



THE CRITICALLY EXAMINES THE DOMAINS OF THE MAJLIS E SHOORA (PARLIAMENT) AND THE SUPREME COURT AND ESTABLISHMENT OF RULE OF LAW IN PAKISTAN LEGAL FRAMEWORK

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Abstract

This article reviews the domain of parliament and Supreme Court in legal framework of Pakistan. One of the tenets of a democratic society is the rule of law that ensures equality before the law and improves the rights and freedoms of individuals. Pakistan's political and legal system seeks to establish a stable legal order in which government institutions are accountable to the rule of law and the judiciary is not obstructed by leaders. Parliament and the Supreme Court play an important role in enforcing the law, and this article examines their effectiveness in carrying out these tasks. This article provides a historical review of Pakistan's legal system and the challenges it faces. The article concludes that although the Parliament and the Supreme Court have made significant contributions to the rule of law in Pakistan, much remains to be done to achieve a sustainable political system. Second, the article examines the conflict between



the Pakistani parliament and the Supreme Court. The two cornerstones of Pakistani democracy are the Majlis e Shoora and the Apex Court, and the rule of law, but their relationship is fraught with tension and conflict. This article summarizes the history of the relationship between the two organizations and the political context that brought them into conflict. It analyzes the legal and constitutional nature of its powers and responsibilities and how their interpretations lead to conflict. It also covers how the conflict has affected Pakistan's democracy and rule of law. The article concludes that while conflict between these organizations is not uncommon in a democracy, it is important to ensure that this conflict does not affect the freedoms they should support and also suggests that measures such as reinforcing Conflicts can be resolved and Pakistan's democracy can be strengthened by upholding the rule of law and encouraging communication between the administration and the Supreme Court.

Introduction

The principle of the separation of powers between the executive, legislature, and judiciary serves as the foundation for Pakistan's democratic system. In this system, the Parliament and the Supreme Court play critical roles in ensuring the rule of law, protecting fundamental rights, and upholding the Constitution. This article will critically examine the domains of the Parliament and the Supreme Court in Pakistan's rule of law framework. (Justice Fazal Karim,)

The Parliament

The National Assembly and the Senate make up Pakistan's Parliament which is called Majlis e Shoora, which is the country's highest legislative body. The Senate has 104 members, compared to the National Assembly's 342 members. The Parliament's primary function is to make laws for the country and oversee the government's functioning.

One of the Parliament's key roles in ensuring the rule of law is to pass legislation that protects citizens' fundamental rights and freedoms. The Parliament has passed several laws in recent years, such as the Anti-Rape Ordinance, the Prevention of Electronic Crimes Act, and the Prevention of Trafficking in Persons Act, to protect citizens' rights and ensure justice for victims. (Shafiq, Sultana, Munir, 2017).

Moreover, the Parliament has the power to hold the government accountable and scrutinize its actions. Members of the Parliament can question government ministers and officials, initiate debates, and move motions to highlight issues of public concern. This process allows for transparency and ensures that the government is answerable to the people.

However, the Parliament's effectiveness in ensuring the rule of law is limited due to several



factors. Firstly, the Parliament's composition often reflects the ruling party's dominance, which can result in legislation that favors the ruling party's interests rather than the citizens' interests. Secondly, the Parliament's procedures can be lengthy and cumbersome, leading to delays in passing crucial legislation. Finally, the Parliament's ability to hold the government accountable is often constrained by political alliances and pressures. (Hussain, & Kokab, 2013).

The Supreme Court

The Supreme Court of Pakistan is the highest judicial authority in the country and comprises a Chief Justice and 16 judges. The Supreme Court's primary function is to interpret the Constitution and ensure its implementation. One of the Supreme Court's key roles in ensuring the rule of law is to protect citizens' fundamental rights and freedoms. The Supreme Court has a robust track record of protecting citizens' rights and ensuring justice for victims. (Sathe, 1971).

The Supreme Court has also been subject to several challenges

Firstly, the Supreme Court has been accused of being partisan. Its judgments have often been influenced by political considerations rather than legal principles. This has led to a situation where the Court has been seen as being aligned with one political party or another. (Zulfqar, 2012).

Secondly, the Supreme Court has been accused of overstepping its mandate. The Court has frequently taken *Suo Moto* notices, which allow it to initiate proceedings on its own accord, even if no one has filed a case. This has led to a situation where the Court is perceived as being activist rather than judicial.

Finally, the Supreme Court has been subject to executive influence. The government has been accused of influencing the appointment of judges and attempting to influence their decisions. However, the Supreme Court's effectiveness in ensuring the rule of law is also limited due to several factors. Firstly, the Supreme Court's judgments can often be controversial and subject to political pressures, which can undermine its independence and impartiality. Secondly, the Supreme Court's backlog of cases is significant, leading to delays in providing justice to citizens. Finally, the Supreme Court's jurisdiction is limited to constitutional matters, which means that it cannot address many issues that citizens face in their daily lives. (Arif, Khan, & Bannian, 2019).

Despite these challenges, The Supreme Court of Pakistan has been instrumental in maintaining the rule of law there. It has made several Court rulings that have defended citizens' rights, such as the case of Mukhtaran Mai, (Karkera, 2006). where the Court ordered the arrest of those involved in her gang-rape. The Supreme Court has also taken a strong stance against corruption and passed number of judgments. (2006 YLR 652 Lahore High Court)



In recent years, the Supreme Court has passed several landmark judgments, such as the Panamagate case, which led to the disqualification of former Prime Minister Nawaz Sharif, 2019 PLD 445 Supreme court) and the Asghar Khan case, which exposed the military's involvement in politics. (2012 SCMR 2008 Supreme Court)

Moreover, Due to its judicial review authority, the Supreme Court is able to invalidate any law that contravenes the Constitution. This power ensures that the government cannot pass laws that are unconstitutional and violate citizens' rights and freedoms.

Comparison of Functions of the Majlis e Shoora (Parliament) and the Apex Court

While both the Parliament and the Supreme Court play critical roles in ensuring the rule of law in Pakistan, there are significant differences between the two institutions. Firstly, the Parliament is a political institution, while the Supreme Court is a judicial institution. This difference means that the Parliament is subject to political pressures and influences, while the Supreme Court is independent and impartial.

A key tenet of democracies is the rule of law

The rule of law is a fundamental principle of democratic societies, and it plays a crucial role in ensuring that citizens are treated fairly and equally. The rule of law means that all individuals, regardless of their social status, are subject to the same laws and are entitled to the same legal protections. This principle is essential for creating a just and equitable society, where everyone can live and work without fear of discrimination or oppression.

In a society that upholds the rule of law, the legal system is impartial and independent, and the laws are clear and accessible to all. This ensures that everyone can seek justice when their rights are violated, and that no one is above the law. The rule of law also promotes transparency, accountability, and predictability in government decision-making, which are essential for building trust between citizens and the state.

The rule of law is guaranteed by the constitution and defended by an independent judiciary in democratic nations. (Scalia, 1989). The judiciary plays a critical role in interpreting and applying the law, and ensuring that the government does not overstep its bounds. This separation of powers ensures that the rule of law is respected, and that citizens can hold their government accountable.

A basic tenet of democracies is the rule of law, which upholds equity, equality, and justice for all. It ensures that everyone is subject to the same laws and legal protections, and that the government is held accountable for its actions. Upholding the rule of law is essential for creating a just and equitable society, where everyone can live and work without fear of



discrimination or oppression.

Origin of Rule of Law

The concept of the rule of law dates back to ancient civilizations, such as in Greece and Rome, where laws were established to govern the behavior of citizens and protect their rights. However, The English legal system is where the concept of the rule of law as we know it today originated. It was introduced by the Sir Edward Coke who was Chief justice in period of King James II in 17th Century.

In the 13th century, King Henry III of England appointed judges to travel around the country to hear cases and apply a uniform system of law. This marked the beginning of a centralized legal system, which gradually evolved into the modern English legal system. (Levinson, 2005).

The concept of the rule of law gained prominence in the 17th century with the work of legal philosopher John Locke, who argued that the law should be based on reason and should apply equally to all citizens, regardless of their status. This idea was further developed by other philosophers, such as Montesquieu and Rousseau who held that upholding the law was necessary to ensure justice and safeguard individual rights.

In the 19th century, the rule of law became a central principle of liberal democracies, with the establishment of constitutional limits on the power of government and the development of an independent judiciary to enforce the law. This concept was further strengthened in the 20th century with the adoption of international treaties and conventions, such as the Universal Declaration of Human Rights, which recognized the importance of the rule of law for protecting human rights and promoting democracy.

Today, the rule of law is recognized as a fundamental principle of modern democracies, and is enshrined in the constitutions of many countries. It is essential for promoting justice, ensuring accountability, and protecting individual rights and freedoms.

Development of Principles of Rule of Law

Albert Venn Dicey, a British legal scholar and constitutional theorist, is widely credited with developing the modern concept of the rule of law. Dicey's work on the rule of law was based on the study of the British legal system and the principles of the British constitution. He wrote a Book back in 1885 "Introduction to the Study of the Law of the Constitution"(Dicey, A. V., & Wade, E. C. S.) where in he defined principles of Rule of Law. (CAM. 1915).



Dicey's understanding of the rule of law can be summarized in three main principles:

1. The supremacy of law: Dicey believed that the law should be the supreme authority in society, and that no individual, including the government, should be above the law. This means that everyone should be subject to the same laws, and that laws should be applied impartially and without discrimination.
2. Equality before the law: Dicey argued believe everyone should be treated equally under the law, regardless of their place in society or prestige. This implies that everyone should enjoy the same legal rights and protections, and that no one should be exempt from the law or given special treatment.
3. The protection of individual rights: Dicey believed the law should offer a framework for guaranteeing that these rights are respected and preserved, that the rule of law was crucial for safeguarding individual freedoms and rights, and that. Personal liberty, property rights, as well as freedom of expression and association, are all safeguarded under this..

Dicey's principles of the rule of law have been influential in the development of modern legal systems and constitutional democracies. They have contributed to highlighting the significance of the rule of law as a cornerstone of democratic nations, and have guided the development of legal frameworks and institutions that are designed to protect individual rights and ensure accountability and transparency in government.

Separation of Power theory

Montesquieu, a French philosopher and political thinker, is widely known for his theory of the separation of powers. (Hazo, 1968). According to Montesquieu, Legislative, executive, and judicial branches should each have their own independent power structure. Montesquieu argued that this division of power was essential for preventing the concentration of power in the hands of a single individual or group, which could lead to tyranny or abuse of power. By separating the powers of government, each branch would be able to check and balance the other, ensuring that no single branch became too powerful. (Brand, 1932).

Montesquieu's theory of the separation of powers was based on the following principles: (Sultana, 2012).

1. The legislative branch: This branch is responsible for making laws, and is composed of elected representatives who are accountable to the people. Montesquieu believed that the legislative branch should be separate from the other branches of government, in order to prevent the abuse of power and ensure that laws were made in the best interests of the people.



2. The executive branch: This branch is responsible for implementing and enforcing the laws, and is composed of the executive officers and bureaucrats who carry out the day-to-day operations of government. Montesquieu believed that the executive branch should be separate from the legislative branch, in order to prevent the executive from becoming too powerful and imposing its will on the people.
3. The judiciary branch: This organ is in charge of interpreting the law and making sure it is applied fairly and impartially.. Montesquieu believed that the judiciary should be independent of the other branches of government, in order to ensure that justice was served and the rights of the people were protected.

Montesquieu's theory of the separation of powers has been modern democratic systems' development was influenced by them, and has helped to establish the importance of checks and balances in ensuring that no single branch of government becomes too powerful. It has also been used to guide the development of legal and constitutional frameworks that are designed to protect individual rights and ensure accountability and transparency in government.

Separation of Power in legal framework of Pakistan

The concept of separation of powers is an essential feature of democratic governance. It aims to distribute power among different branches of government to ensure that no one branch becomes too powerful. (Mahmood, & Chawala, 2021). In Pakistan, the Constitution divides powers among three organs of state: the Executive, Legislature, and Judiciary. Each branch has its distinct functions, and the Constitution provides for checks and balances to ensure that no branch encroaches on the powers of the other.

Executive Branch:

The President, who serves as the head of state, and the Prime Minister, who serves as the head of government, are in charge of the Executive Branch in Pakistan. The Prime Minister, who is the head of the majority party in the National Assembly, has real authority; the President, who is indirectly elected, only serves as a ceremonial head of state. The Executive Branch is in charge of carrying out laws and policies and is in charge of both the military and the civil bureaucracy.

Legislative Branch:

The National Assembly and the Senate make up Pakistan's bicameral legislative branch. The Senate, which has 104 members, is the upper house, while the National Assembly, which has 342 members, is the lower house. Making legislation, approving the budget, and keeping the Executive Branch accountable all fall under the purview of the Legislative Branch. To prevent the Executive Branch from controlling the



Legislative Branch, the Constitution establishes a system of checks and balances.

Judicial Branch:

The Judicial Branch in Pakistan is independent and is responsible for interpreting the Constitution and the laws of the country. It consists of the Supreme Court, High Courts, and lower courts. The Supreme Court is the highest court in the country, and its decisions are binding on all other courts. The Judicial Branch has the power of judicial review, which means that it can declare any law or action of the Executive or Legislative Branch unconstitutional. This power ensures that the other branches of government do not violate the Constitution and the rights of citizens.

Separation of Powers in Pakistan

The Constitution of Pakistan provides for a separation of powers among the state organs Executive, Legislative, and Judicial branches. While the Legislative Branch is in charge of making laws, the Executive Branch is in charge of carrying them out. The Judiciary is in charge of interpreting the Constitution and legislation, as well as making sure that the other departments of government don't go beyond their authority. The Constitution provides for checks and balances to ensure that no branch of government becomes too powerful. The law approved by the Legislature, for instance, may be vetoed by the President, but it may be overridden by the Legislature with a two-thirds majority. Similarly, the Legislature has the power to alter the Constitution in order to override the Supreme Court's ruling that a statute approved by the Legislature is unconstitutional. (Cameron, & Falleti, 2005).

One key component of democratic government in Pakistan is the idea of separation of powers. The Executive, Legislative, and Judicial branches each have a certain amount of authority, and the Constitution establishes checks and balances between them to prevent any one branch from gaining excessive power. This arrangement guarantees that each arm of government can act independently and be held accountable by the others.

History of conflicts among Majlis e Shoora and apex Court in Pakistan

Conflicts between the Majlis e shoora (Parliament) and the Supreme Court have a long history in Pakistan. A system of checks and balances is included in the Pakistani Constitution to make sure no branch of government has more authority than it should. However, there have been cases where the Supreme Court and the Parliament have disagreed about their respective authority. (Waseem, 2012).

One of the most significant conflicts between the Parliament and the Supreme Court in Pakistan's history occurred in 1977. The then-Prime Minister, Zulfikar Ali Bhutto, had won a controversial election, and the opposition parties had alleged rigging. The opposition parties



approached the Supreme Court, which declared the election null and void and ordered fresh elections. Bhutto refused to accept the court's decision and imposed martial law, suspending the Constitution and arresting the judges.

Another notable conflict occurred in 1997 when the then-Prime Minister, Nawaz Sharif, dismissed the Chief Justice of Pakistan, Sajjad Ali Shah, and appointed a new Chief Justice. The Supreme Court declared the dismissal unconstitutional and reinstated the Chief Justice. However, Sharif refused to accept the court's decision and ordered his supporters to storm the Supreme Court building. The military intervened and ousted Sharif from power.

In 2012, the Parliament and the Supreme Court clashed over the appointment of the Chairman of the National Accountability Bureau (NAB), a government agency responsible for investigating corruption cases. The Supreme Court declared the appointment unconstitutional, and the Parliament passed a resolution condemning the court's decision. The conflict was eventually resolved after the Government and the Supreme Court agreed on a new appointment.

In recent years, the Parliament and the Supreme Court have clashed over the Panama Papers case, which involved allegations of corruption against the then-Prime Minister, Nawaz Sharif. The Supreme Court ordered a Joint Investigation Team (JIT) to investigate the allegations, and the JIT submitted its report to the court. The court then disqualified Sharif from holding public office, leading to protests by his supporters.

Conflicts between the Parliament and the Supreme Court in Pakistan's history have often arisen due to disputes over the respective powers of the two institutions. While the Constitution provides for a system of checks and balances, in practice, the implementation of these checks and balances has been fraught with challenges. The resolution of these conflicts requires a commitment from all stakeholders to uphold the Constitution and respect the rule of law. (Akram, & Azhar, 2022).

Recent conflict over *Suo Moto* powers of Supreme Court

In recent years, there have been several conflicts in Pakistan over the *Suo Moto* power of the Supreme Court. *Suo Moto* power is a legal provision that allows the Supreme Court to take notice of any matter of public interest and initiate legal proceedings on its own. The Supreme Court has used this power to take notice of a wide range of issues, including corruption, human rights violations, and administrative issues. (Islam, 2011).

One of the most significant conflicts over the *Suo Moto* power occurred in 2018 when the Supreme Court took notice of the high rate of infant mortality in the Thar desert region of Sindh province. The court ordered the provincial government to take immediate measures to



address the issue, including the provision of clean drinking water, medical facilities, and food supplies. The court also appointed a commission to monitor the implementation of its orders. The provincial government of Sindh criticized the court's intervention, arguing that the matter fell within its jurisdiction. The government accused the court of overstepping its powers and interfering in the executive's affairs. However, the court defended its action, stating that it was necessary to protect the rights of the people of Thar.

Another significant conflict over the *Suo Moto* power occurred in 2020 when the Supreme Court took notice of the rising sugar prices in the country. The court ordered an inquiry into the matter and directed the Government to submit a report on the issue. The court also ordered the sugar mill owners to pay back the excess profits they had made due to the price hike.

The sugar mill owners criticized the court's intervention, arguing that the matter fell within the domain of the Government and the market forces. They accused the court of exceeding its powers and interfering in the business affairs of the private sector. However, the court defended its action, stating that it was necessary to protect the rights of the consumers and prevent the exploitation of the market by the sugar mill owners.

The *Suo Moto* power of the Supreme Court has been a subject of controversy and conflict in Pakistan in recent years. While the court has used this power to address issues of public interest, its intervention has often been criticized by the executive and the private sector. The resolution of these conflicts requires a balanced approach that upholds the constitutional principles of separation of powers and the rule of law. (Manzar, 2021).

The recent issue over Elections in Punjab and KPK between Govt and Supreme Court

The country has been on edge since Khan was removed from office in a no-confidence vote about a year ago. The former cricket star turned Islamist politician has staged massive rallies to demand a snap general election. Along the way, he survived an apparent assassination attempt. At the same time, Khan has faced mounting legal charges that he says are politically motivated, leading to clashes between police and his supporters. The ruling coalition has steadfastly insisted that a national election will not be held until October. In a last-ditch attempt to force the issue, Khan's camp dissolved the provincial legislatures of Punjab and Khyber Pakhtunkhwa in January. Under the constitution, polls must be held within 90 days of a dissolution. So Khan apparently calculated that the cash-strapped government -- crippled by a dire shortage of foreign reserves -- would have no choice but to hold nationwide polls simultaneously.

But the government has held firm, claiming that it cannot afford to fund elections now and that it cannot guarantee security amid a sharp rise in terrorism. This prompted Khan's



Pakistan Tehreek-e-Insaf party to ask the Supreme Court to intervene. Initially, a five-member bench was hearing the case, but two judges recused themselves -- ostensibly due to differences with Chief Justice Bandial. Meanwhile, placing itself in direct conflict with Bandial, the government introduced a bill that would limit the powers of the chief justice to take suo-moto notice -- to take action on his own accord -- and to form benches of his choice. The after passing from the National Assembly and Senate with simple was sent to President and president returned the bill with instructions that Bill is contradictory to the article 191 of Constitution of Pakistan 1973 which provides power to supreme court to make their own rules as such Govt should amend Article 191 instead of introducing a fresh Bill, A combined session of Majlis e shoora was called and again with simple majority Bill has been passed and sent to the president for assent now president has to sign Bill within 10 days and if not signed same shall be considered that president has provided his assent. On the other hand Supreme Court (Practice and Procedure) Bill, 2023 has been challenged in supreme court, now supreme court has to see whether the Bill passed by the parliament is constitutional or unconstitutional whether it is contradictory to the article 191 and so also supreme court may also look into the intentions of govt whether the bill has been passed with bonafide intentions or with mala fide intentions. Supreme court full ruled that after the bill aimed at clipping the powers of chief justice of Pakistan received either the president's assent or it was deemed to have been given, the act that "comes into being shall not have, take or be given any effect nor be acted upon in any manner" (Daily New paper Dawn dated 13.04.2023)

The 3 Members judgment was passed on 1st march 2023 holding that election should be held within 90 days as per constitution and set a date of election in Punjab, The PM of Pakistan Addressing the National Assembly afterward, Prime Minister Shehbaz Sharif said the court's latest decision amounted to a "murder of justice."

Separately, Law Minister Azam Nazeer Tarar told reporters that the decision would "further aggravate" the heated political climate. He also argued that a full Supreme Court, which has 17 judges, should have heard the case rather than only a three-member bench. The government has shown no sign of budging and calling an early general election alongside the provincial balloting. Likewise, it continues to argue against holding the polls separately. The Interior Minister Rana Sanaullah passed the remarks with words that separate polls for provincial assemblies would only sow anarchy and chaos, and held Khan "responsible" for pushing the nation into this predicament. (Daily news paper Dawn dated 15.03.2023)

The conflict take another hype when the National Assembly passed its motion. "This house rejects the minority decision of the three-member bench and binds the prime minister and the cabinet not to implement the unconstitutional and unlawful decision," This was the 1st incident in the history of Pakistan when Majlis e shoora passed a resolution against the decision of Supreme court and direct the Govt to not implement the decision of supreme court.

Can parliament pass a resolution against the decision of Apex Court?



As per the constitutional provisions of Pakistan, the Parliament does not have the power to pass a resolution that contradicts the decisions of the Supreme Court. The Supreme Court is the country's top court, and Pakistan's Constitution establishes a division of powers among state organs the executive, legislative, and judicial. (Malik, A. P.)

If the Supreme Court makes a decision, it is binding on all other institutions of the state, including the Parliament. The Constitution provides for the enforcement of the court's decisions and allows for the use of contempt of court proceedings against those who fail to comply with the court's orders.

Therefore, if the Parliament passes a resolution that contradicts the decision of the Supreme Court, it would be considered unconstitutional and illegal. The court could take action against the Parliament and the individuals who fail to comply with its orders. (Hatchard, & Slinn, 1999). It is important to uphold the constitutional principles of the separation of powers and the rule of law to ensure the proper functioning of the democratic system in Pakistan.

Courts are restricted to inquire into proceedings under Article 69.

Article 69 of the Constitution of Pakistan states that the proceedings of the Majlis-e-Shoora (Parliament) cannot be called into question by any court of law. This provision ensures the independence and autonomy of the legislative branch of government and allows it to function without undue interference from the judiciary. The purpose of Article 69 is to prevent the judiciary from intervening in the functioning of the Parliament, including its debates, proceedings, and legislative activities. The article recognizes that the Parliament is a separate and independent organ of the government, and as such, it is empowered to conduct its affairs without external interference. (Akram, & Azhar,)

However, this does not mean that the Parliament is immune from scrutiny altogether. The Constitution provides for other mechanisms to ensure accountability and transparency in the functioning of the Parliament, including the powers of the President to return a bill for reconsideration, and the powers of the Senate to initiate legislation. The Article 69 plays a vital role in preserving the independence and integrity of the Parliament in Pakistan. It ensures that the legislative branch is free to carry out its functions without interference from the judiciary, while also upholding the principles of transparency and accountability in the democratic process which is key principle of rule of law.

Whether the Majlis e shoora can make rules for the Apex Court of Pakistan in contradiction with the Article 191 of constitution.

The Constitution of Pakistan defines the roles, powers, and functions of each organ of the state, including the Parliament and the judiciary. Article 191 of the Constitution empowers



the Supreme Court of Pakistan to make rules regulating its practice and procedure. These rules, however, must not be inconsistent with the Constitution or any law made by the Parliament. (Malik, A. P)

Given this constitutional provision, it is clear that the Parliament of Pakistan cannot make rules for the Supreme Court that contradict Article 191. The reason behind this is that the Constitution provides the Supreme Court with exclusive authority to regulate its practice and procedure through rules. This exclusive authority granted to the Supreme Court implies that the Parliament cannot interfere in the functioning of the Supreme Court by making rules that are inconsistent with the Supreme Court's own rules.

Furthermore, Article 225 of the Constitution of Pakistan states that all courts in Pakistan, including the Supreme Court, shall be independent and subject only to the Constitution and the law. This provision emphasizes the independence of the judiciary, and any attempt by the Parliament to undermine or interfere with the judiciary's independence would be unconstitutional. (Kausar, 2013)

It is worth noting that the Constitution of Pakistan provides for the governmental system's division of powers between the executive, legislative, and judicial branches. Each branch has its own functions and powers, and none can encroach on the powers of the other. Therefore, any attempt by the Parliament to make rules that contradict Article 191 of the Constitution would be a violation of the principle of separation of powers.

In my opinion the Parliament of Pakistan cannot make rules for the Supreme Court that contradict Article 191 of the Constitution. The Constitution grants the Supreme Court the exclusive power to regulate its practice and procedure, and any attempt to undermine the judiciary's independence or violate the principle of separation of powers would be unconstitutional.

Measures in order to reinforce Rule of law in Pakistan

There are several measures that can be taken to reinforce the rule of law in a Pakistan. Some of them (Iqbal, 2015):

1. **Strengthening the judicial system:** The judicial system is the backbone of the rule of law. It is essential to ensure that the judiciary is independent, impartial, and free from any kind of interference. This can be achieved by providing adequate resources, training, and support to judges and other judicial officers.
2. **Promoting transparency and accountability:** Transparency and accountability are crucial to the rule of law. Governments and other public institutions should be open and transparent in their operations and decision-making processes. They



should be accountable to the people they serve and subject to oversight by independent bodies.

3. Ensuring access to justice: Access to justice is essential to the rule of law. Everyone should have equal access to legal remedies and recourse, regardless of their social or economic status. This can be achieved by providing legal aid services, improving the efficiency of the justice system, and promoting alternative dispute resolution mechanisms.
4. Educating citizens about their rights and responsibilities: Citizens need to understand their rights and responsibilities under the law to be able to participate fully in the democratic process. This can be achieved through public education campaigns and civic education programs.
5. Strengthening the rule of law internationally: The rule of law is not just a national issue; it is also an international one. Countries can work together to promote the rule of law by supporting international institutions such as the International Criminal Court and by participating in international treaties and conventions.

By taking these measures, societies can reinforce the rule of law and ensure that it remains a fundamental pillar of their democratic systems. The relationship between the Parliament and the judiciary is a delicate one, and conflicts between the two can have serious implications for the functioning of a democratic system. Here are some ways to remove conflicts between Parliament and the judiciary:

1. Promote dialogue and communication: Conflicts between Parliament and the judiciary can arise due to misunderstandings and lack of communication. Encouraging dialogue and communication between the two branches of government can help to build trust and understanding, and resolve conflicts before they escalate.
2. Respect the separation of powers: It is essential to respect the separation of powers between the Parliament and the judiciary. The Parliament should not interfere with the judicial process, and the judiciary should not encroach upon the legislative process. Each branch of government should operate within its constitutional bounds.
3. Clarify the roles and responsibilities: Clearly defining the roles and responsibilities of the Parliament and the judiciary can help to reduce conflicts. This can be achieved by reviewing and amending the constitution or other relevant laws.



4. Enhance judicial independence: Judicial independence is crucial to the proper functioning of a democratic system. Measures such as ensuring the security of tenure for judges, providing adequate resources and support to the judiciary, and protecting judges from political interference can help to enhance judicial independence.
5. Promote accountability and transparency: Both the Parliament and the judiciary should be accountable to the people they serve. Promoting transparency in their operations and decision-making processes, and subjecting them to independent oversight can help to enhance accountability and reduce conflicts.
6. Seek judicial review: If conflicts cannot be resolved through dialogue and other means, seeking judicial review can be an option. The judiciary can review the constitutionality and legality of laws and actions taken by the Parliament, and provide a check on its powers.

Removing conflicts between the Parliament and the judiciary requires a collaborative effort between the two branches of government. By promoting dialogue, respecting the separation of powers, clarifying roles and responsibilities, enhancing judicial independence, promoting accountability and transparency, and seeking judicial review, conflicts can be resolved, and the democratic system can function properly.

Conclusion

In conclusion, the separation of powers doctrine is a cornerstone of any democratic form of governance, and it is enshrined in the Constitution of Pakistan. The Constitution of Pakistan clearly defines the roles, powers, and functions of each organ of the state, including the Parliament and the judiciary. The Supreme Court of Pakistan is the highest judicial forum in the country and has the authority to interpret the Constitution and the law. The Parliament, on the other hand, is the legislative branch of government, with the power to enact laws and oversee the functioning of the executive branch.

It is important to note that the Apex Court's decisions are binding on all organs of the state, including the Parliament. While the Parliament has the authority to make laws, it cannot intervene in the functioning of the judiciary or refuse to implement the Supreme Court's decisions. Any attempt to do so would be a violation of the Constitution and the principle of separation of powers, which is a cornerstone of the democratic system. In a democratic system of government, the independence of the judiciary and the rule of law are paramount. Any interference by the legislative or executive branches of government in the functioning of the judiciary would undermine the constitutional order and the fundamental principles of democracy. Therefore, it is essential that all organs of the state, including the Parliament,



respect the decisions of the Apex Court and uphold the rule of law.

In summary, the Majlis e Shoora Parliament of Pakistan cannot intervene and refuse to implement the decision of the Supreme Court. The Constitution of Pakistan provides for the separation of powers between the different organs of the state, and the judiciary's decisions are binding on all branches of government. Upholding the rule of law and the independence of the judiciary are crucial to the functioning of a democratic system, and any attempt to undermine these principles would be detrimental to the stability and progress of Pakistan.



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