

Received : 15 July 2024, Accepted: 28 August 2024

DOI: <https://doi.org/10.33282/rr.vx9i2.102>

Judiciary's Role as the Guardian of the Constitution and the Rule of Law

¹Maryam Qasim, ²Muhammad Imran, ³Adnan Rehman, ⁴Dr.Aftab Ahmad, ⁵Dr.Amin Ullah, ⁶Muhammad Asim Sheraz,

1. Head of Department Law/Assistant Professor, Shaheed Benazir Bhutto University (SBBU) (Sheringal) Email: maryam@sbbu.edu.pk
2. Staff Member (SAHSOL-LUMS) Email: mimran@lums.edu.pk
3. Staff Member, department of Law, University of Azad Jammu and Kashmir, Muzaffarabad Email: mir.adnan.rahman@gmail.com
4. Assistant Professor Department of Islamic Studies Shaheed Benazir Bhutto University (SBBU) (Sheringal) Email dr.aftabahmad@sbbu.edu.pk
5. Head of Department Islamic Studies/Assistant Professor, Shaheed Benazir Bhutto University (SBBU) (Sheringal) Email: amin@sbbu.edu.pk
6. Ph.D. Scholar Department of Islamic Studies, Shaheed Benazir Bhutto University (SBBU) (Sheringal) Aasim.1995@gmail.com

Abstract:

The judiciary in any country enjoys a very unique role – it provides justice, which is important for the maintenance of peace in any society. Superior Courts of Pakistan i.e. Supreme Court and High Courts are under constitutional obligations to protect and preserve the Constitution of Pakistan, 1973.¹ To protect the Constitution is one of the prime duties of the Superior Courts; so, in the Preamble to safeguard the judiciary is assured, without which the judiciary cannot perform its function to protect, the law, and Constitution and enforce the Fundamental Rights granted by the Constitution of Pakistan.²

Rule of Law is a blessing on humanity which denotes that every person shall be dealt with in accordance with the law. It further means that in

¹ Third Schedule in the Constitution of Pakistan: Oath of Chief Justice of Pakistan, Chief Justices of High Courts, Judge of the Supreme Court, and Judges of the High Court.

² Preamble of Constitution of Pakistan which is now substance part of the Constitution as Article 2A. Primarily, it was the Objectives Resolution (Aims and Objectives of the Constitution passed by the Constituent Assembly in 1949 under the Premiership of Khan Liaquat Ali Khan).

a State governance system shall be conducted as per established law and shall not be done rule of men. Article 4 of the Constitution of Pakistan 1973 provides the complete concept of the Rule of Law. The title of this Article speaks for itself “Right of individuals to be dealt with in accordance with the law”³ This Article is the most glaring example of the Rule of Law—protects the basic rights of the people. Whenever the Fundamental Rights are suspended, Article 4 protects the basic right. In the Pakistani context, the Fundamental Rights and the Constitution are the Rule of Law. Most of the Fundamental Rights are explained in Article 4. For example, Article 25 provides that everyone is equal before the law. Article 4 protects life, property, liberty, body, reputation, and property. No person shall be compelled to do whatever is not dictated by law to do or no person shall be prevented from doing anything that is permitted by law to do. Article 4 has been considered an original contribution towards constitutionalism.⁴ Therefore, Superior Courts have pronged functions; first to safeguard the Constitution and then enforce and protect Fundamental Rights – the Rule of Law.

Keywords: *Constitution, safeguard, protect, preserve, in accordance with the law, Life, Liberty, Reputation, Body and property, Supreme Court, High Courts.*

1.1. Introduction

The Supreme Court is the guardian of the Constitution and Fundamental Rights enshrined in Part 1, Chapter II of the Constitution of Pakistan, 1973. The Supreme Court has to enforce, protect, and preserve the Fundamental Rights of the citizens, so every citizen shall be treated in accordance with the law – it is one of the core functions and is reflected in the Oath of Judges.⁵ The judiciary acts as a guardian of the Constitution and preserves and protects it from the future attack of the common man.⁶ The Constitution of Pakistan, like other Constitutions of the world, assigns the unique responsibility to ensure harmony between the different organs of the State, as a

³ Article 4 of the Constitution of Pakistan, 1973.

⁴ Chief Justice (retired) Muhammad Munir: The Constitution of Pakistan, 1973: A Commentary on the Constitution.

⁵ Oath of Judges – Chief Justice of Pakistan or of a High Court, Judge of the Supreme Court or of a High Court in Schedule III.

⁶ Mukherjee, T. B, Supreme Court, As a Guardian of the Supreme Court of India. *Indian Journal of Political Science*, Vol 12, No.2, (April-June 1951).

guardian of the Constitution it has to protect, preserve safeguard the rights of the citizens.⁷ The purpose of Public Interest Litigation is to provide justice to the less privileged segment of the society without any delay so that their, legal, natural, and constitutional rights are safeguarded by the Supreme Court.⁸ Normally, in litigation, the concept of locus standi is considered an important factor for the adjudication, but with the rise of Public Interest Litigation, the Courts started to take a lenient view and took up the cases of the people belonging to the marginalized segment of the society and hence dubbed as Judicial Protection of “marginalized” persons.⁹

The judiciary enjoys public confidence which is sine qua non for the strong judiciary – that is why it is said that justice not only be done but also must be shown to have been done. One of the reasons for open trial under the due process clause is that the courts must be open and the trial be accessible.¹⁰ There are some interlinked issues on which judicial work rests. The personal character of the Judges, and their off-time activities are important for imparting justice. The delay in deciding cases, the competency of the judges to comprehend the issues and ability of the case – the adversarial system of justice, differently treating different parties, and misconception to understand the judicial process are the factors that shake the public confidence in the judiciary.¹¹

Mr. Jawahar Lal Nehru was considered a father of a revolutionary figure in Indian body politics and he played a pivotal role in designing the democratic Indian Constitution –, Nehru himself spoke about the Role of Judges in observing the Rule of law:

It is clear, that a community lives under the Rule of Law; it will tend to be lawless...Also if there is to be a Rule of Law there should be independent judges to administer that law.” He realized that a strong bold and independent judiciary was a sine qua non for upholding the Rule of Law in a Parliamentary democracy.¹² It is further pointed out that democracy is not only the responsibility of the political class but all other organs of the State are also obligated to actively play their due role in developing democratic institutions enabling the Rule of Law to flourish in society.¹³ Under the Separation of Powers Theory, the Pakistani judiciary has been separated

⁷ History of the Supreme Court of Pakistan available at the website of SC at <https://www.supremecourt.gov.pk/about/history/#:~:text=The%20Constitution%20assigns%20the%20Supreme,and%20defend%20this%20basic%20document.>

⁸ Bakhshi, P. M., Public Interest Litigation, Ashoka Law House, New Delhi, India 1999.

⁹ Perry, Michael J., The Constitution, the Courts, and Human Rights, Yale University Press, New Haven and London, 1982, page 146.

¹⁰ Sharma, B. R., Constitutional Law, and Judicial Activism, Ashish Publishing House, 8/81, Punjabi Bagh, New Delhi, 1990, Chapter 13. Public Confidence in the Judicial: Some Questions.

¹¹ Sharma, B. R., Constitutional Law, and Judicial Activism, Ashish Publishing House, 8/81, Punjabi Bagh, New Delhi, 1990, Chapter 13. Public Confidence in the Judicial: Some Questions.

¹² Nehru’s Perception of the Role of Judiciary under the Indian Constitution, Chapter 15, page 259.

¹³ Ibid

from the Executive,¹⁴ and its independence of the judiciary is also assured by the Constitution.

Law, as enshrined in the Constitution, expresses a trichotomy of power where the judges are the guardians of the Constitution and thus under a legal and Constitutional obligation to monitor the entire legal order of the State.¹⁵ Similarly, the importance of the independence of the judiciary cannot be minimized and neglected because there can be no democracy without basic Human Rights and fundamental freedom and enforcement of human rights and fundamental freedom without the existence of an independent judiciary.¹⁶ A judge is bound to protect and preserve the Constitution and to endeavor to decide the law before him justly, fairly, and impartially.¹⁷

1.2. Oath of the Judges

The judges of the superior court, before entering the office, need to take oath as mentioned in the Third Schedule of the Constitution of Pakistan, 1973.¹⁸ The Chief Justice of Pakistan shall take the oath, administered by the President of Pakistan and all other Supreme Court judges shall take the oath before the Chief Justice of Pakistan. In case he is not available then any senior judge of the Supreme Court can administer the oath. Similarly, the oath of the Chief Justice of the High Court shall be administered by the concerned Governor and all other Judges of the High Court shall be administered by the Chief Justice concerned. The significance of the Judges' oath is that they are under the oath to protect, preserve, and defend the Constitution of Pakistan. The relevant portion of the oath is under:

“That I will preserve, protect and defend the Constitution of the Islamic republic of Pakistan”¹⁹

The above portion of the Judges oath empowers the superior courts of Pakistan to become guardians of the Constitution and it also means that the rights which are granted and guaranteed in Chapter 1 of Part II, commonly known as Fundamental Rights.²⁰ To enforce and protect Fundamental Rights is akin to implementing the Rule of Law in the country.

1.3. Judiciary and Jurisdiction

The jurisdiction is an important factor in deciding the cases – a court if does not have jurisdiction, cannot proceed with the case. At the District level judiciary, Criminal

¹⁴ Article 175 (3) of the Constitution of Pakistan, 1973 and *Sharaf Faridi v Federation of Pakistan* – PLD 1994 SC 105.

¹⁵ *Philips Electrical Industry of Pakistan v Pakistan* – 2000 YLR 2724. Para 6.

¹⁶ *Baz Muhammad Kakar v Federation of Pakistan* – PLD 2012 SC 923. Para 6.

¹⁷ *Union of India v Sankal Chand Himatlal Sheth and Others* – AIR 1997 SC 2328.

¹⁸ Article 178 of the Constitution of Pakistan, 1973.

¹⁹ Judges Oath, Third Schedule of Constitution of the Islamic Republic of Pakistan, 1973.

²⁰ Abdul-Ethem, Fahed, ‘The Role of Judiciary in the Protection of Human Rights and Development: A Middle Easter Perspective’, *Fordham International Law Journal*, Volume 26, Issue 3, 2002, Available at <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1883&context=ilj>

Procedure Code 1989 and Civil Procedure Code 1908 have respectively defined criminal and civil jurisdiction of every stage of the court from Civil Judge-cum-Judicial Magistrate to District & Sessions Judge. Superior Courts also known as Constitutional Courts are established and granted jurisdiction under the 175 (2). In the written Constitution, courts are creatures of the Constitution and hence courts enjoy only the powers which are given by the Constitution. The relevant portion of Article 175 (2) is as under:

“No Court shall have any jurisdiction save as is or may be conferred on it by the Constitution or by or under any law.”²¹

Jurisdiction means, the power or authority conferred to a Judge/Court by the law or Constitution to hear the case – without jurisdiction, a court cannot hear the case. For example, a case for dissolution of marriage cannot directly be filed in the High Court or Supreme Court – it shall be filed and heard Family Court that has been conferred the power to hear family cases as an original jurisdiction. The Constitution of Pakistan has granted different jurisdictions to the Supreme Court and High Court. Under Article 184, the Supreme Court enjoys original jurisdiction, meaning excluding all other courts, if the SC is satisfied that a case involves fundamental rights having nexus with public importance. Article 184 (1), is also invoked to resolve the issues between any two provinces or between the Federation and provinces. This original jurisdiction is also known as *Suo motu* though this phrase is mentioned in the Constitution.²² Supreme Court also exercises Appellate jurisdiction to all the judgments pronounced by the respective High Courts. This jurisdiction is granted, with the leave to appeal.²³ The president can refer any case to the Supreme Court to seek its opinion if the issue is related to any law to be interpreted once such case is referred to the Supreme Court – the SC must answer such reference. This jurisdiction is called an Advisory opinion and this is merely an opinion.²⁴ The Supreme Court has also the power to review its judgment/order. In the Pakistani context, the Review jurisdiction is exercised once and there is the concept of curative or second review of the review.²⁵ A review cannot be heard by a larger bench; this means that if a judgment is pronounced by a three-member (Full Bench) then the review shall be heard by a three-member bench. Ideally, all three who heard the case heard the Review case but if some of them are retired or absent due to some reason, the other judge can be included but the three-member bench must hear the Review petition.

1.4. Role of Judiciary as a guardian of the Constitution and Rights of the People

²¹ Article 175 (2) of the Constitution of the Islamic Republic of Pakistan, 1973.

²² Article 184 of the Constitution of Islamic Republic of Pakistan, 1973.

²³ Article 185 of the Constitution of the Islamic Republic of Pakistan, 1973.

²⁴ Article 186 of the Constitution of the Islamic Republic of Pakistan, 1973.

²⁵ Article 188 of the Constitution of the Islamic Republic of Pakistan, 1973.

Islamabad High Court declared that this course i.e. IHC being the guardian of the fundamental rights of the peoples of Pakistan cannot allow public authorities and any institution to encroach any of the fundamental rights granted by the Constitution in Chapter II, Part 1 known as Fundamental Rights. The IHC paid tribute to the golden word of Fletcher Moulton Lord Justice as under:

“...We are enlightened in this respect by the invaluable remarks of Fletcher Moulton, L.J., and quoted by Earl Loreburn in *Scott v. Scott*,⁴⁶ that "courts of justice, who are the guardian of public liberties, ought to be doubly vigilant against encroachments by themselves." That is why this Court needs to be rule-based and those rules should be uniform, open and available to the public”.²⁶

Mr. Daniel Kramer, in his research article, has given an account of four countries' Court practice during the crisis of war and the judiciary's role in protecting the rights of the people. This article has given the mixed practice of superior courts viz; USA, England, and France had protected and sifted out the war-related and emergency-related issues and rights enjoyed by the peoples, whereas Indian Supreme Court had adopted textualist view and rejected to enforce rights during an emergency.²⁷ Interestingly, the Constitution of Pakistan has provided a complete remedy when Fundamental Rights are suspended as per the dictates of the Constitution – then Article 4 of the Constitution which does not fall in the chapter of fundamental rights, protects the rights of the people. A detailed discussion is made in the next part of this article under the title “Rule of Law”. Apart from it, Article 184 (3) of the Constitution of the Islamic Republic of Pakistan, 1973 has assured that the Supreme Court can take action on its own or on the application of any person to enforce the Fundamental Rights, if satisfied that that issue involves the public importance – this jurisdiction of the SC is original jurisdiction that means to a case can be filed directly in the Supreme Court of Pakistan, to the exclusion of all other courts.²⁸

In other words, apart from other rights, all the Fundamental Rights enumerated in Chapter I, of Part II of the Constitution are to be protected and safeguarded by the Supreme Court of Pakistan.²⁹ Further, Article 199 of the Constitution, commonly known as *Writ Jurisdiction of High Courts*, also protects the Fundamental Rights. In the foundational case of *Shella Zia*³⁰, Fundamental Right No.9 was under threat and it

²⁶ Islamabad High Court Bar Association v Election Commission of Pakistan – PLD 2023 SC 720, Para 42.

²⁷ Kramer, Danial C., ‘Courts as a Guardian of Fundamental Rights in Times of Crisis’, *Universal Human Rights*, Oct – December 1980, Volume-2, No.4 (pp 1-23), The John Hopkin University Press. Available at https://www.jstor.org/stable/pdf/761848.pdf?refreqid=fastly-default%3Aa6533a92ff845beb04b4ce5b91700384&ab_segments=&origin=&initiator=&acceptTC=1

²⁸ Article 184 (3) of the Constitution of the Islamic Republic of Pakistan, 1973.

²⁹ Constitutional Limits, Dawn, Editorial July 29, 2024. Available at https://epaper.dawn.com/DetailImage.php?StoryImage=29_07_2024_006_001.

³⁰ *Shella Zia v WAPDA* – PLD 1994 SC 693.

came under scrutiny by the Supreme Court. The brief facts of the case are that WAPDA installed a Grid Station in the vicinity of Islamabad; the people of the surrounding areas complained and filed a case in the Supreme Court wherein it was contended that electro-magnetic rays were detrimental to the life of the people. Whereas Article 9 protects life and liberty – here lives are in danger. The word life has not been defined in the Constitution of Pakistan, 1973 hence Supreme Court sought the expert opinion of international experts and examined the precedent of the developed world. It was concluded that life does not merely mean vegetative life or opposition to the conception of death but it includes all the amenities of life that are necessary to enhance and maintain life enabling one to lead life with dignity. Here the Apex Court read Articles 9 and 14 together and interpreted expansively these Fundamental Rights as under:

“...The word 'life' has not been defined in the Constitution but it does not mean nor can it be restricted only to the vegetative or animal life or mere existence from conception to death. Life includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally. For the purposes of present controversy suffice to say that a person is entitled to the protection of law from being exposed to hazards of electromagnetic fields or any other such hazards which may be due to the installation and construction of any grid station, any factory, power station or suchlike installations. Under the common law a person whose right of easement, property or health is adversely affected by any act of omission or commission of a third person in the neighbourhood or at afar off place, he is entitled to seek an injunction and also claim damages, but the Constitutional rights are higher than the legal rights conferred by law be it municipal law or the common law.”³¹

The Supreme Court of Pakistan is the custodian of the Constitution and the rights of the people have been vocal in protecting and safeguarding the rights guaranteed under Fundamental Rights, of the Constitution of Pakistan, 1973.³² Time and again, the Apex Court had pronounced various judgments protecting the rights of the people by doing progressive interpretations of various provisions.³³ In a case³⁴, where a communist leader was not issued a passport for going to Russia – the SC held that under Article 15 (Right to Movement) also included going outside and moving in any part of the country and hence, it was held/directed to issue a passport. The discriminatory practices of the State were declared to be unlawful and unconstitutional and these judgments opened the social justice and prospectives for

³¹ Ibid, Para 12.

³² Rehman, Dr. Najeeb ur, 'The Judiciary and Politics in Pakistan': 1999-2023, Introduction at p, xv, Vanguard, 2023. Iftikhar Ahmad Chaudhry v Saeed Ahmad Khan and Others – 2024 SCP 260 (SC internal citation). Available at https://www.supremecourt.gov.pk/downloads_judgements/crl.o.p_233_2017.pdf

³³ Khosa, Justice (Retd) Asif Saeed Khan, Heeding the Constitution: Judiciary's Role towards Promotion of Social, Economic, and Political Justice: The Pakistan Experience, Muttaqi Printers, Lahore, 2019, pp 125-137.

³⁴ Government of Pakistan and Others v Dada Amir Haider Khan – PLD 1987 SC 504.

the peoples of PATA and tribal areas.³⁵ In another important case³⁶, the Supreme Court declared that everyone shall be dealt with in accordance with the law³⁷, which is known as American legal jurisprudence Due Process of Law. Article 4 of the Constitution of Pakistan, 1973 is an original contribution towards constitutionalism and it is considered more important than Fundamental Rights because during the Emergency, Fundamental Rights are suspended but Article 4 remains intact and protects and safeguards the rights of the people.³⁸

Similarly, the Right to Life and Dignity was also protected by the Supreme Court in a case of public hanging. A strong Larger Bench had declared it a violative and indignified public hanging stopped it in Pakistan – by interpreting Article 14, it was held that the Right to Dignity is not subject to the law and no law can be made to identify a living and even a dead person; so public hanging is not warranted.³⁹ The discrimination against females in medical college admission was declared unconstitutional and against the rights of women.⁴⁰ It is the State's responsibility to provide legal aid to women and children as enshrined in Principles of Policy No.37.⁴¹ Though principles of Policy are not enforceable these policies are meant to seek guidance at the time of enforcement of Fundamental Rights No.25 (3).⁴² In another case⁴³, the Supreme Court held that women cannot be deprived of their share in property and the State of Pakistan being an Islamic State has legal, constitutional, and Islamic responsibility to ensure the women are provided their rightful share in property. Therefore, protecting and safeguarding the Constitution and Fundamental Rights are one of the responsibilities of the superior courts i.e. High Courts⁴⁴ and the Supreme Court of Pakistan⁴⁵ – they are assigned this important task.⁴⁶ Last, but not least, in Darshan Masih's case,⁴⁷ the Supreme Court, to enforce fundamental rights, has ignored the condition of locus standi, in invoking its original jurisdiction under Article 184 (3). Darshan Masih used to work at a brickkiln and he was under involuntary labor – the SC on receiving a letter had taken suo motu and decided that

³⁵ Muhammad Irshad and Others v Assistant Commissioner, Swat & Others – PLD 1990 Peshawar 51; Balochistan Bar Association v Government of Balochistan – PLD 1991 Quetta 7; and Government of Balochistan v Aziz Ullah Memon – PLD 1993 SC 341.

³⁶ Federation of Pakistan v Malik Ghulam Muhammad Khar – PLD 1989 SC 26.

³⁷ Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973.

³⁸ Munir, Muhammad, Constitution of Pakistan, 1973: A Commentary, 1995.

³⁹ Suo Motu Case – 1994 SCMR 1028.

⁴⁰ Shirin Munir and Others v Government of Punjab – PLD 1990 SC 295;

⁴¹ Article 37 of the Constitution of Pakistan, 1973 with the title “Promotion of Social Justice and Eradication of Social Evils”.

⁴² Mst. Fazal Jav v Roshan Din – PLD 1992 SC 811:

⁴³ Ghulam Ali v Mst. Ghulam Sarwar Naqvi – PLD 1990 SC 1.

⁴⁴ Article 199 of the Constitution of Pakistan, 1973.

⁴⁵ Article 184 (3) of the Constitution of Pakistan, 1973.

⁴⁶ Ibid.

⁴⁷ Darshan Masih v The State – PLD 1990 SC 513.

bonded labor cannot be allowed, being ultra vires of Article 11 (bonded labor) of the Constitution of Pakistan, 1973. This case provided tremendous console for the marginalized people of Pakistan, in protecting rights.⁴⁸

Part II: Rule of Law

2.1. Introduction

The rule of law term denotes the just legal system of any country. It means that in a country everyone is equal before the law and shall be treated equally with the same laws and rules. There would be no discrimination against anyone regardless of race, color, or creed. Everyone is accountable before the law with the same law and legislature, or high officials of the Government are also equally accountable before the court of law. *No one is above the law.*

A country that provides a robust legal system where peoples' rights are protected and enforced without any prejudice, where laws are made and properly shared with the community, and where an equal atmosphere is provided to its citizens to have their rights with due process of law or in accordance with the law – these countries are said to implementing the rule of law. The term rule of law is closely akin to constitutionalism – because all the rules are enumerated in a written constitution. Some Jurists say that it is a term that denotes the culture of a people who observe and practice the daily life rules. Whatever it is, the rule of law terms ensures that in a country; the political, commercial, and personal rights are granted, protected, and enforced by a defined system. It provides substantive rights and to achieve those rights, a fair procedure is also defined.

Pakistani Constitution is the supreme law of the land, being a written Constitution, it provides a comprehensive scheme of rule of law. The Constitution, in the introductory part, says that everyone shall be dealt with in accordance with the law and no one shall be compelled to do what the law does not require him to do, and no one shall be prevented from doing what the law requires him to do.⁴⁹

In a column published in The News, Babar Sattar, when he was not a Judge of Islamabad High Court (IHC) wrote, in an emphatic way, about the rule of law and due process of law. He concluded his words with the following:

“Constitutionalism and rule of law are akin to a faith. To uphold them, you must believe that unadulterated process is sacrosanct, and it is sinful to fidget with it or short circuit it to manufacture desirable results. You must believe that every suspect has a right to be defended. That everyone is to be deemed innocent until proven guilty. That justice must be delivered in accordance with written law and not vague

⁴⁸ Ibid.

⁴⁹ Article 4 of the Constitution of Pakistan, 1973.

conceptions of morality or popular rhetoric. Our justice system's key problem is that it exists as the facilitator of the state as opposed to protector of citizens."⁵⁰

2.2. Definitions of the Rule of Law

It is better to understand the definition of the Rule of Law so that a crystal concept of this term becomes easier to understand. The following definitions are reproduced here: -

Rule of Law definition, as per Encyclopaedia of Britannica:

“Rule of Law is the mechanism, process, institution, practice, secures a nonarbitrary form of government, and more generally prevents the arbitrary use of power. Arbitrariness is typical of various forms of despotism, absolutism, authoritarianism, and totalitarianism. Despotic governments include even highly institutionalized forms of rule in which the entity at the apex of the power structure (such as a King, or Junta, or a party committee) can act without the constraint of law when it wishes to do so.”⁵¹

American Bar Association defined the Rule of Law as under:

“The rule of law is a set of principles, or ideals, for ensuring an orderly and just society. Many countries throughout the world strive to uphold the rule of law where no one is above the law, everyone is treated equally under the law, everyone is held accountable to the same laws, there are clear and fair processes for enforcing laws, there is an independent judiciary, and human rights are guaranteed for all.”⁵²

As per the Definition of the UN Secretary-General

“The rule of law is a principle of governance in which all persons, institutions, and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. Laying strong legal foundations for transparent, accountable, and efficient democratic institutions governed by this principle is crucial for the success of the establishment of lasting and sustainable peace. An independent, impartial, and efficient judiciary is often seen as a crucial guarantee to political stability and security, indispensable to curb abuse of power.”⁵³

⁵⁰ Due Process as Faith: Babar Sattar, The News, October 12, 2019. Available at <https://www.thenews.com.pk / print/539861-due-process-as-faith>

⁵¹ Naomi Choi; The Editor of Encyclopedia of Britannica; Available at <https://www.britannica.com/topic/rule-of-law>

⁵² Definition of Rule of Law by American Bar Association. Available at https://www.americanbar.org/groups/ public_education/resources/rule-of-law/

⁵³ UN Secretary-General Definition, 2004. Available at the website of UN: <https://monusco.unmissions.org/en/ what-rule-law>

2.3. Rule of Law in Pakistan

The rule of law as quoted by Justice Fazal Karim in his book Access to Justice is as under:⁵⁴

“Rule of law is sometimes invoked in American judicial opinions; an example is the opinions of Justice Stevens and Justice Breyer in *Bush v Gore*.⁵⁵ But generally speaking, what is called the rule of law in the United Kingdom is “the proud boast of our (American’s) democracy that we have a government of laws and not of men.”⁵⁶ As was observed in *Dr. Mubashir Hassan v Federation*,⁵⁷ ‘the rule of law is anathema to the rule of men, in the words of the Constitution of Massachusetts it means government of law and not of men.’⁵⁸

The phrase Rule of Law has not been mentioned in the Constitution. But it is taken as a well-settled principle in Magna Carta in the English legal system also derived from the Constitution of Pakistan. Articles 4, 5, 9, 10A, 24, 25, etc., if we read these Articles together, then it will give a very entrenched concept of the Rule of Law in our judicial system.⁵⁹

Article 4 of the Constitution, is an original contribution of Pakistan toward constitutional law and it protects those rights, which are enshrined in the Fundamental Rights, Chapter 1 of Part-II when these are suspended because of emergency or Martial Law in the country.⁶⁰ In a case, Mr. Justice Saad Saood Jan has ruled that Article 4 is more powerful than Articles 9 and 24; because during an emergency or Martial Law, the rights which are mentioned in Chapter 1 of Part-II (Fundamental Rights) when suspended, Article 4 protects the rights of Life, Liberty, Body, Property and Reputation.⁶¹

The Constitution does not merely create any rights and obligations in vain – rights must be protected, and obligations be done with responsibility. The rule of law given under Article 4 has a wider meaning to safe life, liberty, property, body, and reputation than the rights given in Articles 9 and 24 of the Constitution because during emergency and martial law, the Fundamental Rights Chapter is suspended but Articles 4 remain intact and life, liberty, body, property, and reputation cannot be violated except in accordance with the law. The meaning of the law, here also

⁵⁴ Rule of Law - Access to Justice: Justice Fazal Karim (Retd); 2nd Edition 2020. Published by Pakistan Law House – Karachi/Lahore. Page 8-9. Also quoted in Rule of Law: A Handbook for Bar and Bench; Asfandyar Khan Tareen, Pakistan Law House, Page No.30.

⁵⁵ (2000) 531 US 98.

⁵⁶ Justice Scalia in *Morrisons v Olsen* – (1988) 487 US 654.

⁵⁷ *Dr. Mubashir Hassan v Federation of Pakistan* - PLD 2010 SC 265.

⁵⁸ *Ibid.*

⁵⁹ Rule of Law: Aizaz Ahmed Chaudhry DAWN 17 September 2023 available at <https://www.dawn.com/news/1776324/the-rule-of-law>

⁶⁰ Commentary of the Constitution: Muhammad Munir, Former Chief Justice of Pakistan.

⁶¹ *Federation v Ghulam Mustafa Khar* – PLD 1989 SC 26.

includes the Constitution and all those rules, regulations, and ordinary law, which is recognized by the Constitution, is a valid law.⁶²

The essence of ‘Rule of Law’ is the government of law and not of men. Everyone, how high he may be or irrespective of his rank, is not above the law and shall be treated equally and the same for all men in a country or community.⁶³

The ingredients for the Rule of Law were explored by Lord Bingham and enumerated by Mr. Justice Fazal Karim in his Magnum Opus (Masterpiece) Judicial Review of Public Actions,⁶⁴ as under:

- i. The law must be accessible and as far, as possible intelligible, clear, and predictable.
- ii. Questions of legal rights and liability should ordinarily be resolved by application of the law and not the exercise of discretion.
- iii. The law of the land should apply equally to all, save to the extent that objective differences justify differentiation.
- iv. Ministers and public officers at all levels must exercise the powers conferred on them in good faith, fairly, for the purpose for which the powers were conferred, without exceeding the limits of such powers and not unreasonably.
- v. The law must afford adequate protection of fundamental human rights,
- vi. Means must be provided for resolving, without prohibitive cost or inordinate delay, bona fide civil disputes that the parties themselves are unable to resolve.
- vii. Adjudicative procedures provided by the state should be fair.

The rule of law requires compliance by the state with its obligations in international law as in national law.

Pakistan’s Constitution is based on the rule of law, and Article 4 provides an entrenched concept of the Rule of Law. No one can get away or be relieved from observing or obeying the law, irrespective of his political, or socio-economic status. In the Manzoor Elahi case,⁶⁵ Mr. Justice Salahuddin Ahmad ruled in a good manner about the rule of law concept in Pakistan:

“Pakistan is based on the rule of law, which is embodied in Article 4 of the Constitution. The same position is reflected in some of the Fundamental Rights

⁶² Access to Justice: Justice Fazal Karim and Adeel Shahid Karim: 2nd Edition, 2020. Pakistan Law House – Karachi/Lahore.

⁶³ Ibid. Footnote 61.

⁶⁴ Judicial Review of Public Actions: Justice Fazal Karim (Retd); 2nd Edition, 2018, Pakistan Law House – Karachi/Lahore. Page 57.

⁶⁵ Manzoor Elahi v Federation of Pakistan – PLD 1975 SC 66.

enshrined in the Constitution. The Constitution is framed to be followed. It creates no right and imposes no duty in vain. Article 5 of the Constitution specifically provides that obedience to the Constitution and law is the basic obligation of every citizen wherever he may be and for every other person for the time being within Pakistan. the commandment is clear and unambiguous, and nobody can get away from or be relieved of this obligation under any circumstances.”⁶⁶

2.4. Rule of Law (Article 4) and Fundamental Rights (Articles 9 to 28) Constitution of Pakistan, 1973

The Constitution of Pakistan, as rightly said by Honorable Justice Karim, is a Rule of Law – the reason is that it provides a comprehensive design of the Rule of Law being a written Constitution. If we read carefully from Articles 4 to 28, it is a classic example of the Rule of Law prescription for the people of Pakistan. Article 4 is a cardinal principle of the Rule of Law when it categorically proclaims that everyone shall be dealt with in accordance with the law and equal entitlement to the law. No one shall be compelled to do any act that is against the law and no hurdle shall be created in the way of any person to prevent lawful action. By Article 5, a responsibility is imposed on every person-citizen in Pakistan to obey the law of the land, and no choice is given to him other than to obey the law.

Articles 9 and 14 of the Constitution, provide the security of life and dignity of man. All the fundamental rights enshrined in *Chapter I of Part II; Fundamental Rights* are primarily granted to enhance the meaning of life though life is linked in accordance with the law – meaning that a person’s life can be taken away in lawful manners. To make it simplify, if a person kills any other person, then, he can be punished and sentenced to death in accordance with the law. He shall be provided all the fair trial opportunities and then shall be punished by the court of competent jurisdiction. The dignity clause is an absolute right that means, dignity cannot be taken away under any circumstances. Even a dead body has its right to be dignified, and Pakistani law does not allow humiliation of a dead body even hanging in public is discouraged by the superior courts and there is no such law in Pakistan that a dead body can be hanged in public. In a *Suo motu* case, a strong 5-member Bench testing the constitutionality of section 10 of the Special Courts for Speedy Trial Act, 1992, had decided that the public hanging in the Pakistani legal system is akin to a violation of Article 14. The dignity of Man is inviolable, and it is not subject to the law because no law can be legislated that a dead body can be humiliated. The SC ruled as under:

“According to this provision the dignity and self-respect of every man has become inviolable, and this guarantee is not subject to law but is an unqualified guarantee. Accordingly, in all circumstances, the dignity of every man is inviolable and executing in public, even the worst criminal, appears to violate the dignity of man

⁶⁶ Ibid. Page 101.

and constitutes, therefore, a violation of the fundamental right contained in Article 14.”⁶⁷

As for Fundamental Rights, if we read the titles of these basic rights, we will know that all these basic rights provide a concept of the Rule of Law. Now, we discuss briefly about these rights. Safeguards, as to arrest and detention, Right to Fair Trial – a newly inserted basic right by the 18th Constitution (Amendment) Act, 2010, the Slavery and forced labor, have been abolished and no one shall be compelled for forced labor. Slavery and forced labor are prohibited,⁶⁸ and no one shall be punished for a crime that was not a crime at the time of the commission of that act – protection against retrospective punishment,⁶⁹ but if any person abrogates or subverts the Constitution then retrospective punishment can be legislated and imposed on a person who commits high treason.

Pakistani Constitution has also adopted the universal concept of double jeopardy – no one shall be punished twice for the same crime and even the proceeding shall not be initiated for the same. Protection against double punishment and self-incrimination,⁷⁰ and the dignity of man is inviolable, and no person shall be subjected to torture. Freedom of movement from one place to another within Pakistan or outside Pakistan, freedom of assembly and association, trade, business or profession, and speech are those basic rights that enhance the meaning of life and reflect the Rule of Law.⁷¹

The Constitution protects minorities of Pakistan, the freedom to profess their religion and observe their religious practices freely, no minority community shall be imposed any religious tax, the proceeds of which can be used for religions other than him and no religious tax can be imposed on any minority to develop the religious education institutions of other religious educational institutions and no minority person shall be compelled to study any other religious education other than his own. The minorities in Pakistan are offered ethics in place of Islamic Studies. All these rights are not absolute that means, these rights are subject to law and the State to regulate these rights.⁷²

The Constitution of Pakistan also provides to its citizens, the right to hold, acquire, and dispose of property in Pakistan, and no citizen shall be deprived of property. These two articles are also subject to the law and the Constitution and if the Government needs to acquire the property of a citizen, then he shall be compensated adequately, the State shall be empowered to legislate for acquiring the property of citizens, but it cannot do except in accordance with the law and to provide adequate

⁶⁷ Suo Motu Case No. 9 of 1991- 1994 SCMR 1028 Para. 4.

⁶⁸ Article 11 of the Constitution of Pakistan, 1973.

⁶⁹ Article 12 of the Constitution of Pakistan, 1973.

⁷⁰ Article 13 of the Constitution of Pakistan, 1973.

⁷¹ Articles, 15, 16, 17 18, and 19, of the Constitution of Pakistan, 1973.

⁷² Articles 20, 21 and 22 of the Constitution of Pakistan, 1973.

compensation to the citizen or citizens whose property is acquired for the public purpose.⁷³

The equality clause which says that everyone is equal before the law and shall be treated equally speaks loudly about the Rule of Law and everyone has access to public places without any discrimination and safeguards against any discrimination have been provided to every citizen of Pakistan about the Service. But simultaneously, the State can make legislation and rules for Children and women. Therefore, the categories which abolish the discrimination of law, are subject to law and are unqualified basic rights.⁷⁴

The Rule of Law of the Pakistani legal system is the written Constitution, and article 4 is the original contribution towards constitutional law it summarizes the complete concept of the Rule of Law and the rights enshrined in Fundamental Rights are its complete explanation and complementing the concept of Article 4 of the Constitution of Pakistan, 1973.

2.4.1. What Exactly is the Rule of Law?

A research article on the Rule of Law written by Professor Robert Stein of the University of Minnesota Law School. He has discussed Lord Bingham's eight principles necessary for the Rule of Law and he has also added some principles in it, remarkably. The Core principles of the Rule of Law are explained by Prof Robert, and are briefly discussed under:⁷⁵

2.4.2. Superiority of the Law

All persons, regardless of their status, are subject to the law and no one is above the law. Aristotle said that 'government by law and not by men and in Politics, he further said that it is more proper that the law governs instead of citizens. American Bar Association, President Smith in 1973, summarized that no one is above the law, and the law is applied to the citizen whatever their station is.

2.4.3. Separation of Powers

To implement the Rule of Law in society, there must be a trichotomy of power known as the Separation of Powers in the government. The legislative power is performed by one organ of the State, and judicial powers are performed by

⁷³ Articles 23 and 24 of the Constitution of Pakistan, 1973.

⁷⁴ Articles 25, 25A, 26 and 27 of the Constitution of Pakistan, 1973.

⁷⁵ Robert A. Stein, *What Exactly Is the Rule of Law?* 57 HOUS. L. REV. 185 (2019).

the Judicial branch of the State and the execution of law and policies of the Government be done by the Executive organ of the State. Two of these three powers must not be exercised by any Organ of the State. If all or two of these powers are exercised by any one of the organs; it will promote tyranny.⁷⁶

2.4.4. Laws be Known and Predictable:

The laws should be known and predictable and Government is under obligation to create awareness among the masses about the consequences of the violation of laws. The government to take all necessary steps to ensure the application of the law non-arbitrarily.

2.4.5. Equal Application of Laws

The Rule of Law requires that laws should be applied equally among persons, in like circumstances. It is the central idea of the Rule of Law concept. In a State, where, no equal treatment is meted out to the citizen, it cannot be called that the Rule of Law is being observed.

2.4.6. Just Law

The law must be just, and it must protect fundamental human rights in society. In society, just laws are legislated, and substantive law is made in a manner that government is run by the Rule of Law and no other way.

2.4.7. Robust and Accessible Enforcement

The legal process must be sufficiently robust and accessible to all for the enforcement of their fundamental human rights. The state should take necessary steps to make access to justice to all without any hurdles. The laws must be enforced and a law or right without its enforcement is not a law or right. John Marshal, Chief Justice of the US Supreme Court, in *Marbury v Madison*, said that laws should be enforced and without their enforcement, they are hardly to be called laws.

2.4.8. Independent Judiciary

The Judicial branch of the government is far more important, and its independence is necessary. The independence of the Judiciary from the executive and legislative is sine qua non for the implementation of the Rule of

⁷⁶ Rule of Law: A Handbook for Bar and Bench, Page No.45.

Law. The idea of independence of the judiciary included institutional and decisional independence.⁷⁷

2.4.9. Right to Participation

Members of society must have a chance to participate in creating the law and refining these laws – the laws are meant for them, and they should participate in decision-making. A similar concept has been given in the definition of the Rule of Law given by the UN Secretary-General, that governments should be true representatives of the people.

3. Conclusion

To conclude, the superior courts are the guardians of the Constitution, the Rights and Fundamental Rights of the people enshrined in Chapter 1 of Part II of the Constitution. The courts are granted jurisdiction to the application of the rights and without jurisdiction, no court can take the matter to adjudicate.⁷⁸ The superior court judges are under oath to protect, and safeguard as the custodians of the Constitution – therefore under constitutional obligation to do so. Thus, the concept of rule of law, separation of powers, and independence of the judiciary are those elements that are necessary for constitutional democracy et al. Everyone is equal before the law and entitled to be treated equally. No one is above the law because all and sundry regardless of their status are to observe the law of the land. All the members of the society shall be treated in accordance with the law. The Rule of Law requires that the Government observe the law of the land and not of men. Pakistani Constitution is a prescription of the Rule of Law Article 4 is an original contribution towards the constitutional law. Article 4 is more impactful than the Fundamental Rights which can be suspended during the emergency or Martial law, but Article 4 remains intact.

The importance rule of law, and equality before the law (Islamic Law – Quran and Sunnah (peace be upon him) can be ascertained that at this first speech made by the Caliph Hazrat Abu Bakar (Allah pleased with him); as under:

“Oh, people! Now I am elevated as Ruler over you, albeit not the best among you. If do good, support me; if I err, then set me right. To tell the truth, to a person commissioned to rule is faithful elegance to conceal and lie is treason. In my sight the powerful and weak are alike. By Allah, he that is weaker among you, shall be strongest in my sight until I shall have redressed his wrong; and he who is strong is the weakest in my sight until he conforms to law and I have taken from him that which hath wrested. Never shrink from Jihad; the nation which forsakes Jihad will get disgraced. Obey me as long as I obey God and His Apostle (peace be upon him)

⁷⁷ Ibid at Footnote No.71.

⁷⁸ Article 175 (2) of the Constitution of Pakistan, 1973.

and if I withdraw from God and His Apostle, you withdraw from me, as in that case obligation of obedience on your part to me terminates.”⁷⁹

4. References:

1. Third Schedule in the Constitution of Pakistan: Oath of Chief Justice of Pakistan, Chief Justices of High Courts, Judge of the Supreme Court, and Judges of the High Court.
2. Preamble of the Constitution of Pakistan which is now substance part of the Constitution as Article 2A. Primarily, it was the Objectives Resolution (Aims and Objectives of the Constitution passed by the Constituent Assembly in 1949 under the Premiership of Khan Liaquat Ali Khan).
3. Article 4 of the Constitution of Pakistan, 1973.
4. Chief Justice (retired) Muhammad Munir: The Constitution of Pakistan, 1973: A Commentary on the Constitution.
5. Oath of Judges – Chief Justice of Pakistan or of a High Court, Judge of the Supreme Court or of a High Court in Schedule III.
6. Mukherjee, T. B, Supreme Court, As a Guardian of the Supreme Court of India. *Indian Journal of Political Science*, Vol 12, No.2, (April-June 1951).
7. History of the Supreme Court of Pakistan, available at the website of SC at <https://www.supremecourt.gov.pk/about/history/#:~:text=The%20Constitution%20assigns%20the%20Supreme.and%20defend%20this%20basic%20document.>
8. Bakhshi, P. M., Public Interest Litigation, Ashoka Law House, New Delhi, India 1999.
9. Perry, Michael J., The Constitution, the Courts, and Human Rights, Yale University Press, New Haven and London, 1982, page 146.
10. Sharma, B. R., Constitutional Law, and Judicial Activism, Ashish Publishing House, 8/81, Punjabi Bagh, New Delhi, 1990, Chapter 13. Public Confidence in the Judicial: Some Questions.
11. Sharma, B. R., Constitutional Law, and Judicial Activism, Ashish Publishing House, 8/81, Punjabi Bagh, New Delhi, 1990, Chapter 13. Public Confidence in the Judicial: Some Questions.
12. Nehru’s Perception of the Role of Judiciary under the Indian Constitution, Chapter 15, page 259.
13. Article 175 (3) of the Constitution of Pakistan, 1973 and Sharaf Faridi v Federation of Pakistan – PLD 1994 SC 105.
14. Philips Electrical Industry of Pakistan v Pakistan – 2000 YLR 2724. Para 6.
15. Baz Muhammad Kakar v Federation of Pakistan – PLD 2012 SC 923. Para 6.
16. Union of India v Sankal Chand Himatlal Sheth and Others – AIR 1997 SC 2328.
17. Article 178 of the Constitution of Pakistan, 1973.
18. Judges Oath, Third Schedule of Constitution of the Islamic Republic of Pakistan, 1973.
19. Abdul-Ethem, Fahed, ‘The Role of Judiciary in the Protection of Human Rights and Development: A Middle Easter Perspective’, *Fordham International Law Journal*,

⁷⁹ Haq Nawaz v Province of the Punjab – 1994 MLD 299. Quoted in Judicial Review of Public Actions, Justice Fazal Karim (Retired), 2nd Edition, 2018. Page 67. This speech was published in the book ‘Abu Bakar the Caliph’ by Abdul Aziz, p.66, published by Ghazanfar Academy, E/5 Modern Colony, Karachi.

20. Article 175 (2) of the Constitution of the Islamic Republic of Pakistan, 1973.
21. Article 184 of the Constitution of Islamic Republic of Pakistan, 1973.
22. Article 185 of the Constitution of the Islamic Republic of Pakistan, 1973.
23. Article 186 of the Constitution of the Islamic Republic of Pakistan, 1973.
24. Article 188 of the Constitution of the Islamic Republic of Pakistan, 1973.
25. Islamabad High Court Bar Association v Election Commission of Pakistan – PLD 2023 SC 720, Para 42.
26. Kramer, Danial C., ‘Courts as a Guardian of Fundamental Rights in Times of Crisis’, Universal Human Rights, Oct – December 1980, Volume-2, No.4 (pp 1-23), The John Hopkin University Press. Available at https://www.jstor.org/stable/pdf/761848.pdf?refreqid=fastly-default%3Aa6533a92ff845beb04b4ee5b91700384&ab_segments=&origin=&initiator=&acceptTC=1
27. Article 184 (3) of the Constitution of the Islamic Republic of Pakistan, 1973.
28. Shella Zia v WAPDA – PLD 1994 SC 693.
29. Ibid, Para 12.
30. Khosa, Justice (Retd) Asif Saeed Khan, Heeding the Constitution: Judiciary’s Role towards Promotion of Social, Economic and Political Justice: The Pakistan Experience, Muttaqi Printers, Lahore, 2019, pp 125-137.
31. Government of Pakistan and Others v Dada Amir Haider Khan – PLD 1987 SC 504.
32. Muhammad Irshad and Others v Assistant Commissioner, Swat & Others – PLD 1990 Peshawar 51; Balochistan Bar Association v Government of Balochistan – PLD 1991 Quetta 7; and Government of Balochistan v Aziz Ullah Memon – PLD 1993 SC 341.
33. Federation of Pakistan v Malik Ghulam Muhammad Khar – PLD 1989 SC 26.
34. Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973.
35. Munir, Muhammad, Constitution of Pakistan, 1973: A Commentary, 1996 (.....).
36. Suo Motu Case – 1994 SCMR 1028.
37. Shirin Munir and Others v Government of Punjab – PLD 1990 SC 295;
38. Article 37 of the Constitution of Pakistan, 1973 with the title “Promotion of Social Justice and Eradication of Social Evils”.
39. Mst. Fazal Jav v Roshan Din – PLD 1992 SC 811:
40. Ghulam Ali v Mst. Ghulam Sarwar Naqvi – PLD 1990 SC 1.
41. Article 199 of the Constitution of Pakistan, 1973.
42. Article 184 (3) of the Constitution of Pakistan, 1973.
43. Article 4 of the Constitution of Pakistan, 1973.
44. Due Process as Faith: Babar Sattar, The News, October 12, 2019. Available at <https://www.thenews.com.pk / print/539861-due-process-as-faith>
45. Naomi Choi; The Editor of Encyclopedia of Britannica; Available at <https://www.britannica.com/topic/rule-of-law>
46. Definition of Rule of Law by American Bar Association. Available at https://www.americanbar.org/groups/ public_education/resources/rule-of-law/
47. UN Secretary-General Definition, 2004. Available at the website of UN: <https://monusco.unmissions.org/en/ what-rule-law>
48. Rule of Law - Access to Justice: Justice Fazal Karim (Retd); 2nd Edition 2020. Published by Pakistan Law House – Karachi/Lahore. Page 8-9. Also quoted in Rule of Law: A Handbook for Bar and Bench; Asfandyar Khan Tareen, Pakistan Law House, Page No.30.

49. (2000) 531 US 98.
50. Justice Scalia in *Morrison v Olsen* – (1988) 487 US 654.
51. *Dr. Mobasher Hassan v Federation of Pakistan* - PLD 2010 SC 265.
52. Rule of Law: Aizaz Ahmed Chaudhry DAWN 17 September 2023 available at <https://www.dawn.com/news/1776324/the-rule-of-law>
53. Commentary of the Constitution: Muhammad Munir, Former Chief Justice of Pakistan.
54. *Federation v Ghulam Mustafa Khar* – PLD 1989 SC 26.
55. *Access to Justice: Justice Fazal Karim and Adeel Shahid Karim: 2nd Edition, 2020.* Pakistan Law House – Karachi/Lahore.
56. *Judicial Review of Public Actions: Justice Fazal Karim (Retd); 2nd Edition, 2018,* Pakistan Law House – Karachi/Lahore. Page 57.
57. *Manzoor Elahi v Federation of Pakistan* – PLD 1975 SC 66.
58. Suo Motu Case No. 9 of 1991- 1994 SCMR 1028 Para. 4.
59. Article 11 of the Constitution of Pakistan, 1973.
60. Article 12 of the Constitution of Pakistan, 1973.
61. Article 13 of the Constitution of Pakistan, 1973.
62. Articles, 15, 16, 17 18, and 19, of the Constitution of Pakistan, 1973.
63. Articles 20, 21 and 22 of the Constitution of Pakistan, 1973.
64. Articles 23 and 24 of the Constitution of Pakistan, 1973.
65. Articles 25, 25A, 26 and 27 of the Constitution of Pakistan, 1973.
66. Robert A. Stein, *What Exactly Is the Rule of Law?* 57 HOUS. L. REV. 185 (2019).
67. Rule of Law: A Handbook for Bar and Bench, Page No.45.
68. *Haq Nawaz v Province of the Punjab* – 1994 MLD 299. Quoted in *Judicial Review of Public Actions*, Justice Fazal Karim (Retd), 2nd Edition, 2018. Page 67. This speech was published in the book ‘Abu Bakar the Caliph’ by Abdul Aziz, p.66, published by Ghazanfar Academy, E/5 Modern Colony, Karachi.
69. *Darshan Masih v The State* – PLD 1990 SC 513.
70. Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973 (“Constitution”)
71. Fundamental Rights, Part II, Chapter 2 of the Constitution. Particularly Articles 4, 9, 10, 10A, 25, 26 and 27.
72. Karim, Justice (Retd) Fazal, *Judicial Review of Public Actions*, 2nd Edition, Pakistan Law House, Karachi/Lahore.
73. Bingham, Tom, *The Rule of Law*.
74. Chief Justice (retired) Muhammad Munir: *The Constitution of Pakistan, 1973: A Commentary on the Constitution. Being a commentary on the Constitution of Pakistan, 1973*, Law Publishing Company, 1975 edition.
75. Tareen, Asfandyar Khan, *The Rule of Law*, Pakistan Law House, Karachi/Lahore.
76. *Iftikhar Ahmed Chaudhry v Saeed Ahmed Khan* – 2024 SCP 260
77. Numerous Foundational and latest judgments (will be included).
78. <https://www.lao.org.pk/wp-content/uploads/2019/02/The-role-of-the-judiciary-in-protecting-the-rights-of-people.pdf>, Justice Nasir Aslam Zahid
79. Business recorder <https://www.brecorder.com/news/40257703>