

GPR

GLOBAL POLITICAL REVIEW
HEC-RECOGNIZED CATEGORY-Y

VOL. X, ISSUE I, WINTER (MARCH-2025)

DOI (Journal): 10.31703/gpr

DOI (Volume): 10.31703/gpr/.2025(X)

DOI (Issue): 10.31703/gpr.2025(X.I)

Article Title

Authority without Accountability: The Search for Justice in Pakistan

Abstract

This article examines Pakistan's counter-terrorism laws, focusing on the Actions in Aid of Civil Power Regulation (AACPR), particularly regarding military accountability. As the involvement of FATA and PATA communities in terrorism increased, the military was granted powers to arrest individuals and detain them without trial. A key issue is the indemnity clause in the AACPR, which exempts military personnel from prosecution if actions are taken in "good faith." This provision raises concerns about accountability and the potential for human rights abuses. The article critiques this clause, analyzing its constitutional and international human rights implications. By reviewing case laws and international treaties, it explores how Pakistan's counter-terrorism laws fail to meet global human rights standards. The article advocates for reforming these laws to ensure better accountability while balancing national security with respect for human rights.

Keywords: AACPR, Accountability, Military, Indemnity Clause, Human Rights, Counter-terrorism, Pakistan

Authors: or

Maryam Shahid: Researcher/LLM Student, Department of Law, International Islamic University, Islamabad, Pakistan.

Mehnaz Begum: (Corresponding Auth)
Lecturer, Department of Sharia and Law, Islamia College, Peshawar, KP, Pakistan.
(Email: mehnaz@icp.edu.pk)

Arbab Abuzar Khan: Student, Law College, University of Peshawar, KP, Pakistan.

Pages: 65-74

DOI: 10.31703/gpr.2024(X-I).06

DOI link: [https://dx.doi.org/10.31703/gpr.2025\(X-I\).06](https://dx.doi.org/10.31703/gpr.2025(X-I).06)

Article link: <http://www.gprjournal.com/article/A-b-c>

Full-text Link: <https://gprjournal.com/fulltext/>

Pdf link: <https://www.gprjournal.com/jadmin/Author/31rv1olA2.pdf>

Global Political Review

p-ISSN: 2521-2982 e-ISSN: 2707-4587

DOI (journal): 10.31703/gpr

Volume: X (2025)

DOI (volume): 10.31703/gpr.2025(X)

Issue: I Winter (March-2024)

DOI(Issue): 10.31703/gpr.2025(X-I)

Home Page

www.gprjournal.com

Volume: X (2025)

<https://www.gprjournal.com/Current-issue>

Issue: I-Winter (December-2025)

<https://www.gprjournal.com/issue/10/1/2025>

Scope

<https://www.gprjournal.com/about-us/scope>

Submission

<https://humaglobe.com/index.php/gpr/submissions>



Visit Us



Citing this Article

o6	Authority without Accountability: The Search for Justice in Pakistan		
Authors	Maryam Shahid Mehnaz Begum Arbab Abuzar Khan	DOI	10.31703/gpr.2024(IX-I).o6
		Pages	65-74
		Year	2025
		Volume	X
		Issue	I
Referencing & Citing Styles			
APA	Shahid, M., Begum, M., & Khan, A. A. (2025). Authority without Accountability: The Search for Justice in Pakistan. <i>Global Political Review</i> , X(I), 65-74. https://doi.org/10.31703/gpr.2025(X-I).o6		
CHICAGO	Shahid, Maryam, Mehnaz Begum, and Arbab Abuzar Khan. 2025. "Authority without Accountability: The Search for Justice in Pakistan." <i>Global Political Review</i> X (I):65-74. doi: 10.31703/gpr.2025(X-I).o6.		
HARVARD	SHAHID, M., BEGUM, M. & KHAN, A. A. 2025. Authority without Accountability: The Search for Justice in Pakistan. <i>Global Political Review</i> , X, 65-74.		
MHRA	Shahid, Maryam, Mehnaz Begum, and Arbab Abuzar Khan. 2025. 'Authority without Accountability: The Search for Justice in Pakistan', <i>Global Political Review</i> , X: 65-74.		
MLA	Shahid, Maryam, Mehnaz Begum, and Arbab Abuzar Khan. "Authority without Accountability: The Search for Justice in Pakistan." <i>Global Political Review</i> X.I (2025): 65-74. Print.		
OXFORD	Shahid, Maryam, Begum, Mehnaz, and Arbab Abuzar Khan (2025), 'Authority without Accountability: The Search for Justice in Pakistan', <i>Global Political Review</i> , X (I), 65-74.		
TURABIAN	Shahid, Maryam, Mehnaz Begum, and Arbab Abuzar Khan. "Authority without Accountability: The Search for Justice in Pakistan." <i>Global Political Review</i> X, no. I (2025): 65-74. https://dx.doi.org/10.31703/gpr.2025(X-I).o6 .		



Global Political Review

www.gprjournal.com
DOI: <http://dx.doi.org/10.31703/gpr>



Volume: I (2025)

URL: [https://doi.org/10.31703/gpr.2025\(X-1\).06](https://doi.org/10.31703/gpr.2025(X-1).06)

Issue: I-Winter (March-2025)



Cite Us



Title

Authority without Accountability: The Search for Justice in Pakistan

Authors:

Maryam Shahid: Researcher, LLM Student International Islamic University, Islamabad, Pakistan.

Mehnaz Begum: (Corresponding Auth) Lecturer, Department of Sharia and Law, Islamia College, Peshawar, KP, Pakistan.
(Email: mehnaz@icp.edu.pk)

Arbab Abuzar Khan: Student, Law College, University of Peshawar, KP, Pakistan.

Contents

- [Introduction](#)
- [Literature Review](#)
- [Research Question](#)
- [Research Objectives](#)
- [Research Methodology](#)
- [Primary Sources](#)
- [Secondary Sources](#)
- [Data Analysis](#)
- [Comparative Legal Analysis](#)
- [Results and Findings](#)
- [Discussion](#)
- [Conclusion](#)
- [References](#)

Abstract

This article examines Pakistan's counter-terrorism laws, focusing on the Actions in Aid of Civil Power Regulation (AACPR), particularly regarding military accountability. As the involvement of FATA and PATA communities in terrorism increased, the military was granted powers to arrest individuals and detain them without trial. A key issue is the indemnity clause in the AACPR, which exempts military personnel from prosecution if actions are taken in "good faith." This provision raises concerns about accountability and the potential for human rights abuses. The article critiques this clause, analyzing its constitutional and international human rights implications. By reviewing case laws and international treaties, it explores how Pakistan's counter-terrorism laws fail to meet global human rights standards. The article advocates for reforming these laws to ensure better accountability while balancing national security with respect for human rights.

Keywords: [AACPR](#), [Accountability](#), [Military](#), [Indemnity Clause](#), [Human Rights](#), [Counter-terrorism](#), [Pakistan](#)

Introduction

Around that time, Pakistan was already facing mounting militancy and terrorism in places of its Federally Administered Tribal Areas (FATA) and Provincially Administered Tribal Areas (PATA). These regions already were unstable and had complex tribal systems, and they came to be a focus for groups such as Tehrik-i-Taliban Pakistan (TTP) and other insurgent groups. However, the Pakistani government failed to suppress the threat of militancy, all the more as the strength of such

groups was progressively passing with each. As a result, a number of extraordinary measures were taken by the government to suppress the insurgency and re-establish national security. One of the major legal frameworks for the challenges above was the Action in Aid of Civil Power Regulation (AACPR) enacted in the year 2011.

The AACPR was completely captured in granting the military wide scattering powers not least including the power of detention without trial. The issue was put in a broader context of Article 245 of



the Constitution of Pakistan, as it permits the use of the military in territories of unrest and a danger to the security of the country (Kureshi, [2022](#)). This regulation allowed military authorities the luxury of conducting counterterrorism operations as well as detaining militants without any traditional judicial handling. Such regulation was supposed to enable the military to stop insurgency by itself under military leadership and contain a legal basis on which to carry out military action in times of crisis.

The AACPR was supposed to provide a grumpy response to an urgent national security crisis, yet it has brought enormous objection to being an intentional threat to one of the most desired human rights. This is at the heart of the debate over regulation; the indemnity clause immunizes military personnel from legal proceedings so long as they act reasonably and in the best interests of the military in discharging such duties. The same provision has also raised concerns that it could be used to shield abuses of power and human rights violations by the military in the course of counterterrorism operations. The objection to the indemnity clause, critics say, contributes to a legal environment that facilitates impunity for military men doing business.

This provision takes away an important source of democratic governance by removing the legal accountability of members of the military and giving civilian oversight and judicial review. The work they do comprises very vital functions and regardless of who is in power, they are working to avoid contracting the power so that it is concentrated in one institution, one institution only, the military. Simply on the face of it, the indemnity clause seeks to strike from this possibility any prospect of any check whatsoever on this power: the military action is here out of reach of any civilian authority. Having said so, it represents a contrary to the separation of powers, one of the vital parts of democratic governance, and raises fears about the breakdown of the rule of law (Jatoi et al., [2022](#)).

In particular, it is a problem with regard to the AACPR because it expands detention powers so individuals can be jailed without trial for the rest of their lives. Although it's justified on the grounds of helping in counterterrorism, it's quite a human rights issue. Detaining somebody without trial violates constitutional protections such as the right to fair trial and protection against arbitrary detention. However, in the cases of the practice of

such, they are allowed to be detained without charges being known outside themselves and they cannot see or have legal counsel or have them reviewed by a court of justice. In fact, the indefinite detention along with lack of oversight allowed detainees to have recourse in challenging their detention.

All of a sudden, the AACPR is a weapon against terrorism and national security which becomes an uncanny way to attack Pakistan's constitutional safeguards. The regulation generally permits the suspension of basic rights in the interest of security, and suspension of that has been extended as far as possible with detention without trial. In fact, the law makes prisoners susceptible to arbitrary detention, possible torture, forced confession, and other kinds of inhumane treatment as there is no legal justification for it. Indeed, these Actions not only violate Pakistan's Constitution, but they are violations of the international human rights obligations of Pakistan, as also under the pieces of treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the Geneva Conventions because there is a fair trial, protection from torture and access to legal remedies.

The article tries to explore the process of the destruction of the fine line between the safety of national security and individual rights and underlining the accountability of the military. The central issue of interest concerns the role of the indemnity clause in the AACPR and its effects on military accountability in the context of the use of force against terrorists (Bilal & Khokhar, [2021](#)). Accountability mechanisms, though, have to be said in order for the state power to be exercised in a responsible and transparent manner. If this oversight portion is not there the military is out of control and can use those powers to violate the rights of innocent people.

In this article, the legal framework regarding detentions without trial using an analysis of the critical analysis of the AACPR regarding the indemnity clause and the lack of judicial oversight will be examined. The article will be aimed at examining the legal gaps that leave space for people's rights violations in the AACPR and the proposal of reforms in order to prevent the encroachment of fundamental rights and due process in the adoption of counter-terrorism mechanisms. The purpose of this analysis is to

address the requirement for reform of the AACPR to attain military accountability, civilian oversight, and international human rights standards. In the end, the aim of the article is to argue that justice or human rights should always remain and to take into account the country's security interests in Pakistan in the post 9/11 world, while changing the counterterrorism laws.

Literature Review

However, on the issue of Pakistan's counterterrorism laws, and in particular the Actions in Aid of Civil Power Regulation (AACPR), about the role of the military in governance and the challenges of the military's accountability, there is a lot of literature. The historical context of scholars has been dubbed by them to the influence of the military over civilian legal structures in the tribal regions, and formed their historical context of military rule in Pakistan, focusing especially on the tribal regions (Lughmani et al., 2023). For example, the Federally Administered Tribal Areas (FATA) in particular is that since decades ago, the Frontier Crimes Regulation (FCR) is the main legal framework under which tribes have ruled. Although the FCR was its terminus, it set a precedent for future military action in the region and justified the premise that military authority within the region and the system must be superior to civilian oversight. This historical context, however, in the light of the fact that these areas (the Frontier and the Provincially Administered Tribal Areas (the PATA)) are in isolation, is very important in terms of military dominance.

While a significant contribution to the literature in its own right, her analysis of the AACPR can be useful for understanding the implications that the AACPR brings if preventive detention is used as a whole. Avoiding judicial oversight in this process and the concentration of the power has become

Shahid's focus area in his research (Saeed, 2020). Shahid argues that the clause of indemnity that proscribes any individual from being held liable unless he or she acts in 'good faith' in being a part of his or her military duties provides a legal vacuum by which military forces are free to operate without the legal sense of wrongdoing constraining them. That gets away from people's liability and makes it impossible to charge military personnel for abuse. The piece by Shahid conveys how civil liberties in places where people can be detained without trial or legal counsel are being so much affected because of the absence of such accountability. This is in line with what the literature argues that, in the indemnity clause, the surety clause works as a loophole that is a source of impunity and whereby justice is weakened.

It is in Altaf Ullah's critique of the AACPR that the military's unaccountable power in Pakistan's counterterrorism operations becomes another layer to take apart. Ullah stresses that the clause of indemnity means that the military is above civilian control and it serves to erode the independence of the judiciary. According to him, the military's domination over processes of the judiciary in FATA and PATA render constitutional democracy and the rule of law ineffective, as the military in the teeth of the law can easily function without any constraints or review. Ullah maintains that one major shortfall within the AACPR framework is the lack of effective safeguards for detainees. Under the regulation, military personnel can act with impunity; thus there is no legal recourse for all those who have been detained under them, he said. Ullah also helps to contribute to the literature in discussing the constitutional implications of the AACPR with special regard to its control of administration and court review of AU (Gul & Ali, 2020).

Table 1
Comparison of Legal Frameworks in FATA and PATA

Legal Framework	Origin	Key Provisions	Human Rights Concerns
FCR (1901)	Colonial Era	Collective punishment, military jurisdiction	Lack of due process, violation of individual rights
AACPR (2011)	Pakistan	Military-led governance, internment without trial	Arbitrary detention, lack of legal safeguards
Constitution of Pakistan	Post-independence	Guarantees of fundamental rights and due process	Potential clash with emergency powers and military intervention

The study by Paula R. Newburg of judicial independence in Pakistan extends the picture of impediments to the enforcement of the rules of the rule of law in such a country as Pakistan dominated by military intrusion. Newburg states that the military's measures of counterterrorism counter-insurgency have undermined the authority of civilians and security agencies. When such is the case, she proposes that in disturbed areas of FATA and PATA, virtually public accountability or judicial oversight is absent because of the military's mission to govern in such areas. That is why, understandably, the AACPR is applicable because military hegemony of legal processes allows it to adopt legal norms. Another problem that Newburg identifies is judicial independence. Newburg's work, moreover, attests to the fact that the military had driven the institutions of democracy and civilian control into the coffin by urging the AACPR to be used in the way it is (Ali, [2019](#)).

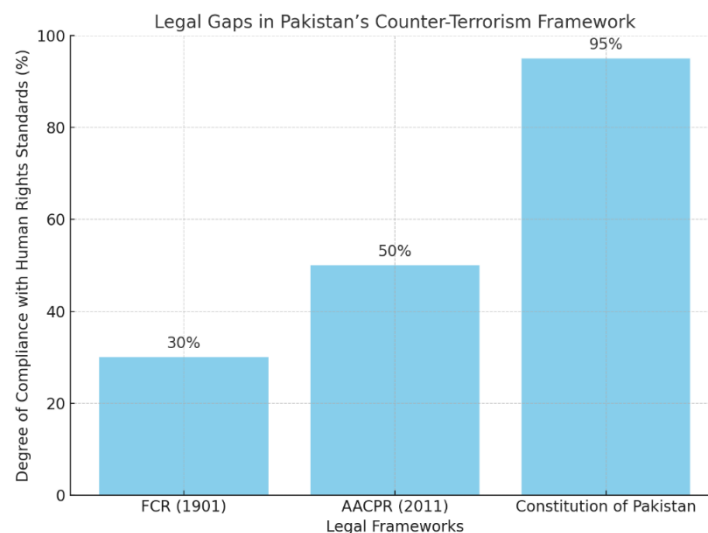
International human rights organizations' work also comprised critique of the AACPR. Because of the human rights issues involved in military

accountability for which Amnesty International and Human Rights groups have been saying, such a regulation has been a controversial one. Since then the AACPR has recorded in control areas dozens of arbitrary detention, torture, excessive use of force, and abuses. The second thing that they try to establish is that military forces can work with results because there is no procedure for accountability. For instance, the offering of the indemnity clause to these groups is a demonstration that they suggested the indemnity clause affords legal protection against torture and unlawful killings, judicial review is wholly prohibited and thus permits impunity pursuant to counterterrorism operations.

The findings of this research showed that the military of Pakistan is not responsible for the framework of counter-terrorism Pakistan. However, provisions concerning detention without trial and the military's control over judicial review have very tremendous consequences on the protection of human rights and constitutional guarantees but the area of the AACPR is very limited in relation to the national security threats (Niaz, [2020](#)).

Figure 1

Legal Gaps in Pakistan's Counter-Terrorism Framework – This bar chart compares the degree of compliance with human rights standards under FCR (1901), AACPR (2011), and the Constitution of Pakistan. The FCR is in the least compliance while the Constitution is in the most.



The literature also points to the need for reform in military accountability mechanisms, particularly in the context of the AACPR. Fundamental rights must be safeguarded while fighting against national security concerns through reforms in

counterterrorism matters. The Military balances must be reevaluated, and risk in the counterterrorism process must again be civilian supervised. This review of the literature points out the necessity of reform of Pakistan's counter-

terrorism laws to align with international human rights standards as well as the bringing back of separation of powers which is the essential underpinning for the democratic governance of the country (Korai et al., [2022](#)).

Research Question

This study seeks to answer several questions pertaining to the nature and workings of military forces engaged in Pakistan's counterterrorism efforts, and the mechanisms of accountability of their actions, especially in regard to the indemnity clause of the Actions in Aid of Civil Power Regulation (AACPR). The research questions of this study are:

1. Effects of the AACPR's indemnity clause on the accountability of military personnel for the counterterrorism operations in Pakistan.

The scope and effect of the indemnity clause as a means to protect military personnel from litigation (as well as any effect it may have regarding the establishment of a culture of impunity vis-à-vis counterterrorism) is the question this seeks to explore.

2. In what respects does at least the pretrial application of the military's powers under an AACPR detention order affect the exercise of constitutional and international human rights law?

The question concerns the legal conflict of the AACPR with Pakistan's constitutional provision and due process and freedom out of arbitrary detention, and its harmonization with the law of right of jurisdiction human rights.

3. What reforms can be proposed so that military forces are still exposed to the provisions of the AACPR but ensure national security is taken care of at the same time?

This question focuses on finding legal reforms to help in identifying the judicial oversight, accountability and respect for the human rights in Pakistan's counter terrorism legal framework with special consideration of Pakistan's Anti Terrorism (Amended) (2014) Curfe Regulations (AACPR).

This study aims to provide answers for these questions and to fill in the gaps in the civilian's accountability of military forces and propose reform

for better civilian oversight and human rights protection.

Research Objectives

These are the main goals of the study:

1. It analyzes the indemnity clause from the Actions in Aid of Civil Power Regulation (AACPR) on military accountability of counterterrorism operations. The purpose of this study is to find out the nature of the provision of the indemnity clause in the AACPR legal framework and the way this provision functions for military personnel who are not afraid of legal action. This objective will also evaluate that the language of the indemnity clause and how it is applied to practice contributed to an avoidance of accountability for military actions.
2. Be concerned with the compatibility of the AACPR with constitutional protections and international human rights standards. The objective of this is to examine the constitutional guarantees that the Pakistan Constitution offers the rights of due process and then to determine how the AACPR provisions such as that on preventive detention and military led governance obtrude or comply with international human rights law, including the International Covenant on Civil and Political Rights (ICCPR) and Geneva Conventions.
3. Assess the extent to which past accountability mechanisms are working under the AACPR and suggest possible legal reforms. The objective of this objective is to examine how the military is accountable under the AACPR, and what should be done in the event that effectively held militaries are missing, we recommend reforms seeking to improve oversight, to guarantee judicial review, and to secure individual rights during counterterrorism operations.
4. Identify a framework that would enhance the accountability of the military within the context of national security measures. This objective will culminate in policy recommendations and legal reforms that would ensure that Pakistan's counterterrorism efforts will balance national security with respect to international human rights. As

to these proposals, they will be centered on strengthening military accountability through civilian oversight, through the oversight of independent review boards, and through transparent legal procedures.

Research Methodology

This study is formulated on a qualitative, doctrinal basis through which it adopts the approach of legal analysis of Pakistan's counter-terrorism laws such as the Actions in Aid of Civil Power Regulation (AACPR) and the indemnity clause in the regulation. This approach is inclusive of constitutional, human rights, and accountability issues that relate to the application of the regulation and to its compatibility with Pakistan's legal framework and international obligations. In accomplishing the research objectives, the following methods will be used (Ghulam, [2023](#)).

Primary Sources

1. **Legal Documents: AACPR (2011):** This is the core regulation governing the military's participation in the counterterrorism operations in FATA and PATA. The goal of this document is to understand legal provisions, particularly, the indemnity clause and its implication on military accountability.

Constitution of Pakistan (1973): There will be an examination of specific articles of due process, freedom from arbitrary detention and the right to a fair trial to determine the compatibility of the AACPR with Pakistan's constitutional guarantees.

International Human Rights Treaties: The provisions of the articles of the International Covenant on Civil and Political Rights (ICCPR) and the Geneva Conventions will be examined to find out whether Pakistan has fulfilled its obligations as mandated by the international human rights or not and how the AACPR meets or violates those standards.

2. **Case Law: Pakistani Court Decisions:** The purpose of this study will be to analyze the main court decisions regarding the AACPR and actions under the regulation which relate to the military responsibility and the clause of indemnity.
3. **International Case Law: Comparative analysis** will be conducted regarding international

relevant legal cases on preventive detention, military accountability and the right to a fair trial.

4. **Reports and Documents from Human Rights Organizations:** To determine the human rights impact of the AACPR and the lack of accountability mechanisms in military operations, Amnesty International and Human Rights Watch reports will be used. The reports will contain empirical data and testimonies regarding military abuses involved in Pakistan's counterterrorism efforts.

Secondary Sources

1. **Scholarly Articles and Books:** Existing legal scholarship on Pakistan's counterterrorism laws, particularly the role of the military in governance and the lack of accountability in military operations. Scholars like Paula R. Newberg and Altaf Ullah's works will be looked at to understand the connection between military intervention and civilian oversight within Pakistan's legal system.
2. **Government Reports:** Pakistani government documents and official reports on counterterrorism operations in FATA and PATA (i.e., Provincial Administered Tribal Areas) and related use of military powers under the AACPR.

Data Analysis

The content analysis will be the main source of our primary and secondary especially from which we will use it to critically review and interpret the sources to fill gaps in the laws of AACPR, violations of human rights, and the said opportunities for accountability. Aiming to code recurring patterns in the use of military powers in the operation of the AACPR, the aim will be to theme code to analyze the extent to which the indemnity clause impacts military accountability (Khalil et al., [2021](#)).

Comparative Legal Analysis

Secondly, the research will also compare the framework of Pakistan's counterterrorism through the AACPR against global best practices for military accountability in conducting counterterrorism operations. It will be in the form of how Pakistan complies with international military detention and

accountability standards when authority to exercise such powers is necessary for national security (Rasool & Rasool, [2022](#)).

Based on legal analysis, case law, and empirical data, research would produce a comprehensive coverage of the accountability issues regarding AACPR and reform by suggesting ways to techniques counterterrorism measures without violating constitutional protections and international human rights standards (Majid & Hussin, [2020](#)).

Results and Findings

This research finding looks into several crucial matters regarding how Pakistan's military accountability should be brought under the regulation of Actions in Aid of Civil Power Regulation (AACPR), especially the indemnity clause, and what this implies for human rights and constitutional governance in the country. The following key findings emerged:

1. **Indemnity Clause and Lack of Accountability:** Nevertheless, the indemnity clause in the AACPR is believed to have had a very deleterious effect on military accountability. While it is virtually granting immunity to military personnel who take such action in good faith, it absolves these people from legal proceedings and makes a path for abuse of power without any fear of reprisal in doing so. There's clearly a lack of accountability — it negates civilian oversight and judicial oversight of military actions that are in breach of the first of these principles that no one is above the law, including the military.
2. **Conflict with Constitutional Protections:** It has been demonstrated that the provision for the AACPR is explicitly against the letter and spirit of Pakistan's Constitution, in the context of the right to a fair trial, due process, as well as due liberty from arbitrary detention. The state of the law on the ground that gives such authority to the military to detain without

trial, without judicial oversight, upsets constitutional guarantees to human rights and these include arbitrary detention and torture.

3. **Human Rights Violations:** The AACPR also results in Amnesty International and Human Rights Watch disseminating reports of arbitrary detention, torture, and abuses making the question of the weakness of legal remedies for victims even stronger. In their role, the military extended an atmosphere of impunity and fear over these areas because of their unchallenged authority in these regions.

These findings underscore the urgent need for reforms to legal mechanisms, which enhance accountability oversight and the rule of law, in Pakistan's constitutional framework.

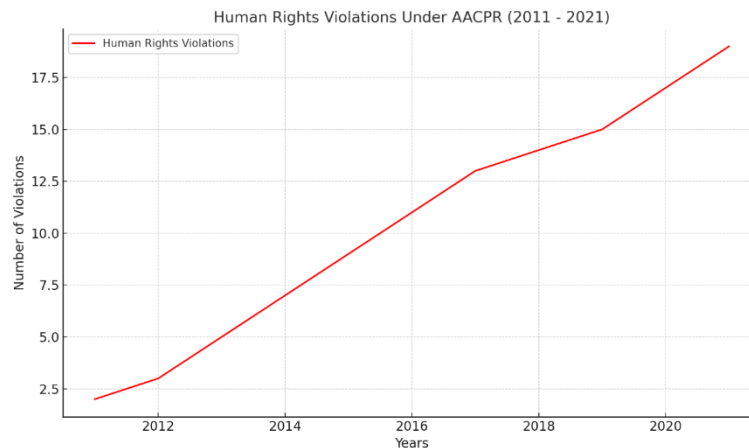
Discussion

Based on the result of this research, suggests that serious concerns exist with Pakistan's counterterrorism framework and, in particular, the regions under the Action in Aid of Civil Power Regulation (AACPR). The indemnity clause of the clause both destroys constitutional and human rights safeguards, including the state of the military's unbridled authority. This section will discuss these findings in more detail and frame them in a wider legal and constitutional intrusion (Malik & Qureshi, [2021](#)).

The indemnity clause in the AACPR is the hardest part of the regulation. This clause, thus, creates an ambiance, wherein, military personnel who are guilty of unlawful acts, such as unlawful detention without trial, the abuse of power as well as human rights abuses become immune to blame. This is because impunity for the military personnel is legitimizing and emboldening those people to do things because they do not have fear in the law and if you do not find justice or put the responsibility on them. For this reason, there is a lot of abuse generally, including arbitrary detention and torture, because protest is held in violation of your rights (Ahmed & Safder, [2020](#)).

Figure 2

Human Rights Violations under AACPR (2011–2021) – This line graph shows the numbers of human rights violations reported in areas of AACPR between 2011 and 2021. Over the years, there is an increasing trend of violations.



However, the problem of the indemnity clause in the counterterrorism legal framework is more problematic in terms of the counterterrorism laws, which are not applied in highly sensitive regions FATA and PATA, where the military influence of governance is significant. They have been historically marginalized by the lack of civilian oversight, and judicial review and are vulnerable to human rights abuses without civilian oversight and judicial review. The state's denial of human rights violations systematically and regularly perpetuates a cycle of violence and impunity, and the military's control over these legal processes is sustained (Jamil, 2019).

From the legal point of view, the AACPR is against the fundamental rights (right to a fair trial, due process, and arbitrary detention) secured under the Constitution of Pakistan. Article 10A of the Constitution which ensures access to justice and process is also breached by the provisions of the AACPR because there is no cap on the period a patient can be detained under the law, and the armed forces have the powers of legal proceedings vested in it. It is against the constitutional grant of fundamental rights in Pakistan that any democratic society must have the right to fair trial and use of the military to detain without getting judicial intervention or legal recourse. But that's not all; in fact, it contravenes Pakistan's international human rights law obligations, which include the International Covenant on Civil and Political Rights (ICCPR), on which any detention should be

governed by a process under judicial review and the prohibition of arbitrary detention (Shawoo & McDermott, 2020).

Pakistan's accreditation agreement with the AACPR has also caused concern for rights groups about the use of military authority. Human rights abuses have been perpetrated routinely by army personnel, including detention without trial, torture, and forced confession, and this is the case Amnesty International and Human Rights Watch have reported on. Furthermore, such reports carried out in the context of the military-led operations only strengthen the possibility that such human rights abuses may go unchecked, due to the absence of independent judicial review as well as effective accountability mechanisms. The perception that Pakistan's counterterrorism laws work too repressively, and are too inconsistent with international human rights standards, has only been perpetuated as a result of the military's effective counterterrorism work.

The main issue in this debate is the lack of judicial oversight. In such states, detachments of a military force are not subject to oversight by civilian courts or appropriation of detention decisions, and hence people neither have ways of challenging their detention nor still of adjudicating legal rights abuses. I believe it is an outrage to hand over independent courts to the military, which effectively strips them of independence, and any democratic society lives and dies on independent courts. The military's powers are not kept in check as well as is

the population not kept informed as to civilian control over the military 'for the fight against terrorism'. Such a lack of transparency and accountability, particularly in democracies, is unobjectionable to constitutional democracy and the rule of law (Joshi, [2022](#)).

It is in this context that the need to reform Pakistan's counterterrorism laws, particularly the AACPR, to preserve individual rights from the threat of national security considerations emerges. In this case, it is proposed to strengthen judicial oversight, to provide accountability mechanisms for military personnel involved in legal processes, and to constrain military intervention in legal processes. To ensure military power engagement in counterterrorism operations is accountable to civilian supervision and subjected to independent review, it is necessary for the reform process to include civilian control over counter-terrorism operations. Such reforms are necessary to prevent the unchecked authority of the military under the AACPR from continuing to violate fundamental rights and international human rights standards.

Conclusion

Research on military accountability under Pakistan's Actions in Aid of Civil Power Regulation (AACPR) operations against terrorism shows that is plagued with challenges of human rights protection, constitutional security of powers and respect accorded to that military. The biggest problem with applying the indemnity clause of the AACPR is that allowing immunity to military personnel acting in good faith means that they can do whatever they want without any accountability in the wake of counterterrorism operations. This provision negates a principal axiom of the democratic society — a principle of democratic accountability — and allows military personnel to exercise their powers without fear of legal consequences.

The issue of national security is indeed a legitimate concern, especially in the light of

terrorism and insurgency but this should not be to the detriment of individual rights and constitutional protection. Indeed, the AACPR has been determined to be inconsistent with key constitutional guarantees such as freedom from arbitrary detention and freedom from unfair trial. Second, the AACPR violates international human rights law by denying Pakistan its constitutional protections to the extent that it permits the military to detain individuals without trial and in contradiction of the Pakistani constitution. Instead, it creates an environment in which human rights abuses are not checked by law and the abuses that flow from such state repression as torture and arbitrary detention, and many others.

These findings justify the importance of legal reforms in the counterterrorism legal framework of Pakistan. Strengthening judicial and accountability mechanisms are necessary to the measures to prevent impunity for violations of human rights from being extended to military personnel. As military personnel are responsible for civil rights and they violate it, the indemnity clause should be revised or deleted. Since military operations should also be conducted by 'civilians' to the extent that counterterrorism measures are in line with fundamental rights and international law, the same token is true for military operations.

Ensuring that counterterrorism rules are respectful, transparent, and protected against independent review is a requisite for balancing the protection of people's rights with respect to national protection concerns. No more must the military have control over detentions and the exercise of legal proceedings. However, the system of oversight, judicial accountability, and protection for the people subjected to counterterrorism measures should be strong. Allying Pakistan's counterterrorism laws with international human rights standards and striking the appropriate balance between national security and justice in its legal framework will make for better protection of individual freedoms.

References

- Ahmed, D. N., & Safder, S. M. (2020). Paradoxes of judicial independence in Pakistan: Some reflections from the US. *South Asian Studies*, 29(2).
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Ali, Z. (2019). Pakistan's National Accountability Ordinance and the facilitation of corrupt practices. *Contemporary South Asia*, 28(1), 86–99.
<https://doi.org/10.1080/09584935.2019.1669140>
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Bilal, M., & Khokhar, F. (2021). Justice delayed or denied: The myth of justice in Pakistan. *Journal of Law & Social Studies (JLSS)*, 3(2), 124–132.
<http://dx.doi.org/10.52279/jlss.03.02.124132>
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Ghulam, S. L. D. K. R. . D. D. (2023). THE ROLE OF PROSECUTION IN IMPROVING JUSTICE DELIVERY: A CASE STUDY OF PAKISTAN'S CRIMINAL JUSTICE SYSTEM. *Pakistan Journal of International Affairs*, 6(2).
<https://doi.org/10.52337/pjia.v6i2.806>
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Gul, P., & Ali, B. (2020). The criminal justice system in Pakistan. *Journal of Law & Social Policy*, 97.
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Jamil, S. (2019). Increasing Accountability Using Data Journalism: Challenges for the Pakistani Journalists. *Journalism Practice*, 15(1), 19–40.
<https://doi.org/10.1080/17512786.2019.1697956>
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Jatoi, S. A., Mustafa, G., & Kataria, M. S. (2022). JUDICIAL ACTIVISM AND DEMOCRACY IN PAKISTAN: a CASE STUDY OF CHIEF JUSTICE SAQIB NISAR ERA. *Pakistan Journal of Social Research*, 04(02), 1–11.
<https://doi.org/10.52567/pjsr.v4i2.445>
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Joshi, A. (2022). What makes “difficult” settings difficult? Contextual challenges for accountability. *Development Policy Review*, 41(S1).
<https://doi.org/10.1111/dpr.12681>
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Khalil, I., Usman, A., & Amjad, A. (2021). Challenges faced by prosecutors in the administration of justice in Pakistan. *PalArch's Journal of Archaeology of Egypt/Egyptology*, 18(10), 2641–2651.
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Korai, A. G., Ghaffar, A., & Samad, A. (2022). Human rights in Pakistan and the reasons for prosecution failure. *Journal of Law & Social Studies (JLSS)*, 5(3), 450–467.
<https://www.advancelrf.org/wp-content/uploads/2023/09/Vol-5-No.-3-5.pdf>
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Kureshi, Y. (2022). *Seeking supremacy*.
<https://doi.org/10.1017/9781009025515>
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Lughmani, M. S. A., Abdullah, M. T., Khan, S. A., & Khan, M. (2023). Accountability at crossroads: Governance challenges and consequences in Pakistan. *Sarhad Journal of Management Sciences*, 9(2).
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Majid, D. A., & Hussin, D. M. (2020). Kashmir: A conflict between India and Pakistan. *South Asian Studies*, 31(1).
https://pu.edu.pk/images/journal/csas/PDF/10%20Abdul%20Majid_v31_no1_jan-jun2016.pdf
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Malik, N., & Qureshi, T. A. (2021). A study of economic, cultural, and political causes of police corruption in Pakistan. *Policing: A Journal of Policy and Practice*, 15(2), 1446–1462.
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Niaz, I. (2020). Judicial activism and the evolution of Pakistan's culture of power. *The Round Table*, 109(1), 23–41.
<https://doi.org/10.1080/00358533.2020.1717091>
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Rasool, N., & Rasool, M. (2022). Challenges for expert evidence in the justice system of Pakistan. *Journal of Forensic Science and Medicine*, 8(2), 62–67.
https://doi.org/10.4103/jfsm.jfsm_16_21
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Saeed, M. (2020). *Improving efficiency of the court service in Pakistan: A comparative study of the options for reform* [Doctoral dissertation, Newcastle University].
<http://theses.ncl.ac.uk/jspui/handle/10443/4973>
[Google Scholar](#) [Worldcat](#) [Fulltext](#)
- Shawoo, Z., & McDermott, C. L. (2020). Justice through polycentricity? A critical examination of climate justice framings in Pakistani climate policymaking. *Climate Policy*, 20(2), 199–216.
<https://doi.org/10.1080/14693062.2019.1707640>
[Google Scholar](#) [Worldcat](#) [Fulltext](#)