



## MISGUIDED INTERPRETATION OF CRIMINAL COURTS AGAINST THE SPIRIT OF NATIONAL AND INTERNATIONAL LAW

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### Abstract

*Object of criminal law is to punish the offender after determination that whether accused is guilty of the offence he is charged with. Accused has to be proven guilty beyond any shadow of reasonable doubt and on the basis of confidence inspiring evidence. Requirements of substantive and procedural criminal law are to be met before conviction. It is well settled law under national and international laws that punishment must not be arbitrary. It has been specifically provided by Universal Declaration of Human Rights (UDHR) and International covenant on civil and Political Rights that an accused person must be given the right to fair trial and he must not be subjected to arbitrary punishment. Unfortunately, there are number of instances in Pakistan when accused persons are arbitrarily punished despite of following the substantive and procedural criminal law. It is because of Misguided interpretation of criminal Courts. This misguided interpretation violates the well settled international laws as well as domestic laws. Interpretation of Pakistani courts including Constitutional Courts on Illegal Dispossession Act 2005 is one example (among some others) of Misguided interpretation that means Courts have given divergent decisions that has substantively defeated the very spirit of*

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*provisions dealing with arbitrary interpretation. The same can be found with respect to other offences. The purpose of this research paper to point out various instances where ends of justice have been defeated because of misguided interpretation. It has been further studied that how such instances can be diagnosed and reduced if not completely eliminated. It is true that humanly it may not be possible to achieve an ideal level of consistency but such instances of misguided interpretation can surely be reduced. Courts are supposed to act diligently, efficiently and keeping in mind the well settled principles of National and International law.*

**Key words:** Criminal law, International Law, Interpretation, Criminal Courts, National law

### **Introduction:**

The strength of any criminal system including Pakistan is based on the accuracy of decisions in line with codified law as well as settled principles in the form of precedents. It is further qualified by saying that it is ability of the system to convict the guilty and exonerate the accused. the problem arises when two individuals are differently treated under the Umbrella of same legal system. There is no doubt that a person must be treated fairly, justly and in indiscriminate manner irrespective of the fact that he is accused of a minor offence or heinous offence. In this Article two main areas have been selected to discuss that how Courts in Pakistan have erred while dealing with the accused of offences under the Illegal Dispossession Act 2005 and accused persons trying to seek relief under the maxim *Falsus in Uno Falsus in Omnibus*. It is well settled principle that when two persons are at equal standing or simply having a case of similar nature they must be treated in a similar fashion. Unlike of an ideal situation if a person has to face a different situation merely because that matter was at discretion of the court and court has dealt differently than that is known as case of misguided interpretation or misguided use of discretion. It is also to be kept in mind discretion is always subject to fair use and within ethical, Moral and jurisdictional limits. It is also worthy to mention here that rules based on discretion or interpretation are not for indefinite period but they are subject to evolutionary changes. The important thing to consider in this regard is that evolutionary change must take place in a reasonable span of time and it is well justified under local and international laws keeping in mind the Ethical, Moral and Legal norms prevailing in that specific legal in the under consideration period. Before going into details of the two selected areas of criminal law it is pertinent to mention that the right violated through such misguided interpretation is protected in definitive terms through various national and international legislations including Constitution of Islamic Republic of Pakistan. Protection of this right has also



been provided in Universal Declaration of Human Rights (hereinafter called UDHR) as well as International Covenant on civil and Political Rights (hereinafter called ICCPR). Constitution of Islamic Republic of Pakistan has provided multilayer protections to accused of different criminal charges as it can be seen by given provisions:

“For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.” (The Constitution of Islamic Republic of Pakistan, 1973)

It is obvious from above mentioned provisions of national and international law this is such a thing which can neither be ignored nor it can be played with without application of juristic mind. Right of accused to be dealt in accordance with the law and having right of fair trial is inalienable right of every accused facing a trial in a criminal court. When discretion is given to the courts by legislature that is subject to all these principles and failure to comply with these principles shatters the very spirit of these principles.

As earlier stated there are two main areas which have been focused in this Article i.e. interpretation of Illegal Dispossession Act 2005 and application of the Maxim Falsus in Uno Falsus in Omnibus.

### **Illegal Dispossession Act 2005:**

Illegal Dispossession Act 2005 has a historical background in Pakistan. It was introduced in Pakistan to deal with the offence of land grabbing and it was consisting of 9 sections. Purpose behind its enactment was eliminate the land grabbers and if any portion of land has been unlawfully occupied that was supposed to be recovered back and return to the lawful owners. It further suggested to punish the offenders of this criminal act. It is pertinent to mention that in Pakistan it was not first attempt to tackle the offences against property but earlier there were provisions in Pakistan Penal Code and these offences were given the names of Criminal Trespass (Pakistan Penal Code, 1860), House Trespass (Pakistan Penal Code, 1860), Lurking House Trespass (Pakistan Penal Code, 1860) and Lurking House Trespass by Night (Pakistan Penal Code, 1860). These sections were followed few sections and provided punishments including fines and convictions depending on the nature of the offences. Unfortunately, these offences were not given due consideration and were not treated as independent offences by courts of the land. There were only few number of cases that were reported in connection with these offences. There were only 25 reported cases related to Section 441 Pakistan Penal Code in the period of 1949-2013 and most of them resulted into acquittal of the accused person because offence did not appeal to jury's mind that independently it can be treated as offence if no other

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appealing consideration is there. (Lau, 2018). It is also worthy to mention that most of the time House Breaking or House Trespass was considered to be serious offence if the accused was charged in association of another offence e.g. accused has been charged with Murder with House Trespass or offence of Rape with trespass. It was also considered a valid excuse that disputes relating to property cannot be treated with iron because of pending civil litigation between the parties. The same fact played a vital role in disposal of Muhammad Zameer v. Shamim Akhtar. (High Court, 2006)

In a nutshell it can be said that mere House Trespass seemed to be doubtful offence to Pakistani Judiciary unless it was not associated with some other heinous offence. As per this approach courts required strong reason that why one would like to enter or trespass into someone's property when one knows that there is criminal charge against such entry or trespass. It was the main focus to introduce Illegal Dispossession Act 2005 was to direct the full force of criminal law against the persons who illegally dispossess the innocent rightful owners and victims of this offence were to be provided a chance to fight back against such criminals. In this study it has been focused to view the approach of Pakistani Courts through the lens of reported judgements of various High Courts and Supreme Court of Pakistan. It has also been focused that what has been effect of this piece of legislation since its implementation and how the Pakistani Courts have reacted during the construction, interpretation and implementation of the statute. Below have been given few cases which have been decided by Constitutional Courts and reported by various law journals during the implementation of Act of 2005.

#### **Zahoor Ahmad v. The State:**

Lahore High Court was the first constitutional Court that heard an appeal under the act of 2005. Court showed serious concerns regarding implementation of act of 2005. It was focused that there are many remedies available to victims then why this need was felt. Court also observed that this offence is not unknown to Pakistani legal system as there are a number of remedies already available to the victims. The main point which was focused by the Court was that whether offence created under the act of 2005 is applicable to all the individuals or it is supposed to apply only specific class of offenders i.e. Qabza Mafias and professional land grabbers who are involved in such type of criminal act. The Court also resorted to legislative history of the Act and took into consideration the speeches at the National Assembly and Senate to reach a right conclusion. Court considered it appropriate that speeches made during the legislative process can play a vital role in true construction of a statute and same was adhered by the court. After all this exercise and due diligence, the court winded up with the following observations:



- I. Illegal Dispossession was not intended to apply to the individuals but main aim behind the legislation was bring a criminal statute against professional land grabbers or persons having similar history of dispossession, trespassing or land grabbing. It was further observed if such act cannot be associated with professional group then there must be evidence that offence was committed in an organized manner or it seems to be a calculated offer.
- II. The Illegal Dispossession Act, 2005 is not supposed to apply to those individuals or groups who might have any interest in the subject land. It includes co-owners, co-sharers, landlords and tenants or persons claiming inheritance from same deceased person. This list can further include the persons having a conflict of title or having any contractual rights and obligations against each other. In a nutshell it can be said that the trespasser having any nexus with the subject land in any form removes him from the list of land grabber and that can be used as a valid excuse against the criminal charge framed under The Illegal Dispossession Act, 2005.
- III. The Court also observed that a complaint under The Illegal Dispossession Act 2005 cannot be entertained when there is any pending litigation between the parties in a civil or revenue court as the purpose of the act is not to involve the innocent persons in the criminal case who are anticipating a right from court. (High Court, 2007)
- IV. Court of Session in the province of Punjab were directed that not to take cognizance of cases under The Illegal Dispossession Act 2005 which seem to be not in line with the interpretation provided in this very judgement.
- V. It was observed with serious concern and in a critical mood that though this act is penal in nature but even then it does not provide any hint or way that how a person can file an appeal if he is convicted by the trial court under the provisions of The Illegal Dispossession Act 2005. On the basis of this point this act was declared to be a poor piece of legislation. (High Court, 2007). It was thought extremely unjust and oppressive by the Honorable Court that how a convicted person cannot be granted right to appeal. In this regard, *Ministry of Defence v. The General Public*, (Supreme Court, 1989) was referred and principle discussed in this was appraised. It was held by Federal Shariat Court that denying right of appeal in against the injunctions of Islam even if the convicted person has been awarded sentence by a Military Court or Court Martial.

### **Jan Pervez v. Fazal Hussain**



The interpretation provided by Lahore High Court in Zahoor Ahmad case is known as narrow interpretation as it has reduced the scope of the legislation by applying it to only to a specific class of persons. The same proposition arose before the Peshawar High Court in this case. Initially there was pending civil litigation between the parties and one party managed to initiate the criminal proceedings against the other under the provisions of act of 2005. Second party approached Peshawar High Court for quashing of criminal proceedings in the light of Zahoor Ahmad case and principle laid by Lahore High Court. Justice Dost Muhammad of Peshawar High dispensed with the matter and based his judgment on two points. (High Court 2007). There was pending civil litigation between the parties even prior to introduction of act of 2005. Hence it may not be possible that two litigating parties can afterwards start criminal proceedings against each other and one of them is penalized. Such punishment would amount to retrospective punishment which is clearly prohibited by constitution. (The Constitution of Islamic Republic of Pakistan, 1973). Secondly it was observed that in making the act of 2005 it was clear intention of law makers to curb the activities of land mafia which is like a monstrous character since some time. This law is not supposed to be put into service to decide the matters of ordinary citizens. It is also not desirable to start criminal proceedings in matters which clearly fall in the ambit of civil disputes and grievance of the parties can be effectively redressed by the civil courts of the land. Ultimately the Court followed the ruling of Lahore High Court and criminal proceedings initiated under the act of 2005 were quashed.

This approach was followed in many reported cases and this interpretation provided by Lahore High Court was followed. In *Yafas v. The State* (High Court 2007), the Peshawar High Court held that the act of 2005 has provided a strict and expeditious process. It was declared as a special statute which is not meant to be applied to ordinary citizens. It was also observed that dealing every case in the light of act of 2005 would amount to withdraw the authority of civil and revenue courts as they would lose their legitimate jurisdiction over the civil disputes and disputes related to immovable property. In *Syed Naseem Ahmed v. Mst. Huma Noor* (High Court 2007), the matter was before the Sindh High Court and it was decided merely on the interpretation provided by Lahore High. The point focused was that whether the facts of the case has any nexus with the land grabbers and the case was dismissed.

### **Rahim Tahir v. Ahmed Jan**

It was the first case in apex court of the land where act of 2005 was interpreted and it was considered that whether it is appropriate to apply the act only to the land mafia or provisions of the act can be used against ordinary persons trespassing over the land of





others. In this case the Honorable Supreme Court addressed two main points which were raised in Jan Pervez case:

- I. Firstly, question of retrospective punishment was addressed and it was observed that interpretation of this act has nothing to do with the well-established constitutional principle of retrospective punishment. No one can be charged and punished whose act was not punishable at the time when offence was committed. This verdict was totally in line with the scope of Article 12 of the Constitution. It was further clarified that if any case of dispossession was pending before any competent forum that is not supposed to be disturbed. but if the case is not sub judice before any competent forum that can validly be initiated and tried under the provisions of this act. This point has been considered later on that charge is to be framed with respect to date of occurrence and if date of occurrence is prior to the enactment of any statute then prima facie it is a case of retrospective punishment.
- II. Secondly, important question of application was taken into consideration that whether this act applies to all the persons or only a specific class of persons. It was held that this act will be applicable to all the persons who are illegal occupants of any immovable property without any distinction. The purpose of this special law was to protect the rights of lawful owners of the property. Legislation does not make any distinction with respect to the offenders. It was finally opined by the apex court that we have to see the purpose of the legislature and in this specific case purpose of the legislature is to protect the rights of lawful owners and not to serve efforts to create a distinction between first offender or a person associated with a group of land mafia. (Supreme Court, 2007).

### **Muhammad Akram v. Muhammad Yousaf.**

It was a case before the High Court in which Supreme Court heard an appeal against the order of High Court of Balochistan. (Supreme Court, 2009). Dispute was pertaining to illegal occupation over a residential plot and verdict was given in favor of owner holding that the act of 2005 is applicable to all cases of illegal possession of land and other instance was rejected once again by the apex court of the land. In this case Supreme Court came one step forward and laid down certain condition which could be availed by the complainant to level the charge and allegation as well as for the accused person that what possible defenses he might have if there is an allegation against him of illegal dispossession. It was held that in order to charge an accused under the Illegal Dispossession Act, 2005, the complainant is required to show before the Court:



- (I) that the complainant is actual or lawful owner of the immoveable property or he holds lawful possession of the immoveable property and he has been illegally dispossessed from thereof.
- (II) That the said dispossession has been made by his alleged accused person.
- (III) The accused has effected entry over the immoveable property without any lawful authority or justification.
- (IV) That the accused has caused dispossession with the intention to deprive the lawful possessor.

Further Court also noted the instances which an accused can use as Defence line:

- I. That complainant is not lawful owner of the property.
- II. That accused has not illegally dispossessed the complainant, it is question of fact required to be determined by evidence in each specific case.
- III. That accused has lawful authority or right to enter upon immoveable property.

### **Dr. Muhammad Sardar v. Edward Henry Louis**

In this a three-member bench of Honorable Supreme Court of Pakistan considered the point of retrospective punishment as it was laid down in Rahim Tahir Case. It was held that in Rahim Tahir case Court was erred in reaching at a right conclusion with respect to retrospective punishment. In this case before the apex court it was brought on record that petitioner was in litigation with the respondent since 2003 and that time act of 2005 was not enacted. Same point was put before the learned counsel for the petitioner who tried to take support from the verdict laid down in Rahim Tahir case where it was allowed if the case was not pending before any competent forum. The court differentiated the case on two points. Firstly, with respect to case in hand there was already civil litigation pending before the civil court. Secondly it was observed that principle laid down Rahim Tahir case was an error and there is not any possibility that a person can be convicted of an act which is not punishable at the time of its occurrence. (Supreme Court, 2009)

### **Mumtaz Hussain v. Dr. Nasir Khan**

In this case Supreme Court of Pakistan once again decided to go into depth of the matter and tried to interpret the Illegal Dispossession Act 2005 according to its true letter and spirit. Once again the apex court changed its mind by holding that the act applied to cases occurred prior to 2005 reasoning that this offence has not been introduced as a new offence but it was existing already in the legal system in the shape of section 441 PPC. Section 441 Pakistan Penal Code deals with the criminal trespass and illegal dispossession is an





aggravated form of the same offence meaning thereby that legislature has not introduced new offence that's why it can be given even retrospective effect. (Supreme Court, 2010)

### **Shahabuddin vs. The State**

In this once Supreme Court once again took into consideration the basic point that whether the act of 2005 will be applicable to every person or only to those persons associated with land mafia. (Supreme Court, 2010). Unfortunately, once again it was opined that this act is not intended to address the ordinary trespassers but the main focus is to prosecute and penalize the people who are professional land grabbers and belong to specific class. In this case once again the logic given by Justice Asif Saeed Khosa was verified as given in Zahoor Ahmad case.

### **Anjuman Jilani v. Mst Feroza Jilani**

It was the unique case before the Peshawar High Court in which there was dispute between mother and son over the jointly inherited property. Actually they both were co-owners of the property but the son forcefully dispossessed the mother from property. A complaint was lodged by the mother under the act of 2005 and son was convicted by the trial court. He appealed before the High Court and argued that provisions of act of 2005 are not applicable to private citizens but are only attracted towards the people who belong to land Mafia or part of specific groups like land grabbers. This plea was not honored and his sentence was maintained as awarded by the trial court reasoning that it is applicable to all the citizens irrespective of the fact that they belong to a particular class or not. It is very obvious that irrespective of the decisions of superior courts, the accused was convicted despite being the co-owner in the property. (High Court, 2008)

### **Muhammad Afzal v. Saeedullah Khan**

In this case Supreme Court once again changed its mind and it was held that penal provisions of act of 2005 could not be given retrospective effect and as a result cannot be applied to the cases in which the incident took place prior to implementation of the said act. The application of the 2005 act was confined only to the cases occurred after 2005. It is also a major turn by the apex judiciary keeping in mind the consistent approach that could be expected from the Supreme Court in 21<sup>st</sup> century. (Supreme Court, 2011)

### **Habib Ullah vs Abdul Manan.**



In this case restricted approach was adopted and Justice Ijaz Chaudhary of apex court ruled that it is well established principle that application of act of 2005 in only against the persons who have the credentials or antecedents of Qabza Group and they are involved in such activities having prior record of such cases. In this appeal of three accused persons was allowed by stating that trial court has wrongly convicted the accused persons. It was further dictated by the judgment that this law was legislated for special purpose and it does have special object, hence it cannot be applied in case of ordinary nature and in absence of such special circumstances no one can be convicted under the provisions of aforesaid legislation. (Supreme Court, 2012)

### **SHAIKH MUHAMMAD NASEEM vs Mst. FARIDA GUL**

This is the latest judgment of Supreme Court (Supreme Court, 2016) over the issue and it is five members judgment of apex court in which all the aspects of interpretation have been considered. In the very introductory paragraph of judgement it has been stated the court has acknowledged that there are instances in which contradictory judgements have been delivered by the Supreme Court. It has been also stated that there are two sets of judgments within last few years standing on opposite ends to each other. It was intended through this judgment that the conflict is supposed to be resolved by the judgement in hand. Supreme Court also referred to the cases, parties involved in the litigation and citations of the cases. Honorable Court referred to some previous cases and decided to go into depth of the matter and showed its intention at the very outset. It was held in this introductory paragraph that intention of the legislature was never there to apply the restrictive approach. Restrictive approach means to apply the act of 2005 only to a group of specific class. It was held that it is intended for all those persons who are involved in illegal dispossession and there is no difference between ordinary people as well as people belonging to Qabza Groups. The judgment further divided the contradictory judgements in two sets of laws. One set of judgements supported the restricted approach and other opposed it categorically. Restrictive approach was not appreciated by judgment in hand and it was declared not to be good law. Hence an approach that was adopted and left many times by the constitutional courts was struck down by mere verdict of five-member bench of apex court as it was deemed not to be a good law.

Furthermore, scope of section 3 of above said act was taken into consideration and it was presumed that this important section has focused more on defining the offence. It has least defined the person associated with the offence meaning thereby that the main focus of the legislature was to tackle and eliminate this offence instead of arguing over the matter that who will be convicted or not. It was observed that statute has not given much consideration to differentiate two types of offenders i.e. ordinary persons and persons belonging to



specific groups. It was opined that the statute used a general term “no one” and “whoever” that applies to all the persons who are involved in such cases. It was also discussed that restrictive approach was initially started in Zahoor Ahmad case (High Court, 2007) whereby the court relied over the words of “property grabbers”. It was held that property grabber is not a specialized legal term but it must have general impact over interpretation and it was also said this term cannot be associated with specialized terms like “Land grabbers” or “Qabza Groups”. Court clearly established that the term “no one” and “whoever” must be construed in a way that it should be given the widest possible meanings. Attribution of restrictive approach with these terms will not serve any purpose and offenders cannot be differentiated as to restrict the scope and applicability of the statute. Provisions of section 3 clearly indicate that whoever commits the act against a lawful owner of immovable property, he can be made subject to prosecution under the provisions of the act. Court also objected the way legislative history was approached in Zahoor Ahmad case (Supra) and it was appropriately concluded that a reference to legislative history can only be made when there are ambiguous terms or obscure meanings in the legislation that leads to absurdity. It is because of the fact that legislative history comprises of arguments by members of the assembly and the final outcome of such debates. The first and foremost thing for construction of the statute is plain reading of the statute. If a reader is unable to reach a conclusion by text of the statute and is unable to decipher the real intent of the legislature, then legislative history becomes relevant which was not so in this case. Court also opined that a resort to legislative history is a practice of exceptional nature and it is neither desired nor warranted in ordinary cases where the language of the statute is much clear and does not contain any ambiguity. Finally, once again the apex court of the land refused to apply restrictive approach and dictated in favor of general implementation of the act of 2005 without any differentiation among the offenders.

### **Falsus in Uno, Falsus in Omnibus:**

It is the second issue being taken up in this research that has been dealt by Pakistani Courts over the past few decades. To have a deep grasp of the matter its historical, Islamic and applicable form in Pakistani law has been considered. This rule has been applied in previous years by neglecting the rules of jurisprudence and hence promoting the necessity or practical consideration. Finally, this matter was given the due consideration in 2019 in a case by the Honorable Supreme Court but such a long practical necessity based interpretation has left such a strong impact over the minds of people coping with the dispensation of justice that they were misguided in a case that was decided in 2020 irrespective of the fact the matter was taken up in 2019 and decided on different



parameters. Before going into deep insight of the matter it is appropriate to understand the historical position of the principle and its Islamic position.

It is a Latin phrase that means “False in one thing, False in everything”. It holds that if a witness lies about a single material fact in his testimony his evidence is to be discarded in the entire case as he is no more confidence inspiring and trustworthy. It is also based on the principle that belief over witness’s testimony is not to be partial or fractional. Initially it was introduced as a mandatory rule of evidence and its history is found in American legal system as back as 17<sup>th</sup> century.

### **Falsus in Uno, Falsus in Omnibus - Applicability in Pakistan.**

History of the rule in motherland is as old as its creation. It was firstly considered in *Ghulam Muhammad and others vs Crown (High Court, 1951)* in which Lahore High Court was with the choice whether to adopt this principle in Pakistan or not. This criminal case was pertaining to murder of 5 people and consequently upon trial 11 persons were found guilty and convicted therewith. Two of eleven convicted persons raised the plea of alibi before the trial court which was not honored and disbelieved by the trial court. Same issue was raised in appeal before the High Court and it was considered appropriate by the High Court that their plea of Alibi is trustworthy and is supposed to be accepted. But there was another important issue that same set of witnesses have implicated the appellants who are being given benefit of doubt on basis of their plea. If prosecution case is disbelieved to the extent of these appellants, then how it is possible that prosecution evidence is to be believed against the rest. It is pertinent to mention that till then this rule was well established in many other jurisdictions and court should have applied the principle by considering the persuasive force of foreign precedents. By doing so court feared that that will cause acquittal of whole lot meaning thereby that such a heinous offence resulting in death of five persons will be shattered because of falsehood of prosecution witnesses. Apart from the reasons given in this case it is well established principle of criminal law that mind of the judge must not be influenced by the heinousness of crime rather than matter must be decided on the basis of confidence inspiring evidence. In this case the court opined otherwise and started a new era in the field of criminal jurisprudence that when court is of the view that falsehood has been deliberately mixed up with the truth then court can sift the grain from the chaff to reach a just conclusion. This was no doubt a deviation from well settled principles because this view originates from the notion that once a witness is found to have lied about a fact it cannot be safely presumed that the said witness will depose truth about other facts.



A good application of the principle can be seen in *Fiaz Baksh vs The Queen*. (Privy Council, 1959). It was a murder case in which two persons were convicted by the trial court. Court of appeal, during the hearing of appeal, found one person not to be involved in the commission of offence while found serious discrepancies in statements of witnesses. Court of appeal also observed that witnesses have improved their statements in order to incriminate the accused persons. Resultantly, the court ordered to allow the appeal to the extent of one appellant but dismissed the appeal of other appellant by sending back the case back to trial court and ordered a fresh trial. When the matter was taken up before the privy council held that approach of court of appeal is erroneous and not based on settled norms of criminal jurisprudence. It was opined that evidence and credibility of the witness is to be seen, considered and relied upon in its entirety and only the favorable portion cannot be detached and used for dispensation of justice as it is not safe to do so in dispensation of criminal justice.

As per a careful estimate there have been more than Hundred reported judgments by constitutional courts of Pakistan where it has been held that criminal courts in Pakistan are supposed to sift the grain from the chaff meaning thereby that character or entirety of the witness to be ignored and focus remains to punish the offender. Some famous judgments with respect to earlier given opinion are referenced below.

This stance of the courts remained intact until 2019 when it was turned down once again by apex court of the land. (Supreme Court, 2019). In this case it was held that this principle of sifting the grain from the chaff cannot be of universal nature and absolute application. It was considered against the basic principles of criminal law as well as against the teachings of Islam. Furthermore, it was opined in the judgement that the mother judgement of 1951(High Court, 1951) upon which many decisions were relied that was rendered in specific situation and circumstances which was not to be adopted blindly throughout the jurisdiction. It is also pertinent to mention that deviation from such an admitted principle for such a long time left unrecoverable shadows on mind of judicial officers in the territory and once again in decision (High Court, 2020) of 2020 the same principle was applied irrespective of the fact that the matter was decided by the Supreme Court of Pakistan.

### **Conclusion:**

Criminal Courts especially established under the Supreme Law I.e. Constitution are entrusted with the prime responsibility that these are supposed to review and revisit the decisions given by the lower courts as well as to settle such norms and principles which could have an exemplified impact over the other pillars of the state. Constitutional courts are also supposed to set high moral and ethical grounds as these grounds play a vital role in

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development of any particular branch of jurisprudence in a jurisdiction. It is clear depiction from two considered areas, i.e. interpretation of Illegal Dispossession Act 2005 and rule of Falsus in Uno Falsus in Omnibus, that Constitutional Courts have showed such an approach that does not attract much appreciation at national as well international level. It would not be unjust to say that it attracts a substantive amount of criticism at international level. To be specific if it is to talk about interpretation of Illegal Dispossession Act 2005, such a frequent change of interpretation amounts to arbitrary interpretation. Undoubtedly interpretation of criminal courts is of utmost importance as it curtails fundamental right of a person to be at liberty and if such a basic right that is almost protected by each and every civilized law in the universe is vitiated by an arbitrary interpretation that shows an exemplary immaturity of the legal system. As it is obvious from the foregoing provisions that contradictory interpretations were given after very short span of time that is fatal to the individual rights. Similarly, the principle of Falsus in Uno Falsus in Omnibus has been discarded for a considerable period irrespective of the fact that in many jurisdictions around the globe it is applied and the same is the spirit of Natural, Islamic, National as well as International Law.

Furthermore, Pakistan has international legal as well as ethical obligations. Pakistan has been founding member of Universal Declaration of Human Rights since 1948 and has ratified International Covenant on Civil and Political Rights. Both International laws stress on the basic principles especially protection of fundamental rights and it is also of immense importance that curtailment of fundamental rights must be just, fair and reasonable. It is also required that due process of law must be adopted to curtail the fundamental rights. Arbitrary punishments are also prohibited under these laws. It is of utmost importance that procedural due process can never be ignored along with substantive due process. The mistakes of procedural due process cannot be cured if there are wrong or persistent changed interpretations of criminal laws that ultimately result in dealing with the civil liberties of the people.

### **Recommendations:**

1. Interpretation of Criminal Law must be done with utmost care as frequent change of interpretation shows immaturity of jurisdiction.
2. It is hard to give interpretations in criminal law that have universal application and that must be avoided as each case has to be decided on its own merits.
3. Mother judgment of 1951 in principle of Falsus in Uno Falsus in Omnibus was rendered in specific circumstances which was followed by courts of the land for a considerable period. That interpretation of specific circumstances must not be generally extended to each and every situation.





4. Principle of sifting the gain from chaff is a rule of exceptional nature that must not be adopted as a matter of universal application by the criminal courts of the land.
5. There must be evolutionary depiction in the changed interpretations applying in any area of law that deals with fundamental rights of the citizens like criminal law.
6. Obligations of international laws must be taken care of while interpreting the local laws.
7. Misguided interpretations attract criticism to the judicial system that should be avoided.
8. Settled principles of Natural and international law must be adhered to other that earns an irreparable bad name for the jurisdiction as it has been seen in foregoing mentioned cases and that has also been observed in cases of international importance like Reko Dik Case.
9. Laws must have justifiable interpretation and proper enforcement instead of introducing new laws as it has been seen in case of Illegal Dispossession Act 2005.
10. Legal system must be taken as a whole unit instead of focusing on isolated unit which means an individual case. In case of *Falsus in Uno Falsus in Omnibus*, every case in which this principle was not applied that means that court has acknowledged that witness has lied over material points but that is being ignored by the court and court is busy in sifting the grain from the chaff. Principally, it is not duty of criminal court to keep looking for material which seems to be suitable for convicting the accused rather the prosecution is to establish its case against the accused beyond the shadow of reasonable doubt. Every case in which application of this principle was denied that impliedly means that witness has lied over material points which should attract the offence of perjury. But it is also undeniable fact that having more than 100 reported cases of non-application of principle has not attracted such number of perjury cases that means that legal system has not been taken as a whole for the sake of improvement and cure the witness's attitude towards criminal justice system of the land.



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