

**FRAMING LEGAL ISSUES IN CIVIL SUITS: A PROCEDURAL IMPERATIVE
FOR FAIR TRIAL AND ACCESS TO JUSTICE****Hamaish Khan**Ph.D. Law (Scholar) at Department of Law, International Islamic University, Islamabad/Deputy Registrar (Judicial), Peshawar High Court Pakistan, hamaishkhan010@gmail.com**Atta Ul Mustafa**Lecturer, Department of Law, Faculty of Shariah and Law, International Islamic University, Islamabad, Pakistan, a.ulmustafa@iiu.edu.pk**Syeda Saima Shabbir**

Senior Research Officer, Supreme Court of Pakistan.

Riaz Aslam

Senior Research & Reference Officer, Peshawar High Court, Pakistan.

Abstract: *Framing of issues are crucial for determination of points of controversy between the parties in a civil suit. This research article explores the critical role of issue framing in civil litigation. The study underscores how the precise identification and framing of issues contribute to the efficiency and fairness of judicial proceedings. It highlights the consequences of non-framing or improper framing, including unnecessary delays, prolonged litigation, and potential miscarriages of justice. It discusses the effect of non framing of legal issues on the fate of a civil suit. By analyzing key judicial precedents and providing practical insights for legal practitioners, this research aims to enhance case management practices and ensure a fair trial. The study also advocates for legal reforms to address the challenges associated with issue framing, ultimately contributing to the improvement of the civil judicial system. This comprehensive examination serves as an educational resource for law students, academics, and researchers, emphasizing the significance of meticulous attention to issue framing in achieving just outcomes in civil suits.*

Keywords: Civil suit, court, litigation, parties, framing of issues, interrogatories, legal issues, factual issues.

Introduction

The civil litigation process is a structured journey that navigates through various stages, from the filing of a suit to its final adjudication. A critical aspect of this journey is the framing of issues, which essentially shapes the direction and scope of the trial. The fate of a civil suit can be significantly impacted if legal issues, particularly those concerning the time-barred nature of the suit and its maintainability, are not framed. Moreover, the precedence of legal issues over factual ones in a civil suit is a matter of procedural importance that can influence the outcome of the case.

The framing of issues in a civil suit is a critical procedural step that determines the scope and direction of the litigation. It is at this juncture that the court identifies the precise matters that are in dispute between the parties and requires adjudication. The importance of this process cannot be overstated, as it ensures that the parties are aware of the specific questions of law and fact that need to be addressed and evidence is directed accordingly.

The research article aims to delve into the procedural intricacies and judicial interpretations surrounding the framing of issues in civil litigation in Pakistan. It seeks to analyze the legal consequences of non-framing of legal issues and the extent to which such procedural lapses can affect the final adjudication

of civil disputes. Through a review of case law and statutory provisions, the article will provide a comprehensive understanding of this fundamental aspect of civil procedure and its impact on the administration of justice.

SIGNIFICANCE OF THE STUDY

The research article delves into an important aspect of civil litigation that has far-reaching implications for the judicial process. The significance of this study lies in its comprehensive analysis of how issues are framed and how the framing of issues in civil suits can influence the administration of justice and the overall efficacy of the legal system. This study will highlight how precise issue framing aids in streamlining the litigation process. It will underline best practices for drafting issues, which can enhance the effectiveness of legal representation and advocacy. It will also analyze the effect of non framing of legal issues on the fate of a civil suit .This study will serve as an educational resource for law students, academics, and legal researchers by providing a thorough understanding of the procedural and substantive aspects of issue framing in civil litigation.

STATEMENT OF THE RESEARCH PROBLEM

In civil litigation, the framing of issues is a critical procedural step that directly influences the course and outcome of a case. Properly framed issues serve as a roadmap for the court, guiding the presentation of evidence and legal arguments. However, in many instances, legal issues are either inadequately framed or completely overlooked. Nevertheless, it has been held in dictums of the superior courts that non-framing of legal issues is not fatal for adjudication of the case and a case cannot be remanded on such ground. This research aims to analyze the importance of framing legal issues in civil cases and examine the detrimental effects of non-framing or improper framing on the administration of justice. By exploring case studies and relevant judicial pronouncements, the research seeks to highlight the need for meticulous attention to this procedural aspect to ensure fair and just outcomes in civil litigation.

I. DEFINITIONS OF ISSUE

According to dictionary meaning, an issue means “a matter that is in dispute between two or more parties” or “the point at which an unsettled matter is ready for a decision” (Merriam Webster Dictionary).

An issue is a point of [controversy](#) or disagreement between parties and is submitted to a court or other legal tribunal for resolution. An issue can be a [question of fact](#) or [law](#), or both, and can arise in various stages of a legal [proceeding](#), such as during [pretrial discovery](#), at [trial](#), or on [appeal](#) (Legal Information Institute, 2023).

When factual or legal objections are raised and claim is denied by the other party then it is imperative to trash out the controversy in the light of pleading of parties by framing issues covering a dispute (Gul Construction Company Private (limited), Kohat v.Naik Muhammad, 2013).

II. THE IMPORTANCE OF FRAMING OF ISSUES

The framing of issues is a procedural necessity that ensures clarity and focus during the trial. It delineates the contours of the dispute and assists the court in directing its resources towards the crux of the matter. The Civil Procedure Code, 1908 (C.P.C.) provides the framework for the framing of issues. The court also gives its judgment based on issue wise findings. Framing of issues ensures that the disputed matters are clearly identified, which helps in avoiding confusion and ensures that the court and parties are focused on resolving the specific points of contention. Properly framed issues contribute to the efficient conduct of trials by narrowing down the matters that need adjudication. Effective issue framing can improve case management practices within the judiciary, leading to quicker resolution of disputes and reduced case backlogs. Issues or questions in every case would be mainly questions of law and fact to be decided in the court (Munir, 2021).

Issues are the lamp post which enlightens the parties, the trial and the appellate court as to what the controversy is, what the evidence must be, and where the truth in the dispute lies (<https://lawnotes.co/framing-of-issues-or-14-cpc/>). Issues are to be framed on the basis of materials in the shape of pleadings presented (Dr. Sarfraz Deputy District Officer Health v. Malik Muhammad Jamil, 2021).

III. PURPOSE OF FRAMING OF ISSUES

The purpose of framing issues in a civil suit is to clearly define the points of contention between the parties involved, allowing the court to focus on the specific matters that require adjudication. By isolating the disputes, the framing of issues narrows down the scope of the trial to the core legal and factual questions, ensuring that the evidence and arguments presented by both sides are relevant and directly related to these issues. This process promotes efficiency in the judicial proceedings, prevents unnecessary litigation on irrelevant matters, and ultimately aids in delivering a just and precise judgment.

Object of framing of issues being that the controversies put by the parties are narrowed to particular points to be settled and determined by the court. Sole purpose is to invite attention of parties to real part needing consideration (Muhammad Mehmood v. Imtiaz Sheraaz, 2022). Controversy to be reflected through issues and parties must be aware about their rights and obligations (Mst. Qaim Khatoon v. Shamsheer Ali, 2021).

IV. HOW ISSUES ARE FRAMED?

Issues in a civil suit are framed based on the material propositions of fact or law that are affirmed by one party and denied by the other. The process of framing issues is a structured one, as outlined in the Order XIV, Code of Civil Procedure, 1908 (C.P.C.), and is crucial for the proper adjudication of the case. Once a reply has been filed to the claim or the opposing party has been barred from filing a reply, the matter is fixed in court for settlement of issues. At that stage, the court settles issues in the case that are decided on the basis of the pleadings filed by the parties (<https://www.lexology.com/library/detail.aspx?g=>). Following are steps for framing of issues;

1. Framing of Issues

Issues in a civil suit arise when there is a disagreement between the parties on a material proposition of fact or law. A material proposition is essential for a plaintiff to establish a right to sue or for a defendant to constitute a defense. Each disagreement on a material proposition leads to the formation of a distinct issue, which can be either an issue of fact or an issue of law (Order XIV Rule 1, CPC). Every material proposition of fact or law affirmed by one and denied by the other should be dressed as an issue (Jan Muhammad v. Ghulam Farid, 2014). Issues are to be framed on the basis of materials in the shape of pleadings presented. Court has to frame proper issues so that the parties may know the controversy, the disputed facts on which evidence is to be led and to enable and effective judgment is to be rendered (Shabbir Ahmed v. Muhammad Muzamil Hussain, 2021). Order XIV, R. 1 & 3 of the C.P.C. prescribes that the issues in a case must be framed on the material propositions of law or fact. Distinct and separate issues are to be framed for each proposition that is in dispute (Munir Ahmed Kasi v. Arbab Samiullah, 2023).

2. Prioritization of Legal Issues

If a suit presents both issues of law and fact, and the court believes that the case can be decided on the issues of law alone, it may choose to address these legal issues first. The court has the discretion to postpone the settlement of factual issues until after the legal issues have been resolved (Order XIV Rule 2, CPC). Legal issues which go to the root of the subject matter of suit and do not involve question of fact should be decided first in order to dispose of the whole cause , that is no manner would amount piecemeal decision (Government Of Pakistan through Chief Secretary, N.As., Gilgit v. Muhammad

Younus, 2009).

3. Materials for Framing of Issues

The court may use various materials to frame issues, including allegations made under oath, pleadings, answers to interrogatories, and contents of documents produced by either party. This ensures that the issues are grounded in the evidence and claims presented by the parties (Order XIV Rule 3, CPC). Issues are to be framed in light of materials available on file including pleadings (Shabbir Ahmed v. Muhammad Muzamil Hussain, 2021).

4. Examination of witnesses or documents before Framing of Issues

If the court determines that issues cannot be accurately framed without further examination of a person or inspection of a document not currently before the court, it may adjourn the framing of issues. The court can compel the attendance of persons or the production of documents as necessary (Order XIV Rule 4, CPC).

5. Amendment and Striking Out of Issues

The court has the authority to amend issues or frame additional issues at any time before passing a decree to ensure that all matters in controversy are addressed. Conversely, the court can also strike out any issues that are deemed to be incorrectly framed or introduced (Order XIV Rule 5, CPC). Court has ample power to delete, alter, modify or even frame additional issues (Said Jamal v. Ghulam Zohrat, 1992, Abdul Rashid v. Muhammad Anwar, 1990). In the case law ‘Syed Amjad Hussain Jaffri v. Additional District Judge’ (2023) the Court held that;

“6.The framing of issues is one of the most important stage of the trial. On the basis of material, the Court is to frame issues in respect of those material propositions of facts or law alleged by one party and denied or not admitted by the other party. Material propositions are those which the plaintiff must alleged to show right to sue or a defendant in order to constitute his defence. Separate issues are to be framed for each material proposition in dispute. It is the duty of the Judge himself to frame proper issues, so that the parties may know the controversy. The object of framing of issue is to ascertain the real dispute between the parties by narrowing down the area of conflict and determining where the parties differ. The power of a Court in relation to framing, striking out and amending issues is provided under Order XIV, Rule 5 C.P.C.

The later part of Rule 5 makes mandatory upon the Court to make or framed issue necessary for determining matters in controversy between the parties. The power vested in a Court under Rule 5 can be exercised at any stage prior to the final disposal of the case. Even the appellate Court can exercise power under Order XIV, Rule 5, C.P.C. where the case cannot be disposed of on the basis of issues as already framed. Although it was the duty of the parties to point out framing of necessary issues, yet the Court was, equally bound to frame correct issues, which are necessary for determination of real controversy between the parties. Merely because the parties had not pointed out such issue, Court was not absolved from performing its legal and statutory duty. Action or inaction on the part of the Court could not prejudice a party to litigation. Even if a point not raised in the pleadings, nonetheless, it would come to the notice of the Court during the course of evidence Court could frame issue in this regard, in order to resolve the controversy between the parties”.

6. Agreed Issues Between Parties

Parties may agree on certain facts or legal questions and present these in the form of an issue. They can enter into a written agreement specifying the consequences based on the court's findings on these issues, such as payment of money, transfer of property, or performance of specific acts(Order XIV Rule 6, CPC). To frame issues, Court has to find out question of fact, question of law and mixed question of fact and mixed question of law from pleadings of the parties and other materials (Parveen Akhtar v.

Akhlaq Ahmed, 2021).

7. Court's Decision on Agreed Issues

Upon verifying that the agreement is properly executed, the parties have a substantial interest, and the issue is fit for trial, the court will record and try the agreed issue. The court will then pronounce judgment according to the terms of the agreement, leading to a corresponding decree (Order XIV Rule 7, CPC).

8. Parties not at issue

Where at the first hearing of the suit it appears that parties are not at issue on any question of law or on fact, the court may at once pronounce judgment (Order XV, Rule 1, CPC). Parties not at variance on any issue, decree in terms of Order XV, Rule 1, and CPC can be passed (Muhammad Mehmood v. Imtiaz Sheraaz, 1993).

9. One of several defendants not at issue

Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of law or of fact, the Court may at once pronounce judgment for or against such defendant and the suit shall proceed only against the other defendants (Order XV, Rule 2, CPC).

10. Parties at issue

Where the parties are at issue on some question of law or of fact and issues are framed by the Court, and when the court is of the opinion that no further arguments or evidence is required, the court may proceed to determine such issues, and if the findings thereon are sufficient for the decision, may pronounce judgment (Order XV, Rule 3, CPC).

V. FATE OF A CIVIL SUIT WITHOUT FRAMING OF LEGAL ISSUES

Framing or non-framing of issue cannot be a ground for reversing the judgment and decree of any court and party cannot pray for remand of the matter at later stage on the basis that any issue which was required in accordance with the pleadings of the parties was not framed.

It is settled principle of law that if on a question of fact a specific issue required to, be framed in the light of the pleading of the parties was not framed but the parties have produced evidence on the controversial question of fact, the decision can be legally rendered on such question without framing the issue.

VI. RELEVANT CASE LAWS

Following are relevant case laws;

a. Province Of Punjab v. Mian Gohar Mubashar Hameed (2022)

In this case law the court held that ;

‘Framing/non-framing of issues could not be a ground for reversing the judgment/order of any court when the same does not cause prejudice to the case of a party’.

b. Muhammad Ibrahim v. Taza Gul (2020)

In this case law the court observed that;

“So far as framing of specific issues in accordance with the pleadings of the parties or non-framing of any issue is concerned, we have already declared that framing or non-framing of issue cannot be a ground for reversing the judgment and decree of any court and party cannot pray for remand of the matter at later stage on the basis that any issue which was required in accordance with the pleadings of the parties was not framed. We are of the view that the evidence of the parties is to be led in

accordance with the pleadings. It is not a legal defect if any specific issue is not framed and party claiming that issue do not agitate the matter for decades and if the language of existing issues is not in accordance with the wishes of any of the parties”.

c. Muhammad v. Hashim Ali (2003)

In the above case law the court held that;

“It is settled principle of law that if on a question of fact a specific issue required to, be framed in the light of the pleading of the parties was not framed but the parties have produced evidence on the controversial question of fact, the decision can be legally rendered on such question without framing the issue”.

d. Fazal Muhammad Bhatti v. Mst. Saeeda Akhtar (1993)

In above cited case, the court held that;

“The pleadings and the issues as originally framed show that the parties were fully aware what was the subject-matter of controversy and what evidence was to be led by each one. The Court did not prevent the parties from leading evidence at the trial with regard to the defects in the gift. The non-framing of a specific issue in such circumstances is inconsequential”.

e. Laloo v. Ghulaman (2000)

In above case law, the court observed that;

“Nothing turns upon the failure to frame an issue on the question of limitation. If throughout the proceedings, no request is made for the framing of an additional issue”.

f. The Province Of East Pakistan v. Major Nawab Khawaja Hasan Askary (1971)

In above referred case the court observed that:

“This objection was also taken in the High Court and was repelled on the ground that no prejudice has been caused to the appellant by not framing any specific issue on it. The parties have led evidence in support of their cases and it was on this evidence that decision has been given by the Courts below. In my opinion, the procedure adopted by the Courts below cannot be made in shy plaintiff and they are challenged in the written statement, it is open to the Court to allow the parties to lead evidence on such point and to give decision on it without framing any issue”.

CONCLUSION

The framing of issues in civil litigation stands as a cornerstone of judicial efficacy and fairness. This study the paramount importance of accurately identifying and framing issues, as it directly influences the trajectory and outcome of a civil suit. The consequences of non-framing or improper framing are profound, leading to delays, prolonged litigation, and potential miscarriages of justice.

The detailed procedural steps outlined in the Code of Civil Procedure, 1908 (C.P.C.), emphasize the structured approach required for the framing of issues, which serves as a guide for the court and the parties in navigating the complexities of a trial. The analysis of judicial precedents reveals that while courts have shown flexibility in certain instances where issues were not explicitly framed, the ideal scenario remains one where issues are precisely identified and framed in alignment with the pleadings of the parties. Similarly, issue of law has to be decided on priority as compared to issue in fact.

Thus, the meticulous framing of issues is indispensable for the administration of justice in civil litigation. Nevertheless, framing or non-framing of an issue cannot serve as a valid ground for setting aside the judgment and decree of any court. Moreover, a party cannot seek remand of the case at a later stage on the pretext that an essential issue based on the pleadings was not originally framed.

REFERENCES

- Abdul Rashid v. Muhammad Anwar, 1990 CLC 502.
- Cornell Law School. (n.d.). *Issue*. Legal Information Institute. Retrieved from <https://www.law.cornell.edu/wex/issue>
- Dr. Sarfraz Deputy District Officer Health v. Malik Muhammad Jamil, 2021 CLC 2152.
- Fazal Muhammad Bhatti v. Mst. Saeeda Akhtar, 1993 SCMR 2018.
- Government of Pakistan through Chief Secretary, N.As., Gilgit v. Muhammad Younus, 2009 CLC 46.
- Gul Construction Company Private (Limited), Kohat v. Naik Muhammad, 2013 CLC 1371.
- Jan Muhammad v. Ghulam Farid, 2014 MLD 1141.
- Kazi, M. M. (n.d.). *Q&A: Conducting litigation in Pakistan*. Lexology. Retrieved from <https://www.lexology.com/library/detail.aspx?g=d468a5f4-5d3d-42a5-9b21-6714b5470fd7>
- Laloo v. Ghulaman, 2000 SCMR 1058.
- Lawnotes. (n.d.). *Framing of issues or 14 CPC*. Retrieved from <https://lawnotes.co/framing-of-issues-or-14-cpc>
- Merriam-Webster Dictionary. (n.d.). *Issue*. Retrieved September 3, 2024, from <https://www.merriam-webster.com/dictionary/issue>
- Muhammad Ibrahim v. Taza Gul, 2020 SCMR 2033.
- Muhammad Mehmood v. Imtiaz Sheraaz, 2022 CLC 1836.
- Muhammad v. Hashim Ali, PLD 2003 Supreme Court 271.
- Munir Ahmed Kasi v. Arbab Samiullah, P L D 2023 Balochistan 59.
- Munir, M. (2021). *Process in Civil Cases in Pakistan*. SSRN. Available at <https://ssrn.com/abstract=3988766> or <http://dx.doi.org/10.2139/ssrn.3988766>
- Mst. Qaim Khatoon v. Shamsher Ali, 2012 YLR 1379.
- Parveen Akhtar v. Akhlaq Ahmed, 2021 CLC 1491.
- Province of Punjab v. Mian Gohar Mubashar Hameed, 2022 CLC 379.
- Said Jamal v. Ghulam Zohrat, 1992 CLC 1714.
- Shabbir Ahmed v. Muhammad Muzamil Hussain, PLD 2021 Bal 79.
- Syed Amjad Hussain Jaffri v. Additional District Judge, 2023 C L C 2071.
- The Code of Civil Procedure, 1908.
- The Province of East Pakistan v. Major Nawab Khawaja Hasan Askary, PLD 1971 Supreme Court 82.