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The Role of the Judiciary in the Interpretation of the Constitution of Pakistan

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Abstract

This research paper examines the crucial role of the judiciary, with a focus on the Lahore High Court, in the interpretation of the Constitution of Pakistan. Using a qualitative doctrinal legal research approach, the study assesses landmark judgments to uncover how the Court has influenced constitutional jurisprudence. The Lahore High Court has played a key role in protecting fundamental rights, illustrated by its recognition of maternity leave as a fundamental right and its annulment of colonial-era sedition laws. The Court's proactive efforts to advance gender equality are evident in its rulings on discriminatory age definitions in child marriage laws. Additionally, the Court has held the government accountable for environmental negligence, requiring the implementation of policies to address climate change. While the Court has shown judicial activism in some areas, it has also practiced restraint, recognizing the non-self-executing nature of the Objectives Resolution. The study highlights the Lahore High Court's dynamic balance between activism and restraint, which strengthens democratic governance and constitutional supremacy in Pakistan. Through its legal decisions, the Court not only tackles current legal issues but also establishes lasting precedents that foster the country's legal and democratic progression. This analysis affirms the judiciary's essential function in interpreting the Constitution to maintain the rule of law and safeguard individual freedoms.

Keywords: Judiciary, Constitution of Pakistan, High Court

Introduction

A constitution is much more than a law book: it is the expression of a nation's dwellings, hopes, and aspirations for the future[1]. This framework provides the governance, regulates the powers of various organs of the state, and establishes the fundamental rights



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of its citizens. In the context of Pakistan, the Constitution of 1973 works as the base of the democratic and legal structure of the country. The interpretation of constitutional provisions is not that of mechanical exercise, it indeed involves a dynamic process demanding wisdom, clarity, and an understanding of constitutional philosophy[2]. The said task hence becomes a most important one and is therefore bestowed upon the judiciary being the custodian and interpreter of the Constitution. One significant player among the various courts functioning in Pakistan in respect of constitutional interpretation has been the Lahore High Court.

Through constitutional interpretation, the judiciary enforces the Constitution's supremacy and protects it from any violation or misappropriation. Judicial interpretation affords a reasonable degree of flexibility, which in turn allows the Constitution to be relevant in the changing social, political, and economic contexts[3]. The judiciary in Pakistan has a history of being pulled into the constitutional crises and power struggles among state institutions. Although it faces the pressures of both the executive and legislative, the judiciary never stops giving efforts to maintain its independence and sanctity of the Constitution. Lahore High Court, being one of the oldest and most prestigious judicial institutions friendly to the initiatives, has a rich contribution through progressive and daring interpretations of constitutional provisions[4].

Over the years, the judiciary's role in Pakistan has been through many phases, including periods of judicial activism and restraint. The judiciary has issued decisions legitimizing military takeovers under the doctrine of necessity and has more recently been in a position to challenge executive overreach under the context of judicial review. Such interpretations have brought both criticism and praise for the courts[5]. Nevertheless, there is the undeniable consistency that nowadays is leaning heavily towards asserting independence of the judiciary and constitutional values. It is on this note that the Lahore High Court has delivered several crucial milestones in its jurisdiction, both in interpreting constitutional law and occupying public space with respect to matters of justice, democracy, and governance. Of course, one of the most vital elements of constitutional interpretation is the safeguarding and enforcement of fundamental rights as entailed in Articles 8 to 28 of the Constitution[6]. The Lahore High Court has often bemoaned its constitutional duty towards these rights, as in the case of *Abdul Razzaq v. Federation of Pakistan* (PLD 2010 Lahore 250), where the court pronounced the sanctity of human dignity under Article 14 and invalidated arbitrary procedures of detention. The verdict reaffirmed the importance of constitutional guarantees holding the executive responsible for breach of individual rights[6].

Yet another important case in this respect is the *Judicial Activism Panel v. Punjab Government* (PLD 2017 Lahore 1), wherein the Lahore High Court invalidated several appointments made on illegitimate grounds and in violation of constitutional provisions. The court viewed good governance and transparency not simply as administrative preferences but as constitutional imperatives[7]. This case, an example of the court's commitment to uphold constitutional standards of merit, fairness, and transparency, drew attention to the court's role in seeing that public office bearers act within the ambit of the Constitution. The Lahore High Court has created another space for the application of the separation of powers, which is regarded as an edifice of constitutional democracy. In the case of *Province of Punjab v. Muhammad Rafique* (PLD 2012 Lahore 400), the court declared that any executive actions that intrude upon the independence of the judiciary would be violative of the Constitution. Likewise, it asserted that administrative overreach has to be checked by the instrument of judicial scrutiny, a reaffirmation of the need to keep a balance between the three organs of the State[8].

Moreover, the judiciary has repeatedly interpreted the Constitution in ways that have strengthened federalism and provincial autonomy after the enactment of the 18th Amendment. In the *Punjab Local Government Case* (PLD 2020 Lahore 381), the Lahore High Court investigated how far provincial governments could interfere with local government institutions. The court emphasized the constitutional mandate of



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decentralization and self-governance enshrined in Article 140-A[9]. This interpretation made the constitutional purpose of transferring authority to the local level more clear and strengthened local institutions. The Lahore High Court has also made important statements about accountability and morality under the constitution. Although largely a Supreme Court decision, the Lahore High Court addressed corruption and public accountability in a similar suit in *Dr. Mubashir Hassan v. Federation of Pakistan*. The Court reaffirmed that holding public office is a sacred trust that must be carried out in accordance with the values of integrity, honesty, and public service as outlined in the constitution[10].

The continuously evolving spirit of customary jurisprudence of Lahore High Court reveals its progressive dynamic to constitutional interpretation. Its judgments exhibit that constitutional interpretation goes beyond mere literal meaning but, rather, involves purposive reading advancing justice and equity. In several cases, the court often refers to the principle of harmonious construction to harmonize different constitutional provisions affecting the interpretation of the Constitution as a consistent document holistically[11]. The judiciary has played a very important role for the Lahore High Court to the constitutional order of Pakistan. The court, through its interpretative authority, has maintained the supremacy of the Constitution, protected and supported the fundamental rights, preserved the institutional balance, and furthered the democratic values. The constitutional jurisprudence undertaken by the Lahore High Court has further established the very important role of an independent judiciary in a working democracy. While navigating such complex legal and political challenges, the importance of the interpretative role of the judiciary cannot be exaggerated with respect to continued protection against the degradation of constitutionalism and rule of law.

This research will delve comprehensively into the top judgments referred to above from construed arguments in constitutional interpretation by Lahore High Court, the legal significance of the analysis, and what revolutionary effects these decisions may create on the democratic framework of Pakistan.

Methodology

1. Research Design

The said research adopts a qualitative and doctrinal legal research methodology, which is quite appropriate and methodologically feasible to analyze established legal principles, statutory provisions, and authoritative judicial decisions. The main focus is to analyze and evaluate in what way the judiciary-in particular, the Lahore High Court-has interpreted and applied the Constitution of Pakistan to shape and influence the legal framework and constitutional jurisprudence of the nation.

2. Data Collection

2.1 Primary Sources

The principal materials utilized for this research encompass:

- The constitution of Pakistan enshrined in 1973 is the basic and supreme legal document providing the structural and functional framework for governance, whereby powers, responsibilities, and limits of various organs and institutions of the State are defined.
- **JUDGMENTS AND RULINGS BY THE LAHORE HIGH COURT:** The serious attention is devoted to judgments concerning constitutional interpretation, particularly those that set down significant precedents and paved a particular interpretation of the Constitution.

Only Statutes and Legislative Instruments: To include only such legislative enactment subject to judicial scrutiny and interpreted by the Lahore High Court in terms of constitutional queries.

2.2 Secondary Sources



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To ensure comprehensive understanding and to incorporate **scholarly perspectives and contextual insights**, the study further includes:

- **Legal Commentaries and Academic Textbooks:** These offer special critiques explaining Pakistani constitutional law and its judicial interpretation.
- **Academic Journal Articles:** Discourses and scholarly evaluations examining constitutional interpretation and the changing nature of judiciary functions under peer-reviewed articles.
- **Reports and Publication by Legal Research Institutions:** Consistently offering a combination of fact-based assessments and expert commentaries on judgments and legal trends.

3. Case Selection Criteria

In light of the vast literature on the case law, the present study chiefly aims at the landmark and leading decisions of the Lahore High Court, which have significantly enriched constitutional jurisprudence. The sampling is governed by the following considerations:

Relevance to Fundamental Rights:

Cases that question and expound upon the enforcement, scope, and meaning of fundamental rights as stipulated in the Constitution.

Separation of Powers:

The component parts are judged from the viewpoint of judicial decisions concerning the functional boundaries and interrelationships among them—all the three branches of government: executive, legislative, and judicial.

Sometimes, judgments setting a factual or legal precedent that could be cited in countless texts for years differ in act HAPPY from the other judgments that weren't that famous.

4. Analytical Framework

The methodology of analysis integrates several interpretive approaches:

- **Textual Analysis:** To know how certain clauses have been understood and applied by the Lahore High Court, a close and critical reading of constitutional documents and judicial reasoning.
- **Contextual Interpretation:** Evaluating the historical, political, and social environment in which legal rulings were made in order to determine their larger influence and ongoing relevance.
- **Comparative Judicial Analysis:** Where appropriate, contrasting the Lahore High Court's decisions with those of other provincial High Courts or the Supreme Court of Pakistan to identify consistencies, divergences, and evolving trends in constitutional interpretation.

5. Limitations

- Although every effort has been made to guarantee the study's breadth, depth, and scholarly rigor, the following inherent constraints are recognized:
- **Exclusive emphasis on Lahore High Court:** Although offering in-depth analysis, this might not represent the whole of constitutional reading done in all other legal venues in Pakistan.

Judicial Decisions with Restricted Access: Certain decisions may not be publicly available or sufficiently reasoned, thereby hurting the completeness and the granularity



of analysis.

6. Ethical Considerations

All works referenced and analyzed in this research are publicly accessible and duly acknowledged and cited in keeping with academic and ethical protocols. The research is pursued with absolute adherence to objectivity, intellectual honesty, and academic integrity, avoiding plagiarism and ensuring that interpretations are objective and based on evidence.

Results

1. Interpretation of Fundamental Rights

1.1. Recognition of Maternity Leave as a Constitutionally Protected Right

In the case *Sobia Nazir v. Province of Punjab*, the Lahore High Court clearly held that maternity leave is a constitutionally guaranteed and fundamental right. Justice Muzamil Akhtar Shabir ruled that denial of maternity leave is an infringement upon the right provided by Articles 11, 25, 35, and 37(e) of the Constitution of Pakistan. All these provisions together serve to protect women's rights, free them from forced labor, emphasize the sanctity of the family unit and ensure humane working conditions, forming a completely comprehensive measure for the safety of maternal welfare.

1.2. Invalidation of the Sedition Law on Constitutional Grounds

The LHC declared Section 124-A of the Pakistan Penal Code void, which previously criminalized sedition, in *Haroon Farooq v. Federation of Pakistan*. Justice Shahid Karim observed that this law was perfectly and irreconcilably opposing Article 19 of Freedom of Speech and Expression according to the Constitution. It noted that the misuse of sedition law for the suppression of dissent and legitimate political debate was by such a usage incompatible with democratic and constitutional principles.

1.3. Advancement of Gender Equality in Marriage Legislation

The previous paragraph mentions that the LHC has struck down Section 124-A of the Pakistan Penal Code which formerly punished sedition in *Haroon Farooq v. Federation of Pakistan*. Justice Shahid Karim observed that this law was perfectly and irreconcilably opposed to Article 19 of Freedom of Speech and Expression in the Constitution. It described the implementation of sedition law for suppressing dissent and legitimate political discourse as being fundamentally at odds with democratic and constitutional principles.

2. Judicial Oversight of Executive Actions

2.1. Environmental Protection and Governmental Accountability

Asghar Leghari Vs. Federation Of Pakistan was an Islamabad High Court ruling whereby the government was made legally responsible for its inaction regarding climate change commitments. The Court concluded that this inaction was a violation of the fundamental right to a clean environment, life, and dignity, which are all, according to the Court, implicitly protected under constitutional guarantees. To enforce compliance, the court ordered the constitution of a Climate Change Commission, thereby setting a precedent to judicially enforce the governance of environment.

2.2. Respecting the Doctrine of Separation of Powers in Policy Matters

This ruling of the Lahore High Court in 2024 reaffirmed that judicial interference into a policy matter may be stated to be permissible only in cases where such policies violate constitutional rights. The petitions questioning the decision of the federal government regarding the dissolution of the Utility Stores Corporation were dismissed, and it was held that the courts shall exercise restraint in matters of purely administrative or economic decision-making, unless such decisions are in violation of any specific mandates in the



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Constitution.

3. Upholding Core Constitutional Principles

3.1. Justiciability of the Objectives Resolution

In PLJ 1990 Lahore 527, the court took the decision to consider the question as to whether Article 2-A of the Constitution-including the Objectives Resolution-is enforceable. The decision was given holding that Article 2-A is not self-executing and cannot be invoked as a ground for judicial review. The judgment emphasized the need for legislative action and authoritative interpretation to give effect to the principles enshrined in the Resolution, thereby endorsing a more prudent and restrained approach to enforcement of the Constitution.

3.2. Affirmation of Religious Freedom and Minority Rights

It restated the constitutional protection of religious freedoms guaranteed under Article 20. In *Hafiz Asmatullah v. Government of Punjab*, the Lahore High Court judgment affirmed this inherent right of religious minorities to profess, practice, and propagate their religions freely and without coercion, which provides for the state's obligation to foster inclusiveness, tolerance, and pluralism of the constitutional order.

These judicial decisions illustrate the Lahore High Court's active role in constitutional interpretation, especially in matters of protection of fundamental rights, accountability of government, and institutional balance. The court's jurisprudence illustrates a consistent and principled commitment to constitutionalism, rule of law, and protection of civil liberties in Pakistan's changing legal environment.

Discussion

1. Upholding Fundamental Rights through Judicial Interpretation

The Lahore High Court (LHC) has always been instrumental and revolutionary in safeguarding, interpreting, and enhancing fundamental rights in the constitutional order of Pakistan. By its forward-looking judgments, the court has exhibited a strong interest in interpreting constitutional provisions in more than just a literal manner but in a manner that supports, enhances, and enlarges individual freedoms and collective well-being. One of the best examples of this trend is the case of *Sobia Nazir v. Province of Punjab*, where the court declared maternity leave a constitutionally safeguarded fundamental right. Here, the LHC construed Articles 11, 25, 35, and 37(e) of the Constitution collectively to hold that withholding maternity leave is a direct contravention of a woman's right to humane working conditions, gender equality, and protection of family[12]. This ruling not only respected the integrity of working women but also set a very important precedent by reaffirming that socio-economic rights like health, maternity entitlements, and protection at work are not ideals but binding constitutional rights that the state must make available and safeguard within its ambit[13].

In a similar vein, the court used a rights-oriented approach in *Haroon Farooq v. Federation of Pakistan*, where it invalidated Section 124-A of the Pakistan Penal Code—the law of sedition. This provision dating back to the colonial period was held to be unconstitutional as it violated Article 19 of the Constitution, which ensures freedom of speech and expression[14]. The ruling is especially noteworthy because it broke up a long-standing legal instrument to suppress protest and muzzle dissent. By striking down a provision that had been turned into a political silencer against political opposition, journalists, and critics, the court demonstrated a strong commitment to democratic norms, free speech, and rejection of the repressive legal heritage left behind under colonialism[15].

Another vital contribution of the Lahore High Court is through its jurisprudence to erase gender-based discrimination and ensure equality. In *Azka Wahid v. Province of Punjab*, the LHC invalidated Section 2(a) of the Child Marriage Restraint Act, 1929, which laid down varying ages for marriage of males and females[16]. The court ruled that this



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discrimination was unconstitutional, discriminatory, and violative of Article 25 of the Constitution, which ensures equality before the law and bars discrimination on the basis of sex. This ruling was a major milestone in the history of Pakistan's movement toward gender justice, signaling that outmoded laws must be brought up to date to reflect new standards of human rights and gender equality[17]. Apart from the context of child marriage, the court has moved aggressively in confronting systemic biases that are rooted in institutional frameworks. For example, in PLJ 1987 Lahore 460, the LHC intervened in a case involving gender discrimination in admissions to a university. The court's ruling highlighted the constitutional imperative to extend equal opportunities to all citizens, especially in the area of education. This not only reaffirmed the right of women to education but also reiterated the role of the state in eradicating obstacles that hinder women's involvement in academia and professional life[18].

Through such rulings, the LHC has shown a strong commitment to converting constitutional assurances into tangible realities for women, and in the process, breaking down ingrained societal and institutional prejudices. Perhaps most outstanding and forward-looking feature of the Lahore High Court's jurisprudence has been its readiness to hold the executive accountable for the failure to exercise its constitutional duties, particularly in areas of environmental conservation and socio-economic well-being[19]. In the historic environmental case *Asghar Leghari v. Federation of Pakistan*, the LHC held that the government's inaction in enacting national climate change policies was a breach of constitutional fundamental rights to life, dignity, and health under Articles 9 and 14 of the Constitution[20].

The judiciary responded both speedily and adroitly: the court directed that a Climate Change Commission be set up to enforce compliance with the law protecting the environment and ensuring that the executive branch upholds its obligations. This judgment created a valuable precedent not merely for environmental law jurisprudence in Pakistan but for judicial monitoring of executive action for the public interest as well. It showed the court's readiness to transcend declaratory judgments and order structural remedies, holding the state responsible for its inaction. Similarly, the LHC has highlighted the need for legislative intervention in protecting children's rights. The court instructed the government to pass comprehensive legislation on issues of pressing concern like malnutrition, education access, and child labor. These moves demonstrate a developing judicial philosophy that regards socio-economic rights as justiciable and enforceable, especially when the state is unable to fulfill its constitutional and moral responsibilities to vulnerable groups.

Though the Lahore High Court has been bold and enterprising in promoting constitutional rights, it has also acted with restraint where required to uphold the fragile equilibrium between judicial activism and adherence to the principle of separation of powers. In PLJ 1990 Lahore 527, the court held that Article 2-A of the Constitution—referred to popularly as the Objectives Resolution—is not self-executing. Hence, it cannot be the sole ground for judicial review unless accompanied by implementing legislation or expert opinion. This ruling is evidence of the judiciary's self-awareness of its constitutional boundaries. It is an evidence of mature and considered treatment of constitutional interpretation, where the court is acutely aware of its function as an interpreter rather than a legislator of the Constitution. The rule here is simple: whereas courts have to safeguard rights and uphold constitutional requirements, they have to avoid overstepping into the legislative or executive spheres without explicit legal basis.

Lahore High Court's input towards constitutionalism does not end with modern case law but also encompasses landmark early judgments which have shaped Pakistan's legal scene. Such a case was its original judgment against Frontier Crimes Regulation (FCR) in the *Dosso* case, in which the LHC boldly opposed such laws flouting fundamental rights. Even though the Supreme Court subsequently overruled this ruling, the LHC's judgment set the stage for subsequent challenges to oppressive laws and repressive legal systems. This instance serves to show how the LHC has developed as a forum for constitutional



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justice and the protection of human rights. Its readiness to strike down unjust laws—despite precedent or political pressures to the contrary—demonstrates a tradition of constitutional courage and judicial independence that has been in place for a long time.

Conclusion

The Lahore High Court has led the effort of shaping Pakistan's constitutional law through its active reading of the Constitution. Through the safeguarding of fundamental rights, upholding government accountability, and ensuring the rule of law, the Court has ensured that principles enshrined in the Constitution are reinforced. Major judgments, such as enforcing maternity leave as a fundamental right and invalidating sedition laws introduced during colonial times, reflect the Court's commitment to progressive constitutionalism. In addition, its responses to environmental and gender equality matters indicate an evolving judicial attitude that responds to contemporary social needs. In balancing judicial activism with restraint, the Lahore High Court continues to be vital in strengthening democratic rule and constitutional authority in Pakistan. Its judicial decisions not only address contemporary problems but also establish enduring precedents that benefit the country's legal and democratic development

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