

Implications of Assorted Constitutional Principles on Administration of Justice in Pakistan

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Abstract

The Constitution of 1973 prescribes parliamentary form of government. Governing principles of constitution were resolved in 'Objectives Resolution' passed in 1949. Resolution introduced sovereignty in God, representative parliament, responsible administration and independent judiciary. These characteristics have been subjected to injunctions of Islam. Constitution provides Council of jurists for implementation of Islamic ideals. The state system after freedom was being governed under Government of India Act 1935. Polity therefore developed inclination towards parliamentary form of government. The Assembly in 1973 adopted a constitution based on assorted principles. Parliaments assisted by Islamic Councils remained unsuccessful to transform ambiguities in legal structure. Principle of necessity was used for replacement of legal system. Consequently foundations of social justice system are fragile for democratic performance. The study presents implications of assorted constitutional principles on administration of justice in the country. It has been analyzed that state principal organs have yet to develop coherent affiliation to strengthen democratic process for administration of justice in the country.

Keywords: Administration of justice; constitutional principles; parliamentary sovereignty; rule of law; separation of powers; independence of judiciary

I. Introduction

The nation by freedom carved a political entity to develop a political system for administration of justice in the society. The provisional system under the Government of India Act 1935 was the model of administration enacted by alien government. It was for the representatives to reform or reject by framing a constitution of their own. There were differences among political circles on incorporation of ideological principles in the constitution. The Constituent Assembly had to resolve basic issues before framing the constitution. Assembly made attempts at initial stage and produced compromise-able constitutional proposals. Irresponsibility of some of the members delayed the process and issues were intensified. Resolution strategies were to be launched and controlled by prime ministers but three of them were undemocratically managed to quit offices when they were on their mission to resolve constitutional conflicts. When the constituent Assembly was about to adopt the constitution of Pakistan in 1955 it was illegally dissolved. Second Constituent Assembly formulated the constitution of 1956 that still lacked Parliamentary characters as anticipated by the nation. The large body of Indian Act 1935 was ad-verbatim reproduced in the new constitution. That was neither fully parliamentary nor colonial. Among these issues rule of law and administration of justice

stood nowhere. Public welfare program were no liability on public exchequer. When appropriations of establishment were checked to give relief to public those resulted in dismissal of national ministries. Allen McGrath, (1996, 137.) These circumstances disheartened rather disabled the nation to produce a system of law capable of delivering justice to the nation.

II. Constitutional issues/Sovereignty

The theme of sovereignty in constitutional affairs of Pakistan is not comprehensible enough to offer constitution makers free hand to apply their understanding on legislative proposals. On the other sides, characteristic of sovereignty is the main principle which opens avenues for law and constitution making progression. Representative parliaments have assumed sovereign status. Presently legislation is popularly deemed unlimited function of representative of people. The principle of parliamentary sovereignty has obtained broader recognition in states with parliamentary system of government. Theoretical support of parliamentary sovereignty has been drawn from exposition of professor Dicey. The principle by the passage of time has also obtained recognition of judiciary. Chief Justice Coke affirmed legislative authority of parliament and declared that King had no power to create law by proclamation. "The law of England is divided into three parts, common law, statute law, and recognized custom; but the King's proclamation is none of them". Sellick, J. (2007 20). It eventually means no authority else then representative institutions have any concern with legislation. The doctrine of parliamentary sovereignty has also shaped other principles like Independent judiciary, rule of law and the separation of powers aimed at administration of social justice. These features of British system serve as touch stone for determination of characteristics of parliamentary system. Of these three doctrines, parliamentary sovereignty is the most fundamental principle guiding the function of the constitution and as quoted by (Loveland, I. (2006 21) has its root in the political events of the late seventeenth century and the legal theory propounded by Dicey.

According to Dicey (1885:39-40) parliamentary sovereignty means parliament has the right to make or unmake any law whatever; and, further, that no person or body is recognized by the law of England as having a right to override or set aside the legislation of Parliament. (Turpin, C. & Tomkins, A. (2007, 40). The doctrine further implies that there is no law higher than the Act of Parliament. Parliament may by statute make or unmake any law, including a law that contravenes international laws or that alters a principle of the common law. The courts are obliged to uphold and enforce law made by parliament.

The Constitution of Pakistan 1973 is of parliamentary nature. Generally parliamentary system revolves around the principles of parliamentary sovereignty. But the Constitution provides system of restricted sovereignty dissimilar from the principle of parliamentary sovereignty. Under Article 227, it cannot make any law which is repugnant to the injunctions of Islam. Objective Resolution (1949) that serves as an endorsement of restricted sovereignty has been maintained in all constitutions of Pakistan. *Ahsan, S., A., (1973)*. Constitution of 1973 has elevated its force by making it as part of substantive provisions. In pursuance of this commitment, the 1956, 1962 and the 1973 constitutions established special institutions such as the Islamic research institute, council of Ideology etc. (*Mujahid, S., 2003, 14.*) These institutions comprising of jurists have to guide parliament in legislation. Elements of the 'resolution' specifically prescribe that; whereas

sovereignty over the entire Universe belongs to Almighty Allah alone, and the authority be exercised by the people of Pakistan within the limits prescribed by Him is a sacred trust;

And whereas it is the will of the people of Pakistan to establish an order: Wherein the State shall exercise its powers and authority, through the chosen representatives of the people;

Terms of above resolution are conferring sovereign status to Almighty God. Apart from the above version political leadership of religious background placing sovereignty in God make it clear that all powers originate from this divine theory with reference to qur,anic text. Quran (51:58). Their reliance is on Muslim political leaders and philosophers like Maulana Maududi, and Ayatollah Khomeini. They argue that basic distinction between western and Islamic political system is that the former places sovereignty in its population through the notion of popular sovereignty while the latter places it absolutely in God, the source of all legislation. Islamic submission to God is placed similar to that of English philosopher Thomas Hobbes who visualized the complete surrender of power by the individual to the state. This margin of autonomy by virtue of vicegerency is the Islamic equivalent of popular sovereignty.

Maulana Maududi says that according to Islam, sovereignty belonged to God. He alone is the law-giver and that believers could neither resort to totally independent legislation, nor could they modify any law laid down by God. He saw the Islamic state as a political agency set up to enforce the laws of God. Herein lays the cardinal difference between the modern and Islamic conceptions. While modernity made the state a repository of sovereignty, in Islam the state was merely an agency of the sovereign. The political task is to reflect on how this God given agency can be best employed in creating a society that will bring welfare to people. (*Khan Muqtedar 1999, 10*)

Above proposition regarding notions of restricted sovereignty with in the parliamentary system have narrowed the scope of progressive legislation in Pakistan. Nature of the issue are rendered more convoluted when jurists guiding parliament on proposals of legislation stand further divided on the basis of interpretation of legal principles of the school of thought they belong to.

Apart from academic debate on nature of sovereignty when issues in the form of legal contentions appeared before the courts it was found that there were inconsistencies in preamble and operating provisions of the constitution. Supreme Court examined the text in the following terms. The court said that contents of the 'resolution' have three distinct components. The first is purely structural feature that sovereignty of God descending on the people constituting state is to be exercised through their chosen representatives. So the people exhaust the pristine devolution, distribution and sharing Divine sovereignty. The individuals, the authorities, the institutions and the courts, do not figure in this structure. They make their appearance on terms, with limitation, as a result of further delegation of authority expressly made or impliedly conferred. The second is its qualitative feature. The sovereignty shared or enjoyed is delegated capable of further delegation, is by its very nature a sacred trust and has to be exercised within limits prescribed by the Almighty Allah. The third is its normative feature. The norms, the goals, the ideals, mostly mundane in nature are spelt out with particularity, which has to

be achieved through the constituent assembly by the process of framing a constitution. It would indeed be so when the amplitude of power reserved for the Parliament, in the same Constitutional instrument is kept in view. (Hakim v. Govt of Pakistan 1992, 595). The Court observed that on finding incompatibility parliament was competent to amend the Constitution bringing the impugned provision in conformity with injunctions of Islam. The court in its finding pointed out inconsistencies and ruled that it is the parliament that can treat these issues with participation of the Islamic Council.

III. Contemporary pattern of sovereignty of parliament

The supremacy of parliament obtaining loud demonstration by the Revolution of 1688 has covered several impasses. Before that courts could challenge the laws emanating from the parliament. In *Day v. Savadge* (1615), it was held that an Act of Parliament which was made against natural equity was void in itself. By the development of the doctrine of parliamentary sovereignty, such an idea has become obsolete. *Picking v. BRB* [1974] 765. Dicey (1885), in his book *Law of the Constitution* argued that the statutes emanating from the Parliament are the supreme laws of England.

Dicey's three rules of Parliamentary supremacy are:

- (i) Parliament can make or unmake any law:
- (ii) Parliament cannot bind its successors:
- (iii) Nobody or group can question the laws made by Parliament.

Keeping in view the contemporary version on sovereignty of parliament and construal visualized by the court on propositions relating to constitutional impediment it seems indispensable for parliament to evolve a procedure for bringing conformity in legal structure. It is utmost essential to bridge legal gaps to materialize terms of rule of law in the society. This is the basic proposition which needs firm and vivid elucidation through general consensus. There are challenges faced by parliament to act freely as required under parliamentary system. In the absence of such authorization parliaments have never been exercising their right of legislation as sovereign institution as envisioned by modern jurists. By taking no firm decision the political institutions have suffered criticism and extra constitutional means have been employed to displace elected parliaments on malfunctioning pretexts.

If the concern of sovereignty is finally resolved by the nation, it will produce obstinate juristic legitimacy for parliamentarians to exercise their function of legislation as freely as required. This exercise will evolve pure parliamentary system of government capable of delivering social justice to the people of the country.

IV. Doctrine of Trichotomy of power

Administration of justice in appropriate manner originated the ideology of separation of power between principal organs of state. The doctrine of separation of power was formulated in the mid-seventeenth century by English writers who argued for the separation of the legislative and executive which then included the judiciary. It was a move to restrict arbitrary functions of government, with a view to restraining abuse of governmental power. The theory of separation of power was subsequently developed by John Locke and Montesquieu. Martin, J & Turner, C. (2008.23) John Locke in 1690 recognized that if the same persons have the power to make laws and to execute them,

they may exempt themselves from the laws, make and use the law to their own private advantage.

The doctrine entails that each of the three arms of government the legislature, judiciary and the executive should have a specific function to perform. Proper constitutional relationship of the executive with the courts is that the courts will respect all acts of the executive within its lawful province, and that the executive will respect all decisions of the courts as to what its lawful province is. Montesquieu (1689–1755) developed the doctrine further and warned of the dangers of failing properly to separate the judicial function from the others. The primary purpose of the doctrine as said by Dicey A. V, (1886, 36) is to avoid the concentration of power in any one authority, thus ensuring that no single entity wields absolute power. The division of power is intended to create a strain between authorities in order to achieve a balance.

Amongst basic organs of Pakistan there is no precise separation of power as prescribed in the above mentioned theories of constitutional law. A titular separation of power is found between legislature and executive organ during all military rules in Pakistan. Military rulers occupying administrative organ exercised powers of legislation and enacted laws and even amended the constitution through presidential orders. A substantial portion of the Constitution of 1973 contains provisions amended via presidential orders. These provisions although were subsequently validated by the Acts of parliaments. Yet the process adopted for validation was dubious and coercive in nature. When these pieces of legislations were challenged in superior courts, the courts declined to rule on the validity on the principle that courts can not invalidate legislation. On certain occasions when such legislative acts being in gross violation of law were placed before judiciary and the administration expected reversal, the judges were required to take oath of allegiance. Judges who declined to take such oath were forced to relinquish their offices. Absence of precise separation produced serious conflicts. In the year 1997, the tension rose so high that a Bench of the Supreme Court suspended the operation of a constitutional amendment. In another case a Bench directed the President not to give assent to a bill duly passed by the national assembly and the Senate. In 2002 independent status of judiciary was again attacked. Military regime granted the judges extension in the retirement age under the administrative order. The Court in *Zafer Ali Shah* Case has sanctioned similar numbers of years for the Chief Executive. *Zafer Ali Shah* vs. General *Pervez Musharaf* (PLJ 2000 1490). The reciprocal allocation sparked criticism and Supreme Court Bar reacted by passing resolutions requesting the judges not to take the benefit under the Legal Framework Order (LFO 2002).

In the wake of such illegitimate measures theoretical standard of separation of power totally disappeared in 2008. These circumstances produced the campaign of independence of judiciary. The deposed judges were restored and those taking oath of allegiance were sent out. The campaign of legitimacy moved further and the amendments made by military rulers were deleted under Eighteenth Amendment Act 2010. During the period administration of just had serious setback mainly because of abuse of doctrine of separation of power.

There is need of constructive relationships between the three arms of government, the executive, the legislature and the judiciary. These are essential to the effective maintenance of rule of law. But positive separation is indeed an essential element of

justice system. In developing societies like Pakistan practice of pure separation although is impossible to achieve. All political systems exhibit greater or lesser degrees of partial separation, with checks and balances in place ensuring that power is not overly concentrated in one branch. The encapsulation of this rule suggests that power should be shared between the bodies with checks and balances included to prevent abuse. (Barnett 2002).

V. Independent judiciary

Independence of judiciary is vitally important to the rule of law, and in particular to public confidence in judges as a means of upholding the law. This in turn brings social and economic progress. It enables people to be assured that when their rights are infringed, or when others' duties need to be enforced. The Constitution of 1973 declares that independence of judiciary shall be fully secured. The separation of Judiciary from Executive was not effected as required under the constitution until petitions were filed before the courts for implementation. Government was forced through the direction of court to put it into operation. Under Article 175 as originally enacted it was provided that Judiciary shall be separated in a fixed time frame of three years from the date on which the constitution came in to force viz. 14-8-1973. The period of three years was however subsequently extended to five years by the Constitution (5th amendment) act 1976 and then to 14 years by the 'Revival of the Constitution 1973 Order P.O.14 of 1985'. Thus the period during which Judiciary had to be separated from the executive was enlarged under various extensions up to the 14th August 1987. The legal obligation was to give judiciary free hand to function as an independent judicial organ of the state and then to ensure accountability of the executive. The Supreme Court in (*Govt. of Sindh v. Sharaf Faridi* 1994, 107) held that Judiciary is independent of the Executive and Legislature, and has jurisdiction, directly or by way of review, over all issues of a judicial nature.

What should be the extent of independence of judiciary is issue under adjudication even to-day. Supreme Court of Pakistan is hearing constitutional petitions arising out of Eighteenth Amendment Act passed in 2010. The issue relates to mode of appointment of members of superior judiciary. Supreme Court has to rule on participation of parliamentary and executive organs in composition of superior courts. The essential characteristic of independence of judiciary as assessed by *Ajmal M.* needs separation of judiciary from executive. (*Ajmal M.*1990, 8.) The most significant fact of separation of Judiciary from the executive is that power of appointment of the superior court judges has been given to the executive of the country. (*Rabbani* 2002, 28) Supreme Court has held that if judiciary of a country were striped of its powers, the country would cease to exist as a free nation. *State v. Tariq Aziz* (2000, 751). All authorities are also called upon to assist the Supreme Court for administration of justice. Friedrich j.(1974,265) said that constitutional experience also points to the judiciary more specifically its apex forum for such guardianship of society.

VI. Principle of Rule of law

Article 4 of the constitution of Pakistan summarizes the essence of rule of law. The article says that to enjoy the protection of law and to be treated in accordance with law is inalienable right of very citizen and of every other person for the time being in Pakistan." The basic principle, according to Lord Bridge is to be found "no where more clearly expressed and explained than by Professor Sir William Wade in his "Administrative Law". According to him, unfettered or absolute discretion is a "beguiling heresy" and

those who argue that some enactment confers unfettered discretion are “guilty of constitutional blasphemy. Unfettered discretion cannot exist where the rule of law reigns”. (SCMR 1997,, 641, 802-3)

The rule of law refers to a set of legal principles which guide the operation of the legal system and how the powers of the executive arm of government are controlled by the courts (Taylor, C. (2009, 33). In modern political society it is the excesses of state against individuals that led to development of the doctrine of rule of law. Judiciary tried to stop the access of state against its own citizen. Lord Chief Justice Coke’s unwillingness to compromise challenges to the supremacy of the common law made him increasingly unpopular with James I, and he was eventually removed as Lord Chief Justice in 1616. To-day it is the rule of law that is sovereign (Marilyn Warren, 2008).

The essential characteristic as marked by Mark Cooray 2010) of the rule of law are:

- (i) Supremacy of law; that all individuals and state officials are subject to law.
- (ii) Law based on standards and the importance of procedure
- (iii) Restrictions on the exercise of discretionary power
- (iv) The doctrine of judicial precedent
- (v) Legislation should be prospective and not retrospective
- (vi) Independent judiciary.
- (vii) Exercise by Parliament of the legislative power and restrictions on exercise of legislative power by the executive

Marcus Araroni has also quoted basis for measuring rule of law in legal system of state. The judgment of *Entick v Carrington* (1765) maintains that government must act within its legal powers. No body should be punished, except for a specific breach of law; and every person irrespective of rank is subject to the law. In *R v Horseferry Road Magistrates’ Court*, [1994] court held that State power must be specified in law: No punishment must be inflicted except for specific breach of law.

Specific application of these principles of administration of justice demand institutional restraint. This compulsion demands more concern in the legal system of developing democracies because in this system executive organ is drawn from the parliament. Therefore the division between these two branches remains not so distinct. In fact, the power of the executive has developed to a point where that branch has come to dominate the political sphere. Marilyn W. says that what was intended to be a three-way division of power has, in reality, largely become a two-way spilt, with the threads of tension lying predominantly between the executive and the judiciary. (Marilyn Warren 2008)

To face cumbersome legal obligations Pakistan like other developing democracies need to promote democratic conventions in its legal system. Democratic constitutions comprise of articulated constitutional obligations as well as axiomatic conventions. Both are of equal importance for smooth functioning of democratic system. Sir Ivor Jennings holds that conventions are rules whose nature does not differ fundamentally from of positive law. Jennings’s argues that many propositions that are true of law are also true of convention. (Geoffrey Marshal, 1986, 12) The alternative to the rule of law is the rule of power which is subject to influences. Michael Kirby (1998, 12-14) is of the view that

without the rule of law that comes from independent decision-makers, it is obvious that equality before the law will not exist.

International human rights groups have compiled depressing reports on conditions of rule of law and human rights in Pakistan. The report says feminine population and minorities suffer more from inadequate protection of human rights. The *Hudood* laws explicitly discriminate against women on accusations of extra-marital sex and cause substantial dishonor for the women in communities in which they live. In these circumstances state legal procedures should be fair. Civil disputes take years due to insufficient number of judges in the lower courts. As a result, both the time and cost of litigation limit access to justice in Pakistan. (SIHRG, 2010, 13)

VII. Analysis

Primary objective of each state is to administer justice in the society. The factual task includes strengthening parliaments, ensuring legal access to the poor, tackling corruption, reforming public administration and promoting human rights. (Kemal D, 2006, 153.) Administration of justice is hardly practicable until these basic principles of constitution are patently understood and have clear application in each branch of government. Dani R., *Romain W.* 205.50, are of the view that in systems that are full of entrenched obstacles to development and efficiency, reform may often be very expensive. But there is no alternative to these obstacles. On the basis of these principles society may expect to make advancement towards rule of law. It is the supremacy of regular law as opposed to arbitrary power, or prerogative, or discretionary authority that reforms the society. It also means equality before the law, equal subjection of all classes to the ordinary law administered by the ordinary courts of law.

Sovereignty of Pakistan was obtained by political movement. State had a system of law capable of further escalation. Transition was maneuvered by political elites by abrogation of legal order. Political maturity of the nation was not as pathetic to admit autocracy in the name of rule of law. Autocracy was intruded in the name of *Law of Necessity*. This administrative decree ruled the state as many as thirty years. Courts of law approved this illegality as justified act of administration. Three famous constitutional cases i.e. (*Dosso case*, 1958, 533) (*Nusrat Bhutto v. Chief of army staff* 1977, 657) case and *Zafar Ali Shah vs. General Pervez Musharaf* (2000 1490) case made the administration of justice discretionary act of government. During the period rule of law, fundamental rights, and social justice system remained masked altogether. Social justice is the pathway to democratically generate the urge of prosperity in general population. There is sound relationship between democracy and development. Seymour Martin Holds that as a country grows prosperous its public demands more freedom and a larger say in how they are governed. Seymour M., (1959: 69). This mindset promotes democratic conventions in the society. This awakening excludes any exemption of officials or others from obedience to the law.

Fundamental issue regarding administration of justice is that there is no single source of law from where laws are derived in Pakistan. Another reason is low level of literacy and conflict between secular law and religious law. In the rural and urban areas, religious laws or tribal laws have distinct application. Defiantly power in customary manners is commonly exercised in the country. There are many reasons contributing inconsistency. In the recent past military regimes declared emergencies by giving the

administration total discretion to act as they see fit in the areas of legislation administration and system of justice. One military dictator declared emergency for *Islamization*, the other to repulse implications of the same. General *Musharraf* suspended the constitution on the pretext that this was necessary to protect the country from Islamic extremism. But it is now obvious that the exercise was to route out rule of law from the system of administration. No institution was spared to survive on its foundation. Qualification was prescribed for eligibility to contest elections. Military officers and clerks were allowed to run, as graduation from military academy or an Islamic seminary was equated with a university degree, (Jan Talbot 2002,28) This exercise was against fundamental rights but the constitution had been held in abeyance. Suspension of the constitution fundamentally undermines the rule of law and effectively allows affluent administration to act in discretion. These factors undermined growth of principles of constitution.

Administration of justice in Pakistan has no specific direction. There is an alternative justice system operating in rural parts used for feudal control of the population that leaves individuals vulnerable, with no hope of justice. Such a situation can only emerge in an exceptional breakdown of the rule of law. Human Rights Commission proposes that minorities need to be assured and protected against falsified cases. Women need to be assured that they would be treated equally before the law and granted required protection. Asian Legal Resource Center urges that public institutions are overseen by independent commissions, especially for police affairs. Policing be considered as a social policy and objectives be discussed publicly by involving all stakeholders. Accountability mechanisms must be made people friendly and accessible for the ordinary citizen. (CHR-ALRSC 2010) proposes special measures are considered in educating people in rural areas about the functioning and availability of such mechanisms.

Review of the operating code of law reveals that there is need to bring consistency and compatibility within the provisions of the constitution and law. This incompatibility produces lack of public faith in political system. Persistent lack of faith in political process has moved Pakistan to a point where in the words of (Herbert F. 1975, 11) 'system is contrivable by powerful circles. State should produce a system of law whatsoever is obtainable by democratic consensus. Until now there have been no positive efforts for development of democratic system. Nation had expectations from Council of Islamic Ideology. Chairman of the Council (*Khalid Masood* 2007-14) said that the Council submitted proposals to the government on important legal issues but most of them went unheard. He added that during the last three years as many as seventy-two recommendations were sent to the government but only seventeen received positive response. He also said that the Council has suggested that amendment in all laws enacted from 1977 be made consistent with *Quran and Sunnah*. He deplored that the recommendations of Council of Islamic Ideology were not implemented. He proposed the government to form a committee comprising members of the National Assembly tasked to give practical shape to suggestions of the Council but all in vain.

In the system of state representative institutions are mainly responsible for political advancement. This institutional advancement ensures public prosperity. (Dani R. 2004, 65) suggests that positive association runs from certain types of institutions for political and economic governance to greater economic prosperity of the country.

VIII. Conclusion

The Constitution of 1973 in its present form contains provisions reflecting inharmonious appearance. Principles of parliamentary system have been mixed up with conventional Islamic beliefs. Social obligations arising out of constitutional provisions are being overlooked. Fundamental rights are discretionary functions of state. Principles of state policies are not in focus. Local government institutions are not promoted for objects enshrined under Article 32 of the Constitution. Promotion of judiciary to act as guardian of the constitution has been deliberately obstructed against provisions of the Constitution. Administration delays implementation of Judgments of Supreme Court

Legislative primacy of parliament under the constitution is perception of the nation. This vision has geo-political and socio-cultural relevancy with affairs of Pakistan. Numerous attempts of introducing variety of governing system have so far been proved abortive. These attempts were made to convince the population to switch to presidential, unitary, Islamic *Khilafat* or social democracy. Whenever constitutions were abrogated or held in abeyance in Pakistan, those were not replaced by alternative constitutional system. Rather, almost entire body of the parliamentary constitution was re-employed each time by enforcement of Laws Continuance in force Orders.

The nation has vision and familiarity for recognized parliamentary system. The perception remained intact and additions made through irregular amendments were rejected by the nation. It indicates need and commitment of the nation for parliamentary form of government in Pakistan. Eighteenth Amendment Act passed by consensus of political parties has produced hope that administration of justice shall be supported under parliamentary principles of constitution.

The study concludes that constitutional principles of sovereignty of parliament and independence of judiciary as sanctioned under doctrine of separation of powers have yet to scientifically emerge in political system of Pakistan. The deficiencies have no positive impact on administration of justice in the society. Executive organ is yet beyond the scrutiny of law. Parliaments have been irregularly granting indemnity on violation of fundamental law of the land. Courts have been granting legal cover to military rules. There are no checks and balances based on principles of constitutional law. Strong commitment of the three basic organs for supremacy of law can put the system on democratic track enabling that to deliver political, democratic and economic prosperity to the nation.

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