The author made use of descriptive and comparative methods and analysed and synthesized data. The results indicated that it is the social and cultural factors that affect legalese and not the lawyers who make it complicated wilfully for monopolizing the legal profession. The work had not taken into account the benefits of plain English.

There is a long list of people who have linguistically analysed legal documents. Čėsnienė (2014) for example, studied the necessary features in both, legalese and plain language to analyse competing for lexical units in the two that ensured clear communication to experts as well as layperson. She identified the lexical choices that were vague and caused misunderstandings, compared means of expression between legalese and plain language, and explored the intra-lingual transfer that may occur between the two. She analysed the English version of the Treaty of Lisbon employing scientific method analysis, comparative analysis, and exemplification method. At the end of her work, she concluded that even though the initial efforts for simplifying language proved to be beneficial, there was still a long way to go. However, it should be done with much care so that meaning and precision do not change at the cost of readers' comprehension. Her work had focused on state-level legal bindings instead of individual level, as the present study aims.

A legal memorandum is different from other genres in a way that it is legal advice from the lawyer but has a strict format, and to write effective memorandums, one should possess sound linguistic skills. Scholars such as Pengsun & Yushan (2014) studied functional features and generic structure of English legal memorandum. By using Swales and Hasan's approach, they explored different levels of legal text. The text was also analysed from its functional perspective for which the Hallidiyan model was employed. The main idea was to focus on the structural descriptions with genre-based approaches. He described what an excellent English legal memorandum should be like, that is they are observed to possess accuracy, simplicity, clarity and concision. The study also contributed towards the understanding of English for Special Purposes instead of discussing the concept of using a simpler language for better understanding.

Another aspect of the language of legal documents, which the proponents of the plain language movement think that needs to be modified, is repetition. It is criticized by many people, including the native speakers of a language. However, Ahmed (2019) even justifies this by stating the repetition of the same word is not a problem, in fact, the change of a word and not repeating it may indicate a change of intentions and the drafter should stick to one word so that not many interpretations can be made of the same word. Being a document from an institute with the sole purpose of providing administrative services, that makes no mention of plain language speaks well about the importance that is given to the idea in Pakistan.

Researches also have underlined the grammatical features such as the use of modal verbs, prepositional phrases, and speech acts. For instance, Fransworth (1967), Trosborg (1991), Lim (2003), Balesteros-Lintao, et al. (2016) and (Petersen, 2017) had worked on different grammatical aspects of legal texts. Regarding language, Balesteros-Lintao et al. (2016) observed that deontic modality is very much seen in the legal contracts of the Philippines. They, therefore, studied how modalities used in contracts were being interpreted by the Philippines and the causes of confusion that appeared during the comprehension stages. The study aimed at investigating which modal or non-modals were used for indicating permission, obligation, and prohibition in contracts in Phillippines. Moreover, the modal "shall" was focused on how it was being used in the said documents. The study made use of ten contracts and then employed textual analysis using Antconc, Microsoft Word, and Excel programs. This indicated that the use of modality in Phillippine contracts was a lot similar to its use in

legal writings across the world. Besides, the use of shall was very often ungrammatical according to normal English usage and thus led to confusion in interpretations. However, the work was culture-specific and gives little or no insight into what is happening in Pakistan. Similarly, Petersen (2017) has studied prepositional phrases using syntactic cartography as a forensic linguistic tool. He analysed two appellate court cases to study head dependence, ordering, optionality, iteratively, deverbal nouns, and copular paraphrase. He discussed the implications of the cartography on drafting jury instructions or future legislation. He also discussed the vagueness and ambiguity of legalese and deliberated the potential linguistic input in different judicial bodies. Even though he talked about jury instructions and legislations, yet the work only focused on one aspect of grammar that is prepositional phrases. Trosborg (1991) performed a pragmatic analysis of legal speech acts in English contract law and found that there were certain patterns in contracts that made it a unique legislative text. There existed different direct strategies that are statements of prohibition and obligation, predominantly. However, conversational English made use of indirect strategies. Khan & Khan (2015) studied the legal register and analysed it on three basic stylistic levels i.e. graphological, lexical, and syntactical levels. Stylistic devices, their influence on the text, and the communicative function of the markers were being analysed. They studied the proceedings of a case filed against parliamentarians having dual nationality as a sample and explained the distinctive features. This research had focused on pedagogical implications, which is to study legal documents to improve the teaching of ESP and so the study did not discuss the plain language perspective.

Apart from constitutional rights, a few other legal documents/ agreements may have a direct impact on an individual's life. One such text is the will; a testament containing instructions regarding his/her property distributions and other acts to be performed after his/her death. The need for understanding such documents is greater than others. Boleszczuk (2011) had conducted a comparative study in this regard. She studied six different wills; three that used legalese and three that used plain language. She worked on the macro and micro structuring of the wills such as its layout and design, lexical and grammatical structuring, and discussed how plain language was easier to understand than legalese. She believes abandoning legalese is possible but there is a lot to do specifically at the micro-level.

In Pakistan, Asghar, Mahmood, & Asghar (2018) studied linguistic variation in the corpus of eight genres of Pakistani legal English and conducted a comparative study of genre categories. They used Biber's model of Multidimensional analysis and found that different linguistic features were associated with different legal genres. The results indicated that along every dimension, each genre was different significantly and therefore, must be viewed from the perspective of goal, purpose, context, and audience. Here too, the plain language aspect was not discussed.

Therefore, in order to make sense of the text, one must have the interpretative skills that help in understanding the legal style. This causes difficulty for a non-expert to understand making him feel distant and deprived. This can be explained by the fact that there exist two views about legal language (Coulthard & Johnson, 2007). The insider's view gives the text its meaning whereas the outsider thinks that the text is deliberately made confusing and doubtful to keep them away and unaware.

Several pieces of research have looked at the understanding and interpretation of legal documents (Wogalter, 1999), (Smith & Richardson, 2005), (Boleszczuk, 2011), (Ahmed & Katsos, 2012) and (Randall, 2014). For instance, Wogalter (1999) presented his work on the sufficiency of legal documents and assessed some of the factors concerned with the practicality of the legal documents. He conducted a study in three phases. During the first phase, participants pointed out the shortcoming that affected the comprehension of some legal documents. Participants of the research identified that most of the time they do not even read the document. They also identified those factors that hindered the comprehension of legal documents. Later participants confirmed the previous findings. During the third phase, he analysed the outcomes of three types of consent forms for research participation: conventional legalistic, a revamped one, and one-line (control). The research concluded with the result that the revamped version increased the comprehension for the participants as compared to that of a conventional one. Although the conventional form was hard to understand one participant did sign it showing consent to be a part of a risky activity. Nevertheless revamped version proved to be helpful as participants availed themselves the opportunity to select the less risky activity. The last part of the study found that comprehension of the consent form was enhanced when few characteristics were induced including informal look, a lesser amount of time pressure and improvised form was facilitated with an oral interpretation of the consent form.

Randall (2014) discusses the case of jurors in US courtrooms. They were read "jury instructions" to facilitate them in their decision-making process. Nevertheless, most of the jurors were unable to understand them completely. Therefore, a group of linguists, judges, and lawyers initiated a process of simplifying legalese. It was an experimental study where six jury instructions were read out followed by true/false questions. The jurors had a comparatively hard time understanding these because of factors that had increased processing load.

Smith & Richardson (2005) discussed Australian taxation laws, which were criticized for being too complex to comprehend. Their study focused on empirical testing of the efficacy of the efforts made to simplify the laws under the amendment of taxation laws in the Tax Assessment Act 1936. The study made use of the method that was used in scrutinizing New Zealand's process of tax simplification. For this, levels of readability of these laws were checked. They concluded that segments of the Income Tax Assessment Act 1997 were easier to read and comprehend as compared to the amended Income Tax Assessment Act 1936. However, the results of the study were not up to the desired mark and it further suggested that the prime objective of simplification has not been achieved yet.

In Pakistan, little work is being done on the legal language and the Plain Language movement has not gained such momentum here. Ahmed & Katsos (2012) had studied how simplification can influence the comprehension of legal texts. The study also aimed at finding out the effectiveness of using textual and visual simplification and if they both were equally helpful. They also studied if the simplification contributed equally to the intelligibility of the laws among both, men and women. They used four types of text for study, which included original without colours, simplified without colours and original with colours, and simplified with colours. The study was experimental and made use of eight such laws. The comprehension was tested employing open-ended questions. The participants included school and college students. Their results contradicted Illahi's (2014). It was possible and advisable to amend or simplify legal texts to improve their comprehension by laypersons. Besides, that by using one formula, legal texts could be simplified in ways that would be in line with the plain language movement, and the modified versions were beneficial for all regardless of their gender.

There have been several proponents of Plain language because we need it in the rapidly-paced modern-day world. Dyer, et al. (2013) studied the use of plain English forms in Family courts of Washington State, US. They claimed that as much as 65 per cent of the people who went to family courts did not accompany the Roulette act by the lawyer. They discussed in detail how it was a part of the Washington State Plan for Integrated Pro Se Services and provided in their work, ethical justifications and practical benefits of using plain English forms during the process. Dyer, et al. (2013) had also recommended that the legal community must have some understanding of the plain language principle. In the US, the idea of using plain language forms is proliferating largely because of the increased number of pro se litigants. This factor, however, is absent in Pakistani society, where litigants need to hire a legal professional and cannot represent themselves in court. Also as Dyer, et al. (2013) mention that owing to the growing socio-culturally and linguistically diverse poverty population the number of pro-se litigants is increasing. Therefore, to make it convenient for such people, plain language forms are becoming a necessary element in an accessible justice system. Practically, this can also be justified as the reading of these documents not just require a person to be literate but he or she must possess some high-level education. In the case of Pakistan, a lower literacy rate, a weak education system and using a foreign language all add up to the problems of understanding legalese. For the masses, the inability to access materials that are required in any legal proceeding or are necessary for court services in one's language is a hindrance causing a great setback in serving justice. Besides, it was stated in the above-mentioned study that this would reduce the cost and the litigants would have to pay fewer visits. The said work had focused on readability standards of forms used in family courts of Washington State from a linguistic point of view and concerning visual accessibility. They concluded that although large-scale institutional changes cannot be made overnight, however, various stakeholders involved are working to make justice more accessible.

Hartley (2000) suggested that the legal documents should not be formulated without consulting the appropriate readers and by the term, "appropriate readers" the people referred to are the ones who are going to get affected by that law the most. For this purpose, Hartley (2000) studied the use of plain language where he made his arguments based on the following seven points:

1. Most of the legal documents are not readable or understandable by a layperson.
2. People with no experience or understanding of legal language may also have to read and understand such documents.
3. Even lawyers may sometimes find legal writings unintelligible.
4. It is not the necessity but the tradition and lack of understanding of the audience that makes legal language obscure.
5. Clarity need not necessarily come at the cost of losing precision.
6. Legal language is difficult to understand because of its complex syntax and not because of the technical vocabulary.
7. Clarity does not mean brevity, simplicity, or "plain English" (emphasis original).

Hartley concluded that reader background knowledge i.e., the schema is vital for interpretation of events even legal documents and agrees to all propositions except the fifth and sixth. According to him, while drafting a legal text, the reader should be focused more rather than the act of writing itself.

Similarly, Langton (2006) highlighted the importance of using plain language for drafting legislation. He also presented a six-staged approach for writing legal text according to plain English principles. He believed that using the said method, the purpose and scope of the legislative text remain unaffected, and the traditional drafting methods are also ignored. His six stages included:

1. Textual surface analysis
2. Cognitive structuring
3. Template labelling
4. Easification
5. Template checking
6. Simplification.

He suggested that this way of writing legislative texts will solve many problems related to unusual grammar, sentence structuring, and other typical issues of information overload. If the above-discussed studies are taken into account, and the situation of decision writings and legislative drafting is analysed, it will become clear

that there is a dire need to reform legal language. Macdonald (2006), in this regard, suggested some plain English principles for writing decisions. These included:

1. Keep the target audience in mind while writing;
2. Avoid convoluted and cryptic legal language;
3. Be clear, unambiguous and avoid vague language;
4. Follow the appropriate structure for the document.

Clear unambiguous legal texts are necessary to avoid any manipulation that may be caused because of the differences in meanings. A lot of literature shows that language and the law have strong links. Law is in written form and justice is served in the light of what is written. There have been claims that legal persons willingly use complex language. Irina & Oksana (2015) said that legal language seems to be confusing and sometimes deliberately made it difficult to conceal the truth and convey less than the required information to the audience. They also mentioned the case where the US government had legalized torture for prisoners in Iraq and Guantanamo by continuously redefining legal terms of interrogation. They also believed that with plain language philosophy covering all aspects of life such as governmental, commercial, IT, legal, or even leisure activities now are all influenced by the plain language movement and soon there will be a time when this need will force the norms to change. In their work, they claimed that legalese will change but how the change would occur isn't discussed.

To expose laypersons with legalese; there are countries like Denmark and Germany where they appoint lay judges for organizing lay participation. These judges assume that their influence depends upon how they use the legal language so they start expressing themselves in context-specific legal ways, writes Johansen (2019). This indicates that even though lay judges are doing fine with the plain language yet they deliberately choose a legal language because it is considered to be better and appears to be something superior. The fact that citizens can be informed about their role and position in simpler terms yet the status quo opts for complex terms seems no more than just an excuse to continue the "old habits".

From the above discussion, it is clear that a small number of researches are conducted in Pakistan, where legislations and judgments are studied from the perspective of moving from complex language to simpler choices. This study,

therefore, attempts at highlighting the complexities of language and how by slight replacements, one can help in improving the judicial procedures by contributing linguistically.

CHAPTER 3

RESEARCH METHODOLOGY

"Empathy for readers and its related access to the law form the ethical core of plain language" (Mowat, 1998)

This chapter describes in detail the methodology adopted for carrying out the research. Initially, the theoretical framework is explained. It includes the research approach and type, followed by the sampling technique and rationale. It also elaborates on data collection tools and procedures. Finally, it chalks out the basic guidelines for data analysis by highlighting the tools, methods, and procedures.

3.1 Theoretical Framework

Laws are exercised through language, or in other words, the law is dependent on language. Gibbons (2013, p. 3) writes that the rights and responsibilities of members of society are rooted in writing. Laws are available to us only because Language is the medium, process, and product for the generation of legal texts, and therefore, such texts need to be studied from a textualist perspective. Carston (2013) describes the textualist approach to legal texts and cites Scalia (1997, p.22), according to whom, "Text is the law, and it is the text that must be observed." He also quotes Justice Jackson who believes that the judiciary looks for what does the law means and is not concerned with what the legislature meant (Scalia, 1997). He further writes that his philosophy of textualism does not mean that one should not take into account the broader social purposes for which a particular law or statute is designed but to realize that pursuing these purposes is beyond the authority of a judge and so he should stick to what the text refers too. However, judgment is an individual's interpretation of the law. Different judges decide cases on different grounds. The approach opposite to textualism is "intentionalism" where justices may willingly refer to legislative history to have a clearer idea. Hence, under such circumstances, the need for clearer texts is amplified as one same text can be interpreted by two different people very differently. Mian Saqib Nisar, J. too, favouring the idea of intentionalism, writes that the cardinal principle of construction includes both the meaning as well as the object and purpose (Dilawar Hussain & Others v. The Province of Sindh & others, 2016). The problem

arises when different law-professionals will interpret “legislative intent” differently and hence an ambiguity is created.

This ambiguity or doubt is multiplied in the case of legal non-professionals or laypersons. They may perceive legal texts very differently from their original or intended meaning because of their little understanding. Consequently, the use of legalese weakens the legal position of the non-professional party. Under such circumstances, sticking to legalese seems unethical and the use of plain language is thus suggested. Willerton (2015, p. 19) writes that it is one of the ethical foundations of plain language that helps citizens understand and follow the law; for the public’s responsibility to abide by the law coincides with its right to understand it. He is of the view that typical legal language isolates a person from his or her rights and responsibilities as they are unable to understand what exactly is written in statutes or laws. The present study is an attempt at identifying such lexical and syntactic features that are responsible for making the legal language difficult to understand for laypersons and the omission or replacement of which can not only make laws and judgments easier to understand but also provides the basis for a more ethical approach to legal drafting.

According to Berk-Seligson (2002, p. 14), legal language is characterized by the synthesis of linguistic features. The synthesis of language has three levels: lexical, syntactic, and discourse. The present research targets the legal texts of Pakistan, in this case, the legislations and the judgments, on the first two levels for their linguistic analysis i.e., the lexical level and the syntactic level only. This is so because the discourse level is dependent on the two — the choices of the words and their arrangement. The modernization or simplification of these levels will ultimately help legal text appear more lucid at the discourse level too.

For the analysis, therefore, an integrated model was adapted based on the works by Stanojevic (2011) and Čėsnienė & Daračienė (2014). The two had suggested how by slight differences, we can turn complex legal documents into simplified versions using Plain English. The complexity of Legal English lies in the fact that it is imbued with legalisms, i.e., archaic technical terms, and the overuse of synonymous, redundant obscure expressions, and long, complex passive sentences.

At the lexical level, the data were analysed for:

(i) **Archaisms**

These terms are rarely a part of everyday use of language and are present in legal writings for giving them a formal appearance. These can be omitted, as an average person is usually unaware of its meanings. For example, *expedient, thereunder,* etc. These words were identified by comparing them to their use in BNC using *SketchEngine.*

(ii) **Technical terms**

These included the **polysemous** words that had a different meaning in the legal context as compared to regular communication. For example, the word *party* means two very different things when taken in a legal context and otherwise. Other terms, such as a *bequest,* which can only be understood by legal professionals, are labelled as **jargon** in this study. What Mellikoff called **argots**, the short slangs or clippings such as *in pro per (in propria persona)* are also termed as the technical vocabulary.

(iii) **Foreign words**

Apart from the Latin and French expressions terms or phrases that characterize any legal language, as per Stanojevic (2011), other words of Latin and French origin such as *negligence, adjacent, counsel, damage,* etc. also fall under this category. Since most of the words of the English language have originated from French or Latin, so the words that became part of the language during or after the 16th century are regarded as foreign words.

(iv) **Synonyms**

The English language is rich in synonymy. Stanojevic (2011) writes that the legal language makes use of **doublets** and **triplets,** where the English word is paired with another word of Anglo-Saxon, French or Latin origin words of the same meaning. The same was labelled as binomials/multinomials by Čėsnienė & Daračienė (2014). The same meaning sharing words appeared in the form of **alliteration** as well. Moreover, the works are adapted to add **meronomy** and **hyponymy** for words that shared the said semantic relations.

(v) **Whiz Omission**

Čėsnienė & Daračienė (2014) while analyzing the Treaty of Lisbon had suggested that wh-forms were rarely observed in the text. The selected sample was looked for the same wh-forms using *Sketch Engine* (see section 3.6 for details).

(vi) **Unique Determiners**

Legal documents make a different rather unique use of the determiners e.g., such and said when compared with the casual use of the two. The data were analysed for the use of such determiners and their respective frequencies were noted.

(vii) **Use of Negatives**

Using frequent negatives can cause readability problems. The legal language makes excessive use of negatives and double negatives in several places. For example, “not unlawful” could have been used as “lawful” or “not inconsistent with the law” can be written as “consistent with the law”. The sample under study was also studied for the use of negatives in legal language in both the formats, i.e. legislation and judgments.

(viii) **Repetition of words**

Legal writings lack anaphoric reference, and most often, the same nouns are repeated. This absence or negligible presence of reference in the forms of pronouns, and personal and demonstrative adjectives are discussed under the repetition category. The phenomenon can also fall under the category of syntactic features as suggested by Čėsnienė & Daračienė, (2014).

Since lexical features combine to give up syntactic features so a clear separation between the two cannot be possible. The following aspects of the syntactic level were studied for the present research:

(i) **Sentence length and overall grammatical complexity**

Microsoft word’s inbuilt algorithms were used to determine the average length of sentences. Moreover, the Flesch readability score was also recorded to show how the used sentence structure is not reader-friendly and continues to confuse its readers. Flesch reading score is a “readability yardstick” that determines the difficulty in

comprehending any written text by employing a few formulas involving the number of syllables and words per sentence, sentences per paragraph among others (Flesch, 1948). According to this parameter, texts, in which 20 or more words made a sentence, were considered difficult. Similarly, a document is easiest to read if it has a score of around a hundred. A score of 90-100 indicates that text can be read by 11 years old whereas the difficulty level increases as the reading score start dropping. The numbers as low as 30-50 indicate that the texts are extremely difficult and reading and understanding such material will not be a piece of cake even for college graduates. The numbers between 40 and 20 are considered difficult to very difficult (Flesch, 2016).

(ii) **Punctuation and the use of That**

It is often claimed and even showed by Čėsnienė & Daračienė (2014) that legal language often does not employ punctuations. With "that" being said, the word that is also said to be overused in legal texts. The use of punctuations and "that" was also studied as a part of the research.

(iii) **Nominalisations**

Legal writings make frequent use of nouns instead of verbs. This gives them a more formal appearance than a common person's use of the language. The unnecessary nominalisation that could have been avoided by using a simple verb is also identified in the analysis.

(iv) **Impersonal style and Passive Structures**

The legal documents are known for the reduced agency. Legal drafters often make use of excessive passivation, which is also looked for in the analysis using the MS Word built-in algorithms.

(v) **Conditionals**

Legal Language is all about if(s) and but(s). Conditionals, specifically complex conditionals, make an integral part of the legal language. The occurrence in both the genres of legal texts was noted as part of the syntactic structural analysis.

(vi) **Prepositional Phrases/Circumlocutions**

Prepositional phrases occur peculiarly in legal texts and have a higher incidence, often with the pattern of preposition + noun + preposition (Čėsnienė & Daračienė, Compatibility of syntactic features of legal English and plain English, 2014). The same was considered as an old practice by Stanojevic (2011) who called it circumlocutions and suggested that phrases like, “during such time as” can simply be called “during”.

(vii) **Lack of Connectors**

Legal documents are said to be devoid of words such as therefore, consequently, however, etc. It is so because as per Čėsnienė & Daračienė (2014), words such as connectors might cause a subjective perception in the minds of the reader. Hence, often occur in a paratactic relationship with other linguistic elements where equality can be observed among sentences.

The stated integrated model was based on the works Stanojevic (2011) and Čėsnienė & Daračienė (2014) was used to study various features that are particular to the language used in legal domains. Not only these features were identified but the replacements that could contribute towards the disentangling of legalese were also suggested, wherever possible, to make it more articulate and intelligible to non-professionals as well.

3.2 Research Approach

The research adopts a mix-method approach because qualitative research helps analyse various real-life cases in their temporal as well as local forms (Flick, 2018, p. 13), and the quantitative aspect provides for the validation and authentication of facts that are known as a result of qualitative research. Angouri (2010) writes that by integrating the quantitative and qualitative elements, the phenomenon under study can be better explained, as the qualitative part provides for an in-depth analysis, linguistic analysis in this case, while the quantitative part can contribute towards generalized results. Therefore, the exploratory research design was chosen for the present research, where an in-depth analysis of linguistic features of the legal texts was conducted to study the complexities of text under study, and the data was backed

using the number of occurrences for these particular structures by running the data through *Sketch Engine*.

3.3 Population

The study aimed at analysing two very different yet closely related genres that are legislations and judgments. These two types of legal documents make up the population for the study. The legislation means any civil law or legislation of Pakistan which is per the Publication of Laws of Pakistan Act, 2016, article 2(d) is a law that is passed under the Constitution of the Islamic Republic of Pakistan, or by or under the authority of Parliament or any provincial assembly. It also needs to be published in the Gazette of Pakistan or any province including all principal and subordinate legislation or any other statutory instrument that is being published in any of the two Gazettes. Whereas a judgment is a statement given by the Judge on the grounds of a decree and order according to Section 2(9) of the Civil Procedure Code. Besides, the Code of Civil Procedure, Order XX, Rule 1 to 6, covers the law in Pakistan that is related to the pronouncements, contents, and signing of the judgments.

3.4 Sample

Using the purposive stratified sampling technique, 10 civil laws, and 10 civil cases judgments are selected for the study. These particular numbers are chosen because legislations and judgments are lengthy documents and the features that were to be studied were conveniently analysed within this number. The data for legislation made approximately 50 thousand words while the judgments made 70 thousand words.

The legislations that were studied included: (1) Protection against Harassment of Women at the Workplace Act, 2010, (2) Transgender Persons (Protection of Rights) Act, 2018, (3) The Mental Health Ordinance, 2001, (4) The Punjab Domestic Workers Act, 2019, (5) The Punjab Free and Compulsory Education Act, 2014, (6) Khyber Pakhtunkhwa Free Compulsory Primary and Secondary Education Act, 2017, (7) Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, (8) Muslim Family Laws Ordinance 1961, (9) Hindu Marriage Act, 2017, (10) Christian Marriage Act, 1872.

The judgments under study were (1) Civil Appeal No. 396 of 2018, Fazal Ellahi deceased through his legal heirs versus Mst Zainab Bi, (2) Case No. W. P. No. 337 of 2012 Farrah Bashir Versus Muhammad Umar Tahir, (3) Const. Petition No. 50 and 69 of 2011, Fiaqat Hussain and others, Iqbal-ur-Rehman Sharif and others Vs. The Federation of Pakistan. Secretary Planning and Development Division, Islamabad and others, (4) Writ Petition No. 4841-P/2016 Mst. Tuharat Firdos Vs. Imtiaz Khan, (5) Human Rights Case No. 10842-P of 2018, Mst Sughran Bibi Vs. The State, (6) CP. No. D-451 of 2016, Ghulaam Alli Vs. Province of Sindh and others, (7) Civil Appeal Nos. 939/2004, 144K- 145K of 2009, HRC No. 20691 of 2013 and 48247-S of 2013, (8) HR case No. 19526-G of 2013, Applicant Mst. Bibi Zahida for the arrest of the accused of her daughter's murder, (9) HR Case No. 17599 of 2018, regarding the alarming population growth rate in Pakistan, and (10) Civil Petition No. 339-K of 2017, Muhammad Rahim Vs. Mohsin and another.

3.5 Rationale for Sampling

The present study made use of the purposive stratified sampling method since, in a stratified sampling method, the population is to be partitioned into several strata or regions. Then the sample is selected by a specific design from each stratum (Thompson, 2013, p.141). In this case, only two genres of legal documents are studied. These two genres serve as two strata namely legislation and judgments. The sample was also delimited to legislation/bills for protection of rights and judgments that were related directly to human rights and civil cases because the two can directly influence a person's stance in court proving him guilty or innocent where the language for the two needs to be clear so that any non-professional or layperson can get hold the idea of the right and wrongdoings in some particular circumstances.

3.5 Data Collection Methods and Procedures

The data was collected by unobtrusive means. This particular method was used because one can get easier access to data from the archives (O'Brien, 2011). The present research aimed at analysing the language of legal records that are being practised or applicable for years, decades, or even centuries sometimes. So, this method of collecting data from archives is the most suitable one. Both, the laws and the judgments are made public in Pakistan, therefore one can easily get access to the two. For this, websites of different law-making bodies and courts were looked for and

the required data was accessed. The legislations were obtained from the following websites.

a) http://www.na.gov.pk/en/acts-tenure.php
b) http://senate.gov.pk/en/index.php?id=-1&cattitle=Home
c) http://punjablaws.gov.pk/
d) http://sindhlaws.gov.pk/Gazette.aspx?pg=ACT
e) https://balochistan.gov.pk/acts-rules-and-regulation/
f) http://kpcode.kp.gov.pk/

The judgments were collected from the following websites.

a) https://www.supremecourt.gov.pk/latest-judgments/
b) http://www.ihc.gov.pk/
c) https://www.lhc.gov.pk/reported_judgments
d) https://peshawarhighcourt.gov.pk/app/site/47/c/All_the_Referred,Reported_Judgments.html
e) https://www.shc.gov.pk/Imp_Judgment_Orders.php
f) https://bhc.gov.pk/resources/judgments

3.6 Data Analysis Procedure

After the data was collected it was manually filtered to remove the unnecessary words such as titles and page numbers etc. in headers and footnotes. It was then tagged manually and with the assistance of the *Google dictionary* for the eight lexical and seven syntactic features. For Archaic terms, the lexemes were entered into Google dictionary and words with declining use-over-time graphs where the present use was approaching the x-axis were labelled as archaic. The technical and foreign terms and their origin languages were also identified using *Google Dictionary.* Once the data was tagged, it was then run through the *Sketch Engine* for further identification of linguistic features.

Sketch Engine is a web-based corpus management and query system, accessible using the URL: https://www.sketchengine.eu/. It is an online tool for text analysis that can deal with large amounts of data. It served the purpose of quantitative analysis for the present study by helping to pinpoint what was typical and frequent in

the text. It presents the results in the form of word lists, word sketches, concordance, n-grams, etc.

The selected legislations and judgments were uploaded as two different corpora and the tagged features were looked for. The occurrence of these choices was measured using the *Sketch Engine* as well. For sub-categories such as the use of old-fashioned, excessive foreign words, or pointless nominalisation or passivisation, etc. that were not serving any particular purpose except for adding to the complexity of the text, simpler choice of words and grammatical structures was suggested wherever possible. The concordance feature was used to study the occurrence of the same word in different contexts to suggest the substitutions that could suffice in all such contexts. These suggestions were largely for archaic terms, synonyms/binomials or multinomials, nominalisations, foreign words, etc. However, no such replacements were suggested for the technical words as every profession is identified by its jargon and eliminating which is neither possible nor suggested.

Finally, the discussion was put into context and the similarities and differences between the Pakistani legal texts from other English speaking countries were highlighted. Furthermore, the lexicon-syntactic features which could help in simplifying the language with slight modifications were also suggested. These little changes, if accepted could modernize decades-old laws and render them reader-friendly.

3.7 Summary

The present study adopts a mixed-method approach with an exploratory design to study the lexical and syntactic features which gave the legal texts their distinct form. For this, a sample of ten legislations and ten judgments was selected using the random sampling method. The data was collected through unobtrusive means by accessing the archives at the websites of legislative bodies and various courts. After the data was obtained, it was studied for eight lexical and seven syntactic features using an integrated model based on the works of Stanojevic (2011) and Čėsnienė & Daračienė (2014). These features were studied manually as well as with the help of Sketch Engine – a web-based text analysis tool. Finally, the findings were discussed with the possible replacements to clarify legal texts were suggested.

CHAPTER 4

DATA ANALYSIS

This chapter gives a brief account of data collection and data analysis procedures. It presents a detailed picture of the analysis of the sample under study. The features understudy are presented in tabular as well as the descriptive format for better elaboration. Not only that, but the chapter also offers alternative words/phrases that can replace the complex features in order to make the legal texts more reader-friendly.

4.1 Introduction

As previously explained, the nature of the present study is exploratory (see section 3.2), and thus the analysis is mainly qualitative with numbers to back it for more convincing discussion.

Data constituted of 10 legislations and 10 judgments. Since, both the documents are public documents by law and are therefore accessible to everyone via specified websites. The legislations were obtained after browsing through the websites of the legislative bodies, i.e., the four Provincial Assemblies, The National Assembly of Pakistan and The Senate. Similarly, the official websites of The Supreme Court of Pakistan and The High Courts were skimmed for judgments. Once collected, the data was then subjected to linguistic analysis as per the research design at two levels i.e. the lexical and syntactic level of text.

4.2 Data Analysis

Lexicon and grammar are the cornerstones of any language. In order to learn a language, one needs to understand the peculiarities and acquire both. Similarly, for comprehending legal texts, spoken or written, one must have an understanding of the legal lexicon and the grammar that is employed in the text, only then can he or she be aware of the rights he/she is entitled to and the responsibilities he/she is bound to pay off sensibly and as per the requirement. Hence, the vocabulary, grammar and their in-context use are fundamental to the understanding of any text. However, for the scope of the present study, the lexical and syntactic features of laws and judgments are studied while the discourse-level analysis is skipped at this point.

After the data was collected, it was subjected to filtration. Unnecessary information and such as headers, footers and content pages were removed from the data. Following it, the desired eight lexical and seven syntactic features (see section 3.1) were identified manually, using Google Dictionary and Sketch Engine.

As for the archaic terms, BNC from Sketch Engine was used. Other lexical choices were first entered in Google Dictionary. Then, according to the label of "legal" and the language of origin, it was divided into the categories of technical or foreign terms. Synonymy was identified manually, while the use of wh-words, determiners, negatives, and repetition of words was studied using Sketch Engine.

At the syntactic level, *MS Word built-in algorithms* were used for sentence length, readability and passivisation. The remaining features nominalisation, use of punctuations and "that", conditionals, prepositional phrases, and connectors were first marked manually and were then studied using the *Sketch Engine.*

4.2.1 Lexical Features

The data mentioned above was then subjected to a QUAL-Quan analysis both manually and by using the Sketch Engine or Google Dictionary. The findings are as under:

i. Archaisms:

The term "Archaic" refers to the lexemes that are used less frequently because of their formality and so become baffling to a common reader. These are the terms that were used commonly in ancient times however, with the passage of time their use had decreased. So, people, in general, are unaware of their meaning or even if people knew the meanings, because of their negligible use, these words seem a little odd.

In the ten legislations understudy, many such terms could have easily been replaced with simple and clearer expressions. Words like expedient to, repugnant, thereof, solemnise, commencement, etc. were considered archaic. To mark such words, their occurrence in BNC was studied using Sketch Engine. Words that had occurred less than 200 times in a corpus of 96,143,547 words and had a per million occurrence of less than 2, were marked archaic. Stanojevic (2011) also mentioned a few words in his work as an example of archaic words. These included aforesaid, pursuant to, prior to, subsequent to, hereby, hereunder, hereinafter, herein,

hereinbefore, hereto, etc. A complete list of these formal words along with the frequency and their possible plain language substitute is tabulated under:

Table 1

Archaic terms found in selected legislations

Sr.	Archaic	Used as	Frequency	per mil. occurrence in BNC	Possible Substitute
1	Expedient	Adjective	14	1.65	Helpful
2	Thereto	Adverb	18	1.674	to that
3	Repugnant	Adjective	7	0.998	contrary to
4	Whosoever	Noun	2	0.0728	Whoever
5	Aforesaid	Noun	13	0.135	as above
6	Annexed	Verb	10	0.0104	Attached
7	Amongst	preposition	8	0.145	Among
8	Debar	Verb	1	1.342	stop/prohibit
9	Thereupon	Adverb	8	1.029	Immediately
10	Superintendence	Noun	3	0.135	Supervision
11	Abatement	Noun	1	1.435	Diminishing
12	Conciliate	Verb	2	0.488	Mediate
13	adduced	Verb	1	1.934	Cite
14	whereof	Adverb	5	0.374	of what or which
15	depraved	Adjective	1	0.436	Corrupt
16	thereunder	Adverb	16	0.436	according to […]
17	abode	Noun	4	1.705	Place
18	notwithstanding	conjunction	6	1.435	Although
19	thereon	Adverb	7	1.216	following which
20	therewith	Adverb	8	0.291	with that
21	solemnize	Verb	133	0.062	Formalize
22	solemnization	Noun	20	0.0208	celebration/ formalization
23	deputed	Verb	1	0.821	Appoint
24	impugn	Verb	1	0.613	Challenge

25	enquire	Verb	3	Inquire

However, the terms used were almost similar, but the frequency of their occurrence was reduced in the case of judgments. The use of archaic terms for this particular genre is as under:

Table 2

Archaic terms found in selected judgments

Sr.	Archaic Terms	Used as	Frequency (in sample)	Frequency BNC (pm)	Possible Substitute
1	Hereinbelow	Adverb	13	No results	below in this document
2	Whereof	Adverb	10	0.374	of what/which
3	Drudge	Verb	1	0.197	do hard menial work
4	Unalienable	Adjective	4	No results	Inalienable
5	Flagrant	Adjective	1	1.019	Evident
6	hereunder	Adverb	4	0.468	Following
7	lamented	Verb	1	0.145	Mourned
8	lieu	Noun	11	1.93	Instead
9	expeditious	Noun	2	0.291	speedy/quick
10	judicious	Adjective	2	1.861	Sensible
11	assailed	Verb	5	1.602	Criticised
12	Viz	Adverb	17	0.592	Namely
13	wherein	Adverb	23	1.643	in which
14	thereunder	Adverb	13	0.436	according to […]
15	repugnant	Adjective	5	0.998	Objectionable
16	obviate	Verb	1	1.716	Prevent
17	whilst	conjunction	6	0.041	While
18	acquiescence	Noun	2	1.789	Consent
19	prudently	Adverb	3	0.894	Cautiously
20	inasmuch	Adverb	11	1.133	considering that
21	aforesaid	Adjective	3	0.842	as mentioned above
22	presumptuous	Adjective	2	0.717	Bold

23	averments	Noun	1	0.177	Affirmation
24	fallacious	Adjective	2	0.624	Wrong
25	nay	Adverb	1	1.518	or rather
26	thereto	Adverb	12	1.674	to that [place]
27	laudable	Adjective	1	0.998	commendable

However, the numbers indicated that words like "subsequent to" or "prior to" as suggested by Stanojevic (2011) are still in use and therefore were eliminated from the category of archaic.

Grammatically, this category mainly consisted of content lexemes such as nouns, adjectives, verbs and adverbs etc. The functional lexemes appeared only twice in legislations (one preposition and conjunction each) and only once as a conjunction in judgments. This reaffirms that since most of the archaic words are content words that have synonyms hence their formal and orthodox forms can be replaced with more modern forms as suggested and even a small change can make legal texts appear more natural.

It is noteworthy that despite the availability of more reader-friendly lexical choices, legal documents continue to use outdated and formal terminologies hence giving the legal language its wordiness and formality. For example, the word presumptuous had a per million occurrences of 0.7 in BNC whereas the word bold was used 13.86 times per million. In the present-day world, most of these words are not a part of everyday conversations, hence their meanings may appear to be obsolete for the readers. The legal profession uses an outdated version of the language but such language can only be termed as English for Special Purposes (Khan & Khan, 2015).

For an ordinary reader and speaker of the language, the identified words may be replaced by the ones suggested or similar modern terms which could appear closer to the normal use of language and do not really alter the meaning instead make it clearer.

ii. **Technical Terms**

Technical terms, found in data are divided into three sub-types. These are already explained in the previous chapter. **Polysemous** words appeared frequently in

legal texts. For example, the word “act” means to perform something or do carry out some task. In the legal domain, however, the word Act is used for a legal document that is passed and approved by legislative bodies and is binding in nature. The occurrence of such lexemes in legislations (Table 3) and judgments (Table 4) is presented below.

Table 3

Polysemous Terms found in selected legislations

Sr.	Polysemous Words	Used as	Frequency
1	Act	Noun	269
2	Resolution	Noun	2
3	Article	Noun	3
4	Enact	Verb	8
5	Procure	Verb	5
6	Charges	Noun	31
7	Defence	Noun	3
8	memorandum	Noun	1
9	Penalty	Noun	14
10	Appeal	Noun	24
11	Obstruct	Verb	4
12	Bar	Noun	2
13	Cognisance	Noun	2
14	Custom	Noun	14
15	Usage	Noun	2
16	Subsistence	Noun	4
17	Clause	Noun	34
18	Contravention	Noun	8
19	Compounding	Verb	4
20	Minor	Adjective	34
21	Motion	Noun	1
22	Alleged	Adjective	12
23	Vogue	Noun	1
24	Suit	Noun	8

25	Proceedings	Noun	34
26	Subsection	Noun	21
27	Section	Noun	180
28	Abduction	Noun	8
29	Custody	Noun	18
30	Succession	Noun	4
31	Seal	Noun	3
32	vexatious	Adjective	3
33	Party	Noun	76
34	Hearing	Noun	4
35	Surety	Noun	2
36	pertaining	Verb	1
37	Report	Noun	22
38	Report	Verb	12
39	Bond	Noun	2
40	default	Noun	2
41	assault	Verb	1
42	enactment	Noun	3
43	examining	Verb	20
44	contempt	Noun	1
45	obstruct	Verb	4
46	Bar	Noun	2
47	breach	Noun	2
48	consolidated	Adjective	1
49	restitution	Noun	4
50	repudiate	Verb	1
51	Emergency	Noun	10
52	Majority	Noun	4
53	examination	Noun	14
54	Estate	Noun	12
55	memorandum	Noun	1

Table 4

Polysemous terms found in selected judgments

Sr.	Polysemous Terms	Used as	Frequency
1	Counsel	Noun	35
2	case	Noun	397
3	article	Noun	55
4	lodge	Verb	25
5	lodging	Noun	2
6	section	Noun	156
7	cognizable	Adjective	58
8	infringed	Verb	3
9	Plea	Noun	5
10	abject	Adjective	1
11	fleece	Verb	2
12	preamble	Noun	7
13	quarter	Noun	4
14	Bar	Verb	10
15	clause	Noun	11
16	void	Noun	6
17	abridges	Verb	1
18	forfeit	Verb	1
19	forfeiture	Noun	5
20	covenant	Noun	1
21	convention	Noun	7
22	tenure	Noun	7
23	infringement	Noun	1
24	appeal	Noun	48
25	restitution	Noun	4
26	indemnity	Noun	1
27	ejectment	Noun	1
28	eject	Verb	1
29	hearing	Verb	19
30	award	Noun	10
31	executive	Noun	15

32	assault	Noun	2
33	Trial	Noun	34
34	book	Noun	13
35	mutation	Noun	6
36	remit	Noun	1
37	reference	Noun	26
38	held	Verb	62
39	nullity	Noun	3
40	suits	Noun	20
41	privy	Noun	1
42	moot	Adjective	2
43	patent	Noun	4
44	repelled	Verb	2
45	instance	Noun	17
46	Gist	Verb	10
47	charged	Noun	4
48	quantum	Adjective	2
49	substantive	Adjective	2

More than a thousand times different words appeared in both genres under the category of polysemy. The occurrence was almost equal in the two types of texts keeping in view the difference in the total number of words of the corpora. Grammatically, the use of nouns was far greater than the other two word classes, i.e., the verbs and adjectives.

Another sub-category of technical terms was called **jargon**. Apart from the polysemy, these words are solely part of the legal domain and are not used in any other field or profession. For example, the word “treaty” means a legally binding contract between two different states or entities and is specific to the legal profession.

Table 5 and Table 6 present the picture of the jargon used in the sample.

Table 5

The jargon used in selected legislations

Sr.	Jargon	Used as	Frequency
1	Provisions	Noun	118
2	rights	Noun	42
3	legitimate	Verb	100
4	consolidate	Verb	4
5	constitution	Noun	1
6	registrar	Noun	23
7	schedule	Noun	5
8	gazette	Noun	12
9	ordinance	Noun	62
10	accused	Noun	4
11	complainant	Noun	22
12	appellate	Adjective	10
13	summon	Verb	3
14	oath	Noun	18
15	affidavit	Noun	5
16	procedure	Noun	19
17	residuary	Adjective	13
18	prosecution	Noun	9
19	bailable	Adjective	2
20	convicted	Verb	7
21	repeal	Verb	10
22	arbitration	Noun	5
23	impeached	Verb	3
24	notify	Verb	10
25	warrant	Noun	6
26	adjourned	Verb	5
27	petition	Noun	35
28	federal	Adjective	1
29	provincial	Adjective	17
30	sue	Verb	3
31	ex-officio	Noun	5
32	commission	Noun	7

33	covenant	Noun	2
34	injunctions	Noun	1
35	show-cause	Noun	1
36	imprisonment	Noun	49
37	judge	Noun	4
38	pendency	Noun	1
39	jurisdiction	Noun	18
40	probation	Noun	1
41	bailable	Adjective	5
42	compoundable	Adjective	9
43	prosecuted	Verb	1
44	Suit	Noun	9
45	Override	Verb	5
46	conviction	Noun	6
47	legal	Adjective	9
48	residuary	Adjective	4
49	notification	Noun	24
50	judicial	Adjective	6
51	magistrate	Noun	19
52	legitimate	Adjective	5
53	averments	Noun	1
54	inquiry	Noun	33
55	registration	Noun	28
56	provisional	Adjective	15
57	rectification	Noun	1
58	revoke	Verb	5
59	advocate	Noun	10
60	indemnity	Noun	9
61	forensic	Adjective	5
62	ex parte	Noun	2

Table 6

The jargon used in selected judgments

Sr.	Jargon	Word class	Frequency
1	hue and cry	Noun phrase	1
2	petitioner	Noun	148
3	petition	Noun	53
4	adjudication	Noun	7
5	FIR	Noun	160
6	constitution	Noun	5
7	allegedly	Adverb	5
8	natural justice	Noun phrase	1
9	magisterial	Adjective	5
10	writ	Noun	7
11	extradited	Verb	1
12	statute	Noun	37
13	contract	Noun	7
14	Tribunal	Noun	24
15	magistrate	Noun	9
16	judicial	Adjective	43
17	statutory	Adjective	16
18	Plaint	Noun	6
19	bench	Noun	3
20	appellant	Noun	27
21	past and close transaction	Noun phrase	4
22	amendment	Noun	32
23	amendatory	Adjective	4
24	simpliciter	Noun	1
25	doctrine	Noun	5
26	laches	Noun	6
27	estoppel	Noun	3
28	sue	Verb	4
29	registrar	Noun	6
30	warrant	Verb	6
31	warrant	Noun	9
32	challan	Verb	2

33	impleaded	Verb	1
34	challan	Noun	10
35	proceeding	Noun	24
36	ordinance	Noun	13
37	liable	Adjective	6
38	plaintiff	Noun	3
39	respondent	Noun	103
40	defender	Noun	54
41	trial	Noun	34
42	domicile	Noun	1
43	constitutionality	Noun	3
44	legislation	Noun	32
45	averments	Noun	1
46	laws	Noun	217

Tables 5 and 6 vindicate the impracticality of substitution. The words being used are content lexemes and refer to some specific legal entity, quality or process and therefore cannot be easily replaced by some other word that is commonly used.

Finally, the data were analysed to study **argots**. These were short clippings or the slang of rather long or complicated words and/or phrases. This category overlaps with the foreign words' category as mostly Latin or French expressions are being clipped. For legislation, *no such term was observed in the ten legislations* that were studied which meant that this phenomenon is rare in the case of Pakistani legal language. In the sample taken, out of the ten judgments that approximately made 70 thousand words, very few examples were observed. These are presented in Table 7.

Table 7

Argots found in sample judgments

Sr	Argot	Complete phrase	Meaning
1.	non-est	non-est factum	a plea that a contract is invalid because the signatory was unaware of its

			meaning while signing it
2	dictum	obiter dictum	an incidental remark by a judge that is not bound to be part of the final verdict
3	pros and cons	pro and contra	advantages and disadvantages
4	co-opt	cooptare	appoint someone
5	oft-quoted	often quoted	frequently referred to
6	Ibid	ibidem	in the same source
7	Nil	nihil	non-existent

The first two argots identified in Table 7 are used for a broader legal concept and therefore cannot be replaced. However, for the remaining five types, their simple meanings can convey the idea to a layperson without altering its semantic value.

Technical terms or jargon make an integral part of these texts. Eliminating these is, hence, neither possible nor recommended. However, since most of the terms used are content words or free morphemes, these lexical choices carry a significant amount of weight of the text. It is therefore suggested that a simpler term if exists, should preferably be used but in situations where no alternative word can be suggested, the public should be sensitized about the technical terms so that the text does not appear alien to them. This can be done by adding a glossary of the relevant terms at the end of any text. In case of argots, because of the overlapping with the foreign languages, it is recommended that they should be replaced with simple English phrases and words wherever possible.

iii. Foreign Terms

Just as English had acquired a de facto status of official language in Pakistan and all professions and power sectors employ the English language as the medium of communication, the 17th, 18th century Europe too employed then prestigious yet foreign language for state-related matters and legal system. Later, French and Latin were replaced by English but the remnants are still present. These remnants make the third type of lexemes found in the data. Many of these items are now part of English and are frequently used. However, Stanojevic (2011) has labelled these items as foreign if they became part of English during or after the late 16th century and had a

different language of origin. The foreign terms identified for legislation (Table 8) and judgments (Table 9) are as under:

Table 8

The foreign terms used in sample legislation

Sr.	Foreign Term	Original Language	Class	Meaning	Frequency
1	catering	French	Verb	provide for	3
2	ancillary	Latin	Adjective	Additional	4
3	incidental	Latin	Adjective	Secondary	11
4	admissible	Latin	Adjective	Allowed	1
5	designated	Latin	Verb	Nominate	8
6	ombudsman	Swedish	Noun	N/A	5
7	co-opted	Latin	Verb	select /adopt	6
8	mala fide	Latin	Adverb	in bad faith	3
9	mutatis mutandis	Latin	Adverb	things that need to be changed, be changed	4
10	recruit	French	Verb	enrol	3
11	per stirpes	Latin	Adverb	by roots/ branches	5
12	capitation	Latin	Noun	Payment	5
13	opt	French	Verb	Choose	8
14	suo moto	Latin	Adjective	on its own motion	2
15	stipulated	Latin	Adjective	Specified	11
16	ameliorate	French	Verb	Improve	1
17	ostensible	Latin	Adjective	Apparent	2
18	juvenile	Latin	Adjective	legally minor	2
19	focal	Latin	Adjective	of center/ important	1
20	connives	French/Latin	Verb	Overlook	2

21	trafficking	Spanish	Noun	Trade	4
22	caressing	French	Verb	touching gently	3
23	ex officio	Latin	Adjective	by one's appointment	6
24	cum-	Latin	Preposition	combined with/ also used as	3
25	secretariat	French	Noun	administrative office	2
26	tendering	Latin	Verb	Offer	2
27	inter alia	Latin	Adverb	among other things	3
28	contravene	Latin	Verb	Breach	10
29	vogue	French	Noun	Trend	1
30	ex-parte	Latin	Adjective	from a side	1
31	affidavits	Latin	Noun	a written statement used in courts as evidence	2
32	penalty	Anglo-Norman French	Noun	Punishment	14
33	designate	Latin	Verb	Appoint	8
34	conspicuous	Latin	Adjective	Clear	6
35	comply	Italian/Latin/ Spanish	Verb	Follow	16
36	intimidating	Latin	Adjective	Frightening	4
37	hostile	French/ Latin	Adjective	unfriendly, aggressive	7
38	offensive	French/ Latin	Adjective	rude/ unpleasant	6
39	alumni	Latin	Noun	former pupil	1

40	contravention	French	Noun	Violation	8
41	conjugal	Latin	Adjective	Marital	4
42	rescind	Latin	Verb	Cancel	1
43	congenital	Latin	Adjective	Inherited	1
44	promulgate	Latin	Verb	Enact	2
45	promiscuity	Latin	Noun	immoral	1
46	bulletins	Italian	Noun	Report	1
47	sub judice	Latin	Adjective	under a judge	2
48	Quorum	Latin	Noun	the minimum number of members in a meeting to make the meeting valid	1
49	in lieu	Latin	Noun	instead	3

Table 9

The foreign terms used in sample judgments

Sr.	Foreign Term	Original Language	Class	Meaning	Frequency
1	recapitulating	Latin	Verb	Sum up	2
2	extenso	Spanish	Adjective	Extensive	1
3	vide	Latin	Verb	see, consult	31
4	prima facie	Latin	Adjective - Noun	Accepted correct unless proven otherwise.	16
5	deterrent	Latin	Noun	A thing that could discourage you from doing something.	1
6	malafidely	Latin	Adverb	in bad faith	2
7	mala fide	Latin	Noun	in bad faith	9

8	amicus	Latin	Noun	an advisor to court on a particular case	8
9	contravene	Latin	Verb	Violate	3
10	vires	Latin	Verb	Powers	9
11	ultra vires	Latin	Adjective – Noun	beyond the powers	7
12	bhils	Hindi	Noun	an Indian ethnic group	1
13	aborigines	Latin	Noun	Local	1
14	thatched	German/ Dutch	Verb	cover with straws and mud	1
15	absconded	Latin	Verb	Escaped	2
16	inextricable	Latin	Adjective	Inseparable	1
17	mirage	French	Noun	Delusion	1
18	apex	Latin	Noun	top, peak	2
19	quasi-	Latin	Prefix	almost/ supposedly	11
20	stipulated	Latin	Verb	set out/specify	4
21	embargo	Spanish	Noun	ban/ prohibition	2
22	hazardous	French	Adjective	Dangerous	4
23	adequate	Latin	Adjective	Sufficient	33
24	agrarian	Latin	Adjective	agricultural	4
25	solidarity	French	Noun	Harmony	1
26	artisanal	French	Adjective	related to some craftsman	1
27	indigenous	Latin	Adjective	Local	4
28	nomadic	French	Adjective	of a wayfarer’s nature	2
29	consult	French	Verb	ask/ discuss	12
30	modalities	Latin	Noun	modal quality	1
31	de facto	Latin	Adverb	of fact/ in practice	3

32	de jure	Latin	Adverb	of law/ rightful	2
33	ordre public	French	Noun	public order	1
34	enunciated	Latin	Verb	announce	14
35	habeas corpus	Latin	Noun	you will have the body in court	1
36	bona fide	Latin	Adverb	in good faith	2
37	criterion	Greek	Noun	standard	1
38	Coram non-judice	Latin	Noun	not before a judge	1
39	aero	Greek	Prefix	relating to air	1
40	implicated	Latin	Verb	indicate	7
41	amicus curiae	Latin	Noun	an advisor to court on a particular case	12
42	qua	Latin	Conjunction	as being	4
43	elucidate	Latin	Verb	explain	2
44	Pretext	Latin	Noun	excuse	1
45	Connivance	Latin / French	Noun	willingness to be part of any immoral or illegal activity.	2
46	inadvertent	Latin	Adjective	unintentional	2
47	Onus	Latin	Noun	burden	2
48	Pre-emption	Latin	Noun	the purchase of goods by a person before they are offered to anyone else	2
49	duped	French	Verb	deceive	1
50	Farce	French	Noun	skit	1
51	vitiate	Latin	Verb	destroy the legal validity	1

52	solatium	Latin	Noun	a compensation	2
53	bifurcating	Latin	Verb	dividing into two branches	1
54	premium	Latin	Noun	remuneration	3
55	ipso jure	Latin	Axiom	by the law itself	2
56	suo moto	Latin	Axiom	on its own motion	3
57	inter alia	Latin	Axiom	among other things	8
58	Supra	Latin	Adverb	mentioned earlier	15
59	Lis	Latin	Noun	a lawsuit	3
60	Parimateria	Latin	Axiom	in a similar case	6
61	raison d'etre	French	Noun	reason for being	1
62	Catena	Latin	Noun	chain	2
63	Condone	Latin	Verb	refrain from punishing	1
63	indolent	Latin	Adjective	lazy	2
65	Philanthropic	French	Adjective	charitable	4
66	proponents	Latin	Noun	supporter	1
67	beneficiaries	Latin	Noun	a person who gets the advantage of something	2
68	envisaged	French	Verb	predict	5
69	in limine	Latin	Adverb	at the start	3
70	emanate	Latin	Verb	emerge	3
71	preliminary	Latin/ French	Adjective	introductory	4
72	veracity	Latin/ French	Noun	truth	3
73	deprecated	Latin	Verb	express disapproval	1

74	gambit	Italian	Noun	plan	1
75	ulterior motive	Latin	Adjective	underlying	5
76	concocted	Latin	Verb	prepare	2
77	sacrosanct	Latin	Adjective	sacred	3
78	vis-à-vis	French	Prepositio n	face to face	7
79	pragmatic	Latin	Adjective	practical	1
80	mandated	Latin/ French	Verb	to someone an authority to perform a certain act	1
81	ratio decidendi	Latin	Noun	reason for deciding	1
82	parlance	Latin/ French	Noun	jargon	2
83	nefarious	Latin	Adjective	evil	2
84	curriculum	Latin	Noun	course of study	5
85	syllabus	Latin	Noun	subjects in the course of study	2
86	subsidiary	Latin	Adjective	secondary	1
87	per se	Latin	Adverb	in itself	3
88	sine qua non	Latin	Noun	an essential condition	2
89	differentia	Latin	Noun	a distinguishing mark	1
90	concise	Latin/ French	Adjective	short	1
91	vice versa	Latin	Adverb	conversely	8
92	populace	Italian	Noun	population	2
93	consensus	Latin	Noun	a general agreement	3
94	juxtapose	French	Verb	compare, seen	1

95	egalitarian	French	Adjective	side by side based on principles of equality	1
96	plethora	Latin	Noun	excess	1
97	emanate	Latin	Verb	emerge	3
98	in tandem	Latin	Adjective	alongside each other	1
99	plateau	Latin	Noun	level, stage	1
100	taboo	Tongan	Adjective	forbidden	1
101	symposium	Latin	Noun	conference/ meeting to discuss	1
102	crusade	French/ Spanish	Noun	a vigorous campaign	3

The difference between the use of foreign terms in legislation and judgments is evident from the data mentioned above. Judgments make use of a higher number of foreign terms and Latin phrases as compared to legislations. This may be explained by an obsession with using complicated vocabulary. A piece of legislation is a collective document with the label of the state but a judgment is a written account of the decision and arguments that hold the names of the jury.

A lot of the words now are part of the English language and are frequently used in day to day conversations. Words like syllabus and curriculum etc. are not recommended to be replaced. Hence, such words which as per Stanojevic (2011) and Čėsnienė & Daračienė (2014) qualify as foreign words are no more foreign when observed by their use. As for the remaining ones, from the meanings of the identified items, it is evident that the use of many of such foreign words was unnecessary and an English equivalent could simply suffice, but as Haigh (2018) explains this as adhering to the “old habits of writing” or Mellinkoff (1963) and many other proponents of PLM suggest, the purpose can only be to alienate the reader/citizen from such texts and their meanings.

A unique aspect of the Pakistani legal language is that it also includes several words from local languages even in cases where the English equivalent existed. Mentioned below are the lexical items from local languages in legislation (Table 10) and judgments (Table 11) understudy.

Table 10

Words from the local languages found in sample legislations

Sr.	Local Language Terms	Frequency
1	Majlis e shoora	12
2	Shaadiparat	6
3	taleem	3
4	nikkah	6
5	nikkah nama	4
6	talaq	3
7	deeni madrassa	3
8	ghar	2
9	kafalat	2
10	ulema	1
11	khawajasira	3
12	khusra	2

Table 11

Words from the local languages found in sample judgments

Sr.	Local Language Terms	Frequency
1	Hari/haaris/harees	50
2	Zamindar	62
3	pacca	2
4	Lorho	1
5	Mukhtiarkar	4
6	beggar	7
7	rozi	1

8	jagirdar	4
9	khadarposh	2
10	deh	2
11	kamdars	1
12	maulvis	3
13	pirs	3
14	taqdir	1
15	tapedar	1
16	kotar	2
17	patawala	1
18	abwabs	1
19	batai	2
20	munshi	1
21	bania	1
22	Jaagir	3
23	wafaqi mohtasib	1
24	qanoon e shahadat	3
25	Nikah	4
26	Khula	4
27	Nikah nama	3
28	Roznamcha	2
29	Riba	1
30	Alam	1
31	tehsildar	3
32	qatl-i-amd	1
33	Serah	1
34	tola	5
35	jirga	4

The legal language in Pakistan like legal languages across the world includes words from different foreign languages. However, opting for terms from the local language must be encouraged as it may give the reader a clearer meaning keeping in

view the socio-cultural context. It may also lead to a sense of belonging for the reader/citizen in the local situational and circumstantial contexts.

iv. Synonyms

Legal documents need to be clear, concise and unambiguous, because of the critical function they have to perform. In an attempt to achieve this clarity, multiple words having almost similar meanings are used in legal documents. Vystrčilova (2000) mentions the impact of Latin, Norman French and Anglo-Saxon languages leading to the use of synonyms or referring to the same concept with several different words. It is a general observation that these synonyms exist in either pair or the form of a string. These synonyms contribute more towards adding complexity and do little for the meanings though (Stanojevic, 2011). The data was marked for studying synonyms in three formats. These were:

1) A string of synonyms/ Binomials and multinomials
2) Alliteration
3) Meronomy

The criteria for the three is mentioned already in Chapter 3 (see section 3.1).

Initially, the string of synonyms was identified for the two types of legal documents. The results are documented below but although the proponents of the Plain language movement believe that these synonyms are unnecessary and only add to the lengthy convoluted style, the multinomials or such phrases identified above mostly can be replaced by a single word or phrase. Nevertheless, this is not true in all circumstances, as there are even synonyms that have an almost similar meaning but not exactly similar. In such cases, the use of all mentioned options appears to be necessary for ruling out any ambiguity or doubt.

For convenience, in Table 12 and Table 13, the entries labelled as A are the ones where a single word can be used to convey meanings, while the ones labelled B include synonyms where a single word cannot possibly encompass all the meanings that are supposed to be conveyed. Following terms were identified under the category.

Table 12

Multinomials used in selected legislation

Sr.	The string of Synonyms/ Binomials or multinomials	Category
1	damage or harm	A
2	Tribe, community, group or family	B
3	intern or an apprentice	A
4	who or which	A
5	heir, successor	A
6	cadre or categories	A
7	hostile or offensive	A
8	advice and assistance	B
9	agent or representative	A
10	vary or modify	A
11	custom or usage	A
12	sickness or infirmity	A
13	consolidate or merge	A
14	aid or grant	A
15	Fear, trauma and anxiety	A
16	potential and talent	A
17	discovery and exploration	A
18	inquiry into and investigation of	A
19	complaints and allegations	B
20	soliciting or receiving	B
21	sore, wound, injury	A
22	obtaining or assorting	A
23	visible or known	B
24	abused or exploited	A
25	purposes or gain	A
26	made or produce	A
27	obscene or sexually explicit	A
28	care or protection	A
29	rules or regulations	A
30	forcing, persuading, coercing	A
31	programmes and plans	A
32	covenants and commitments	B

33	rehabilitation and reintegration	B
34	manage (supervise) and control	A
35	create awareness and educate	A
36	lectures and seminars	A
37	terms and conditions	A
38	efficient and effective	A
39	Grant, donation, endowment	A
40	aids or abets	A
41	exposing or exhibiting	A
42	deformity or disease	B
43	unfit or encapacitated	A
44	immoral or depraved	A
45	immoral or illegal	B
46	film, video	A
47	any photograph, […] picture or a presentation, portrait	A
48	or computer-generated image or picture	A
49	digital image, computer image, or computer generate image	A
50	adapted or modified	A
51	institution or organisation	A
52	mental impairment, [...], severe mental impairment	A
53	established or recognised	B
54	kafalat ghar or children home or orphanage	A
55	discipline, correction and control	A
56	employing, using	A
57	fondling, stroking, caressing	A
58	conduct or stimulation	B
59	activities, programs and plans	A
60	prevention, protection	A
61	child sexual abuse, child sexual exploitation	A
62	authorities and departments	A
63	physical and corporal punishments	A
63	aid and assistance	A
65	abuse, […] and exploitation	A

66	maintaining and updating record	B
67	protective services and programs	A
68	delegated or devolved	A
69	such establishment or building	A
70	legality or proprietary	B
71	frivolous or vexatious	A
72	fair and impartial	A
73	oath or solemn affirmation	A
74	harm, pain, suffering	A
75	coerces or induces	A
76	indulge in or to undertake	A
77	tradition or a custom	A
78	dangerous, harmful, hazardous	A
79	charge of or control over	A
80	bet or wager	A
81	sickness, infirmity or mental incapacity	B
82	psychopathic disorder or any other disorder or disability of mind	A
83	begotten or conceived	B
84	service, facility	A
85	benefit, privilege	A
86	establishment, organisations, institutions, departments, centres.	B
87	care, custody	A
88	prisons, jails, confinement cells	A
89	psychological care, counselling	A
90	sensitisation and awareness	A
91	facilitate, […] and support	A
92	incentives, […] grants	A
93	recreation and leisure	A
94	profession or occupation	A
95	subletting or tenancy	A
96	form of mental disorder, namely, severe mental impairment, severe personality disorder, mental impairment, or any other	A

disorder or disability of mind

Table 13

Multinomials used in selected judgments

Sr.	The string of Synonyms/ Binomials and Multinomials	Category
1	unrest/uncertainty	B
2	occurrence or incident	A
3	fit, […] and proper	A
4	illegal, unfair, malafide	B
5	past (history)	A
6	justice, equity and fairplay	A
7	impertinent/insolent	A
8	woe and misery	A
9	easy or simple	A
10	over/regarding	A
11	liberty and the freedom	A
12	signatories/members	A
13	authority/power	A
14	problems/needs	B
15	peasants/haris	A
16	zamindar/landlord	A
17	jagirdar/landlord	A
18	every human person and all the peoples	B
19	interrelated, interdependent and mutually reinforcing	A
20	forms and manifestations	A
21	promoting and protecting	B
22	credit and loans	A
23	land and agrarian	A
24	fair and equitable	A
25	thought, belief	A
26	opinion, expression	A
27	fair, impartial	A

28	compensation and reparation	A
29	safety and health representatives and representatives in safety and health committees	A
30	adequate food, food security, food sovereignty and sustainable and equitable food	A
31	enrolled/registered	A
32	Zamindar and Jagirdar	A
33	enrollment/registration	A
34	legislation on/ towards	A
35	profession/work	A
36	help/aid	A
37	decision/judgment	A
38	duty/obligation	A
39	duties/works	A
40	authority/forum	A
41	investigate/inquire	A
42	Ombudsman/Mohtasib	A
43	rules/law	B
44	ejectment/termination	B
45	judgment/order	A
46	lamented and bemoaned	A
47	True, correct and factual	A
48	Rules or principles	A
49	Judgment and Decree	A
50	Tampered or forged	A
51	Confirm/verify	A
52	Attorney/Agent	A
53	Penalty, […] or Punishment	A
54	null and void	A
55	Rights/Claims	A
56	purpose and Intent	A
57	Object and purpose	A
58	Colour and Content	A

59	Mature and develop	A
60	bar or fetter	A
61	Promote/ advance	A
62	Mischief or defect	B
63	Reason, rationale	A
63	Objective, aim	A
65	Society/ Nation	A
66	teachers and pedagogues	A
67	Schools / centres	B
68	Victims/ sufferers	A
69	separate and distinct	A
70	incidents/ crimes	B
71	veracity and truthfulness	A
72	fairly, justly	A
73	Justice of peace/ sessions judge	A
74	record/register	A
75	facts and circumstances	B
76	upheld and maintained	A
77	parlance/sense	A
78	investigation/prosecution	B
79	monitors or supervisors	A
80	decipher and fathom	A
81	extreme care and caution	A
82	curriculum, syllabus	A
83	improvement/development	A
84	official respondents/ government authorities	A
85	judgment/decree	A
86	petitioner/plaintiff	A
87	respondent/defendant	A
88	erroneous/fallacious	A
89	permissive and not obligatory	A
90	vendor or provider	A
91	poverty and destitution	A

92	ignorance and illiteracy	A

Apart from that, the other two types included in the category of synonymy by Stanojevic (2011) are alliteration and the use of meronomy. Although smaller in number, the following lexical choices were identified in the sample.

Table 14

Alliteration identified in the sample

Sr.	For legislations	For judgments
1	caste, colour or creed	code of conduct
2	code and cadre	in consultation and in conjunction
3		correction, control and changing behaviour
4		destroys, defiles or diminishes

Table 15

Meronomy/hyponymy in the sample

Sr.	In Legislation	In Judgments
1	subject or context	racial segregation and discrimination
2	customs and customary rights	livestock raising, pastoralism
3	management and control of management	unsafe and unhealthy
4	child-friendly and child centered	laborers/peasant
5	computer disc or any other modern gadget	employer/landlord
6	pain or discomfort	forgery and cheating

7	injury, psychological harm	starvation and famine
8	land […] properties	hunger and starvation
9	house, part of the house, room	
10	department or institution	
11	hostile, […] offensive (schedule pg12. b)	
12	land and revenue	
13	service laws and terms of services contract	
14	trade and business	

Semantics holds great importance in case of legal texts. Small differences in literal meanings can lead to flawed interpretations of the law and then faulty decisions. Since legal documents have a very different function to perform when compared with other kinds of texts, so meanings play a very important role. Hence, there cannot be a "one-fits-all" type of replacement of such words. The use of synonyms is thus context-dependent however, should be avoided wherever possible to avoid confusion.

v. Whiz omission

Čėsnienė & Daračienė, (2014) believe that wh-words are a rare part of legal language, thus the term, Whiz omission. The following tables, Table 16 and 17 show the frequency and percentages of such words in legislations and judgments respectively.

Table 16

The occurrence of Wh-words in legislations understudy

Sr.	Whiz words	Frequency	Percentage
1	Which	240	0.531
2	Who	111	0.245

3	Where	92	0.203
4	When	45	0.099
5	whom	40	0.088
6	whether	36	0.079
7	whose	34	0.075
8	whoever	28	0.062
9	whereas	15	0.033
10	whosoever	11	0.024
11	whole	11	0.024
12	whenever	10	0.022
13	why	9	0.02
14	what	7	0.015
15	while	5	0.011
16	whatsoever	4	0.008
17	whichever	3	0.006
18	wherever	2	0.004
19	wherein	1	0.002
20	whereby	1	0.002
21	whatsoevery	1	0.002

Table 17

The occurrence of Wh-words in judgments understudy

Sr.	Whiz Words	Frequency	Percentage
1	which	391	0.532
2	who	90	0.122
3	when	70	0.095
4	where	61	0.083
5	while	57	0.077
6	what	34	0.046
7	whether	32	0.043
8	whom	22	0.029
9	wherein	22	0.029

10	whereby	19	0.025
11	whole	16	0.022
12	whose	14	0.019
13	whereas	13	0.017
14	whereof	10	0.014
15	why	7	0.009
16	whenever	6	0.0081
17	whereafter	4	0.0054
18	whatever	3	0.004
19	whatsoever	2	0.0027
20	wherever	2	0.0027
21	whosoever	1	0.0013
22	whilst	1	0.0013
23	wherefrom	1	0.0013
24	whoever	1	0.0013
25	whichever	1	0.0013

The results for wh-words contradicted with Čėsnienė & Daračienė's (2014) findings. The tables above revealed that the wh-words are not absent or negligible in the legal documents of Pakistan. A total of 706 wh-words were identified from legislations and 880 from judgments. The highest numbers of words such as which, who, when and where was because of the frequent use as relative pronouns.

vi. Unique Determiners

Determiners are used to specify a particular noun and are generally, the articles, quantifiers, demonstrative and possessive ones. Legal language, however, has unique determiners, depending upon the context. According to Čėsnienė & Daračienė (2014), legal language uses different words to mean "this", "that", "that particular", or "the one being considered" etc. The two *unique* determiners pointed out by them included "such" and "said". The sample was probed for all such determiners suggested by Čėsnienė & Daračienė (2014). The results are presented below:

Table 18

The use of unique determiners in the sample

Sr.	Determiner	Frequency	
		Legislation	**Judgments**
1	Such	496	253
2	said	58	72
3	aforesaid	18	5
4	aforementioned	1	3
5	above-mentioned	-	1

The occurrence of demonstrative adjectives or determiners is mentioned below for reference.

Table 19

The use of demonstrative adjectives as determiners in the sample

Sr.	Term	Frequency	
		Legislation	**Judgments**
1.	this	350	347
2.	that	21	71
3.	these	4	67
4.	those	12	45

Table 19 indicates that unlike what Čėsnienė & Daračienė (2014) had suggested, traditional or commonly used determiners are also a part of Pakistani legal texts. This reduces the "uniqueness" of the use of determiners. The use of demonstrative adjectives is reader-friendly and appear natural to the reader.

Nonetheless, still frequent use of “such” and “said” may rarely add to the formality of the text as it appears natural to a common speaker of the English language now.

vii. Use of Negatives

Negatives are a characteristic of legal texts. These included not only the use of “not” or “never” but also words with prefixes such as un, in dis etc. The use of negatives may be to emphasize or persuade to act in a certain manner. Tables 20 and 21 include a list of the use of negatives in legislation and judgments.

Table 20

Use of negative in sample legislations

Sr.	Negatives	Frequency
1	Not	211
2	Unless	34
3	Until	21
4	Unfair	8
5	Unlawful	5
6	Unable	4
7	Unwelcome	4
8	Unfit	2
9	Unsound	2
10	Unlicensed	2
11	Unjustly	2
12	Uncertain	1
13	Undesirable	1
14	Unemployment	1
15	Unequivocally	1
16	Unnecessary	1
17	Unexpired	1
18	Unacceptable	1
19	Unfitness	1
20	Inconsistent	7
21	Informal	7

22	Incapable	6
23	Insufficient	2
24	incapacity	2
25	intoxicant	2
26	indirectly	2
27	invalidates	2
28	invalidation	1
29	inhumane	1
30	ineffectual	1
31	incorrect	1
32	inpatient	1
33	indirect	1
34	incurably	2
35	inferior	1
36	inconvenience	1
37	inefficiency	1
38	informally	1
39	illegal	1
40	illegally	1
41	irresponsible	4
42	irregularity	1
43	disorder	34
44	disordered	99
45	discharge	23
46	disability	7
47	discontinuation	6
48	discriminate	5
49	discrimination	13
50	disregarded	1
51	dismissed	1
52	disablement	1
53	disabled	1
54	dismissing	1

55	disclose	1
56	discomfort	1
57	disabilities	1
58	non-compoundable	3
59	non-governmental	3
60	None	2
61	non-bailable	2
62	non-validation	2
63	non-attendance	1
64	non-official	2
65	non-discrimination	1
66	non-cognizable	1
67	non-muslim	1
68	non-compliance	1
69	non-kinship	1

Table 21

Use of negatives in sample judgments

Sr.	Negatives	Frequency
1	Not	482
2	unlawfully	6
3	unpaid	5
4	unable	5
5	unfortunate	5
6	unearth	5
7	unlawful	5
8	unfortunate	5
9	unfortunately	5
10	unemployment	4
11	undeniable	4
12	unalienable	4
13	undoubtedly	4
14	unavoidable	3

15	unjust	3
16	unnecessary	3
17	unconstitutional	3
18	unemployed	2
19	unskilled	2
20	unplanned	2
21	unnatural	2
22	unchanged	2
23	unreported	2
24	undeniably	2
25	unconscious	2
26	unnecessarily	2
27	unwarranted	2
28	uncontrolled	1
29	unserved	1
30	unlike	1
31	uncompromising	1
32	unanesthetized	1
33	unhygienic	1
34	unanimous	1
35	unanimously	1
36	unknowingly	1
37	unwanted	1
38	unchecked	1
39	uncertainty	1
40	unattachable	1
41	unhealthy	1
42	unsafe	1
43	uneven	1
44	unbalanced	1
45	unenforceable	1
46	unwritten	1
47	untouched	1

48	unreal	1
49	Unfit	1
50	unusual	1
51	unresolved	1
52	unfair	1
53	unauthorized	1
54	unlimited	1
55	uncharitable	1
56	unheard	1
57	unfettered	1
58	informal	20
59	inefficiency	3
60	inalienable	3
61	incorrect	3
62	incapacitated	2
63	inconvenience	2
64	inconsistency	2
65	inconvenient	2
66	incapacity	2
67	indirectly	2
68	inequality	1
69	inseparable	1
70	indispensable	1
71	incomplete	1
72	incompetent	1
73	inhuman	1
74	indivisible	1
75	inconsistent	1
76	insufficient	1
77	inextinguishable	1
78	inescapable	1
79	disclose	20
80	disclosure	6

81	dishonest	5
82	disadvantaged	3
83	disqualification	2
84	disadvantage	3
85	dispossess	4
86	dissatisfied	2
87	disappeared	1
88	displaced	1
89	disproportionately	1
90	disable	1
91	discontinued	1
92	illegal	15
93	illegally	3
94	illegality	3
95	illiteracy	3
96	illiterate	5
97	ill-ventilated	1
98	irrespective	1
99	irresponsible	1
100	irregular	1
101	irresistible	1
102	non-formal	8
103	None	6
104	non-discriminatory	5
105	non-suit	3
106	non-cognizable	3
107	non-monetized	2
108	non-registration	2
109	non-governmental	2
110	non-muslims	3
111	non-lapsable	1
112	non-pregnant	1
113	nonetheless	1

114	non-suited	1
115	non-discrimination	1
116	nondiscriminatory	1
117	non-state	1
118	nonstate	1
119	non-farm	1
120	non-bailable	1
121	nonArab	1
122	non-Arab	1
123	non-cognisable	1
124	Non-applicability	1
125	Non-formal	1
126	non-schooling	1
127	never	35

Over a hundred negative lexemes and excessive use of “not”, 211 times in legislations and 482 times in judgments, asserts the frequent use of negative specifically double negative, where a negative lexeme is paired with “not”. This was observed repeatedly in the data in the forms of “not unlawful”, “not inconsistent”, “not unfit”, “not irregular” etc. Naturally, the English language does not use double negatives.

By using a negative adjective in place of an antonym a moderated sense of the word is communicated. (Fraenkel & Schul, 2008). The use of double negatives can easily be avoided by replacing them with a positive word or antonym to make the documents more lucid and clear as negation has an adverse impact on comprehension (Margolin & Abrams, 2009).

viii. Repetition of Words

Redundancy is a very prominent and often criticised feature of legal language. It also contributes to wordiness and verbosity. The use of the same words repeatedly instead of an anaphoric reference is the distinguishing feature of legal language that sets it apart from other genres. Quantitatively this can be observed by looking at the occurrence of pronouns (see Table 22) and demonstrative adjectives (see Table 19).

Table 22

Use of pronouns in selected legislations

Sr.	Pronouns	Frequency	Percentage
1	It	188	0.415
2	His	175	0.387
3	He	91	0.201
4	Him	69	0.153
5	their	39	0.086
6	Its	37	0.082
7	Her	26	0.574
8	They	20	0.044
9	himself	18	0.039
10	them	16	0.035
11	she	13	0.029
12	I	10	0.022
13	one	5	0.011
14	itself	4	0.009
15	herself	2	0.004
16	themselves	2	0.004
17	our	2	0.004
18	my	2	0.004

From the table above, the little or even negligible use of pronouns is evident. There is no second personal pronoun since laws are not made for one person specifically but for the public as a whole. Moreover, the first person pronouns i.e. “I”, “my” and “our” observed were found in the annexures to the Cristian Marriage Laws as in statements or declarations like, “I call upon these persons here present to witness that **I**, A.B, in the presence of Almighty God …”, “**I** solemnly swear” or “**I**, A.B. take the C.D. to be **my** lawful wedded wife [or husband].”

The absence of a second personal pronoun in the laws of state understudy highlights their binding nature for both the state and the citizens of the state.

The frequency of third-person pronouns is less than a hundred even except in the case of “it” and “he” in a corpus of around 45,000 words speaks of the lack of anaphoric reference.

The results for pronouns for judgments, however, were slightly different. The details are provided in Table 23.

Table 23

Use of pronouns in selected Judgments

Sr.	Pronouns	Frequency	Percentage
1	it	445	0.626
2	his	221	0.311
3	their	209	0.294
4	he	182	0.256
5	we	125	0.176
6	its	119	0.167
7	they	99	0.139
8	her	90	0.127
9	them	78	0.109
10	him	77	0.108
11	I	47	0.066
12	our	44	0.061
13	she	43	0.061
14	us	29	0.041
15	itself	22	0.031
16	himself	18	0.025
17	one	17	0.024
18	you	14	0.020
19	my	13	0.018
20	your	8	0.011
21	themselves	6	0.008
22	me	5	0.007
23	ourselves	3	0.004

24	herself	2	0.002

Judgments cover a particular, or in case of citations and references from past judgments, multiple incidents of somewhat similar circumstances. These are real-life incidents put into words and also include the names of the people involved. Hence, the greater number of personal pronouns used as compared to legislation is obvious. The second and third-person pronouns are used to refer to the participants in the form of petitioners and respondents, the first-person pronouns are used for jury largely but also include the direct statements from the participants.

Moreover, it can be observed that legislations include more repetitive words as compared to judgments. Another very common aspect observed in legislation was the repetition of certain phrases multiple times. For instance, the trans gender's protection act included “denial or discontinuity” repetitively at the beginning of several clauses. This repetition could be avoided by using anaphoric references wherever possible and using bullet points under those specific phrases.

4.2.2 Syntactic Features

Moving beyond the lexical level, the data were analysed at the phrase and sentence level. A sentence was analysed from various aspects. The details are as follows

i. Sentence Length

Legal documents have a characteristic sentence structure. The lengthy sentence, unnecessary clauses, redundancy play an important role in making the legal language complex. With the data in hand, the legislation and judgments understudy as numbered previously (see section 4.1) revealed the following numbers when subjected to the *Proofing by MS Word.* This may also be one of the reasons why most people avoid reading legal documents for their own benefit even.

Table 24

Sentence length and readability of selected legislations

Sr.	Legislations	Words per Sentence	Flesch Readability Score

1	Legislation No. 1	24.4	33.8
2	Legislation No. 2	30.7	29.6
3	Legislation No. 3	43.3	20.7
4	Legislation No. 4	34.9	30.1
5	Legislation No. 5	46.9	34.6
6	Legislation No. 6	35.4	35.8
7	Legislation No. 7	34.9	33.9
8	Legislation No. 8	39.7	26.0
9	Legislation No. 9	34.2	32.7
10	Legislation No. 10	36.5	29.8

The data above indicate that judgments are comparatively easier to read and understand when compared with legislation. the number of words per sentence in both types of text is high thus hinting that the length of a sentence plays an important role in adding the complexity of any text.

For legislations, the number of words per sentence, at the minimum has 24.4 words on average whereas the maximum value is as high as 46.9 words per sentence. The Mental Health Ordinance, 2001 has the least score i.e., 20.7 thus making it the most difficult document from reading perspective. On the other hand, even though Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010 was the easiest among all it was still a fairly difficult text with Flesch reading score of 35.9.

Table 25

Sentence length and readability of selected Judgments

Sr.	Judgments	Words per sentence	Flesch Readability score
1	Judgment No. 1	19.7	37.3

2	Judgment No. 2	19.2	42.1
3	Judgment No. 3	22.7	28.8
4	Judgment No. 4	27.6	41.8
5	Judgment No. 5	32.8	33.0
6	Judgment No. 6	27.6	33.3
7	Judgment No. 7	27.2	41.9
8	Judgment No. 8	25.1	41.0
9	Judgment No. 9	20.5	30.2
10	Judgment No. 10	28.8	34.2

The judgments on the other hand although still difficult to read yet the scores were slightly higher than legislation making them easier in comparison. The least average number of words per sentence for them was 19.2 while the highest value lied at 32.8. As far as the Flesch readability score was concerned, the minimum was at 28.8 for Const. Petition No. 50 and 69 of 2011, Fiaqat Hussain and others, Iqbal-ur-Rehman Sharif and others Vs. The Federation of Pakistan thr. Secretary Planning and Development Division, Islamabad and others. While the maximum value in the sample was 42.1 for Case No. W. P. No. 337 of 2012 Farrah Bashir Versus Muhammad Umar Tahir.

According to Flesch (2016), for any written text to be in Plain language it must have a readability score between 60 and 70 with not more than 10 words in a sentence. However, the readings recorded above clearly show that the language of legal documents is far from a plain readable document.

ii. Punctuation and the use of That

Many linguists including Čėsnienė & Daračienė (2014) believe that legalese does not use a lot of punctuations and there is excessive use of certain words like

"that" which was used 262 times in the sample for ten legislations and 906 times in judgments.

Table 26

The use of punctuations in the sample

Sr.	Punctuations	Frequency	
		Legislations	**Judgments**
1.	Comma	2388	3671
2.	Period	1451	3718
3.	semi colon	412	255
4.	Colon	120	323
5.	apostrophe	34	201
6.	Dash	655	680
7.	square brackets	11	26
8.	inverted commas	264	590
9.	round brackets	926	761
10.	Oblique	22	425

Hence, it is clear that Pakistani legal documents, specifically the ones under study make sufficient use of punctuations, unlike the commonly observed notion. This frequent use of punctuations contributes a lot to a better understanding of the otherwise lengthy syntactically complex constructions.

iii. Nominalisations

Stanojevic (2011) writes that instead of using the verbs themselves, legal drafters usually prefer to use the nouns derived from such verbs but according to Haigh (2004) nominalisation is a morphological process that makes the text unnecessarily long and dull, hence should be avoided. Below are a few of the many examples found in the text.

Table 27

Nominalisation in selected legislations

Sr.	Nominalisation	Possible Verb
1.	Moving application/ application made	to apply
2.	provide for the protection/grant protection	to protect
3.	make recommendations to a psychiatric facility	recommend to a psychiatric facility
4.	for the purpose of registration of marriages	for registering marriages
5.	petition for the termination of a marriage	petition for terminating a marriage
6.	may issue such directions	may direct
7.	for the purpose of registration of marriages	Registering marriages
8.	correction made	to correct
9.	can lead to the identification	can identify
10.	by tendering his resignation	by resigning
11.	for implementation of the orders	for implementing orders
12.	from the initiation of proceedings	since proceedings initiated
13.	arguments made to the satisfaction of the court	arguments to satisfy the court
14.	providing for solemnization of marriages	for solemnizing marriages
15.	a question arises for interpretation of any of the provisions	a question arises while interpreting any provision
16.	bringing about a reconciliation between the parties	reconciling between the parties
17.	as specified in the prescription	as prescribed
18.	will constitute a violation	will violate
19.	for the preparation and submission	preparing and submitting
20.	for rectification of applications	rectifying application
21.	mechanisms for the periodic sensitization and awareness	mechanism for sensitizing and making aware
22.	admitted in pursuance of an application	for pursuing an application
23.	in the presence of two witnesses	with two witnesses present
24.	enforce the attendance of any person	make any person attend
25.	act in assistance of the commission in the performance of its functions	act to assist the commission in performing its functions

26.	in compliance with this order	to comply with this order
27.	during the subsistence of an existing marriage	while subsisting an existing marriage
28.	but have drug dependence	is drug-dependent
29.	arrange for the issuance of the letter	arrange to issue the letter
30.	causing interference with work performance	interfering with work
31.	for the observance of such conditions	for observing such conditions
32.	requiring the appearance of a child	a child is required to appear
33.	provide advice and assistance to each party	advise and assist each party
34.	give him necessary training	to train necessarily
35.	give notice in writing	give written notice
36.	provide treatment of the mentally disordered	treat the mentally disordered
37.	shall be punished with imprisonment	shall be imprisoned
38.	person responsible for the management of the affairs	person managing affairs
39.	authority holding the assessment	authority assessing
40.	shall be punished with the punishment for the offence	shall be punished for the offence
41.	on payment of the proper fees	after paying proper fees
42.	through the appointment of another person	by appointing another person
43.	in connection with the enforcement of the act	for enforcing the act
44.	unless arrangements have been made	unless arranged
45.	receive benefits as per entitlement	receive entitled benefits
46.	for entrustment with the custody of a child	entrusted with child's custody
47.	for the purpose of entertainment	entertained
48.	on attainment of the age of superannuation	attaining the age of superannuation
49.	to temporarily make adjustments	to adjust temporarily
50.	after the pronouncement of talaq	after pronouncing talaq
51.	in accordance with	according to

Table 28

Nominalisation in selected judgments

Sr.	Nominalisation	Possible Verb
1.	to carry out investigation faithfully	to investigate faithfully
2.	to issue the directions	to direct
3.	to provide due protection	to protect
4.	filed an application	Applied
5.	shall stimulate sustainable production	should produce sustainably
6.	May take into consideration	may consider
7.	For the implementation of measures	To implement measures
8.	for the promotion of special studies	To promote special studies
9.	In violation of fundamental rights	Violates fundamental rights
10.	In the course of the examination	While examining
11.	While making these observations	While observing these
12.	Streamline through an in co-ordination	Streamline by co-ordinating
13.	Creation of this (Pakistan) was always meant to	Pakistan was created to provide
14.	Take measures aimed at the conservation	Take measures to conserve
15.	any law made in contravention	Any law that contravenes
16.	Experts made valuable contributions	Experts contributed.
17.	Mechanisms for the prevention of	Mechanism preventing […]
18.	Directions for preparations of form	Directions to prepare form
19.	Benefits arising from the utilization of plant genetic resources	Benefits of utilizing plant genetic resources
20.	Schemes for adoption of family planning	Schemes for adopting family

		planning
21.	You must cause or permit your imagination to boggle when	You must imagine when
22.	Urged that a comprehensive treatment of the issue is called for	Urged to treat the issue comprehensively
23.	Right to participate in the management of resources	Right to manage resources
24.	Partial payment is made	Partially paid
25.	The act provides mechanism for enforcement of rights	The act helps to enforce rights
26.	Pakistan made a commitment	Pakistan committed
27.	To be given highest encouragement	To be highly encouraged
28.	Its duty to ensure improvement of	Its duty to improve
29.	Proceed strictly in accordance with the law	Proceed strictly according to the law
30.	Promulgated in compliance with the judgment	Promulgated to comply with the judgment

Nominal style, substituting nouns for verbs, From the above-mentioned examples, it is clear that legal texts make unnecessary and preventable use of nominalisation. This hinders the reading process. Wolfer (2016) is also of the opinion that jurisdictional texts are complex and nominalisation is one of the reasons for this complexity. Through his work, he showed that by transforming nominalisation into verbal structures, complexity can be resolved to some extent and the texts with verbal structures were easier to read than those with needless nominalisations.

iv. Impersonal Style and Passivisation

Finally, the impersonal style of writing in the texts was studied as part of the present study. Schneidereit (2004) writes that sometimes lawyers purposely adopt an impersonal style and use passive voiced sentences more to downplay the agency which influences the comprehension of the text. Stanojevic (2011) believes that legal drafters omit agency to give an impression that the laws are binding for all irrespective of the doers. For judgments, the first person pronoun is avoided too. This is done to indicate impartiality and achieve maximum objectivity (Stanojevic, 2011).

Below is a brief overview of the passivization used in the sample. The texts were subjected to *Proofing* within the *MS Word*, which at the end calculated the number of passive sentences. Table 29 shows the passivisation in legislations and Table 30 shows the same for the judgments.

Table 29

Use of passive sentences in legislations understudy

Sr.	Legislations	Passive Sentences
1.	Legislation No. 1	18.5%
2.	Legislation No. 2	35.3%
3.	Legislation No. 3	29.7%
4.	Legislation No. 4	39.7%
5.	Legislation No. 5	23.9%
6.	Legislation No. 6	28.0%
7.	Legislation No. 7	37.4%
8.	Legislation No. 8	41.1%
9.	Legislation No. 9	33.3%
10.	Legislation No. 10	25.0%

Table 30

Use of passive sentences in judgments understudy

Sr.	Judgments	Passive Sentences
1.	Judgment No. 1	19.2%
2.	Judgment No. 2	30.0%
3.	Judgment No. 3	30.4%
4.	Judgment No. 4	21.7%
5.	Judgment No. 5	25.1%
6.	Judgment No. 6	23.8%
7.	Judgment No. 7	29.2%
8.	Judgment No. 8	26.5%
9.	Judgment No. 9	19.8%
10.	Judgment No. 10	43.7%

The reduced agency is an integral part of the legal documents. Sometimes, it may be necessary but many times it can be avoided by using words like gender-neutral words for any human who performs an activity.

v. Conditionals

Legal bindings are all about what should one do in what situations and what consequences certain acts can have. Therefore, the language of legal documents is said to make use of frequent conditionals. Table 31 presents a brief account of conditionals used in the selected legal documents.

Table 31

Use of conditionals in the sample documents

Sr.	Conditional	Frequency	
		Legislations	Judgments

1.	If	156	126
2.	in case	26	17
3.	unless	34	21
4.	until	21	7

Terms and conditions form the basis of the law, without these no law can stand. Therefore, eliminating these in the name of the plain language movement may not necessarily prove to be beneficial.

vi. Prepositional Phrases

Prepositions or prepositional phrases are often used peculiarly in legal texts. Instead of using a simple single word preposition, often lengthy phrases are being used. This adds to the formality of the text and gives it a rather traditional appearance instead of modern-day ones. What Čėsnienė & Daračienė (2014) have studied as prepositional phrases in their work and the same was called circumlocutions by Stanojevic (2011). According to him, these give the text its characteristic archaic form. Mentioned below are a few examples of the said syntactic choices from the sample.

Table 32

Prepositional phrases in sample legislations

Sr.	Prepositional Phrases	Possible Substitute	Frequency
1.	in pursuance of an	for pursuing	7
2.	in the opinion of	according to	8
3.	in the case of	For	11
4.	in relation to	related to	16
5.	in the prescribed manner	as prescribed	15
6.	in accordance with	according to	36
7.	in respect of	regarding/concerning	40
8.	in regard to	as to/as for/about	18
9.	in the manner	as	6
10.	between the hours of	from […] to […]	4

11.	for the purpose of	for	23
12.	for the time being in force	when in force	18
13.	to provide for (nominalisation)	to (verb)	15
14.	for a period of	for	10
15.	for reasons to be recorded	causes are recorded	6
16.	as may be necessary for	as required for	3
17.	shall not be less than […]	shall be at least […]	8

In the case of judgments, single word prepositions were more common. The said prepositional phrases were used rarely by various justices while penning down the decisions.

Table 33

Prepositional phrases in sample judgments

Sr.	Prepositional phrases	Possible Substitute	Frequency
1.	in accordance with	according to	29
2.	including through the	including	4
3.	in respect of the	for	27
4.	on the part of the	on behalf of	9

This reduced use in case of judgments verifies that using single-word prepositions instead of prepositional phrases does not alter the meaning and can be adopted in legislation as well.

vii. Lack of Connectors

The words that connect different parts of sentences or different sentences are called as connectors in the present study. Čėsnienė & Daračienė (2014) thinks that such words create a sense of subjectivity in the minds and are therefore avoided in legal texts. Following are the details about the occurrence of such words in both genres.

Table 34

Connectors found in sample legislations

Sr.	Connectors	Frequency
1.	Then	7
2.	Next	2
3.	But	1
4.	therefore	2

Connectors that indicated chronology were absent in the said sample, for example, words like afterwards, firstly, secondly etc. were not found in the documents under study. Not only that, other such terms like however, moreover, nevertheless, furthermore, in addition, although etc. were also absent. This does not mean that such words are not used by legal professionals but although very small in number, they may appear in texts other than the ones in the sample. However, the judgments used the connector slightly more than the legislations.

Table 35

Connectors used in sample judgments

Sr.	Connectors	Frequency
1.	then	47
2.	next	10
3.	finally	4
4.	but	1
5.	however	70
6.	nevertheless	6
7.	while	1
8.	therefore	88

The use of connectors should in fact be promoted because it links the text together, increasing the cohesion and coherence to make the writings/documents easily intelligible.

4.3 Conclusion

The data analysis revealed that a lot of the features of legal language proposed by the authors of the models used for the study were present in Pakistani legalese. However, there were a few differences that were different in the Pakistani legal language. A detailed account of the findings is discussed in the next chapter.

CHAPTER 5

FINDINGS, DISCUSSION AND CONCLUSION

> The minute you read something that you can't understand, you can almost be sure that it was drawn up by a lawyer. ~ Will Rogers

This chapter builds up on the data analysis presented in the previous chapter. The results are briefly presented below.

5.1 Findings

Legal documents are known for their peculiar forms and structures. It is being believed that legal lexis and grammar are far from everyday use of language and contains words whose meanings have long been changed. The analysis of the data taken for the present study is being carried out in the light of researches by Stanojevic (2011) and Čėsnienė & Daračienė (2014). It manifests that the long-standing claim of legalese being unnecessarily complex, is true however, Pakistani legalese has some peculiarities where it deviates from the often stated characteristics for legalese by the Western scholars. Much of the lexis and grammar holds on to the orthodox style for no good reason, however, there are a few points where lexical and syntactic features gave hope to the propagation of plain language movement in Pakistan. The Pakistani legal documents in general and the ones under study, in particular, have highlighted that the pretentious and traditional writing style can simply be eliminated without much effort. Below is a brief account of the results derived from the previous chapter. For convenience, the categorization of lexical and syntactic choices is maintained.

Lexical Features:

1. After a detailed study and the numbers from the present data and with reference to those from BNC, it is evident that some words that have been stated as examples of archaic terms by Stanojevic (2011) even are in fact still in use and do not qualify for the category of archaic.

2. The category of technical terms is a critical one. This cannot be simply eliminated since every field/profession has its specific genre of texts and their specific register and jargon. Such terms are inevitable and cannot be replaced. Hence in order

to make texts reader-friendly, the solution lies in sensitization of the public. As for the argots, not a single one was observed in sample legislations and only seven were seen in judgements. Thus again, Pakistani legal documents were distinct in this regard.

3. Keeping in view the examples in the models under study (Stanojevic, 2011) and (Čėsnienė & Daračienė, 2014), the terms with a foreign origin which became a part of the English language after the 17th century were categorised as foreign terms. Nonetheless, after interpretation of data, it was revealed that many of the identified terms under this category are no longer foreign and are used by English speakers throughout the globe.

Another stark and worth mentioning finding was the use of local language words even in the presence of English equivalents. This contributes towards a better understanding of texts for the masses who would feel more familiar with local language words.

4. As for the synonymy and multinomials, the results from the study are inclined in favour as well as opposed to the models. The use of binomials and multinomials had different significance in different places. In order to better explain this feature, the terms were marked A or B depending upon their semantic value.

5. Whiz deletion was among those phenomena that were absent in Pakistani legal documents. Although Čėsnienė & Daračienė (2014) claimed that legal texts often do not use the Wh- words but it was not the case in the present data. Table 17 presented a brief overview of the occurrence of Wh- words.

6. The determiners specifically the demonstrative adjective/pronoun “that” was not peculiar rather was close to the everyday use of the language. Moreover, the basic determiners such as “this, that, these and those” had significant frequency along with the most occurring “such”.

7. The use of negatives was in line with the models proposed, including the use of double negatives often as well. This is something that is discouraged in the everyday conversational English language and can also be eliminated in legal texts.

8. The sample texts make reduced use of pronouns and rarely anaphoric references were made. The feature dominated in legislations however, the frequency

of personal pronouns was slightly more than that of legislations. The tapering use of pronouns is justified by claiming that it is done to avoid any confusion.

Syntactic Features:

9. Legal texts are said to have lengthy sentences. The results from analysing the sample revealed that it was true. Sentences that could have been broken into two were unnecessarily prolonged. This had impacted the readability of the texts which was reduced and hence making them difficult to read as per the Flesh reading scale as well.

10. Punctuations are considered to be a phenomenon rarely observed in legal documents. However, the analysis of the data revealed a different story. Pakistani legal English had frequently used punctuations. The formatting or bulleting also contributed towards a better and easier understanding of the texts.

11. Nominlisation was frequently observed throughout the sample. A few examples have been mentioned in chapter 4. The analysis also revealed that this could be replaced by the relevant verbs without altering the meaning.

12. The reduced agency in legal documents is also a common phenomenon. Therefore, as proposed by the models, the sample also had an impersonal style and often used passive voiced sentences. This is justified by many legal experts for achieving neutrality.

13. Owing to the purpose and function of legal documents, the language used involves a lot of if(s) and but(s), making conditionals a necessary part of the text. Therefore, eliminating conditionals for the purpose of simplification of language does not seem appropriate.

14. The models under study proposed that legal texts use prepositional phrases in places where a single word preposition would suffice. This was proved somewhat true from the data analysis. However, since judgements are considered writings by a person, they used a lesser number of prepositional phrases and the text appeared closer to natural language.

15. The language of legal texts often appears to be discrete. The lack of connectors, hence, is obvious to avoid chronology. However, the number of

connectors was observed slightly more in judgements, again for the same reason that they are personal accounts of decisions taken by the jury.

Summary of the Unique Findings:

The present study made use of an integrated model based on the works of Stanojevic (2011) and Čėsnienė & Daračienė (2014). The results from the data are already discussed above nevertheless a few features needed to be emphasized. These features were different from the characteristics of a usual legal text as proposed by foreign authors. These include:

- A lesser number of archaic terms were used in sample documents. Also, after the comparison of the number of occurrences from selected documents and BNC, it was revealed that the examples quoted by Stanojevic (2001) as archaic are even not archaic in the present day. For example, *"subsequent to"* or *"prior to"* were quoted as examples by him for archaic terms however, after data from Sketch Engine, they were eliminated from the list of archaic terms.
- The technical terms are an essential part of any genre of text and therefore, cannot be eliminated in the name of simplification of language. Out of the three categories of technical terms suggested by Stanojevic (2011), argots were absent in sample legislations and only a few appeared in judgements.
- Legal texts in Pakistan, along with the foreign terms, also made use of local terms even in cases where English equivalent exists. As in the case of "taleem" and "ghr"
- Whiz deletion was not observed in sample documents, rather a lot of wh-words were used in both the genres of legal texts.
- The determiners used in the text under study was a combination of both unique as well as commonly used demonstrative adjectives.
- Unlike what was proposed by Čėsnienė & Daračienė (2014) sample documents had used a lot of punctuations, formatting and bulleting. Such appearance of the text also contributed towards the easy understanding of the text.

5.2 Discussion

This subsection attempts at providing an answer to the research questions that were posed in the first chapter of the study in light of the data analysis from the last chapter. These findings are then linked with the literature that is already present on the subject. A linguistic study of the selected legislations and judgments was undertaken to find out the lexical and syntactic choices which gave legal texts their peculiar appearance. In our socio-cultural context, many of the results were in line with what was being proposed by various other researchers across the world, however, in some cases, the results deviated from the proposed models of analysis making these features characteristic to Pakistani legal texts only.

The "great formality" (emphasis original) which gives the legal text its unique nature (Boleszczuk, 2011) is a result of the "old habits" of writing (Haigh, 2018). According to him the purpose of legal language is to regulate behaviours and not communicate. The present study after identifying these formal elements and structures highlights the fact that formality has nothing to do with communication. The same ideas, rules, regulations, rights, and responsibilities can be communicated to the public for the purpose of regulating their behaviour by using words and forms that are less formal. The primary purpose of every text is to communicate. For legal texts too, the purpose is to communicate in order to regulate behaviour. The state cannot regulate the behaviour of its people without communicating to them in the first place and in any free and democratic state, access to information is the basic right of every citizen. Thus, using the same formality in official and legal documents undermines the right. The old habits, without a doubt, are not easy to let go of. With the additional fact that legalese still contains structures that have been running along since the "Elizbithian Times" it will definitely not be an easy task to revamp all the texts in one go.

The obscure vocabulary, sentence structure, foreign phrases and words, unusual use of pronouns, verbosity, redundancy were all observed in the finding of the study at hand. The specialized vocabulary and infrequently used sentence structure as highlighted by Schane (2006) was also observed.

Recurrent use of archaic terms, technical terms, foreign terms specifically in cases where English language equivalents could have been used easily spoke of the

complexity that is still there. Words like “expedient”, “thereto/of/under” “in lieu” etc. are not used by a layperson. Even the educated group of people may not understand these because of their sporadic usage. Such terms were every so often observed.

Furthermore, many of the features to be studied were found to be overlapping. There were a number of terms that were technical i.e. either part of the jargon or argot but they were in Latin or French language. These also included the universally accepted Latin principles. Such elements can only be comprehensible by legal professionals. A person who has the same rights but may not be able to understand these foreign elements such as “mutatis mutandis” will feel distant from the text.

The problem of variance in meaning as suggested by Schane (2006) was also foregrounded by the results. The use of multinomials, polysemous, or archaic terms can often lead to ambiguity and confusion rather than precision. This was clearly visible in the case of polysemous words. These words mean very different in legal settings as compared to their literal meaning in everyday usage. This variance in meaning causes confusion in the minds of the reader. With two words referring to one and the same thing or one word referring to two different things, or the use of words such as the identified archaic and foreign terms that have become obsolete in everyday communication today and a non-professional is unaware of the meaning make these legal documents vague.

Christie (1964) writes that this vagueness is necessary and gives the law its required flexibility. However, as per the finding of this research, vagueness is not a necessary feature, in fact, the laws are already so elaborative and detailed that they often include needless details. Under such circumstances, any “vagueness” can do more harm than good as the same can be manipulated to alter the meaning and function of the laws. For instance the words “in a house” could suffice, the additional “or part of the house” was unnecessary. This can be manipulated by performing the criminal activity and then claiming that it wasn’t “part of the house”. Such unnecessary details only add to the verbosity and redundancy and their elimination can make the text clearer and more inclusive. Similarly, the use of multinomials and synonyms works the same way. There is no point in using “hostile and offensive” when both mean the same thing. This was highlighted by Vystrcilova (2000) who discussed the impact of Latin, Norman French, and Anglo-Saxon languages and the

excessive use of synonymy in legal texts. With that being said, the findings have also clarified that the use of synonyms or multinomials is not always problematic but sometimes necessary. For example, “schools/centres” and “incidents/crimes” etc. In examples like these, the use of multinomial is good in the sense that there may be centres other than the school, and incidents that may not be of criminal nature. Hence, such kinds of multinomials cannot be eliminated for the sake of achieving plain language standards because that might compromise the meaning of the text. The same features were discussed by Coulthard & Johnson (2007, p. 37), Williams (2004, 2017), Jensen (2009), and many other scholars.

The Plain language movement was initiated in the second half of the twentieth century. Since then a great number of people such as Hager (1959), Mellinkoff (1963), Charrow & Charrow (1979) Schane (2006), Maley (2013), Čėsnienė (2014), and Haigh (2018), etc. are of the opinion that plain language is the only suitable language for legal documents. It has been repeatedly emphasized that plain language does not mean a vernacular variety of language, but a clear and easy to understand language that is close to the language used commonly. This study, too emphasizes the use and promotion of plain language for legal drafting. Words suggested next to the findings are not part of any vernacular or sub-standard variety of language but the ones whose meanings and structures are familiar to the readers.

In Pakistan, Illahi (2014) took up the study to demonstrate how Urdu, the national language of Pakistan can be used instead of English, the foreign language. He also studied if it can improve the access to justice but found that people are more inclined towards using the same language instead of Urdu. This was so, because, Urdu has been long ignored that the masses have become distant from the formal and official jargon in Urdu, and hence the formality whether in English or Urdu is a hindrance in understanding.

One of the unique findings of the study was that words from local languages were also used in both genres. This was a rather positive step as people may affiliate themselves more to the local language and using such words as “taleem”, “ghar”, “kafalat” etc where the respective English equivalents were available would make the text more reader and context friendly. The use of more regional languages words

along with simpler structures of the English language would improve the flow of information to the masses.

Other features such as Whiz omission were also not observed in the selected data. Čėsnienė & Daračienė, (2014) suggested that wh-words are usually absent or used rarely in legal texts however, the results indicated the contrary. Pakistani legal documents under study i.e, the legislations, and the judgments both had a significant number of wh-words that could not be ignored. Similarly, it was also found for determiners. Legal texts were said to make excessive use of unique determiners but the numbers after data analysis narrated a different story. Along with the "unique" determiners such as "such" and "said" etc, the text had also included the commonly used determiners too.

Another highlight of the results was preventable repetition. Ahmed (2019) had justified this repetition in his work saying that using another word can cause doubt in meaning. The findings of the present study however indicated that pronouns could have easily been used in such places. Much of the repetition was avoidable and was only increasing the length of the texts superfluously.

Other studies such as that of Charrow & Charrow (1979) had also analysed legalese. He studied the legal language from lexis, grammar, and semantic perspective but did not cover the plain language aspect. The present study not only did the identification but also suggested substitutes wherever possible and explained in detail where the substitution was not possible. Giglio (1997), Čėsnienė (2014), Pengsun & Yushan (2014) had also studied different lexical, generic, and functional features of legalese and had analysed various legal documents. Pengsun & Yushan (2014) had studied legal memorandums from a functional perspective, using Halliday and Hassan's approach. Fransworth (1967), Trosborg (1991), Lim (2003), Balesteros-Lintao, et al. (2016) and Petersen, (2017) had worked on different grammatical aspects of legal texts but such as speech acts, prepositional phrases, and deontic modality. The use of the auxiliary verb "shall" was also studied by these researchers. This work had also studied the syntactic features in several perspectives. The sentences are usually said to be lengthy in the case of legal documents which were also observed in the data. Moreover, the data was also subjected to the Flesch readability test which indicated that both legislations and the judgments were not easy

to read and would create confusion in the minds of readers. The length of these sentences could have been easily reduced if plain language principles were adopted. Even minor changes as suggested in the present study can reduce the sentences to a more readable level. For example, the use of anaphora or pronouns instead of repeating the same words/phrases can increase the readability score.

Another striking difference from the normally accepted characteristics of legalese was about the use of punctuations and "that". The word "that" had occurred a lot of times but punctuations were not negligible or absent as are expected to be. In fact, both types of documents used a significant amount of punctuation. This was another finding that could contribute positively towards the aim of achieving plain language as it makes the text easier to read.

Other syntactic features such as nominalisations were also studied by various scholars. Haigh (2004) believed that pointless nominalisation made sentences dull and long. This was proved correct from present data as well, where a large number of examples of avoidable normalization were observed. Using a verb for such cases not only reduced the length but made text appear closer to everyday use of language. Moreover, impersonal style and passivization for reducing the agency was also observed. This reduced agency is without a doubt necessary for making text unbiased but it also adds to the alienation effect that a non-professional already feel from the legal documents. The use of lesser connectors also pinpoints the same reason for creating biasness.

Other features being studied were the excessive use of negatives and conditionals. The use of negatives creates a negative feeling about the text in the minds of the reader. Therefore, it is suggested that they may be avoided specifically in cases of double negatives such as "not unlawful". Conditionals nevertheless are a fundamental part of legal documents because they create a sense of cause and effect and binding nature in the reader's mind. Prepositional phrases were also part of the study but the results indicated that unlike Stanojevic (2011) and Peterson's (2017) claim, the prepositional phrases or circumlocutions were not used as frequently used as expected. In fact, one-word prepositions were more common.

Other researchers (Wogalter, 1999), (Smith & Richardson, 2005), (Boleszczuk, 2011), (Ahmed & Katsos, 2012) and (Randall, 2014), etc. had also

studied the cognitive aspect and focussed on understanding and interpretation on legal texts but had a lesser emphasis on the grammatical and structural aspects. Building on the present study, future researches can be conducted on cognitive grounds where the present and suggested structures can be compared for ease of reading by involving several participants. This study, however, lacked any cognitive approach.

In the Pakistani context, little research is done in the area. For example, Asghar, Mahmood, & Asghar (2018) studied a corpus of eight different legal genres to study linguistic variation. Ahmed & Katsos (2012) had used visual and textual simplification for the comprehension of legal texts. They had also used coloured and monochromatic documents to study intelligibility. Ahmed (2019) believed legislative drafting should employ a formal language. All these studies had either not focussed on the plain language aspect or not studied legislation and judgments in greater linguistic detail as the present study does.

The Manual issued by the Pakistan Institute of Parliamentary Studies had still emphasized the importance of using sophisticated and formal English (Ahmed, 2019). The world is embracing the Plain Language Movement and here it is still believed in using formal “foreign” language for our legal and official documents. The confusion about the language policy is also a major hindrance in this regard. In 2015, the Supreme Court of Pakistan ordered the use of national language for official purposes, in 2017, Lahore High Court passed a decree for conducting CSS exams in Urdu, and in 2019, again, PIPS – a government-run institute advocates the use of formal English. This speaks volumes of outdated behaviour. Powerhouses in Pakistan need to think ahead of time instead of glorifying practices that the world is leaving behind.

Therefore, this study in hand proves the fact that linguistically, we can make these documents plain without disrupting meanings. Within the same text, by slight replacements, one can achieve a more reader-friendly document that can communicate effectively with the public and consequently making it more law-respecting and abiding. Willerton (2015) writes the concept of abiding by law depends immensely on understanding law first. Hence this study can prove to be useful by serving as a cornerstone for other researches where various other legal and binding documents of importance can be analysed and simplified for the convenience of people in Pakistan.

5.2 Conclusion

Legal language is way more complex for a common man and remains a sort of an enigma or lexical labyrinth for a layperson to solve. Its complexities reflect on society as well. This unnecessary strain in the legal process makes it difficult to comprehend mainly because the document does not communicate well or in a comprehensible manner with its reader. The legal language uses such words or a combination of words that are long lost in the past and are neither used nor taught today. Cloaked in formal settings, these words become a hard task to understand.

Veiled under heavy vocabulary documents reflect that the drafters were indulged more into using words to make the document look flowery and mystique rather simpler to understand. The obsession with the English language in society is not because of a foreign language and people want to learn it rather it is because people want to impress and flaunt their skills. Mainly because social skills are attributed to the degree of English language proficiency in Pakistan. In a battle to make the document more flowery and formal, it is the loss that is faced at the user end and it remains aloof from what is written inside the document.

With the aforementioned case that has been developed and drawn it can be inferred that there is a dire need for swift actions to be taken in this regard. Simplifying the legalese to a more plain language is not as of a herculean task as it seems. It can be done by replacing the old worn-out structures with simple and commonly used words. Particularly this shall be done to those documents which are related to or concern a common man in their everyday life. However, if because of the "legal technicalities" complete replacement of legalese with plain language is not possible, at least there should be plain versions of those documents. So that if a person finds it hard to understand the document he or she may opt for a simpler version of the same document.

It is indeed ethically wrong that one party has the exact understanding of the document whereas the other finds itself perplexed into the string of jargon. Failing to understand the extent of documents could be one of the many causes that judicial proceedings take too much to conclude. This may also give one party power over the other, specifically between the state and its citizens. The state is more empowered and can even manipulate meanings to coerce the citizens because of their lack of

understanding. For example, the US government legalized torture in the prisons of Iraq and Guantanamo by repeatedly altering the legal definition of interrogation (Irina & Oksana, 2015).

It is high time to take the necessary measures. Many countries including New Zealand, Canada, Australia, United States, and Finland, etc. have adopted a new simplified style of legal writings by passing laws in these countries that compel them to make documents in simplified language. Pakistan, in this regard, is lacking way behind. Immediate measures are required to make legislative documents friendly to the user so the citizens know their rights and duties in order to live in a harmonious society.

As the world steer forward in our civilizational process, new words continue to pop up in dictionaries and new languages continue to surface. However, the documents that exercise control over individuals' life still use the orthodox style of writings. At all times, the purpose of laws and documents was to make individuals understand what they are about to face. The excerpts included in the introduction could have been written in complex language as well but then that would not have done the purpose. Verses from the Holy Quran, Bible, and Roman law would not have served the cause if they were veiled under the complexity of language. Newton could have written those laws of motion in a complex manner but if it was so we would have been lost in the perplexity of language rather than understanding motion and carving inventions out of it. Hence, for anything to happen, the information must flow first and information can only flow if both the interlocutors can understand what is being said. Maybe the complex language used in our laws and other documentations failed to serve the cause because the public did not understand what the cause was.

5.3 Recommendations for future studies

Building upon the same, many different areas can be explored. A few of them are:

- Policy papers by different ministries and governmental institutions make use of complex language.
- Notifications and orders by the government and court etc. can be incomprehensible to the public.

- Bank formulates and issues confusing and convoluted policies, procedures, forms, and information related to various schemes such as mortgage lease, etc. Interest and profit related processes.
- The utility bills such as electricity, natural gas, and telecommunication include terms and surcharges that a layperson is unaware of.
- Eligibility criteria and procedural information of different schemes and programs are often problematic
- Audit and commission reports that are often released by various public and private institutions are lengthy and complex.
- In the private sector, different job contracts, etc. comprise of terms and conditions that are often not understood by both the parties to contract.

Moreover, the cognitive aspect of understanding and interpretation of such documents may also be explored to study the practical implications of the simplification of legal texts.

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APPENDIX

[THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT 2010]

PART 1

Acts, Ordinance, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 11th March, 2010

No. F. 9 (5)/2009- Legis.__ The following Acts of Majlis-e-Shoora (Parliament) received the assent of the President on 9th March, 2010, are hereby published for general information:

Act No. IV OF 2010

An Act to make provisions for the protection against harassment of women at the workplace

WHEREAS the constitution of the Islamic Republic of Pakistan recognizes the fundamental rights of citizens to dignity of person;

AND WHEREAS it is expedient to make this provision for the protection of women from harassment at the workplace;

It is hereby enacted as follows:

1. Short title, extent and commencement. - (1) This Act may be called the Protection against Harassment *of women* at the Workplace Act, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions. – In this Act, unless there is anything repugnant in the subject or context,–

(a) "accused" means an employee or employer of an organization against whom complaint has been made under this Act;

(b) "CBA" means Collective Bargaining Agent as provided in the Industrial Relations Act 2008,(IV of 2008) or any other law for the time being in force.

(c) "Code" means the Code of Conduct as mentioned in the Schedule to this Act;

(d) "Competent Authority" means the authority as may be designated by the management for the purposes of this Act;

(e) "Complainant" means a woman or man who has made a complaint to the Ombudsman or to the Inquiry Committee on being aggrieved by an act of harassment;

(f) "Employee" means a regular or contractual employee whether employed on daily, weekly, ~~or~~ monthly or hourly basis, and includes an *intern or an* apprentice;

(g) "Employer" in relation to an organization, means any person or body of persons whether incorporated or not, who or which employs workers in an organization under a contract of employment or in any other manner whosoever and includes –

(i) an heir, successor or assign, as the case may be, of such person or, body as aforesaid;

(ii) any person responsible for the direction, administration, management and control of the management;

(iii) the authority, in relation of an organization or a group of organization run by or under the authority of any Ministry or department of the Federal Government or a Provincial government, appointed in this behalf or, where no authority is appointed, the head of the Ministry or department as the case may be;

(iv) the office bearer, in relation to an organization run by or on behalf of the local authority, appointed in this behalf, or where no officer is so appointed, the chief executive officer bearer of that authority;

(v) the proprietor, in relation to any other organization, of such organization and every director, manager, secretary, agent or office bearer or person concerned with the management of the affairs thereof.

(vi) a contractor or an organization of a contractor who or which undertakes to procure the labour or services of employees for use by another person or in another organization for any purpose whatsoever and for payment in any form and on any basis whatsoevery; and

(vi) office bearers of a department of a Division of a Federal or a Provincial or local authority who belong to the managerial, secretarial or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette;

(h) harassment" means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;

(i) "Inquiry Committee" means the Inquiry Committee established under sub-section (1) of section 3;

(j) "management" means a person or body of persons responsible for the management of the affairs of an organization and includes an employer;

(k) "Ombudsman" means the Ombudsman appointed under section 7

(l) "organization" means a Federal or Provincial Government Ministry, Division or department, a corporation or any autonomous or semi-autonomous body, Educational Institutes, Medical facilities established or controlled by the Federal or Provincial Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution;

(m) "Schedule" means Schedule annexed to this Act;

(n) "workplace" means the place of work or the premises where an organization or employer operates and includes building, factory, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work or official activity outside the office.

3. Inquiry Committee. – (1) Each organization shall constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints under this Act.

(2) The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is

unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

In case a complaint is made against one of the members of the Inquiry Committee that member should be replaced by another for that particular case. Such member may be from within or outside the organization.

(3) In case where no competent authority is designated the organization shall within thirty days of the enactment of this Act designate a competent authority.

(4) Procedure for holding inquiry.– (1) The Inquiry Committee, within three days of receipt of a written complaint, shall–

communicate to the accused the charges and statement of allegations leveled against him, the formal written receipt of which will be given;

require the accused within seven days from the day the charge is communicated to him to submit a written defense and on his failure to do so without reasonable cause, the Committee shall proceed ex-parte; and enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him.

Subject to the provisions of this Act and any rules made thereunder the Inquiry Committee shall have power to regulate its own procedure for conducting inquiry and for the fixing place and time of its sitting.

The following provisions *inter alia* shall be followed by the Committee in relation to inquiry:

The statements and other evidence acquired in the inquiry process shall be considered as confidential;

An officer in an organization, if considered necessary, may be nominated to provide advice and assistance to each party;

Both parties, the complainant and the accused, shall have the right to be represented or accompanied by a Collective Bargaining Agent representative, a friend or a colleague;

(d) Adverse action shall not be taken against the complainant or the witnesses;

(e) The inquiry Committee shall ensure that the employer or accused shall in no case create any hostile environment for the complainant so as to pressurize her from freely pursuing her complaint; and

(f) The Inquiry Committee shall give its findings in writing by recording reasons thereof.

(4) The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties:

(i) Minor penalties:

(a) censure;

(b) withholding, for a specific period, promotion or increment;

(c) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar; and

(d) recovery of the compensation payable to the complainant from pay or any other source of the accused;

(ii) Major penalties:

(a) reduction to a lower post or time-scale, or to a lower stage in a time-scale;

(b) compulsory retirement;

(c) removal from service;

(d) dismissal from service; and

(e) Fine. A part of the fine can be used as compensation for the complainant. In case of the owner, the fine shall be payable to the complainant.

(5) The Competent Authority shall impose the penalty recommended by the Inquiry Committee under sub-section (4) within one week of the receipt of the recommendations of the Inquiry Committee

(6) The Inquiry Committee shall meet on regular basis and monitor the situation regularly until they are satisfied that their recommendations subject to decision, if any of Competent Authority and Appellate Authority have been implemented.

(7) In case the complainant is in trauma the organization will arrange for *psycho-social* counseling *or medical treatment* and for additional medical leave.

(8) The organization may also offer compensation to the complainant in case of loss of salary or other damages.

5. Powers of the Inquiry Committee. – (1) The Inquiry Committee shall have power

(a) to summon and enforce attendance of any person and examine him on oath;

(b) to require the discovery and production of any document;

(c) to receive evidence on affidavits; and

(d) to record evidence.

(2) The Inquiry Committee shall have the power to inquire into the matters of harassment under this Act, to get the complainant or the accused medically examined by an authorized doctor, if necessary, and may recommend appropriate penalty against the accused within the meaning of sub-section (4) of section 4.

(3) The Inquiry Committee may recommend to Ombudsman for appropriate action against the complainant if allegations leveled against the accused found to be false and made with mala fide intentions.

(4) The Inquiry Committee can instruct to treat the proceedings confidential.

6. Appeal against minor and major penalties.– (1) Any party aggrieved by decision of the Competent Authority on whom minor or major penalty is imposed may within thirty days of written communication of decision prefer an appeal to an Ombudsman established under section 7 .

(2) A complainant aggrieved by the decision of the Competent Authority may also prefer appeal within thirty days of the decision to the Ombudsman.

(3) The Appellate Authority may, on consideration of the appeal and any other relevant material, confirm, set aside, vary or modify the decision within thirty days in respect of which such appeal is made. It shall communicate the decision to both the parties and the employer.

(4) Until such a time that the ombudsman is appointed the District Court shall have the jurisdiction to hear appeals against the decisions of Competent Authority and the provisions of sub-sections (1) to (3) shall *mutatis mutandis* apply

(5) On the appointment of Ombudsman all appeals pending before the District Court shall stand transferred to Ombudsman who may proceed with the case from the stage at which it was pending immediately before such transfer.

7. Ombudsman:- (1) The respective Governments shall appoint an ombudsman at the Federal and provincial levels.

(2) A person shall be qualified to be appointed as an Ombudsman who has been a judge of high court or qualified to be appointed as a judge of high court. The Ombudsman may recruit

such staff as required to achieve the purposes of this Act and the finances will be provided by the respective Governments

8. Ombudsman to enquire into complaint.- (1) Any employee shall have the option to prefer a complaint either to the Ombudsman or the Inquiry Committee.

(2) The Ombudsman shall within 3 days of receiving a complaint issue a written show cause notice to the accused. The accused after the receipt of written notice, shall submit written defense to the Ombudsman within five days and his failure to do so without reasonable cause the Ombudsman may proceed *ex parte*. Both the parties can represent themselves
before the Ombudsman.

(3)The Ombudsman shall conduct an inquiry into the matter according to the rules made under this Act and conduct proceedings as the Ombudsman deems proper.

(4) For the purposes of an investigation under this Act, the Ombudsman may require any office or member of an organization concerned to furnish any information or to produce any document which in the opinion of the Ombudsman is relevant and helpful in the conduct of the investigation.

(5) The Ombudsman shall record his decision and inform both parties and the management of the concerned organization for implementation of the orders.

9. Representation to President or Governor:- Any person aggrieved by a decision of Ombudsman under sub- section (5) of section 8, may, within thirty days of decision, make a representation *to* the President or Governor, as the case may be, who may pass such order thereon as he may deem fit.

10. Powers of the Ombudsman

The Ombudsman shall for the purpose of this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedures, 1908 (Act V of 1908), in respect of the following matters, namely:

i. Summoning and enforcing the attendance of any person and examining him on oath;
ii. Compelling the production of evidence;
iii. Receiving evidence on affidavits;
iv. Issuing commission for the examination of witnesses
v. entering any premises for the purpose of making any inspection or investigation, enter any premises where the Ombudsman has a reason to believe that any information relevant to the case may be found; and
vi. The Ombudsman shall have the same powers as the High Court has to punish any person for its contempt.

(2) Ombudsman shall while making the decision on the complaint may impose any of the minor or major penalties specified in sub- section (4) of section 4.

11. Responsibility of employer.– (1) It shall be the responsibility of the employer to ensure implementation of this Act, including but not limited to incorporate the Code of Conduct for protection *against* harassment *at the workplace* as a part of their management policy and to form Inquiry Committee referred to in section 3 and designate a competent authority referred to in section 4.

(2) The management shall display copies of the Code in English as well as in language understood by the majority of employees at conspicuous place in the organization and the work place within six months of the commencement of this Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file *a petition before the District Court* and on having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees.

12. Provisions of the Act in addition to and not in derogation of any other law.– The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

13. Power to make rules.-The Federal Government may make rules to carry out the purposes of this Act.

Schedule

[See sections 2(c) and 11]

CODE OF CONDUCT FOR PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE

Whereas it is expedient to make the Code of Conduct at the Workplace etc to provide protection and safety to women against harassment it is hereby provided as under:

(i) The Code provides a guideline for behavior of all employees, including management, and the owners of an organization to ensure a work environment free of harassment and intimidation;

(ii) "Harassment" means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature, or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;

The above is unacceptable behavior in the organization and at the workplace, including in any interaction or situation that is linked to official work or official activity outside the office.

Explanation:

There are three significant manifestations of harassment in the work environment:

(a) Abuse of authority

A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

(b) Creating a hostile environment

Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual's work performance or creates an intimidating, hostile, abusive or offensive work environment.

The typical "hostile environment" claim, in general, requires finding of a pattern of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact, a single offensive incident will constitute a violation.

(c) Retaliation

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

(iii) An informal approach to resolve a complaint of harassment may be through mediation between the parties involved and by providing advice and counseling on a strictly confidential basis;

(v) *A complainant or a* staff member designated *by the complainant* for the purpose may report an incident of harassment informally to her supervisor, or a member of the Inquiry Committee, in which case the supervisor or the Committee member may address the issue at her discretion in the spirit of this Code. The request may be made orally or in writing; If the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner;

(vi) If the incident or the case reported does constitute harassment of a higher degree and the officer or a member reviewing the case feels that it needs to be pursued formally for

a disciplinary action, with the consent of the complainant, the case can be taken as a formal complaint;

(vii) A complainant does not necessarily have to take a complaint of harassment through the informal channel. She can launch a formal complaint at any time;

(viii) The complainant may make formal complaint through her incharge, supervisor, CBA nominee or worker's representative, as the case may be, or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;

(ix) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;

(x) The employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge over and above their contract which may give one party excessive powers over the other's job conditions. The employer can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required;

(xi) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluation, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side;

(xii) The harassment usually occurs between colleagues when they are alone, therefore usually it is difficult to produce evidence. It is strongly recommended that staff should report an offensive behavior immediately to someone they trust, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the case; and

(xiii) The Code lays down the minimum standards of behavior regarding protection of women from harassment at workplace etc but will not affect any better arrangement that an organization may have developed nor will it bar the grant of protection that employees working in an institute may secure from their employers through negotiation.

STATEMENT OF OBJECTS AND REASON

The objective of this Act is to create a safe working environment for women, which is free of harassment, abuse and intimidation with a view toward fulfillment of their right to work with dignity. It will also enable higher productivity and a better quality of life at work. Harassment is one of the biggest hurdles faced by working women preventing many who want to work to get themselves and their families out of poverty. This Act will open the path for women to participate more fully in the development of this country at all levels

This Act builds on the principles of equal opportunity for men and women and their right to earn a livelihood without fear of discrimination as stipulated in the Constitution. This Act complies with the Government’s commitment to high international labour standards and empowerment of women. It also adheres to the Human Rights Declaration, the United Nation’s Convention for Elimination of all forms of Discrimination Against Women and ILO’s convention 100 and 111 on workers’ rights. It adheres to the principles of Islam and all other religions in our country which assure women’s dignity.

This Act requires all public and private organizations to adopt an internal Code of Conduct and a complain/appeals mechanism aimed at establishing a safe working environment, free of intimidation and abuse, for all working women. It shall also establish an Ombudsman at Federal and provincial levels.

SAMPLE JUDGEMENT

Iftikhar Muhammad Chaudhry, CJ. Instant proceedings under Article 184(3) of the Constitution of Islamic Republic of Pakistan, 1973 have originated from an application received from Mst. Bibi Zahida wife of Darya Khan. Petition has been entertained for enforcement of fundamental rights involving question of public importance about the denial of right of the general public to have excess to justice by the law enforcing agency i.e. the police, as a result whereof victims continuously suffered at the hands of culprits, leading to the increase of unrest/uncertainty in the society.

2. In the instant case, petitioner Mst. Zahida alleges murder of her daughter Waheeda @ Palwasha @ Honey, which took place on 19.05.2013 at the hands of her husband Darya Khan and son Khalid-ur-Rahman within jurisdiction of police station University Town, Peshawar.

3. Recapitulating facts of the events which had given rise to the instant case can only be appropriately explained by reproducing the contents of her application in extenso herein below:-

4. At the hearing of the petition, it revealed that the case of deceased lady could not be handled as per criminal law prevailing in the country against culprits, reasons of which are still required to be unearth because insistence of petitioner to register FIR of murder of her daughter was not conceded to by Peshawar police at highest level. Inasmuch as, without conducting autopsy, her dead body was dispatched from Peshawar to Islamabad in an ambulance but on her hue and cry, the police was compelled to get back the dead body from a place known as Tarnol near Islamabad, to Peshawar, where allegedly post-mortem was conducted at 4:00 pm. Statedly instead of issuing post-mortem report, one of the parts of her body i.e. heart was sent to Forensic Science Laboratory, Lahore as it was difficult to ascertain her cause of death. As such no FIR was registered except recording report vide Entry No.16 in Daily Diary of PS Shalimar, wherein her case was treated to be covered under section 174 Cr.PC. It is stated that deceased's husband is resident of Islamabad where she was living with him along with her two children, therefore, her dead body was again brought back to Islamabad in the house of her father-in-law, Bani Amin Khan who is IGP, Islamabad.

FIR and getting Post-Mortem. On this, FIR No.134/2013 dated 19.05.2013, under section 302/34 PPC was registered at Police Station Shalimar, Islamabad, knowing well that incident had taken place in the area of Town Police Station, Peshawar (KPK). effective progress was made by concerned Authority, therefore, petitioner, Mst. Bibi Zahida submitted another application , contents whereof are reproduced as under:-

Mr. Yasin Farooq SSP Operation conceded that in respect of murder of daughter of petitioner, namely Mst. Waheeda @ Palwasha @ H~~oney, FIR should have not been registered at Islamabad. Contents of his state~~ment read thus:-

*"***Statement regarding case FIR No.134 P.S. Shalimar, Islamabad**

On 19.5.2013, at around 8 p.m. all officers were in the residence of I.G. Islamabad regarding the funeral of his daughter in law Miss Waheeda. The mother of the deceased sat in front of the Ambulance and insisted for an FIR before the burial.

At this IG Islamabad directed SHO Shalimar Sajjad Haider and DSP Margalla Rashid to record their statement and register the FIR . In compliance of his orders FIR No.134/13 u/s 302/34 PPC P/S Shalimar was registered. Sd/- YASEEN FAROOQ SSP/Islamabad"

The above statement was followed by another statement of the same officer, which has been incorporated in the following para of the proceedings dated 04.07.2013:-

"4…….Since the occurrence/incident had taken place at Peshawar, hence registration of FIR at Islamabad is not legally justified. It may be noted that undersigned has not passed any orders for registration of FIR. It is further submitted that after verifying that the incident has actually taken place in the jurisdiction of PS

Town, Peshawar and legal proceedings were already underway, cancellation report in the subject case was prepared on 25.05.2013 and the matter was referred to the Home Department, Government of KPK."

8. On 04.7.2013 IGPs of KPK and Islamabad were asked to furnish lists of officers/officials to whom they consider that right of hearing should be provided to them, lest, injustice may not be caused to them, if any adverse order is passed. Following lists were according furnished:-

List of KPK Police Officers

1. Mr. Ihsan Ghani, IGP
2. Mr. Imran Shahid, SSP (Operations)
3. Mr. Faisal, SP (Cantt)
4. Mr. Umar Farooq ASP, Town
5. Mr. Sardar Hussain, SHO Town
6. Mr. Rizwan Ullah, I.O.

List of Police Officers of Islamabad

1. Mr. Bani Amin Khan, IGP, Islamabad
2. Mr. Yaseen Farooq, SSP (Operations),
3. Mr. Jameel Hashmi, SP Saddar Zone
4. Mr. Rasheed Niazi, DSP, Margalla
5. Mr. Sajjad Haider, SHO, PS. Shalimar
6. Mr. Rasheed Ahmed, SI, P.S. Shalimar

9. Mr. Latif Afridi, ASC filed HRCMA No.98/2013, whereas Mr. Bani Amin Khan, IGP Islamabad also filed HRCMA 97/2013. Similarly Jamil Hashmi, SP filed separate application.

10. We have heard to all of them in support of contentions put forward by them.

11. Learned counsel for IGP, KPK contended that as per facts disclosed to police, no evidence was available to conclude *prima facie* that she died because of unnatural death, therefore, police after recording report No.16 dated 19.05.2013 in the Daily Diary Register of Police Station, proceeded to consider incident covered under section

174 Cr.P.C. because in the meanwhile incomplete Post-Mortem report was received and police surgeons/doctors were waiting for the result of Forensic Laboratory to whom, heart of deceased was sent for examination to ascertain whether her death was natural or due to administrating poison to her or due to asphyxia.

12. However, in his presence, Mr. Ihsan Ghani, IGP, KPK stated that Bani Amin was insisting for registration of the case but he refused to do so. Such statement he had also made on 03.07.2013 during the hearing of the case. As per Mr. Bani Amin Khan, IGP, Islamabad, he approached to everyone, responsible for registration of case, including Moharar to IGP, KPK but no body listened him.

13. It is important to note that learned counsel for IGP, KPK also conceded that Police should have registered the case at Peshawar as there were allegations of murder against the father and brother of the deceased.

14. Learned Additional Advocate General, KPK also agreed that as per section 154 Cr.P.C. police had no option except to register the case at the police station where incident of murder of deceased allegedly took place.

15. It is to be observed that when there is no difference of opinion amongst all of them that case should have been registered u/s

154 Cr.P.C. when matter was reported, the police administration is bound to follow the dictate of law, which has been explained by this Court time and again. Reference may be made to the following paras of the judgments in the case of *Muhammad Bashir v. Station House Officer, Okara Cantt* (PLD 2007 SC 539):-

27. The conclusions that we draw from the above, rather lengthy discussion, on the subject of F.I.R., are asunder:-

(a) no authority vested with an Officer Incharge of a Police Station or with anyone else to refuse to record an F.I.R. where the information conveyed, disclosed the commission of a cognizable offence.

(b) no authority vested with an Officer Incharge of a Police Station or with any one else to hold any inquiry into the correctness or otherwise of the information which is conveyed to the S.H.O. for the purposes of recording of an F.I.R.

(c) any F.I.R. registered after such an exercise i.e. determination of the truth or falsity of the information conveyed to the S.H.O., would get hit by the provisions of section 162, Cr.P.C.

(d) existence of an F.I.R. is no condition precedent for holding of an investigation nor is the same a prerequisite for the arrest of a person concerned with the commission of a cognizable offence;

(e) nor does the recording of an F.I.R. mean that the S.H.O. or a police officer deputed by him was obliged to investigate the case or to go through the whole length of investigation of the case mentioned therein or that any accused person nominated therein must be arrested; and finally that

(f) the check against lodging of false F.I.Rs. was not refusal to record such F.I.Rs, but punishment of such informants under S.182, P.P.C. etc. which should be, if enforced, a fairly deterrent against misuse of the provisions of S.154, Cr.P.C.

16. Prior to above dictum, this Court in the case titled as *the Human Rights Case No.3212 of 2006* (2006 SCMR 1547) observed as under:-

3. I.G. Police is appearing in another case, which pertained to District Sialkot, therefore, the above matter was brought to his notice as he was present in the Court. D.P.O. Sheikhupura stated that now the case has been registered by the police vide F.I.R. No.138, dated 28-4-2006 under section 302, P.P.C. and investigation is going on. Non-registration of a criminal case wherein a murder has taken place for a period about 2-1/2 years clearly demonstrates inefficiency, and gross negligence on the part of the concerned Police Officers. It is well-settled that during the investigation it is always better to collect evidence if available, as early as possible. We are not in a position to understand that in such a case where murder has taken place what would be the result of the same and particularly poor lady Mumtaz Bibi who has appeared and is complaining against the police attitude saying that she had been approaching them again and again for the purpose of registration of the case but no one had listened her and at the end of the day D.P.O. came to her rescue and directed the registration of the case and entrusted investigation to S.P. Investigation. We understand that matter will be investigated and evidence will be collected, sufficient or otherwise for the purpose of submitting challan but what would be the recompense to the lady whose son has been killed in a gruesome manner.

4. As far as the system of the law is concerned, the constitution says that everyone is entitled to the protection of the same and is entitled to get justice in all the circumstances but the attitude of the police in this case is irresponsible and on account of such attitude, mother of the deceased Mumtaz Bibi is bound to suffer throughout her life, so long as she lives. As per her claim she is a widow and after the death of her husband she had taken it as a mission to bring up her children but in the meanwhile this incident took place. The facts and circumstances of the case which have been narrated before I.G. Police and Advocate-General, Punjab, her plight can be well-imagined by all of us. However, we direct I.G. Police to take personal interest in the investigation of the case.

5. Let this case remain pending and I.-G. Police shall submit report personally after every week in respect of the progress of the case and even after the submission of challan it would be his responsibility to ensure that evidence is produced if ultimately evidence is not available then it would be the liability/responsibility of

the police department to compensate her in any manner whatever they deem fit, under the circumstances. In the meanwhile I.G. Police shall take strict disciplinary action against officers/officials who are responsible for not registering the case ultimately after the happening of the incident as this Court observed time and again that it is the duty of the police to register the case without any delay and submit

challan as far as possible within the period of fifteen days in terms of section 173, Cr.P.C. Reference in this behalf may be made to Hakim Mumtaz Ahmed and another v. The State PLD 2002 SC 590.

17. Unfortunate aspect of the case is that IGP, KPK is taking responsibility as noted above upon his shoulder not once but twice that he had declined to register the case.

18. Whereas on the other hand Bani Amin I.G.P, Islamabad, whose daughter-in-law (wife of his son Ali Amin) has been murdered, maintained that deceased was poisoned as according to him he had noticed that: (i) her hands and feet were bluish; (ii) there were wounds on her lips; and (iii) spots on cheeks. To substantiate his plea, he had also produced photographs of dead body, which were taken after her death. Contention so raised, seems to be true as per photographs. Not only this, he had also shown another photo to show that a sign of administering injection was visible on her forearm, which has also been confirmed by petitioner when picture was shown to her in Court.

19. *Prima facie* these facts are sufficient to establish that police of KPK abused their powers in not registering of FIR on 19.05.2013 as in view of principles discussed hereinabove, in the judgments and the law on the subject u/s 154 Cr.P.C. The IGP, KPK and his subordinates had no lawful authority to deny access to justice to petitioner. This is nothing but clearly a case of either inefficiency or criminal negligence of the police for the reasons best known to them, including external pressure on all of them but a law abiding officer is not supposed to deny due process of law to victim party.

20. Importantly it is to be noted that during hearing of matter, a case has been registered vide FIR No.366/2013, PS Town, District Peshawar dated 19.5.2013 u/s 302/34 PPC. Copy of FIR has been placed on record.

21. Now turning towards the conduct of Islamabad Police, which needs no discussion as per facts noted above and same are sufficient to conclude that all of them acted with sheer criminal negligence, favouritism and inefficiency.

22. The statement of IGP Bani Amin noted above is not acceptable as he being a senior police officer, without getting registered FIR at Peshawar brought back dead body of her daughter-in-law to Islamabad where under his direction in respect of incident of Peshawar a case was got registered in Islamabad and subsequently a guard was posted on her grave, disclosure of which has been made by him during hearing when pointed out by Mst. Bibi Zahida, reason should be known to him. Inasmuch as, none amongst other officers whose named he has furnished himself, refused to accede his illegal demand including SP Jamil Hashmi, who now is trying to distance him from the illegal act.

23. Learned Additional Advocate General pointed out that provincial government of KPK has constituted a committee to probe into the incident of killing of Mst. Waheeda on 19.05.2013 for non registration of the case in Peshawar and SSP Imran Shahid has been suspended.

24. Learned Deputy Attorney stated that Federal Government has been conveyed about hearing of the case and registration of FIR at Shalimar Police Station. He also agreed that no FIR in respect of incident, which had taken place about the alleged unnatural death of Mst. Waheeda in the area of Town Police Station, Peshawar could have been registered at Shalimar Police Station.

25. It is to be noted that heavy responsibility lies upon the law enforcing agencies, particularly, police to ensure that life and property of the people in terms of Article 9 of the Constitution is protected by them but we are constrained to observe that in our country police is not fulfilling its commitments efficiently, as a result whereof, law & order situation, all over the country, is worsening day-by-day. There could be acceptable reasons, on account of which the forces including the police, with other duties, maintain peace in society and bring the culprits to book without being influenced from anyone because once the accused is involved in an offence, he and his near ones try their best to ensure that he is saved from the clutches of law.

26. We have in our police department such officers who are known for their efficiency, credibility, commitment and whenever any task is assigned to them, they do discharge their duty strictly in accordance with the Constitution and the law. However, justice does not mean that it should only be done to the

culprits, because at the same time, victims/sufferers also deserve for the same and their grievance can only be redressed, if the accused are brought to book immediately.

27. In the instant case, as we have noticed, petitioner Bibi Zahida is agitating that her daughter Waheeda @ Palwasha @ Honey has been killed by her husband Darya Khan and son Khalid-ur-Rahman but no one is ready to listen her, with the result she has to run from pillar to post and ultimately matter reached in Human Right Cell of this Court, where jurisdiction is exercised under Article 184(3) of the Constitution along with all other enabling provisions of law on individual or collective requests, to ensure enforcement of fundamental rights, particularly, in public importance cases.

28. There could be numerous complaints against the police throughout in the country and some of them reach to this Court in its Human Rights Cell, which is functioning continuously to redress the grievances but despite of issuing directions, the law enforcing agencies failed to redress the grievances of the complainants. In this context reference to the reported judgment in the case of *the Human Rights Case No.3212 of 2006* (ibid) may be made, wherein a lady had been waiting for a period of 2 ½ years but no one registered FIR of the murder of her son and ultimately she succeeded in getting the justice from this Court. This is one case, there could be more than that.

29. Thus, under the circumstances we direct that:

(i) The Federal and Provincial governments may take initiative for improving the professional efficiency of the police department enabling them to meet with all types of challenges to ensure that whosoever has taken the law in his hands, notwithstanding the status, he has to face the consequences.

(ii) The Police Department in all the Provinces and Islamabad should strictly adhere to the Constitution and the law, while dealing with the criminal cases instead of showing any leniency or favouritism, either to the complainant or to the accused, whatsoever the case may be.

(iii) As far as registration of the cases is concerned, they should follow the law under section 154 Cr.P.C and the principles discussed hereinabove in light of *Muhammad Bashir's case* (ibid).

(iv) As in the instant case FIR has been registered at Peshawar but on having seen the facts and circumstances, noted hereinabove, let the Federal and Provincial Governments ensure that no influence is used by any of the police officers who have already committed criminal negligence in not handling the case of the deceased lady. The competent authority should also deal with them in accordance with law on the subject.

(v) To ensure transparent and independent inquiry, the Chief Secretary of KPK and Secretary Interior shall take steps to constitute a team of independent police officers who shall be responsible to conduct the investigation and submit challan in the court of law accordingly. Both these functionaries shall submit report compliance of the direction within a period of two weeks because any further delay in concluding the investigation of the case is likely to cause further injustice and prejudice to the petitioner.

30. Petition stands disposed of accordingly.