

Constitutional Development in Pakistan

Riaz Begum

Riaz Begum Advocate Supreme Court of Pakistan, LL.B., M.A. Political Science, MA English Literature Department of Law, Political and Constitutional Studies A research paper for the degree of MASTER OF PHILOSOPHY (Constitutional Law and Political Institutions) Faculty of Law, Social, Political and Behavioral Sciences Email: kwlawassociates@gmail.com

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Abstract

Pakistan's constitutional evolution presents an intricate and fragmentary narrative, itself a palimpsest overlaying colonial heritage, periodic convulsions, judicial doctrines, and recurrent military abridgments. Since the 1947 partition, the effort to forge a resilient constitutional order capable of accommodating federalism, representing popular sovereignty, and upholding the rule of law has repeatedly faltered. Unlike certain post-colonial counterparts that experienced gradual constitutional consolidation, Pakistan's evolution has alternated between the debut of grand constitutional moments and periodic interregna marked by abrogation, suspension, and externally directed amendment, occasioned by warring centres of authority the legislative, the executive, the judiciary, and the military.

This thesis charts constitutional evolution from the inaugural moment of independence to the present. It privileges an integrated analysis that appraises not only constitutional text, but also the underpinning institutional architectures, the prevailing distributive struggles, and the public reception that inform, accept, resist, transform, or simply ignore the formal edifice. Situating Pakistan's narrative alongside the constitutional trajectories of selected postcolonial democracies India, Turkey, and South Africa the analysis discerns the distinct, even audacious, ruptures some foundational texts inaugurate, whilst simultaneously illuminating the recurrent motifs and common exigencies underlying constitutionalism in contexts of inherited hierarchies and liberal aspiration.

Keywords

Constitutional evolution, Federalism, Rule of law, Parliament, Judiciary, Executive, Military, 1956 Constitution, 1962 Constitution, 1973 Constitution

Introduction

Background of the Study

As the repository of paramount legal authority, a national constitution delineates governmental architecture, delineates individual entitlements, and prescribes dispute-settlement mechanisms. For Pakistan, a polity emergent from the colonial cleavage of India by a religious nationalism, the constitutional imperative was both consequential and contested. Although the Pakistan Movement

envisaged a territorial sanctuary for Muslims, divergent trajectories secular democratic polity, avowedly Islamic state, or synthetic amalgam for legitimacy, rendering the foundational legal text a fractious and fluid enterprise. The preponderant vagueness fostered recurrent antagonisms that afflicted both drafting and operative phrases.

During the foundational interim (1947–1956) the Objectives Resolution was a locus of controversy, as were allocations of federal and provincial prerogatives and the theological status of the Islamic imperative in the constitutional order. The 1956 **Constitution**, which instituted a parliamentary framework, proved ephemeral; in 1958, Pakistan experienced its inaugural rupture of civilian authority through a military interlude. The 1962 Statute, prescribed under the aegis of President Ayub Khan, converted the polity to a presidential model and fettered the dispersion of authority, yet could not accommodate clamor for both democratic accession and provincial self-governance. The **1973 Constitution**, currently operative, endeavored to mediate the inherent tensions among federalism, parliamentary governance, and the incorporation of Islamic principles. Nevertheless, it has been subject to iterative amendments whose effects have oscillated; at times, parliamentary authority has been augmented, as evidenced by the 18th Amendment, while at other instances executive or military supremacy has been secured, most notably by the 8th and 17th Amendments. Consequently, the trajectory of constitutional progress in Pakistan is best understood as an unresolved contest to institutionalise democratic norms in the face of recurrent authoritarian episodic returns, implicit judicial endorsements of unconstitutional actions, and persistent conflict between the consolidation of central power and the entitlement of provincial autonomy.

Problem Statement

Notwithstanding the expiry of more than seventy years of sovereign statehood, Pakistan remains the author of an unsettled constitutional contract. Its constitutional annals disclose alternating sequences of initial design, subsequent abrogation, piecemeal amendment and prolonged interregnum. Such interruptions have enfeebled democratic consolidation, disaggregated institutional integrity, and cultivated a systemic predisposition toward the instrumental use of the constitutional text.

The central empirical puzzle this inquiry confronts is: by what logic has Pakistan been precluded from fashioning an enduring constitutional framework, and what confluence of institutional, political, and historical variables accounts for this enduring instability?

Objectives of the Study

General Objective

To conduct a critical examination of the genesis and subsequent modification of Pakistan's constitutional framework, foregrounding the recurrent challenges, normative ruptures, and pragmatic possibilities for institutional consolidation.

Specific Objectives

- To delineate the genealogical sequence of Pakistan's constitutional instruments in 1956, 1962, and 1973, and to assess the qualitative and quantitative modifications introduced by subsequent amendments.
- To delineate the contribution of the judiciary, parliament, executive, and military to the evolution of constitutional arrangements in Pakistan.
- To gauge the persistence and mutational influence of colonial legacies on the architecture of governance.
- To interrogate the constitutional trajectories of India, Turkey, and South Africa by way of comparative analysis.
- To illuminate the persistent challenges of federalism, provincial autonomy, and civic participation that have punctuated Pakistan's constitutional narrative.

Research Questions

- What interplay of historical and political forces has determined the trajectory of Pakistan's constitutional evolution from 1947 onwards?
- In which ways have intermittent military rule and the judicial mobilisation of doctrine undermined constitutional continuity?
- What agency have parliament, executive, and judiciary exercised in either reinforcing or compromising the supremacy of constitutional norms?
- How do the constitutional predicaments of Pakistan correlate with experiences in other postcolonial politics?
- What structural and normative reforms are imperative to fortify constitutionalism and deepen governance founded upon democratic principles in Pakistan?

Justification for the Study

This inquiry commands analytical significance for several axis of scholarly and policy attention. First, an account of the constitutional development of Pakistan is essential to elucidate empirical continuities in political fragility and intermittent democratic regression. Second, the research situates Pakistan's experience within the broader literature of post-colonial state formation and institutions. Third, the comparative lens afforded by India, Turkey, and South Africa produces normative and empirical lessons of wider pertinence to continuing constitutional discourse. Finally, the study enriches the literature on constitutionalism in newly democratising contexts by advancing a systematic and comparative analysis of Pakistan's case.

Brief Methodology

This inquiry adopts a qualitative framework grounded in historical-analytical and comparative perspectives. Sources comprise archival materials including constitutional texts, parliament proceedings, and judicial opinions alongside secondary literature and semi-structured interviews with constitutional scholars and public officials. Analysis is thematic, oriented toward eliciting recurrent motifs, arrested trajectories, and episodes of substantive constitutional rupture.

Scope of the Study

Attention is concentrated on Pakistan's constitutional trajectory from independence to the present, with sustained focus upon the 1956, 1962, and 1973 constitutional instruments. It examines the interrelations of elected institutions, the judiciary, and the armed forces, and interrogates federal designs, the catalogue of fundamental rights, and the principle of separation of powers. Compounding perspectives are drawn principally from the constitutional experiences of India, Turkey, and South Africa.

Limitations of the Study

Numerous limitations are acknowledged. Principal archival material from the formative years remains selectively inaccessible, especially records of early constitutional deliberations. Interpretative distortions are conceivable in judicial reports and in the genre of high political memoir. The proposed interviews with elite policymakers are constrained by difficulties of access and by the selective responsiveness of key figures. Finally, Pakistan's constitutional field is materially emergent, rendering predictions tenuous and mid-term extrapolations precarious over the duration of fieldwork.

Organization of the Study

The dissertation is divided into seven sequential chapters: Chapter One offers an introduction, situates the historical background, articulates the research problem, enumerates principal objectives, and records the adopted methodology. Chapter Two presents a literature review, advancing the principal theoretical precepts and situating the inquiry within existing scholarly interpretations of constitutional history, the judiciary, the armed forces, and pertinent comparative contexts.

(LITERATURE REVIEW)

The paper addressing Pakistan's constitutional evolution reveals an enduring contradiction between aspirational democratic norms and the durable fragility of state institutions. Analysts have scrutinized the constitutional genealogy of Pakistan through angled lenses of law, politics, and comparative inquiry. Common to these surveys is the recurrent identification of the same institutional maladies: repeated military intervention, feeble parliaments, judicially proclaimed doctrines, and the irreducible residue of colonial bureaucratic norms, each of which has systematically enfeebled the constitutional order. The present chapter collates these interpretations, contextualises them within analogous constitutional experiences, and extracts recurrent theoretical and practical lessons.

Conceptualizing Constitutional Development

A comprehensive understanding of constitutional development encompasses the continuous refinement of constitutional texts, the design and functioning of institutions, and the practices that, in aggregate, structure public governance and regulate the relationship between the state and its citizens. Elster (1995) posits that constitutions should not be reductively conceived as bags of legal clauses; rather, they should be viewed as social pacts in which prevailing power equilibria and intra-state compromises attain public formulation. In the milieu of former colonial polities, the development of constitutional law is often problematised by the need to mediate between colonial relics and popular aspirations, which are themselves inflected by projective notions of national persona, democratic governance, and substantive notions of sovereignty (Ghai, 2000).

In the context of Pakistan, the study of constitutional evolution must be examined in direct conjunction with the dual imperatives of Islamic identity and federalism. Jalal (1995) posits that the persistent uncertainty over the ultimate character of the Pakistani state whether envisaged as a secular democracy or as an Islamic polity has engendered enduring cleavages that shape legislative and institutional trajectories. Institutional theorists echo this reasoning, asserting that a constitution emerges simultaneously as a reflection of episodic historical circumstances and as a formative influence on the durable prospects of political order (North, 1990).

Distinct Constitutions since 1947 independence

Pakistan has operated under three distinct constitutions since its 1947 independence, each embodying divergent institutional architectures and ideological accommodations.

- The 1956 Constitution was Pakistan's inaugural homegrown charter, pronouncing the Republic an Islamic state and mandating a parliamentary framework. Despite its ideological certainties, the instrument inadequately addressed long standing inter-provincial tensions and was consequently eroded by chronic political turmoil (Newberg, 1995). It survived a mere biennium, its effective life concluded by a 1958 martial decree.
- The 1962 Constitution was imposed by President Ayub Khan during a period of suspended civilian politics. This instrument substituted a presidential design, concentrated power in the executive, and replaced universal adult suffrage with a limited, indirect mechanism centered on systematically manipulated "Basic Democracies" (Burki, 1980). It has been characterized by subsequent scholarship as an authoritarian device masquerading as constitutional architecture. Its

recognised deficit of public legitimacy became a catalyst of widespread protests during the late 1960s.

- The Constitution of 1973, by contrast, was the product of an inter-party consensus, reinstating a parliamentary schema and asserting that Islam would guide the legal order. Enduring since its promulgation, it has, however, been amended in excess of twenty occasions and now constitutes a mosaic rather than a single architectural logic. Scholarly typologies of these modifications identify the authoritarian amendments with the 8th and 17th additions as characteristic examples as instruments that augmented executive and military prerogatives.
- Democratic amendments including, inter alia, the Eighteenth Amendment reaffirmed the supremacy of elected institutions by reinstating parliamentary sovereignty and by granting renewed provincial autonomy.
- Waseem (2012) contends that, notwithstanding the broad recognition of the legitimacy of the 1973 Constitution, the recurrent and ad hoc constitutional amendments and suspensions diminish the norms of constitutional permanence and predictive capacity that underpin the rule of legal order.

The Role of the Judiciary in Constitutional Development

The Pakistani judiciary has operated in a hermeneutically self-undermining manner, oscillating between upholding constitutional supremacy and conferring retrospective legitimacy upon extra-constitutional authorities via the doctrine of necessity. Landmark decisions that exemplify this oscillation include:

- *Maulvi Tamizuddin Khan (1955)*, in which the Supreme Court sanctioned the lapsed and yet legally insufficient competence of the Governor-General to dissolve the Constituent Assembly, thereby creating a precedent of extralegal endorsement.
- *State v. Dosso (1958)*, where Chief Justice Munir, by recourse to Hans Kelsen's theory of revolutionary legality, ratified the martial imposition by then-Commander-in-Chief Ayub Khan and thus accommodated a formally unacknowledged sovereign.
- Later, the irrefutable proclamation in *Asma Jilani v. Government of Punjab (1972)* treating the imposition of martial law by General Yahya Khan as impossible, and therefore void appeared to contain the potential for established judicial self-restraint.
- Notwithstanding this, both Newberg (1995) and Siddiqui (2010) have posited that the Court's diverging and ad hoc jurisprudential identity has consistently eroded the epistemic and normative force of the with law. The post-March 2009 judiciary has, however, inched toward a firmer self-conception of independence, a trajectory less rideous of consolidation than of tentative firm self-assertion, as crystallized during the Lawyers' Movement (2007–2009) period.

Military Interventions and Constitutional Disruptions

Throughout Pakistan's political history, military rule has consistently interrupted constitutional maturation, manifesting in the coups of 1958, 1977, and 1999. In the analytical framework of Huntington's praetorianism (1968), the phenomenon is contextualized as a predictable outcome of low institutional resilience. In the Pakistani context, the armed forces have advanced beyond mere suspension or annulment of constitutional texts, appropriating and redrafting them through selectively employed constitutional amendments.

Shafqat (1997) foregrounds the abiding autonomy of the military establishment, whereas Siddiqui (2007) foregrounds the intertwining of military autonomy and pervasive economic predation, both of which conspire to reproduce historical cycles of intervention. Subsequently, each regime of usurpation has secured post facto constitutional legitimation, thus embedding a sequence in which disruption precedes and is then formalized through constitutional re-engineering.

Comparative Perspectives: India, Turkey, and South Africa

- India, in contrast, has sustained a singular constitutional framework (1950) through severe political strife, a feat attributed both to the organizational depth of the Indian National Congress and to the federal architecture's capacity for inclusive plural accommodation (Austin, 1966).
- Turkey, like Pakistan, has witnessed recurrent military interventions that subverted constitutional order, yet the interplay of judiciary power and emblematic secularist discourse produces a different matrix of institutional contestation and reconciliation (Özbudun, 2000).
- South Africa's 1996 Constitution exemplifies the construct of transformative constitutionalism, intentionally designed to rectify deep historical inequity, and its genesis invites attention to Pakistan's recurrent failure to orchestrate inclusive constitutional dialogues, a structural oversight that starkly distinguishes the two national trajectories (Klare, 1998).

Post-Colonial Legacies and Institutional Continuities

Colonial administrative blueprints effectively predetermined the constitutional course of post-independence Pakistan. With the Government of India Act, 1935, functioning as the de facto provisional charter from Partition until the 1956 Constitution, the act grafted centralized governance and an entrenched civil service onto the nascent state. Academic critiques emphasize that these imprinting mechanisms confined the constitutional imagination and that these restraints have endured far beyond the colonial encounter (Alavi, 1972).

Additionally, the corpus of Hyderabad statutes, distilled from colonial notions of "rule by law" as opposed to broader constitutionalism, furnished instruments that prioritized state authority over the juridical marginalization of the citizen. Consequently, the colonial compact between central power and bureaucratic technology laid the groundwork for an administrative hegemony characterized by the marginalization of local authority and residual civil societies, producing persistent constitutional overhangs.

Challenges in Constitutional Consolidation

Expanded scholarship repeatedly articulates five critical obstacles to the entrenchment of constitutional governance. First, recurrent military encroachments have systematically delegitimized democratic authority. Second, the judiciary vacillates, oscillating between assertive reinterpretation and deference to the executive. Third, institutions of horizontal accountability, attenuated by structural asymmetry, amplify executive preponderance. Fourth, gradients of asymmetry between the federal and provincial domains, particularly in matters of fiscal resource allocation and legislative competence, remain unresolved. Lastly, weakly organized civil mobilization has curtailed the depth and frequency of popular engagement in constitutional discourse, constraining the rebuttal of elevated authority. Waseem (2012) persuasively asserts, Pakistan's constitutional narrative is less an account of sequenced advancement than an exhibition of persistent rupture, wherein institutional thinness continues to frustrate the coalescence of constitutionalism.

Methodology and Institutional Profile

Introduction to Methodology

The present inquiry proceeds within a qualitative framework that synthesizes historical, institutional, and comparative perspectives. The discontinuous progress of constitutional development within Pakistan, characterized by interruptions and divergent normative trajectories, is best served by a methodology that privileges analytical depth. The design, therefore, gives precedence to the reciprocal influences of legal texts, political customs, and institutional logics over any merely synchronic or quantitative representation.

Research Design

A historical-institutional research design governs the enterprise. This entails the interrogation of constitutional documents, verbatim records of parliamentary debates, pivotal judicial rulings, and significant political occurrences, all situated within the extended chronological and contextual frames of Pakistani history. The method discloses both constancy and fracture across the principal constitutional thresholds of 1956, 1962, and 1973, and assesses the legacy of extra constitutional ruptures. A comparative strand is woven into the research by aligning the Pakistani record with the constitutional trajectories of India, Turkey, and South Africa, thus anchoring the national experience in wider post-colonial discourses of constitutional theory.

Study Population

The analytical population consists of the principal constitutional institutions and principal actors that have shaped Pakistan's constitutional history. At the forefront are:

- Legislative assemblies, specifically the Constituent Assembly, the National Assembly, the Senate, and the provincial assemblies.
- The judicial arena, comprising the Supreme Court, the High Courts, and the landmark rulings that have adjudicated constitutional disputes.
- The executive, represented by the officeholders of Governor-General, President, and Prime Minister, as well as the recurrent influence of military regimes.
- Civil society and the legal community, encompassing practitioners, academicians, and rights advocates, have substantially influenced the evolution of constitutional discourse.

Sample and Sampling Procedure

Owing to the study's qualitative and historical orientation, purposive sampling is the selected approach. Foundational constitutional instruments, relevant judicial rulings, and selected legislative debates are extracted according to their demonstrable impact on constitutional evolution. Concurrently, interview participants comprising legal theorists, sitting and retired judges, current and former parliamentarians, and constitutional attorneys are recruited through snowball sampling, ensuring that only those possessing first-hand or authoritative expertise are incorporated.

Data Collection Instruments

The investigation employs two core data collection instruments:

Archival Analysis:- Primary materials consist of constitutional texts (1956, 1962, 1973 and later amendments), the Objectives Resolution, reports of constitutional commissions, legislative records, and landmark judicial pronouncements. Systematic examination of these sources enables reconstruction of Pakistan's constitutional trajectory from historical and institutional vantage points.

Semi-Structured Interviews:- A series of semi-structured interviews is administered to constitutional theorists, legal practitioners, retired judges, and parliamentarians. This approach permits adaptability while guaranteeing examination of key topics, including judicial independence, federal arrangements, and mechanisms of institutional restraint. Interviews thus function both to validate archival results and to integrate present-day interpretive lenses.

Data Analysis Technique

The study employs thematic content analysis on a qualitative corpus. Archival documents alongside semi-structured interview transcripts are systematically coded against pre-identified themes: federalism, executive dominance, the judicial role, military interventions, and public participation. Codes are refined iteratively, which permits emergent themes to surface while preserving the analytical focus. Comparative analysis is then applied across the thematic categories, facilitating the identification of patterns, divergences, and convergences across the three selected country cases.

Institutional Profile

Overview of Pakistan's Constitutional Institutions:- Pakistan's constitutional architecture rests upon three primary organs: parliament, executive, and judiciary. Together with the military which is frequently categorized as the "fourth branch of power" these entities have collectively delineated the contours of the state's constitutional evolution.

Parliament: Legally sovereign under the constitutional text, yet recurrently circumvented by and subordinated to the executive and military.

Judiciary: Entrusted with the authority to conduct judicial review and to safeguard guaranteed rights, yet incapacitated by its own historical endorsement of extra-constitutional measures.

Executive: The pre-eminent organ, continuously swinging between the authority of an elected prime minister and that of a consequential presidential prerogative, with intermittent and often decisive input from military regimes.

Role of Parliament, Judiciary, and Executive:- Parliament's dual function is evident: it has, on the one hand, formulated and promulgated the fundamental law (1956 and 1973 constitutions), and on the other, endorsed amendments that have either restored democratic processes (the 18th Amendment) or consolidated authoritarian control (the 8th and 17th Amendments).

The judiciary has nominally functioned as the adjudicator of constitutional controversies; paradoxically, its endorsement of the "**doctrine of necessity**" has historically legitimized military usurpation and hence has compromised the core principle of constitutional supremacy.

Executive authority has frequently become concentrated within the offices of the Governor-General, the President, or the military ruler, thereby eclipsing representative institutions and upsetting the carefully balanced safeguards envisioned in the text.

Connection of Constitutional Development to National Governance:- Constitutional evolution stands at the core of Pakistan's governance paradigm. A legitimate and enduring constitutional order not only embeds mechanisms of democratic accountability and unequivocal protection of fundamental rights but also furnishes the foundations of cooperative federalism. Conversely, recurrent disruptions to constitutional continuity have engendered extended phases of political turbulence, exacerbated civil-military friction, and impeded the consolidation of institutional autonomy. An inquiry into the trajectory of constitutional development in Pakistan, therefore, transcends the confines of academic inquiry and emerges as an indispensable lens through which the state's governance predicaments and democratic future may meaningfully be assessed.

DATA PRESENTATION, ANALYSIS AND DISCUSSION OF FINDINGS

Introduction

This chapter provides a systematic presentation and critical appraisal of the data gathered via archival investigation and semi-structured interviews conducted with legal scholars, senior policymakers, and academic practitioners. The analysis situates empirical evidence within a diachronic institutional framework in order to delineate discernible patterns, momentary disruptions, and persistent continuities within Pakistan's constitutional evolution. The empirical findings are subsequently compartmentalised thematically, with dedicated sections addressing constitutional transitions, amending processes, the emergence of key judicial doctrines, salient constitutional debates within Parliament, comparative international perspectives, and the abiding obstacles to effective implementation.

Respondent Profiles and Institutional Affiliations

The respondent cohort included former chief and superior-court jurists, eminent practitioners of

constitutional law, recognized constitutional theorists, former members of the legislature, and representatives of civil society engaged with empirical rights advocacy and legal reform. Their respective institutional affiliations encapsulate the breadth of constitutional actors in Pakistan:

- **Judiciary:** Retired judges and constitutional legal scholars, possessing substantive expertise in constitutional interpretation and adjudicatory practice.
- **Parliament:** Former members of the legislature and ancillary parliamentary staff who participated in and recorded debates focused on constitutional amendments and legislative scrutiny.
- **Executive:** Retired civil servants and strategic advisers whose tenures extended across both civilian and military administrations.
- **Civil society:** Seasoned rights advocates and scholars devoted to advancing constitutional reform through formal and informal platforms.

This spectrum of actors facilitated triangulation by aligning archival records against personal testimonies and technocratic insights drawn from daily constitutional practice.

Historical Narratives and Legal Opinions on Constitutional Transitions

Interlocutors uniformly underscored the inherent fragility of constitutionalism in Pakistan as arising from unresolved triads: the mediation of religious authority and democratic governance, the conflict between centralized authority and provincial self-determination, and the perennial contest for supremacy between civilian institutions and the military.

- Documents from the archives substantiate that the 1956 constitutional compact was celebrated as progressive yet collapsed from brittle political substrata. Respondents insisted that the brevity of its application attested not to normative inadequacy but to a recurrent failure of political actors to internalize constitutional discipline.
- The 1962 charter, by contrast, was uniformly denounced as an instrument of coercion, engineered to ratify the hegemonic designs of Ayub Khan rather than to mirror a cultivated national consensus.
- The 1973 consolidating instrument, conversely, was adjudged by the majority as “the sole legitimate constitutional edifice,” primarily because of its extra-parliamentary legitimacy. At the same time, participants cautioned that the regimen of recurrent amendments effectively fragmented its organic philosophy, instigating a perpetual sway between parliamentary authority and a modified presidential prerogative.

Patterns of Constitutional Amendments and Their Political Contexts

Archival analysis reveals that Pakistani constitutional amendments conform to recurring structural imperatives:

- **Authoritarian consolidation:** The 8th (1985) and 17th (2003) amendments fortified presidential authority to the extent of legitimizing the cabling of elected assemblies.
- **Democratic restoration:** The 13th (1997) and 18th (2010) amendments correspondingly reined in presidential prerogatives while articulating clearer parameters of parliamentary and provincial sovereignty.
- **Reactive law-making:** A considerable body of amendments materialized in the fulcrum of existential crises, serving as intermediating bargains folded into the compromises of ruling elites and military intercessors.
- Respondents generally concluded that the amendments, rather than embodying coherent doctrinal intents, catalogue calculated adaptations to short-run political imperatives; one scholar characterizes these as “clumsy stitches to increasingly fractious constitutional fabric.”

Judicial Interpretations and Doctrinal Shifts

A review of staple jurisprudence illustrates that the relationship between the judiciary and constitutional norms has exhibited persistent ambivalence:

- **Validation of coups:** The expansive interpretation of necessity in *State v. Dosso* (1958) and the recapitulative adjudication in *Zafar Ali Shah* (2000) reaffirmed, tectonically, the hegemony of the armed establishment.
- **Judicial reversals:** Conversely, the re-juridifying impulses recorded in *Asma Jilani* (1972) and the procedural reconstitution under the Lawyers' Movement of 2007–2009 manifest periods of assiduous assertion of judicial independence and restrictive scrutiny.
- **Doctrinal inconsistency:** Interviewees' criticisms converged on a singular observation of the judiciary's lacunar constitutional philosophy, articulated through oscillations between orthopedic deference to military hegemony and reactive populist posturing.

Analysis of thematic material indicates that the judiciary has increasingly assumed a politically active role, compromising its previously intended stance as a neutral constitutional custodian. This politicisation has subsequently diminished legal certainty and attenuated adherence to the rule of law.

Parliamentary Debates and Legislative Intent

Examination of archived parliamentary sessions demonstrates that discussions over constitutional matters have regularly resembled elite bargaining meetings, rather than reflective, public-minded discourse. Interview subjects confirmed that citizen engagement was peripheral, and decisive constitutional issues were typically resolved in confidential negotiations among party heads.

Explorations of these debates disclose persistent, unresolved tensions:

- **Islam's status:** Disputed consideration of whether the state should profess an Islamic or a secular identity.
- **Federal structure:** Contentions over resource allocation and the scope of provincial autonomy, eventually crystallising in the 18th Amendment.
- **Allocation of executive authority:** Long-standing rivalries between frameworks premised on presidency and those favouring parliamentary sovereignty.

Respondents noted that, although authority to alter the constitutional text ostensibly inhere in the national assembly, that authority has repeatedly been constrained by executive and military actors.

Comparative Reflections from Other Jurisdictions

Reviewing analogous constitutional experiences confirms the peculiarity of Pakistan's trajectory:

- **India:** The 1950 constitutional text has survived a series of political upheavals, a fact attributed to the deep institutional foundations of both parliament and judiciary.
- **Turkey:** Military intervention has, analogously, affected constitutional crafting. However, Turkey's debate pivots on the secular-religious divide, whereas Pakistan's has revolved around issues of federal design and the role of Islam.
- **South Africa:** The respondents praised South Africa's model of transformative constitutionalism, which integrates explicit socio-economic rights, contrasting it with Pakistan, where successive charters have signalled a more political, procedural design with little overt forbearance for socio-economic advancement.

Such discernments underscore that Pakistan's constitutional failings were never inscribed in the order's DNA, but rather are contingent outcomes of a distinct configuration of institutional frailties and a political culture shaped by transitory elites.

Challenges in the Realisation of the Constitution

Institutional Fragmentation:- Documents and narrative responses substantiate a brittle inter-institutional architecture. The asymmetrical relations among legislature, executive, judiciary, and military repeatedly culminate in overlapping and competing jurisdictions that obstruct the traction of constitutional mandates.

Executive Predominance and Judiciary's Acquiescence:- Analytic observation has consistently classified Pakistan's constitutional landscape in favour of a rigid executive primacy, a condition that persists regardless of the civilian or martial label affixed to the ruler. The consolidation of this prerogative has frequently been sustained by judiciaries that invoke doctrines of necessity to envisage and normalise executive excess.

Deficient Public Acquaintance and Civic Mobilisation :- Analyses take the consensus view that the legal culture is literally, and therefore politically, weak. Citizens encounter the constitutional text not as the embodiment of an acquired social contract, but as a sealed charter drafted and periodically amended by an insulated elite. The resultant socio-political apathy inhibits the emergence of any meaningful nexus of ownership, translation, and accountability.

Federalism and Provincial Autonomy:- Although the 18th Amendment was widely described as a breakthrough for enhancing provincial authority, interviewees pointed to ongoing opposition from both federal bureaucratic structures and the military, which continue to exhibit hesitancy in transferring authority.

Constitutionalism and Rule of Law Concerns:- The interviews identified a deficit of constitutional culture as the paramount obstacle. Respondents maintained that political and institutional elites regard the constitution chiefly as a strategic tool subject to manipulation, rather than a definitive and constraining legitimacy. Such a stance seriously compromises the rule of law and undermines the moral foundation of governance.

Conclusion and Future Direction

Summary of Findings, Conclusions and Recommendations

This final chapter integrates the study's empirical results, illuminating constitutional evolution in Pakistan through a triadic lens of historical narrative, institutional experiences, and comparative precedent. Patterned recurrence of rupture, institutional fragility, and doctrinal indeterminacy is documented, followed by judicially-relevant conclusions and oriented recommendations.

Summary of Findings

Historical Discontinuities in Constitutional Development:- The constitutional evolution of Pakistan is structurally punctuated by frequent disruptions, manifest in abrogations (1958, 1977, 1999) and suspensions (2007). Contrary to jurisdictions characterised by stable constitutionalism, Pakistan displays persistent patterns of demolition and reconstruction, cumulatively attenuating institutional permanence.

Weak Institutional Checks and Balances:- The equilibrium among the legislature, executive, and judiciary is persistently disrupted, with the executive asserting primacy often under the aegis of the military, thus eclipsing both parliamentary primacy and the independence of the courts.

Judicial Ambiguities and Doctrinal Inconsistencies:- The courts oscillate between endorsing undemocratic regimes via the "doctrine of necessity" and episodes of proactive oversight. Such variability has eroded the anticipated norms of constitutional jurisprudence and diminished the public's reliance on courts as constitutional custodians.

Political Manipulation of Constitutional Amendments:- Constitutional amendments have been strategically weaponised. Provisions such as the eighth and seventeenth consolidated autocratic

mechanisms, while the eighteenth offered a fragile gesture toward democratization. Amendments reflect tactical power adjustments rather than coherent constitutional aspiration.

Limited Public Participation in Constitutional Discourse:- Constitutional deliberation and amendment have been sequestered within elite circles, yielding minimal public cognisance and deliberative participation. Such attenuation cultivates constitutional estrangement and a consequent frailty of constitutional norms in practice.

Challenges to Federalism and Provincial Rights:- Notwithstanding the eighteenth amendment's declared federal augmentation, the translation into practice is impeded by persistent federal bureaucratic inertia and heterogeneous provincial proficiency, yielding a federally negotiated rather than truly federal order.

Postcolonial Institutional Legacies:- Surviving colonial institutional inheritances hyper-centralised bureaucracies, attenuated local governance, and a jurisprudence steeped in autocratic precedent continue to clutch the constitutional architecture, thereby fortifying executive hegemony and undercutting more pluralistic governance.

Conclusion

Pakistan's constitutional trajectory embodies an unresolved tension: whereas the 1973 Constitution has repeatedly been invoked as a repository of national consensus and durability, its chronic susceptibility to amendments, abrogations, and reinterpretations betrays an enduring fragility of constitutionalism as an entrenched political ethos. Military takeovers, fluctuating judicial doctrines, and pervasive executive overreach indicate that the enduring malaise of the constitutional order resides less in the formal texts and more in the trajectory of institutional behavior and the consistency of political commitment. The research therefore deduces that authentic constitutional stabilisation in Pakistan will hinge upon the simultaneous modernisation of formal structures and the deliberate cultivation of an ethos that elevates constitutional supremacy above the episodic contingencies of authority. If constitutionalism is not reflexively instantiated in the routines of governance and ordinary civic practice, the national polity will continue to oscillate through recurrent bouts of constitutional crisis.

Recommendations

Strengthening Parliamentary Sovereignty :- Re-establish the National and Provincial Assemblies as locus of sovereign constitutional authority. Induce constitutional precedents that require amendments to subject themselves to deliberative, transparent, and genuinely participatory processes. Provide credible resources and embedded research units within the legislature to sustain informed and systematic oversight. **Enhancing Judicial Independence and Constitutional Literacy:-** Insert an express provision prohibiting the invocation of the "doctrine of necessity" so as to curtail extra-constitutional authority. Expand and institutionalise structured continuing education for judges in the principles of constitutional jurisprudence and democratic norms. Mandate the publication of succinct, user-friendly summaries of judicial pronouncements to expand institutional transparency and voter confidence.

Promoting Civic Education and Public Engagement:- Embed a civic education core on the documents, principles, and practices of constitutional governance in all tiers of the school curriculum. Mandate pre-amendment public hearings and participatory drafting sessions to obtain and internalise civic feedback. Fortify independent media, universities, and civic associations that sponsor programmes of constitutional literacy and constitutional dialogues.

Reforms to Safeguard Federal Balance:- Complete the fiscal devolution envisaged by the Eighteenth Amendment.

- Strengthen provincial institutional capabilities essential for responsive governance.

- Create institutionalised mechanisms of cooperative federalism for the timely resolution of inter-tier disputes.

Mechanisms for Constitutional Review

- Inaugurate a standing Constitutional Commission tasked with evaluating amendments and formulating progressive reforms.
- Mandate a routine, periodic review to adjust to shifting political and social landscapes, while preserving foundational tenets.

Comparative Constitutional Lessons

- Examine India's trajectory of stable constitutional continuity as a source of institutional durability.
- Incorporate South Africa's transformative constitutionalism to institutionalise socio-economic entitlements.
- Integrate Turkey's experience in moderating civil-military discord to enhance democratic governance.

Reconceiving Postcolonial Constitutionalism

- Transcend colonial administrative residues by entrenching vibrant local governance and devolutionary mechanisms.
- Establish a constitution framed as a repository of rights, redirecting sovereignty from the authority to citizens.
- Nurture a political ethos where constitutional authority is recognised as a limit, and accountability is norm.

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Ms. Riaz Begum, Advocate Supreme Court of Pakistan, brings over 18 years of diverse legal experience, specializing in corporate and commercial law, taxation, criminal law, civil litigation, service matters, and arbitration. As Senior Partner at Zahwar Law Associates, she has advised and represented leading national and international organizations, including the Federal Board of Revenue, OGRA, IESCO, LESCO, the Ministry of Law & Justice, Pakistan Post, Votatum (USA), and Farhat & Co. (UAE). With extensive practice across all judicial forums in Pakistan and valuable international exposure, particularly in the Middle East, she combines technical legal expertise with practical strategies to deliver effective, client-focused solutions in both domestic and cross-border matters.