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JUDICIAL ENDORSEMENT OF COUPS AND THE FRAGILITY OF DEMOCRACY IN PAKISTAN:AN ANALYSIS OF THE COURT-COUP NEXUS

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Abstract:
Pakistan's political history has been marked by the judiciary's support of military takeovers, which has had a significant impact on the stability and growth of the nation's democracy. In the past, Pakistan's Supreme Court has frequently used the theory of state necessity which defends extra-constitutional actions as required to maintain order and avert chaos to legitimize military takeovers. Beginning with the military takeover in 1958, this trend has persisted through later interventions, such as those headed by Generals Pervez Musharraf in 1999 and Zia-ul-Haq in 1977. In its historic decision supporting Musharraf's coup in 2000, the Supreme Court not only upheld the military coup but also gave the military government the authority to change the constitution and rule during the transitional period without parliamentary control. The rule of law and democratic governance in Pakistan have been undermined by such court decisions, which have weakened civilian institutions, eroded constitutional supremacy, and strengthened military influence in politics. The judiciary has frequently given up its independence and constitutional mandate in order to maintain stability under military rule, which highlights the brittleness of Pakistan's democracy. The judiciary has enabled a cycle of military interventions that undermine democratic continuity and marginalize elected governments by supporting these coups. Further polarizing the political landscape and eroding public trust in democratic institutions is the judiciary's involvement in politically contentious cases, such as the disqualification of political leaders. A key element in maintaining authoritarianism and impeding the consolidation of democracy in Pakistan has been the judiciary's compromised role, which is highlighted by the frequent pattern of judicial approval of military takeovers.

Introduction:
There has been a shaky and frequently brittle relationship between military interventions and civilian governance throughout Pakistan's democratic history. The judicial approval of military takeovers has been one of the most significant and frequent threats to Pakistan's democratic stability, undermining democratic institutions and constitutionalism time and time again. Throughout the years, Pakistan's judiciary has been crucial but contentious in defending extra-constitutional military takeovers. The doctrine of state necessity is frequently invoked to support military actions and the suspension of constitutional order. This court-coup relationship demonstrates a complicated interaction in which the judiciary, which is charged with defending democratic values and ensuring the supremacy of the Constitution, has frequently contributed to the strengthening of military rule and undermined democratic governance.
In its approximately seven decades of existence, Pakistan has been under military rule for more than three decades due to a series of military coups that occurred in 1958, 1977, and 1999. Notably, despite the fact that these decisions essentially suspend constitutional democracy, the Supreme Court has repeatedly upheld these coups by stating that they are legal or required to restore stability and governance. The Supreme Court, for instance, applied the doctrine of state necessity in its unanimous ruling in May 2000 to uphold the legitimacy of General Pervez Musharraf's 1999 military coup while imposing a transitional timeline for the return to civilian rule. This ruling gave the military executive broad authority to amend the Constitution and pass laws without parliamentary approval during the transitional period, in addition to accepting the

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military's intervention as a corrective measure against alleged political corruption and inefficiency. Thus, such judicial endorsements erode the system of checks and balances, erode the separation of powers, and encourage military meddling in political affairs.

The judiciary's role goes beyond merely endorsing coups; it also actively shapes the political landscape by rendering contentious rulings that have weakened parliamentary democracy, disqualified elected leaders, and influenced elections. The judiciary contributes to political polarization and fosters an atmosphere in which democratic norms are difficult to establish by selectively disparaging politicians and giving the impression of complicity, frequently under vague constitutional provisions enacted during military regimes. Pakistan's democracy is already fragile, with the rule of law undermined and the independence of the judiciary regularly questioned, and this is made worse by the judicial activism and partiality. The relationship between the court and the coup has significant ramifications for Pakistan's democratic resilience. The nation's democratic development has been halted by the judiciary's practice of approving military takeovers, leaving democratic institutions open to authoritarian reversals. Furthermore, when courts are viewed as tools of military power rather than as unbiased arbiters of justice, public confidence in the judiciary and democratic governance declines. Pakistan's political instability and institutional fragility are sustained when the judiciary unintentionally supports a cycle of frequent disruptions to democratic governance by justifying military interventions as necessary evils for stability.

Analyzing Pakistan's political dynamics in this context requires an understanding of the judicial endorsement of coups and its effect on the fragility of democracy. This analysis looks at how Pakistan's democratic consolidation, constitutional governance, and general political culture have been impacted by the judiciary's submission to military rule through legal justifications such as the doctrine of state necessity and other judicial doctrines. The complexities and contradictions within Pakistan's democratic experiment are also brought to light by highlighting the judiciary's dual role as a safeguard of constitutional order and an enabler of extra constitutional interventions. The court-coup relationship thus poses a serious threat to Pakistani democracy, reflecting the difficulties with judicial independence, political meddling, and the military's continued hegemony over domestic affairs. In order to envision a stable, democratic Pakistan where the judiciary acts as a true defender of democracy rather than a legitimizer of authoritarianism, it is imperative that this relationship be broken down.

Literature review:

A comprehensive review of the literature on Pakistan's judicial support for coups and the fragility of democracy is based on a variety of academic works that examine the relationship between courts and coups in the political and constitutional framework of the nation. By using the doctrine of necessity, Pakistan's superior judiciary has historically justified three out of four military coups, allowing military rulers to suspend constitutions and override parliamentary supremacy. When courts have put stability ahead of constitutionalism and frequently give in to military influence rather than defending judicial independence, this judicial validation is described as a way to legitimize extra-constitutional actions (Badshah & Niaz, 2021). Amin emphasizes further that these judicial endorsements harm the democratic order by giving unconstitutional regimes a façade of legitimacy, which erodes the rule of law and increases constitutional fragility. Amin cites landmark decisions like the Supreme Court's 2000 decision regarding Musharraf's coup as examples of how judicial collaboration with military takeovers erodes constitutionalism and undermines democratic institutions (Amin, 2023).

The judiciary plays a dual role in Pakistani politics. It supports military coups and makes politically motivated decisions against civilian leaders, both of which further politicize the judiciary and fuel democratic instability. They contend that Pakistan's democratic development has been disproportionately impacted by military influence on judicial processes, which has

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damaged judicial independence and credibility (Shah et al., 2022). Falki talks on the paradox of judicial independence being undermined by unofficial backing for military governments, which undermines the separation of powers and fortifies authoritarian rule. This trend of judicial compliance is thought to be a key element impeding the establishment of democracy and promoting recurrent military interventions (Falki, 2022). All of this academic research suggests that Pakistan's judiciary has frequently assisted in the legitimization of authoritarianism, which has made the country's democracy more brittle and prone to frequent upheaval.

Methodology:

This article uses a qualitative research methodology that focuses on examining current political and legal resources. It includes a thorough analysis of significant Supreme Court decisions that upheld military takeovers in Pakistan, paying close attention to the legal theories and justifications such as the doctrine of necessity that the court employed to justify extra-constitutional behavior. To comprehend the larger political and historical contexts influencing judicial decisions, the research also examines academic publications, expert commentary, and constitutional texts. The study employs thematic analysis to identify recurrent judicial patterns and investigates the ways in which these decisions have weakened democratic institutions and solidified military dominance. This method balances doctrinal legal analysis with contextual political insights to offer a thorough understanding of the judiciary's role in forming Pakistan's precarious democratic landscape.

Major Judicial Decisions and Their Doctrinal Implications

Pakistan’s constitutional and political history is deeply intertwined with the military’s recurrent interventions in civilian governance. The judiciary’s role, oscillating between endorsement and repudiation of these takeovers, has been both consequential and controversial. Several landmark judicial decisions have shaped the contours of civil-military relations in the country by providing legal rationales for military rule or by standing as rare bulwarks against authoritarianism. These cases collectively illustrate how Pakistan’s judiciary has struggled to balance constitutional principles with political realities, often under intense pressure from military and political actors.

Maulvi Tamizuddin Khan (1954): Weakening Parliamentary Sovereignty

One of the earliest and most consequential cases influencing Pakistan’s civil-military dynamics was Federation of Pakistan vs. Maulvi Tamizuddin Khan (1955). Following Pakistan’s independence, the Constituent Assembly was responsible for framing the country’s constitution. However, Governor-General Malik Ghulam Muhammad dissolved this assembly amid political discord and governance paralysis. Maulvi Tamizuddin Khan, the Assembly president, legally challenged this dissolution as unconstitutional. Chief Justice Muhammad Munir’s Federal Court, however, controversially upheld the Governor-General’s action. The court justified the dissolution on grounds of “necessity” reasoning that while the act violated the constitution, it was necessary to preserve the state’s stability and functionality under extraordinary circumstances. This pioneering application of the Doctrine of Necessity was a pivotal moment, because it sanctioned extra-constitutional actions as a means of governance. This decision was more than a legal ruling; it was a political turning point that signaled the judiciary’s willingness to subordinate constitutionalism in favor of expediency. The judiciary effectively empowered the executive (and by extension the military) to intervene in governance under the guise of necessity. Consequently, it weakened democratic foundations by implying that constitutional limits could be disregarded for political convenience. The case set a precedent paving the way for future military interventions to seek judicial approval (Ahmed, 2020).

The Dosso Case (1958): Revolutionary Legality and Validation of Martial Law

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A historic constitutional case in Pakistan, the Dosso Case (1958), upheld the martial law that President Iskander Mirza had instituted on October 7, 1958. Dosso, a tribal resident of Lorelei, Baluchistan, was found guilty under the Frontier Crimes Regulation (FCR) 1901 by a tribal council (Loya Jirga). He appealed his conviction in the Lahore High Court, which rendered the FCR unconstitutional in accordance with the 1956 Pakistani Constitution. However, using Hans Kelsen's legal positivist theory and the notion of necessity, the Supreme Court of Pakistan, presided over by Chief Justice Muhammad Munir, overturned this ruling. The Court ruled that martial law was a type of "revolutionary legality" because the populace had not opposed it, establishing a new legal system that essentially nullified the 1956 Constitution. This ruling established a precedent for future military interventions in Pakistani politics, undermined democratic institutions, and legitimized the military takeover. By confirming martial law's superiority over constitutional government, the decision preserved the FCR's legitimacy and supported the martial law laws, signaling a turning point in political and constitutional history (Khan, 2018).

Dosso, a petitioner, challenged the martial law regime's legality. In a landmark judgment, the Supreme Court relied on Hans Kelsen's legal positivist doctrine, known as the "theory of revolutionary legality." According to this theory, a successful revolution or coup that establishes effective control and public order creates a new legal order; the courts must recognize this de facto government as lawful to maintain stability. Applying this principle, the Court validated martial law, essentially prioritizing political fact over constitutional legitimacy (Rumi, 2015).

This judgment legally sanctified military coups, giving constitutional cover to usurpations of power outside legal frameworks. It legitimized military interventions as lawful exercises of power whenever political authority failed, significantly empowering the military vis-à-vis civilian institutions. For ordinary citizens, this ruling meant that constitutional rights could be suspended indefinitely as long as the military maintained control, fostering uncertainty about the rule of law and opening the door to authoritarian rule. The Court's willingness to prioritize political stability over constitutionalism also diminished public trust in judicial independence (Khan, 2018).

The Asma Jilani Case (1972): Partial Judicial Resistance

In a landmark constitutional case in 1972, the Supreme Court of Pakistan, led by Chief Justice Hamoodur Rehman, partially opposed the legitimacy of martial law in the Asma Jilani Case. Asma Jilani and Zarina Gohar submitted petitions contesting the validity of their family members' detentions under General Yahya Khan's Martial Law Regulation No. 78, which gave rise to the case. After considering the legitimacy of the previous Dosso theory and the jurisdiction of courts during martial law, the Supreme Court ruled that Yahya Khan's martial law was unlawful. By dismissing the legal justification for military takeovers and highlighting the fact that martial law cannot override the Pakistani Constitution; this ruling was a significant step toward restoring constitutional primacy. It was crucial in clearing the path for the nation's democracy to be restored (Qureshi, 2018). It demonstrated that courts could repudiate military rule and uphold democratic ideals, even if such decisions risked confrontation with powerful military actors. Nevertheless, the ruling came at a politically sensitive time and was somewhat limited in its immediate practical effect, as civil-military tensions continued. Still, it remains a landmark for judicial courage and constitutional resilience.

The Begum Nusrat Bhutto Case (1977): Reaffirmation of the Doctrine of Necessity

An important turning point in Pakistani judicial history was the Begum Nusrat Bhutto Case (1977), which upheld the contentious Doctrine of Necessity. Begum Nusrat Bhutto, the wife of Prime Minister Zulfikar Ali Bhutto, filed petitions contesting the legitimacy of martial law and the dissolution of the elected government after General Zia-ul-Haq's military coup overthrew

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Prime Minister Bhutto. Chief Justice Muhammad Yaqub Ali's Supreme Court used the Doctrine of Necessity to defend the extra-constitutional activities while sustaining the military takeover. By presenting the coup as a necessary step to restore calm and order, this reaffirmation gave the military dictatorship legal justification to consolidate power and justify the suspension of the constitution and democratic processes during that time. As a recurrent legal justification for approving military interventions in Pakistani politics, the case solidified the Doctrine of Necessity (Ali, 2023). For the public, such rulings meant that military regimes could wield unchecked power with judicial backing, often curtailing civil liberties and political freedoms under the pretext of necessity.

The Zafar Ali Shah Case (2000): Conditional Validation of Military Takeover

In the Zafar Ali Shah Case (2000), Zafar Ali Shah filed a petition contesting the legitimacy of the October 1999 military takeover headed by General Pervez Musharraf. Chief Justice Irshad Hassan Khan led a panel of the Supreme Court of Pakistan that looked into the coup's constitutional ramifications. By recognizing that there was no other option due to the current political and constitutional circumstances, the Court used the Doctrine of Necessity to conditionally authorize the military takeover and defend the military's intervention (Altaf, 2019).

The Court stressed that the 1973 Constitution was still the ultimate law in spite of this validation, even though some of its provisions had been temporarily suspended in accordance with the concept of state necessity. In order to restore democratic administration, the ruling placed restrictions on the military regime, including the need to hold general elections within a given time limit. This ruling attempted to strike a compromise between acknowledging the coup and pledging to eventually restore civilian governance and constitutional order (Khan, 2018).

Judicial Use of the Doctrine of Necessity to Overcome Legal Challenges

The Doctrine of Necessity is a legal principle that permits the temporary suspension or violation of constitutional provisions during exceptional circumstances, such as political crises or emergencies, to preserve the stability and continuity of the state. It essentially offers a pragmatic approach to governance when normal constitutional order is deemed untenable, legitimizing actions that would otherwise be considered unconstitutional. In Pakistan, this doctrine has played a pivotal role in shaping the country's political and judicial landscape, particularly in legitimizing military takeovers and undermining democratic governance. The doctrine's application in Pakistan originated in the 1950s under the judiciary led by Chief Justice Muhammad Munir. The landmark case involving the dissolution of the first Constituent Assembly in 1954 marked its formal judicial adoption. Munir's court justified the dissolution by invoking the Doctrine of Necessity, arguing that the extraordinary situation warranted extra-constitutional measures to preserve order and governance. This judicial endorsement effectively laid the foundation for the doctrine's use in subsequent military coups and political crises (Munir, as cited in various analyses). By framing such unconstitutional interventions as necessary evils, the judiciary institutionalized a legal rationale for military dominance in Pakistan's political system (Ahmed, 2020).

Throughout Pakistan's history, the Doctrine of Necessity was repeatedly invoked in moments of constitutional collapse or military intervention in 1958 with General Ayub Khan's coup, in 1977 by General Zia-ul-Haq, and again in 1999 by General Pervez Musharraf. The judiciary's endorsement of these military takeovers under the doctrine essentially validated the suspension of democratic norms and the abrogation of the constitution. This pattern of judicial approval not only weakened the principle of constitutional supremacy but also fostered a culture where military interventions became normalized as corrective measures to political instability rather than aberrations. However, this doctrine has been widely criticized for its misuse and the

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deleterious effects on Pakistan's democratic development. Rather than being applied as a last resort during genuine emergencies, the doctrine became an instrument of authoritarian entrenchment. Military regimes exploited it to legitimize their prolonged rule, suppress political opposition, and impose governance structures unaccountable to civilian oversight. The judiciary's complicity in these processes undermined its impartiality and converted courts into enablers rather than guardians of constitutionalism (Qureshi, 2018).

The judicial use of the Doctrine of Necessity reflects a deeper institutional weakness where courts, facing political pressures and crises, chose expediency over legal principle. This compromise led to cyclical disruptions in democratic governance and a fragile political system prone to repeated executive overreach and military dominance (Mahmood, 2020)Furthermore, the doctrine's invocation has hampered the development of a robust constitutional culture in Pakistan by prioritizing political necessity over legal norms, thus subordinating the rule of law to perceived exigencies of state survival.

Understanding the Legal Rationale used to Legitimize Military Takeovers through the Doctrine of Necessity

In Pakistan, this rationale was explicitly established through federal court rulings, especially under Chief Justice Muhammad Munir in the 1950s. His court legitimized the dissolution of the first Constituent Assembly in 1954 citing necessity, arguing that extraordinary times required extraordinary measures to maintain governance and prevent disorder. By legalizing extra-constitutional actions, the courts underscored that the state's survival and stability trumped procedural legality in extreme scenarios (Khan, 2018). Subsequently, the Doctrine of Necessity became the go-to justification for judicial endorsement of military coups in Pakistan's history in 1958, 1977, and 1999 when the military suspended or abrogated the constitution to "correct" political chaos, corruption, or perceived threats to national integrity. The courts accepted that such interventions, albeit unconstitutional under normal conditions, were permitted due to the exigencies of the state's survival. This reasoning is grounded in the belief that political crisis can produce a constitutional impasse so grave that the judiciary's role evolves into a pragmatic adjudicator that must balance legality with political reality.

However, while the legal rationale purports necessity as a last resort and temporary expedient, its repeated invocation led to significant misuse. Military authorities capitalized on the doctrine's flexibility to legitimize prolonged authoritarian rule, undermining constitutionalism and democratic governance. The judiciary's acceptance of this rationale without sufficient safeguards institutionalized a pattern where military takeovers were normalized rather than condemned, weakening civilian rule and the supremacy of law. The courts often overlooked the political motivations behind military interventions and failed to insist on timely restoration of democratic processes. The legal rationale behind the Doctrine of Necessity reflects a tragic dilemma faced by Pakistani society and its legal institutions: the desire to maintain order and stability has often led to compromised justice and democratic rights. Citizens endured repeated disruptions of their electoral mandate and constitutional freedoms with the promise of temporary necessity morphing into indefinite military dominance. The judiciary's stance depicts an acute tension between the harsh political realities on the ground and the aspirational ideals of constitutional governance (Rumi, 2015)

Judicial Dualism: Between Constitutional Supremacy and Authoritarian Legitimacy

Judicial dualism arises from the inherent tension courts face when tasked with being the ultimate upholders of constitutional law while simultaneously operating under or alongside authoritarian or military regimes that wield real political power outside the constitutional framework. This dualism embodies the contest between the formal supremacy of the

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constitution as the highest legal authority and the pragmatic necessity of recognizing authoritarian legitimacy to survive politically. The judiciary often becomes a crucial site where law and politics interact, with courts walking a tightrope between asserting constitutional supremacy which demands adherence to fundamental rights and limitations on executive power and accommodating authoritarian demands for legitimacy, control, or social order. This creates an ambivalent judicial stance that can vary widely depending on institutional resilience, political pressures, and historical contexts (Mahmood, 2020).

Courts in authoritarian or hybrid regimes are constitutionally mandated to uphold the law, ensure government accountability, and protect citizens' rights. However, they face extraordinary challenges balancing these formal duties against the political reality that military or authoritarian rulers hold de facto power often backed by force or political dominance. A notable example is Kazakhstan, where the Constitutional Court was effectively transformed into a Constitutional Council under President Nursultan Nazarbayev. This body was used to endorse and legitimize the president's authoritarian rule under the cover of constitutional legality. The court evolved from an independent interpreter of the constitution into a tool to proclaim the regime's political supremacy, illustrating how military or authoritarian power can capture judicial institutions and convert them into instruments of authoritarian constitutionalism (Burbank & Friedman, 2020).

In Indonesia, the Constitutional Court holds final authority on constitutional questions and has played a vital democratic role post-Suharto, yet it still faces ongoing tension navigating political interests and executive pressures. While it sometimes exhibits independence, it also shows judicial fallibility, struggling to fully extricate itself from political maneuvering. Across many authoritarian or semi-authoritarian regimes, courts oscillate between asserting constitutional mandates and pragmatically accommodating authoritarian rulers to avoid confrontation that could jeopardize their existence. This struggle highlights the court's delicate balancing act between legal principles and political survival (Sikkink, 2017).

Factors Contributing to Judicial Dualism and its Various Manifestations over Time

Several overlapping factors contribute to judicial dualism and explain its varying expressions over time:

Institutional Weaknesses: Judicial independence is compromised by politicized appointments, limited security of tenure, inadequate protections against coercion, and institutional design flaws. In countries like Hungary and Poland, governments have manipulated judicial branches to serve authoritarian ends, fostering ambivalence within the judiciary where some judges resist and others acquiesce (Ginsburg, 2011).

Political Environment and Pressures: Courts in authoritarian or competitive authoritarian regimes face overt and covert pressures including intimidation, threats, or political bargaining. This environment fosters judicial self-censorship and selective rulings that can uphold constitutional norms only partially or inconsistently (Posner & Vermeule, 2009).

Historical, Legal, and Cultural Legacies: The judiciary's role is also shaped by legal traditions and historical experiences. For instance, in Egypt, the intertwining of Islamic and secular legal traditions complicates judicial authority, as courts must reconcile constitutional principles with religious legitimacy claims. These legacies influence how courts navigate their position relative to authoritarian rulers (Ali, 2023).

Societal Dynamics and Public Expectations: Public support or skepticism, political alliances, and the broader social context influence how assertive or restrained courts behave. Judicial activism may emerge as a means to counterbalance authoritarian overreach, but it competes with the risks of institutional marginalization or repression (Posner & Vermeule, 2009).

Judicial Ambivalence and its Impacts for Democracy

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The term "Judicial Ambivalence" describes judges who have contradictory or divided emotions when rendering decisions. It entails having conflicting opinions at the same time because of intricate moral and legal issues. The development of law and judicial inventiveness are influenced by this tension. The ambivalence exhibited by courts under judicial dualism profoundly undermines both the independence of the judiciary and the broader democratic process. When courts inconsistently enforce constitutional protections or appear to legitimize authoritarian rule, this creates a significant erosion of public trust and respect. The judiciary, ideally a neutral arbiter and guardian of citizens' rights, becomes perceived as compromised or politically biased. This loss of trust weakens the judiciary's authority, which is essential for the maintenance of a healthy democracy where checks and balances are respected (Semmel, 2007). The judiciary's limited capacity or willingness to hold parliamentary elites accountable further exacerbates democratic fragility. Political interference in judicial appointments, institutional underfunding, or systemic corruption within the judiciary constrain courts' autonomy. Consequently, courts may display ambivalence or even complicity by refraining from robust judicial review of parliamentary actions or by selectively interpreting constitutional limits to align with political interests. This dynamic weakens the institutional architecture of checks and balances essential for democratic consolidation (Yadav & Mukherjee, 2014).

Furthermore, judicial ambivalence contributes to the weakening of the rule of law and impairs the judiciary's critical function of checking executive power. Courts that accommodate or fail to challenge authoritarian executives effectively enable unchecked consolidation of power. Authoritarian rulers often exploit judicial acquiescence to entrench their dominance while preserving a façade of legality and constitutionalism. This manipulation erodes democratic institutions and accelerates democratic backsliding by disabling meaningful accountability mechanisms (authoritarianism, 2024).

Judicial demoralization and complicity are additional consequences of this ambivalence. Judges in such environments may prioritize institutional survival over principled rulings, resigning to political expediency rather than upholding constitutional mandates rigorously. In many authoritarian or hybrid regimes, courts become politicized instruments that serve to legitimize authoritarian governments instead of defending constitutionalism and democracy. This phenomenon is evident in countries like Pakistan, where courts have historically validated military takeovers, allowing authoritarian regimes to operate under constitutional façades and seriously damaging judicial independence. Lastly, judicial ambivalence seriously undermines democratic culture and accountability in society. When courts are viewed as politicized or ineffective, it corrodes public confidence not only in the judiciary but also in the broader democratic institutions. This skepticism hampers reform efforts and weakens social trust, making democratic consolidation more difficult. The perception of a compromised judiciary fosters cynicism regarding justice and accountability, weakening the long-term stability of democratic governance (Art, 2021).

The judiciary plays a profoundly complex role in politically fragile environments, where democratic institutions are weak, civilian rule is unstable, and the specter of military or bureaucratic interference looms large. Political uncertainty refers to contexts in which state authority is contested, institutional trust is low, and governance structures lack resilience or legitimacy. In such settings, courts and judicial actors can paradoxically serve both as agents reinforcing political domination and as potential bulwarks of democratic resilience. The judiciary's role is thus marked by inherent contradictions and dilemmas, reflecting broader power struggles within the state and society. This section explores these complexities by examining the decline of civilian political authority, Parliamentary inefficiencies under elite control, judicial complicity or resistance, and the judiciary's heightened political contestation during the 1990s, a decade notable for political transitions and institutional uncertainty.

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Erosion of Constitutional Supremacy

Since 1947, when Pakistan first gained its independence, the idea of constitutional supremacy has been beset with difficulties. A worrying precedent for weakening democracy through extra-constitutional actions was set when the Governor of NWFP removed Dr. Khan Sahib's elected administration just 10 days after the country was created, even though it had the backing of a clear majority. As military authorities regularly meddled in politics, suspending or revoked constitutions, and ruled under Provisional Constitutional Orders (PCOs) civilian influence eroded over the ensuing years. The military takeover by General Ayub Khan in 1958 and the disintegration of East Pakistan under General Yahya Khan's leadership in 1971 are significant instances of constitutional crises (Aatir & Dr. Rehana , 2021).

Even though the Supreme Court affirmed constitutionalism and ruled that Yahya Khan's PCO was unlawful in the historic Asma Jilani case of 1972, more infractions continued. General Zia-ul-Haq's 1977 coup and declaration of martial law, which suspended portions of the 1973 Constitution and undermined democratic institutions, was the most notable instance of the numerous violations of the 1973 Constitution, which was intended to solidify civilian supremacy. By citing the "doctrine of necessity," the judiciary frequently justified military takeovers during these volatile decades, enabling such unlawful acts to continue unchallenged. When General Pervez Musharraf revoked the constitution in 1999, this trend persisted. No high treason charges were ever brought in spite of these recurrent violations of the constitution, which perpetuated a cycle in which political expediency and force frequently overrode the rule of law.

Weakening of Civilian Institutions

A hallmark of political fragility is the steady erosion of civilian political authority alongside the rise or entrenchment of military and bureaucratic actors as dominant power brokers. In many transitional or fragile states, civilian governments often lack institutional depth, political cohesion, or legitimacy, making them vulnerable to intrusion by non-elected entities such as the military or entrenched bureaucracies that traditionally wield control behind the scenes. This dynamic profoundly weakens the democratic principle of civilian supremacy over the state and disrupts the proper functioning of constitutional governance (Khan, 2018).

Political parties and the Parliament, two civilian institutions, suffered from volatility and weakness in Pakistan's early years. Regular military operations frequently interfered with democratic governance, making it impossible for civilians to maintain consistent authority. Whenever they were in power, major political parties like the PPP and PML had to deal with persistent issues like political manipulation, frequent dismissals, and poor governance. The military had a strong advantage in the relationship with civilian leadership, which limited the development and autonomy of civilian institutions. Alongside the decline of civilian authority, parliamentary institutions in fragile political contexts frequently suffer from functional inefficiencies and domination by entrenched political elites. Fragile states often exhibit weak or immature legislative systems, characterized by poorly developed procedures, limited capacity for oversight, pervasive clienteles, and corruption. These deficiencies severely hinder the parliament’s ability to serve as an effective check on executive power or to enact meaningful reforms responsive to public needs. In many cases, political elites consolidate their hold on parliamentary structures, using them to perpetuate patronage networks and obstruct challenges to their authority. This elite capture distorts democratic representation and erodes the legitimacy of parliamentary decision-making. Courts operating in such environments commonly face dual challenges: legally confronting the excesses and malpractices of a politicized parliament, while simultaneously navigating pressures not to antagonize powerful elites (Sikkink, 2017).

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The judiciary occasionally made these confrontations worse by endorsing military supremacy or dismissing politicians on dubious grounds. The efficacy and legitimacy of Parliament were further undermined by poor leadership and poor governance. Pakistan saw a string of short-lived administrations with shaky leadership between 1988 and 1999, which resulted in ineffective legislation and the slow deterioration of crucial civilian institutions.

The Judiciary as a Contested Arena for Political Power, Especially During the 1990s

The 1990s were a watershed decade marked by waves of democratization, political transitions, and institutional realignments across Latin America, Eastern Europe, Asia, and parts of Africa. During this period of upheaval and contestation, judicial institutions themselves became arenas for intense political struggle. Newly established or reformed courts often had to define their identity and role amid competing pressures from emerging democratic forces, entrenched authoritarian regimes, and chaotic political contestations. Courts were politicized battlegrounds where political actors sought legitimacy and control. In some instances, judicial institutions were co-opted to serve authoritarian ends, reinforcing regimes through constitutional reinterpretations or legalistic cover for undemocratic actions. Conversely, in other contexts, courts emerged as courageous agents championing constitutionalism and political accountability, often advancing controversial rulings that challenged powerful vested interests (Hirschl, 2014).

For example, in post-communist Eastern Europe, the judiciary's role was central to democratization debates. Courts played crucial roles in interpreting new constitutions, vetting legislation, and adjudicating rights disputes but often operated under ongoing political pressures that made judicial independence fragile and contested (Prado & Sieder, 2009).

Similarly, Latin American courts in the 1990s became key actors in struggles between democratic reforms and authoritarian legacies. Judicial activism in countries like Colombia and Brazil helped expose corruption and protect electoral integrity, yet courts also faced criticism for political partiality and institutional weakness (Prado & Sieder, 2009). These historical experiences demonstrate how judicial institutions are far from neutral, often reflecting and shaping broader political fragilities. The litigation battlefield during the 1990s laid bare the judiciary's significance as a contested political arena its capacity to influence democratization trajectories, enforce constitutionalism, or facilitate authoritarian recidivism.

In politically instability contexts, the judiciary's role is ambivalent, multifaceted, and deeply intertwined with broader power configurations. The decline of civilian political authority alongside military and bureaucratic dominance weakens democratic governance, a condition mirrored and sometimes reinforced by judicial behavior. Parliamentary inefficiencies and elite control create governance deficits that courts may reluctantly or purposefully tolerate. Meanwhile, judicial complicity or resistance plays a decisive role in either deepening institutional weaknesses or fostering democratic resilience. The judiciary's politicization as a contested arena, especially during the transformative 1990s, underscores the continuing tension between the rule of law and politics. Ultimately, promoting judicial independence, institutional robustness, and a culture of constitutionalism is imperative for mitigating political fragility and fortifying democratic governance. The judiciary, while vulnerable, holds potential as a critical actor in stabilizing fragile political orders and safeguarding democratic principles (Rumi, 2015).

Loss of Judicial Credibility and Public Trust

Military coups in Pakistan have significantly weakened the independence and credibility of the judiciary. Under various military rulers like General Ayub Khan, General Zia-ul-Haq, and General Pervez Musharraf, the judiciary was brought under tight control by forcing judges to swear new oaths of loyalty through Provisional Constitutional Orders (PCOs), with those refusing being dismissed. This allowed the military to manipulate the courts and use them to

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justify their extra-constitutional takeovers. The judiciary frequently relied on the "doctrine of necessity" to validate military coups, which seriously undermined public trust by appearing to support unlawful actions rather than uphold the constitution. This pattern weakened the rule of law, facilitated political repression, and damaged democratic institutions. Over time, the judiciary's reputation suffered due to its perceived subservience to military interests, arbitrary decisions, and loss of impartiality, resulting in a major decline in public confidence a challenge that Pakistan's legal system and democracy continue to face today (Badshah & Niaz, 2021)

Institutionalization of Military Dominance and its Enduring Impacts on Pakistan's Democratic Landscape

"Democracy is defined as a political system where the government is often chosen thorough the fair process of elections, where citizens have a right to participate in the governance, where individual rights are protected under the law or constitution, and where rule of law is enforced through an independent judiciary".

Military coups imprint lasting and multifaceted impacts on the social fabric and governance of affected countries, undermining democratic foundations, fragmenting political and civil society, politicizing judicial bodies, and amplifying existing societal cleavages. Pakistan's history, marked by repeated military interventions, vividly illustrates how such disruptions erode democratic norms and institutional development over decades. The consequences reverberate through weakened civilian authority, dysfunctional political parties, compromised judiciaries, and deepening socio-political divisions (Ahmed, 2020).

The Militarization of Politics and the Erosion of Pakistan's Democratic Foundations

The recurrent military coups in Pakistan, beginning soon after independence, have profoundly militarized the country's political landscape, constraining the evolution of civilian democratic authority. Military rulers, often justified by claims of rescuing the nation from corruption or instability, have entrenched the role of the armed forces as a dominant political actor rather than a neutral defender of the state. This militarization has systematically eroded democratic institutions, interrupted electoral processes, and marginalized civilian governance. Each coup reinforced the military's preeminent influence over policymaking, security, and governance, often sidelining legislatures and executive cabinets. For instance, General Zia-ul-Haq's military regime (1977–1988) institutionalized martial law and used the armed forces to impose authoritarian controls while curtailing political freedoms, leaving a legacy of authoritarianism interwoven with state structures (Jilani, 2013). Later, General Pervez Musharraf's coup in 1999 further exemplified this pattern, as his administration centralized power within the military establishment and manipulated democratic institutions to prolong military dominance. The militarization of politics not only disrupted democratic continuity but also undermined public trust in elected governments, creating cycles of instability. Civil-military relations remain uneven and fraught with mistrust, impeding efforts to build robust democratic governance in Pakistan (Haqqani, 2018)This ongoing dominance of the military over politics has weakened constitutionalism, delegitimized civilian authorities, and fractured the democratic foundations of Pakistani society.

Weakening Political Parties and Fragmentation of Civil Society

Military coups have contributed significantly to the weakening of political parties and the fragmentation of civil society in Pakistan. The military regimes frequently curtailed political party activities, dissolved assemblies, and manipulated electoral processes to weaken opposition forces and perpetuate military-backed proxies in civilian institutions. These interventions have stunted the development of strong, programmatic political parties that can mobilize citizens, articulate coherent policy alternatives, or hold governments accountable. Political parties became fragmented, often revolving around personalities rather than ideologies, with factionalism and patronage networks weakening their organizational capacity.

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This fragmentation diminished the effectiveness of legislative institutions and contributed to a political culture characterized by clienteles and elite competition rather than democratic deliberation (Cheema.et, al., 2013)

Civil society, which could provide a counterbalance to authoritarian tendencies, has also been debilitated. The military's influence over media, civil organizations, and public discourse limited the space for civic activism and dissent. Furthermore, recurrent instability fostered an environment of fear and distrust among citizens, limiting collective social action and weakening democratic participation. The combined weakening of political parties and civil society impedes democratic consolidation and allows authoritarian tendencies to persist under civilian camouflage. This fragmentation deepens social divides and erodes the prospects for inclusive, participatory governance in Pakistan (Rizvi, 2015)

Politicization and Internal Divisions within the Judiciary

Military coups and the subsequent political manipulation have deeply politicized Pakistan's judiciary, fracturing its internal coherence and undermining its role as an arbiter of constitutionalism and justice. The judiciary has often been caught between pressures to legitimize military takeovers and the constitutional mandate to uphold democratic governance. Historically, courts have at times sanctioned military coups under doctrines such as the "doctrine of necessity," which allowed the military to present its seizures of power as legally justifiable interventions, thereby eroding judicial independence and the rule of law. These rulings damaged the judiciary's credibility and made it vulnerable to external influences. Internal divisions within the judiciary have also emerged, with some judges aligning with authoritarian regimes for institutional or personal gains, while others have resisted political pressures, advocating for judicial activism and independence. The Lawyers' Movement of 2007-2009, for example, marked a critical moment of judicial resistance against autocratic rule during Musharraf's era, evidencing the judiciary's contested internal dynamics (Cheema, 2012). Such politicization has weakened the judiciary's capacity to act as an impartial guardian of rights and constitutional order. It has heightened partisan polarization within the legal system, compromising its legitimacy and contributing to broader institutional fragility in Pakistan.

Amplification of Military Influence alongside Rising Religious Extremism and Ethnic Divides

The entrenchment of military authority in Pakistan's political and social domains has coincided with, and arguably facilitated, the rise of religious extremism and ethnic fragmentation. Military regimes have, at times, exploited or tacitly supported Islamist groups to consolidate power and neutralize political opposition, resulting in the militarization of religious politics with destabilizing consequences. For example, the Zia-ul-Haq regime's Islamization policies in the 1980s institutionalized religious orthodoxy, intertwining state power with religious conservatism and expanding the influence of extremist groups (Haqqani, 2018). This created a legacy of religiously charged politics that continues to influence social divisions and governance challenges.

Simultaneously, Pakistan's ethnic diversity and regional disparities have been exacerbated by militarized politics. Ethnic minorities and provinces such as Balochistan and Sindh have experienced marginalization, repression, and conflict, sometimes with military involvement deepening grievances. The military's dominant position in security and governance has often prioritized a centralized view of national identity, sidelining ethnic pluralism and aggravating sectarian tensions. The confluence of military influence with rising religious and ethnic cleavages has intensified social polarization and hindered the development of an inclusive, democratic political culture. This interplay feeds cycles of violence, instability, and governance crises that challenge Pakistan's social cohesion and democratic governance today (Akhtar, 2020).

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In sum, the enduring effects of military coups in Pakistan underscore a deeply entrenched militarization of politics that has undermined democratic foundations, fragmented political parties and civil society, politicized and divided the judiciary, and amplified religious extremism and ethnic tensions. These interrelated consequences continue to shape the contours of Pakistani society and governance, posing profound challenges to state stability and democratic resilience. Restoring civilian supremacy, fostering political pluralism, safeguarding judicial independence, and promoting social inclusivity remain critical to dismantling the legacies of militarized authoritarianism and advancing democratic governance in Pakistan (Amjad, 2024).

References:

Aatir & Dr. Rehana . (2021). Judicial Politics and Judicial Independence at Crossroads: A Study of Judicial Activism in Pakistan. *Pakistan Languages and Humanities Review*.

Ahmed, S. S. (2020). The Role of Pakistan Against Counter Terrorism. American Scientific Research Journal for Engineering, Technology, and Sciences (ASRJETS), 65(1), 66-81.

Akhtar. (2020). Ethnic Conflict and Political Instability in Pakistan. Journal of South Asian Studies, 25(2), 273-289.

Ali. (2023). Politics and Judicial Independence in Pakistan: A Critical Review. Pakistan Journal of Social Sciences, 43(1), 15–29.

Altaf, H. (2019). History of Military Interventions in Political Affairs in Pakistan . *CUNY ACADEMIC WORKS*.

Amin, M. F. (2023). Constitutionalism and judicialization of politics in Pakistan. *Journal of Law & Social Studies, 5*(2), 210-225.

Amjad, R. (2024). Military Rule and Its Impact on Pakistan's Democratic Development. Pakistan Journal of History and Politics, 37(1), 45-63.

Art, R. J. (2021). Instrumentalizing Justice: Forms and Impacts of Criminal Justice Abuse in Russia. Eurasian Institutes Journal, 1, 12-35.

authoritarianism, J. r. (2024). *Comparative Constitutional Studies, 3(1), 81-110.*

Badshah & Niaz. (2021). The role of superior judiciary in protecting its independence: A case study of judicial legitimization of military regimes in Pakistan. *Journal of Humanties, Social and Management Sciences*.

Burbank & Friedman. (2020). Judicial Independence in an Age of Democracy: Some Problems and Prospects. Annual Review of Political Science, 23, 211-234.

Cheema. (2012). The Lawyers' Movement and Its Impact on Democracy in Pakistan. South Asian Studies, 27(1), 139-158.

Cheema.et, al. (2013). Decentralization in Pakistan: Context, Content and Causes. Kennedy School of Government, Harvard University.

Falki, S. M. (2022). Paradoxes of judicial independence and federalism in Pakistan. *Journal of Contemporary Studies, 37*(2), 125-140.

Ginsburg, T. (2011). Judicial Review in New Democracies: Constitutional Courts in Asian Cases. Cambridge University Press.

Haqqani, H. (2018). Pakistan: Between Mosque and Military. Carnegie Endowment for International Peace.

Hirschl, R. (2014). Constitutional Theocracy. Harvard University Press.

Jilani, H. (2013). Judiciaries in Conflict: Pakistan's Political Instability and the Role of Courts. Oxford Journal of Law and Politics, 5(2), 115-134.

Khan. (2018). Military operations in FATA and PATA. Strategic Studies, 31, 129-146.

ISSN E: 3006-1466
ISSN P: 3006-1458
CONTEMPORARY JOURNAL OF SOCIAL SCIENCE REVIEW
CJSSR

Mahmood, M. T. (2020). The Role of the Judicial System and Law Enforcement Agencies in Combating Terrorism in Pakistan (Doctoral dissertation, University of Buckingham).

Posner & Vermeule. (2009). The Executive Unbound: After the Madisonian Republic. Oxford University Press.

Prado & Sieder. (2009). Judicial Independence and Democratization: Latin American Courts in Comparative Perspective. University of Pittsburgh Press.

Qureshi, S. (2018). Judicial Support of Military Rule: The Case of Pakistan. Journal of South Asian Legal Studies, 5(2), 45-62.

Rizvi. (2015). Civil Society and Political Change in Pakistan. Asian Journal of Political Science, 23(1), 95-113.

Rumi, R. (2015). Charting Pakistan's internal security policy. Washington, DC: United States Institute of Peace.

Semmel, B. (2007). Courts and Judges in Authoritarian Regimes. Journal of Law and Courts, 15(4), 235-253.

Shah, S. Z., Hassan, Z., & Ali, N. (2022). Role of judiciary in the politics of Pakistan: A case study on judicial interference and military influence. *Migration Letters, 19*(1), 1338-1352.

Sikkink, K. (2017). Evidence for Hope: Making Human Rights Work in the 21st Century. Princeton University Press.

Yadav & Mukherjee. (2014). Democracy, Electoral Systems, and Judicial Empowerment in Developing Countries. Michigan University Press.