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The Role of Judicial Activism in the Enforcement of Human Rights in Pakistan and its Impacts on Governance in Pakistan

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Abstract

This study examines how judicial activism impacts governance in Pakistan after the lawyer's movement with a focus on its effect on human rights, the rule of law, and accountability. The study uses mixed techniques to examine Supreme Court decisions and interventions that demonstrate the judiciary's role in protecting civil liberties and checking executive powers. Apex Court's activism on extrajudicial killings forced disappearances, and gender discrimination has advanced human rights, according to the findings. The research also shows how the judiciary has strengthened the rule of law by upholding and enforcing legal principles fairly, boosting public faith in legal institutions. The research also notes that alleged judicial overreach has caused problems between the legislative and executive branches due to the courts' wide interpretations of their authority. This detailed analysis highlights the delicate balance between judicial interventions and democratic government.

Key Words: Governance, Human Rights, Judicial Activism, Accountability, Rule of Law

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Abstract

This study examines how judicial activism impacts governance in Pakistan after the lawyer's movement with a focus on its effect on human rights, the rule of law, and accountability. The study uses mixed techniques to examine Supreme Court decisions and interventions that demonstrate the judiciary's role in protecting civil liberties and checking executive powers. Apex Court's activism on extrajudicial killings forced disappearances, and gender discrimination has advanced human rights, according to the findings. The research also shows how the judiciary has strengthened the rule of law by upholding and enforcing legal principles fairly, boosting public faith in legal institutions. The research also notes that alleged judicial overreach has caused problems between the legislative and executive branches due to the courts' wide interpretations of their authority. This detailed analysis highlights the delicate balance between judicial interventions and democratic government.

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Introduction

Every person has basic human rights regardless of their gender, race, sex or nationality, ethnicity, language, religion, or any other attribute. Human

rights include essential privileges like freedom of expression, right to work and education, right to life and personal autonomy, the freedom from brutal treatment and forced labor, and many more. These are fundamental rights that every person has,



devoid of any kind of prejudice (Human Rights, 2023). Human rights are inherent rights that pertain to individuals as citizens of a free and civilized nation and are equally applicable to every person, regardless of their gender or sex. As to the 1973 constitution of Pakistan, all individuals are considered equal under the law and have the right to receive equal protection under the Law. The Constitution of Pakistan has granted certain rights and freedoms to the people of Pakistan. The second part of the constitution guarantees the rights of every citizen of Pakistan. The Constitution enumerates a total of 25 rights, explicitly outlined in chapters 1 and 2. Fifteen of these are civil and political rights, while the remaining ten are concerned with social and economic rights. According to the constitution, any law that contradicts the rights outlined in the constitution is deemed void. The judiciary safeguards human rights, and any clause or act of Parliament that infringes on individual freedoms shall be deemed null and unlawful. The original jurisdiction of the Supreme Court of Pakistan under article 184(3) is evoked in various human rights instances and becomes a tool of judicial activism. The problem of human rights is persistent in the world as well as in Pakistan and the question of concern is whether judicial activism is protecting or undermining human rights and what are its impacts on governance in Pakistan.

Research Questions

1. What are the problems of human rights in Pakistan and how does judicial activism impact the protection of human rights, rule of law, and accountability in Pakistan?
2. What are the impacts of the Supreme Court's human rights decisions under *Suo moto* jurisdiction on governance in Pakistan and how it has influenced the sociopolitical dynamics of the country?

Research Methodology

The present study utilizes qualitative methodologies to examine significant human rights cases in Pakistan and understand the role of the judiciary in the protection of human rights. Case law analysis entails a thorough scrutiny of court rulings, legal reasoning, and public responses. Furthermore, a detailed examination of legal

literature, academic papers, and research reports is required. This study was undertaken to understand the main reasons for judicial activism and the study will help to understand the cases within the legal and socio-political landscape.

Literature Review

Countries transitioning to democracy prioritize human rights. Pakistan's socio-political history has been marked by volatility and change as it seeks human rights guarantees. The judiciary has often been a light of hope, interpreting the Constitution and regulations to protect fundamental rights and liberties. Pakistani human rights jurisprudence has been shaped by judicial activism, which involves a proactive approach to social issues. Countries transitioning to democracy prioritize human rights. Pakistan's socio-political history has been marked by volatility and change as it seeks human rights guarantees in different phases (Munir, 2020). The governance indicators measure the following six dimensions of governance: voice and accountability, political instability and violence, government effectiveness, regulatory quality, rule of law, and, control of corruption (Daniel Kaufmann, 2005). The protection of human rights is the most important standard to judge governance in any country and the only institution to secure it is the judiciary. Rather than being limited to interpreting the law, the judiciary is empowered to creatively interpret the provisions of the Constitution in order to achieve social justice and protect human rights. Judicial activism originated in the United States of America when Justice Marshall established the basic principles of judicial review and introduced the notion of judicial activism in the case of *Marbury v. Madison*. Pakistan's Judicial history is replete with validating extra constitutionalism and helping dictators in distorting democratic regimes. But soon after the restoration of the judiciary, its role has been changed from the previous role and the proactive judiciary not only protects human rights but also makes the elite class accountable for their wrongdoings (Khan, 2023). No criteria or rules exist for how the Supreme Court composes its Article 184(3) benches which is used by SC in various human rights cases. The lack of guidelines has led to accusations of politicization and misconduct against the Court. The Court's jurisprudential and developing guidelines for the exercise of its original

jurisdiction under Article 184(3) would help ensure consistency in using this power. It may boost public confidence that this authority was being utilized carefully and in accordance with the Constitution to protect human rights in accordance with the separation of powers and the rule of law (Omer, [2013](#)). Judicial activism is a new philosophy with public interest litigation after the lawyers' movement, on one hand, it impacts the political sphere and on the other side strengthens the role of the judiciary in human rights preservation. The term 'judicial activism' has been associated with courts interfering in executive and legislative matters. Advocates of constitutional interpretation argue that it is crucial to balance power between the two pillars of the state executive and judiciary to protect citizen rights. Opponents think such power advocates intervening in government decisions outside their jurisdiction. In the past this argument has garnered attention in Pakistan for decades, especially since the restoration of former Chief Justice Iftikhar Muhammad Chaudhry and courts" (Faisal, [2023](#)).

Relationship Among Good Governance and Human Rights

The principles of human rights and development are intrinsically linked. Human rights provide guidelines to govern the behavior of those involved in the government's political and social activities. Additionally, they enact legislation to ensure that these wrongdoers are held responsible. Moreover, human rights principles offer direction for the development of legislative frameworks, strategic approaches, allocation of financial resources, and several other operational procedures (Hassan, [2006](#)). The sustainable valuation and protection of human rights necessitates good governance. The realization of human rights is contingent upon a conducive environment. This encompasses appropriate legal frameworks as well as political governance and administrative procedures that are accountable for addressing the rights of the populace. The correlation between good governance and human rights can be categorized into the following domains, Democratic institutes, Service distribution, Rule of law, and Anti-corruption (OCHCR, [2018](#)). The rule of law is one of the fundamental tenets of government, according to the UN all people, groups, and

establishments, including the State must take responsibility for their actions and behave in conformity with freely stated, impartially enforced, and independently adjudicated laws. It is essential that these legislations comply with internationally recognized human rights principles and standards. It necessitates putting policies in place to guarantee adherence to the following principles: legal certainty, prevention of arbitrary actions, equality before the law, accountability to the law, justice in law enforcement, participation in decision-making, and transparency in legal proceedings (United Nations, [2015](#)).

Human Rights and Rule of Law Conditions in Pakistan

Pakistan has rectified numerous international human rights accords despite it a considerable portion of the population still faces regular violations of their fundamental rights still has consistently struggled with enduring human rights violations. The Pakistani constitution ensures fundamental human rights, freedom of expression, etc. However, it is an undeniable reality that journalists and activists often become the target of assaults as a result of their open condemnation of the government or religious institutions. In the year 2020, Pakistan experienced a total of 148 documented cases of violations against journalists and media people and an example of it is the murder of famous news reporter Arshad Sharif. Pakistan is considered one of the most dangerous countries for women worldwide as women experience a range of violent acts, including sexual assault, honor killings, domestic violence, and forced marriages. According to the Human Rights Commission of Pakistan, there were 2,297 cases of honor killings in Pakistan between 2014 and 2016. Extrajudicial executions present a notable concern in Pakistan, particularly in the province of Baluchistan. Security personnel have been accused of committing enforced disappearances and extrajudicial executions of political activists and separatists. Child labor is a pervasive problem in Pakistan, particularly in the informal sector. A significant multitude of children are engaged in hazardous work settings, including brick kilns, mining, and agriculture. A considerable proportion of individuals lack access to education and are forced to participate in labor for prolonged

durations, getting little remuneration. Pakistan's World Justice rule of Law index is at 0.30 rank and the highest score in the human rights index is one in adherence to the rule of law and maintenance of fundamental rights is 0.38 Only (World Justice Project, [2023](#)). The most recent figure from [2022](#) for the Global Economy and Rule of Law Index is 7.4 index points, up from 7.3 index points in 2021. Based on data from 177 nations, the global average is 5.37 index points. Pakistan's historical average from 2007 to 2022 is 8.26 index points. 2020 had the lowest value, 7.1 index points, while 2008 saw the highest value, 9.5 index points (Pakistan: Human Rights and Rule of Law Index, 2022). The rule of law is essential for the protection of fundamental rights and is challenging to describe and quantify. The WJP Rule of Law Index aims to encapsulate these results into a clear and cohesive framework. The law delineates constraints on the exercise of authority by the state, its agents, individuals, and private businesses (Rule of Law Index, 2023). The state restricts the acts of its citizens and performs its fundamental responsibilities to ensure the public interest, safeguard individuals from violence, and provide all members of society with access to conflict resolution and grievance processes. The World Justice Project characterizes the rule of law as a resilient framework of laws, institutions, values, and communal dedication that ensures delivery. The Four Fundamental Principles of the Rule of Law are Responsibility, Equitable Legislation Accessible and Unbiased Justice, and Transparent Governance. According to the World Justice Project [2023](#) report in Pakistan adherence to the rule of law is 0.38 out of one and the country rank is 130 (World Justice Project, [2023](#)). The World Justice Project's recent research indicates that Pakistan is ranked 130th among 139 countries in terms of compliance with the rule of law. The report's scores range from 0 to 1, with 1 indicating the highest compliance with the rule of law. Pakistan achieved a score of only 0.39 in this context.

Human Rights Problems and Challenges of Governance in Pakistan

Women, religious minorities, and transgender individuals routinely encounter violence and persecution, while authorities neglect to offer sufficient protection or hold those responsible accountable. The government persistently fails to

take substantial action in ensuring the accountability of law enforcement authorities for acts of torture and other grave violations against the protection of freedom of expression and instances of aggression towards civil society organizations. Media coverage of violations by both government security personnel and terrorist organizations is hindered by a pervasive atmosphere of fear. Journalists who encounter threats and assaults have progressively turned to practicing self-censorship. Media outlets are facing pressure from authorities to refrain from criticizing government institutions or the judiciary. Throughout 2021, government regulatory authorities intervened to prohibit cable operators and television stations from broadcasting essential programs. The government employed the "Regulation of INGOs in Pakistan" strategy to hinder the registration and operation of international humanitarian and human rights organizations. The Ahmadiyya religious group remains a significant focus of prosecutions under blasphemy laws and specific anti-Ahmadi statutes. Militant factions and the Islamist political organization Tehreek-e-Labbaik Pakistan allege that Ahmadis are fraudulently presenting themselves as Muslims. The Pakistan penal code criminalizes the act of "posing as Muslims". Violence against women including rape, murder, acid assaults, domestic violence, and forced marriage, is widespread and deeply rooted in Pakistan. Approximately 1,000 women are estimated to be victims of honor killings annually, according to human rights advocates. Child marriage continues to be a significant issue in Pakistan, with 18 percent of girls getting married before reaching the age of 18, and 4 percent getting married before the age of 15. Women belonging to religious minority groups are especially susceptible to being coerced into marriage against their will. Pakistan was positioned at the 153rd spot among 156 countries on the Global Gender Gap 2021 ranking, as determined by the World Economic Forum. Prior to the COVID-19 outbreak, more than 5 million children of primary school age in Pakistan were not attending school, with the majority of them being girls. Research conducted by Human Rights Watch revealed that girls are unable to attend school due to many factors such as inadequate availability of educational institutions, financial constraints related to education, early marriage, exploitative

child labor, and gender-based discrimination. The shutdown of schools, implemented as a precautionary measure to prevent the transmission of COVID-19, had a significant impact on over 45 million pupils throughout the majority of the year (Human Rights Watch, [2023](#)). The Tehreek-Taliban Pakistan (TTP), Al-Qaeda, Baluchistan Liberation Army (BLA), and its associates conducted suicide bombings and other indiscriminate assaults on security officers. A targeted assault on a bus transporting personnel at the Dasu Hydroelectric project in Khyber-Pakhtunkhwa resulted in the death of nine Chinese engineers. The law enforcement agencies of Pakistan were accountable for a multitude of human rights infringements, such as arbitrary detention and unlawful killings. Pakistan's Prime Minister Imran Khan convened a meeting with the families of those who had been involuntarily removed, purportedly by Pakistani security personnel, and made a commitment to resolve their grievances. Pakistan has yet to pass legislation that would make torture a criminal offense, despite Pakistan being obligated to do so by the UN Convention against Torture. In July, the Pakistan Senate unanimously passed a crucial bill that criminalizes police abuse and aims to avoid fatalities in police custody. If approved, this law will mark the first instance of Pakistan using a comprehensive definition of torture that aligns with the Convention Against Torture. The measure additionally suggests imposing criminal responsibility for fatalities occurring while in police custody. Pakistan now has a staggering number of over 4,600 individuals awaiting execution, making it one of the countries with the highest number of convicts on death row. Individuals on death row frequently come from the most disadvantaged segments of society. The intergovernmental Financial Action Task Force (FATF) maintained Pakistan's status as a jurisdiction under "Increased Monitoring" - a designation given to nations that do not meet FATF's standards for combating terrorism funding and money laundering. This status is commonly referred to as being on the gray list. Pakistan has been included in the gray list since 2018. The FATF acknowledged Pakistan's substantial progress in achieving 26 out of 27 objectives.

Judicial Activism and the Evolution of Human Rights Jurisprudence in Pakistan

By restoring the Chief Justice, the Court has taken steps to regain its authority and role as both a protector of constitutionalism and a final decision-maker in political disputes (Hirschl, [2006](#)). The Supreme Court, in numerous decisions, demonstrated its independence from the civilian government with greater emphasis than it did during military governments. Contrary to its earlier legal decisions, in which the Court openly supported military rule, the Court strengthened the military's discourse that goes against the constitution, at the cost of the civilian administration (Kennedy, [2012](#)). The judiciary must assume a crucial role in protecting and rectifying instances of excess power and misuse, human rights breaches, and the eradication of exploitation and inequality. In order to address the issues presented by this new function, it is imperative to implement procedural improvements. Over the years, the court has permitted public interest litigation under the umbrella of original jurisdiction to uphold several rights. The court has taken additional steps to ensure the enforcement of its rulings related to fundamental rights by the government. This includes establishing a monitoring organization (HRC) that will regularly assess and report on the implementation of these decisions (Gupta, [2022](#)). It is evident that in a constitution that prioritizes the rule of law, there can be no limitation on judicial activism when it comes to examining the legitimacy of executive orders and administrative measures. The courts serve as the exclusive venue for individuals who have been harmed by excessive actions of administrative bodies and arbitrary decisions made by the executive branch.

Role of Governance Structures in Either Supporting or Undermining Human Rights

The acknowledgment of basic rights and the ability of individuals to exercise these rights to the degree that upholds their civility and humanity are the finest ways to demonstrate the highest worth of human life. If people could not use their inalienable rights or follow their political convictions, life would be worthless. Individual's rights would be worthless

if the judicial system was unable to actively contribute to their defense. The foundation of any form of government should be the independence of the several branches, the separation of powers, and most importantly, the supremacy of the court. In order to maintain the legality of government actions, the judicial branch should impose restrictions to limit the authority of the branches within their respective purviews. To help a state avoid potential legal issues, lawmakers have often meticulously crafted civil and criminal procedural laws. Ideally, these regulations would contain measures to prevent the State from abusing its jurisdiction or going beyond it to the point where it jeopardizes human rights (Hirschl, [2006](#)). However, these regulations would be devoid of vitality if there were no additional governing body to enforce the legal restrictions. The authority to enforce the safeguards and defend human rights is given to the judicial branch, which bears a significant duty in doing so. The legal procedure that comes next guarantees the effective application of the law, protects the rights of people and communities, and creates a standard for the just application of the law. As a result, the courts provide adequate protection for human rights. In this system, the parties involved in a disagreement have the opportunity to provide evidence in order to ensure that the court accurately comprehends the facts of the issue. Justice requires that trials be eligible for appeal in higher courts, where human rights are strengthened (Anthem, [2002](#)). The National Commission for Human Rights was established under a rare Act. On May 31, 2012, President Asif Ali Zardari signed the National Commission for Human Rights Bill 2012, often referred to as the NCHR Act, into law, thereby establishing the National Commission for Human Rights (NCHR). As part of the Universal Periodic Review (UPR) process, the Pakistani government participated in the second assessment of its efforts to fulfill its obligations under human rights treaties in October 2012. The Human Rights Council was presented with the NCHR's founding as proof of the State's compliance with international human rights standards.

Overview of Governance Issues Affecting Human Rights (e.g., Political Instability, Corruption)

Governance concerns in Pakistan have a substantial impact on the safeguarding and advancement of human rights. The following section provides an analysis of significant obstacles, including political instability, corruption, inadequate legal frameworks, and institutional deficiencies, and their impact on human rights inside the nation.

Political Instability

The political volatility in Pakistan has had significant ramifications for the protection and promotion of human rights. The occurrence of frequent government changes, in conjunction with military interventions and fluctuations in political power, frequently results in the prevalence of inconsistent human rights policies and practices. The aforementioned instability has the potential to lead to the gradual deterioration of legal safeguards and obstacles in the enforcement of human rights standards. Political disturbance, encompassing protests and wars, has the potential to intensify infringements upon human rights norms.

Institutional Corruption

Corruption in Pakistan exerts a deleterious impact on the realm of human rights. One potential consequence of corruption inside the judiciary is the erosion of the rule of law, leading to the emergence of biased legal outcomes and the perpetuation of impunity for abuses of human rights. As a consequence, the capacity of victims to pursue legal recourse is undermined, thus perpetuating a climate of corruption. Human development has suffered as a result of corruption, which makes it harder for people to combat corruption by improving governance because they lack rights, knowledge, and literacy. It has also distorted the government's investment priorities by favoring large, visible projects where there is a significant chance of rent-seeking. Pakistan lacks the resources necessary to establish and implement an efficient judicial system (Rizvi, [2015](#)). Misallocation of resources is a consequence of corruption, resulting in the inefficient distribution of essential resources required for safeguarding human rights, including financial support for social services, healthcare, and education. Furthermore, this phenomenon amplifies disparities and diminishes the availability of crucial services for marginalized populations.

Inadequate Legal Frameworks and Ambiguity

The existing legal system in Pakistan frequently exhibits deficiencies in safeguarding human rights principles:

1. **Insufficient Legislation:** Despite the existence of legal frameworks designed to preserve human rights, the presence of gaps and limitations within these laws might result in inadequate protection of particular rights. Issues pertaining to gender-based violence and minority rights frequently lack thorough attention and resolution.
2. **Ineffective Enforcement:** Despite the presence of comprehensive human rights legislation, the efficacy of its implementation is impeded by inadequate enforcement mechanisms and insufficient allocation of resources. This phenomenon may lead to a lack of accountability for wrongdoers and insufficient provision of appropriate redress for those suffering harm. The presence of ambiguous legal provisions can be exploited to rationalize violations of human rights. For instance, the lack of specificity in anti-terrorism legislation has faced criticism due to its potential to enable arbitrary imprisonment and restrict fundamental rights such as freedom of expression and assembly.

Limitations to Institutional Capabilities

The presence of institutional inadequacies compounds the challenges associated with safeguarding human rights in Pakistan. Law enforcement agencies, including the police, frequently encounter challenges such as insufficient training, instances of corruption, and limited resources, which impede their capacity to safeguard human rights and efficaciously enforce legal regulations. One notable issue is the absence of adequate mechanisms to ensure accountability for human rights breaches committed by government officials and law enforcement personnel. The absence of institutional responsibility sustains a climate of impunity and hinders the ability to provide adequate remedies for individuals who have been harmed. The phenomenon of civil society suppression in Pakistan is characterized by the unjust treatment and

constraints imposed upon civil society organizations and activists, hence constraining their capacity to champion human rights and oversee instances of misconduct.

Judicial Responses to Governance Issues and Judicial Activism

The first-ever case was filed under Article 184(3) ("Ch. Manzoor Ilahi vs State of Pakistan," 1975). In the mid-80s judiciary started to become active, when Zia restored the Constitution and lifted martial law. 1990-95 is treated as the golden era of PIL. Public interest litigation dates back to the well-known ("Darshan Masiah v.State," 1990), in which the CJP responded to a telegram about forced labor in brick kilns. Later, the CJP responded to a letter about the construction of a power plant and its potential negative effects on public health ("Shehla Zia vs Wapda," 1994). The court has taken *Suo motu* cases ranging from kite flying, bonded labor, NICL scams, Hajj scams, inhuman treatment in jails, ephedrine scams, and missing persons' cases to name a few which have given relief to common people. The Chaudhry Court has gained fame for accepting public interest litigation (PIL) cases and frequently using its *Suo motu* authority to take cognizance of matters that fall within the jurisdiction of executive and legislature as dismissal of Prime Ministers, Governance perspective, policy-making/policy implementation, regulatory frameworks of other state institutions (Khan, 2015)). Supreme Court considered a wide range of political cases after 2007. These political cases included those regarding the regime's legitimacy, legal reform, economic policy and deregulation, electoral process regulation, the eligibility of elected officials to hold office, the validity of the constitutional amendment process, executive appointment intervention, conflict resolution, and even certain foreign policy matters.

Human Rights Cell and Cases After 2007

A Human Rights Cell has been formed in the Court to provide a prompt and affordable remedy in cases pertaining to violations of Fundamental Rights protected by Chapter II of the Constitution. The Honorable Chief Justice of Pakistan has direct control over the Cell's operations. The expeditious and effective management of public complaints and concerns sent by mail to Pakistan's Honorable Chief

Justice is required by law. Reports and comments are requested from relevant authorities by the Hon'ble Chief Justice of Pakistan in order to resolve the concerns at hand. Cases that necessitate a hearing are scheduled and resolved before the Court. Assistance is given to impoverished individuals without the need for lengthy and conventional legal proceedings (Mohsin, 2019). The public interest litigation in this form led to the implementation of several legal changes on subjects of significant relevance to the general public. For example, it resulted in the passing of the Human Organ Transplantation Ordinance 2007 and the Prohibition of Smoking at Public Places Ordinance. The expeditious delivery of free assistance to the general population has fostered a significant level of faith and assurance in the judiciary as a whole, and specifically in the highest court. The Human Rights exercise has significantly contributed to the eradication of social vices such as Vani, Karo-Kari, and hazardous kite-flying, which were widespread in society and had negative effects on the general population (United Nations, 2015). The Islamic Republic of Pakistan's Constitution, Article 184(3), grants the Supreme Court the power to become involved in cases involving the defense of human rights. With the goal of upholding the rule of law and fostering justice in society, the Chief Justice of Pakistan launched the creation of the Supreme Court of Pakistan's Human Rights Cell in 2005. The Director General, a member of the Pakistan Supreme Court, is in charge of the Human Rights Cell and works directly under the Chief Justice's direction. There are four Provincial High Court Human Rights Cells and the Supreme Court Human Rights Cell. The task of looking into and resolving cases of rights violations falls to the Human Rights Cell. Its job is to supervise the activities of the courts, police, prison administration, and other public sector agencies. The Human Rights Cell offers a prompt and cost-effective solution to citizens, running alongside the conventional court lawsuit procedures. According to the Supreme Court website, the Human Rights Cell was receiving around 250 complaints each day as of 2010 (Choonara, 2011). Individuals from many regions may be able to access these human rights cells. Such rights reporting tools' accessibility and efficacy will probably be primarily influenced by leadership. The main goal was to investigate instances of

power abuse, authority misuse, and arbitrary or mala fide actions and decisions by those in positions of authority. The Supreme Court invoked its *Suo motu* powers to specifically address and acknowledge significant human rights violations that have been reported in the news. The initial PIL cases established a precedent for future cases concerning the misuse of public office and laid the groundwork for the court to utilize its extensive authority.

In-depth analysis of Landmark Human Rights Cases from 2007 to 2023 and Their Impacts on Governance

The Supreme Court of Pakistan has initiated *Suo motu* proceedings in numerous significant human rights matters spanning the years 2007 to 2023. The aforementioned acts have had a substantial influence on governance, hence emphasizing the prominent role of the Court in tackling systemic challenges and upholding fundamental rights. Presented below is a comprehensive study. The concept of *Suo motu* pertains to the authority of the Supreme Court to independently commence legal procedures, typically in order to resolve substantial matters that impact the public interest, even in the absence of a formal petition. This jurisdiction grants the Court the authority to address pressing issues and uphold constitutional and legal entitlements. Human rights cases mostly consisted of complaints about the increasing number of missing people who vanished as a consequence of Pakistani military and intelligence services' counterterrorism efforts, according to publications and human rights organizations, rape, and murder cases as well as educational and environmental issues.

The Missing Persons Case (2007-Present)

Under Article 184(3) of the constitution, SC used its authority to confront enforced disappearances in December 2005 by bringing a lawsuit on its own initiative. An item in the press that highlighted the rising number of forced disappearances in the nation served as the impetus for this action. The Human Rights Commission of Pakistan (HRCP) petitioned the Supreme Court on March 8, 2007, invoking Article 184(3) and requesting the court's attention to instances involving enforced disappearances. The HRCP claimed that 148 people on its list of "missing persons" had been the victims

of involuntary disappearance when it filed the case with the Supreme Court and also claimed that a number of people had told them they had been unfairly arrested and tortured by intelligence services. The SC was headed by Chief Justice Iftikhar Muhammad Chaudhry in its confident confirmation of information proving the imprisonment of several missing people by the security authorities. Chief Justice pledged that the Supreme Court would thoroughly examine the actions of the agencies and provide a comprehensive ruling about the arbitrary and unlawful detentions of people. High-ranking military intelligence officers were called by Chief Justice Chaudhry to testify before the Supreme Court, provide a legal justification for the imprisonment, and see the inmates in person. SC's decisions were widely praised, and Pakistani media gave it positive attention. As a result, throughout that time, there were tensions between the military establishment, led by General Musharraf, and the Supreme Court. Chief Justice Chaudhry's surprise declaration of autonomy was a major factor in his removal from office in March 2007. The establishment of a Commission of Inquiry for Missing Persons (CIMP) by the Government has been required by the Supreme Court. The CIMP's goal is to investigate cases of enforced disappearances in Pakistan and provide suggestions to stop this practice. On March 1, 2011, the Interior Ministry established the 2011 Commission in order to carry on the activities of the CIMP. The 2011 Commission was initially created with a six-month term in mind, but its authority was eventually extended for an extra three years. The year "2013" designates a certain time frame, while the acronym "ICJ" stands for the International Court of Justice (Omer, [2013](#)). The matter of enforced disappearances has remained a longstanding human rights issue in Pakistan. The Supreme Court's efforts to investigate human rights crimes and find 'disappeared' people are admirable. The Supreme Court has successfully located "missing persons" and actively sought a thorough government response to enforced disappearances. It may be more effective in ensuring the release or, if suspected of a crime, a fair trial before an independent civilian tribunal for 'disappeared' people. Additionally, enforced disappearance perpetrators must be held accountable and victims

or their families must be able to seek recourse and compensation for human rights breaches. The Supreme Court can annul FATA/PATA Regulations clauses that conflict with Pakistan's domestic and worldwide responsibilities for human rights. Less than two months after Parliament approved the Contempt of Court Act 2012, which restricted the judiciary's contempt powers, the Court overturned it. The Supreme Court has heard petitions challenging provisions criticized by human rights groups for facilitating enforced disappearances, making modest progress over several years. The Court can also oversee and control criminal investigations and order security agency officers implicated in enforced disappearances to face criminal charges. The Supreme Court has routinely used its power to correct corruption, but not enforced disappearances and other armed forces abuses. Additionally, the Supreme Court has a variety of contempt authorities to execute its orders on law enforcement (Muhammad Nawaz, [2019](#)). Recently, the Court has regularly used these powers to prosecute journalists, attorneys, and even former Prime Minister Gillani, who was disqualified from office. Despite violating the Court's orders in enforced disappearance cases, security services have avoided such measures. These circumstances are serious, according to the Court. However, it is crucial to focus on the accountability of those who are responsible and rehabilitation for 'disappeared' people rather than just tracing them. This move will help Pakistan comply with international law and end security forces' impunity for human rights abuses. (Omer, [2013](#)).

Adialla 11

There are questions regarding the Supreme Court's commitment to ending forced disappearances given its unsatisfactory response to the 'Adiala 11' case and its choice to refer cases to the 2011 Commission of Inquiry despite reservations about the Commission's disregard for international human rights laws and standards. The 'Adiala 11' case serves as a glaring illustration of the Supreme Court's inability to guarantee responsibility, redress, and compensation for instances of arbitrarily detained and unlawful disappearances (Omer, [2013](#)).

Acid Crimes

The Pakistan Penal Code and the Code of Criminal Procedure were modified to punish perpetrators of acid crimes by the Acid Control and Acid Crime Prevention Act, 2011 (Criminal Law Second Amendment Act, 2011), which clearly included acid crimes in the definition of injury. "Hurt by dangerous means or substance, including any corrosive substance or acid to be crimes" is the definition of "hurt" in modern usage. Section 336-B of the Pakistan Penal Code carries a life sentence in prison as well as a fine for offenders., maybe worth five hundred thousand rupees. Unapproved vendors of "corrosive substances" also face penalties. The following is on first conviction; one could be imprisoned for one year or fined one hundred thousand rupees or both. Two years or a fine of two hundred thousand or both upon second and later conviction.

The Karachi Target Killings Case (2011-2012)

In reaction to the escalating incidents of targeted killings and violence in Karachi, the Supreme Court undertook *Suo motu* action, with a specific emphasis on the declining state of law and order. Urban violence, inefficiencies within law enforcement agencies, and issues in governance. The participation of the Court resulted in the formation of anti-terrorism courts on the Karachi campus and exerted pressure on law enforcement authorities to enhance their operational effectiveness. It emphasized the necessity for efficient administration and enforcement of laws in metropolitan regions (Karachi Law and Order Case, [2011](#)).

COVID-19 Pandemic

In the context of the COVID-19 pandemic, the Supreme Court proactively addressed concerns pertaining to healthcare infrastructure, the accessibility of medical resources, and the governmental measures implemented in response to the global health crisis. The management of public health, the physical infrastructure of healthcare systems, and the fair allocation of medical resources. The Court's decisions led to improved allocation of healthcare resources and the implementation of more effective policies to combat the pandemic. Furthermore, it underscored the

significance of a resilient healthcare system and governmental responsibility through accountability (*Suo Moto* action regarding combating the pandemic of Corona, [2020](#)). The ability to act *Suo motu* is vested in the Supreme Court. Indeed, the *Suo motu* jurisdiction has exerted a formidable influence in determining the initial reaction to the pandemic. The appellate court acknowledged the appeal that contested the release of inmates awaiting trial in accordance with, among other things, directives made by the Islamabad High Court. The primary objective of these instructions was to address the potential risk of a COVID-19 outbreak within correctional facilities. Supreme Court invalidated the directives issued by the Islamabad High Court and rescinded all bail that was granted under those conditions. The court transformed the petition into a legal action pursued under Article 184(3) of the Constitution (*Suo Motu* Case No.1/2020), deferring the resolution of the broader matter of addressing the epidemic. Court issued a directive for the implementation of emergency legislation to address the challenges arising from the ongoing pandemic and instructed the establishment of quarantine facilities by the federal government at Pakistan's three main entrance points Taftan, Chaman, and Torkham in the Province of Baluchistan and Khyber-Pakhtunkhwa, respectively will take place. Furthermore, the court emphasized the importance of employing local manufacturing capabilities for personal protective equipment (PPE) and allocating resources toward the local production and distribution of ventilators (Hariss, [2021](#)).

Zainab Rape and Murder Case

The year started off with the horrific rape and murder case of minor Zainab in Kasur. The Supreme Court promptly initiated proceedings and issued a *Suo motu* notice to the Chief Justice of Pakistan, mandating the arrest and presentation of suspects before the court, with the condition that they should not be murdered during the encounter. On January 4, Zainab was abducted from the vicinity of her aunt's residence in Kasur. Following a period of five days, her deceased body was retrieved at a waste disposal site (*Imran Ali v State*, [2018](#)). The findings of the post-mortem report indicated that the victim had experienced sexual assault and homicide. In the aftermath of the tragedy, demonstrations ensued in Kasur City.

Following a prompt trial and the presentation of significant evidence, Imran Ali, a resident of the region, was apprehended and found guilty of the offense. Subsequently, an anti-terrorism court imposed a capital punishment sentence upon him. In October, Imran, who had received a death sentence for the rape and murder of Zainab and twelve other underage girls, was executed by hanging at the Kot Lakhpat jail in Lahore (Sohail, [2019](#)).

The Treatment of Prisoners Case (2019-2020)

In July 2018, the Supreme Court of Pakistan was presented with a *Suo moto* case that centered on the living circumstances of inmates. *Suo motu* was started by the Pakistani Supreme Court proceedings to address the prevailing conditions within prisons, with a specific emphasis on issues such as overcrowding, insufficient amenities, and the treatment of incarcerated individuals. Prison conditions are devastated and prisons are overpopulated. The problem of overcrowding is exacerbated when inmates must appear in court and security is required. A parole system's absence, strict bail restrictions, and judicial delays are some of the primary reasons for prison overpopulation. The Wafaqi Mohtasib secretariat reported to the Supreme Court in December 2018 that all provincial prison administrations had started developing interfaces among their facilities (Hassan M., [2019](#)).

Judicial Accountability and Corruption

In 2021, the Supreme Court took *Suo Motu* notice of allegations related to corruption and the lack of accountability in the judiciary itself. This lawsuit sought to address apprehensions over the integrity of judicial appointments and conduct. To eradicate corruption inside the judiciary, enhance transparency and accountability in the process of judicial nominations, and Propose Reforms to Enhance Judicial Integrity (Kennedy, [2012](#)). The steps undertaken by the Court have shed light on matters pertaining to judicial responsibility and integrity, resulting in heightened scrutiny. The Court's actions brought attention to issues of judicial accountability and integrity. It Initiated deliberations regarding the necessity of implementing reforms to guarantee openness and deter corruption within the court (CONST.P.21, 2022). Judgments pertaining to political instability,

corruption, and human rights in Pakistan have exerted a significant influence on the legal, political, and social fabric of the nation. From a legal standpoint, notable legal cases have served as catalysts for reforms that seek to bolster the autonomy of the judiciary and augment safeguards for human rights. However, the execution of these reforms frequently encounters obstacles stemming from political and bureaucratic opposition. From a political standpoint, these judgments have the potential to bring about substantial changes in power dynamics, exert influence on political stability, and stimulate reforms aimed at enhancing openness and accountability. However, it is important to note that these impacts might be inconsistent and subject to dispute (Imam, [2023](#)). The societal implications of these judgments extend to the erosion of public faith in institutions, potentially mobilizing civil society and advocacy groups, hence fostering more activism and calls for social justice. These findings collectively emphasize the necessity of implementing successful governance reforms and draw attention to the persistent conflict between institutional integrity and political realities.

Impact of These Judgments on Pakistan's Governance Structure

The Pakistani Constitution specifies the steps needed to use the judicial review power, but the court has loosened these guidelines in order to "make general recommendations" to other government agencies (Shayan Manzar, 2021). Prominent legal scholars contend that the court essentially uses the pretense of defending basic human rights to impose its will on governmental institutions. As seen by Justice Ramday's statement that "Courts are (more) inclined to extend their jurisdiction instead of curtailment" in Chief Justice Iftikhar Chaudhry v. President of Pakistan. The criticism of opponents of *Suo moto* powers is further cemented by this clear acknowledgment of court action (Munir, [2020](#)). According to Justice Fazal Karim, the superior judiciary engages in "subversion of the constitutional mandate" in addition to disobeying the theory of separation of powers (Justice Fazal Karim, 2019). However, throughout the nation's 75-year existence, the judiciary has not been accused of acting in an extraconstitutional manner. Following the

reinstatement of justices from both the Supreme and High Courts, judicial activism has reached unprecedented levels. Prior to the reinstatement of higher court judges, the HRC received an approximate influx of 500 applications on a daily basis. It demonstrates that individuals are seeking direct assistance from the SCP to address their issues. However, in 2009, following the reinstatement of higher-ranking judges, the number of individuals applying increased to 139,906 within a span of just two years, from 2009 to 2011 (Munir, [2020](#)). The judicial review authority is exercised by the judiciary, and it serves as a check and balance on the operations of the legislative and executive branches. A broken dispute resolution process to address such important governance problems might be blamed for the bad governance system (Samza Fatima, [2022](#)). As a result, the judiciary steps in to settle conflicts pertaining to basic rights and other constitutional issues while the state is in operation. The Supreme Court of Pakistan is endowed with the authority of *Suo Moto* and judicial review in order to uphold the system of checks and balances in government and to ensure that the people of Pakistan are protected by their basic rights (Amanullah, [2018](#)). Paradoxically, given the support it has received from the public, the judiciary, which was formerly the legislative and executive parts of government makes up the three branches of government, and the weakest of them is currently in a powerful position. This may be the turning point when the court ventures into politics in addition to its constitutional defense responsibility, but without democratic accountability like the other two branches of government (Farrah Aamir A. M., [2022](#)).

Recommendations

1. The most crucial aspect of human rights is prompt justice, which Pakistan must deliver to its citizens. Pakistanis have the right to speedy justice under Article 37(d) of the Constitution, which requires the promotion of justice and "ensure inexpensive and expeditious justice." Expeditious justice is essential to an intelligent and differentiated judicial system because unnecessary delays jeopardize plaintiffs' interests.
2. Examples of the Islamic judicial system serve as beacons that can initially facilitate swift and

equitable justice while also contributing to societal balance. In Pakistan, the Islamic idea of justice is the sole system that ought to be implemented.

3. The Supreme Court must guarantee that all decisions or actions mandated in cases addressed under Article 184(3) align with the rule of law, separation of powers, and human rights, ensuring that individuals whose rights are predictably and negatively impacted are not left without recourse or remedy.

Conclusion

Jurisprudential activity in landmark human rights cases has shaped Pakistan's legal system and advanced human rights. This research paper shows how a proactive judiciary upholds justice, equality, and basic rights by analyzing individual cases. Internal, external, and international concerns hinder Pakistan's governance. Pakistan suffers food, energy, and employment difficulties in addition to terrorism. Successive governments have changed policies, causing delays, unequal outcomes, and resource misallocation. The judiciary has protected civil liberties, fundamental rights, and the law. The court must be independent to perform these functions. Unfortunately, legal framework guidelines and military constitutional obligations hampered the Pakistani court's functions. Pakistan's administration suffers from corruption, inter-institutional rivalry, and absence of accountability. Governance must prioritize skill above nepotism, address internal concerns, and delegate authority to local organizations. We should act according to the constitution, law, openness, and public service. A nation's success depends on effective government based on principles rather than personal empowerment. Marcus Aurelius remarked, "In order to achieve true greatness, one must continuously surpass oneself while serving the larger good, not by outperforming others". Human rights and the country's legal system must be upheld. Reduce unneeded engagement to simplify processes and offer each department independence. This Article investigates the complex relationship between human rights and judicial activism, showing the pros and cons of judicial scrutiny in protecting fundamental liberty. Legal action enhances human rights but raises concerns about judicial abuse and government power imbalance. Justice and democracy require strong

institutions just, independent, and impartial legal systems, and a comprehensive approach that balances human rights with judicial restraint.

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