

Journal of Social Signs Review

Evolution of Constitutionalism in Pakistan: Challenges and Prospects

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Abstract

The evolution of constitutionalism in Pakistan, since the country's birth in 1947, has since been through a process of alternating phases of democratic governance and authoritarian rule. In essence, this study will examine the history of constitutional development in Pakistan, paying attention to the promulgation of the 1956, 1962, and 1973 constitutions and how Constitutionalism have developed, also taking stock of judicial activism in their respective role of upholding and interpreting the constitutional principles. The constitutional journey of Pakistan under its constitutional guarantees of the democracy, federalism, and the fundamental rights have been extremely challenging one through frequent military interventions, political instability, and balance of powers between civil institutions and non-elected power centers. It brings out the fact that repeated martial laws, particularly under Ayub Khan (1958-1969), Zia-ul Haq (1977-1988), and Pervez Musharraf (1999-2008), impinged the constitutional continuity and undermined the democratic norms. Religious conservatism has also made the constitutional governance more difficult due to ethnic fragmentation, sectarian conflicts and all. It also presents current possibilities of constitutionalism and the importance of judicial reforms, the 18th Amendment's decentralization attempt, and civil society when enhancing democratic accountability. With institutional imbalances and legacies issues ongoing, it asserts that recent development like when the Supreme Court stands up to guard human rights and democratic values has promise of constitution order being more resilient. Through merging historical analysis with present debates, this article underlines the need for inclusive discussion, an equitable application of laws, and a new contract in terms of social,

to tackle Pakistan's constitutional issues. In other words, if constitutionalism is to survive in Pakistan, it will have to rest on a tradition versus modernity balance, a conscious effort to empower representative institutions, a true culture of rule of law.

Keywords: Constitutionalism, Pakistan, Judicial Activism, Military Interventions, Democratic Governance, 1973 Constitution, Federalism, 18th Amendment, Rule of Law.

Introduction

The idea of constitutionalism as adherence to constitutional principles to constrain governmental power and protect citizenship rights (Ginsburg & Huq, 2020) is still at the heart of the democratic governance. The constitutionalism in Pakistan since independence of 1947 exhibits a paradoxical plating between democratic ambitions and authoritarian disruptions. This text strives to explain the process of constitutional status, temporal weaknesses and recent aspirations of constitutional governance in Pakistan by suggesting that despite the instability and carried over issues, recent judicial and legislative modification remarks an imminent climb upward to constitutional condition.

The adoption of Pakistan's first constitution in 1956 set the constitutional course for Pakistan that established a parliamentary form of democracy which lasted only two years owing to political strife (Jalal, 2023). The subsequent constitutions of 1962 and 1973, respectively, had reflected associated visions of governance, oscillating between a power centralization under military rule in the first constitution, and then restoring parliamentarianism in the second constitution (Newberg, 2020). Despite several suspensions and amendments, from 1973 the 1973 Constitution has survived as the legal bedrock of Pakistan's governance, federalism, fundamental rights, and judicial independence (Khan, 2021). However, its being carried out has been continually thwarted by military interventions, especially those of Generals Ayub Khan (1958–1969), Zia-ul-Haq (1977–1988), and Pervez Musharraf (1999–2008), which have undermined democratic norms and constitutional continuity (Shafqat, 2020). The result was these authoritarian interludes institutionalizing a culture of political instability in which unelected institutions overtook elected legislatures (Haqqani, 2020).

There is no doubt that a fundamental issue of constitutionalism in Pakistan is the historic tension between the civil system and military hegemony. Scholars indicate that, the military's deep state is used to justify perpetuating cycles of democratic fragility, under the national security umbrella (Siddiqa, 2021). At the

same time, ethnic fragmentation (such as Baloch and Sindhi nationalist movements) as well as sectarian conflicts have additionally weakened efforts to uphold the constitutional guarantees of federal cohesion while preserving constitutional guarantees of provincial autonomy (Adeney, 2022). Moreover, the resurgence of religious conservatism has served to divide the legislative convention over the compatibility of Islamic law with modern constitutional principles (Lau, 2020).

This landscape has been the means for both judicial activism to act stabilizing and contentious. The Supreme Court's assertiveness in recent years, particularly its 2022 ruling to invalidate Prime Minister Imran Khan's dissolution of parliament, underscores its growing role in safeguarding constitutionalism (Shah, 2023). However, critics argue that judicial overreach risks politicizing the judiciary, as seen in the controversial use of suo moto powers (Saigol, 2021). Despite these debates, the judiciary's interventions have reinforced parliamentary sovereignty, offering a counterweight to executive overreach.

The 18th Amendment (2010) represents a watershed moment in Pakistan's constitutional history, decentralizing power to provinces and enhancing fiscal federalism (Waseem, 2020). This reform, coupled with civil society's advocacy for transparency, has revitalized discussions on inclusive governance. These groups demand to follow constitutional rights equally (Akhtar, 2023) for example the Pashtun Tahafuz Movement. However, this is still not enough, for instance, there is bureaucratic resistance to devolution and the lack of resource distribution (Ali, 2021).

Recent scholarship emphasizes the need for a renewed social contract to address Pakistan's constitutional dilemmas (Cheema, 2022). Such a contract, scholars argue, must reconcile traditional values with modern governance imperatives, empower marginalized communities, and strengthen the rule of law. The Supreme Court's 2023 directive to expedite trials of enforced disappearances exemplifies efforts to align state practices with constitutional mandates (Ahmad, 2023).

This analysis helps bring forward historical analysis into contemporary debates about constitutional evolution in Pakistan. It traces the foible of military, judicial and civil societal actors in forming up governance norms as well as the necessity of inclusive discussion of systemic inequities. Now, in the 76th year of independence, Pakistan's constitutional order is at the cusp and depends upon an

uneasy equilibrium between tradition and modernity, institutional accountability and the institutionalization of democratic resilience.

Literature Review

Constitutionalism in Pakistan has been a product, not only of the forces of democracy but also of the same counter forces of militarist interventions, judicial activism and socio-political challenge. The role of the military, judiciary and civil society have been extensively debated by scholars on what has prevented the constitution principle from being consistently applied by them. This literature review summarizes the main academic contributions in studying the constitutionalism in Pakistan, its historical evolution, the institutional challenges, the judicial interpretation, federalism and possible future.

Historical Development of Constitutionalism in Pakistan

The history of Pakistan's constitutional trajectory has alternated between democratic governance and authoritarian rule. Its first constitution promulgated in 1956 was parliamentary, but the system was not lasting for political instability and military intervention (Jalal, 2023). Centralization of power in a presidential system under the 1962 Constitution gave President General Ayub Khan more control than was allowed under parliamentary democracy (Newberg, 2020). However, the 1973 Constitution, which remains the country's supreme law, restored parliamentary democracy and enshrined federalism, fundamental rights, and judicial independence (Khan, 2021).

Despite its constitutional guarantees, Pakistan's democratic continuity has been repeatedly disrupted by military takeovers, including those led by Ayub Khan (1958–1969), Zia-ul-Haq (1977–1988), and Pervez Musharraf (1999–2008). These regimes not only suspended the constitution but also altered it to consolidate their power, thereby weakening constitutionalism and democratic norms (Shafqat, 2020). The consequences of these interventions have been long-lasting, fostering a political culture where unelected institutions wield significant influence over governance (Haqqani, 2020).

Military Influence and Institutional Challenges

A major impediment to constitutionalism in Pakistan has been the military's dominance in politics. Scholars argue that the military's entrenched influence has created a "deep state" that continues to overshadow elected institutions (Siddiq, 2021). Military leaders have often justified their interventions by citing national security concerns, positioning themselves as guardians of state stability. However,

this has led to the erosion of civilian authority and the marginalization of democratic institutions (Adeney, 2022).

Pakistan's civil-military imbalance is further exacerbated by the judiciary's historical complicity in legitimizing military rule. For instance, the doctrine of necessity, first invoked in the 1950s, has been repeatedly used by the courts to validate unconstitutional takeovers (Shah, 2023). Although recent judicial decisions, such as the Supreme Court's 2022 ruling against Prime Minister Imran Khan's attempt to dissolve parliament, signal a shift toward greater judicial independence, concerns remain about judicial overreach and politicization (Saigol, 2021).

Judicial Activism and Constitutional Interpretation

Judicial activism has played a crucial role in shaping constitutionalism in Pakistan, often acting as both a stabilizing force and a source of controversy. The judiciary has intervened in key political matters, particularly in cases concerning executive overreach and parliamentary sovereignty (Shah, 2023). Notably, the Supreme Court's assertiveness in recent years, as seen in cases related to election disputes and human rights, has strengthened democratic accountability (Ahmad, 2023).

However, scholars remain divided on the implications of judicial activism. While some argue that it enhances checks and balances, others contend that excessive judicial intervention risks undermining the separation of powers (Saigol, 2021). The controversial use of suo moto powers, which allows the judiciary to take up cases on its own accord, has further fueled debates on judicial impartiality and political influence (Cheema, 2022).

Federalism and the 18th Amendment

A significant development in Pakistan's constitutional evolution was the passage of the 18th Amendment in 2010, which aimed to strengthen federalism by devolving power to provinces (Waseem, 2020). This amendment reversed many of the centralizing tendencies introduced during military regimes and reaffirmed the autonomy of provincial governments (Ali, 2021).

Despite its transformative potential, the implementation of the 18th Amendment has faced resistance from bureaucratic institutions and political actors reluctant to cede power (Adeney, 2022). Additionally, ethnic and regional disparities continue to challenge the equitable distribution of resources, with nationalist movements in Balochistan and Sindh expressing dissatisfaction over provincial rights (Akhtar, 2023). These grievances are yet to be addressed as they

are crucial for the effective implementation of federalism and the constitutional governance in Pakistan.

Religious Conservatism and Constitutional Debates

The other challenge to constitutionalism in Pakistan is the mixing of religion and state governance. The debate over the compatibility of Islamic law with modern constitutional principles has been a persistent issue, often polarizing legislative discourse (Lau, 2020). In addition, subsequent amendments under Zia ul Haq institutionalized religious influences in governance and affected the legal interpretations of fundamental rights (or Haq) that are incorporated into the 1973 Constitution (Haqqani, 2020).

While Islamic jurisprudence remains a crucial aspect of Pakistan's legal framework, tensions arise when religious conservatism is used to justify restrictions on freedoms, particularly regarding gender rights and minority protections (Cheema, 2022). Recent judicial rulings, such as those addressing blasphemy laws and forced conversions, highlight the ongoing struggle to balance religious considerations with constitutional guarantees of equality and justice (Ahmad, 2023).

The Role of Civil Society and Democratic Accountability

Civil society has played an instrumental role in advocating for constitutionalism and democratic accountability in Pakistan. Grassroots movements, such as the Pashtun Tahafuz Movement (PTM), have brought attention to human rights violations and the need for equitable enforcement of constitutional rights (Akhtar, 2023). Additionally, media and legal advocacy groups have contributed to increased transparency and public discourse on governance issues (Cheema, 2022). However, challenges persist in ensuring civil society's sustained influence, particularly given state-imposed restrictions on free speech and political activism (Haqqani, 2020). The government's periodic crackdowns on dissent, including media censorship and arrests of activists, undermine democratic principles and weaken constitutional protections (Ali, 2021). Strengthening civil society's role in governance is crucial for fostering a more robust constitutional order.

Contemporary Prospects and the Path Forward

Despite historical challenges, recent developments indicate potential progress toward constitutional resilience in Pakistan. Judicial reforms, increased parliamentary assertiveness, and growing public engagement with constitutional issues suggest an evolving political landscape that prioritizes democratic governance (Shah, 2023).

Key scholars emphasize the need for a renewed social contract that reconciles traditional values with modern governance imperatives (Cheema, 2022). This involves empowering marginalized communities, addressing systemic inequalities, and ensuring the equitable implementation of constitutional provisions. Reforms of the institution so as to curb the influence of the military and strengthen civilian oversight are necessary to sustain constitutionalism (Siddiqi, 2021).

Supreme Court's 2023 direction to dispose enforced disappearances cases expeditiously is an important beginning to align state practice with the constitutional provision (Ahmad, 2023). In addition, international pressure and domestic advocacy for human rights are still influencing Pakistan's constitutional discourse and the rule of law in governance.

While there has been a well charted but turbulent evolution in Pakistan's constitutionalism through military interventions, judicial activism, and socio political contestations, this literature is less theoretically developed. In spite of former cultures of authoritarianism, modern constitutionalisms are not entrenched but there are lingering issues in the form of legal and civil society movements. It must be emphasised that for Pakistani constitutionalism to survive, there is a need to solidify democratic accountability, judicial independence, and an inclusive governance model that strikes a line between modernity and tradition.

Objectives

The goal of this study will be to analyze the evolution of constitutionalism in the Pakistan context by tracing the historical evolution of a nation's constitutionalism, difficulties encountered in its development, as well as future prospects of it. The key objectives include:

1. Constitutional Polygon – The development of constitutionalism from the 1956, 1962, 1973 Constitutions.
2. For Assessing the Impact of Military Interventions, Judicial Activism, and Instability of the Political Affairs on Continuity Constitutional Governance.
3. Future Prospects – To develop ideas for making reforms and developing new strategies to enhance constitutionalism, such as the independence of the judiciary, federalism, and civil society.

Methodology

The means used for this study is secondary data analysis with the help of resource such as scholarly literature, legal documents, policy reports, etc. which are used to research over constitutionalism in Pakistan. These are the key approaches followed in the research methodology.

1. Synthesis of Scholarly Literature – The study reviews works of academic books, peer reviewed journal articles, and research papers that analyze Pakistan’s constitution history, judicial activism, military interventions, and federalism. This provides a very general background to the theoretical and the historical.
2. Legal and Constitutional Documents Analysis – The research looks at the constitutions of Pakistan of 1956, 1962, 1973, crucial amendments such as the 18th Amendment, verdicts of the courts and government reports. It brings out a point about how legal framework have changed and how they have impacted governance.
3. Representative of Policy Reports and Institutional Studies – Policy reports and institutional studies from national and international organizations, principally human rights groups, think tanks and law institutions, are explored to apprehend challenges to constitutionalism and democratic governance.

This study is based on secondary data depending which helps in analyzing Pakistan’s constitutional evolution, and institutional challenges and future prospects.

Analysis

This part looks at how constitutionalism developed in Pakistan dealing with such patterns as governance, judicial activism, military intervention and federalism. The data is placed in tables so the historical trends and institutional impacts are simpler to understand.

1. Constitutional Transitions in Pakistan

Since Pakistan independence, there have been many constitutional changes that reflect governance structure and political stability. A parliamentary system was based on the 1956 constitution, however, it lasted only until the military coup in 1958. The 1962 constitution, brought in by General Ayub Khan, changed the parliamentary system with a centralized presidential rule that did not sustain democratic governance before it was replaced in 1972. Parliamentary system has been restored as provided by the 1973 Constitution which has continued to be in force despite frequent amendments. Although there were these transitions, transitions that were never constitutional because of periods of military interventions, still, the lack of constitutional continuity has been one of the major obstacles that have hindered democratic consolidation.

Table 1: Constitutional Transitions in Pakistan

Constitution	Year	System of Government	Key Features	Reason for Abrogation/Amendment
1956	1956	Parliamentary	First constitution, introduced federalism and Islamic provisions Centralized power under the	Abrogated in 1958 by military coup
1962	1962	Presidential	the president, introduced Basic Democracies Restored democracy,	Repealed in 1972 due to political instability
1973	1973	Parliamentary	strengthened judiciary, introduced federalism	Amended multiple times, remains in force

2. Military Interventions and Their Impact on Constitutionalism

Suspension of democratic governance is one of the important factors of military takeover in Pakistan. General Ayub Khan (1958–1969) abrogated the 1956 Constitution and put into place highly centralized presidential system. Under General Zia ul Haq (1977–1988), he suspended 1973 Constitution, imposed martial law and altered governance structures through Islamic provisions. The 1973 Constitution was also suspended between 1999–2008 by General Pervez Musharraf, and he made amendments to consolidate his authority and restricted civic political participation. They have weakened the rule of civilians, the independence of the judiciary and democratic institutions, thus resulting in long term governance instability.

Table 2: Military Interventions and Their Impact on Constitutionalism

Military Ruler	Years in Power	Impact on Constitution
Ayub Khan	1958–1969	Abrogated 1956 Constitution, introduced 1962 Constitution with presidential rule
		Suspended 1973 Constitution, introduced Islamic provisions, expanded executive powers
Zia-ul-Haq	1977–1988	Suspended 1973 Constitution, amended laws to consolidate military control
Pervez Musharraf	1999–2008	

3. Judicial Activism in Pakistan

In Pakistan's constitutional history, Judicial Activism has at time staked the defence of democracy and has at other times justified it. In the Dosso Case (1958) the military takeovers were validated as the Doctrine of Necessity justified martial law. Musharraf's coup was justified in the Zafar Ali Shah Case (2000) which reinforced military dominance. Nevertheless, the 18th Amendment Case (2010) was a kind favour to Provinces by devolving power to them. The Imran Khan Dissolution Case (2022) of the last year further reiterated parliamentary supremacy by declaring illegal dissolution of the National Assembly unconstitutional. Even judicial activism has resulted in defending democracy on some occasions, while historical judicial complicity with military regimes in Pakistan has undermined country's constitutionalism.

Table 3: Judicial Activism in Pakistan

Landmark Case	Year	Judicial Ruling	Impact
Dosso Case	1958	Validated martial law using Doctrine of Necessity	Strengthened military rule
Zafar Ali Shah Case	2000	Justified Musharraf's coup	Weakened civilian rule
18th Amendment Case	2010	Upheld devolution of power to	Strengthened federalism

Imran Khan	2022	Dissolution Case	provinces	Overtaken illegal	Reinforced
			dissolution	of parliament	parliamentary
			parliament		supremacy

4. Federalism and the 18th Amendment

A major constitutional reform under the 18th Amendment (2010) was intended to bring out provincial autonomy and decentralization of power from the federal government. In terms of governance, Pakistan was highly centralized before its passage and provinces had little authority in the affairs of the provinces. Provinces acquired a greater legislative and financial control, mainly over education, health and local development, after the amendment. But bureaucratic resistance and political conflicts have stalled its full use, because resources are not being distributed equally.

Table: Federalism and the 18th Amendment

Aspect	Before 18th Amendment	After 18th Amendment
Provincial Autonomy	Limited	Strengthened
Control Over Resources	Centralized	Provincial
Role of Parliament	Weak	Enhanced

5. Civil Society's Role in Constitutional Reforms

Pakistan's civil society movements have greatly contributed towards the promotion of constitutionalism and democratic accountability. The Lawyers' Movement (2007–2009) brought back the Chief Justice who was unconstitutionally removed and restored judicial independence as a triumph. The concerns of the Pashtun Tahafuz Movement (PTM) have also emerged about enforced disappearances and human rights violations; and calls for constitutional protection of all. Other important for the women's rights groups are the legal reforms which promote gender equality and protection of fundamental rights. These movements have by no means set civil society on the path to political governance, and state-imposed measures to stifle activism and restrict other media remain frustrating difficulties to the constitutional reform process.

Table 5: Civil Society's Role in Constitutional Reforms

Movement	Objective	Impact on Constitutionalism
Lawyers' Movement (2007–2009)	Restoration of judiciary	Led to reinstatement of Chief Justice
Pashtun Tahafuz	Human rights advocacy	Raised issues of enforced

Movement (PTM)	disappearances
Women's Rights Groups	Pushed for legal
Gender equality	protections

The analysis of Pakistan's constitutional evolution reveals a recurring pattern of democratic disruptions, judicial interventions, and resistance to federalism. Military takeovers have repeatedly weakened constitutional continuity, while judicial activism has oscillated between legitimizing military rule and defending democracy. The 18th Amendment remains a significant achievement, yet its full potential is hindered by political disputes. Meanwhile, civil society movements have played a key role in pushing for constitutional reforms, but state-imposed restrictions remain a barrier to their effectiveness.

For Pakistan to achieve a resilient constitutional order, it must:

1. Reduce military influence by strengthening civilian institutions.
2. Enhance judicial independence while preventing judicial overreach.
3. Fully implement federalism by ensuring the smooth execution of the 18th Amendment.
4. Support civil society to promote democratic governance and constitutional rights.

Addressing these challenges will be crucial for establishing a stable, democratic, and constitutional future for Pakistan.

Discussion

The evolution of constitutionalism in Pakistan reflects a constant struggle between democratic aspirations and authoritarian control. The findings of this study highlight how constitutional development has been shaped by a cycle of military interventions, judicial activism, and efforts toward federalism, while also being influenced by socio-political factors such as ethnic fragmentation and religious conservatism. This section discusses the implications of these findings, the interplay of institutional forces, and the challenges that remain for Pakistan's constitutional future.

Military Influence and Constitutional Instability

Repeated intervention of the military in democratic governance has been a major challenge in Pakistan's constitutional development. The findings of the study indicate that each military regime transformed constitution to consolidate power. The 1962 Constitution of Ayub Khan centre of power under a presidential system, Zia ul Haq incorporated Islamic components which gave legal formulation and

Musharraf's amendments curbed civilian rule. Weakened the supremacy of the constitution and fragile the democratic institutions.

And the data shows that judicial complicity has enabled the military's role. The Doctrine of Necessity, as laid down in the Dosso Case (1958), became a precedent for the court to overrule military take overs than resist them. The pattern was followed in the Zafar Ali Shah Case (2000) that understood Musharraf's coup. But in more recent interventions such as the Imran Khan Dissolution Case (2022), it bodes well in its attempts to recognise parliamentary supremacy rather than the promoter of the public good. This shift however implies that Pakistan's legal system is exposed to the shadow of past precedents, while judicial independence is on the increase.

Judicial Activism: A Double-Edged Sword

Both a progressive and a controversial role of judicial activism in Pakistan's constitutional governance has been played. The courts have stepped in on some occasions to protect democracy, but also they are charged with judicial overreach and politicization. The landmark ruling in 18th Amendment Case (2010) gave a strong boost to federalism, but the use of its suo moto powers is too much to raise the flag of concern of political motivations in Judiciary.

This is leading to a major debate, that these findings have led to, whether judicial activism strengthens democracy or tears the separation of powers. Despite this judicial intervention constraining executive overreach, it is possible that excessive judicial intervention in political affairs diminishes the parliamentary sovereignty. The point of this issue is only that there should be an equilibrium (not contradiction) between the courts' independence and democratic procedures in order to prevent politicization of the courts.

Federalism and the 18th Amendment: Progress and Challenges

The passage of the 18th Amendment in 2010 was an important point in Pakistan's constitutional history, advancing towards a more provincial autonomy and fiscal decentralization. The study demonstrates that the amendment reversed armies' centralizing tendencies of military regimes and gave to provincial governors. In reality, bureaucratic resistance and political conflicts have prevented its maximal realization.

It also shows analysis of the federalism by highlighting regional imbalances and ethnic tensions, in particular, the differences over resource allocation in Balochistan and Sindh. The challenges shown here suggest that on paper, reforms of the constitution has helped promoted federalism, but governance issues

continue to make it harder to practise federalism on ground. This is important to avoid regional alienation and promote national unity.

Religious Conservatism and Constitutional Conflicts

Pakistan's constitutional evolution has been characterized by deep religious conservatism. The constitutional provisions in the Islamic found in 1973 Constitution followed by Ziaul Haq's Islamization policy create legal ambiguities in relation to whether the prayer of the modern constitutional principles can be complied with or not. According to the findings, religious freedom and constitutional guarantees of equality are still under the influence of blasphemy laws and limitations of minority rights.

Pakistan's legal system is anchored, however, in Islamic principles that need to be incorporated with constitutional protection of basic rights. These laws are so porous that it is the judiciary that has to interpret them in ways that promote democratic values rather than eradicating freedoms. The emerging framework must be both inclusive and free of constitutional violations in contravention of laws promulgating justice and equality.

The Role of Civil Society in Constitutional Reforms

The paper stresses the growing participation of civil society movements in Pakistan's constitution making. Restoration in the judiciary was the turnaround, the Lawyers' Movement (2007–2009), and it was done by way of the public mobilization and upheld the constitutionalism. Also, the Pashtun Tahafuz Movement (PTM) have discussed human rights violations and constitutional rights. However, there are a number of restrictions imposed by state on activism, media censorship and silencing of dissent that hinder civil societies ability to hold institutions accountable. Grassroots movements have raised constitutional awareness, but such moves would have insufficient impact in the absence of a crackdown by the government and weak enforcement of rights.

Future Prospects for Constitutionalism in Pakistan

However, historical challenges have culminated in the beginnings of a process towards constitutional resilience. However, in recent years, judicial assertiveness, political involvement in parliament and activism of civil society are accompanied by a potential shift towards democratic consolidation. Yet to realize sustainable constitutionalism, it will be necessary to institute constitutional reforms and a reaffirmation of adherence to the rule of law.

The areas that need to be reformed are presented:

Although limiting military influence by the thoroughness of constitutional adherence and civilian control.

Judicial independence and judicial politicization prevention.

Equitable distribution of resource in the implementation of federalism.

Keeping civil society's role in democratic accountability safe.

Resolving religious legal conflicts so that the Constitution's equality obtains.

Pursuing these reforms would usher in Pakistan's change from a fragile constitutional framework to a stable democratic order. Yet without it this constitutional instability will continue to repeat.

The constitutional evolution of Pakistan illustrates that strong internal obstacles have been involved in fighting the democracy. With its trajectory through the legal maze, the country has been moved by military interventions, judicial activism, federal tensions, and religious conservatism, leading to the setting of principles that often are in contradiction of political realities.

Yet there is an increasing judicial assertiveness, a growing civil society engagement and a rising constitutional debate, which suggests an awareness of the need to reform, for which there hasn't been a sufficient response. Despite the existence of several obstacles, Pakistan has the chance to build its constitutional foundations, through inclusive governance, institutional accountability and a new social contract. Constitutionalism in Pakistan thus becomes crucial to the future of its constitutionalism as she must find an equilibrium between historical legacies and the imperatives of modern democracy.

Recommendations

To make the constitutionalism of Pakistan stronger, civilian institutions and the curbing of military influence on governance are essential. Consequently, it is important to put in place strong legal and institutional safeguards against unconstitutional takeovers of government, which has repeatedly interrupted the country's history of democratic continuity by means of military interventions. Parliamentary committees and independent commissions should be strengthened as a major means of civil oversight of defense and security policy to improve transparency. In addition it is desirable that military expenditures and the decision making process, should also be subjected to democratic scrutiny to impede undue influence of the national policies. To keep constitutionally unruly military interventions from disrupting constitutional government in the future, strict legal consequences must be imposed for unconstitutional military interventions.

There is another critical high ground that needs to get attention, the advancement of judicial independence. The judiciary has served crucially well in protecting democracy, sometimes taking ballads for democracy too far with illegal judicial interventions and also its support for military rule. This issue must, therefore, be faced by making the process of the appointment of judicial appointments more transparent and on the basis of merit and politics free. Additionally, the powers of suo moto judiciousness of the judiciary should be wisely exercised to guard judicial overweigh on the political issues. Good judicial training programs and a strong foundation of constitutional law and democratic principles in judges will give the judicial system enough strength to sustain the integrity of the judicial system as well as safeguard the role of judicature as the guardian of the constitution.

With the passage of 18th Amendment, federalism in Pakistan is making progress as the provinces are being given more autonomy. Nevertheless, there is still bureaucratic resistance and political conflicts against this full implementation. The federal government must devolve financial and administrative powers to the provinces as provided for in the Constitution for provincial autonomy to be assured. Additionally, distribution of resource among the provinces must be made equitably to avoid regional inequalities which fuel political grievances. This will make it easier to establish a federal commission to oversee the implementation of devolution and solve conflicts between the central and provincial governments as a way of strengthening federalism and unity.

Protection of civil liberties and empowerment of civil society are another important stage towards stability of the Constitution. Through restrictions on media freedom, political activism, as well as freedom of expression democratic accountability has eroded over the years. In reviewing and reforming laws that curtail press freedom and the right to political dissent, free speech is exercised in order to allow for citizens to freely express themselves without fear of persecution. Existing Civil society organizations must be supported to become involved in the governing process by offered platforms for interacting between government with the public. This will allow the civil society to play an effective check on state power and guarantee protection of democratic norms while strengthening the legal protection of the freedom of expression and the peaceful assembly.

Finally, the proper balance between the religious laws and constitutional guarantees of equality and fundamental rights are necessary to achieve the more inclusive and just legal system. Passages of discrimination against minority and marginalized communities have been caused due to the influence of religious

conservatism in Pakistan's legal framework. This must be tackled by constitutional and legal reforms which promote that religious laws do not prevent citizens from enjoying their fundamental rights. When interpreting religious provisions, the judiciary should adopt a balance in order to adapt them to democratic principles and human right protection. A strengthening constitutionalism, social cohesion will be achieved by ensuring that Pakistan's legal system upholds the principle of justice and equality for all citizens irrespective of the religious beliefs.

These recommendations provide Pakistan an opportunity to advance toward stronger and more stable constitutional framework that guarantees democracy, federalism, independence of the judiciary and civil and political rights. Finally, these reforms will help to build the governance system that better prioritizes the rule of law and safeguards democratic institutions and institutions of the rule of law from authoritarian tendencies.

Conclusion

A history of instability and the country's treatment as a laboratory ground for democratization, military intervention and judicial activism is traced in the study of constitutionalism in Pakistan. Despite the fact that the 1973 Constitution is the corner stone of governance, its implementation has been repeatedly disrupted by political instability, authoritarian rule, and institutional conflicts which include politics of its architects, political chaos and acts of violence. Notwithstanding considerable constitutional reforms such as the 18th Amendment, genuine federalism, freedom of the administration and civilian dominance remain elusive. Civil society as a source of strength, civil society as a controversy, and the use of judicial activism. Judicial assertiveness has acted as a shield to the democracy, although in many cases it has also supported military regimes. Like civil society movements, democratic rights have been advocated by them but are still limited by the state imposed restrictions.

A strong commitment to legal and institutional reforms is the only way that Pakistan can move towards constitutionalism. Following a more undemocratic rule, it should be curtailed of military influence in governance, the judiciary must be allowed to preserve its independence, and provincial autonomy must be respected to root in a true democratic and constitutional order. However, religious considerations should also be balanced with constitutional rights because this would guarantee the existence of an inclusive legal framework.

However, historical legacies of authoritarianism still pose challenges, but precisely because of recent developments like judicial interventions in favor of democracy,

as well as increased public awareness of constitutional rights, there is great potential for Pakistan to enhance its constitutional frameworks. If this proposed reforms implemented, the country will move from a fragile constitutional Democracy to a resilient, inclusive way of governance based on rule of law, fundamental rights and democratic stability.

References

- Adeney, K. (2022). *Federalism and ethnic conflict regulation in India and Pakistan*. Palgrave Macmillan.
- Ahmad, I. (2023). Enforced disappearances and judicial accountability in Pakistan. *Journal of Human Rights Practice*, 15(1), 45–62.
- Akhtar, A. S. (2023). Civil society and constitutional rights in Pakistan's peripheries. *Contemporary South Asia*, 31(2), 189–205.
- Ali, K. (2021). The 18th Amendment and challenges of fiscal federalism. *Pakistan Development Review*, 60(4), 567–584.
- Cheema, M. (2022). Reimagining the social contract in Pakistan. *Constellations*, 29(3), 412–427.
- Ginsburg, T., & Huq, A. Z. (2020). *How to save a constitutional democracy*. University of Chicago Press.
- Haqqani, H. (2020). *Reimagining Pakistan: Transforming a dysfunctional state*. HarperCollins.
- Jalal, A. (2023). *The struggle for Pakistan: A Muslim homeland and global politics*. Harvard University Press.
- Khan, A. (2021). Constitutional endurance in Pakistan. *International Journal of Constitutional Law*, 19(1), 234–256.
- Lau, M. (2020). Sharia and constitutionalism in Pakistan. *Asian Journal of Comparative Law*, 15(2), 301–320.
- Saigol, R. (2021). Judicial activism or overreach? The case of Pakistan. *South Asia Research*, 41(3), 332–349.
- Shafqat, S. (2020). Military and democracy in Pakistan. *Commonwealth & Comparative Politics*, 58(4), 456–475.
- Shah, S. A. (2023). Judicialization of politics in Pakistan. *Democratization*, 30(5), 789–806.
- Siddiqi, A. (2021). *Military Inc.: Inside Pakistan's military economy*. Oxford University Press.
- Waseem, M. (2020). Federalism and the 18th Amendment in Pakistan. *Publius: The Journal of Federalism*, 50(2), 245–267.